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**Model Substance Abuse Policy and Program
For Joint Apprenticeship and Training Committees**

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PART ONE: PREAMBLE BY THE ELECTRICAL TRAINING *ALLIANCE*

A. Purpose

The IBEW-NECA *electrical training ALLIANCE* (“*ALLIANCE*”) recognizes that employment in the electrical contracting industry is potentially hazardous. Although employers bear the exclusive responsibility for the safety and health of their employees (including apprentices) on the job, the *ALLIANCE* realizes that workplace safety is threatened by the use of illegal drugs and alcohol. Accordingly, the *ALLIANCE* understands the necessity of having rules in place which, under some circumstances, may include drug and alcohol testing of apprentices. The purpose of such rules should be limited to maintaining the safety of all jobsite personnel, the preservation of property belonging to the construction owner and of employers and employees on the project, the enhancement of the jobsite learning experiences of apprentices, and the assurance of quality work performed by apprentices on construction projects.

B. Fairness in Application

However, the *ALLIANCE* also stands for fair rules of employment, the dignity of workers, and the importance of providing a substance-impaired worker, who seeks help, with an opportunity for rehabilitation. This Model Substance Abuse Policy and Program (Policy) is intended to be applied in full compliance with these principles, and with all laws, regulations and court decisions which secure these fundamental rights in connection with any chemical testing to which employees, including apprentices, may be subjected.

C. Conditions of Applicability

This Model Policy is based on the fact that JATCs in the electrical contracting industry engage in the selection of apprentices, and the assignment of those apprentices to employers to obtain on-the-job training (“OJT”). It is, therefore, recommended that this substance abuse Policy be implemented by JATCs in two situations: 1) with respect to applicants for an apprenticeship program – after notice of testing and after a conditional offer of selection has been made to an individual by the JATC, but prior to indenture; and 2) with respect to incumbent apprentices where: (a) the JATC, based on all the facts at its disposal, believes there is reasonable cause to believe that unlawful use of drugs, or impairment from alcohol, exists; and (b) the apprentice in question denies such use or impairment.

D. Americans with Disabilities Act

Joint apprenticeship and training committees should also bear in mind that they must comply with the Americans with Disabilities Act (“ADA”), and other state and local laws and regulations which prohibit employment discrimination against disabled individuals who are capable of performing the essential functions of their jobs with reasonable accommodation. This Model Policy is intended to be applied strictly in accordance with those laws and regulations.

E. Testing as a Mandatory Subject of Bargaining

The *ALLIANCE* cautions that substance abuse programs maintained by employers typically affect their workers’ terms and conditions of employment, and therefore, are mandatory subjects of collective bargaining under the National Labor Relations Act (“Act”). This Model Policy is not intended to interfere with the rights of IBEW local unions to negotiate with employers the contents of substance abuse programs to which an employer’s employees are subject. The *ALLIANCE* acknowledges that, frequently, construction owners and/or general contractors impose their own substance abuse policies and programs on electrical contractors working at their construction projects.

While this Model Policy is not intended to prevent electrical contractors from complying with those requirements, the *ALLIANCE* should not be understood to be endorsing any independent substance abuse programs or policies which may be negotiated by local unions or established by owners, general contractors, or electrical contractors.

F. Notice and Disclaimer

By publication of this Model Policy, the *ALLIANCE* does not intend to urge action that is not in compliance with applicable laws, and nothing herein should be construed as doing so.

The legal status of substance-abuse prevention in the workplace is in a continuing state of transition. The courts and the legislatures – at the federal, state, and local levels – are all playing a part in shaping the law. Substance abuse prevention and drug/alcohol-testing programs involve the risk of substantial legal liability when conducted improperly or in violation of governing law. Moreover, a policy that complies with the law of one jurisdiction may not comply with the laws of another.

Therefore, before implementing this, or any other alcohol and substance abuse policy, Local JATCs must consult local legal counsel to ensure compliance with applicable federal, state and local laws and regulations.

