

HANDLING GRIEVANCES

1. What is a Grievance?

Grievances are defined under the contract. **Be sure to know your timelines for filing a grievance and moving the grievance to the next step, if necessary.** Generally, grievances are limited to violations of the contract and violations of an employer's rules. Types of grievances include:

- **Discipline**
An employee might be disciplined for insubordination, gross misconduct, or something more general. Most contracts require that discipline must be for just cause and grievances allege that the discipline was not given for just cause.
- **Contract Interpretation**
The grievance alleges that a provision of the contract, other than the just cause provision, was violated.
- **Violation of Federal, State or Local Laws**
Here you might have the option of filing a grievance or going to the appropriate government agency to get redress or both.
- **Past Practice in the Workplace**
This can be the basis for a grievance, particularly in areas where the contract is silent or unclear, where a past practice has been violated by management, an employee may have a real grievance. But, to be considered a past practice, the circumstances must have been repeated over an extended period of time; accepted explicitly or implicitly by both workers and management e.g., by verbal agreement or in writing, without either side formally objecting; or while violating the contract, neither side has demanded that this part of the contract be enforced.
- **Employer's Rules**
The grievance alleges that an employer's rule was violated.
- **Complaint**
Employees often have individual complaints that don't always rise to grievances. Complaints about fellow employees, personal troubles, complaints about a bad supervisor and other workplace concerns. A formal grievance may not be the answer, but the complaint should still be addressed, and other action, if warranted, should be explored.

2. Investigating a Potential Grievance

- **Investigate with an open mind.** Don't personalize issues or prejudge the grievance's merits. Maintain an objective attitude.
- **Interview the grievant** and listen carefully to the grievant's story. Interview witnesses and management. Get a written statement from witnesses, if possible. Keep written records of the interviews.
- Make **information requests.** Ask for all relevant information and documents from management. Request a copy of the personnel file. Request any other management records needed.
- Review **relevant contract provisions**, side letters, relevant law or regulations, and the organizations policies or rules.
- Check **previous grievance settlements** for precedents. In past practice cases, identify as many examples of the past practice as possible. Obtain first-hand accounts.
- Determine if the **problem impacts others** in the workplace.
- Determine the **remedy.**
- Determine **who can resolve** the issue.
- Determine the **best strategy** for resolving the issue (informal discussion, filing a grievance, demand to bargain, a group action, an organized protest, going to the board of directors, filing a complaint with a regulatory body).
- Check **experiences of other stewards** in similar cases.

3. Good Language to Use When Interviewing

"I'm taking notes to help me understand and remember facts."

"If I ask questions management will ask, it's because I need to know the answers to represent you well."

"Can you tell me more about what happened?"

"What do you think management will say happened?"

"I'm not sure I know what you mean by that."

"How do you know that?"

"Are there any rules about that where you work?"

“Did that happen before or after _____?”

“How do you know what time it was when that happened?”

“I want to be sure I understand the sequence of events, is this right....”

“What were the exact words you (they) used?”

“Tell me about anything like this that happened to you or someone else”

“Who saw what happened?” “Who else should I talk to?”

“Why do you think this happened?”

“Can you give me an example of what you mean?”

“How many times did it happen?”

“Exactly where were you (and others involved) when it happened?”

“How do you get along with _____ in general?”

“Is there anything else I should know?”

“Let me summarize what I heard.....Is that a good summary?”

4. Recording the Grievance

When an employee comes to you with a complaint you should always make a note for your files listing the person, problem, date, supervisor and workplace. Also, you should request the employee to write down the facts and keep an ongoing log of events that take place pertaining to the complaint. This is a safeguard in the event the complaint becomes a legitimate grievance and proceeds through the various steps of the grievance procedure. Trying to recall times, places and actions from memory is highly ineffective in grievance handling. Should you fail to settle the grievance at the first, informal step, you will need these records in drafting the formal grievance statement.

A complaint formally enters the grievance procedure when it is presented in writing. When submitting the grievance, the steward should check carefully to make sure the Six W's – WHO, WHEN, WHERE, WHY WHAT and WITNESSES of the grievance are covered.

WHO: Refers to the employee filing the grievance and the supervisor (if any) involved.

WHEN: Refers to the time element. Often information regarding more than one date is needed to complete the form properly: (1) the date on which the grievance is officially written; (2) the time and date on which the grievance actually happened; (3) the date on which the grievance was submitted to the immediate supervisor (first or informal step of the grievance procedure); and (4) the date on which the immediate supervisor gave a decision.

WHERE: Refers to the exact place where the grievance took place – the department, aisle, office, terminal or plant.

