

PRINT ON LETTERHEAD

NOTIFICATION OF EMPLOYMENT POLICY CHANGE AND ACKNOWLEDGEMENT OF RECEIPT OF NEW POLICY

Date: [DATE]
From: [NAME & TITLE]
To: All [COMPANY NAME] Employees
Subject: **NEW EMPLOYMENT POLICY: "DRUG FREE WORKPLACE AND SUBSTANCE ABUSE"**

We have developed a new employment policy, "**Drug Free Workplace and Substance Abuse**," which is included in this memorandum below. Please review this policy carefully, sign this memorandum, and return the signed form to [HR REPRESENTATIVE]. This policy is being issued to be effective [DATE].

POLICY

DRUG-FREE WORKPLACE AND SUBSTANCE ABUSE

[COMPANY NAME] strives to provide a safe environment for employees and others and to minimize the risk of accidents and injuries. Accordingly, each employee has a responsibility to co-workers and the public to deliver services in a safe and conscientious manner. Continuing research and practical experience have proven that even limited quantities of illegal drugs, abused prescription drugs or alcohol can impair reflexes and judgment. This impairment, even when not readily apparent, can have catastrophic consequences. Moreover, studies have shown that impairment by controlled substances may last long after the user believes the effects to have worn off. For these reasons, [COMPANY NAME] has adopted a policy that all employees must report to work and remain completely free of illegal drugs, abused or non-prescribed prescription drugs and alcohol.

Drug Use/Distribution/Possession/Impairment

To help achieve the goal of a drug-free workplace, [COMPANY NAME] strictly prohibits the use, sale, attempted sale, conveyance, distribution, manufacture, purchase, attempted purchase, possession, cultivation and/or transfer of illegal drugs or other unlawful intoxicants at any time, and in any amount or any manner, regardless of occasion. "Illegal drugs" means all drugs whose use or possession is regulated or prohibited by federal, state or local law. These include prescription medication that is used in a manner inconsistent with the prescription or for which the individual does not have a valid prescription. Marijuana remains illegal as a matter of federal law and therefore its use or possession violates this policy. [COMPANY NAME] will endeavor to accommodate individuals with disabilities but will not accommodate the use of medical marijuana at work or excuse policy violations related to medical marijuana.

Employees are also prohibited from having any such illegal or unauthorized controlled substances in their system while at work.

Included within this prohibition are lawful controlled substances that have been illegally or improperly obtained.

Alcohol Use/Distribution/Possession/Impairment

All employees are prohibited from distributing, dispensing, possessing or using any beverage or medicine containing alcohol while at work or on duty and from coming onto company premises, reporting to work, or working with alcohol in their systems. Furthermore, lawful off-duty alcohol use, while generally not prohibited by this policy, must not interfere with an employee's job performance.

DISCUSSION AND PROCEDURES

Prescription and Over-the-Counter Drugs

This policy does not prohibit the possession and proper use of lawfully prescribed or over-the-counter drugs. However, an employee taking medication should consult with a health care professional or review dosing directions for information about the medication's effect on the employee's ability to work safely, and promptly disclose any work restrictions to a supervisor or [Human Resources] **[or insert name/contact details for appropriate company representative or department]**. Employees are not required to reveal the name of the medication or the underlying medical condition.

[COMPANY NAME] reserves the right to transfer, reassign, place on leave of absence or take other appropriate action regarding any employee during the time the employee uses medication that may affect their ability to perform safely. [COMPANY NAME] will comply with all requirements pertaining to providing reasonable accommodations to the extent required by applicable law.

Marijuana remains illegal as a matter of federal law and therefore its use or possession violates this policy. [COMPANY NAME] will endeavor to accommodate individuals with disabilities but will not accommodate the use of medical marijuana at work or excuse other policy violations related to medical marijuana.

Employee Drug and Alcohol Testing

To ensure the accuracy and fairness of our testing program, all testings will be conducted according to official guidelines where applicable and will include a screening test; a confirmation test; the opportunity for a split sample; review by a Medical Review Officer, including the opportunity for employees who test positive to explain in a confidential setting, a positive test result; and a documented chain of custody. Drug and alcohol testing may be conducted in the following circumstances:

Reasonable suspicion - There is reasonable suspicion that an employee is under the influence of an illegal drug, a legal drug not prescribed to the employee, or abuse of legal drug that is prescribed to the employee, alcohol, or any other substance that is impairing the employee's performance, behavior, or conduct.

