MRS

Materials Reference System
Index and Summaries
May 2006

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Introduction

The *Materials Reference System* or MRS is a collection of contract administration materials assembled by the headquarters Contract Administration Unit. It has been designed to assist all NALC representatives who enforce and administer the National Agreement. MRS should be used as a supplement to the *Joint Contract Administration Manual (JCAM)* which is authoritative and controlling in the case of any ambiguities or contradictions.

MRS contains summaries—and in some cases the full text—of many important national-level materials including settlements of Step 4 grievances, other national-level settlements and memorandums, USPS policy statements and so forth. The MRS also contains cross-references to significant national and regional arbitration awards.

The MRS has two parts:

Index and Summaries. This *MRS Index and Summaries* document contains indexes by contract provision, manual provision, and subject (e.g. "Seniority"). When researching an issue this is the place to start.

After locating the right entry in the index, a researcher should review the related summaries section. Here, each of the collected materials has been reproduced or described by a short paragraph. Note that each item has been assigned either an "M" (for MRS) number, or a "C" (for Cigars) number. Items with C numbers are arbitration decisions, and may be located in the NALC Computer Arbitration search program and CD-ROM collection, available from the headquarters supply department.

Source documents. These are *actual copies* of the original (typically signed) M-numbered materials. They are stored on NALC's Contract CD, available from the headquarters supply department. The entire MRS, including the M-numbered source materials, as well as new M-numbered documents added later, are also available from the CAU section of the NALC web site at www.nalc.org.

The Contract CD uses Adobe Acrobat to display or print needed material. Where an item consists of multiple pages, each of the pages is identified with the M number assigned to that item.

To view a specific item, simply double click on the link (e.g. M-01000) and the original source document will be displayed.

Users who already know the "M" number of the document they are seeking can go directly to the MRS>*Choose an M-Number* selection on the the *Contract CD* or the CAU section of the NALC website. It is not necessary to load the entire *Index and Summaries* document first.

NALC contract enforcers should review, use and submit these source documents when enforcing the contract. The MRS summaries are not substitutes for the actual Step 4 settlements, arbitration decisions or other original source documents.

Users should note that the materials collected in the MRS *do not* necessarily reflect NALC's *position*. To resolve doubts concerning the current applicability of any item, contact the NALC National Business Agent.

The MRS is updated and reissued periodically to add new materials. Users should check the NALC website for information about the latest edition.

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204Bs

SEE ALSO Out-of-Schedule Pay, Page 246

204B-IN GENERAL

C-03227 National Arbitrator Mittenthal
April 23, 1981 N8-NA-0383
Under the 1978 National Agreement temporary supervisors continue to accrue seniority during time which they serve as temporary supervisors (204b).

M-00058 Step 4, July 8, 1983, H1N-1M-C 6017
It is management's prerogative to select employees who will be assigned as 204b supervisors.

C-11185 Regional Arbitrator Grabb
October 29, 1987, C4C-4C-C 6899
Management violated the contract when it ceased using grievant as an acting supervisor because she was active in the union.

M-00535 Step 4
March 11, 1985, H1N-1J-C 34481
An employee in a 204b position should not be precluded from bidding for choice vacation periods.

C-09187 National Arbitrator Britton
July 21, 1989, H4N-1W-C 34928
A part-time flexible city letter carrier on a hold-down who accepts a 204b detail retains the contractual right to the hold-down until the hold-down is awarded to another carrier pursuant to the provisions of Article 41, Section 2B4 of the National Agreement; and under the language of Article 41, Section 1A1, within five working days of the day that the hold-down becomes vacant as a result of a carrier accepting a 204b detail, the hold-down must be reposted for the duration of the remainder of the original vacancy.

C-10430 Regional Arbitrator Sobel
November 11, 1990, S7N 3U-C 27345
Management did not violate the contract by failing to compensate at the 204b rate two intermittent temporary supervisors when it called them into a supervisors meeting for forty-five minutes, because the 204b's "performed no supervisory functions; issued no instructions."

204B-DEFINITION

M-00249 Step 4
July 9, 1982, H1N-5D-C 3290
An O.I.C. assignment is regarded as a temporary detail to a supervisory position (204b assignment) within the meaning of Article 41, Section 1.A.2 of the National Agreement.

M-00824 Step 4
February 26, 1988, H4N-5E-C 36561
The term immediate supervisor as written in Article 15, Section 2, Step 1(a) of the National Agreement may be an acting supervisor (204b).

M-00685 Step 4
July 29, 1983, H1N-3P-C 20590
A customer services representative (EAS-15) is not a supervisory position within the meaning of Article 41, Section 1.A.2.

M-00087 APWU Step 4
November 15, 1984, H1C-1Q-C 31822
Temporary assignment as an ad hoc EEO Counselor is not a supervisory position. The duty assignment should not be posted for bid under the provisions of Article 37, 3.A.7.

M-00537 Step 4
May 1, 1985, H1N-3U-C 37182
Management may use a craft employee in a 204b assignment for less than a full day. *See also* M-00095.

M-00755 Step 4
May 22, 1987, H4N-4U-C 26041
In accordance with Article 41, Section 1.A.2, of the National Agreement, Form 1723 "shall be provided to the union at the local level showing the beginning and ending times of the detail." Such copies of Form 1723 should be provided to the union in advance of the detail or modification thereto.

M-00030 Step 4, February 9, 1977, NCS 9638
Local management will, at the request of the Union, make available the information as to when an employee is detailed to a 204b position and when the employee returns from that detail in accordance with applicable provisions of Article XV and XXXI.

M-00357 Step 4, December 31, 1985
When an employee is detailed to a higher level (204b) by executing a Form 1723, the beginning and ending dates of the assignment are effective unless otherwise amended by a premature termination of the higher level assignment.

M-00891 Pre-arb
January 12, 1989, H1N-5H-C 26031
1) An employee serving as a temporary supervisor (204b) is prohibited from performing bargaining unit work, except to the extent otherwise provided in Article 1, Section 6, of the National Agreement. Therefore, a temporary supervisor is ineligible to work overtime in the bargaining unit while detailed, even if the overtime occurs on a non-scheduled day.

2) Form 1723, which shows the times and dates of a 204b detail, is the controlling document for determining whether an employee is in 204b status.

3) Management may prematurely terminate a 204b detail by furnishing an amended Form 1723 to the appropriate union representative. In such cases, the amended Form 1723 should be provided in advance, if the union representative is available. If the union representative is not available, the Form shall be provided to the union representative as soon as practicable after he or she becomes available.

4) The grievant in this case will be paid eight (8) hours at the overtime rate. *See also* M-00893, M-00023

M-00789 Pre-arb
November 13, 1987, H1N-3U-C 34332
1) A craft employee may work less than a full day on a 204b assignment (temporary supervisory position).

2) Form 1723 shall be used in detailing letter carriers to temporary supervisory positions. Pursuant to Article 41.1.A.2, the Employer will provide the Union at the local level with a copy of Form(s) 1723 showing the beginning and ending of all such details.

3) Management may prematurely terminate a 204b assignment.

4) In the event a 204b assignment is prematurely terminated, a revised form 1723 will be furnished to the union at the local level as soon as practicable.

M-01397 Step 4
November 18, 1999, F94N-4F-C 99098126
This issue in this case is whether management violated the National Agreement by allowing an employee to work overtime on either the day preceding or the day following a 204-B assignment. After reviewing this matter we mutually agreed that no national interpretive issue is fairly presented in this case. We further agreed that the Form 1723 will accurately reflect the dates the employee will be in a 204-B status.

FOUR MONTH RULE

Article 41.1.A.2 was changed effective July 21, 1978 to read that duty assignments left vacant for periods in excess of four months must be posted. Those Step 4 decisions issued prior to that date, although referring to a period of six months, may now be understood to mean four months.

C-18743 National Arbitrator Snow
E94N 4E-C 96060312, October 2, 1998
An employee who remains in a 204b status and whose assignment is posted for bid under the provisions of Article 41.1.A.2 may be assigned to a residual vacancy following completion of a bidding cycle.

M-00194 Step 4, October 2, 1974, NBC 2335
Although the language of Article 41, Section 1.A.2. provides that duty assignments left vacant for periods in excess of six months must be posted, it is our determination that the total pattern of conduct revealed in this case violates the intent of the National Agreement.

C-05230 Regional Arbitrator Jacobowski
October 16, 1985, C1N-4C-C 33108
A letter carrier returning to craft work for one week in a four month period did not break the continuity of the 204b assignment. Article 41.1.A.2 therefore requires that the route be declared vacant and posted for bid.

C-13823 Regional Arbitrator Scearce
July 15, 1994,N90N-4H-C 94022684
It is simply too convenient that [the 204-B] would be needed up to just before the four month limit would take effect. I am persuaded that the return to his bid assignment for a two week period before returning him to the 204-B post was a pretextual attempt to avoid the application of Article 41, Section 1.A.2.. His bid assignment is to be posted per Article 41 and filled and, given no alternative action, he is to be an unassigned regular.

C-10454 Regional Arbitrator Byars
December 3, 1990, S7N-3N-C 28399
The return of a 204b to his letter carrier assignment for one day in a four-month period was not for the purpose of circumventing 41.1.A.2.

M-00195 Step 4, October 31, 1974, NBW 1603
An employee bid on his former assignment while still detailed to a supervisory position in which he had served for over six months. This was not consistent with applicable provisions of the National Agreement.

M-00011 Step 4, October 27, 1977, NCW 8287
Management will not return a carrier to his bid position for short periods of time merely to circumvent the intent of Article 41.1.A.2 of the National Agreement.

PERFORMING BARGAINING UNIT WORK

SEE ALSO **Bargaining Unit Work, page 37**

M-00213 Pre-arb
December 9, 1981, H8N-4C-C 22286
Normally an employee who is detailed as an acting supervisor will not perform bargaining unit work prior to the workday immediately following the termination of the detail. The senior employee who was on the Overtime Desired list on the day of the dispute and did not work overtime will be compensated 2 hours of back pay.

M-00021 Step 4
September 27, 1983, H1N-5C-C 12781
Except in accordance with Article 1, Section 6, of the National Agreement, an employee in a training status as a supervisor shall not perform bargaining-unit work while he or she is in the training status. Form 1723 is the controlling document to be used in determining when the employee is in a supervisory training status.

C-09470 Regional Arbitrator Martin
October 26, 1989, C7N-4U-C 12574
Where management consistently refused to furnish the local union with 1723s showing 204b details, the appropriate remedy is pay for PTF carriers who worked less than eight hours on a tour when a 204b served.

BARGAINING UNIT OVERTIME

M-00306 Step 4
March 21, 1985, H1N-4K-C 31235
Carriers, who serve as temporary supervisors, are not entitled to make-up overtime opportunities for the overtime opportunities missed while serving as a supervisor. Article 8, section 5.C.2.b should be applied to these carriers on a ratio basis to the time served as carriers during the quarter.

M-00116 Step 4
March 28, 1985, H1N-1-C 23759
A letter carrier on the Overtime Desired List (OTDL) is precluded from performing overtime work in the carrier craft only when that carrier is actually in a 204b status. Any overtime the carrier accrues while working as a supervisor is not recorded on the craft overtime desired list. Carriers who serve as temporary supervisors are not entitled to make up overtime opportunities for the overtime opportunities missed while serving as a supervisor.

M-01397 Step 4
November 18, 1999, F94N-4F-C 99098126
This issue in this case is whether management violated the National Agreement by allowing an employee to work overtime on either the day preceding or the day following a 204-B assignment. After reviewing this matter we mutually agreed that no national interpretive issue is fairly presented in this case. We further agreed that the Form 1723 will accurately reflect the dates the employee will be in a 204-B status.

M-01359 Step 4
March 17, 1983, H1N-4C-11833
When an employee is detailed to 204b status, the employee will not perform bargaining-unit overtime except as provided for in Article 1, Section 6 of the 1981 National Agreement during the period of the 204b assignment.

M-00747 Step 4
April 15, 1987, H4N-3N-C 38394
A 204B letter carrier who anticipates returning to the bargaining-unit and desires to work overtime within the applicable quarter, must initially sign the OTDL, in accordance with Article 8, Section 5.A, of the 1984 National Agreement. However, a letter carrier in 204B status is not eligible to perform bargaining-unit work. PS Form 1723 is the controlling document to determine whether the letter carrier is in a 204B status. *See also* M-00496, M-00507

M-00450 Step 4
January 22, 1982, H8C-2F-C 10327
This employee was in the supervisory status for all work time included. He should not work craft overtime during the period covered by the assignment order.

C-09944 Regional Arbitrator P.M. Williams
April 2, 1990, S7N-3W-C 24484
Management did not violate the contract when it permitted a 204B to sign the OTDL.

M-00687 Step 4
March 23, 1979, ACS 23828
A craft employee in a 204B status would not be returned to the craft for an overtime assignment as long as another craft employee is available and qualified to perform the assignment, notwithstanding the fact that the employee in the 204B status is on the Overtime Desired List as a craft employee.

M-00506 Pre-arb
March 2, 1983, H1C-5G-C 5929
An acting supervisor (204B) will not be utilized in lieu of a bargaining-unit employee for the purpose of bargaining-unit overtime. An employee detailed to an acting supervisory position will not perform bargaining-unit overtime immediately prior to or immediately after such detail unless all available bargaining-unit employees are utilized.

M-00344 Step 4
October 31, 1984, H1N-3U-C 34249
An acting supervisor 204B shall not be utilized in lieu of a bargaining-unit employee for the purpose of bargaining-unit overtime. PS Form 1723 is the controlling document which shows the approximate time and date(s) an employee begins and ends the detail.

M-01177 Step 4
August 30, 1993, H0N-5R-C 13315
The issue in this case is whether management violated the national agreement when an employee who had been working in a 204-B assignment earlier in the day worked bargaining unit overtime at the conclusion of his shift.

During our discussion, we agreed to the following:

1. An acting supervisor (204-B) will not be utilized in lieu of a bargaining-unit employee for the purpose of bargaining-unit overtime.

2. The PS Form 1723 shall determine the time and date an employee begins and ends the detail.

3. An employee detailed to an acting supervisory position will not perform bargaining-unit overtime immediately prior to or immediately after such detail unless all available bargaining-unit employees are utilized.

Due to the variety of situations that could arise, each case should be decided based on the particular facts and circumstances involved.

M-01426 Step 4
D94N-4D-C 98119515, April 8, 1999
The issue in this grievance is whether management violated the National Agreement when an Acting Supervisor (204-B) performed craft overtime on a day immediately following a higher level detail.

We also agreed that this issue has been settled between the parties through numerous Step 4 decisions as well as the pre-arbitration settlement of Case Number HON-5R-C 13315 (M-01177).

We further agreed, the 204B detail has ended and therefore the employee was not prohibited from performing bargaining unit overtime on the day following the termination of the detail.

BIDDING FOR BARGAINING UNIT POSITIONS

C-04925 National Arbitrator Aaron
March 19, 1985, H1N-4J-C 8187
A letter carrier in a 204b status may bid for a vacant VOMA assignment.

C-03288 National Arbitrator Fasser
June 30, 1977, NBS 6859
A 204B who has served less than six months in a supervisory position may not bid upon posted city letter carrier assignments while serving as a 204B.

M-00552 Step 4
October 24, 1983, H1N-4B-C 16840
While an employee is in a 204B supervisory status, he or she cannot exercise a bid preference for a temporary assignment available under Article 41, Section 2.B.3 or 2.B.4.

M-00195 Step 4, October 31, 1974, NBW 1603
Employee bid on his former assignment while still detailed to a supervisory position in which he had served for over six months. This was not consistent with applicable provisions of the National Agreement. Accordingly, the appropriate postal officials are being instructed to take the necessary steps to see that the assignment in question is awarded to the bidder who would have received that assignment had it not been awarded to the employee with whom this grievance is concerned.

M-00331 Step 4, February 12, 1973, NE 1653
An employee who is a probationary supervisor cannot bid for a craft position until after his return to the bargaining unit.

M-00680 Step 4, February 4, 1977, NCW 3549
If a letter carrier is detailed for six months or longer to a 204B assignment he must return to the craft as an unassigned regular and therefore, he would not be eligible to bid for a letter carrier position while on 204B detail.

M-00711 Step 4, July 9, 1980, N8-S- 0355
The record indicates that the grievant was not on a 204B assignment when he submitted his bid for the vacant T-6 route. Moreover, the fact that he was serving in a 204B assignment on the closing date of the bid is of no contractual consequence.

M-00016 Pre-arb, NC-NAT-8581
Letter carriers temporarily detailed to a supervisory position (204B) may not bid on vacant Letter Carrier Craft duty assignments while so detailed.

ACCIDENTS, PERSONAL

SEE ALSO

Vehicle Accidents, page 375
OWCP, page 268
Limited Duty, page 203

M-00229 Step 4
February 10, 1982, H8N-5G-C 21570
An employee may be required to report an accident on the day it occurs; however, completion of the appropriate forms will be in accordance with applicable rules and regulations and need not be on the day of the accident.

M-00744 Letter, April 7, 1980
The Federal Employees Compensation Act and Postal Service policy prohibit taking action discouraging the reporting of an accident or the filing of a claim for compensable injury with the Office of Workers Compensation Programs.

M-00743 Letter, May 15, 1981
Accidents or compensation claims are not in themselves an appropriate basis for discipline.
See also M-00486

M-00408 Step 4
May 13, 1983, H1N-1E-C 665
There is no contractual provision for the grievant or his steward to attend an internal management meeting, whether called an accident review board or any other name. However, such a committee should not make recommendations for discipline of individual employees.

M-00912 Step 4
March 23, 1989, H7N-4M-C 7533
The issue in this grievance is whether the National Agreement was violated by the issuance of an accident incident letter. Letters such as these are not appropriate. Management will discontinue using these letters.

ARBITRATION

SEE ALSO

Grievance Procedure, Page 129
Grievance Procedure - Scope, Page 137

M-01372 Step 4
January 13, 1999, B94N-4B-C-97024116
The issue in this grievance is whether a regular arbitrator is bound by national awards. After reviewing this matter, we mutually agreed that no national interpretive issue is fairly presented in this case. We agreed to the following, which is an excerpt from case HIN-IJJ-C 23247 [C-07233];

"The whole purpose of the national arbitration is to establish a level of definitive rulings on contract interpretation questions of general applicability. National decisions bind the regional arbitrations, and not the reverse."

C-07233 National Arbitrator Bernstein
August 7, 1987, H1N-1J-C 23247
A National Arbitrator is not bound in any way by awards issued by regional arbitrators. National decisions bind regional arbitrations, but not the reverse

C-10826 APWU National Arbitrator Dobranski
December 14, 1990, H4C-4A-C 7931
Where both parties agreed that a grievance in national arbitration presented no interpretive issue the national arbitrator had no jurisdiction and remanded the case for regional arbitration.

C-016371 National Arbitrator Snow
July 20, 1994, H0C-3W-C 4833
National Level Arbitration is not an appropriate forum for resolving a grievance addressing the adequacy of a local hazardous materials training program.

C-00431 National Arbitrator Mittenthal
January 18, 1983, H8C-4C-C 12764
A grievance may be withdrawn from regional level arbitration and referred to Step 4 even after the case has been presented to the arbitrator.

C-03236 National Arbitrator Mittenthal
February 24, 1981 N8-NA-0220
A grievance concerning the content of a regional directive that was published but not yet implemented is "ripe" for an arbitrator's decision where an interpretive issue is raised.

M-01517 USPS LETTER May 31, 2002
Compliance with arbitration awards and grievance settlements is not optional. No manager or supervisor has the authority to ignore or override an arbitrator's award or a signed grievance settlement. Steps to comply with arbitration awards and grievance settlements should be taken in a timely manner to avoid the perception of non-compliance, and those steps should be documented.

M-01253 Step 4
October 31, 1996, Q90N-4Q-C-96081524
We agreed that the parties' practice on a national basis has been that the same arbitrator who determined the arbitrability of the case, is scheduled to hear the merits; assuming that the arbitrator in question is still on the appropriate panel and is otherwise available. This practice is to be followed by all field processing centers.

M-01172 Memorandum of Understanding
September 20, 1989
Jurisdictional issues, arising under the Modified Article 15 pilot program, will not be addressed by arbitrators in that forum.

Whenever jurisdictional issues are raised under the Modified Article 15 pilot program, and no resolution is reached by the parties at Step 2, the Union may appeal such issues to the regional level of the regular grievance and arbitration procedure. Such issues will be processed pursuant to those provisions under Article 15 of the National Agreement.

M-01330, Pre-arbitration Settlement
June 2, 1998, Q94N-4Q-C 97078760
The issue in this case is whether there was a violation of Article 15, Section 5 of our National Agreement, as it pertains to providing the Union with quarterly reports which contains information covering the operation of the arbitration procedure. After reviewing this matter, the parties mutually agreed to settle this case with the following understanding: Orderly and accurate reports will be provided to the union within three weeks of the close of the quarter.

M-00382 Letter, October 3, 1975
It was agreed that, beginning with the date of this letter, no requests or motions for reconsideration of arbitration awards would be filed by any Union signatory to the 1975 National Agreement or by the Postal Service.

M-00877 Step 4
November 22, 1988, H4N-3E-D 56574
When NALC appeals a disciplinary grievance to regional arbitration, is need not indicate whether the grievance, in its opinion, should be directed to either the regular regional panel or the expedited regional panel.

When management receives an appeal of a disciplinary grievance to regional arbitration, it will docket the grievance according to the following:

Pursuant to Article 15, Section 4.C.1, disciplinary cases of 14 days suspension or less shall be placed on the list of cases pending expedited regional arbitration.

Pursuant to Article 15, Section 4.B.1, removals and cases involving suspensions for more than 14 days shall be placed on the list of cases pending regular arbitration.

If, after a disciplinary case of 14 days suspension or less has been appealed to arbitration, either management or NALC concludes that the issues involved are of such complexity or significance as to warrant reference to the regular regional panel, the party so concluding may refer the case to the regular panel, pursuant to Article 15, Section 4.C.2, provided notice is given to the other party at least twenty-four hours prior to the scheduled time for hearing of the case in expedited arbitration.

INTERVENTION

C-08730 National Arbitrator Britton
March 16, 1989, H4N-4J-C 18504
The NRLCA is allowed to intervene in the arbitration of an NALC grievance concerning the assignment of delivery territory to rural delivery.

C-20300 National Arbitrator Snow
Q94N-4Q-C 98062054, January 1, 2000
The NALC, when it has intervened in a area-level arbitration case, has a right to refer the case to Step 4 of the grievance procedure.

M-01196 Step 4
June 27 1994, E90N-6E-C 94042837
During our discussion, we mutually agreed that upon intervention at a hearing, the intervening union becomes a full party to the hearing. As a party, the intervening union has the right to refer a grievance to Step 4.

M-01295 Prearbitration Settlement
September 16, 1997, H94N-4H-C 97019400
As a result of that discussion it was mutually agreed that the U.S. Postal Service will reaffirm the instructions on intervention contained in the memorandum dated October 17, 1989, "Intervention in Jurisdictional (Work Assignment) Arbitrations." *See file for complete text of memorandum.*

TRANSCRIPTS

C-00539 National Arbitrator Aaron
H1C-NA-C 52, May 4, 1985
Article 15, Section 4.B(7) of the 1981-1984 National Agreement does not preclude either party from ordering a verbatim transcript of a regular arbitration hearing at the regional level without the consent of the other, so long as reasonable advance notice is provided.

The Postal Service did not violate Article 15, Section 4.B(7) of the 1981-1984 National Agreement by ordering a verbatim transcript of all regular arbitration hearings at the regional level before one particular arbitrator.

BRIEFS

C-15480 National Arbitrator Snow
H4C-3W-C 8590, February 18, 1993
Article 15.4.B(7) provides each party with the procedural right to file a post-hearing brief after notifying the other party and the arbitrator of its intent to do so.

EVIDENCE

M-01373 Step 4
January 7, 1999, G94N-4G-D 98042998
The Joint Contract Administration Manual (JCAM) does not constitute argument or evidence; rather, the JCAM is a narrative explanation of the Collective Bargaining Agreement and should be considered dispositive of the joint understanding of the parties at the national level. If introduced into arbitration, the local parties are to allow the document to speak for itself and not seek testimony on the content of the document from the national parties.

M-01384 Step 4
July 13, 1999, H94N-4H-D 98113787
The issue in this case is whether a settlement made on a non-citable, non-precedent basis on a letter of warning can be introduced in an arbitration, to counter management relying on the letter of warning in an arbitration hearing on subsequent discipline citing the letter of warning as an element of past record.

During our discussion, we mutually agreed that no national interpretive issue is fairly presented in this case.

We also agreed that a non-citable, non-precedent settlement may be cited in arbitration to enforce its own terms.

We further agreed that the subject letter of warning cannot be cited as a past element because it was removed from the grievant's record and reduced to a discussion via the September 3, 1998 settlement.

HEALTH AND SAFETY

M-01433 Step 4
February 20, 2001, F94N-4F-C 97024971
The Step 4 issue in these grievances is whether any grievance, which has as its subject safety or health issues, may be placed at the head of the appropriate arbitration docket at the request of the union.

The parties agree that Article 14.2 of the National Agreement controls. It states in part:

Any grievance which has as its subject a safety or health issue directly affecting an employee(s) which is subsequently properly appealed to arbitration in accordance with the provisions of Article 15 may be placed at the head of the appropriate arbitration docket at the request of the Union.

The fact that the union alleges that the grievance has as its subject a safety or health issue does not in and of itself have any bearing on the merits of such allegations. Accordingly, placement of a case at the head of the docket does not preclude the Postal Service from arguing the existence of the alleged “safety” issue or that the case should not have been given priority. The Postal Service will not refuse to schedule a case in accordance with Article 14.2 based solely upon the belief that no safety issue is present.

EX PARTE COMMUNICATION

C-20301 National Arbitrator Snow
F94N-4F-D 97049958, January 4, 2000
The Employer violated the National Agreement when it engaged in *ex parte* communication with a regional arbitrator during an *in camera* inspection of evidence in the presence of only the Employer's advocate. An *in camera* review of evidence, if protested by a party, constitutes improper *ex parte* communication with the arbitrator

M-01473 Prearbitration Settlement
November 19, 2002, Q94N-4Q-C-99189739
The interpretive issue in this case is whether a unilaterally initiated written communication to an arbitrator on which the other party is copied violates the April 11, 1998 Memorandum of Understanding on ex parte communication.

After reviewing this matter, we mutually agree to resolve this issue with the following understanding:

Ex parte communications made in the ordinary course of business regarding necessary routine, scheduling matters are permissible.

Other ex parte communications with an arbitrator, whether oral or written, without advance agreement with the other party are not permitted. A unilaterally initiated written communication to an arbitrator with a copy provided to the other party is specifically included in this proscription.

In the event of a violation of the above understanding, any arbitrator receiving a prohibited communication will receive a letter signed by the parties at the national level directing that the contents of the prohibited communication be disregarded.

M-00815 Memorandum of Understanding
April 11, 1988
The United States Postal Service and the National Association of Letter Carriers, AFL-CIO, agree that in order to maintain the integrity of the arbitral process, the parties and their agents, employees and representatives should avoid the least appearance of impropriety when making contact with an arbitrator. The parties must maintain an arms length relationship with the arbitrator at all time.

Ex parte communication with an arbitrator regarding the merits of a dispute, whether oral or written, shall not be permitted. Whenever it is necessary to contact an arbitrator relative to the merits of a matter in a dispute, the contract must in all instances be made jointly or with the concurrence of both parties. Ex parte communications made in the ordinary course of business regarding necessary, routine scheduling matters are permissible.

Any dispute arising from the constraints of this agreement must be brought to the attention of the parties signing this Agreement at the national level.

M-01315 Pre-arbitration Settlement
May 21, 1998, G94N-4G-D 96088399
The issue in this grievance is whether a party who chooses to file a post-hearing brief may be excluded from an arbitration hearing during the time in which the other party presents oral closing arguments.

In this case, the regular arbitrator issued a ruling that would have excluded the employer's representative from the hearing room during the Union's oral closing statement.

During our discussion, we mutually agreed to settle the issue represented as follows:

In the absence of a contractual provision to the contrary, an arbitrator has inherent authority to decide procedural questions raised at the arbitration hearing. At the same time the arbitrator has no authority to contradict procedural rules that the parties themselves have bargained for and made a part of their Collective Bargaining Agreement.

In this particular case, the MOU on ex parte communication would prohibit the ruling made by this particular arbitrator. In light of the above, this grievance will be remanded to regional arbitration in accordance with the memo on Step 4 procedures.

M-01100 Joint Letter
All Regional Arbitrators
It has come to our attention that some arbitrators have made personal visits to regional offices. As you are aware, your employment contracts prohibit unilateral contact with either party, except for matters regarding scheduling, unless the parties agree in advance to an exception. Since such visits may project the wrong image, in the eyes of either party, we ask that you refrain from making such visits to either Postal Service or union offices, except to conduct hearings.

POSTPONEMENT, CANCELLATION

C-19372 National Arbitrator Snow
E94N-4E-D 96075418, April 19, 1999
Article 15.4.B.4 does not preclude an arbitrator from granting a continuance in a removal hearing pending resolution of an underlying disciplinary grievance.

M-00945 Pre-arb
September 19, 1989, H7N-3A-D-8257
Except as provided under the National Agreement, neither Management nor the Union may unilaterally cancel the hearing of a grievance scheduled for arbitration.

Once the NALC has appealed a grievance to the regional level, it may be settled or withdrawn only by the NALC Regional Official who initiated the appeal, his designee, or the advocate assigned to represent the NALC at the arbitration.

C-06249 Regional Arbitrator Levak
May 24, 1986, W4N-5L-D 13493
The arbitrator ordered a postponement of the hearing, despite objections by the Postal Service, since the grievant had been advised by his attorney not to testify until after the adjudication of his case by the U.S. District Court.

BIFURCATION

M-01447 Step 4
October 9, 2001, D94N-4D-C 98102097
The issue in this case is whether an arbitrator may approve or deny a request by one of the parties to bifurcate and arbitration proceeding, hear only procedural issues on the first hearing date and postpone a hearing on the merits until the procedural issues are decided.

During our discussion we mutually agreed that an arbitrator has the discretion to approve or deny such a request to bifurcate the hearing of a case.

PAYMENT OF WITNESSES

C-04657 National Arbitrator Mittenthal
February 15, 1985, H1N-NA-C 7
The Postal Service is not required to pay Union witnesses for time spent traveling to and from arbitration hearings.

M-00101 Step 4
September 8, 1976, NCN 2064
The National Agreement requires that employee witnesses shall be on Employer time when appearing at the arbitration hearing, provided the time is during the employee's regular working hours. There is no distinction made in this section as to whether testimony is given or whether such testimony is relevant.

GRIEVANT AS MANAGEMENT WITNESS

C-08975, Regional Arbitrator Snow
June 26, 1989, W7N-5K-8451
"At the arbitration hearing, management called the grievant as its first witness. The Union vigorously objected, and the arbitrator ruled at the hearing that the grievant would not be compelled to testify until the employer had put forth a prima facie case in support of the grievant's removal. The employer strongly objected to the ruling and requested an opportunity to submit a post-hearing brief on the issue, which request the arbitrator granted.

Although the arbitrator received no post-hearing brief on this issue, it is a matter which has been raised and must be addressed. It is well established in arbitration that, as a general rule, the grievant need not testify until a prima facie case has been established against him or her. (See, for example, General Industries, Inc. 82 LA 1161, 1164 (1984); Arizona Aluminum Company, 78 LA 766 (1982); and Report of the New York Tri-Partite Committee, Proceedings of the Nineteenth Annual Meeting, National Academy of Arbitrators, 99, BNA Books (1967)).

The reason for this rule is sound. Management has acted to remove an employee and, when challenged, should be expected to explain its decision. Such an explanation should not present the grievant as the chief witness against the grievant. In a removal case, the Employer has the burden of proof and "burden of proof" is a term connoting two distinct meanings.

One aspect of "burden of proof" refers to the burden of going forward with the evidence, that is, producing evidence to support a particular decision. Some scholars have referred to this as the "production burden." (See, McNaughton, "Burden of Production of Evidence," 68 Harv. L. Rev. 1382, 1384 (1955)). In reality, this burden more accurately could be described as the risk of non-production. Management has borne the responsibility of furnishing evidence which

justified its decision of removal. In arbitration, the Employer has the burden of producing evidence to show the reasonableness of its decision, and the party with this burden that fails to offer persuasive evidence in arbitration will not prevail. In other words, the "production burden" imposes on one party the risk of the consequences of the nonproduction of evidence.

By permitting the Employer to call the grievant in a removal case as its first witness, in effect, shifts the burden of production to the Union. This causes the Union to bear the risk of the consequence of the nonproduction of evidence. Accordingly, it has been traditional among arbitrators, in the absence of special circumstances, to require an employer to make a prima facie case (one with sufficient internal consistency to justify management's action) before requiring a grievant to testify as a part of an employer's case in chief. The Employer in this case has presented no reason for the arbitrator to change his earlier ruling with regard to this matter"

NEW ARGUMENTS OR EVIDENCE AT ARBITRATION

C-03319 National Arbitrator Aaron
April 12, 1983, H8N-5B-C 17682
If the parties do not raise arguments or facts at Steps 2, 3 and 4 of the grievance procedure they may not raise such arguments or introduce such facts for the first time at arbitration.

C-03206 National Arbitrator Mittenthal
September 21, 1981, N8-W-0406
If the parties do not raise arguments at Steps 2, 3 and 4 of the grievance procedure they may not raise such arguments for the first time at arbitration.

C-15699 National Arbitrator Snow
B90N-4B-C 94027390, August 20, 1996
It is inappropriate for the [national level] arbitrator to consider any claims or arguments beyond those set forth in the Step 4 decision.

C-04085 National Arbitrator Aaron
25 January, 1984, NCE 11359
The principle that the parties to an arbitration are barred from introducing evidence or argument not presented at preceding steps of the grievance procedure must be strictly observed. The spirit of the rule, however, should not be diminished by excessively technical construction.

C-00539 National Arbitrator Aaron
H1C-NA-C 52, May 4, 1985
"Whenever the meaning of contract language is in dispute, the parties are automatically on notice that the relevant bargaining history may come up in an [national level] arbitration hearing."

C-03002 National Arbitrator Gamser
November 3, 1976, NBS 5674
Where an issue is not raised until the filing of a party's brief, the arbitrator will not dispose of the issue.

C-12924 Regional Arbitrator Lurie
April 1, 1993, S0N-3C-C 15012
"The Service's claim - that the Union failed to timely argue the violation of Article 30, Item 2 of the LMOU - is in the nature of an affirmative defense, for which the Service has the burden of proof."

C-10679 Regional Arbitrator Zumas
July 16, 1990, N4C-1A-C 25151
A claim that grievant's due process rights have been violated may be raised for the first time at any step of the grievance procedure, including arbitration.

C-16161 Regional Arbitrator Britton
November 13, 1996, C94N-4c-D 96035565
During the arbitration of a removal grievance, the arbitrator refused to consider as a prior element a 14 day suspension that had not yet been adjudicated. He further stated that this issue "involved the principle of due process which is jurisdictional and therefore may be raised at any time during the grievance and arbitration procedure."

C-09889 Regional Arbitrator Stoltenberg
March 5, 1990, E7N-2H-D 21126
Management may not raise for the first time at arbitration a claim that a grievance was filed by an uncertified representative.

M-00773 Step 4
August 16, 1979, N8N-0027
We mutually agree that the disclosure provisions set forth in Article 15, 17 and 31 of the 1978 National Agreement intend that any and all information which the parties rely on to support their positions in a grievance is to be exchanged between the parties representatives to assure that every effort is made to resolve grievances at the lowest possible level.

REMEDIES

Remedies for specific contract violations are listed in the applicable section, e.g. "overtime", "opting", "holiday scheduling", etc.

C-03200 National Arbitrator Gamser
April 3, 1979 NCS 5426
"To provide for an appropriate remedy for breaches of the terms of the agreement, even where no specific provision defining the nature of such remedy is to be found in the agreement, certainly is found within the inherent powers of the arbitrator. No lengthy citations or discussion of the nature of the dispute resolution process which these parties have mutually agreed to is necessary to support such a conclusion."

C-06238, National Arbitrator Mittenthal
June 9, 1986, H4N-NA-C 21 (4th Issue)
One of the inherent powers of an arbitrator is to construct a remedy for a breach of a collective bargaining agreement. The U.S. Supreme Court recognized this reality in the Enterprise Wheel case:

> "...When an arbitrator is commissioned to interpret and apply the collective bargaining agreement he is to bring his informed judgment to bear in order to reach a fair solution of a problem. This is especially true when it comes to formulating remedies. There the need is for flexibility in meeting a wide variety of situations. The draftsmen may never have thought of what specific remedy should be awarded to meet a particular contingency." *United steelworkers of America v. Enterprise Wheel & Car Corp., 80 S. Ct. 1358, 1361 (1960).*

As Arbitrator Gamser observed in Case No. NC-S-5426,*(C-03200)* "...to provided for an appropriate remedy for breaches of the terms of an agreement, even where no specific provision defining the nature of such remedy is to be found in the agreement, certainly is found within the inherent powers of the arbitrator."

C-00938 National Arbitrator Gamser
August 25, 1976, ABS 1659
Retroactivity for failure to make out-of-schedule overtime payments may only go back to fourteen days prior to the date on which the Union and the grievant learned of the violation.

C-00939 National Arbitrator Gamser
September 10, 1982 H1C-5F-C 1004
Unassigned regulars who had their schedules changed in the absence of a bid or assignment to a residual vacancy were entitled to out-of-schedule overtime under Article 8, Section 4.B.

C-09889 Regional Arbitrator Stoltenberg
March 5, 1990, E7N-2H-D 21126
A remedy request of "make the carrier whole" should be read to include a demand for back pay.

C-02975 National Arbitrator Fasser
August 16, 1978, NCC 6085
Proper remedy for Article 11 holiday scheduling violation is full pay for missed work.

M-00989 Pre-arb
January 13, 1982, H8N-4B-C 3972
An arbitrator has the authority to grant relief in the form of the Postal Service paying for doctor's bill when it is found that supervisory personnel did not have reasonable and sufficient grounds to require medical verification from an employee for absences of 3 days or less.

C-10690 Regional Arbitrator Eaton
August 13, 1990
Where management failed to timely post a holiday schedule, an arbitrator has authority to grant a remedy "which is neither specifically authorized nor prohibited by the National Agreement."

C-01641 Regional Arbitrator Bowles
April 23, 1981, C8N-4F-C 13163
An arbitrator has authority to order reimbursement of the cost of obtaining a medical certificate.

C-01647 Regional Arbitrator Bowles
August 11, 1981, C8N-4F-C 13593
An arbitrator lacks authority to order payment of out-of-schedule overtime to a PTF.

REMEDIES, CHANGED

C-06871 Regional Arbitrator Sobel
March 7, 1987, S4N-3R-D 35445
An arbitrator is not bound by and limited to the Union's requested "Corrective Action" in fashioning an appropriate remedy. Arbitrators may modify or revise Union requests in an upward direction. *See also* C-08895

C-06142 Regional Arbitrator Britton
May 9, 1986, S1N-3W-C 48118
Article 15, Section 2 of the National Agreement does not preclude the Union from requesting a remedy at the arbitration hearing different from that which was requested at Step 2 of the grievance procedure.

C-01694 Regional Arbitrator Holly
August 28, 1981, S8N-3D-C 14268
An arbitrator will consider only those remedies requested at Step 2.

INTEREST AS REMEDY

Memorandum of Understanding
1990 National Agreement, June 12, 1991
RE: Interest on Back Pay. Where an arbitration award specifies that an employee is entitled to back pay in a case involving disciplinary suspension or removal, the Employer shall pay interest on such back pay at the Federal Judgment Rate. This shall apply to cases heard in arbitration after the effective date of the 1990 Agreement.

C-004519 National Arbitrator Aaron
December 19, 1984, H1N-5F-D 2560
An Arbitrator is authorized by the National Agreement, in his discretion, to award interest as part of a back-pay award when sustaining a disciplinary grievance.

C-00955 National Arbitrator Mittenthal
April 7, 1988, H4C-5A-C 13378
The Postal Service acknowledged in this case that an arbitrator may order interest added to a back pay award because of a post-award delay in making payment. *See also* C-05949

M-00895 Pre-arb
February 1, 1989, H4N-4B-C 26109
Whether interest is an appropriate remedy to a subsequent grievance alleging an unreasonably late payment of a prior grievance settlement must be determined on a case-by-case basis, according to the facts of the individual case. *See also* M-00928

M-00475 Pre-arb
September 24, 1986, H4N-5F-D 2426
The parties recognize the contractual entitlement of the grievant's to file a grievance protesting an unreasonable delay in implementation of a grievance settlement or arbitration award and to request interest as a remedy.

TIME OFF AS A REMEDY

Some arbitrators have refused to grant Administrative Leave as a remedy because of the argument that Administrative Leave can only be granted under the conditions enumerated in ELM Section 519, and that Article 15, Section 4.A.6 prohibits them from altering, amending, or modifying the terms and provisions of the

Contract. See for example, C-04413, Britton. Notwithstanding this argument, many other regional arbitrators have granted Administrative Leave as a remedy; See Epstein C-01637, Foster C-03542, Levak C-05393, Stephens C-06750, Rentfro C-08316, Render C-08614, Lange C-08792, and Eaton C-08893.

The Contract Administration Unit takes the position that the safest remedy request is simply "time off with pay." The arbitration cases listed below may also be cited in support of this remedy. In most cases, however, a monetary remedy is preferable.

C-10901 Regional Arbitrator Cushman
June 13, 1991, S4N-3P-C 28517
Management violated the LMU when it did not grant one day of incidental annual leave; grievant is entitled to eight hours of administrative leave at his convenience.

C-13848 Regional Arbitrator Scearce
August 3, 1994, H90N-4H-C 94027651
"As to the remedy requested, the undersigned is aware of the provisions of the ELM relative to administrative leave, but considers it within his authority to grant such request where the clear violation of a right of approved benefit is involved. Obviously, the grievant cannot get back the use of December 11, 1993 and was paid for work that day. On the other hand, the service cannot, with impunity, decide when it will or will not, adhere to its contractual commitments. An Award in this case is obviously punitive in nature, but is granted for the purpose of underscoring the Services responsibility to comply with its obligations."

C-03542 Regional Arbitrator Foster
May 12, 1983, S1N-3U-C 1824
The Postal Service violated the contract by requiring the grievant to work on his designated holiday. The arbitrator granted the remedy requested by the union; "to grant Grievant 8-hours administrative leave to use at his discretion in the next twelve months."

C-05393 Regional Arbitrator Levak
October 25, 1982, W8N-5H-C 11311
The Grievant was required to work in violation of Article 8. Section 5 of the Agreement. As a remedy the arbitrator ordered that "the grievant shall be given eight hours administrative leave on the day of his choice. The grievant shall provide the Service with sixty days written notice of the day of his choice."

C-01637 Regional Arbitrator Epstein
October 6, 1981, C8N-4C-C 12068
The appropriate remedy for the Postal Service's erroneous denial of break time is for the Postal Service to grant those carriers adversely affected compensatory time off. This time off may be granted in the form of double breaks for an amount of time equal to the time that the carriers were deprived of their breaks during the relevant period, or in blocks of hours or days at the option of the Postal Service.

ARBITRABILITY

M-01253 Step 4
October 31, 1996, Q90N-4Q-C-96081524
We agreed that the parties' practice on a national basis has been that the same arbitrator who determined the arbitrability of the case, is scheduled to hear the merits; assuming that the arbitrator in question is still on the appropriate panel and is otherwise available. This practice is to be followed by all field processing centers.

A. CLAIMS OF UNTIMELINESS

1. IN GENERAL

C-04187 Regional Arbitrator Leventhal
March 23, 1984, W1N 5D-C 7034
"In the absence of a contractual definition requiring that the date an event occurs, irrespective of the time during that date, is to be counted as day one, the usual standard is not to count the day the event occurred because the intent of a contractual time limit to grieve is to give the parties full not partial days in which to act."

C-11176 Regional Arbitrator Snow
January 1, 1986, W1C-5G-C 11272
"Arbitrators long have been inclined to conclude that grievances have been filed in a timely manner when a complaint has been filed after the parties have been engaged in prolonged negotiations from the time of the alleged infraction and filing the complaint."

C-00533 Regional Arbitrator J.E. Williams
December 12, 1984, S1C-3U-C 20398
It is "the arbitral standard that it is not the day of the posting of the rule, order, policy, etc., which begins the tolling of time limits for filing a grievance. It is only when the policy is clearly put into effect, and the Union has been made aware of it, that the time limits begin to toll."

C-00970 Regional Arbitrator Bowles
April 18, 1983, MN-8020
"[E]ven in those instances where time limits are clear, late filing will be excused if the circumstances are such that it would be unreasonable to demand strict compliance. Moreover, if both parties have been lax in the observance of time limits in the past, the Arbitrator hesitates to enforce strict time limits until or unless notice has been given by a party of the intent to demand strict adherence."

C-10198 National Arbitrator Britton
August 13, 1990, H7N-3S-C 21873
Where representative grievances are ruled untimely, the cases held for disposition of the representative grievances are nonetheless arbitrable.

C-03277 National Arbitrator Fasser
November 21, 1978, NCE 11737
By failing to file a grievance concerning maximization for a four-year period NALC slept on its rights. The grievance finally filed, therefore, is untimely.

C-11193 Regional Arbitrator Zack
December 27, 1985, N1T-1J-D 37462
Grievance is timely although filed five months after employee was given Separation/Disqualification on 92nd day of employment; employee was told he had no appeal rights and union filed grievance within 14 days of learning of the separation.

C-01270 Regional Arbitrator Leib
June 14, 1982, E8N-2B-C 9742
An employee claim filed several days late is arbitrable, where neither the supervisor nor the employee was familiar with the claims procedure and where the proper form was not immediately available.

C-00535 Regional Arbitrator Roukis
October 31, 1984, N1C-1N-D-17325
A grievance filed 32 days after receipt of the notice of removal is arbitrable, where the grievant became depressed after receiving the notice and took a month of sick leave; "the grievant's illness provides sufficient mitigation for excusing her belated appeal."

C-00150 Regional Arbitrator Cushman
September 9, 1985, E4V-2U-C 394
Grievance is untimely where filed more than 14 days after facts occurred giving rise to grievance but within 14 days of learning that national union believed such facts constituted violation of the contract.

C-09460 Regional Arbitrator P.M. Williams
October 25, 1989, S7N-3A-D 22432
Grievance is timely where filed within 14 days of grievant's receipt of removal notice, although notice had been mailed to last known address two months earlier and grievant had not updated Form 1216.

C-00798 Regional Arbitrator McConnell
March 19, 1985, E1C-2D-D 10991
Although the appeal to arbitration was made 11 months late, "the matter [is] arbitrable simply because the issue is removal for just cause."

C-08842 Regional Arbitrator Goodman
May 3, 1989, W7N-5D-D 10075
A grievance filed within 14 days of when the union learned of its cause, although longer than 14 days after the grievant learned of its cause, is timely.

C-00749 National Arbitrator Bloch
May 12, 1983, H1C-NA-C 5
The certification to arbitration of a dispute concerning an amendment to the ELM, made more than 60 days after the union's receipt of the notice of proposed amendment, was untimely.

C-12205 Regional Arbitrator Britton
S0N-3W-D 04320, July 17, 1992
Where the union filed the Step 2 appeal two days late the grievance is nonetheless arbitrable: "arbitrators have generally taken the view that a minor breach of a filing deadline may be forgiven, particularly where the other side is unable to demonstrate that it has been prejudiced in any way."

2. NOTICE OF PROPOSED ACTION VS. NOTICE OF DECISION

M-00939 Step 4
September 26, 1974, NB-E-1681
This grievance involves the refusal on managements part to accept a grievance pertaining to a Notice of Charges-Proposed Removal from a steward prior to the time that a decision had been rendered on the previously mentioned proposal. A grievance may be filed upon receipt of a Notice of Proposed Removal.

M-01137 APWU Step 4
September 16, 1992, H7V-1F-D 39176
The issue in this grievance concerns the time limits that must be met in order to grieve a proposed suspension of more than fourteen days and whether a decision letter must be grieved. During our discussion we mutually agreed to close this case based upon the following understanding:

1. For the purpose of grievance procedure appeals, the time limits of Section 2 of Article 15 of the National Agreement shall run from the proposed suspension notice, not from a decision letter on the proposed suspension.

2. Once a grievance on a notice of proposed suspension is filed, it is not necessary to file a grievance on the decision letter.

3. Receipt of a notice of proposed suspension starts the 30 day advance notice period of Section 5 of Article 16 of the National Agreement.

M-01038 APWU Memorandum of Understanding, August 12, 1991
This memorandum addresses the time limits that must be met in order to grieve a proposed removal.

1. For the purpose of grievance procedure appeals, the time limits of Section 2 of Article 15 of the National Agreement shall run from the proposed removal notice, not from a decision letter on the proposed removal.

2. Once a grievance on a notice of proposed removal is filed, it is not necessary to file a grievance on the decision letter.

3. Receipt of a notice of proposed removal starts the 30 day advance notice period of Section 5 of Article 16 of the National Agreement.

C-12205 Regional Arbitrator Britton
S0N-3W-D 04320, July 17, 1992
APWU/USPS memo providing that a grievance must be filed concerning a notice of proposed removal is "of questionable application" in an NALC arbitration -- grievance filed protesting notice of decision is arbitrable.

C-03723 Regional Arbitrator Dworkin
August 8, 1983, C1N-4F-D 8380
A grievance filed protesting a letter of decision is untimely.

C-01181 Regional Arbitrator Epstein
June 10, 1982, C8N-4E-D 34803
A grievance must be filed within 14 days of receipt of a notice of proposed removal, and is not timely if filed protesting a notice of decision.

C-09730 Regional Arbitrator Howard
July 18, 1989, E7N-2B-D 3329
Removal grievance was timely where filed within 14 days of Notice of Decision.

C-10485 Regional Arbitrator Sobel
December 14, 1990, S7N 3C-C 30102
Grievance filed protesting termination of light duty assignment is untimely where filed within 14 days of "notice of decision"; grievance should have been filed within 14 days of "notice of proposed denial of continued light duty.

3. CLAIMS THAT MANAGEMENT WAIVED TIMELINESS

C-01198 Regional Arbitrator Seidman
August 5, 1982, C8N-4H-C 29101
Because management did not raise timeliness at Step 2 it waived the issue.

C-01300 Regional Arbitrator Levak
September 9, 1982, W8N-5C-C 14769
Although at the Step 2 meeting management may have orally claimed the grievance was untimely, by failing to raise the issue in its written Step 2 decision it waived the claim.

C-03031 Regional Arbitrator Dworkin
February 24, 1983, C1N-4A-D 10382
Although management raised timeliness in its Step 2 decision, its failure to raise it orally at the Step 2 meeting constituted a waiver of the issue.

C-09093 National Arbitrator Aaron
July 7, 1982, H8T-5C-C 11160
By failing to repeat at Steps 3 and 4 its claim first raised at Step 2 that the grievance was untimely management waived the claim.

C-08352 Regional Arbitrator P.M. Williams
September 23, 1988, S4N-3U-D 64115
Because management failed at Step 3 to continue to defend against the grievance on the basis of untimeliness, management waived the claim.

4. BECAUSE OF ITS ACTIONS -- OR INACTIONS -- MANAGEMENT SHOULD NOT BE PERMITTED TO ASSERT THAT A GRIEVANCE IS UNTIMELY.

C-01536 Arbitrator Aaron
April 29, 1974, G-22467
"[T]he Postal Service cannot, through one of its agents, refuse to accept a properly filed employee grievance and then seek to have the grievance dismissed because the grievance was not accepted."

C-00009 Regional Arbitrator Cohen
January 18, 1982, C8C-4B-C 22777
Grievance is arbitrable where there was no Step 1 meeting, where management frustrated the union's attempts to have such a meeting.

C-03941 Regional Arbitrator Walsh
November 21, 1983, W1N-5K-C 9361
Where management refused to disclose information and refused to allow a letter carrier to confer with his steward, management is barred from asserting that a grievance is untimely.

C-03543 Regional Arbitrator Goldstein
May 9, 1983, C8N-4M-C 19875
Even if a high level labor relations representative told NALC's NBA: "don't file a grievance, I'll try to take care of the problem, if I can't you can file a grievance later," NALC's late filed grievance is not arbitrable.

C-01625 Regional Arbitrator Dobranski
September 29, 1981, C8N-4A-C 9520
An extension of time limits is not implied when a supervisor declines to discuss a grievance because he is busy.

C-06766 Regional Arbitrator Parkinson
December 24, 1986, E4N-2B-C 4499
Where an employee wrote to the MSC manager asking to discuss a problem, but where the MSC manager does not respond, management may not later claim that a grievance filed by the employee is untimely; management should mention a claim of untimeliness at Step 3, if it wishes to preserve an earlier claim.

5. POSTMARKS AND MAILING

C-01552 Regional Arbitrator Mittenthal
February 13, 1974, N-C-4170-D
Regional level award: The date of a mailed grievance appeal is determined by the postmark.

C-08831 Regional Arbitrator Nolan
May 17, 1989, S7N-3S-D 18251
An appeal is filed when mailed.

C-04494 Regional Arbitrator Dworkin
October 24, 1984, C1N-4D-D 30942
An appeal is made as of the date it is mailed; a postmark does not prove date of mailing.

C-00005 Regional Arbitrator Cohen
July 3, 1979, ACC 23533
There is a presumption of arbitrability; grievance is ruled timely where union representative testified appeal was timely mailed, even where the postmark would show the appeal to have been untimely.

C-04941 Regional Arbitrator Levak
May 26, 1985, W1N-5B-D 31519
"[U]nder normal circumstances ... [management fulfills its duty to provide notice] by effecting delivery of the Notice to the employee's official mailing address, and that such an employee shall be deemed to reasonably be expected to learn of the Notice upon the date of such delivery."

C-05204 Regional Arbitrator Rentfro
October 1, 1985, W4N-5D-D 89
An appeal is made when it is mailed; a postmark is not controlling as to date of mailing.

C-06464 Regional Arbitrator Collins
September 5, 1986, N4N-1A-D 15722
The presumption of proper mailing was effectively rebutted when grievant credibly testified that he did not receive the Notice of Removal and demonstrated the signature on the certified mail receipt was not his.

B. CLAIMS THAT THE GRIEVANCE IS NOT UNTIMELY BECAUSE IT PROTESTS A CONTINUING VIOLATION

C-00101 Regional Arbitrator Epstein
January 11, 1982, C8C-4F-C 14683
Grievance is not timely where filed eight months after schedule change, even when union claims violation is of continuing nature.

C-11176 Regional Arbitrator Snow
January 6, 1986, W1C-5G-C 11272
Grievance filed six months after new policy is timely, since the alleged violation would have imposed a continuing infringement on rights of the grievant.

C-00533 Regional Arbitrator J.E. Williams
December 12, 1984, S1C-3U-C 20398
A grievance filed four months after management published a notice changing the past practice concerning break length is timely, because it protests a continuing violation.

C-08862 Regional Arbitrator Axon
May 16, 1989, W7N-5E-C 815
Management's failure to comply with a settlement did not give rise to a "continuing" grievance, because that failure was an "isolated and completed transaction"; a grievance filed eight months later, therefore, was untimely.

C-00546 Regional Arbitrator Caraway
February 12, 1985, S1C-3Q-C 26607
Management's July 11th refusal to provide light duty was timely grieved on September 1st because "the light duty request was a continuing one."

C-04076 Regional Arbitrator Scearce
January 24, 1984, S1N-3W-C 12023
A grievance concerning management's duty to maximize was "continuing."

C-10134 Regional Arbitrator Skelton
July 23, 1990, S7N-3S-C 88049
Grievance protesting failure to timely adjust routes is "continuing."

C-03921 Regional Arbitrator Rentfro
November 7, 1983, W1N-5F-C 1548
A grievance protesting management's refusal to provide light duty is "continuing"; remedy, however, will extend only to 14 days prior to filing.

C-00938 National Arbitrator Gamser
August 25, 1976, ABS 1659
While constituting a "continuing" violation, retroactivity for failure to make out-of-schedule overtime payments may only go back to fourteen days prior to the date on which the Union and the grievant learned of the violation.

C. CLAIMS THAT ARBITRATION IS BARRED BECAUSE TECHNICAL REQUIREMENTS OF THE GRIEVANCE PROCEDURE WERE NOT MET.

C-00167 Regional Arbitrator Levak
December 14, 1982, W1C-5G-C 2019
Grievance is arbitrable even assuming that the union failed to submit copies of the standard grievance form and the Step 2 decision with its Step 3 appeal.

C-00054 Regional Arbitrator Cohen
February 23, 1979, ACC 24104D
Attorney's letter to Postmaster requesting "appeal of adverse action" did not satisfy requirement for Step 1 meeting; grievance is not arbitrable.

C-00325 Regional Arbitrator Haber
October 13, 1983, C1C-4E-D 16000
Grievance is arbitrable where employee was removed and grieved removal, but where management rescinded and reissued removal and second removal was not made the subject of a separate grievance.

C-11196 Regional Arbitrator Cohen
December 31, 1985, C1C-4A-D 37562
Appeal was properly made where signed by another "for" the authorized union representative.

C-09464 Regional Arbitrator Condon
October 23, 1989, E7N-2H-D 17295
Grievance is not arbitrable where filed by a steward not properly certified in writing.

C-09929 Regional Arbitrator Zumas
March 21, 1990, E7N-2H-D 22196
Grievance mistakenly appealed to the Division -- rather than the Region -- is arbitrable.

C-10798 Regional Arbitrator Foster
April 23, 1991
Where the union representative did not appear for a Step 2 hearing he failed to meet "the prescribed time limits of the steps of this [grievance] procedure" and the grievance he was scheduled to discuss was, therefore, waived.

D. CLAIMS THAT A GRIEVANCE FILED CONCERNING AN EMERGENCY OR INDEFINITE SUSPENSION DID NOT REACH A SUBSEQUENT REMOVAL.

C-01427 Regional Arbitrator Cohen
March 30, 1979, NCC 13547D
Ordinarily separate grievances must be filed when an employee receives an indefinite suspension followed by a removal, and in this case a written grievance was filed only concerning the suspension. The removal is nonetheless subject to arbitral review since the union and management orally discussed the removal at the Step 2b hearing of the suspension grievance.

C-09975 Regional Arbitrator Goldstein
April 5, 1990, C7N-4D-D 15801
Where an emergency suspension was followed by a removal, the grievance filed concerning the suspension cannot be read to include the removal.

E. CLAIMS THAT ARBITRATION IS BARRED BECAUSE APPEAL WAS MADE TO THE MERIT SYSTEMS PROTECTION BOARD (OR, PREVIOUSLY, TO CSC).

M-00830 Memorandum of Understanding
March 3, 1988. Obsolete—See JCAM Article 16.9
I. As general principles, the parties agree that the purpose and intent of Article 16, Section 9 is:

A. To afford preference eligible employees, because of their status under the Veteran's Preference Act, a choice of forums in which to obtain a resolution on the merits of certain adverse employer actions set forth in Chapter 75 of Title 5, U.S. Code. (e.g., suspensions of more than 14 days, discharge), and

B. To prevent situations in which the Employer is required to defend the same adverse action before the MSPB and in the Grievance-Arbitration procedure.

II. In accordance with the principles stated in I, above, the following procedures shall be applied:

A. A preference eligible employee may both file a grievance and appeal to the MSPB, as appropriate, and the Union shall be entitled, at its discretion to pursue a grievance so filed to arbitration. However, the union will be deemed to have waived access to arbitration in any of the following circumstances:

1. If at the time that the union appeals the grievance to arbitration, the grievant also has an appeal pending before the MSPB. (Postmark will constitute the date of appeal to arbitration; Postmark will also constitute date of withdrawal of appeal to the MSPB).

2. If the grievant appeals the matter to the MSPB at any time after the union appeals the matter to arbitration. (Postmark will constitute the date of the MSPB appeal);

3. If the MSPB issues a decision on the merits;

4. If at any time the MSPB begins a hearing on the merits;

5. If at any time the employee requests the MSPB to issue a decision on the record without a hearing and the MSPB has closed the record; or

6. If at any time the employee and Employer resolve the MSPB appeal through settlement.

III. In notices in which the Postal Service advises employees of their right to appeal to the MSPB, the following statement shall be included:

You have the right to file an MSPB appeal and a grievance on the same matter. However, if the MSPB issues a decision on the merits of your appeal, if an MSPB hearing begins, if the MSPB closes the record after you request a decision without a hearing, or if you settle the MSPB appeal you will be deemed to have waived access to arbitration. Further, if you have an MSPB appeal pending at the time the Union appeals your grievance to arbitration, or if you appeal to the MSPB after the grievance has been appealed to arbitration, you will be deemed to have waived access to arbitration.

IV. If the Postal Service erroneously advises an employee that he or she is entitled as a result of veterans' preference to appeal to the MSPB and if MSPB declines jurisdiction, the employee or the Union shall be entitled to initiate a grievance within 14 days from receipt of notice that the MSPB has dismissed the appeal for lack of jurisdiction. (Receipt of notice shall be presumed to have occurred 5 days from the date of the letter dismissing the appeal). If a grievance had previously been initiated, and if the grievance is pending at the time the MSPB dismissal notice is received, the Union shall be entitled to continue processing the grievance.

V. At the Step 3 discussion of a grievance, the Union representative and the USPS representative each have an obligation to inform the other of the existence of a companion MSPB appeal.

C-01103 National Arbitrator Gamser
October 26, 1976, ABW 11369
Where a grievant files timely grievances under Article XV and also files a timely "appeal" with the Federal Employee Appeals Authority but withdraws that "appeal" prior to the arbitration hearing and in advance of any hearing by the Federal Appeals Authority and in advance of any 2B decision, the grievant does not waive the right to arbitrate.

C-18158, APWU National Arbitrator Das
H7N-3R-C 5691, November 12, 1997
The provisions of Article 16, Section 9 apply to all "adverse actions" as defined by 5 USC §7512, not just to discipline cases.

C-16650 National Arbitrator Snow
January 1, 1997, D90N-4D-D 95003945
Article 16, Section 9 does not apply where a preference eligible grievant has appealed the same matter in the grievance procedure and to EEOC and then to the MSPB under mixed case federal regulations.

C-01518C National Arbitrator Gamser
November 30, 1977, NCW-4391D
A preference eligible's filing of an appeal of a discharge with the Federal Employee Appeals Authority subsequent to the denial of his grievance in Step 2B which is denied as untimely filed does not waive access to arbitration under the National Agreement.

C-00021 National Arbitrator Gamser
April 21,1977, ACN 8662D
Preference eligible employee waived access to any procedure beyond step 2B of the National Agreement by securing full adjudication of his discharge from the Civil Service Commission.

C-11262 Regional Arbitrator Klein
Although grievant had an MSPB appeal pending at the time his grievance was appealed to arbitration, the grievance is nonetheless arbitrable because MSPB failed to address the merits of his case.

C-10489 Regional Arbitrator Cushman
December 7, 1990, E7N-2P-D 24653
A non-preference eligible who appealed discharge to MSPB did not thereby waive access to arbitration, because Article 16, Section 9 pertains only to preference eligibles.

C-09937 Regional Arbitrator Skelton
April 5, 1990, S7N-3A-C 7899
Where both a grievance and an MSPB appeal were filed concerning a denial of light duty, the grievant's settlement of the MSPB appeal precludes arbitration of the grievance.

F. CLAIMS THAT ARBITRATION IS BARRED BECAUSE APPEAL WAS MADE TO EEOC

C-10972 Regional Arbitrator Caraway
August 8, 1991 S4N-3Q-C 25392
A grievance is arbitrable where the Grievant asserted the same claim made in the grievance to the EEOC.

G. CLAIMS THAT ARBITRATION IS BARRED BECAUSE GRIEVANT WAIVED ACCESS TO THE GRIEVANCE PROCEDURE IN A LAST-CHANCE SETTLEMENT (OR BECAUSE GRIEVANT WAS OTHERWISE IN A "PROBATIONARY" STATUS).

See also "Last Chance Agreements" page 79

C-09680 Regional Arbitrator Bennett
January 29, 1990, S7N-3Q-D 22055
Grievance protesting removal is arbitrable, where employee had agreed to earlier last-chance settlement waiving future appeal rights.

C-10482 Regional Arbitrator Render
November 29, 1980, W7N5L-D 21704
An arbitrator may review a discharge which occurs after a last-chance agreement waiving access to the grievance procedure.

C-10000 Regional Arbitrator Lange
April 20, 1990, W7N-5M-C 17720
Grievance protesting removal is arbitrable, even where grievant earlier agreed to last-chance settlement waiving future appeal rights.

C-10173 Regional Arbitrator Mitrani
July 26, 1990, N7N-1N-D 26514
Where arbitrator of earlier removal grievance restored grievant with a one year "probationary period," subsequent removal within one year is nonetheless arbitrable.

C-10021 Regional Arbitrator Ables
May 17, 1990, E7N-2K-C 22828
Although styled as a class action, a grievance which requested as remedy the restoration to duty of a separated probationary employee is not arbitrable.

H. CLAIMS THAT ARBITRATION IS BARRED BECAUSE THE GRIEVANCE WAS SETTLED OR WITHDRAWN.

C-09436 Regional Arbitrator Germano
October 20, 1989, N7N-1E-C 23918
Grievance is arbitrable where management claims grievance was settled at Step 3, but produces no evidence of settlement.

C-09533 Regional Arbitrator Levin
November 11, 1989, NYN-7C 160
Grievance protesting employer claim is not arbitrable where grievant and union agreed to settle suspension grievance by reduction to LOW and statement "with the understanding and agreement that if a claim is filed you are financially responsible."

C-10974 Regional Arbitrator Byars
July 16, 1991, S7N-3W-D 33143
Grievance protesting removal is arbitrable, even where UMPS signed settlement agreeing that the removal was proper.

I. CLAIMS THAT ARBITRATION IS BARRED BECAUSE THE SUBJECT OF THE GRIEVANCE IS BEYOND THE ARBITRATOR'S AUTHORITY TO CONSIDER.

SEE ALSO

Grievance Procedure - Scope, page 137
Remedies, page 24

1. IN GENERAL

C-01664 Regional Arbitrator Dworkin
January 2, 1982, C8N-4A-C 22293
"It may be, as the Postal Service suggests, that the grievance lacks a relevant contractual premise. That fact alone does not render a grievance non-arbitrable. The question of whether provisions of the Collective Bargaining Agreement are applicable to a complaint, and whether they have been properly applied or interpreted by one party or another, is precisely the issue at the core of every arbitration. It is that issue that arbitrators are charged with resolving. In plain language, the fact that a party may be wrong does not deprive him of the right to an arbitral award stating that he is wrong."

C-10685 Regional Arbitrator Alsher
July 26, 1990, S7C 3B-C 21022
An official discussion may not be grieved; what may not be grieved may not be arbitrated.

C-09917 National Arbitrator Mittenthal
March 26, 1990, H7N-5P-C 1132
A letter carrier's pre-removal grievance did not survive his later discharge.

Note: This decision has been superseded by the 1990 Memorandum of Understanding on the processing of post-removal grievances.

M-00226 Memorandum of Understanding
October 16, 1981
[T]he processing and/or arbitration of a grievance is not barred by the separation of the grievant, whether such separation is by resignation, retirement, or death.

C-00544 Regional Arbitrator Martin
February 11, 1985, C1T-4C-C 31542
A grievance protesting a decision by management that an employee is not eligible for a Safe Driver Award is arbitrable.

C-01695 Regional Arbitrator Larson
December 30, 1981, S8N-3U-C 16418
An arbitrator has authority to decide a claim that a supervisor improperly intervened with a court to change the dates of grievant's scheduled jury duty.

C-06949 National Arbitrator Bernstein
April 8, 1987, H1N-3D-C 40171
The NALC does not have standing to bring a grievance on behalf of a rural carrier. The NALC/APWU contract does not create substantive rights for employees outside of the bargaining units represented by the unions. Only the NRLCA is entitled to bargain on behalf of rural carriers, and the NALC is not entitled to intrude itself into that process.

C-01148 Regional Arbitrator Foster
June 11, 1982, S1N-3P-C 278
A grievance filed by a former letter carrier who was reassigned to the clerk craft could only be pursued by APWU, and the grievance filed and processed by NALC is not arbitrable.

C-06858 National Arbitrator Bernstein
March 11, 1987, H1N-5G-C 14964
Article 5 of the National Agreement serves to incorporate all of the Service's "obligations under law" into the Agreement, so as to give the Service's legal obligations the additional status of contractual obligations as well. This incorporation has significance primarily in terms of enforcement mechanism--it enables the signatory unions to utilize the contractual vehicle of arbitration to enforce all of the Service's legal obligations. Moreover, the specific reference to the National Labor Relations Act in the text of Article 5 is persuasive evidence that the parties were especially interested in utilizing the grievance and arbitration procedure spelled out in Article 15 to enforce the Service's NLRB commitments.

C-01377 Regional Arbitrator Caraway
September 9, 1982, S1N-3U-C 787
An arbitrator lacks authority to consider a claim that the Freedom of Information Act has been violated. *But Cf* C-06858

2. ON-THE-JOB INJURIES

C-01396 Regional Arbitrator Caraway
August 23, 1982, S1N-3U-C 191
"Once the employee has filed a CA-1 with the Department of Labor, that agency has sole authority over [that employee's] claim. The arbitrator is divested of authority."

C-01659 Regional Arbitrator Dobranski
October 20, 1981, C8N-4A-C 20164
OWCP has exclusive jurisdiction over compensation claims; a grievance filed concerning a claim is not arbitrable.

C-04936 Regional Arbitrator Scearce
May 28, 1985, S1N-3W-C 19996
An arbitrator lacks authority to order payment of COP.

3. ACTION AGAINST SUPERVISORS

C-15697 National Arbitrator Snow
Q90N-4F-C 94024977, August 16, 1996
"[T]he Joint Statement on Violence and Behavior in the Workplace constitutes a contractually enforceable bargain."

"The grievance procedure of the National Agreement may be used to enforce the parties' bargain, and arbitrators have available to them the flexibility found in arbitral jurisprudence when it comes to formulating remedies, including removing a supervisor from his or her administrative duties."

C-09418 Regional Arbitrator Skelton
October 6, 1989, S7N-3V-C 11041
Grievance seeking placement of supervisor in non-pay, non-duty status is not arbitrable. "Grievances seeking reprimand, suspension, or discipline of supervisors have no legitimate contractual basis and to order such remedies is beyond the arbitrator's authority." *See also C-10948, Levak, 5.15.91; C-01599, Dobranski, 12.12.80; C-01639, Bowles, 8.31.81; C-04597, Foster, 12.22.84; C-05734, Foster, 3.26.82.*

C-00111 Regional Arbitrator Caraway
March 9, 1982, S8C-3F-C 2573
A remedy request of dismissal of a supervisor does not render a grievance non-arbitrable.

C-08838 Regional Arbitrator Sobel
May 15, 1989, S7N-3F-C 19542
A remedy requesting transfer of a supervisor does not make a grievance inarbitrable.

J. CLAIMS THAT A GRIEVANCE IS NOT ARBITRABLE BECAUSE IT IS MOOT.

C-01694 Regional Arbitrator Holly
August 28, 1981, S8N-3D-C 14268
Where the remedy requested was to change grievant's off days, and where the off days had been changed as of the arbitration, the grievance is moot.

C-01648 Regional Arbitrator Bowles
June 3, 1981, C8N-4C-C 13609
A grievance is arbitrable even where the remedy originally requested is no longer attainable as the result of the passage of time.

C-10559 Regional Arbitrator Sobel
January 24, 1991, S7N-3N-C 28049
Where two grievances were filed two days apart, protesting the same action and asking the same remedy, the denial of the first in arbitration must, under the doctrine of *res judicata*, cause the second to be denied.

C-10827 Regional Arbitrator Goldstein
September 28, 1990, C7N-4A-C 21728
A case is not moot although the only remedy requested at Step 2 was granted at Step 3.

K. CLAIMS THAT A NATIONAL LEVEL DISPUTE IS NOT ARBITRABLE BECAUSE IT DOES NOT CONCERN AN INTERPRETIVE ISSUE.

C-13792, National Arbitrator Snow
August 5, 1994, H7C-1K-C 31669 et al
Arbitrability Decision in OF-346 Dispute
It is clear from the evidence that the dispute in this case has arisen periodically. Nor can the merits of the dispute be resolved without interpreting several provisions of handbooks and manuals that are of general application. This is sufficient to meet the threshold requirement of the parties' agreement to overcome a challenge to the procedural arbitrability of an interpretive issue at the national level. *See also* C-13903, Mittenthal

BARGAINING UNIT WORK, SUPERVISORS PERFORMING

See also 204Bs, page 12

C-03329 National Arbitrator Aaron
March 16, 1983, H1N-3Q-C 1288
Relabeling of letter carrier cases, including filling out of forms 313 is bargaining unit work which may not be performed by supervisors. *See also* C-01409, C-05654, M-00204, M-00691.

M-00832 Pre-arb
May 17, 1988, H7N-2M-C 443
In the administration of Article 1, Section 6.B of the National Agreement, the parties agree to the following principles: If the phrase "distribution tasks" or "may personally perform non-supervisory tasks" is found in a supervisor's job description, this does not mean the casing of mail into letter carrier cases. See M-00974.

M-00974 Memorandum, June 28, 1990
This letter is intended to serve as a joint statement of the parties in clarification of the settlement in H7N-2M-C-443 [M-00832] and reflects the meaning and understanding of the parties, then and now.

The following language appears in the subject settlement:

> *If the phrase "distribution tasks" or "may personally perform non-supervisory tasks" is found in a supervisor's position description, this does not mean the casing of mail into letter carriers cases.*

The parties agree that the meaning and intent of their settlement did not change the meaning of a prior settlement in case number NB-C-2981 (N-61)/S-SPR-M-55. The language in that settlement reads as follows:

> *The provisions for distributing mail, as contained in a supervisors position description, refer to clerk duties and not the routing of mail into a carrier case.*

To this effect, the language of this joint statement of clarification should be deemed to be substituted for that which appears in the original settlement agreement of case number H7N-2M-C-443.

M-00200 Step 4
March 3, 1978, NCC 9746
The National Agreement does not limit the performance of bargaining unit work by supervisors to only emergency situations in offices of less than 100 employees. Conversely, the supervisor's job description does not intone (*sic*) that he would perform bargaining unit work as a matter of course every day but rather that he would perform such duties in order to meet established service standards. *Cf* M-00832

M-01351 Step 4
F94N-4F-C 98101549, October 22, 1998
An employee, while detailed to an EAS position, may not perform bargaining unit overtime, except as authorized by Article 3.F of the National Agreement. The PS Form 1723 should accurately reflect the duration of the detail.

M-00540 Step 4
September 27, 1984, H1N-3F-C 31824
Except in an emergency, a supervisor should not transport a member of a van-pool to his/her route.

M-00206 Settlement Agreement
November 24, 1978, NCE 4716
Where additional work hours would have been assigned to employees but for a violation of Article I, Section 6A, and where such work hours are not *de minimis*, the employee(s) whom management would have assigned the work shall be paid for the time involved at the applicable rate.

M-00205 Step 4
January 31, 1977, NCW 4083
The supervisor had been instructed to discontinue placing the mail in question on the carriers' ledge.

M-00870 Pre-arb
November 1, 1988, H4N-3U-C 25828
We mutually agreed the general delivery and pickup of express Mail is bargaining-unit work. It is also understood that management has not designated this work to any specific craft. In accordance with the above understanding, management is prohibited from performing bargaining-unit work except as enumerated in Article 1, Section 6.

This settlement is not intended to prohibit management from assigning available personnel as necessary, including non-bargaining-unit persons, to meet its commitment where Express Mail is concerned in connection with noon and 3 P.M. deliveries and office closings. *See also* M-00955 (APWU)

M-00336 Pre-arb, NN 4507
The Postal Service reaffirms its intent that supervisors will do as little bargaining unit work as possible and that such work will be performed only under the strict limitations of Article 1, Section 6, of the 1973 National Agreement.

M-00202 Step 4
July 19, 1977, NCE 4977
Preparation of collection schedules is a management function, however, the actual changing of collection box labels as cited in the grievance case should be performed by bargaining unit employees.

M-00454 Step 4
November 18, 1977, NCS 8463
The delivery of disciplinary notices to employees is not *per se* bargaining unit work.

M-00751 Step 4
April 23, 1987, H4N-3U-C 27476
Movement of mail by the supervisor for the sole purpose of conducting mail counts or volume measurements does not constitute bargaining-unit work.

M-00322 Step 4
January 30, 1975, NBC 2981
The provisions for distributing mail as contained in the supervisor's job description refer to clerk duties and not the routing of mail into a carrier case.

M-00034 Step 4
January 20, 1983, H8N-4F-C 32626
It is not the intent of the parties at the national level that supervisors will perform the duties enumerated in the applicable handbooks as carrier duties and responsibilities, except as provided for in Article 1, Section 6, of the 1978 National Agreement.

M-01031 Step 4
December 6, 1991, H7N-5C-C-21548
The issue in this grievance is whether under these specific fact circumstances, the operation of a paper folding machine by supervisors violates the National Agreement. Without prejudice to either parties position in any other case, we agree that the work performed is bargaining unit work.

M-01132 APWU Step 4
May 20, 1977, AC-S-105
The servicing of stamp-vending machines is bargaining unit work. Therefore, the grievance is sustained as it relates to the performance of this function. Supervisors will refrain from performing this work except as provided in Article I, Section 6 of the National Agreement.

C-10597 Regional Arbitrator P.M. Williams
February 2, 1991
The no-notice resignation of a carrier did not create an "emergency" and, therefore, did not justify the performance of bargaining unit work by a supervisor.

C-10576 Regional Arbitrator Parkinson
January 25, 1991
Management did not violate the contract when it permitted a letter carrier who was working as a "management trainee" to work overtime in the craft.

C-00001 Regional Arbitrator Williams
December 13, 1981, ACS 24175
Management did not violate Article 1, Section 6 by assigning the duty of timekeeping to the Superintendent, Postal Operations.

C-10898 Regional Arbitrator Mitrani
June 7, 1991, N7N-1W-C 34921
Management did not violate the contract when a supervisor delivered twenty-four pieces of express mail over a six-month period.

BIDDING

See also Posting, page 295

M-00752 Memorandum
March 16, 1987, H1N-NA-C 119
The following procedures will be used in situations in which a regular letter carrier, as a result of illness or injury, is temporarily unable to work his or her normal letter carrier assignment, and is working another assignment on a light duty or limited duty basis, or is receiving Continuation of Pay (COP) or compensation as a result of being injured on the job, sick leave, or annual leave, or Leave Without Pay (LWOP) in lieu of sick leave.

A) A regular letter carrier who is temporarily disabled will be allowed to bid for and be awarded a letter carrier bid assignment in accordance with Article 41, Section 1.C.1, or, where applicable, in accordance with the provisions of a local memorandum of understanding, provided that the letter carrier will be able to assume the position within the six (6) months from the time at which the bid is placed.

B) Management may, at the time of submission of the bid or at any time thereafter, request that the letter carrier provide medical certification indicating that the letter carrier will be able to perform the duties of the bid-for position within six (6) months of the bid. If the letter carrier fails to provide such certification, the bid shall be disallowed, and, if the assignment was awarded, it shall be reposted for bidding. Under such circumstances, the letter carrier shall not be permitted to re-bid the next posting of that assignment.

C) If at the end of the six (6) month period, the letter carrier is still unable to perform the duties of the bid-for position, management may request that the letter carrier provide new medical certification indicating that the letter carrier will be able to perform the duties of the bid-for position within the second six (6) months after the bid. If the letter carrier fails to provide such new certification, the bid shall be disallowed and the assignment shall be reposted for bidding. Under such circumstances, the letter carrier shall not be permitted to re-bid the next posting of that assignment.

D) If at the end of one (1) year from the placement of the bid the letter carrier has not been able to perform the duties of the bid-for position, the letter carrier must relinquish the assignment, and shall not be permitted to re-bid the next posting of that assignment.

E) It is still incumbent upon the letter carrier to follow procedures in Article 4I.I.B.I to request notices to be sent to a specific location when absent. All other provisions relevant to the bidding process will also apply.

Letter carriers who bid to a higher level assignment pursuant to the procedures described in the preamble and Part I Bidding, above, will not receive higher level pay until they are physically able to, and actually perform work in the bid-for higher level position.

C-05793 Regional Arbitrator Pribble
February 27, 1986, C4N-4T-C 6054
Management improperly denied bid, where carrier entered incorrect seniority date on PS 1717 bid card, but where correct seniority date would have entitled carrier to the assignment, because Article 41, Section 2.C confers responsibility for administration of seniority upon management.

C-09918A Regional Arbitrator Sobel
March 8, 1990
Management violated the contract by placing a carrier in a new bid assignment in December.

C-10006 Regional Arbitrator Skelton
May 2, 1990
Management did not violate the contract when it refused grievant's bid for a route on the basis that grievant was not qualified because of a twenty-five pound lifting restriction.

C-00108 Regional Arbitrator Martin
August 22, 1985, C1C-4K-C 33815
Bid was timely submitted where it was mailed prior to cut-off, where USPS asserts "everyone knew" bids should be personally submitted.

M-00732 Step 4
October 31, 1974, NBW 1603
Employee bid on his former assignment while still detailed to a supervisory position in which he had served for over six months. This was not consistent with applicable provisions of the National Agreement. Accordingly, the appropriate postal officials are being instructed to take the necessary steps to see that the assignment in question is awarded to the bidder who would have received that assignment had it not been awarded to the employee with whom this grievance is concerned.

M-00669 Step 4
February 24,1987, H1N-5G-C 22641
Full-time reserve and unassigned regular letter carriers occupying a hold-down position pursuant to the provisions of Article 41.2.B.3 have the right to bid for a full-time duty assignment. If such letter carrier is the successful bidder, he shall be placed into the duty assignment pursuant to the provisions of Article 41.1.C.3. The resultant vacant hold-down will be filled pursuant to the provisions of Article 41.2.B.3-5, provided the anticipated duration of the resultant vacancy is of five (5) days or more.

M-00491 Step 4
June 29, 1972, NW 555
It is improper to deny a letter carrier's bid based on an attendance record.

M-00947 Step 4
October 6, 1987, H7N-1N-C-20699
Article 41, Section 1.B.1 of the National Agreement applies to letter carriers who have been suspended or removed. Notices inviting bids shall be sent to such letter carriers provided they submit request per that provision.

During the pendency of the grievance of a letter carrier who has been suspended or removed, management shall accept and honor the bid of such letter carrier for letter carrier craft duty assignments, and to such other assignments to which a letter carrier is entitled to bid.

M-00683 Step 4, June 23, 1977, NCS 6637
The grievant was the successful bidder on one of several positions which were awarded in November 1976. However, the reassignments were not effective until January 15, 1977, by which time the position awarded to the grievant was reverted. The Union contends that as a result the grievant should have been awarded his second choice. The evidence available substantiates the Union's contention. The grievance is sustained.

M-01055 APWU Step 4
February 18, 1986, H4C-5K-C-3831
The issue in this grievance is whether management violated the National Agreement by not placing the next senior qualified bidder in a position within the prescribed time. The parties at this level agree that "immediately after the end of the deferment period, the senior bidder then qualified shall be permanently assigned ..." in accordance with Article 37.3F(3). Those employees who were placed in new assignments after the prescribed time limit should be paid out-of-schedule premium for those hours worked between such time and the effective date of the new assignment.

RESTRICTIONS (ARTICLE 12, SECTION 3)

M-01450 Memorandum of Understanding
December 13, 2001
Re: National Negotiations—Article 12.3.A and Article 10.4.B. The parties have agreed to etend the current period of contract negotiations. Pending conclusion of this extension, the parties have agreed to the following:

Article 12.3.A—The bid count for the five (5) successful bids during the term of the next National Agreement began on November 21, 2001.

Article 10.4.B—Choice vacation selections are to proceed as provided in the 1998-2001 National Agreement and.or corresponding Local Memoranda of Understanding.

M-00513 Step 4
May 21, 1984, H1N-1E-C 25953
The bidding restrictions of Article 12, Section 3, pertain only to those positions posted for bid pursuant to Article 41, Section 1.B.2. Other types of local in section bidding or bidding pursuant to Article 41, Section 2.B, are not included.

M-00313 Step 4
September 20, 1985, H1C-3P-C 36488
The bidding exceptions listed in Article 12, Section 3, are to be applied from the first bid.

M-00305 Step 4
May 2, 1985, H1N-5G-C 26398
The issue in this grievance is if an employee is designated a successful bidder to one of the exclusions enumerated under Article 12, Section 3.A, is that bid counted against the maximum of five or does the exception criteria apply only after the fifth successful bid. Such bid is not counted against the maximum of five (5) bids.

WHILE ON LWOP FOR MILITARY DUTY

M-01453 CAU Publication
USERRA Rights, December 2001
Contract Administration Unit Publication reviewing letter carrier rights under the *Uniform Services Employment and Reemployment Rights Act of 1994* (USERRA). Includes explanation of letter carriers' bidding rights while on LWOP for military service.

BREAKS

C-03220 National Arbitrator Aaron
April 7, 1980, N8-NAT-0023
Where the 1978 negotiations provided for the first time for carrier breaks on a National Agreement basis the Postal Service may not unilaterally discontinue such break periods when the count and inspection implementing the break periods is canceled by the Postal Service. *See also* M-00257

C-08555 National Arbitrator Britton
December 22, 1988, H4N-3D-C 9419
The Postal Service must ensure that all employees stop working during an office break.

C-01637 Regional Arbitrator Epstein
October 6, 1981, C8N-4C-C 12068
The appropriate remedy for the Postal Service's erroneous denial of break time is for the Postal Service to grant those carriers adversely affected compensatory time off. This time off may be granted in the form of double breaks for an amount of time equal to the time that the carriers were deprived of their breaks during the relevant period, or in blocks of hours or days at the option of the Postal Service. *See also* C-03044

M-00240 Step 4
June 24, 1977, NCC 5581
Letter carriers were permitted to go to the bakery next door to the post office on the clock in order to purchase a roll to eat with their coffee in the morning. The fact that the carriers' starting time was changed by 30 minutes does not, in and of itself, appear to be reasonable grounds on which to discontinue the practice of going to the bakery on the clock in order to purchase a roll. Accordingly, by copy of this letter, the postmaster is instructed to continue the past practice with respect to purchasing rolls, with the understanding that office time will not in any way be expanded by such a practice.

C-12691 Regional Arbitrator Epstein
December 26, 1992, C0N-4U-C 4150
Management violated the National Agreement and the established past practice when it unilaterally reduced the morning break from 15 minutes to 10 minutes.

C-00155 Regional Arbitrator Eaton
April 4, 1986, W1C-5D-C 25265
Management was not bound by past practice of permitting 15 minute breaks, where no management official with "contracting authority" was aware of the practice.

LOCATION

M-00138 Letter, May 10, 1979
Letter carriers can take two 10-minute breaks on the street or take one 10-minute break in the office and one 10-minute break on-the-street. Inasmuch as the designated line of travel to and from the route is part of the route street time, a designation of an approximate break location of the line of travel is considered appropriate.

M-00424 Step 4, June 11, 1980, N8-W-0312
The intent of the negotiated breaks for carriers allows that carriers may take their breaks on the line of travel to or from their designated delivery area and that one or both of the street breaks may be taken in the office as long as such is on street time and duly recorded in the carrier route book.

M-00527 Step 4
September 10, 1984, H1N-3U-C 32763
If the carriers have selected to take either one or both of the breaks on the street, then either one or both of these street breaks may be taken in the office but must be taken on street time and cannot be combined. *See also* M-00062

M-00405 Step 4
November 7, 1980, N8-S-0314
The determination as to authorized rest break locations rest solely with management. There is no requirement that rest breaks be at a location that serves refreshments.

LENGTH

M-00179 Step 4
May 1, 1981, H8N-5C-C 13673
This grievance involves whether the carriers in the office in question are entitled to two fifteen minute breaks by virtue of the previous long-standing practice of granting such breaks. Upon review of the issue raised along with other documents provided; including previous route inspection data, it is our determination that the carriers are entitled to 2 fifteen minutes breaks.

M-00702 **Step 4**
May 3, 1979, NCS 18037
In those installations where there was a past practice of allowing coffee breaks longer than the twenty, minutes provided for in the National Agreement that past practice should continue.

M-00941 **Step 4**
June 27, 1989, H7N-5H 7814
In those installations where longer break periods were provided by past local negotiation, the longer break periods will be used.

TIME OF

M-00134 **Letter, February 21, 1979**
No time will be noted of Form 1564 when designating the approximate location where breaks are to be taken.

M-00885 **National Joint City Delivery Meeting**
October 4, 1988
Morning and afternoon office breaks for routers will be scheduled by management.

M-00834 **Pre-arb**
February 2, 1988, H4N-3Q-C 40722
Handbook M-39, Section 242.341, requires that the two ten minute break periods be separate from each other, and that such breaks must be separate from the lunch period. There is no specific requirement in the M-39 Handbook that one of the break periods be before and one after a carrier's lunch period.

PTF

M-00618 **Step 4**
November 13, 1985, H4N-5L-C 1316
Break times for a part-time flexible letter carrier who works only a portion of a day performing carrier duties will be implemented on a pro-rata basis. The pro-rata basis will involve four equal segments of 2 hours each in the 8 hour day. Accordingly, a part-time flexible carrier who works 2 hours performing carrier duties is entitled to a 5-minute break; 4 hours carrier work would provide a 10-minute break; 6 hours carrier work would provide one 10-minute break and one 5-minute break; and 8 hours carrier work entitles the carrier to two 10-minute breaks. *See also* M-00171

ROUTE EXAM CREDIT

M-00242 **Step 4**
September 13, 1976, NCE 2097
Management should not deduct reasonable comforts/rest stops from the total street time during route inspections if deduction of the time is contrary to pass local practice.

M-00230 **Step 4**
March 17, 1982, H8N-4B-C 32585
Letter carriers are entitled to two 10-minute break periods. If less than this is incorporated into the routes, appropriate action should be initiated to ascertain that this break time is reflected in the route adjustments. Management does not have the contractual right to deny the utilization of these breaks.

M-00745 **National Joint City Delivery Meeting**
December 11-12, 1979
When both breaks are selected on the street in accordance with M-39 Section 242.34a, one or both of these breaks may in some instances properly be designated as in the post office. When this happens, however, the break or breaks will be recorded as street time and must occur during the period from clocking out of the office and clocking back in from the street.

Bulletin Boards, Union Buttons

BULLETIN BOARDS

C-03224 National Arbitrator Gamser
July 14, 1981, N8-W-0214
Management will not interfere with the posting of notices containing the names of non-members unless or until the Postal Service can prove that this material is unsuitable for posting because it has caused or will cause an adverse impact upon the ability of postal authorities to direct the work force and to manage its operations efficiently and productively.

M-01159 Step 4
December 16, 1993, WON-5R-C 15397
The issues in these cases is whether a contractual violation occurred when management removed certain items from NALC bulletin boards. The items were removed due to management's determination that the material in question, which consisted of an NALC Bulletin listing endorsements of political candidates, was inappropriate for display in a building owned or leased by the Postal Service. Based on the particular fact circumstances in this case, the grievances are sustained.

M-01399 Step 4
January 12, 2000, E94N-4E-C 98082428
The issue in this grievance is whether management violated Article 22 of the National Agreement when a petition regarding the minimum wage (Initiative 668) was not allowed to be posted in Bitterlake Station. After reviewing this matter, we mutually agreed that no national interpretive issue is fairly presented in this case. We further agreed, that the Hatch Act is not applicable to the facts contained in this case. We also agreed that whether or not there was a violation of Article 22 of the National Agreement's a matter suitable for local determination.

M-00443 Step 4
October 19, 1978, NCS 11116
The National Agreement, Article XXII does not restrict local management from allowing the national alliance of Postal and Federal employees to place material on a bulletin board other than the bulletin boards of the certified bargaining representatives.

UNION BUTTONS

C-06858 National Arbitrator Bernstein
March 11, 1987, H1N-5G-C 14964
The Postal Service is directed to refrain from prohibiting the wearing of union buttons whenever it permits the wearing of any other items other than stars and bars, safe driving awards or other insignia which recognize special accomplishments.

M-01466 Prearbitration Settlement
June 26, 2002, K94N-4D-C-99228226
The issue in these cases is whether letter carriers are prohibited from wearing "union campaign/negotiations buttons," on their uniforms.

In accordance with Section 933.72 of the ELM, "Except as indicated below, other insignia may not be worn with the uniform." In accordance with Section 933.84 of the ELM, the September 1, 1998 memo from then Senior Vice President of Labor Relations, John Potter, provided an exception to the language contained in Section 933.72 of the ELM, allowing buttons to be worn on the uniform when out of public view, during that negotiation period.

The parties agree that during union elections and the bargaining period for National Negotiations, exceptions will normally be granted, as follows:

Employees in uniform may wear buttons on their uniforms when they are not in the performance of their duties in the public's view, and provided the message on the button is not insulting, disruptive, or otherwise inappropriate. *See also M-01467*

C-00252 Regional Arbitrator Foster
September 20, 1984, S1C-3W-C 16495
Management acted improperly when it prohibited a clerk from wearing a T-shirt with the printed words "The LSM Sucks."

CARRIER TECHNICIANS

ESTABLISHMENT

C-13963 Interest Arbitrator Mittenthal October 26, 1994, T-6 Interest Arbitration
"NALC's position as outlined by the Interest Arbitration Board on page 60 of its June 12, 1991 Award is adopted."

M-01214 Memorandum of Understanding January 10, 1995
It is hereby agreed by the United States Postal Service and the National Association of Letter Carriers, AFL-CIO, that the following procedures will apply for the implementation of Arbitrator Mittenthal's October 26, 1994 Interest Arbitration Award [C-13963] regarding expansion of the Carrier Technician, Level 6, (T-6) program.

1. IDENTIFICATION OF UTILITY LETTER CARRIERS, LEVEL 5

a. A Utility Carrier, Level 5, is defined as the principal carrier for a designated group of not less than five letter routes and who delivers mail on foot or by vehicle on the routes during the absence of the regularly assigned carrier.

b. The Postmaster and local branch president or their designees will jointly identify all letter carriers that currently encumber a Utility Carrier, Level 5 duty assignment, as defined above, and complete the enclosed worksheet(Attachment A) identifying the incumbent Utility carriers, their Social Security numbers and current Utility Carrier duty assignment bid numbers. If there is any disagreement regarding specific individuals, a separate worksheet should be completed for those individuals and submitted to the district office for review.

The completed worksheet should be forwarded to the Manager, Human Resources (District) to be received no later than close of business on February 17, 1995. The worksheet will be used by Human Resources to identify Utility Carriers for purposes of upgrading them and to identify the corresponding utility assignments that need to be changed to Carrier Technician, Level 6.

c. Coincident with the completion of Item b. above, the local parties, with the assistance of the personnel office, where available, will also identify Utility Carrier, Level 5, duty assignments that are currently in the bid process. Such bid postings shall be voided and posted as Carrier Technician Level 6, duty assignments at the next available bid cycle that begins after February 17, 1995. If the Utility, Level 5, assignment has already been awarded pursuant to Article 41.1.C.2, then the incumbent will be identified on the worksheet in accordance with Item b. above.

2. UPGRADE OF UTILITY CARRIERS AND DUTY ASSIGNMENTS TO LEVEL 6

a. All Utility Carriers, Level 5, will be promoted via Form 50 to Carrier Technician, Level 6, with an effective date of April 1, 1995 (Pay Period 8). In addition, the corresponding Utility Carrier duty assignment will be changed by Human Resources or the Postmaster, as appropriate, to Carrier Technician, Level 6 assignments effective the same date.

b. The carrier's Level 6 salary will be determined under normal promotion rules applicable to bargaining unit employees.

c. The Experience Requirements outlined in the Qualification Standards for Carrier Technician, Level 6, will be waived for any Utility Carrier, Level 5, identified in Item 1.b on a one-time basis for purposes of this upgrade only.

d. Any residual vacant Utility Carrier, Level 5, duty assignments that are withheld pursuant to Article 12 or are held pending reversion will be changed, either by Human Resources or the Postmaster, to Carrier Technician, Level 6 assignments effective April 1. As appropriate, the enclosed worksheet (Attachment B), will be forwarded to the Manager, Human Resources (District) with Attachment A.

3. ASSIGNMENT OF UNASSIGNED FULL-TIME OR PART-TIME FLEXIBLE EMPLOYEES CONVERTED TO FULL-TIME

Unassigned full-time, Level 5, carriers or part-time flexible carriers converted to full-time may be assigned to vacant Carrier Technician, Level 6 duty assignments in accordance with Article 41.1.A.7, provided they meet the Experience Requirements

outlined in the Qualification Standards.

4. CARRIER TECHNICIAN DUTIES AND RESPONSIBILITIES

The parties recognize that the Carrier Technician, Level 6, (T-6) position carries with it an assumption of leadership responsibility as well as an advancement opportunity, and that in many cases, T-6's have not been called upon to perform the full scope of their position. With this in mind, the parties encourage supervisors, T-6's and carriers alike to work together to realize the leadership, efficiency and service potential inherent in the T-6 program.

In accordance with the duties and responsibilities of the T-6 position (copy of position description attached), the parties encourage use of T-6's in the following leadership activities:

a. Monitor and assist replacement carriers working on routes in their group to maintain schedules and quality service;

b. Assist management as a delivery point sequencing (DPS) quality liaison for carriers in their group, providing information and suggested improvements related to improving sort plan quality, station inputs, and overall quality of the DPS mail flow;

c. Make suggestions to the supervisor regarding coverage of the routes in their group to maintain efficiency and quality service; and

d. Assist management in conducting quality control efforts, such as ensuring that Change of Address cards (PS Form 3575) are processed appropriately and that carrier case labels are timely updated, etc.

M-01198 Settlement Agreement
January 25, 1995

On January 19, 1995, William Young and Samuel Poltroon met to discuss a few recent questions raised concerning the implementation of our January 10 Memorandum of Understanding (MOU) regarding the expansion of the Carrier Technician, Level 6 Program.

As a result of those discussions, it was mutually agreed that the following represents the parties' resolution of these questions:

QUESTION 1: There are current Utility Carrier, Level 5, duty assignments that do not meet the definition outlined in Item 1.a of the MOU. How does a district resolve any disagreements regarding specific individuals as required in Item 1.b?

RESOLUTION: In the event that a currently encumbered Utility Carrier duty assignment does not meet the definition outlined in Item 1.a of the MOU (e.g., it covers three letter routes and two router assignments or two collection routes or any combination of these three types or other types of carrier duty assignments), the parties agree that on a one-time basis, solely for the purposes of implementing this agreement, the incumbent carrier will be promoted to Grade Level 6 and the duty assignment will be changed to Carrier Technician, Level 6. This one-time promotion will be accomplished without prejudice to the position of either party and with the understanding that the union shall not cite this specific agreement as precedent in any forum whatsoever. It is further understood that management has the right to revert any Carrier Technician, Level 6 duty assignment vacated after April 1, that does not meet the Functional Purpose described in the Carrier Technician Position Description. Of course this does not preclude the union from exercising its right to grieve reversions. As a result of this agreement, the parties believe that there should be very few, if any, disagreements submitted to the district office for review.

QUESTION 2: Item 1.c of the MOU provides that Utility Carrier duty assignments that are currently in the bid process be voided and posted as Carrier Technician assignments at the next available bid cycle after February 17. What should be the effective date for bids awarded between February 17 and April 1? Please address the following situations: a Level 5 successful bidder on an assignment as described above; a Level 5 unassigned full-time carrier that will be assigned to the above described assignment if not bid; and/or a level 5 part-time flexible carrier that will be converted to full-time in the event that the assignment is not bid.

RESOLUTION: In the specific circumstance where a voided Utility Assignment is posted as a Carrier Technician assignment in accordance with Item 1.c, the assignment will be awarded to the successful bidder, but the effective date of the promotion to grade Level 6 will not be until April 1. The same principle applies to unassigned full-time employees assigned to vacant Carrier Technician duty assignments. In the event that prior to April 1, a part-time flexible employee is to be converted to full-time to fill a vacant Carrier Technician assignment, he/she will be converted to full-time as a level 5 on the effective date of the conversion and then promoted to grade Level 6 effective April 1.

QUESTION 3: Part 3 of the MOU requires that an unassigned full-time carrier or a part-time flexible employee converted to full-time meet the Experience Requirements outlined in the Qualification Standards in order to be assigned to vacant Carrier Technician duty assignments. How may management fill the needed vacant assignments in the event neither of these categories of employees meet the Experience Requirements?

RESOLUTION: Guidance can be found in the attached Step 4 decision, (case numbers NC-W-5281/W2067-76N), dated November 30, 1977 [M-00425], which states in pertinent part that: "The Qualification Standards for the position of Carrier Technician require at least two (2) years of Postal experience of which at least one year must have been in the performance of city carrier duties. However, successful completion of a 4 year high school curriculum may be substituted for one (l) year of the required experience, but not the one (l) year of experience as a city carrier. If the experience requirements are posing and (sic) insurmountable problem in filling needed T-6 positions, the Postmaster may request waiver of the requirement..." (copy attached).

M-01340 Step 4
August 28, 1998, H94N-4H-C 98088785
The issue in this case is whether management violated the National Agreement by not implementing the T-6 Program in the subject office.

After discussions and review of the Joint Contract Administrative Manual, which reflects that Article 41.3.D is obsolete, it is our decision to sustain this grievance to the extent that the T-6 Program will be instituted in the subject office.

ABOLISHMENT

M-00986 Step 4
July 26, 1990, H4N-3A-C 62482
T-6 positions should be included in postings under Article 41.3.0.

M-00694 Step 4
February 6, 1987, H1N-3A-C 30176
If a Local Memorandum of Understanding contains the Article 41.3.O language and changes in T-6 are so great that the assignments are abolished, they should be reposted in accordance with Article 41.3.O If a local Memorandum of Understanding does not contain 41.3.O language, reposting is not required. Changing one route in a T-6 string is not a cause for reposting regardless of Local Memorandum of Understanding provisions.

M-00061 Step 4
May 26, 1983, H1N-3A-C 16392
Normally the changing of routes on a swing does not require the routes to be reposted for bid. *But cf* M-00694

QUALIFICATIONS

M-00280 Step 4
September 21, 1982, H1N-5H-C 2754
Total time (including casual) served performing carrier duties will count toward required experience when awarding carrier technician positions.

M-00425 Step 4
November 30, 1977, NC-W-5281
The Qualifications Standards for the position of Carrier Technician require at least two (2) years of Postal experience of which at least one year must have been in the performance of city carrier duties. However, successful completion of a 4 year high school curriculum may be substituted for on (1) year of the required experience, but not for the one (1) year of experience as city carrier. If the experience requirements are posing and (sic) insurmountable problem in filling needed T-6

positions, the Postmaster may request waiver of the requirement.

DUTIES

M-00278 Step 4
November 21, 1978, NCW-12279
Normally the T-6 will train new employees as provided in the T-6 position description. However, management reserves the right to have anyone conduct such training.

TEMPORARY VACANCIES

C-10254 National Arbitrator Snow
September 10, 1990, H7N-5R-C 316
Management may not assign different employees on an "as needed" basis carry a route on a T-6 string when a vacancy of five or more days is involved; instead such vacancies must be filled according to Article 25.

M-01035 Pre-arb
February 24, 1992, H7N-5R-C-32010
The issue in this grievance is whether management must fill a T-6 assignment which is vacant for five days for more.

During our discussion, we mutually agreed that management may not refuse to fill a T-6 assignment which is vacant for five days or more, in order to reserve that assignment for other purposes such as pivoting.

M-01365 Step 4
October 22, 1998, H94N-4H-C 98077431
Step 4 settlement citing the JCAM as confirmation that PTF letter carriers may apply for T-6 positions under the provisions of Article 25.

M-00431 Pre-arb
January 27, 1982, H8N-3P-C 32705
Details of anticipated duration of one week (five working days within seven calendar days) or longer to temporarily vacant Carrier Technician (T-6) positions shall be filled per Article 25, 1981 National Agreement. When such temporary details involve a schedule change for the detailed employee, that employee will assume the hours of the vacancy without obligation to the employer for out-of-schedule overtime. *See also* M-00072

M-00276 Step 4
May 6, 1981, H8N-3P-C 25550
Temporary T-6 positions are higher level assignments and are not subject to Article 41, Section 2.B.3-4-5. As such they are to be filled per the provisions of Article 25, National Agreement.

PAY

M-00902 Step 4
February 10, 1989, H4N-5R-C 44093
The Brown Memo of November 5, 1973 (M-00437) remains in effect

M-00452 Brown Memo, November 5, 1973
When a carrier technician (T-6) is absent for an extended period and another employee serves the series of 5 routes assigned to the absent T-6, the replacement employee shall be considered as replacing the T-6, and he shall be paid at the T-6 level of pay for the entire time he serves those routes, whether or not he performs all of the duties of the T-6 When a carrier technician's absence is of sufficiently brief duration so that his replacement does not serve the full series of routes assigned to the absent T-6, the replacement employee is not entitled to the T-6 level of pay. In addition, when a T-6 employee is on extended absence, but different carriers serve the different routes assigned to the T-6, those replacements are not entitled to the T-6 level of pay. The foregoing should be implemented in a straight-forward and equitable manner. Thus, for example, an employee who has carried an absent T-6 carrier's routes for four days should not be replaced by another employee on the fifth day merely in order to avoid paying the replacement higher level pay.

M-00614 Step 4
July 18, 1974, NBE-791
If local management directs a city carrier to carry a route which would otherwise be carried by a T-6, and if the assignment is solely to those duties contained in the job description of a city carrier, KP-11, that city carrier will only be entitled to Level 5 pay for the day or days in question.

M-01104 USPS Letter
November 24, 1992
This letter is in reference to our discussion regarding Transitional Employees (TE's) hired as part-time flexibles.

The parties agree that such employees will be paid at level 6 for time spent performing the duties of a T-6 and at level 5 for time spent performing other work.

SCHEDULE

M-00129 Step 4
December 13, 1978, NCS-11547
It would be inconsistent with the terms and conditions of the National Agreement to utilize a T-6 carrier to case all five routes each day with the regular carriers making the street deliveries.

M-01020 Step 4
November 14, 1991, H7N-5R-C 6764
The issue in this grievance is whether management violated Article 41 by failing to change the grievant's starting time to the starting time of the regular carrier of a route which the grievant carried as a Carrier Technician (T-6). During our discussion, we mutually agreed that the starting time(s) of a T-6 carrier should be the starting time(s) of the component routes which comprise the T-6 assignment.

M-00282 Step 4
April 27, 1979, NCS-12143
Normally, a T-6 carrier covers the routes within his string of routes on the nonscheduled day of the carriers assigned to those routes. Usually, this means that the T-6 carrier will carry those routes within his string in a prescribed sequence. However, a T-6 carrier's function is to serve any route on his group during the absence of the regular carrier. Accordingly, assignment of a T-6 carrier to other than a prescribed sequence, but to a route within his string when the regular carrier for that route is absent, is proper, whether or not an unanticipated circumstance has occurred. *See also* M-00380, M-00283

M-00758 Step 4
May 22, 1987, H4N-5R-C 30785
The issue in these grievances is whether or not the T-6 carrier was improperly assigned to case mail on several routes on a given day.

After reviewing this matter, we mutually agreed that no national interpretive issue is fairly presented in these cases. Whether or not the T-6 carrier was improperly assigned to case mail on several routes on a given day can only be determined by applying Article 41, Section 1.C.4 to the fact circumstances. The parties at this level agree that a T-6 should not normally be moved off the scheduled route unless absolutely necessary and all other alternatives have been considered including the use of overtime and/or auxiliary assistance. *See also* M-00350

M-00277 Step 4
November 30 1977, NC-W-8286
When it is known in advance that a carrier will be absent for an extended period, it is not anticipated that a T-6 will be required to serve the same route for the entire week unless unanticipated or emergency circumstances exist.

M-01085 Step 4
May 8, 1992, H7N-3W-C 38708
The issue in this grievance is whether a utility carrier was improperly assigned to case and deliver mail on a route within the bid assignment.

After reviewing this matter, we mutually agreed that no national interpretive issue is fairly presented in this case. The previous decision in cases H4N-5R-C 30785 et al [M-00758] also applies to utility carriers. It states in relevant part, that "... a T-6 should not normally be moved off the scheduled route unless absolutely necessary and all other alternatives have been considered including the use of overtime and/or auxiliary assistance."

M-00679 Step 4
February 18, 1976, NC-W-400
It was mutually agreed that the T-6 carrier will not be moved off his scheduled route unless absolutely necessary and all other alternatives have been made including calling in all qualified carriers in an overtime situation.

M-00154 Step 4
December 14, 1979, N8N-0176
The regular route carrier is called in on his off-day to work his own route, he bumps the utility carrier to one of the other four routes in his string of routes. To enable the utility carrier to achieve the essence of his bid assignment, he will be allowed to displace an employee who has opted to cover an assignment under the provisions of Article XLI, Section 2B3,4 and 5 as long as such route is one of the utility carrier's string of routes and if none of the other routes in his string are available. *See also* M-00511

M-00128 Step 4
November 13, 1978, NCC-11621
At issue in this grievance is whether local management can keep a T-6 carrier in the office all day on occasion to case mail and not deliver a route. It is our position that such a practice is inconsistent with the terms and conditions of the National Agreement. *See also* M-00281

M-00100 Step 4
October 29, 1976, NC-S-2814
The grievant has been utilized to carry one route in his string of five routes for an extended period of time. Such a requirement is contrary to the provisions set forth in Article XLI, Section 2.D. of the National Agreement.

M-00279 Step 4
January 31, 1977, NCS-4362
An employee need only be "qualified" to carry a route. The T-6 carrier will not be moved off his string solely because he is "better qualified" to carry a particular route.

M-00775 Step 4
July 8, 1977, NCC-6334
The T-6 Carrier's Route Assignment was not temporarily changed due to anticipated circumstances. Local management was in this case, aware that Route 0424 was vacant with no carrier assigned to it. Therefore, under these specific factual circumstances we cannot conclude that unusual circumstances were present.

C-09761 Regional Arbitrator Dunn
February 20, 1990
Management violated the contract when it required a T-6 carrier to work off his assignment.

C-10272 Regional Arbitrator P.M. Williams
September 13, 1990
Management did not violate Article 41, Section 1.C.4 when it changed the composition of a T-6 assignment.

C-03633 Regional Arbitrator Holly
August 5, 1983, S1N-3U-C 14096
Unscheduled sick leave does not constitute an "unanticipated circumstance" within the meaning of Article 41 Section 1.C.4. Consequently the Postal Service violated the contract by removing a letter carrier from his T-6 string after receiving a sick call.

CASUALS

IN GENERAL

M-01541 **Prearbitration Settlement June 21, 2005, D94N-4D-C 98000707, F94N-4F-C 96091633, F94N-4F-C 97001130**
A casual who is employed under the APWU or NPMHU National Agreements and also designated to work in the city letter carrier craft during each 90-day term would not be eligible to be appointed during the same calendar year as a causal under the NALC National Agreement. Casuals employed under the APWU or NPMHU Agreements who will be assigned to perform duties in the city letter carrier craft, must be so designated when hired.

A casual who is employed under the APWU or NPMHU National Agreements but is not designated when hired (pursuant to the above paragraph) to perform work in the letter carrier craft may not be assigned to work in the letter carrier craft. However, such casuals would not be barred from further casual appointments during the same calendar year under the NALC Agreement.

C-03246 National Arbitrator Gamser
July 1, 1973, NN-731
Article 7 does not require that regular letter carriers be used at maximum overtime before Christmas casuals may be employed or used during the Christmas season.

The Postal Service is not contractually obligated to schedule full-time employees on the OTDL rather than utilize casual employees on overtime.

M-01061 **APWU Step 4**
February 1, 1980, C8C-4F-C-10815
We have mutually agreed that this note is to be interpreted to mean that if an employee had a period of casual or temporary employment prior to January 1, 1977, this time, prior to January 1, 1977, is credible towards computation of the leave computation date which is utilized to determine whether an employee is to earn 4, 6 or 8 hours of annual leave a pay period. Time worked as a casual or temporary from January 1, 1977 or later is not credible towards the leave computation date.

C-09471 National Arbitrator Dobranski
August 9, 1989, H4C-1K-C 33597
Management did not violate the contract when it assigned certain payroll functions to casuals.

M-01427 **Step 4**
B94N-4B-C 98008149, March 12, 1999
Current national policy is that casuals are not allowed to wear the uniform except as provided by ELM 932.21c.

ARTICLE 7, SECTION 1.B.1

M-01541 **Prearbitration Settlement June 21, 2005, D94N-4D-C 98000707, F94N-4F-C 96091633, F94N-4F-C 97001130**
A casual who is employed under the APWU or NPMHU National Agreements and also designated to work in the city letter carrier craft during each 90-day term would not be eligible to be appointed during the same calendar year as a causal under the NALC National Agreement. Casuals employed under the APWU or NPMHU Agreements who will be assigned to perform duties in the city letter carrier craft, must be so designated when hired.

A casual who is employed under the APWU or NPMHU National Agreements but is not designated when hired (pursuant to the above paragraph) to perform work in the letter carrier craft may not be assigned to work in the letter carrier craft. However, such casuals would not be barred from further casual appointments during the same calendar year under the NALC Agreement.

M-01457 **CAU Publication, March 2002**
Casuals "In Lieu Of " Career Employees
NALC Contract Administration Unit publication concerning the casual "in lieu of" provision of Article 7.1.B.1. Discusses Arbitrator Das' award in C-22465, investigating and documenting grievances and formulating remedies.

C-22465 National Arbitrator Das
Q98C-4Q-C 00100499, August 29, 2001
1. Article 7.1.B.1 of the APWU National Agreement (and the corresponding provision in the NALC and NPMHU National Agreements) establishes a separate restriction on the employment of casual employees, in addition to the other restrictions set forth in other paragraphs of Article 7.1.B.

2. The Postal Service may only employ (hire) casual employees to be utilized as a limited term supplemental work force and not in lieu of instead of, in place of, or in substitution of) career employees.

3. The following formulation in the May 29, 1986 Downes Memorandum [M-01451] sets forth a jointly endorsed understanding as to the circumstances under which it is appropriate to employ (hire) casual employees to be utilized as a limited term supplemental work force consistent with Article 7.1.B.1:

> Generally, casuals are utilized in circumstances such as heavy workload or leave periods; to accommodate any temporary intermittent service conditions; or in other circumstances where supplemental workforce needs occur. Where the identified need and workload is for other than supplemental employment, the use of career employees is appropriate.

M-01451 USPS Memorandum (Downes)
May 29, 1986
USPS Memorandum incorporated into National Arbitrator Das' August 29, 2001 award C-22465 (Q98C-4Q-C 00100499,) concening Article 7.1.B.1.

C-00675 APWU National Arbitrator Zumas
November 21, 1985, H1C-4K-C 27344
The term "employed" in Article 7.1.B.1 means hired and not the manner in which casuals are assigned ("utilized") to perform work.

The Postal Service is not contractually obligated to schedule full-time employees on the OTDL rather than utilize casual employees on overtime.

M-01098 Step 4
August 6, 1992, H7N-2L-C-43440
During the discussion the parties agreed to the following principles:

1) That in accordance with article 7.1.B.1 casual employees may not be employed in lieu of full or part-time employees.

2) That in accordance with Arbitrator Zumas' award in cases H1C-4K-C 27344/45 [C-00675] the term "employed" means hired and not the manner in which the casuals as assigned (utilized).

M-01354 Step 4
December 30, 1986, H4T-4K-C 17634
We agreed that generally casuals are utilized in circumstances such as heavy workload or leave periods; to accommodate any temporary or intermittent service conditions; or in other circumstances where supplemental workforce needs occur. Where the identified need and workload is for other than supplemental employment, the use of career employees is appropriate.

C-18905 Regional Arbitrator Levak
F90N-4E-C 94051329, September 17, 1998
The arbitrator found that management violated Article 7.1.B.1 through its continuous use of casuals in lieu of full-time or part-time employees over a one year period. He ordered as remedy that "regulars deprived of work by the inappropriate use of casuals must be made whole commensurate with the number of hours worked by casuals during the subject period of time."

C-13954 Regional Arbitrator O'Brien
October 12, 1994, B90N-4B-C 93016026
"Once management determines what the carrier complement at the office should be, it cannot simply fill any vacant positions with casual employees. To do so is to use casual employees in lieu of full time or part time employees. This action is clearly contrary to the meaning of Article 7.B.1 of the National Agreement. To supplement the work force, which is the contractual purpose of casual employees, is to hire employees once the actual number of employees equals the authorized number of employees. In the instant case, management brought casual employees on board before the actual total of carriers equaled the authorized total of carriers... The grievance is upheld"

C-11108 Regional Arbitrator Stoltenberg
September 13, 1990
"Once [management] determines that a specific number of full-time positions are required, it cannot fill those positions with casual employees as the work under these conditions is not supplemental, but rather, it becomes the use of casual employees in lieu of full or part-time employees." *See also* C-11199, C-12960, C-12961, C-12962, C-16136

C-11015 Regional Arbitrator Ables
December 12, 1990
The Postal Service violated Article 7, Section 1.B.1 by employing casual employees to perform custodial work, not as a limited term supplemental work force, but in lieu of full or part-time employees.

C-11024 Regional Arbitrator Levak
July 13, 1990
"[T]he only reason for limiting BBMU operations to Tour 2 was so that management could assign work to lower paid casuals. Such an economic reason is not permitted by the National Agreement."

C-00321 Regional Arbitrator Rentfro
September 11, 1984, W1C-5H-C 22747
Management violated the contract when it hired and worked a casual, thereby reducing the hours worked by PTFS employees.

C-00114 National Arbitrator Gamser
June 28, 1973, A-NAT 3444
Hiring of casuals was not "in lieu of" career employees in the New York City office.

ARTICLE 7, SECTION 1.B.2

M-01541 **Prearbitration Settlement June 21, 2005, D94N-4D-C 98000707, F94N-4F-C 96091633, F94N-4F-C 97001130**
A casual who is employed under the APWU or NPMHU National Agreements and also designated to work in the city letter carrier craft during each 90-day term would not be eligible to be appointed during the same calendar year as a causal under the NALC National Agreement. Casuals employed under the APWU or NPMHU Agreements who will be assigned to perform duties in the city letter carrier craft, must be so designated when hired.

A casual who is employed under the APWU or NPMHU National Agreements but is not designated when hired (pursuant to the above paragraph) to perform work in the letter carrier craft may not be assigned to work in the letter carrier craft. However, such casuals would not be barred from further casual appointments during the same calendar year under the NALC Agreement.

C-00403 National Arbitrator Gamser
December 20, 1979, ACC 13148
Article 7, Section 1.B of the National Agreement requires the Postal Service to schedule PTF's and casuals so that the part-time flexibles receive priority and every opportunity to work at straight-time rates before the schedule contemplates the employment of casuals. However, this requirement does not mean that part-time flexibles are guaranteed forty hours of work at straight-time rates before any casual employees may be scheduled.

M-00312 Memorandum
June 22, 1976 (Conway)
Casuals are to be utilized as a supplemental work force, every effort should be made based on individual circumstance to utilize part-time flexible employees across craft lines in lieu of utilizing casual employees. *See also* M-00781

M-00886 USPS Letter, November 28, 1988
USPS letter from Assistant Postmaster General Joseph Mahon confirming the continued application of the Conway Memorandum (M-00312).

M-00782 Step 4
May 22, 1987, H4N-3B-C 46106
We agree that the question raised requires application of the Senior Assistant Postmaster General's memorandum, dated June 22, 1976 (M-00312) concerning the utilization of casuals to the facts involved. *See also* M-00783, M-00784.

M-00847 Pre-arb
July 11, 1988, H1N-3A-C 32186
We mutually agreed to the continued application of the principles contained in the June 22, 1976 Memorandum to the Regional Postmasters General on the subject of "Utilization of Casual Employees" by James V. P. Conway, the then Senior Assistant Postmaster General [M-00312], with the understanding that the crossing of craft lines by part-time flexibles or full-time employees must meet the qualifying conditions outlined in Article 7.2 of the National Agreement. *See also* M-00861

M-00964, Prearb
May 14, 1990, H4N-4J-C 32882
On April 18, 1990, during the National Arbitration hearing on the above-captioned case, the parties agreed to remand that case plus additional cases on the same issue to Step 3 of the grievance arbitration procedure under the precise language reflected in the July 11, 1988, document [M-00847] which was marked as Joint Exhibit #1 (Attachment A).

M-00935 Step 4
Aug 16, 1977, NC-E 7069
Management will make every effort to insure that qualified and available part-time flexible employees are utilized at the straight time rate prior to assigning such work to casuals. This priority includes cross-craft assignments if (1) the part-time flexible is available and qualified; (2) if overtime will not be required and; (3) if the part-time flexible is not otherwise scheduled for 40 hours during the service week.

C-08523 Regional Arbitrator Barker
December 2, 1988, W4N-5P-C 46213
The Postal Service violated Article 7 Section 1.B.2 when it failed to use PTF letter carriers in the clerk craft prior to assigning the work to casuals. This is required by the Conway Memo (M-00312) and July 11, 1988 pre-arbitration settlement (M-00847). *See also* C-08623

C-01215 Regional Arbitrator Goldstein
January 27, 1982, C8N-4K-C 14627
Management violated the contract by using a casual in the clerk craft when PTFS carriers were available to perform the work and did not work 40 hours during the week. *See also* C-08270, C-07773

C-00906 Regional Arbitrator McAllister
May 24, 1985, C1C-4K-C 29585
Management violated the contract by using casual employees in the mailhandler craft when PTFS clerks were available to perform the work and did not receive 40 hours work during the week.

