

Employee Alcohol and Drug Testing

What's all the fuss about drug testing?

Despite their controversial nature, alcohol and drug tests are increasingly standard components of many drug-free workplace programs.

Here are some basic legal facts related to drug testing:

- Drug testing is not required under the **Drug-Free Workplace Act of 1988**. The majority of employers across the United States are not required to test.
- Drug testing is only required by federal law for certain safety-related positions in transportation.
- Many state and local governments have statutes that limit or prohibit workplace testing, unless required by state or Federal regulations for certain jobs.
- The state of Pennsylvania does not have any laws or statutes regarding drug testing.
- Legislative and judicial silence means that employers are free to adopt whatever drug and alcohol testing policies they deem appropriate to their workplace.

General information about drug testing

A drug test is a way to measure the presence of illegal drugs or controlled substances.

Drug Testing usually have two main purposes:

1. Determine drug use among a firm's employees or prospective employees.
2. Deter such use for reasons of safety, productivity, and health.

The most common form of drug testing is urinalysis (urine testing). There are three types of urinalysis testing.

1. Enzyme multiplied immunoassay technique (EMIT)
2. Radioimmunoassay (RIA)
3. Gas chromatography spectrometry (GC-MS).

The EMIT and RIA are most commonly used because they are less expensive than the GC-MS. The GC-MS is usually used to ensure a positive test result.

Generally employers test for drugs that are most commonly used and abused, according to the mandatory guidelines for Federal Workplace Drug Testing Programs. These drugs include: cocaine, phencyclidine, opiates, amphetamines and cannabinoids.

Before beginning a drug-testing program, carefully consider how you will handle a

positive drug test result. The actions that will be taken in response to a positive drug test should be clearly detailed in the written policy.

When should my company drug test?

Many employers using drug testing for:

- Pre-employment / Pre-promotion
- Annual Physical / Reasonable Suspicion
- Random / Post Accident
- Treatment Follow Up

What about legal challenges?

- Pennsylvania does not have a drug-testing statute. This places the responsibility in the hands of the employer. Avoid legal problems by using procedures that are clear, fair, consistent, and documented in a written policy.
- An attorney with experience in labor and employment issues or a professional consultant specializing in workplace drug testing can assist you with this process.
- If your company decides to drug test make sure you choose a nationally certified lab. There are many companies that offer testing that are not certified. There are also companies that will sell a company / person the testing materials along with direction of how to test. If a drug test is contested a test given by a nationally certified lab, it has a better chance of holding up in court.
- Check the Americans With Disabilities Act (ADA) for rules regarding alcoholism. The U.S. Dept. of Transportation is required to test for alcohol. No other federal agency has this requirement.

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