
SUPERVISOR
REASONABLE SUSPICION
AWARENESS TRAINING
(DOT Regulated)

TRAINING MODULE SGAT-14-2

Supervisor Training – Reasonable Suspicion

Course Agenda

- Objectives of training
- Regulatory Background
- General Overview of Drug-Free Workplace Policy
- Supervisors: You Play a Key Role
- Supervisors Responsibilities.
- Detecting Symptoms of Substance Abuse
- Early Warning Signs
 - Identifying Performance Symptoms/Signs
 - Identifying Emotional Symptoms/Signs
 - Identifying Behavioral Symptoms/Signs
 - Identifying Physical Symptoms/Signs
- Handling Potential Crisis Situations

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Course Agenda (cont'd)

- Investigating a Potential Drug and/or Alcohol Situation
- Signs of Impairment
- Signs of Abuse/Detection
- Enabling
- Documentation
- Handling Potential Crisis Situations
- Confronting the Abuser
- Barriers to an Effective Job Performance Discussion
- Reasonable Suspicion / Reasonable Cause Testing
- Confidentiality
- Company Legal Responsibility
- Final Thoughts

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Objectives

At the end of this training module, supervisors should be able to:

- Know their role and responsibilities in implementing a company Drug & Alcohol Testing program
 - In-House Drug-Free Workplace program. And
 - DOT regulated Drug and Alcohol Testing Program
- Recognize problems that may relate to alcohol and drugs in the workplace
- Identify the harmful effects of substance abuse in the workplace
- Be able to recognize the signs of an abuse problem
- Intervene in problem situations
- Avoid enabling and common supervisor traps
- Properly document employee job performance
- Execute Reasonable Suspicion/Reasonable Cause Testing
- Protect the confidentiality of the employee

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Regulatory Background

This training module will focus on training for supervisors as per the following regulation:

DOT Regulations §382.307 (FMCSA)

**Controlled substances and alcohol use and testing
as it relates to
Reasonable Suspicion Testing**



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General Overview of Drug-Free Workplace Policy

A Drug-Free Workplace policy accomplishes two primary issues:

- It sends a clear message to employees that use of alcohol and drugs in the workplace is prohibited, and
- Encourages employees who have problems with alcohol and/or drugs to voluntarily seek help



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A policy protects the health and safety of all employees, customers and the public. It safeguards an employer's assets from theft and destruction. Policies maintain product integrity, quality, and the reputation of a company.

A company Drug-Free Workplace Policy should include the following components:

- **Purpose** – The purpose of the policy is to communicate a company's position on drugs and alcohol in the workplace and provide guidance for the implementation of related programs.
- **Scope** – This formally states which employees are covered by the policy and, as a condition of employment, are required to abide by the terms of this policy. Because of state or federal laws and regulations, certain employees may be subject to additional requirements.

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Drug-Free Workplace Policy (cont'd)

- **Definitions** – The definition of the words and terms as set forth in the policy.
- **Alcohol Prohibitions** – A detailed explanation of specific instances for prohibitions of alcohol use, possession spelling out clearly the consequences of any violations.
- **Controlled Substances Prohibitions** - A detailed explanation of specific instances for prohibitions of controlled substance use or possession in the workplace, spelling out clearly the consequences of any violations. Identification of which drugs will be covered in the policy as well as abuse of prescription medications.
- **Reasonable Suspicion Testing** – A statement that all covered employees are subject to testing if reasonable suspicion exists. An explanation as to what is the basis for the suspicions. Explanation of performance, behavioral, physical, direct observable conditions that would be cause to test.

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Drug-Free Workplace Policy (cont'd)

- ***Random Testing*** – Should the employer have random testing, an explanation as to how the program is implemented and how the selection process is performed?
- ***Testing Procedures*** - Details as to the testing procedures to be followed in the event of any suspected abuse and/or violations to the policy concerning drugs and/or alcohol. Which employees are covered by the policy and subject to testing?
- ***Collection of Specimens/Collection Site*** – Details as to which testing method is utilized, and a general overview of what procedures are followed at the collection site.



