

WESTERN PARTITIONS, INC.

DRUG-FREE WORKPLACE POLICY

&

ADMINISTRATIVE RULES

NEW MEXICO LOCATIONS

Revised 11/15/19

WESTERN PARTITIONS, INC.
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WESTERN PARTITIONS, INC. DRUG-FREE WORKPLACE POLICY

New Mexico Locations

Introduction

The nature of the construction industry requires that all employees be in a condition to perform their jobs safely and efficiently, free from any impairment caused by alcohol or drugs. Being in an industry where the responsibility and alertness of each employee is necessary in order to maintain a safe environment, **Western Partitions, Inc.** (or "WPI" or "the Company") must have a greater concern for employee alcohol and drug use than other employers. WPI and the unions with which WPI works in partnership are firmly committed to eliminating all of the problems associated with employee alcohol and drug abuse.

Both Federal and State regulations and statutes affect the way WPI addresses its goal to maintain a drug-safe workplace. Specifically, the Federal government names marijuana as a Schedule I controlled substance. Also, New Mexico statute 52-1-12.1 relates to workers' compensation benefits, with the following provisions:

1. Workers' compensation benefits may be reduced in the event intoxication or influence [by drugs or alcohol] contributes to a workplace injury.
2. The reduction in benefits can vary from 10% to 90% according to the degree to which intoxication or influence contributes to the worker's injury.
3. Refusal to submit to a post-accident test may result in complete denial of benefits.

WPI recognizes the need to avoid unnecessary intrusion into employee's private lives and to assure employee privacy and confidentiality to the greatest extent possible. The Company also acknowledges that some cases of substance abuse must be dealt with as illnesses requiring medical treatment, not only as personnel problems. Lastly, WPI believes that the goals of its alcohol and drug policy should include education, prevention, and rehabilitation. To achieve these objectives, all Company employees working in New Mexico locations must adhere to each of the following rules and regulations:

Rules

The use of alcohol or drugs by employees during working hours or on the job site or on Company property (including Company vehicles) is absolutely prohibited. Refusing to test is a violation of this policy, including failure to proceed promptly for testing when directed to do so, tampering with a test, or a documented attempt to substitute a specimen. Any employee who violates this policy may be required to undergo rehabilitation and/or may be subject to discipline under the terms of this policy and applicable collective bargaining agreements.

- a. The term "use" means consuming, possessing, selling, concealing, distributing or arranging to buy or sell, being under the influence, or reporting for duty under the influence of alcohol or drugs to any degree.
- b. The term "alcohol or drugs" means any form of alcohol and/or other intoxicating substance, including marijuana, and including legal drugs obtained illegally.
- c. The term "under the influence" means having a verified positive test.
- d. In the event that any person taking medically authorized or prescribed drugs is to be tested for alcohol or drugs pursuant to this policy, that person must be prepared to substantiate authorization from his health care provider to use the drugs.
- e. This policy applies to all employees of the Company who work in New Mexico, including field, maintenance, sales, clerical, management, part-time (20 hours per month or more) as well as

all applicants for any such position. Many of the positions are safety-sensitive as defined in New Mexico statutes.

- f. The term "working hours" means all the time in which employees are engaged in work duties or subject to the control of the Company, and also includes scheduled breaks and travel to work or from one workplace to another.
- g. The term "Company property" means all facilities, job sites, vehicles, and equipment that are owned, leased, operated, or utilized by the Company or its employees for work-related purposes, including parking areas and driveways, as well as lockers, toolboxes, or other storage areas used by the employees. It also includes other public or private property, facilities, vehicles, and equipment located away from Company facilities if the employee is present on such property for a work-related purpose.
- h. An employee's private property, such as lunch boxes, tool boxes, back packs, purses, and the like that are brought by the employee onto Company property or used for work-related purposes, may only be inspected for reasonable suspicion (see below).
- i. Events attended voluntarily are not considered to be covered under this policy.

Consequences of Violations

If an employee tests positive or refuses to test, he or she will be removed from the job.

