



NATIONAL ASSOCIATION OF POSTAL SUPERVISORS
NAPS/USPS Consultative Meeting

In conjunction with the NAPS 2015 Fall Executive Board Meeting
October 19, 2015 at NAPS HQ

In attendance

US Postal Service

John Cavallo, Mgr. Labor Relations, LRPA
Mike Mlakar, Mgr. Labor Relations, Field
Bob Brenker, Mgr. Strategic Complement
Rachel Otis, Org Classification Specialist
Jenny Utterback, Mgr. Organizational Effectiveness
Phong Quang, Labor Relations Specialist, Mgmt. Associations

National Association of Postal Supervisors

Entire Executive Board

Agenda Items

1. As a result of the recent VMF restructuring, NAPS is requesting the following:

- As of October 6, 2015, the number of EAS VMF positions that are currently vacant.
- Have all VMF EAS, impacted by the recent VMF restructuring, received a postal position?
- NAPS asked why did approximately 99% of the posted VMF positions did not have relocation listed on the posting.

USPS Response: There are 81 total vacancies and of those 70 are currently posted. When USPS first announced that there were going to be 280 impacts, 233 were placed during RIF Avoidance, 28 placed via the RIF (offered an assignment), 18 retired, 1 person was RIF'd due to pending disciplinary action – removal. All Form 50's have been cut and mid-September was the final RIF date. USPS said it was a management decision not to have relocation.

2. During the July 2015 consultative meeting, NAPS presented the agenda item of excessive telecoms in the Arizona district. USPS response to this agenda item was:

USPS contacted the USPS Western Area and found the issue had been resolved after the Western Area HR department talked to the NAPS President. USPS stated a WEA team investigated the issue and it had been resolved.

NAPS HQ was advised by its membership in Arizona that this psychological aggression still persists. The Arizona District is using a “calculator program” which is not an official USPS program that NAPS HQ has not been consulted. This “calculator program” appears to be one of the root causes of the psychological aggression being exhibited by leadership towards supervisors and managers in the field. NAPS is requesting the following:



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- That the USPS initiate an official Employee Workplace Intervention (EWI) investigation regarding the Arizona District's psychological aggression by postal leadership in violation of the *Joint Statement on Violence and Behavior in the Workplace*.
- In cooperation with local NAPS leadership and to ensure the rights under the Whistle Blowers Act are invoked and/or maintained for all EAS interviewed, the USPS conduct interviews with all EAS employees who report to those managers initiating this psychological aggression.
- That a full written report of the EWI investigation be provided to NAPS HQ with the Postal Service's findings and recommendations to resolve the issue.

USPS Response: NAPS HQ has been in contact with the respective USPS Area. USPS HQ made some management changes in Arizona and New Mexico. USPS will allow new postal leadership and NAPS time to work together before making a determination if in the future a EWI investigation is necessary.

3. NAPS has received a copy of an arbitration settlement out of the GLA where an arbitrator ruled that the "Postal Service violated the National Agreement as a result of the failure by manager XXXXX to comply with the terms of a pre-arbitration settlement, dated February 12, 2014. Specifically, the manager failed to make a public apology as required by the settlement."

NAPS does not agree that EAS be mandated, by a third party arbitrator, to make a public apology for fulfilling their duties in accordance with Article 3 of the Collective Bargaining Agreement. Managers discharging the duties and responsibilities of their positions do so as agents of the USPS not as individuals. In so, EAS should have the expectation that the Postal Service provide them with the support required in completing the mission of the Agency.

NAPS does not believe this is an arbitral issue. If an employee(s) makes allegations of violations of postal laws by postal employees they must be reported immediately to the Office of Inspector General, as per ELM 665.14. If there is corrective action to be taken based on the report from the OIG in accordance with ELM 665.14, this will be an issue to resolve within the provision of ELM 650.

It is the position of NAPS that Labor Relations' actions in this case do not support EAS. Labor Relations should be an advocate for the Agency and the agents that are performing duties for the Agency. To make a pre-arbitration settlement that is not supportive of EAS managing in today's leaner, faster mail environment is not advocating for the Agency.



