

How to Customize This Sample Drug-Free Policy

The following is a sample drug-free workplace policy designed to assist you in your safety efforts. This policy includes State of Oklahoma requirements needed for you to be eligible to receive a workers' compensation premium credit. There are a few steps that you need to complete to make this program your own.

1. Copy the first page of the policy onto your company letterhead or add your company name and address at the top of the page.
2. Add the date you begin implementing your drug-free workplace policy.
3. In the fourth paragraph, add the 10-day general notice date (which is 10 days from the date you implement or revise your program). ***This is a one-time general notice.***
4. Replace **[Company]** with the name of your company.

It is important that notice of this drug-free workplace policy be given to each of your employees in at least one of the following ways:

1. Hand-delivering a paper copy of the policy or changes to the policy
2. Mailing a paper copy of the policy or changes to the policy through the U.S. Postal Service or a parcel delivery service to the latest address given by the employee or applicant
3. Sending the policy by email or posting on your website or intranet
4. Posting a copy in a prominent employee access area

We recommend providing your employees with a paper copy of the policy, and have them sign a Drug-Free Workplace Policy Acknowledgement Form (provided herein); and keep the Acknowledgment Form in employee personnel files, to document that you have given your employees notice of the policy.

To receive the workers' compensation premium credit, please send (1) a complete copy of your drug-free workplace policy, and (2) a completed Application for Drug-Free Workplace Premium Credit Program to:

Summit
ATTN: Loss Prevention
PO Box 988
Lakeland, FL 33802
or
Fax: 863-668-7566
Email: dfwspcreditadmin@summitholdings.com

Updating your existing drug-free policy

If you are using this sample drug-free policy to revise your current drug-free policy, please complete the steps above and add a current date to the top of page one with the word "**Revised**" beside the date. Please note, in paragraph four, you need to provide 10 days notice of any revisions to your employees.

Oklahoma Drug-Free Workplace Policy

1. Statement of policy

Implementation date: [XX/XX/20XX]

As part of our commitment to safeguard the wellbeing of our employees and to provide a safe environment for everyone, [Company] (hereinafter “Company”) has established a drug-free workplace policy.

The goal of this policy is to balance our respect for individual privacy with our need to keep a safe, productive, drug-free environment. We encourage those who use illegal drugs or abuse alcohol to seek help in overcoming their problem. Employees who do so will be able to retain their job positions in good standing.

While this Company understands that employees and applicants under a physician’s care are required to use prescription drugs, abuse of prescribed medications will be dealt with in the same manner as the abuse of illegal substances.

All employees are given a one-time notice as of the above date that it is a violation of company policy for any employee to report to work under the influence of illegal drugs and/or to possess in his or her body illegal drugs in any detectable amount. Employees are subject to drug testing under the standards of this policy on [XX/XX/20XX] (“Testing Date”), which is 10 days from the above implementation date.

Thereafter, Company will include notice of drug testing on employment vacancy announcements for positions for which drug testing is required. A notice of the drug-testing policy will be posted in an appropriate and conspicuous location on Company’s premises, and copies of the policy must be made available for inspection by the employees or applicants of Company during regular business hours in Company’s personnel office or other suitable locations.

2. Applicants and employees who are subject to testing

All applicants and employees are subject to drug or alcohol testing under this Drug-Free Workplace Policy (“Policy”), which has been created in accordance with the Oklahoma “Standards for Workplace Drug and Alcohol Testing Act,” as set forth in Okla. Stat. Ann. Title 40, § 551, et seq. “Applicant” means a person who has applied for a position with Company and received a conditional offer of employment. “Employee” means any person who supplies labor for remuneration to Company in the State of Oklahoma, and does not include an independent contractor, subcontractor or employees of an independent contractor.

3. Circumstances under which testing may be requested or required

Company requires its applicants and employees to undergo drug and alcohol testing under the following circumstances:

- a. Applicant and transfer/reassignment testing: All applicants are required to undergo drug or alcohol testing, and refusal to undergo testing or a positive test result will result in a refusal to hire. All employees who transfer to a different position or job, or are reassigned to a different position or job, are required to undergo drug or alcohol testing.

