

[« Back to Results](#)

Drug Testing of Employees

Posted on Apr 06, 2015 in [A-F, Labor & Employment](#)

Can we test our employees to see if they are under the influence of drugs or alcohol?

The issue of drug testing employees is a complicated one. The fundamental premise is that a drug test (whether blood or urine) is considered a search under both the United States Constitution and the Pennsylvania Constitution. From that premise, there are certain rules that follow. First, random testing (except in certain circumstances like CDL drivers) of employees is not permitted. However, if the employer has “reasonable suspicion” that an employee is under the influence of either drugs or alcohol, testing of the employee can be mandated. Reasonable suspicion requires the employer to be able to articulate objective evidence to support the belief that the employee is under the influence. It requires more than “I think he/she is” and it requires more than “I smell alcohol.” The protocol we suggest is that either the school nurse or an administrator who has received training in detecting signs of whether an employee is under the influence make that assessment. That person should then document, in writing, what factors he/she found which led to the conclusion that there was reasonable suspicion the employee was under the influence of drugs or alcohol. If the employee is then going to be tested, he/she should be escorted to the testing site and should not be permitted to drive.

These cases seem, in our experience, to be very fact-specific and may require further analysis.

SOUTHEAST REGION OFFICE

331 East Butler Avenue, New Britain, PA 18901
Phone: 215-345-9111 / Fax: 215-348-1147

NORTHEAST REGION OFFICE

2 South Main Street, Suite 303, Pittston, PA 18640
Phone: 570-654-2210 / Fax: 570-655-1875

© 2015 SWEET, STEVENS, KATZ & WILLIAMS LLP
[DISCLAIMER](#)