Enforcing the Contract

An important purpose of grievances is to **enforce the contract and other policies and rules,** because a contract or rule not honored by management is worthless. It makes no difference whether the violation is innocent or deliberate, whether it involves a member or non-member, or even whether the person concerned wants the Union to do anything about it or not. Any violation can be harmful and each one must be addressed if the meaning of our contract is to be preserved. Regular and systematic contract and rule enforcement is crucial to each of us and our Union because:

1. It *guarantees* our members their "money's worth." It ensures that all the benefits and protections written into our contract and rules are extended to everyone covered by them.

2. It gives meaning to the contract. No matter how carefully it is written, no contract can anticipate every question that arises under it. Its application and enforcement in these unforeseen circumstances give added meaning to the contract.

3. It helps improve our contract. Enforcement reveals the contract's strengths and weaknesses. Even grievances we lose can point at the contract's weak points, and become arguments for stronger, more precise language. If we publicize these areas, we can build membership support for contract changes in negotiations. These changes strengthen the contract and extend it to cover new areas.

4. It helps organize the Union. Workers will be more likely to get involved in our Union if they see the contract enforced.

5. It gains the respect of management. When they know we are determined to enforce the contract and rules, they will think twice before violating it.

6. It maintains the loyalty of our members. Even an excellent contract like ours is only a promise of things to come. If our Union is to win the support of members in other areas, we must make sure that promise is fulfilled.

Every violation that goes unchallenged is a threat to our contract. Local 444 cannot sit back and wait for violations to be reported - they may not be reported at all. Instead we must take the initiative in enforcing the contract. This can only be done by actively policing the contract every day; in every shop, yard, site and facility where our members report and work.

Checklist for Representation and Grievance Handling

☐ **1. FIRST, TALK TO THE MEMBER:** Regardless of the size of the problem you, as the steward, should be the member's first and best contact with the Union. If you are an attentive listener, members will seek this help; if not, problems will usually wait until it is too late for an effective solution.

- Set a time to talk with the member about any involved problem, and talk where you won't be overheard or distracted.
- Ask questions and take notes; if you feel the member's problem will require some action by the Union, fill out a *Member Contact Form,* and keep track of your contacts on that form.
- Although you'll be listening to everything the member has to say, concentrate on events that may be violations by management of the contract, law, policies or past practice. Concentrate on *when* the problem occurred (because of time limits), and on what the member wants as a remedy to the problem.

Tell the member you will be investigating the problem and that they will have a part in that investigation. Inform them of what the process is: investigation, checking documents and witnesses, checking the contract and the rules, possibly confirming a course of action with the Business Agent or Chief Steward, and what the steps of the grievance procedure are. Assure the member that, although no one can *guarantee* a resolution, you will be doing everything you can to assist them.

☐ **2. CHECK TIME LIMITS:** As Steward, you *must make sure you are within the time limits of the contract or rules' grievance or appeal procedure.* If the member misses the time limit to file, they'll have no formal right to a resolution, even though they may have a serious problem. Make sure the problem is covered by the contract or rules; if you're not sure whether there's been a violation of the member's rights, or can't find a relevant section, always check with the Chief Steward or Business Agent - *it is their job to help you.* If you find that the problem is covered, but you are very close to the time limit, you may have to file a grievance just to cover that limit, before you're able to investigate. If this is the case, or if the time limit appears to have passed, contact the Chief Steward immediately to see if there is any alternative.

☐ **3. INVESTIGATE THE PROBLEM:** Plan your investigation *with* the member. You will need to determine the following items:

WHAT- What happened? What was the act or acts that constitute a violation of the contract/rule? What sections of the contract or what rule was violated? In the case of a disciplinary action, what are the *charges* against the member, what is the *discipline* proposed; what is the *evidence* offered by management? What is management's *past practice* in dealing with this type of issue? What action does the member want to take, and what *remedy* do they want?

WHO - Who is the grievant - is there more than one? Who was involved in the problem? Who committed the violation of the member's rights? Who else had knowledge of the problem; were there witnesses; what are their names?

WHEN AND WHERE – When did the problems occur? If the violation is ongoing, when did it begin? *Dates and times are essential, in chronological order.* You may need to *check physical locations* as well

WHY – Why did the problem occur? If the problem is a disciplinary action, were there *extenuating circumstances* outside the member's control? Or, is management motivated by *prejudice* or *personal dislike* of the member, and therefore treating them differently than others who have done the same thing? If this is alleged, we must have evidence: either a witness to management's statements of prejudice, or an instance (or consistent pattern) of this member receiving worse treatment than others in a comparable situation.

Checklist, continued

If you will be interviewing witnesses, inform the member of this. If it is necessary to view the member's personnel file, obtain the member's written permission. Confirm information the member themselves will be obtaining. Set the time when you will check back, and keep that commitment. Keep notes of witness interviews and get copies of written documents as you go.

