

JOSEPH J. MAHON JR.
VICE PRESIDENT, LABOR RELATIONS

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1/24/96



January 23, 1996

1/28/96
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VICE PRESIDENTS, AREA OPERATIONS

SUBJECT: RIF Procedures

In light of recent Merit Systems Protection Board (MSPB) decisions, there has been some confusion over the process to be implemented in reassigning bargaining unit employees.

The MSPB has issued decisions regarding placement of veterans preference bargaining unit employees in lower level positions. Placing veterans preference bargaining unit employees in lower level positions, even with saved grade, has been determined to be a reduction in force (RIF). The MSPB has decided that the Postal Service must follow RIF procedures when placing veterans preference bargaining unit employees in lower level positions.

Historically, the Postal Service has utilized Article 12 of the Collective Bargaining Agreements (CBA) in placing employees in lower level positions and will continue to do so when appropriate and not in conflict with RIF procedures. The provisions contained in Article 12 regarding placement of employees are based on the employee's seniority, and do not recognize veterans preference. This could potentially conflict with the RIF procedures contained in federal statute. We should continue to use Article 12 reassignment procedures unless it is apparent that a veterans preference eligible will be adversely affected (placed in a lower grade), at which time Article 6 provisions will be utilized.

The provisions of Article 6 of the CBAs provide a procedure by which bargaining unit employees can be placed in lower level duty assignments which comply with RIF procedures. My department has developed training and guidelines for the placement of veterans preference bargaining unit employees under the provisions contained within Article 6. Training will be completed shortly for all areas concerning the applicable contractual procedures to be utilized to reassign employees under Article 6.

The Headquarters/Field Labor Relations Group is available to work with your area staff to develop a site specific plan to accomplish the necessary placement of affected employees.

[Signature]
Joseph J. Mahon, Jr.

Administrative routing stamp with handwritten initials and dates.



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April 11, 1996

MANAGERS, HUMAN RESOURCES (AREAS)**SUBJECT: Article 6 and 12 Questions and Answers**

Attached are documents related to Articles 6 and 12 of the collective bargaining agreement. Included is Article 6 notification correspondence to the APWU National union communicating Reduction In Force (RIF) competitive levels decided on by the Postal Service after having met the contractual obligation to consult with the union. As you know, the applicable RIF competitive areas were already established and published in a Postal Bulletin.

In addition, there is a set of Q & A's explaining and clarifying the contractual provisions of Article 6 and Article 12 to help better understand some of the necessary steps associated with the procedures. These Q & A's are intended to address the most asked questions on the seldom used provisions.

Please share this information with the appropriate labor and human resource professionals in the Area and District offices.

If there are any questions, do not hesitate to contact Peter Sgro of my staff at (202) 268-9824.


Anthony J. Vigilante
Manager
Contract Administration (APWU/NPMHU)

Attachment

ARTICLE 6/12 REASSIGNMENTS - QUESTION AND ANSWERS

1. Question: When reducing employees in an installation, would local management apply Article 12 provisions until such time as a preference eligible would be affected by placement in a lower level position?

Answer: A determination must be made, based on the results of examining various scenarios, to utilize either Article 12 or Article 6. Prior to implementing Article 6, authorization must be received from Headquarters through the Area Manager, Human Resources, or designee. [Ref. 6 (3).]

2. Question: When providing the ninety-day advance notification to the affected union(s) at their regional level, is management required to provide documentation supporting its position regarding: legitimate business reasons for the action; the maximum number of affected employees; and the reduction in casuals, part-time flexible workhours and overtime hours?

Answer: There is no requirement in the language of Article 6 relating to notification to the unions that would require such documentation to be included with the notice. A sample notification letter has been prepared for Area office use. However, supporting documentation should be furnished. [Ref. 6.B.1]

3. Question: When providing the affected employees the required sixty-day advance notification, what "rights" must they be advised of or are they advised of their rights when and if laid-off or subjected to a reduction in force?

Answer: Article 6 requires that the Postal Service provide the affected employees with a sixty-day notice that they may be affected by layoff or reduction in force (RIF). A sample notification letter has been prepared for local office use. The affected employees would be advised of their appeal rights when and if the specific actions affecting them take place.

The RIF procedures require that the employees within the competitive area where a RIF may take place be given at least a ninety-day general notice that they may be affected by a RIF. Further, employees who are affected by a RIF must be given at least a sixty-day notice of the specific RIF action and be advised of their appeal rights. The draft notices will be provided by Headquarters through the Area Manager, Human Resources. [Ref. 6.B.2.]

