

# NAPS Worksheet

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

Member: \_\_\_\_\_ Non-Member: \_\_\_\_\_ New Applicant: \_\_\_\_\_

Postal District: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: (Home) \_\_\_\_\_ (Work) \_\_\_\_\_ (Cell) \_\_\_\_\_

Work Address: \_\_\_\_\_

Email Address: (Home) \_\_\_\_\_ (Work) \_\_\_\_\_

Fax: (Non-Postal) \_\_\_\_\_ (Pager) \_\_\_\_\_

Social Security Number: \_\_\_\_\_

First Contact: \_\_\_\_\_ Second Contact: \_\_\_\_\_ Third Contact: \_\_\_\_\_

Best Time to call Back: \_\_\_\_\_

Action: (L.O.W.) \_\_\_\_\_ (Suspension) \_\_\_\_\_ (Debt Collection) \_\_\_\_\_

Proposal Letter: \_\_\_\_\_ (Decision Letter) \_\_\_\_\_ (EEO REDRESS) \_\_\_\_\_

Fact Finding \_\_\_\_\_ (Other, Explain) \_\_\_\_\_

Job Title: \_\_\_\_\_ How Long In Position: \_\_\_\_\_

Veteran: \_\_\_\_\_ Hours Of Duty: \_\_\_\_\_ Non-Scheduled Days: \_\_\_\_\_ EAS Level: \_\_\_\_\_

Pay Location: \_\_\_\_\_ OPF Location (Form 50): \_\_\_\_\_

Last Two Merits: \_\_\_\_\_ Sick Leave Record: \_\_\_\_\_ S/L Hours Balance: \_\_\_\_\_

Name of Manager Taking Action: \_\_\_\_\_

Manager's Address: \_\_\_\_\_

Manager's Phone: \_\_\_\_\_

Comments/Narrative: (attached supplemental sheet if needed) \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



# DESIGNATION OF REPRESENTATIVE

I have requested the following U.S.P.S. employee to represent me in an adverse action or Appeal: \_\_\_\_\_

1. I understand that my representative is not a lawyer and will act as my representative without pay and as a layman without legal training. If I decide that my case needs the services of a lawyer, I am free to engage a lawyer to assist me at my own expense.
2. I understand that I may change my representative at any time. If I decide to change representatives, I agree that I must inform the above representative in writing.
3. I understand that I am required to provide my representative with all information and documents that concern my case and to keep the representative informed of all deadlines and other procedural dates. My involvement is integral to the issue(s).

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Signature

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Date

## **MSPB Document Checklist**

- 1. Letter of Proposed Action**
- 2. Oral & Written Reply to Proposed Action**
- 3. Letter of Decision (note effective date – 30 days to appeal )**
4. Inspection Service Memorandum & Exhibits
5. Newspaper Articles (Any media coverage)
6. Copies of elements of past record noted in Proposal and Decision Letters
7. Copies of aggravating factors noted in Proposal and Decision Letters
8. Copies of aggravating factors noted in same letters
- 9. Latest PS 50 (1 year current continuous service in same or similar position)**
10. Copies of latest merit evaluations
11. Statements of Trustworthiness etc. (in affidavit form)
12. Copies of Medical Reports (if update if applicable)
13. Copies of EEO complaints and investigative files
14. Copies of Agency Response (Challenge if Necessary)
15. Designation of Appellant's Representative
- 16. Request for Hearing**
17. Request for Discovery (a request for copies of relevant documents and exhibits)
18. Petition for Appeal (MUST be complete)
19. Certificate of Service (Must accompany ALL submissions to MSPB – Certified Mail)
20. MSPB's Acknowledgement Order (Strictly Note All Deadlines)
21. Potential Witnesses (List & Identify USPS & Prepare Yours As Well)
22. Evidence of Disparate treatment (research and cite precedents)
23. Written opening statement (road map of what you want & what you want to prove)
24. Copies of appropriate regulations etc. (Policy – Local and National)

**FACTS – NEXUS – PENALTY – AFFIRMATIVE DEFENCES**  
(Tentative closing statement – Skeleton – Outline)

## OUTLINE FOR RESPONSE TO ADVERSE ACTION

DATE:

TO: District Mgr., Plant Manager, MPOO  
(include mailing address, city state, zip code)

SUBJECT: REPLY TO NOTICE OF PROPOSED REMOVAL

NAME: SSN xxx-xx-xxxx

DEAR:

As you know, I represent Mr./Ms. \_\_\_\_ with regard to a notice of proposed removal that was conveyed to him/her in a certified letter received on date. A signed designation of representation to that effect is attached to this letter.

