



Ohio Administrative Code

Rule 4123-17-58 Drug-free safety program (DFSP) and comparable program.

Effective: July 1, 2025

(A) Definitions.

For purposes of this rule:

- (1) "AEO" and "PEO" have the same meaning as defined in rule 4123-17-15 of the Administrative Code.
- (2) "Application deadline" means the applicable deadline set forth in appendix A or in appendix B to rule 4123-17-74 of the Administrative Code.
- (3) "Client employer" has the same meaning as defined in rule 4123-17-15 of the Administrative Code.
- (4) "Comparable program" means a program referred to in section 153.03 of the Revised Code.
- (5) "Drug-free workplace policy" means an employer's written policy and procedures to prevent and reduce the risk of workplace accidents and injuries attributed to the use and abuse of alcohol and other drugs, including prescription, over-the-counter, and illegal drugs.
- (6) "Evaluation date" means June 1 for private employers, and December 1 for public employer taxing districts, prior to the commencement of the program period.
- (7) "Program period" means the policy year for which the employer elects to participate in the substance use and prevention and recovery program.
- (8) "Safety-sensitive position or function" means any job position or work-related function or job task designated as such by the employer, which through the nature of the activity could be dangerous to the physical well-being of or jeopardize the security of the employee, co-workers, customers or



the general public through a lapse in attention or judgment.

(9) "Substance use prevention and recovery (SUPR) program" means the bureau of workers' compensation's bonus and grant program for employers who implement a program under this rule.

(10) "Supervisor" means an employee who supervises others in the performance of their jobs, has the authority and responsibility to initiate reasonable suspicion testing and recommend or perform hiring or firing procedures.

(B) Eligibility requirements.

(1) To receive benefits under this rule, the employer must, as of the evaluation date:

(a) Be current with respect to all payments due the bureau, as defined in paragraph (A)(1)(b) of rule 4123-17-14 of the Administrative Code;

(b) Not have cumulative lapses in workers' compensation coverage in excess of forty days within the preceding twelve months;

(c) Be in an active policy status, which for purposes of this rule, does not include a policy that is a no coverage policy or a policy that is lapsed; and

(d) Report actual payroll for the preceding policy year and pay any premium due upon reconciliation of estimated premium and actual premium for that policy year no later than the evaluation date.

(2) The bureau may permit an employer who applies after the application deadline, but before the end of the program period, to participate in the SUPR program. An employer that applied to participate in the SUPR program after the application deadline is not eligible for the bonus for that program period set forth in the appendix to rule 4123-17-75 of the Administrative Code.

(3) The following employers shall not be eligible for benefits under this rule:

(a) State agencies; and



(b) Self-insuring employers providing compensation and benefits pursuant to section 4123.35 of the Revised Code.

(4) An AEO or a PEO shall not be eligible to receive benefits under this rule unless the AEO or the PEO and each of the client employers of the AEO or the PEO meet all eligibility and program requirements.

(5) An employer determined to be ineligible for participation in the SUPR program based on the bureau's review of the employer's submitted application may appeal such determination to the adjudicating committee pursuant to section 4123.291 of the Revised Code.

(6) An employer that is found to be ineligible for participation in the SUPR program may reapply once the reason for the rejection has been resolved.

(C) Basic SUPR program level.

To implement a basic SUPR program, an employer shall make annual application to the bureau and implement the program elements set forth in paragraphs (C)(1) to (C)(6) of this rule. The requirements and timeframes for completion of each element shall be determined by the bureau.

(1) Safety - Employers participating in the SUPR program shall

(a) Ensure each supervisor completes accident-analysis training; and

(b) Use online accident-analysis reporting on the bureau's website for lost time claims.

(2) Policy - Employers are required to put in place a drug-free workplace policy.

(3) Employee education - The employer's SUPR program shall include annual education for all employees.

(4) Supervisor skill-building training - The employer's SUPR program shall include annual training



for all supervisors in support of enforcing the employer's drug-free workplace policy.

(5) Drug and alcohol testing - The employer's SUPR program shall include alcohol and other drug testing which conforms to the federal testing model promulgated by the United States department of health and human services. The employer shall implement and pay for testing required by SUPR program participation but is not required to pay for re-testing requested by an employee and follow-up testing. Testing shall occur as specified by the bureau including, but not limited to the following:

- (a) Pre-employment and new-hire drug testing;
- (b) Post-accident alcohol and other drug testing;
- (c) Reasonable suspicion alcohol and other drug testing; and
- (d) Return-to-duty and follow-up alcohol and other drug testing.

(6) Employee assistance - The employer's SUPR program shall include an employee assistance plan.

(D) Advanced SUPR program level.

To implement an advanced SUPR program, an employer shall make annual application to the bureau and implement the program elements set forth in paragraphs (D)(1) and (D)(2) of this rule. The requirements and timeframes for completion of each element shall be determined by the bureau.

(1) The employer shall meet all of the requirements of a basic SUPR program as provided in paragraph (C) of this rule.

(2) The employer shall do all of the following:

- (a) Ensure that its drug-free workplace policy clearly reflects how random drug testing will be implemented and how additional employee assistance will be provided;
- (b) Ensure conducting fifteen per cent or higher random drug testing of the employer's workforce



each program period;

(c) Designate at least one substance use professional in advance to be available for, and pay the costs of, a substance assessment of an employee who tests positive, comes forward voluntarily to indicate he or she has a substance problem, or is referred by a supervisor; and

(d) Commit to not terminate the employment of an employee who tests positive for the first time, who comes forward voluntarily to indicate he or she has a substance problem, or who is referred by a supervisor for an assessment.

(E) Comparable program.

(1) Self-insuring employers and state-fund employers not participating in the SUPR program shall submit an application for approval of a comparable program.

