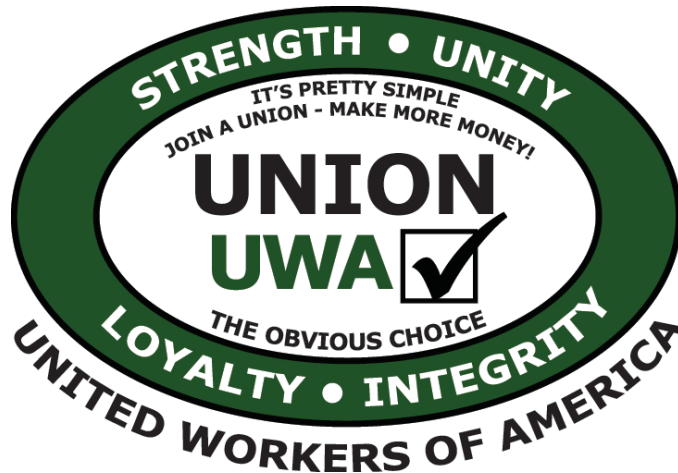




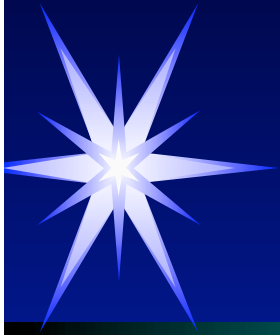
United Workers of America



**Grievance Handling: Understanding
Your Contract**

**Federal Mediation and Conciliation Service:
FMCS Commissioner Guy Serota**

CONTRACT ADMINISTRATION TRAINING BY FMCS

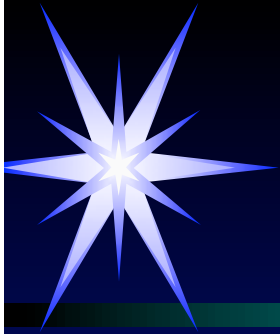


IMPROVING THE LABOR -
MANAGEMENT RELATIONSHIP

Presented By FMCS Commissioners:

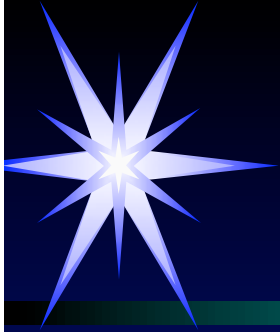
Carlos Tatte ctatte@fmcs.gov

Guy Serota: gserota@fmcs.gov



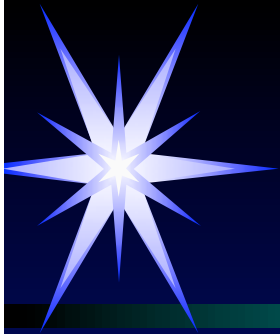
CORDWINDERS (conspiracy doctrine) - 1792

- Court rules that strikes by shoemakers in Philadelphia are considered an illegal conspiracy against the public good.
- Strikes were considered illegal.



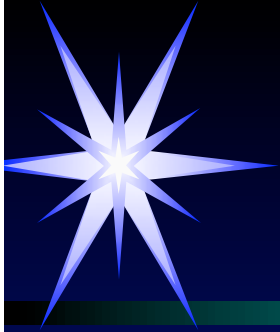
Railway Labor Act - 1926

- First legislated action that permitted collective bargaining as a right.
- Only in the railroad industry.
- Later extended to the airline industry.



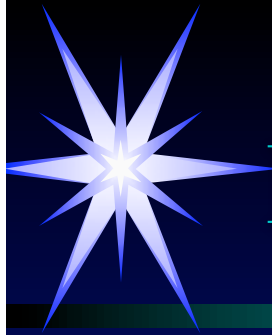
THE WAGNER ACT

- *The Wagner Act was divided into two major components:*
- **1 Employer Unfair Labor Practices;**
- **2 Employer Representative Election;**
- Employer infractions that were considered violations of Federal Labor Law:
- **8(a)1** - No interference, restraint or coercion in the employee's exercise of their Section 7 Rights.(i.e. the right of self-organization; the right to engage in collective bargaining through freely elected representatives; the right to engage in concerted activities.)
- **8(a)2**- No Employer domination of employee unions.
- **8(a)3**- Prohibits discrimination against employees in the exercise of their Section 7 rights.
- **8(a)4**- Protects employees in filing Unfair Labor Practices against the Employer or giving testimony in such a proceeding.
- **8(a) 5**- Requires Employers to engage in good Faith negotiations with the Labor organization representing the employees.



