

A Guide to handling grievances concerning assignment of employees injured on duty in the U.S. Postal Service

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GRIEVANCE DOCUMENTATION OVERVIEW

The primary argument in limited duty / reassignment violation cases is contained in Section 546 of the ELM and the EL-505, Chapters 7 or 11 (whichever is applicable).

The language in the ELM (Section 546.124.a) states, "The following considerations must be made in effecting such limited duty assignments."

The language in the EL-505 states, "If it is necessary to change any of the elements to meet the employee's physical limitations or to provide the employee with suitable work, the elements must be changed in this specific order."

The must considerations and must order reference above in the ELM and EL-505 are as follows:

<u>Priority of Choice</u>	<u>Regular Craft</u>	<u>Regular Tour</u>	<u>Regular Facility</u>
1 st	Within	Within	Within
2 nd	Outside	Within	Within
3 rd	Within	Outside	Within
4 th	Outside	Outside	Within
5 th	Within	Within	Outside
6 th	Outside	Within	Outside
7 th	Within	Outside	Outside
8 th	Outside	Outside	Outside

Employee & Labor Relations Manual

546.14 Disability Partially Overcome

546.41 General

The procedures for current employees covered both limited duty and rehabilitation assignments. Limited duty assignments are provided to employees during the recovery process when the effects of the injury are considered

temporary. A rehabilitation assignment is provided when the effects of the injury are considered permanent and/or the employee has reached maximum medical improvement. *Persons in permanent rehabilitation positions have the same rights to pursue promotional and advancement opportunities as other employees.* (Updated language in current ELM, Issue 20)

546.142 Obligation

When an employee has partially overcome the injury or disability, the Postal Service has the following obligation:

- a. **Current Employees.** When an employee has partially overcome a compensable disability, the Postal Service must make every effort toward assigning the employee to limited duty consistent with the employee's medically defined work limitation tolerance (see 546.611). In assigning such limited duty, the Postal Service should minimize any adverse or disruptive impact on the employee. The following considerations must be made in effecting such limited duty assignments:

- (1) To the extent there is adequate work available within the employee's work limitation tolerances, within the employee's craft, in the work facility to which the employee is regularly assigned, and during the hours when the employee regularly works, that work constitutes the limited duty to which the employee is assigned.

The second priority allows for the employee to work in another craft, but within the employee's work facility and tour.

The third priority allows for the employee to work outside their tour, but within their craft and facility.

In most cases, there will not be a need to go below the third priority, to find suitable work within the employee's medically defined work tolerance.

Section 546.2 of the ELM and EL-312 require the Postal Service to be in compliance with the provisions of the applicable collective bargaining agreements.

Contractual Provisions

- Article 15** If it is an ongoing violation, each case should be filed stating, “This is a continuing violation”, however the Local union needs to keep requesting supporting documentation as limited duty assignment(s) could change.
- Article 19** ELM, Section 546
EL-505, Chapter 7 (temporary assignment)
EL-505, Chapter 11 (permanent assignment/max. med. Improvement)
EL-505, Chapter 12 (records and privacy act, if applicable)
EL-312, Section 716 (if reassignment is temporary)
EL-312, Section 717 (if reassignment is permanent)
ASM, Section 352 (Union request for information)
ASM, Appendix 120.090 (information disclosure, if applicable)
EL-860, Chapter (Union review of medical record(s), if applicable)
- Article 13** If voluntarily requested by the employee and ‘other assignment’
- Article 37** Only if the reassignment violated the appropriate Craft Article.
Article 38
Article 39
- Article 30** Only if the reassignment violates the Local Memorandum of Understanding (LMOU), Items 15, 16 and 17.
- Article 5** It could be unilateral action if the Postal Service has a policy of reassigning injured employees in the Clerk Craft without reviewing medical limitation tolerances on an individual basis.
- Article 7** If after review it is determined that the employee does not have a compensable disability and/or it is strictly a crossing craft grievance and different wage level argument.
- Article 12** Burrus – 6/11/90 (Step 4) Excessing – Limited Duty – Item 18 of LMOU
- Article 8** If we prove our case, overtime at the appropriate rate for all hours worked by employee will be requested for clerks on the OTDL.