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Drug-Free Workplace Policy (cont'd)

- ***Reporting of and Test Results*** – Specific guidelines as to what how tests are reported, and what happens after a positive test result. What are the potential actions taken by the employer.
- ***Criminal Activity*** – What constitutes a criminal action by an employee and what will be the consequences
- ***Employee Confidentiality*** – Details as to how all documentation is processed, handled, and maintained to ensure for security and confidentiality
- ***Records and Training*** – Details as to how records are maintained, for how long, and details of the training for supervision as it applies to their Drug-Free Workplace policy.



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DOT Regulated Drug and Alcohol Testing Program

The DOT Agencies and USCG require employers covered under their specific regulations to have policies in place that fully explain their drug and alcohol program. Not only must you have policies, but the employer must also make them available to employees covered under your DOT program. Specific regulation is found in **49 CFR, Subpart §382.601** *Employer obligation to promulgate a policy on the misuse of alcohol and use of controlled substances.*



Is your drug testing program
DOT-Compliant?

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Supervisors: You Play a Key Role

As a supervisor, your company relies on you to be the front line defense concerning your Drug-Free Workplace program whether it be an in-house program and/or a regulated required program. Supervisors form the link between the employee and Human Resources and/or any support resources. You play a key role because:

- You are the person who has primary responsibility for communicating company policy concerning drugs and alcohol.
- You are in the position to monitor your employees' daily performance on a regular basis. It is for this reason, that you are the one who will most likely to notice the kind of behavior that indicates a possible drug and/or alcohol problem.
- Your position also allows you to impress upon employees the seriousness of drug and/or alcohol problems as they relate to the workplace. There are numerous negative impacts to the workplace as a result of alcohol or drug abuse. They include employee safety, work productivity, lost wages, property damage and other non-recoverable losses.

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Supervisor Responsibilities

It is your responsibility, as a supervisor, to:

- Maintain a safe, secure and productive work environment for employees
- Evaluate and discuss job performance with employees
- To help identify substance abuse problems in the workplace and intervene when required
- Act in a manner that insures for equal, consistent, and fair treatment of employees
- Take necessary corrective and disciplinary actions when performance or conduct problems surface
- Be thoroughly prepared before confronting an employee about work problems that may be due to alcohol or drug abuse
- Properly document all activity concerning employee performance and/or work-related issues
- Refer employees to your company Employee Assistance Program (EAP)

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Supervisor Responsibilities

In your supervisory capacity you are responsible for seeing that the work of your staff meets established performance standards. Your supervisory role is clear. When an employee begins to show a consistent pattern of problem behavior, you must take action.

Focusing on job performance, even when you think the problem may be caused by substance abuse, allow you to balance the following:

- ❖ The rights of the individual employee to privacy and fair treatment.
- ❖ The rights of the work group to a safe, secure and productive environment.



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Detecting Symptoms of Substance Abuse

An employee's substance abuse problem may present itself in a variety of ways in the workplace. There are four primary *warning sign* categories which include:

- Performance,
- Emotional,
- Behavioral, or
- Physical



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Early Warning Signs

Identifying Performance Warning Signs/Symptoms

- Frequent usage of sick days or unexplained absences
- Habitual lateness
- Decreased productivity
- Increased productivity
- Increased errors
- Missing deadlines
- Incomplete work
- Poor quality of work
- Increase in on-the-job accidents
- Resistance to authority
- Misuse of company equipment



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Identifying Emotional Warning Signs/Symptoms

- Workplace aggression
- Employee burnout
- Anxiety
- Depression
- Paranoia
- Withdrawn
- Denial
- Over sensitivity
- Low tolerance to frustration

