

USPS/APWU

JOINT CONTRACT APPLICATION MANUAL

Covering the Districts of:

Philadelphia *Harrisburg *Erie

Pittsburgh *South Jersey * Lancaster

In agreement between:

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Vice President, Area Operation
Allegheny Area
United States Postal Service

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AmericanPostalWorkers
Union

BARGAINING UNIT WORK

- 1. Can supervisors or postmasters (in Article 1.6.A. offices) handle and transfer accountable paper and consolidate financial reports?**

RESPONSE:

In AC-N-6922, Arbitrator Carlton Snow states, "It is important to stress that supervisors should not always perform the functions at issue here. At the same time, because the disputed functions have not been contractually dedicated to members of the bargaining unit, supervisors must be able to perform them if it is more practical for them to do so or if there are good faith reasons of operational efficiency behind the performance of such duties."

SOURCE: *AC-N-6922, dated December 17, 1989, Arbitrator Carlton Snow.*

- 2. What is an "emergency situation" as mentioned in Article 1, Section 6.A?**

RESPONSE:

An emergency is "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."

SOURCE: *Article 3, Section F.*

- 3. Can PS Forms 3579 (Undeliverable 2nd, 3rd, 4th Class Matter) be completed by postmasters in 3rd Class Post Offices?**

RESPONSE:

The parties agree that postmasters in third class offices are prohibited from completing the aid forms, but bargaining unit employees are not precluded from doing so.

SOURCE: *Step 4 (H4C-4H-C 9886), August 19, 1986.*

4. Are supervisors permitted to load ledges on manual distribution cases?

RESPONSE:

Supervisors will not place mail on manual distribution ledges except under the circumstances listed in Article 1, Section 6.

SOURCE: *Step 4 (AC-C 24024/5-HIL-1082), April 6, 1979.*

5. Are Supervisors permitted to load FSMs when the machine runs out of Mail?

RESPONSE:

Only if the terms of Article 1.6.A are applicable to the fact circumstances.

Article 1.6.A Supervisors are prohibited from performing bargaining unit work at post offices with 100 or more employees, except:

1. in an emergency,
2. for the purpose of training or instruction of employees,
3. to assure the proper operation of equipment,
4. to protect the safety of employees,
5. to protect the property of the USPS.

SOURCE: *Article 1.6.A of the Collective Bargaining Agreement;*

6. What is the remedy when supervisors perform craft work in violation of Article 1, Section 6.A or B?

RESPONSE:

Except where the time involved is de minimis, the employee who would have done the work identified by the parties will be compensated at the appropriate rate for an amount of time equal to the amount of time the supervisor spent performing bargaining unit work.

SOURCE: *National prearbitration settlement (NC-C-4716), November 24, 1978.*

7. Can supervisors deliver or transport Express Mail?

RESPONSE:

Generally, no. The parties agree that the general delivery and picking up 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 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 as well as office closings.

SOURCE: *National prearbitration settlement (HIS-3F-C 39430),
October 19, 1987.*

DISCUSSIONS

1. Are discussions with employees considered discipline?

RESPONSE:

No. The National Agreement clearly indicates that discussions are not discipline and are not grievable.

SOURCE: Article 16, Section 2.

2. Can management maintain a central file for records of discussions?

RESPONSE:

No. Discussion notations 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 central record system to which other individuals have access.

SOURCE: *Step 4 (H8C-5G-C 14672), March 17, 1981.*

3. Can discussions be noted on the reverse of PS Forms 3972?

RESPONSE:

The parties have agreed at the national level that discussions shall not be noted on the reverse side of PS Forms 3972.

SOURCE: *Step 4 (H4G-4G-C 20241), November 16, 1987.*

4. Can supervisors exchange written notes regarding discussions with an employee with other supervisors?

RESPONSE:

No. Supervisors may not exchange written notes regarding discussions. However, supervisors may orally exchange discussion information.

SOURCE: *Step 4 (H4C-5K-C 290), August 23, 1985.*

DISCIPLINE

- 1. What are the procedures for maintaining disciplinary records and listing past elements of disciplinary actions?**

RESPONSE:

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.

SOURCE: *Step 4 (H7C-NA-C 43882), August 17, 1988.*

- 2. Are suspensions issued for less than five (5) working days in violation of postal policy?**

RESPONSE:

Yes. It is postal policy that letters of warning should be issued to employees in lieu of suspensions of less than five (5) days. If, however, the suspension of less than five (5) days is the result of a negotiated settlement in the grievance procedure, it is proper.

SOURCE: *Senior Assistant Postmaster General Darrel Brown's Memorandum, November 7, 1973.*

- 3. Can management list disciplinary actions over two years old as aggravating factors on a notice of proposed removal, even though the employee had received no discipline for a period of two years?**

RESPONSE:

No. Article 16, Section 10 states that "... records of a disciplinary action against an employee shall not be considered in any subsequent disciplinary action if there has been no disciplinary action initiated against the employee in that two-year period. " Such records of disciplinary action, therefore, should not be cited in a notice of proposed removal from the Postal Service; however, is not precluded from introducing such prior disciplinary action for purposes of rebuttal or impeachment in the grievance procedure, in arbitration, or in other forms of appeal

SOURCE: *National prearbitration settlement (H4T-5D-D 15115), September 7, 1993.*

- 4. Can Management list disciplinary actions over two (2) years old if there has been interim disciplinary action?**

RESPONSE:

Yes.

- 5. What day starts the computing for advance notice relating to discipline?**

RESPONSE:

The day following receipt.

SOURCE: *Step 4 (H4N-4A-D 30730), December 5, 1988.*

- 6. Is the issuance of "Letters of Instruction" or "Letters of Information" contractually proper?**

RESPONSE:

No. Such letters circumvent the principles contained in Article 16 of the National Agreement and serve no useful purpose in future actions against an employee, particularly when Article 16.2 places the responsibility on management to discuss minor offenses with the employee.

SOURCE: *Step 4 (H4C-3S-C 38703/33454/33310), March 21, 1988.*

7. Is a TE entitled to MSPB appeal rights?

RESPONSE:

No. A TE is hired for no more than 360 days and is therefore not entitled to MSPB rights.

SOURCE: *1994-98 National Agreement Page 295 - Clark Award*

8. Is a TE entitled to the just cause provisions of Article 16 for discipline and advanced notice for removal?

RESPONSE:

Yes.

SOURCE: *1998-2000 National Agreement.*

9. Can sick leave, annual leave or LWOP used by a disabled veteran for required treatment for a service related medical condition be used as a basis for discipline?

RESPONSE:

Such leave use will not be used as a basis for discipline as long as the employee presents a statement from duly constituted medical authority that the medical treatment is required. The granting of such leave is contingent upon the veteran giving prior notice of definite days and hours of absence required for medical treatment in order that arrangements may be made for carrying on the work during his/her absence.

SOURCE: *Employee & Labor Relations Manual 514.22; Executive*

Order 5396

EEO

1. **If an Equal Employment Opportunity claim and grievance are filed on the same issue, does the settlement of the EEO claim automatically make the grievance moot?**

RESPONSE:

Not automatically. If the grievance has moved past the Step 1 level, then the union must be signatory to any settlement which would include a waiver of the grievance, and it should be so specified in the text of the settlement.

SOURCE: *National Memorandum of Understanding, October 19, 1987.*

2. **May an EEO settlement vary the terms of the collective bargaining agreement?**

RESPONSE:

No.

SOURCE: *National Memorandum of Understanding, October 19, 1987.*

3. **May Management be required to reasonably accommodate an employee due to religious reasons?**

Response:

Management has agreed that accommodation should be attempted for those employees who, because of their religious beliefs, may be prohibited from working or required to attend religious services. Such accommodation may not violate the National Agreement.

Source: *Postmaster General (PMG) policy letter of November 25, 1981; EL-311, Sec. 313.6*

EMPLOYEE INVOLVEMENT

1. **Can management require employees or local unions to participate or be involved in QWL or Employee Involvement programs.**

RESPONSE:

No. Management must have local union approval.

2. **Can APWU craft members be part of an Employee Involvement Team?**

RESPONSE:

No, the APWU recognizes Labor Management Committees.

SOURCE: *National pre-arbitration numbered H4C-4J-C-16605, dated November 22, 1988.*

EMPLOYEE CLAIMS

1. **Will the Postal Service pay for damage to an employee's personal vehicle if involved in an accident while traveling on duty?**

RESPONSE:

No. They will pay for the other vehicles and other driver/passenger(s) injuries - not the employee's vehicle - regardless of who is at fault.

SOURCE: *Johnston memo dated December 26, 1986.*

2. **How would you file a claim for damage to your motor vehicle?**

RESPONSE:

Employees may utilize the procedures of the Federal Tort Claims Act in accordance with Part 250 of the ASM.

SOURCE: *Article 27 of the Collective Bargaining Agreement; Administrative Support Manual, Section 250.*

3. **May an employee seek reimbursement for loss or damage to personal property while on duty or while on postal premises?**

RESPONSE:

Yes. If seeking such reimbursement, employees must complete appropriate PS form and seek statements from both their immediate supervisor and the steward so that the claim can be documented and proper recommendations made.

SOURCE: *Article 27 of the Collective Bargaining Agreement; Employee & Labor Relations Manual, Section 640.*

4. Is management required to provide a Tort Claim Form 2146?

RESPONSE:

Yes, if requested by the employee.

SOURCE: *Step 4 numbered NC-C-7656/5 COL-1869, dated September 1, 1977.*

EMPLOYER CLAIMS

1. **Regarding check acceptance who is responsible for notifying postal employees of all procedural changes which affect a new method of handling by postal employees?**

RESPONSE:

Supervisor.

SOURCE: *Vegliante letter dated February 9, 1989.*

2. **How frequently are audits required?**

Article 28 requires management to audit each employee's fixed credit no less frequently than once every four (4) months.

Source: Step 4 numbered H4C-5F-C-9528, dated May 23, 1986.

3. **Must an audit be conducted at least every four (4) months?**

RESPONSE:

Yes, failure to do so is a fatal flaw.

SOURCE: *Area Level Agreement*

4. **Is an employee audited as part of training?**

RESPONSE:

Yes.

SOURCE: *TD-064A, page 14.*

5. **Must management maintain a record of employees' audits?**

RESPONSE:

Yes; "Form 3368, Stamp Credit Examination Record, must be maintained for each employee or contractor having a stamp credit. The results of each stamp credit count must be entered on Form 3368 at the time of the count. A file of

Forms 3368 must be maintained by the postmaster or manager accountable for the stock from which the stamp credit was consigned."

SOURCE: *F-1, Section 472.23.*

6. Where must employees stamp credit counts take place?

RESPONSE:

The count of an employee stamp credit must take place away from the window operation, preferably in a quiet area. There should be adequate space for both the supervisor and the employee to count.

SOURCE: *F-50, Section 254. (F-1, Section 429.13)*

7. When should stamp credit counts occur?

RESPONSE:

Stamp credit examinations must be on an unannounced basis. The dates for examinations should be staggered so that a pattern will not be evident to the employees to be counted. Count stamp credits, to the extent practicable, at the beginning of the clerk's tour of duty or at least before the clerk has made any transactions. Examination of stamp credits should generally be limited to one per day per available supervisor. If possible, examinations should be conducted on days when business is light and most of the work force is present.

SOURCE: *F-50, Section 230. (F-1, Section 429.11)*

8. Are independent counts required?

RESPONSE:

Yes. The supervisor must enter the count to one Form 3294, and the employee must enter an independent count to a separate Form 3294.

SOURCE: *F-50, Section 261. (F-1, Section 429.14)*

9. Who can conduct stamp audit counts?

RESPONSE:

Supervisory Personnel

SOURCE: *F-50, chapters 212 and 241. (F-1, Section 429.1)*

10. How do employees designate witnesses?

RESPONSE:

"An employee must be granted the opportunity to be present whenever his financial accountability is inventoried or audited. If not available, there must be a witness of his choice present. Each employee assigned a stamp credit should furnish the installation two names of postal employees (in order of precedent) whom the employee chooses to witness the audit or inventory when absent. Enter the names of selected witnesses on the Form 3977. In the absence of chosen witnesses the union steward will suffice."

SOURCE: *F-1, Section 433.23. (F-1, Section 426.2)*

11. Can an employee transfer their credit to another employee in lieu of being counted out (audited by management)?

RESPONSE:

No.

SOURCE: *Step 4 numbered HIC-3W-C-35364, dated March 6, 1985.*

12. What signatures are required on the 3294?

RESPONSE:

Both copies of the Form 3294 are signed by the supervisor and the employee at completion of the examination. (Check dates also.)

SOURCE: *F-50, Section 265.4. (F-1, Section 429.17)*

13. How do you determine the amount of tolerance that applies?

RESPONSE:

The tolerance is based on the credit amount entered on the employee's Form 3369 or the highest balance AIC 853 * of the Form 1412 since the previous examination, whichever is higher.

* AIC = Account Identifier Code
= Stamp Accountability Closing Balance.
Ending accountability of stamp stock.

Amount of Stamp Stock	Tolerance
Up to \$30,000.00	\$50.00
\$30,000.01 to \$60,000.00	\$100.00
Above \$60,000.00	\$150.00

SOURCE: *F-50, Section 223.2. (F-1, Section 429.16)*

14. Can an employee request a recount?

RESPONSE:

Yes, the credit should only be recounted at the request of the employee.

SOURCE: *F-50, Section 265.2. (F-1, Section 429.16)*

15. When must a PS Form 571 be prepared?

RESPONSE:

Differences of \$100 or more in a stamp credit must be reported to the Inspection Service, on Form 571.

SOURCE: *F-50, Section 223.3. (F-1, Section 429.16)*

16. Following an audit, how do you determine if a stamp credit needs to be adjusted?

RESPONSE:

265.3 Adjustments

No adjustments should be made when a stamp credit does not exceed tolerance.

A stamp credit must be adjusted when the actual count exceeds tolerance. On the employee's Form 1412, enter the amount of an overage to Trust (Employee Overage), AIC 057, or a shortage to Suspense (Employee Shortage), AIC 767. Indicate action taken in line 19.

SOURCE: *F-50, Section 265.3. (F-1, Section 429.16)*

17. Is a Letter of Demand required in advance of any demand upon an employee?

RESPONSE:

Yes. All employees must receive written notice of any money demand for any reason. The Letter of Demand, which must be signed by the postmaster or his or her designee, must notify the employee of a USPS determination of the existence, nature, and amount of the debt. In addition, it must specify the options available to the employee to repay the debt or to appeal the USPS determination of the debt or the proposed method of repayment. Requirements governing the collection of debts from bargaining unit employees are in Employee & Labor Relations Manual 460.

SOURCE: *Article 28 of the Collective Bargaining Agreement; F-1, Section*

133 (F-1, S

18. Must the Letter of Demand include the employee's contractual right to grieve the demand?

RESPONSE:

Yes.

SOURCE: *F-1, Section 473.1; Area Level Agreement*

19. Must a Letter of Demand be signed by the postmaster or his/her designee?

RESPONSE:

Yes.

SOURCE: *F-1, Section 133, (F-1, Section 142)*

20. Once the union has filed a grievance that a Letter of Demand is defective, can the USPS reissue the Letter?

RESPONSE:

No. Numerous regional arbitrators have ruled that reissuing the Letter does not satisfy the remedy requested by the union nor does the union have to prove harm if Sections 133 (142) or 473 of the F-1 have not been followed.

SOURCE: *Series of regional arbitration decisions; Area Level Agreement.*

- 21. If an employee does not notify management in writing when their equipment does not provide adequate security, can management claim immunity?**

RESPONSE:

No.

SOURCE: *Jacquette letters dated October 27, 1987, August 19, 1987 and June 17, 1987.*

- 22. When must locks be changed on security containers?**

RESPONSE:

Whenever an employee relinquishes control of an assigned stamp credit for any reason, the locks on the employee's stamp and cash drawers must be changed.

SOURCE: *F-1, Section 433.26. (F-1, Section 426.2)*

- 23. Is the APWU security form acceptable for this purpose?**

RESPONSE:

Yes.

SOURCE: *Jacquette letters dated October 27, 1987, August 19, 1987 and June 17, 1987.*

24. Who must examine security equipment to determine if it provides proper safekeeping?

RESPONSE:

Equipment assigned to an employee and used to protect stock or funds must be examined by the supervisor and employee to determine that it provides proper safekeeping. Equipment is not assigned when design, wear and tear, or damage result in inadequate protection. Employees must notify their supervisors in writing if their equipment does not provide proper security. Supervisors must take immediate action to correct security deficiencies.

SOURCE: *F-1, Section 141.2. (F-1, Section 151.1 & .3)*

25. What security is required for duplicate key envelopes?

RESPONSE:

Stations and Branches. Hold duplicate keys to stamp credits in the main safe or vault of the station or branch in a compartment under the exclusive control of the superintendent or a designated subordinate. Send combinations for the main safe or vault and the duplicate compartment keys in a sealed Form 3977 via registered mail to the postmaster. Store these Forms 3977 in the most secure place under the exclusive control of the postmaster or designated subordinate.

SOURCE: *F-1, Section 362.31. (F-1, Section 372.21)*

26. How frequently must all Forms 3977 be physically examined?

RESPONSE:

Each person having custody of Forms 3977 will maintain a list showing each envelope, the date received, the source, and the location of the safe or vault it relates to. At least once each 6 months physically examine each Form 3977 to be certain it is on hand and intact. Place a written, dated, and signed report of this inventory in the file with the list.

SOURCE: *F-1, Section 362.4. (F-1, Section 372.3)*

27. Are records of these examinations required?

RESPONSE:

Yes, place a written, dated, and signed report of this inventory in the file with the list.

SOURCE: *F-1, Section 362.4. (F-1, Section 372.3)*

28. What actions must management take if any Forms 3977 are missing or opened?

RESPONSE:

362.5 Loss or Unauthorized Opening of Envelopes

When any Form 3977 is discovered to be missing, destroyed, or opened by an unauthorized person, the person having custody must immediately notify the person having jurisdiction over the safe, vault, or stamp credit to which it relates, so that an examination and inventory can be made. Combinations or locks must then be changed, and a new Form 3977 prepared.

When a Form 3977 is missing or possibly opened as a result of burglary or other criminal act, the local Inspector in Charge must be notified immediately.

SOURCE: *F-1, Section 362.5. (F-1, Section 372.4)*

29. When must safe/vault combinations be changed?

RESPONSE:

Combination must be changed when (1) a new or different safe is placed in service; (2) a person knowing a combination of a safe or vault is separated or transferred to a new position; or (3) the combination becomes compromised due to the opening of Form 3977 in an emergency or by unauthorized people.

Failure to change a combination under the circumstances noted in Section 362.63 is considered contributory negligence by the responsible employee if property is stolen from a safe or vault without force.

SOURCE: *F-1, Section 362.6. (F-1, Section 372.5)*

30. How frequently must all locks and keys be examined to ensure they provide adequate security and must a record of these exams be maintained?

To safeguard each clerk's stamp credit, a unit supervisor must make an annual examination of all locks and keys in the unit except duplicate keys on file in Forms 3977. This ensures that individual clerks' keys will not open locked drawers, safe compartments, or stamp cabinets of other employees. The supervisor will keep a record for financial examination purposes.

SOURCE: *F-1, Section 433.27. (F-1, Section 426.2)*

31. Who may have access to the stamp credit of another employee?

RESPONSE:

No employee, supervisor, or postmaster may have access to the stamp credit of another employee.

SOURCE: *Article 28 of the Collective Bargaining Agreement; F-1, Section 433.22. (F-*

32. When must funds be kept in locked receptacles?

RESPONSE:

When funds are not continuously observed, they must be kept in locked receptacles.

SOURCE: *F-1, Section 143.12. (F-1, Section 151.41)*

33. Must all building keys be accurately inventoried and accounted for?

RESPONSE:

Yes. 273.461 Inventory.

Postmasters must keep an accurate inventory (including serial number and brand name of lock, total number of keys available, location of lock by door and/or room number, how and when disposed of) of all building keys, and signed receipts for all assigned keys.

SOURCE: *Administrative Support Manual, Section 273.461.*

34. How frequently should the filling of window clerks requisition be scheduled?

RESPONSE:

Window clerks must replenish their stamp credits once a week according to a schedule provided by the unit manager. Stamp credits not used daily need not be so scheduled.

SOURCE: *F-1, Section 442.12. (F-1, Section 425.1)*

35. What are clerks required to do when stamp stock is received?

RESPONSE:

Clerks. When the stamp stock is received, list stock counted on the reverse of the copy of Form 17. Ensure agreement with the amounts on the front and sign on the received line on the original. Initial any changes or corrections and verify they are identical on each form. Retain the copy of Form 17 until the next stamp credit count.

SOURCE: *F-1, Section 444.2. (F-1, Section 424.4)*

36. When should stamp stock requisition be given to an employee?

RESPONSE:

a. Stamp stock requisitions must not be given the employee unless time is available for a proper count of the stock. The employee must list stock counted on the reverse of the accompanying Form 17, Stamp Requisition, and assure agreement with the amounts on the front.

SOURCE: *F-50, Section 221.a. (?)*

37. When is a window clerk required to verify the continuity of serial numbers on money orders?

RESPONSE:

Do not split a package of 100 domestic money order form sets between window clerks. Money orders must be issued in ascending serial number sequence. The window clerk acknowledges receipt of blank money order form sets by signing a

control register (Item 0-137a). The window clerk will verify the continuity of serial numbers of broken packages upon receipt and unbroken packages when opened.

SOURCE: *F-1, Section 542.22. (F-1, Section 742.22)*

38. May stamp stock be sold or traded and if so, how is this accomplished?

RESPONSE:

b. No (craft) employee may have access to the stamp credit of another employee. Under ordinary circumstances, stamp stock must not be sold or traded to another employee. If an emergency makes it necessary to sell or trade stamp stock with another stamp credit employee, a Form 17 must be used to document the transaction.

SOURCE: *F-50, Section 221.b. (F-1, Section 422.22)*

39. How are clerks cleared of funds and support documents?

RESPONSE:

Sign the Form. Submit both copies of Form 1412, all supporting documents, and funds to the designated employee. The designated employee will initial the AIC 752 entry for the funds on the clerk's copy of Form 1412. Clerks must retain their copy of the Form 1412 through the next stamp credit examination.

Clear each clerk by counting funds remitted and initialing the AIC 752 entry on the clerk's copy of Form 1412. Verify that amounts on single support documents and totals on adding machine tapes attached to multiple documents agree with related AIC entries on Form 1412. Determine the cause of any difference and adjust totals shown on the form to agree with supporting documents.

SOURCE: *F-1, Sections 223.17 and 223.21. (F-1, Section 221.22 & .23)*

40. When must a Form 3602-PO be completed?

RESPONSE:

Each day the meter operator must record the meter number, unit/station name, date, and beginning ascending and descending register readings on Form 3602-PO. The supervisor must verify the register readings prior to initial operation. At the end of the tour, the operator must record the ending, ascending, and descending register readings. The difference between the beginning and ending

readings represents the postage for which the operator is accountable. When a window clerk is relieved, the Form 3602-PO should be completed and another Form 3602-PO initiated by the relief clerk. This procedure should be used even if the postage meter will not be assigned to another window clerk during his absence. A supervisor must verify all readings and initial. When a window clerk is required to leave the window area to retrieve a parcel or other mail for a customer, entering the descending register reading to a piece of paper to ensure that no one tampered with the postage meter should suffice.

