

Local Grievance # _____

Issue Statement (Block 15 of PS Form 8190):

Did management violate Articles 3, 5, and 21 of the National Agreement along with ELM Section 540 and EL-505 via Article 19 of the National Agreement and 20 C.F.R. 1 by failing to provide and/or properly process Form CA-16, and if so, what should the remedy be?

Union Facts and Contentions (Block 17 of PS Form 8190):

Facts:

1. Letter Carrier **[name]** suffered a traumatic on-the-job injury on **[date]** at approximately **[time]** when **[explain incident]**.
2. Section 541.2 of the ELM defines a traumatic injury as:

Traumatic injury – a condition of the body caused by external force, including stress or strain. The injury:

(1) Must be identifiable as to time and place of occurrence and member of function of the body affected.

(2) Must be caused by a specific event or incident, or series of events or incidents, within a single day or work shift.
3. Letter Carrier **[name]** reported the injury to Supervisor **[name]** on **[date]** at approximately **[time]**. This is documented by the written statement from Letter Carrier **[name]** and copy of CA-1 Traumatic Injury Claim Form in the case file.
4. Management failed to provide **[name]** a Form CA-16 within four hours of his/her reporting of the injury. This is documented by the written statement from Letter Carrier **[name]** in the case file and/or the medical bill received by Letter Carrier **[name]**.
5. Article 21.4 of the National Agreement states:

Employees covered by this Agreement shall be covered by Subchapter I of Chapter 81 of Title 5, and any amendments thereto, relating to compensation for work injuries. The Employer will promulgate appropriate regulations which comply with applicable regulations of the Office of Workers' Compensation Programs and any amendments thereto.
6. Article 21 of the JCAM explains:

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Workers' Compensation. Letter carriers who sustain occupational injury or disease are entitled to workers' compensation benefits under the Federal Employees' Compensation Act (FECA), administered by the U.S. Department of Labor's Office of Workers' Compensation Programs (OWCP).

Sources of information concerning federal workers' compensation benefits are:

- ELM Section 540—USPS regulations governing workers' compensation;
- USPS Handbook EL-505, Injury Compensation (December 1995);
- Title 5 United States Code Section 8101 (5 U.S.C. 8101)—the Federal Employees' Compensation Act (FECA);
- Title 20 Code of Federal Regulations Section Chapter 1 (20 C.F.R. 1) —regulations of the Office of Workers' Compensation Programs;

7. National Arbitrator Bernstein ruled in case number H1N-5G-C 14964:

Article 5 of the National Agreement serves to incorporate all of the Service's "obligations under law" into the Agreement, so as to give the Service's legal obligations the additional status of contractual obligations as well. This incorporation has significance primarily in terms of enforcement mechanism--it enables the signatory unions to utilize the contractual vehicle of arbitration to enforce all of the Service's legal obligations. Moreover, the specific reference to the National Labor Relations Act in the text of Article 5 is persuasive evidence that the parties were especially interested in utilizing the grievance and arbitration procedure spelled out in Article 15 to enforce the Service's NLRB commitments.

8. Article 3 Management's Rights states:

The Employer shall have the exclusive right, subject to the provision of this Agreement and consistent with applicable laws and regulations.

Contentions:

1. Management violated Articles 3, 5, and 21 of the National Agreement along with ELM Section 540 and EL-505 via Article 19 of the National Agreement and 20 C.F.R. 1 by failing to provide and/or properly process Form CA-16.
2. Section 545.2 of the ELM addresses management's responsibilities when an employee requires medical treatment:

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545.2 Authorizing Examination and/or Treatment With Form CA-16

545.21 Traumatic Injury

When an employee sustains a work-related traumatic injury that requires medical examination, medical treatment, or both, the control office or control point must authorize such examination and/or treatment by issuing a Form CA-16. Form CA-16 is used for all traumatic injuries requiring medical attention. The control office or control point must advise the employee of the right to an initial choice of physician (see 543.2). The control office or control point must promptly authorize medical treatment by issuing the employee a properly executed Form CA-16 within 4 hours of the claimed injury. If the control office or control point gives a verbal authorization for care, Form CA-16 should be issued within 48 hours.

Letter Carrier **[name]** notified Supervisor **[name]** of his/her injury. At this point, the manager was required to, among other things, provide Letter Carrier **[name]** with a properly executed Form CA-16 within four hours. This did not happen in this case. Moreover, because management did not provide the CA-16, they did not comply with the other requirements of the language quoted above.

3. Management's excuse that they did not have Form CA-16 on hand or was not aware of the proper procedures is unacceptable. Section 541.3 of the ELM reads in part:

Each installation head must maintain an adequate supply of the following basic forms, which are needed for recording and reporting injuries.

