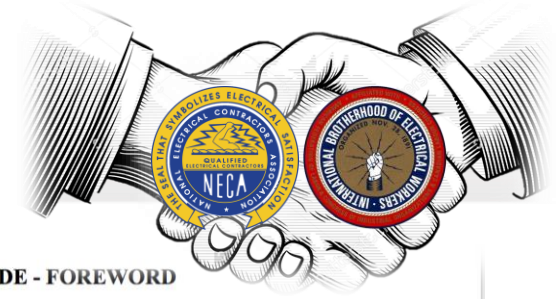


The Management Rights Clause

NECA's Bill of Rights for Employers

Agreement language – The Pattern Agreement Guide



Preface

In this file, you will find the revised version of three different pattern agreement guides and the Construction Wireman/Construction Electrician Addendum:

- (1) Inside Agreement;
- (2) Outside Agreement; and
- (3) Residential Agreement.

This revision replaces the 2008 version of the Pattern Agreement Guides. This year, as in the past the documents are provided in both PDF and Word formats. The PDF file is a secure document that cannot be changed; it can serve as a permanent reference. The Word files can be easily used in developing your local agreements.

The revisions include additional language to the explanation of Category I and II language located in the Foreword of the Guide, and minor typographical corrections.

All language changes are indicated by the insertion of a black bar to the left of those lines that have been changed both in the table of contents and affected article.

The Pattern Agreement Guides have been generally well-received and have led to the submission of better local agreements and more rapid internal analysis. Each guide includes a foreword consisting of definitions for Category I language, Category II language, Optional Language and common provisions, as well as information regarding the submission of agreements.

Inside Revision December 2008

INSIDE - FOREWORD

Category I provisions, as identified in red in the Table of Contents and in the body of this Guide, are considered Standard Agreement Language by the IBEW International Office and NECA National. By joint recommendation and in written agreement, all Inside Construction Agreements between IBEW Local Unions and NECA Chapters must contain all Category I Language verbatim, i.e., no deviations or changes to these clauses are permitted. Likewise, the agreement may not contain language that is contrary to the intent of the Category I language or circumvents provisions contained in the Category I Language. Additional language that pertains to but does not conflict with the Category I language may follow the language, but is not to be inserted within the language. (This would also apply to Category II and any other verbatim language.) There are also several places where Alternate Language is provided. This Alternate Language is to be used in lieu of, and not in conjunction with, Standard Language.

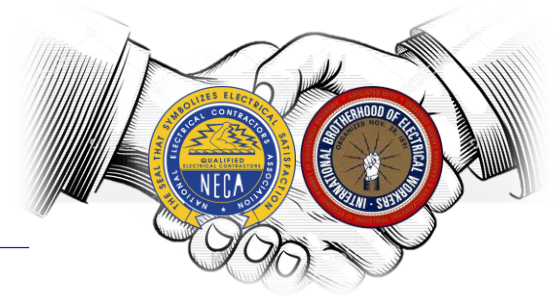
Category II Language, as identified in blue, reflects provisions which the IBEW International Office recommends but which NECA National has not endorsed. These provisions need to be negotiated locally. If adopted, this language must be inserted verbatim into the collective bargaining agreement.

Optional Language, as identified in purple, is language that is acceptable to the IBEW International and NECA National, is approvable, and may be included in the agreement if the local parties agree. In some cases, language other than the particular language illustrated may be used; however, some of these clauses must be used verbatim.

Sections identified in **black text** are common provisions listed for local labor management consideration. They must be locally negotiated and agreed upon and may be used as provided or modified as determined by the parties.

