

NECA/IBEW DRUG-FREE WORKFORCE PROGRAM



SUMMARY PLAN DESCRIPTION
EFFECTIVE April 1, 2010



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The NECA/IBEW DRUG-FREE WORKFORCE PROGRAM
DEFINITIONS AND PROCEDURES
(Updated as of April 1, 2010)

I. INTRODUCTION

In recognition of the continuing problem of substance abuse impacting the health and welfare of Employees and jeopardizing the safety of operations, it is the policy of the San Diego National Electrical Contractors Association (NECA) and the International Brotherhood of Electrical Workers Local 569 (IBEW) to deal aggressively with the problems of drug use and alcohol abuse in the workplace and to seek the assistance of all of its members and other employees in this endeavor.

The procedures and guidelines contained in this document detail essential information about the administration of the NECA/IBEW Drug-Free Workforce Program. This document is also a resource to assist in the day-to-day matters that may emerge in the course of implementing the Drug and Alcohol Policy (DAP). It is recognized that no set of standards and guidelines, however complete, can accommodate all possible combinations of circumstances which may arise. Instead, these procedures are designed to be a working tool and foundation for use, and are to be applied using basic fairness, good judgement, and common sense.

II. BACKGROUND

There is a vital interest by all electrical construction industry partners in maintaining the highest standards for the Employee work environment in order to ensure the efficient operations necessary to provide reliable products and services to customers. Therefore, it is desirable to establish a strong policy to promote a safe and secure work environment free of the use of illicit drugs, unauthorized use of controlled substances, and the abuse of ethyl alcohol.

III. DEFINITIONS

A. Breath Alcohol Concentration (BrAC)

The concentration of alcohol in a volume of breath will be expressed in terms of grams of alcohol per 210 liters of alveolar breath. This measurement will be considered equivalent to Blood Alcohol Concentration (BAC).

B. Clean-Card

Means a document which certifies that the Employee has met all requirements of the NECA/IBEW Drug-Free Workforce Program. The Clean-Card is issued upon passing the initial drug test and is renewed when the Employee passes the yearly periodic test (see Section VII). Clean-Cards are invalidated for any violation of the Drug and Alcohol Policy, including failing to take a timely Periodic/Birthday test, being verified positive or for refusing to take a required

drug or alcohol test. When approved to return to work by the Members' Assistance Program (MAP), the Employee with an invalidated Clean-Card must pass a Return to Work test to obtain a new Clean-Card.

In the event an Employee fails to meet any of the requirements of the Drug and Alcohol Policy, resulting in their failure to qualify for a Clean-Card or the invalidation of a previously valid Clean-Card, the only means by which the Employee may take a recognized test is if it is authorized by the Members' Assistance Program.

C. Controlled Substances

Means any substance listed in Schedules I - V of the Controlled Substances Act of 1970, as amended. This Act divides drugs into five schedules according to the legitimacy of medical use and potential for abuse. By definition, drugs listed in Schedule I have no legitimate medical usage and a high potential for abuse. Schedules II-V include all those drugs which are required to be controlled under federal law and dispensed either by a qualified physician and/or under state law.

Unauthorized use of a controlled substance is use of any drug in Schedules II-V without regard to the proper standards of medical practice and/or contrary to the directives provided by the prescribing physician or other person qualified to dispense the medication. Use of someone else's prescribed medication will be considered unauthorized use.

D. Employer

Means any Employer who is required or permitted to make contributions to the San Diego Electrical Health and Welfare Trust and is a participant in the NECA/IBEW Drug-Free Workforce Program or, only in conjunction with a post-accident test, any entity employing an Employer participating in this Program who conducts a post-accident test in accordance with their own existing drug testing program.

E. Employee

Means all journeymen and apprentices who are required to be tested by this Policy. It also means all Employees not covered by collective bargaining who are testing under this Policy.

F. Ethyl Alcohol

Means alcohol, ethanol, or any other term which describes the intoxicating agent in beverage alcohol.

G. Federal Standards

Means guidelines and requirements established by the U.S. Department of Transportation in 49 CFR Part 40, as amended, which establishes standards for the collection, testing, and medical review of urine specimens for drugs and the collection and testing of breath specimens for alcohol. Federal standards are to be applied in all drug and alcohol testing required by this Policy.

H. Illicit Drugs

Means any mind-altering or psychoactive substance, which has no legitimate medical use under the law (such as Schedule I drugs) or has been manufactured and/or distributed illegally. Medicinal use of marijuana (a Schedule I drug) is permitted under this Policy only with a written certification from the Employee's physician that the amount of marijuana being consumed is medically recommended consistent with California State Law, does not present a danger to safety, or adversely impact job performance (given the specific job requirements of the Employee). Nothing in this section shall contravene Federal Regulations disapproving medicinal use of marijuana for Employees performing covered service under Department of Transportation agency rules or any other federal mandate for an Employer.

I. Medical Review Officer (MRO)

Means an individual licensed physician who receives all test results from the laboratory (negative and positive) and verifies them before reporting. The MRO will also have other administrative and technical duties associated with the NECA/IBEW Drug-Free Workforce Program. For the Policy and these Procedures, MRO may also refer to a professional company or group of physicians who are contracted by the NECA/IBEW Drug-Free Workforce Program to provide these services.

J. On Duty

Means any time the Employee is either performing work for the Employer, is under the supervision of the Employer, is in an Employer's vehicle, is on Employer equipment, or is on Employer business.

K. Program Manager

Means the NECA/IBEW Drug-Free Workforce Program Committee for all Employees, and will also include the Joint Apprenticeship Training Committee (JATC) for apprentices.

IV. RESPONSIBILITY FOR INTERPRETATION

The National Electrical Contractors Association (NECA), the International Brotherhood of Electrical Workers Local 569 (IBEW), and the Joint Apprenticeship Training Committee (JATC) are solely responsible for the interpretation and administration of these Policies and Procedures. Any questions should be directed to the appropriate Program Manager.

