

THE ACCELERATED GRIEVANCE PROCEDURE



Adapted from Commonwealth PowerPoint Presentation by Darren Heffner

WHY ARE WE GOING TO THIS NEW PROCESS?



If you have been a steward for any length of time you have no doubt experienced the bureaucratic delay of the grievance process. Many grievances eventually get settled or arbitrated but it takes an incredibly long time leaving many members feeling the Union doesn't care about their grievance.

There is a well-known legal maxim that justice delayed is justice denied. Despite stewards and Business Agents' best efforts we have not been able to expedite grievances under the traditional grievance system.

The Accelerated Grievance Process (AGP) provides a system for resolving grievances quickly while still protecting the rights of the grievant.

In order for the AGP to work, shop stewards are the most critical component of the process. The AGP is not complicated but it is different and takes some getting used to. It is important that our members understand the new process and their role in it. Once you have completed the AGP training, please discuss the new process at a shop meeting. Staff will be able to assist you with this.

NEW ROLES FOR STAFF

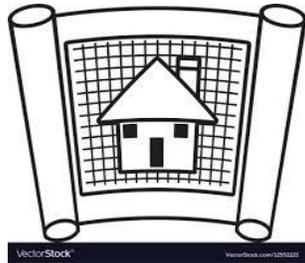
Each shop has always had a Business Agent assigned to assist stewards and members with technical issues, labor management meetings, health and safety and internal organizing, and to file ULPs and serve as the Union's advocate at arbitration.

Business Agents, on average, have approximately 30 shops or more and around 1100 bargaining unit members. Included in those shop assignments are local units where the BA is responsible for negotiating contracts in addition to their other servicing responsibilities. What that means is that BAs are expected to be a jack of all trades. After several years of reviewing this model, we have determined there may be a more efficient way of dividing up these responsibilities.

Going forward there will be two different categories of Business Agent. The first is the Internal Organizing Business Agent (IOBA). This group will work with the shop stewards on internal organizing, provide technical advice, training on labor-management, membership meetings and assist with any question's stewards may have regarding filing a grievance.

The second group is the Contract Enforcement Business Agents (CEBA). They have been tasked with filing Unfair Labor Practices and representing the Union at ULP hearings. They are also responsible for the second step of the new AGP and will serve as the Union's advocate at all arbitration hearings (including the third step of the AGP process).

Under our new staff structure, there will be four regional teams. Each team will consist of four IOBAs and one CEBA. The IOBAs will still have shops assigned to them however the CEBA's will cover all ULPs and arbitrations in their assigned region. In other words, each shop will have two BAs. One will be the IOBA who be responsible for everything a BA is currently responsible for except grievances at the second and third step and ULPs which will be the responsibility of the CEBA.



STRUCTURE OF THE AGP

- Initial Grievance filing (Shop Steward)
- Step 1 – Local Meeting (Shop Steward)
- Step 2 – Agency Settlement Conference (CEBA)
- GAC Appeal (If appropriate)
- Step 3 – Joint State Committee (CEBA)

INITIAL FILING OF GRIEVANCE



- Grievance must be reduced to writing and include:
 - Specific Article(s) violated
 - A brief description of the alleged violation
 - The remedy requested (make whole)

Stewards should use the same grievance form we currently use. This can be downloaded from the website into a word document. (Page 22)

- Stewards will need to **get witness statements** from each person, including the grievant at the start of the grievance. (Pages 23,24) Because the AGP relies almost exclusively on written statements, instruct all witnesses and the grievant to be as thorough as possible. Statements should be returned to the shop steward to check for thoroughness and that they are on the correct form and signed.
- Stewards will also need to **collect all supporting documentation** that is already in the grievant or the Union's possession.
- Stewards will need to **do an information request** as well. (Pages 25-26)

Step One (This is the steward step and includes the initial filing and the Step One meeting with management).

- Each worksite will designate a management person to receive initial grievances.
- All grievances start at Step 1 including Health and Safety, Terminations and Suspensions.
- Union (or employee) submits grievance to management designee within 15 days from the date they knew or should have known of the violation.
- Grievances filed after the 15-day timeline are considered untimely.

