

# How to "Build" a Grievance File



NALC Region 9

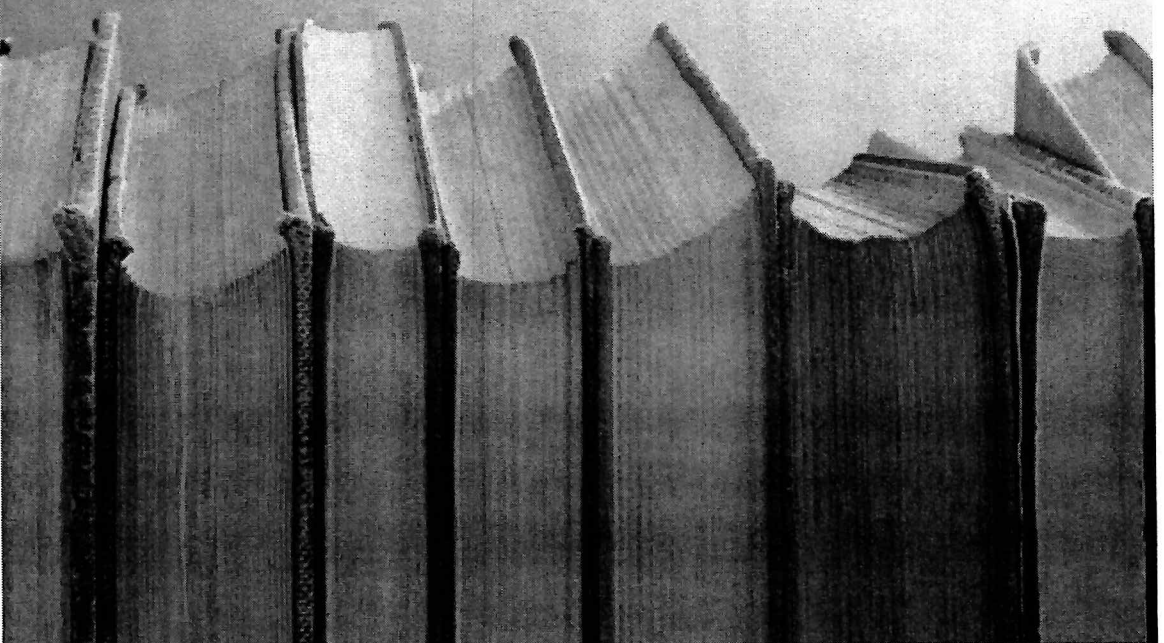
# You just became aware of an issue. What do you do now?

- Request time, on-the-clock, to speak with the aggrieved employee.
- Take good notes and get all the facts surrounding the issue.
- Make sure you know the drop-dead date, (i.e., the 14<sup>th</sup> calendar day from the date the employee or union first learned or may reasonably been expect to have learned of its cause).
- Request relevant information needed to prove the alleged violation, and interview the necessary employees, postal patrons, and/or other relevant individuals.
- Determine if it is a gripe or grievance.



What if management  
won't provide you time  
on-the-clock to conduct  
your steward duties?

Use the Grievance Starters



# LOG INTO YOUR NALC MEMBERS ONLY ACCOUNT



FREDRICK V. ROLANDO, PRESIDENT

# NALC

[Return to Home Page](#)

## Members Login

First Name

Last Name

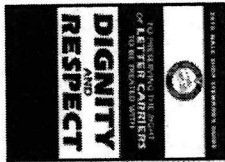
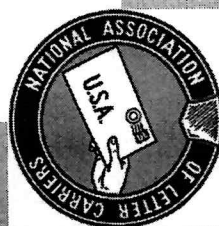
Zip Code

Last 4 digits of SSN

Password



**Categories:** Convention Workshops OWCP Shop Steward's Guide/Forms Forms & Documents Deaf & Hard of Hearing



Click on image

Return to Login Page

Member Documents

\* If changes need to be made to your member information, please contact the Department at (202) 393-4695.

**CLICK ON MEMBER DOCUMENTS,  
THEN HOVER OVER THE SHOP  
STEWARD'S GUIDE/FORMS  
CATEGORY AND SELECT THE  
APPLICABLE GRIEVANCE STARTER.**

Click on the list of associated documents, click on document description to view it.

