

NPMHU, APWU AND USPS REACH AGREEMENT TO UPDATE RI-399 DISPUTE RESOLUTION PROCEDURES WHAT DOES THIS MEAN TO YOU

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As you probably already know, on June 26, 2018 the NPMHU, the American Postal Workers Union (APWU), and the U.S. Postal Service agreed to a tripartite Memorandum of Understanding that updates the RI-399 Dispute Resolution Procedures that were originally signed in 1992. The parties have been negotiating and discussing the terms of this Update MOU for several years, and its execution marks an important milestone in the history of RI-399 and the process for deciding jurisdictional disputes between NPMHU mail handlers and APWU clerks.

Most of you have heard the term RI-399 but may not know what exactly it means or how it actually affects you as a mail handler. Before I explain what the updated MOU means, I am going to give you a little history of how RI-399 came to be and why it effects the day to day life of each and every mail handler.

For many years prior to and after the Postal Reorganization Act of 1970, the Postal Service had experienced numerous jurisdictional disputes between the clerk craft represented by the APWU and the mail handler craft represented by the NPMHU. Jurisdictional disputes are those disputes about what work should be performed by which craft.

In 1975, when all the unions were still bargaining together, the National parties entered into a Memorandum of Understanding establishing a National-level Committee on Jurisdiction as part of the 1975 National Agreement. Under this MOU, each Union had until early December 1975 “to submit to the Committee a written description of the scope of duties it believes are properly assignable to employees that it represents.” Representatives of the Postal Service and the appropriate unions would then meet to discuss, and possibly resolve, work assignments that were in dispute, by considering “among other relevant factors,” the following expressed criteria:

1. Existing work assignment practices;
2. Manpower costs;
3. Avoidance of duplication of effort and “make work” assignments;
4. Effective utilization of manpower, including the Postal Service’s need to assign employees across craft lines on a temporary basis;

5. The integral nature of all duties which compromise a normal duty assignment;
6. The contractual and legal obligations and requirements of the parties.

These six criteria were ultimately incorporated into the bargaining agreements of both the APWU and the NPMHU. They are now found in the NPMHU National Agreement in Article 1.5.

After the submission of competing claims for work by the APWU and the NPMHU, the Committee on Jurisdiction met to develop jurisdictional guidelines to differentiate between the work assignments of the clerk and mail handler crafts. A “special subcommittee” was formed to address the “overlapping claims of the Clerks and Mail Handlers,” but the joint efforts by this subcommittee were unsuccessful. Given the lack of agreement, the Postal Service created its own task force, which included management representatives from the Committee and postal field operations, to draft jurisdictional guidelines.

The Postal Service assembled a team to develop a proposal on resolving the conflicting jurisdictional claims. This team was guided by the six criteria mentioned in the 1975 Memorandum of Understanding, past practice, and certain previous arbitration decisions dealing with conflicting jurisdictional claims. The team was also directed to keep in mind the desire of the USPS to achieve greater efficiency and economy of operations. The team was to consult various handbooks issued by the Service containing bargaining unit descriptions, personnel practices, and the qualification standards for all Postal Service positions. The overall goal of their efforts was to develop an efficient and cost-effective way to resolve the jurisdictional claims while creating the least amount of confusion in the field.

The draft guidelines resulting from this effort were submitted to representatives of both Unions in the fall of 1977. Both Unions offered their comments and criticisms, and compromises were reached based on the discussions that followed. Eventually, after several revisions, the Postal Service published Regional Instruction No. 399 Mail

Processing Work Assignment Guidelines on February 16, 1979 which was to:

“provid[e] primary craft designations relative to the performance of specific mail processing work functions. Compliance with the principles contained therein is mandatory and applicable to the assignment of all categories of employees in the regular work force. These assignment guidelines are to be implemented at all postal installations which perform mail processing, in accordance with the implementation criteria outlined below and consistent with the terms of the 1978 National Agreement.”

These guidelines recognized and incorporated several general principles to govern its implementation, including:

“All actions taken relative to implementation of these guidelines must be consistent with an efficient and effective operation.”

“If there are four or more hours of continuous work consisting of one or more work functions in one or more operations designated to the same primary craft, the performance of the work should be assigned to an employee of the primary craft.”

“Where the functions of obtaining empty equipment, obtaining unprocessed mail, loading ledges and sweeping are an integral part of the distribution and cannot be efficiently separated, the entire operation will be assigned to the primary craft performing the distribution activity.”

