

Duty of Fair Representation

According to State law, the Association owes a Duty of Fair Representation in all aspects of the collective bargaining process to each and every member of the bargaining unit it represents whether they are Association members, fee payers or religious objectors.

Those duties are:

- **Duty** to represent all bargaining unit members
- **Duty** to negotiate on behalf of all unit members and consider non-member views concerning negotiations
- **Duty** to be familiar with the contract
- **Duty** to advise employees of their contractual rights
- **Duty** to process a grievance
- **Duty** to investigate grievances
- **Duty** to comply with contractual time limits for processing a grievance
- **Duty** to notify a grievant of Association decisions
- **Duty** to competently present an arbitration case (... if your Board of Directors decides to go to arbitration)
- **Duty** to allow a grievant to have his or her attorney observe at arbitration proceedings

See the TEA/TUSD Contract

Article 12 – Grievance Procedure

Review the entire article.
Become particularly familiar with the process timelines.

- 12.2 Definitions
- 12.3 Miscellaneous Conditions
- 12.4 Informal Resolution
- 12.5 Formal Resolution
 - Level One
 - Level Two
 - Level Three
 - Level Four (Arbitration)

➡ **Watch the Timelines!!!**

➡ **Contact your TEA Director at Large**



Is it a Gripe or a Grievance?

A grievance is an alleged violation of the contract.



Grievances are filed against management ... not other bargaining unit members.

The Association Rep's Role is to ...

- ➡ *At the request of the unit member,* accompany him or her to meetings with management, as the TEA Site Representative.
- ➡ *Remind unit members at your site to:*
 - Contact the Association Rep at the **first sign** of a problem
 - Keep all documents received from management – and don't write on them
 - Consult the Association Rep before signing or writing anything

When a Bargaining Unit Member

Asks You for Help

Before meeting with management, schedule a time and place where you can interview the unit member. Let the unit member tell his or her own story. When a unit member comes to you, he or she will probably be very stressed and emotional.

Be patient. Ask clarifying questions. Maintain strict confidentiality. Don't judge.

Get all the facts –

- Listen attentively
- Take notes
- Clarify ambiguous points
- Be objective
- Have the unit member write everything he or she can about the incident
- Get names, dates and places
- Collect all documentation and note date of receipt
- Be sure the unit member has copies of all documentation

AVOID INSUBORDINATION

If any bargaining unit member is *directed* by management to perform an action that violates the contract, he or she should do as directed, *and* advise an Association representative of the incident Then grieve.

Once you have all the information

Evaluate the situation.

Do you have a Gripe ...
or a Grievance?



If there is No Violation of the contract ...
there is No Grievance.

Call the TEA Grievance Chair, the TEA Rep at Large, or the ITT Executive Director to discuss your thoughts on the matter.

If you have a Grievance

- Read the Grievance Article of your contract carefully ... **follow the process to the letter!** (see back)
- Be especially careful of timelines.
- Use the proper form to write the formal grievance.
- Cite the contract article and section that has been violated.
- Make the narrative concise.
- State the remedy required.
- Be sure all dates are correct.

If you have No Grievance ...

It doesn't mean that there is no legitimate problem for the bargaining unit member. It simply means that the grievance process is not the vehicle through which to resolve the situation.

Right to Representation

Every bargaining unit member has a legal right to representation at any time he or she believes that a meeting with management *may lead to a disciplinary action or will adversely affect his or her employment relationship.*

- The Employee must request representation.
 - The right exists only if the Employee reasonably believes that discipline could or would result.
 - If a request for representation is made, the District must:
 - Grant the request or
 - Offer the Employee the choice of continuing the meeting without a rep or
 - Have no meeting at all
 - The District is required to give employees advance notice of the subject of the meeting.
- The employee should be very clear that they are not refusing to have the meeting.