



International Union, Security, Police and Fire Professionals of America (SPFPA)

Union Steward Training Course Grievance Processing and Contract Enforcement

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Training Course Contents

Foreword

I. Structure of the SPFPA

II. local Union Officers and Stewards

III. Grievance Handling

·A Grievance Is Any Complaint ...

Negotiated Grievance Procedure

The Negotiated Grievance Procedure and Enforcement Requires:

Grievance Investigation

Important Questions for a Thorough Investigation

Guidelines for Grievance Investigation

Typical Areas or Sources of Employee Grievances

Common causes of Misuse of Grievance Procedure

Grievance Handling Checklist:

An Employee Appears with a Problem

Get All of the Facts

Take the Proper Action

Follow-up:

Tests for Just and Proper cause in Employee Discipline

Developing a Case File for Grievance Records

Freedom of Information Request

The True "Right-to-work" Story

Employee Rights on the Job

Grievances Form

Foreword

TO: ALL SPFPA LOCAL UNION OFFICERS AND STEWARDS

It is evident that you enjoy the esteem and confidence of your coworkers who elected you to the important position of Local Union Officer, or Steward. I am confident that you will fill that position to the best of your ability and derive great personal pleasure from the challenge and service.

You hold one of the most important positions in our Union. You are the eyes, ears, and voice of the SPFPA at the work place. Our member's look to you for advice and assistance on numerous problems - not all of which are limited to the contract or grievances.

Administration and enforcement of the collective bargaining agreement will depend upon your knowledge, skill and attention to duty. This Handbook and Grievance Guide is designed to assist you in doing an effective job. Your suggestions for additions or improvements are welcomed.

Remember, when in doubt; contact your International Vice President. Best wishes for your success.

Fraternally,

DAVID L. HICKEY
International Pr de

STRUCTURE OF THE SPFPA

The International Union, Security, Police and Fire Professionals of America (SPFPA), formerly United Plant Guard Workers of America (UPGWA), was founded February 17, 1948, as an independent union devoted to the exclusive representation of security personnel throughout the United States, Canada and Puerto Rico. In May 2000, the Delegates at the International Convention voted to change the name from the UPGWA to SPFPA to better recognize the membership growth and the increased level of industries represented. We are an independent International Union because affiliation with the AFL-CIO is prohibited by Section 9(b) (3) of the National Labor Relations Act, as amended. In legal form the SPFPA is a voluntary unincorporated association.

Learn the history and accomplishments of your Union. You will be stimulated by our heritage and proud to be a member.

A good Steward or Local Union representative becomes familiar with the International and Local Constitution and By-Laws. In those documents you will find answers to questions regarding duties of officers, elections, dues, trials of members and all other matters which govern our Union.

The following chart presents a general view of the internal structure and operation of the SPFPA.

ORGANIZATION CHARGE

International Officers

President - David L. Hickey
Secretary -
Treasurer - Dennis T. Eck

Director Special Projects

Gene McConville

International Trustees

Bernard Hudley
Louis Washington
Joseph Durbin

International Vice Presidents

Region 3 - Mike Swartz
Region 4 - James L. Allen
Region 6 - Kerry C. Lacey
Region 7 - Daniel Payne
Region 10 - Bobby R. Jenkins
Region 11 - Terry J. Fowler
At-Large - Dwight E. Duley

Senior Advisor to the President

Howard E. Johannssen

Organizing Department

Organizing Director - Steve Maritas

Note: A complete Organizational Chart is found in the SPFPA Handbook 01, Page 5.

LOCAL UNION OFFICERS AND STEWARDS

A. WHO ARE THEY?

1. They are the Union's representatives who carry out the responsibilities of the Union at their place of work. They are the first Union officers to get involved in seeing that the contract is adhered to. They generally handle grievances at the first step, collect dues, keep overtime records and perform other duties as required or directed by the Union.

2. A good Local Union representative or Steward can be the backbone of the Union. He can also be the straw that breaks the camel's back if he is in for his ego, super seniority protection or for the money that he might get through lost time.

B. RESPONSIBILITIES:

1. Monitor the Contract;

2. Keep accurate overtime records;

3. Study the Contract so that you have complete knowledge of its provisions as well as State and Federal laws that are applicable;

4. Know the International's Constitution and By-Laws and. Local By-Laws;

5. Thoroughly understand and comply with the rights given to the Union and limitations imposed by the Labor Agreement pertaining to the Union and the employees covered by the Agreement;

6. Know the grievance procedure. In particular, be aware of the time limitations for processing a grievance at the various steps in the procedure. Failure to meet any of the filing deadlines could mean loss of the case;

7. You, like a supervisor, should get to know each employee you represent personally;

8. Especially with a new employee, you should take the initiative in becoming acquainted and should make a sincere effort to gain the employee's confidence;

9. You should be aware of how the Company and Union have interpreted particular sections of the contract in previous arbitration cases. Arbitrators view past practice as an important factor in contract interpretation;

10. Before you present a grievance case, you should ask yourself the following:

- a. Do I know all the facts?
- b. Do I know all the names and titles of the people involved?
- c. Do I know the dates and times involved?
- d. Am I avoiding snap judgments?
- e. Am I basing my decision on the facts, not gut reaction?

