

GRIEVANCE HANDBOOK FOR LOCAL REPRESENTATIVES



POAM

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1. YOUR JOB AS A LOCAL REPRESENTATIVE

Whether you have been elected as President, Vice President, Secretary, Treasurer, or a member of your bargaining committee, you are first and foremost a Local Representative of the Union.

As Local Representative, you now assist the Union, but more important, you assist your local members in day-to-day working relationships. You are assuming an important day-to-day obligation. The Local Representative has close contact with supervisors, department heads, and fellow members. Make no mistake, the Local Representative is a cornerstone for the Union. Any Union, no matter how strong, is only as effective as the assistance it receives from its Local Representative.

The Local Representative is the front line defense against contract violations and unequal treatment by the Employer. The job requires that the Local Representative be thoroughly prepared for the task at hand. The more thorough a Local Representative has prepared, the easier and more effective the job will be in representing the constituency. As the representative for employees, the Local Representative must be prepared to handle a variety of situations.

2. OBLIGATIONS

The Local Representative's job is to monitor the employer's conduct to protect the contract and to make sure members receive fair and equal treatment. Enforcement of the contract is done primarily through the filing of grievances.

The Local Representative should first, and foremost, know the contract. A copy of the agreement should be available at all times. Study the contract and know how it works. Be aware of how clauses within the contract have been interpreted in the past, and be aware of any rulings, awards, or settlements of prior grievances and past practices.

It also is recommended the Local Representative have available a copy of the pension program plus a copy of Department Rules or Procedures.

The Local Representative should understand why grievances are to be processed promptly. The Local Representative should know and understand the time limits in filing grievances as provided in the contract, and be fully aware that promptly processed grievances are more likely to be settled favorably. A grievance which is processed promptly will be more satisfactory to the grievant regardless of the outcome. On the other hand, if a grievance is unduly delayed, even if a final settlement is favorable, it will leave the employee with a bitter taste.

3. KEEPING INFORMED

The Local Representative must be familiar with all the employees. It is the Local Representative's responsibility to have their names, current addresses, and telephone numbers available.

A Local Representative should treat all members alike, without regard for gender, color, creed, or national origin.

The Local Representative also has the obligation to know the supervisor and administrator. A Local Representative should stop rumors that are injurious to the Union and cease misunderstandings within the work area. This, of course, means having the right information as to what is the policy and position of the Union.

The Local Representative has the obligation to attend all local meetings. This is the best source of information which is necessary for fulfilling duties. The Local Representative should be thoroughly familiar with the structure of the Union, and how it operates. The Local Representative is the main source of information for the members in regard to the Union. The Local Representative should encourage members to approach the Local Representative with their problems. The Local

Representative should understand and promote the political programs of the Union, understand why the Union is taking action, why the Union is supporting certain positions on public issues, and how this will help the individual members. One point to remember is that some Union members tend to judge their Union by everything that happens to them personally.

When a Local Representative is asked a question or presented with a problem for which the Local Representative doesn't know the answer, the best course is to tell the member the Local Representative will get the answer within a definite period of time. The Local Representative must follow through with this promise by checking with local officials or calling the Union office and speaking with the designated Business Agent.

The Local Representative has the obligation to get acquainted with all new workers. The Local Representative is not a member of management. The Local Representative does not have to and should not assume the duties of supervisors. It is the administration's job to see that the work is done. It is YOUR JOB to see that the members are treated fairly and equally within their contractual rights.

The Local Representative is in the spotlight. Other workers will look to the Local Representative as an example. In large part, their relationship with the Union and management will be affected by the examples set by their Local Representative. Thus, it is obvious the Local Representative should not accept preferential treatment because of his position.

4. PROCESSING A GRIEVANCE

The main job of a Local Representative is the processing of grievances. This job requires the ability to dig into the facts and define the issues involved. This ability comes from experience and training, BUT in the meantime seek help in doing what is correct.

Your members will come to you with many complaints. You must be able to decide whether a grievance is involved or whether you can help the member in other ways.

