

CAN THEY DO THAT???

REVISITING THE JCIM

IPWU Fall Seminar
November 5 & 6, 2005
Cedar Rapids, IA.

INSTRUCTOR:

Robert D. Kessler



CAN THEY DO THAT????

Can a Postal Manager or a Shop Steward decide they do not want to use the JCIM?



NO!!

Joint letter from President Burrus and Anthony Vegiliante mandate that both parties are required to use the JCIM.




The Postal Service and the American Postal Workers Union, AFL-CIO, are committed to resolving workplace disputes promptly and efficiently, and to improving working relationships between union and management. To that end, the parties entered an agreement to develop a joint interpretation manual of contract provisions.

On June 10, 2004, the parties finalized the USPS/APWU Joint Contract Interpretation Manual (JCIM). The JCIM provides the interpretation of contractual provisions on which the national parties are in agreement.

The purpose of the JCIM is to ensure contract compliance, facilitate the resolution of grievances, and reduce the grievance backlog. Use of the JCIM is mandatory. When a dispute arises, the local parties should first go to the JCIM to determine whether the issue in dispute is addressed. If it is, the parties are required to resolve the dispute in accordance with the JCIM.

The parties have agreed to make the JCIM available to their representatives who are responsible for contract administration and grievance processing at Steps 1, 2, and 3 of the grievance-arbitration procedure. The initial JCIM rollout will include jointly developed training for supervisors and union officials who are responsible for contract administration. Local training is to be scheduled jointly and should be completed promptly.



Patrick F. Donahoe
Chief Operating Officer
and Executive Vice President
U.S. Postal Service



William Burrus
President
American Postal Workers
Union, AFL-CIO

•ARTICLE 1

CAN THEY DO
THAT????

Can Management
assign a 204b to a
detail without letting
the Union know?



NO!!

Article 1 page 2
states the 1723
shall be provided in
advance to the
Union at the local
level.



•ARTICLE 2

CAN THEY DO
THAT????

Can an EEO to
which the Union is
not a party take
precedent over
language in the
Contract?



NO!!

Article 2 page 1
states also that an
EEO settlement
cannot modify the
terms or
requirements of the
CBA.



•ARTICLE 3

CAN THEY DO
THAT????

Can an emergency
be heavy mail
volume?



NO!!


Article 3 page 1 states
an emergency is
unforeseen and not of
a recurring nature.



•ARTICLE 4


CAN THEY DO THAT????

Does Chapter 421 of the ELM have anything to do with saved grade?



YES!!


Article 4 page 1 states the provisions of ELM 421.53 govern the saved grade provided for in Article 4.3.



•ARTICLE 5


CAN THEY DO THAT????

Can a work assignment past practice on night shift automatically extend to the day shift?



NO!!


Article 5 page 2 also states that every practice be carefully related to its origin and purpose.



•ARTICLE 7


CAN THEY DO THAT????

Can the schedule for a full time flexible be set later than Tuesday of the preceding week?



YES!!

Article 7 page 1 states the schedule is set no later than the preceding Wednesday.



CAN THEY DO THAT????

Under Article 7.2.A may a combined duty assignment be established including duties from all crafts?

NO!!

Article 7 page 3 states rural carrier duties will not be combined, only APWU, NALC, & NPMHU.

•ARTICLE 8

CAN THEY DO THAT????

If I have annual leave before and/or after my non-scheduled days, am I available for overtime on my non-scheduled days?

NO!!

Article 8 page 6 states only if I have requested in writing.

CAN THEY DO THAT????

If I have Saturday/Sunday off days and work 8 hours a day on both, work 4 hours overtime on Monday am I available for overtime for the remainder of the week?

NO!!

Article 8 page 7 states excluding December, once I reach 20 hours overtime I am not available for any more overtime for the service week.

CAN THEY DO THAT????

If a small office PTF ends tour after completing their assignment for the day, and is called back to work do they receive a 4 hour guarantee?



YES!!

Article 8 page 9 states regardless of the size of the office they are guaranteed 4 hours work or pay in lieu of.



CAN THEY DO THAT????