### EMPLOYMENT HISTORY

Mr/Ms. \_\_\_\_\_ is a \_\_\_ year employee of the United States Postal Service with no prior discipline, and an impeccable record of performance and service to the agency. He/she has \_\_\_ hours of accrued Sick Leave, (if applicable) and has received (list awards accommodations). Prior to his/her employment with the Postal Service, Mr/Ms. \_\_\_ served as (Military Service information including retirement or other government or work experience etc.)

### THE CHARGE

The agency charges Mr/Ms \_\_\_ with \_\_\_\_\_ and reference Section - of (ELM,, F-1, F-10 etc.) which states in part, (quote section) Quote relevant sections that the agency quotes in letter.

### THE INCIDENT (WHICH CAUSED THE CHARGES AS OUTLINE BY THE AGENCY IN THE LETTER.

Specifically at issue are two issues. (Such as unauthorized use of credit card & long term use with no prior warnings Letters etc., discussion written instructions Also the first notification or warning received directly from the agency was contained in the removal notice. The contention that an employee knew or should have know, can be argued that the appellant has had the credit card for an extended period and had never been informed about unauthorized use.

Also note that other supervisors/managers are facing the same or similar charges due to the agencies new enforcement policy of managing after the fact. Also included can be information regarding no training to comply with the **new policy enforcement**. Also note that since the restructure of 1992 it is required that all supervisor/managers use these credit cards and now there is stricter enforcement. When the stricter policy was initiated it should have been shared with all managers.

### CONCLUSION

Example narrative: Justice, to be rightly called justice, bears two indispensable qualities. These qualities are consistency and impartiality. To be consistent means that the same offense should merit the same punishment; to be impartial means that it should not matter who the defendant is, and just as importantly, it should not matter who the judge is. These are the premises upon which all law, including that of the EEOC, is ultimately based. If others have received Letters of Warnings (LOW's) or suspension then the same penalty should apply to everyone. Why would some receive removals etc. That would be punitive and not promote the efficiency of the agency etc. Consider above beginning of conclusion as a sample argument, use any relevant theory you can come up with. Be sure to be timely with all responses to the agency. If the agency's decision is to remove or downgrade, then an appeal to the Merit Systems Protection Board (MSPB) or 650 appeal to the Postal Service will be the next step. Appealing to MSPB: File on MSPB Form, use the MSPB Checklist to ensure all paper work is complete and submitted timely. 650 Appeal: Letter Requesting 650 appeal hearing. Use the 650 checklist as a guideline.

**SAMPLE RESPONSE**  
**(Use Branch letterhead)**

Date

TO: District Mgr, Plant Mgr, and Postmaster etc Address City, State, Zip-Code + zip + 4

From: NAPS Representative

**SUBJECT: STEP A GRIEVANCE**

Dear Mr. or Ms

**EMPLOYEE INFORMATION**

NAPS Branch \_\_\_\_\_ on behalf of John Smith Supervisor Distribution Operations Tour 1 is filing a Step A Grievance as outlined in 650 ELM.

**BACKGROUND**

- On this date the following occur (explain the EAS position on the matter)
- Recommend the use of bullets to briefly outline events
- Offer an action plan if the offense was caused by an action of the member.

**CONCLUSION**

- Sum up why the Grievance is unjust.
- Request that this letter (or other action) be rescinded or reduced or policy adhered too.
- Request that management follow postal policy
- Comment that EAS are committed to doing their job and serving the customer etc. Include any and all pertinent information to get your point across. Be tactful.
- State that NAPS cannot encourage EAS to violate postal policy
- End appeal with either signature of the EAS or the representative on behalf of the member.
- Request a face to face meeting to further discuss the issues and a resolution
- Provide a courtesy copy to the Branch president and to national NAPS (if appropriate).

*(Do not respond on USPS letterhead or use postal inter-office mail for filing)*

## BRANCH LETTER HEAD

Date:

Sr Plant Manager  
123 Postal Drive  
Anytown, USA 9999-9999

**SUBJECT: DEBT COLLECTION RE-CONSIDERATION REQUEST**

Dear Mr/Ms

As representative for Howard Johnson, SDO T-1 in the matter of notification of a debt to the Postal Service of \$382.18.

