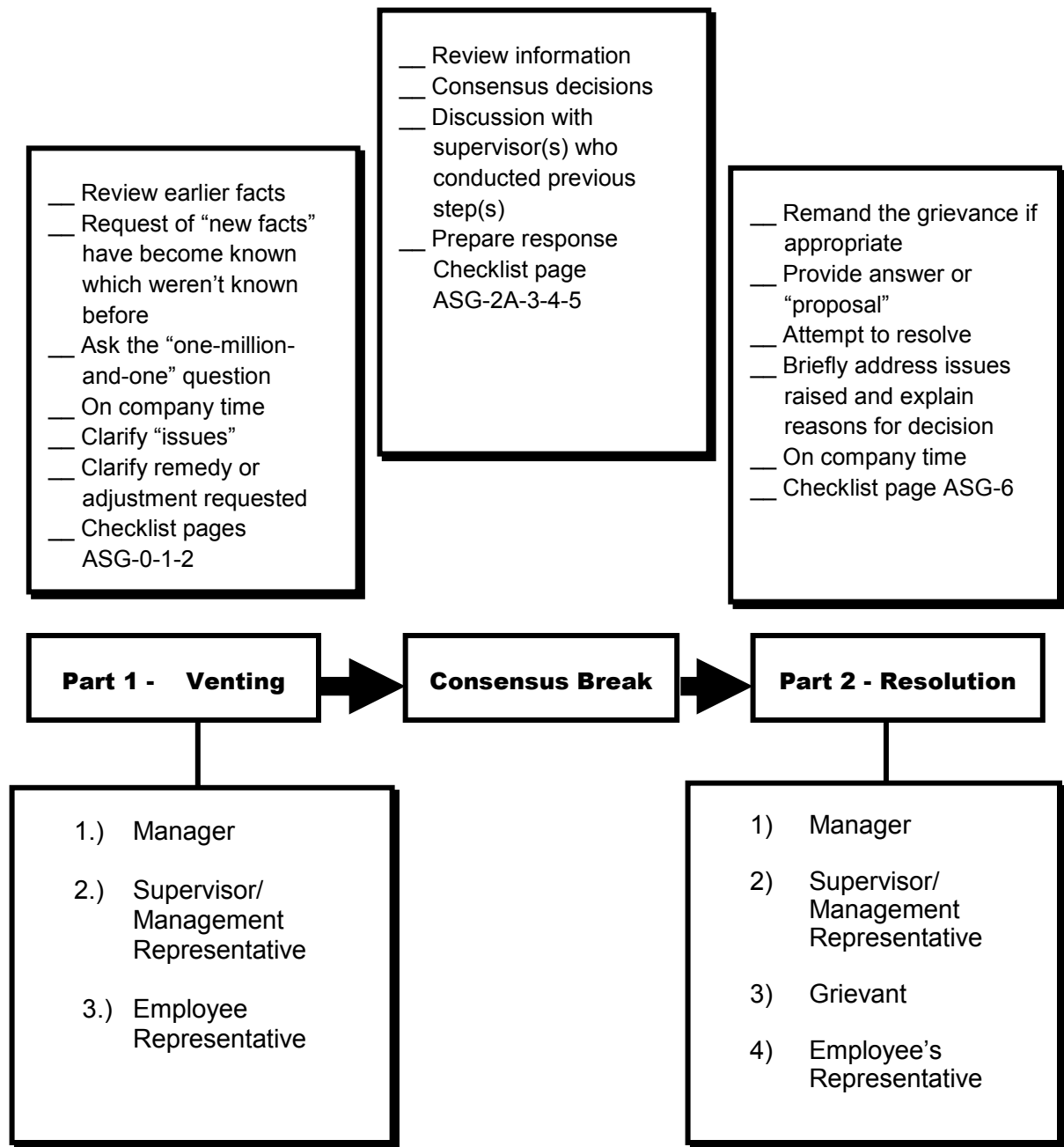


HANDLING ADVANCED STEP GRIEVANCES
“THE TWO-PART MEETING CONCEPT”



- ___ REVIEW NOTES FROM EARLIER STEPS GRIEVANCE MEETINGS FOR THIS GRIEVANCE BEFORE MEETING WITH THE GRIEVANT AND REPRESENTATIVE. MEET WITH SUPERVISOR(S) WHO HANDLED EARLIER STEPS.
- ___ SATISFY THE TIME LIMITS OF THE GRIEVANCE PROCEDURE
- ___ DO NOT GIVE AN ANSWER IN THE INITIAL PART MEETING
- ___ ATTEMPT TO RESOLVE GRIEVANCES AT THE EARLIEST/LOWEST POSSIBLE STEP OF THE GRIEVANCE PROCEDURE

HANDLING THE ADVANCED STEPS OF THE GRIEVANCE PROCEDURE

The role of the upper level managers in handling advanced steps of the grievance procedure are:

- Resolve without dilution of management's rights/authority
- Consider if there is any new information that was not known by the parties in earlier steps.
- Consider if there has been poor/incomplete investigation in earlier steps.
- Consider if there has been discrimination in earlier steps.
- Consider opportunity to settle and improve management's rights, flexibility, etc.
- Gain better understanding of union's position.
- Demonstrate solidarity if appropriate.

