
DRUG AND ALCOHOL POLICY
for Non-DOT-covered employees of
Murphy Warehouse Company

I. POLICY

Murphy Warehouse Company ("Murphy", "the Company") is committed to maintaining a safe, healthful and efficient working environment for all its employees. The Company recognizes that safety problems may be created when employees use controlled substances and/or abuse alcohol. The presence of alcohol and drugs in the workplace, and the influence of those substances on employees during working hours has the potential to pose serious safety and health risks to both the user and to all those who work with him/her. Impairment caused by drugs and alcohol threatens everyone's safety and the success of our operations. It is imperative that all employees report to work fit for duty.

Murphy Warehouse Company need not and will not accept any risk to safety, quality or productivity that may be caused by an employee who uses drugs and/or misuses alcohol. Because even a small amount of such substances may be capable of impairing the user to some degree, it is Murphy Warehouse Company's goal, through this Drug and Alcohol policy, to achieve a workplace that is free of drugs and alcohol.

Employees who may need help or rehabilitation for drug and/or alcohol problems are encouraged to contact a member of Murphy's management team, or local treatment programs for referral to reliable resources and assistance. Murphy would consider such inquiry to be confidential, and without consequence.

Murphy Warehouse Company has established an alcohol and controlled substances program for its DOT-covered drivers. The overall goals of that testing program are to ensure a safe and drug-free transportation environment, to reduce the potential for accidents and casualties related to accidents involving Company-owned /-leased vehicles, and to cooperate with the U.S. Department of Transportation and the transportation industry in efforts to eliminate misuse of alcohol and illegal use of controlled substances.

Murphy Warehouse Company has established this drug and alcohol policy and testing program for all other employees, herein referred to as "non-DOT-covered employees." With these objectives in mind, Murphy has established the following policy and procedures for all other (non-DOT) employees with regard to drugs and alcohol, as well as those circumstances under which testing for drugs and alcohol will be required.

Compliance with this policy is a condition of employment with the Company.

II. SCOPE

This Company-wide Drug and Alcohol Policy, covers all applicants (including rehires) and all current employees, including full-time and permanent part-time employees, who are not subject to the Company's DOT Drug and Alcohol Policy.

This document describes the current policy and practice of Murphy, and may be interpreted, administered, and amended by the Company within its sole discretion. **This policy is not an employment contract nor an offer of a contract.**

III. RULES OF CONDUCT

- A. The use, sale, purchase, manufacture, possession or transfer of alcohol or an illegal drug, or being under the influence of alcohol or of an illegal drug, during work time or at any time while on Company business, on Company premises (including Murphy's parking lots), or while operating the Company's vehicles, machinery or equipment, is prohibited. Work time includes meal breaks and other breaks, whether taken in the plant, in the parking lot, or in a vehicle located on or off Company premises.
- B. The use of any legal drug by an employee during working time or any time while on Company property or in a Company-owned /-leased vehicle is prohibited if such use may detrimentally affect or impair the safety of coworkers, customers or members of the public, or the employee's job performance, or the safe or efficient operation of the Company, or its property.

THIS POLICY IS NOT AN EMPLOYMENT CONTRACT, OR AN OFFER OF A CONTRACT.

- C. Murphy recognizes that prescription and over-the-counter medications may also affect job performance and workplace safety. An employee who is taking medication(s) is required to consult with his/her physician regarding any side effects of the medication(s) that may affect safety or job performance. If, after conferring with his/her physician, an employee has reason to believe that his/her ability to perform his/her job competently and safely may be adversely affected, the employee should consult with the Vice President of Operations or Finance regarding possible accommodations, including taking sick leave and/or a leave of absence, or temporary reassignment of job duties if appropriate.

An employee in a safety-sensitive position who is taking medication that may cause drowsiness or otherwise adversely affect his/her job performance, coordination, judgment or fitness for duty is required to notify the Vice President of Operations or Finance as soon as possible (and before performing safety-sensitive functions.) The Vice President of Operations or Finance will take steps to investigate whether the employee's job assignment should be temporarily changed during the treatment, or whether other accommodations may be appropriate.

