

2015 NALC SHOP STEWARD'S GUIDE

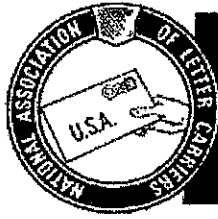


TO PRESERVING THE RIGHT
OF **LETTER CARRIERS**
TO BE TREATED WITH

DIGNITY AND **RESPECT**

THOSE ATTENDING THE TOXIC WORK
ENVIRONMENT WORKSHOP SHOULD BRING
THIS BOOK TO THE WORKSHOP

2015 RAP SESSION – SPECIAL PREVIEW



NALC

Dear Shop Steward,

Letter carriers throughout the country go to work each day with the commitment of a “fair days’ work for a fair days’ pay”. In most offices they clock in, perform their normal duties with no problems from their supervisor, and then they clock out and go home. In these post offices, letter carriers find the work environment to be acceptable and they enjoy coming to work. However, in some offices, letter carriers are being subjected to mistreatment by their supervisor during their normal course of duties and this results in a poor working environment. Carriers describe that they hate to come to work in these situations because of the way they are treated and made to feel. Such an environment is labeled as hostile or toxic. Management is unrelenting in their attacks on these letter carriers and IT MUST STOP!

This guide was created to give union stewards direction on the proper steps to take in order to improve the working conditions in their offices. This guide provides strategies to properly address and correct the mistreatment of letter carriers. It also provides shop stewards with the necessary contractual tools to address and stop the wide range of mistreatment by management; from an isolated incident to an everyday-environment full of threats, intimidation, harassment, and bullying.

This guide is divided into three sections. The first section provides a strategic analysis, arming shop stewards with the proper procedures for identifying the mistreatment of letter carriers by management, addressing those situations, and then determining the proper course of action to correct the problem. In this section you will find detailed guidance on how to document such actions, how to utilize contractual language which prohibits poor behavior, scenarios which lend to the thought process in developing the proper course of action, and finally seeking a proper remedy to correct the situation.

Section two is Appendix A, a detailed explanation of the contractual provisions which you as a steward will rely upon to enforce an environment free from harassment, intimidation, threats, bullying, and hostility. You will find provisions from the National Agreement, the *Joint*

Contract Administration Manual, the Employee and Labor Relations Manual, Handbook M-39 - Management of Delivery Services, the Joint Statement on Violence and Behavior in the Workplace (M-01242), and the Second Joint Statement on Violence and Behavior in the Workplace (M-01243). Each of these contain language which prohibit management from creating or condoning a hostile work environment and this section discusses how you as a steward will utilize each of them in order to protect letter carriers' rights to dignity and respect in the workplace.

Section three is Appendix B, which offers alternative avenues for addressing unsafe working conditions created by management's mistreatment of letter carriers. In this section you will find information about requesting Labor Management Meetings, filing complaints with the Occupational Safety and Health Administration (OSHA), and completing PS Form 1767 - *Report of Hazard, Unsafe Condition or Practice*.

As you can see, there are many tools at your disposal which you can use to correct hostile or toxic work environments. This guide is intended as a comprehensive source to assist you in this endeavor.

Thank you for your dedication and commitment to representing the letter carriers of this country. We trust you will find the information in this guide useful.

Sincerely and Fraternaly,

Fredric V. Rolando
NALC President

Manuel L. Peralta Jr.
Director of Safety and Health

Introduction

In some post offices throughout the country, local managers treat letter carriers, or allow letter carriers to be treated, in ways that create a work environment which is unhealthy and unacceptable. Such work environments are often labeled as hostile or toxic. The mistreatment of letter carriers cannot be allowed to continue in these situations.

Thankfully, many men and women in the past have fought for and achieved contractual protections against such mistreatment. Several provisions are detailed in Appendix A of this guide. Stewards should utilize these protections to defend letter carriers against mistreatment by their supervisors. This guide was created to provide information and practical advice to shop stewards on how to best address and grieve these violations. Throughout this guide you will see references to the *NALC Shop Steward's Guide*. In 2014, it was created and distributed to every shop steward in the country. It provides information and advice on many topics for stewards, including how to successfully prepare grievances. Each steward should have received a hard copy of the *NALC Shop Steward's Guide* as well as a DVD copy of the NALC 2014 Shop Steward's Toolkit which contains the *NALC Shop Steward's Guide* in electronic format. Each branch received a supply of these resources to distribute to their stewards, so if you do not have a copy ask your branch president if he or she can get a copy for you.

Management's treatment of letter carriers sometimes violates one or more contractual provisions prohibiting such behavior and treatment. When this happens, letter carriers should speak to their shop steward. However, some letter carriers won't stand up for themselves for fear of retaliation from their supervisor or simply out of fear of admitting they are being bullied or harassed. Too often, some managers make these letter carriers feel like powerless victims with no hope in sight. By following the steps in this guide, stewards will be in the best position to remedy managerial abuse of letter carriers and improve the work environment in their office.

One of the many jobs of a shop steward is to recognize such behavior, even when not told about it, by keeping an eye on the workroom floor environment and monitoring treatment of their fellow letter carriers to ensure they are being treated with dignity and respect. Under no circumstance is there ever a legitimate reason for a letter carrier's supervisor to treat him or her in any way which lacks dignity or respect. There is never a situation that would justify such treatment. A few common causes of mistreatment by managers are pressure to make the numbers and meet workload projections, unhappiness with a

carrier's performance, a personal dislike of the individual, poor management skills, or simply a lack of respect for others. These are only a few examples of the factors that contribute to supervisors mistreating letter carriers through harassment, intimidation, or bullying.

A supervisor solely relying on DOIS projections to determine a carrier's daily workload and using that information to harass or intimidate letter carriers into making those projections is a real world example of abusive behavior. Another example might be a supervisor who screamed at or threatened a letter carrier who was expected to be back by 4 PM, but didn't return to the office until 6 PM, without informing his supervisor via PS Form 3996 or through a phone call to the office to say he would be late. While these examples may also generate other grievances, the intent of this guide is to address the mistreatment of letter carriers. Whatever the situation involving the letter carrier, there is never a reason for a supervisor to belittle them, bully them, or treat them without dignity and respect. The underlying premise addressed in *Handbook M-39* requires management to maintain an atmosphere of mutual respect:

M-39, Section 115.4 Maintain Mutual Respect Atmosphere

The National Agreement sets out the basic rules and rights governing management and employees in their dealings with each other, but it is the front-line manager who controls management's attempt to maintain an atmosphere between employer and employee which assures mutual respect for each other's rights and responsibilities.