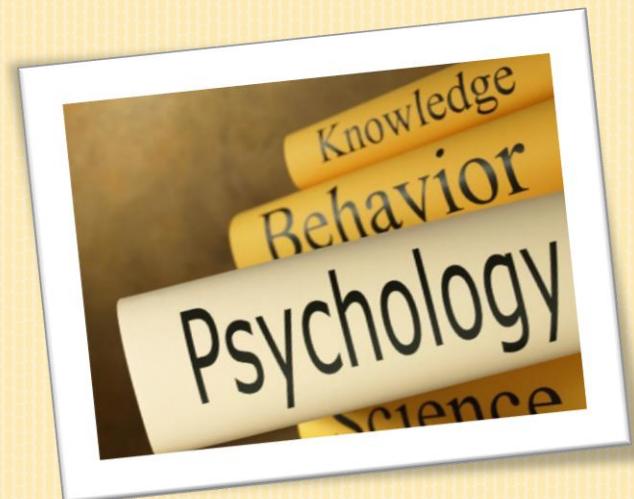
**WARNING SIGNS of a psychologically
UNSAFE workplace**

- Increased conflict among coworkers
- More talk of stress, pressure among staff
- A noticeable increase in misunderstandings and miscommunications
- Signs of disengagement from work and coworkers
- Increased use of abusive language and conduct
- Increased absenteeism
- More grievances covering more issues

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Identifying Behavioral Warning Signs/Symptoms

- Restlessness
- Irritable
- Excessive talkativeness after lunch or breaks
- Declining attention to personal hygiene
- Slurred speech
- Impaired coordination
- Limited attention span
- Poor motivation or lack of energy
- Inability to sit still
- Slow reaction time



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Identifying Physical Warning Signs/Symptoms

- Fatigue
- Excessive weight loss
- Facial changes
- Sweating
- Chills
- Smell of alcohol or drugs (marijuana)
- Bloodshot eyes
- Nose irritation
- Needle tracks



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In addition to the four primary warning sign categories there are additional warning signs to be aware of. These warning signs are of “**direct personal actions**” of the abuser or interaction with co-workers. Some examples of these include:

- Providing misleading information to superiors when question about work project
- Borrowing money from co-workers
- Out of the ordinary displaying of expensive items (jewelry, cars, etc.) not consistent with their salary
- DWI conviction
- Calls to the employer from bill collection agencies
- Excessive outside calls from individuals trying to reach the employee
- Being made aware of the employee selling drugs in the workplace
- Notifications to the employer that the employee will not be coming in to work due to sickness or some family emergency always by someone other than the employee.
- Unexpected increase in disputes with fellow workers for no apparent reasons

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Signs of Impairment

Most substance abusers tend to display *classic problems and symptoms* over time in the workplace. Although the signs listed in the following table may not be necessarily mean that an employee has a substance abuse problem, they could indicate other personal problems that are affecting performance.

When evaluating a situation, you must review the *total picture* -

- Do you see more than one of these signs?
- Have several instances occurred over a period of time?
- Is there a progression to the signs/symptoms displayed by the employee?

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Stage 1	Warning Sign	Employee Actions
Casual or “Experimental” Use	Attendance	<ul style="list-style-type: none">• Arrives late in morning or after lunch• Leaves job early• Takes unexplained absences from the workplace during the day
	General Behavior	<ul style="list-style-type: none">• Fellow workers complain about behavior or performance• Overreacts to real or imagined criticism• Complains of not feeling well
	Job Performance	<ul style="list-style-type: none">• Misses deadlines• Makes mistakes through inattention or poor judgment• Displays decreased efficiency

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Stage 2	Warning Sign	Employee Actions
More frequent Alcohol/drug use	Attendance	<ul style="list-style-type: none">Takes frequent days off for vague ailments or improbable reasons
	General Behavior	<ul style="list-style-type: none">Statements become unclear or undependableAvoids colleagues or co-workersBorrows money from colleagues or co-workersExaggerates work accomplishmentsIs hospitalized more than averageIncurs repeated minor injuries on and off the jobDisplays unreasonable resentment
	Job Performance	<ul style="list-style-type: none">Exhibits general deterioration in work performanceWorks at spasmodic paceShows lack of concentration

