



Grievances

Duty to Bargain

- Does not end with ratification and signing of contract
- “Any dispute regarding wages, hours, or terms and conditions [of employment] must be mutually resolved through the contractual grievance procedure.” (p. 411)

(Fossum, 2006)

Definition

“... an alleged violation of the rights of workers on the job.”
(Mills, 1994, p. 563)

“... a complaint by a worker, or a group of workers , or the union itself, regarding unfair treatment.” (Ballot, 1992, p. 310)

May claim violations of...

Collective Bargaining Agreement

Law (federal, state, local, etc.)

Past Practices

Company rules or policies

“Management’s responsibilities” or obligations

Typical Grievances

Contract violation grievances

“... allege that the rights of workers and the union explicitly state or implied in the collective bargaining contract have been violated.”

Shop problem grievances

“... filed to emphasize a problem in the shop in an attempt to get management to address and correct it.”

Functions of Grievance Procedure

1. Process to handle complaints
2. Deal with contract subtleties and contract administration
3. Focus attention on problems
4. Forces parties to clearly identify issue to be resolved
5. Provides known steps to solve disputes

Roles of Local Union in Process

- Listen to and counsel potential grievants (e.g., to help distinguish between a contractual versus non-contractual issue).
- Act as a participant observer and note taker in meetings between a faculty member and administration.
- Identify/interview witnesses or gather information relative to an allegation.
- Depending on local practices, attempt to advocate for a grievant with management and/or arrive at settlements

Important to Understand

“A grievance arises as a complaint by the union about a specific action by management. That is, the management takes action and the union reacts. **Employees and the union have the obligation to obey directives of management, even when they believe the directives violate the agreement.** The recourse of the employee and the union against an action of management that they believe to be improper is through the grievance procedure. [In U.S.] **They have no right to unilaterally countermand the management directive.** If the company has violated the agreement, the arbitrator has the authority to fashion a remedy that will make the employees whole for the contract violation.”

(Mills, 1994, pp. 580-581, emphasis added)

