

INVESTIGATING AND WRITING GRIEVANCES

Total Time—2 hours

Learning Goals

- Review the definition of and types of grievances.
- Practice resolving problems informally.
- Understand how to effectively investigate grievances.
- Learn how to write grievances.

Sections—Time

- I. Welcome, Review Goals of the Training—5 minutes
- II. What is a Grievance?—10 minutes
- III. Steps in the Grievance Process—5 minutes
- IV. Resolving Problems Informally—30 minutes
- V. Investigating Grievances—30 minutes
- VI. Using Open-Ended Questions—10 minutes
- VII. Writing Grievances—20 minutes
- VIII. Meeting with Management— 5 minutes
- IX. Wrap-Up—5 minutes

Materials Needed

Flip Chart, Markers, Tape
Five different colors of post-it notes
Copies of the Steward Handbook

Handouts/Worksheets

Resolving Grievances Informally
Grievance Fact Sheet
Using Open-Ended Questions
Sample Written Grievances
Grievance Handling Checklist

NOTES

I. Goals for the Training—5 mins

Post and review the goals for the training:

- Review the definition of and types of grievances.
- Practice resolving problems informally.
- Understand how to effectively investigate grievances.
- Learn how to write grievances.

II. What is a Grievance?—10 mins



Ask “what is a grievance?” Chart the responses.

Explain that the items listed can be categorized as violations of: (chart these categories).

- The contract
- Laws
- Company policy
- Past practice

Define each of the categories:

- **The contract.** Violations of language written in the collective bargaining agreement.
- **Laws.** Federal, state, or municipal laws including wages and hours, fair labor standards, equal opportunity, and civil rights. May also include “equal treatment”—laid out by laws and agencies such as the Americans with Disabilities Act, the Equal Employment Opportunity Commission and other widely accepted understandings of unequal treatment.
- **Company policy.** The employer’s personnel policies, work rules or administrative procedures.



- **Past practice.** Something that regularly, previously occurred. The right to grieve past practice violations may be affected by what specific contract language. Explain that there is more information pertaining to past practice grievances in the Steward Handbook.

Module Icon Key



Flip Chart



Ideas



In Handbook



Worksheet/
Handout

INVESTIGATING AND WRITING GRIEVANCES

NOTES

Ask for a volunteer to find and read the definition of a grievance in their contract (if participants have different contracts, ask for a few volunteers).

Explain that most grievances fall into two categories:

- Disciplinary grievances
- Contract violation grievances



Explain that regardless of which type of problem members are facing, we need to follow the chart in the Steward Handbook, A Steward's Guide to Problem Solving.

Observe that even when we reach the bottom right box on the chart, where it reads "Tell the worker that there is nothing more we can do at this time," it still might be possible to raise the issue during future contract negotiations.

Ask "what if the issue is truly not a workplace problem?" Note that, in some cases, our union may be able to refer members to a union-connected community services office that may be able to provide appropriate assistance. Suggest that the participants check with their union representatives in such situations.



Point out that additional information on what constitutes a grievance can be found in the Steward Handbook.

III. Steps in the Grievance Process—5 mins

Explain that most grievance procedures consist of a series of meetings or "steps" designed to give our union an opportunity to contest some decision or action taken by management (or for the company to defend its actions).

Usually, the first step is a meeting between the grievant and the grievant's immediate supervisor. In some contracts, the first step is "informal," meaning that the grievance does not have to be in writing. The last step in the process is almost always arbitration. Between the first step and arbitration, most contracts have one or more intermediate steps.

Generally, each step moves the dispute through the levels of management. If the second step is a meeting with the department head, for example, the third step might be a meeting with the company's administrator. Although the first step might not even be in writing, in almost all contracts, the grievance must be in writing after that.

Almost every contract outlines time limits for filing grievances, for management's response and for taking grievances from one step to the next.



A steward must know the time limits and be especially careful to meet deadlines. Failure to meet contractual time limits usually means that a

grievance can't be advanced to the next step, even if the situation is a very blatant contract violation.

Ask the participants to find the language in their contract(s) that pertains to step deadlines.

IV. Resolving Problems Informally—30 mins

Ask for examples of times when the participants (or others they know) have resolved problems informally (without filing written grievances) by talking with supervisors. Ask what went well in these situations and what could have been done differently.



Distribute and review the Resolving Grievances Informally Handout. Ask if the participants have any other tips or additions to the handout.

Explain that we're now going to practice (role-play) solving problems informally.



Read the following scenario (or another, based on your knowledge of the participants' worksites) and pre-chart the highlights for people to reference during the role-play exercise:

- Elsa was reprimanded by her supervisor, and given disciplinary points, for being late.
- She'd left her house in plenty of time, but the bus she takes to get to work was ten minutes late (it's usually on time).
- When she told her supervisor this, he said that she should plan better, and to be at the bus stop even earlier, in time for an earlier bus (so that even if it was late, she'd still be on time).
- Elsa explained that this isn't possible, as she needs to take her child to his bus right before she gets on hers.
- Elsa would like to have the disciplinary points removed.