Management shall require that employees who have tested positive for alcohol or drugs or who refuse to test complete three conditions before returning to work:

1. Evaluation by a qualified counselor,
2. Agreement to participate in education and/or counseling as recommended by the evaluator, and
3. A negative return-to-duty test.

The Program Administrator will monitor the return-to-work process. With a work release from the evaluator and a negative test, the employee may return to work if a job is available.

Any person who has violated this policy shall be subject to discipline. Discipline of bargaining unit members shall be in accordance with the collective bargaining agreement.

Reasonable Suspicion Testing

The term "reasonable suspicion" shall for the purposes of this policy be defined as specific, articulable observations concerning work performance, appearance, behavior or speech of the employee which would cause a trained person to believe the employee may have used controlled substances or misused alcohol. Examples of observations which might lead to a reasonable suspicion determination are slurred speech, staggering, the odor of alcoholic beverage, unusual sleepiness, aggressive behavior, unusual agitation, or the presence of drugs or drug paraphernalia. These observations must be documented by a Company representative as part of a reasonable suspicion determination.

When reasonable suspicion exists that an employee is in violation of this policy, the employee shall be required by management to submit to drug and/or alcohol testing. In the event of a positive test result or refusal to test, the employee shall be required to participate in a return-to-duty process. If an employee refuses to participate in the testing as outlined in the policy or if an employee's test results are positive and the employee refuses to seek rehabilitation or completion of a rehabilitation program, that employee is subject to prompt termination.

Other Reasons for Testing

Other reasons for testing permitted under this policy, as defined in the Administrative Rules, include pre-employment, contract-required, post-accident, periodic, job site, random, return to duty and follow-up testing.

All new employees shall be tested within three days of hire unless the new employee has passed a drug test administered by an area employer within the 90 days prior to hire. Such "other employer" drug tests must meet specific testing standards as defined by the Company.

This policy requires all employees to participate in random employee drug testing. Computer selections shall be conducted by the consulting Program Administrator. It is the intent of this policy that all employees shall be systematically tested at least one time per calendar year. The names of employees who have tested positive or refused to test and successfully complete education and/or rehabilitation shall be returned to the group of employees subject to random selection for testing.

Many general contractors have drug and alcohol testing policies which cover all individuals who work on the specific contractor's job site. If a general contractor has a stricter drug testing policy and requires a WPI employee to test under that policy, it will take precedence for that test. If the general contractor's policy is less strict than this policy, then this policy will take precedence for that test.

Drug-Related Convictions

All employees must notify management of any criminal conviction for any drug-related offense occurring in the workplace, no later than five (5) days after such conviction.

Self-Referral

If an employee suspects that he/she has an alcohol or drug problem, the employee is expected to seek assistance for that problem, either from his/her union health and welfare trust, the Company Human Resources manager, or another competent resource.

Reporting Use of Medications

Use of prescribed medicine according to the healthcare provider's instructions is not a violation of this Policy. However, *it is a violation of Federal law and of this Policy to use other people's prescription medications.* It is also a violation of this Policy to use medications in a way that is not consistent with the healthcare practitioner's directions.

Employees who take prescription medications with warning labels (regarding dizziness, drowsiness, or other impairment while using the medicine) are required to:

1. Discuss use of the medicine with their doctors, given the nature of their jobs and
2. Inform Company management that they are using a medication with a warning label.
Employees are not required to identify the name of the drug or the reason for using the drug.

Management may change an employee's employment status or job duties at its discretion.

Medical marijuana is not a prescription medicine. While its use may be authorized under some state laws, it is prohibited under Federal law. Marijuana use is not acceptable under this Policy for any reason.

Applicants and employees have the opportunity to discuss positive drug test results due to prescription medications with the Company's Medical Review Officer (MRO) before results are reported to the Company (see Administrative Rules).

Confidentiality

WPI shall take reasonable measures to safeguard the privacy of employees in connection with this policy, including maintaining the confidentiality of employees who come forward to discuss alcohol or drug abuse affecting them. Any person employed by the Company who voluntarily seeks assistance or rehabilitation for alcohol or drug related problems shall be granted amnesty and discipline is waived for drug-related issues so long as the person continues to participate satisfactorily in the rehabilitation or counseling program.

