

**AMERICAN POSTAL WORKERS UNION
AFL-CIO**

WILLIAM BURRUS, PRESIDENT

**BASIC & ADVANCED STEWARD
TRAINING**

**APWU
APWU
APWU**

PREPARED BY

**ELIZABETH “LIZ” POWELL
REGIONAL COORDINATOR
NORTHEAST REGION**

**“IN UNITY THERE IS STRENGTH, AND TOGETHER,
WE CAN MEET THE CHALLENGES OF TOMORROW”**

PREFACE

As a steward for the American Postal Workers Union, you have a unique and vital role to perform in order to keep our union strong. Because you are the representative of the union most accessible to the members, their image of the union will be determined in large part by their relationship with you. How you handle your responsibilities, how you respond to the worker's problems, how you portray the union's programs, how conscientious you are in enforcing the contract, will reflect on the image and strength of the APWU.

The job of the steward is a difficult and demanding one, requiring many diverse skills and a store of good common sense. Most of your education will take place on the job. Your everyday experience resolving problems on the workroom floor and your ongoing involvement in union activities, more than anything else will teach you how to conduct yourself most effectively.

It is a difficult job often involving long hours of seemingly thankless tasks, but it can be rewarding because every accomplishment is a gain for your fellow workers. The satisfaction comes in knowing that you have done your best to build and strengthen your union and have helped to maintain the best possible working conditions for your brothers and sisters. "The Struggle Continues."

The information contained in this booklet was excerpted from the National Agreement, CBR, Steward Handbooks from 1985, 1987, 1988, and the most recent handbook from the Research & Education Department.

A special thanks to everyone who helped to write/provide this information.

It is hoped that it will assist you in your day to day duties as stewards, however if you have any questions please contact your respective local president, who will contact your respective National Business Agent and/or Regional Coordinator.



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PART ONE

THE NUTS & BOLTS

THE STEWARD HAS MANY JOBS

- **CONTRACT MONITOR**

Your most important responsibility as a steward is to enforce every worker's rights as guaranteed by the **National Agreement** and by the law. Grievances must be handled thoroughly and conscientiously according to the procedures spelled out in the Agreement. These procedures are explained in detail in later sections of this booklet.

Every steward should be assured that his/her status and authority as a representative of the **APWU** is backed by the law, the **National Labor Relations Act**, and is spelled out in **Article 17** of the **National Agreement**.

- **LEADER**

As a leader, you must inspire every member to support the union, our goals and our programs. You should encourage participation in local meetings, and involvement in union activities and decisions, and build understanding of the union's objectives. It is vital to convey a sense of solidarity and pride in the accomplishments of the **APWU**. A united membership can be the key to your success as a union representative dealing with management.

- **ORGANIZER**

You should make it a point to welcome and get acquainted with all new workers. Offer them assistance in adjusting to their new job, inform them about the union, explain the **APWU** structure, dues, and programs and urge them to join. Tell them about some of the problems faced by postal workers before the union was organized, and describe the benefits the **APWU** has won for postal employees.

Signing up longtime employees who have failed to join is another key responsibility. Those who have resisted joining should be reminded of the union's achievements on their behalf and persuaded that a strong **APWU** means more gains in the future.

- **LABOR EDUCATOR**

You should educate co-workers about their rights under the **National Agreement** and under the law.

You should also explain the democratic structure of our union, the provisions of the national and local Constitution and bylaws, the gains that have been made in recent years and how the union has won improved benefits through collective bargaining.

You should explain to all workers the lesson of labors history and experience, that in unity there is strength, not only within the **APWU** but also in the total labor movement. Members should be encouraged to buy American-made products and to look for the union label as proof that a product has been made under fair working conditions.

- **POLITICAL ACTIVIST**

Just as collective bargaining protects workers on the job, political action gives the worker and his/her family a voice in determining the policies of our government. Laws adopted by Congress can profoundly affect the lives of postal workers.

You should encourage members and their families to register and vote. You should monitor legislation of concern to the **APWU**, and encourage regular communication with your congressional representatives to let them know where we stand. You should know about the goals and purposes of the **APWU Committee on Political Action (COPA)** drive and the **Voices in Politics (VIP)** program and promote these among the members. Without support from membership, these programs cannot be effective.

- **PROBLEM SOLVER**

As a problem solver, you should try to identify and resolve problems on the workroom floor before they become serious disputes. Potential problems can often be anticipated and prevented through informal discussion with management and any problems that might be of a more general concern to the union should be brought to the attention of local union officers.

- **COMMUNICATOR**

You are the union representative most available to the workers and should be the link between them and the local and national officers. You should keep the members up-to-date on national policies and programs and on important legislation and other issues affecting them. Draw attention to the **APWU News Service**, **The American Postal Worker** and other national and local union publications. The more a member knows about the APWU, the more active he or she is likely to become.

- **FRIEND**

You should be ready to help workers with problems, which affect their welfare on or off the job. You should always be available to listen to problems and be aware of community agencies providing services to which workers could be referred in time of need. You should know about services offered by your local union. In many communities there are **AFL-CIO** community service representatives who work with local unions and are trained in counseling workers with problems outside the workplace.



RESPONSIBILITIES OF THE STEWARD

A primary responsibility of the APWU steward is to become familiar with the provisions of our National Agreement, which sets forth in detail the wages, hours, fringe benefits, and working conditions for postal workers. While it would be impossible for you to memorize everything, you should have enough familiarity with its provisions to know where to look for more detailed information. **Certain sections are especially important to stewards in their day to day work and are as follows:**

- Article 1** **Recognition of the APWU as the exclusive bargaining agent for clerks, maintenance and motor vehicle employees.**

- Article 3** **The exclusive rights of management which are subject to the provisions of the Agreement.**

- Article 4&19** **The requirement of advance notification to the union (a) of planned technological and mechanization changes, (b) when a new position is created, (c) in case of planned layoffs or reduction in force, and (d) of proposed changes in handbooks and manuals relating to wages, hours or working conditions.**

- Article 6** **Protection from involuntary layoffs and reduction in force for all workers regularly employed as of September 15, 1978 and provisions for non-protected employees in case of involuntary reassignment or layoffs, including the right of recall.**

- Article 8** **Work schedules, hours, overtime, and additional compensation for working Sunday and night tours.**

- Article 9** **Salary increases, cost-of-living adjustments, and any additional payments**

- Article 10-11** **Annual leave and holidays**

- Article 12** **The governing principles of seniority (which may be modified by craft articles).**

- Article 14** **The safety and health program and procedures.**

- Article 15** **The grievance-arbitration procedure.**

In addition, read carefully the article for your craft, which spells out additional provisions, and procedures, which supplement or supersede other articles.

- Article 37** **Clerk Craft.**
- Article 38** **Maintenance Craft.**
- Article 39** **Motor Vehicle Craft.**

You don't need to memorize everything that appears in the National Agreement or in Postal Service handbooks, but you do need to be committed to **self education** and **know where to find the information when you need it**. You don't need to know exact contract language word for word, but you do need to **understand its meaning and intent** and where to check for the precise wording. You don't have to have all the right answers, but you do need to **know when and where to ask** for advice and additional information.

RESPONSIBILITY OF FAIR REPRESENTATION

Stewards and all union officials are required by federal law to represent **all** postal workers in the bargaining unit **fairly** and **equally** whether or not they are union members. **The union may be legally liable if this duty is not fulfilled.**

Every case must be considered on its own merits and a steward should never be ruled by personal favoritism or dislikes or by union politics in determining whether or not to handle a grievance. Consistency is very important and it is vital to keep records on those cases, which you decide not to grieve, explaining the basis for your decision.

THE STEWARD'S RIGHTS

In your job as a steward, you have certain rights and responsibilities, which are established by Federal law and spelled out in our **National Agreement, Article 17.3**

ARTICLE 17, SECTION 3:

When it is necessary for a Steward to leave his/her work area to investigate and adjust grievances or to investigate a specific problem to determine whether to file a grievance, the steward shall request permission from the immediate supervisor and **such request shall not be unreasonably denied.**

In the event the duties require the steward leave the work area and enter another area within the installation or post office, the steward must also receive permission from the supervisor from the other area he/she wishes to enter and **such request shall not be unreasonably denied.**

The steward, chief steward or other Union representative properly certified in accordance with Section 2 above, may request and shall obtain access through the appropriate supervisor to review the documents, files and other records necessary for processing a grievance, or determining if a grievance exists, and shall have the right to interview the aggrieved employee(s), supervisors and witnesses during working hours. **Such requests shall not be unreasonably denied.**

While serving as a steward or chief steward, an employee may not be involuntarily transferred to another tour, to another station or branch of the particular post office, or to another independent post office or installation, unless there is no job for which the employee is qualified on such tour, or in such station or branch, or post office.

A worker has the **right to request the presence of a steward** or other union representative during an investigatory meeting, which the worker believes, may result in disciplinary action. This right was established by the **Weingarten** decision resulting from a Supreme Court case. The steward's role in such a meeting is to safeguard the worker's rights, to help him/her to present the facts, and to witness the proceedings.

If an employee requests a steward or Union representative to present during the course of an interrogation by the Inspection Service, such request will be granted. All polygraph tests will continue to be on a voluntary basis.

TIME FOR GRIEVANCE HANDLING

A supervisor may not unreasonably deny or delay your request or arbitrarily limit the amount of time allowed for you to conduct the investigation.

The steward has the right to investigate a grievance or examine a problem to determine if a grievance exists during working hours. However, you **must request permission** from your immediate supervisor to leave your work area, and from other supervisors to enter their work area. Each time you leave your section, you may be required to obtain a **Form 7020 (Authorized Absence from the Workroom Floor)** initialed by your supervisor. **This form is not required and/or used in all postal facilities.**

COMPENSATION

As spelled out in the **National Agreement**, the steward is paid by the **Postal Service** at the regular straight time rate for **time spent handling grievances at Step 1 and 2**, including investigations and meetings with the employer, and for the time necessary to write a grievance, as long as the time is **during the steward's regular work day**. The steward or officer is entitled to **time on the clock to write the union's corrections and additions to the Step 2 decision.**

In addition the Employer will compensate any witnesses for the time required to attend a Step 2 meeting during the employee's regular work day.

Stewards are also compensated for time spent at meetings called by the employer for information exchange and other matters concerning contract application.



NAME OF EMPLOYEE OR NO. OF EMPLOYEES		DATE
SOCIAL SECURITY NUMBER	SUPERVISOR'S INITIALS	TIME
LEAVE UNIT →		
ARRIVE →		
LEAVE →		
RETURN TO UNIT →		
<input type="checkbox"/> STEWARD'S DUTY TIME <input type="checkbox"/> MEETING TIME <input type="checkbox"/> OTHER TIME		
REASON FOR ABSENCE		
SEE REVERSE SIDE FOR INSTRUCTIONS		

P3 Form 7020
Jan. 1978

AUTHORIZED ABSENCE FROM WORKROOM FLOOR

INSTRUCTIONS

Use this form when employees leave for scheme examinations, medical unit, guide duty, civil defense time devoted to grievances, consultations with personnel section and consultation with administrative officials.

The tour supervisor will insure the collection of this form from work center supervisors for transmittal to the timekeeper where appropriate and/or to the Manager of Finance who will total time recorded on Forms 7020 and charge to appropriate operation number.

★ U.S.GPO:1977-0-752-175

THE STEWARD'S "SPECIAL IMMUNITY"

The Situation

Dottie Doe, APWU steward, informs Supervisor Load that she wishes to discuss grievances concerning two employees, Sam Smith and Betty Brown. Load is curious. He thinks to himself, "why on earth does Doe want to talk with these two, especially with Betty Brown." Load wonders if Doe is trying to cause "trouble." Recognizing that "look" of concern on Load's face, Doe, the experienced shop steward, speaks up and mentions that she wishes to see Ms. Brown about a pay claim which had been denied. She then reiterates her request to speak with these two employees. Load looks away from Doe and says "okay, go ahead. But I hope you're not going to encourage them to file grievances." As Doe leaves the area, she hears him say under his breath "I'm going to talk to Betty Brown."

In the meantime, Doe has gone to talk with one of the employees, Sam Smith in the steward's room. On his way to that meeting, Doe sees Supervisor Load talking to Brown and asking "why she has filed a grievance." Hearing this, Doe tells Supervisor Load "to get out of Brown's face. You are harassing her for filing a grievance." Load tells Doe, "You go to my office." Doe replies "I damned well will not. I am released on Union business with Mr. Smith." Again Load says "you go to my office." Doe replies that she would go to Load's office after she had finished her union business. She then leaves the area.

Later, after Doe had finished with Mr. Smith, she goes to Load's office. She asks Load if he wants to see her. Load says "Get out of my office!" Doe explains to Load that she was handling a grievance for Ms. Brown pertaining to four days under which she was denied workman's compensation. Doe had prepared the CA-1 Form to file for Workman's Compensation on behalf of Brown. She gave the form to Load. Load had apparently not delivered the form to OWCP. OWCP had not received the CA-1 and Ms. Brown was not paid for the four days she lost from work. Doe states that she felt that this was Load's fault and that she had been upset because she felt Load was harassing Ms. Brown about the grievance pertaining to the loss of pay.

Doe was charged with a failure to follow instructions and improper conduct based on her refusal to go to Load's office when ordered and for telling Load to "buzz off, I'm on union time" when he ordered her to curtail grievance time and report to his office. Doe received a notice of removal.

Was this fair? Was it proper for management to discipline Dottie Doe for her conduct as a steward? If you were the arbitrator, how would you rule?

In facts identical to the above situation, Arbitrator John Caraway noted that stewards are normally protected by immunity from discipline based on his or her conduct while acting as a steward. {AIRS No. 400,004 (1988)}. However, in this particular case, Caraway held that the steward's conduct had exceeded the scope of this protection. In front of other employees the steward had directed profanity at a supervisor and said that "I'm a union steward and I can talk to you anyway that I wish." In his award, Caraway reasoned:

There is no question but that (grievant) is an experienced and well-intentioned union steward. But on this occasion she erred in her judgment as to the limits and rights, which the union steward has. In a closed meeting with (supervisor) there could be no objection to the conduct of (grievant.)

But when this conduct is before the employees and would have the effect of embarrassing the supervisor, challenging his authority, and belittling the supervisor, such conduct cannot be tolerated. For that reason discipline was properly imposed.

The importance of this award is to illustrate that there are boundaries to acceptable conduct when acting as a steward. Of course, a steward is not outside the scope of immunity merely because of raising his or her voice to a supervisor in front of other employees. There are factors, such as:

- **What was said and loud it was said;**
- **Whether it was actually heard in front of bargaining unit members;**
- **Whether the steward persisted in unacceptable conduct in front of bargaining unit members after being cautioned by the supervisor;**
- **Whether there was disruption caused by the alleged unacceptable conduct.**

For decades, the principle of “steward’s immunity,” cited by Arbitrator Caraway, has been recognized by labor arbitrators and the National Labor Relations Board. However, the scope of this immunity from discipline is by no means unlimited or well defined.

Sections 7 and 8 (a) (1) of the national Labor Relations Act provide an important safeguard against employer retaliation for statements made during the course of grievance meetings. There is a general right under these sections for employees “...to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection...”

The Board has interpreted these provisions as prohibiting the discipline of stewards for abusive remarks made to a supervisor or management officials during a grievance meeting or in a bargaining session. This special application of Sections 7 and 8 to the role of the shop steward is distinguished from the situation where an employee ordinarily can be disciplined for disrespect to a supervisor.

The Board applies the special immunity rule so that stewards are not prevented from carrying-out their own duty to represent the bargaining unit. Without the rule, stewards would be hesitant to speak freely. They would have to carefully choose every word they said to management or hold back from zealously presenting a grievance for fear of overstepping the line that is toed by ordinary employees.

Arbitrators have so unanimously adopted the general theme of the NLRB special immunity rule that rarely is the source of this rule cited in arbitration opinions. “Stewards immunity” has become somewhat of a common law or unwritten rule of labor arbitration.

What is not quite so unanimous is agreement on the precise parameters of the “immunity” rule. In grievances involving similar facts, arbitrators have handed down varying opinions as to whether a steward’s immunity has shielded him or her from discipline. Consequently, one arbitrator might view your conduct as being proper while another reaches the opposite conclusion. Exercise caution in applying arbitration-made rules to your personal situation. However, some generalizations can be made from a study of arbitration awards and NLRB decisions on this issue.

WHEN DOES IMMUNITY TAKE EFFECT?

As a rule of thumb, immunity takes effect when it is necessary for a steward to investigate or adjust a grievance or to investigate a specific problem to determine whether to file a grievance. This does not mean that you will be protected merely because you are venting a personal frustration. Indeed, some arbitrators have cautioned that a steward should hesitate to represent himself as to his or her own grievance. {Reynolds Metals Co., 39 LA 584, 587 (1962) (non-USPS)}.

As a guideline, arbitrators examine whether the proper contractual rules have been followed for securing steward’s release time. For this reason the provisions of Article 17, Section 3 that relate to securing the permission of a supervisor to investigate or adjust grievances should be followed as closely as possible. Of course, immunity may still attach itself to a steward’s conduct depending on a given situation and the reasons given for not first following the provisions of Article 17.

SPECIFIC SITUATIONS

Tone Of Voice or Abusive Language

Probably, the most frequent sort of conduct by a steward that attracts the wrath of management is what might be perceived as the steward’s use of abusive language during a discussion with management pertaining to a grievance. Short of violence and physical or verbal threats against a supervisor, a steward is generally protected against discipline when they raise their voice, use profanity, or other berating language when in the status of a steward.

Two caveats should be noted:

- 1. Abusive language may not be protected where it does not relate to the grievance, which is the subject of the discussion.**

For example, if you were in a heated argument with a supervisor over an issue of whether an employee should be disciplined for using sick leave, raising your voice or even using profanity to make a point, then you would be protected. In the same discussion, if you suddenly started arguing about a matter unrelated to a grievance, you probably would not be protected against discipline.

Remember, you wear two hats; the hat of the obedient employee and the hat of the zealous steward. Keep in mind which hat you are wearing at all times.

2. The time and place of your contacts with a supervisor as a steward may lessen the protection given to conduct that would otherwise be shielded by immunity.

Arbitrators note the distinction between the speech and conduct of a steward in private versus workroom floor settings, i.e., in front of employees. As noted by Arbitrator Caraway, if a steward is on the workroom floor and verbally abuses a supervisor over a grievance or potential grievance, the steward may have exceeded his or her special immunity. In such a situation, arbitrators may sometimes weight the authority of the supervisor to maintain control and direction of the employees heavier than the steward's special immunity.

When confronting a supervisor on the workroom floor it is wise for the steward to be courteous, restrained and resist any effort to embarrass or humiliate the supervisor.

Insubordination

In anon-APWU arbitration, Arbitrator Turkus upheld the discharge of a union steward for a series of insubordinate acts designed to embarrass and humiliate management in front of other employees.

Turkus stated:

In return for assuming a steward's responsibilities an employee does not receive the right to be high-handedly insubordinate, or to urge others not to work as directed by their supervisors.

On the other hand, it is not the supervisor's prerogative to decide what is or is not a grievable matter. Consequently, a charge of insubordination would have doubtful validity where a steward disregarded a supervisor's refusal of a request to investigate a grievance. For example, in International Harvester, 16 LA 307 (non-USPS arbitration) a union steward requested permission to investigate a grievance. The foreman refused this permission on the grounds that the matter did not involve a contractual violation and ordered the steward back to his job. The steward proceeded with his investigation despite the foreman's refusal.

The arbitrator overruled the subsequent removal of the steward based on the rationale that there is a clear distinction "between the case of a supervisor telling an employee to go back to his job, and a supervisor telling the union to stop investigating a grievance."

In a situation where a supervisor tells you that you should leave before finishing a discussion concerning a possible violation of the contract or related matter, some arbitrators have held that it is permissible for a steward to refuse an order to return to work as long as they have not been belligerent or insolent. However, other arbitrators, and perhaps a majority, have not adopted this rule or refer to a modified version of the rule.

The safest course of action to follow in such a situation is to leave or return to work as ordered but only after objecting to the supervisor's order to leave as contrary to your right to process a grievance in good faith. {See, AIRS No. 1687 (Levak)}. Management's refusal to provide an opportunity for a steward to fully investigate matters relating to a potential grievance opens the door for an unfair labor practice.

Counseling Employees to Refuse to Answer Questions

In addressing this issue, The National Labor Relations Board ruled that an employer may lawfully discipline a shop steward for advising employees who witness an event which could give rise to disciplinary action against other employees not to answer the employer's questions about what happened. {In *Manville Forest Products Corp.*, 2679 NLRB No 72, 115 LRRM 1266 (1984)}.

Likewise it is advisable to refrain from conduct which could be perceived as suggesting that employees refuse the orders of a supervisor concerning work related duties.