Murphy reserves the right to obtain an independent medical opinion regarding the effects of a prescription or over-the-counter drug on an employee's ability to perform safety-sensitive functions or other aspects of his/her job, and to place the employee on unpaid leave pending a decision as to whether the employee may continue to perform his/her regular job duties while taking the medication.

- D. Employees are prohibited from reporting to work or working while under the influence of drugs or alcohol. Poor performance or attendance resulting from off-duty use of drugs and alcohol will not be tolerated. Employees must report for work fit for duty.
- E. Murphy Warehouse Company encourages employees who wish to voluntarily seek assistance for questions or problems related to drugs and alcohol to do so without fear of job loss or other retaliation. Employees who seek assistance *voluntarily*, and who return to work after rehabilitation will not be subject to follow-up testing related to that particular occurrence.
- F. If an employee is concerned about the drug and alcohol use by a coworker at work, or of drug trafficking, or of safety or job performance as it relates to another employee's drug and alcohol use, including managers and supervisors, such concern should be reported to the Vice President of Operations or Finance without fear of recrimination or reprisal by the Company.
- G. Employees who violate the prohibitions of this policy will be subject to summary discipline up to and including discharge.
- H. Employees who refuse to undergo testing when referred for a test in accordance with this policy will be considered to have voluntarily quit.
- I. Cases of suspected trafficking, possession or use of illegal substances or drug paraphernalia on Company premises, including parking lots, may be referred to law enforcement authorities.
- J. Murphy considers a conviction for criminal drug activity to be very serious. The conviction of any employee for the illegal sale or possession of any controlled substances may result in disciplinary action, up to and including termination, to the extent that the Company, in its sole discretion, determines that such conviction or any other off-duty involvement with illegal substances reflects adversely on the Company or is otherwise detrimental to the Company's best interests. An employee who has a workplace-related drug conviction must report that conviction to the Vice President of Operations or Finance within five (5) days of receiving it. An employee who fails to report such a conviction will, upon Murphy's discovery of the conviction, be immediately terminated and is ineligible for rehire.
- K. If a job applicant refuses to be tested, or adulterates or attempts to adulterate a test specimen, or otherwise hinders the collection process, the conditional job offer will be withdrawn.

With these objectives in mind, the Company has established the following policy and procedures with regard to drugs and alcohol, as well as those circumstances under which testing for drugs and alcohol will be required.

IV. DEFINITIONS

1. Alcohol means ethyl alcohol.
2. Alcohol use means the consumption of any beverage, mixture or preparation containing alcohol (including medications containing alcohol).

