

# Local Grievance # \_\_\_\_\_

## ISSUE STATEMENT (Block #15 on PS Form 8190):

Did the Postal Service violate Articles 3, 5, 19, and/or 21 of the National Agreement when it failed to complete, certify, and/or sign form *Certified Summary of Federal Service* (SF 3107-1) for the grievant's review, and if so, what should the remedy be?

## UNION FACTS and CONTENTIONS (Block #17 on PS Form 8190):

### Facts:

1. Article 3 of the National Agreement states in part:

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

2. Article 5 of the National Agreement states:

*The Employer will not take any actions affecting wages, hours and other terms and conditions of employment as defined in Section 8(d) of the National Labor Relations Act which violate the terms of this Agreement or are otherwise inconsistent with its obligations under law.*

3. Article 21.3 of the National Agreement states:

*The provisions of Chapter 83 and 84 of Title 5 U.S. Code, and any amendments thereto, shall continue to apply to employees covered by this Agreement.*

4. Article 19 of the National Agreement states in part:

*Those parts of all handbooks, manuals and published regulations of the Postal Service, that directly relate to wages, hours or working conditions, as they apply to employees covered by this Agreement, shall contain nothing that conflicts with this Agreement, and shall be continued in effect except that the Employer shall have the right to make changes that are not inconsistent with this Agreement and that are fair, reasonable, and equitable...*

5. Employee and Labor Relations Manual (ELM) Section 581.2 states:

*OPM administers the basic portion of FERS. The FERS laws, policies, and regulations issued by OPM, including those governing employee eligibility, and*

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*benefits, are controlling in the event of a conflict with the information in this subchapter.*

6. Title 5 United States Code (USC) Section 8461 *Authority of the Office of Personnel Management* states in relevant part:

*(b) The Office shall administer all provisions of this chapter not specifically required to be administered by the Board, the Executive Director, the Secretary of Labor, or any other agency.*

*(g) The Office may prescribe regulations to carry out the provisions of this chapter administered by the Office.*

*(h)(1) Each Government agency shall furnish the Director with such information as the Director determines necessary in order to administer this chapter.*

7. Title 5 Code of Federal Regulations (CFR) Section 841.101 states:

*The purpose of this subpart is to state the administrative rules governing the operations of the Federal Employees Retirement System (FERS) that have general application to the basic benefits under FERS.*

8. Title 5 CFR Section 841.202(a) states:

*No benefit is payable under FERS, until after the claimant has applied for the benefit in the form prescribed by OPM.*

9. Title 5 CFR Section 841.303(a) states:

*Employees filing applications for retirement or to make deposits or redeposits under FERS (including applications for disability retirement) and separating employees filing applications for refunds of contributions must file their applications with their employing agencies.*

10. Civil Service Retirement System and Federal Employees Retirement System Handbook for Personnel and Payroll Offices (CSRS and FERS Handbook) Section 40A.1.1-1 states:

*The Chapter delineates the roles of the employee, the agency, and the Office of Personnel Management (OPM) in the retirement process and their shared responsibility to ensure the timely processing of the retirement application.*

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11. CSRS and FERS Handbook Section 40A2.1-1B states in part:

*It is the agency's responsibility to guide the employee through the retirement process, supplying all of the information the employee may need about retirement and continuing insurance coverage into retirement. The agency is responsible for giving the employee an all-inclusive presentation of the retirement process that the employee needs for successful retirement planning.*

...

*Each agency headquarters is required by law to have a Retirement Counselor whose job it is to coordinate the agency's retirement counseling program and to help retirement counselors at field installations with the questions presented by their retiring employees.*

*The Retirement Counselor should provide guidance to those responsible for counseling the agency's retiring employees.*

12. CSRS and FERS Handbook Section 40A3.1-1B states in part:

*The personnel office must:*

*Prepare a Certified Summary of Federal Service (SF 2801-1) that lists the employee's verified Federal Civilian and military service.*

*NOTE: The employee should review and sign the Certified Summary of Federal Service. However, if the employee is unable to sign the Certified Summary, the agency may submit the form to OPM without the employee's signature.*

13. CSRS and FERS Handbook Section 40A3.1-1D states in part:

*The forms to be completed by the personnel office in the case of a FERS employee are the same as those used for a CSRS employee (see paragraph B), with the following exceptions:*

*The Certified Summary of Federal Service is SF 3107-1.*

14. Standard Form 3107-1 *Certified Summary of Federal Service* states in part:

*Information for the Agency*

- 1. A certified copy of this form must accompany the employee's Application for Immediate Retirement (SF 3107).*

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## *Instructions for the Employee*

