April 2013

**Workshop: Addressing the Heart of a Grievance**

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**Recommended Citation**

DOI: [https://doi.org/10.58188/1941-8043.1288](https://doi.org/10.58188/1941-8043.1288)  
Available at: [https://thekeep.eiu.edu/jcba/vol0/iss8/26](https://thekeep.eiu.edu/jcba/vol0/iss8/26)

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Grievances & Arbitration

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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.
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

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

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Published by The Keep, 2013
Witness Preparation

Appearance
Demeanor
Credibility
Knowledge
Consistency

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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

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Role of the Arbitrator

Definition: Creature of the CBA
Jurisdiction: Four corners of the CBA
Steelworkers Trilogy
Anticipate Areas of Potential Conflict
Med-Arb
Grievance Mediation
Restorative Justice

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Case Scenarios

How would you decide?