“Assignment of new or additional work, not previously existing in the installation, shall be made in accordance with the primary craft designations contained in this instruction.”

The entire RI-399 document, with a few subsequent amendments made in 1979 and subsequent years, is included in the back of our National Agreement.

The APWU continued to voice its dissatisfaction about RI-399 after its issuance in February 1979, most notably raising 13 specific objections that were included in a September 28, 1979 letter to the Postal Service. These issues ultimately evolved into a National-level arbitration being taken forward by the APWU. This National case was presented in front of Arbitrator Gamser in case number AD-NAT-1311, which is available through MAILs on the National's website. In 1981, Gamser issued his award, denying each and every one of the claims put forward by the APWU:

“For the reasons set forth above, the Undersigned must ultimately conclude that the publication and

implementation of Regional Instruction No. 399 has not violated the cited provisions of the National Agreement, the Memorandum of Understanding on Jurisdiction appended thereto, or any of the other accepted criteria for jurisdictional determinations to which the APWU made reference.”

The battle between the clerk craft and the mail handler craft for jurisdiction of work continued even after the publication of RI-399 and its confirmation by Arbitrator Gamser, as both unions continued to file grievances over jurisdictional issues. Since these grievances were often arbitrated bi-laterally, under the respective Article 15 processes that each Union had with the Postal Service, this led to an extremely burdensome process and many instances of the same issue being arbitrated separately by each Union and resulting in conflicting arbitration decisions on which work belonged to each craft.

As time went on, the parties realized that the grievance/arbitration forum to contest jurisdictional assignments was not working. Initially the parties tried on their own to find solutions. One result was the Mail Handlers negotiating a Letter of Intent during their 1987 National Negotiations and the APWU negotiating a Memorandum of Understanding during their 1987 National Negotiations. These two documents included attempts by both parties to resolve issues revolving around Operations 110–129 and 180–189, which were a focus of many disputes between mail handlers and clerks around the country. But even after these agreements were negotiated, the reality was that the problems got even worse and even more challenges were filed. In the following years, many discussions were held at the National level, which ultimately culminated into the tripartite agreement of 1992.

In April 1992, the Postal Service, the APWU, and the NPMHU established the RI-399 Dispute Resolution Procedures, which was “aimed at resolving the longstanding jurisdictional disputes” among the parties. For the first time since the Gamser award in 1981, all three parties were able to agree to a set of procedures that would require them to resolve disputes and conduct arbitration hearings on a tripartite basis. The Memorandum of Understanding on RI-399 Dispute Resolution Procedures froze craft jurisdiction as of the date of the Dispute Resolution Procedures, which was April 29, 1992, unless there was an already pending dispute. The parties at the Local level also were to record which craft was performing what work in each mail processing operation in each installation. The parties were also to identify live, pending jurisdictional disputes that existed prior to the effective date of the April 1992 MOU.

The resulting “Installation Inventories” of operations not in dispute were to become the governing documents for

craft jurisdiction in each installation. Under the April 1992 MOU, craft jurisdiction could only be changed or challenged in very limited circumstances. Those circumstances that would allow for a new primary craft dispute included the introduction of “New Work,” a “New or Consolidated facility,” or an “Operational Change” that justified the transfer of work from one craft to another. The MOU created a separate forum and separate procedures through which craft jurisdictional disputes were to be processed. This process also established dispute resolution committees at the Local (LDRC), Regional (RDRC) and National (NDRC) levels as well as a panel of RI-399 arbitrators separate from the Article 15 grievance/arbitration process.

The parties also jointly issued a set of Questions and Answers in October of 1992 to aid their local representatives in implementing the Dispute Resolution Procedures. The intent was to ensure that, when a dispute arose, no jurisdictional changes in existing craft assignments in a facility would be made except through either a trilateral agreement or trilateral arbitration.

By 1994, it was recognized at the National level that many facilities had not developed inventories and a directive was sent out to the field stating that if the parties had not or could not jointly develop an inventory, then management would be tasked with developing the inventory for each facility. Inventories for all practical purposes were to be a snapshot of who did what work within each facility or installation. Basically, these inventories were to show what was viewed as proper craft jurisdiction. These inventories in some fashion replaced how the parties were applying RI-399 as printed in the back of the National Agreement.