V. EFFECTIVE DATE

The effective date of this updated Drug and Alcohol Policy is April 1, 2010.

VI. DRUG AND ALCOHOL POLICY NOTIFICATIONS

The following guidelines will be used to implement the Drug and Alcohol Policy (DAP):

A. Apprentices

All applicants for the Apprenticeship Program will receive a copy of the DAP at the time of application and sign a statement acknowledging their understanding and acceptance of the Policy. Signed statements will be retained by the Director of the Apprenticeship Program for the duration of training and then by the Program Manager (or their designee) for as long as the individual remains a NECA/IBEW Drug-Free Workforce Program participant.

B. Participating Bargaining and Non-Bargaining Employees

All participating bargaining and non-bargaining Employees who are to be affected by the Policy will receive a copy of the DAP. Information on the Policy must be communicated to Employees on a periodic basis.

C. Posting of the DAP

The DAP (either in a full-text version or outline) must be posted in one or more prominent locations accessible to Employees at each participating Employer and at the Union.

VII. CLEAN-CARD PROCEDURES

No Employee covered by collective bargaining agreement requiring participation in the NECA/IBEW Drug-Free Workforce Program should be employed by a participating Employer without a valid Clean-Card. Violation of any provision of the Drug and Alcohol Policy (DAP) shall invalidate an Employee's Clean-Card.

(1) Drug and Alcohol Testing Categories

Employees will be urine tested for drugs in five categories:

1. Initial Testing/First Time Testing
2. Periodic/Birthday
3. Random
4. Post-accident
5. Return to work

For post-accident testing, breath testing for ethyl alcohol will also be conducted in addition to the collection of a urine sample.

1. Initial Testing/First Time Testing. Any new entrants into the NECA/IBEW Drug-Free

Workforce Program (i.e. travelers, brand new bargaining Employees and Employees who verify that their last employer was not signatory to a collective bargaining agreement requiring participation in the NECA/IBEW Drug-Free Workforce Program) must be tested and qualify for a valid Clean-Card within 72 hours of being dispatched. At the discretion of each Employer, such new entrants may be employed on probation, subject to verification of their Clean-Card status.

Employers have the option of accepting the completed Employee's copy of the specimen collection form as evidence that the Employee is acceptable for probationary hire under the 72 hour rule.

When an Employee returns to work in the jurisdiction of IBEW Local 569, under a collective bargaining agreement requiring NECA/IBEW Drug-Free Workforce Program testing, if their last Clean-Card was invalidated due to a violation of the Drug and Alcohol Policy it will be necessary for that Employee to receive approval from the Members' Assistance Program to take an authorized test to renew their Clean-Card to be able to return to work. However, if an Employee's last Employer immediately prior to returning to work within the jurisdiction of IBEW Local 569 was not signatory to a collective bargaining agreement requiring NECA/IBEW Drug-Free Workforce testing, upon verifying that employment with the Trust Office, the Employee may take an Initial Test to qualify for a Clean-Card except if their latest Clean-Card was invalidated for other than their failure to take a timely Birthday Test for the purpose of maintaining a valid Clean-Card.

In the instance where the Medical Review Office receives an unauthorized test result on behalf of an Employee who falls into the above category, the Employee will be advised by the Medical Review Officer that the test result will not be recognized, unless it was positive, and that they must contact the Members' Assistance Program to make arrangements to take an authorized test in order to be permitted to return to work.

In the event the Members' Assistance Program authorizes an Employee to take a test to qualify for a Clean-Card, that test must be taken by no later than the end of the day following the day in which such authorization was granted. Any test taken after the prescribed time period has elapsed will not be recognized as a valid test, unless the result is positive, and a new authorization must be issued by the Members' Assistance Program.

2. Periodic/Birthday. All Employees are required to be urine drug tested each year at any time of their choosing within the calendar month of their birthday. As a courtesy each Employee should receive a reminder notice by regular mail at the beginning of their birth month, along with a list of each of the approved collection sites, which will include addresses, telephone numbers, clinic hours of operation, and directions to each location. However, it is ultimately the Employee's responsibility to take their test on a timely basis. Failure to receive a reminder notice will not be an acceptable excuse for an Employee not testing on a timely basis.

If an Employee fails to provide a testable sample by the end of the calendar month of

their birthday, the Employee's existing Clean-Card will be invalidated and the employee's current Employer's specially designated contact person will be notified both by fax and by telephone that the Employee no longer has a valid Clean-Card. The Employer is not expected to retrieve a voided Clean-Card from an Employee.

In the instance where an Employee's Clean-Card is invalidated due to their failure to provide a testable sample by the end of the calendar month of their birthday, the Employee must contact the Members' Assistance Program in order to be authorized to take a test. Any unauthorized tests will not be recognized, unless the result is positive. Further, there will be no wellness benefit paid for a negative result and the Employee will be charged for the cost of each such unauthorized test.

In the event an Employee is selected for a Random test to be taken in their birth month, if the test is taken and passed before their required Periodic/Birthday test it will not be necessary to take another test in that month in order to renew their Clean-Card for the forthcoming one-year period. If in their birth month an Employee takes a Periodic/Birthday test prior to or after a required Random test they will receive a wellness benefit for each negative test so long as they are eligible to receive such a benefit. However, any positive test result will result in the invalidation of the Employee's Clean-Card, even if followed by a negative test, as they must contact the Members' Assistance Program in order to take an authorized test to be able to reinstate their Clean-Card. There will be no wellness benefit paid for any negative test taken following a positive test result unless that test was authorized by the Member's Assistance Program as a return to work test.

3. Random. Each month individuals who are subject to random testing will be selected by the MRO for urine drug testing from a pool of all eligible employees. The pool will be updated each month. Each person in the pool must have an equal chance of selection during each random draw. Employers will be notified by fax during the target month for any of their current Employees who have been selected for such testing. The Apprenticeship Program will be notified of selected apprentices not yet employed in a manner similar to that described below. Individual Employer notifications will be spread throughout the month to ensure unpredictability for Employees. For that same reason, some Employers may be contacted more than one time in the month for Employee random testing.