SOURCE: *F-1, Section 515.11. (F-1, Section 714.1)*

41. When should stamp credit be canceled?

RESPONSE:

Cancel stamp credits not used at least once in A/P?

SOURCE: *F-1, Section 434.4. (F-1, Section 426.6)*

42. What verification is required of individual clerk's money order vouchers?

RESPONSE:

.21 The manager or designated employee will perform the following:

Prepare a second independent adding machine tape of the individual vouchers to verify that the adding machine tape totals agree with the Forms 1412 received from each issuing clerk.

Verify the following:

All vouchers have the same date of issue.

Clerks use money orders in serial number sequence (first 10 digits).

Each clerk is identified on the adding machine tape.

Each clerk has identified and submitted the spoiled money orders as separate group; then, has destroyed the spoiled money orders. Note: Only the manager or designated employee will destroy spoiled money orders).

Any customer receipt copies for no-fee money orders represent proper issues for this purpose.

Where COD money order business is involved, continue to use appropriate procedures in DMM 914.

Develop the unit Form 1412 totals of amounts and fees for orders issued by combining the amounts and fees from issuing clerk Forms 1412.

Submit the unit Form 1412 to the Account book unit with all adding machine tapes (issuing clerks and consolidation), vouchers, and customer receipt copies representing no-fee orders.

All Forms 8105 must be fastened together and submitted daily along with the unit Form 1412 to the Account Book unit.

SOURCE: *F-1, Section 543.21. (F-1, Section 743.12 & .2)*

43. Must a definite relationship be established for an offset to be approved?

RESPONSE:

No. The term "definite" is not to be used. Appropriate standards are: Appears to be reasonable to assume and/or to have a probability of a relationship.

SOURCE: *Perholtz letter dated June 21, 1977; Gildea letter dated July 1, 1977; F-1, ,*

44. Who makes the determination a relationship exists?

RESPONSE:

Managers should exercise their judgment when determining if a relationship exists.

SOURCE: *Krause letter dated December 9, 1977; F-1 Handbook 472.222. (F-1, Section 429.16)*

45. Can management cash an employee's payroll check without their permission to liquidate a debt?

RESPONSE:

No.

SOURCE: *Step 4 numbered H4C-4A-C-32193, dated October 11, 1988.*

46. Do postmasters have discretion in determining local check acceptance procedures?

RESPONSE:

Yes. "311.26 Personal Checks. Personal checks may be accepted as payment for all postal charges and services except money orders and COD's (see DMM 914.63 for the acceptance of personal checks made payable to the mailer for the purchase of COD articles). Postmasters have the right to refuse to accept personal checks for valid reasons or to require further identification than the minimum requirements outlined in 311.3. A postmaster's decision to refuse to accept all personal checks must be approved in advance in writing by the division controller. Such a ban on accepting all personal checks must apply equally to all customers of that post office."

SOURCE: *F-1, Section 311.26. (F-1, Section 312.4)*

47. When can collection actions be taken against an employee who accepted a bad check?

RESPONSE:

Not until all efforts to collect the check have been exhausted by the check collection agency.

SOURCE: *Downes letter dated February 17, 1993.*

48. Must employees follow the postmaster's written local check acceptance procedure?

RESPONSE:

Yes.

SOURCE: *F-1, Section 311.11. (F-1, Section ?)*

49. Does Article 28.4 delay collections of demands in all situations?

RESPONSE:

No, only those demands made pursuant to Article 28, Sections 1, 2 and 3. Refer to Debt Collection Act.

SOURCE: *Step 4 numbered H4C-5F-C-3417, dated February 14, 1986.*

50. Can an employee elect voluntary payroll deduction to liquidate a debt less than \$200.00?

RESPONSE:

Yes.

SOURCE: *Mahon letter dated January 23, 1989.*

51. Can an employee submit a Waiver of Claim for Erroneous Payment for life insurance or health insurance premium?

RESPONSE:

Yes.

SOURCE: *Step 4 numbered H7C-NA-C-50/62, dated July 13, 1992.*

52. Should the USPS provide whatever training necessary prior to assigning an employee to duties that require financial or security responsibilities?

RESPONSE:

Yes.

SOURCE: *Charters letter dated June 9, 1988; Step 4 numbered H1C-1E-C-33715, dated*

53. Are employees involved in Window Service Training strictly accountable?

RESPONSE:

Yes.

SOURCE: *Step 4 numbered H1C-5G-C-15622, dated January 17, 1984.*

54. When must the Window Clerk Examination be administered?

RESPONSE:

On the last day of training.

SOURCE: *Step 4 numbered H8C-2B-C-10868, dated January 31, 1983; Postal Bulletin*

55. How are primary instructors selected?

RESPONSE:

Volunteers are accepted from employees holding bids that require window duties.

SOURCE: *Warren letter dated October 19, 1989.*

56. Can non-bargaining unit employees be the primary instructor for the Standard Training Program for window clerks?

RESPONSE:

No.

SOURCE: *Warren letter dated October 19, 1989.*

57. Should work related interruptions of trainees and instructors be avoided?

RESPONSE:

Yes.

SOURCE: *Warren letter dated October 19, 1989.*

58. Do employees return to their former bid while awaiting their test results?

RESPONSE:

No. If an employee received a rating of marginal or better they report to their new bid assignment.

SOURCE: *Warren letter dated October 19, 1989.*

59. Does Window training take place in December?

RESPONSE:

No.

SOURCE: *Warren letter dated October 19, 1989.*

60. Is an employee eligible for out-of-schedule premium while awaiting their test results?

RESPONSE:

No.

SOURCE: *Step 4 numbered H4C-3W-C-9720, dated October 17, 1986; Step 4 numbered H1C-3W-C-36421, meeting date of September 26, 1984.*

61. Can the on-the-job evaluation be completed after the test results have been received?

RESPONSE:

No. The evaluation is normally completed on Day 16 of the training.

SOURCE: *Training and Development Series TD-064A.*

62. Can the Inspection Service withhold employees' salary checks when issued Letters of Demand?

RESPONSE:

No. The Service adheres to the language of Article 28 and Chapter 460 of the Employee & Labor Relations Manual.

SOURCE: *Mahon letter to Burrus dated June 5, 1989.*

63. Can a shortage in a reserve stock be offset by overages of individual employees?

RESPONSE:

Yes, if the employee(s) agree to the offset in writing?

SOURCE: *Step 4 numbered H1C-5K-C-17020, dated August 1, 1984; F-1,*

Section 472

EXCESSING

1. **What constitutes a "section" for the purpose of reassigning within an installation employees excess to the needs of the section?**

RESPONSE:

The entire installation constitutes a "section" unless the local parties have identified the assignments which comprise a section in their Local Memorandum of Understanding.

SOURCE: *Article 12.5.C.4.a.*

2. **Do employees excessed from one craft to another under the terms of Article 12.5.C.5 begin a new period of seniority?**

RESPONSE:

Yes.

SOURCE: *National arbitration award (H7N-4Q-C 10845), December 19, 1991; National Memorandum of Understanding, April 16, 1992.*

FAMILY AND MEDICAL LEAVE ACT

(Sources: FMLA and Headquarters Level Agreements)

1. What is the Family and Medical Leave Act of 1993?

- A.** In general, the Act entitles eligible employees to be absent for up to 12 work weeks per year for the birth or adoption of a child; to care for a spouse, son, daughter, or parent with a serious health condition; or when unable to work because of a serious health condition without loss of their job or health benefits. The FMLA does not provide more annual or sick leave than that which is already provided to Postal Service employees.

2. Which employees are eligible?

- A.** Employees who have been employed by the Postal Service for at least one year and who have worked at least 1,250 hours during the previous 12 months are eligible.

3. I have been a transitional employee for nine months. Am I an eligible employee under the FMLA?

- A.** No, because you have not worked for the Postal Service for one year. Any employee, including a TE, who has worked for the Postal Service for an accumulated total of one year and has worked a total of 1,250 work hours during the previous 12 months is an eligible employee under the FMLA.

4. I am absent on protected leave under the Family and Medical Leave Act, and my transitional employee appointment term expires next week. How will that affect me?

- A.** The Family and Medical Leave Act does not affect the terms of your appointment.

5. Do COP, OWCP, military leave and court leave count toward eligibility requirements under the FMLA?

- A. COP, OWCP, court leave, and short periods of military leave count toward the 12 month eligibility requirement. However, none of the times mentioned count toward the 1,250 hours worked eligibility requirement.
- 6. If both spouses work for the Postal Service, does the USPS let both take up to 12 work weeks each of protected absences under FMLA each leave year?**
- A. Yes.
- 7. Can an employee who is separated or divorced take a protected absence under the FMLA to care for a spouse or ex-spouse with a serious health condition?**
- A. For an employee to take such leave, the couple must be legally married.
- 8. My mother-in-law who lives with me is ill and requires my care. Does management have to approve my leave as a covered condition?**
- A. No, the FMLA only provides protected absences for covered conditions of a spouse, parent, son or daughter. Leave taken to care for anyone else would require approval under normal leave policies.
- 9. My knee problem was diagnosed during an appointment with a health care provider. He ordered three months of physical therapy treatments. Are the visits and the treatments protected by the FMLA?**
- A. Yes, where properly documented as a serious health condition, the absence would qualify for FMLA protection since it involves a continuing treatment under the supervision of a health care provider. The health care provider is stating that lack of treatment would likely result in a period of incapacity of more than three days. Employees needing intermittent FMLA leave or leave on a reduced leave schedule must attempt to schedule their leave so as not to disrupt the employers operations.

10. My wife's doctor said she needs almost total bed rest for the last two months of her pregnancy, and I need to stay home to care for our other children. Is this condition covered under the FMLA?

A. FMLA does not cover baby-sitting for the other children. However, where properly documented that the husband is needed to care for her, the wife's serious health condition would entitle the husband to an FMLA-protected absence.

11. If I use a mid-wife for both my prenatal care and the delivery of my child, would my pregnancy still be covered under the FMLA?

A. Yes, pregnancy is a covered condition under the FMLA. Midwives are considered health care providers if they are authorized to practice under State law and are performing within the scope of their practice as defined under State law.

12. An employee had a baby and took 6 weeks of leave during a period when she was not eligible under the FMLA. Now she is eligible and the baby is still less than a year old. Can she now take the 12 work weeks of protected absences under the FMLA?

A. Yes, only the time taken when eligible under the FMLA counts toward the 12 work weeks.

13. Is an employee entitled to 12 work weeks of protected absences under the FMLA for placement or care of an adopted or foster child?

A. Yes.

14. I took a week of protected leave under the FMLA to care for my baby who was born 2 months ago. Now I want to take the week of July 4th off to be with my baby. Since caring for my newborn is a condition covered under the FMLA, does my supervisor have to let me off for the week of July 4th?

- A. Not necessarily. You are requesting time off for the birth and care of a child on an intermittent basis. Therefore, your request for the week of July 4th is subject to your supervisor's approval in accordance with current leave policies.
- 15. Can an employee take protected leave under the FMLA to look for child care?**
- A. No. Of course, a supervisor can approve regular annual leave for such a purpose.
- 16. An employee has a recurrent degenerative knee condition that qualifies as serious health condition. The certification indicates his condition may "flare up" 1 to 2 days per month and render him incapacitated for duty. Consequently, the employee requests covered absences under the FMLA with little or no advance notice. Does this meet the criteria or intent of the intermittent leave entitlement under the FMLA?**
- A. Intermittent absences due to a chronic condition which incapacitates an employee are covered by the FMLA.
- 17. Is treatment for substance abuse covered under the FMLA?**
- A. Yes, if certified by the health care provider as a serious health condition. Absence because of the employee's use of the substance, rather than for treatment, does not qualify as a covered condition under the FMLA.
- 18. Can the flu be considered a serious health condition under the FMLA?**
- A. Yes, if it complies with the definition of a serious health condition under the FMLA.
- 19. If my child is sick, can I now take sick leave to care for him?**
- A. Yes, under the National Agreement-Memorandum of Understanding of Sick Leave for Dependent Care, employees may use up to 80 hours of their earned sick leave to care for a spouse, parent, son or daughter. Sick leave for Dependent Care is only protected under the FMLA when the illness qualifies as a serious health condition under the FMLA.

20. How do I apply for leave under the FMLA?

A. Submit a Form PS 3971, Request For Or Notification of Absence, with the supporting documentation. Leave under the FMLA is not a separate category or type of leave. You may request annual leave, sick leave or LWOP for your absence under the FMLA. Just as in the past, in an emergency situation, a phone call, telegram, etc. will suffice until it is possible for you to submit the necessary paperwork.

21. Do I have to mention the Family and Medical Leave Act when I request time off for a covered condition?

A. No. However, an employee must explain the reasons for the absence and give enough information to allow the employer to determine that the leave qualifies for FMLA protection. If the employee fails to explain the reasons, the leave may not be protected under the FMLA.

22. Do I have to use all of my annual leave balance before I can take LWOP for a condition covered under the FMLA?

A. No, you need not exhaust annual leave/sick leave before requesting leave without pay. The use of leave, paid or unpaid, is subject to management's approval consistent with the handbooks, manuals, the National Agreement and the FMLA.

23. Can I take more than 12 work weeks of leave during a Postal leave year?

A. Twelve work weeks is the maximum amount of protected leave which must be granted for the covered conditions under the FMLA. After being off for 12 work weeks, you may request leave under current leave policies, but that time would not be protected under the FMLA. Approval will be subject to the terms and conditions of current policies.

24. Does the 12 work weeks of FMLA protected leave have to be continuous?

A. No, the leave may be taken intermittently or on a reduced schedule basis as long as taking it in that manner is medically necessary. When leave is taken because of the birth or placement of a child for adoption or foster care, an employee may take

leave intermittently or on a reduced leave schedule only if the supervisor agrees.

25. How will I know if the requested leave counts as part of the 12 work week entitlement under the Family and Medical Leave Act?

- A. The supervisor should provide you a copy of the Form 3971. If the leave is approved as one of the covered conditions, the approving official will check the “Approved, FMLA” block on the Form 3971.

26. If the employee does not request FMLA protection for an absence that meets the definition of a covered condition under the FMLA, must the supervisor designate the absence as FMLA protected leave?

- A. Yes, if the employee provides sufficient information for the supervisor to be able to designate it as FMLA protected leave.

27. If an employee is absent on sick leave and while absent is diagnosed as having health condition, will his/her entire absence be protected under the FMLA?

- A. Yes, if the employee provides the supervisor with the necessary information about the serious health condition within two days of returning to work.

28. Is the employer’s approval required for an employee to use intermittent leave or work a reduced schedule if the employee, spouse, child or parent has a serious health condition?

- A. The absence must be allowed provided proper medical certification and notice is provided. However, in foreseeable cases, the employee must attempt to schedule the absences so as not to disrupt the employer’s operation. The employee may be assigned to an alternative position with equivalent pay and benefits that better accommodates the intermittent or reduced leave schedule in accordance with the National Agreement.

29. If an employee requests leave for a condition covered under the FMLA, what information should the supervisor provide to the employee?

- A. The supervisor should provide the following information:
- Whether the employee is eligible or when he/she will be eligible.
 - Whether the leave will be designated as FMLA protected.
 - A copy of PS Form 3971 stating the type of leave and whether the approval is pending documentation.
 - Publication 71 where applicable. Publication 71 includes the consequences for not providing the requested documentation and what information must be provided for return to duty, if any.

30. What certification is required for employees requesting leave protected under the FMLA because of the birth or placement of a son or daughter, and in order to care for such son or daughter after birth or placement?

- A. That the employee is the parent and the date of birth or placement of this son or daughter. No medical certification is required.

31. Is recertification required for each absence when a health care provider has certified that the employee is receiving continuing treatment?

- A. Excluding pregnancy, chronic conditions, and permanent/long-term conditions, recertification is not required for the duration of treatment or period of incapacity specified by the health care provider, unless:
- a. the employee requests an extension of leave
 - b. circumstances have changed significantly from the original request
 - c. the employer receives information that casts doubt upon the continuing validity of the certification
 - d. the absence is for a different condition or reason

32. What can an employer do if he or she questions the adequacy of medical certification that includes all the required information?

A. With the employee's permission, a health care provider representing the Postal Service may contact the employee's health care provider to clarify the medical certification. Also, the Postal Service may require the employee to obtain a second opinion at the employer's expense.

33. Is advance notice required for employee's use of protected leave under FMLA?

A. An employee must provide the Postal Service at least 30 days advance notice if the need for the leave is foreseeable. When the need for leave is not foreseeable, an employee should give notice to the Postal Service as soon as practicable by telephone, fax or other electronic means.

34. Can a supervisor have a blanket policy that requires recertification every 30 days for all employees requesting FMLA protection for absences related to pregnancy, chronic conditions, and permanent/long-term conditions?

A. No. On a case-by-case basis, the supervisor may require recertification of such conditions on a reasonable basis, but not more often than every 30 days and only in connection with an absence related to the condition. The supervisor may require recertification in less than 30 days when:

- Circumstances in the previous certification have changed.
- The supervisor receives information that casts doubt upon the employee's stated reason for the absence.

35. May an employee be removed, disciplined, or placed on restricted sick leave as a result of protected absences under the FMLA?

A. No.

36. Some Local Memorandums of Understanding (LMOU) allow for daily percentages off on leave; will that affect those who need protected leave under the FMLA?

- A. No, leave percentages do not affect the rights of employees to be absent under the FMLA. LMOU language will determine whether FMLA absences count toward the percentage.
- 37. Can an employee file an EEO complaint related to FMLA?**
- A. Yes, but only on the grounds that the FMLA was applied in a discriminatory manner.
- 38. Can a step increase be deferred as a result of LWOP used under the FMLA?**
- A. Yes, if an employee has used 13 weeks of LWOP during a step increase waiting period, then the step increase can be deferred. The Family and Medical Leave Act does not require accrual of any rights or benefits during the period of leave taken under the FMLA.
- 39. My last chance agreement states that if I have more than 4 unscheduled absences within the next six months, I can be removed from the Postal Service. Will an absence protected under the FMLA count as an absence for the purposes of my last chance agreement.**
- A. No.
- 40. While absences for conditions covered by the FMLA cannot be cited as a basis for discipline, can they be discussed in periodic absence reviews concerning the importance of regular attendance?**
- A. Yes.
- 41. Can the employee be separated after he or she has exhausted leave protected under the FMLA but is still unable to return to work?**
- A. Once leave protected under the FMLA has been exhausted, the employee's failure to return to work should be treated as any other failure to return to work.
- 42. Are transitional employees entitled to FMLA?**

- A. The FMLA is not limited to career employees. However, the requirements outlined in question two must be met to be eligible for FMLA. The “accumulated year” can be the result of different types of appointments over several years. This is true even though the employee may have had a break in service.

Source: ELM 515.3

43. How does an employee apply for Family Leave?

- A. The employee is required to submit PS Form 3971, Request For Or Notification of Absence, with the supporting documentation.

Source: ELM 515.3.

44. Is there a time requirement for applying for Family Leave?

- A. The employee should provide a minimum of 30 days notice if the need for the leave is foreseeable. However, if 30 days notice is not practicable, notice must be given as soon as possible. Ordinarily at least verbal notification should be given within one or two business days of when the need for leave becomes known to the employee.

Source: ELM 515.51

45. What are the employees obligations under the FMLA?

- A. The employee will be provided a notice detailing their specific expectations and obligations while on approved Family or Medical Leave covered by the Act.

Source: ELM 515.51

46. Can an employee be required to provide additional documentation to support the FMLA leave?

- A. Yes. The employee when requested must provide the required documentation within 15 days or as soon as practicable under the particular facts and circumstances.

Source: ELM 515.51

47. Is an employee required to request family leave if the time required off is for a covered condition?

- A. No. However, if they request leave without specifying that it is for a covered condition, the leave may be denied, consistent with bargaining agreements and policies. Any leave requested and approved for a covered condition counts toward the 12 weeks of absences provided by the regulations. In such case, the supervisor is to note FMLA in the request form's remark section and give the employee the required notice.

Source: ELM appropriate sections.

48. What documentation is required when using the Family and Medical Leave Act?

- A. This varies depending on the particular circumstances. To care for a new born, placement of adopted or foster child, the employee may be required to provide the birth or placement date. To care for a spouse, son, daughter, or parent with a serious health condition, the employee may be required to provide documentation from the health care provider.

Source: ELM 515.52 and 515.53

49. What is required on the documentation when the employee is requesting FMLA leave to care for an eligible for Medical Reasons?

- A. The documentation from a recognized health care provider, as defined in ELM 515.2 e and ELM 513.364, stating the date the serious health condition began, probable duration of the illness, appropriate medical facts, and when the employee will be needed to provide such care or psychological support.

50. Does the 12 weeks of FMLA leave have to be continuous?

- A. No. Leave may be taken intermittently. However, intermittent leave for the care of a child, that is one not seriously ill or injured, is based on the employee's need, Postal Service need, and costs to the Service.

Source: ELM 515.61

51. Are part-time employees entitled to 480 hours FMLA leave, like a full-time employee?

A. Employees with weekly schedules of less than 40 hours are entitled to 12 times the number of hours normally scheduled in their work week. For example, a part-time employee with a normal schedule of 30 hours per week is entitled to 360 hours (12 weeks times 30 hours). A part-time employee who does not have a normal weekly schedule is entitled to the total number of hours worked in the previous 12 weeks, not including overtime hours.

Source: ELM 515.43

52. Can employees who are sick for an extended period under the FMLA be asked to provide medical documentation?

A. Employees who are absent due to serious illness for extended periods are required to submit at appropriate intervals, but not more frequently than once every 30 days, satisfactory evidence of continued incapacity for work. An exception is if a responsible supervisor has knowledge of the employee's continuing incapacity for work.

Source: ELM 513.363

53. Can the Postal Service require a second medical opinion for employees requesting leave under the FMLA?

A. Yes. A second medical opinion by a health care provider who is designated and paid for by the Postal Service may be required.

Source: ELM 515.54

54. What if there is a difference of opinion between the employee's and the Postal Service's health care provider?

A. In case of a difference in opinion between the original and second health care provider, a third health care provider is jointly designated or approved by management and the employee. The third opinion is final. The Postal Service is responsible for payment of the third opinion.

Source: ELM 515.54

55. Can a Postal Service Medical Doctor or contract physician be used for the second and/or third opinion?

- A. No. A health care provider selected for the second or third opinion may not be employed by the Postal Service on a regular basis.

Source: ELM 515.54

56. Can an employee with approved FMLA leave use his/her Sick Leave while caring for a newborn or caring for a seriously ill or injured eligible without a contagious disease?

- A. The conditions for using Sick Leave outlined in ELM 513.32 still apply when using the Family and Medical Leave Act. Caring for seriously ill or injured eligible, as defined in question one, is not reason for approving Sick Leave.