Even though the Dispute Resolution Procedures were well intended, the results have clearly missed the mark. Of most importance, many inventories were not completed or updated, many disputes were not heard, and many advocates have been using the RI-399 docket as a dumping ground for delaying or denying the resolution of disputes.

The parties at the National level recognized these problems, and for the last several years have been negotiating and discussing ways to fix the process. These discussions recently led to the signing of the Update MOU on June 26, 2018.

The Update MOU resolves many of the pending disputes now being held at the National, Regional, and Local levels. The Update MOU also requires all local facilities employing both mail handlers and clerks to develop updated or “Revised 9-1-2017 Inventories” to reflect the actual assignment practices in each facility as of September 1, 2017, with a status quo agreement being enforced as of that date on most jurisdictional

issues. If the local facilities do not sign their own inventories, then the National parties will send in representatives to complete these documents. The Update MOU provides for certain monetary payments to mail handlers and clerks, with details about the distribution of such amounts still to be determined. And, the Update MOU adopts new procedures to reduce future disputes and to keep the RI-399 process from again becoming a bottomless pit where jurisdictional disputes reside, but never get resolved.

Here are details of the Update MOU:

1. All National disputes pending as of September 1, 2017 are withdrawn, with the parties accepting the USPS determinations previously issued. These cases include
 - a. Containerization of Trays/Tubs;
 - b. Presort;
 - c. Containerization of ACDCS Mail;
 - d. Filing of Post-Hearing Rebuttal Briefs;
 - e. Air Records Processor Position Description;
 - f. Buffer System Prototype;
 - g. Tabbng Machine;
 - h. Automated Package Processing System (APPS);
 - i. Craft Jurisdiction at PMPCs Converted to L&DCs;
 - j. Automatic Induction (AI) and Automatic Tray Handling System (ATHS) for the AFSM 100;
 - k. Increase in Work Resulting in More than 4 Hours Continuous Work;
 - l. A second dispute about Automatic Induction (AI) and Automatic Tray Handling System (ATHS) for the AFSM 100;
 - m. Flat Sequencing System (FSS); and
 - n. Conversion of SPBS to APBS Machines.
2. Disputes regarding the Low Cost Tray Sorter (LCTS), the High Speed Tray Sorter (HSTS), the Low Cost Universal Sorter (LCUS), the High Speed Universal Sorter (HSUS), and the Passive Adaptive Scanning System (PASS) shall all be governed by the status quo rule as of September 1, 2017.
3. There are two exceptions to this rule on pending National disputes: the Small Parcel Sorting System (SPSS) and the Advanced Facer Cancellor System (AFCS). Both of these jurisdictional disputes will be arbitrated at the National level in two cases, first all disputes remaining over

the SPSS, and then a hearing on the three appeals pending relative to the AFCS.

4. With regard to pending Local and Regional disputes, within the next 90 days, the representatives of the parties will be required to take the following actions:
 - a. Identify all disputes, grievances, or arbitrations currently pending in the RI-399 process that present contractual issues other than jurisdictional or Article 7.2 (cross-craft) issues, and remand those non-jurisdictional and non-crossing-craft issues to the Article 15 process of the grieving Union.
 - b. Withdraw and administratively close all other pending disputes that were filed in or referred to the RI-399 process before September 1, 2017—whether they are jurisdictional or cross-craft cases.
 - c. Continue to process in each union’s Article 15 process all grievances filed in that process and not referred to RI-399 before September 1, 2017.
 - d. Send any grievances that initially were filed in either union’s Article 15 process but were referred to RI-399 on or after September 1, 2017, to the NDRC for resolution, with any remedial issues remanded for resolution by the Article 15 process on a bilateral basis.
 - e. Fully implement or arbitrate any disputes that already have been resolved by a tripartite agreement or in arbitration or are the subject of a pending arbitration in which the hearing opened prior to the signing date of the Update MOU.
5. The prohibition on jurisdictional changes occurring outside of the RI-399 process, or on a bilateral basis, will continue, with any such changes considered null and void.
6. As noted, the National parties will apply the status quo on September 1, 2017 (reflected in the Revised 9-1-2017 Inventories) to resolve all pending disputes filed in or referred to the RI-399 process on or after September 1, 2017. Future disputes may only be filed in accordance with the new work, new or consolidated facilities, or operational change criteria of the RI-399 Dispute Resolution Procedures, as amended.
7. When determining the status quo as of September 1, 2017, the local jurisdictional work assignment practices as of that date shall be controlling, *unless* those practices were contrary to a National-level craft determination previously issued by

the Postal Service, a National-level or local-level jurisdictional settlement signed by all three parties, a National-level or Regional-level tripartite arbitration award determining jurisdiction, or an existing inventory signed by all three parties. If there is a disagreement as to whether any of these exceptions (following the word “unless”) apply to a particular Revised 9-1-2017 Inventory, it will be referred to the NDRC for resolution by the NDRC.

