

# Management Instruction

## Alcohol and Drug Testing of Employees with a Commercial Driver's License (CDL)

This management instruction (MI) outlines Postal Service™ policies enacted to comply with the Omnibus Transportation Employee Testing Act of 1991 and establishes procedures for implementing U.S. Department of Transportation (DOT) alcohol and drug screening regulations.

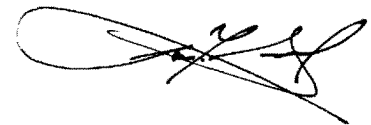
### Background

The Omnibus Transportation Employee Act of 1991 authorized the DOT to mandate substance abuse management for safety-sensitive employees in the transit industry. In February 1994, the DOT first published drug and alcohol testing regulations for employers of 50 or more safety-sensitive employees. For the purpose of this MI, a safety-sensitive employee is one who holds a Commercial Driver's License (CDL) and operates a vehicle with a Gross Vehicle Weight Rating (GVWR) greater than 26,000 pounds.

Employers of safety-sensitive employees are responsible for implementing and conducting alcohol and drug testing programs. They may do this by using their own employees, by using contract services, or by using a qualified service agent (i.e., a consortium/third-party administrator – C/TPA) who provides or coordinates one or more alcohol and/or drug testing services to DOT-regulated employers. Law enforcement officers do not conduct these tests as part of roadside or other inspections. However, under certain circumstances, post-accident tests conducted by law enforcement are acceptable. Any individual who conducts the testing must be trained to operate an approved evidential breath testing (EBT) device and to be proficient in the breath testing procedures. The Postal Service's national medical director will administer the DOT alcohol and drug testing program for the Postal Service.

The DOT publishes regulations under Title 49, *Code of Federal Regulations* (CFR), Part 40 (commonly referred to as Part 40), describing required procedures for conducting workplace alcohol and drug testing for the federally regulated transportation industry, which includes the Postal Service. The Office of Drug and Alcohol Policy and Compliance (ODAPC) publishes, implements, and provides authoritative interpretations of Part 40 alcohol and drug testing rules. This management instruction is not intended to supersede current information available on the DOT website at [www.dot.gov/ost/dapc](http://www.dot.gov/ost/dapc).

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### CONTENTS

<b>Background</b> .....	1
<b>Scope</b> .....	2
<b>Prohibitions on Alcohol/Drug Use and Possession</b> .....	2
<b>Required Testing and Implementation Procedures</b> .....	3
Pre-employment Testing .....	3
Transferring Positions .....	4
Post-employment Testing .....	4
<b>Alcohol and Drug Testing Procedures</b> .....	5
Alcohol Testing .....	5
Drug Testing .....	5
SAP Evaluation Required .....	6
<b>Evaluations for Violation of the Rules</b> .....	6
Alcohol .....	6
Drugs/Controlled Substances ..	7
<b>Notices</b> .....	7
Notification of Testing .....	7
Notification of Positive Tests ..	7
Actions Following Notification ..	8
<b>Recordkeeping</b> .....	8
Retention/Storage .....	8
Annual Summary .....	8
Release of Information .....	9
<b>Training and Education</b> .....	9
<b>Appendices</b> .....	10

## Scope

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The DOT alcohol and drug policy regulations apply to approximately 10,000 Postal Service employees who operate commercial motor vehicles (vehicles in excess of 26,000 GVWR) during the performance of their jobs. To operate a commercial motor vehicle, a driver must possess a valid state CDL. Postal Service employees who are required to maintain a CDL as part of their responsibilities are covered by the Omnibus Transportation Testing Act and related motor carrier regulations for safety-sensitive functions. This group primarily includes motor vehicle operators and tractor trailer operators. Certain vehicle and plant maintenance mechanics and a small number of city carriers, clerks, and mail handlers may also be covered under the Act.

The Federal Motor Carrier Safety Act (FMCSA) 49 CFR part 382.107 defines safety-sensitive functions and the times when an operator is covered under the Act. As stated in 49 CFR 382.107, "Safety-sensitive function means all time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work." Safety-sensitive functions include the following:

1. All time at an employer facility, or other property, waiting to be dispatched, unless the driver has been relieved from duty by the employer;
2. All time inspecting equipment prior to driving or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time;
3. All time spent at the driving controls of a commercial motor vehicle in operation;
4. All time, other than driving time, in or upon any commercial motor vehicle;
5. All time loading or unloading a vehicle, supervising, assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and
6. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

## Prohibitions on Alcohol/Drug Use and Possession

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DOT regulations state that covered employees must not use or possess alcohol or any illicit drug while assigned to or actually performing safety-sensitive functions. No covered employee shall report for duty or remain on duty while having an alcohol concentration of 0.02 BAC (blood-alcohol concentration) or greater. In addition, no management official having knowledge that a covered employee has a BAC of 0.02 or greater shall permit the covered employee to perform any safety-sensitive functions.

The regulations prohibit a covered employee from using alcohol within 4 hours of reporting for duty or after receiving notice to report. A driver may not use alcohol within 8 hours following an accident, or until the driver takes an alcohol test, whichever comes first. The use of overtime is authorized to ensure testing compliance if necessary.

A covered employee may not report for or remain on duty in a position requiring the performance of safety-sensitive functions when the employee uses any controlled substance, except when he/she is under a doctor's care and the doctor advises the employee in writing that the prescribed substance does not adversely affect the driver's ability to safely operate a commercial motor vehicle. This documentation must be retained in the driver's medical folder for 5 years.

## Required Testing and Implementation Procedures

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### **Pre-employment Testing**

Pre-employment testing is normally confined to drug testing and is conducted before applicants are hired or after an offer to hire, but always before the employee actually performs safety-sensitive functions for the first time. As a condition of employment, the Postal Service will require the applicant to take a pre-employment drug test as part of the overall personal suitability determination and a DOT drug screen at the time of the pre-employment physical. Testing at this time will be handled by the local personnel office as part of the hiring procedure.

The Postal Service must also obtain, pursuant to a driver's written consent, information on the driver's positive alcohol or drug tests and refusals to be tested within the prior 2 years. The local personnel office will issue a release of information form to the applicant for signature. This form will be sent to the previous employer(s) and returned to the medical review officer (MRO). Only applicants who have been determined as "free of controlled substances" are eligible for selection consideration.

The following information will be requested on the information form:

1. Alcohol tests with a result of 0.04 or higher alcohol concentration.
2. Verified positive drug tests.
3. Refusals to be tested (including verified adulterated or substituted drug test results).
4. Other violations of DOT agency drug and alcohol testing regulations.
5. With respect to any employee who violated a DOT drug and alcohol regulation, documentation of the employee's successful completion of DOT return-to-duty requirements (including follow-up tests). If the previous employer does not have information about the return-to-duty process (e.g., an employer who did not hire an employee who tested positive on a pre-employment test), you must seek to obtain this information from the employee.

## Transferring Positions

Drug testing is always required when an employee transfers from a non-safety-sensitive position to a safety-sensitive position.

## Post-employment Testing

DOT regulations require alcohol and drug testing in the areas of post-accident, reasonable suspicion, random, and return-to-duty and follow-up testing according to the following guidelines.

### Post-accident

As soon as practicable following an accident involving a Postal Service commercial motor vehicle, the driver of the vehicle shall be tested if any one of the following conditions are met:

1. The accident involved a fatality.
2. The driver received a citation under state or local law for a moving violation arising from the accident, and the accident involved an injury requiring treatment away from the scene.
3. The driver received a citation under state or local law for a moving violation arising from the accident, and the accident involved the towing of any vehicle.

If any one of the conditions listed in items 1 through 3 occurs, the supervisor shall immediately require the driver to report to the designated medical testing facility for an alcohol and drug test. The employee may be escorted to the testing site if conditions warrant (see [Appendix A](#)).

### Reasonable Suspicion

Reasonable suspicion alcohol and drug testing is conducted when a trained management official observes that the behavior or the appearance of a safety-sensitive employee is characteristic of and consistent with alcohol and/or drug usage. Management will use the Reasonable Suspicion Testing Checklist (see [Appendix B](#)) as an aid in determining if reasonable suspicion testing is justified.

**Note:** If testing is warranted, immediately escort the employee to the designated medical testing facility. This action will ensure the safety of the employee, all coworkers, and the general public.

### Random Testing for Alcohol

Employees are randomly selected for testing from a “pool” of all employees subject to testing. The testing dates and times are unannounced and are with unpredictable frequency throughout the year. Each year, the number of random tests will equal at least 10 percent of all safety-sensitive employees (see [Appendix I](#)).

### Random Testing for Drugs

Employees are randomly selected for testing from a “pool” of all employees subject to testing. The testing dates and times are unannounced and are with unpredictable frequency throughout the year. Each year, the number of random tests will equal at least 50 percent of all safety-sensitive employees (see [Appendix I](#)).

This MI recognizes that there may be adjustments to the annual random testing rate for alcohol and drugs in future years based on industry-wide violations as determined by the Federal Highway Administration (FHWA).

### **Return-to-Duty and Follow-Up Testing**

Return-to-duty and follow-up testing are conducted and/or overseen by the district occupational health nurse administrator (OHNA) when an individual who performs safety-sensitive duties has violated the prohibited alcohol and/or drug standards and returns to duty. The substance abuse professional (SAP) is the only one who can mandate follow-up testing. As of July 2009, direct observation collections are mandatory for all return-to-duty and follow-up testing.

Return-to-duty testing resulting in a negative test is one of the requirements for returning to duty following a positive alcohol or drug test. Follow-up testing is required in both instances to monitor the driver's continued abstinence from alcohol and/or drug use. Follow-up tests are unannounced, and at least six tests must be conducted in the first 12 months after an employee returns to safety-sensitive duties. Following the first 12 months after return-to-duty, follow-up testing may be extended for an additional 48 months (for a total of up to 60 months).