11. You should remember you have much to gain by cooperating with the supervisor in eliminating the causes of grievances. You should realize that the supervisor has a job to do, and sometimes this will bring you and the supervisor into disagreement. Both parties, however, have an obligation to promote good relations;

12. As a Local Union representative or Steward you must:

- a. Avoid favoritism;
- b. Try to understand the grievant's point of view;
- c. Set a good example at work;
- d. Avoid playing union politics on grievance matters;
- e. Avoid making unwarranted promises to the grievant or the members;
- f. Keep the grievant informed as to the status of the grievance;
- g. Avoid becoming unreliable, uncooperative and antagonistic in your dealings with the Company and the Union; and
- h. Realize the importance of your decisions;

13. You must keep a complete set of records showing the grievance issue, the employee or employees involved dates and disposition, as well as any other pertinent information. This record keeping is very, very important;

C. NEEDS:

A Local Union representative or Stewards, as well as their employees they represent:

1. Need to belong. Persons want to identify themselves with other people; they want to be part of a group stronger than themselves;
2. Need to feel accomplishment. People want to feel that they are making progress toward worthy goals; goals within their capabilities;

3. Need self-esteem. Each person develops his or her own sense of worth, their own standard of pride and dignity;
4. Need to feel accepted. Persons must feel that they are accepted by the groups with which they identify themselves;
5. Need security. The interdependence of modern life has sapped the once proud quality of self-reliance. Modern men and women are often insecure and thus need greater assurance of security;
6. Need an outlet for creativity. Too often in modern life the skill function has been taken from individuals and given to the machine. Without the chance to be creative, egos of individuals suffer;

D. GAINING ACCEPTABILITY

Mutual confidence of employer and employee in each other is essential to the success of any enterprise. To quote L. M. Keys, a noted labor relations author, "The main asset of any enterprise is the confidence of the men and women in their leaders, the confidence of both in their product or service. Without such faith, there can be no permanent success. In industrial organizations with collective bargaining agreements, such faith must embrace these fundamentals for industrial peace and productivity:

1. Full acceptance by management of collective bargaining.
2. Full acceptance by unions of private ownership and operation of industry for profit.
3. Strong unions that are democratically and responsibly run.
4. No company interference in union affairs.
5. Both parties demonstrate mutual trust in all dealings.
6. Neither party takes a legalistic approach in negotiations which should be problem-centered, not issue-centered.
7. Full sharing of information and widespread consultation on matters of mutual interest.
8. "Prompt settlement of grievances as they arise."

E. A QUESTION OF LAW

The local Union representative or Steward will not by-pass the supervisor or the labor Agreement by going to an outside agency until the grievance procedure has been exhausted or they have consulted with their local President or Regional Vice President.

F. COMMUNICATIONS IN PERSPECTIVE:

1. There is a need to re-educate employees in the values and priorities of the Country's competitive, capitalistic system;
2. There is a need for the employee to have information about the Company and the Union. The amount of information he or she has controls one's attitude toward the Company and the Union;
3. There is a correlation between an employee's attitude or morale and their job performance and assignment;
4. Employees who are kept informed and know the "facts" will be more reasonable to deal with in the final analysis;

G. PERSONAL CONTACT

The local Union representative or Steward should make it a point to make personal contact with all the members which they represent especially the new hires to explain the Union and labor Agreement and to offer their help if needed at any time.

H. PARTICIPATION

A good local Union representative or Steward will try to get their members involved:

1. An involved employee is a more satisfied employee;
2. An involved employee has the means of self-expression and can offer creative ideas to the membership;
3. Through involvement on the part of members, one can often uncover opposition and obstacles to plans before such plans are put into effect;

4. Finally, involvement of members will encourage a sense of responsibility for the decisions made and thus pave the way for change;

I. UNION ATTITUDES:

1. Some Union officials do not know how to handle labor-management problems. They adopt a belligerent attitude toward management which precludes intelligent dialogue and problem solving;

2. Union officials are responsible for the Union's climate in the same way that management is for the Company climate. A bad Union climate can cause grievances, strikes and a complete breakdown in the collective bargaining process;

3. The attitude of the Local Union representative or Steward is often a critical element in determining how many grievances are filed and how many will be settled;

4. An untrained representative or Steward may tend to exaggerate the gripe or grievance and possibly become argumentative, belligerent and vociferous. When this happens, the numbers of grievances are sure to rise and the chances of settlement are slim indeed. Again, a proper attitude is very important in establishing a climate and relationship to settle meritorious grievances;

J. THE "7 C'S" OF COMMUNICATION

1. CREDIBILITY. Communication starts with a climate of belief.

2. CONTEXT. A communications program must square with the realities of its environment.

3. CONTENT. The message must have meaning for the receiver and it must be compatible with his value system. It must have relevance to him.

