

GRIEVANCES At the Informal A Level

The Grievance Procedure Made Simple

- * Secrets to winning grievances...
- * How to piss off the boss and not be disciplined...
- * Tips to make management hate you...
- * How to make people think you are a genius...
- * Tips to make Carriers love you...
- * Fuller hair in just 10 days...
- * Have the body of a super-athlete in just 30 days...
- * and so much more...

Note: This document is approved by no one in any position of authority within the NALC, it is the work product of a lone individual who may or may not be insane.

Preface

Okay, so we went a little overboard with the promises on the cover page. Get over it. Your job is difficult enough, learn to laugh at some of the stupidity you experience every day.

This document is intended to assist new and more experienced Stewards in the basics of their responsibilities at the Informal A level of the grievance process with the hope that it will not only make them better Stewards but also reduce the stress and aggravation of being Stewards. Most importantly, better case files at Informal A translates to better decisions at Step B and arbitration.

It is a slight departure from normal training tools you may have received. While some humor is attempted in the following pages, make no mistake, your role and responsibilities are no joke. Hopefully, it will be of use to you.

Stewards are often over worked and underappreciated. We don't do the job for glory, we do it for justice. Go forth and kick some #\$%.

This booklet is designed to assist both new and experienced Shop Stewards in the areas of identifying what a grievance is and how to process one with the best chance of being successful. Success is defined as getting the outcome sought or in some countries... winning.

In this document common questions will be briefly addressed. The real learning will take place by applying the thoughts, hints and suggestions here to the real world of your office. The aggressive tactics are not necessary in offices with reasonable managers. As Steward you are best equipped to select which tactics to use. However, the documentation requirements apply to every office and grievance.

What is my role as Shop Steward?

The Steward is the front line Union representative, it can be said it is one of the toughest jobs in the Union. You are the first one to deal with disputes and your actions can be the determining factor in winning or losing any grievance. The better you do your job the better the chances of getting the right result. You are the person that builds the foundation for everything that comes after. The stronger the foundation the stronger the case for us.

Do I have to know the entire Contract and all the handbooks?

Absolutely, and if you do you will be the only one in our Union that does. The reality is that you don't need to have the answer to every question but only the desire and ability to find the answers.

What contract Article is the most important?

They all are. The one most important to you as a Steward is Article 17, which is Stewards Rights. It is often said that if you don't know your rights, you don't have any. Every Steward should make it their primary focus to know Article 17 backwards and forwards. That knowledge prevents management from taking advantage or bullying you. More importantly, you can use your Stewards rights to force management to do what they hate to do and that is respect the Union, the Stewards and by extension the carriers.

The stronger you are as a Steward the weaker management is when it comes to bullying carriers and violating the contract.

Now, lets go over some of the basics. Keep in mind that this document is only a primer, kind of like your first book "See Spot Run". The real learning and experience will come from doing actual grievances. Your focus should not be solely on "winning" or keeping score. If you give your best effort to putting together complete grievance files winning will come naturally. In the final analysis, the outcome of the case is determined by the facts of the case not the skill of the Steward. Although often, a skillful Shop Steward can win a weak case by outworking and outthinking management.

What is a grievance?

Any dispute or disagreement between the Union and management.

What kinds of grievances are there?

There are two types.... CONTRACT and DISCIPLINE.

What is a contract grievance?

A contract grievance is one in which the Union is accusing management of violating the Contract. Simply put, whenever management does something that is not permitted by either the National Agreement or in violation of the rules and regulations in ANY of handbooks or manuals.

What is a discipline grievance?

A discipline grievance is one in which the Union challenges any letter of discipline issued to a Letter Carrier.

What is a letter of discipline?

A letter of discipline would be written notice accusing the carrier of violating a specific rule or regulation contained in any of the handbooks or manuals.

What types of discipline letters are there?

These are the different types of discipline management can issue ;

- Letter of Warning
- 7 Day Suspension
- 14 Day Suspension
- Notice of Removal
- Notice of Proposed Removal (Veteran)
- Emergency Placement in Off-duty Status

Can management pick which one to issue?

Yes and no. "Just Cause" (explained later, pg. 10) requires that under normal circumstances discipline must be issued progressively. That means starting with the LOW and moving up the ladder to removal. There are managers that can't spell or define "progressive", who will just issue whatever they feel like. In that situation you have the lack of progressive discipline argument, but you must still focus on the actual charges or merits in your defense. Don't put all your eggs in one technical defense basket. Tech and procedural defenses alone don't always carry the day.

Management can and often do go straight to removal when the violation rises to a very serious level such as the commission of a on/off duty crime punishable by imprisonment or any charge involving "sanctity of the mail"; like throwing it in a dumpster instead of delivering it, tampering with it or stealing it. Those last three allow management to go straight to removal because of their seriousness. If they can prove the charges, the carrier will usually be fired.

