

**Contract Administration Unit**

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# Withholding and excessing

**A**rticle 12 of the National Agreement gives management the right and responsibility to withhold full and part-time positions for employees who may be involuntarily reassigned due to the need to reduce employees in a craft or installation.

Recently the Postal Service has begun notifying several national business agent (NBA) offices of its intent to withhold letter carrier craft positions. These withholding notices are due to management's anticipated excessing of clerk and maintenance craft employees.

Involuntary reassignments of this nature, referred to as excessing events, can occur for a variety of reasons, such as route adjustments; automation, as in the case of delivery point sequencing (DPS) and flat sequencing system (FSS) implementation; facility closures and consolidations; and declining mail volumes.

Excessing may occur from one craft to another within the same installation, from one installation to another within the same craft, or from one craft to another in a different installation. Excessing also may occur from one section to another within the same installation if the local memorandum of understanding (LMOU) identifies separate sections for excessing purposes in accordance with Article 30.B.18.

When determining the need to excess employees, management is required to minimize the impact on the employee being reassigned, as long as the needs of the service can be met.

Article 12.4.A states:

A primary principle in effecting reassignments will be that dislocation and inconvenience to employees in the regular work force shall be kept to a minimum, consistent with the needs of the service. Reassignments will be made in accordance with this Section and the provisions of Section 5 below.

Article 12.5.B.2 states:

The Vice Presidents Area Operations shall give full consideration to withholding sufficient full-time and part-time flexible positions within the area for full-time and part-time flexible employees who may be involuntarily reassigned. When positions are withheld, management will periodically review the continuing need for withholding such positions and discuss with the NBA the results of such review.

This provision does not give the Postal Service the right to excess an employee based solely on the impact of the reassignment. Management must adhere to the jointly agreed-upon rules when determining where to reassign the impacted employee.

Page 12-9 of the 2014 USPS-NALC *Joint Contract Administration Manual (JCAM)* states:

This section is applicable to all excessing situations. It states the general rule, repeated in Article 12.5.B.1, that dislocation and inconvenience to employees in the regular work

force must be kept to a minimum. To accomplish this Article 12.5.C identifies the different circumstances under which excessing may occur and the correct procedures in each.

When an LMOU identifies sections for reassignments to the same craft within an installation as authorized by Article 30.B.18, the special rules provided for in Article 12.5.C.4.b apply.

When management needs to reduce the number of employees in an installation other than by attrition, the following applies:

- Management must seek to excess employees to another craft in the same installation under the provisions of Article 12.5.C.5.a(4).
- Then, management must seek to excess employees to the same craft in another installation under the provisions of Article 12.5.C.5.b(1).
- Finally, management may then seek to excess employees to another craft in another installation under the provisions of Article 12.5.C.5.b(2).

For example, it is a violation for management to excess a clerk to the carrier craft in another installation under the provisions of Article 12.5.C.5.b(2) when it could instead have excessed the clerk to a clerk craft position in another installation under the provisions of Article 12.5.C.5.b(1).

**The Postal Service does not have the right to withhold assignments indefinitely** when it determines the need to excess employees from the craft or installation. National Arbitrator Howard Gamser addressed the length of time the Postal Service may withhold positions in anticipation of an excessing event in NC-C-16340, Dec. 7, 1979 (C-05904). He concluded that a "rule of reason based on the facts and circumstances" must be applied to determine whether the length of the withholding was proper.

Under the provisions of Article 12.5.B.2, management may not withhold more positions than the anticipated number of employees who will be excessed.

Page 12-14 of *JCAM* states:

Management may not withhold more positions than are reasonably necessary to accommodate any planned excessing. Article 12.5.B.2 only authorizes management to withhold "sufficient ... positions within the area for full-time and part-time flexible employees who may be involuntarily reassigned."

Once management has withheld a sufficient number of positions to accommodate the employees being excessed, no additional positions may be withheld.

The Postal Service is required to evaluate the attrition rate of the losing craft in the installation when determining the number of positions to withhold.

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# Withholding and excessing (continued)

Management must reduce the number of withheld positions if the projected attrition rate will lessen the need to excess employees.

