



American Postal Workers Union, AFL-CIO

1300 L Street, NW, Washington, DC 20005

Michael O. Foster
Director
Motor Vehicle
Service Division
202-842-4240 (Office)
202-842-8517 (Fax)

Initiate National Dispute

November 16, 2023

Sent via Email and First-Class Mail

Mr. Thomas Blum
Vice President, Labor Relations
U.S. Postal Service, Room 9014
475 L' Enfant Plaza
Washington, D.C. 20260

National Executive Board

Mark Dimondstein
President

Debby Szeredy
Executive Vice President

Elizabeth "Liz" Powell
Secretary-Treasurer

Charlie Cash
Director, Industrial Relations

Lamont Brooks
Director, Clerk Division

Idowu Balogun
Director, Maintenance Division

Michael O. Foster
Director, MVS Division

Arrion Brown
Director, Support Services Division

Amy Puhalski
Coordinator, Central Region

A.J. Jones
Coordinator, Eastern Region

Tiffany Foster
Coordinator, Northeast Region

Yared Wonde
Coordinator, Southern Region

Omar M. Gonzalez
Coordinator, Western Region

RE: APWU No. HQTV20230514

Dear Mr. Blum:

In accordance with Article 15, Sections 2 and 4 of the National Agreement, the American Postal Workers Union is initiating a Step 4 dispute regarding the Postal Service's imposition of work requirements related to, but not mandated by, the Federal Motor Carrier Safety Administration Drug and Alcohol Clearinghouse, on Motor Vehicle Service employees in Puerto Rico.

The Postal Service has required MVS drivers in Puerto Rico to participate in and sign consent forms for the FMCSA Drug and Alcohol Clearinghouse as a term and condition of their continued employment. However, the FMCSA only imposes its Clearinghouse requirements on CDL holders operating within a covered "State." *See* 49 C.F.R. § 382.103(a) (applying to "persons who operate a commercial motor vehicle in commerce in any State"). Puerto Rico is not a "State" under FMCSA regulations, 49 C.F.R. § 383.5 (defining "State" as "a State of the United States and the District of Columbia."), and drivers in Puerto Rico operate under Heavy Motor Vehicle licenses issued under Puerto Rico's laws rather than CDLs. *See* P.R. Laws, tit. 9, § 5053. The DOT therefore does not require drivers in Puerto Rico to participate in the Clearinghouse, nor does Puerto Rico impose this requirement. *See* FMCSA: Drug & Alcohol Clearing House, available at <https://clearinghouse.fmcsa.dot.gov/FAQ/Topics/Queries-Consent-Requests> (addressing whether "motor carrier employers operating in Puerto Rico required to query/report to the Clearinghouse"); P.R. Regs. NTSP Reg. 9358, Sec. 22.21(d) (indicating that the Clearinghouse regulations do not apply).

The Postal Service has taken the position since 1995 that it will "follow," "mirror," or "parallel" the DOT regulations for CDLs. In recent years, the Postal Service has repeatedly reaffirmed this commitment, including in 2019 and 2020 Step 4 settlement agreements in Case No. Q15V-4Q-C 18046276/HQTV20170529 and Case No. Q18V-4C-C 20375622/HQTV 20200376.

The interpretive issue to be decided is whether the Postal Service's requirement that non-CDL Motor Vehicle drivers in Puerto Rico participate in and sign consent forms for the FMCSA Drug and Alcohol Clearinghouse deviates from DOT and FMCSA regulations and therefore violates the National Agreement and the 2019 and 2020 Step 4 settlement agreements above by failing to "parallel" the DOT and FMCSA regulations.

The APWU believes that non-CDL MVS drivers are not subject to the Clearinghouse regulations, and that the Postal Service is placing unnecessary requirements on the MVS drivers in Puerto Rico to which other non-CDL employees of the Postal Service with driving duties are not required to adhere. The APWU demands that the Postal Service end its practice of imposing Clearinghouse requirements on non-CDL Motor Vehicle employees in Puerto Rico.

Please contact Michael Foster, case officer, at (202) 842-2240 to discuss this dispute at a mutually scheduled time.

In Solidarity,

A handwritten signature in black ink, reading "Michael O. Foster", enclosed in a rectangular box with a decorative border.

Michael O. Foster, Director
Motor Vehicle Service Division

APWU No. HQT20230514
Dispute Date: 11/16/2023

Case Officer: Michael Foster
Step 4 Appeal Date: 11/16/2023

Cc: Resident Officers
Motor Vehicle Division

MF:nb | OPEIU #2 | AFL-CIO