The initial grievance submission, as well as the exchange of all documents may be done via email. All time limits may be extended by mutual agreement.

ORDER OF PRESENTATION

Appendix K, Rule 1, Section 2

Throughout all Steps of the AGP:

- ❖ Commonwealth must present case and evidence first in disciplinary matters.
- ❖ Union must present case and evidence first in contract interpretation matters.
- ❖ In matters involving arbitrability (procedural or substantive), the party claiming that the matter is not arbitrable carries the burden of proof and must present their arbitrability case and evidence first.



WITNESSES

Appendix K, Rule 1, Section 3

The accelerated aspect of the process relies on the use of witness statements rather than live witnesses. Live witnesses, while permitted under certain circumstances, are discouraged.

- ❖ At any step, witnesses may appear and provide testimony only upon mutual agreement.
- ❖ Witness statements must contain the clause found in Appendix K, Rule 1, Section 3.
- ❖ Name of witness must be **typed or printed clearly** on all statements.
- ❖ All statements must be **signed and dated** by the witness.
- ❖ If a typist or writer is used, the individual must be legibly identified on the statement.

See pages 23 and 24 for witness statement forms.

WITNESSES

Appendix K, Rule 1, Section 3



- ❖ After the interview, ask the witness to type or legibly write a statement, or, have a typist type the statement for the witness.
- ❖ Read the typed or written statement to the witness, verify the contents are accurate, and ask for clarification if necessary.
- ❖ Any changes or corrections made to a witness statement that has already been signed should be initialed and dated by the witness.

See pages 23 and 24 for correct forms



Example of a BAD witness statement

LOCAL 668 EMPLOYEE WITNESS STATEMENT

The following statement is being given by me freely and without coercion for official Union business and will be considered for all purposes, including actions under the statues of this Commonwealth, just as though it had been word or affirmed before a court of law or formal arbitration panel.

Name of Witness: (The name of the witness should be printed here).

Information:

Pete and John were yelling at each other in the breakroom. Coffee spilled. I went back to my desk. (There is very little detail. What were they yelling about? Was the spilled coffee related to the arguing and if so, did it appear intentional? Where was the witness i.e. in the breakroom? Was anyone else in the breakroom? Was the witness there when the arguing started and if so could the witness tell who may have started the argument?)

Joe Employee

June 22, 2020

Witness Signature

Date

Typist Signature

Date



Example of a GOOD witness statement

LOCAL 668 EMPLOYEE WITNESS STATEMENT

The following statement is being given by me freely and without coercion for official Union business and will be considered for all purposes, including actions under the statues of this Commonwealth, just as though it had been word or affirmed before a court of law or formal arbitration panel.

Name of Witness: Susan Union

Information:

On January 10, 2020 at approximately 10:05 a.m., I was sitting in the breakroom when Pete Smith and John Jones entered at the same time. John poured a cup of coffee and then said something to Pete about not touching the things on his desk. Pete raised his arms and yelled that he was sick of John accusing him of things. John said, "I know it was you", then Pet walked quickly past John, bumping John with his shoulder and causing coffee to spill all over John 's shirt. Pete left the breakroom while John grabbed napkins and tried to clean up the spilled coffee. The episode lasted less than one minute. Mary Edwards and Angela Davis were also in the breakroom when the incident occurred. I had not been previously aware of any situation in which John accused Pete of touching things on his desk, and I am not aware of any similar type interactions between John and Pete before or after this incident.

Susan Union

Witness Signature

Date

Typist Signature

Date

WITNESSES Appendix K, Rule 1, Section 3

It is important to obtain all witness statements prior to Step 1 meeting.

- ❖ It is especially important for the party with the “burden of proof” to secure witness statements to prove their argument.

- ❖ When a witness statement must be amended, a Supplemental Witness Statement may be used.
 - Used when witness needs to substantially clarify or amend initial statement.
 - Used if the required clause is not present in initial statement.

