



**STEP B DECISION**

<b>Step B Team:</b>	Decision:	<b><u>RESOLVE</u></b>
USPS:	USPS Number:	<b>G16N-4G-C 1848 4254</b>
<b>Robin Gutman</b>	Grievant:	<b>Ernest Rosas</b>
NALC:	Branch Grievance Number:	<b>421-1175-18</b>
<b>James Ruetze</b>	Branch:	<b>421</b>
	Installation:	<b>San Antonio</b>
	Delivery Unit:	<b>Laurel Heights</b>
District:	State:	<b>Texas</b>
<b>Rio Grande</b>	Incident Date:	<b>09/24/2018</b>
	Informal Step A Meeting:	<b>10/06/2018</b>
	Formal Step A Meeting:	<b>12/07/2018</b>
USPS Formal A:	Received at Step B:	<b>12/12/2018</b>
<b>Richard Ketchum</b>	Step B Decision Date:	<b>01/14/2019</b>
NALC Formal A:	Issue Code:	<b>02.1910</b>
<b>Joseph Blancarte</b>	NALC Subject Code:	<b>100775</b>

**ISSUE:**

Did management violate Articles 3, 5, 15, and/or 19 (via ELM 665, M-39 115, and/or the Joint Statement on Violence and Behavior in the Workplace) of the National Agreement by the conduct of Manager Steven Gonzalez towards Letter Carrier Ernest Rosas? If so, what is the remedy?

Did management violate Article 15.3 of the National Agreement by failing to comply with multiple Step B decisions concerning its obligation to treat carriers with dignity and respect? If so, what is the remedy?

Did management violate Articles 3, 15, 17, and/or 31 of the National Agreement by failing to comply with multiple Step B decisions requiring management to provide requested information to the union within 72 hours? If so, what is the remedy?

**DECISION:**

The Dispute Resolution Team (DRT) mutually agreed to **RESOLVE** this grievance. Management shall begin an Initial Management Inquiry Process (IMIP) in accordance with USPS Publication 552 ("Pub 552") within 14 days of receipt of this decision.

Management must provide requested information as soon as possible, but no later than three working days after receipt of the request, unless the information is not available within that time. If information is not available within that time, management must provide a statement to the union explaining the reason for the delay and when the information will be available. See the DRT Explanation below.

**EXPLANATION:**

The grievant in this case is Ernest Rosas, a full-time city carrier assigned to Laurel Heights Station in San Antonio, Texas with seniority date of 05/29/2004. On 09/24/2018 the grievant was delivering mail on his assignment when Manager Steven Gonzalez approached him. Documents in the file indicate the interaction between the two centered on instructions given to Rosas regarding when he should return to the station. Carrier Rosas submitted a statement describing Gonzalez' conduct and characterizing it as "unprofessional." Gonzalez also submitted a statement of his version of events on that day. At one point, according to Manager Gonzalez' statement, he felt so threatened and scared by Rosas' conduct that he tried to open Rosas' vehicle door to walk him off the clock for insubordination. Upon Rosas' return to the office, Gonzalez' opinion that Rosas was not moving quickly enough prompted him to knock repeatedly on the door of his vehicle to get Rosas to open it so Gonzalez could see what he was doing in there.

The union filed this grievance to protest what it considers the inappropriate conduct of Manager Gonzalez towards Carrier Rosas. Unable to achieve a resolution through the Informal and Formal A steps of the grievance procedure, the union appealed to Step B.

**The union** contends manager Steven Gonzalez was violent on the street towards Carrier Rosas, when he showed intimidating, harassing and threatening behavior on 09/24/2018. The union further contends Manager Gonzalez continue to harass Carrier Rosas once he returned to the office by yelling at him while he was still in his vehicle and then yelling at him to drop his stuff on the floor and clock out. Moreover, the union contends this behavior is ongoing and in direct violation of numerous Formal Step A, Step B and a Prearbitration Agreement. In addition, the union contends the behavior of San Antonio management is condoned by Postmaster Carr.

The union requests an instructional cease and desist. The union further requests an IMIP for the entire city of San Antonio. The union requests Manager Gonzalez be removed from a supervisory position for the rest of his career with the USPS and that Postmaster Carr be removed from his position and allowed to retire. The union requests monetary settlements of \$100 for each carrier at Laurel Heights Station and another \$1000 for management's failure to allow steward time or provide documentation.

**Management** contends the grievance is procedurally defective because in the Formal A meeting the union stated the grievant would have to agree to the settlement. The union was not prepared to settle the grievance as required by the National Agreement. Management contends this is a he said she said case, as statements in the file show the grievant fails to follow instructions and has to be instructed numerous time prior to complying. Management contends the only documents presented at the Formal Step A are labeled M1-M35 and any other documents in the file were added by the union as additions and corrections and never presented at the meeting.

**The DRT** reviewed the case file and determined while the conduct described in the file would certainly be inappropriate, a thorough investigation would be needed to establish the severity and/or duration of any inappropriate conduct that may have occurred. The DRT agreed this is exactly what the IMIP was designed to accomplish.

