

Chapter

Grievance Handling



Questions and Answers

I. NECESSARY TIME TO INVESTIGATE AND PROCESS A GRIEVANCE

- Q1: How much time is allowed in the collection of evidence for the processing of a grievance?
- Q2: What is considered unreasonable when a steward requests time to process a grievance?
- Q3: Is there a time limit that a steward can meet with a grievant?
- Q4: Can management determine the time necessary to investigate a grievance?

A1-4: The language in Article 17.4 of the Collective Bargaining Agreement provides for "reasonably necessary" time for processing grievances and/or meeting with the grievant(s) and witnesses. The parties have determined that reasonable time cannot be measured by a predetermined time limit. Management cannot set a time limit for grievance processing, investigation and interviews.

Q5: Can a supervisor request that a grievant and/or steward return to the workforce before he/she has finished being interviewed or making a written or oral statement?

A5: Management may, at any time, terminate grievance processing release time. However, upon such termination, Management should give the steward the reasons for the termination and inform the steward when additional time will be provided.

II. REQUESTING AND OBTAINING INFORMATION

Q6: Is there anything that allows management to withhold documents?

A6: Articles 17.3 and 31.3 require Management to provide to the steward ALL relevant information necessary for grievance investigation/processing. The regulations for obtaining medical information are contained in Parts 353.326 of the Administrative Support Manual and under Part 220 of the EL-806, Health and Medical Service Manual.

Q7: What can be done directly when management fails to provide information that was requested?

- A7:
- A. Notate the denial in the grievance which is being processed.
 - B. File a separate grievance under Articles 17.3 and 31.3.
 - C. File a charge with the National Labor Relations Board for management refusing to provide necessary information for collective bargaining.

Q8: Does the Union have the right to obtain correspondence between management?

A8: Generally, the answer is yes. However, notations on discussions (under Article 16.2) which are not official USPS correspondence or documents and which may not be exchanged between supervisors may not be accessed under Articles 17 or 31 by stewards.

Q9: Does a Union official have the right to obtain an employee's OPF and review it for information needed in a case?

A9: Under the Administrative Support Manual, Part 353.326, the steward may request and shall have access to an OPF applying the relevancy standard of Article 17.3. Permission (while not required) of the individual employee will expedite access.

Q10: What do you do when a witness denies or withdraws witness statements at some time during the grievance procedure?

A10: Once a witness statement (or preferably an interview) is completed, it becomes part of the record of grievance investigation. The Union retains such information and shall decide on its usage at subsequent steps in the Grievance/Arbitration Process.

Q11: Can I access out of craft information for documents and witnesses?

A11: A steward's investigative jurisdiction is not limited by craft or work location.

Q12: Is there a limitation on the number of witnesses?

A12: There is no limitation on the number of witnesses which may be interviewed in the course of a grievance investigation.

Q13: If the Inspection Service uses a tape recorder during an interview, can the Union representative use one? If not, is the Union entitled to have a copy of the tape?

- A13: Permission must be obtained from Postal Management before tape recording, photographic or video equipment may be utilized on USPS property. If Postal Inspectors use a tape recorder, the Union has a right to obtain access to the recording (Article 17.3 and 31.3)
- Q14: If additional information becomes available, must it be provided and how quickly?
- A14: Management is required to provide the Union with whatever information was requested. If information is not initially provided, Management is required to provide it when it does become available.
- Q15: Can a supervisor request a shop steward's documents from a grievance?
- Q16: In what circumstances can the Union refuse to give information to management?
- A15-16: Under Article 15, Section 2, Step 2d, the parties are required to fully exchange all documents and papers relied upon in the grievance process.
- Q17: Does the steward have a right to leave a work area to interview a grievant(s)?
- Q18: Can a steward on Union time (on-the-clock) go to interview non-postal employees at their homes or jobs if they have information pertinent to a grievance?
- A17-18: Article 17.3 permits stewards to conduct interviews outside their work areas, with permission. Stewards may also conduct interviews with non-postal employees off the premises on the clock.
- Q19: Anytime a Union official is conducting Union business, should he or she be compensated for their time?
- A19: Under Article 17.4, stewards conduct grievance investigation/processing on the clock and are compensated by the Employer.
- Q20: When on Union business, do you have to punch a green timecard (PS 1234) or do you stay on your regular time card to do this work?
- A20: Stewards should follow Management instructions regarding how steward time is reflected by timekeeping.
- Q21: When Management is asked if a Union official can obtain steward time, does Management have the right to ask for whom and for what is this steward time needed? Can the Union deny this information to Management?

- A21: Management has the right to ask the general nature of the needed steward duty time. Additionally, Management may ask the steward to estimate the time needed for processing/investigation of grievance(s).
- Q22: What action should be taken when management refuses to recognize an individual as the Union representative?
- A22: If Management refuses to acknowledge a steward under the formula of Article 17.2 and after official notification to Management by the Union, then grievances and charges under the National Labor Relations Act must be filed.
- Q23: Is it possible to hold a Step 2 meeting at another site, rather than at a postmaster's installation?
- A23: The parties may agree to hold meetings at any mutually acceptable location. However, Management is not required to meet outside the installation.
- Q24: During a grievance meeting, the steward is equal with the supervisor. At what point is the steward not equal to the supervisor?
- A24: The steward may not refuse to return to the workfloor upon Management termination of steward duty time. Arbitrators have held that while there is an equality in their relationship, a steward may not unreasonably become belligerent, vulgar or abusive. In responses to Management, verbalization and actions should not exceed the nature and degree of what Management does.
- Q25: Can a steward demand a private consultation with a member who is under questioning from management and/or the Inspection Service?
- A25: Following a request by an employee for Union Representation in an interview with the Postal Inspection Service, the steward/representative shall consult with the employee before the interview commences/continues. Although there is no written agreement/rule regarding same in an interview with Management, the steward should insist on such consultation.
- Q26: Can the Inspection Service make the steward leave the room while the employee is waiting for legal counsel?
- A26: No. The Employee is entitled to the Steward during the entire interview.

