

**A guide to handling
grievances concerning
assignment of employees
injured on duty in the U. S.
Postal Service.**

GRIEVANCE DOCUMENTATION OVERVIEW

The primary argument in limited duty /reassignment violation cases is contained in Section 546 of the ELM and the EL-505, Chapters 7 or 11 (whichever is applicable).

The language in the ELM, (Section 546.142.a) states, “ The following considerations must be made in effecting such limited duty assignments.”

The language in the EL-505 states, “If it is necessary to change any of the elements to meet the employee’s physical limitations or to provide the employee with suitable work, the elements must be changed in this specific order.”

The must considerations and must order referenced above in the ELM and EL-505 are as follows:

<u>Priority of Choice</u>	<u>Regular Craft</u>	<u>Regular Tour</u>	<u>Regular Facility</u>
1 st	Within	Within	Within
2 nd	Outside	Within	Within
3 rd	Within	Outside	Within
4 th	Outside	Outside	Within
5 th	Within	Within	Outside
6 th	Outside	Within	Outside
7 th	Within	Outside	Outside
8 th	Outside	Outside	Outside

546.14 Disability Partially Overcome

546.141 General

The procedures for current employees cover both limited duty and rehabilitation assignments. Limited duty assignments are provided to employees during the recovery process when the effects of the injury are considered temporary. A rehabilitation assignment is provided when the effects of the injury are considered permanent and/or the employee has reached maximum medical improvement.

546.142 Obligation

When an employee has partially overcome the injury or disability, the Postal Service has the following obligation:

- a. Current Employees: When an employee has partially Service must make every effort toward assigning the employee to limited duty consistent with the employee's medically defined work limitation tolerance (see 546.611). In assigning such limited duty, the Postal Service should minimize any adverse or disruptive impact on the employee. The following considerations must be made in effecting such limited duty assignments:
 - (1) To the extent that there is adequate work available within the employee's work limitation tolerance, within the employee's craft, in the work facility to which the employee is regularly assigned, and during the hours when the employee regularly works, that work constitutes the limited duty to which the employee is assigned.

The second priority allows for the employee to work in another craft, but within the employee's work facility and tour.

The third priority allows for the employee to work outside their tour, but within their craft and facility.

In most cases, there will not be a need to go below the third priority, to find suitable work within the employee's medically defined work tolerance.

Section 546.2 of the ELM and EL-312 require the Postal Service to be in compliance with the provisions of the applicable collective bargaining agreements.

Contractual Provision

Article 15 If it is a ongoing violation each case should be filed stating, "**this is a continuing violation**", however the Local union needs to keep requesting supporting documentation as limited duty assignment could change.

Article 19: ELM, Section 546

EL-505, Chapter 7 (temporary assignment)

EL-505, Chapter 11 (permanent assignment/max med. improve.)

EL-505, Chapter 12 (records and privacy act, if applicable)

EL-312, Section 716 (if reassignment is temporary)

EL-717, Section 717 (if reassignment is permanent)

ASM, Section 352 (Union request for information)

ASM Appendix 120.090 (information disclosure, if applicable)

EL-~~860~~⁸⁰⁶, Chapter (Union review of medical record, if applicable)

Article 13 (if voluntarily requested by the employee and "other assignment")

Article 37 (Only if the reassignment violated the Craft Article)

Article 30 (Only if the reassignment violates the LMOU-Items 15, 16, 17)

Article 5 (It could be a unilateral action if the Postal Service has a policy of reassigning injured employees in the Clerk Craft without reviewing medical limitation tolerances on an individual basis.)

Article 7 (If after review it is determined that the employee does not have a compensable disability and/or it is strictly a crossing craft grievance and different wage level argument)

Article 12 Burrus 6/11/90 Step 4 (Excessing/limited duty/Item 18 of LMOU)

Article 8 (If we prove our case, overtime at the appropriate rate for all hours worked by the employee will be requested for clerks on OTDL)

Remedy

Request overtime for all clerks on the OTDL for all hours worked by the employee and to make the Clerk Craft whole. Additional remedies could include posting a job, conversion of a part-time flexible clerk, filling job vacancies and etc. These remedies are based on a case specific fact circumstances.