M-00406 Step 4
February 8, 1977, NCS 3773
Local management will give qualified and available part-time flexible employees priority over casual employees for work assignments unless: (1) both are needed at the same time or (2) use of the part-time flexible would require overtime or (3) if the part-time flexible is already scheduled for forty hours during the service week.

M-00383 Step 4
August 20, 1976, NCC 559
Local officials did not anticipate working the grievant forty (40) hours during the week in question. Accordingly, assigning the referenced casual employee on the day in question was inappropriate. The grievant, a part-time flexible letter carrier was qualified and available and could have been assigned at the straight-time rate prior to assigning such work to the casual employee. In addition, the provisions of Article VII 1B(1) apply even though a holiday schedule is included in the course of a service week.

M-01056 APWU Pre-arb
December 15, 1982, H1C-4A-C-6306
The question in this case is whether the Postal Service worked casual employees in lieu of PTF's. It was mutually agreed to full settlement of this case as follows:

Four PTF's who did not work on April 7, 1982, will be paid eight hours each. Seven PTF's who did not work on April 8, 1982, will be paid eight hours each. Nine PTF's who did not work on April 9, 1982, will be paid eight hours each. The pay will be at the applicable straight time rate.

C-10409 Regional Arbitrator Sobel
October 28, 1990
Use of casuals in the clerk craft demonstrated a "heavy workload" while idle PTF carriers demonstrated a "light workload"; under such circumstances management was required to work the PTF carriers across craft lines.

C-09588 Regional Arbitrator Martin
Management violated the contract when it worked a casual while a PTFS was available to perform the work at straight-time.

C-09454 Regional Arbitrator Bennett
Management did not violate the contract when it worked casuals at stations while PTF clerks assigned to the GMF were idle. *See also* C-09455

C-00231 Regional Arbitrator Zack
June 26, 1984, N1C-1K-C 12618
Management violated the contract when a casual was used to deliver mail when a PTFS clerk was idle.

C-10862 Regional Arbitrator Cushman
May 13, 1991, E7N-2H-C 29753
Management did not violate the contract when it worked casuals in the clerk craft while letter carrier PTFs were idle. *See also* C-10863, C-10933, C-10936, C-10765, C-10288

C-10952 Regional Arbitrator J. Liebowitz
July 15, 1991, H7N-1T-C 29393
Management violated the contract when it worked casuals in the clerk craft while letter carrier PTFs were idle.

ARTICLE 7, SECTION 1.B.3

M-01541 **Prearbitration Settlement June 21, 2005, D94N-4D-C 98000707, F94N-4F-C 96091633, F94N-4F-C 97001130**
A casual who is employed under the APWU or NPMHU National Agreements and also designated to work in the city letter carrier craft during each 90-day term would not be eligible to be appointed during the same calendar year as a causal under the NALC National Agreement. Casuals employed under the APWU or NPMHU Agreements who will be assigned to perform duties in the city letter carrier craft, must be so designated when hired.

A casual who is employed under the APWU or NPMHU National Agreements but is not designated when hired (pursuant to the above paragraph) to perform work in the letter carrier craft may not be assigned to work in the letter carrier craft. However, such casuals would not be barred from further casual appointments during the same calendar year under the NALC Agreement.

C-13393, National Arbitrator Mittenthal
January 24, 1994, H7C-NA-C 36
The arbitrator found that the repeated violations of Article 7, Section 1.B required a monetary remedy. The question of what form the remedy should take was remanded to the parties

M-01257, Settlement Agreement
February 22, 1996, H7C-NA-C 36
Settlement Agreement resolving remedy issue remanded by Arbitrator Mittenthal in C-13393.

C-22740 National Arbitrator Das
Q94N-4Q-C 98038916, November 12, 2001
Award concerning the counting of casuals among the various crafts in determining compliance with the provisions of Article 7, Section 1.B.3 (national cap). The arbitrator retained jurisdiction and remanded the issue to the parties for further discussion consistent with the findings in the decision.

ARTICLE 7, SECTION 1.B.4

M-01541 **Prearbitration Settlement June 21, 2005, D94N-4D-C 98000707, F94N-4F-C 96091633, F94N-4F-C 97001130**
A casual who is employed under the APWU or NPMHU National Agreements and also designated to work in the city letter carrier craft during each 90-day term would not be eligible to be appointed during the same calendar year as a causal under the NALC National Agreement. Casuals employed under the APWU or NPMHU Agreements who will be assigned to perform duties in the city letter carrier craft, must be so designated when hired.

A casual who is employed under the APWU or NPMHU National Agreements but is not designated when hired (pursuant to the above paragraph) to perform work in the letter carrier craft may not be assigned to work in the letter carrier craft. However, such casuals would not be barred from further casual appointments during the same calendar year under the NALC Agreement.

C-07980 Regional Arbitrator Britton
March 3, 1988, S7N-3T-C 01581
The arbitrator held that management violated the national agreement by working casual employees beyond the (2) two (90) ninety day terms permitted by Article 7, Section 1.B.4, and that a monetary remedy was appropriate to remedy the violation. Since the union had not demonstrate that any PTFS employees had worked less than 40 hours per week during the period of the violation, he ordered the following remedy:

The employer is directed to divide the hours worked by the two casual carriers during the time in question and pay such amount equally to carriers who were on the overtime desired list for the same time period.

M-01133 APWU Step 4
August 1, 1983, H1C-1E-C 3325
The question raised in this grievance involved whether the grievant is entitled to overtime opportunities he may have missed because 5 casual employees worked beyond the expiration date of their 21-day Christmas casual appointment.

After further review of this matter, we mutually agreed to resolve this grievance. Based upon the facts presented in this case, the grievant will be paid 8 hours at the appropriate overtime rate.

CROSS-CRAFT ASSIGNMENTS

SEE ALSO

Jurisdiction, page 160
Casuals, page 51

IN GENERAL

M-00876 Step 4
December 5, 1988, H4N-4H-C 27353
We agree that the Memorandum of Understanding which states:

> It is understood by the parties that in applying the provisions of Articles 7, 12, and 13 of the 1984 National Agreement, cross craft assignments of employees, on both a temporary and permanent basis, shall continue as they were made among the six crafts under the 1978 National Agreement.

does not affect or change the provisions of Articles 7, 12 and 13 but instead, merely specifies the crafts to which they will be applied

M-01199 Step 4
August 10, 1994, H90N-4H-C-94004376
The sole interpretive issue in this case is whether a Transitional Employee hired as a clerk may be assigned to work in the carrier craft.

We agreed that an APWU TE may not be used to perform work in the carrier craft. Accordingly, we agreed to remand this case to the parties at Step 3 for further processing, including arbitration if necessary, with regard to the remaining factual issues.

ARTICLE 7.2.A

C-00279 Regional Arbitrator McAllister
October 1, 1984, C1N-4H-C 26161
The contract permits, but does not require, management to establish assignments including work from different crafts.

C-19547 APWU Nat. Arbitrator Dobranski
G94C-4G-C 96077397, June 1, 1999
The union notification provisions of Article 7, Section 2.A of the National Agreement do not apply to permanent Rehabilitation Program full-time assignments made under ELM Section 546.

ARTICLE 7.2.B & C

C-04560 APWU National Arbitrator Bloch
April 7, 1982, H8C-5C-C 8027
The Postal Service improperly denied overtime to a member of the Special Delivery Craft when it used a city letter carrier to deliver special delivery mail when there was overtime work available in the letter carrier group; management's right to cross craft lines under Article VII, Sections 2.B. and C is substantially limited to situations that are both unusual and reasonably unforeseeable.

C-00089 National Arbitrator Mittenthal
August 23, 1982, H8C-2F-C 7406
Management improperly assigned a Level 4 mailhandler to perform Level 5 clerk work because Article 7 permits cross-craft assignments only "to the same wage level".

M-01074 Step 4
July 8, 1992, H7N-5R-C 29088
The issue in this grievance is whether management violated Article 7, Section 2 of the National Agreement by assigning level 4 Automated Markup Clerks to perform carrier casing duties.

During our discussion, we mutually agreed that the practice of using level 4 Automated Markup Clerks to perform carrier casing duties under these circumstances should cease. The U.S. Postal Service position with respect to assigning lower level work to employees in higher level positions in accordance with Article 7.2.B and C is not prejudiced in any way by the settlement of this Step 4 grievance.

C-05959 Regional Arbitrator Rotenberg
December 31, 1985 C4N-4C-C 63
The Article 7 restrictions on management's right to work employees across craft lines apply regardless of the size of the office, or any past practice to the contrary. The appropriate remedy for violations of Article 7.2 is to pay employees on the OTDL for the overtime they would have worked were it not for the violation.

M-00175 Step 4
September 4, 1981, H8N-4H-C 25737
Provided the special delivery messenger performed city delivery duties within Article VIII guarantees, no contractual violation has occurred. If the employee was utilized in the carrier craft merely to obtain work hours, outside Article VIII guarantees, pay as requested by the Union is appropriate.

M-00299 Step 4
April 18, 1983, H1N-3W-C 14251
Management may assign employees to perform work in another craft while they are on overtime. It is further understood that these assignments are predicated on the individual fact circumstances but must be in accordance with Article 7, Section 2, of the National Agreement.

M-01006 Step 4
April 18, 1983, H1N-3W-C 14251
The question raised in this grievance involved whether the assignment of an employee to perform work in another craft while on overtime must be on a voluntary basis.

The parties agree that overtime assignments are not determined by the employee. Management may assign employees to perform work in another craft while they are on overtime. It is further understood that these assignments are predicated on the individual fact circumstances but must be in accordance with Article 7, Section 2, of the National Agreement.

C-00134 Regional Arbitrator Zack
February 22, 1985, N1C-1J-C 28638
Management did not violate the contract when it worked part-time flexible carriers in the clerk craft, where management claims it did so to "maintain the number of work hours of the employee's basic work schedule."

C-00162 Regional Arbitrator Klein
September 3, 1985, C4S-4A-C 2059
Management improperly assigned PTFS carriers to perform Special Delivery work on a holiday, where there was no "exceptionally heavy workload."

C-00201 Regional Arbitrator Martin
March 13, 1984, C1C-4E-C 21318
Management violated the contract by working PTFS carriers in the clerk craft, where the reason for the assignment was to avoid payment of overtime to clerks. *See also* C-00251

RURAL CARRIER CRAFT

See also Rural Routes, page 339
Jurisdiction, page 160

The crossing craft provisions of Article 7, Section 2 only apply to the six crafts covered by the 1978 National Agreement. (i.e. letter carrier, special delivery, clerk, motor vehicle, maintenance and mailhandlers). This does not include rural letter carriers. The applicable memorandum of understanding, which reprinted in the National Agreement states:

> **Re: Article 7, 12 and 13 - Cross Craft and Office Size** *It is understood by the parties that in applying the provisions of Articles 7, 12 and 13 of the 1990 National Agreement, cross craft assignments of employees, on both a temporary and permanent basis, shall continue as they were made among the six crafts under the 1978 National Agreement.*

Thus cross-craft assignments to and from the Rural Carrier Craft may not be made under the provisions of Article 7, Section 2. They may only be made under the emergency provisions of Article 3, Section F - the "Managements Rights" Article. This section states that management has the right:

> **3.F** *To take whatever actions may be necessary to carry out its mission in emergency situations, i.e., an unforeseen circumstance or a combination of circumstances which calls for immediate action in a situation which is not expected to be of a recurring nature.*

Management's right to make a cross craft assignment under the provisions of Article 3.F is extremely limited. If it is scheduled in advance, it is not "unforeseen". If it happens frequently it is "recurring". Finally, it is NALC's position that a desire to avoid additional expenses such as penalty overtime is never an emergency.

M-01193 Step 4
July 20 1994, H9ON-4H-C-93019498
The issue in this grievance is whether Management violated the National Agreement by assigning Rural Carrier Associates (RCAs) to transport mail.

During our discussion, we agreed that no national interpretive issue was fairly presented in this case. We mutually agreed that, as previously stated in Case H4N-5H-C 12359, "the Postal Service may not normally or ordinarily use an ... RCA employee to perform city letter carrier work. It is also agreed, however, that in the limited, unusual and unforeseeable circumstances provided for in Article 3, Section F of the National Agreement, the Postal Service may use ... RCA employees to perform letter carrier work."

Accordingly, we agreed to remand this case to the parties at Step 3 for further processing or to be rescheduled for arbitration, as appropriate, for a determination as to whether the work in question is "letter carrier work."

M-01276 Step 4
January 6, 1997, E94N-4E-C 96054401
The issue in this grievance is whether management violated the National Agreement when it assigned a part-time flexible letter carrier to perform rural letter carrier craft duties.

After reviewing this matter, we mutually agreed that:

1) City letter carriers may be assigned to perform duties in the rural carrier craft in emergency situations, as specified in Article 3.F. of the National Agreement; and

2) The cross-craft provisions of Article 7.2 do not apply to the rural letter carrier craft.

M-01203 Pre-arb
January 31, 1995,H7N-1N-C 26508
The issue in this case is whether management violated the National Agreement when it assigned a PTF letter carrier to perform duties in the rural carrier craft.

After reviewing this matter, we mutually agreed that city letter carriers may be assigned to perform duties in the rural carrier craft in emergency situations, as specified in Article 3.F of the National Agreement. *See also* M-01197.

M-01421 Step 4
D94N-4D-C 99001217, May 17, 1999
It is agreed that the Postal Service may not use an RCR or RCA to perform city letter carrier work, except in the limited, unusual and unforeseeable circumstances provided for in Article 3, Section F of the National Agreement. However, whether or not the work performed by the RCR or RCA is city letter carrier work is not an interpretive issue.

M-00836 Prearbitration Settlement
July 5, 1988, H4N-5H-C 12359
It is agreed that the Postal Service may not ordinarily use an RCR or Rural Carrier Associate (RCA) employees to perform city letter carrier work. It is also agreed, however, that in the limited, unusual and unforeseeable circumstances provided for in Article 3, Section F of the National Agreement, the Postal Service may use an RCR or RCA employees to perform letter carrier work.

This settlement does not necessarily apply to RCR or RCA employees also holding a valid dual appointment to a casual position (Reference ELM 323.6) See M-01393*).*

C-10776 Regional Arbitrator Lange
April 11, 1991, W7N-5C-C 19690
Management violated the contract when it worked city letter carrier PTFs in the rural carrier craft.

CUSTOMER CONNECT

M-01549 USPS Letter
August 30, 2005
In all instances, when Customer Connect is introduced at an installation the Customer Connect Program becomes the *only* program for city letter carriers in that installation for submitting leads.

DELIVERY POINT SEQUENCING

M-01306 Building Our Future By Working Together, November 19, 1992
Joint NALC USPS Training Guide on the six September 1992 Memorandums of understanding.

M-01307 Revised Chapter 6 to Building Our Future By Working Together
Supplement to Building Our Future By Working Together, a Joint NALC USPS Training Guide on the six September 1992 Memorandums of understanding.

M-01151, January 22, 1993, Questions 1-34
M-01152, February 17, 1993, Questions 35-54
M-01153, March 31, 1993, Questions 55-80
Questions and Answers published as a supplement to *Building our Future by Working Together*, the USPS-NALC Joint Training Guide on the September, 1992 Memorandums of Understanding, published November 19, 1992. They provide joint answers to questions concerning the interpretation and application of those memorandums and the subsequent December 21, 1992 memorandum. See page 300 for complete text.

M-01109 Memorandum
September 17, 1992
MEMORANDUM FOR POSTMASTERS, CITY DELIVERY OFFICES, LOCAL PRESIDENTS, NATIONAL ASSOCIATION OF LETTER CARRIERS, AFL-CIO

SUBJECT: Joint Agreements

The NALC and USPS recognize that our continued existence as a viable organization is heavily dependent upon our ability to meet our customers' needs while empowering employees to levels not previously envisioned.

As many of you are aware, we have strived at the National level to obtain an agreement on the implementation of automation for letter mail on carrier routes. We agreed then, and we agree now, on three basic principles:

Provide the best service to postal customers(Mailers and recipients).

Minimize impact on letter carrier craft employees.

Create an opportunity for increased efficiency.

Our mutual hope is that the following agreements will provide a basis for trust and cooperativeness, and that they will form a basis on which to satisfy our customers' needs. While each agreement may not accomplish all that each party may desire, collectively they will form the basis for a positive working relationship of mutual trust and respect, and the foundation for continued empowerment of all employees.

Case Configuration/Letter Size Mail

This agreement provides for a standard definition of letter-sized mail and provides guidelines for conducting route inspections when letter mail is cased into four-and-five-shelf case configurations that have been established as a result of a joint agreement.

Transitional Employees -- Issue Resolutions

Provides information on the transitional employee and highlights areas of apparent disparity of interpretation where mutual understanding has now been reached. Further, this agreement provides that a joint booklet on the transitional employee will follow.

X-Route Alternative

n optional alternative joint process is provided for preparing installations for the future automated letter mail environment. This agreement has many unique features and should be reviewed in detail before deciding its applicability.

Delivery Point Barcoding Work Methods

This agreement recognizes the substantial contributions that city letter carriers can make in the development of new work methods. It provides a five-step process that ensures a review of alternative methods and continued upgrading of work methods as the process evolves.

Route Adjustments--The Future

The parties have fashioned an agreement that provides clear guidance on procedures to be followed when preparing future route adjustments for letter mail automation in delivery units not selecting the X-route alternative.

Hempstead Resolution--The Past

We are remanding all pending grievances on route adjustments to the local parties for resolution. The parties will be guided by the principles of the above cited agreements and must take into consideration the following factors.

- Was there a current event; that is, were the routes out of adjustment?

- How far in advance was the future event that was used to adjust the route? The parties have made no determination as to the appropriate time period.

- What was the projected timing of the upcoming event? What was the basis for determining the effect of the future event?

- How certain is that future event?

As you review each case, you will find that either:

Management preplanned properly and the current structure is within the purview of this agreement; therefore, the current structure is valid;

or

Management preplanned inappropriately or time frames have changed, negating the validity of the adjustment.

It is your obligation to make these joint determinations and to decide what remedy to apply and how to fix the problem if one is discovered. The parties should consider the impact of any decisions on our employees who serve our customers and the impact on the customers which they serve. If the parties cannot resolve these cases, they may be appealed to regional arbitration.

M-01114 Memorandum
September 17, 1992
Resolution of Issues Left Open by Mittenthal Award of July 10, 1992

Current Events and Adjustments

A current event is defined as a route or routes which are shown to be out of adjustment by a recent route inspection and evaluation. All current adjustments to existing routes will place the route on as near an 8-hour daily basis as possible, in accordance with Handbook M-39.

Adjustments Near Term--Automation

When routes require a current adjustment and Delivery Point Sequencing will commence within 6 months, management will adjust the routes using non-territorial, non scheme change adjustments by the use of router assistance, segmentation or permanent handoffs as outlined in the M-39 Handbook Section 243.21b. The 6-month period runs from the first day after the week of route inspection.

Future Events and Adjustments--Automation

Management may utilize the results of a recent route inspection and evaluation to estimate and plan route adjustments, including realignment of assignments, that will be required by a future event which is to take place within 18 months. Management must provide documentation to the local union to support the deployment if they intend plan the adjustments for a future event. The planned adjustments for future events will not be implemented until automation is on line and operative. Management may implement the planned adjustments if the actual percentage of Delivery Point Sequence (DPS) mail received at the unit is within plus or minus 5 percentage points of the targeted (in Step I) level. Should the actual percentage of DPS mail be outside these limits, then management must recalculate the estimated impact on carrier routes, based on the actual percentage of DPS mail being received at the unit. The results of the recent route inspection and evaluation will be used to determine a new impact and construct a new plan or management may wait for the plan levels to be received. The 18-month period runs from the first day after the week of route inspection. For purposes of this agreement, a future event is defined as mail being received at a delivery unit in DPS order.

Within 60 days of implementing the planned adjustments for future automated events, the parties will revisit those adjustments to ensure that routes are as near to 8 hours daily, as possible. Both the planned adjustments and subsequent minor adjustments that may be necessary to ensure compliance will be based on the most recent route inspection data for the route. However, if the future event occurs after the 18-month time limit expires, a new mail count, route inspection and evaluation must occur, unless the local parties agree otherwise.

METHODOLOGY

Where the future event is the introduction of Delivery Point Bar Coding (DPBC) for existing equipment or equipment that will cause a certain percentage of letter mail to be received by the unit in DPS, the following methodology will be used to estimate the impact of the event on city delivery routes:

Step 1. Determine the percentage of letter sized mail targeted to be received in DPS order on the date when the adjustments will be implemented.

Step 2. Multiply percentage determined in Step 1 by the average letter sized mail received during the week of count and inspection (from PS Form 1840, Column 1) to determine the number of letters for each route, targeted to be received in DPS order.

Step 3. Divide letters targeted to be received in DPS order (as determined in Step 2) by 18.

Step 4. Divide letters targeted to be received in DPS order (as determined in Step 2) by 70.

Step 5. Add results of Steps 3 and 4 to determine estimated impact.

Step 6. For routes where the carrier was under standard time during the week of count and inspection, multiply results of Step 5 by percentage of standard office time used during the week of inspection. The result is the estimated impact.

Example 1:

80 Percent Target for Letter Mail Carrier at/over Standard Time Allowance

2,700 Letters

80 Percent Automated

2,160 divided by 18 = 120 minutes

2,160 divided by 70 = 31 minutes

_____

151 minutes = estimated impact

Note: If actual performance is over standard time allowance, the standard casing allowance of 18 pieces per minute is used.

Example 2:

80 Percent Target for Letter Mail Carrier used 85 Percent of Standard Time Allowance

2,700 Letters

80 Percent Automated

2,160 divided by 18 = 120 minutes

2,160 divided by 70 = 31 minutes

_____

151 minutes = estimated impact

(Step 6) 151 x 85 Percent = 128 minutes = estimated impact

It is mutually agreed that as the parties develop experience in estimating the impact of future events, adjustments to the above described methodology may be jointly adopted at the national level.

Pending Grievances
All pending grievances which involve the adjustment of routes for future events will be remanded to the local parties for resolution.

SORT ERRORS

M-01356 Step 4
E94N-4E-C 97078744, October 22, 1998
Local Managers are responsible for establishing and advising carriers of local policy for handling, identifying and reporting DPS sort errors found by city carriers during street delivery. Local quality guidelines for error identification and resolution procedures should cover all anticipated circumstances and contain clear instructions for carriers to follow regarding both the delivery and disposition of mail returned to the office.

WORK METHODS

M-01408 Memorandum of Understanding, March 21, 2000
RE: City Letter Carrier DPS Work Methods

This Memorandum of Understanding (MOU) represents the parties' final agreement regarding the October 8, 1998, Joint Work Methods Study to determine the more efficient work method for city delivery routes in delivery units where Delivery Point Sequence (DPS) has been, or will be, implemented. This MOU is based on the results of a joint study conducted by the parties pursuant to Chapter 5 of Building Our Future by Working Together to determine the relative efficiency of the composite bundle and vertical flat casing work methods in a DPS environment. Further, any interim or local agreements for handling the fourth bundle on park and loop and foot routes will continue until conversion to the DPS vertical flat casing work method. In accordance with paragraph 3 of the October 8, 1998, Joint Work Methods Study Agreement the following are the parties' joint instructions to the field:

1. There continue to be approved DPS work methods: the composite bundle work method and the vertical flat casing work method. Any other work methods must be approved by Postal Service Headquarters prior to testing or implementation.

2. The parties have analyzed the results of the joint study and have determined that the vertical flat casing work method is the more efficient work method at all sampled percentage levels of DPS. Management may convert those routes that have vertical flat cases and are currently using the composite bundle work method to the vertical flat casing DPS work method.

3. On curbline routes and business routes where DPS is planned, but not implemented, management will determine the most efficient DPS work method. All other routes not yet converted to DPS which have vertical flat cases will use the vertical flat casing DPS work method.

4. On those routes where DPS is not currently planned but where DPS is implemented in the future, management will determine the DPS work method.

5. City letter carriers on a park and loop or foot route will not be required to carry more than three bundles.

M-01407 Memorandum of Understanding, (Relevant part) March 21, 2000
It is hereby agreed by the United States Postal Service and the National Association of Letter Carriers, AFL-CIO, that the following represents the parties' agreement with regard to implementation of the upgrade issue emanating from the September 19, 1999 Fleischli Award, our agreement regarding case configuration when using the vertical flat casing work method, and additional provisions relative to the 1998 National Agreement.

When management elects to reassess the case configuration of a route currently using the DPS vertical flat casing work method or changes the DPS work method on a route from the composite bundle work method to the vertical flat casing work method, management will determine for each route, whether 4, 5, or 6 shelves will be used.

M-01110 Memorandum
September 17, 1992
The U. S. Postal Service and the National Association of Letter Carriers, AFL-CIO, recognize the importance of the work methods that will be used in a delivery point sequence environment. The parties also realize the substantial contribution that letter carriers can make in the development of these work methods. Towards facilitating that involvement, the following principles have been agreed to by the parties at the national level:

1. The following are the approved work methods:

- Case residual letters in the same separations with vertically cased flat mail, pull down and carry as one bundle.

- Case residual letters mail separately into delivery sequence order, pull down and carry as a composite (third) bundle.

2. As implementation of the delivery point bar coding impacts a delivery unit, local parties will select the most efficient work method possible from the delivery point sequence work methods authorized in number 1 above. If the local parties cannot agree on the most efficient work

method, the issue will be presented to the parties at the Headquarters level to determine the most efficient work method.

3. Local parties will also be encouraged to develop efficient new work methods and to share their ideas with the parties at the national level for joint review and evaluation. The purpose of this joint review and evaluation will be to determine the efficiency of the local method. After the review and evaluation of the new work method and if the method proves to be efficient, it will be added to Item 1 above.

4. The parties agree that the work method in place at the delivery unit will be utilized in the day-to-day management of letter carrier routes and in the procedures for inspection, evaluation and adjustment of routes.

5. The parties at the national level will continually review alternative methods in an effort to improve efficiency. Both parties agree that the process of continual joint review of new and more efficient work methods will result in the continued upgrading at the local delivery unit of the most efficient work method.

M-01333, Pre-arbitration Settlement
July 6, 1998, Q90N-4Q-C 95064925
The issue in this case is whether the instructions contained in the "DPS Decision Trees and Flow Chart-National Delivery Conference June 27-29, 1995," are inconsistent and in conflict with the six (6) Memorandums of Understanding between the NALC and the USPS on DPS implementation contained in, "Building Our Future by Working Together."

As a result of those discussions, it was mutually agreed that the disputed issues in this case have been addressed by the following National Arbitration Awards and Step 4 Settlements:

Step 4 (June 12, 1996) J94N-4J-C-96-28815 [M-1258]

National Award (June 9, 1997) Carlton Snow, Q90N-4Q-C 93034541 [C-16863]

Fourth Bundle Agreement (August 12, 1997) [M-01303]

Interim Approach Under Fourth Bundle Agreement (September 12, 1997) [M-01304]

NALC-USPS Procedure for Determining Interim Approach(September 26, 1997) [M-01305]

Pre-arbitration Settlement (December 3, 1997) Q94N-4Q-C 96091697 [M-01268]

Pre-arbitration Settlement (June 24, 1997 H90N-4H-C 94061042 [M-01291]

Pre-arbitration Settlement (May 12, 1998) H90N-4HC 94057924 [M-01310].

Without prejudice to management's position that the purpose of the subject document was to serve as a management tool to assist delivery unit and plant managers in making some key decisions concerning DPS implementation It was mutually agreed that the foregoing citations represent a full and final settlement of the issues disputed in this case.

M-01277 Step 4
January 6, 1997, D94N-4D-C 96077047
The issue in this case is whether application of the DPS work method selection for a regular route also applies to an auxiliary route.

As a result of our discussion, it was agreed that the Joint Training Guide for Delivery Management and Building Our Future by Working Together both stipulate that, while the selection of the work method is based on efficiency, it is to be a joint determination by management and the union, with carrier input.

There is no dispute between the parties that this work method selection is determined whether the route is a regular or auxiliary route; understanding, however, that an auxiliary route has no regular carrier for input. In that case, the selection method is a joint determination between management and the union. In addition, use of the one-bundle system on other than the standard six-shelf letter case requires joint agreement between the local parties.

M-01240 Step 4
July 25, 1995, J90N-4J-C 95012688
The issue in this grievance is whether Management violated the National Agreement by allowing a carrier to utilize a homemade cardboard tray device to the fixed tray in a Long Life Vehicle, to assist in the delivery of DPS mail.

During our discussion the parties agreed that the USPS/NALC Joint Training Guide on *Building Our Future by Working Together*, dated September 1992, does not authorize changes in work methods in the delivery of DPS mail without local agreement. Whether this is such a change, and whether its use is prohibited, is suitable for regional/local determination.

M-01258 Step 4
June 12, 1996, J94N-4J-C-96028815
The issue in this grievance is whether management violated the National Agreement by requiring the carrier to utilize the composite bundle DPS work method in lieu of the carrier's preference to utilize the vertical flat case DPS work method.

We agreed to remand this case back to the local parties to resolve jointly. If the local parties are unable to agree on the most efficient work method, the issue should then be referred to the national committee at the Headquarters level, as specified in *Building our Future by Working Together*, for a joint resolution.

M-01256 Step 4
October 2, 1996, H90N-4H-C-95033604
The issue in this grievance is whether Management violated the National Agreement by requiring city carriers to use the one-bundle system while using a 5 shelf case configuration.

During our discussion, it was agreed that the explanation *Building our Future by Working Together* of the September 1992 MOU on Case Configuration states that the two-bundle and modified two bundle casing systems may be used with four or five shelf letter cases. However, use of the one-bundle system on other than the standard six-shelf letter case requires a joint agreement between the local parties.

M-01300 Step 4
January 13, 1998, C94N-4C-C 97055832
The issue in this grievance is whether management is in violation of the National Agreement by requiring carriers to use a one bundle system in an office that has not implemented Vertical Flat Casing (VFC).

The September 1992 MOU on Work Methods provides for the following approved work methods: "Case residual letters in the same separations with vertically cased flat mail, pull down and carry as one bundle." The alternate choice would be to "case residual letter mail separately into delivery order, pull down and carry as a composite (third) bundle."

In this case the only choice available is for carriers to "case residual letter mail separately into delivery sequence order, pull down and carry as a composite bundle since there is no VFC in this site.

M-01317 Prearbitration Settlement
July 6, 1998, H90N-4H-C-94068034
The parties have agreed that management may not unilaterally change a previously agreed upon work method. The parties have previously agreed that the "Joint Training Guide for Delivery Management" and "Building Our Future by Working Together" both stipulate that though the selection of the work method is based on efficiency, it is to be a joint determination by management and the union, with carrier input. A change in the work method or development of a more efficient work method is likewise to be a joint endeavor.

FOURTH BUNDLE

C-16863 National Arbitrator Snow
June 9, 1997, Q90N-4Q-C 93034541
"It is a violation of the Memorandum of Understanding on Work Methods executed in September of 1992 [M-01110] to require a letter carrier on a Park and Loop route in a DPS environment who uses the composite third bundle method to work 'marriage mail' behind addressed flats. Accordingly, the grievance is sustained , and the issue is remanded to the parties to reach agreement with regard to an accommodation consistent with the MOU of the parties."

M-01303 Fourth Bundle Agreement
August 12, 1997
Joint Agreement concerning June 9, 1997 Fourth Bundle arbitration award (C-16863).

M-01304 Interim Approach Under Fourth Bundle Agreement, September 12, 1997
Letter of Intent concerning August 12, 1997 Fourth Bundle Agreement (M-01303).

M-01305 NALC-USPS Procedure For Determining Interim Approach, Sept. 26, 1997
Agreement setting forth procedures for routes on which no interim approach for handling unaddressed flats was jointly selected as of September 26, 1997.

M-01318 Management Instructions May 22, 1998
Management Instructions concerning the September 26, 1997 Memorandum on fourth bundle work method accommodation

TARGET PERCENTAGES

C-17080 National Arbitrator Snow Q90N-4Q-C 94029376, August 4, 1997
The Postal Service's unilateral change to the methodology for determining when the target percentage is met violated its commitment under the September 1992 Memorandums (M-01109).

M-01265 Step 4 July 8, 1997, J94N-4J-C 97040708
It was agreed there is no dispute between the parties that, when using the established "Methodology" to estimate the total hourly impact of DPS on city delivery routes, as described in the Joint Training Guide, Chapter 3, Building Our Future by Working Together, the "unit" target percentage is calculated and is applied to each individual route.

M-01410 Prearbitration Settlement April 21, 2000, Q90N-4Q-C-94029376
The issue in this matter concerns the methodology used by the Postal Service to meet the target percentage which would trigger planned route adjustments when implementing Delivery Point Sequence (DPS).

In full and final resolution of this matter, we mutually agreed to the following:

The methodology initially selected to determine when the DPS target percentage had been met created anomalies. While management's decision to use the weekly average methodology eliminated those anomalies, the decision to implement the weekly average should not have been made unilaterally.

In compliance with Arbitrator Snow's award in this case, the parties resolve that the accepted method for determining when the target percentage in a DPS environment is achieved, is the weekly average formula.

The above language will not change any local agreements to use a different methodology, which may have been made prior to this settlement.

M-01294 Step 4 May 28, 1997, B94N-4B-C 97044293
The issue in this grievance is whether, in implementing planned adjustments in a DPS environment, the "Methodology" requires adjustment based on the unit's DPS target percentage or each individual route's DPS percentage.

During that discussion, it was agreed there is no dispute between the parties that, when using the established "Methodology" to estimate the total hourly impact of DPS on city delivery routes, as described in the Joint Training Guide, Chapter 3, Building Our Future by Working Together, the "unit" target percentage is calculated and is applied to each individual route.

M-01266 Prearbitration Settlement July 2, 1997, H90N-4H-C 95000700
The issue in this case involved whether local management violated the National Agreement by not utilizing the station input process to change the DPS sort plan in order that mail for businesses closed on Saturdays would be held out from the DPS sort plan on Saturdays.

After reviewing this matter, it was mutually agreed that no contractual violation was present in this case, however, the Postal Service will provide information to the field which encourages and provides guidance on the station input process. This process allows for DPS sort plan changes which would include holding out the Saturday non-delivery day mail when management determines that it makes operational sense to do so.

It was further agreed that all DPS candidate mail which is diverted from going directly to the street via the station input process will be counted as DPS volume for the purpose of determining whether the DPS target percentage has been reached.

M-01336 Step 4
July 17, 1998, G94N-4G-C-96047771
The parties agreed that no national interpretive issue is fairly represented in these cases. As a result of our discussions, the parties have agreed at the national level that the local parties are to be guided by the following mutual understanding of the issues presented in this grievance

Does the conversion of a PTF to full-time in a delivery unit constitute "PTF attrition" for purposes of TE hiring under Revised Chapter 6 of Building Our Future Together? It was mutually agreed that the conversion of a PTF to full-time does constitute "PTF attrition" for purposes of TE hiring under Revised Chapter 6 ONLY where the other criteria of Revised Chapter 6 regarding the DPS impact calculation are met and the unit is in the transition period.

It was agreed there are not two separate target percentages, one for hiring and one for planned adjustments. The target percentages should be the same for both purposes. In the event a recalculations is necessary the TE ceiling need not be recalculated. However, when the adjustments are made, TE hours must be proportionally reduced by the amount of workload taken out of the unit. Units in the X-route process must set target percentages between 70 and 85% and adjustments cannot be made at lower percentages unless the parties have agreed on interim adjustments.

Additionally, it was agreed that management may unilaterally change the DPS target percentage. If the target percentage is changed, the "DPS methodology" must be used to recalculate the estimated reduction in carrier office time. This recalculation must be made using the established methodology, and requires re- drawing the route map for the planned adjustments. It also impacts entitlement to transitional employees and may have the effect of requiring a reduction in TE hours.

Further, the parties mutually agreed that TEs may be hired under Section A in Revised Chapter 6 ("Delivery Point Sequencing impact calculation plus triggers") only after the unit or installation has entered the transition period (defined as that length of time needed for attrition to fulfill staffing reduction requirements.) The question of whether management improperly estimated the length of time needed for attrition to fulfill staffing requirements does not present an interpretive issue. The question of whether this unit was in a transition period does not present an interpretive issue.

It was further agreed that the hiring of TEs should be reasonable within the local fact circumstances. The attrition rate used should neither be artificially understated (so as to limit the hiring of TEs) nor artificially overstated (so as to permit excessive TE hiring).

If TEs have been hired under Section 5 in Revised Chapter 6 ("Delivery Point Sequencing impact calculation plus triggers"), management must provide the local union with the "DPS methodology" calculations, and all relevant information on which the calculations are based, under which those TEs have been hired.

As specified in Revised Chapter 6, local managers may use an additional 40 hours after a residual vacancy is held pending reversion. However, the parties agree that no additional TE use is permitted when another carrier opts on the assignment held pending reversion, which would be pyramiding the TE entitlement.

Finally, it was agreed that there is no dispute between the parties at this level concerning management's obligation to notify the union concerning withheld positions. The requirement to notify the Union at the regional level of withheld positions specified in Article 12.5.B has not changed and is applicable. *See also C-01311, C-01321.*

VIEWING DPS MAIL

M-01366 Pre-arbitration Settlement
October 21, 1998, H90N-4H-C 94048405
The issue in this case involved whether Management violated the National Agreement by not allowing individual carriers to personally observe the amount of DPS mail intended for delivery on their assigned routes, prior to determining the need for overtime/auxiliary assistance.

After reviewing this matter, it was agreed that if, while in the normal course of picking up DPS mail, a letter carrier determines the need to file a request for overtime or auxiliary assistance (or to amend a request that was previously filed), the carrier may do so at that time. The supervisor will advise the letter carrier of the disposition of the request or amended request promptly after review of the circumstances.

If the local parties have agreed upon a practice where the letter carrier has access to their DPS mail prior to filling out the request for overtime/auxiliary assistance, this settlement will not apply.

60 DAY REVIEWS

M-01268 Prearbitration Settlement
December 3, 1997, Q94N-4Q-C 96091697
The issue in this case deals with the 60-day revisitation of previously implemented DPS planned route adjustments. Specifically, whether or not the review of planned DPS adjustments within "60 days" of their implementation also includes and imposes the same 60-day deadline for implementing any further adjustments (if any) as a result of this review.

The parties mutually agree that the September 17, 1992, Memorandum entitled, "Resolution of Issues Left Open by the Mittenthal Award of July 10, 1992", requires that planned adjustments be revisited within 60 days after such adjustments are implemented. The parties further agree that adjustments required pursuant to the 60-day review should be implemented within the 60- day review period. The parties recognize, however, that adjustments within the 60-day review period may not be possible where there are valid operational circumstances which warrant an exception.

When management asserts that valid operational circumstances warrant an exception to the 60- day period, it must submit a detailed written statement substantiating the asserted circumstances to the local union within seven days following the expiration of the 60-day period. Disputes concerning the asserted operational circumstances will be resolved through the grievance/arbitration procedure.

M-01278 Step 4
January 6, 1997, H90N-4H-C 96077604
The case at issue deals with an office in a DPS environment. The September 1992 MOU at Appendix C of Building our Future by Working Together, as well as Handbook M-39 (243.614), specify that, within 60 days of implementing the planned adjustments for future automated events, the parties will revisit those adjustments to ensure that routes are as near to 8 hours daily as possible. Both the planned adjustments and subsequent minor adjustments that may be necessary are based on the most recent route inspection data for the route. In this case, the reexamination process was timely conducted in August (within 60 days of implementing the planned adjustments). During its revisitation of the adjustments, management also conducted one-day counts in order to determine each carrier's office performance as provided for in M-39, Section 141.2.

The interpretive issue in this grievance is whether Management violated the National Agreement by conducting one-day special office mail counts as part of its requirement to revisit and reexamine previously planned adjustments.

During our discussion, we mutually agreed that Special Office Mail Counts (M-39, 141.2) are conducted when management desires to determine the efficiency of a carrier in the office, and cannot form the sole basis for route adjustments. However, no prohibition exists that restricts management from also conducting a one-day count for the above purpose in conjunction with the 60-day reexamination of planned adjustments. The only time restraint imposed by the M-39 is that the carrier must be given one-day's advance notification.

M-01347 Step 4
January 2, 1997, H90N-4H-C 950-33499
The parties are presented with two interpretive issues referred from regional arbitration. As a result of our discussions, we mutually agreed to the following with respect to those issues:

Under the unilateral approach to DPS implementation:

1. Does the phrase, "...the parties will revisit those adjustments to ensure that routes are as near to 8 hours daily as possible," mean that the employer has an affirmative obligation, that is, an obligation to initiate discussion with the Union within 60 days over those routes which are over 8 hours following implementation of the planned adjustments?"

Yes, As agreed to by the parties in the USPS-NALC Joint Training Guide, Building our Future by Working Together, in a DPS environment, once the impact formula adjustments are implemented, the parties must revisit those adjustments to ensure that the routes as are near to 8 hours daily as possible. The review of planned adjustments must take place within 60 days after their implementation. Methods Handbook M-39, Section 243.614 is also revised to reflect the same procedure.

2. "Is discussion with the Union properly limited to DPS Volume Tracking reports based on targeted objectives?"

No. Both the Unilateral process and the X-route process MOUs direct the parties to review the implemented planned route adjustments. However, these MOUs remain silent on exactly how the review will be conducted, or what data will be utilized. It was intended that the parties at the local level would be reasonable in their approach to this review based on their varied circumstances and use appropriate data to assist them in ensuring that routes are as near to 8 hours as possible.

DPS INSPECTIONS, ADJUSTMENTS, DATA

M-01221 Step 4
July 25, 1995, C90N-4C-C-94038561
The issue in this grievance is whether management violated the National Agreement by not using current route inspection data in the implementation of Delivery Point Sequencing (DPS).

The parties agreed that route inspection data must be current for those offices implementing DPS, where there was no agreement or requested exemption to use their old route data.

M-01284 Prearbitration Settlement
April 17, 1992, H94N-4Q-C 97026594
The issues in this grievance is whether management is required to define "reasonably current" in Part 141.19 of the M-39 Handbook as "18 months" for all adjustment purposes.

During our discussion, it was mutually agreed that the following constitutes full settlement of this grievance:

1. The parties acknowledge that, as an alternative to the methodology provided in the unilateral process, managers may, at their option, use the route inspection and adjustment procedure in Chapter 2 of the M-39 Handbook to capture initial DPS savings. After using the M-39 inspection and adjustment procedures to adjust routes, the unit is considered to be out of the unilateral process and the M-39 procedures, including Part 141.19 Minor Adjustments, will apply thereafter.

2. Finally, it is agreed that Part 141.19, Minor Adjustments, including the reference to "reasonably current" remains unchanged.

M-01246 USPS Letter
March 13, 1996
We are in agreement that DPS mail may not be characterized as "enhanced two pass" or "enhanced sector/segment" to avoid established DPS implementation procedures.

We are also in agreement that under the X route process, the local parties may decide, by mutual agreement, to use either Hempstead formula adjustments or route inspections and adjustments under the procedures contained in the M-39. It is also understood that special route inspections under Section 271 of the M-39 may be initiated by either a letter carrier or management under the X route process.

Finally, we are in agreement that under the unilateral process, as an alternative to using the DPS formula methodology, managers may use M-39 inspections and adjustments to capture savings, after which, the unit is "out of the process."

Should a dispute between the parties remain in regard to the implementation, it is agreed the propriety of the implementation absent such signature would be subject to challenge in the grievance procedure.

DISPUTES

M-01220 Step 4
July 26, 1995, H90N-4H-C-95036579
The issue in this grievance is whether management violated the National Agreement by not allowing Delivery Point Sequencing (DPS) issues to be discussed in the Union Management Pairs (UMPs) process.

During our discussions the parties agreed that DPS issues may be discussed in the UMPs process, unless the UMPs agreement provides otherwise, or unless the case involves an issue which is pending at the national level.

M-01291 Prearbitration Settlement
June 24, 1997, H90N-4H-C 94061042
The parties agree that pursuant to the Sam Green memorandum dated May 24, 1993, management must complete the jointly agreed upon DPS Unit Certification form (copy attached) including the signature of the local Union President or designee and District Manager or designee, prior to implementing DPS in a delivery unit.

Once the criteria listed on the form have been met, the parties must sign the DPS Unit Certification form. If the requirements have been met, and if a branch president refuses to sign the form, the National Business Agent will sign the form. The parties agree that the requirement that the Union official sign the form will not unreasonably impede or delay the proper implementation of DPS, when all criteria listed on the certification have been met.

DISCIPLINE

MODIFIED DISCIPLINE PROGRAMS

C-00931, Mailhandler National Arbitrator Zumas, May 11, 1987, H1M-NA 99
The Postal Service violated the national agreement with the Mailhandlers Union by unilaterally implementing modified discipline programs (PAC, N-DEM, and N-TOL) and failing and refusing to bargain with the union over the programs.

JOB DISCUSSIONS

C-03769 National Arbitrator Aaron July 6, 1983, H1T-1E-C 6521
The Postal Service did not violate the National Agreement by refusing an employee's request for a steward to be present at discussions between the employee and his supervisor regarding the employee's use of sick leave.

M-00548 APWU Settlement Agreement May 12, 1981, N8C-1M-C 3719
A supervisor's discussion with an employee is not considered discipline and is not grievable, and "no notation or other information pertaining to such discussion shall be included in an employee's personnel folder." Although Article 16 permits a supervisor to make a personal notation of the date and subject matter of such discussions for his own personal record(s), those notations are not to be made part of a central record system nor should they be passed from one supervisor to another. A supervisor making personal notations of discussions which he has had with employees within the meaning of Article XVI must do so in a manner reasonably calculated to maintain the privacy of such discussions and he is not to leave such notations where they can be seen by other employees.

M-00498 Step 4 March 28, 1984, H1N-5D-C 18726
DUVRS provides the supervisor with an estimate of a letter carrier's normal daily workload and may be one of the factors considered by a supervisor when discussing a letter carrier's work performance. This does not mean that such a discussion will be of the type referred to in Article 16, Section 2, 1981 National Agreement. It can be merely a work-related exchange between the supervisor and the carrier with the DUVRS evaluation as a focus. DUVRS evaluations should not be the basis for a discussion concerning the letter carrier's efficiency held pursuant to Article 16, Section 2., since the efficiency of a letter carrier can more appropriately be determined by a mail count pursuant to 141.2, M-39 Handbook.

M-00567 Step 4 July 9, 1980, N8-N-0340
A supervisor may hold a discussion as defined in Article 16 with an employee when the subject of such discussions involves observations made by the supervisor on his or her off-day.

M-00706 Step 4 December 2, 1977, NCW 9088
Management is not prohibited from giving written informational notices to employees regarding attendance. However, if management desires to bring specific or potential attendance problems to the employee's attention, a personal discussion is more appropriate.

M-00158 Pre-arb March 14, 1980, A8-W-0052
The parties never intended to include discussions with employees in subsequent letters of warning. Such discussions are not considered discipline and are not grievable. *See also* C-01944

M-01139 APWU Step 4
January 4, 1980, A8-E-0471
Information with the file discusses that the grievant alleges that management has breached the terms of the National Agreement by allowing supervisors to maintain a control file on all employees in the mail processing operation relative to discussions of minor offenses with employees. Notations of discussions made by a supervisor are strictly personal and are not to be considered official Postal Service documents. As such, they are not to be made a part of a control record system to which other individuals have access, nor should a written notation be passed from one supervisor to another. In view of the foregoing, we consider this case closed.

M-01140 APWU Step 4
August 24, 1983, H1C-3W-C 21550
Discussions held pursuant to Article 16, Section 2, shall be held in private between the employee and the supervisor, and constitute the corrective action for the minor offense involved. Discussions which involve fact-finding and which may lead to discipline entitle the employee to representation, if requested

LETTERS OF WARNING

C-02968 National Arbitrator Fasser
February 23, 1977 NBE 5724
Failure of a Letter of Warning for negligence to state specifically that the carrier had a right to grieve the warning rendered it inadequate; failure to grieve a letter of warning does not bar grievance of a subsequent letter of demand.

M-00930 Step 4
May 11, 1989, H7N-3E-D 11525
The Postal Service may not issue "Final" Letters of Warning except as part of a collectively bargained labor relations plan.

SUSPENSIONS- LESS THAN 5 DAYS

M-00582 USPS Memo
Darrell Brown, November 13, 1973
It is the USPS policy that letters of warning be used in lieu of suspensions of less than five days. If suspensions of five days or more are reduced administratively, it should be to a letter of warning rather than to a suspension of four days or less, unless such short suspension constitutes an agreed upon settlement of the grievance.

M-01234 USPS Letter
December 3, 1974
Per Darrell F. Brown's letter of November 13, 1973 [M-00582], previously sent to you, letters of warning are to be used in lieu of suspensions of less than five days. This policy is still effective. However, in a few recent cases a five-day suspension has been interpreted by some managers to mean five calendar days. This interpretation is erroneous. The minimum suspension to be given is a five working-day suspension without pay.

C-06671 Regional Arbitrator Eaton
November 14 1986, W4N-5C-D 12091
A suspension that was unilaterally reduced to four days falls within the nationally agreed upon policy that suspensions of less than five days shall be reduced to letters of warning [M-00582]. The grievant's suspension was therefore ordered reduced to a letter of warning despite the fact that there was otherwise just cause for the discipline imposed.

C-09767 Regional Arbitrator Levak
February 10, 1990
Under 1974 SAPMG policy [M-00582], there may be no suspensions of 1 - 4 days; management therefore acted improperly by reducing a 14 day suspension to 2 days.

SUSPENSIONS

C-09670 Regional Arbitrator Dunn
February 5, 1990
Management acted improperly when it placed grievant in a non-pay, non-duty status after he refused, because USPS would not pay, to be hospitalized for a week-long fitness-for-duty examination.

SUSPENSIONS, INDEFINITE

ARTICLE 16.6

C-22652 National Arbitrator Nolan
A94N-4A-c 99059170, October 25, 2001
An employee who has been indefinitely suspended under Article 16.6 and who is later reinstated by a grievance settlement—including a Dispute Resolution Team (Step B) decision—has been returned to work "by the employer." Thus, under the provisions of Article 16.6.C, such an employee is entitled to "back pay for the period that the indefinite suspension exceeded 70 days, if the employee was otherwise available for duty."

C-03216 National Arbitrator Garrett
September 29, 1978, NC-NAT-8580
"Every suspension effected under the last sentence of Article XVI, Section 3 [When there is reasonable cause to believe an employee guilty of a crime for a which a sentence of imprisonment can be imposed] is reviewable in arbitration to the same extent as any other suspension to determine whether 'just cause' for the disciplinary action has been shown."

Such a review in arbitration necessarily involves considering at least (a) the presence or absence of 'reasonable cause' to believe the employee guilty of the crime alleged, and (b) whether such a relationship exists between the alleged crime and the employee's job in the USPS to warrant suspension"

Note: Article 16.3 in the 1978 National Agreement is now Article 16.6.

C-01427 Regional Arbitrator Cohen
March 30, 1979, NCC 13547D
Ordinarily separate grievances must be filed when an employee receives an indefinite suspension followed by a removal, and in this case a written grievance was filed only concerning the suspension. The removal is nonetheless subject to arbitral review since the union and management orally discussed the removal at the Step 2b hearing of the suspension grievance.

C-00220 Regional Arbitrator Sherman
June 15, 1984, S1C-3Q-D 32542
Management can not show "reasonable cause to believe that the employee is guilty" based upon arrest alone or based upon a newspaper account.

C-10153 Regional Arbitrator Levin
July 24, 1990
An indefinite suspension was not for just cause when based on the same facts as an earlier removal which had been modified to a time-served suspension.

C-10404 Regional Arbitrator Skelton
September 24, 1990
"Probable cause to indict and make arrests on the indicted charges become the 'reasonable cause' necessary for suspension."

C-10470 Regional Arbitrator Goldstein
December 3, 1990
The issuance of a warrant for arrest based on a judge's determination of "probable cause" provides the "reasonable cause" necessary for imposition of an indefinite suspension.

C-10975 Regional Arbitrator Lurie
July 24, 1991
Management may not issue an indefinite suspension retroactively.

C-10043 Regional Arbitrator R. G. Williams
May 22, 1990
Grievant was indefinitely suspended and filed no grievance. When later removed on the same grounds, he grieved. Management argued that even if the removal was not for just cause the only result could be to return the grievant to indefinite suspension status, as no grievance had been filed concerning the suspension. The arbitrator ruled that, although "reasonable cause" had initially existed for the suspension, once management issued the removal, both the suspension and the removal became subject to the test of just cause. Finding no just cause for the removal, the arbitrator ordered grievant returned to work with backpay to the date of the initial suspension.

SUSPENSIONS, EMERGENCY
ARTICLE 16.7

C-10146 National Arbitrator Mittenthal
August 3, 1990 H4N-3U-C 58637
"If that action [under Article 16.7] is discipline for alleged misconduct, then management is subject to a "just cause" test. To quote from Section 1, "No employee may be disciplined...except for just cause." If, on the other hand, that action is not prompted by misconduct and hence is not discipline, the "just cause" standard is not applicable. Management then need only show "reasonable cause" (or "reasonable belief"), a test which is easier to satisfy."

"The language of Section 7, by necessary implication, means that no "advance written notice" can be required in a true Section 7 situation."

"These finding, however, do not fully resolve the dispute. The fact that no "advance written notice" is required does not mean that Management has no notice obligation whatever. The employee suspended pursuant to Section 7 has the right to grieve his suspension. He cannot effectively grieve unless he is formally made aware of the charge against him, the reason why Management has invoked Section 7. He surely is entitled to such notice within a reasonable period of time following the date of his displacement. To deny him such notice is to deny him his right under the grievance procedure to mount a credible challenge against Management's action."

C-10876 Regional Arbitrator Sobel
June 4, 1991, S7N-3S-D 32870
There was not just cause for the emergency suspension of a letter carrier for driving without a seatbelt and with the door of his vehicle open.

C-10883 Regional Arbitrator Dennis
June 1, 1991, N7N-1F-D 31654
There was not just cause for the emergency suspension of a letter carrier who took a break at an unauthorized location.

C-10946 Regional Arbitrator McCaffree
July 5, 1991, W7N-5P-D 29502
Management did not have just cause to impose an emergency suspension on grievant, where actions giving rise to suspension occurred six months earlier.

C-10979 Regional Arbitrator Johnston
July 8, 1991, S7N-3S-D 33025
Where Grievant was told to go home on emergency suspension and to return the next day, management could not impose another emergency suspension without the occurrence of a new incident.

C-10028 Regional Arbitrator Sobel
May 18, 1990, S7N-3S-C 88019
Management should have provided notice of emergency suspension within three days, rather than the two weeks actually taken; grievant is awarded difference between two weeks and three days.

C-10423 Regional Arbitrator Parkinson
November 9, 1990, LC90119PG
Loud and boisterous conduct provided just cause for a remainder-of-the-day emergency suspension.

C-09593 Regional Arbitrator Howard
Management violated the contract when it did not provide grievant written notice of her emergency suspension until 12 days after she had been orally suspended.

C-10293 Regional Arbitrator Howard
September 26, 1990
Insubordination, alone, does not provide a basis for imposing an emergency suspension.

C-10076 Regional Arbitrator Snow
June 21, 1990, W7N-5F-D 18800
Emergency suspension was for just cause where grievant with open sores and lesions refused fitness-for-duty examination; employee may have been "injurious to self or others."

C-10308 Regional Arbitrator Sobel
August 15, 1990
Unauthorized curtailment of mail by leaving it in a relay box overnight does not provide just cause for an emergency suspension, particularly when given six weeks after the curtailment.

C-10364 Regional Arbitrator Barker
December 30, 1990
Management required only a "reasonable cause" to issue an emergency suspension to a carrier who had engaged in disruptive conduct, because in such circumstances the action was administrative, not disciplinary.

C-10519 Regional Arbitrator Hardin
December 26, 1990
"The language of Article 16.7 is a narrow exception to the broad rule that employees will remain on duty in pay status while discipline against them is considered"; alteration of a compensation form is not among the reasons for which an emergency suspension may be imposed.

C-10525 Regional Arbitrator Rimmel
December 29, 1990
There was just cause for a remainder-of-the-day emergency suspension of an employee who reported to work under the influence of alcohol.

C-10585 Regional Arbitrator Render
January 31, 1991
Repeatedly placing a vehicle in "park" before it had come to a complete stop did not provide just cause for an emergency suspension which alleged that retention in duty status might cause damage to USPS property.

C-09975 Regional Arbitrator Goldstein
April 5, 1990, C7N-4D-D 15801
Where an emergency suspension was followed by a removal, the grievance filed concerning the suspension cannot be read to include the removal.

REMOVAL

M-00939 Step 4
September 26, 1974, NB-E-1681
This grievance involves the refusal on managements part to accept a grievance pertaining to a Notice of Charges-Proposed Removal from a steward prior to the time that a decision had been rendered on the previously mentioned proposal. A grievance may be filed upon receipt of a Notice of Proposed Removal.

SEPARATION, DISABILITY

C-00145 Regional Arbitrator Levak
July 16, 1985, W4C-5D-D 947
Management violated the ELM Section 365.34 when it did not place grievant in LWOP status for one year before removing him for disability.

C-09974 Regional Arbitrator Goldstein
April 16, 1990
A separation for physical disability was a disciplinary action within the meaning of Article 16; consequently management bears the burden of demonstrating just cause.

ADVANCE NOTICE

M-00897 Step 4
February 5, 1989, H4N-4A-D 30730
For purposes of computing the period of notice required in advance of the imposition of various disciplinary measures, such notice period shall be deemed to commence on the day following the date upon which the letter of notification is received by the employee.

M-00880 Step 4
November 22, 1988, H7N-3A-D 4922
USPS will not issue discipline letters which are retroactive; instead, employees must be given advance written notice of suspension or discharge as provided in Article 16, Section 4 and Article 16, Section 5.

M-00868 **Pre-arb**
August 30, 1988, H4N-4C-C 35491
When management chooses to keep a part-time flexible employee on the clock and not on the job during the notice period, the employee will be compensated for each day during the 30-day notice period, as though the employee would have worked on that day, the number of hours he/she actually worked on the same weekday five (5) weeks before, except that during the 30-day notice period he\she will not be compensated for more than eight (8) hours in any service day or more than forty (40) hours in any service week.

CONFESSIONS

C-00020 Regional Arbitrator Zumas
January 30, 1980, ADN-1262D
Discharge was not for just cause where grievant testified that confession was obtained by intimidation, threat and coercion and where management made no attempt to rebut those claims.

PAST ELEMENTS

SEE ALSO "SETTLEMENTS," BELOW:

M-01546 **Memorandum August 11, 2005**
This video, *It Can Happen to You*, is an educational and training video. This video may not be cited in any forum to support or refute any disciplinary or adverse action issued to any city letter carrier.

M-00158 **Pre-arb, March 14, 1980, A8-W-0052**
The parties never intended to include discussions with employees in subsequent letters of warning. Such discussions are not considered discipline and are not grievable. *See also* C-01944

C-09469 Regional Arbitrator Martin
October 30, 1989, C7N-4A-D 17892
Management improperly considered as a "past element" a long-term suspension which was initiated more than two years earlier, but which ended less than two years before, the subject discipline.

C-01944 Regional Arbitrator Holly
May 20, 1980, S8N-3F-D 9885
The Employer's case is further flawed by the fact that it is violative of that portion of Article XVI of the National Agreement which provides, `... such discussions may not be cited as an element of a prior adverse record in any subsequent disciplinary action against an employee,...' The Notice of Removal cites two such discussions as elements of the Grievant's past record.

These procedural defects cannot be overlooked as being insignificant. They are of serious concern because they are in violation of both the letter and spirit of the National Agreement, and importantly they deprive the Grievant of his right to due process. In the absence of due process the grievance must be sustained without any consideration of its substantive merits. *See also* C-00584, C-01983, C-03541, C-03910, C-04335, C-04401, C-06907.

REVIEW AND CONCUR

C-23828, NRLCA National Arbitrator Eichen
December 3, 2002, E95R-4E-D 01027978
Article 16, Section 6 of the NRLCA National Agreement contains a provision requiring that discipline be "reviewed and concurred in by a higher authority." This requirement is substantially the same as that found in Article 16, Section 8 of the NALC National Agreement. Prior to changes made in 1995, the NRLCA and NALC provisions were the identical. Arbitrator Eichen's award provides the following:

"Article 16.6 Review of Discipline of the Extension to the 1995-1999 USPS-NRLCA National Agreement:

a) Is not violated if the lower level supervisor consults, discusses, communicates with or jointly confers with the higher reviewing authority before deciding to propose discipline;

b) Is violated if there is a "command decision" from higher authority to impose a suspension or discharge;

c) Is violated if there is a joint decision by the initiating and reviewing officials to impose a suspension or discharge;

d) Is not violated if the higher level authority does not conduct an independent investigation and relies upon the record submitted by the supervisor when reviewing and concurring with the proposed discipline;

e) Is violated if there is a failure of either the initiating or reviewing official to make an independent substantive review of the evidence prior to the imposition of a suspension or discharge;

f) Is violated if there is no evidence of written review and concurrence prior to the imposition of a suspension or discharge."

The Arbitrator wrote as follows concerning violations of the "review and concur" requirement:

"(a) Proven violations of Article 16.6 as set forth in Issues 1 (b), 1(c) or 1(e) are fatal. Such substantive violation invalidate the disciplinary action and require a remedy of reinstatement with "make-whole" damages.

(b) Whether a violation of Article 16.6 as set forth in Issue 1(f) is fatal, invalidates the disciplinary action and requires a remedy of reinstatement with "make-whole" damages is for the area arbitrator to determine based on the facts and circumstances of the individual case."

SETTLEMENTS

M-00889 Step 4
January 5, 1989, H4N-5G-C 7167
A notice of discipline which is subsequently fully rescinded, whether by settlement, arbitration award, or independent management action, shall be deemed not to have been "initiated" for purposes of Article 16.10, and may not be cited or considered in any subsequent disciplinary action.

M-01384 Step 4
July 13, 1999, H94N-4H-D 98113787
The issue in this case is whether a settlement made on a non-citable, non-precedent basis on a letter of warning can be introduced in an arbitration, to counter management relying on the letter of warning in an arbitration hearing on subsequent discipline citing the letter of warning as an element of past record.

During our discussion, we mutually agreed that no national interpretive issue is fairly presented in this case.

We also agreed that a non-citable, non-precedent settlement may be cited in arbitration to enforce its own terms.

We further agreed that the subject letter of warning cannot be cited as a past element because it was removed from the grievant's record and reduced to a discussion via the September 3, 1998 settlement.

M-00570 Step 4
January 27, 1983, H1N-1N-D 5881
The letter of proposed removal at issue in this case was reduced to a letter of warning at Step 2. Therefore, the letter of proposed removal shall be removed from the grievant's official personnel file.

M-01368 APWU Step 4
August 17, 1988, H7C-NA-C 21
All records of totally overturned disciplinary actions will be removed from the supervisor's personnel records as well as from the employee's official personnel folder.

If a disciplinary action has been modified, the original action may be modified by pen and ink changes so as to obscure the original disciplinary action in the employee's official personnel folder and supervisor's personnel records, or the original action may be deleted from the records and the discipline record reissued as modified.

In the past element listings in disciplinary actions, only the final action resulting from a modified disciplinary action will be included, except when modification is the result of a "last chance" settlement, or if discipline is to be reduced to a lesser penalty after an intervening period of time and/or certain conditions are met.

LAST CHANCE AGREEMENTS

C-22941 National Arbitrator Briggs
January 15, 2002, D94N-4D-D 00114765
The arbitrator held that "Last Chance Agreements (LCA)" are not "records of disciplinary action" covered by the provisions of Article 16.10. However, his award states that:LCAs "can logically be divided into disciplinary and administrative categories, and only those elements falling into the former category are subject to the § 16.10 time restriction

"The Arbitrator finds nothing which would prevent the parties from redacting from a last chance agreement the specific portions which do constitute an inappropriate untimely record of disciplinary action. Last chance agreements such as the one under consideration here have many elements, and the contractual inappropriateness of one of those elements under § 16.10 does not automatically render the remainder of them null and void."

M-01127 Step 4
April 15, 1993, H7N-5E-C 27350
The issue in this grievance is whether the grievant and his non-union representative may waive appeal rights to the grievance procedure in a "last chance" agreement effected in settlement of an appeal to the MSPB.

During our discussion, we mutually agreed that the grievant and/or his non-union representative cannot waive the union's right to a file a grievance concerning a dispute as to whether the grievant violated a last chance agreement.

C-09746 Regional Arbitrator Snow
June 28, 1989, W7C-5E-D 10681
A last-chance agreement must incorporate specific performance requirements, and must be closely monitored by management. Where management did not strictly enforce a last-chance agreement, it was responsible for lulling the employee into a false sense of security.

C-14949 Regional Arbitrator Render
November 21, 1995, E90N-4E-D 46540
Surely the Service does not and could not argue that if the grievant were blatantly discharged for reasons of race, sex, national origin, or union activity that this language would preclude any remedy whatsoever. There are cases holding that notwithstanding such an agreement an individual employee can litigate constitutional and statutory rights and that some of these rights cannot be waived even with the consent of the union. Moreover, there is arbitral authority for the proposition that not withstanding such a provision in a last change agreement, an arbitrator has the authority to determine whether the terms of the agreement are violated. If an arbitrator did not have this authority, literally read, could permit the Service to discharge the grievant for absolutely no reason whatsoever.

C-10000 Regional Arbitrator Lange
March 20, 1990, W7N-5M-C 17720
Grievance protesting removal is arbitrable, even where grievant earlier agreed to last-chance settlement waiving future appeal rights.

C-00239 Regional Arbitrator Cohen
July 19, 1982, C1C-4A-D 3843
"[A] provision in a [last-chance] agreement setting forth what constitutes just cause for dismissal is ... unenforceable."

C-10867 Regional Arbitrator Britton
May 6, 1991, S7N-3S-D 32689
Grievant did not waive access to the grievance procedure by signing last-chance agreement which stated that any future removal would not be "subject...to the contractual grievance/arbitration procedure."

C-11086 Regional Arbitrator Britton
July 26, 1991
"By accepting the terms of the last chance agreement, the Grievant has relinquished [the right to appeal], and under such agreement, he has also agreed that he is foreclosed from challenging through administrative or judicial appeal whether his removal by the Employer was for just cause. However, where, as here, the Grievant raises a non-frivolous factual issue of compliance with the last chance agreement, the issue is properly before the arbitrator and the arbitrator is therefore required to resolve that issue."

C-09680 Regional Arbitrator Bennett
January 29, 1990, S7N-3Q-D 22055
Grievance protesting removal is arbitrable, where employee had agreed to earlier last-chance settlement waiving future appeal rights.

C-10846 Regional Arbitrator Klein
May 6, 1991
"[A last-chance] agreement dictating that certain behavior automatically constitutes just cause for removal is * * * unenforceable."

"[T]he [last-chance] agreement not to grieve an action in the future is unenforceable for the reason that it ignores the right to grieve as set forth in the National Agreement. The local parties do not have the authority to amend this contractual provision"

C-10482 Regional Arbitrator Render
November 29, 1980, W7N5L-D 21704
An arbitrator may review a discharge which occurs after a last-chance agreement waiving access to the grievance procedure.

C-11112 Regional Arbitrator Axon
August 9, 1991
"Last chance agreements without a termination date are not favored. Arbitrators generally hold that a last chance agreement must be limited to a reasonable period of time."

C-11113 Regional Arbitrator Levak
February 27, 1990
"[R]egardless of the terms of an LCA, an employee and the union retain the right to claim 'fundamental' just cause rights protection under Article 16."

[T]he performance standards set forth in the LCA should not be so difficult to meet that they themselves violate the just cause standard. Where the Service insists upon performance standards that are so onerous that their violation is ipso facto insignificant, technical or de minimus, such standards will likely not be enforced in arbitration.

C-10173 Regional Arbitrator Mitrani
July 26, 1990, N7N-1N-D 26514
Where arbitrator of earlier removal grievance restored grievant with a one year "probationary period," subsequent removal within one year is nonetheless arbitrable.

M-00979 Step 4
November 29, 1990, H7N-1N-D-29617
The issue in this grievance is whether the grievant was properly terminated on December 8, 1989, pursuant to the provisions of Article 12, Section 1 of the National Agreement which pertains to probationary employees. The grievant, a letter carrier with over twenty (20) years of service, would normally be entitle to the procedural safeguards of Article 16, Section 5, which requires a 30-day advance written notice prior to termination. Significantly, however, the grievant was reinstated to this position from a termination prior to that which is the basis of the instant grievance. In his award dated March 19, 1989 [C-08775], Arbitrator Rodney Dennis fashioned a type of "last chance agreement" and placed the grievant in a six-month probationary period with the caveat that in the event he was subsequently removed, the Postal Service would be authorized to take any action against him "as if he were a newly-hired probationary employee" (emphasis added). Additionally, the arbitrator barred his access to the grievance procedure relative to the level of the penalty imposed (in the instant case: termination).

The main thrust of the dispute centers on the propriety of the arbitrator's decision, that is, did the arbitrator exceed his authority in changing the actual status of the grievant. The parties believe he did.

To that end, without prejudice to either parties' position, we agree to settle this case as follows:

The grievant will be compensated for the balance of the 30-day notice period: backpay will be awarded for the period December 9, 1989, through December 31, 1989, which comprises fifteen (15) workdays and one (1) holiday. It is understood that in view of the fact that the PS 50 has already been processed, the personnel action and backpay computations may take somewhat longer than is customary.

This agreement is non-precedential and non-citable and may not be used by either party at any Step of the Grievance/Arbitration procedure or in any other forum. (emphasis added) *See also* M-00980

BACK PAY

Memorandum of Understanding
1990 National Agreement, June 12, 1991
RE: Interest on Back Pay. Where an arbitration award specifies that an employee is entitled to back pay in a case involving disciplinary suspension or removal, the Employer shall pay interest on such back pay at the Federal Judgment Rate. This shall apply to cases heard in arbitration after the effective date of the 1990 Agreement.

M-00966, Step 4
April 19, 1990, H7C-NA-C 77
It was mutually agreed that ELM Sections 436.22, and 436.425 would be revised to read as follows:

436.22 Back pay is allowed, unless otherwise specified in the appropriate award or decision, provided the employee has made reasonable efforts to obtain other employment, except that the employee is not required to make such efforts during the first 45 days of the back pay period.

436.425 Where the original action resulted in separation or indefinite suspension and no outside employment was obtained, employees must furnish the following:

a. If the back pay period is 45 days or less, employees are not required to certify or to provide documentation in support of their efforts to secure other employment during this period.

b. If the back pay period is more than 45 days and does not exceed 6 months, employees must provide a statement certifying the reasons why outside employment was not obtained for all parties of the back pay period which exceeded the first 45 days.

c. If the back pay period is more than 6 months, employees must provide documentation in support of their efforts to secure other employment for all parts of the back pay period which exceed the first 45 days.

M-00953 Prearb
April 27, 1989, H4C-NA-C 82,
Notice of the employee's duty and responsibility under Section 436 of the ELM to mitigate damages will be included in letters of removal and letters of indefinite suspension beginning July 15, 1989.

M-01449 Step 4
September 27, 2001, DF98N-4D-C 01181768
The local parties cannot modify the language contained in Section 436.2 of the Employees and Labor Relations Manual (ELM).

M-01454 Prearbitration Settlement
January 24, 2002, H94N-4H-C-98091130
ELM 436.1, Corrective Entitlement, provides for back pay calculations for unwarrented personnel actions, including not only compensation but also allowances. ELM 935.23 provides for a reduction of 10% for LWOP in excess of 89 calendar days. In the instant case, the removal action was reduced to a ninety-day suspension. Accordingly, the uniform allowance in effect during the 1994-1998 CBA ($277) must be reduced by 10%.

M-00556 Step 4
March 28, 1977, NCS 4629
Local management is instructed to review the computation of the back pay to which the grievant was entitled by way of the arbitration award and determine whether the proper number and type of pay hours the employee would have experienced during the back pay period were taken into consideration. In accordance with the stated Postal Manual reference, this tabulation would include the overtime hours of the average numbers of hours per pay period that other employees of the office, doing the same kind of work, were assigned during the back pay period.

M-01436 **Step 4**
April 3, 2001, B94N-4B-C 98056900
When an employee is awarded back pay, the hours an employee would have worked if not for the action which resulted in the back pay period, are counted as work hours for the 1250 work hour eligibility under the Family Medical Leave Act (FMLA).

If an employee substitutes annual or sick leave for any part of the back pay period that they were not ready, willing and able to perform their postal job, the leave is not counted as work hours for the 1250 work hour eligibility requirement under the FMLA.

If a remedy modifies an action, resulting in a period of suspension or leave without pay, that time is not counted as work hours for the 1250 hours eligibility requirement under the FMLA.

C-09889 Regional Arbitrator Stoltenberg
March 5, 1990, E7N-2H-D 21126
A remedy request of "make the carrier whole" should be read to include a demand for back pay.

C-09763 Regional Arbitrator Talmadge
February 14, 1990
A discharged letter carrier was required to attempt to mitigate damages by seeking alternative employment, even where management failed to notify the carrier of that requirement.

C-10683 Regional Arbitrator Marx
August 24, 1990
Grievant made a reasonable effort to mitigate damages, where she contacted at least three potential employers and where management failed to notify her of her duty to seek other employment.

C-10020 Regional Arbitrator Stoltenberg
May 16, 1990, E7N-2N-C 21993
Management did not violate the contract when it totaled and deducted from grievant's backpay the earnings from two part-time jobs worked by the grievant during the pendency of his removal grievance.

C-11010 Regional Arbitrator McCaffree
November 28, 1990
An erroneous retirement separation should be remedied by full backpay, rather than payment of the amount of annuity the employee would have received had the employee been eligible to retire.

REINSTATEMENT

C-00432 National Arbitrator Mittenthal
July 27, 1983, H1C-3W-C 10155
Management must place employee in assignment for which reinstated employee bid while discharge was pending.

M-00769 **Step 4**
July 1, 1981, H8N-5G-D 15754
Management recognizes that an employee who is discharged and who is subsequently returned to duty through the grievance arbitration procedure will be returned to the position that he held prior to removal except when the parties agree otherwise or when the arbitrator returns an employee to a position other than that position which he held prior to the removal action.

ACCIDENTS

M-01546 **Memorandum August 11, 2005**
This video, *It Can Happen to You*, is an educational and training video. This video may not be cited in any forum to support or refute any disciplinary or adverse action issued to any city letter carrier.

M-00486 **Letter, May 15, 1981**
Accidents or compensation claims are not in themselves an appropriate basis for discipline.

M-01289 Step 4
June 18, 1997, D94N-4D-C 97027016
The parties agree that management has the right to articulate guidelines to its employees regarding their responsibility concerning issues relating to safety. However, the parties also mutually agree that local accident policies, guidelines, or procedures may not be inconsistent or in conflict with the National Agreement. Discipline imposed for cited safety rule violations must meet the "just cause" provisions of Article 16 of the National Agreement. Further, administrative action with respect to safety violations must be consistent with Articles 14 and 29.

M-00267 Step 4
August 17, 1982, H8N-3W-C 33178
The question raised in this grievance involves a Vehicle Accident Control Program. It was mutually agreed that the following would represent a full settlement of this case:

The local notice can not alter, amend or in any way supersede the disciplinary standard for "at fault" vehicle accidents provided by the National Agreement and Methods Handbook, Series M-52. Methods Handbook, Series M-52 and the National Agreement provides the disciplinary standards for "at fault" accidents and will control the disposition of a grievance filed in behalf of a carrier who is disciplined for such an accident. Any local vehicle accident control program may not deviate in its purpose from the M-52 and National Agreement. We are unaware of the existence of any discipline standards for "at fault" vehicle accidents, hence any discipline taken must meet the "just cause" provisions of Article XVI of the National Agreement.

M-01254 Step 4
October 30, 1996, G94N-4G-C-96027492
The issue in this grievance is whether district management is in violation of the National Agreement by issuing a local "Zero-Tolerance-Rollaway/Runaway Accidents" policy.

The parties are of the mutual understanding that local accident policies, guidelines, or procedures may not be inconsistent or in conflict with the National Agreement; hence, discipline taken for such accidents must meet the "just cause" provisions of Article 16. See *also* M-01416, M-01417.

M-01420 Step 4
June 15, 1999, D94N-4D-C 98098424
The parties have previously agreed in numerous Step 4 agreements that discipline issued to carriers based on various safety infractions, does not pose an interpretive issue. In those Step 4 agreements, the parties have also agreed that management has the right to articulate local accident policies, guidelines, or procedures to it's employees concerning safety issues, as long as they are not inconsistent or in conflict with the National Agreement. The parties have also agreed that administrative action with respect to safety violations must be consistent with Articles 14 and 29. They have historically agreed that disciplinary actions must be in compliance with Article 16.

M-01443 Step 4
April 17, 2002, D94N-4D-C 98081122
The focus of the “Accident Repeater” program is on identifying unsafe practices and deficiencies; its focus is not to promote discipline. Any administrative action with respect to safety violations must be consistent with Articles 14 and 29. The parties have previously agreed that local accident policies, guidelines, programs, or procedures may not be inconsistent or in conflict with the National Agreement; hence, any discipline must meet the “just cause” provisions of Article 16, and those cases dealing with conflicting local variances should be dealt with on a case by case basis at the local level.

ATTENDANCE

C-03231 National Arbitrator Garrett
November 19, 1979, NC-NAT-16285
Whether the Postal Service properly may impose discipline upon an employee for "excessive absenteeism" or "failure to maintain a regular schedule" when the absences on which the charges are based include absences on approved sick leave must be determined on a case-by-case basis under the provisions of Article XVI.

C-14107 Regional Arbitrator Lurie
November 27, 1994, H90N-4H-D 94068273
"Because the grievant's absence was protected leave under the provisions of the FMLA, the reliance upon that leave as a basis for her removal from the Postal Service was in violation of the Act, and is void, as a contravention of public policy and the laws of this Country. The citation of that leave was also a violation of Article 19 of the Agreement, inasmuch as the Act has been expressly endorsed by the Postal Service , and integrated into its handbooks and manuals."

M-01138 APWU Step 4
January 5, 1981, A8NA-0840
[D]iscipline for failure to maintain a satisfactory attendance record or "excessive absenteeism" must be determined on a case-by-case basis in light of all the relevant evidence and circumstances.

[A]ny rule setting a fixed amount or percentage of sick leave usage after which an employee will be, as a matter of course, automatically disciplined is inconsistent with the National Agreement and applicable handbooks and manuals.

M-01419 Step 4
D94N-4D-C 99181860, April 26, 2000
A local attendance control program cannot be inconsistent with Article 10 of the National Agreement and Chapter 510 of the Employee and Labor Relations Manual (ELM). Disciplinary action which may result from a local attendance control policy must meet the "just cause" provisions of Article 16 of the National Agreement.

C-10682 Regional Arbitrator Mitrani
July 20, 1990
Management violated the contract when it recorded as tardy employees who punched in within the five-minute-leeway period.

C-09766 Regional Arbitrator Levak
February 10, 1990
"It is well-established ... that the Service may support a charge of unsatisfactory attendance by citing excused leaves such as contractually guaranteed sick leave or EAL."

C-10483 Regional Arbitrator Render
November, 14, 1990
Management may not charge an employee with AWOL unless management complies with Section 393.32 of the F-21: "If an employee does not report for scheduled duty or is absent from duty. . .they [the timekeeper or supervisor] are to prepare a Form 3971 to the extent possible, . . ."

M-00165 Executive Order 5396
(Herbert Hoover), July 17, 1930
With respect to medical treatment of disabled veterans who are employed in the executive civil service of the United States, it is hereby ordered that, upon the presentation of an official statement from duly constituted medical authority that medical treatment is required, such annual sick leave as may be permitted by law and such leave without pay as may be necessary shall be granted by the proper supervisory officer to a disabled veteran in order that the veteran may receive such treatment, all without penalty in his efficiency rating.

M-00866 Pre-arb
October 28, 1988, H4N-4F-C 11641
Executive Order 5396 [M-00165], dated July 3, 1930, does apply to the Postal Service and absences meeting the requirements of that decree cannot be used as a basis for discipline.
See also M-00388, M-00787, M-00848

CASING STANDARDS - DUVRS

M-00386 Step 4
July 11, 1977, NC-NAT-6811
Management may not charge or impose discipline upon a carrier merely for failing to meet the 18 and 8 casing standards. Any such charge is insufficient. Under the Memorandum of Understanding of September 3, 1976, the only proper charge for disciplining a carrier is "unsatisfactory effort."

The September 3, 1976 memorandum referenced in this settlement has been incorporated into the M-39 Handbook as Section 242.332. M-39 242.332 states:

> *No carrier shall be disciplined for failure to meet standards, except in cases of unsatisfactory effort which must be based on documented, unacceptable conduct that led to the carrier's failure to meet standards.*

M-00498 Step 4
March 28, 1984, H1N-5D-C 18726
DUVRS provide the supervisor with an estimate of a letter carrier's normal daily work-load and may be one of the factors considered by a supervisor when discussing a letter carrier's work performance. This does not mean that such a discussion will be of the type referred to in Article 16, Section 2, 1981 National Agreement. It can be merely a work-related exchange between the supervisor and the carrier with the DUVRS evaluation as a focus. DUVRS evaluations should not be the basis for a discussion concerning the letter carrier's efficiency held pursuant to Article 16, Section 2., since the efficiency of a letter carrier can more appropriately be determined by a mail count pursuant to 141.2, M-39 Handbook.

M-00394 Letter, August 22, 1979
Daily volume estimations recorded for individual routes in accordance with these procedures (linear measurement) will not constitute the basis for disciplinary action for failure to meet minimum casing standards.

M-00829 Step 4
April 15, 1986, H1N-5B-C 29131
Under Article 16, no employee may be disciplined except for just cause. In this instance, the parties agree that a one day count and inspection may not be used as the sole basis to establish a standard against which a carrier's performance may be measured for disciplinary purposes.

M-00600 National Joint City Delivery Meeting
Nov 16, 1983, page 6.
Reference volume alone, without additional evidence to substantiate wrongful expansion of street time, can not sustain a disciplinary action.

M-00364 Step 4
May 1, 1985, H1N-5H-C 23752
The Delivery Unit Volume Recording System is a management tool to estimate each carrier's daily work-load. DUVRS is not a precise measurement to determine whether standards are met. Accordingly, in city delivery units, daily volume estimation recorded in accordance with postal policy will not constitute the sole basis for disciplinary action for failure to meet minimum casing standards by an individual carrier. *See also* M-00376, M-00523

M-00048 Step 4
April 20, 1983, H1N-3W-C 17704
It is the position of the Postal Service that DUVRS provides the supervisor with an estimate of a letter carrier's normal daily work-load and may be one of the factors considered by a supervisor when discussing a letter carrier's work performance.

C-04547, Regional Arbitrator LeWinter
November 28, 1984, S1N-3W-D 26096
It is quite clear that the parties dealings show an intent that DUVRS is to be eliminated as a consideration in the determination of discipline. Not only is the linear method of measurement of mail load imprecise in and of itself, but the DUVRS tape does not take into consideration the mail in the grievant's case from the prior day casing nor does it show the type or quality of mail as to that which may require more handling than others."

M-00813 Step 4
September 17, 1987, H4N-5D-C 16822
The National criteria for development of office time is explained in the M-39 Handbook and methods for recording volumes are contained in Management Instructions. Daily volume estimations recorded for individual routes in accordance with appropriate provisions will not constitute the basis for disciplinary action.

M-01259 Step 4
March 12, 1996, F90N-4F-C-93053050
The issue in this grievance is whether management violated the National Agreement by posting the office productivity information.

We agreed that the data on the posting may not be used as the basis for discipline or for evaluation of routes.

DISRESPECT

C-03254 Regional Arbitrator Aaron
November 14, 1978, NCW 8707
"Disrespectful conduct" is a purely subjective standard, reflecting the personal attitude of the person relying upon it. Unless it amounts to insubordination or causes a disruption of work, it can not be used as an excuse for adverse action against an employee.

EXPANSION OF STREET OR OFFICE TIME

C-05952 Regional Arbitrator Levak
December 19, 1985, W4N-5B-D 3530
Where an employee meets the standard of M-39, Section 271.g, and requests a special route inspection, discipline for excessive office or street time, is inappropriate unless and until such an inspection is conducted.

M-00600 National Joint City Delivery Meeting
November 16, 1983, page 6.
Reference volume alone, without additional evidence to substantiate wrongful expansion of street time, can not sustain a disciplinary action.

UNAUTHORIZED OVERTIME

M-00326 Step 4
October 2, 1972, NC 711(47)
The grievants informed management of their inability to complete their routes in 8 hours. Further, it was demonstrated that they were ordered by management to complete the routes. Although there was no expressed authorization to complete the delivery of the mail on an overtime basis, the permission would be inherent in the authorization to continue delivery after notification that the grievants were unable to complete the routes.

M-00764 Pre-arb
November 2, 1978, N-N 1090
Employees may be disciplined for use of unauthorized overtime, but not by withholding pay for overtime actually worked.

M-00464 Step 4
October 6, 1978, NCS 11115
Local management can properly request letter carrier employees to estimate their work load, to the best of their ability, when the employees request overtime or auxiliary assistance. The information obtained by the carrier's estimation is not intended to be used to discipline carriers or to set work standards.

C-18612 Regional Arbitrator McGown
G94N-4G-C 98002174, August 11, 1998
The arbitrator held that a removal for unauthorized overtime was without just cause since the grievant was not allowed to determine the volume of DPS mail prior to completing Form 3996.

Drive-Out Agreements

M-00985 Step 4
January 18, 1990, H4N-3A-C 47917
Settlement confirming that the Postal Service may not discontinue Driveout Agreements without providing the 30 days written advance notice required by Article 41 Section 4 and M-39 Section 171.5.

M-00534 Step 4
March 11, 1985, H1N-4A-C 27955
The delivery of more than one relay by the same carrier to the same relay point is considered a single relay stop for compensation purposes.

M-00502 Step 4
May 2, 1984, H1N-1Q-C 17744
A carrier may be required to use his/her vehicle on more than one route, which would include any route that he/she would be assigned to deliver.

M-00235 Pre-arb
June 28, 1982, H1N-4E-C 1360
Carriers with city carrier transportation (drive-out) agreements shall be reimbursed for the transportation of all articles in excess of two pounds, whether in relay sacks or not. *See also* M-00261.

DRIVING PRIVILEGES - REVOCATION OR SUSPENSION

I. INTRODUCTION

This section was originally published as a CAU paper discussing issues related to the revocation or suspension of letter carriers' operator identification cards (OF-346, previously SF-46). Their use has been discontinued. However, many earlier cases concerning the revocation or suspension of OF-346's are applicable to the revocation or suspension of driving privileges. This section summarizes arbitration awards, discusses how arbitrators have handled the issues which frequently arise, and outlines the criteria used by arbitrators in making their decisions.

II. CLASSIFYING AN EMPLOYEE AS AN UNSAFE DRIVER

Before a letter carrier's driving privileges may be suspended or revoked, Article 29 requires that management first conclude that the carrier's "on-duty record shows that the employee is an unsafe driver."

A. BURDEN AND QUANTUM OF PROOF

Arbitrators often place the burden of proof on the Postal Service and will not allow mere conjecture or speculation to sustain the revocation or suspension of an employee's driving privileges. According to the arbitrator in C-07487, "the employer has the obligation of showing that based on the grievant's on-duty record, the grievant is an unsafe driver, and that he failed to observe critical safety rules and regulations set by the employer to such an extent that his on-duty record shows him to be a hazard to himself and to others, and that he would likely have injured himself or others, or damaged the Employer's property had he not been suspended. If it makes such proof the suspension and the revocation are to be sustained." (But see C-07787, C-08747)

In C-03791, the grievant hit a parked car in order to avoid an oncoming car that swerved into his lane. There were no witnesses. The arbitrator stated, "The Service must produce more than mere rejection [of the grievant's account of the accident]." The arbitrator gave the grievant the benefit of the doubt for what he said he did, stating that the grievant does not have to prove what he didn't do.

In C-07013, the arbitrator held that even the designation of an accident as an at-fault one does not by itself automatically prove that safety rules and regulations have been violated. In short, the Employer must prove that the grievant "failed to observe or disregarded" Postal Service safety rules and regulations and "the Employer must cite which practices the grievant engaged in that constituted such a failure and/or the regulations which were violated in the process." In this case, the arbitrator held that where the grievant's accident may have been an at-fault one, he did not violate any Postal Service regulations and therefore, the revocation could not be sustained.

Arbitrators will hold a suspension or revocation improper where they find that management acted unreasonably in its determination. Management must have some basis for its conclusion that the employee can be classified as "unsafe." In C-05200, the grievant had been involved in five accidents, three of which were determined to be preventable. On the day of the accident which prompted the revocation, the road conditions were "slick" and "icy." The arbitrator held that the Postal Service must make its determination "reasonably," and "the mere conclusion, without more, that the grievant was 'at fault,' was not reasonable under the circumstances." (See also C-04877, management did not meet its burden of demonstrating reasonableness and rationality; and C-05296, where the presentation of the Union was sufficient to cast doubt on the fault of the grievant, and the benefit of the doubt must go to the grievant.)

In C-07660, the employee had his license revoked after he damaged a Postal truck by driving it under a low ramp. The arbitrator held that the revocation was improper. The employee was a "floater" and not familiar with his route for that day. Even though the employee's supervisor instructed him not to drive under that ramp, the arbitrator stated that the employee was not insubordinate, but merely "inattentive." Therefore, "an irrevocable lifting of the grievant's license does sufficient violence to the test for reasonableness to warrant some modification." The employee's license was thus reinstated. (See also C-06283)

B. THE ARBITRATOR WILL CONSIDER THE GRIEVANT'S OVERALL DRIVING RECORD

Arbitrators place significant weight on a grievant's overall driving record in determining whether the grievant is an "unsafe driver." In C-07787, the grievant had two preventable accidents. In the first accident, the grievant nicked a dumpster while parking his vehicle. In the second accident, the grievant parked the vehicle, it rolled out of parking gear, into the side of a parked car, and caused over $1000 damage. The grievant had received ten safe driving awards over eleven years. The arbitrator stated: "The magnitude of this accident must be evaluated in terms of the total driving record, including the substantial number of driving awards the grievant earned during his employment." Where the sum total of the evidence failed to establish that management had a reasonable basis for classifying the grievant as an "unsafe driver," the arbitrator found the revocation to be improper. (See also C-08747, where grievant had one severe preventable accident in 21 years revocation was ruled improper.)

However, when an employee is involved in an egregious violation of basic traffic safety rules, arbitrators will look to their prior record in support of a revocation. In C-03682, the grievant was hit by a car while crossing six lanes of traffic in an unsafe manner. The other car had the right of way. The grievant had had one previous preventable accident 17 months earlier for which his license was revoked. The arbitrator ruled that these circumstances, particularly the grievant's record of a prior revocation and previous preventable accidents provided the Postal Service with reasonable cause to believe he was an unsafe driver and upheld the revocation.

III. SPECIAL DEFENSES TO REVOCATION OR SUSPENSION

In addition to the general defenses that "management didn't meet the burden" and "management's decision was unreasonable," as described above, there are three special defenses to revocation or suspension, as follows:

A. DISPARATE TREATMENT

The Postal Service must use the same criteria for each employee in assessing whether or not s/he is an unsafe driver. Where an employee is able to show disparate treatment, arbitrators most often hold the suspension or revocation to be improper. According to the arbitrator in C-03016, in order to substantiate a charge of disparate treatment, the letter carrier must establish that the basis for comparison is sufficiently similar to affirm such a claim.

In C-03259, the grievant had only one clear "at fault" and one "preventable" accident. The Postal Service permanently revoked his SF-46. The arbitrator held the revocation to be unwarranted where several employees had much the same or worse driving records than the grievant but none had their SF-46's permanently revoked. However, where management is able to develop an acceptable and credible rationale for its differentiation, some arbitrators have ruled that proof of disparate treatment alone is not sufficient to overturn a revocation. (See C-7013)

B. DRIVER IMPROVEMENT TRAINING

Section 311.c of the EL-827 provides: "Current driving employees who demonstrate a need for improvement in their driving (based either on accident involvement or observed driving practices) are afforded the opportunity to improve a specific deficiency through improvement driver training." And Section 463.4 of the EL-827 lists as one of the "decision criteria" to be used by management when considering whether to revoke an OF-346: "...the quality or absence of prior training in a particular driving activity."

Management, thus, has a duty to provide remedial training when driving difficulties appear. Where management has failed to provide such training, arbitrators have sometimes ruled that revocation or suspension is improper. (See C-01316, where revocation was ruled improper because the grievant demonstrated no driving deficiencies after receiving training; and C-07621, where grievant had two accidents but was not provided with training after either. See also C-01435, C-03682, C-04774, C-05039 where the arbitrators conditionally set aside revocations until the grievants were given training specific to demonstrated deficiencies, because the

arbitrators ruled that the evidence did not support a finding that the letter carriers would not respond to such training).

Arbitrators, however, sometimes rule that where there is a clearly demonstrated pattern of unsafe driving activity, the failure to give remedial driving training will not always operate to defeat the revocation of his SF-46. But as the arbitrator in C-06789 stated, "Management should be forewarned that whenever there is a question as to the charges leading to revocation, the procedural violation of failing to give remedial training will result in overturning the revocation."

The Postal Service has an obligation to enroll an employee in a remedial training program which specifically addresses the employee's safety problems. The Postal Service does not meet its burden if it only enrolls the employee in a routine training program which does not address the specific driving problems of the employee. (See C-00010)

C. AUTOMATIC SUSPENSION

The Postal Service cannot implement a rule which calls for automatic suspension of an employee's license. Such a rule is contrary to the Memorandum of Understanding to Article 29 which states, "the mere fact that an employee was involved in a vehicle accident is not sufficient to warrant suspension of driving privileges nor the imposition of a suspension or other discipline." In C-06800, the arbitrator ruled that the Postal Service could not automatically suspend employees involved in an accident for a period of thirty to sixty days. (See also C-03151, which held that a post office can implement local policies but they may not be more stringent than the requirements set forth in the national agreement.)

The Memorandum of Understanding also states: "When an employee's SF-46 is temporarily suspended as a result of a vehicle accident, a full review of the accident will be made as soon as possible, but not later than 14 days, and the employee's SF-46 and driving privileges must either be reinstated, suspended, or revoked as warranted." This does not mean that the Postal Service can automatically suspend for 14 days the OF-346 of an employee who has been in an accident. The arbitrator in C-06800 stated, "the 14 day time limit for the review is a maximum time for the review and is not equated with a suspension period in any manner. In certain vehicle accidents a 14 day period would be needed in order to investigate the facts of a case but in other cases the investigation could conclude in a few days. This arbitrator is not saying that an automatic suspension is always wrong, but only that the need for a 14 day investigative period must be shown." In this case, the Postal Service was ruled to have violated the agreement by automatically suspending the grievant for 14 days, even though the investigation of the accident was completed in two days.

IV. THE POSTAL SERVICE MUST MAKE "EVERY REASONABLE EFFORT TO REASSIGN"

Even if a revocation or suspension is proper, Article 29 provides that, "every reasonable effort will be made to reassign the employee in non-driving duties in the employee's craft or other crafts."

In C-1374, the arbitrator ruled: "The language of [Article 29] requires the Postal Service to reassign an employee who cannot drive a vehicle. An offer to reassign does not constitute a reassignment. Management's functions and its obligations belong to Management exclusively. The Postal Service had the authority to reassign Grievant, irrespective of her lack of consent. Not only did Management have that right, but pursuant to Article 29, it had that obligation." (Emphasis in original.) (See also C-6343.)

Management's effort to reassign must begin in the letter carrier craft. In C-5139, the arbitrator observed, "The Service is obligated to make 'every [reasonable] effort. . .to reassign the employee to non-driving duties in his craft. . . .'" He concluded, "The Service's action in assigning Grievant to wash trucks when foot carrier work was clearly available did not represent a reasonable effort within the meaning of Article 29." In C-7621, the arbitrator ruled, "[W]hile management is authorized to extend its search to other crafts, the 'employee's craft' is expressly included in its 'every reasonable effort' commitment. By all logic, then, this is where the search should begin."

In C-06225, the grievant had his SF-46 revoked and had been temporarily assigned to the mail handler craft. During the time of his temporary reassignment, the grievant failed to bid on two

walking routes which were given to those with less seniority, and failed to take the mail handler's exam, although he had expressed a desire to do so. Once the station was able to hire additional mail handlers the grievant lost his temporary assignment. The arbitrator held that Management had fulfilled its obligation to reassign.

However, in C-06064A, the arbitrator held that while the Employer's decision to revoke the grievant's SF-46 was proper, the decision to remove the grievant without reassigning him to a clerk craft position was not proper. The arbitrator held that the Employer was obligated to assign the grievant clerk craft work, and directed the Employer to pay the grievant at the applicable rate of pay for that period as if he had been employed, less any alternate earnings.

ADDITIONAL MATERIAL

C-18159 National Arbitrator Snow
I94N-4I-D 960276608, April 9, 1998
Arbitrator Snow held that Article 29 of the 1994 National Agreement with the NALC "requires the Postal Service to make temporary cross-craft assignments in order to provide work for letter carriers whose driver's licenses have been [temporarily] suspended or revoked." He rejected the Postal Service's argument that the Postal Service was no longer bound by cross craft provisions of Article 29 in light of the APWU/NALC split. However, he also agreed with the APWU that Article 29 of the NALC Agreement could not be applied in a manner inconsistent the APWU Agreement. Arbitrator Snow's decision did not address cases where driving privileges are permanently revoked.

He held that if it is not possible to accommodate temporary cross-craft assignments in a way that does not violate the APWU Agreement, a letter carrier who is deprived of the right to temporarily cross craft assignment to a position in the APWU represented crafts must be placed on leave with pay until such time as he may return to work without violating either unions' Agreement.

Accordingly, in cases where letter carriers temporarily lose driving privileges, the following applies:

Management should first attempt to provide non-driving letter carrier craft duties within the installation on the carrier's regularly scheduled days and hours of work. If sufficient carrier craft work is unavailable on those days and hours, an attempt should be made to place the employee in carrier craft duties on other hours and days, anywhere within the installation.

If sufficient work is still unavailable, a further attempt should be made to identify work assignments in other crafts, as long as placement of carriers in that work would not be to the detriment of those other craft employees.

If there is such available work in another craft, but the carrier may not perform that work in light of the Snow award, the carrier must be paid for the time that the carrier otherwise would have performed that work.

Finally, if there is insufficient carrier craft work and also insufficient work in other crafts to which the carrier could be assigned but for the Snow award, and it is expected to continue that way for an extended period of time, the employee has the option of not working and not being paid or being permanently reassigned to another craft if a vacancy exists.

In summary, this award does not establish an automatic carrier entitlement to leave with pay. Rather, each case must be handled individually based upon making "every reasonable effort" to seek work.

M-00007 Step 4
November 3, 1977, NCC 9003
Management's policy to have the driver examiner conduct eye exams for all employees holding SF-46 drivers licenses is proper.

M-00672 Step 4
June 19, 1972, NS 411
The grievant was due those hours of work per day which did not necessitate utilization of a motor vehicle. Therefore, the grievant shall be paid the number of scheduled hours per day which normally would have been devoted to casing and non-motorized activities.

M-00451 Step 4
April 14, 1977, NCW 4241
The notice is inconsistent with existing policies and guidelines set forth in Handbook M-52. At the present time, there is no provision for the automatic suspension of an employee's SF-46 when the employee is involved in the types of accidents listed in 1-4 of the referenced notice.

M-00675 Step 4
October 18, 1974, NBS 1998
It is our determination that an employee who is being considered for renewal or reissuance of SF-46 is under no obligation to furnish information regarding his off-duty driving record. This determination in no way relieves an employee who holds a SF-46 of his obligation to promptly report to management revocation or suspension of his state driver's license. Neither does this determination limit an employee's obligation to furnish management with information concerning his driving record when he is being processed for initial issuance of SF-46.

C-09542 Regional Arbitrator Britton
October 30, 1989, S7N-3N-D 22067
An employee is not required to be able to produce an OF-346 or state driver's license on demand, but must be permitted a reasonable period of time in which to produce them.

Drug Testing

M-01021 USPS Letter, May 13, 1986
The Representatives for the National Association of Letter Carriers submitted agenda items for the January 7 and April 2 Joint Labor-Management Safety Committee meetings requesting to discuss the Postal Service's policy on drug testing. The subject was discussed fully, addressing the points raised in your recent letter. Your representatives seemed to understand the position of the Postal Service on this issue.

As a reiteration of previous discussions by our representatives on this matter, I will again set forth our position.

The Postal Service has no national policy for drug testing.

During fitness-for-duty examinations, the medical officer or contact physician may decide that a specific test is necessary. This is based upon the physician's observation and/or medical judgment (ELM 864.3).

Disciplinary action will not be taken against an employee based solely on a positive test.

Employees who have a problem with drugs/alcohol will be referred to the Employee Assistance Program (EAP). Postal Service policy concerning EAP participation is found in Section 871.3 of the Employee and Labor Relations Manual.

With regard to establishing a future policy, a Postal Service task force is presently studying the testing of applicants and current employees.

M-00984 Step 4, December 12, 1990
The issue in this grievance is whether random drug screening is permissible on a voluntary basis as part of a structured EAP Program. By letter dated March 9, 1990, local management proposed to implement such a process for EAP participants who were not involved in a last-chance agreement and agreed to submit to random drug screening as a deterrent to using drugs and/or alcohol.

The parties at this level have previously agreed that across-the-board drug testing and/or random drug testing of present employees is prohibited under any circumstances. However, on a case-by-case basis, during fitness for duty examinations, drug tests may be administered, depending on the specific reasons for the examination as stated by the referring official and/or in the judgment of the examining medical official. It is the understanding of the parties that no such drug screening was conducted and the letter of March 9, 1990 was never implemented or enforced. The parties consider the issue to be moot and agree that the facts in this case have no bearing on last-chance agreements. Accordingly, said letter shall be rescinded and this grievance is resolved.

M-00867 Pre-arb
October 26, 1988, H4N-5C-C 15273
Under current policy, as established by the August 6, 1986 Memorandum from SAPMG David H. Charters [M-00653], across-the-board drug testing of present employees is prohibited. For example, a requirement that all candidates for issuance of a particular class of OF-346 submit to drug testing, constitutes across-the-board drug testing.

M-00653 USPS Memorandum, August 6, 1986
Recently, it has come to our attention that drug testing is being used in the field as part of the initial issuance and renewal of the SF-46, Operator's Identification Card, and in Accident Repeater Programs.

Across-the-board drug testing and/or random drug testing of present employees is prohibited under any circumstances. However, on a case-by-case basis, during fitness-for-duty examinations, drug tests may be administered, depending on the specific reasons for the examination as stated by the referring official and/or in the judgment of the examining medical official (see Attachment A). Additionally, drug testing in conjunction with medical assessments and evaluations as part of the Employee Assistance Program is within established procedures (see Attachment B). Furthermore, we will be issuing a policy statement on drug screening of applicants for employment in the near future.

M-00863 Step 4, H4N-5T-C 36368
While strict procedures must be followed to verify the chain of custody of specimens, current Postal Service policy prohibits contract medical personnel from directly observing an employee who is producing a sample for urinalysis.

M-00977 Step 4
September 10, 1990, H7N-3A-C-25639
This case concerns a requirement that all drivers who have had their OF-346 suspended due to negligence or poor or impaired judgment undergo a fitness-for-duty examination, which includes alcohol and drug screening, prior to reissuance of the OF-346.

The parties at this level have previously agreed that "under current policy, as established in the August 6, 1986, memorandum from SAPMG David H. Charters, across-the board drug testing of present employees is prohibited." (Case No. H7N-5C-C-15273) [M-00653]. The local procedure dated October 16, 1989 will be modified to conform to this policy.

C-09903 Regional Arbitrator Martin
March 9, 1990
Management did not violate the contract by refusing work to an employee who had balked when requested to provide a urine sample during a fitness-for-duty examination.

C-09551 Regional Arbitrator P.M. Williams
A urine test is incapable of resolving whether a person is impaired or under the influence of an illegal drug; for the results of a drug test to be probative, management must establish chain of custody, and must preserve a sufficient quantity of the sample so that the employee has the opportunity to have an independent analysis made.

DUVRS, LINEAR MEASUREMENT

M-00522 Step 4
July 9, 1984, H1N-3D-C 30203
We find nothing in current instructions to preclude craft employees from occasionally recording the DUVRS information. We find no requirement to pay higher level for performing this incidental activity. *See also* M-00523

M-00498 Step 4
March 28, 1984, H1N-5D-C 18726
DUVRS provide the supervisor with an estimate of a letter carrier's normal daily work-load and may be one of the factors considered by a supervisor when discussing a letter carrier's work performance. This does not mean that such a discussion will be of the type referred to in Article 16, Section 2, 1981 National Agreement. It can be merely a work-related exchange between the supervisor and the carrier with the DUVRS evaluation as a focus. DUVRS evaluations should not be the basis for a discussion concerning the letter carrier's efficiency held pursuant to Article 16, Section 2., since the efficiency of a letter carrier can more appropriately be determined by a mail count pursuant to 141.2, M-39 Handbook.

M-00394 Letter, August 22, 1979
Daily volume estimations recorded for individual routes in accordance with these procedures (linear measurement) will not constitute the basis for disciplinary action for failure to meet minimum casing standards.

M-00269 Step 4
October 13, 1982, H1N-3T-C 7480
The Delivery Unit Volume Recording System is not the established criteria for the development of office time, as this development is governed by Methods Handbook, Series M-39. *See also* M-00579

M-00272 Step 4
April 6, 1982, H1N-5B-C-1267
The dispute at issue in the instant grievance is whether local management is properly establishing and administering route reference volumes.

After further review of the matter, we mutually agreed that there was no National interpretive issue fairly presented as to the meaning and intent if Article 19 of the National Agreement, and more specifically Handbook M-39, since the original Headquarters Instructions states that reference volume can be created in the following several ways:

1. "You can add the linear volumes recorded on the Forms 3921 for six day route inspection period and average them by dividing by six. This must be done for each route in the unit. (Note: This excludes all sequenced mail.)

2. You can take the average piece volumes from the Forms 1840, exclude sequence mail, and divide them by conversion factor to produce linear equivalents. The conversion factors can be locally sampled and developed or can be 250 pieces per foot for mixed letter size and 115 pieces per foot for flats.

3. You can randomly select a number of weeks (i.e., 6 or 8) from Forms 3921, add them together, and average them by dividing by the appropriate number of days. (NOTE: This excludes all sequenced.)"

Item 2 above precludes application of a uniformly increased percentage factor arrived at by other than "locally sampled." Reference volumes do not constitute the sole basis for determining a carrier's leaving time.

If the necessity arises to update reference volumes, the circumstances that prompted that change should be explained to the carrier or carriers involved.

M-00363 Step 4
April 26, 1985, H1N-3W-C 32752
Letter carriers will not be required to enter volume figures on PS Forms 3996 unless the reason for the request is related to volume. If the volume is required to be noted in linear measurement terms, it is not anticipated that letter carriers are to be expected to report anything more than their reasonable estimate of volume.

M-00600 National Joint City Delivery Meeting Nov 16, 1983, page 6.
Reference volume alone, without additional evidence to substantiate wrongful expansion of street time, can not sustain a disciplinary action.

M-00067 Step 4
June 9, 1983, H1N-3U-C 13925
The proper methods of recording the disputed card mailing is contained in Management Instruction PO-610-79-24 (Delivery Unit Volume Recording). Sections VI.B.3 or 4 contain instructions for the flats. In accordance with these instructions, the route would receive credit for both the cards and the unlabeled flats. The cards would be credited in Column 7 on the PS 3921 and the flats would be included in Column 1 on the PS 3921-A.

M-00364 Step 4
May 1, 1985, H1N-5H-C 23752
The Delivery Unit Volume Recording System is a management tool to estimate each carrier's daily work-load. DUVRS is not a precise measurement to determine whether standards are met. Accordingly, in city delivery units, daily volume estimation recorded in accordance with postal policy will not constitute the sole basis for disciplinary action for failure to meet minimum casing standards by an individual carrier. *See also* M-00376, M-00523

M-00048 Step 4
April 20, 1983, H1N-3W-C 17704
It is the position of the Postal Service that DUVRS provides the supervisor with an estimate of a letter carrier's normal daily work-load and may be one of the factors considered by a supervisor when discussing a letter carrier's work performance.

M-00695 Step 4
October 14, 1982 H1N-5H C 6171
There are no provisions for mail count verification of linear measurements.

C-04547, Regional Arbitrator LeWinter November 28, 1984, S1N-3W-D 26096
It is quite clear that the parties dealings show an intent that DUVRS is to be eliminated as a consideration in the determination of discipline. Not only is the linear method of measurement of mail load imprecise in and of itself, but the DUVRS tape does not take into consideration the mail in the grievant's case from the prior day casing nor does it show the type or quality of mail as to that which may require more handling than others."

M-00813 Step 4
September 17, 1987, H4N-5D-C 16822
The National criteria for development of office time is explained in the M-39 Handbook and methods for recording volumes are contained in Management Instructions. Daily volume estimations recorded for individual routes in accordance with appropriate provisions will not constitute the basis for disciplinary action.

M-00759 Step 4
May 22, 1987, H4N-5R-C 30648
There are various methods in use to determine the appropriate reference volume. No methodology or methodologies have been prescribed as being universal applicable.

M-00579 Step 4, August 17, 1982
Settlement concerning correct procedures to be followed in creating reference volumes.

M-01233 Step 4
December 13, 1995, H90N-4H-C 95076866
Inasmuch as management asserts that the Workload Assessment process will not be used for purposes of discipline and route inspection, the parties agree the issue is moot.

M-01259 Step 4
March 12, 1996, F90N-4F-C-93053050
The issue in this grievance is whether management violated the National Agreement by posting the office productivity information.

We agreed that the data on the posting may not be used as the basis for discipline or for evaluation of routes.

M-01290 Step 4
June 16, 1997, F94N-4F-C 97008039
There are currently various methods used to determine the appropriate reference volume. No specific methodology has been mandated. While not a precise measurement of the mail, the use of linear volume estimations is an accepted management tool to assist in estimating a carrier's daily workload. In addition, it is further understood that the minimum casing standards currently remain at 18 letters per minute and 8 flats per minute.

EEO

M-00087 Step 4
November 15, 1984, H1C-1Q-C 31822
Temporary assignment as an ad hoc EEO Counselor is not a supervisory position. The duty assignment should not be posted for bid under the provisions of Article 37, 3.A.7

M-00493 Step 4
March 12, 1984, H1N-3U-C 18530
The Employer will allow the complainant and his/her representative reasonable time to meet with an EEO counselor so long as the meeting is held within the employees' regular working hours. Payment is made on a no loss-no gain basis.

M-00770 Step 4
April 15, 1987, H4N-3U-D 25076
We mutually agreed the EEO settlement regarding the suspension does not bar further processing of the grievance. *See also* M-00818

M-00471 Step 4
March 8, 1983, H1N-5K-C 8037
If any EEO complainant has expressed in writing his desire that any communications concerning his formal complaint be made through his representative, that request should be honored under normal circumstances. The complainant must furnish the name, address and telephone number of his designated representative.

M-00470 Step 4
June 25, 1982, H8N-3W-C 26379
The complainant and the representative, if otherwise in an active duty status, shall be allowed reasonable official time to present the issues to the EEO Counselor, providing such presentation occurs during their regularly scheduled work hours. This agreement is not restricted to the installation where the representative is employed, nor does it include travel time.

M-01062
APWU Step 4
October 5, 1983, H1C-5K-C-14705
The issue in this grievance is whether the grievants are entitled to Article 8 guarantees for work performed on April 25, 1983.

After further review of this matter, we determined that the grievants were utilized to distribute mail while waiting to testify at an EEO hearing. The performance of this work invoked the guarantee provisions of the National Agreement.

We also agreed that this decision is made without prejudice to the position of either party, in regard to whether Article 8, Section 8, applies to employees called to testify at EEO hearings who do not perform work.

M-01057 APWU Step 4
October 29, 1982, H1C-3W-C-7741
During our discussion, we agreed to resolve the case based on our understanding that EEO representatives, if in an active duty status, are entitled to official time for travel from one location to another in the same building when performing duties as representative.

M-00804 Pre-arb
October 22, 1987, H1N-5G-C 15447
The grievant shall be compensated at the overtime rate for the 45 minutes spent testifying outside his normal work hours at an EEO hearing.

Witnesses whose presence at the hearing is officially required will be in a duty status during a reasonable period of waiting time prior to their testimony at the hearing and during their actual testimony.

M-00766 Step 4
September 1, 1976, NCC 2120
It would be inappropriate to assign heavy mail to the grievant simply because he is a male individual while withholding such heavy mail from a female simply because she is a female.

C-00051 Regional Arbitrator McConnell
June 21, 1983, E8C-2M-C 10537
Regular employee called in to testify at an EEO hearing is entitled to full eight-hour guarantee.

EMERGENCIES, UNANTICIPATED CIRCUMSTANCES

M-00105 Step 4
November 16, 1978, NCS 12632
Normally mail volume in and of itself is not an emergency situation. An emergency is described as an unforeseen circumstance or combination of circumstances which calls for immediate action in a situation which is not expected to be of a recurring nature.

M-00775 Step 4
July 8, 1977, NCC 6334
The T-6 Carrier's Route Assignment was not temporarily changed due to anticipated circumstances. Local management was in this case, aware that Route 0424 was vacant with no carrier assigned to it. Therefore, under these specific factual circumstances we cannot conclude that unusual circumstances were present.

M-00381 Step 4
April 5, 1976, NCE-427
Local management must have a rational basis for determining that unusual circumstances exist before moving a T-6 Carrier from his normal route. *See also* M-00678

C-03633 Regional Arbitrator Holly
August 5, 1983, S1N-3U-C 14096
Unscheduled sick leave does not constitute an "unanticipated circumstance" within the meaning of Article 41 Section 1.C.4. Consequently the Postal Service violated the contract by removing a letter carrier from his T-6 string after receiving a sick call.

C-08309 Regional Arbitrator Britton
April 25, 1988, S4N-3W-C 23992
Sickness does not fall within the definition of "unanticipated circumstances" The possibility that sickness will occur is an anticipatory event, and therefore one which supervision should be able to plan around.

EMPLOYEE ASSISTANCE PLAN

M-01429 Step 4
August 31, 2000, Q94N-4Q-C 99199249
The parties reaffirm their commitment to the principles in Article 35 of the 1998 National Agreement regarding the Employee Assistance Program. It is agreed that decisions regarding the general guidelines with respect to the level of service and the mechanism by which the services will be provided are to be made by consensus of the Joint Committee. Further, it is agreed that when the members of the Committee are unable to agree on a course of action within a reasonable time frame, the parties will adhere to the provisions of Article 35.2.

M-00298 Step 4
November 3, 1983, H1N-5C-C 14243
Management should refer an employee with an attendance problem to meet with a PAR counselor if there is an indication that alcoholism or drug abuse is present. *See also* M-00345, M-00439, M-00250

M-01279 Prearbitration Settlement
January 23, 1997, G90N-4G-D 95066426
The issue in this grievance is whether management unilaterally may require an employee to participate in the Employee Assistance Program (EAP) beyond the initial EAP interview, apart from requiring such participation as part of an agreement with the employee and/or the employee's representative.

During the discussion, it was mutually agreed that management may not unilaterally require an employee to attend EAP beyond the initial interview.

Note: See ELM Section 872.221. Effective with ELM 16, June 1999, employees have the option to refuse a referral to EAP. An employee can not be disciplined for noncompliance.

M-01362 Step 4
October 22, 1998, J94N-4J-C 98061369
The mere fact that an employee has an accident does not normally warrant an automatic referral to EAP. Any referral to EAP must be in accordance with ELM 872.

M-00984 Step 4, December 12, 1990
The issue in this grievance is whether random drug screening is permissible on a voluntary basis as part of a structured EAP Program. By letter dated March 9, 1990, local management proposed to implement such a process for EAP participants who were not involved in a last-chance agreement and agreed to submit to random drug screening as a deterrent to using drugs and/or alcohol.

The parties at this level have previously agreed that across-the-board drug testing and/or random drug testing of present employees is prohibited under any circumstances. However, on a case-by-case basis, during fitness for duty examinations, drug tests may be administered, depending on the specific reasons for the examination as stated by the referring official and/or in the judgment of the examining medical official. It is the understanding of the parties that no such drug screening was conducted and the letter of March 9, 1990 was never implemented or enforced. The parties consider the issue to be moot and agree that the facts in this case have no bearing on last-chance agreements. Accordingly, said letter shall be rescinded and this grievance is resolved.

C-11659 Regional Arbitrator Flagler
February 2, 1992, C7N-4S-C 11659
The Postal Service's elimination of an Employee Assistance Program Specialist position violated Articles 5 and 35 of the National Agreement according to the regional award by Arbitrator Flagler. The arbitrator found that the Service's unilateral action violated the terms of the National Agreement by failing to support continuation of EAP at the current level as required by Article 35.

EMPLOYEE CLAIMS

SEE ALSO **Tort Claims, Page 358**

Article 27 of the 1998 National Agreement, regarding Employee Claims provides the following:

> *Subject to a $10 minimum, an employee may file a claim within fourteen (14) days of the date of the loss or damage and be reimbursed for loss or damage to his/her personal property, except for motor vehicles and the contents thereof, taking into consideration depreciation where the loss or damage was suffered in connection with or incident to the employee's employment while on duty or on the postal premises. The possession of the property must be reasonable, or proper under the circumstances and the damage or loss must not have been caused in whole or in part by the negligent or wrongful act of the employee. Loss or damage will not be compensated when it resulted from normal wear-and-tear associated with day-to-day living and working conditions.*

Claims should be documented, if possible, and submitted with recommendations by the Union steward to the employer at the local level. The employer will submit the claim, with the employer's and the steward's recommendation, within 15 days to the regional office for determination. The claim will be adjudicated within thirty (30) days after receipt at the regional office. An adverse determination on the claim may be appealed pursuant to the procedures for appealing an adverse decision in Step 3 of the grievance-arbitration procedure.

> *A decision letter denying a claim in whole or in part will include notification of the Union's right to appeal the decision to arbitration under Article 15.*

The area office will provide to the Union's Regional representative a copy of the denial letter referenced above, the claim form, and all documentation submitted in connection with the claim. The installation head or designee will provide a copy of the denial letter to the steward whose recommendation is part of the claim form.

The above procedure does not apply to privately owned motor vehicles and the contents thereof. For such claims, employees may utilize the procedures of the Federal Tort Claims Act in accordance with Part 250 of the Administrative Support Manual.

> *The procedure specified therein shall be the exclusive procedure for such claims, which shall not be subject to the grievance-arbitration procedure. A tort claim may be filed on SF 95 which will be made available by the installation head, or designee.*
>
> *(The preceding Article, Article 27, shall apply to Transitional Employees.)*

Simply stated, Article 27 sets forth the following principles:

1. The claim must be filed within 14 days of the date of the loss.
2. The property claimed must be "personal property" in order to be eligible for reimbursement.
3. The loss or damage must be connected with or "incident to the employee's employment while on duty or while on Postal premises."
4. Possession of the property must have been reasonable or proper under the circumstances.
5. The damage or loss must not have been caused, in whole or in part, by the negligence of the employee.
6. The amount of the loss must reflect the depreciation value of the property.
7. The loss or damage will not be compensated when it resulted from normal wear and tear associated with day-to-day living and working conditions.

PROCEDURAL REQUIREMENTS

Section 645.2 of the Employee and Labor Relations Manual (ELM) provides that Form 2146, Employee Claim for Personal Property, must be filed to document a claim. However, this section also provides, "any written document received within the period allowed is treated as a proper claim if it provides substantiating information." Claims should be supported with evidence such as (a) date of purchase, and (b) sales receipt or statement from seller showing price and date of purchase. (See C-02940).

Article 27 requires an employee to file a timely claim within 14 days after the loss or damage occurred. Generally, the employee is expected to know the proper procedures to file, including the time limits. In C-05754, the arbitrator ruled that the employee's unfamiliarity with the contractual 14-day limitation did not excuse him from it, particularly where management had no role in his lack of knowledge. However, in C-01452, where neither the employee nor the steward knew of the proper procedures and the employee made a good faith attempt to file within the time limit, the arbitrator ruled that the delay was unavoidable and would not act to bar the claim.

It is uniformly accepted that the claim must be in writing. In C-05562, the employee missed the 14-day time limit and asserted his claim as timely due to oral communication with his supervisor following the accident. The arbitrator ruled, "Verbal relating of the fact of the accident and loss of employee to his supervisor can't be regarded as the filing of a written claim within 14 days of the date of the loss or damage. Even though the language of the agreement does not refer to a written clause, uniform past practices show that the claim should be in writing."