- : What right, as a steward do you have when the Inspection Service wants the employee to submit to a blood, alcohol, or a lie detector test?
 - : An employee should not submit to a blood/alcohol/fingerprint test until consultation with an attorney. Lie Detector tests must never be agreed to or participated in by employees.
 - : Can the steward bring in outside help (i.e. area steward, craft director, legal representative), and does that person become the grievant's representative? If not, can they still take part in the investigation? If they take part, can the steward still receive all information on the grievances?
 - : Under Article 17, Sections 2B and 2D, the Union may, at the Regional Level, designate another Union Officer or an outside representative to act in place of a steward. The steward may then be a witness, but shall not be a co-representative.
 - : Can a steward be present at Step 3?
- A29: There is no Collective Bargaining Agreement provision which provides for the presence of stewards at Step 3.
- Q30: Can the Union file a grievance against the Inspection Service for harassment, intimidation, or withholding of information?
- A30: The Union may file grievances against Management for the withholding of information as it is Management's responsibility to obtain information from the Postal Inspection Service for the Union. There are no contractual provisions which address the behavior of Postal Inspectors; however, Management is responsible under Article 14 to provide a safe, healthy work environment.
- Q31: What can be done when a supervisor continues to do the same thing over and over again, even though you have grieved it many times?
- A31: Repeated violations of the Collective Bargaining Agreement, even though sustained through the Grievance/Arbitration process must be presented to Union Officers for Labor/Management meeting discussion and resolution. Continued filing of grievances will demonstrate the severity of the on-going problem and attract appropriate corrective attention.

III.

RIGHTS OF THE GRIEVANT

Q32: Once a grievance is in the system, can the grievant change his/her mind and ask to have the grievance rescinded?

A32: Once appealed to Step 2, the Union becomes the controlling party to any grievance.

Q33: Should the grievant be present when you handle the grievance with management?

A33: This is a matter of judgment and Local Union policy. The presence of a grievant in one instance may inhibit and prevent resolution of a case. In another circumstance, the presence of a grievant may assist in the resolution.

Q34: Does the grievant have to be present at Step 1 or Step 2?

A34: No. At both Steps 1 and 2, the grievant may be represented by the steward without presence of the grievant.

Q35: Can an employee request a specific steward (i.e. Union president) when being questioned by the Inspection Service?

A35: An employee may make such a request, however, the Postal Inspection Service is only required to adhere to Article 17.3 regarding providing a steward or Union Representative.

Q36: Can management refuse to allow a grievant to speak to the Union?

A36: Reasonable time for consultation must be provided

Q38: At what time or instance can a grievant say they were not represented properly and possibly have grounds for a lawsuit?

A38: The Union has a legal responsibility to fairly, without bias, represent an employee in the Grievance/Arbitration Process and before the Postal Inspection Service.

IV. *GRIEVANT'S CONSENT*

Q39: Should a Union steward make settlement without the grievant's consent? Is it advisable? When or when not?

A39: This is also a matter of judgment and Local Union policy. A grievant's consent is not required in the Grievance/Arbitration Process by the Collective Bargaining Agreement. There may be times when it is advisable to obtain input from a grievant; however, the representative is trained to exercise sound judgment and is charged with responsibility as the authorized Collective Bargaining Representative.

Q40: In a case involving an individual employee, can the Union file a grievance without the employee's consent?

A40: The participation of an individual grievant is not required when filing a grievance as per Article 15, Section 2, Step 1a.

V. *ADDITIONS AND CORRECTIONS*

Q41: When is the last opportunity to submit additions and corrections?

Q42: Is there a limit on the number of corrections and additions?

A41/42: Additions and corrections must be submitted within (10) ten days from receipt of the Employer's Step 2 decision. There is no limit to the number of corrections and additions to a Step 2 decision.

VI.

SETTLING AND RESOLVING GRIEVANCES

Q43: How much authority do I have as a craft director (or steward) to settle a grievance?

A43: Article 15, Section 2, Steps 1b and 2c, give full authority to the steward or Union representative to resolve or withdraw in whole or in part the grievance.

Q44: Is it better to give a Step 1 in a written or an oral form?

Q45: If a grievance is settled at Step 1, is there any paperwork to be filed for future reference in other grievances?

Q46: Does management have an obligation to provide an answer to a Step 1 in writing?

Q47: If while discussing a grievance, the grievance is settled verbally, should you write it up on a Step 1 worksheet or a Step 1 resolution form?

Q48: Who is responsible for writing or typing mutual agreements between the parties?

A44/45/46/47/48: Depending upon the issue, a written Step 1 resolve is advisable to assure future compliance. Management does not have a Collective Bargaining Agreement obligation to issue a written Step 1 decision. Either party may write a resolution of mutual agreement which must be signed by both parties to be valid and binding.

