

# Postal Worker

## West

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Affiliated with the Postal Press Association

## Battle to Save Our Postal Service Gets Real

**WASHINGTON DC**– With the end of the mid-terms elections the purposely delayed report of the so called “Postal Task Force” is expected to be released which many have signaled will likely result in White House efforts to beef up USPS in order to sell it.

What seemed like a politically motivated move to target Amazon’s principal owner, placed USPS in the cross hairs of White House shenanigans. An Executive Order issued in April established a task force to study the Postal Service system. The task force was foreshadowed by the release of a report from a previous Executive Order study for overhauling the government that included a call for the privatization of the US Postal Service. That report sparked members in Congress to introduce a House Resolution against privatization of the postal service.

### Legislative Action Needed and Heeded

In his report to the National Convention, Regional Coordinator Omar Gonzalez warned delegates not to take comfort in weak legislative support like a “sense of the body” resolution. The White House could try to take administrative action that would effect postal workers directly. What is needed is strong legislation that protects the people’s postal service.

The National Union has initiated action to both educate and mobilize members on the need to combat any “lame duck” actions to privatize USPS or otherwise affect it’s operations and service to Americans. “Members need to seriously pay attention to matters occurring in Washington DC that have impacts to their livelihood and that of their families”, warned Coordinator Gonzalez. The Coordinator also applauded the ad issued by the Unions.

“An attack against the Postal Service is an attack on the careers of each postal worker and their families. You can’t afford to let others do all the fighting to preserve government postal services- GET INVOLVED!”

**ISSUED BY**  
**OMAR M. GONZALEZ**  
**REGIONAL COORDINATOR**



The incoming Congress is expected to deal with postal issues but the fight to protect USPS is only now beginning to get serious.

## FIRES ARE ACTS OF GOD

as defined in postal leave regulations and covered under Article 10 of the CBA. Such leave helps protect workers.

Pursuant to ELM 519.211 the disaster situation must be general rather than personal in scope and impact. It must prevent groups of employees from reporting.

The California fires have been devastating with 61 or so postal employees losing their homes and many being evacuated. For the most part management has been resolute in their handling of the emergency and in accounting for people, property and product.

While most managers will act in good faith there may be instances where some will take desecration too far and will interpret that they determine unilaterally if employees could, with reasonable diligence, have reported for duty.

During last year’s fires the Pacific Area attempted to alter official leave regulations resulting in a challenge by the Regional Coordinator.

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## **Fires continued.....**from page 1



Postal regulations provide for a series of authorization levels for granting 1-3+ days of Administrative Leave. Administrative Leave is absence from duty authorized by appropriate postal officials without charge to annual or sick leave and without loss of pay.

Regional Coordinator Omar Gonzalez has been in communication with the Pacific Area Human Resources Manager to discuss the application of Administrative Leave for employees hit by disastrous fires which at press time not fully contained.

“While I commend the efforts of local, District and Area managers in activating emergency responses and in conducting “Touch Point” teleconferences I want to ensure no postal worker we represent forfeits or is denied their right to administrative leave.

Both the Union and Management commended the efforts of so many postal workers to report for duty and render service to the communities hit by the disasters. “Also, the concern postal workers had for each other was remarkable,” said Coordinator Gonzalez.

Any affected employee who has issues or concern regarding the Administrative Leave issue may contact their local union representative or contact the Regional Union at 650-685-7402.

## **POSTAL EMPLOYEE RELIEF FUND IN NEED**

Established to assist postal workers during disasters PERF is a non profit organization administered by all the Union and Management.

There are several ways to donate: Directly via Pay Pal; Check or Money Order.

Or via the Combined Federal Campaign now through January 2019 by designating #10268



**TO DONATE SEND CHECK OR MONEY ORDER TO PERF**

**PO Box 7630 Woodbridge VA 22195**  
**Or visit: [Postalrelief.com/donate.html](http://Postalrelief.com/donate.html)**

## **Pouring Salt On A Wound**

Far too often when employees suffer an accident resulting in an on the job injury management automatically issues discipline adding to their pain and suffering.