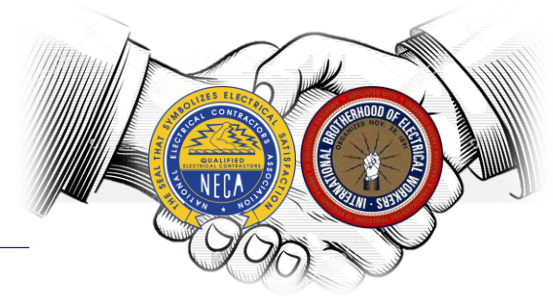
Inside Revision December 2008

Management Rights



The Union understands the Employer is responsible to perform the work required by the owner. The Employer shall, therefore, have no restrictions except those specifically provided for in the CBA, in planning, directing and controlling the operation of all his work, in deciding the number and kind of employees to properly perform the work, in hiring and laying off employees, in transferring employees from job to job within the Local Union's geographical jurisdiction, in determining the need and number as well as the person who will act as Foreman, in requiring all employees to observe the Employer's and/or owner's rules and regulations not inconsistent with this Agreement, in requiring all employees to observe all safety regulations, and in discharging employees for proper cause.

Management Rights



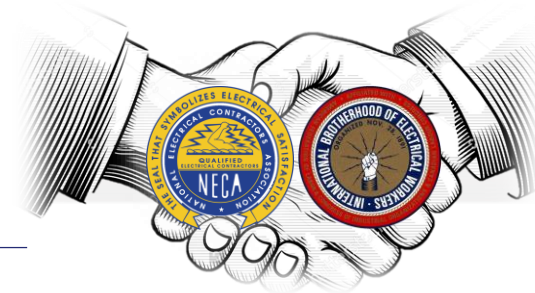
*The Union understands the Employer is responsible to perform the work required by the owner. **The Employer shall, therefore, have no restrictions except those specifically provided for in the CBA,** in planning, directing and controlling the operation of all his work, in deciding the number and kind of employees to properly perform the work, in hiring and laying off employees, in transferring employees from job to job within the Local Union's geographical jurisdiction, in determining the need and number as well as the person who will act as Foreman, **in requiring all employees to observe the Employer's and/or owner's rules and regulations not inconsistent with this Agreement,** in requiring all employees to observe all safety regulations, and in discharging employees for proper cause.*

Agreement Review



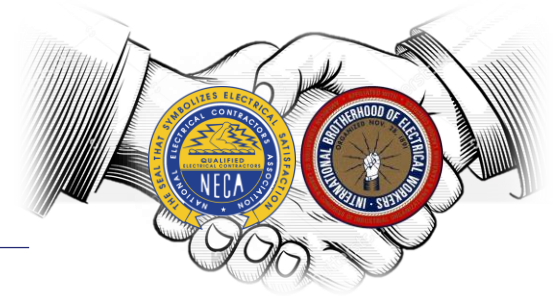
- Number of Agreements Reviewed – 72
- Standard CIR – 62
- Modified CIR – 9
- No CIR - 1
- Standard Shift Language – 22
- Alternate #1 Shift Language – 19
- Alternate #2 Shift Language – 2
- Alternate #3 Shift Language – 29

Agreement Review



- Age Ratio Clause – 55
- Work Preservation – 35
- Reverse Layoff – 48
- Employer Safety Responsibility - 19

Management Rights



*Don't Engage the Union in
Bargaining to Create a Right
That the Employer May
Already Have*

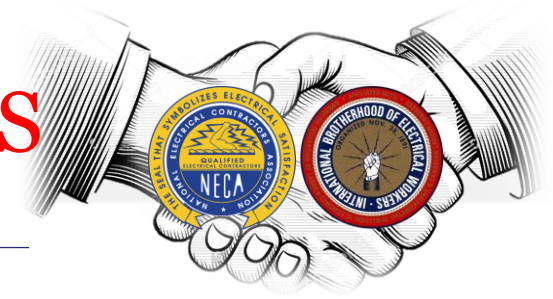
*Chuck Kelly, Executive Director
NECA Labor Relations*

CATEGORY 1



Category 1 provisions are considered Standard Agreement language by the IBEW and NECA. All Inside Construction Agreements between IBEW Local Unions and NECA Chapters must contain all Category 1 Language verbatim. No deviations or changes to these clauses are permitted. Additional language that pertains to but does not conflict with the Category 1 Language may follow the language, but is not to be inserted within the language.