Page 12-14 of *JCAM* explains management's responsibilities:

Withholding positions for excessing is only justified when positions in the losing craft or installation must be reduced faster than can be accomplished through normal attrition. Projections of anticipated attrition must take into account not only local historical attrition data, but also the age composition of the employees. Installations with a high percentage of employees approaching retirement age can reasonably anticipate higher attrition than installations with younger employees. Thus, accurate projections require an examination of the local fact circumstances rather than the mere application of a national average attrition rate.

Management may not withhold carrier technician positions in order to excess employees from other crafts unless the employee has prior service in the letter carrier craft.

*JCAM*, page 12-14, states:

Management may not withhold Carrier Technician positions in anticipation of excessing employees from another craft. Article 12.5.B.9, 12.5.C.5.a(4) and 12.5.C.5.b(2) require that when employees are excessed into another craft, they must meet the minimum qualifications for the position. The minimum qualification standards for Carrier Technician positions include one year of experience as a city carrier (See Qualification Standards for Carrier Technician—Q7- 02: Occupation Code: 2310-2010). Clerks cannot meet the minimum experience requirements for Carrier Technician positions except when former letter carriers will be excessed back into the letter carrier craft.

Management may not withhold higher-level positions in order to excess employees from a lower level.

*JCAM*, page 12-15, states:

Management may not withhold letter carrier positions in anticipation of excessing employees from lower level positions. The provisions of Article 12.5.C.5.a(4) & 12.5.C.5.b(2) specifically require that when excess employees are excessed to other crafts it must be to positions in the same or lower level.

For the purposes of applying this provision, letter carrier craft assignments are equivalent to level 6 assignments in the bargaining unit crafts represented by the American Postal Workers Union and the National Postal Mail Handlers Union. This means that management may withhold letter carrier positions only to excess employees in level 6 or higher assignments.

The Postal Service is barred from excessing part-time or non-traditional full-time (NTFT) employees from other crafts into full-time letter carrier craft positions. This prohibition prevents management from withholding full-time positions in anticipa-

tion of excessing part-time and/or NTFT employees from other crafts. National Arbitrator Dennis Nolan ruled in Q06N-4Q-C12114440, Feb. 16, 2014 (C-31171) the following:

The Postal Service may not reassign into a full-time carrier position any clerk craft employee who does not meet the definition of full-time employee specified in the Postal Service's Agreement with NALC.

The Postal Service at the area level is required to meet periodically with the NBA office to discuss the positions being withheld in the letter carrier craft.

*JCAM*, page 12-15, states:

Effective with the change in the 2001 National Agreement, area management will periodically review the continuing need for withholding positions and discuss the results of such review with the National Business Agents. The issues that should be discussed include, but are not limited to:

- The excessing that has occurred and the projected future need for excessing,
- The currently effective withholding notices,
- The continuing need for withholding,
- The vacancies currently being withheld in the letter carrier craft.

## Full-time Opportunities

Currently, full-time positions in the letter carrier craft are filled in accordance with the Memorandum of Understanding Re: Full-time Opportunities—City Letter Carrier Craft, found on pages 159-162 of the 2016-2019 National Agreement. This MOU requires that management fill full-time opportunities through assignment of an unassigned full-time regular letter carrier, promotion of a part-time flexible (PTF) in the installation to full-time, acceptance of a voluntary reassignment, or conversion of a city carrier assistant (CCA) to full-time regular career status. An exception to these requirements occurs when the opportunity is subject to a proper withholding notice pursuant to Article 12. In this case, management must hold the opportunity until the withholding is lifted under the circumstances described above.

Branches should contact their NBA to determine if a grievance should be filed when they are notified that an assignment is being withheld due to an excessing event. NALC has created grievance starters to assist local branches in filing grievances challenging the Postal Service's right to withhold letter carrier positions. Local NALC representatives can contact their NBA office to obtain copies of these grievance starters and any other information the NBA may have received regarding the withholding event.

Local NALC representatives and members wanting more information regarding withholding and excessing should review *A Guide for Understanding Excessing Rules*, which is available on the NALC website at [nalc.org/workplace-issues/city-delivery/body/Excessing-Book.pdf](http://nalc.org/workplace-issues/city-delivery/body/Excessing-Book.pdf).