



# National Postal Mail Handlers Union

**John F. Hegarty**  
*National President*

**Mark A. Gardner**  
*Secretary-Treasurer*

**Jefferson C. Peppers, III**  
*Vice President  
Central Region*

**Samuel C. D'Ambrosio**  
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**Bruce Z. Miller**  
*Vice President  
Southern Region*

**Rudy Santos**  
*Vice President  
Western Region*

August 16, 2012



TO: Local Presidents  
National Executive Board  
National & Regional CAD

FROM: John F. Hegarty, National President  
William J. Flynn, Jr., National CAD Manager

*JFH*  
*WJF*

SUBJECT: Lead Clerks

Attached please find a newly-filed National-level grievance, challenging the Postal Service's attempt to allow Lead Clerks to lead, guide, or direct employees in the Mail Handler Craft. Also attached is prior correspondence on this issue.

Please feel free to contact the National CAD should you have any questions or concerns.



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**VIA EXPRESS MAIL # EM 610840451 US**  
**RETURN RECEIPT REQUESTED**



August 16, 2012

Doug A. Tulino  
Vice President, Labor Relations  
US Postal Service Headquarters  
475 L'Enfant Plaza  
Washington, DC 20260  
United States of America

Dear Mr. Tulino:

In accordance with the provisions of Article 15, Section 15.3(D) of the National Agreement, the National Postal Mail Handlers Union hereby files a grievance challenging whether Lead Mail Processing Clerks and, in some circumstances, Lead Customer Service Clerks, have the authority to supervise or in any way to assign or direct members of the Mail Handler Craft in the performance of their duties.

For reasons already discussed in detail with representatives of the Postal Service during prior meetings in July and August 2012, and for reasons stated in prior correspondence from representatives for the NPMHU, the NPMHU believes that this decision violates Articles 1, 4, 5, 7, and 19 of the parties' National Agreement.

As a remedy, the NPMHU requests that the Postal Service rescind its position that Lead Clerks may guide, assign, or otherwise direct "mail processing employees assigned to mail processing operations." If the Postal Service means to state that Lead Clerks may guide other employees in the Clerk Craft, or other employees in other APWU-represented crafts, it should so limit these documents with clear language. If, on the other hand, the Postal Service means to imply that Lead Clerks may guide mail processing employees in other crafts not represented by the APWU, specifically employees in the Mail Handler Craft, that is unacceptable to the NPMHU. Undeniably, such a policy would be a unilateral change in the terms and conditions governing Mail Handlers, and the Postal Service's adoption of such a policy without bargaining and/or agreement with the NPMHU would specifically violate Articles 1 and 5 of the

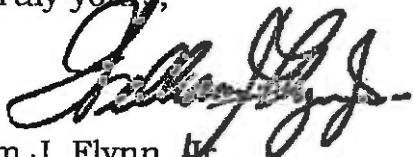
National Headquarters: 1101 Connecticut Avenue, NW, Suite 500, Washington, D.C. 20036  
(202) 833-9095 FAX (202) 833-0008 <http://www.npmhu.org>



NPMHU National Agreement.

Representatives of the NPMHU are prepared to hold additional discussions with Postal Service representatives at their earliest convenience.

Very truly yours,

A handwritten signature in dark ink, appearing to read 'William J. Flynn, Jr.', written over a horizontal line.

William J. Flynn, Jr.  
Manager  
Contract Administration

Cc: John F. Hegarty, National President  
Mark A. Gardner, National Secretary-Treasurer  
National Executive Board  
National/Regional CAD Staff  
Local Presidents  
Allen Mohl, USPS Labor Specialist



July 23, 2012

Mr. William F. Flynn, Jr.  
Manager  
National Postal Mail Handlers Union  
1101 Connecticut Avenue, NW, Suite 500  
Washington, DC 20036

**Certified Mail Tracking Number:  
7011 2000 0002 7188 9631**

Dear Bill:

This letter responds to your July 2 letter regarding the Postal Service's position on the question whether Lead Mail Processing Clerks and, in some circumstances, Lead Customer Service Clerks, have the authority to supervise or in any way to assign or direct members of the Mail Handler Craft in the performance of their duties.

