

DRUG FREE WORKPLACE POLICY

Portadam, Inc.

Subject:

Alcohol and Drug-Free Workplace Policy

Purpose:

Portadam is committed to protecting the safety, health and well being of all employees and other individuals in our work place. We recognize that the use and abuse of alcohol and other drugs, including prescription, over-the-counter and illegal drug abuse pose a significant threat to our goals. We have established a drug-free workplace program that balances our respect for individuals with the need to maintain an alcohol and drug-free environment.

This program will go into effect on January 1, 2010. Any individual who conducts business for the organization, is applying for a position, or is conducting business on the organization's property is covered by our drug-free workplace policy. Our policy includes, but is not limited to, executive management, managers, supervisors, full-time employees, part-time employees, off-site employees, contractors, seasonal employees and applicants.

Any questions regarding this policy shall be directed to the Drug-free Workplace Administrator, Melissa Ault. She will be responsible for arranging drug and alcohol testing, as needed and will have a list of places that employees can turn to for help for themselves and/or their family members. She will also arrange the speakers and training times for educating employees and supervisors.

Policy:

The illegal use, sale, manufacture, distribution, dispensation or possession of alcohol and drugs on Portadam property is absolutely prohibited. Reporting to work or working while under the influence of alcohol or illegal drugs is also prohibited. Violation of this policy will result in disciplinary action up to and including termination.

As a condition of employment, each employee will be required to participate in pre-employment, random, post-accident, reasonable suspicion and return-to-duty drug testing.

Any conviction for an alcohol or drug-related criminal offense must be reported in writing to the Portadam within five calendar days of the conviction. A conviction may be considered grounds for discipline, up to and including termination.

It is the Portadam's intention to apply federal law as it applies to all employees. The Portadam shall address problems associated with having on-duty employees under the influence of alcohol or drugs and the obligation of the Portadam to deal with these problems pursuant to the Federal Drug-Free Workplace Act of 1988, House Bill 223, the regulations there under, and the Federal Omnibus Transportation Testing Act of 1991 existing irrespective of other policies.

Effective October 13, 2004, Section 4123.54 of the Ohio Revised Code requires noticed of rebuttable presumption. Rebuttable presumption means that an employee may dispute or

prove untrue the presumption (or belief) that alcohol or a controlled substance not prescribed by the employee's physician is the proximate cause (main reason) of the work-related injury.

The burden of proof is on the employee to prove that the presence of alcohol or a controlled substance was not the proximate cause of the work-related injury. An employee who tests positive or refuses to submit to chemical testing may be disqualified for compensation and benefits under the Workers' Compensation Act.

Shared Responsibility_Shared Responsibility

A safe and productive drug-free workplace is achieved through cooperation and shared responsibility. Both employees and management have important roles to play.

All employees are required to not report to work or be subject to duty while their ability to perform job duties is impaired due to on- or off-duty use of alcohol or other drugs.

In addition, employees are encouraged to:

- Be concerned about working in a safe environment
- Support fellow workers in seeking help
- Report dangerous behavior to their supervisor

It is the supervisor's responsibility to:

- Inform employees of the drug-free workplace policy
- Observe employee performance
- Investigate reports of dangerous practices
- Document negative changes and problems in performance
- Counsel employees as to expected performance improvement
- Clearly state consequences of policy violations

Implementation Guidelines **Implementation Guidelines** **Urine Drug Screening Test Guidelines**

Only laboratories that have received Health and Human Services (HHS) approval and which follow HHS guidelines for testing will conduct testing of urine specimens. This will allow for maximum consistency in operating procedures and quality control. To perform a drug test, a urine sample consisting of a minimum of 45 milliliter (ml) will be collected from the employee or applicant.

All urine samples will be tested for the following drugs:

Drugs to be tested	Screening Cutoff Levels	Confirmation
Threshold		
Marijuana	50 ng/mL	15ng/mL
Cocaine	300 ng/mL	150ng/mL
Amphetamines	1000 ng/mL	500ng/mL
Opiates	2000 ng/mL	2000ng/mL
Phencyclidine (PCP)	25 ng/mL	25ng/mL
Barbiturates	300 ng/mL	300 ng/mL
Benzodiazepines	300 ng/mL	300 ng/mL
Methadone	300 ng/mL	300 ng/mL
Methaqualone	300 ng/mL	300 ng/mL
Propoxyphene	300 ng/mL	300 ng/mL

Collection of urine samples will be conducted by controlled laboratory methods to assure security, but will not require witnessing of sample collection.

All specimens will undergo validity testing at the laboratory to insure against adulteration.