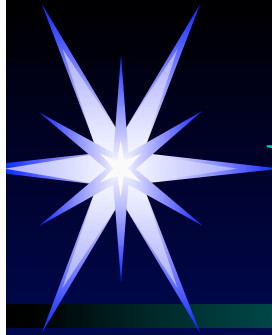
TAFT-HARTLEY ACT OF 1947

- **8(b)1-** No interference in the employee's exercise of their Section 7 Rights
- **8(b)2-** Cannot cause employees to discriminate against another employee
- **8(b)3-** Unions must bargain in "Good Faith"
- **8(b)4-** Outlawed the Secondary Boycott
- **8(b)5-** Prohibition of Charging Excess Dues
- **8(b)6-** Dealt with "Featherbedding"



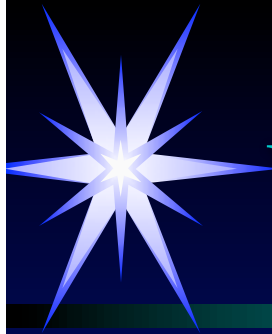
LANDRUM-GRIFFIN ACT

- This piece of Labor legislation which was passed by Congress in 1959, *created the first "Bill of Rights" for union members*. Some significant aspects of this legislation included:
 - Procedures for Internal Union elections;
 - Reporting and Disclosure Requirements for Unions, Union Officers and certain employers;
 - Closed loopholes in the Secondary Boycott;
 - Regulated a permissible limit on Picketing;
 - Permitted Pre-hire Agreements for the first time;
 - Allowed Economic Strikers to vote in Union Elections.



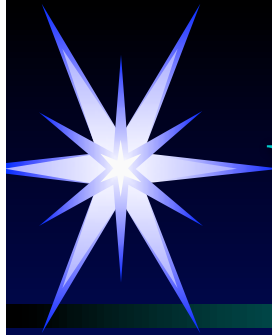
WEINGARTEN RIGHTS

- Weingarten Rights refer to employees' right to Union representation during any employer interrogation which may reasonably lead to disciplinary action.
- The Weingarten Rights result from the Supreme Court case, NLRB v. J. Weingarten, Inc. in 1975.



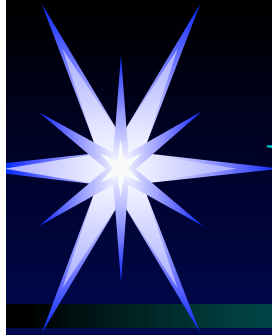
WEINGARTEN GUIDELINES

- Employee must request that a Union representative be present.
- Employee must have reasonable belief that discipline may result from questioning.
- Employee is entitled to get information from employer about the subject of the meeting/questioning.



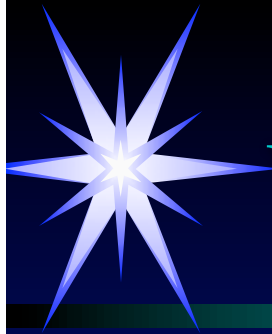
WEINGARTEN GUIDELINES

- Employee is entitled to consult with his/her Union representative in private.
- Union representative is entitled to consult with employee in private.
- Employer has the right to stop questioning the employee.



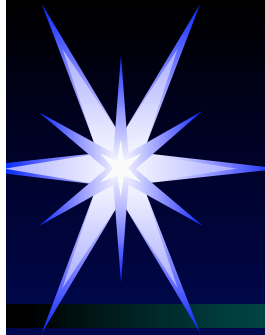
WEINGARTEN GUIDELINES

- Employee is not entitled to Union representation if employer is informing employee of some discipline which has already been decided.
- Employee has no right to refuse to attend meeting with employer if Union representation is not provided.



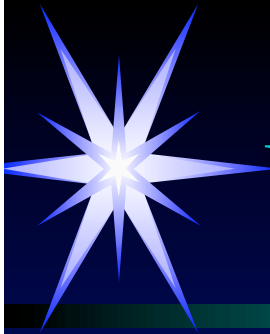
WEINGARTEN GUIDELINES

- Employee does not have the right to a Union representative of his/her choice; Union representation may be based on availability of Steward.



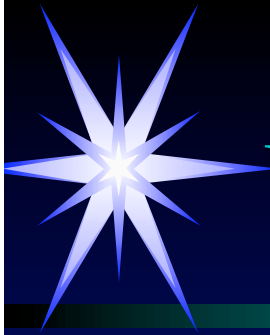
GRIEVANCE DEFINITION

- ▶ **A GRIEVANCE IS GENERALLY A COMPLAINT BY AN EMPLOYEE OR UNION ALLEGING A VIOLATION OF THE COLLECTIVE BARGAINING AGREEMENT OR EMPLOYMENT RELATIONSHIP**



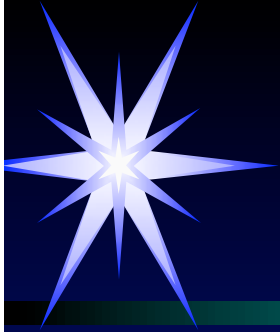
What is a Grievance?

- **Violation of the Contract?**
 - Clear violation of specific terms?
 - Interpretive violation ?
- **Is It a violation of Federal, State or Territorial Law?**
 - Discrimination based on age, sex or race?
 - Wage and hour violations?



