

# Loss of driving privileges

**A**rticle 29 of the National Agreement provides strong protection for letter carriers who have the misfortune of losing their on-duty driving privileges. There are two ways a letter carrier can lose driving privileges at work:

- When a letter carrier has his or her state-issued driver's license suspended or revoked outside the workplace, the letter carrier's driving privileges at work are suspended or revoked.
- Management can issue suspension or revocation of driving privileges as a result of alleged misconduct, or because of a letter carrier's medical condition. This can happen after an accident or after an allegation that a letter carrier is an unsafe driver, or both.

A full explanation of Article 29 can be found on pages 29-1 through 29-5 of the April 2009 *Joint Contract Administration Manual (JCAM)*. Driving privileges are also addressed in the 2009 NALC Materials Reference System (MRS) on pages 93-97.

Article 29 provides that: "Every reasonable effort will be made to reassign such employee to non-driving duties in the employee's craft or in other crafts."

This requirement is not contingent upon a letter carrier making a request for non-driving duties. Rather, it is management's responsibility to find non-driving duties.

Article 29 was interpreted by National Level Arbitrator Carlton Snow in 1998. In the National Level Award (C-18159), Arbitrator Snow stated the following:

Article 29 of the agreement with the National Association of Letter Carriers **requires the Employer to make temporary cross-craft assignments in order to provide work for carriers whose occupational driver's license has been suspended or revoked.** The Employer is required to do so in a manner consistent with the APWU collective bargaining agreement. In instances where it is impracticable to fulfill its contractual obligation under both agreements, **the Employer is without contractual authority to remove such employee. Such individuals shall be placed on leave with pay and reinstated to working status as soon as work is available** by placing the employee in a position which will

not violate the collective bargaining agreement of either party. (Emphasis added.)

Simply put, Arbitrator Snow's decision confirms the fact that Article 29 of the National Agreement provides strong protection for letter carriers who lose their driving privileges at work. The important principles to remember are:

- Management is required to make cross-craft assignments for a letter carrier who loses driving privileges, consistent with the APWU agreement, or place the letter carrier on leave *with* pay.
- Management lacks the contractual authority to remove a letter carrier from the Postal Service because he or she loses their occupational driving privileges.

**When a letter carrier's driving privileges are suspended or revoked**, the first thing he or she should do is inform his or her immediate supervisor. *It's OK to tell them!* A letter carrier who fails to inform management that his or her state-issued driver's license is suspended or revoked is making the wrong decision. Article 29 protection only exists after management becomes aware. Management must then find the letter carrier non-driving duties or place him or her in a *pay status* until work can be provided.

Over the years, there have been many cases where discipline is issued to letter carriers for failing to report, and/or for driving on, a suspended or revoked license. These situations can be easily avoided if we understand our rights under Article 29.

Article 29 can be a strong argument to include in discipline cases that involve the employee's driving privileges. Shop stewards should consider citing the national-level Snow award (C-18159) in any discipline case related to the loss of driving privileges. Arbitrator Snow made it very clear that management lacks the contractual authority to remove a letter carrier from the Postal Service because he or she loses their occupational driving privileges.

For more information or advice on this issue, contact your national business agent. ☒

## NTFT clerks exceeded into letter carrier craft

In the 2011-2015 American Postal Workers Union National Agreement, the APWU and the USPS agreed to create clerk jobs called non-traditional full-time (NTFT) positions. Many of these clerks work regular schedules of fewer than 40 hours per week. The following issue has recently come up: Does management have the contractual right to excess NTFT clerks who work fewer than 40 hours per week into full-time letter carrier positions?

NALC's position is a resounding no!

Articles 7 and 8 of our National Agreement define full-time and part-time positions.

Article 7, Section 1.A.1 defines full-time employees as follows:

Employees in this category shall be hired pursuant to such procedures as the Employer may establish and shall be assigned to regular schedules consisting of five (5) eight (8) hour days in a service week.

Article 7, Section 1.A.2 defines part-time employees as follows:

Employees in this category shall be hired pursuant to such procedures as the Employer may establish and shall be assigned to regular schedules of less than forty (40) hours in a service week, or shall be available to work flexible hours as assigned by the Employer during the course of a service week.

The April 2009 *Joint Contract Administration Manual (JCAM)* further defines full-time schedules on page 8-1 as follows:

**Full-Time Employee Schedules.** Read together, Article 8, Sections 1 and 2.C provide that the work week for all full-time carriers (i.e., full-time regulars and full-time flexible—including unassigned regulars, reserve regulars and Carrier Technicians), consists of five days, forty hours per week, and eight hours per day within ten consecutive hours.

**This creates a conflict between contracts:** The APWU agreement defines these employees as full-time and the NALC agreement defines them as part-time regulars. So

which agreement must the USPS comply with? The answer is both.

National Arbitrator Snow ruled on a similar issue in a 1998 national arbitration award (C-18159, 194N-4I-D 96027608). The issue in that case dealt with the question of whether management had to make cross-craft assignments under Article 29 of the NALC agreement when a letter carrier loses driving privileges, while the APWU agreement prohibited such assignments. National Arbitrator Snow ruled that the Postal Service is obligated to comply with both agreements made with unions.