Moreover, the *ALLIANCE* does not assume responsibility for ascertaining or monitoring the drug-free or alcohol-free status of any apprentice or applicant for apprenticeship, and recommends that joint apprenticeship and training committees (“JATCs”) for the electrical construction industry similarly disclaim such responsibility.

PART TWO: MODEL SUBSTANCE ABUSE POLICY AND PROGRAM FOR JATCS

I. INTRODUCTION

A. Purpose

The purposes of this Substance Abuse Policy and Program (Policy) are 1) to maintain the safety of all jobsite personnel, 2) to preserve property belonging to the construction owner, other employers and employees on the jobsite, 3) to enhance the jobsite and classroom learning experiences of apprentices, and 4) to assure that apprentices perform quality work on construction projects.

B. Fairness in Application

The JATC also stands for fair rules of employment, the dignity of workers, and the importance of providing a substance-impaired worker, who seeks help, with an opportunity for rehabilitation. Accordingly, this Policy will be applied in full compliance with these principles, and with all laws, regulations and court decisions which secure these fundamental rights in connection with any chemical testing to which employees, including apprentices, may be subjected.

C. Conditions of Applicability

This Policy provides for drug and alcohol testing in two situations: 1) with respect to applicants for the apprenticeship program – after notice of testing and after a conditional offer of selection has been made to an individual by the JATC, but prior to indenture; and 2) with respect to incumbent apprentices, where: (a) the JATC, based on all the facts at its disposal, believes there is reasonable cause to believe that unlawful use of drugs, or impairment from alcohol, exists; and (b) the apprentice in question denies such use or impairment.

This Policy also sets forth the consequences to applicants and apprentices of reporting failing drug or alcohol tests. The JATC recognizes that drugs and alcohol present a serious health problem and encourages all apprentices to seek assistance for such problems.

D. Notice

The JATC will make this Policy available to all current and future apprentices. The JATC will also make the Policy available to applicants for apprenticeship, after a conditional offer of selection has been made to the individual by the JATC, and prior to indenture.

E. Disclaimer

The JATC also recognizes that, frequently, construction owners and/or general contractors impose their own substance abuse policies and programs on electrical contractors working at their construction projects. In addition, electrical contractors may have their own substance abuse programs. While this Policy is not intended to prevent electrical contractors from complying with those policies and programs, the JATC is not endorsing any independent substance abuse programs or policies which may be negotiated by the local union(s) or established by owners, general contractors, or electrical contractors. Nor by implementation of this Policy does the JATC assume responsibility for ascertaining or monitoring the drug-free or alcohol-free status of any apprentice or applicant for apprenticeship.

II. CONFIDENTIALITY

A. Information Kept Confidential

All information obtained by the JATC regarding drug and alcohol testing of apprentices or applicants for the apprenticeship program shall be maintained in separate files, and shall be treated in all respects as confidential medical records.

B. Communication on a Need-to-Know Basis Only

Information on test results shall be communicated only to those who need to know in order to implement the Policy and ensure safety and proper treatment of tested apprentices or applicants. Information regarding an apprentice's or applicant's drug test results or rehabilitation status may be released only upon written consent by the apprentice or applicant, except that, regardless of consent, such information may be released where permitted by law:

1. To the representative of a state agency upon request as part of an accident investigation.

2. If the Medical Review Officer (MRO) believes that continued performance by the apprentice or applicant of his/her safety-sensitive function could pose a significant safety risk to the apprentice or applicant or to others.

III. TESTING

Refusal to submit to testing as required and/or permitted under this Policy, or falsification of a test, will be regarded as a positive test result, rendering the apprentice or applicant subject to the attendant consequences set forth herein. Failure to appear for testing without a deferral will be considered refusal to submit to testing.

A. Testing of Applicants

1. In general

Applicants for an apprenticeship program shall not be asked about drug or alcohol dependence or use until a conditional offer of selection has been made.