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Stage 3	Warning Sign	Employee Actions
Preoccupied With “Getting High”	Attendance	<ul style="list-style-type: none">• Takes frequent time off, sometimes for days• Fails to return from lunch
	General Behavior	<ul style="list-style-type: none">• Exhibits grandiose, aggressive, or belligerent behavior• Domestic problems interfere with work• Displays an apparent loss of ethical values• Encounters financial problems or garnishment of salary• Hospitalization increases• Refuses to discuss problems• Experiences legal problems
	Job Performance	<ul style="list-style-type: none">• Performs far below expected level

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Stage 4	Warning Sign	Employee Actions
Compulsive Use	Attendance	<ul style="list-style-type: none">• Has prolonged, unpredictable absences
	General Behavior	<ul style="list-style-type: none">• Drinks on the job• Becomes totally undependable• Experiences repeated hospitalizations• Physical deterioration is visible• Financial problems worsen• Develops serious family problems and/or divorce
	Job Performance	<ul style="list-style-type: none">• Uneven and generally incompetent

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Signs of Abuse / Detection

A key to detecting substance abuse in the workplace is careful and consistent performance monitoring of the employee. Abusers in the early stages may only show very few signs of impairment. The abuser will try to hide their problem. They tend to be more secretive about alcohol or drug use and in most cases deny to themselves that they have a problem.

Sometimes it may take a workplace accident along with the investigation of the incident to unravel and discover the true root cause of the incident being attributed to substance abuse. Over time, an employee's substance abuse problem will worsen and more warning signs will be manifested as the problem increases.

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Signs of Abuse / Detection (cont'd)

Other reasons why detecting substance abuse become difficult is that workers may be reluctant to speak up about a fellow employee if they recognize or suspect a substance abuse problem. Family or friends may be caught up in the web of secrecy or to make excuses for an abuser's condition.

Actions that someone takes to protect the person with the problem from the consequences of his or her actions amount to enabling. Unfortunately, enabling the abuser actually helps the person to NOT deal with their problem.

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Enabling

Many of us have heard the term used to describe the behavior of a spouse, family member, or friend in situations of substance abuse. It is also possible for managers to become enablers, despite their best intentions. Enabling is not about helping somebody who is in a tight spot. Enabling really refers to allowing a substance abuser to avoid the consequences of his/her behavior.

The end result is that the substance abuser continues their substance abuse, and the enabler, suffers. As enabling continues, the enabler may feel the need to control every situation, often at a great cost to himself.

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Enabling (cont'd)



We often begin enabling in an attempt to be kind and helpful. For example, we may wake someone so they are not late to work. By doing so, we help them avoid the consequences of oversleeping because they were using or drinking late into the night before. We loan addicts money, often over and over again, and we are surprised when they use it to buy more drugs or alcohol. Many times, both the chemically dependent person and the enabler are in denial about the severity of the hidden dependency.

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By always stepping in to solve the abuser's problems, an enabler takes away any motivation for the substance abuser to take responsibility for his or her own actions. Without that motivation, there is little reason for the abuser to change. Enabling help abusers dig themselves deeper into trouble.

Some examples of enabling in the workplace are:

- Sending the employee home sick
- Attempting to help the employee by being a “friend”
- Covering up for poor or declining performance
- Failing to administer appropriate discipline when necessary
- Transferring the employee to another department
- Arguing, demanding, criticizing and other non-constructive behavior
- Reducing the employee's workload or performance standards

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Enabling (cont'd)

The Effects of Enabling

As abusers/alcoholics are rescued from the consequences of their using and drinking, they learn to rely on their enablers to continue their dependency. As enabling behaviors become routine, we end up feeling frustrated, ineffectual, and angry. Often, we continue to enable because we don't want to appear mean or unreasonable. Enabling behaviors directly and indirectly support the vicious cycle of never-ending problems and pain of addiction.