Some possible courses of action by the manager handling the advanced step grievance are:

- Resolve without conciliation.
- Support earlier step decision.
- Remand to earlier steps.
- Offer settlement in presence of or through lower level supervisors.
- Reverse faulty decision through or in presence of lower level supervisor.

The answer to an advanced step grievance is an offer of settlement and not an admission of guilt or liability. It is often an offer of compromise. The manager should present advanced step answers as offers or options not as positions or mandates.

In order to preserve and enhance the authority of the front level supervisor the manager should follow the basic guidelines of:

- 1) "never reverse or modify an earlier step decision of the grievance procedure until it has been discussed with supervisors who handled the earlier steps."
- 2) "if it is necessary to reverse or modify the earlier step decision of the grievance procedure, the manager should attempt to do so in the presence of the supervisor who handled the earlier step, or remand the grievance back to the earlier step supervisor" (in light of "new information" learned, etc.).

Top level managers should not be hasty to utilize "volume of grievances" as an indication of supervisory competency. Many factors, other than simply supervisory competency, influence or motivate grievance activity. Some of those factors include political considerations, duty of fair representation considerations, time proximity in relation to union elections or collective bargaining activity, etc., none of which are directly related to supervisory competency. Some realistic measures or indicators of supervisory competency, however, include whether or not the supervisor handled a grievance efficiently and professionally, and whether or not a supervisor continues to violate the Agreement or rules or policies, once such errors are pointed out through the grievance procedure or otherwise.

CHECKLIST FOR HANDLING THE ADVANCED STEP GRIEVANCE**PREPARATION BEFORE THE PART 1 MEETING OF THE ADVANCED STEP**

- ___ REVIEW THE GRIEVANCE PROCEDURE IN ITS ENTIRETY TO ENSURE THOROUGHNESS.
- ___ REVIEW NOTES FROM PREVIOUS STEP(S) OF THE GRIEVANCE PROCEDURE BEFORE MEETING WITH THE GRIEVANT AND REPRESENTATIVE. BRIEFLY INFORM THE SUPERVISOR WHO CONDUCTED THE PREVIOUS STEP THAT YOU WILL BE MEETING WITH THE GRIEVANT AND REPRESENTATIVE. (IT MAY BE APPROPRIATE FOR THE SUPERVISOR TO BE THE SECOND MANAGEMENT REPRESENTATIVE IN THE ADVANCED STEP MEETING.)
- ___ ASSEMBLE AND REVIEW APPROPRIATE AGREEMENT CLAUSES, RULES, POLICIES, DOCUMENTS, LETTERS, PROCEDURES, ETC., WHICH ARE INVOLVED IN THE GRIEVANCE AND HAVE AT LEAST TWO COPIES AVAILABLE DURING THE MEETING FOR REFERENCE. BRING COPIES OF THE AGREEMENT TO THE MEETING.
- ___ ARRANGE FOR A SECOND SUPERVISORY/MANAGEMENT REPRESENTATIVE OR LABOR RELATIONS REPRESENTATIVE TO ASSIST YOU AND TO BE PRESENT DURING THE MEETING AS A WITNESS AND TO TAKE NOTES. REVIEW YOUR MEETING CHECKLIST/OUTLINE WITH THE SECOND SUPERVISORY/MANAGEMENT REPRESENTATIVE BEFORE THE GRIEVANT AND THE REPRESENTATIVE ARRIVE. NOTE: IF THE SUPERVISOR WHO CONDUCTED THE EARLIER GRIEVANCE STEP IS GOING TO BE PRESENT DURING THE ADVANCED STEP, DO NOT ALLOW THE UNION REPRESENTATIVE OR GRIEVANT TO UTILIZE THE MEETING AS A "WHIPPING POST" TO HARASS, INTIMIDATE, OR DISRESPECTFULLY CONFRONT THE SUPERVISOR.
- ___ INFORM THE LABOR RELATIONS DEPARTMENT THAT YOU WILL BE CONDUCTING THE MEETING AND BRIEFLY CONFER WITH THE LABOR RELATIONS DEPARTMENT BEFORE THE MEETING.
- ___ IF THE GRIEVANCE INVOLVES A POSSIBLE AFFIRMATIVE ACTION ISSUE, CONFER WITH THE COMPANY'S AFFIRMATIVE ACTION REPRESENTATIVE BEFORE CONDUCTING THE MEETING.
- ___ IF IT BECOMES NECESSARY TO CHANGE THE MEETING DATE OR TIME, ATTEMPT TO ESTABLISH AN EARLIER DATE RATHER THAN TO DELAY THE MEETING.

