

Michigan Municipal Workers' Compensation Fund
Safety and Health Resource Manual

Drug Policies

Drugs & Alcohol - Sample A

Employees Subject to Testing

This municipality is a drug and alcohol free workplace. Under our drug and alcohol testing policy, [Name of Municipality] may require current and prospective employees to submit to drug and alcohol testing. [Name of Municipality] will not ask a prospective employee to submit to testing unless an offer of employment takes place. An offer of employment by [Name of Municipality], however, depends on the prospective employee's testing negative for drugs and alcohol.

Safeguards

The purpose of [Name of Municipality]'s policy is to comply with all state laws governing drug and alcohol testing and is to safeguard employee privacy rights to the fullest extent of the law.

Selection

[Name of Municipality] will not ask all employees to submit to drug and alcohol testing. Only those employees who [list criteria such as job titles or duties that will require drug testing] are subject to drug and alcohol testing.

Tested Substances

[Name of Municipality]'s drug and alcohol testing program is limited to testing for [list what you will test for, e.g., blood alcohol, specific drugs and drug types]. If a test for blood alcohol or the specified drugs and/or drug types reveals any other substances, the testing facility will not report them.

Written Notice

Before [Name of Municipality] asks an employee to submit to a drug and/or alcohol test, the employee will receive written notice of the request or requirements.

Licensed Laboratories

A laboratory licensed by the state will conduct any drug and/or alcohol testing that [Name of Municipality] requires or requests. The employee may obtain the name and location of the laboratory that will analyze the employee's test sample by calling [name of collection lab] [number of] hours before the employee is scheduled to take the test.

Notice of Results

If the employee is asked to submit to a drug or alcohol test, [Name of Municipality] will notify the employee of the results within [specify time limit, e.g., "24 hours" or "one week"] after it receives them from the laboratory. To preserve the confidentiality that [Name of Municipality] strives to maintain, the employee will receive notification by [method of notification] whether the test was negative or confirmed positive and, if confirmed positive, what the next step is.

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Positive Test Results

If the employee receives notice that the employee's test results were confirmed positive, the employee will have an opportunity to explain the positive result following the employee's receipt of the test result. In addition, the employee may have the same sample tested again at a laboratory of the employee's choice.

Adverse Employment Action

If there is reason to suspect that the employee is working while under the influence of an illegal drug or alcohol, the employee will receive a suspension [with or without] pay until the testing laboratory makes the results of a drug and alcohol test available to [Name of Municipality]. Where drug or alcohol testing is part of a routine physical or random screening, the municipality will not take adverse employment action until the test results are in.

Confidentiality

[Name of Municipality] will make every effort to keep the results of drug and alcohol tests confidential. Only persons with a need to know the results will have access to them. [Name of Municipality] will ask for the employee's consent before releasing test results to anyone else. However, test results may be used in arbitration, administrative hearings and court cases arising as a result of the employee's drug testing. Also, the municipality will send results to federal agencies as required by federal law. If the employee receives a referral to a treatment facility for evaluation, the employee's test results will be available to the employee's counselor. The results of drug testing in the workplace will not be used against the employee in any criminal prosecution.

Costs

[Name of Municipality] will pay the cost of any drug and alcohol testing that it requires or asks employees to submit to, including a re-testing of confirmed positive results. The employee will pay for any additional tests that the employee requests.

Drug and Alcohol Use Prohibited at Work

[Name of Municipality] will not tolerate any use of non-prescribed drugs or alcohol during work hours. If an employee comes to work under the influence of drugs or alcohol or uses drugs or alcohol during work time, the employee will be [describe consequences; e.g., "sent home without pay," "disciplined," "terminated"].

Posting

Besides being outlined here, [Name of Municipality]'s drug policy is posted in [name location of posting] where the employee may review it.

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Controlled Substances and Alcohol -- Sample B

AUTHORITY

The management of [Name of Municipality] has approved this document.

APPLICABILITY

The policy applies to all municipal employees, and to all individuals who, while not municipal employees, perform work at [Name of Municipality]'s offices or job sites for its benefit.

1. BACKGROUND AND PURPOSE

a. Health Risks

It is widely recognized that the misuse and abuse of drugs ("controlled substances") and the abuse of alcohol are major contributors to serious health problems as well as to social and civic concerns. The health risks that can arise from the use of illicit drugs and the abuse of alcohol include various deleterious physical and mental consequences including addiction, severe disability, and death.

b. Federal Legislation

In response to these concerns, the U.S. Congress passed the Drug-Free Workplace Act of 1988 and the Omnibus Transportation Employee Testing Act of 1991. Although the Drug Free Workplace Act (1988) applies only to federal contractors, growing concern about the effects of drug and alcohol use while on the job has resulted in [Name of Municipality]'s enacting the following policy applicable to all employees.

2. POLICY

It is the policy of [Name of Municipality] to maintain a drug-free workplace. [Name of Municipality] prohibits the following:

- unlawful manufacture,
- distribution,
- dispensing,
- possession, and/or
- use of controlled substances or the unlawful possession,
- use or distribution of alcohol in the workplace (municipal offices, municipal vehicles, employee vehicles traveling to or from job sites) or as part of any of the municipal activities, regardless of location.

Violation of this policy may result in disciplinary sanctions up to and including termination of employment. [Name of Municipality] may also refer violations to the appropriate authorities for prosecution.

[Name of Municipality] will review this policy at least biennially.

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a. Employees

As a condition of employment, all municipal employees and employees of others who work for the benefit of [Name of Municipality] must follow this policy.

