

WORKPLACE SUBSTANCE ABUSE PREVENTION PROGRAM (WSAPP)

For: _____

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

This publication does not itself alter or determine responsibilities, which are set forth in United States Department of Transportation Regulations, The Federal Drug-Free Workplace Act of 1988, or those of individual state statutes. Moreover, because interpretations and enforcement policy may change over time, for additional guidance on federal or state program compliance requirements, the reader should consult current administrative interpretation and decisions by the U.S. DOT, individual states, and the courts.

Additionally, this publication is for general information only. Companies with special requirements may need to modify sections of this program to fit their operations.

Because workplace substance abuse programs and testing may raise legal issues for a company, employers are encouraged to seek legal counsel prior to implementing this program.

INTRODUCTION

Throughout the United States, substance abuse is a widespread problem in many of today's workplaces. According to Department of Labor Statistics, 70 percent of all illegal drug users are employed either full or part time. This suggests that over 10 million people are current users of illicit drugs. Additionally, in the United States, one in every ten people has an alcohol abuse problem.

What do all of these numbers mean to businesses? According to the Department of Labor, they mean that every day the problems from substance abuse are hurting workplaces. The damage occurs because substance abuse has a negative impact on a company's profits and its work force.

To further illustrate, when comparing substance-abusing workers to drug-free workers, substance-abusing workers are more likely:

- **To miss work.**
- **To be involved in, or cause, accidents.**
- **To file Workers' Compensation claims.**
- **To be less productive.**

All of this translates into increased costs which have to be shouldered by businesses.

One step that can help control rising costs and accident rates is to develop a Workplace Substance Abuse Prevention Program (WSAPP).

PROGRAM DESCRIPTION

There is no absolute “model” (WSAPP) that is right for all companies. The program will depend largely upon a company’s needs, circumstances, location, resources, state and federal regulatory requirements, and other issues. The goal of this program is to provide guidance in developing each of the key sections that make up a WSAPP. These key sections are described below.

How to use this program:

This program is divided into the following sections:

A. Policy Statement

This is a very important part of the WSAPP because it demonstrates management’s commitment to the prevention of substance abuse. A copy of the policy statement should be posted in conspicuous locations for employees to read. Additionally, potential employees should be allowed to read this policy statement to become aware of management’s stance on workplace substance abuse.

B. Training Supervisors

This section assists in identifying the nature and frequency of training for supervisors regarding substance abuse in the workplace.

C. Employee Training

This section assists in identifying the nature and frequency of training for employees regarding substance abuse in the workplace.

D. Employee Assistance

This section describes the purpose and need for an employee assistance program (EAP) and the value of a comprehensive workplace substance abuse prevention program.

E. Drug and Alcohol Testing

This section assists in identifying the essentials of drug and alcohol testing and when such should be conducted.

F. Regulatory Requirements

This section assists in identifying regulatory requirements relevant to workplace substance and alcohol abuse. Depending upon their business operations, employers may have to comply with these requirements.

To further assist employers in their workplace substance abuse prevention efforts, this program includes the following appendices:

Appendix 1—Information Resources

This appendix contains telephone numbers of informative contacts that employers can utilize to obtain helpful assistance in their workplace substance abuse prevention efforts. Additionally, these resources have local contact information for each state.

Appendix 2—Employee Notification Confirmation Form

This appendix contains a sample employee notification confirmation form that employers can utilize to document that employees have received notification of the company's workplace substance abuse prevention program. This form also informs employees of the consequences for failing to comply with the elements of the program.

Appendix 3—Preemployment Drug-Testing Consent and Release Form

This appendix contains a sample drug-testing consent and release form that employers can utilize as an integral part of their workplace substance abuse prevention program.

Please make multiple copies of these forms to ensure you have an adequate supply.

A. Policy Statement

Before developing a workplace substance abuse policy, you should take a number of important steps. A needs assessment survey, however informal, may help to better understand the company's current situation and determine the program objectives. Enlisting the assistance and input of employees will help to develop the best policy possible and also secure employee support. Workers should be partners in this effort.

There are three basic parts to a written workplace substance abuse policy:

- An explanation of why the program is being implemented. An important consideration may be the safety of the employees, customers, and the general public. Other reasons may include workers' health, product quality, productivity, public liability, and legal requirements.
- Specific responsibilities of management and employees regarding workplace substance abuse prevention efforts.
- An explanation of the consequences for violations of the workplace substance abuse policy.

