

Title:	Alcohol and Drug Policy - Oklahoma	Effective Date:	01/01/2020
Author:	Camille Tanner	Last Review Date:	06/22/2021
Location:	Liberty of Oklahoma	Last Revision Date:	
Functional Area:	Human Resources		

POLICY

Liberty of Oklahoma Corporation (hereinafter referred to as “Liberty”) is committed to achieving a safe work environment free from drug abuse and the influence of alcohol through education, intervention and, if appropriate, disciplinary measures. Liberty prohibits the use, possession, or sale of illicit drugs (which include Controlled Substances, as defined by federal law, and any unlawful drugs) in the workplace or when conducting Liberty business, and requires its employees and prospective employees to be free from illicit drugs and to be free from the influence of alcohol in order to assure the safety of its operations, employees, and communities, in which it operates, and to protect the clients/individuals for whom we provide service.

PROCEDURE

THE ALCOHOL/DRUG TESTING POLICY

(What Employees Need to Know)

1. *What is prohibited?*
 - a. The following activities are prohibited during hours of employment or while on Liberty business, Liberty premises, or any Liberty worksite, including private vehicles parked on Liberty-owned or leased premises or worksites:
 1. The possession, use, consumption, sale, purchase, transfer, distribution and/or transportation of drugs (including marijuana and any substance or drug prohibited by Liberty’s policies or law) and drug equipment and paraphernalia.
 2. The possession, distribution, transportation, consumption, sale, purchase and/or transfer of any alcoholic or brewed beverage (except when authorized in advance in writing).
 3. Being under the influence of alcohol, drugs (including marijuana and any substance or drug prohibited by Liberty’s policies or law), or otherwise intoxicated, regardless of whether consumed or used during, or outside of, work time, including lunch.
 - b. Employees may not bring prescription drugs to the workplace or onto company property unless the drug is lawfully prescribed to the employee. Prescription drugs must be prescribed by a licensed physician for the employee, not be expired and be filled by a licensed pharmacist for the employee. An individual’s proper use of prescription (controlled medications) and over-the-counter drugs as part of prescribed treatment by a licensed physician does not constitute a violation of this Policy. Any employee taking prescribed or over-the-counter medications will be responsible for consulting with the prescribing physician and/or pharmacist to ascertain whether the medication may interfere with the safe performance of his/her job. If the use of a medication could compromise the safety of the employee, fellow employees or the public, it is the employee's responsibility to use appropriate personnel procedures (e.g., notify supervisor, call in sick, use leave, request change of duty) to avoid unsafe workplace practices.

c. Under this Policy, employees and applicants with valid Oklahoma medical marijuana licenses will not be discriminated against or penalized solely based upon their status as a medical marijuana license holder. Nor will the Company take action against a holder of a valid Oklahoma medical marijuana license solely based upon the results of a drug test showing positive for marijuana or its components unless: 1) the applicant or employee is not in possession of a valid medical marijuana license; 2) the licensee possesses, consumes, or is under the influence of marijuana or marijuana product while at the place of employment or during the fulfillment of employment obligations; or 3) the position is one involving safety-sensitive job duties; or 4) as otherwise required by federal law or required to obtain federal funding. Further, employees and applicants who are subject to workplace drug and/or testing requirements under federal law or regulations may be subject to discipline, up to and including termination, or ineligibility for employment, based upon their status as a medical marijuana license holder or a drug test showing positive for marijuana or its components.

2. *Who is subject to testing?*

All employees and applicants who have received a conditional offer of employment are subject to testing pursuant to this Policy.

Special Note Regarding Employees Who Perform Safety Sensitive Job Functions:

Any applicants who apply for positions that involve safety-sensitive job duties are not eligible for hiring in the event they test positive for marijuana components or metabolites. Any employees who hold positions that involve safety-sensitive job duties are subject to discipline up to and including discharge in the event they test positive for marijuana components or metabolites. This includes applicants and employees who have valid Oklahoma marijuana licenses.