4. Question: When notifying employees that they may be subject to the provisions of Article 6, must management notify non-protected preference eligibles who have three (3) or more years of service and who are within the impacted number in the seniority unit?

Answer: Yes. They are subject to the preconditions which must be met prior to lay-off or reduction in force and would receive written notice. [Ref. 6.B.2]

ARTICLE 6/12 REASSIGNMENTS - QUESTIONS AND ANSWERS

5. Question: Is management required to separate all casuals in the affected craft?

Answer: While there is no absolute requirement to separate all casuals in the affected craft, management must separate them to the "fullest extent possible." [Ref. 6.B.4.]

6. Question: Is management required to reduce part-time flexible workhours regardless of salary level in the affected craft?

Answer: No. Management is required to minimize part-time flexible workhours used in positions within the affected seniority unit; i.e., positions in the salary level and craft in the specific installation. Note that, unlike reduction of casuals, this requirement applies to positions within the seniority unit rather than the entire craft; for most crafts, this is a limiting condition. [Ref. 6.B.4.]

7. Question: Is management required to reduce the amount of overtime worked in positions within the seniority unit?

Answer: Yes. As with minimization of part-time flexible workhours, management is required to minimize the amount of overtime worked in positions within the affected seniority unit. [Ref. 6.B.4.]

8. Question: Can we offer retirement as opposed to instituting a lay-off or reduction in force?

Answer: Employees in the affected craft must be offered the opportunity to voluntarily terminate their employment as a precondition to implementation of Article 6. Those employees not eligible for retirement would receive severance pay as outlined in Part 435 of the ELM.

For early retirement, however, prior OPM approval is required before it can be offered. [Ref. 6.B.4.]

ARTICLE 6/12 REASSIGNMENTS - QUESTIONS AND ANSWERS

9. **Question:** Under Article 6.B.4, is management required to solicit volunteers to terminate their employment even if there are a sufficient number of available duty assignments in other seniority units to place all of the affected employees?

Answer: Volunteers are limited to a number equivalent to the number of affected employees for whom vacancies do not exist. [Ref. 6.B.4]

10. **Question:** Is management required to reduce transitional employee workhours?

Answer: No. All that the Memorandum of Understanding with the APWU and the arbitration award with the NALC require is that employees subject to lay-off be offered the opportunity to work any transitional assignments within the same category and installation. Such employees must be currently qualified for the transitional assignments. [Ref. MOU, Arbitration Award.]

11. **Question:** When making assignments as a result of a preconditional posting, does the term "qualified" imply "currently qualified" or "minimally qualified?" If the answer is "minimally qualified," are such employees entitled to enter a deferment period as defined in Article 37, Sections 3.F.3.a., 3.F.4.a., and 3.F.7 or to demonstrate a skill(s) as defined in Article 37, Section 3.F.5?

Answer: In order to be assigned to preconditional vacancies, employees must only be minimally qualified for the assignment. If minimally qualified, they would be entitled to enter a deferment period or to demonstrate a skill in keeping with the cited provisions of Article 37. [Ref. 6.B.5.]

12. **Question:** Does the fact that employees met different entrance qualifications within a given salary level, such as Level 4 Mail Processors and Level 4 CFS Clerks with their different qualification standards, affect assignment of those employees under the preconditional posting?

Answer: Assignment under the preconditional posting is initially based on the employees meeting the minimum qualifications, which include the appropriate entrance examination. For clerk craft employees, see also the Memorandum of Understanding re. "Interlevel Bidding -- Entrance Examination Requirements." [Ref. 6.B.5.]

ARTICLE 6/12 REASSIGNMENTS - QUESTIONS AND ANSWERS

13. Question: If a non-protected preference eligible employee does not request assignment to the sole vacancy in the same level at the time of the preconditional posting, while a junior non-protected non-preference eligible makes such request, who is assigned to the vacancy? What would be the result if the non-protected non-preference eligible were the senior of the two (2) employees?

Answer: As there was only one vacancy in the same level, the non-protected preference eligible would be assigned, even though s/he did not request the vacancy, regardless of relative seniority standing. [Ref. 6.B.5.]

14. Question: If two (2) vacancies in the same level were available in the preconditional posting, would they be assigned based on seniority if the non-protected preference eligible, who is senior, failed to request assignment while the junior non-protected non-preference eligible made a request?

Answer: In this example, as two (2) same level vacancies were available, the junior non-protected non-preference eligible would be assigned to the vacancy of his/her choice and the senior non-protected preference eligible would be assigned to the remaining vacancy. This answer assumes both employees were minimally qualified. [Ref. 6.B.5.]

