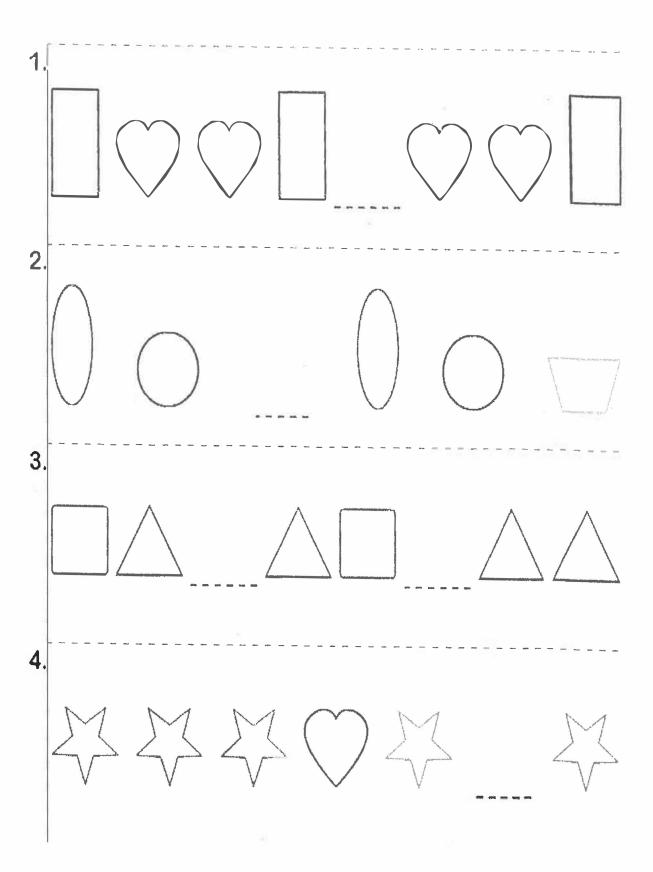
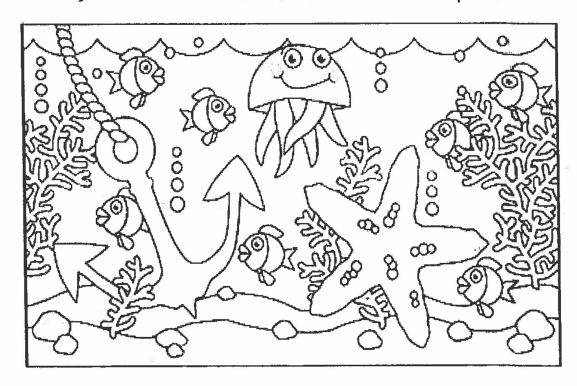
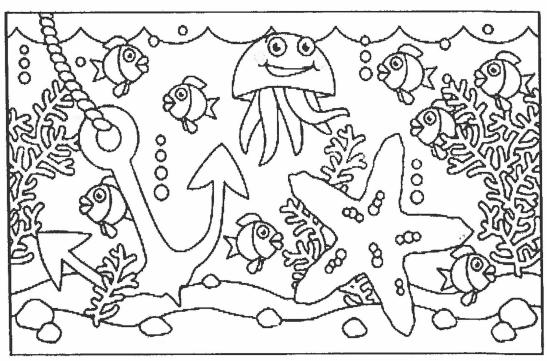
	Article 16 Bra	ainstorm Sheet	
Grievant:		Date Issued:	
		Veteran:	
Type of discipline?		Years of service:	
is there a rule?	Is it a reasonable rule?	Is the rule consistently	Thorough and Objective
19 tilete a rate.	is it a reasonable rate.	and equitably enforced?	Thorough and objective
		Corrective rather than	Review and concurrence
Severity of the discipline	Was it issued timely?	punitive? Progressive?	<u>issues?</u>
	Н		
s it a safety related disciplin	e?	ls it an attendance related di	scipline?
Was there a specific safety r	ule cited?	Has the carrier been referre	d to EAP or FMLA?
Other mitigating factors:			
-			

What's missing?



Can you find 10 differences between the two pictures?





READ AND CONNECT

Is there a rule?	How is it reasonable for the grievant to report to work and perform her duties when she is Incapacitated by illness?
Is the rule a reasonable rule?	Almost six months had pasted prior to her Illness which hospitalized her in June 2022.
Is the rule consistently and equitable enforced?	Management simply made assumptions without supporting evidence.
Was a thorough investigation completed?	Handbook M-11 112.22 Report for work Promptly as scheduled
Was the severity of the discipline reasonable related To the infraction itself and in line with that usually Administered, as well as to the seriousness of the Employee's past record?	Management failed to review her attendance quarterly and treated her desperately when she had fewer incidents but more severe discipline
Was the disciplinary action taken in a timely manne	er? In view of the incident dates cited and duplicate dates the discipline is punitive in absence of history, excessive behavior,

or corrective measures.

FACTS/CONTENTIONS/EVIDENCE WORKSHEET

evant:	Branch Grievance	#:					
oject or Violation:							
Every Fact or Contention	Every Fact or Contention must be supported by Evidence!!!!!						
FACTS	CONTENTIONS	EVIDENCE (name, document, etc.)	E				
			+				
4 2			_				
			\uparrow				
			-				
			+				
. 12		-	1				

frequently divide the question of just cause into six sub-questions and often opply the following criteria to determine whether the action was for just cause. These criteria are the basic considerations that the supervisor must use before initiating disciplinary action.

- Is there a rule? If so, was the employee aware of the rule? Yes. All employees of the Livermore Post Office are expected at minimum, to obey the instructions of their supervisors and to follow all rules and regulations set forth by the United States Postal Service. Additionally, the Postal Service has rules regarding attendance. Employees are expected to follow those rules, the grievant confirmed in the investigative interview that he is aware of the rules.
- Is the rule a reasonable rule? Yes, the rule is reasonable. It is reasonable to expect that employees will come to work. Additionally, the rules are reasonable and universal in the business world.
- Is the rule consistently and equitably enforced? Yes. The rule is consistently and equitably enforced. Management contends there is no disparity in treatment. This is undisputed as the Union makes no argument about the equitable enforcement of the cited rules.
- Was a thorough investigation completed? Yes. The case file contains voluminous documents attesting to the thorough investigation conducted by Management. The grievant was given an opportunity to explain her actions in an investigative interview wherein she was properly represented by the Union.
- Was the severity of the discipline reasonably related to the infraction itself and in line with that usually administered, as well as to the seriousness of the employee's past record? Yes. The total disregard of the grievant's attendance issues, rises to the level of discipline from the Postal Service.
- Was the disciplinary action taken in a timely manner? Yes. Upon conclusion of the investigation all documents were reviewed, and the discipline timely issued.

Corrective Rather than Punitive? Yes, the grievant's actions are serious in nature and have risen to the level of concern from the United States Postal Service.

Having given due consideration to all the evidence submitted for review, the case file provides more than ample evidence to establish just cause for a notice of removal. The grievant knowingly and willfully acted as charged. The Union has failed to prove otherwise.

The Management Step A representative has provided voluminous documentation in support of Management's position and the Management Step B Representative fully concurs. Having established "Just Cause" for the issuance of the discipline, the burden of proof now shifts to the Union to prove a violation of the National Agreement has occurred. The Union has failed to meet that burden

For all evidence in the case file and all arguments made above, **Management affirms that the NOR** was for just cause and properly administered. I respectfully request that this grievance be denied in its entirety.

THE NALC STEP B TEAM MEMBERS POSITION:

The Union at Formal Step A has thoroughly framed the issues and accurately presented the necessary information and documentation to show violations of the National Agreement and Federal laws and regulations. Per Article 15.2 Step B (a), JCAM page 15-7, the Union member of the DRT



DATE:

JULY 28,2022

SUBJECT:

LETTER OF WARNING

NAME:

SUR

POSITION:

PTF Carrier

EID:

FACILITY

This official disciplinary letter of warning is being issued to you for the following reasons:

CHARGE: "FAILURE TO MAINTAIN REGULAR ATTENDANCE."

Since SEPT 2021, you have failed to adhere to your schedule on the below listed dates:

DATE	IRREGULARITIES

SEPT 28-OCT 1,2021	UNSCHEDULED SL
NOV 1,2021	UNSCHEDULED SL
DEC 27-JAN 3,2022	UNSCHEDULED SL
JUNE 11-28, 2022	UNSCHEDULED SL

During my investigation of this matter you were asked for an explanation of your conduct. You stated that "Due to excessive hours, I been scheduled to work my body can't take it and it causes me to get sick. Your explanation is unacceptable. I find that you are aware of the call-in procedures and that you are aware of your responsibility to be regular in attendance. You have been made aware of your responsibilities concerning following instructions and attendance requirements through stand-ups.

