

GRIEVANCE PROCEDURES: RISK MANAGEMENT FOR MANAGEMENT LIABILITY & EMPLOYMENT PRACTICES

Many organizations face challenges in demonstrating strict adherence to their personnel grievance procedures. Litigation often focuses on whether the organization mishandled the grievances in cases such as wrongful termination, discipline, harassment or discrimination.

To avoid time-consuming litigation arises, organizations are encouraged to thoroughly understand their grievance procedures. Many leaders have not been required to administer a grievance nor have they received training on their current written grievance policy and procedure. Organization leaders who frequently process grievances agree that navigating an unfamiliar or cumbersome grievance policy and procedure can be challenging.

This bulletin offers risk management guidance for organizations to examine the scope and functionality of their personnel grievance procedures.



such as harassment or discrimination. Generally, a standalone grievance procedure is more complex and demanding for the organization and the employee/volunteer raising a personnel issue. An internal reporting process is more straightforward, allowing for multiple avenues of complaint and prompt investigation designed to address workplace wrongs and prevent future occurrences.

Formal, multistep grievance procedures are commonly part of a work environment that include a union, collective bargaining agreement, or employee association. However, organizations without unions or employee associations may include grievance procedures in their personnel manuals or employee handbooks. If a written grievance procedure exists in your organization's personnel manual or handbook, assess whether the grievance steps are perceived as cumbersome for both the complaining employee/volunteer and for the organization. Unless required by a collective bargaining agreement, implementing a straightforward internal reporting procedure may be more beneficial for employees/volunteers and the organization.

Formal Grievances Procedure vs. Internal Reporting Process

Organizations often struggle to articulate the differences between their formal written grievance procedures and the separate and distinct internal reporting procedures that typically accompany personnel policies prohibiting workplace wrongdoing

Determine the Origins of the Grievance Procedure

Organizations are encouraged to analyze the origins of their written grievance procedure. It is important to determine whether the organization's legal counsel, familiar with labor and employment issues, along with organization leaders and Board members, developed a grievance process separate from reporting procedures that accompany workplace wrongdoing policies such as harassment. When

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



GRIEVANCE PROCEDURE STEPS

A formal written grievance procedure may require that:

- The employee or volunteer submits the grievance or complaint in writing.
- The organization responds to a grievance or complaint in writing.
- Grievance procedure steps are time-sensitive. For instance, a grievance may need to be filed within 10 working days of the incident that generated the complaint, or the employee or volunteer forfeits their right to complain. Similarly, the designated organization representative must respond in writing within 10 working days of receiving the initial grievance.
- Different organization employees are responsible for handling various steps in the process, such as the complainant's immediate supervisor, the supervisor's supervisor, the top administrator, the personnel committee, or Board members.
- Grievance steps serve as an appeal process within the organization's chain of command.
- The acting human resources representative guides the complaining employee or volunteer through the various steps of the grievance process.
- A personnel grievance committee, sometimes composed of Board members, serves as the final group to hear an employee's or volunteer's appeal.
- Employees or volunteers are afforded a hearing during the final appellate step, which includes a review of all facts, documents, and testimony from the grievant, parties directly named, and other witnesses.
- The employee or volunteer filing the grievance may seek legal representation or a union representative throughout the grievance process.

Organizations must ensure that grievance procedures in a collective bargaining agreement align with those in other organizational documents, such as a personnel policy manual or employee handbook. Inconsistent grievance procedures can lead to misapplication and confusion for those utilizing the process. To resolve this issue, the organization's legal counsel and a union representative should compare the documents to ensure consistency.

Internal Reporting Procedures

While it is not mandatory for an organization to incorporate formal grievance procedures, multiple avenues for internal complaints must be provided to ensure that members' concerns are promptly investigated and resolved. Below is a sample internal reporting process:

If you are aware of workplace conflict or wrongdoing, 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 it, or ignores it, report the situation to your supervisor's supervisor, any other supervisor or manager, human resources manager, or lead/top administrator. If these alternatives are unsatisfactory, you may direct your report, complaint, or questions to any member of the organization's personnel committee or Board of Directors. You are not required to confront the person who is the source of your report or complaint before notifying any of the individuals listed.

Training on Formal Grievance Procedures

Familiarity with and confidence in an organization's procedures are crucial for effectively addressing grievances or complaints. The organization should periodically educate and train designated representatives regarding their responsibilities as outlined in the formal grievance procedures. In addition to the specified responsibilities, to ensure equitable and consistent facilitation of grievances, the organization should train those tasked with preparing written responses, meeting deadlines, assessing the credibility of grievances, facilitating hearings, and generally resolving personnel conflicts. Organization representatives will only feel confident utilizing the formal grievance procedures if they are well-versed in managing the process.

SUMMARY

Grievance procedures are essential for addressing and resolving complaints within an organization. They provide a structured process for employees to voice their concerns and seek redress. Effective grievance procedures ensure that issues are handled fairly and promptly, fostering a positive work environment.

Implementing clear grievance procedures helps prevent misunderstandings and conflicts from escalating. It is crucial for organizations to communicate these procedures clearly to all employees and ensure they are accessible. By doing so, organizations can maintain trust and transparency, ultimately contributing to employee satisfaction and productivity.