The APWU agreement may define these employees as full-time, but we believe the provisions of Articles 7 and 8 of the NALC contract quoted above clearly define them as part-time regulars. They must be considered to be in the category of part-time regular when it comes to excessing these clerks into our craft. Therefore, in order to be excessed into full-time positions in the letter carrier craft, these employees must meet the definition of full-time in the NALC National Agreement.

The following provisions of the NALC National Agreement cover the excessing of part-time employees:

Article 12, Section 5.D states:

Part-time regular employees assigned in the craft units shall be considered to be in a separate category. All provisions of this Section apply to part-time regular employees within their own category.

This language makes clear that a part-time employee may be excessed only into another part-time position in the letter carrier craft. It is a violation to excess part-time employees outside their own category. NALC believes that a clerk who works fewer than 40 hours could be excessed only into another part time regular position, not into a full-time letter carrier position.

**Branches should proceed with grievances on this issue as they would on any excessing case.** Shop stewards and other NALC representatives should cite the contractual provisions above and document the hours worked by the clerk being excessed into our craft. ☒

## Excessing and seniority

**H**ow seniority is affected when employees are excessed often is a point of confusion. Articles 12 and 41 of the National Agreement and the mutually agreed-upon explanations found in the April 2009 *Joint Contract Administration Manual (JCAM)* are the authorities on this issue. Both are available on the NALC website at [nalc.org/depart/cau/index.html](http://nalc.org/depart/cau/index.html).

**Letter carriers excessed to letter carrier craft in a different installation**—Letter carriers being excessed to the letter carrier craft keep their seniority. Article 12.5.C.5.b covers this type of excessing. The corresponding explanation on page 12-30 of the *JCAM* states:

Letter carriers excessed under the provisions of Article 12.5.C.5.b keep their seniority. This is not inconsistent with the provisions of Article 41.2.A.2.

**Employees from other crafts excessed to the letter carrier craft inside the installation or from another installation**—All employees from other crafts excessed to the letter carrier craft *always* begin a new period of seniority. There are no exceptions to this rule. This applies to excessing inside and outside the installation. Even though these employees come into our craft as full-time employees, they still must always begin a new period of seniority.

Article 12.5.C.5.a(4) covers excessing to other crafts within an installation and contains language relating to seniority of employees excessed under this provision. However, National Arbitrator Carlton Snow ruled on this issue. The explanation of Article 12.5.C.5.a(4) is found on page 12-28 of the *JCAM*:

**Seniority** National Arbitrator Snow held in W7N-4Q-C 10845, December 19, 1991 (C-11528) that the stated seniority rule is inconsistent with Article 41.2.G. Therefore, in accordance with Article 12.5.B.10, the correct seniority under this particular section is that such employees, when reassigned to the letter carrier craft, begin a new period of seniority in accordance with Article 41.2.G.

Arbitrator Snow's ruling makes very clear that employees from other crafts within the installation begin a new period of seniority in accordance with Article 41.2.G, which states that a new period of seniority begins when "...an employee from another USPS craft is reassigned voluntarily or involuntarily to the Letter Carrier Craft."

Article 12.5.C.5.b(2) covers excessing into a different craft outside the installation. The same language referencing Arbitrator Snow's award is found in this section on page 12-32 of the *JCAM*.

The rule is the same for both situations. All employees from other crafts excessed into the letter carrier craft *always* begin a new period of seniority.

**Letter carriers returning to the letter carrier craft after being excessed to another craft inside the same installation**—When an employee is excessed to another craft within the installation, Article 12.5.C.5.a(5) requires that "The employee shall be returned at the first opportunity to the craft from which reassigned."

If a letter carrier has been excessed to another craft within the installation and is being returned to the letter carrier craft, what is his or her seniority upon returning?

The answer is found in Article 12.5.C.5.a(6), which states:

When returned, the employee retains seniority previously attained in the craft augmented by intervening employment in the other craft.

This language is explained in the *JCAM* on page 12-28 as follows:

When an employee is returned to his/her original craft as required by Article 12.5.C.5.a(5), above, seniority is reestablished as if the employee had served continuously in the original craft and had never been excessed.

The employee being returned keeps his or her seniority as if they had never left the craft.

**Senior in lieu of junior option**—If a letter carrier elects to go in lieu of a more junior letter carrier being excessed, the senior letter carrier takes the seniority of the most senior letter carrier being excessed. This is explained in Article 12.5.C.5.b(3):

Any senior employee in the same craft or occupational group in the same installation may elect to be reassigned to the gaining installation and take the seniority of the senior full-time employee subject to involuntary reassignment. Such senior employees who accept reassignment to the gaining installation do not have retreat rights.

There is no "senior in lieu of" option when excessing inside the installation. ☒

# Principles of route inspections

**T**hroughout March and April, the Postal Service conducted route inspections in offices all over the country. More inspections are planned for May.

Route inspections are governed by Chapter 2 of Handbook *M-39*, Management of Delivery Services, and Chapter 9 of Handbook *M-41*, City Delivery Carriers Duties and Responsibilities. These USPS handbooks are enforceable through Article 19 of the National Agreement. A number of national settlements and memoranda of understanding are also applicable and must be complied with. This column will explain a few basic principles of route inspections established in these documents.