Once a conditional offer of selection has been made to an applicant, however, the applicant shall, prior to being indentured in the apprenticeship program, be tested for alcohol impairment and illegal drug use. An applicant testing positive for alcohol impairment or illegal drug use, pursuant to the provisions otherwise set forth in this Policy, shall be denied selection.

2. Alcohol dependence

If, however, an applicant for an apprenticeship program discloses in the course of the application process, and prior to being selected and subjected to alcohol impairment testing, that he or she suffers from alcohol dependence, the applicant shall be tested to determine whether he or she is presently alcohol-impaired.

- a. If the test result is “positive,” the applicant shall not be selected.
- b. If the test result shows that the applicant was not then impaired, the applicant shall proceed with the application process, shall not be denied selection on the basis of his or her alcohol dependence, and shall be told that the use of alcohol at the workplace will subject the applicant to immediate discharge from the program.

(1) Except as provided in paragraph (2), if the applicant is selected, he or she shall be instructed to enroll in an appropriate alcohol treatment and counseling program as a condition for being indentured in the apprenticeship program. If the applicant is indentured on this basis, and is enrolled in such a program, then, until such time as the apprentice provides the JATC with a certified statement from the rehabilitation program that the apprentice has successfully completed the program, the apprentice may be tested for alcohol impairment, at no cost to the apprentice, prior to each new assignment by the JATC for on-the-job training. If such an apprentice tests “positive” for alcohol impairment prior to receiving such a certificate, the apprentice shall immediately be terminated from the apprenticeship program.

(2) If the applicant is selected and has already completed an alcohol treatment and counseling program, the applicant shall provide the JATC with a certified statement from the rehabilitation program that he or she has successfully completed the program.

B. Testing of Incumbent Apprentices

1. Reasonable cause testing

Incumbent apprentices shall be tested if the JATC, based on all the facts at its disposal, determines there is reasonable cause to believe that unlawful use of drugs, or impairment from alcohol, exists; and the apprentice in question denies such use or impairment. For purposes of this Policy “reasonable cause” may be based on, among other things:

a. Information provided by an employer to whom an apprentice has been assigned that the apprentice has been administered a test revealing the presence of alcohol or prohibited drugs; unless the apprentice provides the JATC with:

(1) Documentation from a physician stating that the positive result from the test may have been caused by the use of a properly prescribed medication; or

(2) “Negative” test results from a certified laboratory’s independent test of the secured portion of the same sample;

b. Failure of an apprentice, when asked to do so by the JATC, to make a written request for, and use his or her best efforts to obtain, the results

of an employer-administered drug or alcohol test, and to provide a copy of the written request and any results obtained to the JATC or its authorized agents;

c. Information provided by reliable and credible sources, or independently corroborated, that the apprentice is or may be using illegal drugs or is currently impaired by the use of alcohol;

d. Newly discovered evidence that an apprentice has tampered with a previous drug or alcohol test;

e. Sudden changes in work or classroom performance;

f. Repeated failure to follow instructions or procedures;

g. Violation of safety practices;

h. Involvement in a near accident;

i. Odor of alcohol or residual odor peculiar to an illegal drug emanating from an apprentice or near an apprentice's work or study area;

j. Unexplained or frequent absenteeism;

k. Unexplained or frequent rejection for employment;

l. Unexplained drowsiness, disorientation, erratic behavior or mood changes;

m. Arrest or conviction for violation of criminal drug statutes.

2. Possession is the equivalent of a positive test

When an apprentice is found at the jobsite or classroom in possession of illegal drugs, drug paraphernalia, or alcohol, there is no need to engage in drug or alcohol testing of the apprentice. The apprentice will be regarded as having tested positive for purposes of this Policy.

3. No testing if necessary medical attention is jeopardized

Testing of an injured apprentice will take place only if it will not jeopardize necessary medical attention for the apprentice.