All urine samples will undergo a preliminary analysis for the above listed substances. If the test result is positive, the urine sample will undergo a confirmatory gas chromatography/mass spectrometry (GC/MS) test. If the urine sample tests positive on both the preliminary analysis and the GC/MS, the urine sample will be classified as positive. The results of these tests will be reviewed by a Medical Review Officer (MRO) and reported by the Medical Review Officer in a confidential manner to the Program Administrator or other designee of Portadam.

Alcohol

A screening test will be performed to determine the presence of alcohol by using a breath or saliva scan. Alcohol concentrations exceeding .02 will undergo confirmatory breath scan. Results will be forwarded to the Medical Review Officer.

The results of these tests will be reviewed by a Medical Review Officer and reported by the Medical Review Officer in a confidential manner to the Program Administrator of Portadam.

Any employee will be subject to the same consequences of a positive test if he/she:

- Refuses the screening or the test
- Adulterates or dilutes the specimen
- Substitutes the specimen with that from another person or sends an imposter
- Will not sign the required forms
- Refuses to cooperate in the testing process in such a way that prevents completions of the test

The Americans with Disabilities Act (ADA) - While a current illegal user of drugs is not protected by the ADA if an employer acts on the basis of such use, a person who currently uses alcohol is not automatically denied protection. An alcoholic is a person with a disability and is protected by the ADA if s/he is qualified to perform the essential functions of the job. An employer may be required to provide an accommodation to an alcoholic. *****However, an employer can discipline, discharge or deny employment to an alcoholic whose use of alcohol adversely affects job performance or conduct.***** An employer also may prohibit the use of alcohol in the workplace and can require that employees not be under the influence of alcohol.

Effective October 13, 2004, the Substitute HB 223 or the "rebuttable presumption" law went into effect in Ohio. This law allows employers to seek disallowance of a workers' compensation claim filed by an employee who tests positive on a substance test following a work-related injury.

If a worker tests positive, or refuses the test, the burden of proof shifts to the worker to prove that the presence of alcohol or drugs was not the proximate cause of the work-related accident.

Employees' Rights Related to an Initial Positive Test Result Employees' Rights Related to an Initial Positive Test Result

An employee who tests positive under this Policy will be given an opportunity to explain the findings to the Medical Review Officer (MRO) prior to the issuance of a positive test result to the Portadam. Upon receipt of confirmed positive finding, the MRO will attempt to contact the employee by telephone. If contact is made by the MRO, the employee will be informed of the positive finding and given an opportunity to rebut or explain the findings. The MRO can request information on recent medical history and on medications taken within the last thirty days by the employee. If the MRO finds support in the explanation offered by the employee, the employee may be asked to provide documentary evidence to support the employee's position (for example, the names of treating physicians, pharmacies where prescriptions have been filled, etc.). A failure on the part of the employee to provide such documentary evidence will result in the issuance of a positive report by the MRO with not attendant medical explanation. A medical disqualification of the employee will result. If the employee fails to contact the MRO as instructed, the MRO will issue a positive report to the Portadam.

Storage of Test Results and Rights to Review Test Results

All records of drug/alcohol testing will be stored separately and apart from the employee's general personnel documents. These records shall be maintained under lock and key at all times. Access is limited to designated Portadam officials. The information contained in these files shall be utilized only to properly administer this Policy and to provide to certifying agencies for review as required by Law. Those designated Portadam officials that shall have access to these records are charged with the responsibility of maintaining the confidentiality of these records. Any breach of confidentiality with regard to these records may be an offense resulting in termination of employment. Any employee tested under this Policy has the right to review and/or receive a copy of their respective test results. Any employee may request from the Drug-Free Workplace Program Administrator, in writing, requesting that a copy of the test be provided. The Portadam will use its best efforts to promptly comply with this request and will issue to the employee a copy of the results personally or by U.S. Certified Mail, Return Receipt Requested.

Testing

Pre-employment

All persons given a contingent offer of employment must submit to and pass a drug test, within 48 hours, as a qualification for and condition of employment with Portadam. A positive result will disqualify the person for employment with Portadam for one year.

Post Accident or Incident Testing

Post accident testing will be conducted whenever an accident occurs as defined below. For purposes of this policy, an accident is considered an unplanned, unexpected or unintended event that occurs on Portadam property during the conduct of the Portadam's business, or during work hours, or which involves Portadam supplied motor vehicles or motor vehicles that are used in conducting Portadam business, or is within the scope of employment, and which results in any of the following:

- A fatality of anyone involved in the accident;
- Bodily injury to the employee and/or another person that requires off-site medical attention away from the Portadam's place of employment;
- Vehicular damage in apparent excess of \$750; or
- Non-vehicular damage in apparent excess of \$500

When such an accident results in one of the situations above, any employee who may have contributed to the accident will be tested for drugs or alcohol use or both.