Disruption of Workplace

A charge by management that a steward is disrupting the workplace may be sustained as the basis for discipline. The outcome of such a charge depends on the circumstances, e.g. who instigated the situation – supervisor or steward. However, the consensus appears to be that a steward's limited immunity does not protect him or her where such actual disruption is shown to have been caused by the steward's conduct and other mitigating factors are not present. {In the *Matter of USPS and Vega*, 282 NLRB No. 102 (1986)}.

In *Vega*, a shop steward was discharged for conduct, which according to Postal Service resulted in the disruption of mail handler operations. In this case, *Vega*, the steward, was working on the belt but suddenly broke away from his work and approached the supervisor while shouting that the supervisor should stop "harassing" the mail handlers and that he should stop telling them to speed-up their work. The supervisor explained that he did not consider it harassment to ask employees to perform the duties that they were assigned to do. *Vega* continued to shout until after the discussion had moved to the supervisor's desk area.

Orders to Cease Grievance Investigation

Arbitrators have held that a supervisor does possess the authority to terminate a conversation or interview through a direct order to a steward so long as the order is conveyed in a clear and responsible manner and does not constitute a mere emotional outburst in anger.

However, even when the order is given in the correct form, a shop steward clearly has the right to question the order and argue its propriety, so long as the argument is not carried on to the extreme.

A steward has the right to aggressively process a grievance in good faith and does not have to back down and show subservience at the whim of a supervisor.

For example, an employee on union business as a steward went to discuss a grievance with a supervisor. The discussion soon heated up over the issue of whether the supervisor should accept a grievance.

Soon the supervisor became extremely angry and shouted at the steward to "get out" and finally ended up pushing the steward out of the office.

The arbitrator ruled that it was improper to discipline the steward.

The (Supervisor) did not take action to terminate a confrontation between equals through a direct order. Rather, he angrily blew up in the middle of a conversation between what he perceived to be a superior and a subordinate at the moment he perceived that the subordinate was failing to accord him the proper respect as a supervisor. To categorize (supervisor's) angry and virulent outburst as an overreaction would be understating the situation. It is apparent to the Arbitrator that he became totally enraged and used his physical presence, raised voices, angry gesture and physical contact in an attempt to immediately dominate and subjugate the grievant. The Arbitrator is not surprised that the grievant was shocked and stunned and that she reacted as she did. An angry and abrupt "get out" to an equal can hardly be categorized as a proper and lawful order. {AIRS No. 1687 (Levak, T., (1983))}.

Keep in mind that the facts in the Levak decision can be distinguished from the cases involving the general rule that a supervisor can terminate a discussion. In Levak, the steward was discussing in good faith, as was the union's right under the National Agreement and the National Labor Relations Act; from the start the supervisor had refused to treat the steward as an equal; and the supervisor was the one who irrationally instigated the steward's refusal to leave the building.

Again, the safest course of action is to state your objection to such orders, and then leave as requested. Following the orders of the supervisor, but under protest, is a more practical alternative than remaining there to argue over whether such orders are within the authority of a supervisor when dealing with a steward.

Your objection to such actions can be followed up through the filing of a grievance or an unfair labor practice charge.

SAFEGUARDING IMMUNITY

There are several ways in which you can insure that your conduct or speech is protected when acting as a steward.

- ◆ **Whenever possible, ring the clock for union business when discussing or investigating a grievance or possible grievance.**
- ◆ **Permission from your immediate supervisor when it is necessary to leave your work area to investigate grievances or a specific problem.**
- ◆ **When necessary to enter another area within the installation, also request permission from supervisor in that area.**
- ◆ **Keep a cool head. When necessary to make a point, control your outrage or indignation so that it is not carried to the extreme.**
- ◆ **Don't represent yourself in grievances.**
- ◆ **Try to avoid confrontations on the workroom floor; request private meetings and save verbal aggression for private meetings.**

This checklist should not be interpreted as meaning that you must “tiptoe” around a supervisor when investigating or discussing a matter.

Your overriding responsibility as a steward is to uphold the rights of bargaining unit members under the National Agreement. To accomplish this goal, the law allows you to assume the status of an equal when dealing with management as a steward. Likewise the law protects you against transgressions by a supervisor who refuses to recognize you as his or her equal. Nevertheless, your dual status as an employee and steward requires a common sense approach to balancing the duties of an ordinary employee and the responsibilities of an effective advocate for the workers. Recognizing the distinctions between these two roles and an awareness of how far you can carry your enthusiasm and zealotry, are crucial to maintaining your immunity as a steward.

THE TOOLS OF THE SHOP STEWARD

- ✓ Know the workers you represent. You should know what their jobs are, how much seniority they have, their work schedule, and the kinds of job related problems they have.
- ✓ The names, addresses, and phone numbers of your local officers and chief steward should be kept on hand so that you can contact them easily.
- ✓ Read APWU national and local publications such as *The American Postal Worker* and *APWU News Bulletins*, regularly to keep up on current organizational developments.
- ✓ Know your contract. You should be familiar with the contents of the National Agreement and Memorandums of Understanding.
- ✓ Keep up on Postal Service regulations and procedures. The Postal Service has published many manuals and handbooks, which set forth the procedures and rules for all Postal Service operations. Of particular importance is the **Employee and Labor Relations Manual (ELM)**.
- ✓ Other handbooks are also important and are available by contacting **APWU Order Department** and/or the **Research and Education Department**.
- ✓ Know your **local memorandum of understanding, which may supplement the provisions of the National Agreement on 22 items, spelled out in Article 30.**
- ✓ Read **Collective Bargaining Reports (CBRs)**. These are summaries of national and regional arbitration cases, which are compiled by the **APWU Industrial Relations Department**. Stewards should make sure their local receives this report and should use it as a guide for cases they are handling.
- ✓ Check your local unions file of past grievances for cases similar to those you handle. These may give you insight on the kinds of arguments and documentation you may need to best present your case.

- ✓ Dues checkoff forms 1187 should be available at all times for prospective members.
- ✓ Have available information on the **APWU Health Plan** as well as claim forms for all members who are covered by our health plan.
- ✓ Keep on hand applications for the **E.C. Hallbeck Memorial Scholarship** for eligible high school seniors who are daughters or sons of an **APWU** member.
- ✓ Get from management the **Seniority List** and the **Overtime Desired List**.
- ✓ Know the names of the union representatives on the local **Safety and Health Committee**, the **Joint Labor-Management Committee**, and the **Employee Social and Recreational Committee**.
- ✓ Use the **Step 1, Step 2, Step 3, and Step 2 Appeal to Arbitration Grievance Forms, Request for Information & Documents Relative to Processing a Grievance Form** and the **Grievance Outline Worksheet**.

All these tools should be helpful to you in handling your day to day responsibilities as a steward, but you will discover that the most valuable resource of all will be the practical knowledge and insight you gain from your own experience on the job, resolving problems and administering the contract. It is important for you to continuously upgrade your labor education by attending APWU seminars, training courses and union-sponsored conferences.

Make sure to check APWU Web Page for additional information by Crafts or Departments, and the possible downloading of some handbooks and manuals as well as the CBRs. APWU Web Search is also available on the Internet, providing access to handbooks and manuals and other valuable information. A password may be necessary to access some documents. Locals may contact the Industrial Relations Department in reference to the Search program and the Web Page can be accessed at www.apwu.org.

WHAT IS A GRIEVANCE?

The steps and procedures are spelled out in Article 15 of the National Agreement and simply stated, a grievance is a violation by management, of workers' rights on the job.

ARTICLE 15, SECTION 1

A grievance is defined as a dispute, difference or complaint between parties related to wages, hours, and conditions of employment. A grievance shall include, but is not limited to, the complaint of an employee or of the Union, which involves the interpretation, application of, or compliance with the provisions of the Agreement or any local Memorandum of Understanding not in conflict with this Agreement.

PROCESSING A GRIEVANCE

A great deal of the steward's time and energy is spent in resolving problems and processing grievances. This is the job most vital to the union for without enforcement of the contract and assurance that workers are being treated fairly and in accordance with the law the union would lose the major reason for its existence.

Furthermore, the successful resolution of problems and grievances is a clear and positive demonstration to union members (and to non-members) of the value and strength of the union.

To do this job well you need to have:

- The patience to listen to the worker's story
- The good judgment to evaluate the facts carefully
- The thoroughness to investigate the problem fully
- The self-confidence to deal with management on an equal footing
- The wisdom to know when a problem is not a grievance
- The fairness to treat every worker with the proper respect
- The commitment to see the grievance through to the most positive resolution possible

When a worker approaches you with a complaint regarding an action on the part of management you must first determine if it is a grievance and in order to evaluate if an incident is a grievance you need to ask the following questions:

- 1) Is it a violation of the National Agreement or any memorandum of understanding?

You need to become completely familiar with all relevant sections of our **National Agreement** and understand its interpretation. You must also know the provisions of your **local memorandum of understanding**, which may supplement the **National Agreement**.

In some cases contract language may not deal with the specific situation involved.

In such cases, not grieving the action might result in allowing management to establish a precedent for future actions. **Check with the chief steward or other experienced officer when you're not sure how to proceed.**

2) Is it a violation of regulations or procedures established in a Postal Service handbook or manual?

It is important for you to **be familiar with established rules and regulations**; particularly those affecting the workers you represent. You should also **keep informed of any significant changes** in these regulations and **when in doubt, check with your chief steward or local officers.**

3) Is it a violation of federal law?

It will be necessary for you to be familiar with the laws, which affect postal employees, in particular the provisions of the **National Labor Relations Act** as amended by the **Postal Reorganization Act.**

4) Is it a violation of established past practice?

To be considered a past practice, an action or policy must have been repeated over an extended period of time and must have been accepted by both management and the union, either explicitly, orally or in writing, or explicitly, that is, neither party has objected formally over a period of time. Here the frequency is important: the number of times the action happened compared to the number of times it could have happened.

If the worker's complaint meets any one of the above criteria it may be a grievance and it is your job to process it.

Handling a grievance is one of the most important and time-consuming responsibilities of a steward and is much like being a lawyer in a court case. The client, in this instance, is a union member who expects you to represent his or her side of a dispute, hopefully winning a favorable decision on his or her behalf.

There are four distinct steps in the grievance procedure, and those closely parallel the workings of our court system. Step One of the grievance procedure is much like a court's preliminary hearing. Here both sides sit down and discuss the facts in an attempt to settle the dispute without a formal trial. Step Two occurs when Step One fails and is like a trial. Here both sides confront each other with formally prepared cases.

It is to everyone's advantage to settle a grievance at the lowest possible step. The longer it goes unresolved, the more it costs in money, time and stress.

These facts alone point to Step One as the most important of the steps in the grievance procedure.

Time plays and important in a grievance, and without time limits nothing would be accomplished. At Step One there are three important time limits:

- 1. The time limit for initiating a grievance is 14 days from the time of the infraction or when, within reason, it is assumed the union or employee first learned of the infraction. The discussion at this time includes the employee and/or union with a management representative. When the Union files a class action grievance, Management will designate the appropriate employer representative responsible for handling such complaint.**
- 2. The time limit for a management response is five days unless the parties have agreed to an extension. Be sure all agreed upon extensions are in writing.**
- 3. The time limit for appeal by the union is within 10 days after receipt of the supervisor's decision to deny the grievance.**

Step One is vital for several other reasons as well and is the sole responsibility of the Shop Steward. It forms the foundation of the union's arguments in Steps Two, Three, Four and Arbitration, if a grievance is appealed to those levels.

If Step One is not handled properly, according to established grievance investigation procedures, chances for success at Step Two or Three could be diminished or destroyed.

There are several tasks involved at Step One and include the following:

- ◆ Investigation**
- ◆ Analysis**
- ◆ Preparation**
- ◆ Presentation**

The starting point for handling a grievance is the investigation, and this must be done carefully and in an objective manner.

This is the beginning of your efforts to assure that an employee receives just protection under our contract and a thorough investigation is the most effective way of reaching a successful resolution of a grievance and it is the only way.

When conducting an investigation, you have certain rights and they include the right to:

- ◆ Obtain access to important documents.**
- ◆ Review files and related records.**
- ◆ Interview the parties involved during working hours.**

1. INVESTIGATION

- a) **When a worker comes to you with a complaint, the first thing you must do is conduct a full investigation, gathering as much information as possible about the case.**
 - ❑ **Interview the worker and listen carefully to the worker's explanation of the events. Ask questions to get all the relevant details and to clarify your understanding of what happened and the surrounding circumstances.**
 - ❑ **Talk to the supervisor to get his/her version of the facts.**
 - ❑ **Be sure to talk to other workers who were involved or who may have witnessed the events.**
 - ❑ **Keep detailed notes of all your discussions and ask as many questions as necessary to get a clear understanding of each person's point of view.**
- b) **Check the relevant sections of the National Agreement, Postal Service handbooks, manuals, and local memorandum of understanding to determine whether or not a violation has occurred.**
- c) **Obtain the pertinent documents and records from management that will help you to substantiate your case. Remember, when preparing documents; include statements of witnesses and important records or forms that will support your case. Documents are a critical part of your grievance presentation.**
- d) **Any witnesses signing statements must be willing to appear and testify during the grievance meeting and any resulting arbitration hearings.**
- e) **During your investigation, be sure to consider the emotional state of those involved, for emotional factors can be a reason why someone behaved in a certain way.**

Whatever the circumstances, don't rush a grievance investigation and treat each grievance as though it were happening to you.

2. ANALYSIS

This is a matter of laying your investigation results up against the contract to see if any provisions were violated, and once you are convinced that a grievance does exist, analyze and organize your information.

Separate opinion and conjecture from the facts and relevant from irrelevant information.

Your analysis of the total situation, the facts, the documents, and the use of witnesses should be carefully thought out and outlined, and this should be done before discussing Step One with the supervisor.

Make sure you have the answers to the Six Standard Questions:

- WHO:** Who was involved? Grievant's name, unit, craft, seniority date, job classification, tour, etc. Who else was involved? Supervisor, other workers.
- WHAT:** What happened? What action was taken which violated the worker's rights? What circumstances led up to this action?
- WHEN:** When did it happen? Time and date of the grievance.
- WHERE:** Exact location, section or area, city and state in which the violation took place.
- WHY:** In what way is it a violation of the National Agreement or otherwise an infraction of the worker's rights? Determine specific contract articles or handbook sections that have been violated.
- HOW:** How can this problem be remedied? What adjustments are necessary in order to resolve this grievance?

INFORMATION

The more information you have, the more prepared you will be to provide the best representation for the worker and remember to put as much as possible in writing.

This is the best way to make sure you have correctly remembered details and provides additional backup information for other union representatives handling the case at higher levels.

ARTICLE 31, SECTION 3:

The Employer will make available for inspection by the Union all relevant information necessary for collective bargaining or the enforcement, administration or interpretation of this Agreement, including information necessary to determine whether to file or to continue the processing of a grievance under this Agreement.

Upon the request of the Union, the Employer will furnish such information, provided, however, that the Employer may require the Union to reimburse the USPS for any costs reasonably incurred in obtaining the information.

Requests for information relating to purely local matters should be submitted by the local Union representative to the installation head or his designee. All other requests for information shall be directed by the National President of the Union to the Vice-President, Labor Relations.

Nothing herein shall waive any rights the Union may have to obtain information under the National Labor Relations Act, as amended.

Request For Information & Documents Relative to Processing a Grievance Form

AMERICAN POSTAL WORKERS UNION, AFL-CIO

Grievant/Union	Nature of Allegation
----------------	----------------------

Date of Request

To: _____ **Title:** _____

From: _____ **Title:** _____

**Subject: REQUEST FOR INFORMATION & DOCUMENTS RELATIVE TO
 PROCESSING A GRIEVANCE**

We request that the following documents and/or witnesses be made available to us in order to properly identify whether or not a grievance does exist and, if so, their relevancy to the grievance:

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____

NOTE: Article 17, Section 3 requires the Employer to provide for review all documents, files, and other records necessary in processing a grievance. Article 31, Section 2 requires that the Employer make available for inspection by the Unions all relevant information necessary for collective bargaining or the enforcement, administration or interpretation of this Agreement. Under 8a (5) of the National Labor Relations Act it is an Unfair Labor Practice for the Employer to fail to supply relevant information for the purpose of collective bargaining. Grievance processing is an extension of the collective bargaining process.

{ } REQUEST APPROVED

{ } REQUEST DENIED

(Date)

(Signed)

Give this form letter to the immediate supervisor. This letter becomes a permanent part of the file.

Keep in mind that many times supervisors don't allow enough time for a thorough investigation.

When this happens, they claim they could not collect the needed information, the files, documents, or records.

This is why the form letter is so important, because when a supervisor tries to take short cuts, the letter protects your position and provides a record of when you made your requests for the appropriate documents and exactly what is needed for conducting a fair investigation.

3. PREPARATION

Now you prepare your presentation of the grievance to management. This is known as "case building," and includes:

- ✓ **Organizing your facts into the best possible argument.** Plan your strategy and decide which points and arguments you will use and in what order they will be most effective.
- ✓ **Considering what management's argument might be and how to defend against it.** Anticipate the arguments you think the supervisor will use and plan your response.
- ✓ **Set a convenient time** for the meeting, making sure it is no more than **14 days from when the violation took place or was discovered.**
- ✓ **Prepare the grievant for it is important for the grievant to understand how the grievance procedure works.**
- ✓ **Explain** how you plan to present **the case**, which **arguments** you will make, and the **remedy** you will seek, and decide on the **resolution you will accept.**
- ✓ **Fill out the Grievance Outline Worksheet.** The best way to prepare is to write an **outline** listing in order the **points** you plan to make in your **presentation.**

A good outline will do three things:

- **Jog your memory.**
- **Keep a logical order.**
- **Add to your confidence.**

Grievance Outline Worksheet

AMERICAN POSTAL WORKERS UNION, AFL-CIO	STEP 1 GRIEVANCE OUTLINE WORKSHEET
DISCIPLINE (NATURE OF) OR CONTRACT (ISSUE) CRAFT #	DATE LOCAL GRIEVANCE # USPS GRIEVANCE #

UNIT/SEC/BR/STA/OFC STEWARD	DATE/TIME	USPS REP-SUPR	GRIEVANT AND/OR		
STEP I 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 - PTR - PTF	LEVEL STEP	DUTY HRS	OFF DAYS SA SU MTWTF
JOB # PAY LOCATION (UNIT/SEC/BR/STA/OFC	WORK LOCATION CITY AND ZIP CODE		LIFE-TIME SECURITY		VETERAN
			YES NO	YES NO	

Notes:

(a) Problem:

(b) Background:

(c) Documents:

(d) Corrective Action:

(e) Management's Response:

Once you have fully investigated the worker's complaint and you decide to file a grievance, you will need to meet with the worker's immediate supervisor.

The employee, and/or the union, and the immediate supervisor discuss the grievance.

The word "union" means a certified Shop Steward or a union representative.

Before the meeting, check:

- ✓ **Do you have all the information you need?**
- ✓ **Do you have all the documents you need?**
- ✓ **Have you planned your strategy?**
- ✓ **Have you briefed the grievant?**
- ✓ **Are you calm and confident?**

Under the terms of the National Agreement, it's your responsibility to insure the employee fair treatment and protection of his/her rights.

The agreement asks you to use good judgment and to assess each situation objectively and intelligently.

The agreement provides for both parties to have the right to settle in part or in whole. The union has the right to withdraw.

Also, settlements at Step One are not considered to be precedent setting.

The resolution arrived at during a Step One procedure should be viewed as a way to solve a problem or issue, not as a basis for confrontation or argument.

2. PRESENTATION

Presenting the grievance is the heart of the grievance procedure because it can build or destroy good union-management working relations.

Presenting a grievance is like telling a story, it must be clear, logical, and accurate.

Therefore, the necessary steps for preparing your presentation include:

Organizing your facts so they fit together to form a clear story.

Making sure you have the documents needed to support your case.

Understanding the connection between your facts and your documents.

Checking with your Chief Steward or other union officers if you have any uncertainty.

Understanding the objective, the purpose of the grievance, and deciding what a fair and reasonable settlement should be.

Approach the meeting with professionalism and seriousness. Make it clear to management that this is a meeting to file a grievance, not an informal chat.

Be confident and don't be intimidated or defensive.

Remember that even though in the work setting the supervisor may have authority over the steward, in the Step 1 meeting you are equal to management in terms of your right to discuss and try to resolve a grievance.

You are the official representative of the APWU and the union stands behind you.

Be polite and calm, and don't let yourself be provoked into losing your temper or making threats.

Angry exchanges don't accomplish anything; instead they damage your relationship with management and undermine your chances for reasonable discussion and settlement of this and other grievances.

