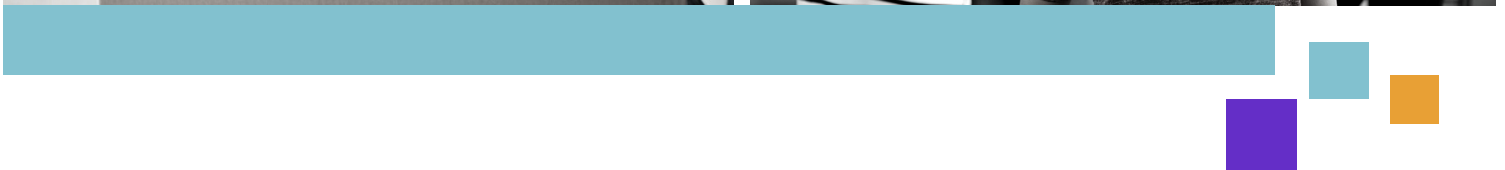




Kentucky Small Business Toolkit for Hiring Employees in Recovery





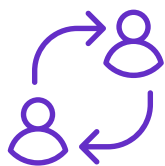
Recovery is a process of change through which individuals improve their health and wellness, live a self-directed life, and strive to reach their full potential. (SAMHSA)

What is a recovery-friendly workplace?

Substance use disorders (SUDs) impact Kentucky small businesses in many ways. SUDs are common in the workplace and lead to more absences, injuries, and increased costs for businesses. Workers in recovery from SUDs, however, take 10% fewer unplanned days off per year than the average number worker, and the turnover rate for employees in recovery is 12% lower.¹

A recovery-friendly workplace is a business that puts policies and practices in place to hire, support, and retain staff who are in recovery. These changes can help employers expand their workforce and offer recovering employees one of the best tools for recovery—a job that provides structure and purpose.

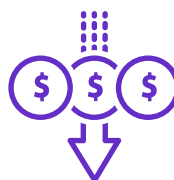
Recovery-friendly workplace policies benefit employers in many other ways, including:²



Reducing employee turnover



Improving safety and productivity



Reducing health care costs



Promoting worker health and wellbeing

Becoming a recovery-friendly workplace includes:

- Creating a positive work environment that is supportive of people in recovery
- Taking new approaches to recruiting employees
- Adopting new policies for hiring people in recovery
- Using tax credits, bonding programs, and community resources
- Connecting employees to recovery resources in the community
- Promoting your business as a recovery-friendly employer and communicating what that means to current employees and job applicants



YOU DON'T HAVE TO DO IT ALONE

There are many great resources available in Kentucky that can help your business work toward becoming a recovery-friendly workplace:

[Kentucky Transformational Employment Program \(KTEP\)](#)

KTEP is a program that employers can enroll in through the Kentucky Chamber Foundation. KTEP guides employers through the process of building a retention-oriented recovery-friendly workplace.

[Kentucky Fair Chance Academy](#)

The Fair Chance Academy is also a program of the Kentucky Chamber Foundation. After attending, businesses are equipped with the knowledge, tools, and resources to help them successfully hire, train, and retain exceptional talent and be on the road to becoming transformational employers. To learn more about the programs at the Kentucky Chamber, contact: Ryan Bowman at rbowman@kychamber.gov for more information.

[Strategic Initiative for Transformational Employment \(SITE\)](#)

SITE helps employers work toward becoming transformational employers. They can assist with training, health and benefits, and HR policies. They also help link employers with individuals in recovery who are seeking employment.

[Additional resources and programs are listed in Section 3: Program Assistance.](#)



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AMERICANS WITH DISABILITIES ACT, SUBSTANCE USE DISORDER, AND RECOVERY³

The Americans with Disabilities Act (ADA) is a federal law that gives civil rights protections to people with disabilities and ensures equal opportunities for employment.

Does an individual in treatment or recovery from SUD have a disability under the ADA?

Yes, individuals in treatment or recovery from SUD are considered to have a disability under the ADA.

Does the ADA protect individuals who are taking legally prescribed medication to treat their SUD?

Yes, if the individual uses a prescribed medication under the supervision of a licensed health care professional to treat SUD.