For your convenience, a sample workplace substance abuse policy statement is provided on the next page. This sample policy contains the fundamental elements of workplace substance abuse prevention. Depending on your operations, you may want to add to this policy statement.

This policy statement should be posted in a conspicuous location for employees to read.

Workplace Substance Abuse Policy Statement

_____ is committed to providing a safe work environment and to fostering the well-being and health of its employees. That commitment is jeopardized when any employee illegally uses drugs on or off the job, comes to work under the influence, possesses, distributes or sells drugs in the workplace, or abuses alcohol on the job. Violation of this policy may lead to disciplinary actions which could culminate in dismissal.

We will establish rules to comply with all federal, state and local statutes concerning substance and alcohol abuse on the job. Every employee is an integral part of this process and is expected and encouraged to meet the commitment for a safe workplace.

It is the responsibility of the company's supervisors to inform employees whenever they see changes in performance or behavior suggesting drug or alcohol problems exist. Although not authorized to diagnose personal problems, supervisors should encourage such employees to seek aid and advise them about available resources for getting help.

B. Training Supervisors

Supervisors are the key to the successful outcome of your workplace substance abuse policy. As the people in direct contact with workers, supervisors can detect performance problems that may indicate substance abuse. But their responsibilities should be limited, and that should be clearly explained to them.

Supervisors should be responsible for:

- Observing and documenting unsatisfactory work performance or behavior.
- Talking to employees about work problems and what corrective actions need to be taken.

In order to do their jobs properly, supervisors must:

- Understand the company's workplace substance abuse policy.
- Be able to correctly explain the workplace substance abuse policy to employees.
- Know when to take action.

Supervisors are not responsible for:

- Diagnosing workplace substance abuse problems.
- Treating workplace substance abuse problems.

Supervisors need to know how to look for signs of workplace substance abuse and what to do once they detect them. The type of information supervisors will need to know will vary from one operation to another. For example, depending on what is available through your company and community, supervisors may be called upon to refer employees who have substance abuse problems to employee assistance programs or local resources.

Keeping your own company's needs in mind, consider some of the following as possible topics to include in your supervisory workplace substance abuse training program:

Training Topics—Supervisors

- Information on specific drugs.
- Methods of detecting drug and alcohol abuse.
- Insurance coverage for substance abuse treatment.
- Prevention and education strategies.
- Background on drug-testing issues and the relationship of the drug-testing program to the Employee Assistance Program.

The resource list contained in **Appendix 1** lists organizations that can be contacted for assistance in designing a supervisory training program. Additionally, to make the training program interesting and informative, supervisory training packages are available, as well as films, videotapes, and publications.

C. Employee Training

Educating all employees about workplace substance abuse and the company's commitment to a drug-free workplace is the next step. This step is critical to actually achieving the objectives of the program. A workplace substance abuse education and awareness program should fit a company's specific needs. A basic program should achieve the following objectives:

- **Explain** your workplace substance abuse policy to your employees and tell them about the consequences of abusing drugs and alcohol.
- **Tell** your employees how to get help for drug and alcohol problems. Include a description of services available to assist employees either through a company or a community resource representative.
- **Inform** employees on how drug and alcohol abuse may affect the company's productivity, product quality, absenteeism, health-care costs, or accident rates.
- **Explain** testing procedures—if drug testing is part of the program—with special attention to the consequences of testing positive, and procedures for ensuring accuracy and confidentiality.

Training Topics — Employees

Consider the circumstance of your workplace and the needs of the employees. Education and awareness programs vary widely. Therefore, you may want to “customize” the program for your employees by offering information on some of the topics listed below:

- Videos or printed material on the health effects of alcohol and drugs—both illegal and prescription.
- An address by company managers to employees on the specifics of the company policy and why it is needed.
- Local guest speakers to provide information on how drugs and alcohol are affecting the community.
- A presentation about illegal drugs — what they look like, how they are used, their effects, the symptoms of overdose and withdrawal.

The resource information contained in **Appendix 1** lists organizations that can be contacted for assistance in designing your employee training program. Consult these resources for information on films, videotapes, and publications you can use in your program. Check your local community resources for possible presentations that are specifically geared to the needs of your locality.

