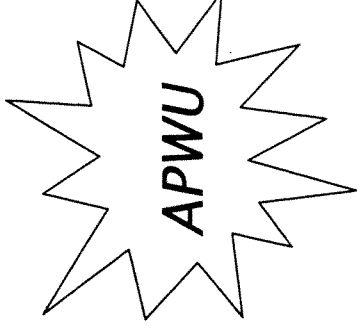




PURPOSE

To Create a basic tool for locals and advocates to assist in proper investigation, preparation, documentation and presentation of grievances at Step 1 through Arbitration.

BENEFIT

To provide national consistency and conformity of issues and arguments and to create a dynamic, flexible and viable tool ensuring the best possible representation.

- Establishes minimum documentation (evidence) requirements
- Portable
- Quick Reference
- Basic Overview of Recurring Subjects
- Standardization of preparation
- Opening Statements – Post-Hearing Briefs
- Strategies and tips -- Management Arguments
- Applicable Case Law

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Issue: Abolishment - Improper*

Articles 37. I.F., 12.5. B and C, 8.4. B*

Documentation	Explanation
All grievance paperwork	All paperwork developed and utilized in grievance procedure
Duty assignment(s) being abolished	Basis for dispute
History of duty assignment - initial and subsequent postings and awardings	Tells us how long job has been around and who has worked it
Personnel memorandum which shows job being abolished	Establishes when abolishment took place and effective date of action
Applicable excerpts from LMOU	Defines sections for in-house excessing
Written meeting notes between L/M prior to effective date of abolishment	Contractually required. Management should be able to give a legitimate explanation of the need to abolish
Paperwork management relied upon to generate abolishment(s)	Management should have documentation to support their actions. If not, why not?
Written statements from grievant and co-workers on what happened to work from abolished job	If work still exists, be specific as to type and amount of work. Shifting the work to others is not a legitimate basis for abolishment
Steward's written notes from interview with appropriate manager	Ties down management's reasons for action. Also allows union opportunity to investigate and refute management's action
Applicable case law. Remember difference between precedent and persuasive value	Strengthens case through Step 4s, national arbitrations or pre-arbs, regional arbitrations or pre-arbs. Cites must be on point

* Geared towards abolishments within installation where we argue work still there.

* Goes to remedy - If job still there, part of remedy would seek out of schedule premium.

Issue: Advance Sick Leave - Denied Articles 10 & 19

Documentation	Explanation
All grievance paperwork	All paperwork developed and utilized in grievance procedure
Applicable regulations - 513.5 of ELM	Establishes work rule and criteria
Local or District Policies if generated	Seldom generated. However if done must be in conformity with national regulations
Request for advance sick leave	Required by regulations
Denial of advance sick leave by management	Required. Also allows you to determine if action arbitrary, capricious, in bad faith or disparate
Grievant's leave record for prior two (2) years - normally 3972s	Tells us sick leave history. Were there any major illnesses or injuries which used up large amounts
Medical documentation	Basis for request for advance of sick leave. Should justify request and tell management grievant will more than likely return to work (prognosis)
Statement by grievant	Should address need, current and prior medical history involving usage of sick leave. Should establish basis for request and likely return to work
Steward's written interview with employer representative who denied request	Ties down reasons why management denied request. Also should include how previous requests have been handled. Minimizes management building case later
Previous discipline or AWOL, if any, for grievant	If so, were they related to sick leave usage. If not, strengthens case
Any step increase deferrals, if they exist	If so, were they related to sick leave usage. If not, strengthens case
Restricted sick leave letter(s), if issued	History of prior action or lack of by management. Management should have been aware of ongoing problem or realized not a problem in the past. Possible prior acceptance of usage
All advance sick leave requests and action taken (regardless of craft) for previous two (2) years	Lets us know if grievant treated differently - disparity. Also were rules applied consistently and uniformly? If not, strengthens case
Applicable case law. Remember difference between precedent and persuasive value	Strengthens case through Step 4s, national arbitrations or pre-arbs, regional arbitrations or pre-arbs. Cites must be on point

Issue: AWOL Articles 10 & 19

Documentation	Explanation
All grievance paperwork	All paperwork developed and utilized in grievance procedure
Applicable regulations (Chapter 5, ELM) including local or district policy	Establishes work rule. Local policy cannot change national regulations. The rule must be known and uniformly and consistently applied
Specific statement from grievant explaining circumstance of alleged AWOL	Tells employee's side of story. Should give arguments on mitigation, extenuation, or denial of charge. Also helps develop the specifics of the case
Steward's written interview with supervisor who determined AWOL, although not discipline, look to "Discipline in General" and "Due Process" for additional considerations	Ties down why the supervisor did what s/he did. Treat as discipline as management must initially prove employee was AWOL. If proven, look toward disparity, mitigation or extenuation
Copy of appropriate time records and 3971(s)	Good evidence on: time involved; players; who did what on disapproval; call-in if applicable; and comments by players
If mitigation or extenuation argued, appropriate proofs such as medical or emergency documentation	If late, proof of why. If power outage, car trouble, medical problems, not allowed to return to work; etc; best evidence available. Effort must be made to get proof
Copy of discipline if tied to AWOL	Disparity, inconsistency, haphazardly issued. Possible overkill
If disparity - copy of grievant's and other employees' 3972(s)	Proves our allegation. Be sure to specifically point out differences
Statements from co-workers/supervisors on what normally happens	Additional proof on disparity. Could also show inconsistency or improper application of work rule
Applicable case law	Strengthens case through Step 4s, national arbitrations or pre-arbs, regional arbitrations or pre-arbs. Cites must be on point