Divide the participants into groups of three and ask them to select one person to play themselves (a steward), one to play Elsa and the other her supervisor. Explain that they'll have five minutes to prepare (the steward and Elsa) and then five minutes to role-play the conversation. Inform the participants when it's time to move through the different stages of the exercise.

Bring everyone back together to de-brief their experience. Were they able to resolve the issue informally (why/why not)? What did they do well? What might they do differently?



Observe that many grievances can be resolved informally and that this is a key role for stewards in our union.

V. Investigating Grievances—30 mins

Explain that even when we try our best, we still may not be able to solve problems informally.

Observe that while we need to try to gather as many facts as we can before any meeting with management, thorough investigations are most critical when preparing for a written grievance.



Ask if the participants have heard of the “5 W’s”. Chart the responses (who, what, when, where, why).

Break the participants into five groups and give each a stack of post-it notes (if possible, give the groups different colored post-its). Assign each group a W: Who, What, When, Where, Why.



Pre-chart a scenario of a potential grievance that fits well for the stewards in the training. Use one of these examples or write your own:

Cesar is assigned to light duty following a documented injury. While on light duty, he received a write up for poor job performance. Cesar has told his steward that he wants to file a grievance. What information do you need?

Cindy’s supervisor yelled at her while she was on the ham line. She left the line in tears. On her way out the door, she told the steward, “I want to file a grievance.” What information do you need?



Using the scenario on the chart, ask each group to brainstorm as many questions as they can for their “W”. Give the groups ten minutes for this exercise.

On a separate flip chart, write Who, What, When, Where, Why in one vertical column, on the left side of the flipchart.

Ask a representative from each group to post their questions on the flip chart next to the W they were assigned. Review and discuss the post-it notes with the participants.

Explain that, in addition to the 5 Ws, there is also an “R” that’s very important. The “R”, for remedy, represents how the grievant and other members want the problem to be settled. We can conduct a great investigation, but if we don’t know what the worker’s looking for, we won’t be able to proceed.

Explain the importance of taking good notes when investigating a grievance or with any of our other work as stewards. Ask what tools people currently use to take notes and suggest that they keep a notebook and pen with them at work.



Distribute and review the Grievance Fact Sheet handout.

Ask if there’s anything else that the participants would include during their investigations.



Explain that this handout is also in the Steward Handbook.

VI. Open-Ended Questions—10 mins

Observe that most of the questions that the groups brainstormed were open-ended, meaning that they cannot be answered with a yes or no.



Ask why open-ended questions are important when investigating grievances. If not mentioned, include:

- Open-ended questions allow for more details
- People may say yes or no based on what they think you'd like to hear

Distribute and review the Using Open-Ended Questions Handout.



VII. Writing Grievances—20 mins

Explain that well written grievances are often very brief—covering three basic points: (Pre-chart these.)



- What happened
- Why the problem is a grievance
- What we want management to do to about it.

Pre-chart the following example of a written grievance:



DATE: May 2, 2013

FROM: A. Union Steward

TO: Manny Manager

On or about May 1, 2013, management unjustly reprimanded Ms. Jane Hardworker.

This violates Article IV, Section 9, and all other relevant Articles of the contract.

The Union demands that management immediately revoke the reprimand, remove all references to the discipline from Ms. Hardworker's record, and make her whole in every other way.

Ask what the participants notice about the words used in this example.

If not mentioned, note the importance of using catchall phrases (i.e. “all other relevant Articles” and “make her whole in every other way”) to insure that all articles of the contract and possible remedies are included.

Distribute and review the Sample Written Grievances Handout.



If time allows, prior to distributing the handout, chart one or more of the scenarios on the handout and ask the participants to practice writing them up as grievances (in pairs or small groups).

VIII. Meeting with Management—5 mins

Ask if anyone's met with management as part of a grievance process. Ask them to describe their experience.

Ask what tips people have for such meetings. Stress the importance of preparation—both for the steward and for the grievant.



Explain that there is more information on meeting with management—including what to do if the employer says “no,” in the Steward Handbook.

IX. Wrap-Up—5 mins



Distribute and review the Grievance Handling Checklist handout.

Point out that the checklist is also in the Steward Handbook.



HANDOUT: RESOLVING PROBLEMS INFORMALLY

BEFORE AN INFORMAL DISCUSSION WITH MANAGEMENT:

- Find out what the involved member(s) want and what they would settle for.
- Explain to the member(s) involved that this is a chance to work things out before a grievance is written.
- Anticipate what management is likely to say, and think about how to respond.
- Decide what the member(s) involved will say during the discussion and explain that it's often best for the steward to do most of the talking.
- Based on how the supervisor has acted in the past, determine what seems best in terms of your approach with management.