Source: ELM 515.1

57. If employee's absence exceeds 21 calendar days, under the FMLA for medical leave, what documentation is required and what must it contain?

- A. The employee must submit evidence of his/her ability to return to work with or without medical limitation. If additional medical opinions are necessary they are administered as described in ELM 515.54 or questions 57 and 58.

Source: ELM 515.55

58. Does paid leave count toward the requirement of 1,250 hours worked in the previous 12 months?

- A. The definition of work under the Family and Medical Leave Act does not count paid or unpaid leave hours. It is actual hours worked.

Source: ELM 515.3

59. When, if ever, is LWOP approved on demand?

- A. There are only three situations in which management must approve a request for LWOP. They are:

A disabled veteran is entitled to LWOP, if necessary, for treatment under Executive Order 5396. The request must meet all the conditions of the order.

A Reservist or National Guardsman is entitled to LWOP, if necessary, to perform military training duties.

An employee, with proper documentation, is entitled to LWOP for necessary time under the Family and Medical Leave Act.

Source: ELM 514.22

FITNESS FOR DUTY

1. Is a fitness for duty exam at Management's request compensable?

RESPONSE:

Yes. The employee will be compensated for travel time, waiting time and time spent taking the exam. There is no eight (8) hour guarantee.

SOURCE: *Step 4 (AS-E-0477) dated January 30, 1980; national prearbitration H1C-5F-C-12658, dated January 18, 1984.*

2. When a full-time employee is called in for a Fitness-for-Duty Examination on a non-scheduled day, must the Postal Service compensate them for the minimum pay guarantee in Article 8.8?

RESPONSE:

No. The Service is required to pay these employees only for the time spent waiting for and taking the examination, including travel time.

SOURCE: *Step 4 (A8-E-0477), January 30, 1980; Step 4 (H1N-5F-C 29072), May 23, 1985.*

3. Does a supervisor have an absolute right to accompany an employee to a medical facility or physician's office?

RESPONSE:

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 an employee to a medical facility or physician's office. (emphasis added)

SOURCE: *Step 4 Settlement, H1C-5D-C-7369, dated February 2, 1983; Step 4 Settlement H7N-3N-C-38389, dated March 30, 1992.*

4. Are employee travel expenses associated with a management directed Fitness for Duty Examination reimbursable?

RESPONSE:

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.

SOURCE: *Step 4 numbered HIN-1E-C31854, dated April 29, 1985.*

5. Can a manager other than the Installation Head authorize a Fitness for Duty Exam?

RESPONSE:

No. While the Installation Head may designate another manager to sign a scheduling letter to an employee for a Fitness For Duty, only the Installation Head may authorize the Fitness For Duty.

SOURCE: *Step 4 numbered H4C-NA-C-79, dated October 17, 1988.*

6. Is the completion of Part C, Medical History of PS Form 2485, voluntary?

RESPONSE:

Yes. Completion of PS Form 2485 is voluntary as stipulated in the Privacy Act Statement of the form. Part C, medical History of PS Form 2485 is to be completed by the examinee (employee) before the examination. The information supplied by the employee is used to help make a medical assessment of whether the employee could safely and efficiently perform the duties of his/her position. The completion of PS Form 2485, as it relates to fitness-for-duty examinations, is voluntary; however, this does not preclude the examining physician from asking those same questions, should it be necessary and relevant for making an appropriate medical finding. Refusal to answer pertinent questions regarding medical history may affect the outcome of the examination under Part E, Medical Assessment by Postal Medical Officer/Contract Physician of PS Form 2485.

SOURCE: *April 7, 1987 letter from APMG Fritsch to Executive Vice President Burrus.*

FORMS

1. When must the employer issue Form SF 8, Notice to Federal Employees about Unemployment Compensation?

RESPONSE:

SF 8 is issued to an employee each time they are (or will be) placed in a non pay status for 7 or more consecutive days.

SOURCE: *Step 4 (HIC-3P-C 27873), February 28, 1984.*

2. Are 3971 forms completed on the clock?

RESPONSE:

Yes. If the 3971 is completed during the course of their normal tour, including overtime.

SOURCE: *Step 4 (HIC-3W-C 48121), August 16, 1985.*

3. Can management develop forms locally?

RESPONSE:

Yes. If the procedure and provisions for the approval of locally developed forms in Section 324.12 of the Administrative Support Manual are met.

SOURCE: *Step 4 (H4N-5R-33012), July 8, 1988- Section 325.12, Administrative Support manual.*

4. Is management required to have OWCP forms readily available for employees?

RESPONSE:

CA-1 forms will be readily available for employees. All other OWCP forms will be provided in a prompt fashion. CA-16's are required to be available within 4 hours.

SOURCE: *Area Level Agreement between the parties, EL-505, Section 3.3.*

GRIEVANCE PROCESSING

1. Can a supervisor refuse to discuss Step 1 grievances?

RESPONSE

No.

SOURCE: *Step 4 (A8-W-0538), February 28, 1980.*

2. Who has authority to settle a grievance?

RESPONSE:

The parties' representatives at each step of the grievance procedure have full authority to settle or resolve grievances.

SOURCE: *Article 15.*

3. Whose responsibility is it to develop a complete case file?

RESPONSE:

Both union and management have an affirmative responsibility to develop and share all pertinent facts and information during the grievance procedure. There should not be any withholding of pertinent information by either party.

SOURCE: *Article 15.2.Step 2. d.*

4. Can the union, when initiating a grievance on its own, be the only party required to meet with the supervisor at Step 1?

RESPONSE:

Yes.

SOURCE: *Step 4 (NC-NAT-4702), June 13, 1977.*

5. Should settlement offers be stated in union appeals, management decision letters, or letters of addition and correction?

RESPONSE:

No. Settlement offers should not become part of the official documents moving a grievance through the procedure or at arbitration.

SOURCE: *Area level agreement between the parties.*

6. Should an employee who wants to challenge being fired grieve the proposed removal or the decision letter?

RESPONSE:

Employees with veteran preference rights receive both a proposed removal notice and a letter of decision. For contractual purposes, the challenge should be made within fourteen (14) days of receipt of the proposed removal. It is not contractually necessary to refile upon receipt of the letter of decision.

SOURCE: *National Memorandum of Understanding, July 31, 1991.*

7. Is the immediate supervisor required to initial the standard grievance form that is used at Step 2?

RESPONSE:

Yes, at the request of the union representative provided the request is made within 5 days of the Step 1 decision. The supervisor's initial confirms and verifies the date upon which a decision is rendered. The Step 2 form will have sufficient information completed for the supervisor to determine that they are, in fact, verifying a decision date of the grievance that was heard.

SOURCE: *National prearbitration settlement (H4C-3F-C 3994), August 30, 1985; Article 15.2. Step 1 (c) of the National Agreement.*

8. If an individual employee files a grievance and then leaves the Postal Service by either resignation, retirement or death, is the grievance then barred from further processing?

RESPONSE:

No. The parties have agreed that such a grievance is not barred.

SOURCE: *National Memorandum of Understanding, October 16, 1981.*

9. Who determines whether a grievance exists and whether to file a grievance?

RESPONSE:

The union.

SOURCE: *National arbitration awards (H7N-5C-C 12397), July 29, 1991 and (H4T-2A-C 36687), November 16, 1990.*

10. In the definition of a grievance, what is the meaning of "related to wages, hours and conditions of employment?"

RESPONSE:

This clause gives the very broadest parameters in determining what a grievance may encompass. All aspects of wages such as rates, levels, step increases, protected salary rates, etc.: all aspects bearing on work hours, overtime hours, out-of-schedule hours, etc.; and all situations bearing on conditions of employment such as, qualifications for promotion to bargaining unit duty assignments, environmental conditions, eligibility for overtime work, work rules, uniform dress, etc., just to name a few.

SOURCE: *Area level agreement of the parties*

11. Does the definition of a grievance encompass the evaluation of a probationary employee?

RESPONSE:

No. The evaluation of a probationary employee is considered to be part of the decision to retain or to separate that employee. As Article 12.1.A gives the Employer the unilateral right to make that determination, the evaluation of work performance itself must be held to be non-grievable.

SOURCE: *Award of National Arbitrator Zumas in Case HI C-5L-C 25010*

12. May a newly-hired career employee file a grievance during the 90 day probationary period?

RESPONSE:

Yes. The only prohibition against a probationary employee filing a grievance is when the Employer exercises its discretion to separate the employee during the probationary period.

SOURCE: *Area level agreement between the parties.*

13. Can a grievance on behalf of an employee be processed when it is filed after an employee's separation from the service?

RESPONSE:

No. A grievance must have been filed prior to the employee's separation.

SOURCE: *Award of National Arbitrator Bernstein in case H1N-4E-C 9678. National Level MOU dated October, 16, 1981.*

14. Is the processing and/or arbitration of a non-disciplinary grievance barred in the event the grievant is discharged and the discharge is upheld?

RESPONSE:

Only if the non-disciplinary grievance is not related to the removal action.

SOURCE: *MOU on page 334 of the '94-'98 CBA.*

15. Who may file a grievance at Step 1?

RESPONSE:

An employee may file a grievance at Step 1. If an employee files a grievance at Step 1, the employee must be present at the Step 1 meeting with the immediate supervisor. In addition, the Union may file a grievance at Step 1, either on behalf of an employee, or on behalf of more than one employee or in its own right. If the

Union files a grievance on behalf of more than one employee, or in its own right, the steward or Union representative will be the only person to meet with the supervisor at Step 1.

SOURCE: *Area level agreement between the parties.*

16. Must the Employer discuss a grievance at Step 1, even if a procedural question is present?

RESPONSE:

Yes. In a case involving a grievance filed over a discussion, the parties agreed that the Employer would discuss all alleged grievances at Step 1. The agreement did not limit the Employer's right to deny the grievance as non-grievable or procedurally defective.

SOURCE: *Step 4 Agreement in Case H8C-3W-C 24461*

17. Can a casual file a grievance?

RESPONSE:

No.

SOURCE: *Area level agreement between the parties.*

18. May an employee be aggrieved personally about a situation which occurs when he/she is not present physically, at the work location?

RESPONSE:

Yes, the occurrence of any situation related to wages, hours and conditions of employment may be the basis for the employee's complaint.

SOURCE: *Area level agreement between the parties.*

19. Can an individual file a grievance as the grievant seeking a remedy for another employee?

RESPONSE:

No.

SOURCE: *Area level agreement between the parties.*

20. Is Article 15 applicable to transitional employees?

RESPONSE:

Yes. Access is limited to only those provisions to which the parties have agreed and specified within the MOU.

SOURCE: *TE MOU pp 286-291 1994 National Agreement, Area level agreement between the parties.*

21. Does an employee's request to discuss a problem with a supervisor constitute filing a grievance?

RESPONSE:

Not necessarily. Both parties have the obligation to determine whether a grievance is being filed.

SOURCE: *Area level agreement between the parties.*

22. May the shop steward be required to present a grievance for an individual grievant to a supervisor other than the employees' immediate supervisor?

RESPONSE:

No. Article 15 requires discussion with the "employee's immediate supervisor."

SOURCE: *Article 15, Area level agreement between the parties.*

23. With which supervisor does a steward file a class action grievance?

RESPONSE:

When the Union files a class action grievance, Management will designate the appropriate employer representative responsible for handling such complaint.

SOURCE: *Article 15, Section 2, Step 1.A.*

24. Why must an employee initiate a grievance with the immediate supervisor?

RESPONSE:

This is required by Article 15. Additionally, the intent of any worthwhile grievance procedure is to resolve problems at the lowest possible level in the work environment. This is not to say that the immediate supervisor will always have an answer or a resolution readily available when a grievance is filed; however, the procedures provide ample latitude for the supervisor to investigate the problem, determine the facts and provide a responsible answer to the complaint.

SOURCE: *Article 15, Area level agreement between the parties.*

25. Are Step 1 discussions over the telephone permissible?

RESPONSE:

The intent of the parties is to resolve cases at the lowest possible level whether it is done by telephone or in person. Normally, the parties will meet on Step 1 grievances in person; however, in unusual circumstances, to accommodate the process, a Step 1 grievance may be done via telephone.

SOURCE: *National pre-arb of Case H4C-3W-C 27397.*

26. How are time limits for filing and for application of remedy determined for grievances alleging continuing violations?

RESPONSE:

A grievance can be filed alleging a continuing violation at any time so long as it is initiated within 14 days of a date upon which the grievant or Union learns or could reasonably be expected to have learned of a specific violation; however, any Employer liability is limited to the 14 days prior to the filing of the grievance if the grievant or Union knew of or could have reasonably been expected to know of the violation.

SOURCE: *Numerous National Awards, Area level agreement between the parties.*

27. Do 204bs have the authority to handle grievances on behalf of management?

RESPONSE:

Yes.

SOURCE: *Area level agreement between the parties.*

28. Is the grievant entitled to be present when the supervisor renders a decision in his/her Step 1 grievance?

RESPONSE:

Yes. In addition, the supervisor must orally state the reason for the decision.

SOURCE: *Step 4 Remand in Case H4N-3W- C 8797*

29. May a Step 1 settlement be inconsistent with the terms of the National Agreement?

RESPONSE:

No.

SOURCE: *Step 4 Settlement in Case H4C-3W-C 10344.*

30. Does the steward have the right to be present when a grievance filed by an individual employee is adjusted?

RESPONSE:

Yes, unless the grievance is denied. The steward does not have to be present during the discussion phase of the grievance if that employee decides to exclude the steward; however, the steward must be given the opportunity to be present at the adjustment phase.

SOURCE: *Prearbitration Settlement in Case H7N-5R-C 26829*

31. Can the Employer require employees with the same complaint to solicit the Union to file a grievance on behalf of the group?

RESPONSE:

No. Each employee is entitled by contract, to file a grievance individually. The Union should; however, make use of available avenues in the Agreement, i.e., representative cases or class action grievances, providing for the expeditious handling of multiple grievances.

SOURCE: *Article 15, Area level agreement between the parties.*

32. Can the Employer deny a Union request to file multiple grievances on behalf of individual employees when the situation involves the same complaint?

RESPONSE:

No. There are, however, many advantages for the Union in filing a single class action grievance where the situation involves the same complaint or action.

SOURCE: *Article 15, Area level agreement between the parties.*

33. Since a VOMA is a multi-craft position, who represents them in the grievance procedure?

RESPONSE:

A VOMA is represented by the craft to which they belonged at the time of their selection.

SOURCE: *Step 4 Settlement of Case H4N-3U-C 19607, dated April 23, 1987.*

34. Can a Step 1 resolution of a grievance be used by anyone at any time or at any point in the grievance procedure as precedent?

RESPONSE:

No.

SOURCE: *Article 15, Area level agreement between the parties.*

35. In what manner are Step 1 decisions rendered?

RESPONSE:

Step 1 decisions are oral.

SOURCE: *Article 15.*

36. Are Step 2 decisions citable and precedent setting?

RESPONSE:

No, unless it was specifically agreed that a given decision will cover other grievances of a similar nature within the parties' area of authority.

SOURCE: *Article 15.*

37. How extensive should the "reasons" be for the Step 1 decision?

RESPONSE:

When verbally expressing the basis for a Step 1 decision, the Supervisor should set forth the reasons in sufficient detail to assure that the grievant and/or Steward are aware of the supervisor's understanding of the complaint and clearly comprehend the meaning of the stated conclusion.

SOURCE: *Area level agreement between the parties.*

38. Does the steward have a right to a copy of the supervisor's Step 1 Grievance Summary, Form 2608?

RESPONSE:

Given the verbal nature of Step 1 discussions, the Form 2608 is not available at the time of discussions at that step. Furthermore, there is no requirement that the Form 2608 be utilized. However, in cases where the Form 2608 is completed, the parties agreed that the Union could request to review Form 2608 at Step 2 or any subsequent step of the Grievance-Arbitration procedure and that the Form 2608 would thereupon be made available. Additionally, Form 2609, Step 2 Grievance Summary, if completed, will be made available at Step 3 or thereafter.

SOURCES: *Pre-arbitration settlement in Case H8T-4E C 23719, dated September 15, 1982; Step 4 settlement in Case H4V-3S-C 56545, dated January 6, 1988; Management directive, dated March 25, 1993.*

39. What happens to the grievance if the supervisor fails to render a decision within 5 days?

RESPONSE:

If there is no extension of time limits mutually agreed to, the grievance may be moved to the next step by the Union, if the Union so desires. Except in rare instances, there should be no excuse for failing to issue the Step 1 decision in a timely fashion, or seeking agreement to extend time limits, when necessary.

SOURCE: *Area level agreement between the parties.*

40. What does the supervisor's initials confirm on the standard grievance form?

RESPONSE:

The date of the Step 1 decision. The initials do not acknowledge the accuracy of any alleged facts or conclusions regarding the grievance.

Source: *Area level agreement between the parties.*

41. Can the Step 1 supervisor refuse to initial a standard grievance form which identifies the grievance and includes the proper Step 1 decision date?

RESPONSE:

No.

SOURCE: *Article 15, Area level agreement between the parties.*

42. Is the shop steward allowed reasonable time on the clock to complete the standard grievance form?

RESPONSE:

Yes.

SOURCE: *Article 17, Area level agreement between the parties.*

43. In post offices of 20 or less employees, who is the Step 2 official?

RESPONSE:

A management official from outside the installation is designated by the Employer.

SOURCE: *Article 15.*

44. When is the Union notified of the identity of the Step 2 official for post offices of 20 or less employees?

RESPONSE:

If there is an adverse decision at Step 1, the steward will be notified at that time. The Step 2 official may also be designated for all future grievances, with proper notice to the union in accordance with Article 15.2., Step 2 (a).

SOURCE: *Area level agreement between the parties, Article 15.2., Step 2 (a).*

45. Must a Step 2 meeting be held at the installation where the grievance was initiated?

RESPONSE:

Normally, unless the local parties agree otherwise.

SOURCE: *Area level agreement between the parties.*

46. Who determines whether the grievant is necessary at the Step 2 meeting?

RESPONSE:

The Union.

SOURCE: *Step 4 Settlement of Case H4C-5K-C 33325.*

47. Are the grievant and steward on the clock for the Step 2 meeting?

RESPONSE:

Attendance is on a "no-loss, no-gain" basis under these circumstances. Management will not manipulate such meetings solely to prevent payment of the grievant and/or steward.

SOURCE: *Area level agreement between the parties.*

48. Are the grievant and steward paid for travel time to attend a Step 2 meeting?

RESPONSE:

No.

SOURCE: *Mittenthal H8N-1A-C 7812; Case No. N8-N-0221, January 8, 1982.*

49. Are witnesses paid for travel time to attend the Step 2 meeting?

RESPONSE:

Yes, on a no-loss, no-gain basis.

SOURCE: *Area level agreement between the parties.*

50. Does the grievant count as a witness at the Step 2 meeting?

RESPONSE:

No.

SOURCE: *Area level agreement between the parties.*

51. Can a witness remain at the Step 2 meeting for the entire meeting?

RESPONSE:

A witness will remain at the Step 2 meeting only for the time necessary to provide information and answer questions. Once both parties are finished with the witness, he/she will be dismissed and returned to the work location.

SOURCE: *Area level agreement between the parties.*

52. Is there a contractual remand function from Step 2 to Step 1 for grievances requiring further investigation?

RESPONSE:

No. However, the parties may mutually agree to do so.

SOURCE: *Area level agreement between the parties.*

53. How extensive must the Step 2 written decision be?

RESPONSE:

It must contain management's full statement of the facts, the contractual provisions involved and detailed reasons for the denial.

SOURCE: *Article 15.2 Step 2f*

54. Are additions and corrections to Step 2 written on the clock?

RESPONSE:

Yes.

SOURCE: *Area level agreement between the parties.*

55. Can a steward file "additions and corrections" when there was no Step 2 decision rendered?

RESPONSE:

No. Such information would be addressed in the Step 3 appeal.

SOURCE: *Area level agreement between the parties.*

56. Are Step 3 appeals done on the clock?

RESPONSE:

Yes.

SOURCE: *Mittenthal A8E021022, December 10, 1979*

57. Can a Step 3 settlement be used as a precedent for resolving other grievances?

RESPONSE:

Yes, unless language is included which indicates that the settlement is non-precedent setting and/or non-citable. Unlike the restrictions in Steps 1 and 2, there is no contractual prohibition against using the Step 3 settlement as precedent. However, only national level decisions are considered precedent setting, and must be followed.

SOURCE: *Area level agreement between the parties.*

58. Is the grievant allowed to attend a Step 3 meeting?

RESPONSE:

No.

SOURCE: *Area level agreement between the parties.*

59. Are Postal employees who are witnesses at arbitration hearings paid for the time spent testifying at the hearing?

RESPONSE:

Yes. The parties agree that Article 15.3 requires that employee witnesses shall be on employer time when appearing at the arbitration hearing if the appearance is during the employee's regular working hours. Article 15.5A5 also provides that, "Absent a more permissive local practice and at no cost to the Employer, the employer will permit one (1) change of work schedule per case scheduled for arbitration for either the grievant or a witness, provided notice is given to his or her immediate supervisor at least two (2) days prior to the scheduled arbitration hearing." Travel time is not included.

SOURCE: Step 4 Settlement, NC-N-2064, dated September 20, 1976, National arbitration award, H1N-NA-C-7, dated February 15, 1985 and Article 15.

60. What is USPS policy regarding contract compliance?

RESPONSE:

Emphasis must be placed on the corporate objective that all managers and supervisors must give the highest priority to compliance with our collective

bargaining agreements with the various unions. No manager or supervisor at any level of this organization has the authority to override the terms of those agreements. Those collective bargaining agreements represent the commitment of the Postal Service-that is, the commitment of each of us-to abide by the terms contained therein, in our dealings with our employees. Appropriate corrective action should be considered for any manager or supervisor who knowingly, or repeatedly, violates the clear terms of any of those agreements.

In keeping with that responsibility, all managers and supervisors are expected to resolve meritorious employee complaints and/or grievances at the lowest possible level. That includes handling grievances within the contractual time limits and promptly implementing any settlements agreed to or remedies awarded. Managers or supervisors who have questions regarding the legitimacy of a complaint or grievance should avail themselves of the necessary labor relations guidance and support.

Compliance with contractual terms and prompt resolution of meritorious cases will enable us to concentrate our efforts on vigorously defending those cases in which we believe no violation has occurred. It will also lend support to our statements to the unions that the filing of repetitive or frivolous grievances is not conducive to a mature collective bargaining relationship and must be halted at once.

SOURCE: *Letter (February 18, 1998) signed by Postmaster General Runyon, Deputy Postmaster General Coughlin and Chief Operating Officer/Executive Vice President Henderson.*

HIGHER LEVEL ASSIGNMENTS

1. **Does an employee assigned to higher level duties receive higher level pay if the higher level position is not authorized at the installation?**

RESPONSE:

Yes.

SOURCE: *Article 25, Sections 1 & 2.*

2. **Must higher level details be in writing?**

RESPONSE:

Yes. A PS Form 1723, **Assignment Order**, must be completed.