Management not only has the right, but also the responsibility to manage. Inherent in this responsibility is the obligation to set the tone as to how all employees will be treated. Management must maintain an atmosphere of dignity and respect. As you read the above provision, as well as other contractual provisions outlined in Appendix A of this guide, it will become abundantly clear as to management's contractual obligations with respect to the treatment of employees. You, as a steward can make a difference and change a poor environment and this guide will assist you in making that change. Stewards should hold management accountable by grieving instances of management's failure to maintain an atmosphere between the employer and the employee which assures mutual respect for each other's rights and responsibilities as required by *Handbook M-39*, Section 115.4.

Filing Grievances

The grievance procedure is our most effective tool for contractual enforcement, including violations of contract provisions related to managerial mistreatment of letter carriers. While a grievance isn't the only way to address the issues (see Appendix B for other ways), it is the most powerful. Stewards should be aware of all of the tools available to them in order to match the proper tool to the specific situation. The various tools are discussed throughout this guide, including Appendix A and Appendix B at the end.

Grievances involving the issue of supervisor misconduct and the poor treatment of letter carriers can often be very emotionally charged. Violations such as this, while often sensitive and personal, must still be grieved like any other contractual violation. The same as with any other grievance, a steward must determine what he or she needs to do to successfully prepare the grievance. The guidance offered in the *NALC Shop Steward's Guide* would be a good place to start. Page 26 of that guide suggests the following:

As you investigate a potential violation and prepare any subsequent grievance file, you should always keep a few things in mind. In order for a grievance to have the best chance of success, stewards should be able to answer "yes" to each of the five questions below:

- 1. Is there a violation of the National Agreement?**
- 2. Did we properly frame the issue?**
- 3. Did we determine all the facts of the case and document each one?**
- 4. Do our contentions clearly explain the documented facts and how the National Agreement was violated?**
- 5. Did we request an appropriate remedy for the contract violation?**

If a complaint is brought to you by an individual letter carrier, listen carefully to the letter carrier's entire problem. Ask specific questions to clear up any details you don't fully understand. If you determine that a grievance may exist, start investigating immediately. You must complete a thorough investigation and be prepared to support any claims you make with documentation and statements at the Informal Step A meeting within strict time limits (14 calendar days from the incident date).

If you determine a grievance doesn't exist, always go back to the letter carrier and tell him or her there is no grievance and explain why. If you have any doubt, contact your branch officers for advice, but you should still initiate a grievance to preserve your time limits. If it is later determined that the grievance has no merit, it can be withdrawn by the union at a later step during the grievance procedure.

Taking the five questions from the *NALC Shop Steward's Guide*, let's apply those to a potential grievance regarding a supervisor creating or condoning a hostile or toxic work environment and discuss what you as a steward would need to do to document and prepare a successful grievance for the subject at hand.

1. Is there a violation of the National Agreement?

Unlike other contractual violations, the facts in these types of grievances can be completely different and often the circumstances can cast some doubt on whether or not potential violations are clear cut enough to rise to the level of a contractual violation such as creating a hostile work environment, harassment, bullying, or intimidation. As an example, consider the following scenario:

A carrier not on the overtime desired list is assigned one hour of overtime to work on a route other than his own. He made it well-known to his supervisor that he was not on the ODL and didn't understand why he should be required to carry overtime. When he returned to the office that afternoon he found out three carriers from the same zone, who are on the overtime desired list, each worked eight hours on that day and already went home.

In this situation, a steward investigating this potential grievance can easily look at Article 8.5.G of the National Agreement and see that it says, in pertinent part:

8.5.G Full-time employees not on the "Overtime Desired" list may be required to work overtime only if all available employees on the "Overtime Desired" list have worked up to twelve (12) hours in a day or sixty (60) hours in a service week.

After reviewing that contractual language, it seems fairly easy to determine the Postal Service violated the National Agreement on that day. The contractual language seems clear cut enough to determine there was a contractual violation.

However, what if the circumstances at hand offered the following scenario?

There is a supervisor in your office who has never had any issues with creating a hostile environment, never tries to intimidate the carriers, or has never tried to bully a letter carrier into "making the numbers". This supervisor is making his daily rounds speaking with the letter carriers and to one carrier he states, "You WILL carry an hour extra, you WILL be back on time, and if you don't then you WILL face the consequences when you get back!"

As in the overtime grievance above, the steward can easily find contractual language which prohibits such an action. For example:

- *Handbook M-39*, Section 115.4 is violated because the threatening remarks by the supervisor certainly do not comply with the requirement of maintaining a mutual respect atmosphere. The supervisor, in the above scenario also has no desire to consider the letter carrier's reasoning why he might be unable to attain the goal set for him. This too is behavior which lacks a mutual respect for the letter carrier.
- Article 14, Section 1 of the National Agreement is violated, because by the supervisor threatening the letter carrier with "the consequences" and trying to bully him into making the numbers he is in effect not providing safe working conditions. It's an unsafe situation, because the inherent threat of discipline places the employee in a position of choosing between safety and job security.
- *ELM*, Section 665.24 is violated by the intimidation and threats of the "do as your told or else" mandate by the supervisor.
- The *Joint Statement on Violence and Behavior in the Workplace* is violated based on the affirmation of the parties that every employee at every level of the Postal Service should be treated at all times with dignity, respect, and fairness. As the Joint Statement confirms, threatening an employee to make the numbers such as in the above scenario is not an excuse for the abuse of anyone.

The above provisions certainly support that the supervisor violated sections of the National Agreement, the *ELM*, and the Joint Statement, because the statement by the supervisor could be considered intimidating and threatening. However, what must be considered is the proper course of action and the appropriate remedy necessary to correct the one-time, out-of-the-ordinary statement. The steward must use his or her discretion and handle the situation in the best way to correct the problem. Maybe it would be best to deal with the supervisor and his actions by having a private discussion and point out the contractual provisions which prohibit such behavior. Let the supervisor know that you feel his actions are inappropriate and inform him he should not be using intimidating and threatening tactics in the future. Maybe you and the supervisor could agree that an apology to the letter carrier would be appropriate to correct the problem. You as the steward must use your best judgment to determine the appropriate course of action and remedy to correct the behavior. The bottom line is that you as a steward need to determine if the actions by the supervisor are out of character or are just another example of normal "monstrous" behavior of intimidation and bullying.

