

# Grievance Processing 101



Presenter

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# Definitions

- Bargaining Unit Member: described in the recognition clause of your CBA.
  - All full-time faculty
- CBA: Collective Bargaining Agreement (aka Contract)
- Faculty Association: MSJCFA is the exclusive representative for bargaining unit members. The FA negotiates the hours, wages, and working conditions for unit members. Unit members may not negotiate these items on their own.

# Collective Bargaining and Grievance Processing Facts:

- Unit member rights are negotiated away from management: they don't just happen.
- Rights are codified into a formal collective bargaining agreement covering the wages, hours and working conditions of the unit members.

# Collective Bargaining and Grievance Processing Facts:

- These agreements are only as comprehensive as the Association has the power and stamina to negotiate.
- Once negotiated it is the Membership and Association's responsibility to ensure Management follows the agreement.

# Importance of Grievances

- Grievances define the contract language.
- Grievances impact the subsequent bargaining process.  
“If it’s worked well up to now, why change it?”

# Retaliation for Grievances: It is Illegal

- Retaliation

- EERA {3543.5 (a)} is specific that employer may not retaliate against an employee/unit member, or THREATEN to retaliate for exercising their rights under EERA (bargaining, grievance, leader, union publications, etc.)

# The FA has a Duty of Fair Representation to Unit Members

- **Duty** to represent all unit employees.
- **Duty** to process grievance in a non-arbitrary, non-discriminatory and good faith manner.
- **Duty** to be familiar with the contract.
- **Duty** to investigate grievances.
- **Duty** to satisfy contractual grievance time limits.
- **Duty** to notify a Grievant of union decisions.
- **Duty** to present a good arbitration case.

# ***THE WEINGARTEN RULE:***

***AN UNIT MEMBER HAS THE RIGHT TO HAVE A UNION REPRESENTATIVE AT A MEETING WITH THE EMPLOYER IF HE OR SHE HAS A REASONABLE EXPECTATION THAT DISCIPLINE MAY RESULT.***



# Beware of INSUBORDINATION

- **IT CAN GET YOU FIRED!**

Insubordination is one of the major contributing factors in many employee dismissals and is one of the easiest charges to prove.

- **REMEMBER WHO'S BOSS!**

Any Dean or immediate supervisor has the right to exert leadership, etc., so long as they conform to the contract and are clear and unambiguous, not injurious to your health, applied uniformly, and justly administered.

- **RULE # 1:**

The best rule to follow in regards to insubordination is "Don't be."

- **WORK, THEN GRIEVE!**

# CAUTION: MEMBER vs. MEMBER

If a unit member has a complaint against another unit member, it is not the Association's place to resolve it unless it can be turned into a complaint against management.

# Not Every Issue is a Grievance...

- A "grievance" is a "formal written allegation submitted on a mutually approved form by a grievant that the grievant has been adversely affected by a violation, misinterpretation or misapplication of provisions of this agreement"
  - not every problem meets this definition.
- Some issues are not grievable, but are great opportunities to organize unit members.
  - For example, campus safety issues

# What Is the MSJC Grievance Procedure?

- A day is any day within your regular contract (different for teaching/non-teaching faculty)
- Time limits are important. If the District doesn't respond on time, that is the same as a rejection of the grievance.
  - Therefore, if you want to continue the process, you must move to the next level

# The Grievance Process: Getting Started

- **GET THE FACTS**

- Unit Member's perspective
- Collect Relevant Documentation
- Names of witness or other interested parties

- **WRITE IT DOWN**

- **DISCUSS WITH GRIEVANCE OFFICER(S)**

# Writing It Up

- **K.I.S.S. METHOD**

The secret is to keep it simple. Briefly state what has transpired.

- **DO** assert violations of every Article and/or Section that have even the remotest relevancy.

# Guidelines For An Administrative Grievance Meeting

- **Listen** carefully, using a great deal of eye contact - make your presence felt.
- Take notes, but not too copiously.
- **Ask** for copies of any documentation shown or referenced.
- **Don't be defensive.**
- **SILENCE IS GOLDEN.**

# The Grievance Process: Following the Contract

- First, must have informal meeting with appropriate Dean. This must happen within 20 days of the grievable event.
- Level I: Submit the written grievance on the grievance form to the appropriate dean within 20 days.
  - Must include a concise statement of the issue
  - Specific article/section of the contract violated
  - Details of the event
  - Date of informal conference
  - Specific Remedy
- Must meet if either party desires within 10 days.
- Dean responds within 15 days of initial filing.



# The Grievance Process: Following the Contract

- Level II: if unsatisfied with response at Level I, or there is no response, move to Level II within 10 days
  - Appeal to Superintendent/President
  - Include copy of all original grievance paperwork
  - Reason for appeal
- Must meet if either party desires within 5 days of filing the Level II
- Superintendent/President responds within 15 days of filing of Level II

# The Grievance Process: Following the Contract

- Level III: Optional Mediation
  - If no resolution reached, can request non-binding mediation within 15 days of Level II response.
    - If the mediator can help the parties resolve the issue, then an agreement is signed to end the grievance
    - If not, the Association can take the issue to Binding Arbitration within 10 days

# The Grievance Process: Following the Contract

- Level IV: Binding Arbitration
  - The Association and District select an arbitrator to hear the issue.
  - Arbitration decisions become instruments to interpret the contract.

# Grievance Officer(s)

- Most important is to HAVE ONE! Not all grievances should go to the President.
- In Chapters this size, all unit members should be familiar with the basics of grievances and report potential ones to the grievance officer(s).

# Grievances are EVERYONE'S Responsibility

- **The Association is not psychic.**
- **If you think there MAY be a grievance, notify an Association Rep as soon as possible. You only have 20 days to start the process.**
- **It's better to start the process and withdraw than to lose a good grievance because timelines were blown.**

# Thank you for your time!

- Questions, comments, concerns?