3. **Approved laboratory** means a laboratory which is certified, licensed, or accredited by National Institute of Drug Abuse (NIDA) (for drug testing), or College of American Pathologists (CAP) or State of New York Department of Health (for drug and/or alcohol testing), as specified in Minnesota Statute 181.953, Subd. 1. Murphy will contract only with a laboratory that is approved under the guidelines of these accrediting agencies.
4. **Collection site** means a place where individuals present themselves for the purpose of providing a specimen of their urine to be analyzed for the presence of drugs or a blood sample to measure the concentration of alcohol.
5. **Company property** includes Company-owned /-leased buildings, property, vehicles, parking lots, as well as Company and customer job sites.
6. **Confirmatory test/retest** means a test used to confirm the presence of a drug or alcohol in a specimen. The confirmatory test is a second, and the confirmatory retest is a third, analytical procedure which is independent of the initial test, and which uses a different technique and chemical principle from that of the initial test to ensure reliability and accuracy. The sample for the drug confirmatory test and retest will be drawn from the same urine sample originally supplied by the employee or job applicant. An alcohol initial and confirmatory test and retest (if requested) will be drawn from an employee's blood sample.
7. **Controlled substance abuse** includes prescribed drugs that are being used for non-prescribed purposes, or in a manner that is inconsistent with a prescription.
8. **Controlled substances** means marijuana (THC), cocaine, opiates, phencyclidine (PCP) and amphetamines (including methamphetamines.)
9. **Employee** means any employee of Murphy Warehouse Company, including full-time and permanent part-time employees.
10. **Illegal drug** means drugs and controlled substances, the possession or use of which is unlawful, pursuant to the laws of any country and Federal, State, and local laws and regulations in the United States. Examples of drugs and controlled substances that are not legally obtainable include street drugs such as cocaine, heroin, marijuana, and phencyclidine and controlled substances such as amphetamine and methamphetamine. Drugs that are legally obtainable but have not been legally obtained, are considered to be illegal drugs. This includes use of prescription medication in an amount that exceeds or is less than the prescribed dosage, medication that is registered in the name of another person, and taking of medications which have expired.
11. **Initial screening test** for drugs means an immunoassay screen to eliminate "negative" urine specimens from further consideration.
12. **Medical Review Officer (MRO)** means a licensed physician designated by Murphy to be responsible for receiving laboratory results generated by Murphy's drug testing program, who has appropriate medical training to interpret and evaluate an individual's drug test result together with his/her medical history and any other relevant biomedical information.
13. **Reasonable suspicion** means a basis for forming a belief based on specific facts and rational inferences drawn from those facts.
14. **Refusal to submit to testing** means conduct that obstructs the proper administration of a test. This includes refusal to sign a Consent to be Tested form, intentional delay in providing a urine or blood specimen, and adulterating or substituting a urine specimen, or attempting to do so.
15. **Safety-sensitive position** means a job, including any supervisory or management position, in which impairment caused by drug or alcohol usage would threaten the health or safety of any person. An applicant for a safety-sensitive position will be informed at the time of application that the position is classified as safety-sensitive. Safety-sensitive positions include DOT-certified drivers, DOT drivers who operate a forklift in the warehouse, Warehouse Forklift Operators, or any other employees who drive a forklift or operate any equipment, Janitors, Facility Maintenance, Equipment Maintenance, any person who may drive a personal vehicle on company business, and any person who drives a personal car on company property.
16. **Screening test** (for alcohol) means an analytical procedure to determine whether an employee may have a prohibited concentration of alcohol in a blood specimen.
17. **Positive test result** means a finding of the presence of drugs, alcohol, or their metabolites in the sample test at levels at or above the following threshold detection levels:

	<u>Initial screening</u>	<u>Confirmatory Test or Retest</u>
Alcohol	0.04	0.04
Amphetamines	1,000 ng/ml	500 ng/ml
Cocaine	300 ng/ml	150 ng/ml
Marijuana	20 ng/ml	15 ng/ml
Opiates	300 ng/ml	300 ng/ml
Phencyclidine (PCP)	25 ng/ml	25 ng/ml

V. RESOURCES AND EDUCATION

A. EMPLOYEES' USE OF AVAILABLE RESOURCES

Murphy encourages those who wish to voluntarily seek assistance for questions or problems related to drugs and alcohol to do so by accessing community resources. In addition, Murphy will periodically distribute resource materials related to problems with drugs and alcohol. The United Way's *First Call for Help (335-5000)* is one Twin Cities resource for identifying assessment and rehabilitation sources for persons with drug and alcohol-related problems. Employees who need additional information regarding help and assistance may bring questions and concerns directly to any member of Murphy's management team.

B. AWARENESS PROGRAM

1. All employees will be given a copy of the Drug and Alcohol Policy.
2. A current copy of the policy is available for review during regular business hours, in the Personnel Department.
3. Murphy will post, in appropriate and conspicuous locations, notices regarding its Drug and Alcohol Policy.
4. All job applicants will be provided with a copy of this policy prior to testing.

VI. EMPLOYEE RIGHTS

- A. An employee or job applicant who is tested for drugs and/or alcohol will be notified in writing of the test results by Murphy. An employee or job applicant may also request and receive from Murphy a copy of the laboratory test results report on his/her drug or alcohol test. Such request must be made in writing, and addressed to the Vice President of Operations or Finance.
- B. An employee or job applicant may request a confirmatory retest of the original sample, at his/her own expense. An employee or job applicant who is notified of a positive test result and who then requests a retest must make that request in writing, addressed to the Vice President of Operations or Finance, no later than five (5) working days after receiving notification of a positive test result.
- C. Murphy, within three (3) working days after receipt of this request, shall notify the original testing laboratory that the employee or job applicant has requested the laboratory to conduct a confirmatory retest, or that the sample must be transferred to another approved laboratory for retesting.
- D. An employee or job applicant may refuse to be tested. If a job applicant refuses to be tested, the job offer will be withdrawn. If an employee refuses to be tested, he/she will be considered to have voluntarily quit.
- E. Non-DOT employees will be required to undergo alcohol and drug testing only under the circumstances described in this policy.
- F. Each employee and job applicant who provides a positive confirmatory test will be given an opportunity to speak voluntarily with a Medical Review Officer (MRO) regarding any over-the-counter or prescription medications that he/she is currently taking or has recently taken, and any other information relevant to the reliability of, or explanation for, a positive test.

