



Legal Considerations for a Drug-Testing Program

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Neither federal nor Texas law expressly prohibits drug testing of private employees in the workplace, either as part of an employment application or as part of an ongoing drug testing program. There are, however, other factors that you should consider in deciding whether and how best to implement the protocol. (While this article focuses on private companies. Drug testing by public employers, in contrast, involves constitutional considerations and additional federal laws.)

In sum, you can and should test applicants and current employees for drug use in order to ensure a safe, productive workforce and avoid unnecessary costs associated with employee drug use. In developing, implementing and maintaining an effective drug testing policy, you should periodically check developments in state law to stay current in practices and procedures. A clearly worded and consistently administered policy in compliance with state and other applicable laws provides an employer with a way to deal effectively with employee drug use issues that often arise in the workplace.

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