



---

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

Colin Patrick Walle  
Union President  
IAMAW NFFE FD1 FL1998  
Phone # (206) 808-5755

Date: March 31, 2010  
To: Dorothy Flaak, Director – Director, Office of Field Operations  
Re: Adjudication Production Numerical Standards for 2010

In accordance with Article 20 of the Master Agreement Between Passport Services and the National Federation of Federal Employees-Local 1998, the Union is filing this Step 2/Final Grievance regarding the numerical production standards that were implemented on March 1, 2010, as well as Management's refusal to bargain over the Union's "I&I" proposals.

Management violated relevant legal authorities including, but not limited to, Article 18 of the Master Agreement, 5 U.S.C. 71 (an Unfair Labor Practice), and the June 11, 2009 Memorandum of Agreement. The standards implemented by Management are not fair and reasonable.

The Union does request a meeting to discuss this grievance.

#### Union's Argument

The standards for desk adjudication and counter adjudication are not fair and reasonable because they do not provide enough time for employees to diligently perform all of the steps in passport adjudication, including detecting passport fraud, and at the same time comply with the stringent new adjudication, notation, and data error rate requirements. The Union has heard from a large number of Passport Specialists that the numerical standards do not allow them sufficient time; we have not heard from a single employee that the standards are acceptable. The numerical standards were arrived at based on a three-part process developed by Management – all three of which included faulty methodology and errors:

- 1) Analyzing historical data
- 2) Time and Motion study
- 3) Adjudication Procedure Working Group

Consideration of those errors, combined with input from Passport Specialists, leads to the conclusion that the numerical standards are too high and should be lowered.

### *Analyzing historical data: errors in methodology*

On August 12, 2009 the chair of the Adjudication Standards Working Group sent a message to the other members of the Working Group (all Management officials) that stated, in part: “What are ways we can develop a standard that can not only be agreed upon internally but will stand up to Congressional/GAO review?” One method that the Working Group settled on was to look at the work done in 2009 when there allegedly were no production pressures, and to use that as the basis for determining how fast employees should be required to produce in 2010.

The suspension of production standards and the creating of the Adjudication Standards Working Group in 2009 was the direct result of the Government Accountability Office’s (GAO) “sting” operation which resulted in 4 passports obtained using fraudulent means, out of 4 attempts. The GAO’s March 16, 2009 report<sup>1</sup> on that test specifically referenced the 2005 GAO report<sup>2</sup>, which was requested by Congress after NFFE Local 1998 communicated concerns about vulnerabilities in the passport issuance process to members of Congress in 2004. The GAO made a number of recommendations, but on the subject of the production standards, the GAO had a hard time reaching a conclusion because Passport Services had changed its procedures and the amount of non-productive time allowed to Passport Specialists after the GAO had started its investigation. However, looking at the 2002-2003 tests and studies done by Passport Services HQ Management to develop the standards implemented on January 1, 2004, the GAO<sup>3</sup> stated:

State’s decision to measure and compile nationwide production averages before fully standardizing the application examination process and the way completed cases are counted at the passport-issuing offices limited the validity of State’s test results. GAO has reported that consistency is a key element for data reliability and that the data obtained and used must be clear and well-defined enough to yield similar results in similar analyses. However, we found that State had attempted to uniformly measure production capacity at its 16 issuing offices when the individual offices were still using differing work processes and methods of counting production.... State officials acknowledged that these processes and procedures should be standardized to ensure that the standards are fair. If State had standardized its work processes and procedures for measuring performance before testing production, the test would presumably have produced more valid results that could have been used to set uniformly attainable production standards.

The same criticism that the GAO made of Passport Services’ methodology used in 2002-2003 applies to the methodology used in 2009. Passport Services did not fully standardize the application examination process in 2009 – and still has not, for that matter, well into 2010.<sup>4</sup> Passport Specialists in one office adjudicated one way, Passport Specialists in another office adjudicated another way, and Passport Specialists in still another office adjudicated even another

---

<sup>1</sup> GAO Report 09-447, “Undercover Tests Reveal Significant Vulnerabilities in State’s Passport Issuance Process.”

<sup>2</sup> GAO Report 05-477, “Improvements Needed to Strengthen U.S. Passport Fraud Detection Efforts.”

<sup>3</sup> GAO Report 05-477, pages 28-29.

