

# **NAPS SOUTHEAST TRAINING SEMINAR**

**Savannah Georgia**

September 30, 2023



**WITH**

**JOHN ACEVES**

Helping your Member  
Appeal Writing 101

**What ELM Version Are We In**

**Elm-53,  
Changed  
September 2022**

# *Upon receiving notification of discipline from a member*

- Check to see if EAS is a current Branch member
- If not, give them form 1187 to fill out to join now (we do not have to represent non-members)
- Have them sign “Designation of Representative form” and the Request for Representation & Release form



# National Association of Postal Supervisors

## •Request for Representation & Release Form

• I, \_\_\_\_\_, a dues paying member in good standing with the National Association of Postal Supervisors, Branch \_\_\_\_\_ request disciplinary representation from NAPS Branch \_\_\_\_\_

• On (date) \_\_\_\_\_, 20\_\_\_\_-2. I was issued discipline in the form of a \_\_\_\_\_

•(Letter of Warning--LOW, Letter of Warning in lieu of a seven (7) day suspension,

•Letter of Warning in lieu of a fourteen (14) day suspension, **adverse action - removal, suspension of more than 14 days, furlough, or reduction in grade/pay.)**

• I understand that NAPS Branch \_\_\_\_\_ reserves the right to provide representation. I also understand that Branch \_\_\_\_\_ and their elected officers nor members are not paid employees of the NAPS organization nor are they legally bound to provide representation. I further understand that NAPS Branch

• \_\_\_\_\_ and its officers are not lawyers or legal advisors, and I will not hold them legally or financially responsible for the results that transpire from my disciplinary case.

• I agree to cooperate fully with my NAPS representative by providing him/her with factual written statements and documentation to support my disciplinary appeal. If during my disciplinary appeal process, I provide my NAPS representative or any

•USPS official with false written and/or verbal statements or documentation; NAPS Branch \_\_\_\_\_ may exercise their right to withdraw their representation.

•My request for NAPS Branch \_\_\_\_\_ representation is voluntary and is void of duress. I reserve the right and may (*verbally or in written form*), at anytime during my appeal process, withdraw my request for representation from NAPS Branch \_\_\_\_\_.

•(Signature of NAPS Member) \_\_\_\_\_

•(Date) \_\_\_\_\_

## NAPS Disciplinary Defense Fund Representation Request Form

DDF Applicant Name: \_\_\_\_\_

USPS EIN #: \_\_\_\_\_

Office: \_\_\_\_\_

NAPS Branch: \_\_\_\_\_

Work Phone: (    ) \_\_\_\_\_

Home Phone: (    ) \_\_\_\_\_

Date of Notice of Proposed Action or Notice of Debt Determination: \_\_\_\_\_

Date of Letter of Decision or Notice of Involuntary Offset: \_\_\_\_\_

I request representation from the NAPS Disciplinary Defense Fund (DDF). Representation will be provided by Labor Relations Admin Group, LLC. The representative provided may not be an attorney. DDF covers an initial Merit System Protection Board (MSPB) hearing or debt collection case. DDF also covers the following expenses: representative's fees, all travel, and up to \$1,000 of pre-approved evidentiary expenses. All DDF expenses are covered by NAPS headquarters for initial MSPB and debt collection cases. Member is not required to pre-fund or make a deposit of monies to receive DDF representation.

In the event the MSPB should award any payment for my legal fees, it is understood that the monies will be used to reimburse the NAPS DDF for funds expended for my representation by Labor Relations Admin Group, LLC to the extent possible under the award.

**NOTE: I have been a member of NAPS since: Month \_\_\_\_\_ Year \_\_\_\_\_**  
**If you have been a NAPS member less than 90 days from the date of the proposed action, you should supply a statement that you signed a NAPS membership application within 60 days of your promotion from the craft.**

I understand that should I seek representation through any means other than the NAPS DDF at any time, I will, in effect, discharge the National Association of Postal Supervisors and Labor Relations Admin Group, LLC of any further obligation regarding my case. Furthermore, I understand that I will have to bear the cost and consequence of any outcome resulting from this action.

\_\_\_\_\_  
Signature of Member

\_\_\_\_\_  
Signature of Branch President

\_\_\_\_\_  
Printed Name of Member

\_\_\_\_\_  
Printed Name of Branch President

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Send this signed form and a copy of the adverse action file by Priority Express Mail to:

Labor Relations Admin Group LLC  
PO Box 25822  
Brooklyn, NY 11202

A copy of this completed DDF Form MUST be sent to NAPS Executive Vice President at NAPS HQ

NAPS Headquarters  
1727 King Street, STE 400  
Alexandria VA 22314



# *Duties of a NAPS representative*

- ♠ Find out what the discipline is about  
i.e.. Personal, vindictive harassment etc
- ♠ Peel the onion back
- ♠ Ensure you have the expertise to deal with the issue effectively
- ♠ Don't be afraid to say "...let me get someone to assist you who is more knowledgeable about that department/procedure/program..."
- ♠ Submit written request from USPS for copies of all relevant documents used to determine the allegations/charges
- ♠ Preparation is very important
- ♠ It's not personal only business
- ♠ If the senior leader wants to be famous, NAPS can make them famous

# NAPS Officers Training Manual—OTM-



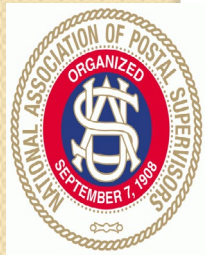
- ***Determining Cause One effective*** means of determining if there was cause for disciplinary action is for the employee and representative to review the following questions:
  - Did the Postal Service have a rule/order which reasonably related to the efficient and safe operation of the business?
  - Was the supervisor forewarned or did the employer have knowledge of the possible or probable disciplinary consequences of the employee's conduct?
  - Did the Postal Service investigate before administering discipline to determine that the supervisor did in fact disobey a rule or management order?
  - Have all related causes received the same disciplinary action? Have the penalties been applied evenhandedly and without discrimination?
  - Was the discipline administered reasonable in light of the seriousness of the offense and the past record of the supervisor?