C. Testing of Other Individuals

The JATC may also test other individuals who receive training from the JATC, but who are neither registered apprentices nor journeypersons. Such persons will be given a copy of this Policy prior to JATC training, and the JATC will apply the standards set forth herein for incumbent apprentices to such individuals.

IV. TESTING PROCEDURES FOR DRUGS

The following procedures will be followed when substance abuse testing is conducted:

A. Methods of Testing

All drug testing shall be conducted in accordance with the U.S. Department of Health and Human Resource Services' "Mandatory Guidelines for Federal Workplace Drug Testing Programs," as set forth in the Federal Register.

All drug testing shall be by urinalysis or other method which may subsequently be recognized by the U.S. Government as state-of-the-art for validity and accuracy of drug testing results. Effective October 1, 2017, HHS will permit oral fluids testing instead of urinalysis, but only if the donor is unable to provide a urine sample.

Testing shall be performed only by laboratories certified by HHS and published monthly in the Federal Register.

In addition, testing samples shall be separated into two containers at the time of donation of the sample (Bottle A and Bottle B). Initial and confirmatory tests (if necessary) shall be performed on the sample in Bottle A. Bottle B of the original sample shall be kept secure and chemically stable and made available for verification of laboratory testing results as provided in paragraph D.3, below.

B. Substances Tested For

HHS authorizes testing for a five-panel drug profile. The five drugs are: marijuana, cocaine, opiates, phencyclidine and amphetamines. Beginning on October 1, 2017, HHS also authorizes testing for: oxycodone, hydrocodone, oxymorphone and hydromorphone.

C. Privacy and Chain of Custody

Collection of urine specimens must be completed in a private setting. For urine and oral fluids, HHS protocol regarding chain of custody and marking of samples must be followed. A copy of the chain of custody paperwork and labeling information will be made available to the apprentice or applicant upon request.

D. Positive Test Results

All initial tests which show a positive result for drugs must be confirmed by more rigorous standards, using HHS protocols.

A confirmed positive test result shall mean test levels on both the screening test and the confirmatory test that are recognized as positive by the HHS Mandatory Guidelines, in their current form or in any subsequent rule or regulation issued by that Agency, for any of the illegal drugs listed in such Guidelines.

E. Oversight by Medical Review Officer (MRO)

All drug testing shall come under the control and supervision of a licensed physician, with knowledge of substance abuse disorders. This physician, called a Medical Review Officer (MRO), will protect apprentice or applicant confidentiality and otherwise abide by the Medical Review Officer Manual, as published on the HHS/Substance Abuse and Mental Health Services Administration (SAMHSA) website: <http://beta.samhsa.gov/workplace>.

The role of the MRO in drug testing includes the following:

1. Procedures for confirmed positive tests

If a positive test is confirmed, the MRO will contact the apprentice or applicant as soon as possible.

(a) An apprentice or applicant whose test results are “positive” shall be advised of the right to provide an alternative explanation and/or to have the secured portion of his/her urine sample independently retested by a HHS certified laboratory of his/her choice and at his/her expense, as provided in paragraphs 2 and 3, below.

(b) The apprentice or applicant shall also receive copies of the following:

(i) Test results;

(ii) A copy of this Policy, which includes notice of the possible adverse actions the JATC may take.

2. Right to provide alternative explanation

After submitting to a test, or after being notified of a positive test, an apprentice or applicant may voluntarily provide the MRO with evidence indicating that a positive result from the test may be caused by the apprentice or applicant’s use of properly prescribed medication. If the evidence is satisfactory to the MRO, a positive test result will not result in adverse action.

3. Right to have secured portion of split sample independently tested

An apprentice or applicant who tests positive shall have the right to have the secured portion of his/her urine (or oral fluids) sample independently tested by a HHS-certified laboratory of his/her choice and at his/her expense.