If the Postal Service is to accomplish its mission of cost-effective and efficient distribution and delivery of the mails, all employees are expected to be regular in attendance, including maintaining their assigned schedule and making every

JULU 28, 2028 PAGE 2 OF 3

effort to avoid unscheduled absences. Based on your attendance record, it is evident that you have been unable to comply with the requirement. In addition, all employees under the jurisdiction of the this office have been placed on clear notice that, although the leave may be approved for pay purposes, failure to be regular in attendance and/or unscheduled absences may be cause for disciplinary action up to and including removal from the Postal Service.

Your actions are in violation of, but not limited to:

ELM 511.43 Employee responsibilities. Employees are expected to maintain their assigned schedule and must make every effort to avoid unscheduled absences. In addition, employees must provide acceptable evidence for absences when required.

Handbook M-41 112.22 Report for work promptly as scheduled.

ELM 665.41 Employees are required to be regular in attendance. Failure to be regular in attendance may result in disciplinary action, including removal from the Postal Service.

ELM 665.42 (in part) Employees who fail to report for duty on scheduled days, including Saturdays, Sundays and holidays, are considered absent without leave except in cases where actual emergencies prevent them from obtaining permission in advance. In emergencies, the supervisor or proper official must be notified of the inability to report as soon as possible. Satisfactory evidence of the emergency must be furnished later. An employee who is absent without permission or fails to provide satisfactory evidence that an actual emergency existed will be placed in a non-pay status for the period of such absence. The absence may be the basis for disciplinary action.

It is hoped that this official letter of warning will serve to impress upon you the seriousness of your actions and that future discipline will not be necessary. If you are having difficulties which I may not be aware of, or if you need additional assistance or instructions for improving your performance, please call on me. You may also consult with your other supervisors and they will assist you where possible. However, I must warn you that future deficiencies will result in more severe disciplinary action being taken against you. Such action may include suspensions or removal from the Postal Service.

LETTER OF WARNING

PAGE 3 OF 3

You have the right to file a grievance under the Grievance/Arbitration procedures set forth in Article 15 of the National Agreement within 14 days of your receipt of this letter.

Jim
Supervisor of Customer Services

7/29/2022

Date

CC:

Labor Relations
Official Personnel Folder

Received by employee:

Aib9 pm

Employee's signature

Date Rec'd

Just Cause Interview
NALC: M Abante
/ Union Copy

PTF: SUE SCS Adam Attendance

Start: 1:31

Finish: 1:55

1. The purpose of this interview is to conduct a just cause investigation. The term just cause, is a "term of art" created by labor arbitrators. It has no precise definition. Simply put, though, it provides for a fair and provable justification for discipline. In other words, it is used to determine whether disciplinary action is warranted for certain actions that have occurred. Do you understand this?

A. Yes

Victoria: Are saying I'm going to get disciplined for my absences? SCS: Adam yes, you'll be getting something, you missed a lot of work.

- 2. Concerning this "Just Cause" interview, it is to determine whether disciplinary action is warranted. You will be asked specific questions about the issue referenced above and based on your responses I will determine whether or not disciplinary action is warranted, and if disciplinary action is warranted, what level of discipline, up to and including removal from the Postal Service. Do you understand what I just Read?
 - A. Yes, not happy
- 3. In addition, the ELM (665) requires that employees cooperate in any postal investigation. Are you aware of this requirement?
 - A. No
- 4. The ELM 665 also requires that employees provide truthful and honest answers in postal investigations. Are you aware of this requirement?
 - A. I don't know what ELM is, but I'm willing to cooperate.
- 5. If it is later determined that you were not truthful and honest in answering questions and/or you do not cooperate in this postal investigation, you may be subject to disciplinary action up to and including removal from the Postal Service. Do you understand these requirements?
 - A. Again, I don't know ELM, but I'm willing to cooperate.
- 6. As an employee of the US Postal Service are you aware that violations of postal rules, regulations, and policies can result in disciplinary actions such as letters of Warning and suspensions up to and including removal?
 - A. I do not know what all the rules and regulations are.

Finally, if you refuse to answer any of these questions, I will have to determine whether disciplinary action is warranted based upon the evidence of record, and on the other information gathered as part of my investigation.

7. For the record, please state your name, position, and how long you've been working for USPS?

Union Copy

Just Cause

Sue

115 Guise

A. SUE PTF, 3 years and I think 19 days.

8. Did management speak to you concerning being regular in attendance?

NALC: Who, did SCS Adam speak with you?

A. No

9. Why were you absent on Sept 28-Oct. 1, 2021?

NALC: Can we see PS 3971s?

SCS Adam I don't have those, only ETCs. and some PS 3972s.

Note: PS 3972s for 2022

A. I don't recall

10. Why were you absent on November 1, 2021?

NALC: no 3971s, PS 3972

A. I have no idea.

11. Why were you absent on December 27-Jan. 3, 2021?

NALC: no 3971s, PS 3972

A. I was ill and in the emergency room in the hospital.

NALC: These are old dates, why are you bringing them up now?

SCS Adam I don't know

SUE, SCS Jim asked me about them last year and told me to give him documentation which I did. That's the last I heard about it.

NALC: So why are you asking about them again?

SCS Mam, SCS Jim is busy so told me to do just cause.

12. Why were you absent on June 11-28, 2022?

A. I was sick and in the emergency room twice.

13. Is it true you text your supervisor that you were admitted or still in the hospital?

A. Yes, I texted Jim I was still in the hospital.

14. Is it true that you don't have any documentation from the hospital that you said you were admitted but only electronic signed note dated 6/27/2022 when you return to work?

A. My regular doctor was not my attending physician in the hospital. My regular doctor is the one who electronically signed the note after I was released, FMLA is pending.

NALC: Did you have different physicians in the hospital?

Victoria, yes so, my regular doctor signed the note.

15. Is there anything else you would like to share that may help us in this investigation?

A. Due to excessive hours, I've been scheduled to work my body can't take it and it causes me to be sick.

NALC: I thought you're a 204b?

Site, because we are shorthanded, I'm carrying mail.

NALC: what do you mean shorthanded?

Suk: , shortage of employees so everyone is carrying additional routes and swings and being mandated. I'm older than most and it affects me more.

Unc. Chest . 3

NALC Investigation

Interview	with:	SCS	lim	7
Date:				

NALC: M. Abante Office:

Grievant: \

Start: 1:21

Finish: 1:34

Subject: Information regarding the Letter of Warning (LOW) content dated July 28, 2022, issued to grievant

1. Did you conduct a full and thorough investigation prior to issuing the grievant a disciplinary Letter of Warning?

A. Yes

2. Did the grievant abuse her sick leave? If so, how?

A. At that time, she has no more sick leave.

3. What specific information did you rely on to issue the grievant a Letter of Warning?

A. I asked for documentation, and she provided it when she came back.

4. Do you have any information proving the grievant was not "sick"? If so, what specifically?

A. No

5. What is satisfactory attendance?

A. Just to be here and to be at work and provide documentation when asked for it.

6. What is irregular attendance?

A. Not at work most of the time.

7. Is SUE at work most of the time?

A. Yes

8. Must a carrier follow instructions even it may cause him harm or injury?

A. No

 Why did you include dates from 2021 previously discussed with the grievant in this Letter of Warning?

A. Cause I believe there is a pattern. She went on vacation.

10. Did you previously discuss these dates with 'SUE,

A. Yes

11. Has the grievant improved her attendance as of Jan. 3, 2022?

A. Yes

12. How is it reasonable for the grievant to report to work and perform carrier duties when she is incapacitated by illness?

A. No, she can't.

13. Does management require employees to report to work even though they are sick? If so, explain.

A. No,

- 14. Is the grievant on restricted sick leave?
 - A. No,
- 15. Did you inform the grievant you would use these 3971s against her as evidence to issue discipline? If not, why not?
 - A. I don't remember.
- 16. Do you have proof that she did not acquire an unexpected illness or sickness for all the dates cited in the discipline? If so, what?
 - A. No,
- 17. What elements of just cause did you secure to justify this discipline?
 - A. She called out a minimum of a week.
- 18. Are these your full and complete answers for this interview conducted by the NALC?
 - A. Yes.

Grievant Interview NALC: M. Abante Carrier: Juk

Per Phone conversation

- 1. Did you make every effort to come to work?
 - A. I got sick and was hospitalized I make every effort to come to work.
- 2. Is it true you asked SCS Ham if you were going to receive discipline during the just cause interview?
 - A. Yes, we hadn't finished the interview and he already told me I was going to get disciplined. I wasn't happy. I hadn't even answered the questions and he decided I was going to receive discipline. He was here in temporarily. SCS [And I is originally from Office, and he was told I would be getting discipline.
- 3. Did SCS Jim ever present the PS 3971s to you for review or signing?
 - A. No, they were never discussed.
- 4. Where you ever given a copy of the PS 3971?
 - A. I wasn't given any or saw any and I gave my documentation.
- 5. Were you ever notified you were placed on restrictive sick leave?
 - A. No
- 6. Were you ever notified that you would be required to provide documentation for all absences by deems desirable list?
 - A. No.
- 7. Have you previously been asked about dates in 2021?
 - A. SCS Jum a told me he was reviewing my attendance the beginning of the year with the dates of 2021 and asked me for documentation which I think I gave him. I didn't get disciplined, and I haven't called in sick since June when I was hospitalized.
- 8. When was the last time your attendance was reviewed?
 - A. The beginning of the year. I didn't know my attendance was a problem. Now because we don't have enough employees, I am working longer hours and days off. I'm older and can't take it.