Can PTR's hours be expanded on a temporary or day to day basis?



NO!!

• Article 8 page 10 states only in emergency or unanticipated circumstances.



CAN THEY DO THAT????

Are PTR's entitled to out of schedule premium?




NO!!

Article 8 page 10 states they should normally work the number of hours on the PS Form 50.




CAN THEY DO THAT????

Does the overtime list apply to PTRs and/or PTFs?




NO!!

Article 8 page 11 states only to full time employees.




CAN THEY DO THAT????

Can an employee on military leave sign the OTDL after the start of the quarter?




YES!!

Article 8 page 11 states if the employee was on military leave at the beginning of the quarter he/she may place their name immediately upon return.




CAN THEY DO THAT????

Does paid leave count toward the twelve and sixty hour work limits?



YES!!

Article 8 page 12 question 16.



CAN THEY DO
THAT????

Can an employee work
fewer than the
contractual guarantees
provided for in Article
8.8?



NO!!

Article 8 page 12 says
they may waive it only in
case of personal illness
or emergency.



• ARTICLE 9

CAN THEY DO
THAT????

Must an employee be
notified in advance of a
step increase deferral?



YES!!

Article 9 page 1 also
states they will not be
withheld for reasons of
unsatisfactory
performance.



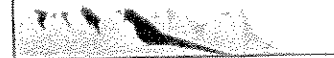
•ARTICLE 10
CAN THEY DO
THAT????

Is it proper for
management to
automatically review an
employees attendance
record after a set
number of absences?



YES!!

Article 10 page 3 states
while they may review
they must not
automatically discipline.



**CAN THEY DO
THAT????**

Once an employee has reported called in sick, can management require another phone call?



NO!!

Article 10 page 4 states only if the duration of the illness changes.



**CAN THEY DO
THAT????**

Can management require a specific form to be turned in for FMLA?



NO!!

Article 10 page 4 states any form or format which contains the required information will suffice.



**CAN THEY DO
THAT????**

Can management unilaterally change a PTF's previously granted annual leave to their off day?



NO!!

Article 10 page 5 states this cannot be done to solely make them available for an extra day of work at the straight time rate.



**CAN THEY DO
THAT????**

Can management require
an employee to sign his
3971 prior to clocking on
from his absence on sick
leave?



NO!!

Article 10 page 8 states
that upon return to work,
while on the clock, must
sign and complete the
required sections of the
3971.



**CAN THEY DO
THAT????**

Can the "more than three
days" required for
documentation include
nonscheduled days?



NO!!

Article 10 page 9 states
"three days" means
three scheduled work
days.



**CAN THEY DO
THAT????**

Can "acceptable
documentation" include
a preprinted form signed
by a nurse?




YES!!

Article 10 page 9 also
states a rubber stamp
and facsimile signature
is also acceptable.




CAN THEY DO THAT????

Must an employee exhaust all annual leave before requesting advance sick leave?




NO!!

Article 10 page 10 also states the installation head has the authority to approve such requests.




CAN THEY DO THAT????

If management has consistently allowed employees to change their off days for court leave may they discontinue this practice?




NO!!

Article 10 page 12 states they must continue unless there is a change in the ELM.




CAN THEY DO THAT????

Must an employee state that they want to be covered by FMLA when calling in for an absence?



NO!!

Article 10 page 15 states the employee may, but need not, ask for the absence to be covered by FMLA.



CAN THEY DO
THAT????

Does military leave count
toward the "12 month &
1250 hour" requirements
of FMLA.



YES!!

Article 10 page 15 also
states it is base on the
hours the employee
would have worked if not
for the military service.



•ARTICLE 11

CAN THEY DO
THAT????

Do PTRs receive holiday
pay?



YES!!

Article 11 page 1 states
they are paid equal to
their regular daily
schedule.



CAN THEY DO
THAT????

Should the Post Office
schedule as many
employees possible for
holidays?



NO!!

Article 11 page 2 states
the intent of Article 11.6
is to permit the
maximum number of
employees off while
allowing employees who
wish to work the
opportunity to volunteer.



CAN THEY DO
THAT????