Any employee involved in a work-related accident or incident which involves injury to a person or damage to property is required to submit to drug and alcohol tests as soon thereafter as is reasonably possible but within eight (8) hours for alcohol and within thirty-two (32) hours for drug testing. Employees who are unable to provide a urine or blood specimen for the drug and alcohol test due to the nature of the injury are required to provide the necessary authorization for Portadam to obtain medical records that would reflect drug and alcohol use.

Reasonable Suspicion

Reasonable suspicion testing will occur when the Portadam management and/or supervision have reason to suspect that an employee may be in violation of this Policy. The suspicion must be documented in writing within 24 hours of the event or prior to the release of the test findings. Reasonable suspicion testing may be based upon, among other things:

- Observed behavior, such as direct observation of drug/alcohol use or possession and/or the physical symptoms of drug and/or alcohol use;
- A pattern of abnormal conduct or erratic behavior; or deteriorating work performance (i.e. frequent absenteeism, excessive tardiness, recurrent accidents) which appear to be related to substance use and does not appear to be attributable to other factors.
- Arrest or conviction for a drug-related offense, or the identification of an employee as the focus of a criminal investigation into illegal drug possession, use, or trafficking;

Information provided either by reliable and credible sources or independently corroborated regarding an employee's substance use;
Newly discovered evidence that the employee has tampered with a previous drug or alcohol test; or
Repeated or flagrant violations of the Portadam's safety or work rules, which are determined by a supervisor to pose a substantial risk of physical injury or property damage and which appear to be related to substance use or substance use that may violate this policy and does not appear attributable to other factors.

Reasonable suspicion testing does not require certainty, but mere "hunches" are not sufficient to justify testing. To prevent this, all supervisors will be trained in the recognition of drug and alcohol-related signs and symptoms. Testing may be done for drug or alcohol or both.

When testing for reasonable suspicion is required, employees are to be removed immediately from the workplace and escorted to an appropriate medical facility. A urine drug screen will be conducted to detect the presence of illegal drugs; a breath alcohol test will be conducted to detect the presence of alcohol.

If the alcohol and/or drug test(s) are classified as negative after review, the employee will be returned to work and standard disciplinary practices will prevail for the incident that led to the testing. The only exception to this is if other evidence exists which identifies the employee who tested negative as a current illegal drug user. If sufficient evidence exists to identify the employee as a current illegal drug user, the employee will be subject to Discipline/Rehabilitation as described below.

If the positive alcohol and/or drug test(s) are classified as medically unjustified after review, the result(s) will be reported to Portadam. The report will be made available to the employee if requested.

Random

Random drug testing will include all employees and is conducted on an unannounced basis for a minimum of 10% of total workforce per year. An independent testing organization will utilize objective computer software that ensures a truly random selection process in which all employees in the testing pool have equal statistical likelihood of being selected for testing. When the next random draw is conducted, all employees are again included in the pool with an equal chance of selection, regardless of whether an employee was previously selected. Random testing is designed to deter drug use in violation of Portadam Policy and ensure that Portadam maintains confidence in its employees' ability to perform their duties. Portadam has contracted with an outside vendor to perform the periodic selection of employees for inclusion in the random testing pools. The contractor selects employees at random for drug testing at any time during each calendar year. Portadam will provide employee identification number to be used in the random selection drawings. The contractor will, in turn, furnish Portadam with a list of individuals to be tested at the beginning of each selection period. It shall be the responsibility of Portadam to notify each employee who was selected with the date, time and location that the random testing will be performed. When notified, it shall be the responsibility of the individual employee to provide a urine specimen for drug testing and/or submit to breath alcohol testing. An employee's failure to comply with the request

for a specimen for random testing may result in discipline up to and including termination of employment.

Return-to-Work

Return –to-Work testing occurs when an employee who has previously tested positive is allowed to return to work under a “second chance” or “last chance agreement”. A return-to-duty test is required before any employee is allowed to return to work and if the employee fails this test he/she will be terminated. Once an employee passes the drug and/or alcohol test and returns to work, he or she will be subject to ongoing, unannounced, follow-up testing for a period of two years. Portadam will immediately terminate any employee if he/she tests positive a second time or violates the Return to Work Agreement.

Discipline/Rehabilitation

The Portadam holds all employees accountable in terms of substance use but also supports getting help for employees. Employees who come forward voluntarily to identify that they have a substance abuse problem will receive Portadam support and assistance. However, if an employee has a substance problem and does not come forward, and the employee then tests positive for drug or alcohol use in violation of this Policy, the Portadam reserves the right to terminate employment for violation of this work rule.