**Shop Steward's Guide/Forms** Forms & Documents Dent & Head of Health

**2022 NALC Shop Steward's Guide**

- 1. Grievance Starters Introduction
- Article 1 - Mgmt Performing Craft Work
- Article 8 & 16 No Lunch Improper Denial of Trip Chg
- Article 8 & 19 & 41 - False Editing Clock Rings
- Article 7.2 - Crossing Crafts
- Article 7.3.D - Aux Route Conversion
- Article 8.6 - Daily OT Violation
- Article 8.6.G - 40 Hour Rule
- Article 8.6.B - Guaranteed Time - FTR
- Article 12 - Excessing - Improper Placement of Ch
- Article 13-Return Rights-Failure to Offer-CWH
- Article 12 & 16-Improper Withholding-Carr Tech Job
- Article 12 & 16-Improper Withholding-Non-Carr Tech
- Article 12 & 16-NIT Clerk Improperly Excessed
- Article 13 - Light Duty - Failure to Provide
- Article 18-Act of God-Denial of Admin Leave-Hurtic
- Article 15 18-Secondary Adm Mail-DPS Not Duly Ord
- Article 16-DOIS-M-01864-Improper Rec of Time Data
- Article 16-DOIS-M-01864-Volume Not Rec Accurately
- Article 16-Failure to Comply with Grievance Sett
- Article 15 - Failure to Meet Informal A
- Article 15 - Failure to Meet Informal A
- Article 16 - Locally Developed or Modified Forms
- Article 16 - Non-Compliance - Arbitration Award
- Article 16-Non-Compliance-DOU Full-Time Opportunit

WHEN YOU CLICK ON THE  
GRIEVANCE STARTER IT  
DOWNLOADS THE WORD  
FORMAT OF THE DOCUMENT  
ON THE BOTTOM OF THE  
SCREEN.

Article 17 - Failure to Provide Steward Time

This Microsoft Word document has been downloaded to your Download folder on you PC. Use that copy of the document to make any changes.

- Article 8.6 - Daily OT Violation
- Article 8.6.G - 40 Hour Rule
- Article 8.6.B - Guaranteed Time - FTR
- Article 12 - Excessing - Improper Placement of Ch
- Article 13-Return Rights-Failure to Offer-CWH
- Article 12 & 16-Improper Withholding-Carr Tech Job
- Article 12 & 16-Improper Withholding-Non-Carr Tech
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- Article 18-Act of God-Denial of Admin Leave-Hurtic
- Article 15 18-Secondary Adm Mail-DPS Not Duly Ord
- Article 16-DOIS-M-01864-Improper Rec of Time Data
- Article 16-DOIS-M-01864-Volume Not Rec Accurately
- Article 16-Failure to Comply with Grievance Sett
- Article 15 - Failure to Meet Informal A
- Article 15 - Failure to Meet Informal A
- Article 16 - Locally Developed or Modified Forms
- Article 16 - Non-Compliance - Arbitration Award
- Article 16-Non-Compliance-DOU Full-Time Opportunit
- Article 16 - FTR - Improper Use
- Article 15 - Signing Local Forms
- Article 14 & 18-DPS Security Adm Mail Not Duly Ord
- Article 15 & 18-Unauthorized Overline Improper Rec
- Article 16-Act of God-Denial of Admin Leave-Hurtic
- Article 15 - Notice of Removal - Improper Citation
- Article 14.7-Emergency Suspension-Unlaw Driving
- Article 17 - Failure to Provide Steward Time
- Article 17 - Withdrawing Rights Violation
- Article 17 & 31 - Failure to Provide Information A
- Article 18-Act of God-Denial of Admin Leave-Hurtic
- Article 16-Failure to Provide 3999 When Requested
- Article 16-DOIS-M-01864-Improper Rec of Time Data



**GRIEVANCE STARTER FOR IF/WHEN MANAGEMENT FAILS TO PROVIDE TIME ON THE  
CLOCK FOR PROCESSING GRIEVANCES REQUIRING THE UNION REPRESENTATIVE TO  
PROCESS GRIEVANCES OFF-THE-CLOCK**

**Issue Statement (Block 15 on PS Form 8190):**

Did management violate Article 17, Section 4 of the National Agreement at the  
**[Station/Post Office]** by failing to provide paid grievance handling time, and if so, what  
should the remedy be?

## **GRIEVANCE STARTER CONTINUED...**

When management fails to grant requested time "on the clock" needed to investigate/process a grievance and you have do the work "off the clock", you should always file a separate grievance. In other words, you will need to file two grievances. The first grievance is the one you had to write "off the clock" to preserve your time limits. The second grievance will be for getting paid for the time you spent doing the work. Page 20 of the NALC Shop Steward's Guide explains grieving the denial of steward time.