**CHECKLIST FOR HANDLING THE ADVANCED STEP GRIEVANCE
DURING THE PART 1 MEETING OF THE ADVANCED STEP GRIEVANCE**

- ___ DO NOT TAPE RECORD THE MEETING. TAKE CHRONOLOGICAL TIME SEQUENCE NOTES.

- ___ IF THE TIME LIMITS HAVE BEEN EXCEEDED, ASK THE GRIEVANT AND THE REPRESENTATIVE TO DESCRIBE A REASON FOR THE LATENESS. INFORM THEM THAT FAILURE TO SATISFY THE TIME LIMITS MAY PREVENT THE GRIEVANCE FROM BEING ANSWERED OR FROM BEING ARBITRABLE, BUT LISTEN TO THE BASICS OF THE GRIEVANCE IN PART ONE OF THIS IMMEDIATE STEP. CONSIDER IF MODIFICATION OF THE TIME LIMIT IS APPROPRIATE OR IF THE GRIEVANCE WILL BE DENIED ON THE BASIS OF "UNTIMELINESS." STATE YOU WILL HEAR THE GRIEVANCE AT THIS TIME AS A COURTESY, BUT THAT YOU RESERVE YOUR RIGHT TO CHALLENGE ARBITRABILITY BASED ON LACK OF TIMELINESS.

- ___ STATE A DESIRE TO RESOLVE THE GRIEVANCE.

- ___ ASK THE GRIEVANT AND REPRESENTATIVE TO IDENTIFY THE AGREEMENT PORTIONS THEY ARE ALLEGING TO HAVE BEEN VIOLATED. PROVIDE THEM COPIES OF THE AGREEMENT AND ASK THEM TO READ AND DISCUSS THE PORTIONS CITED.

- ___ ASK THE GRIEVANT AND THE REPRESENTATIVE TO SPECIFICALLY EXPLAIN THEIR ALLEGATIONS AND ADJUSTMENTS OR REMEDIES DESIRED. OPEN THE AGREEMENT AND READ THE CITED PROVISIONS TOGETHER AND ASK, "HOW ARE YOU ALLEGING THESE PROVISIONS WERE VIOLATED?"

- ___ REVIEW TOGETHER ANY APPROPRIATE RULES, POLICIES, PROCEDURES, LAWS, ETC., CITED AS BEING VIOLATED BY MANAGEMENT AND ASK THEM TO SPECIFICALLY EXPLAIN HOW THEY BELIEVE THE RULES, ETC., WERE VIOLATED.

- ___ DO NOT DISCUSS HYPOTHETICALS DURING THE MEETING. DEAL WITH WHAT ACTUALLY HAPPENED. IF ASKED, "WHAT WOULD YOU DO IF ...?" OR "WHAT WOULD HAVE BEEN DONE IF...?" OR "WHAT WILL YOU DO IN THE FUTURE IF ...?", THEN ASK THE GRIEVANT OR THE REPRESENTATIVE IF THEY KNOW WHETHER OR NOT THE "IF ..." ACTUALLY OCCURRED. IF SO, DEAL WITH IT. IF NOT, INFORM THEM YOU WILL DEAL IN YOUR DISCUSSION OF THIS GRIEVANCE ONLY WITH WHAT ACTUALLY HAPPENED.

- ___ ASK IF THERE IS ANY NEW INFORMATION WHICH HAS NOT BEEN BROUGHT FORTH EARLIER. ASK FOR EXPLANATIONS, WHERE DIFFERENCES EXIST BETWEEN THE PRESENT ALLEGATIONS, ADJUSTMENTS REQUESTED, OR FACTS AS COMPARED TO WHAT WAS PRESENTED IN THE INITIAL STEP(S).

