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DOT REASONABLE SUSPICION TESTING FOR MANAGERS AND SUPERVISORS: PART I

**Leader's Guide, Fact Sheet
& Quiz**

Item Number: 5316
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This easy-to-use Leader's Guide is provided to assist in conducting a successful presentation.

PREPARING FOR THE MEETING

Here are a few suggestions for using this program:

- a) Review the contents of the Fact Sheet that immediately follows this page to familiarize yourself with the program topic and the training points discussed in the program. The Fact Sheet also includes a list of Program Objectives that details the information that participants should learn from watching the program.
- b) If required by your organization, make an attendance record to be signed by each participant to document the training to be conducted.
- c) Prepare the area and equipment to be used for the training. Make sure the watching environment is comfortable and free from outside distractions. Also, ensure that participants can see and hear the TV screen or computer monitor without obstructions.
- d) Make copies of the Review Quiz included at the end of this Leader's Guide to be completed by participants at the conclusion of the presentation. Be aware that the page containing the answers to the quiz comes before the quiz itself, which is on the final page.

CONDUCTING THE PRESENTATION

- a) Begin the meeting by welcoming the participants. Introduce yourself and give each person an opportunity to become acquainted if there are new people joining the training session.
- b) Introduce the program by its title and explain to participants what they are expected to learn as stated in the Program Objectives of the Fact Sheet.
- c) Play the program without interruption. Upon completion, lead discussions about your organization's specific policies regarding the subject matter. Make sure to note any unique hazards associated with the program's topic that participants may encounter while performing their job duties at your facility.
- d) Hand out copies of the review quiz to all of the participants and make sure each one completes it before concluding the training session.

5316 DOT REASONABLE SUSPICION TESTING FOR MANAGERS AND SUPERVISORS: PART I FACT SHEET

LENGTH: 23 MINUTES

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PROGRAM SYNOPSIS:

Everyone knows that alcohol, drugs, and driving don't mix. Yet drivers who are "under the influence" are still a major cause of accidents. To help ensure that drivers of commercial vehicles as well as other transportation employees with "safety-sensitive" jobs such as mechanics and warehouse workers stay drug- and alcohol-free, the Federal Transportation Employee Testing Act requires motor carriers to establish rigorous drug and alcohol testing programs.

This program discusses the Department of Transportation's drug and alcohol regulations, the concept of "Reasonable Suspicion," situations that justify Reasonable Suspicion testing, signs that an employee may be using drugs, and the procedures that managers and supervisors should use to administer Reasonable Suspicion testing fairly and effectively.

PROGRAM OBJECTIVES:

After watching the program, the participant should be able to explain the following:

- The DOT/FMCSA drug and alcohol regulations;
- What Reasonable Suspicion testing is;
- What makes suspicion "reasonable" in the workplace;
- The signs of substance abuse, including behavioral and physical signs.

INSTRUCTIONAL CONTENT:

DOT/FMCSA DRUG AND ALCOHOL REGULATIONS

- In the United States, more than 37,000 people die in crashes every year. Nearly a quarter million more suffer serious injuries.
- To help reduce these numbers, it's especially important for professional drivers who transport people and materials on public roads every day to drive safely. So, the government has established special regulations for transportation employers and employees who hold commercial driver's licenses (CDLs).
- These standards, created by the Department of Transportation (DOT) and its sub-agency the Federal Motor Carrier Safety Administration (FMCSA), focus on drug and alcohol use by employees who have safety-sensitive jobs including drivers who operate trucks or buses on public roads.
- The rules say that commercial drivers must not use or possess alcohol or any illicit drug while they are driving or are "on call" for assignment and may eventually be driving.
- They also cannot report for work or remain on duty when they are under the influence of alcohol or any illicit drug or have used alcohol within four hours prior to reporting for work or receiving a notice to report.
- Drivers are also forbidden to report for duty or remain on duty while using a prescription medication that is prohibited by the FMCSA regulations or motor carrier policy unless a physician has determined that the employee can perform their duties safely while taking it. Use of certain over-the-counter medications can be prohibited as well.
- These regulations apply to all CDL drivers who operate commercial motor vehicles that have a Gross Vehicle Weight Rating greater than 26,000 pounds, are transporting more than 16 passengers (including the driver), or are carrying hazardous materials.
- They can also apply to mechanics, dispatchers, warehouse workers or other employees who have safety-sensitive jobs or act as occasional or fill-in drivers.