Here are two basic things you should know when using this grievance starter:

1. **This kind of case should be filed as an individual grievance with the grievant being the union representative who completed the work off-the-clock.**
2. **The incident date is the date the grievant completed the work off-the-clock.**



## **GRIEVANCE STARTER CONTINUED...**

To prove a violation in this type of grievance you must:

2. Document your request(s) for grievance handling time
3. Document the time you spent on grievance handling "off-the-clock"
4. Try to document the grievance handling work you performed "off-the-clock"
5. Document your workhours as a Letter Carrier on the day you spent time performing grievance handling work "off-the-clock".

**Union Facts and Contentions (Block 17 on PS Form 8190):**

**Facts:**

1. Union representative [name] submitted a request(s) for paid grievance handling time to investigate and process local grievance [grievance #(s)] to manager/supervisor [name] on [date(s)]. This fact is documented in the case file with \_\_\_\_\_.
2. Management at the [Station/Post Office] failed to provide paid grievance handling time during working hours.
3. Union representative [name] spent [x hour(s)/min(s)] processing local grievance(s) [grievance #(s)] off the clock on [date(s)]. This fact is documented in the case file with \_\_\_\_\_.
4. Union representative [name] spent [x hour(s)/min(s)] processing different local grievance(s) [grievance #(s)] and/or performing other steward duties [name them] on-the-clock. This fact is documented in the case file with \_\_\_\_\_.
5. Article 17, Section 3 of the National Agreement states in relevant part:

**Section 3. Rights of Stewards**

*When it is necessary for a steward to leave his/her work area to investigate and adjust grievances or to investigate a specific problem to determine whether to file a grievance, the steward shall request permission from the immediate supervisor and such request shall not be unreasonably denied.*

**GRIEVANCE**  
**STARTER**  
**CONTINUED...**



6. Article 17 of the JCAM explains:

**Steward Rights, Article 17.3 & 17.4 establish several steward rights:**

- The right to investigate and adjust grievances and problems that may become grievances;
- The right to paid time to conduct those activities;
- The right to obtain management information;
- Supervisory concern being involuntarily transferred;
- An employee's right to steward representation during an inspection Service interrogation.

7. Article 17, Section 4 of the Notional Agreement states in relevant part:

**Section 4. Payment of Stewards**

The Employer will authorize payment only under the following conditions:

*Grievances—Informal and Formal Step 4. The agreement and one Union steward (only as permitted under the formula in Section 2 at the time actually spent in grievance handling, including investigation and meetings with the Employer. The Employer will also compensate a steward for the time reasonably necessary to write a grievance.*

8. Article 17 of the JCAM explains:

*A steward has the right to conduct all such activities on the clock (free time).*

**Right to Steward Time on the Clock.** Although a steward must ask for supervisory permission to leave his or her work area or enter another one to pursue a grievance or potential grievance, management cannot unreasonably deny requests for paid grievance-handling time.

**GRIEVANCE**  
**STARTER**  
**CONTINUED...**

**Contentions:**

1. Management violated Article 17, Sections 3 & 4 of the National Agreement by failing to provide total grievance handling time.
2. Management unreasonably denied the requested grievance handling time requiring the grievant to complete the processing of the grievance(s) off the clock to maintain the contractually established timelines for filing a grievance as set forth in Article 15 of the National Agreement.
3. Any argument that management may make claiming this grievance handling time was provided is simply not true. All grievance handling time on-the-clock is documented within the case file as time spent working on other grievance(s) toward duties.
4. Article 17 of the JCBA explains:

*The appropriate remedy in a case where management has unreasonably denied a grievant time on-the-clock to file, process, or complete a grievance(s) is that the grievant be compensated for the time spent processing the grievance(s) off-the-clock which should have been paid time*

**Remedy (Block 19 on PS Form 8190):**

1. Management cease and desist failing to provide paid grievance handling time in violation of Article 17 of the National Agreement.
2. That management pay union representative [Name], [Insert initials] at the appropriate rate of pay or a lump sum payment of [Amount] for the time spent processing local grievance(s) [reference file(s)] off-the-clock.
3. That all payments associated with this case be made as soon as administratively possible, but no later than 30 days from the date of settlement.
4. That fact of payment be provided to [UAC, C, Official] upon payment, and/or any other remedy the Shop B team or an arbitrator deems appropriate.