**Background:**

Mr. Johnson was placed on administrative leave in December of 2000. After notification of proposed removal the postal service dropped the case. Mr. Johnson remained on administrative leave until he returned to work in March 2001.

On June 25, 2001, John Givins, Supervisor Accounting hand delivered an invoice to Mr. Johnson on the workroom floor notifying him of the above debt. Mr. Givins informed Mr. Johnson that he was over paid \$382.18 because of the agency's failure to turn off the auto/pay system that would disallow night differential and holiday pay.

**CONCLUSION:**

NAPS has reviewed the debt and letter and request that the postal service file a claim for loss. Mr. Johnson was removed from his position and several months later returned to his position. The agency failed to follow-up on the case the administrative leave resulted in a force leave situation. Mr. Johnson is not responsible for this postal debt.

President Branch XX

**DOUGLAS V. VETERANS ADMINISTRATION  
MSPB DOCKET NUMBER AT075-299006**

*The burden is on the Agency to prove by preponderance that the penalty given was appropriate and comparable if the employee specifically challenges comparability.*

**THE FACTORS ARE:**

- 1 . The nature and seriousness of the offense and its relation to the employee's duties, position, and responsibilities, including whether the offense was intentional or technical or inadvertent, or was committed maliciously or for gain, or was frequently repeated;
2. The employee's job level and type of employment, including supervisory or fiduciary role, contacts with the public and prominence of the position;
3. The employee's past disciplinary record;
4. The employee's past work record, including length of service, performance on the job, ability to get along with fellow workers and dependability;
5. The effect of the offense upon the employee's ability to perform at a satisfactory level and effect upon the supervisor's confidence in the employee's ability to perform assigned duties;
6. Consistency of the penalty with those imposed upon other employees for the same or similar offenses;
7. Consistency of the penalty with agency practices;
8. The notoriety of the offense or its impact upon the reputation of the agency;
9. The clarity with which the employee was on notice o any rules that were violated in committing the offense or had been warned about the conduct in question.
10. The potential for rehabilitation of the employee;
11. Mitigating circumstances surrounding the offense such as unusual job tensions, personality problems, mental impairment, harassment, or bad faith, malice or provocation on the part of others involved in the matter, and the adequacy and effectiveness of alternative sanction to deter such conduct in the future by the employee or others.

## **Proper Procedures for Debt Collection Act Appeals, Non-Bargaining Unit (EAS) Employees**

In order to keep our membership advised and to assure adherence to the critical time frames for petitioning for an oral hearing, the following guidelines that are contained in Employee and Labor Relations Manual [ELM] Section 450 and in the NAPS Officer Training Manual, Section 11, are published as a handy guide for meeting the Debt Collection appeals criteria

- When the Postal Service issues a Letter of Debt Determination (sometimes called Letter of Demand), the “Options Available to Employee” (appeal rights) must be attached. If not, you must immediately request this list of options or appeal rights, in writing, in person, or both.
- **Request for Records.** In accordance with Options Available, you must request from your postmaster or installation head, all documentation pertaining to your alleged debt, *within 10 calendar days* from receipt of Letter of Debt Determination. You should be provided with copies of records *within 5 calendar days* of the date your request is received by the Postal Service.
- **Review of Records.** After review of documentation, you need to forward to appropriate official listed in Options Available form, your Request for Reconsideration. Your request must be received by the Postal Service *within 15 calendar days* from the date you received requested records.
- **You must submit Request for Reconsideration of Debt in writing to the postmaster or installation head,** along with a written statement and supporting documentation indicating why you believe you are not indebted. You should provide all information in your possession relating to the debt so that the postmaster or installation head may make an informed determination. The reason for this is because the postmaster or installation head will use the material you provide (along with postal records) in deciding whether the Postal Service’s determination of the debt should be revised.
- **Response to Reconsideration request.** Within 15 days, issuing official responds to Reconsideration request and will either grant or deny the request.
- **Involuntary Salary Offset.** If the reconsideration is denied, the issuing office will issue a Notice of Involuntary Salary Offset. You then have *15 calendar days* to file a petition for an oral hearing. The time frame of 15 days is critical.

