

TB



RESOLVE



FEB 13 2019

STEP B DECISION

Step B Team:	Decision:	RESOLVE
USPS:	USPS Number:	G16N-4G-C 1848 6817
Robin Gutman	Grievant:	Class
NALC:	Branch Grievance Number:	421-1005-18
Jim Ruetze	Branch:	421
	Installation:	San Antonio
District:	Delivery Unit:	Laurel Heights
Rio Grande	State:	TX
	Incident Date:	08/28/2018
USPS Formal A:	Informal Step A Meeting:	10/20/2018
Richard Ketchum	Formal Step A Meeting:	12/11/2018
NALC Formal A:	Received at Step B:	12/20/2018
Joseph Blancarte	Step B Decision Date:	01/28/2018
	Issue Code:	02.1910
	NALC Subject Code:	100775

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ISSUE:

Did management violate Articles 3, 5, 14, 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 Acting Customer Service Operations Manager (CSOM) Jeff Jenkins? If so, what is the remedy?

Did Laurel Heights Management, namely Station Manager Steven Gonzalez Supervisor Norma Olsen, and CSOM Jeff Jenkins 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, as well as requested steward time? 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 days (excluding Sundays and holidays) 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. Management is required to comply with grievance settlements reached at all levels of the dispute resolution process. See the

DRT Explanation below.

EXPLANATION:

On August 28, 2018 CSOM Jeff Jenkins entered Laurel Heights Station in San Antonio, TX and, upon observing several carriers wearing what he considered to be unauthorized headwear, began instructing carriers to take off their hats.

The union filed this grievance to protest Jenkins' demeanor in his interactions with the carriers concerning their headwear. 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 CSOM Jenkins made harassing, intimidating and threatening comments on August 28 to individual carriers by aggressively pointing out that their hats were not authorized for use and ordered them to remove them. The union contends carriers' headwear had not been addressed at any time in the memory of the carriers working at Laurel Heights, so if management sought to enforce the letter of the law with respect to headwear they would need to give carriers the opportunity to purchase authorized headwear with their uniform allowance. Furthermore, the union contends Jenkins targeted the carriers at Laurel Heights for special attention, as evidenced by communication with stewards from other offices under his authority who said Jenkins had been to their offices but said nothing to any carriers about their uniforms. The union contends Jenkins' inappropriate conduct was in retaliation for a pre-arbitration agreement sustaining a prior grievance that required San Antonio Postmaster Carr to apologize to the carriers of Laurel Heights. The union contends the environment in the San Antonio installation became toxic when Robert Carr became the postmaster, and that the OIG should conduct an investigation into management's treatment of carriers.

The union requests management be instructed to cease & desist. The union also requests an IMIP be conducted at Laurel Heights. The union further requests Supervisor Rameau be instructed to take LMS courses that deal with dignity and respect within 30 days, with proof of completion provided to Steward Joseph Blancarte. The union also requests a monetary remedy of \$10.00 for each carrier assigned to Laurel Heights Station as an incentive for management to abide by Step B decisions reminding management of its obligation to treat carriers with dignity and respect. Furthermore, the union requests a \$10.00 per day remedy to each carrier at Laurel Heights for management not making CSOM Jeff Jenkins available to interview as part of the union's investigation. Additionally, the union requests a monetary remedy of \$500.00 for management's failure to provide requested information within three days of the union's request.

Management contends CSOM Jenkins' instruction was to Station Manager Steven Gonzalez, not the carriers themselves. Management also contends the carriers were required to follow the instruction and grieve later, regardless of the heat on the day the instruction was given. Management further contends the inclusion in the file of prior Formal Step A settlements is a procedural defect because Formal Step A settlements are not citable unless the agreement says otherwise. Management goes on to contend it was the carriers who caused the hostility in the office that day by questioning the orders of their superior. One carrier even admitted in his statement that his hat was not regulation.

