



Representing the bargaining unit employees of Passport Services, a division of the Department of State's Bureau of Consular Affairs

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Final/Step 2 Grievance

Date: March 30, 2010

To: Dorothy Flaak, Director – Director, Office of Field Operations

In accordance with Article 20, Section 8 of the Master Agreement between Passport Services and the National Federation of Federal Employees – Local 1998 (hereafter referred to as “the Master Agreement”), I am filing this Step 2/Final Step Grievance on behalf of the bargaining unit employees of Passport Services regarding the notational changes instituted effective March, 2010 for the 2010 rating period.

The Union does request a meeting to discuss this grievance.

Events giving rise to the grievance

Passport Management instituted a new notational error system during 2009. Management had for years compared the number of errors discovered to the total number of applications adjudicated for the year to compile an error rate. The new 2009 method compared the ratio of errors discovered to the number of applications audited by supervisors. Since the 2009 method involved a much smaller denominator, the typical employee error rate was much higher under the 2009 method. Management ultimately decided not to rate employees on the notational error rate for the year. NFFE 1998 had let Headquarters know in three different grievances that the 2009 notational error rate was not realistic or, for a large number of Passport Specialists, achievable. Also, the rating method opened the door for first-line supervisors to play favorites, “overlooking” applications containing errors by their friends.

For the 2010 rating period, Management revised its notational error rate system, slightly expanding the acceptable error rate. The new allowable error rate, like the 2009 one, was a figure Management randomly produced; it was not the result of a study. Thus, the new rate, like the 2009 rate, is a guess slightly more realistic than the last one.

In conjunction with the untested error rate, Management also introduced new requirements for notating passport applications. This was a welcome improvement in that it created, for the first time, a national standard on how passport applications should be notated. Unfortunately, it added a number of requirements that had never been required at *any* passport office, many of which seemed aimed at duplicating adjudicative actions already performed in the computer. Although the Union was afforded one opportunity to provide verbal input during one of the early meetings of the related working group, the Union's suggestions were widely ignored. The few additions the Union felt were necessary to insure the integrity of the process were not adapted, and the group ignored many of the recommendations the Union made for streamlining the process, and instead opted to make the process more time-consuming for Passport Specialists. The additional notation requirements were never justified to the Union or the employees.

During the month of March, a few of these requirements have been overturned. This is a welcome improvement. Some instructions were overturned by the participants at the national adjudication managers conference. The Office of Performance Management Operational Support has repeatedly told NFFE Local 1998 that they do not have authority to agree to changes (or clarify the meaning of) notational requirements because that authority resides solely with the notational working group. Since the adjudication managers as a group represent a lower level of Management than PMO, and do not include the leader of the notational working group, the Union clearly has not received correct information regarding who can change the notational requirements or how it can be done.

Outside of the accountability issue, another issue is that the continuing changes since March 1st demonstrate that Passport Specialists were not provided with a finished draft of the agency's notational requirements at the beginning of the month. It is incumbent upon Management to have a final notational standard in place by the date of the standard's implementation. A fair or reasonable standard is not one which requires Specialists to adjust their procedure for notating an application every few weeks.

One of the added notations for 2010 is a check mark next to the applicant's [REDACTED]. [REDACTED]. Passport Management has been informed on numerous occasions that the [REDACTED] results that TDIS provides are frequently incomplete because the database has not been updated to include [REDACTED] issued in recent years. This problem still persists. If the [REDACTED] information is important enough to add a new notational requirement for, then it is important enough for Passport Headquarters to update the information the system returns. Passport Specialists must currently pull up a excel chart of [REDACTED] and scroll through it to verify a [REDACTED], though this information should automatically come up whenever an application is wanded. The Excel chart is particularly time-consuming to scroll through because the 3-digit code in the left-hand column is several digits off from the actual [REDACTED], and it is the left-hand column that follows the user as h/she scroll to the right-hand side of the screen. Is it also confusing to use since the top row listing the progressing years has to be scrolled back up to from the middle of the chart.

