



Casuals In Lieu  
Of . . .

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## Casuals Employed in Lieu of . . .

The issue of whether casuals have been properly hired as a limited term supplemental workforce or in lieu of full or part-time career employees in violation of Article 7.1.B.1 has been addressed in hundreds of grievances and arbitration awards over the past thirty years.

The primary disagreement between the parties concerned the fundamental question of whether Article 7.1.B.1 imposed a limitation on casuals other than the percentage cap on total casual employment and term limits for individual casuals contained in paragraphs 3 and 4 of Article 7.1.B.

That question has been answered in favor of APWU in National arbitration by Arbitrator Shyam Das in National case # Q98C-4Q-C 00100499 dated August 29, 2001. In this award Arbitrator Das finds the hiring of casuals to be limited to those circumstances outlined in the "Downes Memorandum" of May 29, 1986 - which had been incorporated into a number of step 4 grievance decisions.

While this award has been touted as a major win, it will simply put an end to management's claim of an unfettered right to hire and utilize casuals year round regardless of circumstances so long as the percentage cap is not exceeded; it will not put an end to the improper hiring of casuals in lieu of. They will continue to improperly hire them and claim they have done so in conformance with circumstances contained in the Downes Memo as the current cost of a career employee in annual wages and benefits is \$51,103 - according to Postmaster General Potter.

The purpose of this handout is to assist you in upholding your burden of proof when they do so!



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## Article 7, Section 1.B

### Supplemental Work Force

1. The supplemental work force shall be comprised of casual employees. Casual employees are those who may be utilized as a limited term supplemental work force, but may not be employed in lieu of full or part time employees.


### Award Summary - Q98C-4Q-C 00100499

1. Article 7.1.B.1 of the APWU National Agreement (and the corresponding provision in the NALC and NPMHU National Agreements) establishes a separate restriction on the employment of casual employees, in addition to the other restrictions set forth in other paragraphs of Article 7.1.B.

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

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

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

  
\_\_\_\_\_  
Shyam Das, Arbitrator

## Circumstances Under Which it is Appropriate to Hire Casuals

### “GENERALLY” Is Not a Caveat or Limitation

- USPS made this argument to Das
- Das rejected that argument, concluding:

“In context, I do not read the word ‘[g]enerally’ at the beginning of the formulation in the Downes Memorandum as some sort of limitation or caveat on what follows, particularly in light of the catchall ‘or in other circumstances where supplemental workforce needs occur’ included in that formulation. A more straightforward reading is that it signifies that the formulation that follows is a general statement of the proper application of Article 7.1.B.1, which then is to be applied in the field. . .

### Circumstances such as Heavy Workload or Leave Periods

- Should be read to say and mean “heavy workloads or “ heavy” leave periods
- Otherwise, taken out of context could be read to justify the hiring of casuals virtually year round to cover ‘leave periods’ as employees are eligible to take leave year round
- **Heave Work Loads**

Heavy workload should be something significant which generates extra work or heavier work than normal versus a general claim of heavy workload. For example, the workload during the Christmas season is considered ‘heavy’ due to extra mail volume, for which they have the right to hire “Christmas casuals.”
- **Heavy Leave Periods**

Heavy leave periods would occur during choice vacation period. Not the entire year. Period when leave usage is the heaviest.

Heavy leave periods could also include circumstances where one or more employees is off on extended sick leave (e.g., injury, surgery, maternity, disability, etc.)

## **To accommodate any Temporary or Intermittent Service Conditions**

- **Temporary Service Conditions**
  - Should be a specifically identifiable condition which is not expected to last beyond a limited duration of time.
  - Possible Examples:
    - Disruption in the facility caused by moving mail operation from one location to another
    - Moving to a new facility
    - Consolidation of facilities
    - Installation of new equipment
    - Operational change in method of working mail
    - External factors causing a “spike” in mail volume (e.g., UPS strike, contest mail, etc.)
  