The Employee & Labor Relations Manual (ELM) includes the following:

**665.24 Violent and/or Threatening Behavior**

*The Postal Service is committed to the principle that all employees have a basic right to a safe and humane working environment. In order to ensure this right, it is the unequivocal policy of the Postal Service that there must be no tolerance of violence or threats of violence by anyone at any level of the Postal Service. Similarly, there must be no tolerance of harassment, intimidation, threats, or bullying by anyone at any level. Violation of this policy may result in disciplinary action, including removal from the Postal Service.*

**666.17 Reprisal for Exercising Appeal Rights**

*Taking or failing to take any personnel action as a reprisal for the exercise of any appeal right granted by a law, rule, or regulation is prohibited.*

**666.18 Reprisal for Release of Information**

*No one may take or fail to take a personnel action, or threaten to do so, with respect to any employee or applicant for employment because the employee or applicant discloses information that he or she believes evidences:*

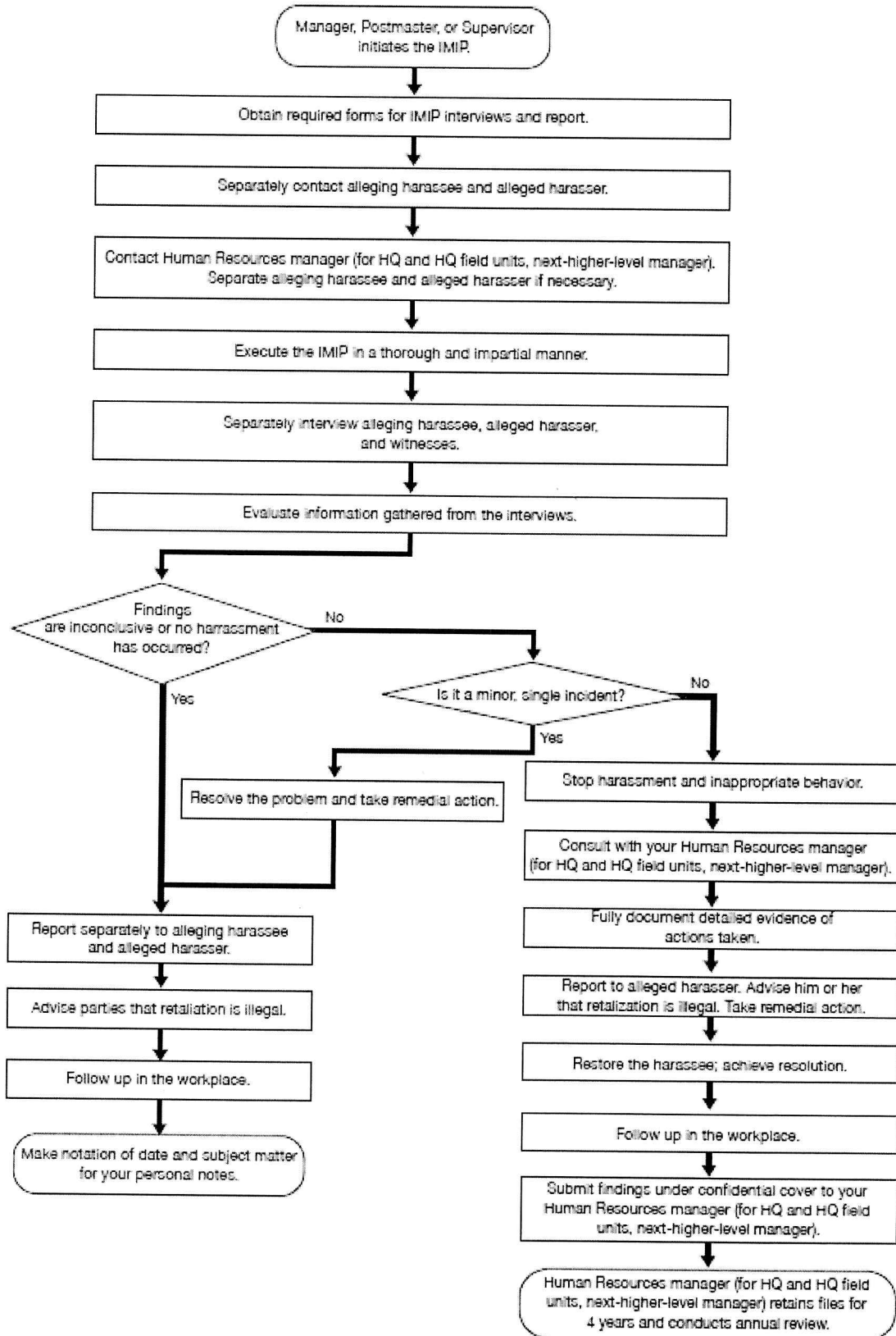
- a. *A violation of any law, rule, or regulation, or*
- b. *A gross waste of funds, gross mismanagement, an abuse of authority, or a substantial and specific danger to public health or safety.*

