

## Contract Administration Unit

Paul Barner, Executive Vice President  
 James D. Henry, Vice President  
 Christopher Jackson, Director of City Delivery  
 Manuel L. Peralta Jr., Director of Safety and Health  
 Dan Toth, Director of Retired Members  
 Jim Yates, Director of Life Insurance

# Framing the issue

**G**rievance processing is one of the most important jobs the NALC performs. Effective grievance handling builds union solidarity and strength through enforcement of the National Agreement.

**Article 15, Section 1 of the National Agreement** defines a grievance as follows:

A grievance is defined as a dispute, difference, disagreement or complaint between the parties related to wages, hours, and conditions of employment. A grievance shall include, but is not limited to, the complaint of an employee or of the Union which involves the interpretation, application of, or compliance with the provisions of this Agreement or any local Memorandum of Understanding not in conflict with this Agreement.

When a letter carrier presents a problem, or when a steward believes a violation of the National Agreement may have occurred, the steward must investigate the situation and research the contract to determine whether a valid grievance exists. If a steward decides that a grievance exists, the next step is to schedule a meeting and discuss the matter with the supervisor.

Article 15, Section 2 of the National Agreement details this step of the grievance process:

Informal Step A (a) Any employee who feels aggrieved must discuss the grievance with the employee's immediate supervisor within fourteen (14) days of the date on which the employee or the Union first learned or may reasonably have been expected to have learned of its cause. This constitutes the Informal Step A filing date. The employee, if he or she so desires, may be accompanied and represented by the employee's steward or a Union representative. During the meeting the parties are encouraged to jointly review all relevant documents to facilitate resolution of the dispute. The Union also may initiate a grievance at Informal Step A within 14 days of the date the Union first became aware of (or reasonably should have become aware of) the facts giving rise to the grievance. In such case the participation of an individual grievant is not required. An Informal Step A Union grievance may involve a complaint affecting more than one employee in the office.

**This month's Contract Talk will focus on the importance of properly "framing the issue" when meeting on a grievance with postal management. The phrase "framing the issue" refers to the process of developing an "issue statement."** An issue statement is always presented in the form of a question because that's exactly what it is—a question. Essentially, the question asks if a National Agreement violation took place because of a management action.

To ensure that your issue statement is not deficient, it should always be comprised of two parts: the question on the merits and the question on the remedy. Failure to do so could possibly result in receiving a finding of a viola-

tion but no remedy awarded because the trier of fact was not asked to answer, "What is the appropriate remedy?"

**A document of importance that goes hand in hand with the issue statement and to all grievance files is PS Form 8190.** This form consists of three pages, and it documents information relevant to the grievance file. If a grievance is not settled at any level of the Dispute Resolution Process (DRP), this form is appealed with the grievance at every step of the process. Every grievance file must contain this form, and a steward must have this form when they attend the Informal Step A meeting.

Prior to discussing the grievance with a supervisor at the Informal Step, it may be helpful for a shop steward

to write or frame a suggested issue statement on a separate sheet of paper. Writing the suggested issue statement on a separate sheet of paper creates an opportunity for a steward to collect their thoughts about the issue and properly present the grievance to the supervisor during the meeting. As per the reverse of the 8190, the union

The image shows a scan of the USPS-NALC Joint Step A Grievance Form (PS Form 8190). The form is titled "UNITED STATES POSTAL SERVICE" and "USPS-NALC Joint Step A Grievance Form". It is divided into two main sections: "INFORMAL STEP A - NALC Shop Steward Completes This Section (See Instructions on Page 2)" and "FORMAL STEP A - Formal Step A Parties Complete This Section (See Instructions on Page 2)".

The "INFORMAL STEP A" section includes fields for:

- 1. Grievant's Name, Last, and Middle Initial
- 2. Grievant's Telephone No. (Include area code)
- 3. Severity Date (MM/DD/YYYY)
- 4. Status (Check one):  PPF  PFR  PFA  PFC  PFD  PFE  PFF  PFG  PFI
- 5. Grievant's Employee Identification Number (EIN)
- 6. District, Insulation, Work Unit, ZIP Code
- 7. Previous No.
- 8. NALC Branch No.
- 9. NALC Grievance No.
- 10. Incident Date (MM/DD/YYYY)
- 11. Date Discussed With Supervisor (If any)
- 12a. Completion (NDRP) Appeal?  Yes  No
- 12b. Completion (ESA) Appeal?  Yes  No
- 13a. Supervisor's Present Name, Initials, and Telephone No.
- 13b. Steward's Present Name, Initials, and Telephone No.