3. *Under what circumstances can testing be required?*

- a. **Pre-Employment Testing:** All prospective applicants for employment may be required, following a conditional offer of employment, to sign a Medical Examination Authorization and complete a drug and/or alcohol test pursuant to the procedures in this Policy. A positive test or a refusal to undergo testing may result in a refusal to hire.
- b. **Random Selection Basis:** Liberty may require an individual or all members of a classification or group to be tested at random and may limit random testing to particular employment classifications or groups.
- c. **For-Cause Testing:** Any time Liberty reasonably believes an individual may be under the influence of drugs and/or alcohol, circumstances causing testing may include but are not limited to the following:
 1. drugs or alcohol on or about the individual's person or an individual's vicinity;
 2. a report of drug or alcohol use while at work or while on duty;
 3. evidence that an individual has tampered with a drug and/or alcohol test at any time;
 4. evidence that an employee is involved in the use, possession, sale, solicitation, manufacture, or transfer of drugs while on duty or while on Liberty's premises, or while operating Liberty's vehicles, machinery or equipment.
 5. negative performance patterns;
 6. excessive or unexplained absenteeism or tardiness; or
 7. conduct on the individual's part that suggests impairment or influence of drugs and/or alcohol.
- d. **Post-Accident Testing:** If an employee's conduct could have contributed to an accident while at work which results in an injury to the employee or another person or damage to property, including damage to equipment, the employee may be required to undergo drug and/or alcohol testing. If Liberty conducts a post-accident test, Liberty will require employees whose conduct could have contributed to the accident to undergo a drug and/or alcohol test, whether or not they reported an injury.
- e. **Scheduled Periodic Testing:** Liberty may require an employee to undergo drug or alcohol testing if the test is conducted as a routine part of a routinely scheduled employee fitness-for-duty medical examination or is scheduled routinely for all employees.

- f. **Post-Rehabilitation Testing:** Liberty may require an employee to undergo drug or alcohol testing without prior notice for a period of up to two (2) years commencing with the employee's return to work following participation in a drug and/or alcohol dependency treatment program.
- g. **Transfer/Reassignment:** Liberty may require an employee to undergo drug or alcohol testing if an employee transfers to a new position or job, or if an employee is reassigned to a different position or job.
- h. **Return from Leave:** Liberty may require an employee to undergo drug or alcohol testing if an employee returns to duty from a leave of absence.

4. *What are the testing methods and collection procedures?*

All sample collection and testing for alcohol and drugs pursuant to this Policy shall be conducted in accordance with the following conditions:

- a. Samples shall be collected and tested only by individuals deemed qualified by the State Department of Health and may be collected on Liberty's premises.
- b. The collection of samples shall be performed under reasonable and sanitary conditions.
- c. A sample shall be collected in sufficient quantity for splitting into two (2) separate specimens, to provide for any subsequent independent analysis in the event of challenge of the test results of the main specimen.
- d. Samples shall be collected and tested with due regard to the privacy of the individual being tested. In the instances of urinalysis, no representative of Liberty shall directly observe an applicant or an employee in the process of producing urine sample; provided, however, collection shall be in a manner reasonably calculated to prevent substitutions or interference with the collection or testing of reliable samples.
- e. Sample collection shall be conducted under chain of custody procedures. A written record of the chain of custody of the sample shall be maintained from the time of collection of the sample until the sample is no longer required.
- f. Sample collections, storage and transportation shall be performed so as to reasonably preclude the probability of sample contamination or adulteration.
- g. Sample testing shall conform to scientifically accepted analytical methods and procedures. Testing will include confirmation of any positive test results by gas chromatography, gas chromatography-mass-spectroscopy, or an equivalent scientifically accepted method of equal or greater accuracy as approved by Board rule, at the cutoff levels as determined by the Board rule, before the result of any test may be used as a basis for refusal to hire a job applicant or any action by an employer.
- h. Sample collection will be documented, and documentation procedures will include:
 - 1. Labeling of samples so as reasonable to preclude the probability of erroneous identification of test results; and
 - 2. An opportunity for the applicant or employee to provide notification of any information which the applicant or employee considers relevant to the test, including identification, or currently or recently used prescription, or non-prescription drugs, or other relevant information.
- i. Only samples deemed appropriate by the State Department of Health for drug and alcohol testing shall be collected.
- j. Liberty will use testing services and facilities which have been licensed by the State Department of Health to test for the presence of or abuse of drugs and/or alcohol.

