

# **DAVIS CONSTRUCTORS & ENGINEERS, INC.**

## **DRUG AND ALCOHOL POLICY AND PROCEDURES**

## **TABLE OF CONTENTS**



### **SECTION I - INTRODUCTION AND GENERAL INFORMATION**

- A. Drug and Alcohol Prohibition Policy
- B. Effective Date of Policy
- C. Applicability
- D. Circumstances Under Which Testing May Be Conducted

### **SECTION II - CONSEQUENCES OF VIOLATING POLICY**

- A. General
- B. Violations and Discipline
- C. Requirements For Return-To-Duty

### **SECTION III - SAMPLE COLLECTION AND TESTING PROCEDURES**

- A. Collection of Samples
- B. Testing Procedures
- C. Review of Drug Testing Results

### **SECTION IV - EMPLOYEE ASSISTANCE PROGRAM (EAP)**

- A. Scope of Program
- B. Supervisory Training

### **SECTION V - CONFIDENTIALITY OF RESULTS**

- A. General

### **SECTION VI - DEFINITIONS**

**DRUG AND ALCOHOL POLICY****SECTION I. INTRODUCTION AND GENERAL INFORMATION****A. Drug and Alcohol Prohibition Policy**

1. **Policy.** Davis Constructors has a long-standing commitment to maintain the highest standards possible for the health and safety of its employees, customers, clients, and the public at large. The use of or impairment by drugs and/or alcohol during worktime is contrary to these high standards and will not be tolerated.
2. **Purpose.** The purpose of this Drug and Alcohol Policy ("Policy") is to maintain the highest safety, health, and work performance standards possible, and to reduce work-related accidents, injuries, and damage which may be caused by drug or alcohol use or impairment. This policy is also intended to ensure the maintenance of productivity, the quality of products and services, and the security of property.
3. **Prohibited Conduct.** The following conduct is prohibited, and may result in discipline, up to and including termination of employment:
  - a. The unauthorized use, possession, manufacture, distribution or sale of an illegal drug, controlled substance or drug paraphernalia on or in Company-owned property (including Company-supplied vehicles) or while on Company business, or during working hours.
  - b. Storing any illegal drug, drug paraphernalia, or any controlled substance whose use is unauthorized, in or on Company-owned or supplied property (including vehicles).
  - c. Reporting to work, working, or acting or appearing on behalf of the Company while under the influence of illegal drugs or a controlled substance whose use is unauthorized.
  - d. Failing to notify the employee's supervisor before beginning work that the employee is taking medications or drugs which may interfere with the safe and effective performance of duties.
  - e. Refusing to immediately submit to a drug or alcohol test when requested by Davis Constructors, in accordance with this policy.
  - f. Failing to adhere to the requirements of any drug or alcohol treatment or rehabilitation program in which the employee is participating, either: (1) as a condition of continued employment, or

(2) pursuant to a written agreement between Davis Constructors and employee.

- g. Violating any criminal drug or alcohol law or statute while working.
- h. Failing to notify Davis Constructors of any arrest or conviction under any criminal drug or alcohol law or statute by the next work day following the arrest or conviction.
- i. Testing positive for drugs or alcohol in violation of this policy.
- j. Tampering with, adulterating, altering, substituting or otherwise obstructing any drug or alcohol testing process required under this policy.
- k. Reporting to work or remaining on duty while having an alcohol concentration of .02 or greater, or if the employee is otherwise impaired by or under the influence of alcohol.
- l. Consuming or using alcohol while on duty.

B. Effective Date of Policy

- 1. This policy will become effective on April 1, 2004.
- 2. Each Job Superintendent shall post the Policy in a prominent location readily accessible to all employees at each Davis Constructors' jobsite.
- 3. A copy of this Policy will be distributed to each labor union that Davis Constructors hires from, with instructions to post in a prominent location, readily accessible to all prospective employees.
- 4. A copy of this Policy will be distributed to each non-union employee and each Job Superintendent, who will be requested to sign a statement acknowledging receipt of said Policy and his/her agreement to comply with same.

C. Applicability

- 1. Individuals Subject to Drug and Alcohol Policy: Any prospective employee or employee of Davis Constructors. Provisions of this policy that are also addressed by a collective bargaining agreement are superceded by the collective bargaining agreement for any employee who is a union member and to whom the collective bargaining agreement applies.

2. Substances Tested For and Positive Results: Davis Constructors shall test for alcohol and the following drugs:

THC (Marijuana)  
Cocaine Metab.  
Opiates  
PCP (Phencyclidine)  
Amphetamines  
Barbituates  
Benzodiazepines

Test results confirmed at or above the SAMSHA specified threshold level will be considered a positive test.

