

FLORIDA STATE SPRING SEMINAR 2014



INSTRUCTOR:
BOB BLOOMER
NBA-CLERK DIVISION



APWU

**Contractual
Provisions
Addressing PSEs**

PSEs as Bargaining Unit

Appendix A

Postal Support Employee Memoranda

The 2010-2015 CBA states that "The PSE work force will be comprised of non-career, bargaining unit employees, which is the only category of non-career employees established to work within the APWU bargaining units."

Page 279 of MOU

APWU Welcomes PSEs

- As bargaining unit employees APWU officials are granted ample opportunity to welcome PSEs into the APWU during orientation under the terms of 17.6 of the CBA.
- "Health benefit enrollment information will not be provided during orientation until such time as a representative of the union has had an opportunity to address such new employees." page 118 of the CBA

Benefits Continued

- If a PSE chooses not to participate in a health plan at the time of reappointment, they must then wait until the next open season within their 360 day appointment.
- When PSEs join the Union and they are rehired to a new appointment, there is no need to sign another 1187 for Union membership or the Health plan if already enrolled. However, all other payroll deductions & forms will need to be resubmitted.

PSEs – 2nd ORIENTATION

Article 17.6 states: The Union "shall be provided ample opportunity to address new employees at orientation, and also ...

When a PSE employee becomes eligible for Federal Employees Health Insurance (FEBA)

Rights and Obligations

- As part of the bargaining unit, the APWU now has the obligation to enforce the rights granted to PSEs under the CBA.
- PSE employees will now also fall under the protection of the NLRB and can not be discharged for exercising their rights under the grievance-arbitration procedure.

MOU General Principles 3.B Article 15.2 page 289

Hourly Rates for PSEs

Appendix A 1.g page 280 of the CBA

- g) The hourly rates for PSEs on the effective date of this Agreement shall be as follows

Grade	Hourly Rate
3	\$12.00
4	\$12.38
5	\$13.74
6	\$14.60
7	\$15.52
8	\$15.85

Should it be necessary for recruitment or retention of PSEs, the Postal Service may pay higher hourly rates, with the concurrence of the Union.

Whenever contracting or in sourcing is under consideration, the Union may propose different hourly rates for competitive purposes.

Wage Adjustments

Postal Support Employees Article 9.7

❖ Section 7. Postal Support Employees

The hourly rates for PSEs shall be adjusted by the general increases provided for in Article 9.1. In addition, PSEs will receive the following wage adjustments:

- ❖ Effective, November 17, 2012, the hourly rates for all grades shall be increased by 1.0%.
- ❖ Effective November 16, 2013, the hourly rates for all grades shall be increased by 1.0%.
- ❖ Effective November 15, 2014, the hourly rates for all grades shall be increased by 1.5%.
- ❖ All percentage increases are applied to the wage rates in place on the effective date of this Agreement.

Night Differential

- Article 8.7 of the CBA grants PSE employees night differential where it states:

"For time worked between the hours of 6:00 p.m. and 6:00 a.m.; employees shall be paid additional compensation at the applicable flat dollar amount at each pay grade and step in accordance with the attached table (Table2)."

Page 285 of CBA

Other Premiums and Compensations

- PSE employees are not entitled to Sunday Premium, Holiday Pay or Premium as well as Court leave. "One step at a time"
- During a service day, PSEs are allowed travel time on the clock when reporting immediately from one location to another. There are exceptions. Although PSEs are not mentioned in the JCIM, we use the PTF language as guidance. See p 53 ,2012 JCIM (Article 8, page 11)



Wash-up Time

- PSE employees are granted wash-up time in accordance with Article 8.9 of the CBA.
- "Installation heads shall grant reasonable wash-up time to those employees who perform dirty work or work with toxic materials. The amount of wash-up time granted each employee shall be subject to the grievance procedure".
- Page 286 of the CBA

PSEs – THE 5 DAY BREAK

- PSEs are appointed for terms which cannot exceed 360 days.
- They must have a 5 day break in service between appointments
- There is no requirement that "5 day break" occur on 360th day. (It can be earlier)
- As long as they have no break of more than 5 days they will become eligible for health insurance. (Form 50 break- not leave or NS days)

PSE Break Past 360

- Although it should not occur, sometimes management will have the PSE exceed their appointment without a 5 day break.
- Do NOT ask that the PSE be converted.
- Appropriate remedy is to pay bargaining unit craft for all hours worked by the PSE during the extended time period.
- They will NOT lose Health Insurance eligibility.