# *Duties of a NAPS representative*

- If you are in mail processing, you can handle a case dealing with Customer Service issues (visa versa), But keep in mind when it comes to specific policies, procedures, forms, systems, etc.; you **MUST** be informed on that subject matter or find someone that is
- Branches, consider having an Adverse Action/Effect committee

**•DON'T BE AFRAID TO ASK FOR HELP!**

That is...





# *NAPS Representative Example*

*An EAS has a shortage in their master stock. You work in mail processing...*

- Do you know what the requirements are for dealing with Stamp stock?
- Check with member and then check with someone with expertise in Customer Service operations and handling stamp stock, money, etc.
- You need to know the truth to properly defend your member
- Keep in mind our member may not give you the full story



# *Duties of a NAPS representative*

*Keep in mind that the EAS in need of help can designate anyone of their choosing to represent them:*

Use your resources to assist you:

- NAPS Adverse Action Tool Kit
- Your NAPS local, state and National Branch Officers
- NAPS peers in other branches
- Training manuals on adverse action
- [www.NAPS.ORG](http://www.NAPS.ORG) member sections
- USPS references on Blue, rules, regulations, position letter, etc..



# Recommendations

## Remain Calm

- Read the letter of charges/allegations carefully and if needed out loud
- Have the person that received the discipline do the same for their input and have them take the time to write a draft rebuttal to the charges/allegations
- Make the appellant aware of ELM 650(version 53) and MSPB appeal time constraints
- With draft in hand by the appellant, now it time to construct, edit a NAPS response



# Writing Appeal Letters 101

- **Don't Panic!**

- Get the Facts
- Give Support
- No Promises
- Consult your Resources
- Adhere to a time line, ELM 650 or MSPB or Debt Coll
- Communicate with Member
- Address all allegations/charges
- Respond with facts and data
- Respond with citing policies procedures, include in the letter

With today's technology, cut paste finding rules and regulations is an easy process:

=====

## ELM 651.3 Nondisciplinary Corrective Measures

*Accountable managers/supervisors are responsible for the direct day-to-day performance management of subordinates. **The accountable manager/supervisor monitors subordinates' performance and provides appropriate resources, coaching, and feedback to subordinates. The manager/supervisor is responsible for leading the employee to a higher level of achievement.** Performance improvement should be a shared concern and effort between manager and employee. Early dialogue and guidance are critical to achieving positive results and continuance of an effective manager/employee relationship.*



# Officers Training Manual

## OTM

- Be professional
- Be prepared.
- Usually you or your member will know the STEP B manager.
- Expect the STEP B decision-making manager to be prepared and a “little” defensive.
- Do not lose control. NAPS is not a union but a professional management association.



# ELM 650

## Example of request for documentation

NAPS is requesting all documentation used to determine the proposed discipline issued to Mr. #####, to include written instructions, training documents pertaining to the allegations, copies of "appropriate resources, coaching feedback documents pertaining to the issued proposed discipline.

A copy of the request for discipline document sent to the AZ/NM District labor relations. In the event requested documents are not received with the appellant's time period with in the ELM section 652.4, NAPS is requesting a 10-day extension from the time such documents are received so an appeal as per ELM-652.4 can be fully afforded to Mr. ##### due process.

- *Thank you,*



**NATIONAL ASSOCIATION OF POSTAL SUPERVISORS**

**Branch #376  
P. O Box 17111-7111  
Tucson AZ 85731**

March 21, 2023

[REDACTED]  
Silverbell Manager, Customer Service  
975 N. Silverbell Road  
Tucson AZ 85745

Mr. [REDACTED]

As per ELM 53, section 651-2, and as per your instructions on the proposed Letter of Warning in Lieu of Seven (14) suspension issued to [REDACTED], NAPS is requesting all "materials" used to determine the proposed discipline issued to include written instructions, training documents pertaining to the allegations, copies of "appropriate resources, coaching feedback documents pertaining to the issued proposed discipline.

In addition, NAPS is requesting a copy of the request for discipline document sent to the AZ/NM District labor relations. In the event requested documents are not received with the appellant's time period with in the ELM 650, NAPS will be requesting a 10 day extension under the 650 process so [REDACTED] due process can be properly afforded to her.

Please do not hesitate to call me if you have any questions at the cell number below.

Please mail documents to:

CO/NAPS: John Aceves  
P. O. Box 17111  
Tucson AZ 85731

Or my email address: [napstheace@msn.com](mailto:napstheace@msn.com)

Thank you in advance for your prompt written response.

John Aceves  
Secretary @  
NAPS Branch 376  
520-909-0301

# Actual Issued Letter of Warning Allegations

- This letter will officially serve as appeal to the Letter of Warning issued to Mr. Supervisor, Customer Service, Station. This Letter of Warning was issued on February 18,, with specific charges of:
- **“FAILURE TO PROPERLY DISCHARGE THE DUTIES AND RESPONSIBILITIES ASSIGNED TO YOU:”** This Letter of Warning was issued on February 18,, with specific charges of:

The content under the specific failure and issuance of the discipline is Waiting Time in Line.