D. Circumstances Under Which Testing May be Conducted

Davis Constructors will test employees for drugs and/or alcohol under the following conditions:

1. Pre-Employment Testing (Drugs Only)

A pre-employment drug test of all prospective employees will be conducted. A positive test result is grounds for denying employment and a negative result is required prior to reporting for work.

Employees who are laid off for less than 30 days are not required to take a pre-employment drug test when they are re-hired.

2. Post-Accident Testing

- a. Persons Subject to Post-Accident Testing

Employees whom Davis Constructors reasonably believes may have contributed to an accident in the workplace or during worktime may be required to undergo drug and/or alcohol impairment testing.

Such a test will be conducted as soon as practicable after the accident, but not later than 32 hours afterward for drugs and not later than 8 hours for alcohol. Davis Constructors will make reasonable attempts to obtain a sample from an employee after an accident, as defined below, but any injury should be treated first.

An accident may involve any of the following:

- \* Loss of human life,
- \* Issuance of a moving traffic citation under state or local law,

- \* Medical treatment other than first aid, or
- \* Significant property damage.

b. Obligations of Employee Subject to Post-Accident Testing

1. An employee who is subject to post-accident testing shall not consume alcohol for 8 hours after the accident, or until s/he has taken an alcohol test, whichever occurs first.
2. An employee who is subject to post-accident testing must remain readily available for such testing and may not take any action to interfere with the testing or the results of testing.

Employees who do not comply with the post-accident testing requirements, or who fail or refuse to provide a sample for testing, will be considered to have refused to submit to testing and will be subject to appropriate disciplinary action, up to and including termination of employment.

3. Random Testing

All employees shall be subject to drug and alcohol testing on an unannounced and random basis. The primary purposes of unannounced random testing are to deter illegal drug and alcohol use which may affect work performance or safety, and to ensure a drug free workforce.

In addition:

- (1) Random tests will only be administered just before, during, or shortly after an employee's work time.
- (2) Employees must take the test within 48 hours of being notified of their selection.
- (3) Employees remain in the random selection pool at all times, regardless of whether or not they have been previously selected for testing.
- (4) Employees shall be selected for testing by using a computer-based random number generator.
- (5) No advance warning will be given to employees regarding the dates and times of random testing.

#### 4. Reasonable Suspicion Testing

Any employee whom Davis Constructors reasonably suspects may be affected by the use of drugs or alcohol which may adversely affect job performance, safety or the work environment may be required to submit to a drug and/or alcohol test. Reasonable suspicion testing is done to identify drug and alcohol affected employees who may pose a danger to themselves or others in their job performance.

Trained supervisors will make the decision whether there is reasonable suspicion to believe an employee is impaired by or under the influence of a drug or alcohol while on duty in violation of this policy.

##### a. When Reasonable Suspicion Exists

The decision to test must be based on a reasonable and tangible suspicion or belief that the employee is under the influence of an unauthorized drug or alcohol. Reasonable suspicion is a belief based on contemporaneous tangible observations concerning the employee's appearance, behavior, speech or body odors, or other reliable evidence or information that the employee is under the influence of or impaired by drugs or alcohol. For example, any of the following, either alone or in combination, may constitute reasonable suspicion:

1. Slurred speech;
2. Irregular or unusual speech patterns;
3. Impaired judgment;
4. Alcohol odor on breath;
5. Uncoordinated walking or movement;
6. Unusual or irregular behavior such as inattentiveness, listlessness, hyperactivity, hostility or aggressiveness;
7. Possession of drugs or alcohol;
8. Observation of drug or alcohol use prior to reporting to work or during working hours.

Reasonable suspicion determinations will be made by supervisory personnel who have received training concerning the signs and symptoms of drug and alcohol use.

The observing supervisor shall document the events and record the behavioral signs and symptoms that support the reasonable suspicion. If possible, a second supervisor should also observe the employee to verify that there is a reasonable basis to believe that a drug or alcohol violation has occurred.

b. Events After Determination Is Made

When a determination is made that reasonable suspicion exists that an employee is under the influence of drugs or alcohol in violation of this policy, the employee shall be immediately relieved of his/her duties, pending further action.

The observing supervisor shall immediately notify Davis Constructors' Drug Program Administrator (DPA) or appropriate manager if reasonable suspicion is found to exist. Upon review, the department head or other appropriate supervisor may direct or authorize that the employee in question immediately submit to a drug and/or alcohol test. Safe transportation for the employee will be provided to the collection site.

c. Reports of Possible Violation by Supervisory Personnel

If a non-supervisory employee has reason to believe that a supervisor subject to this policy is under the influence of drugs or alcohol at work in violation of this policy, then s/he shall report such potential violation to the DPA or appropriate manager, who will thereafter take action.