- **Intermittent Service Conditions**
  - A specifically identifiable condition which stops and starts on predictable intervals.
  - Examples:
    - Business or company generating contest mail periodically during the year
    - Tax time
    - High volume mailers billing cycles

## **“Other Circumstances where supplemental work force needs occur”**

- This is a “catchall” without limitations and must be addressed by reviewing the conditions existing at a particular time at the postal facility in question.
- Das said:
  - “If. . .the Postal Service has a genuine need at a particular time at a particular location for a limited term supplemental work force, rather than career employees, then there is no violation of Article 7.1.B.1.”

## **The Burden of Proof**

- Grievances should be filed and processed where the facts and circumstances surrounding the hiring of casuals demonstrates that they were hired in lieu of career employees.
- Never forget: the Union has THE BURDEN OF PROOF
- Allegations are not PROOF

- PROOF means supporting FACTS, FIGURES, & DOCUMENTATION
- Do not ASSUME these grievances will be settled short of arbitration
- Arbitrators generally limit evidence to that which was in the case file at lower steps
- Anything less than your best effort will result in failure to meet the Union's BURDEN OF PROOF
- Our Burden of Proof is a HEAVY one
- Das says that USPS can utilize casuals in a myriad of circumstances if they have a *genuine need*
- APWU will have to be able to refute each USPS allegation justifying their use of casuals
- DO NOT assume any casual was hired legitimately
- Challenge every casual hire. Request in writing the specific USPS reason for each hire. Do not accept those reasons "at face value" [management's current "triggers" list]
- Ask for any information or documentation which might support or refute the reasons given

[Appendix #1 - CBA Article 17.2.B language]

[Appendix #2 - Sample Request for information (general casual information)]

[Appendix #3 - Sample summary of casuals on the rolls]

[Appendix #4 - Casual allocation spreadsheet]

[Appendix #5 - Examples of casual justification]

[Appendix #6 - Use of casuals workforce letter (Columbia, MO)]

[Appendix #7 - Response to request for information (Columbia, MO)]

- Immediately grieve if no reason is provided or reason appears to be invalid
- Immediately grieve when utilization is contrary to stated reason for hire
- Monitor casual utilization continuously - keep records of reporting times, hours worked, duties performed, etc.

[Appendix #8 - 1997 "steady" casuals spreadsheet (Fayetteville, AR)]

[Appendix #9 - 1997 time-line of casual employment (Fayetteville, AR)]

[Appendix #10 - Timeline of reported casual hours (Jefferson City, MO)]

[Appendix #11 - Casuals / workhours table]

[Appendix #12 - Casuals graph (Rochester, MN)]

- Keep ongoing records - names, hiring and termination dates, hours worked weekly (and even daily) and duties performed
- Immediately grieve when an apparently valid reason ceases to exist but casuals remain
- Keep ongoing records of career workforce - authorized complement vs actual number employed, reductions due to retirement, transfer, termination, death, etc.
- Keep records of OTDL's on an ongoing basis
- Ask if USPS requested authorization to hire career employees and when

[Appendix #13 - Complement form]

[Appendix #14 - Workhours spreadsheet]

- Be prepared to provide witnesses to support your documents and position
- Conduct Interviews
- Witness Statements
- Know and specifically refute each USPS reason for casual hire in the written grievance record with arguments for which you have evidence
- Utilize Additions & Corrections

[Appendix #15 - Sample Additions and Corrections (case#DS01-02)]

[Appendix #16 – Sample Additions and Corrections (case#DJC800)]

**REMEMBER:**

- ALLEGATIONS ARE NOT PROOF
- CONTENTIONS WITHOUT EVIDENCE ARE WORTH LESS
- TAKE THE TIME TO DO IT RIGHT!!!

## Heavy Workload

- Request in writing the cause of the heavy workload (and expected duration)
- Ascertain that alleged heavy workload is due to mail volumes and not a circumstance self-created by a shortage of career employees (e.g., hiring freezes)
- Request in writing mail volumes at the time of hiring and for the same period one year ago (e.g, Flash Reports]
- Request mail volumes for several subsequent days and corresponding dates last year (extended period or day-to-day fluctuation?)
- Request mail volumes periodical (return to normal)
- Grieve if mail volume returns to normal before expected duration ends and casualls remain
- Grieve if casualls remain beyond the expected duration and mail volume has decreased
- Request overtime records. Heavy workload should result in increased overtime for career employees. Casualls should not be hired on pretext of heavy workload to avoid overtime
- Grieve if the hiring dates do not correspond to a sustained increase in mail volume
- Grieve if USPS hires casualls for December in addition to Christmas casualls

## **Heavy Leave Periods**

- Request in writing specific basis for which USPS claims heavy leave (and expected duration)
- Include any LMOU provisions referencing increased leave obligations
- Request and keep records of scheduled vacations [identify the periods when leave usage is truly “heavy,” (e.g., 3 heaviest mo.)]