Once notified by fax, Employers will be asked to have their authorized representative immediately inform the selected Employee in person as soon as practical that they are to appear for a urine test within 24 hours of their notification. Employees are not to be contacted by the Employer at home solely for the purpose of being notified to appear for a urine test. Once the Employee notification has been confirmed upon the Employee signing and dating the notification form, the Employer will fax back the notification form documenting the notification process to the MRO.

Employees who are out ill, on vacation, or temporarily off work for some other legitimate reason are to be notified upon their return to work provided their absence is no longer than three working days from the Employer's receipt of the notification fax.

If the Employee is unable to be contacted in a timely manner (i.e., no longer working

for the Employer, an illness likely to last more than three days, or a scheduled vacation), the Employer will fax back that information and the Employee will be dropped from that month's selections for that Employer. If the Employee is no longer with the Employer, the Union will be contacted to obtain the name of their current Employer, and the notification process will continue.

If an Employee fails to provide a sample in accordance with their notification, the Employee's existing Clean-Card will be invalidated and the Employer's specially designated contact person will be notified both by fax and by telephone that the Employee no longer has a valid Clean-Card. An Employee, whose Clean-Card is invalidated due to their failure to comply with their notification, must contact the Members' Assistance Program in order to be authorized to take a test to reinstate their Clean-Card. The Employer is not expected to retrieve a voided Clean-Card from an Employee.

Bargaining Employees are subject to being tested randomly each year at a rate equal to twenty percent (20%) of the total of all Bargaining Employees, or as modified by mutual agreement between NECA and the IBEW. Apprentices are subject to being tested randomly each year at a rate equal to one hundred percent (100%) of the total of all apprentices, or as modified by the JATC. This means that each month the entire pool of eligible Employees is subject to a random drawing of a prescribed number of Employees in accordance with the above percentages. It is possible for an Employee or apprentice to be random tested not at all, once, or more than one time each year under the random selection procedure.

4. Post Accident. In the event of a work-related accident, the employer shall promptly determine if:
 - the accident involved \$1,000 or more in property damage, or involved a reportable injury as defined by OSHA regulations, or involved an injury which required medical treatment which could not be handled at the accident scene, and
 - the employee's performance may have either caused or contributed to the severity of the accident.

Any employee who meets these criteria must be tested for drugs and alcohol. Alcohol testing should be completed within two (2) hours of the accident if at all possible. Drug testing must be completed within 24 hours of the reporting of the accident to the Employer or the Employer's representative.

- a. The Policy-Triggering Event. The employer is responsible for making a good faith determination whether an employee is subject to the post-accident requirement. This means that a knowledgeable, authorized employer representative has made the decision to test based on the relevant facts immediately available to them (time being of the essence). Employees should be tested as long as their performance or decision-making cannot be completely discounted as either being the cause or a contributing factor to the accident. Employers must be prepared to document the reasonableness of their decision based solely on the criteria described at the beginning of this Section.
- b. Employer Responsibilities. Once the decision has been made to test, the

Employer is responsible for ensuring that the specimens (breath for alcohol and urine for drugs) are collected as soon as possible. If the breath-alcohol test cannot be completed within two (2) hours, the Employer should make a written record of the reasons for the delay and retain them on file. If the breath-alcohol test is not administered within eight (8) hours following the accident, the Employer will cease all attempts to conduct the test and shall prepare and retain on file written documentation indicating why the test could not be conducted. The urine collection for drugs, however, must proceed under any circumstances.

The Employer is responsible for directly contacting the designated NECA/IBEW collection facility which will conduct the post-accident drug and alcohol test. The Employer must ensure that the site is properly informed at the time of collection that it is a NECA/IBEW Drug-Free Workforce Program test and that the reason for the test is “post-accident.” Whenever possible, the Employer should escort the employee to the collection facility. The breath-alcohol specimen must be collected first.

A NECA/IBEW collection facility will be available 24 hours a day, seven days a week for San Diego County collections. Ordinarily, accidents outside San Diego and Imperial Counties are not covered by the Program unless special arrangements are made in advance with the Program Manager.

Post-accident specimens collected at a NECA/IBEW designated site will be paid for by the Program for all eligible Employees. Billing will be sent to the Employer for non-bargaining employees not covered under Plan A of the San Diego Electrical Health & Welfare Trust.

- c. Employee Responsibilities. Employees may not refuse a post-accident test on the grounds that they believe the criteria necessary to establish a testable work related accident has not been met.

An Employee subject to testing who fails to remain readily available to have specimens collected may be deemed by the Employer to have refused to submit to the test. Employees may leave the accident scene to seek medical assistance or emergency medical care as necessary to protect and preserve their health and safety or that of an accident victim.

Any Employee subject to testing may not consume or ingest any ethyl alcohol for eight hours after an accident or until the alcohol test has been conducted.

- d. Medical Issues. When an Employee is injured in a qualifying accident, the highest priority must be to ensure that he/she is properly treated and medically stabilized before any thought is given to collecting specimens under the NECA/IBEW Drug-Free Workforce Program.

It is not permitted to take specimens from an Employee through extraordinary means (i.e. catheterization) when the sole purpose of the invasive procedure is compliance with the drug and alcohol testing portions of this rule. Specimens may be collected only when approved by the attending physician.

A blood or breath test for alcohol for law enforcement authorities or the medical

facility will be accepted as meeting the alcohol requirements of this Section.

5. Return to Work. Employees who have been directed to the Members' Assistance Program (MAP) by the Medical Review Office for any reason related to their failing to qualify for a Clean-Card, or having had their Clean-Card invalidated at any time, may only appear at a recognized collection site for a Return to Work test if authorized to do so by their counselor at the MAP.