5. JUST LISTENING TO COMPLAINTS, WILL HAVE A SOOTHING EFFECT ON THE EMPLOYEE

You may have to consider a grievance as a safety valve. Sometimes it is necessary to file a grievance just because of the emotion involved, even though it has little merit. On the other hand, grievances without merit should not be filed just to get the employee off your back. Each grievance should stand on its own merits. In processing grievances, try to find some common ground.

Never disagree with other local representatives in front of supervisors or department heads. Decide beforehand who will lead the discussion and follow the procedure. Sometimes leaders will disagree with each other. If this happens during a meeting, ask for a caucus and discuss the issue in private among those Union people present.

Always tell the supervisor, if you cannot receive a favorable answer, that you plan to appeal the decision. Good relationships are best maintained if the supervisor knows you are going to the next level for consideration of the grievance. After a grievance hearing, think about what took place. Make written notes of the positions presented and add them to your reflections. These records will be necessary in the future and will help you better handle upcoming grievances.

The following is a summary of important considerations in filing grievances. THIS IS NOT INTENDED TO SUPERSEDE THE LABOR AGREEMENT WHICH ALWAYS CONTROLS.

Who May Take a Complaint to Management? The Local Representative files a grievance, but many contracts provide that an employee may take a complaint or grievance to an immediate supervisor. It is true that an employee has the right, by law, to take a grievance to his employer and have it adjusted, but only if the adjustment does not violate the contract and the Union is given the opportunity to be present at the adjustment.

This does not mean that an individual employee can use the grievance procedure set up by the labor contract. Grievances appealed to higher steps in the grievance procedure are processed only by the Local Representative and the Union. Of course, the vast majority of grievances are begun and processed with help from the Local Representative. An employee should be discouraged from trying to process their own grievance since this is what Local Representative is trained for and thus will produce better results.

The majority of grievances are (and should be) settled at the informal stage. At this time the parties positions have not “hardened”, and flexible solutions within the contract are more likely.

The most important part of any grievance procedure is the very beginning. The writing of the grievance and what it takes to resolve the grievance is the basic foundation. A bad foundation will prevent any settlement, or bring about a weak settlement.

6. REDUCING A GRIEVANCE TO WRITING

The Union strongly recommends that before any grievance is taken up with the Employer, verbally or otherwise, it should first be reduced to writing, thereby creating a written record. If settled at the first step, simply write “settled at Step 1”. This gives a written record for future negotiations. If the informal step does not solve the grievance, it must be reduced to writing anyway and submitted to the next step.

Management has a set number of days to answer. The Local Representative must indicate on the grievance whether the answer is accepted or rejected. The Local Representative must make separate notes other than on the grievance form. These notes are for the information of the Union.

7. ARBITRATION

If the grievance has merit, the Union will appeal the grievance to arbitration. Before this occurs, the Local Representative should have gathered all necessary facts, which will be required to confer with the Union to prepare the evidence and determine witnesses. If the grievance has been processed properly and accurate records were kept at all of the steps, the Union will be prepared for arbitration.

8. TIME LIMITS ON FILING GRIEVANCES

All grievances must be filed within a certain number of days of the event, occurrence, or knowledge of the facts giving rise to the grievance.

As a general rule, FILE GRIEVANCES AS SOON AS POSSIBLE or at least when you are aware a grievance exists.

Grievances must be appealed to the next step within the time limits of the management's answer, or in some cases, within the time when the answer is due.

IF THE EMPLOYER REPRESENTATIVE DOES NOT ANSWER A GRIEVANCE WITHIN THE CONTRACT TIME LIMITS, MAKE SURE TO FILE AN APPEAL FROM THE DATE THE ANSWER WAS DUE.

Failure to do so MAY give the Employer a defense to the grievance that can result in losing the grievance.

