

## **SUBSTANCE ABUSE POLICY**

---

Winger Contracting Company, hereafter referred to as Winger, together with all unions with which it has a contract, have a vital interest in maintaining a safe, healthy and efficient working environment. Being under the influence of a drug or alcohol on the job poses serious safety and health risks to the user and to all those who work with the user. The use, sale, purchase, transfer or possession of an illegal drug at the work place, and the use, possession, or being under the influence of alcohol also imposes unacceptable risks for a safe, healthy and efficient operation.

Winger has an obligation to maintain a safe, healthy, and efficient work place for all of its employees and to protect its property, information, equipment, operations and reputation. Winger also recognizes its obligation to other companies to provide services that are free of the influence of illegal drugs and alcohol and will endeavor through this policy to provide drug and alcohol services.

Winger expresses its intent through this policy to comply with Federal and State rules, regulations and laws that relate to the maintenance of a work place free of illegal drugs and alcohol. Winger has adopted and implemented this policy in coordination with the requirement of its negotiated contracts with unions it employs. In the event this policy conflicts with the requirements of the negotiated contract with a union it employs, the contract shall control. Should any dispute arise with respect to the application or implementation of this policy between workers employed pursuant to the collective bargaining agreement and Winger, or Winger and the union, such dispute shall be submitted through the grievance and arbitration provisions of the agreement.

Winger Companies reserves the right to review the policies and procedures contained in this Substance Abuse Testing Policy, and reserves the right to change, revise or terminate the policy at any time. Nothing in this policy is intended or should be construed as requiring "for cause" termination or otherwise affecting the at-will nature of the employment relationship.

At Winger's expense, each employee is required to take drug and alcohol tests in the following circumstances:

- When a prospective employee is applying for employment with Winger a drug test will be required.
- When an employee is required, subject to drug and alcohol testing pursuant to federal law, regulations, or law enforcement.
- When placing an employee at a customer location that requires recent drug screens before access is allowed.
- Employees will be tested for drugs and/or alcohol if there is a probable cause that the employee is under the influence of a drug or alcohol. Probable cause drug or alcohol testing is defined in this policy, and Iowa Code §730.5(1)(h).
- A random test.
- When Winger is investigating an accident in the workplace which resulted in an injury to a person for which injury, if suffered by an employee, a record or report could be required under Chapter 88 of the Iowa Code, or resulted in damage to property, including to equipment, in an amount reasonably estimated at the time of the accident to exceed one-thousand dollars (\$1,000.00).

### **PURPOSE:**

This policy is implemented pursuant to Iowa's Private Sector Drug-Free Workplace law (Iowa Code §730.5) and the Drug-Free Workplace Act of 1998. This policy outlines the goals and objectives of Winger's drug and alcohol testing program and provides guidance to supervisors and employees concerning their responsibilities for carrying out the program.

## SCOPE:

Substance abuse is recognized as a treatable illness. The desired result and preferred procedure is rehabilitation through a referral to a locally operated employee assistance program agreed to between Winger and respective bargaining units. For information regarding the available treatment programs, please access Winger's substance abuse resource file located in the main office or contact your respective signed union representative.