The arbitrator will not necessarily hold the actual claim form to be binding, if it turns out to be incorrect. In C-01389, the employee incorrectly described his claim, yet the arbitrator allowed oral evidence at the hearing to control. The arbitrator stated, "The resolution of the claim does not depend solely on the claim submitted. Where the language is incomplete or ambiguous, the Postal Service should ask for clarification or additional information."

WHAT CONSTITUTES "PERSONAL PROPERTY"?

"Personal property" includes cash, jewelry, clothing and uniforms as well as other items that are worn or otherwise brought to work. Personal property does not include automobiles (see "The automobile exclusion," below).

On some occasions management has argued that uniforms should not be considered personal property, at least to the extent that they were acquired with Postal Service funds through the uniform program. Arbitrators, however, have universally rejected that argument. In C-03004, the arbitrator ruled that, "Article 27 does not draw a distinction between uniforms purchased with personal funds and those secured through the allowance program. Nor does the obvious intent of that provision permit such a conclusion. Reimbursement is anticipated so long as compliance with the eligibility standards set forth therein is present. To deny reimbursement for damaged or lost uniform items subject to the annual uniform allowance would be to deny almost every such claim. A result of that magnitude may be supported only by an express exclusion and no such exclusion appears in the National Agreement." (*See also* C-04462, C-02686).

THE AUTOMOBILE EXCLUSION

Article 27 excludes privately owned motor vehicles and their contents. (See C-00124, C-01182, C-04053). Note, however, that if a letter carrier's automobile is damaged by "the negligent or wrongful act" of the Postal Service, the letter carrier may seek recovery under the Federal Tort Claims Act. To initiate a Tort Claim, a Form 95 should be completed and submitted.

Note also that the standard for establishing liability under the Tort Claims Act is different than the standard for reimbursement under Article 27, because they treat fault differently. To make a claim under Article 27 it is merely necessary to show that the loss or damage was "not caused in whole or in part by the negligent or wrongful act of the employee" -- whether or not there was also negligence on the part of the Postal Service. However, to recover under the Tort Claims procedure, it is not enough to demonstrate that the damage was not the fault of the employee -- the employee must establish that the damage was the fault of the Postal Service.

THE AUTOMOBILE EXCLUSION DOES NOT APPLY TO BICYCLES.

M-01440 Step 4
April 19, 2001, F90N-4F-C 95004286

We agree that non-motorized are not considered “privately owned vehicles”, such as those excluded from Article 27 procedures. Therefore, a claim for loss or damage to non-motorized bicycles can be made and decided in accordance with the provisions of Article 27

WHAT CONSTITUTES REASONABLE OR PROPER POSSESSION INCIDENT TO EMPLOYMENT?

In determining "reasonable, or proper" possession arbitrators generally evaluate: 1) whether it was necessary for the employee to have the lost or damaged item in his or her possession at work, and 2) whether the value of the item was too great to justify taking the risk of damage or loss at work.

The Postal Service has no duty to inform postal workers what jewelry or articles of adornment are not required for the performance of their employment duties if a claim is to be denied. The Postal Service may issue reasonable regulations and orders to control the appearance and garb of its employees; however, according to the arbitrator in C-01930 it has "no power to instruct and direct an employee how much money he might have in his wallet while delivering mail nor what items of jewelry or personal adornment he chooses to wear." That notwithstanding, the arbitrator further ruled that in order to successfully recover under Article 27, "the personal property for the loss of which reimbursement is sought, must be an item which the arbitrator can find, as a fact, was reasonably necessary for the postal worker to have on his person (or in his locker or at his work station)."

Generally, an employee's personal money and items such as a license or watch have been found to be incident to employment and possession deemed reasonable under the circumstances. (See C-07760, C-03968, C-04235, C-05223, C-06481). In C-05276, possession of a radio was also declared reasonable, where the Service allowed the carriers to use their radio headsets at their cases, signifying an affirmation that the use of radios was incidental to their work. (See also C-03408).

However, often where reimbursement for lost or stolen cash is requested, the Service has adopted a practice of setting a $20 maximum on reimbursement, an amount that management deems would be reasonable for an employee to have on his person on any given working day. Arbitrators have differed in their treatment of this practice. In C-05543, the arbitrator held the $20 maximum reimbursement sum set by the Postal Service, although not supported by any specific contractual language, to be "reasonable and reflective of a past consistent and fair practice." However, in C-09154, the arbitrator ruled that the $20 guideline was "too arbitrary and would preclude fair consideration of the circumstances of a given loss." In C-04501, the arbitrator held that where cash is held for personal reasons only, such as to pay a bill or purchase groceries after work, possession was not reasonable.

The reasonableness of a claim generally turns on the value of the item. Where the item being claimed is of unreasonable or excessive value, arbitrators generally rule in favor of the employer. In C-05223, the arbitrator held that where the employee damaged his expensive watch while delivering mail, the employee exercised poor judgment, and should have known the risk of damaging such an expensive piece of property. Therefore, the wearing of the watch was unreasonable.

Most arbitrators have ruled that expensive jewelry items such as personal rings or necklaces are not reasonably or properly connected with an employee's job duties as a letter carrier so as to justify responsibility in the employer (See C-08188). In C-06224, the arbitrator stated, "Whether or not a carrier wears a ring while at work is purely a personal decision. Such item is not required by the carrier's job. The employee is furnished a locker in which to keep personal belongings which he does not wish to take with him on his route." Generally, however, in cases involving wedding or engagement rings, arbitrators have ruled possession to be reasonable. In C-02145, the arbitrator ruled that although the wearing of expensive jewelry may create unreasonable risks, "it cannot be said that the wearing of a wedding ring or engagement ring while performing duty in the workplace is unreasonable or improper under the circumstances." (But see, C-04235).

WHAT CONSTITUTES NEGLIGENCE?

Under Article 27 of the Agreement, the Postal Service has no obligation to an employee who suffers loss if the loss is caused in whole or part by the negligent act of the employee. Negligence implies an absence of care; it involves the failure to act in a manner in which a reasonable person would have acted under the same circumstances.

In order to successfully deny a claim, the employer bears the burden of proving that the employee was negligent or failed to exercise reasonable care. Generally, a positive showing

that the employee was not exercising reasonable care is required to establish negligence or a wrongful act. (See C-06482). Where there is a common practice among employees, of which management acquiesces, the employee usually will not be found negligent in following this practice. (See C-02686).

In some cases, however, arbitrators have required the employee to show that there was no negligence involved. (See C-05531, C-04088). In C-02145, the arbitrator ruled in favor of the employer where management found no support for the employee's claim that heavy machinery had damaged her ring, and the employee failed to establish that the damage was not caused by her own negligence.

THE EMPLOYEE MUST TAKE REASONABLE MEASURES TO SAFEGUARD.

In most cases employees are expected to take reasonable measures to safeguard their personal property. Therefore, when an employee fails to attach a lock, chain or cable to secure his bicycle, he will likely be held negligent if his bicycle is stolen, and his claim will be barred. (See C-01589, C-06356). In C-01589, the arbitrator held that it was not reasonable for the employee to rely on the presence of a mail handler in the area as adequate protection against theft. In addition, the arbitrator ruled that a reasonable person should not need to be told to secure an expensive bicycle, therefore, the Postal Service has no obligation to give such notice.

In cases involving theft out of postal vehicles, it is generally required that the employee show that the vehicle was locked and adequately secured, and all reasonable measures were taken to protect the employee's property. (See C-03408; See also C-05542).

Arbitrators generally agree that possession of a purse in a postal vehicle by a female worker is a reasonable and common practice and does not constitute negligence or unreasonable possession for purposes of Article 27. (See C-03968 and C-06481). Where an employee leaves her purse unattended, in an open area, however, the employee will most likely be found negligent. (See C-07382).

DAMAGE OR LOSS DUE TO AN ACCIDENT

Where damage or loss is sustained due to an accident which is beyond the control of the employee, arbitrators are generally reluctant to find the employee negligent. In C-00132, the arbitrator ruled, "An accident is simply an unexpected incident which results in damage to property or person. It is not normal, it is unexpected and when the incident results in the loss of property, it is provided for by Article 27."

When an employee sustains a loss due to slipping or falling while performing his job duties, the claim is generally upheld. In C-01453, the grievant slipped on an icy sidewalk while making his rounds. According to the arbitrator, "Special training in walking on ice and snow indicates a degree of risk. There is always the possibility of an accident." Since there was no evidence of negligence on the part of the employee, the arbitrator upheld the claim.

EYEGLASSES

There have been a significant number of employee claims pertaining to loss or damage done to an employee's eyeglasses. Arbitrators generally require the employee to maintain well-adjusted glasses in order to receive recovery. In C-01389, the arbitrator stated, "If the evidence established that the glasses merely slipped off during the course of his work because they were not fastened or adjusted properly, the Postal Service should not be responsible for that damage under Article 27." Where glasses are knocked off during the course of a normal job performance, the employee will generally recover. (See C-00132, C-01452).

When the employee has taken affirmative steps to safeguard his/her property, arbitrators generally find this to be reasonable behavior. In C-00795, the employee lost his glasses while shoveling heavy snow, after placing his glasses in a case and affixing them to his clothing by a clip. The arbitrator found the employee "took those steps to safeguard his property which are usually taken by a reasonable person," and upheld the claim. Similarly, where an employee took reasonable precautions and left her glasses in a locked vehicle which was later broken into by a third person, the arbitrator found this to be reasonable behavior, and upheld the claim. (See C-01488, C-03814).

Arbitrators will look carefully at the judgment of the employee in the particular situation. Where the employee appears to have exercised poor judgment or acted carelessly, arbitrators usually rule that the claim cannot be justified. (See C-00194, C-01588). In C-01252, the employee left her glasses out on her work space temporarily,

and they were crushed by a falling newspaper roll. The arbitrator stated, "While anyone knows that glasses are easily broken, the average reasonably prudent person does take off his or her glasses occasionally and for short periods and places them either on the desk or other work place with the expectation that the glasses, after the short interval, will be picked up and worn. What the average reasonably prudent person does is not negligence or want of due care. On the other hand, to place glasses on a desk or other work place indefinitely, and unprotected, is a breach of due care."

WHAT CONSTITUTES NORMAL WEAR AND TEAR?

According to Article 27, "Loss or damage will not be compensated when it resulted from normal wear and tear associated with day-to-day living and working conditions." Normal wear and tear constitutes that damage that occurs during the normal course of working and day-to-day living. In C-02111, the arbitrator concluded that damage done to an employee's shirt by a customer's package was not ordinary wear and tear. In C-04462, where 5 pairs of trousers were damaged due to the employee's vehicle seat, the arbitrator ruled that this damage, all occurring in the same area, could not constitute ordinary wear and tear and upheld the claim.

PROOF OF VALUE

The employee and the Union bear the burden of proving the value of the personal property lost or damaged. The best evidence of value is a purchase receipt. If a receipt is unavailable, the claimant's own unsupported valuation of the lost or damaged property may not always satisfy the demands of proof. In C-07600, the arbitrator denied the claim where the evidence of value was only the testimony of the employee herself.

Although documentation is ordinarily the easiest way of proving the value of the damaged items, arbitrators may use their discretion in allowing recovery. In C-05773, the arbitrator concluded, "The fact that there was no documentation for the lost goods is not fatal to the grievant's claim. Article 27 does not state that all claims must be documented in order to be allowed.

REMEDY

Once an arbitrator concludes that management violated Article 27 in denying the employee's claim, a remedy is due. Article 27 establishes that the employer's obligation to provide reimbursement includes "taking into consideration depreciation." In C-00795, the arbitrator ruled, "The amount of the loss to which the employee is entitled is the depreciation value of the property loss, not the new or replacement value." Generally, in the absence of evidence showing the depreciation value, arbitrators have tended to award the employee 50% of the amount of replacement rather than conduct a new hearing to present evidence of depreciation value. (See C-00795, See also, C-01488).

If the property lost or damaged has a value clearly in excess of the reasonable value of personal property claimed to be needed for the performance of employment duties, the employee will have no assurance that he will be reimbursed for the full value of the property. In C-03408, the arbitrator determined that although possession of a radio was reasonable, the value claimed by the employee was excessive and reduced the claim. Similarly, in C-07600, the arbitrator found a claim for an expensive watch excessive and reduced it to a reasonable amount. See M-00969.

SUPPORTING MATERIAL

M-01028 CAU Paper, August 1, 1990
Contract Administration Unit publication summarizing arbitration awards concerning employee claims.

M-00142 Step 4
April 16, 1979, NCS 11585
The grievant may properly file a tort claim for damage to his vehicle while it was parked on U. S. Postal Service property, even though, a claim had been previously submitted and denied in accord with the provisions of Article 27 of the National Agreement.

M-01440 Step 4
April 19, 2001, F90N-4F-C 95004286
We agree that non-motorized are not considered “privately owned vehicles”, such as those excluded from Article 27 procedures. Therefore, a claim for loss or damage to non-motorized bicycles can be made and decided in accordance with the provisions of Article 27

M-00435 Step 4
September 1, 1977, NCC 7656
The employee should have been supplied with a Form 2146 to file a claim for lost property whether or not management had determined the legitimacy of that claim.

M-00228 Step 4
Aug 31, 1977, NCE 7534
The grievant was properly denied payment for the loss of a battery in her motor vehicle.

C-06718 Regional Arbitrator Britton
October 25, 1986, S4N-3Q-C-20531
An arbitrator has authority to order management to reimburse an employee for loss of personal property.

EMPLOYEE INVOLVEMENT

M-00640 NLRB Advisory Opinion
January 22, 1985
The Union was privileged to demand that only Union members be chosen to serve on Employee Involvement Program work-teams because these teams will potentially be engaging in collective bargaining. Therefore, the Employer did not violate Section 8(a)(3) of the Act by agreeing to and enforcing such a limitation on employee participation in the Employee Involvement Program.

C-10363 National Arbitrator Mittenthal
November 16, 1990, H4T-2A-C 36687
The arbitrator ruled that the Postal Service violated APWU's rights under Article 17, Section 3 and Article 31 by refusing to provide copies of USPS/Mail Handler E.I. workteam minutes.

M-00478 Step 4
December 4, 1985, H4N-5L-C 4223
Facilitators may bid for letter carrier assignments.

C-11168 Regional Arbitrator Roukis
June 6, 1990
Management violated Article 1 when it unilaterally established an "Employee-Management Quality Program."

M-01147 APWU Pre-arb
March 5, 1990, H4C-5G-C 15749
The National parties have previously agreed that bargaining unit employees of the APWU are not to be included on Quality Improvement Teams if the local union is opposed to their inclusion.

EMPLOYER CLAIMS

IN GENERAL

M-01192 Memorandum
July 20, 1994

The parties agree that bargaining unit employees will be provided an opportunity to petition for a hearing regarding monies demanded by the Employer pursuant to the Debt Collection Act as promulgated in postal regulations found in the Employee and Labor Relations Manual and in other handbooks, manuals, and published regulations of the Postal Service. The following procedures embody our agreement and outline this process and its relationship to the grievance-arbitration procedures in Article 15 of the National Agreement:

1) A bargaining unit employee shall have the right to file a grievance under the provisions in Article 15 of the National Agreement concerning any letter of demand, to challenge the existence of a debt owed to the Postal Service, the amount of such debt, and the proposed repayment schedule. A bargaining unit employee also shall have the right to file a grievance under the provisions in Article 15 of the National Agreement concerning any other issue arising under Article 28 of the National Agreement. However, if no grievance challenging the existence of a debt owed to the Postal Service, the amount of such debt, or the proposed repayment schedule, is initiated within 14 days of receipt of the letter of demand, and the Employer intends to proceed with the collection of the debt, the employee will be issued a "Notice of Involuntary Administrative Salary Offsets Under the Debt Collection Act," with a right to petition for a hearing, pursuant to the Debt Collection Act.

2) At any stage of the grievance-arbitration procedure where the existence of a debt, the amount of debt, or the proposed repayment schedule has been resolved through a written settlement between the Employer and the Union, and the employee remains liable for all or some of the debt, the employee will be issued a "Notice of Involuntary Administrative Salary Offsets Under the Debt Collection Act." If a petition for hearing is filed, the Postal Service is free, before the Hearing Officer, to pursue collection of the full amount of the debt. However, any contractual issue settled by the parties in the grievance-arbitration procedure will be final and binding.

3) At any stage of the grievance-arbitration procedure where a grievance has not been initiated or advanced to the next step within the time limits set forth in Article 15 of the National Agreement, and the Employer intends to proceed with collection of the debt, the employee will be issued a "Notice of Involuntary Administrative Salary Offsets Under the Debt Collection Act."

4) When an arbitrator finds the grievance is not arbitrable, and the Employer intents to proceed with the collection of the debt, the employee will be issued a "Notice of Involuntary Administrative Salary Offsets Under the Debt Collection Act."

5) Once an arbitration hearing has opened on the merits of any money demand, the employee will not be issued a "Notice of Involuntary Administrative Salary Offsets Under the Debt Collection Act," unless the arbitrator finds the grievance is not arbitrable or the grievance is settled pursuant to paragraph numbered 2.

6) If a grievance is initiated and advanced through the grievance- arbitration procedure or a petition has been filed pursuant to the Debt Collection Act, regardless of the amount and type of debt, collection of the debt will be delayed until disposition of the grievance and/or petition has (have) been had, either through settlement or exhaustion of contractual and/or administrative remedies.

7) No more than 15 percent of an employee's disposable pay or 20 percent of the employee's biweekly gross pay, whichever is lower, may be deducted each pay period to satisfy a postal debt, unless the parties agree, in writing, to a different amount.

8) The provisions of paragraphs 6 and 7 of this Memorandum, regarding the delay of collection of the monies demanded and the amount to be collected through payroll deductions, will be incorporated in Article 28, Section 4 of the 1994 National Agreement.

9) An administrative hearing under the Debt Collection Act may be conducted by any individual not under the supervision or control of the Postmaster General, but may include a hearing official designated by the Judicial Officer.

M-01415 Step 4
Q98N-4Q-C 00104081
Settlement of national Level grievance withdrawing a USPS proposal to use a "salary offset" process to collect certain salary overpayments.

M-01338 Prearbitration Settlement
August 7, 1998, H94N-4H C 97080228
Claims for over-payment regarding the promotion pay settlement will be processed in accordance with Article 28 of the National Agreement and Section 437 of the ELM.

M-01349 USPS Letter
September 22, 1988
USPS policy does not allow field offices to stop Bank/Direct Deposits until salary advances are collected.

C-02968 National Arbitrator Fasser
February 23, 1977 NBE 5724
Failure of a Letter of Warning for negligence to state specifically that the carrier had a right to grieve the warning rendered it inadequate; failure to grieve a letter of warning does not bar grievance of a subsequent letter of demand.

C-09382 Regional Arbitrator Taylor
August 22, 1989, S4N-3E-C 52067
Letter of demand is rescinded where mail was lost after it was left unattended by the letter carrier in the post office.

C-11105 Regional Arbitrator Helburn
August 15, 1991
Letter of demand issued grievant is rescinded because her departure from proper practice was condoned and management's investigation was inadequate.

C-10697 Regional Arbitrator R. G. Williams
February 26, 1991, S7N-3V-C 33759
Where the employee failed to submit an adequate medical certificate, management properly demanded repayment of sick leave. *See also* C-10670

M-00533 Step 4
December 6, 1984, H1N-3W-C 34695
In accordance with ASM 273.272, management is proper in charging an employee for a lost badge. Management shall, however, inform an employee of a money demand under Article 28 of the National Agreement, and the demand must include the reasons therefore.

M-00352 Step 4
May 13, 1977, NCE 5626
Part 271 of the Postal Service Manual applies to damage or loss of government property not loss or damage of private property.

M-00676 Step 4
April 22, 1977, NCC 4750
In view of the hardships experienced by the grievant by paying $50 per pay period in order to liquidate this liability, it was agreed that we would reduce the required payment to $25 per pay period.

C-11293 Regional Arbitrator Axon
W7N-5L-D 30655, October 21. 1991
Where management made no attempt to recover a misdelivered piece of registered mail for more than a month, even where the employee failed to exercise reasonable care the Employer Demand must be reduced.

PROCEDURAL REQUIREMENTS

C-10686 Regional Arbitrator Martin
July 20, 1990
Management violated the contract when it deducted a claimed overpayment from grievant's paycheck without first issuing a letter of demand.

C-11012 Regional Arbitrator Powell
November 26, 1990
Management violated the contract when it issued a letter of demand which did not comport with the technical requirements of Article 28 and the F-1 Handbook.

C-10679 Regional Arbitrator Zumas
July 16, 1990, N4C-1A-C 25151
Management violated the contract when it failed to state the employee's grievance rights in a letter of demand.

C-00011 Regional Arbitrator Cohen
February 24, 1982, C8C-4F-C 27250
Management violated the contract when it docked the employee for overpaid annual leave without issuing a letter of demand.

M-01029 Pre-arb
December 10, 1991, H7N-1P-C-14879
The issue in this grievance is whether management may cash an employee's salary check to satisfy a letter of demand. In seeking to collect a debt from a collective bargaining unit employee, the U.S. Postal Service adheres to the procedural requirements governing the collection of debts as specified in Article 28, Employer Claims, of the National Agreement, and ELM 460, Collection of Debts from Bargaining Unit Employees. The cashing of an employee's payroll check without permission is inappropriate.

TIMELINESS

C-10942 Regional Arbitrator Taylor
July 15, 1991, S7N-3V-D 35904
Employer Claim was improper where carrier was not questioned about delivery for five months, although patron's claim was filed one month after delivery.

C-09557 Regional Arbitrator Pickett
November 29, 1989, W7N-5D-C 9940
Employer claim was proper, although management failed to interview employee concerning loss of mail until four months after loss.

INSURANCE PREMIUMS

M-01446 Step 4
September 9, 2001, Q98N-4Q-C 00187353
The parties agree that nothing contained in Section 437 of the Employee and Labor Relations Manual precludes an employee from requesting a waiver where the employer erroneously failed to withhold employee insurance premiums.

M-01095 Pre-arb
July 13, 1992, H7N-NA-C 50
The issue in these grievances involves changes occurring in Issues 11 and 12 of the Employee & Labor Relations Manual (ELM).

Without prejudice to its ability to make future changes pursuant to Article 19, management shall adhere to the provisions of ELM Section 437 as they were published in Issue 10 of the ELM. Any timely grievance alleging a violation of ELM 437 shall be processed as if the provisions of ELM Issue 10 were in effect.

Note: See M-01231 for a copy of ELM Section 437 as it was published in Issue 10. Note that it is labeled "Issue 9" since it was not changed when Issue 10 was published (See cover page).

C-00859 National Arbitrator Fasser
June 29, 1978, ABE 4810
The recoupment of allegedly overpaid wages is an arbitrable matter; in this case, where life insurance payroll deductions were not made because of administrative error, the grievance was not covered by the insurance and the grievance was sustained.

C-07642 Regional Arbitrator Gentile
December 14, 1987, W4N-5H-C 46068
Life insurance payroll deductions were not made because of administrative error by the Postal Service. The arbitrator found that the letter of demand was not justified under the National Agreement.

C-10696 Regional Arbitrator Zumas
July 16, 1990
Management may not impose a Letter of Demand for health insurance premiums unless it can demonstrate that USPS actually paid the premiums.

C-00012 Regional Arbitrator Cohen
January 5, 1982, C8C-4G-C 33104
Management violated the contract when it issued a letter of demand for unpaid health benefit premiums, where the employee claimed there had been no coverage and management failed to prove otherwise.

VEHICLES

M-00899 Step 4
February 7, 1989, H1N-5G-C 28042
Pursuant to statutory and judicial mandates, government (postal) employees are protected from liability for vehicle accidents arising out of their negligence while acting in the scope of their employment. Accordingly, the letter of demand will be rescinded.

M-00673 Step 4
February 26, 1973, NC 1388
We do not believe that the evidence shows that the damage to the vehicle was the result of the willful of deliberate misconduct of the grievant. Therefore, the grievance is sustained.

M-00426 Step 4
March 14, 1978, NCN 8809
Based on the evidence presented in this grievance, we find that the grievant was properly assessed for damage to the Postal Service vehicle as the result of his willful or deliberate misconduct which resulted in the accident in question. However, Part 271 of the Postal Service Manual applies to damage or loss of government property and not loss or damage of private property. Based on the foregoing, it was inappropriate to issue the letter of demand to the grievant for the amount of damages to private property.

EXCESSING

C-16923 National Arbitrator Snow
I90N-4I C 92057810, June 20, 1997
Article 12.5.C.6 of the 1990 National Agreement does not alter the reassignment rules specified by Article 12.5.C.5 pursuant to which excess employees are reassigned across craft lines within an installation before being assigned to a different installation

C-20485 National Arbitrator Das
H7C-NA-C 82, March 21, 2000
The issue is whether the phrase “in excess of the part-time flexible quota for the craft”, and, more particularly, the term “quota” found in Article 12.5.C.8 has any meaning or is an obsolete relic.

The evidence as to bargaining history and the consistent and accepted application of Article 12.5.C.8 since 1971 establishes that the PTF quota language has no current meaning, and has had none since 1971.

C-22368 National Arbitrator Snow
H0C-NA-C 12, July 27, 2001
The language in Article 12.5.C.5.a(2) allows the employer discretion in separating casuals prior to excessing consistent with the following agreement among the parties: "All casuals must be removed if it will eliminate the impact on regular workforce employees. The employer must eliminate all casual employees to the extent that it will minimize the impact on the regular workforce."

C-11528 National Arbitrator Snow
December 19, 1991, H7N-4Q-C 10845
Senior employees excessed into the Letter Carrier Craft under terms of Article 12.5.C.5.a must begin a "new period" of seniority pursuant to the provisions of Article 41.2.G of the parties National Agreement. Article 41.2.G prevails and employees reassigned from other crafts must begin a new period of seniority in the Letter Carrier Craft.

M-01082 APWU Memorandum, April 16, 1992
The United States Postal Service and the American Postal Workers Union, AFL-CIO (Parties), mutually agree that Arbitrator Carlton Snow's award in Case Number H7N-4Q-C-10845 shall be applied in a prospective fashion effective with the date of the award.

Accordingly, employees who are excessed into APWU represented crafts (Clerk, Maintenance, Motor Vehicle, and Special Delivery Messenger) after December 19, 1991, under the provisions of Article 12.5.C.5, shall begin a new period of seniority.

M-01118 Step 4
January 13, 1993, H0N-NA-C 15
The issue in this grievance is whether management violated the National Agreement in the manner in which it responded to the National Union's request for comparative workhour reports.

During our discussion, we mutually agreed that such requests will not be unreasonably delayed. Normally, such requests shall be responded to within sixty days. On those occasions when requests cannot be responded to within the sixty days, the union will be so advised

EXPRESS MAIL

M-00601 National Joint City Delivery Meeting
Nov 17, 1983
The performance of "acceptance functions" is not a responsibility of letter carriers except where the collection involves the scheduled pick-up of Custom Designed Next Day Express Mail. Carriers picking up express mail at random in the normal course of performing their delivery and collection duties need only ensure that postage is affixed just as they are required to do with all collection mail.

M-00870 Pre-arb
November 1, 1988, H4N-3U-C 25828
We mutually agreed the general delivery and pickup of express Mail is bargaining-unit work. It is also understood that management has not designated this work to any specific craft. In accordance with the above understanding, management is prohibited from performing bargaining-unit work except as enumerated in Article 1, Section 6.

This settlement is not intended to prohibit management from assigning available personnel as necessary, including non-bargaining-unit persons, to meet its commitment where Express Mail is concerned in connection with noon and 3 p.m. deliveries and office closings. *See also* M-00955 *(APWU)*

JURISDICTION

C-13863 National Arbitrator Mittenthal
September 29, 1994, H0C-NA-C 14
H7N-3A-C 24946 "Arlington Texas Case"
The Special Delivery Craft does not have exclusive jurisdiction over the delivery of express mail.

C-15602 National Arbitrator Snow
B90V-4B-C 93032199, July 24, 1996
The Postal Service did not violate the national agreement when it assigned other than Motor Vehicle Service Division employees to transport bulk quantities of Express Mail.

M-00136 Step 4
May 31, 1985, H1N-3T-C 38350
It is the position of the Postal Service that neither the delivery nor the transportation of Express Mail is exclusively letter carrier craft work.

M-01013 Step 4
September 5, 1991, H7N-3V-C 37666
We agreed the delivery of Express Mail is controlled in part by the provisions of Handbooks M-68 and DM-201.

C-00248 Regional Arbitrator Dworkin
September 23, 1984, C1S-4H-C 27303
The Special Delivery Craft does not have exclusive jurisdiction over delivery of express mail; Management did not "cross crafts" when it had PTF carriers deliver express mail.

M-01037 APWU Step 4
July 11, 1986, H1S-4B-C 34169
The question raised in these grievances involved the use of Letter Carriers to deliver Express Mail.

After further review of this matter, we mutually agreed that no national interpretive issue is fairly presented in the particulars evidenced in these cases. We agreed that the delivery and collection of Express Mail can be accomplished as determined by management. The specific duties are not designated to any one craft and are assigned in accordance with the M-68, Express Mail Handbook.

FITNESS FOR DUTY EXAMINATIONS

SEE ALSO

Drug testing, Page 93
Medical Examinations, Page 233

M-00778 Step 4
July 15, 1977, NCS 6645
Management does have the right to send an employee for another medical opinion or fitness-for-duty examination.

M-00860 Step 4
October 17, 1988, H4C-NA-C 79
Part 343.31 of the P-11 Handbook states, "The appointing officer completes Form 2485, Certificate of Medical Examination, Section B only and the installation head signs it." We agree that the intent of this language is that the installation head will be the postal official authorizing the Fitness for Duty Examination.

M-01161 Prearb
December 10, 1993, H7N-5F-C 26185
This grievance concerns the scheduling of an appointment for prescribed medical treatment as a result of a job-related injury. It is agreed that an employee cannot be required or compelled by the postal Service to undergo a scheduled medical examination and/or treatment during non-work hours.

M-01324 Pre-arbitration Settlement
May 21, 1998, J94N-4J-C 97063003
It was mutually agreed that there is no dispute at this level concerning the use of Form CA-17 for fitness-for-duty determinations incident to on-the-job injury or illness. We acknowledge Part 547.34 of the Employee and Labor Relations Manual, which specifies in pertinent part:

The following procedures apply only to fitness-for-duty determinations incident to an on-the-job injury or illness. Fitness-for-duty determinations for other purposes are not covered by this instruction.

A. The physician or hospital must, for each visit of the employee make a professional statement, using Form CA-17 showing the employee is either:

1. Fit for duty; or

2. Fit for limited duty, and the work tolerance limitations due to the injury; or

3. Not fit-for-duty with an expected return-to-duty date.

M-00647 Step 4
December 13, 1978, NC-N-12792
The National Agreement does not provide for the payment of a union steward who accompanies an employee to a medical facility for a fitness-for-duty examination.

M-00901 Step 4
March 7, 1989, H7N-2K-C 7670
While non-medical personnel may administer blood pressure tests, only the medical officer is authorized to make determinations concerning an employee's fitness-for-duty.

C-09903 Regional Arbitrator Martin
March 9, 1990
Management did not violate the contract by refusing work to an employee who had balked when requested to provide a urine sample during a fitness-for-duty examination.

C-09670 Regional Arbitrator Dunn
February 5, 1990
Grievant properly refused week-long hospitalization as fitness-for-duty examination, where USPS indicated it would not pay for cost of hospitalization.

C-10971 Regional Arbitrator Talmadge
August 8, 1991
Management acted reasonably when it made its initial determination that Grievant was unfit for duty as a result of mental illness. USPS doctor acted reasonably when he referred Grievant to a state hospital, where grievant was involuntarily detained for two weeks.

C-00284 Regional Arbitrator Schedler
July 6, 1982, S1C-3U-D 4132
Management violated Article 2 when it placed a 5 foot, 96 pound female off-the-clock for three weeks while waiting for a post office medical ruling on her physical suitability for continued employment.

C-10678 Regional Arbitrator Zumas
July 20, 1990 N4C-1A-C 28399
Management violated the contract when it required medical clearance in the form of a fitness-for-duty exam of an employee who had been absent for military service.

PAYMENT FOR TIME, TRAVEL

M-01045 APWU Step 4
January 30, 1980, E8C-2B-C-2061
During our discussion, we concluded that at issue in this grievance is whether management must pay an employee for all time spent to undergo a Fitness-for-Duty exam at the employer's request; and whether charging such time to an employee's annual leave constitutes such payment.

After reviewing the information provided, it is our position that time spent by an employee in waiting for and receiving such medical attention at the direction of the employer constitutes hours worked. Thus, the grievant in this case shall be carried in an official duty pay status for all time involved. In addition, any annual leave charged to the grievant shall be recredited to his balance.

M-00094 APWU Step 4
November 14, 1984, H1C-5F-C 9268
The proper compensation for undergoing a fitness-for-duty examination on a non-scheduled day is pay for time actually spent taking the examination, including travel time. *See also* M-00616, M-00617

M-00550 APWU Step 4
October 11, 1983, H1C-4F-C 19109
The grievant is not entitled to an eight-hour guarantee for time spent undergoing a Fitness-for-Duty Examination. Article 8 guarantees are only applicable to work situations. The grievant was not called in to perform any work. It should be noted that the grievant was compensated at the overtime rate for the time spent undergoing this examination.

M-01350 Step 4
J94N-4J-C 97009363, November 5, 1998
The issue in this case is whether management is required to compensate an employee for time spent in a medical facility, after the employees tour of duty has ended, as a result of a management directed medical evaluation. After reviewing this matter, it has been decided to sustain this case.

M-00356 Step 4
May 23, 1985, H1N-5F-C 29072
On his nonscheduled day, the grievant was scheduled for a fitness-for duty examination. The file reflects that the grievant was paid for the time actually involved. It is the position of the Postal Service that the grievant was not called in to work on his nonscheduled day. Therefore, the grievant is not entitled to 8 hours of guaranteed work or pay under Article 8, Section 8.

C-10984 Regional Arbitrator Purcell
July 29, 1991
Where the Grievant was ordered to undergo a fitness-for-duty exam outside of her normal schedule, and where she was paid administrative leave for the balance of the day, Grievant was not entitled to be paid out-of-schedule overtime. Such payment is made only for "work" and Grievant performed no work on the day in question.

FORMS

The primary reference manual for Postal Service forms is the *Directives and Forms Catalog, Publication 223*, available on the Postal Service's website, http://www.usps.com. In addition to identifying all authorized forms by number, name, and edition date, it provides a reference to the handbooks or manuals where their use is described.

LOCALLY DEVELOPED OR MODIFIED

C-00427 National Arbitrator Garrett
January 19, 1977, MB-NAT-562
"The development of a new form locally to deal with Stewards' absences from assigned duties on Union business -- as a substitute for a national form embodied in an existing Manual (and thus in conflict with that Manual) -- thus falls within the second paragraph of Article XIX. Since the procedure there set forth has not been invoked by the Postal Service, it would follow that the form must be withdrawn."

M-01461 Step 4 Settlement
April 24, 2002 Step 4, Q98N-4Q-C-02071061
The issue in this case is whether local management may alter a national form.

We mutually agreed that there are no material facts in dispute with this case.

We further agree that, in accordance with Arbitrator Garrett's decision in National case MB-NAT-562, a national form directly relating to wages, hours or working conditions and embodied in an existing handbook or manual covered by the provisions of Article 19 can only be changed through the procedures specified in the second paragraph of Article 19.

Accordingly, the local forms at issue may not be used for route inspections in lieu of the national PS Form 1838-C.

M-00852 Pre-arb
November 24, 1992, H7N-2D-C 42122
The issuance of local forms, and the local revision of existing forms is governed by Section 324.12 of the Administrative Support Manual (ASM). The locally developed form was not promulgated according to ASM, Section 324.12. Therefore, management will discontinue the use of the subject form. *See also* M-00808, M-00809, M-00821, M-00849, M-00887, M-00852, M-01107

M-01325 Step 4
May 6, 1998, I94N-4I-C 97116055
We agreed that the issuance of local forms, and the local revision of existing forms is governed by Section 325 of the Administrative Support Manual (ASM).

The locally modified form at issue was not promulgated according to ASM 325.12. Therefore, management will discontinue using this form.

M-00190 Step 4
September 22, 1981, H8N-5G-C 16694
Whether or not management violates Article 19 of the National Agreement by use of a Daily Management Productivity Control Form: The form in question is merely a management tool being utilized to gather information. As such, it is not used for disciplinary or route adjustment purposes.

M-00038 Step 4
September 10, 1982, H1N-5G-C 4724
The Postmaster will discontinue the use of the "checklist of unsatisfactory casing procedures."

M-00075 Step 4
September 27, 1983, H1N-5B-C 13425
The Los Angeles MSC Manager/Postmaster shall remove the Route Assistance Worksheets from all the carriers' order books.

M-00319 Step 4
July 3, 1985, H1C-5D-C 30950
Management may document unsafe practices. However, inasmuch as there is no national requirement for employees to acknowledge that the subject information was documented, they should not be required to sign a local form, such as the one referenced to in this grievance.

M-00853 Step 4
January 12, 1983, H1N-5K-C 6754
The issue in this grievance involves the requirement of carriers to record their daily leaving and return times on a tablet placed on the carrier cases. Such leaving and returning time notations are inappropriate and will be discontinued upon receipt of this decision

M-00079 Step 4
November 9, 1983, H1N-5G-C 14955
Under ELM 513.362, an employee is required to provide "acceptable evidence of incapacity to work." The form in question has been determined by local management to meet that requirement. Accordingly, the form may be provided as a convenience to an employee, and its use by employees is optional.

M-00995 Step 4
October 24, 1990, H7N-5M-C 14783
The issue in this grievance is whether management violated the National Agreement when it used a locally developed form requiring routers to record footage cased on each route.

During our discussion, we mutually agreed that no national interpretive issue is fairly presented in this case. We also agreed that the issuance of local forms is governed by Section 324.12 of the Administrative Support Manual (ASM). The locally developed form (5M-001, Router Assignment Form) was properly promulgated in accordance with existing regulations and this grievance is settled as follows:

The form cited in this grievance is being used as a management tool for date collection and the assignment and matching of router work load and work hours and may not be used as a basis for discipline. Further, this form is not to be used to develop work and/or time standards or to determine whether they have been met.

Accordingly, management may continue to use the Router Assignment Form 5M-001.

M-01334 Pre-arbitration Settlement
July 16, 1998, H90N-4H-C 96029292
The issue in this grievance is whether management violated the National Agreement by developing a local form which was not approved in accordance with the ASM. The development of local forms is governed by the ASM. This grievance concerns a letter which is being issued to employees locally, entitled, "Accident Repeater Alert!!!

During our discussion, we mutually agreed that the development of local forms is governed by the ASM. Therefore, the issuance of the "Accident Repeater Alert!!! letter will be discontinued.

M-01361 Step 4
October 22, 1998, D94N-4D-C 96071608
This grievance concerns the use of collection cards in an effort to improve service through proper collection of mail and the use of locally developed forms. After reviewing this matter, we mutually agreed that there is no dispute at this level concerning a carrier s responsibility for the collection of mail, and for the proper use of cards used to verify and/or remind carriers of such collections. The parties further agree that management may document the fact that letter carriers have been given appropriate instruction on the proper handling of such cards. However, as these cards are not currently identified as accountable items in part 261 of Handbook M-41, carriers are not currently required to sign/initial to verify receipt of these cards. We also agreed that the issuance of local forms, and the local revision of existing forms is governed by Section 325.12 of the Administrative Support Manual (ASM). The locally developed forms at issue were not promulgated according to the ASM, Section 325.12. Therefore, management will immediately discontinue there use until such time as they comply with the above cited provision.

SIGNING FORMS

M-00529 Step 4
June 25, 1984, H1N-5K-C 20444
We found no requirement under the referenced sections of the P-23 Handbook that letter carriers initial, date or verify the time used for periodic safety talks on Form 2548-A. The referenced sections clearly concern initial craft skill training.

M-00544 Step 4
July 5, 1985, H1N-1J-C 40875
Management may document the fact that specific provisions of handbooks and manuals were reviewed by the carriers and that information regarding vehicle operations was given to the carriers. However, inasmuch as there is no national requirement for carriers to acknowledge that the subject information was received, carriers should not be required to sign a local form.

M-01302 Prearbitration Settlement
February 24, 1998, H90N-4H-C 95018608
The issue in this grievance is whether management violated the National Agreement when a local policy was issued and carriers were required to sign off that they were present when the information was read to them. After reviewing this matter, the parties mutually agreed to the following: There is no requirement that a carrier sign that the subject information was received.

M-00411 Step 4
January 12, 1983, H1N-5K-C 6754
The issue in this grievance involves the requirement of carriers to record their daily leaving and return times on a tablet placed on the carrier cases. Such leaving and returning time notations are inappropriate and will be discontinued upon receipt of this decision.

M-00069 Step 4
November 3, 1983, H1N-4B-C 18836
Management required an employee involved in an accident, to complete the locally devised Accident Prevention Inquiry Form. The completion of the local form by an employee shall be voluntary. However, an employee may be required to answer the questions verbally. Such information can then be documented by the manager on PS Form 1769.

M-00495 Step 4
March 12, 1984, H8N-3U-C 19864
Management may complete Form 3971 for an employee who refused to work overtime; however, the employee cannot be required to sign the form.

M-00015 Step 4
November 17, 1977, NC-S-8696
Signatures or initials may be required to verify attendance at a meeting, receipt of a document, etc. However, to require an employee to sign that he has read and understood instruction, as a condition of employment for which disciplinary action may be administered, is inappropriate. *See also* M-00851

M-00465 Step 4
September 1, 1982, H1N-1N-C 325
PS Form 2548-A is completed by the training agent and/or immediate supervisor. The initialing of this form by an employee is not a condition of employment and employees should not be required to initial the form under the threat of disciplinary action.

M-00319 Step 4
July 3, 1985, H1C-5D-C 30950
Management may document unsafe practices. However, inasmuch as there is no national requirement for employees to acknowledge that the subject information was documented, they should not be required to sign a local form, such as the one referenced to in this grievance.

M-01229 Step 4
May 9, 1995, H90N-4H-C 94027675
The issue in these grievances is whether Management violated the National Agreement by developing and requiring carriers to sign a preprinted card apologizing for misdeliveries.

Development and issuance of local forms is governed by Section 325.12 of the Administrative Support Manual. Further, employees should not be required to sign cards such as the ones referenced in this grievance.

M-00328 Step 4
May 26, 1972, N-W-315
It is the decision of the U. S. Postal Service that the signing of the form which is the subject of this grievance cannot be made a "condition of employment" and further that the failure of an employee to sign the attestation affixed thereto cannot be a subject for disciplinary action.

M-00942 **Step 4**
June 13, 1989, H7N-5R-C 5943
The issue in this grievance is whether management violated the National Agreement by its use of a "Checklist of Unsatisfactory Casing Procedures" We agree that while the checklist is an appropriate means by which a supervisor may acquire a set of personal notes on the individual performance of his subordinates, a carrier may not be required to sign the checklist.

M-00069 **Step 4**
November 3, 1983, H1N-4B-C 18836
Management required an employee involved in an accident, to complete the locally devised Accident Prevention Inquiry Form. The completion of the local form by an employee shall be voluntary. However, an employee may be required to answer the questions verbally. Such information can then be documented by the manager on PS Form 1769.

FORM CA-8 CLAIM FOR CONTINUING COMPENSATION

M-00797 **Step 4**
April 3, 1987, H4C-3A-C 25605
The issue in this grievance is whether management's instructions requiring employees on limited duty to pick up CA-8 forms during daytime hours at the Injury Compensation Office violates the National Agreement. During our discussion, we mutually agreed that the following constitutes full and final settlement of this case:

The said forms will be made available to employees in limited duty status on all tours.

FORM CA-16 REQUEST FOR EXAMINATION/TREATMENT

M-01087 **Step 4**
April 20, 1992, H7N-5K-C 31951
The issue in this grievance is whether forms CA-16, Request for Examination and/or treatment, must be maintained at the West Jordan Post Office.

During our discussion you were advised that the West Jordan installation now has forms CA-16 on hand and will maintain an adequate supply. The issue is considered moot.

FORM 50 NOTIFICATION OF PERSONNEL ACTION

SEE ALSO PERSONNEL FILE, PAGE 289

M-00819 **Letter, April 18, 1988**
A Form 50 is processed to initiate a step deferral and when such deferral is subsequently canceled, appropriate action will be taken to ensure that reference to the canceled action does not appear in the employee's Official Personnel Folder or in the history section of subsequent Form 50s.

M-01442 **Prearbitration Settlement**
April 17, 2001, B94N-4B-C 97120651
An employee's Form 50 may reflect only one duty station. A Form 50 which lists more than one duty station will be amended to reflect one duty station.

FORM 313 REQUISITION FOR CASE LABELS

See Case Labels, page, 189

OF-346 OPERATOR'S LICENSE

See Driving Privileges, page 88

FORM 1187 DUES WITHHOLDIING

M-00317 **Step 4**
July 19, 1985, H4N-4J-C 2536
Completion of SF-1187 as identified in ELM 913.414 will be permitted during employee orientation in the areas designated by management.

FORM 1188 DUES REVOCATION

M-00918 **Step 4**
April 13 1989, H4N-5M-C 46561
Inasmuch as the submission of PS Form 1188 was outside the window period as prescribed in Article 17 Section 7, the discontinuing of dues withholding was improper. The parties are directed to apply the principles outlined in case M-NAT-196 and M-W-166, issued by Arbitrator Sylvester Garrett, July 30, 1975 (C-00723).

C-00723 National Arbitrator Garrett
July 30, 1975, M-NAT-196
Where dues for any given month are not deducted from the pay of an individual employee, by the Postal Service, pursuant to a valid checkoff authorization, the Service nonetheless is obliged under Article XVII, Section 7-A of the 1971 National Agreement to pay over to the Mail Handlers the amount of dues which should have been deducted.

Where innocent failure to check off dues pursuant to a valid checkoff authorization results in an overpayment of wages to an individual employee, no authorization by the individual is required to permit the Postal Service to recoup the amount of such overpayment in a subsequent pay period or pay periods.

C-11197 Regional Arbitrator Dworkin
C1C-4B-C 11033, December 11, 1985
Where management improperly permitted employees to revoke dues authorizations, management must reimburse the union for the amount of dues lost.

FORM 1216 EMPLOYEE'S CURRENT ADDRESS

C-09460 Regional Arbitrator P.M. Williams
Grievance is timely where filed within 14 days of grievant's receipt of removal notice, although notice had been mailed to last known address two months earlier and grievant had not updated Form 1216.

FORM 1260 NON TRANSACTOR TIME CARD

M-00414 Step 4
November 14, 1977, NCS 7834
When the transactor unit is malfunctioning, employees will be allowed to clock-in on Form 1260 as provided in the M-39 Handbook Section 215.2.

FORM 1564 CARRIER ROUTE INSTRUCTION

M-00134 Letter, February 21, 1979
No time will be noted of Form 1564 when designating the approximate location where breaks are to be taken.

M-00842 Step 4
June 15, 1983, H1N-5G-C 10222
Those carriers not included in items 1 through 4 of footnote 2, on Form 1564-A, shall not be required to complete those portions of the form annotated by footnote 2, except at their option.

FORM 1571 REPORT OF UNDELIVERED MAIL

M-00413 Step 4
October 28, 1983, H1N-5F-C 12482
We agreed to settle this case based on our mutual understanding that forms 1571 and 3996 are to be completed on the day to which they apply.

M-00971 Step 4
July 23, 1990, H7N-5T-C 7855
If it is determined that the use of forms 1571 is of a recurring nature, then appropriate time should be entered on Line 21. If the use of these forms is not of a recurring nature, then the time should be entered on line 22 during the mail count and inspection. The determination of recurring or non-recurring must be made locally.

FORM 1583 APPLICATION OF DELIVERY THROUGH AGENT

M-01224 Step 4
August 16, 1995, E90N-4E-C 94055266
The issue in this grievance is whether Management violated the National Agreement by permitting a Commercial Mail Receiving Agency (CMRA) to deliver mall merchant's mail.

During our discussions the parties agreed that CMRA's are only allowed to handle merchant's mail when PS Form 1583 (Application of Delivery Through Agent) has been submitted by a merchant authorizing the release of their mail to a CMRA. Without a signed PS Form 1583, mail may not be released to a CMRA. These guidelines are contained in the Domestic Mail Manual (DMM), Section D 042. In this case, there are no signed PS Form 1583's for all merchants at the Mall.

FORM 1717 BID FOR ASSIGNMENT

C-05793 Regional Arbitrator Pribble
February 27, 1986, C4N-4T-C 6054
Management improperly denied bid, where carrier entered incorrect seniority date on PS 1717 bid card, but where correct seniority date would have entitled carrier to the assignment, because Article 41, Section 2.C confers responsibility for administration of seniority upon management.

FORM 1723 ASSIGNMENT ORDER

See 204b-Form 1723, page 12

FORM 1750 PROBATIONARY PERIOD EVALUATION REPORT

M-00354 Step 4
March 3, 1978, NCC 9547
The use of PS Form 1750 is for the evaluation of probationary employees. The Postmaster is instructed not to use this form to evaluate employees who have completed their probationary period. *See also* M-00020

FORM 1767 REPORT OF HAZARD, UNSAFE CONDITION OR PRACTICE

M-01285 Prearbitration Settlement
May 12, 1997, E90N-4E-C 93045300
The issue in this grievance is whether PS form 1767, Report of Hazard, Unsafe Condition or Practice, may be completed in an overtime status. During our discussion, it was mutual agreed that the following constitutes full and final settlement of this grievance:

1. The parties agree that PS Forms 1767 are normally completed during the course of an employee's work day, and that there may be occasions where the completion of PS form 1767 may be accomplished on overtime, depending on the local circumstances. Therefore, the parties agree there is nothing which prevents local management from approving overtime for the completion of PS Form 1767 in such circumstances.

FORM 1838-C CARRIER'S COUNT OF MAIL

See Route Examinations, page 318

FORM 1840 SUMMARY OF INSPECTION

See Route Examinations, page 322

FORM 1840-B CARRIER TIME CARD ANALYSIS

See Route Examinations, page 323

FORM 2146 EMPLOYEE CLAIM FORM

M-00435 Step 4
September 1, 1977, NCC 7656
The employee should have been supplied with a Form 2146 to file a claim for lost property whether or not management had determined the legitimacy of that claim.

FORM 2444 RELOCATION AGREEMENT

M-00976 USPS Letter, June 27, 1990
The union representatives requested that the PS Form 2444, Postal Service Relocation Agreement, be changed to specifically exclude employees exercising their retreat rights. They also requested that the 12-month commitment not be additive.

After considering all responses, we have decided not to make the 12-month commitment additive. However, we do not feel that the changing of the Form 2444 as requested by the unions is necessary. It is understood and accepted that the national agreement takes precedence over the relocation commitment. If a bargaining unit employee was involuntarily relocated and, within the 12-month commitment period, exercises his/her retreat rights to return to the original duty station, the 12-month commitment would be waived by the Postal Service.

FORM 2488 AUTHORIZATION FOR MEDICAL REPORT

M-01441 Step 4
April 19, 2001, D90N-4D-C 94025408
The issue in this case is whether management violated the National Agreement by requiring the grievant to sign PS Form 2488, "Authorization for Medical Report."

While we mutually agree that no national interpretive issue is fairly presented in this case, we resolve this case as follows:

Completion of PS Form 2488 by the employee is voluntary

M-01430 **Step 4**
September 13, 2000, Q98N-4Q-C 00116558
Form CA-17 "Duty Status Report" is usually adequate to obtain medical information concerning an injured employee's job-related medical condition and work restrictions. If a medical provider will not release the Form CA-17, without a medical release, PS Form 2488 may be used to secure the release. Completion of PS Form 2488 by the injured employee is voluntary, and Section 10.506 of the regulations governing claims under the Federal Employees' Compensation Act sets forth the rules under which employing agencies may request medical reports from the attending physicians of injured employees

FORM 2548-A TRAINING RECORD

M-00465 **Step 4**
September 1, 1982, H1N-1N-C 325
PS Form 2548-A is completed by the training agent and/or immediate supervisor. The initialing of this form by an employee is not a condition of employment and employees should not be required to initial the form under the threat of disciplinary action.

FORM 2608 AND 2609 GRIEVANCE SUMMARY

M-00315 **Step 4**
May 25, 1983, H1C-5C-C 7210
If the union requests to review the completed Form 2608 at Step 2 or any subsequent step of the grievance procedure, it will be made available.

M-00316 **Step 4**
November 5, 1982, H1C-3U-C 6106
Any and all information which the parties rely on to support their positions in a grievance is to be exchanged between the parties' representatives at the lowest possible step. This will include the PS 2608 when management's representative at Step 2 or above of the grievance procedure utilizes the form to support their decision. Also, this will include the PS 2609 when utilized by management's representative at Step 3 or above. *See also* M-00822

M-01142 **APWU Step 4**
May 25, 1983, H1C-5C-C 7210
The PS Form 2608 is not completed by the Postal Service at the time of the Step 1 discussion. Therefore, it is not available for the union to review until Step 2. If the union requests to review the completed Form 2608 at Step 2 or any subsequent step of the grievance procedure, it will be made available.

FORM 3189 TEMPORARY SCHEDULE CHANGE

See Schedule Changes, page 342

FORM 3849 DELIVERY NOTICE

M-00149 **Step 4**
May 13, 1977, NCN 3966
When a letter carrier is assigned to deliver registered or certified articles and numbered insured parcels, preparation of Form 3849 is a carrier function. Accordingly, if another craft is assigned the function of preparing Form 3849 that assignment must be made in accordance with the applicable provisions of Article VII of the 1975 National Agreement.

FORM 3883 FIRM DELIVERY RECEIPT FOR ACCOUNTABLE MAIL

M-01545 **Prearbitration Settlement August 4, 2005 G94N-4G-C 98039177** The parties agree that the locally developed form at issue may not be used in lieu of PS Form 3883, or its electronic equivalent PS Form 3883-A. Use of either PS Form 3883 or 3883-A requires the customer's signature on PS Form 3849 in accordance with current handbooks and manuals.

FORM 3921 DAILY VOLUME WORKSHEET

M-00067 **Step 4**
June 9, 1983, H1N-3U-C 13925
The proper methods of recording the disputed card mailing is contained in Management Instruction PO-610-79-24 (Delivery Unit Volume Recording). Sections VI.B.3 or 4 contain instructions for the flats. In accordance with these instructions, the route would receive credit for both the cards and the unlabeled flats. The cards would be credited in Column 7 on the PS 3921 and the flats would be included in Column 1 on the PS 3921-A.

FORM 3971 REQUEST FOR LEAVE

M-00119 Step 4
November 21, 1978, NCS 12428
The record shows that the employee in question requested that he be allowed to leave early for personal reasons. Under the circumstances, the eight hour guarantee provision was negated. However, in the future if a Form 3971 is used to record an early departure, the form should be completed at the time.

M-00998 Step 4
April 11, 1991, H7N-3W-C 22137
The issue in this grievance is whether management may require an employee to complete PS Form 3971 to receive Continuation of Pay (COP).

During our discussion, we agreed that management may require an employee to complete PS Form 3971 to request Continuation of Pay. However, we also agreed that the proper response to an employee who fails to complete PS Form 3971 for COP is appropriate corrective action rather than withholding COP to which the employee is otherwise entitled.

M-00495 Step 4
March 12, 1984, H8N-3U-C 19864
Management may complete Form 3971 for an employee who refused to work overtime; however, the employee cannot be required to sign the form.

M-01054 APWU Step 4
September 3, 1985, H1C-3W-C-48121
The issue in this grievance involves management requiring employees to complete PS Forms 3971 at the Postal Source Data Site prior to obtaining their time badges following unexpected absences from duty. The parties at this level agree that the completion of a Form 3971 "upon/after return to duty" means while the employee is on-the-clock.

C-10714 Regional Arbitrator Grohsmeyer
July 6, 1990
Management may stamp "approved for pay purposes only," but may not stamp "unscheduled absences not condoned" on Forms 3971.

FORM 3982 CHANGE OF ADDRESS

M-00601 National Joint City Delivery Meeting
Nov 17, 1983, page 1
Form 3982 is permissible for use by routers the same as for any city carrier occupying a regular assignment.

M-00256 Step 4
October 18, 1982, H1N-5C-C 5793
The maintenance of Forms 3982, Changes of Address, is a function of the carrier craft as provided for in Part 240 of Methods Handbook, Series M-41.

M-00243 Step 4
December 1, 1975, NBN 5989
If the occasion arises where a carrier would review the Forms 3982 during the week of count and inspection, the time utilized for this review would be entered on line 22 of the Form 1838. *But See* M-00605, Item c.

FORM 3996 CARRIER AUXILIARY CONTROL

Article 41, Section 3.G provides: The Employer will advise a carrier who has properly submitted a Carrier Auxiliary Control Form 3996 of the disposition of the request promptly after review of the circumstances at the time. Upon request, a duplicate copy of the completed Form 3996 and Form 1571, Report of Undelivered Mail, etc., will be provided the carriers.

M-00294 Step 4
March 2, 1984, H1N-5G-C 16766
In order not to undermine the purpose of the Form 3996, it is agreed that any employee who provides carrier assistance shall complete the lower portion of the Form 3996 as instructed on the form itself.

M-00189 Step 4
July 28, 1981, H8N-5H-C 17726
Whether or not management violates Article 17 of the National Agreement by disallowing local stewards the use of PS Forms 3996 to document grievance activity. The sole purpose of PS Form 3996 is to record overtime and/or auxiliary assistance.

M-00661 Step 4
November 28, 1978, NCS 11311
We mutually agreed that local management will observe the instructions on the reverse of Postal Service Form 3996.

M-00131 Step 4
May 6, 1985, H1N-3W-C 42292
PS Forms 3996 are to be completed as provided for in Part 280 of Methods Handbook, Series M-41. Deviations from these instructions, including locally devised forms attached to the 3996, are not appropriate.

M-00144 Step 4
May 8, 1979, NCS 13207
In accordance with the provisions of the 1978 National Agreement, upon request, a duplicate copy of the completed Form 3996 and Form 1571, Report of Undelivered Mail, etc. will be provided the carriers.

M-00810 Step 4
April 29, 1981, H8N-5H-C 15421
Forms 3996 are to be completed as provided for in M-41 Section 280d which states that item J (the reason for requesting assistance) should be omitted during the Christmas period.

M-01301 Step 4
January 13, 1998, G94N-4G-C 97075358
The issue in this grievance involves management's use of a rubber stamp to record mail volume on Form 3996, Carrier-Auxiliary Control.

During our discussion, we mutually agreed that the issue in this case has been addressed in a previous Step 4 agreement (H4N-5F-C 38907, 4/8/88)[M-00823] and is restated as follows:

PS Forms 3996 are to be completed as provided for in Part 280 of Methods Handbook, Series M-41. Deviations from these instructions, including locally devised rubber stamped modifications to the 3996 are not appropriate. Accordingly, the local Form 3996 modification is to be discontinued. *See also* M-00794, M-00800, M-00823

M-00363 Step 4
April 26, 1985, H1N-3W-C 32752
Letter carriers will not be required to enter volume figures on PS Forms 3996 unless the reason for the request is related to volume. If volume is required to be noted in linear measurement terms, it is not anticipated that letter carriers are to be expected to report anything more than their reasonable estimate of volume. *See also* M-00850

M-00413 Step 4
October 28, 1983, H1N-5F-C 12482
We agreed to settle this case based on our mutual understanding that forms 1571 and 3996 are to be completed on the day to which they apply.

M-00260 Step 4
October 14, 1982, H1N-5K-C 3842
PS Forms 3996 are to be completed as provided for in Part 280 of Methods Handbook, Series M-41, and on the reverse of the form itself. Deviations from these instructions, including requiring time clock rings on the form, are not appropriate.

M-01366 Pre-arbitration Settlement
October 21, 1998, H90N-4H-C 94048405
The issue in this case involved whether Management violated the National Agreement by not allowing individual carriers to personally observe the amount of DPS mail intended for delivery on their assigned routes, prior to determining the need for overtime/auxiliary assistance.

After reviewing this matter, it was agreed that if, while in the normal course of picking up DPS mail, a letter carrier determines the need to file a request for overtime or auxiliary assistance (or to amend a request that was previously filed), the carrier may do so at that time. The supervisor will advise the letter carrier of the disposition of the request or amended request promptly after review of the circumstances.

If the local parties have agreed upon a practice where the letter carrier has access to their DPS mail prior to filling out the request for overtime/auxiliary assistance, this settlement will not apply.

FORM 3999 INSPECTION OF LETTER CARRIER ROUTE

See Route Examinations, Page 324

FORM 4098 EMPLOYEE ID CARD

M-00053 Step 4
March 8, 1983, H1N-3T-C 13108
Letter carriers, while on duty away from the facility, should carry Form 4098 in their wallet, pocket, or purse, and display when identification is needed (Reference Part 273.223, ASM).

M-01249 Step 4
J94N-4J-C 96025972, June 16, 1996
The issue in this grievance is whether the Postal Service violates the National Agreement by requiring employees to wear their identification badge with their social security number exposed. Employees may request new identification badges in accordance with the procedures outlined in Postal Bulletin 21485 dated November 15, 1984. *See also* M-00085, M-00120.

Note: Postal Bulletin 21485 dated November 15, 1984 provides that "This version calls for the employee's social security number to be placed on the reverse side of the form as *Employee Identification Number*. Placing the number there affords a greater measure of privacy."

M-00533 Step 4
December 6, 1984, H1N-3W-C 34695
In accordance with ASM 273.272, management is proper in charging an employee for a lost badge. Management shall, however, inform an employee of a money demand under Article 28 of the National Agreement, and the demand must include the reasons therefore.

M-00053 Step 4
March 8, 1983, H1N-3T-C 13108
Letter carriers, while on duty away from the facility, should carry Form 4098 in their wallet, pocket, or purse, and display when identification is needed (Reference Part 273.223, ASM).

FORM 4565 VEHICLE REPAIR TAG

C-06135 Regional Arbitrator Schedler
May 11, 1986, S1N-3U-C 30068
An employee must be allowed official time to complete form 4565 (vehicle repair tag) even if he is in an overtime status.

FORM 4582-A DRIVER'S RECORD

M-00367 Step 4
October 18, 1974, NBS 1998
With respect to the use of Form 4582-A, it is our determination that an employee who is being considered for renewal or reissuance of SF-46 is under no obligation to furnish information regarding his off-duty driving record, in view of the National Agreement, Article XXIX; the pertinent part of which reads, "When a revocation, suspension, or reissuance of an employee's SF-46 is under consideration, only his on-duty record will be considered in making a final determination." Accordingly, management is instructed to discontinue requiring employees who are being considered for reissuance or renewal of SF-46 to complete item number 15 of PS Form 4582-A.

FORM 4583 PHYSICAL FITNESS INQUIRY FOR MOTOR VEHICLE OPERATORS

M-01456 Step 4 Settlement
March 1, 2002, E98N-4E-C-02040097
The issue in this case is whether the Driver training Program. 43513-00, was violated by requiring employees to complete Question 18 of PS Form 4583, Physical Fitness Inquiry for Motor Vehicle Operators, as a requirement to drive a government vehicle.

It was mutually agreed that no national interpretive issue is fairly presented in this case. It was further agreed that for routine use (for current employees rather than applicants) of Postal Form 4583, Physical Fitness Inquiry for Motor Vehicle Operators, Sections c. through g. and i. through q. are not completed in Question 18.

FORM 8139 PROTECTING MAIL

M-01108 USPS Letter
July 21, 1992
Letter transmitting draft of November 12, 1992 Postal Bulletin Notice concerning PS Form 8139. This form may only be used in the pre-employment process to advise potential employees of their responsibilities concerning the security of mail. Any other use should be grieved

FULL-TIME FLEXIBLES

C-03234 National Arbitrator Mittenthal
N8-NA-0141, July 7, 1980
The Arbitrator has the authority to remedy the Join Committee's failure to agree on maximization criteria under the pertinent Memorandum of Understanding incorporated into the 1978 National Agreement. This decision resulted in the parties negotiating the Full-time Flexible Memorandum M-01025, below.

M-01025 Memorandum of Understanding and Letter of intent, February 1981
Memorandum of Understanding and Letter of Intent creating full-time flexible positions. Memorandum was subsequently modified in the 1984 National Agreement

C-09340 National Arbitrator Mittenthal
September 5, 1989, H1C-NA-C-120
A part-time flexible properly converted to full time flexible under the 1981 Memoranda is thereafter properly counted as a "full-time employee" for purposes of satisfying the 90% staffing requirement under Article VII, Section 3A. To this extent, the grievance is denied.

When part-time employees are entitled to conversion to full-time status under both the Memoranda and Article VII, Section 3A at the end of a given accounting period, the Postal Service must first convert pursuant to the 90% staffing requirement in Section 3A and thereafter convert pursuant to the Memoranda. To this extent, the grievance is granted.

M-01432 Prearbitration Settlement
July 18, 2000, F90N-4F-C 93022407
Full-time flexible assignments are incumbent only assignments and may not be withheld under the provisions of Article 12, Section 5.B.2 of the National Agreement.

M-01400 Step 4
January 13, 2000, G94N-4G-C 99225675
Full-time flexible assignments are incumbent only assignments

M-00524 Step 4
April 27, 1984, H1N-5D-C 17507
The flexible schedule regular position is an assigned position under the National Agreement. Employees occupying flexible schedule regular positions are not considered unassigned regulars, and cannot be assigned under Article 41, Section 1.A.7.

M-00791 Pre-arb
October 29, 1987, H4N-3F-C 45541
1) Full-time flexible letter carriers may exercise their preference by use of seniority for available craft duty assignments in accordance with the provisions of Article 41.2.B.3.

2) Not withstanding the foregoing, if, prior to the exercise of his/her preference, a full-time flexible employee has been assigned a schedule for a service week by the preceding Wednesday in accordance with the Article 7 Memorandum of Understanding dated February 3, 1981, then the employee shall remain in that assignment for the balance of the service week before assuming the opted-for assignment.

3) In no event shall the employee be prevented from assuming the opted-for assignment for a period of more than one week.

M-01046 APWU Step 4
October 17, 1988, H4C-NA-C-100
The issue in this grievance is whether the Memorandum of Understanding on Maximization requires the conversion of an assignment to full-time when a part-time flexible employee meets all the criteria for conversion, while working in a full-time assignment temporarily left vacant by a full-time employee who is on leave.

The parties agree that the language of the Memorandum of Understanding, which applies only to those offices of 125 or more man years of employment requires the conversion of the senior part-time flexible to full-time status. The return of the full-time employee from extended absence may, dependent upon the local fact circumstances, require the reversion of the full-time flexible position pursuant to Article 12 of the National Agreement.

M-01069 Step 4
April 14, 1992, H7N-3W-C 27937
The issue in this grievance is whether the Memorandum of Understanding regarding Maximization/Full-time Flexible-NALC requires that the six month period be consecutive. After reviewing this matter, we mutually agreed that no national interpretive issue is fairly presented in this case. The six month measuring period in the MOU means six consecutive months.

M-01047 APWU Step 4
August 29, 1988, H4C-4K-C-16421
For conversion under the provisions of the Article 7 Memorandum of Understanding leave will be counted toward the 39 hour requirement provided it is not taken solely to achieve full-time status. In addition, all other provisions of the Article 7, Memorandum of Understanding must be met in order to convert the senior part-time flexible to full-time.

GRIEVANCE PROCEDURE

SEE ALSO

Arbitration, Page 18
Discipline, Page 72

M-01517 USPS LETTER May 31, 2002
Compliance with arbitration awards and grievance settlements is not optional. No manager or supervisor has the authority to ignore or override an arbitrator's award or a signed grievance settlement. Steps to comply with arbitration awards and grievance settlements should be taken in a timely manner to avoid the perception of non-compliance, and those steps should be documented.

M-01492 USPS-NALC Joint Statement Of Expectations, July 2003
The parties at the national level commit to the following principles of conduct when addressing disputes under Article 15 of the National Agreement. We believe these principles are essential to the effectiveness of any dispute resolution process as well as effective working relationships between the union and management. Our expectation is that these principles will guide union and management representatives at all levels of the organization.

We will do our best to understand and respect each other's roles, responsibilities, interests, and challenges.

We will make every effort to establish and maintain a more constructive, and cooperative working relationship between union and management at all levels of the organization by promoting integrity, professionalism, and fairness in our dealings with each other.

We are committed to honoring our labor contract and the specific rights and responsibilities of the parties set forth therein.

We will work together to prevent contract violations through communication, training, and good faith efforts to anticipate workplace problems and resolve disputes in a timely manner.

We are committed to eliminating abuses of our grievance-arbitration procedure, such as the filing of unwarranted grievances to clog the system or a refusal to resolve grievances even where there are no legitimate differences of opinion between the parties.

We are committed to mutual and joint efforts to improve the workplace environment and to improve the overall performance of the Postal Service.

We will make every effort to resolve our disputes in a professional manner and to avoid any unnecessary escalation of disputes which may adversely impact adherence to the above principles or adversely influence union-management relationships at other levels of the organization.

M-01464 MOU on Article 15 Implementation July 8, 2002
In September of 2001, the parties completed the nationwide implementation of the USPS-NALC Dispute Resolution Procedure (DRP). During national contract negotiations in the fall of 2001, the parties rewrote Article 15 to incorporate the new process. While the new Article 15 reflects most of the DRP as implemented nationally, several significant refinements to the process were made. In an effort to ensure a seamless transition, the parties agree that the below-identified sections of Article 15 will become effective on July 8, 2002:

Article 15, Formal Step A.(f)

Article 15, Formal Step A.(g)

Article 15, Step B.(a)

Article 15, Step B.(b)

Article 15, Step B.(c)

Article 15, Step B.(e)

Article 15, Interpretive Step

Article 15.3.A

Article 15.3.D

Article 15.3.F

Article 15.4.A.4

Article 15.4.B.5

Article 15.4.C.2

It is understood that our agreement on an implementation date for these sections of Article 15 is meant to facilitate the transition to new procedures, and is not meant as a subject for procedural disputes.

C-03235 National Arbitrator Garrett
July 30, 1975, NB-NAT-2705
(Reading Time Dispute) National level interpretive grievance may not be used as a vehicle for considering individual grievances as a sort of class action; issues of compliance with the Fair Labor Standards Act are not within the proper scope of a national level dispute; Article XLI, Section 3.K. of the new M-41 Handbook requires payment to a carrier for time spent studying the new handbook at the direction or with the permission of the Postal Service, but only for a reasonable time. Whether individual carriers are entitled to compensation under Article XLI, Section 3.K. shall be handled through the Article XV grievance procedure with due regard to the facts in each individual case.

M-00878 Step 4
November 14, 1988, H4N-3R-C 43838
It is not required that investigation of a grievance be completed before a grievance may be appealed to another step of the grievance procedure.

M-00773 Step 4
August 16, 1979, N8N-0027
We mutually agree that the disclosure provisions set forth in Article 15, 17 and 31 of the 1978 National Agreement intend that any and all information which the parties rely on to support their positions in a grievance is to be exchanged between the parties representatives to assure that every effort is made to resolve grievances at the lowest possible level.

M-01386 Step 4
January 13, 1999, E94N-4E-C 99001405
We agree that where the local parties are in mutual agreement, grievance discussions may take place via telephone. *See also* M-00909.

C-11207 Regional Arbitrator Sickles
September 16, 1991
"...the union's independent right to file [a grievance] was intended primarily for use in class action situations and should not be extended to cases of individual discipline."

STEP 1

M-00824 Step 4
February 26, 1988 H4N-5E-C 36561
The term immediate supervisor as written in Article 15, Section 2, Step 1(a) of the National Agreement may be an acting supervisor (204b).

M-01065 Pre-arb
April 2, 1992, H7N-5R-C 26829
The issue in this grievance is whether the Union should be given the opportunity to be present when management and an employee adjust a Step 1 grievance and the employee has not asked to be accompanied and represented by a shop steward or union representative.

We agreed to the following as a full settlement of the issues raised, recognizing that the terms of this settlement are applicable only to formally declared Step 1 grievances.

The parties recognize that Article 15 distinguishes between two aspects of a Step 1 meeting, the discussion and the adjustment. While both of these may occur at the same meeting, the adjustment may also be issued as much as five days following the discussion. A settlement would be considered part of the adjustment phase of the procedure.

We agreed that a grievant has the option to exclude a steward from the discussion portion, where the merits of the grievance are discussed by the grievant and management. However, absent waiver by the bargaining representative Section 9(a) of the National Labor Relations Act requires that the bargaining representative be given the opportunity to be present at the adjustment portion of the grievance procedure. The bargaining representative need not be given an opportunity to be present if the grievance is denied at Step 1.

Finally we agreed that this settlement has prospective effect only, and will not be used to invalidate any Step 1 settlements reached prior to its issuance. *See also* M-00684.

M-00937 Pre-arb, 1974, RA-73-1740
The Postal Service acknowledges its obligation under Section 9(a) of the National Labor Relations Act, which provides in part: "That any individual employee ... shall have the right at any time to present grievances to (his) employer and to have such grievances adjusted, without the intervention of the bargaining representative, as long as the adjustment is not inconsistent with the terms of a collective bargaining contract or agreement then in effect: Provided further, that the bargaining representative has been given the opportunity to be present at such adjustment."

M-00648 Step 4
August 12, 1983, H1N-5G-C 8564
The local union has a right to be notified of a settlement or adjustment which occurred at Step 1 of the grievance procedure.

M-00223 Step 4
March 21, 1986, H4N-3W-C 8797
The grievant has a right to be present when the Step 1 grievance decision is rendered. In addition, the supervisor should state the reasons for the decision in accordance with Article 15, Section 2.(c), of the National Agreement.

M-00329 Step 4
June 2, 1972, NS 401
It is the position of the U.S. Postal Service that Article 15, Section 2, Step 1 grants the representative of the employee the right not only to be present but also to speak on behalf of the employee at the Step 1 meeting.

M-00939 Step 4
September 26, 1974, NB-E-1681
This grievance involves the refusal on managements part to accept a grievance pertaining to a Notice of Charges-Proposed Removal from a steward prior to the time that a decision had been rendered on the previously mentioned proposal. A grievance may be filed upon receipt of a Notice of Proposed Removal

M-00717 Step 4
June 13, 1977, NC-NAT-4702
When the union files a grievance at Step 1, the authorized union official filing the grievance is the only appropriate party required to meet with the supervisor and discuss the grievance pursuant to Article XV, Section 2, Step 1 of the National Agreement.

STEP 2

M-01423 Step 4
I94N-4I-C 99008899, April 8, 1999
There is no language in the National Agreement which prohibits designating a Step 2 representative outside an installation of more than 20 employees, in these situations, if the Step 2 meetings have been held in the installation, that practice will continue absent an agreement to the contrary. Both parties recognize their respective obligation to meet contractual grievance processing time limits unless there is mutual agreement to extend those time limits.

M-00790 Step 4
May 22, 1987, H4N-1E-C 28034
The necessity of the presence of a grievant at a Step 2 meeting is determined by the Union. *See also* M-01068.

C-03214 National Arbitrator Mittenthal
January 18, 1982, N8N-0221
Management is not required to pay a grievant for time spent traveling to and from a Step 2 meeting.

M-00577 Step 4
November 25, 1980, H8N-5B-C 13172
A grievant is entitled to attend the Step 2 meeting and shall be compensated for time spent at the meeting excluding travel time to and from the meeting, provided such time is part of the grievant's regular schedule. *See also* M-00578, M-00611.

M-00716 Step 4
June 18, 1980, N8-S-0330
Union stewards are paid for the time actually spent at Step 2 meetings with the employer provided such meetings are held during their regular work day; however, there are no contractual provisions which would require the payment of travel time or expenses

M-00449 Step 4
March 25, 1977, NCS 4634
It is not the intent of the Postal Service to exclude a grievant from a meeting held pursuant to Step 2 A of the grievance procedure. Although we do not believe in most instances the grievant's presence will be beneficial to speedy resolution of a problem, we will not exclude him if he insists on being present.

M-00099 Pre-arb
August 30, 1985, H4C-3F-C 3994
When requested, the immediate supervisor will initial the Step 2 grievance appeal form which only verifies the date of the decision. The Step 2 grievance appeal form will have sufficient information completed for the immediate supervisor to determine that he/she is in fact verifying a decision date of the grievance that was heard.

M-00221 Step 4
November 5, 1981, H8N-3W-C 33606
Normally, the Postmaster or management Step 2 representative will not issue corrections and additions to the Union. However, should this occur, the appropriate Union representative will be allowed reasonable official steward time to prepare a written response.

M-00952 Step 4
October 13, 1976, NC-W-3083
The Union is not precluded from having the Branch President, acting as Chief Steward, present a grievance at Step 2 in lieu of the steward.

C-00323 Regional Arbitrator Rubin
July 20, 1984, N8C-1J-D 15189
Agreement modifying disciplinary action, signed by steward, was invalid, where grievance had been moved to Step 2 because union's designated Step 2 representative was the union president.

M-00290 Step 4
November 18, 1983, H8N-3U-C 16250
Both the union and the Employer have historically had persons other than the actual designated representatives attend Step 2 meetings as observers. However, such persons shall attend at the mutual consent of the parties designated to discuss the grievance. *See also* M-00807

M-01145 APWU Step 4
December 7, 1979, A8-S-0309
We mutually agree that a steward is allowed a reasonable amount of time on-the-clock to write the Union statement of corrections and additions to the Step 2 decision. This is considered part of the Step 2 process. The Union statement should relate to incomplete or inaccurate facts or contentions set forth in the Step 2 decision.

C-10307 Regional Arbitrator Johnston
September 18, 1990, S7N-3A-D 27417
The failure of management to schedule a Step 2 hearing of grievant's removal grievance did "not materially violate the due process rights of the grievant."

C-10798 Regional Arbitrator Foster
April 23, 1991
Where the union representative did not appear for a Step 2 hearing he failed to meet "the prescribed time limits of the steps of this [grievance] procedure" and the grievance he was scheduled to discuss was, therefore, waived.

STEP 3

C-03241 National Arbitrator Mittenthal
July 10, 1979, N8-NAT-006
The Postal Service is entitled to insist that the location of Step 3 meetings be governed by past practice.

C-00381 National Arbitrator Mittenthal December 10, 1979, ABE 021
A steward is entitled to be paid for the time spent writing appeals to Step 3.

M-01309 Pre-arbitration Settlement May 6, 1998, Q94N-4Q-C 97008452
There is no dispute between the parties that additional facts and contentions not previously set forth in the record as appealed from Step 2 may be presented for the first time at Step 3 as reflected in Article 15, Section 2, Step 3, (c) which provides that a Step 3 decision "shall state the reasons for the decision in detail and shall include a statement of any additional facts and contentions not previously set forth in the record of the grievance as appealed from Step 2."

M-00965, Memorandum, June 29, 1990
The parties agree that to better utilize the Step 4 grievance procedure, when grievances at the third step of the grievance procedure involve the same, or substantially similar issues or facts as the grievances identified in the attached list of "representative" grievances pending at the national level, the grievances will be held at the third step of the grievance procedure.

Commencing from the date of this agreement the parties at the national level will meet not less than once per postal quarter to mutually agree to add "representative" national grievances to the list, which will be provided to the parties at the regional level. Further, the parties agree that "representative" national grievances can be mutually added to the list at any time.

The parties at the regional level will execute an agreement (copy attached) at Step 3 identifying the "representative" national grievance number under which the Step 3 grievance shall be held. All other grievances which have been mutually agreed to as involving the same, or substantially similar issues or facts as those identified in the "representative" national grievance shall be held at Step 3 pending resolution of the representative" national grievance, provided they were timely filed at Step 1 and properly appealed to Steps 2 and 3 in accordance with the grievance procedure.

Following resolution of the "representative" national grievance, the parties involved in that grievance shall meet at Step 3 to apply the resolution to the other pending grievances involving the same, or substantially similar issues of facts. Disputes over the applicability of the resolution of the "representative" grievance shall be resolved through the grievance-arbitration procedures contained in Article 15 of the National Agreement; in the event it is decided that the resolution of the "representative" national grievance is not applicable to a particular grievance, the merits of that grievance shall also be considered.

Each party at the regional level shall maintain a system to identify and track the grievances being held. Further, the regional parties will meet within 30 days from receipt of the resolution of the "representative" national grievance. At that meeting the parties will apply the resolution to the case(s) being held at the third step of the grievance procedure.

M-01083 Joint Letter, May 8, 1992
The following clarifies the understanding of the national parties regarding duplicative grievances:

The Step 4 representatives agree that were grievances involve the same interpretive issue, one representative grievance will be advanced to Step 4 and the remaining grievances will be held at Step 3 pending a decision on the representative grievance. When a decision is reached, that decision will apply to the other grievances which were held by the parties at Step 3 involving the same issue.

Where grievances involve the same interpretive issue but in the judgment of either of the parties also present other issues, the parties will hold those grievances at Step 3. When the interpretive issue has been decided, it will apply to the interpretive issue in these grievances and the parties will continue processing those grievances consistent with Article 15.

The intent of this agreement is to ensure that the minimum number of cases on each interpretive issue is advanced to Step 4. We agree that the national interpretive decision agreed to at Step 4 or awarded in national arbitration is binding on those cases held at Step 3 for disposition of the representative case. We further agree that the decision binding for that issue in cases which are held at Step 3 as outlined in paragraph 2 above.

C-10827 Regional Arbitrator Goldstein
September 28, 1990, C7N-4A-C 21728
The arbitrator found that the Union is under no obligation to accept the customary "boiler-plate language" settling cases at Step 3 on a non-citeable, non-precidential basis. Since the prior settlements relied upon by management were themselves "non-citeable", they may not be cited to establish a past practice.

M-00874 Step 4
December 7, 1988, H4N-C-5S 46677
If management determines that a grievance is interpretive at the Step 3 level, it must affirmatively express as such in the decision letter.

C-10160 Regional Arbitrator Gentile
July 10, 1990
It is permissible for the union to file an additions and corrections statement in reply to a Step 3 decision, but management is not required to make it part of the grievance record.

STEP 4

Memorandum of Understanding
1990 National Agreement, June 12, 1991
RE: Step 4 Procedures. This memorandum represents the parties' agreement with regard to withdrawing a grievance from regional arbitration and referring it to Step 4 of the grievance procedure.

If a case is withdrawn from regional arbitration, referred to Step 4, and then remanded as noninterpretive, it will be returned directly to regional arbitration to be heard before the same arbitrator who was scheduled to hear the case at the time of the referral to Step 4. Additionally, if the hearing had opened, the case will be returned to the same stage of arbitration.

The party referring the case to Step 4 from arbitration on the day of the hearing or after the hearing opens shall pay the full costs of the arbitrator for that date unless another scheduled case is heard on that date by the arbitrator.

C-00431 National Arbitrator Mittenthal
January 18, 1983, H8C-4C-C 12764
A grievance may be withdrawn from regional level arbitration and referred to Step 4 even after the case has been presented to the arbitrator.

C-20300 National Arbitrator Snow
Q94N-4Q-C 98062054, January 1, 2000
The NALC, when it has intervened in a area-level arbitration case, has a right to refer the case to Step 4 of the grievance procedure.

M-01391 Step 4
October 25, 1999, G94N-4G-C 98024445
The parties agreed there is no dispute between the parties that Step 4 grievance settlements are precedential and binding, unless otherwise agreed between the national parties.

Whether or not a particular Step 4 settlement is applicable to a particular case is not an interpretive issue and is suitable for regional arbitration.

M-01196 Step 4
June 27 1994, E90N-6E-C 94042837
During our discussion, we mutually agreed that upon intervention at a hearing, the intervening union becomes a full party to the hearing. As a party, the intervening union has the right to refer a grievance to Step 4.

M-00467 Step 4
January 17, 1984, H1N-3A-D 24954
In most cases, a grievance involving discipline should be handled at the regional level where witnesses and the factual elements for determining just cause are most readily accessible. However, in a case where either party maintains that the grievance involves an interpretive issue under the 1981 National Agreement, or some supplement thereto, which may be of general application, the union representative shall be entitled to appeal an adverse decision to Step 4 of the grievance procedure.

M-00963, Step 4
April 20, 1990, H7N-3R-D 23724
We mutually agree that no national interpretive issue is fairly presented in this case. Accordingly we agree remand this case to the parties at the regional level, to be scheduled before the same arbitrator (if that arbitrator is still on the appropriate panel) who was originally scheduled to hear the case before it was referred to Step 4.

INTERPRETIVE STEP

M-01501 Interpretive Step
October 22, 2003, E98N-4E-C-00169070
After reviewing this matter, we mutually agree that no national interpretive issue is presented in this case. It is agreed that either party may place a case appealed to Regional arbitration on hold, pursuant to Article 15.4.B.5 of the 2001-2006 National Agreement, pending the consideration of the interpretive issue by their national representative at any point prior to an arbitrator issuing a written decision. Such referral to the interpretive step is not subject to regional arbitral review. As the subject case was referred to the national level prior to Arbitrator Bajork's February 8 award, the award is considered invalid and without standing. The parties further agree to close this case, as the underlying grievance is now moot.

STEP B PROCESS

M-01425 Step 4
H94N-4H-D 98099738, April 8, 1999
There is no dispute at this level that the Dispute Resolution Team has the responsibility to develop a joint report of the decision which fully reflects the basis for the decision, which includes:

- Review of the USPS-NALC Joint Step A Grievance Form and grievance files to obtain a thorough understanding of the issues, facts, and contentions of the parties and research any remaining questions about the grievance.
- Share any additional relevant information.
- Conduct discussion of the grievance in a manner that is professional and will foster an atmosphere of good labor-mangement relations.
- Make an objective decision based on the facts, consistent with the National Agreement nd then resolve the grievance if possible.
- Prepare a joint report of the decision which fully reflects the basis for the decision.
- Communicate the decision to the necessary parties.

HELD CASES

C-10062 Regional Arbitrator Scearce
June 20, 1990, S7N-3D-C 88024
Where it was agreed to hold a grievance "in abeyance pending the decision" in another case, there was no agreement to settle the held case on the same basis as the held-for case; instead, the agreement was simply to "wait and see."

C-10198 National Arbitrator Britton
August 13, 1990, H7N-3S-C 21873
Where representative grievances are ruled untimely, the cases held for disposition of the representative grievances are nonetheless arbitrable.

PAYMENT

C-00381 National Arbitrator Mittenthal
December 10, 1979, ABE 021
A steward is entitled to be paid for the time spent writing appeals to Step 3.

C-03214 National Arbitrator Mittenthal
January 18, 1982, N8N-0221
Management is not required to pay a grievant for time spent traveling to and from a Step 2 meeting.

C-04657 National Arbitrator Mittenthal
February 15, 1985, H1N-NA-C 7
The Postal Service is not required to pay Union witnesses for time spent traveling to and from arbitration hearings.

C-02875 National Arbitrator Aaron
November 10, 1980, H8N-5K-C 14893
The union did not waive claims for compensation where the question of compensation for stewards who, because of management's refusal to recognize them, were forced to process grievances "off-the-clock" was never raised in negotiation of the pre-arbitration settlement or mutually understood by the parties to include that issue.

M-00716 Step 4
June 18, 1980, N8-S-0330
Union stewards are paid for the time actually spent at Step 2 meetings with the employer provided such meetings are held during their regular work day; however, there are no contractual provisions which would require the payment of travel time or expenses

M-00643 Step 4
March 20, 1975, NBN 3529
As a general rule, grievance meetings should not be scheduled off the clock.

M-00101 Step 4
September 8, 1976, NCN 2064
The National Agreement requires that employee witnesses shall be on Employer time when appearing at the arbitration hearing, provided the time is during the employee's regular working hours. There is no distinction made in this section as to whether testimony is given or whether such testimony is relevant.

CONTINUING VIOLATIONS

C-13671 National Arbitrator Mittenthal
June 16, 1994, H1M-5D-C 297
"Assume for the moment, consistent with the federal court rulings, that the Postal Service incorrectly calculated FLSA overtime, for TCOLA recipients under the ELM. Each such error would have been a separate and distinct violation. We are not dealing here with a single, isolated occurrence. Management was involved in a continuing violation of the ELM. The affected employees (or NALC) could properly have grieved the violation on any day the miscalculation took place and such grievance would be timely provided it was submitted within the fourteen-day time limit set forth in Article 15. This is precisely the kind of case where a "continuing violation" theory seems applicable. To rule otherwise would allow an improper pay practice to be frozen forever into the ELM by the mere failure of some employee initially to challenge that practice within the relevant fourteen-day period."

C-20901 Regional Arbitrator Snow
F90N-4F-C 96026953, August 4, 2000
The concept of a continuing grievance is well established in arbitration decisions and American caselaw. As one arbitrator defined it, a "continuing grievance" exists where "the act of the company complained of may be said to be repeated from day to day, such as the failure to pay an appropriate wage rate or acts of a similar nature." (*See Bethlehem Steel Co.,* 26 LA 550.) Professor Ted St. Antoine, past president of the National Academy of Arbitrators, has defined a continuing grievance in terms of the longevity of its impact. He asks whether the impact of the act persists indefinitely. (*See USS and United Steelworkers of America*, 99 WL 1074562 (1999).) A delay in filing a complaint about a continuing grievance may affect remedies available to a grievant, but it does not preclude pursuing a claim to arbitration. (*See, e.g., Typefitters Union Local 636*, 75 LA 449, 454.) If it is clear that the facts of a dispute support describing it as a "continuing grievance, a grievant does not automatically forfeit all rights by failing to meet customary time limits. (*See, e.g., Brockway Company*, 69 LA 1115, 1121.)

LAW, ENFORCEMENT OF

M-01316 Pre-arbitration Settlement
May 18, 1998, F94N-4F-C 96032816
The parties agree that pursuant to Article 3, grievances are properly brought when management's actions are inconsistent with applicable laws and regulations.

C-06858 National Arbitrator Bernstein
March 11, 1987, H1N-5G-C 14964
Article 5 of the National Agreement serves to incorporate all of the Service's "obligations under law" into the Agreement, so as to give the Service's legal obligations the additional status of contractual obligations as well. This incorporation has significance primarily in terms of enforcement mechanism--it enables the signatory unions to utilize the contractual vehicle of arbitration to enforce all of the Service's legal obligations. Moreover, the specific reference to the National Labor Relations Act in the text of Article 5 is persuasive evidence that the parties were especially interested in utilizing the grievance and arbitration procedure spelled out in Article

15 to enforce the Service's NLRB commitments.

SCOPE

M-1273 Step 4
January 2, 1997, B94N-4F-C 96069778
The issue in this case is whether those Memorandums of Understanding not included in the *EL-901, National Agreement*, are still in effect.

The parties agreed that the Memorandums of Understanding printed in the *EL-901, National Agreement*, between the U.S. Postal Service and the National Association of Letter Carriers for 1994-1998, are not the only Memorandums of Understanding in effect and that the "Work Assignment Overtime" Memorandum of Understanding, dated May 28, 1985, is in full force and effect.

Memorandum of Understanding
1990 National Agreement, June 12, 1991
RE: Processing of Post-Removal Grievances.
The parties agree that the processing and/or arbitration of a nondisciplinary grievance is not barred by the final disposition of the removal of the grievant, if that nondisciplinary grievance is not related to the removal action.

C-06363 National Arbitrator Bernstein
July 21, 1986, H1N-4E-C 9678
A grievance may not be initiated by a retired employee.

M-00226 Memorandum of Understanding
October 16, 1981
It is agreed by the United States Postal Service; National association of Letter Carriers, AFL-CIO; and the American Postal Workers Union, AFL-CIO, that the processing and/or arbitration of a grievance is not barred by the separation of the grievant, whether such separation is by resignation, retirement, or death.

C-09917 National Arbitrator Mittenthal
March 26, 1990, H7N-5P-C 1132
A letter carrier's pre-removal grievance did not survive his later discharge.
Note: This decision has been superseded by the 1990 Memorandum of Understanding on the processing of post-removal grievances.

M-01178 Step 4
February 11, 1994, H0N-1F-C 2820
The issue in this case is whether an internal management document can constitute a violation of the National Agreement.

The parties agree that internal correspondence between management officials is not a grievable matter. However, the union may, and in fact has, in separate grievances, grieved action taken by management consistent with the opinions expressed in the document.

This settlement is without prejudice to either party's position with regard to separate grievances on the issue of management actions that may be consistent with the document at issue. Moreover, the settlement does not reflect any alteration in the parties' understanding of what matters are or are not grievable under the National Agreement.

C-06949 National Arbitrator Bernstein
April 18, 1987, H1N-3D-C 40171
The NALC does not have standing to bring a grievance on behalf of a rural carrier. The NALC/APWU contract does not create substantive rights for employees outside of the bargaining units represented by the unions. Only the NRLCA is entitled to bargain on behalf of rural carriers, and the NALC is not entitled to intrude itself into that process.

M-00018 Step 4
May 19, 1983, H1N-4B-C 11678
The issue presented in the grievance pertains to the status of the grievant subsequent to reassignment to a position within the bargaining unit for which the American Postal Workers Union is the exclusive bargaining agent. Only the APWU has the right to pursue a grievance relevant to the issue presented, and the grievance presented by the NALC is procedurally defective. Local management will notify the grievant and the local union having jurisdiction of our decision. Time limits will be waived and a Step 1 grievance initiated by either party will be accepted relevant to this issue within 14 days of their notification.

M-00114 Step 4
March 28, 1985, H1N-5H-C 28873
There is no prohibition against supervisors asking carriers for estimated leaving and return times; however, use of the information and/or actions resulting from having the information are appropriate subjects for scrutiny under the grievance-arbitration procedures. *See also* M-00853

C-00591 National Arbitrator Aaron
October 31, 1980, A8-NA-0371
Experimental programs are not covered by the National Agreement.

M-00944 Step 4
August 17, 1989, H7N-4J-C-13361
The issue in this grievance is whether the grievant was entitled access to his psychological records pursuant to 353 of the Administrative Support Manual (ASM).

After reviewing this matter, we mutually agreed that no national interpretive issue is fairly presented in this case. We further agree that this dispute is subject to the Grievance and Arbitration procedure and resolvable by an arbitrator.

M-01502 Prearbitration Settlement
April 29, 2003 , B94N-4B-C 99258223
concerning the scope of the grievance procedure in cases involving on-the-job injuries and citing JCAM page 15-1 as the controlling authority.

INTERVENTION PROCESS

M-01496 USPS-NALC Intervention Process Joint Expectations, August 28, 2003
In conjunction with finalizing the dispute resolution language in Article 15 of the 2001 National Agreement, the national parties agreed to develop an Intervention Process for the purpose of identifying and responding to locations which are unable to efficiently and expeditiously address disputes pursuant to Article 15.

The National Business Agent and the Area Manager, Labor Relations are responsible for the Intervention Process in their jurisdictions. They or their designees will jointly assess needs and develop appropriate responses to intervention candidate sites.

The following are the expectations of the national parties:

Interveners will work together to promote and maintain a cooperative working relationship based on integrity, professionalism, and fairness at all levels of the organization.

Interveners will be committed to eliminating abuses of our grievance-arbitration procedure, such as the filing of unwarranted grievances to clog the system or a refusal to resolve grievances even when there are no legitimate differences of opinion between the parties or when the grievances clearly lack merit.

Interveners will be committed to contract compliance and eliminating repetitive violations of the National Agreement.

Interveners will be committed to long term solutions and measurable improvement.

Interveners will work to improve the working relationships of labor and management at the local level.

Interveners will adhere to the principle that the best solutions are reached at the lowest possible organizational level.

The undersigned commit that the resources of our organizations will be used to avoid unnecessary escalation of disputes and to ensure that the parties in any dispute treat each other in a civil and professional manner.

SETTLEMENTS

M-01517 USPS LETTER May 31, 2002
Compliance with arbitration awards and grievance settlements is not optional. No manager or supervisor has the authority to ignore or override an arbitrator's award or a signed grievance settlement. Steps to comply with arbitration awards and grievance settlements should be taken in a timely manner to avoid the perception of non-compliance, and those steps should be documented.

C-03329 National Arbitrator Aaron
March 16, 1983, H1N-3Q-C 1288
"If the parties mutually agree that a [National Level] pre-arbitration settlement is to have the effect of a binding precedent, prudence requires that they say so in plain unmistakable language."

M-01384 Step 4
July 13, 1999, H94N-4H-D 98113787
The issue in this case is whether a settlement made on a non-citeable, non-precedent basis on a letter of warning can be introduced in an arbitration, to counter management relying on the letter of warning in an arbitration hearing on subsequent discipline citing the letter of warning as an element of past record.

During our discussion, we mutually agreed that no national interpretive issue is fairly presented in this case.

We also agreed that a non-citeable, non-precedent settlement may be cited in arbitration to enforce its own terms.

We further agreed that the subject letter of warning cannot be cited as a past element because it was removed from the grievant's record and reduced to a discussion via the September 3, 1998 settlement.

C-09533 Regional Arbitrator Levin
"Agreements may not be set aside, except by the showing of extreme circumstances that demonstrate unreasonable duress, fraud, deceit, or some equally sinister cause."

C-10063 Regional Arbitrator Skelton
June 20, 1990, S7N-3S-C 88011
Arbitrator will not enforce a Step 2 settlement which is inconsistent with the contract.

C-00339 Regional Arbitrator Eaton
July 1, 1983, W8M-5C-C 21170
Management properly refused to implement the settlement of a class action grievance by a 204b, where the 204b was inexperienced, failed to consult his supervisors, was unaware of the position of the Postal Service and approached his decision from the point of view of a craft employee.

UMPS AGREEMENTS

M-00962, Step 4, March 13, 1990
Under Modified 15, UMPS, or Human Relations Principle (HRP) Programs, grievances must be discussed at Step 3 prior to appeal to Step 4 of the grievance arbitration procedure.

M-01344 Pre-arbitration Settlement
February 19, 1997, E90N-1E-C 93020841
When the parties have a signed UMPs agreement in effect that outlines procedures to be followed when either party believes a decision should be reversed, that procedure will be followed.

C-10974 Regional Arbitrator Byars
July 16, 1991, S7N-3W-D 33143
Grievance protesting removal is arbitrable, even where UMPS signed settlement agreeing that the removal was proper.

M-01220 Step 4
July 26, 1995, H90N-4H-C-95036579
The issue in this grievance is whether management violated the National Agreement by not allowing Delivery Point Sequencing (DPS) issues to be discussed in the Union Management Pairs (UMPs) process.

During our discussions the parties agreed that DPS issues may be discussed in the UMPs process, unless the UMPs agreement provides otherwise, or unless the case involves an issue which is pending at the national level.

GUARANTEES

See Also Schedule Changes, Page 342

C-00935 National Arbitrator Mittenthal
12 June, 1987, H1C-4E-C 35028
Full-time regular employees on light-duty are not guaranteed eight hours a day or forty hours a week. They may be sent home on occasion before the end of their scheduled tours due to lack of work. *See also* M-00718

M-00356 Step 4
May 23, 1985, H1N-5F-C 29072
On his nonscheduled day, the grievant was scheduled for a fitness-for duty examination. The file reflects that the grievant was paid for the time actually involved. It is the position of the Postal Service that the grievant was not called in to work on his nonscheduled day. Therefore, the grievant is not entitled to 8 hours of guaranteed work or pay under Article 8.8.

C-00328 Regional Arbitrator Bowles
December 7, 1984, W1C-5B-C 22617
Where all clerks were instructed to work overtime "until further notice," employee properly reported to work on nonscheduled day and is entitled to full guarantee.

C-00051 Regional Arbitrator McConnell
June 21, 1983, E8C-2M-C 10537
Full-time Regular employee called in to testify at an EEO hearing is entitled to full eight-hour guarantee.

FULL-TIME REGULARS

M-00170 Memo, September 20, 1979
Any full-time employee in the regular work force who is called in on his non-scheduled day, regardless of the size of the office or amount of advance notice, is guaranteed eight hours work or pay in lieu thereof.

M-00050 Step 4
March 23, 1983, H1N-5K-C 9174
Management instructed the full-time employees to clock out and return to duty one hour later for overtime work: The employees will each receive one additional hour of pay at the applicable overtime rate in order to compensate them for the disputed period of time.

M-00575 Step 4
May 27, 1981, H8N-3W-C 26065
Article VIII, Section 8 states in pertinent part, "An Employee called in outside the employee's regular work schedule shall be guaranteed a minimum of four (4) consecutive hours of work or pay in lieu thereof, when less than four (4) hours of work is available." This provision applies only to full-time regulars and part-time regulars.

HOLIDAY SCHEDULING

EL-401, Section 4.C.1 (page 24)
November 1983
Full-time regular employees in the bargaining units are guaranteed 8 hours' work (or pay in lieu of work) if called in to work on their non-scheduled day, holiday or designated holiday. If such an employee works 6 hours and is then told by the supervisor to clock out because of lack of work, the remaining 2 hours or the employee's 8 hour guarantee is recorded as guaranteed time. (Emphasis added)

M-00580 Settlement Agreement
March 4, 1974 (Rademacher)
When a full time regular employee works on his holiday, he will be guaranteed eight (8) hours of work or pay in lieu thereof, in addition of the holiday pay to which he is entitled under Article XI, Sections 2 and 3.

The complete text of this Settlement Agreement appears under "holiday scheduling" on page 153.

M-01207 Step 4
August 4, 1994, E90N-4E-C 93023015
The issue in this grievance is whether carriers must be permitted to carry their routes on a state holiday.

The parties mutually agreed that on days when the Post Office is closed for local observances, full-time carriers scheduled for duty who do not have approved leave, will be allowed to work. In such circumstances they will be allowed to work as much of their bid assignment as is available. It is the parties' understanding that, in this case, street delivery is not available. In the event there is insufficient work on their bid assignment to meet their work hour guarantee, they may be assigned work in accordance with Article 7, Section 2.B of the National Agreement.

PART-TIME FLEXIBLES

M-00208 Step 4
January 20, 1983, H1N-1N-C 69
The question in this grievance involves entitlement to a two (2) hour guarantee. A part-time flexible carrier was originally scheduled for a four hour tour of duty in order to complete 40 hours. Due to unforeseen circumstances, he was directed to clock out after approximately one and one-half hours, swing for one hour and report back for approximately two and one-half hours Under the circumstances described, the employee is entitled to a two (2) hour guarantee for his initial tour of duty. *See also* M-00934, M-00906

M-00224 Step 4
January 27, 1982, H8N-1N-C-23559
1) When a part-time flexible employee is notified prior to clocking out that he should return within two (2) hours, this will be considered as a split shift and no new guarantee applies.

2) When a part-time flexible employee, prior to clocking out, is told to return after two (2) hours, that employee must be given another minimum guarantee of two (2) hours work or pay.

3) All part-time flexible employees who complete their assignment, clock out and leave the premises regardless of intervals between shifts, are guaranteed four (4) hours of work or pay if called back to work. This guarantee is applicable to any size office. *See also* M-00982, M-00246, M-00576, M-01405

M-01084 Prearb July 7, 1992
H7N 3Q-C 28062
Non-cite prearbitration settlement paying the PTF grievants two guarantees when they were required to split their shift for more than two hours prior to the completion of their guarantee during their initial report.

M-00888 Pre-arb
January 5, 1989, H4N-3W-C 17913
Travel time is proper when management sends a PTF to another station. Part-time flexible employees should not be required to end their tour and then report to another station to continue working without being compensated, as provided for in Part 438.132 of the Employee and Labor Relations Manual.

C-08530 National Arbitrator Britton
December 13, 1988, H1N-3U-C 28621
The two (2) or four (4) hour guarantee provided for in Article 8 Section 8.C does not apply to PTFS employees who are initially scheduled to work, but called at home and directed not to report to work prior to leaving for work.

M-01067 USPS Letter
February 14, 1972
PTF employees must be scheduled at least 4 hours per pay period.

TRANSITIONAL EMPLOYEES

M-01191 Prearb
June 29 1994, J90N-4J-C 93048774
The issue in this case is whether a NALC Transitional Employee (TE) is entitled to more than one four (4) hour work guarantee when assigned to work a split shift.

After reviewing the matter, we mutually agreed that:

1. When a Transitional Employee (TE) is notified prior to clocking out that they should return within two (2) hours, this will be considered as a split shift and no new guarantee applies.

2. When a Transitional Employee (TE), prior to clocking out, is told to return after two (2) hours, that employee must be given another minimum guarantee of four (4) hours work or pay.

C-15698 National Arbitrator Snow
E90N-6E-C 94021412, August 20, 1996
Article 8, Section 8.D does not provide a four hour call-back guarantee to NALC transitional employees requested to return to work on a day they have worked more than four hours, completed their assignment, and clocked out.

M-01241 Step 4
February 12, 1996, E90N-4E-C 94026528
The issue in these grievances involves the scheduling priority to be given part-time flexible employees over transitional employees.

During our discussion, we mutually agreed as follows:

During the course of a service week, the Employer will make every effort to ensure that qualified and available part-time flexible employees are utilized at the straight-time rate prior to assigning such work to transitional employees working in the same work location and on the same tour, provided that the reporting guarantee for the transitional employee is met.

WAIVING

M-00879 Step 4
November 14, 1988, H4N-2D-C 40885
Management may not solicit employees to work less than their call in guarantee, nor may employees be scheduled to work if they are not available to work the entire guarantee. However, an employee may waive a guarantee in case of illness or personal emergency. This procedure is addressed in the F22, Section 22.14 and the ELM, Section 432.63. *See also* M-01210

M-00115 Step 4
October 31, 1978, NCC 12644
Management should not solicit employees to work less than their guarantees rather than soliciting employees who would work their full guarantees. *See also* M-00118, M-00709

M-01227 Step 4
July 26, 1995, H90N-4H-C 94050531
It was agreed that management may not solicit TEs to work less than their reporting guarantee; a TE may, however, request that he/she be authorized to work less than the four hour reporting guarantee in case of illness or for personal reasons.

M-00119 Step 4
November 21, 1978, NCS 12428
The record shows that the employee in question requested that he be allowed to leave early for personal reasons. Under the circumstances, the eight hour guarantee provision was negated. However, in the future if a Form 3971 is used to record an early departure, the form should be completed at the time.

C-10941 Regional Arbitrator Dennis
July 15, 1991, N7N-1W-C 37842
Management improperly permitted a letter carrier called in on a non-scheduled day to leave after a partial day of work. *See also* C-10945

HANDBOOKS AND MANUALS

M-00816 Settlement Agreement
March 11, 1988, H4N-NA-C-90
In full and complete settlement of the above referenced arbitration case brought pursuant to the 1987 National Agreement between the parties, the United States Postal Service (USPS), the National Association of Letter Carriers, AFL-CIO (NALC), and the American Postal Workers Union, AFL-CIO (APWU), hereby agree as follows:

1. When the USPS provides the Union(s) with proposed changes in handbooks, manuals or published regulations, the USPS will furnish to the Union(s), if available, the final draft and/or summary of changes which show the changes being made from the existing handbook, manual or published regulation. In those instances where a final draft or summary is unavailable, the USPS will so advise the Union(s) in its letter of notice.

2. If no final draft or summary is available, which shows proposed changes, the Postal Service will, at the request of the Union(s), promptly make available appropriate officials to meet with representatives of the Union(s) to identify and discuss the changes made in the proposed handbook, manual or published regulation from those contained in existing documents.

3. The 60 day period during which the Union may appeal to arbitration may be extended to accommodate ongoing discussion of the proposed change(s) with the USPS in paragraph 2, above. However, in no instance may the Union(s) appeal the matter to arbitration more than 14 calendar days from the close of the those extended discussions. The USPS may also publish the proposed change(s) at anytime after the 60 day notice period under Article 19.

4. Where the USPS has affirmatively expressed that there are no changes which directly relate to wages, hours, or working conditions pursuant to Article 19, time limits for Article 19 will not be used by the Postal Service as a procedural argument if the Union(s) signatory to this settlement agreement determine(s) afterwards that there has been a change to wages, hours, or working conditions.

M-01095 Pre-arb
July 13, 1992, H7N-NA-C 50
The issue in these grievances involves changes occurring in Issues 11 and 12 of the Employee & Labor Relations Manual (ELM).

After discussing this matter, we agreed to the following settlement of this dispute:

1) The parties will meet within 90 days to identify and discuss the changes between ELM Issues 10, 11, and 12.

2) Without prejudice to its ability to make future changes pursuant to Article 19, management shall adhere to the provisions of ELM Section 437 as they were published in Issue 10 of the ELM. Any timely grievance alleging a violation of ELM 437 shall be processed as if the provisions of ELM Issue 10 were in effect.

3) Article 19 time limits are not a bar to the Union initiating an appeal to arbitration at the national level protesting changes to the ELM, if it is determined that the Postal Service has not complied with the notice provisions of Article 19. As a matter of clarification, this provision is also applicable to changes initially occurring in Issues 11 and 12 of the ELM.

4) The parties will meet within 14 days to discuss ELM Section 421.531 and ELM Section 568. In the event the parties are unable to resolve possible disputes on either Section, they will be referred to national level arbitration and scheduled on a priority basis.

5) Each Chapter of ELM Issue 13 will be provided to the Unions in advance of publication.

Note: See M-01231 for a copy of ELM Section 437 as it was published in Issue 10. Note that it is labeled "Issue 9" since it was not changed when Issue 10 was published (See cover page).

M-01422 Prearbitration Settlement
Q94N-4G-C 97085513, April 1, 1999
Placement of the ELM on the internet does not obviate management's contractual obligation under Article 19 to notify the Union of proposed changes that directly relate to wages, hours, and working conditions. In the event that a disagreement arises as to the accuracy of the electronic version of the ELM, the ELM as amended through Article 19 procedures will be controlling.

C-00427 National Arbitrator Garrett
January 19, 1977, MB-NAT-562
"The development of a new form locally to deal with Stewards' absences from assigned duties on Union business -- as a substitute for a national form embodied in an existing Manual (and thus in conflict with that Manual) -- thus falls within the second paragraph of Article XIX. Since the procedure there set forth has not been invoked by the postal Service, it would follow that the form must be withdrawn."

C-04162 National Arbitrator Aaron
February 27, 1984, HIN-NAC-C 3
Local and regional departures from the procedures set forth in Sub-chapter 540 of the ELM are in conflict with those procedures and therefore with the National Agreement. Article 19 does not distinguish between national, local and regional levels of management.

C-00937 National Arbitrator Gamser
December 27, 1982, H8C-NA-C 61
The EL-501 (Supervisors Guide To Attendance Improvement) is not a handbook within the scope of Article 19.

C-03223 National Arbitrator Gamser
October 3, 1980, N8-E-0088
An ambiguous handbook provision should be construed against its management drafter.

C-10089 National Arbitrator Mittenthal
June 20, 1990, H4C-NAC 881
A change in the POM prohibiting postal employees from engaging in voter registration activities within post offices did not "directly relate to working conditions" within the meaning of Article 19.

C-03236 National Arbitrator Mittenthal
February 24, 1981 N8-NA-0220
A grievance concerning the content of a regional directive that was published but not yet implemented is "ripe" for an arbitrator's decision where an interpretive issue is raised.

C-00749 National Arbitrator Bloch
May 12, 1983, H1C-NA-C 5
The certification to arbitration of a dispute concerning an amendment to the ELM, made more than 60 days after the union's receipt of the notice of proposed amendment, was untimely.

C-11160 National Arbitrator Snow
March 8, 1989, H7C-NA-C 10
"Publication [of changes] is not notice of changes under Article 19." Publication of changed handbook provisions without the required notice is a violation of Article 19 and is grievable under Article 15.4(D).

C-10090 APWU National Arbitrator Collins
June 21, 1990, H4C-NA-C 88
USPS' revision of ELM 867.53 to provide employees with the right, if they choose, to receive follow-up treatment from a contract physician was fair, reasonable and equitable.

M-01184 Step 4
February 14, 1994, H0N-1F-C 2820
The issue in this case is whether an internal management document can constitute a violation of the National Agreement.

The parties agree that internal correspondence between management officials is not a grievable matter. However, the union may, and in fact has, in separate grievances, grieved action taken by management consistent with the opinion expressed in the document.

M-01131 Prearbitration Settlement
May 13, 1993, H7C-NA-C 19018
The issue in this case involves revisions to the PSDS Time and Attendance Handbook, F-22, received by the unions on November 7, 1990.

During our discussion, we agreed to settle this case with the understanding that Article 19 time limits are not a bar to the Union initiating an appeal to arbitration at the national level protesting the November 7, 1990, changes to the F-22 Handbook if it is subsequently determined that the Postal Service has not complied with the notice provisions of Article 19.

M-00957 Step 4
October 31, 1989, H7N-5E-C 14095
The issue in this grievance is whether Management violated the National Agreement by issuing certain changes to the manner in which Bulk Business Mail is handled, when those changes first appeared in the booklet "Bulk Business Mail - It's Our Business."

During our discussion, we mutually agreed that the booklet referred to above was not properly transmitted to the Union as a proposed change to any Handbook, or Manual, consistent with the requirement, of the National Agreement. Therefore, to the extent that the booklet is inconsistent with the provisions of the M-41 or other existing manuals, this grievance is sustained, with instructions to Management to discontinue reliance on the booklet as having the effect of a Manual change.

M-01156 Prearb
December 16, 1993, H7C-NA-C 76
The parties agree that organizational levels below Headquarters will not issue directives that conflict with any national handbooks, manuals or published regulations directly related to wages, hours and working conditions.

The issuance of regional directives must comply with established manual language (ASM 310). Regional and field directives may provide guidance, contain operating instructions; and/or supplement directives issued by Headquarters; however, they may not clarify, reword or interpret Headquarters directives.

For the purpose of this settlement, the parties consider "issuances" to be a subcategory of "directives."

Memorandum of Understanding
1990 National Agreement, June 12, 1991
The parties agree that local attendance or leave instructions, guidelines, or procedures that directly relate to wages, hours, or working conditions of employees covered by this Agreement, may not be inconsistent or in conflict with Article 10 or the Employee and Labor Relations Manual, Subchapter 510.

C-00330 Regional Arbitrator Caraway
October 17, 1983, S1C-3A-C 11234
Management violated the contract when it used a restricted sick leave letter which went beyond the basic conditions set forth in the ELM.

M-00500 Step 4
May 2, 1984, H1N-5C-C 18518
Any local attendance control policy must conform to the provisions of subchapter 510 of the Employee and Labor Relations Manual (ELM). Whether or not the local policy is in accord with these ELM provisions is a local dispute and is suitable for regional determination.

M-00497 Step 4
March 30, 1984, H1N-3W-C 21270
Any local policy establishing a call-in procedure must be in compliance with Section 513.332 of the Employee and Labor Relations Manual (ELM).

M-00296 Step 4
November 21, 1983, H1N-5D-C 14785
A local Attendance Program cannot be inconsistent with ELM 510. Disciplinary action which results from a local policy must meet the just cause provision of Article 16.

C-23261 National Arbitrator Nolan
April 28, 2002, Q98N-4Q-C 01090839
The arbitrator found that NALC's national level grievance challenging revisions to Publication 71 was arbitrable. The Postal Service had argued that NALC could not resolve in arbitration a dispute concerning the Family and Medical Leave Act, a federal law. Arbitrator Nolan also rejected a series of additional management arguments that the case was not arbitrable, including claims that the grievance was untimely and that Publication 71 is not covered by Article 19. The grievance was subsequently resolved by the prearbitration settlement M-01474.

M-01491- Prearb Settlement
June 17, 2003, Q98N-4Q-C 00106833
The Postal Service affirmatively represents that there are no changes that directly relate to wages, hours, or working conditions pursuant to Article 19 of the National Agreement in the revisions to Handbook M-32, Management Operating Data Systems (MODS), which was transmitted to the NALC by letter dated January 12, 2000. Time limits for an Article 19 appeal will not be used by the Postal Service as a procedural argument if the Union subsequently determines that there has been a change(s) that directly relate to wages, hours, or working conditions.

M-01507 Prearbitration Settlement
November 6, 2003, Q98N-5Q-C 01104612
Re: ELM Chapter 8
The addition of the words "rotational basis" was in conflict with Article 14, Section 8.A. It was not intended to affect any provision of the National Agreement and the language will be rescinded in the next review of Chapter 8 of the ELM.

It was also determined that an oversight resulted in the NALC being given less than 60 days notice of the revision, in violation of Article 19.

After reviewing the remaining matters, we mutually agree that no national interpretive issue is presented in these cases and agree to close these grievances with the following understanding:

Where the Postal Service has affirmatively expressed that there are no charges which directly relate to wages, hours or working conditions pursuant to Article 19, time limits for Article 19 will not be used by the Postal Service as a procedural argument if the NALC determine(s) that there has been a change to wages, hours or working conditions.

JCAM

M-01373 Step 4
January 7, 1999, G94N-4G-D 98042998
The Joint Contract Administration Manual (JCAM) does not constitute argument or evidence; rather, the JCAM is a narrative explanation of the Collective Bargaining Agreement and should be considered dispositive of the joint understanding of the parties at the national level. If introduced into arbitration, the local parties are to allow the document to speak for itself and not seek testimony on the content of the document from the national parties.

M-01462 USPS Letter
December 14, 2001
This is to confirm our November 28 discussion concerning the use of the Joint Contract Administration Manual (JCAM) in national level arbitration.

During our discussion, we agreed that the narrative portions of the JCAM represent the agreement of the parties on those issues addressed, and that the JCAM may be introduced as evidence of those agreements in national level arbitration. If introduced as evidence in national level arbitration, the document shall speak for itself. Without exception, no testimony shall be permitted in support of the content, background, history or any other aspect of the JCAM's narrative.

HEALTH AND SAFETY

C-016371 National Arbitrator Snow
July 20, 1994, H0C-3W-C 4833
National Level Arbitration is not an appropriate forum for resolving a grievance addressing the adequacy of a local hazardous materials training program.

M-01285 Prearbitration Settlement
May 12, 1997, E90N-4E-C 93045300
The issue in this grievance is whether PS form 1767, Report of Hazard, Unsafe Condition or Practice, may be completed in an overtime status. During our discussion, it was mutual agreed that the following constitutes full and final settlement of this grievance:

The parties agree that PS Forms 1767 are normally completed during the course of an employee's work day, and that there may be occasions where the completion of PS form 1767 may be accomplished on overtime, depending on the local circumstances. Therefore, the parties agree there is nothing which prevents local management from approving overtime for the completion of PS Form 1767 in such circumstances.

M-01507 Prearbitration Settlement
November 6, 2003, Q98N-5Q-C 01104612
Re: ELM Chapter 8
The addition of the words “rotational basis” was in conflict with Article 14, Section 8.A. It was not intended to affect any provision of the National Agreement and the language will be rescinded in the next review of Chapter 8 of the ELM.

It was also determined that an oversight resulted in the NALC being given less than 60 days notice of the revision, in violation of Article 19.

After reviewing the remaining matters, we mutually agree that no national interpretive issue is presented in these cases and agree to close these grievances with the following understanding:

Where the Postal Service has affirmatively expressed that there are no charges which directly relate to wages, hours or working conditions pursuant to Article 19, time limits for Article 19 will not be used by the Postal Service as a procedural argument if the NALC determine(s) that there has been a change to wages, hours or working conditions.

M-00361 Step 4
April 26, 1983, H1N-5C-C 8277
Whether the lighting provided conforms with established standards and if the light measurement test were properly conducted can only be determined by application of Section 233.32 of the MS-49 Handbook and the manufacturer's operating instructions of the light meter to the specific fact circumstances involved.

M-01345 Step 4
January 3, 1997, Q94N-4Q-C 96091698
It is the parties' mutual understanding that the intent of the STOP Safety Program is to focus on educating and training employees on safe work habits and to observe and identify unsafe practices and deficiencies, as well as to correct those unsafe practices and deficiencies. Its focus is not to promote discipline. Administrative action with respect to safety violations must be consistent with Articles 14 and 29.

C-06949 National Arbitrator Bernstein
April 8, 1987, H1N-3D-C 40171
A rural carrier who was designated as NALC's representative to the safety committee was not entitled to compensation for time spent at safety meetings when those meetings were held outside of the rural carrier's normal working hours.

M-00160 Letter, August 7, 1986
The Office of Delivery and Retail Operations indicates that the position of the Postal Service is that where a lawn has been chemically treated and a sign has been posted to that effect, the letter carrier serving that delivery would not be required to cross that lawn during the period the potential hazard remained in effect.

M-00483 Step 4
September 26, 1980, N8-W-0378
Normally, letter carriers deliver mail during daylight hours; however, there is no contractual provision which would preclude management from assigning carriers to deliver mail in other than daylight hours.

M-01289 Step 4
June 18, 1997, D94N-4D-C 97027016
The parties agree that management has the right to articulate guidelines to its employees regarding their responsibility concerning issues relating to safety. However, the parties also mutually agree that local accident policies, guidelines, or procedures may not be inconsistent or in conflict with the National Agreement. Discipline imposed for cited safety rule violations must meet the "just cause" provisions of Article 16 of the National Agreement. Further, administrative action with respect to safety violations must be consistent with Articles 14 and 29.

C-10514 Regional Arbitrator Witney
January 7, 1991
Management did not violate the contract when it required carriers to deliver mail after dark.

M-00559 Step 4
December 8, 1978, NCW 11338
Management is instructed to cease the collecting and redistributing of the containers of dog repellent at the ending and beginning of each work day.

M-00737 Executive Order 12196, Carter
February 26, 1980
This Executive Order provides for unannounced inspections of agency work places in specified situations (including a request of the occupational safety and health committees such as those established in accordance with Article 14, Section 4).

M-00408 Step 4
May 13, 1983, H1N-1E-C 665
There is no contractual provision for the grievant or his steward to attend an internal management meeting, whether called an accident review board or any other name. However, such a committee should not make recommendations for discipline of individual employees.

