

U.S. DRUG-TESTING RULES DO NOT TRANSLATE OVERSEAS

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Danielle Urban's article "U.S. Drug-Testing Rules Do Not Translate Overseas" was featured on *SHRM Online* on December 8, 2014.

Many U.S.-based employers perform pre-employment, post-accident or random drug testing. With some exceptions, they are generally permitted wide latitude in deciding when to conduct such tests. But the U.S. attitude toward drug testing does not necessarily translate to other countries, where there may be different attitudes toward employee privacy, in particular. U.S.-based employers can run into trouble when attempting to impose those same testing requirements on a foreign division or subsidiary.

In the article, Danielle provides some common-sense protections regarding drug and alcohol testing requirements that employers should consider implementing:

- Know the law in the country in which you plan to operate—do not assume that U.S. policies can be implemented in other jurisdictions.
- Have written policies that set out testing parameters. Set out types of testing that will be conducted (where permitted), and levels of discipline associated with positive tests. Include information regarding prevention, counseling and treatment where appropriate.
- Ensure that employees' privacy is being respected and that all privacy controls are firmly in place.
- Carefully consider drug and alcohol testing policies, and use only where necessary—broadly applied testing may

Related People



Danielle S. Urban, CIPP/E
Partner

[303.218.3650](tel:303.218.3650)

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run afoul of many other countries' privacy laws.

- Ensure that the least-intrusive means of testing are being used.
- Limit testing to those substances that are reasonably believed to have an effect on workplace safety.
- Consider applicable disability discrimination laws prior to implementing policies or taking any disciplinary action. Keep in mind that unlike in the U.S., some countries consider current drug users to be protected under disability discrimination laws.

To read the article, please visit [SHRM Online](#). [subscription required]