Conversely, what if the situation in this office lends the following scenario?

The supervisor in this office is constantly threatening, belittling, intimidating, and harassing the letter carriers in order to make the numbers. He always shows a willful disregard and lack of respect to the employees' rights and responsibilities on the workroom floor. DOIS projections are the standard which must be met and any 3996 submitted in contradiction to those numbers is immediately denied. It is commonplace for him to be completely disrespectful to others and he leaves the carriers with a feeling of helplessness and hopelessness. The supervisor is out of control and he manages by his own set of rules. This happens almost daily and as a steward you've discussed the supervisor's actions several times to no avail.

It is clearly time to initiate a grievance and put an end to the gross mistreatment of the employees. You should use every tool in your arsenal to address the monstrous conduct of this supervisor. An in depth review of the contractual provisions which prohibit the actions of this supervisor are as follows:

Article 14, Section 1 of the National Agreement states:

14.1 Section 1. Responsibilities

It is the responsibility of management to **provide safe working conditions** in all present and future installations and to develop a safe working force. The Union will cooperate with and assist management to live up to this responsibility. The Employer will meet with the Union on a semiannual basis and inform the Union of its automated systems development programs. The Employer also agrees to give appropriate consideration to human factors in the design and development of automated systems. Human factors and ergonomics of new automated systems are a proper subject for discussion at the National Joint Labor-Management Safety Committee.

Article 14, Section 1 of the National Agreement is violated, because the actions of the supervisor creates an environment which is unsafe to work in. Letter carriers may be intimidated to the point in which they would sacrifice their safety in order to meet the DOIS projections the supervisor is harassing them with each day. Such bullying tactics to make the numbers could result in uncharacteristic reactions by the letter carriers in response to those demands.

Handbook M-39, Section 115.4 also contains language prohibiting the action of the supervisor. It reads:

M-39, Section 115.4 Maintain Mutual Respect Atmosphere

The National Agreement sets out the basic rules and rights governing management and employees in their dealings with each other, but **it is the front-line manager who controls management's attempt to maintain an atmosphere between employer and employee which assures mutual respect for each other's rights and responsibilities.**

Handbook M-39, Section 115.4 is violated because the supervisor's daily harassment and intimidation shows a willful disregard of mutual respect for the letter carriers' rights and responsibilities.

The *Employee Labor Relations Manual (ELM)*, Section 665.24 contains provisions prohibiting the supervisor's actions as well, and it specifically states:

ELM, Section 665.24 Violent and/or Threatening Behavior

The Postal Service is committed to the principle that all employees have a basic right to a safe and humane working environment. In order to ensure this right, it is the unequivocal policy of the Postal Service that there must be no tolerance of violence or threats of violence by anyone at any level of the Postal Service. **Similarly, there must be no tolerance of harassment, intimidation, threats, or bullying by anyone at any level.** Violation of this policy may result in disciplinary action, including removal from the Postal Service.

In the scenario above, the supervisor has violated this section of the *ELM* by engaging in harassment, intimidation, threats, and bullying of which there is a zero tolerance according to this section.

The *Joint Statement on Violence and Behavior in the Workplace* also contains language which would prohibit such behavior. It reads in part:

*We openly acknowledge that in some places or units there is an unacceptable level of stress in the workplace; that there is no excuse for and will be no tolerance of violence or any threats of violence by anyone at any level of the Postal Service; and that **there is no excuse for and will be no tolerance of harassment, intimidation, threats or bullying by anyone.***

We also affirm that every employee at every level of the Postal Service should be treated at all times with dignity, respect and fairness. The need for the USPS to serve the public efficiently and productively and the need for all employees to be committed to giving a fair day's work for a fair day's pay, does not justify actions that are

abusive or intolerant. "Making the numbers" is not an excuse for the abuse of anyone. Those who do not treat others with dignity and respect will not be rewarded or promoted. Those whose unacceptable behavior continues will be removed from their positions.

Again, the supervisor's actions violate the above provision as well due to his harassing, intimidating, threatening, and bullying techniques and this cannot be tolerated. The supervisor in this situation certainly is not treating the letter carriers with dignity, respect, or fairness either. Once a situation rises to the level of the scenario described above, all grievances challenging such actions should include contentions which claim, and evidence which supports, a violation of the Joint Statement.

The February 1992 Joint Statement was followed up by a *Second Joint Statement on Violence and Behavior in the Workplace* (M-01243) later that year which sought to implement cooperative efforts to resolve workplace problems at the lowest possible level. It states:

In our Joint Statement of February, we affirmed our belief that dignity, respect and fairness are basic human rights, and we pledged our efforts toward a safer, more harmonious, as well as a more productive workplace. Since then, we have continued to meet regularly and engage in an active dialogue on the issues addressed in that statement. We believe that effective communication and a cooperative spirit are the starting point for the resolution of the problems in our workplace.

It is essential to our efforts that the same discussions and cooperative efforts take place among representatives of management, postal unions, and management organizations at the region, division, and MSC levels, as well as at the national level. To the extent that representatives at those levels have not yet established an ongoing dialogue on these issues, we ask that you do so without further delay. The joint groups should focus on ways to foster safe, harmonious, and productive workplaces and, when a particular problem site is identified, the representatives should work together to eliminate the underlying problems.

In our discussions at the national level on problem sites, we concluded that problems are best addressed, and resolved, at the lowest possible level. Accordingly, if a problem site comes to our attention at the national level, we will refer it to the appropriate regional joint group for attention. An intervention will not be initiated

at this level unless the regional or local parties are unable to resolve the problems at the site. This problem-solving approach is not intended as a substitute for existing dispute resolution processes, but as an informal, cooperative approach to significant workplace relationship problems wherever they may occur. We can and must work together to resolve the factors contributing to disputes in our workplace, and we expect our counterparts at all levels of the organization to work toward that end.