1. *Your employing office will complete and certify this form for you.*
2. *Review this form carefully. Be sure it contains all of your service.*
3. *Complete Section E, Employee's Certification, and return the form to your employing office.*

## **Contentions:**

1. The Office of Personnel Management (OPM) has authority over federal retirement matters (CSRS and FERS). Only OPM has authority to determine if an individual is eligible to retire, and if so, the amount of the monthly pension. OPM determines eligibility to retire and calculates pension amount, in part, based on years of federal service. In order to do this, OPM requires the employing agency to certify a retiring employee's service history.
2. OPM requires that retiring employees and the employing agency complete certain forms prescribed by OPM and to submit their completed forms through their employing agency. One form required by OPM for FERS retirees is the *Certified Summary of Federal Service*, Standard Form (SF) 3107-1.
3. Letter Carrier **[name]** requested and received their *Application for Immediate Retirement* (SF 3107) from the Postal Service. The application includes SF 3107-1 *Certified Summary of Federal Service*. This form has not been completed by the Postal Service.
4. OPM instructions on SF 3107-1 *Certified Summary of Federal Service* require the employing agency to detail agency service under federal retirement coverage, military service, and civilian federal service not subject to federal retirement coverage and sign it certifying the information is correct. OPM instructions then require the retiring employee to review the service history certified by the employing agency. The employee can indicate additional service or that the service history is complete, and then sign the form.
5. Upon receiving a blank *Certified Summary of Federal Service*, Letter Carrier **[name]** called Postal Service's Human Resource Shared Service Center (HRSSC) on **[date]** and requested the form be completed so that they could review it. The Postal Service has failed to complete this form and provide it to the grievant for review and certification. Additionally, at each step of the grievance procedure, the Postal Service again failed to do so.

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6. OPM instructions to agency personnel in its CSRS and FERS Handbook reinforce the instructions on SF 3107-1 *Certified Summary of Federal Service*.

7. Articles 3 and 5 of the National Agreement incorporate the law into the collective bargaining agreement and make provisions of the law regulating agency actions (or lack thereof) grievable.

8. Article 21.3 of the National Agreement specifically incorporates the laws and implementing regulations of the CSRS and FERS retirement systems and makes agency actions (or lack thereof) grievable.

9. The failure of the Postal Service to comply with the instructions of SF 3107-1 *Certified Summary of Federal Service* is a violation of Articles 3, 5, 19, and 21 of the National Agreement.

10. The grievant has a right to review the certified form regardless of whether or not the form requires a signature from the applicant. The absence of a requirement that the form be signed by the retiring employee does not release the Postal Service from its obligation and responsibility to complete the agency portion for the employee's review.

11. Whether or not the employee's service history is available to the employee in a different format, does not release the Postal Service from their obligation to complete the agency portion of the retirement forms. OPM specifically created and uses the SF 3107-1 *Certified Summary of Federal Service* to process retirement applications, and the Postal Service does not have the right or authorization to circumvent the use of this form.

12. If the grievant was unwilling, unable, or simply chose not to delay their retirement while this grievance was adjudicated, it does not change the fact that the Postal Service deprived the grievant of their right to review their service history and dispute or indicate additional service credit. After the Postal Service provides the grievant a completed and certified SF 3107-1 *Certified Summary of Federal Service*, the grievant should have an opportunity to review and indicate any additional service. If it's discovered that the Postal Service provided an incorrect service history to OPM, the Postal Service must recertify the correct service history to OPM. A correct service history is vital for the grievant to receive the retirement benefits guaranteed through the law.

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### Remedy Requested (Block #19 on PS Form 8190):

1. The Postal Service cease and desist from failing to complete the form *Certified Summary of Federal Service*.
2. The Postal Service must provide a completed *Certified Summary of Federal Service* to the grievant within one week.
3. Upon receipt of the completed *Certified Summary of Federal Service*, if it's discovered the Postal Service provided OPM with an incorrect or incomplete service history, the Postal Service will recertify the correct service history to OPM. The arbitrator shall retain jurisdiction should any dispute over the service history arise, or any other remedy deemed 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 retirement application of Letter Carrier **[name]**.
2. Copies of the *Certified Summary of Federal Service* form completed by the Postal Service for Letter Carrier **[name]**.

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.

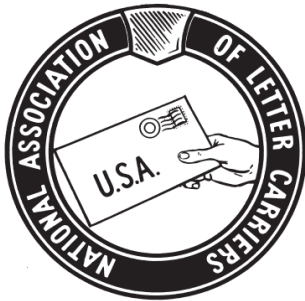
Sincerely,

\_\_\_\_\_  
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: \_\_\_\_\_