### **Petition for Hearing.**

To request a hearing on the Postal Service’s determination of the existence or amount of the debt, or on the Postal Service’s proposed involuntary offset schedule, you must file a written petition for a hearing with the RECORDER, JUDICIAL OFFICER DEPT, US POSTAL SERVICE, STE 600, 2101 WILSON BLVD, ARLINGTON, VA 22201-3078. Petition must be filed *on or before the 15th calendar day following receipt of Involuntary Salary Offset*. A timely request for a hearing will stay (delay) the commencement of the collection of the debt.

#### ***Important information that must be included in petition for an oral hearing:***

1. The words, “**Petition for Hearing Under the Debt Collection Act,**” prominently captioned at the top of the first page;
2. Your name and your
3. Work and home address, and
4. Work and home telephone numbers,
5. Or other address and telephone number where you may be contacted about the hearing proceedings;
6. The date you received the “Notice of Involuntary Administrative Salary Offsets Under the Debt Collection Act,” and
7. A copy of the Notice;

8. A statement requesting an oral hearing;
9. A statement of the evidence you will produce which makes an oral hearing necessary, including
10. A list of witnesses you wish to present, with their complete addresses;
11. The proposed city for the hearing site, with
12. Justification for holding the hearing in that city; and
13. Recommended alternative dates for the hearing, which should be within 40 days from filing the Petition;
14. Copies of all records in your possession which relate to the debt; and
15. If you as the petitioner contend that the Postal Service's proposed offset schedule would result in a severe financial hardship on you and your spouse and dependents, submit:

- An alternative offset schedule, and
- A statement and supporting documents indicating for you and your spouse and dependents, for the 1 year preceding the Postal Service's notice and for the repayment period you are proposing in your alternative offset schedule, your total income from all sources; assets; liabilities; number of dependents.
- You must also submit supporting documents indicating expenses for food, housing, clothing, transportation, medical care, and exceptional expenses, if any.

16. You may, if necessary, file with the Recorder, additional information as a Supplement to the Petition on or before the 30th calendar day following your receipt of the "Notice of Involuntary Administrative Salary Offset Under the Debt Collection Act." You should keep your NAPS representative informed throughout this procedure. If you select Scialla and Associates, Inc. to represent you, all of the information listed under 1 and 16 above should be sent to Scialla Associates in a timely manner, and a petition will be filed by Scialla Associates.

**Remember –**

- It is important that the time requirements be adhered to, and your NAPS representative be kept informed.
- An oral hearing can only be requested after issuance of a Notice of Involuntary Salary Offset; the Postal Service cannot begin deducting any money without issuance of this notice.
- The request for an oral hearing will delay any payroll deductions until the hearing has been concluded and a decision has been issued, either for or against you, the petitioner.

## NAPS Disciplinary Defense Fund Representation Request Form

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

**SS#:** \_\_\_\_\_

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

**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 Scialla Associates. The representative provided may not be an attorney. The DDF covers fees and expenses up to \$3,000 and approved travel costs.

If fees or expenses incurred for my defense are expected to exceed the \$3,000 limit, Scialla Associates will notify me, in advance. No additional fees or expenses will be incurred for my representation without my authorization. If I do authorize additional fees and expenses, I will be personally liable to the provider for these additional expenses.

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 monies expended for my representation by Scialla Associates to the extent possible under the award.

**NOTE: I have been a member of NAPS since: Month \_\_\_\_\_ Year \_\_\_\_\_  
If you have been a NAPS members less than 90 days from the date of the proposed action, you should supply a statement that you signed a NAPS membership application within 30 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 Scialla Associates 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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

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

**SCIALLA ASSOCIATES  
453 PREAKNESS AVE #5  
PATERSON NJ 07502-1121**

## **650 GRIEVANCE - STEP A APPEAL PROCEDURES**

Part 651 establishes procedure for (A) disciplinary action against non-probationary employees who are not subject to the provisions of a collective bargaining agreement and (b) emergency action or conduct that also normally warrants disciplinary action.

### **651.2 Representation**

Subject to prohibitions regarding Executive and Administrative Schedule (EAS)/Craft representation, employees have free choice of representation. Representatives designated by employees, if postal employees and if otherwise in a duty status, are granted a reasonable amount of official time to respond to notices of proposed disciplinary action, to prepare for and represent the employee at a hearing held in accordance with 652.24, and/or to represent an employee who has appealed a letter of warning or emergency placement in a nonduty status in accordance with 652.4. Employees covered under these provisions may request representation during investigative questioning if the employee has a reasonable belief disciplinary action may ensue.