If a facility does not have
a "pecking order" for
holidays in their LMOU
must they use the
pecking order in the
JCIM?



YES!!

Article 11 page 2 states
this pecking order
should be used.



CAN THEY DO
THAT????

Can management deny
light or limited duty
employees to work the
holiday if their limitations
do not restrict them from
doing the duties?



NO!!

Article 11 page 3 states
they may be allowed to
work as long as they
posses the needed
skills.



CAN THEY DO
THAT????

Must an employees
schedule on a holiday
coincide with their
regular schedule?




NO!!

Article 11 page 3 states
the hours do not have to
coincide with the hours
of duty associated with
their bid assignment.




CAN THEY DO THAT????

Must the holiday schedule be posted by a particular time on Tuesday prior to the holiday?




NO!!

Article 11 page 4 states it is to be posted by Tuesday, there is no particular time listed.




CAN THEY DO THAT????

Is there an exception to the requirement of the Tuesday posting of the holiday schedule?



YES!!


Article 11 page 4 states that an emergency situation attributable to Act(s) of God would be the only exception.



•ARTICLE 12


CAN THEY DO THAT????

Can a grievance be initiated for a probationary employee because management separated them because of the color of their eyes?



NO!!

Article 12 page 1 states employees separated during the probationary period do not have access to the grievance procedure concerning their separation.



**CAN THEY DO
THAT????**

If an employee leaves the craft and/or the installation and returns to the same craft and/or installation within one year do they begin a new period of seniority?



NO!!

Article 12 page 3 states though they would return without credit for the time they were gone.



**CAN THEY DO
THAT????**

Is an employee limited to 5 successful bids during the life of this contract?



NO!!

Article 12 page 3 states because of the extension an additional two times has been added to this contract for a total of seven.



• ARTICLE 13

**CAN THEY DO
THAT????**

Does the Union have a say in whether an injury is an on or off the job injury?



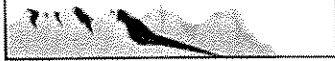
NO!!

Article 13 page 1 states this is solely within the jurisdiction of OWCP.



CAN THEY DO
THAT????

Must a light duty request
be submitted in writing?



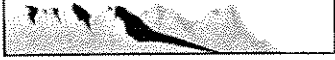
YES!!

Article 13 page 1 also
states it must be
supported by a medical
statement.



CAN THEY DO
THAT????

Must a request for
permanent light duty
include a medical
statement from a
physician designated by
the installation head?



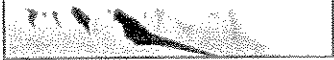
YES!!

Article 13 page 2 states
that unlike temporary
reassignment, a
statement from the
employee's physician is
not acceptable.



CAN THEY DO
THAT????

Must management
provide a written
explanation to the
employee if light duty
work is not provided?



YES!!

Article 13 page 3 also
states the installation
head must give the
greatest consideration
and careful attention.



CAN THEY DO
THAT????

Do employees give a lot of
their contractual rights
away when being placed
on light duty?



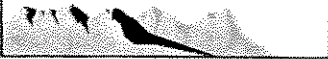
YES!!

Article 13 page 3 states
employees on light duty
are not entitled to out of
schedule pay along with
work hour guarantees.



CAN THEY DO
THAT????

Is management required
to reduce casual hours
in order to provide light
duty?



YES!!

Article 13 page 4 states
management is
obligated to reduce the
casual hours.



CAN THEY DO
THAT????

Are the requirements of
Article 13.4.1
mandatory?



YES!!

Article 13 page 4 states
employees must be
returned to the first
available vacancy for
which qualified in their
former craft.



**CAN THEY DO
THAT????**

Is an employee restricted
from bidding while on
light or limited duty?



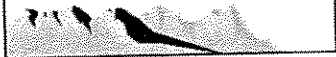
NO!!

Article 13 page 6 & 7 state
the provisions agreed to
by the parties in which
they may bid.



**CAN THEY DO
THAT????**

Should APWU file a
grievance for a limited
duty letter carrier
protesting his placement
into the clerk craft?



NO!!

