



# IS IT A GRIEVANCE?

One of the most common problems faced by stewards is also one of the most basic: deciding whether a complaint is a legitimate grievance.

A boring or limited food selection in the employer's cafeteria probably couldn't be considered grounds for a grievance. Nor could a co-worker's insistence on showing you – over, and over, and over again – the pictures of his new grandson.

But how about the price of food in an employer's cafeteria when there's no other eating establishment for miles around? And what if the proud new grandfather is your supervisor, and he's insisting you look at photos while you're supposed to be working, and it's cutting into your earnings?

Determining what's a grievance, and what isn't, can be tricky. And it's important. A steward who pursues non-grievances quickly loses his or her credibility – with co-workers, with the union leadership and with the employer. On the other hand, a steward who turns away workers' complaints out of the belief that they aren't legitimate grievances, when in fact they are, will quickly find him or herself on the sidelines.

How do you determine if there are legitimate grounds for a grievance? There are five basic ways.

## Does It Violate the Contract?

Look at the union contract (or memorandum of understanding or whatever it's called in your workplace). While the meaning of specific piece of contract language can be debated, you're usually in a good position to argue that a certain section or clause has been violated.

## Does It Violate Past Practice?

Is what's going on a violation of past practice? Even if something isn't spelled out in the contract, if it's been done that way for years, change or crackdown may as be a violation. Let's say an employer has always given a little slack to workers who arrive late

during bad weather. All of a sudden he starts docking people who arrive even five minutes late when a blizzard is roaring outside. In such a case, you've got a pretty good past practice grievance on your hands.

If you're going to cite past practice as the reason for your grievance, be sure the practice has existed for a substantial period of time. Using the example above, be able to document how long the liberal arrival time response during inclement weather has been the unspoken rule.

## Does It Violate Employer Rules?

Has there been a violation of your employer's own rules and regulations? Uneven enforcement of the rules can provide the grounds for a grievance. For example, a worker caught smoking in a nonsmoking area can't be fired if other people routinely do the same thing and are not disciplined when they take extra-long breaks, even though the employee handbook says you will get in trouble by doing so, then workers should get the same latitude. **Even if it can't be grieved under the contract, it doesn't mean you can't improve things.**

## Does It Violate the Law?

Your employer can't violate the law. Even if your contract is silent on a specific issue, you still have the right to grieve if the employer does something illegal.

Let's say your contract doesn't speak to health and safety issues, but your boss orders you to do something that's clearly dangerous. You don't have to cite contract language as the basis for your grievance; you can point instead to state, or provincial or federal occupational safety and health legislation.

## Does It Violate Basic Rights?

Finally, you can have legitimate grounds for a grievance if a worker's basic rights are violated. If there's been discrimination, you may have something to grieve.

Discrimination occurs when two people are treated differently under the same conditions, in a way in which one

of them is harmed or treated unequally. While the most common types of discrimination tend to be based on race or sex, there are other ways as well, including age, physical appearance, personality – and union activity – for that matter.

Be aware that discrimination charges can be awfully hard to prove. If you can base your case on contract language, you'll find your case a lot easier to pursue.

## Winning the "Illegitimate" Grievance

Now that we've established the grounds for a formal grievance, let's take things one step further. Say, you've gone through these guidelines and determined that you don't have grounds to file a grievance. Does that mean you can't do anything? Not necessarily. There are few grievances – "legitimate" or "illegitimate" – that can't be won, one way or the other. You just have to use a little imagination.

Consider the problem we mentioned earlier; a boring or limited food selection in your employer's cafeteria. While it may not be a grievance in the contract-sense of the word, that doesn't mean you and your co-workers have to live with it. Instead of filing a grievance, you can win change by getting everyone involved in a little education project.

One way to convince management that change is needed would be to simply stop buying your food there. Arrange for everyone to bring their own lunch one day; and have the union award a prize for the most creative sandwich. The next day you could order out for pizza, on the third day, you could have the union cart in a huge pot of chili. Cafeteria sales would be in the tank. Management would notice, and pretty likely be interested in getting things back on track.

There are few workplace situations that can't be improved by people working together in common cause – "legitimate" grievance or not.