SOURCE: *Article 25, Section 3.*

3. **If the higher level detail is not put in writing, is this a reason to deny higher level pay?**

RESPONSE:

No, as long as the employee was otherwise directed to perform the higher level duties.

SOURCE: *Article 25, Section 3.*

4. **Is an employee entitled to higher level pay while in a leave status on the dates they normally would be performing higher level work as required by bid position?**

RESPONSE:

Yes.

SOURCE: *National prearbitration settlement (HIC-1E-C 24150), July 9, 1985.*

5. Is an employee who is detailed to higher level duties paid at the higher level for approved annual and sick leave taken during the detail?

RESPONSE:

Yes, if the assignment or detail to the higher level position is resumed upon return to work. Employees on short term details (29 consecutive work days or less at the time of the leave) are eligible for no more than three (3) days of approved leave at the higher level rate. Short term assignments or details are automatically canceled if replacements are required for absent detailed employees.

SOURCE: *Article 25, Section 5; Area level agreement between the parties.*

6. Are on-the-job instructors for new employees in the Clerk Craft compensated at level 6?

RESPONSE:

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.

SOURCE: *Step 4 (H4C-1E-C 6348), December 17, 1985; Area level agreement between the parties.*

7. Should lower level light/limited duty employees be paid higher level PS-5 when distributing mail or performing higher level work?

RESPONSE:

Yes.

SOURCE: *Step 4 numbered H4C-3T-C-44762, dated December 4, 1987; Step 4 numbered H1C-4K-C-26948, undated (Step 4 meeting on August 2, 1984), Employee & Labor Relations Manual, Chapter 546.142*

8. Do transitional employees (TEs) receive higher level pay?

RESPONSE:

Yes.

SOURCE: 1994-98 National Agreement Page 296 - Clark Award

HOLIDAY LEAVE/PAY

- 1. What categories of employee observe the contractually prescribed holidays for Holiday pay purposes?**

RESPONSE:

Holidays are observed by full-time and part-time regular scheduled employees who are the only ones eligible to receive holiday leave pay.

SOURCE: Article 11.1. and ELM 434.42.

- 2. What is the requirement to receive Holiday Leave Pay?**

RESPONSE:

To be eligible for Holiday Leave Pay the employee must be in a pay status the last hour of the employee's scheduled workday prior to or the first hour of the employee's scheduled workday after the holiday. (See question # 15 for PT Regular scheduled less than 5 days.)

SOURCE: Article 11.2. and ELM 434.432.

- 3. Can an employee use annual or sick leave each pay period during periods of extended absences, for those protections for which they may be eligible under Article 6 of the National Agreement and/or to be eligible for Holiday Leave Pay?**

RESPONSE:

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 do so in conjunction with leave without pay prior to exhausting his/her leave balance. It is inappropriate for employees in an extended LWOP status to manipulate the utilization of paid leave for the purpose of obtaining paid holidays. However, management should not deny paid leave requests from employees in an extended LWOP status solely because it provides an entitlement to a paid holiday. 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.

SOURCE: *Step 4 (H7C-NA-C 9), May 4, 1988, and (H7C-NA-C 83), Oct.29, 1993.*

4. Is an employee using donated leave entitled to Holiday Leave?

RESPONSE:

No. For purposes other than pay and legally required payroll deductions, employees using "donated leave" will be subject to regulations applicable to employees in LWOP status.

SOURCE: *Memorandum of Understanding, 1990-1994 National Agreement.*

5. How many hours of holiday leave pay is an eligible employee entitled to receive?

RESPONSE:

An eligible employee receives Holiday Leave Pay for the number of hours equal to the employee's regular daily working schedule, not to exceed eight hours.

SOURCE: *Article 11.3.A. and ELM 434.412.*

6. Can an employee combine annual or sick leave with Holiday Leave pay in order to receive additional compensation for the holiday?

RESPONSE:

No. Holiday Leave pay is in lieu of other paid leave to which an employee might otherwise be entitled on holiday.

SOURCE: *Article 11.3.B. and ELM 434.412.*

7. What is holiday worked pay?

RESPONSE:

Holiday worked pay is paid to eligible employees for hours worked on a recognized holiday or designated holiday, except Christmas.

SOURCE: *ELM 434.511.*

8. Who is eligible to receive holiday worked pay?

RESPONSE:

Full-time and part-time regulars. (See Article 11 Sec. 7 for PTF's on Dec. 25th.)

SOURCE: *ELM 434.52.*

9. If an employee works on a holiday, what compensation does he/she receive?

RESPONSE:

An eligible employee required to work on a holiday, other than Christmas, shall be paid the base hourly straight-time rate for each hour worked up to eight hours. This is in addition to the holiday pay the employee is entitled to receive.

SOURCE: *Article 11.4.A. and ELM 434.531.*

10. What is Christmas worked pay?

RESPONSE:

Christmas worked pay is paid to eligible employees for hours worked on Christmas day or the day designated as the employee's Christmas holiday.

SOURCE: *ELM 434.512.*

11. Are eligible employees who work any part of December 25 entitled to Christmas worked pay?

RESPONSE:

Christmas worked pay is paid only when the eligible employee is required to work their Christmas holiday, actual or designated. It is not paid for work performed on December 25, unless it is the employee's holiday.

SOURCE: *Article 11.4.B. and ELM 434.512.*

12. What compensation does an employee receive if he/she is required to work the Christmas holiday?

RESPONSE:

An eligible employee required to work on his/her Christmas holiday will be paid one and one half times the base hourly straight-time rate for each hour worked. This is in addition to the holiday pay the employee is entitled to receive.

SOURCE: *Article 11.4.B. and ELM 434.*

13. What compensation do PTF employees receive for work performed on December 25?

RESPONSE:

In addition to the employee's regular straight-time hourly rate, one-half times the employee's regular straight-time hourly rate for each hour worked up to eight hours is paid to PTFs for work performed on December 25.

SOURCE: *ELM 434.522.*

- 14. When do full-time regular employees observe their holiday, if the actual holiday falls on one of their non-scheduled days?**

RESPONSE:

When a holiday falls on an employee's non-scheduled day, the first scheduled work day preceding the holiday is designated as their holiday. An exception is if the holiday falls on Sunday and it is also the employee's non-scheduled day. In this situation Monday is designated as their holiday, unless Monday is also a non-scheduled day. Then Saturday would be the designated holiday.

SOURCE: *Article 11.5.A., ELM 434.414 and 434.415.*

- 15. If a part-time regular is normally scheduled for 5 days or more per week and the actual holiday falls on one of their non-scheduled days, when do they observe their holiday?**

RESPONSE:

If the part-time regular employees are regularly scheduled to work a minimum of five days per service week he/she observes their holiday as outlined in the response to the earlier question above. However, if they are regularly scheduled to work less than five days in a service week and the holiday falls on their non-scheduled workday, they do not observe the holiday for pay purposes.

SOURCE: *ELM 434.422.*

- 16. How are employees scheduled to work a holiday?**

RESPONSE:

Employees are scheduled to work a holiday in accordance with the pecking order in the Local Memorandum of Understanding.

SOURCE: *Article 30, Item 13 of the National Agreement.*

- 17. In offices that do not have a Local Memorandum of Understanding (LMOU) or the LMOU is silent, what is the "pecking order" of scheduling employees for holiday work?**

RESPONSE:

Unless otherwise provided by the local agreement, the following order should be used for holiday scheduling:

1. All casuals and part-time flexible employees to the extent possible, even if 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 the holiday or their designated holiday. Transitional Employees (TEs), to the extent possible, will be scheduled for work on a holiday or designated holiday after full-time volunteers are scheduled to work on their holiday or designated holiday.
3. Full-time and part-time regular volunteer employees whose scheduled non-work day falls on the holiday and possess the necessary skills, even though the payment of overtime is required, by seniority.
4. Full-time and part-time regular non-volunteer employees whose scheduled non-work day falls on the holiday and possess the necessary skills, even though the payment of overtime is required, by juniority.
5. Full-time and part-time regular employees who have not volunteered to work their holiday, by juniority.

SOURCE: *Area level agreement between the parties.*

18. When is the Holiday Scheduling pecking order utilized?

RESPONSE:

The pecking order for holiday scheduling is utilized for the actual holiday and any days observed as the designated holiday, which normally encompasses a three day period.

SOURCE: *Article 11, Section 6.B.*

19. When must the holiday schedule be posted?

RESPONSE:

The contractual requirement is for posting as of the Tuesday preceding the service week in which the holiday falls.

20. May an employee volunteer to work the holiday after the schedule posting deadline has passed? (Deadline is Tuesday of the preceding week.)

RESPONSE:

Yes, if permitted by management, he/she is entitled to holiday scheduling premium, an additional 50%.

SOURCE: *Area level agreement between the parties.*

- 21. Is management required to post a notice soliciting volunteers to work their holiday, designated holiday, or non-scheduled days for the holiday scheduling period?**

RESPONSE:

Yes, and it must be in writing. Procedures and time frames may be developed locally.

SOURCE: *Area level agreement between the parties.*

- 22. Can management assign an individual to work on a holiday or designated holiday because they perceive them to be a better worker than another employee?**

RESPONSE:

No. Management must follow the pecking order as set forth in LMOU's and the National Agreement. However, management has the authority to determine the categories of employees (i.e., FSM, SPBS, MP, Window Clerk) consistent with the work to be performed.

SOURCE: *Step 4 (NB-S 1739), July 16, 1974. Article 11, Section 6.A*

- 23. May management replace a properly scheduled full time employee who is unable to work, and not be liable for holiday scheduling premium?**

RESPONSE:

Yes. The employer may require another full-time regular employee to work such a schedule and that replacement shall only be paid in accordance with ELM 434.531 or 434.532. Selection of the replacement employee will be in accordance with the applicable pecking order.

SOURCE: *ELM 434.533 c; Step 4 (NC-C 9687), July 15, 1974.*

- 24. What is the rate of compensation for a full time employee who is called in to replace a properly scheduled PTF who fails to report on the holiday?**

RESPONSE:

In those circumstances when a full-time employee replaces a PTF on a holiday, the full-time employee would receive an additional 50% for each hour up to eight (8) hours.

SOURCE: *Step 4 NC-C-4322, dated April 14, 1972.*

- 25. Are volunteers for holiday period work considered to have volunteered for up to twelve hours on whatever day(s) they are scheduled to work, pursuant to the holiday scheduling?**

RESPONSE:

No. Employees are not considered to have volunteered for up to 12 hours of work.

SOURCE: *National Arbitration Award (H4C-NA-C 21), January 19, 1987, Arbitrator Mittenthal.*

- 26. Can light/limited duty employees be scheduled for holiday work?**

RESPONSE:

Yes. Light/limited duty employees can be scheduled for holiday work, provided the work to be performed is within his/her medical restrictions.

SOURCE: *Step 4 (H1C-4F-C 2041 & H1C-4F-C 2045). Step 4 Agreement H4C-4F-C 10235.*

- 27. Does an employee who is scheduled to work his/her holiday or designated holiday and fails to do so, receive holiday leave pay?**

RESPONSE:

An employee who is scheduled to work his/her holiday or designated holiday and fails to do so, will not receive holiday leave pay. If the absence was based on an extreme emergency and is excused by the employer, then the employee will be compensated with the holiday leave pay.

SOURCE: *Article 11.6.C.*

- 28. Does scheduling an employee for a holiday constitute a guarantee to be paid holiday work pay, if he/she is subsequently removed from the holiday schedule prior to the actual holiday or designated holiday?**

RESPONSE:

The fact of scheduling an employee to work on his/her holiday or designated holiday does not guarantee that employee holiday work pay. If, for operational reason(s), the employee, is removed from the holiday schedule prior to the actual holiday or designated holiday, he/she is not guaranteed holiday work pay. However, management is to avoid "playing it safe" by overscheduling then later releasing those employees not needed.

SOURCE: *National Arbitration (H8C-5D-C 15429), October 25, 1982, Arbitrator Gamser. National Memorandum for All Postmasters dated April 17,1974.*

29. When scheduling a full-time regular employee to work his/her holiday or designated holiday, is the employee entitled to work the hours of their normal bid assignment?

RESPONSE:

No. A full-time regular employee can be scheduled to work the hours when his/her skills will be required. Those hours do not necessarily have to coincide with the hours of duty associated with their bid assignment. However, if management works the employee outside of the holiday hours scheduled, the employee is entitled to be compensated at the rate of one and one half (1 1/2) times his/her basic hourly straight- time rate for hour(s) worked outside the posted schedule.

SOURCE: *Article 11.6.; Memorandum of Understanding, March 4, 1974.*

30. What guarantees does a full-time regular employee have if he/she does work on his/her holiday or designated holiday?

RESPONSE:

Full-time employees who work on their holiday or designated holiday are guaranteed eight hours work or pay.

SOURCE: *Memorandum of Understanding, March 4, 1974.*

31. Who is responsible for determining the appropriate staffing level to work on a given holiday?

RESPONSE:

Management.

SOURCE: *Article 11.6.A of the Collective Bargaining*

32. When scheduling for a holiday, is management required to use the ODL?

RESPONSE:

No. The ODL is not used for holiday scheduling unless locally negotiated as part of the holiday "pecking order." However, if additional employees are needed due to changed circumstances after the schedule has been posted, management may utilize the ODL.

SOURCE: *Step 4 N8-C-0191, dated January 10, 1980; national arbitration award H8C-5D-C- 14577, dated April 15, 1983, Arbitrator Richard Mittenthal.*

33. Is the Postal Service required to notify non-volunteers that they are not scheduled for the holiday or designated holiday?

RESPONSE:

No.

SOURCE: *National award by Gamser MC-C-481, dated December 22, 1979.*

34. Are full-time employees entitled to work the holiday scheduled hours as posted?

RESPONSE:

Yes.

SOURCE: *Step 4 H4C-3W-C-12206, dated April 4, 1986.*

35. What is the remedy for the full-time employee who did not work the holiday but should have?

RESPONSE:

The amount the employee would have earned had he/she worked on the day in question.

SOURCE: *Memorandum of Understanding, dated October 19, 1988.*

36. When a full-time employee is improperly assigned to work a holiday, what is the remedy for the full-time employee who did work?

RESPONSE:

An additional 50% at the straight-time rate for all hours worked.

SOURCE: *Memorandum of Understanding, dated October 19, 1988.*

37. What is the proper remedy when management fails to post the holiday schedule in a timely manner per the Collective Bargaining Agreement?

RESPONSE:

Excluding Christmas, those full-time employees whom management required to work the holiday are paid holiday scheduling premium which is equivalent to an additional 50% of the base hourly rate.

SOURCE: *National settlement dated March 4, 1974; Step 4 H8T-5E-C-7108, dated May 16, 1980; Employee & Labor Relations Manual, Section 434.533.*

38. Do PTFs receive holiday pay?

RESPONSE:

No. A part-time flexible schedule employee shall not receive holiday pay as such. The employee shall be compensated for the recognized holidays by basing the employee's regular straight-time hourly rate on the employee's annual rate divided by 2000 hours.

SOURCE: *Article 11.7 of the Collective Bargaining Agreement.*

39. Are PTFs entitled to receive paid leave on a holiday?

RESPONSE:

No.

SOURCE: *Employee & Labor Relations Manual 512.522B.*

40. May management disregard the Article 11 holiday scheduling pecking order or local memorandums to avoid the payment of penalty overtime?

RESPONSE:

No.

SOURCE: *National arbitration award H4N-NA-C-2 1 "Second Issue," dated January 19, 1987, Arbitrator Richard Mittenthal.*

41. Are Transitional Employees part of the holiday pecking order?

RESPONSE:

Transitional Employees will be scheduled for work on a holiday or designated holiday after all full-time volunteers are scheduled to work on their holiday or designated holiday. They will be scheduled, to the extent possible, prior to any full-time volunteers or non-volunteers being scheduled to work a non-scheduled day or any full-time non-volunteers being required to work their holiday or designated holiday. If the parties have locally negotiated a pecking order that would schedule full-time volunteers on a non-scheduled day, the Local Memorandum of Understanding will apply.

SOURCE: *Article 11.6.E of the Collective Bargaining Agreement.*

42. Where do the relief and pool bid clerks sign up for the holiday?

RESPONSE:

The unit in which they are domiciled, unless the Local Memo of Understanding/past practice indicates otherwise.

SOURCE: *Area level agreement between the parties.*

LAYOFFS

1. **Is maternity leave considered work for the purpose of achieving protected status pursuant to the provisions of Article 6.A.3 of the Collective Bargaining Agreement?**

RESPONSE:

No. The three (3) exceptions are found under Article 6.A.3.

1. To the extent required by law, court leave, time spent in military service covered by Chapter 43 of Title 38, or time spent on continuation of pay, leave without pay or on OWCP rolls because of compensable injury on duty.
2. Time spent on paid annual leave or sick leave, as provided for in Article 10 of the Agreement.
3. Leave without pay for performing union business as provided for in Article 24 of the Agreement.

All other unpaid leave and periods of suspension or time spent in layoff or RIF status will not be considered work. Failure to meet the twenty (20) pay period requirement in any given anniversary year means the employee must begin a new six (6) year continuous service period to achieve protected status.

SOURCE: *Step 4 numbered HIC-3A-C-33696 dated October 12, 1984;
Article 6.A.3 of the Collective Bargaining Agreement.*

LEAVE

GENERAL LEAVE QUESTIONS

1. **Can an employee use sick and/or annual leave during the probationary period?**

RESPONSE:

The employee can use accumulated sick leave. However, the employee cannot use annual leave.

SOURCE: *ELM 512.313.b.1 and Area level agreement between the parties.*

2. **Can management implement a local attendance control program?**

RESPONSE:

Yes. However, this program must be consistent with the current provisions of Chapter 510 of the ELM.

SOURCE: *Step 4 HIC-3Q-C-6785 and 7125, dated September 22, 1982.*

3. **What is the distinction between a "scheduled" and an "unscheduled" absence?**

RESPONSE:

A scheduled absence is one which is requested and approved in advance. An unscheduled absence is not requested and approved in advance.

SOURCE: *ELM 511.41 and Area level agreement between the parties.*

4. **How much in advance must a leave request be approved in order for the absence to be considered scheduled rather than unscheduled?**

RESPONSE:

Any period prior to the absence, except as otherwise specified in the LMOU.

SOURCE: *Area level agreement between the parties.*

ADMINISTRATIVE LEAVE

1. What is an "Act of God?"

RESPONSE:

Acts of God involve community disasters such as fire, flood, or storms. The disaster situation must be general rather than personal in scope and impact. It must prevent groups of employees from working or reporting to work.

SOURCE: *ELM Section 519.21.*

2. How much administrative leave does an employee receive if he/she is released from work as a result of an "Act of God?"

RESPONSE:

Full-time and part-time regular employees are credited for the hours worked, and enough administrative leave to complete the scheduled hours of duty. The total entitlement cannot exceed eight hours in any one day.

SOURCE: *ELM 519.214 a.; 519.214 b.*

3. What is a part-time flexible (PTF) employee entitled to in the form of administrative leave if he/she is released from work as a result of an "Act of God?"

RESPONSE:

PTF employees are credited for hours worked, plus enough administrative leave to complete their scheduled work hours, not to exceed a total of eight hours in a service day. If there is a question as to the scheduled work hours, they are entitled to the greater of

- The number of hours worked on the day in the previous week; or
- The number of hours scheduled to work; or
- The number of hours they are guaranteed under the terms of the National Agreement.

SOURCE: *ELM 519.214 c.*

4. How much time is permitted for donating blood?

RESPONSE:

Time reasonably necessary, including travel time and the time required to process the blood donation. This time may in no instance exceed eight *hours*.

SOURCE: *ELM 519.252 and 519.253.*

5. When would an employee be entitled to eight hours leave to donate blood?

RESPONSE:

Only in unusual circumstances, such as in rural areas where extensive travel may be involved.

SOURCE: *ELM 519.253.a.*

6. Can an employee donate blood on one day and save the leave time to take at his/her convenience?

RESPONSE:

No. Administrative leave for blood donation may be granted during a regular tour of the employee's basic workweek, but only on the date of the blood donation.

SOURCE: *ELM 519.253.b.*

7. Can an employee who works on Tour I and donates blood during Tour II take administrative leave for part of his/her tour on the day of donation?

RESPONSE:

No. This leave only covers necessary absences from regular tours of duty. It does not cover employees who participate on their own time, off duty.

SOURCE: *ELM 519.252 a.*

ANNUAL LEAVE

1. Does a full-time regular employee take precedence over a part-time employee when requesting annual leave?

RESPONSE:

Application for annual leave, consistent with the provisions of the National Agreement and Local Memorandum of Understanding, is granted based on seniority without regard to full-time or part-time status.

SOURCE: *Step 4 (H1N-2B-C 2563), September 30, 1985.*

2. Under what circumstances can management cancel previously approved annual leave?

RESPONSE:

Employees who have approved annual leave are entitled to such leave except in serious emergency situations, unless otherwise provided in the LMOU.

SOURCE: *Step 4 (H1N-SC-C 18666), September 8, 1981.*

3. Under what circumstances can an employee cancel annual leave that has already been approved?

RESPONSE:

While not contractually obligated, management should give reasonable consideration to request for annual leave cancellation, unless otherwise addressed in the Local Memorandum of Understanding.

SOURCE: *Step 4 (H8N-SC-C 18666), September 8, 1981.*

4. What happens if an employee has a request approved for choice vacation during the selection period but at the time of the vacation period there is insufficient annual leave balance to cover the entire period?

RESPONSE:

The employee may submit a request for LWOP to cover the remainder of the choice vacation period, but the granting of the LWOP is at the discretion of management, consistent with section 514.22 of the ELM.

SOURCE: *Memorandum of Understanding, 1990-1994 National Agreement, withdrawing H7C-NA-C 61; ELM 514.22; H7N3C-C 23409/23247.*

5. Can a transitional employee be granted annual leave over a career employee?

RESPONSE:

No. A career employee will be given preference over a non career employee when scheduling annual leave. However, the preference will take into consideration that scheduling is on a tour-by-tour basis and that employee's skills are a determining factor.

SOURCE: *Article 10, Section 2.B.*

6. What are the choice vacation periods in the Postal Service?

RESPONSE:

This varies by installation as the period(s) are determined by local implementation procedures.

SOURCE: *Article 10, Section 3.C.*

7. How many consecutive days of annual leave can an employee be granted during the choice vacation period(s)?

RESPONSE:

This varies based on the number of annual leave days a year the employee earns. An employee who earns 13 days can be granted up to ten days of continuous annual leave. Employees who earn 20 or 26 days can be granted 15 continuous days of annual leave. The number of days that the employee requests, in units of 5 or 10 days up to the limits above, is at the option of the employee.

SOURCE: *Article 10, Section 3. D. 1. & 2.*

8. Does an employee with an approved choice vacation or single day leave transfer such approval when they transfer to another installation, not under the jurisdiction of the former installation?

RESPONSE:

The transferring of approved scheduled leave can only be determined by evaluating local contract requirements and fact circumstances.