As background, the Memorandum of Understanding between the United States Postal Service and the American Postal Workers Union, Subject: Clerk Craft Jobs, which was incorporated into the 2010-2015 Agreement with the APWU, provides for the creation of Lead Clerk positions in Mail Processing and Retail operations. As stated in that MOU, the intent behind the creation of the Lead Clerk positions is to provide oversight, direction and support, in the absence of Supervisory presence to bargaining unit employees.

Your letter raises two distinct questions which are here paraphrased with responses.

1. Do the Lead Clerk documents (the MOU Re: Clerk Craft Jobs; the Lead Mail Processing Clerk & Lead Customer Service Clerk Standard Duty (STD) Job Descriptions; and the jointly signed Lead Clerk Questions & Answers (Q&As) dated May 4, 2012) "...imply that Lead Clerks may guide employees in other crafts, including the Mail Handler Craft..."?

**Response:** The MOU Re: Clerk Craft Jobs states in part, "The intent behind the creation of the Lead Processing Clerk and the Lead Sales and Services Associate is to provide oversight, direction and support, in the absence of Supervisory presence to bargaining unit employees in both Mail Processing and Retail operations." In addition, the Standard Duty Description for the Lead Mail Processing Clerk states in Duties and Responsibilities:

6. As a working leader of mail processing employees, will cooperate with supervisor to meet established targets for identified goals. Will work to maintain efficiencies and meet dispatches based on the installation operating plan. Shifts employees in the group from one assignment to another, in accordance with the Collective Bargaining Agreement, to balance workload. Trains new employees in a specific area of specialization.

As stated the Lead Mail Processing Clerk is a working leader among other mail processing employees. As such, the Lead Clerk is carrying out the instructions of the supervisor. In doing so, the Lead Clerk may provide limited oversight and direction to all bargaining unit employees in the mail processing group. This oversight is limited to following the instructions

of the supervisor, who may or may not be present at the time such direction is needed. The Lead Clerk is not expected to exercise judgment or make decisions that are reserved for the supervisor. Instead, based on the Lead Clerk's work experience in the functional area, he/she will assist and support the other bargaining unit employees in carrying out the supervisor's or manager's instructions, based on the day's operating plan. The Lead Clerk will defer to the supervisor/manager in charge when appropriate. The Lead Clerk does not have the authority to approve leave, take corrective action, or exercise judgment in the administration of the collective bargaining agreements.

2. Do the new Lead Clerk duties, as set forth in the Qualification Standards, the Standard Job Description, and in oral communications from various management representatives, rise to the level of "supervisory" as defined by the National Labor Relations Act (NLRA)?

**Response:** Simply stated the Postal Service's position is that the Lead Clerk duties and responsibilities do not rise to the level of supervisory. Section 2(11) of the NLRA defines the term "supervisor" as follows:

"The term "supervisor" means any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment."

The MOU clearly has not extended such authority to the bargaining unit (Lead Clerks). For the NPMHU to extract the words "assign" and "direct" from the list of supervisory duties, and imply that the use of these words in the MOU and STD Job Descriptions somehow extend supervisory authority to Lead Clerks, is to take the terms out of context in the NLRA definition. The oversight and direction provided by Lead Clerks to other bargaining unit employees within the group are merely routine or clerical in nature, and do not require the use of independent judgment. The application of the MOU provisions is not intended to grant supervisory authority, or responsibility for employees within the Mail Handler Craft, to Lead Clerks.

Sincerely,



Patrick M. Devine  
Manager  
Contract Administration (APWU)



# National Postal Mail Handlers Union

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*Vice President  
Western Region*

July 2, 2012

Patrick M. Devine  
Labor Relations Specialist  
U.S. Postal Service Headquarters  
475 L'Enfant Plaza  
Washington, DC 20260



Dear Mr. Devine:

I am writing to request the Postal Service's position on the question whether Lead Mail Processing Clerks (and, in some circumstances, Lead Customer Service Clerks) have the authority to supervise or in any way to assign or direct members of the Mail Handler Craft in the performance of their duties.

