OSC | 10
Ohio Safety Congress & Expo

Drug-free workplace and public employers? It can be done!

183

Dyann McDowell, President
Training Marbles, Inc.

Thursday, April 1, 2010 10:30 to 11:30 a.m.

Objective

Drug-free workplace and public employers? It can be done! - Advanced

- Understanding the Problem
- Assessing the Workplace
- Cornerstone for Success
- Program Elements
- Testing Elements
- Negotiating with the Union

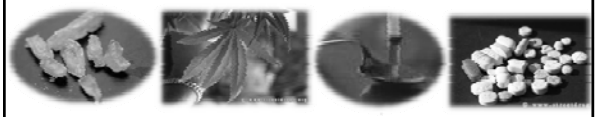
Objective

FedEx

Understanding the Problem

Many Employer both public and private are currently seeking advice and guidance in developing and implementing programs for achieving a drug-free workplace.

They are taking action because of the realities of doing business in 21st Century America



Understanding the Problem:

- with only 5% of the world population the U.S. accounts for 60% of illegal drug consumption
- 90% of Alcoholics and 77% of all Drug addicts are EMPLOYED
- on average, 17% of any workforce has a substance abuse problem

Substance abuse lowers productivity

- Problems related to alcohol and drug abuse cost American businesses roughly $81 billion in lost productivity in just one year.
- Studies have shown that substance-abusing employees function at about 67% of their capacity.

Substance abuse causes accidents and injuries.

- Up to 40 percent of industrial fatalities and 47 percent of industrial injuries can be linked to alcohol use and alcoholism.
- Employees who use drugs are 3.6 times more likely to be involved in a workplace accident.
- 5 times more likely to file a workers' compensation claim.

Substance abuse increases absenteeism and turnover.

- Employees who use drugs are 2.2 times more likely to request early dismissal or time off.
- 2.5 times more likely to have absences of eight days or more, and 3 times more likely to be late for work.
- An estimated 500 million workdays are lost annually due to alcoholism.

OSC | 10
Ohio Safety Congress & Expo

Assessing the Workplace

Assessing the Workplace

Many public employers have successfully implemented the Drug-Free Workplace program, including testing.

Public Employers ***must*** address constitutionally protected rights of their employees when implementing any drug testing program.

This is the balancing act is between safety and privacy

UNITED STATES SUPREME COURT

Fourth Amendment…

…right to be free from unreasonable search and seizure.

drug test = search

Assessing the Workplace

Employers should be familiar with several important regulations when developing, maintaining, or implementing a Drug-Free Workplace program. The most important are as follows:

- The Drug-Free Workplace Act of 1988
- Department of Transportation (49 CFR Part 40)
- The U.S. Department of Defense's Rules and Regulations for Defense Contractors
- The National Labor Relations Act
- The Americans with Disabilities Act
- The Civil Rights Act
- The Family and Medical Leave Act
- Ohio House Bill's 80, and 223

Assessing the Workplace

Here are a few questions to start the process:

1) Will the employee operate a motor vehicle weighing more than 26,001 pounds ?
2) Will the employee operates a passenger shuttle, does the passenger shuttle carry 16 or more passengers?
3) Will the employee operate a motor vehicle to transport hazardous materials?
4) Will the employee carry a firearm on a daily or regular basis?
5) Does any department or agency receive Federal Grant money in excess of $25,000?

OSC | 10
Ohio Safety Congress & Expo

Cornerstone for SUCCESS!

Cornerstone for SUCCESS!

The following elements should be strongly considered:

1) Written Policy including Procedure Guide
2) Employee Education
3) Supervisor Training (skill building)
4) Drug and Alcohol Testing
5) Employee Assistance Plan

Cornerstone for SUCCESS!

Assemble your Drug-Free ***TEAM*** consider the following:

- Program Administrator
- Employee Representative from each department
- Union Representative (if applicable)
- Human Resources
- Safety Staff member
- Department Head (at least one)
- Occupational Health
- Drug-Free Consultant
- Legal Representative
- Police and Fire Department (if applicable)
- Supervisor

Cornerstone for SUCCESS!

Evaluate the *FREQUENCY* for testing:

1) Pre-employment/new hire testing (drug test)
1) Post-accident (drug and/or alcohol test)
2) Reasonable Suspicion testing (drug and alcohol test)
3) Random (drug or alcohol test)
4) Follow-up testing (drug or alcohol)

Cornerstone for SUCCESS!

Testing Process: Drug

Adopt Federal guidelines/procedures in harmony with DOT Regulations (49 CFR Part 40) and HHS standards for accuracy and protection:

•Urine is the primary method for testing secondary is a blood test

Cornerstone for SUCCESS!

Testing Process: Alcohol

Breath testing using "breathalyzer"

The test can also be conducted using saliva or blood if needed

Urine test is an invalid method for Alcohol screen (mouth wash, grapes…)

Cornerstone for SUCCESS!

The **Medical Review Officer (MRO)** reviews the test result to determine whether there is a valid reason for the presence of the drug in the person's system.

If positive, the MRO will contact the employee for information that may affect the result such as prescription medication…

Cornerstone for SUCCESS!

