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Workshop: Addressing the Heart of a Grievance

Jacquelyn Lloyd
Michigan State University

Howard Parish
New Jersey Board of Mediation

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Grievances & Arbitration

Presenters:

Jacquelyn Lloyd

jacquelyn.lloyd@gmail.com

Howard Parish

howardparish@comcast.net

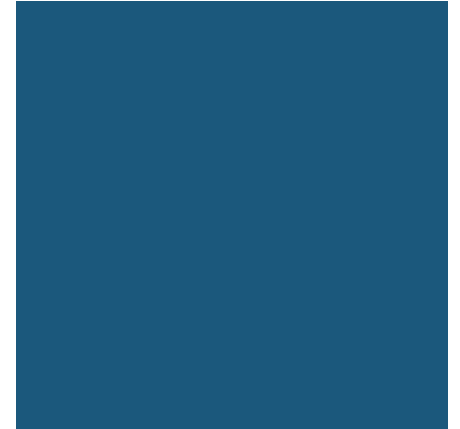
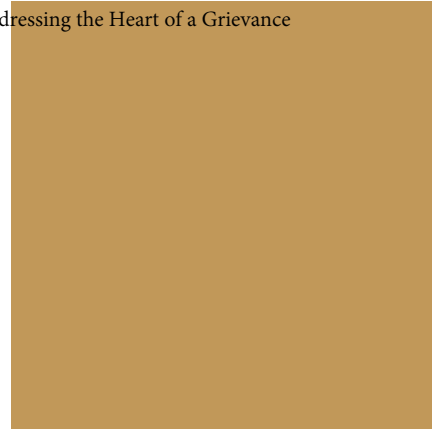


**A Grievance
Is a Violation
Of:**

**Management's Rules and
Responsibilities**



Where Is It Defined?





Types of Grievances

Collective Bargaining Agreement

Past Practice

Statute

Equal or Fair Treatment

+ Duty of Fair Representation



Definition:

Legal obligation of a union (as being the exclusive representative of a collective bargaining unit) to represent all workers or employees in that unit (whether or not members of the union).

This duty entails fair representation without any discrimination, obvious negligence, or arbitrary or capricious decisions. A union failing in this regard may be charged and sued for unfair labor practices.



Steps in Grievance Processing

+ Rules of Grievance Handling

- Investigate thoroughly
- Consider the merits only
- Defend/ don't judge
- Work then grieve
- Have a good process (for your own sanity and DFR)
- Timeliness is next to godliness



Structure of Written Grievance

Who? What? Where?
Why? How?



Past Practice

Frequency
Consistency
Longevity
Circumstances

Contract Language vs Past Practice



Progressive Discipline

Does the Punishment Fit the Crime?

- **Verbal Reprimand**
- **Written Warning**
- **Suspension**
- **Termination**



Investigation



- Review Documents
- Interview Witnesses
- Know the Facts
- Know the Elements



Witness Preparation

Appearance
Demeanor
Credibility
Knowledge
Consistency



Assessing the Issue



Strengths

Weaknesses



Motives for Pursuing the Grievance

Stop bad behavior

Get attention of higher ups

Help one person without having to identify them

Organize new members

Activate members

Right a (perceived) wrong

Enforce the Agreement

Use it as leverage in another way (bargaining)



Settlement Options

Union can settle as they see fit

No horse trading

Voluntary resignation

Probationary period

Removal or correction of information from employees personnel file



To Arbitrate or Not?

Arbitration vs Lawsuit
Cost
Political Pressure
Binding vs Advisory
Harassment
Drawbacks



Role of the Arbitrator

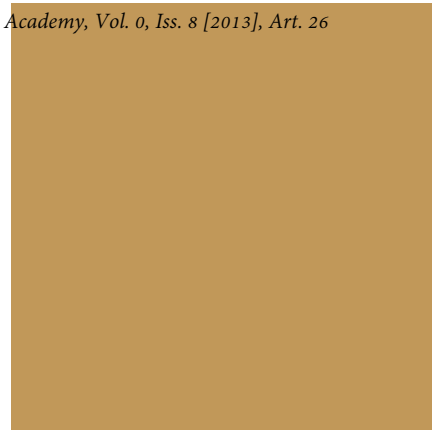
Definition: Creature of the CBA

Jurisdiction: Four corners of the CBA

Steelworkers Trilogy



Alternative Dispute Resolution



Anticipate Areas of Potential Conflict

Med-Arb

Grievance Mediation

Restorative Justice



Case Scenarios



How would you decide?