- b. For-cause testing: Company may require any employee to undergo drug or alcohol testing at any time Company reasonably believes that the employee may be under the influence of drugs or alcohol, including, but not limited to, the following circumstances:
 - i. drugs or alcohol on or about the employee's person or in the employee's vicinity
 - ii. conduct on the employee's part that suggests impairment or influence of drugs or alcohol
 - iii. a report of drug or alcohol use while at work or on duty
 - iv. information that an employee has tampered with drug or alcohol testing at any time
 - v. negative performance patterns
 - vi. excessive or unexplained absenteeism or tardiness
- c. Post-accident testing: Company requires that all employees undergo immediate drug or alcohol testing if the employee or another person has sustained an injury while at work or property has been damaged while at work, including damage to equipment. For purposes of workers' compensation, no employee who tests positive for the presence of substances defined and consumed pursuant to Section 465.20 of Title 63 of the Oklahoma Statutes, alcohol, illegal drugs, or illegally used chemicals, or refuses to take a drug or alcohol test required by Company, shall be eligible for such compensation.
- d. Post-rehabilitation testing: Company requires all employees to undergo drug or alcohol testing for a period of up to two (2) years commencing with the employee's return to work, following a positive test or following participation in a drug or alcohol dependency treatment program.
- e. Random testing: Company will only engage in random drug or alcohol testing for the following types of employees, who:
 - i. are police or peace officers
 - ii. have drug interdiction responsibilities
 - iii. are authorized to carry firearms
 - iv. are engaged in activities which directly affect the safety of others
 - v. are working for a public hospital, including any hospital owned or operated by a municipality, county or public trust
 - vi. work in direct contact with inmates in the custody of the Department of Corrections or work in direct contact with juvenile delinquents or children in need of supervision in the custody of the Department of Human Services.
- f. Scheduled, fitness-for-duty, return from leave and other periodic testing: Company will only require scheduled, fitness-for-duty, return from leave and other periodic drug or alcohol testing for employees who:
 - i. are police or peace officers
 - ii. have drug interdiction responsibilities
 - iii. are authorized to carry firearms
 - iv. are engaged in activities which directly affect the safety of others
 - v. are working for a public hospital, including any hospital owned or operated by a municipality, county or public trust

- vi. work in direct contact with inmates in the custody of the Department of Corrections or work in direct contact with juvenile delinquents or children in need of supervision in the custody of the Department of Human Services

4. Substances that may be tested: drugs and alcohol

- a. Company may test for alcohol, and any drugs, including, but not limited to, the following:
 - i. Alcohol
 - ii. Amphetamines
 - iii. Cannabinoids
 - iv. Cocaine
 - v. Phencyclidine HCl
 - vi. Methaqualone HCl
 - vii. Opiates
 - viii. Barbiturates
 - ix. Benzodiazepines
 - x. Synthetic narcotics
 - xi. Hallucinogens
 - xii. Designer drugs
 - xiii. Medical marijuana
- b. Under Okla. Stat. Ann. Title 63, § 425(B)(2) (West 2020), Company “may not take action against the holder of a medical marijuana license solely based upon the status of an employee as a medical marijuana license holder or the results of a drug test showing positive for marijuana or its components.”

However, under the following Okla. Stat. Ann. Title 63, § 427.8(I) (West 2020) (Medical marijuana law), Company can test for marijuana under its Policy, and apply the Policy’s consequences for a positive drug test to applicants or employees who are not medical marijuana license holders:

Nothing in this act or Section 420 et seq. of Title 63 of the Oklahoma Statutes [medical marijuana] shall:

- 1. Require an employer to permit or accommodate the use of medical marijuana on the property or premises of any place of employment or during hours of employment
- 2. Require an employer, a government medical assistance program, private health insurer, workers’ compensation carrier or self-insured employer providing workers’ compensation benefits to reimburse a person for costs associated with the use of medical marijuana
- 3. Prevent an employer from having written policies regarding drug testing and impairment in accordance with the Oklahoma Standards for Workplace Drug and Alcohol Testing Act, Section 551 et seq. of Title 40 of the Oklahoma Statutes.

Any applicant or employee aggrieved by a willful violation of this section shall have, as his or her exclusive remedy, the same remedies as provided for in the Oklahoma

Standards for Workplace Drug and Alcohol Testing Act set forth in Section 563 of Title 40 of the Oklahoma Statutes.