☐ **4. ASK FOR RELEASE TIME IF YOU NEED IT:** For investigations, you are entitled to paid release time under the contract (read your MOU's specific language) for: talking to the member and witnesses, checking documents and preparing your case. *Notify your supervisor* before you take work time for this purpose. If necessary, do it in writing, using the Local 444 Grievance Investigation Form. The District's practice is to also grant paid release time to members and witnesses. *Time taken for Grievance Investigation and preparation by Stewards, members, and witnesses is* ***charged to code 8512.***

☐ **5. ANALYZE YOUR CASE**: With the member, assemble the information you have gathered and evaluate your case. Follow the procedure in our contract or for filing, unless that has already been done. If not grievable, the problem can at least be the subject of a letter or meeting with management.

☐ **6. REQUEST A MEETING**: with the supervisor or manager referred to in the grievance; for matters that are not grievable, meet with the supervisor or manager who seems to have authority over the problem, observing the department's chain of command.

Prepare for the meeting:
If the grievance is not already in writing, list 1) the section of the contract that has been violated; 2) the brief specifics of management's actions that caused the problem; 3) how the member has been harmed; 4) what the grievant wants as a remedy. List the specific points and evidence you want to offer in support of any of these four areas; have enough copies of any supporting documents ready for the meeting, in the order you'll be submitting them.

Meet with the member beforehand to:
1) discuss who will be there and how management may behave, so the member will not be taken off guard;
2) agree on an agenda, and the points you'll be making, as well as what evidence you'll offer;
3) discuss what roles you'll be playing, who'll speak when, and *emphasize use of the caucus*, rather than overreaction to management;
4) explain how you'll be wrapping things up - what the member can expect at the end of the meeting.

At the Meeting:
Take charge of the meeting, if possible. It's your grievance: do introductions, be pleasant but firm, then:

1) make points clearly and *briefly,* keeping them in order;
2) emphasize the remedy you want;
3) restore order, if necessary, by reaffirming why you're there (setting aside extraneous concerns of management and even the member);
4) unless management simply concedes, give them some room - don't force a reply that day, but do agree on when you'll get a response.

☐ **7. AFTER THE MEETING**: Confirm with the member what the next move(s) will be. Let the Chief Steward know the results of your meeting. Save your notes in a file, as you are likely to need them later, and remind management if you have not received a response by the date agreed upon. The meeting was the "informal" step in the grievance procedure, so be mindful of the formal time limits (see the MOU) for putting a grievance in writing. Make a copy of the signed grievance, and forward a copy to the Chief Steward.

Filing A Written Grievance

USE THE GRIEVANCE FORM ON THE AFSCME444.COM WEB PAGE

To use the Grievance form, first complete your investigation of the problem; review your contract, PPS&Ps, and work rules for section numbers violated. Read your contract for the steps and parties who should be addressed in the grievance procedure. Save a copy of the blank form to your 'P" drive on the Districts intranet. Then, type or print the grievance.

1. At the top of the form, fill in the employee's name, Work Unit name and number, Class Title, and name of the appropriate Work Unit Supervisor. If this is a group grievance, use "class action" for the member's name, and list the title(s) of the affected classes next to Class Title.

2. ***Informal Discussion.*** Fill in the date of the action, and the date first discussed with supervisor.

3. ***Employees Statement.*** This includes the date the grievance is filed, and the following sections:

4. Contract Section or Policy Violated. From your notes, list the applicable Articles, sections, rules, etc. that have been violated by management. List laws or other applicable documents that aren't included in the preceding part of the section. Also, write "any other applicable Federal, State, or County laws, MOU sections, PPS&Ps, or work rules."

5. ***Specifics of Violation.*** Using your notes, list *briefly* the specific actions or inactions of management that make this a grievance, e.g. "Grievant was assigned work of Supervisor from March 1 to the present, but paid at Senior Mechanic rate for that period," or "Grievant was denied time-and-one-half holiday pay for Memorial Day holiday worked," or "Grievant was suspended for three working days from Ju*ly 2-4,* without just cause."

6. ***Remedy Requested.*** Consult with the grievant and list what he or she wants as a settlement of the grievance; for example: "Grievant to receive holiday pay for Memorial Day holiday," or "Grievant to be paid at Supervisor rate, retroactive to March 1," or "Suspension to be reversed, grievant to be made whole for all wages and benefits lost, and all record of suspension action to be removed from files." Always start the remedy with the words "Make whole," in case of an oversight in the remedy.

6. Make sure you have the *date and signatures* (yours and the member's) on the bottom of the form.

FILE THE GRIEVANCE If you're hand delivering the grievance, get the signature of the supervisor or manager verifying receipt. Make a copies of the signed form, give the original to the supervisor or manager, send a copy to the Chief Steward, and keep a copy for your records, along with your notes and other documents from the grievance investigation. If you're mailing the grievance, then distribute the other copies as above. If you're emailing the grievance, cc the Chief Steward, and print a hard copy and keep an electronic copy for your records.

AFTER YOU'VE FILED THE GRIEVANCE If your contract has a time deadline for the supervisor or manager's response, circle that date on your calendar. If you receive no response by that date, check your contract or call the Chief Steward on how to proceed.

If at any point in the filing of a grievance you need information or assistance, please consult with your Chief Steward or Business Agent.