

Grievance handling from Z to A was written by Pat A. Warren as a project while attending CWA Staff Training.

Sources of material and research were:

Successful Arbitration	Elkin/Hewitt
Dictionary of Arbitration and It's Terms	Seide
Grievance and Arbitration	F.I.U.
Discipline and Discharge	Diane Beeler
How to be a more effective Union Representative	Beeler/Kurshenbaum
Steward Training	CWA
CWA Stewards Manual	CWA
Grievance Guide	BNA
And many years of experiences as a Steward and Officer of CWA	

## Grievance Handling from Z to A by Pat A Warren

As a CWA Steward one of the most important jobs you will perform is grievance handling.

Today CWA members pay a minimum of two hours per month dues. For some members this equates to over \$288 a year, for this they expect and deserve professional, effective Union Representation.

The very heart of grievance handling is grievance preparation.

This booklet is prepared to assist you as a steward in handling of grievances from the point the employee is zapped by the Company until the grievance is resolved.

The difference between winning and losing an appeal in a grievance case may depend on the completeness and accuracy of the grievance investigation and how it is written and presented.

Before a grievance is filed a determination must be made as to whether there is a grievance

- Has the contract been violated?
- Has the Company acted unfairly?
- Has the worker's health or safety been jeopardized?
- Has any law been violated?

If the answer to any of these questions is yes, you have a grievance. If the answer to all four questions is no, most likely you don't have a grievance and the member should be told so. To file a grievance without grounds would only damage your credibility and the credibility of your Local.

Gripes do not become grievance by the wit, natural intelligence and aggressiveness of a Steward, nor can one rely safely on the presumed ineptness of the supervisor to win a case.

If you don't have grounds for a grievance, don't file. If in doubt: investigate.

When different people viewing the same situation come to different decisions, conflict occurs. This may result in a grievance. It is, therefore, of utmost importance that management and labor each examine the decision-making process carefully before coming to a decision.

The most important step shop steward should take is to investigate thoroughly allegations of employees who wish to file a grievance. If employees have no case, they should tell them so and give reasons. If stewards feel there is some evidence to support the grievance, they should file even though they may have doubts because they serve as an advocate for employees.

In the process of making a decision to file or not file a grievance, they should not rely on assumptions or opinions unless verified. Moreover, they should not permit their negative or positive feelings for the employee or supervisor to influence their decisions.

When handling a grievance, be sure that you:

- Distinguish between facts and allegations. And investigate every allegation thoroughly.
- Do not make a decision based upon assumptions.
- Check opinions for accuracy before making a decision.
- Distinguish between serious and minor offenses.
- Follow the concepts of corrective discipline.
- Distinguish between long-service employees and those recently employed.
- Are sure the penalty fits the offence.
- Are consistent. For similar offenses involving different employees, the penalties must be similar.

Assuming you now have a grievance, careful preparation is critically important. It is hard to overstate this point. Investigations of grievances and through advance preparation are always worthwhile to both the Union and the Company.

My 13 years experience in grievance handling and steward training lends me to the conclusion that there is a very real need for better preparation and presentation of grievances.

The chart on example 1 of Appendix A diagrams the procedure found in most CWA contracts.

The first step in the processing of a grievance is the interviewing of the aggrieved member by the steward. Have the aggrieved member fill out a 3G3O form (example 2 of appendix) stating in his words what happened and the facts as he knows them. The member should be told this form will not be given to the Company but will follow the grievance to higher levels of the grievance procedure should it be appealed.

No grievance should be filed without first getting the employee's signed statement.

The 3GO form statement should be true and factual stating the circumstance pertinent to the grievance not a fabrication.

During your interview with the grievant you should be a good listener. Remember the member is probably excited and upset; encourage the member to talk. This usually causes them to become more calm and rational.

Ask the five “W”’s – who, where, when, what, why. It’s a good idea to have yourself a form similar to the ones on example 3 and 4 Appendix A to fill out as you are interviewing the grievant.

Complete written records should be kept on each grievance processed.

We all know that the written word will remain intact longer than the spoken word. Writing the grievance will often, by itself, clarify the issue at hand. In addition, written grievances provide records for future contract negotiations, as well as further grievances.

Effective presentation of the facts and arguments must begin with thorough preparation.

Thorough preparation of grievances for presentation to management is of paramount importance. A steward must fully understand his case in order to communicate effectively to the Company, and understanding depends upon thorough preparation.

Talk to all witnesses to the incident, visit the work location – know the facts.

## Preparing to Present Your Case to Management

- Read all information presented to you by grievant and witnesses
- What goal do you wish to accomplish in this meeting – why is this grievance being filed?
- How might the issue be restated?
- What are the facts in this case?  
Which supports your position  
Which do not  
Which are irrelevant
- Should additional material be established to win the case?
- What opening statement should be made?
- Consider the significance of the following:  
Past practice  
Hearsay evidence  
Progressive discipline  
Corrective discipline  
Does the penalty fit the crime
- How will the case be presented
- What would the Company's side be and what facts support their case?
- Item by item consider what will be presented. How and by whom?
- What exhibits or witnesses might the Company present?
- What decision do you want from the Company?

The vast majority of grievances can and should be settled at the first step of the grievance procedure. Some may have to be appealed to higher levels. Including arbitration for settlement. If this is the case, complete and accurate records are necessary.

All grievance forms should be filled out complete and accurately, not to do so may cause the grievance to be forfeited.

