

What to do if you suspect drinking at work

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Do you know how to react when you suspect an employee has been drinking at work?

When you smell alcohol on an employee or receive reports that an employee smells of alcohol, you need to act fast to protect everyone's safety. However, it's also essential to handle the situation prudently. Accusing someone of being drunk on the job is serious business that could trigger a lawsuit.

Follow these guidelines, which both HR pros and front-line supervisors must be prepared to apply.

Know your role

You should, of course, be familiar with your organization's policies regarding drugs and alcohol and convey this information to workers, but your job doesn't stop there. As a front-line manager, your most important role is to monitor and manage on-the-job performance.

You may be quite sure that one of your employees has a problem with drinking off the job. You may even feel comfortable giving the worker support and advice on how to tackle the problem. But other people can also fulfill those roles.

Only you, however, can document and manage performance issues that are often the first sign to employees that they have a problem with drug or alcohol use.

If you don't fulfill this role, it's hard for the organization to take action to get employees on the road to recovery while still minimizing risks and meeting workplace goals.

Pay attention for warning signs of intoxication

It may be easy enough to notice if a worker is actually impaired or drinking at work, and you may be familiar enough with your employees' habits to suspect they might come to work intoxicated or even use drugs or alcohol at work.

As serious as this is, it's relatively rare; more common are workers whose off-the-job drug or alcohol use translates into productivity problems. Stay attentive for those signals: [absenteeism](#) or tardiness, sudden drops in output, moodiness or troubled relations with co-workers.

Watch for observable behaviors consistent with cognitive impairment. These include slurred speech, unsteady balance, an unusual number of mistakes or an inability to focus on job duties. The odor of alcohol may be a clue that someone is impaired, but it's not proof.

Never make a medical diagnosis. You're not a doctor. Never directly accuse an employee of being drunk or high. Document what you see and be prepared to intervene before it's too late.

How to intervene when you suspect an employee is drinking at work

As with any performance problem, be prepared with your documentation; arrange to meet with the employee in private; and stay focused on on-the-job issues—even if you suspect there's a specific off-the-job reason, like drug or alcohol abuse, for substandard performance.

Obviously, your first priority is the success of the team. If an employee's not pulling his weight, you need to make that the issue first. If he's posing a safety or security risk, you need to pull him from his tasks.

- **Share your observations with the employee.** Ask if he or she is OK. State the behaviors that have been observed; then ask if there is a reason. The employee should be given a chance to explain.
- **Reiterate the company's substance abuse policy.** Hand the employee a copy. State that you are not assuming or accusing the employee of being intoxicated or drinking at work, but that you need to be sure the employee clearly understands the policy and the consequences of violating it.
- **Make a judgment call.** Assess whether a safety risk exists and the employee needs to be removed from the job. When in doubt, get a second opinion.
- **Send the employee home if necessary.** If you believe he or she is intoxicated at work, arrange for (and pay for) transportation.
- **Document the conversation.** Even if the employee is returned to duty, you must keep a record that the employee received a verbal warning about the substance abuse policy.

For some employees, the workplace may be the safest, most trusting environment in which they find it easier to admit they need help. If your organization has an [employee assistance program](#), make the employee aware that it's available, but participation is completely voluntary.

The road to recovery

If an employee acknowledges that he has a drug or alcohol problem, you can, of course, be openly supportive (while respecting confidentiality) as he seeks and undergoes treatment. But this doesn't change your basic role—managing work performance.

It's crucial that you monitor the worker's performance during treatment, hold him to your established expectation, and be willing to embark on [progressive discipline](#) if he's not performing up to par.

But, keep in mind there are regulations you must adhere to under the Americans with Disabilities Act (ADA).

The ADA's rules on addiction and alcoholism

Alcoholism may be an ADA disability, but nothing in the law requires you to tolerate drunkenness at work. Here's what you need to know -

- **Discrimination:** You can't discriminate against workers or applicants who have been, or are being, treated for alcoholism or drug addiction. However, the Americans with Disabilities Act (ADA) specifically does not cover the use of illegal drugs; you are allowed to test workers for drug use, and discipline or terminate, or refuse to hire those who use illegal drugs.
- **Accommodation:** Accommodation does not mean you can't discipline or fire someone who drinks or uses drugs on the job or comes to work impaired. The ADA does not require you to accept substandard work or conduct. For the most part, accommodation will be to allow time for treatment or otherwise support the goals of treatment—for example, allowing a worker to decline assignments or obligations in places where alcohol is served, including seminars or conferences that hold a cocktail hour.
- **Perception:** Remember that the ADA also protects workers who don't have disabilities but who are

perceived as being disabled. Employers have lost ADA cases for being too quick to label employees as “alcoholics” or “drug users”—even with the best intentions. Another reason why, as a front-line manager, your focus should be squarely on work performance.

Beware presumptions about alcoholism

Alcoholism may be an FMLA-covered serious health condition. If an employee returns to work after taking FMLA leave to rehab from a drinking problem, warn supervisors to check their presumptions about alcoholism.

Doing or saying the wrong thing could violate the FMLA, the ADA or both.

Recent case: Leslie had worked as a nurse for Warren County since 1992, always earning good reviews. She had never been disciplined for any workplace violations. Part of her job involved driving a county-issued car to conduct home health care visits.

In late 2011, Leslie took a short FMLA leave to seek treatment for depression and alcoholism. She took a second leave in mid-2012 for further treatment.

Before returning to work, she was required to provide a medical certification showing she could perform the core functions of her job, which she obtained from her health care provider. Apparently not satisfied with the certification, her supervisor demanded a second exam. She got that, too.

Once she was back at work, she claimed her supervisor began micromanaging her, creating additional paperwork and subjecting her to new reporting requirements. She said another supervisor began making hostile comments about needing to get home and drink “three martinis” or have a “double Stoli.”

Soon, Leslie’s supervisor required her to take an involuntary medical leave, based on tremors and anxiety she was allegedly suffering from. The supervisor sent Leslie a letter telling her that during the involuntary leave, she hoped Leslie would obtain the appropriate care for her medical problems.

Instead, Leslie quit, claiming her supervisor had harassed her based on her disability and forced her out.

The court said she had a case, particularly since Leslie explained she couldn’t risk waiting to be fired and potentially losing her nursing license. (*McNulty v. County of Warren*, ND NY, 2019)