- To help enforce these regulations, motor carriers are required to set up drug and alcohol testing programs for their employees. If an employee fails a test for any reason, they must be removed from their driving activities immediately.
- The DOT also prescribes a minimum set of requirements that violators must complete in order to return to duty. But it's important to understand that all "return-to-work" decisions will ultimately be made by a driver's employer, based upon their own policies.
- For instance, there is no guarantee that an employee's old job will still be waiting for them, even if they fulfill the DOT's return-to-duty requirements. And since the FMCSA maintains a database of violators that is available to all employers, other motor carriers will know if a driver has a history of drug or alcohol violations.
- So, for the sake of their current jobs as well as future livelihood, drivers of commercial motor vehicles should keep their name out of that database.

AN OVERVIEW OF REASONABLE SUSPICION TESTING

- In spite of all that is done to try to combat it, driving under the influence continues to be one of the major causes of accidents. So federal law requires motor carriers to implement drug and alcohol testing programs for employees with safety-sensitive jobs such as driving a commercial vehicle on public roads.
- While the regulations specify six different situations in which tests may be administered, the one known as Reasonable Suspicion testing is unique.
- It allows managers and supervisors to take action if they think an employee is under the influence of drugs or alcohol, even when they don't have hard evidence to prove it. The government feels that managers and supervisors are most likely to see signs of a problem because they have regular contact with drivers.
- As a result, Reasonable Suspicion testing gives them a way to intervene immediately when they suspect that an employee is under the influence or take action when changes in an employee's appearance or behavior over time indicate that they may be abusing drugs or alcohol.
- Both of these situations will result in requiring the employee to undergo drug or alcohol testing. By referring them for testing, a manager not only helps identify employees who have substance abuse issues, but also prevents them from getting behind the wheel where they could cause accidents, injuries and worse.
- Reasonable Suspicion testing also protects a motor carrier from any legal and financial liability or a lowering of its safety rating by the Federal Motor Carrier Safety Administration (FMCSA).
- But referring an employee for drug or alcohol testing can be an unpleasant duty for a manager. It can also raise privacy issues and even lead to an employee filing a grievance.
- Having to undergo testing can also leave a permanent mark on a driver's career, seriously affecting their life and livelihood. This is why the FMCSA provides guidance on how to implement Reasonable Suspicion testing.
- The agency's regulations specify what types of observations are needed to establish suspicion and how substance abuse can show itself in an employee's appearance and behavior.
- Managers can use this guidance to eliminate any guesswork when applying the concept of Reasonable Suspicion in a real workplace situation.
- There are also a number of best practices that managers should follow when informing an employee that they are referring them for drug or alcohol testing. Following these procedures won't necessarily make the conversation a pleasant experience, but it will help make it go more smoothly and prevent later blowback from a disgruntled employee.

WHAT MAKES SUSPICION "REASONABLE?"

- During the holidays, when a partygoer has had too much to drink, you take their keys away to prevent them from driving. In the transportation industry, when a commercial driver appears to be impaired, the situation is more complicated.
- A motor carrier manager takes a "tipsy" driver's key away by referring them for Reasonable Suspicion drug and alcohol testing, which can have serious consequences. Sending a driver for testing raises privacy issues,

can put a strain on employee relations, and could possibly lead to a grievance or lawsuit being filed by the driver.

- To protect your company from financial or legal liability and to guard yourself against retaliation as well, you have to ensure that your suspicion is unbiased and founded on hard fact.
- Federal Motor Carrier Safety Administration (FMCSA) standards say that any decision to refer an employee for Reasonable Suspicion testing must be based on "specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver."
- Let's unpack this language a little.
- First, you should never base a drug or alcohol test referral on a gut feeling or vague intuition about an employee. Instead, Reasonable Suspicion must be built on observations of how an employee looks, acts, talks or smells.
- For example, if you encounter an employee whose breath smells of beer, you could reasonably suspect that they may be under the influence, especially if they also appear disheveled, walk unsteadily, or slur their speech.
- These are what the FMCSA calls specific observations. Each one of them records a clearly distinguishable fact about the driver.
- There are also two other criteria that Reasonable Suspicion observations must meet. They must be contemporaneous: that is, they represent facts about how someone looks and acts at the present time; and, you have to see them yourself, firsthand, in person.
- For example, you can't refer a driver for testing because another employee told you that they saw the driver snorting something in their cab. And if this report triggers a memory that you saw something similar a week ago that doesn't count either.
- The other criteria a Reasonable Suspicion observation must meet is that it be articulable: something that you can put it into words that describe what you saw, heard, or even smelled about an employee.
- This requirement is important because under FMCSA rules a manager must document their suspicions in writing after sending an employee for testing.
- There's one other thing you should understand about how Reasonable Suspicion regulations apply to you as a manager. When you have a Reasonable Suspicion that an employee has a substance abuse problem or is actually under the influence, federal law requires you to take action and refer the driver for immediate drug and alcohol testing.

