

# Attendance Discipline Grievance Template

Discipline for the charge of “*Irregular attendance*” or “*Failure to Meet Attendance Requirements*” are the most common charges cited in attendance discipline cases. The task of the Steward is to challenge the basis for the discipline. In order to be successful the Union must establish a case file that refutes the allegations and/or the basis management relies on for the issuance of the discipline. That is the mission of the Union in all discipline cases.

In order to achieve that goal, the Union should obtain all of the following documentation. Note that not all of the documentation will be included in the final case file. Only those documents which support the Union argument should be included in the final package.

- Discipline Letter
- Copies of all prior discipline cited
- Article 16 Just Cause Principles
- Applicable excerpts from Articles 10, 16, 19 and ELRM Sections 513 & 665
- M – 39, Section 115
- PS Form 3971 for all cited absences
- PS Form 3972 for previous 2 years
- ERMS *Employee Key Indicator Report* for current and previous year.
- Medical documentation submitted for any cited absence
- PDI notes from Steward / Supervisor
- Documentation of attendance reviews / discussions
- Detailed statement from Steward in re PDI Q & A
- Detailed statement from grievant explaining cited absences
- Documentation of installation absence percentage for current and prior years.
- Restricted sick leave list / ERMS Deems Desirable list\*
- EAP referral record\*
- Local Agreement\*
- FMLA documentation\*

(\* If necessary / applicable.)

All of the above needs to be requested and obtained **before** meeting at Informal A. Requests for **any** documentation **must** be in writing and copies included in the case file. Denied or delayed requests for documentation, interviews or Stewards time should generate a separate Article 17 / 31 grievances.

As a Steward you have specific rights to information, to do your job, within Articles 17 and 31 but they are worthless if you do not compel management to honor them.

As with any grievance involving discipline the PDI meeting is the crucial foundation for going forward. That is where positions are exchanged and discussed, essentially cards laid out. It is also where the grievance can be quickly resolved.

It is imperative that the Steward take precise notes of all questions asked and answered at the PDI. At this time the Steward can put management on the defensive by demanding a definition of what constitutes “*irregular attendance*” or exactly what the “*attendance requirements*” are. The dirty little secret is that management can’t or won’t provide a precise definition. Because of that you will be able to make the reasonable argument that “*If they can’t even define what irregular is or what the requirements are....how is the employee to know what is unacceptable attendance*”.

Of course, that argument is only possible if the attendance record of the employee appears reasonable or the absences are provably for documented illness. That is determined on a case by case basis. Other arguments available are that;

- There is no record of the employee being put on notice that there is a problem with his/her attendance. That would be shown on the reverse of the 3972 and the *Employee Key Indicator Report*.
- Management did not inform the employee of his FMLA rights for absences of 3 or more days and if they had the cited absences may have qualified for FMLA protection.
- The employee was not on the restricted or deems desirable lists.
- The employee’s prior record was good; he/she has a good sick leave balance.
- The discipline is punitive rather than corrective; the employee was not given an opportunity to demonstrate improvement after review / discussion about attendance.

In all discipline cases, examine the specific charges against the principles of Just Cause in Article 16 to determine if the Service has met its burden. For example, compare the grievant’s absence percentage to that of the office percentage to establish if he/she has been disparately treated.

If the above template is followed / applied the odds increase for a favorable result. Keep in mind that when the Steward professionally and thoroughly processes a grievance it is a problem for management. The more you require them to do things properly the more likely it is that they will think twice before initiating discipline. Make the grievance cost them time and effort by following procedure and fully utilizing the rights provided within Articles 15, 17 and 31.

Lastly, remember to commit all requests to writing and include in the case file. If it isn’t in writing, it never happened because management will never acknowledge or remember verbal requests if it hurts their case.

Additional tools and resources available at [BRANCH38NALC.COM](http://BRANCH38NALC.COM)



# GRIEVANCE REQUEST FORM



Request Date:

Grievance:

Grievant:

**Pursuant to the Steward's rights provided for in Articles 17 & 31 of the National Agreement, the following documentation and / or time is requested for the investigation / processing of the grievance identified above. Please inform the requestor of any problem with accommodating the requests made.**

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MANAGEMENT REPRESENTATIVE

\_\_\_\_\_  
NALC REPRESENTATIVE

\_\_\_\_\_  
DATE

\_\_\_\_\_  
DATE