



Members Guide to Grievance Activity and Discipline

GREATER LOS ANGELES AREA LOCAL
Grievance Activity

INVESTIGATIVE SUMMARY

EVIDENCE

DISCIPLINE ON:

INVESTIGATION

REVIEW

INVESTIGATIVE SUMMARY

DISCIPLINE

IDENTIFICATION

TYPE

CONTRACT/POLICY

PROCEDURAL/QUE PROCESS

OFFICE USE ONLY

JUST CAUSE

**AMERICAN POSTAL WORKERS
UNION, AFL-CIO
Greater Los Angeles Area Local**

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Members' Guide to Grievance Activity



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Most of our members come to work, do their tour of duty and obey the rules and regulations of the Postal Service. But, many of our members who find themselves in trouble with management are not aware of their basic contractual rights.

This booklet is intended as a guide for rank and file members on situations that may occur at work to give them an understanding of what they should or should not do in given situations.

It is every member's responsibility to know their contractual rights. It is our responsibility to educate them. This is an effort in this regard hopefully it will be used effectively.

Discipline and the Contract

The National Agreement, often called the Collective Bargaining Agreement (CBA) allows management to issue disciplinary action. The discipline can be in the form of a discussion for less serious infractions and can include disciplinary lay-offs called suspension, as well as termination, often referred to as removal.

Article 16, Section 1 states . . . "In the administration of this article a basic principle shall be that discipline should be corrective in nature rather than punitive.

*No employee may be disciplined or discharged except for **just cause** such as, but not limited to, insubordination, pilferage, intoxication, incompetence, failure to perform work as requested, violations of this agreement, or failure to observe safety rules and regulations."*

The CBA also permits the member to challenge the issuance of discipline through the grievance-arbitration procedure.

Article 16, Section 1 further states . . . "Any such discipline or discharge shall be subject to the grievance-arbitration procedure . . . which could result in reinstatement and restitution including back pay."

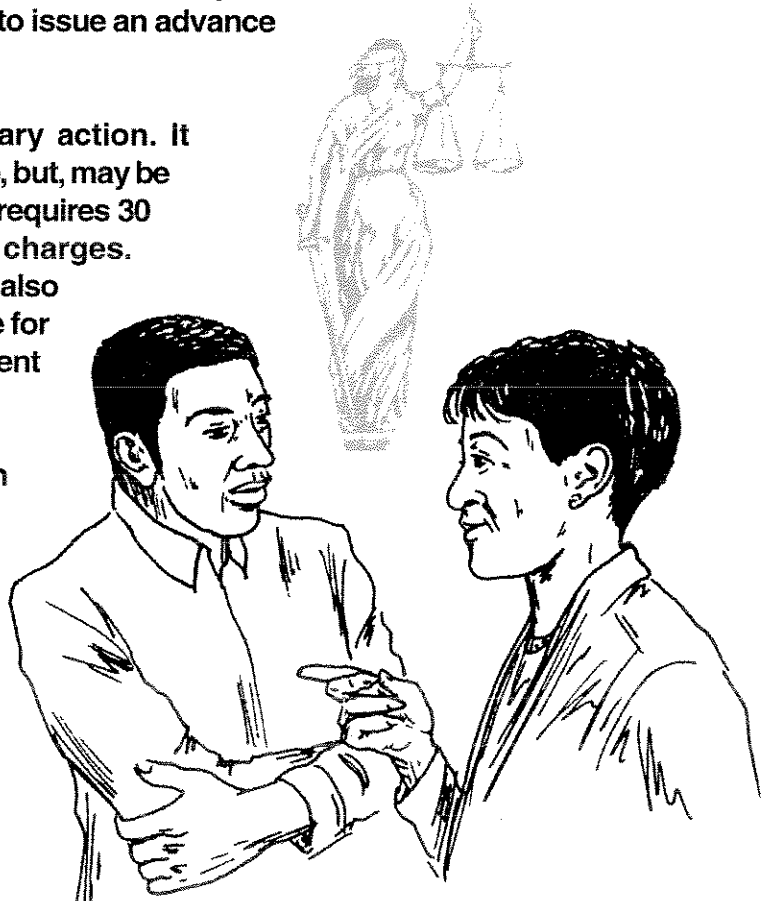
The CBA lists several degrees of discipline:

- **DISCUSSION** for minor offenses. These are private, not considered grievable, not citable and not appealable. (Although the discussion itself may not be grievable the manner in which it was given {e.g., not private, via signature etc. is relied upon to establish prior verbal warnings and dates is not valid, etc.} may be the subject of a grievance). *Art. 16.Sec.2 [District Guidelines* on methods and implementation may be issued but must not alter the intent of this contractual section].*