<sup>4</sup> The Union addressed a number of concerns at the February 23-25, 2010 National Union/Management Committee about different interpretations of the January 13, 2010 standard operating procedures on adjudication processes, as well instances where local offices had explicitly rejected or deviated from that SOP. Changes and revisions to that SOP continue to trickle out.

way. Even worse, Passport Specialists on different teams in the same office were adjudicating in different ways during the time period that the Working Group examined. By reference, I incorporate the arguments made in the three grievances<sup>5</sup> already filed by the Union on this subject. And no Passport Specialist in 2009 was adjudicating according to the examination processes announced on January 13, 2010. To extend the common metaphor, Management measured apples from one office and oranges from another, and used that as the basis for setting quotas for bananas from every office. To be clear, there are two problems here: 1) Passport Specialists were not adjudicating according to a standardized processes and rules in 2009 for the time period examined by the Working Group, and 2) the 2010 processes are different than what anyone was following in 2009 during the time period examined by the Working Group

The Union had previously pointed out problems with this methodology back at the August 6, 2003 National Union/Management Council (NUMC) meeting, in which the Union described different practices in various offices during the time periods that Management studied and used as the basis for nationwide standards. At that time, the Union specifically called for a revision to the ancient Green Instruction 2150.6D, which instructed employees on how to adjudicate and notate applications. The Union was assured by a senior Management official at that meeting that that particular instruction would go to the top of the list out of the numerous Green Instructions that were being revised. Later, the Green Instructions were phased out and replaced with 7 FAM revisions, with 2150.6D still not updated. I received the draft 7 FAM 1340, "Examination and Adjudication of Passport Applications," on November 7, 2007 for comment, and distributed it to all Union representatives nationwide for comment as usual. I noted in our response on November 30, 2007 that we had received "an overwhelming response" to the draft, which was alarming in the numerous additional notations it would have required. Despite many inquiries after that, we never received any updated draft, and the 7 FAM 1340 has still not been finalized:

## **7 FAM 1340 UNASSIGNED**

*(CT:CON-257; 05-28-2008)*

Six years after the Union criticized this methodology, and four years after the GAO criticized it, Management repeated the same mistake. Essentially, Management has "put the cart before the horse" – processes should be standardized first, and then employees should be measured for a nationwide standard while following nationwide rules.

Another major problem with the use of data from 2009 was that it counted applications adjudicated incorrectly along with those done correctly to arrive at the speed that employees should produce. A number of employees were above the allowable error rates for 2009 and, at the end of the year, in response to a grievance filed by the Union, Management decided to wipe out the notational and data error rates for all of 2009.

---

<sup>5</sup> On March 23, 2009, August 21, 2009, and November 13, 2009.

Yet another problem with the use of the data from 2009 was that the claim that there were no production pressures or standards is false. The office that produces the most work is the National Passport Center (NPC). The Union reported to Passport Services HQ multiple instances of employees and teams of employees at NPC being told to produce 100 (and, from at least one supervisor, 125) applications per day. The Union filed a grievance on this on April 29, 2009 and, after a Union/Management discussion on the grievance, on July 24, 2009 Passport Services Management sent out an email reminder to managers/supervisors nationwide that production standards and goals for individual employees should not be set. Yet, the practice continued so the Union filed another grievance on this on October 8, 2009. Management found that at least part of the grievance had merit on January 21, 2010. We specifically asked in the requested relief for that grievance that the numbers from NPC not be included in the totals, because the production pressures would distort and skew the average for all offices, especially since NPC's work makes up such a large part of the overall production. Not coincidentally, that 100 applications/day is the virtually the same as the standard that was implemented by Management on March 1, 2010 (100 applications divided by 6.5 measurable hours equals 15.4 applications/hour).

A similar problem happened at the Colorado Passport Agency, where employees were told that while there were no production numbers for 2009, they would not be promoted unless they met the 2008 production standards (e.g., 24/hour for GS-9's and 11's). Not surprisingly, during the time period that Management looked at, PPT/CO had the highest production average.

It would have been more accurate for Management to have either studied the work without undue production pressures being placed on employees, or to have not included NPC's and PPT/CO's totals in the analysis as the Union had requested in the two grievances. Removing the production totals from those offices where there was undue pressure would lower the average cited by the Working Group as one of the three pillars of the process.

