**Non-CDL Controlled Substances and Alcohol Use and Testing Policies for New Jersey Public Agencies**

**Forms Toolkit**

***As of 1/1/2019***



* Active Employee Certificate of Agreement/ Receipt of Company Policy Consent Form [DFW01]
* Pre-Employment Substance Testing Consent and Release Form [DFW02]
* Acknowledgement of Consequences of Refusal to Participate in Drug or Alcohol Testing [DFW03]
* Determination of Safety-Sensitive Positions [DFW04]

Disclaimer: The information contained in the specimen Forms Toolkit is not, nor is it intended to be, legal advice, but rather is educational. The application and impact of policies and regulations can vary widely based on the specific facts involved. Your Public Entity should consult with an attorney for individual advice regarding your own situation and the customization of this specimen Forms Toolkit.

**DRUG AND ALCOHOL TESTING POLICY NEW JERSEY NON-DOT**

**FORMS TOOLKIT**

**These forms are to be retained by the
Designated Employer Representative (DER)
and utilized to administer the \*\*\*Entity Type\*\*\*’s Program
(these are not part of the employee Policy).**

**\*\*\*Entity Name\*\*\***



**Employee Acknowledgement Toolkit**

**Forms Index**

**DESIGNATED EMPLOYER REPRESENTATIVE (DER) GUIDELINES
ON USE OF FORM TOOLKITS**

The following are helpful tips the DER and/or alternate DER may wish to consult in fulfilling their duties and responsibilities:

**Getting Started**:

Populate the **Drug and Alcohol Testing Policy Development Worksheet** with the information specific to your entity and have this reviewed by legal counsel. As part of this process, you should complete the **Determination of Safety-Sensitive Positions [DFW04]**. That is a significant role in designating those as safety-sensitive in your policy.

Establish date for introduction of the **Drug and Alcohol Testing Policy** to employees. This Policy includes the following parts: (1) Policy, (2) Drug Education Information, (3) Substance Abuse Professionals resource list. You should secure a drug and alcohol awareness video for the meeting and send out notice of meeting date and time. Make a copy of the **Policy** for each employee. **Note:** the **Forms Toolkit** and **DER Guidelines** are not to be given to the employees at the meeting but can be viewed by them at any time.

On the date of the employee awareness training, have an **Employee Awareness Training Session Log** out for employees to sign. Distribute to each employee the following 4 part Policy: **Drug and Alcohol Testing Policy**, **Drug Education Information, Substance Abuse Professional resource list, and the Active Employee Certificate of Agreement, Receipt of Drug-Free Workplace Policy Consent Form**. Then walk through significant Policy provisions. At the end of the program have each active employee sign the **Active Employee Certificate of Agreement Receipt of Employee Policy Statement Consent Form [DFW01]** and place in their personnel file.

Establish a time and date to conduct reasonable suspicion training for supervisors. This training should be one hour for alcohol and one hour for drugs and conducted by someone who can issue certifications of such training.

Prepare file folders for your Drug and Alcohol Testing Policy records retention and maintain these files separate from personnel files as you would medical records.

Select a Certified Medical Review Officer, Laboratory, collection site and Third Party Administrator to assist with your program.

**Applicant/Employee Testing**

Have all applicants sign the **Pre-Employment Substance Testing, Consent and Release Form [DFW02]** before you schedule them for a pre-employment drug test.

If the employee fails to show for testing on time, you should receive a call from the collection site. Failure to show up on time is usually determined to be a “refusal to test” subjecting the employee to discipline or rejection of application under your **Policy**. If there is a refusal, you may wish to consider faxing an **Acknowledgment of Consequences of Refusal to Participate in Drug or Alcohol Testing [DFW03]** to the collection site while the employee is still present.

**CMRO Report**

You should get to know your Certified Medical Review Officer (CMRO) and request that he/she explain their role and answer your questions.

**Post-Accident**

In the event the employee is involved in a work place accident, check that the employee is drug tested in accordance with your Policy and worker’s compensation requirements.

**Reasonable Suspicion**

The trainer that you have selected for Supervisory Reasonable Suspicion training should be able to provide you both Contemporaneous and Long-term Observation checklists.