## DEFINITIONS:

- **Alcohol** means any beverage that contains ethyl alcohol (ethanol), isopropanol, or methanol, including but not limited to beer, wine, and distilled spirits.
- **Drug Testing** means the scientific analysis of urine, breath or saliva for the purpose of detecting a drug or alcohol.
- **Employee** means a person in the service of Winger, and applies to all employees of all departments, all job applicants, bargaining employees, clerical, management, contract employees and part-time employees. (See below for conflict with a particular negotiated union contract.)
- **Employee Assistance Program (EAP)** means a program designed to assist employees with alcohol and/or substance abuse or other problems by means of counseling, treatment, or referral to more specific centers. The emphasis of the program is centered on the recovery of the individual, and to provide services designed to assist in recovery.
- **Good Faith** means reasonable reliance on facts, for that which is held out to be factual, without the intent to be deceived, and without reckless, malicious or negligent disregard for the truth.
- **Illegal Drug** means any drug which is not legally obtainable; any drug which is legally obtainable but has not been legally obtained; any prescribed drug not legally obtained; any prescribed drug not being used for the prescribed purpose; any over-the-counter drug being used at a dosage level other than recommended by the manufacturer for the purpose not in accordance with bona fide medical therapy. Examples of illegal drugs are cannabis substances, such as marijuana and hashish, cocaine, heroin, methamphetamine, phencyclidine (PCP), any so called designer drugs and look-alike drugs, or those substances included in Schedule I, II, III, IV or V under the Federal Controlled Substances Act, 21 U.S.C. §801 et seq.; also, any substances regulated by the Iowa Imitation Controlled Substances Act (which includes, "a substance which is not a controlled substance but which by color, shape, size, markings and other aspects of dosage unit, appearance and packing or other factors, appears to be or resembles a controlled substance") found at Iowa Code Chapter 124A; and any controlled substance or counterfeit substance under the Iowa "Uniform Control Substances Act" found at Iowa Code Chapter 124.
- **Legal Drug** means any prescribed drug or over-the-counter drug that has been legally obtained and is being used for the purpose for which prescribed or manufactured.
- **Limits for drug tests** will be provided in compliance with this policy to screen for detection of the following drugs at the following cutoff concentrations:
  - Amphetamines 300 mg/ml
  - Barbiturates 300 mg/ml
  - Benzodiazepines 300 mg/ml
  - Cocaine 300 mg/ml
  - Methadone 300 mg/ml
  - MDMA/Ecstasy 500 mg/ml
  - Methamphetamine 1000 mg/ml
  - Opiates 2000 mg/ml
  - Oxycodone 100 mg/ml
  - Phencyclidine 25 mg/ml
  - THC (Cannabinoids) 50 mg/ml
- **Medical Review Officer** means a licensed physician, osteopathic physician, chiropractor, nurse

practitioner, or physician assistant authorized to practice in any state of the United States, who is responsible for receiving laboratory results generated by an employer's drug or alcohol testing program, and who has knowledge of substance abuse disorders, and has appropriate medical training to interpret and evaluate an individual's positive test result, together with individual's medical history and any other relevant biomedical information.

- **Minor** means an individual who is under 18 years of age and is not considered by law to be an adult.
- **Parent** means one biological or adoptive parent, a step parent or a legal guardian or custodian of the minor.
- **Pre-Employment screening** means the screening of prospective employees, which will include drug testing and/or alcohol testing as a pre-requisite for the employment offered depending upon the requirements of the applicable bargaining agreement.
- **Probable Cause Drug or Alcohol Testing (reasonable suspicion)** means drug or alcohol testing based upon evidence that an employee is using or has used alcohol or other drugs in violation of Winger's written policy drawn from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience. For purposes of this paragraph, facts and references may be based upon, but not limited to, any of the following:
  - **Observable phenomena** while at work, such as direct observation of alcohol or drug use or abuse, or of the physical symptoms or manifestations of being impaired due to alcohol or other drug use. Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance. A report of alcohol or other drug use provided by a reliable and credible source. Evidence that an individual has tampered with any drug or alcohol tests during the individual's employment with the current employer. Evidence that an employee has caused an accident while at work which resulted in an injury to a person for which injury, if suffered by an employee, a record or report could be required under Chapter 88 of the Iowa Code, or resulted in damage to property, including to equipment, in an amount reasonably estimated at the time of the accident to exceed \$1,000.00.
- **Prospective Employee** means a person who has made an application, whether written or oral, to Winger to become an employee. Prospective employee includes a bargaining unit member who has been referred to Winger through their union's referral procedure.
- **Random Test** means testing which is conducted on a periodic basis, without advance notice of the test, to employ a subject to testing prior to the day of testing, and without individualized suspicion, any employee is subject to unannounced testing who is in a pool(s) consisting of the entire employee population. If there is to be unannounced testing, employees who are in the pool all have an equal chance of selection, regardless of whether the employee has been selected or tested previously. Winger, as required by law will utilize a random selection process conducted by an entity independent from Winger, or pursuant to the process set forth below in "Unannounced Testing of Employees for Drugs and Alcohol."
- **Safety-sensitive position** means a job wherein an accident could cause loss of human life, serious bodily injury, or significant property or environmental damage, including a job with duties that immediate supervision of a person in a job that meets the requirements of this paragraph.
- **Under the Influence** means a condition in which a person is affected by a drug or by alcohol. Determination of being under the influence can be established by a professional opinion with a scientifically valid test, such as urinalysis or breath test.
- **Under the influence of alcohol** means a blood alcohol content of .04% or greater. Under the influence of a chemical or a chemical substance or drug means the urine content determined to exceed the limits established by this policy (see Section (d)).
- **Use** means consuming, possessing, selling, concealing, distributing or arranging to buy or sell, being under the influence and reporting for duty under the influence of alcohol or illegal drugs.
- **Work hours** means all of the time in which an employee is engaged in work duties.
- **Workplace, Company Premises or Company Facilities** means all property of Winger Companies, or place in which Winger Companies is providing services including, but not limited to, the offices, facilities, and surrounding areas on Winger Companies owned or leased property,