## Basic principles

**M-39, Section 242.11** establishes the goal of all route inspections: to adjust routes as near to eight hours as possible. It states:

The proper adjustment of carrier routes means an equitable and feasible division of the work among all of the carrier routes assigned to the office. All regular routes should consist of as nearly 8 hours daily work as possible.

Along the same lines, Section 911.2 of the *M-41* states:

The count of mail is used to gather and evaluate data to adjust routes fairly and equitably to insure that the workload for each route will be as near as possible to an 8-hour workday for the carrier.

## Before the route inspection

**Posting notices**—Two separate types of notice of the route inspection are required. First, management must determine the week of inspection as far in advance as possible and notify the local union. Section 211.2 of the *M-39* states:

The period selected for the mail count and route inspections should be determined as far in advance as possible, and the local union should be notified of this schedule. If it is necessary to change the period, the local union should be notified of the revised schedule as far in advance as practicable.

Management also must post a notice of a more specific schedule at least five working days before the start of the count in accordance with *M-39*, Section 215.1, which states:

A notice must be posted at the delivery unit in advance of the scheduled mail counts and route inspections, showing the beginning date of the count for each route and the day and date each route is scheduled for inspection. This notice must be posted at least 5 working days before the start of the count period. If a deci-

sion is made to inspect on days other than the scheduled date, 1 day's advance notice must be given.

**Reporting times**—Letter carriers will be required to report early during the week of inspection in most instances. *M-39*, Section 215.2 requires management to post the schedule of starting times as follows:

Not later than the Wednesday preceding the count week, carrier schedules shall be posted for those routes requiring an earlier starting time to count the mail.

**Unit review**—*M-39*, Section 214 requires management to conduct a thorough review of all operations in the delivery unit. Section 214 lists the minimum operations that should be reviewed. Failure to perform this review as specified in Section 214 constitutes a violation of Article 19 of the National Agreement.

**Dry-run count**—Another important obligation management has before a route inspection is to conduct a “dry run” with all the letter carriers in the unit within 21 days of the count week. *M-39*, Section 217 and *M-41*, Section 917 establish the proper procedures for dry-run counts. The purpose of the dry run is to educate the letter carriers on how to fill out PS Form 1838-C, as each letter carrier will fill out the form each day of the route inspection.

## During the Route Inspection

**Schedule**—*M-39*, Section 221.11 covers the schedule of days to be used for the count. Please note that routes with abbreviated or no delivery on Saturday *exclude Saturday from consideration*. Section 221.11 states:

The count of mail on all letter delivery routes, regular and auxiliary, must be for 6 consecutive delivery days on one-trip routes and for 5 consecutive delivery days, exclusive of Saturday, on two-trip routes or one-trip routes with abbreviated or no delivery on Saturday. It is not mandatory that mail counts begin on Saturday and continue through Friday so long as they are made on consecutive delivery days.

**Only the regular carrier's time counts**—Only the regular carrier's time will count toward the evaluation of the route. *M-39*, Section 241.33 states:

Bracket [ ] the time entries in columns A, B, C, D, and E for the days on which the route was served by a replacement carrier or carrier technician T-6 because these figures are to be **excluded** when entering the figures on the total line for columns A, B, C, D, and E. (Emphasis added.)



## Principles of route inspections (continued)

Section 241.35 also reinforces this principle in several places.

**Multiple days of inspection**—NALC and USPS recently agreed to extend the national memorandum of understanding on this topic (M-01777) until May 26, 2013. This MOU states, in relevant part:

Local management will, if it determines it necessary when scheduling an inspection to inspect on more than one day, inspect on no more than three days during the week of count and inspection. If local management elects to inspect on two or three days during the week of count and inspection, local management will be responsible for completion of the 1838-C one of the days. The letter carrier will count the mail and complete the 1838-C on the other days of inspection. When local management elects to inspect on two or three days, the PS Form 3999 closest to the selected street time on the PS Form 1840 will be used to transfer territory.

**Conduct of the route examiner**—Section 232.1 of the *M-39* states that the route examiner *must*:

- a. Not set the pace for the carrier, but should maintain a position to observe all delivery points and conditions.
- b. Not suggest or forbid any rest or comfort stops but should make proper notations of them.
- c. Not discuss with the carrier on the day of inspection the mail volume or the evaluation of the route. These matters must be discussed with the carrier at a later date when all data has been reviewed and analyzed.
- d. Make notations on the day of inspection on the appropriate form or separate sheet of paper of all items that need attention, as well as comments on the day of inspection. Also list any comments or suggestions for improving the service on the route, as well as suggestions or comments made by the carrier during the course of the inspection for improvement in delivery and collection service.
- e. Make comments and suggestions clearly, and in sufficient detail for discussion with the carrier and for decision-making purposes. The manager who will actually discuss the results with the carrier must have enough facts and figures to reach a final decision on any necessary adjustments to the route.

