

THE BASICS TO BEING A STRONG LOCAL STEWARD

1) GET TO KNOW YOUR CONTRACTS!

As a steward, you must understand the importance of enforcing your contracts! When you are approached with a question, your first reaction should always be to look in your contract to determine whether there is language to answer that question.

CONTRACT LAW PRINCIPLES:

- The purpose of contract interpretation is to first look for plain language and second to ascertain the intent of the parties. If management is not following the contract language, a grievance is the appropriate action to take.
- In a conflict between general and specific language, the specific language will generally control.
- An agreement should be construed as a whole.

WHAT IS A GRIEVANCE?

A grievance arises primarily when the employer fails to abide by the terms of the Collective Bargaining Agreement (“Contract”). Grievances are NOT filed against fellow employees. Determine whether there is a violation of the Contract?

1) Determine whether there is a violation of the Contract?

- a) What specific Article (s)?
- b) Are there any other applicable Articles?
- c) Are there Articles that permit the activity?
- d) Is this a violation of Federal or State law (is there a statutory reference in the contract)?
- e) All Grievances should include a “make whole” remedy for the violation.

2) Is there a past practice?

To demonstrate a past practice:

- a) The contract language must be ambiguous.
- b) A past practice must be clear and consistent.
- c) The practice must be repeated over time.
- d) The practice must be mutually accepted by the parties.
- e) Have either party tried to unsuccessfully bargain over the practice during negotiations?

3) Is it a violation of Regulation, Policy or Procedure? See the State of Vermont Personnel Policies and Procedures. (<http://humanresources.vermont.gov/labor-relations/manual>)

After answering each of the questions above, the Steward must determine whether a grievance exists. If the violation is specifically addressed in the contract, is a violation of a statute referenced in the contract, contradicts an established past practice or violates a personnel policy or procedure, it constitutes a grievance.

2) STEWARD CHECKLIST FOR GRIEVANCE HANDLING:

Get the Facts!

- Listen carefully to what the member is telling you.

- Take good notes.
- Determine the 5 W's: WHO, WHAT, WHERE, WHEN and were there WITNESSES?
- Find out when the grievance occurred.
- What remedy would make the grievance whole?
- You have **15 work days** to file a grievance from the date upon which the employee could have reasonably been aware of the occurrence of the matter which gave rise to the complaint.

A) Preparing your Grievance:

- What Contract Article(s), Policy, Procedure or Past Practice was violated?
- If you are not sure, check with another Steward or your Union Representative.
- Go over the case with the Grievant, make sure they understand what remedy would be reasonable, given the facts of the case.

B) Presenting the Grievance:

- Outline your grievance presentation, chronological history, important points.
- Maintain your composure.
- Anticipate the position/response of the Supervisor; force them to answer "Why"?
- Make sure that all parties understand the remedy you are requesting.
- Go over contractual timelines to ensure the parties understand any deadlines to receive a decision from the Supervisor/Hearing Officer.
- When you receive a decision, be sure to consult with your Union Representative immediately to ensure an appeal to the next step of the Grievance process if filed in a timely manner and in compliance with the contractual deadlines.
- There is contract language stating that Step 1 Grievances may be resolved without setting precedent for either party. This encourages creative settlement exploration without fear of negatively impacting either party.

C) If the issue is not grievable, try:

- Requesting a meeting with the supervisor to try to resolve this issue.
- Contact the VSEA organizing department to determine whether an organizing campaign makes sense.
- Consult with your union representative.

3) STEWARD ROLE - REPRESENTATION IN EMPLOYMENT INVESTIGATIONS:

Does the State have a right to do an internal employment investigation?

Yes. The State may require a member to attend an internal investigative meeting and answer questions truthfully about misconduct allegations.

Does the employee have a right to representation?

Yes. The member has a right to VSEA representation at any meeting where the member is required to give oral or written statements on an issue that could lead to him/her receiving discipline. Under State-VSEA contracts, the employer must notify the member of that right.

Steps to preparing for an investigative meeting:

Intake:

1. Meet with the member, in person if possible. Get as many facts from member as possible in preparation for the meeting. Does the member know what this is about? Who? What? When? Where? Etc.
2. Are these allegations, if proven, likely to result in a suspension without pay, termination, or potential criminal charges?

If **yes**: Stop. Call your designated Union Representative.

If you **don't know**: Call your designated Union Representative.

If **no**: Proceed to the next steps, below.

Preparing for the Investigative meeting:

1. Advise member to answer questions truthfully, and answer only what is asked. Do not volunteer statements, which are not directly responding to a question.
2. Take notes during the investigative meeting.
3. Object to questions beyond scope of member's job duties, or which do not seem relevant to the allegations.
4. Ask investigator to withdraw or rephrase objectionable question. **BUT, do not direct member not to answer question**, as this can lead to further discipline or dismissal.

Put your objection "on the record," then allow member to answer. At close of meeting: Clarify with employer the timeframe for decision.

5. Debrief with member following meeting.
6. Follow-up with member and designated Union Representative as soon as possible once you are notified of a disciplinary decision. There are contractual deadlines for filing a grievance if excessive discipline is imposed on the employee.

Documenting the Investigative meeting:

Investigation Meeting Date:

Steward Name:

Employee Name:

Investigator Name:

What are the allegations?

Notes from the Investigation Meeting:

Please Forward a Copy of your Step I grievance or notes to your Union Representative at VSEA HQ at: 155 State Street Montpelier, VT 05601. You may also contact your union representative with any questions at 802-223-5247.