See page 24 for correct form.

PREPARING FOR THE STEP ONE MEETING WITH MANAGEMENT



- ❖ Review the grievance.
- ❖ When necessary, initiate clarifying discussions with the other party.
- ❖ Discuss facts, evidence, and particulars of the case with witnesses and individuals directly involved in the issue.
- ❖ Obtain witness statements.
- ❖ Obtain any supporting documents from the grievant or witnesses.
- ❖ Review information request to management – is there any additional information you might need.
- ❖ Formulate your position and prepare your arguments and evidence. Prepare grievance packet.

*Step 1 position, arguments, and evidence lay the foundation for future steps.

*Arguments and information to be considered by the parties is limited to what is shared and placed on the record at Step 1. In other words, both sides MUST put all of their cards on the table. If either side tries to hold something back, they will not be able to introduce it later.

- ❖ Determine if you will have any procedural or substantive objections or arguments.
- ❖ Analyze, consider, and prepare for the opposing party's position and arguments.

STEP 1 MEETING Article 32, Section 10, Step 1 Appendix K, Rule 2



- ❖ Management and the Union steward will advise each other of all known facts and supporting documentation, including witness statements, and furnish relevant reports or investigations upon which the parties will rely in supporting their positions.
- ❖ Confidential information will be dealt with per agreed upon procedures (agency specific).
- ❖ Parties exchange packets and sign/date received documents (important for future steps).
- ❖ No less than 15 days prior to scheduled Step 1 meeting, local Union rep shall provide list of grievances to be heard to the employer worksite designee.
- ❖ Settlements must be reduced to writing. Settlements made at this step are final and binding, but not precedent setting. *Make sure to discuss settlements with the grievant and the Business Agent prior to accepting a settlement.*

- ❖ If not settled, Employer must provide written disposition to Union within 15 working days following the Step 1 meeting.
- ❖ May be occasions when a second Step 1 meeting is necessary (grievance amendment, development of substantial new information).

WHAT HAPPENS WHEN A GRIEVANCE IS NOT RESOLVED AT THE FIRST STEP

1. If the grievance is not resolved at Step 1, management has 15 days to provide a response. Once the response is due or received, immediately forward it to the CEBA assigned to your shop with a copy to your shop's IOBA.
2. The Union has 15 days from the date the Step 1 response is received to appeal it to Step 2 (the agency designee). This is done by the CEBA so it is imperative that you forward all information including the grievance and the denial as soon as the response is due or received.
3. Whenever possible it is best to submit this information via email to the CEBA.

STEP TWO MEETINGS



The Step Two meeting is an informal meeting between the CEBA and the Agency representative. No participant may be directly connected to the grievance.

At the Step Two meeting a grievance will be granted, denied, settled or withdrawn.

If a grievance is settled or withdrawn, the grievant will be notified of their Grievance Appeal Committee rights. If the grievant appeals to GAC, the GAC will have 30 days to decide whether the grievance should go to Step 3 (Arbitration) or be withdrawn or settled. The GAC decision is final and once made the CEBA will notify the grievant, the Shop Steward and the Commonwealth.

Any settlement must be reduced to writing and is final and binding but non-precedent setting.

If the grievance is not withdrawn or settled, the Employer has 15 days to notify the Union of its decision in writing.

STEP THREE – JOINT STATEWIDE COMMITTEE/ARBITRATION

- ❖ In the event a grievance is not resolved at Step Two, the Union has 15 days to file an appeal to the Joint Statewide Committee.
- ❖ The Joint Statewide Committee consists of two management representatives, the Union's Staff Attorney and the Union's Chief of Staff and a neutral arbitrator.
- ❖ The CEBA's present the cases on behalf of the Union.
- ❖ During the hearing, only Committee members, presenters, and individuals directly involved in the case shall be permitted in the immediate hearing area. No spectators permitted.
- ❖ Any later discovered or developed evidence not previously disclosed at Steps 1 or 2 must be submitted to the other side no less than 48 hours prior to the Committee meeting. Failure to submit within 48-hour timeframe will be grounds for Committee to refuse to accept evidence.
- ❖ No verbal witness testimony is presented at this Step. All witness testimony must be in the form a written witness statement and must have been presented to management at Step One.
- ❖ The Committee members will vote during executive session whether to sustain or deny the grievance.