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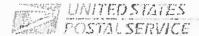
NATIONAL ASSOCIATION OF LETTER CARRIERS

Greater East Bay Branch 1111 - Affiliated with AFL-CIO

REQUEST FOR INFORMATION RELATIVE TO PROCESSING A GRIEVANCE PURSUANT TO NATIONAL AGREEMENT ARTICLE 17, SECTION 3 AND ARTICLE 31, SECTION 2.

GRIEVANT: JUE GRIEVANCE:	SHOP STEWARD: M. Abante OFFICE: (
CONCERNING: Article 16 & 19 (JCAM)	
REQUESTING INFORMATION: (copies)	DATE NEEDED:
1. ETC's for grievant $\int PM = 0$	All dates cited in the discipline
2. Managements Just Cause interview notes (typed and written)	Ž,
3. PS 3971's 15 7777	All dates cited in discipline
4. Any and all FMLA documentation on file for V. Jackson for all date	s cited in discipline Africa Days
5. Any/all medical and supporting documentation submitted for all date	es cited in discipline
6. PS form 3972's 14 1275	2021,2022
7. ERMS call in sick log Mility Trans 17	All dates cited in the discipline.
8. All past discipline which management relied upon as a past element Nicolary (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977) (1977)	and final NALC/USPS resolve.
9. Any Official Discussion notes which management relied on as a pas discipline.	st element concerning charges in current
10. All statements, interviews, memos, emails, text's, documents, pict of Warning 2 property of Color and the color of Warning dated 7/29/2022. 126/2022	ures management relies on to issue this Letter
11. Copy of Letter of Warning dated 7/28/2022. 1/28/2022	(gra
12. All documentation showing management conducted Quarterly Att 2021, 2022 Nilly Five Conducted Quarterly Att	endance Reviews with the grievant for the year
16. PS Form 50 MAN. 7 7 1 1 1 7 1 1 1 1 1 1 1 1 1 1 1 1 1	
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POSTAL OFFICIAL RECEIVING REQUEST





STEP B DECISION

Step B Team:

Bay Valley

Poppe, Michael

Lujan. Joseph

District Grieving:

California 2

Decision: RESOLVE

USPS Number: 4F 19N-4F-D 22460509

Grievant Suf

Branch Grievance Number: Branch, 1111

Installation: Delivery Unit:

State: California

Incident Date: July 28, 2022

Date Informal Step A Initiated: , Formal Step A Meeting Date: Date Received at Step B Step B Decision Date:

Issue Codes: 16 3000 62 0100 NALC Subject Codes: 000001 Original Step B Received Date: N/A Date Sent to Assisting Team, N/A

JUE ISSUE: Did Management establish just cause when issuing a Letter of Warning for the charge Failure to Maintain Regular Altendance on July 28, 2022? If not, what is the appropriate remedy?

DECISION: The Dispute Resolution Team (DRT) has agreed to RESOLVE this grievance, Based on the file as presented, management did not meet the previsions of just cause prior to issuing the SUR i. a Letter of Warning (LOW) on July 28, 2022, for the charge of Failure to Maintain Regular Attendance. Therefore, the LOW will be rescinded and removed from all USPS files and records.

EXPLANATION: On July 28, 2022, Supervisor Customer Service (SCS) Jim 1 issued the Grievant the LOW and it reads in relevant part.

*CHARGE: Failure to Maintain Regular Attendance

Since SEPT 2021, you have failed to adhere to your schedule on the below listed dates:

<u>DATE</u>	<u>IRREGULARITIES</u>
SEPT 28-OCT 1. 2 021 NOV 1. 2021	UNSCHEDULED SL UNSCHEDULED SL
DEC 27-JAN 3. 2022	UNSCHEDULED SL
JUNE 11-28. 2022	UNSCHEDULED S

During my investigation of this matter you were asked for an explanation of your conduct. You stated that "Due to excessive hours. I been scheduled to work my body can't take it and it causes me to get sick. Your explanation is unacceptable, I find that you are aware of the call-in procedures and that you

Dispute Resolution Team Bay Valles 4F 19N-4F 40 2.2460509 / CL 4601-22F

are aware of your responsibility to be regular in attendance. You have been made avvare of your responsibilities concerning following instructions and attendance requirements through starnd-ups. Management contended that the Grievant didn't provide doctor documentation on time.

Management met at both Informal and Formal Step A of the grievance-arbitration procedure but declined to previde a position for this grievance. In box 18 of the PS Form 8190, management stated the grievant did not provide doctor documentation on time

The Union contended that the Grievant only received discipline because she called in sick. Management has failed to provide evidence the Grievant was not ill or able to work safely and medical documentation was provided upon her return to work which was not controverted, therefore it must be considered as legitimate for days of absence. The Union contended that Management chose to issue discipline rather than accept the Grievant's explanation or pursue a thorough investigation to substantiate their charges. Management simply made assumptions without supporting evidence and failed to ensure their investigation was thorough and objective which is punitive rather than corrective and does not meet the just cause requirement.

The DRT finds the following provisions relevant to the instant case:

JCAM page 15-5

Formal Step A 15.2 (d)

At the meeting the Union representative shall make a full and detailed statement of facts relied upon, contractual provisions involved, and remedy sought. The Union representative may also furnish written statements from witnesses or other individuals. The Employer representative shall also make a full and detailed statement of facts and contractual provisions relied upon. The parties' representatives shall cooperate fully in the effort to develop all necessary facts, including the exchange of copies of all relevant papers or documents in accordance with Articles 17 and 31. The parties' representatives may mutually agree to jointly interview witnesses where desirable to assure full development of all facts and contentions. In addition, in cases involving discharge either party shall have the right to present no more than two witnesses. Such right shall not preclude the parties from jointly agreeing to interview additional witnesses as provided above.

Pages 16-1 through 16-3 of the Joint Contract Administration Manual (JCAM) explain the 'Just Cause Principle'. The just cause principle are basic considerations that a supervisor must use before initiating discipline.

16. Section 1. Principles

In the administration of this Article, a basic principle shall be that discipline should be corrective in nature, rather than punitive. No employee may be disciplined or discharged except for just cause such as, but not limited to, insubordination pilferage, intoxication (drugs or alcohol), incompetence, failure to perform work as requested, violation of the terms of this Agreement, or failure to observe safety rules and regulations. "Just cause" is a "term of art" created by labor arbitrators. It has no precise definition. It contains no rigid rules that apply in the same way in each case of discipline or discharge. However, arbitrators frequently divide the question of just cause into six sub-questions and often apply the following criteria to determine whether the action was for just cause. These criteria are the basic considerations that the supervisor must use before initiating disciplinary action.

- Is there a rule?
- Is the rule a reasonable rule?

Dispute Resolution Team Bay Valley 4E 1935-4E4 (22460809) / CL-004-22E

- Is the rule consistently and equitably enforced?
- · Was a thorough investigation completed?
- Was the severity of the discipline reasonably related to the infraction itself and in line with that usually administered, as well as to the seriousness of the employee's past record?
- Was the disciplinary action taken in a timely manner?

JCAM Pages 16-5 through 16-5

16.2 Section 2. Discussion

For minor offenses by an employee, management has a responsibility to discuss such matters with the employee. Discussions of this type shall be held in private between the employee and the supervisor. Such discussions are not considered discipline and are not grievable. Following such discussions, there is no prohibition against the supervisor and/or the employee making a personal notation of the date and subject matter for their own personal record(s). However, no notation or other information pertaining to such discussion shall be included in the employee's personnel folder. While such discussions may not be cited as an element of prior edverse record in any subsequent disciplinary action against an employee, they may be, where relevant and timely, relied upon to establish that employees have been made aware of their obligations and responsibilities.

Although included in Article 16, a "discussion" is non-disciplinary and thus is not grievable. Discussions are conducted in private between a supervisor and an employee.

Both the supervisor and the employee may keep a record of the discussion for personal use. However, these are not to be considered official Postal Service records. They may not be included in the employee's personnel folder, nor may they be passed to another supervisor.

Discussions cannot be cited as elements of an employee's past record in any future disciplinary action. Discussions may be used (when they are relevant and timely) only to establish that an employee has been made aware of some particular obligation or responsibility.

In discipline cases Management bears the burden of proof to demonstrate the employee acted as charged and the provisions of just cause have been met. Although just cause has no precise definition, simply put, the just cause provision requires a fair and provable justification for discipline. In this case, management issued discipline for dates ranging from September of 2021, through June of 2022. One of the essential elements of the just cause provision is

Was the disciplinary action taken in a timely manner?

Disciplinary actions should be taken as promptly as possible after the offense has been committed.

