

Wounded Warriors Leave

On November 5, 2016, certain veterans who are employees of the US Postal Service became eligible to have credited and use up to 104 hours of a newly-created and distinct category of leave called Wounded Warriors Leave. The creation of Wounded Warriors Leave came about in response to the passage of the Wounded Warriors Federal Leave Act of 2015, which allows qualified employees to use this new category of leave to undergo medical treatment for a service-connected disability rated at 30 percent or more.

Recently the Postal Service released a Management Instruction (Number - EL-510-2016-8) setting forth its policy guidelines and standard procedures for administering this new category of leave. As an NALC activist, you should familiarize yourself with these policies so you can best inform, and enforce the rights of, the letter carriers you represent.

This new benefit is available to any career or non-career employee who meets the eligibility

requirements outlined in the Management Instruction, which states:

Eligibility General

All classifications of career and non-career Postal Service employees are eligible for Wounded Warriors Leave if all of the following applies:

- a. They meet one of the eligibility requirements provided under Eligible Employees, and*
- b. They have not previously established eligibility for Wounded Warriors Leave.*

Eligible employees are entitled to only one Twelve-Month Eligibility Period in connection with Postal Service employment.

Eligible Employees

To be eligible, you must meet the criteria of one of the following:

- 1. A career or non-career employee:*
 - a. With a full-time, part-time or non-traditional schedule;*

b. Who fulfills one of the following:

- i. Is on the rolls as of November 4, 2016;*

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ii. *Is a non-career employee on a required break in service (five or six days, as appropriate), on November 4, 2016; or*

iii. *Begins serving his or her first appointment on or after November 5, 2016; and*

c. *Who has a single or combined service-connected disability rating of 30 percent or more.*

2. Employees who:

a. *Leave the Postal Service's employment to participate in active duty military service;*

b. *Return directly from that military service to a career or non-career appointment on or after November 5, 2016; and*

c. *Have sustained a single or combined service-connected disability rating of 30 percent or more that was incurred during the employee's immediate absence.*

3. Employees who:

a. *Take military leave from the Postal Service to participate in active-duty military service;*

b. *Return directly from that military leave on or after November 5, 2016; and*

c. *During military leave sustain a single or combined service-connected disability rating of 30 percent or more that was incurred during the employee's military leave.*

For Postal Service employees, this benefit is available to eligible employees on the rolls as of November 4, 2016; eligible new employees hired on or after November 5, 2016; or employees hired prior to those dates who leave the Postal

Service's employment or take military leave to participate in active duty military service, sustain a service-connected disability rating of at least 30 percent during that military leave or service, and then return directly from that leave or service on or after November 5, 2016.

Otherwise eligible employees with pending disability determinations, who at any time during the applicable Twelve-Month Eligibility Period receive a 30 percent or more disability rating, will be eligible for leave retroactively to the first day of the applicable Twelve-Month Eligibility Period. Any leave without pay (LWOP) or leave used while the determination is pending will be reimbursed and replaced with Wounded Warriors Leave, as appropriate, up to the maximum number of days allowed.

It is an employee's responsibility to notify the Postal Service of his or her eligibility before requesting Wounded Warriors Leave. Employees must provide documentation from the Department of Veterans Affairs, or on any Office of Personnel Management (OPM) certification form developed for administration of Wounded Warriors Leave, certifying that the employee has a qualifying service-connected disability.

The rules for accrual and crediting of Wounded Warriors Leave, as well as the timeframe in which the leave must be used varies depending on whether an employee gains initial eligibility from being on the rolls as of November 4, 2016 or from being newly hired to the Postal Service on or after November 5, 2016,

from being re-employed, or from returning from military leave. The exact policy for each category of eligible employee reads as follows:


Initial Eligibility

Each eligible employee will be credited with 104 hours of Wounded Warriors Leave following the Postal Service's receipt of documentation supporting the employee's eligibility. Wounded Warriors Leave will be available for use retroactively to the first day of the Twelve-Month Eligibility Period.

Employees Returning to the Postal Service

Employees with a service-connected disability rated at 30 percent or more will have any unused portion of their Wounded Warriors Leave restored for the remaining months of the Twelve-Month Eligibility Period if they meet the following requirements:

a. *Leave postal employment during the Twelve-Month Eligibility Period; and*




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b. Return to the Postal Service for a career or non-career appointment within the Twelve-Month Eligibility Period.

Employees Returning to the Postal Service from Military Service

When employees return to duty with the Postal Service on or after November 5, 2016, directly from military service (with a break in service), and as a result of that military service, have sustained a new service-connected disability rated at 30 percent or more, they will:

a. Receive the full 104 hours of Wounded Warriors Leave upon the Postal Service's receipt of documentation of their eligibility for Wounded Warriors Leave; and

b. Have 12 calendar months to use the leave.

Wounded Warriors Leave will be available for use retroactively to the first day of re-employment with the Postal Service.

Employees Returning to the Postal Service from Military Leave

Employees returning to the Postal Service from Military Leave (without a break in service) who sustain a new service-connected disability rated at 30 percent or more will receive the full 104 hours of Wounded Warriors Leave upon the Postal Service's receipt of documentation supporting the employee's eligibility. Wounded Warriors Leave will be available for use retroactively to the first day of return to service and the employee will have 12 calendar months to use the leave.

Wounded Warriors Leave expires at the end of an eligible em-

ployee's 12-month eligibility period. This happens regardless of the employee's actual Wounded Warriors Leave balance. If the employee leaves the Postal Service at any time during or after the expiration of the 12-month eligibility period, any remaining leave will not be reinstated, carried over, or paid out, except as permitted by OPM regulations if the employee transfers to another federal agency, or otherwise permitted by the Postal Service's Management Instruction.

