

Sample Written Program
For
Drug Free Workplace
Program



Drug Free Workplace Program

Because drug laws can vary from state to state, you should obtain legal council before instituting any drug program.

(YOUR COMPANY NAME)

Purpose

XZY Co strives to ensure a workplace that is free of illegal drugs and to eliminate illegal drug use by all employees in the XZY Co workplace. This document establishes the responsibilities, procedures, and guidelines for a comprehensive company wide Drug-Free Workplace Program. It provides direction, which should be used in conjunction with other statutory and regulatory requirements. Human Resources Manager should be consulted for further information and guidance.

Policy

It is a well-established fact that employees who use illegal drugs, on or off duty, tend to be less productive, less reliable, and prone to greater absenteeism, thereby impairing their ability to perform tasks that are critical to the company's focus and resulting in the potential for accidents on duty and failures that can pose serious threats to health, safety, and the protection of property. Illegal drug use is detrimental to the operations and functioning of XZY Co employees. Therefore, it is the policy of XZY Co to ensure a workplace that is free of illegal drugs and to eliminate illegal drug use by all employees in the XZY Co workplace, including, to the extent possible, contractor employees. To achieve this policy and as a deterrence to illegal drug use, XZY Co established a comprehensive drug-prevention program that emphasizes the following:

- XZY Co employees who are using illegal drugs should be offered the opportunity for rehabilitation.
- XZY Co provides drug education and training, employee counseling and assistance, and voluntary drug testing for all employees.
- XZY Co employees will be treated with personal dignity, and their privacy will be respected in reaching XZY Co's goal of a drug-free workplace.
- XZY Co guarantees that disciplinary action will not be taken against employees who voluntarily identify themselves as users of illegal drugs and who otherwise comply with the provisions of this Plan.

- While it is XZY Co's intent to help employees overcome their drug-related problems, it must be clear to all that illegal drug use by employees will not be tolerated.

Active participation and support of labor organizations can contribute to the success of this program. XZY Co will seek ways in which recognized bargaining unit representatives might assist in program implementation, such as in acquainting employees with rehabilitation facilities and by enhancing employee confidence in the program. XZY Co will include union representatives in general employee orientation programs.

It is the policy of XZY Co that its workplace be free from the illegal use, possession of, or distribution of controlled substances, by the officers and employees of XZY Co. The possession and distribution of controlled substances will be dealt with promptly in accordance with legal and administrative disciplinary procedures. However, the policy's primary goal is to ensure that illegal drug use is eliminated and that XZY Co's workplace be safe, healthful, productive, and secure.

Nature, Frequency, And Type of Drug Testing

The XZY Co Plan includes the following types of drug testing:

- Pre-employment testing.
- Random testing of employees in safety sensitive positions.
- Reasonable-suspicion testing.
- Involvement in accidents or unsafe-practices.
- Voluntary testing.
- Testing as part of and as a follow-up to counseling or rehabilitation.

The frequency of testing will depend on the type of testing to be conducted. Generally, 10 percent of the pool shall be subject to random testing each year. However, XZY Co management reserves the right to increase or decrease the frequency and testing percentage of any category of drug testing, consistent with the duty to achieve a drug-free workplace.

Responsibilities

Human Resources Manager

- Ensuring the implementation of this program
- Establishing the processes and procedures necessary to carry out this program
- Designating the XZY Co Drug Program Manager (DPM).

Drug Program Manager (DPM)

- Reporting to the Human Resources Manager on the status of the Drug-Free Workplace Program.
- Overseeing implementation of this program on a company-wide basis.

- Coordinating all Drug-Free Workplace Program activities wherever possible to conserve resources and to accomplish reliable and accurate testing efficiently.
- Arrange for all testing authorized under this Plan.
- Ensure that all employees, subject to random testing, receive individual notice and that such employees return a signed acknowledgment of receipt.
- Coordinate administrative actions with management when a finding of illegal drug use occurs under this Plan.
- Provide educational materials and training to managers, supervisors, and employees on illegal drugs in the workplace to include the recognition and documentation of facts and circumstances that support a reasonable suspicion that an employee may be using illegal drugs.
- Assist supervisors whose employees have performance and/or personal problems that may be related to illegal drug use.
- Monitor the progress of referred employees during and after the rehabilitation period.
- Maintain a list of rehabilitative and treatment organizations that provide counseling and rehabilitative programs.