Management did not provide an explanation for the long delay in imposing disciplinary action for the dates, the grievance was absent in September. October, November, and December of 2021. Furthermore, the file contained an interview with a supervisor and documents noting the grievant was provided an official discussion for those same dates.

The JCAM on page 16-5 states:

Discussions cannot be cited as elements of an employee's past record in any future disciplinary action. Discussions may be used (when they are relevant and timely) only to

Dispute Resolution Team Bay Valley 4E-19N-4E-1D 224605m2 / C1-004-221

establish that an employee has been made aware of some particular obligation or responsibility.

In accordance with the JCAM, official discussions cannot be cited as elements of an employee's past record in any future disciplinary action.

The Dispute Resolution Team (DRT) has agreed to resolve this grievance. Based on the file as presented, management did not meet the provisions of just cause prior to issuing the Grievant, \ \(\frac{\text{SuE}}{\text{L}} \), a Letter of Warning (LOW) on July 28, 2022, for the charge of Failure to Maintain Regular Attendance. Therefore, the LOW will be rescinded and removed from all USPS files and records.

The DRT agrees the adjudication of this instant dispute to be proper as stated in the decision.

Michael Poppe Step B Representative

NALC Step B Representative

cc: Postmaster, Area Labor Relations, MLR, NALC Branch President, NALC National Business, Agent MGR, District Human Resources, USPS Formal Step A representatives

Grievance File Contents: (4E 19N-4E-D 22460509 / CL-004-22L)

Addled at Step B Acknowledgement Notice (1) page Formal Alappeal letter (1) page Time fimit extensions (5) pages Official discussion (3) pages Union interview w/Grievant (1) page PS Form 3971 (13) pages PS Form 3972 (9) pages PS Form 3972 (9) pages Phor discipline example (4) pages Unstructions to submit medical documentation (3) pages ELM/M39 provisions (3) pages JCAM provisions (3) pages

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Protocopy of mailing eductope to DRT [1] page

Employee's Name

Note: The Eagan DDE System (via D385) provid es employees' entered on duty date, work hours in the last 26 pay periods, at no current leave balances including FMLA and Sick Leave for Dependent Craire.

Pay Period	Week 1						Week 2							
, From To	Sat	Sun	Mon	Tue	Wed	Thur	Fri	Sat	Sun	Mon	Tue	Wed	Thur	Fr
Jul 31 Aug 13	31	.01	_02	03	04	.05	.06	: 07	_08	09	10	.11	12	
3 Aug 14 Aug 27	14	_15	_1 <u>6</u>	_1.7.	_18	_19	.20	_21	_22	_23	24	25	.26	
Aug 28 Sep 10	28	_29	30	31	.01	_02	0,3	.04	.05	06	.oz	08	09	
) Sep 11 Sep 24	_11_	_12	_13	_14	15	16	J7.	_1.8	_19	20	21	22	_23	
1 Sep 25 Oct 08	_2,5	26	27	28 uSWOP: 8	uSWCP- 8	_30 uSWDP- 8	-SV/OP- 8	_02	_03	04	.05	_06	.07	
? Oct.09 Oct.22	09	10	11.	_12	13	_14	15.	_16	_17_	18	_19	.20	21_	
3 Oct.23 Nov.05	23	24	25	26	27	28	29	_30	31	uSi. 8	.02	03	.04	
1 Nov 06 Nov 19	06	07	_08	_09	_10	11	12	13	_14	1,5	1.6	17.	_18	
5 Nov 20 Dec.03	20	21	22	23	24	25	. 26	.27	28	_29	30	.01	_02	
3 Dec.04 Dec.17	04	05	06	.07	_08	09	10	11	_12.	_13	34	15	_16	
1 Dec 18 Dec 31	18	19	20	.21	122	23	.24	.25	2,6	uSL 8	_SL-8	_29	30	

Attendance Related Actions & Dates (See Instructions)	Reviewing Supervisor's Comments, Signature & Date
O. Holos I solve to	Jan
On 1/8/22 I spoke to	Feb.
'Air	March
BUE regarding her	April
I do the man a sault of	May
Hendance further onexcuse absensence can lead to	- June
	July
rosensence can lead to	Aug
discool's and has	Sept
disciplinary action.	Oct
	Nov
	Dec.



Leave Year 2 1022 Absonce Analysis

Employee's Name

G92-CARRIERS

Fay Location

G92-CARRIERS

Instructions: Using the codes below, and the hours involved, past current and previous Quarters. Precede with letter if which absence is recorded as Paint by And Medical Leave Act (FMILA) and with "U" when absence is recorded as unschaduled on PS Form 3971, Post additional quarters if circuinstances warrant. This form may also be used on an engoing basis on page 2 of this form, the employee's supervisor records attendance-related actions, such as review of attendance, commendations, restricted sick leave. Letters of Warring and suspensions. A running total of FMLA hours used may be kept on page 2 of this form.

Absent from Schedule OT AOT AOS ANOL' ANNUAL Leave AL Annual Leave in Linu of Holiday Leave HAL' Annual Leave in Lieu of Sick Leave Administrative Leave AOL Continuation of Pay COP

Count Leave CL
Emergency Annual Leave EAL*
Family Medical Leave Act
Hobday Leave CL
Limiteporting L*
Leave Without Pay LWOP
LWOP in Lieu of Sick Leave SWOP*

Millary Leave
Sizk Leave/Dependent Care
Unschedulied Absende

Mill
St.
St.
SL.DC*

"Flore: Those are not separate to divisicategories, but a distinction is made for the process of analysis and tracking

Pay Ported	Week 1							Week 2						
No From To	Sat	Sun	Mon	Tue	Wed	Thur	Fn	Sat	Sun	Mon	Tue	Wed	Thur	F
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07 Mar. 12 Mar. 25	12	13	14	15	16	17	18	19	20	2:	[22	23	24	(****
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09 Apr.09 Apr.22	09	10	11	12	13	[14]	15	16	17	18	19	[20]	21	
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	T30 F30			

Bay vairy District Bettr to Work Touchpoint

(Full day, part day and late arrivals - unscheduled Absences)

Employee: SUE :IN:	Pay Loc:
Employee Leave Balance A/L: 428 HR	s s/L: <u>20</u> HRS
Was an Attendance Review Message generated?	Yes No
Reviewed leave balances with employee?	Yes No
Was employee offered FMLA?	Yes No
Was employee offered EAP?	Yes No
Employee signed 3971 & retain copy	Yes No
Was employee required to provide documentation?	Yes No
Was acceptable documentation provided by the empl	loyee? Yes No
Employee-Notified of Attendance Regulations (read below ELM requirements)	Yes No
At	1/8/22
Supervisor's Signature	Date
M. Cut and also to anot	

e continues 2

Date: 1/8/22

Employee:

SHE

Supervisor:

Jim

This is an official discussion concerning your attendance.

You are required to be regular in attendance, please review your 3972, all dates highlighted aren't covered under FMLA.

Do you need FMLA?

NO

Do you need EAP?

NO

Would like for you to know if you continue to be irregular in attendance it could lead to corrective action, do you understand?

TES

Do you have any questions?

N()