5. Return-to-Duty Testing

An employee who refuses to take or fails a drug test and whose employment is not terminated will be referred to a Substance Abuse Professional (SAP) by the DPA. The employee may not return to duty until s/he is evaluated by the SAP, passes a drug test, and the DPA has determined that the employee may return to work.

An employee who refuses to take or fails an alcohol test and whose employment is not terminated may not return to work until the employee is evaluated by a SAP and is following the recommended course of treatment.

6. Follow-Up Testing

An employee who is referred for assistance related to drug or alcohol misuse may be subject to unannounced follow-up testing for a period not to exceed 60 months, as directed by the SAP. The number and frequency of follow-up testing will be determined by the SAP and Davis Constructors. Follow-up testing will be conducted immediately prior to, during or immediately preceding worktime for that employee.

**SECTION II. CONSEQUENCES OF VIOLATING POLICY****A. General.**

Compliance with this policy is a condition of employment. Refusal to take a required drug or alcohol test, a positive drug or alcohol test, or engaging in an activity or behavior which otherwise violates this Policy shall, at a minimum, result in suspension without pay. Additional disciplinary action may follow, including termination of employment.

**B. Violations and Discipline**

Davis Constructors may take adverse employment action, up to and including termination of employment, based on:

1. a positive drug or alcohol test result;
2. a prospective employee or employee's refusal to provide a drug or alcohol testing sample, or
3.
  - a. an employee's failure to notify the employee's supervisor, before beginning work, of their use of medications or drugs which might interfere with the safe or effective performance of duties or;
  - b. the employee's lack of a valid current prescription for such a drug or;
  - c. misuse of a prescription or recommended drug or,
4. otherwise violating the terms and requirements of this policy.

Potential adverse employment action may include one or more of the following:

1. A requirement that the employee enroll in a rehabilitation, treatment or counseling program approved by Davis Constructors. This program may include additional drug and alcohol testing. Participation in such a program is a condition of employment. Costs of participating in such a program will be borne by the employee;
2. Suspension, with or without pay;
3. Termination of employment;
4. In the case of drug testing, refusal to hire the prospective employee; and/or

5. Other or additional adverse employment action, at the election and discretion of Davis Constructors.

C. Requirements For Return-To-Duty

An employee who is not terminated for violating this policy may be given the opportunity to return to work provided s/he first:

1. Receives a recommended return-to-work evaluation by a SAP and the Medical Review Officer;
2. Passes a return-to-work drug and/or alcohol test;
3. Continues to receive negative drug or alcohol test results in follow-up tests after returning to duty; and
4. Participates in any applicable evaluation and/or rehabilitation program that is approved by Davis Constructors. Although completion of the program is not required to return to work, the employee's progress through the program will be monitored by the DPA in conjunction with the SAP. The employee must complete the program in a reasonable amount of time, or they will be considered to be in violation of this policy and the conditions of the return to work, resulting in adverse employment action.

### **SECTION III. SAMPLE COLLECTION AND SAMHSA TESTING PROCEDURES**

A. Collection of Samples

Davis Constructors has contracted with WorkSafe, Inc. to provide testing facilities and personnel. WorkSafe is certified by the Substance Abuse and Mental Health Services Administration (SAMSHA). In Anchorage, testing will be performed at the WorkSafe office, located on the corner of 36<sup>th</sup> & C St. (see attached map). Outside of Anchorage, testing will be performed at designated WorkSafe collection sites. Davis Constructors may also contract WorkSafe to send collections agents to the jobsites to allow for the minimum possible interruption to the work day.

When an employee is selected for testing, they will be given a donor referral form by their supervisor or the DPA which must be presented at the collection site.

1. Testing under this policy is a urinalysis (for drugs) and an evidential breath testing device (for alcohol) administered under approved conditions and procedures conducted for the sole purpose of detecting drugs or alcohol. Other on-site methods to detect the presence of alcohol may also be used, including blood/alcohol and saliva tests.

The test will be paid for by the Davis Constructors. Sample collection and testing will be performed under reasonable and sanitary conditions.