**Refusal to Submit to Testing**

Use **Acknowledgment of Consequences of Refusal to Participate in Drug or Alcohol Testing [DFW03]** and have two (2) supervisors sign verifying that refusal.

**Removal from Safety-Sensitive Duty on a Verified Positive or Refusal**

Do not wait on the CMRO’s written report but act upon the CMRO’s oral report of verified positive drug test, adulterated or substituted drug test.

**\*\*\*Entity Name\*\*\***

**Active Employee Certificate of Receipt [DFW01]**

I do hereby certify that I have received and read the New Jersey Drug-Free Workplace Policy, which explains the \*\*\*Entity type\*\*\*’s adherence to New Jersey Laws. I have had the terms and conditions of the \*\*\*Entity type\*\*\*'s Drug and Alcohol Testing policy explained to me relative to screening or tests by the \*\*\*Entity type\*\*\*, for the purpose of determining the presence of, and content of, any or all of the following substances under circumstances as set forth in the \*\*\*Entity type\*\*\*'s Policy:

1. Amphetamines 4. Phencyclidine (PCP)
2. Cannabinoids 5. Cocaine
3. Opioids

Testing may also include a metabolite of any of the above substances and mind altering synthetic narcotics or designer drugs. The term “illegal use of drugs” includes any controlled or scheduled drug not used in accordance with a health care provider’s lawful prescription for the user, or any substances banned by Federal or applicable State laws.

I understand that any employee who tests positive, or refuses to be tested, may be subject to appropriate disciplinary action for engaging in willful misconduct connected with work, up to and including immediate termination, and/or forfeit eligibility for Worker’s Compensation benefits *N.J. Stat. Ann. § 34:15-7* if post-accident and may adversely affect an employee’s eligibility to receive Unemployment Compensation benefits*.*

**POSITIVE DRUG OR ALCOHOL TEST, OR REFUSAL CONSEQUENCES:**

1. **Classified as a positive test or refusal to test**
2. **Discharge from employment**
3. **Possible disqualification from Workers' Compensation Benefits**
4. **Possible disqualification from Unemployment Compensation Benefits**

I also understand that it is not the purpose of this test to identify any disability I may have and that all activities will be conducted in accordance with ADA regulations.

I also understand that the \*\*\*Entity type\*\*\* and/or its designated representative will collect specimens for testing for the purpose of determining the presence of, and content of, drug and alcohol substances, as well as to obtain results from any alcohol or drug test administered post-accident by law enforcement and release of the results of said tests to the \*\*\*Entity type\*\*\*, its DERs, to the \*\*\*Entity type\*\*\*'s Medical Review Officer, and as set forth in the Policy.

Employee Printed Name:

Employee Signature: Date:

Witness Printed Name: Witness Signature:

**(This form is to be signed by employee and retained in personnel file.)**

**\*\*\*Entity Name\*\*\***

**Pre-Employment Substance Testing
Consent and Release Form [DFW02]**

I do hereby certify that I have been given notice of the \*\*\*Entity type\*\*\*'s pre-employment substance abuse testing policy; that I have been provided with access to a copy of the \*\*\*Entity type\*\*\*'s New Jersey Drug-Free Workplace Policy and have been made a conditional offer of employment. I hereby freely and voluntarily consent to submit to tests as shall be determined by the \*\*\*Entity type\*\*\* in the selection process of final applicants for employment, for the purpose of determining the presence of, and content of, any or all of the following substances:

1. Amphetamines 4. Phencyclidine (PCP)
2. Cannabinoids 5. Cocaine
3. Opioids

Testing may also include a metabolite of any of the above substances and mind altering synthetic narcotics or designer drugs. The term “illegal use of drugs” includes any controlled or scheduled drug not used in accordance with a health care provider’s lawful prescription for the user, or any substances banned by Federal or applicable State laws.

I agree that the employer representative, collection site, physician, or clinic may collect these specimens for screening or testing and may screen them or forward them to a testing laboratory for analysis.

