

Investigation of discipline for a safety infraction



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In 2009, while serving as Region 1 national business agent, I wanted one of our workshops to dive into the investigation of discipline. I prepared this material with Raquel Acasio, who was and continues to be an officer of Branch 70, and whom I had assigned to teach this class.

Thank you, Rocky!

If one of your carriers receives a discipline charging them with a safety infraction, take the following steps:

Read the charges carefully to make sure you understand the accusation and the facts claimed. Many times, we don't take the time to understand

the specifics and we “whoosh” into the wrong approach. Interview the grievant and his or her witnesses.

1. Does the grievant agree with the facts specified in the charge letter against him or her? If so, have the grievant explain why he or she did what the charge letter claims.
2. If the grievant does not agree with the facts in the charges against him or her, have the grievant state what actually took place.
3. In either of these two categories, ask the grievant to provide you with a written statement in support of his or her position in relation to the charges.
4. If the grievant is unwilling to provide you with a statement, take notes of your interview. At the conclusion of your interview, read back your interview notes to that person to verify that you got the story right. If the grievant confirms that the statement is accurate, make a notation on the interview notes of who conducted the interview, when the interview took place and make this interview a part of the grievance package.
5. Does the grievant have any witnesses who support the grievant's position? If so, request time to interview him or her and conduct the interviews as above.
6. Does the grievant have any documentary evidence that supports his or her side of the story? If so, secure copies and include as part of the grievance package.

What evidence does the employer have in support of the charges against the grievant?

1. Who are the employer's witnesses, if any?
2. Make a written request for the time to interview these witnesses and include *a copy of the written request* as part of the grievance package. Even if the witness is a customer, you have a right to interview that person.
3. Ask these witnesses what they saw, what they heard and what else they recall. Ask them to provide you with a statement of what they believe happened. If they provide you with a statement that helps, make sure that the statement is part of the grievance package. If they do not want to write a statement, use the same process explained above.
4. Does the employer have any documentary evidence that supports its version of what happened? If so, make a written request for that information and include *a copy of the written request* as part of the grievance package.

Research

1. Are there any contractual provisions that were violated? Are there any procedural arguments that need to be made, such as, but not limited to: review and concurrence by a higher-level authority for suspensions or removals; failure to specify what the grievant did wrong, etc.?
2. Were any provisions from the handbooks and manuals violated? If so, please identify the provisions that you are referencing in the body of your grievance appeals. It is not sufficient to simply cite “Article 19,” as this reference is too vague and we might be barred from raising the specific provision in arbitration.
3. Are there any national-level settlements, national-level arbitration decisions, or language in the *Joint Contract Administration Manual (JCAM)* that support an argument in support of the union's position? If so, reference them and include copies in the grievance appeal.

Remedy

If you are dealing with suspensions or discharge, start with: “That the suspension (or removal) be rescinded, that any reference thereto be removed from all files, and that the grievant be made whole for all lost wages, fringe benefits and seniority rights and that the union be provided with proof of back pay processing.”

This column is just a simple, brief, starting point. As shop stewards, there is immense pressure and responsibility on your shoulders. Reach out to your branch officers or your national business agent for additional help. Keep an eye on each other.