*-David Prastan. The writer is editor of Steward Update. With thanks to James Wallihan of Indiana University and the Labor Education Service of the University of Minnesota.*

## Writing a Grievance

Every written grievance should be short and simple. If there are specific requirements within the grievance language, then those requirements must be followed. However, regardless of the contract language, there are three (3) items that must be contained in every written grievance:

- Protest the Action
- Demand/(request) that it be stopped or corrected
- Demand/(request) a Remedy

### Sample 1

- We the Union protest the Company's action of issuing a warning notice to Jane Doe on or about August 20, 2013 (*Protest the Action*)\*
- We demand that the warning notice be rescinded and removed from her file. (*Demand the action be corrected*)\*
- We also demand that Jane Doe be made whole for all lost wages, seniority, and benefits. (*Demand a remedy*)\*

### Sample #2

- We the Union protest the action of the Company allowing the safety guard to be removed from the CNC machine on "A" bank. (*Protest the action*)\*
- We demand that the guard be replaced immediately. (*Demand that the action be corrected*)\*
- We also demand that a report be made to the safety committee and that the Company instruct all management and bargaining unit employees not to remove the safety guards from the machines. (*Demand a remedy*)\*

*\*Note. Items written in italic are for explanation purposes only and should not be part of the actual grievance.*

### Other Information

Every grievance must contain the three items referred to above. However, many contracts require that the written grievance contain other information such as:

- Citing the exact Article, Section, or Paragraph of the Contract that has been violated.
- The actual date or time of the incident or violation.
- Name and/or signature of the grievant.
- Names of any witnesses.
- Other relevant information.

If the Contract's grievance procedure requires this information, you must provide it. However, try not to limit yourself. If you cite Articles or Sections of the Contract, add a phrase such as, "and any other relevant Articles or Sections of the Contract." If you add dates or times, add the phrase "on or about." If you name witnesses add a phrase such as, "and any other witnesses of whom we are not currently aware." Again, keep the grievance as simple as possible. Only add additional information if it is necessary under the Contract Grievance Procedure language or if it is necessary to provide a basic understanding of the issue.

### **Sample Grievance with Additional Requirements**

- We the Union protest the Action of the Company allowing the safety guard to be removed from the CNC Machine on "A" Bank on or about August 20, 2013. This is a violation of Article XX, Safety and all other relevant Articles and Sections of the Contract. Jim Smith and Sally Jones were witnesses to the incident as well as any other witnesses of whom we are not currently aware.
- We demand that the guard be replaced immediately.
- We also demand that a report be made to the safety committee and that the Company instruct all management and bargaining unit employees not to remove safety guards from the machines.

### **Things to Remember**

- Date and Sign the Grievance
- Place the correct Grievance number, appropriate clock number, seniority date, department, supervisor's name, etc., on the grievance
- Write clearly and legibly. (It is often preferable to type)
- Remember to follow any specific instructions in the Grievance Procedure.
- Abide by the time limits within the Grievance Procedure.

LOCAL \_\_\_\_\_

**IUE, INDUSTRIAL DIVISION OF  
THE COMMUNICATION WORKERS OF AMERICA, AFL-CIO**

**RECORD OF SIGNIFICANT FACTS**

(Please Print)

Grievance No. \_\_\_\_\_ Appeal No. \_\_\_\_\_

Date Filed \_\_\_\_\_

Member's Name \_\_\_\_\_  
(Last) (First) (Middle Initial)

Group Grievance - Yes (\_\_\_\_\_) No (\_\_\_\_\_)  
(Check One)

Department No. \_\_\_\_\_

Seniority Date \_\_\_\_\_ Skilled Entry Date \_\_\_\_\_

Classification \_\_\_\_\_ Job Code \_\_\_\_\_

Base Hourly Wage \$ \_\_\_\_\_

REFERENCE (Give Paragraph Number)

National \_\_\_\_\_ Type Case \_\_\_\_\_

Local \_\_\_\_\_ Type Case \_\_\_\_\_

Unfair Action \_\_\_\_\_

Date Grievance Settled \_\_\_\_\_ Step -1 ( ) 2 ( ) 3 ( ) 4 ( )  
Settled (Check One)

**THIS RECORD OF SIGNIFICANT FACTS AND THE INDIVIDUAL GRIEVANCE MUST  
PROMPTLY BE RETURNED TO THE UNION HALL UPON SETTLEMENT.**

**GRIEVANCE COMMITTEE FACT SHEET**  
**(FOR LOCAL UNION USE ONLY)**

(This form to accompany First Step Grievance appealed to bargaining committee)

Have you shown the supervisor's disposition to the aggrieved? \_\_\_\_\_ If not, please do and list additional information. \_\_\_\_\_

What other employees are affected (other than the grievant)? \_\_\_\_\_

Name any witnesses \_\_\_\_\_

(If possible, get individual signed statements from witnesses)

What has the past practice been in regard to similar violations? \_\_\_\_\_

Has a violation of this nature been called to the company's attention before? \_\_\_\_\_

When? \_\_\_\_\_ What action did the company then take? \_\_\_\_\_

Did the supervisor make any effort to settle this problem in the oral discussion? \_\_\_\_\_

Did he/she make you an offer? \_\_\_\_\_ Exactly what was supervisor willing to do? \_\_\_\_\_