[Appendix #17 - Request for information (heavy leave)]

- Immediately grieve when the hiring dates do not coincide with the “heavy” (e.g., 3 heaviest months) vacation periods
- Immediately grieve when casuals hired for heavy vacation periods are re-hired for another term which falls during periods when negotiated vacation periods are not being filled
- Immediately grieve when the number of casuals exceeds the maximum number of employees allowed off by LMOU
- Request the names of those on extended sick leave - date first off and expected duration
- Request names of those on maternity leave - date first off and expected duration
- Request USPS to identify the specific casual hired to cover the absence of a specific employee on extended sick or maternity leave
- Immediately grieve if the number of casuals exceeds the number of employees off on extended leave when that reason is used for hiring
- Immediately grieve if there is no reasonable relationship between the casual being hired and the employee on extended leave (e.g., custodian on sick leave does not justify casual in clerk craft)
- Request in writing the current sick leave usage for office (request at regular intervals and compare to “norm”)

[Appendix #18 - Response to request for sick leave information]

## **Heavy Leave Periods**

- Immediately grieve if USPS uses “leave” in general to justify hiring casuals.
- Vacation periods are negotiated, scheduled in advance, and occur every year at the same time.
- Office has a normal anticipated % of sick leave
- These are expected and continue throughout the year.
- USPS must staff to cover expected absences with career employees
- Casuals are used only for “heavy leave periods”



## **Temporary Service Conditions**

- Request in writing the cause of the temporary service condition and anticipated duration
- Immediately grieve if this does not appear to be a valid “temporary service condition”
- Grieve if the “temporary condition” ends and the casual usage continues
- Grieve if the “temporary” condition extends beyond the anticipated duration (e.g., is it really temporary? Has it become permanent?)
- Grieve if the casuals alleged to have been hired for this reason are utilized for other purposes

## **Intermittent Service Conditions**

- Request in writing the identity and cause of the intermittent condition
- Grieve immediately if the circumstances do not warrant the use of a supplemental work force
- Grieve if the casuals hired are worked on other than an intermittent basis
- Grieve if the casuals hired for this reason are utilized for other purposes

## **Other Circumstances**

- Request in writing the specific circumstances they claim justify the hiring of casuals (and the expected duration)
- Grieve immediately if it appears the “special circumstances” are pretextual or do not warrant the use of casuals
- Monitor the utilization of casuals if it appears warranted and grieve if the casuals are utilized for reasons other than those given for hiring
- Grieve if the casuals are re-hired or remain after the expected duration ends
- GRIEVE AND KEEP RECORDS - You must prove the reason cited by the USPS to be pretextual!
- Request in writing all documentation or evidence relied upon by USPS to support its claims

## **Circumstances generally rejected by arbitrators as valid reasons for hiring casuals**

- Revolving door utilization over an extended period of time
- Hiring freezes
- Flexibility
- Elimination or reduction of overtime

- In lieu of MS-47 mandated custodial staffing
- Coverage of specific vacant duty assignments (e.g., CFS, General Clerk, etc.)
- General unsupported claims of “high absenteeism”
- Pre-setting authorized complement too low (and refusing to hire above it
- Withholding pursuant to Article 12
- Automation - general claims of “automation” or “pending automation”

## **Remedy**

- The work is our work. The entire craft has been denied work opportunities
- Cease and Desist
- Compensation for all hours worked by casuals in violation of Article 7.1.B.1
- Make the entire bargaining unit whole

## **Post Das Awards**

In **post-Das** clerk case # G94C-1G-C 98043389, arbitrator Armendariz made the “overall bargaining unit whole by providing back pay for all hours worked by casuals at the appropriate overtime rate. In addition, he “clarified” his award at the insistence of the Service, by refusing to allow them to subtract hours allegedly utilized to cover any type of leave. He also refused to allow them to subtract any December Casual work hours unless the casuals were specifically hired as official 21 day Christmas casuals per Article 7.1.B.4. And finally, he refused to allow them to subtract any hours allegedly used to cover for employees who were on limited or light duty, or rehab duty without providing the Union documentation and specifics to establish that these casuals were temporarily hired and who actually worked for those employees.