parking lots and storage areas. These areas also include Winger Company job sites. The term also includes Winger Companies owned or leased vehicles and equipment, wherever located.

### **COMPANY WORK RULES INVOLVING THE USE OF DRUGS AND ALCOHOL:**

- **Abuse of Legal Drugs:** Abuse of legal drugs will not be tolerated and Winger Companies will deal with such abuse in the same manner as it does the use of illegal drugs.
- **Drug or Alcohol Possession or Use:** Except use or possession described in the Use of Prescription Drugs section, an employee who possesses, uses, consumes, sells, transfers or attempts to sell or transfer any drug, prescription drug or alcoholic beverage while on duty at Winger Companies, whether or not that individual is on Winger Companies premises, is guilty of misconduct and is subject to disciplinary action, even for a first offense and without the necessity of a drug or alcohol test.
- **Impairment During Working Hours:** An employee who appears to be impaired during work hours due to the effects of the use of alcohol and/or the abuse of a legal drug and/or the use of a drug will not be allowed to work and is subject to disciplinary action, even for the first offense and without the necessity of a drug or alcohol test.
- **Use of Over-the-Counter Drugs:** An employee may take an over-the-counter drug during work hours only if the drug is used for its intended purposes, has been prescribed for the employee by a physician or another authorized prescriber and only if the drug is taken according to the directions on the package and the directions as modified by the employee's physician or other authorized prescriber.
- **Use of Prescription Drugs:** An employee may take a prescription drug during work hours only if the drug has been prescribed for the employee by a physician or another authorized prescriber and only if the drug is taken according to the directions of the prescription. Employees are required to immediately notify their supervisor and/or Winger Human Resources/Safety Director of any prescription drug(s) they are taking which a physician or pharmacist have indicated may impair their ability to work.

### **DRUG AND ALCOHOL TESTING OF EMPLOYEES:**

Winger will notify employees of this policy by providing each employee a copy of the written policy and obtaining a written acknowledgement from each employee that the policy has been received and read and announcing the policy in various written communications and making presentations at employee meetings.

An employee's consent to submit to drug or alcohol testing is required as a condition of employment, and the employee's refusal to consent may result in disciplinary action, including discharge, for a first refusal or any subsequent refusal. Additionally, any employee who is tested in a probable cause situation may be suspended pending receipt of written test results and whatever inquiries may be required. If the drug or alcohol test results are negative, the employee will be reimbursed for all back-pay that resulted from the suspension.

Winger will offer to provide transportation or pay reasonable transportation costs to a current employee if drug and/or alcohol sample collection is conducted at a location other than the employee's normal work site. If the employee whose faculties appear to be impaired refuses transportation assistance and indicates an intention to drive from work or to the testing center, the supervisor or designee will document the refusal and will warn the employee that proper authorities will be notified.

Any action taken against an employee or prospective employee shall be based only on the results of the drug or alcohol test. If rehabilitation is required, Winger shall not take adverse employment action against the employee so long as the employee complies with the requirements of rehabilitation and successfully

completes rehabilitation.