15. Question: Are affected non-protected preference eligibles in the affected seniority unit entitled to request reassignment to available lower level duty assignments posted during the preconditional posting?

Answer: Yes. [Ref. 6.B.5]

16. Question: Are duty assignments in the same seniority unit as the affected employees which are vacant at the time that the Article 6 preconditions are implemented included in the twenty-day posting?

Answer: No. Unassigned protected employees would already have been assigned to such vacancies. [Ref. 6.B.5]

17. Question: Can non-protected, non-preference eligible employees within the seniority unit who will not be impacted based on the number of employees involved request assignment to a duty assignment which is offered during the twenty-day preconditional posting?

Answer: Yes. [Ref. 6.B.5.]

ARTICLE 6/12 REASSIGNMENTS - QUESTIONS AND ANSWERS

18. Question: Can management utilize the duty assignments encumbered by affected employees to place the remaining unassigned employees in the seniority unit whose positions have been abolished?

Answer: Protected employees who are unassigned due to their duty assignments being abolished and non-protected employees who are unassigned due to their duty assignments being abolished and who will not be impacted can be assigned to duty assignments encumbered by affected employees in the seniority unit. [Ref. 6.B.5.]

19. Question: How are seniority units constructed?

Answer: A seniority unit is composed of all non-protected preference eligible and non-protected non-preference eligible employees in the same craft, same category and same salary level within each installation, as installations were defined under the 1990 Collective Bargaining Agreements. The parties may mutually agree to define seniority units on terms other than those outlined herein. [Ref. 6.C.3.]

20. Question: What are seniority units utilized for?

Answer: Seniority units are defined for the purposes of identifying employees exposed to lay-off and/or reduction in force, identifying positions in which overtime and part-time flexible hours must be minimized and identifying vacancies which employees may apply for in the preconditional posting. [Ref. 6.B.3., B.4., and B.5.]

21. Question: Are employees with saved grade in lower level positions treated as though they are in the level they are working or as though they are in the saved grade level?

Answer: Employees with saved grade working in lower level positions are considered to be in the level in which they are working, not in the level of their saved grade. Where such employees are working with other employees occupying positions in that same level, neither group has preference over the other simply by virtue of one group being in saved grade status. [Ref. 6.C.3.]

22. Question: How are multi-craft duty assignments placed into seniority units?

Answer: Multi-craft duty assignments are placed into seniority units based on the identity of the incumbent. For example, if a letter carrier held a VOMA assignment, that assignment would be in the seniority unit composed of Level 5, full-time regular, letter carrier craft employees at the particular installation. [Ref. 6.C.3.]

ARTICLE 6/12 REASSIGNMENTS - QUESTIONS AND ANSWERS

23. Question: How are competitive areas for reduction in force purposes defined? For example, custodial assignments are on the plant organization structure, but the custodians holding the assignments physically work in a station - is the competitive level the plant or the station at which they work?

Answer: Competitive areas were listed in Postal Bulletin 21887, dated February 16, 1995. In order to determine which competitive area a specific job assignment falls into, PB 21887 must be referred to. [Ref. 6.C.5.]

24. Question: Have competitive levels been identified for bargaining unit employees?

Answer: Yes.

25. Question: When a non-protected, preference eligible career conditional employee is released from his/her competitive level, is s/he entitled to bump a non-protected, non-preference eligible from a duty assignment obtained during the preconditional posting required by B.5?

Answer: Depending upon the employee's RIF retention standing, a non-protected, career conditional preference eligible who is released from his or her competitive level could displace either a non-protected, career conditional non-preference eligible or even a non-protected, career conditional preference eligible. [Ref. 6.C.5]

26. Question: Can a preference eligible Level 6 Distribution Clerk - Machine MPLSM who has never been a manual clerk bump a non-preference eligible manual clerk during a reduction in force?

Answer: During a reduction in force, a preference eligible can "bump" an employee in a lower tenure group or a lower subgroup within the same tenure group within his or her competitive area who is holding a position for which the preference eligible is minimally qualified and which is up to three grade levels below the grade level of the preference eligible's current position.

Also, a preference eligible can "retreat" to a position which is the same position, or is an essentially identical one, to that which had been previously held by the employee. The position must be held currently by another employee with a lower retention standing in the

SAMPLE LETTER #1

[90-Day Regional Union Notification]

(NOTE: Footnotes are included for aid in preparation only.)