GENERAL SIGNS OF SUBSTANCE ABUSE

- The goal of a substance abuser is to continue to indulge their habit and they can be very clever about hiding drug or alcohol use in the workplace. So don't think that they will make it easy for you to identify them.
- It's not likely that you will actually catch a driver taking drugs or drinking alcohol or get a glimpse of drug paraphernalia or even the substances themselves. So, you need to learn how to recognize the signs of substance abuse because that's the type of evidence you're more likely to see in the course of a workday.
- But to do this successfully, you first have to get to know the employees that you supervise. That way you have a feeling for what's normal for them and can establish a baseline for distinguishing tell-tale changes in their appearance or behavior.
- For example, habitual substance abuse will often cause a person to neglect their grooming and personal hygiene. As a result, you might see an employee coming to work unshaven with uncombed hair and even increased body odor.
- Drug or alcohol use can also lead to changes in an employee's personality so a person who was once easygoing can suddenly become irritable, sulky or even paranoid.
- Being late for work more than usual or missing work altogether without a good reason are also red flags. And because substance abusers need money to support their habit, they may begin to ask for cash advances on their paychecks as well.

- In addition to changes such as these, employees who are abusing drugs or alcohol may show physical symptoms, which can vary depending on what substance they are using.
- Alcohol and some drugs slow down the body's reactions, so people under their influence appear drowsy, slur their speech and have difficulty with balance and coordination.
- Other drugs can speed up the user's metabolism so they can display agitation, tremors, and rapid, excessive talking.
- Some drugs can cause an employee to have chronic sniffles or nosebleeds or to cough excessively.
- The eyes of someone who is using can appear glassy, bloodshot, or watery, and their pupils may look unusually large or small, which they may try to hide by wearing sunglasses.
- And while what you see can be very important, don't neglect your sense of smell. Stay alert for the odor of alcohol or the smell of drugs like marijuana on an employee's breath or clothing. If an on-duty driver's breath smells of alcohol, that observation alone is reason enough to refer them immediately for Reasonable Suspicion testing.

BEHAVIORAL SIGNS OF DRUG ABUSE

- There are four categories of behavioral signs and symptoms that are associated with the use of illegal or controlled drugs: changes in psychomotor activity, changes in interactions with others, changes in speech and verbal communication patterns, and changes in personality.
- Psychomotor activity involves how the body moves, often in response to outside stimulus. The effect that a drug can have on an employee's psychomotor activity will depend on what type of substance it is.
- Cocaine or amphetamine users typically feel energized. They are often restless and hyperactive. They can't sit or stand still and will constantly fidget. Their movements can appear jerky or misdirected.
- Sedatives or narcotics on the other hand generally slow down motor functions, so heroin or opiate users will typically move slowly and methodically. They may seem to nod off or even be in a stupor and they can have difficulty maintaining their balance, appear unsteady or even stumble when they walk.
- Hallucinogenic drugs like LSD or PCP can produce bizarre behavior, where an employee's movements will be out of sync with the environment. Their movements can be exaggerated and dramatic as well. They can even look like they are miming, responding to people or things that aren't even there.
- Marijuana users can have the most subtle symptoms of all with harder-to-notice motor function changes. However, in general they will have somewhat slower motor responses than usual, poor hand-eye coordination, and delayed reaction times, and can be a little unsteady on their feet.
- Another thing that you can look for to determine if an employee may be using drugs is changes in how they interact with others. This is not necessarily drug-specific but is more dependent on how an employee responds to the effect of a drug. So many of these changes can occur with whatever drug they are using.
- Just how an employee interacts can vary significantly. Some drugs will make them irritable, hostile, or withdrawn from social interaction entirely. Other substances can result in an employee who is unusually talkative, boisterous, and even silly. Reactions can include suspiciousness or paranoia as well.
- With such a wide range of possible reactions, the key is to be alert to changes in an employee's normal behavior. If they are typically laid back and easy to get along with but become irritable and hostile, something has changed. Seeing these types of shifts, along with changes in an employee's psychomotor activity or appearance, could well justify a Reasonable Suspicion test.
- A third type of indication that an employee may be using illegal or controlled substances is their speech patterns. In general, stimulants tend to speed up speech and users will often speak rapidly, even manic-like. They can be extremely talkative and at times sound breathless.
- Narcotic users on the other hand can have thick, slurred or even incoherent speech, while people using hallucinogens often have nonsensical, dreamlike speech patterns that don't fit the situation that they are in. All of these changes in speech patterns can vary from drug to drug and employee to employee.
- They can also range from being subtle to exaggerated. In the extreme, using psychoactive drugs can result in slurred enunciations and even incoherent speech or being totally unresponsive.

