

## **How to Handle Grievances**

Employee complaints are bound to arise in any business operation: even the best contractor won't be able to avoid the occasional grievance. The majority of sheet metal collective bargaining agreements have adopted the grievance procedures set forth in the Standard Form of Union Agreement for the Sheet Metal Industry (SFUA), which calls for a four-step process for resolution of grievances. Contractors should ensure they are familiar with their collective bargaining agreement's grievance process, including any time limitations.

In an ideal world, contractors would be able to informally resolve any complaints its employees have, internally and without formal union intervention. While many contractors already adhere to these practices, they are worth repeating:

1. Treat your employees with respect and create an environment of trust. Contractors should strive for honesty, communicating well and often, listening to and resolving issues as they arise, recognizing and rewarding good performance, and creating an environment of trust and respect.
2. Learn how to work with the union's stewards. Ideally, you want a working relationship with your stewards so that they come to you first and foremost with issues they identify.
3. Resolve disputes quickly and fairly. Not every complaint needs to hold up the job for immediate action. However, a general practice of prompt investigations into issues raised, followed by remedial action where appropriate, will generally garner good will not only from the union but, more importantly, your workforce.

Unfortunately, even the strictest of adherence to the above principles won't guarantee that your company will never be faced with a grievance. Below is a short list of do's and don'ts to remember if you are faced with a grievance.

Under the SFUA, the first step is a meeting between the union and employer to discuss the grievance. This step has no formal requirements and can be accomplished with phone calls, in-person meetings or even email. Most contractors will find that they are contacted by one of their union's business representatives or agents in large unions, or by the union business manager in smaller unions.

### **Do's**

1. Require the union to identify the specific basis for its grievance. Look to obtain from the union the "who, what, where and when" involved in the grievance. Where possible, ask the union to identify the specific contractual provision allegedly violated.
2. Do your own investigation of the union's allegation before discussing with the union the merits of its allegations. Once the union has provided you with the information above (and it might be necessary to meet with a union representative in order to get that information), set a time to discuss the merits of the grievance with the union. Don't purposefully delay or prolong your investigation. However, ask the union to reschedule your meeting, if necessary, to complete a full and fair investigation first.

3. Determine whether the grievance was filed within the contractual time limits provided for in the collective bargaining agreement and whether the grievance meets all other procedural requirements dictated by the agreement. If you believe there is a procedural problem with the grievance, communicate this to the union and that any discussions you have from that point forward do not waive those objections.
4. In appropriate cases, determine what your past practice has been in similar circumstances. Past practices will usually not override clear contractual language.
5. Investigate or seek advice from your local chapter executive on past grievances for any similar issues that have been resolved in prior cases, for repeated grievances on the same issue, and for arbitration awards on the same issue.
6. Record all results of your investigation and keep copies of all records that bear on the case for possible future use.
7. Anticipate the union's position and prepare to address it during your meeting with the union.
8. Permit a full hearing of the issues. Be sure the union has presented its whole case before you attempt to reach a resolution.
9. Make a full record of the union's and your positions, arguments, witnesses, evidence, and participants in discussions.
10. Treat the union representative with respect. Let the union know you expect to be treated the same.
11. Be honest.
12. Advocate for your interests. Explain any compelling business reason for the actions at issue.
13. Control your emotions, your remarks, and your behavior. Choose your words carefully. They can and will be used against you, where possible, if the grievance moves to the next step of the process.
14. Remember that your case may result in an arbitration hearing at the LJAB, an Article X Panel and the NJAB. Set the ground work at step one of the grievance proceedings, for the record that you want to be presented at the next steps.
15. Confirm any agreement you reach with the union in writing.
16. Pass along to your chapter executive, your experience with any troublesome contract clauses, even if the grievance is resolved.

### **Don'ts**

1. Don't demean your employees to the union. Keep your observations of employees objective and respectful.
2. Don't argue with the union representative in the presence of employees. Keep those discussions private to the extent possible.
3. Don't give lengthy written responses to the union's grievance. Keep your responses short and to the point.
4. Don't get off track. Grievance discussions can often lead to a host of other issues being raised. Insist the discussion remain focused on the particular grievance but offer to meet at another time to discuss other issues that don't impact this particular grievance.
5. Don't offer information not relevant to this grievance.

6. Don't agree that something is true if you don't know. Ask instead for time to verify the accuracy of something that is alleged.
7. Don't ask favors of the union without expecting reciprocal concessions will be asked from you some day.
8. Don't agree to something you aren't prepared or authorized to do. Make sure you clearly communicate any contingencies to reaching a full agreement (i.e. you need board approval, need to confirm factual accuracy etc.).
9. Don't make settlements that you can't keep. Be sure you've thought out how a settlement will impact your business. You may want to discuss the potential long-term impact of a potential settlement with your chapter executive or your local counsel before final agreement.
10. Don't unreasonably delay the proceedings. You do not have to agree to the timeline set by the union. However, you should make an effort to be responsive and reasonably accommodate the union's request.