#### *Time and Motion study: errors in methodology*

Much the same criticism of Management analysis of history data applies to their use of the Time and Motion study. Again, employees were not adjudicating the same way as each other during the period that the Time and Motion study group examined the work, nor the same way as expected for 2010. The Time and Motion study would potentially have been a good idea, and the Union had proposed something similar during the 2005-2009 contract negotiations as well as back at the August 6, 2003 NUMC meeting:

We have proposed that we in conjunction with management do another limited survey to find out what numbers they come up with. Only, this time we should give instructions that everyone in the test will do everything required on each document.<sup>6</sup>

During the February 23-25, 2010 NUMC meeting, a Management official reiterated that employees were reminded to adjudicate the same way that they did the day before and the same way that they would the next day – to do nothing different. However, that does not meet

---

<sup>6</sup> August 6, 2003 official NUMC meeting minutes.

the requirements of the Master Agreement. It may, at first blush, seem like a subtle difference, but it is significant – the Master Agreement did not call for adjudicating the “same” way, it called for adjudicating “the right way.” Management asked back at that August 6, 2003 NUMC meeting what is “the right way”:

Management: .... What is “the right way” to adjudicate?

Union: following the instructions that we have been given, including GI 2150.6D and Namecheck instructions....

However, as pointed out earlier, that Green Instruction 2150.6D was not updated, nor was its replacement, the 7 FAM 1340, prior to the test periods. With all due respect, especially considering that the Union had made this point 6 years earlier, and the GAO had made the same recommendation 4 years earlier, it is not unreasonable to expect that processes would have been standardized first prior to the tests being conducted by Management.

The Time and Motion study measured employees performing similar cases in different ways, without the guidance of a national policy. For example, in some offices, for derivative cases employees do not perform [REDACTED]<sup>7</sup> for parents, while in other offices they do. So, when the Time and Motion study measured this work, that measurement in some cases did not include this critical step.

There were also other oddities with the Time and Motion study. For example, at CPC employees noted that there were no time-consuming [REDACTED] batches or [REDACTED] batches during the week that the Time and Motion study observed the work, but that the week after they were “inundated” with those cases. In another instance, the study measured employees at NPC only on the day shift, but not on the night shift. Also one employee at NPC reported that when he was adjudicating a complex derivative case, for a minor, he had to do an inquiry to find the parent’s application (because the parent’s citizenship evidence was, of course, with the parent’s application). Employees in that office – and in all offices, from what we can tell – are not given non-measured time to hunt for applications. When the employee said that he had to get up to go find that box, the person measuring the work stopped the clock and did not count that time.

#### *Working Group: errors in analysis*

The Department of State’s Office of Inspector General had recommended in July 2009<sup>8</sup> that Management work with the Union in developing the numerical production quotas:

**Recommendation 29:** The Bureau of Consular Affairs should convene a task force with representation by agency and center supervisors and adjudicators, the union, and outside experts to design a comprehensive production model

---

<sup>7</sup> In order to determine if the applicant’s parent(s) had either lost or renounced citizenship prior to the child’s birth, meaning that they would not be citizens and therefore unable to transmit citizenship. This is required of applicant’s applying for Reports of Birth Abroad.

<sup>8</sup> July 2009 OIG Report of Inspection ISP-I-09-34 on the Bureau of Consular Affairs, Passport Services

that addresses overall quality, error rates, quotas, and local factors that affect productivity. (Action: CA)

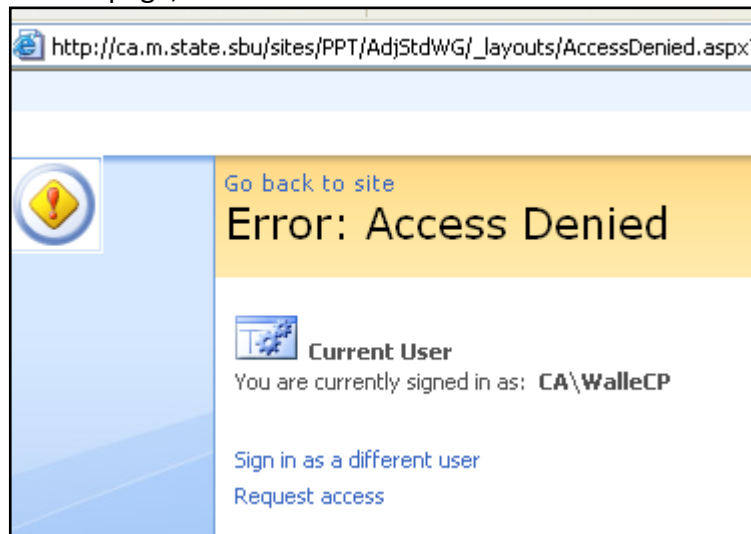
The Union and Management agreed in the June 11, 2009 Memorandum of Agreement “That the Employer will work with the Union in determining the future numerical adjudication standards.” Article 1 of the Master Agreement states, in part, “The Parties agree to fulfill the mission by maintaining and enhancing the integrity of the U.S. passport and the passport issuance process, and by providing prompt, efficient, and courteous service to our customers. Article 4 of the Master Agreement states, in part, “It is the purpose of this Article to involve Union and Management representatives equally to further Passport Services’ mission, foster more productive and cost effective service to our customers, and enhance the working conditions and morale of the bargaining unit employees.”