M-00954 Step 4
November 30, 1989, H7N-5R-C 13353
The issue in this grievance is whether management violated the agreement when it established a Safety Captain Program. The Safety Captain, as described in this grievance, will not be used as a substitute for the Local Safety Committee as established under Article 14 Section 4.

M-00515 Step 4
June 8, 1984, H1N-5D-C 20610
Inasmuch as the determination with regard to whether a Safe Driver Award is given, rests on an evaluation of an employee's required duties as a driver; an unfavorable determination with respect to his performance as a driver is grievable on the merits under the provisions of Article 15. *See also* C-03274

C-00176 Regional Arbitrator McAllister
April 2, 1985, C1C-4C-C 15409
By reference in Article 14, Section 3.D the contract incorporates Section 19 of OSHA.

C-10611 Regional Arbitrator Benn
June 30, 1990
Management acted improperly when it limited employees to one question as a group at weekly safety meetings.

C-10537 Regional Arbitrator Scearce
January 8, 1991
Management did not violate Article 14 by permitting the removal of material containing asbestos from the roof of a postal facility during the working hours of letter carriers.

M-01433 Step 4
February 20, 2001, F94N-4F-C 97024971
The Step 4 issue in these grievances is whether any grievance, which has as its subject safety or health issues, may be placed at the head of the appropriate arbitration docket at the request of the union.

The parties agree that Article 14.2 of the National Agreement controls. It states in part:

Any grievance which has as its subject a safety or health issue directly affecting an employee(s) which is subsequently properly appealed to arbitration in accordance with the provisions of Article 15 may be placed at the head of the appropriate arbitration docket at the request of the Union.

The fact that the union alleges that the grievance has as its subject a safety or health issue does not in and of itself have any bearing on the merits of such allegations. Accordingly, placement of a case at the head of the docket does not preclude the Postal Service from arguing the existence of the alleged "safety" issue or that the case should not have been given priority. The Postal Service will not refuse to schedule a case in accordance with Article 14.2 based solely upon the belief that no safety issue is present.

M-01477, Pre-arb
March 4, 2003, Q98N-4Q-C-00099268
The parties agree that placing inverted plastic trays in the bottom of the 104-P hamper as an insert is one way, among others, to address any local bending and lifting concerns.

This agreement fully and completely resolves the issue of whether there is a bending/lifting hazard or violation of the National Agreement when city carriers use a 1046-P plastic hamper and, accordingly, will be applied to all disputes on this issue, including all grievances currently pending at any level of the grievance-arbitration procedure.

SMOKING

M-01218 Pre-arb
July 13, 1995, Q90N-4Q-C 93039784
The issue in this grievance is whether management violated Article 19 of the National Agreement in the issuance of the 1993 revision of Section 880 of the Employee and Labor Relations Manual regarding smoking.

We mutually agree that consistent with the provisions of Section 880 of the Employee and Labor Relations Manual, smoking is prohibited in all postal facilities. However, safety and health committee union representatives shall participate in the selection of designated smoking areas on postal property outside of postal facilities, where designation of such smoking areas is feasible. In those installations that do not have a safety and health committee, the union president shall participate in the selection of designated smoking areas. Employee convenience, safety, health, housekeeping, and public access will be considered in the identification of designated smoking areas.

M-00950 Step 4
October 6, 1989, H7N-5T-C-12867
The purpose of the revised smoking policy is to prevent non-smokers from having to breathe secondary smoke for reasons of health. If a smoker is in a vehicle alone, then smoking would be permitted since no one else is affected. If, however, the vehicle is carrying more that one person, then there should be no smoking in that vehicle unless everyone in the vehicle is a smoker. *See also* M-01370.

Where the Postal Service has affirmatively expressed that there are no charges which directly relate to wages, hours or working conditions pursuant to Article 19, time limits for Article 19 will not be used by the Postal Service as a procedural argument if the NALC determine(s) that there has been a change to wages, hours or working conditions.

HIGHER-LEVEL ASSIGNMENTS

SEE ALSO:

Carrier Technician assignments, Page 45
204Bs, Page 12

FILLING

M-00438 Step 4
June 25, 1982, H8N-4F-C 21675
A carrier in one station is not considered eligible or available to compete for higher level vacancies in another station. He is not in the immediate work area.

M-01015 Step 4
October 10, 1991, H7N-4A-C 26472
The issue in this grievance is whether the terms and conditions of Article 25 were violated when the grievant, T-6, was not detailed to a vacant VOMA position. Higher level positions are to be filled in accordance with Article 25. It should be noted, however, that the grievant would not have been entitled for a higher level assignment, inasmuch as he is a level 6 and the VOMA position in question is ranked as a level 6.

M-00309 Step 4
December 17, 1985, H4C-1E-C 6348
Level 5 clerk craft employees who are utilized as on-the-job instructors for new employees shall be compensated at the level 6 rate for time actually spent on such job.

M-00452 Brown Memo, November 5, 1973
When a carrier technician (T-6) is absent for an extended period and another employee serves the series of 5 routes assigned to the absent T-6, the replacement employee shall be considered as replacing the T-6, and he shall be paid at the T-6 level of pay for the entire time he serves those routes, whether or not he performs all of the duties of the T-6 When a carrier technician's absence is of sufficiently brief duration so that his replacement does not serve the full series of routes assigned to the absent T-6, the replacement employee is not entitled to the T-6 level of pay. In addition, when a T-6 employee is on extended absence, but different carriers serve the different routes assigned to the T-6, those replacements are not entitled to the T-6 level of pay. The foregoing should be implemented in a straight-forward and equitable manner. Thus, for example, an employee who has carried an absent T-6 carrier's routes for four days should not be replaced by another employee on the fifth day merely in order to avoid paying the replacement higher level pay.

C-00782 APWU National Arbitrator Bloch
May 24, 1985, H1C-5F-C 21356
An employee detailed to a higher level assignment should receive step increases in the higher level as if promoted to the position

M-00432 Step 4
June 18, 1982, H8N-3W-C 16883
The carrier is entitled to higher level pay if the assignment involves coding, drawing sector lines of maps, completing data entry forms and placing sector segments on Zip plus 4 printouts. No higher level pay is justified when the assignment merely concerns the updating of existing maps or the placing of marks on maps for identification. The file does not identify exactly which duties were performed by the employee.

HOLIDAY SCHEDULING

Beginning with the 1987 National Agreement, Article 11 was changed to require posting of the holiday schedule as of Tuesday preceding the week in which the holiday falls. Earlier decisions, although referring to Wednesday, may be understood to mean Tuesday.

C-006775 National Arbitrator Mittenthal
January 19, 1987, H4C-NA-C 21, "Second Issue"
Management may not ignore the "pecking order" in holiday period scheduling under Article 11, Section 6 in order to avoid penalty overtime pay under Article 8. Management may not treat regular volunteers for holiday period work as having volunteered for up to twelve hours on whatever day(s) they are asked to work.

C-00928 National Arbitrator Mittenthal
April 15, 1983, H8C-5D-C 14577
Management must follow the pecking order in Article 11 Section 6 in scheduling for holiday coverage. However, if additional employees are needed after the schedule has been posted, management may use employees from the OTDL rather than holiday volunteers. *Cf* M-00366

Note: In deciding this APWU case arbitrator Mittenthal examined the provisions in the LMU. Whether this decision is applicable other situations can only be determined after examining the applicable LMU. See M-01186. *below.*

M-01200 January 5, 1995
C90N-4C-C- 94041271
The issue in this grievance is whether Management violated the National Agreement by scheduling NALC Transitional Employees (TEs) for holiday work instead of full-time carriers who volunteered.

After reviewing this matter, we mutually agreed that, if there was an eight hour assignment (route) or eight hour block of work available, it should have been assigned to a full-time regular volunteer instead of a TE.

M-00366 Step 4
January 10, 1980, N8-C-0191
There is no contractual obligation to utilize the Overtime Desired List when scheduling for holiday coverage. *See also* M-00168.

M-01186 Step 4
March 3, 1994, J90N-4J-C 94000256
Further, during our discussion, we mutually agreed that the use of the Overtime Desired List to obtain additional employees needed to work on the holiday after the holiday schedule is posted is addressed in national case H8C-5D-C 14577 (C-00928), and the Local Memorandum of Understanding, if applicable.

M-00871 Pre-arb
January 10, 1989, H4N-5K-C 38796
Holiday scheduling provisions, whether found in Article 11.6 of the National Agreement or in a Local Memorandum of Understanding apply to actual as well as designated Holidays.

C-00940 National Arbitrator Gamser
December 22, 1979, MC 481
The Postal Service has no obligation to notify persons whose names are not on the holiday schedule posting on the Wednesday preceding the holiday that they are not required to work on the holiday.

M-00152 Step 4
August 31, 1977, NCE 7265
Article XI, Section 6 of the National Agreement is written to allow as many full-time regular schedule employees off on a holiday as practicable. In the absence of a Local Memorandum of Understanding holiday volunteers may be selected in any order deemed appropriate.

M-00155 Step 4
February 28, 1978, NCC 9687
Management can call in an employee on holiday as a replacement for another employee properly scheduled for holiday work without impairing (*sic*) a 50% penalty

This settlement is consistent with ELM Section 434.533 which reads:

434.533 (c) When a full-time employee who is scheduled to work on a holiday is unable or fails to work on the holiday, the supervisor may require another full-time employee to work such schedule, and such employee is not eligible for holiday scheduling premium.

C-017582 National Arbitrator Snow
B90N-4B-C 94029392, November 28, 1997
The exception in ELM Section 434.533(c) applies whether the replaced full-time employee was scheduled for a regular day or a holiday.

M-00150 Step 4
April 14, 1977, NCC 4322
A properly scheduled part-time flexible employee was replaced on the holiday by a full-time regular employee after the part-time flexible advised of being ill and of his inability to report as scheduled. Under such circumstances, the full-time regular employee is entitled to be compensated an additional fifty percent (50%) of his basic hourly straight-time rate of pay for each hour worked on the holiday schedule up to eight hours.

M-00340 Step 4
July 16, 1974, NBS 1739
There is no provision which provides for the assignment of "best qualified" employees to perform carrier work on a holiday.

M-00400 Step 4
July 16, 1974, NBS 1739
In the absence of any local memorandum of understanding providing to the contrary, full-time and part-time regular letter carriers who wish to work on a holiday must be afforded an opportunity to do so before arbitrarily assigning employees to work on their designated holiday.

M-01343, Prearbitration Settlement
F94N-4F9-C 96048488. October 21, 1998
Prearbitration Settlement agreement providing that, in the absence of LMU provisions, the default holiday pecking order is as specified in the JCAM. The June 1998 edition of the JCAM provides the following:

Article 11.6.B provides the scheduling procedure for holiday assignments. Keep in mind that Article 30, Section B.13 provides that "the method of selecting employees to work on a holiday" is a subject for discussion during the period of local implementation. The LMU may contain a local "pecking order". In the absence of LMU provisions or a past practice concerning holiday assignments, the following minimum pecking order should be followed:

1) All casual and part-time flexible employees to the maximum extent possible, even if the payment of overtime is required.

2) All full-time and part-time regular employees who possess the necessary skills and have volunteered to work on their holiday or their designated holiday--by seniority.

3) Transitional employees

4) All full-time and part-time regular employees who possess the necessary skills and have volunteered to work on their non-scheduled day--by seniority.

*5) Full-time regulars who **do not** volunteer on what would otherwise*

be their non-scheduled day--by inverse seniority.

*6) Full-time regulars who **do not** volunteer on what would otherwise be their holiday or designated holiday--by inverse seniority.*

Adverse inferences concerning whether a "pecking order" contained in an LMU is in conflict or inconsistent with the language of Article 11.6 should not be drawn solely because the parties at the national level have agreed to a "default pecking order".

M-00300 Step 4
April 1, 1985, H1C-4H-C 35548
Part-time flexible employees while detailed to another facility may be utilized for holiday work, provided they possess the necessary skills needed to perform the required duties.

M-00898 Step 4
February 5, 1989, H7N-5R-C 4230
Article 11, Section 6.B of the National Agreement requires that, where operational circumstances permit, casual and PTF employees should be utilized in excess of eight (8) hours before any regular employees should be required to work their holiday or designated holiday.

M-00580 Settlement Agreement
March 4, 1974 (Rademacher)
Note: This settlement agreement expired with the 1973 National Agreement. However, some of its provisions have been incorporated into the ELM.

Settlement Agreement entered into this 4th day of March 1974, by and between United States Postal Service (Employer) and American Postal Workers union, AFL-CIO, National Association of Letter Carriers, AFL-CIO, National Post Office Mail Handlers, Watchmen, Messengers and Group Leaders Division of the Laborers' International Union of North America, AFL-CIO, in complete and final settlement of all timely and valid grievances now on file as of this date arising under Article 11 of the 1971 and/or 1973 National Agreement insofar as the subject matter of such grievances is covered by the terms of this Settlement Agreement.

1) The Employer shall post a holiday schedule as set forth in Article 11, Section 6, of the 1973 National Agreement.

2) A full time regular employee whose holiday schedule is properly posted in accordance with Article 11, Section 6 and who works within the posted schedule shall be paid in accordance with Article 11, Sections 2, 3, and 4. It is further agreed that any change in an employee's required duties does not constitute a change in the posted schedule for purposes of this settlement agreement.

3.a) Except as provided in subparagraphs (b) and (c) of this paragraph, when the Employer fails to post in accordance with Article XL, Section 6, a full time regular employee required to work on his holiday, or who volunteers to work on such holiday, shall be paid in accordance with Article XL, Sections 2, 3, and 4, and shall receive an additional fifty percent (50%) of his basic hourly straight time rate for each hour worked up to eight hours.

3.b) In the event that, subsequent to the Article XL, Section 6 posting period, an emergence situation attributable to an "Act(s) of God" arises which requires the use of manpower on that holiday in excess of that posted pursuant to Article 11, Section 6, full time regular employees required to work in this circumstance(s) shall only be paid for such holiday work in accordance with Article 11, Sections 2, 3, and 4;

3.c) When a full time regular employee scheduled to work on a holiday in accordance with the provisions of Article 11, Section 6, is unable to or fails to work on the holiday, the Employer may require another full time regular employee to work such schedule and such replacement employee shall only be paid for such holiday work in accordance with Article, Sections 2, 3, and 4. The selection of such replacement employees shall be made in accordance with any applicable local agreement consistent with the terms of the 1973 National Agreement.

3.d) A full time regular employee required to work on a holiday which falls on his regularly scheduled non-work day shall be paid at the normal overtime rate of one and, one-half(1 1/2) times his basic hourly straight time rate for work performed on such day. Such employee's entitlement to his holiday pay for his designated holiday shall be governed by the provisions of Article 11, Sections 2, 3, 5, and 6.

4) Hours worked on a holiday in excess of 8 hours shall be paid at the normal overtime rate of one and one-half (1 1/2) time the basic hourly straight time rate.

5) When a full time regular employee works on his holiday, he will be guaranteed eight (8) hours of work or pay in lieu thereof, in addition of the holiday pay to which he is entitled under Article 11, Sections 2 and 3.

6) A schedule posted in accordance with Article 11, Section 6 shall be the full time regular employee's schedule for that holiday. A full time regular employee who works outside of his posted holiday schedule shall be paid at the rate of one and one-half (1 1/12) times his basic hourly straight time rate for the hour(s) worked outside his posted schedule.

7) In no event shall a full time regular employee receive more than one and one-half (1 1/12) times his basic hourly straight time rate for hours actually worked on his holiday in addition to payments prescribed in Article 11, Section 3.

8) The parties agree that, where the terms of this Settlement Agreement apply to presently pending valid grievances timely filed pursuant to the 1971 National Agreement, they shall be so applied with the understanding that (A) the terms of subparagraphs (b) and (c) of paragraph no. 3 shall not apply to any such grievance and (B) where a full time regular employee worked on his holiday, he will be guaranteed (4) four hours of work or pay in lieu thereof in addition to the holiday pay to which he is entitled under Article 11, Sections 2 and 3.

9) Where the terms of this settlement agreement, including but not limited to, paragraph no. 5 above, apply to presently pending valid grievances timely filed pursuant to the 1973 National Agreement, they shall be so applied, with the understanding that the terms of subparagraphs (b and (c) of paragraph no. 3 shall not apply to any such grievance.

10) It is understood that the terms of this Settlement Agreement shall, where applicable, apply to the provisions of Article 11 for future holidays for the duration of the 1973 National Agreement. *But see* M-00859

M-01275 Step 4
January 2, 1997, C94N-4C-C 96055622
The issue in this case is whether or not management must include part-time flexible carriers when posting a holiday schedule.

After reviewing this matter, we mutually agreed that the posting of a holiday schedule on the Tuesday preceding the service week in which the holiday falls shall include part-time flexible carriers who at that point in time are scheduled to work on the holiday in question. *See also* M-00936.

M-01207 Step 4
August 4, 1994, E90N-4E-C 93023015
The issue in this grievance is whether carriers must be permitted to carry their routes on a state holiday.

The parties mutually agreed that on days when the Post Office is closed for local observances, full-time carriers scheduled for duty who do not have approved leave, will be allowed to work. In such circumstances they will be allowed to work as much of their bid assignment as is available. It is the parties' understanding that, in this case, street delivery is not available. In the event there is insufficient work on their bid assignment to meet their work hour guarantee, they may be assigned work in accordance with Article 7, Section 2.B of the National Agreement.

M-00946 Step 4
October 6, 1989, H7N-1R-C-6142
We agreed that management has an obligation to post a holiday schedule for December 25.

M-01293 Step 4
March 31, 1998, A94N-4A-C 9709026
Donated leave under the leave share program is considered paid status for holiday leave purposes

C-09421 Regional Arbitrator P.M. Williams
Management did not violate the national or local agreement when it worked 5 PTFs on a holiday, rather than 5 senior regular volunteers.

C-09770 Regional Arbitrator Levin
February 15, 1990
Management was not required to pay Holiday Scheduling Premium when it did not timely post a schedule for a December holiday.

C-00146 Regional Arbitrator Leventhal
March 14, 1985, W1C-5G-C 6261
Management violated a valid local memorandum of understanding when it did not schedule regular volunteers for holiday work, but instead scheduled PTFS employees.

C-11270 Regional Arbitrator Eaton
W7N-5D-C 26075, October 9, 1991
Management did not violate the contract when it worked the grievant off his bid assignment on his designated holiday.

GUARANTEES

EL-401, Section 4.C.1 (page 24)
November 1983
Full-time regular employees in the bargaining units are guaranteed 8 hours' work (or pay in lieu of work) if called in to work on their non-scheduled day, holiday or designated holiday. If such an employee works 6 hours and is then told by the supervisor to clock out because of lack of work, the remaining 2 hours or the employee's 8 hour guarantee is recorded as guaranteed time. (Emphasis added)

M-00580 Settlement Agreement
March 4, 1974 (Rademacher)
When a full time regular employee works on his holiday, he will be guaranteed eight (8) hours of work or pay in lieu thereof, in addition of the holiday pay to which he is entitled under Article XI, Sections 2 and 3.

The complete text of this Settlement Agreement appears above.

HOLIDAY SCHEDULING VIOLATIONS

M-00859 Memorandum, October 19, 1988
The parties agree that the Employer may not refuse to comply with the holiday scheduling "pecking order" provisions of Article 11, Section 6 or the provisions of a Local Memorandum of Understanding in order to avoid payment of penalty overtime. The parties further agree to remedy past and future violations of the above understanding as follows.

1. Full-time employees and part-time regular employees who file a timely grievance because they were improperly assigned to work their holiday or designated holiday will be compensated at an additional premium of 50 percent of the base hourly straight time rate.

2. For each full-time employee or part-time regular employee improperly assigned to work a holiday or designated holiday, the Employer will compensate the employee who should have worked but was not permitted to do so, pursuant to the provisions of Article 11, Section 6, or pursuant to a Local Memorandum of Understanding, at the rate of pay the employee would have earned had he or she worked on that holiday.

C-02975 National Arbitrator Fasser
August 16, 1978, NCC 6085
Proper remedy for Article 11 holiday scheduling violation is full pay for missed work.

C-03542 Regional Arbitrator Foster
May 12, 1983, S1N-3U-C 1824
The Postal Service violated the contract by requiring the grievant to work on his designated holiday. The arbitrator granted the remedy requested by the union; "to grant Grievant 8-hours administrative leave to use at his discretion in the next twelve months."

C-00142 Regional Arbitrator Dobranski
June 21, 1983, C1C-4E-C 5244
Where management improperly required an employee to work on a designated holiday, the appropriate remedy is either to pay the grievant an additional 50% or to excuse the grievant from the next mandatory holiday.

C-10690 Regional Arbitrator Eaton
August 13, 1990
Where management failed to timely post a holiday schedule, an arbitrator has authority to grant a remedy "which is neither specifically authorized nor prohibited by the National Agreement."

INFORMATION – UNION RIGHTS

SEE ALSO

Postal Inspectors, Page 293

M-01150 APWU Prearb
February 13, 1990, H4C-3W-C 27068
The issue in this grievance is whether or not management must supply the local union with a list of all employees who applied for non-bargaining unit positions.

It was agreed that, if the local union provided a list of officers and stewards, the Postal Service will indicate which (if any) applied for a supervisory position within the past two years.

M-01101 Pre-arb
November 12, 1992, H0N-3W-D 1157
The issue in these cases is whether management was required to provide access to an employees Employee Assistance Program (EAP) records and Official Personnel Folder (OPF) without the consent of the employee.

During our discussion, we mutually agreed to make available any discipline records found in the OPF of that employee and allow the union's representatives to review these records.

C-03230 National Arbitrator Mittenthal
February 16, 1982, H8N-3W C20711
The Supervisor's refusal to provide a letter carrier steward with a supervisor's personal notes of discussions the supervisor had with an employee concerning his sick leave was not unreasonable where there was no dispute as to the number of such discussions or their content. Article XVII, Section 3 of the 1978 National Agreement does not under these circumstances require the supervisor to provide the steward with his personal notes of the discussions.

M-00560 Step 4, April 29 1980, N8S 0255
Management may provide as steward with information requested for review at his or her work location rather than releasing the steward for the purpose of travel to a central facility to review the requested information.

M-00316 Step 4
November 5, 1982, H1C-3U-C 6106
Any and all information which the parties rely on to support their positions in a grievance is to be exchanged between the parties' representatives at the lowest possible step. This will include the PS 2608 when management's representative at Step 2 or above of the grievance procedure utilizes the form to support their decision. Also, this will include the PS 2609 when utilized by management's representative at Step 3 or above. *See also* M-00315. M-00822

M-01471 Prearbitration Settlement
September 26, 2002, E90N-4E-C-94026388
It is agreed that pursuant to Article 17, Section 3, the steward, chief steward or other Union representative may request and shall obtain access through the appropriate supervisor to review the documents, files and other records necessary for processing a grievance or determining if a grievance exists. Such request shall not be unreasonably denied.

Accordingly, the Union may request and shall obtain access to documents, files and other records necessary for processing a grievance concerning the July 20, 1993 Memorandum of Understanding regarding Transitional Employee Employment Opportunities (updated in the 2001-2006 National Agreement at pp. 218-219). Such documents may include hiring worksheets if relevant to the grievance.

M-01050 APWU Step 4
September 16, 1980, W8C-5E-C-93444
It is further agreed that under the Privacy Act an employee or third party designated by him/her may not be denied access to any information filed or cross indexed under the employee's name except as specified in Part 313.61 of the E&LR Manual.

M-00454 Step 4
November 18, 1977, NCS-8463
Supervisors will respond to reasonable and germane questions during the investigation of a grievance.

M-00215 Step 4
October 14, 1981, H9C-5K-C 17499
The Postal Service agrees that relevant information within the meaning of Article 31, including requests for attendance information, will be provided to the Union.

M-00670 Step 4
March 7, 1977, NCN-3584
If information requested by the union is relevant to a pending Step 4 grievance the requesting union representative should be allowed access to that information.

M-00325 Step 4, April 19, 1972, NS-153
The steward may resubmit his request for overtime information setting forth the names of those carriers whose overtime record he wishes to see and the time period which he wishes to review.

M-00307 Pre-arb
December 18, 1985, H4C-5F-C 1641
The union is entitled to copies of a D-2 document, a locally developed (discipline) form. The union's request to review the documents, files, and other records, including the D-2 form, that are necessary for processing a grievance or determining if a grievance exists shall not be unreasonably denied.

M-00626 Step 4, March 28, 1977, NCS 4432
Under the terms and conditions of the National Agreement, the Union is entitled to review all relevant and material information associated with a grievance being pursued by the Union, which included information developed as a result of investigating a particular incident directly associated with the grievance.

M-00674 Step 4
November 15, 1977, NCS-8956
Management in this instance apparently cited a Civil Service Commission ruling in defense of its own actions. If management was in possession of such a "ruling" it should have been provided to the steward upon reasonable request. If not, the situation or reason should have been fully explained to the requesting union official.

M-00104 Step 4, August 18, 1976, NCE-2263
A steward should be allowed to review an employee's Official Personnel Folder during his regular working hours depending upon relevancy in accordance with the applicable provisions of Article XVII, Section 3.

C-10363 National Arbitrator Mittenthal
November 16, 1990, H4T-2A-C 36687
The arbitrator ruled that the Postal Service violated APWU's rights under Article 17, Section 3 and Article 31 by refusing to provide copies of USPS/Mail Handler E.I. workteam minutes.

COST

M-00086 Step 4
November 30, 1984, H1C-4A-C 31135
It is the position of the Postal Service that, as provided in ASM, section 352.621, no charge for search time is made if no more than one quarter hour of clerical search time is required. It is also our position that as provided in ASM, Section 352.622, when a search must be performed by professional or managerial personnel there is a fee for each quarter hour.

M-00826 Step 4
May 22, 1987 H4N-5R-C 30270
Charges to the Union by management for copying and processing information are controlled by Section 352.6 of the Administrative Support Manual.

M-01141 APWU Step 4
June 26, 1992, H7C-3B-C 37176
The charges imposed by the Employer for information furnished pursuant to Article 31 of the National Agreement will not be greater than charges imposed by the Postal Service for release of information under the Freedom of Information Act.

Union requests made pursuant to Article 31 of the National Agreement are covered by Parts 352.634, All Other Requesters, and 352.64, Aggregating Requests, of the Administrative Support Manual, Issue 8, August 1991.

M-01094 Step 4
May 21, 1992, H7N-5K-C 23406
The issue in this grievance is whether the National Agreement requires management to provide the union with copies of information relevant to the filing of a grievance.

During our discussion, we agreed that upon request of the union, the Employer will furnish information necessary to determine whether to file or continue processing of a grievance, provided the employer may require the Union to reimburse the USPS for any costs reasonably incurred in obtaining the information. If obtaining such information includes providing copies, those copies will be provided.

ORAL REQUESTS

C-10310 Regional Arbitrator Searce
September 27, 1990
Management violated the contract by imposing a local policy which required that all requests for information be written.

C-00183 Regional Arbitrator Caraway
June 27, 1984, S1C-3Q-C 31919
"There is no requirement in Article 31, Section 2, that the Union's request for information be in writing. This is wholly unnecessary and imposes an undue burden upon the Union representative."

MEDICAL RECORDS

C-06652 Regional Arbitrator Rotenberg
November 16, 1986, C4N-4B-C 15886
The Union is entitled to medical records necessary to investigate or process a grievance even in cases where the employee involved does not authorize the release of the information. The Privacy Act does not bar the release of such information when it is necessary for collective bargaining purposes.

M-01155 Step 4
January 14, 1994, H7N-2C 44938
We mutually agreed that the release of medical records to the union without an employee's authorization is provided for in the Administrative Support Manual, Appendix (USPS 120.190), EL-806, and by Articles 17 and 31 of the National Agreement.

M-00881 Step 4
November 16, 1988, H7N-1P-C 2187
The release of medical records to the Union is provided for in the Administrative Support Manual, Appendix (p. 42) (USPS 120.090). Accordingly, this grievance is sustained and the records in dispute will be provided to the union. *See also* M-01208

M-00459 Step 4, June 27, 1977, NCC-5980
Steward's request was extremely broad in scope and involved medical records. Since no justification was provided, the request was denied.

C-13674 Regional Arbitrator Maher
May 18, 1994, A90N -4A-C 94006287
The Arbitrator holds when the USPS seeks to take disciplinary action against an employee and relies upon medical records as evidence and the basis for its initial determination, the right to privacy vis a vis medical records not being released is no longer within the protected confines of physician and patient. That veil had been pierced by management's initiation of discipline of which the bona fides would be decided in an adversarial proceeding necessitating union representation of the Grievant. Therein lies the intent and explicit and explicit requirements of Articles 17 and 31 which provides that the Employer shall furnish to the union information requested in the processing of a grievance.

SUPERVISORS' DISCIPLINARY RECORDS

C-10986 National Arbitrator Snow
July 29, 1992, H7N-5C-C 12397
"[T]he Employer violated the parties' National Agreement when the Employer denied a Union request for information respecting the possible discipline of two supervisors..."

C-11716 Supplemental Award
March 9, 1992, H7N-5C-C 12397
The union is entitled to information concerning the disciplinary records of supervisors when it is necessary for the processing of a grievance.

M-01160 Prearb
December 16, 1993, H7N-1E-C 23870
It was mutually agreed that the release of information regarding supervisors was provided for in Arbitrator Snow's award in H7N-5C-C 12397 and in an NLRB settlement signed by the parties on August 3, 1993.

JURISDICTION

EXPRESS MAIL

For jurisdictional issues concerning Express Mail, see "Express Mail" on page 113

RURAL CARRIERS

For jurisdictional issues concerning the Rural Carrier Craft see "Rural Routes" on page 339

SEE ALSO

Letter Carrier Duties, page 187
Segmentation, page 193
Cross Craft Assignments, page 57

IN GENERAL

M-01172 Memorandum of Understanding September 20, 1989
Jurisdictional issues, arising under the Modified Article 15 pilot program, will not be addressed by arbitrators in that forum.

Whenever jurisdictional issues are raised under the Modified Article 15 pilot program, and no resolution is reached by the parties at Step 2, the Union may appeal such issues to the regional level of the regular grievance and arbitration procedure. Such issues will be processed pursuant to those provisions under Article 15 of the National Agreement.

C-00755 National Arbitrator Mittenthal December 8, 1982, H1C-4P-C 1792
The assignment of a city carrier to mail distribution and other tasks at a lock box unit in Fargo, North Dakota did not violate the 1981 National Agreement.

C-03247, National Arbitrator Garrett January 17, 1977, NC-NAT-1576
The arbitrator found that the Postal Service did not violate the National Agreement by having clerks sort mail for apartments buildings into "directs" and having the carrier separate the mail in the apartment mail room rather than in the office.

C-12786 National Arbitrator Snow February 19, 1993, H7N-1A-C 25966
"[T]he Employer did not violate the parties' National Agreement when it made available temporary letter carrier transport duties [Bus Driver] to the Motor Vehicle Craft exclusively."

C-13007 National Arbitrator Snow May 20, 1993, H7C-NA-C 96
The employer violated Article 4, Section 3 by failing to offer current employees the opportunity to apply for Remote Video Encoding work.

C-24430 National Arbitrator Steven Briggs, E90N-4E-C 95001512, July 16, 2003
National Arbitrator Briggs held that the Postal Service violated the National Agreement by reassigning a one-hour AM shuttle run at the Lynwood, Washington Post Office from the City Letter Carrier craft to the Clerk craft. As a remedy, the Postal Service was directed to return the work in question to the Letter Carrier craft and to make whole any Letter Carrier craft employee adversely affected by the violation. Arbitrator Brigg's award is consistent with a long line of national level arbitration decisions establishing that craft jurisdiction is determined by local practice.

CITY DELIVERY

M-01519 City/Rural Process Agreement May 4, 2004
The process and guidelines developed by The National Joint City/Rural Task Force to review all outstanding city/rural issues in the grievance procedure.

M-01520 Guideline Principles to Address City/Rural Issues May 4, 2004
1) Claims that rural delivery should be converted to city delivery because it has characteristics of city carrier work. 2) Claims that establish rural delivery was improperly converted to city delivery. 3) Claims that established city delivery territory was improperly converted to rural delivery. 4) Other jurisdictional boundary claims including assignment of new deliveries.

M-01188 Step 4
March 3, 1994, S0N-3C-C 13061
The issue in this grievance is whether management violated the National Agreement by assigning delivery of first class and priority mail within the boundaries of established city delivery to Clerks and Special Delivery Messengers.

During our discussion we mutually agreed that the delivery of first class and priority mail on a route served by a letter carrier is letter carrier work. The propriety of a cross craft assignment can only be determined by the application of Article 7.2.

M-01125 Step 4
April 8, 1993, H0N-4J-C 9940
The issues in this grievance are whether Management violated the National Agreement by assigning delivery of first class and priority mail to a Special Delivery Messenger and whether the grievance was filed within contractual time limits.

After reviewing this matter, we mutually agreed that no national interpretive issue is fairly presented in this case. We further agreed that the delivery of first class and priority mail on a route served by a letter carrier is letter carrier work. The propriety of a cross craft assignment can only be determined by the application of Article 7.2. *See also* M-01080

M-01080 Step 4
June 9, 1992, H7N-3A-C 40704
The issue in this grievance is whether the delivery of Priority and First Class Mail by Special Delivery messengers violates the terms and conditions of the National Agreement.

In the particular fact circumstances of this case, the work described, i.e., the delivery of First Class and Priority Mail on a route served by a Letter Carrier, is Letter Carrier work. The propriety of a Cross Craft assignment can only be determined by the application of Article 7 Section 2.

M-00415 Step 4, March 30, 1977, NCS 5258
Delivery of Special Delivery Mail may be made by regular city carriers when the conditions of Part 166.311 of the Postal Service Manual are met.

M-01224 Step 4
August 16, 1995, E90N-4E-C 94055266
The issue in this grievance is whether Management violated the National Agreement by permitting a Commercial Mail Receiving Agency (CMRA) to deliver mall merchant's mail.

During our discussions the parties agreed that CMRA's are only allowed to handle merchant's mail when PS Form 1583 (Application of Delivery Through Agent) has been submitted by a merchant authorizing the release of their mail to a CMRA. Without a signed PS Form 1583, mail may not be released to a CMRA. These guidelines are contained in the Domestic Mail Manual (DMM), Section D 042. In this case, there are no signed PS Form 1583's for all merchants at the Mall.

COLLECTIONS

M-01034 Pre-arb
March 12, 1992, H7N-5T-C-44288
The issue in this grievance is whether the establishment of a Collection/Distribution Clerk duty assignment in Canoga Park, California, violated the National Agreement.

During the discussion, it was mutually agreed that the following constitutes full settlement of this grievance:

1) Position MO-28 will be abolished in accordance with contractual provisions.

2) The collection duties at issue in this grievance (Canoga Park) will be reassigned to city carriers.

3) This settlement does not constitute a waiver of management's rights to assign collection duties in accordance with the National Agreement.

M-00348 Step 4
June 14, 1985, H1N-5F-C 26543
The key position description for special delivery messengers provides that special delivery messengers' duties and responsibilities include the delivery and collection of mail.

M-1287 Prearbitration Settlement
May 15, 1997, G90N-4G-C 95035453
This grievance concerns the use of "collection verification cards" in an effort to improve service through proper collection of mail.

After reviewing this matter, it was mutually agreed that there is no dispute at this level concerning a carrier's responsibility for the collection of mail, and for proper use of cards used to verify and/or remind carriers of such collections. The parties further agree that management may document the fact that letter carriers have been given appropriate instruction on the proper handling of such cards. However, as these cards are not currently identified as "accountable items" in part 261 of Handbook M-41, carriers are not currently required to sign/initial to verify receipt of these cards.

However, once the letter carriers receive appropriate instruction on the proper handling of these cards, either a management representative or another designated employee may document the number of cards given to each letter carrier on a daily basis.

C-11209 Regional Arbitrator Byars
September 16, 1991
Management did not violate the contract by assigning 3 hours of collections to MVS.

C-10117 Regional Arbitrator Martin
June 29, 1990
Management violated the contract by assigning a PTF clerk to run collections.

SPREADING, WITHDRAWING MAIL

M-00892 USPS Letter, January 3, 1989
"Assistant Postmaster General Mahon's letter pertaining to our position on the issue of spreading mail to carriers in no manner is designed to abate the provisions of Section 116.6 of the M-39 Handbook, entitled "Carrier Withdrawal of Letters and Flats", which addresses the fact that carriers may be authorized to make up to two withdrawals from the distribution cases prior to leaving the office, plus a final clean up sweep as they leave the office."

M-01099 Step 4
August 6, 1992, H0N-1T-C 8391
The issue in this grievance is whether the withdrawal of mail is letter carrier craft work.

After reviewing this matter, we mutually agreed that no national interpretive issue is fairly presented in this case.

The assignment of letter carriers to withdraw mail from distribution cases conforms with the relevant provisions of the M-39 Handbook (Section 116.6, Carrier Withdrawal of Letters and Flats).

C-03244 National Arbitrator Garrett
January 30, 1978, NBS 4334
Management may properly assign clerks to distribute mail to carrier cases. *See also* M-00010

M-00287 Step 4
July 29, 1977, NCS 6733
Clerks should not withdraw mail from the carrier's case.

M-01134 APWU Step 4
November 29, 1982, H1C-3D-C 10719
The question in this grievance is whether management violated Article 7 of the National Agreement by allowing carriers to withdraw mail from distribution cases. The union contends that this work belongs to the clerk craft.

Our review of pertinent regulations including the national agreement together with the information provided in the case file did not support a finding that a contractual violation occurred. Accordingly, we find no violation of the national agreement and the grievance is denied.

TRANSPORTING MAIL

C-15602 National Arbitrator Snow
B90V-4B-C 93032199, July 24, 1996
The Postal Service did not violate the national agreement when it assigned other than Motor Vehicle Service Division employees to transport bulk quantities of Express Mail.

C-10616 Regional Arbitrator Erbs
February 20, 1992
Management did not violate the contract when it assigned letter carriers to do the pickup of mail from contract stations and transport it to the GMF.

Lawn Crossing

C-03219 National Arbitrator Aaron
November 10, 1980, N8-NA-0219
Shop Stewards have the right under Article 17 Section 3 of the 1978 National Agreement to investigate grievances as provided therein, including the right to interview postal patron witnesses during working hours in connection with situations in which a letter carrier has made an initial determination that a particular customer would object to his lawn being crossed and where a supervisor has overridden that determination and issued an order that such lawn be crossed.

M-00273 USPS Letter
June 15, 1978, NC-NAT-13212
Postal Service policy does not advocate that management issue blanket orders requiring letter carriers to cross every lawn or take every shortcut.

M-00721 Step 4
May 27, 1977, NCS 6072
The fact that a patron may not have any mail on a given day does not restrict the carrier from crossing the lawn.

M-00160 Letter, August 7, 1986
The Office of Delivery and Retail Operations indicates that the position of the Postal Service is that where a lawn has been chemically treated and a sign has been posted to that effect, the letter carrier serving that delivery would not be required to cross that lawn during the period the potential hazard remained in effect.

M-00177 Step 4
August 6, 1981, H8N-4J-C 25212
If the carrier made an initial determination that a particular postal customer did not wish his/her lawn to be crossed and the supervisor overrode that determination, management may not deny requests for investigation pursuant to Article XVII, Section 3 of the National Agreement by a shop steward. *See also* M-00016.

M-00275 Step 4
January 15, 1980, N8-N-0007
It is management's position that letter carriers are expected to take available short cuts if the customers do not object and there are no particular hazards to the carrier. Notwithstanding, blanket instructions to all carriers to cross all lawns would not be considered proper.

M-00274 Letter, June 27, 1977, NCW 5806
Where the customer objects in writing to the carriers crossing their lawns, local management may investigate and should inform the carriers not to cross those specific customers lawns.

LAYOFFS

M-00123 Step 4
April 30, 1985, H1N-4E-C 35515
Whether the grievant met the pay period requirement for attainment of protected status can only be determined by evaluating the fact circumstances. If the grievant's OWCP claim is approved, then no break in service occurred. If the claim is not accepted, then a break did occur.

M-00088 Step 4
September 25, 1984, H1C-1E-C 28103
The question raised in this case is whether the grievant was improperly required to begin a new 6 year period in a work status in order to achieve protected status on returning to duty after an absence of more than one year: The union contends that Article 6.A.3. did not intend to include time on maternity leave as time not worked for purposes of retaining protected status. During our discussion, we agreed to resolve this case based on our having no dispute relative to the meaning and intent of Article 6. Section A.3.a.3

M-00785 Step 4
May 22, 1987, H4N-3S-C 31204
Leave without pay for maternity reasons is not considered "work" for the purposes of achieving protected status pursuant to the provisions of Article 6.A.3.

M-00469 Step 4
November 7, 1980, N8-W-0490
The grievant is a "protected employee" for lay-off purposes as he was a member of the regular work force on September 15, 1978, the date of Arbitrator Healy's award. The fact that he resigned and was subsequently reinstated has no bearing on his protected status.

M-00929 Step 4
May 30, 1989, H7N-1P-C 13349
Time spent in National Guard Service is considered "work" for the purposes of achieving no layoff protection under the provisions of Article 6, Section A.3.a.1.

LEAVE

LEAVE, IN GENERAL

M-00147 Pre-arb
September 30, 1985, H1N-2B-C 2563
Leave which is applied for consistent with the National Agreement and Local Memorandum of Understanding is awarded by seniority without regard to full-time or part-time status.

M-00841 Step 4
May 4, 1988, H7C-NA-C 9
An employee who is on extended absence and wishes to continue eligibility for health and life insurance benefits, and those protections for which an employee may be eligible under Article 6 of the National Agreement may use sick leave and/or annual leave in conjunction with leave without pay (LWOP) prior to exhausting his/her leave balance. The employer is not obligated to approve such leave for the last hour of the employee's scheduled workday prior to and/or the first hour of the employee's scheduled workday after a holiday.

M-01235 APWU Memorandum
November 14, 1991
The basic intent of this MOU is to establish that an employee need not exhaust annual or sick leave prior to requesting LWOP. One example of the term "need not exhaust" is when an employee requests maternity or paternity leave and was previously required by local management to exhaust their sick or annual leave prior to receiving LWOP. An employee now has the option of requesting LWOP in lieu of sick or annual leave when they reach the point where they may exhaust their leave benefits.

M-00165 Executive Order 5396
(Herbert Hoover)July 17, 1930
With respect to medical treatment of disabled veterans who are employed in the executive civil service of the United States, it is hereby ordered that, upon the presentation of an official statement from duly constituted medical authority that medical treatment is required, such annual sick leave as may be permitted by law and such leave without pay as may be necessary shall be granted by the proper supervisory officer to a disabled veteran in order that the veteran may receive such treatment, all without penalty in his efficiency rating.

M-00866 Pre-arb
October 28, 1988, H4N-4F-C 11641
Executive Order 5396 [M-00165], dated July 3, 1930, does apply to the Postal Service and absences meeting the requirements of that decree cannot be used as a basis for discipline. *See also* M-00388, M-00787

C-018501 Regional Arbitrator Olson
E94H-4E-C 97019847, July 13, 1998
The arbitrator held that management violated the provisions of ELM 513.332 by requiring supervisors to ask employees calling in sick questions listed on a local document titled Unscheduled Leave Request issued by the District Manager.

RMD & ERMS PROGRAMS

M-01468 Prearbitration Settlement,
September 9, 2002, Q98N-4Q-C 01051141
The Interpretive issue is whether or not the Resource Management Database (RMD) or its web-based counterpart enterprise Resource Management System (eRMS), violates the National Agreement.

It is mutually agreed that no national interpretive issue is fairly presented. The parties agreed to settle this case based on the following understandings:

The eRMS will be the web-based version of RMD, located on the Postal Service intranet. The eRMS will have the same functional characteristics as RMD.

The RMD/eRMS is a computer program. It does not constitute a new rule, regulation or policy, nor does it change or modify existing leave and attendance rules and regulations. When requested in accordance with Articles 17.3 and 31.3, relevant RMD/eRMS records will be provided to local shop stewards.

The RMD/eRMS was developed to automate leave management, provide a centralized database for leave-related data and ensure compliance with various leave rules and regulations, including the FMLA and Sick Leave for Dependent Care Memorandum of Understanding. The RMD/eRMS records may be used by both parties to support/dispute contentions raised In attendance-related actions.

When requested, the locally set business rule, which triggers a supervisor's review of an employee's leave record, will be shared with the NALC branch.

Just as with the current process, it is management's responsibility to consider only those elements of past record in disciplinary action that comply with Article 16.10 of the National Agreement. The RMD/eRMS may track all current discipline, and must reflect the final settlement/decision reached In the grievance-arbitration procedure.

An employee's written request to have discipline removed from their record, pursuant to Article 16.10 of the collective bargaining agreement, shall also serve as the request to remove the record of discipline from RMD/eRMS.

Supervisor's notes of discussions pursuant to Article 16.2 are not to be entered in the 'supervisor's notes' section of RMD/eRMS.

RMD/eRMS users must comply with the privacy act, as well as handbooks, manuals and published regulations relating to leave and attendance.

RMD/eRMS security meets or exceeds security requirements mandated by AS-818.

- It is understood that no function performed by RMD/eRMS now or in the future may violate th the National Agreement.

LEAVE, ADMINISTRATIVE

SEE ALSO

Admin Leave as Remedy, Page 25
ADMIN LEAVE FOR "ACTS OF GOD", PAGE 183

M-00905 Step 4
January 4, 1989, H4N-1K-C 24809
Blood leave will not be unreasonably denied consistent with the guidelines in ELM Section 519.

C-09415 Regional Arbitrator R.G. Williams
Management violated PSDS 384 Civil Defense by denying grievant's request for 40 hours of administrative leave for civil defense training.

C-00314 Regional Arbitrator Epstein
June 18, 1983, C1C-4B-C 4455
Management did not violate the contract by denying the grievant's request for administrative leave for donating blood.

C-10319 Regional Arbitrator Fogel
October 5, 1990,
Management did not violate the contract when it required an employee placed on administrative leave during an investigation to call-in each day.

C-10530 Regional Arbitrator Lange
January 11, 1991
Management has the authority to dictate reasonable requirements that constrain an employee's freedom of action during the time that the employee is on administrative leave.

C-11170 Regional Arbitrator Zack
June 1, 1990
A request to participate in an annual town meeting falls within the ambit of ELM provisions relating to granting administrative leave for the purpose of voting.

LEAVE, ANNUAL

M-01515 USPS Letter February 12, 2004
Memorandum of Policy—Leave computation Date Corrections—erroneous Credit. This memorandum is to announce the new policy and process for handling Leave Computation Date Corrections when an employee has been erroneously credited for prior military or civilian service that is not creditable under USPS leave policy. This new policy is efetive for any accounts receivables process on or after February 7, 2004 (pay period 05/04).

M-01450 Memorandum of Understanding
December 13, 2001
Re: National Negotiations—Article 12.3.A and Article 10.4.B.

The parties have agreed to extend the current period of contract negotiations. Pending conclusion of this extension, the parties have agreed to the following:

Article 12.3.A—The bid count for the five (5) successful bids during the term of the next National Agreement began on November 21, 2001.

Article 10.4.B—Choice vacation selections are to proceed as provided in the 1998-2001 National Agreement and.or corresponding Local Memoranda of Understanding.

M-00508 Step 4
June 15, 1984, H1N-5D-C 19202
Employees who have annual leave approved are entitled to such leave except in emergency situations.

M-00184 Step 4
September 8, 1981, H8N-5C-C 18666
While not contractually obligated to, management should give reasonable consideration to requests for annual leave cancellation.

M-00365 Step 4
April 30 1985, H1N-3A-C 40314
Whether a carrier transferring from the Irving Post Office to the Case Range Station must be allowed to also transfer scheduled leave can only be determined by evaluating local contractual requirements and fact circumstances. *See also* M-00480

M-00708 Step 4
May 12, 1977, NCE 4868
The grievant was granted 40 hours annual leave, covering the period from August 16, 1976, through August 21, 1976. However, when the grievant returned from vacation, he found that his advance commitment for 40 hours annual leave was reduced to 32 hours. Under the circumstances, the reduction of annual leave from 40 hours to 32 hours was inappropriate. Accordingly, the grievance is sustained.

M-00334 Step 4
April 5, 1973, NW 3155
The Postmaster will cease and desist from canceling the employee's bid vacation period during the choice period due to count and inspection week.

M-00535 Step 4
March 11, 1985, H1N-1J-C 34481
An employee in a 204b position should not be precluded from bidding for choice vacation periods.

M-00865 Step 4
March 17, 1977, ACC 10648
Granting additional periods of annual leave in the choice period subsequent to the initial bidding for choice vacations is not prohibited by Article X, Section 2D. of the National Agreement. We further agreed that if the needs of the Postal Service permit, an employee, by combining a choice vacation bid with an approved application for unscheduled absence, could have five consecutive weeks of annual leave during the choice vacation period.

M-01017 USPS Letter, January 29, 1982
This refers to our meeting of January 12, during which we discussed the various provisions set forth in the revised M-39 Handbook. With regard to our discussion on committed annual leave vs. canceling annual leave for route inspection purposes, this will clarify that the provision set forth in Article 10, Section 4, D, is controlling. It is not the intent of the Postal Service to cancel annual leave approved during the vacation planning process in order to comport with subsequently scheduled route inspection periods.

M-00492 Step 4
March 12, 1984, H1N-5H-C 18583
Normally, employees on the overtime desired list who have annual leave immediately preceding and/or following nonscheduled days will not be required to work overtime on their off days. However, if they do desire, employees on the overtime desired list may advise their supervisor in writing of their availability to work a nonscheduled day that is in conjunction with approved leave.

M-01367 Step 4
October 22, 1998, E94N-4E-C 98053676
The Step 4 decision H1N-5H-C 18583 (M-00492, above) applies to "spot" or incidental leave also.

C-00268 Regional Arbitrator Levin
September 24, 1984, N1C-1A-C 15271
Management violated Article 10 when it did not permit grievant to "buy back" 160 hours of AL which had been forfeited as excess to the carry-over limit.

C-09481 Regional Arbitrator R.G. Williams
November 20, 1989, S7N-3R-C 20939
Management improperly denied grievant's request for emergency annual leave.

C-10949 Regional Arbitrator Lange
July 9, 1991, W7N-5T-C 22023
Management improperly denied requests for annual leave for the month of December.

C-00154 Regional Arbitrator Dennis
March 4, 1985, N1C-1M-C 30525
Management did not violate the contract when it informed employees that they could not be guaranteed more than three weeks vacation during prime time.

C-00283 Regional Arbitrator Colleran
November 22, 1982, N1C-1M-C 6141
Management improperly terminated a past practice of permitting employees more than three weeks of annual leave during the choice period.

C-10937 Regional Arbitrator Scearce
July 5, 1991, S7N-3C-C 36361
Management properly counted reservists called-up for Operation Desert Storm as being in "military leave" status and was, therefore, entitled to block off slots on the AL schedule.

LEAVE, COURT

C-06821 National Arbitrator Mittenthal
February 10, 1987, H1N-3U-C 35720
Management did not violate ELM Section 516 by requiring the grievants to report to work before their scheduled jury duty.

C-03223 National Arbitrator Gamser
October 3, 1980, N8-E-0088
Where there has been a practice to permit employees to temporarily change their work schedule to conform to the days on which the employee is called to serve on jury duty or make a court appearance, the Postal Service may not unilaterally change that practice. *See also* M-00501, M-00056, M-01063

M-01346 USPS Letter
USPS letter confirming that the Memorandum of Understanding on PTF Court Leave remains in effect although it was not reprinted in the 1994 National Agreement.

M-01063 APWU Step 4
January 21, 1988, H4C-5B-C-44765
The question in this grievance is whether or not a past practice has been established to allow an employee to voluntarily change their work schedule to coincide with the days the employee was required to be in court under the circumstances which would make them eligible for court leave.

We mutually agreed, in accordance with Arbitrator Gamser's decision dated October 3, 1980, that where it is established in an appropriate proceeding that management of an installation has consistently interpreted the provisions of the E&LR Manual and the related provisions of any earlier manual, regulation, or the Federal Personnel Manual, to allow employees to change their work days, as well as their work hours, to coincide with the court circumstances above, management must continue such practice.

M-00110 Step 4
February 3, 1977, NCC 3978
The grievant was summoned by the court to testify in his official capacity as a letter carrier. In such circumstances, he is in on official duty status and entitled to his regular compensation without regard to any entitlement to court leave.

M-00772 Memo, Herbert A. Doyle
January 12, 1987
An employee who appears as a witness in a third-party action which has been assigned to the Postal Service, is in official duty status for the time spent in court and for the time spent traveling between the court and the work site.

M-00108 Step 4
January 31, 1977, NCN 4402
The grievant in this instance is entitled to court leave as a result of being subpoenaed by the District Court of Massachusetts to be a witness for the State.

M-00641 Step 4
April 15, 1977 NCE 4997
Under the provisions of Public Law 91-563 (5-USC-6332) is provided that when an employee is summoned to serve as a witness in a non-official capacity on behalf of a state or local government, he is entitled to court leave during the time he is absent as a witness.

M-00337 Step 4
October 30, 1973, NW 5109
A full-time employee should be granted court leave when he appears as a witness in behalf of any State or Municipal government, as well as when he appears as a witness for the Federal Government.

M-00602 Pre-arb, NC 4513
The grievance is sustained. Under Part 721.652 and .653 of the Postal Manual, the grievant should not have been required to report to work before serving court duty. In the instant case, the grievant should have been temporarily detailed to a schedule of hours conforming to the court day.

M-00657 Step 4
January 13, 1978, NCS 6629
The grievant is not entitled to compensation for appearing in court on his non-scheduled day.

M-01030 Pre-arb
December 10, 1991, H7N-1P-C-17979
This grievance concerns the granting of Leave Without Pay (LWOP) to an employee who volunteered to serve on a grand jury.

The granting of LWOP is a matter of administrative discretion. Each request is examined closely and a decision made based on the needs of the employee, the needs of the USPS and the cost to the USPS, and such decision must be reasonable.

M-01051 APWU Pre-arb
October 30, 1980, H4C-4K-C-5277
The issue in this grievance is whether time spent by the grievant at the NLRB hearing was official duty. During that discussion, it was mutually agreed that the following would represent full settlement of this case:

1. The said subpoena issued to the grievant constituted a proper authority.

2. The grievant shall be compensated in accordance with Part 516.42 of the ELM, and such compensation shall terminate (except travel and subsistence expenses) upon the employee's release from the subpoena.

C-00203 Regional Arbitrator Roumell
April 6, 1984, C1T-4F-C 27336
Management violated the contract when it denied a request for a change of schedule for jury duty on the basis that only four days were involved; "If the grievant has a right...he has a right unlimited by the extent of time involved."

C-09882 Regional Arbitrator P. Williams
February 26, 1990
Management did not violate the contract when it refused grievants' requests to have their non-scheduled days changed to coincide with days they were excused from court duty.

LEAVE, ENFORCED

M-01154, USPS Internal Memorandum
April 19, 1990
"In Pittman v. Merit Systems Protection Board, 832 F. 2d 598 (Fed. Cir. 1987), 87FMSR 7054, the Federal Circuit held that the placement of an employee on enforced leave for more than 14 days (even in situations where the agency has medical documentation stating that the employee is physically unable to carry the duties of his or her position) is inherently disciplinary and is tantamount to an appealable suspension. The court held that "indefinite enforced leave is tantamount to depriving the worker of his job--without any review other that by the agency itself changes its mind and decides that he can perform his job." Id., at 600."

"The MSPB follows the precedent of the Federal Circuit, and considers the court's Pittman decision binding in regard to claims of constructive suspension arising from periods of enforced leave which exceed 14 calendar days."

LEAVE, INCIDENTAL

C-05670 National Arbitrator Mittenthal
January 29, 1986, H1N-NA-C 61
LMU provisions which grant employees the right to take incidental leave are not in conflict or inconsistent with the National Agreement and are, therefore, valid and enforceable. However:

"To the extent to which LMU clauses allow an employee to make his initial selection within the non-choice period, such clauses are 'inconsistent or in conflict with ...' the plain meaning of Section 3.D."

M-00712 Step 4
July 21, 1977, NCC 7451
All requests for leave on Saturday should be treated on an equal basis as has been the past practice at this facility.

M-00528 Step 4
June 21, 1984, H1N-5D-C 20399
Article 10 does not require that annual leave outside of the choice vacation period be taken in increments of 5 or 10 working days. However, the local parties may have established a variety of conditions under which incidental leave requests may be handled.

C-10901 Regional Arbitrator Cushman
June 13, 1991, S4N-3P-C 28517
Management violated the LMU when it did not grant one day of incidental annual leave; grievant is entitled to eight hours of administrative leave at his convenience.

LEAVE, FAMILY AND MEDICAL

The Postal Service regulations implementing the provisions of the Family and Medical Leave Act (FMLA) are found in ELM Section 515. For a complete description of letter carriers' rights under the act see the 1995 NALC publication entitled *NALC Guide to the Family and Medical Leave Act*.

M-01547 **USPS Letter July 26, 2005** On July 19, 2005, in the case of *Harrell v. U.S. Postal Service*, the United States Court of Appeals for the Seventh Circuit ruled that the Postal Service's return to work provisions in ELM 865 cannot be applied to bargaining unit employees returning from FMLA-protected absences.

The ELM provisions before the court allowed management, prior to an employee's return to work from a FMLA-protected absence, to request detailed medical information when the absence was caused by a number of specified medical conditions, or if the absence exceeded 21 days. The ELM provisions recently changed. The new ELM provisions authorize return to work clearance when management has a reasonable belief, based upon reliable and objective information, that the employee may be unable to perform the essential functions of his/her position or may pose a direct threat to health or safety. This standard comports with the requirements of the Rehabilitation Act that employers make medical inquiries only when there is a reasonable, objective basis to do so.

The Postal Service will comply with the *Harrell* decision in those facilities located within the three states subject to the court's jurisdiction; Indiana, Illinois, and Wisconsin.

C-23261 National Arbitrator Nolan, Q98N-4Q-C 01090839 April 28, 2002
National dispute involving Publication 71 is arbitrable. The Postal Service had argued that NALC could not resolve in arbitration a dispute concerning the Family and Medical Leave Act, a federal law. Arbitrator Nolan also rejected a series of additional management arguments that the case was not arbitrable, including claims that the grievance was untimely and that Publication 71 is not covered by Article 19.

C-25724 National Arbitrator Das, Q00C-4Q-C 03126482 January 28, 2005
In applying ELM 513.332 in the context of the RMD process, ACS's may ask questions necessary to make FMLA determinations and to determine whether the absence is due to an on-the-job injury of for a condition which requires ELM 865 return-to-work procedures, in a manner consistent with the Findings in this decision, but nay not otherwise require employees to describe the nature of their illness/injury.

The Postal Service's current process for initiating FMLA review by a third health care provider, at issue in this case, is not consistent with the FMLA or with ELM 515.1 and 515.54, and implementation of that process violates Articles 5 and 10.2.A of the National Agreement. The Postal Service is directed to rescind that process.

M-01558 Prearbitration Settlement
January 11, 2006
A Step B team has the authority to determine if an employee's FMLA certification of a serious health condition provides the information required to protect the absence, in accordance with the FMLA, and to determine whether a certification for a chronic condition is acceptable, with regard to the duration and frequency, when it uses descriptors such as "unknown", "indefinite" or "intermittent."

M-01552 USPS Letter
August 30, 2005
Letter from the Postal Service concerning new FMLA certification for a previously certified FMLA medical condition when the employee asks for leave for the previously certified FMLA medical condition in a new leave year.

M-01271 USPS Publication
March 1995
Internal USPS publication entitled Family and Medical Leave Act (FMLA) Reference Material for US Postal Service.

M-01378 USPS Memorandum
November 22, 1995
Postal Service Headquarters Memorandum concerning FMLA Issues.

M-01379 USPS Letter
September 12, 1996
Postal Service Headquarters letter concerning FMLA Issues.

M-01281 Prearbitration Settlement
February 26,1997, F90N-4F-D 95043198
The provisions of ELM Section 515, "Absence for Family Care or Serious Health Condition of Employee" are enforceable through the grievance arbitration procedure.

M-01270 Prearbitration Settlement
October 16, 1997, F94N-4F-D 97026204
In a disciplinary hearing involving just cause, the union may argue as an affirmative defense that management's actions were inconsistent with the Family and Medical Leave Act

M-01371 Step 4
January 13, 1999, F94N-4FJ-C- 97100062
The issue contained in this grievance whether an employee when requesting LWOP under FMLA, must exhaust paid leave before the approval of LWOP. As in this case, where an employee has insufficient sick leave to cover an FMLA approved absence which qualifies for sick leave usage, LWOP cannot be denied.

M-01424 Prearbitration Settlement
Q94N-4Q-C 99224270, March 28, 2000
There is no dispute that an employee who requests and is entitled to time off under ELM 515, Absences for Family Care or Serious Health Problem of Employee, must be allowed up to a total of 12 workweeks of absence within a Postal Service leave year. LWOP may be taken in conjunction with annual or sick leave for which the employee is qualified. An employee need not exhaust annual or sick leave prior to requesting LWOP

M-01222 USPS Letter
February 7, 1994
Question: Do employees retain the no-layoff protection when FMLA interrupts the 20 day pay periods worked per year during the six year period of continuous service?

Answer: Yes. However, since the maximum FMLA time off is 12 weeks or 6 pay periods per leave year, loss of the no-layoff protection would normally be for other reasons. The only time FMLA would interrupt the years required for protection is in cases where more than 12 weeks of FMLA during two different leave years result in more than 6 pay periods of absence during an individual employee s anniversary year. In these rare cases the no-layoff protection must manually be restored. This is accomplished by sending a memorandum to the Minneapolis Information Service Center.

Question: Does OWCP and Military Leave count towards the 1250 work hour criteria for eligibility for FMLA?

Answer: No. Whether an employee has worked the minimum 1250 hours of service is determined according to the principles established under the Fair Labor Standards Act (FLSA) for determining compensable hours of work. OWCP and Military Leave do not qualify as work under these principles.

M-01320 Pre-arbitration Settlement
May 21, 1998, C94N-4C-C 96031384
The parties do not dispute the fact that there is no "laundry list" of serious health conditions. Rather, the circumstances determine whether a condition is serious , not the diagnosis. Therefore, every request for FMLA leave must be considered on a case-by-case basis, applying the definitions to the information provided by the employee and the employee's health care provider.

In the instant case, the information on the grievant's WH-380 appeared to be complete and the supervisor believed that the three day absence did not qualify for FMLA coverage. However, since that initial documentation, the grievant has disclosed additional information which suggests that his illness may have been the result of a chronic condition. Since it is arguable that the supervisor should have considered this supplemental documentation, the parties agree that the grievant's absence will be treated as though it were an absence protected under the FMLA.

C-23261 National Arbitrator Nolan
April 28, 2002, Q98N-4Q-C 01090839
The arbitrator found that NALC's grievance challenging revisions to Publication 71 was arbitrable. The grievance was subsequently resolved by the prearbitration settlement M-01474., below.

M-01474 Prearbitration Settlement
Q98N-4Q-C 01090839, December 9, 2002
The issue is whether Publication 71, "Notice for Employees Requesting Leave for Conditions Covered by the Family and Medical Leave Act", violates the National Agreement by requiring "supporting documentation" for an absence of three days or less in order for an employee's absence to be protected under the Family and Medical Leave Act (FMLA).

After viewing this matter, we agree that no national interpretive issue is presented. The parties agree to resolve the issue presented based on the following understanding:

The parties agree that the Postal Service may require an employee's leave to be supported by an FMLA medical certification, unless waived by management, in order for the absence to be protected. When an employee uses leave due to a condition already supported by an FMLA certification, the employee is not required to provide another certification in order for the absence to be FMLA protected.

We further agree that the documentation requirements for leave for an absence of three days or less are found in Section 513.361 of the Employee and Labor Relations Manual which states in pertinent part that:

> For periods of absence of 3 days or less, supervisors may accept the employee's statement explaining the absence. Medical documentation or other acceptable evidence of incapacity for work or need to care for a family member is required only when the employee is on restricted sick leave (see 513.39) or when the supervisor deems documentation desirable for the protection of the interests of the Postal Service.

M-01436 Step 4
April 3, 2001, B94N-4B-C 98056900
When an employee is awarded back pay, the hours an employee would have worked if not for the action which resulted in the back pay period, are counted as work hours for the 1250 work hour eligibility under the Family Medical Leave Act (FMLA).

If an employee substitutes annual or sick leave for any part of the back pay period that they were not ready, willing and able to perform their postal job, the leave is not counted as work hours for the 1250 work hour eligibility requirement under the FMLA.

If a remedy modifies an action, resulting in a period of suspension or leave without pay, that time is not counted as work hours for the 1250 hours eligibility requirement under the FMLA.

M-01381 APWU Pre-arbitration Settlement
April 20, 1999 Q90C-4Q-C 95048663
This grievance concerns the effect of the Memorandum of Understanding (MOU) concerning "Paid Leave and LWOP" found on page 312 of the 1998 National Agreement. The parties hereby reaffirm the attached Memorandum of Understanding dated November 13, 1991, which serves as the parties• further agreement on the use of paid leave and LWOP. We further agree that:

1. As specified in ELM 513.61, if sick leave is approved, but the employee does not have sufficient sick leave to cover the absence, the difference is charged to annual leave or to LWOP at the employee's option.

2. Employees may use LWOP in lieu of sick or annual leave when an employee requests and is entitled to time off under ELM 515, absences for family care or serious health problem of employee (policies to comply with the Family and Medical Leave Act.).

3. In accordance with Article 10, Section 6, when an employee's absence is approved in accordance with normal leave approval procedures, the employee may utilize annual and sick leave in conjunction with leave without pay. As we have previously agreed, this would include an employee who wishes to continue eligibility for health and life insurance benefits, and/or those protections for which the employee may be eligible under Article 6 of the National Agreement.

C-14107 Regional Arbitrator Lurie
November 27, 1994, H90N-4H-D 94068273
"Because the grievants absence was protected leave under the provisions of the FMLA, the reliance upon that leave as a basis for her removal from the Postal Service was in violation of the Act, and is void, as a contravention of public policy and the laws of this Country. The citation of that leave was also a violation of Article 19 of the Agreement, inasmuch as the Act has been expressly endorsed by the Postal Service , and integrated into its handbooks and manuals." See also C-18540, C-18477

LEAVE, MATERNITY

M-00088 Step 4
September 25, 1984, H1C-1E-C 28103
The question raised in this case is whether the grievant was improperly required to begin a new 6 year period in a work status in order to achieve protected status on returning to duty after an absence of more than one year: The union contends that Article 6.A.3. did not intend to include time on maternity leave as time not worked for purposes of retaining protected status. During our discussion, we agreed to resolve this case based on our having no dispute relative to the meaning and intent of Article 6.A.3.

M-00785 Step 4
May 22, 1987, H4N-3S-C 31204
Leave without pay for maternity reasons is not considered "work" for the purposes of achieving protected status pursuant to the provisions of Article 6.A.3.

LEAVE, MILITARY

M-01538 USPS LETTER March 18, 2005
FEHBP and FEGLI implementation changes for career employees absent to perform active duty military service. Civilian employees of the U.S> Postal Service who serve in the National Guard or Reserve and are called to active duty (voluntarily or involuntarily) in support of a contingency operation as defined in Title 10 U.S.C. 101(a)(13), are eligible for full payment of FEHBP premiums by the Postal Service.

M-01544 USPS Letter July 8, 2005
Full-time employees, other than the D.C. National Guard, receive fifteen (15) days of military leave at the beginning of each fiscal year. Part-time employees, other than the D.C. National Guard, are eligible to receive one (1) hour of military leave for each twenth-six (26) hours in a pay status and/or military Leave Without Pay (LWOP) in the preceding fiscal year provided the employee's pay for military leave does not exsceed eighty (80) hours.

C-13793 National Arbitrator Mittenthal
August 31, 1994, H7N-NA-C 34861
In accordance with ELM 517.53, national guardsmen performing marijuana eradication are entitled to military leave for law enforcement provided they are both "enforcing the law" and "providing military assistance".

M-01478, Step 4
February 3, 2003, A98N-4A-C-02094236
During our discussion we agreed that the grievant was called to active duty as a member of the Army National Guard of the United States and that members of the Army National Guard meed the eligibility requirements of Part 517.21 of the Employee and Labor Relations Manual (ELM) to receive paid military leave. The parties further agree that determining whether the grievant qualified for the "Law Enforcement Allowance" under Part 517.431 of the ELM is a fact question that must be based on the specific facts of this case.

M-01465 USPS Letter, June 4, 2002
USPS Letter concerning change in military leave provisions of ELM Section 517.53. Non-work days will not be charged against the paid military leave regardless of whether they fall within a period of absence or fall at the beginning or end of an active duty period.

M-00174 Letter, December 12, 1977
It is the policy of the U. S. Postal Service to allow any employee, who so desires, to serve in the National Guard or Reserve. Any action discouraging employees from such service will not be permitted. When such service creates a work schedule conflict, every effort will be made to resolve the conflict as satisfactorily as possible.

M-00156 Step 4
August 29, 1979, NCN 19069
The union is requesting military leave for those employees called to active duty during the prison guard strike in New York in April, 1979. After reviewing this matter, it is our determination that the duties performed by these employees would, out of necessity, be considered law enforcement duties.

M-00339 Step 4
June 25, 1973, NS 3963
When employees have regular weekly and/or week-end (reserve) training meetings, that conflict with scheduled work requirements in the Postal Service, their absence from work may be covered in one of the following manner:
a. Use of annual leave.
b. Request leave without pay.
c. Arrange a mutually agreeable trade of work days for the period involved with another employee who is qualified to replace the absent employee.

M-01158 Step 4
January 14, 1994, HON-5R-C 8065
Further during our discussion, we mutually agreed that an employee's request for military leave is provided for in section 517.71 of the ELM. Specifically stated:

An employee who has official duty orders or official notices signed by appropriate military authority for weekly, biweekly or monthly training meetings and who has a conflict with scheduled work requirements may choose one of the four ways of meeting military obligation.

A. Use of military leave not in excess of 15 calendar days.

B. Use annual leave.

C. Use LWOP.

D. Arrange a mutually agreeable trade of workdays and days off with another employee who is qualified to replace the absent employee. Such trades must be cleared with the responsible supervisor and must be in accordance with the terms of collective bargaining agreements.

C-10169 Regional Arbitrator Levin
August 7, 1990
Management properly denied paid military leave to the grievant for time spent receiving a required physical examination.

M-01506 USPS Policy Letter
November 25, 2003
On November 14, President of the United States George W. Bush issued a memorandum to the heads of Executive departments and agencies directing them to provide five (5) days of uncharged leave to Federal civil servants who were called to active duty in the continuing Global War on Terrorism.

The Postal Service recognizes the service and sacrifice of members of the Reserve Forces and the Air and Army National Guard, and wishes to ensure that Postal Service employees, who are not covered by the President's Memorandum, are included in this directive. The Postal Service will continue its tradition of being a model for employer support of the Guard and Reserve.

This is notification that Postmaster General John E. Potter has determined that postal employees should be included in this benefit. We know that your organization will join Postmaster General Potter in supporting this initiative.

M-01453 CAU Publication
USERRA Rights, December 2001
Contract Administration Unit Publication reviewing letter carrier rights under the *Uniform Services Employment and Reemployment Rights Act of 1994* (USERRA). Includes explanation of letter carriers' bidding and restoration rights.

PTF LEAVE

Leave for part-time flexible employees is governed by ELM Section 512.521 which states:

512.522(a) A part-time flexible employee who has been credited with 40 hours or more of paid service (work, leave, or a combination of work and leave), in a service week is not granted paid annual or sick leave during the remainder of the service week. Absences in such cases are treated as non-duty time, not chargeable to paid leave of any kind. Supervisors should avoid granting leave resulting in the requirement for overtime pay.

512.522(b) Part-time flexible employees who request leave on days that they are scheduled to work, except legal holidays, may be granted leave provided they can be spared. Leave charged cannot exceed 8 hours on any one day. The installation head may also consider a request for annual leave on any day a part-time flexible is not scheduled to work. The 40 hours paid service in a service week specified in 512.523a may not be exceeded.

M-01000 APWU Settlement Agreement
June 17, 1980, A8-W-0449
The parties agree that the reference to "40 hours or more of paid service (work, leave, or a combination of work and leave)" contained in Section 512.523a of the Employee and Labor Relations Manual does not refer to overtime hours or work.

The parties further agree that in no case may the total of straight time hours and all paid leave hours exceed 8 hours per service day or 40 hours per service week.

LEAVE SHARING

M-01407 Memorandum of Understanding, (Relevant Part) March 21, 2000
It is hereby agreed by the United States Postal Service and the National Association of Letter Carriers, AFL-CIO, that the following represents the parties' agreement with regard to implementation of the upgrade issue emanating from the September 19, 1999 Fleischli Award, our agreement regarding case configuration when using the vertical flat casing work method, and additional provisions relative to the 1998 National Agreement.

The Memorandum of Understanding Re: Leave Sharing found on page 161 of the 1994 National Agreement will be renewed for the remainder of the term of the 1998 National Agreement.

M-01409 Memorandum of Understanding, April 7, 2000
It is hereby agreed and understood by the U. S. Postal Service and National Association of Letter Carriers (NALC), AFL-CIO that the Memorandum of Understanding Re: Sick Leave for Dependent Care and the Memorandum of Understanding Re: Leave Sharing contained in the 1994-1998 National Agreement, expired with the term of that contract on September 19, 1999. By Memorandum of Understanding dated March 21, 2000, both these memoranda were renewed for the remainder of the term of the 1998 National Agreement.

Therefore, the NALC will withdraw from the grievance/arbitration procedure, all grievances at all steps, challenging the denial of either Sick Leave for Dependent Care or Leave Sharing during the period of September 20, 1999 through March 20, 2000. The parties agree that requests submitted for Leave Sharing and Sick Leave for Dependent Care on March 21, 2000 and for the remainder of the term of the 1998 National Agreement, will be addressed in accordance with the provisions of those two memoranda. Further, it is agreed that any request for Sick Leave for Dependent Care or Leave Sharing that was granted during the period of September 20, 1999 through March 20, 2000 will be honored.

THE MEMORANDUM OF UNDERSTANDING ESTABLISHING THE LEAVE SHARING PROGRAM IS PUBLISHED IN THE CURRENT NATIONAL AGREEMENT.

M-01022 USPS Letter, November 8, 1991
Letter from Assistant Postmaster General transmitting instructions for the Leave sharing Program.

M-01293 Step 4
March 31, 1998, A94N-4A-C 97090426
Donated leave under the leave share program is considered paid status for holiday leave purposes

SICK LEAVE

See also Medical Certification, Page 227

M-00079 Step 4
November 9, 1983, H1N-5G-C 14955
Under ELM 513.362, an employee is required to provide "acceptable evidence of incapacity to work." The form in question has been determined by local management to meet that requirement. Accordingly, the form may be provided as a convenience to an employee, and its use by employees is optional.

C-03231 National Arbitrator Garrett
November 19, 1979 NC-NAT-16285
Whether the Postal Service properly may impose discipline upon an employee for "excessive absenteeism" or "failure to maintain a regular schedule" when the absences on which the charges are based include absences on approved sick leave must be determined on a case-by-case basis under the provisions of Article XVI.

M-00489 Step 4
November 3, 1983, H1N-5B-C 3489
For the purposes of ELM 513.362, an absence is counted only when the employee was scheduled for work and failed to show. A nonscheduled day would not be counted in determining when the employee must provide documentation in order to be granted approved leave.

M-00199 Step 4
March 21, 1975, NBC 3502 (N-82)
The Form 3971 clearly reflected that management had disapproved the grievant's request for sick leave. However, the records reflect that the three days in question were charged to LWOP, not AWOL. Since LWOP is considered approved absence, local officials will be notified to grant the grievant sick leave pay for the three days in question. *See also* M-00707

M-00932 Step 4
May 21, 1974, NB-S-1129
Neither sick leave nor leave without pay can be charged against an employee unless requested by that employee.

M-00665 Step 4
May 27, 1977, NCS 5591
A part-time flexible employee is not guaranteed a set number of hours sick leave any time requested nor may sick leave be used merely to obtain or round out a (40) hour week. However, we agreed that generally a part-time flexible should be guaranteed sick leave commensurate with the number of hours that the employee was realistically scheduled to work or would reasonably have been expected to work on a given day.

M-01329 Step 4
May 26, 1998, A94N-4A-C 98054688
Step 4 settlement concerning the use of sick leave by Part-time flexible employees under the provisions of ELM 513.421 (see file)

M-01059 Step 4
March 30, 1984, H1N-3W-C-21270
The question raised in this grievance involves a local policy concerning the procedure to call in and advise management of an employee's absence.

After further review of this matter we mutually agreed that no national interpretive issue is fairly presented in the particulars evidenced in this case. It was mutually agreed that any local policy establishing a call-in procedure must be in compliance with Section 513.332 of the Employee and Labor Relations Manual (ELM).

M-00301 Step 4
July 12, 1985, H1C-5B-C 31977
The union contends that the two-call requirement for unexpected illness/injury is contrary to the regulation contained in Part 513.332 of the ELM. It is the position of the Postal Service that the January 4, 1985 policy, as written, is unreasonable and therefore improper. Accordingly, the grievance is sustained and the said policy shall be rescinded.

M-01166 Step 4
October 4, 1993, HON-5R-C 4914
The issue in this grievance is whether a sick leave may be approved for counseling recommended by a physician due to symptoms of anxiety and stress.

During our discussion, we mutually agreed to the following as full settlement on this case. The parties at the local level are instructed to meet regarding this matter. If the union is able to document that the counseling was medically necessary then the sick leave request will be handled in accordance with normal leave approval procedures.

C-04396 Regional Arbitrator Britton
July 10, 1984, S1N-3U-C 4356
An established past practice of allowing someone other than the affected employee to call in sick may not be unilaterally changed.

C-00242 Regional Arbitrator Cohen
October 18, 1982, C8C-4C-C 19575
An employee may be given sick leave even though not totally disabled. Management acted improperly by refusing grievant's request to change his approved annual leave to sick leave.

C-00006 Regional Arbitrator Cohen
January 11, 1982, C8C-4G-C 22983
Management violated the contract by establishing a local leave policy which required an ill employee to call in on each day of an absence.

C-13342 Regional Arbitrator Epstein
January 21, 1994, I90N-4I-C 94047336
The Postal Service violated the agreement when it denied sick leave to an employee who was so distressed by the impending death of a close relative that he was unable to work.

SICK LEAVE, ADVANCE

C-00191 Regional Arbitrator Foster
June 11, 1984, S1C-3A-C 28150
The arbitrator found that management violated the contract by refusing grievants' requests for advance sick leave.

"Part 513.511 of the Employee and Labor Relations Manual does not mandate the granting of advance sick leave, but rather employs the permissive word "may" where there is "reason to believe the employee will return to duty." The obvious purpose of this quoted condition is that there should exist a reasonable expectation that the employee will be able to return to duty and work at least long enough to repay the advanced sick leave. While there will frequently be some uncertainty as to whether that is the case at the time of the request, the decision is left to the exercise of sound managerial discretion that may not be abused by an arbitrary denial unsupported by a factually based good reason. Accordingly, the critical question in this case is whether management had sufficient evidence at the time of the decision to reasonably believe that the Grievant would return to duty and repay the advance sick leave if it was granted.

C-10455 Regional Arbitrator Axon
December 15, 1990, W7N-5R-C 21549
Management violated the contract by refusing grievants' requests for advance sick leave. *See also* C-08199

SICK LEAVE, PTF

M-01374 Step 4
December 22, 1998, I94N-4I-C 98093715
The issue in this grievance is whether Management violated the National Agreement by recording the grievant's (who is a PTF) request for sick leave as a non scheduled day.

After reviewing this matter, we mutually agreed that no national interpretive issue is fairly presented in this case. Rather, it requires the application of ELM Section 513.421 (c) which provides:

c. Limitations in 513.421b apply to paid sick leave only and not to a combination of sick leave and workhours. However, part-time flexible employees who have been credited with 40 hours or more of paid service (work, leave, or a combination of work and leave) in a service week are not granted sick leave during the remainder of that service week. Absences, in such cases, are treated as non-duty time which is not chargeable to paid leave of any kind. (Sick leave is not intended to be used to supplement earnings of employees.)

We further agreed that the restriction on granting sick leave to PTF employees "who have been credited with 40 hours or more of paid service" applies only to PTF employees who have already been credited with 40 hours of service at the time the request is made. In the circumstances presented in this case the requested sick leave should have been granted since the employee was scheduled to work and had only been credited with 31.9 hours of paid service on the day the request was made.

SICK LEAVE, FOR DEPENDENT CARE

Memorandum of Understanding Incorporated into August 19, 1995 Interest Arbitration Award. Published in 1994 National Agreement.

The parties agree that, during the term of the 1994 National Agreement, sick leave may be used by an employee to give care or otherwise attend to a family member with an illness, injury or other condition which, if an employee had such condition, would justify the use of sick leave by that employee. Family members shall include son or daughter, parent, and spouse as defined in ELM Section 515.2. Up to 80 hours of sick leave for dependent care in any leave year. Approval of sick leave for dependent care will be subject to normal procedures for leave approval.

M-01407 Memorandum of Understanding, [Relevant part] March 21, 2000

It is hereby agreed by the United States Postal Service and the National Association of Letter Carriers, AFL-CIO, that the following represents the parties' agreement with regard to implementation of the upgrade issue emanating from the September 19, 1999 Fleischli Award, our agreement regarding case configuration when using the vertical flat casing work method, and additional provisions relative to the 1998 National Agreement.

The Memorandum of Understanding Re: Sick Leave for Dependent Care found on page 162 of the 1994 National Agreement will be renewed for the remainder of the term of the 1998 National Agreement.

M-01409 Memorandum of Understanding, April 7, 2000

It is hereby agreed and understood by the U. S. Postal Service and National Association of Letter Carriers (NALC), AFL-CIO that the Memorandum of Understanding Re: Sick Leave for Dependent Care and the Memorandum of Understanding Re: Leave Sharing contained in the 1994-1998 National Agreement, expired with the term of that contract on September 19, 1999. By Memorandum of Understanding dated March 21, 2000, both these memoranda were renewed for the remainder of the term of the 1998 National Agreement.

Therefore, the NALC will withdraw from the grievance/arbitration procedure, all grievances at all steps, challenging the denial of either Sick Leave for Dependent Care or Leave Sharing during the period of September 20, 1999 through March 20, 2000. The parties agree that requests submitted for Leave Sharing and Sick Leave for Dependent Care on March 21, 2000 and for the remainder of the term of the 1998 National Agreement, will be addressed in accordance with the provisions of those two memoranda. Further, it is agreed that any request for Sick Leave for Dependent Care or Leave Sharing that was granted during the period of September 20, 1999 through March 20, 2000 will be honored.

M-01363 Step 4
October 22, 1998
We mutually agree at this level that the consultation with the son's speech pathologist would qualify under the Sick Leave for Dependant Care memorandum.

C-18452 Regional Arbitrator Powell
C94N-4C-C 98022262
The grievant, who had requested Sick Leave for Dependant Care because of his son's illness, was required to provide medical certification. The arbitrator held that since there was no evidence of sick leave abuse, the request was unwarranted. The Postal service was ordered to reimburse the grievant for expenses. *See also C-18462.*

LEAVE, SICK, RESTRICTED

M-00002 Step 4
August 23, 1977, NCC 7450
Management should inform employees prior to placing them on restricted sick leave that their usage of sick leave demonstrates a pattern of abusing the use of sick leave. *See also* M-00704

M-00664 Step 4
October 19, 1976, NCE 3042
Management should take into account absences which are attributable to the employee's disability and as soon as a substantial improvement is shown in the employee's attendance record, consideration will be given to removing his name from the restricted list.

M-00705 Step 4
Oct 31, 1977, NCC 8354
The set percentage of sick leave usage, in and of itself, should not be the sole determining factor on taking further corrective action

C-00070 Regional Arbitrator DiLeone
September 16, 1981, C8C-4G-C 16130
Management improperly placed the grievant on restricted sick leave.

C-00330 Regional Arbitrator Caraway
October 17, 1983, S1C-3A-C 11234
Management violated the contract when it used a restricted sick leave letter which went beyond the basic conditions set forth in the ELM.

LEAVE WITHOUT PAY

M-00932 Step 4
May 21, 1974, NB-S-1129
Neither sick leave nor leave without pay can be charged against an employee unless requested by that employee.

M-01058 APWU Step 4
December 6, 1985, H4C-1E-C-6349
The basic dispute in this grievance concerns whether or not employees who have no leave to cover vacations during the choice vacation period are entitled to the automatic granting of LWOP to cover the absence.

We mutually agreed that this grievance does not fairly present a nationally interpretive dispute. The approval of LWOP under the above circumstances is subject to the provisions of Part 514, ELM. The parties recognize that LWOP may be granted to cover the employee's absence when that employee has no leave to cover vacation during choice vacation period. However, approval of such request for LWOP is a matter of administrative discretion based upon the needs of the employee, the needs of service, and the cost to the service.

Accordingly, the grievance is remanded to Step 3 where those issues of Local concern, such as LMU application, past practices, etc., may be addressed.

M-01381 APWU Pre-arb
April 20, 1999 Q90C-4Q-C 95048663
This grievance concerns the effect of the Memorandum of Understanding (MOU) concerning •Paid Leave and LWOP' found on page 312 of the 1998 National Agreement. The parties hereby reaffirm the attached Memorandum of Understanding dated November 13, 1991, which serves as the parties• further agreement on the use of paid leave and LWOP. We further agree that:

As specified in ELM 513.61, if sick leave is approved, but the employee does not have sufficient sick leave to cover the absence, the difference is charged to annual leave or to LWOP at the employee's option.

Employees may use LWOP in lieu of sick or annual leave when an employee requests and is entitled to time off under ELM 515, absences for family care or serious health problem of employee (policies to comply with the Family and Medical Leave Act.).

In accordance with Article 10, Section 6, when an employee's absence is approved in accordance with normal leave approval procedures, the employee may utilize annual and sick leave in conjunction with leave without pay. As we have previously agreed, this would include an employee who wishes to continue eligibility for health and life insurance benefits, and/or those protections for which the employee may be eligible under Article 6 of the National Agreement.

M-01371 Step 4
January 13, 1999, F94N-4FJ-C- 97100062
The issue contained in this grievance whether an employee when requesting LWOP under FMLA, must exhaust paid leave before the approval of LWOP. As in this case, where an employee has insufficient sick leave to cover an FMLA approved absence which qualifies for sick leave usage, LWOP cannot be denied.

M-01136 APWU Step 4
December 20, 1973, AB-NAT-34
This case concerned a ... local policy not to grant leave without pay for scheduled vacations. This was inconsistent with Postal Service policy that requests for leave without pay be considered on an individual basis, giving due regard to the total circumstances involved, and that decisions approving or disapproving such requests be based on reasons of merit.

In discussing this matter with you ... we emphasized that authorizing leave without pay is a matter of administrative discretion. Except for disabled veterans, military reservists and National Guardsmen, who are entitled to leave without pay in certain circumstances, an employee cannot demand that it be granted. It is recognized, of course, that an employee will be granted leave without pay if requested under the provisions of Article 24 of the National Agreement, provided the terms and conditions specified therein are met.

We also indicated that, where an employee intermittently requests and is granted approval to be absent from work for the purpose of conducting union business, it is not the intent of the Postal Service that such employee be required to use annual leave to cover the absence. If management determines that the employee's services can be spared and it approves the requested absence, then the employee has the option of using annual leave or leave without pay to cover the absence.

M-01382 APWU Memorandum
November 13, 1991
The undersigned parties negotiated a Memorandum of Understanding (MOU) entitled "LWOP in lieu of SL/AL" that allows an employee to request Leave Without Pay (LWOP) prior to exhausting annual or sick leave. The following serves as a guide for administering these newly negotiated MOU provisions.

The basic intent of this MOU is to establish that an employee need not exhaust annual or sick leave prior to requesting LWOP. One example of the term "need not exhaust" is when an employee requests maternity or paternity leave and was previously required by local management to exhaust their sick or annual leave prior to receiving LWOP. An employee now has the option of requesting LWOP in lieu of sick or annual leave prior to reaching the point where they may exhaust their leave benefits.

It was not the intent of this MOU to increase leave usage (i.e. approved time off). Moreover, it was not the intent that every or all instances of approved leave be changed to LWOP thus allowing the employee to accumulate a leave balance which would create a "use or lose" situation. Furthermore, the employer is not obligated to approve such leave for the last hour of the employee's scheduled workday prior to and/or the first hour of the employee's scheduled workday after a holiday.

This MOU does not change Local Memoranda of Understanding regarding procedures for prescheduling annual leave for choice or nonchoice vacation periods. It also was not intended to provide employees the opportunity to preschedule LWOP in lieu of annual leave for choice or nonchoice periods. An employee may at a later date request to change the prescheduled annual leave to LWOP, subject to supervisor approval in accordance with normal leave approval procedures. However, this option is available to an employee only if they are at the point of exhausting their annual leave balance.

This MOU does not establish a priority between incidental requests for annual leave or LWOP when several employees are simultaneously requesting such leave. The normal established local practice prevails, i.e., whether leave requests are approved in order of seniority or on a first come first serve basis or other local procedure. This memorandum of understanding has no effect on any existing leave approval policies or other leave provisions contained in the Employee and Labor Relations Manual or other applicable manuals and handbooks.

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ADMINISTRATIVE LEAVE FOR “ACTS OF GOD”

Section 519 of the ELM allows management to grant administrative leave to employees due to "Acts of God". It reads, in part:

519.1 Administrative leave is absence from duty, authorized by appropriate postal officials, without charge to annual or sick leave and without loss of pay.

519.211 "Acts of God" involve community disasters such as fire, flood, or storms. The disaster situation must be general rather than personal in scope or impact. It must prevent groups of employees from working or reporting to work.

519.213 Postmasters and other appropriate postal officials determine whether absences from duty allegedly due to "Acts of God" were, in fact, due to such cause or whether the employee or employees in question could, with reasonable diligence, have reported to duty.

519.214(c) Part-Time Flexible Employees are entitled to credit for hours worked plus enough administrative leave to complete their scheduled tour. The combination of straight time worked and administrative leave may not exceed 8 hours in a service day. If there is a question as to the scheduled work hours, the part-time flexible employee is entitled to the greater of the following:

(1) The number of hours the part-time flexible worked on the same service day in the previous service week; or

(2) The number of hours the part-time flexible was scheduled to work; or,

(3) The guaranteed hours as provided in the applicable national agreement.

THE THREE CRITERIA

ELM Section 519.211, specifies three criteria which must be met before administrative leave may be granted for "Acts of God". First, the "Act of God" must create a community disaster. Second, the disaster must be general, rather than personal, in scope and impact. Third, it must prevent groups of employees from working or reporting to work. The majority of arbitrators agree that all three of these criteria must be met before a request for administrative leave is upheld (See C-04883, C-00074, C-00235).

It is up the Postmaster to determine whether absences from duty, allegedly due to "Acts of God" were, in fact, due to such cause, or whether the employee or employees in question could have, with reasonable diligence, reported for duty. However, the Postmaster's decision is not beyond question, and is subject to review by an arbitrator (See C-00359).

WHAT IS AN "ACT OF GOD"?

A definition commonly used by arbitrators in determining whether an "Act of God" has occurred which is sufficient to justify the granting of administrative leave, is: "A natural occurrence of extraordinary and unprecedented impact whose magnitude and destructiveness could not have been anticipated or provided against by the exercise of ordinary foresight." (See C-04205, C-09057).

Snowstorms are most often the reason for granting administrative leave. To qualify as an "Act of God", the storm must be of such severity to disrupt normal community functions. Generally, arbitrators consider factors such as the amount of snow, the length of time it fell, wind strength and temperature in determining the severity of the storm (See C-00411). Not every snowstorm or rainstorm can be classified as an "Act of God" merely because of its unusual or above average intensity. The general rule is that an "Act of God" must create "disaster conditions" to justify granting administrative leave (See, C-04205).

1. The "Act of God" must involve a community disaster.

According to the arbitrator in C-03964, "use of the term 'disaster' means, insofar as the community is concerned, a complete shutdown of all of the services of a community except for emergency services such as fire, police and hospitals." In this case, the arbitrator believed there was no doubt that the severe snowstorm which had occurred was an "Act of God". However, the arbitrator looked to the fact that even though there were no mail deliveries, over 5000 employees in a nearby military base, both civilian and military, reported for work. Thus, the impact on the community was not great enough to constitute a disaster, and administrative leave was denied.

Other factors arbitrators will consider include: whether a state of emergency has been declared, evidence of massive road closings, and whether the state police or local authorities have advised persons to stay home (See C-04964, C-04205, C-05432). In C-00411, the arbitrator granted administrative leave where there was a three-day snowstorm and the National Guard was called out to rescue people stranded in their cars, while other stranded travelers were forced to sleep in schools (*See also*, C-00402, C-00074).

According to the arbitrator in C-03491, "Bad conditions, poor weather, difficult conditions and the like, are insufficient to constitute a disaster. A disaster must be an extreme situation." In this case, where the storm did not block main roads and during which many businesses were able to operate normally, the arbitrator denied administrative leave. (*See also*, C-06622).

WHEN IS A DISASTER GENERAL IN SCOPE AND IMPACT?

According to the arbitrator in C-00542, the "scope and impact" of the storm is indicated by the amount of absenteeism among employees scheduled to work that tour. Many arbitrators will consider the number of absences on a given day, but most look to the pattern of absenteeism to make a determination of scope and impact.

Where it can be shown that employees from a large general area were prevented from reporting to work by a storm, administrative leave will usually be upheld (See, C-09024). Maps are useful in demonstrating areas where employees live and whether the storm prevented employees from specific areas or general areas from reporting to work (See C-00359, C-00410). Most arbitrators will consider a particular employee's difficulties in reporting to work. However, if other employees living in the same area were able to report, arbitrators usually find the disaster to have been personal in scope and impact, unless the employee can demonstrate otherwise. (See C-03489, C-04964, C-08197).

In C-09025, the arbitrator found that the severe thunder and wind storm which hit the area was a community disaster which was general in its scope and impact. However, the arbitrator denied administrative leave where he found that the conditions which prevented the grievants from reporting to work were not generally encountered by other employees.

Occasionally, arbitrators determine the scope and impact based upon whether the Postal Service has suspended operations or curtailed mail delivery. In C-01176, the arbitrator denied administrative leave where there was little impact on Postal operations, and held that, since there was no curtailment of mail, it was "impossible to conclude that there was a disaster situation which was general in nature." (See also, C-09033, C-04483). However, most arbitrators agree that the ELM does not require the Post Office to close its doors before administrative leave is granted (See C-00402). In C-00713, the arbitrator stated, "the determination of an entitlement to administrative leave does not depend upon whether the Post Office was closed or not. Section 519.211 imposes no requirement that the office be closed or operations curtailed before employees may receive such leave." (See also, C-00447, C-03433, C-04542).

WHAT CONSTITUTES "GROUPS OF EMPLOYEES"?

Arbitrators most often deny administrative leave to employees because "groups of employees" were not prevented from reporting to work. Arbitrators are divided on their interpretation of what constitutes a "group". In C-04205, the arbitrator stated, "As a rule of thumb, it has been held that 50% of the employees in the group, must be unable to come to work because of disaster conditions. The rationale of the 50% rule is that if half or more of the employees in the group, exercising reasonable diligence are unable to get to work, it is persuasive evidence that the conditions were most abnormal. If less than 50% of the employees in the group are unable to get to work, the inference may be drawn that with the exercise of reasonable diligence, employees could get to work." (See also, C-00235, C-03964, C-04483, C-09025, C-09033, C-09068).

Other arbitrators reject that rule. The arbitrator in C-00447 held, "it is not determinative that a significant number of employees were able to report to work. The manual only requires that groups of employees must be prevented from working." The 14% of the workforce unable to report because of the snowstorm were granted administrative leave (See also, C-00452, C-00713). Other arbitrators fall somewhere in the middle of this spectrum, and will allow administrative leave if it can be demonstrated

that the group is "substantial". According to the arbitrator in C-01357, "The requirement is not that all employees be unable to report to work but that the groups of employees who were unable to do so be general, substantial and that each employee has used reasonable diligence to get to work."

The Postal Service's method of grouping employees can alter the percentages dramatically. In C-00448, the Postal Service grouped employees over a 24 hour period, and using these numbers was able to demonstrate that more than 50% of the employees reported to work. The arbitrator held that this was improper, since weather conditions had changed over the 24 hour period. The arbitrator ruled that the Postal Service should group them by tour of duty instead.

III. The postmaster has the discretion to grant administrative leave.

Most arbitrators will not substitute their judgment for the judgment of the Postmaster unless it was arbitrary or capricious. The ELM gives the Postmasters the discretionary authority to grant administrative leave. It does not require that administrative leave be granted. (See C-09033). According to the arbitrator in C-03205, "The only time an arbitrator might consider overturning the Postmaster's decision in such cases would be a situation where the requirements spelled out in the manual were met, and the Postmaster's decision appeared to be arbitrary or capricious." (See also C-02340, C-03368).

In C-00680, administrative leave was granted to those employees who arrived late to work during a severe snowstorm, but denied to those employees who failed to report to work. The arbitrator held that by granting administrative leave in this limited fashion, management recognized that conditions existed which justified administrative leave. In this case, the Postmaster testified that he had never previously granted administrative leave to those employees who failed to come to work, because he believed that employees would have less incentive to make an effort to get to work in the future. The arbitrator held that the Postmaster was arbitrary in his decision and that there was not a valid reason for denying administrative leave.

Most arbitrators agree that Section 519.211 is applicable to a "scheduled tour" on any day, including a day outside an employee's regular schedule. However this does not change the provisions of ELM Section 433.1 which mandates that an employee cannot be given more than 40 hours of straight time pay in a service week. In C-06365, where the granting of administrative leave would have given the employees more than 40 hours of straight time pay, the arbitrator held Section 433.1 to be an overriding limitation on the scope of administrative leave, and denied the employees' request, even though they had met the other three criteria (See also, C-09228).

PROOF OF "REASONABLE DILIGENCE"

To justify a request for administrative leave, most arbitrators require the employee to have exercised reasonable diligence in attempting to report to work. Some arbitrators will make this determination based upon the general conditions of the area, and do not require specific proof. Other arbitrators require the employee to present specific proof that they have exercised reasonable diligence and still were unable to report to work.

In C-00616, the arbitrator held that where the Postmaster concluded that some employees did not exercise reasonable diligence because their neighbors were able to report to work, this established a prima facie case which the Union had to refute by submitting proof that the absent employees did, in fact, exercise reasonable diligence. In C-03433 the arbitrator denied requests for administrative leave where the Postal Service did not suspend operations and the arbitrator was given no evidence of the diligence of the employees.

In C-00581, where the storm was of sufficient severity to force a halt to community activity and had an equally severe effect on the Service, the arbitrator granted administrative leave to the two grievants who testified. However, the arbitrator denied administrative leave to the other employees who failed to produce affidavits or other evidence that they had exercised reasonable diligence in their efforts to report to work. According to the arbitrator in C-00411, "Proof of such effort will involve the various means available to the employee to get to work and the feasibility of those means. Such means can be a personal automobile, or various specialized automotive vehicles such as 4-wheel drive vehicles, snowmobiles, trucks and the like." The arbitrator held that an employee must show that alternate means were unavailable or

the effort would have been futile, before administrative leave is granted (See also, C-09024).

According to the arbitrator in C-05290, in determining reasonable diligence, one must look to the general norm or a reasonable range of expected behavior. In this case, even though half of the employees were able to report to work, the arbitrator held that the storm was severe enough to be a legitimate basis for the judgment of many that reporting in would be futile, unsafe, and imprudent (See also, C-00402).

CONVERTING OTHER LEAVE TO ADMINISTRATIVE LEAVE

Generally, where employees report to work, and management has work available, administrative leave will not be warranted if the employee elects to leave early. In C-00614, management gave employees who reported to work and worked most of their shift the option of leaving early, or performing additional work that was available. In this situation, the arbitrator held that administrative leave was not justified for those employees who elected to leave early (See also, C-01590, C-01850).

When an employee has been granted annual leave or leave without pay to cover an absence due to an "Act of God", most arbitrators hold that this will not prevent the employee from receiving administrative leave, if it is later determined to be warranted.

In addition, when management grants administrative leave to excuse those who arrived late or left early during a disaster, most arbitrators consider this to be a recognition by management that the three criteria were met. In these circumstances those who were unable to report to work often are granted administrative leave as well.

In C-00680, management granted administrative leave to those employees who arrived late to work, but denied it to those who were unable to report to work. The arbitrator held that by granting administrative leave to late employees, management recognized that the conditions justifying administrative leave were present. Therefore, the arbitrator found that management acted unreasonably, and that administrative leave was warranted for those employees who were unable to report to work on that day See also C-00411, C-00614. See M-00970 for reprint.

Letter Carrier Duties

SEE ALSO

CMU/Markup, Page 217
Cross Craft Assignments, Page 57
DPS Work Methods, Page 61
Express Mail, Page 113
Jurisdiction, Page 160
Marriage Mail, Page 218
Parcels, Page 273
Pivoting, Page 291
Rural Routes, Page 339
Third bundles, Page 218

M-00464 Step 4
October 6, 1978, NCS 11115
Local management can properly request letter carrier employees to estimate their work load, to the best of their ability, when the employees request overtime or auxiliary assistance. The information obtained by the carrier's estimation is not intended to be used to discipline carriers or to set work standards.

M-00286 Step 4
October 15, 1981, H8N-5B-C 19305
The amount of time required by a carrier to learn a particular route is a judgment call best handled at the local level.

M-00416 Step 4
March 4, 1983, H1N-3T-C 13107
A newly appointed carrier or a carrier permanently assigned to a route with which the carrier is not familiar will be allowed a reasonable period to become familiar with the route and to become proficient. A specific amount of time has not been designated at the national level. Therefore, what constitutes "reasonable" in this case must be based upon the fact circumstances as they exist at the local level.

M-00035 Step 4
March 28, 1978, NCW 10498
Management is to observe the duties of the letter carrier position as found in the P-11 Handbook.

M-00427 Letter, April 10, 1974
In determining the acceptability of checks for payment of COD charges, letter carriers should be guided by local practice as expressed in the postmaster's instructions.

M-00038 Step 4
September 10, 1982, H1N-5G-C 4724
The Postmaster will discontinue the use of the "checklist of unsatisfactory casing procedures."

M-00656 Step 4
November 14, 1977, NCS 7404
Handbook M-41 is part of the letter carrier's route book. All changes in the Handbook provisions should appropriately be posted by the letter carriers in order that they are familiar with all changes concerning their responsibilities.

M-01012 Step 4
October 1, 1991, H7N-3C-C 34862
We mutually agreed that letter carriers are required to sign for stamps-by-mail. Additionally, appropriate credit will be reflected on line 14 of PS Form 1838 during route examinations.

M-00729 Step 4
September 20, 1977, NCS 6630
Requiring carriers to place a map of their delivery area in the route book and to mark the map with the line of travel is not in violation of the National Agreement.

M-01250 Step 4
B90N-4B-C 93047134, January 4, 1996
The issue in this grievance is whether Management violated the National Agreement by assigning supervisors to perform "station input" into the Decision Support Information System (DSIS) computer. [W]e agreed to remand this case for application of Section 111.2 of Handbook M-39, to the parties at Step 3 for further processing or to be rescheduled for arbitration as appropriate.

M-01283 Step 4
March 5, 1997, I94N-4I-C 97030394
The issue in these cases is whether management violated the National Agreement by not assigning CSBCS station input sort file update work to the carrier craft.

The parties mutually agreed that the work in question has not been designated to any particular group, level or position description or craft and that the work is assigned to management or its designee and management may assign the work to be performed by any qualified and available personnel.

AMS DUTIES

M-01274, Step 4
January 2, 1997, E94N-4E-C 96073621
The parties did agree that the Address Management Systems Specialist position description, in Item #4, provides for maintaining route delivery line of travel information, however, this does not include making unilateral changes in the carrier's line of travel.

M-01376 Step 4
February 22, 1999, H94N-4H-C 98076450
The issue in these grievances is whether management violated the National Agreement when AMS duties were added to the position of Growth Management Coordinator. After reviewing these matters, we mutually agreed that no national interpretive issue is fairly presented in this case. There is no nationally recognized position of Growth Management Coordinator. Therefore, we agreed that the AMS function is a managerial function which may be delegated.

M-01377 Step 4
February 22, 1999, G94N-4G-C 97067155
AMS function is a managerial function which may be delegated and regardless of the methodology employed to change the information contained on Form 313, the actual work associated with making such changes on Form 313 is letter carrier work.

ARROW KEYS

M-01205 Step 4
March 6, 1995, E90N-4E-C 94037609
The grievance concerning a local practice of allowing letter carriers to take home arrow keys rather than checking them in on a daily basis as required by M-41 Section 261.21. It was resolved as follows:

"We agree to the following in order to clarify what appear to be conflicting regulations. The procedures of M-41 261.21 and 431 are applicable. The regulations in POM 644.2 provide an exception for permanently assigned keys which is not applicable to this situation."

CASING MAIL

M-00951 USPS Letter, February 24, 1982
As you know, we encourage right handed distribution. However, for those employees who have historically distributed left handed, where is no prohibition against continuing in such a manner provided such employees can orient mail properly in the case and perform assigned duties efficiently. *But Cf* C-00379, below.

C-00379 APWU National Arbitrator Bloch
September 14, 1981, A8-C-598
The issuance of a Regional Directive making mandatory right-hand distribution by distribution clerks does not violate the 1978 National Agreement. *But Cf* M-00951, above.

C-03247, National Arbitrator Garrett
January 17, 1977, NC-NAT-1576
The arbitrator found that the Postal Service did not violate the National Agreement by having clerks sort mail for apartments buildings into "directs" and having the carrier separate the mail in the apartment mail room rather than in the office.

M-00760 Step 4
May 22, 1974, NBS 11
We recognize that the casing of "slugs" or "large pieces" by part-time flexible employees after the departure of the carriers may impede the subsequent casing of first class letter sized mail by the carriers the following day. To provide relief in this situation, management shall assure that the casing of the mail in question by part-time flexible employees does not interfere with the carriers' casing of first class letter sized mail.

M-00402 Letter, November 15, 1977
Local management determines what is or is not a "thin flat" and whether a carrier will fold "thin flats" and place them in the letter case.

M-00655 Step 4
June 1, 1977, NCC 5913
Management should instruct employees performing casing assistance not to load letter separations with large pieces and flats that would hinder sorting additional letter mail. See M-39, Section 122.32.C.2

M-00738 Step 4
July 8, 1977, NCS 5894
In abnormal circumstances such as where carrier cases have three and four deliveries to a separation and sequence of delivery cannot be maintained during casing, the National Agreement, Article XLI, Section 3(I) anticipates that the required sequencing of letter mail will be accomplished in the office while traying or strapping out.

C-09420 Regional Arbitrator Skelton
Management did not violate the contract when it required the grievant to sort 16 apartment deliveries to each separation, rather than 2 deliveries per separation.

CASE LABELS

C-03329 National Arbitrator Aaron
March 16, 1983, H1N-3Q-C 1288
Relabeling of letter carrier cases, including filling out of forms 313 is bargaining unit work which may not be performed by supervisors. *See also* C-01409, C-05654, M-00204, M-00203.

M-00658 Step 4
October 17, 1978, NCS 11549
There is no absolute requirement that management must utilize color coded printed labels for carrier cases. *See also* M-00659.

M-00691 Step 4
February 8, 1977, NCS 4482
The supervisor is within his rights to make corrections or changes on PS Form 313. To this extent, the grievance is denied. However, the supervisor should not prepare the actual label.

M-00926 Step 4
May 11, 1989, H7N-4C-C 7206
Regardless of the methodology employed, including the use of a computer, the work associated with filling out Forms 313 is letter carrier work.

M-00040 Pre-arb
February 25, 1982, H8N-5D-C 16010
To the maximum extent possible, the carrier regularly assigned to the route will complete PS Form 313. *See also* M-00900

M-00967, USPS Letter, November 1989
Collection of Class [Label] Data. The office of Labor Relations has requested us to remind you of an agreement with the National Association of Letter Carriers (NALC) that any changes affecting the city letter carriers' case labels should be provided by city letter carriers. The agreement states that regardless of the methodology employed to change label information, the actual work associated with making such changes is the responsibility of the letter carrier. To the maximum extent possible, the letter carrier assigned to the route should complete the form.

M-01248 Step 4
H90N-4H-C 95051140, April 15, 1996
The issue in this grievance is whether Management violated the National Agreement by requesting a change in the labels on carrier cases.

After reviewing this matter, we mutually agreed that no national interpretive issue is fairly presented in this case.

During those discussions, we mutually agreed that as stated in the applicable provisions of the M-39 handbook (section 117.41), delivery unit managers are responsible for the efficient use of the CLASS case labels on all carrier cases. They must schedule frequent reviews of carrier-case layout to assure maximum efficient use of available equipment, route layout, and housekeeping. However, if the change to the case separations or the labels results in the approved DPS work method that was chosen under the Work Method memo being less efficient, that issue should be addressed at the local level, consistent with the USPS-NALC Joint Training Guide, "Building Our Future By Working Together."

M-01460 Prearbitration Settlement
April 26, 2002, E94N-4E-C-99150536
The issue in this case is whether management violated the National Agreement when a clerk was assigned duties related to case labels, maintenance work orders and, when detailed as an acting supervisor, accident investigations.

After reviewing this matter, we mutually agree that no national interpretive issue is fairly presented in this case. We agree that the current provisions of Part 253 of Handbook M-41 require the carrier to keep the Edit Book and PS Form 1621 accurate and up to date. We also agree that a determination of whether a clerk improperly performed duties associated with case labels and maintenance work orders must be based on the specific fact circumstances of this case. Furthermore, the parties agree that an employee detailed as an acting supervisor may perform any supervisory duties, including investigation accidents.

CELLULAR PHONES

M-01331, Pre-arbitration Settlement
June 23, 1998, H94N-4H-C 97033967
It is mutually agreed that there is no dispute at this level concerning a carrier's responsibility for cellular telephones. The parties further agree that management may document that letter carriers have been given appropriate instructions on the proper handling of such cellular telephones. However, as these cellular telephones are not currently identified as "accountable items" in part 261 of Handbook M-41, carriers are not currently required to sign/initial to verify receipt of these cellular telephones.

However, once the letter carriers receives appropriate instruction on the proper handling of the cellular telephones, either a management representative or another designated employee may document the serial number of the cellular telephone given to each letter carrier on a daily basis.

COLLECTION CARDS

M-01361 Step 4
October 22, 1998, D94N-4D-C 96071608
This grievance concerns the use of collection cards in an effort to improve service through proper collection of mail and the use of locally developed forms. After reviewing this matter, we mutually agreed that there is no dispute at this level concerning a carrier s responsibility for the collection of mail, and for the proper use of cards used to verify and/or remind carriers of such collections. The parties further agree that management may document the fact that letter carriers have been given appropriate instruction on the proper handling of such cards. However, as these cards are not currently identified as accountable items in part 261 of Handbook M-41, carriers are not currently required to sign/initial to verify receipt of these cards. We also agreed that the issuance of local forms, and the local revision of existing forms is governed by Section 325.12 of the Administrative Support Manual (ASM). The locally developed forms at issue were not promulgated according to the ASM, Section 325.12. Therefore, management will immediately discontinue there use until such

time as they comply with the above cited provision.

DELIVERY CONFIRMATION

M-01455 Prearbitration Settlement
January 24, 2002, Q98N-4Q-C-00131997
The issue in this grievance concerns the Delivery Confirmation Program, Enhanced Signature Capture.

After reviewing this matter, we mutually agreed to settle this grievance on the following basis:

The electronic information for Delivery Confirmation service items will continue to be handled in accordance with the applicable section(s) of the Privacy Act.

Carriers will not be held liable for loss or theft of signature waiver items for which they have signed as acknowledgment of delivery in accordance with the mailer's or addressee's instructions and postal regulations.

- Time credit will continue to be given during a route count and inspection for the Enhanced Signature Capture activity, as it has been, and will continue to be credited in total street time.

EPM OFFICES

M-00231 Step 4
March 29, 1982, H8N-4F-C 20295
Offices utilizing the Expedited Preferential Mail System are expected to normally follow all prescribed procedures. We understand that these procedures may be altered on occasion, as dictated by the needs of the service. However, a daily deviation from the EMP procedures may indicate the need for a review by the postmaster or his designee.

M-00397 Step 4
August 2, 1977, NCS 6524
Under the expedited preferential mail system, non-preferential mail is normally cased in the afternoon. However, management may use its discretion in determining whether overtime should be authorized or if casing should be deferred until the next morning.

HAMPERS

M-01477, Pre-arb
March 4, 2003, Q98N-4Q-C-00099268
The parties agree that placing inverted plastic trays in the bottom of the 104-P hamper as an insert is one way, among others, to address any local bending and lifting concerns.

This agreement fully and completely resolves the issue of whether there is a bending/lifting hazard or violation of the National Agreement when city carriers use a 1046-P plastic hamper and, accordingly, will be applied to all disputes on this issue, including all grievances currently pending at any level of the grievance-arbitration procedure.

MANAGED SERVICE POINTS (MSP)

M-01458 Step 4 Settlement
March 13, 2002, Q98N-4Q-C-01045840
The Managed Service Points (MSP) initiative is a national program intended to facilitate management's ability to assess and monitor city delivery route structure and consistency of delivery service. The following reflects the parties' understanding of MSP:

The parties agree that management will determine the number of scans on a city delivery route. Time credit will continue to be given during route count and inspections and will be credited in total street time.

MSP does not set performance standards, either in the office or on the street. With current technology, MSP records of scan times are not to be used as timecard data for pay purposes. MSP data may not constitute the sole basis for disciplinary action. However, it may be used by the parties in conjunction with other records to support or refute disciplinary action issued pursuant to Article 16 of the National Agreement.

City letter carriers have the option of using a personal identification number (PIN) other than the last four digits of their social security number.

Section 432.33 of the Employee and Labor Relations Manual (ELM) remains in full force and effect when MSP is implemented. It provides that Except in emergency situations, or where service conditions preclude compliance, no employee may be required to work more than 6 continuous hours without a meal or rest period at least hour.

Lunch locations for both the incumbent and carrier technician on a city delivery route continue to be determined in compliance with Section 126.5.b(2) of the 39. PS Form 1564A Delivery Instructions lists the place and time that city letter carriers are authorized to leave the route for lunch. However, the parties recognize that, consistent with local instructions and operational conditions, city letter carriers may be authorized to leave at a different time and/or place. Notwithstanding this, the parties agree that city letter carriers will scan MSP scan points as they reach them during the course of their assigned duties.

MODIFIED EQUIPMENT

M-00894 Step 4
February 10, 1989, H7N-1P-C 7159
Modifications of any carrier casing equipment may only be made in accordance with the provisions of the National Agreement, including the applicable Section(s) of Article 34 and Article 4. In addition, Headquarters' approval must be obtained before testing, and the National Association of Letter Carriers at the national level, must be notified of the test in the appropriate manner. *See also* M-00959

M-01076 Step 4
June 26, 1992, H0N-3F-C 320
The issue in this grievance is whether management violated the National Agreement by adjusting routes based on inspections performed using five-shelf cases.

During our discussion, we mutually agreed that, since the M-39 provides only for standard six-shelf letter cases, route inspections and adjustments should not have been performed on non-standard cases.

M-01130 Step 4
January 13, 1993, H7N-2N-C 41759
The issue in this grievance is whether three shelf letter cases are authorized as casing equipment. During our discussion we mutually agreed that letter cases with fewer than four shelves are not currently authorized and will not be used. Accordingly, we agreed that the use of the three shelf case will be discontinued.

M-01187 Step 4
March 3, 1994, H0N-5K-C 15850
We further agreed that modifications of any casing equipment may only be made in accordance with the provisions of the National Agreement, including applicable Section(s) of Article 34 and Article 4, except as otherwise specifically provided in a Memorandum of Understanding or other settlement. In addition, the Memorandum of Understanding on casing equipment dated September 17, 1992, allows the local parties to jointly agree to use a four or five shelf case configuration.

M-01240 Step 4
July 25, 1995, J90N-4J-C 95012688
The issue in this grievance is whether Management violated the National Agreement by allowing a carrier to utilize a homemade cardboard tray device to the fixed tray in a Long Life Vehicle, to assist in the delivery of DPS mail.

During our discussion the parties agreed that the USPS/NALC Joint Training Guide on *Building Our Future by Working Together*, dated September 1992, does not authorize changes in work methods in the delivery of DPS mail without local agreement. Whether this is such a change, and whether its use is prohibited, is suitable for regional/local determination.

PRIORITY MAIL

M-01341 Step 4
April 21, 1998, D94N-4D-C 97104406
This grievance concerns management's requirement that the city carrier sign for delivery confirmation priority mail prior to delivery in an effort to improve service.

After reviewing this matter, we mutually agreed that there is no dispute at this level concerning a carrier's responsibility for the delivery of mail or management's right to assign the carriers work during the normal performance of their duties. The parties also agreed there is currently nothing in Handbook M-41 which identifies priority mail pieces as accountable.

SAMPLES

M-00342 Step 4
May 31, 1985, H1N-1M-C 27834
It is the position of the Postal Service that the handling of samples by park and loop carriers should be determined on a case-by-case basis. Normally, the carrier would case the detached labels (if any) in the office. Prior to pulling the case, management at the local level will determine the manner in which the carriers will identify the number of samples needed for each relay or the entire route. However, carriers will not be expected to memorize the number of stops per relay on the route.

M-00779 USPS Letter, February 6, 1987
All samples should be delivered within the normal standard for ordinary third-class mail. In all cases, delivery must be completed within five days of receipt of the detached labels and samples.

If a sample is too large for delivery into a customer's mailbox, it should be left outside of the box provided it is afforded adequate protection or delivered in accordance with instructions or known desires of the addressee:

A sample too large for delivery into an approved apartment house receptacle will be deposited in the rack underneath the boxes or on a nearby table or other location provided by the building management.

In all cases where a sample is left outside of the mailbox, use a rubber band to hold the sample and address card together.

When delivery cannot be accomplished, complete and leave Form 3849-A, "Delivery Notice of Receipt," and return sample and card to the delivery unit.

Under no circumstances should a detached address label be delivered without a sample or a sample without a detached address label.

SEGMENTATION

M-00777 Segmentation Settlement Agreement, March 9, 1987
The United States Postal Service and the National Association of Letter Carriers, AFL-CIO, in joint discussion and consultation, have agreed on a set of principles governing the implementation of the segmentation concept as provided in the M-39 Handbook.

These principles will ensure the efficiencies and effective implementation of the segmentation concept and ensure the fair and appropriate utilization of letter carriers in the performance of the work involved in segmentation.

1. Segmentation of mail can efficiently be processed on automated or mechanized equipment. Such processing will be done by the craft designated to operate that equipment.

2. A manual, tertiary or delivery preparation operation is the manual sortation or preparation of mail that occurs after an incoming secondary operation and does not require memorization of distribution scheme items. A manual tertiary or delivery operation will be done by city delivery letter carriers provided the mail is for city delivery routes or post office box sections served by these routes and provided there is space available at the delivery unit. If space is not available, and sortation is done at a General Mail Facility, a mail processing center, or any other postal installation or facility within the installation, letter carriers will perform the manual tertiary sortation at such facilities. An incoming secondary operation normally requires memorization of distribution scheme items and is one which results in mail being sorted to carrier routes, firms, box section, nixies, postage dues, and other separations necessary for the efficient processing of mail.

3. Routers can be used to perform the manual tertiary sortation of mail segmentation whenever that is operationally feasible. Tertiary sortation duties may also be combined with other forms of letter carriers' work to create full-time assignments.

4. Even though no arbitrary limitation is place on the number of pieces in a segmentation, a limitation will, in effect, be imposed by whatever number of pieces is operationally effective and efficient for each operation in an installation.

Standard manual distribution cases that are used in delivery units should be fully utilized for

sorting mail to carrier routes, box sections, postage dues, etc. Segmentations should contain sufficient volumes that can be sorted and pulled down efficiently. For example, a single delivery point or ZIP + 4 segment (blockface, apartment building, etc.) that averages two or three pieces a day should not normally take up space on the incoming, manual secondary case. Exceptions could be holdouts such as nixies, postage dues, etc., that require special treatment regardless of volume.

Segmentations are not necessarily static; therefore, manual secondary cases should be reviewed periodically to ensure that all cells are properly utilized in the most effective and efficient manner possible, consistent with operational or service needs.

5. Each installation will determine the type of equipment to be used in a tertiary sortation. Performance on that equipment will be done in accordance with the principle of a fair day's work for a fair day's pay which will normally be reflected in the general performance expectations for that equipment.

6. The parties understand that the tertiary sortation referenced here is the result of the implementation of the segmentation concept, which is presently described in the changes to the M-39 Handbook as presented to the National Association of Letter Carriers, AFL-CIO, on August 15, 1985. Any tertiary sortation established prior to June 16, 1983, will remain in effect unless changed by the installation. Changes made after June 16, 1983, but prior to implementation of this understanding, which are in conflict with this document, will be changed to conform.

7. The Employee Involvement process will be utilized to develop recommendations for use by the installations affected by this Agreement.