Does the ADA protect individuals with SUD who currently participate in a drug treatment program?

Yes, individuals with an SUD who are participating in a rehabilitation or drug treatment program are protected by the ADA if they are not currently using illegal drugs.

Does the ADA protect individuals who are currently using illegal drugs?

Generally, no. The ADA does not protect individuals currently using illegal drugs.

Does the ADA protect individuals with a history of SUD?

Yes, the ADA protects individuals with a history of SUD.

Does the ADA provide any legal protections for individuals who are regarded as having SUD, whether or not they actually have an SUD?

Yes, the ADA protects individuals who are "regarded as" having SUD, even if they do not have SUD.

Does the ADA protect individuals from discrimination based on their association with individuals who have SUD?

Yes, the ADA protects individuals from discrimination based on their relationship with an individual who has a disability.

Note: This document was adapted from the U.S. Department of Justice Civil Rights Division, [The Americans with Disabilities Act and the Opioid Crisis: Combating Discrimination Against People in Treatment or Recovery](#).

Additional Resource:

[The ADA National Network's webpage, The ADA, Addiction, and Recovery](#)

ADDRESSING STIGMA IN HIRING PRACTICES

Research shows that employment helps people stay in recovery, but stigma can make it difficult for people in recovery to get a quality job. The word stigma is used to describe the negative beliefs that people have about people with SUD. People with a history of SUD often face difficulties in the job search process due to stigma, especially if they have a criminal record.⁴ It is key to let job candidates know that the company is welcoming and supportive of people in recovery.

Educate Your Business's Leadership, Management, and Staff

When addressing stigma, a great place to start is by educating yourself, your management, and your staff. Provide opportunities to learn about substance use disorder, stigma, language, and how each impacts the workplace. Below are some resources to help your business get started:

[Substance Use and Stigma: Considerations for Employers, National Safety Council](#)

[Training sessions offered by Kentucky Comeback](#)

Check Your Language⁵

One of the simplest ways to reduce stigma is to change how we talk about people with SUD.

<p>WORDS OR PHRASES</p>	<p>Instead of saying "addiction" say "substance use disorder." Avoid terms like "junkie," "druggie," or "crack-head." Also avoid clichés like "once an addict, always an addict."</p>
<p>PERSON FIRST LANGUAGE</p>	<p>Avoid using the terms "addict" or a "user." Instead, use the phrase "person with a substance use disorder." By putting the person first, you acknowledge them, not their disease.</p>
<p>ACCURATE LANGUAGE</p>	<p>Remember that an SUD is a disease, not a moral failing. So talk about it like you would talk about any other disease. Help push back against stigma. Try to understand what people who have an SUD are struggling with and look for ways to help.</p>

Note: Language in this table was taken from [FindHelpNowKY.org's](#) fact sheet [Understanding the Impact of Stigma](#)

Background Checks and Vetting New Employees

Background checks are an essential part of hiring, and it is important to be thoughtful and consistent when using them. The Society for Human Resource Management suggests waiting to ask about criminal history until later instead of on the job application to make the hiring process fairer. Their [article](#) provides tips on how and when to ask about criminal history during the hiring process. Currently, Louisville is the only city in Kentucky that bans employers from asking about criminal history on the job application.

Many recovery-friendly employers are open to hiring individuals with a criminal history. Getting the details of offenses and convictions allows employers to consider if an applicant is right for the job role and responsibilities. Background checks must be conducted in compliance with the [Equal Employment Opportunity Commission](#).

Tips for background checks⁶

- Apply the same background check procedures to all job candidates.
- Provide written notice of the background check and consent forms that are separate from the job application or other documents.
- Take steps to protect the privacy of every candidate's information.
- Apply the same standards for hiring or rejection to all candidates and consider each candidate's history individually.

Partnering with Recovery Centers

Some businesses have had success partnering with recovery centers to recruit new potential employees and provide third party validation from that the potential employee is actively in a recovery program, has safe housing, and is compliant with testing.