Employee Assistance Program (EAP) Administrator

- Perform the lead role in the development, implementation, and evaluation of the EAP.
- Assist the EAP Coordinator and counselors in establishing their local EAP's.
- Advising on and preparing statistical reports.

Medical Review Officer (MRO)

MRO is responsible for receiving laboratory results generated from the XZY Co Drug-Free Workplace Program and for consulting with the Agency MRO, as needed. Each MRO must be a licensed physician with knowledge of substance abuse disorders and the appropriate medical training to interpret and evaluate all positive test results together with an individual's medical history and any other relevant biomedical information. The MRO is responsible for the following:

- Reviewing laboratory test results of employees.
- Ensuring that an individual who has tested positive has been afforded an opportunity to justify the test result.
- Evaluating and determining if the positive test result is justified or unjustified, based on an assessment
- Consistent with confidentiality requirements, referring written determinations regarding all verified positive test results

Supervisors

Supervisors will become familiar with the requirements of this program, especially the provisions concerning ensuring employees that their personal dignity and privacy will be respected.

Except as modified by XZY Co management to suit specific program responsibilities, all supervisors will attend a training session on illegal drug use in the workplace.

Supervisors may recommend a reasonable suspicion test, after first making appropriate factual observations and documenting those observations and obtaining approval from the appropriate management officials.

Upon a finding of illegal drug use, supervisors will refer employees to an EAP Administrator for assistance in obtaining counseling and rehabilitation.

Upon a finding of illegal drug use, supervisors will initiate appropriate disciplinary action

Supervisors will assist management and the EAP Administrator in evaluating employee performance and/or personnel problems that may be related to the use of illegal drugs.

Training and Education

Supervisory Training

Since supervisors have a key role in establishing and monitoring a drug-free workplace, XZY Co shall provide training to assist supervisors in recognizing and addressing illegal drug use by XZY Co employees. Supervisory training will be required of all supervisors and may be presented as a separate course or be included as part of an ongoing supervisory training program. Training will be provided as soon as possible after a person assumes supervisory responsibility; however, failure to receive such training will not invalidate otherwise proper management decisions relating to this program. The purpose of supervisory training is to provide the following information:

- XZY Co policies relevant to work-performance problems, drug use, and the XZY Co EAP.
- The rights of employees.
- The responsibilities of offering EAP services.
- The ways that performance and behavioral changes should be recognized and documented.
- The roles of the medical staff, supervisors, personnel, and EAP Administrator
- How to use the XZY Co EAP.

- How EAP relates to the performance appraisal and the disciplinary process.
- The process of reintegrating employees into the workforce who have successfully completed a rehabilitative program.

Employee Education

- Drug education for all employees includes the following:
 - Objectives of the program
 - Types and effects of drugs.
 - Rights of the employee.
 - Symptoms of drug use and the effects on performance and conduct.
 - The relationship of the EAP to the Drug-Free Workplace Program.
 - Other relevant treatment, rehabilitative, and confidentiality issues.
 - Means of Education

Drug education activities may include the following:

- Distribution of written materials.
- Videotapes.
- Lunchtime employee forums.
- Employee drug-awareness days.

Testing For Illegal Drugs

Technical Guidelines for Drug Testing

XZY Co's Drug-Free Workplace Program shall have trained collection personnel, a laboratory certification program, analytical standards and quality assurance requirements for urinalysis procedures, and strict confidentiality requirements.

All laboratories designated for analyzing drug tests must be approved by the MRO.

All tested employees will receive written notification of their test results. If the verification test indicates the presence of an illegal drug, the MRO will contact the employee and provide him/her the opportunity to justify the positive test result. If the employee chooses to offer an explanation for the positive test result, he/she may present to the MRO any information and/or declare any condition he/she believes might have affected the test result (e.g., prescribed medication). The MRO will consider all information provided. Employees are not entitled to present evidence to the MRO in a trial-type administrative proceeding, although the MRO has the discretion to accept evidence in any manner he/she deems most efficient or necessary. If the MRO determines that the employee's justification for the positive test result is adequate, the employee will be so notified, in writing, by the DPM, and the testing procedure is concluded at this point.