D. Employee Assistance Program

An employee assistance program (EAP) is a job-based program intended to aid employees whose job performance is being negatively affected by personal problems. Caused by a number of factors, an employee's personal problems may include substance and alcohol abuse. According to surveys conducted by the Department of Labor, many employers have discovered that EAPs are cost-effective because they help reduce accidents, workers' compensation claims, absenteeism and employee theft. An additional benefit of EAPs is that they can improve employee productivity, product quality, and employee morale.

Before including employee assistance as part of the workplace substance abuse prevention program, you may find it helpful to take the following preliminary steps:

- To find out what works and what does not work, contact companies in the area that provide some form of employee assistance. Ask what they offer to their employees, how the service is provided, and what the costs and results of the program are.
- Determine whether there is an EAP resource pool available in the community that local businesses can join to receive EAP services at possibly reduced costs.

In order for an EAP to be successful, employees must see it as a confidential source of help. They must believe they will not endanger their employment or future employment opportunities with the company by seeking assistance from an EAP. Conversely, employees must also realize that the EAP will not protect them from disciplinary action due to continued poor performance or violations of company policy.

Almost any size company can offer its employees EAP services. EAPs can be tailored to address the specific needs of a work force. With a strong commitment from the company's top management, quality EAP professionals, and a clear understanding by all that employee assistance services do not offer "quick fixes," an EAP can be a valuable component of a comprehensive substance abuse prevention program.

It is not always necessary to have a formal EAP. For many small businesses it is not economically feasible to consider providing a formal EAP program. However, the services that such a program provides are available in a variety of alternative methods—often with the financial considerations of small businesses. Regardless of how formal or informal the employee assistance services are, they can be a valuable component to a substance abuse prevention program.

The resource information contained in **Appendix 1** lists organizations that can be contacted for guidance and aid in developing an EAP. Checking community resources for referral programs and services may be helpful. Consulting your local telephone directory under Alcohol/Drug Abuse Information, Treatment and Counseling may be of assistance as well. Finally, checking the local government section of the phone book under public services or community services may provide help.

E. Drug & Alcohol Testing

Drug and alcohol testing by itself is not a workplace substance abuse program. However, when combined with the other components of a comprehensive workplace substance abuse program, testing can be an effective deterrent to drug and alcohol abuse and an important tool to aid the employer in identifying employees who need help.

Each year more companies, including small companies, decide to start some kind of drug-testing program. Some companies must set up a drug-testing program because of the kind of work in which they are engaged (see Section F—**Regulatory Requirements** for details). Other companies start a drug-testing program because it makes sound business sense.

The drug-testing component is the last component of a comprehensive workplace substance abuse program. All other components identified in this program should be in place. It is important to make sure the drug-testing program meets several requirements, including:

- Statutory or regulatory requirements.
- Disability discrimination provisions.
- Any other requirements in effect.

The resource information contained in **Appendix 1** lists organizations that can be contacted for assistance in developing a workplace drug- and alcohol-testing program.

You need to make a number of decisions about how your program will be implemented. The list of questions below should help in this process.

- Who will be tested? (Only applicants? All employees? Only employees in “safety sensitive” positions?)
- When will tests be conducted? (After all accidents? Only after some accidents? When job performance becomes unacceptable? When unusual employee behavior is observed? On a random basis? As part of a physical examination?)
- How frequently will the tests be conducted? (Weekly? Monthly? Once a year?)
- What actions will be taken if an applicant tests positive? (Refuse to hire? Tell the applicant why they are not being hired? Allow the applicant to be retested? Allow the applicant to reapply after 6 months?)

E. Drug & Alcohol Testing (cont'd)

- What actions will be taken if an employee tests positive? (Fire all employees who test positive? Refer employees to counseling and treatment after the first positive test but terminate after the second positive test? Allow employees more than one chance to become drug free before firing?)
- What tests will be used, and what procedures will be followed? (Who will collect the specimens? Will a confirmation test be given? What laboratory will be used? Will a medical review officer be used? How will the employee's privacy and confidentiality be protected?)

Before this portion of the program is implemented, consult an attorney who is familiar with drug and alcohol testing in the workplace. Remember, the drug- and alcohol-testing program should be fair, accurate, legally sound, and an important part of a comprehensive workplace substance abuse prevention program.

F. Regulatory Requirements

Drug-Free Workplace Act of 1988

If a company performs certain types of work or if it has certain types of contracts with the federal government, it may have to comply with federal regulations. One of these regulations is the Drug-Free Workplace Act of 1988. This federal regulation requires employers to maintain a drug-free workplace.

