

Memorandum of Understanding

IBEW Local 302 and

Individual Employer Drug and Alcohol Policy

This Memorandum of Understanding is entered into between IBEW Local 302 ("Union") and (hereafter "Employer") for the purpose of implementing a Substance Abuse Policy ("Policy").

By entering into this MOU, Union does not waive any legal or contractual rights and does not waive the right to bargain over the terms of any substance abuse policy (including but not limited to whether any such program or policy shall be implemented at all) proposed by Employer, Property Owner or any other general contractor, subcontractor, or property owner, on any construction project.

All procedures in this Policy must be compliant with 49 Code of Federal Regulations Part 40. The Substance Abuse Policy shall be administered by a firm authorized to do so in accordance with the standards set forth herein.

POLICY

The Employer and the Union are committed to protecting the health and safety of employees, their co-workers, and the public at large from the hazards caused by the misuse of drugs and alcohol on the job. The safety of the public, as well as the safety of fellow employees, dictates that employees not be permitted to perform their duties in violation of this policy.

In order to implement this Policy, the following Agreements have been reached:

1. An employee shall not purchase, sell, transfer, furnish, possess, or use illegal drugs or any alcoholic beverage in violation of this Policy while working on this jobsite or when using the Employer's vehicle.
2. Any employee who is found to be in violation of this Substance Abuse Policy described above shall be subject to discipline up to and including discharge. Employees engaged in the sale or purchase of illegal drugs during working hours on the jobsite shall be subject to immediate termination and shall not be eligible for rehire.

At the discretion of the Employer, and per the terms of this Policy, any employee may be allowed to voluntarily participate in an approved drug assistance or rehabilitation program in connection with or instead of disciplinary action. The Employer shall not pay the employee for any work time lost by the employee as a result of disciplinary action or rehabilitation.

PRIOR NOTICE OF TESTING POLICY

The following types of notice are required:

1. When calling the Union hiring hall for workers, the Employer shall advise the Union dispatcher that the Employer intends to drug and alcohol test dispatched workers for pre-hire, post injury, post-accident or serious near miss.
2. The Employer shall provide written notice of this Policy to all employees and workers dispatched to the jobsite. Individual employees and workers shall be provided an explanation as to the Policy's meaning and consequences.
3. All jobsite management and supervisory Employees shall be subject to the same type of testing, which is provided herein.

PURPOSE OF POLICY

The Employer and the Union are committed to providing a safe and productive environment for all employees. The Employer and the Union recognize that Employees are a valuable resource and that the state of the Employee's health affects attitude, effort, and job performance. The parties recognize that substance abuse is a behavioral, medical, and social problem that causes decreased efficiency and increased risk of accidents and injuries. The intent of this policy therefore is as follows:

1. To maintain a safe, drug and alcohol-free workplace.
2. To maintain a workforce at maximum effectiveness.
3. To provide confidential referral for evaluation and treatment for substance abuse and chemical dependency to existing Member Assistance Programs or the Health and Welfare Trust Fund covering the employees.
4. To encourage Employees that have a substance abuse problem to voluntarily seek help for it before job performance becomes a disciplinary problem.

EDUCATION PROGRAM

The Employer will implement a comprehensive drug awareness and education program at the jobsite, which shall be in conformance with the DOT regulations. The program shall include educating Employees and management/supervisory personnel about substance abuse and chemical dependency, the adverse effect they have on Employees and the Employer, and the treatment available to Employees who abuse substance and/or are chemically dependent, and the penalties that may be imposed upon Employees who violate this Policy.

TESTING PROCEDURES

Testing for the presence of alcohol or controlled substances and/or their by-products in one's body may only be performed under the conditions set forth herein. All testing shall be done in accordance with the standards established by the Substance Abuse and Mental Health Services Administration ("SAMHSA"), any successor agency, or any other agency of the federal government, which has responsibility for establishing standards for drug testing. All such agencies shall be collectively referred to as "SAMHSA."

Chain of Custody. All SAMHSA standards for chain of custody will be adhered to. A specimen for which the SAMHSA standards are not complied with shall not be considered for any purpose under this Policy.

Laboratories. All laboratories, which perform tests under this Policy, shall be SAMHSA certified.

Testing Procedures and Protocols. All SAMHSA standards for testing standards and protocols shall be followed. All specimens which are determined to be positive by the SAMHSA approved screening test shall be subject to a SAMHSA certified confirmatory test (gas chromatography/mass spectrometry).

Split Test. The laboratory shall save a sufficient portion of each urine specimen in a manner approved by SAMHSA so that an Employee may have a second test performed. Immediately after the urine specimen is collected, it will be labeled and then initialed by the Employee and a witness. If the urine sample must be collected at a site other than the drug and/or alcohol testing laboratory, the urine specimen shall then be placed in a transportation container. The container shall be sealed in the Employee's presence and the Employee shall be asked to initial or sign the container. The container shall be sent to the designated testing laboratory on that day or the earliest business day by the fastest available method. Any Employee whose urine specimen is tested positive and who challenges a test result may have the second portion of the urine sample tested at his/her expense and at a laboratory agreed upon by the Employee and the MRO so long as that laboratory is SAMHSA certified and has been or is approved by the parties and the Employee requests the second test within seventy-two (72) hours of notice of a positive result. If the second test is negative, the Employee will be considered to have been tested negative. In such circumstances, the Employer shall pay back pay for all work missed by the Employee.