**Office time evaluation**—Basic rules for evaluating office time are covered in the *M-39*, Section 242.311, which states:

Under normal conditions, the office time allowance for each letter route shall be fixed at the lesser of the carrier's average time used to perform office work during the count period, or the average standard allowable office time.

**Street time evaluation**—Section 242.32 of the *M-39* spells out the procedure for evaluating street time. Section 242.321 states:

For evaluation and adjustment purposes, the base for determining the street time shall be either:

- a. The average street time for the 7 weeks random time-card analysis and the week following the week of count and inspection; or
- b. The average street time used during the week of count and inspection.

Section 242.322 covers the selection of street time, stating:

The manager will note by explanatory Comment on the reverse of Form 1840 or attachments thereto why the base street time allowance for the route was established at the time selected. **The manager's selection of the street time** allowance cannot be based on the sole criterion that the particular time selected **was the lower**. (Emphasis added.)

**Transferring territory**—The rules management must abide by when deciding which territory to transfer from route to route are set forth in *M-39*, Section 243.242, which states:

To determine the territory to be transferred to or from any route, consider that:

- a. Scheme changes should be kept to a minimum and simplified where possible.
- b. Routes should be compact, avoiding dog-legs and should not cross ZIP Code boundaries except in unusual circumstances.
- c. Routes should begin and end as near as possible to the delivery unit or transportation.
- d. Excessive retracing or deadheading should be avoided.
- e. Adjustments should be made so that future growth may be absorbed by auxiliary routes.
- f. Variations in territory, mail volume and methods of delivery will affect the final adjustment.

**Discipline**—*M-39*, Section 242.332 protects letter carriers from being disciplined simply because they did not meet standards. It states:

No carrier shall be disciplined for failure to meet standards, except in cases of unsatisfactory effort which must be based on documented, unacceptable conduct that led to the carrier's failure to meet office standards.

**Contract Talk columns in the coming months will delve deeper into more specific issues that shop stewards should closely monitor during route inspections.** ☒

# After the week of route count and inspection

**M**anagement recently completed its first round of route inspections this year. There are numerous things that letter carriers, shop stewards and other NALC representatives should take a look at after the week of route count and inspection. A few of these follow.

## General

**Only the regular carrier's time is used**—If a regular carrier is assigned to a route, only that carrier's times can be used to evaluate and/or adjust a route (*M-39*, Section 241.35).

**Recording replacement carrier time on PS Form 1840**—The days the regular carrier does not carry the route are identified on PS Form 1840. These days are excluded when evaluating the route (*M-39*, Sections 241.32 and 241.33).

**Vacant routes**—So what should be done with vacant routes? The answer depends on the particular circumstances of each route. For instance, if there is a regular carrier assigned to a route who isn't present during the week of count for any reason, *standard* office time and the 1840-B street time must be used (*M-39*, Section 241.3).

If there is a vacant route with no carrier assigned to it at all, there must be a *qualified* replacement carrier assigned to the route in order for the data collected to be accepted as valid. Whether or not a qualified replacement was assigned to a route that is truly vacant (has no regular carrier assigned to it) during the week of the count is a judgment call that you are going to have to make.

Once again, it depends on the particular circumstances for each route. Let's say a carrier has been holding down the same vacant route two years and he/she is assigned to do the route during the week of count. In this example, it would be difficult to argue that he/she wasn't a qualified replacement. On the other hand, let's say a carrier is assigned to a route during the week of count that he/she doesn't perform on a regular basis, or it's common knowledge that the carrier doesn't normally take his/her breaks and/or works through lunch. In either of these examples, it would be easy to argue that he/she wasn't a qualified replacement.

**Exclude Saturday on routes with abbreviated or no Saturday delivery**—Saturday is excluded from the count week on routes with abbreviated or no delivery on Saturday (*M-39*, Section 221.11; *M-41*, Section 921.21).

## Office

**Exception to office standards**—Management may make

an exception to normal office standards for letter carriers with 25 years of continuous service or those over the age of 55 (*M-39*, Section 242.214).

**Volume adjustments**—No volume adjustments will be made to office or street work evaluations unless the mail volume has changed by more than 13 percent since the last regular count and inspection (*M-39*, Section 242.312).

**Total office time credit**—Office time is normally evaluated at the lesser of the letter carrier's average office time used during the count week or the average standard time during the count week (*M-39*, Section 242.311).

## Street

**Two street time selection choices**—Management has two choices for selecting an evaluated street time for a route: the actual average street time during the count week or the eight-week carrier time card analysis recorded on PS Form 1840-B (*M-39*, Section 242.321).

**Street time selection documentation requirement**—Management is required to explain why the street time selected was chosen. The selection cannot be solely because the time was lower (*M-39*, Section 242.322).

**How to record auxiliary assistance**—When a letter carrier receives auxiliary assistance on the street during the count week, the replacement's time is *not used*. Instead, the time it took the regular carrier to deliver the same portion of the route on the day of inspection is added to the street time for the day (*M-39*, Section 241.35d).

**Improper deductions of street time**—Management may not make a time deduction just because a letter carrier allegedly failed to finger mail or take proper shortcuts. Instead, management is required to instruct the letter carrier to use proper procedure and make every effort to reinspect the route prior to adjustments being implemented (*M-39*, Section 242.344).