Q49: Is there any circumstance when you should not verbally remedy a problem and go right to filing a grievance?

A49: Resolution attempts prior to the filing of grievances are a matter of judgment and experience.

Q50: Do you advocate having the grievant with you when talking to the immediate supervisor when trying to verbally handle a problem or initiating a grievance?

A50: This is a matter of judgment and Local Union policy. The presence of a grievant in one instance may inhibit and prevent resolution of a case. In another circumstance, the presence of a grievant may assist in the resolution.

Q51: Is the Union responsible for any violation of an agreement between management and an employee at Step 1?

A51: The Union must pursue any Collective Bargaining Agreement violations whether or not they occur following an agreement between an employee and manager. An employee may not enter into any agreement that violates the Collective Bargaining Agreement.

Q52: Should the Union be present during any oral meeting with management?

A52: Discussions under Article 16.2 are private between supervisor and employee. No Union Representation is permitted. Fact gathering interviews which could possibly lead to discipline require a Union Representative if the employee requests one's presence. Step 1 meetings between an employee and supervisor may take place without Union representation. However, we must discourage such "stewardless" Step 1 meetings.

Q53: Can a grievance be resolved or withdrawn locally prior to a Step 3 decision?

A53: Once a grievance is appealed to Step 3, it cannot be officially withdrawn at the Local Level without Regional Union authorization.

Q54: After a grievance is withdrawn at Step 3, but additional information becomes available, can the Union reinstate the case?

A54: Once a case, disciplinary or contractual, is withdrawn, it is moot. However, if the contractual violation is a continuing one, then a new grievance can be filed including the additional information. Once withdrawn, a disciplinary case cannot be resurrected.

VII.

TIME LIMITS

55: Does the 14 day time limit start when the grievance occurs, or when the grievant contacts the Union?

A55: The (14) fourteen day clock starts from the date of event/incident or notice receipt.

Q56: What is the best way to keep track of grievance time limits?

- A56: Logs and/or status sheets attached to each case file are recommendations. This must be determined locally, bearing in mind that clarity, consistency and an absolute commitment to never having an untimely case are top priorities.
- Q57: If new information becomes available between Step 1 and Step 2 and management withholds this information until well after the meeting, does this negate time limits?
- A57: Under no circumstances is the Union relieved of its time limit responsibilities. If the Union is untimely, the case is lost.

VIII.

INTERVIEWS

- Q58: If during an interview, an employee admits guilt to the Inspection Service, does a grievance still need to be processed?
- A58: An admission of guilt does not absolve the Union of its responsibility to investigate/process a grievance.
- Q59: What do you do when a grievant wants to tell you about what they have done, even though you inform them that you could be used as a witness against them?
- A59: Stewards are not in any way to act as witnesses to employee confessions.
- Q60: What do you do when an employee gets mad and angry with you during an interview? Do you continue or just leave?
- A60: So long as the employee requests a steward's presence, the steward must remain at the interview and provide the best possible representation.

IX.

GENERAL INFORMATION

- Q61: Explain "A supervisor can deny a grievance, he cannot reject it out of hand."
- A61: Management may not determine what can and cannot be grieved.
- Q62: What handbooks and manuals are needed most when processing a grievance?

- A62: Each individual grievance will determine what Handbooks and Manuals are necessary. Local Unions must make every effort to access necessary Handbooks and Manuals. Some examples are the ELM—Employee and Labor Relations Manual; ASM—Administrative Support Manual; P-1—Standard Position Descriptions; EL-303—Qualification Standards; EL-311—Personnel Operations; F-1—Financial Handbook.
- Q63: How can you acquire copies of past National arbitration cases?
- A63: Contact your Local President for assistance in obtaining Arbitration cases.
- Q64: At what step of the grievance procedure is the steward's job over?
- A64: The steward's job is not completely over until the case is resolved, sustained, arbitrated or withdrawn.
- Q65: What are the most common mistakes a steward makes when investigating and filing a grievance?
- A65: Making allegations without proof; assumptions about facts without proof; no interviews; no requests for information; lack of evidence necessary to prove case; not maintaining professional, unemotional direction toward the goal; not answering and proving who, what, where, when, why and how; and not clearly and simply explaining the case.

PART I

**DOCUMENTING
AND PRESENTING
GRIEVANCES**

Time Limits, Step 1

It is imperative for the steward to file grievances within the time limits outlined in **Article 15, Section 2 of the Collective Bargaining Agreement**. In addition, in accordance with **Article 15, Section 4.B.**, the Union waives the grievance if the representative fails to meet the time limits.

The Time Limits for Step 1 Grievances:

- ♠ A grievance must be discussed with the employee's immediate supervisor within fourteen (14) days of the date on which the employee or the Union first learned of the infraction.
- ♠ The employee, at his or her option, may be represented by a union representative.
- ♠ The supervisor and the union representative shall have authority to settle the grievance in whole or in part.
- ♠ If the grievance is not resolved at the Step 1 meeting, the supervisor shall render an oral decision within (5) days, stating the reasons for the denial of the grievance. However, the two parties may agree to extend the time limits.
- ♠ Within five (5) days after the supervisor's decision, the union representative should request that the supervisor, initial the standard Step 2 Grievance Form confirming the date the decision was rendered.
- ♠ Within ten (10) days after receipt of the supervisor's decision denying the Step 1 grievance, the Union may appeal to Step 2 of the grievance procedure.
- ♠ The Step 2 appeal should be made utilizing the standard Step 2 Grievance Form available from the APWU Order Department, 1300 L Street, N.W., Washington, D.C. 20005.
- ♠ The following information must be included:
 - Detailed statement of facts
 - Contentions of the grievant
 - Particular contractual provisions involved
 - Remedy sought.



