

Reasonable Suspicion Referral for Drug and Alcohol Testing

Presented by Deer Oaks EAP Services

Training Protocol

The following training will cover information and procedures as set forth by the Department of Transportation (DOT). However, it is always recommended to seek additional information and support from your Department of Human Resources for questions pertaining to specific workplace policies.

Training Objectives

- **Learn the various signs and symptoms of commonly used substances and how they can alter one's presentation and performance in the workplace as required by the DOT**
- **Acquire the knowledge, skills, and the ability to make a reasonable suspicion referral**

Reasonable Suspicion Referral

- The DOT regulations require testing for prohibited drugs and alcohol in the case that a trained supervisor has reasonable suspicion that a safety-sensitive employee has used a prohibited drug or misused alcohol as defined in the regulations.
- Must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the safety-sensitive employee. The behaviors may also include indications of the chronic use and withdrawal effects of controlled substances.

Drug and Alcohol Testing for Transportation Safety-Sensitive Employees

- Began with President Reagan's 1986 Drug Free America campaign; a response to the growing concern of drug use in America. Mandated drug testing for Federal employees

- Expanded in 1987 and again in 1991 as a result of accidents stemming from substance use while on the job, some with tragic consequences such as:

1. Engineer and brakeman of an Amtrak train were smoking marijuana when they collided with a locomotive injuring 174 and killing 16 passengers.

2. Subway train operator "passed out" at throttle killing 5 and injuring nearly 200; his blood alcohol level 13 hours after the crash was 0.21.

Drug and Alcohol Testing for Transportation Safety-Sensitive Employees

- The Drug Free Workplace Act signed into law in 1988 required:
 1. Recipients of any government funds to "maintain a drug-free workplace" and increased criminal penalties for offenses related to drug trafficking
 2. Required employers who contract with or receive grants from federal agencies certify to meet certain requirements to provide a "drug-free workplace."
- The Omnibus Transportation Employee Testing Act signed into law in 1991 included mass transportation; the Federal Transit Administration now possessed specific regulatory authority in this area.

Present-Day Drug and Alcohol Testing for Transportation Safety-Sensitive Employees

On February 3, 1994, the U.S. Department of Transportation issued final drug and alcohol testing rules

- The rules and regulations affected all safety-sensitive transportation employees and included directives on who is required to submit to drug and alcohol tests, how to conduct those tests, and what procedures to use when testing
- These rules are published as the 49th Code of Federal Regulation Part 40, Procedures for Transportation Workplace Drug and Alcohol Testing

Issues with Drug and Alcohol Use in the Workplace is More Common than You May Think

- An estimated 24.6 million Americans are current illicit drug users.
- Most recent government data estimates 67% of current drug users are employed; 48% are full-time while 19% are part-time
- Estimated top 3 industries with past month heavy alcohol according to 2008-2012 combined data: Mining 17.5%, Construction 16.5%, Accommodations and food services 11.8%; Transportation and warehousing 11th out of 19 on the list at 8.8%
- Estimated top 3 industries with past month illicit drug use according 2008-2012 combined data: Accommodations and food services 19.1%, arts, entertainment, and recreation 13.7%, and Management 12.1%; Transportation and warehousing was 14th out of 19 on the list at 5.9%.

(Office of National Drug Control Policy, 2009; World Health Organization, 2014; National Survey on Drug use and Health, 2014; Substance Abuse and Mental Health Services Administration, 5/6/15)

The “Cost” of Drug and Alcohol Use

- An estimated \$21 billion lost in worker productivity due to illicit drug use
- Companies lose an estimated \$100 billion annually as a result of substance related issues such as missed days from work, decreased worker productivity, and health problems
- Over 60% of adults report knowing someone who has been under the influence of drugs or alcohol while at work

Additional “Cost” of Drug and Alcohol Use

- Co-workers end up picking up the slack for impaired employee. Likely to create resentment, increased stress, and risk to personal safety for co-worker
- Individuals actively using illicit drugs are more likely (12.3% vs 5.1%) to have changed employers, three or more times in the past year and to miss one or more days of work in the past month (16.3% vs 8.2%) compared to those who do not use
- Up to 40% of industrial fatalities and 47% of industrial injuries can be linked to alcohol consumption and alcoholism

QUESTION:

Think back to the companies you worked for in the past. Was there ever a time a co-worker's substance use impacted their work performance? If so, what were some of the challenges and how was it handled?