**Reasonable Suspicion Testing:** Any active employee may be required to submit to a drug or alcohol test if Winger has evidence that an employee is using or has used drugs or alcohol in violation of Winger's written policy. This evidence must be drawn from specific observations and articulable facts and a reasonable inference is drawn from those facts in light of experience. Examples that might support such a conclusion are:

1. Observations made at work, such as direct observation of alcohol or drug use, physical symptoms, or being impaired as to drug or alcohol use;
2. Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance;
3. A report, by a reliable and credible source, of alcohol or drug use;
4. Evidence that an individual has tampered with any alcohol or drug test during the individual's employment with the Winger;
5. Evidence that an employee has an accident resulting in personal injuries other than minor injuries requiring only first aid treatment and which do not involve medical treatment, loss of consciousness, restriction of work, demotion or transfer to another job, or property damage of \$1,000.00 or more; or
6. Evidence that an employee has manufactured, sold, distributed, possessed, used or transferred drugs while working or while on the employer's premises or while operating an employer's vehicle, machinery or equipment.
7. Final determination for reasonable suspicion testing is made by the President and/or Safety Director. The cause will be noted in the employee's permanent file.

**Unannounced Testing:** Current employees may be subjected to drug and alcohol testing which is conducted on a periodic basis, without advanced notice of the test and without the individualized suspicion delineated above.

Any employee who is in the following pool of employees, is subject to unannounced testing:

- The entire employee population at a particular work site with the exception of employees who are not scheduled to be at work at the time of the testing is to occur because of the status of the employee (i.e. leave of absence, lay off, etc.) or who have been excused from work pursuant to Winger's policy prior to the time the testing is announced to the employee.
- The entire full-time active employee population at a particular work site except for employees not subject to testing pursuant to a collective bargaining agreement, or employees who are not scheduled to be at work at the time the testing is conducted because of the status of the employees.
- All employees at a particular work site who are in a pool of employees in a safety-sensitive position and who are scheduled to be at work at the time testing is conducted, other than employees not subject to testing pursuant to a collective bargaining agreement, or employees who are not scheduled to be at work at the time the testing is to be conducted or have been excused from work pursuant to the employer's work policy prior to the time testing is announced to employees.

**Rehabilitation Testing:** Winger may require a current employee to undergo drug and alcohol testing during or following completion of a drug or alcohol rehabilitation, without any prior notice that the test will be conducted.

**Workplace Accident Testing:** In conjunction with the investigation of any accident in the workplace, where the accident results in an injury to a person, other than a minor injury requiring only first aid treatment, which did not involve medical treatment, loss of consciousness, restriction of work or motion or transfer to another job or which results in damage to property in an amount easily estimated at the time of the accident to exceed more than \$1,000.00, Winger may require employees to submit to drug and/or alcohol testing.

Winger Companies does not require alcohol testing for prospective employees unless the alcohol test is a requirement of a customer. We reserve the right to amend this policy at any time without notice. Should alcohol testing be initiated during employment at Winger Companies pursuant to this policy, testing shall be taken in conformance with Iowa Code Chapter 730. The standard for alcohol concentration shall not be more than .04, expressed in terms of grams of alcohol per two hundred ten liters of breath, or its equivalent.

### **DRUG AND ALCOHOL TESTING OF PROSPECTIVE EMPLOYEES:**

All prospective employees are subject to drug and alcohol testing at Winger's expense. A prospective employee must pass the drug and alcohol test to be considered for employment. In the event that an employee was previously a tested employee of Winger Contracting Co. and said employment terminated not less than ninety (90) days prior, the employee shall not be required to submit for a pre-employment drug test.

All drug and alcohol testing of prospective employees shall provide a rapid result wherever possible. A prospective employee will be provided a written notice of this policy by Winger, and by signature will be required to acknowledge receipt and understanding of the policy. If the initial test result is inconclusive, the prospective employee will be offered one more opportunity to test, at Winger's expense, before the pre-employment process is terminated.

At the time of the collection of the sample, the prospective employee may provide to the medical review officer (MRO) any information that may be relevant to the drug test. Such information may include identification of prescription or non-prescription drugs currently or recently used or any other relevant medical information.

Winger will pay a prospective employee who has been referred for employment by the respective union, and for whom a negative test result has been forwarded to Winger an expense reimbursement or pay in accordance with the applicable union contract.