DATE:

SUBJECT: Notification of Reassignment, Layoff and/or Reduction in Force

TO: APWU Regional Coordinator
NALC National Business Agent
NPMHU Regional Director¹

Dear Sir/Madam:

In accordance with the provisions of Article 6B.1², advance notification is hereby given that an excess of employees (exists/will exist)³ at (name of installation) and that a layoff and/or reduction in force will be implemented no sooner than (date)⁴

This action is required due to (business condition)⁵.

There are a maximum of (insert number and related information)⁶ at the installation who may be subject to the actions outlined above.

In keeping with the above, the conversion of part-time flexibles in the affected craft to full-time regular or full-time flexible⁷ will be discontinued until further notice.

Please contact me if you have any questions in this regard.

Area Manager, Human Resources

cc: District Manager, Human Resources
Regional Union(s)⁸

¹ Addressee is determined based on craft of affected employees.

² The reference is Article 6.3A when mail handlers are the affected employees.

³ Select based on whether the excess condition currently exists or is projected.

⁴ Date must be no sooner than 90 calendar days from the date of the letter.

⁵ Specify the business condition which requires this action; e.g., Introduction of automation, implementation of RBCS or DPS, etc.

⁶ Specify the maximum number of employees and indicate their craft(s), category(s), and level(s).

⁷ If the letter is addressed to the NPMHU, delete the reference to full-time flexibles.

⁸ Copy the letter to the union(s) not listed in the address as outlined in Footnote 1.

SAMPLE LETTER #2

[Letter 2: 60-Day Notice to Affected Employees]

(NOTE: Footnotes are included for aid in preparation only.)

Via Certified Mail

DATE:

SUBJECT: Notification of Reassignment, Layoff and/or Reduction in Force

TO: Name of Affected Employee

SS#

Job Title

Address

You are hereby notified that the U. S. Postal Service may be required to conduct a reassignment, layoff and/or reduction in force under the provisions of Article 6 of the Collective Bargaining Agreement, and applicable federal statute. You may be affected by one or the other of these actions no sooner than sixty (60) calendar days¹ from the date of your receipt of this letter.

A listing of vacancies in other seniority units within your installation and in other installations within the commuting area to which you may request reassignment will be posted no less than twenty (20) calendar days prior to the effective date of this action. You will be provided with additional information regarding submission of requests for reassignment to those vacancies at that time.

Additionally, you have the option of voluntarily terminating your employment or, if eligible, applying for early retirement. Please review the attached notice which will be posted on the official bulletin board.² If you are interested in exercising either of these options, please contact (name of designee) at (telephone number) for further information.

If you are affected by layoff or reduction in force, you will be provided with recall rights in keeping with the provisions of Article 6 of the Collective Bargaining Agreement or federal statute, as applicable.

Please contact the individual listed above if you have any questions regarding your craft seniority date, years of service or other matters related to this notice. If you believe that your veterans' preference status is incorrectly recorded in your Official Personnel Folder, or if you have other questions regarding your preference eligibility, please be prepared to provide a copy of your DD-214 to validate your claim.

Postmaster/Plant Manager

cc: Manager, Human Resources

Local Union President

OPF

¹ Establish effective date to allow for delivery time in addition to required 60-day notice.

² Attach a copy of the "NOTICE TO ALL ____ CRAFT EMPLOYEES" regarding solicitation for voluntary termination.

SAMPLE LETTER #3

[Letter 3: Affected Employee Job Selection Letter]

(NOTE: Footnotes are included for aid in preparation only.)

Via Certified Mail

DATE:¹

SUBJECT: Notification of Article 6 Reassignment Options

TO: Name
SS#
Job Title
Address

By letter dated (insert date), you were provided with sixty (60) days advance notice that you could be affected by reassignment, layoff and/or reduction in force. As a precondition to layoff or reduction in force, all vacancies in the same or lower level in other seniority units within your installation and other installations within the commuting area have been identified and posted on the official bulletin board(s).

As an affected employee, you may request reassignment to available vacancies for which you meet the minimum qualifications by indicating your preference(s) on the attached form. Space is provided for you to indicate your order of preference if you are minimally qualified for more than one of the posted vacancies. Selection among qualified preference eligible and qualified non-preference eligible employees who request reassignment will be made on a seniority basis, except as limited by the requirement stated in 1 below². If you are a preference eligible employee, selection of a vacancy at a lower level is entirely voluntary on your part.

Indicate your preference for posted vacancies and forward the completed and signed form to the individual listed hereunder, postmarked no later than ten (10) calendar days from the date of this letter.