If an eligible employee began employment with another federal agency and transfers to the Postal Service within the 12-month eligibility period, the employee is eligible to use Wounded Warriors Leave for the remainder of the 12 months. In these instances, the employee must certify the number of hours of Wounded Warriors Leave used at the former agency. The Postal Service will provide the employee with the remaining Wounded Warriors Leave.

Ideally, absences in which Wounded Warriors Leave could be used would be known in advance, however that may not always be the case. The Postal Service acknowledges this and within its policy describes what employees should do to request Wounded Warriors Leave in circumstances of foreseeable and unforeseeable nature. That policy reads:

Foreseeable Leave

All employees requesting Wounded Warriors Leave must do the following:

a. Submit their request on PS Form 3971, Request for or Notification of Absence, in advance to the appropriate supervisor; and



b. Designate the reason for the absence as "other" and write "Wounded Warriors Leave" in the space provided.

Unforeseeable Leave

The Postal Service makes an exception to the advance approval requirement for unexpected treatment that qualifies for Wounded Warriors Leave. When the need to use Wounded Warriors Leave is not foreseeable, the employee must notify the appropriate supervisor of the following items:

a. The employee's treatment;

b. The expected duration of the absence; and

c. The applicability of Wounded Warriors Leave as soon as possible.

Alternatively, the employee may use the Interactive Voice Response (IVR) system to record his or her absences. If the employee does not submit PS Form 3971 before the absence, the supervisor must provide it to the employee upon his or her return to duty.

An employee's supervisor is responsible for approving or dis-

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approving requests for Wounded Warriors Leave by signing PS Form 3971, and returning a copy to the employee. In addition, to verify that Wounded Warriors Leave requested by an employee is appropriately used for the treatment of a service-connected disability, the requesting employee must provide proof from the health care provider that the employee used the leave to receive treatment for a covered disability. The Postal Service has created a form to be used for this verification. The new form is PS Form

5980, *Treatment Verification for Wounded Warriors Leave*.

This new category of leave is a very important benefit to letter carriers who are also veterans with a disability rated at 30 percent or greater. Disabled veterans generally are required to attend regular medical appointments to maintain their health and to continue their eligibility to receive their veterans' benefits. Frequently, it is unavoidable that such appointments must be scheduled during normal work hours and letter carriers in the past were therefore often required to use LWOP to

attend those appointments. Wounded Warriors Leave should provide some relief to those who are eligible and must receive necessary treatment.

A copy of the management instruction outlining the policy guidelines established for the administration of Wounded Warriors leave has been made available on the NALC website at nalc.org. The document, labeled M-01881 in the Materials Reference System (MRS), can be found on the Military Veterans, Contract Administration Unit and City Delivery pages. PS Form 5980 can be found on those pages as well. ■

The standard training program for city letter carriers gets a makeover

As you should all know by now, the Carrier Academy has received a make-over! The new and improved version has been rolled out across the country, and after a lot of hard work by all involved, our newly hired letter carriers are experiencing much anticipated, quality training.

If we take a walk down memory lane, some of you will remember the Carrier Academy was established in 2005 as a result of President Rolando (then Director of City Delivery) working jointly with the Postal Service to

establish a standard training program for city letter carriers. It included a significant amount of hands-on experience; skilled letter carriers were the instructors.

After the Das award in 2013, approximately 32,000 city carrier assistants were hired in a short period of time, necessitating some changes to the existing academy. We needed to accommodate the large groups coming into the Postal Service at one time. The result was a revamped Carrier Academy. We had an understanding that once the hiring slowed, the NALC and

USPS would work together once again to improve the training.

As agreed, beginning in 2015 then Director of City Delivery Brian Renfroe spent several months working with the Postal Service on once again modifying the training materials, based on input from academy facilitators and attendees alike. This resulted in changes to the standard training, include updated information on postal products and services, expansion of the academy, and a return of hands-on training and practice.

Fast forward to 2016, when the culmination of all this work is presented as an improved training and curriculum. The new Carrier Academy was rolled out to all of our master facilitators from each USPS district in the country. Those master facilitators then trained the rest of our facilitators, and they now are embarking on the enormous task of setting up their new learning environments. Not only will newly hired city letter carriers learn in a classroom setting, but they will also experience casing mail and pulling down mail from the carrier case, along with the actual delivery of mail on park and loop, dismount and mounted mock route courses.

In addition, our academies will be equipped with working EBRs and MDDs, DPS and FSS mail and other equipment found on the workroom floor. These items are included so the facilitators can demonstrate and foster the participation of new carriers through the morning office functions of a city letter carrier. This will be repeated each morning.

As you can see, an expansion of the new standard training was nec-

essary. The preferred program schedule for the new Standard Training for City Letter Carriers can be found in the box at the bottom of the page.

A brand new feature of the city carrier training is a shadow day. This was incorporated into the training so new hires could see exactly what it takes to be a letter carrier. This career isn't for everyone and we hope this helps some individuals determine if it is for them. Additionally, new letter carriers are in a better position to learn when they attend the academy if they've seen an experienced letter carrier do the job. On the shadow day, the CCA should not be handling any mail or performing any of the duties of a letter carrier. It is designed to be purely observational. This should take place prior to attending the Standard Training for City Letter Carriers.

In addition to creating the new Carrier Academy, the parties entered into an agreement in the form of a joint letter on June 2, 2016. The joint letter (M-01879), *Re: Standard Training Program for City Letter Carriers*, recognizes the im-

portance of providing quality training to new city letter carriers, and sets some expectations for implementing and monitoring the new Academy.