Compliance with State & Federal Law

Nothing in this policy is intended, nor shall it be construed, to authorize any action that is unlawful under federal or state law.

Amendments

Any amendments to this policy shall be the unanimous product of the Company and its partner unions, and will automatically become an amendment to the Company policy upon written notice.

Joint Labor-Management Governance

This policy will be governed under joint labor management committee administrative rules. The parties to the agreement reserve the right to change the administrative rules and/or the policy through the joint labor management process. In addition, the grievance procedures outlined in applicable collective bargaining agreements are available to all collective bargaining employees who may have a complaint in regard to the policy and/or administrative rules. Non-collective bargaining personnel shall be subject to internal company discipline procedures. This policy and the administrative rules shall be subject to and subordinate to applicable collective bargaining agreements.

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**WESTERN PARTITIONS, INC. DRUG-FREE WORKPLACE
NEW MEXICO LOCATIONS**

ADMINISTRATIVE RULES

Consulting Program Administrator

The consulting Program Administrator shall be an objective third party which has responsibility for managing the technical aspects of testing under this policy, as well as performing random selections and overseeing the return-to-duty process. The current consulting Program Administrator is:

Northwest Drug-Safe
1049 SW Baseline St Suite C325
Hillsboro OR 97123-3848
503-297-4113 • FAX 503-297-4748

Collections

"Split specimen" collections will be performed using procedures consistent with 49 CFR Part 40, "Procedures for Transportation Workplace Drug and Alcohol Testing Programs."

In the split specimen collection procedure, a urine or oral fluid specimen is divided or "split" between two shipping bottles, both of which are transported to the testing laboratory. If the results of the initial screening and confirmation tests of the "primary" specimen are positive, the split specimen may be tested at another qualified laboratory at the expense of the tested individual.

Testing/Levels

Initial and confirmatory test cutoff levels in urine for the drug classes tested under the WPI Drug-Free Workplace Policy & Administrative Rules will follow US Department of Transportation guidelines (49 CFR Part 40 as amended). Cutoffs as of 11/1/18 are as follows.

Initial test analyte	Initial test cutoff ¹	Confirmatory test analyte	Confirmatory test cutoff concentration
Marijuana metabolites (THCA) ²	50 ng/mL ³	THCA ¹	15 ng/mL
Cocaine metabolite (Benzoylecgonine)....	150 ng/mL ³	Benzoylecgonine.....	100 ng/mL
Opioids			
Codeine/Morphine.....	2000 ng/mL.....	Codeine.....	2000 ng/mL
		Morphine.....	2000 ng/mL
Hydrocodone/Hydromorphone.....	300 ng/mL.....	Hydrocodone.....	100 ng/mL
		Hydromorphone.....	100 ng/mL
Oxycodone/Oxymorphone.....	100 ng/mL.....	Oxycodone.....	100 ng/mL
		Oxymorphone	100 ng/mL
6-Acetylmorphine.....	10 ng/mL.....	6-Acetylmorphine.....	10 ng/mL
Phencyclidine.....	25 ng/mL.....	Phencyclidine.....	25 ng/mL
Amphetamines			
Amphetamine/Methamphetamine.....	500 ng/mL.....	Amphetamine.....	250 ng/mL
		Methamphetamine.....	250 ng/mL
MDMA ⁴ /MDA ⁵	500 ng/mL.....	MDMA.....	250 ng/mL
		MDA.....	250 ng/mL

¹ For grouped analytes (i.e., two or more analytes that are in the same drug class and have the same initial test cutoff):

Immunoassay: The test must be calibrated with one analyte from the group identified as the target analyte. The cross-reactivity of the immunoassay to the other analyte(s) within the group must be 80 percent or greater; if not, separate immunoassays must be used for the analytes within the group.

Alternate technology: Either one analyte or all analytes from the group must be used for calibration, depending on the technology. At least one analyte within the group must have a concentration equal to or greater than the initial test cutoff or, alternatively, the sum of the analytes present (i.e., equal to or greater than the laboratory's validated limit of quantification) must be equal to or greater than the initial test cutoff.