5. *What are the consequences of violating the testing policy?*

- a. An applicant or an employee who refuses to sign a Medical Examination Authorization and submit to an alcohol and/or drug test shall be subject to termination from employment or will not be eligible for employment as the case may be.
- b. Interfering, and/or failing to cooperate, with the testing process will be treated as a refusal to be tested.

- c. Any individual who attempts to alter, tamper, or manipulate any testing samples will be subject to termination from employment, or will not be eligible for employment.
6. *Substances which may be tested:*
- Under this Policy, Liberty may test for drugs (including but not limited to Controlled Substances) and/or alcohol.
7. *What are the consequences of a positive test result?*
- a. Any employee or applicant who tests positive will be subject to discipline, up to and including discharge from employment.
 - 1. However, Liberty may, in its sole discretion, suspend disciplinary action to impose discipline less than termination on the condition that the employee successfully completes a program or rehabilitation or treatment satisfactory to the employer.
 - 2. An employee who refuses the opportunity or who fails to successfully complete rehabilitation or treatment will be subject to termination from employment.
8. *What are the rights of an applicant or employee to obtain all information and records related to that individual's testing?*
- a. Following a "positive" test result, the applicant or employee will be afforded the opportunity to provide an explanation, in confidence, to a representative of Liberty or the company conducting the drug or alcohol test.
 - b. An individual who tests positive for marijuana or its components will be asked if they can demonstrate that they hold an Oklahoma medical marijuana license. If they hold such a license, as confirmed by the Oklahoma Medical Marijuana Authority, no disciplinary action will be taken *solely* based upon the results unless: 1) the applicant or employee is not in possession of a valid medical marijuana license; 2) the licensee possesses, consumes, or is under the influence of marijuana or marijuana product while at the place of employment or during the fulfillment of employment obligations; or 3) the position is one involving safety-sensitive job duties; or 4) as otherwise required by federal law or required to obtain federal funding.
9. *What are the rights of an applicant or employee to obtain all information and records related to that individual's testing?*
- a. Liberty shall maintain all drug and/or alcohol test records as confidential and keep them separate from other personnel records. These records shall be the property of Liberty and, upon written request of the applicant or employee tested, shall be made available for inspection, and copying to the applicant or employee.
 - b. Testing records are admissible as evidence in a case or proceeding before a court of record or administrative agency if either Liberty or the individual tested is named parties in a case or proceeding.
 - c. Testing records may also be provided to Liberty employees, agents or representative who need access to such records in the administration of the *Standards for Workplace Drug and Alcohol Testing Act*.
 - d. Further, testing records shall be release in order to comply with a valid judicial or administrative subpoena.
10. *What are the procedures for appealing a test result or disciplinary action resulting from this Policy?*
- a. Within twenty-four (24) hours of receiving notice of a positive test, any applicant or employee may request a subsequent confirmatory test of a sample. The applicant or employee must pay all costs of the confirmation test.
 - b. If the confirmation test reverses the findings of the challenged "positive" test, Liberty shall reimburse the applicant or employee for the costs of the confirmation test.

c. If a tested individual fails to request a confirmation test, the tested individual will not be eligible for unemployment benefits.

11. *How can an applicant or employee appeal a disciplinary action resulting from this Policy?*

If an applicant or employee feels aggrieved by any testing requirement or procedure, any test results or the penalty assessed, the applicant or employee may request a meeting with designated Liberty officials.

12. *When does the Policy go into effect?*

a. This Policy will become effective January 1, 2020.

Approved By: _____

Revision History

Version	Date	Author	Summary of Changes
#1	01/01/2020	Camille Tanner	Policy Created
#2	10/29/2020	Camille Tanner	Reviewed with the following changes: Renaming of policy to Alcohol and Drug Policy - Oklahoma
#3	06/22/2021	Camille Tanner	Reviewed; no changes