SOURCE: *Step 4 (HIN-3A-C 40314), dated April 30, 1985.*

9. Is an employee called to jury duty during their choice vacation period, entitled to another available period?

RESPONSE:

An employee who is called for jury duty during the employee's scheduled choice vacation period or who attends a National, State or Regional Convention (Assembly) during the choice vacation period is eligible for another available period provided this does not deprive another employee of first choice for scheduled vacation.

SOURCE: *Article 10, Section 3. F.*

10. May an employee on a 204b detail submit choice vacation requests?

RESPONSE:

Choice vacation requests submitted by an employee while they are on a 204b detail can be approved as they normally are under the National Agreement, subject to the provisions of the LMOU.

SOURCE: *Step 4 (H8N-4B-C 26763), May 14, 1981.*

11. How do part-time flexible employees earn annual leave?

RESPONSE:

Part-time flexible (PTF) employees earn annual leave based on the number of hours in a pay status. That is, PTFs with less than three years service earn one hour annual leave for each unit of 20 hours of work or paid leave to a maximum of four hours per pay period. With three to 15 years of service, he/she will receive one hour of annual leave for each unit of 13 hours of work or paid leave to a maximum of 6 hours per pay period. Over 15 years, a PTF receives one hour of annual leave for each unit of 10 hours of work or paid leave to a maximum of eight hours per pay period. Employees do not earn leave for partial hours of work in a pay period. Hours in a pay status in excess of those whole units are accumulated and carried forward as excess workhours. These excess (uncredited) workhours are added to hours in a pay status in the next period.

SOURCE: *ELM 512.312.*

12. What is the current annual leave carry over allowed?

RESPONSE:

Currently, regular work force employees can carry over 440 hours of accumulated annual leave.

SOURCE: *Memorandum of Understanding, 1994 - 1998 National Agreement.*

13. Are transitional employees entitled to payment for accumulated annual leave upon separating from the Postal Service?

RESPONSE:

Yes. A transitional employee separating will receive a lump-sum payment for earned unused annual leave. However, a transitional employee whose separation is effective before the last Friday of a pay period does not receive credit or

terminal leave payment for the leave that "...would have accrued during that pay period."

SOURCE: *Memorandum of Understanding, dated December 3, 1991, between the Postal Service and the American Postal Workers Union.*

14. May overtime desired list employees on annual leave immediately preceding or following non-scheduled days be required to work on their off days?

RESPONSE:

Normally, employees on the overtime desired list who have annual leave immediately preceding and/or following non-scheduled days will not be required to work overtime on their off days, unless otherwise provided in the LMOU.

However, if they desire, employees on the overtime desired list may advise their supervisor in writing of their availability to work a non-scheduled day that is in conjunction with approved leave.

SOURCE: *Step 4, (HIN-5H-C 18583), March 12, 1984 and (HIC-4F-C 10813), November 18, 1983.*

15. Which sign-up sheet must a VOMA use when signing for vacation?

RESPONSE:

The VOMA signs for vacation leave within the craft from which they came, with the seniority of the VOMA being listed in the appropriate place since they accrue seniority within the craft from which they came as well.

SOURCE: *Step 4 H4N-3U-C-19607, dated April 23, 1987.*

16. Can management change approved PTF annual leave to a non-scheduled day solely to make the PTF available at the straight-time rate?

RESPONSE:

No. The parties agree that if a PTF makes a valid request for annual leave for a specific day, and such leave is approved, then the leave will be recorded for that specific service day. When a PTF has been previously granted annual leave, the annual leave will not be unilaterally changed to an off day, even if overtime occurs at the end of a service week.

SOURCE: *Step 4 HIC-3Q-C-21492, dated September 16, 1983; Step 4 HIC-5K-C-24208, dated March 5, 1985 and Area level agreement between the parties.*

- 17. If a Local Memorandum either specifically or by percentage for a certain number of employees off in a choice and non-choice vacation periods, must Management grant leave when the slots are not filled?**

RESPONSE:

Yes, in accordance with the language of the local memorandum. If a local memorandum sets percentages or numbers off during the choice and non-choice vacation periods, those slots remain available up to the limitations provided throughout the year, unless a specific provision of the local memorandum places a limitation on such a selection.

In a national level case, the arbitrator ruled that local memorandum provisions are binding on the parties and allow for the above interpretation. These provisions are not in conflict or inconsistent with the national agreement.

SOURCE: *National arbitration award HIC-NA-C-59 and 61, dated January 29, 1986*

COURT LEAVE

- 1. Are employees performing court service entitled to overtime?**

RESPONSE:

Employees who are paid court leave are not entitled to overtime while on court leave or for a combination of postal work and court leave.

SOURCE: *ELM 516.45*

- 2. Is an employee entitled to court leave if called as a juror, while on extended sick leave?**

RESPONSE:

No. In order to be eligible for court leave the employee would have to have been in a work status or on annual leave. An employee on LWOP, when called for covered court service, although otherwise eligible, is not granted court leave.

SOURCE: *ELM 5 16.41*

3. What happens if an employee on annual leave is called for covered court service?

RESPONSE:

The annual leave is canceled and the employee is placed on court leave for the duration of such court service.

SOURCE: *ELM 516.42*

4. Is an employee summoned by the court to testify in his/her official capacity entitled to court leave?

RESPONSE:

No. An employee summoned to testify in his/her official capacity, is in official duty status and is entitled to his/her regular compensation.

SOURCE: *ELM 516.61.*

5. Is an employee summoned to appear on behalf of a state or municipal government, but not in his/her official capacity, entitled to court leave?

RESPONSE:

Yes. Eligible employees summoned to appear as a witness on behalf of a state or municipal government as well as the Federal government is entitled to court leave during the time he/she is absent from work.

SOURCE: *Step 4 (NW 5109), October 30, 1973.*

(See below table to determine appropriate employee status in court-related service:)

516.2 of the ELM - Absences for Court-Related Service

Court Nature of Service	Official Leave	Duty	AL or LWOP
I. Jury Service:			
(A) U.S. or D. C. court.	X	....	....
(B) State or local court	X	....	....
II. Witness Service:			

(A) On behalf of U. S. or D. C. government.	....	X	....
(B) On behalf of state or local government:			
(1) In official capacity.	....	X	....
(2) Not in official capacity	X	....	....
(C) On behalf of private party:			
(1) In official capacity.	....	X	....
(2) Not in official capacity:	X	....	....
(a) USPS a party.	X	....	....
(b) USPS not a party.	....	....	X

6. Is an employee entitled to court leave for court service in a nonofficial capacity on a non-scheduled day?

RESPONSE:

No. The employee is not entitled to court leave for court service performed in a nonofficial status on his/her non-scheduled day(s).

SOURCE: *Step 4 (NCS 6629), January 13, 1978.*

7. Are part-time flexible (PTF) employees eligible for court leave?

RESPONSE:

Yes. Part-time flexible employees who have completed their probationary period shall be eligible for court leave as defined in ELM 516.1 and 516.31. A PTF will be eligible for court leave if the employee would otherwise have been in a work status or annual leave status. Once eligibility is established, the specific amount of court leave for a PTF employee is determined on a daily basis.

SOURCE: *Memorandum of Understanding, 1990-1994 National Agreement.*

8. How much court leave is the eligible PTF entitled, if not previously scheduled?

RESPONSE:

When the PTF is not previously scheduled, he/she will be entitled to the number of hours that they worked on the same service day during the service week immediately preceding the period of court leave.

SOURCE: *Memorandum of Understanding, 1990-1994 National Agreement.*

9. What if the eligible PTF was not in a work status the service week immediately preceding the period of court leave?

RESPONSE:

If not previously scheduled and if no work was performed on the same day in the service week preceding the period of court leave, the guarantee is as provided in Article 8 of the National Agreement, provided the part-time flexible would otherwise have been requested or scheduled to work on the day for which court leave is requested.

SOURCE: *Memorandum of Understanding, 1990-1994 National Agreement.*

10. Is there a limit to the number of hours of court leave an eligible employee can receive?

RESPONSE:

Eligible employees are limited by no more than eight hours for a service day and 40 hours in a service week.

SOURCE: *Memorandum of Understanding, 1990-1994 National Agreement.*

11. Are employees entitled to make a temporary change in their weekly work schedule to conform with the hours of court service ?

RESPONSE:

Yes. The employee has the option of changing their schedule or working their Postal tour(s) of duty in addition to performing court service.

SOURCE: *Employee & Labor Relations Manual 516.44.*

LWOP

- 1. Must an employee exhaust annual leave and/or sick leave before requesting Leave Without Pay (LWOP)?**

RESPONSE:

No. However, it does not change the normal leave request and approval procedures.

SOURCE: *Memorandum of Understanding, 1990-1994 National Agreement, withdrawing H7C-NA-C 61.*

- 2. Since an employee does not have to exhaust his/her annual and/or sick leave before requesting LWOP, does that mean LWOP must be approved on demand?**

RESPONSE:

No. As stated above the Memorandum of Understanding does not change the normal leave request and approval procedures. It merely means that LWOP cannot be denied solely because sick and annual leave balances have not been exhausted.

SOURCE: *Memorandum of Understanding, 1990-1994 National Agreement, withdrawing H7C-NA-C 61.*

- 3. When, if ever, is LWOP approved on demand?**

RESPONSE:

There are only three situations in which management must approve a request for LWOP. They are:

1. A disabled veteran is entitled to LWOP, if necessary, for treatment under Executive Order 5396. The request must meet all the conditions of the order.
2. A Reservist or National Guardsman is entitled to LWOP, if necessary, to perform military training duties.
3. An employee, with proper documentation, is entitled to LWOP for necessary time under the Family and Medical Leave Act.

SOURCE: *ELM 519.252, 519.253, and 515.1*

- 4. Can an employee's use of LWOP impact their ability to earn annual leave and sick leave?**

RESPONSE:

Yes. Employees who are on LWOP for a period, or periods, totaling 80 hours (the normal number of hours worked in one pay period) during a leave year have their leave credits reduced by the amount of leave earned in one pay period. The only exception: Employees who (1) are in leave category 6, (2) are not on LWOP for the entire year, and (3) whose accumulated LWOP reaches 80 hours in the last pay period in a leave year will have their leave balance reduced by only 6 hours, even if they earn 10 hours during that pay period.

SOURCE: *ELM, Section 514.24.*

MILITARY LEAVE

1. How much military leave is granted to employees?

RESPONSE:

Full-time employees are granted up to 15 calendar days (120 hours) each fiscal year. Part-time employees earn one hour military leave for each 26 hours in pay status in the preceding fiscal year provided: Employee was in a pay status a minimum of 1,040 hours in the preceding fiscal year, and Employee's pay for military leave does not exceed 80 hours.

SOURCE: *ELM 517.51.*

2. Are employees required to provide military orders prior to leaving for military duty?

RESPONSE:

No. However, they must furnish their specific military orders upon return to duty. But as with all absences, using Form 3971 they are required to provide reasonable advance notice of absence for military duty, when possible.

SOURCE: *ELM 511.23.*

3. Since most reserve units do not issue specific military orders for unit training assemblies, what documentation must an employee present to support his/her request?

RESPONSE:

The employee requiring to use leave, that is Military, Annual, or LWOP, must provide a copy of the units training schedule of military drills and/or other recurring military duty.

SOURCE: *ELM 517.71.*

4. Is management required to allow an employee time off to serve as a member of Reserve or National Guard?

RESPONSE:

Yes. Absences for service to the National Guard and Reserves are approved for any employee who is a member of either organization. This is true whether the employee is eligible for military leave or not.

SOURCE: *ELM 517.3*

5. Can military leave be used intermittently?

RESPONSE:

Yes. It can also be used in conjunction with other types of leave.

SOURCE: *ELM 517.66 and 517.643.*

6. Are only full-time employees eligible for military leave?

RESPONSE:

No. Full-time career employees are granted up to 15 days of military leave per fiscal year and part-time employees are granted one (1) hour of military leave for each 26 hours in a pay status in the preceding fiscal year.

Part-time employees must be in a pay status for a minimum of 1040 hours in the preceding fiscal year and the employee's pay for military leave cannot exceed 80 hours.

SOURCE: *Employee & Labor Relations Manual 517.51.*

7. Can full-time employees take more than 15 days absence for military purposes within a particular fiscal year?

RESPONSE:

Yes. Employees are allowed, if they have official orders for training or responsibilities beyond the 15 days, to take annual leave or LWOP at their discretion for the amount of time necessary.

SOURCE: *Employee & Labor Relations Manual 517.63.*

SICK LEAVE

1. Are transitional employees entitled to sick leave?

RESPONSE:

No. These employees do not earn sick leave. They can use their annual leave or LWOP for periods of illness or injury.

SOURCE: *Memorandum of Understanding, dated December 3, 1991, between the Postal Service and the American Postal Workers Union.*

2. Can an employee change annual leave to sick leave if he/she becomes ill while on annual leave?

RESPONSE:

Yes. Employees have the opportunity to convert annual leave to sick leave if during the leave period the employee becomes ill or is injured.

SOURCE: *ELM 513.65.*

3. How are part-time flexible employees charged sick leave or annual leave?

RESPONSE:

Part-time flexible employees are charged sick or annual leave up to their scheduled number of hours.

SOURCE: *ELM 513.41 1 b.*

4. Can a part-time flexible employee, scheduled for less than eight hours, request eight hours of sick leave or annual leave for an absence?

RESPONSE:

Part-time flexible employees are 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, it is 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.

If a dispute arises as to the number of hours the PTF would have been scheduled to work, the schedule will be considered to have been equal to the average hours worked by other PTF employees in the same work location on the day in question.

SOURCE: *Step 4 NC-S 5591, 5/27/77 and H4C-4N-C 40944, 8/21/87.*

5. Under what circumstances may an employee be granted advance sick leave?

RESPONSE:

Advance sick leave may be granted to employees when they have exhausted their sick leave and are incapacitated due to serious illness or injury. The amount of sick leave advanced may not exceed 30 days (240 hours), at a time.

SOURCE: *ELM 513.511, 513.531.*

6. Who is authorized to approve applications for advanced sick leave?

RESPONSE:

Officials in charge of installations are authorized to approve applications for advance sick leave that are supported by medical documentation, without reference to higher authority, if there is reason to believe the employee will return to duty. Sick leave may be advanced whether or not employees have annual leave to their credit.

SOURCE: *ELM 513.512 and 513.521.*

7. Can employees with previously approved and used advanced sick leave, apply for additional advanced sick leave?

RESPONSE:

Yes. Additional sick leave may be advanced even though liquidation of a previous advance has not been completed, provided at no time the advance exceeds 30 days (240 hours).

SOURCE: *ELM 513.531.*

8. How is advanced sick leave liquidated?

RESPONSE:

Advanced sick leave may be liquidated by several means. They are:

- A. Charging the sick leave against the sick leave earned by the employee as it is earned upon return to duty.
- B. Charging the sick leave against an equivalent amount of annual leave, at the employee's request if the annual leave charge is made prior to the time such leave is forfeited because of the leave forfeiture limitation regulation.
- C. An equivalent amount of donated leave may be used to offset the negative leave balance.

SOURCE: *ELM 513.532; MOU, page 275, 1990 National Agreement.*

9. If a PTF is scheduled to work and calls in sick, may their day off be changed and no sick leave be paid?

RESPONSE:

Not automatically. If the PTF is scheduled and calls in sick, then sick leave is paid based on the number of hours the PTF would have worked. If the PTF has already been credited with 40 hours or more of paid service, then sick leave may not be granted for the rest of the service week.

SOURCE: *Employee & Labor Relations Manual 513.42 1.*

10. Can local management require an employee to make two calls for sick leave on a given day, if they call the designated employee or Supervisor?

RESPONSE:

No, provided he/she called the designated employee or supervisor and eight hours or more of sick leave was requested at the time of the call.

SOURCE: *Step 4 HIC-SB-C-31977, undated. (1985).*

11. Under what conditions may requests for advance sick leave be approved?

RESPONSE:

Advance sick leave may be granted if there is reason to believe the employee will return to duty and medical documentation accompanies the request.

SOURCE: *Employee & Labor Relations Manual 513.511*

UNION BUSINESS LEAVE

- 1. When management approves absences for national, state and regional union conventions, what type of leave is used by the employee?**

RESPONSE:

Annual leave or LWOP will be granted at the election of the employee.

SOURCE: *Article 24, Section 2.*

- 2. How is steward LWOP for union business recorded?**

RESPONSE:

When a steward uses LWOP to perform official union business, the leave is charged to LWOP-Union Officials (PSDS leave type code 28).

SOURCE: *Step 4 (H1C-3W-C 7841/7948), January 26, 1983.*

- 3. Is management required to grant LWOP for an employee to attend National, State, and Regional Union Conventions (Assemblies)?**

RESPONSE:

This is not a straight yes or no answer. Several factors are taken into account. If the employee submits his/her request to the installation head as soon as practicable and provided that approval does not seriously adversely affect the service needs of the installation, the full or part-time employee will be granted annual leave or LWOP at the election of the employee.

If the requested leave falls within the choice vacation period and it is submitted prior to the determination of the schedule, it will be granted. However, it will be considered part of the total plan for the installation, unless agreed to the contrary at the local level.

If the delegates to the convention have not been named and upon the request of the Union, the Postal Service will make provision for leave for these delegates prior to making commitments for vacations.

If the request falls within the choice vacation period and the request is submitted after the commitments for vacations have been made, the Postal Service will make every reasonable effort to grant such request, consistent with the needs of the service.

4. Must an employee requesting time off to conduct union business use his/her annual leave?

RESPONSE:

No. 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 absences, then the employee has the option of annual leave or LWOP.

SOURCE: *Step 4 (AB-NAT-34), December 20, 1973.*

LIGHT AND LIMITED DUTY

- 1. What is the difference between light and limited duty assignments?**

RESPONSE:

Light duty is for injuries or illnesses which are not job-related, light duty is covered under Article 13. Limited duty is for employees injured on-the-job; limited duty is primarily governed by ELM, Section 546.14, and it is also referenced in Article 13.

SOURCE: *Article 13 and ELM 546.*

- 2. What is the procedure for assigning a schedule when an employee requests light duty?**

RESPONSE:

First, management will attempt to find available work, within the employees medical restrictions and within the employees normal schedule.

If no such work exists, then management may go outside the normal schedule to assign available work.

SOURCE: *Article 13.*

- 3. Can a full-time employee who is temporarily disabled, bid for and be awarded a full-time position?**

RESPONSE:

Yes. An employee who is either on light or limited duty may be awarded a full-time bid assignment. If they are unable to immediately assume the duties, management may require medical certification which indicates whether or not the employee will be physically able to perform the duties of the position within the next six months.

If, after six months, the employee is still physically unable to perform the duties of the position, medical certification may also be required which indicates whether or not the employee would be physically able to do the duties of the position by the end of the next six month period.

After a year, if the employee is still physically unable to perform the duties of the position, then the bid is vacated and re-posted pursuant to the appropriate craft article and the Local Memorandum of Understanding, if applicable. The employee must be physically capable of entering the deferment period and completing it within the contractual time limits, if training is required, at the time the bid is submitted.

SOURCE: *National Memorandum of Understanding, September 1, 1987.*

4. Absent a voluntary written request, may management require an employee to work light duty?

RESPONSE:

No. If an employee is injured off the job and requests sick leave, the employee may not be required to work light duty if incapacitated for the performance of normal duties.

SOURCE: *ELM, Section 513.32, Article 13, Section 2.A.1*

5. Is a full-time employee on limited duty entitled to out-of-schedule pay if management changes their work schedule?

RESPONSE:

No. However, limited duty employees are subject to the scheduling provisions of Section 546.141 of the ELM.

SOURCE: *National arbitration award (N8-NA-0003), March 12, 1980; Step 4 (A8-W-0614), April 3, 1980.*

6. What is the procedure to schedule and work an employee on limited duty?

RESPONSE:

An employee who is partially recovered from an on-the-job injury must be returned to the work force in such a way that would minimize any disruptive impact on the employee. Limited duty employees should be assigned work using the following "pecking order:"

- a. To the extent that there is adequate work available within the work limitation tolerances; within the employee's craft,- in the work facility to which the employee is regularly assigned, and during the hours that the

employee regularly works; that work constitutes the limited duty to which the employee is assigned.

- b. If adequate duties are not available within the employee's work limitation tolerance in the craft and work facility to which the employee is regularly assigned within the employee's regular hours of duty, other work may be assigned within that facility.
- c. If adequate work is not available at the facility within the employee's regular hours of duty, work outside the employee's regular schedule may be assigned as limited duty. However, all reasonable efforts shall be made to assign the employee to limited duty within the employee's craft and to keep the hours of limited duty as close as possible to the employee's regular schedule.
- d. An employee may be assigned limited duty outside of the work facility to which the employee is normally assigned only if there is not adequate work available within the employee's work limitation tolerances at the employee's facility. In such instances, every effort will be made to assign the employee to work within the employee's craft within the employee's regular schedule and as near as possible to the regular work facility to which the employee is normally assigned.

SOURCE: *ELM. Section 546.141.*

7. Is a full-time employee on light-duty guaranteed eight (8) hours of work on each day they are scheduled?

RESPONSE:

No. Light-duty assignments may consist of eight (8) hours or less in a service day, and employees so assigned may be sent home before completing eight (8) hours due to insufficient work.

SOURCE: *Article 13.3.B, National arbitration award (HIC-4E-C 35028), June 12, 1987; Step 4 (HIC-4G-C 2040), March 3, 1982.*

8. May management reassign a full-time employee from another craft to a full-time regular limited duty position in the clerk craft if the reassignment impairs the seniority of PTFs?

RESPONSE:

No. Making full-time reassignments to partially recovered former employees is inconsistent with the conversion preference granted PTF employees under the National Agreement.

SOURCE: *National arbitration award (H0C-3N-C 418), February 7, 1994.*

- 9. If an employee accepts a limited duty assignment, whether in or out of their craft, does the employee waive the opportunity to contest the propriety of that assignment through the grievance procedure?**

RESPONSE:

No.

SOURCE: *National Memorandum of Understanding, January 29, 1993.*

- 10. Can an employee receive on the clock training while on Light Duty?**

RESPONSE:

Yes. Provided the training activities involved would not be outside of the physical limitations/restrictions of the light duty employee.

SOURCE: *Step 4 numbered H1C-3W-C-46139, dated October 29, 1986; Step*

MANAGEMENT RIGHTS

1. **Do the management rights stated in Article 3 allow management to violate the other provisions of the National Agreement?**

RESPONSE:

No. Management rights are limited by other provisions of the National Agreement and/or applicable laws.

SOURCE: *Article 3.*

2. **May management and/or the Postal Inspection Service withhold salary checks to capture a monetary demand?**

RESPONSE:

No. This is not an authorized means to capture a monetary demand. In seeking to collect a debt from a bargaining unit employee, the USPS adheres to the procedural requirements in Article 28 and issue a Letter of Demand.

SOURCE: *William J. Downes, Director, Office of Contract Administration, letter to the field, July 3, 1989.*

MEDICAL DOCUMENTATION

1. **For absences of three days or less, when should management advise the employee that documentation will be required?**

RESPONSE:

If documentation will be required for an absence of three days or less, and the employee is not on the restricted sick leave list, the employee should be advised before his/her return to duty. Preferable at the time the employee calls in.