VII. TESTING

A. TESTS

Murphy will conduct drug and alcohol tests under the following circumstances:

1. Pre-employment (Post-offer) Testing [drugs only]

Murphy requires that every newly-hired employee be free of illegal drug use. Every offer of employment for an employment position shall be contingent upon the job applicant's providing evidence of a negative drug test. The cost of a pre-employment drug test will be paid by Murphy. If an applicant provides a positive confirmatory test result, or one that has been verified by a confirmatory retest or the applicant does not request a confirmatory retest, the job offer will be withdrawn.

2. Reasonable Suspicion Testing [alcohol and drugs]

A supervisor or member of management may refer an employee for drug and alcohol testing if there is reasonable suspicion that the employee:

- a. is under the influence of drugs or alcohol;
- b. has violated Murphy's work rules, as stated in this policy, prohibiting the use, possession, sale or transfer of drugs or alcohol while the employee is working, is on Company premises, is operating the Company's vehicles, machinery or equipment, or is on Company business;
- c. has sustained or has caused another employee to sustain a personal injury in the course of employment; or
- d. has caused a work-related accident or was helping to operate machinery, equipment, or vehicles involved in a work-related accident.

If an employee seeks medical treatment for his/her workplace injury after working hours and the employee has not already reported the injury to the Company, as required by Company policy, the employee must immediately contact a member of Murphy's management team to arrange for after-hours testing. Serious disciplinary consequences will follow if, in addition to not promptly reporting a workplace accident, an employee seeks medical attention and fails to notify Murphy at or before the time medical attention is sought.

3. Treatment Program Testing [drugs only]

An employee who has been referred for chemical dependency assessment or treatment following a first positive drug testing incident will be subject to treatment program testing as follows:

- a. Murphy may refer the employee for drug testing without prior notice during the assessment or treatment period and for a period of up to two (2) years following the completion of any recommended treatment.
- b. The employee will be referred for drug testing by Murphy upon completion of the assessment and any recommended treatment program and must test negative at that time. This test will be conducted in accordance with the testing procedures in this policy, and will be arranged by the Vice President of Operations or Finance.

When an employee returns to work, the Vice President of Operations or Finance may arrange to meet periodically with the employee during the first two months, to follow up on his/her reintegration into the workplace, and to discuss return to work issues and potential problems.

If an employee tests positive on a follow-up drug test, he/she will be immediately terminated.

B. TESTING PROCEDURES

1. Every reasonable effort shall be made to obtain the most accurate controlled substances tests result. Testing procedures shall include a two-tiered testing program (initial screen and, if positive, a confirmatory test) at an approved laboratory, as defined by Minnesota Statute 181.953, Subd. 1. To further ensure maximum accuracy, Murphy will contract only with collection sites and testing labs that follow strict standards regarding methods of specimen collection and a written chain of custody in order to help ensure that the specimen test result is accurate and attributed to the person who provided the sample.
2. For drug tests, urine samples will be analyzed by an approved testing laboratory, under contract with Murphy.
3. Urine samples will be screened for cocaine, marijuana, amphetamines (and methamphetamines), opiates, and phencyclidine (PCP), and their drug metabolites.
4. For alcohol tests, alcohol screens, alcohol confirmatory tests and alcohol confirmatory retests will be conducted on blood specimens.
5. Adulteration (or attempted adulteration) will be considered a refusal to be tested.