**Deductions due to operational changes**—Management is required to document and explain any changes made to a carrier's base time due to an operational change. It must be discussed during consultation (*M-39*, Section 242.345).

**For information and guidance on the carrier consultations** that take place after the count week, see pages 56-59 of the *2011 NALC Letter Carrier Resource Guide*. This guide was mailed to every active member and is also available on the City Delivery page on the NALC website. ☒

# Route adjustment review requirement

**S**ection 243.6 of the *M-39* handbook requires that management review the routes after an adjustment has been implemented and make further route adjustments to bring the routes to as near eight hours as possible. If management doesn't perform the review or fails to make further route adjustments when needed, shop stewards and NALC representatives should file a grievance citing a violation Section 243.6 of the *M-39* handbook via Article 19 of the National Agreement.

This grievance is separate from the grievance you would file at the point of the improper route adjustment. This grievance should normally be filed approximately 60 to 75 days after the improper route adjustment takes place. Waiting 60 to 75 days to file this grievance takes away the argument that letter carriers are not familiar with the adjusted routes. It also allows a reasonable period of time to gather evidence to show that the routes are not adjusted to as near eight hours as possible.

Each of the review requirements of Section 243.6 of the *M-39* handbook is broken down and explained below.

**General requirement to review routes after adjustments—**Management is required to review routes after adjustments have been implemented. *M-39*, Section 243.611 states:

After the adjustment of routes has been placed in effect, the manager must carefully study and analyze PS Form 3997 or electronic equivalent from a nationally approved computer system that provides equivalent information; PS Form 3997-B, Operations Analysis Report; PS Form 1813; street management records; volume recording data; and carrier's time records to see that the objective has been met, especially for those routes where extensive changes have been made.

**Complete new 3999s—**Management must complete new 3999s after route adjustments are implemented. *M-39*, Section 243.613 states:

When route adjustments or changes are implemented, complete a new Form 3999 to reflect the current authorized route travel pattern and schedules, etc.

**Time record review—**Management must review time records to determine if carriers are using excessive overtime or auxiliary assistance to complete assignments. This would indicate that the routes were not properly adjusted. *M-39*, Section 243.62 states:

Review the carrier's time records for the periods following adjustment. The frequent use of overtime or auxiliary assistance on adjusted routes may indicate that the basis used was not sound and should be examined.

Additionally, *M-39*, Section 243.63 requires management to: Review PS Form 3997 or electronic equivalent from a nationally approved computer system that provides

equivalent information to determine whether an excessive amount of auxiliary assistance is being used daily for the maintenance of schedules on one or more routes. Determine if carrier technicians (T-6) and carriers serving auxiliary routes exceed the time allowed for the routes.

**Form 3923 review—**Management is required to review Form 3923 to determine if the unit is operating efficiently. *M-39*, Section 243.64 states:

Form 3923, Daily Delivery Operations Analysis—Review this form to determine if the unit is operating efficiently.

**Review Form 1813—Late Leaving and Returning Report—**Management must review this form to determine if carriers are frequently leaving or returning late. *M-39*, Section 243.65 states:

Form 1813, Late Leaving and Returning Report—First Carrier Delivery Trip, or PSDS Printout—Review this form to determine if carriers are frequently leaving and/or returning late. Carriers who leave or return late may also be working overtime or receiving auxiliary assistance on routes. In other cases, this may indicate that starting, leaving, and returning schedules are not proper. Also, an indication of possible improper scheduling and/or adjustment would be consistent early leaving by carriers.

**Street management record review—**Management must review street management records to determine if carriers are using proper work methods, following lines of travel, etc. *M-39*, Section 243.66 requires management to:


Review street management records to determine if carriers are using proper methods on the street, following prescribed lines of travel, taking short cuts, fingering mail, etc.

**Volume record review—**Management must use Form 3921 to analyze volume data to determine if an increase or decrease in volume has occurred. *M-39*, Section 243.67 states:

Review Form 3921 to determine whether there has been an unusual increase or decrease in volume which would affect the carrier's performance.

**Further route adjustment requirements—**If the routes are found to be out of adjustment after the review, *M-39*, Section 243.682 requires management to:

If the route is found to be too heavy, relief should be granted, and conversely if found to be light, work should be added. If the carrier frequently uses overtime or receives auxiliary assistance, determine if the route is in adjustment or if the carrier is not serving it efficiently, a special inspection may be in order.

**For more information and guidance, see the 2012 NALC Guide to Route Inspections.** This guide is available on the NALC website. 

## New interpretive dispute on Assignment of City Delivery MOU

**A**s mentioned in Director of City Delivery Lew Drass' article on the previous page, the Oct. 22, 2008, Memorandum of Understanding Re: Assignment of City Delivery (M- 01694) reads as follows:

The parties agree to the following regarding assignment of city delivery.