(Continued)

DURING THE PART 1 MEETING OF THE ADVANCED STEP GRIEVANCE

(CONTINUED)

___ NEVER REFUSE TO LISTEN TO ANY NEW INFORMATION PRESENTED. HEAR IT AT THE TIME IT IS BROUGHT FORWARD BUT STATE AT THAT TIME IT MAY NOT BE ARBITRABLE AS IT IS UNTIMELY; BUT THAT YOU WILL LISTEN.

___ IF NEW INFORMATION IS PRESENTED, ASK WHY IT WAS NOT BROUGHT FORTH EARLIER OR IF IT WAS KNOWN EARLIER. ASK WHEN DID THE GRIEVANT OR REPRESENTATIVE FIRST LEARN OF THE NEW INFORMATION.

___ ASK "SPECIFICALLY WHY WAS IT NOT PRESENTED EARLIER?" STATE TO UNION YOUR DISAPPOINTMENT THAT THEY DID NOT BRING IT FORWARD EARLIER. INFORM UNION THAT IT IS YOUR DESIRE TO ALWAYS SETTLE GRIEVANCES AT EARLIER STEPS AND THAT WITHHOLDING INFORMATION FRUSTRATES THE PURPOSE OF THE GRIEVANCE PROCEDURE, AND IF NOT "POOR FAITH," IT IS CERTAINLY "POOR PRACTICE" TO WITHHOLD INFORMATION.

___ ATTEMPT TO DETERMINE:

___ WAS THE NEW INFORMATION KNOWN OR SHOULD IT HAVE BEEN KNOWN BY EITHER PARTY AT THE EARLIER STEP?

___ WAS INFORMATION PURPOSEFULLY WITHHELD?

___ DOES NEW INFORMATION AFFECT/CHANGE EARLIER DECISION?

___ DOES NEW INFORMATION BROUGHT FORTH VIOLATE ANY AGREEMENT PROVISIONS? (TIMELINESS, ARBITRABILITY, OTHER)

___ MANAGEMENT SHOULD STATE THE FOLLOWING WHEN "NEW INFORMATION" IS BROUGHT FORTH BY THE UNION IN THE ADVANCED STEPS:

"WE BELIEVE THAT PART OF YOUR RESPONSIBILITY IN BRINGING FORTH A GRIEVANCE IS TO INVESTIGATE AND TO INTELLIGENTLY PREPARE AND PRESENT FACTS WHICH COULD OR SHOULD HAVE BEEN KNOWN BY THE UNION AND UPON WHICH YOUR GRIEVANCE IS JUSTIFIED. TO FILE A GRIEVANCE UPON A SPECIFIC SET OF FACTS AND THEN TO SEEK OUT SUPPORTING FACTS LATER TO JUSTIFY THE INITIAL CLAIM OR ALLEGATION IS COUNTER TO THE INTENT OF THE GRIEVANCE PROCEDURE AS STATED IN THE AGREEMENT."

AND...REFERENCE SHOULD BE MADE TO THOSE PROVISIONS IN THE AGREEMENT WHICH ENCOURAGE OR BIND THE PARTIES TO PROMOTE HARMONY AND COOPERATION, TO ACT IN GOOD FAITH, TO SOLVE PROBLEMS IN THE SIMPLEST AND MOST DIRECT MANNER, TO SETTLE GRIEVANCES TO THE GREATEST EXTENT AT EARLIER STEPS.

(Continued)

DURING THE PART 1 MEETING OF THE ADVANCED STEP GRIEVANCE

(CONTINUED)

IF AGREEING TO ACCEPT NEW INFORMATION, MANAGEMENT SHOULD STATE:

"WE ARE BOTH CONCERNED AND DISAPPOINTED THAT THIS NEW INFORMATION WASN'T BROUGHT FORTH WHEN WE REQUESTED IT IN THE EARLIER STEPS. YOUR FAILURE TO DO SO, WHILE IT MAY NOT BE POOR FAITH AT THIS POINT, CAN CERTAINLY BE CONSTRUED AS POOR PRACTICE AND WE BELIEVE IT FRUSTRATES THE INTENT OF THE GRIEVANCE PROCEDURE AS WELL AS REPRESENTATIONS MADE BY THE UNION DURING BARGAINING. WE ENCOURAGE THE UNION TO PROVIDE INFORMATION IN A TIMELY MANNER IN THE FUTURE WHICH IS ESSENTIAL TO PERMIT THE COMPANY TO INTELLIGENTLY PREPARE FOR THE RESOLUTION OF GRIEVANCES."

AGREEMENT TO ALLOW INTRODUCTION OF "NEW INFORMATION" SHOULD BE CONSIDERED....

IF THE INFORMATION WAS NOT PURPOSEFULLY WITHHELD IN ORDER TO PLACE THE EMPLOYER IN AN EMBARRASSING OR A COMPROMISING POSITION.