perlemon's blama of new large	, M(J.)	Employee ID 04703221		Date Submit 06/22/		No.	of Hours Ra 16.00	1	pa .	ž		frp qri		Year
stallation (For PM leave, st	how city, state and ZIP code)	1	N/S Day	Pay t.oc. # 002	D/A Cod 434		Date 24/2022	Hour 08:00	Schoduled	Cin-		Day	1.11	2022
inte of Call or Request	Scheduled Reporting Time 06:00	Employee Can	Be Reached A		No Cal		Date 26/2022	16our 14:30		8	s.	AT 01	Init.	1fours_
gre of Absence	Documentation (For official use on	By)	Revised	Schodule for (Арр	roved in A	dvance			S	UN 02		
Annual Heliday/Al. k.v Exch	FMLA Requested (Certification For COP Leave (CA1 on file)	review - HRSSC)		Wash		11	Yes L	l No			-	40N 03		***********
Camer 701 Rule LWOP (See reverse)	For Advanced Sick Leave (122) For Military Leave (Orders revi		Begin			Lac	sch In					UE 04		
Sick (See reverse)	For Court Leave (Summons rev	riewed)	End W	480					300		-	VED 05		-
COP Other: [SAL]	Scheme Training Testing Quali		ic) Total	Hours					332 235		S	'R1 67		8.00
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NILL STREET, S	ual leave authorized in excess of anno	A STREET OF THE PARTY OF THE PA	ver-manny		18001						1	MON 10		
imployee's Signature and I	Date Signature of Person Re	coording Absonce a	and Date	Signature of	Supervisor	rand Da	te Notified					TUE 11	-	
Hijirisi Agaba on Angle.	illun (Ketorn copy of signed request)	o employee)	W 7									WED 12		
Approved	Do not check an FA		til you	Signature of	f Supervis	sor and	Date		Z.			THU 13		nune in
Disapproved (Give Re	ason below) verify the FMLA D	ESIGNATION.				LX:x						FR1 14		
	FMLA Desig	gnation is PENDIN	FMLA Protec		Continu	ed on R	everse						•	
Sickness On-the-lob fagury Off the-lob fagury	Prognancy, Prenaral Care Undergoing Medical, De	ntal, or Optical	(Information		Ca	SS	DepCare	05500	1		Scheduled	PP		Yes
Off the-Job Injury Exposed to a Contag	Examination or Treatme	ent (Job related)	Annual - FA	41.A		55 56	01	05599 05600			Sch	Day	Init.	Hour
Disease	Examination or Treatment (Not job related)		Sick - FML.		Ì	56 56	02 08	05699 05697				SAT 01	-	
Resson I was/will be Un	available for Duty During this Abset	nce:	1	ndent Care FA	ILA:	56 24	07	05698 02400	30	, W		MON 0		-
Sick Leave for Depo	enden! Placement of a Child w	with Employee Care	Act of Matu	ic		78 69		07800 06900	120			TUE 04		-
Birth of Child / Bor	nding A Military Family Mei Exigency	mber's Qualifying	Civil Defen			?7 81		07700	100	7		WEDO	5	+
To care for a Family Member (See ELM	У СП т С	or ill Military	COP - USP	S		71	0)	07100			Z	THU O	;	
	(Required Certification)		COP - USP Court Duty		1	61	03	07199				FRI 07		+
	rtify that this request is not for the purp ty as defined by the Hatch Act and its i		Donated - I			45		04500			Mi	SAT 08		-
	protection for this absence:		Holiday - /	ized Administ AL Leave Excl		79 28		07900	13			รบทอ	9	
This request is asso	ociated with a new condition! (You will be mail with forms and instructions.)	f receive an		an Day - FML	Α.	59 59	0.5	05900 05999		(3×)		MON	0	
	ending approval Case # for this condition	on 12.	LWOP - F	ull Day ull Day • FML	۸.	60 60	06	06000		Ž.		TUE		
-	asked to disclose personal medical in		LWOP - 10	OD/OWCP - F	MLA	49	04	04999		4	98	WED	2	
local management. FA	ALA Certification must be mailed to H		LWOP - L	icu of Sick Le		59 or 60 59 or 60		05901 or 06		: 		THU	3	ter lane
Additional Documentat	ion is required as follows:		I.WOP . N		1	44 59 or 60		05905 or 06 04400 05903 or 06	1	ć	46	FRI 14		
Collection is authorized 1 2501 et seq Providing the not process your request, in relevant legal proceed agency becomes aware request; to entities under	E: Your information will be used to y 39 USC 401, 404, 1001, 1003, and no information is voluntary, but if not Your information may be disclosed as fings; to law enforcement when the U of a violation of law; to a congressic contract with USPS and/or authorized as required by law; to government a	1005; and 29 USC provided, we may s follows: ISPS or requesting and office at your to perform audits	LWOP S LWOP S LWOP U Military Relocation	roffered uspension uspension Per nion Official	nd. Tem.	60 or 60 59 or 60		05902 or 06 05906 or 06 05908 or 06 08400 06700 08000	002					



Entitloyee's Name II ast first, M.I.)	Employee ID 04703221		Date Submitted 06/20/2022	No	o. of Hours Re 16.00	equested	Schediller School Street	, g	PP 14		Year 2022
Installation (For PM Jenne show city, state and ZIP code)	N/S Day	Pay Loc. # D/A C 002 434					Scheenied	Day	Iris.	Hours
Time of Call or Request Scheduled Reporting Time 06:00	Employee Can	Be Reached A	(If needed)	1 .	hru Date 06/23/2022	Hour 3		X	SATO		
Type of Absence Decumentation (For offi	Mary St. Inc. Accounts		Schedule for (Date)		pproved in A	3000			SUN 0		-
Carrier 701 Rule For COP Leave (CA)	and the second s	Begin '	Work) 	V.	TUE		5.33
LWOP (See reverse) For Advanced Sick I. Sick (See reverse) For Military Leave (6)	Orders reviewed)	1,unch	Out	1 (unch to			×	WEDO	5	5.33
Late Por Court Leave (Sin	23 on file)	End W	/ork					Ŋ.	THUO	5	5.33
X Other: SL	sting Qualifying (Memo on fi	1000	1						FR1 07	0.00	
Remarks (Do not enter medical information) Employee sl MOT 1010; NOT FMLA; DOC REQ - Deems Desirable		and on the ter	verse of this form.		7				SATO	3	
3 understand that the annual leave authorized in exc	ess of amount available to n	ne during the	teave year will be ch	t hageas	o LWOP.		2		SUNO		
	Person Recording Absence a		Signature of Supervi						MON		
						į	ĵe,	3	WED		-
Official Action on Application (Return copy of signs)	kregueskru emplasete)		Signature of Super		a made		2010		THU	MAN THUM	-
	heck an FMLA box below un e FMLA DESIGNATION:	til you	Signature of Super	VENOF ME	er soute		(754 (0.5)		8,0		-
□ FA	MLA Protected Not			704.	_		100	1028	21		
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PS Form 3971, October 2017 (Page 1 of 2) PSN 7530	J-02-400-9138		The furnishing of fals than \$19,000 or appro-								
Employee: Reason I Was incapacitated for Duty Da		Leave Types	*	Time Card	FMILA BepCare	Time Clock	172		99		Year
On-the-lob layary Indergoing M	enatal Care or Childbirth ledical, Dental, or Optical	Annual		55	-	05500	Schooled	45	Sefectuled		
	or Treatment (Job related) Iedical, Dental, or Optical	Annual - FA Sick	(LA	55 56	01	05599 05600	Sc		B Da		it. Hours
Disease Examination (Not job relate	n Treatment	Sick - FML. Sick - Depe		55 56	02	05699 05697	128		SUN		
Resson 1 was/will be Unavailable for Duty During	this Absence:	Sick - Depo	ndent Care FMLA	56 24	07	05698 02400	1		MON		
	f a Child with Employee in or Foster Care	Act of Natu Blood Done		78 69		07800 06900			TUE	04	
Burth of Child / Bonding A Military F	amily Member's Qualifying	Civil Defen		77 81		07700 C8100			WEL	05	
To care for a Family	an injured or ili Military	COP - USP		71	63	07100 07199			THU	06	
LWOP - Union Official (Required Certification)		Court Duty Donated		61	1,5	06100			FRI	07	
By signing this form, I certify that this request is not f in partisan political activity as defined by the Hatch A regulations		Donated -		46 79		04500 04600	100		SAT	08	
I am requesting FMLA protection for this absence	:	liolicay -	nzed Administrative	28		07900 0280 0			SUN	09	
This request is associated with a new condition FMLA packet in the mail with forms and instru		3	art Day - FMLA	59	05	05900 •5999			MOI	01 is	
My approved or pending approval Case # for the		- 5	ull Day - FMLA	60	06	06099			TUE		
Employee must not be asked to disclose personal		LWOP - B	OD/OWCP OD/OWCP - FMLA	49	04	04999			WE		
local management FMLA Certification must be a Additional Documentation is required as follows:	nailed to HRSSC.	LWOP - N		59 or 6	60	05901 or 060 05905 or 060			THU	-	
Auditorial Disensemation is required as 19:10/45:			Personal Reasons	44 59 or 6		04400 05903 or 060	03		FRI	'' l	
Privacy Act Statement: Your information will be Collection is authorized by 39 USC 401, 404, 1601, 2601 et seq Providing the information is voluntary, not process your request. Your information may be during the request logal proceedings; to law enforcement was gency becomes aware of a violation of law; to a request, to entities under contract with USPS and/or to labor organizations as required by law; to go personel matters; to the EEOC; and to MSPB or O mere information regarding our privacy visit www. at	1003, and 1005; and 29 USC but if not provided, we mailisticed as follows: when the USPS or requesting congressional office at you authorized to perform audits venturent agencies regarding ffice of Special Counsel. Fo	LWOP - S LWOP - I Military Relocatio Voting Le	Suspension Suspension Pend. Tem Union Officia) n neave	59 or 6 59 or 6 59 or 6 84 67 80 85	60	05902 or 060 05906 or 060 05908 or 060 08400 06700 08000 08500 08600	006				