PSEs – THE 5 DAY BREAK

- **APWU Position:** Senior PSEs cannot be let go for lack of work while junior PSEs are retained.
- SEE MOU dated 8/13/13
- **Contact your NBA for further guidance.**



PSE TERMINAL LEAVE PAYMENT

- JCIM, Article 10, Page 8: A separating PSE employee **may*** receive a lump sum payment for accumulated annual leave subject to the following condition: (* will)

"A PSE whose separation is effective before the last Friday of a pay period does not receive credit or terminal leave payment for the leave that would have accrued during that pay period." p 294-295 of CBA

ELM 512.313.c (1) JCIM Art 10,p 8



PSE Leave

- The local LMOU will determine the pecking order for leave for PSE employees.
- Article 10.2.B applies to PSE employees:
"Career employees will be given preference over non-career employees when selecting annual leave. This preference shall take into consideration that scheduling is done on a tour-by-tour basis and that employee skills are a determining factor in this decision."

PSE Annual Leave Accrual

- PSEs earn annual leave based upon the number of hours they are in a pay status in each pay period.
- The accrual rate is one (1) hour for each unit of 20 hours in a pay status in each pay period.
- PSEs are under the same obligation as career employees to be "regular in attendance" by getting leave approved in advance to avoid unscheduled absences.

PSEs BECOMING ELIGIBLE FOR HEALTH INSURANCE

- A PSE becomes eligible when he/she reaches 365 days from the date of hire and has had one 5 day break in service
- The USPS will send written notification to the PSE explaining they are now eligible , and how to apply* (*This begins the 60 day window in which to apply)
- To remain eligible , the PSE must maintain sufficient earnings in a pay period to pay for their premiums
- They can apply through **PostalEase**, telephone or mail
- Coverage is the first day of the pay period after Shared Services receives and processes the completed forms

PSE health plan forms



Guide to Benefits -



PSE SENIORITY

Clerk Craft PSEs accrue Clerk Craft standing on the roll within the category of PSE from their original date of employment within the craft and installation, regardless of any break in service as a PSE (less than 1 year), including all time spent as a Clerk Craft PSE within the installation.

JCIM, Article 37, page 8 (Q&A #35)

Ask for PSE Seniority List

- Local and State Organizations should ask for a seniority list for all PSE's
- Use this to monitor the opportunity to give each PSE a second orientation
- This gives the APWU another bite of the apple to organize these employees if they have not already joined the Union.

Change in Seniority

- A new period of seniority will be calculated when:
 - 1) The PSE changes Craft
 - 2) The PSE changes Installations
 - 3) The PSE has a break in service for more than one year

The Future and PSE Conversion to Career

In accordance with the PSE MOU, when the USPS deems it necessary to fill vacancies with new career employees, available and qualified PSEs will be converted to fill such vacancies on a seniority basis.

PSE MOU, p 291, CBA

PTF - PSE Hours in a Service Week

Article 7.1.B.2 , page 19 of CBA

"During the course of a service week, the Employer will make every effort to insure that qualified and available part-time flexible employees are utilized at the straight time rate prior to assigning such work to PSEs."

A violation is not determined until the end of the service week.

PSEs & OVERTIME

"When an opportunity exists for overtime for qualified and available full-time employees, doing similar work in the work location where the employees regularly work, prior to utilizing a PSE in excess of eight (8) work hours in a service day, such qualified and available full-time employees on the appropriate Overtime Desired List will be selected to perform such work in order of their seniority on a rotating basis."