CHECKLIST

FOR STEP 1

GRIEVANCES

Has the Steward Completed the Following?

- ✓ Answered all six questions: Who, What, Where, When, Why and How.
 - **Who** was involved?
 - **What** happened?
 - **Where** did the incident or violation occur?
 - **When** did the incident or violation occur?
 - **Why** is it a violation of the contract (article violated)?
 - **How** can the grievance be resolved (remedy)?
- ✓ Checked the appropriate contract provision violated?
- ✓ Reviewed notes and examined all related data?
- ✓ Interviewed all witnesses?
- ✓ Outlined the grievance presentation?
- ✓ Determined the correct approach when interviewing the supervisor?
- ✓ Made copies of all support documentation?
- ✓ Expressed a clear and concise remedy?
- ✓ Decided to bring the grievant to the Step 1 meeting?

AMERICAN POSTAL WORKERS UNION, AFL-CIO 1987 STEP 1 GRIEVANCE OUTLINE WORKSHEET

DISCIPLINE (NATURE OF) OR CONTRACT (ISSUE)		CRAFT	DATE	LOCAL GRIEVANCE #	USPS GRIEVANCE #	
UNIT/SEC/BR/STA/OFC	DATE/TIME	USPS REP—SUPR		GRIEVANT AND/OR STEWARD		
STEP 1 DECISION BY (NAME & TITLE)			DATE & TIME	INITIALS	INITIALING ONLY VERIFIES DATE OF DECISION	
GRIEVANT PERSON OR UNION (Last Name First)		ADDRESS	CITY	STATE	PHONE	
SOCIAL SEC. NO.	SERVICE SENIORITY CRAFT	FTR-PTA-PTF <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	LEVEL	STEP	DUTY HRS	
				OFF DAYS Sa Su M T W T F		
JOB # PAY LOCATION (UNIT/SEC/BR/STA/OFC)		WORK LOCATION CITY AND ZIP CODE			LIFETIME SECURITY YES <input type="checkbox"/> NO <input type="checkbox"/>	VETERAN YES <input type="checkbox"/> NO <input type="checkbox"/>

Notes:

(a) Problem:

(b) Background:

(c) Documents:

(d) Corrective Action:

(e) Management's Response:

Proper Remedy, Part 1

It is imperative that the steward request the appropriate remedy when filing a grievance. The corrective action requested on line 13 of the standard Step2 Grievance Appeal Form must be very firm, very simple and related to the nature of the grievance. **NEVER** request that disciplinary action be taken against a supervisor. This request gives management an excuse to deny the grievance since they are not required to discipline supervisors and will not do so at APWU's request.

Listed below are examples of possible remedies for contract violations:

DISCIPLINE: The grievant was issued a 7 day suspension for unsatisfactory work performance and had never been issued a Letter of Warning for a similar infraction.

REMEDY: Make the grievant whole of all loss time and benefits. The suspension be rescinded and all copies be removed from all records and files.

OVERTIME: The grievant was on the ODL and passed over and another employee on the list was utilized out of rotation.

REMEDY: Make the grievant whole of all loss time and benefits. The grievant be given a make up opportunity to work the appropriate number of hours within 90 days from the date the violation occurred or when the union became aware of the violation.

OVERTIME: The grievant was on the ODL and passed over and another employee worked who was not on the ODL.

REMEDY: Make the grievant whole of all loss time and benefits. The grievant be paid an equal number of hours as was worked by the non ODL employee

HOLIDAY: The grievant, a full-time regular, was required to work on his holiday and qualified PTF's were not scheduled to work.

REMEDY: Make the grievant whole of all loss time and benefits. The grievant be given a day off, of his or her choice on Administrative Leave and that management cease and desist from mandating full-time employees to work prior to utilizing PTF's.

Proper Remedy, Part 2

RESTRICTED SICK LEAVE: An employee calls in sick, when he or she return to work, they are placed on restricted leave. The employee was not given a quarterly review.

REMEDY: Make the grievant whole of all loss time and benefits. That the notice placing the employee on restricted sick leave, be rescinded and the supervisor abide by the provisions of the ELM and the employee be made whole for any losses resulting from being placed on restricted sick leave.

AWOL: The grievant reported to work 15 minutes late. He did not call and was charged 15 minutes AWOL. The grievant informed the supervisor that he was unable to call due to being held up in a traffic jam that was caused by an accident.

REMEDY: Make the grievant whole of all loss time and benefits. The grievant be granted the appropriate requested leave and the AWOL charge be rescinded and all references be deleted from all records and files.

DENIED ANNUAL LEAVE: The grievant called in for 8 hours emergency annual leave because of flooding in her home caused by a busted pipe. The grievant provided a bill and receipts from the plumber for the date in question. The supervisor denied the annual leave and charged the absence to LWOP even though the leave book was open for incidental leave in accordance with the LMOU.

REMEDY: Make the grievant whole of all loss time and benefits. Grant the requested leave in accordance with the LMOU and ELM and cease and desist from denying annual leave when the book is open.