Issue: Bargaining Unit Work Prohibition Article 1.6.B

Documentation	Explanation
All grievance paperwork	All paperwork developed and utilized in grievance procedure
Name(s) of supervisor or manager who performed work - written witness statements and written steward interviews	Identifies who violated CBA
Type of work performed - witness statements and written steward interviews	Be specific - if more than one type, identify each
Length of time - witness statements, steward interviews, copies of work performed if applicable	Proves violation and allows specific remedy (total amount of monies sought). Do on daily and weekly basis
Applicable bargaining unit job description(s)	Shows work performed part of bargaining unit job duties
Applicable non-bargaining unit job description(s)	Tells what supervisor can and cannot do and under what conditions
Management instructions on what supervisor should be doing regarding bargaining unit work	Verifies supervisor being told to do our work
Statements on when supervisor or manager began to perform bargaining unit work and why	Shuts down management argument on union sleeping on its rights
PTF clock rings for involved time frame	Allows union to show loss of hours to PTFs
Prior grievance paperwork (if applicable)	Shows repeated violations and management bargaining in bad faith
Management notice on any recent attrition, reversions, or abolishment	Demonstrates improper transferring of work
Applicable case law. Remember difference between precedent and persuasive value	Strengthens case through Step 4s., national arbitrations or pre-arbs. regional arbitrations or pre-arbs. Cites must be on point

Issue Casuals To The Detriment

Article 7.1.B.2

Documentation	Explanation
All grievance paperwork	All paperwork developed and utilized in grievance procedure
Specific listing of involved employees - PTFs and casuals	Normally found as crew sheets or schedule for the week. If not make listing and back up with documentation such as personnel memos or Form 50s
Hours worked on a daily and weekly basis by PTFs and casuals, normally ETC reports	Should be charted to make a more concise proof. Also may show violation on daily and weekly basis. Time records normally best proof. Be sure to make comparisons and give totals
Work performed, when and where	Normally done through witness(es) statements and time records. Needed elements to prove violation
If necessary, qualifications of PTFs	Need to prove PTFs qualified to do work performed by casuals
If available, work schedules for PTFs and casuals	May show management improperly scheduled for the week or weeks in question. Sometimes offsets management argument of inadvertently done
Applicable case law. Remember difference between precedent and persuasive value	Strengthens case through Step 4s, national arbitrations or pre-arbs, regional arbitrations or pre-arbs. Cites must be on point

Issue: Casuals In lieu Of Article 7.1.B

Documentation	Explanation
All grievance paperwork	All paperwork, developed and utilized in grievance procedure
Chronology of events - time line	Done by union rep - specifically establishes period of time casuals used in lieu
ETC - report ⇒ time records, ongoing for life of grievance	Shows hours, days, and months casuals utilized
Pay charts of involved employees	Tells us what casuals and career workforce were making during appropriate time. Allows for specific remedy
Seniority list of clerical employees	Demonstrates career work force during appropriate period
Clerk complement - before and during violation	Report gives us specific numbers. Also may show deliberate action by management to reduce career work force
Written joint stipulation or written witness(es) statement(s) on work casuals performing	Ties down exact work casuals are performing. Offsets possible argument by management that work in question not clerical
Personnel memoranda or similar document(s) showing hiring and releasing of casuals	Helps establish actual numbers of casuals and duration of their employment
Management notice on any recent attrition, reversions, or abolishments	Demonstrates improper transferring of work
Prior grievance paperwork (if applicable)	Shows repeated violations and management bargaining in bad faith
Applicable case law. Remember difference between precedent and persuasive value	Strengthens case through Step 4s, national arbs or pre-arbs, regular arbs or pre-arbs. Cites must be on point

Issue: Consecutive Days Off Article 8.2

Documentation	Explanation
All grievance paperwork	All paperwork developed and utilized in grievance procedure
Copy of duty assignment(s) posting	This would show the triggering event of management posting or reposting a job with split days off
If reposting, copy of original duty assignment posting	Shows history of job. Also shows job had consecutive days off for a period of time
Dictionary definition of the words practical and practicable (preferably "Black's Law Dictionary")	CBA requires "practicable" - capable of being done. Strong requirement when argued properly. Major difference between words "practical" and "practicable"
Interview notes which tell us deciding official's specific reason for splitting off-days	Critical to tie down specific reasons as soon as possible. Also request management's supporting documentation. What changed operationally?
Documentation from management which allegedly justifies action	Management proofs. Allows you to check out and determine validity
Paperwork from Union which shows consecutive days off practicable for job(s) in dispute (FTR/PTF work schedules, actual hours worked 60 days before/after duty assignment is filled)	Our burden to carry. Available work hours by day, current and past crew sheets (work schedules) for concerned area, and if necessary a favorable hypothetical work schedule which shows consecutive days off
Applicable case law. Remember difference between precedent and persuasive value	All paperwork developed and utilized in grievance procedure. Strengthens case through Step 4s, national arbitrations or pre-arbs, regional arbitrations of pre arbs. Cites must be on point