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Employee's Name Host Gest, M.	IJ	Employee 10 04703221		Date Subm 06/11	itted /2022	No. c	FHours Re 8.00	equested		Ţ		PP		Year
Tanallaran /E. DAllame show	city, state and ZIP code)	L	N/S Day	Pay Lee. # 002	D/A Cod 434		Date 1/2022	Hour 06.00	Scheduled	Scheense		13	titus samente pro	2022
Time of Call or Request Sc	heduled Reporting Time	Employee Can I	Be Reached A	t (If needed)	L.,,,,,,,,,	1000000	Date	Hour	7	(x. ** .)		Day AT 01	lnit .	lours
08:00	06:00	38. 182.		-moi	No Cal		11/2022	14:30			S	UN 02	-	***********
Type of Absence [] Annual []	Documentation (For official use only		Revised	Schedule for	(Date)		roved in A	- Pri			1-	1ON 03		
Heliday/AL Lv Exch	FMLA Requested (Certification : For COP Leave (CA1 on file)	review - HRSSE)	Begin	Work	77.45		H 182 - 182 - 183				1	UE 04		
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Sick (See reverse)	For Court Leave (Summons revi		End V			k	in an an annual			·	4-	VED 05		
COP COP	For Higher Level (1723 on file) Scheme Training Testing Qualif	vine (Memo on fi	31							X.	T	HU 06		
x Other: SL	75-77		, 0.0.	1					₩		F	'R1 07		
Remarks (Do not enter medical in MOTIOD; NOT FMLA; DOC I	formation) Employee should review REQ - Deems Desirable	v rrivacy miorma	tion on the te	verse or tass r	GFGF.			į		Α,	S	80 TA		00.8
						munanene			A		S	UN 09		
	eave authorized in excess of amou		γ							128	1	MON 10		
Employee's Signature and Date	Signature of Person Rec	cording Absence a	nd Date	Signature of	Superviso	r and Da	te Notified		V 4		1	TUE 11		
												WED 12	**********	
Official Action on Application	s (Return copy of signed request to	emplayee)										THU 13		
Approved	Do not check an FM verify the FMLA DI		til you	Signature	st 2nberge	sor and i	Jan.		X 20	385				
Disapproved (Give Reason	i below)	nation is PENDIN	G									FR1 14		
	FMLA Protect		FMI.A Protec	ted [_	Continu	ed on R	avatzę							
			Leave Types	and Codes	173	me I	FNILA	Time	Too	Star	 U1	-		
Employee: Reason I Was Inc	apacitated for Duty During This. [] Prognancy, Prenatal Care		(Information				DepCare		ised		gall	PP) ear
On-the-lob Injury Off-the-lob Injury	Undergoing Medical, Der		Anaual			55		05500	Schröwied	ń	Scheduled			
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Danier & war/will be lingue	ilable for Duty During this Absen		Sick - Depo	indent Care F	MLA	56	07	05698			100	3UN 02		
Sick Leave for Depende			Absent Wit Act of Matu			24 78		02400	130			MON 0	3	
Care (See ELM)	for Adoption or Foster	Carc	Blood Done			69 77		06900			5	TUE 04		
Birth of Child / Bondin	g A Military Family Men Exigency	nber's Qualitying	Civil Disor	der		81		07700 08100				WED 0	5	
To care for a Family Member (See ELM)	To care for an injured of Family Member	or ili Military	COP - USE		1	71 71	03	0710D 07199	100			THU O		
LWOP - Union Official (Re			Court Duty		1	61		06100	M		1	FR1 07		
	that this request is not for the purps defined by the Hatch Act and its it		Donated -	FMLA =		45 46		04500			*******	SATOS		-
regulations.	•	-	1	rized Admini Ai, Leave Ex		79 28		01900	1			SUNO	Petition	+
I am requesting FMLA pro		vanning	LWOP - P	art Day		59	1	02800 05900				MON	-	-
	ted with a new condition. (You will ail with forms and instructions.)	receive an	LWOP - P	art Day · FM uli Day	1.^	59 60	05	05999 06000				-		-
My approved or pendi	ng approval Case # for this condition	on is:	LWOP - F	ull Day - FM	ILΛ	60	06	06099				TUE	1	
Employee must not be asl	red to disclose personal medical inf	ormation to		OD/OWCP -	FMLA	49 49	0.1	04999 04999	3		1	WED	-	
local management, FML/	Certification must be mailed to H		LWOP - N	lieu of Sick L	100	59 or 60 59 or 60		05901 or 060				THU	3	
Additional Decumentation	is required as follows:		LWOP - N	Military	1	44		03905 or 066	1030			FRI 14		
			L.WOP - F	Personal Reas Proffered	- 1	59 or 60 59 or 60		05903 pr 06 05902 or 06					- Amin	
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St.	M.I.)		Employee 1D 04703221		Date Submitted 06/12/2022	No.	of Hours P.c 8.00	quested		Š	БЬ		Year
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Time of Call or Request	Scheduled Rep		Employee Can F	Sc Reached A	(If needed)	0.0	e Date /i3/2022	Hour 14:30			SAT 01	lnit.	Hours
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	Employee 1D 04703221		Date Subri 66/1	nitted 3/2022	No.	Of Hours Ra 8.00		2	2		op q		Year
e, show city, state and ZIP code)		N/S Day	Pay Loc. 6	# D/A Co 434		n Date 14/2022	Hour 08:00	Schieduled	Scheenied		13		2022
	Employee Can I	Be Reached A	a (If needed)			: Date 14/2022	Hour				Day CT 01	Int.	fours
15:38 06:00 Type of Absence Documentation (For official use only)		Parised	Schedule fo	No Ca	10	reved in A	14.30)	S	11/1 03		
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NOT ROT PMEA, DOC REQ - Deems Destrable -										s	UN 09		
I understand that the annual leave authorized in excess of amoun	t avallable to m	e during the	leave year	wili be cha	nged to	CWOP.	- NO.	ax.		N	10N 10		
Employee's Signature and Date Signature of Person Reco	rding Absence a	nd Date	Signature o	of Supervise	or and Da	te Notified			i x	+	UE 11		00.8
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Employee: Reason I Was Incapacitated for Duty During This A' Sickaess Pregnancy, Prenatal Care of On the Job Injury	r Childbirth	(Information	ı Only)	C	ard	DepCare		Schrönled	-ii)	Scheduled	PP		Year
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(Not job related)		Sick - FML Sick - Depo	endent Care	İ	56	08	05697				SUN 02	†	-
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Sick Leave for Dependent Placement of a Child with Care (See ELM) Placement of a Child with		Act of Matu Blood Don			78 69		07800 06900			.25.	TUE 04	-	
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To care for a Family Manner (See Fl M) To care for an injured or	ili Military	CO5 - A2	3		71		07100		9		THU 00		
LWOP - Union Official (Required Certification)		COP - US:	'S - FMLA '		61	03	06100				FR.1 07		-
By signing this form, I certify that this request is not for the purpos in pertisan political activity as defined by the Hatch Act and its im-		Donated -	FMLA		45 46	1	04500 04600	7	Y I		SAT 08	+	1
regulations	_	1	rized Admin AL Leave E		79 28		07900 02800				SUN 09	-	1
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FMI.A packet in the mail with forms and instructions.)		1.WOP · F	•		59 60	05	05999				TUE I	+	-
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Employee must not be asked to disclose personal medical infor beal muragement. FMLA Certification must be mailed to HRS		1	OD/OWCP		49 59 or 60	0.1	04999 05901 or 06	on!			THU L	3	
Additional Documentation is required as follows:		LWOP 1	Materrity		59 or 60		05905 or 06	1.0			FR1 14		-
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Privacy Act Statement: Your information will be used to at Collection is authorized by 39 USC 401, 404, 1001, 1003, and 10 2601 et seq. Providing the information is voluntary, but if not priest process your request. Your information may be disclosed as fin relevant legal proceedings; to law enforcement when the USI agency becomes aware of a violation of law; to a congressional request; to entities under contract with USPS and/or authorized to lebor organizations as required by law; to government agreement matters; to the EEOC; and to MSPB or Office of Speciment in formation regarding our privacy visit www.usps.com/priv	005; and 29 USC rovided, we may ollows: PS or requesting al office at you o perform audiss encies regardin, cial Counsel. Fo	LWOP LWOP Military Relocatio Voting L	Suspension Suspension I Union Offici in cave		59 or 60 59 or 60 59 or 60 84 67 80 85 86		05902 or 06 05906 or 06 05908 or 06 08400 06790 08000 08560 08600	000					



Employee's Name II at five (1)		imployee ID 4703221	XXXX X77004 XX	Date Submitted 06/15/2022	ľ	o of Hours P. 8.00	1.00		5 2	ťP		Year
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Time of Call or Request Scheduled Reports	-	Employee Can E	Reached A			hre Date	Hour		T)	SAT 01	AUL	fours
	For official use only)		Revised	Schedule for (Date)	1.011	06/17/2022 Approved in A	dvance			SUN 02		
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Employee's Signature and Date Sign	ature of Person Record	ding Absence as	ed Date	Signature of Super-	bes real	Date Notified				TUEIL		
									 K	WED 12		
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()			Leave Types	than \$19,000 or imp	Time	of not more	Time	beth. ((18 U	.S.C. 1001		
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To care for a Family	gency	li Military	Civil Disord		8 t		03100			[WED (-	
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in partisan political activity as defined by the regulations.	Hatch Act and its impl	learienting	Donated - F	FMLA Ded Administrative	46		04600 07900	122		SATO		
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local management. FMLA Certification n			LWOP - I,	eu of Sick Leave	59 or	60	05901 or 060	- BUSUSY-		THU	13	
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			LWOP - P	ersonal Reasons roffered	59 pr		05903 or 060 05902 or 060	200		er de construir de la construi		4
Privacy Act Statement: Your information Collection is authorized by 39 USC 401, 40 2501 et see, Providing the information is vitor process your request. Your information in relevant legal proceedings; to law erformagency becomes aware of a violation of larguest; to entities under contract with USP to labor organizations as required by law personel matters; to the EEOC; and to MS more information regarding our privacy visit	4, 1601, 1803, and 100 initiary, but if not pro may be disclosed as folloment when the USPS will be a congressional 5 and/or authorized to; to government ager? B or Office of Specie	15; and 29 USC ovided, we may flows: S or requesting loffice at your perform audits; neies regarding at Counsel. For	LWOP = \$ LWOP =	hispension hispension Pend. Te linen Official n iava	59 os	60 60 4 7 0	0590# or 060 0590# or 060 03400 06700 08000 08500	06				