Companies who are covered by the Drug-Free Workplace Act include the following:

- The company has a single contract with the federal government of \$25,000 or more.
- The company receives a grant from the federal government.

Subcontractors and subgrantees are not covered by this Act.

If the company is covered by the Act, it is required to take the following actions:

- Be certified as a company that will provide and maintain a drug-free workplace. This certification is part of the final contract or grant agreement and is a requirement for receiving the federal contract or grant.
- The company must publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and what actions will be taken against employees for observed violations.
- The company must implement an ongoing workplace substance abuse prevention program to inform the employees of the dangers of drug abuse, the workplace substance abuse prevention policy, availability of any drug and alcohol counseling programs, and the possible ramifications of drug abuse violations observed in the workplace.
- Each employee directly involved in the work of a federal contract or grant must notify the company of any criminal drug statute conviction for a violation occurring in the workplace. In turn, the company is to notify the federal government of such a violation.
- Companies must impose sanctions or remedial actions for an employee convicted of a drug abuse violation in the workplace.
- Companies covered under this Act must continue to comply with the above-listed actions.

Drug-Free Workplace Act of 1988 (cont'd)

The Drug-Free Workplace Act does not require the following actions:

- Establishing an employee assistance program.
- Implementing a drug-testing program.

In addition to the Drug-Free Workplace Act, some federal agencies have their own specific requirements regarding workplace substance abuse programs and policies. The best source of information about any of these regulations is the contract or grant office at the federal department or agency from which the company obtains the contract or grant.

Additionally, there are telephone numbers contained in **Appendix 1** that can be contacted for helpful assistance in complying with the Drug-Free Workplace Act.

F. Regulatory Requirements (cont'd)

Department of Transportation—Workplace Drug Abuse Regulations

The U.S. Department of Transportation (DOT) is responsible for implementing and enforcing regulations which cover five modes of transportation represented by five agencies within the DOT. These agencies are as follows:

- Federal Aviation Administration (FAA)—covers aviation operations.
- Federal Highway Administration (FHWA)—covers motor carriers/highways.
- Federal Transit Administration (FTA)—covers mass transit operations.
- Federal Railroad Administration (FRA)—covers railroad operations.
- United States Coast Guard (USCG)—covers maritime operations.

The Department of Transportation (DOT) issued regulations in 1988 requiring employers engaged in commercial, DOT-regulated transportation industries to implement workplace substance abuse programs.

Companies are covered by the DOT workplace drug abuse regulations if they have employees who perform the following functions:

- Perform flight crew member, flight attendant, flight instruction or ground instruction, flight testing, aircraft dispatch, aircraft maintenance or preventive maintenance, aviation security or screening, or air traffic control functions in commercial aviation.
- Operate commercial motor vehicles in interstate commerce when one or more of the following conditions are met: 1.) vehicle has a Gross Vehicle Weight Rating (GVWR) of 26,000 or more pounds; 2.) the vehicle is designed to transport more than 15 passengers including the driver; and 3.) the vehicle is used in the transport of hazardous materials in a quantity requiring placarding.
- Perform railroad services subject to the Hours of Service Act (45 USC 61-64b).
- Perform operating, maintenance, or emergency-response duties on a pipeline or liquid natural gas facility.
- Perform crew member duties on a commercial vessel licensed, certificated, or documented by the United States Coast Guard.

Department of Transportation—Workplace Drug Abuse Regulations (cont'd)

If covered by DOT workplace drug abuse regulations, a company is required to take the following actions:

- Develop a policy statement which must contain many DOT-specific elements.
- Provide, on an annual basis, two hours of supervisor training which covers the effects of drugs and alcohol and the responsibilities of supervisors of DOT-covered employees.
- Employer certification that all covered employees have received drug and alcohol training.
- Conduct drug and alcohol testing on covered employees.

Within the motor carrier industry, owners/operators are required by the FHWA rules to join a consortium for the purpose of random drug and alcohol testing on employees.

DOT requires employers to submit annual reports on all testing activities and specific reports on post-accident testing. Additionally, DOT conducts audits and compliance reviews across the country. Using the information gathered from the audits, DOT can then monitor compliance, track trends, identify changes in the regulations that may need to be modified, and develop additional guidance to companies.

For specific information about compliance with the DOT Workplace Drug Abuse Regulations, contact the Department of Transportation, Office of Secretary, Drug and Alcohol Policy and Compliance, 400 7th Street SW, Washington, DC 20590, or call at (202) 366-3784.