9. THE GRIEVANCE PROCEDURE

Writing Up Grievances

Why write up grievances? (even before handling at verbal step)

1. Contract stipulations.
2. More effective when disposition has to be put in writing.
3. More binding. Can be referred to in event of violations.
4. Can keep written record on grievance.
5. Can be referred to for contract negotiations.
6. Disposition of written grievance can be reported to membership meetings more effectively.
7. Policies adopted would be in writing.
8. Act as supplementary agreements.
9. They become legal documents
10. Even the most honorable person forgets, dies, or retires ... GET IT IN WRITING.

Grievance Procedure (What is it?) Its machinery set up whereby...

1. The employee can seek redress through organized channels.
2. Where grievances can be handled through an orderly process.
3. The employee can appeal against decisions.
4. The employee has the collective support of the Union when seeking justice.

Six Important Points ... When Investigating and Writing Up a Grievance

6 W's – Who..When..Where..What..Why..Whoa

1. WHO is involved in the grievance? The employee names (don't forget the immediate supervisor or management representative who made this a grievance).
2. WHEN did the grievance occur? On what day and at what time did the event take place which created the grievance?
3. WHERE did the grievance occur? Exact location, shift assignment, location, etc.
4. WHAT happened? Detail all events surrounding the complaint.
5. WHY is this a grievance? What has been violated? Contract? Supplement? Past practice? etc. In order to have a legitimate grievance, there must be a violation of something. This directs your attention to that specific something which has been violated. Have proof for each clause referred to.
6. WHOA. Slow up and recheck all of your facts. Recheck the contract and recheck the grievance.

Only after you have the above information, is the steward in a position to write up a grievance.

10. CONSTRUCTING THE GRIEVANCE

“Ten Basic Points to Remember”

1. Always identify the grievant by name.
2. If the grievance is a discipline case, always obtain the employee's previous disciplinary record.
3. If the grievance is a seniority related question, (promotion, demotion, or seniority violation) always obtain all the facts relative to the employee's qualifications such as previous experience, attendance record, etc.

4. Never say “I contend”, “it is my position”, etc. Always say “it is the Union’s position”.
5. Make sure that every statement of fact raised by management is checked thoroughly, and inform the Union of the answers.
6. When a contradiction in statements of facts exists, try to obtain information from bargaining unit employees if you are sure in your own mind that your facts are correct.
7. Get all of the facts IN WRITING no later than the date the case is presented in the first step of the grievance procedure. DO NOT ATTEMPT TO WITHHOLD PERTINENT INFORMATION.
8. When possible, support your facts and contentions by using previous arbitration decisions or documented past practice.
9. Recheck your case to make sure the six important points have all been answered. REMEMBER .. new facts should not be injected into the case at the higher levels.
10. At the very same time that a grievance is filled out, the POAM office should be notified of the grievance. A number will be assigned by the POAM office. Use this number on all documents pertaining to the grievance.

11. SOME CONSIDERATIONS FOR THE GRIEVANCE HEARING

Make sure you have a proper attitude.

Create the right kind of professional atmosphere.

Make a proper introduction to the “problem”.

Ask...why did management do this? ..or did not do that? Have management prove their “charges”.

Request copies of all proofs or other information that management refers to.

Learn to listen effectively.

Prepare “rebuttal” to management’s “charges” and “allegations”.

Present the Union’s side to prove:

1. Innocence
2. Contract violation(s)
3. Injustice
4. Management at fault
5. Penalty too severe
6. Discrimination
7. Past practice

Give consideration to management’s viewpoint objectively. After meeting with management, investigate management’s contentions raised in the first step of the grievance procedure or discussions with supervisors. Add information to the Union fact sheet.

Close the case. Or, failing to resolve the case, ask for the management’s answer immediately. If the answer is negative, notify management that the Union is not satisfied with management’s answer and intends to process the grievance to the next higher step.

12. HANDLING GRIEVANCES WITH THE IMMEDIATE SUPERVISORS

Types of Immediate Supervisors to Consider

1. Arrogant and arbitrary
2. Considerate, reasonable, and just
3. Honest
4. Dishonest
5. Incompetent
6. Ambitious
7. Benevolent
8. Other...
9. All of the above.