Under the circumstances of the above scenario, the steward made attempts to address and correct the supervisor's behavior to no avail. The Second Joint Statement specifically addresses that. Problems such as the ones caused by the supervisor are best addressed, and resolved, at the lowest possible level. The supervisor in this scenario obviously has no desire to resolve or address the problems he has created at the lowest level, because he has not responded to previous attempts to correct the issues. Stewards should always document every effort to address a supervisor's improper behavior.

In either of the scenarios described above, you as a steward must determine what to do. Stewards generally work daily in their offices and they should know best what to do under the various circumstances. Again, stewards should document everything that happens and should learn everything they can to determine if a violation exists. Furthermore, in this situation and any other potential grievance, you should consider the following from the *NALC Shop Steward's Guide*:

Is it a Grievance? – How to Decide

As you collect all the necessary facts, organize and review them. This will make it much easier to decide whether the problem you are investigating is a grievance.

- **Listen.** Pay attention to the problem presented and do not make snap judgments. Remember, your job is to represent the letter carrier involved, so keep an open mind on whether the collective bargaining agreement was violated.
- **Base your decision on the facts.** You can best decide whether or not a problem is a grievance *after* investigating and weighing the evidence. So, if after talking to the letter carrier you are not sure whether or not a grievance exists, let them know that and continue to look into the matter. Be sure to get back to the letter carrier once you have made a final determination.

- **Go the extra mile.** Just how much investigation is “enough” will vary from case to case. As a general rule, the steward should investigate far enough to make an informed and intelligent decision. This won’t be a waste of time even if it turns out not to be a grievance. If the problem is grievable, you will need all the facts anyway. If it is not, you can use the information to help explain to the letter carrier why it is not a violation of the National Agreement.
- **Analyze your information.** Take the time to evaluate the problem carefully. Think it through completely, considering its merits and the evidence you have.
- **If you still do not know for sure, seek advice.** No single person has all the answers so ask other union officers for help when you need it.

If it is not a grievance: If a problem clearly is not a grievance, tell the letter carrier the plain truth of the matter. He or she may be disappointed, so be as tactful and diplomatic as possible and always explain to him or her why and how you reached your conclusion.

How you determine to handle a potential hostile work environment is very important, because it is extremely important to fix the problem before it escalates and causes even greater problems. You should review all of the contractual provisions listed in Appendix A of this guide, the National Agreement, USPS handbooks or manuals, or external law to determine if a violation exists.

A word of advice in determining whether to file a grievance would be that you should “pick your fights” wisely with respect to Joint Statement grievances. Don’t cite the Joint Statement in cases where a supervisor or manager simply had one bad moment. The Joint Statement is designed for those managers who are constantly causing disruption and genuinely harassing employees. Remember these tips:

- Bringing frivolous Joint Statement cases forward does not advance our cause for dignity and respect in the workplace.
- When you have a legitimate Joint Statement case, if the situation involves more than one letter carrier, you may want to file it as a class action grievance. This opens the door to have other letter carriers tell their stories about the manager involved.

It’s important to get statements while events of incidents are fresh in the minds of people, which will be discussed in greater detail later in this guide.

2. Did we properly frame the issue?

Now that you've determined a violation exists and you are going to file a grievance regarding a supervisor committing or condoning intimidating and threatening actions, you must properly frame the issue at hand. The issue statement should identify the relevant contract or handbook provisions involved and should always be "stated" or "framed" in the form of a question. At times it may be warranted to frame two issues in cases of this nature. If it is determined a higher level manager was aware of the violations by a subordinate manager, yet failed to act, a second issue statement should be framed to address the inaction of the higher level manager. Some proper issue statements for grievances of this nature would be:

- Did Supervisor _____ violate the Joint Statement on Violence and Behavior in the Workplace, Section 115.4 of Handbook M-39, and Section 665.24 of the ELM via Articles 14, 15, and 19 of the National Agreement through his/her actions on [specify date] and if so, what should the remedy be?
- Did Supervisor _____ violate the Joint Statement on Violence and Behavior in the Workplace, Section 115.4 of Handbook M-39, and Section 665.24 of the ELM via Articles 14, 15, and 19 of the National Agreement through his/her actions on [specify date] and by the pattern of behavior he/she has developed, and if so, what should the remedy be?
- Did Supervisor _____ violate the Joint Statement on Violence and Behavior in the Workplace, Section 115.4 of Handbook M-39, and Section 665.24 of the ELM via Articles 14, 15, and 19 of the National Agreement by the pattern of behavior he/she has developed, and if so, what should the remedy be?
- Did Supervisor _____ violate the Joint Statement on Violence and Behavior in the Workplace, Section 115.4 of Handbook M-39, and Section 665.24 of the ELM via Articles 14, 15, and 19 of the National Agreement by allowing a behavior, or pattern of behavior inconsistent with the cited provisions, and if so, what should the remedy be?

Properly framing the issue will immediately tell the reader of your grievance, the nature of the problem, as well as the contractual provisions you are relying on to support your grievance.

3. Did we determine all the facts of the case and document each one?

Stewards should always keep a notebook (paper or electronic) handy in which you can take notes of the events that take place. You should do this as promptly as you are able to do so before you forget important details. It is very important that you, in your own words describe exactly what happened as soon as possible following an event.

When we file a grievance to protest management's behavior, the National Agreement's Grievance Procedure outlined in Article 15, Section 2, Step A paragraph "d" requires that the union put forth the following during our Formal Step A meeting with Management:

At the meeting, the Union representative shall make a full and detailed statement of the facts relied upon...[and] may also furnish written statements from witnesses or other individuals ..."

Since our grievance procedure requires that we make a full and detailed statement of the facts relied upon, it is very important that we spell out exactly what happened at our Step A meeting.

Stewards frequently review the statements of the victims or witnesses of inappropriate behavior and find that they are not able to identify exactly what happened. Often they find words like "harassed", "threatened", and "intimidated" but cannot explain exactly what happened. Consider the following examples of such statements:

Example 1 - He threw a fit.

This statement does little to describe what the supervisor did. Instead, it offers an opinion about what the supervisor did.

Example 2 - He harassed me.

This statement also does not describe the actions of the supervisor, but forms an opinion that the actions were harassment.

