

# Local negotiations are coming, Part 4



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**W**e are now in the middle of the 30-day local negotiations period that began on April 29 and will end on May 28. We have provided you with copies of our *2021 Local Negotiations* guide, local memorandum of understanding (LMOU) training in each region, and added additional resources in the Members Only section of the NALC website for all branch presidents and secretaries. All of 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 should be in great shape at this point. If you are following the advice for conducting the actual negotiations, you will be ready for the impasse phase of the local negotiations process.

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.

For instance, if you currently have no provisions for city carrier assistants (CCAs) to be granted annual leave selections during the choice vacation period and for incidental leave in your LMOU, and management is unreasonable at your level, 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, then appealed to interest arbitration, and discussed at least one more time before finally reaching an arbitrator.

**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 create a separate impasse of our own.

The reason for creating a union impasse in this situation is that we want to ensure that the parties at the next steps of this process have all of the information needed to make an informed decision. There are three possible scenarios:

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 provision that has been in your LMOU since before 2017, impasse the item. When sending an impasse to your national business agent (NBA), include statements and a copy of an LMOU from your city that was in effect prior to 2017. 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 2017 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 2019 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.

**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 June 12. Please do not wait for the last day to send your appeal(s) forward. I would advise you to set D-Day (June 6) as the deadline in your mind and send your impasse appeal(s) forward before that Sunday. You also should 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 if necessary.

Forget everything else you know about processing grievances (except documenting your position). The LMOU impasse process is different. First, 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 places: the Labor Relations Service Center, your postmaster and your NBA's office. Additionally, the only place to which you send the documentation/information you have gathered that supports your position is your NBA's office.

**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 *2021 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 2017 LMOU
- Original union proposal (exact language and date discussed)
- Management counterproposal (exact language/date discussed)
- If applicable, any additional proposals and counterproposals
- Final union proposal (exact language and date discussed)
- Final management proposal (exact language/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 paper clip, in the same envelope. Second, send a copy of all this information for each item you are appealing to three places: the Labor Relations Service Center at U.S. Postal Service, P.O. Box 23788, Washington, DC 20026; the installation head (postmaster); and your NBA.

**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 NBA:**

- Include a copy of your current LMOU in your package to your NBA.
- 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. In any of these situations, also enclose any documentation they have with your impasse item(s) package that you send to your NBA.
- Your NBA may need additional branch input during settlement discussions with management at the regional/area level. Please make sure your NBA 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.

What happens if your NBA and management at the area level cannot resolve an impasse item(s)? The fourth paragraph of the MOU Re: Local Implementation 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 again this year for the CCA annual leave issue that applies only to LMOUs that do not currently contain any language for CCA leave rights. In 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.

We had high hopes during the last round of local negotiations that the ADR process described above would be successful in resolving the CCA annual leave issues. We could not have been more wrong on that count. Maybe we will have better luck this time.

**There are two other MOUs continued in the 2019 National Agreement that are designed to expedite the arbitration process during this round of local negotiations. The first one 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.

The second MOU Re: Arbitration Scheduling Procedure – (LMOU) is designed to eliminate the "stall tactics" that were used in some places in the past. 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.

1. LMOU impasses from each installation will be heard by the same arbitrator.

2. It is expected that multiple impassed items from an LMOU will be heard on each arbitration date.

This agreement expires with the 2019 collective bargaining agreement.

**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.**

In closing, I want to wish all of the mothers out there a happy Mother's Day.