## **Alcohol and Drug Testing Procedures**

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### **Alcohol Testing**

DOT regulations require breath testing using evidential breath testing (EBT) devices approved by the National Highway Traffic Safety Administration (NHTSA). The NHTSA periodically publishes a list of approved devices in the *Federal Register*. Two breath tests are required to determine if a person has a prohibited alcohol concentration. A screening test is conducted first. This test can be administered by a screen test technician (SST) or a breath alcohol technician (BAT). Any result less than 0.02 alcohol concentration is considered a "negative" test. If the alcohol concentration is 0.02 or greater, a BAT must conduct a second confirmation test. The covered employee and the BAT complete the alcohol testing form to ensure that the results are properly recorded. The confirmation test, if required, must be conducted using an EBT that prints out the results, date, time, a sequential test number, and the name and serial number of the EBT. The confirmation test results determine any actions taken.

### **Drug Testing**

Drug testing is conducted by analyzing an employee's urine specimen. The analysis is performed at laboratories certified and monitored by the Department of Health and Human Services (DHHS). The employee provides a urine specimen in a location that affords privacy. Medical personnel (Postal Service employees or contract services) seal and label the specimen, complete a chain-of-custody document, and prepare the specimen and accompanying paperwork for shipment to a

drug testing laboratory. The specimen-collection procedures and chain-of-custody document ensure that the specimen's security, proper identification, and integrity are not compromised. The Omnibus Act requires that drug testing procedures for commercial motor vehicle drivers include split specimen procedures. Each urine specimen is subdivided into two bottles labeled as a "primary" and a "split" specimen. Both bottles are sent to the laboratory. The primary specimen is used for the initial urinalysis. The split specimen bottle remains sealed and is stored at the laboratory. If the analysis of the primary specimen confirms the presence of illegal controlled substances, the employee has 72 hours to request the split specimen be sent to another DHHS certified laboratory for analysis. This split specimen procedure essentially provides the employee an opportunity for a "second opinion." The Postal Service must provide to collectors the name and telephone number of the appropriate designated employee representative (DER) (and/or C/TPA, where applicable) to contact about any problems or issues that may arise during the testing process.

## **SAP Evaluation Required**

An employee who has violated DOT alcohol and drug regulations cannot again perform any safety-sensitive duties for the Postal Service until he/she completes the SAP evaluation, referral, and education/treatment process. Violations of DOT regulations include the following:

1. A verified positive DOT drug test result.
2. A DOT alcohol test with a result indicating an alcohol concentration of 0.04 or greater.
3. Refusal to test (including by adulterating or substituting a urine specimen)

For an employee (including an applicant or new employee) who violates a DOT drug and alcohol regulation, the Postal Service will provide at no cost a listing of SAPs readily available to the employee and acceptable to the agency, with names, addresses, and telephone numbers. A SAP evaluation is the first step in the process of returning to safety-sensitive Postal Service duties.

## **Evaluations for Violation of the Rules**

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### **Alcohol**

Under the law and implementing regulations, a covered employee who violates alcohol prohibitions must be immediately removed from safety-sensitive functions. The employee may be temporarily reassigned to available non-driving duties in the employee's craft or in other crafts, consistent with the terms of the collective bargaining agreement. A covered employee who has a positive alcohol test equal to or greater than 0.04 BAC cannot return to safety-sensitive duties until he/she has been evaluated by a SAP, has complied with any recommended treatment, has passed a SAP re-evaluation, has passed an evaluation by the MRO, and has passed a return-to-duty alcohol test. The Postal Service incurs the cost for the initial SAP evaluation. Follow-up alcohol

testing to monitor the employee's abstinence from alcohol use will be required. A covered employee who has any alcohol concentration (defined as 0.02–0.039) when tested just before, during, or just after performing safety-sensitive functions must also be removed from performing such duties for 24 hours. The employee may return to duty at the beginning of his/her next shift after the 24 hours have elapsed. Before beginning the next work shift after the 24 hours have elapsed, the employee must pass an alcohol test (defined as less than 0.02 BAC). If the employee is referred for a SAP evaluation, the employee must give permission to the MRO for the release of alcohol test results to the SAP. Discipline, if any, shall be administered in accordance with Article 16 of the National Agreement (see Appendices [A](#), [B](#), [C](#), and [D](#)).

## **Drugs/Controlled Substances**

As with an alcohol misuse violation, a covered employee must be removed from safety-sensitive duty if he/she has a positive drug test result. The employee may be temporarily reassigned to available non-driving duties in the employee's craft or in other crafts, consistent with the terms of the collective bargaining agreement. An employee cannot return to safety-sensitive duties until he/she has been evaluated by a SAP and the MRO, has complied with recommended rehabilitation, and has a negative result on a return-to-duty drug test. The Postal Service incurs the cost for the initial SAP evaluation. Follow-up drug testing to monitor the employee's continued abstinence from drug use will be required. If the employee is referred for a SAP evaluation, the employee must give permission to the MRO for the release of the drug testing results to the SAP. Discipline, if any, shall be administered in accordance with Article 16 of the National Agreement (see Appendices [E](#) and [F](#)).

## **Notices**

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### **Notification of Testing**

Before performing an alcohol or drug test, the Postal Service must notify the driver in writing that the test is being conducted under FHWA regulations. The random selection document generated by the random testing contractor will serve as the required notice.

### **Notification of Positive Tests**

Employees are to be notified of positive tests as follows:

1. A positive alcohol test equal to or greater than 0.02 BAC but less than 0.04 BAC (see [Appendix C](#)).
2. A positive alcohol test equal to or greater than 0.04 BAC (see [Appendix D](#)).
3. A notification of a positive drug test following random testing (see [Appendix E](#)).
4. A notification of a positive drug test following reasonable suspicion or post-accident testing (see [Appendix F](#)).

## **Actions Following Notification**

For more information on actions to take after notifying employees, see the following appendices:

1. Guidelines — Employees incapacitated while on duty (see [Appendix G](#)).
2. Sample letter for placing an employee on emergency off-duty status (see [Appendix H](#)).

## **Recordkeeping**

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### **Retention/Storage**

DOT alcohol and drug testing rules require that employers (or other contracted designees) retain and store certain records on their testing programs.

1. Retain the following records for 5 years:
  - a. Records of alcohol tests resulting in a concentration of 0.02 or greater.
  - b. Records of verified positive drug test results.
  - c. Documentation of refusals to take required alcohol and/or drug tests.
  - d. Documentation of substituted or adulterated drug test results.
  - e. SAP reports and all follow-up tests and schedules for follow-up tests.
2. Retain records obtained from previous employers concerning alcohol and drug test results of employees for 3 years.
3. Retain records of the inspection, maintenance, and calibration of EBTs for 2 years.
4. Retain records of negative and cancelled drug test results and alcohol test results with a concentration of less than 0.02 for 1 year.
5. Maintain records in a controlled access location.
6. Have records available for DOT inspection within 2 business days of notification.

### **Annual Summary**

The FHWA might require the Postal Service to submit a summary of the results of alcohol and drug testing performed during the previous calendar year. In such cases, the FHWA will notify the Postal Service of this requirement in January, and the Postal Service must submit the summary to the FHWA by March 15. The summary of results will generally include the following information:

1. The number and types of tests conducted.
2. The number of drivers subject to testing.
3. The number of positive and negative results.



4. The number of applicants rejected for failing an alcohol or drug test.
5. The number of refusals to submit to tests.
6. The number of supervisors who received alcohol or controlled-substances training.
7. The number of drivers who were returned to duty after a prior violation of the drug or alcohol rules.

## **Release of Information**

The Postal Service may not release information on a driver's testing record to any other party without written permission from the driver.

## **Training and Education**

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The DOT mandates that all employers provide to all drivers educational materials that explain the alcohol and drug testing requirements and the employer's policies and procedures with respect to meeting those requirements. These materials must include the following information:

1. The identity of the person designated by the employer to answer questions about the materials.
2. The categories of employees subject to these regulations and a description of safety-sensitive functions and prohibited driver conduct.
3. The circumstances under which alcohol and drug testing will be conducted and the testing procedures.
4. The consequences of failing or refusing to take a test.
5. Information on the effects of alcohol and drug use on an individual's health, work, and personal life and on methods of intervening when a problem is suspected.

Postal Service educational materials also contain information on disciplinary procedures for the possession and use of alcohol or drugs.

All supervisors designated as those who determine reasonable suspicion for purposes of requiring an alcohol or drug test must undergo at least 1 hour of training on alcohol misuse and at least 1 additional hour of training on drug use. This training must cover the physical, behavioral, speech, and performance indicators of controlled substance use and will normally be performed by the district OHNA.

## Appendix A Post-Accident Alcohol and Drug Test

**Note:** This checklist applies only to Postal Service drivers who operate commercial motor vehicles in the performance of duty.

First of all, determine if the driver or anyone else involved in the accident needs medical attention and satisfy yourself that medical assistance has been requested.

Next, determine if a DOT post-accident alcohol and drug test must be performed by completing the following:

### STEP 1

- a. Did the accident involve a fatality?  
 Yes                       No
- b. Did the driver receive a citation under state or local law for a moving violation arising from the accident whereby an injury to anyone involved in the accident required treatment away from the scene?  
 Yes                       No
- c. Did the driver receive a citation under state or local law for a moving violation arising from the accident whereby an involved vehicle was towed away from the scene?  
 Yes                       No

If you answered "Yes" to either a, b, or c above, you must conduct a DOT post-accident alcohol and drug test. If you answered "No" to all of the above, you do not need to conduct a test. Indicate your decision below.

- Test Required       No Test Required (Go to Step 3.)

### STEP 2

Determine if state or local law enforcement has been notified. Further establish what determination has been made by state or local law enforcement regarding the disposition of the accident (e.g., moving violation citation).