Drug Testing

Drug testing is often part of a comprehensive drug-free workplace policy. Drug testing procedures should:

- Be detailed and clearly written
- Be enforced the same for all job candidates and employees
- Be communicated to all job candidates and employees on a regular basis
- Include how employees' privacy and drug testing records will be protected

[Kentucky Drug-Free Workplace Program⁷](#)

Kentucky employers that adopt a drug-free workplace program qualify for a discount on their workers' compensation premiums. Employers aren't required to have such a program. If they do choose to do this, it must meet certain requirements, including both drug and alcohol testing.

Types of screening⁸

Under Kentucky law, job candidates can be asked to take a drug test only once an employer has made a conditional employment offer. Some employers choose to write additional drug testing into their policies. Below are different types of testing employers may choose to use:

- Post-incident testing: testing employees who were involved in a workplace accident or unsafe practices to determine if alcohol or drug use were contributing factors
- Post-treatment testing: testing employees who return to work after completing a rehabilitation program can encourage them to remain drug-free
- Random testing: testing using a random selection process. In order for random drug screening to be legal, employees must be truly randomly selected, with no bias, prejudice, or favoritism
- Reasonable suspicion testing: testing employees who show signs of being under the influence of drugs or alcohol at work, or who have a documented pattern of unsafe work behaviors.

Positive Drug Tests

It is up to the employer to decide what action to take or services to offer to employees when there is a positive drug test. Include this information in your policy.

Second-chance agreements⁹

Some employers choose to have a second-chance policy that allows job candidates or employees who have a positive drug test to keep their job or job offer based on specific conditions being met. This can include requirements such as assessment by a certified substance use disorder professional, enrollment in treatment, and more frequent testing.

[See an example of a Second-Chance Agreement](#)

Naloxone in the Workplace¹⁰

Naloxone hydrochloride (also known as naloxone, NARCAN® or Evzio®) is a drug that can temporarily help restore breathing and reverse the sedation and unconsciousness that are common during an opioid overdose. Consider implementing a program to make naloxone available in the workplace in the event of an overdose.

[Using Naloxone to Reverse Opioid Overdose in the Workplace Factsheet \(NIOSH\)](#)

Family and Medical Leave Act (FMLA)¹¹

FMLA applies to all employers with more than 50 workers. It allows certain employees to take up to 12 weeks of unpaid, job-protected leave per year. Eligible employees can use FMLA for treatment of SUD or a related medical problem. Under FMLA, employers cannot fire, demote, or refuse promotion because the employee takes time off for treatment. Employees are eligible for FMLA if:

- they have worked for the employer for at least one year and
- have worked at least 1,250 hours in the past 12 months.

To learn more about FMLA, visit the [Department of Labor's FMLA guide](#).

Health Insurance Portability and Accountability Act (HIPAA)¹²

HIPAA sets rules for health information use and release. Under HIPAA:

- Employers can ask an employee for health information if needed for sick leave, workers' compensation, or health insurance.
- Employers cannot ask a health care provider for information about an employee.
- A health care provider cannot give out employee information without prior authorization from the employee.

Learn More :

- [Federal Laws and Regulations, Substance Abuse and Mental Health Services Administration \(SAMHSA\)](#)
- [10 Steps for Avoiding Legal Problems, SAMHSA](#)





SAMPLE POLICIES

These sample policies were created for the Kentucky Comeback Employer Resource Guide. They are available freely to any employer. To avoid legal problems, it is best to work with human resources and legal experts when creating policies that are appropriate for your organization.



INCENTIVE PROGRAMS

PROGRAM	DETAILS	WEBSITE
The Work Opportunity Tax Credit (WOTC)	Your company may be eligible for the federal WOTC if you hire certain individuals in recovery, such as those with felony convictions, some veterans, and individuals with a disability.	https://kyworks.ky.gov/Pages/Work-Opportunity-Tax-Credit.aspx
Kentucky Fair Chance Bond	Kentucky Fair Chance Bond is part of the Federal Bonding Program. Employers can receive fidelity bonds free of charge when hiring certain job applicants, such as individuals in recovery or with a criminal record.	https://kyworks.ky.gov/Services/Pages/Kentucky-Fair-Chance-Bond.aspx