² An immunoassay must be calibrated with the target analyte, D-9-tetrahydrocannabinol-9-carboxylic acid (THCA).

³ *Alternate technology* (THCA and Benzoylecgonine): When using an alternate technology initial test for the specific target analytes of THCA and Benzoylecgonine, the laboratory must use the same cutoff for the initial and confirmatory tests (i.e., 15 ng/mL for THCA and 100ng/mL for Benzoylecgonine).

⁴ Methylenedioxyamphetamine (MDMA).

⁵ Methylenedioxyamphetamine (MDA).

Other substances may be tested for if, in the judgment of the Medical Review Officer, such testing is merited for safety reasons.

Dilute urine specimens (creatinine <20 g/L, specific gravity ≤ 1.003) are considered unacceptable. A written protocol describing the procedures for recollection is available upon request.

Post-accident oral fluid testing will use the cutoffs established by the certified laboratory where the testing is conducted until Federal guidelines are available, at which time the Federal cutoffs will be applied.

For breath alcohol testing, the cutoff is 0.02 g/210 L for both initial and confirmatory testing.

Laboratory

Drug testing will be performed by a laboratory certified by the Substance Abuse & Mental Health Services Administration (SAMHSA) of the US Department of Health and Human Services (DHHS). The current laboratory is:

Quest Diagnostics
8401 Fallbrook Ave
West Hills CA 97304
818-737-6370

Other SAMHSA / DHHS-certified laboratories may be used as needed to ensure rapid turnaround of test results.

Covered Employees

All WPI employees in New Mexico are covered by this policy, including field, maintenance, sales, clerical, management, part-time (20 hours per month or more) as well as all applicants for any such position.

Reasons for Testing

- a. Pre-employment: All new employees shall be tested within three days of hire unless the new employee has passed a drug test administered by an area employer within the 90 days prior to hire. Such "other employer" drug tests must meet specific testing standards as defined by the Company. The standards are available for review by employees upon request.
- b. Contract-required testing: Some general contractors have drug and alcohol testing policies which cover all individuals who work on the specific contractor's job site. WPI conducts testing when it is required as a condition of a contract.
- c. Post-accident: Involvement in an on-the-job accident may require testing. Management will document the circumstances of each accident individually. If the employee's actions or inactions can be completely discounted as a contributing factor to the accident, no testing will be conducted. When there is a reasonable possibility that drug use may have contributed to the accident, drug testing will be conducted. A form is available to assist management in determining whether drug testing should be conducted after a particular accident. After individualized investigation, post-accident testing will also occur when required by contract.

Whenever feasible, an oral fluid specimen will be used for post-accident testing in addition to a urine specimen. Oral fluid testing uses a split specimen and is conducted at a certified laboratory. In most cases, a negative oral fluid test result supersedes a positive urine test result for the purposes of disciplinary action.

- d. Reasonable suspicion: If there is reasonable suspicion, as defined in the policy, to believe that an employee is in violation of the policy, the employee shall be required to submit to drug and/or alcohol testing. The employee will be transported to the collection site to provide specimens. Management will also arrange for safe transportation to the employee's residence. The employee will be off duty until the test results are received. This time will be paid if all test results are negative and unpaid if test results are positive or constitute refusal to test.
- e. Periodic testing: Any employee whose most recent WPI drug test is dated more than six months ago (collection date) may be required to be tested.
- f. Job site: Testing of a work group may occur at the discretion of company management, following random selection, or upon credible reports of drug use at the job site.
- g. Random: It is the intent of this policy that all employees shall be randomly tested at least one time per calendar year.
 - (1) Employees subject to random testing through a job-site drug testing program administered by a general contractor (GC) are exempted from random testing through WPI during the period(s) they are working on that GC's job site.
 - (2) If an employee is selected for random testing while he/she is on vacation, out sick, or working out of New Mexico for a short period (fewer than 30 days), he/she shall be required to take the test as soon as possible upon return to work and/or to New Mexico.
 - (3) If an employee is on extended medical leave or is working at an unusually distant site where testing is not feasible when he/she is selected for WPI testing, his/her name is returned to the computer database for future selection.