Don't get sidetracked and stick to your agenda and strategy. If the supervisor goes off on a tangent raising irrelevant issues, wait till he or she is finished and then politely return to the main issue.

Don't horsetrade and avoid making any deals with management to trade one grievance to win another. Every case must be handled on its own merits to ensure fair representation for every worker.

Do negotiate. Resolving a grievance involves the give and take of negotiation. You try to narrow your differences, to pin down exact points of disagreement and to resolve them.

Sometimes a worker might decide to go to management directly concerning a grievance, without union representation. You should try to discourage this, for the grievant doesn't have the experience or knowledge of the contract to adequately enforce his/her own rights.

In any event, make certain you are present at any meeting between a worker and the supervisor regarding a grievance.

The National Labor Relations Act specifies that any settlement is consistent with the National Agreement.

If a worker backs down after a grievance has been filed, try to convince him/her to stick with the case, assuring the individual of the backing of the union.

Explain the need for solidarity. In any case you may decide to go ahead with the grievance because it is an important violation of the contract, for example on seniority, which would have an impact on other postal workers.

If it is a discipline case, however, without the grievant you might decide to drop the grievance.

Listening is one of the most important skills in handling grievances.

Pay attention to what the grievant, witnesses, and the supervisor tell you.

Don't make assumptions about what they mean to say, and ask questions and listen carefully to their response.

In the Step 1 meeting, know when to stop talking and listen to what management is saying, because often their statement will give you the facts needed to round out your case.

If the grievance is sustained, politely thank the supervisor and inform the grievant of the decision.

Don't gloat or boast, let the supervisor save face, this will ease your future dealings with management.

If the grievance is denied, maintain your composure and be polite.

Let the grievant know the results and explain that the union may appeal to Step 2, don't make any rash promises or guarantees.

Be sure to fill in the bottom of the Grievance Outline Worksheet right away before you forget the details of the decision.

WHEN IT IS NOT A GRIEVANCE

Sometimes the steward will find that a **worker has misunderstood the contract or misrepresented the facts**. It is important in these cases to **explain to the worker that although he or she might have a legitimate complaint, it is not grievable**. You should try to get the grievance withdrawn voluntarily.

Treating a worker's gripe or complaint as though it was a valid grievance can be very damaging. It can clog up the grievance system, taking time from those cases, which are important and clear violations. **It can undermine the credibility, respect, and authority of the steward** both in the eyes of management and your fellow workers and thereby reduce your effectiveness.

Don't make promises to the grievant, because even the best cases may not stand up under further examination. To promise more than that you will do your best is to open yourself to criticism. If the grievance is denied, both you and the union **will lose credibility and the confidence** of the workers.

However, **you shouldn't ignore a worker's problem even though it may not be a grievance**. Whenever possible you should **attempt to resolve any problem or complaint which is brought to your attention**. When necessary, **refer the worker to the appropriate union officer or agency that can be of assistance**. Many cases will be borderline, without a clear-cut answer. **In these situations you should check with the chief steward, local officer or local grievance review committee for advice and direction**.

LOCAL GRIEVANCE REVIEW COMMITTEE

Locals are encouraged to establish a grievance review committee to provide additional support, advice and expertise to the steward. The committee should meet on a regular schedule and should include the most experienced union representatives. It should review cases to determine their merit. If the committee decides that a case is not grievable, the grounds for its decision must be recorded in order to insure the union is providing fair representation for every worker. The committee can also determine whether to appeal a grievance to a higher level. The watchword for the committee must be fairness---equitable representation of the rights of postal employees.



APPEALING TO STEP TWO (2)

If a grievance is denied at Step 1, the union can decide to appeal to Step 2.

Keep track of deadlines and remember that you have just 10 days after the date of the Step One (1) decision to file your appeal.

The decision to appeal to Step 2 is made after a complete reevaluation of the case in consultation with the chief steward and local officers or grievance committee, and the following should be considered:

- ❖ Is it a solid case that will stand up to further scrutiny and investigation?
- ❖ Are witnesses available and willing to provide testimony?
- ❖ Is this case important in order to bring justice to the individual worker?
- ❖ Will the outcome of this case have a significant impact on other postal workers?

The method of appeal from Step 1 to Step 2 is a matter of local union policy, and ideally, someone other than the steward should make the appeal to Step 2 in order to provide an objective review of the case.

Step 2 offers the next opportunity for grievance resolution; it provides the parties with the opportunity to discuss the case in detail, and requires full disclosure of facts and documents by both parties.

The parties may settle the grievance in whole or in part.

Settlements are not precedent setting unless both parties so agree mutually or develop an agreement to dispose of future, similar, or related grievances in the same manner.

STEP 2 PROCEDURES

1. A Standard Step 2 grievance form must be filed with the installation head or designee. In any associate office of 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's Step 1 representative.
2. The installation head or the designee will meet with the steward or designated Union representative within 7 days following receipt of the appeal to Step 2. If Management does not schedule the meeting within 7 days, the case should be appealed to Step 3.
3. Both parties should disclose facts and contractual provisions relied on for their respective positions, and the Union must also state the remedy desired.

4. **Both parties must cooperate to develop necessary facts**, including exchange of relevant paper and documents, and may mutually agree to interview witnesses.
5. **In discharge cases, either party may present no more than two witnesses; however, the parties may mutually agree to interview additional witnesses.**
6. Settlements and withdrawals at **Step 2** shall be in writing and are not precedent setting unless the parties specifically so agree or develop an agreement to dispose of future similar or related grievances in the same manner.
7. When agreement is not reached, the Employer's decision must be furnished within **10 days** after the **Step 2** meeting unless the parties **agree to extend the 10-day period**.
If Management fails to meet this time limit, the Union should appeal to Step 3.
8. **The decision must include: a full statement of the employer's understanding of, (1) all relevant facts, (2) contractual provisions involved, and (3) detailed reasons for denial of the grievance.**
9. The Union representative should, within **10 days of receipt of the Step 2** decision, **transmit to the employer representative a written statement** setting forth **corrections or additions** deemed necessary by the Union.
10. **The statement becomes a part of the grievance file and does not affect time limits for appeal to Step 3 or Arbitration.**

COMPLETING THE STEP 2 FORM

The Step 2 Grievance Form must be filled out carefully and completely on each line as follows:

Line 1 to 5 are for information about the nature of the grievance (discipline or contract issue), the date on which the appeal is made, local union grievance number, USPS official to whom appeal is made, name of installation, telephone number, local Union's business address, APWU representative authorized to discuss Step 2, telephone numbers where that individual can be reached, Local Union President, and telephone numbers where that individual can be reached.

Line 6 refers to the Step 1 meeting, where and when it took place, and the names of the supervisor, the grievant and the steward that were present.

Line 7 refers to the Step 1 decision, the name, and title of the person rendering the decision, the date and time of the decision, and the initials of the supervisor confirming the date and time.

Lines 8, 9, and 10 are for information concerning the grievant (or Union if class action), address, telephone number, Social Security number, seniority date, service, craft, employee classification, level, step, duty hours, non-service days, installation, and zip code.

On Line 10, “Lifetime Security” refers to whether or not the grievant was hired on or before September 15, 1978.

“Veteran” refers to whether the grievant is a veteran or otherwise qualifies as preference eligible.

Line 11 is for specifying the article and section of the National Agreement, the local memorandum of understanding, the section of the USPS manual or handbook, or matter of past practice which has been violated.

Line 12 is for spelling out with as much detail and precision as possible what happened, when and where.

Line 13 must be firm, very simple and related to the nature of the grievance.

Never request that disciplinary action be taken against a supervisor.

It gives management an excuse to deny the appeal, as Contract language does not provide for it.

Always (especially in disciplinary cases) include the following language as part of the remedy:

“All references and files shall be removed from the grievant and management records.

The grievant shall be made whole for all loss of pay and other entitlements.”

The steward or other Union representative handling the grievance at Step 2 should check:

- ✓ Is the Standard Grievance form filled out completely and accurately?**
- ✓ Has the supervisor initialed the form confirming the date of the Step 1 decision?**
- ✓ Has the grievant been informed of the decision to appeal his/her case?**
- ✓ Are all the relevant documents and records available?**
- ✓ Are the steward’s notes from Step 1 interviews and meetings available?**
- ✓ Is there any additional information that needs to be gathered to strengthen this case?**

The Step 2 Standard Grievance Form, once completed and reviewed to insure accuracy, is appealed to the installation head or designee.

To safeguard time limits, it is wise to use certified mail, return receipt requested.

STEP 3 PROCEDURES

1. **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.

2. **When appealing a case to Step 3, you must send a copy of the entire case file to the appropriate National Business Agent's (NBA) office.**

Include the Step 3 Grievance Appeal form, the Employer's written Step 2 decision, and if submitted, the Union's corrections or additions to the Step 2 decision.

3. The Union may **appeal an adverse Step 2 decision to Step 3** and any such appeal must be made **within fifteen (15) days after receipt of the Employer's decision** unless the parties' representatives agree to extend the time limits.

4. The grievant shall be represented at **Step 3** by a Union's Regional representative, and a **Step 3 meeting** should take place within **15 days** after the case has been appealed to **Step 3.**

5. Where the parties **mutually agree** that that facts and contentions were **not adequately developed in Step 2**, they may **return the case back to the Step 2 level for additional facts and consideration at that level.**

6. In such event, the parties' the parties' representatives at **Step 2 will meet within seven (7) days after the grievance is returned to Step 2**, and thereafter, the **time limits and procedures applicable to Step 2 shall apply.**

7. 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, using the Standard Step 3 Appeal form.**

8. **To safeguard time limits, it is wise to use certified mail, return receipt requested.**



STEP 2 APPEAL TO ARBITRATION PROCEDURES

- 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.**
- 2. Any appeal must include copies of (1) the standard grievance form, (2) the Employer's written Step 2 decision and if filed, (3) the Union's corrections or additions to the Step 2 decision.**
- 3. When appealing a Step 2 grievance directly to Arbitration, you must send a copy of the entire case file to the appropriate National Business Agent (NBA) office and include the Step 2 Appeal to Arbitration form, the Employer's written Step 2 decision, and if submitted, the Union's corrections or additions to the Step 2 decision.**
- 4. Any step 2 grievance directly appealed to arbitration is considered a nationally certified arbitration case and is subject to review by your respective National Business Agent.**
- 5. Step 2 grievances where the primary article(s) or dispute(s) being grieved is over the interpretation, application of or compliance with the National Agreement will continue to be appealed to Step 3 of the grievance procedure.**
- 6. Any grievance concerning a violation of Article 2 of the National Agreement, which forbids discrimination against employees because of their race, color, creed, religion, national origin, sex, age, or physical handicap (prohibited by the Rehabilitation Act), may be filed at Step 2 of the grievance procedure within fourteen (14) days by the employee or the Union.**
- 7. Discrimination by management against an employee on the job is also a violation of the Equal Employment Opportunity Act of 1972.**
- 8. While the union encourages the use of the grievance procedure to resolve disputes, this does not negate an employee's right to file an EEO complaint and seek settlement through appeal to the Equal Employment Opportunity Commission (EEOC).**
- 9. If an employee believes he/she is being required to work under unsafe conditions, such employee may (a) notify the supervisor who will immediately investigate and take corrective action, (b) notify the steward, who may discuss the condition with the supervisor, (c) file a grievance at Step 2 within fourteen (14) days of notifying the supervisor, if no corrective action is taken during the employee's tour, and (d) make a written report to the union representative on the local Safety and Health Committee who may discuss the report with the supervisor.**

10. Any grievance which is not resolved at Step 2 may only be appealed to the local Safety and Health Committee for discussion and decision, and must be appealed within fifteen (15) days after receipt of the employer's Step 2 decision, unless the parties extend the time limits.
11. Any grievance not resolved by the committee may be appealed directly to arbitration within twenty-one (21) days of the committee review.
12. Such appeal may be placed at the head of the appropriate arbitration docket at the request of the Union.
13. The following represent disciplinary grievances to be appealed from Step 2 directly to arbitration pursuant to Step 2(h) of the National Agreement:
 - Letters of Warning (Article 16.3)
 - Suspensions of 14 Days or Less (Article 16.4)
 - Suspensions of More Than 14 Days or Discharge (Article 16.5)
 - Indefinite Suspension Crime Situation (Article 16.6)
 - Emergency Procedure (Article 16.7)

Time is of the essence in discipline cases and irreparable harm can be done the employee's career if he/she loses a discipline case because of the shop steward's or other union representative's failure to adhere to the prescribed time limits.

Moreover, the longer it takes a discipline case in the grievance procedure, the longer the grievant remains in a non-pay status.

14. Step 2 grievances where the issues being grieved are issues identified/agreed to be heard in Expedited Arbitration, are to be appealed directly to arbitration:
 1. Individual Overtime Issues
 2. Withholding of Step Increases
 3. Individual Leave Requests Concerning Annual Leave, Sick Leave, Leave Without Pay, Court Leave, Restricted Sick Leave, and Requests for Medical Certification
 4. AWOL
 5. Individual Holiday Scheduling Issues

6. **Suspensions (Except Emergency Suspensions)**
7. **Article 25, Higher Level Assignments**
8. **Employee Claims**
9. **Letters of Demand of Less Than \$2,000**
10. **Individual Clerk Craft Seniority Disputes**
11. **Such Other Matters as are Mutually Agreeable at the Area/Regional Level**

15. **This agreement does not change either party's right to refer an Expedited case to Regular arbitration in accordance with the applicable procedures of Article 15, Section 5.C., of the National Agreement.**
16. **The parties at the National level will continue to attempt to identify and agree upon additional issues to be referred to Expedited Arbitration at the Area/Regional level in accordance with Section 5.C. of Article 15 of the National Agreement.**
17. **Any Step 2 grievances where the primary article(s) or dispute(s) being grieved is over the interpretation, application of, or compliance with the LMOU, is to be appealed directly to arbitration.**

Letter of Intent - Article 16.7 Emergency Procedure

Section 7 is considered an integral part of the Article 16 discipline procedure, and the parties have mutually agreed that all Step 2 grievances filed pursuant to Article 16.7 (disciplinary and non-disciplinary), are to be directly appealed to arbitration.

In addition, this should eliminate the delay in having employees grievances adjudicated in a timely fashion, because their case may have listed on the "Contract" arbitration panel, rather than the "Discipline" arbitration panel.

Please note that Step 2 non-disciplinary grievances filed pursuant to Section 7 are considered as "contract" grievances.

Grievances filed in regard to Section 7 should be identified on the Step 2 Appeal to Arbitration Form as either "Emergency Procedure" or "Emergency Placement," as the type of contract case being grieved.

LABOR RELATIONS



Mr. Greg Bell
Director, Industrial Relations
American Postal Workers Union, AFL-CIO
1300 L Street, NW
Washington, DC 20005


SUBJECT: Emergency Procedure – Article 16, Section 7

Dear Greg:

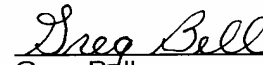
This letter confirms our mutual understanding regarding the above-referenced subject discussed with Doug Tulino on May 25, 1999.

We agree that when an employee is placed on an off-duty status pursuant to Article 16, Section 7, the union may appeal a timely grievance denied at Step 2 directly to arbitration in accordance with Article 15.2, Step 2 (h). This includes disciplinary as well as non-disciplinary actions taken under the provisions of Article 16.7.

Further, we agree that when these issues are appealed to arbitration, we will continue to certify them to be heard in arbitration on the regular arbitration panels.



Peter A. Sgro
Acting Manager
Contract Administration
(APWU/NPMHU)



Greg Bell
Director, Industrial Relations
American Postal Workers Union,
AFL-CIO

Date: 5/25/99

Date: 5/26/99

475 L'ENFANT PLAZA SW
WASHINGTON DC 20260-4100

18. **At each step of the procedure, the union representative has the authority to withdraw the grievance or to settle it in whole or in part and management's representative can settle or grant the grievance in whole or in part.**
19. **Step 2 Direct Appeals to Arbitration will be appealed to the appropriate Grievance/Arbitration processing Center within thirty (30) days after the receipt of the Employer's Step 2 decision.**
20. **The appropriate Grievance/Arbitration Center is the same Center that you send your Step 3 appeals.**
21. **To safeguard time limits, it is wise to use certified mail, return receipt requested.**
22. **Appeal to Arbitration from Step 2 – Grievance Form can be ordered through the APWU Order Department, at no charge.**

For those local unions where the APWU made available the grievance-tracking program, updated software can be provided to accommodate the forms at no charge.



TIME LIMITS

Time limits are important to every case, and APWU's responsibility and management's responsibility are defined below.

It is best when grievances can be settled at the lowest possible step in the procedure, and those closest to the dispute should first attempt to reach a settlement, for once a grievance reaches arbitration, it costs considerable union time and arbitrator's fees.

Time limits at each step are important and "Days" means calendar days unless stated otherwise.

When necessary the established time limits can be extended by mutual agreement of both parties.

You should make sure that any such extension is put in writing.

If the union (or the grievant at Step 1) fails to meet the specified time limit, the grievance is considered waived.

If the employer doesn't raise the issue of time limits at Step 2, or at the Step where the union or the employee failed to meet the time limits, which ever is later, the employer waives any objection to processing the grievance.

If management fails to meet the time for rendering a decision or meeting with the union representative, the grievance should be appealed to the next step of the procedure.

Timeliness Regarding Step 2(h) Appeals (MOU)

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.

Letter of Intent - Article 15.2 Step 2(h) MOU

It is the intent of the MOU to include those circumstances where the Union incorrectly appeals a grievance under Article 15.2 Step 2(h) to arbitration, and that such grievances will not be considered untimely or a waiver of the grievance, provided there was a timely appeal to arbitration.

To clarify the intent of the MOU, the parties mutually agreed to a "Letter of Intent."

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE
UNITED STATES POSTAL SERVICE
AND THE
AMERICAN POSTAL WORKERS UNION, AFL-CIO**

Re: Timeliness Regarding Step 2(h) Appeals

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.

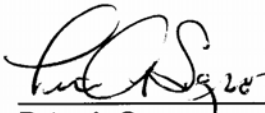


Mr. Greg Bell
Director, Industrial Relations
American Postal Workers Union, AFL-CIO
1300 L Street, NW
Washington, DC 20005

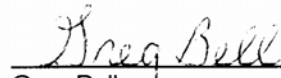
SUBJECT: MOU - Timeliness Regarding Step 2(h) Appeals

Dear Greg:

This letter confirms our mutual understanding of the issue discussed with Doug Tulino on March 10, 1999 regarding the intent of the above-referenced Memorandum of Understanding. This memorandum includes the scenario where the union incorrectly appeals a grievance under Article 15.2 Step 2(h) directly to arbitration that should have been appealed to Step 3. The grievance will not be waived as untimely provided the union can show a timely appeal to arbitration. If no timely appeal can be established by the union, then management retains the right to raise the timeliness issue.



Peter A. Sgro
Acting Manager
Contract Administration
(APWU/NPMHU)



Greg Bell
Director, Industrial Relations
American Postal Workers Union,
AFL-CIO

Date: 3/19/99

Date: 3/17/99

Veterans' Preference Act

In special recognition of their service, certain categories of veterans and their survivors are classified as “preference eligible.” They have certain hiring, layoff, recall, and disciplinary appeal rights. These employees may appeal suspensions of more than 14 days, removal, or reduction in rank to the Merit Systems Protection Board (MSPB).

Under the Veterans Preference Act, an employee of the Postal Service may qualify as “preference eligible,” if the employee is a veteran, disabled veteran, a spouse of a disabled veteran, a surviving spouse of a deceased veteran, or the mother of a deceased or disabled veteran. Such employee must meet certain other requirements including one year of continuous postal service.

A preference eligible who chooses to appeal a suspension of more than fourteen (14) days or his/her discharge to the Merit Systems Protection Board (MSPB) rather than through the grievance-arbitration procedure shall remain on the rolls (non-pay status) until disposition of the case has been had either by settlement or through exhaustion of his/her MSPB appeal. When there is reasonable cause to believe an employee is guilty of a crime for which a sentence of imprisonment can be imposed, the Employer is not required to give the employee the full thirty (30) days advance written notice in a discharge action, but shall give such lesser number of days advance written notice as under the circumstances is reasonable and can be justified. The employee is immediately removed from a pay status at the end of the notice period.

A preference eligible is not hereunder deprived of whatever rights of appeal such employee may have under the Veterans' Preference Act; however, if the employee appeals under the Veterans' Preference Act, the employee will be deemed to have waived further access to the grievance-arbitration procedure beyond step 3 under any of the following circumstances:

- 1. If an MSPB settlement agreement is reached.**
- 2. If the MSPB has not yet issued a decision on the merits, but a hearing on the merits before the MSPB has begun.**
- 3. If the MSPB issues a decision on the merits of the appeal.**

In the event the grievance of a preference eligible is due to be scheduled in accordance with Article 15, section 5, and the preference eligible has a live MSPB appeal on the same action, the parties will not schedule the grievance for arbitration until a final determination is reached in the MSPB procedure. If the grievance is not waived under Section 9.A 1, 2 or 3 above, the case will be scheduled promptly for arbitration.