In prior conversations between USPS representatives and the NPMHU, and in documents related to this subject, the Postal Service has taken conflicting and potentially unlawful positions on this question. You and other management officials also have stated that Lead Clerks are similar to Mail Handler Group Leaders, but the job descriptions issued for these Lead Clerks are significantly different from the job description used for Mail Handler Group Leader. These conflicting positions are made even more confusing by documents issued unilaterally by the American Postal Workers Union, which the NPMHU knows are not the responsibility of the Postal Service, but also have not been corrected or rejected by the Postal Service. The NPMHU therefore is asking that the Postal Service clarify these matters, in writing.

The key issue is whether the Lead Clerks are authorized to assign, direct, or otherwise lead Mail Handlers. The APWU's unilaterally issued questions and answers (dated May 24, 2012) state, erroneously in the NPMHU's view, that "a Lead Clerk . . . can . . . lead employees from other crafts." No such statement appears in the May 4, 2012 questions and answers re Lead Clerks that were jointly issued by the APWU and the Postal Service. Please confirm that the Postal Service does not agree with the position of the APWU that is set forth in the question and answer quoted above from the May 24, 2012 document issued unilaterally by the APWU.

Another issue is whether Lead Clerks are similar to Mail Handler Group Leaders. You have suggested that they are, as have other management officials, but their respective job descriptions contain substantially dissimilar



words. In particular, the Mail Handler Group Leader Standard Position Description contains the following verbiage: "Controls and guides a work unit of mail handlers . . . , assigns employees in the group, as instructed by a supervisor . . . , and serves as a working leader of a group of at least five mail handlers . . ." In other words, Mail Handler Group Leaders are authorized to guide and assign other Mail Handlers, and their authority is limited to other Mail Handlers. The Lead Clerk Qualification Standards, in contrast, requires that the employee have the "ability to provide oversight, direction, and support of co-workers in the absence of a supervisor," and the Standard Position Description suggests that the Lead Clerks are to "[p]rovid[e] guidance to mail processing employees assigned to mail processing operations." (The documents obtained by the NPMHU with regard to Lead Clerks may be non-final draft documents, but they are the latest documents of which we are aware.) These documents do not clearly provide for a limitation comparable to that of the Mail Handler Group Leader, such that Lead Clerks are authorized to lead only other mail processing employees who are members of the Clerk Craft, or at most employees in other APWU-represented crafts.

The NPMHU has several major concerns with these documents, and with oral responses previously provided by various management officials.

1. First, as noted, whereas the Mail Handler Group Leader is limited to guiding "a work unit of mail handlers," assigning "employees in the group, as instructed by a supervisor," and serving "as a working leader of a group of at least five mail handlers," the Lead Clerk documents suggest, although they do not state clearly, that Lead Clerks may guide, assign, or otherwise direct "mail processing employees assigned to mail processing operations." If the Postal Service means to state that Lead Clerks may guide other employees in the Clerk Craft, or other employees in other APWU-represented crafts, it should so limit these documents with clear language. If, on the other hand, the Postal Service means to imply that Lead Clerks may guide employees in other crafts, including the Mail Handler Craft, that is unacceptable to the NPMHU. Indeed, such a policy would be a unilateral change in the terms and conditions governing Mail Handlers, and the Postal Service's adoption of such a policy without bargaining with the NPMHU would violate, among other things, Articles 1 and 5 of the NPMHU National Agreement.
2. The NPMHU also believes that the new Lead Clerk duties, as set forth in the Qualification Standards, the Standard Job Description, and in oral communications from various management representatives, have been unwisely expanded to that of a supervisor as defined by the National Labor Relations Act. The functions of assigning and directing other employees, through the exercise of independent judgment, are supervisory if the Lead Clerk is accountable for completion of these tasks. As you know, the NLRA



defines a "supervisor" as any individual having the authority, in the interest of the employer, to assign . . . other employees, or responsibly to direct them, . . . if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but involves a degree of discretion that requires the use of independent judgment." If an employee has the authority to engage in any one of these functions, he or she is considered a supervisor if the employee exercises independent judgment when performing these functions.