The agreement ensures the following:

1. For the first time, the Carrier Academy will be established in each of the 67 USPS districts, each academy will use the Standard Training Program for City Letter Carriers, and new letter carriers will participate in all aspects of the training.
2. An alternative dispute resolution process will be utilized to address any issue regarding Carrier Academy.
3. USPS will provide a list of prospective letter carriers to the appropriate national business agent as early as administratively practicable, including the new employee's name, academy location, dates and times of the academy, and the installation where the new employee will be assigned.

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Day	Course	Duration	
1-2	Welcome to the USPS (W2USPS) - Orientation	16 hours	New
3-4	Driver Training	11.5 hours	
5 or 6	City Carrier Shadow Day – CCA spends the day with a regular letter carrier to see firsthand what the job entails	8 hours	New
7-10	Standard Training for City Letter Carriers – Classroom and hands on instruction including casing and mock-delivery of mail	32 hours	New
11-13	On the Job Training (OJT) – Can use up to an additional 2 days if needed	24 hours	

Program Schedule for new Training Program

Make-over

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- 4. An annual, or more frequent if needed, review and update of the Standard Training Program for City Letter Carriers will take place.

This new academy along with this agreement should significantly improve the training our new letter carriers receive and serve both the Postal Service and our customers well.

I would be remiss if I failed to point out that our academy facilitators have an enormous responsibility and we should support our brothers and sisters in their roles every chance we get!

NALC HBP orientation upon conversion to career

When a new City Carrier Assistant (CCA) is hired, Article 17.6 provides that the NALC will have ample opportunity to address the new CCA during new employee orientation. This provision of the contract is also extended to cover an opportunity for an NALC representative to discuss the NALC Health Benefit Plan (HBP) when a CCA is converted to career. This opportunity is addressed in the *Questions and Answers 2011 USPS/NALC National Agreement* (M-01870) question 42:

42. Is the union provided an opportunity to discuss health insurance, pursuant to Article 17.6, when a CCA becomes a career employee?

Yes, the union will be provided time to address the NALC Health Benefit Plans that are available to career employees.

This is an important opportunity for a branch representative to meet with each member when they are converting to career, not

only to explain the NALC HBP but to assist and answer any questions regarding the enrollment process. This opportunity should not be missed.

While some NALC branches may have a Health Benefit representative who would handle this meeting, it is important for every NALC activist to have a clear understanding of the enrollment process and the NALC Health Plan.

When a CCA is converted to career they have 60 days to enroll in a Federal Employee Health Benefit Program (FEHBP) plan. Health benefit coverage is not retroactive. Coverage will begin on the first day of the first pay period after Human Resources receives the employee's election of a FEHBP plan.

To sign up for a FEHBP plan, the employee can use the postal ease website (<https://ewss.usps.gov/>), an employee self-service kiosk (available in some facilities), or

the Postal Service Intranet on the Blue page. The newly converted CCA should have all of his/her enrollment information available. This is the fastest way to receive coverage.

The FEHBP program has many plans to choose from, including the NALC HBP. The NALC HBP is a comprehensive plan that has provided letter carriers and their families with first rate health insurance since 1950. The plan is owned and operated by letter carriers, and pays particular attention to their health needs. The plan is not-for-profit; its only focus is the health of its members. Additional NALC HBP information can be found at www.nalchbp.org.

If the CCA was enrolled in the USPS Non-Career Health Benefits Plan that coverage will end on the last day of the month that is 28 days after their conver-



sion to career, or if the CCA elects to enroll in a FEHBP plan as a career employee, when the new FEHBP coverage begins, whichever is sooner.

Encourage the new career letter carrier to enroll in the FEHBP as soon as possible, to avoid any gap in

coverage and to start receiving health benefits. A letter carrier that misses this 60-day window will then have to wait until open season or until a Qualifying Life Event (QLE) such as marriage or birth of a child, to be eligible to enroll. A list of QLEs can be

found at <http://www.opm.gov/healthcare-insurance/life-events>.

It is important that NALC help the newly converted letter carrier with enrolling in a FEHBP plan, and explain the benefits the NALC HBP has to offer.

COMPENSATION

Claiming OWCP travel expenses

Getting injured on the job is not cheap. While accepted claims provide medical and wage-loss compensation benefits, there are indirect costs assumed by the injured workers. Some of those costs, such as not earning sick and annual leave and the inability to contribute to the Thrift Savings plan, are assumed by the injured worker and cannot be recovered.

However, OWCP regulations do provide for the reimbursement of the cost of transportation needed for treatment or examination for compensable injuries. To qualify for reimbursement, OWCP applies a *reasonable and necessary* standard.

Regulations require that travel be undertaken by the shortest route, and if practical, by public transportation such as bus or subway. Generally, a roundtrip distance of up to 100 miles is considered a reasonable distance to travel.

If roundtrip travel of more than 100 miles, air transportation or overnight accommodations will be needed, the injured worker must submit a written request to OWCP for prior authorization with information describing the circumstances and necessity for such travel expenses.

Referrals to a specialist for further medical treatment, and those involving air transportation of an employee who lives in a remote geographical area with limited local medical services, are reimbursed, provided the injured worker receives prior authorization by OWCP. With few exceptions, OWCP cannot advance funds to defray travel and incidental expenses.

In cases where OWCP provides transportation for injured workers whose medical limitations prevent them from driving

or using public transportation, the expenses must also be pre-approved by OWCP, and are billed directly to OWCP by the transportation provider.