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.*

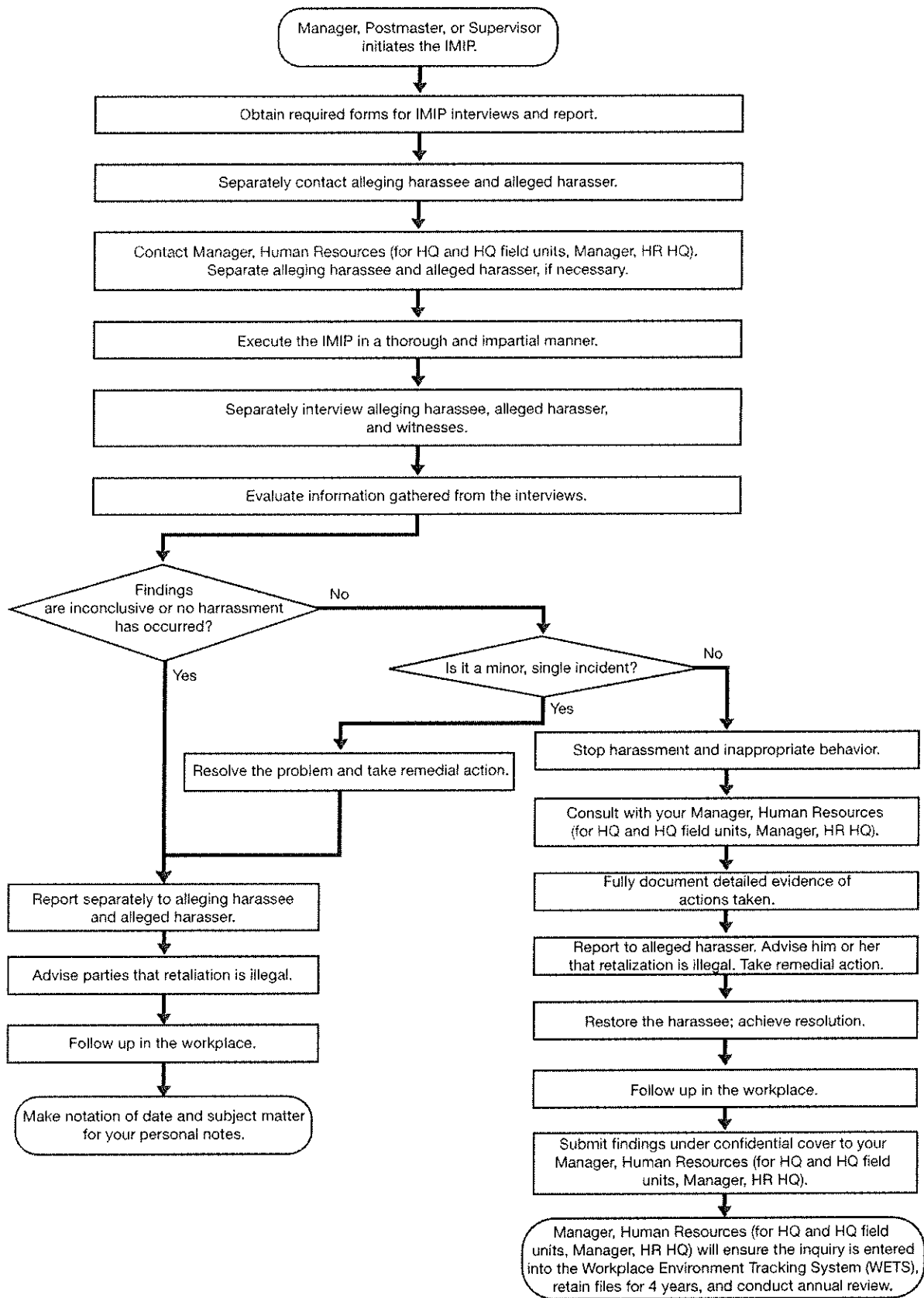
Disclosure of information that is specifically prohibited by law does not carry the protection described above. However, no disclosure under a. and b. above is prohibited by law if made to the Inspector General of the Postal Service. There can be no reprisal for disclosures to the Inspector General unless 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 also notes one of the steward's rights enumerated in Article 17 of the JCAM is the right to interview supervisors. The DRT also agreed that the Step 4 settlement (M-00988) that is cited in Article 17 says that supervisors are expected to respond to germane questions when interviewed as part of a grievance investigation.

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)**

The following page includes a flow chart from page 15 of Publication 552 showing the steps required for a properly conducted IMIP. The DRT reminds the parties that if evidence of inappropriate behavior is found, it must be corrected even if the behavior does not rise to the level of illegal harassment.

Initial Management Inquiry Process at-a-Glance



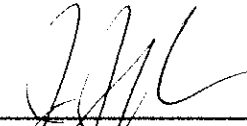
RIO GRANDE DISPUTE RESOLUTION TEAM
10410 Perrin Beitel Road, Rm 1059
San Antonio, TX 78284
PHONE 210-368-1760, 210-368-1784, FAX 210-368-8525

The case file includes a response to an August 30, 2018 Request for Information granting the steward time to interview carriers beginning on September 1, which would have been within 72 hours of the request. However, the response itself was dated September 4. The DRT could find no explanation in the body of the response for how the steward was expected to interview carriers three days before he learned he had permission to do so. Management is required to provide requested information as soon as possible, but no later than three days (excluding Sundays and holidays) after the request is made.

Based on its review of the case file, the DRT agreed that a properly conducted IMIP is appropriate.



Robin Gutman
USPS Step B Representative



Jim Ruetze
NALC Step B Representative

cc:

LR Manager, SW 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
Additions & Corrections
Witness Statements (34 pgs)
Union Contentions (9 pgs)
ELM Excerpts (12 pgs)
Weather Conditions in San Antonio
Prior Mutual Respect Decisions (105 pgs)
Prior Info Request Decisions (112 pgs)
Prior Dignity & Respect Decisions (49 pgs)

Prior Noncompliance Decisions (41 pgs)
Employee Everything Report (45 pgs)
Response to Request for Information
Request for Steward Time (7 pgs)
Time Limit Extensions (11 pgs)
Requests for Information (6 pgs)
Response to Request for Information
Requests for Formal Step A Meeting