In the event the Members' Assistance Program authorizes an Employee to take a test to qualify for a Clean-Card, that test must be taken by no later than the end of the day following the day in which such authorization was granted. Any test taken after the prescribed time period has elapsed will not be recognized as a valid test, unless the result is positive, and a new authorization must be issued by the Members' Assistance Program.

In the event an Employee takes a test which has not been authorized by the Members' Assistance Program, the cost of each unauthorized test will be billed to the Employee and/or applied against wellness benefits which may become payable for qualifying negative results from future tests authorized under the Drug and Alcohol Policy.

B. Drug Testing Protocols

For the purpose of this Section, and any other reference to a drug test administered under the NECA/IBEW Drug-Free Workforce Program, the following definitions will be applicable:

Adulterated - An adulterated specimen is one that is not a human urine product (less than 5 mg/dl creatinine), or contains a substance or chemical which can only have been added to the specimen after it has been voided (as determined by either its presence or its concentration in the urine).

Dilute/Diluted - A dilute specimen contains less than 1.003 specific gravity and the creatinine level is below 20 mg/dl. A dilute specimen does not meet the minimum urine concentration standards for the NECA/IBEW Drug-Free Workforce Program and will be rejected.

Reject/Rejected - A specimen may be rejected for testing if it does not meet recognized minimum standards either for urine concentration or for documentation of the collection. Ordinarily, a rejected specimen will require the Employee to provide a new specimen.

Substituted - A substituted specimen is one which has been brought into the collection facility and is not the donor's void. Such a specimen will be rejected under the NECA/IBEW Drug-Free Workforce Program.

Only urine tests which are directly authorized in conjunction with the NECA/IBEW Drug-Free Workforce Program will generally be recognized in accordance with this Drug and Alcohol Policy. In the event an Employee (bargaining or non-bargaining) appears at a collection facility for an unauthorized test, the test result will be forwarded to the Medical Review Office. However, the result will only be recognized as a valid test under this Program if it is positive. Further, the Employee will be required to reimburse the full amount of the cost of the unauthorized test. If the appropriate reimbursement is not made, the amount will be recovered from the next wellness benefit

check to be issued to the Employee.

In the event an Employee may be assigned to employment for which a valid Clean-Card issued by the NECA/IBEW Drug-Free Workforce Program would not satisfy the requirements of the work site or entity engaging their Employer the Employee shall take any alternate drug test required to work on said work site (at no expense to this Program) and the result should also be provided to the Medical Review Office of the NECA/IBEW Drug-Free Workforce Program. If reported to the Medical Review Office, a positive test result for a substance that would have been included in a test recognized by this Program will be recorded as a positive test and the Medical Review Office will implement the current procedures for handling a positive test result. Under no circumstance will there be a Wellness Benefit payable for any negative test administered outside of the NECA/IBEW Drug-Free Workforce Program.

Urine specimens will be collected from Employees utilizing standardized procedures which ensure both individual privacy for the donor (unless an attempt is made to dilute or adulterate a sample) and proper chain-of-custody of the urine sample until it is sealed and transported to the laboratory. Collection procedures will be consistent with Federal Standards for collection. However, a non-federal Custody and Control Form must be used to collect the specimen. Once an Employee presents themselves at an authorized collection facility and completes a Chain-of-Custody form, the process must be completed before the Employee leaves the collection facility. Employees producing a specimen that, upon visual inspection, does not meet minimum testing criteria shall be required to remain at the collection facility until they can produce a testable sample. Employees who are caught attempting to dilute or adulterate their specimen at an authorized collection facility shall be required to have a second sample collected under direct observation before the Employee leaves the collection facility. Should the Employee refuse to remain at the collection facility until they provide the second sample as required, the original sample will be treated as a positive test (Section D.).

The laboratory utilized in the NECA/IBEW Drug-Free Workforce Program must be certified by the Department of Health and Human Services/ Substance Abuse and Mental Health Services Administration (DHHS/SAMHSA) National Laboratory Certification Program. Urine samples must be screened by an approved immunoassay and presumptively positive specimens must be confirmed by gas chromatography/mass spectrometry (GC/MS). Five drug groups will be tested for: marijuana, cocaine, the amphetamines, the opiates, and phencyclidine (PCP).

In the event the laboratory determines that a urine specimen is too diluted, the specimen will be rejected and the Employee notified to that effect by the MRO. If the laboratory determines that a urine specimen has been substituted or adulterated, the specimen will be treated as a positive test (Section D.)

The drug testing cutoff concentrations employed in the NECA/IBEW Drug-Free Workforce Program are as follows:

<u>Substance</u>	<u>Screening Test (ng/mL)</u>	<u>Confirmatory Test (ng/mL)</u>
Marijuana metabolite (as 11-nor-delta-9- tetrahydrocannabinol- 9-carboxylic acid)	50	15

<u>Substance</u>	<u>Screening Test (ng/mL)</u>	<u>Confirmatory Test (ng/mL)</u>
Cocaine metabolite (as Benzoyllecognine)	300	150
Opiates	2,000	
Codeine		2,000
Morphine		2,000
Amphetamines	1,000	
Amphetamine		500
Methamphetamine		500
Phencyclidine	25	25

Cutoffs in the NECA/IBEW Drug-Free Workforce Program are intended to be linked to the cutoffs established by the Department of Health and Human Services for federally regulated testing. Therefore, these Program cutoffs (but not the drugs being tested) may be modified from time to time without notification to Employees if the federal rules are amended.

All test results are to be forwarded to the Medical Review Officer (MRO) who will verify the results and initiate issuance (or invalidation) of the Clean-Card. MRO duties will be conducted in accordance with federal standards.

All confirmed drug positive or substituted/adulterated donors must be given the opportunity to provide to the MRO any legitimate medical reason(s) they wish to offer for the positive test or untestable specimen. If the MRO's determination is that there is a legitimate, verifiable medical explanation for the positive or composition of the specimen, the result will be treated as equivalent to a negative laboratory test for Clean-Card purposes. If not, it will be considered a verified positive result. Use of another person's medication will not be an acceptable reason and will be considered a verified positive.