A confirmed positive test result or a refusal to provide a testing sample will result in Winger Companies refusal to hire the prospective employee. The result does not preclude the prospective employee from later initiating employment with Winger Companies.

### **UNANNOUNCED TESTING OF EMPLOYEES FOR DRUGS AND ALCOHOL:**

At Winger's expense, Winger may conduct unannounced drug or alcohol testing of employees who are selected from any of the following pools of employees:

- The entire population at a particular work site of the employer except for employees who are not scheduled to be at work at the time the testing is conducted because of the status of the

employees, employees who cannot be tested pursuant to a collective bargaining agreement, or employees who have been excused from work pursuant to the employer's work policy prior to the time testing is announced to employees.

- The entire full-time active employee population at a particular work site except for employees who are not scheduled to be at work at the time the testing is to be conducted because of the status of the employee, employees who cannot be tested pursuant to a collective bargaining agreement, or employees who have been excused from work pursuant to the employer's working policy.
- All employees at a particular work site who are in a pool of employees in a safety-sensitive position and who are scheduled to be at work at the time testing is conducted, other than employees who are not scheduled to be at work at the time testing is conducted, employees who cannot be tested pursuant to a collective bargaining agreement, or employees who have been excused from work pursuant to the employer's work policy prior to the time the testing is announced to employees.

### **APPEAL OF A DRUG OR ALCOHOL TEST RESULT:**

A confirmed positive drug or alcohol test result of a current employee shall be provided to the employee by Winger in writing, by certified mail, return receipt requested. An employee or prospective employee whose drug or alcohol test is positive will be offered the opportunity to explain to the Medical Review Officer (MRO) the positive results. The purpose of this meeting will be to determine if there is any reason that a positive finding could have resulted from some cause other than drug or alcohol use. Winger, through inquiry with the MRO, will judge whether or not an offered explanation merits further inquiry.

An employee or prospective employee whose drug or alcohol test is reported positive will be offered an opportunity to obtain an independent test at the employee's expense, of the remaining portion of the urine specimen which yielded the positive results and/or obtain the written test result and submit it to an independent MRO at the employee's expense. The test must be performed at an approved independent MRO. If an employee is a minor, any notice that is required to be given shall be provided to the parents of any minor employee by certified mail, return receipt requested.

An employee or prospective employee may contest the positive test results by informing the Human Resources Director of Winger in person or by certified mail, return receipt requested, within 7 days of the date of mailing by Winger by certified mail, return receipt requested, of the notice that he or she has had a positive test result for a prohibited substance and requesting that such confirmation test be done at a laboratory of his or her choosing. The laboratory that the individual chooses must be a certified laboratory and the testing limits must be at or below those required by this policy. During the period of an appeal and any resulting inquiries, the pre-employment selection process for a prospective employee will be placed on hold, and the employment status of an employee may be suspended and the costs of second testing will be paid by the employee. If the employee appeal is successful, the employee will receive back-pay for all time he or she was suspended and the costs of the second testing.

### **UNION BARGAINING EMPLOYEES:**

Any bargaining unit employee, subject to this policy, continues to have access to the usual protections provided by their prospective collective bargaining agreement. A bargaining unit member may request that a union representative be available or present prior to any action taken by Winger at any stage of the policy in its administration. If an individual is aggrieved by any action taken under this drug/alcohol policy and his or her complaint cannot be resolved, it may, if the individual or union requests, be referred as a grievance under the grievance and arbitration provisions of that union's collective bargaining agreement. In the event the matter is ultimately referred to an arbitrator, the arbitrator shall be bound by the provisions of the drug/alcohol policy.

## **REHABILITATION AND EMPLOYEE ASSISTANCE:**

Rehabilitation assistance in lieu of discharge shall be offered to any current employee, with a confirmed positive alcohol test greater than .04, who requested rehabilitation assistance, provided the request is unrelated to any identification of the employee as a violator of this policy or to any employee, with the exception of prospective employees, who has violated this policy for the first time.

When an employee tests positive for the first time for the presence of alcohol, Winger shall take no disciplinary action against said employee if the employee undergoes a substance abuse evaluation and if an employee successfully completes substance abuse treatment, if treatment is recommended by the evaluation. However, if an employee fails to undergo a substance abuse evaluation required under the results of the alcohol test within one (1) week from the occurrence or fails to complete substance abuse treatment when recommended by an evaluation, the employee may be disciplined, up to and including discharge.