It is this remedy which we now seek in future arbitration cases. In order to make the bargaining unit “whole”, the whole bargaining unit must be compensated for all of the work hours involved.

Other **post-Das** awards which provide a meaningful remedy are:

I94C-4I-C 97027112	Fletcher-Jefferson City, MO
C94C-4C-C 98029563	Miller, Jr.-Lititz, PA
G00C-1G-C 02244251	Glider-Tyler, TX
G98C-4G-C 01230194	Helburn-Owasso, OK

E01N-4E-C 03060628 Monat-Portland Ore. (NALC case)

This NALC case is significant in that it addresses AND REJECTS management’s post-Das argument that Das condoned the long-term hiring and utilization of casuals to cover “normal” absences such as vacation, sick leave, and other occurrences. (

Arbitrator Armendariz rejected those reasons in his clarification letter regarding remedy for the Little Rock case previously discussed.)

A reading of this award will provide guidance for the arguments, evidence, and documentation you will need to counter their post-Das argument that “other circumstances where supplemental workforce needs occur” means to cover normal and anticipated vacation periods, sick leave absences and other “temporary” things such as replacement for 204 b’s, short-term military leave, and other normal operational requirements.

As we have stated previously, they cannot hire casuals on a regular, routine, and long-term basis in order to utilize them to cover “normal” operations that are known and anticipated, such as vacations, sick calls, etc. That’s what part-time flexibles are utilized for and when they hire casuals to be used as if they are part-time flexibles for “whatever” may occur on a given day, they are hiring them, not as a supplement to the career workforce, but “in lieu of,…” (instead of, in place of, or in substitution of) ... which is what Das says they cannot do!!

C98M-1C-C 02227790 Wolf-Fayetteville, NC ( Mail Handler case)

This mail handler case is likewise significant in that it addresses and rejects management’s post-Das arguments regarding long term casual usage to cover “whatever” may occur on a given day:

*“... These employees have been used virtually without break; no nexus is apparent with such usage and “heavy workload,” “leave periods,” or “temporary or “intermittent service conditions.” Indeed, casual employee usage here is so steady that, even the “catchall” provision of the Downes Memorandum-“or in other circumstances where supplemental workforce needs occur”-is of any real assistance to the Postal Service.*

*It is plainly contrary to the Downes Memorandum to argue, as the Postal Service has here, and has maintained through its testimony, that there is a steady need for casuals simply because there is always someone who is on leave or on a detail assignment. If this is the measure, casuals are every bit as “regular” as regular Mail Handlers. This logic leads to the Downes Memorandum becoming meaningless. If as Mr. Griffin observed, “you can’t project all types of leave,” I am presumably asked to accept that as a rationale for always having casuals. This likewise emasculates the Downes Memorandum. Moreover this approach was argued unsuccessfully before Das, where the Postal Service asserted that there is an absolute need for casuals in all areas, and a necessity to be able to shift casuals around to ‘plug up operational holes’ as needs arise.”*

*Casual employees are not intended to be an ongoing stable of employees, regularly available to perform when the opportunity presents itself. .... A “supplemental” workforce for which there is a constant need is not “supplemental”.....”*

G98C-1G-C 01106019 Gilder-New Orleans, LA

This clerk case is significant in that it specifically addresses management's numerous after the fact possible justifications (or "triggers") for having hired casuals in lieu of career employees.