- **LETTER OF WARNING** is a disciplinary notice in writing. It usually follows a discussion. The industrial doctrine of “progressive discipline” although not expressed in the CBA is never-the-less a past practice that the Union argues. Be that as it may, the Letter of Warning must contain a charge and an explanation of the deficiency or misconduct that is to be corrected.
- **SUSPENSIONS** [of 14 days or less, normally are issued as 7 day and 14 day suspension but can actually be less days. However, there is a National understanding that a suspension issued for or reduced to 3 days should be reduced to a letter of warning] This too is a written notice with charges, along with a definite period of disciplinary lay-off.
- The notice must be issued 10 days in advance of when the suspension is to actually take place. *However, if a timely grievance is initiated, the effective date of the suspension will be delayed until disposition of the grievance, either by settlement or an arbitrator’s final and binding decision.(Article 16.Sec.4)* The employee can remain on the clock or on the job at the Employer’s option.
- **SUSPENSIONS** [of more than 14 days] requires advance notice of 30 days. These type of suspensions are rare but provided for. In most states an employee who is suspended beyond 14 days may be entitled to Unemployment Insurance. These suspensions should not be confused with the so called 16.7 suspensions that are for indefinite periods in cases where Management has reasonable cause to believe an employee is guilty of a crime for which jail time can be imposed in which case there in no requirement to issue an advance 30 day notice.
- **REMOVAL** is the ultimate disciplinary action. It normally follows progressive discipline, but, may be issued for very serious misconduct. It requires 30 days advance notice with specific charges. Employees issued removal notice are also to be issued a notice of their right to file for unemployment insurance. (Management often does not issue this notice).

NOTE: Discipline, especially suspension and removal require that the proposal of a supervisor to suspend/fire a member be first reviewed and concurred by the installation head or designee.

Also, Handbook EL 921 requires management to conduct a “day in court” session with the employee to secure his/her side of the matter.



TO RECAP:

The normal progression of discipline is:

- a. Discussion
- b. Letter of warning
- c. 7 day suspension
- d. 14 day suspension
- e. Removal



Management's Rights

While postal supervisors and managers often point to their rights as the Employer the fact is all of their rights are subject to three qualifiers:

- 1) The provisions of the National & Local Contracts
- 2) The postal service's own regulations
- 3) Laws and statutes

Management's rights are NOT absolute!

Grievance Procedure

As I previously stated the CBA allows employees to challenge management's disciplinary actions. But, the contract qualifies the manner in which we can do this.

Not every gripe or complaint of an employee is a grievance according to the CBA. The contract defines a grievance.

Article 15, Section 1 states . . . "A grievance is defined as a dispute, difference, disagreement or complaint between the parties related to wages, hours and conditions of employment."

There are steps to the grievance procedure and time limits. In fact the CBA declares that the failure of the member and/or union to meet the time limits waives the grievance!

Article 15, Sec.2 Step 1(a) states . . . "Any employee who feels aggrieved must discuss the grievance with the immediate supervisor within fourteen (14) days of the date on which the employee or the union first learned or may reasonably have been expected to have learned of its cause. The employee if he/she so desires, may be accompanied and represented by the employee's steward or union representative."

So the contract defines a grievance and sets the course on which a grievance may be presented on the workforce (Step 1). The contract also gives the supervisor and steward the authority to settle grievances in whole or in part.

The supervisor's decision should be stated during the Step 1 discussion. If no resolution is reached at Step 1 the reason should be stated by the supervisor. At times the supervisor will say NO yet claim he/she still has five days to render a decision. Once a NO is given a decision has been made. A supervisor should then be directed to initial a Standard Grievance Form confirming the date of the decision. [This also helps determine if a grievance was filed timely. The date of the Step 1 meeting may differ from the date of the Step 1 decision].

❖ **NORMAL PROGRESSION OF THE GRIEVANCE PROCEDURE**

Step 1 — workforce between member, supervisor and steward. Must be held within 14 calendar days of what ever gave rise to the grievance. Although the contract calls for decisions at Step 1 to be oral the Local recommends that Step 1 decisions be reduced to writing.

Step 2 — if no resolution is reached the grievance may be appealed to the next step by having the supervisor initial the grievance form. The steward then writes up the necessary information and the grievance is processed to the next step.

Step 3/Arbitration — depending on what kind of a grievance it is if no resolution is reached at Step 2 the next appeal step is Step 3 or arbitration (discipline cases go to arbitration).