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NAPS is requesting that USPS HQ Labor Relations issue a directive and policy for the Labor Relations Field employees requiring such employees to collect, integrate and analyze data in support of representing the Agency that includes EAS employees. Furthermore, that such a directive and policy not require or mandate EAS to make individual workplace apologies related to grievance settlements. Such workplace apologies should come from the agency.

USPS Response: USPS explained the history behind the Joint Statement on Violence and Behavior in the Workplace (JSOV). This document constitutes an enforceable contractual agreement that the Postal Service will not tolerate violence, threats, or the other behaviors referenced in the statement. That standing has been resolved through the grievance-arbitration procedure, including national arbitration where disputes about interpretation, the meaning, of our collective bargaining agreements are settled after the parties are unable to do so for themselves. The Postal Service argued, unsuccessfully, against the proposition that the JSOV had standing of a contract that could be enforced through the grievance procedure. That issue has been settled with finality. The JSOV is clear in stating that abusive and disrespectful treatment is unacceptable, and in providing that those who continue unacceptable behavior will be removed from their positions. A national arbitrator confirmed validity of the JSOV provisions, that employees and the unions have access to the grievance-arbitration procedure to seek enforcement of the JSOV's terms, and that regional arbitrators have authority to evaluate the cases presented them to determine whether the JSOV was violated and, if it was, whether the individual who violated the JSOV is to be removed from his or her position.

The reason for ending up with remedies NAPS has cited in this discussion is that some supervisory/managerial employees persist in behaving inconsistently with the provisions of the JSOV. The Postal Service emphasizes the requirement that all employees be treated with dignity and respect – including when the employees are to be made aware of or issued corrective action for their behaviors.

When a grievance is filed asserting that a supervisory/managerial employee violated the JSOV, the management employee involved should make sure to develop his/her side of the story fully – including a statement of the facts, references to witnesses, and statement of any such witnesses (and any other substantiation) before the grievance is processed at the second step of the process (Step 2 of formal Step A). This is local management's contractual opportunity to protect the interests of the supervisory/managerial employee who might assert that the grievance is not valid and is an attempt to discredit the supervisor/manager for doing his/her job properly.



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The Postal Service recognizes the importance of these matters. We have had experience with assertions of JSOV violations and with outcomes in the grievance-arbitration procedures sufficient to recognize how certain behaviors will probably be handled in the event we put the issues before regional arbitrators.

The best guidance for any supervisory/managerial employee is “Don’t engage in behaviors that are inconsistent with the terms of the JSOV,” and to ensure that you develop your side of the story fully as outlined above so that your position, evidence, and testimony (if the matter ends up in arbitration) can be presented effectively and fully in the process.

Postal Service headquarters Labor Relations authority reviews all JSOV cases appealed to arbitration before the cases are presented to arbitrators. This is to provide advocates with guidance and support concerning the merits of the case and on disposition of the matter. We hope the facts support withdrawal of such grievances and that our supervisory/managerial employees did not violate the JSOV. If cases cannot be settled reasonably and arbitration cannot be avoided, it is important to understand that whether the Postal Service’s position was developed and raised fully by the time processing of the dispute at the second step in the process was done is vital. While the Postal Service’s interest is in resisting union arguments that are not correct or proved sufficiently, the way to prevent undue remedies at any level in the grievance-arbitration procedure is to act in accordance with the JSOV principles and to respond timely, fully, and accurately to grievances asserting JSOV violations. Local management officials who are Step 1 or 2 (informal or formal Step A) representatives should contact local Labor Relations as needed in order to respond timely and effectively to such grievances. .

NAPS DDF provider, Charlie Scialla, stated that Dispute Resolution Teams (DRTs) are not adequately trained. Scialla stated that the cases that NAPS is addressing are not violence related, but interpretation by the union of being disrespected. Scialla asked where in case law does it require a supervisor to give an apology. NAPS asked why can’t an EAS being accused of violating the Joint Statement go before the DRT to state their case. Scialla stated that the arbitrators are telling the USPS what to do. In addition, NAPS stated that the Due Process issue has been taken away from the EAS when a decision is made at pre-arb cases.

USPS stated that both parties’ nominees for duty as Dispute Resolution Team (DRT) representatives, at Step B in the Dispute Resolution Process (DRP) between the Postal Service and the National Association of Letter Carriers, AFL-CIO (NALC) undergo an intense full week of joint training at the Bolger Center in Potomac, MD in order to test and qualify for this work. Trainees are admonished to ensure they abide by the parties’ agreements and to seek guidance in complex cases that require support/advice from their respective subject matter authorities before making decisions.