The documents issued by the Postal Service specifically state that the Lead Clerks must "provide oversight" and "direction" to other employees. The Lead Mail Processing Clerk job description also appears to describe the exercise of independent judgment when noting that the Lead Clerk has the authority to determine when (or even if) a supervisor should be involved in problem resolution. Specifically, the job description includes the following duty and responsibility: "Shifts employee in the group from one assignment to another, in accordance with the Collective Bargaining Unit Agreement, to balance the workload; [and] trains new employees in a specific area of specialization." Likewise, the Qualification Standard states that the Lead Clerk must be able "to identify and analyze problems by gathering information . . . and develop an appropriate course of action to resolve the situation." To assign overall duties or tasks is normally reserved within the Postal Service for employees at the rank of supervisor. Moreover, the USPS job description requires the Lead Clerk to take said action(s) "in accordance with the Collective Bargaining Unit Agreement." Rhetorically speaking, does the Postal Service truly expect a Lead Clerk to perform required duties after full consideration of the terms and obligations of the NPMHU's National Agreement? And does not the Postal Service expect the exercise of independent judgment when the Lead Clerk identifies, analyzes, and resolves various situations, especially those related to assigning and directing Mail Handlers?

Further, because "statutory supervisors" are not covered or protected under the NLRA, they cannot organize or be part of any bargaining unit, and therefore these Lead Clerks could not be members of the APWU bargaining unit. As the descriptions and duties of the Lead Clerks presumably were negotiated with the APWU in an effort to make them bargaining unit employees, these descriptions and duties need to be changed.

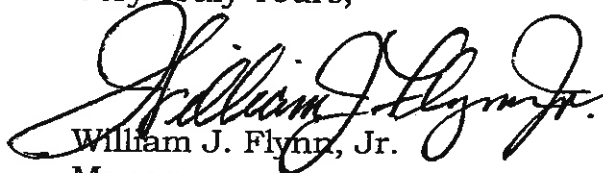
In short, the NPMHU believes that any decision to allow Lead Clerks to guide, assign, direct, or supervise Mail Handlers is flawed, for each of the reasons described in this letter.

The NPMHU looks forward to your prompt reply. Representatives of the NPMHU are available to meet on this subject at your convenience.



Thank you in advance for your attention to this matter.

Very Truly Yours,

A handwritten signature in cursive script, appearing to read "William J. Flynn, Jr.", written in dark ink.

William J. Flynn, Jr.

Manager

Contract Administration

cc: John F. Hegarty, National President  
Mark A. Gardner, National Secretary-Treasurer  
National Executive Board  
National/Regional CAD Staff  
All Local Presidents  
Douglas A. Tulino, USPS Vice President for Labor Relations  
Allen Mohl, USPS Labor Specialist

## **Questions & Answers**

### **The APWU's Position on Lead Clerks**

May 24, 2012

*The Questions & Answers below represent the APWU position on Lead Clerks.*

**Question:** What is the meaning of "facility clerk craft complement" for establishing the Lead Clerk ratio in the Memorandum of Understanding (MOU)?

**Answer:** It is the total number clerk employees (including career clerks and PSEs) in the facility.

**Question:** What is the definition of a facility?

**Answer:** USPS Publication 32 defines a facility as any physical building used by the USPS primarily for accepting mail, processing and distributing mail, and/or delivering mail (e.g. a Post Office, processing and distribution center, station or branch).

**Question:** What is the definition of an Officer-In-Charge (OIC)?

**Answer:** USPS Publication 32 defines an Officer-In-Charge (OIC) as a career employee appointed temporarily to fill a postmaster vacancy during which the accountability of the postmaster is transferred to the employee.

**Question:** Are there any exceptions to the 90-day rules for 204-Bs in offices with a supervisory vacancy management cannot fill, such as to cover a SDO vacancy in an office that is under an AMP study where the USPS is not hiring because of the potential EAS impact?

**Answer:** No.

**Question:** Will the USPS be required to cover the Lead Clerk duties with an employee on a higher-level detail when the Lead Clerk is on annual leave or sick leave?