If required, transportation by ambulance may also be authorized. In cases where travel by air ambulance is indicated, or air ambulance is found to be more economical and expeditious than ordinary commercial air transportation, approval may be granted. In such instances, the claims examiner is required to consult a district medical advisor prior to approval.

Incidental expenses may also be reimbursed whether or not transportation is furnished by OWCP. The incidental expenses incurred when a compensably injured worker requires a nurse or an attendant to accompany him or

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OWCP

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her in securing examination and/or treatment may be authorized.

In each case, the injured worker needs to provide the claims examiner an explanation of the need for the incidental expenditure and the reasonableness of the amount claimed.

Incidental expenses are allowable only when incurred in the course of securing medical services and supplies. Expenses incurred following treatment, such as housekeeping costs while convalescing at home, are not covered because they are not required to obtain medical services.

An injured worker may claim mileage to drive to his or her local pharmacy to pick up injury related medication. Reimbursement is generally limited to the closest pharmacy by the shortest route.

The injured worker needs to request reimbursement on Form OWCP-957, which can be found on the *Injured on the Job* page at nalc.org or on OWCP's website: <https://www.dol.gov/owcp/dfec/regs/compliance/forms.htm>

Injured workers can claim up to three dates of travel on each form. Injured workers should accurately record the mileage to and from each appointment. The use of a web-based map search to verify miles travelled is advisable as

OWCP may use the same tools when determining whether the mileage claimed is accurate.

In signing the OWCP-957, the injured worker certifies that the information given in connection with the form is true and correct to the best of his or her knowledge and belief. Any person who knowingly makes any false statement or misrepresentation to obtain reimbursement from OWCP is subject to civil penalties and/or criminal prosecution.

Reimbursement for travel expenses is often overlooked. Injured workers who have never requested reimbursement are encouraged to do so.

Writing effective statements

Perry Mason sits at the defense table, riffles through a few pages of paper, stands and confidently says; "If it pleases the Court, I would like to call a witness to the stand to tell the jury exactly what happened on the night in question."

Testimony. Words that describe what happened, what was seen, what was heard or experienced. The truth, the whole truth and nothing but the truth. Witness

statements are exactly that, testimony.

Written statements are extremely important in our dispute resolution process. This is especially true if the grievance is appealed to Step B. The Step B team will render a decision based on the information that is contained in the grievance file, including the witness statements.

Have you ever been asked to write a statement for a grievance?

You may be asked to provide a statement sometime. Do you know what to do? What to write? How to write it down?

What you saw, what you heard, may well be the difference between someone losing their job or keeping it. From causing a supervisor to stop unacceptable behavior or allowing it to continue.

If you are a shop steward, do you understand how to help a witness know what to write? It's not

a matter of telling a witness what to say, but how best to say it. If so, then this brief article may prove helpful to you.

A statement serves as a snapshot of what happened during a particular event. It is up to you to ensure that the picture shown, through your statement, is clear and accurate.

Here are a few easy-to-remember tips for writing an effective statement for a grievance file.

- Statements should be clearly written and contain specific details about what was seen or heard. It is easier to do this if the statement is written as soon as possible after an event occurs while the details are fresh.
- An effective statement will contain thorough answers to as many of the following questions as possible:
 - Who was involved?
 - When did the event occur (date and time)?
 - Where did the event occur?
 - What happened?
 - Exactly what did the witness see and hear?
 - Exactly where was the witness when the event happened?

The best statements focus on answering the questions above with detailed facts and avoid expressing personal opinion. The reader should be able to get a clear picture of what happened.

Here are two examples of a statement describing the same event, an allegation of supervisor misconduct on the workroom floor.

Grievant Statement #1:

I asked for a 3996 today and Supervisor X got in my face and harassed and intimidated me again. He has treated me like this for a long time. I am sick of it. I shouldn't have to put up with treatment like this. Supervisor X always singles me out and treats me unfairly. He gets so angry that I feel threatened all the time. I can't take it anymore. I am a nervous wreck. This has to stop or I don't know what I'll do.

Grievant Statement: #2:

I asked Supervisor X for a 3996 today (8-30-13) at 9 AM while I was casing my route. When I asked him for a 3996 he became very angry and started raising his voice screaming that I didn't need a 3996. He got up from his desk which is about 30 feet from my case and rushed toward me. His fists were clenched and his face was red. He stepped into my case and came within three inches of my face. He kept yelling that I did not need any help to complete my route and that I had enough undertime to take half an hour from another route. I thought he was going to physically

attack me. This isn't the first time he has behaved this way.

What do you think? Is one better than the other?

Consider the examples above. The first statement is full of the writer's emotions and opinions and is very vague about exactly what happened. The second statement is much more descriptive and focuses on the facts rather than emotion.

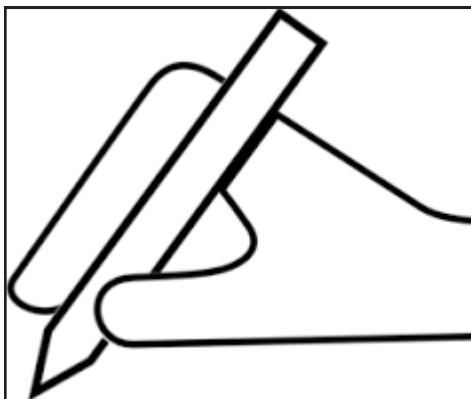
Effective statements don't take much more time or effort to write than ineffective statements. Just be descriptive, focus on the facts, and write the statement so someone who doesn't know a thing about the people or particular circumstances in the office can easily understand what happened.