Attendance Related Cases

During our fiscal reporting period at least 300 plus employees were disciplined for attendance related charges. 50 of those employees were removed. An additional 100 or so employees filed grievances for AWOL.

Management is forever clamping down on attendance. They claim that anything over 2% absences in a given day is not good for the service.

THE PROBLEM — Everyone knows that they are suppose to come to work and that from time to time an employee will be sick and take time off. But, management has taken a seemingly harmless rule – “EMPLOYEES ARE REQUIRED TO BE REGULAR IN ATTENDANCE” (ELM 666.81 ELM) and have successfully used this rule against employees. Even those who are truly sick.

THE ACTION PLAN — There is no easy answer to fighting management's abusive leave policies that they claim are needed to fight sick leave abusers. Part of the problem is that there is no real definition of “regular attendance”. However, we do suggest the following protective measures be taken by members:

- Challenge (i.e. file a grievance) each and every instance of AWOL or leave denial no matter how little time is involved. AWOLs build up and will be used against the employee in disciplinary action. **Do not let the supervisor get away with denying your leave request and charging you AWOL.**
- Be aware that according to postal regulations you are required to be regular in attendance. According to postal guidelines employees are to make every effort to report for duty. Do not put yourself in a situation that will cause you to miss work. **Always call in! Even if you call way after your scheduled reporting time.**
- Keep a log or calendar of your leave usage and work hours. Management is required to keep an accurate Absence Analysis (3972) but they often fall short. Keeping your own records helps and it soon becomes a good habit.
- Request sick or annual leave in advance for medical appointments. Sick leave can be used for doctor's appointments. Likewise, up to 80 hours of sick leave can be used to care for your sick child, spouse or parent. By requesting sick leave in advance you can fight attempts by your supervisor to claim your absence was unscheduled. You officially request leave in advance by submitting a **Request For or Notification of Absence – PS Form 3971.**
- Fill out the PS 3971 properly. Take special notice of **Date Submitted, No. of Hours Requested, Remarks, Type of Absence, Employee Signature and Date.** [Your supervisor is **required** to give you a copy of the PS 3971 and state in writing the reason for disapproving leave.]

The date you request leave is important since this is official notification to management that you are taking leave and/or absent. If you called in make sure the block titled *Time of Call or Request* is accurate. Fill in the time and make sure date submitted is the date you called in. Usually, this may be done by a time keeper but it is your responsibility to protect yourself.

No. of Hours requested is important especially if you are taking emergency annual leave, scheduled annual leave since the regulations require that you give management the expected duration of an absence for emergency annual leave.

Request for or Notification of Absence

UNITED STATES POSTAL SERVICE
Employee's Name (Last, First, MI)

Employee's Title (Last, First, MI)

Date Submitted: _____

From Date: _____ To Date: _____

Number of Hours Requested: _____

Employee's Signature and Date: _____

Supervisor's Signature and Date: _____

Remarks: _____

Remarks — employees are wise to use the Remarks column of the form to state the cause or reason for the absence. For example: "car trouble", "Accident on Fwy", "flood", "critical ailment FMLA", "severe flu", "caring for sick spouse", "Medical Appointment".



DO NOT let the restriction on medical information fool you. This simply means not to place a diagnosis on the form.

Type of absence is important because the type of leave requested is what triggers the application of work rules and leave regulations. (look at the back of a PS 3971).

Your signature and DATE you signed is very important. It establishes when you actually validated the Request for Leave or Notification of Absence. While a supervisor or time keeper may generate a PS 3971 for you only you can validate the official leave slip. The DATE you sign takes on more importance should the absence be used against you and "notice" becomes an issue.

- Be prepared to provide acceptable* and verifiable reasons for absences. For absences of 3 or more days of sick leave a supervisor may request substantiation (i.e., medical slip). *If you are forced to substantiate and the supervisor will not accept your verbal certification for absence less than 3 days you should grieve for reimbursement of expenses incurred.*
- Keep a record of ALL your substantiations and PS 3971s. Things have a tendency to get lost in the P.O. It is also a good practice to keep your Pay Stubs (PS1223) and your Personnel Action Form (PS 50).
- If you are sick and need to submit medical substantiation MAIL it via certified mail to the appropriate supervisor/manager. Make a copy of it first!
- If you are on extended sick leave (more than 5- 30 days) it is recommended that you MAIL VIA CERTIFIED MAIL your medical substantiation to the appropriate supervisor/manager. Keep a copy of the medical certification!
- Become familiar with Chap 510 of the Employee & Labor Relations Manual that contains all the "official" leave regulations. A copy can be attained from the Union Office.