6. Murphy Warehouse Company reserves the right to reject the results of a non-testable specimen. (A non-testable specimen includes, but is not limited to, a dilute specimen, an insufficient specimen, and a specimen that contains interfering substances.)
7. No employee or job applicant will be tested without his/her written consent.
8. The cost of initial and confirmatory tests is borne by Murphy. The cost of an employee- (or applicant-) requested confirmatory retest must be paid by the employee (or applicant).
9. Personnel action will be taken based only on a positive confirmatory test or confirmatory retest. No personnel action shall be taken as a result of a positive initial screening test alone.
10. Employees will receive written notification of their test results, positive or negative. Such notification will be prepared by Murphy. An employee with a positive test result for drugs will be provided with the name and phone number of Murphy's Medical Review Officer (MRO).
11. Within three (3) working days after receiving notice of a positive test result on a confirmatory drug test, an employee or job applicant may submit information to the Medical Review Officer which may explain that positive drug test result.
12. An employee who admits to being under the influence of alcohol, illegal drugs, or misused legal drugs, or whom Murphy concludes has violated this or any other Murphy policy may be terminated or otherwise disciplined without a drug or alcohol test.

C. CONSEQUENCES OF POSITIVE TEST RESULT

Applicants

If an applicant's confirmatory test is positive and a confirmatory retest is also positive or is not requested, the applicant's job offer will be withdrawn.

Employees

If an employee's confirmatory test is positive and a confirmatory retest is also positive or is not requested, the employee will not be subject to any disciplinary action, other than possible placement on leave during the testing process for safety reasons (see Section X[A]) *if* this is the employee's first positive testing incident *and if* the employee participates in and successfully completes an assessment and any counseling or rehabilitation program determined to be appropriate as a result of that assessment. (See Sections VIII and IX). The cost of an assessment and a counseling or rehabilitation program, if recommended, is the employee's responsibility, but may be partially covered under Murphy's or the employee's separate or individual health insurance plan.

MURPHY WAREHOUSE COMPANY ALLOWS AN EMPLOYEE TO HAVE ONE POSITIVE TEST FOR DRUGS. A SECOND POSITIVE TEST FOR DRUGS WILL RESULT IN TERMINATION.

If the employee refuses to participate in the assessment or any recommended counseling or rehabilitation program, he/she will be terminated.

If the employee fails to successfully complete the assessment or any recommended counseling or rehabilitation program, by either withdrawing or testing positive during or after completion of the program, he/she will be terminated.

An employee who has a second positive drug testing incident (or who refuses to be tested for drugs and/or alcohol) after the first positive drug incident will be immediately terminated. Murphy assumes no obligation to offer treatment instead of discipline or job action more than once.

VIII. ASSESSMENT

After a first positive testing incident, Murphy will provide the employee with information as to how to obtain a drug and alcohol assessment. It is the employee's responsibility, within three (3) business days of receiving this information, to set up an appointment for a drug and alcohol assessment through a Company-approved addictions counselor, or a Company-approved assessment center, and to notify the Vice President of Operations or Finance of details of such arrangements (date and time of appointment, and name, address and phone number of the assessor.) If the Vice President of Operations or Finance does not receive such notice from the employee within three (3) business days, the employee will be considered to have voluntarily quit.

The Vice President of Operations or Finance will send a Release of Information form, previously signed by the employee, to the named assessor. Employees are expected to cooperate with the assessment process by signing all necessary authorization forms to permit the appropriate professionals to review relevant workplace information and issues on a confidential basis with Murphy's management.

IX. REHABILITATION

An employee who is referred to a treatment program, either inpatient or outpatient, must sign a Release of Information form allowing the treatment provider to send attendance reports to the Vice President of Operations or Finance. Failure to sign a release when requested will result in disciplinary action up to and including termination.

The employee must provide Murphy with verification of the completion of the treatment as recommended by the assessor, and a negative drug test result.

Failure to successfully complete a recommended treatment program will result in termination of employment.

X. EMPLOYMENT STATUS

A. Prior to or During Testing Process

An employee who has admitted to being under the influence of alcohol and/or drugs may be immediately withdrawn from service by Murphy without drug or alcohol testing, pending further disciplinary action.