*"It is the position of management that numerous possible supplemental justifications for utilization of casuals exists that do not constitute a violation, some of these are:*

- *Incidental and vacation annual leave*
- *Sick leave and sick leave for Dependent Care (SLDC)*
- *Family and Medical Leave Act (FMLA) absences*
- *Absences Without Official Leave (AWOL)*
- *Absences due to disciplinary suspensions and pending removals*
- *Absences due to retirements, resignations and transfers – until management can hire other career employees*
- *Absences due to training*
- *Absences due to details on voluntary temporary details*
- *Absences due to union steward duty time, union officer leave and union convention leave*
- *Absences due to temporary light and limited duty*
- *Overtime coverage, holiday coverage, heavy mail volume periods*

*This in no way serves to rebut the presumption raised by the Union. The purported defense Management asserts is no more than a speculative list of possible situations which would justify the hiring the casual employees. It does not suffice to sustain the Service's burden in this matter. **Other than offering the above-referenced list of 'justifications', the Service has not provided any persuasive evidence that any of the casuals during the period in question were actually hired for any of the said justifications.**" (emphasis added)*

E00C-4E-C 06175525 Washington – Waterloo, IA

This award validates the training we have been providing regarding the steps that must be taken by the Local when addressing the issue of casuals in lieu of. It also represents what we feel will be the typical CILO case now that career hiring is controlled by the District and AREA which routinely rejects requests to hire, then approves the hiring of casuals instead. The Service intends to keep career hiring at a minimum by maximizing

the utilization of casuals. If the Local asks the right questions, monitors the utilization of casuals against the “reasons” provided for hiring, and obtains documentation to prove those reasons to be pretext, we will be successful in pursuing these cases.

In this case, local management requested approval to hire career employees, not once, but twice. The first was rejected and the second delayed – but they allowed themselves to hire a string of casuals. In order to “justify” hiring casuals they shuffled paperwork around which appeared on its face to correlate the hiring of casuals to temporary absences. The Local monitored the utilization of those casuals and documented the reasons to be pretext as there was no valid correlation between the hiring of the casuals and the employees the casuals were allegedly hired to replace. The arbitrator sustained the grievance which will result in the clerk craft employees receiving a monetary payment at the overtime rate for all hours involved as a result of the Local’s diligence in pursuing this issue.

Subsequent 7.1.B.1 awards are available on APWU Search or through your NBA office.

<u>Case Number</u>	<u>Location</u>	<u>Arbitrator</u>
K98M-1K-C 02004974	Norfolk, VA	Trosch
H01N-4H-C 04166675	McMinnville, TN	Byars
G98N-4G-C 02125208	New Orleans, LA	McGown
F01N-4F-C 04141796	Petaluma, CA	Olson
E00T-1E-C 02151840	Omaha, NE	Martin
J94C-1J-C 98061939	Traverse City, MI	McAllister
H00C-1H-C 04067636	Nashville, TN	Duncan
C98C-1C-C 01019331	Pittsburgh, PA	Newman
E00C-4E-C 06262216	Ft. Dodge, IA	Martin
K00C-1K-C 05145261	Charleston, SC	Gilder
E00C-4E-C 05168955	Wenatchee, WA	Escamilla
K98C-4K-C 01075133	Florence, SC	Plant