- c. The following is a list of the most common medications, which may alter or affect a drug test, and is not intended to be all-inclusive:

Alcohol	All liquid medications containing ethyl alcohol (ethanol). Please read the label for alcohol content. As an example, Vick's Nyquil is 25% (50 proof) ethyl alcohol, Comtrex is 20% (40 proof), Contact Severe Cold Formula Night Strength is 25% (50 proof) and Listerine is 26.9% (54 proof).
Amphetamines	Obetrol, Biphedamine, Desoxyn, Dexedrine, Didrex, Ionamine, Fastin.
Cannabinoids	Marinol (Dronabinol, THC).
Cocaine	Cocaine HCl topical solution (Roxanne).
Phencyclidine	Not legal by prescription.
Methaqualone	Not legal by prescription.
Opiates	Paregoric, Parepectolin, Donnagel PG, Morphine, Tylenol with Codeine, Empirin with Codeine, APAP with Codeine, Aspirin with Codeine, Robitussin AC, Guaiatuss AC, Novahistine DH, Novahistine Expectorant, Dilaudid (Hydromorphone), M-S Contin and Roxanol (morphine sulfate), Percodan, Vicodin, Tussi-organidin, etc.
Barbiturates	Phenobarbital, Tuinal, Amytal, Nembutal, Seconal, Lotusate, Fiorinal, Fioricet, Esgic, Butisol, Mebaral, Butabarbital, Butalbital, Phrenilin, Triad, etc.
Benzodiazepines	Ativan, Azene, Clonopin, Dalmane, Diazepam, Librium, Xanax, Serax, Tranxene, Valium, Verstran, Halcion, Paxipam, Restoril, Centrax.
Methadone	Dolophine, Metadose.
Propoxyphene	Darvocet, Darvon N, Dolene, etc.

5. Testing methods and collection procedures to be used

- a. Company will have a qualified person administer the following chemical tests for the purpose of determining the presence or absence of a drug or its metabolites or alcohol in an applicant's or employee's bodily tissue, fluids or products.
 - i. A breath or blood specimen may be used for the confirmation test for alcohol.
 - ii. A urine, saliva or blood specimen may be used for the confirmation test for drugs.
 - iii. Company may also test for drugs or alcohol by another method which is reasonably calculated to detect the presence of drugs or alcohol, including, but not limited to,

- breathalyzer testing, testing by use of a single-use test device, known as an on-site or quick testing device, to collect, handle, store and ship a sample collected for testing.
- iv. Adulteration of a specimen or of a drug or alcohol test shall be considered as a refusal to test.
 - b. “Sample” means tissue, fluid or product of the human body chemically capable of revealing the presence of drugs or alcohol in the human body. All sample collection and testing for drugs and alcohol shall be conducted in accordance with the following:
 - i. Samples shall be collected and tested only by individuals deemed qualified by the State Board of Health and may be collected on Company’s premises;
 - ii. Only samples deemed appropriate by the State Board of Health for drug and alcohol testing shall be collected
 - iii. The collection of samples shall be performed under reasonable and sanitary conditions
 - iv. The sample shall be collected in sufficient quantity for splitting into two separate specimens, pursuant to rules of the State Board of Health, to provide for any subsequent independent analysis in the event of challenge of the test results of the main specimen
 - v. Samples shall be collected and tested with due regard to the privacy of the individual being tested. In the instances of urinalysis, no employee, representative, agent or designee of Company shall directly observe an applicant or employee in the process of producing a urine sample; provided, however, collection shall be in a manner reasonably calculated to prevent substitutions or interference with the collection or testing of reliable samples
 - vi. Sample collection shall be documented, and the documentation procedures shall include:
 - A. labeling of samples so as reasonably to preclude the probability of erroneous identification of test results, and
 - B. an opportunity for the applicant or employee to provide notification of any information which the applicant or employee considers relevant to the test, including identification of currently or recently used prescription or nonprescription drugs, or other relevant information
 - vii. Sample collection, storage, and transportation to the testing facility shall be performed so as reasonably to preclude the probability of sample contamination or adulteration
 - viii. Sample testing shall conform to scientifically accepted analytical methods and procedures. Testing shall include confirmation of any positive test result by gas chromatography, gas chromatography-mass spectroscopy, or an equivalent scientifically accepted method of equal or greater accuracy as approved by Board rule, at the cutoff levels as determined by Board rule, before the result of any test may be used as a basis for refusal to hire a job applicant or any action by Company
 - ix. A written record of the chain of custody of the sample shall be maintained from the time of the collection of the sample until the sample is no longer required.
 - c. The qualified third party will provide the test specimen/sample to a “testing facility,” which will test specimen sample(s) for the presence of drugs or alcohol.
 - d. Company will provide the testing facility’s test results a “review officer,” who will be qualified by the State Board of Health, and will interpret and evaluate an employee’s or applicant’s test results together with the employee’s or applicant’s medical history and any other relevant information.

