

SOUTHERN CALIFORNIA IBEW-NECA TRUST FUNDS JOINT COLLECTION COMMITTEE

Mistaken Employer Contribution Policy and Procedures

Purpose

This policy establishes guidelines for mistaken contributions and overpayments received from a contributing employer or any other entity that has made mistaken contributions or overpayments.

Application

This policy document applies to all contributing employers and any other entity that make erroneous payments or overpayments to one or more of the Southern California IBEW-NECA Trust Funds ("IBEW-NECA Trust Funds"), due to a mistake of fact or law.

Policy Statement

The Agreements and Declarations of Trust ("Trust Agreements") under which the various IBEW-NECA Trust Funds have been established and maintained provide that the Trustees of the each Fund have the authority to establish policies, rules and procedures which the Trustees determine to be necessary to accomplish the purposes of the Funds, and more specifically they provide that the Trustees or a committee appointed by them have the discretion to adopt rules and procedures concerning employer payments to the Funds. Furthermore, the Trust Agreements provide that under no circumstances will any portion of the Fund revert or inure to the benefit of any contributing employer.

The IBEW-NECA Trust Funds rely on the contributing employers to make accurate reports and pay contributions consistent with those reports. Credit is earned and benefits are paid to participants based on these reports. Funding, investments, actuarial, plan design and benefit decisions are based on the assets held by each Fund. Participants and beneficiaries make important life decisions regarding work, retirement and medical care based on their reported eligibility and earned credit. The Trustees have determined that delays in requests for refunds of erroneous contributions by employers increases the administrative costs to correct the employer's mistake, makes it more likely that benefits have been paid in reliance on the erroneous contributions, makes it more likely that the Funds have notified participants of their status and eligibility based on the erroneous contributions, and makes it more likely that the Funds have made actuarial and other planning decisions based on financial data which includes the erroneous contributions. The Trustees have determined that both the Funds' financial soundness and the participants' financial well being will be placed in jeopardy if the Funds were to provide to employers unlimited refunds for erroneous contributions or overpayments made without regard to the passage of time between the date the payment is made and the date the error is discovered, or the employer requests the refund.

The Trustees hereby find that under certain circumstances, a refund to an employer of erroneous payments or overpayments to the IBEW-NECA Trust Funds, or any one or more of the Funds, may be permitted. It shall be the policy of the IBEW-NECA Trust Funds that except for the limited refunds permitted under this policy, contributions will not be refunded to any contributing employer, regardless of the reasons for the erroneous payment or overpayment or the failure to request the payment per the requirements set forth below. The interpretation and application of this policy is solely within the authority and discretion of the Trustees. The Trustees retain sole authority and discretion to make any equitable determination in the application of this policy. Any decision the Trustees make with respect to refunding contributions will be final and not subject to appeal or further review. References to Trustees in this policy shall also refer to any subcommittee of Trustees duly appointed or designated by the Trustees. The Trustees or any subcommittee thereof may amend or suspend all or any part of these policies and guidelines in their sole and exclusive discretion, as appropriate, regardless of whether there are any refund requests pending, and may apply any amendment or change in policy retroactively to pending requests.

Joint Collection Committee

The Joint Collection Committee of the Boards of Trustees (Committee) oversees the collection of all delinquent employers and will have the sole and absolute authority to review, approve or deny any requests for refund of employer contributions. The Chair and Co-Chair of the Committee shall have the authority to appoint individuals, including themselves, to make determinations of refunds between meetings of the Committee subject to the ratification of all actions at the next Committee meeting. The Committee has also delegated authority to the Fund Manager to make determinations of refund requests in certain situations as set out below.

At each meeting of the Committee, the Fund Manager will present a written report of approved refunds.

I. Non-Refundable Contributions

- A. No contributions will be refunded more than 18 months after post mark date of contributions received by the IBEW-NECA Trust Funds, absent extenuating circumstances or unanticipated equitable considerations as, in their sole discretion, may be determined by the Trustees. This provision should not be construed as a promise or guarantee that contributions will be refunded within the 18-month period. (See III B for policy on refunds arising from audits.)
- B. Notwithstanding any other provision of this policy, contributions will not be refunded within the 18-month period if a participant's receipt of a benefit was based in whole or part in reliance on the contribution for which a refund is requested. For example, if an employee receives a benefit from the Health & Welfare Fund for which the employee would not have been eligible but for the erroneous contribution or overpayment, no refund will be permitted. As another example, if an employee receives a benefit or distribution from the Vacation Holiday Fund that includes or is based on, in whole or part, the erroneous contribution or overpayment, no refund will be permitted. The Committee, or its designees, shall have sole discretion to determine if a refund should be withheld under this provision.

- C. No refund related monies will be provided if the requestor has an outstanding balance due. The monies will be held at least until the delinquency is resolved or applied to any outstanding balance.
- D. No contributions will be refunded if the monies are no longer in the possession of the IBEW-NECA Trust Funds because the contributions have been reciprocated to other benefit plans or paid to the participant.

