



Duty of Fair Representation (DFR)

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The “Duty of Fair Representation” can be defined as the Union’s obligation to serve the interests of the employees it represents without discrimination or hostility and with complete good faith and honesty. **A breach of this duty occurs only when the union acts in an arbitrary, discriminatory or bad faith manner.** The United States Supreme Court has recognized that unions must balance collective and individual concerns when deciding whether to pursue a grievance and have generally afforded unions wide discretion to act in what they perceive to be the employees’ best interest:

DFR (cont'd)

1. **Unions need not grieve every case; we have the right and responsibility to screen grievances and proceed with those we believe to be meritorious.** While this is an ongoing process throughout the grievance procedure, we formally screen grievances upon receipt of Step III decisions. Employees should receive every benefit of the doubt, especially through the first three steps of the grievance procedure. When we review a case, we cannot ignore a meritorious case or decide to process a case in a perfunctory fashion.
2. **Courts have generally reversed union decisions on whether or not to arbitrate only when the union shows reckless disregard for an employee's rights or acts in an arbitrary fashion.** A union's conduct is deemed arbitrary only if it can be fairly characterized as so far outside a wide range of reasonableness that it is wholly irrational, or without a rational basis or explanation. This wide range of reasonableness gives the union room to make discretionary decisions and choices, even if those judgments are ultimately wrong. Errors made during the grievance process, therefore, do not necessarily constitute a breach of the duty of fair representation.

DFR (cont'd)

- 1) **The union's duty includes the investigation and preparation of an employee's grievance, the thoroughness of which depends on the specific case.** We should be held to a higher standard in conduct cases involving termination, given the severe nature of the sanction.
- 2) **The merits of a grievance are important in reviewing the sufficiency of the union's representation.** The following questions are offered as a guide to determine if a rational judgment has been made on the merits of a case:
 - Who made the decision on a case, who had input and what is their expertise regarding the issue at hand.
 - What was the level of awareness of decisions in similar cases and other documented evidence (official personnel files, for example)?
 - Would further investigation result in the development of other evidentiary matters which could cause the union to make a different determination with respect to the grievance?
 - Did the decision making process include personal communication with the grievant, to the extent possible?
 - Did the union depart from its established procedure for handling grievances