If the MRO determines that the employee's justification for the positive test result is not sufficient, the findings are forwarded to the DPM for further action. Upon receipt of MRO findings the DPM shall advise the employee that he/she may request a second test of the specimen and will arrange contact with the MRO, if desired. The second test will be conducted at the same XZY Co-contracted laboratory, at XZY Co expense. The employee can also request a second test at another certified laboratory. In such instances, the contracted laboratory used by XZY Co will send a portion of the original sample to the laboratory designated by the employee. The cost of this test shall be paid by the employee.

Privacy Provision

Any individual, subject to testing under this program, shall be permitted to provide urine specimens in private and in a rest room stall or similar enclosure so that the employee is not observed while providing the sample, except in those cases where collection-site personnel, with the approval of the DPM, have reason to believe the individual may alter or substitute the specimen to be provided. Such belief should be supported by one of the following:

- The individual's behavior suggests that he/she is under the influence of drugs at the time of the test.
- The individual has previously been found by XZY Co to be an illegal-drug user.
- At the time of testing, the individual is found to possess the means of tampering or altering urine samples.
- The individual has previously tampered with a sample.

Notice to Employees

A general notice announcing the XZY Co Drug-Free Workplace Program was provided to all employees at least 60 days prior to the implementation date of this Plan which explained:

- The purpose of the XZY Co Drug-Free Workplace Program.
- That the Program included both voluntary and mandatory testing.
- That those who held positions selected for random testing would also receive an individual notice, prior to the commencement of testing, indicating that their position had been designated a.
- The availability and procedures necessary to obtain counseling or rehabilitation through the EAP.
- The circumstances under which testing may occur.
- That opportunity will be afforded to submit medical documentation of lawful use of an otherwise illegal drug.
- That the laboratory assessment is a series of tests which are highly accurate and reliable and that, as an added safeguard, laboratory results are reviewed by the MRO.

- That all medical and rehabilitative records will be deemed confidential "patient" records and may not be disclosed without the prior written consent of the patient, except for the conditions or situations required by law. .
- That a verified positive test result may only be disclosed to:
 - a. The employee.
 - b. The appropriate EAP Coordinator.
 - c. Any management employee whose duties necessitate review of the test result in order to process an adverse personnel action against the employee.
 - d. A court of competent jurisdiction or where required by the U.S. Government to defend against any adverse personnel action.
- That XZY Co may conduct reasonable-suspicion, accident, or unsafe-practice testing without regard to the 60-day notice requirement.

Types of Testing

Random Testing - Employees occupying safety sensitive positions are subject to random testing. The frequency of and the percentage of the random testing will be determined according to management's needs.

Individual Notice - In addition to the general notice, an individual notice will be distributed to all employees subject to random testing, explaining, in addition to the information provided in the general notice, the following:

- (1) The employee's position has been designated a safety sensitive position.
- (2) The employee has the opportunity to identify himself/herself voluntarily as a user of an illegal drug and to receive counseling or rehabilitation.
- (3) It is XZY Co policy that disciplinary action will not be taken against employees who are found to be using an illegal drug, if the employee accomplishes the following:
 - (a) Voluntarily identifies himself/herself as a user of an illegal drug.
 - (b) Successfully completes counseling and rehabilitation.
 - (c) Thereafter refrains from using illegal drugs.
 - (d) The employee will be subject to random testing no sooner than 30 days after the date of this notice.

Each employee in a safety sensitive position shall be asked to acknowledge, in writing, that the employee has received and read the notice that states that the employee's position has been designated for random drug testing, and that refusal to submit to testing will result in initiation of disciplinary action, up to and including removal.

If the employee refuses to sign the acknowledgment, the employee's supervisor shall note on the acknowledgment form that the employee received the notice. This acknowledgment shall be collected and maintained by the DPM.

An employee's failure to sign the notice shall not preclude testing that employee or otherwise affect the implementation of the program since the general 60-day notice will have previously notified all employees of the requirement to be drug free.

Notification of Selection. An individual selected for random testing, as well as, the first-level supervisor, will be notified, preferably, on the same day that the test is scheduled and within 2 hours of the scheduled testing. The supervisor will explain to the employee that the employee is under no suspicion of taking drugs, and that the employee's name was selected randomly.