**GRIEVANCE**  
**STARTER**  
**CONTINUED...**





**National Association of Letter Carriers  
Request for Information**

To: \_\_\_\_\_  
(Manager/Supervisor)

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

(Station/Post Office)

Manager/Supervisor \_\_\_\_\_

Pursuant to Articles 17 and 31 of the National Agreement, I am requesting the following information to investigate a grievance concerning a violation of Article 17.

1. TACS Employee Everything Report for [Name] from [Date].

I am also requesting to interview the following individuals:

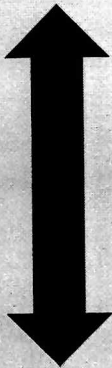
1. [Name]
2. [Name]
3. [Name]

Your cooperation in this matter will be greatly appreciated. If you have any questions concerning this request, or if I may be of assistance to you in some other way, please feel free to contact me.

Sincerely,

Request received by: \_\_\_\_\_  
Date: \_\_\_\_\_  
Shop Steward \_\_\_\_\_  
NALC \_\_\_\_\_

# NALC Request Forms



**National Association of Letter Carriers  
Request for Steward Time**

To: \_\_\_\_\_  
(Manager/Supervisor)

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

(Station/Post Office)

Manager/Supervisor \_\_\_\_\_

Pursuant to Article 17 of the National Agreement, I am requesting the following steward time to investigate a grievance. I anticipate needing approximately \_\_\_\_\_ hour(s) of steward time, which needs to be scheduled no later than \_\_\_\_\_ (hour(s)). In order to ensure the timeliness established in Article 15 are met, in the event more steward time is needed, I will inform you as soon as possible.

Your cooperation in this matter will be greatly appreciated. If you have any questions concerning this request, or if I may be of assistance to you in some other way, please feel free to contact me.

Sincerely,

Request received by: \_\_\_\_\_  
Date: \_\_\_\_\_  
Shop Steward \_\_\_\_\_  
NALC \_\_\_\_\_



## **GRIEVANCE FILE CHECKLISTS**

### **Denied Steward Time Grievance Checklist**

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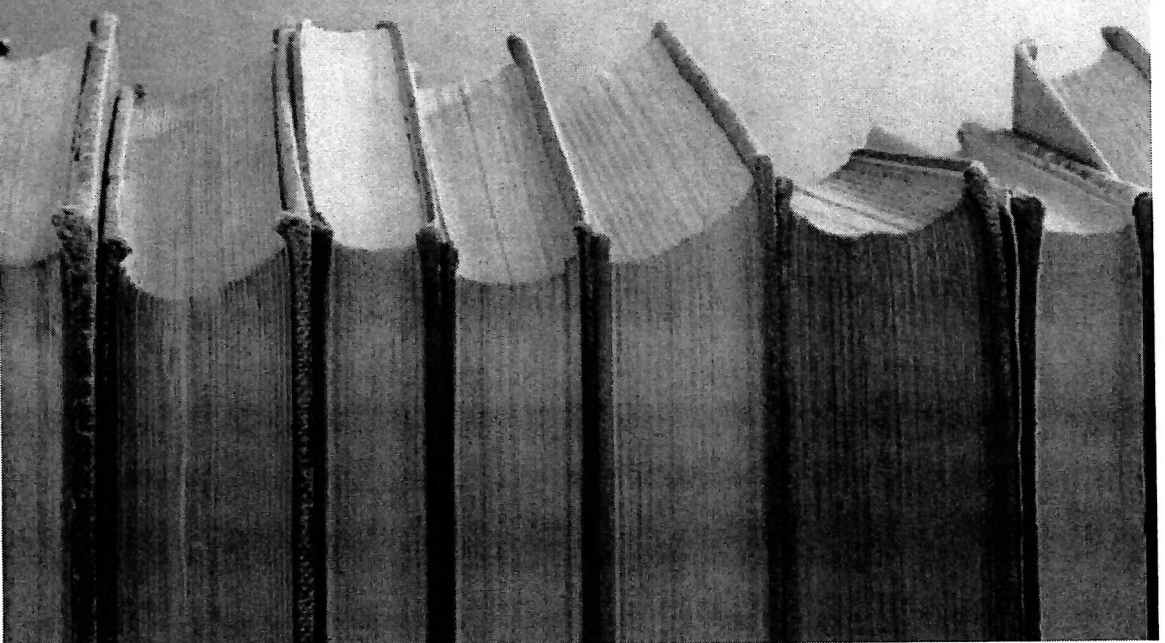
This checklist is a guide to help stewards in developing a grievance file. These documents at a minimum **MUST** be included:

- ☐ NALC Request for Time (in writing)
- ☐ TACS EER Reports for the applicable dates that time was not provided
- ☐ Evidence steward performed work off-the-clock, i.e., signed statement from witnesses, video, pictures, etc..
- ☐ If other 613 time was approved during timeframe, you must show with documentary evidence what other union work was being performed, e.g., investigative interview, other grievance investigation and/or meetings.
- ☐ Evidence showing what work was performed off-the-clock
- ☐ Statement from Steward
- ☒ Interview with supervisor - **Each time**
- ☐ Previous grievance settlements on this issue (if applicable)
- ☐ Complete Copy of the subject LMOU (if it contains language on providing union time)
- ☐ Any and all other relevant documentation



What if management  
won't provide you  
information?

Use the Grievance Starters



## **Grievance Starter for management failing to provide requested information and/or interviews:**

### **Issue Statement (Block #15 on PS Form 8190):**

1. Did management at the [Installation name] Installation violate Articles 17 and 31 of the National Agreement by failing to furnish relevant, requested information in a timely manner, and if so, what should the remedy be?
2. Did management at the [Installation name] violate Articles 17 and 31 of the National Agreement by failing to allow the steward to interview [Letter Carrier name] **AND/OR** [Management Official name] **AND/OR** [Witness name] on-the-clock, and if so, what should the remedy be?

File Article 15 if manager  
doesn't have GATS # prior to  
Formal A.



**Union Facts and Contentions (Block #17 on PS Form 8190):**

**Facts:**

1. Steward [Name] submitted a request for information dated [Date] in which they requested [Info requested]. This fact is documented by the request(s) for information in the case file.
2. Management did not provide [Info not provided]. This is documented by Steward [Name] written statement in the case file.
3. Management did not allow [Name and title] to interview [Letter Carrier name] AND/OR [Management Official name] AND/OR [Witness name] as was properly requested.
4. Article 17, Section 3 of the National Agreement states in relevant part:  
  
*The steward, chief steward or other Union representative properly certified in accordance with Section 2 above may request and shall obtain access through the appropriate supervisor to review the documents, files and other records necessary for processing a grievance or determining if a grievance exists and shall have the right to interview the aggrieved employee(s), supervisors and witnesses during working hours. Such requests shall not be unreasonably denied.*
5. Article 17 of the JCAM explains:  
  
Steward requests to review and obtain documents should state how the request is relevant to the handling of a grievance or potential grievance. Management should respond to questions and to requests for documents

**Grievance Starter**  
**Continued...**

# Grievance Starter

## Continued...

in a cooperative and timely manner. When a relevant request is made, management should provide the review and/or produce the requested documentation as soon as is reasonably possible.

### 6. Article 31, Section 2 of the National Agreement states:

#### Section 3. Information

The Employer will make available for inspection by the Union all relevant information necessary for the Union to determine whether or not the enforcement, administration or interpretation of this Agreement, including information necessary to determine whether to file or to continue the processing of a grievance under this Agreement. Upon the request of the Union, the Employer will furnish such information, provided, however, that the Employer need not furnish information that would reveal trade secrets or any costs reasonably incurred in obtaining the information.

### 7. Article 31 of the JCMA explains:

Information Article 31.3 provides that the Postal Service will make available for inspection by the Union all relevant information necessary for the Union to determine whether or not the enforcement, administration or interpretation of this Agreement, including information necessary to determine whether to file or to continue the processing of a grievance. It also recognizes the union's legal right to employee information under the National Labor Relations Act.

### Contentions:

1. Management violated Articles 17 and 31 of the National Agreement by failing to provide the relevant, requested information to the Union. Steward (Name), who is certified under Article 17, Section 2, properly requested information they deemed necessary to investigate/process a grievance.
2. The Union contends not only that management is required to provide the information associated with this grievance, they must do so "in a timely manner," and "as soon as is reasonably possible" as set out in Article 17 of the National Agreement and further firmly enshrined in the JCMA.
3. Moreover, the Union contends management violated Articles 17 and 31 of the National Agreement by failing to allow the Union to interview (Letter Carrier Name) AND/OR (Management Official Name) AND/OR (Witness Name) as was properly requested. Compliance with the National Agreement requires that the Employer make available for inspection and review all relevant information that is necessary to determine whether to file or to continue the processing of a grievance under this Agreement. Management failed intensely on both fronts in this case.