4. CLARITY. The message must be put in simple terms.

5. CONTINUITY AND CONSISTENCY. Communication is an unending process. It requires repetition to achieve penetration.

6. CHANNELS. Established channels of communication should be used - channels which the receiver uses and respects.

7. CAPABILITY OF AUDIENCE. Communication must take into account the capability of the audience to receive the message.

III. GRIEVANCE HANDLING

A. GRIEVANCE DEFINED

Generally speaking, a grievance is a complaint by an employee, group of employees or the Union (sometimes by the employer) covering any aspect of the employment relationship. Grievances include, but are not necessarily limited to, complaints concerning violations of the contract, supplementary agreements, State and Federal labor laws, health and safety regulations, National Labor Relations Board rulings, arbitration or umpire decisions, past practice and policies, and the employer's own rules and regulations. In many cases, the contract provides its own definition of a grievance. A grievance may be arbitrable, that is it may go to arbitration under the contract, or non-arbitrable. Arbitrable grievances are usually those which arise out of the terms of the collective bargaining agreement or those which concern disciplinary actions. A complaint may be one of merit or one of no merit. The latter is known as a "gripe." Know the difference between a GRIEVANCE and a "GRIBE."

B. HANDLING GRIEVANCES

The local Union representative or Steward should follow what is known as the five W's: WHO, WHY, WHEN, WHERE and WHAT. But, more importantly, make sure that the grievance is written in such a manner that the provision or provisions of the Contract that are violated are covered and appropriate relief is requested. You might follow this outline:

1. Investigate and evaluate each grievance to ensure that it is legitimate. Make sure there has been a violation of the contract, law, past practice, or understandings. If there has not been a violation, the grievance should be withdrawn and the grievant advised why. This should be done in a diplomatic manner. In borderline cases, the Steward or Local Union representative should give the benefit of doubt to the employee and process the Complaint as a grievance. Employees should be advised that unjustifiable grievances, if processed, can work to detriment of themselves and their fellow union members;
2. Determine the type of grievance at issue - discharge, absenteeism, etc.;
3. What are the **relevant** facts in the case?;

4. Prepare a detailed statement of facts (visit the area where the grievance originated if necessary). When appropriate prepare a sketch or diagram of the area in dispute or relevant to the grievance;
5. Ask the grievant, particularly in a disciplinary and discharge case, to write his own statement of the facts as soon as possible;
6. List the names of witnesses, indicating what facts they should be able to testify to;
7. Ask witnesses to write a statement of the facts. Do this as soon as possible.
8. What is the real issue or question raised by the grievance?;
9. In the initial write-up of the grievance, indicate what provisions, past practice, and side letters have been violated;
10. Make sure the grievance is kept timely;
11. Take your time at meetings. Make sure you keep good notes;
12. When moving a grievance to the next step, make sure all pertinent data is included; such as, the Grievance, minutes, statement of witnesses, etc.;
13. Include names and titles of Company personnel involved in the grievance;
14. What effect, if any, has the Company's action had on the bargaining unit;
15. Make sure that all. of your decisions are based on facts and not prejudice, racial bias, or intra-union politics;
16. Deal with each person as an individual;
17. Respect employees and the supervisor. Treat them in a dignified manner;
18. Seek and understand the grievant's and the supervisor's point of view;
19. Be alert to sources of employee irritation;
20. Report justified grips and irritations to the supervisor; then follow up to ensure that he takes prompt action;
21. Report back to employees to keep them informed regarding action on their complaints;

22. Avoid favoritism;
23. Cooperate with the supervisor in eliminating the causes of grievances;
24. Are there prior arbitration awards which relate to the grievance?;

C. WRITING THE GRIEVANCE

Although grievance forms are often provided, feel free to attach additional pages if necessary in order to prepare and submit a complete grievance. Remember; *Be sure to retain a file copy of all grievances.* Develop a practice of dating and numbering each grievance. For example, the grievance can be numbered "Grievance No. 10-03" which indicates that it was the tenth grievance filed in 2003. In multi-plant units the grievance could be numbered "Grievance No. 3A-12-03" which indicates plant 3A, grievance 12 and 2003. Develop a system which suits your needs.

(1) Example Grievance (Discharge):

GRIEVANCE

DATED: June 1, 2003.

GRIEVANCE No, 5-03

This Grievance is filed pursuant to Article VII., Section 4., Step 1 of the collective bargaining agreement.

FACTS: On or about May 28,2003, the Employer/Company discharges Security Officer John Jones for allegedly sleeping on duty. The Grievant denies that he was sleeping on duty or otherwise in violation of any Company rule or policy. The discharge was without just cause.

CONTRACT PROVISIONS VIOLATED: By the above and other acts, the Employer/Company has violated Article V., Section 1, Article IX., Section 5, and other provisions of the Agreement and established past practice.

RELIEF REQUESTED: The Union demands that John Jones be reinstated to active employment immediately without loss of seniority and that he be made whole for all loss of wages and other benefits. Any and all references to this matter must be removed from the Grievant's personnel record.

Grievant

Local Union Representative/Steward

(2) Example Grievance (Contract Interpretation):

POLICY GRIEVANCE

DATED: June 1, 2003

GRIEVANCE No. 4E-9-03

This Policy Grievance is filed in pursuant to Article V., Section 8 of the collective bargaining agreement for and on behalf of all affected employees in the bargaining unit agreement.

FACTS: On or about May 15, 2003, and continuing until on or about May 27, 2003, the Company caused and permitted supervisors to perform bargaining unit work. The supervisor's issued keys and passes, unlocked gates, escorted employees and otherwise performed work which is normally performed by bargaining unit employees. Such work was not of any emergency nature and was not performed for training purposes. As a consequence of such work, employees were deprived of overtime and two employees were not recalled from layoff.