Frankoven's Nume (Lest first M1.)	Employee ID 04703221			5/2022		of Hours R.o 8.00	nled a	7	- Feed		P 3		Year 2022
Inevallation /Em DM farmer's yw city, state and ZIP code)		N/S Day	Pay Loc. # 002	D/A Cod 434			08:00		Scheduled Scheduled		Day	lni;	Hours
Time of Call or Request Scheduled Reporting Time	Employee Can	Be Reached A	A (If needed)	[] N. C.	1 00	11 Date	Hour 14:30			SA	T 01		
06:55 06:00 Type of Absence Documentation (For official use only	(v)	Revised	Schedule for	(Date)	**	proved in A	1/2			SU	IN 02		
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LWOP (See reverse) For Advanced Sick Leave (1221 For Military Leave (Orders review)		Lunch	Out		Lu	nch In	2000			w	ED 05	***************************************	
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Remarks (Do not enter medical information) Employee should review	w Privacy Informa	tion on the re-	verse of this f	orm.						4-	MINISTER .		
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3 understand that the annual leave authorized in excess of amount	unt available to n	ne during the	łeave year w	ill be cha	nged to	LWOP.				-	UN 09		
Employee's Signature and Date Signature of Person Rec		T	Signature of							M	10N 10		
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Official Action on Application (Return copy of algorithm request to	rametavee)									V	VED 12		
Approved Do not check an FM	011010000000000000000000000000000000000		Signature (/ Supervi	sor and	Date				Т	HU 13	1371	
x Disapproved (Give Reason below)		шкучк				42			X	F	RI 14		4,00
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Fundament Descript West Incompleted for Date During This	Abronse	Leave Types	and Codes]Ti	ine	FMLA	Time					7	
Employee: Reason I Was Incapacitated for Duty During This Sickness Freguency, Prenatal Care		(Information			ard	DepCare	Clock	Jed.		20	1,Ja. ,		Year
On-the-Job Injury Undergoing Medical, Der Examination or Treatmen		Annual Annual - FA	.п. А	-	\$5 55	64	05500 03599	School	5	Scheduled	14		3055
Exposed to a Contagious Undergoing Medical, Det	ntal, or Optical	Sick			56	1	05600				Day SAT 01	lnit,	Hours 4 00
Disease Examination or Treatment (Not job related)	ıt	Sick - FML Sick - Depe			56 56	03	05697) 		SUN 02		
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Sick Leave for Dependent Piacement of a Child w		Acrof Natu	rtC		78		0.4800	1 1			-	-	- Marie Salas
Care (See ELM) for Adoption or Foster of Birth of Child / Bonding A Military Family Men		Blood Done Civil Defea		Ì	69 77		07700			1	TUE 04	340	
To rare for a Family		Civil Disor	_		٤١	1	08100	3	37		WED 0	5	
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By signing this form, I certify that this request is not for the purp in partisan political activity as defined by the Hatch Act and its in		Donated -			46		04600		٠.		S V.L 08		
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Privacy Act Statement: Your information will be used to Collection is authorized by 39 USC 401, 404, 1001, 1003, and 260; et see Providing the information is voluntary, but if not not process your request. Your information may be disclosed as in relevant legal proceedings; to law enforcement when the U.	1005, and 29 USC provided, we may fellows:	LWOP - S	Suspension Suspension Pe Union Officia	end Tem	59 or 60 59 or 60 84 67	1	05906 or 0600 05998 or 0600 08400 0670 •	1					
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511.3 Eligibility

511.31 Covered

Covered by the leave program are:

- a. Full-time career employees.
- b. Part-time regular career employees.
- Part-time flexible career employees.
- d. To the extent provided in the USPS National Rural Letter Carriers' Association (NRLCA) National Agreement, temporary employees assigned to rural carrier duties.

Note: Transitional employees are not covered by the leave program, but do earn leave as specified in their union's national agreement.

References to A-E Postmasters also apply to Part-Time Postmasters.

511.32 Not Covered

Not covered by the leave program are:

- a. Postmaster relief/leave replacements, noncareer officers in charge, and other temporary employees except as described in 511.31d.
- b. Casual employees.
- c. Individuals who work on a fee or contract basis, such as job cleaners.

511.4 Unscheduled Absence

511.41 **Definition**

Unscheduled absences are any absences from work that are not requested and approved in advance.

511.42 Management Responsibilities

To control unscheduled absences, postal officials:

- a. Inform employees of leave regulations.
- b. Discuss attendance records with individual employees when warranted.
- c. Maintain and review PS Form 3972, *Absence Analysis*, and PS Form 3971.

511.43 Employee Responsibilities

Employees are expected to maintain their assigned schedule and must make every effort to avoid unscheduled absences. In addition, employees must provide acceptable evidence for absences when required.

512 Annual Leave

512.1 General

512.11 **Purpose**

Annual leave is provided to employees for rest, for recreation, and for personal and emergency purposes.

possible deliveries of a route, the route will be classified as per the majority of the type delivery; e.g., curbline, park and loop, etc.)

114 City Delivery Area Map

- 114.1 Each unit must have a map of the ZIP Code area served. Show the boundaries of each route using street names or numbers and identify each route by number. If desired, use different colors to show each route.
- 114.2 The unit manager can study the line of travel to discover possible improvement.
- 114.3 Location of collection and relay boxes can be shown. This will serve to determine the adequacy of the boxes and as instruction or reference to new carriers.

115 Discipline

115.1 Basic Principle

In the administration of discipline, a basic principle must be that discipline should be corrective in nature, rather than punitive. No employee may be disciplined or discharged except for just cause. The delivery manager must make every effort to correct a situation before resorting to disciplinary measures.

115.2 Using People Effectively

Managers can accomplish their mission only through the effective use of people. How successful a manager is in working with people will, to a great measure, determine whether or not the goals of the Postal Service M are attained. Getting the job done through people is not an easy task, and certain basic things are required, such as:

- a. Let the employee know what is expected of him or her.
- b. Know fully if the employee is not attaining expectations; don't guess make certain with documented evidence.
- Let the employee explain his or her problem listen! If given a chance, the employee will tell you the problem. Draw it out from the employee if needed, but get the whole story.

115.3 **Obligation to Employees**

When problems arise, managers must recognize that they have an obligation to their employees and to the Postal Service to look to themselves, as well as to the employee, to:

- a. Find out who, what, when, where, and why.
- b. Make absolutely sure you have all the facts.
- c. The manager has the responsibility to resolve as many problems as possible before they become grievances.
- d. If the employee's stand has merit, admit it and correct the situation. You are the manager; you must make decisions; don't pass this responsibility on to someone else.

ARTICLE 16 DISCIPLINE PROCEDURE

16.1 | Section 1. Principles

In the administration of this Article, a basic principle shall be that discipline should be corrective in nature, rather than punitive. No employee may be disciplined or discharged except for just cause such as, but not limited to, insubordination, pilferage, intoxication (drugs or alcohol), incompetence, failure to perform work as requested, violation of the terms of this Agreement, or failure to observe safety rules and regulations. Any such discipline or discharge shall be subject to the grievance-arbitration procedure provided for in this Agreement, which could result in reinstatement and restitution, including back pay.

Just Cause Principle

The principle that any discipline must be for "just cause" establishes a standard that must apply to any discipline or discharge of an employee. Simply put, the just cause provision requires a fair and provable justification for discipline.

Just cause is a term of art created by labor arbitrators. It has no precise definition. It contains no rigid rules that apply in the same way in each case of discipline or discharge. However, arbitrators frequently divide the question of just cause into six sub-questions and often apply the following criteria to determine whether the action was for just cause. These criteria are the basic considerations that the supervisor must use before initiating disciplinary action.

