

Local negotiations are coming— more advice for local negotiators



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The jury is back. The 2016-2019 National Agreement has been ratified. It should be noted that the vote was not close. More than 94 percent of those active members who cast a ballot voted to accept the tentative agreement reached in May.

We now move on to local negotiations. As previously reported, they will take place Oct. 16 to Nov. 14. We have continued our preparations at NALC Headquarters and in your region for supplying resources designed to assist branches with conducting local negotiations. We have completed the *2017 Local Negotiations* guide. This book is designed to offer practical advice and essential

information that will help you throughout the negotiating process, from planning and gathering membership concerns to analyses of the 22 negotiating items, the 30-day negotiation phase, and finally through the conclusion of the impasse/arbitration phase of the local negotiations process.

Your national business agent has sent a copy of this book to every branch in their region. Each region will also offer local memorandum of understanding (LMOU) training. Many regions have already started. You should try to attend one of these training sessions if at all possible.

Each branch should have received a letter from President Rolando concerning local negotiations that included my series of articles on this subject. Also, we have added additional resources in the “members only” section of the NALC website for all branch presidents. All these efforts are designed to assist you through the entire local negotiations process.

If you have taken advantage of the resources offered and done your preparation, you will be in great shape to begin local negotiations on Oct. 16. If you follow the advice for conducting the actual negotiations, you will be ready for the impasse phase of the local negotiations process. This brings us to the purpose of this article.

The best result of local negotiations is to come out with a negotiated local contract. However, if your negotiating committee does not get there, you must focus your attention on giving your impasse item(s) the best chance for success.

Let’s look at the CCA annual leave issue. If you end up in an impasse over this issue, you should remind management of the language in the Memorandum of Understanding (MOU) Re: CCA Annual Leave that states, in relevant part:

[T]he local parties will, consistent with the needs of employees and the needs of management, include provisions into the LMOU to permit city carrier assistant employees to be granted annual leave selections during the choice vacation period and for incidental leave.

The words “parties” and “will” in this MOU are no accident. Management at the national level acknowledged that they have much to gain by including CCAs in the annual leave provisions in your LMOU. Their goal is to attain a better retention rate for CCAs. We have the same goal. That makes us even. When negotiating, you should find management recognizing the benefit they will receive by retaining more CCAs because of the fact that they will be able to plan to use their annual leave. The CCA annual leave MOU really says, “CCAs are people, too.” They deserve a vacation just like anyone else.

If management is unreasonable at your level, and you are unable to negotiate provisions for CCAs to be granted annual leave selections during the choice vacation period and for incidental leave, just impasse the matter at the end of the 30-day negotiating period. Remember, the process is not over just because you did not reach agreement on one or more items. Impasses are discussed at the regional/area level first, and then appealed to interest arbitration, and discussed at least one more time before finally reaching an arbitrator. The local negotiations process is far from over when you are finished with your end of it.

“You must focus your attention on giving your impasse item(s) the best chance for success.”

Now let’s look at the “inconsistent or in conflict” issue. Some of you will run into cases where management claims a provision(s) in your LMOU is “inconsistent or in conflict with the National Agreement.” If we do not come to agreement at the local level, we should join the management impasse by creating a union impasse of our own.

The reason for creating a union impasse is to ensure that the parties at the next steps of this process have all the information needed to make an informed decision on this issue.

There are three scenarios where this issue could come up. I will cover each one:

1. Most of the time, management tries to make the “inconsistent or in conflict with the National Agreement” claim on a provision that has been in your LMOU for a long time. If management makes this claim on a pro-

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vision that has been in your LMOU since before 2013, impasse the item. When sending an impasse to your national business agent, also include statements and a copy of an LMOU from your city that was in effect prior to 2013. That should end the matter during the regional discussions that follow.

2. If management makes the “inconsistent or in conflict with the National Agreement” claim on a provision that was a new provision in your city’s 2013 LMOU, impasse the item. Also include any statements/information that proves the provision in question is not inconsistent or in conflict with the National Agreement.
3. If management makes the “inconsistent or in conflict with the National Agreement” claim on a provision in your LMOU that became this way as a result of a change in the 2016 National Agreement, impasse the item. Also include any statements/information that proves the provision in question is not inconsistent or in conflict with the National Agreement.

“Forget everything else you know about processing grievances. The LMOU impasse process is different.”

Processing impasse items has a few aspects in common with processing grievances. For starters, *you must be timely*. The actual deadline for appealing impasse items is Nov. 29. Please do not wait for the last day to send your appeal(s) forward. I would advise you to set Thanksgiving Day as the deadline in your mind and send your impasse appeal(s) forward. You should also use a special service for the copy of your impasse appeal(s) that you mail to the Labor Relations Service Center so you can prove when you mailed it/them, should this become an issue later.

Forget everything else you know about processing grievances (except documenting your position). The LMOU impasse process is different. First of all, this is *not* a joint process. As such, you do not send a joint file to a team. Instead, you send a copy of your impasse appeal(s) to three separate places (Labor Relations Service Center, your postmaster and your national business agent’s office). Additionally, the only place you send the documentation/information you have gathered that supports your position is to your national business agent’s office. Detailed directions follow:

If one or more items are appealed to impasse, remember to first complete a separate impasse appeal form for each item that you are impassing. You can find a sample impasse appeal form in Appendix L on page 67 of the 2017 *Local Negotiations* guide or in the “members only” section

of the NALC website. Please be sure to include the following with each impasse appeal form:

- Exact language, if any, of the impasse item as it appeared in the 2013 LMOU.
- Original union proposal (exact language and date discussed).
- Management counterproposal (exact language and date discussed).
- If applicable, any additional proposals and counterproposals.
- Final union proposal (exact language and date discussed).
- Final management proposal (exact language and date discussed).