- e. Any drug or alcohol testing by Company shall be deemed work time for purposes of compensation and benefits for current employees. Company will pay all costs of testing for drugs or alcohol required by Company. Provided, however, if an employee or applicant requests a confirmation test of a sample within twenty-four (24) hours of receiving notice of a positive test in order to challenge the results of a positive test, the employee or applicant shall pay all costs of the confirmation test, unless the confirmation test reverses the findings of the challenged positive test. In such case, Company shall reimburse the individual for the costs of the confirmation test.

6. Consequences of a positive test or refusing to undergo testing

- a. What is a drug or alcohol test refusal?
 - i. Failure to take drug or alcohol test within a reasonable time after Company has requested it.
 - ii. Company requires a drug test immediately after an employee sustains a work injury. Failing to timely report a work injury, resulting in an unreasonable delay in testing is considered a refusal.
 - iii. Adulteration of a specimen or of a drug or alcohol test.
- b. Company may take disciplinary action, up to and including discharge, against an employee who refuses to undergo drug or alcohol testing.
- c. For purposes of workers' compensation, no employee who tests positive for the presence of substances defined and consumed pursuant to Section 465.20 of Title 63 of the Oklahoma Statutes, alcohol, illegal drugs, or illegally used chemicals, or refuses to take a drug or alcohol test required by Company, shall be eligible for such compensation; which will result in the employee forfeiting the employee's right such workers' compensation benefits.
- d. Company may use a refusal to undergo testing as a basis for refusal to hire an applicant.

7. Potential adverse personnel action which may be taken as a result of a positive test result

- a. Company may take disciplinary action, up to and including discharge, against an employee who tests positive for the presence of drugs or alcohol.
- b. Company may use a positive test result as a basis for refusal to hire an applicant.

8. The ability of an applicant and employee to explain, in confidence, the test results

An applicant or employee may meet in confidence with the review officer and explain any positive test results. This includes reporting the use of prescription or nonprescription medications to a review officer, both before and after a drug/alcohol test; Company will provide the review officer's contact information to the applicant or employee. Prescription or nonprescription medication is a drug or medication obtained with a prescription from an authorized health care provider or a medication that is authorized by federal or state law for general distribution and use without a prescription in the treatment of human diseases, ailments, or injuries.

9. The ability of an applicant and employee to obtain copies of all information and records related to that individual's testing

- a. A testing facility shall release the results of the drug or alcohol test, and any analysis and information related thereto, to the employee or applicant tested upon request.
- b. Records of all drug and alcohol test results and related information maintained by Company, upon the request of the applicant or employee tested, shall be made available for inspection and copying to the applicant or employee.

10. Confidentiality requirements

- a. Records of all drug and alcohol test results and related information maintained by Company shall be the property of Company and, upon the request of the applicant or employee tested, shall be made available for inspection and copying to the applicant or employee. Except as provided in subsection (b) of this section, Company shall not release such records to any person other than the applicant, employee or the review officer.
- b. Records of all drug and alcohol test results and related information maintained by Company may be released by Company for any of the following purposes:
 - i. As admissible evidence by Company or the individual tested in a case or proceeding before a court of record or administrative agency if either Company or the individual tested are named parties in the case or proceeding
 - ii. To comply with a valid judicial or administrative order
 - iii. To Company's employees, agents and representatives who need access to such records in the administration of the Standards For Workplace Drug and Alcohol Testing Act.
- c. A testing facility, or any agent, representative or designee of the facility, or any review officer, shall not disclose to Company, based on the analysis of a sample collected from an applicant or employee for the purpose of testing for the presence of drugs or alcohol, any information relating to the general health, pregnancy or other physical or mental condition of the applicant or employee.
- d. Nothing in the Standards for Workplace Drug and Alcohol Testing Act shall preclude Company from contracting with another employer, from sharing drug or alcohol testing results of any tested person who works pursuant to such contractual agreement.