If law enforcement has been notified and medical assistance for the Postal Service driver, if any, has been requested and provided, the next steps are:

- a.  Advise the driver not to consume any alcohol for the next eight hours or until after testing is completed.
- b.  Advise the driver that under normal circumstances, he/she must report for an alcohol and drug test as soon as possible, but not later than 2 hours from notification.
- c.  Advise the employee of the location of the nearest alcohol and drug testing facility. (Have the driver escorted to the testing facility if conditions warrant.)

### STEP 3

Complete this checklist report, make comments as necessary, and file it.

Accident Date \_\_\_\_\_ Driver's Name \_\_\_\_\_

Reporting Office \_\_\_\_\_ Name of Official Completing This Form \_\_\_\_\_

**Appendix B**  
**Reasonable Suspicion Testing Checklist**

**Use the following checklist to document any situation that you believe is caused by alcohol or other drugs.**

Remember, you do not need to be absolutely certain that alcohol or drugs are involved. If you think there is a reasonable chance of alcohol or drug involvement, you must refer the employee for a reasonable suspicion test.

Name of Employee Observed: \_\_\_\_\_ Date Observed: \_\_\_\_\_

Location of Observation(s): \_\_\_\_\_ Time of Observation(s) \_\_\_\_\_

**1. Must order a reasonable suspicion test if one of the following is observed during the course of duty.**

- I smelled an odor consistent with alcoholic beverages on the covered employee.
- The covered employee was sleeping on the job.
- The covered employee struck another person.
- The covered employee struck company equipment/vehicle with an object (e.g., stick, wrench), or intentionally damaged or destroyed company equipment/vehicle.
- The covered employee was driving a vehicle or operating machinery erratically (e.g., weaving, speeding, hitting objects with the vehicle, not following safety rules, etc.).
- The covered employee swayed back and forth when standing still; had to catch his/her balance repeatedly.
- The covered employee weaved or had to continually catch balance when walking.
- Other (please specify) \_\_\_\_\_

**2. Must order a reasonable suspicion test if two or more of the following are observed during the course of duty.**

- The covered employee refused to respond when spoken to.
- The covered employee yelled at people for no reason.
- The covered employee was constantly arguing with coworkers.
- The covered employee made persistent errors on the job (describe in comment section below).
- Other (please specify) \_\_\_\_\_

**Comments:** What did you see? Be specific and descriptive.

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*Appendix B continued on following page.*

## Appendix B

### Reasonable Suspicion Testing Checklist (continued)

Use the following checklist to document your actions where the use of alcohol or other drugs may have affected the performance of any individual performing a safety-sensitive task or may have affected the safety of the workplace. Indicate in the check box that you have completed each step, as applicable.

1.  Notify your manager that you are directing an employee to have a reasonable suspicion alcohol and/or drug test. Do not delay the test if you cannot reach your manager.
2.  Inform the employee that he/she is to report to the medical unit (or contract medical site) for reasonable suspicion alcohol and drug testing. Have the employee escorted to the designated testing site.

At the testing site:

3.  Record date and time of arrival at specimen collection site.  
Date: \_\_\_\_\_ Time: \_\_\_\_\_
4.  Request a reasonable suspicion test for alcohol and/or drugs if the suspicious conduct occurred just prior to, during, or after the employee was performing safety-sensitive work.
5.  If the employee refused to submit to testing, he/she is regarded as having tested positive and action is taken according to procedures described in Appendix D or F. Remind the employee that refusal to go for an alcohol and/or drug test will result in immediate removal from the safety-sensitive job (DOT requirement) and subject him/her to discipline for failure to obey a lawful directive. Indicate here if the employee refused to take the reasonable suspicion test.  
 Refused
6.  Whether the employee takes the test or not, ensure that the employee is taken to a safe place until he/she is cleared by the medical review officer (MRO) or is taken home in accordance with guidelines for dealing with employees incapacitated while on duty (see Appendix G).
7.  Complete this checklist, file a copy in your confidential records, and send the original to your manager.
8.  Statement: I have received required DOT drug and alcohol testing supervisory training as required by federal regulations.  
Signature: \_\_\_\_\_  
Name: \_\_\_\_\_ Date: \_\_\_\_\_

In the instance of item 4 above, if the employee tests positive for alcohol, follow Appendix C or D as appropriate. If the employee tests negative for alcohol, the employee should be placed in a non-duty status, without pay (see Article 16.7 of the National Agreement), while waiting for the results of the drug test. The supervisor must send a letter to the employee confirming the action taken (see sample letter in Appendix H). The specimen must be sent by Express Mail for quick turnaround.

In the instance of item 5 above, the employee should be placed in a non-duty status, without pay (see Article 16.7 of the National Agreement), while waiting for the results of the drug test. The supervisor must send a letter to the employee confirming the action taken (see sample letter in Appendix H). The specimen must be sent by Express Mail for quick turnaround.

If the test is returned negative in both instances, the employee may return to duty and be made whole. If the test is returned positive, refer to Appendix F, Notification of a Positive Drug Test Following Reasonable Suspicion or Post-Accident Testing.

## **Appendix C**

### **Notification of a Positive Alcohol Test at 0.02 BAC and Above But Less Than 0.04 BAC**

**The following procedures apply when notifying an employee of the results of a positive alcohol test at 0.02 BAC but less than 0.04 BAC.**

1. The employee is notified of the test results by the breath alcohol technician (BAT).
2. The BAT instructs the employee to remain in the testing area pending the arrival of a person to escort the employee back to the work location.
3. The BAT immediately notifies the manager on duty of the test results and requests that a member of the managerial team, or security, come and escort the employee back to the duty area.
4. The supervisor arranges to have the employee escorted back to the work location by managerial personnel or security.
5. The supervisor should immediately inform the employee that he/she is placed in an "emergency, off-duty status, without pay" according to Article 16.7 of the National Agreement. This action is taken on the basis of a report of a positive alcohol test of 0.02–0.039 BAC from the BAT and the potential that the test result indicates possible impairment, based on recognized scientific studies, and because retaining the employee on duty may be injurious to self or others.
6. The employee will be advised that he/she may not perform any safety-sensitive duties for a period of at least 24 hours from the time of manager notification. The employee should be further notified that before the beginning of the next duty shift after the 24 hour period, the employee must pass an alcohol test. Failure to pass a return-to-duty alcohol test after the 24 hour period (continuing to test at 0.02 or above) will result in a mandatory referral to a substance abuse professional (SAP) for an evaluation.
7. The supervisor will encourage the employee to seek voluntary assistance from the SAP and will provide the employee with the telephone number of the SAP.
8. If the employee appears impaired, follow the guidelines set forth in Appendix G, Employees Incapacitated While on Duty.
9. The supervisor must send a letter to the employee confirming the action taken in Paragraph 5 above. See sample letter in Appendix H.
10. Discipline, if any, shall be administered in accordance with Article 16 of the National Agreement.

## **Appendix D**

### **Notification of a Positive Alcohol Test at 0.04 BAC and Above**

**The following procedures apply when notifying an employee of the results of a positive alcohol test at 0.04 BAC and above:**

1. The breath alcohol technician (BAT) notifies the employee of the test results.
2. The BAT instructs the employee to remain in the testing area pending the arrival of a person to escort the employee back to the work location.
3. The BAT immediately notifies the manager on duty of the test results and requests that members of the managerial team or security personnel come and escort the employee back to the duty area.
4. The manager arranges to have the employee escorted back to the work location by managerial or security personnel.
5. The supervisor immediately informs the employee that he/she is placed on "emergency, off-duty status, without pay" according to Article 16.7 of the National Agreement. This action is taken on the basis of a report of a positive alcohol test of 0.04 BAC or greater from the BAT and the potential that the test result indicates possible impairment, based on recognized scientific studies, and because retaining the employee on duty may be injurious to self or others.
6. If the employee appears impaired, follow the guidelines set forth in Appendix G, Employees Incapacitated While on Duty.
7. The supervisor must send a letter to the employee confirming the action taken in step 5 above. See sample letter in Appendix H.
8. The supervisor notifies the employee by letter, of the need to report to a substance abuse professional (SAP) for evaluation. The supervisor provides the employee with the telephone number of the SAP for the employee to make the appointment. The supervisor indicates to the employee the following requirements for continuing employment in his or her current position:
  - a. An evaluation by the SAP (the Postal Service pays for the initial evaluation) and successful completion of any recommended treatment or rehabilitation regimen.
  - b. A SAP participation evaluation prior to return to duty.
  - c. A medical certification by a medical review officer prior to return to duty, passing a return-to-duty alcohol test, and being placed in an unannounced follow-up testing program for a period of up to 60 months.
  - d. If the employee declines a SAP evaluation or does not successfully complete all of the terms of the SAP recommended treatment and rehabilitation regimen, the supervisor will send the employee a letter that outlines the following options:
    1. The employee may request reassignment to an available non-driving position for which he/she is qualified.
    2. If the employee does not make such a request, or is not qualified for another position, the employee may resign.
9. Discipline, if any, shall be administered in accordance with Article 16 of the National Agreement.