*Disclosure of information that is specifically prohibited by law does not carry the protection described above. However, no disclosure under a. and b. above is prohibited by law if made to the Inspector General of the Postal Service. There can be no reprisal for disclosures to the Inspector General unless the complaint was made or the information disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.*

The DRT noted that three grievances were received from Laurel Heights Station alleging inappropriate conduct by the management staff. The DRT agreed a single IMIP would suffice for all grievances, rather than a separate IMIP for each complaint. The IMIP must therefore address all the allegations in all three grievances: **G16N-4G-C 1846 9851 (NALC No. 421-918-18); G16N-4G-C 1848 4254 (NALC No. 421-1175-18); and G16N-4G-C 1848 6817 (NALC No. 421-1005-18)**

On the following page is a flow chart from page 15 of Pub 552 showing the steps involved in an IMIP. The DRT reminds the parties that if evidence of inappropriate behavior is found, it must be corrected even if it does not rise to the level of illegal harassment.

## Initial Management Inquiry Process at-a-Glance



RIO GRANDE DISPUTE RESOLUTION TEAM  
10410 Perrin Beitel Road, Rm 1059  
San Antonio, TX 78284-9608  
PHONE 210-368-1760, 210-368-5547, FAX 210-368-8525

The DRT agreed management must meet its obligation to provide documents and time on the clock for a steward to investigate and prepare a grievance when necessary.

Article 17 of the National Agreement covers Steward's Rights. Page 17-5 and 17-6 of the Joint Contract Administration Manual (JCAM) include the following, in relevant part.

**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.

Management may not determine in advance how much time a steward reasonably needs to investigate a grievance (National Arbitrator Garrett, MB-NAT-562/MB-NAT-936, January 19, 1977, C-00427). Rather, the determination of how much time is considered reasonable is dependent on the issue involved and the amount of information needed for investigation purposes (Step 4, NC-S-2655, October 20, 1976, M-00671).

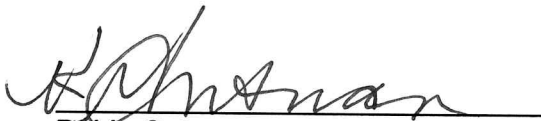
Steward time to discuss a grievance may not be denied solely because a steward is in overtime status (Prearbitration Settlement, W4N-5C-C 41287, September 13, 1988, M-00857). It is the responsibility of the union and management to decide mutually when the steward will be allowed, subject to business conditions, an opportunity to investigate and adjust grievances (Step 4, N-S-2777, April 5, 1973, M-00332).


If management delays a steward from investigating a grievance, it should inform the steward of the reasons for the delay and when time will be available. Likewise, the steward has an obligation to request additional time and give the reasons why it is needed (Step 4, NC-C-16045, November 22, 1978, M-00127).

Article 31 of the National Agreement covers Union-Management Cooperation. Page 31-2 of the Joint Contract Administration Manual (JCAM) states in relevant part.

**Information.** Article 31.3 provides that the Postal Service will make available to the union all relevant information necessary for collective bargaining or the enforcement, administration or interpretation of the 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 employer information under the National Labor Relations Act.

Based on its review of the case file, the DRT mutually agreed to the decision and remedy above.

  
Robin Gutman  
USPS Step B Representative

  
Jim Ruetze  
NALC Step B Representative

RIO GRANDE DISPUTE RESOLUTION TEAM  
10410 Perrin Beitel Road, Rm 1059  
San Antonio, TX 78284-9608  
PHONE 210-368-1760, 210-368-5547, FAX 210-368-8525

**cc:**

LR Manager, Southern Area  
NALC Region 10 NBA  
Rio Grande District HR Manager  
Rio Grande District LR Manager  
Management Formal Step A Designee

NALC Branch President  
NALC Formal Step A Designee  
Manager, Rio Grande District  
Postmaster  
DRT File

**Grievance File Contents**

PS Form 8190	Handbook PO-209 Excerpt
Union Contentions (9 pages)	Time Limit Extensions (5 pages)
Grievant Statement (3 pages)	Steward work at home time
George Priggins Statement	Request for Steward time (4 pages)
Carrier Statements (6 pages)	Request for Documentation (4 pages)
PS Form 3996 (2 pages)	Letter Granting Interviews
Employee Everything Report (5 Pages)	Formal Step A Requests
Management Statements (3 pages)	Publication 241 Excerpts (12 pages)
Management Contentions (2 pages)	Step B Decisions (86 pages)
Pre-Arbitration (G16N-4G-C 17665671)	Formal Step A decisions (6 pages)
Informal Step A Request (3 pages)	Rio Grande District Memo (2 pages)
Notes (2 pages)	MRS Excerpts (2 pages)
Request for Steward Time (2 pages)	Previous PS Form 8190 (44 pages)
Request for Formal Step A (2 pages)	Previous DRT Decisions (161 pages)