SOURCE: ELM 513.

2. **When should a supervisor require documentation for a sick leave absence of three days or less?**

RESPONSE:

Only, when the supervisor has reason to doubt the validity of the request and believes the request for documentation protects the interests of the Postal Service. (i.e. when a sick leave call in is on a day for which annual leave has been requested and denied.)

SOURCE: ELM 513.

3. **Can employees on sick leave for extended periods be asked to provide medical documentation?**

RESPONSE:

Employees who are on sick leave for extended periods are required to submit at appropriate intervals, but not more frequently than once every 30 days, satisfactory evidence of continued incapacity for work. An exception is if a responsible supervisor has knowledge of the employee's continuing incapacity for work.

SOURCE: ELM 513.363

4. **Can management create a "blanket" medical documentation requirement for sick leave?**

RESPONSE:

No. There is no basis for an automatic requirement. See Chapter 513 of the ELM for further guidance if needed.

SOURCE: *National pre-arbitration HIC-3D-C-37622, dated June 3, 1985 and Step 4 HIC-IN-C-1301, dated April 19, 1982.*

5. From whom is the required medical documentation provided?

RESPONSE:

Such documentation must be furnished by the employee's attending physician or other attending practitioner. An attending practitioner may be a chiropractor, naturopath, or an authorized staff member.

SOURCE: *Step 4 HIN-5D-C-29943, dated June 14, 1985; Step 4 HIC-NA-C-113, dated September 6, 1984.*

6. What is deemed to be acceptable medical documentation or evidence?

RESPONSE:

The document should provide an explanation of the nature of the employee's illness or injury sufficient to indicate that the employee was or will be unable to perform their normal duties for the period of absence.

An employee returning to work after an absence of 21 days or more due to illness or serious injury, or regardless of the length of absence returning to work after an absence for communicable or contagious disease, mental and nervous condition, diabetes, cardiovascular diseases, epilepsy or following hospitalization must submit a detailed medical report. A diagnosis or prognosis is not necessary to approve the leave.

SOURCE: *Employee & Labor Relations Manual 513.36; EL-311, Section 342.*

7. If an employee has an extended absence (of 21 days or more) due to illness or injury and presents adequate medical documentation returning them to work, how much of a delay is acceptable in returning the employee to work after the submission of the documentation?

RESPONSE:

Normally the decision to return is done on the same day as receipt of the medical documentation and the employee is returned to work the next work day, provided adequate medical documentation is submitted within sufficient time for review. The reasonableness of the Service in delaying an employee's return beyond his/her next work day shall be a proper subject for the grievance procedure on a case by case basis.

SOURCE: *National pre-arbitration HIC-NA-C-65, dated February 24, 1984;
Article 19 of the Collective Bargaining Agreement.*

8. Is it required that the signature of the doctor or attending practitioner appear on the medical certificate?

RESPONSE:

No. It is agreed at the national level, that rubber stamped and/or facsimile signatures are acceptable, subject to verification by the Postal Service on a case-by-case basis.

SOURCE: *Pre-arbitration settlement HIC-3T-C-40742, dated May 2, 1985.*

NON-BARGAINING UNIT DETAILS

- 1. May a 204b serve as the management representative in Step 1 grievances?**

RESPONSE:

Yes. The parties agree that the term "immediate supervisor" as written in Article 15, Section 2, Step 1.A of the National Agreement, may be an acting supervisor.

SOURCE: *Step 4 (H4N-5E-C 36561), February 26, 1988.*

- 2. Can the detail of an employee to a non-bargaining unit position be canceled before the end of the assigned tour?**

RESPONSE:

Yes. However, an amended Form 1723 must be completed and a copy provided to the union.

SOURCE: *National Pre-Arbitration settlement (H1C-5G-C 5929), March 4, 1983; Step 4 (H1C-3U-C 34332), November 13, 1987.*

- 3. If an employee will be detailed to a non-bargaining unit position on and off during the pay period, can the union be provided with a Form 1723 showing the beginning as the first day of the pay period and the end as the last day of the pay period?**

RESPONSE:

No. Form 1723s should indicate the beginning and ending of each detail. If an employee is detailed two (2) hours a day in the middle of the employee's tour, a Form 1723 should be completed daily.

SOURCE: *Step 4 (H4C-4A-C 23528) August 26, 1987; Step 4 (H4C-4U-C 34244), November 22, 1989.*

4. **Does a 204b's duty assignment become declared vacant and then posted for bid if the 204b acts in that capacity continuously in excess of four (4) months?**

RESPONSE:

Yes.

SOURCE: *Article 37.3.A.8.*

OVERTIME & HOURS OF WORK

- 1. What is the work week for a full-time regular in an office with 100 or less full-time employees in the bargaining unit?**

RESPONSE:

Forty (40) hours per week, Eight (8) hours per day within ten (10) consecutive hours.

SOURCE: *Article 8, Section 1*

- 2. What is the work week for a full-time employee in an office with more than 100 full-time employees in the bargaining unit?**

RESPONSE:

Forty (40) hours per week, eight (8) hours per day within nine (9) consecutive hours.

SOURCE: *Article 8, Section 1*

- 3. What is an employee's service week?**

RESPONSE:

The calendar week beginning at 12:01 a.m. Saturday and ending at 12:00 midnight the following Friday.

SOURCE: *Article 8, Section 2A.*

- 4. What is an employee's service day?**

RESPONSE:

The calendar day on which the majority of work is scheduled.

SOURCE: *Article 8, Section 2B.*

- 5. Can part-time regular employees be assigned a regular schedule consisting of 8 hours in a day and 40 hours in a week?**

RESPONSE:

No. Part-time regulars are assigned a regular schedule consisting of less than 8 hours in a day and less than forty (40) hours a week.

SOURCE: *Article 8, Section 1., and Wm. Downes Memo dated 3/31/93.*

- 6. Does the reference to scheduling "part-time" employees in Section 3, paragraph 2 apply to both part-time regulars and part-time flexible employees?**

RESPONSE:

No. The reference to scheduling "part-time" employees "in accordance with the above rules" applies only to part-time regular employees.

SOURCE: *"Memo of Interpretation" signed by the APWU, NALC and Mail Handlers dated November 4, 1971.*

- 7. Can the hours, off days and duties of a part-time regular duty assignment be permanently changed?**

RESPONSE:

Yes. Changes can be made in accordance with operational needs, but such changes can not be made on a day-to-day or week-to-week basis. Changes to work hours are only accomplished through entry on their Form 50.

SOURCE: *National Arbitration Award dated July 9, 1982 by Arbitrator Mittenthal. (case H8T-2F-C 6605)*

- 8. Are part-time regular employees entitled to out-of-schedule overtime for work performed outside their established schedule?**

RESPONSE:

No.

SOURCE: *ELM 434.6 and Step 4 agreement H4C-3U-C3053, dated 11/7/85.*

- 9. When does the overtime rate of pay become applicable for regular workforce employees?**

RESPONSE:

For work performed beyond eight (8) paid hours in any one service day (postal overtime). For work performed beyond forty (40) paid hours in any one service week (postal overtime).

SOURCE: *Article 8, Section 4B and ELM 434.131*

- 10. When does the overtime rate of pay become applicable for casual and APWU transitional employees?**

RESPONSE:

For work performed beyond forty (40) hours In any one service week (F.L.S.A. overtime).

SOURCE: *MOU APWU Transitional Employees-12/3/91, and ELM 434.132 and ELM 440*

11. What is included in "paid hours" when calculating postal overtime eligibility?

RESPONSE:

Paid work hours and paid leave hours.

SOURCE: *ELM 434.123.*

12. Is "out-of-schedule premium" considered "overtime"?

RESPONSE:

No. It is a premium paid to eligible full-time regular employees, at 50% of the employee's base hourly rate, for time worked outside of, and instead of, their regular schedule, when working on a temporary schedule at the request of management.

SOURCE: *ELM 434.6 and Mittenenthal, HIT-4K-C 2121, 11/12/82.*

13. Is management required to give the employee advance notice of the temporary schedule change?

RESPONSE:

Yes. Notice must be given to full-time employees by Wednesday of the preceding service week. If such notice is not given, the full-time employees are entitled to work their regular schedule. Any hours worked outside this schedule would be "in addition to" rather than "instead of," and are paid as overtime hours worked. An exception is Pool and Relief Employees whose schedule is governed by the memorandum dated March 3, 1975.

SOURCE: *ELM 434.6*

14. Do "unencumbered" clerical employees have a regular schedule?

RESPONSE:

Yes. An employee who becomes an unassigned regular will continue to work the same hours and scheduled days the employee worked immediately prior to becoming unassigned unless notified of a change in work schedule before expiration of the first 28 days after the date on which the employee became unassigned. Additional work schedule changes may be made, provided that such change cannot be made effective until 180 days after the effective date of any previous change.

SOURCE: *1994-1998 National Agreement; Article 37.4.B.*

- 15. What occurs when an unencumbered full-time regular clerk is not notified of a permanent change in schedule within the first 28 days of becoming unencumbered:**

RESPONSE:

If the 28 day requirement for notification is not met, any schedule change would therefore be temporary and the employee would be paid out of schedule premium pay until such time as the employee is placed back in the original schedule or notification is made pursuant to Article 37.4.B.

SOURCE: *1994-1998 National Agreement; Article 37.4.B.*

- 16. Can management temporarily change the hours of an unassigned (unencumbered) regular?**

RESPONSE:

Yes. However, the employee would receive out of schedule pay.

SOURCE: *National award by Gamser H1C-5F-C-1004 and H1C-SF-C- 1007, dated September 10, 1982; Step 4 H1C-2B-C-2724, dated January 19, 1983. Also see ELM 434.6 and EL-401.*

- 17. Do the "out-of-schedule" premium provisions apply to all full-time bargaining unit employees?**

RESPONSE:

Yes, except when the work schedule of a "full-time flexible" employee is changed by Wednesday of the preceding week and/or the Relief and Pool Memorandum of March 3, 1975.

SOURCE: *MOU-Maximization of Full-time Flexible-APWU & NALC.*

- 18. When does the penalty rate of pay become applicable?**

RESPONSE:

1. If a FT employee is required to work overtime on more than (4) four of the employee's (5) scheduled work days in a service week (e.g., if employee was required to work overtime on his 5th day of work after working overtime on each of the preceding scheduled work days, he/she would be entitled to penalty overtime pay for the overtime hours worked on the 5th day).
2. If an employee works over 10 hours on a regularly scheduled day (e.g., if employee worked 11 hours, said employee would be entitled to (2) two hours at the time and one-half rate and 1 hour overtime at the penalty rate).
3. If a FT employee works over 8 hours on his/her non-scheduled day (e.g., employee works 10 hours on his/her non-scheduled day, the employee is entitled to 8 hours at time and one-half and 2 hours at the penalty rate).
4. If a FT employee works over 6 days in a service week (e.g., employee works the 2nd non-scheduled day of service week. Employee is entitled to be compensated at the penalty rate for all hours worked on the 2nd non-scheduled day).
5. If a part-time flexible or part-time regular works over 10 hours in a service day or over 56 hours in a service week. (NOTE: It should be only in emergency situations that a PT Regular works overtime.)

SOURCE: *Article 8 Section 5F.*

19. Are employees entitled to penalty pay for overtime hours worked during the month of December?

RESPONSE:

Yes, except for the twenty eight (28) day period during the Christmas holiday season which is identified each year in the Postal Bulletins.

SOURCE: *Article 8 Section 4C.*

20. If two or more rates (overtime or premium) appear applicable to the same hours worked, how is the employee compensated?

RESPONSE:

The employee is compensated at the higher applicable rate. There is no pyramiding of the rates.

SOURCE: *Article 8 Section 4F.*

21. Does the overtime desired list apply to part-time regular or part-time flexible employees?

RESPONSE:

No, the overtime desired list applies only to full-time employees. Only in emergency should the part-time regular's work hours be expanded beyond their fixed schedule.

SOURCE: *Article 8 Section 5A.*

22. How is the overtime desired list established?

RESPONSE:

By each craft, section, and/or tour in accordance with Article 30, Local Implementation, except in the Maintenance and Motor Vehicle Service Crafts it is also by Occupational Group and level.

SOURCE: *Article 8 Section 5B and Article 30, Item 14*

23. When may an employee sign up on the overtime desired list?

RESPONSE:

Only during the two (2) week period prior to the start of each calendar quarter, except for the exceptions, hereunder.

SOURCE: *Article 8 Section 5 A. and Joint Statement on overtime between USPS and NALC, June 8, 1988.*

24. If a PTF becomes a regular in the middle of a quarter as defined in Article 8, Section 5A, may he/she sign the Overtime Desired List?

RESPONSE:

No. Unless otherwise provided for in the Local Memorandum of Understanding.

SOURCE: *Article 8, Section 5.*

25. Under what conditions may an employee place their name on the overtime desired list when they are successful in bidding on a different tour or section?

RESPONSE:

Unless otherwise addressed in the 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 the successful bidder on a different tour. If the employee was not on an overtime desired list at the beginning of a quarter he/she 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.

SOURCE: *Pre-arbitration agreement, H1C-IE-C 41245, 42949.*

26. Should an employee who signs the OTDL indicate a preference for the amount overtime desired (10 or 12 hours)?

RESPONSE:

Yes, employees who prefer to work in excess of 10 hours up to a maximum of 12 hours should indicate said preference on the OTDL.

SOURCE: *MOU-Article 8.*

27. If an employee signs up on the OTDL is he/she required to work overtime?

RESPONSE:

Yes, however, Article 8 Section 5.E and good judgment provides for some exceptions based upon equity.

SOURCE: *Area level agreement of the parties.*

28. Is the overtime desired list used for holiday scheduling?

RESPONSE:

The OTDL is not used when preparing the prescribed holiday schedule posting for holiday coverage, unless such is negotiated into the pecking order of the Local Memorandum of Understanding.

SOURCE: *Arbitrator Mittenthal 4/15/83 - H8C-SD-C 14577.*

29. How is overtime distributed to employees on the OTDL?

RESPONSE:

Employees are selected to work overtime from the appropriate OTDL, by seniority, on a rotating basis.

SOURCE: *Article 8 Section 5.C.1.a.*

30. Is there a requirement to equalize or equitably distribute overtime in the crafts covered by the APWU.

RESPONSE:

No. Opportunities are strictly rotated in accordance with Article 8.

SOURCE: *Article 8, Section 5.C.1.*

31. What is the proper remedy when an APWU-represented employee who is on the OTDL is improperly passed over in the selection for overtime work assignments?

RESPONSE:

1. When, for any reason, an employee on the OTDL, who has the necessary skills, is available, is improperly passed over and another employee on the list is selected for overtime work out of rotation, the bypassed employee shall, within 90 days of the date the error was discovered, be given a similar make-up overtime opportunity. Should no similar make-up overtime opportunity present itself within 90 days, the employee who was passed over shall be compensated at the overtime rate for the missed overtime period.

2. When, for any reason, an employee on the OTDL, who has the necessary skills, is available, and is improperly passed over and another employee not on the list is selected for overtime work, the employee who was passed over shall be paid for an equal number of hours at the overtime rate for the opportunity missed.

SOURCE: *APWU-OTDL Settlement Agreement, January 13, 1975.*

32. What is a make-up overtime opportunity?

RESPONSE:

An opportunity for the equivalent amount of overtime missed outside the normal rotation of employees on the OTDL. The employee must be notified in advance that the opportunity is a make-up opportunity.

SOURCE: *Filbey/Gildea.*

33. Does an employee on one ODL have a contractual right to overtime in another section/tour?

RESPONSE:

No, unless negotiated locally.

SOURCE: *Article 8.5.*

34. Do non-ODL employees have a contractual right to overtime?

RESPONSE:

No.

SOURCE: *Article 8.5.*

35. How are full-time regular employees not on the overtime desired list scheduled to work overtime when the OTDL does not provide sufficient people?

RESPONSE:

The employees not on the OTDL are rotated by juniority.

SOURCE: *Article 8.5.D.*

36. If management violates the 12 hour or 60 hour restriction, what is the remedy for said violation?

RESPONSE:

In instances where this provision is or has been violated and a timely grievance is filed, the full-time employee(s) will be compensated at an additional premium of 50 percent of the base hourly straight-time rate for those hours worked beyond the 12 or 60 hour limitation.

SOURCE: *MOU between USPS, NALC and APWU, Oct.19, 1988. National Arbitration Award, H4N-NA-C 21 and H4C-NA-C 27, Mittenthal, (fourth issue).*

37. After a full-time employee reaches 20 hours of overtime within a service week is he/she still available for overtime?

RESPONSE:

No. Once the employee reaches 20 hours of overtime within a service week, the employee is no longer available for any additional overtime work.

SOURCE: *MOU between USPS, NALC, and APWU, Oct. 19, 1988.*

38. What is management's obligation when an employee reaches the 60th hour of work?

RESPONSE:

The employee's tour of duty shall be terminated once he/she reaches the 60th hour of work and the remainder of the eight (8) hour guarantee will be compensated at the appropriate rate.

SOURCE: *MOU between USPS, NALC, and APWU, October 19, 1988; National Arbitration Award, May 12, 1986, Arbitrator Mittenthal, H4N-NA-C 21 (third issue) and H4C-NA-C 27.*

39. Does paid leave count toward the 12 and 60 work limits?

RESPONSE:

Yes.

SOURCE: *ELM 434.123*

40. Is an employee who is sent home in the middle of the tour on a regularly scheduled day, because of the bar against employees working more than 60 hours in a service week, entitled to be paid for the remainder of his scheduled day?

RESPONSE:

Yes, an employee having been sent home on his regularly scheduled day before the end of his tour due to the 60 hour ceiling and having experienced no temporary change of schedule, must be compensated for the hours he lost that day.

SOURCE: *National Arbitration Award, September 11, 1987, Arbitrator Mittenthal, H4N-NA-C 21 (third issue) and H4C-NA-C 27.*

41. Can PTF employees be scheduled or worked for more than 12 hours in a service day?

RESPONSE:

No. Except in an emergency situation as determined by the PMG or designee, PTFs 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 of longer than 12 consecutive hours.

SOURCE: *Step 4 settlement in case H4C-2U-C 807/1396 dated April 17, 1986.*

42. Does "Holiday Worked Pay" count towards the 56 and 60 hour work limits?

RESPONSE:

No. "Holiday Worked Pay" is a premium paid to eligible employees for hours worked on a holiday. However, since employees are given credit for paid leave on a holiday, the "Holiday Leave" time would count toward the 56 and 60 hour limits.

SOURCE: *ELM 434.123*

43. What is the minimum number of hours a part-time flexible employee can be scheduled or requested to work in a service day?

RESPONSE:

In facilities with 200 or more man years of employment, the guarantee is 4 hours. Employees in facilities of less than 200 man years are guaranteed 2 hours.

SOURCE: *Article 8, Section 8.C.*

44. When an employee is called in to work overtime on their non-scheduled day, are they contractually guaranteed to work their bid position?

RESPONSE:

No. Employees called to work on a non-scheduled day, only have a work hour guarantee, unless addressed in the LMOU.

SOURCE: *Step 4 Agreement, H1C-4H-C 37976, dated 8/15/85.*

45. When does a part-time flexible's guarantees take effect?

RESPONSE:

When the employee reports to work as scheduled. No guarantees apply when the PTF is notified prior to reporting to work that the previously scheduled work day is canceled.

SOURCE: *National Arbitration Award, H1N-3U-C 28621, Arbitrator Britton, December 13, 1988.*

46. Can a part-time flexible employee be returned to work on the same day without incurring another guarantee period?

RESPONSE:

Yes. When a PTF employee is notified prior to clocking out that he/she should return within two hours, this will be considered a split shift and no new guarantee applies. When a part-time flexible employee, prior to clocking out, is told to return after two hours, that employee must be given another minimum guarantee of two hours work or pay. All part-time flexible employees who complete their assignment, clock out and leave the premises regardless of interval between shifts, are guaranteed four hours of work or pay if called back to work. This guarantee is applicable to any size office.

SOURCE: *Step 4 agreements H4N-2F-C 3892 dated 2/10/86 and H4C-1J-C 11264 dated 4/29/86.*

47. Are PTR or PTF employees covered by the 8 within 9 or 10 provisions of Article 8.1 and 2?

RESPONSE:

No.

SOURCE: *Step 4 H4T-3U-C-43451, dated December 6, 1988; H4C-1J-C-17391, dated March 11, 1987.*

48. Is an employee entitled to out of schedule pay for a change of schedule at the Employer's request?

RESPONSE:

It depends. If not included in one of the listed exceptions found in Part 434 of the ELM, the answer is yes. These exceptions are:

1. When detailed to a postmaster position as officer in charge.
2. When detailed to a rural carrier position.
3. When detailed to an ad hoc position, for which the employee applied and was selected, when the core responsibilities of the position require work on an irregular schedule.
4. When detailed to either a bargaining unit or non-bargaining position in grade 19 and above.
5. When attending a recognized training session which is a planned, prepared, and coordinated program or course.
6. When assigned to light or limited duty according to the provisions of the collective bargaining agreement or as required by the Federal Employee Compensation Act, as amended.
7. When allowed to make up time missed due to tardiness in reporting for duty.
8. When in accord with and permitted by the terms of a bid.

9. When a request for a schedule change is made by the employee for personal reasons and is agreed to by the employee's supervisor and shop steward or other collective bargaining representative.
10. Employees in the clerk, maintenance and motor vehicle crafts who are detailed to non-bargaining positions.
11. When the assignment is made to accommodate a request for intermittent leave or a reduced work schedule for family care or serious health problem of the employee (see 515.6).

SOURCE: *Step 4 HOC-4L-C-11659, dated July 9, 1993; ELM 434.622.*

49. Excluding December, is the untimely placement of a clerk craft employee into a bid duty assignment subject to out of schedule pay?

RESPONSE:

Yes, in accordance with Article 8.4.B and Article 37.3.F(2) of the Collective Bargaining Agreement.

SOURCE: *Step 4 H1C-3W-C-36184, dated February 19, 1986.*

50. May management remove an employee's name from the ODL?

RESPONSE:

No.

SOURCE: *Pre-arbitration settlement H4N-5K-C-4489, dated September 13, 1988.*

51. May an employee remove their name from the ODL during the quarter?

RESPONSE:

Yes, but it must be in writing. Management does not have to immediately honor the request if the employee is needed for overtime on the day the request is made or is scheduled for overtime in the immediate future.

SOURCE: *Step 4 H1N-2D-C-5524, dated June 7, 1983.*

52. Can Pool and Relief Clerks sign ODLs?

RESPONSE:

Yes, but only at the pay location where domiciled, unless otherwise negotiated locally.

SOURCE: *National pre-arbitration H8C-3W-C-22961, dated January 13, 1982.*

53. Can Pool and Relief Clerks on an overtime desired list be offered overtime in assigned units where not domiciled?

RESPONSE:

Yes, if available, after the overtime desired list is exhausted in that unit. They may not place their name on that overtime desired list.

SOURCE: *National pre-arbitration H8C-3W-C-22961, dated January 13, 1982.*

54. Do scheme study hours used pursuant to a voluntary bid count toward daily and weekly work hour limitations and compensation?