IF THE INFORMATION WAS ONLY RECENTLY DISCOVERED AND IF IT IS SIGNIFICANT IN RESOLVING THE GRIEVANCE EITHER WAY.

IF IT IS OBVIOUS THAT THE NEW INFORMATION HAS NO EFFECT UPON/DOESN'T ALTER EARLIER CONSIDERATIONS OR IF IT IS A VERY MINOR CONSIDERATION.

IF THE INFORMATION WAS NOT SOUGHT BY THE MANAGEMENT REPRESENTATIVE AT EARLIER STEP.

NOTE: IT MAY BE ADVANTAGEOUS TO ALLOW THE NEW INFORMATION; THEN IN RESPONDING TO THE GRIEVANCE, MENTION THAT IT WAS ALLOWED BUT THAT IT MADE NO DIFFERENCE IN THE DECISION.

NOTE: IF IT IS AGREED TO ACCEPT THE INFORMATION AT THE PRESENT STEP, ALWAYS IN WRITING INFORM THE UNION OF YOUR DISAPPOINTMENT THAT IT WAS NOT BROUGHT FORTH IN A TIMELY MANNER AND DISCOURAGE FUTURE WITHHOLDING.

THE MANAGER MAY WANT TO CONSIDER REMANDING THE GRIEVANCE TO EARLIER STEP AS A RESULT OF "NEW INFORMATION."

CONSIDER THE POSSIBILITY OF EXTENDING TIME LIMITS BY MUTUAL CONSENT AND IN WRITING AND ALLOWING THE UNION TO FILE A NEW INITIAL STEP GRIEVANCE, BUT IF SO, IN THE MUTUAL CONSENT LETTER STATE MANAGEMENT'S CONCERN/DISAPPOINTMENT THAT SUCH INFORMATION WAS NOT BROUGHT FORTH IN TIMELY FASHION IN THE EARLIER GRIEVANCE. (MILD FORM OF PROTEST)

REMAND THE PROCESS BACK TO EARLIER STEP SIMPLY BY MODIFYING/CHANGING TIME LIMITS IN WRITING TO PERMIT REMANDING, ACCORDING TO THE AGREEMENT.

IN EITHER CASE THE UNION SHOULD REQUEST IN WRITING THAT THE GRIEVANCE BE REMANDED TO EARLIER STEPS IN ORDER TO ALLOW CONSIDERATION OF THE NEW INFORMATION.

(Continued)

DURING THE PART 1 MEETING OF THE ADVANCED STEP GRIEVANCE

(CONTINUED)

___ IN SOME CASES THE MANAGER MAY DECIDE TO REFUSE TO ALLOW "NEW INFORMATION."

___ IN ALL CASES WHERE IT CAN BE SHOWN THAT THE UNION PURPOSEFULLY WITHHELD THE INFORMATION, MANAGEMENT SHOULD REFUSE TO ALLOW THE INTRODUCTION OF THE NEW INFORMATION WITH A STRONG STATEMENT TO THE UNION IN WRITING, QUOTING THE CONTENTS OF THE PARAGRAPH AT THE TOP OF THE PRECEDING PAGE.

___ MANAGEMENT CAN TAKE THE POSITION THAT THE INFORMATION IS "UNTIMELY." THEREFORE "NON-ARBITRABLE" AND GO TO ARBITRATION SEPARATELY ON ISSUE OF ARBITRABILITY.

___ NOTE: IF RULED ARBITRABLE, THEN REQUEST THE GRIEVANCE BE REMANDED TO EARLIEST STEP OF GRIEVANCE PROCEDURE.

___ UNDER THE "DOCTRINE OF LACHES" MANAGEMENT SHOULD CLAIM THAT BY ATTEMPTING TO UNJUSTLY ENRICH ITSELF THE UNION HAS WAIVED ITS RIGHTS TO GRIEVE IN THE MATTER, USING THE NEW INFORMATION.

___ IF THE INFORMATION WAS PURPOSEFULLY WITHHELD IN ORDER TO OBTAIN A LARGER OR MORE FAVORABLE SETTLEMENT FOR THE EMPLOYEE OR THE UNION, THE DOCTRINE OF LACHES MAY APPLY, WHICH IS DEFINED AS NEGLIGENCE TO ASSERT RIGHT OR CLAIM WHICH, TAKEN TOGETHER WITH LAPSE OF TIME AND OTHER CIRCUMSTANCES CAUSING PREJUDICE TO ADVERSE PARTY; NEGLIGENCE OR OMISSION TO ASSERT RIGHT AS, TAKEN IN CONJUNCTION WITH LAPSE OF TIME AND OTHER CIRCUMSTANCES, CAUSES PREJUDICE TO ADVERSE PARTY; UNREASONABLE OR UNEXPLAINED DELAY IN ASSERTING RIGHT WHICH WORKS DISADVANTAGE TO ANOTHER. (SEE PAGE 787, *BLACK'S LAW DICTIONARY*, FIFTH EDITION 1979. WEST PUBLISHING COMPANY.)