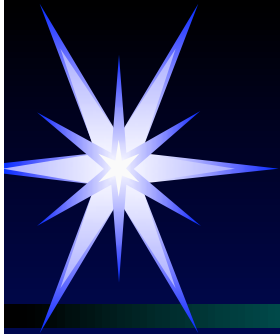
What is a Grievance?

- **Violation of a Past Practice?**
 - May be accepted either orally or in writing
 - Usually repeated over an extended period of time
- **Violation of Management Responsibilities?**
 - Not specifically mentioned under the terms of the agreement
 - Clean, safe work area
 - Adequate lighting
 - Proper heat and ventilation



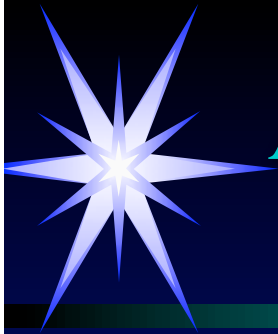
What is a Grievance?

- **Is It violation of Company Rules?**
- Number of warnings that are grounds for discipline
- Are rules reasonable and equally enforced



ANALYZING THE INGREDIENTS OF A GRIEVANCE

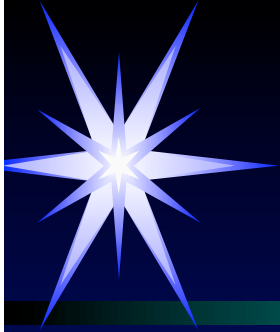
- ◆ Grievances frequently are symptoms of deeper problems.
- ◆ Detect underlying causes and you can correct problems before they lead to serious labor relations trouble
- ◆ Take an objective look at the grievance as a whole and then break it down into its basic parts
- ◆ **Review the grievance In a general sense.**
 - Is it related to other grievances recently filed?
 - Is it admissible under the definition of the union contract, or merely an expression of general discontent or frustration on the part of the employee?
 - **Consider the employee**



ANALYZING THE INGREDIENTS OF A GRIEVANCE

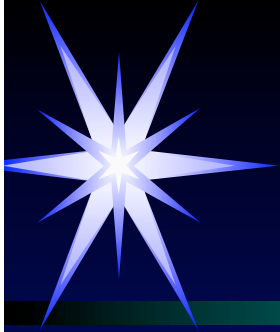
- ◆ Analyze the grievance in its specifics.
 - What actual conditions --job-related or otherwise -- caused the employee's dissatisfaction?
 - Are conditions the cause or simply the targets at which he directs his/her discontent?

- ◆ Consider the employee.
 - What are his/her attitudes?
 - Is he/she a chronic complainer?
 - Does he/she seek union office?
 - How does he/she get along with other workers?



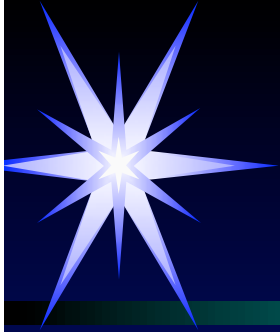
TYPES OF GRIEVANCES & COMMON CAUSES

- **Miscellaneous**
 - Mistakes made in calculating pay.
- **Complaints against supervisor.**
 - Foreman picks on him.
 - Company discriminates because of union activity.
- **Complaints directed at a specific foreman**
 - Foreman plays favorites.
 - Foreman ignores complaints.
- **Objection to general method of supervision.**
 - Too many rules and regulations.



TYPES OF GRIEVANCES & COMMON CAUSES

- **Departmental transfers**
 - Has had more than his share of dirty work.
- **Safety and health**
 - Toilet facilities inadequate.
 - Dampness, noise, fumes, excessive heat or cold.
- **Miscellaneous**
 - Lunchroom facilities inadequate.
 - Lost time waiting for materials



PURPOSE OF A GRIEVANCE PROCEDURE

- FIND FACTS**
- PEACEFUL DISPUTE RESOLUTION**
- FORUM TO ADMINISTER THE CONTRACT**
- OPPORTUNITY FOR EMPLOYEES TO VOICE CONCERNS**
- IMPROVE EFFICIENCY OF ORGANIZATION**
- IMPROVE LABOR-MANAGEMENT RELATIONS**
- LOCATE PROBLEMS IN OPERATION OR CONTRACT**



TOTAL LABOR AGREEMENT



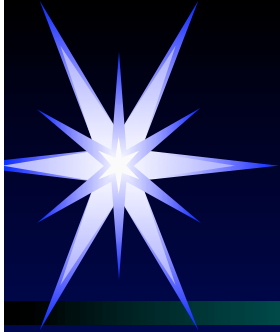
The WRITTEN AGREEMENT provides a basic framework for the labor-management relationship. However, it may be added to and must be interpreted as the union and the industry apply contract language to specific situations.

Most grievances arise from the following:

1. **DIFFERENT INTERPRETATION OF THE AGREEMENT** ----- The union and the company disagree over what the contract means.