Documents to Request/Relevancy

Whenever the term “employee” is referenced in this section, it represents any employee working in the Clerk Craft from another Craft, in violation of the Collective Bargaining Agreement. Each employee violation is “case specific” since each will have different medical limitations

- Interview clerks in the facility (work area), the injured employee and his/her immediate supervisor. The interview is for the purpose of determining what clerk work is being performed and the amount of time used. Get statements, if possible.
- Request the current Form 50 for any employees working in the Clerk Craft that are not clerks.
- Request a copy of the employee’s CA-1, CA-2 or CA-2a (whichever is applicable)
- Request a copy of the employee’s current CA-17 and all CA-17’s from the date of the filing CA-1 or CA-2 or CA-2a to present.

- Request a copy of the employee's voluntary request for light or limited duty in accordance with Article 13 (if applicable)

- Request a copy of the employee's current bid job award (if encumbered) or last bid award (if unencumbered)

- Request a copy of the employee's current temporary limited duty assignment (if assigned under Chapter 7 of the EL-505)

- Request a copy of the employee's current permanent rehabilitation assignment (if assigned under Chapter 11 Of the EL-505)

- Request a copy of the LMOU of the Craft representing the employee and the APWU local LMOU (to ascertain if Item 15, 16, 17 identifies light/limited duty assignments in their own craft and consultations)

- Request a copy of the PS Form 30 Operations Analysis (provides an overview for hours usage for all LDC's in facility). Your office may have replaced this form with the Flash Report.

- Request a copy of the Flash Report (if office doesn't use PS Form 30)

- Request a copy of the employee listing for the installation by Craft.

- Copy of the Clerk Craft OTDL for the facility (in accordance with Item 14 of the LMOU)

For letter carrier violations, request these additional documents

- Request a copy of DIOS (Delivery Operations Information System)

- E-Flash (Tracks mail volume)

- Copy of the employee's craft OTDL (Totals for the entire quarter, as the letter carrier craft use equalization of hours under article 8)

- AMES Carrier Delivery Statistics Report by Delivery Zip (This report shows the type of deliveries for the routes in the facility. Curbside, central, NDCBU and other deliveries can be made by most limited duty employees.

- Review the Class Route Summary in Red Edit Book for each letter carrier route in the facility

- Review 3996-Carrier Auxiliary Assistance (Select a review of a Monday delivery to ascertain which routes need assistance.

- Request a copy of Analysis of Late Leaving (From Form 1813 or PSDS Printout) for facility. This report will show the carriers in need of office help, of which most limited duty carriers can perform.

- Review Form 3999-Inspection of Letter Carrier Route for routes in the facility. (This report will show how much time is allowed for different segments of each route. Ex.-curbside boxes might be 2 hours)

Most of the documents, once requested will not have to be requested again, in subsequent grievances or in grievances involving other employees in the same facility. You only need to request general documents in one grievance and just make copies to place in other grievances

Attachments:

1. New revised request for information form from DC region
2. Limited Duty Assignments in the City Letter Carrier Craft
3. Limited Duty Assignments in the Mail Handlers Craft
4. New revised request for information form- DC Clerk Region

Other Related Handbooks and Manuals:

EL-201 Handbook (Bargaining Unit Position Descriptions)

EL-301 Handbook (Guidelines for Processing Personnel Actions)

EL-303 Handbook (Qualification Standards)

M-39 Handbook (Management of Delivery Services)

PO-603 Handbook (Rural Carriers Duties and Responsibilities)

M-41 Handbook (City Delivery Carriers Duties and Responsibilities)

The following regional regular arbitration cases were selected because of the excellent discussions and opinions made by the arbitrator and their reference to national awards. These cases support the following union arguments:

- ✓ "Make every effort" to assign to their own craft/ accommodations
- ✓ Affirmative defense by the Union involving the EL-546.141
- ✓ Shifting burden of proof to the USPS to prove case
- ✓ Continuing search for limited duty work in their own craft
- ✓ Wage level violations as it pertains to article 7.2 and EL-505
- ✓ Privacy act and USPS failure to provide medical documentation
- ✓ Limited duty and its application under Article 13 (other assignments)
- ✓ Article 30 language and "advance consultation with Union"
- ✓ No advance notification and Article 7 and Article 30
- ✓ Overtime as a remedy