The apprentice or applicant must notify the JATC or the MRO within two working days of notification of a positive test result that the apprentice or applicant wishes to have the secured portion of the split specimen tested.

The proper chain of custody and documentation must be adhered to by the second lab, which also must be a lab certified by HHS to perform urine drug testing.

If the independent test is “negative” the apprentice/applicant shall be reassigned to on-the-job training immediately.

4. Reporting test results

If the MRO deems an alternative explanation satisfactory, or, if the test on the Secured Sample comes back negative, the MRO shall report a negative result to the JATC.

Otherwise, the MRO reports a positive result to the JATC. The MRO reports only that the sample was positive: he/she does not identify the drug or the levels detected. The positive result report shall result in withdrawal of the conditional offer for an applicant, and an incumbent shall be subject to the procedures set forth in Section VI, below.

5. Failure to respond to the MRO or JATC

If the MRO cannot contact the apprentice or applicant within three days, and after making three attempts, the JATC representative will be notified to contact the apprentice or applicant and advise him or her to contact the MRO. At this time, no test results will be given to the JATC.

If, after 24 hours of being notified by the JATC to do so, the apprentice or applicant does not contact the MRO, the MRO will verify the positive test result to the JATC. The MRO may notify the authorized JATC representative of results by telephone, computer interface, fax, or in writing.

If the JATC cannot contact the apprentice or applicant within three working days, the apprentice or applicant may be subject to termination from the apprenticeship program.

F. No Waiver of Liability for Testing

No apprentice or applicant for an apprenticeship program shall be required to sign any waiver limiting the liability of any firm, laboratory, or person involved in the decision to test or the testing process.

V. TESTING PROCEDURES FOR ALCOHOL

A. Methods of Testing

Because HHS does not provide standards for alcohol testing, all alcohol testing shall be conducted in accordance with the protocols and procedures contained in the Nuclear Regulatory Commission's (NRC's) regulations for alcohol testing, which are part of the NRC's rules governing fitness for duty (10 CFR Part 26).

Initial testing shall be done by breathalyzer, or, in the alternative, by oral fluids testing. Such initial testing must be done, at a minimum, by alcohol screening devices (ASDs) approved by the National Highway Traffic Safety Administration (NHTSA). No adverse action shall be taken against any apprentice or apprentice applicant by the JATC on the basis of an unconfirmed "positive" result of an initial alcohol test.

The confirmatory test must be done on a breath sample, regardless whether the initial test was by breathalyzer or oral fluids screening. Such confirmatory testing must be done by "evidential-grade breath alcohol analysis devices" (EBTs).

B. Chain of Custody

Chain of custody must also be established for alcohol tests. As HHS has stated, the provisions of 29 CFR 26.91(c) regarding evidential-grade breath alcohol analysis devices (EBTs) are "necessary to establish an unimpeachable chain of custody for confirmatory alcohol test results..." *See* 73 Fed. Reg. at 17059 (March 31, 2008).

C. Positive Test Results

A positive alcohol test result shall mean test levels on both the initial test and the confirmatory test that meet the levels set forth in the NRC's regulations for alcohol testing, or other tests that are officially recognized as showing impairment by the applicable federal, state, or local governmental authority.

If the results of the confirmatory tests are negative, no further action is taken. If the results are positive, adverse action may be taken.

D. No MRO Review or Independent Testing

No MRO review is required for a confirmed positive alcohol test result under the NRC regulations. (10 CFR 26.5)

The NRC has permitted the donor to provide a blood sample for independent testing at his or her own expense. This option is no longer available under the NRC regulations.

E. No Waiver of Liability for Testing

No apprentice or applicant for an apprenticeship program shall be required to sign any waiver limiting the liability of any firm, laboratory, or person involved in the decision to test or the testing process.

VI. CONSEQUENCES OF TESTING POSITIVE FOR DRUG OR ALCOHOL

A. Applicants

An applicant for apprenticeship who tests positive on a drug or alcohol test shall have his or her conditional offer of selection withdrawn.