(Insert Name and Address of Designated Management Representative)

If you decline to request reassignment or if you fail to timely return the attached form, you will be affected as follows:

1. If you are a preference eligible employee, you will be assigned to one of the posted vacancies at the same level as your current duty assignment;³
2. If you are not a preference eligible employee, you will become exposed to lay-off.

¹ Vacancies must be posted no less than twenty (20) calendar days prior to the effective date of the reassignment, layoff or reduction in force. This letter must be dated and mailed no later than the date the subject vacancies are posted.

² See Footnote 3. If #1 will not be included in the letter, end the sentence after "basis."

³ Include #1 only if vacancies in the same level are, in fact, available in other seniority units in the installation or other installations within the commuting area.

SAMPLE LETTER #3 (Cont.)

If you have any questions regarding these matters, please contact the individual listed above at (telephone number).

Manager, Human Resources

cc: Manager
Local Union President
OFF

SAMPLE LETTER #5

[Letter 5: Non-Affected Employee Job Selection Letter - Job Not Abolished]

(NOTE: Footnote is included for aid in preparation only.)

Via Certified Mail

DATE:¹

SUBJECT: Notification of Article 6 Reassignment Options

TO: Name
SS#
Job Title
Address

By letter dated (insert date), certain employees in your craft, category and salary level (i.e., seniority unit) were provided with sixty (60) days advance notice that they could be affected by reassignment, layoff and/or reduction in force.

It has been determined that you will not be affected by any of the actions outlined in that letter. Your current duty assignment will not be abolished. Therefore, you are not required to take any further action if you wish to retain your current duty assignment.

However, as an employee in an affected seniority unit, you may request reassignment to available vacancies for which you meet the minimum qualifications in the same or lower level in other seniority units within your installation and other installations within the commuting area. Such vacancies have been identified and posted on the official bulletin board(s). Space is provided on the attached form for you to indicate your order of preference if you are minimally qualified for more than one of the posted vacancies. Selection among qualified preference eligible and qualified non-preference eligible employees who request reassignment will be made on a seniority basis. If you are a preference eligible employee, selection of a vacancy at a lower level is entirely voluntary on your part.

Indicate your preference for posted vacancies and forward the completed and signed form to the individual listed hereunder, postmarked no later than ten (10) calendar days from the date of this letter.

(Insert Name and Address of Designated Management Representative)

If you have any questions regarding these matters, please contact the individual listed above at (telephone number).

Manager, Human Resources

cc: Manager
Local Union President
OPF

¹ Vacancies must be posted no less than twenty (20) calendar days prior to the effective date of the reassignment, layoff or reduction in force. This letter must be dated and mailed no later than the date the subject vacancies are posted.

SAMPLE LETTER #6

[Letter 6: Non-Affected Employee Job Selection Letter - Job Abolished]
(NOTE: Footnote is included for aid in preparation only.)

Via Certified Mail

DATE:¹

SUBJECT: Notification of Article 6 Reassignment Options

TO: Name
SS#
Job Title
Address

By letter dated (insert date), certain employees in your craft, category and salary level (i.e., seniority unit) were provided with sixty (60) days advance notice that they could be affected by reassignment, layoff and/or reduction in force. It has been determined that you will not be affected by any of the actions outlined in that letter.

While your current duty assignment will be abolished, it has been determined that a sufficient number of duty assignments in your salary level will be available for your placement. Therefore, it is not necessary for you to make a selection during the current preconditional posting period.

However, as an employee in an affected seniority unit, you may request reassignment to available vacancies for which you meet the minimum qualifications in the same or lower level in other seniority units within your installation and other installations within the commuting area. Such vacancies have been identified and posted on the official bulletin board(s). Space is provided on the attached form for you to indicate your order of preference if you are minimally qualified for more than one of the posted vacancies. Selection among qualified preference eligible and qualified non-preference eligible employees who request reassignment will be made on a seniority basis. If you are a preference eligible employee, selection of a vacancy at a lower level is entirely voluntary on your part.

Indicate your preference for posted vacancies and forward the completed and signed form to the individual listed hereunder, postmarked no later than ten (10) calendar days from the date of this letter.

(Insert Name and Address of Designated Management Representative)

If you have any questions regarding these matters, please contact the individual listed above at (telephone number).

Manager, Human Resources
cc: Manager
Local Union President
OPF

¹ Vacancies must be posted no less than twenty (20) calendar days prior to the effective date of the reassignment, layoff or reduction in force. This letter must be dated and mailed no later than the date the subject vacancies are posted.