### **651.5 Letters of Warning**

When warranted by the failure of nondisciplinary corrective measures or by the seriousness of the offense, a letter of warning may be issued. Letters of warning are usually issued by the employee's immediate supervisor. The written warning should contain (a) specific reasons for the letter and (b) a statement of applicable appeal rights. Letters of warning remain in the employee's official personnel folder (OPF) for a period of 2 calendar years unless otherwise resolved or cited in subsequent disciplinary action.

### **Letters of Warning in Lieu of Time-Off Suspensions**

#### **651.61 Policy**

Letters of warning in lieu of time-off suspensions replace time-off suspensions for nonbargaining employees, except when required otherwise by statute, and except for employees in the Office of Inspector General, where time-off suspensions are an available form of discipline in addition to letters of warning in lieu of time-off suspensions. This policy does not preclude management from placing a nonbargaining employee in an indefinite nonpay, nonduty status when there is reasonable cause to believe the employee has committed a crime for which a sentence of imprisonment may be imposed.

#### **651.62 Implementation**

Letters of warning in lieu of time-off suspensions may be issued in lieu of either 7-day or 14-day time-off suspension only. Unless required by statute, suspensions of more than 14 days are prohibited except for indefinite suspensions referenced in 651.7. Letters of warning in lieu of time-off suspensions are equivalent to time-off suspensions as an element of past discipline and may be cited as such in future disciplinary actions.

#### **651.63 Notice**

Normally, the employee's immediate supervisor issues a proposed letter of warning in lieu of time-off suspension stating (a) specific and detailed reasons for the letter; (b) instructions for responding to it; (c) the right of the employee or representative to review all material relied upon in the action; and (d) when, where, and from whom the material is available.

#### **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.

### **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.

### **651.66 Retention**

Letters of warning in lieu of time-off suspensions remain in the employee's OPF for 2 years unless otherwise resolved or cited in subsequent disciplinary action.

**ADVERSE ACTION APPEALS 650 PROCEDURES** *(650 adverse action appeals would apply for EAS who are not eligible for appeal to the Merit System Protection Board(MSPB) the appellant can receive DDF assistance if a member of NAPS for the required time period)*

### **651.71 Definition**

Adverse actions are defined as discharges, suspensions of more than 14 days, furloughs for 30 days or less, and/or reductions in grade or pay.

### **651.72 Policy**

Adverse action may be taken against an employee (a) because lesser measures have not resulted in the correction of deficiencies in behavior or performance, (b) because of the gravity of the offense, or (c) for nondisciplinary reasons, such as the correction of a position mis-ranking.

### **651.73 Notice**

Unless the circumstances of a particular case make it impractical, the employee's immediate supervisor issues a written notice of proposed adverse action. This notice includes (a) the action proposed, with specific and detailed reasons; (b) the instructions for responding to the notice; (c) a statement of the right of the employee or representative to review all material relied upon in proposing the action and when and where the material is available for review; and (d) the name of the official rendering the decision. The proposal also advises the employee that a reasonable amount of official time is allowed for the preparation and presentation of a reply if the employee is otherwise in a duty status and that the proposed action will be effected no sooner than 30 calendar days after the employee receives the notice.

### **651.74 Response**

The employee or representative may respond to the notice of proposed adverse action in writing, in person, or both, to the deciding official or designee identified in the notice. The employee or representative may respond and present evidence, including affidavits, within 10 calendar days from receipt of the notice. The time limits for responding to a proposed adverse action may be extended by the deciding official or designee for reasonable cause.

### **651.75 Decision**

The deciding official, who must be higher in authority than the proposing official, considers the employee's response and gives a written decision, including reasons for the decision, as soon as possible after the employee's time to respond has expired, but no later than 60 calendar days following the receipt of the employee's response. In field installations, the installation head or designee usually makes the decision. In other offices, the decision is made by a branch manager or above. If the decision is to effect the adverse action or to modify it to a lesser penalty, the employee's appeal rights, including Merit Systems Protection Board (MSPB) appeal rights, if applicable, are stated.

### **651.76 Duty Status**

The employee, unless otherwise provided in 651.77, remains in a pay status, either on the job or on administrative leave, at the option of the employer, during the notice period. The notice period must be at least 30 calendar days, unless covered by 651.77. Discharged or indefinitely suspended employees who appeal remain on the rolls in a nonpay, nonduty status until the disposition of the case through the chosen appeal procedures. Normally, disposition of the case would be a final decision from the MSPB or a Step I decision in an administrative 650 appeal. In cases where the MSPB has mitigated an adverse action in an initial decision and the Postal Service file an appeal, the employee's status will be handled in accordance with MSPB regulations regarding interim relief.