CONTRACT PROVISIONS VIOLATED: By the above and other acts, the Employer/Company has violated Article II., article IV., Section 2., Article X and other provisions of the Agreement; Section 9 and other provisions of Supplemental Agreement D.; and well established past practice.

RELIEF REQUESTED: The Union demands that the Company:

1. Cease and desist from assigning supervisors to perform bargaining unit work; Page

2. Reimburse all affected employees at appropriate overtime rates for all hours during which supervisors performed bargaining unit work;
3. Recall laid off employees as appropriate to perform any added work;
4. Advise all supervisors that they must not perform bargaining unit work;

Local Union Representative/Steward

CAUTION: The above are example grievances only. In each case you must state the relevant facts, determine the contract provisions violated and/or past practice, and request all possible appropriate relief. Double check the contract for any special procedural requirements.

THE FIVE "W's" ARE THE BEST GUIDE

WHO is involved?

WHY is it a grievance? What law, contract provision, practice or custom has been violated?

WHEN did it happen?

WHERE did it happen? Be specific.

WHAT are you asking for?

And then ask yourself, have I double checked everything? (OBSERVE ALL TIME LIMITS)

D. DUTY OF FAIR REPRESENTATION

A Union and its officers have a duty to represent all employees in the bargaining unit in a fair and equal manner. There must be no discrimination based upon union membership or lack thereof, race, creed, color, national origin, sex, age or handicap. Union activity or sympathies, political action or other extraneous factors must not be considered when you represent an employee regarding grievances and other employment matters. In short, Union representatives must avoid arbitrary, discriminatory and/or bad faith action when representing employees.

An individual who has been discriminated against may file an unfair labor practice charge with the National Labor Relations Board, charges with Federal and State Civil rights agencies, and/or bring a suit in U.S. District Court. Accordingly, it is imperative that all Union representatives process employee grievances and other matters in a fair, impartial and careful manner.

Some basic steps must be followed:

1. Observe all contractual time limits and related provisions;
2. Keep careful written records on each case. Your notes should show WHO, WHAT, WHEN and WHERE;
3. Keep the Grievant informed as to progress on the case. If the employee merely has a "gripe" rather than a grievance, take the time to explain the situation;

RECOMMENDATION

It is recommended that any grievance which is reduced to writing should be processed to the second step of the grievance procedure. Even if the grievance is withdrawn without prejudice at this step, several Union representatives have had an opportunity to study it and to comment. Remember the old saying - "Two heads are better than one."

For a SPFPA Local Union to run effectively the Steward must understand, implement and utilize the following concepts and procedures at all times:

A GRIEVANCE IS ANY COMPLAINT ...

By any employee concerning any -

Matter relating to the employment of the employee;

by any labor organization concerning any matter relating to the employment of any employee;

by any employee, labor organization or employer concerning;

the effect or interpretation, or a claim of breach, of a collective bargaining agreement;

any claimed violation, misinterpretation, or misapplication of any law, rule or regulation affecting conditions of employment;

Why have grievance procedures? .

forces employer to live up to agreed upon wages, benefits and conditions of employment;

prevents employer retribution on employees for addressing important issues and problems;

gives employees their "day in court";

helps to channel conflict to resolution;

improves employee - union & management communication;

improves intra-union & management communication;

enforces contract provisions;

interprets contract language.

THE NEGOTIATED GRIEVANCE PROCEDURE

GRIEVANCE HANDLING SUGGESTIONS:

- .1. If the employee thinks he/she has a grievance, whether real or suspected, you should consider it a grievance.
2. Process all grievances in a fair, open-minded manner.
3. When meeting with the grievant, discuss the issues. Do not argue or degrade.
4. Actively listen to the grievant and his/her "blow by blow" description.
5. Research prior grievances and arbitration decisions.
6. Review all sections of the contract which may apply to the grievance, directly or indirectly.
7. Consult with other experienced union representatives.
8. Issue the unions grievance decision timely, but not hastily.

9. The basis for a union grievance decision to proceed or not proceed should be explained to the grievant.

If you made a mistake, admit it and adjust the grievance process accordingly:

THE NEGOTIATED GRIEVANCE PROCEDURE AND ENFORCEMENT REQUIRES:

ACTIVE LISTENING:

1. Do not interrupt. You cannot listen if you are talking.
2. Do not argue. Keep the discussion calm.
3. Look and act interested. Focus your attention on the speaker.
4. Listen to understand the speaker, not to oppose him/her.
5. Listen to what the speaker is saying, not how he/she is saying it.
6. Remove all distractions (pencils, pens, papers, radio, telephone, etc.).
7. Put yourself in the speaker's place to try to understand his/her point of view.
8. Do not try to rush the discussion. Do not look at your watch.
9. Ask questions to clarify points made by the speaker.
10. Keep in mind: what does the speaker mean? How does the speaker know the facts being presented? What facts, if any, are being left out?

GRIEVANCE INVESTIGATION:

DETERMINING THE FACTS

Is it a grievance? Getting all the facts is most important in successful grievance handling.