Rehabilitation assistance provided by Winger, with approval of the appropriate Union, will be limited to those medical benefits that are available in the employee's medical benefits plan or those medical benefits obtained through a rehabilitation program that has been pre-approved by Winger and with the approval of the appropriate union.

Winger will provide to any employee, upon request, and at no cost to the employee, information concerning local resources that are available for treatment of drug and alcohol related problems. A Substance Abuse Resource file is located in the main office of Winger, as well as major jobsites, and is accessible by any employee during regular business hours.

## **PROHIBITED ACTIVITIES:**

The use, sale, purchase, transfer, or possession of any illegal drug or alcohol by an employee while on Company premises or while performing Company business is prohibited.

## **DISCIPLINE:**

- Any employee who possesses, distributes, sells, attempts to sell, or transfers illegal drugs on Company premises or while on Company business will be discharged.
- Any employee who is found in possession of or under the influence of alcohol in excess of .04 blood alcohol content or greater violates this policy and is subject to discipline, up to and including discharge.
- Any employee who is found through drug or alcohol testing to have in his or her body an amount of an illegal drug or alcohol above the level, which is in violation of the standards established by this policy will be offered a one-time opportunity to enter and successfully complete a rehabilitation program that has been approved by Winger and the Union. During rehabilitation, the employee will be subject to unannounced drug or alcohol testing. Upon return to work from rehabilitation, the employee will be subject to unannounced drug or alcohol testing for a period of one (1) year. Any test that is confirmed as positive during or following rehabilitation will result in discharge.
- When an employee tests positive for the first time for the presence of alcohol, Winger shall take no disciplinary action against said employee if the employee undergoes a substance abuse evaluation and if an employee successfully completes substance abuse treatment, if treatment is recommended by the evaluation. However, if an employee fails to undergo a substance abuse evaluation required under the results of the alcohol test within one (1) week from the occurrence or fails to complete substance abuse treatment when recommended by an evaluation, the

employee may be disciplined, up to and including discharge.

- Any employee who refuses to submit to a drug or alcohol test when requested to do so will be subject to discipline up to and including discharge.
- Employees receiving unacceptable drug and/or alcohol test results will not be allowed to work on Client/Host sites or facilities and will be removed from the site immediately. If the unacceptable testing result occurs during the pre-employment process the employee will not be hired by Winger Companies. If this is a current employee, a confirmatory second test may be performed at the employee's discretion and at the employee's expense. Refusal to do so will result in immediate termination. In the event the employee receives an unacceptable test result and continues to work for Winger Companies, including participation in the rehabilitation program, the employee will be terminated or removed from Client/Host site.

### **DRUG AWARENESS EDUCATION:**

Selected supervisory personnel of Winger will attend a minimum of two hours of initial training and attend on an annual basis thereafter a minimum of one hour of subsequent training. The training shall include, but is not limited to, information concerning the recognition of evidence of employee alcohol or drug abuse, the documentation and corroboration of employee alcohol or other drug abuse, and the referral of employees who abuse alcohol or other drugs to the employee assistance program or the resource file of employee assistance services providers. Winger shall provide to all applicable union representatives a report including the name of all those receiving such training, the dates of their training, a description of the training received and persons and/or organizations that provided the training and the report shall be updated at least once per year.

Winger shall inform employees of a Substance Abuse Resource file located in the main office shop break room and permanent jobsite trailers containing the following:

- Dangers of drug and alcohol use in the workplace.
- Local employee assistance programs, and other drug abuse programs certified by the Iowa Department of Public Health, mental health providers, and other persons, entities, or organizations available to assist employees with personal or behavioral problems.
- The provisions of this policy.

### **INSPECTIONS AND SEARCHES:**

When probable cause, as defined by this policy, exists to believe an employee has illegal drugs in his or her possession while at work, Winger may conduct unannounced searches for illegal and unauthorized drugs, legal drugs, and alcohol at Winger's premises, at sites in which Winger is providing services and in Winger's vehicles or equipment wherever located. Employees are expected to cooperate.