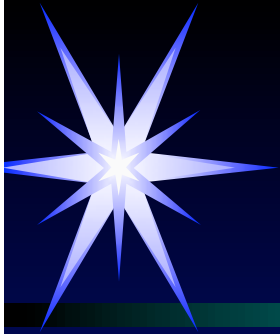
2. **DISPUTES OVER THE PROPER APPLICATION OF THE AGREEMENT** -----

The union and the company have no disagreement over the meaning of the agreement, however, they disagree over how it should be applied.



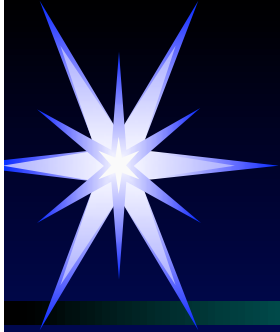
HOW TO SAY NO

- TAKE PLENTY OF TIME TO SAY "NO."
- GIVE ALL THE REASONS FOR SAYING "NO".
- PRESENT THE POSSIBLE CONSEQUENCES OF A "YES" ANSWER.
- "PUT YOURSELF IN MY PLACE."
- HELP THE OTHER PARTY TO ACCEPT YOUR RESPONSE.
- IT TAKES COURAGE TO SAY "NO".



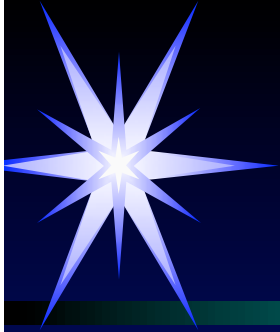
INVESTIGATION OF A GRIEVANCE

- IS THE COMPLAINT VALID?
- HAS THE CONTRACT BEEN VIOLATED?
- DETERMINE THE FIVE W's
 - **WHO** --- the people involved, witnesses, etc.?
 - **WHEN** --- did the situation occur? what shift? day? time? Is grievance timely?
 - **WHAT**--- occurred to cause complaint? Provision of contract is violated? Remedy?
 - **WHERE** ---location of incident?
 - **WHY**--- did grievance complain?



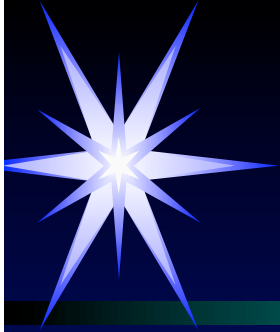
COMMON PITFALLS IN GRIEVANCE HANDLING

- No plan of action
- Lack knowledge of the agreement
- Failure to investigate
- Failure to interpret facts properly
- Reliance on pat solutions.
- Failure to sell a decision
- Stalling and Procrastinating
- Failure to anticipate problems



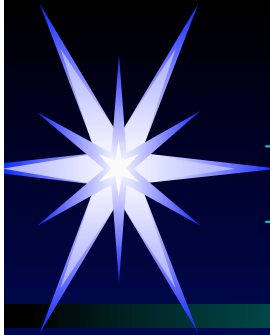
PAST PRACTICE ELEMENTS

- **MUTUALITY** - BOTH PARTIES MUST KNOW ABOUT THE PRACTICE.
- **CONSISTENCY** - HAS THE PRACTICE BEEN FOLLOWED CONSISTENTLY WHEN THE SITUATION AROSE?
- **BRIDGE EFFECT** - HAS THE PRACTICE BEEN CONTINUED OVER TWO OR MORE CONTRACTS? IF SO, THERE IS STRONGER REASON FOR FINDING THE PRACTICE BINDING SINCE IT "BRIDGED" A NUMBER OF CONTRACTS.



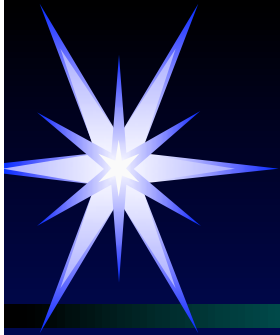
PAST PRACTICE ELEMENTS

- **CONTRACT IS SILENT** - A PRACTICE WILL BE MORE BINDING IF THE CONTRACT IS SILENT AND BOTH UNION AND MANAGEMENT HAVE BEEN USING OR ABIDING BY THE PRACTICE.
- **WORKING CONDITION VS GRATUITY**
 - IF A LONG STANDING PRACTICE INVOLVES A WORKING CONDITION AS OPPOSED TO A GRATUITY, ARBITRATORS WILL HAVE A GREATER PROPENSITY TO UPHOLD THE PRACTICE.



