

142619

Suggestions  
for  
Creating  
a  
Drug-Free  
Workplace  
Program

Putting

Drugs OUT of Work

142619



Dear Business Leader:

Employees who abuse alcohol and other drugs create devastating problems for business and industry in Indiana and the United States. Contrary to popular belief, a large majority of drug users are employed and use their paychecks to pay for drugs. Some may be at work in your business at this moment. Research indicates that 70-80% of drug users in America are employed and as many as 23% of these workers use drugs on the job.

The consequences of employing individuals who abuse alcohol and other drugs are significant. There is a measurable loss of efficiency and productivity, a decrease in quality of products, and an increase in tardiness, absenteeism, accidents, and employee theft.

As an employer, you have the opportunity to play a major role in eliminating drugs from your workplace and our society. Indeed, a large majority of drug users can be reached through the workplace. By implementing drug-free workplace initiatives, you can encourage and assist your employees to lead drug-free lives, as well as maintain a productive workforce.

To aid your business in these efforts, the Governor's Commission for a Drug-Free Indiana has developed a manual, Putting Drugs OUT of Work. Suggestions for Creating a Drug-Free Workplace Program. These suggestions can help you develop strategies for addressing drugs in your workplace. You will find the information contained in this publication can be applied to any size or type of business and tailored to fit the specific needs of your company.

Thank you for your interest in addressing drugs in the workplace and committing yourself to making Indiana's workforce drug-free. Working together, we can make a difference.

Sincerely,

A handwritten signature in cursive script that reads "Jeffrey Modisett".

Jeffrey Modisett  
Chairman

142619

# PUTTING DRUGS OUT OF WORK

## Suggestions for Creating a Drug-Free Workplace Program

NCJRS

JUN 10 1993

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Evan Bayh  
Governor

Jeffrey Modisett  
Chairman

Joe Mills  
Executive Director

*The Governor's Commission for a Drug-Free Indiana is a state commission created in 1989 by Governor Bayh to develop a comprehensive and coordinated state-wide approach to alcohol and other drug problems by 1) advising the Governor and the Indiana General Assembly on policy and legislative strategies needed; 2) mobilizing communities throughout the state to activate local responses; and 3) coordinating the alcohol and other drug efforts of state government.*

# Acknowledgments

*The Governor's Commission for a Drug-Free Indiana would like to recognize those individuals who reviewed drafts of the various sections of this document and offered valuable input.*

Robert Darden	Steering Committee Member - Governor's Commission for a Drug-Free Indiana; representation - labor
Patti Fralich	Indiana Department of Labor
Kathy McKimmie	Indiana State Chamber of Commerce
Melinda Manuel	South Bend Medical Foundation
Mike Miles	Steering Committee Member - Governor's Commission for a Drug-Free Indiana; representation - business
Shirley Neel	Indiana Department of Administration
Jerry Payne	AFL-CIO
Barry Quarles	Indiana Chapter of the Employee Assistance Professionals Association
Boyd Sturdevant	Employee Counseling of Indiana

**PUTTING DRUGS OUT OF WORK**  
**SUGGESTIONS FOR CREATING A DRUG-FREE WORKPLACE PROGRAM**  
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**DRUG-FREE WORKPLACE OVERVIEW**

## DRUG-FREE WORKPLACE OVERVIEW

The problems of alcohol and other drug abuse are pervasive; no element of our environment, including the workplace, is immune. Whether it is the production worker using drugs to escape from tedium, a clerk addicted to prescription drugs, an alcoholic supervisor, or a security officer whose son or daughter is in trouble because of drug use, a negative impact on job performance is inescapable. Employees free from personal or family alcohol and other drug problems are more productive, more reliable and consistent, and more effective than those who are not. For these reasons, and many more, you should consider adding your company to the growing roster of businesses who have a drug-free workplace program.

### The Drug Problem in the United States

Americans use alcohol and other drugs. The effects of this drug use have become a major problem in our schools, homes and businesses.

Just consider:

- \* OVER 20 MILLION AMERICANS USE MARIJUANA;
- \* AN ESTIMATED 6 MILLION AMERICANS USE COCAINE;
- \* AN ESTIMATED HALF A MILLION AMERICANS USE HEROIN;
- \* AN ESTIMATED 13 MILLION AMERICANS ARE ALCOHOLICS;
- \* ALMOST 1/3 OF AMERICANS BETWEEN AGES 20 AND 40 HAVE USED AN ILLICIT DRUG ONCE IN THE PAST YEAR;
- \* ALMOST 1/2 OF AMERICANS ENTERING THE WORK FORCE HAVE USED AN ILLICIT DRUG ONCE IN THE PAST YEAR.<sup>1</sup>

Many of these drug users are prominent citizens in our communities. They are business owners, doctors, civic leaders, parents and neighbors. Consider the profile of a regular cocaine user:

- \* WELL EDUCATED (AVG. 14 YEARS OF EDUCATION);
- \* EMPLOYED (77%) AND WELL-PAID (37% EARN OVER \$25K);
- \* ENGAGE IN ILLEGAL ACTIVITY OTHER THAN DRUG POSSESSION TO SUPPORT THE HABIT (56%).<sup>2</sup>

These statistics lead us to the conclusion that drugs are being used by many types of individuals, even by those we would least expect including many employed persons.

### Drugs in the Workplace

Drugs are just as much a problem in the workplace as they are elsewhere. This is largely due to the working environment where groups of people assemble, money is made to pay for drugs, and the threat of getting caught is minimal. It is estimated that 1 out of 5 workers, 18-25 yrs. of age, and 1 out of 8 workers, 26-34 yrs. of age, abuse drugs on the job.

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<sup>1</sup> National Drug Task Force Journal

<sup>2</sup> Ibid

In addition to the large number of drug users employed, the costs to businesses is enormous. It is estimated drug users costs businesses over \$100 billion per year, directly and indirectly.

**Direct costs to your business:**

- \* DRUG ABUSING EMPLOYEES ACQUIRE 300% HIGHER MEDICAL COSTS AND BENEFITS WHICH CONSEQUENTLY INCREASES HEALTH INSURANCE RATES.<sup>3</sup>
- \* ILLICIT DRUG USERS ARE FIVE TIMES MORE LIKELY TO FILE A WORKERS' COMPENSATION CLAIM.<sup>4</sup>
- \* MANY ILLEGAL DRUGS ARE BOUGHT BY MONEY DIVERTED FROM LEGITIMATE BUSINESSES AND COULD BE AS MUCH AS \$100 BILLION A YEAR (2.5% OF GNP AND 8% OF DISCRETIONARY SPENDING), WHILE THE COSTS TO INDIVIDUAL COMPANIES USUALLY EXCEEDS 2.5% OF PAYROLL.<sup>5</sup>

**Indirect costs to your business:**

- \* EMPLOYEES USING DRUGS ARE THREE TIMES MORE LIKELY TO BE LATE FOR WORK AND 2.5 TIMES MORE LIKELY TO HAVE ABSENCES OF EIGHT OR MORE DAYS.<sup>6</sup> ABSENTEEISM AMONG PROBLEM DRINKERS OR ALCOHOLICS IS 3.8 TO 8.3 TIMES GREATER THAN NORMAL.<sup>7</sup> ALSO, STATISTICS INDICATE THAT DRUG USERS ASK FOR EARLY DISMISSAL OR ADDITIONAL TIME OFF 2.2 TIMES MORE OFTEN THAN NON-USERS.<sup>8</sup>
- \* DRUG USE IN THE WORKPLACE BREEDS DRUG DEALERS IN THE WORKPLACE. ACCORDING TO THE INSTITUTE FOR A DRUG FREE WORKPLACE/GALLUP SURVEY OF INDIANA WORKERS, 32% OF THE WORKERS SURVEYED KNEW OF DRUG USE BY EMPLOYEES ON THE JOB AND 10% HAD BEEN OFFERED DRUGS TO USE ON THE JOB WHILE AT WORK.
- \* DRUG USERS IN THE WORK FORCE ARE 3.6 TIMES MORE LIKELY TO HAVE WORKPLACE ACCIDENTS. THEY ALSO ARE NINE TIMES MORE LIKELY TO HAVE A DOMESTIC ALTERCATION OR CAR ACCIDENT AWAY FROM WORK.<sup>9</sup> IN ADDITION, UP TO 40% OF INDUSTRIAL FATALITIES AND 47% OF INDUSTRIAL INJURIES CAN BE LINKED TO ALCOHOL ABUSE AND ALCOHOLISM.<sup>10</sup>
- \* SEVENTY-FIVE PERCENT OF NON-DRUG USER EMPLOYEES NOTICE THE DRUG USERS WORK HABITS AND ARE DISCOURAGED BY IT. A STRONG MAJORITY OF INDIANA EMPLOYEES FEEL DRUG ABUSE IN THE WORKPLACE HAS A NEGATIVE IMPACT ON THE WORKING ENVIRONMENT. A RECENT GALLUP SURVEY INDICATED THAT 67% OF EMPLOYEES SURVEYED STATED THAT DRUG ABUSE HARMS EMPLOYEE MORALE AND 63% SAID IT HURTS PRODUCTIVITY.

