



## **Develop a Policy**

Creating a written drug-free policy that reflects the needs of your workplace and applicable laws is a key part of a successful drug-free workplace program.

After assessing your workplace's needs, your drug-free workplace team members should develop a policy that is customized to your organization. Organizations in safety- and security-sensitive industries are subject to additional rules and regulations.

There are many reasons to put the drug-free workplace policy in writing:

- **A written policy may be required by law or by the organization's insurance carriers.**
- **A written policy makes legal review possible.**
- **A written policy provides a record of the organization's efforts and a reference if the policy is challenged. It might protect the employer from certain kinds of claims by employees.**
- **A written policy is easier to explain to employees, supervisors, and others.**
- **Putting the policy in writing helps employers and employees concentrate on important policy information.**

## When developing a policy, take into account:

- Legal requirements such as drug-free workplace laws and regulations that may apply
- Characteristics of the workplace and employees
- The values and priorities of the organization

## Basic Elements of an Effective Policy

A drug-free workplace policy can include a statement of purpose and a discussion of implementation approaches. The other main elements of an effective policy are:

- Goals
- Definitions, Expectations, and Prohibitions
- Dissemination Strategies
- Benefits and Assurances
- Consequences and Appeals

## Policy Approaches

Policy approaches can range from meeting the minimum requirements mandated by law to broader policies that address other issues that might be related to drug use, such as employee absenteeism.

### Option 1: Meeting the Requirements of the Law

To meet legal requirements, you must know exactly what those requirements are. If necessary, seek the advice of an appropriate legal expert.

In general, an organization's leadership should be familiar with the three types of federal laws and regulations that cover (1) federal grantees and contractors in general; (2) safety-sensitive industries; and (3) security-sensitive industries working with the Department of Defense.

Organizations not covered by these requirements may still decide to meet some or all of these requirements in their drug-free workplace policies.

**At a minimum, the organization must:**

1. Prepare and distribute a formal drug-free workplace policy statement. This statement should clearly prohibit the manufacture, use, and distribution of controlled substances in the workplace and spell out the specific consequences of violating this policy.
2. Establish a drug-free awareness program. The program should inform employees of the dangers of workplace substance use; review the requirements of the organization's drug-free workplace policy; and offer information about any counseling, rehabilitation, or Employee Assistance Plans (EAPs) that may be available.
3. Ensure that all employees working on the federal contract understand their personal reporting obligations. Under the terms of the Drug-Free Workplace Act, an employee must notify the employer within 5 calendar days if she or he is convicted of a criminal drug violation in the workplace.
4. Notify the federal contracting agency of any covered violation. Under the terms of the Drug-Free Workplace Act, the employer has 10 days to report that a covered employee has been convicted of a criminal drug violation in the workplace.
5. Take direct action against an employee convicted of a workplace drug violation. This action may involve imposing a penalty or requiring that the employee participate in an appropriate rehabilitation or counseling program.
6. Maintain an ongoing good faith effort to meet all the requirements of the Drug-Free Workplace Act throughout the life of the contract.

Covered organizations that fail to comply with terms of the Drug-Free Workplace Act may be subject to a variety of penalties, including suspension or termination of their federal grants or contracts and prohibition from applying for federal funds in the future.

## **Option 2: Addressing Other Substances**

In addition, you may want your drug-free workplace policy to cover one or more types of legally obtainable substances, as well as illegal drugs. Under certain circumstances, alcohol, tobacco, legalized marijuana, and prescription drugs can adversely affect workplace health, safety, and productivity.

### **Options for addressing these substances include:**

- Alcohol. Working under the influence of alcohol can be dangerous, especially in safety-sensitive positions. You may want your drug-free workplace policy to make clear that working under the influence of alcohol will not be tolerated.
- The presence and use of alcohol in the workplace. The mere presence of alcohol in the workplace can compromise safety and productivity because it makes workplace alcohol use more likely. You may want your policies to prohibit the presence and consumption of alcohol in the workplace.
- Alcoholic and nonalcoholic beverages at work-related parties. You may want to restrict the use of alcohol at work-related parties and other events. At minimum, your policy could require that nonalcoholic beverages be available at work-related events.
- Tobacco. You may choose to maintain a smoke-free workplace. Or you may designate certain areas as smoke-free and prohibit the sale of tobacco products at worksites.
- Prescription drugs. SAMHSA has identified [prescription drug misuse and abuse](#) as a growing national problem. You may decide to establish guidelines for employees using particular prescription medications and medical marijuana, especially if the medications could affect job performance.

