

**MEMORANDUM
OF
UNDERSTANDING**



**TESTING POLICY FOR
DRUG ABUSE**

Revised July 2025

**International Union of
Operating Engineers
Local Union No. 12**



INTRODUCTION

At the June 1991 General Membership Meeting, the members in attendance acknowledged the need of some form of drug testing that would keep the jobsite safe while at the same time protect each members individual rights under the constitution.

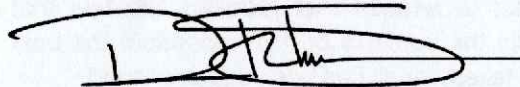
When signatory contractors were not being allowed to bid on projects because they had no official drug testing policy, it became obvious that we were going to have to develop a test to remedy that problem. We feel that within the confines of this addendum the best and fairest for all has been accomplished.

This Memorandum of Understanding is actually an addendum to Local 12's Master Labor Agreement. All the provisions in this shall be adhered to and enforced by Local 12. No member shall be subjected to any provision outside of this memorandum. If any employer asks a member to test for substance abuse and asks for any procedures outside of what is outlined here or in the Side Letter of Understanding on pages 12 & 14, that employer is in violation of the Master Labor Agreement and you are not required to comply.

Substance abuse has become a national problem. While jobsite safety has always been a priority in Local 12, it is not the intent of this policy to subject any member to a test that all members on a project are not subject to.

You, as a member working under these conditions have rights as well as obligations. If you have any questions, please contact this office or your Business Representative.

Fraternally,

A handwritten signature in black ink, appearing to read 'D. Sikorski', written over a horizontal line.

David K. Sikorski, Business Manager
& General Vice President

MEMORANDUM

OF

UNDERSTANDING

TESTING POLICY FOR DRUG ABUSE

July 1, 2025

This Memorandum of Understanding shall be considered as an addendum to the Master Labor Agreement currently in effect between the parties. It shall be effective as of the date it is signed and shall thereafter run concurrently with the Master Labor Agreement.

The parties recognize the problems which drug abuse has created in the construction industry and the need to develop drug abuse prevention programs. Accordingly, the parties agree that in order to enhance the safety of the workplace and to maintain a drug free work environment, individual Employers may require applicants or employees to undergo drug testing. The parties agree that if a testing program is implemented by an individual Employer, the following items have been agreed upon by the Labor and Management and will apply.

1. It is understood that the use, possession, transfer or sale of illegal drugs, narcotics, or other unlawful substances is absolutely prohibited while employees are on the Employer's job premises or while working on any jobsite in connection with work performed under the Master Labor Agreement.

2. No Employer may implement a drug testing program which does not conform in all respects to the provisions of this Agreement.

3. No Employer may implement drug testing at any jobsite unless written notice is given to the Union setting forth the location of the jobsite, a description of the project under construction, and the name and telephone number of the Project Supervisor. Said notice shall be addressed to the International Union of Operating Engineers, 150 Corson Street, Pasadena, California 91103. Said notice shall be sent by email, fax or by registered mail before the implementation of drug testing. Failure to give such notice shall make any drug testing engaged in by the Employer a violation of the Master Labor Agreement, and the Employer may not implement any form of drug testing at such jobsite for the following six months.

4. An Employer who elects to implement drug testing pursuant to this Agreement shall require all employees on the project to be tested. With respect to individuals who become employed on the project subsequent to the proper implementation of a valid drug testing program, such test shall be administered upon the commencement of employment on the project, whether by referral from a Union Dispatch Office, transfer from another project, or another method. Individuals who were employed on the project prior to the proper implementation of a valid drug testing program may only be subjected to testing for the reasons set forth in paragraphs 5(g)(1) through 5(g)(3) and paragraphs 6(a) through 6(e) of this Agreement. Refusal to undergo such testing shall be considered sufficient grounds to deny employment on the project.

