

Employment Practices *Update*

Bringing important information to emergency service organizations

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How Solid Is Your Drug and Alcohol Free Workplace Program?

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Citizens expect emergency responders will have the skills and training necessary to assist them in their time of urgent need. The public trusts that emergency responders will be sober when they arrive at a scene, right?

Community members may be surprised if their local fire and EMS organizations have failed to implement detailed drug- and alcohol-free workplace programs. Of all the workplaces in a community, fire and EMS organizations are the ones the public reasonably expects to have the most ironclad risk management program for substance abuse.

Implementing an effective substance abuse prevention program is not as simple as issuing a policy. Consider all available risk management options to protect the public and ESO members.

Risk Management Program

Instituting a drug and alcohol risk management program entails more than stating in a policy that the ESO does not tolerate illegal drugs or alcohol usage. An inclusive drug-free workplace program may include:

1. a drug- and alcohol-free workplace policy
2. supervisory level training
3. employee and volunteer education and awareness

4. employee and volunteer assistance programs
5. drug testing

An ESO might not implement the five components listed above in their entirety, but it is recommended that all components be analyzed when developing a risk management program. Collaborate with ESO membership to establish objectives for the substance abuse prevention program. Goals may include:

- ensuring safety for ESO membership and the public served
- strengthen community trust and confidence that ESO members are working safely
- prevent hiring employees or selecting volunteers who use illegal drugs
- reduce the chance of drug-related accidents, illnesses, absenteeism and loss of productivity
- promote worker health and wellness
- detect drug or alcohol use that may impact job performance
- educate members about the risks associated with drug and alcohol use and providing resources for assistance and treatment
- protect members' confidentiality and other legal rights

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- apply equitable enforcement and application of the drug-free workplace program
- adhere to applicable laws and regulations

Policy Development

A well-constructed drug and alcohol policy serves as the foundation for a drug-free workplace program.

Illegal drugs — The ESO should clearly prohibit the use, influence, manufacture and distribution of illegal drugs in the workplace or during business-related activities. The ESO should effectively communicate consequences of a policy violation. Members must report to work with the mental and physical abilities to perform the essential functions of the job.

Legal/prescription drugs

— The policy may address members who have reason to believe their use of legal or prescription drugs may impair their ability to do the job and pose a threat of injury or harm to themselves, coworkers or citizens. Given the safety-sensitive nature of emergency services, certain prescriptions may limit a member's ability to perform the essential physical and mental job requirements. Members may be asked to report usage of legal or prescription drugs to a particular individual within the organization so a medical determination can be made as to whether job restrictions are necessary.

Drug-testing — If the policy includes a drug-testing program, explain who may be tested, when they may be tested and the consequences for positive test results.

Training Those with Supervisory Authority

Those with supervisory responsibilities should receive periodic training on monitoring and enforcing the ESO's substance abuse prevention program. Topics may include:

- understanding the ESO's policy and prevention program
- recognizing signs of substance abuse
- defining what constitutes reasonable

belief or just cause to warrant issuing a drug test

- making lawful referrals to available resources such as an Employee/Member Assistance Program
- knowing what steps to take if a member comes forward and divulges alcohol or drug dependency or a related problem

Member Education and Awareness

Your ESO should annually review its written drug-free workplace policy with its membership. This awareness program should not simply involve disseminating the policy and having personnel sign an acknowledgement form. ESO leaders should review the entire program and emphasize the dangers of substance abuse as well as available support and assistance mechanisms. Focus on protecting ESO membership and the community from safety risks as well as the organization's commitment to detection and rehabilitation.

Employee/Volunteer Assistance Programs

The ESO may consider offering an EAP (Employee Assistance Program), which allows personnel to confidentially access mental health and substance abuse professionals. ESO members may voluntarily seek EAP

resources, an EAP may be utilized as part of a referral process or EAP participation may be part of a rehabilitation program after a positive drug test. The ESO may also provide education about other programs such as Alcoholics Anonymous or Narcotics Anonymous.

When to Conduct Drug and Alcohol Testing

Generally there are six circumstances when an ESO may require drug testing.

1. **Pre-employment or selection** — Part of the application process may include drug screening to help prevent hiring or selecting illegal drug users. The test is typically conducted after making a conditional offer of employment or membership.

2. **Reasonable suspicion** — Often referred to as probable or just cause screening, this testing is conducted after persons with supervisory responsibilities document observable signs or symptoms that lead them to suspect drug or alcohol use on the job.
3. **Post-accident, injury or incident** — Members involved in a job-related accident, injury or incident, may be tested for drug or alcohol use. Objective criteria should be established to determine under what circumstances a drug test is necessary, such as injuries requiring medical care or an accident involving damages of a certain estimated monetary amount.
4. **Annual physicals** — Drug testing may be part of the annual physical process.
5. **Random** — A third-party-administered program where members are randomly selected on any given day to report to a local facility for drug or alcohol testing. Such a program is designed to discourage drug and alcohol use by using the element of surprise.
6. **Follow-up or post-rehabilitation** — Screening may be conducted on a member who has violated the drug and alcohol policy but was not terminated. Generally, the member must submit to this testing as a condition of keeping his/her job following a violation of the substance abuse policy.

Legal Review

Don't forget to involve your ESO's labor and employment attorney in the development and implementation of a drug-free workplace policy and program. Legal counsel can help navigate the complexities of federal, state and local laws that may apply to your risk management program. Legal guidance is necessary when working with a collective bargaining group.

Conclusion

ESO leaders should be careful not to simply copy a neighboring organization's drug-free workplace policy. Numerous complex issues must be considered, such as members' rights and the ESO's liability and safety exposures. Take measures to implement an extensive substance abuse risk management program that is customized for your ESO's unique needs.

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