Should the grievance ultimately be sustained or modified in arbitration, the preference eligible employee will have no entitlement to back pay under the National Agreement for the period from the date the case would have been scheduled for arbitration and the date it is actually scheduled for arbitration.

DISCIPLINE

Many of the grievances you will be handling, as a steward will involve discipline cases.

Review of Discipline

In no case may a supervisor impose suspension or discharge upon an employee unless the proposed disciplinary action by the supervisor has first been reviewed and concurred in by the installation head or designee.

In associate post offices of twenty (20) or less employees, or where there is no higher level supervisor than the supervisor who proposes to initiate suspension or discharge, the proposed disciplinary action shall first be reviewed and concurred in by a higher authority outside such installation or post office before any proposed disciplinary action is taken.

Employee Discipline Records

The records of a disciplinary action against an employee shall not be considered in any subsequent disciplinary action if there has been no disciplinary action initiated against the employee for a period of two years.

Upon the employee's written request, any disciplinary notice or decision letter will be removed from the employee's official personnel folder after two (2) years if there has been no disciplinary action initiated against the employee in that two-year period.

MANAGEMENT'S RIGHT

While management has the right to discipline employees who have in their view violated work rules, disciplinary measures are subject to the provisions in Article 16 of the National Agreement, and the key principles of these provisions are that discipline must:

1. Be corrective in nature, rather than punitive.
2. Be for "just cause."
3. Be progressive; in most cases milder forms of discipline must be administered before resorting to harsher penalties.

The National Agreement provides for:

Discussion

For minor offenses by an employee, management has a responsibility to discuss such matters with the employee in private. Discussions of this type shall be held in private between the employee and the supervisor. Discussions are not disciplinary actions, do not become a part of the employee's personnel file, and are not grievable.

While such discussions may not be cited as an element of prior adverse record in any subsequent disciplinary action against an employee, they may be, where relevant and timely, relied upon to establish that employees have been made aware of their obligations and responsibilities.

Letter of Warning

A letter of warning is a disciplinary notice in writing, identified as an official disciplinary letter of warning, which shall include an explanation of a deficiency or misconduct to be corrected.

Letters of warning do become a part of the employee's personnel file and are grievable.

Suspensions of 14 Days or Less

In the case of discipline involving suspensions of fourteen (14) days or less, the employee shall be served with a written notice of the charges and shall be informed that he/she will be suspended after ten (10) calendar days during which ten-day period the employee shall remain on the job or on the clock (in pay status) at the option of the Employer.

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.

The employee shall remain on the job or on the clock (in pay status) at the option of the Employer.

Suspensions of More Than 14 Days or Discharge

In the case of suspensions of more than fourteen (14) days, or of discharge, the employee shall be entitled to an advance written notice of the charges against him/her and shall remain either on the job or on the clock at the option of the Employer for a period of thirty (30) days.

Emergency Procedure

An employee may be immediately placed on an off-duty status (without pay) by the Employer, but remain on the rolls where the allegation involves intoxication (use of drugs or alcohol), pilferage, or failure to observe safety rules and regulations, or in cases where retaining the employee on duty may result in damage to U.S. Postal Service property, loss of mail or funds, or where the employee may be injurious to self or others.

The employee shall remain on the rolls (non-pay status) until disposition of the case has been had.

If it is proposed to suspend such an employee for more than thirty (30) days or discharge the employee, the emergency action taken under this Section may be made the subject of a separate grievance.

PROGRESSIVE DISCIPLINE

It is usually a prerequisite to future disciplinary actions. Arbitrators pay particular attention to progressive discipline, which in the USPS, would include discussions and letters of warning.

An employee who receives a discussion should be made aware of that fact by their supervisor. Discussions should do basically two things:

- 1. It should attempt to identify the alleged problem, and**
- 2. If the problem exists, an effort should be made to correct it.**

It must be clearly understood by all shop stewards and union representatives that in disciplinary actions and grievances the issue and facts are the clearest at the initial step of the action.

A key part of your investigation should include a talk with the grievant on any discussions or letters of warning.

Ask the Employee Specifically:

Did you receive a discussion for the offense?

Was it a proper discussion in private – off the workroom floor between you and the supervisor? If so, what was the result?

Do you have any of your own records or correspondence dealing with the issue of the discussion and/or letters of warning?

If the answer is yes, have the grievant make them available to you.

Once you are clear on the employee's facts, get permission to investigate the employee's records and systematically attempt to challenge the facts as presented by management.

If management fails to produce or denies you access to information, note the time, place, date and individual that refused. Make that a part of your file!

It's a violation of Article 17 – Shop Stewards Rights.

After you have interviewed the employee you must check the facts dealing with the issue.

Remember that management has obligations to the employee and one important obligation is that the proposed disciplinary action must first be reviewed and concurred by the installation head or their designee. This does not mean they can just rubber-stamp the initial level supervisor who initiated the action.

They are responsible for reviewing and, if necessary, investigating the proposed disciplinary action. Find out if this has been done!

It is wise to remember that a defense in discipline is usually developed by evidence of this kind:

- 1. Management fails to prove guilt of the employee beyond a reasonable doubt.**
- 2. Management fails to produce pertinent evidence.**
- 3. Length of service of the employee.**
- 4. Past good record of the employee.**
- 5. Challenge as to reasonableness of the discipline.**
- 6. Family obligations.**

Each decision must depend on differences in facts, situations, the contract and past practice. The hidden factor in grievance actions and particularly in discipline, above Step 2, is the human factor.

Normally, if the Union sees some justification for discipline (based on the Postal Service's position as to facts) it is most generally attempts to develop mitigating circumstances to temper or soften the discipline.

Union representatives at levels above Step 2 are not familiar with the supervisors or the employees, so consequently they are forced to present the case based only on cold hard facts submitted to them by the representative at Step 2.

When an Arbitrator reviews a discipline case they must make two determinations:

- 1. They must judge whether the action taken by management was for just cause; and**
- 2. They must determine whether the punishment befits the offense.**



DETERMINING “JUST CAUSE”

There are seven (7) specific questions that must be answered in an arbitrator’s mind to establish that a suspension or discharge was for “just cause.” A positive “no” answer to one or more of the questions would indicate that “just cause” did not exist.

- 1. Did the USPS give the employee forewarning or knowledge of the possible or probable disciplinary consequences of the employee’s conduct?**
- 2. Was the rule or managerial order reasonably related to the orderly, efficient, and safe operation of the USPS business?**
- 3. Did the USPS, before administering discipline to an employee, make an effort to discover whether the employee did, in fact, violate or disobey a rule or order?**
- 4. Did the USPS conduct the investigation fairly and objectively?**
- 5. At the investigation, was there substantial evidence that the employee was guilty as charged?**
- 6. Has the USPS applied its rules, orders and penalties even-handedly and without discrimination to all employees?**
- 7. Was the degree of discipline administered by the USPS in a particular case reasonably related to:**
 - a. The seriousness of the employee’s proven offense, and**
 - b. The record of the employee in their service to the USPS?**

An Arbitrator does have the right to modify penalties that have been imposed either based on the facts presented or mitigation.

Arbitrators assume the position that they have a responsibility to safeguard the employer’s right to discipline, and also a further responsibility to assure that penalties imposed are fair and not out of line with the offense.



This section deals in the more technical aspects of evidence. Primarily it looks upon evidence from an arbitrator's point of view. We wish to emphasize that the issue and facts are clearest at the local level. It is imperative that all available data at Step 1 and 2 be available in the Union file when it is sent to the National Business Agents.

The Union normally initiates grievances and subsequently the burden of proof of whatever allegation it makes falls upon the Union. It does not suffice to make an allegation without being able to support it with either documents or testimony. Most arbitrators take opinion or hearsay for what it is worth, and the weight it carries depends on the other facts in the case and what the arbitrator would deem relevant.

The following will address itself to proof or evidence as it applies to grievance handling:

EVIDENCE

What is evidence? Evidence is that which tends to prove or disprove something. It is the data in the form of testimony of witnesses or of documents offered as support of proof of the facts in the case.

There are basically three types of evidence, BEST, SECONDARY and CIRCUMSTANTIAL:

- 1. BEST evidence requires that the best that is possible to produce be presented as proof of the disputed facts. Usually, anything recorded in writing, which would include original documents of any kind as well as original data, which is available.**

If at any time evidence used is substitution for best evidence, a note should be made of the reasons why.

Testimony is considered best evidence when the individual testifying has a direct relationship with the issue.

- 2. If SECONDARY evidence must be used by the Union and the best evidence is in the hands of the USPS, a notation should be made of that fact, i.e., the Union has a copy of the 3971 and the USPS has the original.**

All secondary evidence is important and should be submitted as long as it is relevant to the issue. Informal records kept by the Union may be given significant consideration if the USPS has not kept formal records of the activity in question.

- 3. While CIRCUMSTANTIAL evidence is admissible, it is still required that there be clear and convincing proof to establish that the offense was committed or the allegation made is justified.**

Arbitrators have the right to request information or data if they have a reasonable basis to believe that it will be germane to the case.

Relevance

The National Labor Relations Board has long held that intertwined with the duty to bargain in good faith, is the duty on the part of management to supply the Union, upon request, with sufficient information to enable it to understand and intelligently discuss the issues raised.

The USPS has a duty to furnish the Union with relevant information as per Article 31 of the National Agreement, and the information requested, must be relevant to the issue between the employer and the Union.

Burden of Proof

Normally in a disciplinary action, the burden of proof rest with management, and in a contract case it rests with the union.

Precedents

The use of prior awards issued by other arbitrators do have some impact in similar cases, however, it is possible that they will bear no weight at all or only in varying degrees.

It must be remembered that the individual arbitrator determines the effect or impact on precedents and they are normally alert to the distinction between cases even though cited awards may sway them.

In some awards, arbitrators may even state that the award is not intended to be a precedent for future cases.

Therefore, it is important to note that in the use of “precedents” in grievance handling and ultimately in arbitration the relevancy to the issue is of prime importance.

The more closely associated the issue is to the prior award, the more weight it may carry regarding your position on the current issue.

Circumstances surrounding the issue might differ considerably and in the final analysis, it is the arbitrator who makes the distinction.



DETERMINING PAST PRACTICE

It is difficult to identify any 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 that appear to be evident when the arbitrator takes the question of past practice under consideration.

Unequivocal:

The practice has been granted or applied consistently, uniformly, regularly and without break.

Clearly Enunciated:

This means the practice has been acquiesced in by the parties and is operated without protest or objection from one party or the other.

Duration:

It 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 commencing 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 had been changed or discontinued.

Jointly Accepted and Acted Upon:

Both parties, through their line representatives, have operated as though the practice existed and was a guiding rule. This may signify to some arbitrators a mutuality aspect, which conceivably, makes the practice one resulting from bilateral action, as opposed to unilateral action.

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

Past practices as well as contract violations require documentation and evidence. It is essential that when a past practice exists and is grieved, that all possible documentation and facts be submitted, along with the allegation of a violation of the past practice concept. In summary, past practice to be binding should have one or all of the aforementioned elements.

When grieving a past practice, chances are it is not going to be won at the local level. Therefore, your position paper to the National Business Agent should include whatever documentation is available.

TESTIMONY

There are three basic types of testimony:

1. Direct
2. Indirect
3. Incidental

Direct Testimony:

Direct testimony associates itself with an event or occurrence, which falls or has fallen directly and immediately under observation of one of the basic senses: sight, sound, smell, hearing, and touch.

Using direct testimony should alert the party of two factors to be given serious consideration in utilizing this method of proof.

Knowledge:

- a. The individual offering the testimony should be able to obtain and observe facts reliably.
- b. The facts in question should be important enough to be noticeable.

Character:

Their character should be such that the opposing party can't impugn their testimony.

Indirect Testimony:

Indirect testimony is that which is submitted in lieu of direct testimony.

This could be such things as signed and/or notarized statements and affidavits.

Incidental Testimony:

Incidental testimony is also indirect testimony, and may be of special value and carry considerable weight. Incidental testimony could include such things as diaries, private correspondence, informal notes, etc.

No matter what type testimony is utilized, **relevance to the issue is necessary for it to be acceptable.**

Strong Testimony:

Testimony given by a disinterested party gives an extremely strong argument to the issue, i.e., a patron testifies to the fact that they observed and heard a supervisor harassing a window clerk.

Weak Testimony:

Reluctant testimony is weak because it creates a strong presumption that the individual is trying to soften or avoid giving testimony directly relating to the issue.

The reason for this reluctant testimony may be fear on the part of the witness of placing themselves or their job in jeopardy. Consequently they avoid as much as possible the real issues, facts, and details.

Cross Examination:

If you, as the representative, lean toward using witnesses in direct testimony, it is vital that you are aware of the truthfulness and knowledge of the facts in the testimony to be presented.

This applies, particularly, in the case of reluctant testimony where fear might create silence which, in turn, can be construed as negative testimony.

In other words, it might create a presumption in the mind of the arbitrator that a lack of response is a lack of knowledge.



THE QUALITY OF INFORMATION

When collecting information for handling grievances, shop stewards must constantly ask themselves the question: Is this information useful for this particular grievance?

Training and practice with specific grievances will help stewards to answer that question but some general guides might help.

Two elements make information useful in grievances. They are:

1. Can this information be measured accurately?
2. Is the meaning of the information clear or must further investigation determine the meaning?

There are many ways of measuring information.

Distance can be measured in inches, feet, yards, miles, etc.

Time is measured in seconds, "minutes, hours, days, years, etc.

These measures are used in many grievances. Some others include:

Information	Method of Measure
Seniority	Years, months, and days.
Medical Records	Number of reported injuries in past period, hours lost from work, kinds of injuries.
Absenteeism	Number of days lost
Tardiness	Number of days late, number of hours lost from work.
Other jobs held	Job titles, period of time on each job.
Education & Training	Years in school, training programs attended, courses taken.
Written reprimands	Number, kind of violation.

In each type of information, the investigator can produce a number of a measurement that can be compared with other cases.

Is the Meaning of Information Clear?

While people can measure the information listed above, a skilled steward will ask the question:

"Why did it happen?" or "Does that information apply to this particular grievance?"

Additional investigation must take place to determine the importance of this information.

The same can be said for absenteeism, tardiness, and medical records.

A steward must find out how long ago they occurred, reasons for the occurrences, and whether the reasons apply to present situations.

This type of information is very important in many grievances and will be used by stewards frequently.

Seniority:

Seniority is a type of information that is clearly measurable and has quite clear meaning.

While years of service do not show that one worker is superior to another, seniority does tell the number of years that a worker has given satisfactory service to their employer.

When proper procedures are followed and guilt proven, workers are discharged for cause.

On the other hand, a worker who stayed with the employer for a number of years has contributed their physical effort, intelligence, and production to the employer's success.

Information That Cannot be Measured and Has No Clear Meaning:

Some words, frequently used to describe a person or their behavior have little or no use in processing grievances.

They include the following:

Ability

Attitude

Personality

Character

Dependability

The word "ability" can be defined in terms of production, distribution record, and possibly attendance and medical records. But the word "ability" alone has very little meaning.

Attitude, personality, character, dependability, these are words that have never been defined in a way that produces agreement.

One person's opinion about another person's attitude may be very different from other people's opinions.

There is no way to specifically compare people's personalities and character.

How do we know that one person is more pleasant than another or one person is more honest than another?

Should a person be punished because they do not smile as frequently as another, or disagrees with their supervisor?

A steward must know the circumstances surrounding the sour disposition or disagreement.

A series of disagreements may involve the worker's rights under the contract or refusal to accept the improper procedure demanded by their supervisor.

The words "attitude," "personality" and "character" tell very little about the employee and their actions.

Again, the steward must insist on measurable information that has clear meaning.

Essential questions are:

Why do you say that person has a bad attitude?

What happened?

What did the supervisor do that contributed to an unpleasant situation?

What do poor personality and character mean?

What specifically makes you say that about a worker?

What did they do that violated employer rules or management rights?

Management must prove these accusations.

The emphasis on proof helps cut through the main accusations made against workers that are accepted without challenge.

Probably one of the greatest contributions that a Union makes to a worker's life is comparative freedom from punishment based on a supervisor's unproven opinion.

Summary:

Information might be broken into three categories as follows:

Measurable (with clear meaning)	Measurable but Unclear Meaning (What does it mean?)	Unmeasurable and Unclear Meaning (what does it mean and prove it)
Seniority	Seniority Medical Records Absenteeism Tardiness Other Jobs Held Training Discipline	Ability Attitude Personality Character Dependability

SOURCES OF INFORMATION

People Who Can Supply Information:

- 1. The individual who has the grievance.**
- 2. The co-workers.**
- 3. Other witnesses to the grievance,**
- 4. Other Union stewards and officers. They can supply ideas about similar grievances in the past.**
- 5. Managers or other supervisors. It is usually best to speak to management about a grievance before you actually present the case. Get management's views so that you will have a better idea of the USPS's reasoning. You also get a clear idea of the facts after hearing them from both the worker and the supervisor.**

Postal Service Records:

- 1. Seniority lists.**
- 2. Absentee records.**
- 3. Medical records.**
- 4. Postal rules and regulations.**

Union Records:

- 1. National Agreement.**
- 2. Past grievance files.**

QUESTION TECHNIQUES --

There are theories and techniques that have been developed which may be used effectively in discussing grievances.

We shall list some of the guides and methods that may be used to develop those skills necessary to apply the techniques.

The effectiveness depends on experience and experience can only be gained by application.

Question Technique:

This principle is based simply on the following three guides:

- 1. Listen at least 80% of the time --talk no more than 20%.**
- 2. Pursue your part of the discussion by using questions.**
- 3. Direct your questions to the relevancy of the issue.**

The object, very simply, is to determine by questions those words that are not measured and attempt to receive some sort of information that enable you to make a comparison.

THEORY OF NEEDS

The basic idea is that if you are aware of the needs of the person or persons that you are dealing with, you may apply these needs to a situation and subsequently find it easier to get to a resolution.

In addition to food, shelter and water, research shows that the top five personal needs of employees, dealing with their employment are:

- 1. Money**
- 2. Security**
- 3. Friends**
- 4. Respect**
- 5. Recognition as an Individual**

These needs may vary depending on the social and economic situation of the individual.

For example, money might be number one to most employees, but if an employee has enough money, their need may become number five: recognition as an individual.

An example of how this could be applied in grievance handling would be as follows:

A normally cooperative and efficient employee finds himself or herself being counseled quite often for various things occurring in their section.

Upon discussion with this individual you find that there is friction between him/her, and the employee working next to them.

This is naturally affecting their work and if this individual bid to another section, it is very possible that they will turn out to be the type of employee they had been in the past.

A further example might be an individual who does not like mail distribution and would possibly be better suited to a window clerk position or parcel post.

If you are able to recognize the fact that this employee is not happy with the type of work they are doing, encourage them to bid for the position they are interested in.

This would help them become a better employee and would save you, as the steward, a lot of problems later on.

In effect, "Find out the basic root of the problem and try to adjust the situation according to the employee's needs or wants."

In dealing with the supervisor concerning the problems of an employee, it should be remembered that their needs do not vary a great deal.

The supervisor, generally, will want to work out all problems as soon as possible and with the least amount of trouble.

They are concerned with their reputation and recognition as an individual doing what they consider to be a good job.

In discussing a grievance with the supervisor, you should and could, attempt to play on one of their basic needs.

For example, a supervisor who continually denies grievances even though they might be legitimate could very easily lose the respect of the employees.

In addition, their lack of decision making could be detrimental to the U.S. Postal Service.

Remember these examples are only guides and do not guarantee success.

PRESENTING THE GRIEVANCE

Know Your Facts --Be Confident:

When you are ready to go into a conference with the supervisor try to outsmart them, and don't carry a chip on your shoulder, and don't anticipate being outsmarted or outwitted.

Know your contract --your rights under it -- and stick to them.

State the facts plainly and avoid opinions or hearsay evidence. Too many grievances are lost because the shop steward did not have the facts.

Rarely does the presentation of the grievance win. **It Takes Facts!**

Stick to the Point --Be Businesslike:

As discussion progresses on a grievance, the supervisor may try to sidetrack the real issue and lead you into a discussion of irrelevant issues or inject additional complaints against the employee.

Insist on discussing the issue raised by the grievance only, nothing else.

Settle the Grievance--at the First Step:

The most desirable aspect is to have the grievance settled at the first step. This prevents the bogging down of grievance machinery and permits the Union to devote more time and effort to problems of general concern to all the members.