KENTUCKY PROGRAMS AND SUPPORT SERVICES FOR EMPLOYERS

PROGRAM	DETAILS	WEBSITE
Kentucky Career Center (KCC)	KCC can assist employers with applying for the Work Opportunity Tax Credit and the Federal Bonding Program.	https://kcc.ky.gov/Pages/index.aspx
Kentucky Transformational Employment Program (KTEP)	KTEP is a program that employers can enroll in through the Kentucky Chamber Foundation. KTEP guides employers through the process of building a productive and retention-oriented recovery-friendly workplace.	www.kentuckycomeback.com/kt ep/
Kentucky Talent Hub	A platform where employers can post fair chance positions and directly engage with applicants.	https://talenthubky.com/home

PROGRAM	DETAILS	WEBSITE
<p>Kentucky Fair Chance Academy</p>	<p>The Fair Chance Academy connects businesses with openings to those in active recovery seeking meaningful employment. After attending the Fair Chance Academy, Kentucky businesses are equipped with the knowledge, tools, and resources to help them successfully hire, train, and retain exceptional talent and be on the road to becoming transformational employers.</p>	<p>https://kentuckycomeback.com/fairchanceacademy/</p>
<p>Naloxone resources</p>	<p>Some employers may choose to keep naloxone on hand and be trained to use it. Many local health departments can provide access to naloxone and training on when and how to administer it.</p>	<p>www.chfs.ky.gov/agencies/dph/dafm/Pages/lhd.aspx</p>
<p>Strategic Initiative for Transformational Employment (SITE)</p>	<p>SITE helps employers work toward becoming transformational employers. They can assist with training, health and benefits, HR policies, and necessary changes to organizational culture. They also help link employers with individuals in recovery who are seeking employment.</p>	<p>https://www.siteky.org/</p>

Listed below are resources that employers may refer employees to for assistance with needs related to recovery.

RESOURCE	SERVICES	WEBSITE/CONTACT
County Health Departments	<p>County health departments provide free or lower-cost health care, such as:</p> <ul style="list-style-type: none"> • health screenings • vaccines • women's and children's health care <p>Different counties offer different services.</p>	<p>www.chfs.ky.gov/agencies/dph/dafm/Pages/lhd.aspx</p>
Find Help Now KY	<p>This website helps find SUD treatment facilities that are currently taking clients.</p>	<p>FindHelpNowKY.org</p>
Find Recovery Housing Now KY	<p>This recovery housing registry has search tools and detailed filter options to help find National Association of Recovery Residences-certified or Oxford House-chartered recovery residences that meet specific needs.</p>	<p>FindRecoveryHousingNowKY.org</p>
Kentucky Adult Education Skills	<p>Every county in Kentucky has free classes to help people improve their education, such as:</p> <ul style="list-style-type: none"> • GED classes • English classes • college prep or career training 	<p>www.kyae.ky.gov/Pages/index.aspx (502) 573-5114</p>
Kentucky Department for Community Based Services	<p>This agency helps people with health and well-being needs, such as:</p> <ul style="list-style-type: none"> • SNAP/food stamps • Medicaid benefits. <p>You must apply to get benefits.</p>	<p>www.chfs.ky.gov/agencies/dcbs/Pages/default.aspx 1-855-306-8959</p>

RESOURCE	SERVICES	WEBSITE/CONTACT
Kentucky Harm Reduction Coalition	<p>This group has information on substance use disorder needs and provides assistance, such as:</p> <ul style="list-style-type: none"> • free naloxone mailing program to assist qualifying uninsured individuals • training on how to use naloxone 	kyhrc.org
Kentucky Housing Corporation	<p>This agency has programs that help people find affordable and safe housing.</p>	www.kyhousing.org (502) 564-7630
Kentucky Naloxone Copay Program	<p>All Kentucky residents that are either uninsured or have private pay insurance may be eligible for copay assistance for naloxone prescriptions.</p>	https://www.kphanet.org/copay (502) 227-2303
Kentucky Public Transit	<p>This website provides a list of all public transportation in each county.</p>	https://transportation.ky.gov/TransportationDelivery/Pages/Public-Transportation-Providers.aspx (502) 561-3690
KY HELP Statewide Call Center	<p>This is a helpline for individuals seeking treatment for themselves or others as well as family members who have questions or are in need of support.</p>	1-833-859-4357 M-F 8:30 a.m.-10:00 p.m. 1-800-854-6813 after hours



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