When we stop enabling, when we stop helping and covering up for the addict, we allow the abuser to experience the consequences of their out-of control behavior. We no longer wake them up, loan them money, or bail them out of jail. We stop shielding them from the consequences of their behaviors. Enabling behaviors can be changed, and recovery is possible even if the chemically dependent person does not seek help.

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Enabling (cont'd)

Changing Enabling Behaviors

The intensity of enabling behaviors is determined by a variety of factors. For example, if you were raised in a dysfunctional family, your tendencies to adopt enabling behaviors or renew other codependent behaviors may be more easily triggered by a current crisis or continued stress.

If you are a parent of a chemically dependent child, enabling may come easily because of your ongoing role as a care giver. If the chemically dependent individual is in the earlier stages of the disease and you have identified beginning enabling behaviors, the behaviors may not be firmly established and therefore may not be difficult to change.

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How to Change Enabling Behavior

When we begin to identify and change our behaviors, they don't just disappear all at once. Recovery and changing takes time and practice, practice, practice. With this in mind, we can look at some examples of changing enabling behaviors:

- Stop making excuses to others for situations or problems that are caused by the drinking and using by the abuser or alcoholic. Do not phone the employer to excuse him/her from work. Do not make up stories to others about why the abuser/alcoholic was unable to keep obligations such as showing up for the family reunion or missing your 10-year-old daughter's dance recital.
- Refuse to lie.

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How to Change Enabling Behavior (cont'd)

- If the chemically dependent person makes a mess, such as being physically ill or tearing up the living room, do not clean it up. Allow them to see the damage and result of their actions.
- Do not bail them out of jail.
- Do not pay bills you are not responsible for in areas that do not affect your safety or basic well being. Do not pay for the new TV he/she purchased. Do pay your phone and electric bill.
- Do not continue useless arguments. Go to a movie, take a walk, read a good book, or go to a support group meeting.
- Do not make threats you are not 100% willing to back up with appropriate actions. Example: I'm leaving and you'll never see me or the kids again!

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Documentation

Documentation is an essential ingredient in any drug-free workplace program. It is crucial for the supervisor to document signs of declining performance and to record what interventions have been attempted to address any problems. Routine job performance reviews establish any changes in an employee's work performance should they begin to decline. Supervisors must keep a written record of observations and discussions of employee job performance.



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Documentation

A supervisor should document the work performance of ALL employees – not just those that are suspected of having any problems. Consistent and uniform implementation of the documentation process eliminates any possibilities of “*singling out*” or being discriminating in the manner of handling employees. Initial documentation also establishes a basis for comparison for future job performance evaluations or reviews.



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Documentation (cont'd)

As a supervisor, you should keep a record of late arrivals, absences, sick days, or any other circumstances that could have an impact on work performance. You should also keep a comprehensive log of conversations held with employees involved in incidents of accidents or near misses. Document other out-of-the ordinary incidents, such as fights or employee confrontations that might be drug or alcohol related. Your records should include dates, times and any witnesses to the incident.



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Documentation (cont'd)

By documenting in this manner you can establish potential developing problems concerning employees. Documentation helps to recognize possible patterns that may be attributable to substance abuse.

The documentation of employee performance must be an ongoing and consistent process. When documenting, avoid interpretations, opinions or conclusions about an incident or a behavior. Be objective – documentation must be fair and consistent with close attention to the facts, including good as well as bad performance. When documenting, focus on performance. All documentation must be directed to relevant performance issues and avoid any reference to personal problems.

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Handling Potential Crisis Situations

Sometimes you may face a crisis situation when you have potentially identified an employee who appears to be under the influence of drugs and/or alcohol. These situations should be investigated to establish:

- What exactly did you or someone else see?
- Does there appear to be illegal activity, policy violations or unusual behavior taking place?
- Are reliable witnesses available?
- Is any physical danger involved in taking action or not taking action?
- Is it a group of people involved or a single employee?
- Does the situation require expert consultation from Human Resources, Employee Assistance Program (EAP) personnel, or security?

