

UE STEWARD

FIRST LINE OF DEFENSE

UNITED ELECTRICAL, RADIO AND MACHINE WORKERS OF AMERICA • APRIL 2018

Investigating & Handling Grievances

Step One of the Grievance Procedure

The first steps of the grievance procedure are probably the most important. This is where most of the investigative work is done by the union steward, the union first states and frames its case, and where the employer states their case. The first two steps of the grievance procedure are where most grievances get settled. Often times “problems” get settled by just having the union steward and the supervisor “talk things out.” For that reason, workers sometimes think that grievances are only those problems that go to the final steps of the grievance procedure.

Most UE contracts have similar initial steps of the grievance procedure. The first step is an oral presentation of the grievance to the foreman or supervisor by the employee, with or without a steward. The second step is when the oral answer is not satisfactory so the union puts the grievance in writing.

Step One Oral Presentation

As previously stated, most contracts and the National Labor Relations Board give an employee the right to “talk” to their supervisor with or without the union being present.

However this does not mean the employer has the right to settle grievances or cut a deal without the union’s approval. Only the union has the right to bargain or settle grievances that affect workers’ “wages, hours or other conditions of employment.” If an employee wants to talk about a personal grievance with the supervisor, that is allowed, BUT, the union has to be informed and the union has to be involved in the settlement of the grievance. Only the union can decide whether the solution to the grievance is proper and doesn’t give up any contractual right or wrongly affect another worker. Of course it is best for the union steward to be present from the beginning.

What must be done to present an oral grievance? When the union steward is first approached by a worker who wants to file a grievance, certain steps should be taken before rushing to meet with the supervisor.

Issues

- *Conducting an investigation & researching the problem*
- *Preparing for the meeting with the employer*
- *Stating & framing the case at the first step meeting*
- *Using the UE Grievance Action Sheet*



Investigate, Investigate, Investigate

Learn the facts.

- **WHO** is involved.
- **WHAT** was said or done?
- **WHEN** did it happen?
- **WHERE** did it happen?
- And **WHY** did it happen — what is the underlying cause?

Talk not only with the grievant but with fellow workers, witnesses to the event, and other union representatives.

Is it a legitimate grievance?

The steward must also research the problem to make sure there is a legitimate grievance.

Remember, a grievance is any alleged violation of the contract, past practice, employer rules, previous grievance or arbitration settlements, or any violation of any laws, such as OSHA, ADA, FMLA, or EEOC regulations on race, age or sex discrimination.

A grievance can also be filed over violations of the **union recognition clause**. This clause is usually in the beginning of the contract and

means that the employer acknowledges that the union represents workers for the purpose of bargaining over wages, hours of work and other conditions of employment. If a supervisor picks on or harasses a worker, this clause can be used because the harassment could be considered a change in working conditions.

The investigation by the steward may result in a **list of information** that the steward feels he/she will need from the employer in order to understand what happened and to decide whether a grievance really exists. The steward should ask for this information during the first step/oral discussion if the problem doesn’t get settled. If the information isn’t produced relatively quickly, then the Union should put the request in writing. The *UE Steward on Information Requests* covers information requests in detail, and is available on the UE web site.

The steward should also discuss the issue with the Chief Steward or other union officer to find out if there are any **past practices** concerning this issue or whether similar grievances have been filed in the past.

The steward should take notes during the meeting, or if that isn’t possible, write up notes

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immediately after the meeting. The **UE Grievance Action Sheet** is a useful form for keeping track of the investigation and the results of any meeting. It isn't easy to remember exactly what was said weeks or months later.

The First Step Meeting

Once the steward is prepared by researching the issue, a meeting should take place with the supervisor or whoever the contract designates as the employer representative.

If the problem is clearly one that the employer initiated, the steward should request that the employer clearly state why they did what they did and why they believe this was right. A discipline case always falls into this category. It is the employer who is initiating the case by disciplining the worker. They must therefore explain and justify their actions. At this stage they must also provide the steward with all evidence they have. When a supervisor states that they have witnesses, but can't tell the union who they are, the steward must be clear and state that the union cannot accept "secret witnesses." Another situation may be if a supervisor turns down an employee's vacation request. During the first step of the grievance procedure, it is the boss's obligation to tell the union why the request was denied.

In other cases it will be up to the steward to state the case. This can be done by following these four steps. Sometimes it is useful to make a small outline in writing.

1. State what happened simply and clearly. "Joe Jones was the most senior employee who bid for the maintenance position and he was not awarded the job bid." Don't add a lot of other facts or beliefs, like "Pete Russell was given the job because he goes fishing with the Company Treasurer." You'll end up arguing over whether this is true, not the main issue. You can add other pertinent facts such as, "We all know Joe is qualified because he did this job for three years and received letters of praise for his work."

2. State what part of the contract, or past practice, law etc., the employer's action violates. "By not giving Joe the job award you are violating Article 3, Section 2 of the contract. You may also be in violation of other parts of the contract." (This last part is said just to cover all bases.)

3. State what remedy the union wants. "The company should give Joe the job and since the job pays \$1.00 an hour more and he should have been on the job 3 days ago, he is owed \$24.00 dollars in lost pay."

4. Request any information needed. If the employer isn't ready to settle, the steward may want to request information from the employer that will help the worker's case. In this case the steward may want to request the official records of who was awarded the job bids into this job over the last two years. It is best if the steward, by investigating the issue beforehand, already knows that the job has always been awarded to the most senior employee. This way the Union gets information that will help, not hurt its case. Be sure there are witnesses to the information request.

Extending the first step. Sometimes more time is needed before a decision is made on whether to put the grievance into the next step. Perhaps the employer needs several days to gather the information requested. Perhaps the union steward needs to do more investigation based upon what the supervisor said. Extensions of the grievance steps are OK but make sure there are witnesses to management agreeing to extend the time periods or better yet, GET IT IN WRITING. Arbitration cases have been lost because the Union missed the time limit for filing a grievance. Not surprisingly, bosses have been known to lie and deny that they verbally agreed to extend the time limits.

UE Steward Toolkit

Using the UE Grievance Action Sheet

In most UE workplaces, lots of problems are settled informally — but because they're not put into writing, the stewards involved in these cases don't consider them grievances.

At the right is a sample form which helps remedy this problem and, at the same time, organizes the information stewards need to know before talking to the boss.

Keep in mind, these forms will not establish legally-binding precedents, but they will give your local a record of how problems have been handled informally — and can be very useful when similar problems come up.

A full size version of the form is available for copying in the *UE Leadership Guide*, Chapter 8 ("Handling Grievances") on page 7 in both English and Spanish.



UE Grievance Action Sheet
Grievance Investigation and Informal Settlement Record

DEPARTMENT: _____
Grievant(s): _____

DATE: _____
Supervisor: _____
Type: Discipline
 Language

Investigation (describe the problem): _____

Information Requested: _____

Violation of (contract, law, past practice, management rules, fair treatment — be specific): _____

Similar Cases: Date(s) _____ Grievance #s _____

Witnesses: _____ reach at: _____ Y N
 _____ reach at: _____ Y N
 _____ reach at: _____ Y N
 _____ reach at: _____ Y N

Informal Meeting: Date(s) _____

In Attendance:

Company _____	Union _____

Result: _____

