

PROVIDING UNION REPRESENTATION - CHECKLIST FOR SUPERVISORS

The supervisor is not legally obligated to provide any employee representation unless the employee specifically requests representation. However, in order to "DO-RIGHT-VOLUNTARILY" and in an effort to MANAGE WITH EXCELLENCE, the following considerations will provide the supervisor with guidelines for routinely providing stewards during formal disciplinary sessions and during those investigatory or fact-finding interviews from which it is very likely that disciplinary action will result.

___ DURING COUNSELING SESSIONS OR VERBAL/ORAL WARNING SESSIONS the supervisor should provide representation ONLY if requested by the employee, and then the supervisor should inform the employee, "This is not disciplinary action, and a steward is not required; however, if you insist upon one, representation will be provided and a record will be kept, as this now becomes union-management business. However, this is not disciplinary action." Under such conditions, the supervisor should inform the steward/representative, "You are present as a witness, and I am not here to bargain with you in this session. You are here as a privilege of witness." The supervisor should carefully document any such session where the steward/representative is present as a witness, as the matter has then become union-management business. A second supervisory witness should also be present.

___ DURING INVESTIGATORY INTERVIEWS OR FACT-FINDING INTERVIEWS the supervisor should automatically make provision to have a steward available for the employee, especially if there is a likelihood that the results of the interview could lead to disciplinary action or to job bid award/denial considerations. During such interviews the supervisor should keep accurate records/documentation. A second supervisory witness should also be present.

___ DURING THE ADMINISTERING OR ISSUE OF WRITTEN REPRIMANDS, DISCIPLINARY SUSPENSIONS OR EQUIVALENT ACTIONS OR TERMINATIONS OF EMPLOYMENT the supervisor should automatically make provision to have a steward available for the employee, and such sessions should be documented in detail. The steward and the union should be provided with copies of the formal written disciplinary action. A second supervisory witness should also be present. The supervisor should not provide the union with meeting planning outlines or written minutes or records of the investigatory interviews or the disciplinary sessions, unless the Agreement provides otherwise. The steward and the union should be provided ONLY copies of the formal disciplinary letters. The meeting planning outlines and minutes and notes are, in effect, termed the "work product" file of the employer.

___ IF THE EMPLOYEE PREFERS NO REPRESENTATIVE in those instances when the supervisor automatically makes provision to have a steward available, the employee should be required to reject representation in front of the representative, or at least in front of another management representative. If the employee prefers a different representative than the one made available by the supervisor, the request should be made in front of the representative provided by the supervisor. These two recommendations reduce the likelihood of later accusations of manipulation or coercion.

___ IF ANY STEWARD/REPRESENTATIVE DISRUPTS ANY SESSION the supervisor should inform the representative that he/she is to set a good example. If the disruption continues, the supervisor may finish the business at hand, formally close the meeting, and then pursue the matter along different lines, such as in another meeting, at a later date, with a different steward representing the employee, or after the initial steward has been cautioned by appropriate management or union representative as to proper conduct during a session. (See MARC Checklist for Steward Conduct/Discipline for "Abuse of Office,")

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- ___ IN ARRANGING FOR PROPER REPRESENTATIVES, the supervisor should follow the union hierarchy or the union "pecking order" regarding job progression lines, departmental status, shift schedule status, job classification status, or any other formal and consistently followed system. The supervisor should also consider the COMPANY'S IMMEDIATE PRODUCTION AND PERSONNEL NEEDS, and should not allow the employee to evade or stall discipline or interviews by repeatedly disagreeing with the choice(s) of the steward. The supervisor should not PREFERENTIALLY MANIPULATE or exercise "undue influence" in the selection of the representative in order to create an advantageous position for the employer or a disadvantageous position for the employee.

- ___ IF THE EMPLOYEE BEING DISCIPLINED IS A STEWARD/OFFICIAL OF THE UNION, then he/she also has the privilege of having a representative present. The supervisor should arrange for ONLY UNION OFFICERS/STEWARDS as representatives for other officers and stewards and should not use employees who are not officials of the union. The employee who is an officer should not be allowed to represent himself/herself, although he/she may choose to waive their right to have a representative present, in the same manner as any other employee may waive such right. The same criteria and the same procedure and guidelines should be followed as above to select representatives for officers. Union officers or stewards while being interviewed for possible disciplinary action should be provided the same representation considerations as any other bargaining unit employee.

- ___ IN DISCIPLINING UNION OFFICERS/STEWARDS, do not bypass oral/verbal steps of pre-discipline, except in the most unusual and compelling situations. Always attempt to go through the WRITTEN REPRIMAND step for union officers/stewards prior to going to advanced forms of disciplinary action. (See MARC Checklist for Steward Conduct/Discipline for "Abuse of Office".)

- ___ The supervisor should not go directly from a JOB PERFORMANCE EVALUATION OR APPRAISAL to formal disciplinary action without first of all going through an intermediate VERBAL/ORAL step between the EVALUATION/APPRAISAL and the formal disciplinary action (WRITTEN REPRIMAND, DISCIPLINARY SUSPENSION OR TERMINATION OF EMPLOYMENT) unless there is an active track, and unless there is a reoccurrence of the misconduct or poor performance following the evaluation or appraisal session.

- ___ During TEMPORARY RELIEF OF DUTY ACTIVITY, since interview or interrogation is normally a part of that activity, a steward should be provided automatically by the supervisor, and another supervisor should be present as well.

- ___ If no union officer/steward is conveniently and immediately available the Supreme Court Weingarten decision does not identify an exception to representation right of an employee. In such cases, the supervisor may find it expeditious to telephone a union officer/steward and explain the reason for the need for a representative. Such representative may then proceed to the job or, if convenience or expediency is required, most unions permit the telephoned officer/steward to appoint or designate a bargaining unit employee who is conveniently available to act as a "temporary steward." Unless company policy explicitly directs, do not simply choose a co-worker or a past union officer/steward to serve as the employee's "Weingarten" representative.