Article 8.4.G

Article 8.4.G Says what it Says

- The violation only occurs when a PSE works over 8 hours in a service day, not when the PSE goes over 40 hours in a service week.
- The change in this language (as opposed to prior casual OT limitations) benefits career employees regardless of their NS day.
- Additionally, a PSE may only work 20 hours that week, but a violation may still occur if the service day exceeds 8 hours and an OTDL is available.

PSE Guarantees

- Article 8.8.D states that "Any PSE who is scheduled to work and who reports shall be guaranteed two (2) hours of work or pay".
- Management may remove them from a posted schedule and advise the employee not to report for duty, therefore waiving the 2 hour guarantee.

Holidays: PSEs & Non Volunteers

- Article 11.6.B, page 44 of CBA

"As many full-time and part-time regular schedule employees as can be spared will be excused from duty on a holiday or day designated as their holiday. Such employees will not be required to work on a holiday or day designated as their holiday unless all PSEs and part-time flexibles (in Level 20 and below post offices) are utilized to the maximum extent possible even if the payment of overtime is required, and unless all full-time and part-time regulars with the needed skills who wish to work on the holiday have been afforded an opportunity to do so."

Holidays: PSEs & FT Volunteers

- The Local LMOU dictates the "pecking order" for scheduling PSE employees.
- If the LMOU language is silent, PSEs will be scheduled for work on a holiday or designated holiday after all full-time volunteers are scheduled to work on their holiday or designated holiday. Article 11.6.D (pg 45 of CBA)
- The LMOU will also determine if volunteers on NS days will supersede PSE scheduling.

PSE CLERK "OPTING"

"In the Clerk and MVS Craft, where practicable PSEs will be allowed to opt on a seniority basis for full-time (traditional and non-traditional) vacant, residual assignments in the installation for which they are qualified and which are not assigned to career employees. Such opting does not create any work hour or assignment guarantees." p 292 of the PSE MOU

Caution on PSE Opting

- It is the position of the Union that unlike the "live record" in the clerk craft, qualification simply means that the PSE was hired off the applicable roster, so seniority should prevail.
- Under the MOU, when PSE who opted on this residual has a break in service, management has the right to post or revert the duty assignment. Locals are asked to monitor those residuals.

FILLING OF RESIDUAL VACANCIES

MOU:

Filling of Residual Vacancies 3/20/14

Q & A Re:

MOU: Filling of Residual Vacancies 4/22/14

PSEs, EXCESSING & RETREAT RIGHTS

- **Article 12.4.D**
- In order to minimize the impact on employees in the regular work force, the Employer agrees to separate, to the extent possible, PSEs working in the affected craft and installation prior to excessing...
- **Article 12.5.B.2**
- Management shall identify duty assignments within the appropriate radius held by PSEs which shall be made available for the reassignment of excess career employees.

MDAT Program

- Under the terms of 37.3.A.1: "Every effort will be made to create desirable duty assignments from all available work hours for career employees to bid."
- The use of the MDAT Program offers protection to those FT employees in NTFT assignments as well as the PSE workforce.
- Our goal is to create assignments to benefit the entire bargaining unit workforce.

Light Duty and FMLA

- Although the provisions of Article 13 does not apply to PSE employees, management is not prohibited from accommodating PSE employees with medically suitable work.
- Eligible PSEs (1250 work hours for the past year, and PSEs who have worked 365 non-consecutive days for the USPS in the last 7 years) will be protected for any absence(s) due to serious health conditions for themselves and their family in accordance with the Family and Medical Leave Act.

PSEs & HIGHER LEVEL

- PSEs **DO** receive higher level pay when temporarily detailed to perform higher level bargaining unit work.
- There is a preference of career employees over PSEs for higher level assignments.
- PSEs can only be assigned to higher level in F4 (LSSA, Bulk Mail Tech, etc.) when no career employee is available.