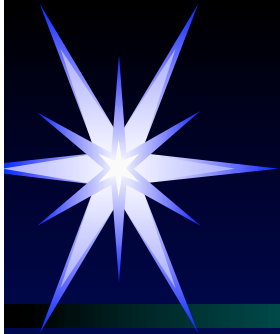
Know Your Grievance Procedure

- What are the time limits
 - For filing a grievance
 - For management to reply at each step
 - For the union to appeal at each step
 - When is the grievance put in writing



INSUBORDINATION

- Defined as an employee's willful Intent to disobey a direct and proper order, it challenges management's basic ability to manage the workplace. As a result, most, arbitrators will uphold termination as a proper penalty if the charge of such serious misconduct is sustained by the evidence.
- ***ORDERS SHOULD BE OBEYED NOW AND GRIEVED LATER.***



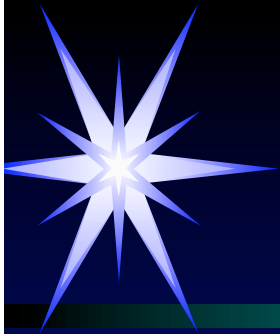
ELEMENTS OF INSUBORDINATION

- Was the Grievant actually given a **DIRECT ORDER** (or merely instructions, Suggestions, or advice)?
- Was the Grievant **AWARE** that he/she was given a direct order?
- If so, was the order **CLEAR**
- Was the Grievant's alleged failure to comply **INTENTIONAL**
- Was the Grievant given adequate **FOREWARNING** of the possible consequences of his/her alleged refusal to carry out the order?



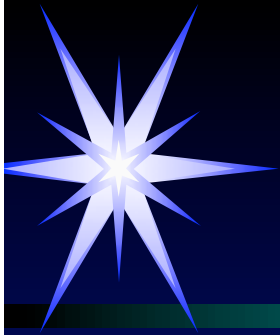
ELEMENTS OF INSUBORDINATION

- Was the order reasonable and necessary to the SAFE, ORDERLY, and EFFICIENT operation of the organization?
 - **a. Did it violate:**
 - - The Agreement? ("CONTRACT")
 - - Company or Agency Policy
 - - Directive, Rule or Regulation
 - - A Past Practice?
 - - An Applicable and Relevant Arbitration Award?
 - - An Applicable Law?
 - **b. Did it countermand existing orders given the Grievant?**



ELEMENTS OF INSUBORDINATION

- Did the order threaten to cause undue hardship or irreparable harm?
- Did the order threaten to endanger the health or safety of the Grievant or others?
- Would the order force the Grievant to violate a law?
- Was the order arbitrary? capricious? unjust? unfair? inequitable? unreasonable?
- Did the order otherwise adversely affect the welfare of the Grievant or the Union



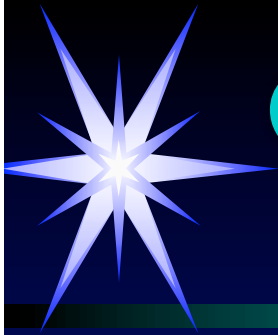
THE SEVEN TESTS OF JUST CAUSE

- **Notice** - "forewarning of the possible consequences"
- **Reasonable Rule or Order**
- **Proper Investigation**
- **Fair Investigation**
- **Adequate Proof**
- **Equal Treatment**
- **Appropriate Penalty**



CHARACTERISTICS OF AN IDEAL STEWARD/SUPERVISOR

- ACTS PORFESSIONALLY
- REASONABLE
- HONEST
- FAIR
- DIPLOMATIC
- OPEN MINDED
- PROBLEM SOLVER
- GOOD COMMUNICATOR
- KNOWS CONTRACT
- GOOD PEOPLE SKILLS



Guide for Stewards : How to Prevent Grievances

- Deal with each person as an individual
- Respect employees and the supervisors, and treat them in a dignified manner
- Seek and understand the employee's and the supervisors point of view
- Be alert to sources of employee irritation
- Investigate and evaluate each gripe to determine whether it is justified;convincing the employee, if possible, when it is not justified



Guide for Stewards : How to Prevent Grievances

- ▶ Report justified gripes and irritation to the foreman; follow up to ensure that prompt action is taken by the foreman
- ▶ Report back to employees to keep them informed regarding action on their complaints
- ▶ Avoid favoritism
- ▶ Cooperate with the foreman in eliminating the causes of grievances
- ▶ *This is not a complete list. It suggests only some of the ways a shop steward can help reduce the number of grievances.*



Guide for Supervisors : How to Prevent Grievances

- Treat each employee as an individual
- Respect employees and treat them in a dignified manner
- Recognize superior performance
- Give credit for a good suggestion
- Seek and understand the employee's point of view if a problem develops
- Be alert to sources of employee irritation
- Take prompt and effective action to eliminate the causes of irritation



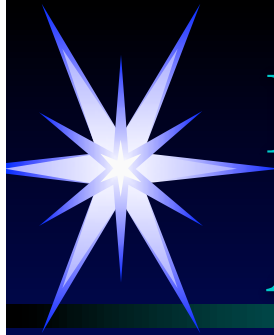
Guide for Supervisors : How to Prevent Grievances

- Properly training of employees
- Issue clear orders, give reasons why, and make sure the orders are understood
- Administer discipline objectively, equitably and consistently
- Enforcing company rules consistently
- Avoid favoritism
- Cooperate with the shop steward in eliminating causes of grievances
- ***This list is incomplete but it indicates some of the steps a supervisor can take to reduce the number of grievances from his employees.***



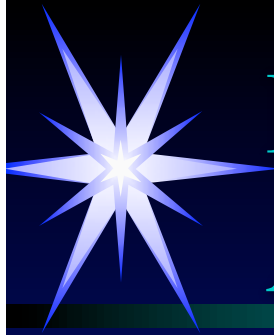
How To Present A Grievance To A Supervisor