B. Incumbent Apprentices

An incumbent apprentice testing positive on any drug or alcohol test, shall, on first occurrence, be offered the opportunity to enter a rehabilitation or counseling program. The JATC shall provide information to the apprentice concerning the existence of public and private drug counseling, assistance, rehabilitation and other drug and alcohol abuse treatment programs of which the JATC is aware.

If the apprentice enters such a program, his or her status as an apprentice will not be affected, except that pending certification of satisfactory completion of the program, the apprentice's on-the-job training (OJT) shall be suspended without pay. The JATC shall endeavor to accommodate the times during which the apprentice must be absent to participate in such program, in order to allow the apprentice to continue to receive classroom training.

VII. EFFECTIVE DATE/AMENDMENTS

The effective date of this Policy is _____, and shall not apply to apprentices indentured prior to the effective date.

Changes in the law and technology governing substance abuse testing may require modification or revision of this Policy from time to time. Apprentices shall be provided with notice of such modifications or revisions, when adopted by the JATC, at least 30 days prior to their effective date.

CONSENT FORM

1. I have been given a copy of the Joint Apprenticeship and Training Committee's Alcohol and Substance Abuse Policy and Program (Policy). I have read the Policy and understand its contents.

2. As a condition of participation in the apprenticeship program, I applicant/apprentice (circle one), hereby consent to submit to such urinalysis, oral fluids, breathalyzer and/or other tests as shall be determined by the JATC for the purposes of determining the presence of prohibited drugs or alcohol. I agree that any specimens collected for these purposes may be forwarded by the JATC to a certified testing laboratory for analysis. I further agree to and hereby authorize the release of the results of said tests to the JATC or its authorized agents.

I hereby authorize any physician, addictionologist, counselor, or other rehabilitation professional to discuss my compliance with the Policy with the JATC, or its authorized agents.

I understand that my refusal to submit to testing as required and/or permitted under the Policy, or falsification of a test, will be regarded as a positive test result, rendering me subject to the attendant consequences set forth in the Policy.

3. I further understand that on-the-job training (OJT) is a critical part of my apprenticeship, and that as a condition of receiving OJT I may be required by my employers to submit to urinalysis, oral fluids, breathalyzer and/or other tests for the purposes of determining the presence of prohibited drugs or alcohol. I agree to and hereby authorize the release of the results of any such tests and/or examinations to the JATC or its authorized agents.

If the JATC asks me to do so, I will make a written request for, and use my best efforts to obtain, the results of any such tests and/or examinations from my employers. I further agree to provide a copy of the written request and any results I obtain to the JATC or its authorized agents. I understand that my failure to take any of these actions will be regarded as reasonable cause for testing under the terms of the Policy.

I further understand that an employer-administered test revealing the presence of alcohol or prohibited drugs may be regarded as reasonable cause

for testing under the terms of the Policy, unless I provide the JATC with: (1) documentation from a physician stating that the positive result from the test may have been caused by the use of a properly prescribed medication; or (2) “negative” test results from a certified laboratory’s independent test of the secured portion of the same sample.

I hereby authorize any employer, physician, addictionologist, counselor, other rehabilitation professional to discuss with the JATC or its authorized agents, the results of any employer-administered urinalysis, oral fluids, breathalyzer and/or other tests administered for the purposes of determining the presence of prohibited drugs or alcohol.

4. I understand that changes in the law and technology governing substance abuse testing may require that the JATC modify or revise this Policy from time to time, and that I will be provided with notice of such modifications or revisions, when adopted by the JATC, at least 30 days prior to their effective date.

I have carefully read the foregoing Consent Form and fully understand its contents. I acknowledge that my signing this form is a voluntary act on my part and that I have not been coerced into signing this document by anyone.

Printed Name

Social Security Number
(Last 4 nos. only)

Signature

Date

Printed Name of Witness

Signature of Witness

Date