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Handling Potential Crisis Situations (cont'd)

Sometimes you may face a crisis situation when an employee appears to be under the influence of drugs or alcohol. The employee's emotional state may present itself as a potentially dangerous or unsafe environment to the individual and co-workers. Immediate intervention is required in this case. You should request the assistance of another trained supervisor to help in the evaluation of the employee.

If there is a problem, the employee should be quietly as possible removed from the work area and taken to a location where you can speak in private, apart from other employees. When alcohol or controlled substance use is suspected, it is imperative that you document your observations of the employee by utilizing an ***“Observed Behavior - Reasonable Suspicion Record”*** or ***“Reasonable Suspicion Testing Determination Form.”***

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(NAME OF COMPANY) **SAMPLE**

REASONABLE SUSPICION TESTING DETERMINATION FORM

Note to Supervisor/Company Official: This form is to be used to substantiate and document the objective facts and observations leading to a reasonable suspicion testing determination. After a direct observation of the employee's appearance, behavior, speech, body odors, and/or performance, please check ALL the indicators that raised your suspicion that the employee may have engaged in conduct which violates the Drug and Alcohol policy. Read further instructions on back page.

Employee Name _____ Job Title _____
Supervisor/Co. Official _____ Job Title _____
Date/Time of Determination: _____
Name(s) of Witness (es), if any: _____

A. APPEARANCE OR PHYSICAL INDICATORS

- Flushed or very pale complexion
- Excessive sweating or skin clamminess
- Bloodshot or watery eyes
- Dilated or constricted pupils
- Nystagmus (jerky eye movement)
- Unfocused, blank stare
- Runny/bleeding nose
- Disheveled clothing
- Unkempt grooming
- Possible puncture marks on arms
- Dry mouth, wetting lips frequently

C. SPEECH OR BODY ODORS

- Slurred, thick, slowed
- Incoherent, nonensical, silly
- Loud, boisterous
- Repetitious, rambling
- Cursing, inappropriate language
- Rapid, pressured
- Excessive talkativeness
- Exaggerated enunciation
- Odor of alcohol
- Distinctive pungent aroma

B. BEHAVIORAL INDICATORS

- Stumbling, unsteady gait
- Poor coordination
- Hyperactivity, fidgety, agitated
- Nervous, disorderly
- Irritable, moody, belligerent
- Shaking, tremors, twitches
- Dizziness or fainting
- Nausea or vomiting
- Breathing irregularly or with difficulty
- Extreme fatigue or sleeping on the job
- Depressed, withdrawn

D. PERFORMANCE INDICATORS*

- Delayed or faulty decision-making
- Impulsive, unusual risk-taking
- Inability to concentrate
- Lack of motivation
- Impaired mental functioning
- Decreased alertness
- Significant increase in errors
- Reduced quality/quantity of work
- Inappropriate response to instructions
- Excessive absences or use of sick time
- Lackadaisical, apathetic attitude

Other observations not noted above: _____

Date/Time of Test: _____ Test Refused: _____ No _____ Yes _____

Supervisor/Company Official Signature _____

*These are usually long-term indicators. Must be combined with other indicators under A, B, or C.

Supervisor Training – Reasonable Suspicion

Instructions to Supervisor/Company Official:

1. Conduct the employee interview in a private setting, mindful of the dignity and confidentiality rights of the employee.
2. Give the employee an opportunity to explain the reason(s) for the indicators you have observed from his or her perspective. Expect denial. Note explanation given by the employee (if any) in the space below.

3. Arrange to have the employee accompanied to the collection site for testing without delay.
4. Federal regulations require that reasonable suspicion testing for alcohol be administered within two (2) hours following the determination to refer the employee for testing. If alcohol testing is not conducted within two hours, document the reason for the delay. If the test is not administered within eight (8) hours, cease all attempts to test and document the reason for the inability to test. Please use the space below to document any delays or inability to test.