**Remedy (Block #19 on PS Form 8190):**

1. That management cease and desist from future violations of Articles 17 and 31 of the National Agreement.
2. That management pay a lump sum of \$50.00 to Letter Carrier Name and/or Branch to serve as an incentive for future compliance.
3. That all payments associated with this case be made as soon as administratively possible, but no later than 30 days from the date of settlement.
4. That proof of payment be provided to NALC Official upon payment, and/or any other remedy the Step B team or an arbitrator deems appropriate.

**Grievance Starter**  
**Continued...**



## GRIEVANCE FILE CHECKLISTS



### Information not provided Grievance Checklist

This checklist is a guide to help stewards in developing a grievance file. These documents at a minimum **MUST** be included:

- ☐ NALC Request for Information (in writing)
- ☐ Statement from Steward
- ☐ Interview with supervisor
- ☐ Previous grievance settlements on this issue (if applicable)
- ☐ Complete Copy of the subject LMOU (if it contains language on providing information)
- ☐ Any and all other relevant documentation



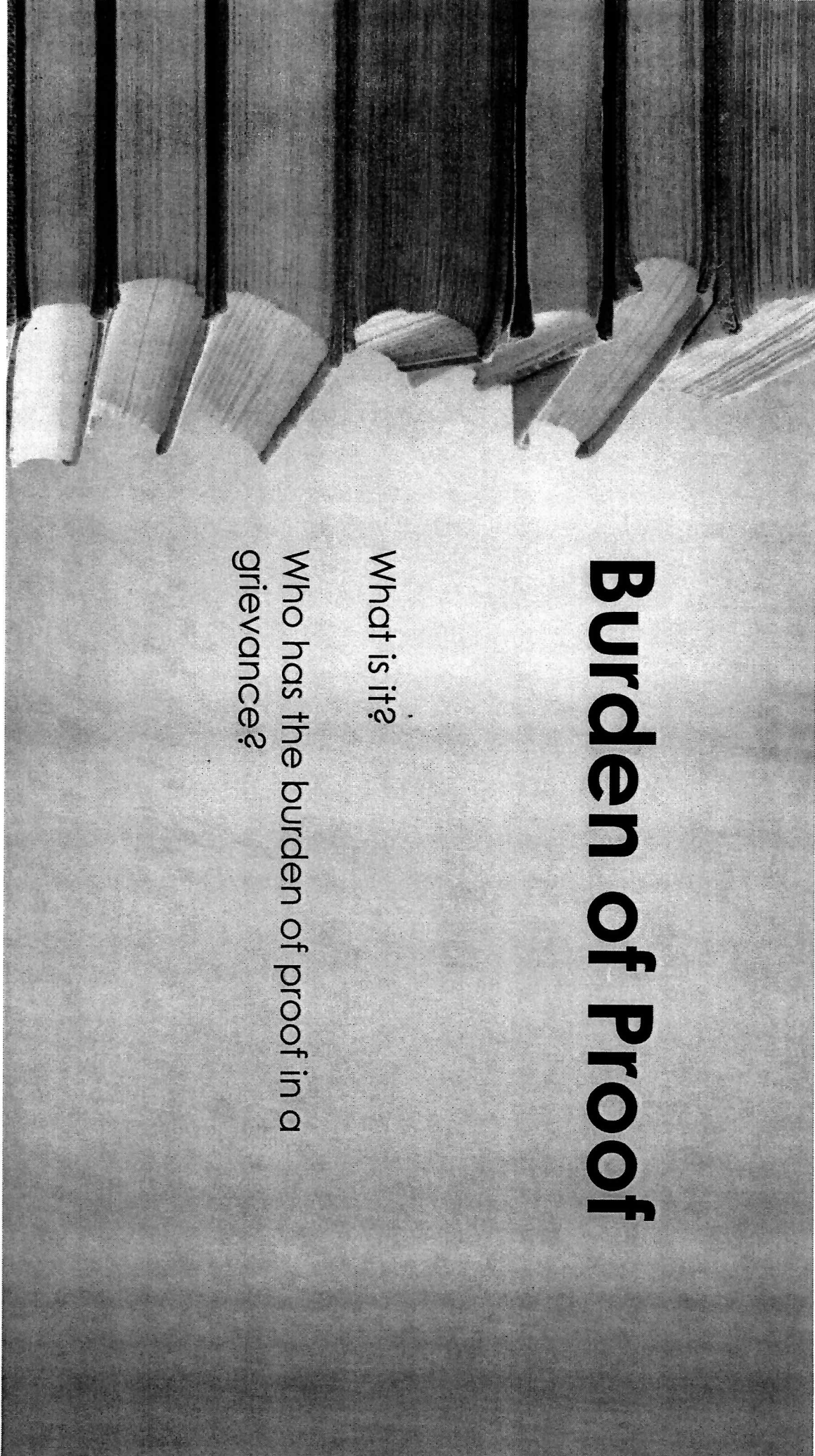
Remember these are Grievance "Starters", not a finished product.