Deferral of Testing. If the first- and second-level supervisors agree, an employee's test may be deferred, if a compelling need necessitates a deferral on the following grounds:

- (1) The employee is in an approved leave status (administrative, annual, sick, or leave-without-pay status);
- (2) The employee is in official travel status or is about to embark on official travel; or
- (3) The employee needs to perform a task or function that is time critical and for which no other employee can be substituted.

An employee whose test is deferred will be subject to an unannounced test within the 60 days following the deferral.

Employee Counseling and Assistance

While participating in a counseling or rehabilitative program, the employee may be exempted from the random testing for a period not to exceed 60 days or for a time period specified in an abeyance contract or rehabilitative plan approved by XZY Co management.

Upon successful completion of the counseling or rehabilitative program, the employee will immediately be returned to the random test pool and will be subject to follow-up testing.

Reasonable-Suspicion Testing

Individuals Subject to Reasonable-Suspicion Testing. Reasonable-suspicion testing may be required of any employee in a position that is designated for random testing when there is a reasonable suspicion that the employee uses illegal drugs whether on or off duty. Reasonable-suspicion testing may also be required of any employee in any position when there is reasonable suspicion of on-duty drug use or on-duty drug impairment.

Reasonable-suspicion testing does not require certainty; however, undocumented "hunches" are not sufficient to warrant such testing. Among other things, reasonable-suspicion testing may be based upon the following:

- (1) Observable phenomena, such as direct observation of drug use or possession and/or the physical symptoms of being under the influence of a drug;
- (2) Arrest or conviction in the last year for a drug-related offense or the identification of an employee as the focus of a criminal investigation into illegal-drug possession, use, or trafficking (e.g., distribution of a controlled substance);
- (3) Information provided either by reliable and credible sources or by independent corroboration; or
- (4) Newly discovered evidence that the employee has tampered with a previous test result.

Testing Procedures

If an employee is suspected of using illegal drugs, the supervisor will document, in writing, the information, facts, and circumstances that form the basis to recommend reasonable-suspicion testing. The written report will include, at a minimum, the appropriate dates and times of the drug-related incidents, reliable (credible) sources of information, and the rationale leading to the recommendation for the test. If reasonable-suspicion testing is conducted, the documentation will be appended to include the findings of the test and the action taken. Concurrence by a higher level supervisor is required, in advance, for all reasonable-suspicion tests.

Upon determination of reasonable suspicion, and after approval from the appropriate management official, the supervisor will contact the DPM, who will normally schedule the test within 2 hours of being notified.

Any employee with a verified positive test result will be subject to the same conditions and procedures as an employee found to use illegal drugs through any other means.

Accident or Unsafe Practice Testing

XZY Co is committed to providing a safe and secure working environment. It also has a legitimate interest in determining the cause of serious accidents so that it can undertake appropriate corrective measures. Post-accident drug testing can provide invaluable information in furtherance of that interest. Accordingly, an employee may be subject to testing when, based upon the circumstances of the accident, their actions are reasonably suspected of having caused or contributed to an accident that meets the following criteria:

- a. The accident results in a death or personal injury requiring immediate hospitalization, or
- b. The accident results in damage estimated to be in excess of \$5,000 to company or private property.

If an employee is suspected of having caused or contributed to an accident meeting either of the above criteria, the appropriate supervisor will present the facts leading to this suspicion to the XZY Co Administrator (or designee) for approval. Once approval has been obtained and arrangements have been made with the DPM for testing, the supervisor will prepare a written report detailing the facts and circumstances that warranted the testing. A test should be scheduled as expeditiously as possible.

Voluntary Testing

Employees not in safety sensitive positions may volunteer for unannounced random testing by notifying the DPM. These employees will then be subject to random testing and will be subject to the same conditions and procedures for finding of illegal drug use as those employees found to use illegal drugs through any other means.

Follow-up Testing

All employees who have been referred through administrative channels and who successfully complete rehabilitation for illegal drug use will be subject to unannounced drug testing for a period of 1 year, at an increased frequency of no less than four times per year, or as agreed to in the abeyance contract. Follow-up testing is distinct from testing that may be imposed as a component of the EAP.

Illegal Drug Use and Disciplinary Consequences

An employee may be found to use illegal drugs on the basis of any appropriate evidence including, but not limited to, direct observation, evidence obtained from an arrest or criminal conviction, a verified positive test result, or an employee's voluntary admission.