Remedy

Request overtime for all clerks on the Overtime Desired List (OTDL) for all hours worked by the employee and to make the Clerk Craft whole. Additional remedies could include posting a job, conversion of a part-time employee, filling job vacancies, etc. These remedies are based on a case specific fact circumstance.

Documents to Request/Relevancy

Whenever the term 'employee' is referenced in this section, it represents any employee working in the Clerk Craft from another Craft, in violation of the Collective Bargaining Agreement. Each employee violation is 'case specific' since each will have different medical limitations.

- ✓ Interview clerks in the facility (work area), the injured employee and his/her immediate supervisor. The interview is for the purpose of determining what clerk work is being performed and the amount of time used. Get statements, if possible.
- ✓ Request the current PS Form 50 for any employees working in the Clerk Craft that are not clerks.
- ✓ Request a copy of the employee's CA-1, CA-2 or CA-2a (whichever is applicable)
- ✓ Request a copy of the employee's current CA-17 and all CA-17's from the date of the filing CA-1 or CA-2 or CA-2a to present.
- ✓ Request a copy of the employee's voluntary request for light or limited duty in accordance with Article 13 (if applicable).
- ✓ Request a copy of the employee's current bid job aware (if encumbered) or last bid award (if unencumbered).
- ✓ Request a copy of the employee's current temporary limited duty assignment (if assigned under Chapter 7 of the EL-505).
- ✓ Request a copy of the employee's current permanent rehabilitation assignment (if assigned under Chapter 11 of the EL-505).
- ✓ Request a copy of the LMOU of the Craft representing the employee and the APWU local office LMOU (to ascertain if Item 15, 16 or 17 identifies light/limited duty assignments in their own craft and consultations.
- ✓ Request a copy of the FLASH Report which provides an overview for hours usage for all LDC's in the facility.

- ✓ Request a copy of the seniority listing for the installation by Craft.
- ✓ Copy of the current Clerk Craft OTDL for the facility (in accordance with Article 14 of the LMOU for the office). *You may need to request additional copies of the appropriate OTDL on a quarterly basis for reference in the future in support of your grievance.*

For Letter Carrier violations, request these additional documents

- ✓ Request a copy of the DIOS (Delivery Operations Information System)
- ✓ E-Flash – Tracks mail volumes
- ✓ Copy of the employee's craft OTDL (Totals for the entire quarter, as the letter carrier craft use equalization of hours under Article 8 of their CBA.
- ✓ AMES Carrier Delivery Statistics Report by Delivery Zip (This report shows the type of deliveries for the routes in the facility. Curbside, central, NDCBU and other deliveries can be made by most limited duty employees.
- ✓ Review the Class Route Summary in the Red Edit Book for each letter carrier route in the facility.
- ✓ Review PS Form 3996 – Carrier Auxiliary Assistance (Select a review of a Monday delivery to ascertain which routes need assistance.
- ✓ Request a copy of Analysis of Late Leaving (From either the PS Form 1813 or the PSDS/TACS printout) for the facility. This report will show the carriers in need of office help, of which most limited duty carriers can perform.
- ✓ Review Form 3999 – Inspection of Letter Carrier Route for routes in the facility. (This report will show how much time is allowed for different segments of each route. Example – curbside boxes might be 2 hours.)

Most of the documents, once requested will not have to be requested again, in subsequent grievances or in grievances involving other employees in the same facility. You only need to request general documents in one grievance and just make copies to place in other grievances.