Such searches shall, however, include only property owned and issued by Winger and shall not include the employee's person, lunch box, purse, personal tool box, personal vehicle or other personal property in the employee's possession. Winger shall notify the appropriate union before conducting a search pursuant to this policy, and the employee shall have the right to have a union representative present when the search occurs. Any employee who fails to cooperate in a search will be subject to disciplinary action, up to and including immediate discharge.

It should be noted that some customer facilities will perform unannounced searches on an employee, lunch box, tool box, personal vehicle parked in their parking lot or other items to deter theft and other illegal activities. An employee's consent to a search is required as a condition of employment, and the employee's refusal to consent may result in disciplinary action, including discharge, even for a first refusal.

Illegal drugs and drug paraphernalia found on Winger's property or on sites where Winger is providing services will be turned over to the appropriate law enforcement agency and full cooperation will be given in any subsequent investigation. An employee who is the subject of a drug related investigation by Winger or by a law enforcement agency may be suspended pending completion of the investigation. If, after investigation, the employee is exonerated, the employee shall be immediately reinstated, and any reference to the investigation and suspension will be expunged from the employee's file.

### **CONFIDENTIALITY:**

All information relating to drug or alcohol testing or the identification of persons as users of drugs and alcohol will be protected by Winger as confidential, unless otherwise required by law or authorized in writing by the persons in question. Winger, with the approval of the appropriate union, shall select at least one and no more than two designated representatives to handle all confidential matters regarding this policy. Only the designated representatives will be informed of the test results. The names of Winger's designated representatives will be communicated to the Employee Assistance Program in writing. Employees may obtain the names of the designated representative from Winger or the applicable union.

An employee or prospective employee who is subject to the drug or alcohol tests conducted under this policy for whom a confirmed positive test result, or inconclusive test result, is reported shall, upon written request, have access to any records relating to the employee's drug or alcohol test, including records of the laboratory where the testing was conducted and any records relating to the results of any relevant certification or review by a MRO. However, a prospective employee shall be entitled to records under this section only if the prospective employee requests the records, in writing, within fifteen calendar days from the date Winger provided the prospective employee written notice of the results of a drug or alcohol test.

Winger may use and disclose information concerning the results of a drug or alcohol test under any of the following circumstances:

- In an arbitration proceeding in accordance with any collective bargaining agreement, or administrative agency proceeding under workers' compensation laws or employment compensation laws or under common statutory laws where action taken by Winger based on the tests is relevant or challenged.
- To any federal agency or any other unit of the federal governments required under law, regulation or order, or in accordance with compliance requirements of a federal government contract.
- To any agency of this state authorized to license individuals if the employee tested is licensed by that agency and the rules of that agency require such disclosure.
- To a union representing the employee.
- To a substance abuse evaluation or treatment facility or professional for the purpose of evaluation or treatment of the employee.

Positive test results or inconclusive test results from a drug or alcohol testing program shall not be used as evidence in any criminal action against the employee or prospective employee.

### **COMPLIANCE WITH APPLICABLE LAW:**

It is the intent of Winger to operate this policy in accordance with existing State and Federal laws. If any provision of this policy, or the application of such provision to any such person or circumstances, be held invalid by a court of competent jurisdiction, the remainder of this policy or the application of such provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

**SOURCE CREDITS:**

U.S. Department of Labor, Occupational Safety and Health Administration (OSHA) [www.osha.gov](http://www.osha.gov)  
SMACNA: Contractors Guide to Alcohol and Substance Abuse  
Mechanical Contractors Association of Iowa, Inc.: Drug and Alcohol Testing Policy and Procedure  
Mechanical Contractors Association of America, [www.mcaa.org](http://www.mcaa.org)

**DOCUMENT CONTROL:**

Initial Program September 15, 2005  
Reviewed November 28, 2005  
Reviewed July 16, 2007  
Revised August 19, 2009  
Revised December 19, 2010  
Reviewed December 28, 2011  
Revised April 1, 2013  
Revised March 16, 2014  
Reviewed April 8, 2015  
Revised October 4, 2016  
Revised October 19, 2016  
Revised September 13, 2017  
Revised April 19, 2018  
Revised May 3, 2018