The Portadam’s Employee Assistance Program (EAP) provides professional, confidential assistance to help employees resolve problems with alcohol and drugs and other issues that affect their personal and work life.

The Program Administrator for Portadam will contact the EAP to discuss the employee’s alcohol or drug problem, develop a plan of action, and if appropriate, arrange an appointment for the employee with the EAP. The supervisor and the Program Administrator will communicate the agreed upon plan to the employee. An employee’s refusal to accept referral to the EAP and follow EAP recommendations for addressing an alcohol or drug problem may be grounds for discipline, up to and including termination.

Representatives from the Portadam’s EAP will maintain contact with the employee’s supervisor and/or Human Resources Representative concerning the employee’s participation in the EAP and compliance with treatment recommendations. Information regarding the employee’s diagnosis and treatment will not be disclosed; any confidential information will be disclosed only with a signed release from the employee.

All costs associated with the diagnosis and treatment will be assumed by the employee.

Convictions for Alcohol/Drug Related Criminal Offenses

Any conviction for an alcohol or drug-related criminal offense will be considered grounds for discipline, up to and including termination. An employee who is convicted of a criminal drug violation either on or off duty must notify Portadam in writing within five calendar days of the conviction. If an employee is convicted the conviction will be reviewed by management, Human Resources and Legal Departments, to determine the appropriate course of action. Where applicable, all drug-related workplace convictions will be reported to the appropriate Contracting Office of the federal government, in accordance with the provisions of the Drug Free Workplace Act of 1988.

Employee Training and Education

As part of Portadam's emphasis on workplace safety, concern for employee health and accident prevention, as well as its commitment to the Drug-Free Workplace Program the Portadam will be providing continuing education programs to all employees. These education programs will explain the content and procedure of the Portadam's DFSP and provide awareness on substance abuse issues. The program will include:

1. At least One HOUR of initial education for all employees.
2. Distribution of a written substance abuse policy to all existing employees confirmed by receipt of a signed acknowledgment.
3. Distribution of written substance abuse policy DFSP program to all new hires with DFSP education sessions to be held within the first four weeks of employment.
4. Education sessions will include disease models for alcohol and other drugs, signs and symptoms of substance use/misuse and effects of commonly used drugs in the workplace.
5. This dissemination of information regarding community resources where employees can seek help for themselves or their families.

Supervisor Training and Education Supervisor Training and Education

Under Portadam's comprehensive DFSP, training and education opportunities will also be provided to supervisors and other members of management. Supervisors will receive continuing training about their DFSP responsibilities. These education programs will explain the content and procedure of the Portadam's DFSP and provide awareness on substance abuse issues. The program will include:

1. At least one hour of initial information and skill building sessions for all supervisors. This training will be in addition to the one hour of employee education provided to all non-supervisory personnel. .
2. Their responsibility for any drug testing procedure will not begin until they have been properly trained.
3. The initial annual refresher supervisory training will review supervisors' DFSP responsibilities, including:
 - How to recognize possible alcohol/drug problems
 - How to document behaviors that demonstrate an alcohol/drug problem
 - How to confront employees with the problems
 - How to initiate reasonable suspicion testing
 - How to make appropriate referrals for assessment or assistance
 - How to follow-up with employees returning to work after a positive drug test

Right to Privacy

Information regarding an employee's use of alcohol or illegal drugs will be maintained in a confidential record.

All records that pertain to an employee's use of the Employee Assistance Program will be maintained by and remain the property of the EAP. No information concerning the employee's diagnosis and treatment will be revealed by the EAP except in the following

circumstances: (a) the employee consents in writing, (b) the law requires disclosure, and (c) it is believed that life or safety are threatened by failure to disclose.

Driving Motor Vehicles

Any operation of a motor vehicle on Portadam business while under the influence of alcohol or illegal drugs may be cause for disciplinary action, up to and including termination.

**ACKNOWLEDGEMENT OF RECEIPT
OF
DRUG-FREE WORKPLACE POLICY**

**For
Portadam, Inc.**

Signing this form acknowledges that the employee has received a copy of the Portadam's Drug-Free Workplace Policy, has had the opportunity to discuss the Policy and have questions answered, and understands all of the provisions of the Policy. Although it reflects the Portadam's current policy regarding substance use, it may be necessary to make changes from time to time to best serve the needs of our organization. However, any changes deemed necessary will be made in writing, and the modified Policy will be shared with every employee.

By my signature below, I acknowledge that I have received a copy of the Drug-Free Workplace Policy of Portadam. I understand that it is my obligation to read, understand and comply with the procedures and provisions contained within this Policy.

Date Signed

Employee's Signature

Witness Signature

Printed Name of Employee