- The charges state, “As a Supervisor, Customer Services, you are assigned duties at Station as well as performing duties customarily associated with a supervisory position. One of your duties requires the monitoring and staffing of the customer service window. You have received instructions by me on numerous occasions to ensure VWTIL requirements! have been met.

On Tuesday, February 4, between 12:20-12:28 PM you failed to ensure adequate staffing on the window contributing to an 8:22 minute RCE. There were only 4 SSA's on the window line and no one in the lobby assistant position or assisting customers with 3849 notices, holds, forms, etc. You have failed to follow my instructions and failed to perform the duties of your position.



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- The charges state, “As a Supervisor, Customer Services, you are assigned duties at Station as well as performing duties customarily associated with a supervisory position. **One** of your duties requires the monitoring and staffing of the customer service window. **You have received instructions by me on numerous occasions** to ensure VTIL requirements! have been met.

On Tuesday, February 4, between 12:20-12:28 PM you failed to ensure **adequate staffing** on the window contributing to an 8:22 minute RCE. **There were only 4 SSA's** on the window line and no one in the lobby assistant position or assisting customers with 3849 notices, holds, forms, etc. **You** have failed to follow my instructions and failed to perform the **duties** of your position.



## ***Another way to read proposed letter(s)***

- Dissecting the verbiage
- Paying attention to the details of the Allegations of Charges
- Paying attention to frivolous statements or allegations
- Plan your response after reading the Proposed discipline several times

# NAPS Appeal Response

- This proposed discipline illustrates little regards to consultative agreements between Postal and NAPS Headquarters and the USPS letter written by Mr. William P. Galligan, Acting Vice President, Delivery and Retail. This USPS Headquarters letter clear, concise with instructions in policy which states

*"We continue to hear examples of Mystery Shopper scores being used inappropriately as the basis for discipline and letter of intent or warning. Mystery Shopper is intended to help drive the correct behavior and make employee understand why retail performance is so important to the Postal Service. This message will be totally lost if discipline is the response to unacceptable scores."*

- A copy of this letter along is included with the attachments. NAPS position is; this letter is in **complete violation** of USPS policy. However, with discipline issued, in order to comply with ELM section 650, the following appeal is submitted.

During the fact-finding conducted on February, Mr. replied to your questions and explained in depth factors regarding the eight minute twenty-one second. Score. In his responses, **he stated** that when he observed the customer line, he informed a clerk, who was **training, to stop and go to the front window**. There were four clerks at the time. **The clerk did not follow his instructions; however, he did address this issue.**

# NAPS Appeal Response

(BY paragraph)

- It is **very difficult to forecast customer flow in any Postal unit** and with Station, being the largest station in, makes this task more difficult when trying to predict customer lobby flow.
- As illustrated by Mr., he does take full responsibility and is serious about serving our customers. By loaning out one clerk also demonstrates this, however, this occurrence ended with being one clerk short. Mr., with well intentions **loaned one** of his station clerk to another station. Hindsight, this clerk should not have been loaned. The customer, flow increased, as stated became nine deep and this clerk was needed after all.
- **He instructed the clerk on training**, to return to counter immediately upon seeing the possible wait time occurrence. As **per a well know instruction, the clerks on the window did not use the intercom to call for lobby and window assistance, which Mr. has addressed this issue and will continue to look for ways to avoid waiting time for our customers, i.e. workload, clerk schedules, including his own schedule.**
- Had these instructions been followed, as depicted in Q03b of the mystery shopper response of three workstations would have been increased. Also, as per Q31a, of the mystery shoppers response of being understaffed. **Mr. understands that he probably should have made certain his instructions were followed prior to leaving for lunch. Since his lunchtime is on automatic clock rings, this time does not coincide with actual time as demonstrated by the Target receipt he showed you during the fact-finding. Supervisors on automatic clocks rings may be a concern looking into.**



# NAPS Appeal Response

- With these recovery efforts, it is uncertain as to why discipline was issued for “failure to properly discharge the duties and responsibilities assigned to you” including failure to follow, instructions are cited. Simple put, this is a “Time Waiting In Line” score issue used stealthy under the cited charge for discipline. As stated before, this contradicts with USPS National Policy.
- NAPS's ask for your review of this issue and to possible resolve, prior to NAPS proceeding through the 650 appeal and this issue ultimately ended up at USPS Headquarters for review of this senior management “failure” to follow USPS national policy.
- As per Elm, SECTION 650, NAPS would like to meet with you.
- As the Step A 10 day appeal period is February , please advise of your earliest date to meet.
- 
- Thank you in advance for your consideration and assistance in this matter. Please do not hesitate to call me if you have any questions at 520-909-0301
- 
- John B. Aceves

William P. Galligan  
Acting Vice President, Delivery and Retail



March 8, 2004

VICE PRESIDENTS, AREA OPERATIONS  
MANAGER, CAPITAL METRO OPERATIONS

SUBJECT: Mystery Shopper Discipline

This letter is to once again reinforce the intent of the Mystery Shopper Program.

The program's primary purpose is to provide a tool that helps identify the level of service that our customers receive at a particular unit and at a specific time. Shop results should be used to correct conditions that are detrimental to customer satisfaction and coach Sales and Service associates on revenue growth opportunities.

We continue to hear examples of Mystery Shopper scores being used inappropriately as the basis for discipline and letters of intent and warning. Mystery Shopper is intended to help drive the correct behavior and make employees understand why retail performance is so important to the Postal Service. That message will be totally lost if discipline is the response to unacceptable scores.

