

# Ask The Expert: Can Workers Have Themselves Tested In Lieu of Reasonable Cause Testing?



## QUESTION

We asked a worker to take a drug test due to reasonable suspicion of substance use on site and he refused. Days later, he gave us the results (negative, of course) of a test that he had done at his own expense and on his own time. Do we have to accept his test as meeting our own for-cause testing policy'

## ANSWER

No.

## EXPLANATION

The only possible exception would be if your drug testing policy specifically allows workers to do their own testing. But that's highly unlikely given the importance of employers' controlling the testing to ensure a fair and honest result. The other problem, of course, is the timing. Even if the worker's own testing was carried out properly and fairly, the negative result doesn't show he was clean at the time of the

reasonable suspicion justifying the testing.

The one caveat: You need to be sure you actually did have reasonable suspicion and took the necessary measures to initiate testing in accordance with your testing policy. If so, you probably have grounds to discipline the worker for refusing to submit to testing at the time as your policy requires.