Issue Crossing Crafts Improperly

Article 7.2B & C

Documentation

Explanation

All grievance paperwork	All paperwork developed and utilized in grievance procedure
Work schedule, clock rings (ETC), or other documentation showing cross craft assignment(s)	Proves cross craft assignment occurred. First step in proving violation is remembering four (4) part criteria: 1) same wage level 3) exceptionally heavy work load periods 2) qualified 4) light work load
Witness(es) statement which tells us what happened on given day or days involving cross craft assignment(s)	Helps validate union contentions and brings specifics to the front. Possible witness if case goes to arbitration
Interview with appropriate supervisor or manager on why they assigned across craft lines	Ties down management's reason(s) for doing so. Stops building of management's case at later date. Union should ask if criteria of 7.2.B & C met and carefully write down response
Documents which show who scheduled and who worked - be sure to include all types of leave taken	Tells us if management had normal compliment or short handed
Volume reports which show heavy or light day	Remember Article 7.2.C says "exceptionally heavy work load periods"
Overtime records for both involved crafts, normally will be carrier to clerk	Be sure documentation ties to area left and place reassigned to
Applicable case law. Remember difference between precedent and persuasive value	Strengthens case through Step 4s, national arbitrations or pre-arbs, regional arbitrations or pre-arbs. Cites must be on point

Issue: Discipline - Alleged Breach of Last Chance Agreement* Articles 16, 19 and 35

Documentation	Explanation
All grievance paperwork	All paperwork developed and utilized in grievance procedure
Copy of Last Chance Agreement (LCA)	Critical as the employee allegedly violated this document and was disciplined. Allows comparison to ensure uniform treatment. Also was this LCA realistic and achievable
Statements from employee and other people who signed LCA	Need to know the intent of the parties. Also allows you to determine if LCA was reasonable and achievable. Remember LCAs cannot take away an employee's right to challenge discipline
Paperwork from EAP, A.A., or other program administrator	Most LCAs involve participation in some type of recovery program. Need to know status of grievant relating to treatment
Copy of disciplinary paperwork, - normally removal	Was breach/ violation of LCA clearly explained in paperwork. Also allows you to determine if a breach was serious
Please refer to Discipline in General and Discipline - Due process - Article 16 for part of the documentation needed	Please refer to Discipline in General and Discipline - Due Process - Article 16 for the appropriate explanations
Applicable case law. Remember difference between precedent and persuasive value	Strengthens case through Step 4s, national arbitrations or pre-arbs, regional arbitrations or pre-arbs. Cites must be on point

*The only issue dealt with here is management arguing the employee violated a last chance agreement and therefore is terminated.

Issue: Discipline In General Article 16

Documentation	Explanation
All grievance paperwork	All paperwork developed and utilized in grievance procedure
Copy of issued discipline - if redone or revised copy of original	Basis of dispute
Request (recommendation) for discipline	Gives original thinking of boss. On many forms sets forth other due process considerations. Sometimes includes review and concurrence
Company rules (Local Policy) applicable to case	Allows you to determine if prior rule exists. May establish known rule or practice
Written witness statements. Should include written interview with issuing supervisor	Ties down reason for action. Also minimizes management expanding case later
Fact-finding (pre-disciplinary interview) notes - both steward's and supervisor's	Required part of due process. Shows employee given opportunity to tell their side of the story
Prior elements of discipline. Include all, even if no longer a live record	Allows you to determine progression. Establishes disciplinary history. Minimizes impeachment of grievant who may not recall all discipline.
Documents related to discipline, for example, 3971s; 3972s; Postal Inspector's - Investigative Memo; time records; CA- 1 or 2; driving record; police record;	Gives you complete picture and helps minimize surprises. Make sure your copy is the same as the original
Develop written time line (chronology of events)	Gives clearer picture of case. Establishes flow. Alerts you to any timeliness problems. May point out inconsistencies
Develop list of witnesses and their role in case	Helps ensure complete picture. Alerts you to possible interviews. Should tell you who is going to help or hurt
Applicable case law. Remember difference between precedent and persuasive value	Strengthens case through Step 4s, national arbitrations or pre-arbs, regional arbitrations or pre-arbs. Cites must be on point

Issue: Discipline - Due Process*

Article 16

Documentation	Explanation
"Request for Disciplinary Action Form," sometimes called D-2 or P-2, normally submitted to Labor Relations by supervisor	This form asks many of the procedural questions found in the EL-921. It tells us if employee was interviewed, prior elements of discipline, forewarning, triggering incident, and may include review and concurrence signature
Pre-disciplinary meeting (sometimes called fact-finding, due process meeting or Pre-Disciplinary Interview) notes from both steward and supervisor	Ensures one took place. Helps determine if management did meaningful investigation and gave employee opportunity to tell their version of what happened prior to "Request for Discipline". Copy of notes from both parties helps maintain accuracy
Disciplinary paperwork. This document or the Request for Discipline Form should have the concurring official's signature	Allows you to thoroughly review the discipline to be sure its: timely; has specific charge(s); cites known rule(s) which is consistently and uniformly applied; is accurate regarding dates, events, and charges; 16.8 requirements met
Request for information form from steward prior to submission and after received back from management	APWU form utilized in disciplinary cases. Be sure to ask for anything and everything management relied upon to issue discipline. This keeps management from changing case
Written statement from anyone involved in discipline, would include grievant and issuing supervisor	Establishes facts and contentions while still fresh
Steward's notes from interview with issuing supervisor which explains in great detail why the supervisor did what s/he did	Should freeze management's case. Also lets us know if grievant interviewed and how, type of investigation done, who concurred, were the charges clear and proven

*Every discipline case should initially be checked for procedural efforts.