Employee Clusters

Non-grievants

Repeated grievants

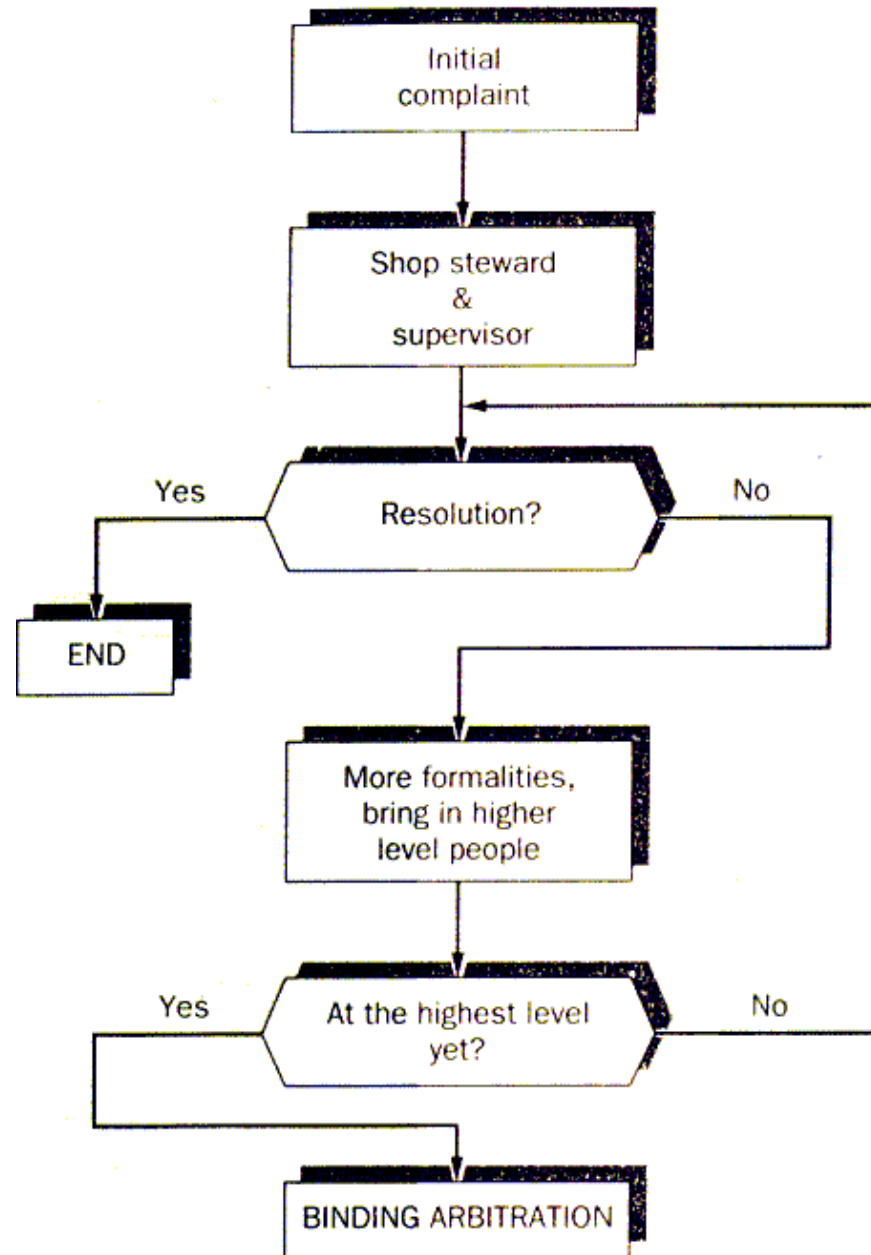
One- or two-time grievants

Grievants over disciplinary actions

Duty to Represent

You do NOT have to be a member of the union to file a grievance or use the grievance process

Typical Steps - Simplified



(Ballot, 1992, p. 314)

Typical Steps – More Complex

Steps in a Typical Grievance Procedure

Employee-initiated Grievance

Step 1

- a. Employee discusses grievance or problem orally with supervisor.
- b. Union steward and employee may discuss problem orally with supervisor.
- c. Union steward and employee decide (1) whether problem has been resolved or (2) if not resolved, whether a contract violation has occurred.

Step 2

- a. Grievance is put in writing and submitted to production superintendent or other designated line manager.
- b. Steward and management representative meet and discuss grievance. Management's response is put in writing. A member of the industrial relations staff may be consulted at this stage.

Step 3

- a. Grievance is appealed to top line management and industrial relations staff representatives. Additional local or international union officers may become involved in discussions. Decision is put in writing.

Step 4

- a. Union decides on whether to appeal unresolved grievance to arbitration according to procedures specified in its constitution and/or bylaws.
- b. Grievance is appealed to arbitration for binding decision.

Discharge Grievance

- a. Procedure may begin at step 2 or step 3.
- b. Time limits between steps may be shorter to expedite the process.

Union or Group Grievance

- a. Union representative initiates grievance at step 1 or step 2 on behalf of affected class of workers or union representatives.

Local Example: Key Timelines

- 40 calendar days after incident OR you became aware of the issue to file locally at Step 2 (exceptions for where the 40 days expire between May 1st and September 1st)
- Management has 20 days to respond
- 15 days from date Management's response is due to file at Step 3 (State Level)
- You have the right to pursue a grievance through Step 3 but only APSCUF has the right to refer a grievance to arbitration

GRIEVANCE FORM

Example of Form

Grievance Committee _____ Date of request _____

Department _____ Department Award _____

Nature of Grievance: _____

Signed _____ Occupation _____
Payroll No. _____

FOREMAN'S DISPOSITION: Granted _____ Rejected _____ Compromised _____ Referred to Superior _____

Date _____ 19____ Signed _____ Foreman _____

DEPARTMENT SUPERINTENDENT'S DISPOSITION: (2nd Step)
Granted _____ Withdrawn _____
Rejected _____ Compromised _____

Remarks: _____

Date of Disposition _____ Shop Superintendent _____

MANAGER or GENERAL SUPERINTENDENT'S DISPOSITION (3rd Step)
Granted _____ Rejected _____ Withdrawn _____ Compromised _____ Pending _____

Remarks: _____

Date of Disposition _____ Manager or General Superintendent _____

Form 5003

(courtesy of Goulds Pumps, Inc.)