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As noted previously, the clear terms of the JSOV cover more than only physical violence. Abusive and disrespectful behavior is prohibited specifically by the JSOV. Allegations of such behavior may be the subjects of grievances asserting JSOV violations. Also, as noted previously, the supervisor's/manager's opportunity to state his/her case is the chance and duty to respond fully and timely with a statement and relevant documentation (including witnesses' statements and any other relevant material). This get his/her side on the record and will lay a contractual foundation for calling the supervisor/manager to testify at arbitration if this is necessary. DRTs do not normally conduct hearings or interview witnesses.

Disagreements about interpretation or the meaning of the JSOV's terms and the authority of regional arbitrators have been settled through national level arbitration. The authority of regional arbitrators and of the parties' respective designees in the grievance procedure to evaluate case-by-case evidence and determine whether the JSOV has been violated, and, if the JSOV was violated, to determine whether a remedy within the parameters of the JSOV is supported by the evidence is settled. The best way to avoid apology-remedies is not to complain about them when they are imposed because of JSOV violations. The best way is, as noted previously, to comply with the JSOV principles – don't violate those provisions. Nothing about this diminishes any supervisor's or manager's authority to direct or correct/discipline, or, if necessary, discharge a subordinate employee. All those functions can and should be carried out without violating the principles outlined in the JSOV.

There is no due-process violation concerning supervisory/managerial employees affected by outcomes in arbitration or through prearbitration. This is because if the Postal Service proposes and decides to impose an adverse action concerning a nonbargaining employee, such action is subject to appeal in an applicable forum and will be subject to the due process requirements of the appeal forum. NAPS is aware of actions that are adverse actions and of the due process rights associated with such actions.

The Executive Board asked if the DRT can require that all EAS involved in the case be interviewed. In addition, NAPS stated that EAS in the field are doing their jobs and Labor Relations need to support them. The Executive Board also inquired about whether the Postal Service may have arbitration awards that are wrong vacated.

The Postal Service noted that changing the DRP would require bargaining with and agreement from the NALC. The best and most effective way for either side to get its story on the record is to do through timely and complete submissions of statements and evidence. The Postal Service agrees that supervisory/managerial employees just doing their jobs should be supported. The way to do this is to comply with the JSOV, develop a grievance response establishing the truth, and present it through the grievance procedure – including arbitration if necessary. If the Postal Service believes



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an award is wrong – not based on the parties' collective bargaining agreement – the Postal Service may petition the Department of Justice to review the case and determine whether the Postal Service's petition will result in an appeal to federal court. The decision concerning whether vacatur will be requested is made by the Department of Justice.

4. NAPS would like to discuss its original objection to the agency “z” factor formula that was utilized in the restricting of MPOO levels and positions across the country. As stated during the response period, the USPS formula used has reduced many MPOO positions to level 22, while increasing workload. For example, adding additional offices and routes, while lowering the level of the MPOO position from EAS 23 to EAS level 22.

NAPS contention as submitted was/is that this “z” factor formula does not provide for adequate coverage that was maintained by the former 100 office to 1 MPOO formula. NAPS requests that the former factor based on all offices (including RMPO's) be reinstated for proper MPOO coverage. NAPS' other concern is with the increased workload and decreased morale of POOMs. There is more work with a lower level. NAPS wanted to know who the USPS is going to recruit for POOM positions. Who is going to take a POOM job when the workload under the new process is not working? The reality is that a POOM has the ultimate responsibility of the AMPO and RMPO. When the USPS increased, and in some situations almost doubled the area of responsibility and workload, and then dropped the POOM level, the USPS hurt the morale of the EAS. When you cut the level with more work that is where you get problems.

USPS Response: USPS did consult with NAPS on this item. USPS is not going to change their initial decision. NAPS did object to the “Z” factor and wanted the MPOO staffing to remain the same. USPS HQ projected three years ago with the onset of POSStPlan that a POOM restructuring was needed due to RMPOs and APOs responsibilities. USPS had been in a holding pattern where the original workload ratio of 1 POOM for every 100 offices was not a proper projection of workload. USPS stated that if there are challenges and concerns, it would accept feedback from NAPS and operations in the field.