- h. Return to duty: After positive tests or refusal to test, employees must test negative in order to return to work.
- i. Follow-up: After positive tests or refusal to test, employees are subject to unannounced tests in addition to other reasons for testing, not to exceed 4 tests per year for two years. Agreement to undergo such testing is a condition of employment after a violation.

Time Constraints for Testing

Employees are expected to proceed directly to an authorized collection site when directed to test by a Company official. Supervisors must notify employees of selection for random testing no later than two hours before the end of the work shift. Employees will be paid for one hour to take the test.

Refusal to Test

Refusal to test will have the same consequences as a verified positive test result. Refusals to test include refusal to provide the required sample, refusal to cooperate with the testing process, provision of an invalid specimen without a valid medical explanation, or adulteration or substitution of a urine sample.

Positive Test Results/Refusals/Medical Review

Laboratory positive test results are reported to the Medical Review Officer (MRO). The MRO is a physician with special expertise and training in evaluating drug test results. The MRO or his/her designated representative will attempt to contact the applicant/employee confidentially, using the telephone number provided on the drug testing custody and control form. If the MRO is unable to establish contact within three (3) business days after receiving the positive test result from the lab, the MRO will contact the Program Administrator, who will ask the authorized Company representative to arrange a confidential conversation between the tested individual and the MRO.

The MRO will conduct an interview to determine if the positive test result was due to use of prescription medication by the person for whom it was prescribed (authorized use of a controlled substance). The MRO will report the test as NEGATIVE with confirmation of a valid prescription by the health care provider or pharmacy.

If a positive test result is due to use of prohibited drugs or use of prescription medications without a valid prescription, the MRO will verify the test as POSITIVE. The MRO will immediately notify the Program Administrator, who will promptly notify the Company. If a positive test involves use of a prescription medication but not according to the healthcare provider's written directions, the MRO may report such use to the Company.

If the MRO expresses a safety concern regarding an employee's use of an impairing medication, the Administrator shall report this concern to the employer.

A documented attempt to tamper with a test or to substitute a specimen will be considered a refusal to test. Adulteration or substitution of a specimen is considered refusal to test, and is reported by the laboratory only with firm scientific evidence. In such cases, the MRO is not required to contact the applicant/employee. If the testing facility determines that a specimen is invalid because it does not contain appropriate amounts of any substance normally found in urine, then the test will be treated as an adulterated/substituted specimen after review by the MRO.

Return to Work Process

When the Company receives notification of a verified positive test result or refusal to test, the employee is promptly removed from work in a confidential manner. The employee's employment is terminated. In this circumstance, WPI requires that the individual complete three conditions to become eligible for re-hire:

1. Evaluation by a qualified counselor,
2. Agreement to participate in education and/or counseling as recommended by the evaluator, and
3. A negative return-to-duty test.

The Company's consulting Program Administrator monitors the return-to-work process. It is the employee's responsibility to schedule an evaluation appointment with a licensed or certified counselor and to authorize the evaluator to communicate with the Program Administrator.

The employee must agree to follow the counselor's recommendations as a condition of return to work. This may include an educational program or substance abuse treatment. Some or all of the expense of the education or treatment may be covered by the individual's health benefits; however, it will be the individual's responsibility to arrange for payment.

The WPI Drug-Free Workplace Program will pay for one return-to-duty test. If a return-to-duty test is verified as positive, the employee must pay in advance for any subsequent return-to-duty tests.

Completion of the return-to-work process is a necessary condition for return to work, but it does not guarantee re-hire. The employee may be permitted to return to work at WPI's discretion if a job is available.

Appeal

When notified of a verified positive test result, the Company representative will inform the employee that he or she has the right to have the urine sample independently examined by a certified laboratory of his or her choice, at his or her expense, within 30 days.

Confidentiality of Results

Test results and information relating to evaluation, education and substance abuse treatment will be retained in secure and confidential files. All concerned parties are expected to release information concerning the Drug-Free Workplace Program only to authorized parties with a need to know, or with specific written authorization from the tested individual.