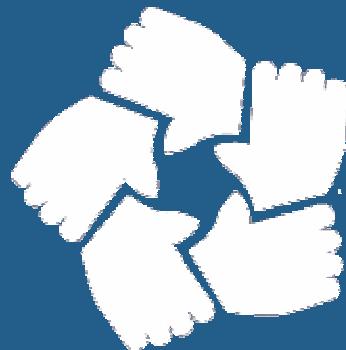


Steps to a Drug-Free Workplace

Resources to Help Employers and Small Mines



**Elena Carr, Drug Policy Coordinator and Director, Working
Partners for an Alcohol- and Drug-Free Workplace
Program**

U.S. Department of Labor

Keeping America's Mines Drug and Alcohol Free Summit

December 8, 2004

What makes a Drug-Free Workplace?

Steps to a comprehensive program:

- Drug-free workplace policy
- Supervisor training
- Employee education
- Employee assistance
- Drug testing



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Step 1: Drug-Free Workplace Policy

Should include:

- **Rationale**
- **Prohibited behaviors**
- **Substances covered**
- **Employees affected**
- **Consequences of policy violation**
- **Enforcement means**
- **Availability of assistance**



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Step 1: Drug-Free Workplace Policy

Zero Tolerance:

- Sounds simple to enforce, but means different things to different people
- Generally means that illicit use of drugs and abuse of alcohol by workers while at work will not be tolerated
- Need to specify what is intended
- Doesn't have to mean termination on first offense as long as worker is removed from performance of duties until sufficient assurances that no longer using



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Step 1: Drug-Free Workplace Policy

Consequences: Termination vs. Treatment

Treatment

- Retain skilled, trained workforce
- Avoid costs of recruitment/rehire

Termination

- Lose skilled workers
- Avoid costs of treatment



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Step 2: Supervisor Training

Should ensure supervisors understand:

- How to identify signs of drug abuse and its effects on job performance
- Their role in policy enforcement:
 - Recognize
 - Document
 - Confront
 - Refer to available assistance or for drug testing
 - Follow up and monitoring of job performance
- That they are NOT expected to diagnose or provide counseling



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Step 3: Employee Education

Should:

- Clearly communicate policy
- Inform about dangers of drug abuse
- Identify signs and symptoms of drug abuse and its effects on job performance
- Describe when, if and how to approach family and co-workers
- Refer to resources for information or help



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Step 4: Employee Assistance

Employee Assistance is the work organization's resource that utilizes specific core technologies to enhance employee and workplace effectiveness through prevention, identification, and resolution of personal and productivity issues.



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Step 4: Employee Assistance

Core EAP services:

- Consultation, training, education and assistance
- *Confidential* problem identification and assessment
- Constructive confrontation, motivation and short-term intervention
- Referral, case monitoring and follow up
- Consultation on relations with treatment and other service providers
- Consultation on employee health benefits
- Identification of effects of EAP services



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Step 4: Employee Assistance

EAPs:

- Benefit employees and their families and demonstrate employer respect for their workers**
- Provide alternatives to dismissal and may minimize legal vulnerability**

At a minimum, employers should maintain a file of community resources that employees can access



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Step 5: Drug Testing

To be effective, drug-testing should:

- Be only one component of a comprehensive drug-free workplace
- Provide protections for both employer and workers
- Be explained in a clear policy that is widely communicated
- Follow detailed and consistent procedures

In addition, employers must:

- Ensure supervisors are well trained and involved
- Ensure employees are educated and supportive
- Offer barrier-free access to assistance



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Step 5: Drug Testing

Regulatory issues:

- **No specific Federal laws govern private sector programs or drug testing**
- **Some states have laws and Workers' Compensation incentives**
- **Department of Transportation requirements:**
 - Cover 8 million private sector employees
 - Require testing for illicit drugs and alcohol
 - Include training and education and opportunities for referral



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Step 5: Drug Testing

Key policy considerations:

- Who will be tested?
- Consequences of a positive test?
- Drug panels?
- Testing occasions?
- Cut-off levels?
- Who decides and how?
- Safeguards and confirmations?