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<sup>3</sup> U.S. Chamber of Commerce

<sup>4</sup> Ibid

<sup>5</sup> U.S. Department of Justice, Drug Enforcement Administration

<sup>6</sup> U.S. Chamber of Commerce

<sup>7</sup> National Institute on Alcoholism

<sup>8</sup> U.S. Department of Justice, Drug Enforcement Administration

<sup>9</sup> U.S. Department of Justice

<sup>10</sup> Employee Assistance Society of North America

## **Addressing the Drug Problem in your Business**

As an employer, you should be concerned about alcohol and other drug use in your workplace. In addition to the enormous costs to your business, it is your responsibility to assure that your business operates safely, profitably, and productively. Because you're the employer and employment is a powerful incentive for employees to be drug-free, you are in a position to initiate a cooperative approach with your employees and other relevant parties in addressing a drug problem in your workplace.

### ***Drug-Free Workplace Programs***

Drug-free workplace programs are strategies which companies are using to address alcohol and other drug problems. Such programs have been instrumental in changing improper behavior and can result in a reduction of alcohol and other drug use in the workplace.

A good drug-free workplace program can:

- \* REDUCE OPERATIONAL COSTS;
- \* PRESERVE INVESTOR OR SHAREHOLDER INTERESTS;
- \* PROTECT LOYAL EMPLOYEES;
- \* IMPROVE PRODUCTS AND SERVICES;
- \* RESULT IN BETTER SERVICE TO CUSTOMERS AND CLIENTS;
- \* INCREASE PROFITS;
- \* HELP MANY PEOPLE LEAD HEALTHIER LIVES.

### ***Components of a Drug-Free Workplace Program***

A comprehensive drug-free workplace program consists of six elements:

- \* **Drug-Free Workplace Policy** - A written and communicated substance abuse policy articulating your company's position on alcohol and other drugs using the rationale that use in the workplace will not be tolerated. It should also define the personnel actions to be taken when the policy is violated.
- \* **Employee Drug Education and Awareness Program** - A comprehensive education program covering the symptoms of drug use and the services available to help users. An overview of your drug-free workplace program should be given.
- \* **Supervisor Training Program** - A program training your supervisors to recognize and address alcohol and other drug use by employees.
- \* **Employee Assistance Program (EAP)** - A program offering services to help your employees with problems that impair work performance. These services may include referral, assessment, follow-up, education and training.
- \* **Detection Program** - A program detecting impaired employees. Drug testing is one method of deterring and detecting the use of alcohol and other drugs. There are other methods that can be used which also detect other causes of impairment such as fatigue and stress.
- \* **Evaluation Process** - A strategy for evaluating and measuring the effectiveness of your drug-free workplace program.

Although these six elements are important when dealing with the use of alcohol and other drugs in the workplace, it is not essential to include all of them in your program. Keep in mind that your program must be developed according to the needs of your company and its employees.

## **Legal Concerns**

With the increased number of drug-free workplace programs presently being instituted, many questions regarding the legality of such initiatives have arisen. Most questions have been focused on **drug testing**; the two most prevalent questions being **1) is drug testing fair and nondiscriminatory** and **2) does drug testing challenge the right to privacy?** To date, courts have upheld drug testing as a legitimate means of determining employees ability to work.

As for legalities surrounding **drug-free workplace programs**, the majority of courts are continually holding businesses liable for accidents caused by drug using employees; particularly when the company has no formal drug abuse policy. There tends to be enormous liability when a company does not address the drug issue when clear evidence indicates drug use throughout workplaces in our country. **However**, having a drug policy does not totally eliminate the chances of liabilities but certainly helps to minimize them.

Throughout this manual, emphasis is placed on developing and implementing a joint management-labor drug-free workplace program. This concept bears repeating here. Management-driven programs have a much higher probability of being challenged through litigation than those programs that have the full confidence of both management and company employees.

### **Note:**

If your business has a contract or grant with the Federal or State Government or does work with the Defense Department, transportation, or nuclear energy industries; there are federal laws and regulations with which you must comply. The detailed regulations are enclosed for further review. **Refer to section titled "Federal and State Regulations" in this package.**

**For further information on developing a drug-free workplace policy and program, refer to the resource section of this package.**

**DRUG-FREE WORKPLACE POLICY**

## **A DRUG-FREE WORKPLACE POLICY**

A drug-free workplace policy demonstrates a commitment to the safety and health of your employees by communicating that the use of alcohol and other drugs will not be tolerated in your workplace.

A good policy is one built around your company's mission, needs and values with input from your entire work force. It should be easy to understand, address all levels of employees and be administered fairly and consistently. A policy developed and implemented in this manner can prove beneficial to your company and employees; and will reduce chances of discrimination or preferential treatment among your work force.

### **Suggested components for a drug-free workplace policy:**

- \* **A STATEMENT OF NEED EXPLAINING WHY YOUR COMPANY HAS CHOSEN TO DEVELOP A DRUG-FREE WORKPLACE POLICY.**
- \* **A COMPANY STATEMENT EXPRESSING ITS POSITION ON THE USE, SALE OF, DISTRIBUTION AND MANUFACTURE OF DRUGS IN THE WORKPLACE.**
- \* **AN EXPLANATION OF LABOR AND MANAGEMENT ROLES IN THE CREATION, IMPLEMENTATION, REVIEW, AND EVALUATION OF THE PROGRAM.**
- \* **A DEFINITION OF THE "DRUGS" TO BE INCLUDED IN THE WORKPLACE PROGRAM. IN ADDITION TO ILLICIT DRUGS, A GOOD POLICY SHOULD INCLUDE ALCOHOL AND LEGAL DRUGS SUCH AS PRESCRIPTION AND OVER-THE-COUNTER DRUGS. ALTHOUGH SOME EMPLOYEES TAKE PRESCRIPTION DRUGS FOR HEALTH REASONS, THESE DRUGS STILL SHOULD BE INCLUDED WITH THE RATIONALE THAT THE ABUSE OF THESE DRUGS CAN IMPAIR AN EMPLOYEES WORK PERFORMANCE.**
- \* **AN OVERVIEW OF HOW ALCOHOL AND OTHER DRUGS IMPAIR JOB PERFORMANCE.**
- \* **AN OVERVIEW OF YOUR IMPAIRMENT DETECTION PROGRAM AND PROCEDURES; WHAT THEY ARE AND WHY THEY ARE NECESSARY.**
- \* **AN EXPLANATION OF THE CONSEQUENCES FOR VIOLATING YOUR COMPANY POLICY. A POLICY SHOULD EXPLICITLY STATE THE ANTICIPATED "ACTIONS TO BE TAKEN" IN RESPONSE TO DRUG USE. THERE ARE MANY APPROACHES TO TAKE WHEN DEVELOPING THESE CONSEQUENCES; THE TWO EXTREMES BEING 1) "ZERO TOLERANCE" WHICH SPECIFIES THAT ANY EMPLOYEE FOUND POSSESSING, DISTRIBUTING OR USING DRUGS ON OR OFF THE WORK SITE WILL BE TERMINATED AND 2) "SAFE HARBOR," WHICH FOCUSES SPECIFICALLY ON REHABILITATING THE EMPLOYEE. HOWEVER, USING EITHER EXTREME AS A SINGLE FIRM POLICY WILL NOT PRODUCE THE BEST RESULTS. THE APPROPRIATE ACTION SHOULD DEPEND ON THE NATURE OF THE VIOLATION OF POLICY.**
- \* **AN OVERVIEW OF YOUR EAP AND ITS RELATIONSHIP TO OTHER COMPONENTS OF THE DRUG PROGRAM.**

**Please note that it is advisable to consult with an attorney when developing a policy.**

**Important items to consider concerning your drug-free policy:**

- 1) Make sure to encourage employee and labor involvement and commitment when developing the policy.
- 2) Make sure the language is clear, avoiding vague and undefined terms.
- 3) Be sure to administer your policy consistently and fairly.
- 4) Make sure that top management is committed to the policy and makes it a priority.
- 5) Stress confidentiality of information and spell out who has access to what information.
- 6) Make sure every statement and component of your drug-free workplace program is documented on paper. Never add to or delete from the policy verbally.
- 7) If drug testing is used, make sure all positive tests from the initial screening are confirmed through a second, more accurate confirmation test before any action is taken. It is strongly recommended that you use an accredited laboratory for the confirmation test. Two sources of accreditation are the National Institute on Drug Abuse (NIDA) and the College of American Pathologists.

**For further information on developing a drug-free workplace policy, refer to the resource section in this package.**

## DRUG-FREE WORKPLACE POLICY SAMPLES

*The following samples are examples of comprehensive drug-free workplace policies which address the important components of a workplace program. You will find two policies from larger companies and one from a small business. Keep in mind that each policy was developed for the needs of a particular organization and may not be exactly what your firm needs. You may find them helpful, however, in considering the development of your policy. Recognition goes to 3M, Wisconsin Bell, and the Waterfield Group for allowing us to use their policies as part of this guide.*

**POLICY #1**

**3M**

For more information regarding this policy contact:

Dr. Jack Stoltsfuz

3M

(612) 733-4742

## 3M DRUG AND ALCOHOL POLICY

### General Overview

All 3M employees have an obligation to be physically and psychologically fit to do their jobs. 3M is concerned about, and dependent upon, the physical and psychological health of its employees. 3M also believes that a working environment free of drug and alcohol abuse is a condition desired by most employees and their families.