What do I do first?

In any grievance, contract or discipline, the most important thing is to get all the information you can. You need to have the all facts before jumping into the fray.

In discipline cases you may have a heads up because you were present at the pre-disciplinary interview and will have an idea of the possible charges before the actual discipline letter is issued.

It is very important that to train your carriers request to have you at the PDI and that they immediately let you know when discipline is issued.

You really don't want to find out about a discipline on the 13th day or worse, the 15th. Constantly talk to the carriers, educate them to their rights and responsibilities. In the long run it will make your job much easier.

In contract cases, information will either be given to you by a carrier or you will be the one who witnessed the violation. Contract issue can be tricky, always seek guidance from your Formal A representative or Branch officers.

In either case your job will be to gather the facts, request documentation, Stewards time, conduct interviews, request meetings and complete the forms for filing of the grievance. You will also be the one responsible for doing all of the above within the time limits. This is where Article 17 comes in big time.

What time limits?

The Union, which is **YOU**, is responsible for filing any grievance within 14 days of the when the Union or the grievant first learned of the contract violation or discipline being issued. Remember to train the carriers to let you know of problems immediately. **Note: Day 1 is the first full day after issuance, not the date the discipline was written.**

Management does **NOT** have any time limit for issuance of discipline. However, if they wait an unreasonable period from the incident to issue, they weaken their own case.

The contract says you have 14 days, that **INCLUDES** Sundays and holidays and days you are fishing or hunting. To be safe you should impose a 10 day limit to file. That way, if your math skills are like mine, a mistake won't cost you the grievance.

Quick Review

- * **You don't have to memorize the Contract, although it helps.**
- * **Articles 17 & 31 are your most effective tools, aka weapons, in dealing with sub-human management. With decent managers you will rarely have to file Article 17 grievances.**
- * **In discipline cases management has to prove the charges it makes and in contract cases the Union has that burden.**
- * **Time limits are a big deal for us. Get the grievances done within the time limits. Don't let management drag cases out unless you have a bad case and time might make them more agreeable to a better resolution for the grievant.**
- * **Document every request, communication or settlement in writing. If its not in writing, it never happened. (The first few pages I didn't say anything about documenting, but in the remaining pages it will be stressed over and over, so get used to it.)**

Let's walk through a make believe case from the beginning. We'll make it a discipline case since that is the one you will deal with the majority of the time.

It's Tuesday morning, you are at your case minding your own business when Supervisor Smedley waddles over and says you are needed in the office for a PDI (pre-disciplinary interview) with Wally Wascal.

What do I do?

You say to Smedley "It would be my distinct pleasure". Take your ever ready grievance folder, a working pen, clock on to 613 and proceed to the office with a smile on your face. Keep in mind, you're on the clock...their clock!

What happens when I get to the office?

Upon entering the office they already have Wally sitting there fidgeting nervously. You tell Smedley that you wish to speak **privately** (*a Weingarten Right*) with Wally before the meeting starts. You also ask Smedley what the PDI is about, that's another thing *Weingarten* gives you. When alone with Wally you ask him what the hell this is about so that you have better idea of what they are going after him for. You also tell Wally to keep his answers short and to the question. Most importantly you tell him not to make any admissions or confessions. Explain that a PDI is often managements fishing expedition. If they have hard evidence of Wally screwing up it won't make a difference what he says, so better to say as little as possible but still appear cooperative. In a lot of PDI's the best answer to a question could be "Gee, I'm not sure" or "I don't remember".

In your pre-interview consultation with Wally be sure to advise him to not be an idiot, smartass, jerk or terrorist in the meeting... none of those attitudes will be helpful and could make matters much worse. You have the protections of Article 17 as the Steward in private meetings regarding conduct and loss of temper, ***the grievant does not.***

As the Steward you are on **equal ground** in the PDI meeting. Your job is to get the facts and keep the Wally from hanging himself. You need to take detailed notes of all questions asked and Wally's answers. Control the meeting. Tell Wally not to reply until you have finished with your notes of his last response. Likewise, do not let Smedley rush you. **Under no circumstances** do not let Smedley tell you not to take notes, talk to Wally or not ask questions. Make sure to tell Wally to immediately stop talking if you interrupt with a question and for him to rethink his response.

It is your responsibility to make PDI's as uncomfortable for management as they are for carriers. You accomplish that by professionally asserting your Steward rights, poking holes in managements accusations and forcing them to conduct the meeting on your terms. Never allow them to just do the 2 minute PDI drill where they ask all the questions and rush the two of you back to work.