___ NOTE: BOTH PARTIES HAVE THE DUTY TO MITIGATE DAMAGES TO THE OTHER PARTY, AND THE PRACTICE OF "WAITING AND WATCHING" OR "WAITING IN THE WOODS" TO GET WHAT THE OTHER PARTY'S REACTION MIGHT BE IS IMPROPER.

___ IF THE GRIEVANT OR REPRESENTATIVE CLAIM DISPARATE TREATMENT ("YOU TREATED ME DIFFERENTLY") ASK FOR HIM/HER TO BE SPECIFIC IN IDENTIFYING:

- 1) WHO WAS TREATED DIFFERENTLY UNDER SIMILAR CIRCUMSTANCES?
- 2) WHEN DID THE OTHER INSTANCE(S) OR TREATMENT(S) OCCUR?
- 3) WHO IN MANAGEMENT IS OR SHOULD BE AWARE OF THOSE EARLIER INSTANCES? (FOLLOW UP AFTER THE MEETING AND ASK FOR THE SAME INFORMATION ABOVE IN WRITING, OR ASK IF THERE IS ANY OTHER INFORMATION TO SUPPORT SUCH ALLEGATION.)

___ ATTEMPT TO RECAP VERBALLY (WITHOUT PROVIDING ANSWERS) THE "ISSUES" OR CLAIMS RAISED BY THE GRIEVANT AND THE REPRESENTATIVE. (LIST THE "ISSUES" ON PAGE ASG-2A.)

REMEMBER: THERE IS NO NEED TO ANSWER ANY OF THOSE ISSUES IN THE PART 1 MEETING OF THE PRESENT STEP.

(Continued)

DURING THE PART 1 MEETING OF THE ADVANCED STEP GRIEVANCE

(CONTINUED)

- ___ ASK THE GRIEVANT, "IS THERE ANYTHING ELSE BOTHERING YOU?"

- ___ ASK BOTH THE GRIEVANT AND THE REPRESENTATIVE, "IS THERE ANY OTHER INFORMATION OF WHICH YOU ARE AWARE WHICH MIGHT ASSIST ME IN REACHING MY DECISION IN THIS MATTER?"

- ___ REPEAT WHAT YOU UNDERSTAND THE GRIEVANCE TO BE.

- ___ REPEAT BACK WHAT YOU UNDERSTAND THE ADJUSTMENT REQUESTED TO BE.

- ___ ASK THE GRIEVANT, "WHAT WILL SATISFY YOU IN ORDER TO RESOLVE THIS GRIEVANCE?"

- ___ BEFORE ENDING THE MEETING PERFORM THE "AROUND-THE-HORN" EXERCISE OF ASKING ALL OF THE PARTIES IN THE MEETING IF THEY HAVE ANYTHING ELSE THEY WOULD LIKE TO DISCUSS OR BRING FORTH IN REGARDS TO THIS GRIEVANCE.

- ___ INFORM THE GRIEVANT AND THE REPRESENTATIVE, "THANK YOU FOR BRINGING THIS MATTER TO MY ATTENTION. THIS IS THE WAY WE PREFER TO SOLVE PROBLEMS. I WILL GET AN ANSWER BACK TO YOU ACCORDING TO THE TERMS OF THE GRIEVANCE PROCEDURE."

REMEMBER: NO ANSWER IS YET NEEDED.

GRIEVANCE HANDLING CHECKLIST

ADVANCED STEP PART TWO MEETING ANSWER PREPARATION OUTLINE

ISSUES OR QUESTIONS RAISED DURING "VENTING" PHASE/PART 1 MEETING ADVANCED STEP	ANSWERS OR RESPONSES GIVEN DURING "ANSWER" PHASE/PART 2 MEETING	TIME

NOTE: BEFORE PROVIDING A FORMAL ADVANCED STEP ANSWER TO THE UNION, COMPARE THE ABOVE "ISSUES" AND "ANSWERS" TO "ISSUES" AND "ANSWERS" FROM PREVIOUS STEPS.