13. FACTORS IN FIRST STEP GRIEVANCE HANDLING

1. Key Person vs. Key Person. The immediate supervisor of the employee is the key person in collective bargaining, just as you are the key person at the local level (and don't forget it). The Union is your support. Don't allow the employer representative to intimidate you into believing that you are a "nobody".
2. Policy. The immediate supervisor is in a difficult middle position, between the employee and top management. The supervisor cannot make policy. Orders come from higher management, and whether the supervisor agrees with them or not, it is the supervisor's job to see that they are carried out.
3. Immediate Supervisor's Area of Decision. There is a small area of decision where the immediate supervisor does not have to interpret policy, and it is in that area that gains can be made by establishing a cooperative relationship.

4. Working Relationship. The secret of successful day-to-day bargaining lies in a good working relationship between the Local Representative and the immediate supervisor.
5. Equal Footing. The Local Representative should be on equal footing with the immediate supervisor when it comes to dealing on economic and contract issues.
6. Antagonism and Personal Rivalry. Develop the kind of relationship whereby the immediate supervisor is willing to cooperate with you and to handle grievances quickly and fairly. You can never realize this by going out of your way to antagonize the immediate supervisor. Never go over the head of the immediate supervisor, or any other supervision, without stating that you intend to do so. If you plan to appeal from the decision, make it known.
7. Cooperation. Immediate supervisors usually come from Union ranks, live in the same neighborhoods as other employees, and may still feel like workers rather than an Employer's representative. Given half a chance, they will be friendly. It is important to get along with the immediate supervisor. Sometimes it is difficult, but keep in mind, it is your job to get along.
8. Making "Deals". A Local Representative should never do (so-and-so) if the boss will do (this-and-that). Such "dealings" make a sound grievance procedure impossible. Once a Local Representative is personally obligated to an immediate supervisor, the Local Representative can no longer be in a position to do a decent job.
9. Making Empty Threats. Do not bluff when working out a grievance. If you make an empty threat and do not follow through, your bargaining power will be weakened in the future.
10. Talking Too Much. Be a good listener. It is possible to talk yourself out of a good case. By knowing when to listen and when to talk, you can keep the discussion on the facts in the particular case. You will also be able to demand to be heard without being interrupted when it is your turn to carry the ball.

11. Losing Your Temper. A Local Representative who blows up is looking for trouble. All reasoning and common sense is lost when your temper is up. Do not mix grievances with lost tempers.
12. Keep Your Mind on Your Work. Do not be side tracked. Stick to the point. When you talk, stick to the issues. If the immediate supervisor does not have a valid argument, the supervisor may bring up subjects that have nothing to do with the case to move the discussion away from the grievance. Agree on all facts you can and then explain carefully the exact issue on which you disagree. Stay away from discussing personalities as much as possible. Avoid general arguments and remarks that belittle, especially when they have nothing to do with the case at hand.
13. Disagree with Dignity. If you cannot reach a satisfactory settlement, the world will not end. You can always appeal the case. That is why other steps of the grievance machinery exist. Concentrate on the situation you are trying to correct and keep the personal element out of the picture as much as possible.
14. Sticking Together.
 - A. Agree on one spokesperson.
 - B. Keep a united front. When in a conference with other local representatives or Union members, never disagree in front of any of your bosses.
 - C. If you quarrel among yourselves, you will soon lose the respect of management. Management will be quick to take advantage of your differences.
 - D. If you see that some real differences of opinion have developed among the local representatives, immediately ask for a caucus and straighten out your differences in private.

15. Observe Rules and Regulations. Being an effective Local Representative means that you also have to follow the Department Rules and Regulations. Do not be placed into a compromising position by violating the rules.

14. DISPOSITION OF GRIEVANCES

No horsing around. Settle all grievances on the basis of merits. Do not swap one grievance for a settlement of another, without approval of the Union. You have to give a good reason for disposition of every grievance. The Union must approve all settlements before they are in effect.

ALWAYS CALL THE POAM OFFICE WHEN YOU HAVE ANY FURTHER QUESTIONS.