(2) Prior to providing labor services or on-site supervision of such labor services under a public improvement project as defined in division (A)(9) of section 153.03 of the Revised Code, employers participating in the comparable program shall:

(a) Develop, implement, and provide to all employees the written substance use policy required by division (B)(2)(a) of section 153.03 of the Revised Code;

(b) Conduct drug testing on employees, including supervisors, as outlined in paragraph (C)(5) of this rule;

(c) Complete all employee education required by division (B)(2)(d) of section 153.03 of the Revised Code; and

(d) Complete all supervisor training required by division (B)(2)(e) of section 153.03 of the Revised Code.

(F) Progress reporting and renewal requirements.



- (1) In order to qualify for renewal in the basic SUPR program, advanced SUPR program, or comparable program, an employer shall have implemented all requirements of its basic SUPR program, advanced SUPR program, or comparable program by the implementation date specified by the bureau.
- (2) The employer shall submit an annual report detailing program implementation and reporting annual statistics on a form provided by the bureau. The requirements and timeframes for completion of the annual report shall be determined by the bureau.
 - (a) If the employer is applying for renewal in the SUPR program, the annual report shall be deemed the employer's annual application, and the employer shall identify which SUPR program level is requested for the following program period;
 - (b) The employer shall provide any follow-up documentation required by the bureau and shall maintain on-site statistics as required by the bureau;
 - (c) The report required by this paragraph and any other information submitted by the employer in meeting SUPR program requirements shall be considered part of the annual statement submitted to the bureau as required by section 4123.26 of the Revised Code. The bureau shall hold such information as confidential pursuant to section 4123.27 of the Revised Code.
- (3) In conjunction with the annual report required under paragraph (F)(2) of this rule, an AEO or a PEO participating in the SUPR program must submit a client employer list.
 - (a) The list shall include all client employers with whom the AEO or the PEO had an agreement as of thirty days prior to the filing deadline for the annual report;
 - (b) The list shall include each client employer's name, address, federal tax identification number, bureau of workers' compensation policy number; and the amount of payroll, listed by classification code, reported by the AEO or the PEO on behalf of each client employer;
 - (c) If the bureau determines the AEO or the PEO has manipulated the client list for purposes of obtaining benefits under this rule, the AEO or the PEO shall not be eligible to receive such benefits;



(d) The bureau shall hold the list required under this section as confidential pursuant to sections 4125.05 and 4133.07 of the Revised Code.

(G) The bureau may remove an employer from participation in the SUPR program for failure to fully implement a SUPR program in compliance with the approved program level requirements. The bureau shall send written notice of removal to the employer. An employer removed from the SUPR program under this section may reapply for the SUPR program for the next program period. The bureau may deny the application based on circumstances of previous participation.

(H) An employer completing SUPR program requirements may be eligible for a bonus equal to the amount identified in the appendix to rule 4123-17-75 of the Administrative Code times the employer's premium costs during the program period. To be eligible for the bonus, an employer must report actual payroll due upon reconciliation of estimated premium and actual premium for the program participation year no later than the date set forth in rule 4123-17-14 of the Administrative Code. An employer will be deemed to have met this requirement if the bureau receives the payroll report and the employer pays premium associated with the payroll report before the expiration established by the administrator pursuant to rule 4123-17-16 of the Administrative Code. Additional program requirements for bonus eligibility shall be determined by the bureau.

(I) Participation in this program under this rule is voluntary. Nothing contained in this rule shall affect, modify, or amend any collective bargaining agreement or alter the rights or obligations of an AEO, a worksite employee, an employer, an employee, a client employer, a PEO, or a shared employee under applicable federal or state law. Provisions of a collective bargaining agreement that prevent implementation of program criteria will preclude employer participation in the SUPR program.

(J) Pursuant to section 4121.37 of the Revised Code, the administrator may establish a grant program for development and legal review of a drug-free workplace policy, employee education, supervisor skill-building training, drug and alcohol testing, and substance use assessment for eligible employers who participate in the grant program.

(1) To be eligible for the SUPR grant program, an employer must:



- (a) Meet the eligibility requirements set forth in paragraph (B) of this rule: and
 - (b) Have a physical office located in Ohio.
- (2) An employer's continued eligibility in the grant program for each subsequent program period shall be automatic provided that the employer continues to meet the eligibility requirements set forth in paragraph (J)(1) of this rule.
- (3) The employer must make application for the grant program to the bureau on forms provided by the bureau.
- (4) The employer must enter into a written agreement with the bureau detailing the rights, obligations, and expectations of the parties for performance during participation in the SUPR grant program.
- (5) The bureau shall evaluate each application to determine the employer's eligibility to receive a grant and shall have the final authority to approve a grant for an eligible employer and the amount of the grant.
- (6) The bureau will only reimburse for drug testing if:
- (a) The employer's drug-free workplace policy meets requirements as specified by the bureau: and
 - (b) The employer submits reimbursement requests for the types of alcohol and drug testing set forth under this rule or section 153.03 of the Revised Code.
- (7) The employer must pay for eligible expenses and apply to the bureau for reimbursement.
- (a) Reimbursement is available on a first come, first served basis while funding and bureau resources are available. The grant program or funding may be suspended at any time.
 - (b) The employer must provide the bureau documentation of itemized expenses and proof of



payment. The bureau has sole discretion in determining whether documentation provided by the employer is sufficient for reimbursement, and the bureau may require additional documentation from the employer as deemed necessary to process the employer's request for reimbursement.

(c) The bureau shall reject any expense filed for reimbursement that is not submitted to the bureau within one year of the date of service.

(8) The bureau reserves the right to audit the employer's use of program funds and to recover any overpaid, misappropriated, or improperly expended funds.