SEIU Healthcare Minnesota United for Quality Care

Steward Tips

Part 1: Grievance Investigations

Ask these questions while investigating to decide if a complaint is a grievance and to help you win more grievances.

WHO was involved?
Get our member's name, the names of all the witnesses (both Union witnesses and management witnesses).

WHAT happened?
Get all the details and remember what there are many sides to the same story (our member's story, management's story, witnesses' stories, etc.) and understanding why it happened helps win grievances.

WHERE did it happen?
Get the location of the incident.

WHEN did it happen?
Get the exact dates and times.

WHY is this a grievance? Contract Article?
If you canot cite the specific article being violated, this may not be a grievance.

Desired remedy?
Reduce or eliminate the corrective action, anything with a loss of pay should include "made whole," etc.

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Part 2: Grievance Planning Sheet

Starting the grievance...who goes first?

You've decided to file a grievance. You've done your investigation and you're sitting in the actual grievance meeting. The grievant (the member) is there, human resources is present and management is attending. Now what? Let the member know what will happen during the grievance meeting in advance and pratice what they will say. This prevents members from accidently getting themselves in trouble by revealing too much info and will make them more comfortable in the actual meeting.

State why you are in the meeting (payment for missed shifts, unjust discipline or termination, etc.) and what you want as a remedy (to get a discipline thrown out or reduced, to get a member's job back, etc.)
Note: if there is a loss of income involved, the remedy should always include the member being "made whole," which is a short cut that measn backpay, health benefits, seniority hours, vacation and sick time, etc.

If we go first:
Present the facts of the case and allow the member to tell their side of the story. Mention how the supervisor committed a contract violation and bring in supporting documentation (extra hour sign up sheet, etc.) or witnesses to support our position.

If management goes first:
Allow management to present their case in its entirety. You can interrupt to ask clarifying questions or ask them to slow down so you can take detailed notes, but be respectful and don't interrupt just for the sake of interrupting (you will demand the same when our member tells their side of the story).

When management has completed their comments, ask if they have presented all their evidence. If management surprises you by brining up important information later, you can question why it wasn't mention in their initial statements.

After management has presented their side of the case, let the member tell their story. Make sure management does not interrupt or attempt to intimidate during the meeting. When our member makes a statement that's important for our case, ask the member to pause so you can get it in your notes...this draws Human Resources attention to important details.

After both sides have given their side of the story, it's time for you to jump in and go to work. Through your investigation and discussions with management, you should have an idea what management will argue during the grievance. Plan ahead and write out your strategy based on this technique.

1. Poke Holes in Management's Case

After both sides have told their story, start to poke holes in management's case. Some things to look for include:
-inconsistencies in mangagement's case
-inconsistencies in how management dealt with similar incidents in the past
-witnesses to contradict management's case
-documentation that contradicts management's case
-if management's case defies common sense, question the likelihood of it actually happening
-lack of policies surrounding event or department failure to review policies on a regular basis

2. Bring Up Outside Factors

Does our member have an illness that causes them to miss a lot of work (keep FMLA in mind)? Was the member late to work because of car trouble and had to walk to work? Are they enrolled in classes outside of work that make them leave work early or arrive late? If there are outside factors, use them to explain the behavior and work to find a solution, keeping in mind that corrective action is to find a solution for the member and management, not punish the member for the situation they are in.

3. Review Our Member's Job History

The more time between corrective actions, the better. Anything over one year should not be used against a member (patient care complaints, however, tend to stick around longer). If there are no corrective actions or only petty things in a member's file, highlight their good work record. If a member has a long history of problems at work, stay clear of past problems and focus only on the incident at hand.

4. Talk About the Good Work of Our Member

If the member has certificates for excellent customer service, has thank you letters from pleased families, etc. be sure they bring this to the grievance meeting. If they always are willing to come in early or stay late, particiapte in safety committees, etc., mention this in the meeting.

Other important items to keep in mind:

-Keep calm and keep our member calm. Ask for a caucus if you need to so you can calm a member down.
-Control the pace of the meeting by asking the other side to slow down so you can take notes, asking witnesses to repeat important info, etc.

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Seven Tests for Just Cause

1. Was the member given advance warning of the probable consequences of their actions?

2. Was the rule/policy/management's request reasonable related to efficient and safe operation?

3. Was the alleged violation of the rule, policy, or management's request fully investigated prior to corrective action?

4. Was the investigation fair and objective?

5. Did the investigation uncover substantial proof of guilt?

6. Was the employer's treatement even handed and non-discriminatroy?

7. Was the corrective action reasonably related to the member's work record and the gravity of the offense?

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