The better you are at making PDI's painful for management the fewer you will have. They will think twice about having a PDI for something minor if they know what you are going to put them through.

After the PDI there may be a wait of 10 or 15 minutes for discipline to be issued, sometimes it might even be a couple of days. You may ask management to give you a copy of any discipline issued but they don't have to. Make sure Wally knows to inform you immediately if they give him a letter of discipline.

What happens when the discipline is issued?

If you have trained your people right they will inform you of the issuing event immediately. If you have trained management right they will give you a copy of the discipline. Either way, once you have the discipline you need to do the following in this order.

1. Read the letter of discipline.
2. Identify the specific charge(s).
3. Prepare a "**written**" request for documents and time to write, interview and process the grievance. (Use the Branch request forms and print if your handwriting resembles some sort of cryptic code.)
4. If necessary make **written** requests to interview **anyone*** involved in the case that can possibly help the grievant, you have that the right under 17.
5. At some point complete lines 1 thru 12b of the PS Form 8190. Fill them **all** in, each item is important down the road.

* **Anyone** means anyone, not just the grievant or other carriers. You may need to interview postmasters; supervisors; customers; bartenders. Any interviews should be committed to writing and if possible signed by the person interviewed.

What documents and time?

For any grievance you need to gather everything you may possibly need to defend against the charges and **when it is discipline one of the most important documents is the statement of the grievant.** You should make every effort to do everything you can related to the processing of the grievance, *on the clock*. That comes under making grievances painful for management.

In your written request one of the first things to ask for is time to interview and take the statement of the carrier. You should give a reasonable estimate of how much time you will need, 20-30 minutes. If more is needed you can request it later.

As for documents, the following is a sample list for an attendance discipline in no particular order.

- Copies of all previous discipline cited as past elements.
- Copy of ERMS *Employee Key Indicator Report*
- Copy of employees PS Form 3972
- Copy of PS Form 3971 for all dates cited
- Copy of all rules and regulations cited in the discipline
- All documentation relied upon in reaching the decision to issue the discipline. (my favorite, cover what I forgot to ask for)

Depending on the grievance ask for whatever document you believe might be helpful in arguing the case.

In the event the case is not resolved at Informal A, you are building the case file for the Formal A representative at the next level; the B Team or if it goes that far, the arbitration advocate and arbitrator. Your work is the foundation of the entire case. Everyone that follows will be relying on what you did or didn't do.

What do I do with all this crap now?

Once you have the requested documentation, and the grievants statement you are ready to meet with the supervisor at Informal A. Give a **written** request to management to schedule the Informal A meeting.

Wait a minute... they didn't give me everything I asked for, what now?

In rare cases management may not be all that cooperative and either ignore your requests or delay them. That is why you do the requests **in writing** and keep copies in the case file. 99% of what you will be requesting should be provided by the end of the day (always give the requests first thing in the morning, it ruins their day). If it is not, give them a 2nd copy and note the date and time. *If they still don't comply with your requests then you file a separate Article 17 & 31 grievance.*

Part of your management training program is to make it very clear to them that you want what you want, when you want it and will be willing to do the grievance work off the clock and then file another grievance to get paid for your time. The key to winning Article 17 grievances is **documenting** that you made every reasonable effort to do the grievance properly and that you were obstructed by their stupidity. That is why doing all requests in writing is so important. If it isn't written down, it never happened, that is what management will say. Even the most obtuse managers will learn very quickly to respect you as the Shop Steward and your future grievances will be fewer with less aggravation from them. Some extra effort in the beginning will pay off in the long run.

What is that Informal A thingy?

The Informal A meeting is where you sit with the supervisor and discuss the case. You **verbally** present your reasons why the discipline should be rescinded or modified. Your arguments will depend on the strength of the case, no two are exactly alike. At the meeting you give management copies of all your documentation and ask them for copies of theirs that have not yet been given. You should also take accurate notes of what was discussed at this meeting.

If you reach a settlement make sure to write it out on the 8190 and **it is strongly suggested it also be written on the actual letter**. Both parties need to sign and date any agreement. If no agreement is reached then **you** request to make copies of the entire case and send the original to your Informal A representative. Keep a copy of the case file just in case anything happens to the original in transit.

What's with all the copies?

You may ask “why write the settlement on an 8190 and on the actual discipline letter. The reason is simple, what do you have if anything happens to the 8190? You would have a letter of discipline with no proof of a settlement or you can just trust that management will remember settling the grievance. The more copies of a settlement the better. Give one to the grievant, your alternate, your wife... just in case you are abducted by aliens.

Okay...am I done now?

Close, but not yet superhero. If you have settled the grievance then you only need to send the original case file to your branch president for them to safe keep. You send them the **original** and you keep a copy. The law requires the Union to keep them on file on file for a minimum of three years.