- Tell the Supervisor the problem as the aggrieved sees it
- Let it be known that you have an open mind
- Let the Supervisor talk, encourage him/her to state their position
- Show that you understand their position/even if you don't agree
- Tell him/her how far you agree and where your disagreement starts/what you think should be done



How To Present A Grievance To A Supervisor

- Stick to the point & avoid raising questions of principle
- Avoid discussing personalities as much as possible
- Don't force the Supervisor to say no
- If you can't reach a satisfactory settlement don't think the world will end; there are other steps of grievance procedure
- Speak softly and carry a big stick - don't lose your temper by accident.



How To Present A Grievance To A Supervisor

- Don't rub it in!
- Listen to his/her story patiently
- Let him retreat gracefully



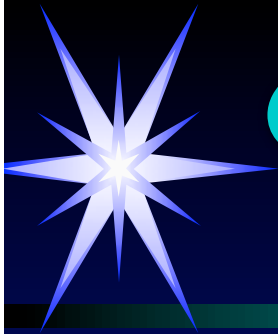
Guide for Supervisors : How to Prevent Grievances

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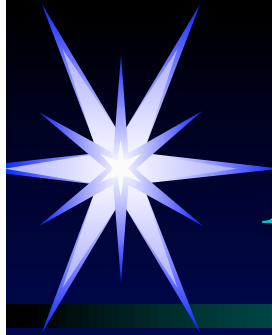
RECEIVING A GRIEVANCE FROM A UNION STEWARD

- LET THE STEWARD PRESENT THE PROBLEM FULLY
- TAKE TIME TO LISTEN
- CONTROL RESENTMENT
- MAINTAIN A FRIENDLY ATTITUDE
- DISCUSS FULLY BEFORE COMMITMENT
- KEEP AN OPEN MIND
- DON'T TAKE IT PERSONALLY



GUIDING PRINCIPLES FOR SUPERVISORS

- LISTEN WITH SINCERE INTEREST
- PUT THE GRIEVANT AT EASE
- DISCUSS THE PROBLEM CALMLY
- GET ALL THE FACTS
- CONSIDER THE GRIEVANT'S VIEWPOINT
- AVOID SNAP JUDGMENTS
- EVALUATE ALL FACTS AND OPINIONS BEFORE REACHING A DECISION
- MAKE AN EQUITABLE DECISION AND RELEASE IT TO GRIEVANT PROMPTLY



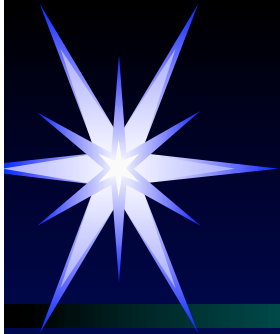
PREVENTING GRIEVANCES

SUPERVISORS

- **GOOD COMMUNICATION SKILLS**
- **PEOPLE SKILLS**
- **PROBLEM SOLVING SKILLS**
- **CREDIBILITY**
- **FAIRNESS**

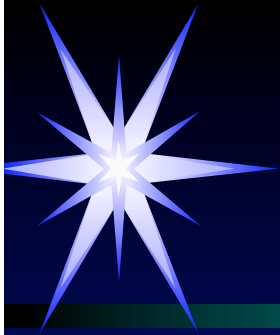
STEWARDS

- **GOOD COMMUNICATION SKILLS**
- **PEOPLE SKILLS**
- **PROBLEM SOLVING SKILLS**
- **CREDIBILITY**
- **FAIRNESS**



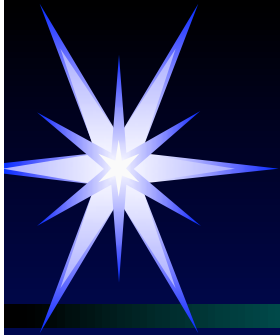
DISCIPLINE

- *Discipline refers to any management action designed to correct employee behavior.*
- **It may range from oral warnings or reprimands to employee suspensions or termination. The specific form and conditions under which discipline may be taken may be defined within the labor agreement, company rules or policies, or embodied within the past practices of the employer or the industry.**



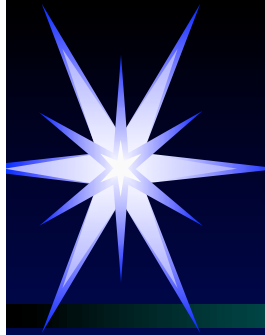
Purpose of Discipline

- The purpose of discipline is to insure that the employer can maintain an efficient, productive and orderly work environment.
- *discipline should used to correct Improper behavior, not as a means of vindictive punishment.*



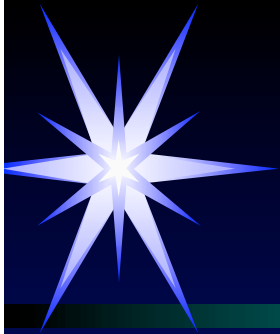
Progressive Discipline

- *the **least** amount of discipline required to achieve acceptable conduct Is the **proper** amount of discipline.*
- Discipline assumes its progressive nature where it is made clear that if an employee continues to engage in unacceptable conduct, the level of discipline will be increased. Discipline need not be progressive in all instances, however. Striking a supervisor, theft, willful destruction of company property, extreme negligence, or actions which Intentionally endanger or harm other employees, are all acts for which termination may be a proper sanction for a first offense.