### **651.77 Exceptions to Thirty-Day Notice**

When there is reasonable cause to believe an employee is guilty of a crime for which a sentence of imprisonment may be imposed, the advance notice before effecting the adverse action may be reduced to no less than 7 calendar days. At the expiration of the reduced notice period, the decision is issued at once. If the decision is to suspend the employee indefinitely, the individual remains on the rolls in a nonpay, nonduty status pending a final decision or until the suspension is otherwise terminated. If the decision is to remove the employee, the individual remains on the rolls only if a timely appeal is filed.

### **Other Appealable Actions**

#### **652.41 Coverage**

Employees in EAS-17 and below and Office of Inspector General Bands A, B, and C employees, regardless of length of service, may appeal letters of warning, emergency placement in a nonduty status, and other matters not covered by 652.2 by using the procedures in 652.42 through 652.44. PCES Level I and EAS-18 and above employees and Office of Inspector General Band 1 and above employees have access to these procedures only to appeal discipline in the nature of a letter of warning and emergency placement in a nonduty status.

#### **652.42 Step A**

An employee or representative states the appeal in writing to the immediate supervisor within 10 calendar days of learning the appeal's cause. The employee or representative has the opportunity to discuss the appeal with the supervisor during this period. The supervisor gives a written decision within 5 calendar days after receipt of appeal. If this timeframe is impossible because of extenuating circumstances, the decision must explain the reason(s) for the delay.

#### **652.43 Step B**

A field employee or representative may submit a written appeal to the installation head within 7 calendar days after receipt of the Step A decision. (If the installation head is the immediate supervisor, appeals are made to the next higher level of management.) A Headquarters, Headquarters field unit, Inspection Service, or Office of Inspector General employee or representative may appeal within the same time limits to the next higher level of management (superior to the supervisor), at minimum a manager or above. The appeal must include the employee's name, title, grade, location, nature of appeal, and basis for appeal. Upon receipt of the appeal, the Step B official discusses the appeal with the employee or representative and renders a decision in writing within 10 calendar days after receipt of the appeal. Usually this decision is final.

#### **652.44 Review**

The employee or representative may request a review of the Step B decision. The request of an employee administratively responsible to the area vice president is directed to the area Human Resources manager. The request of a Headquarters, Headquarters field unit, or Inspection Service employee is sent to the vice president of Labor Relations, or designee, with a copy to the Step B official, who forwards the file to the reviewing official. If the employee is assigned to the Office of Inspector General, the request for review is to be directed to the inspector general or designee. The request is in writing and gives specific reasons why the employee believes the Step B decision should be reviewed. The request is made within 15 calendar days

from receipt of the Step B decision. The reviewing official replies in writing and states the disposition of the employee's request. This reply is final.

### **652.5 Alternative Dispute Resolution**

The Postal Service supports the use of the Alternative Dispute Resolution (ADR) process of mediation to address employee appeals relating to nonbargaining disciplinary actions. Participation in mediation by an appellant is voluntary.

#### **652.51 Exceptions**

Mediation may not be appropriate in cases where the charges involve egregious misconduct, criminal activity, repeated misconduct, inability to perform, and other conduct as determined by the Postal Service, or in the case of Office of Inspector General employees, the Office of Inspector General. Additionally, mediation may not be appropriate where the appeal concerns issues beyond the control of the Postal Service, or in the case of Office of Inspector General employees, the Office of Inspector General, such as the denial of Workers' Compensation benefits, retirement eligibility determinations, and similar matters adjudicated by other agencies. The determination of whether to grant mediation in a particular case is within the discretion of the Postal Service, or in the case of Office of Inspector General employees, the Office of Inspector General, and is not appealable.

#### **652.53 Mediation for Letters of Warning in Lieu of Time-off Suspensions and/or for Time-off Suspensions**

An employee issued a proposed letter of warning in lieu of a time-off suspension, or a time-off suspension in Office of Inspector General cases, may request mediation as an alternative to his/her right to respond to the deciding official as outlined in 651.64. If no resolution is reached between the employee and the proposing official as a result of the mediation, the employee may submit written responses to the proposed letter of warning in lieu of a time-off suspension within 10 calendar days of the mediation to the deciding official. The deciding official will issue a letter of decision regarding the proposed action in accordance with 651.65. The employee may appeal the decision pursuant to 652.31.