CHECKLIST FOR HANDLING THE ADVANCED STEP GRIEVANCE

FINALIZING INFORMATION NEEDED FOR DECISION MAKING AFTER THE PART 1 MEETING / BEFORE THE PART 2 MEETING

- ___ REVIEW THE INFORMATION AND DETERMINE IF THERE IS A NEED TO INVESTIGATE FURTHER, IN ORDER TO DETERMINE:
- 1) DID THE FACTS PRESENTED ACCURATELY REFLECT OR DEPICT WHAT ACTUALLY OCCURRED?
 - 2) WAS THERE INAPPROPRIATE ACTION OR A VIOLATION OF THE AGREEMENT THAT REQUIRES ADJUSTMENT?
- ___ TALK TO OTHERS WHO MAY HAVE ADDITIONAL INFORMATION THAT PERTAINS TO THE GRIEVANCE.
- ___ REVIEW THE FACTS TO DETERMINE:
WHO - WHAT - WHEN - WHERE - WHY - HOW.
- ___ LIST THE "ISSUES"/"INTERESTS" PRESENTED BY THE GRIEVANT AND THE REPRESENTATIVE AND COMPARE THEM TO THE ISSUES IDENTIFIED IN EARLIER STEPS OF THE GRIEVANCE. (ASG-2A)
- ___ REVIEW THE APPROPRIATE AGREEMENT CLAUSES, RULES, POLICIES, PROCEDURES, ETC., AND OTHER LETTERS AND DOCUMENTS INVOLVED.
- ___ CONSIDER "IF," IN MAKING THE DECISION OR IN THE ACTION WHICH LED TO THE GRIEVANCE THE SUPERVISOR OR MANAGER INVOLVED:
- 1) FAILED TO FOLLOW COMPANY RULES, POLICIES, PROCEDURES.
 - 2) ACTED IN A DISCRIMINATORY FASHION.
 - 3) ACTED IN AN ARBITRARY OR CAPRICIOUS FASHION.
- ___ DETERMINE RESPONSE OR "ANSWERS" TO THE "ISSUES" PRESENTED BY THE GRIEVANT AND THE REPRESENTATIVE DURING THE PART 1 MEETING. (UTILIZE PAGE ASG-2A TO LIST THE ANSWERS YOU WILL DISCUSS.)
- ___ DISCUSS FINDINGS WITH THE SUPERVISOR WHO HANDLED THE PREVIOUS STEP(S) OF THE GRIEVANCE PROCEDURE BEFORE FORMALIZING YOUR DECISION.
- ___ UTILIZE THE CONSENSUS DECISION-MAKING PROCESS INVOLVING, IN ADDITION TO YOURSELF:
- 1) THE LABOR RELATIONS REPRESENTATIVE OR THE MANAGER OF LABOR RELATIONS.
 - 2) YOUR IMMEDIATE SUPERVISOR OR MANAGER.
- ___ IF APPROPRIATE, CONSIDER REMAND OF THE MATTER BACK TO AN EARLIER STEP OF THE GRIEVANCE PROCEDURE FOR RESOLUTION. DO NOT REVERSE OR MODIFY A SUPERVISOR'S/MANAGER'S DECISION UNLESS IT IS DONE THROUGH OR IN THE PRESENCE OF (IN CONJUNCTION WITH) THAT SUPERVISOR OR MANAGER.

AFTER THE PART 1 MEETING / BEFORE THE PART 2 MEETING

____ Following the initial step grievance meeting during which "you treated me differently" was alleged, the company should send the union a letter (return receipt requested) stating, in part:

During the initial step grievance meeting on (DATE) it was alleged by the union that earlier similar incidents were handled differently. If you intend to utilize a discrimination or disparate treatment theory or defense theory, we respectfully request according to the provisions of the NLRA for each instance alleged:

- 1) The employee's name
- 2) Date of occurrence, and
- 3) Name of the management representative who is knowledgeable of the situation.

Such relevant information should be presented before or during the next grievance meeting in order to allow management to intelligently investigate and verify your claims within the spirit of the grievance procedure.

Under the "good faith" obligation, if either party makes a claim in dealing with the other party, the other party has the right to request information which may be "necessary and relevant" in order to verify that claim. Following a request for information such as outlined above, if no information is brought forth, but if "new information" or "surprise information" is presented at arbitration the company can object. In such a case, AAA 5230 30 0604-87, Arbitrator George Jacobs upheld the company's objection when new information was presented during an arbitration hearing:

"... the company made a specific request to the union....the union made no positive response, and gave every indication that there would be no such defense." "On that basis, the claim of new or surprise evidence could not be honored, and the evidence was excluded."