5. The following procedure shall apply to all drug testing:

a. The Employer may request urine samples only. The applicant or employee shall not be observed when the urine specimen is given. An applicant or employee, at his or her sole option, shall, upon request, receive a blood test in lieu of a urine test. No employee of the Employer shall draw blood from a bargaining unit employee, touch or handle urine specimens, or in any way become involved in the chain of custody of urine or blood specimens. A Union Business Representative, subject to the approval of the individual applicant or employee, shall be permitted to accompany the applicant or employee to the collection facility to observe the collection, bottling, and sealing of the specimen.

b. An employer may request an applicant to perform an alcohol breathalyzer test, at a certified laboratory only and cutoff levels shall be those mandated by applicable state or federal law.

c. The testing shall be done by a laboratory approved by the Substance Abuse & Mental Health Services Administration (SAMHSA), which is chosen by the Employer and the Union.

d. An initial test shall be performed using the Enzyme Multiplied Immunoassay Technique (EMIT). In the event a question or positive result

arises from the initial test, a confirmation test must be utilized before action can be taken against the applicant or employee. The confirmation test will be by Gas Chromatography/Mass Spectrometry (GC/MS). Cutoff levels for both the initial test and confirmation test will be those established by SAMHSA. Should these SAMHSA levels be changed during the course of this Agreement or new testing procedures are approved, then these new regulations will be deemed as part of this existing Agreement. Confirmed positive samples will be retained by the testing laboratory in secured long-term frozen storage for a minimum of one year. Handling and transportation of each sample must be documented through strict chain of custody procedures.

e. In the event of a confirmed positive test result the applicant or employee may request, within forty-eight (48) hours, a sample of his/her specimen from the testing laboratory for purposes of a second test to be performed at a second laboratory, designated by the Union and approved by SAMHSA. The retest must be performed within ten (10) days of the request. Chain of custody for this sample shall be maintained by the Employer between the original testing laboratory and the Union's designated laboratory. Retesting shall be performed at the applicant's or employee's expense. In the event of conflicting test results the Employer may require a third test.

f. If, as a result of the above testing procedure, it is determined that an applicant or employee has tested positive, this shall be considered sufficient grounds to deny the applicant or employee his/her employment on the project.

g. No individual who tests negative for drugs pursuant to the above procedure and becomes employed on the project shall again be subjected to drug testing with the following exceptions:

1. Employees who are involved in industrial accidents resulting in damage to plant, property or equipment or injury to him/her or others may be tested for drug or alcohol pursuant to the procedures stated hereinabove.

2. The Employer may test employees following thirty (30) days advance written notice to the employee(s) to be tested and to the Union. Notice to the Union shall be as set forth in Paragraph 3 above and such testing shall be pursuant to the procedures stated hereinabove.

3. The Employer may test an employee where the Employer has reasonable cause to believe that the employee is impaired from performing his/her job. Reasonable cause shall be defined as being aberrant or unusual behavior, the type of which is a recognized and accepted symptom of impairment (i.e., slurred speech, unusual

lack of muscular coordination, etc.). Such behavior must be actually observed by at least two persons, one of whom shall be a supervisor who has been trained to recognize the symptoms of drug abuse or impairment and the other of whom shall be the Job Steward. If the job steward is unavailable or there is no job steward on the project the other person shall be a member of the Operating Engineers bargaining unit. Testing shall be pursuant to the procedures stated hereinabove. Employees who are tested pursuant to the exceptions set forth in this paragraph and who test positive will be removed from the Employer's payroll.

a. Applicants or employees who do not test positive shall be paid for all time lost while undergoing drug testing. Payment shall be at the applicable wage and benefit rates set forth in the Master Labor Agreement. Applicants who have been dispatched from the Union and who are not put to work pending the results of a test will be paid waiting time until such time as they are put to work. It is understood that an applicant must pass the test as a condition of employment. Applicants who are put to work pending the results of a test will be considered probationary employees.