WHY: Refers to the reason the complaint is considered a grievance.

WHAT: Refers to what should be done about the grievance - the remedy desired and what adjustment is expected.

WITNESSES: If a particular incident took place which gave rise to the grievance, the names of any witnesses who say what occurred should be listed on the grievance form. This should include the address and phone number of all witnesses.

Both the employee and the steward should sign the grievance form. The employee's signature verifies the facts of the grievance.

5. Presenting the Grievance

Whether you are at the informal or formal stage of the grievance procedure, the way in which you present the grievance can have significant effect on the outcome. Keep the following points in mind when you present the grievance.

a. Know Your Facts – Be Confident

When you are ready to go into a conference with the supervisor, don't carry a chip on your shoulder, and don't anticipate being outsmarted or outwitted. Know your contract and your rights under it. State the facts plainly. Avoid opinions or hearsay evidence. Too many grievances are lost because the steward did not have the facts. Be prepared!

b. Stick To The Point – Be Assertive

As discussion progresses on a grievance, the supervisor may try to sidetrack the real issue and lead you into a discussion of irrelevant issues or inject additional complaints against the employee. Insist on discussing the issue raised by the grievance only, nothing else.

c. Settle The Grievance At The First Step

Try to settle the grievance at the first step, when possible. This prevents the bogging down of a grievance procedure and permits the steward more time to spend organizing and dealing with issues of concern to all members.

d. Take A Positive Position – Not Defensive

Don't be timid or convey the feeling to the supervisor that you are presenting the grievance because it is an obligation on your part. Avoid being apologetic; show the supervisor there's no doubt in your mind that the grievance has merit and should receive a fair settlement.

e. Disagree With Dignity

Disagree with the supervisor in a calm, firm, positive manner. Avoid pounding the table, blowing up or making empty threats. Declare your intentions of taking the grievance to the next step. As a rule, supervisors prefer to settle complaints before the complaint is carried to a higher management level.

f. Maintain A United Position

Be sure to have the grievant with you. This is necessary and prevents mistrust and establishes confidence in the steward. But, make sure you are both in accord on the facts and issues!

g. Be Prompt and Know Your Timelines – Follow The Grievance Through

Refer the grievance to the chief steward or next step when not settled. Give him/her all the facts. Give him/her the argument used in your discussion with the supervisor. Be sure to follow timelines. Keep a constant check on the progress of the grievance at what step it is in. Report back to the grievant in a timely manner.

REMEMBER, the only time you present a grievance is after you have gathered all the facts!

6. Failure to Reach Agreement

If the steward is unable to obtain a settlement, he/she should tell the supervisor that the grievance will be taken to the next step in the grievance procedure.

The steward should inform the employee of what has happened. In addition, the steward should brief the chief steward or the union representative who is involved in the next step of the grievance procedure, as to the main line of argument taken by the supervisor.

The way in which the steward has handled and documented the grievance up to this point will have quite an impact on the way the union representative at the next step will proceed. The union representative has very little to go on other than the background information received from you - the first line representative.

The steward should be careful never to guarantee the employee a successful settlement of the problem. What appears to be an airtight case is sometimes completely destroyed upon further investigation. It may be difficult to convince the employee why the case was lost.

The steward should be prepared to process vigorously the grievances of all the employees he/she represented regardless of their personal feelings about them. This should be done both as a matter of justice and as a method of ensuring that dangerous precedents involving contract violations are not established.

Since the employee wants their grievance settled "today," or "tomorrow at the latest," it is important that he/she be kept informed on the progress of the case. Sometimes it may take months before a grievance is completely processed. Therefore, an employee should be informed of the various time limitations in the procedure which make a more rapid settlement impossible.

Tips:

- Determine the needs of all concerned. Address needs not positions.
- Make sure everyone has the same reliable information.
- Look for solutions – not just winning.
- Consider multiple options for settlement.
- Separate out issues addressable in other ways (another grievance, take an action, etc.).
- Identify first whether you have agreement on the concept of what you want before working on the details.
- Be hard on the problem, not the people (unless the people are the problem).
- Don't automatically take the first offer – keep bargaining, if warranted.
- Measure settlements against the strength of your case.
- Address whatever blocks a settlement – face saving, dispute over facts, etc.
- Be aware of the role of timing (determine when the other side is ready to settle – Is it too early? Are they ready to walk away if there is not settlement now? etc.).
- "Show" management settlement is in their best interest (with words and actions).
- Put any settlement agreement in writing.
- Look for settlements that resolve the problem for the future.
- Use any grievance victories as an organizing opportunity when possible.