

Contract Administration Unit

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Administrative leave for acts of God

When “acts of God,” events that include extreme weather and natural disasters, occur and prevent letter carriers from reporting to work or completing their shifts, postmasters and other installation heads have the authority to approve administrative leave. This article will cover some of the relevant provisions and provide guidance to document the necessary criteria. The rules and regulations pertaining to acts of God are found in the *Employee and Labor Relations Manual (ELM)*, Section 519. These rules and regulations are incorporated into the National Agreement via Article 19.

Section 519.215 explains that carriers may receive administrative leave when unable to report or prevented from working due to an act of God:

Employees scheduled to report who are prevented from reporting or, who after reporting, are prevented from working by an act of God may be excused as follows:

- a. Full-time and part-time regular employees receive administrative leave to cover their scheduled tour of duty not to exceed 8 hours.
- b. Part-time flexible employees receive administrative leave, subject to the 8-hour limitation, for their scheduled workhours, as provided in 519.214c.

Section 519.211 defines acts of God:

Acts of God involve community disasters such as fire, flood, or storms. The disaster situation must be general rather than personal in scope and impact. It must prevent groups of employees from working or reporting to work.

ELM, Section 519.211 sets out three criteria for determining the appropriateness in granting administrative leave for acts of God: It must create a community disaster, the event must be general rather than personal in scope and impact, and the event must prevent groups of employees from working or reporting to work. Most arbitrators agree that all three criteria must be met before a request for administrative leave will be considered appropriate.

The first criterion identified in Section 519.211 requires that acts of God involve community disasters such as fire, flood or storms. In most cases, the act of God event in question must have been of unusual severity. In considering whether these events fit the definition of an act of God, arbitrators have looked at such factors as the amount of snow or rain, the length of the storm, wind strength, temperature and destruction. However, more important than these elements is whether the event created disastrous conditions. News

articles, information from local authorities and weather data should be used to document the severity of the situation. It may be useful to include information from websites that provide historical weather data, such as Weather Underground (wunderground.com/history). Pictures and videos of the event and its aftermath also can document the severity. Proof that there was a shutdown of community services and warnings or directives from local officials will go a long way in showing there was a community disaster.

The second criterion set forth in Section 519.211 requires that acts of God be general in scope and impact. This can be done by looking at the direct impact on the community, and the reaction of the general population. Evidence to establish that the impact of the catastrophic event was not limited to the Postal Service but rather overwhelmed the community should be included in any grievance file. This would include reports of property damage estimates, vehicle accidents, casualties, utility outages, road closures, school and business closures, disruption of community services and “state of emergency” declarations. Keep in mind that Section 519.211 imposes no requirement that the office be closed, or operations curtailed, before employees may receive such leave.

The third criterion cited in the *ELM* is that the disaster affects groups of employees. While some arbitrators have required that 50 percent or more of the employees were unable to come to work because of conditions, other arbitrators have pointed out that the *ELM* sets no such arbitrary figures, and that the fact circumstances of each case must be considered. Time records can be used to document the number of letter carriers who were able to report that day and of those who were unable to do so. These records will also show what kind of leave was charged for the absences.

Though some arbitrators look to employee reporting percentages of the office as a whole when determining the impact to the group, other arbitrators give consideration, when documented, to groups of employees within the office who are from a certain area more adversely affected and as such were unable to report to work. Maps are useful in demonstrating areas where employees live and whether the event prevented employees from specific areas from reporting to work.

Union representatives should look at why carriers were unable to report, and identify the similarities with others who did not report and the differences between that group and those who did report. Employee statements are crucial pieces of evidence in establishing impact. Arbitrators may consider one employee’s particu-

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lar difficulties in getting to work, but if other employees from the same area were able to report, the arbitrator may consider the disaster personal rather than general, and not grant administrative leave.

Section 519.213 addresses determining the cause of the absences:

Postmasters and other appropriate postal officials determine whether absences from duty allegedly due to “acts of God” were, in fact, due to such cause or whether the employee or employees in question could, with reasonable diligence, have reported for duty.

Because management must weigh the amount of reasonable diligence that the affected employees showed in trying to come to work in accordance with ELM 519.213, arbitrators may likewise evaluate the efforts of the employee. Some arbitrators will look at general conditions and not require specific proof of individual attempts to come to work—but in other cases, arbitrators have required that employees present evidence of their diligence. Arbitrators may look for an employee to show that alternative means were unavailable, or the effort would have been futile.

Information that demonstrates carriers’ diligence is best documented by interviewing the carriers and obtaining statements. If carriers made multiple attempts to report, that should be included in their statement in detail. The following are examples of some of the questions that can be asked and answered: How long did they work trying to dig out? How far away is the closest bus station? Was there any alternate transportation? Were the buses even running? Were the roads closed? Did the police turn them away? Was there a mandatory evacuation? In addition to employee statements, newspaper articles from the time-frame in question may also help provide some of the documentation and substantiate the carriers’ claims.

Administrative leave for an act of God may still be appropriate for carriers who reported to work but were then sent home early because of the weather or event. Maybe the mail did not make it to the office, or conditions worsened so delivery was suspended and there was no other productive work available.

Section 519.214 addresses early dismissal due to an act of God:

When employees are dismissed from duty before the normal completion of their duty due to an act of God, the following applies:

a. Full-time employees are entitled to credit for hours worked plus enough administrative leave to complete their tour of duty. This combination of work and leave is not to exceed 8 hours in any one day.

b. Part-time regular employees are entitled to credit for hours worked plus enough administrative leave to complete their scheduled hours of duty. This combination of work and leave is not to exceed 8 hours in any one day.

c. Part-time flexible employees are entitled to credit for hours worked plus enough administrative leave to complete their scheduled tour. The combination of straight time worked and administrative leave may not exceed 8 hours in a service day. If there is a question as to the scheduled workhours, the part-time flexible employee is entitled to the greater of the following:

- (1) The number of hours the part-time flexible worked on the same service day in the previous service week.
- (2) The number of hours the part-time flexible was scheduled to work.
- (3) The guaranteed hours as provided in the applicable national agreement.

Once a full-time employee reports, he or she is entitled to eight hours’ work or pay. Part-time flexible employees are entitled to enough hours to complete their scheduled tour. Carriers are not required to take annual leave if sent home and should use PS Form 3971, Request for or Notification of Absence, to request administrative leave in such a situation. If administrative leave is denied, this will document that the request was made and show that management sent them home. As always, city carrier assistants should receive their guaranteed hours (either two or four, depending on the size of the installation) if they were scheduled, and report to work in accordance with Article 8.8 of the National Agreement.

As provided for in ELM, Section 519.216, employees who already were using annual leave, sick leave or leave without pay are not entitled to administrative leave.

ELM, Section 519.216 states:

Employees on annual leave, sick leave, or LWOP remain in such status. They are not entitled to administrative leave.

If city carriers believe they have unfairly been denied administrative leave in community disaster situations, they should contact their shop steward to investigate and, if necessary, file a grievance. Shop stewards should attempt to show that all of the criteria of Section 519.211 existed and that carriers exercised reasonable diligence in trying to report to work. If there is a violation, shop stewards should be sure to utilize the grievance starter in the *NALC Steward’s Guide* and tool kit.