2. The collection site shall have all necessary trained personnel, materials, equipment, facilities, and supervision to provide for the collection, security, temporary storage, and shipping or transportation of specimens to a certified drug-testing laboratory designated by Davis Constructors. An independent medical facility may also be utilized as a collection site.
3. Normally, drug test samples will be collected by the split sample collection method. However, on occasion, a single sample will be collected and sent to the laboratory for testing.
4. The person collecting the drug sample will document the sample, including labeling the sample to reasonably preclude the possibility of misidentification of the person tested in relation to the test result provided.
5. The person collecting the sample shall provide the person to be tested with an opportunity to provide medical information that may be relevant to the test, including identifying current or recently used prescription and nonprescription drugs.
6. Sample collection, storage, and transportation to the testing place shall be performed in a manner reasonably designed to preclude the possibility of sample contamination, adulteration or misidentification.
7. An employee designated for testing must provide reliable individual identification to the person collecting the sample.
8. Drug and alcohol tests will normally be scheduled during, or immediately before or after, the employee's regular work period or worktime. Testing under this policy is considered worktime and will be compensated at the employee's normal rate of pay.
9. Sample collection will be performed in a manner which ensures the individual employee's privacy to the maximum extent consistent with ensuring that the sample is not contaminated, adulterated, or misidentified.
10. Davis Constructors will generally pay the entire actual cost of drug and alcohol testing required of employees and prospective employees. Davis Constructors shall also reimburse current employees at the mileage rate allowed by the IRS for miles driven to an off-site testing location from his/her normal work site.

**B. Testing Procedures**

1. Unless testing is conducted on-site, Davis Constructors shall use a drug-testing laboratory approved or certified by the Substance Abuse and Mental Health Services Administration (SAMHSA).
2. If Non-Instrumented Drug tests are used then the Collector must perform the on site tests in the presence of the donor. In on-site testing, an employer may only use products approved by the Food and Drug Administration for employee testing and shall use the products in accordance with the manufacturer's instructions. All presumptive positive tests results must be sent to the SAMSHA Laboratory for confirmation testing before any employment action can be taken.
3. The laboratory shall permit inspections by Davis Constructors' DPA.
4. Davis Constructors may at times use a rapid test kit. If the rapid test is positive, the sample will be sent to the designated laboratory for confirmation.
5. Positive drug tests will be confirmed by a gas chromatography mass spectrometry. Davis Constructors will not rely on a positive drug test unless the confirming drug test results have been reviewed by a licensed physician or doctor of osteopathy.
6. Alcohol testing will be performed by a breath alcohol technician (BAT). If the result of an alcohol screening test is an alcohol concentration of 0.02 or greater, a confirmation test will be performed. The confirmation test will generally be done within 15, but not more than 30, minutes of the screening test. The results of these tests will be reported directly to Davis Constructors.

**C. Review of Drug Test Results****1. Medical Review Officer**

Davis Constructors shall contract the services of a Medical Review Officer (MRO). The MRO shall be a licensed physician or doctor of osteopathy. The MRO shall review all confirmed positive drug test results and interview individuals tested positive to verify the laboratory report. The MRO in conjunction with the SAP may also evaluate and recommend to Davis Constructors whether and when an employee who either refuses to test or tests positive may return to work. The MRO may schedule follow-up unannounced drug testing for a period of up to 60 months.

## 2. Reporting and Review of Results

- a. The MRO shall review confirmed positive test results. This review shall be performed by the MRO prior to the transmission of results to the DPA.
- b. The MRO shall contact the employee within 48 hours and offer an opportunity to discuss the confirmed test result.
- c. The MRO will inform the employee that s/he has 72 hours to request a re-test of the split or single sample. A re-test is an analysis of the second split sample bottle or an aliquot of the original sample. The re-test can be sent to a laboratory approved or certified by the Substance Abuse and Mental Health Services Administration. The employee will be responsible for the costs of the re-test and will be reimbursed by Davis Constructors only if the sample comes back negative.

## 3. Legal Drug Use

If the MRO determines there is a legitimate medical explanation for the positive test result, the MRO shall report the test as negative. Test results that have been caused by prescription medication will be reported as negative.

## 4. Written Test Results

An employee may obtain a copy of the written test results only upon written request made within six months of the date of the test. Davis Constructors will provide the written test results to the employee pursuant to that request within five working days of its receipt.

## 5. Explanation of Positive Test by Employee

An employee who would like an opportunity to explain a positive test result in a confidential setting must make such a request in writing within 10 working days of being notified of the test result. An employee who submits such a timely written request will be given the opportunity, within 72 hours after its receipt, or before adverse employment action is taken, to explain the positive test in a confidential setting. (AS23.10.620(b)(9))

# **SECTION IV. EMPLOYEE ASSISTANCE PROGRAM (EAP)**

## A. Scope of Program

The Employee Assistance Program will provide education and training on drug and alcohol use to all employees. The education shall include:

1. Informational material distributed to employees as well as displayed on bulletin boards, employee break rooms, locker rooms, etc;
2. A community service hot line telephone number for employee assistance displayed on bulletin boards and distributed to employees; and,
3. Distribution of Davis Constructors' policy regarding the use of prohibited drugs and alcohol to all new employees. The policy shall be displayed in prominent places throughout Davis Constructors' jobsites (i.e., employee bulletin board and break areas).