M-00908 Step 4
March 23, 1989, H7N-3N-C 8757
The fact that the work [segmentation] is being charged to labor distribution code 43 is an administrative characterization of function which does not change the fact that the work being performed is carrier work.

M-00908 Step 4
March 23, 1989, H7N-3N-C 8757
The fact that the work [segmentation] is being charged to labor distribution code 43 is an administrative characterization of function which does not change the fact that the work being performed is carrier work.

M-01078 Step 4
June 9, 1992, H7N-3R-C 38961
After reviewing this matter, we mutually agreed that no national interpretive issue is fairly presented in this case. In the Segmentation Settlement Agreement, of March 9, 1987, the following was agreed to:

> "2. A manual tertiary or delivery operation will be done by city delivery letter carriers provided the mail is for city delivery routes or post office box section served by these routes and provided there is space available at the delivery unit." (emphasis added).

C-10129 Regional Arbitrator Byars
July 23, 1990
Management properly assigned a segmentation operation, which included mail destined for rural routes, to the clerk craft.

STOOLS

M-00682 Step 4
May 5, 1977, NCS 5139
Information in the file does not substantiate that the grievant's use of a stool interferes with or affects the carrier's efficiency and standard job performance. Accordingly, the grievance is sustained.

M-00285 Step 4
March 20, 1973, NCS 6146
The employee could not reach top shelf of the case while sitting on a stool. As a result, he would place mail for the top shelf aside and later stand up and case this mail. Since this second handling of the mail is an inefficient practice, management properly instructed the employee not to use the stool.

STREET DUTIES

See also Lawn crossing, Page 163

M-00004 **Step 4**
August 4, 1977, NCN 7044
Street supervision will be conducted in a proper and businesslike manner and it will not be accomplished with the intent of harassing a carrier.

C-06155 Regional Arbitrator Rotenberg
May 12, 1986, C4N-4B-C 5659
Management violated the national agreement by withdrawing the grievant's satchel cart.

M-00039 **Step 4**
June 11 1982, H1N-5C-C-1155
It is not a requirement for a carrier on a foot route to carry 4 inches of flats on his arm while delivering mail. Carriers may opt to carry flats on their arm, unless instructed not to, as part of their daily routine, provided there is no loss in carrier efficiency. However, management may reasonably expect the carrier to perform his duties and travel his route during route inspections in the same manner as he/she does throughout the year (Part 915, M-41 and Part 234.224, M-39).

M-00504 **Step 4**
May 21, 1984, H1N-1E-C 25147
Letter Carriers may be required to finger flat mail between stops as required by Part 321.5, M-41 Handbook. Obviously, the physical fingering activity may not be the same as for letter mail which is held in the hand. Flat mail is normally withdrawn from a satchel. The idea is to have all mail ready for deposit when the carrier reaches the delivery point and to avoid backtracking. Safety should be a prime consideration, by all means.

M-00042 **Step 4**
May 17, 1982, H8N-3W-C 34930
The procedures for handling postage due mail. The current instructions in the Financial Handbook for Post Offices (F-1) are controlling in this matter until the M-41 is revised at a future date.

M-00335 **Step 4**
November 17, 1972, NC 672 (50)
The only exception whereby a motorized carrier may make deliveries without a satchel is a dismount to make a limited (one or two) number of deliveries from a single stop.

M-00483 **Step 4**
September 26, 1980, N8-W-0378
Normally, letter carriers deliver mail during daylight hours; however, there is no contractual provision which would preclude management from assigning carriers to deliver mail in other than daylight hours.

C-10514 Regional Arbitrator Witney
January 7, 1991
Management did not violate the contract when it required carriers to deliver mail after dark.

SUBCONTRACTING

M-01489 **Pre-arb**
June 9, 2003, Q94N-4Q-C-98063238
Without prejudice to either party' position on the specific facts of this case, is agreed that it is the Postal Service' responsibility to notify and keep the NALC informed at the national level, pursuant to Article 34 of the National Agreement, during the making, at the national level or by a field unit, "of time or work studies which are to be used as a basis for changing current or instituting new work measurement systems or work or time standards."

THROWBACK CASE

M-00255 **Step 4**
December 15, 1982, H8N-3U-C 35786
The question raised in this grievance involves the proper layout of the carrier throwback case. The dispute pivots on whether Exhibit 2-8 of Methods Handbook, Series M-41 or Exhibit 1-1 of Methods Handbook, Series M-39, should be utilized. The date of Exhibit 2-8 of Methods Handbook, Series M-41 is June 14, 1974. The date of exhibit 1-1 of Methods Handbook, Series M-39 is January 30, 1981. Hence, local management was proper in relabeling the throwback case in compliance with the latest instructions.

M-01023 Step 4
August 10, 1982, H1N-3W-C 6335
Carriers will be allowed to return mark-up mail and misthrows to the throwback case or other designated location. It is our mutual understanding that the carrier case is not the designated location. *See also* M-00070, M-00117, M-00265

VERTICAL FLAT CASES

M-00983 Memorandum of Understanding
January 10, 1990
The parties recognize the need to change existing equipment and methods so that the USPS may remain competitive and efficient. The purpose of the change is to provide the USPS and the letter carriers with a more efficient method of performing their duties and recouping the benefits of this change.

The NALC and USPS agree to jointly implement vertical flat casing (VFC). The following conditions are jointly agreed to.

The EI Process (where it exists) will be utilized to implement vertical flat cases. The expectation is that EI groups will participate in the determination of the predominant case configuration (6,5 or 4 shelf) for each unit. Exceptions to the predominant case configuration within each unit will be made on a route-by-route basis. Carriers will have input into the size and number of separations within the case(s) on their routes.

Where the EI process does not exist, joint labor/management efforts will be established to implement VFC. Whether or not the EI process is utilized to implement VFC, carrier input concerning the case configuration will be solicited.

This casing change is a permanent method for casing carrier flats. Any subsequent change to cases will be by agreement of the parties or management will follow the existing contractual guidelines.

The parties agree to complete this VFC review within 2 years. Also, they will jointly develop implementation guidelines and a criteria to be used when equipment decisions need to be made.

The city delivery, route examination and adjustment (as outlined in the M-39 Handbook, Chapter 2) processes will remain unchanged as a result of the VFC implementation. However, the parties acknowledge that this equipment change necessitates language changes in our handbook and manuals as they relate to flat casing equipment and methods, in order to recoup the benefits of this change.

The work design committee will address other changes to the applicable handbooks and manuals, as appropriate.

M-00991 USPS Internal Memorandum
March 15, 1991
In January 1990 the Postal Service and the National Association of Letter Carriers signed a Memorandum of Understanding agreeing to jointly implement Vertical Flat Casing (VFC). At that time, detailed implementation instructions were issued (Vertical Flat Casing-Information and Guidelines) and joint presentations were made in all regions. Since then we have become aware of a few issues that need clarification.

There has been discussion concerning the 15 minutes per route savings attributed to Vertical Flat Casing in the budget process. This national average savings projection is not applicable at the individual route level. As you may recall from the Corporate Delivery Plan, two engineering studies documented that VFC savings potential from individual routes would vary due to a number of factors including the type and number of possible deliveries, flat mail, volume, etc. While certain routes will save more than the average, others will save less, and a number will not even be converted to VFC. In the aggregate, the in office savings from VFC should approximate 15 minutes per route. These factors must be taken into consideration when evaluating the savings potential from individual routes within a unit.

The Vertical Flat Casing agreement did not commit the Postal Service or the National Association of Letter Carriers to any changes to carrier casing equipment other than the "strip & clip" modifications that allow for the VFC casing configurations to be put into place. There is no agreement or approval to cut-off case legs, weld brackets to the inside of cases, bolt additional shelves to the top of cases, etc. These types of equipment modifications are not part of the Vertical Flat Casing guidelines. Managers, supervisors and letter carriers should not make modifications to equipment that are inconsistent with those identified in the VFC implementation guidelines.

M-01256 Step 4
October 2, 1996, H90N-4H-C-95033604
The issue in this grievance is whether Management violated the National Agreement by requiring city carriers to use the one-bundle system while using a 5 shelf case configuration.

During our discussion, it was agreed that the explanation *Building our Future by Working Together* of the September 1992 MOU on Case Configuration states that the two-bundle and modified two bundle casing systems may be used with four or five shelf letter cases. However, use of the one-bundle system on other than the standard six-shelf letter case requires a joint agreement between the local parties.

Letters of Instruction or Information

M-00387 USPS Policy Letter
November 17, 1982
Letters of Instruction and Letters of Information or similar type missives are not appropriate and will be discontinued immediately.

M-01335, Step 4
July 17, 1998, J94N-4J-C 98075371
The issue in this case is Letters of Information/Letter of Concern which are issued to employees. After reviewing this matter, we mutually agreed that no national interpretive issue is fairly presented in this case.

Accordingly, we agreed to remand this case to the parties at Step 3 for further processing or to be scheduled for arbitration, as appropriate with the following understanding:

The letter dated November 17, 1982, signed by James C. Gildea, regarding Letters of Information/Letters of Concern [M-00387] will be controlling in the instant case, and such letters will be removed from the employee files.

M-00074 Step 4
December 9, 1983, H1N-4E-C 20307
The local office will immediately discontinue the use of "Letters of Concern." issued to letter carriers who have been bitten by dogs.

M-00389 Step 4
January 31, 1983, H1N-3P-C 11303
A letter of Instruction as contained in this file is inappropriate.

M-00390 Step 4
February 2, 1983, H1N-3P-C 8036
A letter of Awareness as contained in this file is inappropriate.

M-00768 Step 4
March 19, 1987, H4N-3Q-C 22215
Management violated the National Agreement when the grievant was issued a letter because he was not available for a discussion. During our discussion, we mutually agreed that letters of instructions and letters of informative or similar type missives are not appropriate and the use of such letters must be discontinued in this facility.

M-00912 Step 4
March 23, 1989, H7N-4M-C 7533
The issue in this grievance is whether the National Agreement was violated by the issuance of an accident incident letter. Letters such as these are not appropriate. Management will discontinue using these letters.

M-01334 Pre-arbitration Settlement
July 16, 1998, H90N-4H-C 96029292
The issue in this grievance is whether management violated the National Agreement by developing a local form which was not approved in accordance with the ASM. The development of local forms is governed by the ASM. This grievance concerns a letter which is being issued to employees locally, entitled, "Accident Repeater Alert!!!

During our discussion, we mutually agreed that the development of local forms is governed by the ASM. Therefore, the issuance of the "Accident Repeater Alert!!! letter will be discontinued.

M-00706 Step 4
December 2, 1977, NCW 9088
Management is not prohibited from giving written informational notices to employees regarding attendance. However, if management desires to bring specific or potential attendance problems to the employee's attention, a personal discussion is more appropriate.

LIGHT DUTY

IN GENERAL

M-01170 Prearb
April 29, 1993, H7N-NA-C 60
During our discussion, we mutually agreed that ELM Section 355.1 will be revised by adding a new section which will read as follows:

355.14 (New Section) The light duty provisions of the various collective-bargaining agreements between the U.S. Postal Service and the postal unions require that installation heads show the greatest consideration for full-time regular or part-time flexible employees requiring light duty or other assignments, giving each request careful attention, and reassign such employees to the extent possible in the employee's office.

C-18906 National Arbitrator Snow
H1C-5K-C 24191, April 29, 1991
The Employer violated the national Agreement when management denied the grievant a bid assignment due to her inability to work overtime. Because the grievant was the senior bidder for the open position and met all published qualification standards, she should have been awarded the position An inability to work overtime does not necessarily prohibit an employee from performing his or her normal assignment. Accordingly, such an individual working with such a restriction is not necessarily on "light duty". Employees restricted from working overtime may bid on and receive assignments for which they can perform a regular eight hour assignment. (*Emphasis in original*)

M-01360 Step 4
E94N-4E-C 98057013, October 22, 1998
After reviewing this case , we mutually agreed that no national interpretive issue is fairly presented in this case, with the following understanding (From the Snow award in Case Number H1C-5K-C 24191)

> An inability to work **overtime** does not necessarily prohibit an employee from performing his or her normal assignment. Accordingly, such an individual working with such a restriction is not necessarily on "**light duty**". Employees restricted from working **overtime** may bid on and receive assignments for which they can perform a regular eight hour assignment.

M-00583 Step 4
February 7, 1983, H8N-NA-C 53
While the Postal Service strives to accommodate all injured employees, its responsibilities toward employees injured on duty differ from its responsibilities toward employees whose injuries or illness are not job related. As outlined in Part 546, Employee and Labor Relations Manual, the Postal Service has certain legal obligations to employees with job related disabilities pursuant to 5 U.S.C. Section 1851 and Office of Personnel Management regulations. Article 21, Section 4, of the National Agreement acknowledges these legal obligations toward employees injured on the job and Article 13 recognizes the importance of attempting to accommodate employees whose injuries or illness are not job related. However, the statutory and regulatory responsibilities toward on-the-job injuries are obligatory in nature and given priority consideration when assigning ill or injured employees.

The provisions promulgated in Part 546 of the Employee and Labor Relations Manual for reemploying employees partially recovered from a compensable injury on duty were not intended to disadvantage employees who occupy assignments properly secured under the terms and conditions of the collective bargaining agreement. This includes employees occupying permanent or temporary light-duty assignments acquired under the provisions set forth in Article 13 of the National Agreement.

C-09474 Regional Arbitrator R. Williams
November 24, 1989, S7N-3Q-C 23061
Management violated the contract when it provided eight hours of light duty work per day to two PTF employees, but only four hours of light duty work to a senior regular.

C-00383 National Arbitrator Bloch
October 5, 1983, H1C-4B-C 7361
Where a clerk obtained a letter carrier position as a result of a letter carrier being assigned light duty on the clerk craft, management acted improperly when it returned the clerk to the clerk craft after the letter carrier grieved the light duty assignment.

M-00140 Letter, March 23, 1977
The Postal Service has reexamined its position concerning the meaning of Article XIII, B.2.A. pertaining to who shall bear the cost of the physical examination referred to therein when the employee requesting permanent reassignment to light duty or other assignment is directed to be examined and certified by a physician of the installation head's choice. The Postal Service will, henceforth, pay the designated physician's bill for such physical examination. However, the right is reserved to the installation head to determine when such examinations are appropriate and necessary and every employee request shall not automatically trigger the examination process at Postal Service expense.

M-00153 Step 4
November 26, 1979, N8-W-0096
The grievant was inappropriately required to report for the light duty assignment in question, as he had not requested such an assignment. Accordingly, inasmuch as he was directed to work a schedule different from his normal schedule and in another craft, and such assignment was not for his own personal convenience and sanctioned by the Union, the grievant is entitled to receive out-of-schedule premium pay for the period he worked in other than his normal work schedule.

M-00146 Step 4
March 28, 1977, NCW 4288
The fact that no specific types of assignments, number of assignments or hours of duty have been negotiated locally within different crafts does not negate this responsibility of management. It is our position that the posture in question in this case, that "temporary light duty assignment between crafts may not be made absent any provision to that effect in the local memorandum of understanding", is inconsistent with the terms and conditions of Article XIII of the National Agreement and is not enforceable as Postal Service policy.

M-00564 USPS Letter, March 23, 1977
The Postal Service has reexamined its position concerning the meaning of Article XIII, B.2.A pertaining to who shall bear the cost of the physical examination referred to therein when the employee requesting permanent reassignment to light duty or other assignment is directed to be examined and certified by a physician of the installation head's choice. The Postal Service will, henceforth, pay the designated physician's bill for such physical examination.

M-01437 Step 4
April 9, 2001, H90N-4H-C 96029235
The parties agree that the local practice of requiring an automatic update of medical information every 30 days is contrary to the intent of Article 13 and, therefore, will be discontinued. Consistent with the provisions of Article 13.4.F. of the National Agreement, an installation head may request an employee on light-duty to submit to a medical review at any time: *The installation head shall review each light duty reassignment at least once each year, or at any time the installation head has reason to believe the incumbent is able to perform satisfactorily in other than the light duty assignment the employee occupies. This review is to determine the need for continuation of the employee in the light duty assignment. Such employee may be requested to submit to a medical review by a physician designated by the installation head if the installation head believes such examination to be necessary.*

ELIGIBILITY

M-00078 Step 4
November 3, 1983, H1N-5L-C 14379
An employee must have 5 years of cumulative Postal Service in order to be eligible to submit a voluntary request for permanent reassignment to light duty.

C-10282 Regional Arbitrator Belshaw
September 20, 1990
A employee with 11 years of total service, but with only 4 years after reinstatement, has the "five years of service" necessary for assignment to permanent light duty.

C-10215 Regional Arbitrator Snow
August 3, 1990, W7N-5H-D 17639
Management violated Articles 2 and 13 when it did not "reasonably accommodate" or provide light duty to a carrier with four years of service and a non-job related disability.

M-00295 Step 4
September 30, 1983, H1N-2D-C 5870
The specific restrictions contained in the local memo that essentially preclude the authorization of a light duty assignment beyond 9 months is improper. Thus, any absolute language that limits the amount of time a light or limited duty will be authorized, without qualification, shall be stricken from the memo. *See also* M-00080.

M-01005 Step 4
September 30, 1983, H1N-2D-C 6298
The question in this grievance is whether the local memorandum setting forth a policy regarding light duty assignments violates Article 13 of the National Agreement.

The facts in the case file indicate that the policy specifically includes a provision that "temporary light or limited duty assignments will be authorized ... for a period not to exceed 6 months ... An extension for 1-3 months ... may be permitted with medical certification."

During our discussion of this matter, we agreed to the following as a full settlement of this case:

The specific restrictions contained in the local memo that essentially preclude the authorization of a light duty assignment beyond 9 months is improper. Thus, any absolute language that limits the amount of a time a light or limited duty will be authorized, without qualification, shall be stricken from the memo.

SCHEDULE

C-00935 National Arbitrator Mittenthal
June 12, 1987, H1C-4E-C 30528
Full-time regular employees on light-duty are not guaranteed eight hours a day or forty hours a week. They may be sent home on occasion before the end of their scheduled tours due to lack of work. *See also* M-00718

M-00733 Step 4
November 14, 1977, NCW 8182
The employee's "normal schedule does not apply when that employee requests light duty."

M-00734 Step 4
April 15, 1977, NCS 5127
The installation head may change an employee's regular schedule in order to afford light duty work to an employee without incurring an overtime obligation.

M-00735 Step 4
April 11, 1977, NCC 2498
An employee who is not working his regular schedule while on light duty is not entitled to overtime pay for such an assignment.

DUTIES

M-00487 Step 4
August 31, 1977, NCS 7445
Management will instruct employees on light or limited duty to perform only duties which are permitted by the instructions of the physician on Form 2533.

M-00008 Step 4
October 13, 1977, NCW 8182
Local management will make a reasonable effort to reassign the employee to available light duty in his own craft prior to scheduling light duty in another craft.

BIDDING

M-00752 Memorandum
March 16, 1987, H1N-NA-C 119
The following procedures will be used in situations in which a regular letter carrier, as a result of illness or injury, is temporarily unable to work his or her normal letter carrier assignment, and is working another assignment on a light duty or limited duty basis, or is receiving Continuation of Pay (COP) or compensation as a result of being injured on the job, sick leave, or annual leave, or Leave Without Pay (LWOP) in lieu of sick leave.

I. Bidding

A) A regular letter carrier who is temporarily disabled will be allowed to bid for and be awarded a letter carrier bid assignment in accordance with Article 41, Section 1.C.1, or, where applicable, in accordance with the provisions of a local memorandum of understanding, provided that the letter carrier will be able to assume the position within the six (6) months from the time at which the bid is placed.

B) Management may, at the time of submission of the bid or at any time thereafter, request that the letter carrier provide medical certification indicating that the letter carrier will be able to perform the duties of the bid-for position within six 6) months of the bid. If the letter carrier fails to provide such certification, the bid shall be disallowed, and, if the assignment was awarded, it shall be reposted for bidding. Under such circumstances, the letter carrier shall not be permitted to re-bid the next posting of that assignment.

C) If at the end of the six (6) month period, the letter carrier is still unable to perform the duties of the bid-for position, management may request that the letter carrier provide new medical certification indicating that the letter carrier will be able to perform the duties of the bid-for position within the second six (6) months after the bid. If the letter carrier fails to provide such new certification, the bid shall be disallowed and the assignment shall be reposted for bidding. Under such circumstances, the letter carrier shall not be permitted to re-bid the next posting of that assignment.

D) If at the end of one (1) year from the placement of the bid the letter carrier has not been able to perform the duties of the bid-for position, the letter carrier must relinquish the assignment, and shall not be permitted to re-bid the next posting of that assignment.

E) It is still incumbent upon the letter carrier to follow procedures in Article 41.1.B.1 to request notices to be sent to a specific location when absent. All other provisions relevant to the bidding process will also apply.

II. Higher Level Pay

Letter carriers who bid to a higher level assignment pursuant to the procedures described in the preamble and Part I Bidding, above, will not receive higher level pay until they are physically able to, and actually perform work in the bid-for higher level position.

OVERTIME

M-00795 Step 4
July 11, 1986, H4N-5B-C 9731
We agreed that employees on light duty and limited duty may sign the "Overtime Desired" list. We further agreed the parties at Step 3 are to apply Article 13, Section 3.B., and Part 546 of the Employee and Labor Relations Manual to the specific fact circumstances involved in this case. Also whether or not the grievant's physical condition and status was such that he could work overtime is a question that can only be answered based on the facts involved.

LIMITED DUTY

IN GENERAL

See also OWCP, Page 268

M-01550 USPS Letter August 19, 2005
USPS responds to NALC concerns about USPS position on 3 Limited Duty Assignment questions: 1) Whether the USPS takes the position that it has no obligation to provide limited duty to a letter carrier who cannot deliver mail but can case and perform other duties; 2) Whether the USPS takes the position that it has no obligation to provide limited duty if available work is less than 8 hours per day or 40 hours per week; 3) Whether or not the USPS takes the position that it has no obligation to provide limited duty if the employee's treating physician indicates that the employee is unlikely to fully recover from the injury**.**
In response the USPS stated, in part, that the Postal Service makes no such assertion. All assignments will comply with the Employee and Labor Relations Manual (ELM) Section 546 and the Rehabilitation Act, if appropriate, based on individual circumstances**.**

M-01119 USPS Letter
January 13, 1993
Postal Service letter instructing that in accordance with OWCP regulations a written description of proposed restricted or limited duty assignments must be provided. Sample letter with minimum requirements attached.

M-00487 Step 4
August 31, 1977, NCS 7445
Management will instruct employees on light or limited duty to perform only duties which are permitted by the instructions of the physician on Form 2533.

M-01487, Pre-arb
May 29, 2003, Q98N-4Q-C-00065688
The issue in the case concerns proposed revisions to the Employee and Labor Relations Manual, Issue 14, transmitted by letters dated September 29 and November 12, 1999. After reviewing this matter, we mutually agree to close this case with the following understanding:

The language formerly contained in Section 864.42 of the Employee and Labor Relations Manual (ELM) which stated, “In cases of occupational illness or injury, the employee will be returned to work upon certification from the treating physician, and the medical report will be reviewed by a medical officer or contract physician as soon as possible thereafter” is still in full force and affect and will be placed back into the next edition of the ELM. The change will be identified in a future edition of the Postal Bulletin.

M-00914 Step 4
April 13 1989, H4N-2L-C 45826
The issue in these grievances is whether management violated the National Agreement when it refused to post several potential opt assignments claiming the assignments were reserved for limited duty. We mutually agreed that no national interpretive issue is fairly presented in these cases. We further agreed that there is not authority for management to withhold routes "reserved" for limited duty.

M-00795 Step 4
July 11, 1986, H4N-5B-C 9731
We agreed that employees on light duty and limited duty may sign the "Overtime Desired" list. We further agreed the parties at Step 3 are to apply Article 13, Section 3.B., and Part 546 of the Employee and Labor Relations Manual to the specific fact circumstances involved in this case. Also whether or not the grievant's physical condition and status was such that he could work overtime is a question that can only be answered based on the facts involved.

M-00887 Step 4
November 16, 1988, H4N-4C-C 38635
The issuance of local forms, and the local revision of existing forms is governed by Section 324.12 of the Administrative Support Manual (ASM). The locally developed forms at issue were not promulgated according to ASM, Section 324.12. Therefore, management will discontinue their use *See also* M-00849, M-00852.

The form at issue in this case was a locally developed list of available limited duty assignments provided to physicians. (See file)

M-01116 Prearb
May 18, 1992, H7N-1Q-C 30532
The issue in these grievances is whether management may send a letter to an employee and/or the employee's physician informing them that limited duty is available.

During our discussion, we mutually agreed that in order to resolve these particular grievances that standard letters would be developed at the national level to replace the letters which were being used locally. Copies of those letters are attached. The Union will provide comments on the content of these letters, without prejudice to the positions of the parties regarding whether Article 19 is applicable or whether such letters should be developed nationally or locally. After comments, if any, are received, these letters will be transmitted and used by the field instead of those letters at issue in these grievances.

The parties further agree that this settlement is limited solely to the question of letters issued to inform employees of their obligation regarding limited duty availability and to inform physicians of limited duty availability.

M-01146 USPS letter
October 14, 1983, H1C-NA-C 74
The union's purpose in submitting this matter to Step 4 was to raise the following question: Are limited duty employees covered by the collective bargaining agreement? As I indicated during our discussion, the answer to that question is set forth in Section 546 of the Employee and Labor Relations Manual (ELM). Specifically, 546.2 provides as follows:

> Reemployment under this section will be in compliance with applicable collective bargaining agreements. Individuals so reemployed will receive all appropriate rights and protection under the applicable collective bargaining agreement.

In view of the foregoing, I do not believe that our respective organizations have a dispute over this issue. Where reemployment occurs under the circumstances described in Section 546, such reemployment must be in keeping with the provisions of any applicable collective bargaining agreements.

C-10245 Regional Arbitrator Ables
July 10, 1990, E7N-2L-C-17358
Management is ordered to cease and desist from embarrassing and humiliating the grievant, as it did by forcing her to come to work when she was clearly not able to work following an on-the-job injury.

M-01352 USPS Letter
May 1, 1997
USPS letter stating that it is not the policy of the Postal Inspection Service to conduct criminal background checks on all employees who file injury compensation claims.

PAY

C-00843 National Arbitrator Aaron
September 3, 1982, H8-C-4A-C 11834
Employees who had been on compensation under the Federal Employees' Compensation Act and who after more than one year were partially recovered from their injuries and were reinstated to the same level and step they had occupied at the time of their separation were not entitled to the salary levels they would have occupied had they been continuously employed from the dates of their separation to the dates of their reinstatement.

Arbitrator Aaron decided this case as a purely contractual issue and declined to look at external law. It is the position of the NALC that, notwithstanding Arbitrator Aaron's decision in this case, the Federal Employees' Compensation Act requires that employees, who have been on compensation for more than one year and are partially recovered from injuries, are when reinstated entitled to the salary levels they would have occupied had they been continuously employed from the dates of their separation to the dates of their reinstatement. The Contract Administration Unit should be contacted in any cases concerning this issue.

C-03212 National Arbitrator Gamser
March 12, 1980, N8-NA-0003
The arbitrator held that the Postal Service is not required to make out-of schedule payments to employees on limited duty. However, he continued that:

"Having so concluded, it is necessary to add that this determination does not give the USPS the unbridled right to make an out-of-schedule assignment when the disabled employee could be offered such a work opportunity during the hours of his or her regular tour."

BIDDING

M-00752 Memorandum
March 16, 1987, H1N-NA-C 119
The following procedures will be used in situations in which a regular letter carrier, as a result of illness or injury, is temporarily unable to work his or her normal letter carrier assignment, and is working another assignment on a light duty or limited duty basis, or is receiving Continuation of Pay (COP) or compensation as a result of being injured on the job, sick leave, or annual leave, or Leave Without Pay (LWOP) in lieu of sick leave.

A) A regular letter carrier who is temporarily disabled will be allowed to bid for and be awarded a letter carrier bid assignment in accordance with Article 41, Section 1.C.1, or, where applicable, in accordance with the provisions of a local memorandum of understanding, provided that the letter carrier will be able to assume the position within the six (6) months from the time at which the bid is placed.

B) Management may, at the time of submission of the bid or at any time thereafter, request that the letter carrier provide medical certification indicating that the letter carrier will be able to perform the duties of the bid-for position within six (6) months of the bid. If the letter carrier fails to provide such certification, the bid shall be disallowed, and, if the assignment was awarded, it shall be reposted for bidding. Under such circumstances, the letter carrier shall not be permitted to re-bid the next posting of that assignment.

C) If at the end of the six (6) month period, the letter carrier is still unable to perform the duties of the bid-for position, management may request that the letter carrier provide new medical certification indicating that the letter carrier will be able to perform the duties of the bid-for position within the second six (6) months after the bid. If the letter carrier fails to provide such new certification, the bid shall be disallowed and the assignment shall be reposted for bidding. Under such circumstances, the letter carrier shall not be permitted to re-bid the next posting of that assignment.

D) If at the end of one (1) year from the placement of the bid the letter carrier has not been able to perform the duties of the bid-for position, the letter carrier must relinquish the assignment, and shall not be permitted to re-bid the next posting of that assignment.

E) It is still incumbent upon the letter carrier to follow procedures in Article 41.1.B.1 to request notices to be sent to a specific location when absent. All other provisions relevant to the bidding process will also apply.

Letter carriers who bid to a higher level assignment pursuant to the procedures described in the preamble and Part I Bidding, above, will not receive higher level pay until they are physically able to, and actually perform work in the bid-for higher level position.

REMOVAL FROM ASSIGNMENT

C-03855 National Arbitrator Mittenthal
November 14, 1983, H8N-5B-C 22251
Management may not declare vacant the duty assignment of an employee on temporary limited duty and post the assignment for permanent bid. *Cf* M-00999

M-00999 Step 4
January 12, 1989, H1N-3W-C 30804
If it is determined that the disability is permanent, management's actions in removing the grievant from her bid assignment were proper. If, however, the disability is determined to be temporary, the decision of Arbitrator Mittenthal, case H8N-5B-C 22251 [C-03855] should be applied.

M-01219 Step 4
June 29, 1995, H0N-5S-C 8772
Whether or not an employee is permanently disabled and may therefore be removed from a duty assignment is an issue of fact that should be resolved on a case by case basis. We further agree that, for purposes of removing an employee from a duty assignment, there is no predetermined period of disability after which an employee may be considered permanently disabled. Therefore, the award of Arbitrator Collins in H1C-NA-C 101 is not conclusive of the outcome of this case.

ACCEPTANCE "UNDER PROTEST"

M-01120 Memorandum of Understanding
January 29, 1993
1. By accepting a limited duty assignment, an employee does not waive the opportunity to contest the propriety of that assignment through the grievance procedure, whether the assignment is within or out of his/her craft.

2. An employee whose craft designation is changed as a result of accepting a limited duty assignment and who protests the propriety of the assignment through the grievance procedure shall be represented during the processing of the grievance, including in arbitration, if necessary, by the union that represents his/her original craft.

For example, if a letter carrier craft employee is given a limited duty assignment in the clerk craft, and grieves that assignment, the employee will be represented by the NALC. If a clerk craft employee is given a limited duty assignment in the letter carrier craft, and grieves that assignment, the employee will be represented by the APWU

M-00896 Step 4
February 10, 1989, H4N-3W-C-50311
The issue in this grievance is whether, by accepting a limited duty assignment, a letter carrier waives the opportunity to contest the propriety of such assignment through the grievance procedure.

After reviewing this matter, we mutually agreed that no national interpretive issue is fairly presented in this case. We further agreed that be accepting a limited duty assignment a letter carrier does not waive the opportunity to contest the propriety of that assignment through the grievance system.

C-09596 Regional Arbitrator P.M. Williams
December 29, 1989, S7N-3A-C-8643
The arbitrator found that a limited duty job offer in the clerk craft, which a letter carrier had accepted under protest, violated the provisions of ELM 546.141. He reinstated the employee to the letter carrier craft and ordered that limited duty be provided in accordance with ELM 546.141.

C-016339 Regional Arbitrator DiLauro
February 19, 1997, C94N-4C-C 96034716
The arbitrator found that management violated the grievant's rights under ELM 546.141 by threatening her with the loss of her job and OWCP benefits if she did not accept a modified clerk position. The grievant accepted the assignment "under protest". The arbitrator found that an agreement made under duress is not binding. Furthermore the arbitrator found that the modified clerk position was a violation of the grievants rights under ELM 546.141 and ordered her returned to the carrier craft without loss of seniority.

CROSS CRAFT

C-07233 National Arbitrator Bernstein
August 7, 1987, H1N-1J-C 23247
The Postal Service may not permanently transfer an employee who sustained an injury on duty and who is performing limited duty to another craft on an involuntary basis.

C-13396 National Arbitrator Snow
October 11, 1993, H0C-3N-C 418
"The arbitrator concludes that the employer violated the parties' collective bargaining agreement when it reassigned a full-time [letter carrier] employee who was partially recovered from an on-the-job injury to full-time regular status in the Clerk Craft. Unless in an individual case, the Employer can demonstrate that such assignments are necessary, notwithstanding the conversion preference expressed in the parties' agreement, the Employer shall cease and desist

from reassigning partially recovered employees to full-time status when those reassignments impair the seniority of part-time flexible employees."

C-18860 National Arbitrator Snow
H94N-4H-C 96090200, November 4, 1998
"The arbitrator concludes that the Employer violated its agreement with the National Association of Letter Carriers when it reassigned a full-time regular partially disabled, current employee of the Carrier craft to the Clerk craft as a part-time flexible worker."

C-23742 National Arbitrator Das
October 31, 2002, E90N-4E-C 95076238
The Postal Service was not required to post under Article 37a rehabilitation assignment created for a partially recovered letter carrier. The creation of thet assignment pursuant to Section 546 of the ELM did not impair

M-01434 Memorandum of Understanding
March 1, 2001
The parties agree to resolve all outstanding issues with respect to the permanent reassignment of full-time letter carrier craft employees with job-related injuries to the clerk craft as part-time flexible employees as follows:

1. The parties will jointly identify all full-time carrier craft employees who were reassigned to part-time flexible positions in the clerk craft following a job-related injury.

2. Each employee so identified will be paid thirty-five ($35) dollars for each pay period that he/she was in part-time flexible status following his/her reassignment into the clerk craft. Such payment shall be subject to the appropriate payroll deductions.

3. Pending grievances with respect to the reassignment of any employee covered by this Memorandum shall be remanded to the local parties. The grievant's current medically defined work limitation tolerance (see ELM 546.611) shall be considered. Following such review:

(a) If the parties agree that there is adequate work within the grievant's medically defined work limitation tolerance in the letter carrier craft, he/she shall be reassigned back as a full-time regular employee with full retroactive carrier craft seniority.

(b) If the parties agree that there is not adequate work within the grievant's medically defined work limitation tolerance in the letter carrier craft, NALC will withdraw its request that the grievant be reinstated in the letter carrier craft.

(c) If the parties disagree, any disputes with respect to the grievant's medically defined work limitation tolerance and/or the availability of work within those limitations in the letter carrier craft, shall be arbitrated at the area level based upon the fact circumstances.

(d) Evaluation and/or reassignment of the grievant as agreed to in paragraphs a, b, and c above, must be consistent with ELM Section 546.

This represents a full and complete resolution of any and all grievances, complaints and/or appeals arising out of the reassignment into the clerk craft. This settlement is intended solely to resolve the dispute with respect to the reassignment of the employees identified in paragraph one above into the clerk craft and is otherwise not precedential and is without prejudice to either party. (*See also* M-01435)

C-19717 APWU Nat. Arbitrator Dobranski
J90N-1J-C 92056413, June 14, 1999
The Postal Service did not violate the APWU National Agreement by assigning rural letter carriers to temporary limited duty work in the clerk craft when no work was available within their medical restrictions within their own craft.

C-05136 National Arbitrator Mittenthal
January 4, 1985, H1C-4K-C 17373
When a carrier is assigned permanent limited duty in the clerk craft pursuant to Part 540 of the ELM, a clerk is not entitled to be reassigned to the position vacated by the carrier.

ELM SECTION 546.14

M-01010 Prearb
October 26, 1979, N8-NAT-003
Prearbitration settlement revising ELM 546.14.

M-01418 Step 4
J94N-4J-C 96037387, March 3, 2000
Those portions of the October 26, 1979 pre-arbitration settlement of Case Number N8-NAT-003 (M-01010) pertaining to the settlement of grievances is no longer in effect. The settlement applied only to individual grievances relating to the initial implementation of the ELM procedures in 1979.

M-01264 Step 4
January 28, 1997, G90N-4G-C 95026885
We agreed that the provisions of ELM 546.14 are enforceable through the provisions of the grievance/arbitration process.

M-00308 Pre-arb
December 24, 1985, H1C-3D-C 38668
Full-time regular employees on limited duty will not be scheduled day-to-day with varying reporting times.

C-00936 National Arbitrator Aaron
January 24, 1983, H1C-5D-C 2128
Pursuant to the provisions of 546.141 of the ELM, A full-time rural carrier who has incurred an on-the-job injury must be offered a full-time regular position in another craft that minimizes adverse or disruptive impact on the employee.

C-09589 Regional Arbitrator Lange
Management violated ELM 546.141 when it assigned the grievant to work limited duty on Tour 3; remedy is out-of-schedule OT and child care expenses.

C-09443 Regional Arbitrator Lange
December 7, 1989. W7N-5L-C 14886
Management violated ELM 546.141 when it assigned the grievant to work limited duty outside of his station; when such a grievance is filed management bears the burden of showing compliance with ELM 546.141.

C-09406 Regional Arbitrator Goodman
October 4, 1989, W7N-5T-C 12431
Management violated 546.141 of the ELM when it changed the schedule and the work location of a carrier assigned to limited duty.

C-11252 Regional Arbitrator Purcell
October 5, 1991
Management violated the contract when it refused to permit a letter transferred to the clerk craft for limited duty to return to the letter carrier craft to perform router work.

C-01414 Regional Arbitrator Goldstein
June 29, 1981, C8N-4J-C 12091
Where grievant was assigned limited duty in the clerk craft, and where work within his limitations was available in the carrier craft, grievant is awarded premium pay for time worked outside of schedule.

M-01103 Step 4
September 22, 1992, H7N-5R-C-30346
The issue in these grievances is whether management violated the Agreement when the grievant was permanently reassigned work in another craft.

After reviewing this matter, we mutually agreed that no national interpretive issue is fairly presented in these cases.

Further, it is agrees that ELM, Part 546.14 is applicable in such cases. Accordingly, these cases are returned to Step 3 for further processing, including arbitration if necessary to determine whether the ELM provisions were appropriately applied

M-00817 Pre-arb
March 9, 1988, H4N-5K-C 10972
When an employee has partially overcome a disability and is available for assignment to limited duty, management may change the employee's regular work schedule in accordance with part 546.14 of the ELM, but only on a prospective basis. Management may not change the employee's regular work schedule retroactively. The requirement set out in part 434.61 of the ELM and elsewhere, that employees be given notice of a temporary schedule change by Wednesday of the preceding service week does not apply to schedule changes for limited duty assignments pursuant to Part 546.14 of the ELM.

M-00583 Step 4
February 7, 1983, H8N-NA-C 53
While the Postal Service strives to accommodate all injured employees, its responsibilities toward employees injured on duty differ from its responsibilities toward employees whose injuries or illness are not job related. As outlined in Part 546, Employee and Labor Relations Manual, the Postal Service has certain legal obligations to employees with job related disabilities pursuant to 5 U.S.C. Section 1851 and Office of Personnel Management regulations. Article 21, Section 4, of the National Agreement acknowledges these legal obligations toward employees injured on the job and Article 13 recognizes the importance of attempting to accommodate employees whose injuries or illness are not job related. However, the statutory and regulatory responsibilities toward on-the-job injuries are obligatory in nature and given priority consideration when assigning ill or injured employees.

The provisions promulgated in Part 546 of the Employee and Labor Relations Manual for reemploying employees partially recovered from a compensable injury on duty were not intended to disadvantage employees who occupy assignments properly secured under the terms and conditions of the collective bargaining agreement. This includes employees occupying permanent or temporary light-duty assignments acquired under the provisions set forth in Article 13 of the National Agreement.

LOCAL MEMORANDUMS OF UNDERSTANDING

M-01450 Memorandum of Understanding
December 13, 2001
Re: National Negotiations—Article 12.3.A and Article 10.4.B.

The parties have agreed to extend the current period of contract negotiations. Pending conclusion of this extension, the parties have agreed to the following:

Article 12.3.A—The bid count for the five (5) successful bids during the term of the next National Agreement began on November 21, 2001.

Article 10.4.B—Choice vacation selections are to proceed as provided in the 1998-2001 National Agreement and.or corresponding Local Memoranda of Understanding.

C-13080 National Arbitrator Mittenthal
July 12, 1993, H0C-NA-C 3
Management may not seek to change or eliminate through the impasse arbitration procedure LMU provisions which cover matters outside the 22 items listed in Article 30, Section B.

C-25374 National Arbitrator Nolan,
B98N-4B-I 01029365 B98N-4B-I 01029288 July 25, 2004
Sections 8.9 and 30.B.1 prohibit negotiation of LMOU provisions that provide wash-up time to all employees without consideration of whether they perform dirty work or are exposed to toxic materials. Local parties remain free to define the employees who satisfy those conditions.

C-05670 National Arbitrator Mittenthal
January 29, 1986, H1N-NA-C 61
LMU provisions which grant employees the right to take incidental leave are not in conflict or inconsistent with the National Agreement and are, therefore, valid and enforceable.

C-03206 National Arbitrator Mittenthal
September 21, 1981, N8-W-0406
An LMU is valid and enforceable so long as it is not inconsistent or in conflict with the National Agreement. This is true even if the subject of the LMU is outside of the 22 items for local implementation set forth in Article 30. While matters outside the 22 items may not be submitted for impasse resolution, if management enters into an agreement concerning a matter outside the 22 items it is thereafter bound by such agreement.

C-14489 National Arbitrator Mittenthal
June 2, 1995, H7N-1F-C 39072
The local parties may not negotiate wholesale changes to a LMU outside of the 30 day period provided by Article 30, Section B.

C-09404 National Arbitrator Mittenthal
October 6, 1989, H4C-4C-C 24016
An LMU provision stating that "incidental leave will be granted upon request provided the allowable maximum percentage of leave is not exceeded" is not inconsistent or in conflict with the ELM.

Interpretation of an LMU provision is a subject for regional, not national, arbitration.

M-01261 Letter of Agreement
January 18, 1996
This is to confirm your conversation of January 18 with Patricia Heath of my staff concerning the upcoming local implementation period to occur pursuant to Article 30 of the 1994 National Agreement.

The parties encourage prompt responses during the local implementation period. If either party wishes to open local implementation, timely communication with the other party would facilitate discussion. It is not anticipated that one party would wait until the end of the local implementation period to notify the other of its desire to open local implementation.

At the end of the 30 day period of local implementation, only unresolved issues from the 22 items listed in Article 30, may be forwarded through the impasse procedure.

-- Management appeals impasses involving provisions (not inconsistent and/or in conflict) which management wants to change, add, or delete.

-- The union appeals impasses involving provisions (not inconsistent and/or in conflict) which the union wants to change, add or delete.

-- If management declares a provision inconsistent and/or in conflict, and the union disagrees and wants to preserve the provision, the union appeals.

-- If the union declares a provision inconsistent and/or in conflict and management disagrees and wants to preserve the provision, management appeals.

The local parties should cooperate in identifying issues in dispute to be appealed, which should be reduced to writing and initialed by both parties. (Initialing does not constitute agreement to the contents of the document.) Management will be preparing a standard cover sheet to be used in forwarding management impasses, to make them easy to identify. It will be provided to the NALC for input before being distributed to the field, and will contain a line providing that a copy of the package be sent to the NALC NBA.

Appeals are to be sent to the Grievance/Arbitration Processing Center, this is the same address to which Step 3 grievances are currently sent. Each party will designate its representatives for the meetings during the seventy-five day period.

We acknowledge that there may be an interpretive dispute as to whether there are situations in which management may appeal an impasse to arbitration without having the burden of establishing unreasonable burden. This letter is without prejudice of the position of the parties.

M-01228 Step 4
May 9, 1995, D90N-4D-C 94028779
It was mutually agreed that NALC Transitional Employees are not covered by Article 10 or Article 30 of the 1990 National Agreement. The granting of annual leave to NALC Transitional Employees is covered in Appendix D of the January 16, 1992 Transitional Employee Interest Arbitration Award.

M-01183 Step 4
March 23, 1994, H0N-4N-C 4199
The issue in this grievance is whether the union can declare items contained in the Local Memorandum of Understanding (LMOU),to be in conflict and inconsistent with the National Agreement.

After reviewing this matter, we mutually agreed that no national interpretive issue is fairly presented in this case.

During our discussion we agreed that under Article 30 Section A, of the National Agreement, the union can claim any LMOU item to be in conflict and inconsistent with the National Agreement.

M-01171 APWU Prearb
November 26, 1992, H7C-NA-C 89
During the discussions, it was mutually agreed that when facilities are consolidated or when a new installation is established as a result of administrative changes, such action does not change the coverage of any existing LMOU. Matters associated with the "consolidation" are addressed by application of Article 30.E.

Also it was mutually agreed that when finance numbers within an installation are changed, deleted or created, such changes, in and of themselves, do not change the coverage of an existing L.M.O.U. covering the installation.

C-06986 Regional Arbitrator Carey
March 7, 1987, N4N-1K-I 901242
An LMU provision providing for a trial period by the successful bidder route (Retreat Rights) is not in conflict or inconsistent with the National Agreement. *See also* C-06883, C-06879, C-06768, C-01612

M-00519 Step 4
August 1, 1984, H1N-3A-C 30742
Part 584.8, ELM, specifically authorizes the head of an installation to determine when seasonal changes of uniform will take place. Whether or not the language of this LMU is inconsistent with the postmaster's decision making authority relative to the seasonal wearing of ties can only be determined by review of the fact circumstances, to include the context of the discussions leading to the 1981 LMU language, past practice, etc.

M-01005 Step 4
September 30, 1983, H1N-2D-C 6298
The question in this grievance is whether the local memorandum setting forth a policy regarding light duty assignments violates Article 13 of the National Agreement.

The facts in the case file indicate that the policy specifically includes a provision that "temporary light or limited duty assignments will be authorized ... for a period not to exceed 6 months ... An extension for 1-3 months ... may be permitted with medical certification."

During our discussion of this matter, we agreed to the following as a full settlement of this case:

The specific restrictions contained in the local memo that essentially preclude the authorization of a light duty assignment beyond 9 months is improper. Thus, any absolute language that limits the amount of a time a light or limited duty will be authorized, without qualification, shall be stricken from the memo.

C-00146 Regional Arbitrator Leventhal
March 14, 1985, W1C-5G-C 6261
Management violated a valid local memorandum of understanding when it did not schedule regular volunteers for holiday work, but instead scheduled PTFS employees.

C-10694 Regional Arbitrator Francis
August 18, 1990
Management violated the contract by unilaterally deleting and refusing to honor various provisions of the LMU prior to exhaustion of the impasse/arbitration procedure.

C-10026 Regional Arbitrator Powell
May 15, 1990, E4N-2G-C 34281
Management did not violate the contract when it used as a base for determining the number of employees entitled to leave the number of employees on the roster, rather than the number of employees authorized in the complement.

C-12924 Regional Arbitrator Lurie
April 1, 1993, S0N-3C-C 15012
The Postal Service violated Article 8, Section 2.C and the Local Memorandum of Understanding by changing the grievant's schedule from consecutive to non-consecutive days off.

Local Policies

SEE ALSO

Forms, Locally Developed, Page 116

Memorandum of Understanding
1990 National Agreement, June 12, 1991
The parties agree that local attendance or leave instructions, guidelines, or procedures that directly relate to wages, hours, or working conditions of employees covered by this Agreement, may not be inconsistent or in conflict with Article 10 or the Employee and Labor Relations Manual, Subchapter 510.

M-00481 Step 4
July 6, 1983, H8N-3W-C 28787
Any local policy establishing a call-in procedure must be in compliance with Section 513.332 of the Employee and Labor Relation Manual.

M-00076 Step 4
October 28, 1983, H1N-5D-C 14305
Local management may request the carriers to comply with his more stringent seat belt policy; however, the postmaster may not require more than what is required in accordance with current national policy as set forth in Postal Bulletin 21389, dated February 3, 1983.

M-00351 Step 4
June 14, 1985, H1N-3W-C 4872
Local policy regarding absence control must comport with postal regulations in relation thereto as set forth in Chapter 5 of the Employee and Labor Relations Manual.

M-00500 Step 4
May 2, 1984, H1N-5C-C 18518
Any local attendance control policy must conform to the provisions of subchapter 510 of the Employee and Labor Relations Manual (ELM). Whether or not the local policy is in accord with these ELM provisions is a local dispute and is suitable for regional determination.

M-00497 Step 4
March 30, 1984, H1N-3W-C 21270
Any local policy establishing a call-in procedure must be in compliance with Section 513.332 of the Employee and Labor Relations Manual (ELM).

M-00296 Step 4
November 21, 1983, H1N-5D-C 14785
A local Attendance Program cannot be inconsistent with ELM 510. Disciplinary action which results from a local policy must meet the just cause provision of Article 16.

M-00411 Step 4
January 12, 1983, H1N-5K-C 6754
The issue in this grievance involves the requirement of carriers to record their daily leaving and return times on a tablet placed on the carrier cases. Such leaving and returning time notations are inappropriate and will be discontinued upon receipt of this decision.

C-12424 National Arbitrator Mittenthal
October 5, 1992, H7N-1P-C 23321
A local policy requiring medical clearance by the Division Medical Officer for return to duty following non-occupational illness or injury was not a violation of the Agreement. To the extent that the policy was applied to those returning from an extended absence due to occupational illness or injury, it would be in conflict ELM section 864.42, and would thus be a violation of the Agreement.

C-00330 Regional Arbitrator Caraway
October 17, 1983, S1C-3A-C 11234
Management violated the contract when it used a restricted sick leave letter which went beyond the basic conditions set forth in the ELM.

C-00006 Regional Arbitrator Cohen
January 11, 1982, C8C-4G-C 22983
Management violated the contract by establishing a local leave policy which required an ill employee to call in on each day of an absence.

M-01184 Step 4
February 14, 1994, H0N-1F-C 2820
The issue in this case is whether an internal management document can constitute a violation of the National Agreement.

The parties agree that internal correspondence between management officials is not a grievable matter. However, the union may, and in fact has, in separate grievances, grieved action taken by management consistent with the opinion expressed in the document.

LUNCHES

ELM Section 432.34
Meal Time. Except in emergency situations or where service conditions preclude compliance, no employee may be required to work more than six continuous hours without a meal or rest period of at least one-half hour.

M-00093 Pre-arb
April 4, 1985, H1N-5K-C 20446
Except in emergency situations or where service conditions preclude compliance, no employee may be required to work more than 6 consecutive hours without a meal or rest period of at least 1/2 hour. Where service conditions permit, an employee may request to schedule their lunch period after completion of 6 hours' work.

C-06096 Regional Arbitrator Pribble
March 14, 1986, C4N-4K-C 8595
Management's cancellation of a previously authorized lunch location was arbitrary, where the reason given for the cancellation was that the location was "too far" and where the location was no greater distance from the route than another authorized location.

C-03902 Regional Arbitrator Britton
November 10, 1983, S1N-3D-C 1697
Management's cancellation of a previously authorized lunch location was improper, where the location required a 1.4 mile deviation, and where another authorized location required 2.2 miles of travel.

C-03997 Regional Arbitrator Foster
January 3, 1984, S1N-3Q-C 18088
The determination of a lunch location requires a balancing of the interests of management and the interests of the employee. The saving of slightly more than one mile of travel cost, and a few minutes of travel time, is not of sufficient magnitude to justify management's denial of grievant's selected locations.

M-00622 Step 4
August 23, 1985, H1N-5A-C 25384
Management is proper in authorizing lunch locations in accordance with the M-39 Handbook and the instructions contained on Form 1564A. Letter carriers, however, are free to pursue activities other than eating lunch during their authorized meal period so long as such activities are not in violation of postal regulations.

M-00065 Step 4
June 15, 1983, H1N-5G-C 10222
Re Lunch: Those carriers not included in items 1 through 4 of footnote 2, on Form 1564-A, shall not be required to complete those portions of the form annotated by footnote 2, except at their option.

M-00545 Step 4
June 25, 1985, H1N-5G-C 10663
Carriers are permitted to pursue personal activities within applicable postal regulations during their authorized lunch period as long as there is no additional expense to the Postal Service; the assigned vehicle is parked at the authorized park point, and; the mail is properly secured. *See also* M-00263

M-00624 Step 4
October 27, 1977, NCN 8378
Management is allowed to extent a letter carriers lunch period if required by such factors as the necessary time and distance to eating facilities.

M-00654 Step 4
May 23, 1977, NCN 5477
The information presented in this case is lacking in any substantive evidence to establish any reasonable basis for disallowing the grievant to continue to have his lunch at his home. To this extent, we find the grievance is sustained.

M-00262 Step 4
July 9, 1982, H8N-4E-C 5081
Management should determine at what point on the route the carrier should break for lunch. The distance to a suitable lunch location should be measured from that point, and if the lunch place is more than one-half mile from the point of lunch break, the carrier is entitled to transportation to and from lunch.

MANAGEMENT RIGHTS, RESPONSIBILITIES, LABOR-MANAGEMENT MEETINGS

MANAGEMENT RESPONSIBILITIES

M-00052 Step 4
March 31, 1983, H1N-5D-C 8746
Applicable regulations require that employees clock in and out on time. Local management is responsible for ascertaining that this requirement is accomplished without requiring employees to wait beyond reporting time to obtain their badge cards and/or time-cards.

M-00033 Step 4
March 28, 1978, NCN 10487
Management should make every effort to protect known unlisted telephone numbers provided by employees.

MANAGEMENT RIGHTS

C-03206 National Arbitrator Mittenthal
September 21, 1981, N8-W-0406
A local agreement restricting management's rights is not in conflict with Article 3. Article 3 does give management certain rights, but it does not prohibit local management from bargaining to limit those rights.

C-05670 National Arbitrator Mittenthal
January 29, 1986, H1C-NA-C 59
Article 3 rights are not absolute. They are subject to the provisions of the National Agreement.

C-00170 Regional Arbitrator Dolson
April 2, 1984, C1C-4C-C 9427
Quoting the Elkouris: "Even where the agreement expressly states a right in management, expressly gives it discretion as to the matter, or expressly makes it the 'sole judge' of the matter, management's action must not be arbitrary, capricious, or taken in bad faith."

C-10137 Regional Arbitrator Sirifman
July 10, 1990, N7N-1R-C 27480
"What type of delivery system the Service provides to a customer is solely for Management." Management did not violate the contract when it ceased office-to-office delivery, and substituted delivery to gang-boxes.

ADDRESS MANAGEMENT SYSTEM

M-01377 Step 4
February 22, 1999, G94N-4G-C 97067155
AMS function is a managerial function which may be delegated and regardless of the methodology employed to change the information contained on Form 313, the actual work associated with making such changes on Form 313 is letter carrier work.

M-01274, Step 4
January 2, 1997, E94N-4E-C 96073621
The parties did agree that the Address Management Systems Specialist position description, in Item #4, provides for maintaining route delivery line of travel information, however, this does not include making unilateral changes in the carrier's line of travel.

M-01376 Step 4
February 22, 1999, H94N-4H-C 98076450
The issue in these grievances is whether management violated the National Agreement when AMS duties were added to the position of Growth Management Coordinator. After reviewing these matters, we mutually agreed that no national interpretive issue is fairly presented in this case. There is no nationally recognized position of Growth Management Coordinator. Therefore, we agreed that the AMS function is a managerial function which may be delegated.

LABOR/MANAGEMENT MEETINGS

M-00109 Step 4
November 29, 1978, NCS 11794
The Postmasters designee has the appropriate authority to deal with the issues considered during the Labor-Management meetings.

M-00448 Step 4
October 24, 1978, NCS 11532
It is necessary for management to make every effort to respond to all issues discussed at labor-management meetings in as short a time as is practical

MARK-UP, CMU

M-00410 Step 4
June 24, 1983, H1N-3U-C 17722
Carriers may be required to rework mail from the CMU in accordance with Section 180 of the M-39 Handbook.

M-00477 Step 4
May 2, 1985, H1N-3W-C 32759
In offices where there is a CFS/CMU site, letter carriers shall not be required to forward or return any class of mail, including oversized parcels. Letter carriers shall continue to endorse undeliverable as addressed in accordance with current policy.

M-00741 Step 4
January 13, 1978, NCN 7165
Carriers may not be required to review a large amount of C.M.U. Mail without additional office time.

M-00191 Step 4
October 10, 1975, NBW 6032
The practice of the Central Mark-Up Clerk "red marking" mail and returning it to the carrier for verification is improper. Existing U. S. Postal Service policy requires that if a change of address notice is not on file, the Central Mark-Up Clerk is to return the mail to the sender. Further, requiring letter carriers to retain completed Forms 3982 at the carrier case for one year is contrary to existing instructions.

M-01023 Step 4
August 10, 1982, H1N-3W-C 6335
Carriers will be allowed to return mark-up mail and misthrows to the throwback case or other designated location. It is our mutual understanding that the carrier case is not the designated location. *See also* M-00070, M-00117, M-00265

M-01026 Postal Bulletin 21652
December 31, 1987
Postal Bulletin notice specifying procedures for handling third-class Bulk Business Mail (BBM).

MARRIAGE MAIL, THIRD BUNDLES

The procedures to be followed in the delivery of third bundles differs depending upon whether the mail involved is "pre-sequenced" or "simplified address".

I. Simplified address mail (e.g. "Postal Patron") is mail without a specific address affixed. The proper procedure for the handling of such material is specified in the April 17, 1980 Settlement Agreement (M-00159) which provides that in all instances carriers may be required to deliver the mailing as a third bundle. Except on mounted curbside delivery routes, the Postal Service's response to the October 29-30 National Joint City Committee meeting, Item E (M-00603) provides the further restriction that, "Normally, only one such mailing should be carried at one time". It is NALC's position that management has the burden of proof whenever they assert that circumstances are not "normal". *See also* M-01097

II. Pre-sequenced mail is letter or flat sized mail with a specific address affixed that arrives pre-sequenced in the order of delivery. The proper procedure for the handling of such material is specified in M-39, Section 121.33. Carriers on curb-line (mounted) routes normally handle such mail as a third bundle. Such mail should not be delivered as a third bundle on a park and loop route. However, on dismount deliveries only, Letter Carriers on park and loop routes may be required to deliver pre-sequenced mail as a third bundle (C-03003) Garrett, September 29, 1978.

III. Detached label mailings: The procedure for the delivery detached label mailings on park and loop routes is governed by the April 17, 1980 Settlement agreement (M-00159). Carriers should case the address cards and carry the unaddressed pieces as a third bundle. See also M-00723. The proper procedures when two detached address label card mailing are identically addressed and to be delivered on the same days are described in M-00750 and M-00608.

IV. There are no contract or manual provisions limiting the number of bundles that may be required on a mounted route.

M-00750 Pre-arb
April 28, 1987 H1N-5H-C 27400

1. When a single detached address card mailing is to be delivered, the address label cards are cased and the unaddressed flats are placed at the back of the regular flat bundle.

2. When two detached address label card mailings are identically addressed (intended for the same deliveries), and both mailings are to be delivered on the same day:

A) The address label cards for both mailings are cased, the unaddressed flats for each mailing are collated together and the appropriate number placed at the back of the regular flat bundle. When the address label cards are delivered, the appropriate unaddressed flat pieces are obtained from the back of the flat bundle and delivered along with the address label cards.

B) An alternative is to case the address label cards for both mailings, collate the unaddressed flats from one mailing with the regular flats and place the appropriate number of unaddressed flats from the remaining mailing at the back of the regular flat bundle. When the address label cards are delivered, the appropriate unaddressed flat piece from one mailing is obtained along with the regular flats and the appropriate unaddressed flat piece from the remaining mailing is obtained from the back of the flat bundle. Both are delivered along with the address label cards. NOTE: If the unaddressed flats represent less than 100% coverage in a swing or relay, this alternative is not desirable since it would require the carrier to refer back to the address label cards that were previously cased in order to determine the precise deliveries for which the unaddressed flats are intended.

C) These procedures do not apply to portions of routes where delivery is to apartment buildings, NDCBUs, or other similar central delivery points. In those instances it may not be necessary to collate the unaddressed flat pieces. Additionally, these procedures do not apply on curb-line deliveries served by motorized routes or curb-line deliveries that may be on a portion of a park and loop route.

3. When swings, loops, etc. of two detached address label card mailings are not identically addressed (intended for the same deliveries) and these mailings are to be delivered on the same day, it is not appropriate to carry the unaddressed flats for both mailings at the back of the regular flat bundle.

C-03003 National Arbitrator Garrett
September 29, 1978, NBN 3908
Letter carriers on a park and loop route may be required to carry pre-sequenced flat mail as a third bundle on dismount deliveries, i.e. those situations where a letter carrier leaves the vehicle to deliver mail to one or more customers at a single delivery point such as a large apartment house

M-00159 Settlement Agreement
April 17, 1980
The NALC agrees that city letter carriers will carry "simplified address" mail without casing such mail and by placing such mail pieces on the bottom of the appropriate mail bundle, working from both ends of the bundle as they effect delivery of the mail. The USPS agrees to advise all mailers that all pieces of mail presented for mailing under the provisions of 122.412 (DMM) must be tied, so far as practicable, in packages or bundles of fifty (50) as required. The USPS agrees that, for the purpose of aiding carriers unfamiliar with the park and loop route, the number of possible deliveries on each relay of park and loop routes shall be entered on Forms 1564A by the regularly assigned carrier. This information should be updated for each route in conjunction with updates of Forms 1621. Verification of the information will be accomplished during the week of count and inspection.

M-01097 Pre-arb
September 10, 1992, H7N-5R-C 19788
The issue in these grievances is whether management improperly required carriers to delivery Simplified Address Mail when carriers on park and loop routes were required to carry two full-coverage simplified address circulars, one flat-size and one letter-size, on the same day.

After reviewing this matter, we mutually agreed that no national interpretive issue is fairly presented in these cases.

Accordingly, we agreed to remand these cases to the parties at Step 3 for application of the April 17, 1980 Settlement Agreement and the Postal Service's response to the October 29-30, 1975 National Joint City Delivery Committee Meeting (Item E) [M-00603], to the extent applicable.

M-00043 Step 4
October 6, 1982, H1N-5B-C 5329
The carriers received appropriate time for casing the detached labels and whereas the mail itself is not addressed, collating would not be appropriate. This type mailing is not a third bundle as referred to in Section 322.12 of Methods Handbook, Series M-41.

M-00603 National Joint City Delivery Meeting
October 29-30, 1975, Item E
"Patron mailings" i.e. mail without a specific address should not be cased, since there is no possibility of misdelivery and there is no prescribed sequence of delivery. These items can be handled without treating them as a third bundle. For example, by placing them at the bottom of regular letter mail bundles and working from ends, or by carrying them separately in the satchel and working them there. Normally, only one such mailing should be carried at one time.

M-00369 Step 4
November 28, 1984, H1N-3T-C 37042
Grievant's route is not a park and loop route but consists of curb-line and NDCBU delivery It is the position of the Postal Service that local management is properly requiring the grievant to take out the detached label cards as a third bundle. This position is in accord with the April 17, 1980, Settlement Agreement between the U. S. Postal Service and the NALC and Arbitrator Garrett's award in case Nos. NB-N-3908 (C-03003).

M-00343 Step 4
May 10, 1985, H1N-5H-C 22198
It is the position of the Postal Service that carriers using satchel carts to effect the delivery of mail are not restricted by contractual provisions from delivering sequenced mail as a third bundle. We believe the satchel cart is a conveyance similar to a vehicle in that no weight limitations exist.

M-00067 Step 4
June 9, 1983, H1N-3U-C 13925
The proper methods of recording the disputed card mailing is contained in Management Instruction PO-610-79-24 (Delivery Unit Volume Recording). Sections VI.B.3 or 4 contain instructions for the flats. In accordance with these instructions, the route would receive credit for both the cards and the unlabeled flats. The cards would be credited in Column 7 on the PS 3921 and the flats would be included in Column 1 on the PS 3921-A.

M-00494 Step 4
March 30,1984, H1N-5H-C 16802
The parties at this level agree that marriage mailings received on park and loop routes are handled in accordance with the April 17, 1980, settlement agreement concerning Simplified Address Mail. *See also* M-00509.

M-00600 National Joint City Delivery Meeting
Nov 16, 17, 1983, page 5.
Marriage mail should be recorded for each route. Managers should be contacting the carriers to determine the volume.

M-00600 National Joint City Delivery Meeting
Nov 16, 17, 1983, page 4
Preparation of simplified address mail may be accomplished in the office or on the street, as long as the time is credited somewhere, either as office or street time.

M-00608 National Joint City Delivery Meeting
September 25, 1985, page 4
Proper preparation and delivery procedure when two detached address label card mailings are identically addressed (intended for the same deliveries) and both mailings are to be delivered on the same day.

M-00288 Step 4
December 21, 1983, H1N-4B-C 21341
Marriage mailings received on foot routes are prepared for delivery in accordance with the park and loop instructions in the Settlement Agreement for Simplified Mail dated April 17, 1980. When handled in accordance with these instructions, the individual pieces are included within the relays. As such, no additional reimbursement is warranted.

M-00825 Step 4
March 4, 1988 H4N-4M-C 27183
Present policy does not permit the delivery of occupant flats without the detached address cards.

M-00723 Step 4
June 15, 1984, H1N-2B-C 10526
The USPS agrees that, for the purpose of aiding carriers unfamiliar with the park and loop route, the number of possible deliveries on each relay of park and loop routes shall be entered on Forms 1564A by the regular assigned carrier. This information should be updated for each route in conjunction with updates of Forms 1621. Verification of the information will be accomplished during the week of count and inspection."

In view of this agreement, we would expect that mailings prepared in the above described manner would not necessitate that the carrier take a total piece count. For example, if a relay has 40 stops, the carrier would count and extract 10 pieces from the bundle of 50, not count and extract 40 pieces.

If the carrier has no way to determine the number of pieces in the bundle then he/she would have to count out the appropriate number of mailings for the route. However, carriers assigned to curb-line routes are expected to work directly from the bundles or sacks.

M-01403 Step 4
February 03, 2000 G94N-4G-C 97121978
The issue in this grievance is whether management may eliminate detached address mail (Marriage mail) from the PS form 1840 in evaluating routes during a 6-day mail count and route inspection.

During our discussions we mutually agreed that such adjustments must be made in accordance with the provisions of Handbook M-39, subchapter 24.

We agreed that there presently are no provisions permitting certain days of the route examination to be excluded from the 6-day average, as outlined on the 1840, based on locally developed criteria.

M-01402 Step 4
January 24, 2000, I94N-4I-C 99216131
The parties agree that there is no prohibition to the number of bundles that may be carried on a mounted route. However, the parties recognize that the provisions of Handbook M-41, as written, appear inconsistent with this agreement (sections 322.12, 322.23 and 222a and b) Accordingly, we agree that management will amend Handbook M-41, as soon as feasible, to reflect the above understanding and [that these changes] will appear in the next printed version of the M-41.

MAXIMIZATION

SEE ALSO

Full-Time Flexibles, Page 127

ARTICLE 7.3.A

M-00920 Memorandum, April 14, 1989
Any installation with 200 or more man years of employment in the regular work force which fails to maintain the 90/10 staffing ratio in any accounting period, shall immediately convert and compensate the affected part-time employee(s) retroactively to the date which they should have been converted as follows:

A. Paid the straight time rate for any hours less than 40 hours (five 8 hour days) worked in a particular week.

B. Paid the 8 hour guarantee for any day of work beyond five (5) days.

C. If appropriate, based upon the aforementioned, paid the applicable overtime rates.

D. Further, the schedule to which the employee is assigned when converted will be applied retroactively to the date the employee should have been converted and the employee will be paid out-of-schedule pay.

E. Where application of Items A-D above, shows an employee is entitled to two or more rates of pay for the same work or time, management shall pay the highest of the rates.

C-09340 National Arbitrator Mittenthal
September 5, 1989, H1C-NA-C-120
A part-time flexible properly converted to full time flexible under the 1981 Memoranda is thereafter properly counted as a "full-time employee" for purposes of satisfying the 90% staffing requirement under Article VII, Section 3A. To this extent, the grievance is denied.

When part-time employees are entitled to conversion to full-time status under both the Memoranda and Article VII, Section 3A at the end of a given accounting period, the Postal Service must first convert pursuant to the 90% staffing requirement in Section 3A and thereafter convert pursuant to the Memoranda. To this extent, the grievance is granted.

M-00938 APWU Step 4
February 3, 1987, H4C-4H-C 16345
The issue in this grievance is whether the Postal Service exceeded the 90/10 ratio for PTF employees on February 15, 1986, at the Kansas City Post office. During our discussion, it was agreed that Article 7.3 of the 1984 National Agreement does not require management to maintain the 90/10 ratio on a "daily basis." Consequently the parties have agreed to close this case.

ARTICLE 7.3.B

C-00421 National Arbitrator Garrett
January 26, 1976, AB-N-3744
The arbitrator held that the general maximization obligation in Article 7, Section 3 [B] applies to all size offices, is of a continuing nature and is in addition to the specific 90/10 staffing obligation in Article 7, Section 3 [A]. He found that the Union had presented a prima facie case for greater maximization but had been unable to demonstrate that any PTF employees met the criteria in Article 7, Section 3 [C] by working 8 hours within 10, on the same 5 days each week for six months

The arbitrator ordered the Postal Service to seek to schedule at least one part-time flexible in accordance with Article 7.3[C]. If no significant inefficiency resulted after six months, the PTF was to be converted to full-time regular. Thereafter, this procedure was to be repeated experimentally until the number of full-time employees was maximized.

C-02978 National Arbitrator Gamser
October 12, 1978, NC-E-9358, Toms River
Adopting the reasoning of Arbitrator Garrett in C-00431, above, The arbitrator wrote the following:

"In the instant case, although the data submitted by the Union did not establish, as the Union claimed, that some fifteen additional part-time flexible carrier positions could immediately be converted to full-time regular positions, the data regarding hours worked in the carrier craft by regulars, flexes and casuals through the period ending May 18, 1978, certainly created a strong inference that the Postmaster at Toms River could re-establish his present carrier work schedules and create at least four additional full-time assignments on a temporary basis with only

a minimal, if any, impact upon efficiency or impairing required flexibility."

"Within thirty days after receipt of this award, the Postmaster at Toms River shall review with the Local Union a work schedule in the carrier craft which shall provide for the scheduling of four additional part-time flexible positions on the basis of eight hours within ten per day on the same five days each week. These additional assignments shall be for a six-month period. If, after a six month trial period, it can be established that such scheduling has had an adverse impact upon the efficiency of the operation or has resulted in undue increased costs, then these assignments may be discontinued. If no significant inefficiencies or costs result from such scheduling, those four positions shall be converted to full-time regular positions. Thereafter, or sooner if circumstances warrant, the Postmaster shall meet again with the Local Union for the purpose of reviewing and implementing further scheduling of additional part-time flexible positions in the same manner with the end in view of meeting the obligation to maximize the number of full-time employees as contemplated in Section 3 of Article VII of the National Agreement."

M-01563 Pre-arbitration Settlement
February 2, 2006
Article 7.3.B includes no provisions for reversion of full-time letter carrier duty assignments. Rather, consideration of reversion of reserve letter carrier assignments is initiated pursuant to the applicable provisions of Article 41.1 .A.1 of the National Agreement.

C-08230 Regional Arbitrator Ordman
August 15, 1988, C4N-4E-C 15204
The maximization obligation in Article 7.3.B is in addition to the 90/10 obligation in Article 7.3.A. The service was ordered to create an additional full-time position by combining an auxiliary route and a part time-router assignment. *See also* C-00944

C-10713 Regional Arbitrator Martin
July 20, 1990
Total hours used by part-time flexibles is an important -- perhaps determinative -- criterion to be used in evaluating whether management has complied with its general obligation to maximize.

C-10587 Regional Arbitrator Nolan
February 9, 1991
Management violated the contract when it did not combine work from segmentation assignments and auxiliary routes to form a full-time assignment.

ARTICLE 7.3.C

C-05070 National Arbitrator Mittenthal
July 8, 1985, H1N-2B-C 4314
Time spent by a PTF on an assignment opted for under the provisions of Article 41 Section 2.B.4 should be credited towards meeting the maximization criteria in Article 7 Section 3.C.

M-01398 Pre-Arbitration Settlement
A94N-4A-C 97040950, January 7, 2000
The issue in these grievances is whether the time worked over a six month period by a PTF letter carrier on an "opt" pursuant to Article 41.2.B.4, with rotating non-scheduled days, demonstrates the need for converting the assignment to a full-time position pursuant to Article 7.3.C.

After reviewing this matter, the parties mutually agreed that this case requires the application of Arbitrator Richard Mittenthal's July 28, 1985 decision in case No. H1N-2B-C 4314. Accordingly, the fact that the entire six month period was spent on one "hold-down" assignment is not an exception to the maximization provisions of Article 7.3.C of the National Agreement.

We further agreed that in offices where the Local Memorandum of Understanding provides for rotating days off, a PTF employee who works the same rotating schedule, eight hours within ten, five days each week on the same uninterrupted temporary vacant duty assignment over a six month period has met the criteria of Article 7.3.C. of the National Agreement.

Additionally, we agreed that the provisions of Article 7.3.C will be applied to an uninterrupted temporary vacant duty assignment only once.

M-01032 Step 4
December 6, 1991, H7N-3F-C-39104
The issue in this grievance is whether the criteria for conversion found in Article 7.3.C apply only to offices which have 125 or more man years of employment.

After reviewing this matter, we mutually agreed that no national interpretive issue is fairly presented in this case. Article 7.3.C contains no provision which limits its application only to those offices with 125 or more man years of employment.

M-00978 Step 4
February 10, 1978, NC-NAT-8871
It appears that perhaps there is some misunderstanding as to the Postal Service's position relative to the application of Article VII, Section 3. The need to establish a full-time assignment is not determined exclusively by the third sentence of Article VII, Section 3. In other words, situations which might exist that would demonstrate a need for a full-time assignment are not limited to the circumstances set forth in the third sentence of Article VII, Section 3. The sentence states "A part-time flexible employee working eight hours within ten on the same five days of each week and the same assignment over a six month period will demonstrate the need for converting the assignment to a full-time position." This provision merely sets forth a particular factual situation, the occurrence of which is considered to indicate that a full-time position is feasible. This sentence clearly refers to the same part-time flexible working the same assignment for 8 hours within 10 hours in the same 5 days per week over a 6 month period.

M-01475 Interpretive Step Settlement
December 20, 2002, C98N-4C-C 02070691
After reviewing this matter, we mutually agree that no national interpretive issue is presented in this case. Time worked on an occupied position pursuant to Article 41.2.B.4 of the National Agreement is subject to the maximization provisions of Article 7.3.C. If the office was under withholding at the time the triggering criteria was met, a full-time position should have been created pursuant to Article 7.3.C and the resulting residual vacancy should have been withheld pursuant to Article 12.5.B.2 of the National Agreement. We agree to remand this case to the Dispute Resolution Team, through the National Business Agent, for resolution in accordance with this guidance.

This is not to say that there can not be other circumstances which might support the conclusion that a full-time position is warranted. However, whether such circumstances exist, will depend on the particular facts relevant to an individual office. This would include disputes as to whether various duties can be combined into a full-time assignment in a particular individual situation. Thus it involves a fact question and does not involve the interpretation of the National Agreement.

M-00913 Step 4
April 13 1989, H7N-2A-C 2275
For the purposes of meeting the six month requirements of Article 7.3.C., approved annual leave does not constitute an interruption in assignment, except where the annual leave is used solely for purposes of rounding out the workweek when the employee would otherwise not have worked.

ARTICLE 7.3.D

C-10930 Regional Arbitrator Germano
June 30, 1991, N7N-1K-C 35702
Management violated the contract when it did not convert an auxiliary route to a full-time position.

M-00222 **Step 4**
December 7, 1973, NBS 185
Maximization is possible only in individual units where full-time assignments are available. The existence of eight (8) auxiliary routes in eight (8) separate stations or branches, as in this case, does not meet the criteria for establishing full time assignments.

TE/PTF CONVERSION MEMO

M-01115 **Memorandum of Understanding**
December 21, 1992
RE: TRANSITIONAL EMPLOYEES/PART-TIME FLEXIBLE CONVERSIONS

1. All part-time flexibles (PTF's) currently on the rolls will be offered an opportunity to convert to full-time regular status by November 20, 1994. The conversion opportunity may be contingent on the PTF's agreement to move to an available full-time assignment during this period. However, it is the intent of the parties that any such requirement to change offices will not be utilized by management as a device to discourage conversions and that inconvenience and disruption to PTFs will be minimized.

PTF's will be converted to available full-time assignments in their current installation. If insufficient full-time assignments are available to accommodate all PTF's in an installation, the remaining PTF's will be offered the opportunity to transfer to available full-time assignments within the commuting area, and the local union will be provided a list of all such assignments. The local union representative will be responsible for ascertaining the preferences, by use of seniority, of the PTF's who decide to accept a conversion opportunity in another installation and for communicating that preference to management. If PTF's from different installations seek the same assignment in another installation, craft seniority will determine which PTF gets that conversion opportunity.

If the foregoing process does not result in the offer of a conversion to all PTF's in an installation, the Postal Service will identify other conversion opportunities, including assignments outside the commuting area, during the conversion period. Any decision by a PTF to transfer to another office under this agreement will be considered voluntary.

2. In lieu of the DSSA analysis provided in the January 16, 1992, NALC Transitional Employee (TE) arbitration award, the parties will use the impact formula contained in the September 21, 1992, Hempstead Memorandum of Understanding to determine the number of TE hours allowed in a delivery unit due to automation impact. All such TE's will be separated in a delivery unit when Delivery Point Sequencing (DPS) is on-line and operational.

3. The parties further agree that in offices (automation impacted or non-impacted) where the number of PTF conversions exceeds the number of TE's allowed under the above impact formula, additional TE's may be hired to replace such PTF attrition. All such TE's will be separated from the rolls by November 20, 1994.

4. All pending national grievances seeking conversion of PTF's will be resolved by offering the affected PTF's the opportunity to convert to full-time regular assignments on a priority basis pursuant to this agreement. This agreement is without prejudice to the positions of either party with respect to any interpretive issue.

5. The parties at the local level will meet to review the current TE complement and pending TE or PTF grievances, as follows:

The meeting will occur after the joint training and during the local meeting on Hempstead issues;

The parties will attempt to resolve any pending grievances, including appropriate remedies for violations, if any. The Postal Service's liability, if any, will be limited to any TE hours in excess of that allowed by paragraphs 2 and 3 above which occurred prior to the date of this agreement;

If TE hours in a delivery unit exceed that allowed by paragraphs 2 and 3 above, management must, no later than 3/l/93, either: (l) relocate TE's to another delivery unit to stay within the allowable limits; or (2) reduce work hours per TE, so as to stay within the allowable limits; or (3) remove excess TE's from the rolls.

6. The parties herein express the desirability of affording future career employment opportunities to TE's. Consistent with that view, the parties agree to jointly explore the feasibility of such career opportunities, consistent with applicable law.

M-01151, January 22, 1993, Questions 1-34
M-01152, February 17, 1993, Questions 35-54
M-01153, March 31, 1993, Questions 55-80
Questions and Answers published as a supplement to *Building our Future by Working Together*, the USPS-NALC Joint Training Guide on the September, 1992 Memorandums of Understanding, published November 19, 1992. They provide joint answers to questions concerning the interpretation and application of those memorandums and the subsequent December 21, 1992 memorandum. See page 300 for complete text.

MEDICAL CERTIFICATION

INTRODUCTION

Section 513.361 of the Employee and Labor Relations Manual (ELM) reads:

For periods of absence of 3 days or less, supervisors may accept the employee's statement explaining the absence. Medical documentation or other acceptable evidence of incapacity for work is required only when the employee is on restricted sick leave (see 513.36) or when the supervisor deems documentation desirable for the protection of the interests of the Postal Service.

Stated simply, ELM 513.361 establishes three rules:

1) For absences of more than three days, an employee must submit "medical documentation or other acceptable evidence" in support of an application for sick leave, and

2) For absences of three days or less a supervisor may accept an employee's application for sick leave without requiring verification of the employee's illness (unless the employee has been placed in restricted sick leave status, in which case verification is required for every absence related to illness regardless of the number of days involved), however

3) For absences of three days or less a supervisor may require an employee to submit documentation of the employee's illness "when the supervisor deems documentation desirable for the protection of the interests of the Postal Service."

This handbook provision, which is incorporated into the National Agreement by reference in Article 19, has been the subject of a larger number of regional level contract arbitrations than any other contract term. Virtually all of the arbitrations have concerned situations in which a supervisor required an employee not in restricted sick leave status to submit medical documentation for an absence of three days or less. The purpose of this paper is to summarize the awards issued as a result of those arbitrations, and to summarize Step 4 settlements concerned with ELM 513.361 (Section V of this paper deals with issues concerning submission and acceptance of certification).

WHAT CONSTITUTES "THREE DAYS"?

In Case M-00489, NALC and USPS agreed that "an absence is counted only when the employee was scheduled for work and failed to show." Therefore, non-scheduled days are not counted in determining length of absence unless the employee had been scheduled to come in on overtime on the non-scheduled day.

BURDEN OF PROOF

When a supervisor has required an employee to submit medical certification, the burden is upon the NALC to show that the Postal Service arbitrarily, capriciously or unreasonably required the employee to obtain medical documentation. According to the arbitrator in C-00418, the "burden is heavy." The NALC "must prove that the supervisor was arbitrary and unjustified in his request."

WHAT CIRCUMSTANCES JUSTIFY REQUESTS FOR MEDICAL CERTIFICATION FOR AN ABSENCE OF THREE DAYS OR LESS, WHEN THE EMPLOYEE IS NOT IN RESTRICTED SICK LEAVE STATUS?

The hundreds of arbitration cases in which medical certification is contested may be divided into two groups: 1) Those in which the supervisor's request for certification was found justified, and 2) Those in which the supervisor's request was found not justified. Examination of these cases discloses certain patterns, as may be seen below:

1) Circumstances in which a request for certification was found justified.

In C-05348, the arbitrator ruled that certification was properly required when a heated discussion between the supervisor and the employee concerning the employee's duties was followed by a request for sick leave by the employee. "The Service's interest would be threatened if all employees who are upset, even if some justification exists for their feeling, can leave the work floor for the balance of the day and still receive compensation." The same conclusion has been drawn in other cases where an employee outwardly shows that s/he is unhappy with her or his assigned duty and then asks for sick leave. In C-03347 the arbitrator stated, "Given the appearance of the grievant's good health just prior to the undesirable assignment, there was sufficient grounds for suspicion that the sudden inability to work coinciding with the notice of an undesirable route assignment was too coincidental, thereby placing the burden on the grievant to establish his illness by medical documentation." (See also C-01597, C-04714, C-05101 and C-06565)

The request for medical documentation has usually been found proper when the employee asked for sick leave after his or her request for auxiliary assistance has been denied. In C-04627, the supervisor had denied the employee's request for assistance delivering mail and the employee then had asked for sick leave. The arbitrator concluded that the supervisor's actions were proper under the circumstances. The fact that the employee had not asked for sick leave until he was denied assistance delivering mail, coupled with his leaving work the previous day because of illness, made it reasonable for the supervisor to consider the possibility that the grievant was not truly ill. The same situation arose in C-06123 in which the arbitrator stated, "Considering the fact that the direction to the grievant to obtain medical documentation came after he had come to work and worked for two and a half hours without complaint, and had asked for auxiliary help and been denied it, and been told he would have to complete his route, even though it might entail overtime, it would appear that it was reasonable of the supervisor to insist upon documentation." (See also C-04086, C-04782 and C-04909)

Arbitrators have concluded that medical documentation was properly requested by a supervisor when the employee called in for sick leave for a day for which the employee had previously requested annual leave. (See C-01160, C-04897, C-06747 and C-06751)

Arbitrators have not always ruled in favor of certification required of an employee who requested sick leave for a day preceding or following a day off or a holiday. Under such circumstances, however, arbitrators have been generally sympathetic to supervisors' concerns and have required only minimal further support of supervisory decisions to require certification. In C-03057 the arbitrator stated that, "Concern by the supervisor of the grievant's pattern of taking sick leave and annual leave on Saturday unless overtime was involved, as well as the fact that he had only eight hours of sick leave to his credit were legitimate reasons for requesting medical documentation." (*See also* C-04209, C-04117, C-04967 and C-06167)

2) Circumstances in which a request for certification was found not justified.

While a supervisor has discretion to request medical certification, such discretion must be exercised on a case-by-case basis rather than requiring that all employees submit certification for absence on a certain day. In national level settlement M-00662, NALC and USPS agreed that local management's requirement that substantiation for illness must be submitted by any and all carriers absent on the day following a holiday was "contrary to national policy".

Where the supervisor does not have a factual basis for requiring certification and instead relies on a mere feeling that certification should be provided, arbitrators generally find certification to have been unreasonably required. In C-00008 the medical documentation request was ruled to have been unjustified because there was "no pattern that could raise suspicion and indicate that an employee's undocumented request should not be accepted." The Arbitrator found that three absences in a thirty-four week period were insufficient to deem the employee's sick leave request "suspicious."

Where an employee appeared sick at the time leave was requested, arbitrators usually rule that certification should not have been required. In C-01224, the request for medical documentation was not reasonable when the employee actually appeared ill to the supervisor at the time she requested sick leave. The arbitrator pointed out that "an employee can have a lousy record of attendance but still can become ill at work which would justify excusing him from work." In C-04033 the arbitrator stated, "The single, isolated incident of the grievant leaving work due to illness on a prior occasion, with no indication otherwise in the grievant's work record that he was a malingerer likely to abuse sick leave, is not sufficient to produce a substantial doubt in the mind of a reasonable person that the grievant left his route on the day in question simply because he did not want to complete the overtime assignment." In this case the supervisor had conceded that the grievant had the outward appearance of being sick by the hoarseness in his voice.

Further, it is unreasonable for a supervisor to require medical documentation of an employee requesting sick leave without an inquiry into the employee's illness. In C-03860 the supervisor's request for medical documentation was found improper because the supervisor had not questioned the employee about his illness before asking for medical documentation. The Arbitrator stated, "To conclude that the grievant was not ill because [the supervisor] perceived no outward manifestation was not enough." (See also C-03819, C-04002 and C-05015)

Many arbitrators have ruled that the workload at the facility at the time the sick leave request is made is a factor which the supervisor should consider when deciding whether to require medical documentation

of an employee. However, heavy mail volume alone is usually ruled to be an insufficient reason for requesting medical documentation. In C-00276 the employee had no history of sick leave abuse and had not tried to leave earlier on in the day for personal reasons. The arbitrator ruled that management's request for medical documentation based only on heavy mail volume was unreasonable. Similarly, in C-06723 the arbitrator concluded, "The mere fact that management would be inconvenienced by an employee's absence, or that other employees may have been previously required to provide medical documentation in similar situations, or that productivity and/or efficiency may be negatively impacted by an employee's unscheduled absence, are insufficient reasons--in and of themselves--to justify the requiring of an employee to provide medical documentation to verify an unscheduled absence."

Finally, although the Postal Service often argues that medical documentation is properly required where the employee calls in sick on a day preceding or following a day off, that reason alone is insufficient to require medical documentation. The arbitrator in C-03744 stated, "The station's need for more carriers to tideover a holiday is, in itself, not a sufficient reason for requiring medical certification." The arbitrator concluded that the possibility that the grievant was seeking to lengthen a holiday was not demonstrated by any statement or action. (See also C-00418, C-00451, C-01641 and C-02886)

WHAT CONSTITUTES PROPER DOCUMENTATION?

Section 513.364 of the Employee and Labor Relations Manual reads as follows:

When employees are required to submit medical documentation pursuant to these regulations, such documentation should be furnished by the employee's attending physician or other attending practitioner. Such documentation should provide an explanation of the employee's illness or injury sufficient to indicate to management that the employee was (or will be) unable to perform his normal duties for the period of absence. Normally, medical statements such as "under my care" or "received treatment" are not acceptable evidence of incapacitation to perform duties. Supervisors may accept proof other than medical documentation if they believe it supports approval of the sick leave application.

Until such time as acceptable evidence substantiating an employee's illness is presented, management may refuse to approve the requested sick leave. (See M-00132) However, pursuant to national level settlement M-00001, a physician's certification of illness need not appear on a form 3971: "appropriate medical statements written on a doctor's office memoranda or stationary which are signed by the doctor are considered to be an acceptable medical certification." Indeed, provided the requirements of the ELM are satisfied, such certification may be presented on preprinted forms. (See M-00079 and M-00779)

Statements from lay persons are not acceptable as medical documentation. (*See* C-00102; grievant returned with a note from her husband and this was deemed unacceptable by the supervisor.) In M-00803, however, the parties agreed that less traditional medical practitioners, naturopaths, were "attending practitioner[s]," within the meaning of ELM 513.364.

REMEDIES

Once it has been concluded by the arbitrator that the supervisor has violated Part 513.361 of the Employee and Labor Relations Manual by arbitrarily, capriciously or unreasonably requiring medical documentation of an employee who requested sick leave, a remedy is due.

1) REIMBURSEMENT FOR MEDICAL DOCUMENTATION

The remedy most frequently granted to the employee who was improperly required to obtain medical documentation is reimbursement for the cost of the medical documentation. As the arbitrator in C-01624 pointed out, "where a gross error is made by the supervisor and the effects of the error falls upon an employee who is not on Restricted Sick Leave and who has not 'taken advantage' of a very substantial sick bank, since his sick leave payments have been negligible, the Employer ought to bear the responsibility of paying the cost of a medical documentation which the grievant has been directed to procure." (See also C-00452, C-00508, C-01224, C-01624, C-01641, C-03744, C-04129, C-04195, C-04436, C-04636, C-04974, C-05015 and 6723)

An exception to the generally accepted remedy of reimbursement for the cost of the documentation is found where the employee was reimbursed by the employee's medical insurance. (See C-00417 and C-00479) In C-00417 the arbitrator reasoned, "the

Arbitrator does have power and jurisdiction to fashion an appropriate remedy, which is in this type of case, reimbursement. However, it is elementary that there cannot and should not be double recovery. No employee should be able to seek payment by the Employer after having already received payment through an insurance carrier. The aim and purpose of the remedy is to make the employee whole, not to enrich the employee or penalize the employer."

2) REIMBURSEMENT FOR MEDICAL TREATMENT

The pre-arbitration decision M-00989 established that an arbitrator has the authority to grant relief in the form of the Postal Service paying for doctor's bill when it is found that supervisory personnel did not have reasonable and sufficient grounds to require medical verification from an employee for absences of 3 days or less.

Upon finding that an employee was improperly required to obtain certification, most arbitrators have ruled that the employee is entitled to be reimbursed for the cost of the medical examination. However, arbitrators have consistently ruled against reimbursement for medical treatment. In C-00008 the grievant was denied reimbursement for the cost of a tetanus shot he received. The arbitrator concluded that the grievant would have gone to a doctor to receive a tetanus shot regardless of the medical documentation requirement. Requests for reimbursement for the cost of a prescription were denied in C-03032 ("Proof of filling the prescription was not required to meet the Employer's medical verification and therefore the Grievant elected to fulfill is this prescription and take the medication at his own risk") and C-04033 ("the purchase was a personal choice and benefit which grievant may not charge to the Postal Service"). In C-03860 the grievant was compensated for the cost of a "brief office visit" yet denied reimbursement for an electrocardiogram, urinalysis, accusan, and chest x-ray. The arbitrator pointed out, "all the supervisor required was certification of incapacity to work, not a series of expensive testing procedures."

3) REIMBURSEMENT FOR TIME SPENT TRAVELING TO AND FROM THE DOCTOR'S OFFICE AND REIMBURSEMENT FOR TRANSPORTATION COSTS.

In addition to being reimbursed for the cost of the medical documentation, some arbitrators have ruled that the employee is entitled to reimbursement for the time it took to travel to and from the doctor's office (see C-00067 and C-00418), and transportation costs related to the doctor's visit. (See C-02886, C-03819 and C-04744) However, reimbursement for travel expenses and time spent traveling to and from the doctor's office was denied in C-00243A and C-00451. In C 00243A the arbitrator ruled: "The testimony indicates that the doctor's office was located approximately two miles from the Grievant's home and that it was not particularly off the course of travel between the Post Office and the Grievant's home. Therefore, the Grievant is not entitled to any compensation for mileage or time spent in connection with the visit to the doctor's office." The arbitrator in C-00451 stated, "The claim for $10, for the one hours time that the grievant spent in the doctor's office, is denied. So is the request for $.40 mileage charge for use of the grievant's car going to and from the doctor's office. Both of these items would have been utilized by the grievant if he had gone to work instead of remaining home on December 23, 1982. His savings in not going to work recompensed him for these requested charges so he suffered no loss and required no reimbursement."

SUPPORTING CASES

M-01547 **USPS Letter July 26, 2005** On July 19, 2005, in the case of *Harrell v. U.S. Postal Service*, the United States Court of Appeals for the Seventh Circuit ruled that the Postal Service's return to work provisions in ELM 865 cannot be applied to bargaining unit employees returning from FMLA-protected absences.

The ELM provisions before the court allowed management, prior to an employee's return to work from a FMLA-protected absence, to request detailed medical information when the absence was caused by a number of specified medical conditions, or if the absence exceeded 21 days. The ELM provisions recently changed. The new ELM provisions authorize return to work clearance when management has a reasonable belief, based upon reliable and objective information, that the employee may be unable to perform the essential functions of his/her position or may pose a direct threat to health or safety. This standard comports with the requirements of the Rehabilitation Act that employers make medical inquiries only when there is a reasonable, objective basis to do so.

The Postal Service will comply with the *Harrell* decision in those facilities located within the three states subject to the court's jurisdiction; Indiana, Illinois, and Wisconsin.

M-00873 CAU Paper, August 1, 1988
Contract Administration Unit publication summarizing arbitration awards concerning management requests for medical certification.

M-00001 Step 4
March 3, 1977, NCE 5066
Appropriate medical statements written on a doctor's office memoranda or stationery which are signed by the doctor are considered to be an acceptable medical certification in lieu of a completed PS Form 3971. *See also* M-00555, M-00598, M-00710

M-00096 Pre-arb
May 2, 1985, H1C-3T-C 40742
Rubber stamp and facsimile signature is acceptable, subject to verification on a case-by-case basis. *See also* M-00855

M-01003 Step 4
October 26, 1982, H1N-4C-C 7091
The question raised in this grievance involves the local requirement that employees provide, in addition to Form 3971, a separate statement of the reason for an absence due to illness. It was mutually agreed that the following would represent a full settlement of this case:

A blanket order for all employees to provide medical reasons for absences due to illness in a separate statement is improper. Section 513.36 of the Employee and Labor Relations Manual provides instructions for documentation requirements and is to be followed.

M-00079 Step 4
November 9, 1983, H1N-5G-C 14955
Under ELM 513.362, an employee is required to provide "acceptable evidence of incapacity to work." The form in question has been determined by local management to meet that requirement. Accordingly, the form may be provided as a convenience to an employee, and its use by employees is optional.

M-00089 Step 4
September 6, 1984, H1C-NA-C 113
There may be situations in which an attending physician or other attending practitioner may authorize a staff member to sign a document on behalf of the attending physician or other practitioner (e.g. An attending physician or practitioner instructs his/her nurse to complete and sign a document for the attending physician or practitioner). Such documentation may be subject to verification, if the need arises.

M-00132 Step 4
May 2, 1985, H1N-2D-C 5311
Employees are required to submit medical documentation or other acceptable evidence substantiating their absence when required to do so by a supervisor. Until such time as the documentation is submitted, approval of sick leave by the supervisor is not necessary.

M-00270 Step 4
October 26, 1982, H1N-4C-C 7091
A blanket order for all employees to provide medical reasons for absences due to illness in a separate statement is improper.

C-01641 Regional Arbitrator Bowles
April 23, 1981, C8N-4F-C 13163
An arbitrator has authority to order reimbursement of the cost of obtaining a medical certificate.

M-00489 Step 4
November 3, 1983, H1N-5B-C 3489
For the purposes of ELM 513.362, an absence is counted only when the employee was scheduled for work and failed to show. A nonscheduled day would not be counted in determining when the employee must provide documentation in order to be granted approved leave.

M-00662 Step 4
May 12, 1976, NCW 1473
All carrier employees were notified that any absences on the day following the holiday would require substantiation from the employee. In our view, to cover all employees in one craft with the referenced requirement is contrary to national policy. Therefore, the grievance is sustained.

M-00663 Step 4
April 28, 1976 NCS 892
Information contained in the grievant's file indicates that he has presented a physician's certification that he suffers from a continuing chronic illness condition. Therefore, in the future, management should exercise discretion before requiring the grievant to produce medical certification for absences related to that illness.

M-00701 Step 4
September 10, 1973, NS 4877
Carrier required to use 8 hours sick leave to obtain Doctor's statement--carrier credited with administrative leave.

M-00703 Step 4
April 29, 1977, NCE 4562
Management is not restricted from contacting the an employee's physician on order to obtain additional clarification of verification.

M-00799 Step 4
December 19, 1986, H4N-3A-C 15991
The Employee and Labor Relations Manual contains no prohibition against the submission of a pre-printed form; however, it is understood that any medical documentation or other acceptable evidence submitted must meet the requirements set forth in Part 513.364 of the ELM.

M-00803 Step 4
June 18, 1985, H1N-5D-C 29943
A naturopath is considered an "attending practitioner" under ELM 513.364.

M-00883 Step 4
September 6, 1984, H1C-NA-C 113
There may be situations in which an attending physician or other attending practitioner may authorize a staff member to sign a document on behalf of the attending physician or other practitioner (e.g. An attending physician or practitioner instructs his/her nurse to complete and sign a document for the attending physician or practitioner). Such documentation may be subject to verification, if the need arises.

M-00989 Pre-arb
January 13, 1982, H8N-4B-C 3972
An arbitrator has the authority to grant relief in the form of the Postal Service paying for doctor's bill when it is found that supervisory personnel did not have reasonable and sufficient grounds to require medical verification from an employee for absences of 3 days or less.

M-01033 Pre-arb
March 10, 1992, H7N-3F-C-9555
This grievance concerns the meaning of the word "hospitalization" as used in Part 342.2 of Handbook EL-311.

During our discussion, we mutually agreed that the term "hospitalization" as used in Part 342.2 of Handbook EL-311, Personnel Operations, EL-311, does not include out-patient visits to the hospital.

C-09950 Regional Arbitrator Taylor
April 6, 1990
"If the [certification of illness] provided was insufficient then the grievant should have been advised in a timely manner and told why the documentation was deficient."

C-18452 Regional Arbitrator Powell
C94N-4C-C 98022262
The grievant, who had requested Sick Leave for Dependant Care because of his son's illness, was required to provide medical certification. The arbitrator held that since there was no evidence of sick leave abuse, the request was unwarranted. The Postal service was ordered to reimburse the grievant for expenses. *See also C-18462.*

MEDICAL TREATMENT, EXAMINATIONS

MEDICAL TREATMENT

C-06462 National Arbitrator Mittenthal
September 19, 1986, H1C-NA-C 121-122
Management may require an employee to be examined by a Postal Service physician only in non-emergency situations where the examination will not interfere with or delay the employee's appointment with his chosen physician.

C-00790 National Arbitrator Gamser
October 21,1982, H8T-4H-C 10343
Time spent receiving medical treatment for an on-the-job injury at the direction of the Postal Service in order to minimize Postal Service Compensation liability constitutes work time for overtime purposes under Article VIII, Section 4 of the National Agreement; the Arbitrator will not deal with external law.

M-01117 Management Instruction
MI EL 540-91-1, January 25, 1991

B. Free Choice
1. Physician. Under the Federal Employees' Compensation Act (FECA), an employee is guaranteed the right to a free choice of physician. The employee's immediate supervisor is responsible for fully explaining this right to the employee. The following provisions apply:

a. The postal medical officer or contract physician's evaluation is not required before an employee makes an initial choice of physician or receives continuation of pay. If an employee declines first aid treatment or medical evaluation by the postal medical officer or contract physician, authorization for first aid medical examination and treatment by the physician of the employee's choice must not be delayed or denied. An employee's declination in such cases may not be used as a basis to discontinue pay or to controvert a claim.

b. If the postal medical officer, contract physician, or health unit nurse provides initial evaluation and/or first aid treatment to an employee and then further medical care for the injury is needed, such an initial evaluation or treatment does not constitute the employee's initial choice of physician. An employee may elect either to continue medical treatment with the contract physician beyond the first aid treatment or to select a physician of his or her own choice.

c. If an employee elects to continue medical treatment with the postal medical officer or contract physician beyond the first aid treatment, that physician becomes the employees initial physician of choice.

2. Timing. An employee cannot be required or compelled to undergo medical examination and/or treatment during non-work hours.

M-01102 Step 4
September 22, 1992, H7N-1N-C 28417
The issue in this grievance is whether management violated the national agreement by establishing a policy instructing supervisors to visit the office of the physician treating an employee injured on the job at the time of the initial treatment.

After reviewing this matter, we mutually agreed that no national interpretive issue is fairly presented in this case. We further agreed the intent of a local policy must not be in conflict with the provisions of the ELM. According to ELM 543.14, in the case of an employee needing emergency treatment, "when appropriate, a supervisor accompanies the employee to the doctor's office or hospital to make certain that the employee receives prompt medical treatment." However, ELM 543.223 provides that "in non-emergency situations, a postal supervisor is not authorized to accompany the employee to a medical facility or physician's office." (emphasis added)

We further agreed that a supervisor will not accompany the employee on the initial visit or visit the physician's office at the time of the initial visit in non-emergency situations.
See also M-01071

M-00882 Step 4
November 18, 1988, H7N-1P-C 11811
Consistent with ELM 543.222, a postal supervisor is not authorized to accompany an employee to a medical facility or physician's office in non-emergency situations, other than the USPS medical unit. The parties further agree that an employee is not required to seek or accept treatment at the USPS medical unit.

M-01161 Prearb
December 10, 1993, H7N-5F-C 26185
It is agreed that an employee cannot be required or compelled by the postal Service to undergo a scheduled medical examination and/or treatment during nonwork hours.

MEDICAL EXAMINATIONS

SEE ALSO
Fitness for Duty Examinations, Page 114

M-01438 Prearbitration Settlement
April 19, 2001, Q98N-4Q-C 96017152
In applying the language of the EL-505, it is mutually understood that an employee will not be required to take a functional capacity test if the employee's treating physician recommends against it for medical reasons.

M-00564 USPS Letter, March 23, 1977
The Postal Service has reexamined its position concerning the meaning of Article XIII, B.2.A pertaining to who shall bear the cost of the physical examination referred to therein when the employee requesting permanent reassignment to light duty or other assignment is directed to be examined and certified by a physician of the installation head's choice. The Postal Service will, henceforth, pay the designated physician's bill for such physical examination.

M-01350 Step 4
J94N-4J-C 97009363, November 5, 1998
The issue in this case is whether management is required to compensate an employee for time spent in a medical facility, after the employees tour of duty has ended, as a result of a management directed medical evaluation. After reviewing this matter, it has been decided to sustain this case.

M-01175 Step 4
November 10, 1993, Q90N-4Q-C 93053350
The issues in this case concern the use of isokinetic testing.

Without prejudice to the position of either party with regard to any issue, including the question of whether the Postal Service is contractually required to notify or consult with the union prior to using particular testing methods at either a national or local level, we mutually agreed to resolve this grievance as follows.

The Postal Service will discontinue use of isokinetic testing in areas other than those participating in a national level pilot study. At the conclusion of this pilot study, the results will be shared and discussed with the union prior to rendering a decision on whether to proceed with a national isokinetic testing program.

This agreement is without precedent and not to be cited by either party in any future grievance, hearing, arbitration, or for any other purpose in any similar cases.

RETURN TO DUTY EXAMS

C-12424 National Arbitrator Mittenthal
October 5, 1992, H7N-1P-C 23321
A local policy requiring medical clearance by the Division Medical Officer for return to duty following non-occupational illness or injury was not a violation of the Agreement. To the extent that the policy was applied to those returning from an extended absence due to occupational illness or injury, it would be in conflict ELM section 864.42, and would thus be a violation of the Agreement.

Memorandum of Understanding Incorporated into August 19, 1995 Interest Arbitration Award. Published in 1998 National Agreement.
The parties reaffirm their understanding concerning the review of medical certificates submitted by employees who return to duty following extended absences due to illness.

We mutually agree to the following:

1. To avoid undue delay in returning an employee to duty, the on-duty medical officer, contract physician, or nurse should review and make a decision based upon the presented medical information the same day it is submitted.

Normally, the employee will be returned to work on his/her next workday provided adequate medical documentation is submitted within sufficient time for review.

2. The reasonableness of the Service in delaying an employee's return beyond his/her next workday shall be a proper subject for the grievance procedure on a case-by-case basis.

M-01395 Step 4
October 25, 1999, H90N-4H-C 95069850
Local policies concerning documentation for returning to work after medical absences of 21 days or more must be consistent with the provisions of the EL-311

C-03007 National Arbitrator Gamser
July 25, 1979, NCN 4174
Where there was a conflict of the physicians of the Postal Service and the employee and the Postal Service is dilatory in seeking the opinion of a third doctor, the employee is entitled to be made whole for the period between the time the employee furnished his personal doctor's statement that he was able to return to work and the time at which he was finally returned to work after a favorable opinion from a third physician.

M-00553 Step 4
September 5, 1985, H1N-5D-C 29673
To avoid undue delay in returning an employee to duty following extended absences due to illness, the on-duty medical officer, contract physician, or nurse should review and make a decision based upon the presented medical information the same day it is submitted. Normally the employee will be returned to work on his/her next workday provided adequate medical documentation is submitted within sufficient time for review. *See also* M-01148

M-01414 Prearbitration Settlement
A90N-4A-C96034188, June 26, 2000
These cases concern the procedure to be followed by injured employees (non-work related) returning to work when a medical review is required prior to their return to work. The specific issue presented is whether medical clearances are done on or off the clock.

We agree that the Postal Service can require a medical clearance by a physician designated by the installation head as provided for by EL-311. All such medical clearances are obtained by the employee(s) while off the clock in accordance with the appropriate handbooks and manuals including the EL-311 and the ELM.

However, if the employees in question had already clocked in, they will be compensated for time lost up to, but not to exceed, the appropriate work hour guarantees.

M-00973 Step 4
November 28, 1984, H1N-1E-C 31854
An employee returning to duty after an extended absence must submit evidence of his/her being able to perform assigned postal duties. If local policy dictates that the employee must be seen and cleared by the postal medical officer, the employee shall be reimbursed for travel expenses incurred to attend the examination.

M-01033 Pre-arb
March 10, 1992, H7N-3F-C-9555
This grievance concerns the meaning of the word "hospitalization" as used in Part 342.2 of Handbook EL-311.

During our discussion, we mutually agreed that the term "hospitalization" as used in Part 342.2 of Handbook EL-311, Personnel Operations, EL-311, does not include out-patient visits to the hospital.

C-09558 Regional Arbitrator Barker
Grievant was properly considered AWOL when she returned to work after an illness of 26 days without a medical clearance from her own physician and two days were required for USPS physician to clear her.

C-10820 Regional Arbitrator Mitrani
April 24, 1991
Management was not required to reimburse an employee for time or expenses involved in obtaining medical clearance to return to duty.

NLRA

SEE ALSO

Weingarten Rights, Page 355

C-03769 National Arbitrator Aaron
July 6, 1983, H1T-1E-C 6521, at page 7
An arbitrator should rule on the merits of unfair labor practice charges that have been deferred to arbitration under Collyer.

M-00634 NLRB Memorandum, July 9, 1979
Memorandum intended to serve as a guideline concerning a union's duty of fair representation under the Labor-Management Relations Act.

C-06858 National Arbitrator Bernstein
March 11, 1987, H1N-5G-C 14964
Article 5 of the National Agreement serves to incorporate all of the Service's "obligations under law" into the Agreement, so as to give the Service's legal obligations the additional status of contractual obligations as well. This incorporation has significance primarily in terms of enforcement mechanism--it enables the signatory unions to utilize the contractual vehicle of arbitration to enforce all of the Service's legal obligations. Moreover, the specific reference to the National Labor Relations Act in the text of Article 5 is persuasive evidence that the parties were especially interested in utilizing the grievance and arbitration procedure spelled out in Article 15 to enforce the Service's NLRB commitments.

M-00640 NLRB Advisory Opinion
January 22, 1985
The Union was privileged to demand that only Union members be chosen to serve on Employee Involvement Program work-teams because these teams will potentially be engaging in collective bargaining. Therefore, the Employer did not violate Section 8(a)(3) of the Act by agreeing to and enforcing such a limitation on employee participation in the Employee Involvement Program.

M-00812 Pre-arb
October 30, 1986, H4C-4K-C 5277
Employees subpoenaed to testify at a NLRB hearing is on official duty and must be compensated in accordance with ELM section 516.42.

M-00937 Pre-arb, 1974, RA-73-1740,
The Postal Service acknowledges its obligation under Section 9(a) of the National Labor Relations Act, which provides in part: "That any individual employee ... shall have the right at any time to present grievances to (his) employer and to have such grievances adjusted, without the intervention of the bargaining representative, as long as the adjustment is not inconsistent with the terms of a collective bargaining contract or agreement then in effect: Provided further, that the bargaining representative has been given the opportunity to be present at such adjustment."

M-01051 APWU Pre-arb
October 30, 1980, H4C-4K-C-5277
The issue in this grievance is whether time spent by the grievant at the NLRB hearing was official duty. During that discussion, it was mutually agreed that the following would represent full settlement of this case:

1. The said subpoena issued to the grievant constituted a proper authority.

2. The grievant shall be compensated in accordance with Part 516.42 of the ELM, and such compensation shall terminate (except travel and subsistence expenses) upon the employee's release from the subpoena.

M-01066 U.S. Court of Appeals, District of Columbia, Cook Paint and Varnish v. NLRB
A steward may not be required to divulge information given by a grievant in connection with the steward's handling of a grievance.

M-01092 USPS v NLRB, No. 91-1373
D.C. Cir, June 30, 1992
Decision by the U.S. Court of Appeals for the D.C. Circuit upholding an NLRB decision concerning Weingarten rights (M-01093). The Board held that Postal Inspectors violated the Weingarten doctrine by refusing a request by a steward to consult with an employee prior to the employee's interrogation by the Inspectors.

M-00546 NALC Legal Memorandum, November 30, 1981

Recent decisions of the National Labor Relations Board and the United States Court of Appeals for the Ninth Circuit established that: (1) when an employee being interviewed by an employer is confronted by a reasonable risk that discipline would be imposed, the employee has a right to the assistance of - not mere presence of - a union representative; and (2) that an employer violates the Act when it "refuses to permit the representative to speak, and relegates him to the role of a passive observer".

OPTING

ELIGIBILITY

C-06461 National Arbitrator Bernstein
September 12, 1986, H1N-3U-C 10621
Sections 3 and 4 of Article 41.2.B allow reserve and part-time flexible letter carriers to use their seniority to obtain five day assignments. There are no exceptions or qualifications in the language that would indicate that the sections apply only to potential bidders who can work the assignments without departing from straight time pay status.

M-00791 Pre-arb
October 29, 1987, H4N-3F-C 45541
1) Full-time flexible letter carriers may exercise their preference by use of seniority for available craft duty assignments in accordance with the provisions of Article 41.2.B.3.

2) Not withstanding the foregoing, if, prior to the exercise of his/her preference, a full-time flexible employee has been assigned a schedule for a service week by the preceding Wednesday in accordance with the Article 7 Memorandum of Understanding dated February 3, 1981, then the employee shall remain in that assignment for the balance of the service week before assuming the opted-for assignment.

3) In no event shall the employee be prevented from assuming the opted-for assignment for a period of more than one week.

M-00066 Step 4
October 31, 1985, H4N-4B-C 3322
Full-time reserve carriers and part-time flexible carriers are restricted to exercising their preference for craft duty assignments under Article 41, Section 2.B.3 and 4 of the 1984 National Agreement to their bid assignment area and delivery unit assigned respectively.

M-00960 Step 4
February 7, 1990, H7N-4J-C 19083
The issue in this grievance is whether management violated the National Agreement by permitting a carrier who "opted" for an assignment under provisions of Article 41.2.B to work overtime, rather than a carrier on the overtime desired list.

After reviewing this matter, we mutually agreed that no national interpretive issue is fairly presented in this case. Accordingly we agreed to remand this case to the parties at Step 3 for application of Arbitrator Bernstein's award in Case No. H1N-3U-10621, et. al. (C-06461)

M-01431 Step 4
September 25, 2000, H94N-4H-C 96007241
The issue in this grievance is whether unassigned regulars may opt pursuant to Article 41.2.B.3 if their unassigned status is not the result of the elimination of their duty assignment.

The parties mutually agreed that the language of Article 41.2.B.3 and 41.2.B.4 intended three categories of employees C part-time flexible carriers, full-time reserve carriers, and unassigned regulars, regardless of the reason for the unassigned status.

M-00513 Step 4
May 21, 1984, H1N-1E-C 25953
The bidding restrictions of Article 12, Section 3, pertain only to those positions posted for bid pursuant to Article 41, Section 1.B.2. Other types of local in section bidding or bidding pursuant to Article 41, Section 2.B, are not included.

M-00828 Step 4
May 24, 1988, H4N-5R-C 46648
A Part-time Flexible letter carrier "on loan" to another office must be allowed to opt for hold-down assignments in the installation from which he was loaned.

M-00552 Step 4
October 24, 1983, H1N-4B-C 16840
While an employee is in a 204B supervisory status, he or she cannot exercise a bid preference for a temporary assignment available under Article 41, Section 2.B.3 or 2.B.4.

M-00511 Step 4
May 29, 1984, H1N-4B-C 14059
A PTF or reserve carrier does not have greater rights to the assignment than the utility or T-6 carrier assigned to the route on the regular carrier's scheduled day off.

M-00625 Step 4
May 7, 1981, H8N-5B-C 14553
Article 41 Section 2B3, 4, 5 does not require management to make auxiliary routes available for opting purposes.

M-00749 Step 4
November 22, 1982, H1N-3W-C 8041
Available full-time regular Reserve Letter Carrier assignments of anticipated duration of five days or more are open for opting under the provisions of Article 41, Section 2.B.3. and 4.
See also M-00037

M-00237 Pre-arb
July 1, 1982, H8N-4E-D 14090
A temporary vacancy of five (5) days or more that includes a holiday may be opted for, per Article 41, Section 2.B.

M-00097 Pre-arb
September 6, 1985, H1N-5D-C 6601
Management may assign a reserve carrier to a temporary assignment of 5 days or more rather than honor the request of a part-time flexible provided it can be demonstrated that honoring the opt would result in insufficient work for the full-time regular.

M-00446 Memo, February 7, 1983
The parties at the local level shall meet to discuss the matter and shall develop for use locally:

(a) A method for making known the availability of temporary assignments of an anticipated duration of (5) days or more whenever reasonable advance notice is given to the employer of the intended vacancy.

(b) A method for submission of preference for such assignments to the delivery unit to which the employees are assigned.

(c) A cutoff time for submission of preference by those employees wishing to be considered for available craft duty assignments of anticipated duration of (5) days or more.

M-00595 Step 4
April 10, 1980, N8-W-0278
Management may not refuse to allow opting as provided in Article 41, Section 2.B.3 and 2.B.4 in order to reserve the assignment for the training and performance evaluation of probationary employee.

M-00594 Step 4
November 25, 1980, H8N-2W-C 7259
Probationary employees are not entitled to exercise preference rights for a hold-down duty assignment pursuant to Article XLI, Section 2.B.4.

M-00914 Step 4
April 13 1989, H4N-2L-C 45826
The issue in these grievances is whether management violated the National Agreement when it refused to post several potential opt assignments claiming the assignments were reserved for limited duty. We mutually agreed that no national interpretive issue is fairly presented in these cases. We further agreed that there is not authority for management to withhold routes "reserved" for limited duty.

M-00843 Pre-arb
April 15, 1985, H1N-1J-C 6766
Where temporary bargaining-unit vacancies are posted, employees requesting these details assume the hours and days off without the Postal Service incurring any out-of-schedule liability. The bargaining-unit vacancies will not be restricted to employees with the same schedule as the vacant position.

M-00510 Step 4
June 8, 1984, H1N-3P-C 30206
Management may not utilize a PTF letter carrier on an available full-time craft duty assignment of anticipated duration of five days or more for training purposes, rather than allow employees to exercise preference by seniority pursuant to Article 41, Section 2.B., of the 1981 National Agreement.

M-01128 Step 4
January 21, 1993, H0N-5R-C 6380
The issue in this grievance is whether management violated the National Agreement by not allowing carriers to opt on a route while it was under consideration for reversion.

During our discussion, we mutually agreed that routes under consideration for reversion, when they are of anticipated duration of five days or more, will be made available for opting until they are reverted or posted for bid.

DURATION

C-04484 National Arbitrator Mittenthal
November 2, 1984, H1N-3U-C 13930
A carrier who successfully opts for an assignment is entitled to work the assignment for its duration, and management may not prematurely terminate the temporary assignment to move the carrier to a permanent assignment pursuant to Article 41, Section 1.A.7.

C-05865 National Arbitrator Kerr
March 20, 1986, W1N-5G-C 11775
The phrase "Craft duty assignments of anticipated duration of five (5) days or more" in Article 41.2.B 3 and 4 means assignments of work duty of five days or more rather than of work duty during the course of five days or more.

C-09187 National Arbitrator Britton
July 21, 1989, H4N-1W-C 34928
For the reasons given, the grievance is sustained and the Employer is directed to adhere to the findings made herein, namely, that a part-time flexible city letter carrier on a hold-down who accepts a 204b detail retains the contractual right to the hold-down until the hold-down is awarded to another carrier pursuant to the provisions of Article 41, Section 2.B.4 of the National Agreement; and under the language of Article 41, Section 1.A.1, within five working days of the day that the hold-down becomes vacant as a result of a carrier accepting a 204b detail, the hold-down must be reposted for the duration of the remainder of the original vacancy.

M-00917 Step 4
April 13 1989, H7N-4G-C 7520
We further agreed that a PTF temporarily assigned to a route under Article 41.2.B., shall work the duty assignment, unless there is no other eight hour assignment available to which a full time employee could be assigned. A regular carrier may be required to work parts or "relays" of routes to make up a FT assignment. Additionally, the route of the hold-down to which the PTF opted, may be pivoted if there is insufficient work available to provide a FT carrier with eight hours of work. Absent the above conditions, the PTF who exercised a bid preference and was awarded the assignment in accordance with Article 41.2.B.4., shall work that duty assignment for its duration.

M-00531 Step 4
December 5, 1984, H1N-1N-C 23934
Once an employee has been assigned to a "hold-down" pursuant to the local procedures established in accord with the above-referenced memorandum, such employee should not be bumped from that assignment except to provide an 8-hour assignment to a full-time regular employee who would otherwise be insufficiently employed. *See also* M-00521, M-00289, M-01211

M-00669 Step 4
February 24, 1987, H1N-5G-C 22641
Full-time reserve and unassigned regular letter carriers occupying a hold-down position pursuant to the provisions of Article 41.2.B.3 have the right to bid for a full-time duty assignment. If such letter carrier is the successful bidder, he shall be placed into the duty assignment pursuant to the provisions of Article 41.1.C.3. The resultant vacant hold-down will be filled pursuant to the provisions of Article 41.2.B.3-5, provided the anticipated duration of the resultant vacancy is of five (5) days or more.

M-00154 Step 4
December 14, 1979, N8-N-0176
In the office in question when the regular route carrier is called in on his off-day to work his own route, he bumps the utility carrier to one of the other four routes in his string of routes. To enable the utility carrier to achieve the essence of his bid assignment, he will be allowed to displace an employee who has opted to cover an assignment under the provisions of Article 41, Section 2.B.3,4 and 5 as long as such route is one of the utility carrier's string of routes and if none of the other routes in his string are available.

Note: *Whether or not the above settlement is applicable in a specific office can only be determined by referring to the applicable Local Memorandum of Understanding.*

M-00293 Step 4
October 25, 1983, H1N-5D-C 7441
A PTF, temporarily assigned to a route under Article 41, Section 2B, shall work the duty assignment, unless there is no other eight-hour assignment available to which a full-time employee could be assigned. A regular carrier may be required to work parts or "relays" of routes to make up a full-time assignment. Additionally, the route of the "hold-down" to which the PTF opted, may be pivoted if there is insufficient work available to provide a full-time carrier with eight hours of work. Absent the above conditions, the PTF who exercised a bid preference and was awarded the assignment in accordance with Article 41, Section 2B4, shall work that duty assignment for its duration.

M-01500, Pre-arb
October 8, 2003, H98N-4H-C-01216386
The issue in this grievance is whether management violated Article 41.2.B.4 of the National Agreement, when a part-time flexible (PTF) city letter carrier was taken off a "hold-down" assignment to provide work to a full-time city letter carrier on limited duty.

After reviewing this matter, we mutually agree that no national interpretive issue is presented in this case. We agree to remand this case to Step B with the following understanding.