*** DOCUMENTATION REQUIREMENTS OF THE POSTAL MANUAL (ELM 513.36)**

.361 – FOR PERIOD OF 3 DAYS OR LESS, supervisors may accept the employee's statement explaining the absence. Medical documentation or other acceptable evidence of incapacity for work is required only then the employee is on restricted sick leave or when the supervisor deems documentation desirable for the protection of the interests of the Postal Service.

.362 – FOR ABSENCES IN EXCESS OF 3 DAYS, employees are required to submit medical documentation or other acceptable evidence of incapacity for work.

.363 – EMPLOYEES WHO ARE ON SICK LEAVE FOR EXTENDED PERIODS are required to submit at appropriate intervals, but not more frequently than once every 30 days, satisfactory evidence of continued incapacity for work unless some responsible supervisor has knowledge of the employee's continuing incapacity for work.

.364 – WHEN EMPLOYEES ARE REQUIRED TO SUBMIT MEDICAL DOCUMENTATION pursuant to these regulations, such documentation should be furnished by the employee's attending physician or other attending practitioner. The documentation should provide an explanation of the nature of the employee's illness or injury sufficient to indicate to management that the employee was (or will be) unable to perform his or her normal duties for the period of absence.

Normally, medical statements such as "under my care" or "received treatment" are not acceptable evidence of incapacitation to perform duties. Supervisors may accept proof other than medical documentation if they believe it supports approval of the sick leave application.



[NOTE: Diagnosis is restricted medical information. The medical slip turned into your supervisor is not required to have a diagnosis! This issue was resolved through appeals and directives BUT still supervisors insist on knowing your business. If this is demanded GRIEVE IT!]

Also, a nurse practitioner can sign the medical slip. A rubber stamp signature is also permissible.

To be valid the medical substantiation must have:

- 1) Name & Address of the Doctor
- 2) A Statement that says you were incapacitated for work
- 3) The period of incapacitation
- 4) Your name on the form
- 5) The doctor or nurse practitioner's signature.

[KEEP A COPY BEFORE YOU TURN IT IN !]

FMLA ABSENCES

Federal law grants you up to 12 weeks time off if you have a serious illness or to have a baby, care for a child, spouse or even parent.

The Family Medical Leave Act (FMLA) is meant to give you protection from being fired or losing benefits. But YOU MUST use it properly:

- You earn it by working at least 1250 hours during the previous 12 months. On the job injury time off, military time, jury duty, or even approved sick leave, annual leave or LWOP does not count towards the 1250 hours you have to work. Management has to prove you are not eligible.

- Remember FMLA is not a new leave category. You still have to use sick leave, annual leave or leave with out pay.
- If you have a serious illness that incapacitates you more than 3 calendar days under the treatment of a doctor/health provider you are normally covered. Illness like heart attacks, serious nervous disorders, serious accidents, pneumonia, pregnancy, spinal injuries, strokes etc. are usually covered. BUT, ailments like asthma, or severe flu may also be covered. Even absences of one day for a continuing serious illness.
- If you doubt your absence is covered REQUEST FMLA anyways. The supervisor will make the determination and we can fight about it afterward.
- You have to notify management and submit PS 3971 requesting FMLA at least 30 days before you are absent. This is not always possible so you must do it as soon as practicable but at least 1-2 days of when you need to take off.
- Mail, via certified mail, a PS 3971 to your supervisor, check off the type of leave you are requesting, and in remarks block write "FMLA and what the situation is (e.g., FMLA illness, FMLA caring for ill son, FMLA caring for spouse etc . . .).
- Use the APWU FMLA Forms to properly document your needs and to submit medical information. Call the Union hall for the appropriate Form.

(Please review the FMLA booklets provided by APWU.)

RETURN TO DUTY AFTER EXTENDED ABSENCES

Employees who are on sick leave for an extended period of time (21 days or more) are suppose to be cleared by the Medical Unit/Medical Consultant. An employee is to submit the medical return to duty slip (containing basically the same information as required on the medical substantiation).

It normally takes a 1-2 day turnaround to be released to come to work. For example — If you bring in your release on Monday you should be released to return to duty on Tuesday or Wednesday at the latest. ANY DELAYS MUST BE GRIEVED FOR BACK PAY!

Theft, Violence, Fraud Related Cases

In the last reporting period some 30 or so employees were issued discipline for these type of situations.

