

DRUG AND ALCOHOL POLICY AT FRESCO

Fresco conducts its business with a high regard for the health and safety of its employees, the protection of its assets and the maintenance of a productive work environment. Practices which obstruct or inhibit these objectives are unacceptable. Consequently our policy will be to monitor for and seek to eliminate alcohol and drug abuse among our employees.

POLICY DEFINITIONS

In General:

A term stated in the singular includes the plural. The feminine gender is used to refer to either a female or a male person as appropriate.

Company:

For the purpose of this policy, the term “Company” refers to Fresco Café & Pizzeria, which is the trade name for Maple Restaurant Management, LLC, located at 7625 Maple St. New Orleans, LA 70118.

Alcohol Use:

For the purpose of this policy, the term “alcohol” refers to any liquid which may be legally sold and consumed which has alcohol (the intoxicating drug in fermented or distilled liquors) content in excess of ½ of 1% by volume.

Company Premises:

For the purpose of this policy, the term ‘Company Premises’ includes all of Company’s property, offices, facilities, land, building, structures, fixtures, installations, automobiles, trucks and all other vehicles and equipment, whether owned, leased or used. This policy also includes all customer properties, areas under Company’s control, and any other work locations during working time or outside working time while in the course and scope of Company employment or on Company business.

Under the Influence of Alcohol:

For the purpose of this policy, an employee will be considered to be ‘under the influence of alcohol’ or intoxicated when a breath-analyzer or blood alcohol test indicates the employee’s blood alcohol content (BAC), or level of alcohol in the blood, during working time, is higher than .05%, or an objective evidence (which may include BAC higher than .05%) persuades two or more supervisors that the employee’s ability to perform her work safely and efficiently is impaired by the consumption of alcohol.

Drug:

For the purpose of this policy, the term “drug” refers to any chemical substance or medication that will modify one or more of the normal body functions or mental capabilities (i.e. concentration, co-ordination, reflexes, vision, etc.) when administered to an individual consuming it. Alcohol is considered a drug, even though its use is not prohibited by law under certain conditions in Louisiana. The term encompasses any and all forms of narcotics, depressants, stimulants, or hallucinogens whose sale is restricted or otherwise controlled by law.

Illegal Drug:

For the purpose of this policy, the term ‘illegal drug’ refers to any drug not legally obtainable and also to any drug legally obtainable but which has been obtained illegally. The term includes prescribed drugs not legally obtained and prescribed drugs not being used for prescribed purposes. The term “illegal drug” includes marijuana.

Medication:

For the purpose of this policy, the term ‘medication’ refers to any prescription drug or over-the-counter medicine, which may adversely affect the employee’s safe, productive or efficient performance her job.

Prescription Drug:

For the purpose of this policy, the term ‘prescription drug’ refers to any drug, which has been prescribed to the particular employee by a licensed physician for the purpose for which the drug has been used by the employee.

Drug Related Paraphernalia:

For the purpose of this policy, the term ‘drug related paraphernalia’ refers to any unauthorized material or equipment or item used or designed for use in testing, packaging, storing, injecting, ingesting, inhaling or otherwise introducing a drug into human body.

Safety and or Security Sensitive Position

For the purpose of this policy, the term ‘safety or security sensitive position’ refers to driving, management or security detail jobs.

Drug Screening

For the purpose of this policy, the term ‘drug screening’ refers to testing of urine, blood and/or plasma, pupillary function, saliva or breath or other testing of bodily fluids or function, for the purpose of detecting any drug in the test subject’s system.

Medical Review Officer:

For the purpose of this policy, the term ‘medical review officer’ or ‘MRO’ refers to a licensed physician charged with the responsibility of reviewing and reporting to the employer, the positive test results of current employees. The MRO does not conduct an independent test of a specimen, but rather reviews all information relating to testing of current employees to assure the accuracy of positive results. The MRO also investigates potentially adulterated specimens, but cannot report and adulteration until the test subject is contacted and given an opportunity to explain the apparent adulteration.

RULES OF CONDUCT

Prohibition of Alcohol:

An employee is not permitted to use alcohol on Company premises, including while engaging in Company business off premises (except in moderate amounts on occasions when the consumption of alcohol on Company premises is authorized by the Company. However, consumption of alcohol on Company premises is never authorized for an employee who must report to work within four hours to work in a safety or security sensitive position, who must drive a vehicle to the event, or who’s participating in a drug abuse related rehabilitation or aftercare program). An employee may possess or distribute alcohol on Company premises only when required to do so in the course and scope of her specifically assigned job duties.

An employee is not permitted to report to work or to be on Company premises while under the influence of alcohol. An employee who is assigned to a safety or security sensitive position is not permitted to report to work or to be on Company premises with any detectable amount of alcohol in her system.

Prohibition of Illicit Drug Use:

An employee is not permitted to use, bring onto Company premises, transfer, store, conceal, transport, promote, sell or distribute illegal drugs or drug related paraphernalia on or off Company premises. An employee is not permitted to arrive on Company premises to report to work with any detectable quantity in the employee’s system of any illegal drug.