Statements from witnesses or individuals being harassed, intimidated, or treated poorly should always describe activity. In order to describe what happened, the author of the statement should pretend that a movie camera was hovering over their shoulder and capture exactly what management did. The statement should describe what the camera would have captured both in

image and sound, identifying with precision the words that were actually used by the parties.

In Example 1 above, a proper statement might describe what the letter carrier was doing and what the supervisor was doing. The description would allow the reader to picture himself in the middle of the event, fully understanding what took place. If the reader needs to ask questions, then the description may not be sufficient. An example of a good statement might read:

"I notified my supervisor that my vehicle brakes were not working and then I handed him a vehicle repair tag. When I did this, he reacted by raising his voice and screaming at me. I noticed that he was jumping up and down like a child throwing a tantrum. I stepped back and asked for a shop steward because I was concerned over my supervisor's behavior. When I did so he got louder and his face got red. I was very concerned. When I looked around, I noticed that carriers 'A', 'B' and 'C' were nearby and might have noticed something. Also carrier 'F' was standing next to me and told me that he saw everything."

When somebody reads that statement, it gives sufficient description to understand exactly what happened. That statement also points out potential witnesses a steward would need to interview to find out what they saw and heard. Properly and fully documenting what took place is of the utmost importance to filing a successful grievance challenging the behavior of a supervisor who is threatening or intimidating letter carriers or who is creating an environment which is hostile or toxic. For more tips on gaining proper statements which describe such situations or to gain a further understanding of properly documenting these situations, stewards should reference the "Tips for Writing Statements" section in the *NALC Shop Steward's Guide*.

4. Do our contentions clearly explain the documented facts and how the National Agreement was violated?

It is absolutely essential that all grievance files are properly written, well-organized, and kept in the correct order. Grievances of the nature described in this guide **should always** describe how the supervisor's actions create a lack of dignity and respect towards the letter carrier, or letter carriers, involved. Evidence is important! Documentary evidence contained in the grievance file usually determines the outcome of a grievance. Documentary evidence includes forms, documents, records, photographs, written statements, interviews, or other tangible items that proves the facts of the case.

In preparing the documentary evidence for a grievance, stewards should review each fact they seek to establish in the grievance and make every effort to ensure that there is some piece of written or printed evidence to prove it. Sometimes a single piece of documentary evidence can be used to establish more than one fact. Normally, it is necessary only to include one copy of the document in question.

Make the grievance packet easy to go through and understand. Making the file clear and straightforward will benefit both parties when they attempt to resolve the grievance at every level. Put your grievance documents in a logical order. If your grievance is challenging ongoing management behavior, then start from the beginning and work to the present. For example:

“On this day, Supervisor Smith said “this” to Letter Carrier Johnson. As a steward, I felt this was inappropriate and I discussed the relevant contractual provisions with him and he ensured me such behavior would stop. The following day he said the same thing to Letter Carrier Jones and then he cursed at Letter Carrier Johnson. Two days later he threatened Letter Carrier Jackson, by stating _____.”

Tell the story. Your contentions should fully describe the issue at hand and should always be supported by statements or evidence which details the events. During the course of investigating a grievance, stewards should take notes of conversations and interviews. These may be interviews that the steward has initiated while investigating the grievance in order to determine what happened.

Normally, interview notes are considered as “hearsay” since, by themselves, they only establish what the steward or manager was told had happened by someone else who actually observed it. Nevertheless, such notes are important as they record answers to pertinent questions relevant to the

grievance while the events are still fresh in the mind of the witness. They may also be used to verify the consistency of witness accounts.

Investigatory notes should be identified by time, date, location, person being interviewed, others present, and person conducting the interview.

Your contentions should also include copies of contractual language or any handbook, manual, external law or other provisions cited as a basis for the grievance.

These measures are all part of building a strong foundation for your grievance. In the event your grievance does not get settled at your step, the representatives at the next step should be able to read, comprehend, and process the grievance without any further explanation. Too often, stewards end up with a weaker grievance because the case file is incomplete or illegible. It is up to the steward to make sure this does not happen. It cannot be stressed enough how important it is to explain through your contentions exactly what happened that caused the grievance challenging management's behavior. At times this is very difficult to prove and that is why stewards must document and explain the situation very thoroughly.

5. Did we request an appropriate remedy for the contract violation?

In order to get a meaningful remedy, even in cases where the contract was unquestionably violated, stewards should attempt to prove the extent of the harm suffered by the grievant to help justify the make whole remedy request in the grievance. A good way to demonstrate harm is to show a history of the same contractual violation where a “cease and desist” instruction was issued or an agreement was made which stated the Postal Service would “cease and desist” from violating the contract. The more cease and desist orders or agreements you have as documentation in a grievance file, the more you have demonstrated the need for additional remedies to encourage future compliance with the contract provision you are currently grieving.

The remedy sought by the union in cases of abusive supervisors should be based on the degree of misconduct by the offending manager or supervisor, with full consideration of any previous violations and the effect they had on employees in the workplace. The remedy must be appropriate for the violation. It would not be a good idea to ask for a supervisor to no longer be allowed to supervise letter carriers for a one-time offense. Maybe a proper remedy would be for the supervisor to attend anger management training or apologize to the letter carriers involved. As a steward, you must use judgment in formulating a requested remedy. It is often a good idea to study actual arbitration awards regarding similar conduct. Ultimately, the goal is to make the conduct stop and to improve the environment on the workroom floor, so each remedy should certainly request such. For more information on requesting a proper remedy, stewards should reference the “Remedies” section of the *NALC Shop Steward’s Guide*.

Key Steps to Preserving the Right of Letter Carriers to Be Treated with Dignity and Respect

NALC recommends a few key steps that you should take every day to understand, control, and then work towards changing a hostile or toxic work environment:

1. Keep track of everything that happens on the workroom floor and document all actions of improper behavior by management.
2. Pay attention to how other employees are being treated and what management is doing about it.
3. Challenge management's conduct through the appropriate channels when their conduct creates a hostile work environment.
4. Don't give up. Your patient efforts will contribute to a positive change. Many times we have been very successful with the right evidence and right approach.

