



July 19, 2024

## NECA Guidance on the Application of the Reverse Layoff Clause

*This guidance has been published by NECA since 2008*

NECA-IBEW Pattern Agreement Guide Category II Reverse Layoff reads:

### **REVERSE LAYOFF:**

*Note: This Category II language provides that employees be laid off from the highest Referral Group first, then the next group follows. Group I applicants would be laid off last.*

**Section 4.21. When making reductions in the number of employees due to lack of work, Employers shall use the following procedure:**

- (a). Temporary employees, if any are employed, shall be laid off first. Then employees in Group IV shall be laid off next, if any are employed in this Group. Next to be laid off are employees in Group III, if any are employed in this group, then those in Group II, and then those in Group I.**
- (b). Paragraph (a) will not apply as long as the special skills requirement as provided for in Section 4.15(a) is required.**
- (c). Supervisory employees covered by the terms of this Agreement will be excluded from layoff as long as they remain in a supervisory capacity. When they are reduced to the status of Journeyman, they will be slotted in the appropriate group in paragraph (a) above.**

The Category II Reverse Layoff Language was adopted to standardize existing reverse layoff provisions that were in effect in some areas of the country. In some cases, the locally drafted language that was used or the application of that language was challenged as being unlawful under the National Labor Relations Act. The pattern language was drafted in order to assure compliance with the law. As with any Category II Language, the Reverse Layoff Clause reflects a provision which the IBEW International Office recommends, but which NECA National has not endorsed. While NECA recommends that chapters not agree to the inclusion of the Reverse Layoff Clause in their local agreements, we do agree with the IBEW that if such clauses are included, they must use the Category II language verbatim.

Prior to the development of the Category II language, Reverse Layoff provisions had been applied in different ways in different areas, with some areas using a job-by-job basis and other areas using a shop-wide basis. The national organizations did not wish to upset the established practices in those areas when the Category II language was adopted and therefore the language was left silent on this issue.

Unfortunately, this silence has resulted in a number of grievances over whether contractors must lay off workers on a job- or shop-basis.

If the local parties have an established practice on the application of the reverse layoff provisions which can be shown through written agreement, labor-management ruling, negotiations minutes that show an understanding between the parties, or other means, then that practice shall continue unless a change is negotiated by the parties.

If the parties do not have an established practice, then efficiency of operations and customer service concerns weigh in support of a job-by-job application, and therefore, the general rule is that the reverse layoff procedures will be applied on a job-by-job basis.

Employers may transfer employees from one job to another at any time, even in anticipation of a coming layoff on a job, and where an employee possesses special skills needed by the employer or the job, such transfers alone are not violations of the provision. However, transfers made solely to frustrate the application of the Reverse layoff provisions shall be considered a violation of the agreement.

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