██████████ sent an email to the ██████████ adjudication section, on March 10, 2010, explaining a way around the latter dilemma. Adjudication Manager ██████████ replied to all recipients that the requirement that Passport Specialists at the public counter look up each applicants' ██████████ had already been discontinued, but not previously relayed to the specialists.

I requested from PMO a full set of notational changes arising from the Adjudication Manager's conference, but never received a reply back. Several other changes to notational requirements have come out in the weeks since, without the source of the decision being mentioned. Local 1998 does not dispute that some of these changes are steps forward and welcomes the improvements. However, by not supplying Passport Specialists with information on changes to the requirements as soon as they were decided on, Management has unfairly disadvantaged Passport Specialists who were assigned to the public counter during the month of March. Specialists working the counter between April and December will have an easier time, and be able to adjudicate more applications per hour, than those whose counter rotations include the month of March.

MANAGEMENT OBLIGATION:

- a. The Employer agrees to give reasonable advance written notice to the Union and the opportunity to negotiate any new or change in personnel policy or practice affecting working conditions of unit employees, which is proposed during the life of the Agreement. Negotiation as appropriate on issues which are Management rights will also be handled in accordance with this Article.
- b. Notification may include a final date for the Union to request negotiations with respect to the proposed change.

In no case shall such final date be less than fifteen (15) calendar days from receipt of the notification of the proposed change. When the notification does not include a final date for the Union to request negotiations, and the Union wishes to negotiate, the Union shall make such a request within thirty (30) calendar days from the date of receipt of the notification. Nothing herein shall preclude the Parties, by mutual consent, from extending or reducing any time limits imposed under this Section.

Article 18, Section 2:

The performance appraisal system and the parts that make up the system as applied to bargaining unit employees will permit, to the maximum extent feasible, the accurate evaluation of job performance on the basis of objective criteria, and will be fair, reasonable, equitable and job related....

Article 18, Section 4:

The development of performance standards and critical elements will be established in writing for each unit position and will be provided to the employee

within 30 days after the beginning of an appraisal period. They will be consistent with the duties and responsibilities covered in each employee's position description. Employees will be afforded an opportunity to participate in the establishment of performance standards, the identification of critical elements, and may make suggestions about the methods used to measure the quality and quantity of work being done. Before the date of implementation all employees will be provided a copy of any new performance standards and critical elements....

5 U.S.C. § 7116. Unfair labor practices:

(a) For the purpose of this chapter, it shall be an unfair labor practice for an agency--

(1) to interfere with, restrain, or coerce any employee in the exercise by the employee of any right under this chapter;

....

(5) to refuse to consult or negotiate in good faith with a labor organization as required by this chapter;

....

(7) to enforce any rule or regulation (other than a rule or regulation implementing section 2302 of this title) which is in conflict with any applicable collective bargaining agreement if the agreement was in effect before the date the rule or regulation was prescribed; or

(8) to otherwise fail or refuse to comply with any provision of this chapter.

Requested Relief

The Union respectfully requests that Management honor and abide by the Agreement and the law and not apply a notational error rate and not implement a notational policy until contractual and legal obligations are met first. The notational error rate, and a notational policy, should not be implemented in an ongoing, changing basis.

- The Union should receive advance notice of proposed changes in the notational policy and of proposed changes in performance elements, including any notational allowable error rate.
- Only after bargaining is completed should the notational policy and error rate be implemented.
- The notational policy and error rate should be implemented on a prospective basis only.
- Employees should receive advance notice of the notational policy and error rate, and be given sufficient training on the policy and sufficient time to read and understand the policy and error rate and how it will apply to them.

- The current notational error rate standard and the current notational error rate procedures should be suspended until both can be examined to an extent that they do not immediately require changes upon implementation

Respectfully,

Rob Arnold
Vice President
Local 1998