

THE GRIEVANCE PROCESS: FREQUENTLY ASKED QUESTIONS

Q. What is a grievance?

A. A grievance is a complaint by an employee concerning any matter relating to the employment of the employee and any claimed violation, misinterpretation or misapplication of any law, rule or regulation affecting conditions of employment. Additionally, employees who believe they have been illegally discriminated against on the basis of race, color, religion, sex, national origin, age or handicapping condition have the right to raise the matter in a grievance or in an EEO case, but not both.

Q. What are some examples of what can be grieved?

A. Depending on the facts, some of the types of issues that can be grieved include the denial of a promotion; the lowering of an evaluation; unfair and inappropriate evaluations; performing higher graded duties without receiving the appropriate pay; denial of leave requests; and changes in work conditions. This is just a small example of the number of issues that can be grieved. If an employee has a specific question or concern, he/she should consult the local steward.

Q. Is there anything that can't be grieved?

A. Yes, certain issues are excluded from coverage by any negotiated grievance procedure. These include prohibited political activities; retirement, life insurance and health insurance; suspension or removal for national security reasons; any examination, certification or appointment; and the classification of any position which does not result in the reduction in pay or grade of the employee.

Q. Is there any avenue available before filing a grievance?

A. Generally, in Chapter 98, the steward and employee will meet with the employee's manager before filing a grievance to try to reach an informal resolution.

General Procedures

Q. If an employee wants to be represented by the union, what should he/she do?

A. An employee with a concern should contact the local steward in their area. The steward will then meet with the employee to discuss the problem and obtain a complete description of the situation that generated the complaint and the type of remedy being sought.

Q. Does an employee get official time to meet with a steward?

A. An employee does receive official time to meet with a Union steward. However, the employee must sign out with his/her manager and get released from his/her duties before the meeting and check back in after the meeting.

Q. Is there a deadline for filing grievances?

A. Yes, a grievance must be filed within 15 workdays after the incident which gives rise to the grievance or within fifteen workdays after the aggrieved became aware of the matters out of which the grievance arose.

Q. What kind of information can be requested in a grievance proceeding?

A. Both parties agree to jointly exchange information that is relevant and necessary to understand the dispute and maximize the potential of settling the matter. In addition, the parties have the obligation to make a complete record during the steps of the grievance procedure, including the obligation to produce any and all witnesses.

After a Grievance is filed

Q. What happens after the grievance is filed?

A. Generally, a first meeting is requested by the Union. Pursuant to the National Agreement, this meeting is to take place within 5 workdays from the submission of the grievance. This time frame may be expanded upon agreement of the parties, and in reality, generally is extended to accommodate the parties' schedules.

Q. Who is present at the meeting?

A. Present at the meeting are the employee, the manager, the Union steward, and a Labor Relation Specialist. At the meeting, an oral presentation of the aggrieved employee's situation is presented by the Union steward. Depending on the circumstances, the employee may or may not participate in the discussions.

Q. Does the employee receive official time to attend the meeting?

A. Yes, an employee receives official time to attend the meeting.

Q. What happens after the meeting?

A. Pursuant to the National Agreement, the employer's response is due within five days of the close of the formal meeting. Once again, this time frame may be expanded upon agreement of the parties, and it may sometimes be necessary to do so.

Q. What happens if the employee does not agree with the manager's response?

A. If an employee is dissatisfied with the response provided at the first meeting (Step 1), the response is appealed by the Union and a Step 2 meeting is requested.

STEP 2

Q. When does the appeal have to be made?

A. This appeal must be made within 10 days of receipt by the Union of the decision in Step 1.

Q. Who is present at the Step 2 meeting?

A. Presently, at this meeting would be the Territory Manager of the function in which the employee works, or his/her designee, the employee, the Union steward and the Labor Relation Specialist. Generally, the manager is not present. In addition, the Chief Steward and/or Chapter President may attend.

Q. Does the employee receive official time to attend the Step 2 meeting?

A. Yes, an employee receives official time to attend the Step 2 meeting.

Q. When is the Step 2 meeting held?

A. The Step 2 meeting is to be held within 10 workdays of the notice of appeal, subject to extension upon agreement.

Q. Can new issues be raised at the Step 2 level?

A. Yes, new issues can be raised at the Step 2 level.

Q. When is a response due from the Step 2 meeting?

A. A response to the Step 2 meeting is to be provided within 10 workdays of the close of the meeting. If a meeting is not held, the response is due within 5 workdays of the appeal.