Grievance Packet:
"Green" Sheet
(Goes to Mgt.)

Local Grievance# _____ State Grievance# _____
Name & Dept of Grievant _____
Home Address _____
Telephone Nos. _____ (work) _____ (home)
Date Became Aware of Grievance _____

STEP ONE: (It is not necessary to submit a Step One grievance in writing. However, use this section if you choose to do so.)

I wish _____ to answer my grievance as the lowest level manager who can resolve my grievance.

Grievant's Signature _____ Date _____
Grievance Chair's Signature _____ Date _____

Attached is a written statement of the grievance, citations of the articles violated as well as the requested relief.

Receipt by _____ : _____
Signature Date

Disposition by _____ : Attach written response and send copies to Grievant and APSCUF Grievance Chairperson.

Received by Grievance Chair _____
Signature Date

STEP TWO: This grievance has not been resolved at Step One and is submitted to Step Two.

Grievant's Signature _____ Date Submitted _____
Grievance Chair Signature _____ Date _____

Attached is a written statement of the grievance, citations of the articles violated as well as the requested relief.

Receipt by President/Designee _____
Signature Date

Disposition by President/Designee: Attach written response and send copies to Grievant and APSCUF Grievance Chairperson.

Received by Grievance Chair _____
Signature Date

STEP THREE: This grievance has not been resolved at Step Two and is submitted to Step Three.

Grievant's Signature _____ Date _____
Grievance Chair Signature _____ Date _____
Hbg. APSCUF Signature _____ Date _____

Relevant CBA Articles:

Grievance Statement:

Relief Requested:

Grievance Packet:
“Attachment C”
(Goes to Mgt.)

GRIEVANCE COMMITTEE INFORMATION SHEET

(APSCUF use only)

(Yellow Sheet)

Local Grievance No. _____

Date _____

Date Received _____

Please provide the Grievance Committee with the following information for use by the Committee in writing and processing your grievance. Be sure to keep one copy of all records submitted to the Committee. Use as much extra paper as you need to answer thoroughly each section listed below. Be sure to identify each of your answers with the corresponding section number and title.

Name _____

Campus Address _____ Dept. _____

Office Phone # _____ Dept. Sec. Phone # _____

Home Address _____

Home Telephone _____ Years of Service _____

Hours available to discuss grievance _____

Are you willing to discuss your grievance via telephone in your office? Yes ___ No ___

PLEASE ATTACH YOUR ANSWERS TO I. THROUGH VI.

- I. **FACTS**—Why do you feel the CBA is being violated? List all relevant facts. Refer briefly to relevant specific occurrences and dates, naming persons directly involved. Describe your efforts to resolve the issue before initiating grievance.
- II. **BRIEF ANALYSIS OF POSITION**—What clause or clauses in the CBA are being violated? List the citations in the CBA and page numbers. List a brief argument as to how you believe each clause has been violated and who committed the violation.
- III. **AVAILABLE EVIDENCE (Supportive)**—List documents and witnesses available to support your position in the grievance. Provide a copy of each document listed. Explain briefly how each document and each witness will help to prove your position.
- IV. **REMEDY REQUESTED**—What, specifically, do you wish to accomplish by processing this grievance?
- V. **BRIEF ANALYSIS OF OPPOSING POSITION**—What arguments are you aware of that the administration may present to refute your position?
- VI. **AVAILABLE EVIDENCE (Opposing)**—What documents and witnesses are available to the administration to oppose your position? Provide a copy of each document listed. Explain briefly how each document and each witness will help the administration to prove its position.