## **Appendix E**

### **Notification of a Positive Drug Test Following Random Testing**

**The following procedures apply when notifying an employee of the results of a positive drug test following random testing:**

1. Medical personnel will inform management that the employee must contact the medical review officer (MRO).
2. Management has the employee contact the MRO as soon as possible. The MRO informs the employee that he/she has tested positive for drugs and determines if there is a medical reason for the positive test. If there is a medical reason, the test counts as a negative test. If there is not a medical reason, the MRO informs the employee of the employee's right to appeal the drug test with a split specimen test. Under the law, employee notification of the drug test result will be in writing and the employee has 72 hours to request a split specimen test. The MRO has the employee sign a copy of the notification indicating the beginning time and date of the 72 hour notification. If the employee refuses to sign, the MRO notes that refusal on the form, completes the date and time information, and signs to verify the information was received by the employee. The split specimen test, if requested, will be paid for by the Postal Service. The MRO will have those employees who test positive sign a release form allowing the MRO to communicate the drug testing results and any subsequent drug testing to the substance abuse professional (SAP).
3. Management will immediately place the employee on "emergency, off-duty status, without pay" according to Article 16.7 of the National Agreement on the basis of a report of a positive drug test result from the MRO, and the MRO determination that the employee is unfit for duty because of the positive drug test. The employee is informed that he/she is placed in an "emergency off-duty status, without pay."
4. If the split specimen test returns positive, or if no split test is requested, management continues at step 5. If the split specimen test is returned negative, the employee is returned to duty immediately and made whole. The notice of placement letter is removed from the employee's file.
5. If, at any time, the employee appears impaired, follow the guidelines set forth in Appendix G, Employees Incapacitated While on Duty.
6. Send a letter to the employee confirming the action taken in step 3 above. A sample letter is provided in Appendix H.
7. Following any necessary investigation, the supervisor will determine what additional action should be taken.
  - a. Discipline, up to and including "last chance agreement" may be given in accordance with normal disciplinary procedures. The terms and conditions of the last chance agreement should be related and relevant to notification of a positive drug test following random testing. Supervisors should consult with Labor Relations on proposed disciplinary action.
  - b. If offered, the employee must sign a "last chance agreement," which will include the following provisions:
    - (1) The employee agrees to an evaluation by a SAP at the first available appointment.
    - (2) The employee agrees to follow the treatment and rehabilitation recommendations of the SAP and understands that he/she must successfully complete the treatment and rehabilitation regimen.
    - (3) The employee must pass a re-evaluation by the SAP, who will provide his/her recommendations to the MRO for approval.

*Appendix E continued on following page.*

## **Appendix E**

### **Notification of a Positive Drug Test Following Random Testing (continued)**

- (4) The employee must pass a return-to-duty evaluation by the MRO.
  - (5) The employee must pass a return-to-duty drug test.
  - (6) The employee agrees to unannounced follow-up testing to be determined by the MRO and the SAP for a period not to exceed 60 months.
  - (7) The employee agrees that any positive drug test during the follow-up test period, including random, for cause, or post-accident tests, will be the basis for removal from the Postal Service.
8. If the employee declines to sign a "last chance agreement" or does not successfully complete all of the terms of the "last chance agreement," management should consider removing the employee from the Postal Service.
9. If the employee agrees to be evaluated by a SAP, the supervisor is responsible for providing the SAP telephone number to the employee.
10. Discipline, if any, shall be administered in accordance with Article 16 of the National Agreement.



## **Appendix F**

### **Notification of a Positive Drug Test Following Reasonable Suspicion or Post-Accident Testing**

**The following procedures apply when notifying an employee of the results of a positive drug test following reasonable suspicion or post-accident testing:**

1. Medical personnel will inform management that the employee must contact the medical review officer (MRO).
2. Management has the employee contact the MRO as soon as possible. The MRO informs the employee that he/she has tested positive for drugs and determines if there is a medical reason for the positive test. If there is a medical reason, the test counts as a negative test. If there is not a medical reason, the MRO informs the employee of the employee's right to appeal the drug test with a split specimen test. Under the law, employee notification of the drug test result will be in writing and the employee has 72 hours to request a split specimen test. The MRO has the employee sign a copy of the notification indicating the beginning time and date of the 72 hour notification. If the employee refuses to sign, the MRO notes that refusal on the form, completes the date and time information, and signs to verify the information was received by the employee. The split specimen test, if requested, will be paid for by the Postal Service. The MRO will have those employees who test positive sign a release form allowing the MRO to communicate the drug test results and the results of any subsequent testing to the substance abuse professional (SAP).
3. Management will immediately place the employee on "emergency, off-duty status, without pay" according to Article 16.7 of the National Agreement on the basis of a report of a positive drug test result from the MRO and the MRO determination that the employee is unfit for duty because of the positive drug test. The employee is informed that he/she is placed in an "emergency off-duty status."
4. If the split specimen test returns positive, or if no split test is requested, management continues at step 7. If the split specimen test is returned negative, the employee is returned to duty immediately and made whole.
5. If, at any time, the employee appears impaired, follow the guidelines set forth in Appendix G, Employees Incapacitated While on Duty.
6. Send a letter to the employee confirming the action taken in step 3 above. A sample letter is provided in Appendix H.
7. Following any necessary investigation, the supervisor will determine what additional action should be taken as follows:
  - a. Discipline, up to and including last chance agreement may be given in accordance with normal disciplinary procedures administered in accordance with Article 16 of the National Agreement. Supervisors should consult with Labor Relations on proposed disciplinary action.
  - b. If offered, the employee must sign a "last chance agreement," which will include the following provisions:
    1. The employee agrees to evaluation by a SAP at the first available appointment.
    2. The employee agrees to follow the treatment and rehabilitation recommendations of the SAP and understands that he/she must successfully complete the treatment and rehabilitation regimen.
    3. The employee must pass a re-evaluation by the SAP, who will provide his/her recommendations to the MRO for approval.

*Appendix F continued on following page.*

**Appendix F**  
**Notification of a Positive Drug Test Following Reasonable Suspicion**  
**or Post-Accident Testing (continued)**

4. The employee must pass a return-to-duty evaluation by the MRO.
5. The employee must pass a return-to-duty drug test.
6. The employee agrees to unannounced follow-up testing to be determined by the MRO and the SAP for a period not to exceed 60 months.
7. The employee agrees that any positive drug test during the follow-up test period, including random, for cause, or post-accident tests, will be the basis for removal from the Postal Service.
8. If the employee declines to sign a "last chance agreement" or does not successfully complete all of the terms of the "last chance agreement," management should consider removing the employee from the Postal Service.
9. If the employee agrees to be evaluated by a SAP, the supervisor is responsible for providing the SAP telephone number to the employee.
10. Discipline, if any, shall be administered in accordance with Article 16 of the National Agreement.

## **Appendix G**

### **Employees Incapacitated While on Duty**

**The following procedures must be used to assist an employee who is incapacitated while on duty.**

Included in this category are situations where employees may be ill, over-medicated, intoxicated, or otherwise unable to perform their assigned duties, either at the time they enter on duty or during the course of their assigned tour. The determination of incapacity must be made by the employee's supervisor or manager and documented for future reference. The supervisor should not attempt to diagnose the condition, but should merely document observed behavior. Based on the information provided in this document, the supervisor or manager should use one or more of the procedures outlined below:

1. If the situation appears to be life-threatening, call 911. Otherwise, immediately contact the medical personnel designated to respond to medical situations for your facility. This may be an on-site health unit or a contract clinic. If you are unsure who the designated medical personnel are, contact your district OHNA for information and assistance.
2. A family member or person listed as an emergency contact for the employee should be contacted to provide safe transport of the employee to either a medical facility or home.
3. If the employee refuses efforts to provide alternate transportation and attempts to drive his/her own vehicle while incapacitated, local law enforcement should be called.
4. In the event an employee becomes belligerent, Postal Service police, local security, or local law enforcement should be contacted.
5. Upon return to duty, the manager or supervisor should inquire if there is a legitimate medical explanation for the incapacitation and/or if the employee has made arrangements for medical care. If there is no reasonable medical basis given, the manager or supervisor should formally refer the employee to the Employee Assistance Program counselor for an initial appointment on the clock. The manager or supervisor has the option of requesting that the employee undergo a fitness-for-duty examination prior to the employee returning to duty.

Supervisors and managers should use discretion when implementing these guidelines so as not to seriously affect the security of the postal facility or the movement of mail.

**Appendix H**  
**Sample Letter for Placing an Employee on Emergency Off-Duty Status**

Date: *[Insert date of letter]*

Subject: Emergency Placement in Off-Duty Status

To: *[Insert Employee's Name]*  
*[Insert Job Title]*  
*[Insert Employee Identification Number]*  
*[Insert Office/Installation]*

You are hereby notified that you *[insert either "will be" or "were" as appropriate]* placed in an off-duty status without pay effective *[insert the appropriate date and time]* and will continue in this status until advised otherwise.

The *[insert either "reason" or "reasons" as appropriate]* for this action *[insert either "is" or "are" as appropriate]*:  
*[Briefly state the specific reason(s) for the placement in off-duty status — e.g., striking/threatening a fellow employee; use of, or testing positive for alcohol or drugs. Set forth the reason(s) with sufficient specificity and detail so that the employee is adequately able to respond. Use names, dates, times, etc., so that the employee may have a fair opportunity to refute the notice without requiring further information.]*

Retaining you on duty may result in damage to Postal Service property, loss of mail or funds, or injury to yourself or others.

You have the right to file a grievance under the Grievance/Arbitration procedure set forth in Article 15 of the National Agreement within 14 days of your receipt of this notice.