The Union requested to have at least one Union representative on the Adjudication Standards Working Group, but that request was denied. However, not only did Management not include the Union in the process, Management actively worked to exclude the Union. On August 12, 2009 one manager sent an email to the Working Group that stated in part:

Can we look at data from the specialists who traditionally had higher quality? I found their production numbers were not high, and many struggled to get to the 25/hour to meet FS. Down the road, could we use these people as a test group to try out some production numbers? Many are supervisors now, so we wouldn't have the Union to deal with. (just throwing out ideas for future discussions) They are a good resource for hands-on testing and feedback.

That bears repeating: “so we wouldn't have the Union to deal with.” No Management official can claim with a straight face that Management worked with the Union on the development of the quotas.

What is further troubling is that this information was found in the Adjudication Standards Working Group SharePoint page, but access was later blocked:



When these decisions are made in secret, and access and transparency is actively fought, that destroys all trust in the process.

The Union was invited to make a presentation to Adjudication Standards Work Group, which was cordial. The one thing that set off the managers on the Working Group was when the Union relayed the oft-repeated request of employees that those developing the standards should be required to work at the pace that they set. In response, one manager on the group explained that while he had been a manager at a Pepsi bottling company in the past, he did not have the expertise or experience in order to actually produce a bottle or can himself – that he would rely on us, the representatives of the employees, to provide input and information on what we do and how fast we can do it. The Union certainly agrees with that assessment, but regrettably Management continued to deny Union participation in the Working Group.

None of the Working Group members had adjudicated under the quota recently, and some never had. One manager tried to reassure the Union representatives at the meeting by pointing to herself and another manager as experienced in adjudication, though in her case she had last adjudicated under a quota perhaps 15 years ago, while the other manager had last adjudicated under the quota about 8 years ago.<sup>9</sup>

The exclusion of the Union representatives had a very tangible, negative impact on the result. For example, all Passport Specialists know that Expedite Fee cases take more time than routines, but the Working Group did not understand that and therefore did not factor that in. The chair of the Working Group stated that he had done thousands of [REDACTED] checks and that that was the basis of their estimate that they only took 2 minutes,<sup>10</sup> however that is certainly not an accurate estimate (it turns out that he was referring to the abstract [REDACTED] checks during audits of Passport Specialists' work, which is not the screen that Passport Specialists normally use when accessing [REDACTED] – which takes much more time to access as well as read, analyze, and compare). Passport Specialists who do the job of adjudication say that fraud referrals take at least 15 minutes on average, but the Working Group members who don't adjudicate or who have never adjudicated mistakenly estimated 10 minutes.

The Union did invoke Article 7, Section 9 of the Master Agreement, which allows 30 minutes of official time each year for a survey of all bargaining unit employees. The Union requested to use 15 minutes of that allotment for an initial survey to gauge preliminary input, and put the other 15 minutes in reserve to use for a second survey to react to more firm recommendations or plans as they came closer to being finalized – and that was made clear to Management. However, despite our requests, Management never provided the Union with the information on which we were to base the second part of the survey.

Management had plenty of time to involve the Union or to allow the Union to conduct a survey in response to the planned standards. The recommendation was sent to Brenda Sprague, the

---

<sup>9</sup> There are also very serious concerns and other problems that we will address later either in the grievance discussion or in another forum. For example, an experience, award-winning Senior Passport Specialist who was recently terminated in one office for frauds issued in error apparently had half as many of those mistakes compared to [REDACTED].

<sup>10</sup> See page 7 of the January 20, 2010 "Proposed 2010 Production Standards for Passport Specialists" memo.