Q. What is a fact?

A. Fact is something that exists as true and cannot be denied.

Q. What is an opinion?

A. An opinion is a belief or conclusion that may be questioned.

Q. What is an allegation?

A. An allegation is a claim or charge made against someone. It is an unsupported assertion.

Q. What is an assumption?

A. An assumption is something taken for granted as true.

Q. What is a rumor?

A. A rumor is an unverified or unfounded report, story or gossip.

IMPORTANT QUESTIONS FOR A THOROUGH INVESTIGATION

There is no single method that guarantees success in the area of grievance handling, However, the following series of questions will aid in a grievance investigation.

WHO was involved in the incident? Be sure you can properly identify not only who was involved, but also any witnesses to the incident. Obtain names, identification, clock numbers, department, shift, job, rate, seniority, etc.

WHEN did it happen? Identify the incident as specifically as possible - time, date, shift, overtime or regular time, etc.

WHERE did it happen? Locate the area of the building by floor, area or zone. If weapon, security monitoring equipment or camera(s) are involved identify it by serial number. This is especially important in the case- of security, health and safety grievances.

WHAT happened that makes this incident a grievance? What are the circumstances of the incident?

WHY Is this incident a grievance? If the union states that a part of the contract has been violated, the specific clause should be cited. Also state the procedure management followed that makes it an alleged violation of the contract clause. Consideration should also be given to potential state or federal law violations.

Review the contractual definition of a grievance. An employee may have a legitimate problem which is not covered by the grievance procedure and which should be resolved in another forum. Both parties should assure that the appropriate forum is utilized.

WHAT ADJUSTMENT/RESOLUTION

Know what the employee or the union desire. A clarification of the adjustment

desired to restore the grievant to a satisfactory position is helpful to both parties. Most unions want to make the grievant "whole". That is, restore him or her to the condition and status prior to the incident.

GUIDELINES FOR GRIEVANCE INVESTIGATION

1. Get the facts. Pay attention to the chronological order of all events. Review the history of the case.
2. Study the entire agreement, including clauses with direct or indirect bearing.
3. Examine and organize all records and documents.
4. Determine if the steps of the grievance process in the contract have been complied with.
5. Talk to all persons who can shed light on the case, including those the other party will use.
6. Prepare the other side's case in addition to your own. This will help you understand the other side's strengths and weaknesses.
7. Interview each of your own witnesses, relate their testimony to the case, then give them some practice in being cross examined.
8. Use only witnesses who have been prepared. Insist on the truth.
9. Look at the physical premises.
10. Consider the use of demonstrative evidence such as statistical exhibits, pictures, graphs, etc.
11. In the use of past practice, try to avoid only one example when the other party has half a dozen on the other side.
12. Consider practice and precedence.
13. Consider whether to prepare a written argument that may be useful if the grievance is not resolved and is taken to arbitration.
14. Although arbitrator's decisions usually are not cited during a grievance hearing, it may be beneficial to your case to research prior awards, particularly those pertaining to cases with a similar set of facts.
15. Prepare an outline, discuss it with others and use it at the hearings.
16. Be open and don't conceal relevant evidence from the other party.
17. Always consider possible terms for settlement.
18. If you are unsure of the results visit our Website at SPFPA.org for additional assistance.

19. If you are still unsure of the results once you have completed the investigation and checked our website, call and discuss your concerns with your Regional Vice President or experts at the National Union Headquarters. They will be happy to assist you.

TYPICAL AREAS OR SOURCES OF EMPLOYEE GRIEVANCES

1. **SUPERVISION** - Fear of supervisor, lack of knowledge of job requirements, personality conflicts, favoritism, unclear orders without explanation, unjustified criticism, ignoring complaints, breaking promises, inadequate work instructions, use of threats, ignoring or repelling suggestions for work improvement, penalizing worker for conditions beyond his or her control, layoff without notice, ignoring good job performance.
2. **WORKING CONDITIONS** - Haphazard planning of work, unguarded work dangers, poor tools or equipment out of order, uncomfortable or unhealthy conditions, excessive rules and regulations, changed work schedules.
3. **COMPENSATION** - Basic pay out of line, unequal pay for same jobs, failure to promote when eligible, unexplained pay shortages, failure to review or explain lack of employee progress.
4. **CHANGE** - a prolific breeder of grievances. Changes in policies, rules, methods, equipment, processes, practices, wage plans, work assignments, etc. Any change which has an impact on people should be a "signal" for a manager to be alert to the possibility of grievances. Change can only be managed properly by notice of proposed change, negotiations and agreement with the union prior to implementation.
5. **PRESSURE** - another common source of grievances. Pressure for production, for quality, for cost reduction, for efficiency. When management puts pressure on people for any reason, this is a potential cause of grievances.
6. **IGNORANCE** - Ignorance of management's reasons for decisions or actions, which have an impact on people. Ignorance of the real need or necessity for decisions or actions, or of the eventual benefits or advantages, or of the real impact on those who will be affected. Whenever people are "in the dark" on a management decision or action which will have an impact on them is a source of trouble.
7. **INCOMPATIBILITY** - which simply means the inability of some people to get along with each other? The absence of cooperation between people, and the presence of friction between

them can and often does, breed grievances. Thus, incompatibility is a definite "signal" to a union representative and manager to be alert for potential problems.