In summary, make sure your statement is:

- Legible
- Sufficiently detailed
- Easy to understand if the reader knows nothing about the people or particular circumstances in the office
- Signed (including the printed name [no nicknames], title, and contains the witness' contact information)
- Dated

Remember, the quality of the statement could be the difference between success and failure in the grievance procedure. Following the advice above will give the union the best chance for success.

“Your honor, based on the witness' clear and detailed statement, the defense rests.”



STEWARDS' CORNER

Remedies

Remedy requests are the bottom line of your efforts to represent letter carriers in the grievance procedure. Requesting appropriate remedies is one of the most important elements of a successful grievance. An inappropriate or insufficient remedy request for a contract violation, in an otherwise well-written grievance, can cause you to win the battle, but lose the war for obtaining justice for the letter carrier.

The appropriate remedy request will vary from case to case and grievant to grievant. The most important thing to remember is to balance not asking for too much with not asking for too little. This can be a difficult task.

Remember that you should prepare each case as if it will be heard by an arbitrator. Having an understanding of what remedies an arbitrator can legally and contractually award is a good starting point to requesting appropriate remedies for contract violations.

There is a saying: "Without remedies there are no rights." National Arbitrator Richard Mittenenthal eloquently restated this point when he wrote, "*The grievance procedure is a system not only for adjudicating rights but for redressing wrongs*" (C-03234). In his June 9, 1986 award (C-06238), National Arbitrator Mittenenthal explained the legal and contractual basis for remedies as follows:

One of the inherent powers of an arbitrator is to construct a remedy for a breach of a collective bargaining agreement. The U.S. Supreme Court recognized this reality in the Enterprise Wheel case:

... When an arbitrator is commissioned to interpret and apply the collective bargaining agreement he is to bring his informed judgment to bear in order to reach a fair solution of a problem. This is especially true when it comes to formulating remedies. There the need is for flexibility in meeting a wide variety of situations. The draftsmen may never have thought of what specific remedy should be awarded to meet a particular contingency. United Steelworkers of America v. Enterprise Wheel & Car Corp.

National Arbitrator Gamser also observed in his April 3, 1979 award (C-03200):

...to provide for an appropriate remedy for breaches of the terms of an agreement, even where no specific provision defining the nature of such remedy is to be found in the agreement, certainly is found within the inherent powers of the arbitrator.

Generally, an appropriate remedy for a contract violation is to

restore the grievant to the status quo. This means to return the grievant(s) to the position they would have been in if the violation of the contract had not occurred. This is commonly referred to as "making the grievant whole."

It is always a good idea to use the catch phrase "or whatever remedy the Step B team or an arbitrator deems appropriate". You should do this for every grievance you file. This gives the union a better opportunity to adjust the remedy requested at the later steps of the grievance procedure, if needed.

In cases involving back pay for disciplinary suspensions or removal, we should be requesting "interest at the federal judgment rate" as part of a status quo (make whole) remedy request because we are preparing each grievance as if it will be heard by an arbitrator. If you are preparing a removal grievance to be heard by an arbitrator, the Memorandum of Understanding Re: Interest on Back Pay (discussed on page 16-4 of the 2014 JCAM) would apply. It states:

Where an arbitration award specifies that an employee is entitled to back pay in a case involving disciplinary suspension or removal, the Employer shall pay interest on such back pay at the Federal Judgment

Rate. This shall apply to cases heard in arbitration after the effective date of the 1990 Agreement.

The parties don't always agree on what a make whole remedy entails.

An example would be an Article 8 grievance where a full-time employee not on the OTDL was required to work overtime instead of a letter carrier on the list who was available to perform the work. The NALC position is that both the OTDL letter carrier who should have been given the work, and the non-OTDL letter carrier who was improperly forced to work overtime were harmed, and therefore both are due a remedy.

Management officials normally accept the notion that the letter carrier who should have worked the overtime was harmed, and thus should be paid at the appropriate rate for the overtime hours they would have worked if it had not been for the contract violation. However, they don't always accept our position that the non-OTDL letter carrier who was forced to work overtime was harmed as well.

Management representatives often resist giving a remedy to the non-OTDL carrier who was forced to work the overtime. When this happens, they argue that the letter carrier who was improperly forced to work overtime was not harmed since he or she was fully compensated for the extra work at the contractual overtime rate.

The NALC position is that the harm to the letter carrier who was improperly forced to work the overtime was a loss of their time for personal business, family and recreation. Overtime desired lists are in place not only for letter carriers who

want to work overtime, but also for the protection of those who do not.

The eventual remedy achieved in almost any type of grievance can vary and is normally dependent on a combination of the particular fact circumstances involved, the quality of the case file, and history of the violation. It is also true that different arbitrators grant different remedies for the same contract violations, based on the same three factors, when grievances are heard in arbitration.

All too often, NALC stewards are successful in proving that management violated the contract, yet are unsuccessful in obtaining a remedy that makes the grievant whole. This can happen because stewards sometimes forget that remedies are not automatic once a violation is established. In each case, the union should demonstrate that the remedy request is appropriate through documentation and arguments.

There are two main goals every steward should focus on when deciding what to request as a remedy:

1. Stop the violation from occurring in the future.
2. Make the grievant whole.

The following are some ideas to help formulate appropriate remedies so you can be successful in obtaining justice for our brother and sister letter carriers.

Lump sum remedies

In your remedy request, you might want to ask for a lump sum remedy rather than a specific number of hours for the affected letter carriers. Why? Management can process lump sum payments in GATS in less time than adjust employee hours for payment. You can

also request a lump sum remedy for a violation when there is not a monetary remedy that requires work hours to be paid.