B. Supervisor Training

Supervisory personnel will receive training regarding the DRUG AND ALCOHOL POLICY. The training shall include at least 60 minutes of training on the use of controlled substances, and at least 60 minutes of training on alcohol misuse. This training shall be for all supervisors who may determine whether an employee will be drug and alcohol tested for reasonable suspicion.

## **SECTION V. CONFIDENTIALITY OF RESULTS**

A. General

1. All records relating to drug and alcohol testing will be maintained in a confidential medical file in a secure location with controlled access, separate from personnel files.
2. Any communication received by Davis Constructors relevant to drug or alcohol test results and received through the testing program is confidential and privileged, and will not be disclosed by Davis Constructors except:
  - a. To the tested employee, prospective employee or another person designated in writing by the employee or prospective employee;
  - b. An individual designated by an employer to receive and evaluate test results or hear the explanation from the employee or prospective employee;
  - c. As ordered by a court or governmental agency; or
  - d. In any proceeding initiated by or on behalf of the individual and arising from a positive test.

**SECTION VI. DEFINITIONS.**

**Alcohol** means ethanol, isopropanol, or methanol.

**Alcohol concentration** means the alcohol in a volume of breath expressed in terms of grams of alcohol - per 210 liters of breath-as indicated by an evidential breath test.

**Alcohol Use** means the consumption of any beverage or mixture, including any medication or mouthwash containing alcohol.

**Breath Alcohol Technician (BAT)** means an individual who operates an EBT and instructs and assists individuals in the alcohol testing process.

**Collection Site Person** Is an individual authorized by Davis Constructors to collect samples in accordance with this policy and trained in procedures for such collections. Davis Constructors has chosen to follow the highest industry standards for work place collection, testing, and reporting of test results; therefore, Davis Constructors' procedures will attempt to follow, as a guide only, the federal drug testing procedures.

**Drug Program Administrator (DPA)** is the Davis Constructors' employee who is responsible for administering the drug and alcohol policy.

**Drug(s)** means a substance considered unlawful under AS 11.71 or under federal law, or the metabolite of the substance.

**Drug Testing** means testing for evidence of the use of a drug.

**Evidential Breath Testing Device (EBT)** is a device approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath, and is placed on NHTSA's "Conforming Products List" (CPL) of evidential breath measurement devices.

**Employee Assistance Program (EAP)** means a confidential counseling/referral service for employees and their dependents. EAP is designed to provide assistance to employees and their families to deal with personal problems which may affect their productivity, health, or continued employment. All counseling, assessment, and referral services will be provided by qualified, experienced clinicians with special training in short-term counseling and in assessing and treating substance abuse problems (See SAP).

**Failing A Drug Test** shall mean the test results show positive evidence of the presence of a drug or drug metabolite in an employee's system in amounts that exceed cutoff levels established by this policy.

**Medical Review Officer (MRO)** is the licensed physician or doctor of osteopathy who is responsible for reviewing positive laboratory results generated by Davis Constructors' testing program.

**Prospective Employee** means a person who has made application to an employer, whether oral or written, to become an employee.

**Random** means a scientifically valid method that ensures that all covered employees have an equal change of being selected.

**Sample** means urine or breath from the person being tested.

**Screening Test or Initial Test** means an analytic procedure to determine whether an employee may have a prohibited concentration of drugs or alcohol in a specimen.

**Rapid Test** means a test designed to provide an instant screened test result.

**Refusal to submit** means failure to cooperate and provide a drug or alcohol sample, after receiving notice of the test in accordance with Davis Constructors' Drug and Alcohol Policy. A refusal will be treated the same as a positive test result. A refusal to test for alcohol occurs when a covered employee fails to provide an adequate breath for testing without a valid medical explanation after receiving notice of the requirement to be tested in accordance with the provisions of Davis Constructors' alcohol misuse prevention plan or engages in conduct that clearly obstructs the testing process.

**Substance Abuse Professional (SAP)** means a licensed physician (medical doctor or doctor of osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor ("Certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or by the International Certification Reciprocity Consortium/ Alcohol & Other Drug Abuse") with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substance related disorders.