

Excerpt from NLRCA 2006 – 2010 National Agreement

ARTICLE 16

DISCIPLINE PROCEDURE

Section 1. Statement of Principle

In the administration of this Article, a basic principle shall be that discipline should be corrective in nature, rather than punitive. No employee may be disciplined or discharged except for just cause such as, but not limited to, insubordination, pilferage, intoxication (drugs or alcohol), incompetence, failure to perform work as requested, violation of the terms of this Agreement, or failure to observe safety rules and regulations. Any such discipline or discharge shall be subject to the grievance-arbitration procedure provided for in this Agreement, which could result in reinstatement and restitution, including back pay. For minor offenses by an employee, management has a responsibility to discuss such matters with the employee. Discussions of this type shall be held in private between the employee and the supervisor. Such discussions are not considered discipline and are not grievable. Following such discussions, there is no prohibition against the supervisor and/or the employee making a personal notation of the date and subject matter for their own personal record(s). However, no notation or other information pertaining to such discussion shall be included in the employee's personnel folder. While such discussions may not be cited as an element of a prior adverse record in any subsequent disciplinary action against an employee, they may be, where relevant and timely, relied upon to establish that employees have been made aware of their obligations and responsibilities. The appropriate discipline which should be issued to a rural carrier craft employee may differ according to the offense; however, it is generally the case for those offenses that warrant progressive discipline, employees receive: letter of warning, seven-day suspension, fourteen-day suspension, and removal.

Section 2. Letter of Warning

A letter of warning is a disciplinary notice in writing, identified as an official disciplinary letter of warning which shall include an explanation of a deficiency or misconduct to be corrected.

Section 3. Suspensions

Suspensions shall not be served as time-off, but will be paper suspensions except in those cases when an employee is in a non-duty, non-pay status as described in Sections 4. and 5. below. Such paper suspensions shall indicate the length of the suspension with a written notice of the charges against the employee. An employee who has received a fourteen (14) day paper suspension will be given a day of reflection, provided it is agreeable to the Union. If the employee is directed to take the day of reflection he or she will be placed in a paid, non-duty status for one (1) scheduled work day. The purpose of the day of reflection is for the employee to reflect upon the seriousness of the factors which led to the discipline, to consider that should the deficiency not be corrected, the employee can normally expect that the next step of progressive discipline will be removal, and to resolve to correct his or her behavior to conform to the standards necessary for the employee to remain with the Postal Service. Prior to the employee being directed to take a day of reflection, the employee's Union representative and the Employer will conduct a mandatory session with the employee. During this session both the Union representative and the Employer will discuss with the employee the seriousness of his or her deficiency and attempt to reach an understanding and commitment by the employee to use the day of reflection on how to correct his or her deficiency and avoid subsequent removal. Both parties will impress upon the employee that should the employee fail to correct his or her behavior, the employee can normally expect that the next step of the progressive discipline will be removal. The Union's participation in this session will not prejudice the Union's position in grievance-arbitration on the merits of the discipline. Failure to grant an employee a day of reflection will not be considered a denial of due process or be considered a procedural or substantive defense if the employee is subsequently removed.

Section 4. Discharge or Crime Situation

In the case of discharge, any employee shall, be entitled to an advance written notice of the charges against the employee and shall remain either on the job or on the clock at the option of the Employer for a period of thirty (30) days. Thereafter, the employee shall remain on the rolls (non-pay status) until disposition of the employee's case has been had either by settlement with the Union or through exhaustion of the grievance-arbitration procedure. When there is a reasonable cause to believe an employee is guilty of a crime for which a sentence of imprisonment can be imposed, the advance notice requirement shall not apply and such an employee may be immediately removed from a pay status. Nothing in Section 3. above will preclude time-off suspensions in instances where modification of a discharge is agreed to by the parties as a settlement or a third party determines to reduce the penalty of discharge to

a time-off suspension. Such instances of time-off suspension or non-pay, non-duty status do not entitle the employee to a day of reflection.

Section 5. Emergency Procedure

An employee may be immediately placed on an off-duty status (without pay) by the Employer, but remain on the rolls where the allegation involves intoxication (use of drugs or alcohol), pilferage, or failure to observe safety rules and regulations, or in cases where retaining the employee on duty may result in damage to U.S. Postal Service property, loss of mail or funds, or where the employee may be injurious to self or others. The employee shall remain on the rolls (non-pay status) until disposition of the case has been had. If it is proposed to discharge the employee, the emergency action taken under this section may be made the subject of a separate grievance.

Section 6. Review of Discipline

In no case may a suspension or discharge be imposed upon an employee unless the proposed disciplinary action has first been reviewed and concurred in by a higher authority. Such concurrence shall be in writing. In associate post offices of twenty (20) or less employees, or where there is no higher level supervisor than the supervisor who proposes to initiate suspension or discharge, the proposed disciplinary action shall first be reviewed and concurred in by a higher authority outside such installation or post office before any proposed disciplinary action is taken.

Section 7. Veterans' Preference

A preference eligible is not hereunder deprived of whatever rights of appeal the employee may have under the Veterans' Preference Act. However, if the employee appeals under the Veterans' Preference Act, the employee thereby waives access to any procedure under this Agreement beyond Step 3 of the grievance-arbitration procedure. A preference eligible who chooses to appeal the suspension of more than fourteen (14) days or the employee's discharge to the Merit Systems Protection Board (MSPB) rather than through the grievance-arbitration procedure shall remain on the rolls (non-pay status) until disposition of the employee's case has been had either by settlement or through exhaustion of the MSPB appeal.

Section 8. Employee Discipline Records

The records of a disciplinary action against an employee shall not be considered in any subsequent disciplinary action if there has been no disciplinary action initiated against the employee for a period of two years, except that a Letter of Warning shall not be considered in any subsequent disciplinary action if there has been no disciplinary action initiated against the employee for a period of one year.