Here are two examples of ways you can use lump sum remedies for certain issues:

Example 1: Sam the letter carrier is at home on sick leave for one day. Sam is called by his supervisor and told to get medical documentation for the absence before he returns to work. Sam drives a total of 30 miles round trip to be examined by his doctor. He pays a \$25 co-payment for the visit. The steward in this case could request a \$41.50 lump sum payment (30 miles X \$0.55 and \$25 co-pay) for Sam as part of the remedy.

Example 2: Gina is a regular letter carrier on the overtime desired list (OTDL). On Tuesday, Gina is not given any overtime to carry while a non-OTDL regular letter carrier is instructed by management to carry one hour of overtime off another route. The steward in this grievance could calculate the rate of pay Gina would receive if she had worked the one hour of overtime and request a lump sum remedy equal to that same amount.

Before you request a lump sum remedy in any grievance, make sure the amount you request or agree to makes the grievant whole. Keep in mind that some grievances may require a letter carrier's work hours **and benefits** (annual/sick leave, retirement, etc.) to be paid in order to make the letter carrier whole.

Careful use of lump sum remedy requests can help decrease the

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Remedies

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wait time for grievance payments to letter carriers.

Cease and desist order

In cases where the violation has been repeated, ask for a cease and desist order in addition to the make whole remedy. This will reinforce stronger remedies in case of future violations. While a cease and desist order may not seem very important, many NALC stewards have learned from experience how important it can be if the same violations are repeated over and over. Cease and desist language is naturally citable.

Most stewards will go through a period where they have met with local management and resolved grievances, yet management violates the same contractual provisions again and again. This is where previous cease and desist agreements are most valuable. An important goal of the DRP is to stop repetitive violations. That is why you should always include the phrase “cease and desist” as one of the elements of a make whole remedy request. Once the cease and desist language is agreed upon, it should be used as evidence that both parties have agreed a particular contract violation occurred in the past and should not occur again in the future.

For example, your installation may have been given a cease and desist order for a particular contract violation in a previous grievance settlement that is citable. This factor will help guide and strengthen your remedy request in future grievances for the same contract violation in your installation.

Show the harm

In order to get a meaningful remedy, even in cases where the contract was unquestionably violated, stewards should attempt to prove the extent of the harm suffered by the grievant to help justify the make whole remedy request. A good way to demonstrate harm is to show a history of the same contractual violation where a cease and desist instruction was issued or an agreement was made at Formal Step A that the Postal Service would cease and desist from violating the contract. The more cease and desist orders or agreements you have as documentation in a grievance file, the more you have demonstrated the need for additional remedies to encourage future compliance with the contract provision you are currently grieving.

Another way to demonstrate harm is to show there are other elements involved in a letter carrier’s particular circumstances that go beyond the fact that the contract was violated. For example, remember the letter carrier above who was not on the OTDL. Let’s say that she is a single parent and needs to pick up a child at day care at a certain time or be charged extra for failing to do so. Make sure this fact is documented in the grievance file with a statement from the letter carrier and a receipt for the additional payment made. This should also be addressed in the union’s disputed facts and contentions. If you do both of these things well (include documentation and an argument), the union will have a much better chance of persuading an arbitrator that the remedy you requested is a make whole remedy under the particular fact circumstances of the case.

Remember, be careful not to ask for too much when formulating

your remedy. For example, if in your grievance there were four hours of overtime worked by non-OTDL letter carriers in violation of the National Agreement, you should not be asking for four hours of overtime for 10 different letter carriers. Instead, you should determine which OTDL letter carriers were available to perform the work, and request to make them whole for their appropriate portion of the four hours involved. You should also ask that compensable time (time off with pay) be granted to the non-OTDL letter carriers for the portion of the four hours involved they were improperly forced to work overtime.

On the other hand, you will see in the next section that additional remedies are sometimes needed and advisable as an incentive for future compliance, in cases where the documented history shows a pattern of repetitive violations.

Additional compensatory remedies

There are times when additional remedies are needed to attain future compliance. However, it could be a mistake to refer to additional compensatory remedies as “punitive remedies,” “penalties,” or “punishing” management for violating the contract, no matter how egregious the violation. The idea of additional compensatory remedies is to ensure adherence, by management, to the *National Agreement* as well as previous grievance settlements. It does nothing for the union, the membership, or the sanctity of the *National Agreement*, if we are continuously awarded cease and desist orders for violations but management continues to make the same violations again and again. In such an instance, the union would continue to ask for a cease and de-

sist order, but an additional monetary remedy would be in order now to get management to stop violating the contract. As previously stated, an otherwise well-written and documented grievance can all be for naught if the wrong remedy is requested.

The NALC has been very successful in obtaining remedies in arbitration that fully compensate grievants and the union for contract violations. The secret: to be successful, you have to build a foundation for your requested remedy, make the right arguments, and document the justification for the remedy you seek.

The union makes a strong case for additional compensatory remedies if it can demonstrate that the violations were deliberate, repeated, or egregious. Both the *JCAM* and national-level arbitration awards provide support for additional compensatory remedies in such situations.

The *JCAM*'s discussion of remedies for violating the opting provisions of Article 41.2.B is particularly helpful because it expresses the joint, agreed-upon position of both NALC and the Postal Service. Page 41-16 of the 2014 *JCAM* states:

Remedies and Opting.

Where the record is clear that a PTF or city carrier assistant was the senior available employee exercising a preference on a qualifying vacancy, but was denied the opt in violation of Article 41.2.B.4, an appropriate remedy would be a "make whole" remedy in which the employee would be compensated for the difference between the number of hours actually worked and the number of hours he/she would

have worked had the opt been properly awarded.