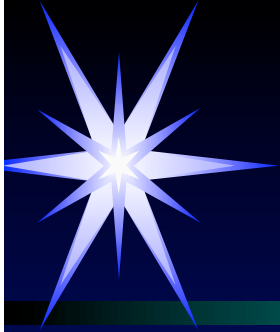
Conduct Versus Performance

- Misconduct is distinct from poor performance and requires different managerial solutions:
- **a. Misconduct:** *a refusal to comply with a company rule, established policy, contractual requirement or direct order. It is the proper subject of disciplinary action.*
- **b. Poor Performance:** *An employee's performance may be poor or deficient through no fault or intent of his or her own. Such performance problems should be dealt with through counseling, training, designed work plans or other methods of performance Improvement.*



A Check List of Standards of Discipline

- Investigation
- Prior Notice
- Consistent Enforcement
- Timeliness
- Non-Discrimination
- Progressive Discipline
- Gravity and Intent
- Mitigating Circumstances
- Sustainable Penalty
 - The labor agreement
 - Company or agency rule or policy
 - Past practice
 - Prior arbitration awards
 - Law or government regulations



THE END!

CONTRACT
ADMINISTRATION
STEWARD SUPERVISOR
TRAINING BY FMCS

LISTEN ACTIVELY

- **Show them you understand**
- **That they feel strongly**
- **What they feel strongly about**
- **Why they feel strongly about it**
- **And pause to let them respond**

WIN YOURSELF A HEARING

- **Explain your own feelings, (*how you feel*) and why!**
- **And then pause, *Let them vent their feelings***
- **Refer back to their points**
- **Make your points firmly, but stay friendly!**

WORK TO A JOINT SOLUTION

- **Seek their ideas**
- **Build on their ideas**
- **Don't knock them down!**
- **Offer your ideas, Don't impose them!**
- **Construct the solutions from everyone's needs**

Bill Montana's Tooth: Grievance Simulation

This activity is designed to give students the opportunity to participate in a grievance activity. The materials include a description of the scenario and an information bank. There are two ways to use the Information Bank.

1. The instructor keeps the information and divulges it to the parties during interviews.
2. The instructor divides the Bank into separate points and distributes them as requested by the parties.

After the critique, explain to the whole group that if there had been consistent enforcement, the "in the *sole opinion*" (of management) language in the contract's sick leave provision might well have given management the right to suspend Montana if, in like cases, others had also been suspended. Under that language management would not have been required to follow progressive discipline in lock step fashion, just as long as it was not arbitrary or capricious. Also, given Montana's record, that alone might allow stronger discipline than the written reprimand that progressive discipline might otherwise have called for.

Bill Montana's Tooth: Grievance Scenario

Bill Montana is a maintenance worker in the ACME Cracker plant. About a year ago Bill hurt his back in an off duty accident while playing football. In the space of a little over a month he used up almost all of his accumulated sick leave recuperating from the injury. During the next four months, however, he continued to use one or two days sick leave a month, either on a Friday or Monday. "It's my back," he explained to his Supervisor, Joe Green, when he called Bill into counsel him about abusing sick leave. When he was absent again on a Monday the very next month, Green issued Bill a formal verbal reprimand. He also warned Montana that more serious discipline would follow if he did not stop abusing his sick leave.

The next couple of months Bill didn't miss any work. Then one day he asked Green, if he could use his sick leave for a dental appointment. "That's up to you," Green said.

Some three weeks later Bill called in sick and took a Wednesday morning off to have his tooth looked at by the dentist. When he returned to work that afternoon and came into the maintenance shop he was told by Green that he was recommending Bill for a one day suspension for continuing to abuse sick leave." "A one day suspension," Bill exclaimed,"but you told me I could go!" "I did not," Green answered. "I said it was up to you if you wanted to use sick leave, not that it was all right to abuse it. If you've got a complaint, go see Pete Smith the Division Supervisor."

Smith refused to lift the suspension on the grounds of Bill's past disciplinary record for abuse of sick leave and because Montana had failed to schedule the dental appointment as required by the collective bargaining agreement. Montana then filed a grievance.

What would be the basis for the grievance? On what basis might management expect their case to be upheld by an arbitrator? What information do you need from the Information Bank?