3M is prepared to help and support all employees requesting assistance, and for this purpose maintains an Employee Assistance Program (EAP) which provides confidential services to employees who seek help in dealing with drug and/or alcohol abuse or for other personal matters requiring confidential counseling. An employee's voluntary use of this services will not be disclosed outside of the Employee Assistance staff without the employee's consent except where necessary to protect the safety of others. In some cases, this service will include referral to outside treatment or rehabilitation facilities. In most cases, covered costs of the treatment will be reimbursed in accordance with the appropriate benefit plan.

The intention of this policy is to clarify the standard of conduct expected of all employees in the performance of their responsibilities. Compliance with this policy is a condition of employment for all present and future 3M employees.

### Impairment Related to Drug or Alcohol Use

Employees who are in a condition which impairs their ability to perform their job, endanger the safety of themselves or others, may cause equipment or property damage or otherwise expose 3M to potential liability, will not be allowed to continue working or remain in the workplace. (This also applies to anyone who is ill, fatigued or otherwise incapable of performing his or her job.)

For purposes of this policy, impairment is defined as the inability to perform one's job in the manner prescribed for that function or in accordance with established practice. Such impairment may include the inability to use or operate equipment or tool properly, to communicate clearly, to exercise reasonable judgement in making decisions, to interface with other employees or business contacts in an appropriate manner, or other inappropriate personal behavior. Such impairment, when caused by drug or alcohol abuse, is a violation of this policy.

### Action for Impairment

In cases of employee impairment, the following action will be taken:

1. If the employee's impairment endangers his or her own safety or that of others, the employee will be taken to a medical facility to obtain a medical evaluation and treatment or other care or disposition. 3M on-site medical facilities will be used when available; otherwise, the employee will be transported to the nearest 3M-approved medical facility. If a medical evaluation indicates there is reasonable suspicion that the impairment is drug or alcohol related, the employee may be asked to submit drug or alcohol tests.

2. If the employee's condition is impaired, but does not appear to endanger his or her own safety or the safety of others, the employee will be required to leave the workplace for the remainder of the workday. However, the employee may choose to be taken to a medical facility to obtain a medical evaluation and treatment or other care or disposition. If there is more than one instance where the employee is judged to be impaired under the standard of this paragraph, and there is reasonable suspicion that the impairments are drug or alcohol related, the employee will be asked to submit to a medical evaluation, which may include drug or alcohol tests.

Following the medical evaluation, management, 3M Medical staff, Employee Assistance personnel, and Human Resources management will determine if violation of this policy has occurred. In the case of violation, they will determine appropriate corrective action, which may involve mandatory participation in the Employee Assistance Program, including drug or alcohol counseling or rehabilitation, if appropriate.

Employees who refuse a medical evaluation or testing, or who refuse or fail to follow a prescribed corrective action plan, may be subject to disciplinary action, up to and including termination.

#### Drug and Alcohol Testing

All drug and alcohol testing will be performed in conformance with applicable state law. Where required by state law, an addendum to this policy covering testing procedures will be issued. Drug and alcohol testing will be utilized in the following circumstances:

1. If a medical evaluation indicates there is reasonable suspicion that an employee is impaired by drugs or alcohol.
2. In pre-employment physical examinations of persons to whom a conditional offer of employment has been made. If a person shows evidence of current use of drugs or abuse of alcohol, such person will not be employed.
3. Where additional testing during and following drug or alcohol treatment is required to insure compliance with the treatment plan.

Drug and alcohol testing may be utilized in these circumstances:

1. For certain job groups, departments or locations where the work subjects the employee or others to a significant risk of personal safety, or Company assets may be subject to unusual and significant risk. The job groups, departments or locations subject to testing will be given advance notice and advised of the applicable procedures before testing is commenced. In every case, these testing programs must have the advance approval of the Human Resources Policy Committee.
2. Where an employee is found to be in possession of alcohol or illegal drugs on Company property in violation of this policy.

Employees who refuse to submit to drug or alcohol tests under this policy may be subject to disciplinary action, up to and including termination. Candidates for employment who refuse to submit to drug or alcohol tests under this policy will not be employed.

## Drugs in the Workplace

The use, possession, sale or purchase of any illegal drug, or any prescription drug without a valid prescription, on 3M property (which includes 3M motor vehicles), at Company-sponsored functions, or wherever 3M work is being performed, is prohibited.

If an employee is found to be in violation of this section of the policy, the employee will be immediately suspended without pay. Further disciplinary action, up to and including termination, will then be determined by management in consultation with Human Resources. Management may refer evidence obtained to law enforcement agencies when it is appropriate to do so.

## Alcohol in the Workplace

The consumption, possession, sale or purchase of alcohol on 3M property (which includes 3M motor vehicles) is prohibited, with the following exceptions:

- \* Consumption, possession, sale or purchase of alcohol in certain approved 3M conference or recreational facilities where the exception has prior approval of management.
- \* Possession of alcohol while being transported in a 3M motor vehicle in compliance with applicable legal requirements.
- \* Possession of alcohol while in an employee's personal vehicle or assigned 3M vehicle while on 3M property.

If an employee is found to be in violation of this section of the policy, management will, in consultation with Human Resources, determine the appropriate disciplinary action, up to and including termination, which will be taken.

## The Use of Alcohol at Company-Sponsored Activities Off 3M Property

The consumption, possession, sale or purchase of alcohol at any Company-sponsored business or social function must have the prior approval of management.

The use of alcohol by employees while conducting business, attending a Company-sponsored business or social function, or otherwise representing 3M off Company property is permitted only to the extent that it does not lead to impaired performance, inappropriate behavior, or endanger the safety of any individual or violate applicable law.

## The Use of Alcohol During the Workday

3M discourages employee use of alcohol directly before or during the workday, including lunch and breaks, whether in connection with business or on personal time.

## Information

For additional information, employees should contact their supervisor/manager or Human Resources manager.

**POLICY #2  
WISCONSIN BELL**

For more information regarding this policy contact:

Jerry Binkley  
Wisconsin Bell  
(414) 678-3357

## WISCONSIN BELL SUBSTANCE ABUSE POLICY

### A. OVERVIEW

Wisconsin Bell's Substance Abuse Policy reaffirms its commitment to provide employees a safe working environment, to ensure that employees, equipment and operating practices comply with health and safety standards, and to maintain public confidence in the Company. Since Wisconsin Bell values each employee, the Company offers employees assistance in dealing with alcohol and drug abuse problems through the Employee and Family Assistance Program and other health benefits programs.

### B. COMPANY POLICY

Wisconsin Bell requires all employees to report for work in a condition that allows them to perform their duties in a safe and efficient manner. Employees will not be permitted to work under the influence of alcohol or with prohibited drugs in their systems thereby affecting job performance.

Violation of any provision of the Substance Abuse Policy will be considered just cause for disciplinary action up to and including discharge, even for a first offense. In addition, refusal to adhere to any part of the policy may be considered an act of insubordination and also may lead to disciplinary action up to and including discharge.

This policy and related procedures may be modified by the Company at any time in order to comply with any applicable federal, state, or local laws or to better serve the needs of the business.

### C. PROHIBITED DRUGS

Prohibited drugs are defined as illegal substances, including controlled substances as defined in the Controlled Substances Act (21 U.S.C.812) and the Code of Federal Regulations (21 C.F.R.1308.11-1308.15) and prescription controlled substances which have not been prescribed by a licensed physician or dentist for specific treatment purposes for the employee. Abuse of prescription or over-the-counter drugs will also be treated as a substance abuse problem under this policy.

The Substance Abuse Policy prohibits the illegal use, sale, transfer, distribution, possession, or unlawful manufacture of narcotics, drugs, or other controlled substances while on the job or on Company premises (including vehicles used for Company business). These include but are not limited to marijuana, cocaine, crack, PCP, heroin, LSD, amphetamines, hallucinogens, and barbiturates. Any illegal substance found on such premises will be turned over to the Company Security organization and may lead to criminal prosecution.

D. ALCOHOL

The Use of Alcohol on the job or on company premises is prohibited, unless such use is non-abusive and is part of an authorized official event held off Company premise. The use of alcohol in vehicles used for Company business is strictly prohibited.

Alcohol possession applies to all open or unsealed alcoholic beverage containers. Such containers are not allowed on the job or on Company premises, unless their possession is part of an authorized official event (as described above). Possession of such containers in vehicles used for Company business is never authorized.

E. REPORTING VIOLATIONS

Employees must, as a condition of employment, abide by the terms of the Wisconsin Bell Substance Abuse Policy and report any convictions to the Security Department under a criminal drug statute for violations occurring on or off Company premises while conducting Company business. Report of a conviction must be made to the Company within five (5) days after the conviction. The Company will then notify the appropriate contracting officer within ten (10) days after receiving notice from either the employee or from another source. (These requirements are mandated by the Drug-Free Workplace Act of 1988.)