In those circumstances in which a PTF or city carrier assistant worked forty hours per week during the opting period (or forty-eight hours in the case of a six day opt), an instructional "cease and desist" resolution would be appropriate. This would also be an appropriate remedy in those circumstances in which a reserve letter carrier or an unassigned letter carrier was denied an opt in violation of Article 41.2.B.3.

In circumstances where the violation is egregious or deliberate or after local management has received previous instructional resolutions on the same issue and it appears that a "cease and desist" remedy is not sufficient to insure future contract compliance, the parties may wish to consider a further, appropriate compensatory remedy to the injured party to emphasize the commitment of the parties to contract compliance. In these circumstances, care should be exercised to insure that the remedy is corrective and not punitive, providing a full explanation of the basis of the remedy.

In other words, the *JCAM* specifically suggests and authorizes "compensatory" remedies beyond mere payment for lost hours and benefits in appropriate circumstances to encourage compliance with the *National Agreement*. However, the *JCAM* also cautions the parties to ensure remedies are corrective and not punitive.

Similarly, National Arbitrator Howard Gamser in C-03200 discussed remedies for failure to distribute overtime equitably among full-time letter carriers on the

OTDL. He held that in ordinary cases the appropriate make-whole remedy was simply to provide an equalizing make-up opportunity in the next immediate quarter. However, he went on to say that the Postal Service must pay employees deprived of equitable opportunities for the overtime hours they did not work if management's failure to comply with its contractual obligations under Article 8.5.C.2 shows:

... a willful disregard or defiance of the contractual provision, a deliberate attempt to grant disparate or favorite treatment to an employee or group of employees, or caused a situation in which the equalizing opportunity could not be afforded within the next quarter.

Stewards should take this general principle and apply it to other areas of the contract when making their arguments for additional elements of a compensatory remedy request.

Seek Advice

The appropriate remedy request in some cases is simple and straightforward. In other cases, the proper remedy request can raise complex issues. Whenever you have any questions about an appropriate remedy request, contact more experienced branch officers or your branch president for guidance.

Just remember this: The NALC negotiates with the Postal Service for a contract. Once agreed to, or imposed by an interest arbitrator, both parties are equally bound by the agreement. We have an absolute right to expect management to abide by the *National Agreement* !

Training Seminars & State Conventions

Listed below are all training sessions, educational seminars, or state conventions currently scheduled. All dates are 2017. If your region is not listed, no training is scheduled at this time. For more information on any event, please contact the appropriate business agent.

Region 1 - NBA Bryant Almario 909.443.7450
California, Hawaii, Nevada, Guam

May 4-6 NBA Training and State Convention; Circus
Circus, Reno NV

May 18-20 NBA Training and California State
Convention; Anaheim Sheraton, Anaheim CA

Region 2 - NBA Paul Price 360.892.6545
Alaska, Utah, Idaho, Montana, Oregon,
Washington

March 12-16 Oregon Steward College; US
Basketball Academy, Blue River OR

March 19-23 Oregon Steward College; US
Basketball Academy, Blue River OR

March 31-April 1 Utah State Convention; Courtyard
by Marriott, St. George UT

April 3-8 Utah Steward College; Daniels Summit
Lodge, Heber City UT

April 9-13 Washington Steward College; Huston
Center; Gold Bar WA

April 21-23 Oregon State Convention; Riverhouse
on the Deschutes, Bend OR

April 24-29 Idaho Steward College and State
Convention; Shilo Inn, Nampa ID

April 30-May 6 Montana Steward College and
State Convention; Holiday Inn Missoula
Downtown, Missoula MT

May 19-21 Washington State Convention; Red Lion
Hotel, Pasco WA

November 5-10 Regional Assembly; Sunriver
Resort, Sunriver OR

Region 3 - NBA Michael Caref 630.743.5320
Illinois

April 2-3 Branch Presidents/LMOU Training; UAW Pat
Greathouse Education Center, Ottawa IL

April 3-5 Formal A Training; UAW Pat Greathouse
Education Center, Ottawa IL

Region 3 (continued)

June 15 Steward Training; Marriott Hotel and
Conference Center, Normal IL

June 15-16 Convention Workshops for Delegates;
Marriott Hotel and Conference Center, Normal
IL

October 1 Region 3 Rap Session; Region 3 HQ, Lisle
IL

October 2-3 Steward & Activist Retreat; NIU
Meeting & Conference Center, Naperville, IL

Region 4 - NBA Roger Bledsoe 501.760.6566
Arizona, Arkansas, Colorado, Oklahoma, Wyoming
January 20-21 Colorado State Training; Doubletree
by Hilton, Westminster CO

June 9-10 Arkansas State Training; Hilton Garden
Inn, Fayetteville AR

September 14-16 Region 4 Rap Session; Holiday
Inn Conference Center, Sheridan WY

Region 5 - NBA Mike Birkett, 314.872.0227
Missouri, Iowa, Nebraska, Kansas

February 25-26 Region 5 Rap Session; Doubletree
by Hilton, Overland Park KS

Region 6 - NBA Patrick Carroll 586.997.9917
Kentucky, Indiana, Michigan

February 25-26 Kentucky State Training; Crown
Plaza Hotel, Louisville KY

April 3-4 Indiana State Convention; Blue Chip
Casino, Michigan City IN

May 21-23 Michigan State Convention; Motor City
Casino Hotel, Detroit MI

June 11-12 Kentucky State Convention; Crown
Plaza Hotel, Louisville KY

October 7-9 KIM Region Training Seminar; Motor
City Casino Hotel, Detroit MI

Region 7 - NBA Chris Wittenburg 612.378.3035
Minnesota, North Dakota, South Dakota, Wisconsin
April 21-22 North Dakota State Convention; Ramkota,
Bismarck ND
April 24-28 Region 7 Training; Radison Roseville,
Roseville MN
May 20-21 Wisconsin State Training; Hotel TBA, Green
Bay WI