PSE MOU, pp. 290-91 CBA

PSEs & HIGHER LEVEL (Supervisors or OIC)

- Article 25 in reference to seniority selection does not apply to PSE employees

Officer In Charge (OIC) – A career postal employee appointed temporarily to fill a postmaster vacancy, usually for no longer than 180 days.

- USPS has chosen to not implement any provision enabling them to actually pay EAS employee higher level (EAS) pay into the TACS timekeeping system.

PSEs & TRAINING

There are no restrictions on which training can be given to PSEs. However, if a higher level assignment is the result, we need to investigate why career employees were not considered under the MOU. Pg 290 of PSE MOU

Although it may be a challenge, for PSEs that fail to qualify on skills such as window or scheme, we should encourage management to re-assign rather than terminate.

See your NBA for guidance.

PSEs & REGISTRY

The DM-901, Registered Mail, April 2010 states:

7-3.2 Responsibility for Registered Mail

7-3.2.1 Career Employees

In retail and carrier operations, use only **career** employees in the Registered Mail function whenever possible.

7-3.2.3 Registry Section Area Responsibility restates, the use of only career employees in the registry section...

DM-901, Registered Mail, April 2010



Loaning PSEs to Another Office

Clerk Craft PSEs can work in another installation when needed. However, such utilization should not be to the detriment of PTF clerks available through the HUB Clerk MOU, and if utilized in customer service/retail (Function 4) the PSE would be subject to the gaining installation's PSE caps in that function. If utilized in another district, the PSE must be counted against both district's PSE caps.

PTF HUB



JCIM – Appendix C Q&A, #12

PSE CLERK TRANSFERS

The Service has been allowing PSE clerks to transfer to another installation, of course they will begin a new period of seniority. In cases of AMP, the USPS in some Districts have allowed PSEs to make their transfer requests in order of seniority.

If the transfer is across District lines, the District percentage will be impacted and a new form 50 should be issued.

USPS has involuntarily moved PSE clerks from one installation to another.

PSE SUPER-SENIORITY

A PSE who serves as a steward has super-seniority rights over other PSE employees when it is necessary to let PSEs go because of a lack of work and when there is an opportunity to bring such PSEs back to work. Super-seniority has NO bearing on career appointments.

JCIM Article 17, page 10, Q&A, #24

PSE DISCIPLINE

"PSEs may be disciplined or removed within the term of their appointment for Just Cause and are subject to the grievance arbitration procedure provided that within the immediately preceding six months, the employee has completed ninety (90) work days, or has been employed for 120 calendar days, whichever comes first. PSE MOU p 290

If promoted to career, the PSE must serve a new 90 day probationary period.

Progressive Discipline

- **APWU Position:** Just Cause is defined in the JCIM and includes the concept that "for most offenses management must issue discipline in a progressive fashion." Article 16, pp 1-3

Step 4 Dispute Q10C-4Q-C 13016809

This issue was settled in a MOU dated February 27, 2013

SEE PSE PROGRESSIVE DISCIPLINE MOU

We are also prevailing in regional panel arbitrations where PSEs were issued non-progressive attendance related removals.

The PSE Caps

There are Two Different Clerk Craft PSE Caps.

1. DISTRICT CAP

- 20% of career Mail Processing (F1) Clerk Craft employees in the District
- 20% of career Retail/Customer Service (F4) Clerk Craft employees in the District (THESE PSEs MAY BE USED IN F1 WITHOUT COUNTING AGAINST THE F1 CAP)
- District Caps are monitored and enforced at HQ Level

(PSE MOU pg 279-284, Art 7.1.B pg 19-22 of CBA)

The PSE Caps

There are Two Different Clerk Craft PSE Caps.

1. DISTRICT CAP Art 7.1.B.3 (p 281-2 of PSE MOU)

2. INSTALLATION WINDOW CAP

- a. 10% of career window clerks in PO, Level 22 and above
- b. 20% of career window clerks in PO, Level 21 and below. Art 7.1.B.4 (p 282 of PSE MOU)
- c. Rounding-up rule of 0.5 and above applies
- d. Installation window caps are monitored and enforced at the Local level

Memo from R. Strunk



The PSE Caps

VER Incentive MOU Exception

If a temporary staffing need existed, USPS could replace each career APWU employee who accepts the incentive with a PSE for a period not to exceed 90 days from the effective date of the voluntary separation or January 31, 2013, separation date.