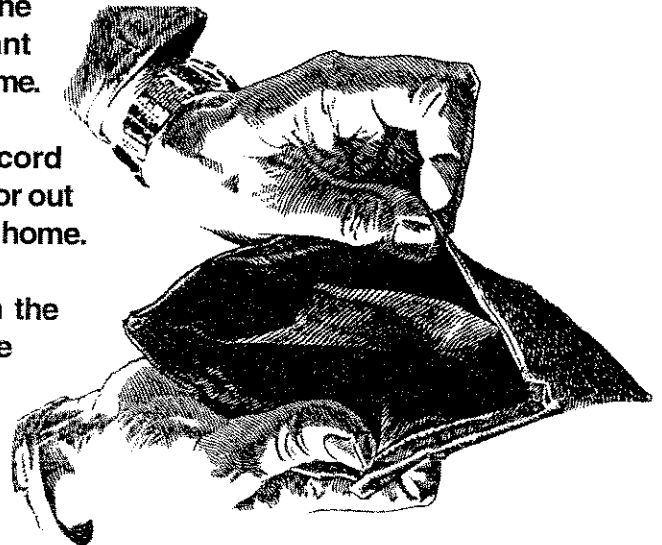
At least 8 employees were fired for theft and violence.

THE PROBLEM — This type of offense is considered "sudden death" misconduct usually resulting in and justifying discharge.

Even so, in all these cases management must “prove” the employee is guilty of the charge. Management must provide evidence that the employee committed the offense as charged and must give the employee due process.

ACTION PLAN — The best solution to the problem is for employees not to engage in this type of activity. But, employees are falsely charged or get involved in situations that may lead to this kind of charge. If you find yourself in this type of situation we recommend the following:

- **DO NOT TALK** to management or inspectors without representation. You have the right to representation if a supervisor/manager wants to talk to you and that discussion could lead to discipline. You have a right to representation whenever an Inspector wants to interrogate you. **DON'T GIVE UP YOUR RIGHTS!**
- **DO NOT WRITE A STATEMENT** without first securing representation. Although you must cooperate with an investigation you still have rights **USE THEM!** Even the most innocent statement can be used against you.
- **CONTACT THE UNION IMMEDIATELY.** Tell the supervisor, manager, inspector that you want representation and then keep quiet until you get some.
- **ALWAYS MAKE YOUR CLOCK RINGS** and record your time on the clock properly. Do not clock in or out anyone else's time card. Do not take your card home.
- Do not leave the building while registered on the clock. If for emergent reasons you do so make sure you submit a PS 3971 for the absence. **KEEP A COPY!**
- Stay on your assignment until/unless relieved. If you leave your assignment to secure equipment or go to the restroom let someone know and keep track of your time.
- Do not horseplay or jokingly make threats. Do not make threats of any kind. If falsely accused of making threats make sure you ask for representation prior to making any oral or written statement to management. Management must prove you made the threat and what the actual intent was. (Be ready to relate and verify your intent.)
- If you are threatened and your livelihood is in danger call the police. Otherwise, you may report it using a PS 1767 Unsafe Practice/Hazard Report. Be careful what you write since management has a tendency to place both employees on emergency action pending investigation.
- Make sure management has investigated all situations completely. They must prove that you were given notice, that there is a rule that has been broken, that they conducted a fair and objective investigation including getting your side of the story, that your past good record has been considered and that they have treated you equal in regards to discipline.



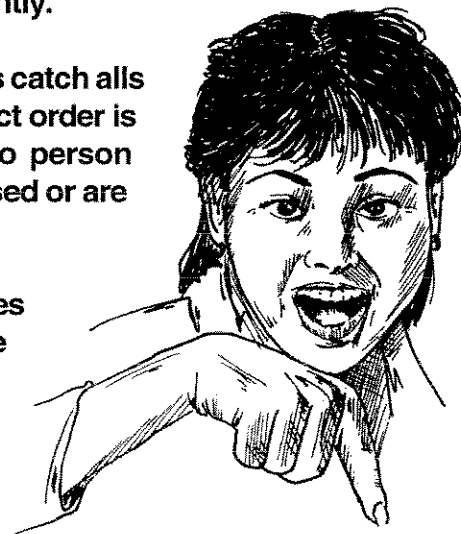
- Always make complete transactions of funds in accordance with official regulations. If your supervisor directs you to deviate from the official process ask him/her to put it in writing. If he/she refuses, FILE a grievance and submit a written report to the next level superior via certified mail. KEEP A COPY! (Be ready to verify intent. Honest error or deliberate.)
- If you do not serve on a particular day for jury duty report to work or request leave by using a PS 3971. If refused a form, issued AWOL or leave is not deducted FILE A GRIEVANCE!
- Never alter a medical substantiation. IT IS NOT WORTH IT! The best thing to do is to fight an AWOL instead of jeopardizing your government job. Never falsify a PS 3971. If necessary make out a new one with the proper information. It is normally prohibited to call in sick to your postal job and work at another job.
- Always comply with your doctor's restrictions when injured on the job. Do not do activities that would appear to be fraudulent regarding workers compensation. Always believe that you are being video taped because you very well could be.