- **Testing for reasonable suspicion** - If a supervisor or manager suspects that an individual is at work and under the influence of alcohol and/or drugs, such suspicion must be documented on an approved form, preferably by two management employees trained in such documentation. The person(s) completing the documentation of reasonable suspicion must then notify the [Top Level Official] or [HR Official] to seek authorization to test the employee for drugs and/or alcohol.
- **Transportation to testing site** - Under no circumstances will the employee be allowed to drive himself or herself to the testing facility. A member of supervision/management and a union rep (if appropriate) must escort the employee; the supervisor/manager will arrange for the employee to be transported home from the testing facility.

Post-Accident/Incident – Employees will be subject to drug and alcohol testing post-accident/incident:

- When the employee has been involved in a motorized vehicle accident. When such an accident occurs, all employees involved in an accident or whose behavior could have contributed to the accident shall also be tested/screened for drug and/or alcohol use; or
- Where there is a reasonable belief that the use of drugs and/or alcohol caused or was a contributing factor to the employee's impairment and subsequent accident/incident. Where such reasonable belief exists, all employees involved in an accident or anyone whose behavior could have contributed to the accident shall also be tested/screened for drug and/or alcohol use; or
- When [COMPANY NAME] conducts drug and alcohol testing as a part of its accident/incident investigation protocols to evaluate the root cause of a workplace accident/incident that harmed or could have harmed employees or other persons, or that could have caused damage to property or equipment. When the employer chooses to use drug/alcohol testing to investigate

the accident/incident, the employer shall test all employees whose conduct could have contributed to the incident, not just employees who reported injuries; or

- [COMPANY NAME] conducts such drug testing to comply with the requirements of a state or federal law or regulation, such as under U.S. Department of Transportation regulations concerning CDL or safety-sensitive positions, or under state workers' compensation laws. Note that such testing will be allowed even in the absence of a reasonable belief/suspicion.
- [COMPANY NAME] also conducts post-accident/incident drug testing to meet a contractual requirement, or to meet requirements of a certification or accreditation held by [COMPANY NAME]. Note that such testing will be allowed even in the absence of a reasonable belief/suspicion.
- Under no circumstances will the employee be allowed to drive himself or herself to the testing facility. A member of supervision/management and a union rep (if appropriate) must escort the employee; the supervisor/manager will arrange for the employee to be transported home from the testing facility.

Return-to-Work or Fit-for-Duty Testing – As a condition of continued employment or reinstatement after an incident of drug and/or alcohol related misconduct, on or off the job. If [COMPANY NAME] elects to allow an employee to return to work following a positive test results, it is mandatory that the employee must first pass a drug test and subsequently submit to a program of unannounced testing for a period of not more than 2 years from the date of return to duty. The return to work agreement will be reviewed and signed by the employee, and the [HR Official].

Confidentiality of Test Results

All communications received by [COMPANY NAME] relevant to drug test or alcohol impairment test results and received through [COMPANY NAME]'s testing program are confidential communications and may not be used or received in evidence, obtained in discovery or disclosed in any public or private proceeding, except disclosure to:

- The tested employee or prospective employee or any other person designated in writing by that employee or prospective employee.
- Individuals designated by the employer to receive and evaluate test results or hear the explanation of the employee or prospective employee.
- An arbitrator or mediator, or a court or governmental agency as authorized by state or federal law.

All information relating to drug and/or alcohol screens is to be kept strictly confidential. The information will be kept in the employee's medical file, which will be maintained separately from the employee's personnel file. These medical files will be kept locked and secured and access will be limited to certain individuals in the organization.

Employee Drug and/or Alcohol-Related Arrests and/or Convictions

As a condition of employment, all [COMPANY NAME] employees must abide by the terms of this policy statement. An employee must notify [Human Resources] as soon as possible within five (5) calendar days if he or she is arrested and/or convicted of a criminal drug or alcohol violation, including being arrested for driving while under the influence of alcohol or drugs including illegal or prescription medications, whether on duty or off:

- Must report the arrest and/or conviction to [Human Resources] as soon as possible within five (5) calendar days. Failure to report such an arrest and/or may result in disciplinary action up to and including termination.
- Will not be permitted to operate a company owned vehicle while charges are pending. They may be assigned to other appropriate positions, if available, until disposition of the charges.
- Will be subject to testing for the presence of alcohol and/or drugs on request of an authorized representative of [COMPANY NAME], with or without cause or reasonable suspicion. Failure or

refusal to consent to testing when requested will result in disciplinary action up to and including termination.