Position of the Union: The hiring of these PSEs would not count towards the existing PSE cap as long as the duty assignments had not been reverted.

PSE Caps and Reports

The Postal Service will provide a report, every four week reporting period, with information needed to monitor compliance with the provisions above. The report will be the total number of career bargaining unit employees and PSEs by craft, function, installation and District. Article 7.1.B.7 p 22 of CBA
This report is on the Industrial Relations page on the APWU website.

Sample Report



The PSE Caps Counting Window PSEs

- USPS Reports include all D/A 81-4 PSE SSDAs in Function 4 (F4)
- PSEs not window trained and not working the window, D/A should be corrected to 81-3.
- MPC PSEs(D/A 81-3) working the window, the D/A should be corrected to 81-4.
- No reason to have D/A 81-4 in Function 1 MP
- Pull reports and Form 50s to verify correct D/A

The PSE Caps Counting Window PSEs

- USPS Report includes all PSE SSDAs (D/A 81-4 in F4).
- Count IS NOT limited to PSE SSDAs (D/A 81-4) who work the window on a particular day.
- Report has been recently updated to include borrowed PSEs (both 81-4 and 81-8) who are loaned (HUB Clerks) into office. Monitor locally.

Monitoring Window Caps

- DA Code 81-4 should be limited to PSEs trained and working the window
- Pull 1412's and Form 50's locally to monitor
- Pull Employee on the clock reports and monitor window operation numbers
- Check training records of PSEs and make sure their DA code on their Form 50 matches their training and usage on the window.

DesAct Form



Remedy for Exceeding Caps for Window PSEs

For any grievance where someone performs clerk craft work in violation of the CBA, there must be a remedy.

Examples are:

- 7.2 Cross Craft assignments
- 1.6 Bargaining Unit Work
- 7.1. B PSE Violations are no different

The appropriate remedy is to compensate the bargaining unit employees for all time spent performing our work in violation of the PSE cap.

Does this also demonstrate a DA under 37.3.A.1?

The PSE Caps The New Work Exception

- Clerk Craft PSEs hired to perform work in any former Contract Postal Unit (CPU) that is brought back in house is **NEW WORK**, unless it is a full service unit or it primarily provides postal services.

Article 7.1.B.6.a-d of the PSE MOU p 283

The PSE Caps The New Work Exception

- The USPS claims that PSEs hired to replace PMRs in level 15 and 16 Post Offices where Clerks have not historically worked qualifies for "new work" exception. The Union disagrees. (see p 283 item 6 of PSE Memo)
- PSE Post Office Clerk, PSE-4 (D/A 81-8)
The SPD for PSE-4, Post Office Clerk, is in dispute.

(Continued on next slide)

**The PSE Caps PSE-4,
Post Office Clerks (D/A 81-8)**

- If the PSE-4 is truly replacing PMRs, these PSEs are limited to working in PM's absence
- PSE-4 clerks cannot be hired in an office with career clerks
- These employees are limited to Post Offices in small communities

The attached SPD is in dispute
at the National Level



**The PSE Caps PSE-4,
Post Office Clerks (D/A 81-8)**

- PSE-4 Clerks must be paid PSE-6 when loaned into an office where they work alongside of career clerks.

June 28, 2011 Q and A

(See June 28, 2011 Q and A Q # 7)



**The PSE Caps PSE-4,
Post Office Clerks (D/A 81-8)**

- The Standard Position description created by the USPS for a PSE-4, Post Office Clerk (D/A 81-8) limits use to Level 15 and Level 16 Post Offices.

Note: There are numerous violations nationwide. We must be pro-active and file those grievances. Contact your NBAs for guidance on how to monitor these offices in your area.



THANK
YOU
FOR
YOUR ATTENTION