Deputy Assistant Secretary of State for Passport Services, on November 30, 2009, she approved it on January 19, 2010, the Union was notified a day later, and employees began to be notified by Management on January 22, 2010.<sup>11</sup> The Union actively sought information on what the recommendation would be but that request was denied. There was sufficient time for the Union to have conducted a survey prior to the *fait accompli* of the DAS's signature.

### *Employee input*

Employees have overwhelmingly reported to the Union that they do not have enough time to meet the quotas, or that they are meeting the quotas but only through working through breaks and lunches, or performing tasks before or after work.<sup>12</sup> In response to the announcement of the quotas, I received scores of emails from employees complaining that the quotas were too high. Many employees have reported that there is a tradeoff between either doing a quality job by meeting the allowable error rate and preventing passport fraud but falling below the quota, or meeting the quota but not doing a quality job of adjudication. Employees are being required to rush at the counter and at their desks, and inevitably this will lead us all back again to where this dispute started – vulnerabilities in the passport issuance process that allow frauds to be issued in error.

Some employees have remarked that supervisors have told them not to complain about the quotas, that they had to perform at much higher levels in the past. One Management official complained to a NFFE staff member that the 16/hour quota was much less than what employees had done, or the Union had sought, in the past. All of these reflects the fact that managers and supervisors who do not adjudicate do not understand how things have changed, including but not limited to the stringent application of notational and data error rates.

Management officials were asked to point to any part of the input provided by the Union (e.g., the survey results) that the Working Group took into account, but they were not able to do so.

### *Refusal to bargain*

Management violated the Master Agreement, including Articles 1, 4, 12, and 18, committed an Unfair Labor Practice, and breached the terms of the June 11, 2009 Memorandum of Agreement by refusing to bargain over the Union's proposals. There were topics that were specifically agreed to be not "covered by" the Master Agreement, yet Management has refused to bargain. Article 18, Section 12a of the Master Agreement makes it exceedingly clear (so clear, that the DOS Labor/Management Chief argued during contract negotiations that it was repetitive to

---

<sup>11</sup> To add insult to injury, in a bizarre turn of events a Passport Services HQ Management official sent a sternly worded email to the Union on January 7, 2010, complaining that a Union representative (office and name not provided) had told employees what the recommended production quotas were going to be, and asked that the Union cease and desist. I replied that I had no idea what she was talking about. Apparently some member of the Working Group shared the recommendation unofficially with one individual Union representative, who then spread that information to some employees (but not to me or to any other Union representatives). However, despite our reiterated requests, on or after January 7, 2010 the Union still was not told what the recommended quota was going to be.

<sup>12</sup> The "suffered and permitted" overtime aspects of this issue are the subject of another grievance.

include it) that there is an obligation to bargain over negotiable proposals submitted by the Union in response to changes in performance elements or standards:

The Employer will provide the Union advance written notice of any changes in performance elements or performance standards for bargaining unit employees, and the Union may submit appropriate negotiable proposals in accordance with the requirements and timeframes listed in Article 12.

The Union had previously filed Unfair Labor Practice charges<sup>13</sup> in 2004 in response to the refusal by Management to bargain over the Union's proposals. The FLRA dismissed the Union's charge, on the basis that the Union's proposals were already "covered by" the collective bargaining agreement. The June 11, 2009 MOA, as well as Article 12, Section 12a, were specifically intended to "cure" that problem, and Management was made aware of this during contract negotiations.

### Conclusion

Management should have abided by the Master Agreement, the Memorandum of Agreement, and the law, and followed the OIG's recommendation to involve the representative of the Passport Specialists in the process. There was no harm to be had by involving the Union, and only positive things to gain. Management should have standardized and set the adjudication processes first, and then measured how employees performed while working under those rules. The product of this faulty process does not have any validity.

### Requested Relief

We respectfully request that Management make employees by not applying the numerical production standards that were established on March 1, 2010. We request that Management establish fair and reasonable standards. We also request that Management work with the Union on the process to determine the standards. Furthermore, we respectfully request that Management agree to meet and bargain at reasonable times and places over the Union's proposals.

Thank you for your consideration.

Sincerely,

/S/

Colin Patrick Walle  
Union President – IAMAW FD1 NFFE Local 1998

---

<sup>13</sup> ULP Charges WA-CA-04-0185 and 186.