Region 8 - NBA Pete Moss 256.828.8205
Alabama, Louisiana, Mississippi, Tennessee
January 29-February 1 Region 8 Rap Session; Sam's
Town Tunica Hotel & Gambling Hall, Robinsonville,
MS
April 23-26 Mississippi State Convention; Hotel TBA,
Biloxi MS
June 22-25 Alabama State Convention; Renaissance
Hotel & Spa, Montgomery AL

Region 9 - NBA Kenneth Gibbs 954.964.2116
Florida, Georgia, North Carolina, South Carolina
January 21-22 Georgia State Training; Villas by the Sea,
Jekyll Island GA
March 24-25 North Carolina State Training Seminar;
Double Tree, Winston-Salem NC
May 18-20 South Carolina State Convention &
Training; Embassy Suites, Greenville SC
June 3-4 Georgia State Training; Callaway Gardens
Park, Pine Mountain GA
June 16-17 North Carolina State Convention; Hotel
TBA, Charlotte NC
August 3-5 Florida State Convention; Double Tree,
Orlando FL
August 18-20 Region 9 Rap Session; Embassy Suites at
Greensboro Airport, Greensboro NC
November 4 South Carolina Training; Branch 233 Union
Hall, Columbia SC

Region 10 - NBA Kathy Baldwin 281.540.5627
New Mexico, Texas
February 19-20 Regional Training and Rap Session;
Embassy Suites, Albuquerque NM

Region 12 - NBA Dave Napadano 215.824.4826
Pennsylvania, South and Central New Jersey
February 26-28 Region 12 Annual Training Seminar;
Bally's Park Place Casino/Hotel, Atlantic City NJ

Region 13 - NBA Tim Dowdy 757.934.1013
Delaware, Maryland, Virginia, West Virginia,
Washington DC
January 15-16 Delaware Steward Training;
New Castle DE
January 25-26 Region-Wide Shop Steward
Training; Charlottesville VA
March 9-10 Virginia Steward Training;
Richmond VA
March 19-21 Maryland/DC Steward Training;
Hagerstown MD
April 6 MD/DC On-the-Hill Lobbying Day;
Washington DC
May 4-5 West Virginia Steward Training;
Location TBA
May 5-6 West Virginia State Convention;
Location TBA
May 21-23 Branch/State Officers Training and
Regional Rap Session; Rocky Gap,
Flintstone, MD
June 1-3 Virginia State Convention; Location
TBA
September 24 OWCP Regional Training;
Location TBA
October 8 Delaware State Convention; New
Castle DE
October 8-10 MD/DC State Convention;
Ocean City MD

Region 14 - NBA John Casciano 617.363.9299
Connecticut, Maine, Massachusetts, New
Hampshire, Rhode Island, Vermont
January 15 Connecticut State Letter Carriers
Association Retirement Training; Best
Western Hotel, North Haven CT
March 4-5 Region 14 RAP Session; Biltmore
Hotel, Providence RI

Region 15 - NBA Larry Cirelli 212.868.0284
Northern New Jersey, New York, SW Connecti-
cut, Puerto Rico, Virgin Islands
January 8-10 Branch 38 Stewards Training;
Atlantic City NJ
March 5-7 Region 15 Training Session; Bally's,
Atlantic City NJ
May 17-19 New York State Association
Congressional Meetings; Washington DC
June 25-27 New York State Association Biennial
Convention; Hotel TBA, Niagara Falls NY

ACTIVIST

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USPS *BY THE NUMBERS*

Operations

<u>FY 2016</u>	<u>Number</u>	<u>Change from SPLY*</u>
Total mail volume (Millions of pieces)	153,941	-0.6%
Mail volume by class (millions)		
<i>First-Class</i>	60,922	-2.3%
<i>Periodicals</i>	5,544	-5.4%
<i>Standard (bulk mail)</i>	80,885	1.1%
<i>Shipping & Packages</i>	5,134	13.8%
<i>International</i>	1,006	10.2%
<i>Other</i>	450	15.1%

Finances

<u>FY 2016 (millions)</u>	<u>Number</u>	<u>Change from SPLY*</u>
<i>Operating Revenue</i>	\$71,498	3.8%
<i>Operating Expenses</i>	\$76,899	4.2%
<i>Controllable Operating Income</i>	\$610	
<i>PSRHBFB Expenses</i>	\$5,800	
<i>Workers' Comp adjustments</i>	\$1,026	
<i>Net operating loss</i>	\$5,591	

Employment

<u>2016 - PP12</u>	<u>Number</u>	<u>Change from SPLY*</u>
City carrier career employment	170,643	1.6%
<i>Full Time</i>	169,602	1.9%
<i>PT Regular</i>	504	-7.2%
<i>PTF</i>	537	-36.9%
City Carrier Assistant 1	33,522	8.9%
City Carrier Assistant 2	7,379	11.4%
City carriers per delivery supervisor	15.3	
Career USPS employment	508,538	2.4%
Non-career USPS employment	132,488	1.1%
Career employees covered by collective bargaining agreements	91%	

*SPLY=Same Period Last Year