An employee who is involved with off-the-job illegal drug activity may be considered in violation of this policy. In determining whether disciplinary action will be imposed for this activity, the Company will consider the circumstances of each incident, including but not limited to any adverse effect the employee's actions may have on its customers, other employees, the public, or the Company's reputation and image.

Any questions regarding the reporting of violations should be directed to the Security Department.

F. EMPLOYEE REHABILITATION

Health maintenance is primarily a personal responsibility and it is the individual's responsibility to correct unsatisfactory job performance or behavioral problems caused by alcohol or drug abuse. In an effort to assist employees, the company provides various means for employees and their family members to remain aware of the dangers of substance abuse in the workplace and to overcome drug and alcohol related problems.

Employees with a personal, alcohol or drug related problem are encouraged to volunteer to participate in a Company-approved rehabilitation program upon referral from the Employee and Family Assistance Program (EFAP), before work performance becomes affected.

Participation in a rehabilitation program will not be considered a barrier to nor a cause for disciplinary action. Employees will not be disciplined merely because of participation in a rehabilitation program or excused from the disciplinary consequences of conduct which is in violation of this policy or any other Company policies or job requirements.

Any employee identified through a Company investigation as having a substance abuse problem also may not avoid disciplinary action by requesting to participate in a Company-approved rehabilitation program.

Circumstances in each case will be evaluated to determine the course of action to be taken (i.e., whether the employee will be offered the opportunity to participate in a rehabilitation program and/or will be subject to discipline).

Refer to Section 665 of the SRG for further information on the Employee and Family Assistance Program.

#### G. TESTING

Wisconsin Bell will not ask employees to submit to random alcohol or drug tests.

Alcohol or drug tests may be required for employees in the following circumstances:

- a) When unsatisfactory job performance or other employee behavior is reasonably indicative of substance abuse.
- b) During and after participation in a drug or alcohol rehabilitation program for a reasonable period of time as determined by the Company.
- c) When required by law.

If a supervisor identifies an employee with a behavior pattern and/or job performance reasonably indicative of substance abuse, the supervisor (with the concurrence of the next level of supervision) may recommend that the employee have a fitness-for-duty examination by a physician designated by the Company. The physician will determine whether a fitness-for-duty examination is necessary and whether alcohol or drug tests will be required.

Pre-employment drug testing is part of the pre-employment physical. The method of testing will be determined by the Company medical director. Applicants who test positive for prohibited drugs in their systems will not be offered employment. Any questions regarding reapplication opportunities should be directed to the Company Employment Office.

The Substance Abuse Policy can be referenced in Administrative Bulletin #56.

**POLICY #3  
WATERFIELD GROUP**

For more information regarding this policy contact:

Becky Teagarden  
Waterfield Group  
(219) 434-8347

**COVER LETTER  
SAMPLE**

Dear Waterfield Employee,

Drug and alcohol abuse is a critical issue facing American businesses today. Studies have shown that billions of dollars are lost every year due to drug and alcohol abuse. These take the common forms of increased absenteeism, higher health care costs, lower job performance and productivity, higher incidents of theft in the workplace, and higher rates of on-the-job accidents which result in injury, not only to the abuser but to fellow employees. Our community is not immune from this, nor is Waterfield.

While the Company does not want to intrude into the private lives of our employees, serious involvement with drugs or alcohol eventually takes its toll on job performance and employee safety and can create serious problems for the individual involved and for those persons most close to them. And even though we have experienced few identifiable substance abuse problems to date, we would be naive to think that our good fortune will continue without effort on our part. It is for these reasons that Waterfield has decided to take affirmative action with regard to drug and alcohol possession, use and abuse in our work environment and to adopt the attached Drug-Free Workplace Policy. The Company will administer pre-employment drug screen tests to job applicants but will not implement random drug testing of employees.

We want to provide a work environment that is free from the effects of drug or alcohol abuse, and we want to help employees overcome any drug or alcohol abuse problem they may have.

If you have any questions after reading the Policy, please discuss them with your manager or with the Human Resources Department.

(President's Signature)

**EMPLOYEE ACKNOWLEDGEMENT  
DRUG-FREE WORKPLACE POLICY**

I acknowledge that I have received a copy of the Drug-Free Workplace Policy. I also acknowledge that the provisions of the Policy are part of the terms and conditions of my employment and that I agree to abide by them.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Social Security#: \_\_\_\_\_

## **WATERFIELD GROUP DRUG-FREE WORKPLACE POLICY**

### Purpose and Scope:

Waterfield is committed to providing a safe and productive work environment for our employees. To accomplish this objective, appropriate policies are implemented from time to time which are consistent with the spirit and intent of this commitment. With this in mind, the Company has developed this drug-free workplace policy, the purposes of which are to establish and maintain a work environment that is free from the effects of illegal drug use and alcohol abuse and to help employees overcome any alcohol or drug abuse problem they may have. This policy includes pre-employment drug screen testing of job applicants but not random testing of employees. This policy is applicable to all employees regardless of title or position and includes temporary and part-time employees.

### Provisions:

Before any applicant for employment is hired, he or she will be tested for the presence of illegal drugs. Applicant testing will be done as a regular part of pre-employment screening as a condition of the job offer. Applicants include all regular full-time and part-time, all rehires unless reinstated within 30 days, and all temporaries who will be on our payroll. Should an applicant test positive on an initial test, a confirmatory test will be made on the same sample. If the confirmatory test is also positive, the applicant will be denied employment. An applicant who declines to submit to testing will be denied employment. Applicants who are denied employment because of a positive test may re-apply for employment and be re-tested after one year from time of initial rejection.

Whenever testing is required under the policy, the Company will, when possible, direct the applicant to submit a urine sample. If a urine test is not possible, then a blood sample will be required.

At the Company's sole discretion, any employee who uses, sells, manufactures, participates in the distribution of, possesses or is found to be under the influence of illegal drugs on Company property or while on Company business, or who uses, possesses or is found to be under the influence of alcohol\* on Company property, is subject to disciplinary action up to and including termination of employment.

In addition, at the Company's sole discretion, the Company may provide any employee the option to voluntarily participate in an approved assistance or rehabilitation program. If such option is offered, any leave of absence will be consistent with the present policies and practices of the Company. Any employee who voluntarily participates in an approved assistance or rehabilitation program will be fully responsible for his or her costs incurred in such treatment or related treatment if such costs are not covered through any group medical insurance in which the employee is enrolled.

The Company also reserves the right to make a search of the Company's premises and other company-owned property if a violation of this policy is suspected.

Any employee who uses, sells, manufactures, participates in the distribution of, or possesses illegal drugs may be reported to the appropriate law enforcement agency which may result in criminal prosecution.

### Employees Who Voluntarily Seek Help

The Company recognizes that substance abuse is a medical problem which can be successfully treated. Almost all substance abusers deny they have a problem and ordinarily they do not seek treatment voluntarily. This denial is the single most significant obstacle to successful treatment.

Recognizing this reality, although the Company encourages voluntary substance abuse treatment, the Company will take disciplinary action against employees who violate this policy and who do not seek treatment. This action is designed to break through a denial barrier and convince substance abusing employees of the need for treatment.

Early recognition and treatment of substance abuse is important for successful rehabilitation and for reduced personal, family, and social disruption. The Company encourages the earliest possible diagnosis and treatment for substance abuse and supports sound treatment efforts. However, the decision to seek diagnosis and accept treatment for substance abuse is the individual employee's responsibility.

Employees who voluntarily request assistance in dealing with a substance abuse problem (prior to violation under this policy) will be offered a leave of absence option consistent with the present policies and practices of the Company.

Voluntary treatment for substance abuse will not prevent disciplinary action for violation of the Company's drug-free workplace policy or other policies, nor will it relieve employees from responsibility for their job performance. Employees who undergo voluntary counseling or treatment and who continue to work must meet all established standards of conduct in job performance.

\* Company-sponsored functions are excepted.

**EMPLOYEE  
DRUG EDUCATION AND AWARENESS  
PROGRAM**

## EMPLOYEE DRUG EDUCATION AND AWARENESS PROGRAM

Drug-free workplace initiatives are only as effective as they are communicated. If employees do not understand your drug-free program, they are generally more apprehensive about taking part in it. With an education program you can effectively communicate to your employees the purpose and goals of your drug-free workplace program while simultaneously giving them the opportunity to ask questions and provide feedback.

With this in mind, you may want to consider covering the following items in your program.