Other Related Handbooks and Manuals:

EL-201 Handbook – Bargaining Unit Position Descriptions

EL-301 Handbook – Guidelines for Processing Personnel Actions

EL-303 Handbook – Qualification Standards

M-39 Handbook – Management of Delivery Services

PO-603 Handbook – Rural Carrier Duties and Responsibilities

M-41 Handbook – City Delivery Carriers Duties and Responsibilities

JCIM – Article 13

The following regional regular arbitration cases were selected because of the excellent discussions and opinions made by the arbitrator and their reference to national awards. These cases support the following union arguments:

- ✓ “Make every effort” to assign to their own craft/accommodations
- ✓ Affirmative defense by the Union involving the EL-546.141
- ✓ Shifting burden of proof to the USPS to prove case
- ✓ Continuing search for limited duty work in their own craft
- ✓ Wage level violations as it pertains to Article 7.2 and EL-505
- ✓ Privacy act and USPS failure to provide medical documentation
- ✓ Limited duty and its application under Article 13 (other assignments)
- ✓ Article 30 language and ‘advanced consultation with Union’
- ✓ No advance notification and Article 7 and Article 30*
- ✓ Overtime as a remedy

***Remember, there is new language in the Collective Bargaining Agreement under Article 13.4.M which states:**

M. Management will give the local union president advance written notification when it is proposed to reassign an ill or injured light or limited duty employee to a cross-craft assignment into an APWU represented craft.” (Added language by the 480-481 Area Local)

Regional Regular Arbitration Awards

G90C-4G-C 93012108	Helburn	Shawnee, OK	12-07-93
K94C-4K-C 99007629	Loeb	Arlington, VA	02-23-03
C0C-4M-C 5800	Nathan	Traverse City, MI	11-18-93
J80C-4J-C 95023385	Walt	Ann Arbor, MI	03-15-01
D98C-4D-C 01251649	Miles	Richmond, VA	03-20-03
E0C-2E-C 19056	Berk	Lehigh Valley, PA	09-29-93
S7C-3B-C-21452	Marlatt	Mena, AR	05-14-90
J990C-4J-C 97045160	Fletcher	Arlington Heights, IL	04-28-95
K94C-4K-C 997045160	Drucker	Glen Burnie, MD	08-19-99
H98C-4H-C 00205726	Holley	Gadsden, AL	03-21-02

Limited Duty Carrier Assignments

- Sort letter/flat mail in modified work station/remain seated
- Sort letter/flat mail
- Write/type PS Form 3982
- File change of address cards
- Input data into computer involving carriers
- Growth management
- Maintain routine route records
- Maintain special order route records
- Write up carrier's accountable mail
- Make carrier route case labels
- Maintain Address Management books for carrier routes
- Maintain Unit Goal posters
- Update USPS employee bulletin boards
- Record DPS errors received from carriers after return from street
- Carrier information gather for Unit Review
- Coordinate USPS/carrier special events
- NDCBU Street delivery of mail (Cluster Box)
- High rise apartment delivery of mail
- Truck mounted mail delivery
- Complete Form 1564A for carrier routes
- Maintain route maps for carrier routes
- Maintain Form 3575 for carrier routes
- Maintain Form 1621 for carrier routes
- Sort mail to be forwarded into throw-back case for handling by clerks
- Make deliveries to carrier routes

Limited Duty Mail Handler Assignments

Separate bundles of mail
Complete and attach labels on bundles according to content
Condemn mail bags
Remove cord fasteners and label holders
Prepare salvaged articles
Work at wire typing machines
Prepare facing slips
Sort trays, pouches and bags to appropriate distribution point
Label printing
Operate a jitney, fork-lift or pallet truck

APWU Requests for Information

Always remember that you have language in various handbooks and manuals that support the Union's right to request certain, specific information regarding employees that otherwise are considered private and restricted.

Section 352 and Appendix 120.090 of the Administrative Support Manual covers the USPS requirements for providing information to the Union.

Chapter 2 of the EL-860 covers the release of medical documents to the Union.

The Joint Contract Manual (JCIM) covers the time period and requirements for the release of information to the union and written reasons why the information request is not granted in the time period required.

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 3 requires that the Employer make available for inspection by the Union all relevant information necessary for collective bargaining or the enforcement, administration or interpretation of this Agreement.

Under Section 8.a (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.

(Some revisions to the original document have been made by the 480-481 Area Local. All of those revisions and/or insertions have been italicized and under lined.)