Issue: Emergency Suspension - Placement Article 16.7

Documentation	Explanation
All grievance paperwork	All paperwork developed and utilized in grievance procedure
Emergency placement paperwork	Must be in writing. Basis for dispute. Should tell us why management took action. Establishes if done in a timely manner and if alleged misconduct part of the limited criteria under 16.7
Statement by grievant	Tells employee's side of the story and helps tie down the Facts
Steward's written notes on interview with supervisor who issued Emergency Suspension	Should address specific reasons on why action taken, proofs at this time, timeliness of action and how action ties to language of 16.7
Statements by witnesses or co-workers, if applicable	Helps determine facts of the case and minimizes later revamping by management
Postal Inspector's Investigative Memorandum	If basis for action - is it clear and factual? Does it tie to language of 16.7 and is it timely? May shed additional light on case
Threat Intervention Team Reports, if applicable and generated	May add clarity and facts. Be sure you can determine all aspects of how generated
Local or District policy, if applicable	Should explain management thinking on what should be done regarding certain incidents. Scrutinize carefully to ensure due process and just cause not ignored. If reasonable, must be known and uniformly and consistently administered
Subsequent discipline and paperwork, if issued and tied to Emergency Suspension action	Does this action strengthen or weaken Emergency Suspension? Did it follow in a timely manner?
Applicable case law. Remember difference between precedent and persuasive value	Strengthens case through Step 4s, national arbitrations or pre-arbs, regional arbitrations or pre-arbs. Cites must be on point

Issue: Erroneous Overpayment* Articles 19 & 28

Documentation	Explanation
All grievance paperwork	All paperwork developed and utilized in grievance procedure
Applicable regulations from the ELM (Chapter 437)	Existing regulations on how to handle erroneous overpayment. Defines when waiver should be made
Letter of Demand for monies owed	Article 28 requires Letter of Demand. If not done - fatal flaw
Waiver Claim (Form 3074) and final result	Required by regulations. Also establishes facts of case and position of grievant and management
Invoice or equivalent from PDC	Normally generates management action. Be aware, does not replace need to issue proper Letter of Demand
Applicable paperwork from Postal Service if generated, for example, Form 50s on step increases, insurance documents, pay checks <u>showing</u> different rates of pay, leave adjustments, etc.	Helps establish facts and determine what parties knew
Applicable case law. Remember difference between precedent and persuasive value	Strengthens case through Step 4s, national arbitrations or pre-arbs, regional arbitrations or pre-arbs. Cites must be on point

*It is understood the issue could be identified as a Letter of Demand or a Waiver of Claims.

Issue: Discipline - Falsification of Employment Application Article 16

Documentation	Explanation
All grievance paperwork	All paperwork developed and utilized in grievance procedure
All disciplinary paperwork	Request for discipline, pre-discipline (fact finding) meeting notes
Prior discipline, if any	All prior discipline whether on point or no longer part of Article 16.10 live record
✓ Employment application - Form 2591 ✓ Employment addendum - sometimes called Form 61 (if utilized) ✓ Any inquiring letters from management asking for more information regarding employment application (if utilized)	Normally the basis for issuing discipline. One or all of these documents may be tied to the discipline
✓ Criminal record - rap sheet ✓ Driving record	May have been basis for issuing discipline. If one exists and not mentioned can be used for credibility determination of grievant
Appropriate cites from handbooks. Any handbook cites referenced in discipline paperwork	Explains applicable rules and regulations. Also can be a check list to ensure management's action proper
Statement by grievant on why s/he did what s/he did at the time pre-employment paperwork filled out	Establishes state of mind, proper time frame and lack of intent to mislead
Applicable case law. Remember difference between precedent and persuasive value	Strengthens case through Step 4s, national arbs or pre-arbs, regular arbs or pre-arbs. Cites must be on point

Issue: FMLA Denial/Discipline Articles 10, 16 & 19

Documentation		Explanation
All grievance paperwork		All paperwork developed and utilized in grievance procedure
Applicable 3971 (s)		Basis for dispute. Be sure to check <i>Remarks</i> section and back side.
Applicable FMLA documentation (APWU forms, WH-381, or medical)		Determine length of time involved
Additional medical documentation, if generated		Is the form properly filled out? Is the right APWU form used? Be sure document is clear and specific
Statement by Grieving		Gives complete picture
Steward's written notes from interview with supervisor/manager who denied FMLA		Tells employee's side of story with care given to address all aspects of FMLA dispute
Applicable FMLA regulations		<i>Must</i> specifically include <u>all</u> reasons why leave denied.
If needed, proof of employee working 1,250 hours		If in doubt include more not less. Be specific on exactly what provisions applicable
Posted FMLA material		Eliminates procedural argument. Can normally get this from time records, ETC.
Information given to employee on FMLA - verbal or in writing		Management is required to post information on FMLA
Applicable case law. Remember difference between precedent and persuasive value		May occur at time of leave request or in a stand-up talk. Include specific paperwork given to employee by supervisor regarding FMLA
		Strengthens case through Step 4s, national pre-arbs, regional arbitrations or pre-arbs, FM LA "Q&A's" and Union/Management communications. Cites must be on point

Issue: Higher Level Assignment - Upgrading* Article 19, 25 & 37

Documentation	Explanation
All grievance paperwork	All paperwork developed and utilized in grievance procedure
Job description and Qualification Standard for higher level duty assignment	Establishes duties and responsibilities of the higher level job
Job description of employee's current assignment	Tells us what the employee is supposed to be doing
Applicable regulations - ELM, Chapter 230	Existing regulation which establishes criteria for higher level pay and upgrading
Detailed written explanation by grievant of work being performed and for how long. Also witness and/or co-worker statements if applicable	Must be specific to exact duties and responsibilities. Break down by hours of specific work being performed. Also when employee began to perform this work
Written verification, normally by grievant, of management knowing what work was being done	Offsets potential argument by management on not knowing grievant was doing this work
Appropriate form (PS Form 1723) or written communication, if done, on higher level assignment	Proves work is higher level. If no written proof, statement by grievant on being told to do the work
Work up by job description what work the grievant is doing and for how long on a normal day	Necessary proof to demonstrate violation. Also gives exact hours of higher level for remedy purposes
Applicable case law. Remember difference between precedent and persuasive value	Strengthens case through Step 4s, national arbs or pre-arbs, regular arbs or pre-arbs. Cites must be on point

*The same documentation would be required if you were only seeking higher level pay and not the upgrading of the duty assignment.