Full-time employees when on limited duty as a result of a job-related illness or injury, may "bump" a PTF on a "hold-down" assignment (or portion of hold-down assignment) only if the duties on the "hold-down" assignment are included in the written/verbal (see ELM 545.32) limited duty assignment and there is no other work available to satisfy the terms of the limited duty assignment.

Consistent with page 41-13 of the Joint Contract Administration Manual the opt is not terminated the PTF is "bumped" on a day-to-day basis.

M-00748 Step 4
April 23, 1987, H4N-3U-C 26297
Whereas the original opting employee went on vacation for five days or more within the original opting duration, the assignment should have been made available as a hold-down to other employees during the absence. Upon return from the annual leave of five days or more, the employee who first opted for the vacancy should have been allowed to return to the hold-down for completion of the original vacancy duration. *See also* M-00268

M-00157 Pre-arb
February 28, 1980, N8-W-0101
For Article 41, Section 2.B.3 and 4 purposes, a five day vacancy did exist even though it was not within the confines of the service week.

C-09187 National Arbitrator Britton
July 21, 1989, H4N-1W-C 34928
For the reasons given, the grievance is sustained and the Employer is directed to adhere to the findings made herein, namely, that a part-time flexible city letter carrier on a hold-down who accepts a 204b detail retains the contractual right to the hold-down until the hold-down is awarded to another carrier pursuant to the provisions of Article 41, Section 2B4 of the National Agreement; and under the language of Article 41, Section 1.A.1, within five working days of the day that the hold-down becomes vacant as a result of a carrier accepting a 204b detail, the hold-down must be reposted for the duration of the remainder of the original vacancy.

M-00238 Step 4
June 25, 1982, H1N-3P-C 4242
A part-time flexible who, pursuant to Article 41, Section 2.B.4., 1981 National Agreement, has selected a craft duty assignment by exercise of seniority shall work that duty assignment for its duration. *See also* M-00375

SCHEDULE

C-06461 National Arbitrator Bernstein
September 12, 1986, H1N-3U-C 10621
"A reserve letter carrier was awarded a route that included off-days of Friday, Saturday, and Sunday during the week he worked it. However, he was assigned to work on the non-scheduled Saturday of that , to give him a full 40 hour work week. He is seeking overtime pay for being forced to work out of his assigned schedule"

"The Union recognizes that this case has merit only if the Arbitrator decides that a reserve or part-time carrier who bids successfully on a five day vacancy thereby steps into the pay status of the carrier he or she replaced. The Arbitrator makes no such ruling. Consequently this grievance must be denied."

M-00186 Step 4
July 25, 1979, N8-W-0010
The meaning and intent of Article 41, Section 2.B.4, of the 1978 National Agreement is to have part-time flexible letter carriers assume the hours of duty and the schedule of work days of the full-time carrier whose assignment is being covered.

M-00353 Step 4
May 24, 1985, H1N-5G-C 24094
A reserve carrier who does not opt for a "hold-down" shall nonetheless assume the schedule of the "hold-down" if management elects to assign the reserve carrier to the route or assignment anyway.

This settlement establishes the schedule a reserve letter carrier should work if assigned to a hold-down by management. It does not waive the carrier's entitlement to out-of-schedule pay. See M-00940

M-00239 Step 4
June 2, 1982, H8N-1M-C 23521
A part-time flexible who, pursuant to Article 41, Section 2.B of the 1978 National Agreement, has selected a craft duty assignment by exercise of seniority shall work that duty assignment for its duration. This includes the daily hours of duty of the assignment *See also* M-01394.

M-01126 Step 4
April 15, 1993, H7N-5R-C 32586
We agreed that management may not remove a part-time flexible carrier from a hold-down assignment solely to avoid the payment of penalty overtime pay. We also agreed that this does not limit management's right to remove a PTF carrier from a hold-down if there is insufficient work available to provide a full-time carrier with eight hours work.

M-00686 Step 4
July 8, 1983, H1N-5B-C 11222
It is management's position that although the grievant was awarded a five-day "hold-down" assignment that could have resulted in a short work week, the proper remedy was to adjust the schedule by having the employee work one of the non-scheduled days. Furthermore, because this adjustment was made to eliminate an undertime situation, the grievant is not entitled to out-of-schedule premium.

M-00091 Pre-arb
April 15, 1985, H1N-1J-C 6766
Where temporary bargaining-unit vacancies are posted, employees requesting these details assume the hours and days off without the Postal Service incurring any out-of-schedule liability. The bargaining-unit vacancies will not be restricted to employees with the same schedule as the vacant position.

M-00404 Step 4
February 21, 1980, N8-W-0216
Employees assuming the temporary assignment will assume the work schedule of the regular carrier including off-days and reporting time.

REMEDY FOR VIOLATIONS

C-05287 Regional Arbitrator Rotenberg
November 1, 1985, C4N-4K-C 4007
Where management improperly refused to honor opting requests of two PTFS carriers, management is ordered to make the carriers whole for any losses suffered as a result.

M-00720 Pre-arb
January 27, 1982, H8N-4E-C 13406
The grievants (PTFS) were properly assigned in accordance with Article 41, Section 2.B.4. The grievants should have worked the assignments in question for the duration without changing days off of the assignment. Since the grievants worked on a scheduled day off, they should have worked six days in the week in question. Therefore, each grievant will be compensated for 8 hours of pay at the overtime rate in effect at the time the dispute arose. *See also* M-00227, M-00232, M-00473, M-00474.

Regional Arbitration Awards: The following awards are among those which held that monetary awards were appropriate remedies for violations of employees' rights to opt:

C-04739 Leventhal, March 28, 1985
C-05821 Rotenberg, March 24, 1986
C-06142 Britton, May 9, 1986
C-06339 Dennis, June 19, 1986
C-06395 Stephens, August 8, 1986
C-06904 Jacobowski, March 6, 1987
C-07001 Scearce, April 8, 1987
C-10181 Sobel, July 23, 1990
C-10264 Parkinson, Sept. 4, 1990
C-10710 Taylor, March 15, 1991

ORIENTATION, NEW EMPLOYEE

M-00447 Step 4
August 10, 1982, H8N-3W-C 34023
The Union representatives in this installation shall continue to be allowed to distribute union related material to employees during new employee orientation.

M-00623 Step 4
August 17, 1984, H1N-5C-C 17024
If a union representative addresses new employees at an orientation at the MSC level, management is not required to allow them to be addressed again by a local representative.

M-00210 Step 4
February 19, 1974, NBW 637
The orientation for new employees is held after the appointment to a postal position.

M-00644 Step 4
May 20, 1977, NCW 5872
Local management will in future instances allow "ample" time for the local union to participate in new employee orientation in conformance with Article XVII, Section 7 of the National Agreement.

M-00317 Step 4
July 19, 1985, H4N-4J-C 2536
Completion of SF-1187 as identified in ELM 913.414 will be permitted during employee orientation in the areas designated by management.

M-00084 Step 4
December 17, 1984, H1C-5D-C 21764
Article 17 does not preclude management officials from being present when the union addresses new employees during orientation.

OUT-OF-SCHEDULE PAY

Out-of-schedule pay is an additional fifty percent premium paid for those hours worked outside of, and instead of, a full-time regular employee's regularly scheduled workday or workweek. The regulations controlling out-of-schedule pay are contained in ELM Section 434.6.

All full-time regular letter carriers, including reserve and unassigned regulars, have schedules with fixed reporting times and regularly scheduled days off. Management may temporarily change the schedules of full-time regular employees. However, whenever this is done, the employees whose schedules have been temporarily changed are entitled to additional pay.

If notice of a temporary change is given to an employee by Wednesday of the preceding service week, the employee's time can be limited to the hours of the revised schedule. However, "out-of-schedule" premium is paid for those hours worked outside of, and instead of, the employee's regularly scheduled workday or workweek.

If notice of a temporary schedule change is not given to an employee by Wednesday of the preceding service week, the employee is entitled to be paid for the hours of his regular schedule, whether or not they are actually worked. Therefore any hours worked in addition to the employee's regular schedule are not worked "instead of" his regular schedule. Such hours are not considered as "Out-of-schedule" premium hours. Instead they are paid as regular overtime for work in excess of eight hours per service day or 40 hours per service week.

For example, an employee whose regular schedule of 7 a.m. to 3:30 p.m. was temporarily changed to 6 a.m. to 2:30 p.m. would be paid differently depending upon whether or not prior Wednesday notice was given.

If an employee did receive notification he would be paid an "out-of-schedule premium" for the hour 6 a.m. to 7 a.m. and seven hours straight time pay for the hours 8:00 a.m. to 2:30 p.m.

If the employee did not receive the proper advance notification, he would be paid for nine hours on days the revised schedule was worked. The time between 6 a.m. and 7 a.m. would be paid at the overtime rate and the time between 7 a.m. and 3:30 p.m. - the regular schedule - at the straight time. If the employee was sent home at 2:30 p.m. he would be paid the hour between 6 a.m. and 7 a.m. at the overtime rate; receive straight time pay for the period 7 a.m. to 2:30 p.m., plus one hour administrative leave at the straight time rate for the period 2:30 p.m. to 3:30 p.m.

Bargaining unit employees do not receive "out-of-schedule premium" pay when their schedule is changed to provide limited or light duty. Nor do they receive "out-of-schedule premium" pay when they request a schedule change for personal reasons. Employees may request such a schedule change by preparing and signing form 3189, Request for Temporary Schedule Change for Personal Convenience. The form must also be signed by both the Union steward and the supervisor before it will be honored.

C-00939 National Arbitrator Gamser
September 10, 1982, H1C-5F-C 1004
Unassigned regulars who had their schedules changed in the absence of a bid or assignment to a residual vacancy were entitled to out-of-schedule overtime under Article 8, Section 4.B.

C-03212 National Arbitrator Gamser
March 12, 1980, N8-NA-0003
The arbitrator held that the Postal Service is not required to make out-of schedule payments to employees on limited duty. However, he continues that:

"Having so concluded, it is necessary to add that this determination does not give the USPS the unbridled right to make an out-of-schedule assignment when the disabled employee could be offered such a work opportunity during the hours of his or her regular tour."

M-00431 Pre-arb
January 27, 1982, H8N-3P-C 32705
Details of anticipated duration of one week (five working days within seven calendar days) or longer to temporarily vacant Carrier Technician (T-6) positions shall be filled per Article XXV, 1981 National Agreement. When such temporary details involve a schedule change for the detailed employee, that employee will assume the hours of the vacancy without obligation to the employer for out-of-schedule overtime. *See also* M-00072

M-00353 Step 4
May 24, 1985, H1N-5G-C 24094
A reserve carrier who does not opt for a "hold-down" shall nonetheless assume the schedule of the "hold-down" if management elects to assign the reserve carrier to the route or assignment anyway.

This settlement establishes the schedule a reserve letter carrier works if assigned to a hold-down by management. It does not waive the carrier's entitlement to out-of-schedule pay. See M-00940

M-00767 Pre-arb
April 15, 1985, H1N-1J-C 6766
Where temporary bargaining-unit vacancies are posted, employees requesting these details assume the hours and days off without the Postal Service incurring any out-of-schedule liability. The bargaining-unit vacancies will not be restricted to employees with the same schedule as the vacant position.

M-00615 USPS Letter, October 10, 1985
Postal Service Memorandum discussing the circumstances under which full time employees are entitled to the payment of overtime for work performed outside of, and instead, of their regular schedule on a temporary basis.

C-10984 Regional Arbitrator Purcell
July 29, 1991
Where the Grievant was ordered to undergo a fitness-for-duty exam outside of her normal schedule, and where she was paid administrative leave for the balance of the day, Grievant is not entitled to be paid out-of-schedule overtime. Such payment is made only for "work" and Grievant performed no work on the day in question.

AS REMEDY

M-01055 APWU Step 4
February 18, 1986, H4C-5K-C-3831
The issue in this grievance is whether management violated the National Agreement by not placing the next senior qualified bidder in a position within the prescribed time.

The parties at this level agree that "immediately after the end of the deferment period, the senior bidder then qualified shall be permanently assigned ..." in accordance with Article 37.3F(3). Those employees who were placed in new assignments after the prescribed time limit should be paid out-of-schedule premium for those hours worked between such time and the effective date of the new assignment. *See also* M-00310.

M-00153 Step 4
November 26, 1979, N8-W-0096
The grievant was inappropriately required to report for the light duty assignment in question, as he had not requested such an assignment. Accordingly, inasmuch as he was directed to work a schedule different from his normal schedule and in another craft, and such assignment was not for his own personal convenience and sanctioned by the Union, the grievant is entitled to receive out-of-schedule premium pay for the period he worked in other than his normal work schedule.

C-01647 Regional Arbitrator Bowles
August 11, 1981, C8N-4F-C 13593
An arbitrator lacks authority to order payment of out-of-schedule overtime to a PTF.

204B'S

C-00580 National Arbitrator Mittenthal
January 27, 1982, A8-W-939
Article 8 Section 4.B requires the Postal Service to pay out-of-schedule overtime to employees working as 204B's. *See also* C-00310

M-01039 APWU Pre-arb
March 4, 1983, H8C-4G-C-14584
Employees who are acting supervisors (204-B), are not entitled to out-of schedule premium when they attend a planned, prepared and coordinated training session.

Acting supervisors (204-B) are entitled to out-of-schedule premium when they are detailed to a higher level position, work other than their bid assigned hours and are not involved in a planned, prepared and coordinated training session.

C-00161 National Arbitrator Gamser
July 27, 1975, AB C 341
An employees on a regular schedule, detailed to a higher level assignment (e.g. 204b) can not voluntarily waive out-of-schedule overtime pay When changes of schedule are genuinely for the personal convenience of the employee, out-of-schedule pay may be waived when the waiver is condoned and agreed to by the union.

TRAINING

M-00201 Step 4
July 28, 1981, H8N-2B-C 10122
The exceptions to the obligation to pay out-of-schedule overtime is governed by Part 434.62, Employee and Labor Relation Manual. Clearly, Part 434.623e excludes such payment where the employee's schedule is temporarily changed so that the employee may attend recognized raining sessions.

M-00302 Step 4
May 2, 1985, H1C-4B-C 37025
While there is no contractual obligation for the Employer to pay out-of-schedule premium to employees in a training situation, the parties recognize the need for the employees to be informed as far in advance as possible when a schedule change for training purposes is needed. Therefore, when it is possible, the employees should be notified of the schedule change by Wednesday of the proceeding week.

M-00554 Step 4
August 27, 1985, H1N 1K C 39739
There is no contractual obligation for the employer to pay out-of-schedule premium to employee in a training situation. When it is possible, the employees should be notified of the schedule change by Wednesday of the preceding week.

OVERTIME

OVERTIME – JOINT STATEMENT ON

M-00833 Joint Statement on Overtime
June 8, 1988

This Joint Statement on Overtime represents the parties' consensus on those commonly encountered situations where a uniform application of overtime procedure is required. This Joint Statement is restricted to those issues specifically set forth herein, but may from time to time be amended to add or refine additional overtime issues jointly identified by the parties.

Signing Overtime Lists

Carriers may sign an Overtime Desired List (OTDL) only during the two week period prior to the start of each calendar quarter.

An exception exists for letter carriers on military leave during the sign up period. They are permitted to sign the OTDL upon return to work.

Unless local memoranda provide otherwise when a carrier bids or is transferring between units during a calendar quarter, he/she may sign the OTDL in the gaining unit, if he/she was on the OTDL in the losing unit.

Full-time regular letter carriers, including those on limited or light duty, may sign up for either the regular Overtime Desired List (10 or 12 hour) or the "work assignment" overtime, but not both.

Whether or not an employee on limited or light duty is actually entitled to overtime depends upon his/her physical and/or mental limitations.

A letter carrier may request that his/her name be removed from an Overtime Desired List at any time during the quarter. However, management does not have to immediately honor the request if the employee is needed for overtime on the day the request is made.

Regular Overtime List

Letter carriers signing the Overtime Desired List who prefer to work in excess of 10 hours on a scheduled day up to the maximum of 12 hours on a scheduled day should indicate their preference on the list.

A letter carrier who signs the regular Overtime Desired List is obligated to work overtime when requested. However, Article 8, Section 5.E., provides that employees on the OTDL may be excused from working overtime in exceptional cases.

Work Assignment

"Work assignment" overtime was established by a memorandum of understanding dated May 28, 1985.

Full-time carriers signing up for "work assignment" overtime are to be considered available for up to 12 hours per day on regularly scheduled days. However, the parties recognize that it is normally in their best interests not to require employees to work beyond 10 hours per day, and managers should not require "work assignment" volunteers to work beyond 10 hours unless there is no equally prompt and efficient way to have the work performed.

Signing up for the work assignment overtime does not create any entitlement or obligation to work overtime on a non-scheduled day.

T-6 or utility letter carriers would be considered available for overtime on any of the routes on their string.

Reserve letter carriers and unassigned regulars are considered available for overtime on the assignment they are working on a given day.

Management may use an employee from the regular OTDL to work regular overtime to avoid paying penalty pay to a carrier who has signed for work assignment overtime; further management may assign any other carrier to perform the work at the straight time rate.

Overtime Distribution

The Overtime Desired Lists control the distribution of overtime only among full-time regular letter carriers. Management may assign overtime to a PTFS or casual employees rather than to full-time regular employees who are either signed up for "work assignment" overtime or OTDL.

The OTDL is not used when scheduling for holiday coverage.

Overtime opportunities for carriers on the regular OTDL are not distributed by seniority or on a rotating basis. Nor is a carrier on the regular OTDL ever entitled to any specific overtime, even if it occurs on his/her own route.

Rather, Article 8, Section 5.C.2.b, requires that overtime opportunities must be equitably distributed during the quarter. Accordingly, whether or not overtime opportunities have been equitably distributed can only be determined on a quarterly basis. In determining equitability consideration must be given to total hours as well as the number of opportunities.

Management may require letter carriers on the regular Overtime Desired List to work overtime occurring on their own route on a regularly scheduled day. Overtime worked by carriers on their own route, on a regularly scheduled day is not considered in determining whether overtime opportunities have been equitably distributed. This situation is controlled by Article 8, Section 5.C.2.d, and the prearbitration settlement of H8N-5D-C l8624, July 1, 1982 (M-00135), which states in relevant part:

1) Overtime worked by a letter carrier on the employee's own route on one of the employee's regularly scheduled days is not counted as an overtime opportunity" for the purposes of administration of the Overtime Desired List.

2) Overtime that is concurrent with (occurs during the same time as) overtime worked by a letter carrier on the employee's own route on one of the employee's regularly scheduled days is not counted as an "opportunity missed" for the purposes of administration of the Overtime Desired List.

Mandatory Overtime

The "letter carrier paragraph" of the 1984 Overtime memorandum obligates management to seek to use auxiliary assistance, when available, rather than requiring a regular letter carrier not on the Overtime Desired List to work overtime on his/her own assignment on a regular scheduled day.

When full-time regular employees not on the Overtime Desired List are needed to work overtime on other than their own assignment, or on a non-scheduled day, Article 8, Section 5.D, requires that they be forced on a rotating basis beginning with the junior employee. In such circumstances management may, but is not required to seek volunteers from non-OTDL employees.

OVERTIME - NATIONAL LEVEL ARBITRATION AWARDS

C-05860 National Arbitrator Mittenthal April 11, 1986, H4C-NA-C 21, "First Issue"
An employee on the OTDL does not have the option of accepting or declining on the fifth scheduled workday, on the seventh day, or beyond eight hours on a non-scheduled day. Instead, an employee on the OTDL must work until the exhaustion of the 12 and 60 hour limits before an employee not on the list is required to work overtime.

This general rule, however is inapplicable to situations involving a letter carrier working on a regular scheduled day. Such situations are controlled by Article 8, Section 5.C.2.d and the "letter carrier paragraph" of the overtime memorandum.

C-006775 National Arbitrator Mittenthal January 19, 1987, H4C-NA-C 21, "Second Issue"
Management may not ignore the "pecking order" in holiday period scheduling under Article 11, Section 6 in order to avoid penalty overtime pay under Article 8. Management may not treat regular volunteers for holiday period work as having volunteered for up to twelve hours on whatever day(s) they are asked to work.

C-07323 National Arbitrator Mittenthal September 11, 1987, H4C-NA-C 21,"Third Issue"
"[An employee] having been sent home on his regularly scheduled before the end of his tour on account of the 60-hour ceiling and having experienced on temporary change of schedule, must be paid for the hours he lost that day."

C-06238 National Arbitrator Mittenthal June 9, 1986, H4C-NA-C 21,"Fourth Issue"
The 60-hour limit is absolute, and that when reached, the employee may not be worked further.

No uniform remedy is appropriate for violations of the 12 and 60 hour limits. The remedy for such violations may be more than the penalty already paid the employee, but must be determined on a case-by-case basis according to consideration of aggravating and mitigating circumstances.

See C-06060, Mittenthal, May 12, 1986 for an earlier decision concerning the arbitrability of this dispute

C-06297 National Arbitrator Mittenthal June 26, 1986, H4C-NA-C 21,"Fifth Issue"
The letter carrier paragraph regarding use of auxiliary assistance is a commitment which may be enforced through the grievance-arbitration procedure. Assuming a violation of the "letter carrier paragraph" of the Article 8 Memorandum no money remedy is appropriate. If management violates the letter carrier paragraph the Postal Service should be ordered to cease and desist. "Should the postal facility in question thereafter fail to comply with such an order, a money remedy might well be appropriate."

C-03319 National Arbitrator Aaron April 12, 1983, H8N-5B-C 17682 (Torrance CA)
The Postal Service violated the National Agreement by calling in an employee not on the overtime desired list when employees who were on the list were on duty. *See also* C-09402, C-12669, M-01124

C-06103A National Arbitrator Mittenthal November 26, 1980, M8-W-0032
The Postal Service may award overtime work to part-time flexible employees prior to full-time regular employees on an "Overtime Desired" List and such action is not a violation of Article VIII, Section 5 of the 1978 National Agreement

C-06103A National Arbitrator Mittenthal
November 26, 1980, M8-W-0032
A Local Memorandum of Understanding providing that craft employees on the "Overtime Desired" List who were off on vacation shall be contacted in the proper order of selection only for overtime needed on their lay-off days is inconsistent with Article VIII, Section 5.C.1. of the National Agreement.

Note: The above decision in a Mailhandler case is not applicable in the carrier craft. It was based on Article 8, Section 5.C.1, which does not apply to the Letter Carrier craft (See M-00854*).*

C-06364 National Arbitrator Bernstein
September 14, 1986, H1N-5-G-C 2988
In determining "equitable" distribution of overtime, the number of hours of overtime as well as the number of opportunities for overtime must be considered. *See also* M-00370

C-00790 National Arbitrator Gamser
October 21,1982, H8T-4H-C 10343
Time spent receiving medical treatment for an on-the-job injury at the direction of the Postal Service in order to minimize Postal Service Compensation liability constitutes work time for overtime purposes under Article VIII, Section 4 of the National Agreement; the Arbitrator will not deal with external law.

C-13902, National Arbitrator Mittenthal
January 14, 1991, H4C-NA-C 30
APWU award in national level "simultaneous scheduling" case.

IN GENERAL

M-00326 Step 4
October 2, 1972, NC 711(47)
The grievants informed management of their inability to complete their routes in 8 hours. Further, it was demonstrated that they were ordered by management to complete the routes. Although there was no expressed authorization to complete the delivery of the mail on an overtime basis, the permission would be inherent in the authorization to continue delivery after notification that the grievants were unable to complete the routes.

M-00102 Step 4
December 8, 1978, NCS 12745
The decision to lend auxiliary assistance, schedule overtime or curtail mail is a management function which must be based on the facts at hand. We do not find that management was arbitrary or capricious in their decision to have the carrier leave the office late on the date in question.

M-00590 USPS Letter, January 29, 1985
Forty-one questions and answers concerning the penalty overtime provisions of Article 8.

M-00241 Step 4, July 3, 1972, N-E-380
The incidental detailing of a part-time flexible employee from another post office for the sole reason of avoiding overtime, will be discontinued. *But see* C-05114, Aaron

M-01396 Step 4
October 25, 1999, I94N-4I-C 99212744
The issue in this grievance is whether the incidental detailing of a PTF employee from another post office was done for the sole purpose of avoiding overtime. Whether or not the detailing of the PTF employee was done for the sole purpose of avoiding overtime is a local issue suitable for local determination.

M-01006 Step 4
April 18, 1983, H1N-3W-C 14251
The question raised in this grievance involved whether the assignment of an employee to perform work in another craft while on overtime must be on a voluntary basis.

After further review of this matter, we mutually agreed that no national interpretive issue is fairly presented in the particulars evidenced in this case.

The parties agree that overtime assignments are not determined by the employee. Management may assign employees to perform work in another craft while they are on overtime. It is further understood that these assignments are predicated on the individual fact circumstances but must be in accordance with Article 7, Section 2, of the National Agreement.

M-00009 Step 4
December 21, 1977, NCC 8760
The regular straight time hourly rate of part-time flexible employees incorporates compensation for the nine holidays cited in Article XI, Section 1 of the National Agreement. For this reason part-time flexible employees are compensated for overtime based upon the same rate as full-time regular employees.

M-00031 Step 4
April 14, 1977, NCS 5483
The local policy does not hold carriers liable for the "exact" amount of overtime or auxiliary assistance requested but rather an estimate "within a close approximation." The policy appears to be reasonable and it is not in violation of the National Agreement.

M-01508, JBC Letter
November 14, 1985
For the purposes of the application of Article 8, reference to the month of December in Article 8, Section 4 and 5 of the 1984 National Agreement be understood to mean four consecutive service weeks

Note: the dates of the four week penalty overtime exclusion period are published each year in the Postal Bulletin.

SIGNING LISTS

M-00833 Joint Statement, June 8, 1988
Full-time regular letter carriers, including those on limited or light duty, may sign up for either the regular Overtime Desired List (10 or 12 hour) or the "work assignment" overtime, but not both. Whether or not an employee on limited or light duty is actually entitled to overtime depends upon his/her physical and/or mental limitations.

M-00027 Step 4, August 9, 1977, NCS 7224
It was agreed that no one would be allowed to sign the list after the beginning of the quarter.

M-00833 Joint Statement, June 8, 1988
Unless local memoranda provide otherwise when a carrier bids or is transferring between units during a calendar quarter, he/she may sign the OTDL in the gaining unit, if he/she was on the OTDL in the losing unit. *But cf* M-00377, M-00621

Note: this language applies only to employees transferring between units within an installation. It does not apply to employees who transfer from one installation to another. *See* M-01204 below.

M-01204 February 28, 1995
E90N-4E-C 94039480
The issue in this grievance is whether an employee transferring from one installation to another may be placed on the gaining installation's Overtime Desired List (OTDL).

During our discussion, the parties agreed that the Joint Statement on Overtime, June 8, 1988, addresses transfer of employees between units within an installation. Transfer from one installation to another is not provided for in this document.

M-00377 APWU Pre-arb
August 7, 1985, H1C-1E-C 42949
Unless otherwise addressed in a Local Memorandum of Understanding, an employee may opt to bring his/her name forward from one overtime desired list to another when he/she is successful bidder on a different tour. The employee will be placed on the list in accordance with their seniority. Unless otherwise addressed in a Local Memorandum of Understanding, an employee who was not on any overtime desired list at the beginning of a quarter may not place his/her name on the overtime desired list by virtue of being a successful bidder to another tour until the beginning of the next quarter. *But Cf* M-00621, M-00833

M-00621 Step 4
September 4, 1985, H4N-3U-C 6360
Management did not violate the National Agreement by not permitting the grievant to place her name on the overtime desired list upon her mid-quarter reassignment. Carriers are only permitted to place their names on the overtime desired list as specified in Article 8, Section 5.A. *But Cf* M-00377, M-00833

M-00820 Step 4
April 8, 1988, H4N-1K-C 41588
A letter carrier on military leave at the time when full-time employees place their names on the overtime desired list may place his/her name on the overtime desired list upon return to work.

M-00795 Step 4
July 11, 1986, H4N-5B-C 9731
We agreed that employees on light duty and limited duty may sign the "Overtime Desired" list. We further agreed the parties at Step 3 are to apply Article 13, Section 3.B., and Part 546 of the Employee and Labor Relations Manual to the specific fact circumstances involved in this case. Also whether or not the grievant's physical condition and status was such that he could work overtime is a question that can only be answered based on the facts involved.

M-00833 Joint Statement, June 8, 1988
A letter carrier may request that his/her name be removed from an Overtime Desired List at any time during the quarter. However, management does not have to immediately honor the request if the employee is needed for overtime on the day the request is made.

M-00715 Step 4
June 7, 1983, H1N-2D-C 5524
When a letter carrier requests that his/her name be removed from the overtime desired list, the request will be granted. However, management does not have to immediately honor the request if the employee is needed for overtime work on the day the request was made or scheduled for overtime in the immediate future.

M-00833 Joint Statement, June 8, 1988
Letter carriers signing the Overtime Desired List who prefer to work in excess of 10 hours on a scheduled day up to the maximum of 12 hours on a scheduled day should indicate their preference on the list.

M-00507 Step 4
June 15, 1984, H1N-1M-C 22387
A 204B employee who anticipates returning to the bargaining-unit and desires to work overtime within the applicable quarter, must initially sign the OTDL, in accordance with Article 8, Section 5.A., of the 1981 National Agreement.

C-10515 Regional Arbitrator Purcell
December 31, 1990
The contract does not require that the OTDL be personally signed; management did not violate the contract by telephoning three employees who were on AL, asking whether they wished to be on the OTDL the next quarter, and adding their names to the OTDL upon receiving affirmative answers.

M-01121 Memorandum of Understanding
May 6,1993
The Postal Service and the NALC agree to afford part-time flexibles who are converted to full-time regular under the December 21, 1992 Memorandum of Understanding the following access to the overtime desired list (ODL) as a one-time exception to Article 8.5.

Specifically, part-time flexibles who are converted to regular after the quarterly overtime desired list sign-up period has expired may be allowed to sign the ODL within two weeks of the effective date of their conversion or this agreement, whichever comes later. From the time of their sign-up to the end of that quarter, every effort will be made to give these employees an equitable number of overtime opportunities, except to the extent that management needs to give employees who were on the list from the beginning of the quarter additional overtime hours in order to achieve equitable distribution for those employees.

OVERTIME DESIRED LIST

M-00366 Step 4
January 10, 1980, N8-C-0191
There is no contractual obligation to utilize the Overtime Desired List when scheduling for holiday coverage. *See also* M-00168.

M-00490 APWU Step 4
January 16, 1981, H8N-5H-C 13110
An OTDL with columns for before tour, after tour and non-scheduled days is not in direct conflict with the National Agreement.

M-00858 Pre-arb
September 12, 1988, H4N-5K-C 4489
During our discussion we mutually agreed that management may not unilaterally remove an employee's name from the Overtime Desired List if the employee refuses to work overtime when requested. However, employees on the overtime desired list are required to work overtime except as provided for in Article 8, Section 5.E.

M-00130 Step 4
November 24, 1978, NCC 12937
There is no contractual obligation for management to post the Overtime Desired List daily.

C-09484 Regional Arbitrator Sobel
Management is not required to post the OTDL on a pay period basis.

WORK ASSIGNMENT LIST

M-00589 Work Assignment Agreement
May 28, 1985
The Postal Service will provide the opportunity, on a quarterly basis, for full-time letter carriers to indicate a desire for available overtime on their work assignment on their regularly scheduled days.

All full-time letter carriers are eligible to indicate their desire for "work assignment" overtime and by doing so are to work the overtime as specified on their regularly scheduled days.

T-6 or utility letter carriers would be considered available for overtime on any of the routes in their string.

Reserve Letter Carriers and unassigned regulars desiring "work assignment" overtime would be eligible for overtime on the assignment on which they are working on a given day.

An annotation on the overtime desired list (ODL) may be used to identify employees desiring "work assignment" overtime.

The ODL provided for in Article 8, Section 5, would continue to function.

"Work assignment" overtime will not be considered in the application of Article 8, Section 5.C.2.b.

Once management determines that overtime is necessary for full-time letter carriers, if the carrier has signed up for "work assignment" overtime, the carrier is to work the overtime as assigned by management.

Full-time carriers signing up for "work assignment" overtime are to be considered available for up to 12 hours per day on regularly scheduled days. However, the parties recognize that it is normally in their best interests not to require and employees to work beyond 10 hours per day, and managers should not require "work assignment" volunteers to work beyond 10 hours unless there is no equally prompt and efficient way in which to have the work performed.

Penalty pay would be due for work in excess of 10 hours per day on 4 of 5 regularly scheduled days.

Penalty pay would be due for overtime work on more than 4 of the employee's 5 scheduled days.

Management could schedule employees from the ODL to avoid paying penalty pay to the carrier on his/her own work assignment.

M-1273 Step 4
January 2, 1997, B94N-4F-C 96069778
The issue in this case is whether those Memorandums of Understanding not included in the *EL-901, National Agreement*, are still in effect.

The parties agreed that the Memorandums of Understanding printed in the *EL-901, National Agreement*, between the U.S. Postal Service and the National Association of Letter Carriers for 1994-1998, are not the only Memorandums of Understanding in effect and that the "Work Assignment Overtime" Memorandum of Understanding, dated May 28, 1985, is in full force and effect.

M-01232 Step 4
September 11, 1995, D90N-4D-C 95038004
The parties agree Reserve Letter Carriers and unassigned regulars who are on the work assignment list are eligible for overtime on the assignment on which they are working on a given day. *See also* M-01252

M-00910 Step 4
April 6, 1989, H4N-3Q-C 62592
If the need for overtime arise on a shop steward's route as a result of investigation and/or processing of grievances, and the shop steward has signed for work assignment overtime, the resulting overtime is considered part of the carrier's work assignment for the purpose of administering the overtime desired list.

M-01280 Step 4
January 28, 1997, D94N-4D-96068072
The issue in this grievance is whether management violated the National Agreement by providing auxiliary assistance from the Overtime Desired List to a Work Assignment List employee's route, which had overtime work as a result of the "own route" carrier performing union steward duties.

As a result of these discussions, the parties are in agreement that, once management determines that overtime is necessary for full-time letter carriers, if the carrier is signed up for "work assignment" overtime, the carrier is to work the overtime as assigned by management. Full-time carriers signing up for "work assignment" overtime are to be considered available for up to 12 hours per day on regularly scheduled days. However, management could schedule employees from the Overtime Desired List to avoid paying penalty pay to the carrier on his/her own work assignment.

M-00911 Step 4
February 22, 1989, H4N-4G-C 13743
A letter carrier who signs for work assignment overtime is both entitled and obligated to work any overtime that occurs on the carrier's assignment on a regularly scheduled day, except when the carrier would perform the work at the penalty overtime rate and when another carrier who had signed the regular OTDL could perform the work at the regular overtime rate.

Note: This settlement does not preclude management assigning overtime to a casual or a PTF rather than an employee on the work assignment list. See C-06103, Mittenthal and C-00675 Zumas.

T-6 OVERTIME

M-00589 Work Assignment Agreement
May 28, 1985
T-6 or utility letter carriers would be considered available for overtime on any of the routes in their string. *Note: for complete text of Work Assignment Agreement, see above.*

It is NALC's position that once management has determined that overtime will be assigned to a full-time regular:

1. A T-6 or utility carrier who has signed for work assignment overtime has both a right and an obligation to work any overtime that occurs on any of the five component routes on a regularly scheduled day. However, management is not required to work the T-6 or utility carrier at the penalty overtime rate if there is a carrier from the regular overtime list available to perform the work at the regular overtime rate.

2.a. When overtime is required on the regularly scheduled day of the route of a carrier who is on the OTDL and whose T-6 or utility carrier is on the work assignment list, the T-6 or utility carrier is entitled to work the overtime.

2.b. When overtime is required on the regularly scheduled day of the route of a carrier who is on the work assignment list and whose T-6 or utility carrier is also on the work assignment list, the regular carrier on the route is entitled to work the overtime.

Postal management at the national level agrees with 1 and 2a above. They have not as yet taken a position as to 2b, above. If you get a grievance presenting the 2b issue, please send it to Step 4.

M-01322 Step 4
October 2, 1998, E94N-4E-C 98097684
The issue in this grievance concerns the application of overtime provision of Article 8 Section 5 to T-6 letter carriers.

During our discussion we mutually agreed that:

A T-6 carrier technician not on the Overtime Desired List or Work Assignment List may, in accordance with Article 8.5.C.2.d be required to work overtime on the specific route to which properly assigned on a given day only after management has fulfilled its obligation under the "letter carrier paragraph" to seek available auxiliary assistance.

A T-6 carrier technician not on the Overtime Desired List or Work Assignment List may be required to work overtime on routes other than the specific route to which properly assigned on a given day only in compliance with Article 8, Section 5.D in which assignments are rotated among those not on the Overtime Desired List or Work Assignment List, by juniority.

We further agree that the above understanding does not conflict with or modify the May 18, 1985 Work Assignment Agreement which provides that the T-6 letter carriers are considered available for "work assignment" overtime on any of the routes in their string.

M-01323 Step 4
October 2, 1998, C94N-4C-C 98099737
The issue in these grievances concerns the application of the overtime provisions of Article 8, Section 5 to T-6 letter carriers.

During our discussion, we mutually agreed that:

Overtime worked by a T-6 carrier on the Overtime Desired List on the specific route to which properly assigned on a given day is not counted in the consideration of the equitable distribution of overtime hours worked and opportunities offered at the end of the quarter.

Overtime worked by a T-6 carrier on the Overtime Desired List is counted in the consideration of the equitable distribution of overtime hours worked and opportunities offered at the end of the quarter when: a) the overtime is not on a regularly scheduled day; or b) the overtime is worked on any route in the delivery unit other than the specific route to which properly assigned on a given day.

We further agree that the above understanding does not conflict with or modify the May 28, 1985 Work Assignment Agreement which provides that the T-6 letter carriers are considered available for "work assignment" overtime on any of the routes in their string.

OVERTIME DISTRIBUTION

See also 204b's, Overtime, Page 14

M-00854 Pre-arb
August 30, 1988, H4N-5K-C 16868
Article 8, Sections 5.C.1.a and b., do not apply to the Letter Carrier craft.

C-06364 National Arbitrator Bernstein
September 14, 1986, H1N-5-G-C 2988
In determining "equitable" distribution of overtime, the number of hours of overtime as well as the number of opportunities for overtime must be considered. *See also* M-00370

C-06103A National Arbitrator Mittenthal
November 26, 1980, M8-W-0032
The Postal Service may award overtime work to part-time flexible employees prior to full-time regular employees on an "Overtime Desired" List and such action is not a violation of Article VIII, Section 5 of the 1978 National Agreement.

C-00675 APWU National Arbitrator Zumas
November 21, 1985, H1C-4K-C 27344
The Postal Service is not contractually obligated to schedule full-time employees on the OTDL rather than utilize casual employees on overtime.

C-03319 National Arbitrator Aaron
April 12, 1983, H8N-5B-C 17682 (Torrance CA)
The Postal Service violated the National Agreement by calling in an employee not on the overtime desired list when employees who were on the list were on duty. *See also* C-09402 M-01124

C-09581 Regional Arbitrator Condon
Management violated the contract when it called in a non-OTDL router two hours early to perform duties not part of his regular assignment.

M-00833 Joint Statement, June 8, 1988
Article 8, Section 5.C.2.b, requires that overtime opportunities must be equitably distributed during the quarter. Accordingly, whether or not overtime opportunities have been equitably distributed can only be determined on a quarterly basis. In determining equitability consideration must be given to total hours as well as the number of opportunities.

M-00833 Joint Statement, June 8, 1988
The Overtime Desired Lists control the distribution of overtime only among full-time regular letter carriers. Management may assign overtime to a PTFS or casual employees rather than to full-time regular employees who are either signed up for "work assignment" overtime or OTDL. Overtime opportunities for carriers on the regular OTDL are not distributed by seniority or on a rotating basis. Nor is a carrier on the regular OTDL ever entitled to any specific overtime, even if it occurs on his/her own route.

M-00112 Step 4
October 31, 1978, NCS 12379
There are no requirements that overtime be scheduled according to seniority in the letter carrier craft.

M-00372 Step 4
November 30, 1977, NCS 8975
There is nothing which precludes management from utilizing part-time flexible employees in an overtime status prior to utilizing Full-Time Regular employees who are on the Overtime Desired List.

M-00923 Step 4
June 27, 1977, NCS-6094
A letter carrier on the regular overtime-desired list does not have an absolute right to all overtime on his/her route.

M-00754 Pre-arb
April 10, 1985, H1N-3F-C 25958
An employee who cannot be contacted to work on his/her nonscheduled day will not have that call recorded as a missed opportunity. The day in question also will not be counted as a day where the employee was available for overtime.

M-00587 Step 4
November 9, 1981, H8N-3P-C 16890
When a hand-off is used as an adjustment, the hand-off is considered to be part of the route through which it is delivered for purposes of the OTDL.

M-00492 Step 4
March 12, 1984, H1N-5H-C 18583
Normally, employees on the overtime desired list who have annual leave immediately preceding and/or following nonscheduled days will not be required to work overtime on their off days. However, if they do desire, employees on the overtime desired list may advise their supervisor in writing of their availability to work a nonscheduled day that is in conjunction with approved leave. *But cf* M-00124

M-00124 Step 4
August 31, 1977, NCE 7425
Management will contact the employees who were on sick leave or annual leave the day prior to their nonscheduled day when overtime duties are available for those employees. *But cf* M-00492

M-00169 USPS Memo
August 14, 1974
Employees selected from the "Overtime Desired" list for overtime work may not refuse the overtime assignment, however, an employee may request to be excused from such overtime assignment in exceptional cases based on equity.

M-00771 Step 4
April 28, 1977, NCC 4645
The postmaster is instructed that in the future, when someone other than the employee answers telephone requests to work overtime, to take the necessary measures to ensure that the employee has declined the opportunity to work.

M-00291 Step 4
February 8, 1984, H1N-5D-C 16445
A full-time regular letter carrier is considered to be a qualified craft employee, and the overtime provisions in Article 8 do not provide for the assignment of the "best qualified" employee available. *See also* M-00196.

M-00183 Step 4
February 14, 1974, NBE 610(18V6)
There is no contractual requirement to distribute overtime in an equitable basis among employees not on the overtime desired list

M-00135 Pre-arb
July 1, 1982, H8N-5D-C 18624
Overtime worked by a letter carrier on the employee's own route on one of the employee's regularly scheduled days is not counted as an "overtime opportunity" for the purposes of administration of the overtime desired list. Overtime that is concurrent with (occurs during the same time as) overtime worked by a letter carrier on the employee's own route on one of the employee's regularly scheduled days is not counted as an "opportunity missed" for purposes of administration of the overtime desired list. *But cf* M-00113

M-00113 Step 4
September 23, 1976, NCW 2811
The amount of overtime accrued on the grievant's own route on regularly scheduled days will not deter him from receiving equitable overtime opportunities on his non-scheduled day if he is on the Overtime Desired list. *But cf* M-00135

M-00370 Step 4
May 24, 1984, H1N-4J-C 26500
In order for overtime opportunities to be distributed equitably in accordance with Article 8, Section 5, the number of hours per opportunity may be considered along with all the other factors such as leave, light duty, qualifications, off days, refusals, unavailability, etc. For example, the fact that one employee received an opportunity to work 8 hours overtime and another employee received an opportunity to work 1 hour overtime may not be the sole criteria for determining equitable opportunity, particularly, when there is considerable time left in the quarter. On the other hand, there is no requirement that overtime hours be equal. Each situation must be handled on a case-by-case basis.

C-10717 Regional Arbitrator Liebowitz
March 19, 1991
Management did not violate the contract when it granted AL to a PTF employee, thereby forcing a regular to work mandatory overtime.

C-11001 Regional Arbitrator Sobel
July 30, 1991
Management violated the contract by calling in a PTF from another office to work rather than calling in the grievant to work overtime on his nonscheduled day.

C-10414 Regional Arbitrator Collins
November 15, 1990
"Article 8.5 cannot be read to require the Service to deliver mail at times when there are no business customers to receive it, or at times when no residential customers want it, or under circumstances where delivery is dangerous or just plain inefficient."

C-10421 Regional Arbitrator Liebowitz
November 29, 1990
Management violated Article 8 by its blanket refusal to leave messages of calls for overtime on grievant's answering machine.

C-00311 Regional Arbitrator Martin
July 19, 1983, C1C-4B-C 7048
"It is the unilateral and unchallengeable right of management to determine if overtime is to be used, and when that overtime is worked."

C-09384 Regional Arbitrator Ables
September 28, 1989, E7N-2U-C 20156
Management violated the contract when it did not call in a carrier on the OTDL to deliver a route, which was otherwise for the most part not delivered.

C-09472 Regional Arbitrator Taylor
November 15, 1989, S7N-3W-C 22611
Management acted improperly by approving one hour of overtime for a non-OTDL carrier on his own route when a carrier on the OTDL was available.

MANDATORY OVERTIME

M-00833 Joint Statement, June 8, 1988
The "letter carrier paragraph" of the 1984 Overtime memorandum obligates management to seek to use auxiliary assistance, when available, rather than requiring a regular letter carrier not on the Overtime Desired List to work overtime on his/her own assignment on a regular scheduled day.

C-06297 National Arbitrator Mittenthal
June 26, 1986, H4C-NA-C 21,"Fifth Issue"
The letter carrier paragraph regarding use of auxiliary assistance is a commitment which may be enforced through the grievance-arbitration procedure. Assuming a violation of the "letter carrier paragraph" of the Article 8 Memorandum no money remedy is appropriate. If management violates the letter carrier paragraph the Postal Service should be ordered to cease and desist. "Should the postal facility in question thereafter fail to comply with such an order, a money remedy might well be appropriate."

C-17270 National Arbitrator Snow
September 8, 1997, H0N-5G-C 15299
Transitional Employees shall be considered a source of auxiliary assistance under the "letter carrier paragraph" of the 1984 Overtime Memorandum.

M-00730 Step 4
December 2, 1977, NCS 8526
Auxiliary assistance is normally granted on the street. However, this does not preclude management from granting auxiliary assistance in the office.

M-01016 Step 4
October 10, 1991, H7N-5R-C 16882
We agreed that the term "auxiliary assistance" as used in the Letter Carrier paragraph of the Article 8 MOU does include the use of part-time flexibles at the overtime rate.

C-03226 National Arbitrator Garrett
January 8, 1979, NC-C-7933
The inescapable conclusion is that the language of VIII-5-E on its face reflects an intent to confer relatively broad discretion on local management to excuse employees from overtime work for any one of a number of legitimate reasons "based on equity".

M-00884 Memorandum December 20, 1988
This Memorandum of Understanding represents the parties consensus on clarification of interpretation and issues pending national arbitration regarding letter carrier overtime as set forth herein. In many places in the country there has been continued misunderstanding of the provisions of Article 8 of the National Agreement; particularly as it relates to the proper assignment of overtime to letter carriers. It appears as if some representatives of both labor and management do not understand what types of overtime scheduling situations would constitute violations and which situations would not. This Memorandum is designed to eliminate these misunderstandings.

1) If a carrier is not on the Overtime Desired List (ODL) or has not signed up for Work Assignment overtime, management must not assign overtime to that carrier without first fulfilling the obligation outlined in the "letter carrier paragraph" of the Article 8 Memorandum. The Article 8 Memorandum provides that "... where management determines that overtime or auxiliary assistance is needed on an employee's route on one of the employee's regularly scheduled days and the employee is not on the overtime desired list, the employer will seek to utilize auxiliary assistance, when available, rather than requiring the employee to work mandatory overtime." Such assistance includes utilizing someone from the ODL when someone from the ODL is available.

2) The determination of whether management must us a carrier from the ODL to provide auxiliary assistance under the letter carrier paragraph must be made on the basis of the rule of reason. For example, it is reasonable to require a letter carrier on the ODL to travel for five minutes in order to provide one hour of auxiliary assistance. Therefore, in such a case, management must use the letter carrier on the ODL to provide auxiliary assistance. However, it would not be reasonable to require a letter carrier on the ODL to travel 20 minutes to provide one hour of auxiliary assistance. Accordingly, in that case, management is not required to use the letter carrier on the ODL to provide auxiliary assistance under the letter carrier paragraph.

3) It is agreed that the letter carrier paragraph does not require management to use a letter carrier on the ODL to provide auxiliary assistance if that letter carrier would be in penalty overtime status.

4) It is further agreed that the agreement dated July 12, 1976, signed by Assistant Postmaster General James C. Gildea and NALC President James H. Rademacher, is not in effect. In cases where management violates the letter carrier paragraph by failing to utilize an available letter carrier on the ODL to provide auxiliary assistance, the letter carrier on the ODL will receive as a remedy compensation for the lost work opportunity at the overtime rate.

C-10345 Regional Arbitrator Levin
October 16, 1990
Management did not violate the contract when it did not provide 20 minutes of auxiliary assistance to a carrier not on the OTDL, where 20 minutes of travel time would have been required to provide the assistance.

M-00833 Joint Statement, June 8, 1988
When full-time regular employees not on the Overtime Desired List are needed to work overtime on other than their own assignment, or on a non-scheduled day, Article 8, Section 5.D, requires that they be forced on a rotating basis beginning with the junior employee. In such circumstances management may, but is not required to seek volunteers from non-OTDL employees.

M-00958 Prearb
January 4, 1990, H4N-3U-C 34890
Consistent with the provisions of Article 8.5.F of the National Agreement, excluding December, a letter carrier who is not on an overtime desired list may not be required to work over ten (10) hours on a regularly scheduled day.

M-00543 Step 4
June 21, 1985, H1N-5K-C 26406
Management is not required to solicit volunteers before assigning overtime to employees under Article 8, Section 5.D.

M-00145 Step 4
March 25, 1977, NCE 5100
Local management may require non-volunteers to work overtime on a rotating basis starting with the junior employee after the overtime desired list is exhausted. Article VIII, section 5 of the National Agreement does not require that the junior employees be required to work prior to working volunteers on overtime.

M-00776 Step 4
March 28, 1977, NCE 4790
When no letter carriers from the Overtime Desired List are available, management has the option of mandating overtime by juniority, of using part-time flexible employees, of asking for volunteers, or pivoting work on vacant routes.

M-00827 Step 4
May 22, 1987, H4N-3N-C 37461
Employees not on the OTDL forced to work overtime in accordance with Article 8.5.D shall begin a new period of rotation with the start of each quarter.

M-00949 Step 4
October 6, 1989, H7N-2B-C-20490
When a route is adjusted by providing router assistance, The work assigned to the router is not part of the route for overtime purposes.

MAXIMUM DAILY HOURS

The maximum daily hours an employee may be required to work is controlled by ELM 432.32 and Article 8, Section 5. The maximum depends upon whether an employee is part-time or full-time and on whether a full-time employee is on the overtime desired list.

ELM Section 432.32 applies to all employees working in the letter carrier craft (including casuals, TEs and part-time flexibles), even during the month of December. It provides:

> *432.32 Maximum Hours Allowed. Except as designated in labor agreements for bargaining unit employees or in emergency situations as determined by the PMG (or designee). employees may not be required to work more than 12 hours in 1 service day. In addition, the total hours of daily service, including scheduled work hours, overtime* **and mealtime** *may not be extended over a period longer than 12 consecutive hours. Postmasters, Postal Inspectors, and exempt employees are excluded from these provisions*

Article 8.5 provides that:

> *F. Excluding December, no full-time regular employee will be required to work overtime on more than four (4) of the employee's five (5) scheduled days in a service week or work over ten (10) hours on a regularly scheduled day, over eight (8) hours on a non-scheduled day, or over six (6) days in a service week.*

G. Full-time employees not on the Overtime Desired" list may be required to work overtime only if all available employees on the "Overtime Desired" list have worked up to twelve (12) hours in a day or sixty (60) hours in a service week. Employees on the "Overtime Desired" list:

1. may be required to work up to twelve (12) hours in a day and sixty (60) hours in a service week (subject to payment of penalty overtime pay set forth in Section 4.D for contravention of Section 5.1;); and

2. excluding December, shall be limited to no more than twelve (12) hours of work in a day and no more than sixty (60) hours of work in a service week.

ELM 432.32 specifically states that it applies "except as designated in labor agreements for bargaining unit employees". Thus, in the case of full-time employees on the OTDL, Article 8.5.G rather than ELM 432.32 is controlling. It should be noted that the term "work", as used in Article 8, means all paid hours, excluding lunch.

Read in conjunction Article 8.5 and ELM 432.32 establish the following:.

Part-Time, Transitional and Casual Employees ELM 432.32 applies to all part-time, casual and transitional employees. The national agreement does not contain any language creating an exception to the ELM provision. They may not be required to work more than 12 hours in 1 service day, even during December. The 12 hour period includes mealtime and may not be extended over a period longer than 12 consecutive hours.

Non-OTDL full-time employees. Article 8, Section 5.F specifically provides that, except in December, no full-time regular employee will be required to work overtime on more than four (4) of the employee's five (5) scheduled days in a service week or work over ten (10) hours on a regularly scheduled day, over eight (8) hours on a non-scheduled day, or over six (6) days in a service week. During December, ELM 432.32 still applies to full time employees not on the Overtime desired List and they may not be required to work more than 12 hours in a service day. The 12 hour period includes mealtime and may not be extended over a period longer than 12 consecutive hours.

OTDL full-time employees Article 8.5.G creates an exception to the rule in ELM 432.32 for full-time employees on the Overtime Desired List. They may be required to "work" up to 12 hours in a service day. This 12 hour period does not include mealtime and thus may be extended over a period longer than 12 consecutive hours.

M-00958 Prearb
January 4, 1990, H4N-3U-C 34890
Consistent with the provisions of Article 8.5.F of the National Agreement, excluding December, a letter carrier who is not on an overtime desired list may not be required to work over ten (10) hours on a regularly scheduled day.

C-15699 National Arbitrator Snow
B90N-4B-C 94027390, August 20, 1996
The "12-hour a day" work rule in ELM Section 432.32 applies to NALC Transitional Employees.

M-01282 Prearbitration Settlement
February 26, 1997, E90N-4E-C 94053872
The issue in this case is whether management violated the National Agreement, specifically Section 432.32 of the Employee and Labor Relations Manual (ELM), by working part-time flexible city carriers over 12 hours in a day.

The parties agree that the decision rendered by Arbitrator Snow in case B90N-4B-C 94027390 provides sufficient guidance to address the issue in the instant case. In that case, the arbitrator ruled that ELM 432.32, as currently written, applies to Transitional Employees. It is clear from his ruling that ELM 432.32 also applies to part-time flexible employees. Therefore, this case will be remanded to the parties at the local level to determine the appropriate remedy.

M-01390 Step 4
October 25, 1999, H94N-4H-C 99058338
The issue in this case is whether or not management violated the National Agreement, specifically ELM 432.32, when it worked a PTF over 12 hours in a day. Whether or not a remedy is due in such circumstances is not an interpretive issue. As such, the parties agreed to remand this case to the parties at Step 3 for application of ELM 432.32 and the Joint Contract Administration Manual (JCAM) pages 8-14 and 8-15.

M-01392 Step 4
October 25, 1999, E94N-4E-C 99013960
The issue in this grievance is whether management violated the National Agreement when the grievant, who is on the work assignment list, worked a total of 12.5 hours, including a lunch break on a given day. After reviewing this matter, we mutually agreed that no national interpretive issue is fairly presented in this case. We further agreed, that the Joint Contract Administrative Manual page 8-15 is applicable to this case, and states in part, that "Since 'work', within the meaning of Article 8.5.G does not include mealtime, the 'total hours of daily service' for carriers on the overtime desired list may extend over a period of 12.5 consecutive hours."

M-01272 Step 4
February 25, 1998, E94N-4E-C 96031540
The issue in this grievance is whether management violated Section 432.32 of the Employee and Labor Relations Manual (ELM), by requiring full-time employees (not on the OTDL or work assignment list) and part-time flexible employees to work more than twelve hours a day in the month of December.

After reviewing this matter, we mutually agreed to settle this case as follows:

1. In accordance with Section 432.32 of the Employee and Labor Relations Manual (ELM), part-time employees may not be required to work more than 12 hours in one service day, even during December, subject to the exceptions set forth in Section 432.32 of the ELM. The 12 hour period includes mealtime and may not be extended over a period longer than 12 consecutive hours.

2. In accordance with Section 432.32 of the Employee and Labor Relations Manual (ELM), full-time employees not on the OTDL or the work assignment list may not be required to work more than 12 hours in one service day, even during December, subject to the exceptions set forth in Section 432.32 of the ELM. The 12 hour period includes mealtime and may not be extended over a period longer than 12 consecutive hours.

M-01485, Step 4
August 29, 2002, E98N-4E-C-02096819
The parties agree that Step B Teams have the authority to formulate a remedy when resolving disputes after finding a violation of the National Agreement, including cases where part-time flexibles were required to work beyond the 12 hour limit established in Part 432.32 of the Employee and Labor Relations Manual.

60 HOUR LIMIT

C-06238 National Arbitrator Mittenthal
June 9, 1986, H4C-NA-C 21,"Fourth Issue"
The 60-hour limit is absolute, and that when reached, the employee may not be worked further.

No uniform remedy is appropriate for violations of the 12 and 60 hour limits. The remedy for such violations may be more than the penalty already paid the employee, but must be determined on a case-by-case basis according to consideration of aggravating and mitigating circumstances.

See C-06060, Mittenthal, May 12, 1986 for an earlier decision concerning the arbitrability of this dispute

C-07323 National Arbitrator Mittenthal
September 11, 1987, H4C-NA-C 21,"Third Issue"
"[An employee] having been sent home on his regularly scheduled before the end of his tour on account of the 60-hour ceiling and having experienced on temporary change of schedule, must be paid for the hours he lost that day."

M-00612 Settlement Agreement
April 16, 1985
The 12 hours per day and 60 hours in a service week are to be considered upper limits beyond which full-time employees are not to be worked.

M-00859 Memorandum, October 19, 1988
The parties agree that with the exception of December, full-time employees are prohibited from working more than 12 hours in a single work day or 60 hours within a service week. In those limited instances where this provision is or has been violated and a timely grievance filed, full-time employees will be compensated at a additional premium of 50 percent of the base hourly straight time rate for those hours worked beyond the 12 or 60 hour limitation. The employment of this remedy shall not be construed as a agreement by the parties that the Employer may exceed the 12 and 60 hour limitation with impunity.

As a means of facilitating the foregoing, the parties agree that excluding December, once a full-time employee reaches 20 hours of overtime within a service week, the employee is no longer available for any additional overtime work. Furthermore, the employee's tour of duty shall be terminated once he or she reaches the 60th hour of work, in accordance with Arbitrator Mittenthal's National Level Arbitration Award on this issue, dated September 11, 1987, in case numbers H4N-NA-C 21 (3rd issue) and H4N-NA-C 27.

C-18926 National Arbitrator Snow
A90N-4A-C 94042668, September 1, 1998
The remedy provided for in the October 19, 1988 Memorandum (M-00859, above) is the exclusive remedy for violation of the 12 and 60 work hour limits

M-01445 Step 4
September 6, 2001, J94N-4J-C 99050117
The issue in this grievance concerns the application of the October 19, 1988 Overtime Memorandum and Arbitrator Snow's national level decision in Case No. A90N-4A-C 94041668, alleging separate violations of both the twelve hour and sixty hour limits (Article 8.5.G.2) within one service week.

We mutually agree that the remedy of 50% of the base hourly straight time rate provided in the Memorandum will apply for each hour worked in excess of twelve on a service day (excluding December) by a full time employee. Further, we agreed that the remedy also applies to each hour worked by a full time employee in excess of the sixty during the same service week (excluding December) in which the full time employee has exceeded twelve hours in a service day. To avoid such payment, management must instruct the full time employee to "clock off" and go home; the full time employee would then be paid whatever guarantee applies for the remainder of the service day.

It is also agreed that in those circumstances where the same work hours of a full time employee simultaneously violate both the twelve hour and sixty hour limits (e.g. the thirteenth and fourteenth hour worked on the last service day of the service week are also the sixty-first and second of the service week), only a single remedy of 50% of the base hour straight time rate will be applied.

It is understood that the foregoing does not apply to part time flexible employees and has no impact on the manner by which part time flexible employees are paid penalty overtime pay pursuant to Article 8.4.E.

M-01176 USPS Letter
July 20, 1993
The limitations contained in the National Agreement of 12 hours in a day and 60 hours in a week are inclusive of paid hours. If, for example, an employee had approved leave at the beginning of the service week for 24 hours, the maximum an employee is available to perform duty, i.e., to work, is 36 hours for the remainder of the service week.

Some questions received appear to contemplate that if an employee had leave of any type during the week, we could require that individual to perform services up to 60 hours. This is not the intent nor is it the application of the principles underlying Article 8.

National Arbitrator Richard Mittenthal, in case H4C-NA-C 21 (Fourth Issue) stated that the 60-hour limit is absolute and no employee may be worked past that limitation.

M-01180 Step 4
June 9, 1994, I90N-4I-C 94023487
The issue in this grievance is whether both "holiday leave pay" and "holiday worked pay" count toward the 60 hour work limitation found in Article 8.5.G.

During our discussion, we mutually agreed that "holiday leave pay" paid for an employee's holiday or designated holiday is counted toward the 60 hour limit. However, if an employee actually works on a holiday or designated holiday, only those work hours in excess of eight hours are added to the eight hours of "holiday leave pay" when determining hours which count toward the 60 hour limit.

REMEDIES FOR VIOLATIONS

C-00938 National Arbitrator Gamser
August 25, 1976, ABS 1659
Retroactivity for failure to make out-of-schedule overtime payments may only go back to fourteen days prior to the date on which the Union and the grievant learned of the violation.

C-03200 National Arbitrator Gamser
April 3, 1979, NCS 5426
The Postal Service must pay employees deprived of "equitable opportunities" for the overtime hours they did not work only if management's failure to comply with its contractual obligations under Section 5.C.2 shows a "willful disregard or defiance of the contractual provision, a deliberate attempt to grant disparate or favorite treatment to an employee or group of employees, or caused a situation in which the equalizing opportunity could not be afforded within the next quarter. In all other cases, Gamser held, the proper remedy is to provide " an equalizing opportunity in the next immediate quarter, or pay a compensatory monetary award if this is not done."

M-00697 Step 4
October 24, 1978, NCC 11037
The initial instruction that the grievant work off-day overtime was later canceled. There are no provisions for granting a financial remedy.

M-00884 Memorandum of Understanding
December 20, 1988
It is further agreed that the agreement dated July 12, 1976, signed by Assistant Postmaster General James C. Gildea and NALC President James H. Rademacher (M-00592), is not in effect. In cases where management violates the letter carrier paragraph by failing to utilize an available letter carrier on the ODL to provide auxiliary assistance, the letter carrier on the ODL will receive as a remedy compensation for the lost work opportunity at the overtime rate.

M-00919 Step 4
April 13 1989, H4N-1K-C 34118
A full-time employee sent home sent home upon reaching the sixty (60) hour limit after having worked a partial nonscheduled day is entitled to be paid for the eight (8) hour guarantee provided in Article 8.8.B. Accordingly, the grievant in this case shall be paid for four (4) hours at the time and one-half rate.

M-01209 Step 4
October 6, 1994, A90N-4A-C 94023396
The question raised in this grievance involves the scheduling of non-ODL letter carriers to work overtime rather than ODL letter carriers.

After further review of this matter, we mutually agreed that no national interpretive issue is fairly presented in this case. Whether or not management properly schedules ODL and non-ODL carriers on any given day is a local dispute which is suitable for regional arbitration. It is further understood that the remedy for a violation, if any, any not result in the carrier exceeding the workhour limitations of Article 8.5.G for the service day and service week in question.

C-10873 Regional Arbitrator Levin
May 22, 1991, N7N-1P-C 25356
When management violated the contract by requiring non-OTDL carriers to work overtime while carriers on the OTDL were available, the appropriate remedy is give the carriers not on the list "administrative time off for the amount of time they worked overtime" and to pay at the overtime rate the carriers on the list for the time they should have worked.

C-10054 Regional Arbitrator Foster
June 1, 1990
Where overtime was inequitably distributed, remedy is payment, not correction of opportunities: "In view of the fact that almost a year has passed, it is not likely that future overtime opportunities will provide a meaningful remedy and, in any event, would create the potential of impinging upon the rights of other employees on the OTDL."

OWCP

SEE ALSO

Limited Duty, Page 203

C-06462 National Arbitrator Mittenthal
September 19, 1986, H1C-NA-C 121-122
Management may require an employee to be examined by a Postal Service physician only in non-emergency situations where the examination will not interfere or delay the employee's appointment with his chosen physician.

C-12424 National Arbitrator Mittenthal
October 5, 1992, H7N-1P-C 23321
A local policy requiring medical clearance by the Division Medical Officer for return to duty following non-occupational illness or injury was not a violation of the Agreement. To the extent that the policy was applied to those returning from an extended absence due to occupational illness or injury, it would be in conflict ELM section 864.42, and would thus be a violation of the Agreement.

C-04162 National Arbitrator Aaron
February 27, 1984, HIN-NAC-C 3
Local and regional departures from the procedures set forth in Sub-chapter 540 of the ELM are in conflict with those procedures and therefore with the National Agreement. Article 19 does not distinguish between national, local and regional levels of management.

C-00790 National Arbitrator Gamser
October 21,1982, H8T-4H-C 10343
Time spent receiving medical treatment for an on-the-job injury at the direction of the Postal Service in order to minimize Postal Service Compensation liability constitutes work time for overtime purposes under Article VIII, Section 4 of the National Agreement; the Arbitrator will not deal with external law.

C-19547 APWU Nat. Arbitrator Dobranski
G94C-4G-C 96077397, June 1, 1999
The union notification provisions of Article 7, Section 2.A of the National Agreement do not apply to permanent Rehabilitation Program full-time assignments made under ELM Section 546.

M-00797 Step 4
April 3, 1987, H4C-3A-C 25605
Forms CA-8 must be made available to employees in limited duty status on all tours.

M-01117 Management Instruction
MI EL 540-91-1, January 25, 1991

B. Free Choice
1. Physician. Under the Federal Employees' Compensation Act (FECA), an employee is guaranteed the right to a free choice of physician. The employee's immediate supervisor is responsible for fully explaining this right to the employee. The following provisions apply:

a. The postal medical officer or contract physician's evaluation is not required before an employee makes an initial choice of physician or receives continuation of pay. If an employee declines first aid treatment or medical evaluation by the postal medical officer or contract physician, authorization for first aid medical examination and treatment by the physician of the employee's choice must not be delayed or denied. An employee's declination in such cases may not be used as a basis to discontinue pay or to controvert a claim.

b. If the postal medical officer, contract physician, or health unit nurse provides initial evaluation and/or first aid treatment to an employee and then further medical care for the injury is needed, such an initial evaluation or treatment does not constitute the employee's initial choice of physician. An employee may elect either to continue medical treatment with the contract physician beyond the first aid treatment or to select a physician of his or her own choice.

c. If an employee elects to continue medical treatment with the postal medical officer or contract physician beyond the first aid treatment, that physician becomes the employees initial physician of choice.

2. Timing. An employee cannot be required or compelled to undergo medical examination and/or treatment during nonwork hours.

M-01428 Prearbitration Settlement
A94N-4A-C 979019738, February 18, 1999
The issue in this case is whether management violated the National Agreement when it contacted limited duty employees' physicians to receive information and/or clarification on a carrier's medical progress.

The Office of Workers' Compensation Programs (OWCP), U.S. Department of Labor, issued new regulations governing the administration of the Federal Employees' Compensation Act (FECA) effective January 4, 1999. The specific regulation that is germane to the instant case is 20 CFR 10.506 which specifically prohibits phone or personal contact initiated by the employer with the physician.

C-00936 National Arbitrator Aaron
January 24, 1983, H1C-5D-C 2128
Pursuant to the provisions of 546.141 of the ELM, A full-time rural carrier who has incurred an on-the-job injury must be offered a full-time regular position in another craft that minimizes adverse or disruptive impact on the employee.

C-00843 National Arbitrator Aaron
September 3, 1982, H8-C-4A-C 11834
Employees who had been on compensation under the Federal Employees' Compensation Act and who after more than one year were partially recovered from their injuries and were reinstated to the same level and step they had occupied at the time of their separation were not entitled to the salary levels they would have occupied had they been continuously employed from the dates of their separation to the dates of their reinstatement.

Arbitrator Aaron decided this case as a purely contractual issue and declined to look at external law. It is the position of the NALC that, notwithstanding Arbitrator Aaron's decision in this case, the Federal Employees' Compensation Act requires that employees, who have been on compensation for more than one year and are partially recovered from injuries, are when reinstated entitled to the salary levels they would have occupied had they been continuously employed from the dates of their separation to the dates of their reinstatement. The Contract Administration Unit should be contacted in any cases concerning this issue.

M-00744 Letter, April 7, 1980
The Federal Employees Compensation Act and Postal Service policy prohibit taking action discouraging the reporting of an accident or the filing of a claim for compensable injury with the Office of Workers Compensation Programs.

M-01385 Step 4
June 15, 1999, E94N-4E-C 98037067
The first issue contained in this case is whether management violated the National Agreement when it telephonically contracted limited duty employees• physicians to receive information and/or clarification on a carriers medical progress. The second issue is whether management violated the National Agreement when it contacted limited duty employees• physicians to receive information and/or clarification on a carriers medical progress by letter and did not send a copy of the letter to the carrier. During our discussion, it was mutually agreed to close this case at this level with the following understanding.

The Office of Workers• Compensation Programs (OWCP), U.S. Department of Labor, issued new regulations governing the administration of the Federal Employees Compensation (FECA) effective January 4, 1999. The specific regulation that is germane to the instant case is 20 CFR 10.506 which specifically prohibits phone or personal contact initiated by the employer with the physician. The EL-505 Section 6.3 specifically states that the employee will be sent copies of such correspondence.

M-00444 Step 4
July 19, 1977, NCC 5607
While the control office in this case is located in the main office, each station and branch of the Columbus facility is supposed to have control point personnel available for employees to report to when an injury occurs as well as reporting back to after being off work on continuation of pay.

M-00173 Pre-arb
October 7, 1981 H8N-5L-C 11249
An employee may be required to report an accident on the day it occurs; however, completion of the appropriate forms will be in accordance with applicable rules and regulations and need not be on the day of the accident.

M-01161 Prearb
December 10, 1993, H7N-5F-C 26185
It is agreed that an employee cannot be required or compelled by the postal Service to undergo a scheduled medical examination and/or treatment during nonwork hours.

M-00743 Letter, May 15, 1981
Accidents or compensation claims are not in themselves an appropriate basis for discipline. *See also* M-00486

M-00563 US Dept Labor Memorandum
April 14, 1983
Memorandum clarifying the role of the employing agency at hearings conducted under Section 812(b) of the Federal Employees' Compensation Act.

M-00484 Step 4
August 25, 1977, NCS 7676
It is not the National Policy of the Postal Service to induce, compel or discourage Postal employees from the exercise of their rights under the Federal Employees' Compensation Act, as amended. Therefore, local management should exercise good judgment to ensure that the interviews may not be interpreted as a program of coercion or intimidation against employees who have sustained on-the-job injuries.

M-00318 Step 4
April 29, 1986, H1C-NA-C 106
Controversion with termination of pay shall only be effected based upon the conditions listed in Part 545.51 of the ELM.

M-00445 Letter, September 14, 1984
H8N-3W-C 24612
The Federal Employees' Compensation Act (5 USC, 8101, *et seq*.) provides that an employee who is required to appear as a party or witness in the prosecution of a third-party court action is in an active-duty status while so engaged (5 USC, 8131(a)(2)); therefore, such an employee is entitled to be paid for the time spent in court. A postal employee who appears as a witness in a third-party action, which has been assigned to the Postal Service, is in an official duty status for the time spent in court (ELM 516.4) and for the time spent traveling between the court and his or her work site (ELM 438.13). Any time spent traveling between an employee's residence and the court is considered commuting time and, therefore, is not compensable. An employee who prosecutes a third-party action in his or her own name is not entitled to official duty status, as defined in Section 516.41 of the ELM. For administrative purposes, however, those employees will be compensated for court appearances and travel time "as if in an official duty status." An employee who is prosecuting a third-party action in his or her own name is not treated as if in an official duty status for the time spent developing the case. Any time spent preparing the case within an employee's regular work schedule is charged in accordance with the procedures for annual leave or LWOP.

M-00772 NALC Memo, Herbert A. Doyle
January 12, 1987
An employee who appears as a witness in a third-party action which has been assigned to the Postal Service, is in official duty status for the time spent in court and for the time spent traveling between the court and the work site.

M-00998 Step 4
April 11, 1991, H7N-3W-C 22137
The issue in this grievance is whether management may require an employee to complete PS Form 3971 to receive Continuation of Pay (COP).

During our discussion, we agreed that management may require an employee to complete PS Form 3971 to request Continuation of Pay. However, we also agreed that the proper response to an employee who fails to complete PS Form 3971 for COP is appropriate corrective action rather than withholding COP to which the employee is otherwise entitled.

M-00887 Step 4
November 16, 1988, H4N-4C-C 38635
The issuance of local forms, and the local revision of existing forms is governed by Section 324.12 of the Administrative Support Manual (ASM). The locally developed forms at issue were not promulgated according to ASM, Section 324.12. Therefore, management will discontinue their use *See also* M-00849, M-00852.

The form at issue in this case was a locally developed list of available limited duty assignments provided to physicians.

M-01091 Prearb
May 18, 1992, H7N-1Q-C 30532
The issue in these grievances is whether management may send a letter to an employee and/or the employee's physician informing them that limited duty is available.

During our discussion, we mutually agreed that in order to resolve these particular grievances that standard letters would be developed at the national level to replace the letters which were being used locally. Copies of those letters are attached. The Union will provide comments on the content of these letters, without prejudice to the positions of the parties regarding whether Article 19 is applicable or whether such letters should be developed nationally or locally. After comments, if any, are received, these letters will be transmitted and used by the field instead of those letters at issue in these grievances.

The parties further agree that this settlement is limited solely to the question of letters issued to inform employees of their obligation regarding limited duty availability and to inform physicians of limited duty availability.

M-00229 Step 4
February 10, 1982, H8N-5G-C 21570
An employee may be required to report an accident on the day it occurs; however, completion of the appropriate forms will be in accordance with applicable rules and regulations and need not be on the day of the accident.

M-00948 Step 4
October 6, 1989, H7N-4J-D-12845
The issue in this grievance is whether management violated the National Agreement when it withdrew the grievant from limited duty and issued a Notice of Proposed Removal, under the facts of this case.

After reviewing this matter, we mutually agreed that no national interpretive issue is fairly presented in this case. We further agreed that separation of the grievant prior to management having received a response to its recommendation from the department of Labor, was improper.

Accordingly, we agreed to remand this case to the parties at Step 3 with instructions to quash the Notice of Proposed Removal and grant the grievant a make-whole remedy. Notwithstanding the above, we further agreed that this decision shall not be construed to prevent management from re-issuing a notice of removal effective as of the date of the decision of the Department of Labor with respect to this grievant, or the Union's opportunity to further grieve any such subsequent disciplinary action.

M-00896 Step 4
February 10, 1989, H4N-3W-C 50311
By accepting a limited duty assignment a letter carrier does not waive the opportunity to contest the propriety of that assignment through the grievance system.

M-00666 Step 4
April 6, 1976, NCN 7057
Even though the dog's owner agreed to pay for the medical expenses referenced in the grievance, the OWCP requires submission of the CA forms. Accordingly, the grievance is sustained.

C-02695 Regional Arbitrator Caraway
November 24, 1982, S1N-3W-C 4642
Where a supervisor refused to issue Forms CA-1 and CA-16 to a dog-bitten letter carrier, and where COP is subsequently not paid for time missed as a result, USPS is ordered to pay carrier for lost time.

C-01396 Regional Arbitrator Caraway
August 23, 1982, S1N-3U-C 191
"Once the employee has filed a CA-1 with the Department of Labor, that agency has sole authority over [that employee's] claim. The arbitrator is divested of authority."

C-01659 Regional Arbitrator Dobranski
October 20, 1981, C8N-4A-C 20164
OWCP has exclusive jurisdiction over compensation claims; a grievance filed concerning a claim is not arbitrable.

C-04936 Regional Arbitrator Scearce
May 28, 1985, S1N-3W-C 19996
An arbitrator lacks authority to order payment of COP.

M-01173 OWCP Letter
December 3, 1993
It has recently been brought to our attention that medical reports from physicians employed by or under contract to employing agencies are being used to create conflicts in medical evidence. We have determined that these reports should not be considered second opinions for the purpose of making determinations of entitlement based on the weight of medical evidence, or for creating conflicts in medical evidence.

The following paragraph is being added to paragraph 9 of Procedure Manual Chapter 2-810, Developing and Evaluating Medical Evidence, to reflect this determination:

A report submitted by a physician employed by or under contract to the claimant's employing agency may not be considered a second opinion report for the purposes of creating a conflict in medical evidence or for reducing or terminating benefits on the basis that the weight of medical evidence rests with that report. Such a report must receive due consideration, however, and if its findings or conclusions differ materially from those of the treating physician, the CE should make an immediate second opinion referral.

C-10692 Regional Arbitrator Leventhal
August 30, 1990
Management violated the contract when it refused to pay COP to grievant who failed to timely submit CA-1, where management contributed to untimely filing.

C-09888 Regional Arbitrator Sobel
March 18, 1990
Management did not violate the contract by nonscheduling a PTFS carrier injured on-the-job during that portion of the work day the carrier received therapy.

C-09401 Regional Arbitrator Scearce
"It is the supervisor's obligation to facilitate the notice/filing procedure for a claimed injury; no authority exists to make a judgment as to whether such injury exists or to issue form(s) on convenience."

"The Service violated applicable regulations when it failed to timely issue applicable [compensation] forms to the grievant and to timely assist in their completions; however, such violation was technical in nature and the remedy sought is inappropriate."

C-10009 Regional Arbitrator Barker
May 12, 1990
Management violated ELM 545.62c when it ordered the grievant to return to full duty based on telephone contact with grievant's doctor, but before receiving a revised CA-17.

PARCELS

C-03222 National Arbitrator Aaron
March 11, 1982, H8N-4E-C 19254
Management may require foot carriers to carry parcels weighing more than two pounds on an infrequent and non-routine basis, provided there is no equally prompt, efficient and reliable way to effect delivery.

M-00581 Remand Agreement, October 5, 1983
Recap of Aaron two-pound parcel award; further provides that in each grievance "management will make a full and detailed statement of the facts which management believes show that the conditions of the [Aaron] award have been satisfied". *But see* C-05335, C-05669, C-6499C-

C-05335 Regional Arbitrator Jacobowski
October 9, 1985, C1N-4C-C 8352
Management did not violate the contract when it required carriers to deliver parcels weighing more than two pounds. *See also* C-05669, C-6499

C-09672 Regional Arbitrator Germano
February 1, 1990, N7N-1W-C 24856
Management improperly required foot carriers to deliver catalogs weighing more than two pounds.

M-00477 Step 4
May 2, 1985, H1N-3W-C 32759
In offices where there is a CFS/CMU site, letter carriers shall not be required to forward or return any class of mail, including oversized parcels. Letter carriers shall continue to endorse undeliverable as addressed in accordance with current policy.

M-00714 Step 4
February 22, 1980, N8-W-0217
Employees other than letter carriers will be assigned the responsibility for the day-to-day preparation of second notices for parcels.

M-00793 Step 4
September 11, 1987, H4N-4H-C 34936
Parcels will be delivered to the addressee or his or her authorized agent. We agreed that the authorized agent may be an apartment manager.

M-00742 Step 4
April 20, 1976, NCW 951
In those offices where carriers do not receive their parcel post for sequencing until after they are tied out it would be impractical to reverse a letter. Employees in these circumstances are to sequence the parcel post mail while loading their vehicles.

M-00409 Step 4
August 5, 1983, H1N-3W-C 20236
A carrier has the option of reversing a letter in the letter separation as a reminder of a parcel or odd-sized piece of mail for delivery. The word "parcel" in Section 225.16 of the M-41 concerns mail matter which cannot be routed into the flat or letter separations and does not include parcels weighing two pounds or more. Section 322.3 of the M-41 addresses parcels weighing two pounds or more and provides the method of reminding a carrier of the next parcel for delivery. *See also* M-00604

M-01239 Step 4
July 25, 1995, E90N-4E-C 94037607
The issue in this grievance is whether Management violated the National Agreement by requiring letter carriers to leave non-accountable parcel post mail at the delivery address when the patron is not at home or unavailable to receive the parcel.

During our discussions the parties agreed that the practice is moot because it has been discontinued. Further tests of this practice may occur after the national union has been notified. Permanent adoption of this practice may only occur after the appropriate changes are made to handbooks and manuals by Article 19 of the National Agreement.

PART-TIME FLEXIBLES

SEE ALSO

Leave, PTF, Page 176
Guarantees, PTF, Page 141
Breaks, PTF, Page 43

Memorandum of Understanding
1990 National Agreement, June 12, 1991
RE: ARTICLE 7.3. Part-time flexible employees with three (3) or more years of service in the same craft and same installation on the effective date of this award, who are employed in an office with 200 or more man years of employment will not have their average weekly workhours reduced as a result of the revision to Article 7.3 of the 1990 National Agreement.

Nothing shall preclude management from reducing such hours for other legitimate reasons.

The average weekly workhours for the part-time flexible employees with three (3) or more years of service will be the weekly workhour average for the 12 months prior to the effective date of this Agreement. The weekly workhour average cannot exceed forty (40) hours or be combined with any paid leave to exceed forty (40) hours.

M-00009 Step 4
December 21, 1977, NCC 8760
The regular straight time hourly rate of part-time flexible employees incorporates compensation for the nine holidays cited in Article XI, Section 1 of the National Agreement. For this reason part-time flexible employees are compensated for overtime based upon the same rate as full-time regular employees.

M-00518 Step 4
July 6, 1984, H8N-5K-C 13569
Part-Time flexible carriers may be assigned to perform clerical duties and may be required to pass examinations on schemes of city primary distribution if their assignment anticipates use of scheme knowledge as provided by Part 124 of the M-41 Handbook.

C-03807 National Arbitrator Mittenthal
July 22, 1983, H1N-5D-C 2120
A past practice of assigning PTFS carriers to available work by seniority is inconsistent and in conflict with the National Agreement.

M-00121 Step 4
November 22, 1978, NCS 12506
There is no contractual obligation to equalize part-time flexible hours. However, normally every effort is made to equalize the hours consistent with service needs and the skills required.

M-00371 Step 4
September 15, 1977, NCS 8022
Management should whenever possible attempt to schedule part-time flexible employees so that as many of the part-time employees as possible can be used without resorting to overtime by the other part-time flexible employees.

M-00355 Step 4
January 13, 1978, NCE 8072
Management has and when possible, does attempt to equalize part-time flexible employee hours and this effort should be continued.

M-00019 Step 4
December 13, 1977, NCN 7053
Consideration should be given to granting annual leave in the carrier craft prior to assigning part-time flexible carriers in the clerk craft.

M-01004 Step 4
September 30, 1982, H8N-4B-C 27654
Part-time flexible carriers cannot be required to "stand-by" or remain at home, under the threat of discipline, for a call-in or a nonscheduled day. Should a supervisor be unable to contact an employee whose services are needed, the employee merely remains nonscheduled for that day.

M-00013 Step 4
November 8, 1977, NCW 9013
There is no contractual provision, nor is it intended, that part-time flexible employees are required to remain at their home or to call the Post Office to ascertain whether their services are needed. *See also* M-00197, M-00041.

M-01067 USPS Letter
February 14, 1972
PTF employees must be scheduled at least 4 hours per pay period.

LOANING OR DETAILING

M-01470 Step 4 Settlement
September 26, 2002, C94N-4C-C-99224809
PTF employees who agree may be temporarily detailed or "loaned" from one post office (installation) to another.

If a PTF does not agree to be temporarily detailed or loaned to another post office, management may involuntarily detail or loan the employee in accordance with Article 12.5.B.5 of the 2001-2006 National Agreement. Whether the notice requirement of Article 12.5.B.5 was met in this case is not an interpretive issue.

PTF employees may not be temporarily detailed or loaned from one post office to another if the sole reason for the detail or loan is to avoid overtime. Whether in this case the "sole reason" for the details or loans at issue in this case was to avoid overtime is not an interpretive issue.

The contractual rights of the parties as described above will not be altered, amended, or modified by any discussions or agreements with a prospective new hire during the pre-employment selection process. *See also M-01472*

M-00241 Step 4
July 3, 1972, N-E-380
The incidental detailing of a part-time flexible employee from another post office for the sole reason of avoiding overtime, will be discontinued.

C-016082 Regional Arbitrator Zigman
December 5, 1996, E90N-4F-C 95004550
The arbitrator found that the Postal Service violated the national agreement when it detailed a PTF to another installation for the sole purpose of avoiding overtime. He ordered as a remedy that carriers on the OTDL be paid for the hours they would have worked if the PTF had not been detailed.

C-11001 Regional Arbitrator Sobel
July 30, 1991
Management violated the contract by calling in a PTF from another office to work rather than calling in the grievant to work overtime on his nonscheduled day.

MAXIMUM HOURS

ELM Section 432.32
Maximum Hours Allowed. The maximum hours of work allowed depends on employee classifications as follows:

c. All other employees. [PTFS] Except in emergency situations as determined by the PMG (or designee), these employees may not be required to work more than 12 hours in one service day. In addition, the total hours of daily service, including scheduled work hours, overtime, and meal time, may not be extended over a period longer than 12 consecutive hours.

M-01282 Prearbitration Settlement
February 26, 1997, E90N-4E-C 94053872
The issue in this case is whether management violated the National Agreement, specifically Section 432.32 of the Employee and Labor Relations Manual (ELM), by working part-time flexible city carriers over 12 hours in a day.

The parties agree that the decision rendered by Arbitrator Snow in case B90N-4B-C 94027390 provides sufficient guidance to address the issue in the instant case. In that case, the arbitrator ruled that ELM 432.32, as currently written, applies to Transitional Employees. It is clear from his ruling that ELM 432.32 also applies to part-time flexible employees. Therefore, this case will be remanded to the parties at the local level to determine the appropriate remedy.

M-01042 APWU Step 4
April 22, 1986, H4C-2U-C 807
The issue in these grievances is whether management violated the National Agreement by requiring PTF employees to work 12 1/2 hours in one service day.

During our discussion, we mutually agreed that the following constitutes full settlement of these cases:

Except in emergency situations as determined by the PMG (or designee), these employees may not be required to work more than 12 hours in one service day. In addition, total hours of daily service, including scheduled work hours, overtime, and meal time, may not be extended over a period longer than 12 consecutive hours.

M-01043 APWU Step 4
June 17, 1983, H1C-1L-C-9117
Part-time flexibles may be required to observe a service day lasting more than 10 hours but less than 12 hours. Whether or not there exists a valid past practice in this local office to limit PTF's to a 10-hour service week is determined by examination of the fact circumstances.

PART-TIME REGULARS

C-23852 National Arbitrator Nolan
December 27, 2002, B94N-4B-C 97027260
In the letter carrier craft, the Postal Service may not create part-time regular assignments with six-day schedules.

M-01337 Step 4
August 12, 1998, D94N-4D-C 98031046
Part-time regulars are regular work force employees who are assigned to work regular schedules of less than 40 hours in a service week.

Part-time regular schedules should not be altered on a day-to-day or week-to-week basis.

Part-time regulars are normally to be worked within the schedules for which they are hired. They can occasionally be required to work beyond their scheduled hours of duty. However, their work hours should not be expanded on a regular or frequent basis.

It was also agreed that part-time employees who are expected to be available to work flexible hours as assigned during the course of a service week should be classified as part-time flexibles.

M-00358 Step 4
November 1, 1985, H4N-5G-C 3573
We mutually agreed that a part-time regular employees' normal work-week is five (5) service days; however, management is not prohibited from using them on six (6) days should the need arise.

M-01269 Prearbitration Settlement
December 3, 1997, H94N-4H-C 96042471
This grievance concerns the utilization of employees who have been classified as part-time regulars.

After reviewing this matter, it was mutually agreed to the following:

Part-time regulars are regular work force employees who are assigned to work regular schedules of less than 40 hours in a service week.

Part-time regular schedules should not be altered on a day-to-day or week-to-week basis.

Part-time regulars are normally to be worked within the schedules for which they are hired. They can occasionally be required to work beyond their scheduled hours of duty. However, their work hours should not be extended on a regular or frequent basis.

It was also agreed that part-time employees who are expected to be available to work flexible hours as assigned during the course of a service week should be classified as part-time flexibles.

It was further agreed to remand this case for further processing consistent with the above understanding, including a determination of what remedy, if any, is appropriate in the case of a violation.

M-01040 APWU Step 4
March 11, 1987, H4C-1J-C-18395
The issue in this grievance is whether part-time regular employees are entitled to overtime for work performed in excess of their normal schedule but not in excess of 8 hours per day or 40 hours per week.

The parties at this level recognize that part-time regular employees are not entitled to overtime pay until the work performed exceeds 8 hours in a day or 40 hours in a week.

M-01452 Prearbitration Settlement
April 25, 2001, H94N-4H-C 99112047
The parties agree that while the filling of a part-time regular city letter carrier craft position is not specifically addressed in Article 41.1, a full-time city letter carrier may apply for a part-time regular letter carrier craft position. Such application should receive consideration prior to seeking to fill the part-time regular city letter carrier craft position from outside the Postal Service, pursuant to Section 241.241 of the EL-312 (December 1999). In the absence of a Local Memorandum of Understanding provision on the matter which is not in conflict or inconsistent with the National Agreement, we agree that this is the manner by which applicants for part-time regular positions should be given consideration.

M-01044 APWU Step 4
December 6, 1988, H4T-3U-C-43451
The issue in this grievance is whether PTR's are covered by the 8 within 8, 9, 10 provisions of the National Agreement.

There is no dispute between the parties at this level that Article 8.2.C does not apply to part-time employees.

M-00574 Settlement, November 4, 1971
The references to "part-time employees" in Article 8, Section 3 applies to part-time regular employees.

M-00915 Step 4
April 13 1989, H4N-5C-C 36660
The issue in this grievance is whether local management has improperly established part-time regular router positions in contravention to the provisions of the [July 21, 1987] Router Memorandum of Understanding. Item 3, of the September 21, 1988, Router Assignment Instructions [M-00885]states that "Router positions should be maximized to full-time, 8-hour positions to the extent practicable." As described in this instant matter, the utilization of the part-time routers is inconsistent with the intent of the aforecited memorandum. *See also* M-00916.

Past Practice

See Article 5 in the JCAM for an explanation of past practice.

C-03241 National Arbitrator Mittenthal
July 10, 1979, N8N-AT-0006
The Postal Service is entitled to insist that the location of Step 3 meetings be governed by past practice.

C-03807 National Arbitrator Mittenthal
July 22, 1983, H1N-5D-C 2120
A past practice of assigning PTFS carriers to available work by seniority is inconsistent and in conflict with the National Agreement.

C-10827 Regional Arbitrator Goldstein
September 28, 1990, C7N-4A-C 21728
The arbitrator found that the Union is under no obligation to accept the customary "boiler-plate language" settling cases at Step 3 on a non-citeable, non-precidential basis. Since the prior settlements relied upon by management were themselves "non-citeable", they may not be cited to establish a past practice.

M-00212 Pre-arb, March 22, 1974, NW 3165
The per diem allowances to the particular grievants will be reinstituted and continued as long as they are assigned to the Fort Lewis Military Installation. It is understood, however, that these allowances are contrary to postal regulations and are being continued solely because there had developed a past practice as to the grievants.

C-05186 Regional Arbitrator Snow
September 30, 1985, W1N-5D-C 4592
Where reserve regular letter carriers have been assigned to specific stations as a matter of past practice, management may not change to a city-wide area bench system of assignment.

M-00702 Step 4, May 3, 1979, NCS 18037
In those installations where there was a past practice of allowing coffee breaks longer than the twenty minutes provided for in the National Agreement that past practice should continue.

M-00517 Step 4
July 5, 1984, H1N-4K-C 13691
Whether or not such radios or tape cassettes should be permitted is determined by applying Article 14 and past practice at the local office to the fact circumstances.

M-00242 Step 4
September 13, 1976, NCE 2097
Management should not deduct reasonable comforts/rest stops from the total street time during route inspections if deduction of the time is contrary to pass local practice.

M-00178 Step 4
July 21, 1977, NCC 7451
All requests for leave on Saturday should be treated on an equal basis as has been the past practice at this facility.

C-04396 Regional Arbitrator Britton
July 10, 1984, S1N-3U-C 4356
An established past practice of allowing someone other than the affected employee to call in sick may not be unilaterally changed.

M-00786 Settlement Agreement
March 22, 1983
The following applies to offices which permitted radio headset use prior to November 25, 1982: The use of radio headsets is permissible only for employees who perform duties while seated and/or stationary and only where use of a headset will not interfere with performance of duties or constitute a safety hazard. Employees will not be permitted to wear or use radio headsets under other conditions. *See also* M-00499.

M-00297 Step 4
September 28, 1983, H1N-5H-C 14508
Past practice and any other historical evidence available should be used to determine how the parties have defined a "delivery unit." For example, how is overtime distributed and how is the OTDL established.

M-00082 Step 4
October 31, 1985, H4N-3U-C 3319
Whether or not "Reserve Letter Carrier" assignments should be posted for bid can only be determined by application of established past practice to the fact circumstances involved.

M-00941 Step 4
June 27, 1989, H7N-5H 7814
In those installations where longer break periods were provided by past local negotiation, the longer break periods will be used.

M-00549 Pre-arb
October 3, 1986, H4N 5F C 1620
Article 41.1.A.7 does not specify placement of unassigned regulars by juniority or by seniority. Where a question of established past practice exists it will be determined in regional arbitration.

M-00482 Step 4
June 24, 1982, H8N-3T-C 36426
The question raised in this grievance involves whether local management was discriminatory by denying the employee the use of his earphone radio while casing mail. Whether this matter was properly handled can only be determined by applying the fact circumstances involved against the past practice in the local installation.

M-00240 Step 4
June 24, 1977, NCC 5581
Letter carriers were permitted to go to the bakery next door to the post office on the clock in order to purchase a roll to eat with their coffee in the morning. The fact that the carriers' starting time was changed by 30 minutes does not, in and of itself, appear to be reasonable grounds on which to discontinue the practice of going to the bakery on the clock in order to purchase a roll. Accordingly, by copy of this letter, the postmaster is instructed to continue the past practice with respect to purchasing rolls, with the understanding that office time will not in any way be expanded by such a practice.

M-00179 Step 4
May 1, 1981, H8N-5C-C 13673
This grievance involves whether the carriers in the office in question are entitled to two fifteen minute breaks by virtue of the previous long-standing practice of granting such breaks. Upon review of the issue raised along with other documents provided; including previous route inspection data, it is our determination that the carriers are entitled to 2 fifteen minutes breaks.

M-00763 Step 4
April 15, 1987, H1N-3U-C 28786
The right to hold steward elections, on the clock, may be established by past practice.

M-00162 Memo, January 2, 1979
At those delivery units where the drinking of coffee was previously permitted, in conjunction with the casing of mail, that practice may be continued.

M-01043 APWU Step 4
June 17, 1983, H1C-1L-C-9117
Part-time flexibles may be required to observe a service day lasting more than 10 hours but less than 12 hours. Whether or not there exists a valid past practice in this local office to limit PTF's to a 10-hour service week is determined by examination of the fact circumstances.

C-11195 Regional Arbitrator Dworkin
July 4, 1986
Management's removal of a makeshift break area violated rights established by binding past practice.

C-10574 Regional Arbitrator Scearce
January 30, 1991
"It is a well-established arbitral axiom that so-called 'practices' of the parties cannot and do not abrogate written provisions of a collective bargaining agreement."

C-00228 Regional Arbitrator Zack
June 25, 1984, N1C-1J-C 19817
Management improperly changed a past practice of permitting floor mats.

C-00164 Regional Arbitrator Caraway
May 16, 1984, S1V-3A-C 4277
Management improperly terminated a past practice of permitting clerks to use stools.

C-00166 Regional Arbitrator Cohen
January 30, 1980, ACC 5566
Management improperly terminated a past practice of permitting a five-minute wash-up period prior to lunch and at end of tour.

C-00155 Regional Arbitrator Eaton
April 4, 1986, W1C-5D-C 25265
Management was not bound by past practice of permitting 15 minute breaks, where no management official with "contracting authority" was aware of the practice.

C-00025 Regional Arbitrator McConnell
June 28, 1983, E1C-2M-C 2465
Management did not act improperly by changing a past practice of releasing stewards to hold grievance discussions within one hour.

PAY

M-01407 Memorandum of Understanding, March 21, 2000

It is hereby agreed by the United States Postal Service and the National Association of Letter Carriers, AFL-CIO, that the following represents the parties' agreement with regard to implementation of the upgrade issue emanating from the September 19, 1999 Fleischli Award, our agreement regarding case configuration when using the vertical flat casing work method, and additional provisions relative to the 1998 National Agreement.

Effective November 18, 2000, all city letter carriers grade 5 will be upgraded and the pay differential of grade 6 carrier technicians shall be maintained in accordance with the procedures set forth in the attached Memorandum of Understanding [M-01406].

2. The provisions of Article 35, Section 2, concerning the national joint EAP committee will be renewed for the remainder of the term of the 1998 National Agreement.

3. The Memorandum of Understanding Re: Leave Sharing found on page 161 of the 1994 National Agreement will be renewed for the remainder of the term of the 1998 National Agreement.

4. The Memorandum of Understanding Re: Sick Leave for Dependent Care found on page 162 of the 1994 National Agreement will be renewed for the remainder of the term of the 1998 National Agreement.

5. The 30-day period of local implementation specified in Article 30 and the Memorandum of Understanding Re: Local Implementation will commence on October 2, 2000.

M-01406 Memorandum of Understanding, March 21, 2000

RE: Upgrade of NALC Represented Employees

It is hereby agreed by the United States Postal Service and the National Association of Letter Carriers, AFL-CIO, that, based on Arbitrator Fleischli's September 19, 1999, Interest Arbitration Award regarding the upgrade of NALC represented grade 5 employees and maintaining the existing salary differential for NALC represented grade 6 carrier technician employees as well as other considerations, the following procedures will apply:

1. **UPGRADE OF NALC REPRESENTED GRADE 5 EMPLOYEES**

a. Effective November 18, 2000, all NALC represented grade 5 employees will be upgraded to new NALC grade 1. The upgrade applies to full-time, part-time regular, part-time flexible, and transitional employees. The parties further agree that the new NALC grade 1 salary schedule shall be implemented, effective November 18, 2000.

b. All NALC represented grade 5 employees will be upgraded to new NALC grade 1 based on a step-to-step upgrade procedure. Effective November 18, 2000, employees will be upgraded to new NALC grade 1 at the same step they previously held in grade 5. As an example, grade 5 step A employees will be upgraded to new NALC grade 1 step A, while grade 5 step O employees will be upgraded to new NALC grade step 1 step O. All upgraded employees will receive waiting period credit applied toward their next step for accumulated weeks served in their current step.

2. **MAINTAINING THE CARRIER TECHNICAL DIFFERENTIAL**

a. In order to maintain the carrier technician differential, effective November 18, 2000, NALC represented grade 6 carrier technician employees (occupation code 2310-2010) will be placed into new NALC grade 2. NALC represented grade 6 vehicle operations and maintenance assistant employees (occupation code 2310-010) will not be placed into new NALC grade 2. Instead, these employees will continue to be paid at new NALC grade 1. The parties further agree that the new NALC grade 2 salary schedule shall be implemented, effective November 18, 2000.

b. New NALC grade 2 salaries will be developed by applying the dollar differential by step between NALC grades 5 and 6 as of November 18, 2000. This dollar differential will then be added to new NALC grade 1, by step, to create new NALC grade 2, by step effective November 18, 2000.

c. NALC grade 6 carrier technician employees will be placed into new NALC grace based on a step-to-step procedure. Effective November 18, 2000, NALC grade 6 carrier technician employees will be placed into the new NALC grade 2 at the same step they previously held in grade 6. As an example, grade 6 step A employees will be placed into the new NALC grade 2 step A, while grade 6 step O employees will be placed into the new NALC grade 2 step O. All employees placed into the new NALC grade 2 will receive waiting period credit applied towards their next step based on accumulated weeks served in their current step.

3. ADDRESSING THE PROMOTION PAY ANOMALY

The parties intend to continue discussions either prior to or during national negotiations in 2001 in an effort to permanently resolve the promotion pay anomaly associated with the NALC salary schedule.

The parties agree this Memorandum of Understanding is a full and complete settlement of any claims that have been, or could be, asserted against the Postal Service with regard to the upgrade provisions of arbitrator Fleischli's September 19, 1999, Interest Arbitration Award. This Memorandum of Understanding is being entered into on a nonprecedential basis and may not be cited or used in any forum whatsoever, except to enforce its provisions.

M-01053 APWU Pre-arb
November 21, 1983, H8C-4B-C-29625
The question in this grievance is whether management violated the National Agreement by not compensating employees for time spent outside their normal schedule completing an inservice examination.

1. Inservice examinations are to be conducted on a no gain-no loss basis.

2. Management will not intentionally schedule inservice examinations in order to avoid any payment applicable under the no gain-no loss principle.

M-01313 Settlement Agreement
February 4, 1986, H4C-NA-C 1
"New hires" settlement covering employees hired between December 24, 1984 and January 18, 1985.

M-01052 APWU Step 4
March 10, 1986, H4C-1M-C-5833
The issue in this grievance is entitlement to compensation for time spent outside of the grievant's regular schedule in an interview. During our discussion, we mutually agreed to settle this case as follows:

1. Any job interviews conducted are to be on a no gain-no loss basis.

2. Management will not intentionally schedule interviews in order to avoid any payment applicable under the no gain-no loss principle.

C-10629 Regional Arbitrator Roukis
February 14, 1991, N7N-1N-C 33292
Management did not violate the contract when it refused a request for a cash advance.

M-00568 Postal Bulletin, June 28, 1983
Postal Bulletin notice on the City Letter Carrier 7:01 Rule. (Reference ELM 432.53)

M-01349 USPS Letter
September 22, 1988
USPS policy does not allow field offices to stop Bank/Direct Deposits until salary advances are collected.

C-10931 Regional Arbitrator Stephens
July 5, 1991, S7N-3S-C 36331
Employee must be paid for time spent after clocking out locking up the office and the parking lot.

COLA ROLL IN

M-00245 Step 4
July 2, 1982, H1N-5K-C 3568
The file reflects that the delay in processing the required forms was not the fault of the employee. The General Manager has the necessary documentation which will allow the roll-in of this employee's COLA on a retroactive basis.

M-01090 USPS Letter
April 2, 1992
This letter addresses an issue concerning the COLA roll-in provision under the current Collective Bargaining Agreement. Specifically, the issue relates to the application of this provision to a segment of employees covered by the Federal Employees Retirement System (FERS).

The COLA roll-in provision under the current agreement provides employees, who meet the eligibility requirements for an optional retirement, with the opportunity to roll into basic pay the COLA accumulated and paid under the predecessor agreement. This opportunity is available to employees covered under the Civil Service Retirement System and FERS.

Employees covered by FERS are not only eligible for optional retirement, but may also choose an immediate reduced annuity if they meet the required minimum retirement age and have at least 10 years of creditable service, 5 years of which must be creditable civilian service. When implementing the COLA roll-in provision under the current agreement, employees who may have been eligible for an immediate reduced annuity under FERS were not given the opportunity to roll in their COLA.

To remedy this situation, the Postal Service is agreeable to offering the aforementioned FERS employees the option to roll in COLA as specified under the agreement.

C-00377 National Arbitrator Mittenthal
December 12, 1983, H1C-3U-C 10899
A supervisor who could not exercise the COLA roll-in option because of his supervisory status may not later do so when he returns to the bargaining unit.

RATE PROTECTION RATE

M-00092 Pre-arb
April 4, 1985, H1N-1J-C 18920
If an employee, while assigned to the lower grade position and still in the protected rate period, voluntarily bids on a position in that same grade, such a bid is not considered a voluntary reduction to a lower salary standing at the employee's request.

SAVED GRADE

M-00875 Step 4
December 5, 1988, H7N-3T-C 13947
The issue in this grievance is whether management improperly refused to afford the grievant a saved grade of pay when his position was eliminated.

After reviewing this matter, we mutually agreed that no national interpretive issue is fairly presented in this case. We further agreed that since ELM 421.53 is not specifically limited to situations where employees are displaced due to technological or mechanization change, the grievant should be restored to the appropriate saved grade of pay, retroactive to March 12, 1988 and reimbursed $110.32 taken from his pay on pay period 10, without payment of any interest on any backpay calculated.

M-01194 Step 4
March 10, 1994, H7N-5S-C-29947
The interpretive question at the time of appeal which was considered at Step 4 involved the appropriate management level responsible for approval of saved grade.

After reviewing this matter, we mutually agreed that the issue of the appropriate management level for approval of saved grade was resolved by the changes to ELM 421.531 published in Postal Bulletin 21849 dated September 2, 1993.

READING TIME

C-03235 National Arbitrator Garrett
July 30, 1975, NB-NAT-2705
Article XLI, Section 3.K. of the new M-41 Handbook requires payment to a carrier for time spent studying the new handbook at the direction or with the permission of the Postal Service, but only for a reasonable time. Whether individual carriers are entitled to compensation under Article XLI, Section 3.K. shall be handled through the Article XV grievance procedure with due regard to the facts in each individual case.

M-01019 Step 4
December 16, 1986, H1N-5B-C 14665
Non-cite settlement providing 20 minutes pay at the straight time rate for time spent reading material sent by management to employees' residences. *See also* M-00925.

SUNDAY PREMIUM

M-01041 APWU Step 4
January 27, 1983, H8C-2M-C-10215
In the instant case, the grievant worked a portion of his scheduled tour, which called for him to work into Sunday, and took annual leave for the remainder of the scheduled tour. The portion of the tour for which the grievant received annual leave was that part which actually fell on Sunday.

The parties agree that under the definition of Sunday premium, an employee who has a scheduled tour, any part of which included Sunday, is entitled to "Sunday premium" for the hours actually worked in that schedule. This is true even though an employee may not work that portion of the tour which falls on the calendar day of Sunday, as was the case in this instance.

T-COLA

C-13671 National Arbitrator Mittenthal
June 16, 1994, H1N-5D-C 297 et al
Alaska T-Cola Grievances
Any employees covered by the grievance who were not party to the federal litigation and hence not beneficiaries of the settlement and who actually worked between April 30, 1987 and July 10, 1992, should receive backpay for whatever FLSA overtime compensation they were denied.

M-01164 Step 4
October 5, 1993, Q90N-4Q-C 93049666
During our discussion, I confirmed that the Postal Service implemented payroll system changes for the computation of FLSA overtime in all TCOLA jurisdictions effective paychecks dated July 31, 1992 (USPS pay period July 11-24, 1992). It is further my understanding that these revisions have remedied the problem raised in this grievance. Accordingly, we agreed to close this case.

STEP INCREASES

PROMOTION PAY

M-01011 Prearb
June 13, 1990, H7C-NA-C-39
1. The United States Postal Service (USPS), American Postal Workers Union, AFL-CIO (APWU) and the National Association of Letter Carriers, AFL-CIO (NALC) hereby agree to a full, final and binding resolution of the above-referenced national level grievance. All those grievance matters currently pending which specifically challenge the step placement of an affected employee who has been promoted to a higher grade and subsequently reassigned to the employee's former grade will be reviewed and resolved in accordance with this Memorandum of Settlement, except that separate issues in those cases not within the scope of this Settlement Agreement are to be handled by the parties in accordance with the usual grievance arbitration procedure.

2. As a consequence of the current promotion practice, some employees promoted from steps A, B and C (referred to herein as affected employees), in some pay periods receive less compensation than if they had not been promoted and had remained in the former grade. To address this promotion pay anomaly, USPS, APWU and NALC agree to the following principle:

No employee will, as a consequence of a promotion, at any time be compensated less than that employee would have earned if the employee had not been promoted but had, instead, merely advanced in step increments in that employee's grade as a result of fulfilling the waiting time requirements necessary for step increases. This includes affected employees who are or were promoted to a higher grade and subsequently reassigned to their former grade.

3. Affected employees will be paid in accordance with the following principle:

For each pay period following the promotion the employee's basic salary will be compared to the basic salary the employee would have received for that pay period if the employee had not been promoted. For those periods when the latter amount is higher the difference will be paid to the employee in a one-time lump sum payment.

Employees affected during the 1984-87 or 1987-90 National Agreements shall be paid a lump sum from a $80 Million fund established for this special purpose. APWU and NALC will work directly with USPS to develop a method to determine on a mutual basis which affected promoted employees will share in the fund, the amount of the lump sum payment for each employee and the timing of its issuance. It is intended that these one-time lump sum payments will satisfy all employee entitlements which arise out of the employment relationship, including the 1984 and 1987 National Agreements due to the effects of the anomaly and this Memorandum of Settlement, as well as any possible FLSA payments; however, this document should not be construed as constituting any waiver of possible individual rights under that statute.

4. The USPS, APWU and NALC agree that promoted employees will continue to be placed in the grade level and step assigned in accordance with USPS's current practice with waiting time rules applied in accordance with current practice.

5. Effective November 21, 1990, employees who have been promoted from Steps A,B or C and who have been reassigned to their former grade will be placed in the step they would have been in, with credit toward their next step increase, as if all service had been in the original grade. However, such employees who are subsequently repromoted will be placed in the steps they would have attained, with credit toward their next step increase, as if they had remained continuously in the higher grade since the original promotion.

6. Promoted employees, whether promoted before or after the expiration of the 1987 National Agreement who experience pay anomalies after the term of the 1987 National Agreement will be entitled to a remedy (or remedies) in accordance with the principles stated above. However, the parties agree that this paragraph does not create any liabilities after the term of the 1987-90 National Agreement if promoted employees do not experience pay anomalies.

M-01355 Memorandum of Understanding June 28, 1995
Memorandum of Understanding resolving promotion pay issues arising from the June 13, 1990 Memorandum of Understanding reached in case H7N-NA-C 39 and 73

M-01338 Prearbitration Settlement August 7, 1998, H94N-4H C 97080228
Claims for over-payment regarding the promotion pay settlement will be processed in accordance with Article 28 of the National Agreement and Section 437 of the ELM.

Memorandum of Understanding
1990 National Agreement, June 12, 1991
RE: Granting Step Increases. The parties agree that periodic step increases will not be withheld for reason of unsatisfactory performance and that all other aspects of the current step increase procedures remain unchanged, unless otherwise provided for by the 1990 National Agreement.

The Employee and Labor Relations Manual (ELM) shall be amended to conform with the above stated agreement.

M-00845 Step 4
May 29, 1987, H1N-4C-C 35268
Step increases are to be computed as if they had served continually in their initial assignment after their return to their former grade. The parties are to apply the provisions of Subchapter 422.261(a) of the Employee and Labor Relations Manual to the specific fact circumstances involved in this case to resolve the issue.

M-01060 APWU Step 4
October 23, 1987, H4C-3W-C-37256
The issue in this grievance is whether there is a requirement for advance notice to employees whose step increases are withheld because of leave without pay usage.

During our discussion, we mutually agreed that current instructions require written advance notice when an employee's step increase is to be withheld. Inasmuch as no advance notice was given in this instance, the grievant's step increase is to be reinstated retroactively to the due date.

M-01135 APWU Step 4
January 16, 1981, H8C-5K-C 12565
The question in this grievance involves whether the grievant, who used in excess of 13 weeks of leave without pay, should have her step increase withheld when she did not receive advance written notice.

After reviewing the file, it is our determination that the Notice of Withholding of Step Increase was received by the grievant on June 19, 1980. The step increase was due to be effective on May 31, 1980. Therefore, the notice is considered procedurally defective.

Current instructions require that advance notice must be given to the employee with respect to a decision to withhold an employee's step increase. Since the employee's step increase was due May 31, 1980, she failed to receive the required advance notice. Therefore, we find the grievance is sustained to the extent that the notice of withholding was not timely.

By copy of this letter, the postmaster is instructed to reinstate the grievant's step increase retroactively to May 31, 1980, and make any subsequent adjustments precipitated by this decision.

M-00819 Letter, April 18, 1988
A Form 50 is processed to initiate a step deferral and when such deferral is subsequently canceled, appropriate action will be taken to ensure that reference to the canceled action does not appear in the employee's Official Personnel Folder or in the history section of subsequent Form 50's.

C-00782 APWU National Arbitrator Bloch
May 24, 1985, H1C-5F-C 21356
An employee detailed to a higher level assignment should receive step increases in the higher level as if promoted to the position

C-11016 Regional Arbitrator Howard
December 7, 1990
The Postal Service violated 546.132 of the ELM when upon reemployment it did not credit a formerly disabled employee with the step increases the employee would have acquired in her former position had there been no injury or disability.

RESTORATION, REINSTATEMENT

C-00843 National Arbitrator Aaron
September 3, 1982, H8-C-4A-C 11834
Employees who had been on compensation under the Federal Employees' Compensation Act and who after more than one year were partially recovered from their injuries and were reinstated to the same level and step they had occupied at the time of their separation were not entitled to the salary levels they would have occupied had they been continuously employed from the dates of their separation to the dates of their reinstatement.

Arbitrator Aaron decided this case as a purely contractual issue and declined to look at external law. It is the position of the NALC that, notwithstanding Arbitrator Aaron's decision in this case, the Federal Employees' Compensation Act requires that employees, who have been on compensation for more than one year and are partially recovered from injuries, are when reinstated entitled to the salary levels they would have occupied had they been continuously employed from the dates of their separation to the dates of their reinstatement. The Contract Administration Unit should be contacted in any cases concerning this issue.

C-00432 National Arbitrator Mittenthal
July 27, 1983, H1C-3W-C 10155
Management must place employee in assignment for which reinstated employee bid while discharge was pending.

C-10138 Regional Arbitrator P.M. Williams
July 18, 1990
Carrier who was Level 5, Step O when she resigned was properly reinstated at a different office as a Level 5, Step B.

C-00344 Regional Arbitrator Holly
October 30, 1973, AS000
Rehired employee was improperly denied step restoration, where she had been promised before her resignation that she would be rehired at her old step.

M-00488 Step 4
February 2, 1981, H8N-3W-C 19684
Part 420 of the Employee and Labor Relations Manual states the provisions of Chapter 7 of the Old Postal Manual remain in effect for bargaining unit employees. Part 753.312 of the old Postal Manual gives the appointing officer, who in this instance is the Postmaster, the authority to reinstate former postal employees at Step 1 of the salary level of the position or at any higher step which is less than 1 full step above the highest basic compensation received as a postal employee.

C-11011 Regional Arbitrator Zumas
October 8, 1990, E7C-2D-C 17702
Management violated the contract by requiring an employee reinstated within one year to be placed at the bottom step of her grade.

PERSONNEL FILE

SEE ALSO

Information - Union Rights, Page 156

M-00570 Step 4
January 27, 1983, H1N-1N-D 5881
The letter of proposed removal at issue in this case was reduced to a letter of warning at Step 2. Therefore, the letter of proposed removal shall be removed from the grievant's official personnel file.

M-00548 Settlement Agreement
May 12, 1981, N8C-1M-C 3719
A supervisor's discussion with an employee is not considered discipline and is not grievable, and "no notation or other information pertaining to such discussion shall be included in an employee's personnel folder." Although Article 16 permits a supervisor to make a personal notation of the date and subject matter of such discussions for his own personal record(s), those notations are not to be made part of a central record system nor should they be passed from one supervisor to another. A supervisor making personal notations of discussions which he has had with employees within the meaning of Article XVI must do so in a manner reasonably calculated to maintain the privacy of such discussions and he is not to leave such notations where they can be seen by other employees.

M-00856 Step 4
May 27, 1988, H4N-5C-C 14779
Local management may not refuse to forward an employee's personnel folder to another installation in order to prevent or delay the consideration of the employee's request for transfer.

M-00104 Step 4, August 18, 1976, NCE-2263
A steward should be allowed to review an employee's Official Personnel Folder during his regular working hours depending upon relevancy in accordance with the applicable provisions of Article XVII, Section 3.

M-00944 Step 4
August 17, 1989, H7N-4J-C-13361
The issue in this grievance is whether the grievant was entitled access to his psychological records pursuant to 353 of the Administrative Support Manual (ASM).

After reviewing this matter, we mutually agreed that no national interpretive issue is fairly presented in this case. We further agree that this dispute is subject to the Grievance and Arbitration procedure and resolvable by an arbitrator.

M-01101 Pre-arb
November 12, 1992, H0N-3W-D 1157
The issue in these cases is whether management was required to provide access to an employees Employee Assistance Program (EAP) records and Official Personnel Folder (OPF) without the consent of the employee.

During our discussion, we mutually agreed to make available any discipline records found in the OPF of that employee and allow the union's representatives to review these records.

M-00103 Step 4
November 17, 1978, NCS-12616
There is no prohibition against the supervisor and/or the employee making a personal notation of the date and subject matter for their own personal records. However, no notation or other information pertaining to such discussion shall be included in the employee's personnel folder.

RESIGNATIONS

C-10856 Regional Arbitrator Fogel
May 14, 1991, W7N-5C-C 25778
The resignation of the grievant was not effective, where the grievant was unstable when she wrote resignation note and asked for her job back the next day.

C-10874 Regional Arbitrator Barker
May 28, 1991, W7N-5L-C 23727
The resignation of the grievant was not effective, where the grievant told the supervisor to "take his job and shove it..." and later said he "quit," but refused to sign resignation form.

M-00192 **Step 4**
August 1, 1985, H1N-5K-C 28025
The date the employee designates as the effective date of their request to be voluntarily separated from the Postal Service, is the effective date of their resignation for administrative purposes.

PIVOTING

M-01292 Prearbitration Settlement
July 28, 1997, F94N-4F-C 97005324
The parties agreed that application of section 617.2 Pivoting, of the Postal Operations Manual (POM) does not change the provisions of Article 41, Section I.C.4 of the National Agreement. Routers must be kept on their bid assignment and not moved off the duties in the bid description unless there is an undertime situation, or in "unanticipated circumstances."

M-00244 Step 4
July 8, 1982, H8N-5D-C 21854
The issue in this grievance involves application of the overtime desired list vis-a-vis the pivoting of routes. The parties at the national level agree that a route is that which is identified by Article XLI, Section 1.B.4.(h) of the 1978 National Agreement.

M-00776 Step 4
March 28, 1977, NCE 4790
When no letter carriers from the Overtime Desired List are available, management has the option of mandating overtime by juniority, of using part-time flexible employees, of asking for volunteers, or pivoting work on vacant routes.

M-00073 Step 4
December 9,1983, H1N-4F-C 20559
Management may pivot the route of the "hold-down" on a day-to-day basis without incurring any liability.

POST, DOIS

See also DVRS, Linear Meaurement, Page 95

M-01444 Pre-arb
July 30, 2001, Q94N-4Q-C 99022154
The issue in these grievances is whether or not the Piece Count Recording System (PCRS), Projected Office Street Time (POST), or the Delivery Operations Information System (DOIS) violate the National Agreement.

After reviewing this matter, we mutually agreed to settle these grievances as follows:

Daily piece counts (PCRS) recorded in accordance with the above-referenced systems (POST or DOIS) will not constitute the sole basis for discipline. However, daily counts recorded in accordance with these procedures may be used by the parties in conjunction with other management records and procedures to support or refute any performance-related discipline. This does not change the principle that, pursuant to Section 242.332 of the M-39, "No carrier shall be disciplined for failure to meet standards, except in cases of unsatisfactory effort which must be based on documented, unacceptable conduct that led to the carrier's failure to meet office standards." Furthermore, the pre-arbitration settlement H1N-1N-D 31781, dated October 22, 1985, provides that "there is no set pace at which a carrier must walk and no street standard for walking."

This settlement is made without prejudice to the parties' rights under Article 19 or Article 34 of the National Agreement.

It is additionally understood that the current city letter carrier route adjustment process is outlined in Subchapter 141 and Chapter 2 of the M-39 Handbook. All those functionalities in DOIS, which relate to the route inspection and adjustment process, must be in compliance with these two parts of the M-39 as long as they are in effect.

It is understood that no function performed by POST or DOIS, now or in the future, may violate the National Agreement.

Postal Inspectors

SEE ALSO

Weingarten Rights, page 355

M-01092 USPS v NLRB, No. 91-1373
D.C. Cir, June 30, 1992
Decision by the U.S. Court of Appeals for the D.C. Circuit upholding an NLRB decision concerning Weingarten rights (M-01093). The Board held that Postal Inspectors violated the Weingarten doctrine by refusing a request by a steward to consult with an employee prior to the employee's interrogation by the Inspectors.

M-00225 Letter, March 10, 1981, N8-N-0224
The Postal Service agrees that a steward who is processing and investigating a grievance shall not be unreasonably denied the opportunity to interview Postal Inspectors on appropriate occasion, e.g., with respect to any events actually observed by said Inspectors and upon which a disciplinary action was based. *See also* M-00864

M-00586 Letter, March 19, 1979
The Chief Inspector's view as to the proper role of union representatives in Inspection Service interrogations.

M-00585 Memo, August 31, 1973
Not-for-publication memo regarding the Inspection Service, initialed by J.H.R., and providing that Inspectors will not issue letters of charges, but will give Miranda warnings to those taken into custody.

