

Fact Sheet

What Is The Duty Of Fair Representation?

The union has a legal duty to represent everyone in the bargaining unit fairly and equally, without hostility, discrimination, favoritism or personal bias. This is called the Duty of Fair Representation (DFR). You can run into problems under the DFR if your representation of workers is arbitrary, discriminatory or in bad faith.

What Does All This Mean?

DFR Requires Stewards To:

- ▶ Enforce the contract following basic grievance handling rules (investigating, preparing, following time limits, keeping the grievant informed);
- ▶ Use the same standards to make decisions on all complaints and grievances, regardless of who has the problem; and
- ▶ Decide whether to file, continue, arbitrate or drop grievances based on the facts, the contract, chances of winning, and the local's record with similar problems.

DFR Does Not Require Stewards To:

- ▶ File grievances on every complaint, or
- ▶ Take every termination grievance to arbitration, or
- ▶ Go to arbitration whenever a member demands it.

In fact, using consistent standards to make decisions on filing and arbitrating grievances – standards that don't change when a grievant puts pressure on – is a good way to show you're representing the bargaining unit fairly.

Steward Guidelines To Comply With DFR:

- ▶ Investigate all potential grievances, request documents, keep notes.
- ▶ Don't miss grievance time limits.
- ▶ Don't discriminate between grievances based on the grievant's race, sex, age, bad personality, weird political beliefs, anti-union speeches, or the fact that she got the promotion you wanted.

- ▶ Be prepared for grievance meetings. Be clear on important facts and arguments. If you know the company's position, be ready to respond. Go over your case with the grievant beforehand.
- ▶ Know the local's history with similar problems. If there is a consistent, logical policy, follow it. For example, your local might grieve discipline whenever there is any question of just cause, but not when there is absolutely no doubt that the company had just cause. Then you should file a grievance over the warning that the worker says wasn't given to others in his area who did the same thing, even though he hasn't come up with names and dates.
- ▶ Keep the grievant informed. Try to have the grievant at every grievance meeting. Explain any agreement (to drop or settle) before you make it. Be sure to tell the grievant the final outcome of the grievance. It's a good idea to do this in writing, or with a reliable witness, or keep notes yourself so you have a record of when the grievant was informed and what was said.
- ▶ Make sure the local keeps records. The local should keep good written records of whatever process is used to decide whether grievances go to arbitration, including the reasons for each decision. Then if a problem develops, you have a written record of why the decision was made, as well as a record of the reasons for decisions the local has made on other grievances on similar subjects that should show the local has used consistent policies and standards.
- ▶ A final test: If you don't like the grievant for any reason, and you've decided to drop or settle the grievance, ask yourself if you'd do the same thing if the grievant were your friend. If not, rethink what you're doing. Even better, talk with another steward or local officer regularly from the time the grievance first comes up, to make sure you're treating the grievant fairly.