Stewards should keep an eye on the letter carriers and their interactions with the supervisors in their office. If they see letter carriers being harassed, intimidated, threatened, or bullied, they should be willing to step forward and put a spotlight on the truth. Abusive managers and supervisors attack our ability to fight for justice in the workplace by causing many of our members to fear stepping forward. However, you as a steward can make a difference and put a stop to the abuse. At times, situations which involve a hostile or toxic work environment can be difficult to handle. Stewards should not be reluctant to reach out and seek guidance and assistance from their local NALC branch officers or national business agent.

Appendix A - Contractual Provisions Prohibiting Employee Mistreatment

Below are several contractual provisions that protect letter carriers against mistreatment by their managers. These are the most common provisions that stewards will enforce to stop such actions.

Article 14, Section 1 of the National Agreement specifically provides that it is management's responsibility to provide a working environment which is safe to work in. That section of the National Agreement states:

14.1 Section 1. Responsibilities

It is the responsibility of management to provide safe working conditions in all present and future installations and to develop a safe working force. The Union will cooperate with and assist management to live up to this responsibility. The Employer will meet with the Union on a semiannual basis and inform the Union of its automated systems development programs. The Employer also agrees to give appropriate consideration to human factors in the design and development of automated systems. Human factors and ergonomics of new automated systems are a proper subject for discussion at the National Joint Labor-Management Safety Committee.

Page 14-1 of the *2014 Joint Contract Administration Manual (JCAM)* clarifies the national parties' joint understanding of this section of the National Agreement by stating:

Responsibilities. It is management's responsibility to provide safe working conditions; it is the union's responsibility to cooperate with and assist management in its efforts to fulfill this responsibility.

That provision doesn't only mean the Postal Service is required to provide an environment which contains safeguards such as fire extinguishers, clean work areas, etc., it also means an environment which is free of harassment, bullying, intimidation, or threats of physical violence as well.

Article 19 of the National Agreement incorporates many USPS handbook and manual provisions into the National Agreement.

Article 19 of the National Agreement states in pertinent part:

ARTICLE 19 HANDBOOKS AND MANUALS

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. This includes, but is not limited to, the Postal Service Manual and the F-21, Timekeeper's Instructions.

The national parties' joint understanding of this part of the National Agreement can be found on page 19-1 of the *2014 Joint Contract Administration Manual (JCAM)* and reads in pertinent part as follows:

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.

Several provisions contained in these handbooks and manuals deal directly with the way employees should be treated and management's responsibilities in this regard. The Postal Service has made commitments to providing a work environment which maintains a level of dignity and respect between a letter carrier and their supervisor. *Handbook M-39, Management of Delivery Services*, Section 115.4 states the following, regarding that commitment:

M-39, Section 115.4 Maintain Mutual Respect Atmosphere

The National Agreement sets out the basic rules and rights governing management and employees in their dealings with each other, but it is the front-line manager who controls management's attempt to maintain an atmosphere between employer and employee which assures mutual respect for each other's rights and responsibilities.

According to this handbook provision, it is the supervisor's responsibility to control management's attempt to maintain an atmosphere of dignity and respect for each other's rights and responsibilities. Obviously, if the supervisor is engaged in harassing, intimidating, threatening, or bullying techniques, then he or she is certainly not controlling management's attempt to provide an environment free of abuse. This provision sets a basic standard that must be

followed by managers and sometimes may be sufficient to stand alone in a grievance, depending on the egregiousness of the behavior.

It is suggested the following provisions be relied upon as well to support grievances documenting behavior of a more egregious nature. Such egregious behavior would be violence or threats of violence, harassment, intimidation, threats of any kind, or bullying. The *Employee Labor Relations Manual (ELM)*, Section 665.24 incorporates specific provisions against such behavior, stating:

665.24 Violent and/or Threatening Behavior

The Postal Service is committed to the principle that all employees have a basic right to a safe and humane working environment. In order to ensure this right, it is the unequivocal policy of the Postal Service that there must be no tolerance of violence or threats of violence by anyone at any level of the Postal Service. Similarly, there must be no tolerance of harassment, intimidation, threats, or bullying by anyone at any level. Violation of this policy may result in disciplinary action, including removal from the Postal Service.

A workroom floor environment which contains elements of harassment, intimidation, threats, or bullying is certainly an environment which is unhealthy and unsafe. Such an atmosphere could potentially cause an individual to act out in ways they normally would not act, therefore creating an environment which contains unsafe working conditions. The *ELM* provides for specific rules which outline how to report unsafe working conditions such as these and reads:

814 Employee Rights and Responsibilities

814.1 Rights

Employees have the right to:

- a. Become actively involved in the Postal Service's safety and health program and be provided a safe and healthful work environment.
- b. Report unsafe and unhealthful working conditions using PS Form 1767.
- c. Consult with management through appropriate employee representatives on safety and health matters such as program effectiveness.
- d. Participate in inspection activities where permissible.
- e. Participate in the safety and health program without fear of restraint, interference, coercion, discrimination, or reprisal.

Section 824.6 of the *ELM* further states:

824.6 Investigating Employee Reports of Hazard, Unsafe Condition, or Practice

824.61 Purpose of PS Form 1767, Report of Hazard, Unsafe Condition or Practice

PS Form 1767 is designed to encourage employee participation in the Postal Service Safety and Health Program and to provide prompt action when employees report a hazard. This form provides a channel of communication between employees and management that promotes a prompt analysis and response with corrective action to reports of alleged hazards, unsafe conditions, or unsafe practices.

824.62 Availability of Form

Supervisors must maintain a supply of PS Forms 1767 in the workplace in a manner that provides employees with both easy and (if desired) anonymous access.

Those *ELM* provisions provide that letter carriers have a right to report unsafe working conditions via PS Form 1767 as described above, which may include harassment, intimidation, threats, or bullying. It also states that they have a right to do this "without fear of restraint, interference, coercion, discrimination, or reprisal." The Postal Service has also committed to taking prompt action to correct any such unsafe working conditions. The above provisions undoubtedly provide stewards with enough language to properly represent any letter carrier who is being forced to work in a hostile or toxic work environment. Additionally, the Postal Service was a party to another commitment to maintain a workroom floor free of such an atmosphere. That commitment was memorialized in the *Joint Statement on Violence and Behavior in the Workplace*.