**AND THAT SAYS IT ALL!!**

# American Postal Workers Union, AFL-CIO

## STEP 2 GRIEVANCE APPEAL FORM

<b>1</b> DISCIPLINE (NATURE OF) OR CONTRACT (ISSUE)	CRAFT	DATE	LOCAL GRIEVANCE #	USPS GRIEVANCE #
<b>2</b> TO USPS STEP 2 DESIGNEE (NAME AND TITLE)	INSTALLATION / SEC. CEN./ BMC			PHONE
<b>3</b> FROM: LOCAL UNION (NAME OF)	ADDRESS	CITY	STATE	ZIP
<b>4</b> STEP 2 AUTHORIZED UNION REP. (NAME AND TITLE)	AREA CODE	PHONE (OFFICE)	AREA CODE	PHONE (OTHER)
<b>5</b> LOCAL UNION PRESIDENT	AREA CODE	PHONE (OFFICE)	AREA CODE	PHONE (OTHER)
<b>WHERE - WHEN      STEP 1 MEETING &amp; DECISION      MET WITH</b>				
<b>6</b> UNIT/SEC/BR/STA/OFC	DATE/TIME	USPS REP - SUPR	GRIEVANT AND/OR STEWARD	
<b>7</b> STEP 1 DECISION BY (NAME AND TITLE)	DATE AND TIME		INITIALS	INITIALING ONLY VERIFIES DATE OF DECISION
<b>8</b> GRIEVANT PERSON OR UNION (Last Name First)	ADDRESS	CITY	STATE	ZIP      PHONE
<b>9</b> SOCIAL SECURITY NO.	SERVICE SENIORITY/CRAFT	STATUS	LEVEL	STEP
		DUTY HOURS	OFF DAYS	
			<input type="checkbox"/> SAT <input type="checkbox"/> SUN <input type="checkbox"/> MON <input type="checkbox"/> TUE <input type="checkbox"/> WED <input type="checkbox"/> THU <input type="checkbox"/> FRI	
<b>10</b> JOB#/PAY LOCATION/ (UNIT/SEC/BR/STA/OFC)	WORK LOCATION CITY AND ZIP CODE		LIFETIME SECURITY <input type="checkbox"/> Yes <input type="checkbox"/> No	VETERAN <input type="checkbox"/> Yes <input type="checkbox"/> No
<b>11 Pursuant to Article 15 of the National Agreement we hereby appeal to Step 2 the following Grievance alleging a Violation of (but not limited to) the following: NATIONAL, (Art./Sec.)</b>				
LOCAL MEMO (ART./SEC.) OTHER MANUALS, POLICIES, L/M MINUTES, ETC.				

**12 DETAILED STATEMENT OF FACTS/CONTENTIONS OF THE GRIEVANT**

The USPS hired (x number) of casuals on or around (date) in lieu of full or part time employees to perform (clerk) craft bargaining unit work in violation of Article 7.1.B.1 and Article 1 of the National Agreement. These casuals were improperly hired as the purpose which they were allegedly hired and are being utilized does not fall within the circumstances under which it is appropriate to hire casual employees to be utilized as a limited term supplemental work force consistent with Article 7.1.B.1. The Postal Service may only hire casual employees to be utilized as a limited term supplemental work force and not in lieu of (instead of, in place of, or in substitution of) career employees. The performance of bargaining unit work by these non-bargaining unit casuals has deprived the (clerk) bargaining unit of work hour opportunities to which they are contractually entitled pursuant to Article 1.

*[ADD SPECIFICS OF YOUR CASE]*

**13 CORRECTIVE ACTION REQUESTED**

Cease and desist. Make the bargaining unit whole by compensating the (clerk) bargaining unit for all hours worked by the casuals at the appropriate O.T. rate(s) on an on-going basis until settled.

\_\_\_\_\_  
SIGNATURE AND TITLE OF AUTHORIZED UNION REP

# Filing Your Grievance

File when the facts and circumstances surrounding the hiring demonstrate they were hired in lieu of career employees.

- ◆ You cannot prevail without first establishing the reason they were allegedly hired.
- ◆ Immediately grieve if:
  - ◆ no reason is provided
  - ◆ reason provided appears to be invalid
  - ◆ reason provided is general or vague vs. specific
- ◆ Grieve when utilization is contrary to stated reason for hiring.
- ◆ Grieve when apparently valid reason ceases to exist but casuals remain.

## Avoid Procedural Challenges

Certify one steward to file for the entire installation.

Article 17.2.B. says, “At an installation, the Union may designate in writing to the Employer one Union officer actively employed at that installation to act as a steward to investigate, present and adjust a specific grievance or to investigate a specific problem to determine whether to file a grievance. The activities of such Union officer shall be in lieu of a steward designated under the formula in Section 2.A and shall be in accordance with Section 3. Payment, when applicable, shall be in accordance with Section 4.” (see note at Appendix 1) (see imperative JCIM language)

## Developing Your Case

- ◆ Request in writing the specific reason for each hire. example
- ◆ Follow-up with a request for any information which might on its face refute the reason(s) given. example
- ◆ If reason given is not specific, submit a follow-up request. example
- ◆ Monitor utilization (duties, schedules, work hours) of casuals

## Document Utilization of Casuals

- ♦ Interview supervisor.
- ♦ Interview bargaining unit employees.
- ♦ Gather supporting witness statements.
- ♦ Request any documents which verify casual utilization (e.g., work schedules).  
example
- ♦ Be prepared to provide witnesses to support your documents and position.