4. Handbook EL-505 sets out management's responsibilities to authorize medical treatment when a traumatic injury has occurred. The following language appears in Section 3-10 Authorizing Medical Treatment in a Nonemergency:

Obligation: Authorizing Medical Examination and/or Treatment Initial medical examination and/or treatment must be authorized in accordance with the FECA provisions and applicable OWCP regulations and policies governing medical care. FECA guarantees the employee to a free choice of physician.

In a nonemergency, determine if CA-16 issuance is required, as shown in the information block below.

-If it is required, issue the employee the form within 4 hours.

And:

When to Issue CA-16

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Issue CA-16 to authorize medical treatment:

-For all traumatic injuries requiring medical attention when the employee elects outside treatment, even if the initial treatment is provided by the contract physician, except as cited below.

5. The Union contends this issue is an “obligation under the law” as defined by National Arbitrator Bernstein; therefore, management violated Article 5 of the National Agreement.
6. Letter Carriers who are injured on-the-job are guaranteed certain rights and protections by the National Agreement and Federal Law. When these rights are violated, Letter Carriers are harmed and caused undue hardship. Without the proper forms being provided and/or properly processed at the time of a traumatic injury, an employee’s Worker’s Compensation benefits could be delayed and/or denied for reasons that are out of the employee’s control. In this case, Letter Carrier **[name]** was forced to pay for his/her medical treatment out-of-pocket and **for explain any other undue hardship, if any**.

Remedy Requested (Block 19 of PS Form 8190):

1. Management cease and desist violating Articles 3, 5, and 21 the National Agreement, ELM Section 540 and EL-505 via Article 19 of the National Agreement and 20 C.F.R. 1.
2. Management at **[Station Name and Zip Code]** take a training course on the proper procedures and management’s responsibilities regarding on-the-job injuries.
3. Letter Carrier **[name]** be made whole for any and all lost wages and benefits, including out-of-pocket medical costs that occurred as a result of management’s actions.
4. Letter Carrier **[name]** be paid a lump sum of \$100.00 for undue hardship caused by management’s actions and to ensure future compliance of the parties.
5. Management will make all payments associated with this case as soon as administratively possible, but no later than 30 days from the date of settlement and proof of payment will be provided to the Union.
6. Any and/or all remedies the Step B Team or Arbitrator deems appropriate.

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**National Association of Letter Carriers
Request for Information**

To: _____
(Manager/Supervisor)

Date _____

(Station/Post Office)

Pursuant to Articles 17 and 31 of the National Agreement, I am requesting the following information to investigate a grievance concerning a violation of Articles 3, 5, 19, and 21:

1. Copies of any and all forms related to the on-the-job injury to Letter Carrier **[name]**.
2. TACS Employee Everything report for Letter Carrier **[name]** from **[dates(s)]**.

I am also requesting time to interview the following individuals:

1. **[Name]**
2. **[Name]**
3. **[Name]**

Your cooperation in this matter, will be greatly appreciated. If you have any questions concerning this request, or if I may be of assistance to you in some other way, please feel free to contact me.

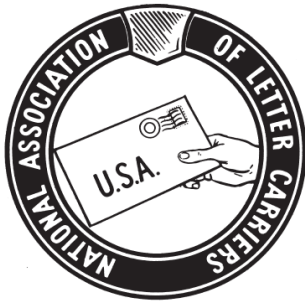
Sincerely,

Request received by: _____

Shop Steward
NALC

Date: _____

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**National Association of Letter Carriers
Request for Steward Time**

To: _____ Date _____
(Manager/Supervisor)

(Station/Post Office)

Manager/Supervisor _____,

Pursuant to Article 17 of the National Agreement, I am requesting the following steward time to investigate a grievance. I anticipate needing approximately _____ (hours/minutes) of steward time, which needs to be scheduled no later than _____ in order to ensure the timelines established in Article 15 are met. In the event more steward time is needed, I will inform you as soon as possible.

Your cooperation in this matter will be greatly appreciated. If you have any questions concerning this request, or if I may be of assistance to you in some other way, please feel free to contact me.

Sincerely,

Shop Steward
NALC

Request received by: _____
Date: _____

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PRIVACY ACT AUTHORIZATION AND

I authorize the NALC and/or its authorized representatives to disclose information received through the U.S. Department of Labor/Office of Workers' Compensation Programs deemed necessary to investigate and/or process grievances.

This authorization is effective on the date it is signed and is effective until revoked by me in writing. A copy of this authorization shall have the same force and effect as the signed original.

Signature of Claimant

Printed Name

Date

Privacy Act Statement: By signing this form you authorize the disclosure of your information regarding workers' compensation claims to the NALC and/or its representatives to investigate or to determine if a grievance exists. This form will be maintained by the NALC and will only be disclosed as part of a grievance should it be determined a violation of the National Agreement or FECA Regulations exists.