COMMON CAUSES OF MISUSE OF GRIEVANCE PROCEDURE

1. Failure to supply all personnel with a copy of the collective bargaining agreement.
2. Poor understanding of the contract by management and union officials.
3. Poor staff training in grievance processing and handling.
4. Failure of management to implement the contract expeditiously.
5. Failure to adequately screen grievances.
6. Poor investigation of grievances.
7. Unrest and strife in the work place.
8. Management's hard-line attitude or policy.
9. Using the grievance procedure as a harassment tool against management.
10. Rubber-stamping lower management's findings and decisions.
11. Failure to adhere to the principles of consistency and reasonableness in applying contract terms.
12. Uneven enforcement of the agreement resulting in ad hoc practices which extend or undermine provisions agreed to at the bargaining table.
13. Ineffective communication between management and union representatives.
14. Failure of both labor and management to make all decisions within the context of the collective bargaining agreement.
15. Reprisals or discriminatory actions against employees who file grievances.

GRIEVANCE HANDLING CHECKLIST:

I. AN EMPLOYEE APPEARS WITH A PROBLEM:

Put the employee at ease.

Encourage discussion of problem.

Let the employee tell his or her own story.

Listen attentively, do not interrupt.

Give your full attention. Do not create negative atmosphere.

Take notes but not too early or too quickly.

When the employee has finished, ask questions.

Get names, times and places.

Ask employee to repeat story -- be aware of initial story and follow on inconsistencies.

Insulate against being intentionally baited or irritated.

Get remedy - do not assume what employee really wants.

Recap your understanding about what the grievance is and remedy sought.

Ask employee to confirm accuracy of restatement.

II. GET ALL OF THE FACTS:

Discuss the problem with the employee calmly and with an open mind.

Do not personalize the issues. Maintain an objective attitude.

Do not ask questions that will reveal some predisposed decision on how to handle the grievance.

Do not jump to conclusions -- investigate thoroughly.

Clarify any doubtful or ambiguous points.

Distinguish between facts, opinions, allegations and assumptions.

Check the facts on both sides.

Check the appropriate contract provisions, rules or policies.

Check the time limits.

Check grievability or arbitrability.

Check relevant past practices,

Check previous grievance settlements for precedent and guidance.

Locate and interview witnesses.

Check the experience of others in similar cases.

Seek advice, if necessary.

Reach a preliminary decision but temporarily keep it to yourself.

Check validity of tentative solution, gather additional information and verify unsupported assertions.

III. TAKE THE PROPER ACTION:

Determine the merits of case.

Consider the grievant's viewpoint. Do not assume he/she is wrong.

Evaluate all facts and opinions before reaching final decision.

Respond promptly.

Check your decision with other experienced union officials, if necessary.

Explain to grievant that you fully investigated the situation and then give your response.

Write a simple answer to the grievant.

If denying, carefully and fully explain the reasons for denial.

Do not be afraid to say no -- you must give a definite answer.

Explain appeal procedures.

Make the corrections required by your decision.

IV. FOLLOW-UP:

Once the decision is made, follow-up by rapidly moving the grievance to the next step of the grievance procedure.

Do not change your mind -- stick with answer and do not back down by the threat of appeal.

Be alert to situations that might breed other grievances.

If similar situations arise, try to point these out to management before a problem arises.

TESTS FOR JUST AND PROPER CAUSE IN- EMPLOYEE DISCIPLINE

"Just Cause" is the standard commonly applied to grievances involving employee discipline but few union-management agreements contain a definition of it. Nevertheless, over the years the opinions of arbitrators in innumerable discipline cases have established a generally accepted definition of "just cause". This definition consists of a set of guidelines or criteria that are applied to the facts of anyone case. These criteria are set forth below in the form of questions.

A "no" answer to one or more of the following questions normally signifies that just and proper cause did not exist. In other words, a "no" means that the employers disciplinary decisions contained one or more elements of arbitrary, capricious, unreasonable, and/or discriminatory action to such an extent that said decision constituted an abuse of managerial discretion warranting the arbitrator to substitute his or her judgment for that of the employer.

The answers to the questions in any particular case are to be found in the evidence presented to the arbitrator at the hearing. Frequently, of course, the facts are such that the guidelines cannot be applied with slide-rule precision.

THE QUESTIONS

1. Did the employer give the employee forewarning or foreknowledge of the possible or probable disciplinary consequences of the employee's conduct?

Note A: *Forewarning or foreknowledge may properly have been given orally by management or in writing through the medium of typed or printed sheets or books of shop rules and penalties for violation thereof.*

Note B: *There must have been actual oral or written communication of the rules and penalties to the employee.*

Note C: *A finding of lack of such communication does not in all cases require a "no" answer to Question Number One. Certain offenses, such as insubordination, coming to work intoxicated, drinking intoxicating beverages on the job, or theft of the property of the company or of fellow employees, are so serious that any employee in the industrial society may properly be expected to know already that such conduct is offensive and heavily punishable.*

Note D: *Absent any contractual prohibition or restriction, the employer has the right unilaterally to promulgate reasonable rules and issue reasonable orders; and it need not have been negotiated with the union.*

2. Was the employer's rule or managerial order reasonably related to the orderly, efficient, and safe operation of the business?