Issue: Improper Holiday Scheduling Article 11.6

Documentation	Explanation
All grievance paperwork	All paperwork developed and utilized in grievance procedure
LMOU - applicable section	Establishes method of selecting employees
Holiday solicitation list	Shows who volunteered
Holiday scheduling list	Tells us who's scheduled. Important to determine when posted
Crewsheet or equivalent showing days off + normal hours of work	Helps determine proper pecking order
Seniority list	Helps determine proper pecking order
Time records (ETC) for holiday weekend	Proves who worked and when
Written witness(es) statements	Explains particulars of case
Prior grievance paperwork (if applicable)	Shows repeated violations and management bargaining in bad faith
Applicable case law. Remember difference between precedent and persuasive value	Strengthens case through Step 4s, national arbitrations or pre-arbs, regional arbitrations or pre-arbs. Cites must be on point

Issue: Leave - Act of God Articles 10 & 19

Documentation	Explanation
All grievance paperwork	All paperwork developed and utilized in grievance procedure
Media coverage - newspaper clippings; audio from radio; video from television; press releases from local, county or state authorities dealing with Act of God	Critical documentation which helps to prove criteria met and establish weather conditions, road conditions, transportation, etc.
Regulations for Act of God situations - normally 519 of the ELM. May also have local policy or SOP	Three (3) parts of criteria - 1) must involve a community disaster, 2) must be general rather than personal, 3) must prevent groups of employees from working or reporting to work
☑ Listing of employees scheduled to work during disputed time. ☑ Listing of employees who actually worked during disputed time. ☑ Listing of employees scheduled to work during disputed time but did not. ☑ Specific reason(s) employees did not work.	Many locals have call-in reports. If so and utilized, be sure of accuracy. Also helps to prove part of criteria met and fashion proper remedy.
Statements by employees who did not make it to work establishing they made a diligent effort to do so	Fourth part of criteria requires employees to have exercised reasonable diligence in attempting to come to work. Statements help prove this
Time records - ETC reports which specifically show who involved and for how long	Goes to proof and remedy. Many times will have more than one (1) day involved. May also have partial days involved
Applicable case law. Remember difference between precedent and persuasive value	Strengthens case through Step 4s, national arbs or pre-arbs, regular arms or pre-arms. Cites must be on point

³Acts such as snowstorm, tornado, and flooding.

Issue: Letter of Demand - Flexible Credit Shortage

Articles 19 & 28

Documentation

Documentation	Explanation
Letter of Demand and appropriate audit record (Form 3294)	Basis for grievance. Be sure to review these documents to ensure they are procedurally correct and figures are accurate.
Applicable regulations (F- I Handbook)	Existing work rules. Allows you to check to be sure management is abiding by them.
Verification and Inclusion of: Forms: 3977 and applicable procedures 3368 and applicable procedures 3368s for co-window clerks 1628 and applicable procedures Annual check of locks and keys with log (record)	Existing regulations provide window clerk with adequate security when properly followed. Failure to do so creates rebuttable presumption of management adversely impacting on employee's shortage. At a minimum contributing negligence, more likely fatal flaw(s). Remember the Union may have to prove a relationship between the security violation and the shortage.
Verification and Inclusion of: Forms: appropriate 1412s - audit period appropriate 1908s - audit period appropriate 3369 appropriate 571 if generated Security violation reports if generated	Existing regulations provide window clerk with adequate security when properly followed. Failure to do so creates rebuttable presumption of management adversely impacting employee's shortage. At a minimum contributing negligence, more likely fatal flaw(s)
Applicable work orders for IRTs, locks, screenline	Shows security problems which could have lead to shortage. Also what did management do with report(s)
If in use - POS system problems logbook	May demonstrate faulty equipment which could lead to shortage
Written notes from steward in interview with window supervisor. Be sure it includes length of time between audits (3368)	May tie to shortage. Management obligated to provide adequate security
Statement from grievant on critical events during audit period. Also if any problems on exercising reasonable care	Steward should ask supervisor about existing procedures and request relevant documentation, i.e., last time safe combination changed and why; unauthorized people in window area; stamp requisitioning procedures; etc.
Statement on where accountable items are stored over night. If not vault, what and why	Helps establish facts. Need to know if management believes grievant did not exercise reasonable care and why
	Management obligated to provide adequate security. Failure to do so may well have caused shortage. Also, vault space for employee should be adequate and secured

Issue: Light Duty - Temporary Articles 13 & 30

Documentation		Explanation
All grievance paperwork		All paperwork developed and utilized in grievance procedure
LMOU language on temporary light duty		Falls under 15, 16, & 17 of Article 30. Tells us numbers, methods, and assignments considered for light duty
Written light duty request and accompanying medical statement		Must be clear on limitations including hours employee can work
Response from management on light duty request		CBA requires written response with stated reasons for denial. Allows you to verify if management has shown "the greatest consideration"
Local SOP or policy on temporary light duty		May give greater definition or explanation on parties practice and policy when dealing with temporary light duty
Written documentation on what work grievant can do - if necessary, proof of qualifications		Strengthens case. May be job bid, doctor's note, statement from grievant, steward or co-workers
Proof work available which grievant can do		Statements (grievant, steward and co-workers) stipulations from management, volume reports, flash reports, other which show available work for grievant
Casual or loaner hours if doing work grievant could do		Shows work available - grievant should be worked prior to
Applicable case law. Remember difference between precedent and persuasive value		All paperwork developed and utilized in grievance procedure. Strengthens case through Step 4s, national arbitrations or pre-arbs, regional arbitrations or pre-arbs. Cites must be on point