Article 13 page 8 states
the grievance shall be
filed by the union that
represents his/her
original craft.



•ARTICLE 14

**CAN THEY DO
THAT????**

Must an employee report
an accident on the day it
occurs?



YES!!

Article 14 page 1 states
though the appropriate
forms need not be
completed on the day of
the accident.



**CAN THEY DO
THAT????**

Do employees have to sign the safety meeting forms or log in sheets to show that they were present at the meeting?



NO!!

Article 14 page 1 states employees should not be required to sign these.



**CAN THEY DO
THAT????**

Must PS Form 1767 be readily available for employees?



YES!!

Article 14 page 1 also states employees, if they so desire, may obtain them while maintaining anonymity.



**CAN THEY DO
THAT????**

Does the union have an option of where to appeal a safety grievance if it is unresolved at Step 2?



YES!!

Article 14 page 2 states the union may appeal it to the local Safety and Health Committee and then, if still unresolved, to arbitration.



**CAN THEY DO
THAT????**

Are local Safety and Health Committees required in all Post offices?



NO!!

Article 14 page 2 states that only in offices with 50 or more employees, but are encouraged in smaller offices.



**CAN THEY DO
THAT????**

Can management require an employee to be on a hazardous material sill team?



NO!!

Article 14 page 3 states only volunteers will be selected and they shall receive training as required by OSHA.



**CAN THEY DO
THAT????**

May OSHA have an unannounced inspection of a facility?



YES!!

Article 14 page 4 also states the Postal Service has to adapt to the private sector reporting system and monetary fines.



•ARTICLE 15

**CAN THEY DO
THAT????**

Is the union required to
file a class action
grievance when the
grievance involves more
than one employee?



NO!!

Article 15 page 1 says the
union may file a class
action grievance and
management is
obligated to designate
an appropriate
representative.



**CAN THEY DO
THAT????**

Does the union have to be
notified for every resolve
at Step 1?



YES!!

Article 15 page 1 although
states if the grievance is
denied at Step 1 the
union does not have to
be notified.



**CAN THEY DO
THAT????**

Does the 14 day time limit
start on the day
discipline is issued to an
employee?



NO!!

Article 15 page 1 states
the 14 days starts the
day after the discipline is
issued.



**CAN THEY DO
THAT????**

May a Step 1 be held
telephonically?



YES!!

Article 15 page 2 states
though normally it
should be done in
person.



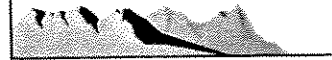
**CAN THEY DO
THAT????**

May a supervisor consult
with his manager prior to
settling a grievance?



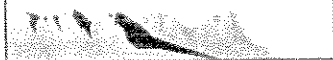
YES!!

Article 15 page 2 states
though the Step 1 official
still retains independent
authority to settle the
dispute.



**CAN THEY DO
THAT????**

Can a Step 1 official be
required to initial a blank
Step 2 appeal form?



NO!!

Article 15 page 2 states
the grievance form must
contain sufficient
information completed
for the supervisor to
determine that they are
verifying a date of the
grievance that was
heard at Step 1.



**CAN THEY DO
THAT????**

Should all information in
detail be provided at
Step 2?



YES!!

Article 15 page 4 states
both parties are required
to do this.



**CAN THEY DO
THAT????**

Are Step 2's settlements
precedent setting?



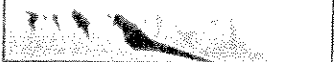
NO!!

Article 15 page 4 states
unless the parties
specifically agree
otherwise.



**CAN THEY DO
THAT????**

Can the additions and
corrections contain new
information that was not
discussed in the Step 2
meeting?



DEPENDS

!
Article 15 page 4 states
that where the Step 2
decision is incomplete or
inaccurate we file
additions and
corrections. This is not
the place to "catch up"
on what needs to be in
the grievance.



CAN THEY DO THAT????

May a Regional Coordinator or Business Agent file a grievance?



YES!!

Article 15 page 5 states this can be done at Step 3 and is for issues that involve a new or changed district or area wide policy, instructions or guidelines.



CAN THEY DO THAT????