Failure to Follow Instructions/Insubordination Cases

More than 25 workers were disciplined for these type of charges. One was removed, however, there is a rash of these type cases recently.

THE PROBLEM — Supervisors tend to use these charges as catch alls for all sort of supposed misconduct. Refusal to follow a direct order is insubordination. Insubordination can also be a person to person defiance of authority. Too many employees are falsely accused or are led into being exposed to these charges.

ACTION PLAN — There are usually extenuating circumstances in these cases. In any such charge management must prove the misconduct, but, often an employee leaves him/herself vulnerable. It is a policy that employees are to obey order first and grieve later.



However we outline the following considerations:

- The order must be clear and concise and the employee must be forewarned of the possible consequences of not complying with the orders.
- The order can not place you in a situation where you will break the law.
- The order can not place you in a situation where you can lose your life or limb.

- The rule of thumb is to follow the last order given. But, supervisors should not give countermanding instructions or instructions that clearly go against stated regulations. (e.g., supervisor can not instruct you to trade stamp stock without using a PS 17, a supervisor can not give you instructions to go buy them lunch while you are registered on the clock, a supervisor can not order you to have sex with them. etc . . .).
- Is the failure to perform due to mechanical breakdown, no work available or other impediment beyond your control? If so, be prepared to provide evidence that the circumstances were beyond your control and what if anything did you do to inform management. (e.g., it is dispatch time but no equipment available. Did you just stand around or did you make an effort to secure equipment but found none and so advised a superior?)
- Did the order interfere with legitimate protected union activity? If so, be careful how this is used for your defense since you should obey first then grieve under most circumstances.

Unsafe Acts/Accident Related Cases

Some 30 workers were disciplined during the reporting period for alleged unsafe acts or related charges.

THE PROBLEM — It appears management issues suspensions against any employee who has an accident/injury at work. They do so to respond to their PS 1769 that asked what corrective action was taken to address the accident/injury. They may also do this to avoid paying workers' compensation as well as to protect their precious bonus pay. Even so employees often expose themselves to discipline by taking short cuts that can hurt them, failing to report injuries, hazards and unsafe practices. The problem is compounded by management's truly indifferent attitude towards workplace safety.

ACTION PLAN — The best protection of course is to work safely and report unsafe conditions and hazards. If you can show that unsafe hazards were reported and not resolved by management the injury was due to their negligence not yours. Even so, accidents do happen and injuries occur. We therefore recommend:

- **AVOID HORSEPLAY** and practice good housekeeping.
- **Do not sign blank safety talk rosters.** If forced to do so file a grievance otherwise what you signed can be used against you should you have an accident.
- **REPORT ALL HAZARDS AND UNSAFE CONDITIONS** on Form 1767. Keep a copy of it before you submit it to your supervisor. If not resolved by the end of your tour file a grievance the very next day.
- **Report any accidents as soon as they occur.** Secure a witness to back you up. File a CA-1 Form to report an injury. Learn your rights under OWCP rules. Especially your right to be treated by your own doctor.

- File a grievance if issued any disciplinary action for alleged unsafe act.
- Insist on your human rights to sanitary conditions. You do not have to tolerate dirty restrooms, full trash cans, dusty conditions. File those complaints!

Overtime Issues

Approximately 147 workers were disciplined for failure to work overtime. Despite so called efforts by the bosses to cut OT it remains a constant source of revenue and headaches for employees. Many of these grievances are resolved at Step 1.



THE PROBLEM — Management can require you to work OT. Many employees do not recall that they signed documents and took an oath to work as scheduled.

Many more employees believe that only during Christmas can management force employees to work OT. While the contract does place some restrictions on management that only imposes a penalty the fact remains employees are usually not excused from working OT and are disciplined when they do not show up to work it.