AT THE INFORMAL DISCUSSION:

- Set the right tone for a calm, non-confrontational conversation.
- Explain that your goal is to see if the issue can be resolved informally (without writing a grievance).
- Remind management that by resolving issues early, they can avoid further employee dissatisfaction.
- If management issues discipline, ask them to explain why.
- Listen.
- If necessary, caucus with the member(s) privately, before continuing the discussion.
- In some cases, ask the member(s) to explain what happened and/or their feelings about the case.
- Point out the strengths of our union's position and weaknesses in management's.

DETERMINE IF MANAGEMENT IS OPEN TO A SETTLEMENT. IF YES:

- Try to find out what settlements the supervisor might agree to.
- Don't make any agreements without talking with the impacted member(s) first and getting their approval.
- When you reach a settlement, make sure that everyone affected understands the agreement.
- Put the settlement in writing if it is complicated or if it will be helpful (to reference the agreement) in the future.

IF MANAGEMENT IS NOT OPEN TO A SETTLEMENT:

- Don't keep arguing.
- Learn as much as you can about management's position.
- Take notes after the meeting, especially about management's version of what occurred.
- Make sure that you understand management's position.
- Inform management that our union may file a grievance and end the meeting.

Grievance Fact Sheet

(This sheet is not intended to go to management. It is only for our union's investigation of grievances. It should be kept in the union's files.)

Grievant Name _____

Department _____

Job _____

Date of hire _____

Phone _____

WHO (workers) is involved? _____

WHO from management is involved? _____

WHAT happened? (If there was an incident, **WHERE**, **WHEN**, and **WHO** saw it?) _____

WHAT else is important to this case? (Grievant's record, other history of the problem, questions of "just cause", management's position, etc.?)

WHY is this a grievance? (contract violation, past practice, company rules, laws?) _____

WHAT do we want the company to do to make it right? _____

Steward _____

Date _____

HANDOUT: USING OPEN-ENDED QUESTIONS

GETTING STARTED

"Tell me what happened."

"What do you think management will say happened?"

"What do you have in writing about what happened?"

"Why do you think this happened?"

CLARIFYING

"How do you know that?"

"Can you give me an example of what you mean?"

"Why did you do that?"

GETTING THE SPECIFICS

"What time was it when that happened?" "How do you know?"

"How many times did it happen?"

"What were the exact words used?"

"Tell me the order in which things happened."

"Who saw what happened?" "Who else should I talk to?"

PULLING IT TOGETHER

"What else should I know?"

"What do you want?" "What will resolve this?"

"Here's what I heard so far, can you tell me what I left out?"

HANDOUT: SAMPLE WRITTEN GRIEVANCES

WHAT HAPPENED

Kevin Jones, produce coordinator at Market Fresh, worked 45 hours last week but received only 40 hours pay.

HOW IT WAS WRITTEN UP

"Kevin Jones received only 40 hours pay for the 45 hours he worked during the week of July 7. This violates Article 9, Hours and Overtime, and all other relevant articles of the contract. Kevin Jones should be made whole including, but not limited to, being paid for five hours at time and a half."

WHAT HAPPENED

Without any notification from management, the Company increased the chain speed on the picnic ham line in the Pork Department without adding extra crew.

HOW IT WAS WRITTEN UP

"The union grieves the increased chain speeds in the Pork Department on October 28 and October 30 when the speeds ran over the established speed/crew ratio. This action violates Article XVII, Workloads; all relevant articles of the contract as well as the Company's written health and safety policy; the Company's past practice of maintaining correct chain speed/crew ratios; and the State and Federal OSHA guidelines. Management should make all affected employees whole including, but not limited to, compensation for the additional workload, and the Company should follow established health and safety requirements."

HANDOUT: GRIEVANCE HANDLING CHECKLIST

A MEMBER WITH A POTENTIAL GRIEVANCE

- Talk to member as soon as possible.
- Let member tell the story.
- Listen attentively. Do not interrupt. Create a positive and sympathetic atmosphere.
- Take notes.
- When member finishes the story, ask questions.
- Get details, names of witnesses and types of documents the member believes will help with the grievance.
- Discuss what member wants. Explain the possible and realistic remedies. Inform members of strengths and weaknesses of the grievance.
- Recap your understanding about what the grievance is and the settlement sought.

FILE GRIEVANCE

- Check the contract's filing time limit.
- Write grievance citing as many contract provisions as possible and describing facts as generally as possible.
- Within the contract's time limit, file the grievance.

INVESTIGATE THE GRIEVANCE

- Investigate with an open mind. Do not personalize issues or prejudge the grievance's merits. Maintain an objective attitude.
- Review relevant contract provisions and company policies or rules.
- Interview the member and the member's witnesses. Then, interview the company's witnesses. Take notes.
- In past practice cases, identify as many examples of the practice as possible. Obtain first-hand accounts.
- Request all relevant information and documents from company.

WHILE PROCESSING THE GRIEVANCE

- Answer the member's calls and questions.
- Involve the member as much as possible in grievance meetings.
- Regularly inform the member of the status of the grievance, including what occurred at grievance meetings and of upcoming grievance steps. Do so as soon as possible.
- Coordinate with union representatives.
- Continually update the member on what is happening with the grievance.