- A plea of no contest shall be considered a guilty plea for the purposes of this policy. An employee's conviction of or a plea of guilty to the crime of driving while under the influence of alcohol and/or drugs will result in immediate termination regardless of whether the conviction is reversed on appeal.

Employee DUI Arrests

Any [COMPANY NAME] employee arrested for driving while under the influence of alcohol or drugs including illegal or prescription medications, whether on duty or off:

- Must report the arrest to the supervisor, manager, or a human resources representative. Failure to report such an arrest may result in disciplinary action up to and including termination.
- Will not be permitted to operate a company owned vehicle while charges are pending. Instead, they may be assigned to other appropriate positions, if available, until disposition of the charges.
- Will be subject to testing for the presence of alcohol and/or drugs on request of an authorized representative of [COMPANY NAME], with or without cause or reasonable suspicion. Failure or refusal to consent to testing when requested will result in disciplinary action up to and including termination.
- A plea of no contest shall be considered a guilty plea for the purposes of this policy. An employee's conviction of or a plea of guilty to the crime of driving while under the influence of alcohol and/or drugs will result in immediate termination regardless of whether the conviction is reversed on appeal.

Counseling and Rehabilitation

In accordance with the Americans With Disabilities Act Amendments Act of 2008, employees who voluntarily seek help for substance abuse (self-referral) by contacting [COMPANY NAME] prior to a drug or alcohol test, will be provided an opportunity to pursue counseling and rehabilitation. [COMPANY NAME] will make available to these employees' information about counseling and rehabilitation services. An employee who is receiving counseling and/or treatment for substance abuse may use available vacation, sick leave, or, if eligible, family and medical leave. Health insurance often covers the costs of such services, but costs not covered must be paid by the employee. The employee cannot return to work until released by a treatment provider to do so, and when he or she receives a negative result on a return-to-work drug and/or alcohol test (as appropriate for that individual). In addition, the employee may be asked to submit to follow-up testing for a period following the return to work.

An employee's decision to seek help voluntarily will not be used as a basis for disciplinary action, although the individual may be transferred, given work restrictions or placed on leave, as appropriate. A request for help is considered voluntary only if it is made before the employee is asked to submit to any drug or alcohol test or is discovered to have otherwise violated this policy.

Company's Right to Search

[COMPANY NAME] wishes to maintain a work environment that is free of illegal drugs, alcohol, firearms, explosives or other improper materials. To this end, [COMPANY NAME] prohibits the control, possession, transfer, sale or use of such materials on its premises to the extent permitted by applicable law. We require the cooperation of all employees in administering this policy.

Desks, lockers and other storage devices are provided for the convenience of employees but remain the sole property of [COMPANY NAME]. Accordingly, they, as well as any articles found within them, can be inspected by any agent or representative of [COMPANY NAME] at any time, either with or without prior notice.

In addition, to ensure the safety and security of employees and customers, and to protect our legitimate business interests, we reserve the right to question and inspect or search any employee or other individual entering or leaving company premises or job sites. The inspection or search may include any packages or items that the individual may be carrying, including briefcases, handbags, knapsacks, shopping bags, etc.

These items are subject to inspection and search at any time, with or without prior notice. We also may require employees to agree to reasonable inspection of their personal property and/or person while on the job or on [COMPANY NAME]'s premises. The individual may be requested to self-inspect their personal property or person by displaying the contents of any packages and/or turning out their pockets, etc., in the presence of a representative of [COMPANY NAME], typically a management employee of the same gender. [COMPANY NAME] will not tolerate any employee's refusal to submit to a search.

Failure or refusal to submit to a drug and/or alcohol test/screen

Failure or refusal to submit to a drug and/or alcohol test/screen will constitute a voluntary resignation from employment, effective immediately.

Ineligible for Re-Hire

If an employee is discharged for violation of this policy, he/she will not be eligible for rehire.

ACKNOWLEDGEMENT OF RECEIPT OF [COMPANY NAME] NEW POLICY

Effective [DATE]

By my signature below, I acknowledge that I have received and read the above [COMPANY NAME] policy addition, "**Drug Free Workplace and Substance Abuse**," which is effective [DATE]. I accept the terms of this employment policy, and I also understand that it is my responsibility to comply with this and the other policies contained in [COMPANY NAME]'s employment policy handbook, and any revisions made to it, as a condition of my continued employment with [COMPANY NAME].

Employee – Print Name

Employee Signature

Date

[COMPANY NAME] Representative Signature

Date