ACTION PLAN: Employees who find it impossible to work **SOME** overtime should take steps to protect themselves:

- ✓ Do not sign the Overtime Desired List (OTDL) if you have no intention of working OT.
- ✓ Keep a record of when you do work OT so that you can show rotation, intent and patterns of working the OT.
- ✓ Request to be excused from working OT in writing. Submit a PS-13, date it, keep a copy and save it. Sometimes supervisors will request a PS 3971. While it is not required pursuant to long established appeals it may not hurt to notify management of your intended absence. To call in or not to call in depends on the past practice of your unit and supervisor. Be prepared to defend it!
- ✓ If you are issued AWOL (Absence without official leave may not apply pay wise but for record purposes) you must grieve it. The L.A.LMOU provides that you cannot be charged AWOL for AOT (Absent OT).
- ✓ If you are legitimately tired and fatigued you may file a PS 1767 (Hazard Report) and state that constant OT work is making you tired and you need rest. Be careful not to state this too often otherwise you may be subject to a Fitness For Duty Exam.

- ✓ Be careful if you are thinking of submitting a medical slip limiting your work hours to only 8. You may be perceived as requesting Light Duty and subject yourself to a Fitness For Duty Examination.
- ✓ Challenge every instance of discipline charging you with Failure to Work As Scheduled and/or Failure to Follow Instructions. Be prepared to show that your non-show did not result in delayed mail. Also, be aware that if you are on the OTDL who have committed yourself to be available to work the OT.

Sexual Misconduct

Few disciplinary actions are issued to employees for this type of misconduct. One reason may be that it is seldom reported. The other reason may be that investigations by management are faulty. Even so, this is a serious issue that must be addressed.

THE PROBLEM — Sexual harassment is defined by law as unwelcome sexual advances, requests for favors, and other verbal and/or physical conduct of a sexual nature. The Postal Service is obligated to create and maintain a work environment free of such conduct. Management usually plays lip service to this obligation. Even so, a supervisor has a duty to ensure that he does not sexually harass employees AND does not allow others to do so. When an employee is charged with Sexual Harassment or Misconduct not only is his/her job in jeopardy but so is his/her social standing.

ACTION PLAN (if harassed) —

- ❖ Make it clear that the advances are not welcomed.
- ❖ Keep a running record, time, date, place and situation of the harassment.
- ❖ Try to secure witnesses to the instances.
- ❖ Report continual harassment to the next level supervisor (you can use a PS 1767 to report this hostile and unhealthy working condition).
- ❖ Report the incident to the Shop Steward. The Steward may feel awkward if it involves another member but the attention must be focused on the supervisor who is the one obligated by law to take action.
- ❖ File an EEO complaint if the problem persists. Be prepared to prove your complaint.
- ❖ Record patterns or practices of the perpetrator to make case stronger.

ACTION PLAN (if accused or disciplined) —

- Understanding that kissing at work or solicitation of kisses is inappropriate for the workplace and can be considered harassment even by those watching. Be prepared to defend any physical touching of an intimate or sexual nature.

- Do not take these accusations lightly. If accused secure representation.
- Distinguish between sexist remarks and sexual remarks.
- Secure witnesses. Often management tries to get witnesses to show that the accuser's conduct is somehow responsible. We are not talking about these kinds of witnesses. We mean witnesses to your character, to your conduct on the date(s) in question, to your demeanor.
- TAKE NOTE that physical contact may be considered aggravating circumstances and can lead to discipline, removal or imprisonment. DO NOT ENGAGE IN THIS TYPE OF ACTIVITY.
- If a workplace romantic relationship sours or is amiably dissolved, continued stalking, contact of a sexual nature or romantic pursuit can be deemed to be sexual harassment. Once it is OVER it is OVER. No is NO!
- The posting or displaying of provocative photos, porn, pin ups may be deemed sexual misconduct. Despite the apparent acceptance by society of TV or print sex, in the workplace such conduct is inappropriate. The telling of sexual or dirty jokes at work may also be deemed sexual harassment. The best rule is – DON'T DO IT!

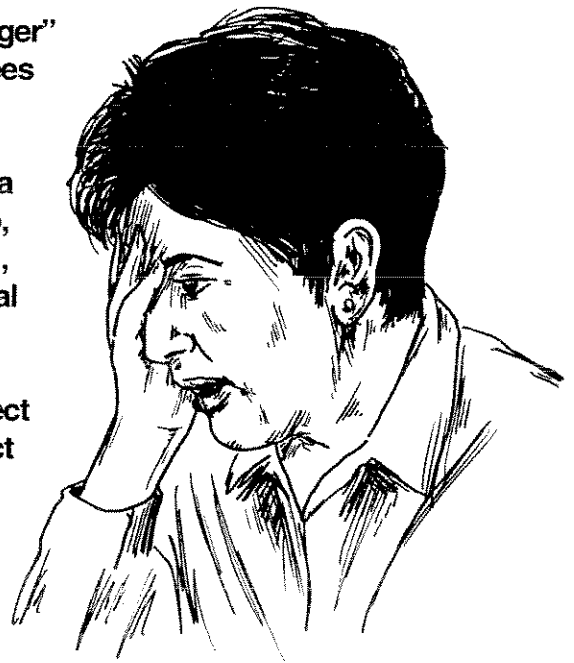
Drugs and Alcohol

There have been drug busts at work and the ever present "danger" of drug tests indicates that a problem does exist. Employees have been fired for intoxication and related issues.