6. The Employers will be allowed to conduct periodic jobsite drug testing on construction projects under the following conditions:

a. The entire jobsite must be tested, including any employee or subcontractor's employee who worked on that project three (3) working days before or after the date of the test;

b. Jobsite testing cannot commence sooner than fifteen (15) days after start of the work on the project;

c. Prior to start of periodic testing, a Business Representative will be allowed to conduct an educational period on company time to explain periodic jobsite testing program to affected employees;

d. Testing shall be conducted by a SAMHSA certified laboratory, pursuant to the provisions set forth in paragraph 5 hereinabove.

e. Only two (2) periodic tests may be performed in a twelve (12) month period.

7. It is understood that the unsafe use of prescribed medication, or where the use of prescribed medication impairs the employee's ability to perform work, is a basis for the Employer to remove the employee from the jobsite.

8. Any grievance or dispute which may arise out of the application of this Agreement shall be subject to the grievance and arbitration procedures set forth in the applicable Master Labor Agreement.

9. The establishment or operation of this Agreement shall not curtail any right of any employee found in any law, rule or regulation. Should any part of this Agreement be found unlawful by a court of competent jurisdiction of a public agency having jurisdiction over the parties, the remaining portions of the Agreement shall be unaffected, and the parties shall enter negotiations to replace the affected provision.

10. Present employees, if tested positive, shall have the prerogative for rehabilitation program at the employee's expense. When such program has been successfully completed the Employer shall not discriminate in any way against the employee. If work for which the employee is qualified exists he/she shall be reinstated.

11. The Employer agrees that results of urine and blood tests performed hereunder will be considered medical records held confidential to the extent permitted or required by law. Such records shall not be released to any persons or entities other than designated Employer representatives and the Union. Such release to the Union shall only be allowed upon the signing of a written release and the information contained therein shall not be used to discourage the employment of the individual applicant or employee on any subsequent occasion.

12. The Employer shall indemnify and hold the Union harmless against any and all claims, demands, suits, or liabilities that may arise out of the application of this Agreement and/or any program permitted hereunder.

13. Employees who seek voluntary assistance for substance abuse may not be disciplined for seeking such assistance. Requests from employees for such assistance shall remain confidential and shall not be revealed to other employees or management personnel without the employee's consent. Employees enrolled in substance abuse programs will be subject to all Employer rules, regulations and job performance standards with the understanding that an employee enrolled in such a program is receiving treatment for an illness.

14. The parties agree to develop and implement a drug abuse prevention and testing program for all apprentices entering the industry.

15. This Memorandum of Understanding shall constitute the only Agreement in effect between the parties concerning drug abuse, prevention and testing. Any modifications thereto must be accomplished pursuant to collective bargaining negotiations between the parties.

APPENDIX A: SPECIMEN REPORTING CRITERIA HSS DRUG TESTING PANEL - URINE

Initial Test Analyte	Initial Test Cutoff ¹	Confirmatory Test Analyte	Confirmatory Test Cutoff
Marijuana metabolite (Δ9THCC)	50 ng/mL	Δ9THCC	15 ng/mL
Cocaine metabolite (Benzoylcegonine)	150 ng/mL ²	Benzoylcegonine	100 ng/mL
Codeine/Morphine	2,000 ng/mL	Codeine Morphine	2,000 ng/mL 4,000 ng/mL
Hydrocodone/ Hydromorphone	300 ng/mL	Hydrocodone Hydromorphone	100 ng/mL 100 ng/mL
Oxycodone/ Oxymorphone	100 ng/mL	Oxycodone Oxymorphone	100 ng/mL 100 ng/mL
6-Acetylmorphine	10 ng/mL	6-Acetylmorphine	10 ng/mL
Phencyclidine	25 ng/mL	Phencyclidine	25 ng/mL
Fentanyl ³	1 ng/mL	Fentanyl Norfentanyl	1 ng/mL 1 ng/mL
Amphetamine/ Methamphetamine	500 ng/mL	Amphetamine Methamphetamine	250 ng/mL 250 ng/mL
MDMA ⁴ /MDA ⁵	500 ng/mL	Methylenedioxy- methamphetamine Methylenedioxy- amphetamine	250 ng/mL 250 ng/mL

¹For grouped analytes (i.e., two or more analytes that are in the same drug class and have the same initial test cutoff):

Immunoassay: The test must be calibrated with one analyte from the group identified as the target analyte. The cross-reactivity of the immunoassay to the other analyte(s) within the group must be 80 percent or greater; if not, separate immunoassays must be used for the analytes within the group.

