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.

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 (continued on back)
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): Department:

grievance

DATE: Supervisor:

Investigation (describe the problem):

Type: ☐ Discipline ☐ Language

Information Requested:

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

Similar Cases: Date(s) Grievance #'s

Witnesses:

In Attendance:

Result:

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.