- \* **Dissemination of your company's drug-free workplace policy** explaining why a policy was established, the importance of having it and the consequences if violated.
- \* **Clarification of the expected roles of employers and employees** in your company's drug free program, emphasizing the importance of working together.
- \* **Description of drugs** and the symptoms of their use.
- \* **Explanation of the effects of drug use** as it relates to health, morale, and your company's productivity.
- \* **An overview of the rehabilitative services** available for your employees, including employee assistance programs and community services.
- \* **A confidentiality statement** stressing that company actions taken as a result of violating the policy are totally confidential, except as required by state or federal laws, rules, and regulations.
- \* **An overview of your impairment detecting procedures.**

You may want to consider using the following materials and resources:

- \* **Videos** - Videos regarding drugs at work, drug testing and getting help.  
(these may be loaned to you through various community, state and national organizations)
- \* **Brochures, flyers**
- \* **Pay check stuffers**
- \* **Posters**
- \* **Newsletter articles**
- \* **Speakers** - from EAP's, community organizations and law enforcement

For more information on developing education programs, refer to the resources section of this packet.

# **SUPERVISOR TRAINING**

## SUPERVISOR TRAINING

Supervisors are important to the success of a drug-free workplace. They oversee and manage the performance of employees which puts them in a prime position to recognize, address and help prevent alcohol and other drug use. Their position also allows them to be a key facilitator of your drug-free policy.

In order for supervisors to be effective in their roles, they must understand their responsibilities. It is a must for supervisors to be given special training on:

- \* Observing performance changes which may indicate drug use;
- \* Understanding the process of documenting performance changes and sharing the documentation with the appropriate personnel;
- \* Understanding how to approach/confront an employee who appears to have a problem;
- \* Understanding your company's drug-free workplace policy and overall program;
- \* Understanding your company's relationship with an EAP or other intervention/rehabilitative service;
- \* Understanding impairment detection procedures;
- \* Understanding the process of reintegrating employees back into the company after absences for rehabilitation;
- \* Understanding that a supervisor is not responsible for diagnosing or treating an employee with a substance abuse problem.

In firms where labor unions represent employee interests, consideration should be given to involving union officials in the training program. Not only can this inclusion serve to alleviate employee fears about the drug-free workplace program, it can promote closer union-management relationships and facilitate implementation of the program.

For help in designing and implementing supervisor training, contact local EAP providers, the Indiana chapter of EAPA and health organizations which have personnel specialized in this area.

**EMPLOYEE ASSISTANCE PROGRAM**

## EMPLOYEE ASSISTANCE PROGRAM

Employee Assistance Programs are formal employer financed programs administered by a company or through an outside contractor. An EAP is designed to assist in the identification and resolution of productivity problems associated with employees impaired by personal concerns which may include, but are not limited to: health, marital, family, financial, drugs, alcohol or stress. Through the assistance of an EAP, alcohol and other drug users can be rehabilitated and maintained in the work force.

Typically, an employee will seek help through an EAP counselor because of a personal need or the employee may be referred to a counselor by a supervisor. An EAP counselor then confers with the employee and refers him/her to the appropriate resource for assistance or treatment. **It is important to note that EAP counselors do not provide treatment.** The EAP counselor then follows-up with the employee until satisfactory solutions are obtained.

A successful EAP program can reap many benefits for your company:

- \* lower rate of employee attrition
- \* more efficient and effective employees
- \* a safer work environment and fewer accidents
- \* a decrease in absenteeism
- \* fewer worker's compensation claims

For those companies who have implemented EAPs the benefits have been significant:

- \* up to a 60% decrease in absenteeism and lost time
- \* up to a 75% decrease in lost time of co-workers and supervisors discussing personal problems
- \* up to 65% fewer accidents
- \* a 34% reduction in medical benefits claims for physical problems<sup>1</sup>

### *EMPLOYEE ASSISTANCE SERVICES*

Services provided by EAPs vary. As an employer you may choose appropriate services for your EAP depending on your company's needs. EAP services include: (but are not limited to)

- \* expert consultation and training to appropriate persons in the identification and resolution of job performance issues;
- \* confidential, appropriate and timely problem-assessment services;
- \* referrals for appropriate diagnosis, treatment and assistance;
- \* establishing linkages between workplace and community resources that provide such services;
- \* follow-up services for employees using the services.

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<sup>1</sup> Corporation Against Drug Abuse

## SETTING UP AN EMPLOYEE ASSISTANCE PROGRAM

### *Financial Considerations:*

**Fixed-Fee Contracts** - Fees are computed on a per-employee, per-year basis and the provider delivers the services agreed upon regardless of how often they are needed.

**Consortium** - A consortium is an organization which small employers may join in order to obtain EAP services for a lower rate. Costs per-employee are reduced because together employers can offer a large employee-client base. The consortium contracts directly with a provider as opposed to each employer.

**Fee-for-Service Programs** - Employers contract directly with the particular specialists for a specific type of service required. Only the services which are provided are paid for by the employer.

**EAP Costs—per number of company employees per year** (these costs are estimates and may fluctuate approximately 15% on either the low or high end of the stated amount.)

<u>EMPLOYEES</u>	<u>COSTS</u> (per employee)
More than 5,000	\$14-\$25
1,000 - 5,000	\$17-\$36
500 - 1,000	\$21-\$39
250 - 500	\$25-\$45
100 - 250	\$50-\$100
Consortium	\$36-\$50

### Several variables that may affect the costs:

- 1) the location of the workforce...is your workforce located at one central office site or several sites;
- 2) the level of training/education of the EAP staff.

### *Program Examples:*

*The following brief descriptions characterize the primary features of a variety of EAP models. Some programs combine specific features of two or more models.*

**Referral Program** - This type of program combines in-person and/or telephone referral to community resources.

**Workplace-run program with outside treatment resources** - This program offers referral and crisis intervention resources combined with some level of direct service provision supported by the employer. The program coordinator and staff are employees.

**Consultant-run program with outside treatment resources** - In this model, referral, crisis intervention, and short-term treatment resources are coordinated and offered by an outside consultant retained by the employer.

**Consortium program** - With this program, a group of work organizations jointly develop and fund an EAP. This is usually advantageous for small businesses who cannot afford to have their own programs.

**Mixed model program** - This program is a blend of doing part of the services in-house then contracting with outside consultants for satellite offices which are located elsewhere.

**Peer-based program** - In this program, co-workers are part of the solution and includes peer prevention through education and training, peer intervention (identification and confrontation), peer referral and peer support. Formal education and training for employees are a must for this program.

**WHEN IMPLEMENTING AN EAP REMEMBER:**

Don't reinvent the wheel. There are many qualified and experienced EAP personnel who can be of assistance to you. One source of comprehensive information is the national and state Employee Assistance Professionals Association (EAPA). EAPA strives to maintain standards for EAPs, administers a code of ethics to guide EAP practitioners in their work and administers a certification program (CEAP) to maintain and promote competency of employee assistance professionals. This organization and its local chapters as well as the Employee Assistance Society of North America are listed in the resource section of this guide.

**For more information refer to the resource section, Employee Assistance Professionals Associations, in this document and contact the Drug-Free Workplace Helpline for model programs and guidance in setting up an EAP.**

# DRUG TESTING

## DRUG TESTING

### *AN OVERVIEW*

Statistics indicate that many employers believe that drug testing is indeed a necessary measure to ensure a safe and healthy workplace. According to a recent national Gallup survey, in 1983, 3% of the fortune 200 companies were testing and by 1989 more than 80% had implemented some type of testing.

Additionally, some businesses believe a drug policy without testing lacks impact because drug abusing employees will continue to use with no threat of being found out. And without proof of drug use, there is no opportunity to discipline employee's continued drug use in violation of a company policy.

Companies who have used testing have shown significant results:

- \* Southern Pacific Railroad documented a reduction in accidents by two thirds;
- \* Utah Power and Light saved \$662,140 over two years and netted a \$179,813 profit;
- \* The U.S. Navy reduced the percent of its personnel (25 years of age or under) using drugs from 45% to 3% after random testing was implemented.

### *AN EFFECTIVE DRUG TESTING PROGRAM*

An effective drug testing program can make employees confront and overcome their drug problems while at the same time protect employers from liabilities associated with drug use. An effective testing program is achieved by:

- \* involving employees and union officials in planning and implementation;
- \* building it from your business's needs;
- \* implementing safeguards;
- \* clearly defining testing procedures;
- \* ensuring fairness, accuracy, and confidentiality;
- \* working with a scientifically and medically accepted laboratory;
- \* minimizing the intrusiveness of the testing procedures on employees;
- \* offering opportunities for treatment and behavior change;
- \* using it as one element of a comprehensive drug-free work place program.

### *WHAT IS DRUG TESTING*

Drug testing is a method of detecting drug use by an employee; there are several procedures used for testing. Urine testing is most common and is done by collecting a urine specimen from an employee. This specimen is sent to a laboratory and analyzed for drugs. If the test result is positive, a second more scientific test is done to ensure accuracy.

Other more non-evasive methods include analyzing blood and hair. Additionally, there is now a computer based test which measures hand-eye coordination and reaction time, FACTOR 1000. This method will also measure other non-related drug impairment such as fatigue.

After detecting any signs of impairment a medical review office (MRO) or a designated person responsible for overseeing drug testing procedures should then consult with the employee to review possible reasons for the positive test. The appropriate action is then taken depending on your company policy for using drugs.

Procedures for drug testing should be clearly written and included in your company drug policy. This information should then be distributed to all employees.