- The Memorandum of Understanding Re: Subcontracting, dated September 11, 2007, continues in full force and effect.
- The six-month moratorium referenced in the September 11, 2007 Memorandum of Understanding Re: Article 32 Committee, is continued for the remainder of the term of the 2006 National Agreement.
- In city only delivery offices with highway contract delivery, all new growth will be assigned to the city carrier craft, except for in-growth on existing highway contract delivery routes.
- Disputes over whether an existing contract route is CDS or highway contract will be resolved by the Article 32 Committee, established pursuant to the September 11, 2007 Memorandum of Understanding, Re: Article 32 Committee.

In offices with both city and rural delivery, new deliveries will be assigned in keeping with the following:

- Growth will be assigned in accordance with boundaries that have been established by agreement of the Postal Service, National Association of Letter Carriers, and National Rural Letter Carriers' Association.
- Absent such agreement, the city letter carrier craft will be assigned all new growth (i.e., new deliveries that are not in-growth on an existing route assigned to another form of delivery), subject to the following. The Postal Service may assign new growth to another form of delivery only if assigning the work to the city letter carrier craft would result in inefficiencies. In such case, the appropriate NALC National Business Agent must be provided notice. If the union disagrees with such assignment, the National Business Agent may directly refer the matter to a national level task force. This task force will consist of two members appointed by the Postal Service Vice President, Labor Relations, and two members appointed by the President of the NALC. The task force will promptly determine whether assignment of such deliveries to the city letter carrier craft will result in inefficiencies.

The parties recognize and agree that this agreement does not alter or amend the terms of the September 11, 2007, Memorandum of Understanding Re: Subcontracting MOU Issues and that the provisions of that MOU apply to this agreement. As such, the duration of this agreement is lim-

ited to the remainder of the contract term in accordance with the provisions of that MOU.

However, the duration of this agreement is also subject to the parties' implementation of the October 22, 2008, Memorandum of Understanding, Re: Interim Alternate Route Adjustment Process. Therefore, if the Postal Service continues to experience mail volume declines so as to invoke the fifth paragraph of that MOU, and the parties are unable to agree to a new process or use again the process described in that MOU by June 30, 2009 or June 30, 2010, this agreement shall terminate and be of no effect.

**The Postal Service has taken the position that M-01694 expired on Nov. 20, 2011. NALC disagrees.**

On April 24, 2012, NALC filed an interpretive dispute on this issue by letter from NALC President Rolando to USPS Vice President, Labor Relations Doug Tulino. The text of the letter follows:

In accordance with Article 15, Section 3.F of the National Agreement, I hereby initiate at the national level the interpretive dispute described below.

In a notice published in the April 3, 2012 "AMS Update," the Postal Service asserts that the Assignment of City Delivery Memorandum of Understanding dated October 22, 2008 (the MOU) has expired. The notice also states that "delivery units are currently not bound by its terms." (We assume that the Postal Service acknowledges that delivery units continue to be bound by the MOU's terms for assignment of new deliveries prior to the alleged expiration.)

NALC disagrees with the position asserted in the "AMS Update." Neither the October 22, 2008 MOU, nor the September 11, 2007 Memorandum of Understanding Re: Subcontracting MOU Issues, authorize the Postal Service unilaterally to discontinue compliance with the MOU, following the expiration date of the 2006 National Agreement. Rather, in the September 11, 2007 MOU, NALC reserved its position that the Postal Service must maintain existing terms and conditions, including compliance with the MOU, until a successor National Agreement is settled through interest arbitration, or otherwise. Indeed, NALC's final economic proposal submitted to the Postal Service explicitly includes its position that the essential terms of the MOU should be incorporated in the next National Agreement.

Notwithstanding the initiation of this interpretive dispute, NALC reserves the right to file grievances at the local level to challenge specific instances of non-compliance with the MOU.

An Interpretive Step discussion of this matter should be scheduled at the parties' mutual convenience. ☒



## How TEs take the exam

In 2007, NALC and USPS agreed on the Memorandum of Understanding Re: Transitional Employee Employment Opportunities (M-01659). This MOU gave NALC transitional employees (TEs) the right to take the entrance exam for a career city letter carrier position after being on the job for 180 days. The exam scores would then be placed on the appropriate hiring register.

M-01659 gave NALC TEs an advantage over the general public. Our TEs had the right to take the exam after 180 days on the job. They were given this special opportunity to take the exam regardless of when it was made available to the public.

In the years that followed, the Postal Service transitioned to eCareer, a web-based system used to perform the functions of the application and hiring process both internally and for new hires from outside the Postal Service. One fundamental change brought on by eCareer was a change in the way the entrance exam was given.

In the past, the Postal Service would periodically give the exam and keep a hiring register of scores. Those taking the exam could put their score on the registers of three different postal installations and it would remain there for a few years. M-01659 gave NALC TEs the opportunity to take the exam regardless of when the exam was offered to the public and to apply their scores as discussed above.

The eCareer process gives applicants (including NALC TEs) the opportunity to take the exam when the Postal Service has posted a position on eCareer. For example, if the Postal Service plans to hire a career letter carrier in your town, it will advertise on eCareer that it is hiring a letter carrier in that post office. All applicants will then have the opportunity to take the entrance exam for that position or apply a previous score from their candidate profile to the position.