Take a Positive Position --Not Defensive:

Don't be timid or convey the feeling to the supervisor that you are presenting the grievance because it is an obligation on your part.

Avoid being apologetic and impress upon the supervisor that there is no possible doubt in your mind that the grievance has merit and should receive equitable settlement.

Disagree With Dignity:

Disagree with the supervisor in a calm, firm, positive manner and avoid pounding the table, blowing up or making implied threats.

Declare your intentions of taking the grievance to the next step.

As a rule, most supervisors will prefer to settle complaints before the complaint is carried to a higher management level.

Maintain a United Position:

The employee, if he or she so desires, may be accompanied and represented by the employee's steward or a Union representative.

Take the grievant with you. It prevents mistrust and establishes confidence in the shop steward.

But, make sure you are both in accord on the facts and issues!

Be Prompt --Follow the Grievance Through:

Refer the grievance to the chief shop steward or appeal it to the next step when not settled.

Give the chief shop steward all the facts.

Give them the arguments used in your discussion with the supervisor.

Don't allow the grievance to lay around.

Keep a constant check on the progress of the grievance and at what step it is in.

Report back to the grievant at all steps of the grievance procedure.

Remember, the only time you present a grievance is after you have gathered all the facts!





CHECKLIST FOR INVESTIGATING A GRIEVANCE

- () **Get all the facts from the workers who have a complaint.**
- () **Don't be satisfied with generalities like, "They're giving us too much work."**
Ask for details:
 - Dates,**
 - Examples, and**
 - Witnesses.**
- () **Ask probing questions so that you can get the full story.**
- () **Make notes so that you have a record and can check back to verify facts.**
- () **Go out and get additional facts and talk to other workers and supervisors.**
- () **For example, if the grievance involves seniority, check the seniority list.**
- () **Understand the specific job the grievant does and you may want to look at the Operation and the job before you present your case.**
- () **Check the contract carefully.**
- () **Discuss the grievance with other Union representatives if you are in doubt.**
- () **After all the facts are known, determine whether or not there is a legitimate Grievance.**
- () **If there is no grievance involved, the shop steward must explain to the worker why their complaint will not be grieved.**
- () **If you can't convince the worker that their complaint is not a grievance, tell them they can talk to the chief shop steward or other local union officers about it.**

They have a democratic right to have a further review and appeal within the union.

THE INSPECTION SERVICE

The Inspectors spend ungodly sums of money each year in trying to set up or test employees.

The main problem is, they feel they have to “get” people, to justify their continued expenditures in this area.

When, and if, you are approached by the Inspectors, as to being interviewed, remember one word, *Weingarten*. This is your right to union representation before you answer any questions, and the Supreme Court and the NLRB have repeatedly reinforced your rights in this regard. You not only have the right to have a steward present, but you have the right to confer with your steward ahead of time.

When you invoke *Weingarten*, the courts have said, management or the Inspectors have to either go forward without your input, get you a representative immediately, or delay your questioning until such union representation can be provided.

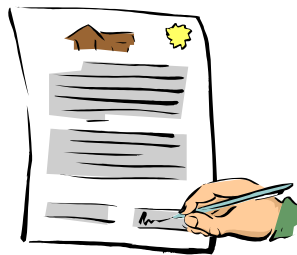
The Inspectors depend on scared and frightened people to make their case for them. They also pounce on any revelations that may have nothing to do with what they are after, but rather, what they can make a case from.

If they need to get information from you, it means they do not have all the proof they need.

Following is information that explains your right to a steward and the steward’s rights while in the interview.

THERE IS NO IRON CLAD RULE, BUT USUALLY THE LESS YOU SAY, THE BETTER!!!

NEVER SIGN A WAIVER OF YOUR RIGHTS!!!!!!!!!!



Part I

Article 17 Section 3

“If an employee requests a steward or Union representative to be present during the course of an interrogation by the inspection service, such request will be granted.” All polygraph tests will continue to be on a "voluntary basis.”

The foregoing is an excerpt from the National Agreement and it raises some questions of significant importance to the craft employees represented by the American Postal Workers Union.

Some of the most frequently asked questions are:

1. Q. When should I request a union representative?

A. As soon as an individual identifies themselves to you as a Postal Inspector and they advise you they would like to ask you some questions. This request should include incidents (for window clerks) in which inspectors count your stamp stock, where you could become the subject of an investigation.

2. Q. Are inspectors required by contract language to advise you that you are entitled to have a union steward present during an interrogation?

A. No. They are not required to inform the employee, nor will they inform the employee. The responsibility rests with the employee to know specifically what their rights are.

3. Q. What are your rights during an interrogation by the inspection service in which you could possibly be the subject of a criminal investigation?

A. The best possible advice to an employee during this type of situation is to remain silent. Advise the inspector that you intend to seek legal counsel.

Then when you have engaged the services of an attorney you will cooperate with their investigation.

One rule to remember is that if enough evidence had been gathered to establish criminal culpability, they will advise you of your rights under law and proceed with formal criminal arraignment.

If, on the other hand, they continue the interrogation, in general terms, they probably are still fishing for evidence.

4. Q. What is PS1067, U. S. Postal Inspection Service warning and waiver of rights, and should I sign this form if requested?

- A. The PS1067 is commonly referred to as the Miranda warning; essentially it is an Official warning before you are asked any questions and it is a waiver by the employee of their rights.**

Under no circumstances should an employee sign this form until they have engaged legal counsel.

Usually the PS1067 becomes part of criminal investigation when the investigation focuses on an employee who has become the prime suspect.

- 5. Q. If a craft employee is temporarily assigned to a management position (e.g. Officer in Charge or Acting Supervisor) is he/she covered by the provisions of the National agreement with respect to union representation during an interrogation.**

- A. Yes. An employee on a temporary assignment to a management position has all the rights applicable to his/her regular position, not those applicable to the temporary position.**

- 6. Q. What is an Investigative Memorandum?**

- A. After the completion of an investigation, criminal or otherwise, an investigative memorandum is furnished to local management.**

It serves as a formal record of given attention and the inspector's findings.

Also, they serve to present evidence in support of charges that may be issued by the Postmaster or other administrative official against an employee.

The union has every right to request copies and review all material relied upon to support the reasons for an advance notice from the Postmaster or other administrative official of a proposed suspension or discharge.

All facts, including affidavits or other exhibits must be made available in connection with any grievance appeal or arbitration proceeding.

- 7. Q. Are there any situations in which an employee should agree to a polygraph test?**

- A. In accordance with the National Agreement, polygraph tests are voluntarily.**

It is not a good idea to volunteer for a polygraph examination until the employee obtains the advice of legal counsel.

- 8. Q. What is the role of a union steward/representative during an investigatory interview?**

- A. This is perhaps one of the most important functions that a union steward/representative is confronted with. The union steward/representative should not remain a passive observer. Although the union steward/representative has every right to participate in investigative interview, representing a craft employee, the facts of life are that the inspection service uses intimidating tactics in an attempt to reduce any input the union person might have during the investigative interview. The union has an obligation as the collective bargaining representative to take an active part on behalf of the employee being interviewed.**

Bear in mind not to become argumentative or engage in legal discussions with the inspection service. If the situation becomes entangled in interpretations of law or in legal opinions, the best advice to give to an employee is to seek legal counsel.

- 9. Q. Are all Postal Service employees required to cooperate in Postal investigations?**

- A. Yes. All Postal Service employees are required to cooperate in a Postal Service investigation. When an employee has been arrested for violation of criminal law, or when the investigation of a violation of criminal law has reached the accusatory state, e.g. the investigation had begun to focus on the employee as a suspect in the investigation, the employee must be informed of his Constitutional rights against self-incrimination.**

He/she is entitled to remain silent there after or to refuse to answer questions except in the presence of his/her attorney. This warning is based upon the United States Supreme Court decision of Miranda V. Arizona, 384 U.S. 436. All law enforcement officers are required to give persons under investigation an explanation of their constitutional rights.

- 10. Q. Can an employee request the presence of a union steward and an attorney during questioning?**

- A. Yes, the employee is not required to make an election between having an attorney or a union steward/representative present; he/she is entitled to the presence of both;**

- 11. Q. Are Postal Inspectors authorized to issue letters of charges or recommend disciplinary action against an employee?**

- A. No. Inspectors are not authorized to issue letters of charges or recommend disciplinary action in any manner.**

Inspectors similarly must not make recommendations or give opinions to management personnel with respect to the-disciplinary action to be taken against an employee.

- 12. Q. Is an employee required to make a written statement when requested by the Postal Inspection Service?**

- A. No. It is the position of the union that there is no requirement legal or contractual to submit a written statement to the Postal Inspection Service when they should make this request. Any statement written or recorded is voluntary. It should be of extreme importance for the employee to consult an attorney if this situation should arise. Consult an attorney before giving a statement, written or oral.**

Part II

Analysis and Interpretation for the Union Steward

In Part I we discussed some of the more frequently asked questions with respect to the rights of an employee during an investigative interview with the Postal Inspection Service. In Part II we will analyze and discuss some of the more technical aspects of representation. For example:

- A. Obligation of representation**
- B. Investigation of Non Postal Offenses**
- C. Analysis of charges and evidence**

Under the terms of the National Agreement, the union has an obligation to represent the craft employees for which we have exclusive representation. This includes not only contract enforcement with postal management, but also should the occasion arise to represent craft employees in contacts with the Postal Inspection Service.

As Postal employees we are subject to investigation by Postal Inspection Service for off duty as well as on duty. Generally, off duty non-postal offenses subject to investigation will include, but are not limited to:

- a. Serious acts of criminal violence**
- b. Use of firearms or other dangerous weapons in the commission of a crime**
- c. Grand larceny, burglary, embezzlement, or robbery**
- d. Sale or possession of narcotics or dangerous drugs**
- e. Any offense that may be directly job related, such as, but not limited to, reckless driving when the employee is a motor vehicle operator.**

Frequently as a result of off duty arrest [non-postal offenses] the employee will receive disciplinary action from the Postal Service, based on the investigative memorandum from the Postal Inspection Service.

In particular, if the incident in question generates adverse publicity for the Postal Service. Many instances of disciplinary action against an employee are initiated before the employee has had his/her case adjudicated in a court of law.

The legal aspects are outside of the union steward's concern in this situation. However, particular attention to the time limits in processing the grievance should be the primary concern of the steward.

Many times an employee is exonerated of the charges, and a properly processed grievance results in reinstatement for the employee.

In appealing the grievance the steward should request all evidence, exhibits, and statements including a copy of the investigative memorandum in connection with the grievance.

Careful attention should be directed to this material noting any conflicts in statements or procedural errors in the advanced notices of disciplinary action.

Example:

- a. Conflicting dates or times or conflicting witness' statements**
- b. An expression by management in the disciplinary action that they relied solely on the Inspector's memorandum in issuing this advanced notice of disciplinary action.**

Postal inspectors are prohibited from formulating charges against an employee.

This is supported by Arbitrator Dash in case EIC-2B-D-855 & 856. "But for local management to have done nothing else, to have drawn no conclusions from the quotations of the investigative memorandum, and to have failed to express such conclusions in the form of "charges" against the grievant, left a void in the December 7, 1981 "Notice of Removal" that could not be filled by some later written conclusions of local or higher levels of postal management.

- c. The discipline must meet the "test of a just cause" as defined in Article 16, Section 1.**
- d. Management must be specific in their disciplinary charges Article 16, Section 5. "Suspension of more than 14 days or discharge."**

Often union stewards become panicky when they process a grievance in which the Postal Inspection Service is involved. Remember that they are not cloaked with a mantle of infallibility. Investigate the grievance, collect the facts involved in the case, and ask yourself the six success questions:

1. Who?
2. What?
3. When?
4. Where?
5. Why?
6. How?

Stewards should give special attention when craft employees with responsibility for financial accountability receive suspension or removal notices for alleged wrongdoing.

The burden of proof falls upon management to support these charges. There is significant arbitral reference established in this area, for example:

1. **No. AB-N-10855 Arbitrator Gamser stated “In such an instance, in the opinion of the undersigned, the 'Beyond a reasonable doubt' standard, must be met by the employer. The grievant's reputation cannot be shattered by employing a lesser standard.”**
2. **N8C-IE-D Arbitrator Zumas; “While the standard of proof in a discharge case (preponderance of evidence) is a lesser standard than that required in a criminal prosecution (beyond a reasonable doubt); the burden is nonetheless, a heavy one.” Surmise, speculation, or conjecture is not allowed.**
3. **No. E8C-2D-D 73812 Arbitrator Dash; “The charges against grievant (M.) include that of misappropriation of Postal Service Funds.”**

If this charge is sustained by the arbitrator he would in effect, be labeling the grievant as a “thief” who helped himself directly by taking Postal Service Funds for his own use, or indirectly by purposely, knowingly and intentionally setting up a “Buffer” against future shortages in such a fashion as to enable him to profit thereby.

For the arbitrator to place such a label upon an employee, which can affect his employability for his entire lifetime, the arbitrator is of the conviction that such a charge must be supported not simply by a ‘preponderance of the evidence.’

But by evidence which prove such charges ‘beyond a reasonable doubt.’

When management issues charges which include, misappropriation of Postal funds, mishandling of postage due funds, theft of postal funds etc., against an employee it is as a result of a postal inspection investigation and the issuance of a memorandum of investigation by the inspection service.

The above referenced arbitrator's positions clearly show that the burden of proof falls upon management.

An important point for the steward to remember, always treat all steps in the grievance procedure as if the case will eventually be settled by an arbitrator.

Additionally, do not speculate whether the grievant is guilty or not guilty, have your facts organized, document carefully, call a state officer or national officer if you need assistance, stay cool and act professionally.



**UNITED STATES POSTAL INSPECTION SERVICE
WARNING AND WAIVER OF RIGHTS**

Place:

PS FORM 1067

Date:

WARNING

BEFORE YOU ARE ASKED ANY QUESTIONS, YOU MUST UNDERSTAND YOUR RIGHTS.

- ❖ You have a right to remain silent.
- ❖ Anything you say can be used against you in court.
- ❖ You have the right to talk to a lawyer for advice before we ask you any questions and to have him with you during questioning.
- ❖ If you cannot afford a lawyer, one will be appointed for you before any questioning if you wish.
- ❖ If you decide to answer questions now without a lawyer present, you will have the right to stop answering at any time. You also have the right to stop answering at any time until you talk to a lawyer.

(Date)(Time)

WAIVER

(Signature)

I have read this statement of my rights (This statement of my rights has been read to me) and I understand what my rights are. I am willing to discuss subjects presented and answer questions.

I do not want a lawyer at this time. I understand and I know what I am doing. No promises or threats have been made to me and no pressure or coercion of any kind has been used against me.

(Signature)

(Time)

(Date)

Witnessed by:

Title:

Witnessed by:

Title:

THE WEINGARTEN RIGHTS

The Supreme Court's decision in Weingarten gives employees the right to union representation when a management representative attempts to commence an investigatory interview.

The fundamental distinction between the two categories of rights is that Miranda is primarily an exclusionary rule. Failure to abide by this rule is grounds for excluding evidence in a subsequent criminal proceeding.

Weingarten rights by contrast, exist without regard to whether there is a subsequent proceeding of any sort.

Further, Miranda vindicates the right of a defendant not to incriminate himself.

Weingarten exists not so much to prevent self-incrimination, but to allow the union to represent the employee in any decision or procedure, which might impact on the terms and conditions of employment.

The Weingarten case sets forth the Union's right to represent employees in investigatory interviews. It allows employees the right of pre-interview consultation and the right to make requests of the union representative for clarification or information during the interview. Postal Inspectors interviewing employees are not obligated to bargain or discuss issues with the union representative. However, if the employee's rights under Weingarten are denied, no information gathered during the interview can be used as the basis of any disciplinary action.

Weingarten rights attach to any interview, which the employee reasonably believes may result in disciplinary action. The employee must assert the right for union representation. If he/she is silent the employer is allowed to proceed with the interview without a union representative present. In the event that no representative is available, under most circumstances, the employer is allowed to proceed with the interview.

Once an employee does make a request for union representation, the employer is permitted one of the three options:

The employer may:

- 1. Grant the request**
- 2. Discontinue the interview**
- 3. Offer the employee the choice between continuing the interview unaccompanied by a union representative or having no interview at all.**

Under no circumstances may the employer continue the interview without granting the employee union representation, unless the employee voluntarily agrees to remain unrepresented after having been presented with the options set forth above.

While an employee may at first refuse to request Weingarten rights, he or she may reassert them at any stage of the interview. Any time the employee asserts Weingarten rights, the employer must present the options set forth above and abide by the employee's choice.

If such request for union representation is granted, the employee must proceed with the interview.

There have been limitations placed on Weingarten rights since the case was decided. An employee's right to union representation does not extend to the representative of his or her choice.

The right relates to investigatory interviews-that is, interviews arranged to elicit facts which may form the basis for discipline. No Weingarten rights attach to a meeting called for that purpose of merely announcing a disciplinary measure that the employer has already decided to take. Weingarten rights may, however, attach to so-called "counseling" interviews if during the course of such discussion, the employer gathers information, which may become the grounds for later discipline.

Members should be aware that mere satisfaction of an employee's Miranda rights does not satisfy Weingarten rights in those instances where information derived from a criminal investigation is used to support disciplinary action.

Significantly, the activities of stewards or union representatives while representing employees in investigative interviews are also protected under the Act against interference or threats of reprisal. No union representative can be disciplined for responding to an employee's request under Weingarten.

In reviewing Weingarten and Miranda, it must be understood that they relate to different rights under the law.

Both cases vindicate the right to pre-interview consultation.

Weingarten, however, relates to possible adverse action concerning employment, discharge, suspension, etc. Miranda pertains to criminal investigations and proceedings.

An employer is only obligated to inform the employee of the Weingarten rights upon request.

The subject of a criminal investigation must be informed of his/her Miranda rights regardless of whether they are asserted, prior to the initiation of an interview with a prospective defendant.

THE MIRANDA RIGHTS

The Miranda decision grew out of a criminal case where the following question was decided.

Can a law enforcement officer interview a citizen and use the arbitrators the result of the interview against him in a criminal prosecution without providing the person with:

- (a) The opportunity to remain silent**
- (b) The opportunity to with counsel**
- (c) Informing him of the rights of a and b**

These rights are articulated in the following statement, which must be given to any subject of a criminal investigation:

Before you are asked any question you must understand your rights. You have a right to remain silent.

Anything you say can be used against you in court.

You have the right to talk to a lawyer for advice before we ask you any questions and to have him with you during questioning.

If you cannot afford a lawyer, one will be appointed for you before any questioning, if you wish.

If you decide to answer questions now, without a lawyer present, you still have the right to stop answering at any time until you talk to a lawyer.

Failure to give the above warning, and rights set forth in the warning, renders inadmissible any information gathered through or as the result of such interview.

The evidence is considered “tainted.”

The Postal Inspection Service is a criminal investigatory unit and employees subjected to criminal investigations conducted by Postal Inspectors are entitled to Miranda rights, if the employee interviewed is to be prosecuted.

However, there are questions as to whether failure by the Inspection Service to give Miranda warning is grounds for excluding evidence in a non-criminal proceeding, such as an arbitration or labor board hearing.

The Labor Board and most arbitrators have side stepped the issue.

The rationale of the Miranda decision, according to the Supreme Court, is that “a lone individual is subjected to unfair pressures when he is compelled without being given the right to informed assistance; to submit to an interview about alleged shortcomings with trained interrogators empowered to cause him to suffer adverse consequences.”

Accordingly, Miranda rights exist only after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way or where special circumstances exist which render the law enforcement official’s behavior such as to overbear the person’s will to resist and bring about a confession not freely self-determined.

Stewards consulted by employees under investigation for suspected criminal activity should advise such employees to invoke their right to remain silent until they have received advice from legal counsel.

Notably, under Miranda, an individual being interrogated by the Postal Inspection Service or other law enforcement agents may terminate their participation in the interview at anytime, even when the interview is attended by the counsel whom he/she requested.

Miranda rights do not extend to inquiries conducted by supervisors in regard to unacceptable behavior, attendance, deficiencies or job performance, or other actions which are not grounds for criminal penalties.