8. The Revised 9-1-2017 Inventory for all postal facilities without mail handlers assigned as of September 1, 2017 shall reflect that all operations are assigned to the clerk craft. Any future changes shall be determined in accordance with the new work, new or consolidated facilities, or operational change criteria of the RI-399 Dispute Resolution Procedures, *unless* these clerk-only facilities had mail handlers working in mail processing prior to September 1, 2017 who were excessed out of the facility and that excessing remains disputed by a timely grievance initially filed by the NPMHU under its Article 15 grievance process or a timely dispute initially filed by the NPMHU under the RI-399 Dispute Resolution Procedures. In these situations, the Revised 9-1-2017 Inventory will note whether any of the exceptions to the status quo as of September 1, 2017 apply in the event the NPMHU grievance or dispute is arbitrated in the NPMHU’s favor.

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9. The Revised 9-1-2017 Inventories will be binding on all parties at all levels, and on all employees, supervisors, managers, and representatives. The process for developing Revised 9-1-2017 Inventories will include a deadline by which the Local parties, acting on a tripartite basis, will have an opportunity to prepare and submit signed Revised 9-1-2017 Inventories to the NDRC. Absent the local parties completing a Revised 9-1-2017 Inventory, Regional or National Representatives will visit the postal facilities to complete Revised 9-1-2017 Inventories based on the jurisdictional work assignment practices for each facility as of September 1, 2017. A form for the completion of Revised 9-1-2017 Inventories shall be developed by the parties at the National level.
10. Article 7.2 cases filed after the signing date of the Update MOU may be referred to the RI-399 process by management or the non-grieving Union *only* at the Step 3 level of the grievance-arbitration process. In particular, upon receipt of a Step 3 appeal from the Clerk Craft or the Mail Handler Craft, the Postal Service Step 3 representative shall forward a copy of the case file to the Step 3 representative of the other, non-grieving Union. Upon receipt of the case file, the non-grieving Union at Step 3 only will have twenty-one (21) calendar days to refer the grievance to the RI-399 Dispute Resolution Procedures via written notice to the other parties; failure to refer the grievance during this 21-day period will forfeit the Union's right to do so at a later date and will prohibit the non-grieving Union from seeking to intervene in the subsequent grievance or arbitration proceedings in that case. If the Postal Service at Step 3 decides to refer the case to the RI-399 Dispute Resolution Procedures, the referral must be done no later than the timely issuance of the Step 3 answer; failure of the Postal Service to refer the grievance by this deadline will forfeit the Postal Service's right to do so at a later date.
11. In addition to limiting future referrals to the RI-399 process to Step 3 representatives during a limited period of time, the parties also have agreed to other changes to the RI-399 Dispute Resolution Procedures. These changes include the following:
 - a. Any operational changes occurring or implemented by the Postal Service at the Local level on or after the signing date of this Update MOU will require a written notification to the Local Dispute Resolution Committee (LDRC) and the Regional Dispute Resolution Committee (RDRC) at least fourteen (14) calendar days prior to implementation.
 - b. The Postal Service at the National level shall issue a Memorandum, with copies to both Unions, requiring its local and regional managers to notify the Postal Service at the National level and all parties at the impacted LDRC and RDRC at least forty-five (45) days prior to any new work or new or consolidated facilities occurring or being implemented at the Local level.
 - c. Any changes caused by new work, new or consolidated facilities, or operational changes occurring or implemented at the National level will require a notification to the NDRC at least forty-five (45) calendar days prior to implementation.
 - d. If timely notice is not provided, when the adversely affected Union identifies a change in jurisdiction that was implemented without said notice, the assignments will be returned back to the craft that was performing the work prior to the change until the full fourteen (14) or forty-five (45) calendar days of notice is provided.
 - e. A local dispute must be filed with the LDRC within twenty-one (21) days of the date on which the union first learned or may reasonably have been expected to have learned of its cause.
 - f. At the National level, either union may initiate a dispute at the National level within twenty-one (21) calendar days from the date of receipt of a National craft determination made by the Postal Service; otherwise, that craft determination will be final and binding on the parties. The NDRC shall have sixty (60) calendar days after receipt of the dispute to attempt to resolve the dispute. If the dispute is resolved, a tripartite settlement agreement will be signed by the three parties. If the dispute is unresolved at the end of the sixty (60) calendar day period, a tripartite decision will be written by the NDRC setting forth the position of each party. The moving party may appeal the dispute to National arbitration within twenty-one