It is fine to send multiple impasse appeal forms with all the information referenced above, attached to each one with a staple or paperclip, in the same envelope.

Second, send a copy of all this information for each item you are appealing to three places:

- Labor Relations Service Center at U.S. Postal Service, P.O. Box 23788, Washington, DC 20026.
- The installation head (postmaster).
- Your national business agent.

As discussed above, if you want to have *the best chance for success*, take the following additional steps with the impasse item(s) package you send to your national business agent:

- Write a separate cover letter to your NBA for each item being appealed. Fully explain the disputed issues and the course of negotiations. If appealed items are related, be sure to give a clear explanation. Include any additional information you have gathered to support the union’s position. This will be helpful when discussing the issues or preparing for arbitration. *Do not send this letter or any other additional information you have gathered to support the union’s position to the Labor Relations Service Center or the installation head (postmaster) with your impasse.*
- If management makes its own appeal to impasse, claiming a provision(s) is an “unreasonable burden” or “inconsistent or in conflict with the National Agreement,” make sure to request and provide a copy of management’s impasse (in addition to following the advice above). You should do the same thing if management attempts to impasse an item that is outside of the 22 items listed in Article 30 of the National Agreement. A description for each of these items is contained in the Contract Talk article on page 33. In any of these situations, also enclose any documentation they have with your impasse

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- item(s) package that you send to your NBA.
- Your national business agent may need additional branch input during settlement discussions with management at the regional/area level. Please make sure your national business agent knows how to contact your negotiating team.

So what happens next? The next step of the process is described in the third paragraph of the MOU Re: Local Implementation. It states:

The Representative of the Employer from the Labor Relations Service Center and the Union's Regional Representative shall attempt to resolve the matters in dispute within seventy-five (75) days after the expiration of the local implementation period. The Representatives of both the Union and the Employer will have full authority to resolve all issues still in dispute.

So what happens if your NBA and management at the area level cannot resolve an impasse item(s)? The next step of the process is described in the fourth paragraph of the MOU Re: Local Implementation. It states:

If the parties identified above are unable to reach agreement by the end of the seventy-five (75) day period provided for above, the issue(s) may be appealed to final and binding arbitration by the National Union President or the Vice President, Labor Relations within twenty-one (21) days of the end of the seventy-five (75) day period.

We have added an additional step in the process this year for the CCA annual leave issue that *only* applies to LMOUs that do not currently contain language for CCA leave rights. This step is contained in the MOU Re: CCA Annual Leave. It states:

In the event a proposal(s) on this subject is appealed through the Article 30 impasse procedure, prior to a request for arbitration, such dispute(s) will be referred to an Alternate Dispute Resolution (ADR) team established by the national parties. The expectation is that the ADR team will reach an agreement that will allow city carrier assistants to plan for leave use while accounting for city carrier assistant absences, including during scheduled five day service breaks.

Any office that currently has provisions in its LMOU regarding annual leave selection for CCAs will continue such provisions, unless modified during the upcoming implementation period. Any impasses that arise under this paragraph will be processed in accordance with Article 30 of the National Agreement.

The second paragraph simply means that if you have any CCA leave provisions in your current LMOU and you reach impasse over this issue, the added step of an alternate dispute resolution (ADR) team review will be skipped and the dispute will proceed straight to arbitration.

There are two other changes in the 2016 National Agreement that are designed to expedite the arbitration process during this round of local negotiations. The first change can be found in the seventh paragraph of the MOU Re: Local Implementation. It states:

The national parties will establish an impasse arbitration panel in each area for **all management and union impasse items appealed to final and binding arbitration pursuant to paragraph 4 above**. A sufficient number of arbitrators will be selected so that all such appeals will be scheduled and heard within **120** days of receipt of the appeal to arbitration. In those areas where the impasse backlog will not allow the parties to meet these time limits, it is understood that steps will be taken to process them as expeditiously as possible. Impasse appeals addressing whether an item is inconsistent or in conflict will be scheduled prior to unreasonable burden cases. (Emphasis added.)

The second change can be found in a brand new MOU negotiated in 2016 for the first time. This MOU is designed to eliminate the “stall tactics” that were used in some places during the last round of local negotiations. It states:

The parties agree to the following concerning the scheduling of Local Memorandum of Understanding (LMOU) impasse arbitration cases during the term of this agreement.

- LMOU impasses from each installation will be heard by the same arbitrator.
- It is expected that multiple impassed items from an LMOU will be heard on each arbitration date.

This agreement expires with the 2016 collective bargaining agreement.

“It is our sincere hope that you will be able to come to agreement on an LMOU for your city during the 30-day negotiating period.”

As President Rolando states in his message to branch officers contained in NALC's *2017 Local Negotiations* guide, “It is essential that every branch use the LMOU negotiating period to ensure that every LMOU includes provisions permitting CCAs to be granted annual leave selections during the choice vacation period and for incidental leave.”

In the end, it is our sincere hope that you will be able to come to agreement on an LMOU for your city during the 30-day negotiating period. If not, just send your impasse item(s) to the right places in a timely fashion and we will take it from there.