STEWARDS' DICTIONARY

AFL-CIO	American Federation of Labor-Congress of Industrial Organizations. A voluntary federation of national and international labor unions in the United States to which the APWU is affiliated.
Agency Shop	A union security clause which provides that a worker in the bargaining unit who refuses to join the union must pay a service fee to the union equal to union dues.
Arbitration	A way of settling disputes by calling in an impartial third party whose decision is final and binding.
Automation	Production and supervision of work by means of mechanical “muscles” and electronic “brains” and without direct use of human energy, skill or control.
Bargaining Unit	A group of workers who bargain collectively with their employer.
Boycott	A way of bringing collective pressure against an employer by discouraging the purchase of his/her product or services.
Central Labor Body	A council of local unions affiliated to the AFL-CIO in a particular city, county or other geographic area.
Dues Check-off	A clause in the union contract authorizing the employer to deduct union membership dues from the member’s paycheck and transfer them to the union.
Closed Shop	A company that hires and employs union members only. The closed shop is illegal under the Taft-Hartley Act.
Collective Bargaining	A way of establishing wages, hours and other working conditions through direct negotiations between the union and the employer, resulting in a written contract which covers all employees in the bargaining unit, whether or not they are union members.
COPA	Committee on Political Action is the political action fund that solicits voluntary contributions from members.
COLA	Cost of Living Adjustment, is a supplement to basic pay, which provides an adjustment for reduced purchasing power resulting from the increased cost of consumer goods. The COLA amount is calculated from the Consumer Price Index, which is issued periodically by the U.S. Bureau of Labor Statistics.

Discrimination	Unequal treatment of workers because of race, religion, nationality, sex, physical handicap, or union membership. Discrimination may occur in hiring, promotions, discipline, or other actions.
Fact Finding	A procedure for determining the underlying facts in a labor dispute by an impartial examiner.
Federal Mediation and Conciliation Service	An independent agency of the federal government which provides mediators to help settle labor disputes and to assist in contract negotiation impasses.
Free Rider	A worker in the bargaining unit who refuses to join the union even though he/she enjoys all the benefits won for the employees by the union.
Fringe Benefits	All on-wage benefits in the union contract such as paid holidays and leave, which are paid in whole or in part by the employer.
Joint Bargaining	Contract negotiations by more than one union with a single employer.
Local Memorandum Of Understanding	Local agreement resulting from negotiations between the installation head and the local union on 22 items enumerated in Article 30 of the National Agreement.
Maintenance of Membership	A clause in the APWU National Agreement which says that a worker who voluntarily joins the union must remain a member for at least one year.
Mediation	An attempt by an impartial third party to help in negotiations or settlement of a dispute between union and management through suggestions, advice and other ways of stimulating agreement, short of dictating its provisions.
Merit Systems Protection Board	A three-member Board appointed by the U.S. President whose primary responsibilities are to review the rules and regulations of the Office of Personnel Management. The Board hears and rules on appeals from federal workers, including certain discipline cases of preference eligible employees and appeals of postal workers regarding their retirement annuity or restoration following recovery from a compensable injury.
National Labor Relations Board	Administers the National Labor Relations Act by supervising union representation elections and applying the Act's provisions prohibiting specific employer and union unfair practices.

Open Shop	A company or workplace where no union is recognized or where union membership is not required for employment or continuing employment.
OPM	Office of Personnel Management is the office of the federal government whose responsibilities include administering retirement and health programs for postal and federal employees.
OWCP	Office of Workers Compensation Programs is the office under the U.S. Department of Labor, which administers the Federal Employees Compensation Act providing compensation to workers injured on the job.
Preference Eligible	Certain classes of veterans and their survivors who have completed one year of continuous service in the Postal Service or a federal agency who are entitled to certain special benefits under the Veterans preference Act.
Ratification	Acceptance by the APWU membership of the National Agreement through a mail ballot.
Rank and File	Committee with full veto power over the proposed National Agreement that can approve a tentative agreement for membership ratification or remand it to the National Negotiating Team to reopen negotiations.
“Right to Work”	Laws existing in many states banning the union shop and other union security provisions.
Seniority	A worker’s length of service with an employer or in a particular craft which determines opportunity for promotion/bids, layoffs, transfers and recalls.
Strikebreaker or Scab	A person who continues to work or accepts employment while the workers are on strike, thus weakening or breaking the strike.
Subcontracting	Practice of an employer having work performed by an outside contractor rather than by regular employees.
Union Label	A stamp or tag on a product or in a store, which indicates that the work has been performed by union labor.
Union Shop	A company or workplace in which every worker covered by the union contract must become a member of the union. New workers need not be union members in order to be hired, but must join after a certain number of days.

QUESTIONS

TESTIMONY

1. Name the three types of testimony generally used in grievance handling.

2. Define direct testimony. _____

3. Define indirect testimony. _____

4. Define incidental testimony. _____

5. No matter what type of testimony utilized, _____ to the issue is

_____ for it to be _____.

6. The testimony of a disinterested party tends to carry _____

than that from one who is directly involved.

7. A reluctant witness is a good witness. True _____ False _____.

8. It is vital that the representative be aware of the truthfulness and knowledge of the

witness because: _____

INFORMATION

1. **What two-(2) elements make information useful in grievances?**

2. **List six (6) measurable items that may be used in grievance handling.**

3. **In each type of information, the investigator can produce a number that can be compared with other cases, i.e. five-(5) days tardiness, what should the steward look for beyond the numbers they may find.** _____

4. **What does the steward have to know about most kinds of information?** _____

5. **Even though the steward can measure information, what important question besides why did it happen must they ask themselves?** _____

6. **Much of grievance negotiation between a steward and supervisor concerns the difference about the meaning of what?** _____

7. List three (3) types of information used in grievances that have no clear meaning.

9. What are the three-(3) basic categories of information?

10. Name four (4) people who can supply information.

PROGRESSIVE DISCIPLINE & JUST CAUSE

1. The grievant was given a ten-day suspension for tardiness:

What is the Cause? _____

What is the Effect? _____

2. If the Union finds some justification for discipline, based on management's facts, it most generally attempts to do what? _____

3. What is usually a prerequisite for future disciplinary actions? _____

4. If counseling is necessary it should attempt to _____ the problem and _____ it if it exists.

5. Arbitrators do not concern themselves with whether or not discipline was corrective.

_____ True _____ False

6. Progressive discipline should be in the following order

(match number to correct block).

2 () Discharge

1 () Letter of warning

3 () Discussion

7. Discussion and letters of warning are not important to the issue of a disciplinary action.

_____ True _____ False

8. Refusal to produce documents relevant to a grievance is a right of management.

_____ True _____ False

9. All that is necessary for the Installation Head or their designee to do is to "rubber stamp" the initial supervisor's action in discipline.

_____ True _____ False

10. Different types of evidence usually develop defense in discipline. List three (3).

INVESTIGATING & PRESENTING

1. In what step of the procedure are the issues and facts the clearest?

2. What factor could be important but, normally, is not available to the representatives at Step 2, 3 and 4? _____
3. What two determinations must an arbitrator make in discipline cases?

4. Hearing officers and arbitrators have the right to modify penalties.
_____ True _____ False

FACTS

1. When you are ready to present a grievance you should know your _____ and be

2. If the supervisor tries to sidetrack the real issue you should have them _____

3. It's smart to convey to the supervisor that you are presenting the grievance because it's your obligation. _____ True _____ False
4. Before discussing the grievance it is necessary that the employee and representative be in _____ on all the facts on the issue.
5. The only time you present a grievance is _____ you have gathered all the facts.

LETTERS OF DEMAND

INVESTIGATION

DEBT COLLECTION ACT

POINT OF SERVICE (POS)

**SEGMENTED INVENTORY
ACCOUNTABILITY (SIA)**

BURDEN OF PROOF

ARTICLE 28, SECTION 1, HAS BEEN INTERPRETED BY ARBITRATORS TO ALLOW MANAGEMENT TO HOLD ANY EMPLOYEE ACCOUNTABLE FOR A SHORTAGE OR LOSS, UNLESS THE UNION SHOWS THE EMPLOYEE HAS EXERCISED REASONABLE CARE OR ESTABLISHED ONE OF THE ENUMERATED DEFENSES DISCUSSED IN THE FOLLOWING SECTIONS.

HOWEVER, EVEN IN CASES INVOLVING ONE OF THE ENUMERATED DEFENSES, CONSERVATIVE ARBITRATORS' DECISIONS ALMOST ALWAYS TURN ON WHETHER THE GRIEVANT EXERCISED REASONABLE CARE.

IN CASES WHERE A GRIEVANT IS NEGLIGENT, THE UNION MUST GENERALLY SHOW THAT SOMETHING ELSE, SUCH AS A PARTICULAR FAILURE BY MANAGEMENT, CAUSED THE LOSS, AND THAT THE GRIEVANT'S NEGLIGENCE WAS NOT A CONTRIBUTING FACTOR.

THE RESPONSIBILITY OF THE UNION FILLING IN POSSIBLE GAPS IN EVIDENCE FREQUENTLY LEADS TO THE DENIAL OF GRIEVANCES, BECAUSE IN MANY CASES, THE SPECIFIC TRANSACTION CAUSING THE LOSS IS NOT KNOWN.

SOMETIMES, HOWEVER, AN ARBITRATOR WILL MODIFY A GRIEVANCE WHERE PROOF OF CAUSATION IS LACKING, IF THERE SEEMS TO BE SOME INJUSTICE IN HOLDING THE GRIEVANT LIABLE --- FOR EXAMPLE, WHERE PHYSICAL SECURITY OR WORK PROCEDURES ARE VERY POOR, OR THE GRIEVANT'S WORK RECORD IS VERY GOOD OR LONG.

WHEN AN ARBITRATOR IS MOVED BY THOSE FACTORS, HE/SHE WILL GENERALLY EITHER: (1) SPLIT THE LOSS ON GROUNDS OF FAIRNESS; (2) ADOPT A COMPARATIVE NEGLIGENCE APPROACH; OR (3) SHIFT THE BURDEN OF PROOF TO MANAGEMENT (TO SHOW FOR EXAMPLE, THAT A PROVEN LACK OF SECURITY DID NOT CAUSE THE LOSS, OR THAT THE GRIEVANT'S NEGLIGENCE WAS ACTUALLY A CONTRIBUTING FACTOR.

LETTERS OF DEMAND FOR \$2000.00 OR LESS HAVE MOVED FROM THE REGIONAL ARBITRATION REGULAR PANEL TO THE EXPEDITED PANEL, THEREFORE, IT IS MORE IMPORTANT NOW, THAN EVER, TO FULLY DEVELOP AND DOCUMENT OUR ARGUMENTS.

ARTICLE 28 EMPLOYER CLAIMS

The parties agree that continued public confidence in the Postal Service requires the proper care and handling of the USPS property, postal funds and the mails. In advance of any money demand upon an employee for any reason, the employee must be informed in writing and the demand must include the reasons therefor.

- **SECTION 1. SHORTAGES IN FIXED CREDITS**

Employees who are assigned fixed credits or vending credits shall be strictly accountable for the amount of the credit. If any shortage occurs, the employee shall be financially liable unless the employee exercises reasonable care in the performance of his duties. In this regard, the Employer agrees to:

- A. Continue to provide adequate security for all employees responsible for postal funds:
- B. Prohibit an employee from using the fixed credit or other financial accountability of any other employee without permission:
- C. Grant the opportunity to an employee to be present whenever that employee's fixed credit is being audited and if the employee is not available, to have a witness of the employee's choice present;
- D. Absolve an employee of any liability for loss from cashing checks if the employee follows established procedures; and
- E. Audit each employee's fixed credit no less frequently than once every four months.

- **SECTION 4. COLLECTION PROCEDURE**

- A. If a grievance is initiated and advanced through the grievance-arbitration procedure or a petition has been filed pursuant to the Debt Collection Act, regardless of the amount and type of debt, collection of the debt will be delayed until disposition of the grievance and/or petition has (have) been had, either through settlement or exhaustion of contractual and/or administrative remedies.
- B. No more than 15 percent of an employee's disposable pay or 20 percent of the employee's biweekly gross pay whichever is lower, may be deducted each pay period to satisfy a postal debt, unless the parties agree, in writing, to a different amount.

INVESTIGATION



Was the audit within four (4) months of previous audit?

F-1 Handbook, Section 429.1:

429.1 Article 28, Employer Claims, Section, 1.E of the Agreement between the Postal Service and the Employee organizations cover examining bargaining unit stamp credits. Stamp credits maintained by bargaining unit employees must be examined by supervisory personnel at least once every four months.



Was a Form 3368, Stamp Credit Examination Record, maintained for the employee?
Does the employee's Form 3368 reflect a good or poor audit record?

F-1 Handbook, Sections 429.18 & 429.12:

429.18 After completing the examination of an employee's stamp credit enter the results to Form 3368. Enter the last date for completion of the next examination as required by the National Agreement to the appropriate column.

429.12 Form 3368, Stamp Credit Examination Record, is designed to contain the history of stamp credit examinations for use in scheduling examinations; for reporting overages and shortages; and as a source of information when necessary for Form 571, Discrepancy of \$100 or more in Financial Responsibility. Form 3368 is to be kept for 3 years after the last entry.



Was the audit performed away from the window operation, preferably in a quiet area?
If not, did the employee complain and/or request a different area?

F-1 Handbook, Section 429.13:

429.13 Selecting the Site: For the count of an employee credit, select a site away from the window operation, preferably in a quiet area. There should be adequate space for both the supervisor and the employee to count.



Was the stamp credit examination performed at the beginning of the employee's tour and/or before the clerk had made any transaction? If not, why?

F-1 Handbook, Section 429.11:

1. Do not announce stamp credit examinations.
2. Stagger the dates for examinations so that a pattern will not be evident to the employees to be counted.
3. Count stamp credits, to the extent practicable, at the beginning of the clerk's tour of duty or at least before the clerk has made any transactions.
4. Limit examination of stamp credits generally to one per day per available supervisor.
5. If possible, conduct examinations on days when business is light and most of the workforce is present.

NOTE: For clerks with multiple credits, count all credits at the same time to the maximum extent possible.



Was the independent count completed by a supervisor and/or postal inspector and the employee and/or designated witness?

Article 28.1.C

Grant the opportunity to an employee to be present whenever that employee's fixed credit is being audited and if the employee is not available, to have a witness of the employee's choice present.

F-1 Handbook, Section 429.1 & 429.12 & 426.2:

- 429.1 Examining stamp accountabilities is an integral part of the overall internal control system over Postal Service assets... Postmaster - Ensure that examinations of bargaining unit employee stamp credits are conducted as described above. In offices that do not have supervisors, personally examine stamp credits: Supervisory Personnel - Conduct examinations of stamp credits at stations, branches, and main office window units: Inspection Service - Count stamp credits as part of audits and investigations conducted by the Inspection Service.

429.12 Form 3294, Cash and Stamp Credit Count Summary, is a four-page form designed to contain a complete record of the examination of a stamp credit. One copy must be completed by the supervisor and one by the employee, or the employee's representative. The postmaster must file the form centrally and keep it for two years.

426.2 3. Grant an employee the opportunity to be present whenever his or her financial accountability is inventoried or audited. If the employee is not available, a witness of the employee's choice must be present. Each employee assigned a stamp credit must furnish the installation head two names of postal employees (in order of precedence) whom the employee chooses to witness the audit or inventory when he or she is absent. Enter the names of the selected witnesses on Form 3977.

4. Select chosen witnesses from employees who work at the same installation unit as the selecting employee. In their absence, the union steward may serve as a witness.



Were independent counts made? Is the employee sure all disbursements were recorded correctly on the Form 3294?

F-1 Handbook, Section 429.14:

429.14 **Making Independent Counts:** The Supervisor must enter the count to one Form 3294, and the employee must enter an independent count to a separate Form 3294. Both must verify count item by item and resolve discrepancies after each stamp credit container assigned the employee has been counted. After each stamp credit container count, make the appropriate entries to the inventory of stamp credit containers section on page 4 of the Form 3294.



Are all necessary signatures on the Form 3294?

F-1 Handbook, Section 429.17:

429.17 The supervisor and the employee must sign both copies of the Form 3294. **(Check Dates Also.)**



ESTABLISHING THE TOLERANCE

<u>Amount of Stamp Stock</u>	<u>Tolerance</u>
Up to \$30,000.00	\$50.00
\$30,000.01 to \$60,000.00	\$100.00
Above \$60,000.00	\$150.00



Did the audit exceed tolerance?

F-1 Handbook, Section 429.16:

429.16 The tolerance is based on the credit amount entered on the employee's Form 3369 or the highest balance in *AIC 853 of the Form 1412 since the previous examination, whichever is higher. Compare the amount in ...with the tolerance amount established for the size of the stamp credit. If the difference does not exceed tolerance, the examination is complete. Do not recount a stamp credit. Note on Form 3368 and carry forward without further action.

*AIC - Account Identifier Code

853 - Stamp accountability closing balance, ending accountability of stamp stock



If the shortage exceeded \$100.00, was a PS Form 571 (Exhibit 3) prepared and sent to the postal inspectors? Has there been any response?

F-1 Handbook, Section 429.16:

429.16 Differences of \$100 or More: Prepare a Form 571, Discrepancy of \$100 or More in Financial Responsibility, at the time of the examination, if applicable (see Administrative Support Manual (ASM) exhibit 221.5). When you initiate Form 571, indicate on line 19 of Form 3294.



Did the employee request a recount?

F-1 Handbook, Section 429.16:

429.16 If the difference amount exceeds tolerance and the parties involved cannot agree to the count, recount the credit at the request of the employee...



Was the employee's current audit adjusted correctly? Was his/her previous audit adjusted correctly? If not, this may have caused or contributed to the current audit discrepancy.

F-1 Handbook, Section 429.16:

- 429.16** **Handling Overages:** If the difference amount does not exceed tolerance, the examination is complete.....For an overage amount exceeding tolerance, enter the amount on the employee's Form 1412 to AIC 057, Employee Overage, in the trust funds received section.
Handling Shortages: For shortage amounts exceeding tolerance, record in AIC 767, Stamp Credit Shortage Issued, on employee's Form 1412.



Can a reasonable relationship be established between monies in the employee's trust or an overage in another credit of the employee?

Can a reasonable relationship be established between the employee's shortage and the overage in another employee's credit?

F-1 Handbook, Section 429.16:

429.16 **Handling Overages**

4. If the overage is related to a shortage in another accountability of the same employee or to a current shortage in another employee's accountability, withdraw funds from trust to clear related shortages.
5. Hold an overage in an employee's accountability that is related to the loss of a money order voucher in trust until notification of amount on Form 6401, Money Order Inquiry...
6. At the expiration of 1 year from the count date, enter the amount of the overage or any portion remaining after offsetting related shortages...

429.16 **Handling Shortages**

2. If the shortage is related to an overage in another accountability of the same employee or to a current overage in another employee's accountability, require the employee to replace the missing amount.
3. When there is a balance for that employee from a previous overage within 1 year and a relationship is established, use this balance to offset part or all of the shortage.



OFFSETTING DIFFERENCES

The postmaster or designee must decide whether to adjust shortages and overages found in the audit of stamp credits and other cash accountability. If a postmaster believes that an overage in one employee's credit should be offset against a shortage in another employee's credit because a relationship between the differences exists, secure the written agreement of the employee from whom the overage is to be withdrawn.



Did the employee accept his/her stamp credit by signing Form 3369 - Consigned Credit Receipt?

F-1 Handbook, Section 426.45:

2. The employee receiving the postage stamps must sign Form 3369 for the total postage stamp amount received. Any change in the amount of stamps credit level will require a new Form 3369 to be completed and signed.



Prior to the employee being assigned his/her security containers, were the locks changed? As a Union, instruct the employees to request a check of their keys when they are initially assigned their containers.

F-1 Handbook, Section 426.2:

7. Whenever an employee relinquishes control of an assigned stamp credit for any reason, change the locks on the employee's stamp and cash drawers.



Did the postmaster, supervisor or employees have access to the stamp credit of the grievant?

F-1 Handbook, Section 426.2

2. Do not allow any employee, supervisor, or postmaster to have access to the stamp credit of another employee.



Were safe/vault combinations changed when they became comprised and/or a person

knowing the combination was separated or transferred to a new position?

F-1 Handbook, Section 372.5:

1. Post the manufacturer's instructions for changing the combination on the back of the safe or vault door.
2. Place the key for changing the combination in the special container provided or tape it alongside the instructions.
3. Change combinations when (1) a new or different safe is placed in service; (2) a person knowing a combination of a safe or vault is separated or transferred to a new position; or (3) the combination becomes compromised due to the opening of Form 3977 in an emergency or by unauthorized people.

Failure to change a combination under the circumstances noted in step 3 above is considered contributory negligence by the responsible employee if property is stolen from a safe or vault without force.



Was the equipment assigned to the employee examined by the supervisor and employee to determine that it provides proper safekeeping? If it was determined that it did not provide proper safekeeping, was the employee's supervisor notified in writing?

F-1 Handbook, Section 151.1:

- | | |
|-------|--|
| 151.1 | 4. Examine all equipment assigned to an employee used to protect stock or funds to ensure proper safekeeping. |
| 151.3 | Maintain accountable items in the security equipment and advise management in writing of equipment inadequacy or malfunction. |
| 151.1 | 1. Ensure that protective equipment is used for maximum security at all locations. Observe the following priorities of protection. |

Priority

- 1
- 2

Item

Postal funds (see section 37).
Postage stamps, aerogrammes, international reply coupons, migratory-bird hunting and conservation stamps (bird stamps), philatelic and blank money order forms.