Alternate technology: Either one analyte or all analytes from the group must be used for calibration, depending on the technology. For a technology that measures a response from the entire group without differentiating between analytes (e.g., an activity-based assay, a mass spectrometric assay that does not differentiate isobaric compounds), the laboratory must compare the result to the initial test cutoff. In the case of an alternate technology that differentiates and quantifies each analyte in the group, the laboratory must compare each analyte's result to the confirmatory test cutoff and reflex specimens with a positive initial test result to confirmatory testing.

² *Alternate technology (BZE):* The confirmatory test cutoff must be used for an alternate technology initial test that is specific for the target analyte (i.e., 100 ng/mL for benzoyllecgonine).

³ A fentanyl immunoassay must have at least 5% cross-reactivity to norfentanyl.

⁴ Methylenedioxymethamphetamine (MDMA)

⁵ Methylenedioxyamphetamine (MDA)

SIDE LETTER OF UNDERSTANDING

In regard to the Memorandum of Understanding on Testing Policy for Drug Abuse agreed to by the parties, it is agreed that if, as a condition of contract award or due to Federal, State, or Governmental Agency requirements, an individual Employer is required to abide by or implement more stringent requirements than set forth in the Memorandum of Understanding, the individual Employer will notify the Union in writing of those requirements. The Union reserves the right, upon receiving notification, to require the individual Employer to meet to negotiate any changes.

Agreed to this 1st, day of July, 2025.

Southern California Contractors Association, Inc.

Associated General Contractors of California, Inc.

Building Industry Association of Southern California, Inc.

United Contractors

Associated General Contractors of America San Diego Chapter, Inc.

Southern California Contractors Association, Inc./
San Diego

Associated General Contractors Las Vegas Chapter
Nevada Contractors Association

INTERNATIONAL UNION OF OPERATING
ENGINEERS, LOCAL UNION NO. 12

David K. Sikorski
Business Manager

David Garbarino
President

Ken Hunt
Vice President

SIDE LETTER
OF
AGREEMENT
TESTING POLICY
FOR DRUG ABUSE

It is hereby agreed between the parties hereto that an Employer who has otherwise properly implemented drug testing, as set forth in the Testing Policy for Drug Abuse, shall have the right to offer an applicant or employee a "quick" drug screening test. This "quick" screen test shall consist either of the "ICUP" urine screen or similar test or an oral screen test. The applicant or employee shall have the absolute right to select either of the two "quick" screen tests, or to reject both and request a full drug test.

An applicant or employee who selects one of the "quick" screen tests, and who passes the test, shall be put to work immediately. An applicant or employee who fails the "quick" screen test, or who rejects the "quick" screen tests, shall be tested pursuant to the procedures set forth in the Testing Policy for Drug Abuse. The sample used for the "quick" screen test shall be discarded immediately upon conclusion of the test. An applicant or employee shall not be deprived of any rights granted to them by the Testing Policy for Drug Abuse as a result of any occurrence related to the "quick" screen test.

Agreed to this 1st, day of July, 2025.

Southern California Contractors Association, Inc.

Associated General Contractors of California, Inc.

**Building Industry Association of Southern
California, Inc.**

United Contractors

Associated General Contractors of America San Diego Chapter, Inc.

Southern California Contractors Association, Inc./
San Diego

Associated General Contractors Las Vegas Chapter

Nevada Contractors Association

INTERNATIONAL UNION OF OPERATING
ENGINEERS, LOCAL UNION NO. 12

David K. Sikorski
Business Manager

David Garbarino
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Vice President

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