Issue: Maximizing Full-Time Duty Assignments in All Offices

Article 7.3.B

Documentation	Explanation
All grievance paperwork	All paperwork developed and utilized in grievance procedure
Complement listing - current and past	Shows trend on full-time versus part-time jobs
Flash report or its equivalent, daily and weekly	Demonstrates available bargaining unit hours on a daily and weekly basis. Be sure to consider overtime hours
Factual statement on office hours daily and weekly	Allows you to prove feasibility of more full-time jobs
Time records (ETC reports) for PTFs, casuals, loaners, and T.E.s	Establishes base from which to carve out full-time jobs
Management notice on recent attrition, reversions, or abolishment	Shows more full-time jobs realistic based on past history
Work hours for this year versus last year (flash).	Allows you to determine if any major differences. If so, find out why.
Union developed chart(s) showing potential full-time duty assignments by hour and day	Must compile data from records and put on chart which shows 8 hours within 10, same 5 days per week
Paperwork or notice on existing or future automation	Offsets possible arguments by management on the need to reduce full-time jobs based on automation
Audit reports, e.g., Postal Inspectors and Function Four	Local management may have been told to create more flexibility by eliminating full-time jobs
Witness statements if management is improperly sending mail out of office to be worked	Example would be sending mail to small POs to have non-bargaining unit work it
Prior grievance paperwork (if applicable)	Shows repeated violations and management bargaining in bad faith. Also consider Article 1.6 violations, improper crossing of craft grievances, and attrition disputes
Applicable case law. Remember difference between precedent and persuasive value	All paperwork developed and utilized in grievance procedure. Strengthens case through Step 4s, national arbitrations or pre-arbs, regional arbitrations or pre-arbs. Cites must be on point

Issue: ODL By-Pass Article 8.5

Documentation	Explanation
All grievance paperwork	All paperwork developed and utilized in grievance procedure
Copy of LMOU on establishment of ODLs	Defines proper ODLs
Copy of applicable ODL - Identify Qualifications	Explains who is involved
List of employees worked. Include skills, beginning and ending times, days off, and work performed	Critical background information to prove violation
Dispatch schedule and operational plan	Offsets arguments on cut-off times; critical dispatches, and operational windows
Written witness statements from involved employees - include applicable bosses. Identify ODL employees next in rotation.	Helps to establish what happened and why. Normally will also show days off, leave taken, etc., for concerned employees
Crewsheets - listing of employees in area where overtime worked	Normally tells us who the appropriate employees are
Volume reports for day(s) involved. If delayed mail be sure you have a copy of the report	Offsets possible management arguments
Time records (ETC) for employees who worked and those by-passed	Proves union's contentions
Prior grievance paperwork (if applicable)	Shows repeated violations and management bargaining in bad faith
Applicable case law. Remember difference between precedent and persuasive value	Strengthens case through Step 4s, national arbitrations or pre-arbs, regional arbitrations or pre-arbs. Cites must be on point

Issue: Off-Duty Conduct*

Article 16

Documentation	Explanation
All grievance paperwork	All paperwork developed and utilized in grievance procedure
Pre-discipline paperwork - could include: 1) police reports & arrest record 3) pre-"D" (fact finding) notes from supervisor & steward	The key is to determine whether a nexus (connection) exists between alleged crime and the Postal Service. If not, normally no basis for discipline. Also lack of (4) parts could demonstrate due process flaws
Media coverage - anything on T V or radio; local news papers or publications	If so, does it identify the person as a postal employee and what degree of coverage - if minimal or non-existent, management may not have nexus
Interview with supervisor who requested and issued discipline. Steward's written notes should be sure to tie person down to exactly what was relied upon	Keeps management from building the case after discipline issued and helps you to determine if nexus shown
APWU request for information from which, at minimum requests "anything and everything" management relied on to issue discipline	Keeps management from building the case after discipline issued and helps you to determine if nexus shown
Interview with co-workers of employee and their written statements	Do employee's co-workers have any concerns about working with him/her? If not helps - if so hurts
Review Due Process and Discipline in General "check lists"	Ensures all necessary documentation sought and case prepared from a procedural and meritorious viewpoint
Applicable case law. Remember difference between precedent and persuasive value	Strengthens case through Step 4s, national arbitrations or pre-arbs, regional arbitrations or pre-arbs. Cites must be on point

*Will normally involve a criminal act such as buying, selling, or possessing drugs.

Issue: Out of Schedule Premium Articles 8.4.B, 19, 37

Documentation	Explanation
All grievance paperwork	All paperwork developed and utilized in grievance procedure
Chronology of events - being specific about the facts that lead to dispute. Normally this will be a statement by grieving(s)	Normal situations would include: temporary schedule changes at the request of employer; limited duty; administrative errors regarding move to new jobs or improper details; improper pool and relief assignments and improper unencumbered movement
Applicable regulations such as the ELM; EL-401; F-21; or F-22, contractual language, e.g., 8.4.B and 37.F	Depending on the situation, tie in the appropriate language found in handbooks or C.A. Examples would include not moving to new job, limited duty off tour, relief assignment, etc.
Personnel notices or memoranda which list successful bids, temporary assignments, short or long term details, and unencumbered assignments	Proves whether management moved you in a timely manner; whether temporary assignment legitimate; whether detail proper, etc.
Management correspondence or completed forms	Written notification on detail, temporary assignment, limited duty hours, Form 1723, etc.
Notes from interview with appropriate supervisor or manager	Our burden is to prove the action by management was not for the personal convenience of employee
Time records - ETC, for period of time in dispute	Establishes hours actually worked. Also allows for a specific remedy
Applicable case law. Remember difference between precedent and persuasive value	All paperwork developed and utilized in grievance procedure. Strengthens case through Step 4s, national arbitrations or pre-arbs, regional arbitrations or pre-arbs. Cites must be on point