**This change obviously affected the MOU M-01659.** A national-level interpretive dispute resulted from the change (case number Q06N-4Q-C-09038589). The issue was the impact eCareer had on the parties' Memorandum of Understanding Re: Transitional Employee Employment Opportunities (M-01659).

The dispute was resolved in an interpretive step settlement for case number Q06N-4Q-C-09038589 (M-01714). The parties agreed that question number 24 in the *March*

26, 2009 *Questions and Answers (42)*, NALC TEs (M-01701) resolved the dispute as follows:

### 24. Has the conversion to eCareer impacted transitional employee requests to take the entrance examination pursuant to the memorandum of Understanding, Re: Transitional Employee Employment Opportunities?

Yes, using eCareer all applicants, including transitional employees, can take the entrance examination whenever a position is posted. The applicant will then be given the opportunity to take the exam as part of the application process. The applicant chooses the exam date and location to fit their personal schedule. Once the applicant takes the exam, the exam score is automatically uploaded into their candidate profile and remains there for any future vacancy opportunities. There is no need to retest until the standard time period associated with the exam expires. (Currently 6 years for the 473 Examination.) An applicant may retest after four months of the initial test when applying for a posting. To assist transitional employees locate available opportunities, notice of all city carrier vacancies advertised in eCareer within a district will be posted on official bulletin boards in offices that employ transitional employees within the district of the vacancy.

**For a TE to be in the best position to take the Postal Service entrance exam, he/she should:**

1. Go to the eCareer website at <http://about.usps.com/careers>. Look on the right side of the webpage under the "Search Jobs & Apply Online" heading and click "Start your eCareer profile." Follow the instructions to create your candidate profile.

2. Search for job openings on the eCareer website. Look on the right side of the webpage under the "Search Jobs & Apply Online" heading and click "Search our latest job openings." Follow the instructions to search for job openings and to apply. Also, look for positions posted on official bulletin boards in offices that employ TEs.

3. Once a city carrier vacancy is posted, request to take the exam on eCareer as described above. You will be able to select the date, location and time that best fits your schedule.

The advice above applies to the process USPS currently uses to hire employees. In the future, it is possible that eCareer could be changed. If a change were to occur, we will update you in this Contract Talk column. ☒

# M-01796—new interpretive settlement on management reverting routes

**W**e recently settled an interpretive dispute with the Postal Service regarding whether a vacant full-time letter carrier assignment may be reverted without current route inspection data. The settlement has been assigned NALC Materials Reference System number M-01796. The full text of the settlement is printed below.

**Re: Q06N-4Q-C 09038594**

**NALC 8305**

**Class Action**

**Washington DC 202260-41 00**

Recently our representatives met at the Interpretive Step of the grievance-arbitration procedure to discuss the above-referenced case. Time limits were extended by mutual consent.

The issue is whether a vacant duty assignment for a full-time route may be reverted without current route inspection data. After reviewing this matter, the parties agree to the following:

The parties recognize the employer's right to revert vacant duty assignments pursuant to Article 41.1.A.1 of the National Agreement. However, under current regulations, determining whether an established city delivery route is full time (as defined by Handbooks M-39, section 242.122 and M-41, section 911.2) will be made using one of the following procedures:

- A six day mail count and inspection in accordance with the provisions of Handbook M-39
- A route adjustment pursuant to Section 141 of Handbook M-39 (provided the data used is reasonably current and from the regular carrier assigned to the route)
- Evaluation through a national jointly agreed upon route evaluation process
- Evaluation through an authorized locally developed joint route evaluation process

The parties further agree that cases held pending resolution of this case will be addressed by the appropriate parties where the cases are being held. The parties will give consideration to the above agreement and any action taken by the joint route adjustment teams subsequent to the reversion.

This agreement in no way alters the current maximization provisions contained in Article 7.3 of the National Agreement.

Please sign and return the enclosed copy of this decision as acknowledgment of your agreement to resolve this case.

**Alan S. Moore**

Manager, Labor Relations

Policy and Programs

Labor Relations

U.S. Postal Service

**Fredric V. Rolando**

President

National Association

of Letter Carriers,

AFL-CIO

**A few years back, management in some places reverted routes as they became vacant without any route inspection data to show that the route was less than a full-time assignment. For example, after a letter carrier retired, management would sometimes revert the vacated route by simply saying it wasn't eight hours—with no data to rely on.**

Over the last three to four years, the problem hasn't been as widespread. The IARAP, MIARAP and JARAP agreements prevented unilateral actions in most places. However, it still happened in some places. Because the Postal Service declined to continue our joint route adjustment process and we are again back to six-day route counts and inspections, we expected this route reversion problem to become prevalent once again.

M-01796 makes it clear that the determination of whether a route is full time will be made by using one of the four methods listed in the settlement. This means that it is a contract violation for management to revert a route without using one of these four methods to make the determination of whether the route is full time.

In this situation, stewards and NALC representatives should file a grievance citing a violation of M-01796 via Article 15 of the National Agreement. A possible issue statement is:

Did management violate the interpretive step settlement for case number Q06N-4Q-C 09038594 (M-01796) via Article 15 of the National Agreement by improperly reverting route \_\_\_\_, and if so, what should the remedy be?