What Can Trigger Reasonable Suspicion?

The following are some of the more commonly observed behaviors and characteristics that can accompany any substance

- Deteriorating job performance
- Conflicts with others
- Change in appearance or behavior
- Change in hygiene practices
- Asking to borrow money from co-workers or requesting paycheck early

What Can Trigger Reasonable Suspicion?

- **Withdrawal from others**
- **Lack of eye-contact or wearing of sunglasses when unnecessary, possibly to hide unusual size of pupils or bloodshot eyes**
- **Leaving work with office supplies**
- **Taking too many or abrupt breaks throughout the day**
- **Missing work or coming in late or leaving early**

Drugs Evaluated in a Toxicology Lab Report

- Marijuana
- Cocaine
- Amphetamines/ Methamphetamines
- Opiates
- Phencyclidine
- Alcohol
- Barbiturates
- Benzodiazepines
- Creatinine

Drug Detection Times

- Marijuana 15-120 days
- Cocaine 1-3 days
- Amphetamines/ meth. 1-3 days
- Ecstasy 2 days
- Opiates 5-7 days
- Phencyclidine (PCP) 1-5 days
- Alcohol 1 drink/ hour

Alcohol

Classified as a central nervous system depressant

**60% of burns,
40% of falls,
40% of fatal highway crashes,
69% of boating accidents, and
76% of private aircraft accidents are alcohol related.**

**The annual toll in terms of fatalities in our country is staggering:
24,000 people will die on our highways due to the impaired driver.
2/3 of all Americans will be involved in an alcohol-related vehicle
accident during their lifetime.**

Statistics provided by the FTA, 2005



Reasonable Suspicion Regarding Alcohol

Because alcohol is legal, observations need to be made during, just preceding, or just after the period of the workday that the employee is required to be involved in a safety-sensitive function

Amount Consumed and BAC Cutoffs

- 1 Drink = 1 beer, 1 mixed drink, 1 glass wine all equal same ethanol amount 0.02%
- Average male under 50 can process 1 drink (0.02) per hour
- 2 beers in 1 hour before work = 0.02-0.04%
- 0.02 to < 0.04
 - Cannot return to duty
 - Must wait 8 hours/ BAC < 0.02
 - EAP Referral
- > or = 0.04
 - Immediately relieved from duty/discharged if not eligible for rehabilitation program
 - Driving Intoxicated is 0.08 or higher in Texas. However can be arrested in your personal car for driving under the influence at 0.02-0.079 if you show impairment.

Alcohol Effects

Immediate

- Drowsiness
- Muscular coordination problems
- Dizziness
- Impaired judgment
- Exhibits juvenile behavior

Long-term

- Liver & Kidney
- Brain damage
- Memory problems

Alcohol Signs & Symptoms

Appearance

- Dilated pupils
- Bloodshot/watery eyes

Behavior

- Lack of coordination
- Withdrawal symptoms such as tremors
- Conflict with others, may be aggressive

Speech

- Slurred
- Rapid/Illogical

Performance

- Slowed reaction times
- Dulled thinking

Odor

- Odor of alcohol or heavy odor of mouthwash

Prohibited Drugs –D.O.T.

- Marijuana
- Opiates
- PCP
- Amphetamines
- Cocaine
- Ecstasy

Marijuana

Classified as Cannabis

Common Names and Types

- Marijuana/Pot/Weed/

Medical Uses

- Glaucoma
- Chemotherapy
- Is illegal in Texas for any reason and is prohibited by the DOT regardless of reason or what state it is consumed



Marijuana Effects

Effects

- Euphoria
- Increase of appetite
- Impaired memory
- Decreased concentration
- Inability to remember things in the immediate such as what was said two minutes prior
- Loss of coordination



Marijuana Signs & Symptoms

Appearance

- Red/Bloodshot eyes
- Chronic fatigue

Behavior

- Lack of motivation
- Lackadaisical attitude

Speech

- Slowed

Performance

- Delayed decision making
- Accident prone

Odor

- Pungent aroma distinctive smell on clothing

Can stay in your system for 30+ days



Opiates

Classified as a Narcotic

Street Names:

- Heroin/Junk/Smack
- Opium

Medical uses

- Analgesic ex. Oxycontin and Vicodin
- Cough suppressant



Opiate Effects and Signs of Use

- Euphoria
- Moodiness when effect begins to wear off
- Pain relief
- Drowsiness
- Troubled sleep

Appearance

- Constricted pupils
- Look of confusion

Behavior

- Mood changes
- Depression
- Apathy

Phencyclidine

Classified as Psychedelic/Hallucinogen

Other Names

- PCP/Angel Dust/Dust/Horse tranquilizer

Human Medical Uses

•Originally used as an anesthetic. Discontinued after patients exhibited psychosis and agitation

PCP Effects and Signs of Use

- Rapid change in mood for example happy to furious
- Violent behavior
- Distorted perception of time
- Hallucinations

Appearance

- Nystagmus (spastic eye movements)
- Profuse sweating
- Dilated pupils
- Dizziness
- Stiff/Rigid musculature

PCP Effects and Signs of Use

Behavior

- Severe agitation
- Violent and combative
- Extreme mood changes

Speech

- Incoherent
- Incomplete/Repetitive verbalizations

Performance

- Accident-prone because of extreme mental effects and anesthetic effects on the body

Amphetamines

Classified as Stimulants

Street Names

- Crank/Speed/Crystal
- Meth
- Ecstasy or MDMA (Methylene-Dioxymethamphetamine), a combination drug; acts as a stimulant and a hallucinogen

Medical Uses

- Attention deficit hyper activity disorder



Amphetamine Effects and Signs of Use

- Increased heart rate and blood pressure
- More social and outgoing than usual
- Excessively talkative
- Dilated pupils
- Decreased appetite
- Loss of coordination
- Anxiety
- Easily agitated
- Jumpiness
- Delusions

Amphetamine Effects and Signs of Use

Appearance

- Rapid respiration
- Profuse sweating
- Redness in nasal areas
- Runny/Bleeding nose
- Dehydration – ecstasy
- Nausea – ecstasy
- Jaw clenching - ecstasy

Physical Symptoms

& Behavior

- ⌘ Hyperactivity/Hyperexcitability/Restless
- ⌘ Confusion
- ⌘ Panic
- ⌘ Heightened aggressiveness
- ⌘ Impulsive/Risk taking
- ⌘ Delusions/Psychosis

Physical Symptoms

- ⌘ Speech
 - ⌘ Talkative
 - ⌘ Tangential
- ⌘ Performance
 - ⌘ Inability to concentrate
 - ⌘ Jumps from task to task without completing
- ⌘ Odor
 - ⌘ N/ A, though possible reduced attention to personal hygiene
- ⌘ *Can stay in your system up to 24 hours*

How do we recognize these symptoms?

- ⌘ Hyperexcitability
- ⌘ Panic
- ⌘ Impulsive, risk-taking

Cocaine

Classified as a stimulant and narcotic

Types

- Coke/Crack/Freebase

Street Names

- Blow/Snow

Cocaine Medical Uses

- Used as a topical/local anesthetic in late 1800's and early 1900's



Cocaine Effects and Signs of Use

- Dilated pupils
- Elevated blood pressure
- Delusions such as paranoia or feeling on top of the world
- Expansive mood from euphoria to anger in short amount of time
- Hyperactivity
- Hallucinations
- Insomnia
- Irritated, runny, and/or bloody nose
- Profuse sweating
- Dilated pupils
- High blood pressure

Additional Signs of Cocaine Use

Speech

- Talkative
- Tangential
- Rapid speech

Performance

- Suspicion of workplace theft
- Lapses in attention
- Easily agitated by others
- Heightened conflict with coworkers

Characteristics of Addiction

- "Disease" means an involuntary disability. It represents the sum of the abnormal phenomenon displayed by a group of individuals. These phenomena are associated with a specified common set of characteristics by which these individuals differ from the norm, and which places them at a disadvantage. “
- "Often progressive and fatal" means that the disease persists over time and that physical, emotional, and social changes are often cumulative and may progress as drinking, drug use or other addictions continue. Addictions can cause premature death through overdose, organic complications involving the brain, liver, heart and many other organs, and by contributing to suicide, homicide, motor vehicle crashes, and other traumatic events. “
- “Mood altering” means a chemically dependent person is unable to stop drinking or taking a particular mood-altering chemical despite serious health, economic, vocational, legal, spiritual, and social consequences. When a person is chemically dependent, they have lost the power of choice over using mood-altering chemicals.”