11. The available appeal procedures

- a. An employee or applicant may appeal a positive test result by requesting a "confirmation test" from Company. "Confirmation test" means a drug or alcohol test on a sample to substantiate the results of a prior drug or alcohol test on the same sample and which uses different chemical principles and is of equal or greater accuracy than the prior drug or alcohol test. Where a breathalyzer test is utilized, a confirmation test means a second sample test that confirms the prior result. Where a single-use test is utilized, a confirmation test means a second test confirmed by a testing facility. A breath or blood specimen may be used for the confirmation test for alcohol. A urine, saliva or blood specimen may be used for the confirmation test for drugs.
- b. Confirmation test results will be provided to the review officer, who will compare those results with the initial test, and decide as to whether the previous positive test result is overruled by the confirmation test results.

- c. The confirmation test is required to be taken in accordance with the same laws and rules that apply to the initial test.
- d. The employee or applicant may also provide additional information to the review officer to contest the positive drug or alcohol test, which includes evidence of prescription or nonprescription drugs being taken before the test.
- e. The employee or applicant has 30 days from the date of receipt of the positive test result to request a confirmation test from Company and to provide Company with additional information to contest the positive test result.

12. Review officer consultations

Employees and applicants may consult with the review officer for technical information, including the effect of prescription or nonprescription medication on testing.

Company's review officer contact information is as follows:

Name:

Address:

Telephone:

Email:

Drug-Free Workplace Policy Acknowledgement Form

I hereby acknowledge that I have received and read **[Company's]** Oklahoma Drug-Free Workplace Policy. I have had an opportunity to have all aspects of this material fully explained. I also understand that I must abide by the Policy as a condition of initial and/or continued employment, and any violation may result in disciplinary action up to and including termination.

I also understand that during my employment I may be required to submit to testing for the presence of drugs or alcohol in my body. I understand that submission to such testing is a condition of employment with Company, and disciplinary action up to and including termination may result if:

1. I refuse to consent to testing.
2. I refuse to execute all forms of consent and release of liability that are usually and reasonably associated with such examinations.
3. I refuse to authorize release of the test results to the company.
4. The tests establish a violation of Company's Drug-Free Workplace Policy.
5. I otherwise violate the policy.

I understand that if I am injured in the course and scope of my employment and test positive or refuse to be tested, I forfeit my eligibility for medical and indemnity benefits under the Workers' Compensation Act upon exhaustion of the remedies provided in Okla. Stat. Ann. tit. 85A, § 2(9)(b)(4).

I also recognize that the Drug-Free Workplace Policy and related documents are not intended to constitute a contract between Company and me.

The undersigned further states that he/she has read and understands the above acknowledgement and signs below of his/her own free will.

Signature

Date

Witness

Date

Notification of Positive Drug Test

Dear _____:

On **[Date]** you were drug tested according to requirements in **[Company's]** drug-free workplace program. Based on the State of Oklahoma drug testing standards, your urine/blood specimen was tested twice in a controlled laboratory environment, which includes confirmation testing.

We have received the drug test result from our Company's medical review officer (MRO), and the result indicates that you have tested positive (failed the test) for the following substance(s):

_____ Cannabinoids (marijuana)	_____ Alcohol
_____ Amphetamines	_____ Cocaine
_____ Phencyclidine (PCP)	_____ Methaqualone
_____ Opiates	_____ Barbiturates
_____ Benzodiazepines	_____ Synthetic Narcotics

In keeping with our company drug-free workplace policy, the following disciplinary procedure(s) will take place immediately:

[Disciplinary action inserted here by company representative]

If you disagree with the test result or have a related concern, you have the right to submit your explanation for the positive result and why it does not constitute a violation of our drug-free workplace policy, as well as request a confirmation test within 30 days after receiving this notice. Arrangements and cost will be your responsibility.

Our company Medical Review Officer (MRO) is **[_____]**, M.D.
Phone: **[_____]**. You may contact the MRO to ask questions or discuss your drug test result.

Sincerely,

[Company representative name and title]