

Notice of Proposed Removal

The Veterans' Preference Act guarantees "preference eligible" employees certain special rights concerning their job security. One example: Instead of a Notice of Removal, a preference eligible employee is issued a Notice of Proposed Removal and then a decision on that proposed removal. There is a difference and a steward needs to know the difference and how to handle a "proposed removal."

The time limits for filing a grievance on a proposed removal are the same as for any removal: 14 days from the date of issuance. While management is required to issue a letter of decision on the proposed removal, the union does not file a separate grievance on the decision letter. Rather, the union may make additions to the file based on the decision letter at either Step A or Step B. This does not preclude any arguments by management regarding the relevance of the additions. Grievances concerning proposed removal actions that are subject to the 30-day notification period in Article 16.5 will be held at Formal Step A of the grievance procedure until the decision letter is issued.

Consistent with the Dispute Resolution Process memorandum, the employee will remain on the job or on the clock until after the Step B decision has been rendered or 14 days after the appeal is received at Step B, except for emergency or crime situations as provided for in Articles 16.6 and 16.7. Grievances concerning proposed removal actions that are not subject to the 30-day notification period in Article 16.5 are not held at the Formal A step pending receipt of the decision letter. Rather, the union may later add the decision letter to the proposed removal grievance. This does not preclude any arguments by management regarding the relevance of the additions. In any case, only one grievance is filed.

While a preference eligible city letter carrier may appeal a removal or suspension of more than 14 days to the MSPB, as well as file a grievance on the same action, the employee is not entitled to a hearing on the merits in both forums. This provision is designed to prevent the Postal Service from having to defend the same adverse action in an MSPB hearing as well as in an arbitration hearing. If a city letter carrier has an MSPB appeal pending on or after the date the arbitration scheduling letter is dated, the employee waives the right to arbitration. The national parties agree that the union will be permitted to reactivate an employee's previously waived right to an arbitration hearing if that employee's appeal to the MSPB did not result

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in a decision on the merits of the adverse action, or the employee withdraws the MSPB appeal prior to a decision on the merits being made.

There is no requirement for the NALC to represent a carrier in an MSPB appeal. The notice of proposed removal should inform the preference eligible employee of his or her right to appeal to the MSPB. To file an appeal and to get the information needed, the grievant should be directed to mspb.gov.

Additional information on discipline issued to preference eligible carriers and the filing of grievances for this discipline can be found in the new April 2009 *JCAM* on pages 15-6, 16-6 through 16-7, and 16-10 through 16-11. The *JCAM* can be found in the Contract Administration section on the NALC website at nalc.org/depart/cau/index.html. ☒