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Step 5: Drug Testing

Which drugs to test for?

Five Panel

- Fewer legitimate reasons for use
- HHS certifies labs for these
- May miss the drugs that most impair performance

Ten Panel

- Legitimate therapeutic uses
- HHS does not certify labs
- Prescription drug abuse on the rise



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Step 5: Drug Testing

Alcohol testing:

- Legal for adults
- Widely used and abused
- Likely contributor to accidents
- DOT-established protocols for workplace testing



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Step 5: Drug Testing

Drug testing occasions:

DOT

- Pre-employment
- Reasonable suspicion
- Post-Accident
- Random
- Periodic (FAA only)
- Return to duty
- Follow-up

Other choices

- Voluntary
- Probationary
- Pre-promotion
- Unannounced blanket
- For cause
- Post-incident
- Return after illness



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Step 5: Drug Testing

Cut-off levels:

- Low
 - Will have more false positives – some ‘passive’ users could come up positive
 - Poppy seeds could cause positive result
- High
 - Will have more false negatives – some users will NOT be detected; but lessens likelihood of taking action against someone based on ‘passive’ exposure
 - Government set cut-offs levels high to avoid false positives



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Step 5: Drug Testing

Determining the need for a test:

- **Train supervisors thoroughly**
 - Reasonable suspicion
 - Post-accident
- **Rapid determination**
- **Objective criteria**
- **Centralize decision making to ensure consistency/uniformity**



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Step 5: Drug Testing

Safeguards and confirmation procedures:

- **Specimen collection**
 - Urine, blood, sweat, saliva, hair
 - Split specimens
 - Chain-of-custody
- **Laboratory testing**
 - HHS certifies labs for 5-panel only
 - Distinct technologies to screen and confirm
- **Review, interpret and report results**
 - Medical Review Officer (MRO)
 - Confidentiality of results



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Step 5: Drug Testing

Important to remember:

- Drug testing ≠ Drug-Free Workplace Program
- One size does *not* fit all
- Policy ≠ Procedures
- Be consistent – follow policy and procedures
- Implement elements one step at a time
- Join forces to purchase services
- Help is available from the
Department of Labor -
www.dol.gov/workingpartners



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Department of Labor Approach

- Non-regulatory
- Encourage implementation of *comprehensive drug-free workplace programs*
- Address workplace *substance abuse*; not just illicit drug use
- Respect rights of workers and employers
- Small businesses as primary target



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Helping America's Businesses Benefit from Being Drug-Free

Working Partners
for an Alcohol- and Drug-Free Workplace



Working Partners strives to build a

In Focus

- Campaign Aims to Change How Companies View Addiction, Treatment and Recovery

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Drug-Free Workplace

Drug-Free Workforce

Substance Abuse Basics

Laws and Regulations

Statistics

Special Issues



Drug-Free Workplace Advisor

The Drug-Free Workplace Advisor is an interactive tool that helps businesses build tailored drug-free workplace policies and programs and provides information about coverage and requirements of the Drug-Free Workplace Act of 1988.

The [Drug-Free Workplace Program Builder](#) section helps users develop complete drug-free workplace programs. The following sections provide direct access to the Program Builder's information on specific drug-free workplace program components and considerations:

- [Program Planning and Philosophy](#)
- [Policy Development](#)
- [Supervisor Training](#)
- [Employee Education](#)
- [Employee Assistance](#)
- [Drug Testing](#)
- [Crisis Management](#)

The [Drug-Free Workplace Act of 1988](#) section helps determine who is covered by and the requirements of the Drug-Free Workplace Act of 1988.

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elaws - Drug-Free Workplace Advisor

Section 1

What is the purpose/goal of your program?

Your drug-free workplace policy, which serves as the foundation for your program, should accomplish two things:

- Send a clear message that use of alcohol and drugs in the workplace is prohibited, and
- Encourage employees to voluntarily seek help with alcohol and drug problems.