Such actions seem to be either authorized, condoned or directed by higher level postal officials even though such automatic discipline is prohibited. The Joint Contract Interpretation Manual is clear **“there should be no automatic discipline for employees involved in accidents.**

**Disciplinary action must be appropriate considering the safety rule violation, not dependent on whether an accident occurred.”** [JCIM 14.1].



Regional Coordinator Omar Gonzalez further declares, “The JCIM’s term “should” in this provision is not permissive, on page 128 of the JCIM it states ‘.....postal policy prohibits disciplinary action that may discourage accident reports or the filing of a claim for compensable injury’.....”

“When safety rule violations occur, managers and supervisors have several alternative corrective measures at their disposal. Although discipline is one such measure, they should use it only when other corrective measures do not appropriately fit the circumstances..” [JCIM 14.1]

Management must comply with Article 16 of the Contract which requires there be “just cause” to issue discipline. There must be a rule that is violated. Management has to show the employee was aware of the rule. Also management has to conduct a thorough and objective investigation BEFORE issuing discipline and take timely action. Another requirement is that the discipline be corrective rather than punitive, in other words, progressive.

Stewards should request all documents regarding the accident and review the CA-1 filled out by the supervisor. Secure the employee’s ok in writing to get CA Form copies. Review question #29. Fully document and grieve violations of Article 14 and 16 of the CBA. PROTECT YOUR JOB!

Reprint from the National Union magazine *The American Postal Worker* the original article coupled with the report given to delegates in August is part of the Regional Coordinator's quest to ensure postal workers are not abused for exercising their right to use earned Sick Leave. [ National Union magazine articles are usually edited for space . This is the expanded version]



Omar M. Gonzalez, Regional Coordinator

# Is the Postal Service Sick?

A serious question considering management claims 33,400+ employees are absent daily. Although OIG audits reveal improving employee satisfaction improves attendance, management rejects their recommendations.

Instead, bosses are imposing their "Attendance Control/Employee Availability" crack down driven by their application of "Dynamic Scheduling" cutting staff which includes terminations. For 40 years CBA Article 10 governing leave defers to Employee & Labor Relations Manual [ELM] Chapter 510. Management can't unilaterally change those rules.

## STAND BY YOUR RIGHTS

Sick leave is earned and ensures you against loss of pay if you are incapacitated because of"

- Illness, injury, pregnancy
- Confinement, medical appointments
- Dental, optical appointments & treatment [ELM 665.4.1]

While employees are required to be regular in attendance and failing to do so can result in discipline including removal postal bosses are **REQUIRED** to administer the Official USPS Leave program on an equitable basis for ALL employees, considering a) the needs of the service; b) the WELFARE of the individual employee. [ELM 511.1]. Instead the bosses impose discipline using select rules and practices. [PSEs See Box On Page 5]

One such practice is their supposed rule that three (3) absences in 90 days requires discipline. NOT SO! This practice violates the contract: "It is the supervisor's review of the attendance record in light of all relevant evidence, NOT any set number of absences that determines whether corrective action is warranted." [ Article 10.1;10.2 JCIM ]

## NOT JUST CAUSE THEY CAN

Our contract requires management to establish "JUST CAUSE" when issuing discipline. The "test" criteria a supervisor **MUST** use **BEFORE** initiating disciplinary action are contained in Article 16 of the JCIM (Joint Contract Interpretation Manual). Also, discipline must be corrective, progressive and not punitive.