II. Exceptions

- A. If it is determined, by the IBEW-NECA Trust Funds that contributions have been made for an individual who is not entitled or eligible, under the rules of the Fund or under the law, to participate in the Fund, the Fund may refund contributions to the employer who made the contribution without regard to the 18-month period. The Fund may deduct from the refund any amount it deems appropriate to reimburse the Fund for all costs or benefit payments it incurred or losses it suffered in connection with this erroneous payment. The individual at issue shall be so notified in writing with an explanation of the reasons for the determination and will be given the right to appeal prior to the payment of the refund.

III. Contributing Employer Responsibility

- A. It is the contributing employer's responsibility to make accurate reports to the IBEW-NECA Trust Funds, to perform any internal audit of those contributions in a timely manner to discover any errors in time to request a refund under this policy and to carefully review all correspondence from the IBEW-NECA Trust Funds pertaining to the status of the employer's payments to the Funds. Employers should not rely on audits conducted by the IBEW-NECA Trust Funds to identify erroneous payments or overpayments. Typically, these audits occur long after the payments are made, at a time too late to make refunds under this policy.
- B. **Audit Claims.** If overpayments are identified through an audit conducted by the Trust Fund Office or outside auditors engaged by the Trust Fund Office to audit an employer, the employer can request a refund within 18 months from the date the audit report is mailed to the employer. Overpayments identified through an internal audit conducted by the employer are subject to the regular 18-month time limit for refunds.
- C. Any employer requesting a refund of contributions must send a written request to the IBEW-NECA Trust Fund Manager (Fund Manager) identifying the amount of the contribution that the employer desires to be refunded. If the employer believes the contribution was made in error, it must provide an explanation as to the nature of the error. In all cases involving a claim for a refund of erroneous contributions, the employer must conclusively demonstrate that the contributions were made in error. Requests should be sent via email using refunds@scibew-neca.org or mailed to the IBEW-NECA Fund Manager at 100 E. Corson St, Attn: Audit & Remittance Processing Dept., Pasadena, CA 91103
- D. **IBEW-NECA Trust Funds Responsibility.** The Fund Manager will decide as to whether or not the refund should be made in accordance with this policy for all amounts under \$10,000 in Health contributions, \$15,000 in combined ADB and DC

contributions, \$10,000 in LMCC contributions, \$15,000 in Training Trust contributions and aggregate contributions under \$25,000.00, subject to ratification by the Joint Collection Committee of the Board of Trustees (Committee). The Fund Manager may decline to decide and refer the refund request to the Committee, of subcommittee designated by the Committee, for a determination. If the Fund Manager makes the determination to deny any refund request, the employer may appeal its determination to the Committee within sixty (60) days from the date of the denial. The decision by the Committee shall be final.

- E. If the request for a refund is more than \$25,000.00 in aggregate or in excess of any individual Trust limit, it will be referred to the Committee or subcommittee for a decision as part of the Administrator's report to the Committee.
- F. A refund may be delayed until it is verified that the affected participant has no outstanding claims that are capable of being submitted to the IBEW-NECA Trust Funds for payment.
- G. The Fund Manager is not responsible for informing an Employer of its overpayment errors. In the event the Found Office determines the Employer has made contributions on ineligible employees or ineligible individuals, or paid contributions in excess of the amounts permitted by the relevant collective bargaining agreement or subscription agreement (such as for designated working members), the Fund Manager shall have the right to refund the improper contributions to the employer (subject to all other requirements contained in this Policy) and adjust the participant's hours for the improper contributions regardless of the time the error was discovered by the Fund Office.

IV. Method of Refund to the Contributing Employer

Approved contribution refunds will be made, at the employer's option, either as a direct payment to the employer or in the form of a credit to be taken by the employer on one or more subsequent employer contribution reports to the IBEW-NECA Trust Funds.

Contribution refunds are not transferable and may not be taken by an employer other than the employer that initially made the mistaken or erroneous contribution. The refund credit should be taken promptly and in no event will be allowed more than 12 months after the IBEW-NECA Trust Funds notifies the employer that a refund credit has been provided. If such is the case, the refund credit will be forfeited.

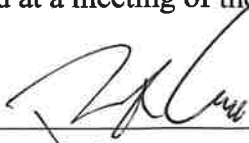
V. Deductions to Refunds

The IBEW-NECA Trust Funds may deduct any administrative costs, amounts due on account, and expenses it incurs to correct and refund an erroneous payment or overpayment, including all accounting fees, legal fees and litigation costs. Contribution refunds will not be credited with any interest or investment income but may be reduced for investment losses at the Committee's discretion.

VI. Service Credits

All service credited to participants based on refunded contributions shall be cancelled.

Adopted at a meeting of the Joint Collection Committee on February 6, 2025.



Chairman – Robert Corona



Secretary – Eric Cartier