Regional Regular Arbitration Awards

G90C-4G-C 93012108	Helburn	Shawnee, OK	12/7/93
K94C-4K-C 99007629	Loeb	Arlington, VA	2/23/03
C0C-4M-C-5800	Nathan	Traverse City, MI	11/18/93
J80C-4J-C 95023385	Walt	Ann Arbor, MI	3/15/01
D98C-4D-C 01251649	Miles	Richmond, VA	3/20/03
E0C-2E-C 19056	Berk	Lehigh Valley, PA	9/29/93
S7C-3B-C-21452	Marlatt	Mena, AR	5/14/90
J90C-4J-C 92049775	Fletcher	Arlington Heights, IL	4/28/95
K94C-4K-C 97045160	Drucker	Glen Burnie, MD	8/19/99
H98C-4H-C 00205726	Holley	Gadsden, AL	3/21/02

Limited Duty Carrier Assignments

Sort letter/flat mail in modified workstation/remain seated
Sort letter/flat mail
Write/Type PS Form 3982
File change of address cards
Input data into computer involving carriers
Growth management
Maintain routine route records
Maintain special order route records
Write up carriers accountable mail
Make carrier route case labels
Maintain Address Management books for carrier routes
Maintain Unit Goal posters
Update USPS employee bulletin boards
Record DPS errors received from carriers after return from street
Carrier information gathering for Unit Review
Coordinate USPS/carrier special events
NDCBU Street delivery of mail (Cluster Box)
High rise apartment delivery of mail
Truck mounted mail delivery
Complete Form 1564A for carrier routes
Maintain route maps for carrier routes
Maintain Form 3575 for carrier routes
Maintain Form 1621 for carrier routes
Sort mail to be forwarded into throw-back case for handling by clerks
Make deliveries on carrier routes

Limited Duty Mail Handler Assignments

Separate bundles of mail
Complete and attach labels on bundles according to content
Condemn mail bags
Remove cord fasteners and label holders
Prepare salvaged articles
Work at wire tying machines
Prepare facing slips
Sort trays, pouches and bags to appropriate distribution point
Label printing
Operate a jitney, fork-lift or pallet truck

AMERICAN POSTAL WORKERS UNION, AFL-CIO

Grievant/Union _____ Nature of Allegation _____

First () or Second () Request Date
Check one of the above

Date Received by USPS _____

To: _____ Title: _____

From: _____ Title: _____

**Subject: REQUEST FOR INFORMATION & DOCUMENTS RELATIVE TO
PROCESSING A GRIEVANCE**

We request that the following documents and/or witnesses be made available to us in order to properly identify whether or not a grievance does exist and, if so, their relevancy to the grievance.

USPS- Please return a 2nd copy of this form annotating information provided & date()

1. _____ ()
2. _____ ()
3. _____ ()
4. _____ ()
5. _____ ()
6. _____ ()
7. _____ ()
8. _____ ()
9. _____ ()
10. _____ ()
11. _____ ()
12. _____ ()
13. _____ ()
14. _____ ()
15. _____ ()
16. _____ ()

NOTE: Section 352 and Appendix 120.090 of the ASM covers the USPS requirements for providing information to the union. Chapter 2 of the EL-860 covers the release of medical documents to the union. The Joint Contractual Manual (JCAM) covers the time period and requirements for the release of information to the union and written reasons why the information request is not granted in the time period required. Article 17, Section 3 requires the Employer to provide for review all documents, files and other records necessary in processing a grievance. Article 31, Section 3 requires that the Employer make available for inspection by the Union all relevant information necessary for collective bargaining or the enforcement, administration or interpretation of this Agreement. Under 8a(5) of the National Labor Relations Act it is an Unfair Labor Practice for the Employer to fail to supply relevant information for the purpose of collective bargaining. Grievance processing is an extension of the collective bargaining process.

() REQUEST APPROVED

() REQUEST DENIED

(DATE OF DECISION)

(SIGNATURE REQUIRED)

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K94C-4K-C 99007629	Loeb	Arlington, VA	2/23/03
C0C-4M-C-5800	Nathan	Traverse City, MI	11/18/93
J80C-4J-C 95023385	Walt	Ann Arbor, MI	3/15/01
D98C-4D-C 01251649	Miles	Richmond, VA	3/20/03
E0C-2E-C 19056	Berk	Lehigh Valley, PA	9/29/93
S7C-3B-C-21452	Marlatt	Mena, AR	5/14/90
J90C-4J-C 92049775	Fletcher	Arlington Heights, IL	4/28/95
K94C-4K-C 97045160	Drucker	Glen Burnie, MD	8/19/99
H98C-4H-C 00205726	Holley	Gadsden, AL	3/21/02