\_\_\_\_\_  
Signature of Supervisor

\_\_\_\_\_  
Name of Supervisor (Printed)

Signature of Employee below denotes receipt of the original:

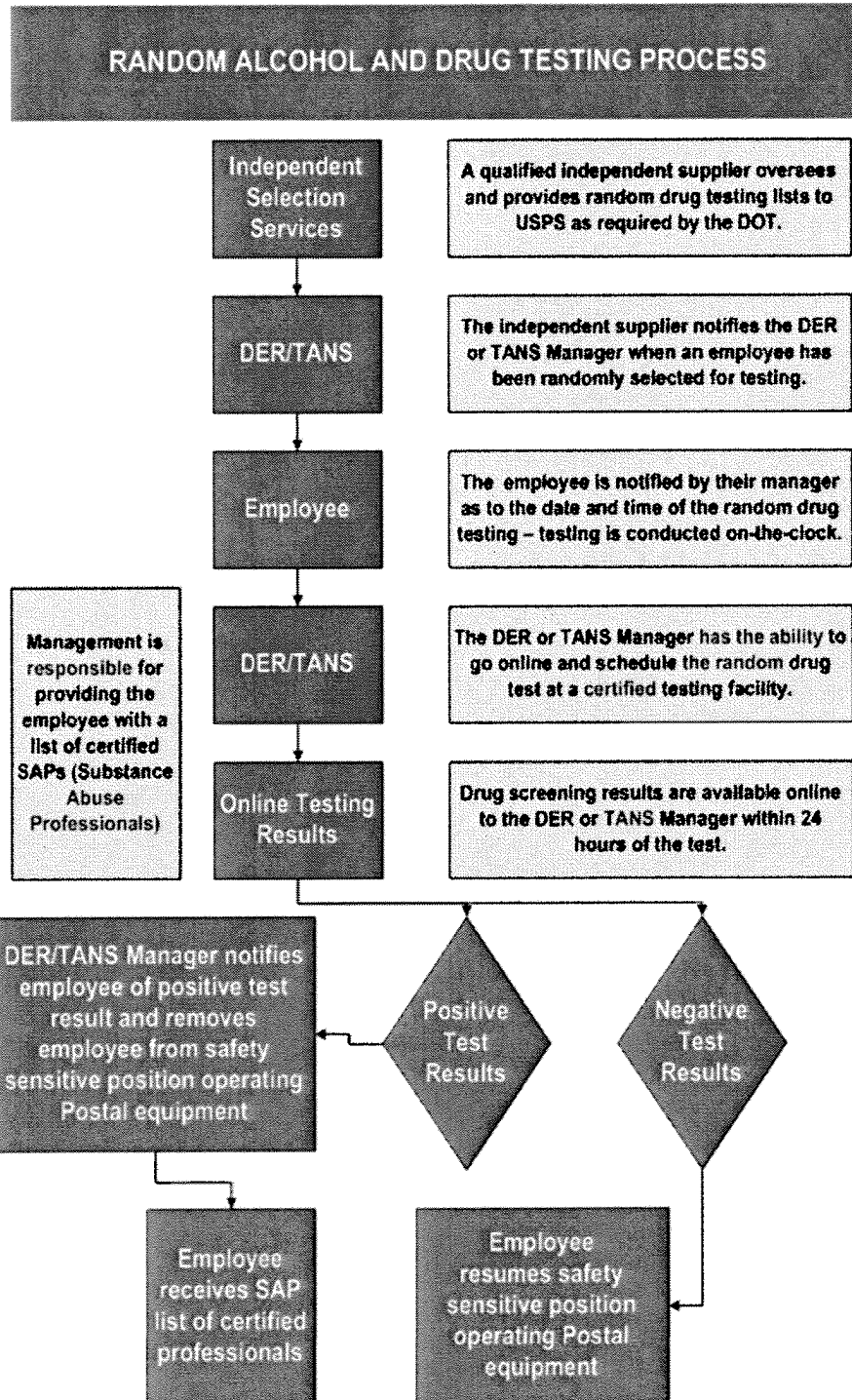
\_\_\_\_\_  
Employee's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Time

## Appendix I

### Flowchart on Random Alcohol and Drug Testing Process



Mr. Michael O. Foster, Assistant Director  
American Postal Workers  
Union, AFL-CIO  
1300 L Street, NW  
Washington, DC 20005-4128

RE: Q00V-4Q-C05069239  
Washington, DC 20260-4100


Dear Mr. Foster:


Recently, we met to discuss the above-referenced case which is currently pending arbitration at the national level.

The issue presented pertains to the policy of disallowing insulin controlled diabetics with a valid Commercial Driver's license from operating a postal commercial motor vehicle, which weighs 26,001 pounds or greater.

Effective immediately, insulin dependent diabetic drivers who possess a valid Commercial Drivers License (CDL) are not longer automatically disqualified from operating vehicles 26,001 pounds and above. Instead, such drivers must now undergo an individual medical assessment to determine if they are qualified to operate a postal commercial motor vehicle.

Please sign and return the enclosed copy of this decision as your acknowledgment of the agreement to close Case Q00V-4Q-C05069239 in its entirety and remove it from the pending national arbitration list.

  
\_\_\_\_\_  
John W. Dockins  
Manager  
Contract Administration (APWU)  
USPS

  
\_\_\_\_\_  
Michael O. Foster  
Assistant Director, Motor Vehicle Division  
American Postal Workers Union,  
AFL-CIO

Date: 1-31-08



Mr. Michael O Foster  
Assistant Director  
Motor Vehicle Division  
American Postal Workers Union,  
AFL-CIO  
1300 L Street NW  
Washington, DC 20005-4128

RE: Q00V-4Q-C 05069237  
HQTV20052  
Class Action  
Washington DC, 20260

Dear Mike:

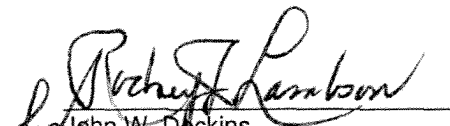
Recently, Rodney Lambson met with you in pre-arbitration discussions for the above-captioned grievance, which is currently pending national arbitration.


The issue in this grievance is whether the Postal Service violated the National Agreement when it required employees who possess a commercial drivers license (CDL) to remain and participate in Department of Transportation (DOT) drug and alcohol pools and testing when the employee is unable to be called upon at anytime to operate a commercial motor vehicle (CMV) even on an occasional or emergency basis

After reviewing this matter, the parties mutually agree that the Postal Service will not require the employee to remain and participate in DOT drug and alcohol pools and testing if the employee is unable to be called upon at anytime to operate a commercial motor vehicle even on an occasional or emergency basis. The employee is therefore unable to perform their safety sensitive position. Upon being cleared to return to their safety sensitive position, the employee must be ready and able to operate a commercial vehicle even on occasional and emergency basis prior to being returned to the drug an alcohol testing pool.

Please sign and return the enclosed copy of this letter as your acknowledgement of agreement to settle this case, thus removing it from the pending national arbitration listing.

Sincerely,

  
for John W. Dockins  
Manager  
Contract Administration

  
Michael O Foster  
Assistant Director Motor Vehicle Division,  
American Postal Workers Union,  
AFL-CIO

Date: 7/19/2006

LABOR RELATIONS



Mr. Michael O. Foster  
Assistant Director,  
Motor Vehicle Service Division  
American Postal Workers Union  
AFL-CIO  
1300 L Street, NW  
Washington, DC 20005-4128

RE: Q00C-4Q-C 02088902  
Class Action  
Washington, DC 20260-4100

Dear Mike:

Recently, we met to discuss the above-captioned grievance at the fourth step of our contractual grievance procedure.

The issue in this grievance is whether management violates the National Agreement in those instances where a field policy provides for the automatic and permanent revocation of driving privileges.

After reviewing this matter, the parties mutually agreed that no national interpretive issue is fairly presented in this case. Pursuant to the Memorandum of Understanding entitled Reinstatement of Driving Privilege, item 2, "The mere fact that an employee was involved in a vehicle accident is not sufficient to warrant automatic suspension or revocation of driving privileges or the automatic application of discipline." Each incident should be individually investigated to determine whether revocation is appropriate consistent with the MOU and Article 29. Further, the provisions of the driver training program entitled "Driver Training Program Driver Selection, Orientation, Familiarization and Certification" § VI.C. "In Case of Accident" or subsequent regulation provides guidance for the review of driving privileges.

Accordingly, we agreed to close this case. Please sign and return the enclosed copy of this decision as your acknowledgement of agreement to close this case.

Time limits at this level were extended by mutual consent.

Sincerely,

Handwritten signature of Thomas J. Valenti in black ink.

Thomas J. Valenti  
Labor Relations Specialist  
Contract Administration

Handwritten signature of Michael O. Foster in black ink.

Michael O. Foster  
Assistant Director  
Motor Vehicle Service Division  
American Postal Workers Union,  
AFL-CIO

May 16, 2002







# American Postal Workers Union, AFL-C

817 Fourteenth Street, N.W., Washington, D.C. 20005 • (202) 842-4250

WILLIAM H. BURRUS  
General Executive Vice-President

February 15, 1983

Mr. James C. Gildea  
Assistant Postmaster General  
Labor Relations Department  
United States Postal Service  
475 L'Enfant Plaza, S.W.  
Washington, D.C. 20260

Dear Mr. Gildea:

The Employee and Labor Relations Manual at Chapter 553.122 requires the employer to issue Form SF-8 "to an individual whose work or tours of duty are on an "on call" or intermittent basis each time they;

- a. separate from the USPS for any reason,
- b. transfer to another federal agency or to a postal installation serviced by another PDC,
- c. are (or will be) placed in a non-pay status for 7 or more consecutive days.

The Employer does not issue Form SF-8 to employees in compliance with the above and as a result affected employees are not advised of eligibility for unemployment compensation and/or the steps to be taken in filing a claim.

Please advise me of the reasons for non-compliance.

Sincerely,

William Burrus,  
Executive Vice President

WJB:mc

NATIONAL EXECUTIVE BOARD • MOE BILLER, General President

WILLIAM BURRUS  
General Executive Vice President

DOUGLAS HOLBROOK  
General Secretary-Treasurer

JOHN A. MORGAN

RICHARD J. WEVIDOU  
President, Maintenance Craft

LEON S. HAWKINS  
President, Motor Vehicle Craft

MIKE BENNER

JOHN RICHARDS  
Director, Industrial Relations

KEN LEINER  
Vice President, Mail Handler Craft

REGIONAL COORDINATORS

RAYDELL R. MCCORE

Western Region

JAMES P. WILLIAMS

PHILIP C. FLEMING

Eastern Region

NEAL VACCARO

Nonpostal Region



UNITED STATES POSTAL SERVICE

475 L'Enfant Plaza, S.W.  
Washington, DC 20030

March 4, 1983

Mr. William Burrus  
Executive Vice President  
American Postal Workers  
Union, AFL-CIO  
817 14th Street, N.W.  
Washington, D.C. 20005-3399

Dear Mr. Burrus:

This is in further reference to your February 15 letter concerning the use of SF-8, Notice to Federal Employees About Unemployment Compensation, and its application pursuant to 553.122 of the Employee and Labor Relations Manual (ELM).