M-01308 Pre-arbitration Settlement
July 14, 1997, E90N-1E-C 93048688
The issue in this grievance is whether management violated the National Agreement by failing to turn over requested postal inspection service notes and video tapes during the investigation of a grievance.

During our discussion, it was mutually agreed that the following constitutes full and final settlement of this grievance:

The USPS understands its obligation to release properly requested information to the union that is relevant and necessary for collective bargaining and/or contract administration.

M-01327 Step 4
May 26, 1998, J94N-4J-C 98033595
There is no disagreement between the parties at the National level that the Union may interview Postal inspectors if the interviews would be relevant and necessary for processing a grievance or in determining if a grievance exists. We further agreed that whether or not the steward's request was unreasonably denied is a matter of local fact circumstances that should be determined by a regular arbitrator.

M-01504, Pre-arb
November 6, 2003, E94N-4E-C-98045164
The decision to conduct a controlled delivery is a coordinated determination made by appropriate Inspection Service authority. Postal inspectors are the only personnel authorized to perform a controlled delivery of mail, and inspectors are the only authorized law enforcement officials allowed to use USPS uniforms. Inspectors will not use carriers for controlled deliveries or investigative activities. Obtaining information from employees, which the employees have or could have gathered in the normal course of their duties without causing or increasing the potential for harm to them, is permitted.

C-10115 Regional Arbitrator Levak
October 28, 1987, W4N 5N D 40950 et al, Interim Award.
Management violated the contract when it refused: 1) the union's request that two postal inspectors appear as witnesses at the Step 2 meeting concerning a removal grievance, and 2) the union's request to interview the postal inspectors. *See* C-07610, below, for final award.

C-07610 Regional Arbitrator Levak
November 3, 1987, W4N 5N D 40950 et al, Interim Award.
First, National Agreement Article 16 requires that removal be for just cause. The Arbitrator construes and interprets just cause to include the due process requirement that a removed grievant have the right, through the Union, to effectively examine and cross examine her accuser; that notes taken by a Service manager or by a Postal Inspector relative to a removal are crucial to such an effective examination; and, that the denial of those notes therefore denies a grievant her rights under Article 16.

Second, where the Service utilizes Postal Inspectors to conduct an investigation in a removal case, it cannot be allowed to simply assert the defense that it relied only upon the formal Investigative Memorandum. The term "statement of facts relied upon," as used in the National Agreement, cannot be construed so narrowly. A Postal Inspector, in a discipline case, acts as the agent of the Service, and the Union is entitled to examine and explore all the facts within the knowledge of the Inspector, not just those favorable to the Service. In short, a Postal Inspector is to be treated as any other witness, and the Service's position is therefore contrary to the National agreement.

Third, it must be stressed that in the instant case, the only evidence relied upon is that obtained by the Postal Inspectors; the Service itself conducted no independent investigation, and had no independent evidence of its own to submit. Had such independent evidence been offered, the Arbitrator would not have sustained the Union's motion, but instead would have stricken the Postal Inspector's Investigative Memorandum and disallowed the Postal Inspector's testimony, allowing the Service to attempt to prove its case through other evidence.

Fourth, the Arbitrator's decision is supported by general case authority. See, e.g., Elkouri & Elkouri, *How Arbitration Works*, "Right of Cross-Examination," BNA 4th Ed., at p. 316, where it is noted that an arbitrator will not accept an offer of evidence if it is conditioned upon nondisclosure to the other party, and that like reasoning applies to employer reliance on allegedly confidential records not available as proof. See also, 5 C.F.R. 1201.64, relating to the production of witness statements in Merit System Protection Board proceedings. In general, the failure to produce such statements upon request, and prior to cross-examination, results in the striking of the direct testimony. The Arbitrator cites these examples only for illustrative purposes, not as binding authority. His decision is rooted in his interpretation of the just cause clause and the National Agreement.

M-01342 Step 4
April 21, 1998, J94N-4J-C 98038114
The interpretive issue in this grievance is whether management violated the National Agreement when the grievant was not provided the union steward certified to represent employees in his specific work location, during an Inspection Service interview.

During our discussion, we mutually agreed to remand this case back to the parties at Step 3, for further processing, with the following understanding:

When requested, a steward certified to represent employees in the specific work location where the employee normally works, should be provided, if available.

MIRANDA RIGHTS

C-10510 Regional Arbitrator Erbs
December 31, 1991
"[T]here is nothing in the National Agreement, as it presently exists, nor in applicable law, which obligates Postal Inspectors to give Miranda warnings to employees under investigation for potential removal from the Postal Service."

POSTING

SEE ALSO

Bidding, Page 39

M-01563 Pre-arbitration Settlement
February 2, 2006
Article 7.3.B includes no provisions for reversion of full-time letter carrier duty assignments. Rather, consideration of reversion of reserve letter carrier assignments is initiated pursuant to the applicable provisions of Article 41.1.A.1 of the National Agreement.

M-00869 Pre-arb
January 12, 1989, H4N-5C-C 29967
The duty assignment of a discharged employee shall not be posted for permanent bid until and unless the employee is actually removed from the rolls.

M-00629 Step 4
September 20, 1977, NCS 7524
The duty assignment was vacant and consequently it was not appropriate to post all positions for bid. A full-time carrier's job must be abolished before paragraph "O" of Article 41, Section 3 is invoked.

M-01157 Step 4
January 14, 1994, HON-4R-C-9748
We mutually agreed, that in accordance with Article 41 Section 1.A.1, a vacant or newly established duty assignment not under consideration for reversion shall be posted within five working days of the day it becomes vacant. The Employer should provide written notice to the Union, at the local level, of the assignments that are being considered for reversion and the results of such consideration.

M-00904 Step 4
August 25, 1988, H4N-1P-C 32698
A newly established reserve regular duty assignment must be posted for bid according to Article 41.1.A.1 of the National Agreement.

M-01389 Step 4
October 25, 1999, B94N-4B-C 99118443
The issue in the instant grievances involves a local district policy to consider all vacant routes for reversion pursuant to the provisions of Article 41.1.A.1. The parties agreed that a "blanket" policy to consider all vacant routes for reversion prior to posting is inconsistent with the provisions of Article 41.1.A.1. Routes considered for reversion are to be considered on a route by route basis. Accordingly, it was agreed that the Connecticut Vacant Route Policy of December 8, 1998, as well as the March 23, 1999 revised policy, are to be rescinded.

M-00927 Step 4
May 30, 1989, H1N-2B-C 9069
When a route should be posted for bids after the incumbent carrier has successfully bid on another assignment is determined by local past practice.

M-00933 Step 4
September 13, 1988, H4N-5T-C 42287
The phrase "additional duties as assigned" in a job posting violates the instructions in Article 41.1.B.4. *See also* M-00956

M-00987 Step 4
January 11, 1991, H7N-3A-C 24233
The issue in this grievance is whether clerk craft employees that were excessed to the needs of the installation in the Dallas post Office and who volunteered for reassignment to letter carrier positions violated Article 12 of the National Agreement.

This grievance is sustained. The remedy requested by the union in the Step 2 appeal will be honored ("Promote the 14 Senior Part-time flexible letter carriers to regular positions and compensate them accordingly.")

Note: In this case management withheld letter carrier bid assignments and posted them for bids by clerk craft employees. (See file)

ARTICLE 41, SECTION 3.0
ABOLISHMENT OF ASSIGNMENT

C-23261 National Arbitrator Nolan,
Q98N-4Q-C 01090839 April 28, 2002
National dispute involving Publication 71 is arbitrable. The Postal Service had argued that NALC could not resolve in arbitration a dispute concerning the Family and Medical Leave Act, a federal law. Arbitrator Nolan also rejected a series of additional management arguments that the case was not arbitrable, including claims that the grievance was untimely and that Publication 71 is not covered by Article 19.

C-15248 National Arbitrator Snow
B90N-4B-C 92021294, March 22, 1996
When routes are posted under the provisions of Article 41, Section 3.O it must be done "in accordance with the posting procedures in this Article". This reference is to Article 41, Section 1.B.2 which provides that such postings shall be installation wide unless the local agreement or established past practice provides otherwise.

M-00061 Step 4
May 26, 1983, H1N-3A-C 16392
Normally the changing of routes on a swing does not require the routes to be reposted for bid. *But cf* M-00694

M-00694 Step 4
February 6, 1987, H1N-3A-C 30176
If a local Memorandum of Understanding contains the Article 41.3.O language and changes in T-6 strings are so great that the assignments are abolished, they should be reposted in accordance with Article 41.3.O If a local Memorandum of Understanding does not contain 41.3.O language, reposting is not required. Changing one route in a T-6 string is not a cause for reposting regardless of local Memorandum of Understanding provisions. *But cf* M-00061

M-00629 Step 4
September 20, 1977, NCS 7524
The duty assignment was vacant and consequently it was not appropriate to post all positions for bid. A full-time carrier's job must be abolished before paragraph "O" of Article 41, Section 3 is invoked.

M-01185 Step 4
March 10, 1994, H0N-3N-C 12419
The issue in this grievance concerns the application of Article 41.3.0 of the National Agreement. During our discussion we agreed that:

1. Article 41.3.0 states that "For the purpose of applying that provision, a delivery unit shall be a postal station, branch or zip code area."

2. Article 30, Section B, item 18 of the National Agreement provides for "the identification of assignments comprising a section, when it is proposed to reassign within a installation employees excess to the needs of a section."

3. A "section" defined in a Local Memorandum of Understanding for the purposes of Article 30, Section B Item 18 is not necessarily a "delivery unit" for purposes of Article 41.3.0.

3. In the instant case, it appears that management restricted the assignments being posted under Article 41.3.0 to the assignments in the "section" which had been defined under item 18 of five carriers he/she relieves." Unless those were the only assignments in the delivery unit, this appears inappropriate.

C-24768 National Arbitrator Briggs
October 31, 2003, J94N-4J-C 98009292
A route change of greater than 50% does not constitute an “abolishment” under Article 41.3.O of the National Agreement.

C-02006 Regional Arbitrator Dworkin
February 11, 1983, C8N-4B-C 34114
Routes can be so extensively changed that they should be considered abolished within the meaning of Article 41 Section 3.O.

M-00986 Step 4
July 26, 1990, H4N-3A-C 62482
T-6 positions should be included in postings under Article 41.3.0.

C-10271 Regional Arbitrator P.M. Williams
September 11, 1990
The abolishment of a router assignment should have triggered the provisions of Article 41, Section 3.O. *But See* C-10899.

C-09966 Regional Arbitrator Parkinson
April 23, 1990
Management did not "abolish" a router assignment when it changed the starting time by 5 hours and changed some of the duties.

NONSCHEDULED DAYS

C-00322 Regional Arbitrator Roumell
September 27, 1984, C1C-4C-C 26726
Management violated the contract when it posted an assignment with nonconsecutive nonscheduled days.

C-09422 Regional Arbitrator P.M. Williams
October 5, 1989, S7N-3A-C 1859
Management did not violate the local agreement or past practice when it changed the non-scheduled days of two routes from fixed to rotating.

C-10022 Regional Arbitrator Zumas
May 16, 1990, N7N-1E-C 24324
Management did not violate the contract when it changed the non-scheduled days of certain routes from fixed to rotating.

C-11182 Regional Arbitrator Mackenzie
January 3, 1989, N7N-1L-C 4201
Management violated the contract when it posted an assignment with nonconsecutive nonscheduled days.

C-10638 Regional Arbitrator P.M. Williams
February 20, 1991
Management did not violate the contract when it changed the nonscheduled days of a route from Saturday/Sunday to Sunday/Monday.

PROBATIONARY EMPLOYEES

C-22547 National Arbitrator Das
Q98N-4Q-C 99251456, September 10, 2001
Article 12.1.A denies a probationary employee access to the grievance procedure to challenge his or her separation on the grounds of alleged noncompliance with the procedures in Section 365.32 of the ELM.

A dispute as to whether the Postal Service's action separating the employee occurred during his or her probationary period is arbitrable because that is a precondition to the applicability of Article 12.1.A.

M-00595 Step 4, April 10, 1980, N8-W-0278
Management may not refuse to allow opting as provided in Article 41, Section 2.B.3 and 2.B.4 in order to reserve the assignment for the training and performance evaluation of probationary employee.

M-00542 Step 4
October 1, 1984, H1N-5G-C 23085
Under section III.C.5l.a of a Management Instruction EL-830-83-11, all driver candidates must pass the end-of-training test (TD-287C and TD-287D). The word candidates is intended to apply to newly hired employees only.

M-01202, January 4, 1995
F90N-4F-D 94022367
When an NALC transitional employee has completed a previous 359-day term of employment in the same office and in the same position, a termination for cause during the first 90 work days (or 120 calendar days, whichever comes first) of an immediately subsequent appointment is subject to the grievance-arbitration procedure.

M-00594 Step 4
November 25, 1980, H8N-2W-C 7259
Probationary employees are without seniority rights, although retroactively computed, until satisfactory completion of ninety (90) days of employment. Therefore probationary employees are not entitled to exercise preference rights for a hold-down duty assignment pursuant to Article 41, Section 2.B.4.

M-01008 MSPB Decision, November 19, 1987
Under 5 CFR Part 353 (MSPB), probationary employees who recover within one year of the commencement of compensation have an unconditional right to be restored to their former or equivalent positions. *See also* M-01009, C-016189.

C-11193 Regional Arbitrator Zack
December 27, 1992, N1T-1J-D 37462
Grievance is timely although filed five months after employee was given Separation/ Disqualification on 92nd day of employment; employee was told he had no appeal rights and union filed grievance within 14 days of learning of the separation.

C-10021 Regional Arbitrator Ables
May 17, 1990, E7N-2K-C 22828
Although styled as a class action, a grievance which requested as remedy the restoration to duty of a separated probationary employee is not arbitrable.

C-00284 Regional Arbitrator Schedler
July 6, 1982, S1C-3U-D 4132
A probationary employee has access to the grievance procedure concerning all matters except discharge.

QUALIFICATIONS

C-03015 National Arbitrator Fasser
December 9, 1977, NBS 2737
A city letter carrier who is the senior bidder is the "senior qualified bidder" where he possessed all of the qualifications for the job despite the fact that the record showed certain disciplinary actions taken against him.

M-00151 Step 4
January 13, 1981, H8N-5D-C 12936
By virtue of the fact that the grievant is a letter carrier, in and of itself, makes him qualified to perform the duties on a city delivery route.

M-00214 Step 4
June 28, 1974, NBN 1572
Information in the file reflects that a carrier not on the overtime assignment list was called in for an overtime assignment in lieu of the grievant , whose name was on the list. Management contended that the grievant was bypassed, in this instance, because he did not possess the necessary skills to work the route referred to in the grievance.

It is our position that a regular full time carrier is considered to possess the necessary skills to work routes other than his own.

M-00491 Step 4
June 29, 1972, NW 555
It is improper to deny a letter carrier's bid based on her attendance record.

M-00311 Step 4
October 31, 1985, H4C-1A-C 3263
Employees will be required to submit only that information which is called for on PS Form 1717 when indicating a desire to be considered for duty assignments which are filled on a senior qualified basis.

M-00279 Step 4, January 31, 1977, NCS 4362
An employee need only be "qualified" to carry a route. The T-6 carrier will not be moved off his string solely because he is "better qualified" to carry a particular route.

M-00196 Step 4, May 24, 1974, NBN 1325
A full-time regular letter carrier is a "qualified" craft employee. The overtime provisions in Article VIII do not provide for the assignment of the "best qualified" employee available. *See also* M-00291.

C-00284 Regional Arbitrator Schedler
July 6, 1982, S1C-3U-D 4132
USPS physician: "I know of no postal policy that addresses a bona fide occupational disqualification based on height or weight."

C-09930 Regional Arbitrator Dolson
April 5, 1990, C4N-4B-C 31684
Because of his driving record, the letter carrier grievant was properly disqualified for the position of Motor Vehicle Operator.

C-10006 Regional Arbitrator Skelton
May 2, 1990, S7N-3W-C 88041
Management did not violate the contract when it refused grievant's bid for a route on the basis that grievant was not qualified because of a twenty-five pound lifting restriction.

QUESTIONS AND ANSWERS CONCERNING THE SEPTEMBER 1992 MEMORANDUMS

M-01151, January 22, 1993, Questions 1-34
M-01152, February 17, 1993, Questions 35-54
M-01153, March 31, 1993, Questions 55-80

The following questions and answers were published as a supplement to *Building our Future by Working Together*, the USPS-NALC Joint Training Guide on the September, 1992 Memorandums of Understanding, published November 19, 1992. They provide joint answers to questions concerning the interpretation and application of those memorandums and the subsequent December 21, 1992 memorandum.

Q-1 Who is authorized to make a local agreement to adopt a 4 or 5 shelf letter case?

A The USPS Installation head and the NALC local union president.

Q-2 What happens if there is no local agreement to use a 4 or 5 shelf letter case?

A Then the standard 6-shelf letter case must be used.

Q-3 What size is a standard letter?

A The MOU does not attempt to redefine the size of a letter. The definition to be used is clearly indicated in the MOU text.

Q-4 What if a 4 or 5 shelf letter case is currently being used? Is a local agreement necessary?

A Yes. Either the parties must have, or make, a local agreement to use such letter cases, or the equipment must be reconfigured to six shelves.

Q-5 Does management have authority to give monetary awards in resolving grievances over past Hempstead-type adjustments?

A Yes. Management has full authority to work out settlements of these grievances.

Q-6 What happens in facilities where USPS management has unilaterally implemented a Hempstead-type adjustment (a "6 and 2" or " route stabilization" adjustment) and NALC has not filed a grievance to challenge it?

A The Memorandum's and the Joint Training Guide do not cover the situation.

Q-7 How will grievances over past Hempstead-type adjustments be remanded?

A They will remanded to Step 2, where the normal grievance procedure and normal time limits will apply. If a joint resolution is impossible, such grievances may be appealed through the normal grievance procedures.

Q-8 Is management permitted to delay route adjustments as a result of the September, 1992 Memorandums of Understanding?

A Yes, in certain cases. These new Memorandums constitute a "valid operational reason" for extending 52 day limits on implementing route adjustments on routes which involve future events (See M-39 Section 211.3). These adjustments are not implemented until automation is on-line and operative. Management notice to the local union should come from the District Manager of Customer Services under the new USPS structure, rather than from the Division Director (in the old structure).

Q-9 Under the unilateral process, does the local union retain its one-time right to waive Article 41, Section 3.0 set forth in Article 41 of the National Agreement?

A The one-time right to waive Article 41, Section 3.0 is not affected by the MOU.

Q-10 In applying the methodology for estimating the impact of delivery point sequencing on carrier work hours, what route inspection data should be used if the carrier recently transferred to his or her route and has not been inspected on the new route?

A In such circumstances, the percentage of standard office time used by the carrier during the route inspection on his or her former route should be used . The impact estimate must be based on the demonstrated office time performance of that carrier and nobody else.

Q-11 Aren't there some associated duties that the DPS impact methodology does not take into account?

A Yes, but please remember the methodology was designed to be simple, to use the demonstrated performance of the individual carrier, and to be an estimate only. The parties expect some fine-tuning may necessary after routes are realigned for delivery point sequencing.

Q-12 Does the 18-month limitation on the uses of route inspection data to realign carrier routes which applies in the "unilateral" process also apply in the X-Route process?

A No. this is left up to the local parties. Whatever route inspection data the parties decide to use when realigning routes under the X-Route process, it should reflect current reality closely enough that the realignment will be workable.

Q-13 Does a router, or other carrier without an actual "route", whose assignment is abolished have the same right to bid on other assignments as another carrier whose actual "route" is abolished?

A When the joint training guide uses the term "route" in addressing such issues, that means all full-time assignments including routers, reserve regulars, T-6s and so forth. The same rights apply regardless of the type of assignment that is abolished.

Q-14 If USPS managers in an installation decide to use the "unilateral" method to plan for and implement the realignment of routes, can they later change their minds and use the joint X-Route process instead?

A Yes, with joint agreement. Further, the expectation is that any change from the unilateral process to the X-Route process will necessitate that the X-Route process be implemented from the beginning, as though the unilateral process had never been used. In other words, unless jointly agreed to, the X-Route process will not start from the point that management left off via the unilateral process.

Q-15 What happens where the local parties have agreement upon a process for realigning carrier routes to accommodate the delivery point sequencing of letter mail and there is no pending grievance over the matter?

A These Memorandums and the joint training guide do not cover that situation.

Q-16 Where there is an interim adjustment made under the X-Route process, and the parties decide to distribute the remaining X-Route territory by "building up" some, but not all, of the surviving routes, is the seniority scheme outlined in the Memorandums required, or may a senior carrier on the work assignment list or regular OTDL opt out of the "build-up?

A The carrier may not opt out; the seniority order defined in the X-Route memo is required. No "opt-out" right is needed because such carriers have already indicated a desire for overtime.

Q-17 How can the local parties develop a new DPS work method beyond the two provided by the Memorandum and get the national joint body to approve it?

A The national parties contemplate that the local parties may jointly formulate a new work method and conduct a limited test of the method on one or a few routes. If the test is successful, the local parties may apply to the national joint body for approval of the method.

Q-18 When should the local parties jointly select one of the two delivery point sequencing work methods?

A Sometime before DPS is activated and letter carriers began receiving DPS mail preferably at least 30 days in advance.

Q-19 Which people can make the local agreement to select one of the two DPS work methods?

A The USPS installation head and the NALC local union president.

Q-20 How many bundles will a letter carrier have to carry under delivery point sequencing? What about marriage mail, ADVO cards, etc.?

A Under the DPS work method scenarios curbline delivery territories may carry more than the customary three bundles on a given day if a "marriage mail" type mailing(s) is (are) to be delivered on that day. Under the DPS work method scenarios foot delivery territories may carry three bundles.

Q-21 Does the steward need to go through the NALC president for approval when making decisions concerning these MOUs?

A Yes, unless the steward is the NALC designee.

Q-22 Can we adopt one DPS work method and then change if we find that it is not working?

A Yes, as long as it is a local joint decision.

Q-23 Does 41.3.0 "ever" get triggered under the X-Route agreement?

A No

Q-24 Is it possible to have 4, 5 and 6 shelf cases in the same office?

A Yes, case configurations are a local joint decision based on efficiency and local circumstances.

Q-25 Will the new TE book address the issue of PTF scheduling and guarantees?

A This is already addressed in Chapter 6_Transitional Employees where the parties reaffirmed that part-time flexible letter carriers will have first priority for work scheduling over TEs. However, once TEs are called in their 4-hour work hour guarantee must be honored.

Q-26 When routes were inspected, the routes were shown to be out of adjustment can we use a router?

A Routers are still an option to provide permanent relief to overburdened routes. What these MOUs do is prevent management from adjusting routes not out of adjustment and creating Routers as a buffer.

Q-27 If routes show undertime prior to reaching the target, can management capture the undertime?

A Under the X-route concept management may capture the time if there is a joint agreement to make interim adjustments. In the Unilateral process, management may recalculate the estimated impact on carrier routes using the actual percentage of DPS mail being received in the unit when the DPS percentage is more than 5% below the targeted percentage when the realignment was planned to occur. Management may also capture this time via control of overtime, auxiliary assistance, etc.

Q-28 If inspections show routes that are out of adjustment, can territory be moved from an adjacent route that is 8 hours?

A Yes, there is no change to the manner in which territory is transferred.

Q-29 We have inspected routes and the carrier bids off before the adjustments are made, what data do we use for adjustments?

A The data for the carrier who was inspected on the route should be used. A review of the adjustment result after the new carrier is assigned to the route would be appropriate.

Q-30 If we get together locally and X-Routes are created, will PTF's be allowed to make regular on these routes?

A X-routes are assignments held pending reversion and normally should not be considered as vacancies for purposes of PTF conversions. However, regular carriers, including recently converted PTF's may bid on these assignments.

Q-31 Under the X-Route process, what happens at an office with 5 routes, plus a T-6 if one route is designated as an X-Route and is abolished?

A The T-6 carrier will need to be assigned duties to fulfill an 8 hour work assignment. If there is no need for a T-6, then this assignment may also be abolished and should be considered in the planning stage of the X-Route concept.

Q-32 In the Unilateral process, if more routes are created will PTF's make regular on these routes?

A If more routes are created, these would be considered as available assignments for bidding. As a result, PTF conversions to regular is allowable as in the past.

Q-33 Referring to page 17 in the joint training book, it states no future use of routers. I have been given a permanent adjustment, can LDC 28/29 (Routers) be used? Is this no longer acceptable?

A Page 17 in the joint training book, states that this agreement effectively eliminates the use of routers as buffers for automation. This should not be interpreted as management giving up the right to make route adjustments by providing permanent relief through the use of Routers. What these MOUs do is prevent management from adjusting routes not out of adjustment and creating Routers as a buffer.

Q-34 Once remanded to the local level, what time frame will be used to get actual adjustments made?

A No time frames have changed in reference to the 52 day period for route adjustments or grievance procedure time frames. However, the new Memorandums constitute a "valid operational reason" for extending 52 day limits on implementing route adjustments on routes which involve future events (See M-39 Section 211.3). These adjustments are not implemented until automation is on-line and operative.

Q-35 What is the target DPS percentage?

A The target DPS percentage is that percentage of letter mail expected to be in Delivery Point Sequence so as to affect route adjustments. In the X-Route process, this percentage must be between 70-85%. In the Unilateral process this percentage may be whatever management determines to be operationally feasible so as to affect route adjustments. In either case, management has an obligation to share information concerning how this target percentage was formulated.

Q-36 Are there provisions under the X route memorandum for T-6 (or Utility) employees who experience a change in any or all of their routes? What effects will the X-Route process have on a T-6 who loses one or more routes on that T-6 swing? Does the T-6 become unassigned?

A When the routes on a carrier's T-6 or utility string are realigned to conform to the new route map, the T-6 or utility carrier may also elect, on a one-time basis, to vacate the assignment and become an unassigned regular.

Q-37 If a regular carrier on a route identified as an X route becomes unassigned as a result of the X-route abolishment, does the next bid count against the 5 bid restriction in Article 12.3.A?

A No. The next bid in such circumstances would be in addition to the five bids allowed in Article 12.3.A.

Q-38 Can a carrier working on a route change the method on handling residual letter mail (T-6, PTF, TE's, Reserves)?

A No. Once the authorized work method for a route has been determined, it must be used by replacement carriers.

Q-39 Regular carrier affected by DPS route realignment elects to vacate his/her assignment and becomes an unassigned regular _ does this "one-time basis" apply to the original unit, or does it also apply to subsequent movement to other units which later are affected by "DPS Realignment"?

A If a letter carrier bids on an assignment in another unit after electing to become an unassigned regular, and that assignment is in turn affected by DPS route realignment, the carrier may elect to become an unassigned carrier a second time.

Q-40 On combination park & loop/curb delivery can we have a combination of the approved methods for casing residual mail?

A The local parties may mutually agree to use a combination of the approved casing methods on combination routes.

Q-41 After adjustments have been made with the unilateral process, a new carrier is assigned or bids onto a route. Will the route be reinspected and the estimated impact be changed or readjusted to the new carrier?

A Once estimated impacts have been calculated or adjustments made, they will not be changed merely because a new carrier bids on the route. Remember however, that the memo requires the local parties to reexamine all adjustments within 60 days of realignment.

Q-42 If routes are returned to pre-Hempstead adjustments, do the regular carriers that were on those assignments return to those assignments? Does Article 41.3.O apply?

A This matter is left for the local parties to decide.

Q-43 The Joint Training Manual states in the chapter on the X-Route Process, page 34: "If seriously out of adjustment - realign immediately". Shouldn't we adjust routes that are seriously out of adjustment before we draw the X-Route maps? Why draw the maps, then adjust routes and then re-draw the maps?

A This question appears to misunderstand the training material. Where routes are seriously out of adjustment, the purpose of realigning immediately to the X route map is to avoid unnecessary work and disruption. Immediate realignment accomplishes two objectives at the same time: (a) the routes are adjusted to eight hours; and (b) the routes are made ready for the eventual abolishment of the X-Routes.

Q-44 The training material refers to "the target percentage of mail that the USPS expects to receive in the unit after DPS is fully implemented" (page 22). Does it mean carrier station, installation or ZIP CODE area?

A The DPS target percentages normally apply to carrier stations. If the station contains more than one ZIP CODE, then a target percentage needs to be developed for each separate ZIP CODE area.

Q-45 Can a delivery unit hire TE's after December 21, 1992, if they have not established a TE ceiling using the DPS impact analysis?

A If the delivery unit has not established a TE ceiling using the DPS impact analysis they could hire TE's after December 21, 1992, only to backfill PTF conversions or to cover residual vacancies withheld per Article 12.

Q-46 What happens if a unit hires TE's through PTF conversions only, and subsequently establishes a ceiling using a DPS impact analysis which indicates they now have more TE's than their ceiling?

A In this case the only effect of the ceiling would be in the termination date of TE hours. Those TE hours utilized under the established ceiling will be terminated when automation is on line and operative, while TE hours over the ceiling attributable to PTF conversions need to be terminated no later than November 20, 1994.

Q-47 Where a PTF volunteers to go to another installation for purposes of conversion to regular, which installation is authorized to hire TE's?

A Only the installation losing the PTF is authorized the TE hours.

Q-48 Are TE hours used to cover residual withheld vacancies counted towards the established TE ceiling?

A No, these hours are over and above the established TE ceiling.

Q-49 Can TE's be hired for positions being withheld for excessing per Article 12?

A Yes.

Q-50 Are TE's figured in with the 88/12 calculations?

A No.

Q-51 Does the MOU require immediate conversion of PTF's to regular where vacancies exist?

A No The Memorandum requires that each PTF be offered the opportunity to convert to regular not later than 11-20-94. PTF's who are the subject of pending national conversion grievances which have been remanded are to be converted on a priority basis.

Q-52 Can a PTF refuse conversion to regular within the installation?

A No. If the PTF is given an opportunity for conversion in the installation, it cannot be refused. However, a PTF may refuse to accept a conversion opportunity outside the installation.

Q-53 If a PTF refuses to accept a Conversion opportunity outside the installation, will the PTF be given another conversion opportunity if there is subsequently a vacancy in the installation?

A Management need only offer one conversion opportunity under this Memorandum.

Q-54 If there are 10 PTF's who cannot be converted in the installation, and management identifies 5 conversion opportunities in another installation, which 5 PTF's will be of offered that opportunity?

A It is up to the local union representative to determine (and then communicate to management) which 5 PTF's will be given that opportunity, or if none want to accept the opportunity, which 5 PTF's will be identified as having refused a conversion opportunity.

Q-55 Under the X-Route, is there an option for the full-time carrier to vacate once under the interim adjustment and a second time when the X Routes are fully absorbed?

A No. The option to vacate is a one time option for a regular carrier which may only be used the first time street territory is changed.

Q-56 How will management determine the DPS target percentage? Does it have to be at least 70%?

A Management will determine the DPS percentage from a variety of sources, such as, the expected level of mailer participation in 11-digit barcoding, and the expected level of Postal Service 11-digit barcoding of letter size mail. In the unilateral method, management may determine whatever percentage is operationally feasible so as to effect route adjustments. The parties anticipate that two interim adjustments will normally be sufficient. In the X-route method, the target percentage must be between 70 and 85% unless interim targets are mutually agreed to.

Q-57 Where an NALC Branch President represents carriers in merged cities, can he/she designate a central group of members to the X-Route committee to make decisions for all of the cities they represent or must there be a committee in each installation which is made up of committee members from that installation?

A While the parties at the National Level strongly recommend that an X-Route committee be formed, the formulation and authority delegated to an X-Route committee(s) is purely a local decision.

Q-58 With the "build up" of routes in the X-Route process, if we build up a route and the carrier is on the work assignment OT Desired List, will that carrier have to carry the overtime even if he/she then gets off this list at the beginning of the next quarter?

A Yes. When the parties agree to split the remaining hours of an X-Route after an interim adjustment and distribute these hours to surviving routes by building them up to no more than 8:20, the parties must first decide how efficiency can best be maintained when building up surviving routes and make their decision based on data at the time planning takes place. Carriers moving on or off work assignment/OT lists becomes irrelevant after the parties agree to implement already planned build-ups.

Q-59 Why is the Overtime Desired List a consideration with the "build up" of routes?

A By utilizing the Overtime Desired List when building up routes, the built up routes go to carriers who have indicated a preference for working overtime.

Q-60 If the target percentage is 60%, do the carriers case the mail (DPS letters) until the 60% is reached or do they take the mail to the street with the selected method?

A After managers are satisfied with the quality of the DPS mail received by the carriers, the carrier will stop casing the DPS mail and effect delivery using the selected work method. The target percentage relates to when routes may be adjusted in response to DPS implementation.

Q-61 Once DPS is implemented, but the target percentage is not yet reached, can management pivot to capture undertime?

A Yes.

Q-62 Is there a set range of target percentages in the unilateral process?

A No, but management is obligated to notify the union of the target percentages it selects.

Q-63 Are the adjustments delayed if some of the routes do not receive the targeted percentage of DPS?

A No. The target percentage is developed on a unit basis; therefore when the unit reaches the target, routes should be considered for adjustment.

Q-64 At what point does DPS mail trigger "residual mail"?

A Residual mail is any mail that is not in DPS order once a delivery unit starts receiving DPS mail.

Q-65 Will senior PTF's who are on light or limited duty be converted to full-time vacancies?

A Yes.

Q-66 Will PTF's on light or limited duty be afforded the opportunity to transfer to available full-time assignments.

A Yes.

Q-67 Clerk cases and 49 cell cases are now being used on the letter carrier routes. Do they have to go if inspections are to be conducted?

A The use of clerk cases and 49 cell cases is not a subject covered by the memos. The parties are currently discussing this issue at the National Level.

Q-68 Must Postmasters have district office approval prior to any resolution with the local Union? Does a District Manager have veto power on local resolutions?

A Postmasters have the authority to make the decision. However, just as the local union president may receive guidance from the NBA, Postmasters may receive guidance from the District or Area office. The MOU's do not prohibit this.

Q-69 If DPS mail is received in a delivery unit on more than one dispatch, does that meet the requirement of putting mail in DPS order for two or more consecutive weeks considering the need to collate the bundles?

A DPS mail is one bundle of mail in delivery point sequence. Mail that must be collated before delivery is not considered DPS mail. The number of dispatches is irrelevant.

Q-70 A branch has an LMU that provides that, if 50% of a route's territory is moved to another route, the previous carrier follows the territory and if the incoming carrier does not have 50% of his/her territory being moved at that time he/she becomes excessed and Article 41.3.O is implemented. How is this impacted by the MOU's?

A If the installation elects to use the unilateral method, this LMU provision would remain in full force and effect. However, if the installation is using the X-Route process, Article 41.3.O would not be triggered when the routes are realigned.

Q-71 The Joint Training Manual states in the chapter on TE's (page 54):

> Unassigned Regular Rights. When a carrier becomes an unassigned regular as a result of these changes, the carrier is eligible to bid on any assignment within his or her bidding area - including residual vacancies, other positions held pending reversion and positions withheld for excessing.
>
> When a carrier becomes an unassigned regular per 41.3.O, how can he/she have the right to bid on withheld/held pending reversion positions held by full time employees or PTF's on opts?

A In such circumstances the unassigned carrier may bid on vacant held pending reversion positions and positions withheld for excessing. This includes positions that are being held by carriers on an "opt". The "right" to bid on such positions stems from the "TE" memorandum.

Q-72 When applying the Hempstead formula to calculate the estimated impact of automation, may any volume information other than current route inspection data be used?

A No. Only current route inspection data, i.e., data less than 18 months old, may be used to estimate the impact of automation using the Hempstead formula.

Q-73 Is a regular who transfers into an office and becomes the junior part-time flexible after December 21, 1992 "on-the-rolls" for the purpose of making regular under the terms of the new memo.

A Only letter carriers who were Part Time Flexibles on December 21, 1992 are entitled to conversion under the terms of this memo.

Q-74 An office does not have recent route inspection data (within 18 months). The old DSSA allowed for 10 TEs (400 hours per week). Management has not hired/used TEs to date or has been utilizing less than that full entitlement. Is it correct that, after December 21, 1992, the TE hours in this office could not be increased using the allowance established under the old DSSA formula?

A Yes.

Q Is it also correct that, in this same example, TE hours could be increased by 40 hours per week for each PTF converted to regular pursuant to the PTF conversion agreement?

A Yes.

Q-75 An office has no recent route inspection data. The old DSSA allowed for 10 TEs (400 hours per week). The 400 hours are being used. Can these hours continue to be used and, in addition, can the allowable TE hours be increased 40 hours per week for each PTF converted to regular pursuant to the PTF conversion agreement?

A Yes.

Q In this same example, what is the effect on the old DSSA TE hours once a DPS ceiling is established? What is the effect on the PTF conversion hours once a DPS ceiling is established?

A See answer to question 46.

Q-76 My office currently has no transitional employees. We have recent route inspection data that establishes a ceiling for transitional employee hiring at 10 (400 hours per week). Management decides to convert 6 Part Time Flexible employees to regular and hires 6 transitional employees (240 hours per week). What is the remaining transitional employee entitlement?

A Your office would now have additional transitional employee entitlement of 4 (160 hours per week).

Q-77 If 20 minutes is added to a route, is that 20 minutes counted in equalization and opportunities for overtime?

A No. The route would be considered an eight hour route for the purpose of administering the provisions of Article 8.

Q-78 Are residual vacancies that are withheld for excessing, or held pending reversion re-posted for bid when PTFs are converted to regular?

A The parties agree that [*absent a practice or local agreement*] these vacancies are not re-posted for bid, unless a change to the route of over one hour has occurred on that assignment since the last posting. If changes of less than one hour have occurred, the recently converted PTFs will fill those vacancies on the basis of seniority.

Note: The phrase "absent a practice or local agreement" was inadvertently omitted from the jointly published answer to question number 78. It was not the intent of the parties to disrupt any valid practice or local agreement which might require posting of residual vacancies. The local parties should continue to abide by any valid practice or local agreement which involves posting.

Q-79 In question 30, you indicated that X-Routes normally should not be considered as vacancies for purposes of PTF conversions. What if the X-Route will be in operation for an extended period of time?

A In that circumstance, it would be reasonable for the parties to consider that assignment as an opportunity for PTF conversion.

Q-80 Management accepts a transfer into the installation as a part-time flexible. Later a vacancy occurs at that installation. What has preference for conversion; the Article 41 rights of the transferee, or the rights of a part-time flexible in the commuting area under the Memorandum?

A The parties agree that the rights to conversion under the Memorandum dated 12-21-92 take preference over normal Article 41 rights.

RADIOS

M-00765 Postal Bulletin 21379
November 25, 1982
Postal policy concerning the use of "walkman" type radios. Subsequently modified by March 22, 1983 Settlement Agreement (M-00786).

M-00786 Settlement Agreement
March 22, 1983
The following applies to offices which permitted the use of radio headsets prior to November 25, 1982:

The use of radio headsets is permissible only for employees who perform duties while seated and/or stationary and only where use of a headset will not interfere with performance of duties or constitute a safety hazard. Employees will not be permitted to wear or use radio headsets under other conditions, including but not limited to: while walking or driving; near moving machinery or equipment; while involved in oral business communications; while in contact with, or in view of the public; or where the headset interferes with personal protective equipment. *See also* M-00412, M-00514

M-00517 Step 4
July 5, 1984, H1N-4K-C 13691
Whether or not such radios or tape cassettes should be permitted is determined by applying Article 14 and past practice at the local office to the fact circumstances. *See also* M-00538.

M-00512 Step 4
June 6, 1984, H1N-3D-C 24747
The Postal Service's current national policy concerning personal portable radio or tape cassette headphones was published in Postal Bulletin 21397, dated March 31, 1983. Any radio use not covered by the Bulletin is subject to local determination based on safety, past practice, operating feasibility, etc.

M-00499 Step 4
April 18, 1984, H1N-3U-C 25856
Postal policy concerning personal portable radio or tape cassette headphones, published in Postal Bulletin 21379, November 25, 1982, and the settlement letter between the parties, dated March 21, 1983, did not apply to other types of radio equipment which may have been permitted. Whether or not a past practice existed involving the use of personal radios at the carrier cases is purely a factual dispute and is suitable for regional determination.

M-00482 Step 4
June 24, 1982, H8N-3T-C 36426
The question raised in this grievance involves whether local management was discriminatory by denying the employee the use of his earphone radio while casing mail. Whether this matter was properly handled can only be determined by applying the fact circumstances involved against the past practice in the local installation.

M-00903 Step 4
February 1, 1989, H1N-3D-C 38508
Any use of personal portable radios (in postal vehicles) that is not covered by the postal policy published in Postal Bulletin 21397, March 31, 1983, is subject to local determination based on such considerations as safety, past practice and operation feasibility.

C-09408 Regional Arbitrator Scearce
Management improperly changed a past practice of permitting radios to be used in vehicles.

REASSIGNMENTS

SEE ALSO

Limited Duty, Page 203
Transfers, Page 359
Excessing, Page 112
Withholding, Page 385

C-00936 National Arbitrator Aaron
January 24, 1983, H1C-5D-C 2128
Pursuant to the provisions of 546.141 of the ELM, A full-time rural carrier who has incurred an on-the-job injury must be offered a full-time regular position in another craft that minimizes adverse or disruptive impact on the employee.

C-05114 National Arbitrator Aaron
October 22, 1979, ACE 20433
The Postal Service did not violate the 1975-78 collective bargaining agreement the weekend of Fourth of July, 1977, the Labor Day, 1977, when it closed the operation of the Chester Post Office and gave the clerk craft employees scheduled to work on those given Sundays the alternatives of working in Philadelphia, taking annual leave, or taking leave without pay.

C-07233 National Arbitrator Bernstein
August 7, 1987, H1N-1J-C 23247
The Postal Service may not permanently transfer an employee who sustained an injury on duty and who is performing limited duty to another craft on an involuntary basis.

M-00081 Step 4
December 6, 1982, H8N-4J-C 33933
The issue in this case is whether management violated the National Agreement by reassigning the employee to another craft due to his inability to work safely.

It was mutually agreed that: An employee may volunteer for reassignment to another craft. However, the Postal Service may not unilaterally make such a reassignment.

C-11252 Regional Arbitrator Purcell
October 5, 1991
Management violated the contract when it refused to permit a letter transferred to the clerk craft for limited duty to return to the letter carrier craft to perform router work.

M-01103 Step 4
September 22, 1992, H7N-5R-C-30346
The issue in these grievances is whether management violated the Agreement when the grievant was permanently reassigned work in another craft.

After reviewing this matter, we mutually agreed that no national interpretive issue is fairly presented in these cases.

Further, it is agrees that ELM, Part 546.14 is applicable in such cases. Accordingly, these cases are returned to Step 3 for further processing, including arbitration if necessary to determine whether the ELM provisions were appropriately applied

M-00976 USPS Letter, June 27, 1990
The union representatives requested that the PS Form 2444, Postal Service Relocation Agreement, be changed to specifically exclude employees exercising their retreat rights. They also requested that the 12-month commitment not be additive.

After considering all responses, we have decided not to make the 12-month commitment additive. However, we do not feel that the changing of the Form 2444 as requested by the unions is necessary. It is understood and accepted that the national agreement takes precedence over the relocation commitment. If a bargaining unit employee was involuntarily relocated and, within the 12-month commitment period, exercises his/her retreat rights to return to the original duty station, the 12-month commitment would be waived by the Postal Service.

M-00068 Step 4
September 19, 1973, NE-5032
Article XII of the National Agreement (Article XIII of POD 53, dated March 9, 1968) does not explicitly provide for the arbitrary permanent reassignment of ill or injured employees across craft lines against their wishes. Accordingly, the reassignment of the grievant in this case will be canceled and he will be restored to the rolls of the letter carrier craft, without loss of seniority.

C-10309 Regional Arbitrator Levin
August 20, 1990
Management did not violate the contract when it did not allow the grievant to remain in the clerk craft after her improper placement there, which violated Article 37, and returned her to the carrier craft.

SUPERVISORS RETURNING TO BARGAINING UNIT

C-10147 National Arbitrator Snow
August 13, 1990, H7N-4Q-C 3766
Arbitrator Snow held that when a former supervisor is reassigned to the letter carrier craft, his full-time or part-time status is to be determined by reference to the seniority provisions of the Agreement. Accordingly:

1) If a letter carrier becomes a supervisor and returns to the letter carrier craft in the same office within two years -- thus retaining his seniority -- he may be assigned to a full-time position.

2) If a letter carrier becomes a supervisor and returns to the letter carrier craft after two years have passed, he loses seniority and thus may only be assigned to a part-time flexible position.

3) If a letter carrier becomes a supervisor and returns to the letter carrier craft in a different office, he will have accumulated no seniority and thus may only be reassigned to a part-time flexible position.

M-00805 Pre-arb
March 28, 1986, H1N-1E-C-35862
Management violated the National Agreement by not converting the grievant, part-time flexible, to full-time status prior to the voluntary reassignment of a supervisor from another post office to the vacant craft position. In this situation, the supervisor had been away from a craft position for more than two years. Therefore, the parties agree that the Postmaster General's letter of April 6, 1979, concerning voluntary reassignments and transfers applies, wherein it states:

> Full-time non-bargaining-unit employees will be reassigned into full-time positions unless the reassignment is to a vacant bargaining-unit position.
>
> All employees reassigned to positions in the bargaining- unit will have their seniority established in accordance with applicable collective-bargaining agreements.

The parties also agree to the following remedy: Applying this criteria, the grievant will be place in the bid position sought under this grievance and the incumbent will become an unassigned regular.

For the period beginning when the grievant would have been place in the bid position, he will be compensated for the difference between his paid hours and forty hours in any week in which he did not receive pay for forty hours. *See also* M-00806

Note: The grievant in this case was the only PTF employee in the installation. (See File)

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RELIGIOUS ACCOMMODATION

C-04085 National Arbitrator Aaron
January 25, 1984, NCE 11359
Management may not assign an employee to a fixed schedule with Saturdays off for religious reasons, where the local memo provides for rotating days off. *Cf C-12551*

M-01086 Prearb
May 5, 1992, H7N-1N-C 23241
The parties agree that reasonable accommodation of an individual's religious beliefs does not include acts violative of the National Agreement and/or provisions of a local memorandum of understanding.

M-00476 Pre-arb
October 22, 1986, H1N-2U-C 17199
In full and final settlement of this grievance, the part-time flexible employee should not have been passed over in order to accommodate his religious practices. The part-time flexible will be converted to the next full-time position of the same designation and PS salary level. This settlement does not express the position of the parties as to how full-time positions may be filled through means other than conversions of part-time flexible employees.

M-00178 Step 4
July 21, 1977, NCC 7451
All requests for leave on Saturday should be treated on an equal basis as has been the past practice at this facility.

M-00588 Letter, November 25, 1981
PMG policy letter with respect to religious accommodation, stating "[m]ethods of accommodating which are consistent with any applicable collective bargaining agreements and our operating requirements must be attempted".

C-05018, Regional Arbitrator Snow
July 15, 1985, W1N-5D-D 30932
The arbitrator found that in the circumstances of this case the Postal Service violated the national agreement when it refused to accommodate the grievant's leave request made in order to respond to his religious needs.

RESERVE, UNASSIGNED REGULARS

M-00421 Step 4
May 15, 1981, H8N-3W-C 25865
Reserve letter carriers are assigned to a unit other than their own when there is not an eight (8) hour assignment available at their bid unit. Instances may arise where the assignment is for more than one day at a time. However, if an eight (8) hour assignment becomes available at their bid unit no later than the previous workday, every effort is made to return the reserve letter carrier to his unit to fill the assignment. If the vacancy becomes available on a same day situation, management does not return the reserve letter carrier to his unit since he has already reported to another unit.

M-00422 Step 4
January 20, 1983, H1N-5D-C 5945
Reserve letter carriers should work their bid duty assignment at the principal assignment area when there are eight (8) hour assignments available.

M-00207 Step 4
April 28, 1981, H8N-3W-C 25867
Reserve letter carriers are assigned to a unit other than their own when there is not an eight (8) hour assignment available at their bid unit.

M-00669 Step 4
February 24,1987, H1N-5G-C 22641
Full-time reserve and unassigned regular letter carriers occupying a hold-down position pursuant to the provisions of Article 41.2.B.3 have the right to bid for a full-time duty assignment. If such letter carrier is the successful bidder, he shall be placed into the duty assignment pursuant to the provisions of Article 41.1.C.3. The resultant vacant hold-down will be filled pursuant to the provisions of Article 41.2.B.3-5, provided the anticipated duration of the resultant vacancy is of five (5) days or more.

M-00082 Step 4
October 31, 1985, H4N-3U-C 3319
Whether or not "Reserve Letter Carrier" assignments should be posted for bid can only be determined by application of established past practice to the fact circumstances involved.

M-00904 Step 4
August 25, 1988, H4N-1P-C 32698
A newly established reserve regular duty assignment must be posted for bid according to Article 41.1.A.1 of the National Agreement

M-00097 Pre-arb
September 6, 1985, H1N-5D-C 6601
Management may assign a reserve carrier to a temporary assignment of 5 days or more rather than honor the request of a part-time flexible provided it can be demonstrated that honoring the opt would result in insufficient work for the full-time regular.

M-00423 Step 4
March 8, 1983, H1N-3Q-C 14118
Full-time reserve letter carriers may opt for craft duty assignments in accordance with Article 41, Section 2.B.3., this includes available full-time reserve craft duty assignments.

M-00353 Step 4
May 24, 1985, H1N-5G-C 24094
A reserve carrier who does not opt for a "hold-down" shall nonetheless assume the schedule of the "hold-down" if management elects to assign the reserve carrier to the route or assignment anyway.

This settlement only addresses the schedule a reserve letter carrier works. It does not effect a reserve letter carrier's entitlement to out-of-schedule pay. See M-00940.

C-09910 Regional Arbitrator Scearce
March 10, 1990
Management did not violate the contract when it created a reserve regular position to perform router work on an unrestricted number of unidentified routes.

C-05186 Regional Arbitrator Snow
September 30, 1985, W1N-5D-C 4592
Where reserve regular letter carriers have been assigned to specific stations as a matter of past practice, management may not change to a city-wide area bench system of assignment.

Route Examinations

M-01543 Memorandum June 30, 2005
Local management will, if it determines it necessary when scheduling an inspection to inspect on more than one day, inspect on no more than three days during the week of count and inspection. If local management elects to inspect on two or three days during the week of count and inspection, local management will be responsible for completion of the 1838-C one of the days. The letter carrier will count the mail and complete the 1838-C on the other days of inspection. When local management elects to inspect on two or three days, PS Form 3999 closest to the selected street time on the PS Form 1840 will be used to transfer territory.

C-23767 National Arbitrator Briggs
October 29, 2002, B94N-4B-C 97105300
The Postal Service may not properly inspect city carrier routes on all six days of the count and inspection week. See also M-01503, M-01505,

M-01503 Memorandum of Understanding
November 4, 2003
Memorandum resolving issues left open by arbitrator Briggs award in C-23767, above.

M-00258 Pre-arb
December 16, 1982, H8N-NA-C 46
The matters at issue in this grievance involved certain changes made in Handbook M-39, with particular concern about the change to provide for the curtailment of mail during the week of mail count and inspection.

During our discussions, it was mutually agreed to settle the matters at issue in this grievance by reverting to the pre-1981 requirement of not curtailing mail during the week of count and inspection. It was further agreed that the NALC would withdraw case H8N-NA-C-46 from the pending arbitration list.

Enclosed herewith is an advance copy of a Postal Bulletin notice which amends Sections 221.134 and 221.136 of Handbook M-39, appropriately reflecting the terms of the agreed to settlement.

M-01215, Prearbitration Settlement
July 20, 1994, H0N-NA-C 19021
Prearbitration Settlement concerning March 8, 1994 M-39 and M-41 changes regarding the implementation of delivery point sequencing.

M-01076 Step 4
June 26, 1992, H0N-3F-C 320
The issue in this grievance is whether management violated the National Agreement by adjusting routes based on inspections performed using five-shelf cases.

During our discussion, we mutually agreed that, since the M-39 provides only for standard six-shelf letter cases, route inspections and adjustments should not have been performed on non-standard cases.

We further agreed to remand the question of remedy, if any, to step 3 for further processing.

M-01024 Postal Bulletin 21791
July 13, 1991
Postal Bulletin Notice of revisions to M-39 Section 220 made in order to permit the use of hand-held computers for data collection.

M-01284 Prearbitration Settlement
April 17, 1992, H94N-4Q-C 97026594
The issues in this grievance is whether management is required to define "reasonably current" in Part 141.19 of the M-39 Handbook as "18 months" for all adjustment purposes.

During our discussion, it was mutually agreed that the following constitutes full settlement of this grievance:

1. The parties acknowledge that, as an alternative to the methodology provided in the unilateral process, managers may, at their option, use the route inspection and adjustment procedure in Chapter 2 of the M-39 Handbook to capture initial DPS savings. After using the M-39 inspection and adjustment procedures to adjust routes, the unit is considered to be out of the unilateral process and the M-39 procedures, including Part 141.19 Minor Adjustments, will apply thereafter.

2. Finally, it is agreed that Part 141.19, Minor Adjustments, including the reference to "reasonably current" remains unchanged.

STARTING TIMES

M-00330 USPS Letter, November 16, 1972
Early reporting during count week should be scheduled as stated in Part 215.6b of the M-39 Handbook. Although there is, of course, a cost related to the additional time used for mail counts, this cost is relatively modest when weighed against the benefits gained from a fair and thorough route evaluation.

M-01088 Step 4
August 19, 1975, NB-N-4625
The record shows that the letter carriers at this office were denied an earlier starting time during the count and inspection week referenced in the grievance. It is our position, that preceding the count week, carriers' schedules shall be posted requiring an earlier starting time to count the mail.

Accordingly, the grievance is sustained to the extent that local officials shall be instructed that in the future they shall schedule carriers to an earlier starting time during the count week.

LEAVE DURING

M-01105 Pre-arb
November 24, 1992, H0N-1F-C-2731
The issue in this case is whether management violated the National Agreement by excluding from the leave chart those carriers whose routes are scheduled for count and inspection during the week selected.

During our discussions, we mutually agreed that:

1) All advance commitments for granting annual leave must be honored except in serious emergency situations.

2) Management may block out vacation time in order to perform route inspections, provided that the dates in question are blocked out prior to vacation selection.

3) When management blocks out vacation time, an equivalent number of additional slots must immediately be made available for vacation selection. Unless the local union agrees otherwise, the slots will be added to the number of slots required by the Local Memorandum during the 30 day period immediately before or after the dates of the inspection.

4) This grievance is remanded to Step 3 for the determination of remedy.

M-01017 USPS Letter, January 29, 1982
This refers to our meeting of January 12, during which we discussed the various provisions set forth in the revised M-39 Handbook. With regard to our discussion on committed annual leave vs. canceling annual leave for route inspection purposes, this will clarify that the provision set forth in Article 10, Section 4, D, is controlling. It is not the intent of the Postal Service to cancel annual leave approved during the vacation planning process in order to comport with subsequently scheduled route inspection periods.

M-00334 Step 4, April 5, 1973, NW 3155
The Postmaster will cease and desist from canceling the employee's bid vacation period during the choice period due to count and inspection week.

OVERTIME DURING

M-01106 Pre-arb
November 24, 1992, H7N-1N-C 34068
The issue in these cases is whether management violated the National Agreement by requiring a carrier who was not on the overtime desired list to work overtime during the week of count and inspection.

During our discussions, we mutually agreed to the following:

1) The overtime provisions of Article 8 and the associated Memorandums of Understanding remain in full force and effect during the week of count and inspection except that henceforth:

a) On the day during the week of inspection when the carrier is accompanied by a route examiner, management may require a carrier not on the overtime desired list or work assignment list to work overtime on his/her own route in order to allow for completion of the inspection.

b) On the other days during the week of inspection when the carrier counts mail, management may require a carrier not on the overtime desired list or work assignment list to work overtime on his/her own route for the amount of time used to count the mail.

2) The grievance is remanded to Step 3 for the determination of remedy.

M-01217 Pre-arb
April 5, 1995, HON-3W-C 6949
The issue in these cases is whether management violated the National Agreement by requiring a carrier who was not on the Overtime Desired List to work overtime the day of a "one-day count" .

During our discussions, we mutually agreed to the following: The overtime provisions of Article 8 and the associated Memorandums of Understanding remain in full force and effect except that on the day of a "one day count", if the carrier is being accompanied on the street, management may require a carrier not on the Overtime Desired List to work overtime on his/her own route in order to allow for completion of the count.

ROUTE EXAMINERS

M-00133 Pre-arb, April 6, 1979, NCC 7851
Route examiners will not instruct carriers to change their mode of delivery on the day of route inspection. Carriers must perform their duties and travel their route in precisely the same manner on inspection day as they do throughout the year.

M-00181 Step 4
October 22, 1981, H8N-5B-C 19237
Section 231.5 and Part 232, Methods Handbook, Series M-39 are explicit as to the conduct of route examiners and must be followed. Section 242.344, M-39 provides guidance for necessary action when warranted.

UNION ROLE

M-00026 Step 4, February 10, 1977, NCS 4760
There is no provision for active union participation in count and inspections. However, if the union cites a specific problem in a specific instance, local management may give consideration to union verification of an alleged incorrect count, missed mail, etc.

M-00006 Step 4
November 23, 1977, NC-W-9132
Management's decision not to allow Stewards to be present during discussions individual carriers and their supervisors relative to route inspections was not contrary to provisions of the National Agreement.

M-00025 Step 4
December 15, 1977, NCC 10028
There is no obligation under the provision of Article XXIII of the National Agreement to allow union representatives to enter postal installation for the purpose of acting as observers during the week of count and inspection.

DRY RUN

M-00740 Step 4, August 31, 1977, NCS 6378
Union to be officially notified of dates of route examinations. Dry run to be conducted as provided by instructions in Section 217 of the M-39 Handbook.

M-00745 National Joint City Delivery Meeting
December 11-12, 1979
Operational changes, affecting an entire unit should be effected no later than the dry run, should remain in effect through the week of count and inspection and thereafter until conditions require further modifications. It is not intended to stop withdrawal of mail or use an accountable mail cart during the week of count and inspection, and then discontinue such practices immediately thereafter.

C-10574 Regional Arbitrator Scearce
January 30, 1991
Management violated various provisions of the M-39 when it did not provide a dry-run or let the carriers count mail and fill out Forms 1838; monetary remedy awarded.

BREAKS, ROUTE EXAM CREDIT

M-00242 Step 4
September 13, 1976, NCE 2097
Management should not deduct reasonable comforts/rest stops from the total street time during route inspections if deduction of the time is contrary to pass local practice.

M-00230 Step 4
March 17, 1982, H8N-4B-C 32585
Letter carriers are entitled to two 10-minute break periods. If less than this is incorporated into the routes, appropriate action should be initiated to ascertain that this break time is reflected in the route adjustments. Management does not have the contractual right to deny the utilization of these breaks.

M-00745 National Joint City Delivery Meeting
December 11-12, 1979
When both breaks are selected on the street in accordance with M-39 Section 242.34a, one or both of these breaks may in some instances properly be designated as in the post office. When this happens, however, the break or breaks will be recorded as street time and must occur during the period from clocking out of the office and clocking back in from the street.

FORM 1838

M-01543 Memorandum June 30, 2005
Local management will, if it determines it necessary when scheduling an inspection to inspect on more than one day, inspect on no more than three days during the week of count and inspection. If local management elects to inspect on two or three days during the week of count and inspection, local management will be responsible for completion of the 1838-C one of the days. The letter carrier will count the mail and complete the 1838-C on the other days of inspection. When local management elects to inspect on two or three days, PS Form 3999 closest to the selected street time on the PS Form 1840 will be used to transfer territory.

M-00638 Step 4, March 30, 1977, NCW 3630
Existing Delivery Services instructions call for the completion of Form 1838 in duplicate. Therefore, in the future local officials are to ensure that the 1838 forms are completed in duplicate utilizing carbon paper.

C-10574 Regional Arbitrator Scearce
January 30, 1991
Counting of mail and filling out of the 1838 by a route examiner rather than the letter carrier should be the exception rather than the rule; management violated the contract by having the route examiner count the mail and fill out the 1838 on all of the days of a special route examination.

M-01181 Step 4
June 9, 1994, H0N-5T-C 1387
When conducting a one-day mail count, the appropriate form to record the carrier's performance is on PS Form 1838-C. The PS Form 1838-C does not specifically measure the carrier's performance by pieces per minute.

FORM 1838-C - LINES 1 & 2 - COUNTING MAIL

See also "Counting Mail" below.

C-03221 National Arbitrator Mittenthal
June 4, 1979, NCW 8752
The appropriate time standard for a Montgomery Ward coupon booklet is eight pieces per minute. *See also* C-09463

M-00961 Step 4
March 15, 1990, H7N-5T-C 15747
The issue in this grievance is whether sequenced mail should be counted as letters on PS Form 1838. Address cards cased into letter separations should be recorded on line 1 of Form 1838

M-00187 Letter, November 25, 1975
Magazines such as TV Guide, Readers Digest and similar items are considered as magazines for mail count purposes and, in accordance with Part 922.4 Methods Handbook, M-41, are not to be included in the letter size count.

M-00745 National Joint City Delivery Meeting
December 11-12, 1979
Generally, if mail supposedly sequenced for delivery by the mailer is received at the delivery unit out of sequence, it would be recorded on Form 1838 and 1838C in Columns 1 or 2 as appropriate.

M-00603 National Joint City Delivery Meeting December 4, 1975, Item C
The items are considered catalogs. Both of the items have 24 or more pages, 22 of which are printed and provide a complete enumeration of items arranged systematically with descriptive details. Therefore, the items should be recorded under Item 2 (mail of all other sizes) on Form 1838.

M-00323 Memorandum of Understanding August 1, 1975
Letters are to be defined as that mail which will fit vertically without bending or folding between the two closest shelves on the carrier's case.

M-00774 Step 4, October 31, 1978, NCS 12191
Whether the carriers are told to case "thin flats" into the flats case or into the letter case is not totally significant. What is critical is that they receive the proper credit of eight pieces per minute for those pieces of mail designated as "flats" which are routed into the letter case.

M-00064 Step 4
June 30, 1983, H1N-1Q-C 12090
Management may direct that certain types of mail, for which flat credit is given, will be cased in the letter mail separations.

M-01328 Step 4
May 26, 1998, A94N-4A-C 97088876
During our discussions of this case, the parties agreed that there is no dispute between the national parties with respect to the definition of letter-size mail for purposes of conducting mail counts and route inspections, as clearly agreed to between the parties in Chapter 1, Case Configuration Letter Size Mail, Building our Future by Working Together, as well as Section 922.4111 of Handbook M-41 and Section 121.12 of Handbook M-39.

FORM 1838-C - LINE 14 ACCOUNTABLES

M-01012 Step 4
October 1, 1991, H7N-3C-C 34862
We mutually agreed that letter carriers are required to sign for stamps-by-mail. Additionally, appropriate credit will be reflected on line 14 of PS Form 1838 during route examinations.

M-01411 Step 4
May 17, 2000, H94N-4H-C-992212361
The issue in this case concerns the recording of time credit during route count and inspection on Form 1838, when carriers retrieved bar code scanners.

The parties agreed that the carriers were properly given credit for the scanners on Form 1838 on line 14. If instructed by local management to retrieve scanners as a separate process, time credit is recorded on line 21. Scanners are not accountable items. However, for the purposes of completing an 1838, if the carriers are instructed by management to retrieve scanners as part of the normal process of obtaining accountable items, time credit is recorded on line 14.

FORM 1838-C - LINE 15 WITHDRAWING MAIL

M-00892 USPS Letter, January 3, 1989
Assistant Postmaster General Mahon's letter pertaining to our position on the issue of spreading mail to carriers in no manner is designed to abate the provisions of Section 116.6 of the M-39 Handbook, entitled "Carrier Withdrawal of Letters and Flats", which addresses the fact that carriers may be authorized to make up to two withdrawals from the distribution cases prior to leaving the office, plus a final clean up sweep as they leave the office.

C-03245 National Arbitrator Aaron
June 24,1980 N8-W-0039
Where Carrier Handbook M-39 did not mention specifically "Trays" with regard to withdrawal of mail and the M-41 Manual did so specifically, the two must be read together and the Postal Service may not deny credit in the route evaluation process to letter carriers for time actually spent in the office withdrawing mail from trays at or near their desks and preparing that mail for casing.

M-01288 Step 4
May 21, 1997, D94N-4D-C 96034273
The issue in this grievance is whether the time spent cutting and removing bands/straps and certain procedures concerning the handling of unaddressed pieces in "shared mailings" should be included on Lines 15 and 21, respectively, of Form 1838.

The parties mutually agreed to remand this case to Step 3 for application of National Case No. N8-W-0039, Benjamin Aaron, dated June 24, 1980. Additionally, the parties agreed that the time allowance for determining the number of pieces of unaddressed flats of a "shared mailing" and placing them at the back of the bundle should be recorded on line 21, Form 1838.

FORM 1838-C - LINE 20
PERSONAL NEEDS

M-00399 Step 4
December 7, 1979, NC-S-18945
Wash-up time has been associated with the personal needs time allowed on line 20 of the 1838; therefore, it is our determination that line 21 credit was not warranted.

FORM 1838-C - LINE 21
RECURRING OFFICE WORK

M-00726 Step 4
October 14, 1981, H8N-3P-C 31294
A Union steward's activities (grievance handling), when necessary and if occurring weekly or more often, may be appropriate for inclusion by the letter carrier on line 21 of Form 1838-C.

C-09381 Regional Arbitrator P. Williams
September 30, 1989, S7N-3V-C 11464
Management violated the contract when it did not give the NALC steward 45 minutes credit on Line 21 for steward duty.

M-00731 Step 4
December 8, 1978, NCS 12601
There is no provision for allowing a time credit for reversing a letter to remind the carrier that there is also a parcel for delivery.

M-00399 Step 4
December 7, 1979, NCS 18945
Wash-up time has been associated with the personal needs time allowed on line 20 of the 1838; therefore, it is our determination that line 21 credit was not warranted.

M-00605 Settlement Agreement
August 26, 1980
The parties mutually agree that the following listed work activities may be appropriate for inclusion by the letter carrier for actual time credit on line 21 of the Form 1838-C when such activities are determined to be recurring and necessary in the performance of the carrier's office routines:

1. Performing window caller service.

2. Weekly safety talks and other appropriate unit discussions.

3. Travel to and from the throwback case or to other designated locations to return mark-up mail and mis-throws.

4. Replenishing the forms pouch.

5. Wash-up time, in excess of personal time provided for on line 20, if such additional or longer wash-up time is provided for during office time in a Local Memorandum of Understanding negotiated pursuant to Article XXX or, if pursuant to local past practice, additional or longer wash-up time had been granted and included on line 21.

6. Official communications including, but not limited to, general delivery; CMU Clerk inquiries; and responding to inquiries from supervisors.

7. Facing or separating collection mail upon return to office.

8. Verifying hold mail.

9. Union steward activities (grievance handling), when necessary and if occurring weekly or more often.

The following guidelines will be applied in implementing this settlement.

a. The appropriateness for granting credit for the listed items on line 21 of Form 1838-C is dependent on a determination that the incident is (1) recurring; (2) necessary to the successful completion of the activity; and (3) not otherwise properly included as part of another established time credit on lines 1 through 20.

b. Additional work activities determined to be recurring and necessary in the performance of letter carrier office routines also may be appropriate for inclusion for actual time credit on line 21. This may include a recognition of activities peculiar to local circumstances. For example, if carriers are required to travel from one floor to another when going from the time clock to the case in the morning, credit for such time may be granted on line 21. It may also include reading the official U.S. Postal Service bulletin board in those offices where carriers are specifically instructed to refer to the bulletin board on a recurring basis in order to be informed as to frequently changing information for which they are responsible. Another example would be when it is required on a recurring basis to obtain mail sacks or other necessary supplies to successfully complete the activity.

c. Entries for time spent referring to Forms 3982 are not ordinarily appropriate items for inclusion on line 21 of the Form 1838-C. However, in exceptional situations where, due to unusual local conditions, the number and frequency of removals makes it necessary for a letter carrier to make recurring references to the Form 3982, a line 21 entry may be appropriate.

M-00971 Step 4
July 23, 1990, H7N-5T-C 7855
If it is determined that the use of forms 1571 is of a recurring nature, then appropriate time should be entered on Line 21. If the use of these forms is not of a recurring nature, then the time should be entered on line 22 during the mail count and inspection. The determination of recurring or non-recurring must be made locally.

M-00736 Step 4
February 15, 1978, NCC 8505
The method for handling CMU mail and throwbacks need not be included on line 21 as a separate function when performed in conjunction with another activity such as loading time. The carrier will receive full credit for the time required to perform these combined activities.

M-00739 Step 4
June 15, 1977, NCC 5495
Time entry on line 21 for canceling stamps is disallowed. The canceling of stamps is a minor function with a negligible amount of time involved. Consequently, it would not adversely effect the carrier's overall office time. If for some reason a significant volume is received on a regular basis, the matter should be brought to local management's attention for other corrective action.

M-00631 Step 4
December 16, 1977, NCS 9256
Time credit for canceling stamps, reading the postal bulletin, and washing hands are not appropriate entries for line 21 of Form 1838. Those items are not daily recurring functions for which appropriate credits are already allowed in the standard

M-01288 Step 4
May 21, 1997, D94N-4D-C 96034273
The issue in this grievance is whether the time spent cutting and removing bands/straps and certain procedures concerning the handling of unaddressed pieces in "shared mailings" should be included on Lines 15 and 21, respectively, of Form 1838.

The parties mutually agreed to remand this case to Step 3 for application of National Case No. N8-W-0039, Benjamin Aaron, dated June 24, 1980. Additionally, the parties agreed that the time allowance for determining the number of pieces of unaddressed flats of a "shared mailing" and placing them at the back of the bundle should be recorded on line 21, Form 1838.

M-01411 Step 4
May 17, 2000, H94N-4H-C-992212361
The issue in this case concerns the recording of time credit during route count and inspection on Form 1838, when carriers retrieved bar code scanners.

The parties agreed that the carriers were properly given credit for the scanners on Form 1838 on line 14. If instructed by local management to retrieve scanners as a separate process, time credit is recorded on line 21. Scanners are not accountable items. However, for the purposes of completing an 1838, if the carriers are instructed by management to retrieve scanners as part of the normal process of obtaining accountable items, time credit is recorded on line 14.

FORM 1838-C - LINE 22
WAITING FOR MAIL, NON-RECURRING WORK

M-00243 Step 4, December 1, 1975, NBN 5989
If the occasion arises where a carrier would review the Forms 3982 during the week of count and inspection, the time utilized for this review would be entered on line 22 of the Form 1838. *But See* M-00605, Item c.

C-03229 National Arbitrator Garrett
ND-NAT-0001, August 27, 1979
The base minimum time allowance must be given for lines 14, 15, 19, and 21 when completing Form 1838. However, the base minimum time allowances are only used to determine the standard office time and not the average actual office time.

FORM 1840

M-01543 Memorandum June 30, 2005
Local management will, if it determines it necessary when scheduling an inspection to inspect on more than one day, inspect on no more than three days during the week of count and inspection. If local management elects to inspect on two or three days during the week of count and inspection, local management will be responsible for completion of the 1838-C one of the days. The letter carrier will count the mail and complete the 1838-C on the other days of inspection. When local management elects to inspect on two or three days, PS Form 3999 closest to the selected street time on the PS Form 1840 will be used to transfer territory.
M-00981 USPS Letter, November 12, 1980
Transmittal letter for December 12, 1980 Postal Bulletin notice clarifying that "Representative times no longer apply to lines 14, 15, 19 and 21."

M-01403 Step 4
February 03, 2000 G94N-4G-C 97121978
The issue in this grievance is whether management may eliminate detached address mail (Marriage mail) from the PS form 1840 in evaluating routes during a 6-day mail count and route inspection.

During our discussions we mutually agreed that such adjustments must be made in accordance with the provisions of Handbook M-39, subchapter 24.

We agreed that there presently are no provisions permitting certain days of the route examination to be excluded from the 6-day average, as outlined on the 1840, based on locally developed criteria.

M-00321 Step 4, July 16, 1975, NBW 3871
No justification is shown for the representative times in question. Simply stating "too much" or relying on what other carriers do is not reasonable or equitable to justify representative time.

M-00745 National Joint City Delivery Meeting December 11-12, 1979
Rubber stamps are not to be used for making comments on Forms 1840. Comments relating to individual performances must reflect the recognition that each comment, although dealing with the same basic subject, will no doubt vary by some degree from a similar comment about another employee performing the same function.

FORM 1840-B: SIX WEEK ANALYSIS

M-00403 Step 4, May 4, 1977, NCW 5333
The (Forms 1840-B) should be taken during normal mail volume periods between the first week of September and May, 31, excluding December..i.M-39:242.31;

M-00745 National Joint City Delivery Meeting December 11-12, 1979
The National policy is that office time is fixed as provided in Section 242.31a, M-39. This time is derived from information contained in Columns A or B of Form 1840. It is also policy that Form 1840B information must be considered in accordance with Section 242.322, M-39 Handbook, and appropriate action be taken if this analysis indicates a regulating of performance by an employee during the week of Count and Inspection.

M-00395 Step 4, January 17, 1980, N8-E-0142
The following represents our mutual understanding of the cited portion of Section 242.32b3 of the M-39 Handbook: In the event a selected week cannot be considered because the carrier was not serving the route on at least one of the days of that week, the next available week should be considered. As a matter of clarification, the next available week may fall outside the month and should be considered in the seven week random time card analysis with the exception of the months of June, July, August and December. Upon request, the local union may request and shall receive access to the appropriate records to determine which route or routes did not have seven weeks for time card analysis purposes for the aforementioned reason. After the route or routes are identified to local management, appropriate steps will be taken to assure that the route or routes are evaluated correctly.

M-00745 National Joint City Delivery Meeting December 11-12, 1979
When weeks have been randomly selected, in accordance with 242.32, M-39, for the first seven week period of the timecard analysis, the fact that a holiday falls within one or several of the selected weeks is not justification for excluding such week or weeks from consideration.

When Forms 1840-B are being completed, all time used in relation to a route on a day when the regularly assigned carrier works the route, including overtime and/or auxiliary assistance, is to be shown as part of the timecard analysis.

M-01339 Pre-arbitration Settlement August 21, 1998, G90N-4C-C 9601 4836
The issue in this grievance is whether management violated the M-39 Handbook by utilizing the 1840-B to determine a route's average street time when the analysis period contained days when an authorized DPS work method was not used, but during the week of mail count and route inspection, one of the approved DPS work methods was used.

After discussing this matter, we agreed that no handbook violation occurred. However, the parties agree that the following will apply prospectively as an interim step until this issue is revisited from September through November 1998:

1. If there are not sufficient weeks in accordance with the M-39, Section 242.323 where the regular carrier was utilizing either of the approved DPS work methods during the normal 1840-B analysis period (7 eligible months preceding), then the analysis period will be comprised of the immediate six weeks prior to, and the two weeks after, the count and route inspection.

2. If such weeks do not exist where the regular carrier served the route using an approved DPS work method, the maximum number of weeks available prior to the mail count and route inspection, and up to four weeks after the count week, will be used for the random timecard analysis of street time.

3. The start of the 52 day period for implementation of route adjustments will begin the day after the final qualifying week for the 1840-B analysis period.

FORM 3999: STREET TIME

M-01539 **Prearbitration Settlement May 2, 2005, Q98N-4Q-C 02003047**
The parties agree that when determining whether deducted 'street time waiting for transportation' should be included in the evaluated street time of a route, management will consider whether the waiting time is anticipated to be of a recurrent nature.

M-01543 **Memorandum June 30, 2005** Local management will, if it determines it necessary when scheduling an inspection to inspect on more than one day, inspect on no more than three days during the week of count and inspection. If local management elects to inspect on two or three days during the week of count and inspection, local management will be responsible for completion of the 1838-C one of the days. The letter carrier will count the mail and complete the 1838-C on the other days of inspection. When local management elects to inspect on two or three days, PS Form 3999 closest to the selected street time on the PS Form 1840 will be used to transfer territory.

The terms of this memorandum are applicable from the date of the memorandum through May 26, 2006, unless mutually extended by the parties.

M-00745 **National Joint City Delivery Meeting December 11-12, 1979**
There are only two options from which a base street time can be selected, and they are as shown in Section 242.32a, M-39 Handbook.

M-00600 **National Joint City Delivery Meeting November 16, 17, 1983, Page 7**
Minor adjustments should not be based solely on form 3999 information, but should also include review and analysis of other current information such as, DUVRS, Form 3996, 1571, etc. concerning the route being considered for adjustment.

COUNTING MAIL

See Also Form 1838-C. Lines 1 & 2, Page 318

M-00814 **Step 4**
July 8, 1987, H4N-5T-C 42333
Normally, a spot verification of the mail volume is adequate to determine that the mail count is accurate. However, the parties agree that based on the intent of Section 221.131 of the M-39 Handbook, the carrier may, upon request, verify the entire mail count.

M-00254 **Step 4**
October 23, 1975, NBS 6234
The route examiner will count and record the mail on the day(s) of the inspection. However, the carrier will count and record the mail all other days during the count week except on the day(s) of inspection.

M-00026 **Step 4**
February 10, 1977, NCS 4760
There is no provision for active union participation in count and inspections. However, if the union cites a specific problem in a specific instance, local management may give consideration to union verification of an alleged incorrect count, missed mail, etc.

M-00536 **Step 4**
February 11, 1985, H1N-3T-C 36385
Based on the intent of Section 221.131 of the M-39 Handbook, the carrier may, upon request, verify the entire mail count.

M-01216 **Pre-arb**
April 11, 1995, H7N-3Q-C 38909/39493
The issue in these cases is whether management violated the National Agreement by not allowing carriers to count the mail counted by the supervisor during a "one day count" .

During our discussions, we mutually agreed to the following: On the day of a "one day count" when management performs the mail count the carrier serving the route, upon request, may verify the count.

M-01112 Memorandum
September 17, 1992
For the purpose of conducting mail counts and route inspections on traditional casing equipment, letter size is defined as mail that can be cased into the letter separations of a standard six-shelf case without folding or bending (approximately six inches in height). Letter size does not include newspapers, rolls, small parcels, flats, magazines, or catalogs under two pounds, even though these items may be cased into the letter separations of a standard case without folding or bending.

When mail counts and route inspections are conducted in a unit where letter mail is cased into four-and/or five shelf case configurations that have been established as a result of any joint agreement, the existing definition of letter sized mail will not change; the 18 and 8 standard remains applicable. Under these conditions, local management will meet with the local union prior to the dry run training to determine an efficient means to verify mail of questionable size during the week of count and inspection, e.g. a measuring strip on each case or use of a template as a reference point.

The acceptance by the parties of this approach to letter size definition and case configuration is without prejudice to the parties' rights under Article 34 of the National Agreement, and shall not be cited by either party in the grievance or arbitration procedure or any other forum which does not pertain to the implementation of this agreement.

ROUTE ADJUSTMENTS

C-12098 National Arbitrator Mittenthal
July 10, 1992, H7N-iT-C 39547
"Hempstead" Award
"For a route adjustment to be warranted, it must be triggered by some present condition."

C-03207 National Arbitrator Aaron
NC-C 11675, August 1, 1979
The issue in this national level case was whether management violated the National Agreement and applicable M-39 provisions when it reduced a carrier's office time to less than standard office time on the grounds that the carrier had been regulating his performance. In sustaining NALC's grievance arbitrator Aaron wrote as follows:

"Conclusions that an employee is regulating his performance are in their nature subjective; there are so many variables that may affect performance that it is almost impossible to determine quantitatively how much delay, if any, is due to the deliberate attempt by a worker to slow down. The evidence adduced by the Postal Service to support its conclusion that [the carrier] was, in effect, soldiering on the job during the week of the special count and inspection, is insufficient to sustain its burden of proof.

Even if it had sustained that burden, however, it seems clear that the only course available to it was to discuss the problem with [the carrier], as provided in section 242.211 of the M-39 Manual, and to reduce the allowable office time to the average standard allowable time, as provided in Section 242.213. What the Postal Service actually did was unilaterally to change a current work or time standard without advance notice to the Union, in violation of Article 34 of the National Agreement."

M-00792 Pre-arb
December 11, 1987, H4N-4E-C 4252
When a route requires permanent adjustment to place the route on as nearly an 8-hour basis as possible, permanent relief will be afforded. The amount of daily relief will be identified by management in advance and such relief will be permanent relief and documented on Forms 1840 or a minor adjustment work sheet for the assignments being adjusted.

The afforded permanent relief may be provided by reducing carrier office and/or street time using any of the methods provided for in part 243.21b of the M-39 Handbook, Transmittal Letter 11, November 15, 1985.

Permanent relief will not be provided by giving auxiliary assistance or by requiring the regular carrier to work overtime.

The parties acknowledge management's right to provide the cited relief in the most efficient and economical manner.

Note: M-39 Section 243.21 states:

Permanent relief may be provided by reducing carrier office or street time. Consider items such as additional segmentations, use of routers, hand-offs, relocating vehicle parking, withdrawal of mail by clerks or mailhandlers, providing a cart system for accountable items, etc. Where actual transfer of territory is necessary, see 243.23. If a handoff is the method selected for providing relief on the street, the time value associated with the delivery of the hand-off must be deducted from the route getting relief and transferred to the gaining route.

M-00398 Step 4
June 21, 1977, NCC 5942
The information of record presented in this case clearly establishes that the grievant's route was evaluated on the basis of the performance of another employee who was carrying the route at the time. It is also evidenced that the employee on whom the evaluation was based was substantially younger than the grievant. Additionally, available information presented subsequent to our Step 4 meeting indicates that the grievant is using assistance both in the office and on the street, overtime, and curtailing mail on almost a daily basis. On the basis of the information presented, we concur that the grievant's route is not properly adjusted. To this extent, we find the grievance is sustained.

M-00610 USPS Letter, March 12, 1980
Postal Service position on the meaning of M-39, Section 242.31(b) which governs those circumstances under which mail volume data for the week of count inspection may be adjusted.

M-00571 USPS Memorandum, April 30, 1976
Any procedure which automatically establishes the lightest mail volume day (or any other specific day) as the basis for route adjustments is incorrect and must be changed to conform with the provision of the M-39 Handbook. *See also* M-01369.

M-00396 Step 4, July 21, 1977, NCE 4792
On the basis of the amount of curtailed mail and the amount of assistance utilized on the grievant's route since the count and inspection, it is apparent that the route is overburdened as currently constituted.

C-24144 Regional Arbitrator Harris
March 31, 2003, B98N-4B-C 00133387
The arbitrator held that management violated the National Agreement when it failed to properly consult with letter carriers after completion of route inspections. The arbitrator awarded the affected letter carriers a lump sum payment of $1000 as a remedy.

C-24167 Regional Arbitrator Eisenmenger
April 2, 2003, H98N-4H-C 00053109
Management in prior settlement agreement, acknowledged that they would adjust a routes to as close to eight hours as possible, and that if disputes continued that all relevant information would be provided to the union. The arbitrator found that management failed to adhere to the settlement agreement and failed to provided agreed upon documentation. The arbitrator awarded as a remedy that all overtime worked on the route, and any overtime worked by others who carried portions of the disputed assignment be paid at penalty overtime rate.

C-10134 Regional Arbitrator Skelton
July 23, 1990, S7N-3S-C 88049
Grievance protesting failure to timely adjust routes is "continuing"; management's failure is remedied by payment.

C-10403 Regional Arbitrator Skelton
September 24, 1990
Management did not violate the contract when it adjusted grievant's route by providing office and street assistance.

C-10392 Regional Arbitrator Foster
October 23, 1990
Management did not violate the contract when it refused to adjust the route of grievant, based on its conclusion that grievant engaged in time-wasting practices.

C-09459 Regional Arbitrator Skelton
Management is not required to adjust routes based on a four-day "interim" route examination.

ROUTE ADJUSTMENTS—MINOR - M-39 SECTION 141

M-01505 Memorandum of Understanding
November 25, 2003
Re: Interim Agreement – Minor Route Adjustment Process
Re: Interim Agreement – Route Inspection Task Force and Multiple Days of Inspection

This memorandum replaces the March 28, 2003, Memorandum of Understanding *Re: Minor Route Adjustment Process* [M-01482] and extends the March 28, 2003, Memorandum of Understanding Re: *Route Inspection Task Force and Multiple Days of Inspection* [M-01481].

The parties recognize that the continuing change in mail volume is prompting increased use of the minor route adjustment process under Section 141 of Handbook M-39. In order to minimize disputes, the parties mutually agree to the following during the term of this memorandum:

The local parties may, by mutual agreement, establish or continue an alternate minor route adjustment method that meets local needs.

Absent a mutual agreement at the local level regarding alternate minor route adjustment methods, the parties agree that the following instructions will be used when making minor route adjustments to full-time routes:

A. Determining the Evaluated Time:

1. The new evaluated time is to be determined using the following method:

a. Select a one month period within the past twelve months, which is representative of the delivery unit's workload by analyzing mail volume, i.e. cased volume, automation volume, accountable mail, parcels, etc, excluding December, June, July and August. The documentation used to determine the representative period will be provided to the NALC Branch President or their designee, when requested.

b. Use the forms and records listed in Section 141.18 of Handbook M-39 and/or electronic records that provide equivalent information from the selected period to determine the evaluated time for individual routes. For the purposes of this Memorandum, *electronic records that provide equivalent information* is defined as electronic data which is recorded in one or more of the forms or records listed in Section 141.18. Information from electronic records that is not found in the forms and records listed in Section 141.18 is not considered equivalent information.

2. If the route was adjusted or the carrier was awarded/assigned to the route after the selected period, a representative period after the adjustment or award/assignment will be used for that route.

3. When evaluating the route, consideration must be given to any significant increase or decrease in delivery points after the selected period.

B. Determining Territorial Adjustments:

1. When the previous count and inspection data is reasonably current and the same carrier is serving the route, territorial adjustments can only be made using the formula in Section 141.19 of Handbook M-39.

2. If the previous count and inspection data is reasonably current but the same carrier is not serving the route being considered for adjustment, territorial adjustments can only be made using the standard office time and the standard line allowances from the previous PS Form 1840 to determine the office time per possible delivery factor in Section 141.19.a, and a current PS Form 3999 for the regular carrier to determine the street time per possible delivery factor in Section 141.19.b.

3. If no reasonably current count and inspection data exists, territorial adjustments can only be made using the current evaluated office time (derived from item A above) and the appropriate standard line allowances to determine the office time per possible delivery factor in Section 141.19.a, and a current PS Form 3999 for the regular carrier to determine the street time per possible delivery factor in Section 141.19.b.

General Requirements and Principles

1. Whether inspection data is "reasonably current" must be determined on a route-by-route basis.

2. When transferring territory use a PS Form 3999 that fairly represents the evaluated street time (e.g. do not use a PS Form 3999 from a Saturday on a business route when 35% of the businesses were closed, or a PS Form 3999 from a date during July on a college route when few students are living within the territory)

3. Adjustments to routes should be made as outlined in 243.2 of Handbook M-39.

4. It is agreed that if a city carrier, during adjustment consultation, disputes the route's evaluation, the carrier will be allowed to review and, if requested, provided a copy of the documentation used as a basis of the evaluation. If, after reviewing the documentation, the city carrier maintains the documentation and/or evaluation is inconsistent, incomplete or otherwise inaccurate, management will investigate the city carrier's concerns, make any warranted corrections, and discuss the results with the carrier prior to implementing the adjustment.

5. Within 60 days of the adjustment, the route will be analyzed and, if necessary, adjusted pursuant to Section 243.6 to insure that the adjustment has resulted in a route evaluation as near to eight hours daily as possible.

6. Any questions concerning the application of this memorandum are to be forwarded to the parties' national level representatives through their respective NALC National Business Agent or Area Manager, Labor Relations.

7. This agreement applies solely to the minor route adjustment process and does not impact or relate to special route inspections pursuant to Section 271 of Handbook M-39 or formal count and inspections pursuant to Chapter 2 of Handbook M-39.

The terms of this memorandum are applicable from the date of this memorandum through May 31, 2004 and the Memorandum of Understanding Re: *Route Inspection Task Force and Multiple Days of Inspection* is extended through May 31, 2004 unless mutually extended by the parties. This agreement is made without precedent or prejudice to either party's position outside the effective dates of this memorandum regarding the minor route adjustment process and the inspection of routes on multiple days during count and inspection week, and may not be cited by either party in any forum, except for the enforcement of its terms.

See also M-01479 - April 2, 2003 Joint Transmittal Letter concerning the three related memoranda of understanding M-01480, M-01481 and M-01482.

See also M-01480 - March 28, 2003 Memorandum of Understanding concerning six day counts and inspections.

See also M-01481 March 28, 2003 Memorandum of Understanding concerning interim agreement on a Route Inspection Task Force and multiple days of inspection. Superceded by M-01505.

See also M-01482 March 28, 2003 Memorandum of Understanding concerning interim agreement concerning the Minor Route Adjustment Process. Superceded by M-01505.

See also M-01494 August 29, 2003 Memorandum extending the above memorandums through September 30, 2003.

M-01448 Step 4
September 27, 2001, H98N-4H-C 00198388
The issue in this case is whether management has the right to make minor route adjustments pursuant to subchapter 141 of the M-39 Handbook using data collected during a "three (3) day mail count and inspection."

After reviewing this grievance, we mutually agreed that no interpretive issue is fairly presented in these cases. Accordingly, we agreed to remand this grievance to the Dispute Resolution Team through the National Business Agent's Office for further processing in accordance with the following understanding:

There is no provision in the M-39 Handbook that provides for making route adjustments based on data collected during a "3-day count and inspection."

Management has the right to make minor adjustments pursuant to subchapter 141 of the M-39 Handbook to maintain the routes as close to 8 hours daily work as possible using reasonably current route inspection data as a result of a six day count pursuant to Chapter 2 of the M-39.

ROUTE ADJUSTMENTS, 52 DAY LIMIT - M-39 SECTION 211.3

M-01072 Prearb, June 23, 1992
H7N-3A-C 39011
The issue in this grievance is whether management was required by the National Agreement to provide the union with a detailed written statement describing valid operational circumstances which caused route adjustments not to be completed within 52 days of the inspections.

During the discussion, it was mutually agreed that the following constitutes full settlement of this grievance:

1) If the results of any route inspection indicate that the route is to be adjusted, such adjustment must be placed in effect within 52 calendar days of the completion of the mail count in accordance with Section 211.3 of the M-39 Methods Handbook. Exceptions may be granted by a Division General Manager only when warranted by valid operational circumstances, substantiated by a detailed written statement, which shall be submitted to the local union within seven days of the grant of the exception.

2) Only following carrier-initiated inspections, under 271.g of the M-39 Handbook, may the granting of an exception be appealed directly to Step 3 of the grievance procedure. Grievances concerning other exceptions may be filed at Step 2 of the grievance procedure.

3) In regard to number 2 above, management agrees to waive procedural arguments concerning whether a grievance was properly appealed directly to Step 3 for those grievances that are in the grievance/arbitration procedure as of the signing of this agreement, which involve exceptions to the 52 calendar day requirement for adjustments.

4) For those grievances which are currently in the grievance/arbitration procedure (other than those filed under 271.g) which concern the failure to meet the criteria in number 1 above, local management shall provide the necessary statement within 30 days of the signing of this agreement. Should the local union consider the statement inadequate, it may file a new grievance at Step 2.

5) We further agreed to remand this case as well as any other Step 4 case containing this issue, to Step 3 for further processing in accordance with the above understanding.

M-01073 USPS Letter
June 29, 1992
USPS Headquarters letter to Regional Directors transmitting and explaining the prearbitration decision H7N-3A-C 39011 (M-01072).

C-14767 Regional Arbitrator Render
September 9, 1995 E90N-4E-C 94037643
The Service violated Section 211.3 of the M-39 Handbook and a national settlement in H7N 3A C 39011 [M-01072] by failing to complete route adjustments within 52 calendar days of the mail count. Valid operational circumstances substantiated by a written detailed statement were not shown to have caused the failure to complete the adjustment within 52 calendar days.

M-00943 Step 4
October 25, 1989, H7N-1E-C-22285
The issue in this grievance is whether the Memorandum of Understanding concerning Special Count and Inspection Process of City Delivery Routes was violated in that the required adjustments were not implemented within fifty-two (52) calendar days following completion of the Special Count initiated by management.

After reviewing this matter, we mutually agreed that no national interpretive issue is fairly

presented in this case. The referenced Memorandum must be read in conjunction with Chapter 2 of the M-39. As such, barring any valid operational circumstances, the adjustments must be completed within 52 calendar days, as prescribed by the MOU and Section 211.3 of the M-39.

C-10890 Regional Arbitrator Howard
May 29, 1990, E7N-2A-C 20095
Where management did not adjust routes within 52 days, the arbitrator ordered as remedy payment at penalty rate for time worked over eight and one-half hours in a day.

HAND-OFFS

M-00126 Step 4
May 2, 1985, H1N-5D-C 26466
Parties at this level agree that the handing off of delivery territory is a means of providing temporary relief to an overburdened route. *See also* M-00182, M-00271, M-00349.

M-00587 Step 4
November 9, 1981, H8N-3P-C 16890
When a hand-off is used as an adjustment, the hand-off is considered to be part of the route through which it is delivered for purposes of the OTDL.

M-00757 Step 4
May 22, 1987, H4N-4B-C 26960
Whether management properly adjusted the route by the use of a hand-off can only be determined by application of Section 243.21 of Methods Handbook M-39 to the fact circumstances involved.

STANDARDS

C-03237 National Arbitrator Garrett
June 4, 1975, NB-NAT-3233
The unilateral new definition of letter size mail by the Postal Service, which was part of the old 18 and 8 standard for letter carriers casing, was in violation of Articles 19 and 5.

C-03221 National Arbitrator Mittenthal
June 4, 1979, NCW 8752
The appropriate time standard for a Montgomery Ward coupon booklet is eight pieces per minute. *See also* C-09463

M-00209 Pre-arb, February 6, 1974, NC 2057
It is recognized that changes in work and time standards will be initiated only at the national level.

M-00386 Step 4, July 11, 1977, NC-NAT-6811
Management may not charge or impose discipline upon a carrier merely for failing to meet the 18 and 8 casing standards. Any such charge is insufficient. Under the Memorandum of Understanding of September 3, 1976, the only proper charge for disciplining a carrier is "unsatisfactory effort." *See also* M-00323

The September 3, 1976 memorandum referenced in this settlement has been incorporated into the M-39 Handbook as Section 242.332. M-39 Section 242.332 states:

No carrier shall be disciplined for failure to meet standards, except in cases of unsatisfactory effort which must be based on documented, unacceptable conduct that led to the carrier's failure to meet standards.

M-00379 Step 4, April 13, 1976, NCC 0776
The union's request that the number of paces per minute be used as an observation and not as a specific criterion or standard of performance by the grievant is sustained.

M-00304 Pre-arb
October 22, 1985, H1N-1N-D 31781
There is no set pace at which a carrier must walk and no street standard for walking. *See also* M-00305 and M-00360

M-01181 Step 4
June 9, 1994, H0N-5T-C 1387
When conducting a one-day mail count, the appropriate form to record the carrier's performance is on PS Form 1838-C. The PS Form 1838-C does not specifically measure the carrier's performance by pieces per minute.

ONE DAY COUNTS

M-00017 Step 4
November 1, 1977, NCW 7959
When a regular special office count is conducted, it will be accomplished in accordance with the applicable provisions of Handbook M-39.

M-01216 Pre-arb
April 11, 1995, H7N-3Q-C 38909
The issue in these cases is whether management violated the National Agreement by not allowing carriers to count the mail counted by the supervisor during a "one day count".

During our discussions, we mutually agreed to the following: On the day of a "one day count" when management performs the mail count the carrier serving the route, upon request, may verify the count.

M-01217 Pre-arb
April 5, 1995, HON-3W-C 6949
The issue in these cases is whether management violated the National Agreement by requiring a carrier who was not on the Overtime Desired List to work overtime the day of a "one-day count".

During our discussions, we mutually agreed to the following: The overtime provisions of Article 8 and the associated Memorandums of Understanding remain in full force and effect except that on the day of a "one day count", if the carrier is being accompanied on the street, management may require a carrier not on the Overtime Desired List to work overtime on his/her own route in order to allow for completion of the count.

M-00111 Step 4
November 13, 1978, NCC 12007
A one (1) day count of mail should be utilized for the purposes intended by the M-39 Handbook and local officials are to ensure that one (1) day counts are not used for the purpose of harassment.

M-00005 Step 4
January 17, 1977, E3-MD-C 1131
Data from the (one day) counts were not, nor will they be, used as a basis for disciplinary action.

M-00829 Step 4
April 15, 1986, H1N-5B-C 29131
Under Article 16, no employee may be disciplined except for just cause. In this instance, the parties agree that a one day count and inspection may not be used as the sole basis to establish a standard against which a carrier's performance may be measured for disciplinary purposes.

M-00385 Step 4
September 14, 1976, NCC 2322
The proper stipulated manner for determining the efficiency of an employee and whether or not the employee is, in fact, meeting standards, is to conduct a one-day count as provided in Handbooks M-39 and M-41.

M-01181 Step 4
June 9, 1994, H0N-5T-C 1387
When conducting a one-day mail count, the appropriate form to record the carrier's performance is on PS Form 1838-C. The PS Form 1838-C does not specifically measure the carrier's performance by pieces per minute.

UNIT AND ROUTE REVIEWS

M-00931 Step 4
May 10, 1989, H7N-2B-C-15773
In conducting unit and route reviews, the most current information should be used.

M-00992 USPS Internal Memorandum
March 12, 1990
Adjustments through the use of the Unit and Route Review Process are not permitted except for minor adjustments with appropriate documentation as required by the M-39 Handbook (Section 141). These procedures are to be accurately followed

ROUTE EXAMINATIONS, SPECIAL

The M-39 Handbook, which is incorporated into the National Agreement by Article 19, requires that a special route inspection be given whenever a carrier requests one and it is warranted. M-39 Section 271 states:

> *271g. If over any six consecutive week periods (when work performance is otherwise satisfactory) a route shows over 30 minutes of overtime or auxiliary assistance on each of three days or more in each week during this period, the regular carrier assigned to such a route shall, upon request, receive a special mail count and inspection within four weeks of the request. The month of December must be excluded from consideration when determining a six consecutive week period. However, if a period of overtime and/or auxiliary assistance begins in November, and continues into January, then January is considered to be a consecutive period even though December is omitted. A new consecutive week period is not begun.*
>
> *271h. Mail shall not be curtailed for the sole purpose of avoiding the need for special mail count and inspections.*

National Arbitrator Britton held in C-11099 Management must complete special route examinations within four weeks of the request whenever these criteria have been met even if the inspection must be conducted during the months of June, July and August.

The guarantees provided by Section 271 of the M-39 Handbook were further strengthened by a Memorandum of Understanding on special counts and inspections incorporated into the 1987 National Agreement. The Memorandum states:

> *The United States Postal Service and the National Association of Letter Carriers, AFL-CIO, agree that it is in the best interests of the Postal Service for letter carrier routes to be in proper adjustment.*
>
> *Therefore, where the regular carrier has requested a special mail count and inspection, and the criteria set forth in Part 271g of the Methods Handbook, M-39, have been met, such inspection must be completed **within four weeks** of the request, and shall not be delayed. If the results of the inspection indicate that the route is to be adjusted, such adjustment must be placed in effect **within 52 calendar days** of the completion of the mail count in accordance with Section 211.3 of the M-39 Methods Handbook. Exceptions may be granted by a Division General Manager only when warranted by valid operational circumstances, substantiated by a detailed written statement, which shall be submitted to the local union **within seven days** of the grant of the exception. The union shall then have the right to appeal the granting of the exception directly to Step 3 of the grievance procedure within 14 days. (Emphasis added)*

Most Arbitrators have held that special inspections are mandatory when the union can prove that the criteria in M-39 Section 271 have been met. This is true even in cases where the regular carrier has been absent for part of the six-week period. The provisions of Section 271 refer to the **route** and not the carrier on the route, despite the fact that the purpose of any such inspection is to adjust the route to the individual carrier (*See* M-01262, M-01263, M-00688). Moreover, once a carrier requests a special route inspection and demonstrates that it is warranted, the Postal Service cannot evade the requirement to conduct the inspection by unilaterally providing relief, or making an adjustment. (*See* C-08727)

The special route inspections provided for in M-39 Section 271 must be conducted in exactly the same manner as regular counts and inspections. they differ from regular route inspections only in that they may be conducted in June, July or August. It is, however, not always in the best interest of letter carriers to request them during the low volume summer months.

Special route inspections are not unit and route reviews. The right to a special route inspection is unaffected by the fact that the office involved may be undergoing, or be scheduled for, a unit and route review.

Special route examinations are not a meaningless exercise. The M-39 Handbook requires not only that special inspections be conducted when warranted, but also that special inspections result in permanent adjustments to eight hours. M-39 Section 242.122 states:

> 242.122 The proper adjustment of carrier routes means an equitable and feasible division of the work among all of the carrier routes assigned to the office. All regular routes should consist of as nearly eight hours daily work as possible.

Arbitrators have held that it is not sufficient for the Postal Service merely to follow the procedures specified in the M-39 when examining and adjusting routes. Rather, the final result must be an eight hour route. In C-07630 Regional Arbitrator Dilts wrote as follows:

> The inspections are not before the arbitrator as part of the present issue. What is before this Arbitrator is the matter of adjustments. In examining the record it is clear that the subject routes are not eight hour routes. This does not mean that the procedures for adjustment were somehow violated. The methods by which adjustments are made and the results of those adjustments on letter carrier work loads may be viewed as separable issues under the language of the M-39.

Arbitrators have granted monetary remedies in cases where the Postal Service violated the contract by refusing to conduct special route inspections when they were required to do so by the terms of M-39 Section 271. They reasoned that, since the grievants were required to work overtime they should not have worked, no possible future remedy could return that time. Since merely instructing the Postal Service not to violate the agreement in the future would not, in their view, be sufficient to make the grievants whole, monetary remedies were ordered. Arbitrator Pribble, in C-05545, wrote as follows:

> *Without clear evidence in this record that the Parties anticipated some way to make whole the three Grievants, who have been harmed by clear and repeated breaches of the Agreement, some monetary award is needed for the Grievants. Unlike the Gamser award, no restructuring of future opportunities or equalization formula applies here. In this case the three Grievants have been required to work overtime they should not have worked. No possible future remedy can return this time to them. Moreover, it would be an insufficient remedy here merely to instruct the MSC not to breach the Agreement in the future. This remedy will make the Grievants as whole as possible at this time. The Employer is ordered to pay [the grievants] one extra hour's pay at their regular rates of pay for each and every day that each Grievant has worked overtime until the results of their special route inspections are implemented.*

There is more agreement among arbitrators that some monetary remedy is due in such cases, than there is upon the exact form any such monetary remedies should take. In contrast to Arbitrator Pribble's award cited above, Arbitrator Grossman, in C-06720, ordered the Postal Service to pay "one hour's pay at his regular rate of pay for each and every hour that he was required to work in excess of eight and one-half hours." Other Arbitrators have ordered, or memorialized consent awards agreeing to, monetary payments in fixed dollar amounts as remedies.

After review of all applicable arbitration awards, the Contract Administration Unit has concluded that the most appropriate remedy in such cases is similar to those granted in C-07630 and C-07536. The following wording is suggested:

> The grievant(s) be paid an additional 50 percent premium for all overtime hours worked from the time the special route inspection should have been conducted until such time as the required adjustments are implemented.

All too often, the union has been able to convince an arbitrator that the terms of the contract have been breached, only to have the arbitrator find that the particular remedy requested is beyond his or her authority to grant, or otherwise inappropriate to remedy the specific violation. It is therefore advisable that all remedy requests include the additional catch-all phrase "or that the grievant be otherwise made whole." Awards. supporting the authority of arbitrators to grant monetary remedies in such cases include:

C-05545	Arbitrator Pribble	C4N-4J-C 6365	01-24-1986
C-06720	Arbitrator Grossman	N4N-1E-C 22422	12-16-1986
C-07229	Arbitrator Liebowitz	N4N-1K-C 33515	07-07-1987
C-07232	Arbitrator Grossman	N4N-4J-C 32218	08-06-1987
C-07536	Arbitrator Sirefman	N4N-1P-C 22802	11-09-1987
C-07630	Arbitrator Dilts	C4N-4J-C 30920	09-01-1987
C-07372	Arbitrator Stutz	N4N-1J-C 36001	08-22-1987
C-07569	Arbitrator Grossman	N4N-1F-C 30826	10-27-1987
C-07606	Arbitrator Grossman	N4N-1E-C 33973	11-27-1987
C-07613	Arbitrator Dennis	N4N-1G-C 35824	11-14-1987
C-08614	Arbitrator Render	W4N-5T-C 2960	12-03-1988
C-08727	Arbitrator Levak	W7N-5C-C 5445	03-10-1989
C-08792	Arbitrator Lange	W4N-5B-C 8594	03-21-1989
C-09327	Arbitrator Lange	W4N-5T-C 36919	08-23-1989
C-10071	Arb. Stoltenberg	E7N-2F-C 18778	06-21-1990
C-10474	Arbitrator Johnston	S7N-3C-C 28108	10-17-1991
C-10635	Arbitrator Roukis	N7N-1R-C32345	02-20-1991
C-10167	Arb. R.G. Williams	S7N-3F-C 26923	08-06-1991

SUPPORTING MATERIAL

M-01476, Pre-arb
January 22, 2003, I94N-4I-C-98000468
The issue in this grievance is whether a local district policy is in violation of Handbook M-39, Section 271.g when it states that the six-week analysis period starts with the most recent Friday prior to the date of the special inspection request and works backward for six consecutive weeks.

While it is anticipated by the parties that a request for a Special Route Inspection pursuant to 271.g of Handbook M-39 will be based on reasonably current data, the local district policy as described above is unreasonably restrictive and will be rescinded.

This agreement is without prejudice to management's right to argue that a request for special inspection under 271.g was unreasonably delayed, or the union's right to contend that such argument is without merit.

M-01486, Step 4
April 29, 2003, E98N-4E-C-02007370
The issue in this case is whether the time limit for initiating an Informal Step A dispute over the denial of a request for a special route inspection made under Section 271.g of Handbook M-39 begins at the end of the six week qualifying period.

After reviewing this matter, we mutually agree that no national interpretive issue is presented in this case. The parties agree that the time limit for initiating an Informal Step A dispute over the denial of a request for a special route inspection does not begin at the end of the six week qualifying period unless it is the date the request is denied.

M-00872 CAU Paper, August 1, 1988
Contract Administration Unit publication summarizing arbitration awards concerning the failure of management to grant special route examinations.

C-11099 National Arbitrator Britton
August 12, 1991, H7N-NA-C 68
Management must complete special route examinations within four weeks of the request by a regular carrier whenever the criteria set forth in the M-39 Handbook have been met even if the inspection must be conducted during the months of June, July and August.

C-07232 Regional Arbitrator Grossman
August 6, 1987, N4N-1K-C 32218
(Consent Award) The parties agree that routes must be adjusted to as close to eight hours as possible. Therefore, in any future case where section 271(g) of the M-39 handbook is violated by Management; or the routes are not adjusted to eight hours, a monetary remedy is necessary to make the grievant(s) whole. In the instant dispute, the monetary remedy will be a cash payment of $250.00 each to each of the eight grievants. *See also* C-07229

C-05952 Regional Arbitrator Levak
December 19, 1985, W4N-5B-D 3530
Where an employee meets the standard of M-39, Section 271.g, and requests a special route inspection, discipline for excessive office or street time, is inappropriate unless and until such an inspection is conducted.

M-00211 Pre-arb, March 22, 1974, NE 418
The Postal Service reaffirms that when special inspections are made pursuant to Part 227 (*sic*) of the M-39 Handbook, they shall be conducted in the same manner as the annual count and inspection.

M-00632 Step 4, January 19, 1978, NCW 7959
When a regular special office count is conducted, it will be accomplished in accordance with the applicable provisions of Handbook M-39.

M-00728 Step 4
September 28, 1977, NCW 5287
Special inspections shall be conducted in the same manner as the annual count and inspection.

C-09970 Regional Arbitrator Lange
April 4, 1990
Management wrongly denied grievant's request for a special examination on the ground that he had not served the route long enough to become proficient; monetary remedy ordered.

C-10474 Regional Arbitrator Johnston
October 17, 1990
Where management wrongfully refused to give special route examination, remedy is to pay aggrieved carrier at the overtime rate for all hours of auxiliary assistance.

C-10516 Regional Arbitrator R. G. Williams
December 28, 2990
Management violated the contract when it denied grievances requesting special route examinations with the statement, "Although the grievance is denied for the reason stated above, the grievant's route will be checked within 4 weeks," but then refused to conduct the route check.

M-00660 Step 4
July 31, 1978, NCE 10846
A supervisor should normally reserve any comments about the grievant's performance during a special route inspection until the inspection is later discussed with the carrier.

M-00609 Step 4, August 27, 1980, N8 W 0343
In the instant case, the grievant, who is the regular carrier on the route in question, requested a special count and inspection of his route because the provisions of Section 271 of the M-39 had been met. His request was refused because he only served on his route eight (8) days out of the thirty-eight (38) day period.

The Union contends that the provisions of the M-39, Section 271 refers to the route and not the regular carrier assigned to the route and that the grievant's request should be honored even though he was not serving his route during the entire period in question. This position is consistent with that of the Postal Service.

M-00219 USPS Policy Letter, April 14, 1982
In the Memorandum of Understanding of July 21, 1981, between the USPS and NALC, we agreed that our joint objective is to reduce the number of carrier route that will be scheduled for annual mail counts and route inspections. The Memorandum does not limit or preclude inspections required under the provisions of Section 271g, Handbook M-39. If a route meets the criteria in Section 271g, M-39, and the regular carrier assigned to the route requests a special mail count and inspection, management must conduct the count and inspection within 4-weeks of the request. Unsatisfactory conditions such as "poor case labels", "poor work methods", or "no route examiners available" should not be used as an excuse not to conduct the inspection within the 4-week time frame.

M-00695 Step 4
October 14, 1982 H1N-5H-C 6171
Section 221.121 of Methods Handbook, Series M-39, provides for carrier verification of count when the manager counts the mail during a mail count and inspection. The intent of this language is also applicable to special office mail counts as provided for in Section 141.2 of the same handbook. There simply are no provisions for mail count verification of linear measurements.

M-00690 Step 4
November 3, 1983, H1N-5G-C 14443
A letter carrier who is limited to eight hours of duty may still qualify for a special route inspection if no other limitation exits which could distort a proper evaluation.

C-10635 Regional Arbitrator Roukis
February 20, 1991
Management violated the contract when it refused grievant's request for a special route exam because a unit and route review was scheduled.

M-00688 Step 4
July 2, 1982, H8N-4B-C 21531
A route may qualify for a special count and inspection pursuant to the provisions of M-39, Section 271, even though the regular carrier was not serving the route during the entire six-consecutive-week period due to illness.

M-01262 **Step 4**
July 19, 1983, H1N-5D-C-12264
Pursuant to 271, M-39 Handbook, the regular carrier may request a special mail count if, during any six consecutive weeks, the route shows over 30 minutes overtime or auxiliary assistance on each of the three days or more in each week during the period. The special mail count should be granted where the carrier's work performance is otherwise satisfactory. The absence of the regular carrier during a portion of the period is not currently a controlling factor.

Note: In this case, the grievant had only carried the route for 30% of the qualifying period. During the rest of the time it had been carried by a PTF carrier. See file.

M-01263 **Step 4**
August 10, 1984, H1N-5C-C-22733
The parties agree that the M-39 Handbook provision (Part 271.g) refers to the route and not the regular carrier assigned to the route. Further, we agreed the only question in this case is whether the part-time flexible carrier's work performance was satisfactory during the six consecutive week period. Therefore, this case is suitable for regional determination.

Note: In this case, the grievant was new on the route. The route had been vacant during the qualifying period and had been carried by PTF carriers and the T-6. See file.

Routers

IN GENERAL

M-00949 Step 4
October 6, 1989, H7N-2B-C-20490
When a route is adjusted by providing router assistance, the work assigned to the router is not part of the route for overtime purposes. *See also* C-08011.

M-00601 National Joint City Delivery Meeting
Nov 17, 1983, page 1
Form 3982 is permissible for use by routers the same as for any city carrier occupying a regular assignment.

M-00995 Step 4
October 24, 1990, H7N-5M-C 14783
The issue in this grievance is whether management violated the National Agreement when it used a locally developed form requiring routers to record footage cased on each route.

During our discussion, we mutually agreed that no national interpretive issue is fairly presented in this case. We also agreed that the issuance of local forms is governed by Section 324.12 of the Administrative Support Manual (ASM). The locally developed form (5M-001, Router Assignment Form) was properly promulgated in accordance with existing regulations and this grievance is settled as follows:

The form cited in this grievance is being used as a management tool for date collection and the assignment and matching of router work load and work hours and may not be used as a basis for discipline. Further, this form is not to be used to develop work and/or time standards or to determine whether they have been met.

Accordingly, management may continue to use the Router Assignment Form 5M-001.

C-09581 Regional Arbitrator Condon
Management violated the contract when it called in a non-OTDL router two hours early to perform duties not part of his regular assignment.

DUTIES

M-00885 National Joint City Delivery Meeting
October 4, 1988
Routers must be kept on their bid assignment and not moved off the routes in the bid description unless there is an undertime situation, or in "unanticipated circumstances."

Router positions should be maximized to full-time, 8-hour positions to the extent practicable.

The Notice of Vacancy in Assignment(s) posting must include the position title and the statement "City Carrier, KP-11, PS-05," the specific routes in the bid position, and the amount of time for preparing mail for delivery on each route. For example: If the permanent adjustment is for one hour on Route 1, the posting will state, "Route 1, one hour." If street duties are applicable, list the specific letter route street assignments and amount of time. If another appropriate assignment such as a collection run is part of the assignment, list the time for the activity, nonscheduled days, hours of duty and work location.

Appropriate morning and afternoon office breaks will be scheduled by management.

M-00839 Pre-arb
November 24, 1987, H1N-NA-C 89
All router assignments posted prior to the July 21, 1987, Memorandum of Understanding (MOU) between the NALC and the U.S. Postal Service are also subject to the MOU on router assignments. Management shall list specific groups of routes and where applicable specific street duties for each router assignment whenever that information was not previously listed.

REMOVAL FROM ASSIGNMENT

M-00885 National Joint City Delivery Meeting
October 4, 1988
Routers must be kept on their bid assignment and not moved off the routes in the bid description unless there is an undertime situation, or in "unanticipated circumstances."

C-08309 Regional Arbitrator Britton
April 25, 1988, S4N-3W-C 23922
The Service violated Article 41.1.C.4 by requiring that a successful bidder on a router position perform street duties not part of the assignment prior to the casing of available BBM mail.

C-09580 Regional Arbitrator Condon
Management violated the contract when it moved a router off his assignment for an hour and fifteen minutes.

C-09582 Regional Arbitrator Condon
Management violated the contract when it removed a router from his bid assignment for more than three hours and had him perform street duties. *See also* C-09583

M-01014 Step 4
October 10, 1991, H7N-2K-C 42670
Step 4 decision reaffirming that in accordance with Article 41.1.C.4, routers may only be used outside of their bid assignment only in "unanticipated circumstances".

C-10873 Regional Arbitrator Levin
May 22, 1991, N7N-1P-C 25356
Management violated the contract by removing routers from their bid assignments and requiring them to work on the street. As remedy, the routers should be paid $50.00 for each day worked off their assignment.

C-10493 Regional Arbitrator Marx
December 19, 1990
Management properly worked routers off their assignment when necessary to provide the routers with work during their regular tours, but on some occasions improperly worked routers off their assignments, resulting in the need of the regular carriers whose routes they served to work overtime; monetary remedy ordered.

FAILURE TO FILL ASSIGNMENT

C-10550 Regional Arbitrator P.M. Williams
January 12, 1991
Management did not violate the contract when it failed to fill the router vacancy caused by the router being temporarily promoted to 204B.

C-09911 Regional Arbitrator Scearce
March 6, 1990
Failure to provide scheduled router assistance was a merely technical violation, demonstrating no basis for a remedy.

C-09768 Regional Arbitrator Germano
February 17, 1990
Management violated the contract when it failed to provide router assistance to qualified routes.

MAXIMIZATION

M-00885 National Joint City Delivery Meeting
October 4, 1988
Router positions should be maximized to full-time, 8-hour positions to the extent practicable.

M-00915 Step 4
April 13 1989, H4N-5C-C 36660
The issue in this grievance is whether local management has improperly established part-time regular router positions in contravention to the provisions of the [July 21, 1987] Router Memorandum of Understanding. Item 3, of the September 21, 1988, Router Assignment Instructions [M-00885]states that "Router positions should be maximized to full-time, 8-hour positions to the extent practicable." As described in this instant matter, the utilization of the part-time routers is inconsistent with the intent of the aforecited memorandum. *See also* M-00916.

C-09910 Regional Arbitrator Scearce
March 10, 1990
Management did not violate the contract when it created a reserve regular position to perform router work on an unrestricted number of unidentified routes.

ABOLISHMENT

C-10271 Regional Arbitrator P.M. Williams
September 11, 1990
The abolishment of a router assignment should have triggered the provisions of Article 41, Section 3.O. *But See* C-10899.

Rural Routes, Carriers

For cross craft assignments between the City and Rural Carrier crafts see "Cross Craft Assignments" on page 57.

M-01519 **City/Rural Process Agreement May 4, 2004**
The process and guidelines developed by The National Joint City/Rural Task Force to review all outstanding city/rural issues in the grievance procedure.

M-01520 Guideline Principles to Address City/Rural Issues May 4, 2004
1) Claims that rural delivery should be converted to city delivery because it has characteristics of city carrier work. 2) Claims that establish rural delivery was improperly converted to city delivery. 3) Claims that established city delivery territory was improperly converted to rural delivery. 4) Other jurisdictional boundary claims including assignment of new deliveries.

C-13791 Arbitrators Mittenthal and Zumas August 1, 1994, H7N-NA-C 42 "Vienna/Oakton Virginia Case"
The Postal Service did not violate the national agreement by assigning the disputed delivery in a developed area to the Rural Carrier Craft.

C-18997 National Arbitrator Nolan W4N-5H-C 40995, December 23, 1998
The Postal Service violated the NALC agreement by unilaterally converting a sizeable number of deliveries from city to rural service.

C-22742 National Arbitrator Nolan S1N-3P-C 41285, December 3, 2001
The proper remedy for a wrongful conversion of city deliveries to rural is reconversion of those deliveries and the award of new deliveries established within the line of travel for the challenged deliveries, to be implemented within 60 days. Within 90 days, the Postal Service shall develop and implement a new delivery plan for provision of service beyond the challenged deliveries, applying its standard criteria as if it had not made the erroneous conversion. Either union may file a new grievance if it believes the Postal Service's new plan violates controlling authority.

M-01484 NALC/NRLCA/USPS Settlement, May 9, 2003
Settlement resolving the issues remanded by Arbitrator Nolan in national case C-22742, above.

C-24430 National Arbitrator Steven Briggs, E90N-4E-C 95001512, July 16, 2003
National Arbitrator Briggs held that the Postal Service violated the National Agreement by reassigning a one-hour AM shuttle run at the Lynwood, Washington Post Office from the City Letter Carrier craft to the Clerk craft. As a remedy, the Postal Service was directed to return the work in question to the Letter Carrier craft and to make whole any Letter Carrier craft employee adversely affected by the violation. Arbitrator Brigg's award is consistent with a long line of national level arbitration decisions establishing that craft jurisdiction is determined by local practice.

M-01483 Memorandum of Understanding NALC, NRLCA, USPS, May 9, 2003
Memorandum establishing a national level task force of two members each from the NALC, the NRLCA, and the Postal Service to establish guidelines and a process to facilitate settlement of outstanding city/rural jurisdictional grievances.

C-08730 National Arbitrator Britton March 16, 1989, H4N-4J-C 18504
The NRLCA is allowed to intervene in the arbitration of an NALC grievance concerning the assignment of delivery territory to rural delivery.

M-00320 Letter, June 9, 1975 (Charters)
No significant amount of work that has traditionally been performed by city letter carriers may be transferred to rural carriers (absent a material change in the nature of the work) except through the provisions of Article VII, Section 2.A.

M-00921 Step 4
August 19, 1980, N8-S-0373
The question of transferring work from city delivery service to rural delivery service was addressed by USPS and the NALC management in 1975 when the parties met to discuss Arbitration Award No. N-C-4120 on the same subject issued by Arbitrator S. Garrett. The meeting resulted in a memo dated June 9, 1975, [M-00320] by the Postal Service which spelled out general principles to be applied by postal management when determining whether to transfer stops from a city route to a rural route.

Although the principles were based on an interpretation of Article VII-2A of the 1975 Agreement, in our view, the same logic is applicable because Article VII, Section 2-A was not changed in the current National Agreement.

M-00636 USPS Memorandum (Dorsey letter) September 15, 1978. Later Incorporated into Postal Operations Manual Section 611.321
As a general rule, conversions from rural to city delivery shall be considered only to:

1. Provide relief for overburdened rural routes when all other alternatives are impractical.

2. Establish clear cut boundaries between rural and city delivery territory and eliminate overlapping and commingling of service.

