



NATIONAL ASSOCIATION OF POSTAL SUPERVISORS

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Executive Summary

NAPS's Response to USPS's Motion to Dismiss NAPS's Lawsuit

Background

In July, 2019, NAPS filed a lawsuit alleging that the United States Postal Service fails to meet statutory requirements regarding compensation for EAS employees. Specifically, NAPS alleged that the Postal Service's FY 2016–2019 Final EAS Pay Package violates the Postal Reorganization Act ("PRA") by not paying EAS employees comparably to the private sector, not providing an adequate and reasonable differential between the pay rates of EAS and the craft employees they supervise, and not maintaining a compensation system that ensures a well-motivated workforce. NAPS also alleged that the Postal Service has violated the PRA by not recognizing NAPS's right to consult regarding pay and benefits for "Headquarters" and "Area" EAS and its over-4,100 postmaster members.

USPS's Motion to Dismiss

On October 25, 2019, the Postal Service filed a motion to dismiss NAPS's complaint. This is a routine method that defendants use to try to defeat lawsuits at an early stage. The Postal Service argued that NAPS does not have a right to file suit in court under the PRA. According to the Postal Service, the PRA does not expressly permit NAPS to file suit for violations of the statute, nor does NAPS have an implied right of review to enforce the rights established by the PRA. The Postal Service also argued that NAPS does not have the right to participate in pay or other consultations involving postmasters or Headquarters and Area EAS (though the Postal Service admitted it has already recognized that NAPS *does* have the right to consult for *some* of its Headquarters and Area EAS members).

On November 7, 2019, United Postmasters and Managers of America (UPMA) filed a motion to intervene in the lawsuit and joined the Postal Service in arguing that NAPS has no right to consult on behalf of its postmaster members.

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NAPS's Response

On November 20, 2019, NAPS filed its opposition to the Postal Service's motion to dismiss. First, NAPS explained why it has a right to challenge USPS's final FY 2016–2019 EAS Pay Package in federal court. Forty years ago, the D.C. Circuit Court of Appeals (the appellate court above the D.C. District Court, where NAPS's suit is currently pending) held in *National Association of Postal Supervisors v. U.S. Postal Service*, that NAPS had a right to what is referred to as non-statutory review – the implied right to enforce rights granted to it by a statute. In its motion to dismiss, the Postal Service almost entirely ignored the 1979 *NAPS v. USPS* decision, mentioning it only in a footnote that mischaracterizes the decision. Further, NAPS showed that, contrary to the Postal Service's characterization, the 1980 amendments to the PRA did not strip NAPS of its right to non-statutory review. Rather, Congress made clear that, while it hoped to limit litigation between NAPS and the Postal Service, the courts remained open to NAPS if the Postal Service failed to abide by its obligations. NAPS also explained why non-statutory review is necessary here, setting out the specific requirements of the PRA and how the Postal Service has violated them with the FY 2016–2019 Final EAS Pay Package.

NAPS also engaged in a close textual analysis of the PRA to explain for the court why NAPS has a right to represent all Headquarters and Area EAS as well as NAPS's postmaster members. Under the PRA, once an organization is recognized as representing a majority of supervisors, that organization has the right to consult on policies and programs relating to supervisory and managerial personnel. Thus, because NAPS is a recognized supervisory organization, it has the right to consult on all policies and programs relating to its supervisory and managerial members. Because all EAS, whether categorized as Field, Headquarters, or Area (distinctions not found in the PRA) are supervisory or managerial personnel, as are postmasters, the PRA requires that the Postal Service recognize NAPS's right to consult on behalf of all of its members.

Next Steps

The Postal Service will file a reply in support of its motion to dismiss on or about December 20, and then we must wait the District Court's decision. NAPS remains confident that both the facts and the law support its positions, and it looks forward to the court's denial of the Postal Service's motion, after which the case can proceed on the merits.