The settlement makes clear that it does not alter the maximization provisions of Article 7.3 of the National Agreement. This means that if management properly determines that a route is less than full time, the assignment may be reverted, but management still is required to maximize full-time employment.

The goal of this settlement is to ensure that any route reverted really is less than eight hours and that the determination is made using the parties' route evaluation processes. ☒

# M-01797—TE/PTF conversions MOU

M-01797

- 2 -

regarding conversions with the NALC consistent with paragraph 6 below. Reemploying a transitional employee after a break in service or hiring a transitional employee to replace a transitional employee does not require an additional conversion of a part-time flexible city letter carrier to full-time status.

- The parties will establish a joint work group at the national level to discuss and attempt to resolve issues concerning vacant residual positions, the continued need to withhold positions, and the process for recording residual vacancies in Postal Service systems. The joint work group will meet within 30 days of the date of this agreement and will function for a 12-month period, unless extended by mutual agreement of the parties.
- Conversions to full-time regular and filling residual vacancies pursuant to paragraphs 1 and 2 above will be made as soon as practicable and will be completed within 90 days of this agreement. Conversions to full-time regular pursuant to paragraph 4 will be completed within two pay periods of the transitional employee's hire date. Prior to converting part-time flexible employees to full-time regular, filling residual vacancies, and employing additional transitional employees, the Postal Service will meet and discuss with the NALC at the national level the placement of the additional transitional employees and the locations of part-time flexible conversions and residual vacancies filled.
- This agreement is effective from the date of signature. The Postal Service may maintain the additional transitional employees authorized under paragraph 3 above for a period of one year from the date of appointment, unless extended by mutual agreement of the parties, or this agreement is modified by the terms of a new collective bargaining agreement.

This agreement is reached without prejudice to either party's position in this or any other matter and, other than for the purpose of enforcing its terms, may not be cited in any other proceeding or forum, including interest arbitration.

This agreement is not intended to settle pending grievances on the conversion and placement of part-time flexible employees in City Letter Carrier (CC-01) residual vacancies. Any pending grievances regarding the conversion to CC-02 positions in paragraph 1 of this MOU are considered closed.



Doug A. Tulino  
Vice President  
Labor Relations  
U.S. Postal Service



Fredric V. Rolando  
President  
National Association of Letter Carriers,  
AFL-CIO

Date: 10-9-12

M-01797

**MEMORANDUM OF UNDERSTANDING  
BETWEEN THE  
UNITED STATES POSTAL SERVICE  
AND THE  
NATIONAL ASSOCIATION OF LETTER CARRIERS**

**Re: Transitional Employees/Part-time Flexible Conversions**

The parties mutually agree that Article 12 of the National Agreement creates a requirement to withhold sufficient residual vacancies in order to minimize dislocation and inconvenience of excess employees. However, that obligation is limited to the number of residual vacancies necessary to accommodate any planned excessing events.

The parties recognize that certain locations may be withholding residual vacancies for excessing events that have been completed, and that other residual positions that are not being withheld remain vacant. Additionally, Postal Service systems may list residual vacancies that are no longer vacant or do not exist.

The parties also understand that with the changing mail mix, an opportunity for growth lies in time sensitive, cost competitive product markets that include ecommerce transactions which could require flexible delivery windows.

Accordingly, we agree to the following:

- The Postal Service will fill the approximately 1,265 residual vacant Carrier Technician (CC-02) positions provided such positions still exist and remain vacant. Positions will be filled through either a) assignment of unassigned full-time regular or full-time flexible city letter carriers in the installation pursuant to Article 41.1.A.7 of the National Agreement; or b) conversion and assignment of part-time flexible city letter carriers in the installation. In the event there is an insufficient number of unassigned regular, full-time flexible, or part-time flexible city letter carriers to fill the positions, and there are no qualified transfer requests to the installation, transitional employees may be assigned to fill the positions until career employees become available.
- The Postal Service agrees to fill 1,400 residual vacant full-time City Letter Carrier (CC-01) positions by conversion and assignment of part-time flexible city letter carriers within their installation.
- The National Association of Letter Carriers (NALC) agrees that the Postal Service may employ up to 3,400 transitional employees in addition to those authorized under Article 7.1 of the National Agreement and the Memorandum of Understanding, *Re: Transitional Employees (Flat Sequencing System)*. Management will determine when and where to employ these additional transitional employees and will share that information with NALC consistent with paragraph 6 below. Transitional employees hired under this Memorandum will be so designated by assignment of a unique occupational code. All transitional employee provisions will apply to transitional employees hired under this agreement, including the requirement that the Postal Service provide the NALC with a report every other pay period that indicates the number of transitional employees on the rolls.
- For every transitional employee hired pursuant to paragraph 3 above, the Postal Service will convert a part-time flexible city letter carrier to full-time regular status within their installation. These conversions (a maximum of 3,400) are in addition to those required by paragraphs 1 and 2 above. While the Postal Service will determine where these additional conversions will be made, residual vacant full-time city letter carrier (CC-01) positions that remain after conversions pursuant to paragraph 2 above, will be filled as part of the conversions under this paragraph, provided there is a part-time flexible city letter carrier available in the installation. The Postal Service will share information