Q. What happens if an unfavorable response is given from the Step 2 meeting?

A. If an unfavorable response is given to the Step 2 meeting, the employee may appeal the decision to Step 3.

STEP 3

Q. When does this appeal have to be made?

A. The appeal must be made within 10 workdays of the receipt of the Step 2 response.

Q. Who attends the Step 3 meeting?

A. Under the reorganization, the employee's Area Manager, the employee, the Union steward, the Labor Relation Specialist are present at the Step 3 meeting. The Chief Steward and/or Chapter President may also attend.

Q. Does the employee receive official time to attend the Step 3 meeting?

A. Yes, an employee receives official time to attend the Step 3 meeting.

Q. Can new issues be raised at the Step 3 level?

A. No, new issues may not be raised by either party unless they have been raised at Step 2 of the grievance procedure, unless both parties agree otherwise. However, the employer may raise the issue of grievability or arbitrability at any time.

Q. When is a response due from the Step 3 meeting?

A. The Union is to be provided with a written response within 10 workdays of the close of the Step 3 meeting, or if a meeting is not held, within 5 workdays of the appeal.

Q. What happens if an unfavorable decision is made at the Step 3 level?

A. Adverse decisions made at Step 3 may be appealed to binding arbitration.

Q. When does this appeal have to be made?

A. This appeal must be made within twenty-one calendar days of receipt by the Union of the Step 3 decision.

Arbitration

Q. Who decides to appeal the grievance to arbitration?

A. It is the responsibility of the NTEU chapter field representative, after consultation with the local chapter, whether or not to appeal the case to decision. Arbitration is an expensive and imperfect process. The decision to submit a grievance to arbitration requires serious deliberation, for the losing party can expect the winner to use the victory in demanding the similar settlement of grievances involving the same issue.

Q. What is an NTEU chapter field representative?

A. The NTEU field representative is an attorney who represents NTEU, not the individual grievant. The field representative is also responsible for presenting the grievance in the arbitration. However, the local chapter remains involved in the proceeding.

Q. What are the criteria for deciding to arbitrate a particular grievance?

A. There are many such criteria. The Union must take into consideration such factors as the meaning of the contract language; previous, related arbitration decisions rendered under the same contract and under similar provisions of contracts negotiated by other parties; agency regulations; laws; court decisions; regulatory decisions; the potential consequences of a negative decision; and the determination regarding whether the projected gains are worth the associated risks and costs.

Q. Who pays for the arbitration?

A. Generally, each of the parties, the IRS and NTEU, pay one-half of the cost of arbitration, which includes fees and travel expenses. Of the amount paid by NTEU, one-half is paid by National NTEU, and one-half is paid by the local chapter.

Q. Who arbitrates the grievance?

A. The arbitrator is selected by both parties from a standing panel. Arbitrators are frequently lawyers or professors who have developed expertise in the areas of labor management relations and collective bargaining.

Q. Who is present at the arbitration?

A. Generally, the employee, the NTEU field representative, the local chapter steward, the NTEU local chapter Chief Steward and/or President, NTEU's witnesses, the IRS' General Litigation attorney, the IRS' witnesses and the Labor Relation Specialist are present at the arbitration.

Q. Will the employee's manager be at the arbitration hearing?

A. If the employee's manager is an IRS witness, he/she may be at the arbitration hearing to testify. However, the manager and any other witness are only allowed to be present at the time they testify and not during any other portion of the arbitration hearing.

Q. Does the employee have to testify at the arbitration hearing?

A. Generally, yes, the employee has to testify at the arbitration hearing.

Q. Does the employee receive official time to attend the arbitration?

A. Yes, an employee received official time to attend the arbitration.

Q. How long does the arbitration process take?

A. It generally takes several months to schedule an arbitration hearing. Once the grievance is heard at arbitration, it may take another several months to receive a decision. However, is the

issue if of more urgent need, such as a proposed dismissal, efforts are made to schedule the arbitration as soon as possible.

Q. *What happens if the arbitration decision is unfavorable for the employee?*

A. The arbitration decision is final.

Q. *Can a grievance be settled before the arbitration?*

A. Yes, grievances can and often settle before the arbitration begins.

Q. *Who is responsible for discussing settlement?*

A. The NTEU field representative and the IRS' general litigation attorney can reach a settlement, subject to their supervisors' approval. The local NTEU chapter may have input in the settlement decision, but the final right to decide whether or not to settle rests with the NTEU field representative.