The MRO will advise the Administrative Office of the NECA/IBEW Drug-Free Workforce Program all negative tests. Each such Employee who is a covered participant in Plan A or Plan B at the time of their negative test will receive a wellness benefit check for \$60.00. This payment is applicable to each negative result for only required or authorized urine drug tests and may be applied in whole or in part to reimburse the NECA/IBEW Drug-Free Workforce Program for the full cost of any outstanding unauthorized test(s).

However, in the event the Employee's test does not constitute an authorized test under the NECA/IBEW Drug-Free Workforce Program, there will be no payment of a wellness benefit even if the result is negative.

C. Post-Accident Alcohol Testing Protocols

The post-accident alcohol analysis collection must also be consistent with the protocols established by federal standards. All presumptively positive alcohol positives must be confirmed by an evidential-level breath testing device. All breath alcohol devices employed for confirmation must be on the National Highway Transportation Safety Administration's (NHTSA's) DOT approved products list. The Medical Review Officer (MRO) will review all post-accident alcohol testing results on behalf of the Employer and will be responsible for reporting results and for maintaining test records.

The alcohol testing cutoff concentrations employed in the NECA/IBEW Drug-Free Workforce Program are 0.04% BrAC for both screening and confirmation tests. Employees regulated by the Department of Transportation will be subject to cutoffs found in applicable regulations.

D. The Positive Drug and Alcohol Test

In the case of a verified positive drug or alcohol test, the MRO will immediately notify the Employer's specially designated contact person both by fax and by telephone that the Employee no longer has a valid Clean-Card. The Employer will not be required to physically retrieve a voided Clean-Card from an Employee. In the case of apprentices, the Joint Apprenticeship Training Committee (JATC) will also be notified.

Employees are entitled to copies of verified positive results, which they may request in writing from the MRO. Communication with the MRO may only be conducted by telephone or in writing. An Employee may not visit the offices of the MRO to discuss the results of any test administered under this Program.

If an Employee wishes to appeal a verified positive test result, requiring an additional laboratory test of the specimen from which the verified positive results emanated, the Employee must submit a written request to the MRO. However, if the results of this additional test does not invalidate the original positive test result the Employee will be required to reimburse the Program the full amount of the actual cost of the additional test.

In the event an Employee voluntarily advises an Employer, the Union or the Administrative Manager that they are using any substance included in the standard testing protocol of the NECA/IBEW Drug-Free Workforce Program, the MRO is to be notified in the form of a written statement from only the Employee or the person to whom the admission was made and must contain the name of the Employee, as well as the date, time and location of the discussion in which the admission was made and a quotation of what was said at the time of the admission. If this statement is remitted by other than the Employee, it must contain a certification statement affirming that the above facts are true to the best of the person's knowledge. The MRO will then interview the Employee and, upon verification that the Employee's admission was voluntary, it will be considered as the equivalent of a positive drug test and handled by the MRO according to the provisions of this Section. In the absence of the MRO verifying that the admission was voluntary, there will be no adverse impact on the status of the Employee's Clean-Card.

Once a positive MRO determination has been made, the MRO will refer the verified positive Employee to the Members' Assistance Program (MAP) for evaluation and counseling and/or treatment. Once the MAP has qualified the Employee for return to work, the MRO will be contacted and a return-to-work drug and/or alcohol breath test will be scheduled. In the event the test is not taken when scheduled, a new authorization must be issued by the MAP. Any otherwise unauthorized test taken prior to the MAP rescheduling the Employee to take a return-to-work test will not be recognized as a valid test, unless the result is positive. Once a negative result is obtained, a Clean-Card will be issued to the Employee. The MRO will work closely with the MAP to ensure that the Employee is considered a low risk to return to drug and/or alcohol use. The MAP may require follow-up drug and/or alcohol tests for a period of up to two years, the cost of which may be borne by the NECA/IBEW Drug-Free Workforce Program. Drug and/or alcohol tests required by the MAP will be considered to have equal consequences with all other forms of testing required by this Policy.

E. Verification of Clean-Card Status

Every participating Employer will be provided with a telephone number which will allow 24 hours per day/365 days per year computer verification of Clean-Card status. Access to the system will be by an Employer-unique security code. When an Employee is hired, the Employer should verify the possession of a valid Clean-Card by calling the Clean-Card verification number. If the Employee does not have a valid Clean-Card (whether because of a positive test, a failure to appear for a required test, an expired Card, being declared ineligible for a Clean-Card, or testing is not yet complete), the system will not have any reportable information on the individual. Questions by the Employer can also be directed to a designated NECA/IBEW Drug-Free Workforce Program client services representative in the MRO's office.

F. Clean-Cards

Clean-Cards will be issued only for initial testing and periodic/birthday testing. Clean-Cards will be mailed to qualifying Employees so that they should arrive at their address of record within seven calendar days of the collection. Clean-Cards will be valid up to the end of the calendar month of the Employee's birth date in the next calendar year. Clean-Cards will clearly designate the Employee's name and the expiration date of the Card.

VIII. Federal Highway Administration (FHWA) Required Testing Policies

Some subscribing Employers have Employees who are covered under FHWA regulations found in 49 CFR Part 382, as amended. These Employees are also considered part of the NECA/IBEW Drug-Free Workforce Program and will maintain their Clean-Card eligibility in a similar manner to non-federally regulated Employees. Although they have somewhat different federal testing categories (which include more alcohol testing requirements), they must also participate in the Drug-Free Workforce Program's periodic testing category. However, Employees must be clearly informed whenever they are taking a federal test, and have different return-to-work requirements if they are positive. Employers must be notified of FHWA test results by the MRO in a different manner, must themselves maintain special test records, must have supervisors of FHWA drivers trained to make reasonable suspicion determinations, must provide drug and alcohol information to their covered drivers in accordance with the rule, and must be prepared for both state and federal inspection of their FHWA drug and alcohol testing program. A set of procedures for FHWA-regulated drivers will be incorporated as Attachment I for participating Employers who fall under those requirements.