Be sure to:

- Add all relevant facts and contentions based on fact circumstances in the file.
- Tailor the contentions to fit your grievance.
- Insert the relevant information for your grievance into the starter.
- This should be used as a guide to get you started in the right direction.

Don't:

- Print out the starter as is!



# Burden of Proof

What is it?

Who has the burden of proof in a grievance?



# Definition of Proof:

The effect of evidence. The establishment of a fact by evidence.

Something that induces certainty or establishes validity.

"Proof" is the establishment by evidence of a requisite degree of belief concerning a fact in the mind of the trier of fact or the court.

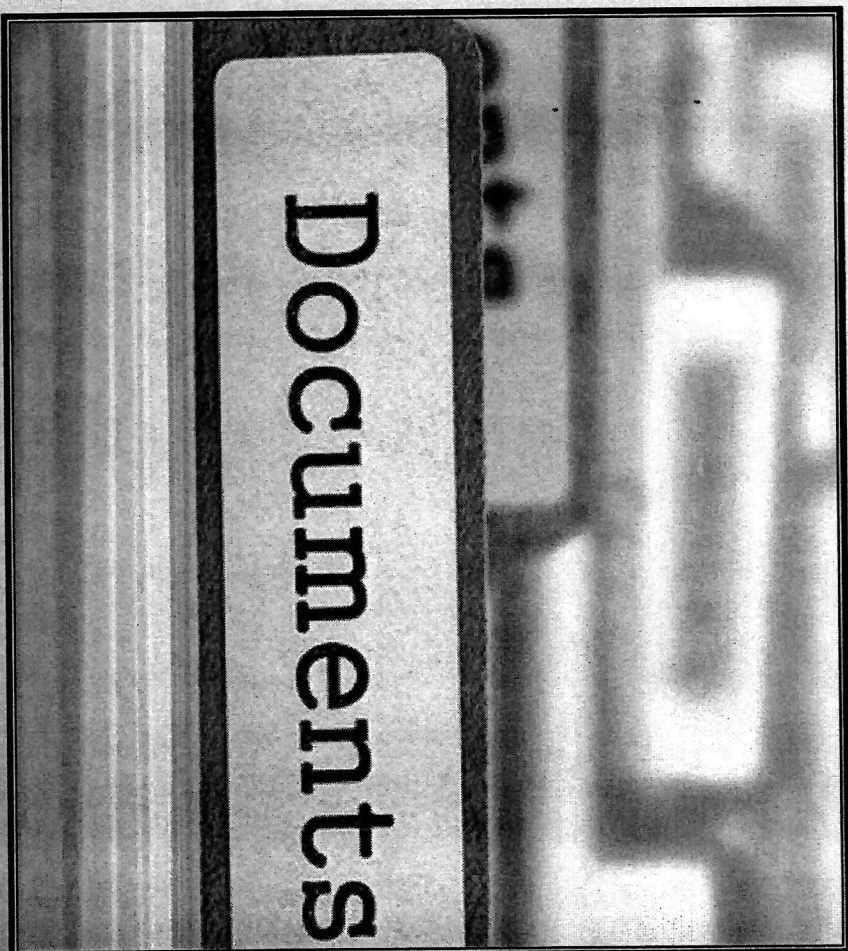


# **Types of Evidence**

- ***Oral Testimony (statements)***
- ***Documentary Evidence***

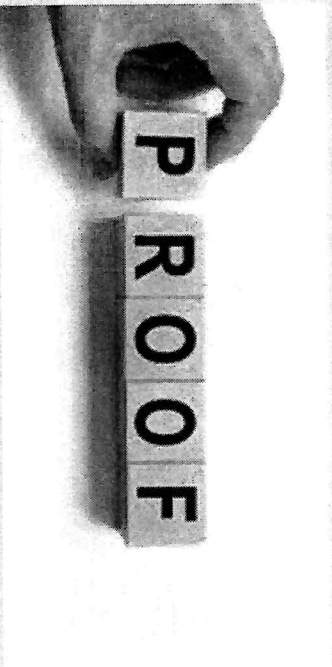
## **Documentary Evidence**

- Documents, forms, records, files, noted, photographs, charts, policies, memoranda, etc.
- Inanimate objects (physical evidence) – scanner, mail, postal vehicle, etc.





