



SAMPLE TOBACCO-FREE WORKPLACE POLICY

FOR ADDITIONAL INFORMATION:

<https://www.lung.org/help-support/corporate-wellness/create-a-lung-healthy-work>

Accessed 11/17/2017. It is important to seek appropriate legal advice for your state/country.

SMOKING POLICY

The Company maintains a smoke- and tobacco-free office. No smoking or other use of tobacco products (including, but not limited to, cigarettes, e-cigarettes, pipes, cigars, snuff, or chewing tobacco) is permitted in any part of the building or in vehicles owned, leased, or rented by the Company. Employees may smoke outside in designated areas during breaks. When smoking or otherwise using tobacco or similar products outside, do not leave cigarette butts or other traces of litter or tobacco use on the ground or anywhere else. No additional breaks beyond those allowed under the Company's break policy may be taken for the purpose of using tobacco or similar products. Dispose of any litter properly in the receptacles provided for that purpose.

Please remember to conform to the smoking or tobacco use policies of our customers when working at a customer's site.

All employees are expected to abide by this policy in all respects while at work, whether on company premises, at a customer's site, or while in transit between work locations or assignments, as well as while the employee is off duty, if the employee is on company premises or in vehicles owned, leased, or rented by the company. Being permitted to use tobacco products during breaks is a privilege, as long as such use does not interfere with the employee's work, fitness for duty, or professional appearance. If that privilege is abused, it may be withdrawn altogether.

A more restrictive form of the above policy could be something like the following:

The Company maintains a smoke- and tobacco-free office. No smoking or other use of tobacco or similar products (including, but not limited to, cigarettes, e-cigarettes, pipes, cigars, snuff, or chewing tobacco) is permitted at any point during a workday, while on company business, while in transit between work locations or assignments, while at client locations, in any part of a company building or within "x" feet of such buildings, or anywhere on or in company parking areas. There are no designated smoking areas inside or on Company premises, nor does the Company allow smoking breaks during the workday, i.e., no additional breaks beyond those allowed under the Company's break policy may be taken for the purpose of using tobacco or similar products. If returning from a meal break during which you have used tobacco or similar products, do not leave cigarette butts or other traces of litter or tobacco use on the ground or anywhere else. Dispose of any litter properly in the receptacles provided for that purpose.

Employees may not have the smell of tobacco smoke about their persons during work hours or while on company business. In general, employees should not use or consume any substance, the effects or traces of which could interfere with the employee's presentation of a clean and professional appearance to clients and the public in general.



Please remember to conform to the smoking or tobacco use policies of our clients when working at a client's site.

All employees are expected to abide by this policy in all respects while at work, whether on company premises, at a customer's site, or while in transit between work locations or assignments, as well as while the employee is off duty, if the employee is on company premises or in vehicles owned, leased, or rented by the company. Being permitted to use tobacco or similar products while off duty is a privilege, as long as such use does not interfere with the employee's work, fitness for duty, or professional appearance. If that privilege is abused, it may be withdrawn altogether.

SMOKING BREAKS

It is important to seek appropriate legal advice for your state/country.

Many companies have employees who smoke, and many companies allow employees to take some sort of break or breaks during the workday. The question often arises whether employees who smoke must be given extra breaks. Some employers even wonder whether smoking is a protected disability that must be accommodated under the Americans with Disabilities Act. The answer to both questions is "no".

Employers in the vast majority of situations do not have to give breaks during the day, so if a company does allow breaks, it can put whatever strings it wants to on those breaks. That includes limits on how long the breaks can be, how many breaks occur during the day, and where the breaks can or cannot be taken. Thus, if an employee is normally allowed two breaks per eight-hour shift, the employer can legally deny any extra breaks for smoking, for example.

Smoking by itself is also not a "disability" under the ADA or its state equivalent. One way that would not be the case is if the employer were to make the mistake of regarding the employee as disabled; the law is such that regarding a non-disabled person as disabled will generally bring them under the protection of disability protection laws. Another theoretical way is if the person is so dependent upon nicotine in tobacco products that they can be considered an addict. Addiction to alcohol or drugs can, under some circumstances, be regarded as a disability under the ADA. If a person's addiction becomes so bad that it substantially impairs a major life activity such as working, walking, sleeping, seeing, or breathing, the addiction may be covered under the law. If a person has a covered disability, the employer has a duty to explore with the employee whether a reasonable accommodation exists that would allow the person to nonetheless do the job. So, if an employee tries to claim that they are disabled due to nicotine addiction and must be allowed to have extra breaks for smoking, do not worry - remember that even if the ADA applies, employers do not have to accept whatever accommodation an employee might request, and there are other accommodations that might be reasonable in such a context, such as nicotine patches. An employer could well argue that extra breaks would not be a reasonable accommodation due to loss in efficiency, morale problems among non-smokers who do not get extra breaks, and so on. The bottom line is that a company does not have to make an exception to its break policy just to let smokers take extra breaks.