The "FORMAL STEP A" section includes:

- 14. Issue Statement: (Clear and to the point. State Step A meeting.)
- 15. Issue Statement: (Provide contract provision(s) and frame the issue(s).)
- 16. Unpackaged Facts: List and attach all supporting documents. Use additional paper if necessary. Attachments?  No  Yes. Number \_\_\_\_\_
- 17. UNION'S SA: (Concise statement of disputed facts and contention. List and attach all supporting documents. Use additional paper if necessary.) Attachments?  No  Yes. Number \_\_\_\_\_
- 18. MANAGEMENT'S SA: (Concise statement of disputed facts and contention. List and attach all supporting documents. Use additional paper if necessary.) Attachments?  No  Yes. Number \_\_\_\_\_
- 19a. Union Representative: Enter the remedy requested by the union.
- 19b. Settlement Offer: List any settlement offers by either party on page 3.
- 20. Disposition (Check one):  Resolved  Withdrawn  Not Resolved. Date of Formal Step A Meeting (MM/DD/YYYY)
- 21a. USPS Representative's Name
- 21b. Telephone No. (Include area code)
- 21c. USPS Representative's Signature
- 21d. Date (MM/DD/YYYY)
- 22a. NALC Representative's Name
- 22b. Telephone No. (Include area code)
- 22c. NALC Representative's Signature
- 22d. Date (MM/DD/YYYY)

At the bottom, it says "PS Form 8190, Rev. 11/13 (page 1 of 3) PSN 7510-01-000-4108".

steward may write a suggested issue in Item 15 when appealing to Formal Step A. The parties at Formal Step A are responsible for defining the issue as they see fit.

At the Informal Step A level of the DRP, a steward will not fill out any portion of PS Form 8190 past block 13b. This is a common mistake made by stewards. Two exceptions to this rule are when the steward writes a suggested issue in Item 15 as described above, or when the steward and the management representative can reach a settlement agreement. When an agreement is reached at the Informal Step, it is common practice for the Informal Step A representatives to memorial-

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## Framing the issue (continued)

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ize their settlement on the first page of PS Form 8190 with signatures. This may also take place on a separate sheet of paper. The second page of PS Form 8190 contains instructions detailing the proper procedures for completing the document.

If the Informal representatives are unable to reach a resolution on the grievance, Article 15, Section 2.c of the National Agreement gives the union the right to appeal the grievance to the next step:

Article 15, Section 2. Grievance Procedure—Steps

Informal Step (c) If no resolution is reached as a result of such discussion, the Union shall be entitled to file a written appeal to Formal Step A of the grievance procedure within seven (7) days of the date of the discussion. Such appeal shall be made by completing the Informal Step A portion of the Joint Step A Grievance Form. At the request of the Union, the supervisor shall print his/her name on the Joint Step A Grievance Form and initial, confirming the date of the discussion.

When appealing the grievance to the next step, stewards should be sure to include their statement of the issue. After receiving the grievance file at the Formal Step A level, the designee should review the suggested issue statement provided by the steward, giving full consideration to their thoughts as they relate to the information in the case file.

Normally, the Formal Step A representative writes or frames the issue of the grievance in “Block 15—Issue Statement” on the PS Form 8190 at the Formal Step A meeting. Sometimes, however, the parties cannot agree on an issue statement. If that happens, the NALC designee should complete the issue statement and encourage management to address it in their contentions. As the mover of the file, NALC is the custodian of the PS Form 8190.

The issue statement should identify the relevant contractual and/or postal handbook provisions violated by management and the remedy sought. If it is a disciplinary grievance, the issue statement should indicate the type of discipline (letter of warning, seven- or 14-day suspension, indefinite suspension, etc.) being discussed.

**Here is an example of an issue statement for a discipline case:**

Did management violate Article 16 and Section 115 of the *M-39 Handbook* via Article 19 of the National Agreement and lack just cause when a letter of warning was issued to the grievant dated 8/29/2023 for unsatisfactory work performance, and if so, what is the appropriate remedy?

This example could be used for almost any discipline case. The level of discipline, the date, and the charge would

need to be tailored to the facts of that specific grievance in order for the issue statement to be appropriate.

Here is an example of an issue statement for a contract case:

Did management violate Article 8, Section 5.G of the National Agreement when the grievant was mandated to work overtime on 8/29/2023 when auxiliary assistance was otherwise available, and if so, what is the appropriate remedy?

**If there are multiple contract violations being addressed**, it may be appropriate to frame multiple issue statements in the same case. For instance, a shop steward may have an overtime grievance in an office where precedent-setting Formal Step A settlements or Step B decisions exist, repeatedly directing management to stop violating the contract in this specific fashion. This presents an issue for the Article 8 violation and an issue for the non-compliance with a previous grievance settlement. In this situation, each issue should have its own issue statement. If multiple issues are to be framed in one grievance, a steward should have facts, contentions, documentation (proof,) and a remedy request for each issue statement being framed.

To assist representatives with writing grievances, NALC creates grievance starters on an array of issues that occur across country all of which are available in the Members Only section of the NALC website at [nalc.org](http://nalc.org). Each grievance starter contains its own suggested issue statement developed to address contractual violations. These are called grievance starters because they are designed to give representatives a structured place to start writing the grievance. This by no means indicates that it is a finished product. Keep in mind, every grievance situation is different, and each representative will have to investigate and develop their specific facts and contentions within the grievance starter.

Emphasis must be placed on the fact that the intent of the grievance starters is to provide grievance handlers with basics guidelines in processing a grievance related to that issue and assist them with direction. They are not intended to be, nor should they be used as, a “canned grievance” to act in lieu of each case arguments being fully developed, investigated and supported by documentary evidence specific to each case.

**Representatives seeking more information on grievance writing and how to frame the issue** can review NALC’s *Shop Steward Guide*. Stewards can find the guide and a variety of grievance starters in the Members Only section of [nalc.org](http://nalc.org) or by contacting their national business agent’s office.