

Strength > Foundation > Future Series

GRIEVANCE HANDLING: RESOLVING GRIEVANCES FROM THE LOWEST STEP

JOE PIMENTEL - INSTRUCTOR



Making Stewards Great Again



As a Teamster
Shop steward...
It is Your job to
get grievances
handled at the
lowest level
possible.

Overview

Recognizing the difference between a "Grievance" and a "Complaint"

- ▶ Investigation is key on determining the difference between the two
- ▶ What is Grievable and can be grieved
- ▶ What is Complaints and just need an ear to vent it out
- ▶ Your right to information and the National Labor Relations Act.

Overview

Informal Grievance Handling

- ▶ Using the Grievance Record form to help you:
 - ▶ Understanding and document the Management's position
 - ▶ Explore and document possible settlement (more on that to come)
 - ▶ Help discuss the strengths of the grievance and next steps with the grievant.

Overview

About Settling Grievances

- ▶ Never settle a grievance without consulting the grievant.
- ▶ Always get a grievance settlement in writing. (Using the Grievance Record Form)
- ▶ Don't miss a time limit while waiting for a settlement.
- ▶ Be aware of any precedents you may be setting.

Recognizing the difference between a "Grievance" and a "Complaint"

Grievance

The dictionary defines a grievance as any "circumstance regarded as just cause for protest."

"Grieving" such a circumstance is the formal act of making a complaint. The person or persons on whose behalf you are filing a grievance is known as the "grievant."

Teamster collective bargaining agreements, or contracts, may define a grievance in several ways.

Look at your Teamster contract to find the definition of a grievance as it applies to your workplace.

Complaint

Doesn't violate:

- ▶ The Contract
- ▶ The Law
- ▶ Employer Rule or Policy
- ▶ Isn't Unfair or Disparate Treatment
- ▶ Past Practice

Determining “Just Cause”

In nearly all Teamster contracts, and as a matter of law, an employee can only be discharged(fired) or disciplined for what is termed “just cause.” Determining whether or not the employer has, in fact, established just cause for the discharge or discipline of an employee can be a complicated matter.

Answering the questions below can help you determine whether or not a discharge or discipline is based on just cause.

Determining “Just Cause”

1. Was the employee adequately *warned*? (Exceptions – insubordination, drinking on the job, stealing)
2. Was the rule or order *reasonable*?
3. Was the investigation *fair* and *objective*?
4. Did the investigation produce substantial *evidence* or *proof*?
5. Were the rules, orders and penalties *applied evenhandedly* and without *discrimination*?
6. Was the penalty *reasonably related* to the seriousness of the *offense* and the *past record*?

Access to Employer Information

Under the National Labor Relations Act (NLRA), unions have the right to request and receive information from the employer that is relevant to processing grievances.

The right to information stems from the concept that for the grievance procedure to function properly and the union to effectively represent its members, the union needs access to information that will enable it to intelligently evaluate grievances or potential grievances.

The employer, as part of its duty to bargain in good faith, is obligated to provide the requested information. Failure to do so subjects the employer to an unfair labor practice charge under Section 8(a)(5) of the NLRA.

Requirements for having access to employer information are:

- ▶ The union must request the information.
- ▶ The request for information need not be in written form. However, it is always a good idea to make the request in writing in order to document the request.
- ▶ The information requested must be relevant to an actual or suspected grievance.
- ▶ No alternative means for obtaining the information is available.

Requirements for having access to employer information are:

- ▶ There are cases where an employee may not be required to provide information to the union, even though the information requested may be relevant. These situations arise when other interests override the union's need for information. They include: employee confidentiality/privacy (employee test scores, medical records) and business interests (trade secrets).
- ▶ The employer must provide the requested information to the union in a "timely manner." What is considered "timely" depends on each situation. Failure to provide information in a timely manner may be grounds for an 8(a)(5) charge.
- ▶ The employer will be required to comply with the union's request – so long as the information is in its possession and compliance with the request does not create an undue burden on the employer. For example the cost/time to compile/prepare the information is not unreasonable.
- ▶ The information must be provided in a useful form.

Requirements for having access to employer information are:

- ▶ The request for information must be specific and related to the grievance. The union cannot go on a "fishing expedition."
- ▶ The duty to provide information also applies to the union as part of its duty to bargain in good faith.

Settling The Grievance

Once you have fully investigated the case and decided it should be grieved, prepare yourself and the grievant to give the best possible presentation to management. Your goal is to solve the problem at the lowest step of the grievance process. Careful preparation will make this more likely.

Building Your Case

Your presentation to the supervisor may use all the facts you have written down or only part of them. You may want the grievant to participate in presenting his/her case, or you may want them to remain silent. As a rule, the steward should do the talking.

Nevertheless, you should decide these issues beforehand and discuss with the grievant how you think the case can be presented. In order to be effective, you should:

If you and the grievant are well prepared, you may be able to resolve the grievance at Step I (Informal Step) .

Building Your Case

- 1. Build the Best Case** - Decide what issues, facts, arguments and remedies you think are most convincing. Write them down separately so you can refer to them as you talk with the supervisor. Know what you want to say before meeting with management.
- 2. Anticipate Management** - Based on what you found out during your investigation of the grievance, put yourself in the supervisor's shoes. Anticipate what facts, arguments and remedies he/she is likely to offer.
- 3. Prepare Responses** - Based on what you expect the supervisor will argue, prepare responses, counter arguments and compromises (regarding the facts and remedies) you and the grievant are willing to accept.

Outcome

The goal of all Teamster Stewards is to resolve/settle any grievance or complaint that is brought to us. It is important to keep in mind the grievant at all stages.

It is a best practice to make sure you keep the grievant informal and consult with them before agreeing to any resolution/settlement. Keeping a mindful eye on Timelimits.

Using forward thinking to make sure any decision you make set a precedents with a positive impact on the bargaining unit.



““ *A real grievance can be resolved; differences can be resolved. But an imaginary hurt, a slight - that motherfucker gonna hate you 'til the day he dies.* ””

JACK NICHOLSON (AS JIMMY HOFFA IN HOFFA THE MOVIE)