SUPERVISORS PERFORMING BARGAINING UNIT WORK: Supervisor Jones has been repeatedly observed loading mail in the automation section for at least 2 hours a day over the last 30 days. Supervisor Jones works in a facility with over 500 employees. He agreed to cease and desist from performing bargaining unit work 2 weeks ago when a grievance was filed.

REMEDY: Pay the senior employee on the ODL 2 hours per day for the past 14 days. The supervisor be instructed to cease and desist performing bargaining unit work.

Using the Correct Approach

It is most important that the shop steward conduct himself or herself in a professional manner when processing a grievance. He or she should avoid using the incorrect approach while discussing a grievance with management.

Hat in Hand Approach

- ▶▶ The steward is not confident, timid, and does not consider that he or she is on the same level as the supervisor, manager or postmaster.
- ▶▶ The steward does not utilize all the investigative tools available.
- ▶▶ The steward is not prepared and does not present a strong case.
- ▶▶ The steward is inattentive and appears disinterested during the grievance presentation.

Hard Guy Approach

- ▶▶ The steward is stubborn and abusive.
- ▶▶ The steward is unprepared and attempts to intimidate management by being loud and obnoxious.
- ▶▶ The steward gives the impression of being tough but rarely wins grievances.

The Business Like Approach

The shop steward should always use a Business Like Approach when presenting and processing grievances. It is important that he or she is:

- ▶▶ Knowledgeable.
- ▶▶ Courteous and in control.
- ▶▶ Well prepared.
- ▶▶ Relentless but firm.

Presenting the Step 1 Grievance

Two skills are necessary to effectively present grievances:

- [1] The human relations ability to deal with employees and management
- [2] A thorough understanding of the contract and the precedents which define the contract.

Tips for the Steward:

- ✧ Approach management with frankness, sincerity, and without hostility.
- ✧ Perform a complete investigation. If necessary, request an extension of the Step 1 time limits.
- ✧ **Do not** let the 14 day time limits expire while awaiting requested documentation.
- ✧ If the extension is not granted, present the grievance to the Step 1 supervisor, and make the argument during that discussion and as part of the grievance itself, that the requested information was not provided **prior** to the Step 1 meeting.
- ✧ Avoid heated arguments and shouting matches.
- ✧ Stay cool, be professional and thorough, managers would eventually realize that they can't fluster you.
- ✧ Be patient. Calmness helps you win cases.
- ✧ Take careful notes during the grievance discussion, so that you will have a record of management's responses and comments.
- ✧ Request documentation or evidence from the supervisor to support their contentions.

SPECIAL NOTE: Remember that Step 1 of the grievance procedure is the most crucial of all of the stages of the grievance procedure. Be sure to have your contentions clearly identified, documentation to support the case and prepare in advance as to how you will respond to the Step 1 supervisor.

The Step 1 Decision

Many times favorable decisions are not implemented or are ignored by management. If the a favorable decision is rendered at Step 1 , the steward should request a copy of the settlement letter, give a copy to the grievant and insure that the decision is implemented in a timely manner. The sample form letter on the next page is one way of alerting management that a favorable decision has been received and that compliance is expected.

SPECIAL NOTE: Remember to insist that all references be removed from the grievant's records and files from management's records and that the grievant be made whole for loss of pay and other entitlements.

Time Limits, Appeal to Step 2

It is imperative for the steward to file grievances within the time limits outlined in **Article 15, Section 2 of the Collective Bargaining Agreement**. In addition, in accordance with **Article 15, Section 4.B.**, the Union waive the grievance if the representative fail to meet the time limits.

The Time Limits for Step 2 Grievances:

- ⊗ The Union shall be entitled to appeal an adverse Step 1 decision to Step 2 of the grievance procedure within ten (10) days after receipt of the supervisor's decision.
- ⊗ The standard Step 2 Grievance Form, appealing to Step 2, shall be filed with the installation head or designee.
- ⊗ In any associate post office of twenty (20) or less employees, the Employer shall designate an official outside of the installation as the Step 2 official, and shall so notify the Union Step 1 representative.
- ⊗ Any grievance initiated at Step 2, pursuant to Article 2 or 14 of this Agreement, must be filed within 14 days of the date on which the Union or the employee first learned of the infraction.
- ⊗ The installation head or designee will meet with the steward or a Union representative no later than seven (7) days following receipt of the Step 2 appeal unless the parties agree upon a later date

SETTLEMENT IMPLEMENTATION FORM

DATE _____

TO: POSTMASTER
U.S. POSTAL SERVICE
AMERICA, U.S.A.

The attached is a favorable decision in behalf of the Union concerning the following appeal:

GRIEVANT: _____

NATURE OF APPEAL: _____

APPEAL CASE NUMBER: _____

The decision was rendered at the _____ level of the grievance procedure provided for in accordance with Article 15.

Will you kindly advise me of the date the decision is implemented within your office and kindly advise if the following supervisors—who have denied the appeal before this favorable decision—have been notified about the results:

1. _____

2. _____

3. _____

Your written reply will be appreciated. Thank you.

SIGNED _____

TITLE _____

Completing the Step 2 Grievance Form

The Step 2 Grievance Appeal Form is an important document in the grievance process and must be filled out carefully and completely. Each line **must be** completed. The necessary information is as follows:

Line 1 - Nature of discipline or contract issue; the date on which the appeal is made; union local grievance number.

Line 2 - Name of USPS official to whom appeal is made; name of installation; telephone phone number.

