Substance Abuse Policy

for the

El Dorado Electrical JATC

It is the policy of the El Dorado Electrical JATC that apprentices who, at any time during their classroom or work hours, or times incidental thereto, are under the influence of alcohol, drugs, or other controlled substances, or who possesses alcoholic beverages, drugs or other controlled substances while on the JATC property or employer worksites, may be terminated from the apprenticeship program.

1. **Introduction**
2. 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.
3. 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.

1. Conditions of Applicability

This policy provides for drug and alcohol testing in three 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 HATC, but prior to indenture; 2) with respect to incumbent apprentices, quarterly random testing will be performed at varying times during each quarter, and all names during these random tests will be selected completely at random with no prior suspicion of drug or alcohol use; and 30 with respect to incumbent apprentices, where: (a) the JATC, based on all 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.

1. 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.

1. 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.

1. **Confidentiality**
2. 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.

1. 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) beleibes 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.
3. **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.

1. Testing of Applicants
2. 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.

1. 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 the 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.

1. If the test result is “positive,” the applicant shall not be selected.
2. 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 use of alcohol at the workplace will subject the applicant to immediate discharge from the program.
3. 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.
4. 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.
5. Testing of Incumbent Apprentices
6. Random Testing

The JATC participates in random drug and alcohol screening once per quarter of the calendar year. All apprentices that are indentured at the time of the drug and alcohol screen will be entered into a random name selection, and five names will be selected. These apprentices will be contacted on the date of the screening with instructions on where to report for drug and alcohol screening. A “positive” drug and/or alcohol screen will result in penalties up to dismissal from the program.

1. Reasonable Cause Testing

Incumbent apprentices shall be tested if the JATC, based on all the facts at its disposal, determines there is a 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:

1. Information provided by an employer to whom an apprentice has been assigned that the apprentices has been administered a test revealing the presence of alcohol or prohibited drugs; unless the apprentice provides the JATC with:
2. 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
3. “Negative” test results from a certified laboratory’s independent test of the secured portion of the same sample;
4. 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;
5. 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;
6. Newly discovered evidence that an apprentice has tampered with a previous drug or alcohol test;
7. Sudden changes in work or classroom performance;
8. Repeated failure to follow instructions or procedures;
9. Violation of safety practices;
10. Involvement in a near accident;
11. Odor of alcohol or residual odor peculiar to an illegal drug emanating from an apprentice or near an apprentice’s work or study area;
12. Unexplained or frequent absenteeism;
13. Unexplained or frequent rejection for employment;
14. Unexplained drowsiness, disorientation, erratic behavior or mood changes;
15. Arrest or conviction for violation of criminal drug statues.
16. 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 the purposes of this policy.

1. 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.

1. 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.

1. **Testing Procedures for Drugs**

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

1. 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 the 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 Reister.

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.

1. Substances Tested For

HHS authorizes testing for 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.

1. 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.

1. 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 a 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.

1. 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.

* + 1. An apprentice or applicant whose test results are “positive” shall be advices 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 at his/her expense, as provided in paragraphs 2 and 3, below.
		2. The apprentice or applicant shall also receive copies of the following:
			1. Test Results;
			2. A copy of this policy, which includes notice of the possible adverse actions the JATC may take.
	1. 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 result will not result in adverse action.

* 1. Right to have the secured portion of the 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 the HHS to perform urine drug testing.

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

* 1. 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 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.

* 1. 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.

1. 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.

1. **Testing Procedures for Alcohol**
2. 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 devises (ASDs) approved by the National Highway Traffice Safety Administration (NHTSA). No adverse action shall be taken against any apprentice or apprentice applicant by the JATC on the basis of unconfirmed “positive” result of an intial 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).

1. 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).

1. 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 official recognized as showing impairment b the applicable federal, state, or local governmental authority.

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

1. 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.

1. 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.

1. **Consequences of Testing Positive for Drug or Alcohol**
2. Applicants

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

1. Incumbent Apprentices

An incumbent apprentice testing positive for 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.

1. **Effective Date/Amendments**

The effective date of this policy is May 23, 2018, and applies to all apprentices and applicants at the time of this policy adoption. All current apprentices shall be notified 30 days prior to enforcement of this policy.

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.