If the case is not resolved you need to send the entire case file to the branch or Formal A representative, only quicker, as in immediately.

You don't have 7 days to send it to the Formal A rep... The Union Formal A rep has 7 days to appeal the case to the management Formal A rep. Get it to your Formal A rep the fastest means possible and call him or her to tell them it is on the way. Just as with your 14 day time limit to file... day one is the day after either the issuance of the discipline or the Informal A meeting. Don't miss time limits, that is very bad.

If there is good reason, you may request an extension of the time limits but it is advisable to try and avoid doing that. In a situation where you must extend the limits make absolutely sure to make the request **in writing**, identify the extra time needed and have a manager approve it with his or her signature. Then make sure to get it done within the approved extension.

Now, your role is done and if the case is going forward it becomes the problem of the Formal A representative. If you are also the Formal A representative then you can't blame the Informal A representative for a lousy case file.

No one is born a Steward, you were elected or appointed to the position because you can take the heat, have a brain and want to make a difference and hopefully have anatomically correct brass ones. Do not judge yourself by wins and losses or negative comments from those that don't understand or appreciate the job you do.

The one goal you should set for yourself is simply to improve your skills with each grievance you do. The last page lists a number of online resources available to help you be the best you can be. Thanks and good luck.

Key Element Review

- The importance of making **all requests in writing** cannot be over stressed.
- Missing **time limits** can be very costly, even though you have 14 days aim to process in 10 days or less at your level.
- The **statement of the grievant** is crucial in discipline cases. You need to advise the employee to respond to **every** charge in the disciplinary action, not just the main one. It is also important that the grievant's statement does not admit to the allegations, if possible. Once there is an admission of guilt management has won the case and only the severity of the discipline is in play.
- Neither your statement or the grievant's should contain comments or allegations that do not deal directly with the charges. Pointing fingers at others is not the Union way. The defense of disparate treatment should only be employed when it is positively provable and will win the grievance without subjecting an other carrier to discipline.
- Always keep in mind that whoever loses their temper first is the weaker, make them blow a gasket by you staying cool, calm and focused.
- **Neatness counts big time.** If the B Team or an Arbitrator has difficulty reading a document, it's content and importance may be lost. Case files should be well organized and have all the supporting documentation included.
- Besides being readable, preferably typed, all notes of interviews, meetings and statements of witnesses or grievant's should identify the who what, when, where, and why information. Statements, especially, should be signed and dated. **Every statement needs to be identifiable as to what it says, who said it, when and where they said it.. and to who they said it to.**
- The case file gets all the **originals**. Everyone else gets copies.

The next page is very important.....

Key Documents **to Always Have on Hand**

1. **Current Seniority list.**
2. **Current Overtime Desired List**
3. **PS Form 8190's**
4. **Grievant/Witness statement forms**
5. **PDI Meeting notes forms**
6. **Informal A meeting notes forms**
7. **Document/Time request forms**
8. **Settlement forms**
9. **Time extension request forms***
10. **Grievance worksheet forms**
11. **List of carriers phone numbers / e-mails****

All the Union forms listed above are available on the Branch web site or will be provided by your Area Representative upon request.

*** Only request an extension of time limits if it is in our favor. In general, try to avoid extending time limits.**

**** Very important that you and the Branch can contact the members directly and immediately if necessary. Such a list must be secured and kept confidential.**

Dear Steward,

The entire point of this document is not for you to become a raving lunatic in dealing with management. Rather, its purpose is to provide you with guidance on how to deal effectively with difficult management for the betterment of all concerned. Your end game should be to demonstrate to management that you will enforce the Contact at all times, and that you will not tolerate being disrespected.

In order for you to be the very best you can be as a Steward, it is most important that you are an example to the carriers you represent. How you carry yourself and how you perform your carrier duties will be the image your carriers see. Simply, that means that you follow the rules and regulations, maintain good attendance and always be in control of your emotions.

You can also be a positive example of Unionism by supporting COLCPE and e-Activist. 2012 and beyond will be difficult times for the USPS and NALC. There are those in Congress who would do away with us in a heartbeat. We cannot sit idly by and allow that to happen.

You can deal with and win the work floor problems everyday but if we lose the larger battle in Congress it won't matter an iota. Get involved and get your fellow carriers involved... the stakes are beyond high, they will effect the future of all of us.

If you have non-members in your office, don't ignore them. Instead reach out to them to join us in our struggle by becoming members. Just imagine how it would be if there was no Union and you had to work at managements will or be fired. Not a pretty picture.

We are all in this together and we will succeed or fail together... lets make it succeed....

Pat Flannery
Branch 38

Additional Resources and Information available at:

<http://www.BRANCH38NALC.com>

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