## **DRUG TESTING CONCERNS**

- \* **Legality** - Drug testing is legal. At this time there are no constitutional barriers to testing. Additionally, no definite rulings have been made by the United States Court of Appeals or the Supreme Court. Some state laws protect employees, have requirements for testing and for employer action resulting from a positive test. **Indiana does not have drug-testing laws.**
- \* **Accuracy of the test** - There should be little concern about the accuracy of drug testing if detailed procedures are defined and certified laboratories are used. If an initial screening test is positive a confirmatory test automatically is taken. Because laboratories will lose certification if they inaccurately label a test, laboratories will back test results 100%. If laboratories have any amount of reasonable doubt regarding the results of a test, they will favor the employee and report a negative test.
- \* **False positives** - Items such as cold medicines, cosmetics or inhalation of marijuana smoke will not cause the results of a test to be positive. The only drugs that will show up as positive are drugs that are being used. If an employee is using a prescription drug, the individual should report this to a supervisor prior to use.
- \* **Costs** - Possible costs may include legal fees, specimen collection and transport, specimen analysis, medical review officer services, supervisor training and employee orientation. Preliminary tests range from \$20-\$30 per test. Confirmatory tests run between \$50-\$55 per drug, per test. However, keep in mind savings may include, reduction in cost of health benefits, reduction in sick leave, reduction in turnover and rehiring, decrease in worker compensation claims and fewer chances for law suits against your company due to accidents caused by drug use.
- \* **Employee morale** - Employee morale may be lowered if a testing program is not implemented and operated correctly. Employee education and an EAP are very important when drug testing. Employees need to understand the testing procedures and how it affects their own health and safety.
- \* **Confidentiality** - Results should be released to only designated people, i.e. person drug tested, management official, medical review officer, EAP administrator and other designated persons.

## **CATEGORIES OF TESTING**

There are generally 6 types of testing an employer may choose to use:

- \* Applicant testing
- \* Random testing
- \* Reasonable suspicion testing
- \* Accident or unsafe practice testing
- \* Voluntary testing
- \* Follow-up/Probationary testing

**Applicant Testing** - Required testing for job applicants prior to appointment of a job. This is one way of screening out drug users before hiring. Job applicants should be notified of screening requirements.

**Random Testing** - Employees are selected randomly for testing. All employees are eligible. The selection process should be explained to employees so it is understood that the procedure is fair and test candidates cannot be predicted. Random testing has a high probability of legal concerns rising due to the right of privacy.

**Reasonable Suspicion Testing** - Testing is based on a suspicion of drug use. Strong evidence must accompany the suspicion and should be documented.

**Accident Testing** - A test is administered after an accident or unsafe practice.

**Follow-up/Probationary Testing** - Tests are administered periodically as a follow-up to employees who have been in rehabilitation for drug abuse to ensure that they are remaining drug free.

**Voluntary Testing** - Employees may volunteer to be tested to show their commitment to a drug free work place.

### **DRUGS TESTED FOR**

The drugs usually tested for are:

- \* marijuana
- \* cocaine
- \* amphetamines
- \* opiates
- \* phencyclidine
- \* alcohol

### **LABORATORIES**

Because laboratories play such an important role in the drug testing process, it is very important to use reliable ones. When choosing a laboratory consider the following:

- \* The laboratory should provide assistance in the development of procurement procedures to ensure the collection is done accurately. The vendor should provide materials and directions for the collection.
- \* The laboratory and its personnel must observe the state and/or federal licensing and certification requirements.
- \* The laboratory should provide an updated manual of their methods.
- \* Tests should always be performed by professionals trained in the area of drug testing.
- \* The laboratory must make sure that test results are not released based on the sampling of one test and that all positive initial screening tests automatically be submitted for a second confirmation test.
- \* Chain of custody should be established for all tests. Results of test should always be reported in writing and should be available within 24-48 hours.
- \* Confidentiality should be maintained throughout the procedure, at the company and the laboratory. The employee's name should never be given. Laboratories should reject a sample if a name is submitted.

There are two organizations which certify laboratories, the U.S. Department of Health and Human Services' National Institute on Drug Abuse (NIDA) and the American Association for Clinical Chemistry - College of American Pathologists Forensic Urine Drug Testing Program. NIDA also provides a listing of accredited laboratories, medical review officers and their services, and additional drug testing information. 1-800-843-4971.

There are two NIDA certified laboratories in Indiana:

South Bend Medical Foundation, Inc.  
530 North Lafayette Boulevard  
South Bend, Indiana 46601  
1-800-544-0925

Methodist Hospital of Indiana  
Dept. of Pathology and Laboratory Medicine  
1701 N. Senate Blvd.  
Indianapolis, Indiana 46202  
317-929-3587

A good reference tool is the "Mandatory Guidelines for Federal Drug Testing Program" (*Federal Register*, Vol.,53, No.69, April 11, 1988) published by the National Institute on Drug Abuse. These guidelines focus on offering all possible safeguards for both employees and applicants.  
South Bend Medical Foundation

**FEDERAL AND STATE REGULATIONS**

## FEDERAL REGULATIONS

If you have a certain type of contract with the Federal Government or perform certain types of work, you may be required under federal law to adhere to the following regulations.

### *The Drug Free Workplace Act of 1988*

#### Who does this affect:

This is a federal statute which covers Federal contractors and grantees, if you have a federal contract of \$25,000 or more or receive any federal grants. Subcontractors and sub-grantees are not included.

#### What are the requirements:

The employer must certify he/she will provide a drug-free workplace.

The employer must have a written policy regarding the prohibited use of illegal drugs in the workplace and the consequences when in violation of the policy.

The employer must develop and implement a drug free education/awareness program for employees which communicates the policy, the consequences of not adhering to it, rehabilitation services available and the dangers of drug abuse in the workplace.

The employer must require employees to notify the appropriate management person (employer) of any criminal drug statue conviction for a violation taking place in the workplace within five days of the conviction. The employer must then contact the federal government/contracting agency within ten days to report the violation.

The employer must, within 30 days of learning of a conviction, discipline the employee (including termination or rehabilitation services). If help in dealing with the problem is offered, the employer must ensure that the employee follows through with the program in order to continue employment.

A company is not required to drug test or have an employee assistance program.

If violations occur, penalties can range from the suspension of payments to ending the contract. Additionally, the company may be barred from government work for up to five years.

#### **For more information contact:**

The Federal agency's contract or grant administration office from which you were awarded the grant.

*Other Federal Regulations:*

**The U.S. Department of Transportation (DOT)**

**The U.S. Department of Defense (DOD)**

**The U.S. Nuclear Regulatory Commission (NRC)**

**The Americans with Disabilities Act of 1990**

*The U.S. Department of Transportation (DOT)*

DOT requires a drug-free workplace program which includes drug testing of employees in safety sensitive positions in the transportation industries regulated by DOT. Examples in the aviation industry are pilots, flight attendants and air traffic controllers. Also an employer must provide drug abuse awareness education for supervisors and employees as well as being a resource for rehabilitation services. It is not mandatory for employers to provide treatment however they are required to have an EAP whose role is to provide information educating employees and supervisors on drug abuse. Drug testing must be conducted in accordance with procedures outlined in 49 CFR Part 40. The regulations pay special attention to "chain of custody" when drug testing. For more information refer to the DOT regulations enclosed or contact the Department of Transportation, Office of the Secretary, Drug Enforcement and Program Compliance, Room 10200, 400 Seventh Street, SW., Washington, DC 20590, 202-366-DRUG.

*The U.S. Department of Defense (DOD)*

DOD also requires employees of DOD contractors who work in sensitive positions to be educated on drug abuse; and supervisors taught how to identify employees who may be abusing drugs in the workplace. Also an EAP or similar program must be established that provides access to treatment. A certification that states an employee is ready to return to work is required for employees who have been in treatment because of drug abuse.

*U.S. Nuclear Regulatory Commission (NRC)*

NRC requires "licensees authorized to operate nuclear reactors to implement a drug-free program." The regulations apply to "all persons (with) unescorted access to protected areas, and to licensee or contractor personnel required to respond to (the) licensees' technical support center or emergency operations facility."

*American with Disabilities Act of 1990 (ADA)*

Prohibits private and state/local governmental employers, labor organizations, joint labor-management committees and employment agencies from discriminating against qualified individuals with a disability in all aspects of employment. How would this apply to an employee with an alcohol or other drug problem? An individual currently using drugs is not considered a "qualified person with a disability" provided the employer acts on the basis of that use. Recovering alcoholics and illegal drug users are covered so long as they are not currently abusing drugs or alcohol.

As of July 26, 1992 employers who have 25 or more employees are required to adhere to this law. On July 26, 1994 coverage is extended to business with 15 or more employees. The 1990 ADA law, preempts the Federal Rehabilitation Act of 1973.

The ADA specifically states that employers can:

- \* Prohibit illegal drug use or alcohol use at the workplace,
- \* Require that employees not be under the influence,
- \* Require that employees comply with the 1988 Drug-Free Workplace Act,
- \* Hold illicit drug users and alcohol abusers to the same performance standards as the general work force even if any unsatisfactory performance or behavior is related to the employee's drug use or alcoholism, and
- \* Comply with the Department of Defense, Department of Transportation, and Nuclear Regulatory Commission regulations.