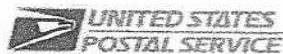
We have to look beyond the scope of our employees and put ourselves in the position of the customer. A Mystery Shopper is simply a customer. How can we give them an "outstanding" customer experience? We can do so by giving customers a pleasant greeting, asking all the Mystery Shopper questions, and suggesting some of the great products and services like Click-N-Ship and Carrier Pick-Up we now offer. This is what we want the customer experience to be at the United States Postal Service.

Negative behavior is to be addressed through the utilization of the PS Form 4000-A for retail lobby operations and the PS Form 4000-B for retail employee observations. If these coaching sessions and discussions fail to provide the desired behavior change, then discipline may be appropriate using this venue, not the Mystery Shopper Program.

Please share this information with your field Operations and Labor Relations personnel.

Thank you for your continued support.

  
William P. Galligan



September 13, 2013

VICE PRESIDENTS, AREA OPERATIONS

SUBJECT: Retail Customer Experience Evaluations

This letter is a reminder concerning the proper use of the Retail Customer Experience (RCE) Program Evaluations.

The program's primary purpose is to provide a tool that helps identify and measure the customer's retail experience. Evaluation results should be used to correct conditions that are detrimental to the customer experience and coach Sales and Service Associates (SSA's) on revenue growth and customer satisfaction opportunities.

RCE scores being use inappropriately as the basis for discipline, Letters of Warnings and now Emergency Placements are not the intent of the program. The RCE is intended to help drive correct behavior and assit in making clear to our SSA's why retail performance is so important to the Postal Service. This message will be totally lost if discipline is the response to unacceptable scores.

We have to look beyond the scope of our employees and put ourselves in the position of the customer. An RCE Shopper is simply a customer. How can we give them an outstanding experience? We can do so by using the perfect transaction as a template (not a robotic requirement) to offer the services that meets the customers needs.

The utilization of the PS Form 4000A for retail lobby observations and PS Form 4000B for retail employee observations are the tools that observe interactions and addresses deficiencies. If the employee does not meet expectations, coach the employee in ways to improve knowledge and performance and correct the behavior.

The RCE Program is not to be used for discipline. Please share this information with your Field Operations and Labor Relations personnel.

Thank you in advance for your continued support concerning this matter.

A handwritten signature in black ink, appearing to read "E. Phelan, Jr.", written over a horizontal line.

Edward F. Phelan, Jr.

cc: Manager, Customer Service Operations, HQ  
Labor Relations, Headquarters  
Robert Strunk, Director Clerk Craft, APWU

## *Do Not Hesitate to use language such as*

- 1) Unwarranted
- 2) Harassment
- 3) We agree to disagree
- 4) **In NAPS view**
- 5) **In NAPS opinion**
- 6) Violation
- 7) We have come to a professional impasse
- 8) Expunge proposed discipline
- 9) Expunge discipline
- 10) Incorrect
- 11) Violation of local, national policies
- 12) Ask to provide in writing the policies, rules, regulation of alleged charge(s)
- 13) Appeal response provide as #12
- 14) Procedurally defective



# **HR-595 –Introduced by: Representative Gerald E. Connolly-VI RE-Introduced in House (01/27/2023) Postal Employee Appeal Rights Amendments Act**

- This bill extends federal employee protections against adverse personnel actions, including the right to appeal such actions to the Merit Systems Protection Board, to additional categories of employees at the U.S. Postal Service (USPS).
- Specifically, it extends such protections to any officer or employee of the USPS who is not represented by a bargaining representative and is in a supervisory, professional, technical, clerical, administrative, or managerial position covered by the Executive and Administrative Schedule.



# Hitting the Douglas Factors on Appeals from an appeal example

- Mr. ##### has been a USPS employee for 15 years of service in the Postal Service. Mr. ### is a Veteran serving his Country for 6 years in the U.S. Army.
- Mr. ##### is an employee that with the correct resource and coaching will once again bring his skill set back to a level where when some believed in him to promote him to EAS -17, Supervisor of Customer Service. Mr. ##### asks that mitigating circumstances be given another consideration and other minimized corrective action be considered. Mr. ##### is willing to take a craft position anywhere in the USPS within the &&&& area.
- 
- NAPS would like to thank you for your reconsideration of Mr. ##### 's case and rather than take your offer given to him at the meeting of October 8, \*\*\*, for Mr. ##### to resign from the USPS, NAPS requests for you to reconsider and take another review of mitigating circumstances within Mr. ##### case and give him an opportunity to prove himself once again as an active, gainfully USPS employee.

# **ELM-721-Defense Measure**

## **•ELM 721.4 Supervisors and Managers**

**Supervisors and managers are responsible and accountable for:**

- a. Ensuring that employees under their supervision are trained in a timely manner to perform their assigned job tasks.
- b. Identifying employees' needs for improvement in their present jobs.
- c. Planning for their employees' training, in coordination with training systems available for their facilities.
- d. Following up after employees complete formal job training to ensure that they use newly acquired knowledge, skills, and abilities optimally and appropriately.
- e. Identifying and providing other training to meet the organization's and individual employees' needs.
- f. Evaluating and supporting as appropriate employee requests to participate in self-development training opportunities.
- g. Providing employees with information and guidance on career growth.
- h. Documenting the outcomes and expectations of providing training, including the return on investment.

## **•721.5 Employees**

- Employees are responsible for:
  - a. Making effective use of training opportunities that management provides.
  - b. Consulting with their supervisors and pursuing personal career goals to guide their own growth and development.
  - c. Continuing throughout their careers to learn and improve their knowledge, skills, and abilities while sharing what they have learned with other employees

# Short Appeal Exercise

- A supervisor was given a letter of warning in lieu of 7 day suspension for failure to perform assigned duties,
- Carriers out past 6 PM (BTW, on a full coverage day)
- Appeal errors in the proposed discipline, such as using Letter of Warning 650- appeal
- What steps/actions will you take?