Joint Statement on Violence and Behavior in the Workplace

The Joint Statement was a response to the "Royal Oak incident" on November 14, 1991, in which 5 people were shot and killed in that postal facility. This followed an incident in Ridgewood New Jersey on October 10, 1991 where a former postal worker killed his former supervisor and three other people. Earlier on August 20, 1986, 14 employees were shot and killed and six wounded at the Edmond, Oklahoma post office by a fellow employee.

The entire postal community was stunned by these events. One of the responses was the *Joint Statement on Violence and Behavior in the Workplace* (M-01242). The long-lasting importance of the Joint Statement is that it does not just condemn violence, but affirms as a core principle that "every employee at every level of the Postal Service should be treated at all times with dignity, respect and fairness." The Joint Statement is provided on the next page:



JOINT STATEMENT ON VIOLENCE AND BEHAVIOR IN THE WORKPLACE

We all grieve for the Royal Oak victims, and we sympathize with their families, as we have grieved and sympathized all too often before in similar horrifying circumstances. But grief and sympathy are not enough. Neither are ritualistic expressions of grave concern or the initiation of investigations, studies, or research projects.

The United States Postal Service as an institution and all of us who serve that institution must firmly and unequivocally commit to do everything within our power to prevent further incidents of work-related violence.

This is a time for a candid appraisal of our flaws and not a time for scapegoating, fingerpointing, or procrastination. It is a time for reaffirming the basic right of all employees to a safe and humane working environment. *It is also the time to take action to show that we mean what we say.*

We openly acknowledge that in some places or units there is an unacceptable level of stress in the workplace; that there is no excuse for and will be no tolerance of violence or any threats of violence by anyone at any level of the Postal Service; and that there is no excuse for and will be no tolerance of harassment, intimidation, threats, or bullying by anyone.

We also affirm that every employee at every level of the Postal Service should be treated at all times with dignity, respect, and fairness. The need for the USPS to serve the public efficiently and productively, and the need for all employees to be committed to giving a fair day's work for a fair day's pay, does not justify actions that are abusive or intolerant. *"Making the numbers" is not an excuse for the abuse of anyone.* Those who do not treat others with dignity and respect will not be rewarded or promoted. Those whose unacceptable behavior continues will be removed from their positions.

We obviously cannot ensure that however seriously intentioned our words may be, they will not be treated with winks and nods, or skepticism, by some of our over 700,000 employees. But let there be no mistake that we mean what we say and we will enforce our commitment to a workplace where dignity, respect, and fairness are basic human rights, and where those who do not respect those rights are not tolerated.

Our intention is to make the workroom floor a safer, more harmonious, as well as a more productive workplace. We pledge our efforts to these objectives.


D.C. Nurses Association


Federation of Postal Police Officers


National Association of Letter Carriers


National Postal Mail Handlers Union


United States Postal Service


National Association of Postal Supervisors


National Association of Postmasters of the United States


National League of Postmasters of the United States


National Rural Letter Carriers' Association

Dated: February 14, 1992

PLEASE POST ON BULLETIN BOARDS IN ALL INSTALLATIONS

The *Joint Statement on Violence and Behavior in the Workplace* is not limited to prohibition of violence or threats of violence. The title itself recognizes that inappropriate behavior leads to the unacceptable horrific outcomes which was of concern to the national parties. Therefore, it is recommend that you identify

which passage of the Joint Statement was violated and identify the specific behavior that you believe supports your position. For example:

- Paragraph 3 - The parties affirmed a right to work in a safe and humane environment. If this passage was violated, identify the specific behavior by management which you believe supports this opinion and do the same for each of the below references.
- Paragraph 4 - The parties affirmed that there is no excuse for violence nor threat of violence, but they also specified that there is no excuse for and would be no tolerance of harassment, intimidation, threats, or bullying by anyone.
- Paragraph 5 - The parties committed to the principle that every employee should be treated at all time with dignity, respect, and fairness. Further in this paragraph, it was agreed that "making the numbers" is not an excuse for the abuse of anyone. The parties also jointly committed that those who do not treat others with dignity and respect will not be rewarded and will not be promoted and lastly that those whose unacceptable behavior continues will be removed from their positions.

The February 1992 Joint Statement was followed up by a *Second Joint Statement on Violence and Behavior in the Workplace* (M-01243) later that year which sought to implement cooperative efforts to resolve workplace problems at the lowest possible level. It states:

In our Joint Statement of February, we affirmed our belief that dignity, respect and fairness are basic human rights, and we pledged our efforts toward a safer, more harmonious, as well as a more productive workplace. Since then, we have continued to meet regularly and engage in an active dialogue on the issues addressed in that statement. We believe that effective communication and a cooperative spirit are the starting point for the resolution of the problems in our workplace.

It is essential to our efforts that the same discussions and cooperative efforts take place among representatives of management, postal unions, and management organizations at the region, division, and MSC levels, as well as at the national level. To the extent that representatives at those levels have not yet established an ongoing dialogue on these issues, we ask that you do so without further delay. The joint groups should focus on ways to foster safe, harmonious, and

productive workplaces and, when a particular problem site is identified, the representatives should work together to eliminate the underlying problems.

In our discussions at the national level on problem sites, we concluded that problems are best addressed, and resolved, at the lowest possible level. Accordingly, if a problem site comes to our attention at the national level, we will refer it to the appropriate regional joint group for attention. An intervention will not be initiated at this level unless the regional or local parties are unable to resolve the problems at the site. This problem-solving approach is not intended as a substitute for existing dispute resolution processes, but as an informal, cooperative approach to significant workplace relationship problems wherever they may occur. We can and must work together to resolve the factors contributing to disputes in our workplace, and we expect our counterparts at all levels of the organization to work toward that end.

In his August 16, 1996 arbitration award (C-15697), National Arbitrator Snow declared the Joint Statements enforceable through the grievance-arbitration procedure. Those two documents added to the arsenal available to union representatives seeking to reverse, correct, and punish reprehensible supervisory behavior. Arbitrator Snow's landmark award on the Joint Statement made two key rulings. First, he held that:

"... the Joint Statement constitutes a contractually enforceable agreement between the parties. Accordingly, the Union shall have access to the negotiated grievance procedure set forth in the parties' collective bargaining agreement to resolve disputes arising under the Joint Statement."