**Answer:** No. However, if the Postal Service decides to cover Lead Clerk's duties, it must be accomplished in accordance with Article 25 of the Collective Bargaining Agreement.

**Question:** Can a Lead Clerk lead employees from other crafts?

**Answer:** Yes.

**Question:** Can a part-time flexible be a Lead Clerk (for example, in an office with five PTF Clerks and no FTR Clerks)?

**Answer:** No. A Lead Clerk position is a newly created duty assignment posted for bid to full-time regular clerks. If a facility has a complement of at least a five clerks or less than a five-clerk complement without direct supervision, the duty assignment must be posted for bid.

**Question:** What is the intent of the Lead Clerk positions?

**Answer:** To provide oversight, direction and support in the absence of supervisory presence to bargaining unit employees in retail or mail processing operations. If the employees in the group comprise more than one craft, the Lead Clerk has authority via the direction and guidance of postal management. The expectation is to reduce/eliminate 204-B activities where Lead Clerks are present.

**Question:** Does a clerk working in an OIC assignment come under the 204-B guidelines and restrictions?

**Answer:** Yes.

**Question:** Can you have a Lead Clerk duty assignment in CFS (Computer Forwarding System) or the BMEU (Bulk Mail Entry Unit)?

**Answer:** Yes. The parties agree that upon consultation with the Union at the national level, Lead Clerk positions may be created in certain assignment areas with specific qualification requirements (for example, CFS). However, the creation of these Lead Clerk duty assignments shall not impact the number of Lead Clerk duty assignments in the facility, which are determined solely by the ratio established in the MOU. The Lead Clerk positions in areas with specific qualification requirements would be additional assignments and they would be one level above other employees in the group.

**Question:** Can a Lead Sales Service Associate (LSSA) duty assignment be posted with a scheme requirement?

**Answer:** No.

**Question:** How will employees be assigned to higher-level details in Lead Clerk positions?

**Answer:** Article 25.4 of the Collective Bargaining Agreement requires a detail of an anticipated duration of one week (five working days within seven calendar days) or longer to be filled by the senior-qualified employee in the immediate work area in which the temporarily vacant higher-level position exists. If the detail is less than five days, the same applies except the employee does not have to be the senior employee.

**Question:** If a section is undergoing excessing and/or there are clerks with retreat rights to a section and level where Lead Clerk duty assignments are being posted, will the assignment be posted installation wide?

**Answer:** Excessing is still by level in the Clerk Craft as of the signing of the lead Clerk Questions & Answers.

**Question:** Are clerks with saved grade Level 7 required to bid on Lead Clerk jobs with less than 40 hours (if they are posted as NTFT duty assignments)? If they do not bid and cannot be forced into less-than-40-hour assignments, would they lose their saved grade Level 7?

**Answer:** No. If the employees were full-time regulars as of May 23, 2011, they do not lose saved grade.

**Question:** The Lead Clerk position states that clerks must meet KSA (Knowledge, Skills and Abilities) and testing requirements (473 Exam) related to the bargaining unit qualification standard. What does this mean?

**Answer:** The Knowledge, Skills and Abilities (KSA) is standard language that has always been in every senior-qualified job. The 473 Examination is the entrance hiring examination.

**Question:** Will Lead Clerks have access to TACS?

**Answer:** The Lead Clerk will have access to TACS with supervisory approval.

**Question:** What are the requirements for the Lead Clerk positions?

**Answer:** All Lead Clerks - Senior Qualified and pass entrance exam 473 (formerly the 470)

Lead Mail Processing Clerk - One year experience in a mail processing position (F-1)

Lead Customer Service Clerk - One year experience in a customer service (F-4) position

Lead Sales Service Associate - One year experience in a window position and window qualified. (To be considered "window qualified," the senior bidder must have a live record or must qualify on the window exam.)

**Question:** Will a Bulk Mail Clerk in an F-4 assignment with one year experience be considered to be meeting the one year requirement for a "customer service position" qualification requirement?

**Answer:** If the Bulk Mail Clerk is part of the Function-4 area and not the BMEU Function-7 area, they would meet the customer service requirement.