Tests include there be attendance rules and management must prove an employee is aware of the rules and forewarned of discipline if he/she breaks them. The rules have to be reasonable. Bosses cannot make up rules inconsistent with the contract or ELM nor can eRMS (their automated system) change existing rules. Likewise, they can't use forms not approved by USPS HQ. [ Article 10;16;19 CBA/JCIM; ASM ]

Attendance rules must be:

- Applied fairly
- Applied without discrimination
- Consistently and equitably enforced
- Not be consistently overlooked and then without warning result in discipline [JCIM 16; ELM 511.1]

## NO SCRIPTED WITCH HUNTS

The supervisor **MUST COMPLETE** a thorough and objective investigation **BEFORE** they issue discipline. This includes the employee's day in court (i.e., Investigative Interview) and provide the employee the right to know in detail the charges he/she face in order to defend themselves.

To help ensure against scripted witch hunts and improper investigations under Supreme Court precedent, the CBA/JCIM and Handbook EL 921 employees have a right to have their Shop Steward present.

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Jurisdictional Dispute Process Updated

**“HEY THAT’S MY JOB!”**

For years management has played the Unions representing clerks and mail handlers against each other over not just assigning jurisdiction to a craft but the actual assignment of employees to perform the duties of the job.

On June 26, 2018 the parties (i.e., management, mailhandler and clerks unions) reached an agreement that replaced a 1992 Memorandum of Understanding intended to resolve jurisdictional disputes.



Managers and Union Reps from both Unions received joint training in Nevada to understand the new process

The parties call this process RI 399. There are several levels of this process including a local dispute com-

mittee, regional dispute committee and a National level dispute committee. Management is prohibited from making operational changes solely for the purpose of affecting the jurisdictional assignments in a facility. Article 7 of the CBA allows the assignments of employees across craft lines only when certain conditions are met under Section 2.B and 2.C. The JCIM page 40 outlines the criteria. It is clear in the JCIM that inherent in Article 7.2.B and C is

“the assumption that the qualifying conditions are reasonably **unforeseeable or somehow unavoidable.**” There will continue to be disputes no doubt. The new RI 399 process does not cancel the need to file timely grievances over improper assignment of mailhandlers to clerk assignments. The remedy to a proven cross craft violation is the payment at the appropriate rate to available/qualified employees who would have been scheduled to work.



Delegates listen intently to the revised jurisdictional dispute explanation at the National Convention.

**“Where Is My Grievance?”**

Under the Union’s National Constitution, the Director of Industrial Relations is responsible for contract administration and Craft Directors are responsible for processing all grievances in their crafts. National Business Agents, who work under their craft director’s direction, have jurisdiction over grievances within their assigned region. Under J-ASS (Joint Arbitration Scheduling System) NBAs have sole discretion as to what cases are jointly (along with their manager counter part ) scheduled to be heard and when. For the most part most Districts in the Western Region are within a reasonable degree of back log. At press time these are the case load data:

District	Step 3 Pending	Direct Appeals*	Pending Arbitration Hearings
Alaska	7	1	21
Arizona	112	10	62
Bay Valley	35	24	121
Colorado Wyoming	92	33	36
Honolulu	8	8	55
Los Angeles	37	42	55
Nevada-Sierra	14	9	9
Portland	58	29	73
Sacramento	22	23	27
Salt Lake City	14	14	20
Santa Ana	12	13	44
San Diego	15	15	48
San Francisco	14	10	76
Seattle	58	25	38
Sierra Costal	9	13	11



\* cases appealed but not entered into arbitration system

Source: HQ

## Is the Postal Service Sick *continued from page 3*

Stewards have the right to:

- Fully participate in the interview
- Ask the supervisor questions (e.g., on application of rules, equal treatment etc.)
- Comment on supervisor's questions (e.g. especially on leading and misleading questions read from a script)
- Clarify employee answers to questions
- Discuss favorable facts (e.g., employee's past good record; other factors)

[ The EL 921 is the Supervisor's Guide To Handling Grievances. It is listed as a policy directive in the September 2018 Edition of USPS Publication 223 ]

Failure to pass the above tests can and should be used to challenge unjust attendance discipline.