Current 5-panel test:

- Amphetamines (speed, uppers)
- Cocaine (including Crack)
- Marijuana
- Opiates (Codeine, Morphine)
- Phencyclidine (PCP, "angel dust")

Additional test panel

- Barbiturates (barbs, downers)
- Benzodiazepine (valium, Librium, Xanax)
- Methadone
- Propoxyphene (Darvon)

Cornerstone for SUCCESS!

SAMSHA proposed changes starting May 1, 2010

add: Methylenedioxymethamphetamine (MDMA), Ecstasy

change: Amphetamine initial cutoff lowered from 1,000 to 500 ng/mL and confirmation cutoff lowered from 500 to 250 ng/mL

1. Cocaine initial cutoff lowered from 300 to 150 ng/mL and confirmation cutoff lowered from 150 to 100 ng/mL

OSC|10
Ohio Safety Congress & Expo

Negotiating with the Union

Negotiating with the Union

Any drug testing program affecting unionized workers must be negotiated and agreed upon with the union through a formal collective bargaining process.

Employers assume that negotiating a Drug-Free Workplace program with the union will be an unpleasant and adversarial process. However, some unions actually support such programs because of their potential to reduce workplace injuries and accidents.

The ***KEY*** to ***SUCCESS*** is finding common ground - recognize that most unions are in charge of the health and welfare fund.

Negotiating with the Union

The active participation and support of labor organizations can contribute to the success of this program.

- Observe area of agreement already reached such as including union representative in general orientation programs.
- Seek ways in which union representatives might assist in program implementation
- Include union representation in all phases of the design
- Increase benefits to the employee health fund by implementing or increasing EAP services

REMEMBER - this program is designed to improve safety and health in the workplace and stabilize union membership

OSC|10
Ohio Safety Congress & Expo

BWC Program Requirements

BWC Program Requirements

	Basic Program	Advanced Program
Drug Testin g	Pre-employment/new-hire drug testing;	Pre-employment/new-hire drug testing;
	Post-accident alcohol & drug testing;	Post-accident alcohol & drug testing;
	Reasonable suspicion alcohol & drug testing;	Reasonable suspicion alcohol & drug testing;
	Return-to-duty and follow-up alcohol & drug testing (if applicable)	Return-to-duty and follow-up alcohol & drug testing
	Random testing is not required except for compliance with federal, state or local requirements	**Random testing** conducted at 15 percent (15%) or higher random drug testing of the employer's workforce each policy year;

BWC Program Requirements

	Basic Program	Advanced Program
Participation Deadline	Public Employers - January (application deadline is the last business day of October)	Same as the Basic Program
Discount	Four percent (4%)	Seven percent (7%) Group Rated Employer - three percent (3%)
Reporting Deadline	Last business day of September	Last business day of September
Employee Assistance	Provide a list of community services available to the employee.	Pre-establish a relationship for assessment of an employee who tests positive, comes forward voluntarily to indicate he or she has a substance problem, or is referred by a supervisor, with the employer paying for the cost of the assessment
Consequenc	Allows for termination upon first positive. NOTE: BWC	Requires employers to provide a second chance agreement for

Employee Education (min.1 hr.)

- Inform employees about the content of the DFWP program as delineated in the written policy.
- Stress Management's commitment to the program
- Include the disease model for both alcohol and other drugs
- Share a list of resources for help
  - This should include EAP services if available and treatment providers in the community

Supervisor Training

(min. 2 hr initial 1hr. each addt'l)

This training must focus on the Supervisor's responsibility to the DFWP program; the following must be included:

- Proper Documentation skills necessary
- Confrontation skills
  - remain focused on the observed behavior
- Initiating Reasonable Suspicion Testing
- Recognize a possible alcohol or other drug problem
- How to make an appropriate referral for assistance
- Follow-up skills necessary for an employees re-entering the workplace after a positive test
- Post-Accident Analysis
- How to handle DFWP program responsibilities in a manner that is consistent with pertinent collective bargaining agreements

Drug-Free Workplace Program Advisor

There is no substitute for *EXPERIENCE*

Our clients depend on us to ensure that their Drug-Free Workplace program achieves the highest level of success. We understand the strategies and tools needed to support our clients' core values while maintaining change in the workplace.

When you partner with Training Marbles, Inc. your organization gains the EXPERIENCE and trusted expertise of our select network of professionals.

Dyann McDowell is an insightful and compassionate Training and Development Consultant who engages her audience with thought provoking insight that helps others contemplate the changes necessary to achieve success. She is passionate about success and is frequently recognized as the catalyst for change.

Her unique experience is the perfect combination to assist with your team improvement process:

- Fourteen years of hands-on Drug-Free Workplace experience; twenty years of frontline Supervisory/ Management experience, fifteen years in the healthcare industry and ten years of Human Resource consulting.

Drug-Free Workplace Program Advisor

There is no substitute for *EXPERIENCE*

Dyann McDowell, President, Training Consultant

phone (614) 204-6834
fax (614) 239-8288

email: dmcdowell@trainingmarbles.com

website: www.trainingmarbles.com
blog: www.blog.trainingmarbles.com

Please feel free to contact me to discuss questions, concerns and any questions or to schedule an appointment.