5. Complete and sign this document and send original to the Company Drug and Alcohol Program Manager (Name).

IMPORTANT: DO NOT TRY TO DIAGNOSE ABUSE OR ADDICTION OR IDENTIFY THE SPECIFIC DRUG ASSOCIATED WITH THE EMPLOYEE'S BEHAVIOR OR APPEARANCE.

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Handling Potential Crisis Situations (cont'd)

Firsthand observation should be made by two members of management. Immediately upon notice of this type of concern, the supervisor or available manager or HR personnel should go to this employee's work area for firsthand observation. They may be able to observe the employee from afar, but usually they will need to talk with the employee directly to observe any smell of alcohol, eye dilation, slurred speech or other behaviors.



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Handling Potential Crisis Situations (cont'd)

Ultimately, it will be the documentation that makes the case against an employee withstands the employee's assertions of unfair actions by the employer. Please keep in mind, that some suspected physical observation signs may be the result of a valid medical condition. It is important to address this issue if and when you confront an employee.



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Handling Potential Crisis Situations (cont'd)

Both observers should clearly document their observations, including any abnormal behaviors. You want to be as specific as possible in your description, but do not attempt to diagnose the situation. For example, an observation may include:

- ✓ Odors (smell of alcohol, body odor or urine).
- ✓ Movements (unsteady, fidgety, dizzy).
- ✓ Eyes (dilated, constricted, watery, involuntary eye movements).
- ✓ Face (flushed, sweating, confused or blank look).
- ✓ Speech (slurred, slow, distracted mid-thought, inability to verbalize thoughts).
- ✓ Emotions (argumentative, agitated, irritable, drowsy).
- ✓ Actions (yawning, twitching).
- ✓ Inactions (sleeping, unconscious, no reaction to questions).

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Confronting the Abuser

- In the event that it becomes necessary to confront an employee concerning an incident, performance issues, suspected underlying problems due to warning signs, you should be prepared. Being prepared ahead of time will give you the ability to utilize a checklist approach when meeting with the employee. Your checklist should be written and include:
 - What is the problem at hand
 - Defined reasons for meeting
 - Anticipating Employee reactions as the employee will likely be defensive, hostile, or upset
 - Think of ways to get past the reactions to ensure that the employee understands the purpose of the meeting
 - What must be done to correct the problem and by when
 - What are the consequences if the employee does not improve
 - Defined expectations for subsequent follow-up meeting

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Confronting the Abuser (cont'd)

When confronting an employee, there are a number of central points to keep in mind:

- Discuss the matter with the Human Resource Department and/or Employee Assistance Program representative to develop your meeting agenda and course of action when meeting with the employee.
- Depending upon the circumstances, it may be necessary to have a witness present
- Be prepared with previous documentation to reinforce the problem or to refresh the memory of the employee should there be any denial of previous problems
- Arrange for a private meeting with no interruptions
- Allow sufficient time for the meeting and set a time limit
- When meeting stay on point for the issue at hand. Do not let the meeting get off track on other matters.

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Confronting the Abuser (cont'd)

During the course of the meeting, the employee should be afforded the opportunity to explain his/her actions and any rebuttals to your questions. Explain your concerns in terms of safety and job performance. In this way you are trying to understand why there is an existing problem as opposed to acting in an accusing manner. Beware of the *emotional traps* (table - next slide) that the abuser may or will try to use to obtain sympathy or counter attack your discussion of their performance.

The employee may also state that he/she is under the influence of drugs and/or alcohol or that they have a substance abuse problem. Subsequently, based upon the employee's responses, and documented observation, the meeting may result in you implementing a "Reasonable Suspicion" drug and/or alcohol test.