## Begin On-going Record Keeping

- ♦ Request and keep on-going records of casual workforce names, hiring and termination dates, weekly work hours.    examples 1 2
- ♦ Request and keep on-going records of career workforce authorized complement vs. actual number employed; reductions due to retirement, transfer, termination, death, excessing; job reversion.    example
- ♦ **This is crucial to your case. You must prove they were hired “instead of, in place of, or in substitution of” career employees.**
- ♦ Keep records of choice vacation periods on an on-going basis
- ♦ Request additional information as the need arises to support your position or update your case where the utilization is contrary to the reason(s) given for hiring.    example

***Record keeping is on-going and vital!!***

## At Step 1

- ♦ Make correct arguments in relation to reasons given for hiring casuals.
- ♦ Incorporate “hired in lieu of” and bargaining unit work language contained in the Step 2 grievance appeal example.
- ♦ Ask for correct remedy (provided on Step 2 grievance appeal example).



## Step 2 Appeal

Begin the Step 2 appeal by incorporating the provided language – modified to the facts of your case.

- ◆ Add the specifics of your case (see specifics)
- ◆ You have the burden to know and prove the reasons given to be invalid.
- ◆ Know and specifically refute each USPS reason for hire in the written grievance record with arguments for which you have evidence.

examples 1 2 3 4 5 6

## At Step 2

Avoid “new argument” challenges.

- ◆ Offer to share your documents: work hours reports, clock rings, charts, graphs, etc. Full disclosure

## Utilize Additions & Corrections

This is your chance to have the last word on this issue and to perfect your case.

This is the last chance to:

- ◆ Add any arguments not previously raised.
- ◆ Document arguments raised at Step 2 which were not contained in Step 2 appeal which they fail to mention in their denial.
- ◆ Offer counter-arguments to their arguments.
- ◆ Correct any erroneous statements in their denial.

examples 1 2

## Develop Graphs, Charts, Etc.

- ◆ If possible submit graphs, charts, etc. at Step 2.
- ◆ If not, develop and submit them to your NBA office for Step 3 discussion.
- ◆ If not possible, develop ASAP and continue to develop for use in arbitration.

examples 1 2 3 4

## **Step 3 Appeal**

This is your last chance to add anything to the written grievance record – but it should be minimal.

Arguments and information available but not shared at Step 2 or in the Additions & Corrections will be given little, if any, weight.

## **Continue updating records after appeal**

- ◆ Add new casual hiring and work hours
- ◆ Document reductions in career workforce
- ◆ Continue to monitor utilization
- ◆ Document and develop evidence when utilization changes subsequent to appeal
- ◆ Challenge subsequent casual hiring
- ◆ Get the reasons. Update records if reasons are the same
- ◆ If reasons are different, you MAY need to file another grievance – depending on facts, circumstances, and reasons given
- ◆ Unsure?? Call your business agent!

## Appendix

### Index of Documents

CBA Article 17.2.B. language.....	A1
JCIM language.....	A1a
Request for information (general casual information).....	A2
Summary of casuals on-rolls at Little Rock plant.....	A3
Casual Allocation spreadsheet.....	A4
Example of casual justification.....	A5
Use of casual workforce letter (Columbia, MO).....	A6
Response to request for information (Columbia, MO).....	A7
1997 "steady" casuals spreadsheet (Fayetteville, AR).....	A8
1997 time-line of casual employment (Fayetteville, AR).....	A9
Timeline of reported casual hours (Jefferson City, MO).....	A10
Casuals / workhours table.....	A11
Casuals graphs (Rochester, MN).....	A12
Complement form.....	A13
Work hours spreadsheet.....	A14
Additions and Corrections (case#DS01-02).....	A15
Additions and Corrections (case#DJC800).....	A16
Request for Information (heavy leave).....	A17
Response to request for sick leave information.....	A18