

OFFICE OF THE GENERAL COUNSEL  
Division of Operations-Management

MEMORANDUM 97-52

July 31, 1997

TO: All Regional Directors, Officers-in Charge and  
Resident Officers

FROM: Richard A. Siegel, Acting Associate General Counsel

SUBJECT: MOU between USPS and APWU

We are very pleased to announce that the United States Postal Service and the American Postal Workers Union (APWU) have entered into a Memorandum of Understanding (MOU) whereby they have agreed to follow an alternative dispute resolution procedure for the processing of refusal-to-provide-information cases. If the procedures operate as envisioned in the MOU, there should be very few refusal-to-provide-information charges filed by the APWU. This will result in a lightening of the Regions' substantial workload in processing these types of cases. The MOU is attached for your convenience.

The MOU requires the parties to process all requests for information through a clearly defined internal procedure prior to filing an unfair labor practice charge with the NLRB. If the parties' internal procedures fail, the Union may file an unfair labor practice charge with the General Counsel in Washington DC. At that point the charge will be docketed in the Region where the controversy arose. However, before the Region begins processing the case, the MOU provides that the entire documentary record which is developed in the underlying ADR procedures will be presented to the Board's Division of Enforcement so that settlement discussions can be pursued with representatives from that Division. If settlement discussions fail, the case will be returned to the Region for normal processing. Accordingly, after investigating the charge, the Region will determine whether dismissal or issuance of a complaint is appropriate. It is the parties' intent that in cases where issuance of complaint is warranted, the matter will often be appropriate for a summary judgment motion. As noted, if the MOU operates in the manner set forth, there should be very few unfair labor practice charges filed over refusals to provide information and those that are filed should be filed with a fairly complete documentary record which should reduce the need for an extended investigation.

This Agreement was signed July 25, 1997 and is effective immediately. Therefore, if a refusal-to-provide-information charge is filed in your Region by the APWU or any of its locals against the USPS, please remind the APWU representative of the existence of the MOU and solicit a withdrawal if the ADR procedures have not been followed. If the charging party refuses to withdraw the charge, notify Assistant General Counsel Gary Shinnars of the Compliance

Litigation Branch prior to taking any further action on the charge. AGC Shinnery will notify the APWU at the national level to solicit a withdrawal on the Region's behalf. In the event that the APWU does not wish to withdraw the charge and the Region believes that it is covered by the attached MOU, please consult your AGC or Deputy and AGC Shinnery. Once a determination is made regarding the processing of such a charge, we will share that determination with the field to ensure a consistent approach.

This agreement does not waive Section 10(b). However the procedures should easily be completed within a 6-month period. The parties do not anticipate any problems arising as a result of Section 10(b). However, should you receive a charge raising such issues, please consult your AGC or Deputy and AGC Shinnery.

We would like to explore with the parties the possibility of expanding the agreement to cover charges which are pending in the field. To this end, we ask that you provide us with a list of all refusal-to-provide-information charges filed by the APWU against the USPS that are pending in your office. Please give us the case number, a brief summary of the facts and the current status of the case. Please provide this information to your AGC or Deputy within 2 weeks of the date of this memorandum.

An assessment of this innovative approach to dispute resolution will be made after the procedures have been in operation for a year. We are optimistic that this MOU will result in fewer cases filed in the field and a concomitant lessening of your workload. Our highest compliments are owed to Acting Deputy Associate General Counsel Anne G. Purcell and AGC Gary Shinnery whose perseverance and diplomacy were essential to keeping these negotiations on track.

R.A.S.

Attachments

cc: NLRBU  
NLRBPA  
Release to the Public

MEMORANDUM OM 97-52

**MEMORANDUM OF UNDERSTANDING**  
**BETWEEN THE**  
**UNITED STATES POSTAL SERVICE**  
**AND THE**  
**AMERICAN POSTAL WORKERS UNION, AFL-CIO**

**NLRB Dispute Resolution Process**

The United States Postal Service and the American Postal Workers Union, AFL-CIO, in continuation of their commitment made during the collective bargaining process to the effect that the parties would explore alternative procedures to reduce the number of unfair labor practice charges with the National Labor Relations Board, agree to the following procedure for the handling of Union information requests:

1. With respect to requests for information under Articles 17.3 and 31.3 of the National Agreement, the Union may request and shall obtain access through the Postal Service to files and other records relevant and necessary for collective bargaining or the enforcement, administration or interpretation of the National Agreement. In this regard, the parties reaffirm their commitment to the principles set forth in the December 2, 1993 memorandum of Vice President Joseph J. Mahon, Jr., which is appended as an attachment hereto: the Union is entitled to all relevant and necessary information to perform its bargaining obligations as the representative of bargaining unit employees, and if the requested information has some bearing on an issue between the parties, it should be disclosed to the Union. Information requests for employee time records, employee leave records, employee prior discipline records, employee staffing records and employee work schedule records are generally regarded as relevant with respect to the Union's determination whether or not to file a grievance concerning those matters. If the request is unclear as to what information is being requested, Management should seek clarification from the Union and the Union will provide in a timely fashion a more precise statement of what is being requested. The fact that the information does not reside in the local unit is not sufficient by itself to deny an information request if the information is accessible by alternative means. The Union will provide Management with a completed "APWU Request For Information Form," which is appended as an attachment.

2. Management shall provide the requested information, a date on which the information will be forwarded or a written statement explaining why the information will not be provided to the Union within seven (7) days of the request. The parties may agree to mutually extend the time limits set forth in this dispute resolution process.

3. If the request is denied, the request shall be forwarded to District Management along with copies of the related correspondence and documents. The District Management representative will review the request as expeditiously as possible, and shall provide the requested information, a date on which the information will be forwarded or a written statement explaining why the information will not be provided within ten (10) days following receipt of the referral.

4. If Management does not provide the requested information at the District level, the request shall be referred to the parties' Area representatives. After review of the request by the Area Management representative, the Union shall provide a statement of position if requested by the Area Management representative, which shall be included in the file along with a statement of position by Management and any other related correspondence and documentation. Either party may supplement the file, if deemed necessary. The parties' Area representatives shall discuss the matter within twelve (12) days following referral of the Union's request for information.

5. If Management does not provide the requested information at the Area level, the entire file, which should include both parties' position statements and any other supporting documentation, shall be sent to the Union and Postal Service Headquarters. Either party may supplement the file, if deemed necessary. The Vice President of Labor Relations or his designee and the President of the Union or his designee shall discuss the matter within twelve (12) days following referral of the Union's request for information and, where possible, issue at least a verbal decision. The parties envision few disputes reaching the Headquarters level as it is the desire of all concerned that any disputes about the propriety of an information request be settled at the lowest possible level in the parties' respective organizations.

6. With respect to information requests originating at the Headquarters level, if such a request is denied by Management, the parties agree to meet and discuss the matter at the Headquarters level no later than the end of the month following the denial of the information request, and to exchange written statements of position and copies of related correspondence and documents prior to the meeting.

7. Pending exhaustion of these dispute resolution steps, no unfair labor practice charge asserting improper denial of an information request will be filed with the Board. If the information request dispute is not resolved by the parties within fourteen (14) days of the Headquarters level meeting, it is envisioned that the Union

may file an unfair labor practice charge with the General Counsel of the National Labor Relations Board in Washington, D.C., pursuant to Section 102.33(a) of the Board's Rules and Regulations. Upon such filing, the parties agree to provide to the Board's Division of Enforcement a copy of the parties' written statements of position and other correspondence and documents set forth above, and agree to meet with representatives of the Division of Enforcement for the purpose of settling the case. If the case cannot be settled, and the charge is deemed meritorious, it is the parties' intent that in appropriate cases the matter be submitted to the Board through motion for summary judgment.

8. The process set forth in this agreement is prospective only and has no applicability to any case currently pending before the Board.

9. The parties understand that the process set forth above is experimental in nature, that it will continue for one year, and that immediately prior to the expiration of that time period the parties and the Board will meet to discuss continuation of the program. Any party or the Board may, with sixty (60) days advance notice, discontinue participation in the program described above.

10. The process set forth in this agreement is entered into without precedent or prejudice to any party's position in any matter, and may not be cited in any forum for any purpose except to enforce its terms.

/s/ \_\_\_\_\_  
William Burrus, Executive Vice  
President  
American Postal Workers Union,  
AFL-CIO

/s/ \_\_\_\_\_  
Joseph J. Mahon, Jr., Vice President  
United States Postal Service