CATEGORY 1 DISCREPANCIES



Referral Procedure

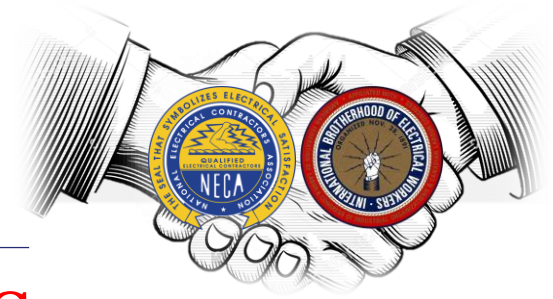
Section 4.03 – The Employer shall have the right to reject any applicant for employment.

Found in CBA

The Employer shall have the right to reject any applicant for employment, provided just cause is shown.

Any applicant who is rejected by the Employer shall receive \$50.00 compensation. A written cause shall be supplied if requested.

RIGHT TO REJECT WITHOUT SHOWING CAUSE



- Mountain Pacific NLRB Hiring Hall Case Established Mgt. Right to Reject – 1958
- Parsons Electric Case Reaffirmed Right to Reject Without Furnishing a Reason – 8th Circuit Court of Appeals, 1992
- U.S. District Court for the District of Oregon in Kofoed v. Rosendin Electric, 2001 – “A unionized employer need not explain why anyone referred for work by a union hiring hall was rejected for employment if the pertinent CBA does not require an explanation.”

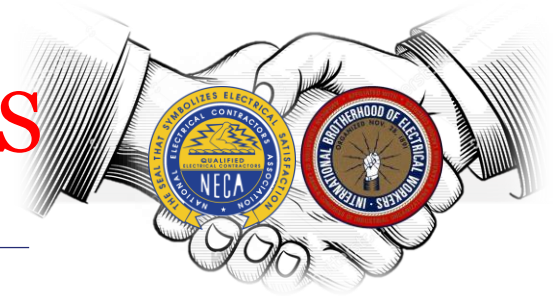
CATEGORY 1 DISCREPANCIES



Referral Procedure

“Job applicants referred to an employer under the provisions of the referral procedure shall be paid no less than two hours pay at their prevailing rate of pay by the employer to compensate them for the necessary time spent at the referral location.”

CATEGORY 1 DISCREPANCIES



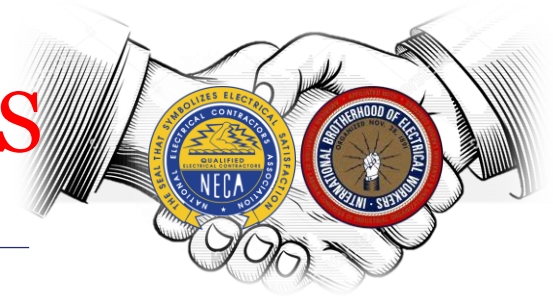
Favored Nations:

If the Union offers better terms & conditions to any employer, those terms & conditions will be made available to all employers signatory to the CBA.

Found in CBA:

“For the purpose of organizing, the Business Manager shall, at his discretion, offer better terms and conditions on a limited basis when necessary.”

CATEGORY 1 DISCREPANCIES



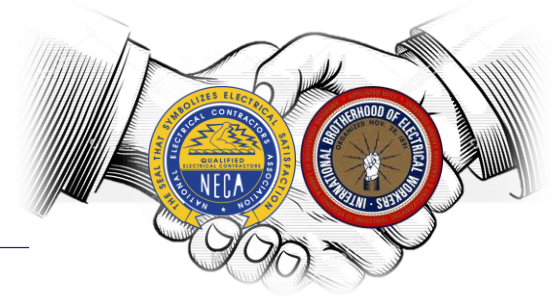
Standard Apprenticeship and Training:

*Section 5.12 – Each job site shall be allowed a ratio of _____ apprentices for every _____ Journeymen Wiremen.
(the ratio shall not be less than two apprentices for every three journeymen or fraction thereof.)*

Found in Agreement:

Each job site shall be allowed a ratio of one (1) apprentice for every three (3) Journeymen Wiremen.