Moreover, while not specifically mentioned, it is clear employers can prohibit illicit drug use....a drug test can be administered and a "positive" result is actionable from an employment standpoint.

#### *Additional Rulings..*

#### **Collective Bargaining Rights**

The National Labor Relations Board recently ruled that an employer may not implement new rules or change prior policies regarding drug testing that affect current employees without first bargaining with it(s) employees' union(s) because, compulsory drug testing amounts to a substantial change in the terms and conditions of employment and therefore, is a subject of mandatory bargaining under the National Labor Relations Act. This does not apply to pre-employment drug testing because it does not vitally affect the interests of current employees.

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## State of Indiana Regulations

Individuals or companies that have a contract with or receive a grant from the State of Indiana are required to maintain a drug-free workplace. For all grants or contracts awarded the following drug-free workplace criteria apply:

1. Included in the contractual documents for a contract or a grant in excess of \$25,000 is a Drug-Free Workplace Certification. This certification outlines the State's requirements for providing a drug-free workplace and is to be signed and adhered to by the contractor or grantee.
2. Included in the contractual documents for all contracts or grants, including those over \$25,000, is a Drug-Free Workplace Clause with provisions for maintaining a drug-free workplace.

These actions are in response to Executive Order No. 90-5, April 12, 1990, issued by the Governor of Indiana.

A sample of the State of Indiana Drug-Free Workplace Certification, Drug-Free Workplace Clause, and Executive Order No. 90-5 follows. For further information contact, Jay D. McQueen, General Counsel, Indiana Department of Administration, at 317-232-7636.

11/92

STATE OF INDIANA  
DRUG-FREE WORKPLACE CERTIFICATION

This certification is required by Executive Order No. 90-5, April 12, 1990, issued by the Governor of Indiana. Pursuant to its delegated authority, the Indiana Department of Administration is requiring the inclusion of this certification in all contracts with and grants from the State of Indiana in excess of \$25,000. No award of a contract or grant shall be made, and no contract, purchase order or agreement, the total amount of which exceeds \$25,000, shall be valid unless and until this certification has been fully executed by the Contractor or Grantee and attached to the contract or agreement as part of the contract documents. False certification or violation of the certification may result in sanctions including, but not limited to, suspension of contract payments, termination of the contract or agreement and/or debarment of contracting opportunities with the State for up to three (3) years.

The Contractor/Grantee certifies and agrees that it will provide a drug-free workplace by:

(a) Publishing and providing to all of its employees a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; and

(b) Establishing a drug-free awareness program to inform employees about (1) the dangers of drug abuse in the workplace; (2) the Contractor's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation, and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;

(c) Notifying all employees in the statement required by subparagraph (a) above that as a condition of continued employment the employee will (1) abide by the terms of the statement; and (2) notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;

(d) Notifying in writing contracting State Agency and the Indiana Department of Administration within ten (10) days after receiving notice from an employee under subdivision (c) (2) above, or otherwise receiving actual notice of such conviction;

(e) Within thirty (30) days after receiving notice under subdivision (c) (2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) take appropriate personnel action against the employee, up to and including termination; or (2) require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency; and

(f) Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (a) through (e) above.

THE UNDERSIGNED AFFIRMS, UNDER PENALTIES OF PERJURY, THAT HE OR SHE IS AUTHORIZED TO EXECUTE THIS CERTIFICATION ON BEHALF OF THE DESIGNATED ORGANIZATION.

\_\_\_\_\_  
Printed Name of Organization

\_\_\_\_\_  
Contract/Grant ID Number

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name and Title

DRUG-FREE WORKPLACE CLAUSE  
FOR  
MAINTAINING A DRUG-FREE WORKPLACE

- (a) Contractor or, if a grant is involved, Grantee hereby covenants and agrees to make a good faith effort to provide and maintain during the term of this Agreement a drug-free workplace, and that it will give written notice to the contracting state agency and the Indiana Department of Administration within ten (10) days after receiving actual notice that an employee of Contractor has been convicted of a criminal drug violation occurring in Contractor's workplace.
- (b) In addition to the provisions of subparagraph (a) above, if the total contract amount set forth in this Agreement is in excess of \$25,000.00, Contractor (or Grantee) hereby further agrees that this Agreement is expressly subject to the terms, conditions and representations contained in the Drug-Free Workplace certification executed by Contractor in conjunction with this Agreement and which is appended as an Attachment hereto.
- (c) It is further expressly agreed that the failure of Contractor (or Grantee) to in good faith comply with the terms of subparagraph (a) above, or falsifying or otherwise violating the terms of the certification referenced in subparagraph (b) above shall constitute a material breach of this Agreement, and shall entitle the State to impose sanctions against the Contractor including, but not limited to, suspension of contract payments, termination of this Agreement and/or debarment of the Contractor from doing further business with the State for up to three (3) years.

STATE OF INDIANA  
EXECUTIVE DEPARTMENT  
INDIANAPOLIS

EXECUTIVE ORDER 90-5

FOR: THE PROMOTION OF A DRUG-FREE INDIANA

TO ALL TO WHOM THESE PRESENTS MAY COME, GREETINGS:

WHEREAS, the use of illegal drugs is a major threat to the health and well-being of the State of Indiana, and

WHEREAS, the use of illegal drugs contributes directly to loss of productivity, increased absenteeism, increased health care costs, and more job-related accidents among Indiana's workers in both the public and private sectors; and

WHEREAS, workplace problems created by the use of illegal drugs can be decreased and even eliminated through the implementation of comprehensive drug-free workplace programs; and

WHEREAS, low-income persons are disproportionately impacted by illegal drug use; and

WHEREAS, some provisions are needed to insure that Medicaid benefits reach the recipients for which they are intended and are not diverted to illegal drug trafficking; and

WHEREAS, drug use and drug dealing in many public housing projects threaten the physical safety and quality of life of the residents and community around the housing projects.

NOW, THEREFORE, I, Evan Bayh, by virtue of the authority vested in me as Governor of the State of Indiana, do hereby order that:

1. All corporations, partnerships, individuals, sole proprietors, joint stock companies, joint ventures, or any other private legal entities receiving grant or contract funds from any agency, commission or board of state government shall be required to maintain drug-free workplaces; and

2. Said grantees and contractors shall be required to certify in applications for funding that they will provide drug-free workplaces, by:

a. publishing a statement notifying all employees that the unlawful manufacture, sale, distribution or possession of a controlled substance is prohibited and will lead to specified sanctions;

b. establishing a drug-free awareness program that informs employees about the dangers of drugs in the workplace, the availability of treatment programs, and the company's anti-drug policy and penalties;

c. providing each employee with a copy of the drug-free workplace statement; and

d. notifying each employee in the drug-free workplace that compliance with the statement is a condition of the

employee's employment. To remain in compliance, employees must notify the employer within five days of any conviction for a drug violation in the workplace. Upon receiving such notice, the employer has ten days to notify the contracting government agency of the conviction. Upon receiving notice of a conviction by an employee, the company has 30 days to take disciplinary action or send the employee to treatment; and

3. All grants and contracts issued by state government agencies, commissions or boards shall contain a stipulation that failure to meet the drug-free workplace requirements constitutes a breach of contract; and

4. The State Department of Administration shall administer paragraphs One through Three of this Order. The Department may exempt contracts and grants in amounts less than the maximum Small Purchase Procurement Authority set forth in I.C. 4-13.4-5-5(a).

5. The State Department of Administration shall promulgate a rule prohibiting state employees, with the exception of law enforcement officers carrying out authorized undercover operations, from operating state vehicles at any time with any measurable amount of alcohol or illegal drug in their blood, the violation of which shall result in appropriate sanctions; and

6. The State Personnel Department, in conjunction with the State Department of Mental Health, shall prepare a plan for the establishment by July 1, 1991, of an Employee Assistance Program for all employees of state government; and

7. The State Department of Public Welfare, in collaboration with the State Department of Mental Health, shall seek a waiver from the federal government to allow the State of Indiana to appoint a "protective payee" to administer the AFDC benefits for the family when a family member receiving AFDC benefits is convicted of a drug felony. Following an assessment that indicates a need for drug treatment and the successful completion of a state-certified drug treatment program, the AFDC benefits may again be made payable directly to the family; and

8. The Indiana Housing Finance Authority shall require that all mutual housing association contracts include a requirement that all officers of the mutual housing association remain free of a drug-felony conviction, and that all contractors developing housing with the assistance of the Low Income Housing Trust Fund remain free of any drug-felony conviction; and

9. The Indiana Department of Human Services shall develop procedures at the earliest possible date to implement the final rule currently under consideration by the United States Department of Housing and Urban Development that would permit the denial or termination of assistance to applicants and participants in the Section 8 housing assistance programs on drug-related grounds. Following an assessment that indicates a need for drug treatment, individuals may have the denial or

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April 12, 1990  
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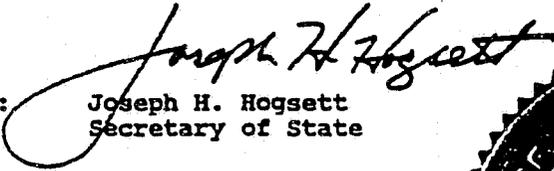
termination of assistance held in abeyance pending the successful completion of a state-certified drug treatment program, to the extent not inconsistent with federal and state law and regulation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Indiana at the Capitol in Indianapolis on this 12th day of April, 1990.