Existing regulations in the referenced section of the ELM require prompt issuance of SF-8 to employees being separated from the Postal Service; being transferred to another federal agency or to a postal facility serviced by another Postal Data Center; or being placed in a non-pay status for seven or more consecutive days. Individuals whose work hours or tours of duty are on an "on-call" or intermittent basis should be issued SF-8 only the first time in each calendar year that they are placed in a non-pay status.

There may have been occasions when SF-8 was not issued to employees, as you alleged, because of some inadvertent omission on the part of the separating personnel office. If you have information establishing that a specific location routinely fails to meet the SF-8 issuance requirements, and wish to share it with us, we shall see that appropriate corrective action is taken.

Periodically, a notice reminding personnel officials of the requirement for issuing SF-8 is published in the Postal Bulletin. As information, such a reminder currently is being prepared by the Employee Relations Department and is expected to be ready for publication in the near future.

Sincerely,

James C. Gildea  
Assistant Postmaster General  
Labor Relations Department



UNITED STATES POSTAL SERVICE  
475 L'Enfant Plaza, SW  
Washington, DC 20260

FEB 28 1984

Mr. James Connors  
Assistant Director  
Clerk Craft Division  
American Postal Workers  
Union, AFL-CIO  
817 - 14th Street, N.W.  
Washington, D.C. 20005-3399

ARTICLE	19
SECTION	ELM
SUBJECT	Compensation Notification

Re: L. Kersh  
Charlotte, NC 28228  
E1C-3P-C 27873

Dear Mr. Connors:

On February 7, 1984, we met to discuss the above-captioned grievance at the fourth step of our contractual grievance procedure.

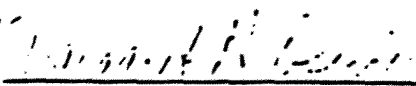
This grievance involves the issuance of a Form SF 8, Notice to Federal Employees about Unemployment Compensation.

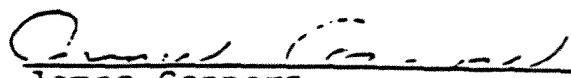
During our discussion, we agreed to resolve this case based on our mutual understanding that as provided in ELM 553.122, "SF 8 is issued promptly to the employee by the separating personnel office so that they do not lose unemployment compensation benefits to which they may be entitled . . . ."

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.

Please sign and return the enclosed copy of this decision as your acknowledgment of agreement to resolve this case.

Sincerely,

  
Margaret H. Oliver  
Labor Relations Department

  
James Connors  
Assistant Director  
Clerk Craft Division  
American Postal Workers  
Union, AFL-CIO

August 17, 1988

Mr. William Burrus  
Executive Vice President  
American Postal Workers  
Union, AFL-CIO  
1300 L Street, N.W.  
Washington, DC 20005-4107

Dear Mr. Burrus:

This is in response to the issues you raised in your letter of December 18, 1987, and Step 4 grievance (H7C-NA-C 21, dated June 29, 1988) concerning the maintenance of employee disciplinary records, as well as the Step 4 grievance (H4C-5R-C 43882) challenging the management practice of including in past element listings of disciplinary actions the original action issued and the final action resulting from modification of the original action.


In full and final settlement of all disputes on these issues it is agreed that:

1. 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.
2. 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.


3. 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.

Please indicate your agreement by signing and returning a copy of this letter.

Sincerely,

  
Stephen W. Furgeson  
General Manager  
Grievance and Arbitration  
Division

DATE 8/17/88

  
William Burrus  
Executive Vice President  
American Postal Workers  
Union, AFL-CIO

DATE 8/17/88



UNITED STATES POSTAL SERVICE  
Labor Relations Department  
475 L'Enfant Plaza, SW  
Washington, DC 20260-4100

Mr. Lawrence G. Hutchins  
Vice President  
National Association of  
Letter Carriers, AFL-CIO  
100 Indiana Avenue, N.W.  
Washington, DC 20001-2197

Re: C. Nietzel  
Bakersfield, CA  
H4N-5G-D 7167

Dear Mr. Hutchins:

On December 14, 1988, a meeting was held with the NALC Director of City Delivery, Brian Farris, to discuss the above-captioned grievance at the fourth step of our contractual grievance procedure.

The issue in this grievance is the extent to which prior discipline may be utilized under the terms of Article 16.10 of the National Agreement.

We agreed that a notice of discipline which is subsequently fully rescinded, whether by settlement, arbitration award, or independent management action, shall be deemed not to have been "initiated" for purposes of Article 16, Section 10, and may not be cited or considered in any subsequent disciplinary action.

Accordingly, we agreed to remand this case to the parties at Step 3 for further processing, including arbitration if necessary.

Please sign and return the enclosed copy of this letter as your acknowledgment of agreement to remand this case.

Mr. Lawrence G. Hutchins

2

Time limits were extended by mutual consent.

Sincerely,



Arthur S. Wilkinson  
Grievance & Arbitration  
Division



Lawrence G. Hutchins  
Vice President  
National Association of Letter  
Carriers, AFL-CIO

(Date) 1/5/89





UNITED STATES POSTAL SERVICE  
475 L'Enfant Plaza, SW  
Washington, DC 20250

JUL 25 1980

Mr. William J. Kaczor  
Executive Vice President, Maintenance Craft  
American Postal Workers Union, AFL-CIO  
817 - 14th Street, NW  
Washington, DC 20005

Re: J. Guilda  
Gardena, CA  
A8-W-0750/W8C58C9988  
APWU - 0750

Dear Mr. Kaczor:

On July 3, 1980, we met on the above-captioned case at the fourth step of the contractual grievance procedure set forth in the 1978 National Agreement.

During our discussion, we concluded that the question in this grievance is whether a postal employee subpoenaed at the request of the defense and not the Postal Service, to testify in a Federal Court concerning his/her official duties, is entitled to compensation under Part 516.4 of the Employee and Labor Relations Manual.

After reviewing the information in the file, we mutually agreed that an employee subpoenaed by proper authority to testify in a Federal court about his official duties as a postal employee, whether the request for subpoena was initiated by the defense or the prosecution, is in a compensable status under Part 516.4 of the Employee and Labor Relations Manual. Proper documentation should be submitted.

Of course, if the Postal employee was called to testify as a "character witness" or for other non-official purposes, he is not entitled to compensation under Part 516.4.

Accordingly, we mutually agreed to remand this grievance back to Step 3 for a determination by the parties at that level of the nature of the grievant's testimony and to dispose of the case.

Please sign the attached copy of this letter as your acknowledgment of the agreed to settlement of this case.

Sincerely,



Robert L. Eugene  
Labor Relations Department



William J. Kaczor  
Executive Vice President  
Maintenance Craft  
American Postal Workers Union,  
AFL-CIO

# Executive Order

---

## Special Leaves of Absence to be Given Disabled Veterans in Need of Medical Treatment

With respect to medical treatment of disabled veterans who are employed in the executive civil service of the United States, it is hereby ordered that, upon the presentation of an official statement from duly constituted medical authority that medical treatment is required, such annual or sick leave as may be permitted by law and such leave without pay as may be necessary shall be granted by the proper supervisory officer to a disabled veteran in order that the veteran may receive such treatment, all without penalty in his efficiency rating.

The granting of such leave is contingent upon the veteran's 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 absence.

HERBERT HOOVER

THE WHITE HOUSE,  
July 17, 1930.

[No. 5396]

ELM 514.22

## UNITED STATES POSTAL SERVICE

Washington, DC 20260

A REF:

RAL:FW

DATE: 5/19/78

SUBJECT:

Military Leave for Probationary  
Employees

TO:

Fred Shelton  
Office of Compensation

This responds to your recent telephone inquiry concerning military leave for employees during their probationary period.

The fact that an employee is in his probationary period has no effect on his right to military leave. Rather, an employee who would be entitled to military leave after completion of the probationary period is also entitled to that military leave during the probationary period. See old Postal Manual Part 721.731.

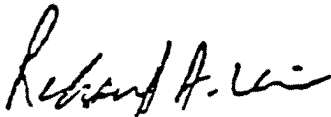
The effect of an absence for military purposes on an employee's completion of the probationary period is a more complicated question. The probationary period is tolled during military service, including military leave. The applicable procedure is provided in the U. S. Department of Labor's Legal Guide and Case Digest: Veterans Reemployment Rights Under the Universal Military Training and Service Act, As Amended, and Related Acts, §3.24 at 325:

... a probationary position is protected by the reemployment statutes.

This does not mean, however, that military service can be counted toward completion of the probationary period. Where the probation involves a genuine evaluation of the employee's aptitude, skill, conduct and performance, the employee is entitled to return only to the probationary status he left; and after being reemployed, he must complete the remainder of his probationary period satisfactorily in accordance with the same standards (no higher, and no lower) as are applied to other probationers.

Upon satisfactory completion of the probation, his seniority must be established as if he had remained continuously employed instead of entering military service.

Thus, for example, an employee who left work on military leave after completing 60 days of a 90-day probationary period would, upon returning from military leave, still face a 30-day probationary period. However, upon successful completion of the remaining 30 days of his probationary period, the employee would be credited with seniority for all purposes as if the military leave was time worked.