In addition, the Company may place an employee on unpaid leave during the testing process if the Company believes it is reasonably necessary to protect the health or safety of the employee, co-workers, or the public. If the result of the confirmatory test or any requested retest is negative, the employee will be compensated in full for the hours he/she was scheduled to work, but which were missed while he/she was on leave awaiting the results of the test, including the additional time required for the retest, if a retest was requested. If a confirmatory test is positive and a retest is also positive or is not requested, the employee will not be compensated for any time during the leave.

An employee who is placed on unpaid leave for safety reasons during the testing process is required to remain available to report for work and must do so within 2 hours of being contacted by the Company. If extenuating circumstances prohibit the employee from being contacted directly by telephone, the employee must notify the Safety Director, and must be able to return the Company's phone call within 2 hours and return to work within 2 hours of returning the call. Failure to return the Company's phone call or report to work within the required time will result in an attendance note being placed in the employee's personnel file and/or other disciplinary action.

B. During Assessment and/or Recommended Treatment

Following a first positive testing incident, an employee will be allowed the necessary time off from work to complete an assessment and any recommended treatment program. An employee may use any available sick or vacation days to provide income during this time. Any remaining absence for these purposes will be treated as unpaid leave.

C. Continued Employment During Treatment

An employee enrolled in an outpatient treatment program may be considered for continued employment for the duration of treatment if his/her primary counselor provides written notice to the Vice President of Operations or Finance.

Any restriction and/or medications pertaining to the employee must be documented in writing by the primary counselor and/or the MRO.

Murphy will make every reasonable effort to accommodate the schedule, work restrictions, and other conditions of an employee's outpatient treatment program, consistent with applicable laws. There is no guarantee that every requested accommodation can be made.

The final determination of such continued employment will likely be a joint decision involving several persons, including but not limited to Murphy's management team, the employee's supervisor, Murphy's MRO, and the employee's primary treatment counselor.

XI. CONFIDENTIALITY

All information acquired in the drug and alcohol testing process, including but not limited to the results of an employee's drug or alcohol test and/or information regarding a treatment program will be kept in secured files, separate from personnel files, and will be held in confidence. Disclosure will be limited to members of Murphy's management who Murphy believes must be aware of this information. Unless otherwise permitted or required by law, this information will not be disclosed by Murphy to any other employer, individual, or organization without the applicant's or employee's written consent.

Any person initiating the unauthorized release of information related to an employee's drug and alcohol use, testing, discipline, or any related matters will be subject to discipline for breach of confidentiality, up to and including termination.

XII. APPLICATION OF THIS POLICY

The unauthorized or inappropriate application of the Drug and Alcohol Policy by any employee, including supervisors and managers, may subject that employee to discipline, up to and including termination.

XII. DRUG TRAFFICKING AND SEARCHES

Murphy Warehouse Company reserves the right to refer any suspected trafficking, possession or use of illegal substances on Murphy's premises to law enforcement personnel.

In order to enforce this policy, Murphy reserves the right to search areas in which its employees work at the Company, employees' personal effects and private vehicles located on Company property, upon reasonable suspicion of an employee's violation of this policy, and to implement other means necessary to deter and detect abuse of this policy.

Lockers used by employees are the property of the Company. The Operations Manager has keys and combinations to all lockers. An employee who uses a locker should have no expectation of privacy for such use.

If, during a search, Murphy locates a substance that could constitute a violation of this policy, the substance may be tested under the terms of the policy or turned over to law enforcement authorities.

This Drug and Alcohol Policy is not an employment contract, or an offer of employment.

Murphy Warehouse Company may change, alter, or eliminate any or all portions of this policy as it deems appropriate, or as mandated or permitted by applicable laws, and may interpret it in response to any particular circumstance. An up-to-date copy of the policy is kept in the Offices of the Vice President of Operations, the Vice President of Finance, and in the Personnel Department. Employees may request to see the policy at any time during normal business hours.

DRUG AND ALCOHOL POLICY TRAINING

I have been trained, read and understand Murphy Warehouse Company's **Drug and Alcohol Policy**, and agree to follow and adhere to all applicable company rules.

Employee Name _____
Print Name

Employee signature: _____

Date: _____

I have instructed the above employee in the safe working practices for:

Trainer's signature

Date