3. Provide adequate service to highly industrial areas or apartment house complexes on rural routes.

4. Provide service to areas where city delivery service will be more cost effective. Regional review is required when cost is the basis for conversion.

Areas considered for conversion must meet all the basic requirements for an extension of city delivery and must be contiguous to existing city delivery service. However, the fact that a given area is fully developed and adjacent to city delivery does not, of itself, constitute sufficient justification for conversion. *See also* M-00613, M-00627, M-00320, M-00122.

SCABS

M-00684 U.S. Supreme Court, Old Dominion Branch No. 496, NALC, v Austin et al. No. 72-1180, June 25, 1974
A union can not be sued for libel for calling non-members "scabs" in a publication. Use of the term "scab" is protected by the NLRA. "Rather than being a reckless or knowing falsehood, naming the appellants as scabs was literally true".

C-03224 National Arbitrator Gamser July 14, 1981, N8-W-0214
In the absence of any showing that the posting is or will be a cause of disruption or dissension, the posting of a notice listing the names of non-members on the union bulletin board may not be prohibited by the Postal Service

M-00634 NLRB Memorandum, July 9, 1979
Memorandum intended to serve as a guideline concerning a union's duty of fair representation under the Labor-Management Relations Act.

SCHEDULES

SEE ALSO

Guarantees, Page 140

C-00939 National Arbitrator Gamser
September 10, 1982, H1C-5F-C 1004
Unassigned regulars who had their schedules changed in the absence of a bid or assignment to a residual vacancy were entitled to out-of-schedule overtime under Article 8, Section 4.B.

C-00161 National Arbitrator Gamser
July 27, 1975, AB-C-341
The Postal Service may not recruit so-called volunteers who are willing to change their schedules to avoid the payment of out of schedule overtime when filling temporary higher level positions. This does not preclude the Employer from accommodating change of schedule requests received from individual employees and for the convenience of such employees when condoned and agreed to by the Union.

M-00698 Step 4, May 31, 1977, NC-W-6161
Local, management is advised that in the future they will not allow schedule changes for the employee's personal convenience without the concurrence of the local union.

Note: The requirement that the union agree to temporary changes of schedule for personal convenience is contained in ELM Section 434.615 (b) and F-21 Section 232.23

M-01079 Prearb
May 25, 1992, H7N-3W-C 36013
The issue in this grievance is whether an employee holding an approved Form 3189, Request for Temporary Schedule Change for Personal Convenience, may be required to work post-tour overtime.

During our discussion, we mutually agreed that the intent of filing a Form 3189 which requests an earlier leaving time is to obtain approval for the employee to leave at that earlier time. Consequently, it is inappropriate for management to approve such a form and then require the employee to work post-tour overtime in other than an emergency situation.

We further agreed that when a Form 3189 requesting an earlier leaving time is approved, the requesting employee will be passed over for any overtime worked on that day as being unavailable. Thus, no grievances may be filed if employees with an approved Form 3189 are passed over. Likewise, no grievances will be filed on behalf of employees required to work overtime as a result of passing over an employee with an approved Form 3189.

M-00049 Step 4
March 20, 1985, H1N-1J-C 28970
Management may effect schedule changes under the M-39 Handbook. Such change in schedule does not constitute a route adjustment.

M-00302 Step 4
May 2, 1985, H1C-4B-C 37025
While there is no contractual obligation for the Employer to pay out-of-schedule premium to employees in a training situation, the parties recognize the need for the employees to be informed as far in advance as possible when a schedule change for training purposes is needed. Therefore, when it is possible, the employees should be notified of the schedule change by Wednesday of the proceeding week. *See also* M-00359.

M-00188 Step 4
October 10, 1975, NB-C-6033
It is not required that temporary changes in schedule be posted by Wednesday proceeding the week in which the change takes place. However, temporary changes in starting times which require employees to work outside of their basic work week schedule necessitates the payment of overtime for all hours worked outside of the basic schedule.

M-00817 Pre-arb
March 9, 1988, H4N-5K-C 10972
When an employee has partially overcome a disability and is available for assignment to limited duty, management may change the employee's regular work schedule in accordance with part 546.14 of the ELM, but only on a prospective basis. Management may not change the employee's regular work schedule retroactively. The requirement set out in part 434.61 of the ELM and elsewhere, that employees be given notice of a temporary schedule change by Wednesday of the preceding service week does not apply to schedule changes for limited duty assignments pursuant to Part 546.14 of the ELM.

M-01049 APWU Step 4
September 14, 1983, H1C-4G-C-1630
The parties at this level agree that once the union and management agree to a temporary schedule change for a bargaining-unit employee, the employee shall work the temporary schedule unless both the union and management agree to modify or terminate the schedule change.

M-01064 APWU Step 4
May 13, 1985, H1C-5G-C-30220
An employee may sign, in his/her capacity as a union steward, agreement for his/her own request for a temporary schedule change (using PS Form 3189) prior to presentation to the supervisor involved for approval.

M-01490, Pre-arb
June 17, 2003, E94N-4E-C-99119612
The issue is whether a duty assignment can have more than one starting time during the service week.

A duty assignment may include a permanent schedule which consists of different starting times on certain days of the service week. However, the decision to do so may not be arbitrary. Currently, Methods Handbooks M-39, Section 122 deals with the scheduling of city letter carriers.

The starting time(s) of a Carrier Technician assignment is the same as the component routes which comprise the Carrier Technician assignment.

M-00353 Step 4
May 24, 1985, H1N-5G-C 24094
A reserve carrier who does not opt for a "hold-down" shall nonetheless assume the schedule of the "hold-down" if management elects to assign the reserve carrier to the route or assignment anyway.

Note: This settlement establishes the schedule a reserve letter carrier should work if assigned to a hold-down by management. It does not waive the carrier's entitlement to out-of-schedule pay. See M-00940

C-10625 Regional Arbitrator Leventhal
February 15, 1991
A schedule change was temporary rather than, as claimed by management, permanent.

C-09918 Regional Arbitrator Sobel
March 8, 1990
Management violated the contract when it refused a carrier's request to change his days off to conform to the days of court service.

C-10916 Regional Arbitrator Stoltenberg
July 1, 1991, E7N-2U-C 19788
A schedule change for two months was "permanent."

C-09529 Regional Arbitrator Sobel
October 4, 1989, S4N-3V-C 59607
A three-hour change in starting time which was rescinded after three weeks was a "permanent" change.

C-09429 Regional Arbitrator Liebowitz
October 14, 1989, N7N-1W-C 24782
Management did not violate the contract when it refused to extend the tour of the grievant, who was 15 minutes late for work.

C-00125 Regional Arbitrator Moberly
April 12, 1985, S1C-3W-C 25063
Management violated the contract when it did not pay out-of-schedule overtime to employees whose schedules were temporarily changed.

C-12924 Regional Arbitrator Lurie
April 1, 1993, S0N-3C-C 15012
The Postal Service violated Article 8, Section 2.C and the Local Memorandum of Understanding by changing the grievant's schedule from consecutive to non-consecutive days off.

SENIORITY

C-00791 National Arbitrator Garrett
October 1, 1973, A-NAT-2833
A local proposal for "day to day seniority" is in conflict with the 1971 National Agreement.

C-03225A National Arbitrator Mittenthal
March 8, 1982 H8N-4B-C 16721
Article 41, Section 2.A.1. of the 1978 National Agreement does not require the Postal Service to honor seniority in filling a day-to-day assignment of carriers.

C-03807 National Arbitrator Mittenthal
July 22, 1983, H1N-5D-C 2120
A past practice of assigning PTFS carriers to available work by seniority is inconsistent and in conflict with the National Agreement.

C-11528 National Arbitrator Snow
December 19, 1991, H7N-4Q-C 10845
Senior employees excessed into the Letter Carrier Craft under terms of Article 12.5.C.5.a must begin a "new period" of seniority pursuant to the provisions of Article 41.2.G of the parties National Agreement. Article 41.2.G prevails and employees reassigned from other crafts must begin a new period of seniority in the Letter Carrier Craft.

M-01082 APWU Memorandum, April 16, 1992
The United States Postal Service and the American Postal Workers Union, AFL-CIO (Parties), mutually agree that Arbitrator Carlton Snow's award in Case Number H7N-4Q-C-10845 [C-11528] shall be applied in a prospective fashion effective with the date of the award.

Accordingly, employees who are excessed into APWU represented crafts (Clerk, Maintenance, Motor Vehicle, and Special Delivery Messenger) after December 19, 1991, under the provisions of Article 12.5.C.5, shall begin a new period of seniority.

M-01179 NALC Letter
February 11, 1994
Under the provisions of Article 41, Section 2.D.4, letter carriers restored following military service will not have their seniority interrupted even if involuntarily restored to an installation other than the one they left.

M-01168 Prearb
August 31, 1993, H7N-3Q-C 29862
The issue in these cases concerns the appropriate seniority for employees voluntarily returning to the Letter Carrier Craft from best qualified positions at other installations.

During our discussion, we mutually agreed that the provisions of Article 41.2.G.3 are applicable to this situation.

C-13396 National Arbitrator Snow
October 11, 1993, H0C-3N-C 418
"The arbitrator concludes that the employer violated the parties' collective bargaining agreement when it reassigned a full-time [letter carrier] employee who was partially recovered from an on-the-job injury to full-time regular status in the Clerk Craft. Unless in an individual case, the Employer can demonstrate that such assignments are necessary, notwithstanding the conversion preference expressed in the parties' agreement, the Employer shall cease and desist from reassigning partially recovered employees to full-time status when those reassignments impair the seniority of part-time flexible employees."

M-00549 Pre-arb
October 3, 1986, H4N 5F C 1620
Article 41.1.A.7 does not specify placement of unassigned regulars by juniority or by seniority. Where a question of established past practice exists it will be determined in regional arbitration.

M-00594 Step 4
November 25, 1980, H8N 2W C 7259
Probationary employees are without seniority rights, although retroactively computed, until satisfactory completion of ninety (90) days of employment.

M-00630 Step 4
July 15, 1977, NC N 5462
The grievant was excessed outside his installation and filed a request to be returned. He later voluntarily transferred to another office. Management held that this negated his retreat rights. He later returned to his original office and was given seniority one day junior. This was later changed to the date of his return. The decision returns all his seniority.

M-00681 Step 4
May 4, 1977, NC-E-5617
Although an unclassified letter carrier does not have the right to select which route he wishes to work on any given day, the employer is nor precluded from assigning unassigned regular employees to various routes by seniority.

M-00112 Step 4
October 31, 1978, NC-S-12379
There are no requirements that overtime be scheduled according to seniority in the letter carrier craft.

M-01469 Prearbitration Settlement
August 29, 2002, E90N-4E-C-95058006
This agreement supersedes and replaces our April 23, 2001, prearbitration agreement for the above-captioned case [M-01439].

The parties agree that the "leave computation date," currently box 14 of PS Form 50, is used to determine "total federal service" for the purposes of applying Article 41.2.B.7.(f).

M-00057 Step 4
July 6, 1983, H1N-5B-C 11224
As long as the grievant remains in his current VOMA position, local management will use his seniority that he carried with him as a member of the carrier craft. Except as specifically provided otherwise, the grievant shall retain his carrier seniority when seniority is used as a determining factor.

204B'S

C-03227 National Arbitrator Mittenthal
April 23, 1981 N8-NA-0383
Under the 1978 National Agreement temporary supervisors continue to accrue seniority during time which they serve as temporary supervisors (204B).

SUPERVISORS

The seniority of supervisors who have transferred to another installation is governed by Article 41.2.A.2 which states:

> **41.2.A.2** *Seniority is computed from date of appointment in the letter carrier craft and continues to accrue so long as service is uninterrupted in the letter carrier craft in the same installation except as otherwise specifically provided.*

Thus, if a former letter carrier in a supervisory status transfers to another installation, all seniority is lost. The seniority cannot be regained even if the employee subsequently returns to the installation where he/she served as a letter carrier. The loss of seniority of seniority is permanent regardless of whether the employee spent more or less than two years as a supervisor.

The seniority of letter carriers who leave the bargaining unit and then return to the carrier craft in the same installation is governed by Article 41.2.F and Article 12.2.B.2.

> **41.2.F** *Effective July 21, 1978, when an employee, either voluntarily or involuntarily returns to the letter carrier craft at the same installation, seniority shall be established after reassignment as the seniority the employee had when leaving the letter carrier craft without seniority credit for service outside the craft.*
>
> **12.2.B** *An Employee who left the bargaining unit on or after July 21, 1973 and returns to the same craft;*
>
> **1.** *will begin a new period of seniority if the employee returns from a position outside the Postal Service; or*
>
> **2** *will begin a new period of seniority if the employee returns from a non-bargaining unit position within the Postal Service, unless the employee returns within 2 years from the date the employee left the unit.*

Read together, these two provisions describe three possible situations.

1) If the carrier left the unit prior to July 21, 1973, then Article 41, Section 2.F would apply and the carrier would pick up whatever seniority he or she had at the time of departure from the unit, but would not receive credit for time spent out of the unit.

2) If the carrier left the unit on or after July 21, 1973 and returned within 2 years, then Article 41, 2.F again applies and the carrier would receive credit for the seniority he or she had prior to leaving the unit.

3) A carrier who left the unit on or after July 21, 1973 and returns later than 2 years following the date of departure, begins a new period of seniority (Article 41.2.F does not apply; rather Article 12.2.B.2 takes care of the entire matter.)

The full or part time status of former letter carriers returning to this craft was the subject of an award by National Arbitrator Carleton Snow (C-10147). Arbitrator Snow held that when a former supervisor is reassigned to the letter carrier craft his full-time or part-time status is to be determined by reference to the above referenced seniority provisions of the Agreement. Accordingly:

1) If a letter carrier becomes a supervisor and returns to the letter carrier craft in the same office within two years -- thus retaining his seniority -- he may be assigned to a full-time position.

2) If a letter carrier becomes a supervisor and returns to the letter carrier craft after two years have passed, he loses seniority and thus may only be assigned to a part-time flexible position.

3) If a letter carrier becomes a supervisor and returns to the letter carrier craft in a different office, he will have accumulated no seniority and thus may only be reassigned to a part-time flexible position.

C-10147 National Arbitrator Snow
August 13, 1990, H7N-4U-C 3766
Arbitrator Snow held that when a former supervisor is reassigned to the letter carrier craft, his full-time or part-time status is to be determined by reference to the seniority provisions of the Agreement. Accordingly:

1) If a letter carrier becomes a supervisor and returns to the letter carrier craft in the same office within two years -- thus retaining his seniority -- he may be assigned to a full-time position.

2) If a letter carrier becomes a supervisor and returns to the letter carrier craft after two years have passed, he loses seniority and thus may only be assigned to a part-time flexible position.

3) If a letter carrier becomes a supervisor and returns to the letter carrier craft in a different office, he will have accumulated no seniority and thus may only be reassigned to a part-time flexible position.

M-00805 Pre-arb
March 28, 1986, H1N-1E-C-35862
Management violated the National Agreement by not converting the grievant, part-time flexible, to full-time status prior to the voluntary reassignment of a supervisor from another post office to the vacant craft position. In this situation, the supervisor had been away from a craft position for more than two years. Therefore, the parties agree that the Postmaster General's letter of April 6, 1979, concerning voluntary reassignments and transfers applies, wherein it states:

Full-time non-bargaining-unit employees will be reassigned into full-time positions unless the reassignment is to a vacant bargaining-unit position.

All employees reassigned to positions in the bargaining- unit will have their seniority established in accordance with applicable collective-bargaining agreements.

The parties also agree to the following remedy:

Applying this criteria, the grievant will be place in the bid position sought under this grievance and the incumbent will become an unassigned regular.

For the period beginning when the grievant would have been place in the bid position, he will be compensated for the difference between his paid hours and forty hours in any week in which he did not receive pay for forty hours.
See also M-00806.

STEWARDS

IN GENERAL

SEE ALSO
UNION'S RIGHT TO INFORMATION, PAGE 156

C-10004 National Arbitrator Snow
January 8, 1990, H4C-3W-C 28547
Management did not violate the contract when it provided the grievant with an alternate steward rather than the grievant's steward of choice when the regular steward was in overtime status.

M-00006 Step 4
November 23, 1977, NC-W-9132
Management's decision not to allow Stewards to be present during discussions individual carriers and their supervisors relative to route inspections was not contrary to provisions of the National Agreement.

M-00408 Step 4
May 13, 1983, H1N-1E-C 665
There is no contractual provision for the grievant or his steward to attend an internal management meeting, whether called an accident review board or any other name. However, such a committee should not make recommendations for discipline of individual employees.

M 01066 U.S. Court of Appeals, District of Columbia, Cook Paint and Varnish v. NLRB
A steward may not be required to divulge to the employer information given by a grievant in connection with the steward's handling of a grievance.

M-00763 Step 4
April 15, 1987, H1N-3U-C 28786
The right to hold steward elections, on the clock, may be established by past practice.

DESIGNATION

M-00217 Pre-arb
July 27, 1981, H8N-5K-C 14205
The National Association of Letter Carriers need not designate a precise group of letter carriers over which each steward shall have jurisdiction to represent letter carriers and process grievances on their particular tour and within their particular station or branch.

M-01267 Prearbitration Settlement
October 2, 1997, H94N-4H-C 96084996
The issue in these grievances is whether a full-time union official who is on the employer's rolls is "actively employed" for the purposes of Article 17.2.B.

During that discussion, it was agreed to resolve the interpretive issue with an understanding that full-time union offices on the employer's rolls are considered "actively employed" for the purposes of Article 17.2.B.

M-00952 Step 4
October 13, 1976, NC-W-3083
The Union is not precluded from having the Branch President, acting as Chief Steward, present a grievance at Step 2 in lieu of the steward.

M-00503 Step 4
May 24, 1984, H1N-1J-C 5026
Once an alternate steward has initiated a grievance, the alternate steward may continue processing that grievance, as determined by the union. However, only one steward will be given time for processing the grievance.

M-00811 Step 4
May 9, 1986, H4N-2M 3551
The Union will provide a list of stewards and sequentially listed alternates in accordance with Article 17 of the National Agreement. There will be no "shopping" for stewards. If a steward or alternate is not available, the Postal Service may grant the grievant an extension of time for the grievance.

M-00646 Step 4
March 15, 1978, NC-N-9623
The grievant was offered the services of an available steward, which he declined. Accordingly, there is no violation of the National Agreement.

M-00455 Step 4
October 6, 1977, NC-C-8435
An employee is represented by the steward for the specific work location where he happens to be working when the cause of the grievance arose.

M-01342 Step 4
April 21, 1998, J94N-4J-C 98038114
The interpretive issue in this grievance is whether management violated the National Agreement when the grievant was not provided the union steward certified to represent employees in his specific work location, during an Inspection Service interview.

During our discussion, we mutually agreed to remand this case back to the parties at Step 3, for further processing, with the following understanding:

When requested, a steward certified to represent employees in the specific work location where the employee normally works, should be provided, if available.

M-00327 Step 4
July 7, 1972, N-E-874
There is no provision in Article 15 or Article 17, which denies the right of a steward to process his own grievance in Step 1 or Step 2.a.

M-00392 Step 4
May 14, 1981, H8N-4K-C 15581
If a steward is the individual who is the aggrieved, he is entitled to steward representation just as any other employee. However, when a steward files a class action grievance on behalf of the Union, he is the representative.

M-00462 Step 4
October 21, 1977, NC-S-7847
The employee who is a steward has the same right to Union representation as other employees. However, management is not required to supply the President of the local Union as the Chief Steward's Union representative. The employee who is a chief steward should be represented by the steward in his section.

M-00461 Step 4
December 21, 1977, NC-S-4915
All stewards need not be absent before an alternate is allowed to represent employees.
See also M-00014

M-00460 Step 4
November 7, 1980, N8-S-0470
The designation of Chief Steward does not provide for added representation beyond the particular designated work location

M-00233 Pre-arb
May 20,1982, H8N-2B-C 12054
A Union member actively employed in a post office may be designated as a Union representative to process a grievance at another post office. Such employee must be certified in writing, to the Employer at the regional level. An employee so certified will not be on the Employer's official time and will be compensated by the Union. An employee so certified will act in lieu of the steward designated under Article 17, Section 2.A. and 2.B. at the facility where the grievance was initiated.

M-00649 Step 4
January 30, 1973, NC-2114
A full time union official has the right to act as a steward.

C-09464 Regional Arbitrator Condon
Grievance protesting removal is not arbitrable where filed by a steward not properly certified in writing.

C-00245 Regional Arbitrator Epstein
April 27, 1982, C8C-4H-C 17962
A union president also wearing the hat of "chief steward," is a steward within the meaning of Article 17 and entitled to super-seniority; out-of-schedule overtime is provided as remedy.

M-00083 Step 4
November 8, 1984, H1C-3F-C 35597
The number of stewards certified shall not exceed, but may be less than the number provided by the formula set forth in Article 17, Section 2, which is based on the total number of employees in the same craft per tour or station.

M-00798 Step 4
April 23, 1987, H4C-1M-C 2986
A former employee, who is a certified union steward will be allowed to enter a postal facility to perform the functions of a steward or chief steward in accordance with the provisions of Article 17.2D

PROTECTED ACTIVITY

C-01191 Regional Arbitrator Goldstein
July 6, 1982, C1N-4B-D 3937
If Grievant was in fact acting as a Steward on January 7, 1982, his personal abusiveness to [his supervisor] falls precisely into the zone for which the special immunity status was created; a closed grievance meeting or closed discussion to discuss Union matters. It is in this context and this context alone, that the parties meets as equals. The Steward is entitled to the same deference and latitude as his or her supervisor. It is in this situation, away from the audience of other employees, where a steward may display a loss of temper or use profanity and still be protected from discipline.

C-11177 Regional Arbitrator Levak
January 6, 1986
Steward who called supervisor a "liar" and a "shithead" and who said to supervisors "fuck you all," did so privately and thus was engaged in protected activity and enjoyed immunity from discipline.

PAYMENT

C-00381 National Arbitrator Mittenthal
December 10, 1979, ABE-021
A steward is entitled to be paid for the time spent writing appeals to Step 3.

C-02875 National Arbitrator Aaron
November 10, 1980, H8N-5K-14893
The union did not waive claims for compensation where the question of compensation for stewards, who because of management's refusal to recognize them were forced to process grievances "off-the-clock", was never raised in negotiation of the pre-arbitration settlement or mutually understood by the parties to include that issue.

M-00716 Step 4, June 18, 1980, N8-S-0330
Union stewards are paid for the time actually spent at Step 2 meetings with the employer provided such meetings are held during their regular work day; however, there are no contractual provisions which would require the payment of travel time or expenses.

M-00647 Step 4
December 13, 1978, NC-N-12792
The National Agreement does not provide for the payment of a union steward who accompanies an employee to a medical facility for a fitness-for-duty examination.

M-00910 Step 4
April 6, 1989, H4N-3Q-C 62592
If the need for overtime arise on a shop steward's route as a result of investigation and/or processing of grievances, and the shop steward has signed for work assignment overtime, the resulting overtime is considered part of the carrier's work assignment for the purpose of administering the overtime desired list.

M-01075 Step 4
June 30, 1992, H7N-5E-C 23995
The issue in this grievance is whether Article 17 was violated when an individual was denied compensation for steward time.

After reviewing this matter we mutually agreed that no national interpretive issue is fairly presented in this case. If an individual is a steward under the formula in Article 17.2.A and 17.2.E, then compensation is appropriate as provided in 17.4.

RIGHTS, INVESTIGATION

C-03219 National Arbitrator Aaron November 10, 1980, N8-NA-0219
Shop Stewards have the right under Article XVII(3) of the 1978 National Agreement to investigate grievances as provided therein, including the right to interview postal patron witnesses during working hours in connection with situations in which a letter carrier has made an initial determination that a particular customer would object to his lawn being crossed and where a supervisor has overridden that determination and issued an order that such lawn be crossed.

M-00761 Step 4
July 3, 1978, NC-W-9980-W-1465-77N
Where a customer's complaint is directly used to affect the wages, hours and working conditions of an employee, the steward shall be allowed to conduct an interview if the customer agrees.

M-00012 Step 4, October 25, 1977, NC-S-8463
It is anticipated that supervisors will respond to reasonable and germane questions during the investigation of a grievance.

M-00988 Step 4
May 20, 1991, H7N-3Q-C 31599
After reviewing this matter, we mutually agreed that no national interpretive issue is fairly presented in this case. The subject matter of interviews with supervisors has been previously settled in Case NC-S-8463 [M-00012] ("It is anticipated that supervisors will respond to reasonable and germane questions during the investigation of a grievance.") There is no negotiated requirement that questions be submitted in writing in advance, by either party.

M-00225 Letter, March 10, 1981, N8-N-0224
The Postal Service agrees that a steward who is processing and investigating a grievance shall not be unreasonably denied the opportunity to interview Postal Inspectors on appropriate occasion, e.g., with respect to any events actually observed by said Inspectors and upon which a disciplinary action was based. *See also* M-00864

M-01182 Step 4
May 12, 1994, H90N-4H-C 94019908
There is no contractual prohibition to the supervisor being accompanied when he/she is being interviewed by the union during a grievance investigation.

M-00565 Step 4, August 11, 1980, N8-S 0365
Where compelling circumstances exist management may require a steward to conduct a discussion by telephone rather than having a face to face interview. In the instant case the fact that the steward would have to travel ten miles was not sufficient to warrant denial of a face to face interview.

M-00137 Step 4, February 8, 1977, NC-W-3199
The supervisor is not restricted from asking the reason for the request and the employee should state the general nature of the problem. The employee is not required to discuss the complaint in detail if he first desires to have representation.

M-00668 August 19, 1976, NC-E-2264
The provisions of the National Agreement do not necessarily exclude a steward going to a grievant's house during the investigation of the grievance.

M-01358 Step 4
July 22, 1982, H8N-3W-C-26850
The parties at the National level agree that a steward's request to leave his work area to investigate a grievance shall not be unreasonably denied in accordance with Article XVII, Section 3 of the National Agreement.

M-00539 Step 4
February 20, 1985, H1N-3U-C 36133
Article 17 was not intended to provide the grievant with the unfettered right to accompany the steward while the steward is handling the grievance.

M-00878 Step 4
November 14, 1988, H4N-3R-C 43838
It is not required that investigation of a grievance be completed before a grievance may be appealed to another step of the grievance procedure.

M-00177 Step 4
August 6, 1981, H8N-4J-C 25212
If the carrier made an initial determination that a particular postal customer did not wish his/her lawn to be crossed and the supervisor overrode that determination, management may not deny requests for investigation pursuant to Article XVII, Section 3 of the National Agreement by a shop steward.

M-00837 Step 4
May 1, 1987, H4N-3W-C 27743
Article 17, Section 4, provides for Employer authorized payment to "... one Union steward ... for time actually spent in grievance handling, including investigation ...." The parties at this level agree that this includes time for review of documents.

M-00453 Step 4
April 22, 1977, NC-S-5482
The judicious use of a camera to establish or refute a grievance may facilitate resolution of some problems. However, if the union desires to take photographs on the work room floor, permission must first be obtained from local management, and a supervisor must be present. If management deems it necessary to take evidential photographs, it would also be prudent to have a steward or union official present.

M-00164 Step 4
May 15, 1981, H8N-4F-C 22660
In the instant case, management rejected the carrier's judgment in this regard, we must conclude that a violation of Article 17, Section 3 has occurred. Accordingly, in full resolution of this grievance, the Union steward will be allowed official time to interview those specific patrons of the addresses cited in this grievance.

M-00107 Step 4
November 29, 1978, NC-W-12728
The Postmaster will assume responsibility of the prior actions of supervisors who later transfer out to another facility. Further, if it is necessary for the Union to interview a supervisor or any other employee who is directly involved in a grievance, management recognizes its obligations to make every reasonable effort to make these employees available to the Union.

M-00185 Step 4
November 18, 1974, NB-N-2419
In cases where a customer's complaint, is directly responsible for discipline, the steward shall be given a reasonable amount of time on-the-clock to interview the customer, if the customer agrees. *See also* M-00198

M-00890 Pre-arb
January 12, 1989, H8N-3W-C 21294
A steward's request to leave his/her work area to investigate a grievance shall not be unreasonably denied. A steward may be allowed a reasonable amount of time on-the-clock to interview such witness, even if the interview is conducted away from the postal facility. *See also* M-00796, M-00054

M-01001 Step 4
March 4, 1983, H1N-3U-C 13115
In accordance with Article 17 of the 1981 National Agreement, a steward's request to leave his/her work area to investigate a grievance shall not be unreasonably denied. Subsequent to determining that a non-postal witness possesses relevant information and/or knowledge directly related to the instant dispute under investigation, a steward may be allowed a reasonable amount of time on-the-clock to interview such witness, even if the interview is conducted away from the postal facility. However, each request to interview witnesses off postal premises must be reasonable and viewed on a case-by-case basis. For example, it is not unreasonable for a supervisor and/or steward to telephone the prospective witness to ascertain availability and willingness to be interviewed and, if willing, to establish a convenient time and locale.

RIGHTS, TIME

C-00427 National Arbitrator Garrett
January 19, 1977, MB-NAT-562
Article 17 Section 3 does not authorize the Service to determine in advance the amount of time a Steward reasonably needs to investigate a grievance.

C-10835 Regional Arbitrator Hardin
November 2, 1990
"When management refuses to release a steward because it judges that he has already been given enough time to do the job, management intrudes into an area where the judgment of the Union is entitled to great weight, and management's judgment to less weight."

M-00458 Regional Letter (Charters)
March 10, 1977
In most cases, the grievant and steward should be able to discuss the grievance without delay but 95 percent of the time with no more than a two-hour delay. While circumstances will sometimes necessitate a delay of more than two hours, normally the delay should not extend beyond the tour of duty in which the request is made. This determination will be based on the availability of the parties involved and service conditions.

M-00125 Step 4
November 13, 1978, NCC-12200
If management must delay an employee's request for a steward, management should inform the employee involved of the reasons for the delay and should also inform the employee of when time should be available.

M-00332 Step 4, April 5, 1973, NS-2777
It is the responsibility of the Union and the responsibility of Management to arrive at a mutual decision as to when the steward would be allowed, subject to business conditions, an opportunity to investigate and adjust grievances.

M-00303 Step 4
May 9, 1985, H1C-3W-C 44345
Employees should be permitted, under normal circumstances, to have a reasonable amount of time to consult with their steward. Reasonable time cannot be measured by a predetermined factor.

M-00046 Step 4
September 20, 1977, ACS-10181
Management will not delay a steward's time to discuss a grievance based solely on the fact that the employee is in an overtime status. *See also* M-00047

M-00857 Pre-arb
September 13, 1988, W4N-5C-C 41287
We agreed that where a letter carrier who is also a steward is working overtime and a representation situation arises, a steward's request to perform the function of a steward will not be denied solely because the steward is in an overtime status.

M-00127 Step 4
November 22, 1978, NCC-16045
If management must delay a steward from investigating or continuing to investigate a grievance, management should inform the steward involved of the reasons for the delay and should also inform the steward of when time should be available. Likewise, the steward has an obligation to request additional time and to state reasons why this additional time is needed.

M-00671 Step 4
October 20. 1976, NCS-2655
The determination regarding how much time is considered reasonable is dependent upon the issue involved and the amount of data required for investigation proposes.

M-00606 Step 4 August 29, 1975, NBS-5391
When a steward makes a specific problem known to management and requests permission to conduct an investigation in order to determine whether to file a grievance, a reasonable amount of time for this purpose shall not be unreasonably denied.

M-00104 Step 4, August 18, 1976, NCE-2263
A steward should be allowed to review an employee's Official Personnel Folder during his regular working hours depending upon relevancy in accordance with the applicable provisions of Article XVII, Section 3.

M-01143 APWU Step 4
November 20, 1979, A8-W-0280
As we mutually agreed, a steward's request to investigate a grievance should not be denied solely because the steward is in an overtime status.

M-01144 APWU Step 4
August 1, 1985, H1C-3F-C 43497
The issue in this grievance is whether management violated the National Agreement by denying the grievant additional time to process grievances when overtime was called.

During our discussion, we mutually agreed to settle this case based upon the following understanding:

1. Requests for additional time to process grievances should be dealt with on an individual basis and shall not be unreasonably denied.

2. Management will not delay (sic) a union steward time to perform union duties based solely on the fact that the employee is in overtime status.

M-01145 APWU Step 4
December 7, 1979, A8-S-0309
We mutually agree that a steward is allowed a reasonable amount of time on-the-clock to write the Union statement of corrections and additions to the Step 2 decision. This is considered part of the Step 2 process. The Union statement should relate to incomplete or inaccurate facts or contentions set forth in the Step 2 decision.

C-11174 Regional Arbitrator Levak
May 23, 1986, W1C-5G-C 21856
Where management failed to accord grievant access to her steward, remedy is payment for time spent in off-the-clock consultation.

C-00278 Regional Arbitrator Bowles
August 16, 1984, C1C-4T-C1377
Management unreasonably terminated investigation of maximization grievance after 21 hours.

C-00025 Regional Arbitrator McConnell
June 28, 1983, E1C-2M-C 2465
Management did not act improperly by changing a past practice of releasing stewards to hold grievance discussions within one hour.

C-00204 Regional Arbitrator McAllister
July 5, 1984, C1C-4J-C 22995
Management improperly withheld steward release for 6 hours.

SUPERSENIORITY

C-08504 National Arbitrator Britton
November 28, 1988, H4N-5C-C 17075
Management violated Article 17, Section 3 by temporarily assigning a steward who was a full-time reserve carrier to another station. The arbitrator held that the prohibition on transfers provided for in Article 17.3 applies to temporary as well as permanent reassignments and that the prohibition applies even if there are no vacant job assignments.

M-00077 Step 4
October 25, 1983, H1N-2B-C 7422
Under Article 17, Section 3, of the National Agreement, a certified steward "may not be involuntarily transferred to...another branch...unless ...". Management may, however, take whatever action is appropriate and necessary, e.g., excessing of the junior full-time carrier, in order to provide the grievant with an assignment at the main office. *See also* M-00520, M-00541.

C-00245 Regional Arbitrator Epstein
April 27, 1982, C8C-4H-C 17962
A union president also wearing the hat of "chief steward," is a steward within the meaning of Article 17 and entitled to super-seniority; out-of-schedule overtime is provided as remedy.

WEINGARTEN RIGHTS

C-03769 National Arbitrator Aaron
July 6, 1983, H1T-1E-C 6521
The Postal Service did not violate the National Agreement by refusing an employee's request for a steward to be present at discussions between the employee and his supervisor regarding the employee's use of sick leave.

M-01092 USPS v NLRB, No. 91-1373
D.C. Cir, June 30, 1992
Decision by the U.S. Court of Appeals for the D.C. Circuit upholding an NLRB decision concerning Weingarten rights (M-01093). The Board held that Postal Inspectors violated the Weingarten doctrine by refusing a request by a steward to consult with an employee prior to the employee's interrogation by the Inspectors.

M-00546 NALC Legal Memorandum,
November 30, 1981
Recent decisions of the National Labor Relations Board and the United States Court of Appeals for the Ninth Circuit established that: (1) when an employee being interviewed by an employer is confronted by a reasonable risk that discipline would be imposed, the employee has a right to the assistance of - not mere presence of - a union representative; and (2) that an employer violates the Act when it "refuses to permit the representative to speak, and relegates him to the role of a passive observer".

M-00645 Step 4, July 19, 1977, NCS-4767
Supervisors may have work related discussions with employees under their jurisdiction without a steward's presence. However, in this specific instance, the supervisor wanted a witness present. This unusual action justifiable caused concern by the employee and as a consequence his request to have a steward present was not unreasonable.

M-01096 Pre-arb
September 16, 1992, H7N-5N-C 31554
The parties at this level agree that under the Weingarten rule, the employer must provide a union representative to the employee during the course of its investigatory meeting where the employee requests such representation and the employee has a reasonable belief that discussions during the meeting might lead to discipline (against the employee himself).

Whether or not an employee reasonably believes that discipline will result from the investigatory interview is a factual dispute and is suitable for regional determination. *See also* M-00436

M-01140 APWU Step 4
August 24, 1983, H1C-3W-C 21550
Discussions held pursuant to Article 16, Section 2, shall be held in private between the employee and the supervisor, and constitute the corrective action for the minor offense involved. Discussions which involve fact-finding and which may lead to discipline entitle the employee to representation, if requested.

C-09556 Regional Arbitrator Dolson
Management violated grievant's Weingarten rights when it refused to provide a steward during an interview concerning grievant's vandalism of a supervisor's car, told grievant to clean out locker, discovered deliverable mail in grievant's locker and removed grievant for obstruction of mail; an employee need not renew request for steward when subject of inquiry shifts in order to retain right to steward.

SUPERVISORS' NOTES, RECORDS

C-03230 National Arbitrator Mittenthal
February 16, 1982, H8N-3W-C 20711
A supervisor properly refused to disclose personal notes of discussions to a steward, where the Union could not demonstrate that access to the notes was necessary.

M-01190 Step 4
Feb 23 1994, G90N-4G-C 93050025
1. Under Article 16 of the National Agreement a supervisor's discussion with an employee is not considered discipline and is not grievable and "no notation or other information pertaining to such discussion shall be included in an employee's personnel folder.

2. The Postal Service acknowledges that the spirit and intent of Article 16 is to provide a mechanism for a supervisor to discuss perceived work deficiencies with an employee without such discussion taking on the formality or significance of disciplinary action. Accordingly, although Article 16 permits a supervisor to make a personal notation of the date and subject matter of such discussions for his own personal record(s), those notations are not to be made part of a central record system nor should they be passed from one supervisor to another.

3. The Postal Service acknowledges that a supervisor making personal notations of discussions which he has had with employees within the meaning of Article 16 must do so in a manner reasonably calculated to maintain the privacy of such discussions and he is not to leave such notations where they can be seen by other employees. *See also* M-00548

M-00314 Step 4
August 23, 1985, H4C-5K-C 290
Supervisors will not exchange written notes regarding discussions. A supervisor of a former employee may orally exchange information, relative to discussions, with the employee's current supervisor.

M-00106 Step 4
October 6, 1978, NC-S-10618
The supervisor's personal notes are not available for review by the union steward. When these personal notes are kept in a file they are kept only for the individual supervisor's own review and are not official records.

M-00788 Step 4 APWU
January 1983, H8C-5G-C 14337
It is an accepted practice when a work unit supervisor is requesting, from an appropriate office such as a local Labor Relations Division, an instrument of discipline to indicate discussion(s) conducted with the specific employee. This will ensure that discipline will be consistent, corrective and progressive.

M-00566 Step 4
November 13, 1980, H8N-3W-C 14031
A letter of warning, which has been previously settled at Step 2, of the Grievance Procedures under the provisions of Article XV, Section 2, Step 2(c) of the National Agreement, should also be removed from the Supervisor's Personnel (*sic*) Records.

M-00942 Step 4
June 13, 1989, H7N-5R-C 5943
The issue in this grievance is whether management violated the National Agreement by its use of a "Checklist of Unsatisfactory Casing Procedures" We agree that while the checklist is an appropriate means by which a supervisor may acquire a set of personal notes on the individual performance of his subordinates, a carrier may not be required to sign the checklist.

M-00103 Step 4
November 17, 1978, NCS-12616
There is no prohibition against the supervisor and/or the employee making a personal notation of the date and subject matter for their own personal records. However, no notation or other information pertaining to such discussion shall be included in the employee's personnel folder.

M-00996 Step 4
February 15, 1991, H7C-5F-C 6017
The issue in this grievance concerns the proper length of time for supervisors to retain personal notes concerning employees.

After reviewing this matter, we mutually agreed that no national interpretive issue is fairly presented in this case. We further agreed that supervisors' personal notes as defined in 314.52c of the Employee and Labor Relations Manual are to be destroyed when the supervisor/employee relationship ceases.

M-01070 Step 4
April 14, 1992, H0N 5T-C 1549
The issue in this grievance is whether management violated the National Agreement by denying the grievant access to a supervisor's records concerning him. After reviewing this matter, we mutually agreed that no national interpretive issue is fairly presented in this case. This grievance should be decided in accordance with the provisions of ELM 313 and 314, based on the particular fact circumstances involved.

TORT CLAIMS

M-00142 Step 4
April 16, 1979, NC-S-11585
The grievant may properly file a tort claim for damage to his vehicle while it was parked on U. S. Postal Service property, even though, a claim had been previously submitted and denied in accord with the provisions of Article XXVII of the National Agreement. The merits of a tort claim may not be considered through the grievance-arbitration procedure

M-00530 Step 4
December 6, 1984, H1N-3W-C 37222
An employee's cooperation in assisting the U.S. Postal Service in pursuing a tort claim against a third part is voluntary. Therefore, the subject letter, as currently written, must be rescinded with regard to all employees involved in a third party tort claim.

M-00713 Step 4
January 19, 1978, NC-S-9108
When employees are properly in pursuit of their official duties, they receive the same coverage in the event of a tort claim whether walking or driving on private property.

TRANSFERS, MUTUAL EXCHANGES

TRANSFERS

See Also Reassignments, Page 310

M-00856 Step 4
May 27, 1988, H4N-5C-C 14779
Local management may not refuse to forward an employee's personnel folder to another installation in order to prevent or delay the consideration of the employee's request for transfer.

M-01223 USPS Letter
August 27, 1993
From time to time, we receive letters from employees (primarily craft) stating that their requests to transfer from one facility to another have been turned down for what they believe are inappropriate reasons. Specifically, many assert that because of a low sick leave balance and for no other apparent reason that their request for transfer was denied.

While we understand that attendance is extremely important to all of our operations, the use of sick leave balance per se as a sole determining factor is inappropriate. This is especially true in those situations where sick leave was used for a one time serious illness and other than that attendance was more than satisfactory. Where an employee request a transfer, the responsible official at the gaining installation needs to look at the qualifications of the whole individual. By this we mean that we need to determine whether the individual possesses the necessary job experiences and other qualifications to fill the needs of the vacancy.

We would also strongly suggest that where there are one or two questions with regard to the viability of the employee for the position, i.e. such as a low sick leave balance, that it is incumbent upon responsible management to obtain additional information into that situation. For example, if a low sick leave balance is indeed a concern then inquiry should be made as to the pattern of use and determine at that point whether there is a possible attendance problem.

M-01388 Pre-arbitration Settlement
November 1, 1999, Q94N-4Q-C 97122150
The issue in this grievance is whether the Central and South Florida Districts' policy on transfers violates the National Agreement, wherein, only employees with a minimum of five years service and from only within the District were given consideration.

After reviewing this matter, the parties mutually agreed to the following:

1. Local policies regarding transfers must not be in conflict or inconsistent with the Transfer MOU.

2. The subject local policies were rescinded in October 1997.

3. The affected employees were contacted as to the change in policy and given the opportunity of requesting transfer consideration.

4. This case will be remanded to the parties at Step 3 for further processing or to be scheduled for regular arbitration to determine what remedy, if any, is appropriate.

C-10614 Regional Arbitrator Martin
June 28, 1990
Where management improperly denied grievant's request to transfer to the Virgin Islands, management is ordered to pay grievant's moving expenses.

C-10123 Regional Arbitrator Barker
July 3, 1990
Management's evaluation of grievant's attendance record was unfair; grievant should have been granted transfer.

C-05826 Regional Arbitrator Jacobowski
March 7, 1986, C4N-4J-C 7100
"The grievant is entitled to the appropriate remedy to have the denial revoked, with his transfer request approved, and a directive to Dallas and Milwaukee to so comply and coordinate. I have no difficulty in fashioning and determining this remedy; it is appropriate to the circumstances and the proper means of rectifying the violation and the right of the grievant denied. The separate locations of Dallas and Milwaukee are not a deterrent; they are both branches of the single employer entity, the parties negotiated the common national agreement for all locations and branches."

MUTUAL EXCHANGES

EL-311, PERSONNEL OPERATIONS
Section 512.4 Mutual Exchanges. Career employees may exchange positions (subject, when necessary, to the provisions of the appropriate collective-bargaining agreement) if the exchange of positions is approved by the officials in charge of the installations involved. Part-time flexible employees are not permitted to exchange positions with full-time employees, nor bargaining-unit employees with nonbargaining unit employees, nor nonsupervisory employees with supervisory employees. Mutual exchanges must be between positions at the same grade. An exchange of positions does not necessarily mean that the employees involved take over the duty assignments of the positions.

Note: A regular rural carrier may exchange only with another regular rural carrier at a different installation. *See also ELM 351.6.*

C-10180 Regional Arbitrator Levak
August 8, 1990
Management did not violate the contract when it denied a request for a three-way mutual exchange.

C-11087 Regional Arbitrator Axon
August 14, 1991, W7N-5R-C 26833
The arbitrator held that the Postal Service violated the National Agreement when it denied the grievant's request for a mutual exchange. He found that the union met its burden of demonstrating that management acted in an arbitrary and capricious manner by showing that Postal Service managers made their decision without any reasonable basis in fact.

C-12634 Regional Arbitrator Brandon
December 8, 1992, S0N-3D-C 12026
The arbitrator held that the Postal Service violated the National Agreement when it gave a "general refusal" to the grievant's request for a mutual exchange.

M-01002 Step 4
November 30, 1982, H1N-5D-C 4930
In the instant case, a mutual exchange of carriers between two postal installations was authorized. Local management assigned the incoming carrier to the route vacated by the departing carrier. It was mutually agreed that the following would represent a full settlement of this case:

The vacated route should have been posted for bid. Upon receipt of this decision and as soon as administratively possible, the postmaster will post route 1148 for bid in accordance with Article 41, Section 1 of the National Agreement.

M-01149 APWU Step 4
December 23, 1983, H1C-5H-C 16429
All duty assignments vacated as a result of mutual exchanges pursuant to ELM 351.6 must be posted for bid, in accordance with the provisions of Article 37, Section 3.A.1, of the National Agreement.

TRANSITIONAL EMPLOYEES

M-01151, January 22, 1993, Questions 1-34
M-01152, February 17, 1993, Questions 35-54
M-01153, March 31, 1993, Questions 55-80
Questions and Answers published as a supplement to *Building our Future by Working Together*, the USPS-NALC Joint Training Guide on the September, 1992 Memorandums of Understanding, published November 19, 1992. They provide joint answers to questions concerning the interpretation and application of those memorandums and the subsequent December 21, 1992 memorandum. See page 300 for complete text.

M-01152, February 17, 1993
Supplement to Chapter 6
Supplement to *Building our Future by Working Together*, The USPS-NALC Joint training Guide on the September, 1992 Memorandums of Understanding. The revised material includes relevant information from the December 21, 1992 Memorandum of Understanding on PTF conversions and should be used instead of Chapter 6 of the Joint Training Guide.

M-01111 Memorandum
September 17, 1992
It appears that, due to some differences in interpretation, there has been some lack of agreement between the parties locally on application of the January 16, 1992, Mittenthal Award on transitional employee (TE) in the Letter Carrier Craft. NALC and USPS have been meeting at the national level to resolve those differences and, with the exception of the PTF conversion issue that is presently awaiting national arbitration, we have reached accord regarding TE hire and utilization.

We anticipate that a joint TE booklet will be made available for reference in the next several weeks. In the meantime, the following information will serve to highlight areas of apparent disparity in interpretation where mutual understanding has now been reached.

Completion of the DSSA will be accomplished in accordance with existing instructions. It is in our joint interest to establish a credible baseline from which realistic projections can be made. Thus, every effort will be made to avoid any inflation of baseline hours or the baseline/projection difference. In that regard, the parties agree that line 27 of the DSSA represents the average weekly difference between the authorized hours (shown on line 26) and the actual weekly hours being used by the unit, expressed as a percentage of authorized hours (line 26).

DSSA--Union Review--Management will make available to the local union all relevant information on which calculations are based. Union representatives will be allowed reasonable time to review management calculations on DSSAs. Our intent is to resolve DSSA and TE issues via information sharing and discussion rather than conflict and confrontation.

TE Hire versus Baseline DSSA--For purposes of implementing Parts 1c (1)-(4) of the Award, TEs may be hired only after a unit's baseline and projection DSSAs have been completed and the difference between the two has established a ceiling for TE hours. If, at that point, existing staffing is insufficient to meet the weekly requirements demonstrated by the baseline DSSA, TEs may be employed without current attrition as a prerequisite. However, those TE hours will be offset against the established ceiling of hours. The parties agree that TEs may be used to cover only those residual vacancies withheld pursuant to Article 12 since September 3, 1991.

TE Hire versus Projected Attrition--Where it is anticipated that attrition will satisfy the projected difference in staffing for automation, TEs will be employed to backfill for attrition only after the unit or installation has entered the transition period (defined as that length of time needed for attrition to fulfill staffing reduction requirements). In such circumstances, attrition prior to the transition period will be fulfilled by career employees, with the exception of residual vacancies withheld for excessing (another craft or installation).

TE Use to Cover Opting --Whether TEs are hired as soon as vacancies occur or after opting takes place, it is agreed that there will be no pyramiding of any defined TE hire opportunity.

Held Pending Reversion--These positions must be posted. However, the residual vacancy that results from such posting will then be considered the held-pending-reversion vacancy. This vacancy will then be made available for opting as outlined in the award. When the

original held-pending-reversion position is actually reverted, the carrier assigned to that position becomes an unassigned regular and is eligible to bid for any vacant duty assignment within his bid area.

Workhour Guarantees--While we recognize that TE scheduling is subject to a four-hour guarantee, local management has the responsibility to afford the PTF priority in scheduling workhours in accordance with the Mittenthal interest arbitration award.

TE Hire versus Excessing--A full time letter carrier may not be excessed and the resulting vacancy filled by a TE, except where management can demonstrate that, as a result of legitimate operational changes, there is insufficient work to continue to support a full-time position. For example, management may not abolish a full time router position and excess the full time letter carrier and hire or assign one or more TEs to perform the work of the abolished position, unless management can demonstrate that the work cannot be performed on a full time basis in compliance with the requirements of the National Agreement.

Disputes concerning the above, if unresolved in the grievance procedure, shall be placed at the head of the regional (other than removal) arbitration docket.

The foregoing matters have been agreed to and will be elaborated on in the joint booklet. However, the intent of this memorandum is to clarify some areas of potential disagreement, to avoid grievances and to jointly provide an expeditious way to achieve the service improvements and savings that the TE award makes possible.

M-01206 January 5, 1995
B90N-4B-C-93035026
We agreed that the December 21, 1992 Memorandum of Understanding (MOU) [M-01115] provided, in Items 2 and 3, as follows:

> 2. In lieu of the DSSA analysis provided in the January 16, 1992, NALC Transitional Employee (TE) arbitration award, the parties will use the impact formula contained in the September 21, 1992 Hempstead Memorandum of Understanding to determine the number of TE hours allowed in a delivery unit due to automation impact. All such TEs will be separated in a delivery unit when Delivery Point Sequencing (DPS) is on-line and operative.
>
> 3. The parties further agree that in offices (automation impacted or non-impacted) where the number of PTF conversions exceeds the number of TEs allowed under the above impact formula, additional TEs may be hired to replace such PTF attrition. All such TEs will be separated from the rolls by November 20, 1994.

Further, Item 5 of the MOU provides, in part, as follows:

> If TE hours in a delivery unit exceed that allowed by paragraphs 2 and 3 above, management must, no later than 3/l/93, either: (l) relocate TEs to another delivery unit to stay within the allowable limits; or (2) reduce work hours per TE, so as to stay within the allowable limits; or (3) remove excess TEs from the rolls.

However, Revised Chapter 6 specifies on page 6 that "Section 5 of the December 21, 1992 memorandum does not require that management use the new Hempstead methodology to justify the retention of TEs hired under the old DSSA analysis."

M-01319 Step 4
May 29, 1998, F90N-4F-C 93046131
As a result of our discussions, it was mutually agreed that TEs may be hired under Section A in Revised Chapter 6 ("Delivery Point Sequencing Impact Calculation Plus Triggers") only after the unit or installation has entered the transition period (defined as that length of time needed for attrition to fulfill staffing reduction requirements). The question of whether management improperly estimated the length of time needed for attrition to fulfill staffing requirements does not present an interpretive issue. The question of whether this unit was in a transition period does not present an interpretive issue.

If TEs have been hired under Section A in Revised Chapter 6 ("Delivery Point Sequencing Impact Calculation Plus Triggers"), management must provide the local union with the "DPS Methodology" calculations, and all relevant information on which those calculations are based, under which those TEs have been hired.

It was further agreed that the hiring of TEs should be reasonable within the local fact circumstances. The attrition rate used should neither be artificially understated (so as to limit the hiring of TE's), nor artificially overstated (so as to permit excessive TE hiring.)

C-015091 National Arbitrator Mittenthal
February 8, 1996, Q90N-4Q-C 93034611
The transitional employee interest arbitration award and memorandums do not limit the number of hours TEs may be worked per week after they have been properly hired. But the number of hours TEs work may nevertheless be significant in determining whether they were properly hired in he first place.

The parties choice of the "delivery unit" as the group in which to make the impact hours calculation does not mean that any TEs thereafter hired can only work in that same delivery unit

M-01326 Step 4
May 26, 1998, F90N-4F-C 95066563
Does the conversion of a PTF to full-time in a delivery unit constitute "PTF attrition" for purposes of TE hiring under Revised Chapter 6 of Building Our Future By Working Together? It was mutually agreed that the conversion of a PTF to full-time does constitute "PTF attrition" for purposes of TE hiring under Revised Chapter 6 ONLY where the other criteria of Revised Chapter 6 regarding the DPS impact calculation are met and the unit is in the transition period.

Additionally, it was agreed that management may unilaterally change the DPS target percentage. If the target percentage is changed, the DPS methodology" must be used to recalculate the estimated reduction in carrier office time. This recalculation must be made using the established methodology, and requires re- drawing the route map for the planned adjustments. It also impacts entitlement to transitional employees and may have the effect of requiring a reduction in TE hours.

Further, the parties mutually agreed that TEs may be hired under Section A in Revised Chapter 6 ("Delivery Point Sequencing impact calculation plus triggers") only after the unit or installation has entered the transition period (defined as that length of time needed for attrition to fulfill staffing reduction requirements.) The question of whether management improperly estimated the length of time needed for attrition to fulfill staffing requirements does not present an interpretive issue. The question of whether this unit was in a transition period does not present an interpretive issue.

It was further agreed that the hiring of TEs should be reasonable within the local fact circumstances. The attrition rate used should neither be artificially understated (so as to limit the hiring of TE's) nor artificially overstated (so as to permit excessive TE hiring).

If TEs have been hired under Section A in Revised Chapter 6 ("Delivery Point Sequencing impact calculation plus triggers"), management must provide the local union with "DPS methodology" calculations, and all relevant information on which those calculations are based, under which those TEs have been hired.

Finally, it was also agreed that there is no dispute between the parties at this level concerning management's obligation to notify the union concerning withheld positions. The requirement to notify the Union at the regional level of withheld positions specified in Article 12.5.B has not changed and is applicable.

M-01336 Step 4
July 17, 1998, G94N-4G-C-96047771
The parties agreed that no national interpretive issue is fairly represented in these cases. As a result of our discussions, the parties have agreed at the national level that the local parties are to be guided by the following mutual understanding of the issues presented in this grievance

Does the conversion of a PTF to full-time in a delivery unit constitute "PTF attrition" for purposes of TE hiring under Revised Chapter 6 of Building Our Future Together? It was mutually agreed that the conversion of a PTF to full-time does constitute "PTF attrition" for purposes of TE hiring under Revised Chapter 6 ONLY where the other criteria of Revised Chapter 6 regarding the DPS impact calculation are met and the unit is in the transition period.

It was agreed there are not two separate target percentages, one for hiring and one for planned adjustments. The target percentages should be the same for both purposes. In the event a recalculations is necessary the TE ceiling need not be recalculated. However, when the adjustments are made, TE hours must be proportionally reduced by the amount of workload taken out of the unit. Units in the X-route process must set target percentages between 70 and 85% and adjustments cannot be made at lower percentages unless the parties have agreed on interim adjustments.

Additionally, it was agreed that management may unilaterally change the DPS target percentage. If the target percentage is changed, the "DPS methodology" must be used to recalculate the estimated reduction in carrier office time. This recalculation must be made using the established methodology, and requires re- drawing the route map for the planned adjustments. It also impacts entitlement to transitional employees and may have the effect of requiring a reduction in TE hours.

Further, the parties mutually agreed that TEs may be hired under Section A in Revised Chapter 6 ("Delivery Point Sequencing impact calculation plus triggers") only after the unit or installation has entered the transition period (defined as that length of time needed for attrition to fulfill staffing reduction requirements.) The question of whether management improperly estimated the length of time needed for attrition to fulfill staffing requirements does not present an interpretive issue. The question of whether this unit was in a transition period does not present an interpretive issue.

It was further agreed that the hiring of TEs should be reasonable within the local fact circumstances. The attrition rate used should neither be artificially understated (so as to limit the hiring of TEs) nor artificially overstated (so as to permit excessive TE hiring).

If TEs have been hired under Section 5 in Revised Chapter 6 ("Delivery Point Sequencing impact calculation plus triggers"), management must provide the local union with the "DPS methodology" calculations, and all relevant information on which the calculations are based, under which those TEs have been hired.

As specified in Revised Chapter 6, local managers may use an additional 40 hours after a residual vacancy is held pending reversion. However, the parties agree that no additional TE use is permitted when another carrier opts on the assignment held pending reversion, which would be pyramiding the TE entitlement.

Finally, it was agreed that there is no dispute between the parties at this level concerning management's obligation to notify the union concerning withheld positions. The requirement to notify the Union at the regional level of withheld positions specified in Article 12.5.B has not changed and is applicable. *See also C-01311, C-01321*

M-01115 Memorandum of Understanding
December 21, 1992
RE: TRANSITIONAL EMPLOYEES/PART-TIME FLEXIBLE CONVERSIONS.

See "maximization", page 225, for the text on this memorandum.

M-01122 USPS Letter
April 12, 1993
As previously discussed, the language set forth below represents our agreement on the issue of early termination of the terms of employment of transitional employees in order to stagger or phase out appointment end dates in a particular installation.

The parties agree to the following limited basis for terminating the employment of a transitional employee (TE) prior to expiration of the designated appointment term, in addition to the bases set forth in the January 16, 1992, Mittenthal Interest Arbitration Award.

Specifically, where more than one TE at a facility has the same entered-on-duty date, management may establish TE's break in service before the end of their appointment terms in order to stagger their reappointment dates at the facility. However, such an early break in service must be effective at the end of a pay period and may not exceed seven days.

M-01260 Prearb
August 28, 1996, H90N-4H-C-95024014
It was mutually agreed that transitional employees hired under the terms of the December 21, 1992 Memorandum may only be retained past November 20, 1994 under the terms of the January 16, 1992 NALC Transitional Employee arbitration award, as modified by the December 21, 1992 Memorandum and Revised Chapter 6 of *Building our Future by Working Together*.

M-01401 Step 4
May 24, 1999, D94N-4D-C 98091427
There is no dispute between the parties that TE's hired under the DPS formula cannot be re-hired or retained except as provided for by Arbitrator Mittenthal and the Revised Chapter 6 supplement to Building Our Future by Working Together. *See also* M-01383.

M-01413 Prearbitration Settlement
G90N-4G-C 95002498, June 26, 2000
There is no dispute between the parties that TEs hired under the DPS formula cannot be rehired or retained except as provided for by Arbitrator Mittenthal and the Revised Chapter 6 supplement to Building Our Future by Working Together. Further, there is no dispute between the parties that, once the final target percentage has been reached, the adjustments made, and savings are captured. TE hours should be reduced proportionate to the work load taken out of the Unit. The use of any remaining TEs should be phased out "within 90 days of when DPS is on line and cost effective in terms of barcoding goals in the specific five-digit delivery unit."

M-01104 USPS Letter
November 24, 1992
This letter is in reference to our discussion regarding Transitional Employees (TE's) hired as part-time flexibles.

The parties agree that such employees will be paid at level 6 for time spent performing the duties of a T-6 and at level 5 for time spent performing other work.

M-01195 Prearb
June 13 1994, E90N-4E-C 93045533
The issue in this grievance is whether management is contractually obligated to hire as a career employee, a transitional employee (TE) worked beyond the 359 day employment limitation established in Article 7.1D2.

During our discussion, we mutually agreed that management is not required to hire such TEs as career employees. However, whether some other remedy might be appropriate in such a situation does not present an interpretive issue, but is based solely on the particular fact circumstances involved. Accordingly, we agree to remand this case to the parties at Step 3 or to be rescheduled for regional arbitration, as appropriate, to determine what remedy, if any, is warranted.

M-01199 Step 4
August 10, 1994, H90N-4H-C-94004376
The sole interpretive issue in this case is whether a Transitional Employee hired as a clerk may be assigned to work in the carrier craft.

We agreed that an APWU TE may not be used to perform work in the carrier craft. Accordingly, we agreed to remand this case to the parties at Step 3 for further processing, including arbitration if necessary, with regard to the remaining factual issues.

M-01245 Pre-arb
Q90N-4Q-C 95040169, April 8, 1996
It was agreed that the pay rate of transitional employees will be adjusted upward in the amount of $0.05 per hour as soon as administratively practicable. In addition, at a later date, TEs will receive a lump sum in the amount of $0.05 for each straight time hour and an additional $0.01 for each night differential hour for each such hour for which they were paid during the period between February 4, 1995 and the date of the adjustment.

C-016292 National Arbitrator Snow
February 22, 1997, Q94N-4Q-C 96092491
The lump sum provisions of the Stark interest arbitration award apply to transitional employees.

DISCIPLINE

C-13837 National Arbitrator Mittenthal
August 18, 1994, G90N-4G-D 93040395
A Transitional Employees removed for cause is entitled to advance written notice of the charges against him/her and, in accordance with Article 16, Section 5, is entitled to remain on the job or on the clock at the option of the employer during the notice period.

M-01202 Step 4
January 4, 1995, F90N-4F-D 94022367
When an NALC transitional employee has completed a previous 359-day term of employment in the same office and in the same position, a termination for cause during the first 90 work days (or 120 calendar days, whichever comes first) of an immediately subsequent appointment is subject to the grievance-arbitration procedure.)

ENTRANCE EXAMS

M-01244 Memorandum of Understanding
July 30, 1993
In the interest of enhancing career employment opportunities for NALC transitional employees, the Postal Service and the NALC agree as follow:

1. NALC transitional employees (TEs) who have completed 180 days of employment as a TE and are still on the TE rolls may take the entrance examination for career letter carrier positions upon request. Only one such opportunity will be provided each eligible TE pursuant to this memorandum

2. Eligible TEs who wish to take the examination must submit their request to the appropriate personnel office. The examination will be administered to eligible TEs who have submitted a request on a periodic basis, but no less than once each quarter.

3. The TEs exam results will be scored, and passing scores will be merged with the exiting letter carrier register. Thereafter, normal competitive selection procedures will apply in making career letter carrier appointments.

3. Eligible TEs who already have a passing test score on the letter carrier register may take the examination again pursuant to this memorandum and will have the option of merging the new test score with the existing register in lieu of their old test score.

M-01471 Prearbitration Settlement
September 26, 2002, E90N-4E-C-94026388
It is agreed that pursuant to Article 17, Section 3, the steward, chief steward or other Union representative may request and shall obtain access through the appropriate supervisor to review the documents, files and other records necessary for processing a grievance or determining if a grievance exists. Such request shall not be unreasonably denied.

Accordingly, the Union may request and shall obtain access to documents, files and other records necessary for processing a grievance concerning the July 20, 1993 Memorandum of Understanding regarding Transitional Employee Employment Opportunities (updated in the 2001-2006 National Agreement at pp. 218-219). Such documents may include hiring worksheets if relevant to the grievance.

SCHEDULING

C-15699 National Arbitrator Snow
B90N-4B-C 94027390, August 20, 1996
The "12-hour a day" work rule in ELM Section 432.32 applies to NALC Transitional Employees.
See "Maximum Hours", page 262.

M-01191 Prearb
June 29 1994, J90N-4J-C 93048774
The issue in this case is whether a NALC Transitional Employee (TE) is entitled to more than one four (4) hour work guarantee when assigned to work a split shift.

After reviewing the matter, we mutually agreed that:

1. When a Transitional Employee (TE) is notified prior to clocking out that they should return within two (2) hours, this will be considered as a split shift and no new guarantee applies.

2. When a Transitional Employee (TE), prior to clocking out, is told to return after two (2) hours, that employee must be given another minimum guarantee of four (4) hours work or pay.

C-15698 National Arbitrator Snow
E90N-6E-C 94021412, August 20, 1996
Article 8, Section 8.D does not provide a four hour call-back guarantee to NALC transitional employees requested to return to work on a day they have worked more than four hours, completed their assignment, and clocked out.

M-01241 Step 4
February 12, 1996, E90N-4E-C 94026528
The issue in these grievances involves the scheduling priority to be given part-time flexible employees over transitional employees.

During our discussion, we mutually agreed as follows:

During the course of a service week, the Employer will make every effort to ensure that qualified and available part-time flexible employees are utilized at the straight-time rate prior to assigning such work to transitional employees working in the same work location and on the same tour, provided that the reporting guarantee for the transitional employee is met.

M-01375 Step 4
January 13, 1999, D94N-4D-C 99022235
The issue in this case is whether the scheduling priority in Article 7.1.C.1.b. to utilize part-time flexibles at the straight-time rate prior to assigning the work to transitional employees includes part-time flexibles in their probationary period. As a result of our discussions, it was agreed that Article 7.1.C.I.b applies to all part-time flexibles, including those in their probation period.

M-01200 January 5, 1995
C90N-4C-C- 94041271
The issue in this grievance is whether Management violated the National Agreement by scheduling NALC Transitional Employees (TEs) for holiday work instead of full-time carriers who volunteered.

After reviewing this matter, we mutually agreed that, if there was an eight hour assignment (route) or eight hour block of work available, it should have been assigned to a full-time regular volunteer instead of a TE.

M-01228 Step 4
May 9, 1995, D90N-4D-C 94028779
It was mutually agreed that NALC Transitional Employees are not covered by Article 10 or Article 30 of the 1990 National Agreement. The granting of annual leave to NALC Transitional Employees is covered in Appendix D of the January 16, 1992 Transitional Employee Interest Arbitration Award.

TRAVEL

M-01561 Prearbitration Settlement
January 11, 2006
In emergencies, such as last-minute official travel where there is no time for an employee to receive a check from the Accounting Service Center, the employee shall receive an emergency travel advance after signing a completed and approved PS Form 1011, Travel Advance Request and Itinerary Schedute, from the local post office.

M-00347 Step 4
May 6, 1985, H1N-5H-C 29490
Management is not precluded from detailing regular carriers to other installations and that, in accordance with subsection 438.121 of the Employee and Labor Relations Manual, the grievants are not entitled to travel time compensation. However, per the M-9 Handbook, subsections 612 and 614b, the grievants are entitled to be compensated for the difference in mileage normally traveled and that traveled while on detail.

M-00094 APWU Step 4
November 14, 1984, H1C-5F-C 9268
The proper compensation for undergoing a fitness-for-duty examination on a nonscheduled day is pay for time actually spent taking the examination, including travel time. *See also* M-00616, M-00617, M-00356

M-00888 Pre-arb
January 5, 1989, H4N-3W-C 17913
Travel time is proper when management sends a PTF to another station. Part-time flexible employees should not be required to end their tour and then report to another station to continue working without being compensated, as provided for in Part 438.132 of the Employee and Labor Relations Manual.

M-00772 Memo, Herbert A. Doyle
January 12, 1987
An employee who appears as a witness in a third-party action which has been assigned to the Postal Service, is in official duty status for the time spent in court and for the time spent traveling between the court and the work site. *See also* M-00445

M-00368 Step 4
November 28, 1984, H1N-1E-C 31854
An employee returning to duty after an extended absence must submit evidence of his/her being able to perform assigned postal duties. If local policy dictates that the employee must be seen and cleared by the postal medical officer, the employee shall be reimbursed for travel expenses incurred to attend the examination.

C-04657 National Arbitrator Mittenthal
February 15, 1985, H1N-NA-C 7
The Postal Service is not required to pay Union witnesses for time spent traveling to and from arbitration hearings.

C-10691 Regional Arbitrator Axon
July 31, 1990
Management did not violate the National Agreement by refusing to pay travel time to "loaners" for travel to associate offices within the local commuting area.

C-10615 Regional Arbitrator Martin
July 9, 1991
Travel time is actual work time, regardless of where it falls in relation to the employee's normal schedule.

UNASSIGNED REGULARS

C-04484 National Arbitrator Mittenthal
November 2, 1984, H1N-3U-C 13930
A carrier who successfully opts for an assignment is entitled to work the assignment for its duration, and management may not prematurely terminate the temporary assignment to move the carrier to a permanent assignment pursuant to Article 41, Section 1.A.7.

C-00939 National Arbitrator Gamser
September 10, 1982, H1C-5F-C 1004
Unassigned regulars who had their schedules changed in the absence of a bid or assignment to a residual vacancy were entitled to out-of-schedule overtime under Article 8, Section 4.B.

M-00669 Step 4
February 24,1987, H1N-5G-C 22641
Full-time reserve and unassigned regular letter carriers occupying a hold-down position pursuant to the provisions of Article 41.2.B.3 have the right to bid for a full-time duty assignment. If such letter carrier is the successful bidder, he shall be placed into the duty assignment pursuant to the provisions of Article 41.1.C.3. The resultant vacant hold-down will be filled pursuant to the provisions of Article 41.2.B.3-5, provided the anticipated duration of the resultant vacancy is of five (5) days or more.

M-01431 Step 4
September 25, 2000, H94N-4H-C 96007241
The issue in this grievance is whether unassigned regulars may opt pursuant to Article 41.2.B.3 if their unassigned status is not the result of the elimination of their duty assignment.

The parties mutually agreed that the language of Article 41.2.B.3 and 41.2.B.4 intended three categories of employees C part-time flexible carriers, full-time reserve carriers, and unassigned regulars, regardless of the reason for the unassigned status.

M-00420 Pre-arb, December 7, 1973, NN 1239
Pursuant to Article XLI, Section 1-A.4 of the National Agreement the preference of an unassigned full-time carrier is to be considered in duty assignments where there is available more than one vacant duty assignment for which there was no senior bidder.

M-00549 Pre-arb
October 3, 1986, H4N-5F-C 1620
Article 41.1.A.7 does not specify placement of unassigned regulars by juniority or by seniority.

Article 41.1.A.7 was changed in the 1987 National agreement to require that unassigned regulars must be assigned to unbid assignments by juniority.

M-00681 Step 4, May 4, 1977, NCE 5617
Although an unclassified letter carrier does not have the right to select which route he wishes to work on any given day, the employer is not precluded from assigning unassigned regular employees to various routes by seniority.

M-00090 Step 4
September 4, 1985, H1N-5G-C 26599
Management is not obligated to seek volunteers prior to temporarily assigning unassigned regulars to other work locations.

C-09569 Regional Arbitrator R.G. Williams
December 8, 1989, S7N-3W-C 22758
Management may permanently, but not temporarily, assign an unassigned regular to work outside of his section.

UNIFORMS

M-01189 **Step 4**
February 23 1994, H0N-2P-C 7096
During our discussion, we mutually agreed that appropriate work clothes allowance for a Vehicle Operations Maintenance Assistant (VOMA) can be determined through application of section 932.13 (E) of the ELM. Postal Bulletin dated 9-19-91 (attached) gives specific reference to each craft and monetary allocation per year based on designation contained in the ELM.

M-00055 **Step 4**
September 20, 1985, H1N-3U-C 27386
If walking shorts are properly fitted, the length of the shorts will be approximately 3" above the knee.

M-00526 **Step 4**
May 16, 1984, H1N-5H-C-3572
Female letter carriers shall not be required to wear only navy blue knee socks with their skirts or culottes. Multicolored socks, however, may be prohibited by local management.

M-00519 **Step 4**
August 1, 1984, H1N-3A-C-30742
ELM Part 584.8, specifically authorizes the head of an installation to determine when seasonal changes of uniform will take place. Whether or not the language of this LMU is inconsistent with the postmaster's decision making authority relative to the seasonal wearing of ties can only be determined by review of the fact circumstances, to include the context of the discussions leading to the 1981 LMU language, past practice, etc.

M-00846 **USPS Letter, March 16, 1983**
Although part 582.11a of the Employee and Labor Relations Manual requires city letter carriers to wear the prescribed uniform while performing their duties, installation heads have been allowed to exercise some flexibility in cases of female city letter carriers in advanced stages of pregnancy. Such cases are reviewed on an individual basis, and installation heads are encouraged to use discretion in seeking a sensible resolution. Obviously, the employee can purchase larger sized uniform items within her authorized uniform allowance. However, the wearing of personal non-uniform garments has also been allowed. Generally, these garments should be somewhat subdued and, preferably, dark blue or blue-gray.

M-01454 **Prearbitration Settlement**
January 24, 2002, H94N-4H-C-98091130
ELM 436.1, Corrective Entitlement, provides for back pay calculations for unwarrented personnel actions, including not only compensation but also allowances. ELM 935.23 provides for a reduction of 10% for LWOP in excess of 89 calendar days. In the instant case, the removal action was reduced to a ninety-day suspension. Accordingly, the uniform allowance in effect during the 1994-1998 CBA ($277) must be reduced by 10%.

CASUALS

M-01427 **Step 4**
B94N-4B-C 98008149, March 12, 1999
Current national policy is that casuals are not allowed to wear the uniform except as provided by ELM 932.21c.

M-01189 **Step 4**
February 23 1994, H0N-2P-C 7096
During our discussion, we mutually agreed that appropriate work clothes allowance for a Vehicle Operations Maintenance Assistant (VOMA) can be determined through application of Section 932.13 (E) of the ELM. Postal Bulletin dated 9-19-91 (attached) gives specific reference to each craft and monetary allocation per year based on designation contained in the ELM.

SHOES

M-00505 Step 4
May 21, 1984, H1N-3U-C-26505
Whether or not in this case the number of shoe purchases was excessive and whether or not discretion was reasonably applied by the postmaster can only be determined by review of the fact circumstances existing at the local level. Such things as weather conditions, type of territory, condition of the carrier's current shoes, etc., are to be considered.

M-00429 Bulletin, June 24, 1982
Jogging style shoes having all leather or poromeric uppers generally are acceptable and safe footwear in most areas of the workroom floor. Athletic shoes, jogging shoes (except as specified above) tennis shoes, or sneakers, constructed of canvas, nylon or similar type material, are not acceptable attire for the workroom floor.

NECKTIES

M-00430 Letter, February 18, 1982
Employees authorized to wear the neck/chest protector as part of the authorized cold weather uniform, will not be required to wear a necktie, when the neck/chest protector is being worn to protect them from cold weather. When inside the postal facility, the neck/chest protector will be replaced by the necktie which again becomes a required uniform item.

M-00862 Step 4
December 20, 1988, H1N-5L-C 11700
If not in view of the public, a carrier is not required to wear a necktie, until they leave for street carrier duties. The necktie will be affixed during the carrier's five (5) minutes of authorized personal time.

UNION OFFICERS

M-00558 USPS Letter, June 17, 1983
Regulations governing health benefits, life insurance, and retirement coverage for employees serving as full time union officials.

C-00750 National Arbitrator Garrett
December 14, 1979, AC-S-25727
The Postmaster may not deny leave requests to attend Union meetings to one of the two employees in separate crafts, both of whom are Union officials on the ground their simultaneous leaves would hinder the function of the Postal Service.

M-00667 Step 4
August 31, 1977, NC-W-7464
Management did not improperly deny local union officials an appointment on the committee to investigate motor vehicle accidents involving craft employees. Local management has the option of considering placing a member of the union on the committee but it may not be mandated to do so.

RIGHT TO ENTER INSTALLATIONS

M-00442 Letter, December 15, 1982
National union officers should give reasonable notice to the employer at the national level when desiring to visit postal installations, and regional union officials should give reasonable notice at the regional level when desiring to visit postal installations.

M-00032 Step 4
March 28, 1978, NC-C-10535
There should be no unreasonable delays in management granting a requesting union official access to a U. S. Postal Service facility.

M-00440 Step 4
June 25, 1982, H1N-5C-C 1479
Upon reasonable notice to the Employer, duly authorized representatives of the Unions shall be permitted to enter postal installations for the purpose of performing and engaging in official union duties and business related to the Collective Bargaining Agreement. Normally, reasonable notice would not be required in writing. A telephone call to an appropriate management official would be sufficient. *See also* M-00628.

M-00441 Step 4
November 14, 1977, NC-S-8831
The fact that mail volume is high on a particular day is not a legitimate reason to prevent union officials from entering a facility.

LEAVE FOR UNION BUSINESS

M-00148 Step 4
May 5, 1977, NC-C-5694
Where a valid union function is known to take place, such as in this instance, it has been the practice of the U. S. Postal Service to allow stewards or other union officials the option of taking annual leave or leave without pay to attend such a function.

M-01136 APWU Step 4
December 20, 1973, AB-NAT-34
[W]here an employee intermittently requests and is granted approval to be absent from work for the purpose of conducting union business, it is not the intent of the Postal Service that such employee be required to use annual leave to cover the absence. If management determines that the employee's services can be spared and it approves the requested absence, then the employee has the option of using annual leave or leave without pay to cover the absence.

VEHICLES

VEHICLE MODIFICATIONS

M-01297 Step 4
October 7, 1997, F94N-4F-C 96044730
We agreed that approval of vehicle modifications can only be accomplished at the national level.

M-01353 Pre-arbitration Settlement
March 8, 1994, H0N-NA-C-7
Prearbitration settlement requiring the retrofitting of mirrors to Long Life Vehicles (LLV's).

M-01364 Step 4
October 22, 1998, D94N-4D-C 96025636
Decision confirming that the installation of strobe lights on LLVs is an optional modification authorized by the May 16, 1994 Vehicle Modification Order 01-94 (copy in file).

VEHICLE TRAINING

M-01255 Step 4
October 30, 1996, A94N-4A-C-96004649
The parties at the national level agree that 1) familiarization training on Aerostar vans should be provided and, that 2) whether or not sufficient familiarization training was provided in a specific location is a fact suitable for regional resolution.

M-01348 Step 4
January 2, 1997, K94N-4K-C 96051645
It was mutually agreed that there is no prohibition against locally instituted training programs not inconsistent or in conflict with national training programs. It if further agreed that they may not be inconsistent or in conflict with the provisions of Article 29, Limitation on Revocation of Driving Privileges, and its corresponding MOU.

Whether or not a locally instituted training program violates those provisions is a matter for Area arbitration. Accordingly, the parties agreed to remand this case back to the parties to Step 3 for application of the above understanding.

VEHICLE OPERATION

M-01298 Step 4
January 13, 1998, A94N-4A-C 97003065
The instant case deals with a locally issued directive concerning open vehicle door and the use of seat belts.

During our discussion, we mutually agreed that the currently effective regulations were published in the Postal Bulletin 21486 dated November 11, 1984. However, through Article 19 discussions the parties have recently agreed to revise that policy as follows. The official policy will be included in the next publication of Handbook M-41, Section 812.

Seatbelts must be worn all times the vehicle is in motion. Exception for Long Life Vehicles: In instances when the shoulder belt prevents the driver from reaching to provide delivery or collection from curbside mailboxes, only the shoulder belt may be unfastened. The lap belt must remain fastened at all times the vehicle is in motion.

When traveling to and from the route, when moving between park and relay points, and when entering or crossing intersecting roadways, all vehicle doors must be closed. When operating a vehicle on delivery routes and traveling in intervals of 500 feet (1/10 mile) or less at speeds not exceeding 15 MPH between delivery stops, the door on the drivers side may be left open.

M-00341 Pre-arb
March 22, 1974, N-W-3928
Employees performing curbside delivery, from right-hand drive vehicles, shall follow the procedures listed below:

1. Level streets or roads: Place the vehicle in neutral (N), place foot firmly on brake pedal while collecting mail or placing mail in mail box.

2. On hills: Place the vehicle in park (P), place foot firmly on brake pedal while collecting mail or placing mail in mail box.

Employees performing curbside delivery, from left-hand drive vehicles, shall follow the procedures listed below:

1. To serve each box, the left-hand drive vehicle will be brought to a complete stop.

2. The gear shift lever will be placed in park, the operator will serve the box and then continue to the next box.

Employees shall not finger mail while driving, or hold mail in their hands while the vehicle is in motion. *See Also* M-00234.

M-00994 Step 4
August 12, 1985, H1N-2U-C 19335
The issue raised in this grievance involved instructions not to place vehicles in neutral while making curbside deliveries from right-hand drive vehicles.

It is our position that advising carriers not to put the gear selector in the neutral position at each delivery point on a mounted route was improper. U.S. Postal Service policy in this regard provides that employees performing curbside delivery, from right hand drive vehicles, shall follow the procedures of (1) on level streets or roads, placing the vehicle in neutral (N), placing the foot firmly on the brake peddle while collecting mail or placing mail in the mail box; (2) on hills, placing the vehicle in park (P), placing the foot firmly on the brake peddle while collecting mail or placing mail in the mail box. We find that the grievance in this regard does have merit.

M-00972 Step 4
December 21, 1977, NC-W-9299
Employees performing curbside delivery from right hand drive vehicles, shall follow the procedures listed below:

1. **Level street or road**: Place the vehicle in neutral (N) place foot firmly on brake peddle while collecting mail or placing mail in mailbox.

2. **On hills**: Place vehicle in park (P) place foot firmly on brake peddle while collecting mail or placing mail in mailbox.

M-00143 Step 4
February 3, 1977, NC-E-4978
Letter carriers may be required to gas up their vehicles. However, we also agreed that letter carriers will not be required to check the oil or otherwise service their vehicles.

M-00071 Step 4
December 2, 1983, H1N-5K-C 15753
The tire check during the carrier's vehicle inspection (Notice 76) is a visual check. Full-time regular carriers will not be required to use a tire gauge to check tire inflation.

M-00689 Step 4
December 2, 1983, H1N-5K-C 15753
The tire check during the carrier's vehicle inspection (Notice 76) is a visual check. Full-time regular carriers will not be required to use a tire gauge to check tire inflation.

M-00722 Step 4
March 25, 1976, NB-C-6727
We find that the employee should not have been riding on the rear fender well of a 1/4-ton jeep. To this extent, we find that the grievance is sustained. By copy of this letter, is instructed to seek alternate methods for training carriers in their duties and responsibilities when it is necessary for the trainee to be accompanied on the route by another carrier.

M-00161 Step 4
September 9, 1985, H1N-2B-C 18013
We agreed that 1/4 and 1/2 ton vehicles owned by the Postal Service with a service tray positioned for normal use is considered unsafe for transportation of passengers in an auxiliary seat.

M-00633 Pre-arb, April 3, 1974, N C 539
It is not the policy of the Postal Service to require carriers to wash the interior of vehicles.

M-00693 Step 4
November 14, 1977, NC-W-8815
A supervisor on street supervision may open a locked postal vehicle to ascertain the sequence of delivery and prescribed line of travel. However, the supervisor should, whenever possible, notify the employee that it was necessary to enter his vehicle.

M-00692 Step 4
June 24, 1977. NC-C-5630
The postmaster is instructed to reimburse the employees involved in the amount of the fines they incurred as a result of the parking violation cited.

M-00593 **Step 4**
March 22, 1983, H1N-5G-C 7746
Letter Carriers may be required to shut off their vehicle each time they leave it.

M-01123 **Pre-arb**
January 7, 1993, H7N-3D-C 23071
We have mutually agreed that the presence of a removable passenger jump seat does not constitute a safety hazard. However, the seat will be removed from the vehicle after use if it is not going to be used again in the immediate future.

SEAT BELTS

M-00968 **USPS Letter, March 23, 1987**
The lap belt, shoulder belt and shoulder harness policy for the Long Life Vehicle is as follows:

The driver must wear the lap belt and shoulder belt at all times the vehicle is in motion. Exception: In instances when the shoulder belt prevents the driver from reaching to provide delivery or collection from curbside mailboxes, only the shoulder belt may be unfastened. The lap belt must remain fastened at all times the vehicle is in motion.

All passengers must be seated and wear a lap belt and shoulder harness at all times the vehicle is in motion. Only authorized passengers may be carried in the vehicle.

M-00076 **Step 4**
October 28, 1983, H1N-5D-C 14305
Local management may request the carriers to comply with his more stringent seat belt policy; however, the postmaster may not require more than what is required in accordance with current national policy as set forth in Postal Bulletin 21389, dated February 3, 1983.

M-00547 **Postal Bulletin, November 21, 1984.**
Seat belts must be worn at all times the vehicle is in motion. When traveling to and from the route, when moving between park and relay points and when entering or crossing intersecting roadways, all vehicle doors must be closed. When operating a vehicle on delivery routes and traveling in intervals of 500 feet (1/10 mile) or less at speeds not exceeding 15 MPH between delivery stops, the door on the driver's side may be left open. *See also* M-00532, M-00284

VEHICLE ACCIDENTS

M-01254 **Step 4**
October 30, 1996, G94N-4G-C-96027492
The issue in this grievance is whether district management is in violation of the National Agreement by issuing a local "Zero-Tolerance-Rollaway/Runaway Accidents" policy.

The parties are of the mutual understanding that local accident policies, guidelines, or procedures may not be inconsistent or in conflict with the National Agreement; hence, discipline taken for such accidents must meet the "just cause" provisions of Article 16.

M-00899 **Step 4**
February 7, 1989, H1N-5G-C-28042
Pursuant to statutory and judicial mandates, government (postal) employees are protected from liability for vehicle accidents arising out of their negligence while acting in the scope of their employment. Accordingly, the letter of demand will be rescinded.

M-00267 **Step 4**
August 17, 1982, H8N-3W-C 33178
The question raised in this grievance involves a Vehicle Accident Control Program. It was mutually agreed that the following would represent a full settlement of this case:

The local notice can not alter, amend or in any way supersede the disciplinary standard for "at fault" vehicle accidents provided by the National Agreement and Methods Handbook, Series M-52. Methods Handbook, Series M-52 and the National Agreement provides the disciplinary standards for "at fault" accidents and will control the disposition of a grievance filed in behalf of a carrier who is disciplined for such an accident. Any local vehicle accident control program may not deviate in its purpose from the M-52 and National Agreement. We are unaware of the existence of any discipline standards for "at fault" vehicle accidents, hence any discipline taken must meet the "just cause" provisions of Article XVI of the National Agreement.

M-00408 Step 4
May 13, 1983, H1N-1E-C 665
There is no contractual provision for the grievant or his steward to attend an internal management meeting, whether called an accident review board or any other name. However, such a committee should not make recommendations for discipline of individual employees.

M-00247 Step 4
October 21, 1975, NB-N-5940
A tire which ultimately becomes flat due to the side-walls being worn down during the course of normal vehicle use is viewed as "normal wear and tear" and is not considered an "accident" which requires a completion of accident reports, Forms 91 and 1769.

M-01334 Pre-arbitration Settlement
July 16, 1998, H90N-4H-C 96029292
The issue in this grievance is whether management violated the National Agreement by developing a local form which was not approved in accordance with the ASM. The development of local forms is governed by the ASM. This grievance concerns a letter which is being issued to employees locally, entitled, "Accident Repeater Alert!!!

During our discussion, we mutually agreed that the development of local forms is governed by the ASM. Therefore, the issuance of the "Accident Repeater Alert!!! letter will be discontinued.

C-10351 Regional Arbitrator Sobel
October 15, 1990, S7N-3A-C 27946
The Safe Driving Committee's classification of the grievant's accident as "preventable" was improper.

C-09732 Regional Arbitrator Mitrani
July 12, 1989, N4V-1R-C 28830
Management violated the contract when it failed to render Form 1768 within 10 working days after a vehicle accident.

TACHOGRAPHS

M-00259 Step 4
June 24, 1982, H1N-5G-D 167
No disciplinary actions will be taken based solely on information obtained from tachographs. However, the Postal Service is not precluded from possible use of vehicle recorder discs as evidence in disciplinary situations.

VIOLENCE IN THE WORKPLACE

M-01242 Joint Statement on Violence and Behavior in the Workplace, February 14, 1992

We all grieve for the Royal Oak victims, and we sympathize with their families, as we have grieved and sympathized all too often before in similar horrifying circumstances. But grief and sympathy are not enough. Neither are ritualistic expressions of grave concern or the initiation of investigations, studies or research projects.

The United States Postal Service as an institution and all of us who serve that institution must firmly and unequivocally commit to do everything within our power to prevent further incidents of work-related violence.

This is a time for a candid appraisal of our flaws and not a time for scapegoating, fingerpointing or procrastination. It is a time for reaffirming the basic right of all employees to a safe and humane working environment. It is also the time to take action to show that we mean what we say.

We openly acknowledge that in some places or units there is an unacceptable level of stress in the workplace; that there is no excuse for and will be no tolerance of violence or any threats of violence by anyone at any level of the Postal Service; and that there is no excuse for and will be no tolerance of harassment, intimidation, threats or bullying by anyone.

We also affirm that every employee at every level of the Postal Service should be treated at all times with dignity, respect and fairness. The need for the USPS to serve the public efficiently and productively and the need for all employees to be committed to giving a fair day's work for a fair day's pay, does not justify actions that are abusive or intolerant. "Making the numbers" is not an excuse for the abuse of anyone. Those who do not treat others with dignity and respect will not be rewarded or promoted. Those whose unacceptable behavior continues will be removed from their positions.

We obviously cannot ensure that however seriously intentioned our words may be, they will not be treated with winks and nods, or skepticism, by some of our over 700,000 employees. But let there be no mistake that we mean what we say and we will enforce our commitment to a workplace where dignity respect and fairness are basic human rights, and where those who do not respect those rights are not tolerated.

Our intention is to make the workroom floor a safer, more harmonious, as well as a more productive workplace. We pledge our efforts to these objectives.

M-01243 SECOND JOINT STATEMENT ON VIOLENCE AND BEHAVIOR IN THE WORKPLACE

In our Joint Statement of February, we affirmed our belief that dignity, respect and fairness are basic human rights, and we pledged our efforts toward a safer, more harmonious, as well as a more productive workplace. Since then, we have continued to meet regularly and engage in an active dialogue on the issues addressed in that statement. We believe that effective communication and a cooperative spirit are the starting point for the resolution of the problems in our workplace.

It is essential to our efforts that the same discussions and cooperative efforts take place among representatives of management, postal unions, and management organizations at the region, division, and MSC levels, as well as at the national level. To the extent that representatives at those levels have not yet established an ongoing dialogue on these issues, we ask that you do so without further delay. The joint groups should focus on ways to foster safe, harmonious, and productive workplaces and, when a particular problem site is identified, the representatives should work together to eliminate the underlying problems.

In our discussions at the national level on problem sites, we concluded that problems are best addressed, and resolved, at the lowest possible level. Accordingly, if a problem site comes to our attention at the national level, we will refer it to the appropriate regional joint group for attention. An intervention will not be initiated at this level unless the regional or local parties are unable to resolve the problems at the site. This problem-solving approach is not intended as a substitute for existing dispute resolution processes, but as an informal,

cooperative approach to significant workplace relationship problems wherever they may occur. We can and must work together to resolve the factors contributing to disputes in our workplace, and we expect our counterparts at all levels of the organization to work toward that end.

C-15697 National Arbitrator Snow
Q90N-4F-C 94024977, August 16, 1996
"[T]he Joint Statement on Violence and Behavior in the Workplace constitutes a contractually enforceable bargain."

"The grievance procedure of the National Agreement may be used to enforce the parties' bargain, and arbitrators have available to them the flexibility found in arbitral jurisprudence when it comes to formulating remedies, including removing a supervisor from his or her administrative duties."

M-01332 Step 4
June 25, 1998, A94N-4A-D 97120613
Removals relating to violations of the Joint Statement Regarding Violence in the Workplace are properly scheduled and heard in regular arbitration.

M-01488 Sixth Circuit Court, June 4, 2003
Decision upholding regional arbitration award (C-20643, below) demoting a supervisor for violation of the Joint Statement on Violence and Behavior in the Workplace. This is a case that should be submitted in arbitration cases involving the Joint Statement.

REGIONAL ARBITRATION AWARDS

C-16247 Regional Arbitrator Francis
F90N-4F-C 94024977, F90N-4F-C 94024038
December 28, 1996
These cases were originally heard by Arbitrator Francis in April 1995. They involved a number of incidents in which the NALC alleged that a 204b had engaged in behavior that violated the Joint Statement. After the hearing the USPS advocate referred the cases to Step 4. These case became the interpretive vehicle for Arbitrator Snow to rule on the Joint Statement. In C-15697. After Snow issued his decision, the case was remanded to Arbitrator Francis, who ruled that the 204b had violated the Joint Statement. Arbitrator Francis declined to remove the 204b from her supervisory duties, based on her belief that the Postal Service had taken sufficient action. More importantly, Arbitrator Francis dismissed the Postal Service argument that she lacked the authority to take “administrative action” against managers who violate the Joint Statement.

C-21292 Regional Arbitrator Fields
I94N-4I-C 99136168, November 1, 2000
A supervisor yelled at the a letter carrier, waving his arms, calling him a liar and “unprofessional” and accusing him, unjustifiably, of almost running down a customer. The arbitrator ruled that the supervisor was a chronic abuser who violated the Joint Statement, and that a higher-level manager also violated the Joint Statement by failing to control the supervisor. Arbitrator Fields ordered the manager to apologize and punished the supervisor severely, suspending him from letter carrier supervision duties and ordering him to undergo a psychological fitness-for-duty examination and “anger management training.” NALC advocates should cite Arbitrator Fields’ powerful and beautifully written award in every case involving supervisory violations of the Joint Statement.

C-16162 Regional Arbitrator Wooters
B90N-4B-C 96012210, December 10, 1996
Arbitrator Wooters determined that a supervisor violated the Joint Statement when he called an employee a "coward" or, perhaps, "fucking coward." He concluded that the behavior was abusive and inappropriate regardless of which word was used. He ordered that the supervisor be counseled for his behavior, and warned that if a similar infraction were to occur, a remedy such as removal from administrative duties would be appropriate.

C-16518 Regional Arbitrator Devine
A90N-1A-C 95063232, March 7, 1997
This award was limited to a question of arbitrability. Arbitrator Devine discussed in detail how the Snow Award and a subsequent Award by Arbitrator Wooters (see C-16162, above) made clear that the union has a right to grieve and expect an appropriate remedy for violations of the Joint Statement.

C-16740 Regional Arbitrator Simmelkjaer
A94N-4A-C 96040539 , May 9, 1997
The Arbitrator determined that the case was arbitrable and provided some good language on various types of remedies that are available and could be considered by a arbitrator.

C-17589 Regional Arbitrator Maher
A94N-4A-C 97029875, December 13, 1997
The Arbitrator found that a supervisor violated the Joint Statement and, despite Postal Service objections, required that the supervisor provide a letter of apology and that the award be posted on a bulletin board for ten days.

C-18283 Regional Arbitrator Zigman
F94N-4F-C 96018527, May 9, 1998
The Arbitrator ruled that a supervisor violated the Joint Statement and remanded to the case to the Postal Service to determine what, if any, corrective action should be taken. The Arbitrator concluded that while the supervisor violated the contract, the violations were minor in nature. An interesting note on this case is Arbitrator Zigman's decision to hold the union to the standard of proof (i.e. a preponderance of the evidence) that applies to the Postal Service in disciplinary cases.

C-19162 Regional Arbitrator Ames
E90N-4E-C 94051426, February 19, 1999
This case provides some very strong language concerning the due process rights of a manager. The case involved a long history of abuse by a Postmaster in numerous installations going back to the 1970s. The arbitrator ordered a wide-ranging set of remedies against the supervisor, including: counseling on the possession of fire-arms while on postal premises; counseling on the Joint Statement; both a physical and mental fitness for duty exam; restriction from supervising letter carriers except in emergency situations; and a written apology to the letter carriers in his installation.

C-19475 Regional Arbitrator Olson
F94N-4F-C 97074830, May 6, 1999
The arbitrator found that a supervisor had violated the Joint Statement by grabbing a letter carrier's arm and yelling at him. The arbitrator required the supervisor to receive human relations training to assist him in complying with the Joint Statement.

C-20380 Regional Arbitrator Shea
B94N-4B-C 99231980, January 22, 2000
The arbitrator found that management personnel violated the Joint Statement when they did nothing to prevent or stop the harassment of a letter carrier by a supervisor. The arbitrator also provided an excellent definition of harassment.

C-20536 Regional Arbitrator Talmadge
B94N-4B-C 98103846, March 14, 2000
The arbitrator determined that a station manager violated the Joint Statement when on two occasions he verbally intimidated carriers. While Arbitrator Talmadge declined to remove the station manager from his administrative duties, because she believed to do so would be premature. The Arbitrator did require that the station manager issue a written apology and that such apology be posted for thirty days.

C-20643 Regional Arbitrator Bajork
H94N-4H-C 95041405, April 17, 2000
The arbitrator rescinded the supervisor's promotion and denied him promotions for a five year period, based on serious Joint Statement violations. The arbitrators award in this case was upheld by the Sixth Circuit Court on June 4, 2003 (see M-01488).

C-20990 Regional Arbitrator Stephens
G94N-4G-C 98112857, August 26, 2000
The arbitrator denied the union's request for punitive damages against the Postal Service for a supervisor's sexist comments to a female employee. The Arbitrator noted that the Service admitted in the grievance procedure that the supervisor had in fact acted as charged, and claimed that it had taken administrative/ corrective action. What action was taken was not in the record. The arbitrator required as part of his remedy that the Postal Service provide the union with evidence of that action.

C-21120 Regional Arbitrator Poole
D94N-4D-C 98005421, September 18, 2000
The Arbitrator ruled that a supervisor violated the Joint Statement when she abused, harassed, bullied and intimidated letter carriers. The arbitrator required that the supervisor write an apology, that she be barred from supervising in the installation as long as the grievant worked there, that a copy of the arbitrator's decision be placed in the supervisor's OPF for a period of three years, and that the award be attached to any application for promotion for a like period.

C-21913 Regional Arbitrator Britton
K94N-4K-C 98111598, April 13, 2001
The Arbitrator found that the Postmaster engaged in a physical altercation with a shop steward. The arbitrator ordered that the Postmaster be removed from the Postal Service. The Postal Service has filed a petition in federal court seeking to vacate the award on the grounds that the arbitrator exceeded his authority (pending as of January, 2002). This case should not be cited in arbitration before its status is determined

C-22009 Regional Arbitrator Lurie
D94N-4D-C 99281879, April 24, 2001.
This case provides some excellent language concerning Title 5 (MSPB) and a supervisor's right to seek redress. The arbitrator rejected management claims that a remedy against a supervisor would violate the supervisor's Title 5 or constitutional due process rights.

C-22146 Regional Arbitrator Roberts
C94N-4C-C 98100429, May 18, 2001
The arbitrator determined that a supervisor violated the Joint Statement. The grievant in this case was off work for a number of weeks as a result of the supervisor's actions. The arbitrator paid the grievant for the sick leave used, but did not award the punitive damages requested by the union.

VOMA Positions

M-00418 Step 4
September 21, 1982, H1N-1N-C 4505
When a multi-craft position, such as VOMA, is occupied and the position is modified by either hours worked or non-scheduled days, the position is not to be reposted.

M-01299 Step 4
January 12, 1998, Q94N-4Q-C 97067029
During our discussions, we mutually agreed that this case will be administratively closed at this level based on the following:

1) There is no change in duties and responsibility of the VOMA position

2) The VOMA position is still a multi-craft position

3) The successful bidder will be represented by the craft from which they came.

C-04925 National Arbitrator Aaron
March 19, 1985,H1N-4J-C 8187
A 204b may bid for a vacant VOMA assignment.

M-00419 Step 4
February 28, 1978, NC-E-9688
The VOMA position is a multi-craft position and the posting duration will be 30 days from the date of the creation of a VOMA vacancy.

M-00417 Step 4
September 21, 1982, H1N-1M-C 1863
The Designation/Activity code changed to 11-0 for the VOMA position was to establish administrative financial accounting procedures. This change in no way affects the employees' conditions of employment or collective bargaining agreement protections in any manner whatsoever.

M-00433 Step 4
July 8, 1982, H1N-4B-C 5702
The grievance is settled in full in that temporarily vacant VOMA positions shall be filled in accordance with Article 25, Section 4 of the National Agreement. *See also* M-00248.

M-00251 Step 4
July 14, 1982, H1N-5D-C 2509
The VOMA position is a multi-craft position, with selection based on the senior qualified bidder. Accordingly, the employee with carrier craft seniority from May 26, 1962 is senior to the employee with clerk craft seniority from November 12, 1974.

M-00746 Step 4
April 23, 1987, H4N-EU-C-19607
While employees from several crafts (clerk, carrier, special delivery, and PS 5 & 6 motor vehicle) are eligible to bid on a vacant VOMA position, once an employee becomes the successful bidder, he/she is represented by, and is treated as a member of, that same craft. This also applies to choice vacation bidding. In the future, the subject office will allow the VOMA to bid for choice vacation with the carrier craft.

M-00838 Step 4
April 23, 1987, H4N-3U-C 19607
A VOMA, who bid into the position from the Carrier Craft, should be allowed to bid for choice vacation with the Carrier Craft.

M-00051 Step 4
April 5, 1983, H1N-4B-C 11747
Maintenance Assistants are not eligible to place their names on the letter carrier craft "Overtime Desired" list. However, they may be assigned letter carrier's work in conjunction with their VOMA assignment if they were city carriers when they bid the VOMA assignment.

M-00346 Step 4
May 13, 1985, H1N-4B-C 21739
The question in this grievance is whether management violated articles 7 and 8 of the National Agreement by assigning overtime in the carrier craft to the acting Vehicle Operations Maintenance Assistant (VOMA) whose regular position is also in the carrier craft.

During our discussion it was mutually agreed that the VOMA may be assigned overtime in the carrier craft after the provisions of Article 8, Section 5, have been satisfied.

M-00975 Pre-arb
March 31, 1982, H8C-3P-C-16794.
The issue in this grievance involves the additional duties performed by a VOMA.

Although the employee in this position may be required to participate in mail processing functions (regardless of his craft), his primary duty should be to perform vehicle operations and maintenance functions.

M-01007 Step 4
July 6, 1983, H1N-5B-C 11224
It was mutually agreed that any successful bidder of a VOMA position carries with him or her the seniority of the craft of which he or she is a member.

As long as the grievant remains in his current VOMA position, local management will use his seniority that he carried with him as a member of the carrier craft. Except as specifically provided otherwise, the grievant shall retain his carrier seniority when seniority is used as a determining factor.

M-01048 APWU Step 4
March 5, 1982, H1C-5B-C-603
We mutually agreed that there was no interpretive dispute between the parties at the National level as to the meaning and intent of Article 7 of the National Agreement as it relates to VOMA assignment.

Although the employee in this position may be required to participate in mail processing operations (regardless of his craft), his primary duty should be to perform vehicle operations and maintenance functions. Proper performance of the VOMA assignment should leave minimal time on a regular basis to perform other duties.

M-01077 Step 4
June 19, 1992, H7N-2D-C 43689
The issue in this grievance is whether a VOMA assignment which is temporarily vacant for five days or more must be filled in accordance with Article 41.2.B.3 and 4.

We agree that temporary vacant VOMA positions are filled in accordance with Article 25 Section 4 of the National Agreement. ("Detailing of employees to higher level bargaining unit work in each craft shall be from those eligible, qualified and available employees in each craft in the immediate work area in which the temporarily vacant higher level position exists..."). Since the VOMA position is a multi-craft position, as per Article 41.1.D., the employee may be, but not necessarily limited to, a letter carrier.

M-01163 Step 4
December 6, 1993, H90N-4H-C 93050571
It is mutually agreed that 1) There is no contractual requirement to fill a temporarily vacant VOMA position; 2) If management makes the decision to fill a VOMA position which will be vacant for at least 5 working days within 7 calendar days, Article 25 Section 4 of the National Agreement provides the method by which the position is filled: "... the senior, qualified, eligible, available employee in the immediate work area in which the temporarily vacant higher level position exists shall be selected;" 3) Employees from those crafts eligible to make application for a VOMA position are eligible for consideration to such a detail regardless of the craft of the incumbent VOMA.

M-01189 Step 4
February 23 1994, H0N-2P-C 7096
During our discussion, we mutually agreed that appropriate work clothes allowance for a Vehicle Operations Maintenance Assistant (VOMA) can be determined through application of section 932.13 (E) of the ELM. Postal Bulletin dated 9-19-91 (attached) gives specific reference to each craft and monetary allocation per year based on designation contained in the ELM.

C-09679 Regional Arbitrator Roukis
February 8, 1990
Where less than eight hours of VOMA work was available, management did not violate the contract when it reverted a VOMA position and created a general clerk position including VOMA duties.

C-09998 Regional Arbitrator Klein
May 7, 1990
Management did not violate the contract when it abolished a VOMA position.

C-10577 Regional Arbitrator Martin
January 28, 1991
Local management may not add to the nationally established list of qualifications for VOMA positions.

C-10232 Regional Arbitrator Sobel
August 23, 1990
Management violated the contract by leaving a VOMA assignment uncovered for one day.

C-09416 Regional Arbitrator P.M. Williams
October 8, 1989, S7N-3V-C 15665
Management violated the contract when it refused to place the grievant in a temporarily vacant VOMA position

C-10910 Regional Arbitrator Talmadge
August 8, 1991, N7N-1E-C 32349
Management acted improperly when it did not award the grievant a vacant VOMA position..

Wash-Up Time

C-07098 Regional Arbitrator Jacobowski
April 20, 1987, C4N-4A-I-99229
A LMU provisions giving all carriers a wash-up period is not in conflict or inconsistent with the National Agreement.

C-00369, National Arbitrator Garrett
December 17, 1974
In a local impasse decision, Garrett ruled that certain mail handler employees should be granted wash-up time before lunch and before tour end.

M-00324 Step 4
August 29, 1975, NB-W-3870
The Local Memorandum of Understanding provides that Letter Carriers are to receive two (2) minutes wash-up time before street time and five (5) minutes clean up time during street time. These items are in addition to the personal needs time in the office provided on the Form 1838. Letter Carriers are entitled to receive credit for this time during count and inspection, whether or not they actually use this time.

C-00166 Regional Arbitrator Cohen
January 30, 1980, ACC 5566
Management improperly terminated a past practice of permitting a five-minute wash-up period prior to lunch and at end of tour.

M-00063 Step 4
January 12, 1983, H1N-3F-C 10826
On days that carriers use self-service gas pumps to fuel their assigned vehicles, they will be allowed to wash their hands. However, no additional time allowances will be credited for such wash-up.

M-00591 Settlement, March 24, 1975
Ten-minute wash-up time provided for carriers by the LMU shall remain in effect, and be credited for route examination purposes.

M-00399 Step 4
December 7, 1979, NC-S-18945
Wash-up time has been associated with the personal needs time allowed on line 20 of the 1838; therefore, it is our determination that line 21 credit was not warranted.

WITHHOLDING

WITHHOLDING POSITIONS

M-01459 CAU Publication, April, 2002
Policing Article 12 Withholding
Contract Administration Unit publication concerning the withholding provisions of Article 12, Section 5.

C-05904 National Arbitrator Gamser
December 7, 1979, NC-E-16340, Altoona PA
Article 12 Section 5.B.2 (Then appendix A) gives the Regional Postmasters General the authority to withhold positions in anticipation of the need to excess employees.

C-10343 National Arbitrator Mittenthal
October 26, 1990, H7N-3D-C 22267
Management may fall below the 90/10 staffing requirement provided by Article 7.3.A when withholding positions under Article 12.5.B.2.

M-01432 Prearbitration Settlement
July 18, 2000, F90N-4F-C 93022407
Full-time flexible assignments are incumbent only assignments and may not be withheld under the provisions of Article 12, Section 5.B.2 of the National Agreement.

M-01475 nterpretive Step Settlement
December 20, 2002, C98N-4C-C 02070691
After reviewing this matter, we mutually agree that no national interpretive issue is presented in this case. Time worked on an occupied position pursuant to Article 41.2.B.4 of the National Agreement is subject to the maximization provisions of Article 7.3.C. If the office was under withholding at the time the triggering criteria was met, a full-time position should have been created pursuant to Article 7.3.C and the resulting residual vacancy should have been withheld pursuant to Article 12.5.B.2 of the National Agreement. We agree to remand this case to the Dispute Resolution Team, through the National Business Agent, for resolution in accordance with this guidance.

C-12210 Regional Arbitrator DiLauro
E7N-2J-C 44821, July 18, 1992
A withholding order notwithstanding, management violated the contract when it failed to maximize full-time letter carriers: Management gave "only vague estimations of when a reduction in force is to take place and none of these estimations were evidenced by any documentation."

X-Routes

SEE ALSO

DPS, Page 61

M-01306 Building Our Future By Working Together, November 19, 1992
Joint NALC USPS Training Guide on the six September 1992 Memorandums of understanding.

M-01307 Revised Chapter 6 to Building Our Future By Working Together
Supplement to Building Our Future By Working Together, a Joint NALC USPS Training Guide on the six September 1992 Memorandums of understanding.

M-01151, January 22, 1993, Questions 1-34
M-01152, February 17, 1993, Questions 35-54
M-01153, March 31, 1993, Questions 55-80
Questions and Answers published as a supplement to *Building our Future by Working Together*, the USPS-NALC Joint Training Guide on the September, 1992 Memorandums of Understanding, published November 19, 1992. They provide joint answers to questions concerning the interpretation and application of those memorandums and the subsequent December 21, 1992 memorandum. See page 300 for complete text.

M-01113 Memorandum September 17, 1992

X-Route Alternative
The parties have reached agreement on an alternative Route Adjustment strategy - X-Route. The decision to use the X-Route Concept is made on an installation wide basis, even though inspections and planning for individual units/zones may not occur at the same time. In units with more than one delivery unit/zone the planning process is repeated as each delivery unit/zone is inspected, assignments are evaluated and adjustments are planned.

X-Route Process
The X-Route process is an alternative approach to route adjustment in preparation for automation, particularly delivery point sequencing. An X-Route is, in effect, a letter carrier craft assignment held pending reversion, The workload will be divided among remaining routes when agreed upon percentage(s) of letter mail is being received at a unit/zone in delivery point sequence order. The process allows changes to be planned in advance and permits carriers to know what their assignments are expected to be in the automated environment. The X-Route process and time period are considered completed when the unit/zone has achieved the final targeted level of Delivery Point Sequence letter mail and the X-Route work has been distributed.

Pre-Agreement Phase
If there is interest in attempting to utilize the X-Route alternative, local management will meet with the local union to review the provisions of this Agreement. This includes a review of the attached Memorandum of Understanding on case configuration, the Work Methods Memorandum, guidance on the Hempstead case resolution and current base count and inspection data. If current route inspection data is not available, plans should be made to conduct route inspections in accordance with Article 41.3.s of the National Agreement to provide a basis to implement the remainder of this agreement.

If the parties are considering pursuing this alternative, they must be committed to mutual resolution of the outcome. Management will share the following information with the union:

- The expected accounting period(s) and year that increases in bar-coded mail generated by the Automation Programs will impact the delivery unit/zone, such as customer prebarcoding, MLOCR, DBCS, and RBCS.
- The projected impact on the delivery unit/zone of automated sort schemes, and the basis for the estimate.

Agreement Phase
It must be understood, once the decision to use the X-Route process has been finalized, that decision can only be changed through joint agreement between the local union and management.

Since the planning and adjustment(s) in a delivery unit/zone using the X-Route alternative are a joint endeavor, the parties at the local level must first agree to a joint resolution process, should there be a barrier to full implementation of the parties agreement to use the X-Route alternative.

The parties will then meet to review route examinations for the unit/zone. This exercise is intended to result in agreed upon evaluations.

If the parties fail to reach agreement regarding the use of the X-Route alternative, management may proceed to implement strategies in concert with handbooks and manuals, the Hempstead Resolution, and the National Agreement to accomplish route adjustments. However, the provisions of this agreement are specific to application of the X-Route concept only and are not applicable to any other route adjustment method.

In working out the X-Route adjustment process for the delivery unit/zone, it is recognized and agreed that:

Management must develop the final targeted Delivery Point Sequencing percentage (from a low of 70% to a high of 85%) of delivery point sequencing letter mail for the X-Route period. That percentage is then used to estimate the impact on the unit/zone using the projection methodology outlined in the Hempstead resolution. The parties will jointly determine the number and identity of the routes that will be designated as X-Routes using the above estimates of the impact on the delivery unit. While the X-Route concept may not be applicable to all routes within an installation because of limiting circumstances (i.e., geographic considerations) such circumstances will not be a barrier to implementing the concept. This determination as to the non-applicability of certain routes will be made jointly.

The parties must jointly determine what realignment of routes (in-office or street territory) will be necessary to assure that X-Routes are strategically placed to facilitate the transfer of workload as delivery point sequencing evolves. The decision as to when to realign the routes should be based upon the current need for realignment in order to place the routes on or as near an eight hour basis as possible based upon the current evaluation from a recent inspection. The parties could decide to defer the proposed realignment of routes until Delivery Point Sequencing was implemented if no significant scheme changes were required to keep routes near eight hours, or they could decide to make the necessary scheme changes for the realignment of routes now if significant scheme changes were going to be needed to adjust routes to eight hours as currently evaluated. In no instance will the parties effect adjustment now based on the future event, except as provided under interim adjustments (below). The regular carrier on any route whose street territory is changed as a result of this adjustment and realignment may elect, on a one-time basis, to vacate his her route and become an unassigned regular. Such action will not trigger the provisions of Article 41.3.0. All positions vacated in this manner will be posted and filled in accordance with the procedures set forth in Article 41.1.

Where exceptional circumstances require further adjustments, they must be jointly agreed to by the parties. The objective is to provide a smooth transition to the Delivery Point Sequencing environment. Such an outcome requires no change in day-to-day administration of curtailment procedures, auxiliary assistance or overtime.

The parties agree that the adjustment strategies for Delivery Point Sequencing will vary based on individual offices, deployment schedules and types of deliveries. For instance, offices that will be impacted by RBCS destinating keying prior to Delivery Point Barcoding and offices further along in the deployment schedule may be at final targeted barcoding levels when Delivery Point Sequencing commences and therefore require only one adjustment.

Some offices may initiate DPBC and Delivery Point Sequencing prior to full barcoding levels and require and interim adjustment strategy. Adjustment strategy decisions will be made jointly based on deployment schedules and current automation.

Once the Postal Service has implemented delivery point sequencing and can demonstrate that the routes in a delivery unit/zone are receiving volumes at the targeted percentage, the local parties will implement the preplanned adjustments. Where an interim adjustment strategy will be necessary as described above due to the gradual increasing of DPBC levels, the local parties will meet and make interim adjustments by removing work from the X-Routes and assigning that work to the regular routes which will remain after full implementation of delivery point sequencing.

After the completion of each interim adjustment, the parties will jointly determine the amount of hours remaining on the X-Routes and will jointly decide how to efficiently combine assignments to provide the maximum number of full-time assignments. If this cannot be accomplished in an efficient manner, the parties may jointly decide to either form auxiliary assignments or split the remaining hours from these assignments to the regular routes that will remain once the final delivery point sequencing adjustments have been made. Where this latter option is agreed upon, it is understood that routes will be built up not to exceed 8:20). If less than 100% of the routes will be built up, the following priority should be observed if efficiency can be maintained.

(1) By seniority, routes whose regular carrier are on the Work Assignment List.

(2) By seniority, routes whose regular carriers are on the Overtime Desired List.

(3) By inverse seniority, carriers not on any Overtime Desired List.

Incumbents of, and bidders for, routes that are projected to continue after full implementation of automation will know, in advance, what portions of the X-Route a delivery route will receive after full delivery point sequencing is on-line. X-Routes will be posted for bid when vacant, as long as they remain full-time assignments. When an X-Route becomes vacant and is posted for bid, the bid notice will include the anticipated date of elimination.

When an X-Route is abolished, the full time carrier assigned to that route will become an unassigned regular. He/she may, within 30 days, review the list of residual vacancies within his/her bidding area and use his/her seniority to exercise a preference for that assignment. This may be accomplished by a bid posting limited to unassigned full time carriers displaced by abolishment of X-Routes or by other means agreed to locally between the parties. (The provisions of Article 41.3.0, where they have been incorporated in the local memorandum will not be triggered by this process.)

The use of transitional employees in a unit where route adjustments are achieved under the X-Route concept will be in accordance with the relevant National Interest Arbitration Award and any subsequent agreement(s) between the United States Postal Service and the National Association of Letter Carriers, AFL-CIO.

M-01237 Step 4
September 11, 1995, S0N-SC-C 89403
During our discussion we mutually agreed that the September 17, 1992 Memorandum of Understanding on the X-Route process established the responsibilities of those who select the process. Having selected the X-Route process, the local parties are to revisit that MOU, specifically the Agreement Phase, and continue their discussions. Whether or not there was an improper withdrawal from an X-Route agreement in this case is suitable for local resolution. Whether or not the TE ceiling may be changed from 75% to 85% while in X-Route is also suitable for the dispute resolution process.

M-01236 Step 4
July 26, 1995, H90N-4H-C 94050533
During our discussion we mutually agreed that the September 17, 1992 Memorandum of Understanding on the X-Route process established the responsibilities of those who select the process. Having selected the X-Route process, the local parties are to revisit that MOU, specifically the Agreement Phase, and continue their discussions. Whether or not there was an improper unilateral withdrawal from an X-Route agreement in this case is suitable for local resolution.

M-01286 Prearbitration Settlement
May 14, 1997, G90N-4G-C 95018402
There is no dispute between the parties than an X-route agreement is not binding without a dispute resolution process in place. It was agreed in this case, however, that a dispute resolution process was established by the local parties during the X-Route agreement phase. Accordingly, we agreed to remand this case back to the local parties. They are to continue the x-route process and ensure that their dispute resolution process provides a means for quick and final resolution of disputes.

M-01296 Step 4
October 7, 1997, F90N-4F-C 95076283
The issue in this case is whether management is in violation of the National Agreement when the grievant was not converted to full-time status. Specifically, is a PTF who has opted to hold down a vacant X-Route eligible for conversion to regular under the provisions of Article 7.3.C.?

During our discussions, the parties agreed that the Questions and Answers supplement to Building our Future by Working Together, Q & A and Q & A 79 adequately address this issue as follows:

Q-30) If we can get together locally and X-Routes are created, will PTF's be allowed to make regular on these routes?

A) X-Routes are assignments held pending reversion and normally should not be considered as vacancies for purposes of PTF conversions. However, regular carriers, including recently converted PTFs may bid on these assignments.

Q-79) In question 30, you indicated that X-routes normally should not be considered as vacancies for purposes of PTF conversions. What if the X-Route will be in operation for an extended period of time?

A) In that circumstance, it would be reasonable for the parties to consider that assignment as an opportunity for PTF conversion.

M-01246 USPS Letter
March 13, 1996
We are in agreement that DPS mail may not be characterized as "enhanced two pass" or "enhanced sector/segment" to avoid established DPS implementation procedures.

We are also in agreement that under the X route process, the local parties may decide, by mutual agreement, to use either Hempstead formula adjustments or route inspections and adjustments under the procedures contained in the M-39. It is also understood that special route inspections under Section 271 of the M-39 may be initiated by either a letter carrier or management under the X route process.

Finally, we are in agreement that under the unilateral process, as an alternative to using the DPS formula methodology, managers may use M-39 inspections and adjustments to capture savings, after which, the unit is "out of the process."

M-01412 Prearbitration Settlement
June 26, 2000, G90N-4G-C 95018403
The requirements for implementing DPS through the X-Route process are found in the X-Route Memorandum of Understanding and explained in the USPS-NALC Joint Training Guide, "Building Our Future by Working Together." The applicable language relative to implementing DPS through the X-Route process can be found on pages 31-32 of the guide, "To proceed with these plans the parties will need current route inspection data, which they believe reasonably reflects the current situation, or new data from conducting new route inspections. The parties should arrive at agreed upon route evaluations."

M-01310 Pre-arbitration Settlement
May 12, 1998, H90N-4H-C 94038163
The parties agree that the provisions of the X-route MOU are specific to DPS implementation and that, with the exception of management's selection of the targeted DPS percentage, all planning and adjustments in a delivery unit/zone using the x-route alternative process are joint endeavors. While management may unilaterally address non-DPS operational changes, if those charges impact the jointly planned x-routes, the parties must discuss and jointly re-plan any changes that may have become necessary to the unit wide (previously) jointly planned route adjustments.

The parties further agree that it is not the intent of the process to allow management to avoid its obligation to pre-plan DPS related adjustments jointly with the union by unilaterally implementing adjustments designed to capture DPS savings, or to allow the local union to refuse to participate or cooperate with management by preventing contractually proper adjustments.

It is agreed to remand these cases to the local X-route dispute resolution committee. They are to insure that their dispute resolution process provides a quick and final resolution of any outstanding disputes. In the event that the dispute resolution forum is unsuccessful in resolving the issues in this case, the case should be re-appealed to Step 3 to be scheduled for regional arbitration.

M-01312 Step 4
April 21, 1998, H90N-4H-C 96002907
The issue in this case deals with a local dispute regarding the percentage of DPS mail needed to trigger Hempstead adjustments in the X-Route process.

The parties mutually understand that, as agreed to and stated in the September 17, 1992, MOU at Appendix D, Building our Future by Working Together, there is no dispute between the parties that, "In working out the X-Route adjustment process for the delivery unit/zone, it is recognized and agreed that: "Management" must develop the final targeted Delivery Point Sequencing percentage (from a low of 70% to a high of 85%) of delivery point sequencing letter mail for the X-Route period."