Saliva Test. An onsite quick test by means of a Saliva Swab Screen may be utilized by a trained representative mutually agreed to by the individual's Employer and the Union. An inconclusive or positive saliva test must be confirmed with a single split urine analysis test to be performed by a SAMHSA Lab. The SAMHSA Lab will complete its confirmatory test within a 72-hour period. Should the confirmatory test prove to have negative results, the employee will be reinstated immediately with pay retroactive to cover lost time during the confirmatory test time period.

Breath Test. This is the only test that may be utilized in testing for ethyl alcohol levels. It must be performed by a trained BAT Technician utilizing an accurately calibrated EBT Breathalyzer.

Cut-off Levels. Federal D.O.T standards for cut-off levels for both screening and confirmatory test shall apply for the following five (5) substances: Amphetamine Group, Cocaine, Opiates, Phencyclidine, Marijuana, and ethyl alcohol. (Medical marijuana is not acceptable in a safety-sensitive position.)

TYPES OF PERMISSIVE TESTING

New Hire/Pre-Hire. All employees dispatched to the employer from the IBEW hiring hall shall undergo a mandatory pre-hire drug and alcohol test.

Post-Accident. The Employer shall require employees who are directly, or indirectly involved in work related accidents involving property damage, or bodily injury that requires medical care, or work related accidents which would likely result in property damage or bodily injury, to be tested as provided herein

PROHIBITED ACTIVITIES

An Employee shall not possess, use, provide, dispense, receive, sell, offer to sell, or manufacture alcohol and/or any controlled substances as defined by law or have any measurable amount of any such substance or by-product thereof while working under the control of the Employer unless the Employee has the Employer's express permission to do so. An Employee shall not work while impaired, intoxicated, or under the influence of alcohol and/or any controlled substance. An Employee who uses medication prescribed by a physician is not in violation of these rules by using such medication as prescribed if the employee's physician has released the Employee to work. An Employee who uses over-the-counter medication in accordance with the manufacturer and/or doctor's recommendation shall not violate the rules by using such medication. Impairment caused by prescribed medication and/or over-the-counter medication does not constitute a violation. The Employer may prohibit an Employee who is impaired as a result of proper use of prescription or over-the-counter medication from working while the Employee is impaired but may not discipline such an Employee. An Employee who is impaired by misuse of prescription or over-the-counter medication violates the Policy and is subject to discipline as provide herein.

EMPLOYEE VOLUNTARY SELF-HELP PROGRAM

An employee who engages in drug/alcohol abuse is encouraged to participate in and may not be disciplined for seeking assistance from an Employee Assistance Program or other Employee Voluntary Self-Help Program(s). Requests by employees for such assistance shall remain confidential and shall not be revealed to other employees. Voluntary Self-Help Programs shall not disclose information on drug/alcohol use received from an employee for any purpose or under any circumstances unless specifically authorized in writing by the employee.

SUPERVISOR CONFIDENTIALITY

Management and supervisors are to restrict conversations concerning possible violations of this policy to those persons who are participating in any questioning, evaluation, investigation, or disciplinary action and who have a need to know about the details of the drug/alcohol investigation.

CONFIDENTIALITY

In order to maintain maximum confidentiality of information consistent with efficient administration of employee relations, strict guidelines will be followed concerning information relative to the Substance Abuse Policy.

- Drug/Alcohol test results will be kept in a separate locked file with access only by the Safety Manager. They will be received by a secure fax machine in the Safety/Medical Department.
- Federal, state, or local laws may limit types of information that can be sought or considered in connection with employment or may provide for employee access to certain types of information.
- Employees/applicants should be informed, at the time information is gathered, that such information is to be used for employment-related decisions only.
- Procedures for taking urine samples should maximize employee privacy while assuring against adulteration of the sample. (Adulteration of sample shall be considered as refusal to test.)

NON-DISCRIMINATION

The Employer shall not discriminate against any employee who is receiving treatment for substance abuse and/or chemical dependency. All Employees who participate in and/or are undergoing or have undergone treatment and rehabilitation pursuant to this Policy shall be subject to the same rules, working conditions, and discipline procedures in effect for all Employees. Employees will not be disciplined for voluntarily participating in and/or undergoing treatment and rehabilitation, but remain subject to discipline for future violations of this Policy.

SAVINGS CLAUSE

The establishment or operation of this Policy shall not curtail any right of any Employee found in any law, rule, or regulation. Should any part of this Policy be determined contrary to law, such invalidation of that part or portion of this Policy shall not invalidate the remaining portions. In the event of such determination, the collective bargaining parties will immediately bargain in good faith in an attempt to agree upon a provision in place of the invalidated portion.

GRIEVANCE PROCEDURE

All disputes concerning the interpretation or application of this Policy shall be subject to the grievance and arbitration procedure set forth in the IBEW Local 302 Inside Wireman Agreement currently in effect.

Employer Company Name

IBEW Local 302

Date

Date