Issue: Past Practice Article 5

Documentation		Explanation
All grievance paperwork		All paperwork developed and utilized in grievance procedure
If applicable, documentation from management on why they are unilaterally ceasing to honor practice. And, written notes from steward on reasons given by manager who discontinued practice		Most past practices can only be changed thru new or changed language in national agreement (C.A.). Limited exceptions would require negotiations at the local level at the appropriate time or significant proof on why practice no longer feasible
Employee's written statements on: Consistency Longevity & Repetition Acceptability Mutuality		Our burden to prove practice: clarifies ambiguous language; gives substance to general language; establish a separate enforceable condition of employment where the C.A. is silent. Statements or other proofs needed to show management was aware of and accepted practice. Also, practice consistently and repeatedly utilized.
Prior settlements or sustained grievances which specifically dealt with validation or proper application of practice		Strengthens case and shows parties agreed to practice to resolve dispute or mutually accepted existence of practice
Historical development of practice		Establishes reason(s) for past practice. Documentation could be prior resolutions, joint settlements, L/M minutes, statements from players involved in creating past practice, statements on consistent and uniform existence of practice over significant period of time
Applicable case law. Remember difference between precedent and persuasive value		Strengthens case through Step 4s, national arbitrations or pre-arbs, regional arbitrations or pre-arbs. Cites must be on point

Issue: Physical/Mental Inability To Perform Duties of Position *

Articles 16, 19, 13, and 3

Documentation	Explanation
All grievance paperwork	All paperwork developed and utilized in grievance procedure
Written Notice of Removal	Basis for dispute. Should also set forth management reasons on why employee's inability prohibit him/her from working. Keep in mind management's obligations regarding permanent light duty and/or reasonable accommodation.
Applicable rules and regulations. Would include excerpts from: chapters 3 & 5 of the ELM; chapters 2 & 3 of the EL-311; and appropriate parts of management guidelines, EL-307	Union needs to ensure management followed proper procedure and existing regulations regarding an employee's options, just cause, and reasonable accommodation
Written correspondence from management regarding employee's medical problems or inability	Many times management will send an "Options" letter or some other letter attempting to intimidate the employee
Seniority list and employee's most recent Form 50	Tells us seniority of employee and under what conditions employee hired
Employee's training records	Establishes skills, qualifications, and abilities of employee. May help to prove work available for employee
Employee's current job or assignment	Establishes what is required of the employee. Keeps management from requiring more than the job demands
Applicable medical documentation from all sources. This would include fitness for duty exams, OWCP, return to work release, medical referrals, pre-employment medical examination, etc.	Union must have clear and complete medical picture on what grievant can and cannot do. It is important to prove medical documentation has considered and addressed employee's job
Earlier light or limited duty requests/denials and assignments	If employee accommodated earlier, what has changed? If not, why not?
Written history of employees currently on light/limited duty which includes duration, work involved, and medical limitations	Disparity or unequal treatment
If applicable, hours worked by casuals or T.E.s	Should only include work employee can do. Helps show work available which employee can do
Applicable case law. Remember difference between precedent and persuasive value	Strengthens case through Step 4s, national arbitrations or pre-arbs, regional arbitrations or pre-arbs. Cites must be on point

Probationary Employee - Termination*

Articles 12.1 and 16

Documentation	Explanation
All grievance paperwork	All paperwork developed and utilized in grievance procedure
Written notice of separation/termination	Basis for dispute. Must be able to show the specific date employee received it. If no written notice, harmful flaw. Same holds true if received after 90th day of employment
Applicable regulations - chapter 365 of the ELM	Existing rules. Requires management to notify employee in writing by the 90th day
Form 50 which shows career appointment of employee - specific date employee hired	Allows proper tracking of 90 days - the probationary period
Copies of 30, 60, and 80 day evaluations, Forms 1750	Historical date. May also shed additional light on case
Proof of mailing and receipt of written notice of separation/termination	Most of the time sent certified with return receipt and addressee only. Helps establish if management met their contractual obligations. If not, argue fatal flaw
Applicable case law. Remember difference between precedent and persuasive value	Strengthens case through Step 4s, national arbitrations or pre-arbs, regional arbitrations or pre-arbs. Cites must be on point

* Technically assumes employee did not receive written notice of termination/separation on or before ninetieth day of career employment. Otherwise, no contractual basis to grieve

Issue: Reversion - Improper Article 37.3.A.2

Documentation	Explanation
All grievance paperwork	All paperwork developed and utilized in grievance procedure
Duty assignment(s) being reverted	Basis for dispute
History of duty assignment - initial and subsequent postings and awards	Tells us how long job has been around and who has worked it
Written notification to Local APWU President	Collective Bargaining Agreement requires such notification
Personnel memorandum which shows job being reverted	Ties down time (28 days to do) and gives management's reasons for doing
Paperwork which supports management's reasons, if applicable	Reversions allegedly based on operational changes should be supported by documentation - holds true for mail volume changes, automation, AMP, etc
Steward's written interview with appropriate manager	Be sure it covers both procedure and merits. Make management be specific on why action taken. If no supporting documentation, challenge and note
Paperwork which supports Union's reasons why the reversion is improper	May involve volume reports, hours worked in a given operation before and after reversion, statements same job still being done - must specifically tie down by duties and hours each day
Paperwork on supplemental hours, if applicable (ETC Reports)	Has management given work to casuals, loaners, PTFs? If so, may also be a violation of Article 7.3.B
Paperwork on overtime hours, if applicable (ETC Reports)	Helps to show work still there and management action improper
Applicable case law. Remember difference between precedent and persuasive value	Strengthens case through Step 4s, national arbitrations or pre-arbs, regional arbitrations or pre-arbs. Cites must be on point