### Meeting with Management

There is no law that says Union and Management must fight like cats and dogs. It does happen, of course, and it can get pretty rough. But today, more and more Unions and Companies are learning to get along peacefully with each other. All it takes is a sense of fairness and a willingness to cooperate.

- You should have a Positive not Defensive approach toward your problem solving.
- You are equal with management during Union-Company conferences—demand the same respect you give them. If you allow management to make you feel inferior you will be at a very decided disadvantage. If they make you feel uncomfortable in the office, request the meeting to be held elsewhere. Do not be intimidated
- Be a good listener—management must assume the burden of proof—it's up to them to prove their actions. Learn to ask WHY
- Before going into the meeting you should have listed the points you want to make. Agree on all the facts you can. Then set forth the exact issues about which you disagree
- If any unexpected problems arise, you have the right to recess the meeting and regroup
- State what your proposal is to resolve the grievance. Get a definite answer from management if possible. If you can't get a definite answer, you can always appeal
- If at any level of the grievance you are required to present forms to the Company, be sure they're prepared beforehand, filled out correctly and completely. It is imperative stewards know and abide with the time limits specified under

their grievance procedure, not to do so would forfeit the grievance.

Writing Grievance Records and Appeals

Material gathered during the investigation of the grievance—interviews, notes from meeting, records of conversations, minutes of the meeting, should become a part of the Local's grievance file. They can be used to check whether the Company has lived up to the settlement. Records of Past settlements may guide the handling of similar, future grievances. Thus, they build up valuable addition to the original contract, plus providing useful information for the next round of bargaining.

Even when the beginning and end of a grievance are not far apart, it's worth a written record, so file a short report even when you settle orally with management.

### Things to Consider After Meeting with Management on First Level of Grievance

If you have not resolved the problem to your satisfaction, now is the time to reflect what went wrong at the hearing. Examine both the content of your presentation and how you presented the case. Did you get across what you wanted the Company to understand?

Consider the following questions:

- What arguments were significant to the Company
- Did they agree in whole or in part with your side
- Where did your strategy err
- Which points do you disagree on
- What needs to be established to accomplish your goal
- Do you need further investigation
- Decide if the case should be appealed, what do you hope to accomplish

Grievances appealed to higher levels require thorough preparation. Ordinarily all the knowledge and understanding the Union Representative, who is assigned the case, has of the grievance is based upon evidence and arguments contained in your write-up.

The point to remember is don't confuse quantity with quality when you write a grievance. One solid fact is worth a dozen unsubstantial arguments.

The Union Representative's case will be based upon the record which he receives, and if the steward fails to present the evidence it won't get heard. However, do not present facts, contract language or testimony which are fabrication not supported by the basic information.

### Discipline and Discharge Grievances

A high percentage of the grievances a steward will handle concern discipline and discharge.

These are particularly important and calls for the best presentation and careful handling possible or a brother or sister Union members may lose a livelihood.

Discharge cases are often difficult cases with much at stake. For the Company after a decision has been made, failure to sustain the discharge may be costly. These call for through preparation and effective presentation.

Discipline and discharge cases turn primarily on question of proof rather than on argumentation. The importance of through and complete investigation of the facts cannot be exaggerated.

The purpose of discipline should not be to punish an employee of what they have don wrong, but to correct heir behavior sot hey will no longer do wrong.

In investigating discipline grievances, some of the things you should look for are:

- Did the grievant commit the infraction
- What are the circumstance surrounding it
- How have the parties viewed such conduct in the past
- Does the punishment fit the crime
- Have employee's guilty of the same offences been treated equally

Many arbitrators use these seven questions in weighing cases:

- Did the Company give to the employee forewarning of the possible or probable disciplinary consequences of the employee's conduct
- Was the Company rule or managerial order reasonably related to (a) the orderly efficient and safe operation of the Company's business and (b) the performance that the Company might properly expect of the employee
- Did the Company, before administering discipline to an employee, make an effort to discover whether the employee did in fact violate or disobey a rule or order of management
- Was the Company's investigation conducted fairly and objectively
- At the investigation, did the Company "Judge" obtain substantial and compelling evidence of proof that the employee was guilty as charged
- Has the Company applied its rules, orders, and penalties evenhandedly and without discrimination to all employees
- Was the degree of discipline administered by the Company in a particular case reasonably related to (a) the seriousness of the employee's proven offense and (b) the record of the employee in his service with the Company

### Arbitration

Arbitration is the final step in most grievance procedures where both parties have agreed to settle disputes by calling in an impartial third party whose decision is final and binding

Only the most difficult grievances are likely to be arbitrated. Arbitration is costly and time consuming for the Union. The Union simply cannot afford to arbitrate every grievance, not only because of cost, but a lost case reduces the credibility of the Union. An arbitrators ruling on past lost cases are weighed heavily by arbitrators on similar cases.

The arbitrator's decision is based on the record. It is not based on his expert knowledge, even if he has a little. It is not based on any independent studies made on his own initiative when the hearing is concluded. It is not based upon his theories of sound human relations or good personnel administration. It is based upon the record which he receives, and if the party doesn't produce the evidence, he won't get the decision.

In order to win in arbitration, the grievance would have to have been properly analyzed, investigated, written and presented from the onset from Z to A.

Member comes to Steward with grievance



Steward obtains correct name, department, address, phone number, job title, seniority date, plus pay rate of grievant