- 3 **Stamped envelopes and postal cards, money order imprinters, nonsalable stamp stock, and nonpostal items.**
- 151.1 2. **Ensure that the descending levels of security in your installation are followed.**

<u>Level</u>	<u>Equipment</u>
1	Burglar-resistant chests in fireproof safes or security containers located in walk-in vaults.
2	USPS standard vaults or security containers.
3	Security chests or burglar-resistant chest portion of fireproof safes.
4	Fireproof safes or vaults not built to USPS standards.
5	Lockable metal cabinets and file drawers.



Were the grievant's duplicate keys sealed in a Form 3977 - Duplicate Key Envelope and was he/she allowed to designate two (2) witnesses?

F-1 Handbook, Section 372.1 & 426.2:

- 372.1 2. **Ensure that each responsible employee and a witness to the enclosure of the combination or keys signs the envelope. Postmark as instructed on the form.**
- 426.2 3. **Each employee assigned a stamp credit must furnish the installation head two names of postal employees (in order of precedence) whom the employee chooses to witness the audit or inventory when he or she is absent. Enter the names of the selected witnesses on Form 3977.**
4. **Select chosen witnesses from employees who work at the same installation unit as the selecting employee. In their absence, the union steward may serve as a witness.**



Has an annual examination been made of all locks and keys in the unit to ensure that individual clerks' keys will not open locked drawers, safe compartments or stamp cabinets of other employees.

Was a record kept? If not, request an examination of all keys.

F-1 Handbook, Section 426.2:

- 8. To safeguard each clerks stamp credit, a unit supervisor must make an annual examination of all locks and keys in the unit except duplicate keys on file in Forms 3977. This ensures that individual clerks' keys will not open locked drawers, safe compartments, or stamp cabinets of other employees. The supervisor will keep a record for financial examination purposes.**



Were all duplicate key envelopes stored in the main safe or vault in a compartment under the exclusive control of the superintendent or designated subordinate?

F-1 Handbook, Section 372.21:

372.21 Hold duplicate keys to stamp credits in the main safe or vault of the station or branch in a compartment under the exclusive control of the manager or a designated subordinate. Send the combinations for the main safe or vault and the duplicate compartment keys in a sealed Form 3977 via registered mail to the postmaster. Store these Forms 3977 in the most secure place under the exclusive control of the postmaster or designated subordinate.



Is an inventory of Forms 3977 kept? Were all Forms 3977 physically examined every six-(6) months?

Can the USPS produce a written record?

F-1 Handbook, Section 372.3:

Each person with custody of Forms 3977 must maintain a list showing each envelope, the date received, the source, and the location of the safe or vault it relates to.

At least once each 6 months, physically examine each Form 3977 to be certain it is on hand and intact. Place a written, dated and signed report of this inventory in the file with the list.



Were any Forms 3977 missing or opened? If so, was this reported to the postal inspectors? Is there evidence of tampering (e.g., scotch tape, glue, staples, etc.)?

F-1 Handbook, Section 372.4:

1. When any Form 3977 is discovered to be missing, destroyed, or opened by an unauthorized person, the person having custody must immediately notify the person having jurisdiction over the safe, vault or stamp credit. Perform an examination of inventory. Change combinations or locks, and prepare a new Form 3977.
2. When a Form 3977 is missing or possibly opened as a result of burglary or other criminal act, notify the local inspector in charge immediately.

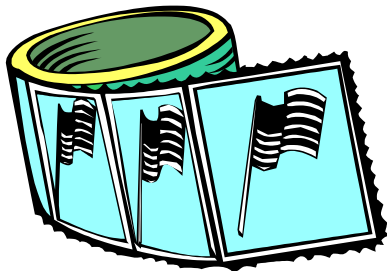


Did the grievant lock his security containers when they could not be continuously observed? If not, why?

F-1 Handbook, Section 151.41:

Postal funds (a) must be kept safely without loaning, using, depositing in an unauthorized bank, or exchanging for other funds; (b) must be kept separate from personal funds.

Keep postal funds inaccessible to the public and concealed from view. Make necessary arrangements for advance deposits, in addition to regular deposits, when funds in excess of normal operating needs accumulate early in the day. When funds are not continuously observed, keep them in locked receptacles.



DEBT COLLECTION ACT

460 Collection of Postal Debts From Bargaining Unit Employees

461 General

461.1 Scope

These regulations apply to the collection of any debt owed the Postal Service by a current postal employee who is included in any collective bargaining unit. If the circumstances specified in 462.32 apply to such employees, 452.3 may also apply, and consequently 451.2, 451.5, and 451.7 as well.

461.2 Debts Due Other Federal Agencies

Regulations governing the collection, by involuntary salary offset, of debts owed by postal employees to federal agencies other than the Postal Service are specified in Handbook F-16, Accounts Receivable, Chapter 7.

461.3 Definitions

As used in this subchapter, the following terms have the same meaning ascribed to them in 451.4:

- a. Administrative salary offset.
- b. Court judgment salary offset.
- c. Current pay and disposable pay.
- d. Debt.
- e. Employee.
- f. Pay.
- g. Postmaster or installation head.
- h. Severe financial hardship.
- i. Waiver.

461.4 Effect of Waiver Request

If an employee requests a waiver of a debt, the recovery of which is covered by these regulations, that request does not stay the collection process. However, if the waiver request ultimately is granted, the amount collected must be refunded to the employee.

462 Procedures Governing Administrative Salary Offsets

462.1 Determination and Collection of Debt

462.11 Establishment of Accounts Receivable

Depending upon the circumstances of a particular case, the determination of a debt, the collection of which is covered by this subchapter, may be made by an official in the field or at the Eagan Accounting Service Center (ASC). For payroll-related debts discovered in the field, Form 2240, *Pay; Leave, or Other Hours Adjustment Request*, must be submitted to the Eagan ASC. Payroll-related debts discovered at the ASC level must be reported on Form 2248, *Monetary Payroll Adjustment*. Other debts must be reported to the manager of the Postal Accounts Branch, on Form 1902, *Justification for Billing Accounts Receivable*. Regardless of the amount of the debt, it is the responsibility of the Eagan ASC to create a

receivable for each debt and to forward an invoice to the postmaster or installation head at the facility where the debtor is employed. At the time a receivable is created, the ASC must ensure that the employee's records are flagged so that the final salary or lump sum leave payment for that employee is not made until the debt is paid.

462.12 Collection by Postmaster or Installation Head

Each postmaster or installation head is responsible for collecting, in accordance with these regulations, any debt owed to the Postal Service by an employee under his or her supervision. A postmaster or installation head may delegate his or her responsibilities under these regulations.

462.2 Applicable Collection Procedures

462.21 Right to Grieve Letters of Demand

A bargaining unit employee or the employee's union has the right in accordance with the provisions of Article 15 of the applicable collective bargaining agreement to initiate a grievance concerning any letter of demand to challenge (a) the existence of a debt owed to the Postal Service, (b) the amount of such debt, (c) the proposed repayment schedule, and/or (d) any other issue arising under Article 28 of the applicable collective bargaining agreement. Care must be taken to ensure that any letter of demand served on an employee provides notice of the employee's right to challenge the demand under the applicable collective bargaining agreement.

462.22 Right to Petition for Hearing

Under the following circumstances, the statutory offset procedures in 452.3, including the right to petition for hearing after the receipt of a Notice of Involuntary Administrative Salary Offsets Under the Debt Collection Act, apply:

a. *Failure to Initiate a Grievance in Time.* If a bargaining unit employee or the employee's union does not initiate, within 14 days of the employee's receipt of a letter of demand, a grievance challenging (a) the existence of a debt owed to the Postal Service, (b) the amount of such debt, and/or (c) the proposed repayment schedule, and the Postal Service intends to proceed with the collection of the debt, the statutory offset procedures in 452.3 apply (see 462.32).

b. *Failure to Advance Grievance in Time.* If a bargaining unit employee or the employee's union initiates a grievance in time challenging (a) the existence of a debt owed to the Postal Service, (b) the amount of such debt, and/or (c) the proposed repayment schedule, but the employee's union, following receipt of a decision denying the grievance, does not advance the grievance to the next step of the grievance procedure within the time limits set forth in Article 15 of the applicable collective bargaining agreement, and the Postal Service intends to proceed with the collection of the debt, the statutory offset procedures in 452.3 apply (see 462.32).

c. *Partial Settlement of Grievance.* If a grievance challenging (a) the existence of a debt owed to the Postal Service, (b) the amount of such debt, and/or (c) the proposed repayment schedule is resolved at any stage of the grievance-arbitration procedure through a written settlement agreement between the Postal Service and the union under which the employee remains liable for all or a portion of the debt, and the Postal Service intends to proceed with

the collection of the debt, the statutory offset procedures in 452.3 apply (see 462.32). If the employee petitions for a hearing under 452.336, the Postal Service is free to pursue collection of the full amount of the debt before the hearing officer, notwithstanding the settlement with the union. However, if any contractual issue is resolved at any stage of the grievance-arbitration procedure, the settlement of that issue is final and binding.

d. *Ruling of Nonarbitrability.* If an arbitrator rules that a grievance concerning any letter of demand is not arbitrable, and the Postal Service intends to proceed with the collection of the debt, the statutory offset procedures in 452.3 apply (see 462.32).

462.3 Statutory Offset Procedures

462.31 Authority

Under section 5 of the Debt Collection Act, 5 U.S.C. 5514(a) (1982), the Postal Service, after providing an employee with procedural due process, may offset an employee's salary in order to satisfy any debt due the Postal Service. Generally, up to 15 percent of an individual's "disposable pay" may be deducted in monthly installments or at "officially established pay intervals," except as provided by 462.42. A greater percentage may be deducted with the written consent of the individual debtor. If the individual's employment ends before collection of the full debt, deduction may be made from subsequent payments of any nature due the employee.

462.32 Initiation of Statutory Offset Procedure

After (a) the 14 days referenced in 462.22a or the time limits referenced in 462.22b have passed, (b) any settlement agreement referenced in 462.22c has been signed, or (c) any nonarbitrability ruling referenced in 462.22d has been issued, and at least 30 calendar days before making an administrative offset under this authority, the postmaster or installation head, in accordance with 452.321, must provide the employee with (a) two copies of a Notice of Involuntary Administrative Salary Offsets Under the Debt Collection Act containing the information in 452.322, and (b) one copy of the procedures that govern hearings under the Debt Collection Act that are set forth at 39 CFR Part 961 (see Exhibit 452.322). The procedures in 452.33 governing the exercise of employee rights apply. The postmaster or installation head has discretion to agree to an alternative offset schedule, based on a showing of severe financial hardship, as outlined in 452.335.

462.33 Hearing Officials Under 39 CFR Part 961

In accordance with 39 CFR 961.3, administrative hearings under the Debt Collection Act may be conducted by any individual who is not under the control or supervision of the postmaster general and who is designated as a hearing official by the judicial officer.

462.34 Limit of Right to Petition for Hearing

If an arbitrator opens a hearing on the merits of a grievance concerning any letter of demand, the statutory offset procedures in 452.3 do not apply thereafter, unless the arbitrator makes a ruling of nonarbitrability (see 462.22d) or the Postal Service and the union negotiate a partial settlement of the grievance (see 462.22c).

462.4 **Collection of Debt**

462.41 **Stay of Collection of Debt**

Whenever a grievance concerning any letter of demand has been initiated in time, in accordance with Article 15 of the applicable collective bargaining agreement, and/or a petition for a hearing has been filed in time, in accordance with 462.22, regardless of the type and amount of the debt, the Postal Service will stay the collection of the debt until after the disposition of the grievance and/or the petition, through settlement or exhaustion of the contractual and/or administrative remedies.

462.42 **Limit on Amount of Salary Offset to Collect Debt**

Except as specified in part 463, the maximum salary offset to collect a debt that is owed to the Postal Service is 15 percent of an employee's biweekly disposable pay, or 20 percent of the employee's biweekly gross pay, whichever amount is lower when the salary offset is started. A greater salary offset may be made if the employee agrees with the Postal Service, in writing, on such greater amount.

462.5 **Implementing Offsets**

After the applicable procedural requirements have been followed, the postmaster or installation head must institute the collection process by completing the appropriate sections of Form 3239, *Payroll Deduction Authorization to Liquidate Postal Service Indebtedness* (see Exhibit 452.233).

463 **Court Judgment Salary Offsets**

463.1 **Authority**

In accordance with section 124 of Public Law 97 -276 (October 2, 1982), 5 U.S.C. 5514 note 1982), the Postal Service may deduct up to one-fourth (25 percent) of an employee's "current pay" in monthly installments or at officially established pay periods to satisfy a debt determined by a federal court to be owed to the Postal Service. The statute authorizes the deduction of a "greater amount" if necessary to collect the debt within the employee's anticipated period of employment. If an individual's employment ends before the full amount of the indebtedness has been collected, section 124 provides that deduction is to be made from later payments of any nature due the employee.

463.2 **Applicable Collection Procedures**

463.21 **General**

The requirements governing the collection of employer claims specified by a pertinent collective bargaining agreement are not applicable to the collection by salary offset of a Postal Service claim if a federal court has granted judgment upholding the debt.

463.22 **Notice**

At least 15 calendar days before initiating an offset to collect a debt reflected by a federal court judgment, the postmaster or installation head must provide the employee with a copy of that judgment, as well as with written notice of the Postal Service's intention to deduct 25 percent of the employee's current pay each pay period until the judgment is satisfied. The

letter (see Exhibit 453.21, Sample Letter of Salary Offsets Based on Federal Court Judgment) also must include a statement that indicates the approximate amount, duration, and starting date of the deductions. The letter and judgment generally should be hand delivered, and a dated, signed receipt of delivery obtained. However, if personal delivery is not possible, certified or Express Mail, return receipt requested, should be used.

463.23 Implementing Offsets

The postmaster or installation head must initiate the collection process by completing the appropriate sections of Form 3239 no earlier than 15 calendar days after the employee's receipt of the letter.

464 Multiple Offsets

464.1 Administrative Salary Offsets

By statute, administrative salary offsets under section 5 of the Debt Collection Act of 1982 are limited to no more than 15 percent of an employee's disposable pay during anyone pay period -whether the deductions are made to satisfy a debt owed the Postal Service, another federal agency, or some combination of these (but see 462.42 for the alternative limit on amount of salary offset to collect a debt that is owed to the Postal Service). Generally, priority among competing administrative salary offset requests is determined by the order in which they are received. However, a request to collect a debt due the Postal Service must be given priority over other government agency offset requests, regardless of the date the postal offset request is received (see 464.4). If a collection request cannot be honored upon receipt, or can be honored only in part, the postmaster or installation head must notify the requesting postal or other government official, in writing, of the reasons for the delay or for the collection of a lesser amount than that requested and the approximate date the requested offsets can be implemented.

464.2 Court Judgment Salary Offsets

No more than 25 percent of an employee's current pay may be withheld to satisfy a debt determined by a federal court to be due the United States - whether the deductions are made to satisfy a debt owed the Postal Service, another federal agency, or some combination of these. Generally, priority among competing court judgment salary offset requests is determined by the order in which they are received. However, a request to collect a debt due the Postal Service must be given priority over other government agency offset requests regardless of the date the postal offset request is received (see 464.4). If a collection request cannot be honored upon receipt, or can be honored only in part, the postmaster or installation head must notify the requesting postal or other government official, in writing, of the reasons for the delay or for the collection of a lesser amount than that requested and the approximate date the requested offsets can be implemented.

464.3 Administrative and Court Judgment Salary Offsets

If the salary of a postal employee is the target of one or more of both types of offsets - administrative and court judgment - a combined total of no more than 25 percent will be withheld during anyone pay period. However, in no case may the amount withheld in accordance with administrative salary offsets exceed 15 percent of current pay (but see

462.42 for the alternative limit on amount of salary offset to collect a debt that is owed to the Postal Service). As is generally the case with competing offsets of the same type and subject to section 464.4, priority between administrative salary offsets and court judgment salary offsets is determined by the order in which they are received.

464.4 Priority of Postal Service Indebtedness

If a postal employee is indebted to the Postal Service, that debt takes priority over any debt he or she may owe another federal agency, even if the other agency's request for salary offsets was received first. Accordingly, if both the Postal Service and another agency request the maximum allowable deductions, collection of the other agency's debt must be interrupted or postponed until the entire postal debt is recovered. However, if an amount less than that requested by the other agency can be deducted in addition to the offsets requested by the Postal Service without exceeding the appropriate percentage ceiling, deductions for the lesser amount must be withheld and forwarded to the requesting agency along with an explanation for the smaller offsets.

464.5 Garnishments

Administrative salary offsets based on section 5 of the Debt Collection Act of 1982 and court judgment salary offsets based on section 124 of Public Law 97-276 are not, as a matter of law, considered garnishments. Rather, for purposes of determining an employee's "disposable earnings" under the Federal Consumer Credit Protection Act, 15 U.S.C. 1671, et seq., these withholdings are considered to be amounts required by law to be deducted. Accordingly, they should be deducted before the applicable garnishment ceilings are imposed and before deductions for garnishments are made.

465 Action Upon Transfer or Separation

465.1 Withholdings From Any Amount Due

If a postal employee whose wages are subject to offset transfers to another federal agency or separates from employment, the Postal Service applies any amount due the employee at the time of his or her separation to the debt owed the Postal Service. If the debt is still not satisfied, appropriate action as described in 465.2 or 465.3 should be taken.

465.2 Transfer to Another Federal Agency

If a postal employee whose wages are subject to offset transfers to another federal agency, and the full debt cannot be collected from amounts due the employee from the Postal Service, the Postal Service must request the former postal employee's new agency to continue offsetting the debtor's salary until the debt is satisfied. The request must specify the amount of the original debt, the amount collected by the Postal Service through salary offsets, the amount that remains to be collected, and the percentage of the debtor's disposable earnings or current pay that should be deducted each pay period. In addition, the Postal Service must certify that the former postal employee has been accorded all required rights of due process. When the Postal Service's request is sent to the new employing agency, a copy also must be sent to the former employee at his or her home address.

465.3 Collection of Debt Upon Separation

If the full debt cannot be collected from amounts due the employee at the time of his or her separation, the manager of the Postal Accounts Branch must attempt to recover the debt from any available retirement or disability payments due the former employee in accordance with the provisions of 5 CFR 831, Subpart R, or 5 CFR 845, Subpart D (see Handbook F-16, *Accounts Receivable*, 743).

Finance

HANDBOOK F-1 REVISION

Segmented Inventory Accountability

Effective immediately, Handbook F-1, Post Office Accounting Procedures, is revised to include section 48, Managing Accountable Paper and Cash at Offices with Segmented Inventory Accountability (SIA). The unit accountability concept is now being replaced by segmented inventory accountability (SIA), and section 48 explains it. The existing section 47, Managing Accountable Paper at Postal Retail Stores Under Unit Accountability, is deleted. Section 47 will be reserved for future use. All POS ONE sites with SIA and authorized Postal Retail Stores with integrated retail terminal (IRT) units will follow the financial policies and procedures contained in section 48. All units will be under either "Clerk Credit Accountability" or "Segmented Inventory Accountability."

Chapter 4, section 42, Managing Accountable Paper at Stations, Branches, and Post Offices With Stamp Accountability, still addresses financial policy for Clerk Credit Accountability.

This revision will appear in the next printed version of Handbook F-1 and will be incorporated in the online version accessible on the corporate intranet at <http://blue.usps.gov>.

Handbook F-1, Post Office Accounting Procedures

* * * * *

47 (Reserved)

[Add new title and text for 48 as follows:]

48 Managing Accountable Paper and Cash at Offices with Segmented Inventory Accountability

481 Overview

There are many types of accountabilities within any postal retail unit. Every unit must contain and maintain a unit reserve. In addition, it may contain a number of different segments. Each employee's role determines his or her access and responsibility for his or her assigned inventory segment(s).

481.1 Modifications

The major change incorporated in this section is the inclusion of the concept of retail floor stock. Under this

concept, two modifications are made to traditional controls. First, cash is separated from stamp stock in retail credits. Second, a shared retail floor stock replaces individual stamp credits for window clerks.

481.2 Units Affected by Retail Accountability Changes

The incorporation of the retail floor stock concept under Segmented Inventory Accountability (SIA) is restricted to POS ONE units, postal retail stores, and post office express (POE). Exceptions to this restriction must be approved by the controller and vice president, Finance.

482 Responsibility for Retail Unit Operations

The postmaster/unit manager or supervisor is responsible for compliance with the procedures defined in this section. Key elements of this responsibility include establishing and controlling segments within the unit, monitoring inventory levels, ensuring proper entry of all financial transactions, remittance of all funds in excess of authorized reserves, and monitoring of operations including count procedures. The postmaster/unit manager or supervisor is responsible for providing adequate security for all accountable items.