Line 3 - Local Union's business address.

Line 4 - Name of APWU Representative authorized to discuss Step 2; telephone numbers where that individual may be reached.

Line 5 - Name of Local Union President; telephone numbers where that individual may be reached.

Line 6 - Installation where Step 1 was heard; date/time discussion took place; name of supervisor who discussed the grievance at Step 1; name of grievant and/or steward present at the discussion.

Line 7 - Name of supervisor who made the decision; date/time decision was made; initials of supervisor making the decision attesting to date/time of decision.

Line 8 - Grievant (or Union if class action), address and telephone number of same.

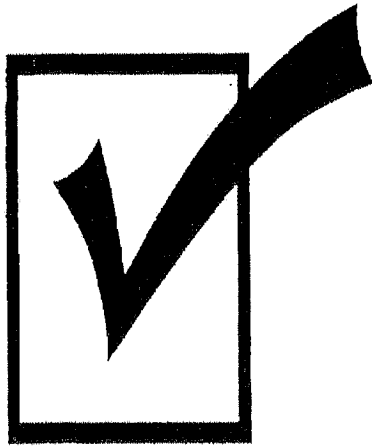
Line 9 - Social Security number of employee; seniority date; service & craft; employee classification; level; step; duty hours; off days.

Line 10 - Name of installation where incident occurred; zip code of installation where incident occurred; whether or not employee lifetime job security; and whether or not employee is classified as a preference eligible veteran.

Line 11 - Cite contract article violated.

Line 12 - Give a detail explanation of what happened.

Line 13 - What the Union feels is required to resolve the grievance.



CHECKLIST

FOR STEP 2

GRIEVANCES

Tips for the Steward:

- ✓ Anticipate the Step 1 supervisor's response.
- ✓ Check appropriate provisions of the contract, handbooks, manuals, etc..
- ✓ Review Step 1 contentions and examine all related data.
- ✓ Determine if additional contentions and data are required.
- ✓ Decide if the grievant or witnesses should be present at the Step 2 hearing.
- ✓ Outline the Step 2 presentation.
- ✓ Consider an approach to the Step 2 USPS representative.
- ✓ Make copies of all support documentation.
- ✓ Contemplate management's Step 2 argument.
- ✓ Express a clear and concise remedy.

Presenting the Step 2 Grievance

Prior to the actual Step 2 hearing, the union representative must determine whether to present additional arguments and documents. In preparation for the presentation of the Step 2 grievance he or she must review all information, documentation and evidence included in the grievance at Step 1. In addition, he or she should:

- ❖ Review the arguments and contentions made by the Step 1 steward to assure that they are correct and cover all aspects of the violation.
- ❖ Determine if witnesses, including the grievant, will be necessary during the presentation of the grievance.
- ❖ Anticipate and be prepared to refute management's arguments during the Step 2 hearing.
- ❖ Share every document supporting the Union's case with management at Step 2. If the documents are not provided, don't be surprised if an arbitrator refuses to consider them.
- ❖ Keep a record of all documents which are received or exchanged and always request copies of management documents.
- ❖ If information is denied, either at step 2 or in the investigatory stages of the grievance, it should be documented in the file. Also, note in writing, that the Union was denied due process.
- ❖ Discuss the case with other stewards and officers for possible alternatives to explore. Try to resolve as many cases as possible at the lowest level.

SPECIAL NOTE: Occasionally the union representative receives documents which hurt the Union's case and support management's position. **The union representative is not obligated nor should he or she share these documents with management.** It's up to management to discover them and produce them to prove their case. However, do not throw them away. Keep them in a file, clearly marked as "not shared" with management. If management fails to produce them at either at Step 1 or Step 2, note that fact in your file.

The Step 2 Meeting

The Step 2 Meeting affords the union representative the last opportunity to fully develop all relevant facts and contentions in regards to the grievance. The grievant shall be represented at Step 2 by a steward or a union representative. The union representative should have authority to settle or withdraw the grievance.

- At the Step 2 meeting, the union and employer representative shall make a full and detailed statement of facts relied upon, contractual provisions involved, and remedy sought and may furnish written statements from witnesses or other individuals.
- The parties' representatives shall exchange copies of all relevant papers or documents and may mutually agree to jointly interview witnesses to assure full development of all facts and contentions.
- In cases involving discharge, either party shall have the right to present no more than two witnesses. Additional witnesses may be interviewed, if agreed to by the parties.
- Step 2 settlements or withdrawals shall be in writing or noted on the standard grievance form.
- Where agreement is not reached the Employer's decision shall be furnished to the Union representative in writing, within ten (10) days after the Step 2 meeting. However, the parties may mutually agree to extend the time period.
- The Employer's decision letter should include a full statement of the Employer's understanding of (1) all relevant facts, (2) the contractual provisions involved, and (3) the detailed reasons for denial of the grievance.
- If the union representative believes that the facts or contentions set forth in the decision letter are incomplete or inaccurate, he or she may file corrections or additions, within ten (10) days of receipt of the Step 2 decision. Corrections or additions must be included in the grievance file. The filing of such corrections or additions shall not affect the time limits for appeal to Step 3 or arbitration.
- Within fifteen (15) days after receipt of the Employer's decision, the Union representative may appeal an adverse Step 2 decision to Step 3, unless the parties' agree to extend the time for appeal.

