

The Dispute Resolution Process— 20 years old and counting



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For most active letter carriers, the grievance procedure found in Article 15 of the National Agreement is the only contractual process they have used to resolve grievances that arise concerning wages, hours and conditions of employment. But it hasn't always been so. There was a time, from our first contract in 1971 until 1998, when NALC and USPS used a grievance process different from the one we have now.

Although the old procedure had its merits, it was unable to accommodate the steadily rising grievance load of the 1980s and 1990s. Grievances rarely were settled at the local level, causing huge backlogs at Step 3 and arbitration. As a result, letter carriers had to wait longer and longer for a final decision on their grievances. Even though removals received priority scheduling for arbitration hearing dates, an unjustly fired letter carrier could wait as long as two years or more (without pay) for a hearing date.

Another difference was that, prior to 1998, when a carrier was issued a notice of suspension, he/she actually served the suspension time, losing pay for that period. This meant that managers were unlikely to settle those grievances, even when they knew their case was weak, as that would mean approving back pay to the grievant. It also was difficult for stewards to settle for less than full back pay, even when the union's case was feeble, as it meant the carrier would still lose some pay. As a result, grievance meetings over suspensions became an "all or nothing" proposition for both sides, making resolution nearly impossible. And because letters of warning could place a carrier one step away from a lost-pay suspension, they were difficult to settle as well.

Consequently, the parties had to create a separate "expedited" arbitration process just to deal with things like suspensions and letters of warning. This helped for a while, but soon that process too became bogged down, as the parties spent almost as much time arbitrating suspensions and letters of warning as they did all other disciplinary and contractual grievances combined. In 1997, NALC arbitrated more than 3,000 cases; nearly half were just for suspensions and letters of warning.

Because contractual grievances far outnumber disciplinary grievances, the backlog for contractual grievances could be five years or longer. In several NALC regions, the backlog was estimated at 25-plus years. These delays had a ripple effect, creating backlogs at Step 3, with many cases waiting a year or more to be discussed. Bad managers could violate the contract with impunity, knowing that it would be many years before a grievance would be adjudicated and they would be long gone from that unit. By the late 1990s, the situation had become untenable. In 1997 alone, the parties held more than 3,000 arbitration hearings and there were still at least 25,000 cases pending with more on the way.

In early 1997, at the urging of Congress and under the auspices of the Federal Mediation and Conciliation Service (FMCS), the Postal Service and NALC entered into extensive discussions concerning the root causes of grievances, ways to reduce the current backlog and ways to improve the grievance process. Then-President Sombrotto put it best when he said, "The parties must not continue in a state of labor relations war. It's time to change, to resolve our disputes more quickly and fairly, to get contract compliance without a mountain of grievances, and to stop repetitive disputes over the same issues."

These discussions culminated in an agreement between the parties in October 1997 to jointly test a new method for handling grievances that they called the Dispute Resolution Process (DRP). This new process was designed to place more responsibility for resolution of disputes at the local and district levels by eliminating the third step at the area/regional level. In its place would be an informal and formal Step A at the local level and a Step B at the district level. The process provided for a Step B Dispute Resolution Team (DRT) consisting of one union representative and one management representative. Their sole job would be to work together resolving disputes appealed from the local level and writing instructive decisions promoting contractual understanding and compliance.

Other features of the DRP included a new grievance form that required the parties at Formal Step A to make a joint list of relevant facts that were not in dispute. This helped them, and those who handled the case at higher levels, to focus on the relevant issues in a case. Time limits for processing a case also were reduced, allowing a maximum of 26 days from the date a grievance was filed until it was appealed to the DRT, if it was not resolved locally.

Another important part of the new process was the deferral of suspensions and certain removals. This meant that carriers would continue to work and not miss any pay until the Step B decision was rendered or, in the case of removals, 14 days after the appeal was received at Step B. This made resolving such cases much less problematic. The parties also worked diligently together to create the first *Joint Contract Administration Manual (JCAM)* to assist the representatives at all levels of the process to identify contractual positions agreed upon at the national level.

The parties agreed to test this process for one year in 19 districts. Four candidates selected from each test site, two chosen by USPS and two by NALC, were trained in March 1998 on the new process by NALC and USPS headquarters officials and trainers from FMCS. To be certified to serve on a DRT, candidates had to demonstrate that they could treat each other with dignity and respect; work together to resolve disputes; write clear, effective and educational decisions; and pass a comprehensive contractual exam. Copies of the *JCAM* were provided to the DRTs and to each city carrier delivery unit in the test districts. The local union and management officials in the test districts were trained on the new process, and the test began on April 4, 1998.

I'll cover the results of the test and where we are now in the April issue of *The Postal Record*.