Richard A. Levin  
Attorney  
Office of Labor Law

cc: Arthur Eubanks



EMPLOYEE AND LABOR RELATIONS GROUP  
Washington, DC 20260

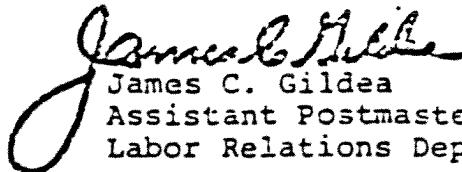
March 23, 1977

MEMORANDUM TO: Regional Directors,  
Employee and Labor Relations  
(All Regions)

SUBJECT: Article XIII - Permanent Reassignment  
Of Ill or Injured Regular Work Force  
Employees

The Postal Service has reexamined its position concerning the meaning of Article XIII, B.2.A pertaining to who shall bear the cost of the physical examination referred to therein when the employee requesting permanent reassignment to light duty or other assignment is directed to be examined and certified by a physician of the installation head's choice. The Postal Service will, henceforth, pay the designated physician's bill for such physical examination. However, the right is reserved to the installation head to determine when such examinations are appropriate and necessary and every employee request shall not automatically trigger the examination process at Postal Service expense.

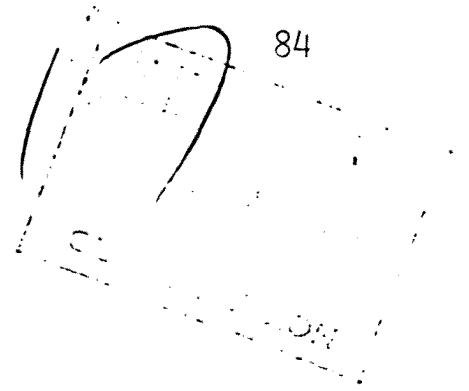
The policy stated herein shall be applied to pending grievances which have not been previously settled or extinguished by failure to meet procedural or timeliness requirements of the National Agreement.

  
James C. Gildea  
Assistant Postmaster General  
Labor Relations Department

cc: Gen'l. Mgrs., Labor Relations  
(All Regions)



UNITED STATES POSTAL SERVICE  
475 L'Enfant Plaza, SW  
Washington, DC 20260



Mr. James Connors  
Assistant Director  
Clerk Craft Division  
American Postal Workers  
Union, AFL-CIO  
817 14th Street, N.W.  
Washington, D.C. 20005-3399

JUL 26 1984

Re: R. Bergeron  
Orlando, FL 32802  
H1C-3W-C 31937

Dear Mr. Connors:

On June 12, 1984, we met to discuss the above-captioned grievance at the fourth step of our contractual grievance procedure.

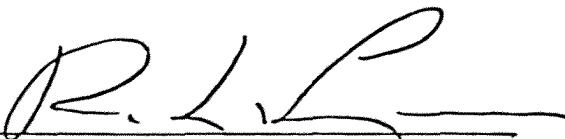
The grievance concerns whether it is proper for a supervisor to require an employee to discuss the nature of his/her grievance before the employee is permitted to see a steward.


We mutually agreed that this grievance does not fairly present an interpretive dispute. There is nothing improper about the supervisor requiring an employee to relate the general nature of the problem or grievance before the employee sees a steward. However, the employee should not be arbitrarily required to divulge detailed information if he/she insists on seeing a steward first.

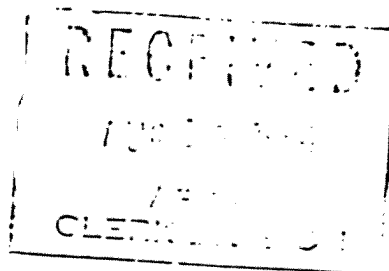
Please sign and return the enclosed copy of this decision as acknowledgment of agreement to resolve this case.

Time limits were extended by mutual consent.

Sincerely,

  
Robert L. Eugene  
Labor Relations Department

  
James Connors  
Assistant Director  
Clerk Craft Division  
American Postal Workers  
Union, AFL-CIO



UNITED STATES POSTAL SERVICE  
475 L'Enfant Plaza, SW  
Washington, DC 20260

Mr. James Connors  
Assistant Director  
Clerk Craft Division  
American Postal Workers  
Union, AFL-CIO  
817 14th Street, N.W.  
Washington, D.C. 20005-3399

AUG 8 1984

Re: Young  
Charleston, WV 25301  
H1C-2M-C 7183

Dear Mr. Connors:

On July 10, 1984, we met to discuss the above-captioned grievance at the fourth step of our contractual grievance procedure.

The issue in this grievance is whether the grievant was entitled to have a union steward present during a discussion under Article 16, Section 2, of the National Agreement.

After further review of this matter, we agreed that there was no national interpretive issue fairly presented as to the meaning and intent of Article 16 of the National Agreement. This is a local dispute over the application of Article 16, Section 2, of the 1981 National Agreement as discussions of this type shall be held in private between the employee and the supervisor. However, in cases where a reasonable basis exists for the employee to believe that the discussion will result in disciplinary action, a steward may be present. The parties at the local level should apply the above understanding to the specific fact circumstances in order to resolve this case.

Accordingly, we agreed to remand this case to Step 3 for further consideration by the parties.

Please sign and return the enclosed copy of this decision as acknowledgment of our agreement to remand this grievance.




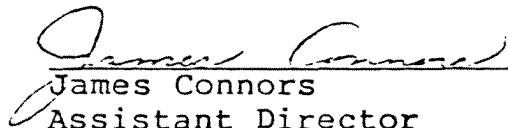
Mr. James Connors

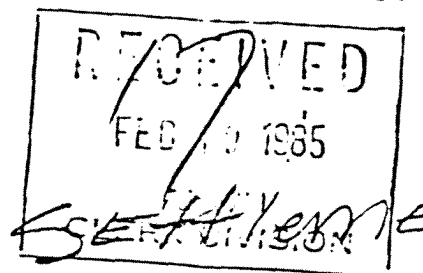
2

Time limits were extended by mutual consent.

Sincerely,

  
\_\_\_\_\_  
Thomas J. Lang  
Labor Relations Department

  
\_\_\_\_\_  
James Connors  
Assistant Director  
Clerk Craft Division  
American Postal Workers  
Union, AFL-CIO



UNITED STATES POSTAL SERVICE  
475 L'Enfant Plaza, SW  
Washington, DC 20260

Mr. James Connors  
Assistant Director  
Clerk Craft Division  
American Postal Workers  
Union, AFL-CIO  
817 14th Street, N.W.  
Washington, D.C. 20005-3399

FEB 13 1985

Re: Class Action  
West Palm Beach, FL 33401  
H1C-3W-C 41731

Dear Mr. Connors:

On February 4, 1985, we met to discuss the above-captioned case at the fourth step of the contractual grievance procedure.


This question in this grievance is whether a steward has a right to be represented by another steward.

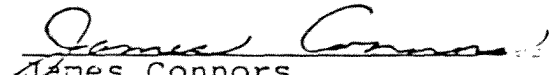
During our discussion, it was mutually agreed that the following would represent a full settlement of this case:

A steward, just as any other employee, has a right to representation by another steward.

Please sign and return the enclosed copy of this letter as your acknowledgment of agreement to settle this case.

Sincerely,

  
Daniel A. Kahn  
Labor Relations Department

  
James Connors  
Assistant Director  
Clerk Craft Division  
American Postal Workers Union,  
AFL-CIO



UNITED STATES POSTAL SERVICE  
475 L'Enfant Plaza, SW  
Washington, DC 20260

FEB 28 1984

Mr. James Connors  
Assistant Director  
Clerk Craft Division  
American Postal Workers  
Union, AFL-CIO  
817 - 14th Street, N.W.  
Washington, D.C. 20005-3399

Re: APWU - Local  
Seattle BMC, WA 98003  
H1C-5D-C 17110

Dear Mr. Connors:

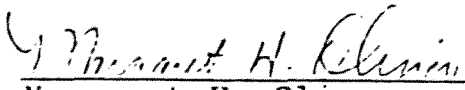
On February 3, 1984, we met to discuss the above-captioned grievance at the fourth step of our contractual grievance procedure.

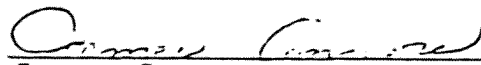
The question raised in this case is whether the placement of letters of warning and letters of sick leave restriction in an employee's Official Personnel Folder violates Article 19 of the National Agreement.

It is our mutual understanding that letters of warning and letters of sick leave restriction are clearly temporary records as defined in Handbook P-11, Section 621.431. As such, these documents are maintained on the left side of the Official Personnel Folder.

Please sign and return the enclosed copy of this decision as your acknowledgment of agreement to settle this case.

Sincerely,

  
Margaret H. Oliver  
Labor Relations Department

  
James Connors  
Assistant Director  
Clerk Craft Division  
American Postal Workers  
Union, AFL-CIO



UNITED STATES POSTAL SERVICE  
475 L'Enfant Plaza, SW  
Washington, DC 20260-0001

88  
RECEIVED  
FEB 13 1985  
*Settlement*

Mr. James Connors  
Assistant Director  
Clerk Craft Division  
American Postal Workers  
Union, AFL-CIO  
817 14th Street, N.W.  
Washington, D.C. 20005-3399

FEB 13 1985

Re: M. McFaddin  
Dallas, TX 75260  
H1C-3A-C 10914

Dear Mr. Connors:

On February 4, 1985, we met to discuss the above-captioned grievance at the fourth step of our contractual grievance procedure.


The question in this grievance is whether discussion notations can be kept on Form 1017.