Additionally, there are telephone numbers contained in **Appendix 1** that can be contacted for helpful assistance in complying with the DOT Workplace Drug Abuse Regulations.

Information Resources

The following list of contacts have been provided to assist you with any specific questions or concerns you may have regarding workplace substance abuse issues. To aid you in selecting the proper contact to address your concerns, a description of what each resource can supply in terms of workplace substance abuse information has been provided as well.

Center for Substance Abuse Prevention (CSAP)

Drug-Free Workplace Helpline

Telephone Number: 1 (800) 967-5752

This toll-free service provides substance abuse information and consultation to companies to assist them in the development and implementation of workplace substance abuse prevention programs. The workplace helpline distributes a wide range of information on workplace substance abuse policies, employee assistance issues, regulations and drug-testing programs. Counselors also can refer callers to local state contacts for information on state-specific workplace substance abuse regulations where applicable. Counselors have state contact numbers for every state in the country.

National Clearinghouse of Alcohol and Drug Information (NCADI)

PO Box 2345

Rockville, Maryland 20847-2345

Telephone Number: 1 (800) 729-6686

This toll-free service, operated by the Centers for Substance Abuse Prevention (CSAP), is a national substance abuse information resource. The (NCADI) offers research results, videos, printed materials and program descriptions concerning drugs and alcohol. Counselors also can refer callers to local state contacts for information on state-specific workplace substance abuse regulations where applicable. Counselors have state contact numbers for every state in the country.

Centers for Substance Abuse Treatment (CSAT)

Treatment and Referral Hotline

Telephone Number: 1 (800) 662-4357

This toll-free service, operated by the Centers for Substance Abuse Prevention (CSAP), is a national substance abuse information resource on treatment centers. The (CSAT) offers information on substance abuse treatment centers, as well as referral services to substance abuse treatment centers across the United States.

Information Resources (cont'd)

Employee Assistance Professionals Association, Inc. (EAPA)
101 Wilson Boulevard, Suite 500
Arlington, Virginia 22201
(703) 522-6272

EAPA provides contact information for those employers who wish to reach local employee assistance professionals. EAPA also publishes an extensive selection of brochures, books and other materials on substance abuse prevention, treatment, and education.

Department of Transportation
Office of Drug and Alcohol Policy and Compliance
Fax-On-Demand System
1 (800) 225-3784

This toll-free service, offered by the Office of Drug and Alcohol Policy and Compliance, is an automated system used for obtaining specific information via a facsimile machine. Shorter documents on DOT drug and alcohol information will be sent to a fax machine designated by the requester. Longer documents will be mailed to an address designated by the requester. A touch-tone telephone is required in order for the transaction to work. Information requested is provided at no cost to the requester.

Employee Notification Confirmation Form

I do hereby certify that I have received and read the _____ workplace substance abuse prevention policy and had the workplace substance abuse prevention program explained to me. I understand that, if my performance indicates it is necessary, I will submit to a drug and/or alcohol test. I further understand that failure to comply with a drug and/or alcohol test request or a positive confirmed result for the illegal use of drugs and/or alcohol may lead to discipline up to and including dismissal.

Name of Employee (please print)

Employee's Signature

Date

Preemployment Drug-Testing Consent and Release Form

I hereby consent to submit to urinalysis and/or other tests as shall be determined by _____ in the selection process of applicants for employment, for the purpose of determining the absence or presence of drugs.

I agree that

(Name of physician or clinic)

may collect these specimens for these tests and may test them or forward them to a testing laboratory designated by the Company for analysis.

I further agree to and hereby authorize the release of the results of these tests to the company.

I understand that it is the current illegal use of drugs and/or abuse of alcohol that prohibits me from being employed.

I further agree to hold harmless the Company and its agents (including the above-named physician or clinic) from any liability arising in whole or part out of the collection of specimens, testing, and use of the information from said testing in connection with the Company's consideration of my employment application.

I further agree that a reproduced copy of this preemployment consent and release form shall have the same force and effect as the original.

I have carefully read the foregoing and fully understand its contents. I acknowledge that my signing of this consent and release form is a voluntary act on my part and that I have not been coerced into signing this document by anyone.

Applicant: Print Name _____ Social Security#: ____ - ____ - ____

Applicant: Signature _____ Date: ____ / ____ / ____

Witness Printed Name: _____

Witness Signature: _____