## **Option 3: Addressing Other Problems That May Be Related to Drug Use**

Drug-free workplace policies can also mention other problem behaviors that may be related to drug use. These may include damaging inventory, repeatedly missing production schedules, and repeatedly being absent after holidays and weekends. In addition, some organizations may

want to frame the issue of drug-related workplace behaviors in the larger context of employee health and productivity.

You may want to emphasize:

- The policy's immediate objectives, which are to comply with drug-free workplace laws and regulations (if applicable) and to prevent drug-related workplace accidents, illnesses, absenteeism, and performance problems
- The policy's long-term goals of protecting and improving worker health, safety, and productivity more broadly, in part by addressing workplace alcohol and drug misuse

## Statement of Purpose

The statement of purpose should contain the organization's goals for the workplace policy, the organization's definition of "substance use," and a description of how the policy was developed. For example, was it developed in meetings with union representatives or employees representing different and diverse segments of the workforce? Or in collaboration with the organization's legal counsel? Some organizations may want the policy to have a very narrow goal, such as meeting the minimum requirements of a law. Other organizations may prefer broader goals.

Organizations that are covered by drug-free workplace laws and regulations may want to use or adapt one of the sample statements of purpose below. Even if drug-free workplace laws and regulations do not apply to your organization, you still can adapt one of the sample statements of purpose below by simply omitting the words "to meet the requirements of applicable laws and regulations."

### Example Statements of Purpose:

**Meeting the requirements of the law:** The purpose of this policy is to meet the requirements of applicable laws and regulations to ensure that the workplace is free of illegal drugs.

**Addressing other substances as well:** The purpose of this policy is (a) to meet the requirements of applicable laws and regulations to ensure that the workplace is free of illegal drugs; and (b) to establish restrictions on the workplace-related use of legal substances, such as alcohol, cigarettes, legalized marijuana, and prescription drugs.

**Addressing other problems that can be related to drug use:** The purpose of this policy is (a) to meet the requirements of applicable laws and regulations to ensure that the workplace is free of illegal drugs; (b) to establish restrictions on the workplace-related use of legal substances, such as alcohol, cigarettes, legalized marijuana, and prescription drugs; (c) to address fitness-for-duty behaviors (such as repeatedly calling in sick or being absent directly before and after holidays and weekends, repeatedly damaging inventory or failing to meet reasonable production schedules, and being involved in frequent accidents that can be related to the use of drugs and other substances); and (d) to explain the steps that will be taken to protect employees, identify problems, and provide assistance.

## Goals

Questions that you may want to consider in defining your policy goals include:

- What are the drug-free workplace laws and regulations (federal, state, or local) with which your organization must comply, if applicable?
- What other goals does your organization expect to achieve? For example, does your organization hope to reduce or eliminate drug-related workplace accidents, illnesses, and absenteeism?
- Does your organization want to address the issue of preventing and treating workplace drug use and misuse in the context of accomplishing a broader goal? These broader goals may include promoting employee health and safety.

## Definitions, Expectations, and Prohibitions

For this part of the policy, you may want to address the following:

- How does your organization define substance use?

- What employee behaviors are expected?
- Exactly what substances and behaviors are prohibited?
- Who is covered by the policy?
- When will the policy apply? For example, will it apply only during work hours only, or also during organization-sponsored events after normal business hours?
- Where will the policy apply? For example, will it apply in the workplace while workers are on duty, outside the workplace while they are on duty, or in the workplace and in organization-owned vehicles while they are off duty?
- Who is responsible for carrying out and enforcing the policy?
- Will the policy include any form of testing for alcohol, prescription drugs, or other drugs?
- Are any employees covered by the terms of a collective bargaining agreement, and, if so, how do the terms affect the way the policy will be implemented and enforced for those employees?

## Dissemination Strategies

How will your organization educate employees about the policy? For example, you can train supervisors, discuss the policy during orientation sessions for new employees, and inform all employees about the policy using a variety of formats. The employee handbook, posters in gathering places at worksites, information on the organization intranet, and mobile applications or other types of technological approaches can all be approaches for disseminating the policy.

## Benefits and Assurances

Think about how your organization will help:

- **Employees comply with the policy**
- **Protect employees' confidentiality**
- **Employees find help for drug-related problems**
- **Employees who are in treatment or recovery**
- **Ensure that all aspects of the policy are implemented fairly and consistently for all employees**

## **Consequences and Appeals**

Consider addressing the consequences of violating the policy, and the procedures for determining whether an employee has violated the policy. Your policy should also outline the procedures for appealing a determination that an employee may have violated the policy.