Which of the supervisor's statements are true? \_\_\_\_\_

Which are false? \_\_\_\_\_

What do you think a reasonable settlement would be? \_\_\_\_\_

Any other suggestions or comments? \_\_\_\_\_

**NOTE TO STEWARD:** Use the following pages to complete your written observations, comments, facts and results of your discussion with the grievant, management, and interviews with other witnesses. **REMEMBER**, this grievance committee fact sheet is not to be shown to any member of management. It is the property of the union and should be kept with the union's records of this grievance. (List anything else that you think would be helpful, even if you use additional paper.) If this is a job posting case, list complete work records, including all classifications held and previous experience of both the aggrieved and the protested, on a separate sheet of paper, and attach. Also list any disciplinary record, if any.

# GRIEVANCE COMMITTEE FACT SHEET

(FOR LOCAL UNION USE ONLY) Grievance No. \_\_\_\_\_ Date \_\_\_\_\_

(THIS FACT SHEET **MUST ACCOMPANY ALL COMPLAINTS AND ALL WRITTEN GRIEVANCES**)

Employee's name \_\_\_\_\_ Clock No. \_\_\_\_\_

Seniority date \_\_\_\_\_ Classification \_\_\_\_\_

Rate of pay \$ \_\_\_\_\_ Per hour - How long has employee been in classification? \_\_\_\_\_

Employee's supervisor \_\_\_\_\_

General supervisor \_\_\_\_\_

Date grievance arose \_\_\_\_\_ Date grievance was filed \_\_\_\_\_

Has the employee had any disciplinary action on his/her record? Yes \_\_\_\_\_ No \_\_\_\_\_

Who is involved in this grievance? \_\_\_\_\_

When did it happen? \_\_\_\_\_

Where did it occur? \_\_\_\_\_

Why is this a grievance? \_\_\_\_\_

What do we want? \_\_\_\_\_

Supervisor's statement \_\_\_\_\_

Your observation \_\_\_\_\_

Submitted by \_\_\_\_\_ Dept. \_\_\_\_\_ Shift \_\_\_\_\_

UNION NOTE: These facts are basic requirements to the grievance procedure. Additional facts may be filled in on attached sheets.





STEP I  Presented by: ..... Clock No. .... Date .....

To Mr. .... Foreman of Department .....

.....  
.....  
.....  
.....

Employee's Signature .....

Steward's Signature .....

Foreman's Answer:

ACTION OF UNION: Appeal

Signature ..... Date .....

Settled

Employee's Signature .....

Steward's Signature .....

STEP II:  COMPANY'S DISPOSITION:

ACTION OF UNION: Appeal

Signature ..... Date .....

Settled

Employee's Signature .....

Steward's Signature .....

STEP III:  COMPANY'S DISPOSITION:

ACTION OF UNION: Appeal

Signature ..... Date .....

Settled

Employee's Signature .....

Steward's Signature .....

STEP IV:  DISPOSITION: .

Signature ..... Date .....

SAMPLE – Master Information Request Form from Union

DATE: \_\_\_\_\_

TO: \_\_\_\_\_ (name of manager)

FROM: \_\_\_\_\_ (name of union representative)

RE: \_\_\_\_\_ (subject of inquiry)

Dear \_\_\_\_\_

In connection with the above matter, and to assist the union in performing and policing the collective bargaining agreement, the union requests that the employer provide the following information:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_

Please provide the information by \_\_\_\_\_ (date). If any part of this Request is denied or if any material is unavailable, please state so in writing and provide the remaining items by the above date, which the union will accept without prejudice to its position that it is entitled to all documents and information sought in this request. This letter is submitted without prejudice to the union's right to file subsequent requests.

*SAMPLE LETTER*  
*Grievance Withdrawal*

**The Local's  
Letterhead**

Date \_\_\_\_\_

*Via Certified Mail*

Pat Grievant  
111 Complaint Ave.  
Home Town, USA

RE:           Grievance # \_\_\_\_\_, Dated \_\_\_\_\_

Dear Mr. /Ms. Grievant:

I am writing to inform you of the current status of the above referenced grievance filed by the Union on your behalf. We have investigated and processed this grievance, and the Company continues to deny the grievance. After reviewing and analyzing the facts of this case and after reviewing the Employer's case against you, the Union has determined that we would not prevail in arbitration and the grievance.

Therefore, the Union has withdrawn the grievance and closed your case, and your discipline by the Company is final.

I regret that we were unable to prevail with your grievance.

Sincerely,

Chief Steward or President  
IUE-CWA Local \_\_\_\_\_

***Special Note: Make certain you keep a copy of the letter with the certified mail receipt attached for the local's records.***