5. NAPS has received the issue that improper emergency placements are still ongoing in the Great Lakes Area (GLA). EAS are being placed in a non-pay status for up to 14 days and brought back to work. NAPS contents that this manipulation of the policies and procedures by leadership is a punitive act to deprive employees pay and then take subsequent disciplinary action in violation of the rule on double penalty. NAPS Executive Board Leadership spoke to Jeff Moore about this double penalty. Mr. Moore response after being provided with the GLA law dept. letter and the Doug Tulino letter was “That's NAPS' S opinion not the USPS' S.”



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NAPS is requesting that Postal HQ issue directive and policy prohibiting EAS from being subjected to double penalty issues by allowing EAS to be placed in a non-pay Emergency Placement status for up to 14 days and then given subsequent disciplinary action.

USPS Response: The emergency placement policy is to be applied in the field and worked out in the appeal process. An employee should be returned to duty when the emergency ceases. Emergency Placement is to abate an emergency. Disciplinary action may come after the emergency. USPS stated not every action is a disruption of operations and warrants emergency placement, but may warrant corrective action.

6. NAPS has received the issue that USPS Great Lakes Area (GLA) leadership is not having regular Management Association leadership meetings. The last two attempts to meet have resulted in GLA leadership logging on to a telecom, introducing themselves and stating that there was another telecom to attend and ending the call. NAPS is requesting that GLA leadership meet regularly with NAPS officers, who represent EAS in the GLA.

USPS Response: USPS HQ spoke to the GLA and they are participating in teleconferences with the respective NAPS leadership.

NAPS explained that the respective USPS Area is not scheduling regular meetings and just started this past week wanting regularly scheduled meetings. In addition, there are no regular NAPS/District meetings in the GLA. Until NAPS officers, representing EAS in GLA, requested this issue be on the NAPS/USPS consultative agenda item at the NAPS Fall Executive Board meeting, the USPS Area just started to take NAPS' concerns seriously.

7. What is the process for EAS to return to the craft?

USPS Response: All requests to return an EAS back to craft must be approved through the USPS HQ office of Strategic Complement. The process for an EAS to return to craft is explained in the respective Union National Agreements and MOUs'. However, a brief summary was provided for each craft organization.

- *NALC: An EAS can be downgraded and returned to the carrier craft when there are insufficient city carrier eReassign requests.*



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- *Mailhandlers: There are no current Union restrictions for an EAS to downgrade to a mailhandler position, unless there are positions under withholding. USPS coordinates with the Mailhandler Union on the downgrade.*
- *APWU: It is very rare that an EAS can downgrade back to a position represented by the APWU due to the restrictions in the National Agreement and MOUs. In summary, only after going through a nine (9) step internal process and prior to hiring someone from the street into a career position that an EAS employee's request would be approved to downgraded into a APWU craft position.*
- *RURAL: The USPS specialist did not handle downgrades to rural carrier positions, this issue was not discussed.*

USPS stated that all voluntary approved downgrades to a craft position would be to a career position. Seniority and level back to the craft position is depended on the person's years of postal service. If an EAS is downgraded due to a MSPB and/or arbitration decisions, each case is different and must be run through USPS legal.

USPS explained the steps that an EAS employee must take if they are requesting a voluntary downgrade to craft:

- *EAS sends a letter to their manager requesting a voluntary downgrade to a specific location and craft.*
- *Mgr. of HR at the District level looks over the request to determine if possible.*
- *If there is a possibility the request is forwarded to the District Manager to approve.*
- *If District Manager approves then the request is sent to Area HR for consideration.*
- *If Area HR approves consideration, the request is sent to USPS HQ.*
- *If the USPS HQ office of Strategic Complement makes final decision. If request is approved, EAS is placed at the location and craft type position that was in the original request for the voluntary downgrade*

USPS stated nothing happens automatically. Normal timeline is about 10 days for a voluntary downgrade to take place once approved. If the downgrade is disciplinary in nature that action can take longer. USPS stated that the Union National Agreements and respective MOUs are on the USPS Blue Page for an employee to review if they want more specifics regarding voluntary downgrades from EAS to craft.