Note A: *If an employee believes that the rule or order is unreasonable she/he must nevertheless obey it (in which case she/he may file a grievance after) unless she/he sincerely feels that to obey the rule or order would seriously and immediately jeopardize his or her personal safety and/or integrity or that of others. Given a firm finding to the latter effect, the employee may properly be said to have had justification for his or her disobedience.*

3. Did the employer, before administering discipline to an employee, make an effort to discover whether the employee did in fact violate or disobey a rule or order of management?

Note A: *The employers investigation must normally be made before it's disciplinary decision. If the company fails to do so, its failure may not normally be excused on the ground that the employee will get his or her day in court through the grievance procedure after the exaction of discipline. By that time, it is generally conceded that there has been too much hardening of positions.*

Note B: *There may, of course, be circumstances under which management must react immediately to the employee's behavior. In such cases the normally proper action is to suspend the employee pending investigation, with the understanding that (a) the final disciplinary decision will be made after the investigation and (b) if the employee is found innocent after the investigation, s/he will be restored to his or her job at full pay for time lost.*

4. Was the employer's investigation conducted fairly and objectively?

Note: *If the management officials who conduct the investigation act as both prosecutor and judge, they should anticipate that an arbitrator will give less credence to management's "proof" of guilt.*

5. At the investigation, did the "judge" obtain substantial evidence or proof that the employee was guilty as charged?

Note: *Arbitrators use varying standards of proof that an employee was guilty as charged from proof "beyond a reasonable doubt" to a "clear and convincing" sense that the employee was guilty. In addition much depends on the issue in question, the seriousness of the charge and the potential penalty. However, in the final analysis the arbitrator must be convinced.*

6. Has the employer applied its rules, orders, and penalties even-handedly and without discrimination to all employees?

Note A: *A "no" answer to this question requires a finding of discrimination and warrants negation or modification of the discipline imposed.*

Note B: *If the employer has been lax in enforcing its rules and orders and decides henceforth to apply them rigorously, the employer may avoid a finding of discrimination by telling all employees in advance of its intent to enforce hereafter all rules as written.*

7. Was the degree of discipline administered by the employer in a particular case reasonably related to (a) the seriousness of the employee's proven offense and (b) the record of the employee in his or her service with the employer?

Note A: *A trivial proven offense does not merit harsh discipline unless the employee has properly been found guilty of the same offenses a number of times in the past. Reasonable judgment must be used to determine how many previous offenses constitute a good, a fair, or a bad record.*

Note B: *An employee's record of previous offenses may never be used to discover whether he/she was guilty of the immediate or most recent offense. The only proper use of his or her record is to help determine the severity of discipline once she/he has properly been found guilty of the immediate offense.*

Note C: *Given the same proven offense for two or more employees, their respective records provide the only proper basis for "discriminating" among them in the administration of discipline for said offense. Thus, if employee A's record is significantly better than those of employees B, C, and D, the employer may properly give A lighter punishment than it gives the others for the same offense; and this does not constitute true discrimination.*

DEVELOPING A CASE FILE FOR GRIEVANCE RECORDS

The need for an accurate record of grievances and their disposition becomes apparent with the passage of time. Grievances and the employer's reaction to them become a type of employment "common law" which influences employer policy and the disposition of similar grievances in the future. Equally important, such a record is of significant value in preparing for future collective bargaining since it indicates areas of the contract that have been the source of difficulty or about which the parties disagree on interpretation.

When a collective bargaining agreement is initially negotiated, there is a tendency for the parties to rely on the memories of the persons charged with the primary responsibility for administering the agreement for historical analysis of grievances that have been filed. The passage of time, negotiation of new agreements, frailties of human memory, and change in employer or union personnel make such a system unsatisfactory. It is unwise to have a single person as the "walking encyclopedia" of such important matters. Such people are capable of dying, quitting, transferring or just plain forgetting.

The setting up an effective grievance record and indexing system may seem very obvious. The simplicity of the system is a virtue, not a vice. Parties should institute such a system upon initially entering the collective bargaining process. If your local chapter has

not yet set up an indexing system, it is not too late to do so now. After several years have passed, setting up an indexing system is burdensome, but not impossible. Advice on a file system can be secured from the International Secretary/Treasurers Office.

Freedom Of Information Request

The first two paragraphs below are a couple of suggested requests for documents in connection with a discharge grievance. The second, as you will note, deals specifically with a situation in which the contracting agency allegedly mandated the termination. The last two paragraphs can be adapted for a request for documents under FOIA.

(Sample)

SPFPA hereby requests copies of any and all statements and other documents on which the Company relies to support its position that it had just cause to discharge ***** or which otherwise describe the events which allegedly led to Mr. *****'s discharge.

SPFPA hereby repeats its requests for copies of any and all correspondence, other than that previously produced, between [that COMPANY] (or any agent thereof) and (CONTRACTING AGENCY) and/or other government agency regarding the alleged incidents which led to the discharge and/or which allegedly required the discharge of Mr.***** and for copies of any and all documents (including but not limited to any internal notes and memoranda) concerning those alleged incidents. It is of the utmost importance that you forward any such documents to me immediately.