IX. Confidentiality Requirements

All drug and alcohol test-related information which is maintained in connection with the Drug and Alcohol Policy (DAP) is considered confidential. Those personnel having legitimate access to this information are required to restrict conversations to only those on a minimum need-to-know basis, but must otherwise maintain total confidentiality of test results and DAP violations. Willful failure to abide by these requirements, or negligence in maintaining written or oral confidentiality, may result in administrative action up to and including termination by the Employer or prosecution under federal or state law.

PART TWO DRUG AND ALCOHOL POLICY

The use of drugs and the abuse of alcohol among electrical construction industry Employees can significantly increase the safety risk for both workers and the general public, impact costs and liability for Employers, and erode public confidence. It is therefore the policy of the San Diego National Electrical Contractors Association (NECA) and the International Brotherhood of Electrical Workers Local 569 (IBEW), that illicit drug use, unauthorized use of controlled substances, and/or alcohol abuse by its Members' and others performing safety-sensitive duties, not be allowed to:

- jeopardize the health and welfare of themselves or their fellow workers;
- impact the safety of operations; or
- otherwise adversely affect or endanger other Employees, customers, or the general public

This Drug and Alcohol (DAP) Policy is designed to apply to all journeymen, apprentices, or others falling within the NECA/IBEW Drug-Free Workforce Program or who are required to be tested in accordance with U.S. Department of Transportation (DOT) operating administration regulations. Definitions and procedures designed to support this Policy are attached to this document.

I. Possession of Illicit Drugs, Unauthorized Controlled Substances, or Ethyl Alcohol While on Duty or at the Work-site

Possession of illicit drugs or unauthorized controlled substances while on duty or at the work-site will result in administrative action up to and may include termination by the Employer. Possession of open containers of alcoholic beverages while on duty or at the work-site, unless part of an Employer sponsored social function, will result in administrative action up to and may include termination by the Employer.

II. Sale or Furnishing of Illicit Drugs, Unauthorized Controlled Substances, or Open Containers of Ethyl Alcohol While On Duty or at the Work-site

Sale or furnishing of illicit drugs or unauthorized controlled substances while on duty or at the work-site will result in administrative action up to and may include termination by the Employer. Sale or furnishing of open containers of alcoholic beverages while on duty or at the work-site, unless part of an Employer sponsored social function, will result in administrative action up to and may include termination by the Employer.

III. Use of Illicit Drugs or Unauthorized Controlled Substances While on Duty or at the Work-site

Use of illicit drugs or unauthorized controlled substances while on duty or at the work-site will result in administrative action up to and may include termination by the Employer.

IV. Use of Ethyl Alcohol While on Duty or at the Work-site

Use of alcoholic beverages while on duty or at the work-site, unless part of an Employer sponsored social function, will result in administrative action up to and may include termination by the Employer. No use of alcoholic beverages is permitted at any time which will produce an alcohol concentration in violation of Section V. of this Policy if the Employee is then required to drive Employer vehicles or equipment or to perform safety-sensitive duties.

V. Presence in Any Required Test of Illicit Drugs, Unauthorized Controlled Substances, or Ethyl Alcohol

The presence of illicit drugs or unauthorized controlled substances in a required urine test, or the presence of ethyl alcohol equivalent to .04% BrAC or above in a required breath test, will result in administrative action and may include termination. The presence of alcohol equivalent to .02% to .039% BrAC in any Employee test regulated by the DOT will result in that individual being relieved from safety-sensitive duties for at least eight (8) hours or one work shift, whichever is longer.

VI. Testing Requirements

Employees participating in the NECA/IBEW Drug-Free Workforce Program must provide urine specimens for initial, periodic/birthday, post-accident, and random drug testing. Employees not subject to collective bargaining are also required to be subject to random testing, except as prohibited by law. All Employees must additionally provide a breath alcohol test for post-accident testing.

Employees who fall under the DOT Federal Highway Administration (FHWA) regulations found in 49 CFR Part 382 must provide urine specimens in accordance with those rules for initial, reasonable suspicion (if drugs are suspected), post-accident, random, return to work, and follow-up testing. They must also provide a breath alcohol test for reasonable suspicion (if alcohol is suspected), post-accident, and random testing.

Urine samples will be tested for the following drug categories: marijuana, cocaine, the opiates, phencyclidine (PCP), and the amphetamines.

Refusal to take a required drug or alcohol test, or attempting to adulterate, dilute, or contaminate a urine specimen, will result in administrative action and may include termination by the Employer.

VII. Testing Protocols

All Employees falling under the NECA/IBEW Drug-Free Workforce Program or under FHWA or other DOT regulations will be tested consistent with federal standards (see also Program Procedures).

Urine specimens shall be collected under strict chain-of-custody procedures and tested at a laboratory certified by the Department of Health and Human Services/Drug Abuse and Mental Health Services Administration (DHHS/DAMHSA). All positive urine specimens must have been confirmed by gas chromatography/mass spectrometry (GC/MS). All test results will be forwarded to a qualified Medical Review Officer (MRO) for verification.

Breath specimens shall be obtained under strict chain-of-custody procedures by a federally-qualified collector. Breath specimens must be confirmed on an evidential-level breath testing device qualified for DOT testing by the National Highway Transportation Safety Administration (NHTSA).

VIII. Members' Assistance Program

Any Employee found violating the possession, use, or presence sections of this Policy (whether identified by his/her behavior, work performance, a drug and alcohol testing result, and/or self-admission) shall on a first episode be referred to the Members' Assistance Program (MAP) for further evaluation and appropriate counseling. In some cases, disciplinary action under this Policy may be stayed pending active participation and successful completion of a drug or alcohol program. Self-referral and ongoing participation in the MAP will be held confidential except under state or federal laws of mandatory disclosure.