I further agree to and hereby authorize the release of the results of said tests to the \*\*\*Entity type\*\*\*, its DERs, and to the \*\*\*Entity type\*\*\*'s Medical Review Officer and its agents as provided in the Policy.

I understand that a negative test is a pre-condition of employment with the \*\*\*Entity type\*\*\* and that refusal to submit to testing, or a positive test result will result in the rejection of my application, or the rescinding of a conditional offer of employment. I also understand that it is not the purpose of this screen or test to identify any disability I may have and that pre-employment screening and testing activities are conducted in compliance with ADA requirements.

I further agree that a reproduced copy of this pre-employment consent and release form shall have the same force and effect as the original and shall continue while my application is being considered and during any post-consideration proceedings. I have carefully read the foregoing and fully understand its contents. I acknowledge that my signing of this consent and release form is a voluntary act on my part and that I have not been coerced into signing this document by anyone.

Applicant: Print name: SS#

Applicant Signature: Date

Witness Printed Name: Witness Signature:

**\*\*\*Entity Name\*\*\***

**ACKNOWLEDGMENT OF CONSEQUENCES OF
REFUSAL TO PARTICIPATE IN DRUG TESTING [DFW03]**

I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, an employee of \*\*\*Entity Name\*\*\*, acknowledge that I am refusing to report for Drug and Alcohol testing in accordance with the requirements of \*\*\*Entity Name\*\*\* New Jersey Drug-Free Workplace Policy. I am aware that I am in violation of the Policy. I am aware that I am subject to certain adverse consequences as a result of my choice.

**REFUSAL CONSEQUENCES:**

1. **Classified as a refusal to test**
2. **Possible Discharge from employment**
3. **Possible Disqualification from Workers' Compensation Benefits**
4. **Possible Disqualification from Unemployment Compensation Benefits**

**I have read this Acknowledgment of Consequences of Refusal to Participate in Drug Testing and understand it.**

|  |  |  |
| --- | --- | --- |
| Employee Signature |  | Date |
| Witness Signature |  | Witness Address (city, state, zip) |
|  |
| **(If employee refuses to sign, please have two witnesses sign below)** |
|  |
| Witness 1 Signature |  | Witness 2 Signature |
| Witness 1 Address (city, state, zip) |  | Witness 2 Address (city, state, zip) |

|  |
| --- |
| **\*\*\*Entity Name\*\*\*****Determination of Safety-Sensitive Positions [DFW04]** |
| To: | \*\*\*DER\*\*\* |
| From: | \*\*\*Safety-Sensitive Evaluator\*\*\* |
| Re: | Determination of Positions Classified as Safety Sensitive |
| I have reviewed the job descriptions and duties for the following positions and have determined that they meet the criteria for a safety-sensitive position as set forth in the Policy, in that:Safety-sensitive employees are those employees who discharge duties fraught with risks of injury to others that even a momentary lapse of concentration can have disastrous consequences. Factors which have been considered in determining whether a position is safety sensitive include handling of potentially dangerous machinery, sharp objects, working at heights, positions requiring a high level of cognitive function, mostly unsupervised responsibility for children, and handling of hazardous substances in an environment where others could be injured. Positions which have been found to be safety-sensitive include firefighters, emergency medical technicians, law enforcement officials who carry firearms, fire and police dispatchers, 911 operators, heavy machinery operators, forklift operators, bus drivers, some (but not all) transportation workers, pipeline operators, gas meter repairmen, jail officers, and those involved in security functions. All Department of Transportation (DOT) regulated employees are determined to be safety-sensitive by those regulations. Unless an employee comes under drug testing regulations of some federal agency, each position, job classification or department, should be individually evaluated to determine whether the employee is safety-sensitive in accordance with the above guidelines.Using the above criteria, the following positions have been classified by the \*\*\*Entity Type\*\*\*as safety-sensitive: *\*\*\*attached list of job classifications\*\*\* or set forth below.* Elected officials who are not otherwise classified as employees are not subject to testing under this Policy. |
| \*\*\*Safety sensitive job classifications\*\*\* |
|  |  |
|  | \*\*\*Safety-Sensitive Evaluator\*\*\* |
|  |  |  |
|  | Date |