An employee is not permitted to arrive on Company premises or report to work with any detectable quantity in the employee’s system of any unreported or unauthorized medication. An employee in a safety or security sensitive job is prohibited from working while taking medication except subject to the following conditions:

1. The employee must report the use of medication to her supervisor prior to performing any work less than four hours after taking any medication.
2. The employee must not consume the medication more often than prescribed by the employee’s physician and as indicated on the label of medication.
3. If the medication is a prescription drug, the employee must carry only a reasonable amount of the medication for a normal work shift in a vial labeled with the

employee's name, the prescribing doctor's name, and the date of issuance (not more than one year earlier) and the number of the prescription.

4. The employee shall not allow any other person to consume the medication.
5. The Company may at any time have its Medical Review Officer determine the job related effects of use of a medication, and to place on sick leave or limit the work activity of the employee during the period that the physician advises that the employee's ability to safely and efficiently perform job duties may be adversely affected by the use of such medication.

DRUG AND ALCOHOL TESTING

In order to enforce this policy the Company in its sole discretion may require an appropriate biological specimen in the following circumstances:

1. Pre-employment test of job applicants
2. Fitness for duty testing or randomly selected current employees
3. Any driver employed by the employer shall be tested once for the use of 'controlled substances, as defined by 49 CFR Part 391' during the first medical examination of the driver after the implementation of this program, and thereafter on a random unscheduled basis.
4. Reasonable Suspicion Testing: employees whose drug related activity on or off Company premises, job performance, pattern of tardiness and/or absenteeism, conduct, appearance, dress, demeanor or other factors cause the Company to reasonably suspect the employee of drug or alcohol abuse.
5. Post Accident Testing: any employee whose action or lack of action cannot be completely discounted as a contributing factor to an on-the-job accident.
6. A driver shall provide a urine specimen to be tested for the use of drugs or alcohol as soon as possible after a reportable accident but in no case later than 32 hours after the accident.
7. Return to Work Testing: any employee who has returned to work following an injury (or illness) related absence where the injury was suffered in the course and scope of the tested individual's employment.
8. Follow-Up Testing: pursuing to a rehabilitation agreement or (periodically and on reasonable suspicion) for a period of sixty (60) days following the return of work of an employee after a confirmed positive drug screen or after a drug or alcohol rehabilitation program or any other substance abuse treatment.
9. Fitness for transfer testing of any employee who has applied for transfer into any safety or security sensitive position, including any position requiring the operation of a motor vehicle or any position required to be tested to comply with the Company's obligations under the law or contract.

DISCIPLINE FOR VIOLATIONS OF POLICY

Any employee who tests positive under this policy will be subject to discipline up to and including immediate discharge.

Refusal to submit to a requested drug or alcohol screen shall result in the employee being considered positive for the test requested.

Handling of Testing:

All collections of biological specimens will be coordinated by a person responsible to assure a proper chain of custody and the integrity of the specimen.

Biological specimens will be collected with due regard to the tested individual's privacy. Collection of urine specimen will not be directly observed, except by a same gender collection site person, pursuant to the authorization of the Company under the following circumstances:

1. There is reason to believe the individual may alter or substitute the specimen provided.
2. The individual has provided a urine specimen that falls outside of the acceptable temperature range listed in NIDA guidelines.
3. The last urine specimen provided by the individual was verified by the medical review officer as adulterated based on the determination of the laboratory.
4. Conduct is observed indicating an attempt to substitute or adulterate a sample
5. The individual is being tested pursuant to a follow-up test.

Testing will be performed by a laboratory, which is accredited by the College of American Pathologists or certified by the Department of Health and Human Services (NIDA).

For drug urine analysis, each specimen will be tested to determine the presence of amphetamines, cannabinoids (marijuana, THC, hashish), cocaine, opiates, phenylethylamine (methadone, methaqualone, barbiturates, benzodiazepines, propoxyphenes).

Only the MRO may disclose positive results of testing and only to the authorized representative of the employer. The results of any drug screening will be considered as a confidential medical record to be disseminated strictly on a "need-to-know" basis or as may be legally required.

ACKNOWLEDGMENT:

Nothing in this policy shall be construed as any guarantee or promise to any applicant or any employee, of any continued employment or any employment whatsoever, nor shall any provisions of this policy constitute any contractual rights of employment, expressed or implied with Company or any obligation of employment rights created by the covenants of good faith and fair dealing either expressed or implied. I understand I am not employed for any definite term and my employment and compensation can be terminated at any time with or without a cause for any reason or no reason, with or without notice by me or by Company. I understand that no manager or other representative of Company has any authority to enter into any agreement for employment for any specified period of time or to make any agreement contrary to this provision.

I agree to provide biological specimens for pre-employment and drug screens during the course of employment as determined necessary by management. Refusal to do so will result in termination.

Nothing in this policy may be interpreted as constituting any waiver of or limitation on Company's right to take appropriate disciplinary measures, nor shall it limit each employee's responsibility to protect, guard and take adequate precautions, for her own safety and health in the workplace.

This policy may be amended as necessary to meet the requirements of applicable laws, statutes or regulations. It may also be amended as seemed necessary by Company, or to meet the interests of the objective of this policy as may be determined from time to time by Company. All rights to further amend, refine and redefine are specifically reserved by Company.

EMPLOYEE SIGNATURE

DATE

EMPLOYEE NAME

COMPANY REPRESENTATIVE