Corrections or Additions

One of the most powerful rights the Union has, to rebut management's Step 2 decision denial letter, is through the usage of **corrections or additions as outlined in Article 15 Section 2, Step 2: (g), which states:**

“ If the Union representative believes that the facts or contentions set forth in the decision are incomplete or inaccurate, such representative should, within ten (10) days of receipt of the Step 2 decision, transmit to the Employer's representative a written statement setting forth corrections or additions deemed necessary by the Union. Any such statement must be included in the file as part of the grievance record in the case. The filing of such corrections or additions shall not affect the time limits for appeal to Step 3 or arbitration.”

Tips for the Steward:

- ☒ The most important rule for processing a grievance beyond Step 2 is to file corrections or additions when the denial does not accurately reflect the contentions made by the Union or is incomplete.
- ☒ Corrections or additions should be factual, brief and to the point.
- ☒ When pointing out inaccuracies in the Step 2 denial, do so by referencing facts. It is difficult to prove something false without facts and evidence.
- ☒ List all documents shared at Step 2, in the corrections or additions.
- ☒ Normally, management is deficient in one or two main areas when they deny a meritorious grievance. They either slant, twist, or bend the facts of the grievance or fail to report the facts (i.e., leave out the relevant facts which prove the case for the Union).
- ☒ Remember to include the corrections or additions with either the appeal to Step 3, within 15 days, or the direct appeal to arbitration, within 30 days after receipt of the Employer's Step 2 decision.

Under the new direct appeal from Step 2 to arbitration, the corrections and additions become the **final written record** of the grievance prior to the arbitration hearing. The written corrections and additions provide the steward with an excellent opportunity to restate or clarify the grievance.

Direct Appeal to Arbitration From Step 2 Part 1

The Union may appeal an adverse Step 2 decision directly to arbitration for disciplinary grievances or contract grievances which involve the interpretation, application of, or compliance with the provisions of any local Memorandum of Understanding not in conflict with this Agreement, and those issues the parties have agreed are appealed to Expedited Arbitration.

- ⊖ The grievances listed below can be appealed directly to arbitration from Step 2 within thirty (30) days after the receipt of the Employer's Step 2 decision.
- ⊖ The grievances must be appealed to the appropriate Grievance/Arbitration Processing Center.
- ⊖ The following information must be included with the appeal:
 - The standard Step 2 Appeal to Arbitration Grievance Form.
 - The Employer's written Step 2 decision.
 - The Union corrections or additions to the Step 2 decision, if filed.

The Following Represents Disciplinary Grievances to Be Appealed from Step 2 Directly to Arbitration:

- ⊖ Letters of Warning.
- ⊖ Suspensions of 14 Days or less.
- ⊖ Suspensions of More Than 14 Days or Discharge.
- ⊖ Indefinite Suspension Crime Situation.
- ⊖ Emergency Procedure.

Direct Appeal to Arbitration From Step 2 Part 2

The Following Expedited Arbitration Issues May Be Appealed Directly From Step 2 to Arbitration:

- ⊙ Individual Overtime Grievances.
- ⊙ Withholding of Step Increases' Grievances.
- ⊙ Individual Leave Request.
 - Annual Leave.
 - Sick Leave.
 - Leave Without Pay.
 - Court Leave.
 - Restricted Sick Leave.
 - Requests for Medical Certification.
- ⊙ AWOL
- ⊙ Individual Holiday Scheduling Grievances
- ⊙ Suspensions (Except Emergency Suspensions)
- ⊙ Article 25, Higher Level Assignments
- ⊙ Employee Claims
- ⊙ Letters of Demand of Less Than \$2,000
- ⊙ Individual Clerk Craft Seniority Disputes
- ⊙ Such Other Matters as are Mutually Agreeable at the Area/Regional Level

SPECIAL NOTE: The Memorandum of Understanding between the USPS and APWU Reference Timeliness Regarding Step 2(h) Appeals states: "When the Union incorrectly appeals a grievance under Article 15.2 Step 2(h) to Step 3 rather than to arbitration, and can show the appeal was made timely, Management will not consider timeliness as a waiver of the grievance. If no timely appeal to Step 3 can be established by the Union then Management retains the right to raise the timeliness issue."

Establishing a Grievance Committee

A grievance committee should be established to review and discuss grievances. To appeal or not to appeal a grievance should be a joint decision made by the committee. The committee should record written minutes, stating the reasons why the grievance is not being appealed. The Grievance Committee should:

- Consist of officers or stewards representing each craft.
- Meet at least once each month or more frequently, if needed.
- Make sure that officers and stewards are not just automatically appealing every case regardless of its merit.
- Include in the grievance file, the written decision stating the reason why the committee chose not to precede with the grievance.
- Retain closed files, for a minimum of three (3) years, in storage with an adequate retrieval system.
- If needed, the local should seek advice from the national union or counsel.

The union is not required to be right in every case or situation. However, union representatives may be required to prove that their decisions were not careless or perfunctory and that their handling of cases are consistent. To appeal merely to "pass the buck" only clog the grievance system and takes that much longer for the fair settlement of meritorious grievances.

TEST FOR JUST CAUSE

What is just cause? The definition of just cause varies from case to case, but arbitrators frequently divide the question of just cause into six sub-questions and often apply the following criteria to determine whether the action was for just cause. These criteria are the basic considerations that the supervisor must use before initiating disciplinary action.

