

Changing Start Times

Local Grievance # _____

Issue Statement (Block 15 of PS Form 8190):

1. Did management violate Article 5 and Section 122 of the M-39 Handbook via Article 19 of the National Agreement when they changed Letter Carrier start times on **[date]**? If so, what is the appropriate remedy?

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

Facts:

1. Letter Carriers in the **[installation name]** were notified that their start times will be changed from **[0:00am] to 0:00am** effective **[date]**.
2. Carrier start time in the **[installation]** has been **[0:00]** since **[date]**.
3. At least 80% of the carrier's daily mail to be cased is on or at the carrier cases when they report for work.
4. Management cited **[explanation]** as the justification for changing start times.
5. Article 5 as explained on page 5-1 of the JCAM states in relevant part:

Prohibition on Unilateral Changes. Article 5 prohibits management taking any unilateral action inconsistent with the terms of the existing agreement or with its obligations under law. Section 8(d) of the National Labor Relations Act prohibits an employer from making unilateral changes in wages, hours or working conditions during the term of a collective bargaining agreement.

6. Article 19 as explained in part on page 19-1 of the JCAM provides:

Handbooks and Manuals. Article 19 provides that those postal handbook and manual provisions directly relating to wages, hours, or working conditions are enforceable as though they were part of the National Agreement.

Taken together the above referenced cites provide that management is prohibited from taking actions affecting wages, hours or working conditions that are inconsistent with its own handbooks and manuals. Further, those parts of handbooks and manuals that directly relate to wages, hours and working conditions are enforceable as though were a part of the National Agreement.

7. The M-39 section 122 lists the factors that must be considered when establishing schedules as follows:

122.11 Consider the following factors in establishing schedules:

- a. **Schedule carriers to report before 6 a.m. only when absolutely necessary.**
- b. **Fix schedules to coincide with receipt and dispatch of mail. At least 80 percent of the carriers' daily mail to be cased should be on or at their cases when they report for work.**
- c. **Schedule carriers by groups. Form groups of carriers who make the same number of delivery trips and whose office time is approximately the same.**
- d. **Generally, schedule carriers of the same group to begin, leave, return, and end at the same time.**
- e. **Schedule so that delivery to customers should be approximately the same time each day.**
- f. **Make a permanent schedule change when it is apparent that one or more days' mail volume varies to where it is causing late leaving.**
- g. **Schedule carriers' non work days in accordance with the *National Agreement*.**

8. National Arbitrator Carlton Snow interpreted the regulations of section 122 of the M-39 in decision **C-23986** in relevant part as follows:

It is indisputable that the Employer has a right to determine the method, means, and personnel by which operations are to be conducted and also to make reasonable decisions that maintain the efficiency of the operation. Managerial control of work schedules, however, is not totally unfettered or without limitations. The M-39 Handbook specifies that schedules must be fixed to coincide with the receipt and dispatch of mail....

The instruction is not a suggestion but is stated as an imperative. The Handbook, which pursuant to Article 19 of the labor contract has been incorporated into the parties' collective bargaining agreement, eliminates a manager's unfettered control over Start Times. Start Times remain within management's control but must be exercised after giving due deference to the M-39 Handbook.

9. National Arbitrator Neil Bernstein gave the following guidance in his decision for case **C-07233** :

Further, the present National Arbitrator is not bound in any way by awards issued by regional arbitrators on this issue. The whole purpose of the national arbitration scheme is to establish a level of definitive rulings on contract interpretation questions of general applicability. National decisions bind the regional arbitrations, and not the reverse.

The above case makes clear that National Arbitration decisions are definitive and binding on Regional Arbitrators. Therefore, National Arbitrator Snow's ruling that the considerations enumerated in section 122 of the M-39 must be given due deference is a binding requirement on management.

Once the union has established a prima facie case that management has not complied with the M-39, it is the burden of management going forward to prove that it has complied.

Contentions:

1. The union has established a prima facie case that 80% of the case-able mail is at the carrier cases at the current start time. **[cite evidence]** And that, prior to the change in start time, management failed to properly consider the criteria of section 122 of the M-39.
2. Once the union established its prima facie case, the burden shifted to management to prove that it complied with section 122 of the M-39.
3. The agency has failed to demonstrate that 80% of case-able mail is not at carrier cases at the current start time.
4. The agency has failed to prove that it gave due deference to the requirements **[cite which ones]** listed in section 122 of the M-39 prior to making the schedule change.

Remedy (Block 19 of PS Form 8190):

1. Management will cease and desist violations of Article 5 and 19.
2. Management will cease and desist violations of Handbook M-39 Section 122.
3. Management will pay the appropriate out-of-schedule pay and/or overtime pay.
4. The original start times for city carriers will be reinstated.
5. Any other remedy seen fit by an Arbitrator.



National Association of Letter Carriers Request for Information

To: _____
Supervisor Customer Services

Date _____

Station/Installation

Dear _____,

Pursuant to Article 17 and 31 of the National Agreement, I am requesting the following information:

1. Copy of notification of change in start time
2. Unit Volume Feedback Reports [**enter time frame**]
3. Distribution Clerks Employee Everything Report [**enter time frame**]
4. City Carriers Employee Everything Report from [**enter time frame**]
5. Truck Schedule/Contract for the last [**enter how many**] years
6. Clerk/Carrier Schedule from [**enter time frame**]

I am also requesting copies of any and all documents, emails, statements, records, reports, audio/video tapes, photographs, or other information learned, obtained, developed or relied upon prior by management to make the decision to change carrier start times.

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: _____



National Association of Letter Carriers

Request for Steward Time

To: _____
Supervisor Customer Services

Date: _____

Station/Post Office

Dear _____,

Pursuant to Article 17 of the National Agreement, I am requesting the following steward time to:

Investigate a Grievance Write & Prepare a Grievance Interview Witnesses

I anticipate needing approximately _____ (hours) of steward time, which needs to be scheduled no later than _____. In the event more steward time is needed, I will inform you as soon as possible.

Individuals the union needs to interview:

- _____
All City Carriers
- _____
All Distribution Clerks
- _____
The Management representative that made the decision to change the start time
- _____
Any Management personnel who were consulted regarding start times
- _____
The Truck/Contract Driver

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: _____