

CHECKLIST FOR HANDLING EMPLOYEE COMPLAINTS:

PREREQUISITES:

1. Know the contract.
2. Make sure that meetings with employees to handle complaints are held in accordance with any contract provisions that regulate the time and/or location for such meetings.
3. Develop good listening and note taking skills.
4. Be prepared to spend the time to get the evidence and testimony to support your case and to refute management's case.
5. Treat all employees fairly and consistently.
6. Do not make judgments about the case to the employee or anyone else until you get the facts.
7. Keep good records of all transactions, oral and written, that occur from the time a complaint is brought to you until the case is resolved in the grievance procedure or in arbitration.
8. Know who, when and how to ask for help.

INTERVIEW:

1. Let the employee tell his/her story without interruption. Take notes. When the employee has finished, ask, "Is there anything else you would like to add?"
2. Review the employee's description of the case with him/her to make sure you have all the facts. Make sure you get the answers to the questions who, what, when, where, why and how.
3. Ask the employee for the names, addresses and telephone numbers of any witnesses. Then ask the employee to tell you what he/she thinks each witness knows about the case. Record this information. Try to clarify any uncertainties about what a witness is supposed to know.
4. Ask the employee to give you all of the evidence he/she has concerning the case. Make copies so that no information is lost.
5. Before the employee leaves, check one more time to make sure you have all the facts, names of witnesses and evidence.

REVIEW:

1. Refer to the grievance procedure in the contract to make sure the issue the employee has raised is defined as a proper subject of a grievance. If you are uncertain, ask for

help. If the issue is not a proper subject of a grievance, the best thing to do is to tell the employee and explain how this affects his/her case.

2. Check to make sure that the procedural requirements set forth in the grievance procedure have been complied with. Key considerations include:
 - Is the complaint timely?
 - Who should the employee and/or union representative meet with at the first step?
 - What information must be presented by both parties at the first step?
3. Review the contract provisions alleged to have been violated to make sure they fit the issue described by the employee and that no provisions have been left out.
4. Review the evidence. Go through all the documents the employee has given you. Make sure everything is dated and signed. Carefully check the content of each document to find out what it actually states, if this information pertains to the case and is timely. Check for inconsistencies in the documents and between the documents and the information the employee has given you. Make a list of all inconsistencies. Check to see if the documents contain the names of other potential witnesses that the employee did not mention and/or that might be called by management. Make a list of these persons and find out how to contact them.
5. Find out if there is any other evidence, e.g., rules and regulations, past grievances and arbitration decisions, past practice, documents in the employee's personnel file that he/she may not have, etc., that have a bearing on the case as viewed by both the union and the employer. Request documents from the employer as appropriate, in a timely fashion and in writing.
6. Match the evidence you have with the list of potential witnesses. Make a list of questions to ask each witness when you interview them. Be sure to include at the end of each list the questions, "Is there anything else you would like to add?" and "Do you know of any other witnesses?"
7. Interview witnesses. Carefully check the following things as you consider what witnesses state that they know about the case:
 - Does the witness have direct personal knowledge about what happened or is his/her knowledge based only on hearsay (i.e., second hand)?

- Is the witness credible (i.e., able to give a reasonable explanation about the events, and an honest, accurate accounting even if this means revealing negative things about his/her record/conduct)?
- Does the witness' statement confirm what the employee has said, or are there differences/inconsistencies?
- Does the witness have any reason to be less than truthful in stating what he/she knows about the case?
- If there is more than one witness who knows about a given event, note which ones would be best able to present clear testimony under the pressure of examination and cross-examination at an arbitration hearing.
- Verify name, address, telephone, work shift (important for ESP) and location.

ANALYSIS:

1. After you have thoroughly reviewed all of these matters, you may find that a complaint is not grievable/arbitrable or that the case lacks merit. One way to proceed is to explain your findings to the employee and ask if there is any additional information he/she has that might have a bearing on the case. If not, you should be guided by local or international union policy and perhaps by counsel, in determining how to handle this situation. Grievances lacking merit should be screened out to conserve a union's resources for other cases. This can be done by committee in consultation with an international representative or counsel. This determination should be made with care because unions have a legal duty to fairly represent all employees in the bargaining unit whether or not they are union members.
2. Can you account for any inconsistencies in the case and, if so, how?
3. Are there any mitigating circumstances that could explain the employee's behavior and thus lessen or remove any disciplinary action?
4. Does the evidence and testimony the union has demonstrate one or all of the following:
 - Disparate treatment;
 - Arbitrary and capricious action; and/or Discrimination.
5. Are there any past practices which pertain to the case and, if so, how?
6. Does the evidence and testimony the union has support the remedy requested or should some modification be made in that remedy?
7. Do you have hard evidence and testimony based upon direct personal knowledge to support your case or is your case largely based upon circumstantial evidence?

8. Is the remedy requested reasonable or is it nonsensical, outside the scope of the employer's or of an arbitrator's authority to grant? Would it be impossible to implement even if granted, etc.?
9. Is the contract provision(s) you are relying upon modified by more specific language in the provision or elsewhere in the contract?
10. Where rules and regulations are concerned, have they been posted and given to employees, are they reasonable, and have they been fairly, consistently and equitably enforced?
11. What has been the outcome of other similarly situated cases? Does this information help or hurt your case? How?
12. Once you have reviewed and analyzed all these considerations with respect to the union case, prepare a summary of what you think the employer's response will be and determine if you have a sound rebuttal for each of the points the employer could raise.

FILING:

Be sure to properly and timely complete the grievance form. This includes such items as: names; dates; signatures; clear and accurate statement of the complaint; contract clauses alleged to have been violated; and remedy requested.

This is a checklist, not a magic wand. It highlights key points to consider in handling employee complaints. This task is time consuming and requires the application of a number of skills. There are no real short cuts. If you take them, an employer will usually find them at some stage in the grievance procedure or in arbitration. The result may be very damaging involving not only loss of a case that might have been won, but also expenditures of time, other resources and credibility that a union can ill afford.