VII. CHECKLIST OF IMPORTANT DATES:

_____ Date grievant became aware of the problem

_____ Date grievance was filed at Step Two

Grievance Packet:
“Yellow Sheet”
(Goes to APSCUF along
with answers and copies of
evidence)

A Few Other Points

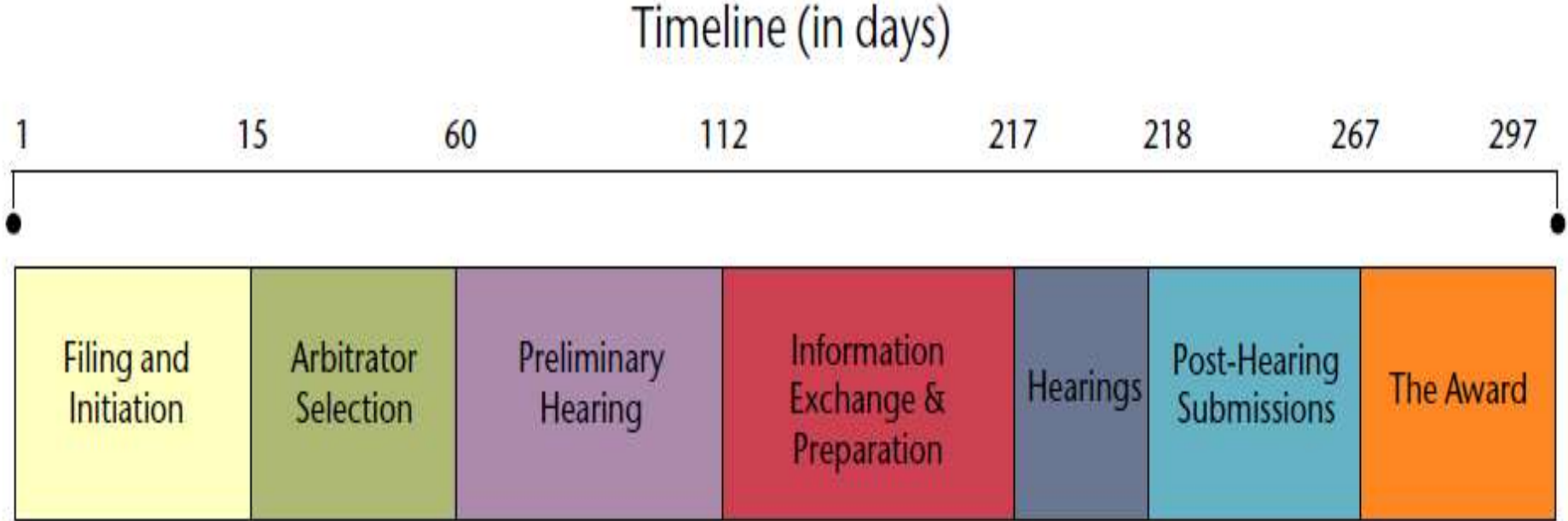
- Processes with from 3 to 5 steps seem typical (we use 3+)
- Union is **NOT** obligated to carry every grievance all the way to arbitration (see Statewide Grievance Committee)
- In negotiations, union may link “no strike while contract in effect” clause with management’s acceptance of binding arbitration to resolve disputes

(parts cited from Mills, 1994)

Arbitration Hearing Process

Process

Overall American Arbitration Association (AAA) Process



(American Arbitration Association, 2007, p. 3; downloaded November, 2013)

Generic Arbitration Hearing Process

Opening Statements

Some processes skip this phase

- **Initiating party**

- **Respondent party**

Generic Arbitration Hearing Process

Presentation of
evidence and
witnesses

Initiating party

Note that all witnesses are “sworn in” and testify under oath. The other witnesses and representatives for both sides may be present in the room while a witness is giving testimony.

Generic Arbitration Hearing Process

Cross examination of
each witness after
conclusion of initiating
party's questions

Respondent party

Generic Arbitration Hearing Process

Presentation of
evidence and
witnesses

Respondent party

Generic Arbitration Hearing Process

Cross examination of
each witness after
conclusion of respondent
party's questions

Initiating party

Generic Arbitration Hearing Process

Note that the arbitrator may ask direct questions of the witness or the attorneys for the initiating party and the respondent part at any point in the proceeding. Questions may be on or off the record.

Generic Arbitration Hearing Process

Summations

Some processes skip this phase

- **Initiating party**

- **Respondent party**

Generic Arbitration Hearing Process

Filing of **post hearing briefs** after receipt of the official transcript from the hearing.

Thirty days to file briefs is apparently typical; may or may not allow “extensions” to this deadline.