Mandatory Administrative Actions

XZY Co shall refer an employee found to use illegal drugs to the EAP.

If an employee found to use illegal drugs occupies a safety sensitive position, XZY Co management will immediately take the employee out of that position.

At the discretion of the XZY Co Administrator (or designee) and as part of an EAP, an employee may be permitted to return to duty in a if the employee's return would not endanger public health or safety or national security.

Range of Consequences

The severity of the disciplinary action taken against an employee found to use illegal drugs will depend on the circumstances of each case, will be consistent with the Order, and will include the full range of disciplinary actions, including removal. XZY Co shall initiate disciplinary action against

any employee found to use illegal drugs but shall not discipline an employee who voluntarily admits to illegal drug use.

Disciplinary action, consistent with any collective-bargaining agreement and employment laws and other statutes, XZY Co orders, and regulations, may include any of the following measures, but some disciplinary action must be initiated:

- Reprimanding the employee in writing.
- Placing the employee in an enforced leave status.
- Suspending the employee for 14 days or less.
- Suspending the employee for 15 days or more.
- Suspending the employee until the employee successfully completes the EAP or until XZY Co determines that action other than suspension is more appropriate.
- Reducing the employee in pay or grade.
- Removing the employee from employment with the company.

Voluntary Referral

Under the program, XZY Co is required to initiate action to discipline any employee found to use illegal drugs in every circumstance, except one. If an employee (1) voluntarily admits his or her drug use; (2) completes counseling or an EAP; and (3) thereafter refrains from drug use, such discipline "is not required."

A fundamental purpose of XZY Co's Drug-Free Workplace Program is to assist employees who, themselves, are seeking treatment for drug use. For this reason, XZY Co will not initiate disciplinary action against any employee who meets all three of the following conditions:

- Voluntarily identifies himself/herself as a user of illegal drugs, prior to being identified through other means.
- Successfully completes counseling or rehabilitation through an EAP, including follow-up testing.
- Thereafter refrains from using illegal drugs.
- This self-referral option allows any employee to step forward and identify himself/herself as an illegal drug user for the purpose of entering a drug-treatment program under the EAP.

Since the key to this provision's rehabilitative effectiveness is an employee's willingness to overcome "denial" by means of a voluntary self-identification--a decision on the employee's part to admit his or her problem to himself/herself and to others--this provision will not be available to an employee who is asked to provide a urine sample under random, reasonable suspicion, accident or unsafe practice testing, and

who thereafter (i.e., just before or after the sample is collected) "admits" his or her drug use.

Initiation of Mandatory Removal from Employment

XZY Co will initiate action to remove an employee for the following:

- Refusing to obtain counseling or rehabilitation through an EAP, as required after having been found using illegal drugs.
- Having been found to have used illegal drugs following a first finding of illegal drug use.

Failure to Appear For Testing

Failure to appear for testing without justification acceptable to XZY Co management will be considered refusal to participate in testing and will subject an employee to the full range of disciplinary actions, including removal.

If an individual fails to appear at the collection site at the assigned time, the collector will contact the Center DPC who will initiate appropriate action.

Refusal to Take a Drug Test

An employee who refuses to be tested when so required will be subject to the full range of disciplinary action, including removal.

Attempts to alter, substitute, or tamper with the collection of the specimen will be deemed a refusal to take the drug test.

Rehabilitation

Employee Assistance Program (EAP) has been established to:

Assist supervisors who have employees with performance and/or conduct problems and make referrals to treatment and rehabilitative facilities.

Provide counseling and assistance to employees who refer themselves for treatment or who have been found to be illegal drug users and monitor their progress through treatment/rehabilitation.

Make available to all XZY Co employees, education and training on the types and effects of drugs, symptoms of drug use, and impact of drugs on performance and conduct, relationship of the EAP with the XZY Co Drug-Free Workplace Program, and related treatment, rehabilitative, and confidentiality issues. The EAP is administered separately from the XZY Co Drug-Free Workplace Program.

Referral and Availability

The EAP shall provide counseling and rehabilitative services for all referrals, as well as education and training for all employees regarding use of illegal drugs.