Forms of Addiction

Physical/Physiological

- **Shaking in hands**
- **Intense physical pain such as in opiate withdraw when it has been used to subdue chronic pain**
- **Nausea**
- **Insomnia**
- **Need for increased amounts of substance or more frequent use to achieve the desired effect**

Psychological

- **Withdraw from substance creates emotional distress and lack of motivation**
- **Feel incomplete or as if the day is not complete without the substance**
- **Absence of alternative coping strategies to handle stress or anxiety for example**
- **Only feeling good when using substance**
- **Obsess over next use**

Classifying Substance Use

Abuse vs Dependence

Maladaptive coping techniques that can lead to feelings of distress and impairment

Abuse

- Substance use has caused problems for individual such as legal with a DUI
- Continuation of substance use despite problems the problems it has caused
- Neglect major responsibilities such as caring for children or work duties

Dependence

- Build tolerance and need more of the substance to achieve desired result
- Want to quit but are afraid to or do not know how
- Considerable amount of time invested in figuring out how to get substance and dealing with the after effects of the substance such as a hangover, depressed mood, or anxiety
- Willing to risk livelihood, home, family etc. for substance
- Continuation of use even after becoming aware of the negative impact it has

Now What?

So, you have seen these behaviors. What do you do now?

Document! Document! Document!

- Documentation is critical at every stage of the referral process. When we put off writing what just transpired we end up with gaps and uncertainties in the details. Without solid documentation you jeopardize your credibility in the situation and perhaps more should the employee file a complaint against you for the referral.
- Prompt and effective documentation requires direction and a goal. Ask yourself what the purpose is for documenting aside from the company policy. How will documenting help you defend yourself against a possible complaint by the employee? What will it help you accomplish? A lack of purpose or understanding of the significance of solid documentation may result in a thin explanation of what lead up to the referral.

Tips When Documenting

- Remain objective
- Be transparent, if you are not sure of something do not try to fill in gaps with assumptions
- Keep a timeline of all events and any employees who were witness
- Do not assume an event is unimportant, it may be the most significant part later on
- Be prepared to hand over all documentation to others involved such as HR or legal; being aware of this possibility while you make notes can help push you to maintain ongoing prompt documentation.
- If you noticed what seemed like insignificant things with the employee in the past that now seem important to the referral for reasonable suspicion, do not hesitate to add those details to your documentation as things you are now piecing together with the bigger picture.

Documenting Behaviors

Instead of stating: “I think this driver is using alcohol.”

•Write:

- Driver has difficulty concentrating.
- On (specific dates) driver was late for delivery with no plausible explanation.
- Driver appears uncoordinated.
- Driver dropped his logbook twice and fumbled his pen while writing in it.
- Driver’s breath smells like mouth wash.

Instead of stating: “Driver acts like he’s on drugs.”

•Write:

- Driver is talking in short, clipped sentences.
- Driver is speaking really fast.
- Driver has difficulty with eye contact.
- Driver is trying to avoid me and is in a hurry to get away from me lately.
- Driver has had several absences due to undefined health problems (list specific dates).
- Driver appears to be having financial problems; trying to borrow money from co-workers.

The Confrontation

- Tell employee you are concerned about job performance and behaviors
- State behaviors and problem clearly
- Refer to specific examples and events
- Avoid generalizations - Stay specific
- Avoid getting involved in extended discussions of personal problems
- Throughout, try to avoid using “you” as much as possible with the employee. This can help lessen the feelings of personalization and defensiveness the employee may feel.
- Remain objective even throughout

The Referral

1. The *observed behavior* is the foundation for reasonable suspicion

2. *Testing* is to rule out drugs/ alcohol as a possible cause of the observed behavior

- Document everything you observe. If another employee makes you aware of something, you have to observe it for yourself before you can base it as part of your reasonable suspicion for referral. Make sure to still document that another employee alerted you to something and when.
- Remind the employee that the referral is not an accusation of substance use but rather a means to rule it out due to the observed behaviors.