Employees who unlawfully manufacture, distribute, dispense, possess or use controlled substances or unlawfully use, possess, or distribute alcohol in the workplace or as part of any municipal activity shall be subject to discipline up to and including discharge from employment.

An employee who is convicted (including a plea of nolo contendere) of a criminal drug statute violation occurring in the workplace must, within five (5) days thereafter, notify the municipality of such conviction by informing Human Resources.

Individuals who are not municipal employees, but who perform work for its benefit (e.g., independent contractors, temporary employees provided by agencies, visitors engaged in joint projects at a job site and so forth) are required to comply with this policy. Such individuals who unlawfully manufacture, distribute, dispense, possess or use controlled substances or unlawfully use, possess, or distribute alcohol in [Name of Municipality]'s workplace may be barred from further work for and at the municipality.

Employees who must obtain Commercial Drivers Licenses (CDL's) are subject to a protocol of testing for the use of drugs and alcohol. CDL's are necessary if an employee drives vehicles heavier than 26,000 pounds, drives vehicles placarded for the transportation of hazardous materials, and/or drives vehicles designed to carry sixteen (16) or more persons.

b. Rehabilitation

[Name of Municipality] may consider successful completion of an appropriate rehabilitation program (including participation in aftercare) as evidence of eligibility for continued or future employment or for reinstatement.

3. GUIDE FOR SUPERVISORS

Responsibility for effective implementation and enforcement of [Name of Municipality]'s Controlled Substance and Alcohol Policy begins with supervisors. Supervisors must be alert to indications or evidence of the use or presence of controlled substances or alcohol in the workplace.

a. Communication

Supervisors must make sure that every employee is aware of [Name of Municipality]'s Controlled Substance and Alcohol Policy. They must assure that employees understand that a violation of this policy is a serious matter and cause for disciplinary action including possible termination of employment. Supervisors must also assure that a copy of the policy is posted in the work area and that each new employee receives a copy.

b. Presence of Controlled Substances or Alcohol in the Workplace

At [Name of Municipality] the unlawful manufacture, distribution, dispensing, possession and/or use of controlled substances or the unlawful use, possession, or

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distribution of alcohol in the workplace, or as any part of the municipal's activities is prohibited. This includes the unlawful use of controlled substances or alcohol in the workplace even if it does not result in impaired job performance or in unacceptable conduct. The unlawful presence of any controlled substance or alcohol in the workplace itself is prohibited.

If and when an employee is suspected of violating this policy, the supervisor should consult with the local personnel officer or Human Resources to plan and carry out an appropriate investigation and resolution of the situation.

c. **Impaired Performance on the Job: Unlawful Use of Controlled Substances or Alcohol in the Workplace**

Performance problems on the job can have many causes. In discussions with an employee concerning any performance problem, the supervisor should offer to help the employee determine the source of the problems and offer guidance on appropriate assistance, counseling, or other resources.

When job performance has become impaired, the supervisor should take normal corrective action, beginning with a discussion with the employee. When the behavior of an employee on the job raises safety concerns for the employee and/or others in the workplace, the supervisor must take immediate action to assess the situation; in such cases employees must not be allowed to continue on the job. Specific actions to be taken depend upon the facts of the particular situation. Supervisors should consult with Human Resources before taking action.

In a situation in which an employee acknowledges to the supervisor that poor performance or unacceptable conduct results from a substance abuse problem, the supervisor should urge the employee to seek help from a qualified substance abuse treatment resource. If the employee chooses to seek help, the supervisor should refer the employee to Human Resources. Human Resources will refer the employee to appropriate resources. (See section 4 below.) If the employee requests a leave of absence for rehabilitation program, the supervisor should take normal steps to review the request for such a leave. Supervisors should make reasonable accommodation consistent with operational requirements.

The supervisor should first counsel the employee in the ways his or her actions on the job need improvement or are unacceptable if the employee who demonstrates poor performance or unacceptable conduct claims:

- causes other than substance abuse are contributing to the problem, or
- does not elect to seek help for whatever is the cause of the problem.

If improvement does not occur, the employee should receive a warning that the poor performance could result in discipline, including possible termination of employment. The supervisor should take appropriate corrective steps in consultation with Human Resources.

d. **Reporting of Convictions**

An employee who receives a conviction for a criminal drug statute violation occurring in the workplace must report the conviction directly Human Resources for appropriate action as municipal policy and/ or law requires.

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e. **Testing for Drugs and Alcohol**

Supervisors of employees who are required to obtain Commercial Drivers Licenses (CDL's) must assure that the employees take the appropriate tests for the use of drugs and/or alcohol. CDL's are necessary for employees who drive vehicles weighing more than 26,000 pounds, vehicles placarded for the transportation of hazardous materials, and/or vehicles designed to carry sixteen (16) or more persons.

4. **GETTING HELP**

[Name of Municipality] strongly encourages employees who are concerned about substance use, abuse, and rehabilitation to contact their family physicians, their health plan, or Human Resources. Human Resources can provide employees with information about appropriate resources (community or private agencies) that provide complete, confidential substance abuse counseling.

Many health insurance plans provide coverage for substance abuse programs to address substance abuse and rehabilitation. Human Resources can assist employees in obtaining information.

5. **LEGAL SANCTIONS**

The unlawful manufacture, distribution, dispensation, possession, and/or use of controlled substances or alcohol is regulated by a number of federal, state and local laws. These laws impose legal sanctions for both misdemeanor and felony convictions. Criminal penalties for convictions can range from fines to imprisonment and forfeiture of personal and real property.