Any employee found to be using illegal drugs will be referred to the EAP; however, the EAP will be available to all employees without regard to a finding of illegal drug use. When feasible, the EAP is also available to XZY Co employees with family members who have drug problems.

In the event that the employee is not satisfied with the program of treatment or rehabilitation, such employee may seek review of the EAP Coordinator's referral by notifying the EAP Administrator prior to completion of the program. The decision of the EAP Administrator shall be final and shall not be subject to further administrative review. Regardless of the treatment program chosen, the employee remains responsible for successful completion of the treatment, and assertions that the counselor failed to consider one or more of the factors in making a referral shall constitute neither an excuse for continuing to use illegal drugs nor a defense against disciplinary action if the employee does not complete treatment.

Leave Allowance

During the assessment/referral phase of rehabilitation, an employee shall be allowed up to 1 hour (or more as necessitated by travel time) of excused absence for each counseling session up to a maximum to be determined by the supervisor according to workload requirements and leave-usage law, regulations, and XZY Co policy.

Absences during duty hours for rehabilitation/treatment after the assessment/referral phase must be charged to the appropriate leave category (annual, sick, or leave without pay) in accordance with law and leave regulations.

Records and Reports

Confidentiality of Test Results

The laboratory may disclose confirmed laboratory test results only to the MRO. Any positive result that the MRO justifies by licit and appropriate medical or scientific documentation to account for the results as other than the intentional ingestion of an illegal drug, will be treated as a negative test result and may not be released for purposes of identifying illegal drug use. Test results will be protected and may not be released to other persons. The MRO may maintain only those records necessary for compliance with the program. Any records of the MRO, including drug-test results, may be released to any supervisor or management official(s) having authority to take adverse personnel actions for purposes of auditing the activities of the MRO, except that the disclosure of the results of any audit may not include personal identifying information on any employee.

The results of a drug test of a XZY Co employee may not be disclosed without the prior written consent of such employee, unless the disclosure would be to any of the following:

- The MRO;

The EAP Administrator, when the employee is receiving counseling or treatment;

Any supervisor or management official(s) within XZY Co having authority to take or recommend adverse personnel action against such employee; or Pursuant to the order of a court of competent jurisdiction where required by the United States Government to defend against any adverse personnel action.

Test results with all identifying information removed shall also be made available to XZY Co personnel, including the DPM, for data collection and other activities necessary to comply with this program.

Employee Access to Records

Any employee who is the subject of a drug test will, upon written request, have access to any records relating to the following:

Such individual's drug test.

The results of any relevant certification, review, or revocation of proceedings

Confidentiality of Records

All drug-testing information, specifically relating to individuals, is confidential and should be treated as such by anyone authorized to review or compile program records. In order to implement the program efficiently and to make information readily retrievable, the DPM shall maintain all records relating to reasonable-suspicion testing, suspicion of tampering evidence, and any other authorized documentation necessary.

All records and information of the personnel actions taken on employees with verified positive test results should be forwarded to the appropriate personnel office representative. Such shall remain confidential, appropriately safeguarded, allowing access only to authorized individuals who have a "need-to-know."

Maintenance of Records

XZY Co has established a record keeping system to maintain the records of this program, consistent with the XZY Co Privacy Act requirements and with all applicable Federal laws, rules, and regulations on confidentiality of records. If necessary, records may be maintained as required by subsequent administrative or judicial proceedings or at the discretion of the XZY Co DPM.

- Notices of verified positive test results referred by the MRO.
- Written materials justifying reasonable-suspicion testing or evidence that an individual may have altered or tampered with a specimen.
- Other documents that the DPM, MRO, or EAP Administrator deem necessary for compliance with this program.

Employee Assistance Program (EAP) Records

The EAP Administrator shall maintain only those records necessary to comply with this program. After a management official refers an employee, the EAP Administrator will maintain all records necessary to carry out his/her duties.

All medical and/or rehabilitative records concerning the employee's drug abuse, including EAP records of the identity, diagnosis, prognosis, or treatment are confidential and may be disclosed only as authorized by law.

With written consent, the patient may authorize the disclosure of those records to the patient's employer for verification of treatment or for a general evaluation of treatment progress.

The information and suggestions contained in this material have been developed from sources believed to be reliable. However, Frankenmuth accepts no legal responsibility for the correctness or completeness of this material, or its application to specific factual situations.