

HOW TO DEAL WITH THE USE, MISUSE, AND ABUSE OF UNION GRIEVANCES

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Possible Union Goals/Motives in Filing a Grievance

1. To resolve a legitimate CBA dispute
2. To do *something* to appease its local/employee
3. To hassle administrators
4. To challenge negotiated language they don't like
5. To challenge a statutory dispute in 2 forums



Multiple teachers damage District-issued laptops and have to reimburse. Union admits there is no relevant CBA language, but teachers are mad, so Union files grievance.

A. Defend the grievance through arbitration

B. Refuse to arbitrate, and risk a ULP charge

C. Negotiate a settlement

D. Cave for now and try to address issue in next round of negotiations



Teachers don't like the way an administration is conducting evaluations and files 3 separate grievances, all attacking evaluation issues from various angles.

A. Defend the grievances through arbitration

B. Negotiate individual settlements or a global settlement

C. Check whether evaluation issues are even in CBA or are subject to bargaining

D. Change the way you conduct teacher evaluations



Staff attire policy was negotiated and included in CBA. Individual school has long-standing additional guidance on implementation of that provision. One staff member—who happens to be a union leader—flaunts the policy and guidance by wearing jeans whenever and wherever she pleases.

A. Defend the grievance through arbitration

B. Negotiate stronger, clearer language into the CBA

C. Look for procedural deficiencies in the grievance

D. Modify the policy or their enforcement of it



Teacher is RIF'd. He files a lawsuit in court and files a grievance. CBA reads, in relevant part: “Reductions in force shall comply with the *School Code*.”

A. Defend the allegations in both forums

B. Try to have one or the other dismissed so you're only fighting in one forum

C. Argue that the CBA didn't intend to incorporate the *School Code* by reference, so claim is inarbitrable

D. Negotiate a global settlement

Grievances & Arbitration in General

WHEN DOES A GRIEVANCE ARISE?

1. Violation, misinterpretation, or misapplication of the terms of the CBA
2. Sometimes extends to violations of Board policies or “other employment disputes”
3. Anything in CBA is grievable unless noted

Watch out for:

1. Definition and calculation of “days”
2. Who can advance to next step, employee or union?
3. Bypassing steps

“DAYS”



“All time limits consist of teacher attendance days, except that when a grievance is submitted less than ten (10) days before the closing of the current school term, time limits shall consist of all weekdays.”

TRUE OR FALSE?



“It is better to have as many steps in the grievance procedure as possible.”

“It is generally a good practice to prolong the grievance procedure and insist on every step being followed.”

“It is a good idea to bypass a step if the opportunity arises.”



The Importance of Contract Language

1. Fewer grievances
2. Resolution of grievances
3. Easier and more accurate implementation
4. Role of attorneys



“When a teacher is in a cycle year, the below minimum conferencing schedule will be followed. The descriptions provided below for each conference are for illustrative purposes only and are to provide guidance for what is to take place during the conference.

Initial Conference (a one-time process to be held as early in the year as possible)

(1) To build mutual trust between evaluator and teacher, ...”



“Upon return, the teacher(s) shall be **returned to his/her former position**, seniority permitting, or if the position no longer exists, to a mutually agreed upon position. Such return rights shall be applicable for teachers returning at the beginning of the school year following the year in which the leave commences. If the leave extends an additional school year, the teacher shall be **returned to a comparable position** upon his/her return to full-time employment. **Comparable position shall mean** a position at the same level (elementary or middle school) and the same grade for elementary or subject area assignment for middle school.”

1. Clarity
2. Certainty
3. Consistency
4. Repetition
5. Accepted

OVERTIME PROVISION



“Overtime shall be paid for all time worked in excess of 8 hours in a day or in excess of 40 hours in any work week...

Vacation, holidays, and official union business shall count in calculation of overtime.”



Grievance Meetings & Responses

1. Timelines set in CBA
2. Location – usually flexible
3. Attendees:
 - Grievant
 - Union rep
 - Relevant administrator
 - Other witnesses, if needed
 - Attorney?

GRIEVANCE MEETINGS – WHAT?

- Meeting details (date, time, location, attendees)?
- Which step?
- Who is grievant?
- Date grieved issue occurred?
- Date grievant knew?
- Date grievance filed?
- Date response is due?
- Date and content of prior District responses, if any?
- Specific provisions allegedly violated?
- Examples of past practice?
- Others similarly situated?
- Remedy requested?

1. Intro: step, summary of grievance meeting
2. Allegations, CBA provisions at issue, summary of facts giving rise to alleged violation
3. Whether or not a violation, etc.
4. Detailed response to allegations, w/ reasons
5. Other defenses (e.g., inarbitrability, untimeliness)

Arbitration

1. Is your attorney representing the District at arbitration?
2. Should you refuse to arbitrate?
3. How do you initiate arbitration and when?
4. Are you barred from producing evidence that hasn't been disclosed?

- Compile & review grievance documentation
- Prep witnesses and documents
- Study case from opponent's POV

1. Opening Statements
2. Presentation of evidence & cross-examination
(initiating party first, except in dismissal proceedings)
3. Closing Arguments or Post-Hearing Briefs
4. Close of Hearing

- Timelines for issuing award
- Final, binding award
- Refusal to comply with award



“**E.** Additional school duties shall consist of study hall, homeroom, hall duty, tutorial duty, cafeteria duty...

F. All teachers shall be given at least one duty-free preparation period, unless an emergency situation during the teaching day necessitates an immediate coverage.”



“The parties agree that, effective 2016-2017, the Board will implement a monthly release time. The release time will be in the form of an early dismissal, unless there is overwhelming opposition from the community.”

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