# ELM 651.64

## 651.64 Response

The employee and/or his or her representative **may respond to the proposed letter of warning in lieu of time-off suspension in writing and/or in person to the deciding official** (management at a higher level of authority than the individual who issued the proposed letter of warning in lieu of time-off suspension) within **10 calendar** days of receipt. **You must include the name and title of the deciding official in your response.**

## 651.65 Decision

The deciding official, after consideration of the facts of the case and the employee's response, issues a letter of decision after the expiration of the **10-calendar day** period for reply, but no later **than 30 calendar days** following the receipt of the employee's response. The decision letter will advise the employee that he or she may appeal in writing within **15 calendar** days of receipt of the letter of decision.

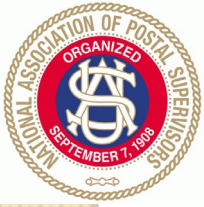
# ELM 651.3

- NAPS is requesting all documentation used to determine the proposed discipline issued to Mr. #####, to include written instructions, training documents pertaining to the allegations, copies of "appropriate resources, coaching feedback documents pertaining to the issued proposed discipline.

## 651.3 Nondisciplinary Corrective Measures

Accountable managers/supervisors are responsible for the direct day-to-day performance management of subordinates. The accountable manager/supervisor monitors subordinates' performance and provides appropriate resources, coaching, and feedback to subordinates.

The manager/supervisor is responsible for leading the employee to a higher level of achievement. Performance improvement should be a shared concern and effort between manager and employee. Early dialogue and guidance are critical to achieving positive results and continuance of an effective manager/employee relationship.

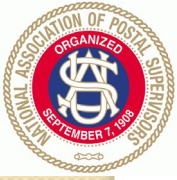


# ELM 650 REVIEW

LOW in Lieu of Time-Off Appeal  
7 Day or 14 Day or Adverse Action

## First Option – Request 650 Mediation

- Highly Recommended.
- What gets 650 Mediation?
  - Letters of Warning in Lieu of Time-Off Suspensions and/or Time-off Suspensions
  - Adverse Action: Suspension over **14-days** without pay, downgrades and removals
  - Not always offered by USPS, subject to circumstances
- What happens at 650 Mediation?



# USPS ELM 650

## Adverse Action Appeal

**Removals, Suspensions >14 Days, Furloughs or Reduction in Grade (ELM 652.2)**

- Ask for Mediation (subject to USPS offering) No Decision at mediation -
- Appeal in 10-days of receipt in writing/person or both to Deciding Official

*(Note: There is no in person discussion with Deciding Official if mediated - ELM 652.54)*

- Deciding official gives written decision no later than 60 days
- Employee rights stated in Letter of Decision
- Appeal to MSPB, ELM 650 Hearing, Area HR Manager
- Adverse Action: Recommend MSPB – Member's decision
- NAPS Disciplinary Defense Fund (DDF) may be available





# ELM 650 STEP A Appeal

## ELM 652.42 – OTM Section 8

Letters of Warning & Emergency Placement in a non-duty status (652.4) other matters are covered by 652.2

- Appeal in writing **AND** verbally to issuing supervisor or manager within 10 calendar days of receipt of action.
- May discuss case during appeal period.
- Written *USPS* **STEP A** decision to be received within 10 calendar days after receipt of member's appeal.
- Extenuating circumstances may delay response, request an extension and in your letter must explain reason for delay in appeal letter.



# ELM 650 Review Process

ELM 652.44 – OTM Section 8

- May request Review within **15-days** of **STEP B** decision.
- Written Appeal for Review directed to Area HR Manager.
- Give specific reasons for **STEP B** decision review.
- Area Official replies in writing within 60 days.
- States the disposition of the employee's request.
- The reply from the Area Review is final.
- Discipline can remain in OPF up to 2-years. Contact Shared Services to have disciplined removed after timeframe. Submit PS Form 8043 to request removal of discipline.



# ELM 650

LOW in Lieu of Time-Off Appeal  
7 Day or 14 Day or Adverse Action

## First Option – Request 650 Mediation

- **Highly Recommended.**
- What gets 650 Mediation?
  - Letters of Warning in Lieu of Time-Off Suspensions and/or Time-off Suspensions
  - Adverse Action: Suspension over **14-days** without pay, downgrades and removals
  - Not always offered by USPS, subject to circumstances
- What happens at 650 Mediation?



## Request for ELM 650 Mediation

USPS Case Number (Completed by 650 Facilitator)	FMCS Case Number (Completed by 650 Facilitator)
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### I. Appellant/Requester Information

Appellant's Name (Last, First, MI)	Employee Identification Number	Home Telephone Number ( )
------------------------------------	--------------------------------	---------------------------

Home Mailing Address (Include, City, State and ZIP+4)

Facility Where You Work (City, State, ZIP+4)	Position Title	Position Level	Office Telephone Number ( )
--	----------------	----------------	-----------------------------

Pay Location	Facility Finance Number	Duty Hours (Include AM/PM)	Off Days/Nights
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### II. Issuing Management Official Information

Name (Last, First, MI)	Job Title	Telephone Number ( )
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### III. Type of Discipline Issued (Check One)

<input type="checkbox"/> LOW in Lieu of 7-Day Suspension	<input type="checkbox"/> LOW in Lieu of 14-Day Suspension	<input type="checkbox"/> Downgrade	<input type="checkbox"/> Removal	<input type="checkbox"/> Other (Specify)
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### IV. Representative Information