BY THE GOVERNOR: Evan Bayh  
Governor of Indiana

ATTEST:

  
Joseph H. Hogsett  
Secretary of State



**RESOURCES FOR  
INFORMATION AND ASSISTANCE**

**RESOURCES FOR INFORMATION AND ASSISTANCE  
WITH REGARDS TO DRUG-FREE WORKPLACE INITIATIVES**

***Corporation Against Drug Abuse (CADA)***

(202) 338-0654

Assists businesses, particularly small employers, with developing workplace policies and programs and exploring cost effective health insurance and EAPs.

***Hoffman-LaRoche***

(201) 235-5929

Administrator for a national initiative called "Corporate Initiatives for a Drug-Free Workplace." They have newsletters and other informational materials.

***Institute for a Drug-Free Workplace***

(202) 842-7400

Offers a variety of publications pertaining to drug-free workplaces including special reports, national/state surveys, newsletters and fact sheets.

***National Clearinghouse for Alcohol and Drug Information (NCADI)***

1-800-729-6686

A clearinghouse for drug and alcohol abuse information offering videos, prevention materials, sample drug free workplace policies, programs, and research. NCADI also offers technical assistance to employers.

***National Institute on Drug Abuse (NIDA)***

(301) 443-1124

NIDA Drug-Free Workplace Helpline

1-800-843-4971

Assists businesses, unions and industry in the development and implementation of drug-free workplace policies and programs. NIDA also offers numerous publications including, *A Model Plan for a Comprehensive Drug-Free Workplace Program*.

***The National Association of State Alcohol and Drug Abuse Directors (NASADAD)***

(202) 783-6868

Coordinates cooperative efforts between federal and state government agencies on substance abuse. They provide technical assistance to small businesses developing drug abuse programs and policies through state substance abuse agencies.

***The National Black Alcoholism Council***

(202) 296-2696

An organization which addresses the problems and concerns related to alcoholism and alcohol abuse among Black people.

***U.S. Chamber of Commerce***

(301) 468-5128

Offers numerous drug-free workplace publications.

**United States Department of Justice**  
Drug Enforcement Administration (DEA)  
Washington, D.C. 20537  
(202) 633-1000

Provides educational material on abused substances.

### **HELPLINES**

Helplines operate 24 hours a day and provide information, crisis assessment, and referrals to local community resources for problems.

<i>Alcoholics Anonymous World Services</i>	(212) 870-3400
Narcotics Anonymous	(818) 780-3951
Al-Anon/Alateen Family Group Headquarters	1-800-356-9996
Cocaine	1-800-262-2463
National Institute on Drug Abuse	1-800-662-4357
American Council on Alcoholism Helpline	1-800-527-5344
National Council on Alcoholism and Drug Dependency	1-800-622-2255

### **EMPLOYEE ASSISTANCE PROGRAM ASSOCIATIONS**

***Employee Assistance Professionals Association (EAPA)***  
703-522-6272

Promotes the development of EAPs, providing a code of ethics and certification program (CEAP). EAPA also acts as a clearinghouse for information.

**Indiana Chapter of EAPA**  
(317) 641-5214, page# (317) 649-9708  
Barry Quarles, President  
GM EAP Inland Fisher Guide  
2915 Pendleton  
Anderson, IN 46011-2549

**Northern Indiana Chapter of EAPA**  
(219) 659-3200  
Richard Miller, President  
1200 Calumet Ave.  
Hammond, IN 46320

***Employee Assistance Society of North America (EASNA)***  
(313) 545-3888 (EAP association for USA and Canada)

Offers publications, information and assists in developing conferences, seminars.

**Governor's Commission for a Drug-Free Indiana  
Regional Offices**

The Regional Offices of the Commission can aid you in finding the right source of assistance in your locality. Sources of assistance may include local or state health departments, local insurance companies, mental health organizations, and health providers.

**Northwest Office**

Contacts: Keith Harris/Donald Parker  
Address: Portage Center for Mental Health  
502 Wall Street  
Valparaiso, Indiana 46383  
Phone: 219-462-0946

**North Central Office**

Contacts: Richard Pipher/Janet Whitfield  
Address: National Council on Alcoholism Michiana-The Alcoholism Council  
818 East Jefferson Boulevard  
South Bend, Indiana 46617  
Phone: 219-234-6079

**Northeast Office**

Contacts: Bea Williams-Tevis/Barry Humble  
Address: City of Fort Wayne  
1 Main Street  
Fort Wayne, Indiana 46802  
Phone: 219-427-1117

**Wabash Valley Office**

Contacts: Bob Snyder/Anna Comer  
Address: Indiana Federation of Communities for Drug-Free Youth  
Union Federal Building  
221 East Main Street, Rm 203  
Crawfordsville, Indiana 47933  
Phone: 1-800-322-9877

**East Central Office**

Contacts: Paul Messplay/Cynthia Reed  
Address: Ball State University  
107 Carmichael Hall  
Muncie, Indiana 47306  
Phone: 317-285-5740

**Central Office**

Contact: Larry Long  
Address: Greater Indianapolis Council on Alcoholism  
2511 East 46th Street, Building 0  
Indianapolis, Indiana 46205  
Phone: 317-543-0563

**West Central Office**

Contact: Doug Liebermann/Jennifer Staab  
Address: Big Brother Big Sister of Vigo County  
2931 Ohio Boulevard  
Terre Haute, Indiana 47803-2223  
Phone: 812-232-7003  
1-800-879-7296

**South Central Office**

Contacts: Deborah Bowman  
Address: City of Bloomington  
276 West 7th Street  
Bloomington, Indiana 47404  
Phone: 812-331-6449  
800-456-7276

**Southwest Office**

Contacts: Cindi Landes  
Address: University of Evansville, School of Nursing and Health Services  
1800 Lincoln Avenue  
Evansville, Indiana 47722  
Phone: 812-479-2588

**Southeast Office**

Contacts: Jackie McComb/Aaron Striegel  
Address: William E. Wilson Education Center  
630 Meigs Avenue  
Jeffersonville, Indiana 47130  
Phone: 812-288-4898

# Governor's Commission for a Drug-Free Indiana Steering Committee

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**Jeffrey Modisett**  
Chairman

Jinsie Bingham  
Janet Corson  
Robert L. Darden  
Mayor Joseph E. Kernan  
Lynn D. Kyle  
James S. Arvin  
Major Don Brackman  
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Honorable Sally H. Gray  
Louis Martinez  
Michael K. Miles  
Jean Pock  
Michael Robbins  
Jerry L. Stephenson  
Representative Vernon G. Smith  
Representative Dennis K. Kruse  
Senator Robert Meeks  
Senator Katie Wolf

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Governor's  
Commission For A  
**DRUG-FREE  
INDIANA**



150 West Market Street, ISTA Building, Suite 320, Indianapolis, Indiana 46204  
Phone: (317) 232-4219 Fax: (317) 232-1473

# Putting Drugs OUT of Work

## Suggestions for Creating a Drug-Free Workplace Program

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Over 200 businesses and organizations have reviewed a sample copy of this document. Here's what some of them had to say...

*"The document provides valuable information for the person facing the responsibility of developing a program, as well as the person who is underway with a plan and needs support in implementing the plan." - Bob Bostic, Executive Director, Greensburg Chamber of Commerce, Greensburg, Indiana.*

*"Well organized and inclusive. Excellent manual!" - Steve Uhl, Vice President Human Resources, Dubois County Bank, Jasper, Indiana. (156 employees).*

*"Brief, yet informative." - Led Royal, Mountain Valley Water, Jeffersonville, Indiana. (7 employees)*

*"Overall this guide is a very good assessment and checklist tool which should be very helpful to organizations that want to take a pro-active stand on drugs in the workplace." - Darlene M. Fisher, Personnel Manager, Evansville Association for the Blind, Evansville, Indiana. (150 employees)*

*"Document is well written and concise. Has good references to governing regulations/legislation. Will serve as an excellent guide to setting up a drug-free workplace program." - Rick G. Heyde, Plant Manger, Viskase Corporation, Kentland, Indiana. (250 employees)*

*"Goes into detail on the why-who-how and is written in laymens terms. Gave me ideas for improving current program." Ken Keller, Methods Manager, Jasper Desk Company, Inc., Jasper, Indiana. (104 employees)*

*"Informative, consise, well written." - Patricia L. Owen, Director, Options - Huntington and Fort Wayne, Huntington, Indiana. (300 employees)*

*"Well written; a relatively complete yet concise overview." - Robert N. Anfield, M.D., Director, Health, Environment and Safety, Indiana Bell Telephone, Indianapolis, Indiana. (5500 employees)*