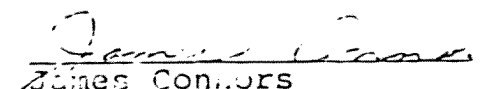
During our discussion, it was mutually agreed that without prejudice to the position of either party regarding the timeliness of this grievance, the following would represent a full settlement of this case:

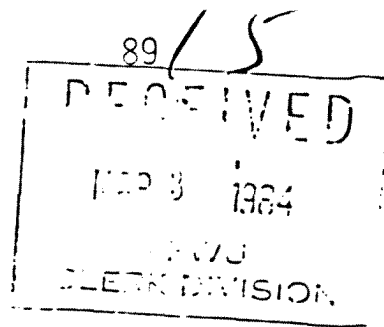
Discussions will be in private and there will not be any notes relating to a discussion listed on the subject form.

Please sign and return the enclosed copy of this letter as your acknowledgment of agreement to settle this case.

Sincerely,

  
Daniel S. Kahn  
Labor Relations Department

  
James Connors  
Assistant Director  
Clerk Craft Division  
American Postal Workers  
Union, AFL-CIO



UNITED STATES POSTAL SERVICE  
475 L'Enfant Plaza, SW  
Washington, DC 20260

FEB 29 1984

Mr. James Connors  
Assistant Director  
Clerk Craft Division  
American Postal Workers  
Union, AFL-CIO  
817 - 14th Street, N.W.  
Washington, D.C. 20005-3399

Re: Class Action  
Memphis, TN 38101  
HLC-3F-C 27044

Dear Mr. Connors:

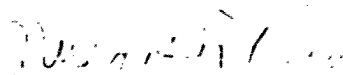
On February 3, 1984, we met to discuss the above-captioned grievance at the fourth step of our contractual grievance procedure.

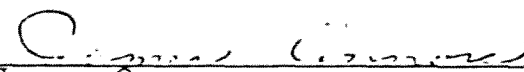
This grievance involves the disposition of copies of cancelled letters of warning.

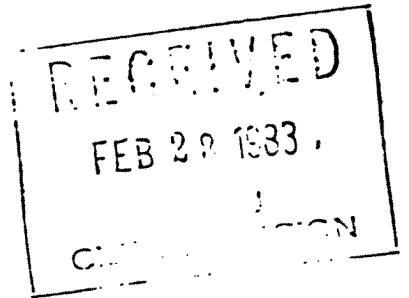
During our discussion, we agreed to resolve this case based on our mutual understanding that copies of cancelled letters of warning are removed from Official Personnel Folders and these letters cannot be used in subsequent disciplinary actions.

Please sign and return the enclosed copy of this decision as your acknowledgment of agreement to resolve this case.

Sincerely,

  
\_\_\_\_\_  
Margaret H. Oliver  
Labor Relations Department

  
\_\_\_\_\_  
James Connors  
Assistant Director  
Clerk Craft Division  
American Postal Workers  
Union, AFL-CIO



UNITED STATES POSTAL SERVICE  
475 L'Enfant Plaza, SW  
Washington, DC 20260

February 27, 1984

Mr. James Connors  
Assistant Director  
Clerk Craft Division  
American Postal Workers  
Union, AFL-CIO  
817 - 14th Street, N.W.  
Washington, D.C. 20005-3399

Re: G. Fuller  
Fairfield, CT 06430  
H1C-1J-C 23689

Dear Mr. Connors:

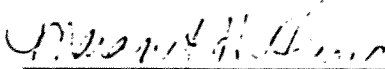
On February 3, 1984, we met to discuss the above-captioned grievance at the fourth step of our contractual grievance procedure.


This grievance involves a request for a union representative during a discussion.

During our discussion, we agreed that a union representative is not allowed to be present during the kind of discussion described in this grievance. We also agreed that an employee's request for a union representation following a discussion is not to be unreasonably denied.

Please sign and return the enclosed copy of this decision as your acknowledgment of agreement to settle this case.

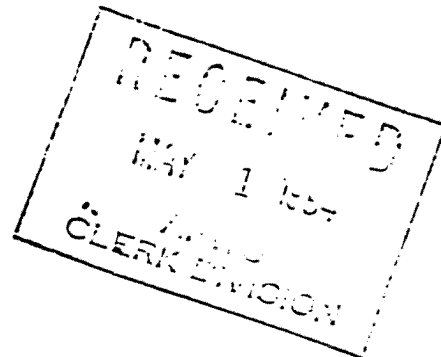
Sincerely,

  
\_\_\_\_\_  
Margaret H. Oliver  
Labor Relations Department

  
\_\_\_\_\_  
James Connors  
Assistant Director  
Clerk Craft Division  
American Postal Workers  
Union, AFL-CIO



UNITED STATES POSTAL SERVICE  
475 L'Enfant Plaza, SW  
Washington, DC 20260



APR 27 1984

Mr. James Connors  
Assistant Director  
Clerk Craft Division  
American Postal Workers Union,  
AFL-CIO  
817 14th Street, N.W.  
Washington, D.C. 20005-3399

Re: M. Pfister  
Elizabeth, NJ 07207  
HLC-1N-C 24361

Dear Mr. Connors:

On February 7, 1984, we met to discuss the above-captioned grievance at the fourth step of our contractual grievance procedure.

The question in this grievance is whether the Postal Service is obligated to pay witnesses for time spent waiting to testify at an arbitration hearing.

During our discussion, it was mutually agreed that the following would represent a full settlement of this case:

1. 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. Conversely, when an arbitration hearing is scheduled at a location away from the site where the grievance arose and reasonable waiting time is necessary, the consistent practice has been that the employee remains on employer time while waiting to testify.
2. Payment will be on a no gain-no loss basis.

Mr. James Connors


2

Please sign and return the enclosed copy of this letter as your acknowledgment of agreement to settle this case.

Sincerely,



Thomas J. Lang  
Labor Relations Department



James Connors  
Assistant Director  
Clerk Craft Division  
American Postal Workers Union,  
AFL-CIO





UNITED STATES POSTAL SERVICE  
475 L'Enfant Plaza, SW  
Washington, DC 20260  
November 20, 1981

ARTICLE	<u>19</u>
SECTION	_____
SUBJECT	<u>ACCIDENT</u> <u>REPORTING</u>
<u>A8-W 909</u>	

Mr. Kenneth D. Wilson  
Administrative Aide, Clerk Craft  
American Postal Workers Union,  
AFL-CIO  
817 - 14th Street, N. W.  
Washington, D. C. 20005


Dear Mr. Wilson:


On November 19, 1981, you met with Frank Dyer in pre-arbitration discussion of E8C-5D-C-11000. After a thorough discussion of the issue, it was mutually agreed that the following would represent a full settlement of the case.

1. An employee may be required to report an accident on the day it occurs; however, completion of the appropriate forms will be in accordance with applicable rules and regulations and need not be on the day of the accident.
2. Any corrective action that may be initiated for failure to properly report an accident will have to stand the test of just cause on a case by case basis.

Please sign the attached copy of this letter acknowledging your agreement with this settlement, withdrawing E8C-5D-C-11000 from the pending national arbitration listing.

Sincerely,

  
Sherry B. Barber  
General Manager  
Arbitration Division  
Office of Grievance  
and Arbitration  
Labor Relations Department

  
Kenneth D. Wilson  
Administrative Aide, Clerk-  
Craft  
American Postal Workers Union,  
AFL-CIO



UNITED STATES POSTAL SERVICE  
475 L'Enfant Plaza, SW  
Washington, DC 20260

May 25, 1983

19

ARTICLE	19
SECTION	ELM
SUBJECT	ALCOHOL ON DUTY

Mr. Kenneth D. Wilson  
Assistant Director  
Clerk Division  
American Postal Workers  
Union, AFL-CIO  
817 - 14th Street, N.W.  
Washington, D.C. 20005-3399

Re: APWU - Local  
San Diego, CA 92199  
H1C-5K-C 9478

Dear Mr. Wilson:

On May 11 and April 27, 1983, we met to discuss the above-captioned case at the fourth step of the contractual grievance procedure set forth in the National Agreement.

The question raised in this grievance involved the local policy established to cover drinking while on duty.

During our discussion, we agreed to resolve the case based on our understanding of ELM 661.54, which is applicable to the issue raised in this case and which provides:

"No employee will habitually use intoxicating beverages in excess. No employee will drink beer, wine, or other intoxicating beverages while on duty. No employee will begin work or return to duty while intoxicated. No employee will drink intoxicating beverages in a public place while in uniform. Unless the Postmaster General specifically authorizes an exception (as in the case, for example, of an official reception) no employee will have or bring any container of beer, wine, or other intoxicating beverage on premises occupied by a postal facility, whether or not the container has been opened."

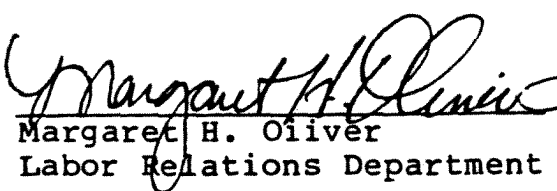
MAY 27 1983

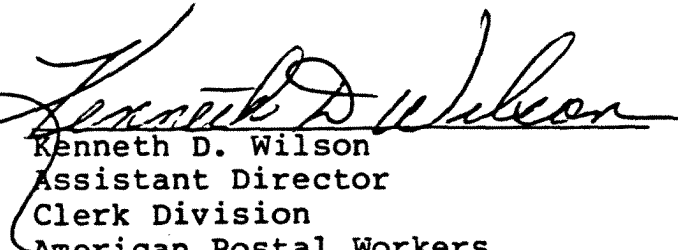
Mr. Kenneth D. Wilson

2

Please sign and return the enclosed copy of this letter as your acknowledgment of agreement to resolve this case.

Sincerely,

  
Margaret H. Oliver  
Labor Relations Department

  
Kenneth D. Wilson  
Assistant Director  
Clerk Division  
American Postal Workers  
Union, AFL-CIO