### SICK TERMINATIONS

Under Article 3 of the JCIM management is required to comply with arbitration awards such as precedent setting case NC-NAT-16.285 which declared:

- 1) whether USPS properly may impose discipline....for excessive absenteeism; or failure to maintain regular schedule, when the absences....include...approved sick leave **MUST** be determined in a case-by-case basis under Article 16
- 2) Whether or not USPS can establish just cause for imposition of discipline, based wholly or in part upon...approved leave, is a question of fact to be determined in light of all relevant evidence in a given case.

There are several key factors a supervisor must consider and an arbitrator must carefully weigh before just cause can be determined.

You have the right to and should challenge every instance of improper AWOL; Unscheduled Leave determinations, Disapproved Leave and Tardies, Improper Return to Work Meetings, Improper demands for substantiations, inaccurate PS 3971s and unjust discipline. **PROTECT YOUR JOB!**

*Postal Worker West*

**PSEs**, under the 2015-2018 CBA, do not earn sick leave. PSEs accrue annual leave. PSE attendance rules are on page 71 of the JCIM. For emergencies, illness or injury PSEs must notify management as soon as possible and also state the expected duration of the absence. As soon as possible after returning to duty a PSE must submit (or complete) the PS 3971 and explain the reason. PSEs can file grievances for violations of these rules and should file grievances for violations of these rules and should file grievances on improper AWOLs and/or unjust discipline.

PSEs cannot be terminated for filing grievances. But a regular attendance record will go a long way in helping to establish a good and decent postal career.

## **LOCALS AVAIL THEMSELVES OF REGIONAL ATTENDANCE TRAINING**



Local and state organizations participants at Regional training get the fundamentals on fighting abusive attendance controls.

## POSTAL QUIPS



**A New Contract** had not been reached at press time although the second extension expired. The National Union has not released info on the next course of action.

**Trump's National Labor Relations Board** has been quietly reinterpreting labor laws to suit anti-worker sentiment such as restricting picketing and other long established rules that protect worker rights and their unions.

**Mid Term Election results not readily known** is that more than 743 union members and activists were elected to office. From local offices to congressional seats. Teachers, electrical workers, Painters, Iron workers and many more were elected to serve America.

**Withdrawing From A Postal Treaty between more than 190 postal systems worldwide** (Universal Postal Union) could affect postal revenues and operations.

**Postal Finances rose by more than 1%** yet on paper the post office had a loss of almost \$2 billion. Postal finance accounting can be complicated but many agree that Congress has to make adjustments to the insane mandate to pre-fund future retirees' health benefits and also address other external issues. While Congress wrestles with postal reforms there is an expectation that postal

management will once again embark on consolidation schemes and forced involuntary reassignments of employees in 2019. Along with such excessing, management will impose "nimble scheduling" that will affect employee schedules and bid assignments.

**MVS Craft Hiring Is Suffering** nationwide as PSE pay and benefits are not competitive with the private sector some in management claim. However, union officials complain that USPS is attempting to limit the hours of PSEs and PTFs to as few as 3-4 hour increments. Negotiations are underway to force management to comply with recent arbitrations awards.

**VOTE BY MAIL** continues to be a viable approach to long lines and tattered emotions. Currently three western states, Oregon, Washington and Colorado have exclusive universal mailed ballots. Unlike the Vote by Mail mixed with election day balloting process of other states and long delayed counts there does not seem to be too many issues with universal mail balloting. Also, that system can't be hacked.

**Postal Banking** under the new Congress may grow steam as an alternative to privatizing USPS. Almost 8% of American households do not have access to bank accounts. Millions of citizens have to rely on check cashing or payday stores. The Post Office provided banking services of which the last claims allowed were in July 1985.

## *Congratulations Western Region*

Whether its mobilizing members in the mid-terms, rallying in support of USPS, meeting with congressional reps or supporting the fight for a new contract, local and state organizations & Retirees in this Region are congratulated and thanked for all they do.



Please forward pictures of your events and program to the PWW



We Have So Much To Be Thankful For As Postal Workers. As We Celebrate This Year Let Us Not Forget Those Less Fortunate.

May You & Your Family Be Blessed