

## DISCIPLINE GRIEVANCE CHECKLIST

### INSTRUCTIONS:

This checklist is designed to assist you in representing employees at pre-disciplinary or Step 3 hearings. Each box reflects an obligation or requirement, which if not met by management, may win a disciplinary grievance. Prior to your disciplinary or grievance meeting, go over the facts of the case with the employee. Then review the checklist. Check those boxes next to each obligation or requirement which you believe management has not met.

When you go into your meeting with management, raise those obligations or requirements you believe management has not met and tell them why. Failure to raise them may be grounds for an arbitrator to not consider them.

When you appeal the grievance to the next step, use this checklist to identify those problems raised and not resolved at the lower step. Then state those issues in your letter of appeal to the next step, if they are not already set forth in the original grievance form.

**NOTE: All removal grievances must be filed directly to step 3 and at the same time forward a copy of the grievance form to OCSEA Central Office, Office of General Counsel.**

### 1. INVESTIGATORY INTERVIEWS.

- a.  Was the employee denied a right to a union steward? (Did the employee request a steward?) Section 24.04 paragraph 1

### 2. PRE DISCIPLINARY HEARING.

- a.  Did the employee receive a written notice of the hearing?
- b.  Was the notice meaningful?
- c.  Did the employee receive a written notice of the hearing?
- Did the notice set forth the possible penalty contemplated by management? (was the issue raised?) Section 24.04 paragraph 2
- Did the employee have enough time to prepare a meaningful defense? (Was a continuance requested?) Just cause requirement Section 24.01.
- d.  Did the employer provide the Union a list of witnesses and those documents used to support the possible disciplinary action? Section 24.04 paragraph 2.
- e.  Was the Union given the opportunity to comment, refute or rebut the allegations? (Did it request to do so?) Section 24.04 paragraph 2.

### 3. IMPOSITION OF DISCIPLINE

- a. \_\_\_\_\_ Does the order or letter of discipline clearly set forth the alleged specific facts used to support the discipline? (Are the reasons vague? Do you know what to rebut?)
- b. \_\_\_\_\_ Did the Employer make the final decision to discipline within 45 days of the pre-disciplinary conference? Section 24.05 paragraph 1
- c. \_\_\_\_\_ Was the disciplinary action initiated as soon as reasonable possible? Section 24.02 paragraph 3
- d. \_\_\_\_\_ Were the Employee and Union notified of the final decision in writing?
- e. \_\_\_\_\_ Was the discipline imposed in the presence of the other employees, clients or the public? Section 24.05 paragraph 5
- f. \_\_\_\_\_ Did the Employer follow the principles of progressive discipline? (Was prior discipline of a same or similar nature?) Section 24.02 paragraph 1
- g. \_\_\_\_\_ Is there an issue of double jeopardy? (Is the Employee being disciplined for acts that already resulted in discipline?)
- h. \_\_\_\_\_ Did the Employee receive discipline for the same reasons set forth in the pre-disciplinary notice?

### 4. STEP 3

- a. \_\_\_\_\_ Raise all appropriate just cause issues. (check those raised at step 3)

\_\_\_\_\_ The Employee was not adequately warned of the consequences of his/her conduct. (Look at work rules, disciplinary rules. If the Employee has prior discipline was he/she warned of future conduct? Was the warning meaningful or "boilerplate"? Did the past practice negate any written notice?) If not, state why. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ The Employer's rule or order was not reasonably related to efficient and safe operations. (Is off duty conduct involved? Does the Employer have good reason for the rule?) If not, state why: \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ The Employer did not investigate before administering the discipline. If no investigation was conducted, explain what occurred. \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ The investigation was not fair and objective. If not, state why. (Did the Employer interview the Grievant? Did the Employer interview all witnesses? Did the Employer check the facts for accuracy?) \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_ There is not substantial proof of guilt. (Lack of evidence exists, or fault has not been clearly established.) Explain why there is not substantial proof of guilt.

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_ The rules, orders and penalties were not applied even handedly without discrimination. (Were work rules not enforced? Are sex or race issues involved?) If not, state how.

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_ The penalty is not reasonable related to the seriousness of the offense and the past record (lack of prior discipline, good work record, years of service, harm was insignificant). If not, state why.

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_ Were other mitigating circumstances (family, personal problems) raised? If so, please list: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

b. \_\_\_\_ Were all pre-disciplinary procedural problems identified above raised at Step 3?

c. \_\_\_\_ Was the Union denied a request at Step 3 for any specific documents, book, paper or witness reasonable available to the Employer and relevant to the grievance? If so, please list those items denied. Section 25.08.

d. \_\_\_\_ Did the Employer make an EAP program available to the grievant? (Does the Employee have a problem that can be helped by an EAP program?) Section 24.09