#### **652.54 Mediation for Adverse Actions**

An employee issued a written notice of proposed adverse action may request mediation as an alternative to the traditional written and/or verbal response to the deciding official as outlined in 651.74. If no resolution is reached between the employee and the proposing official as a result of the mediation, the employee may submit written responses to the proposed adverse action within 10 calendar days of the mediation to the deciding official. The deciding official will issue a letter of decision regarding the proposed action in accordance with 651.75. The employee may appeal the decision pursuant to the provisions outlined in 652.2, which will be outlined in the letter.

**ATTORNEY-CLIENT PRIVILEGE** – The Postmaster Association was granted attorney-client privilege for their representatives. NAPS was granted the same privilege if the charge is not criminal in nature or the case does not go to court. If those circumstances prevail then the privilege can be revoked.

**INVOLUNTARY REASSIGNMENTS:** One of the most frequent inquiries received by NAPS is complaints of Involuntary Reassignments. Before we tackle the involuntary issue, maybe we should discuss what is your assignment?

In a letter dated March 18, 1997 Subject Vacancy Announcement and EAS Applicant Notification states: *“EAS Vacancy Announcements need to reflect the duty station, the starting and ending times and the non-scheduled days of the vacant position.”*

Base on the above agreement then your work assignment of record is the one you bid on or were slotted into when your form 50 was processed. However if the form 50 does not reveal an assignment then it will be up to the local NAPS to work with the postal service to establish a guideline to comply with the policy. It will

also be the responsibility of local NAPS to monitor all job postings to ensure the agency is complying with the agreement. NAPS continues to receive complaints of EAS being Involuntary Reassigned. There is a guideline letter dated November 3, 1999, signed by Clarence Lewis. The Lewis letter was updated in January 14, 2002, by Pat Donahoe USPS COO.

*When confronted with a manager who starts talking about “NAPS position” please be sure to tell them that it is not NAPS’ position, but the Postal Service’s position or policy that you are talking about!” (NAPS Memo dated 3-12-02 & NAPS download files).*

#### **DISCIPLINARY DEFENSE FUND (NATIONAL DDF) REQUEST FOR REPRESENTATION:**

How to submit a case to DDF: Scialla & Associates, 453 Preakness Ave #5, Paterson, New Jersey 07502, is the NAPS DDF provider: Once your member receives the final decision letter the NAPS representative through discussion with the member regarding options and a decision by the member to seek DDF representation must provide the following documents into a file:

- 1) One to two page narrative of the case.
- 2) Letter of Proposed Adverse Action.
- 3.) Letter of Decision (including responses)
- 4) MSPB Form 283 appeal, fill out the first two pages only.
- 5) Form must have the following information; appellant name, home address, home telephone number, appellant’s signature, Page 2 of form 283, veteran or non-veteran, years of service.
- 6.) Employees Form 50.
- 7) Request for DDF representation found on NAPS training disk.

If requestor is designating Sciallia & Associates as representative they must contact the Area VP and Sciallia in advance of submitting paperwork to MSPB. Case file is sent to Sciallia, there is no need to send copy of file to NAPS HQ (however keep a copy for your own personal files). All other information will be completed by Sciallia Associates. All material must be received by Sciallia Associates as soon as possible, as appeal must be filed within 30 days of effective date.

#### **HOW TO APPLY FOR DDF REPRESENTATION FOR DEBT COLLECTION**

Member receives notice of account receivable and Letter of Debt Determination.

Member requests all documents and records that determined member was responsible for Debt.

Agency responds reconsideration accepted or agency denies reconsideration.

Should reconsideration be denied agency will issue “Notice of Involuntary Salary Offset” The notice will advise member XXX number of dollars will be deducted from their pay each pay period.

Upon receipt of Notice of Involuntary Salary offset is received, send all of the above by express mail to Sciallia Associates immediately, as the time frame for filing a petition for an oral hearing is very short, 15 days from receipt.

Should the agency begin deducting from the members pay before a notice of Involuntary offset is received, notify your area vice president who will contact Sciallia Associates, who will notify the Administrative Judge who will then issue a Notice to the agency to refund the money and issue the proper notification.