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Barriers to an Effective Job Performance Discussion

Employee's Reaction	Manager's Response
Denial	Have documentation of examples ready and keep the conversation focused on performance issues.
Rationalization, excuses	Focus on work performance and the employee's responsibilities. Let the employee know that assistance is available
Anger, crying	Listen and try not to react. Resume the conversation and remain focused on job performance. If the employee continues to react emotionally, reschedule the meeting.
Threats of legal action, quitting	Let the employee know that he/she may choose to take whatever action is necessary but that your responsibility is to address performance issues under the company's policies. Explain that your objective is to uphold those policies while trying to help the employee work within acceptable guidelines.
Threats of violence	Stay calm. Caution the employee that threats and violence are serious issues and will not be tolerated. If you need additional help to resolve the conflict, contact the police, seek out another manager, or consult Your Human Resources as appropriate to the situation.

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Reasonable Suspicion / Reasonable Cause Testing

In the event that you as a supervisor have determined that reasonable suspicion exists to require a DOT safety-sensitive employee to undergo an alcohol and/or controlled substance test you must insure that it is based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the individual.



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Reasonable Suspicion / Reasonable Cause Testing (cont'd)

A safety-sensitive employee must submit to testing when the employer (you as the trained supervisor in this case) has reasonable suspicion to believe the employee has violated any of the prohibitions in **49 CFR Subpart B-Prohibitions (§382.201, 382.205, 382.207, 382.209, or 382.11)**.



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Reasonable Suspicion / Reasonable Cause Testing

If after having taken the required test(s), the employee has tested positive, you must pursuant to the FMCSA regulations (§382.501 & §382.505), remove the employee from any safety-sensitive function position. A complete description of a “safety-sensitive” employee can be found in §382.107-Definitions. You must also refer the employee to a Substance Abuse Professional (SAP) as required by regulations (§382.503 & Subpart O, §40.285).

Please keep in mind, that apart from the previously mentioned federal regulations, you must also follow the guidelines as prescribed by your company “Drug and Alcohol” Testing policy pursuant to §382.601 (Employer obligation to promulgate a policy on the misuse of alcohol and use of controlled substances).

Supervisor Training – Reasonable Suspicion

Confidentiality

Your role as a supervisor in the control of workplace substance abuse raises key issues of confidentiality. As the person directly involved with employee issues, documentation, and performance reviews, you will have access to a lot of sensitive and privileged information. This information must be kept confidential because:

- Confidentiality is important not only for legal and moral reasons, but because the employee who needs help and shares their personal information to do so because they expect the confidentiality to be assured.

Supervisor Training – Reasonable Suspicion

Confidentiality (cont'd)

- There is no reason for other than required company personnel to know what is transpiring between you and the employee concerning performance reviews, work problems, or substance abuse issues.
- State drug testing laws may apply to drug test results either specifically or generally as a matter of personal privacy.



Supervisor Training – Reasonable Suspicion

Company Legal Responsibility

Small business like large companies always run the risk of potential legal liabilities when things go wrong. Case law has held companies that do not take reasonable action to counteract substance abuse are failing their legal obligations of :

- Providing a safe work environment.
- Being legally responsible for the actions of their employees while on the job

Due to the nature of the transportation sector, and the fact of being regulated, it is essential that employers safeguard employee's confidentiality, establish procedures for investigating alleged violations, conduct due diligence for all applicants and to maintain operations consistent with appropriate regulatory agencies for the safety of the public.

Supervisor Training – Reasonable Suspicion

Closing Remarks

It is not your job to diagnose or counsel an employee. In fact, it is unethical for someone in a relationship with power over another to engage in this type of activity or help. Listening is not the same as counseling.

This training module is not designed to make you a health professional or a clinical diagnostician. It has been organized in a manner that will assist you in your supervisory and management skills so you can handle employee workplace substance abuse issues more easily and effectively and to promote a drug-free workplace.

**This concludes the training module
Module SGAT-14-2**

**SUPERVISOR
REASONABLE SUSPICION
AWARENESS TRAINING
(DOT Regulated)**

to continue to the exam