

EMPLOYER RESOURCE · 2026 EDITION



DRUG TESTING COMPLIANCE GUIDE FOR EMPLOYERS

A practical guide to building and maintaining a legally
compliant workplace drug testing program



NATIONAL TESTING SERVICES

INTRODUCTION

WHY THIS GUIDE MATTERS

Workplace drug testing helps employers promote safety, reduce accidents, improve productivity, and stay compliant with federal, state, and industry rules.

But a testing program has to be designed carefully. It must follow the law and protect employee rights. This guide walks you through best practices for developing, implementing, and maintaining a compliant drug testing program.

INSIDE THIS GUIDE

1. Purpose of workplace drug testing
2. Know the applicable laws
3. Establish a written policy
4. Types of drug testing
5. Selecting a testing method
6. Laboratory and collection requirements
7. Marijuana and cannabis considerations
8. Consent, notification, and confidentiality
9. Recordkeeping and supervisor training
10. Responding to positive results
11. Common mistakes and compliance checklist

SECTION 1

PURPOSE OF WORKPLACE DRUG TESTING

Employers commonly run drug testing programs to:

Promote workplace safety

Reduce accidents and injuries

Protect company assets

Improve productivity

Meet federal or state
regulatory requirements

Keep eligibility for contracts or
insurance programs

Support a drug-free workplace
culture

Tip: Your written policy should clearly state the purpose and goals of your program.

SECTION 2

KNOW THE APPLICABLE LAWS

Drug testing laws vary widely by jurisdiction. Review every rule that applies before you start testing.

FEDERAL LAWS & REGULATIONS

- Drug-Free Workplace Act of 1988
- Department of Transportation (DOT) regulations, 49 CFR Part 40
- Americans with Disabilities Act (ADA)
- Occupational Safety and Health Administration (OSHA)
- Family and Medical Leave Act (FMLA)
- Health Insurance Portability and Accountability Act (HIPAA)

STATE & LOCAL LAWS

Many states regulate:

- When testing may occur
- Required employee notices
- Marijuana protections
- Laboratory requirements
- Confidentiality standards
- Adverse action procedures

Best practice: Review state-specific requirements before you implement any testing program. See state-by-state summaries at natl-ts.com.

SECTION 3

ESTABLISH A WRITTEN DRUG TESTING POLICY

A complete written policy should cover five areas:

PROGRAM SCOPE 1

- Who is subject to testing
- Types of tests performed
- When testing occurs

PROHIBITED CONDUCT 2

- Illegal drug use
- Misuse of prescription medications
- Possession or distribution of controlled substances
- Reporting to work under the influence

EMPLOYEE RESPONSIBILITIES 3

- Disclosure requirements
- Cooperation with testing procedures
- Consequences of policy violations

DISCIPLINARY ACTIONS 4

- Refusal to test
- Positive test results
- Tampering or adulteration

APPEALS PROCESS 5

- How to contest results
- Retesting options
- Medical review procedures

Tip: Have legal counsel review your policy, and get a signed acknowledgment from every employee.

SECTION 4 • TYPES OF TESTING

PRE-EMPLOYMENT TESTING

Conducted before a hiring decision is final.

BEST PRACTICES

- ✓ Apply testing consistently to similarly situated applicants.
- ✓ Obtain written consent.
- ✓ Make sure you follow state restrictions, such as testing only after a conditional offer where required.

SECTION 4 • TYPES OF TESTING

RANDOM TESTING

Employees are selected through a scientifically valid random process.

BEST PRACTICES

- ✓ Use a neutral selection method.
- ✓ Apply it consistently.
- ✓ Keep documentation of your selection procedures.

SECTION 4 • TYPES OF TESTING

REASONABLE SUSPICION TESTING

Conducted when objective evidence suggests impairment.

Examples include:

Slurred speech

Unsteady movements

Erratic behavior

Observed drug or alcohol use

BEST PRACTICES

- ✓ Train supervisors to recognize signs of impairment.
- ✓ Document observations immediately.
- ✓ Use at least two trained observers when possible.

SECTION 4 • TYPES OF TESTING

POST-ACCIDENT TESTING

Conducted after workplace incidents.

Important: Testing should be based on a reasonable possibility that drug use contributed to the incident, and it must follow OSHA guidance.

RETURN-TO-DUTY TESTING

Required before an employee returns to work after a policy violation or a treatment program.

FOLLOW-UP TESTING

Performed periodically after an employee returns to work.

SECTION 5

SELECTING A TESTING METHOD

Each method has a different detection window and best use.