THE PROBLEM — Many managers/employees realize a problem exists but fail to see addiction as a disease. Also, safety of the employee and others is an issue. Also, management is at times too quick to act and will make unilateral determinations about an employee's condition or conduct.

A particular problem arises for the Union. We must also protect employees from unsafe conditions and we must also protect sick employees. It is a difficult situation.

ACTION PLAN — there are instances wherein management failed to assist the employee who now finds him/herself being disciplined for drug/alcohol related charges. Our own contract provides for an Employee Assistance Program (EAP). Employees who find themselves in such situation can take steps to protect themselves:



- DO NOT DRINK at work, immediately before work, during lunch or on postal property.
- If directed to take a urine/blood/breath test realize that if you refuse it can be construed that you are guilty or at least insubordinate. If you are tested make sure you inform the examiner of any medicines you are taking.
- If you are tested and the result is positive SEEK IMMEDIATE HELP. Contact EAP or the Local Union Office or Shop Steward.
- If you decide to go home request leave properly. Do not just leave!
- Be ready to defend your conduct. You may be accused of having an unsteady gait. (Do you have an ear infection?) You may be accused of smelling like alcohol. (Did you have a drink at home?) You may be accused of smelling like burnt rope (Do you smoke pipe, cigars, cigarettes?). BE PREPARED!
- Be aware of anyone approaching you at work selling or wanting to buy drugs!
- If detained by management, inspectors etc. do not talk or sign anything without representation.
- If assigned or directed to attend a structured EAP program, attend the sessions. Secure a completion letter or certificate.
- An MVS Driver is subject to random testing under DOT regulations. Do not engage in improper activity. Seek assistance if found dirty.

Discrimination

Although the average employee is seldom charged with discrimination they do at times come across discriminatory practices, racial situations or will use discrimination as a defense when disciplined.

THE PROBLEM — Despite it being against the law to discriminate it does occur in the Postal Service. Employees are discriminated against because of Race, Color, National Origin, Religion, Age, Sex and Handicap. The EEOC Regulations under Title VII for federal and postal workers has been changed to make it more difficult for employees to pursue EEO complaints.

An employee not only has to establish a “prima facie” case he/she has to disprove management’s likely story that the action the boss took was a legitimate business decision. It may be harder to prove EEO cases but not impossible.

Another problem is management may use REDRESS to undermine the grievance procedure or to secure vital information before an EEO complaint becomes formal.

ACTION PLAN (if accused of discriminating) —

- DO NOT ENGAGE IN RACIAL, SEXUAL misconduct. Be prepared to defend conduct as to intent and understanding. Was it a preference or prejudice?
- Understand that employees are not prohibited from speaking a foreign language at work so long as it is not job related.
- Be prepared to demonstrate through witnesses and documentation that what you have been accused of DID NOT happen as reported.
- Show that your demeanor is one that respects others and has dignity for others.

ACTION PLAN (if contending you were discriminated against) —

- File an EEO request for counseling within 45 days (or union grievance within 14 days).
- Be prepared to prove that the disciplinary action issued has a causal relationship with the membership of a protected class. (e.g., Female, Black, Latino, Asian, over 40, Catholic, etc.).
- Be prepared that whatever you are charged with was not within your control.
- Be prepared to name names of people treated differently than you especially those of a different sex, nationality, race or color.
- Secure Union Representation if filing an EEO complaint.
- DO NOT USE REDRESS. So far it is too pro-management!
- Make sure you keep all time limits during the appeal process.
- Do not be too wordy and make sure not to make your complaint untimely by annotating dates earlier than 45 days before you asked for counseling.
- Be prepared to show how management singled you out for special treatment and that it was not done for legitimate business reasons.
- Do not be tricked by Postal EEO Counselors in withdrawing your complaint. Be careful of what you sign. KEEP COPIES!

Good luck in your continued employment. Please call on us when you are in need and thank you for your continued support of the union!

*Omar M. Gonzalez
President*