If a grievance is filed untimely at Step 1 and is not notated by management until Step 3 is the grievance considered untimely?



NO!!

Article 15 page 6 states that if a grievance is filed untimely at Step 1 it must be notated by Step 2 to be considered untimely.



CAN THEY DO THAT????

If management fails to schedule a timely meeting or render a timely decision without a written extension, must the union appeal the case to the next step of the grievance procedure?




YES!!

Article 15 page 6 states if the union wishes to pursue the grievance they must appeal.




CAN THEY DO THAT????

May a manager rely solely on the IM when disciplining an employee?



NO!!


Article 15 page 8 states an independent review of the facts is required by management prior to the issuance of disciplinary action.



ARTICLE 16


CAN THEY DO THAT????

May management require paperwork from a grievant in order to pay back pay from an arbitration award?




YES!!

Article 16 page 3 states the provisions for the necessary paperwork is provide in ELM 436.4.




CAN THEY DO THAT????

Can management issue a letter of warning to an employee without appeal rights on the letter?



NO!!

Article 16 page 4 states if the letter does not appeal rights it is procedurally defective.



•ARTICLE 17

**CAN THEY DO
THAT????**

Do Stewards have a right
to interview non-postal
witnesses during their
investigation of a
possible grievance?



YES

Article 17 page 6 states
that once it has been
determined that a non-
postal witness has
relevant information the
steward should be
permitted to interview
the witness on the clock.



**CAN THEY DO
THAT????**

Can a grievant
accompany a steward
during a Step 1
investigation?



NO!!

Article 17 page 8 & 9.



•ARTICLE 37

**CAN THEY DO
THAT????**

Is computerized or
telephone bidding
mandatory?




YES!!

Article 37 page 2 states
when both methods are
available to all
employees in a facility
then it is mandatory.




CAN THEY DO THAT????

Is abolishment and reversion of a duty assignment the same thing?



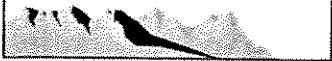
NO!!

Article 37 page 2 states abolished is for occupied, reverted if vacant.



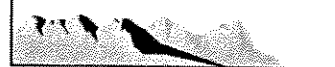
CAN THEY DO THAT????

Must the "one year of experience on the window" requirement on the Lead SSA, Finance Clerk and Window Service Technician be within 5 years of the bid?




NO!!

Article 37 page 3 states the 5 years is for live record purposes only.




CAN THEY DO THAT????

May an employee's live record be extended for any reason?



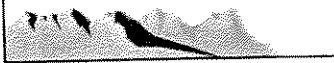
NO!!

Article 37 page 4 states an employee can only be deemed to have a live record in accordance with Article 37.1.L.



**CAN THEY DO
THAT????**

Can an employee fail to
qualify on brush-up
training?



NO!!

Article 37 page 4 states
the employee is not
tested and therefore
cannot fail to qualify.



**CAN THEY DO
THAT????**

Is management required
to follow seniority in
making all day-to-day
assignments?



NO!!

Article 37 page 5 states
only mail processors
have day-to-day
seniority rights, unless
covered in your LMOU.



**CAN THEY DO
THAT????**

Can a senior employee
elect to be reassigned in
lieu of the involuntary
reassignment of a junior
employee to another
craft within the same
installation?



NO!!

Article 37 page 8 states
Article 12 specifically
states that this option is
not available.



**CAN THEY DO
THAT????**

When full-time clerks agree to a mutual exchange in accordance with Article 37.2.D.7, do they exchange duty assignments?



NO!!

Article 37 page 9 states they take the seniority of the junior of the two, but they do not exchange duty assignments.



**CAN THEY DO
THAT????**

Must all vacant duty assignments be posted within 28 days?



YES!!

Article 37 page 9 states unless the duty assignment is being reverted it must be posted.



**CAN THEY DO
THAT????**

If the hours, off days, or duties of a VOMA assignment occupied by a full time clerk are changed, must the duty assignment be reposted?



NO!!

Article 37 page 13 states VOMA is a multi-craft position and, accordingly, would not be reposted.