Shift Alternatives



Standard Shift – 22 agreements found

1st Shift – 8 for 8

2nd Shift – 7 1/2 for 8 plus 10% premium

3rd Shift – 7 for 8 plus 15% premium

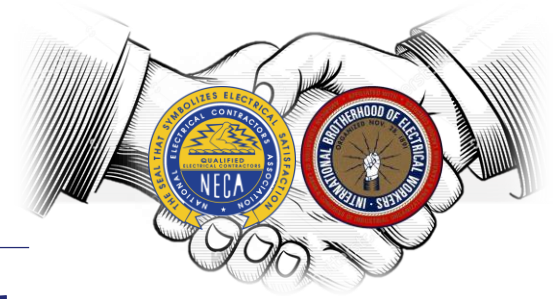
Alternate # 1 Shift – 19 agreements found

1st Shift – 8 for 8

2nd Shift – 8 for 8 plus 17.3% premium

3rd Shift – 8 for 8 plus 31.4% premium

Shift Alternatives



Alternative #2 Shift – 2 agreements found

1st Shift – 8 for 8

2nd Shift – 7 1/2 for 8 plus not to exceed 10%

3rd Shift – 7 for 8 plus not to exceed 15%

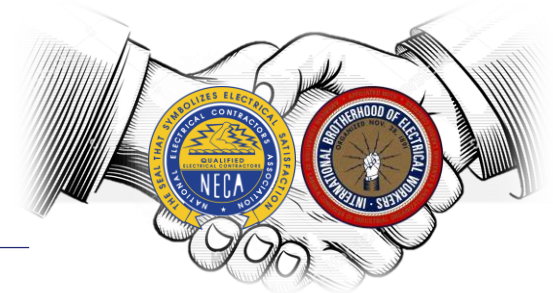
Alternative #3 Shift – 29 agreements found

1st Shift – 8 for 8

2nd Shift – 8 for 8 plus not to exceed 17.3%

3rd Shift – 8 for 8 plus not to exceed 31.4%

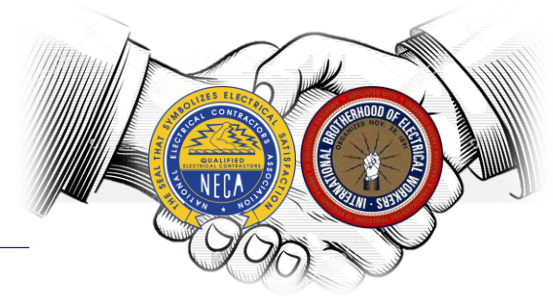
CATEGORY 2



Reflects provisions which the IBEW International Office recommends but which NECA National has not endorsed. If adopted, this language must be inserted verbatim into the collective bargaining agreement.

NECA does not recommend any of this language.

CATEGORY 2



- Work Preservation Clause - 35
- Age Ratio Clause - 55
- Reverse Layoff – 48
- Employer Safety Responsibility - 19
- Re-Registration Language
- Union Dues Deduction

CATEGORY 2

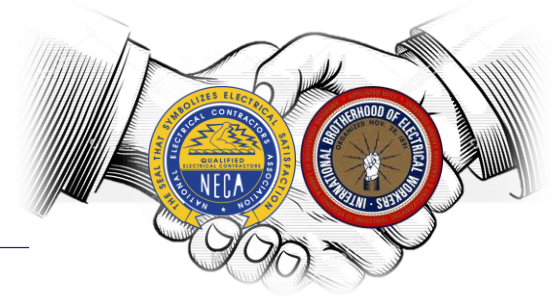


MANAGEMENT RIGHTS:

“The Employer shall...have no restrictions except those specifically provided for in the CBA, in planning, directing, and controlling the operation of all his work, in deciding the number and kind of employees to properly perform the work, in hiring and laying off employees...”

Age Ratio: On all jobs requiring five or more Journeymen, at least every fifth Journeyman, if available, shall be 50 years of age or older.