- ❖ All majority decisions shall be reduced to writing by the Chairperson and signed by all Committee members. Such decisions are final and binding, but not precedent setting.
- ❖ If the Committee does not reach a majority decision during executive session, the matter will be turned over to the Arbitrator for decision.
- ❖ The Arbitrator will issue a written decision along with a brief, written explanation of said decision which shall be signed and dated by the Arbitrator.
- ❖ All arbitrator decisions shall be final and binding on both parties and shall operate as precedent.

FORMS



SEIU Local 668 Grievance Form

GRIEVANCE (check one) Discipline
 General
 Classification

TODAY'S DATE: _____

TO: _____ (Immediate Supervisor)

FROM: _____ (Your Name or Stewards Name)

NAME OF GRIEVANT(S): _____

SHOP: _____

DATE OF INCIDENT YOU ARE GRIEVING: _____

We grieve a violation of Article(s) _____ and any other appropriate Article of the Local 668 contract.

BRIEF STATEMENT OF THE GRIEVANCE (describe contract violation)

REMEDY REQUESTED

We request a hearing on the matter. We demand the employer remedy the contract violation by making the grievant whole and any other appropriate remedy.

Note: For additional information, please contact me at: _____ (Phone



Number) _____ This copy to Management, make a copy for your files, a copy for BA, a copy for grievant.

LOCAL 668 EMPLOYEE WITNESS STATEMENT

The following statement is being given by me freely and without coercion for official Union business and will be considered for all purposes, including actions under the statutes of this Commonwealth, just as though it had been word or affirmed before a court of law or formal arbitration panel.

Name of Witness:

Information:

Witness Signature

Date

LOCAL 668 EMPLOYEE WITNESS STATEMENT

SUPPLEMENT STATEMENT

The following statement is being given by me freely and without coercion for official Union business and will be considered for all purposes, including actions under the statutes of this Commonwealth, just as though it had been word or affirmed before a court of law or formal arbitration panel.

Name of Witness:

Information:

Witness Signature

Date

GRIEVANCE INFORMATION REQUEST

TO: _____

FROM: _____

RE: _____

DATE: _____

Pursuant to Act 195 and in connection with the above referenced grievance, the Union requests the following information:

- Copies of any policies, procedures, regulations the grievant is alleged to have violated,
- Copies of any previous disciplinary actions against the grievant,
- List of any other employees who were alleged to have committed the same infraction and what, if any discipline was issued,
- MSDS,
- Copy of the grievant's personnel file,
- Accident records,
- Attendance records, including sign in sheets, timeclock or biometric reports,
- Bargaining notes,
- Client, resident, inmate complaints,
- Employer memos related to work rule, policy or procedure the grievant is alleged to have violated,
- Health and safety studies, inspection reports or memos,
- Inspection records,
- Job assignment records (including memos, class specs and job descriptions)
- Performance evaluations
- Job bids,
- Seniority lists,
- Names of any witnesses or potential witnesses,
- Witness statements,
- Payroll and salary records,
- Photographs,
- Video tapes,
- Phone records,
- Internet usage records,
- Personnel transaction reports,
- Security guard records and reports,
- Subcontracts,
- Training manuals related to the issue,

- Work Rules,
- Promotion tests,
- Minutes of Employer meetings,
- Leave requests,
- Air Quality studies,
- Test results
- Any and all other documents the Employer considered, relied upon or believes supports their position.

RECEIPT FOR INFORMATION EXCHANGE

The following was provided by the Union:

Document provided

Date provided

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.

(use additional sheets of paper if necessary)

The following was received by the Union:

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.

Signature of Union Representative

Date

NOTES