RESPONSE:

Yes. However, the language of a pre-arbitration agreement has exclusions which should be included: for the purpose of the application of the overtime provisions, scheme study hours used by an employee pursuant to a voluntary bid are to be counted towards the daily and weekly work hour limitations. For example, if an overtime desired list employee who would otherwise be available for twelve (12) hours work on a particular day is brought in for one (1) hour scheme study before tour, that employee would be considered to be available for eleven (11) additional work hours that particular day. If the employee ultimately qualifies and is placed in the assignment, compensation for that hour would be as if the employee had worked that hour. This "work hour" is in excess of the restrictions in Article 8, Section 5.F, the compensation is at the penalty rate. If the employee fails to qualify, he or she is not entitled to any additional compensation or overtime opportunity for any overtime missed due to the employee being engaged in scheme study.

SOURCE: *National settlement dated April 16, 1985.*

55. If a non-ODL is mandated to work overtime, do the ODL employees have to work twelve (12) hours ?

RESPONSE:

Yes. However there may be exceptions/occasions when based upon legitimate and valid operational windows there is a need for simultaneous scheduling.

SOURCE: *National award H4C-NA-C-30, dated January 29, 1990, Arbitrator Richard Mittenthal; Memo of Understanding, dated October 19, 1988.*

- 56. Excluding December may the Postal Service work full-time employees more than twelve (12) hours a day and/or sixty (60) hours in a service week?**

RESPONSE:

No. Arbitrator Mittenthal found that the twelve (12) and sixty (60) hour limits are absolutes.

SOURCE: *National Arbitration award H4N-NA-C-21 ("third issue"), dated September 11, 1987, Arbitrator Richard Mittenthal; Memorandum of Understanding, dated October 19, 1988.*

- 57. May employees on the ten (10) hour overtime desired list (ODL) be required to work up to twelve (12) hours?**

RESPONSE:

Yes.

SOURCE: *Memorandum of Understanding Re: Article 8 found in 1990-94 Collective Bargaining Agreement.*

- 58. May management require casuals and PTFs to work overtime prior to using ODL and/or non-ODL full-time regulars?**

RESPONSE:

Yes.

SOURCE: *National arbitration award M8-W-0027/M8-0032, dated November 26, 1980, Arbitrator Richard Mittenthal.*

- 59. Can a Transitional Employee be worked overtime prior to the ODL?**

RESPONSE:

No, subject to the provisions of 8.4.G.

SOURCE: *Article 8.4.G of the Collective Bargaining Agreement.*

- 60. Can a Transitional Employee be worked more than eight (8) hours in a service day prior to utilizing the ODL?**

RESPONSE:

No.

SOURCE: *Article 8.4.G of the Collective Bargaining Agreement.*

- 61. May an acting supervisor (204b) be utilized in lieu of a bargaining unit employee for the purpose of bargaining unit overtime?**

RESPONSE:

The parties have agreed that 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 a detail, unless all available bargaining unit employees are utilized.

SOURCE: *Pre-arbitration settlement H1C-5G-C-59291, dated March 2, 1983; Step 4 H4N-4U-C-26041, dated May 22, 1987.*

- 62. What determines the beginning and ending time of a 204b assignment for the purposes of Article 8?**

RESPONSE:

The information on the PS Form 1723 controls rather than time records. It is also understood copies of Form 1723 should be provided to the Union in advance of the detail or modification thereto.

SOURCE: *Area level agreement of the parties.*

- 63. May individuals on light or limited duty sign the ODL?**

RESPONSE:

An individual on light or limited duty may sign the ODL, but whether or not the individual actually works overtime will be based upon their medical limitations.

SOURCE: *Step 4 H4N-5B-C.9731, dated July 11, 1986.*

- 64. Are employees guaranteed the amount of overtime that is called or can management release the employee early if the work should run out?**

RESPONSE:

No. Overtime is not guaranteed except as referenced in Article 8, Section 8. Management should however, attempt to make an informed judgment when determining the amount of overtime needed.

SOURCE: *Step 4 H1C-1M-C-19925, dated November 3, 1983.*

65. May an employee on the ODL have the option of accepting or declining overtime on any day?

RESPONSE:

No.

SOURCE: *Article 8 of the Collective Bargaining Agreement; National arbitration award H4N-NA-C-21 ("First Issue"), dated April 11, 1986, Arbitrator Richard Mittenthal.*

66. Can employees be excused from an overtime assignment?

RESPONSE:

Article 8, Section 5.E allows for some discretionary exceptions where local management may allow an individual to be relieved of that responsibility due to situations such as anniversaries, birthdays, illness and deaths, etc.

SOURCE: *Article 8.5.E of National Agreement.*

67. When an employee is called in on a non-scheduled day, can the Article 8 guarantees be negated?

RESPONSE:

An employee may waive the guarantee only in cases of illness or personal emergency. However, it should be noted that 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 period.

SOURCE: *Step 4 H4N-2D-C 40885 / 33087, dated November 14, 1988.*

68. Is it a requirement that PTF employees remain by their telephone and available to receive a call from the post office on a daily basis to see whether their services are needed?

RESPONSE:

No. There is no contractual provision to require PTFs to remain at home to receive a phone call on a daily basis.

SOURCE: *Step 4 NC-W-9013, dated November 8, 1977.*

- 69. Can a part-time flexible be scheduled for more than a thirty (30) minute lunch?**

RESPONSE:

Yes.

SOURCE: *ELM 432.32*

- 70. Can a full-time regular have his/her lunch extended beyond thirty (30) minutes?**

RESPONSE:

As it relates to a lunch break, the tour of a full-time regular is established and cannot be changed without a request for change of schedule (PS Form 3189) and/or the payment of out-of-schedule pay. However, positions may be established or permanently changed to have a lunch period longer than thirty (30) minutes provided there is no conflict with the provisions of Article 8.1., i.e.; eight (8) hours within nine (9) or eight (8) hours within ten (10), as appropriate.

SOURCE: *Article 8.1; Article 8.2.C; Article 37.3.A.*

- 71. Are clerks entitled to another break if either one (1) or two (2) hours of overtime is called?**

RESPONSE:

Generally, there are no regulations regarding specific breaks except those regarding MPLSM clerks. Local Agreements and/or past practice should control in other situations.

SOURCE: *Area level agreement of the parties.*

- 72. Can part-time regulars be required to work overtime?**

RESPONSE:

Yes. However, it is not management's intent to work PTRs beyond their scheduled hours on an ongoing basis. PTRs are eligible for postal overtime for hours worked over eight (8) in a day and over forty (40) in a week.

SOURCE: *Step 4 numbered H4C-2W-C-11229, dated March 11, 1987;
Downes letters to Burrus, dated March 16/17, 1994*

PAST PRACTICE

1. What is "past practice"?

RESPONSE:

The most clear definition of past practice was stated by Arbitrator Clair V. Duff in this way:

"Past practice may be described as a pattern of conduct which has existed over an extended period of time and which has been known to the parties and has not been objected to." [(American St. Govain Corp., 46 LA 920, 921).]

SOURCE: *Area Level Agreement; Mittenthal article, dated 1961.*

2. When does a past practice become binding on the parties?

Arbitrator Richard Mittenthal concluded that in order for a past practice to rise to the level of a binding past practice, one ordinarily would expect it to be clear, consistently followed, followed over a long period of time and to have been mutually accepted by the parties.

SOURCE: *Area Level Agreement; Mittenthal article, dated 1961.*

3. What do we mean by a "clear" past practice?

RESPONSE:

With respect to clarity, arbitrators have found that the party claiming the past practice should show that, given a set of similar circumstances, the past practice was followed in nearly every situation where there were not extenuating circumstances. That is, where the circumstances did not change, the practice was followed on a consistent basis.

SOURCE: *Area Level Agreement*

4. What do we mean by "consistently followed"?

RESPONSE:

To determine if a past practice has been consistently followed, it is not required that in every case the results be the same. The criteria required, given the same set of circumstances, is that the parties could reasonably expect a similar outcome.

SOURCE: *Area Level Agreement*

5. What length of time establishes a past practice as a binding one?

RESPONSE:

Some arbitrators have found that one week is sufficient to establish a past practice and some have required a period of years.

If a certain practice occurs every hour for a period of one week, some arbitrators have found that a past practice would be binding, while a practice which occurs once a year would require a period of years to find that a past practice was established.

The key element arising out of these arbitration decisions is how many times a certain incident has occurred when the underlying circumstances were the same or similar.

SOURCE: *Area Level Agreement*

6. How do we determine if a past practice has been "mutually accepted by the parties"?

RESPONSE:

This particular criteria is the most difficult to determine. It is clear that to prove that a practice was mutually accepted a showing must be made that both parties were cognizant of the practice and accepted it.

As Arbitrator Harry Shulman said:

"The union's witnesses remember only the occasion on which the work was done in a manner they urge. Supervision remembers the occasions on which the work was done otherwise. Each remembers details the other does not; each is surprised at the other's perversity; and both forget or omit important circumstances. Rarely is alleged past practice clear, detailed and undisputed; commonly, inquiry into past practice of the type that is not the result of joint determination of agreement produced immersion in a bog of contradictions, fragments, doubts, and one-sided views." (Ford Motor Company 19 LA 237, 242.)

The determination of whether parties had knowledge of the practice lies with the arbitrator. It should be noted, however, that in many cases arbitrators have upheld the validity of past practice, finding that mutuality was determined implicitly by the action or inaction of either party. That is, where it can be shown that a particular practice was widespread, clearly utilized and done over a reasonable length of time, an arbitrator will hold both parties to such a practice, even if they claim at the arbitration hearing they had no knowledge that such a practice was

occurring. In those cases, mutuality is implied by the meeting of the other criteria of past practice.

SOURCE: *Area Level Agreement*

7. When have arbitrators used past practice to resolve a dispute?

RESPONSE:

Past practice has been used to resolve disputes involving ambiguous language; to implement general contract language; to amend and clarify clear contract language; and to implement enforceable conditions of employment.

SOURCE: *Area Level Agreement*

8. How is past practice used to clarify ambiguous language?

RESPONSE:

In those cases where arbitrators are called upon to interpret provisions of contracts, the first step that an arbitrator must take is to determine whether or not there is ambiguity within the language to be interpreted.

If the arbitrator finds that such language is unambiguous and clear, then the arbitrator will go no further and will apply that language as written by the parties.

It is noted that a minority of arbitrators will sometimes allow past practices to even supplant the clear and unambiguous contract language.

A commonly held definition of ambiguity was used by Arbitrator Thomas Levak in Rogue Valley Memorial Hospital, Inc., 77 LA 1220, 1223, when he said:

"The arbitrator follows the principle that a provision of an agreement is unclear and ambiguous where plausible contentions may be made by both parties for varying interpretations. Of course, the fact that contentions are made is not enough; the contentions must be truly logical and plausible."

In those circumstances where the arbitrator finds that ambiguity exists within the collective bargaining agreement language, then the arbitrator may apply the past practice to define the mutual intent of the parties.

Additionally, once an arbitrator finds that the past practice has defined the mutual intent of the parties relative to ambiguous language, such a past practice may not be changed unilaterally without collective bargaining with the affected party.

SOURCE: *Area Level Agreement*

9. How is past practice used to implement general contract language:

RESPONSE:

Certain terms of a contract may be intentionally left nonspecific in the hope of being able to encompass all conditions that will arise. This is seen most clearly in contractual provisions which allow the employer the right to discipline an employee for just cause. It would be impossible for the parties to sit down and determine all possible reasons or causes for discipline in a contract. Through the use of general language, they form the method for handling any situation that may arise.

SOURCE: *Area Level Agreement*

PROMOTIONS

- 1. What is the determining factor among the best of qualified applicants for promotion to craft positions if there is no appreciable difference in qualification.**

RESPONSE:

Seniority.

SOURCE: Article 33, Section 2 of the Collective Bargaining Agreement;
Area Level Agreement

- 2. Shall written examinations be controlling in determining qualifications?**

RESPONSE:

No.

SOURCE: Article 33, Section 2 of the Collective Bargaining Agreement;
Area Level Agreement

PTF CONVERSIONS

1. **Does leave count toward conversion under the provisions of Article 7, Memo of Understanding?**

RESPONSE:

Yes, provided it was not taken solely to achieve full-time status. This would not include LWOP.

SOURCE: *Step 4 numbered H4C-4K-C-16421, dated August 29, 1988.*

2. **In offices with less than 125 employees, is management obligated to maximize full-time employees?**

RESPONSE:

Yes. Management is required to maximize full-time employment in all offices. This section does not differentiate between the size of offices.

SOURCE: *Article 7.3.B of the Collective Bargaining Agreement.*

3. **May management unilaterally establish a full-time flexible position in offices with less than 125 man years of employment?**

RESPONSE:

No.

SOURCE: *Collective Bargaining Agreement Article 7; Memorandum of Understanding, July 21, 1987*

4. **How are full-time flexible assignments that are created under the maximization memorandum filled?**

RESPONSE:

Normally, the senior part-time flexible is converted to full-time status. However, in the clerk craft, conversions are effected in accordance with the part-time flexible preference process under Article 37.5.

SOURCE: *Maximization memorandum and Article 37.5.*

5. What is the Postal Service obligation to convert, and is there a penalty?

RESPONSE:

The Postal Service is contractually obligated to convert to the ratios as negotiated by the parties in Article 7, Section 3.A.1. Part-time employees who have been injured by such violations are entitled to conversion to full-time status and back pay for any loss of earnings attributable to the non-conversion.

SOURCE: *Arbitration H4C-NA-C77 and H4C-NA-C 93, Mittenthal, September 20, 1988.*

6. Does the list of names on a maximization printout automatically result in the conversion of PTF to FTF?

RESPONSE:

No. They must also meet the requirements established in the maximization memo on page 313 of the 1994-98 National Agreement.

SOURCE: *Area level agreement of the parties.*

7. In an office with more than 200 man years of employment, do full-time flexible positions count in the 80% full-time employees required pursuant to Article 7.3.A?

RESPONSE:

Yes. Full-time flexible regulars are counted as part of the 80% for purposes of satisfying the 80% full-time staffing requirement under Article 7.3.A. When PTFs are entitled to conversion to full-time under both Article 7.3.A and the maximization memo, management must first convert employees to full-time regular until the 80% staffing requirement has been met, then any additional employees meeting the maximization memorandum criteria should be converted to full-time flexible regular.

SOURCE: *National arbitration award H1C-NA-C-120, September 5, 1989, Arbitrator Richard Mittenthal; Article 7.3.A of the Collective Bargaining Agreement.*

SAFETY AND HEALTH

- 1. Must employees driving while in a duty status wear their seat belts at all times when the vehicle is in motion?**

RESPONSE:

Yes.

SOURCE: *EL-801, Appendix A; Postal Bulletin, November 21, 1984.*

- 2. Can management establish local safety committees with fewer members than provided for in Article 14, Section 4?**

RESPONSE:

No. Both local management and the local union are bound by the provisions of Article 14, Section 4, which provides that representation on the committee is specifically determined by the Employer and the Union and shall include one person from each of the Unions and appropriate management representatives.

SOURCE: *Step 4 (H4C-3W-C 2266), July 3, 1985.*

- 3. What are the heating/cooling guidelines in postal installations?**

RESPONSE:

The Postal Service's Energy Conservation Program provides for a heating maximum of 65° F and a cooling minimum of 78° F. Common sense and reasonable adjustments are to prevail when temperatures are significantly out of line.

SOURCE: *APMG Gildea letter to APWU President Biller, February 26, 1982.*

- 4. May local management require an employee to sign a locally developed form which documents an unsafe practice by the employee?**

RESPONSE:

No. Management may document unsafe practices. As there is no national requirement for employees to acknowledge that an unsafe practice has been documented, however, employees should not be required to sign a form for that purpose.

SOURCE: *Step 4 (HIC-5D-C 30950), July 3, 1985.*

- 5. Can management properly issue letters to employees advising them that their work habits will be closely watched by supervision in order to prevent future accidents?**

RESPONSE:

No.

SOURCE: *Step 4 (H4C-3S-C 31296), October 15, 1986; Step 4 (H4C-3S-C 38793), March 21, 1988.*

- 6. Is it a management responsibility to make Form 1767 available at each installation for reporting unsafe or unhealthy conditions?**

RESPONSE:

Yes.

SOURCE: *Article 14, Section 2.*

- 7. Does an employee and/or their representative have a contractual right to attend an accident review board meeting at which an accident the employee was involved in is discussed?**

RESPONSE:

No. There is no contractual provision which allows an employee and/or their representative to attend an internal management meeting, whether called an accident review board or by any other name. Such a committee or board, however, should not make recommendations for the discipline of individual

employees. If an employee is asked to appear before such a board to answer questions and reasonably believes that discipline may result, the employee may request, and is entitled to, a shop steward.

SOURCE: *Step 4 (H1N-1E-C 665); May 13, 1983.*

8. May a rest bar be used in other than an inclined position?

RESPONSE:

Yes, but only when an employee provides medical documentation that such use is required as a result of a physical infirmity which warrants setting the seat of the rest bar in other than an inclined position to accommodate the employee's ailment.

SOURCE: *National arbitration award (H1C-NA-C49), December 7, 1983;
Step 4 (H1C-5F-C 15964), December 23, 1983.*

9. What is USPS Policy on the treatment of employees?

RESPONSE:

While the vast majority of managers and supervisors are capable concerning all aspects of their jobs, renewed emphasis must be placed on treating all employees with dignity and respect. Each of us knows how we wish to be treated. We must provide the same treatment to our employees at all levels of the organization. As stated at the National Executive Conference in Norman, Oklahoma, each of us is responsible for ensuring that we recognize our employees when they do a great job. Conversely, when employees make mistakes, we are responsible for ensuring that we and the employees learn from those mistakes. To the extent that any manager or supervisor cannot treat employees consistent with this philosophy, appropriate counseling should be conducted, followed by relevant training as necessary. If the manager or supervisor does not accept training or is not successful, other appropriate corrective action should be considered.

SOURCE: *Letter (February 18, 1998) signed by Postmaster General Runyon, Deputy Postmaster General Coughlin and Chief Operating Officer/Executive Vice President Henderson.*

SALARY AND WAGES

1. **Does an employee who was involuntarily assigned to a lower level and subsequently bids, lose their protected status?**

RESPONSE:

No. 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.

SOURCE: *National prearbitration (HIC-5D-C 8540), August 4, 1983.*

2. **Are employees compensated for time spent waiting to testify and testifying at an arbitration hearing?**

RESPONSE:

Article 15, Section 3 of the National Agreement requires that employee witnesses shall be on the employer's time when appearing at the arbitration hearing, provided the time is during the employee's regular working hours. When arbitration hearings are held at the site where the grievance arose, it is Postal Service policy to stagger the appearance of employee witnesses in order to avoid the need for any waiting time. The consistent practice has been to require employee witnesses to perform work at a location from which they can be readily called when needed to testify. If a hearing is scheduled at an off-site location and reasonable waiting time is necessary, the consistent practice has been that the employee remains on employer time while waiting to testify.

SOURCE: *Step 4 (HIC-1N-C 24361), February 7, 1984; Step 4 (NC-N-2064), September 20, 1976.*

3. **Are in-service examinations and job interviews compensable?**

RESPONSE:

In-service examinations and job interviews are to be conducted on a no-gain, no-loss basis. Management will not intentionally schedule either in-service examinations or job interviews for promotional opportunities in order to avoid any payment applicable under the no-gain, no-loss principle.

SOURCE: *National prearbitration settlements (H8C-4B-C 29625), November 21, 1983 and (HIT-1 J-C 12159), September 13, 1983.*

SCHEDULE CHANGE

- 1. Can a shop steward properly sign their own PS Form 3189 (Request to Change Schedule) for personal convenience?**

RESPONSE:

Yes.

SOURCE: *Step 4 (HIC-5G-C 30220), May 2, 1985.*

- 2. Is concurrence of the local union official necessary to allow an employee to change their schedule for personal convenience?**

RESPONSE:

Yes. The employee should complete a Form 3189 and have it signed by a union official before submitting it to management for approval. If Union concurrence isn't present then the employee is entitled to Out of Schedule pay.

SOURCE: *ELM, Section 434.622.*

- 3. Does a clerk or Motor Vehicle Service employee receive out of schedule pay while they are on detail to a non-bargaining unit position worked outside of their bid schedule?**

RESPONSE:

No. In the clerk and motor vehicle crafts, employees detailed to non-bargaining unit positions are not entitled to out-of-schedule pay during such details per Article 37.3.A.8. and 39.2.A.9. This does not apply to maintenance or special delivery crafts.

SOURCE: *National arbitration award AB-C-341, dated July 27, 1975, Arbitrator Howard Gamser; Article 37.3.A 8 and Article 39.2.A.9 of the Collective Bargaining Agreement;).*

STAFFING REQUIREMENTS

1. **What is the obligation to part-time flexible employees with respect to the utilization of casual employees?**

RESPONSE:

In Article 7, Section 1.B.2, the employer is required to make every effort to ensure that qualified and available part-time employees with flexible schedules are given priority in work assignments over casual employees. Exceptions are possible if:

- (a) both the PTF and casual are needed at the same time,
- (b) where utilization of a PTF would require overtime on any given day or where it is projected that the PTF will otherwise be scheduled for 40 hours during the service week,
- (c) if the PTF is not qualified or immediately available when the work is needed to be performed.

SOURCE: *Memorandum from James V.P. Conway, June 22, 1976 Arbitration H85-SF-C 8027, Bloch, April 7, 1982 Pre-Arbitration, July 11, 1988; H1N-3A-C 32186 and H4N-SK-C 4026*

2. **Is a full-time flexible established under the maximization memoranda the same as an unencumbered employee defined in Article 37, Section 3.F. 10.?**

RESPONSE:

Yes. The parties agree that FT Flexibles are unencumbered full-time employees and can be assigned to residual full-time vacancies.

SOURCE: *Inter-level bidding agreement, April 1992.*

3. **May a vacated full-time flexible assignment be posted for bid if the FTF secures a FT regular duty assignment?**

RESPONSE:

No. The FTF assignment is an "incumbent only" assignment and no longer exists when vacated.

SOURCE: *Letter from J. Gildea to W. Burrus Feb.15, 1983.*

- 4. Does the withholding of positions under Article 12 provide the required justification to cross crafts or occupational groups as per Article 7, Section 2?**

RESPONSE:

No. Withholding positions pursuant to Article 12.5.B.1 does not automatically create a light or heavy workload in work assignments or a craft; nor does it provide license to indiscriminately cross crafts merely to maximize efficient personnel usage. In accordance with Article 7.2 it must be shown that there was insufficient work on a given occasion, or alternatively, that work was exceptionally heavy in one occupational group and light in another.

SOURCE: *Memorandum from S. Cagnoli, December 4, 1991, and letter from C. Warren to R. Tunstall, Sept.28, 1993.*

- 5. Does the time utilized in backfilling vacant positions that are being withheld under Article 12.5.B.2. count towards maximization?**

RESPONSE:

No. However, time worked in areas not being withheld would count toward maximization.