Name	Telephone Number ( )	Duty Hours (Include AM/PM)	Off Days/Nights
------	----------------------	----------------------------	-----------------

Work Location (City, State, ZIP+4)	Position Title	Representative Organization
------------------------------------	----------------	-----------------------------

### V. Request for Mediation (with Discipline Attached)

- 1) I, \_\_\_\_\_, am voluntarily requesting that the disciplinary action issued to me on \_\_\_\_\_ be mediated before a mediator appointed by the Federal Mediation and Conciliation Service.
- 2) I understand that by requesting mediation I am not forgoing any appeal rights granted by section 650 of the Employee and Labor Relations Manual (ELM). Rather, if mediation does not result in a resolution of the issue, I will still have the right to appeal the issuance of this discipline through the traditional appeal process afforded by section 650 of the ELM.
- 3) I understand that **this form (or written request) and a copy of the discipline** must be sent within **ten (10)** calendar days from my receipt of an applicable disciplinary action to the **ELM 650 Mediation Facilitator, Manager EEO Compliance and Appeals, located in my region. Employees at Postal Service Headquarters and Headquarters Filed Units and employees of the Inspection Service should notify the ELM 650 Facilitator at Postal Service Headquarters. The discipline must show the date it was received by me.** Additionally, I will notify the management official who issued the action and the appropriate District or Area Labor Relations office of my intention to participate in ELM 650 mediation.

### VI. Privacy Act Statement and Rehabilitation Act Notice

**Privacy Act Statement:** Your information will be used to adjudicate complaints of alleged discrimination and to evaluate the effectiveness of the EEO program. Collection is authorized by 39 U.S.C. 401, 409, 410, 1001, 1005, and 1206. Providing the information is voluntary, but if not provided, we may not be able to process your request. We may disclose your information as follows: in relevant legal proceedings; to law enforcement when the U.S. Postal Service (USPS) or requesting agency becomes aware of a violation of law; to a congressional office at your request; to entities or individuals under contract with USPS; to entities authorized to perform audits; to labor organizations as required by law; to federal, state, local or foreign government agencies regarding personnel matters; to the Equal Employment Opportunity Commission; and to the Merit Systems Protection Board or Office of Special Counsel. For more information regarding our privacy policies visit [www.usps.com/privacypolicy](http://www.usps.com/privacypolicy).

**Rehabilitation Act Notice:** Under the Rehabilitation Act, medical information is confidential and may only be requested or disclosed in very limited circumstances. Medical documentation about the complainant's and possible comparison employees' medical conditions and work restrictions may be requested in connection with the investigation of an EEO complaint. Information about medical restrictions (but not medical conditions) obtained in the course of an EEO investigation may be disclosed to supervisors and managers who need to know about restrictions on the work or duties of the employee and about necessary accommodations. Supervisors and managers are not permitted to share such information with peers or subordinates or to discuss the information with those who have no need to know and whose requests for the information are not job-related and consistent with business necessity.

### VII. Authorization

Appellant's Signature	Date
-----------------------	------



# ELM 650

LOW in Lieu of Time-Off Suspensions 7 Day or 14 Day Mediation

## ***What if you don't settle in 650 Mediation?***

- Appeal in 10 days of receipt to deciding official regarding the **“no decision”** received at the end of the mediation.
- Appeal in **writing** to Deciding Official. *There is no in person discussion with Deciding Official if mediated - ELM 652.54)*
- Deciding Official issues “Letter of Decision” no later than 30 days.
- Appeal Decision Letter within 15 days Area HR Manager.
- Area appeal is based solely on record. No opportunity to meet with reviewing official. The Review decision is final.
- Discipline can remain in OPF up to 2-years. Contact Shared Services to have disciplined removed after timeframe. Submit PS Form 8043 to request removal of discipline.



## ELM 650

### LOW in Lieu of Time-Off Appeal 7 Day or 14 Day

ELM 651.64 -651.66

#### **What if the Member decides not to mediate the LOW in Lieu of Time Off?**

- Appeal the Proposed Letter in writing and/or in person to the deciding official (next higher level manager) within 10-days of receipt of the letter.
- Follow the same documentation format as Step A.
- Deciding official issues letter of decision, no later than 30-days after 10-day appeal deadline.
- Decision Letter – 15 days to file for a written Appeal for Review directed to Area HR Manager. Area appeal is based solely on record. No opportunity to meet with reviewing official. The Area review decision is final.



## USPS ELM 650

### Adverse Action Appeal

Removals, Suspensions > 14 Days, Furloughs or Reduction in Grade (ELM 652.2)

- Ask for Mediation (subject to USPS offering) No Decision at mediation -
- Appeal in 10-days of receipt in writing/person or both to Deciding Official

*(Note: There is no in person discussion with Deciding Official if mediated - ELM 652.54)*

- Deciding official gives written decision no later than 60 days
- Employee rights stated in Letter of Decision
- Appeal to MSPB, ELM 650 Hearing, Area HR Manager
- Adverse Action: Recommend MSPB – Member's decision
- NAPS Disciplinary Defense Fund (DDF) may be available



# ELM 650 STEP B Appeal

ELM 652.43 – OTM Section 8

- After **STEP A** decision received, submit written appeal to next higher-level manager within 7 calendar days. This is known as **STEP B** Appeal.
- Include a copy of all the documents you relied on to prepare the initial appeal.
- Schedule meeting to verbally discuss **STEP B** appeal.
- Include employee information and basis for appeal.
- **STEP B** Deciding Official may discuss appeal with parties.
- Deciding Official renders a written decision within 10-calendar days after receipt of member's STEP B appeal.
- Usually this decision is final – Except!