This ruling stunned the Postal Service, which had argued that the Joint Statement was a "pledge" or a "promise" or a "commitment", but not a binding contractual obligation. Second, arbitrator Snow gave his ruling teeth by specifying that:

"... arbitrators have available to them the flexibility found in arbitral jurisprudence when it comes to formulating remedies, including removing a supervisor from his or her administrative duties."

This ruling empowers a regional arbitrator to remedy a supervisor's violation of the *Joint Statement on Violence and Behavior in the Workplace*. NALC encourages stewards to request appropriate remedies in cases involving supervisory misconduct.

Appendix B - What Else Can Be Done to Help Fix the Problem?

While the foundation of a union steward's job is the grievance procedure, and many stewards only do just that for their branches, it is important to know all the tools available for stewards to put a stop to abusive managers mistreating letter carriers. Some alternatives to filing a grievance could be:

Request a Labor Management Meeting

Local NALC branch officers and stewards, if they are involved in this process, should continuously be raising the issues of poor treatment by managers at Labor Management Meetings and Safety Committee Meetings. It is important to force the Postal Service and its representatives to formally meet with us to discuss the work environment and the way employees are being treated.

Local NALC officials should also be communicating with the Postmaster by making a formal written record of all objections to the manner in which letter carriers are treated. If necessary, elevate the complaint and concern to higher levels of management at the district and area levels or even to headquarters if necessary. If the spotlight is not focused on the offending managers, then we as a union will not change the work environment for the better.

If management, at the installation level fails to or refuses to resolve the hostile work environment issues, then you need to invoke the obligations contained in the Second Joint Statement as described earlier in this guide.

File a Complaint with the Occupational Safety and Health Administration (OSHA)

OSHA defines workplace violence as:

"...Workplace violence is any act or threat of physical violence, harassment, intimidation, or other threatening disruptive behavior that occurs at the work site. It ranges from threats and verbal abuse to physical assaults and even homicide. It can affect and involve employees, clients, customers and visitors. Homicide is currently the fourth-leading cause of fatal occupational injuries in the United States. According to the Bureau of Labor Statistics Census of Fatal Occupational Injuries (CFOI), of the 4,547 fatal workplace injuries that occurred in the United States in 2010, 506 were workplace homicides. Homicide is the leading cause of death for women in the workplace. [More...] However it manifests itself, workplace violence is a major concern for employers and employees nationwide ..."

Once a complaint is filed with OSHA, they will conduct an investigation and issue a report describing their concerns.

Turn in a PS Form 1767, *Report of Hazard, Unsafe Condition or Practice*

The subject of safety and health is addressed in Article 14 of the National Agreement. Safety and health of employees is very important to the Postal Service and NALC for obvious reasons. Contractual provisions throughout Article 14 outline procedures that have been negotiated and put into place to promote a safe and healthy work environment. To ensure this safe and healthy environment, some special exceptions to the normal rules of the Dispute Resolution Process (DRP) have been negotiated to address unsafe and unhealthy situations in a timely manner.

Article 14, Section 2 of the National Agreement provides the controlling language that outlines the proper procedures for reporting and correcting unsafe conditions or unsafe procedures in the workplace. That section of the National Agreement reads as follows:

Article 14, Section 2. Cooperation

The Employer and the Union insist on the observance of safe rules and safe procedures by employees and insist on correction of unsafe conditions. Mechanization, vehicles and vehicle equipment, and the work place must be maintained in a safe and sanitary condition, including adequate occupational health and environmental conditions. The Employer shall make available at each installation forms to be used by employees in reporting unsafe and unhealthful conditions. If an employee believes he/she is being required to work under unsafe conditions, such employee may:

- (a) notify such employee's supervisor who will immediately investigate the condition and take corrective action if necessary;
- (b) notify such employee's steward, if available, who may discuss the alleged unsafe condition with such employee's supervisor;
- (c) file a grievance at Formal Step A of the grievance procedure within fourteen (14) days of notifying such employee's supervisor if no corrective action is taken during the employee's tour; and/or
- (d) make a written report to the Union representative from the local Safety and Health Committee who may discuss the report with such employee's supervisor.

Upon written request of the employee involved in an accident, a copy of the PS Form 1769 (Accident Report) will be provided.

Any grievance which has as its subject a safety or health issue directly affecting an employee(s) which is subsequently properly appealed to arbitration in accordance with the provisions of Article 15 may be placed at the head of the appropriate arbitration docket at the request of the Union.

Article 14, Section 2 provides a special priority for the handling of safety and health issues, providing for cooperative correction of unsafe conditions and enforcement of safety rules, and requiring special handling of individual safety issues as they arise. Documenting the unsafe condition, notifying the supervisor and following up to see if any action is taken to correct the situation is vital to resolving the problem.

An employee who believes that he or she is being required to work under unsafe conditions may notify the supervisor or the employee's steward. Alternatively, a written report of the problem may be given to the union representative assigned to the local Safety and Health Committee, who may discuss the report with the supervisor. Notifying the supervisor of an unsafe condition can be done in a variety of ways, but it should be done in writing and documented. While it is not required, a good way to do so is via a PS Form 1767, *Report of Hazard, Unsafe Condition or Practice*. These forms are displayed in your office in a manner which employees can have easy or anonymous access to the form to report any hazard, unsafe condition, or practice. The form has a section for the employee to complete and then give to his or her immediate supervisor. From there, the supervisor is required to investigate the specified condition within the tour of duty of the report being filed. The supervisor must take immediate corrective action on the safety issue or make appropriate recommendations on the PS Form 1767, forward the PS Form 1767 to the responsible manager, and send a copy to the safety office. Using PS Form 1767 to document safety issues can also help you prove the facts of your case in a safety-related grievance. A copy of PS Form 1767 is provided for your review on the following page.

As discussed in Appendix A of this guide, the *Employee Labor Relations Manual (ELM)*, Sections 814 and 824, provides this form must be made readily available for any employee to report a hazard, even if they wish to do so anonymously, and once submitted management must investigate and respond in writing.

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PRESIDENT

TIMOTHY C. O'MALLEY
EXECUTIVE VICE PRESIDENT

LEW DRASS
VICE PRESIDENT

NICOLE RHINE
SECRETARY-TREASURER

JUDY WILLOUGHBY
ASSISTANT SECRETARY-TREASURER

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DIRECTOR OF SAFETY AND HEALTH

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