Establishing a drug-free workplace requires that your organization have a written alcohol and drug policy. It is important to base the policy on defensible objectives such as:

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elaws - Drug-Free Workplace Advisor

The next selections address the consequences for current employees who violate the policy.

**Select the option you would like to incorporate in your policy statement.
(You must select at least one.)**

If an employee violates the drug-free workplace policy, he or she will be:

- Subject to progressive disciplinary action and may be required to enter rehabilitation. An employee required to enter rehabilitation who fails to successfully complete it and/or repeatedly violates the policy will be terminated from employment. Nothing in this policy prohibits the employee from being disciplined or discharged for other violations and/or performance problems.

OR

- Terminated from employment.

You have completed section 8 of the Policy Builder. You have 5 sections remaining.



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State and Territory Resources

A number of state and community-based organizations provide assistance developing drug-free workplace programs. Select a state or territory to identify its resource(s).

*Note: SAID is currently undergoing a system change, therefore, some content may be incomplete. If you are unable to obtain the information you are seeking, please contact us at (202) 693-5919 or webwp@dol.gov.



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SAID

Kentucky State Law - Mine Safety

Contact Information: Legislative Research Commission
Room 300 State Capitol
Frankfort, KY
502-564-8100 (phone)
502-223-5094 (fax)

SAID Item No.: 1715

Topic(s): Laws and Regulations

Sub-topic(s): State Laws and
Regulations

Summary of Law(s) and Regulation(s):

Kentucky Mining Regulations state no person shall enter or be on any mine property while intoxicated or under the influence of alcohol or a controlled substance. No alcoholic beverage or controlled substance shall be permitted in or about any mine; provided, however, this shall not apply to private vehicles driven to and from the mine. Ky. Stat. Ann. §352.210 (1976).

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Virginia State Law - Workers' Compensation Premium Reduction Program

Contact Information: Commonwealth of Virginia **SAID Item No.:** 1713

State Corporation Commission
Bureau of Insurance P.O. Box
1157
Richmond, VA
804-371-9185 or 877-310-
6560

Topic(s): Laws and Regulations **Sub-topic(s):** State Laws and
Regulations

Summary of Law(s) and Regulation(s):

Workers' Compensation Premium Reduction Program provides a 5 percent premium discount for employers who institute and maintain a drug free workplace program that meets the criteria established by the insurer. Code of Virginia §65.2-813.2 (2001). To apply for this discount, contact the insurance carrier directly. A listing of insurance companies licensed in

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West Virginia State Law - Workers' Compensation

Contact Information: Legislative Reference and Information Center
1900 Kanawha Blvd. East
Charleston, WV
304-347-4836

SAID Item No.: 766

Topic(s): Laws and Regulations

Sub-topic(s): Workers' Compensation

Summary of Law(s) and Regulation(s):

Workers' Compensation State law denies workers' compensation benefits to an employee or his dependents if the employee's injury or death was due to intoxication. Further, upon the occurrence of an injury which the employee asserts, or which reasonably appears to have occurred in the course of and resulting from the employee's employment, the employer may require the employee to undergo a blood test for the purpose of determining the existence or nonexistence of evidence of intoxication pursuant to rules for the administration of the test promulgated by the board of managers. The employer must have a reasonable and good faith objective suspicion of the employee's intoxication and may only test for the purpose of determining whether the person is intoxicated. W. Va. Code § 23-4-2(a) (2003).

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Training & Educational Materials

Working Partners offers a variety of resources, such as [presentation materials](#), [articles](#) and [fact sheets](#), and [posters](#), to help employers provide drug and alcohol education in the workplace. All **Working Partners** materials may be reproduced and distributed without additional permission from the U.S. Department of Labor. Organizations are free to incorporate their names and/or logos on all **Working Partners** materials. Uses for the materials may include:

- Supervisor training
- Employee education
- Inclusion in organizational publications
- Payroll stuffers

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Benefits of a Drug-Free Workplace

- Higher quality applicants
- Safer and cleaner workplaces
- Improved community image
- Better overall job performance
- Improved employee morale
- Reduced medical and insurance costs
- Reduced liability



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