**CAN THEY DO
THAT????**

Can an employee bid on a posted duty assignment or apply for a best qualified duty assignment on a day which is partially spent on a non-bargaining unit detail?



YES!!

Article 37 page 15 states provided the bid or application is submitted while the employee is working in the bargaining unit.



**CAN THEY DO
THAT????**

Does a partial day assignment to a non-bargaining unit position count toward the for-month period described in Article 37.3.A.8?



YES!!

Article 37 page 16 states if an employee works any part of a work day as a 204b, the four-month tally is not interrupted.



**CAN THEY DO
THAT????**

Should PS Form 1723 be provided to the union in advance of the assignment?



YES!!

Article 37 page 16 question 92.



**CAN THEY DO
THAT????**

Must a principal
assignment area be
posted on duty
assignments?



YES!!

Article 37 page 19 states
this is required on all
postings.



**CAN THEY DO
THAT????**

Can a duty assignment
have more than one
principal assignment
area?



NO!!

Article 37 page 19
question 112.



**CAN THEY DO
THAT????**

Can all posted duty
assignments be posted
with the identical
principal assignment
area?



NO!!

Article 37 page 19 states
normally in a large
installation there would
be more than one
principal assignment
area.



**CAN THEY DO
THAT????**

Can a Mail Processing Clerk duty assignment be posted with Sales and Service Associate duties and responsibilities?



NO!!

Article 37 page 20 states however they may perform non-financial transactions.



**CAN THEY DO
THAT????**

Is there a negotiated time frame for placing a successful bidder into the duty assignment?



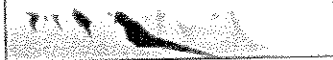
YES!!

Article 37 page 21 states except for December they should be placed within 28 days provide the local has not negotiated a shorter period.



**CAN THEY DO
THAT????**

May a SMP be assigned to both scheme and window duties?



NO!!

Article 37 page 22 states they can be assigned either one but not both.



**CAN THEY DO
THAT????**

If an employee is designated the senior bidder and fails to report for training, is the employee restricted from bidding for 90 days?



NO!!

Article 37 page 24 states however the bid would count as a senior unsuccessful bid.



**CAN THEY DO
THAT????**

Does an employee with saved grade who enters a 90 day bid restriction lose the saved grade because the employee cannot bid on higher level assignments?



NO!!

Article 37 page 25 states while they are restricted from bidding they do not lose save grade as a result of that restriction.



**CAN THEY DO
THAT????**

Upon completion of window training, should the employee's financial accountability be audited?



YES!!

Article 37 page 26 states the audit should be conducted ASAP after completion of the on the job training at the work site.



**CAN THEY DO
THAT????**

If an unencumbered full time regular employee's schedule is to be changed within 28 days, must the actual change take place within 28 days?



NO!!

Article 37 page 28 states that while the employee must be notified of the change within 28 days the actual schedule change will begin the following work week which could be outside the 28 days. No out of schedule pay is applicable in this case.



**CAN THEY DO
THAT????**

Is there a standard procedure for simultaneous PTR bidding and PTF preferencing?



NO!!

Article 37 page 32 states the system is determined locally.



**CAN THEY DO
THAT????**

Are PTF employees eligible to apply for residual best qualified duty assignments?




YES!!

Article 37 page 33 states however they are not considered if a sufficient number of full time employees who meet the minimum qualifications apply.




CAN THEY DO THAT????

Do all PTF preference provisions apply to PTR duty assignments?



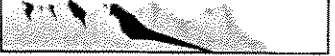
NO!!

Article 37 page 35 states while they can exercise a preference for PTR duty assignments they cannot be involuntarily reassigned to that status.




CAN THEY DO THAT????

May PTF clerks working in more than one installation be required to work more than twelve hours in a service day?




NO!!

Article 37 page 39 states scheduling must be consistent with ELM 432.32.



CAN THEY DO THAT????

Do the work hours of a PTF clerk from another installation count for the purpose of maximization under Article 7.3.B of the National Agreement?



YES!!

Article 37 page 41 states the clerk's hours are counted in the office where the work is performed.