Be Prepared

- Know that once you have determined a referral is in order and confront the employee there is no backing out
- Make sure you have reviewed all your documentation and that it is in order before you confront the employee
- Do not allow personal feelings to sway judgment

Expect employee reaction(s)

- anger, defensiveness, threats, intimidation
- guilt, fear, helplessness
- blaming others, sympathy-evoking stories

The Process

- Appear calm on the outside even if you feel nervous on the inside
- State the problem clearly and be specific
- Focus on observations, not the personal characteristics
- Be above board; avoid harassing
- Follow company policy and procedures
- Follow Through
- What if the drug/alcohol test is negative

Steps to Take

Avoid making accusations

- Their behavior could be due to a number of things such as a mental health or medication condition or side-effects from a medication
- Maintain confidentiality and talk only to those who you are required to inform
- Do not test on hearsay, observe the behavior yourself first
- Do not procrastinate – Act immediately, this is priority
- Stick to the Facts
- Be Aware of ADA Issues
 - recovering alcoholic is covered; relapse and using is not covered

Supervisor Traps

- Letting the employee steer the meeting to another topic and losing focus of why you are there
- Share personal information about a difficult time in your own life to show you understand
- Sympathy and Pity
- Excuses
- Apology
- Diversions
- Innocence
- Anger
- Tears

Enabling

The behaviors below are never acceptable recourse in a reasonable suspicion matter. Engaging in any of these behaviors is against policy and will result in disciplinary action.

- Covering up
- Rationalizing
- Avoiding
- Blaming
- Controlling
- Threatening

Don'ts for Supervisors

DON'T

- Try to diagnose the problem
- Moralize - Limit comments to job performance and conduct issues only
- Discuss alcohol and drug use, stick to the topic of performance
- Cover for the employee, that is enabling
- Back down

Do's for Supervisors

DO' s

- Prepare, have a plan, stick to it
- Focus on the observation
- Present written documentation
- Use a formal, yet considerate attitude
- State your expectations
- Offer available resources (EAP)
- Disciplinary Action

Referral Scenario 1

What is wrong with this picture:

You, the supervisor, have walked into the busy locker area and observed (via the concave mirrors) a train operator placing a needle and a vial into his/her locker. You decide that a reasonable suspicion referral is warranted and without explanation, you ask the operator to accompany you to your office. You proceed to tell him/her of your observation, and also that you have heard through the office grapevine that he/she has been exhibiting signs which in your opinion, and based on personal experience, could be diagnosed as manic depression. You begin to ask the employee specific questions, the answers to which would either support or refute your assessment. You believe the employee's explanations and justifications to be honest and rational. Against your better judgment, but given that you have no tangible evidence, you end your discussion with a simple warning, and recommend treatment centers in the metropolitan area where help is available.

Referral Scenario 2

What went wrong in this scenario? What would you do different?

You are made aware of an employee who has been stumbling and exhibiting difficulty concentrating. A co-worker tells you they suspect they are intoxicated. You did not observe these behavior but trust the co-worker's opinion and call the employee into your office to refer him for drug and alcohol testing. You tell the employee that you suspect he is under the influence of alcohol. The employee tells you that he left his wallet and ID badge for work at home that morning so he cannot verify his identity at the lab. You decide to let this indiscretion go only this time and tell him to go home early.

Referral Scenario 3

This morning you notice an employee walk in two hours late and appears to have difficulty concentrating and staying on task. You go to her workspace and to inquire about her late arrival to work and she tells you in a spacey sounding tone that she just lost track of time and giggles slightly. You do not smell anything out of the ordinary that would raise suspicions substance use. She is wearing a short sleeve shirt and when you glance at her arms you do not see any sign of track marks. You go back to your office and think back about her job performance over the last few weeks. You begin to recall that there have been several instances in which she took more breaks than allotted throughout the day and that her job performance has been inconsistent lately.

What do you do next? How will you describe your observations? What about the lack of odor of a possible substance and absence of track marks?

Resources

- National Office of Drug Control Policy (ONDCP)
<http://www.whitehousedrugpolicy.gov>
- National Institutes of Health www.nih.gov
- National Institutes of Mental Health
www.nimh.nih.gov
- US Department of Health and Human Services – Substance Abuse
<http://www.samhsa.gov/index.aspx>
- Department of Labor <http://www.dol.gov/>



Questions & Answers

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Deer Oaks EAP Services

12/15/16

Thank You for Your Participation

- ⌘ Please complete an evaluation form. We appreciate the feedback on our services.
- ⌘ Please check our website for other training topics at www.deeroakseap.com
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