

GRIEVANCE INVESTIGATION & RECORD KEEPING

KEEP IN MIND

You have the right to use reasonable work time to investigate and process grievances, and this right is recognized in the Collective Bargaining Agreement.

You have a duty to investigate the grievance thoroughly, by interviewing people, and consulting and copying records. For example, in a lay off situation, delegates should request all budget & other financial docs for the last few years along with proposed budgets (approved by LSNY or not). The sloppiness of proposed budgets, i.e. the program has never spent this much on travel or supplies in the past so the proposed budgeting in these areas is not necessary or credible and therefore the deficit is not as dire as projected, is an example of using discovery effectively. The failure of personnel files to contain mandated warnings or annual reviews likewise belies management claims that progressive discipline has been followed. None of these defenses will be available unless delegates ask for discovery.

Under §8(a)(5) of the NLRA (employers' duty to bargain in good faith) an employer must provide the union with any information *requested* by the union that is *relevant* and *necessary* to fulfill its responsibilities as the collective bargaining agent. This includes providing information that the union needs to investigate, process and prepare for grievances and arbitrations. A very broad range of information can be requested, really anything that is relevant to the underlying issue. CBA Sec. 11.5 C codifies this common sense rule – if a document sought is at all related to grievance issues then it must be turned over in advance of grievance meeting.

You have a serious obligation to record. You may think you'll never forget the day your supervisor called you an SOB, but you will. So, keep records of contacts with members and management,

including: phone calls, letters, and conversations, and

noting: date, time, circumstances, discussants, and nature of the business discussed.

Pass on your file if another union representative ends up handling a subsequent step.

Treat every grievance as if it might ultimately go to arbitration. Inadequate investigation or record keeping may make it impossible to win a grievance or arbitration. This can cause the loss of important rights for the grievant, and even form the basis for an eventual law suit by the grievant against the union for failure to provide adequate representation. Moreover, it can set dangerous precedents, which may ultimately compromise the rights of all union members.

STEPS IN INVESTIGATING A GRIEVANCE

Interview the grievant

Listen carefully

Ask questions

Remember that grievants, like clients,
are not always forthright,
may be embarrassed,
may not know all the facts.

Be respectful of the grievant's feelings

Take careful notes

Analyze the grievance

Ask the grievant more questions if necessary

Locate and interview witnesses

Examine the case again for:

unanswered questions

inconsistencies on part of grievant or others

discrepancies between/among different accounts

ways to resolve factual conflicts in your favor

Formulate a "theory of the case" that is:

consistent with all known facts

most useful in winning the grievance for the member

consistent with union policy

Anticipate management's own theory and responses to yours

Do any additional investigation necessary.