ISSUE: SAFETY AND HEALTH VIOLATIONS
ARTICLES 14 & 19

DOCUMENTATION	EXPLANATION
All grievance paperwork	All paperwork developed and utilized in grievance procedure
Applicable regulations EL-801 - 814, ELM Chapter 8	Establishes work rules and criteria
If applicable, written notes from facility representatives	1999 Memo of Understanding applicable to all plants, bulk mail centers, airmail centers, district main post office (including stations and branches), and vehicle maintenance facilities. Helps clarify parties' position and what if any action contemplated or taken
Copy of 1767	Basis for the dispute. Also proves safety hazard has been reported
Copy of 1769, if applicable	If safety hazard has caused an accident, accident report should be included
Witness Statements	Statements from employees that are affected by the safety hazard. Statements must be specific and to the point
When appropriate, diagram or other visual aid of area where safety hazard exists	Helpful aid so that others may "see" the area where the safety hazard exists
If applicable, safety captain's written meeting notes	Identifies APWU contact person who has been involved in dispute and what if any steps were contemplated or taken
Minutes from any local safety meetings addressing the issue	Should clarify dispute and what action, if any, has been taken
Any letter or inter-office memos regarding the issue	Tells us management's position and what action should take place or is planned
If applicable, Material Safety Data Sheet, and/or container warning labels, newspaper or magazine articles, and educational materials that support the claim of a safety hazard	Good background information May establish management obligations Helps prove violation
If applicable case law. Remember difference between precedent and persuasive value	Strengthens case through Step 4s, national arbitrations or pre-arbs, regional arbitrations or pre-arbs. Cites must be on point

**ISSUE: TRANSFER REQUEST - DENIALS *
ARTICLE 12 AND MEMO OF UNDERSTANDING**

DOCUMENTATION

EXPLANATION	
All grievance paperwork	All paperwork developed and utilized in the grievance procedure
All Applicable regulations EL-311 section 253, Article 12, Transfer Memo page 316 1998-2000 CBA	Establishes work rule and criteria
All written correspondence from employee and Postal Service regarding transfer request	Normally this is the factor that triggers consideration for transfer and subsequent decisions. This would include stated reasons for denial.
Employee's PS Form 50, employee's work history	Shows employees date of hire, how long in present installation, present craft, level and step. Transfer memo says exception to time in present office waived if employee is seeking transfer to office where they were formerly employed.
If applicable, employee's paycheck stubs or clock rings; records of craft hours used in gaining installation; and craft complement in gaining installation	Transfer memo says exception to time in present office depends on if employee can get more hours by transferring. This would generate proofs.
Installation heads' evaluation, from both the gaining and losing installation, employee's 3972 with written explanation from employee if sick leave balance is an issue, and safety and/or accident record if applicable.	Transfer memo states that full consideration will be given to employee's work, safety and attendance record
Employee's training records, and other proofs of skills, qualifications and knowledge	Transfer memo states employee must meet minimum qualifications for all jobs for which they request reassignment
Written statement from employee rebutting management's reasons for denial of transfer	Helps to prove management does not have valid reasons for denying the transfer
Hiring registers, seniority list, personnel memos, size and location of office, and list of transfer requests for last 2 years	Shows whether PS meets criteria of 1 transfer in every four or six hired depending on office size. Also, whether geographically adjacent or not.
Applicable case law. Remember difference between precedent and persuasive value	Strengthens case through Step 4s, national arbitrations or pre-arbs, regional arbitrations or pre-arbs. Cites must be on point

* This only refers to transfers outside the installation which fall under Article 12 and the Memo of Understanding.

Issue: Zero Tolerance* Article 16

Documentation

Documentation		Explanation
All grievance paperwork		All paperwork developed and utilized in grievance procedure
Please refer to Discipline in General - Article 16 is for part of the documentation needed		Please refer to Discipline in General - Article 16 for the appropriate explanations
Postal policy on Zero Tolerance. Also SOP policy on threats or fights if different or separate from Zero Tolerance policy		Identifies specific policy within your installation. Critical as in some offices management has written the policy in an unreasonable manner
Applicable handbook cites, be sure cites are the ones in place at time of discipline. Examples: ELM-661.53 & 666.2; ASM -228.1; POM-221.651		Be sure they are cited and relied upon by management. Also, do they fit the fact circumstances. If so, may well prove a work rule violation. If not, improper reliance
Grieving's and witness(es) written statements whether given to management or postal inspectors		Ties down initial versions of what happened. Be sure to check out particulars of how and when statement written
Paperwork on past history of how fights or threats handled in your office. This should include paperwork on supervisors or managers who have made threats or have been in fights		Disparity and unequal treatment may well be a critical consideration. This documentation helps provide and prove those arguments
Applicable case law. Remember difference between precedent and persuasive value		Strengthens case through Step 4s, national arbs or pre-arbs, regular arbs or pre-arbs. Cites must be on point

* Normally will involve discipline for fights or threats.