# Types of Proof



- **Direct evidence** – which if believed proves the existence of a fact
- **Circumstantial evidence** – facts from which deductions are drawn
- **Hearsay Evidence** – second-hand facts - something learned from someone else

# **Meeting the Burden of Proof in a Contractual Case**

The union has the burden of proof in a contract case.



## **The union must:**

Show there is a rule, regulation, policy or practice that governs or controls the circumstances that gave rise to the dispute or issues in question.

**If the language governing the issue is clear and directive, not permissive. What is needed to prove a violation?**

- Evidence proving the facts that demonstrate that management did not follow the rule, policy, regulation or practice.
- This would be the documents and testimony (or statements) establishing the facts of the case, i.e., what happened.

**Example of directive contractual language:**

Article 8.8B. "When a full-time regular employee is called in on the employee's non-scheduled day, the employee will be guaranteed eight hours work or pay in lieu thereof."



**If the language governing the circumstances is permissive or discretionary, the union must be able to provide evidence demonstrating that management abused this authority or acted in an arbitrary, capricious or discriminatory manner.**

**Example of permissive language:**

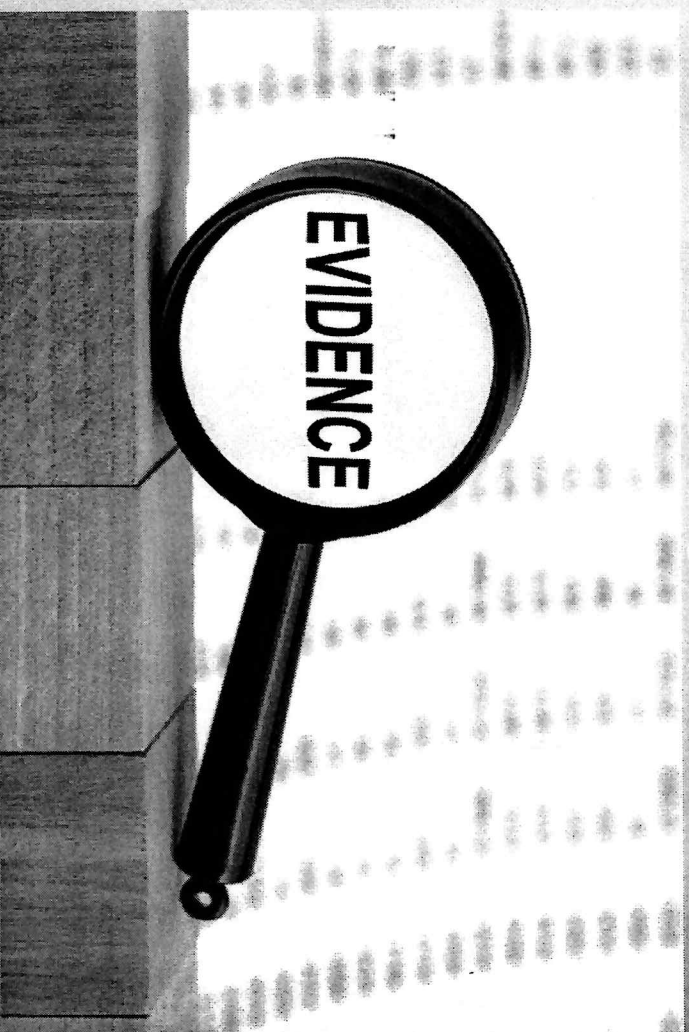
For periods of absence of 3 days or less, supervisors **may** accept the employee's statement explaining the absence. Medical documentation or other acceptable evidence of incapacity for work or need to care for a family member is required only when the employee is on restricted sick leave (see 513.39) or when the supervisor deems documentation desirable for the protection of the interests of the Postal Service. ELM 513.361

# Meeting the Burden of Proof in a Disciplinary Case

**The burden of proof in a disciplinary case falls on management.**

**Management must prove all the caveats of just cause were met.**

**In order to meet their burden, all the questions of just cause must be answered with a YES!**





# **Don't prove management's case for them!**

Don't add documents to the file to prove management's case for them, they have the burden of proof when issuing discipline.

In addition, if management does not meet at Formal Step A the only documents that should be in the file are the following:

- **Table of Contents**
- **PS Form 8190**
- **Disciplinary notice**
- **Union Contentions**
- **Proof of appeal to Formal Step A**