Pursuant to the Freedom of Information Act, the INTERNATIONAL UNION, SECURITY, POLICE AND FIRE PROFESSIONALS OF AMERICA (SPFPA) hereby requests copies of any and all documents of the U.S. Department of Justice from 1994 to date which relate to requests by or payments to DDDCompany for reimbursement of ODD's payments to Mr. D. Duck, Human Resource & Profit Associates, Inc., and/or Ms. M. Mouse. The INTERNATIONAL UNION, SECURITY, POLICE AND FIRE PROFESSIONALS OF AMERICA (SPFPA) will reimburse the Department of Justice for its costs in providing us with copies of any relevant documents. Thank you for your consideration.

Pursuant to the Freedom of Information Act, please provide us with any and all position statements and/or documents submitted by or on behalf of the Employer, ODD Company, in the

above-captioned matters or any other related proceeding based upon a charge by Mr. _____ ' We will reimburse the Board for its costs in providing us with copies of any relevant documents,

The True "RIGHT -TO-WORK" Story

What's Wrong with Right-to-Work?

What's wrong with so-called "Right-to-Work" legislation?

Plenty!

The term "Right-to-Work" is lousy economics and it's got nothing to do with real worker rights. Let's start off with economics. Despite claims by anti-union propagandists, the latest economic data from which comparisons between "right-to-work" and free collective bargaining states can be derived reveals a startling gap between "two nations" of U.S. states on a wide range of key economic and social indicators. "Right-to-Work" laws are part and parcel of a low wage, low benefit, anti-worker strategy that depresses wages and living conditions. If adopted, "right-to-work" will put a state on the slippery slope toward economic and social decline while doing nothing to stabilize or improve the state's economy.

Now let's talk about the right-to-worker's bogus claim regarding worker rights.

To set the record (and the name) straight, "right-to-work" for less doesn't guarantee any new rights-except to work for lower wages - and it certainly doesn't create any new jobs. What "right-to-work" really does is destroy one of the fundamental principles of workplace democracy. By taking away a key right that workers have to make decisions about the structure and governance of their collective bargaining agreement "right-to-work" imposes the heavy hand of government into private sector collective bargaining between workers and their employers, by denying them the freedom to negotiate a union security agreement.

What's union security?

It's a contract provision negotiated into a collective bargaining agreement whereby all workers who receive the economic benefits of union representation agree to share the costs of maintaining their union. But, under so-called "right-to-work", labor and management can't even bargain over the issue. As a result, free loaders get to duck their financial obligation to support their union, pay nothing and still get all the benefits.

Meanwhile, their co-workers who pay their dues are forced to subsidize them. Over time, the financial support for the union erodes along with the union's ability to adequately represent the workers in dealing with employers and service the collective bargaining agreements under its supervision. That's what so-called "right-to-work" is really about financially draining unions into oblivion so they won't have the resources they need to protect their members.

"Right-to-Work" isn't good economics;

It doesn't guarantee anybody a right to a job. Simply put so-called "right-to-work" doesn't work. State legislators should reject the siren song of this illusory, economic quick fix. Sound economic development and job creation strategies should instead be based on a mix of appropriate tax and other public policies including education, public investment and worker training initiatives that attract stable businesses which pay decent wages and treat their workforce with dignity and fairness. "Right-to-work" is the antithesis of such cooperative economic policy-making. It promises a magic bullet but it delivers a self-inflicted wound for a state, its economy and its workers.

Employee Rights on the Job

Everyone wants smooth working relationships on the job. But problems arise in every workplace. As a union member, you have the right to Union protection and representation rights guaranteed by your contract. *When Problems Arise Talk to Your Steward!*

Contract Violations

If you think that management has violated your rights, or you have questions about work, talk with your Steward. You have the right to file a formal complaint seeking justice when your boss has violated one of your contractual rights. The complaint is called a "*grievance*" and the system used to process it is referred to as the "*grievance procedure*." Read your contract to find out what the exact procedure and time lines are for your workplace.

If you and your Steward determine that a contract violation has occurred, together you will fill out a "*grievance form*." If management refuses to settle the grievance, the Local may argue your case before an impartial arbitrator who will make the final ruling. Arbitrators have the power to order an employer to correct the situation. Remember, grievance procedures have strict time limits. File promptly.

Grievance Tips

Not all workplace complaints are grievances. Winning a grievance depends on the facts and evidence the Union can collect. Working closely with your Steward will improve your chances of success.

The key question that decides grievances involving discipline is: Did management have "just cause" for imposing the discipline?

When in Trouble - Demand Union Representation

You have the right to representation by your Steward or Staff Representative during conversations with your boss that could potentially lead to discipline or termination, a protection enjoyed only by Union members. If you think the conversation is disciplinary in nature, follow these important steps, sometimes referred to as your "Weingarten Rights"

Demand Union representation. You must ask for Union representation before or during the interview. Management does not have to inform you of this right. Refuse to proceed without Union representation. A questioner must be told of your desire for representation. Refusal to cooperate on your part can be viewed as insubordination. If management refuses to, do not make any written or verbal statement of guilt or innocence. You cannot be forced to make a statement. The most appropriate response in this situation is to make *NO statement*, claiming innocence is considered to be a statement.

Do not waive your right to representation. If you proceed in questioning without representation, you have waived your right to representation and any statement can be used against you.

The Weingarten Rights do not apply to everyday conversations between members and supervisors regarding regular job duties or work performance.