# How About The Proposed Discipline Being

- Procedurally Defective
- **Recommendation:**
  - Always use CC bottom of page
- Example: Branch President, CC to State, Area and Regional VP and if needed NAPS Headquarters
- This way those in charge will see who is receiving a copy and know this is going up the chain if required

# Management Instruction

## •Procedures for Proposed Adverse Actions Against EAS Levels 18 and Above, Technical and Management Pay Bands, and PCES 01 Executives

### •Overview

•This management instruction (MI) provides the required procedures for the following:

- Developing and finalizing notices of proposed adverse actions against Postal Service™ employees in the following groups:
  - Executive and Administrative Schedule (EAS) levels 18 and above.
  - Technical and Management Pay Bands.
  - Postal Career Executive Service (PCES) 01 executives.
- Required consultations when the Postal Service is placing an employee on administrative leave.

•This MI does not apply to employees of the following:

- Inspection Service.
- Office of Inspector General.

## •Adverse Action Procedures

### •Definitions

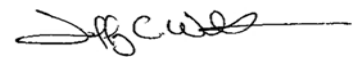
•All definitions are for the purpose of this MI.

•**Adverse actions** — Removals; suspensions of more than 14 days; furloughs for 30 days or less; and reductions in grade, pay, or both.

•**Appropriate human resources or labor personnel** — As defined below:

- a. For field employees, including district and area employees, the manager, Human Resources, or the manager, Labor Relations, for the appropriate district or area. Area Human Resource managers may establish procedures regarding the appropriate contacts for consultations in their area and districts.
- b. For headquarters and headquarters field units, the manager, Human Resources, Headquarters.

•Date October 11, 2018  
•Effective Immediately  
Number EL-380-2018-2  
•Obsoletes EL-380-2017-7  
Unit Labor Relations



•Jeffrey C. Williamson  
• Chief Human Resources Officer  
and Executive Vice President

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•**Designated legal counsels** — As defined below:

- a. For field employees, including district and area employees, the appropriate field Managing Counsel or designee.
- b. For headquarters and headquarters field unit employees, the General Counsel or designee.

•**Initial Assessment and Draft**

•Before drafting the proposed adverse action, the proposing official must consult with appropriate human resources or labor personnel. During the consultation, the group must consider the following:

1. Whether the relevant facts supporting the action are substantiated; and
2. Whether the selected penalty is reasonable and warranted by the severity of the charges.

•The proposing official is responsible for completing a draft notice of proposed adverse action in consultation with the appropriate human resources or labor personnel. The notice of proposed adverse action must have sufficient detail to provide the individual adequate notice of the facts supporting the charge or charges. The notice must include the following:

1. **A discussion of the appropriateness of the proposed penalty.** The penalty discussion must address both mitigating and aggravating factors that the proposing official took into account before selecting the penalty proposed in the notice. The proposing official must cite any prior disciplinary action he or she relied upon for the penalty assessment and attach a copy of the referenced action to the draft notice.
2. **The proper appeal rights** as set forth in section 650 of the *Employee and Labor Relations Manual*, including the option to mediate the proposed action instead of replying orally to the deciding official. In regards to appeal rights, the deciding official must include in the proposed notice the name and address of the appropriate officials to whom an employee must send the following:
  - a. A request for mediation.
  - b. An appeal.

•The proposing official must send the final version of the draft to the appropriate human resources or labor personnel.

•**Legal Counsel Review and Recommendations**

•These are the steps of the legal counsel review and recommendations:

1. The appropriate human resources or labor personnel must submit to the designated legal counsel the following:
  - a. The draft notice of the proposed adverse action.
  - b. All documentation pertaining to that action.

# Recommendations

- **Each action is it's own and stands on it's own**
- **Take into consideration, charges/allegations could be bogus, but you still address them all as if your appeals will end up in MSPB**
- **Types of discipline issues:**
  - **a. Letters of Warning**
  - **b. Letters of Warning in Lieu of Time Off Suspension**
  - **c. Adverse Action-(removals, downgrades etc)**
  - **d. Emergency placement**
- **However, any action is an adverse effect may end up in an adverse action!**



- ELM 53 650 Nonbargaining Disciplinary, Grievance, and Appeal Procedures

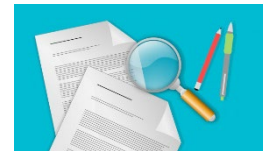
- Emergency Placement (EP) in Off-Duty Status

- Letters of Warning and Grievances

- 652.4 Other Appealable Actions

- NAPS Note:** Follow the 3-Step ELM 650 Process and adhere to timelines when preparing and submitting a written appeal for a case involving Emergency Placement (EP).

- 3 Step Appeal Process



- 652.42 Step A:** Initial Appeal -- **10** days to file from date Emergency Placement was implemented.

- 652.43 Step B:** 7 days to appeal **STEP A** decision

- 652.44 Review:** 15 days to appeal **STEP B** decision





October 29, 2009

MANAGERS, HUMAN RESOURCES (AREA)

SUBJECT: Emergency Placement

In recent discussions with the management associations, the issue of placing non-bargaining employees in an off-duty status without pay on an emergency basis was discussed. The language relevant to this issue is outlined in Section 651.4 of the Employee and Labor Relations Manual (ELM). This section provides in pertinent part:

An employee may be placed in an off-duty nonpay status immediately but remains on the rolls when he or she (a) exhibits characteristics or impairment due to alcohol, drugs or other intoxicant, (b) fails to observe safety rules, (c) fails to obey a direct order, (d) provides reason to be deemed potentially injurious to self or others, or (e) disrupts day-to-day postal operations in any other way. Placement in an off-duty nonpay status is confirmed in writing, stating the reasons and advising the employee that the action is appealable. The employee should be returned to duty after the cause for nonpay status ceases unless individual circumstances warrant otherwise. Use of these emergency procedures does not preclude disciplinary action based on the same conduct.