1. **Is there a rule?** Is the rule clear and understandable? Was the employee informed of the rule? Has the rule been enforced in the past? Was the employee advised of the disciplinary consequences, if he or she failed to follow the rule.
2. **Is the rule a reasonable rule?** Was the rule related to the orderly, efficient and safe operations of the USPS business? Does the rule create an undue hardship for the majority of the employees?
3. **Is the rule consistently and equitably enforced?** Have other employees received discipline for violating the rule? If so, was the discipline issued to those employees as severe as that issued to the grievant?
4. **Was a thorough investigation completed?** Was the employee given a Pre-Disciplinary Interview(PDI)? Was the investigation conducted fairly and objectively?
5. **Was the severity of the discipline reasonably related to the infraction itself and in line with that usually administered, as well as to the seriousness of the employee's past record?** Was the punishment too severe for the infraction? Was the grievant's years of service taken into consideration.
6. **Was the disciplinary action taken in a timely manner?** Was disciplinary action taken when the infraction occurred or did management wait for an extended period of time, prior to issuing the discipline. Was the discipline punitive and vindictive?

Standards Determining Past Practices

It is difficult to identify standards by which arbitrators determine if a practice exists and how much weight it should be given insofar as their decision and award is concerned. However, there are some very definite ingredients, when the question of past practice is taken under consideration by the arbitrator.

- ❖ **Consistent** - The practice has been granted or applied consistently, uniformly, regularly and without break.
- ❖ **Clearly stated** - The practice has been observed by the parties and is followed without protest or objection from one party or the other.
- ❖ **Duration** - The policy has existed and been followed over a reasonably long period of time. In this regard a "bridge effect" may be of significance to some arbitrators. The bridge effect results from a practice under one agreement and continuing unchanged and unprotested into a renewed agreement, as a result it bridges one collective bargaining agreement with another between the parties without having been changed or discontinued.
- ❖ **Jointly accepted and acted upon** - Both parties, through their line representatives, have operated as though the practice, in fact, existed and was a guiding rule.

One important factor that should be noted is that the frequency of the practice may not be as important as the mutual observance. In other words, a practice which occurs only three times a year and which, on each occasion, is executed may have more weight on an arbitrator's decision than another practice which occurs 15 times a year but is not consistently administered from one time to another.

Proof of past practice requires documentation and evidence. It is essential that when a past practice exists and is grieved, all possible documentation and facts be submitted along with the allegation of a violation of the past practice.

In order to be binding, past practice should have one or all of the aforementioned elements.

American Postal Workers Union, AFL-CIO

Step 3 Grievance Appeal Form

Certified # _____

Grievant - Person or Union	Work Location - City, State, Zip Code	Regional # ---
Article #/Issue	Craft	Date of Step 2
		Local Grievance #

The Above Grievance is Being Appealed to Step 3 Date _____

Mid-Atlantic/Capital Metro
U.S. Postal Service
P.O. Box 9798
Chester, PA 19013-9798

Any appeal from an adverse decision in Step 2 shall be in writing to the Regional Director for Employee and Labor Relations, with a copy to the Employer's Step 2 Representative, and shall specify the reasons for the appeal. (Within fifteen (15) days)

The Appeal is accordance with XV Grievance/Arbitration Procedures Section 2, Step 2 (h) and Step 3(a) for the following reasons:

and we have attached the Step 2 appeal grievance form, the employer's written Step 2 decision and our corrections and additions to the Step 2 decision and we submitted same to the employer's Step 2 representative.

From - Local Union	Address	City	State	Zip
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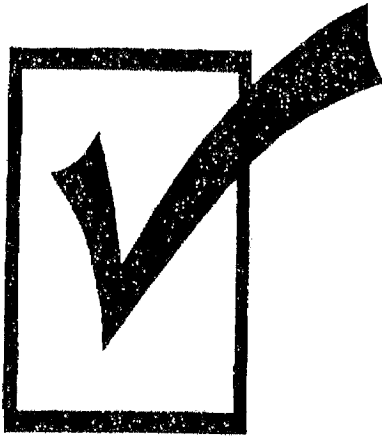
Copy - Local File
Copy - USPS Step 2 Designee

SUBMIT UNION'S REGIONAL COPY WITH FILE TO:
 Clerk

National Business Agents
American Postal Workers Union
P.O. Box 3609, Woodmoor Station
Silver Spring, MD 20918

Sincerely,

Authorized Representative



Step 3 Check List

Appeals to Step 3 should be made only when all efforts for resolution at Step 2 have been exhausted. This could include extension of time limits, if appropriate, presentation of new facts, if available, and settlement, in part, after consultation with the grievant or local union officers. If the appeal is made to Step 3, the case file sent to the appropriate National Field Officer should be complete.

The Grievance File Should Include Copies of:

- * Step 1 discussion notes, if any.
- * Standard Step 2 Grievance Appeal Form.
- * Step 2 meeting discussion notes.
- * Documents of Step 1 & 2 presentation.
- * Copy of Step 2 written decision.
- * Copy of additions/corrections at Step 2, if any.
- * Copy of appeal to Step 3.

- Any appeal from an adverse decision in Step 2 shall be in writing to the appropriate management official at the Grievance/Arbitration Processing Center, with a copy to the Employer's Step 2 representative, and shall specify the reasons for the appeal.
- The grievant shall be represented at the Employer's Step 3 Level by a Union's Regional representative, or designee. The Step 3 meeting of the parties' representatives to discuss the grievance shall be held within fifteen (15) days after it has been appealed to Step 3.