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(21) calendar days of the receipt of the written decision of the NDRC. Copies of the appeal must be provided to the other parties through the NDRC within the twenty-one (21) day timeframe.

- g. Disputes concerning National craft determinations may be initiated only at the National level.
- h. National RI-399 settlements or arbitration awards shall be binding on all parties nationwide, whether or not a Local or Regional dispute has been filed.
- i. Any National-level case disputing a craft jurisdictional determination will be arbitrated within six (6) months of the implementation of the determination.
- j. Any liability resulting from any National-level arbitration, dating back to the initial filing of any National-level dispute, will be determined utilizing the moving party's Article 15 grievance-arbitration process. Once the National arbitration award is issued, no additional liability shall be incurred until thirty (30) calendar days after the issuance of the jurisdictional award; liability shall continue starting on the 31st day following the issuance of the award.
- k. To ensure timely notification and to resolve RI399 disputes filed on or after September 1, 2017, the parties agree to the following:
 - i. The LDRCs shall meet at 10:00 a.m. local time on the last Wednesday of every month (other than December), at which meetings the three parties shall discuss any issues covered by the RI-399 Dispute Resolution Procedures, including new work, new or consolidated facilities or operational changes for which the Postal Service has provided notice in advance of the meeting. If this monthly meeting does not occur because one (or two) of the parties refuse to meet, any party may refer this failure to meet for discussion and resolution by the appropriate RDRC; in addition, if this monthly meeting does not occur, the disputing union party has the right to appeal the dispute to the RDRC without the application of any time limits.
 - ii. The parties at the Regional (District or Area) level and their RDRCs shall meet at 10:00 a.m. local time on the last Wednesday of every calendar quarter (except for the last quarter of each calendar year, which meeting shall occur on the second Wednesday of December). If this quarterly meeting does not occur because

one (or two) of the parties refuse to meet, any party may refer this failure to meet for discussion and resolution by the NDRC.

- iii. The parties at the National level and the NDRC shall meet at 10:00 a.m. local time on the last Wednesday of every calendar quarter (except for the last quarter of each calendar year, which meeting shall occur on the second Wednesday of December), at which meetings the three parties shall discuss any issues covered by the RI-399 Dispute Resolution Procedures.

12. The National level arbitrator shall be prescheduled for two consecutive days every six months to resolve pending disputes among the parties.
13. In addition to the required meetings, the parties may hold meetings of the LDRC, the RDRC, and/or the NDRC more frequently, as they mutually agree.
14. In addition to the quarterly meetings of the NDRC, the parties at the National level shall meet on a tripartite basis in a Joint Technological and Mechanization Committee on a semiannual basis, or more frequently if necessary, to discuss from the conceptual stage onward any issues concerning proposed technological and mechanization changes which may affect jobs or operations, including new work, new or changed jobs, new or consolidated facilities, or operational changes that may affect the wages, hours, or working conditions of employees in the clerk and/or mail handler crafts.
15. The NDRC will meet within 30 calendar days of the signing date of this Update MOU to discuss amendments to the RI-399 Dispute Resolution Procedures to include this Update MOU, the RI-399 Transitional Procedures, and the Questions and Answers issued by the parties in 1992.

The National parties will be implementing various training programs, circulating questions and answers, and identifying other means in the upcoming weeks to ensure that this Update MOU is properly implemented.

The Update MOU also provides for certain monetary payments to mail handlers and clerks, with details about the distribution of such amounts still to be determined but will be widely shared when finalized. The complete Update MOU was transmitted to all Local Presidents and posted on the National website on June 26, 2018. We remain optimistic that this Update MOU will enable the parties to resolve anti-quated cases and move forward, appropriately focusing on current jurisdictional issues.