SOURCE: *Memorandum of Understanding between S. Cagnoli and W. Burrus dated August 19, 1992.*

- 6. Can casuals be utilized in any bargaining unit position including Finance or Human Resources?**

RESPONSE:

Yes. There are no restrictions as to the kinds of bargaining unit work casuals may perform.

SOURCE: *Arbitration H4C-1K-C 33597, Dobranski, August 9, 1989.*

- 7. Can TEs be loaned to other offices?**

RESPONSE:

No.

SOURCE: *TE agreement.*

8. Can management utilize "Kelly Girls" or similar temporary employment agencies for employment purposes?

RESPONSE:

Yes. However, this would be short term work under limited circumstances, and during this time the Kelly Girls would be considered casuals under 7.1.B of the National Agreement.

SOURCE: *Step 4 H7C-NA-C-35, dated June 28, 1989.*

9. May management work employees across craft lines without restriction in offices of less than 100 employees?

RESPONSE:

No. The restrictions found In Article 7.2 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.

SOURCE: *Article 7.2.*

10. Can RCAs/RCRs be utilized within APWU crafts as a casual?

RESPONSE:

No, unless their PS Form 50 reflects a dual appointment.

SOURCE: *ELM 323.6.*

11. When and how can PMLRs/PMRs (Postmaster Leave Replacements) be utilized?

RESPONSE:

Only in the absence of the postmaster in an office under Level 15 which has no clerical employees.

SOURCE: *Step 4 G94C-4G-C 97111712, 97111713, 97111714, 97111715 & 97078872.*

12. Do PTFs have priority over Transitional Employees in work scheduling?

RESPONSE:

Yes. Over the course of a pay period the employer will make a reasonable 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.

(This Q&A does not apply to independent REC Sites.)

SOURCE: *TE Memo, dated February 2, 1993, item 8.C.(2).*

TECH AND MECH

1. Are postal installations required to re-submit a previously approved automation impact statement when changes occur?

Yes. This must be prepared well in advance of the actual delivery of new mechanization or equipment. At a minimum, the process of preparing an impact statement occurs one-hundred-twenty (120) days prior to the delivery date.

SOURCE: *May 27, 1987 Vegliante letter to Burrus.*

TRAVEL

- 1. Can management compel employees to use their privately owned vehicles (POV) for transportation from one (1) postal facility to another to participate in job-related training?**

RESPONSE:

No. Craft employees represented by the APWU may not be coerced into furnishing a privately owned vehicle or carrying passengers therein without the employee's consent.

SOURCE: *Step 4 numbered H7C-NA-C-6, dated April 14, 1988; Collective Bargaining Agreement - POV Memo.*

- 2. Can management require employees to use their privately owned vehicle to travel between stations to complete the duties of his/her assignment?**

RESPONSE:

The Postal Service does not require as a condition of bidding that a clerical employee use his/her privately owned vehicle to perform official duties.

SOURCE: *Step 4 numbered H1C-5D-C1807, undated; Memorandum of Understanding on POV.*

- 3. Are employees entitled to travel time and expenses when assigned outside of their installation but within the local commuting area?**

RESPONSE:

Compensation for travel must be consistent with the provisions of the National Agreement and the F-10 Travel Handbook.

SOURCE: *Step 4 numbered H1C-5F-C-19874, dated June 12, 1984; F-10 and subsequent revisions.*

- 4. Are employees paid for travel for overnight training?**

RESPONSE:

Yes, if travel is during hours an employee normally works. If travel is during hours in which the employee does not work then there is an adjustment to the work week based on FLSA work hours.

SOURCE: *National arbitration award H7T-3W-C-12454/ 14652/ 14653/*

14655/ H7T

5. Is a PTF eligible for travel time?

RESPONSE:

Yes. Time spent at any time during a service day by an eligible employee in travel from one job site to another without a break in duty status within a local commuting area is compensable. Part time flexibles 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.

SOURCE: *ELM, Section 438.132; Step 4 (H4N-3W-C 17913), January 5, 1989.*

UNION MANAGEMENT COOPERATION

1. Are new employees permitted to fill out applications for union membership during orientation?

RESPONSE:

Yes. New employees can complete Form SF- 1187, Authorization for Deduction of Union Dues, during employee orientation. The completion of the forms must be carried out in areas designated by management.

SOURCE: *Step 4 settlement in case HiC-5K-C 424, dated April 19, 1984.*

2. What types of information is the employer required to make available for inspection by the union?

RESPONSE:

The provisions of Article 31.3 states that, "all relevant information necessary for the collective bargaining or the enforcement, administration, or interpretation of this agreement, including information necessary to determine whether to file or continue the processing of a grievance" must be provided for inspection by the union. In reaffirming the "relevant and necessary" principle, the parties have agreed that the following types of information are among those subject to inspection:

- a. Copies of established craft duty assignments.
- b. Restricted sick leave lists, in keeping with the Privacy Act provisions.
- c. Minutes of QWL meetings to a non-participating union, where that union asserts a need for specific minutes in order to determine whether or not to file a grievance and provides a reasonable explanation of that need.
- d. Certain information regarding supervisors which is necessary and relevant to the union's duties as exclusive bargaining representative, where relevance is demonstrated:
 1. The union claims that the supervisor violated the same USPS regulation or policy as did the grievant;
 2. The time period of the violation is similar;
 3. The union specifies why it wants the information;
 4. The union demonstrates that it has more than a "mere suspicion" that the supervisor violated the same USPS regulation or policy as did the grievant.

- e. Maintenance employees may review only their individual Supervisor and Review Panel Evaluations, PS Forms 2518B that apply to a specific requested PER.

SOURCE: *Step 4 remand with language in case H4C-1K-C 41767, DATED 1/6/88. Pre-Arbitration settlement in case H8C-SD-C 8083, dated 4/14/81. National Arbitrator Mittenthal's Award in case H4T-2A-C 36687, issued 11 / 16/90. NLRB settlement signed by the parties on August 3, 1993. Step 4 remand with language in case H4T-4N-C 35094, dated 9/20/88.*

3. What is the proper rate of reimbursement for costs reasonably incurred in obtaining the information requested?

RESPONSE:

Charges will not be greater than those imposed by the employer for release of information under the Freedom of Information Act. Additionally, the parties agreed that charges for information requests from the unions under Article 31 are covered by Parts 352.634, All Other Requesters, and 352.64, Aggregating Requests, of the Administrative Support Manual, Issue 8, August 1991. Additionally, the union may obtain estimates of the cost of providing the information, in advance. The first two hours of research time and the first 100 individual copies are furnished to the union at no charge for each request.

SOURCE: *Step 4 H4C-3W-C 34068, dated 2/18/92,*

4. What is the proper level for the union to generate requests for information?

RESPONSE:

Requests relating to purely local matters should be submitted by the local Union representative to the installation head or his/her designee.

SOURCE: *Article 31 Section 3. Step 4 remand with language in case H1C-4C-C 34,136, dated 6/5/85, updated to reflect the 1992 Postal reorganization.*

5. May the Union solicit employees for membership?

RESPONSE:

Yes. However:

1. Only in non-work area of the Employer's premises; and
2. Provided such activity does not interfere with the Employer's operation.

SOURCE: *Article 31, Section 1 of the Collective Bargaining Agreement*

6. May employees be required to sign in for stand-up talks?

RESPONSE:

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 instructions, as a condition of employment for which disciplinary action may be administered, is inappropriate.

SOURCE: *Step 4 numbered H4N-5C-C-11608, dated July 1, 1988; Step 4*

numbered N

UNION REPRESENTATION

- 1. When the Union designates stewards and alternate stewards, is it required to specify the order in which they will be utilized?**

RESPONSE:

Yes. In keeping with Subsection A, the Union must provide a list of stewards designated for specific work areas. The alternate steward will be utilized in the absence of the designated steward.

SOURCE: *Pre-arbitration settlement in Case H8C-3W-C 22184, dated January 5, 1982.*

- 2. How are situations handled in which a grievant requests representation and neither the steward assigned to the work area nor the alternate are available?**

RESPONSE:

As employees are not permitted to "shop" for stewards, it is anticipated that the Employer would grant the grievant an extension for filing the grievance in circumstances where neither the steward nor the alternate was available.

SOURCE: *Pre-arbitration settlement in Case H8C-3W-C 22184, dated January 5, 1982.*

- 3. Can a Union member employed at one post office be designated as a representative at another post office?**

RESPONSE:

Yes. In keeping with Article 17, Sections 2C and 2D, a Union member actively employed in a particular office can be designated to process a grievance at another post office, so long as written certification is provided by the Union to the Employer at the Area level. Such representatives are not entitled to compensation by the Employer and must act, while in this capacity, in lieu of stewards otherwise designated under Sections 17.2A and 17.2B at the facility where the grievance arose.

SOURCE: *Pre-arbitration settlement in Case H8N-2B-C 12054, dated May 20, 1982.*

- 4. Can a union officer be certified pursuant to the provisions of Section 2.B. to handle, as an example, all Article 7 grievances at stations, city wide?**

RESPONSE:

Yes. However, the union officer must be certified to handle a specific grievance or to investigate a specific problem. The certification must be in writing and the officer acts in lieu of a steward designated under the formula in Section 2.A. A new certification would be needed for each occurrence.

SOURCE: *Article 17, Section 2.B. and Step 4 decision H8C-4E-C 16071, dated July 10, 1980.*

- 5. Is a union officer who was certified in accordance with the provisions of Article 17, Section 2.B. entitled to be compensated pursuant to the provisions of Section 4, "Payment of Stewards?"**

RESPONSE:

Yes, provided he/she is acting in lieu of the certified steward.

SOURCE: *Article 17, Section 2.B.*

- 6. Are union representatives who are certified outside their installation pursuant to Article 17, Sections 2.C. or 2.D. entitled to compensation in accordance with Section 4., "Payment of Stewards?"**

RESPONSE:

No, unless agreed otherwise locally. Employees certified in accordance with Sections 2.C. and 2. D. are not to be on the employer's official time and are compensated by the union.

SOURCE: *Article 17, Sections 2.C., 2.D. and Pre- Arb settlement of case H8N-2B-C 12054.*

- 7. How should the situations be handled when an employee asks to see a steward or a steward requests time to process or continue processing a grievance and the steward is needed on his/her work assignment?**

RESPONSE:

Normally, 95% of the time, a union steward/employee will be released within two (2) hours of his/her request. If this condition cannot be met, the supervisor will notify the steward/employee of the reasons for the delay. Normally the steward/employee will be released before the end of the tour. However, if the steward/employee is not released within that time frame, the steward/employee must be released immediately upon the beginning of his/her next tour of duty. In the event a steward or employee is delayed until their next tour, the steward/employee should notify the supervisor of the prior request.

SOURCES: *Area level agreement of the parties.*

8. Is there a remedy when the union proves a steward was improperly denied release in accordance with the above stated criteria?

RESPONSE:

Yes. Appropriate remedies will vary depending upon the circumstances. However, settlements have been reached where the steward has been compensated for a reasonable amount of time used off-the-clock performing grievance work. This compensation was granted for the first occurrence and was accompanied by a cease and desist instruction. Further violations by the same supervisor/office after a cease and desist could result in overtime payments at the applicable rate of pay. Repeated violations will result in intervention from the USPS Area level and APWU Regional level.

SOURCE: *Area level agreement of the parties.*

9. Can the Employer require the steward to indicate how much time will be needed to process a grievance?

RESPONSE:

Yes. The parties have agreed that, upon the Employer's request, the steward will provide an estimate of the amount of time he/she may be away from the work area in order to process a grievance(s).

SOURCES: *Step 4 resolution in Case H8C-1M-C 17945, dated February 19, 1982; Award of National Arbitrator Sylvester Garrett in Cases MBNAT-562 and 936, dated January 19, 1977.*

10. What is the standard used to determine the amount of time that the steward may be granted to process a grievance?

RESPONSE:

The standard to be applied, under normal circumstances, is that time should be "reasonable." As no predetermined measurement can be made, the question of whether reasonable time was granted must be determined on a case-by-case basis.

SOURCE: *Step 4 settlement in Case HIC-3W-C 44345, heard on May 9, 1985.*

11. What if the steward cannot be released for the full amount of time required by the steward?

RESPONSE:

If, for example, the steward reasonably requires one hour, but the supervisor needs the steward back after 30 minutes, the supervisor should provide the remainder of the time within a reasonable time frame, normally before the end of the work day.

SOURCE: *Area Level Agreement.*

- 12. What information may a steward obtain regarding an official discussion that relates to subsequent disciplinary action issued to an employee?**

RESPONSE:

If a discussion was relied upon in the issuance of discipline to an employee, to establish that the employee had been advised of his/her responsibilities, the steward may orally obtain the date and subject of that discussion from the supervisor.

SOURCE: *Step 4 settlement in Case H4C-4C-C 32156, dated March 24, 1987.*

- 13. Does an employee have a right to have a steward present during the course of an investigatory interview by a manager/supervisor or during an interrogation by the Inspection Service?**

RESPONSE:

Yes. In those circumstances in which the employee is involved in an investigatory interview which he/she reasonably believes will result in discipline against him/her, and the employee requests representation, the Employer must provide a representative if the interview is to continue. If an employee requests a steward or Union representative to be present during the course of an interrogation by the Inspection Service, such requests will be granted.

SOURCE: *Step 4 remand with language in Case H1N-5D-C 26954, dated May 17, 1985, and Article 17 Section 3.*

- 14. Can stewards interview postal inspectors in the course of the union's investigation?**

RESPONSE:

Yes.

SOURCE: *Pre-arbitration settlement in Case N8-N-0224.*

- 15. Can stewards interview employees of other crafts in the course of a grievance investigation?**

RESPONSE:

Yes.

SOURCE: *Step 4 remand with language in Case HIT-5H-C 28879, dated June 7, 1985.*

- 16. Can a steward be present while an employee is being given an official discussion about an employment deficiency?**

RESPONSE:

No.

SOURCE: *Article 16.2*

- 17. What rights does Section 3 provide to stewards in instances in which excessing is planned?**

RESPONSE:

The parties have agreed that a steward cannot be involuntarily reassigned from his/her station or branch so long as there is a job (work) there for which that steward is qualified. The same basic principle applies in regard to reassigning stewards from their tours of duty and/or installations, unless the steward gives up this right.

The parties have also concurred that stewards retain their super-seniority for bidding on initial vacancies in cases where there are excessed employees seeking to exercise their retreat rights.

SOURCES: *Pre-arbitration settlement in Cases H8C-5F-C 11643 and 11827, dated March 4, 1982; Award of National Arbitrator Raymond Britton in Case H4N-SC-C 17075, dated November 28, 1988; Award of National Arbitrator Richard Bloch in Case H1C-3Q-C 29502, dated October 1, 1985. Letter from A. Vegliante to W. Burrus, dated November 5, 1992.*

- 18. Is there a set amount of time to which the Union is entitled to address employees during orientation?**

RESPONSE:

No. The parties have agreed that the Union will be provided with "ample opportunity" to address new employees during orientation.

SOURCE: *Step 4 remand with language in Case H4C-35-C 60130, dated December 23, 1987.*

19. What explanation should an employee give to his/her supervisor in order to be released?

RESPONSE:

If requested, the general nature of the grievance.

SOURCE: *Step 4 H1C-3W-C-31937, dated July 26, 1984.*

20. Can management require a Form 7020 for each grievance?

RESPONSE:

Yes. However, common sense should apply.

SOURCE: *Step 4 H1C-SK-C-1229, dated June 4, 1982*

21. Is a Step 1 work sheet filled out on-the-clock?

RESPONSE:

Yes.

SOURCE: *Step 4 H1C-3P-C-6922, dated August 20, 1982.*

22. Can a grievant accompany a steward during a Step 1 investigation?

RESPONSE:

No.

SOURCE: *Step 4 H1N-3U-C-36133, dated January 15, 1985.*

23. What information is the union entitled to?

RESPONSE:

Articles 15, 17, and 31 intend that any and all information which the parties rely on to support their positions in a grievance is to be furnished and exchanged. This fosters maximum resolution at the lowest level. Information requests for employee time records, employee leave records, employee prior discipline records, employee staffing records and employee work schedule records are generally regarded as relevant with respect to the APWU's determination whether or not to file a grievance concerning those matters. For these routine requests, no specific basis for relevancy is required on the APWU's request form. Requests for other types of information require the union to show the basis of the information's relevancy, the relevancy will be determined by the Union. Privacy Act and/or lack of employee permission and not sufficient grounds to deny a request for information.

Requests for non-bargaining unit employee records and medical records must be reviewed with care to ensure that individual privacy rights are not violated. The law has developed special rules for union requests for information relating to non-bargaining unit members and employee medical information. Information regarding non-bargaining unit members should be provided if it is reasonably probable that the information is relevant to an issue between the parties and would be of use to the union in carrying out its statutory duties and responsibilities. With respect to medical records, copies should be provided; however, where there is legitimate and substantial employee confidentiality interest that would be compromised by disclosure of the records, there is an obligation to bargain with the union in order to seek an accommodation concerning the information requested.

SOURCE: *Articles 15, 17 and 31 of the Collective Bargaining Agreement, and national level memorandum on NLRB Dispute Resolution Process dated July 15 1997. H4T-2A-C 36687, Arbitrator Mittenthal dated 11/16/90.*

24. Is there a time limit for management to provide requested information which is available at the local level?

RESPONSE:

Yes. The information or a date on which the union will receive the information will be provided within seven (7) days of the request, unless there is a mutually agreed upon extension of time limits. If the information is not provided, management must provide a written statement explaining why the information cannot be provided within seven (7) days of the request. The request will then be forwarded to District management with related correspondence and documents.

SOURCE: *MOU, NLRB Dispute Resolution Process, July 15, 1997.*

- 25. If a request for information is denied or the information is not provided, who has the responsibility to appeal the denial to the next level under the NLRB Dispute Resolution Process.**

RESPONSE:

The supervisor.

SOURCE: *National level memorandum on NLRB Dispute Resolution Process dated July 15 1997.*

- 26. What is the Chief Steward's role in the filing of grievances?**

RESPONSE:

The Chief Steward is certified by the local president in accordance with the formula in Article 17, Section 2, and has no greater rights than any other steward certified under Section 2.

SOURCE: *Article 17, Section 2 and Area level agreement between the parties.*

- 27. Does a steward have the right on the clock to do such things as copy, log, and convert information?**

RESPONSE:

Yes, stewards are entitled to reasonable investigative time on-the-clock for handling grievances and such investigative time could conceivably include the mechanics of copying, logging, or converting of information from original documents to graphs, forms, notes, etc.

SOURCE: *Step 4 H8C-3D-C-21690, dated August 4, 1981.*

- 28. Does a steward have the right to review documents on the clock rather than to obtain copies?**

RESPONSE:

Yes.

SOURCE: *Step 4 H4N-3W-C-27743, dated May 1, 1987.*

- 29. Is steward duty time authorized for FECA problems (OWCP related issues)?**

RESPONSE:

No, not in the filing or processing of OWCP appeals; however, the employee or steward would still have the right to grieve contractual disputes.

SOURCE: *Mahon letter to Burrus dated July 27, 1988; Howard letter to field dated April 20, 1988.*

30. Can a steward, while on the clock, interview a non-postal witness?

RESPONSE:

Yes. 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. 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.

SOURCE: *Memo of Understanding dated December 6, 1982.*

31. Are union stewards entitled to copies of bargaining unit employee medical records when such records are relevant to a grievance?

RESPONSE:

Yes. Relevant medical records should be released per the provisions of the EL-806.

SOURCE: *EL-806, Section 223 and ASM, Part 120.090.*

32. Must union stewards have written authorization for access to a grievant's medical records?

RESPONSE:

No. The procedures in Section 223.3 of the EL-806 must be followed.

SOURCE: *ASM 223.3 and EL-806.*

33. Can a steward on overtime investigate a grievance?

RESPONSE:

Requests for additional time to process grievances should be dealt with on an individual basis and shall not be unreasonably denied. Management will not delay a union steward time to perform union duties based solely on the fact that the steward is in an overtime status.

SOURCE: *Step 4 H4C-5K-C-7100, dated September 4, 1987.*

- 34. Does a steward have the right to be represented by another steward?**

RESPONSE:

Yes. A steward, just as any other employee, has a right to representation by another steward.

SOURCE: *Step 4 H1C-3W-C-41731, dated February 15, 1985.*

- 35. May a union member in one post office (installation) be designated as the union's representative to process a grievance at another post office?**

RESPONSE:

Yes. Such an employee must be certified in writing to the employer at the Area level. The employee so certified will not be on the employer's official time and will be compensated by the union.

SOURCE: *Pre-arbitration settlement H8N-2B-C- 12054, dated May 20, 1982; Article 17.2 of the Collective Bargaining Agreement.*

- 36. If requested, is it required that the union be allowed to participate in new employee orientation?**

RESPONSE:

Yes. This includes Transitional Employee orientation.

SOURCE: *Article 17.6 of the Collective Bargaining Agreement.*

- 37. Who controls posting/removal of material from authorized union bulletin boards?**

RESPONSE:

The Union, unless and until the Postal Service can prove that the 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 effectively and productively.

SOURCE: *Step 4 numbered H4C-3N-C-36805, dated August 5, 1987; National award N8-W-0214, dated July 14, 1981, Arbitrator Gamser; Old Dominion Branch No.496, NALC AFL-CIO vs Austin, 418 US 264 (1974).*

38. What types of postings has management improperly removed?

RESPONSE:

CFC boycott material;
Grievance summaries;
Non-member lists.

SOURCE: *Step 4 numbered H8C-5F-C-16282, dated October 7, 1981; Step 4 numbered H1C-3D-C-4605, dated June 9, 1983; Step 4 numbered H4C-3N-C-36805, dated August 5, 1987; National Award N8-W-0214, dated July 14, 1981, Arbitrator Howard G. Gamser.*

39. Do national, regional and local union officials have rights to enter postal installations?

RESPONSE:

Yes, upon reasonable notice.

SOURCE: *Step 4 numbered N-S-188, dated May 25, 1972; Step 4 numbered H1N-5C-C-1479, dated June 25, 1982; Gildea Memo to Regional General Manager, Labor Relations Division regarding "Visits to Postal Installations by National/Regional Union Officials", dated December 15, 1982.*

WORK AND/OR TIME STANDARDS

1. Is there a "50 flat per minute" work standard for MPFSM?

RESPONSE:

No. There have been no national work standards established for the MPFSM.

SOURCE: *Step 4 numbered HIC-5K-C-19500, dated July 20, 1984.*

2. May management post productivity goals?

RESPONSE:

Management may post the productivity goals for information purposes only. No discipline shall be administered to an individual or group for not attaining the goal.

SOURCE: *Step 4 numbered HIC-IN-C-15983/19984, dated August 19, 1983.*

3. May management use the MOD II productivity report when discussing productivity with craft employees?

RESPONSE:

Supervisors must not refer to the productivity report when discussing productivity with craft employees, nor may supervisors use the report to intimidate or threaten employees.

SOURCE: *Step 4 numbered HIC-3F-C20836, dated October 24, 1983.*

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