

THE UNION'S DUTY OF FAIR REPRESENTATION

Federal law requires the union to represent the interests of all members fairly, impartially, and in good faith. The duty extends to all employees in the bargaining unit, regardless of whether they are members of the union and/or participate in union activities. The duty applies to all aspects of representation, including negotiation, administration, and enforcement of the contract.

Unions do have a wide range of discretion in grievance handling, including the right to not process every grievance through all the steps of the grievance procedure, as long as its decision is not motivated by bad faith or discriminatory reasons and the union does not act arbitrarily.

Arbitration is the final step if the grievance is not settled between the union and the employer. A neutral third-party arbitrator is chosen from a list. That arbitrator's decision is final and binding under most contracts.

A union is not responsible for taking every case to arbitration, but it must be able to show a rational reason for not pursuing the case further. Some typical reasons include: (1) The nature of the violation and the degree of seriousness of the penalty or action. (2) How the case could affect the whole unit. (3) Cost may be considered in a decision, but should not be the primary reason for dropping a case.

Unions may decide whether to take a grievance to arbitration, through a decision of a Grievance Committee, Executive Board, or through a vote of the body. Any method is acceptable to courts, as long as it is uniformly applied.

Tips on Making Sure We Comply with the Duty of Fair Representation

- Carefully investigate each possible grievance to determine the merits.
- Keep good records of your investigation (notes from interviews, copies of documents you've reviewed).
- Keep in touch with the grievant about the progress of the grievance and the concern of the union in his/her case.
- Process the grievance in a timely manner, following the procedures set out in the contract.
- Represent all members of the bargaining unit equally.
- Decide whether to pursue the grievance, including arbitration, on the merits.
- Communicate any decision to withdraw a grievance and the reason (simply stated) to the grievant in writing. Explain any grievance appeal process that may be available.