Note: Under the Field Retail Operations Group (FROG) concept, the district manager of retail is responsible for compliance or delegation of compliance with procedures defined in this section.

482.1 Existing Procedures and Policies

Except for procedures or policies redefined in this section 48, all existing postal financial procedures and policies de-fined within this handbook will remain in force.

482.2 Responsibility for Inventory Items, Cash, and Equipment

It is the responsibility of all employees to ensure:

- _ Financial integrity.
 - _ Security of all postal stock, funds, equipment, and facilities.
 - _ Proper reporting of all retail transactions to include a receipt for each customer.
- Employees are accountable for:
- _ Cash directly assigned to them.
 - _ Money order stock directly assigned to them.
 - _ Stamp stock directly assigned to them.
 - _ Correct collection and remittal of all funds due the Postal Service.

483 Unit Reserve Responsibility

1> The unit reserve is assigned to the postmaster, unit manager, supervisor, or finance clerk at a finance station. A finance station has no domiciled supervisor and has no more than three full-time window clerks. A finance clerk may also be assigned a credit from which direct sales to the public are conducted.

2> Where no supervisor is domiciled, the unit reserve stock may be assigned to a window service technician. When the unit reserve stock is assigned to a window service technician, that employee may not also have accountability for any credit from which sales are made directly to the public.

3> The individual assigned to the unit reserve is referred to as unit reserve custodian. The unit reserve custodian is directly accountable for the value of all items in the unit reserve stock.

4> Assignment of the unit reserve stock will be made using Form 3369, Consigned Credit Receipt, and all counts of the unit reserve will be posted to Form 3368, Stamp Credit Examination Record.

5> Form 3958, Main Stock (or Unit Reserve Stock) Trans-action Record, will be prepared and signed every day transactions affect the unit reserve stock.

6> The unit reserve contains items listed in section 413 of this handbook. The unit reserve custodian maintains and secures all accountable papers for the unit beyond the levels authorized for the various segments. The employees assigned to the various segments within the retail unit will obtain these items directly from the unit reserve.

484 Segments

484.1 Definition

Segments define the assignment of cash or stamp stock to various individuals or roles within a unit.

On each unit’s system-generated Form 1412, Daily Financial Report, the total of all stamp stock is posted in AIC 853, Stamp Accountability Closing Balance. In both the POS ONE system and on the IRTs, the “Clerk Balance List” generates a report of the balance of each segment’s stock. The total value of stock computed on the “Clerk Balance List” must always equal the unit’s total reported in AIC 853 on the daily financial report. The “Clerk Balance List” will always include a unit reserve, a retail floor stock, and may include other segments such as mobile unit, philatelic, or self-service (vending).

Similarly, the unit’s daily financial report (Form 1412) has a total of AIC 753, Cash Retained. This is defined on the “Clerk Balance List” by listing the unit’s cash retained reserve plus the various assigned clerk cash retained credits.

Note: Rural carrier credits and stamps on consignment are included in the unit reserve accountability. They are fixed amounts entered into the unit reserve total as unique item numbers and are not segments. Replenishment is made by purchasing stock from retail floor stock.

484.2 Segments Assigned From the Unit Reserve

Segments assigned from the unit reserve include:

- Vending (Self-Service Credits) — Stock for sale through vending equipment will be assigned to the Self-Service Postal Center (SSPC) technician, or designated employee, who is directly accountable for that inventory. This credit is replenished directly from the unit reserve to the designated employee to whom the credit is assigned, unless this function is supported by the Stamp Distribution Office (SDO) or Stamp Service Center (SSC) as a separate unit ID.
- Mobile Unit Credits — Stock for use by clerks assigned to operate mobile units is issued directly from the unit reserve. This credit is accountable to an individual.
- Philatelic Units (or dedicated windows) —Where a dedicated philatelic credit is used, stock is issued directly from the unit reserve. The credit is accountable to an individual.
- Retail Floor Stock — Stock for this inventory will be issued from the unit reserve. The purpose is to provide a common inventory for use by the retail clerks in units as defined in section 481.1. This credit is not accountable to any individual.
- Stamps by Mail (where volume prohibits filling requisitions by a regular window clerk) — Stock for this inventory will be issued from the unit reserve. The purpose is to provide an inventory for use in filling stamp orders received from customers by mail or fax. This credit is accountable to an individual.

Note: Special Event Credits — On occasion, the Postal Service establishes credits associated with special events. The POS ONE System does not have a defined segment to accommodate establishing these temporary units. Temporary credits can be assigned to one of the accountable segments with stock issued directly from the unit reserve. At the completion of the event, all sales must be posted. A count is conducted and the balance is either returned to the unit reserve, prepared for destruction, or returned to retail floor stock.

484.3 Documentation of Stock Assignment**484.31 POS ONE Offices**

- 1> Assignments of all individually accountable credits and unit reserve stock are documented by the completion of Form 3369. In these instances, assigned employees are accountable for all stock, accountable paper, money orders, and money in their respective credits.
- 2> For stamps on consignment credits, the contract serves as documentation for the credit.
- 3> Retail floor stock is issued directly from the unit reserve. Although no individual is accountable for this stock, each clerk making sales from this credit is responsible for ensuring adequate protection and security of postal resources, reporting of all transactions, and remittance of funds on a daily basis.
- 4> Form 17, Stamp Requisition, or an approved electronic equivalent, will be retained to document shipments of stock from the unit reserve to retail floor stock and from retail floor stock back to the unit reserve. The unit reserve stock custodian will sign the Form 17 as “shipped” or “received” as appropriate. A clerk must in-dependently count all stock moved into and out of the retail floor stock and sign the appropriate Form 17 as “witnessed” or “verified by.”

484.32 IRT Offices

- 1> Clerks selling from the retail floor stock segment at IRT units must maintain stock balances to operate the IRT. Although these clerks have a stock value listed on the “Clerk Balance List,” they are not individually account-able for this balance, and no Form 3369 is required.
- 2> The IRTs do not have the ability to accommodate the retail floor stock segment. In essence, since each clerk has to maintain a stock balance to operate the IRT, the retail floor stock is valued at the total of all clerks’ IRT balances. Even though each individual clerk, working from credits that represent the retail floor segment, has a balance listed on the “Clerk Balance List,” none are held to be individually responsible for that listed value. The total of balances for all clerks operating from the retail floor stock must at all times be equal to the total retail floor stock segment.
- 3> In this IRT environment, each shipment of stock into or out of the unit reserve must be documented on a Form 17. The exact item numbers and quantities shipped to the retail floor stock from the unit reserve must be “shipped” by the unit reserve custodian and “witnessed” by one of the clerks operating in the retail floor stock segment, with signatures required. Ensure that stock shipped to the retail floor stock is

adequately distributed among the clerks to maintain an operational balance. In some instances, stock credit will have to be transferred between clerks to maintain operating stock balances on their IRTs.

- 4> Stock returned from retail floor stock must be documented on Form 17 also. The stock will be independently verified by a clerk and the stock custodian. A clerk will “witness” the Form 17, and the stock custodian will “receive” the stock, with signatures required.

485 Retail Floor Stock**485.1 Definition**

Retail floor stock is a common inventory used by retail clerks in units as defined in section 481.1. This stock is not assigned to an individual.

Retail floor stock is divided into two major components:

- Display stock, which is used only in postal retail stores, comprises the following two items:
 - Open Merchandise Stock — Shrink-wrapped stamp stock and philatelic products that are displayed in the open merchandising area, accessible to the general public on the slat wall or gondola.
 - Closed Merchandise Stock — Stamp stock and philatelic products displayed in the retail clerk area, inaccessible to the general public and non-retail employees.
- Loose Stock — Accountable paper held as a common credit available to all retail clerks in a designated retail window unit, but not on display. This stock is held in the retail clerk area, inaccessible to the general public and non-retail employees.

485.2 Retail Floor Stock Limits

Retail floor stock, which is the sum of display stock plus loose stock, must be limited to a 2-week level, as determined by the unit’s history of stamp sales (as recorded in AIC 852, Total Sales, minus AIC 096, Vending, and AIC 094, Stamps by Mail). The limitations must be enforced to minimize the risk of losses that might be associated with the concept of common accountabilities.

Note: Proper inventory controls are an essential part of managing the retail floor stock and minimizing potential losses. Broken stock (partial sheets, loose stamps, etc.) held in the loose stock must be kept to a minimum to simplify the count of the unit.

485.3 Money Order Form Sets

Each window clerk is assigned money order form sets as explained in section 74 of chapter 7 of this handbook. A clerk is individually accountable for all assigned money order form sets.

486 Cash Credits

In the SIA configuration, there are two types of cash credits assigned.

486.1 Unit Cash Retained Reserve

1> A unit cash retained reserve is established for the unit. This is used to provide retail floor stock clerks and employees assigned to the other segments a source for rolled coins and smaller denomination currency. This reserve is fixed in amount. It is established via a written request by the postmaster/retail unit manager to the district finance manager. This request must include the proposed amount of unit cash retained reserve, and the total of all clerks' cash retained, that will be re-reported in AIC 753, along with justification. The district finance manager is responsible for reviewing the request, including the amount, and sending written authorization or denial to the unit within 5 working days of receiving the request.

2> The unit's cash retained reserve is assigned, on Form 3369, to an individual who is directly accountable. When circumstances warrant, more than one cash retained reserve may be established. The unit cash retained reserve custodian may reassign all or part of the unit cash retained reserve using Form 3369. The unit cash retained reserve has no tolerance. These re-assigned funds must not be mixed with other account-able credits assigned to the employee.

486.2 Clerk Cash Retained

Clerks working from the retail floor stock segment do not sell from an individual stamp credit. Clerks will be authorized a cash retained amount of \$100 for which they will be individually accountable.

The total of the unit cash retained reserve and the individual clerk cash retained amounts must be equal to AICs 353/753 as reported on the unit's Form 1412 and cannot exceed the approved amount.

486.3 End of the Day Internal Controls

Due to the change from individual accountabilities to the retail floor stock concept, close-out procedures are modified. POS ONE and the IRT both generate a "Clerk Balance List." At close out, the person consolidating the unit's Form 1412 must:

1> Verify that the total of the cash retained balances (both the unit's cash retained reserve and the individual clerk's cash retained) is equal to the total entered as AIC 753 on the unit's Form 1412.

2> Verify that the total stamp stock accountability appearing in AIC 853 on the unit's Form 1412 is in agreement with the unit's total stamp accountability on the "Clerk Balance List."

Note: In POS ONE, the "Clerk Balance List" shows the unit reserve, self-service vending credits, mobile credits, philatelic credit, and the retail floor stock credit. The retail floor stock credit replaces the traditional individual window clerk credits.

487 Conducting Counts

487.1 Responsibility

>> The postmaster/unit manager is responsible for ensuring that all counts, both stamp stock and cash retained, are conducted. This is to ensure compliance with all existing contractual commitments, required time frames for counts, documentation of results, and prompt reporting and resolution of any discrepancies.

487.2 Requirements Prior to Initiating Counts

_ All differences between the "Clerk Balance List" and the unit's Form 1412 must be resolved.

_ All pending financial adjustments (Form 1908, Financial Adjustment Memorandum) that affect the accountability of the segment or credit being counted must be considered. (See chapter 5 for policy on clearing trust and suspense.)

_ All pending stock transfers must be completed. (See chapter 5 for policy on clearing trust and suspense.)

487.3 Count of the Unit Cash Retained Reserve

1> The unit's cash retained reserve is to be counted at the end of each accounting period (AP). Any portions re-assigned to window clerks on Form 3369 must be counted at least once every 2 weeks in conjunction with the cash credit count. The count will be performed by the assignee and a witness, one of whom must be a nonbargaining employee. There is no tolerance for unit cash retained reserve accountabilities or the real-located portions.

2> At any time the unit cash retained reserve custodian is reassigned, a count must be performed and a new Form 3369 prepared.

487.31 Discrepancies in the Unit Cash Retained Reserve

Overages

>> Overages are to be placed into AIC 068, Cash Retain Overage, and submitted to the bank. Unresolved cash retain overages will be removed from trust and declared as revenue (AIC 126, Miscellaneous Non-Post-al Revenue) after 90 days.

Shortages

>> Shortages must be reported in AIC 764, Cash Retain Shortages, on the day of the count unless paid from personal funds at the time of the count. The shortage, if not paid at the time of the count, will be cleared by an entry to AIC 364, Cash Retain Shortage Cleared.

487.32 Documenting Count Results

>> Form 3294, Cash and Stamp Stock Count and Summary, will be used for each count of unit cash retained and all results posted to Form 3368. Form 571 is required for differences of \$100 or more. If an employee immediately repays the shortage in excess of tolerance, the Form 3368 and Form 3294 should indicate “paid by personal funds.”

487.4 Counts of Clerks Cash Retained

487.41 Frequency

>> Each clerk’s cash retained is to be counted randomly at least once every 2 weeks. Reallocated portions of the unit cash retained reserve must be counted in conjunction with the clerk’s cash retained. This count is to be conducted by the assigned clerk and a non-bar-gaining employee.

487.42 Tolerance

>> Each clerk is allowed a tolerance of \$5 in his or her assigned cash retain credit. If a count results in a discrepancy of \$5 or less, the only required action is to record the results on Form 3368.

487.43 Overages

>> Overages in excess of the \$5 tolerance are immediately reported. Cash in excess of the clerk’s balance listing is deposited to the bank and offset to AIC 068, Cash Retain Overage.

Note: Unresolved cash retain overages will be removed from trust and declared as revenue (AIC 126, Miscellaneous Non-Postal Revenue) after 90 days.

487.44 Shortages

>> Shortages in excess of the \$5 tolerance will be reported in AIC 764, Cash Retain Shortages; this will decrease AIC 752. When an employee repays the shortage, clear the suspense item using AIC 364.

487.45 Documenting Count Results

>> Form 3294 will be used for each count of cash retained and all results posted to Form 3368. Form 571 is required for differences of \$100 or more. If an employee immediately pays a shortage in excess of tolerance, the Form 3368 should indicate “paid with personal funds.”

487.46 Inventory of Money Order Blank Stock

>> At least once every 4 months, all blank money order stock in the clerk’s possession must be reconciled with

the list of money orders remaining in the clerk’s inventory when compared to issue records. Discrepancies must be resolved and documented on Form 3294.

487.5 Unit Reserve Count

487.51 Frequency

1> Unit reserve stock will be counted at least once every 12 months. This count will be conducted in conjunction with a count of the retail floor stock. The unit reserve must be counted anytime custody of the unit reserve changes and a new Form 3369 prepared. Any other credit held by the custodian must also be counted when the unit reserve is counted.

2> Prior to beginning a count, confirm that the total of unit reserve stock (per Form 3958) and all the clerk credits (segments) equal AIC 853 on the last closed unit Form 1412. Differences must be identified and corrected prior to performing the count (i.e., reconciling stock in-transit).

3> All counts will be based on the value of the unit reserve stock as shown on Form 3958. Differences will be placed in either trust or suspense and attributed to the individual stock custodian.

4> All counts of the unit reserve must be entered in the POS ONE Inventory Reconciliation System or the IRT inventory adjustment process as applicable.

487.52 Zero Tolerance Within the Unit Reserve

No tolerance is applied to the unit reserve stock. The unit reserve stock is not authorized to contain cash and the employee assigned cannot conduct sales.

487.53 Count and Adjustment Procedures

1> When counting the unit reserve stock, two independent counts will be performed. The stock custodian and one other employee will conduct the counts. One of them must be a nonbargaining employee.

2> Reconciliation of the unit reserve inventory must be performed in the POS ONE System on the day of the count. On IRT/POS ONE, the results will be posted to trust or suspense on the day of the count as applicable.

Overages

>> Any overages discovered as a result of the unit reserve count will be entered into AIC 057, Employee Overage. Unresolved overages will remain in trust for 1 year and then be purged to AIC 126, Miscellaneous Non-Postal Revenue.

Shortages

>> Any shortages discovered as a result of the unit reserve count will be entered into AIC 767, Employee Shortage. Shortages should be resolved as soon as possible. In collecting a shortage from the assigned unit reserve custodian, all contractual provisions must be followed.

487.54 Inventory of Blank Money Order Sets

>> An inventory of blank money order stock will be conducted every time the unit reserve is counted.

487.55 Documenting Unit Reserve Count Results

>> Form 3294 will be used to document counts of the unit reserve stock, and all results will be posted to Form 3368. Form 571 is required for differences of \$100 or more.

487.6 Counting Retail Floor Stock

487.61 Responsibility

_ When the floor stock is counted, this represents a count of the display stock and the loose stock. The postmaster/manager or supervisor has the responsibility for this count.

_ Maintain inventory levels in accordance with section 484.2. There is no tolerance for unit counts.

487.62 Threshold

>> The goal in operating a retail floor stock is to maintain a threshold within 1/2 percent variance of total sales since last count. Total sales are computed by calculating the total amount reported on the unit's Form 1412 in AIC 852, minus AIC 094 and AIC 096, since the last count.

487.63 Frequency

>> The frequency of audits is contingent upon maintaining an inventory variance of within a 1/2 percent threshold. Retail stores are required to count each AP until they achieve three consecutive counts within the 1/2 percent acceptable goal (certain circumstances, i.e., theft, do not warrant the three consecutive counts). After that, audits are required quarterly as long as variance is maintained within the 1/2 percent limit. If a quarterly audit results in a variance in excess of the 1/2 percent target, frequency reverts to the AP requirement until the 1/2 percent goal is attained, then the office returns to a quarterly audit cycle.

487.64 Procedures

The floor stock inventory of the unit is counted separately by two employees. One of the participants must be the postmaster/manager or supervisor responsible for the unit. Use the following procedures:

1> Use Form 3294 to record all display and loose stock as counted, balanced to the value of the retail floor stock (or total of all IRT credits or disks representing the retail floor stock).

2> Attach copies of the "Clerk Balance List" and Form 1412 that support the figures. Obtain two signatures as required.

3> Compare the sum of credits or disks representing floor stock to the physical count.

Note: Do not include packaging products or retail products in this count.

Overages

>> Any overage discovered as a result of the floor stock count must be recorded into AIC 239, Floor Stock Overage.

Shortages

1> Any shortage discovered as a result of the floor stock count must be recorded into AIC 639, Floor Stock Shortage; this will bring the floor stock back into balance.

2> The floor stock count must be entered into the POS ONE Inventory Reconciliation System. (The count or reconciliation cannot be finalized in the POS ONE System during business hours.)

3> The postmaster/manager or supervisor will follow these procedures:

If...	Then...
There is no evidence of negligence, theft, fraud, embezzlement or correlation to a following corresponding overage (file within 30 days).	Enter the amount of shortage to AIC 639 Submit copies of the documents to the DAO: _ Form 571, Discrepancy of \$100 or More in Financial Responsibility, as required. _ Form 3294, Cash and Stamp Stock Count and Summary. _ Inventory report from POS ONE or POS cash register in IRT office. _ Copy of electronic article surveillance (EAS) log.
The shortage is a result of robbery or burglary.	Enter the amount of shortage to AIC 639. Attach a copy of the Postal Inspection Service's investigative memorandum. See section 846.

487.65 Documenting Retail Floor Stock Count Results

>> There is no tolerance in retail floor stock. Post differences to AICs 239/639 (supporting documentation to the DAO). Record all counts of Form 3368. Prepare Form 571, Discrepancy of \$100 or more in Financial Responsibility, for all differences of \$100 or more and send to the Postal Inspection Service.

487.66 Reviewing and Adjusting Stock Levels

>> Excessive stock in the retail floor stock segment increases the risk of losses. The stock levels must be strictly maintained within the 2-week sales level de-fined in section 484. The goal is to avoid excessive overages and shortages.

487.7 Counts of All Other Accountability Segments

>> Counts of all other stamp or cash credits in IRT offices remain unchanged (see section 429). In POS ONE offices, which require separation of cash and stock, refer to the POS ONE Users Guide, provided to users during training, for instructions on counts. Frequency of counts for all other accountability segments is at least once every 4 months.

487.8 SIA Counts Chart

Accountability Unit	Tolerance	Frequency	Over	Short
Unit Reserve	-\$0.0-	12 months	AIC 057	AIC 767
Unit Cash Reserve	-\$0.0-	AP	AIC 068	AIC 764
Clerk Cash Retain	\$5.00	2 weeks	AIC 068	AIC 764
Segments	(section 429)	4 months	AIC 057	AIC 767
Floor Stock	-\$0.0-	(section 487.63)	AIC 239	AIC 639
Money Orders	N/A	4 months	N/A	N/A

— Post Office Accounting, Finance, 4-20-00