PHYSICAL SIGNS OF DRUG USE

- In addition to changes in behavior, there are often physical signs that an employee may be using illegal or controlled drugs. And as with behavioral issues, these can range from the subtle to the extreme.
- One thing a manager or supervisor needs to be cognizant of is their employees' personal grooming. Generally, a person's attention to their appearance diminishes with drug use. This is often due to the employee's new link to a lifestyle involving the use of drugs.
- This does not mean that just because an employee adopts a new look that they are involved with drugs. Like anything else, these changes may be a normal exploration of the employee's lifestyle.
- However, radical changes in appearance, or seeing an employee who is typically well groomed and neatly dressed become disheveled and sloppy, warrants a manager's increased monitoring and attention. And if it is combined with other signs that the employee may be using drugs, it could call for a Reasonable Suspicion test.
- The eyes can be another good indicator of the use of a controlled substance. Eye movements can be dramatically affected by drugs and in fact are often used by police to make judgements about drug intoxication but can be difficult to read by someone who is not trained.
- The size of a person's pupils is an indicator that is more easily observed by a layperson. Many controlled substances cause changes in the pupils' size, both constricting and enlarging them, depending on the drug.
- Other eye conditions that are associated with the use of drugs include red or bloodshot eyes, excessive tearing or watery eyes, and eyes that appear unfocused or unresponsive to movement or light.
- Body odor can also be an indication that an employee is using a controlled substance. Marijuana is the drug most often noticed as a result of its smell, giving off a distinct odor that is often described as "sweet or acrid."
- Other drugs can cause the smell of a user's sweat to change and become pungent or acidic.
- Other physical signs of potential drug use include profuse sweating, shivering, or shaking, or dramatic changes in skin color, such as a flushed or pallid complexion.
- While many of these signs can be indicators of drug use, it's important to remember that they are not unique to controlled substances. So taken alone they are not necessarily enough to warrant a Reasonable Suspicion test. But if they are observed along with other signs of possible drug use, the combination could well justify a test.

CONCLUSION

- As we've seen, Reasonable Suspicion drug and alcohol testing helps to keep impaired drivers off the road.
- As a manager you can ensure that the process runs smoothly and is conducted fairly, by following federal regulations, company policies and good human resource practices. Let's review.
- Reasonable Suspicion drug and alcohol testing enables motor carrier managers to prevent an employee who may be impaired from getting behind the wheel.
- For suspicion to be reasonable, it must be based on specific observations of facts about how a driver looks, acts, speaks or smells.
- There can be both behavioral and physical signs that someone can be using drugs or alcohol.
- Managers and supervisors need to learn the types of behaviors that can indicate an employee could be under the influence.
- A manager who has Reasonable Suspicion that an employee is using drugs or alcohol is required by law to refer that employee for immediate drug or alcohol testing.
- When informing an employee about a Reasonable Suspicion referral, you should always respect the employee's right to privacy.
- Now that you understand the purpose of Reasonable Suspicion drug and alcohol testing and know how to implement it, you can help ensure that public highways are safer for everyone... every day!

DOT Reasonable Suspicion Testing for Managers and Supervisors: Part I

ANSWERS TO THE REVIEW QUIZ

1. a
2. a
3. b
4. b
5. b
6. a
7. a
8. b
9. b
10. b

DOT Reasonable Suspicion Testing for Managers and Supervisors: Part I
REVIEW QUIZ

Name _____ Date _____

The following questions are provided to determine how well you understand the information presented in this program.

1. The FMCSA maintains a database of motor carrier employees that have a history of drug or alcohol violations.
 - a. True
 - b. False
2. Driving "under the influence" continues to be one of the major causes of accidents involving commercial drivers.
 - a. True
 - b. False
3. You can refer a driver for drug and alcohol testing if another employee "saw them snorting something in their cab."
 - a. True
 - b. False
4. Catching an employee "red handed" is the only way to determine if they may be abusing drugs or alcohol.
 - a. True
 - b. False
5. The effect that a drug can have on an employee's psychomotor activity typically does not depend on what type of substance it is, but rather how the employee reacts to it.
 - a. True
 - b. False
6. Marijuana users can have the most subtle symptoms of all drug users, with hard-to-notice motor function changes.
 - a. True
 - b. False
7. As with behavioral issues, physical signs of drug use can range from the subtle to the extreme.
 - a. True
 - b. False
8. Asking for a cash advance is a sure sign that the employee is a substance abuser.
 - a. True
 - b. False
9. Federal Motor Carrier Safety Administration standards say that a decision to refer an employee for "Reasonable Suspicion" testing can be based on your "gut feelings" or intuition about an employee using drugs or alcohol.
 - a. True
 - b. False
10. An employee's personnel record is not updated to reflect that they had to be tested for drugs or alcohol.
 - a. True
 - b. False