Referrals to the MAP for subsequent violations will depend on the Program Manager's discretion. The MAP participation is an accommodation but is not intended to supplant appropriate progressive disciplinary actions. Refusal to accept a MAP referral or to actively participate in the MAP may not, in and of itself, be grounds for termination by the Employer. However, failure to cooperate fully will constitute waiver of accommodation, and normal disciplinary measures up to and including termination will apply.

APPEALS PROCESS

Within 180 days after receipt of written notice that the claim for a benefit has been denied, in whole or in part, the Employee, or his/her designated representative, must file a written appeal addressed to the Board of Trustees of the NECA/IBEW Drug-Free Workforce Trust. The Board of Trustees shall arrange for a hearing before the Trustees at the next regularly scheduled meeting of the Board if the request for review is received at least thirty days prior to such meeting. Otherwise, the hearing shall be held at the next regularly scheduled Board meeting.

The scope of such hearing shall be limited to the claim which was denied, the Documents used and relied upon by the Trustees in denying the claim, the pertinent Trust Documents, other evidence submitted in writing by the Employee as provided below and a review of the issues and such other oral testimony as may be submitted. In order to permit the Trustees to seek any necessary outside review and/or consultation prior to the appeal hearing, all additional information and materials requested to be reviewed by the Employee must be received by the Trust Office at least 10 calendar days prior to the hearing date.

The Employee shall be notified in writing at least 15 days prior to the commencement of said hearing as to the date, time and location of such hearing. In addition, the notice will state that the Employee, or his representative, shall be entitled, upon submission of a written request, to:

- A. Review all pertinent Documents used or relied upon by the Trustees in denying the claim except as may be deemed to be confidential by law;

- B. Review all pertinent Plan and Trust Documents; and
- C. Submit in writing, at least 10 days prior to the date of the hearing, any issues, comments, or other evidence relied upon by the Employee to justify the claim and overcome the determination made by the Plan.

In the event the Trustees should desire additional comment or evidence on any issue involving the claim, a request for same may be made.

If the Employee should request an appeal hearing before the Trustees, the hearing will be conducted in accordance with the then current Hearing Procedures.

Should the decision rendered by the Trustees, in whole or in part, be adverse to the claim made by the Employee, the decision of the Trustees shall state the same information as required in the initial notice of denial.

The decision of the Board of Trustees shall be final and binding upon all parties. However, if the Employee is dissatisfied with the written decision of the Trustees, he or she shall have the right to appeal the Employee matter to arbitration in accordance with the Employee Benefit Plan Claims Arbitration Rules of the American Arbitration Association, provided that he or she submit a request for arbitration to the Trustees within sixty days of receipt of the written decision of the Board. If an appeal to arbitration is made, the Trustees shall submit to the arbitrator a copy of the record upon which the Trustees' decision was made. The Trustees shall be responsible for the costs of such arbitration. However, the party requesting arbitration shall be responsible for his or her attorney's fees, if any. At the conclusion of the arbitration proceeding, the prevailing party may be entitled to recover their reasonable attorney's fees. The questions for the arbitrator shall be the following: (1) whether the Trustees were in error upon an issue of law; (2) whether the Trustees acted arbitrarily or capriciously in the exercise of their discretion; and (3) whether the Trustees' findings of fact were supported by substantial evidence. In no event shall a Class arbitration be permitted. The decision of the arbitrator shall be final and binding upon all parties whose interests are affected thereby, unless a petition for judicial review is commenced within the statutory period for vacating an arbitration award.

CLAIMS AND APPEAL RULES INTRODUCTION

The following rules have been adopted by the Trustees to cover claims and appeals.

It is the intent and desire of the Trustees that these rules be consistent and comply with applicable regulations including, but not limited to, 29 CFR 2560, et seq., which are incorporated here as though set forth in full. The regulations shall be construed in accord with Department of Labor guidance issued subsequent to issuance of the regulations.

NECA/IBEW DRUG-FREE WORKFORCE PROGRAM

Presently, to be eligible to qualify for a wellness benefit an Employee must be eligible in either Plan A or Plan B of the San Diego Electrical Health & Welfare Trust at the time they tested negative in accordance with an authorized test, however this arrangement is subject to change at any time at the discretion of the Trustees. Further, in order for a drug test to be considered “authorized”, and thereby paid for by the Program, the Employee must have been a participant in Plan A or Plan B at the time the test was administered.

If an Employee wishes to appeal a verified positive test result, requiring an additional laboratory test of the specimen from which the verified positive results emanated, the Employee must submit a written request to the MRO. However, if the results of this additional test does not invalidate the original positive test result the Employee will be required to reimburse the Program the full amount of the actual cost of the additional test.

EMPLOYEE ASSISTANCE AND MANAGED MENTAL HEALTH & CHEMICAL DEPENDENCE PROGRAMS

The San Diego Electrical Health & Welfare Trust contracts Mental Health Network (“MHN”) to process all mental health and chemical dependency claims, therefore the Employee must be covered under either Plan A or Plan B at the time treatment is necessary as there are no benefits for such coverage afforded under this Program. Please note that for other than emergency situations, Employees must contact the Members’ Assistance Program to arrange to receive treatment for mental health and/or chemical dependency.

ELIGIBILITY ISSUES

The Trust Office is responsible for maintaining eligibility records for the San Diego Electrical Health & Welfare Trust derived from payroll reports remitted by Contributing Employers. Each month the Trust Office prepares a listing of eligible participants, based on the most current information at the time. There may be instances where a Employee has a claim denied because he or she has not met the Rules of Eligibility to be eligible for benefits under the San Diego Electrical Health & Welfare Plan.

If a claim is denied because an Employee does not meet the eligibility requirements of their Health & Welfare Plan, the Employee has the right to appeal this denial. The appeal should be in writing and sent to the Trust Office. The appeal should include the reason(s) believed to have satisfied the eligibility requirements and include any factual information believed to be pertinent to the review. Appeals will be considered within the time parameters described in the sections above.