Bill Montana's Tooth: Information Bank

1. **Work Record:** Except for the absenteeism, Bill has a good work record and been rated as "fully satisfactory." in his performance reports. He has worked at the plant for seven years.
2. **Past Discipline:** Bill did not grieve the oral reprimand.
3. **Contract:** The labor agreement sick leave policy has been unchanged for five years and states-

XV. 3 (c) Employee's wishing to use sick leave for routine medical and dental appointments must request and obtain approval from their immediate supervisor for such leave at least seven (7) working days in advance of the appointment.

4. (a) Where an employee is viewed as abusing sick leave, a doctor's verification may be requested on each occasion of use. Where problems of abuse or non-compliance with this policy persists or where fraudulent claims for sick leave are submitted, management may take such disciplinary action as in its sole opinion is necessary to correct such misuse and/or misconduct

4. **Posted Notice:** All employees have been told they are responsible for notices posted on the bulletin board in the coffee room. The Sick Leave policy is posted there.

5. **Sick Leave Enforcement:** Except where there have been cases of outright fraud, the company has generally enforced discipline for abuse or minor violation of sick leave provisions on a progressive basis. Montana's steward finds out, however, that Nancy Bright, the electrician, took the whole day off for her annual physical a month ago without notifying Green and was not disciplined. When she came in Green had asked her if she had been out ill. On telling him about the physical he said, "Oh, that's okay. I'm glad you weren't sick. Work's been slow anyway."

6. **Bill's Comparative Record of Sick Leave Use:** Over the last year Bill has developed the worst sick leave record in the plant.

Silver Skates Negotiation Exercise

The goal of this exercise is to provide participants with an opportunity to apply the Interest-Based Bargaining principles, assumptions, and steps in one-on-one or two-on-two negotiations. This exercise also provides the opportunity for individuals to understand the difficulty individuals encounter during negotiations. This exercise may require up to 1 and 1/2 hours to complete.

Silver Skates Mediator Directions

This is a negotiation of a contract between an Olympic ice skater and a professional production company. Each side is represented by an agent. The game is played in pairs, each pair consisting of an agent representing the company, and an agent representing the ice skater.

Each player is given confidential information that is unique to his or her role. Participants will have 15 minutes to prepare for negotiation using Interest-Based Bargaining principles, assumptions, and steps. (Techniques are not emphasized in this simulation.) The players then have 30 minutes to negotiate.

Before the exercise, remind the participants of the principles, assumptions, and steps of Interest-Based Bargaining. Give participants a Bargaining Preparation Work Sheet to use during their presentation and negotiations.

After the exercise, bring out the following points in a general discussion;

1. What did participants identify as Sonya's interests?

- Draw-out discussion of any interests they missed.

(Agents will see in their own information sheet, information, that when revealed, will be harmful to the party they represent and will make a decision not to share it. If the agents thought about it for a while they would realize the other party already had the information and by sharing it they could build trust.)

2. What did they identify as the Ice Capades' interests?

- Draw-out discussion of any interests they missed.

3. Have participants identify mutual interests and companion interests,

Mutual interests:

Companion Interests:

4. Summarize each pair's settlement on a flip chart.

5. Compare and contrast the settlements with such questions as:

- Why did some agents deal only with salary?

(Note: As this exercise is written, settlement on salary is relatively easy. However, some information supplied as confidential data is the type that traditional negotiators will be reluctant to share. These two factors will cause some pairs to reach a quick settlement on salary and avoid addressing other interests. This should be drawn out in the critique.)

- Was there a failure to share confidential information? Why?
- What information did you not share? Why?
- Are some of you hearing information for the first time? How does that make you feel about the person with whom you are negotiating?
- Using the expanded list of interests, identify those not met by some settlements.

6. Ask if standards were developed and used? (Do not dwell on this.)

- Principles that the simulation should reinforce:
- Sharing information increases options and the possibility of satisfying more interests.
- Quick settlements result from a failure to share information, and they do not satisfy many interests?
- How much information is shared is a "judgment call." That judgment should favor maximum sharing rather than restricting information flow.

(Note: Traditional negotiators err on the side of restricting information; in making this choice they interfere with the building of trust.)

- Settlement is not merely satisfying your interests, it is satisfying as many interests of both parties as possible.

Silver Skates Background Information

Three years ago, Sonya won the silver medal for figure skating at the winter Olympics. Months before that victory, she severely injured her right leg in a car accident. At that time, the nation gave her an outpouring of support for her bravery in continuing to train and compete. After the thrill of the Olympics and the inevitable rush of endorsements was over, she began a career performing for Walt Disney. However, within a year, the injury to her knee recurred, requiring extensive surgery and curtailing her skating contract.

Now the knee has been repaired, and Sonya is eager to return to ice skating professionally. Sonya spent most of her life training and practicing on the ice; it is the place where she feels most alive.

Last week a recruiter for the Ice Capades called Sonya requesting an appointment. Sonya has contacted Pro Sports to act as her agent in potential negotiations with Ice Capades.

INTEREST-BASED PROBLEM SOLVING

- Work together to identify the problem
- Mutually seek common interests (focus on interests, not positions)
- Share information (it builds trust)
- Use objective criteria
- Come up with options that satisfy the common interests
- Work together in a problem-solving mode