

Published by the
Glatfelter Insurance Group
York, Pennsylvania

Employment Practices UPDATE

PERSONNEL GRIEVANCE PROCEDURES

Tangled in Red Tape



the workplace, such as harassment or discrimination. Generally, a stand-alone grievance procedure is more complicated and demanding for the ESO and member complaining about a personnel problem. An internal reporting process is considered more straightforward, while still allowing for multiple avenues of complaint, prompt investigation and follow-up designed to stop workplace wrongs and prevent future occurrences.

Formal, multi-step grievance procedures are commonly part of a work environment that includes a union, collective bargaining agreement, or employee association. However,

ESOs without unions or employee associations may publish grievance procedures in their Personnel Manuals or Employee Handbooks.

To avoid potential pitfalls, rely on professionals well versed in labor and employment law.

Emergency Services Organizations (ESOs) are challenged to demonstrate strict adherence to their personnel grievance procedures. Litigation may focus on the mishandling of grievances in cases such as wrongful termination or discipline, harassment, or discrimination.

Before costly and drawn-out litigation, many ESOs are completely unfamiliar with what is demanded by their written personnel grievance procedures. Due to this lack of familiarity and understanding, ESO leaders and Board members often fail to properly administer complex and cumbersome grievance processes.

This article provides risk management analysis for ESOs to examine the scope and functionality of their personnel grievance procedures.

Distinguishing Between Grievance and Internal Reporting Procedures for Workplace Wrongdoing

Often ESOs are unable to explain the differences between their written grievance procedures and the separate and distinct internal reporting procedures that accompany personnel policies prohibiting wrongdoing in

Is the Formal Grievance Procedure Necessary?

Defining the purpose and scope of a formal grievance process is more difficult for ESOs without an employee association or union contract. A complex and formal, multi-step grievance procedure may not be necessary if an ESO clearly communicates its reporting, investigation, and resolution processes for instances of workplace wrongdoing. In fact, an ESO publishing formal grievance procedures as well as internal reporting processes may create duplication or overlapping of policy coverage. This can lead to confusion for ESO members who wish to simply report and resolve a personnel matter. Confusion may also fall on those responsible for deciphering and administering the written policies and procedures.

We welcome comments, suggestions and questions from our readers.

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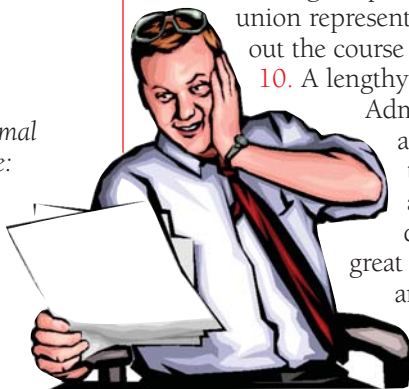
PERSONNEL GRIEVANCE PROCEDURES

Tangled in Red Tape (Continued)

Characteristics of Grievance Processes

Common characteristics of a formal grievance procedure may include:

1. A requirement that the employee/volunteer (member) put the grievance or complaint in writing.
2. A requirement that the response to the grievances must be put in writing.
3. Time-sensitive steps in the grievance process. For instance, there may be a requirement that a grievance must be filed within 10 working days of the incident that generated the complaint or the member forfeits his right to complain. Similarly, the designated ESO member must respond in writing within 10 working days of receipt of the initial grievance.
4. Shared responsibility. A number of ESO members are responsible for handling different steps in the process, such as the complainant's immediate supervisor, supervisor's supervisor, top administrator, Personnel Committee, or Board members.
5. An appeal. Grievance steps may serve as an appeal process within the ESO's chain of command.
6. Guidance. Acting human resources representative may help guide the complaining member through the various steps of the grievance process.
7. A special committee. A personnel grievance committee, sometimes made up of Board members, may serve as the final procedural appellate step.
8. A hearing. Members may be afforded a hearing during the final appellate step, which would include a review of all facts, documents, and call for testimony from the grievant, parties directly named, and other witnesses.
9. Representation. The complainant (member filing the grievance) may



utilize legal representation or a union representative throughout the course of the grievance.

10. A lengthy process.

Administration of a grievance through all available procedures takes a great deal of time and resources.

Grievance procedures found in a

collective bargaining agreement, for example, should remain consistent with grievance procedures found in an ESO's other documents, such as a Standard Operating Procedure Manual or Employee Handbook. Contrasting grievance procedures lead to misapplication and confusion for those asked to utilize the process.

Sample Reporting Procedures

While it is not required that your ESO incorporate formal grievance procedures, multiple avenues of internal complaint must still be provided so members' concerns can be promptly investigated and resolved. Below is a sample internal reporting process:

If you are aware of workplace conflict or wrongdoing taking place, you must immediately report this to your direct supervisor. If you feel uncomfortable doing so or if your direct supervisor is the source of the problem, condones the problem, or ignores the problem, immediately report it to your supervisor's supervisor, human resources manager, or lead administrator. If these alternatives are not satisfactory to you, then you can immediately direct your report, complaint, or questions to any member of the Personnel Committee or Board of Directors. You are not required to directly confront the person who is the source of your report or complaint before notifying any of those individuals listed.

Determine the Origin of Your ESO's Grievance Procedures

Where did your ESO's written

grievance procedures come from? Did the ESO's legal counsel (familiar with labor and employment issues) work with ESO leaders and Board members to assess the need for a separate grievance process and develop the written policy accordingly?

When an ESO first develops its personnel policy manual, it is not uncommon to "cut and paste" a grievance procedure from another organization, without understanding the ramifications of its implementation. An ESO without a union or employee association presence should particularly assess whether the existence of a formal grievance process was intended, as opposed to more straightforward internal reporting procedures.

Avoid Grievance Procedure Pitfalls

Confidence is the key when analyzing the effectiveness of an ESO's grievance procedure. Be proactive and familiarize those designated ESO members with their responsibilities as spelled out in the grievance procedures. Help ensure equitable and consistent facilitation of the grievances by training those persons tasked with preparing written responses, meeting time deadlines, assessing the credibility of the grievance, facilitating hearings, and generally resolving personnel conflicts. Additionally, ESO members will only be confident enough to utilize the grievance procedures if they know the ESO is intimately familiar with how to manage the process.

Seek Professional Counsel

When navigating the complex steps found in a formal grievance procedure, your ESO is encouraged to rely on professionals well versed in labor and employment law as well as human resources management. These professionals can help answer questions and avoid potential pitfalls when handling personnel grievances.

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