PART THREE GENERAL PROVISIONS

STATEMENT OF EMPLOYEE RIGHTS UNDER ERISA (EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974)

As a participant in the NECA/IBEW Drug-Free Workforce Trust you are entitled to certain rights Employee Retirement Income Security Act of 1974 (ERISA). ERISA provides that all Plan participants shall be entitled to:

- A. Examine, without charge, at the Trust Office all Plan Documents, including prepaid group service plan contracts, Collective Bargaining Agreements and copies of all Documents filed by the Plan with the Employee Benefits Security Administration (EBSA), such as detailed annual reports and Plan Descriptions.
- B. Obtain copies of all Plan Documents and other Plan information upon written request to the Plan administrator. The administrator may make a reasonable charge for copies requested.
- C. Receive a summary of the Plan's annual financial report. The Trustees are required by law to furnish each participant with a copy of this Summary Annual Report.

In addition to creating rights for Plan participants ERISA imposes duties upon the people who are responsible for the operation of the Plan. The people who operate your Plan, called "fiduciaries", have a duty to do so prudently and in the interest of you and other Plan participants and beneficiaries. No one, including your former Employers, your Union, or any other person may fire you or otherwise discriminate against you in any way to prevent you from obtaining a benefit or exercising your rights under ERISA. If your claim for a benefit is denied in whole or part, you must receive a written explanation of the reason(s) for the denial. You have the right to have the Board of Trustees review and reconsider your claim.

Under ERISA, there are steps you can take to enforce the above rights. For instance, if you request materials from the Plan and do not receive them within 30 days, you may file suit in a federal court. In such a case, the court may require the Trustees to provide the materials and pay you up to \$110.00 a day until you receive the materials, unless the materials were not sent because of reasons beyond the control of the Trustees.

If you have a claim for benefits which is denied or ignored, in whole or in part, you may file suit in a State or Federal court. If it should happen that the Plan fiduciaries misuse the Plan's rights, you may seek assistance from the U.S. Department of Labor, Employee Benefits Security Administration, or you may file suit in a Federal court. The court will decide who should pay court costs and legal fees. If you lose (for example, if the court finds your claim is frivolous), the court may order you to pay these costs and legal fees.

If you have any questions about this Plan, you should contact the Trust Office. If you have questions about this statement or about your rights under ERISA, you should contact the nearest Area Office of the Pension and Welfare Benefits Administration, Department of Labor, located at:

United States Department of Labor
Employee Benefits Security Administration
790 E Colorado Boulevard
Suite 514
Pasadena, CA 91101

**THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA)
Confidentiality of Health Information**

Congress passed the Health Insurance Portability and Accountability Act (HIPAA) in January of 1998. Under the Privacy Rule of HIPAA there are restrictions on when The Plan may have access to certain health care information about you known as Protected Health Information (PHI). Generally, PHI is information from which your individual identity can be discerned that is transmitted or maintained in any form (e.g., electronic, paper, oral) and that is created or received by a provider, health plan or health care clearing house.

- In accordance with HIPAA, the Plan agrees not to use or disclose your PHI for purposes other than:
- For treatment, payment or health care operations,
- As permitted or required by law, or
- As authorized by you.

You will receive Notices of Privacy Practices that describe the Plans' policies, practices and your rights with respect to your PHI under HIPAA. For more information regarding this Notice contact the Trust Office.

OTHER IMPORTANT INFORMATION

Name of Plan:	NECA/IBEW Drug-Free Workforce Trust
Employer ID Number (EIN):	26-0086977
Plan Number:	501
Type of Plan:	This Trust oversees a “Clean-Card” drug testing program established under the terms of various collective bargaining agreements between the bargaining parties. A Medical Review Officer has been retained to record all drug test results and coordinate the handling of all positive test results with the Members’ Assistance’ Assistance Program.
Type of Trust Administration:	The Trust is self-administered under a Declaration executed jointly by equal representatives of the Union and Contributing Employers. Further details may be requested from the Trust Office.
Plan Administration:	Board of Trustees of NECA/IBEW Drug-Free Workforce Trust, P.O. Box 231219, San Diego, CA 92193-1219, telephone (858) 569-6322 or (800) 632-2569, Ext 310. Office hours: Monday through Friday, 8:00AM -12:00 Noon and 1:00 PM - 4:30 PM, excluding holidays.
Agent for Service of Legal Process:	Ken Stuart, Administrative Manager 4747 Viewridge Avenue, #100, San Diego, CA 92123-1688.

It is also possible that service may be made on any of the following Trustees:

Employer Trustees

Andrew Berg
9350 Waxie Way, Suite 540
San Diego, CA 92123

Earl Restine, Jr.
9350 Waxie Way, Suite 540
San Diego, CA 92123

Union Trustees

Allen Shur
4545 Viewridge Avenue, Suite 100
San Diego, CA 92123

Nicholas Segura
4545 Viewridge Avenue, Suite 100
San Diego, CA 92123

Relevant Provisions of the
Collective Bargaining
Agreement:

The Collective Bargaining Agreement between the San Diego Chapter, National Electrical Contractors Association, Inc. and Local 569, International Brotherhood of Electrical Workers, provides for Employer contributions to this Trust for each hour paid in all covered classifications. Copies may be obtained by participants and beneficiaries upon written request to the Plan Administrator and is available for examination.

Type of Funding:

Assets are accumulated in a Trust established to hold assets of the Plan. Disbursements of expense and benefit payments are through the Trust.

Plan Year (for benefits):

January 1st to December 31st.

Fiscal Year:

October 1st to September 30th.

Legal Counsel:

Melissa W. Cook & Associates
San Diego, CA

Medical Review Officer:

Bensinger Dupont & Associates
Fallbrook, CA

Administrator:

San Diego Electrical Industry Administrative Corporation
San Diego, CA

NOTES