METHOD	DETECTION WINDOW	COMMON USE
Urine	Days to weeks	Most common employment testing
Oral fluid	Hours to days	Recent-use detection
Hair	Up to 90 days	Long-term history
Blood	Hours to days	Accident investigations
Breath alcohol	Immediate	Alcohol testing

Tip: Detection windows vary by substance, dose, and the individual. Match the method to why you are testing.

SECTION 6

LABORATORY AND COLLECTION REQUIREMENTS

ACCREDITED LABORATORIES

Recommended accreditations:

- SAMHSA-certified laboratories
- CAP-accredited laboratories
- ISO-certified facilities

CHAIN OF CUSTODY

Document every step:

- Specimen collection
- Transfer and handling
- Laboratory receipt
- Testing and reporting

SPECIMEN INTEGRITY

Have procedures for:

- Preventing adulteration
- Preventing substitution
- Secure transportation

SECTION 7

MARIJUANA AND CANNABIS CONSIDERATIONS

State marijuana laws continue to change.

Employers should review:

Medical marijuana protections

Recreational marijuana laws

Off-duty conduct protections

Safety-sensitive position exceptions

Important: A positive marijuana test does not necessarily prove current impairment. Build policies that reflect current state law and your operational needs.

SECTION 8

EMPLOYEE CONSENT AND NOTIFICATION

Before testing, employers should obtain:

WRITTEN CONSENT

Include:

- Authorization for testing
- Release of results
- Acknowledgment of policy

REQUIRED NOTICES

Provide:

- Drug testing policy
- Testing procedures
- Employee rights
- Consequences of refusal

SECTION 9

CONFIDENTIALITY REQUIREMENTS

Treat drug testing information as confidential medical information.

Limit access to:

Human Resources

Designated management
personnel

Medical Review Officers
(MROs)

Authorized regulatory
agencies

Best practice: Keep testing records separate from personnel files whenever possible.

SECTION 10

RECORDKEEPING REQUIREMENTS

Keep records of:

Testing authorizations

Chain-of-custody forms

Laboratory reports

MRO determinations

Employee acknowledgments

Training documentation

Note: Retention periods vary by law and industry. DOT-regulated employers must follow the retention schedules in 49 CFR Part 40.

SECTION 11

SUPERVISOR TRAINING

Supervisors should be trained on:

Signs of drug and alcohol impairment

Reasonable suspicion documentation

Company policy requirements

Employee privacy considerations

Referral procedures

Best practice: Schedule regular refresher training.

SECTION 12

RESPONDING TO POSITIVE TEST RESULTS

Follow the same process every time:

Step 1

Receive the verified result from the MRO.

Step 2

Review applicable policies and laws.

Step 3

Meet with the employee.

Step 4

Determine the appropriate action.

POSSIBLE ACTIONS

- No action, if medically explained
- Last-chance agreement
- Suspension
- Written warning
- Referral to an Employee Assistance Program (EAP)
- Termination

SECTION 13

COMMON COMPLIANCE MISTAKES

Avoid these:

- ✕ Testing without a written policy
- ✕ Applying testing rules inconsistently
- ✕ Not using certified laboratories
- ✕ No supervisor training
- ✕ Poor documentation
- ✕ Ignoring state marijuana protections
- ✕ Improperly disclosing test results
- ✕ Taking adverse action before MRO review

SECTION 14

DRUG TESTING PROGRAM COMPLIANCE CHECKLIST

POLICY & PROCEDURES

- ☐ Written drug testing policy exists
- ☐ Policy reviewed by legal counsel
- ☐ Employee acknowledgments obtained
- ☐ State law requirements reviewed

TRAINING

- ☐ Supervisors trained
- ☐ HR personnel trained
- ☐ Refresher training scheduled

PROGRAM REVIEW

- ☐ Annual compliance review completed
- ☐ State law updates monitored
- ☐ Vendor performance reviewed

TESTING OPERATIONS

- ☐ Certified laboratory used
- ☐ MRO services engaged
- ☐ Chain-of-custody procedures in place
- ☐ Collection procedures documented

RECORDKEEPING

- ☐ Secure record retention system in place
- ☐ Confidentiality safeguards in place
- ☐ Retention schedule established

CONCLUSION

BUILD A PROGRAM THAT PROTECTS EVERYONE

A compliant workplace drug testing program takes more than ordering tests.

Employers must balance workplace safety, legal compliance, employee privacy, and changing state laws. With clear policies, qualified testing providers, strict confidentiality, and consistent procedures, your organization can reduce risk while promoting a safe, productive workplace.

NATIONAL TESTING SERVICES CAN HELP

DOT and non-DOT testing, onsite collections, consortium management, and compliance support nationwide.

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Disclaimer: This guide is for informational purposes only and does not constitute legal advice. Employers should consult qualified legal counsel about federal, state, and local requirements that apply to their workplace and industry.



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