CATEGORY 2

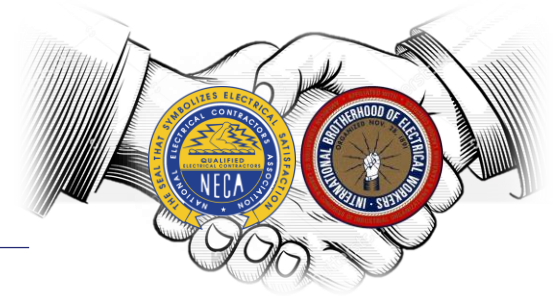


MANAGEMENT RIGHTS:

“The Employer shall...have no restrictions except those specifically provided for in the CBA, in planning, directing, and controlling the operation of all his work, in deciding the number and kind of employees to properly perform the work, in hiring and laying off employees...”

Reverse Layoff: This language provides that employees be laid off from the highest referral group first, then the next group follows, and Group 1 individuals would be laid off last.

CATEGORY 2



MANAGEMENT RIGHTS:

“...in requiring all employees to observe all safety regulations...”.

Employer Responsibility (Safety) Language

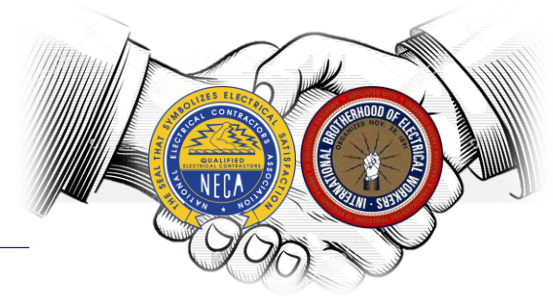
(It is the Employer's exclusive responsibility to insure the safety of its employees and their compliance with these safety rules and standards)

OPTIONAL LANGUAGE



Is language that is acceptable to the IBEW International and NECA National, is approvable, and may be included in the agreement if the local parties agree. In some cases, language other than the particular language illustrated may be used; however, some of these clauses must be used verbatim.

OPTIONAL LANGUAGE



- Foreman Call-Out Language
- Four-tens Language
- Direct Deposit
- Worker Recall
- National Electrical Annuity Plan (NEAP)
- National 401(K) Plan
- CW-CE Addendum

COMMON PROVISIONS



Is language for local labor management consideration. It must be negotiated locally and agreed upon and may be used as provided or modified by the parties.

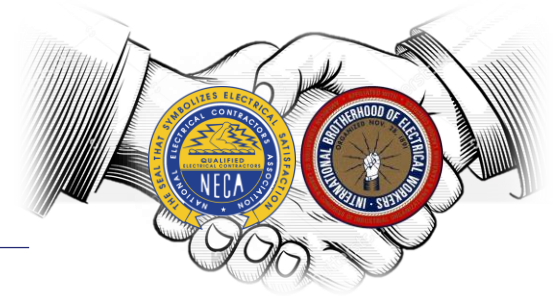
COMMON PROVISIONS



Management Rights Clause – “The Employer shall, therefore, have no restrictions except those specifically provided for in the CBA,...in determining the need and number as well as the person who will act as Foreman...”

Most restrictive common provisions for Management Rights: **Foremen and Steward language.**

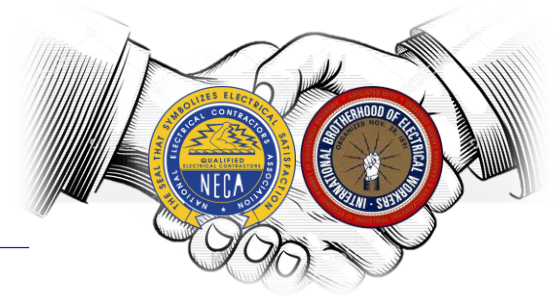
COMMON PROVISIONS



Examples of Foreman Language:

- *“There must be a Foreman on every job and on each shift on a job.”*
- *“A Foreman shall not work with the tools after being responsible for seven journeymen.”*
- *“Employers shall designate Journeymen as sub foremen, foremen, and general foremen on all jobs in accordance with the following schedule.”*
- *“On any job requiring more than two crews, the GF shall supervise Foremen only and shall not at any time supervise a crew.”*