Emergency placement in an off-duty status without pay is to be used in those instances where it is necessary to remove the employee from the premises immediately. This provision should not be utilized when it is more appropriate to use other corrective measures such as a normal suspension or indefinite suspension.

Where it is necessary to ensure that an employee does not have access to the work place for a period in excess of a few days, the employee may be placed on administrative leave. This is the appropriate measure to take in those situations where allegations of misconduct are being investigated and the nature of the misconduct makes it impractical to temporarily assign the employee to another work location. However, managers have the responsibility to periodically review the retention of an employee on administrative leave to ensure that continuation in this status is necessary. When additional options become available, such as having information available as a basis to place the employee on a regular or indefinite suspension, appropriate action should be initiated.

A handwritten signature in dark ink, appearing to read "D. A. Tulino".

Doug A. Tulino



March 19, 2014

MANAGERS, HUMAN RESOURCES (AREA)

SUBJECT: Emergency Placement

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A handwritten signature in dark ink, appearing to read "Doug A. Tulino".

Doug A. Tulino



EAP Services

Suicide Prevention

Veterans & Military

Substance Abuse

Library

Monthly Focus

Advisory Committee



## Building Emotional Intelligence

Emotional intelligence is the ability to understand, use and manage your emotions in positive ways to relieve stress, communicate effectively, empathize with others, overcome challenges and defuse conflict. We encourage employees to visit our EAP anytime for support in increasing your emotional intelligence to build stronger relationships, succeed in the workplace and achieve personal and professional goals. Visit our [Monthly Focus](#) page to learn more on the topic of improving emotional intelligence.



**HOLD THOSE  
ACCOUNTABLE!**

***WHO HOLD YOU  
ACCOUNTABLE!***



# •NATIONAL ASSOCIATION OF POSTAL SUPERVISORS

•National Headquarters

•1727 KING STREET, SUITE 400

•ALEXANDRIA, VA 22314-2753

•(703) 836-9660



•IVAN D. BUTTS

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•Alexandria, VA 22314-2753

•OFFICE – 703 836-9660

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•E-MAIL – [naps.ib@naps.org](mailto:naps.ib@naps.org)

August 15, 2022

To All NAPS EAS:

•I hope this letter finds you well. I have received complaints from around the country of concerns that leadership is continuing to mandate that EAS violate the Collected Bargaining Agreement (CBA) by performing craft work. This issue was taken directly to USPS HQ during a consultative held in November 22, 2021. The minutes of this consultative were published in the April 2022 edition of the Postal Supervisor. Also, this communication has been sent out in a subsequent email by the NAPS Executive Vice President as well as the other Management Association.

•NAPS is in agreement with the position taken by USPS HQ Labor Relations and commits to work with our Executive Board members in the escalation process if these craft contractual violations continue to be mandated by local leaders. Below is the consultative agenda item and USPS HQ Labor Relations response on this subject of Article 8 violation being instructed carried out by local leaders.

•From November 22, 2021 Consultative

•Agenda Item #14

•NAPS Inquiry:

•NAPS said that as the Resident Officers and Executive Board members attend NAPS-sponsored events, such as branch meetings, training seminars and conventions, they consistently are hearing from NAPS members across the country that supervisors, managers, MPOOs, postmasters and other EAS employees are being forced to case and/or deliver mail. In fact, they often are ordered to case and deliver routes by senior district leadership. This is in violation of all craft collective-bargaining agreements, not to mention how these EAS employees who are being forced to deliver mail can get their own work done and certainly will be held accountable for office failures. These demands also will generate grievance activity that managers will be forced to pay, further hurting TOE and other NPA indicators. NAPS requested USPS Headquarters to issue directives that EAS employees may not be forced, coerced or otherwise required to case routes or deliver mail, as that is a function of the craft.

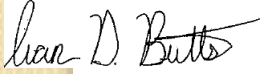
•USPS Response:

•Non-bargaining employees only may be permitted to perform bargaining-unit work in emergency situations. (The exception is for Level-18 post offices and part-time post offices where 15 hours of bargaining-unit work can be performed.) Those emergency situations must be just that—an emergency. The circumstance or circumstances must be unforeseen. If a facility, installation or district is planning to schedule a non-bargaining employee to perform bargaining-unit work and because planning is not **an unforeseen circumstance and not an emergency, it should be reported to District Labor Relations or Human Resources immediately and escalated.**



•I encourage you to use this official USPS HQ position in addressing this issue with your local leadership and engage with your NAPS Executive Board member representing your area if escalation to NAPS HQ is needed to address any and all unresolved issues. Please feel free to call me on (703) 836-9660 at any time. I can also be reached at my email – [naps.ib@naps.org](mailto:naps.ib@naps.org).

•Sincerely and in Solidarity,

A handwritten signature in black ink that reads "Ivan D. Butts". The signature is written in a cursive, flowing style.

•Ivan D. Butts

•NAPS National President

•cc: Thomas Blum, Vice President, Labor Relations

•Bruce Nicholson, Labor Relations Policy Administration



**If you enjoyed the  
Training, please tell  
someone, if you did  
not, please tell me.**

**•NAPS**



**Thank you for  
everything you  
do for **USPS** and  
**NAPS** and Thank  
you for the  
privilege of your  
time**

**Questions**