- Is there a rule? If so, was the employee aware of the rule? Was the employee forewarned of the disciplinary consequences for failure to follow the rule? It is not enough to say, "Well, everybody knows that rule," or "We posted that rule ten years ago." You may have to prove that the employee should have known of the rule. Certain standards of conduct are normally expected in the industrial environment and it is assumed by arbitrators that employees should be aware of these standards. For example, an employee charged with intoxication on duty, fighting on duty, pilferage, sabotage, insubordination, etc., may be generally assumed to have understood that these offenses are neither condoned nor acceptable, even though management may not have issued specific regulations to that effect.
- Is the rule a reasonable rule? Management must make sure rules are reasonable, based on the overall objective of safe and efficient work performance. Management's rules should be reasonably related to business efficiency, safe operation of our business, and the performance we might expect of the employee.
- Is the rule consistently and equitably enforced? A rule must be applied fairly and without discrimination. Consistent and equitable

enforcement is a critical factor. Consistently overlooking employee infractions and then disciplining without warning is improper. If employees are consistently allowed to smoke in areas designated as No Smoking areas, it is not appropriate suddenly to start disciplining them for this violation. In such cases, management loses its right to discipline for that infraction, in effect, unless it first puts employees (and the unions) on notice of its intent to enforce that regulation again. Singling out employees for discipline is usually improper. If several similarly situated employees commit an offense, it would not be equitable to discipline only one.

- Was a thorough investigation completed? Before administering the discipline, management must make an investigation to determine whether the employee committed the offense. Management must ensure that its investigation is thorough and objective. This is the employee's day in court privilege. Employees have the right to know with reasonable detail what the charges are and to be given a reasonable opportunity to defend themselves before the discipline is initiated.
- Was the severity of the discipline reasonably related to the infraction itself and in line with that usually administered, as well as to the seriousness of the employee's past record? The following is an example of what arbitrators may consider an inequitable discipline: If an installation consistently issues five-day suspensions for a particular offense, it would be extremely difficult to justify why an employee with a past record similar to that of other disciplined employees was issued a 30-day suspension for the same offense. There is no precise definition of what establishes a good, fair, or bad record. Reasonable judgment must be used. An employee's record of previous offenses may never be used to establish guilt in a case you presently have under consideration, but it may be used to determine the appropriate disciplinary penalty.
- Was the disciplinary action taken in a timely manner? Disciplinary actions should be taken as promptly as possible after the offense has been committed.

Corrective Rather than Punitive

The requirement that discipline be corrective rather than punitive is an essential element of the just cause principle. In short, it means that for most offenses management must issue discipline in a progressive fashion, issuing lesser discipline (e.g., a letter of warning) for a first offense and a pattern of increasingly severe discipline for succeeding offenses (e.g., short suspension, long suspension, discharge). The basis of this principle of corrective or progressive discipline is that it is issued for the purpose of correcting or improving employee behavior and not as punishment or retribution.

Just cause for the discipline of City Carrier Assistant (CCAs) is addressed in Appendix B, 3. Other Provisions, Section E – Article 16 of the 2019 National Agreement. This section is reprinted on page 16-12 of the JCAM.

Unadjudicated Discipline. The parties agree that arbitrators may not consider unadjudicated discipline cited in a disciplinary notice when determining the propriety of that disciplinary notice. When removal cases are scheduled for a hearing before the underlying discipline has been adjudicated, an arbitrator may grant a continuance of a hearing on the removal case pending resolution of the unadjudicated discipline (National Arbitrator Snow, E94N-4E-D 96075418, April 19, 1999, C-19372).

Examples of Behavior. Article 16.1 states several examples of misconduct which may constitute just cause for discipline. Some managers have mistakenly believed that because these behaviors are specifically listed in the contract, any discipline of employees for such behaviors is automatically for just cause. The parties agree these behaviors are intended as examples only. Management must still meet the requisite burden of proof, e.g. prove that the behavior took place, that it was intentional, that the degree of discipline imposed was corrective rather than punitive, and so forth. Principles of just cause apply to these specific examples of misconduct as well as to any other conduct for which management issues discipline.

Remedies. The last sentence of Article 16.1 establishes the principle that discipline may be overturned in the grievance/arbitration procedure and that remedies may be provided to the aggrieved employee—"reinstatement and restitution, including back pay." If union and management representatives settle a discipline grievance, the extent of remedies for improper discipline is determined as part of the settlement. If a case is pursued to arbitration, the arbitrator states the remedy in the award.

Back Pay. The regulations concerning back pay are found in the ELM Section 436. The parties agree that, while all grievance settlements or arbitration awards providing for a monetary remedy should be promptly paid, the following Memorandum of Understanding applies only to those back pay claims covered by the ELM Section 436.

MEMORANDUM OF UNDERSTANDING
BETWEEN THE
UNITED STATES POSTAL SERVICE
AND THE
NATIONAL ASSOCIATION OF LETTER CARRIERS, AFL-CIO

Re: Article 15—ELM 436—Back Pay

The following applies solely to back pay claims covered by Section 436 of the Employee and Labor Relations Manual (ELM):

A pay adjustment required by a grievance settlement or arbitration decision will be completed promptly upon receipt of the documentation required by ELM part 436.4

Arguments:

The discipline was predetermined as evidenced at the just cause interview.

The union argues certain standards of conduct are normally expected and it is assumed that employees should be aware of these standards. SCS Jim, acknowledges the grievant is at work most of the time and therefore does not fall into the category of irregular attendance.

Management acted inconsistently and conveyed an ambiguous message to the grievant. Conflicting information about wat was expected of her and how it has been applied.

The union argues the only reason the grievant received discipline was because she called in sick. Management failed to provide evidence the grievant was not ill or able to work safely and medical documentation was provided upon her return to work which was not controverted, consequently must be considered as legitimate for her days of absence.

Management chose to issue discipline rather than accept the grievant's explanation or pursue a thorough investigation to substantiate their charges. Management simply made assumptions without supporting evidence and failed to ensure their investigation was thorough and objective which is punitive rather than corrective and does not meet the requirements of just cause.

The union argues the terms of attendance requirement must be clear, unambiguous, and unmistakable. Otherwise, the rule is unreasonable.

Throughout the Letter of Warning management recites provisions of the Employee's Labor Manual (ELM) and the M-41 allegedly violated by the grievant although she wasn't charged with Failure to Follow Instructions.

The union contends the ELM is a management handbook. Carriers are not aware of the content or applicable rules or regulations in this book. It is not shared with them and is only for management's eyes as evidenced by the grievant's response. Management failed to prove the grievant was aware of these specific regulations. She was unaware of the rule.

Regulations appear in the narrative of the charge letter as if she knowingly violated these regulations. This violates her due process rights as she wasn't provided an opportunity to respond to these regulations.

The union argues attendance reviews were not adhered to on a regular basis which undermines managements contentions the grievant received adequate warning of consequences for not reporting to work or knowledge of violations allegedly broken.

Although, management may argue they provided a check list to verify the information was provided to the grievant there is no evidence items on the checklist were discussed, or verbally communicated to the grievant.

Management has failed to prove the terms have been communicated to the grievant and she understood them. It is the duty of management not the union, to explain these terms to the employee. Because management didn't do this the discipline was improper.

Management's entries on documents ******* demonstrate a careless disregard for accuracy and investigation or violation.

The union requested a copy of the ERMS (sick call log) for all dates cited in the discipline, but nothing was provided as requested. Management's accusations are not proof of wrongdoing.

SCS **** had the opportunity to hand the grievant a PS form 3971, but chose not to, missing the opportunity to inform the grievant before resorting to discipline. The supervisor controls the PS 3971s and in this case failed to meet their own requirements and incorrectly entered hours and remarks without the carrier's knowledge. The carrier was not aware her attendance was considered unsatisfactory.

The "official discussion" or notes provided are suspect. Had there been a thorough discussion the grievant would have provided FMLA for this illness and she'd known medical notes do not prevent discipline.

Management's mention of "stand-ups" is a vain attempt to persuade neutral parties she was aware of cited regulations. However, management failed to provide evidence the grievant attended those meetings where those specific regulations and requirements were discussed. Arguments, assumptions, guesses, conjectures, allegations, or speculations are not evidence of any wrongdoing, and nothing is proven by this information.

In view of the incident dates cited and duplicate dates the discipline is punitive in absence of history, excessive behavior, or corrective measures. Management has not demonstrated with evidence the employee's attendance record supports a conclusion the employee is incapable of providing regular and dependable attendance without corrective action being taken.

The grievant did not receive any notification placing her on restricted sick leave/deems desirable or notified she was required to bring in documentation for every absence. The employees past record does not reflect previous instances of discipline and no record of abuse. The supervisor actions were not bases on reason or facts therefore they were arbitrary and capricious.

The grievant received no notice that medically certificated absences would be counted against her.

The grievant failed to receive notice that "too much" verified sick leave could cause her to be removed or disciplined from the postal service.

The grievant had no control over her hospitalization and appears to have fully recovered. If a standard did exist, it cannot be blindly applied to every case uniformly as this would result in an uneven administration of justice as in this case.

The failure of management to impose and stick with their own requirements to effectively convey to the grievant the next series of infractions would result in discipline places the grievant in limbo subjected to the whims of the supervisor which is inconsistent with corrective discipline.

When management failed to provide all relevant information, they violated the grievant's right to due process. The documents requested were on point with the incidents in dispute and not excessive.