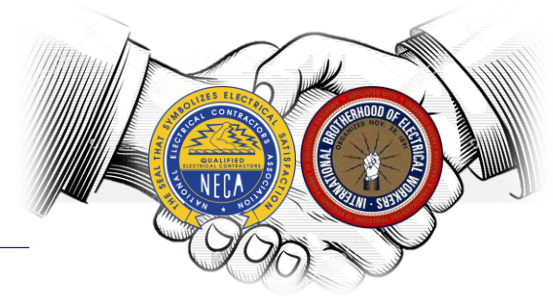
COMMON PROVISIONS



Samples of Steward Language:

- *“The Steward shall remain on the job until its completion unless sooner removed by the BM.”*
- *“When Stewards have been appointed on a job, they can only be removed by mutual consent of IBEW LU ____ and the Employer.”*
- *“When the project requires 4 or more JW’s the Code of Excellence Steward shall receive a premium of 10% per hour.”*
- *The Steward shall be the last employee to be laid off, provided he is qualified to perform the work.*

COMMON PROVISIONS



Example of Good Steward Language:

“The primary function and job of any worker appointed Steward shall be that of a journeyman wireman.”

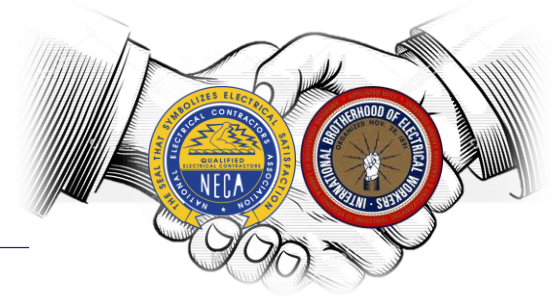
COMMON PROVISIONS



Language that could inhibit an employer from implementing a Fitness For Duty Policy:

“No JW working under the terms of this agreement shall be subject to a physical examination as a qualification for employment.”

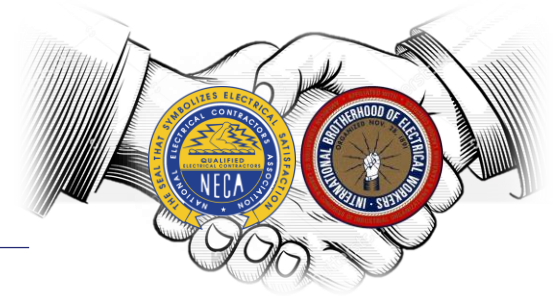
COMMON PROVISIONS



OTHER LANGUAGE FOUND:

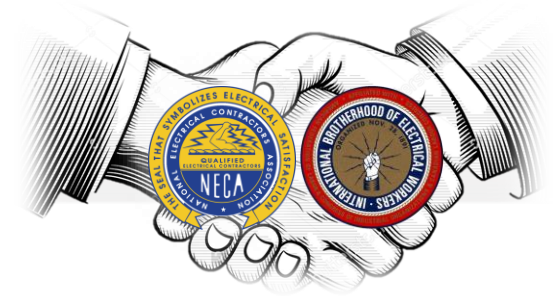
- *“A once weekly safety meeting shall be conducted at all job sites and shops at the normal starting time of the first work day of the normal work week.”*
- *“Any worker laid off shall remain on the job site for the entire 8 hour work day.”*
- *“Employees shall not be subject to disciplinary action for drinking coffee during working hours.”*

COMMON PROVISIONS



OTHER LANGUAGE FOUND:

- *“Any proposed changes to the starting & quitting times shall be submitted to the LM committee and may be changed according to their decision.”*
- *“In the event the workman’s clothing becomes damaged or ruined it shall be replaced by the employer.”*
- *“No work except in case of true emergency shall be performed outside of the regular working hours without prior notification to both parties to this Agreement.”*



CONCLUDING REMARKS

QUESTIONS?