A similar written request should be made whenever, at any step, the union alleges a law has been violated. Such a request might be:

During the initial step grievance meeting on (DATE) it was alleged by the union that management's action violated a law. Because it is management's sincere desire and intent to abide by all applicable laws binding upon management, and because we are aware of no such alleged violation, we respectfully request, according to the provisions of the NLRA, that you identify specifically which law or laws are allegedly violated, when the alleged violations occurred, and who in management may be aware of the situations. Such relevant information is necessary to allow management to intelligently investigate and verify your claims in the spirit of the law.

CHECKLIST FOR HANDLING THE ADVANCED STEP GRIEVANCE

COORDINATING THE FORMAL ANSWER FOR THE ADVANCED STEP PART TWO MEETING

DO THE ITEMS ON THIS PAGE TO COORDINATE WITH OTHER SUPERVISORS AND MANAGERS AND LABOR RELATIONS REPRESENTATIVES TO OBTAIN CONSENSUS.

REMEMBER, THERE IS STRENGTH IN THOROUGHNESS - IT TAKES TIME.

- ___ Don't get side tracked with irrelevant issues and rumors.
- ___ Remember the time limits which apply for your decision.
- ___ Know when to stop talking; don't just look for facts you want to hear. Learn "harmful" facts now, not later.
- ___ Discuss the complaint with other managers/supervisors and the Labor Relations Representative. Obtain a consensus decision.
- ___ Asking questions is a sign of strength, not weakness. Know when to ask for advice.
- ___ Discuss any possible consensus conflicts and resolve them. This is the prudent step before making a decision. Keep upper- and lower-level supervisors and managers abreast of grievance decisions (professional courtesy.)
- ___ Evaluate the facts, opinions, hearsay, and all notes. Consider possible alternate courses of action/decisions. Make the decision based on facts, not opinions/feelings.
- ___ Make notes. Follow up on areas that are still unclear. The supervisor's recommendation is of prime importance, but it should be based on facts and thoroughness.
- ___ Separate and list all issues and claims raised by the employees with corresponding responses for each (use page ASG-2A).
- ___ Compare issues with issues raised in earlier grievance steps.
- ___ Re-read rules, policies, Agreement clauses.
- ___ Read and consider the items on Page ASG-5A&B of this Checklist.
- ___ Consider possible repercussions or potential problems.
- ___ Consider effects of decision on the other supervisors/managers.
- ___ Consider if other employees are "waiting in the woods" to file a similar complaint after decision is announced."

CHECKLIST FOR HANDLING THE ADVANCED STEP GRIEVANCE

COORDINATING THE FORMAL ANSWER

BEFORE MAKING A DECISION THE MANAGER AND THE LABOR RELATIONS REPRESENTATIVE SHOULD CONSIDER THESE POINTS.

___ YOUR DECISION ON A COMPLAINT SHOULD SATISFY THE FOLLOWING POINTS. REMEMBER, YOU ARE ANSWERING FOR EVERY OTHER SUPERVISOR AND MANAGER.

___ Your settlement should not weaken, give up, or limit your management's rights to initiate action in the future, or to discipline in the future. It should strengthen your right to do so.

___ Your settlement should not weaken your management's rights to change the means, methods, processes, materials or schedules of production for the future. Do not allow your settlement to give any employee or the union power to veto your right to manage in the future.

___ Your settlement should not guarantee abuse of the rules, policies, or working conditions in the future especially in the areas of abuse of benefits, pay for time not worked, "fair day's work/fair day's wage" principle.

___ Do not let the settlement limit or hamper your flexibility in assigning work, requiring overtime, or in administering any of the rules or policies of the company. Avoid rigidity and maintain flexibility in applying rules and policies during settlement.

___ Do not allow your settlement to start a past practice. Remember your settlement influences other supervisors in other departments. Do not say in the answer, "We won't do this in the future" or "In the future we will..." Do not use words: "promise," "always," "in the future," "never again."

___ CONSIDER THE IMPACT OF YOUR DECISION IN THE LIGHT OF THE ABOVE FIVE AREAS. OTHERWISE, YOU MIGHT CREATE MORE PROBLEMS WITH YOUR DECISION THAN THE INITIAL PROBLEM YOU WERE TRYING TO SOLVE.

___ YOUR DECISION WILL "INFLUENCE" FUTURE SIMILAR SITUATIONS, ESPECIALLY IF THE FORMAT FOR THE ADVANCED STEP ANSWER IS WRITTEN.

CHECKLIST FOR HANDLING THE ADVANCED STEP GRIEVANCE

PREPARING THE FORMAL ANSWER FOR THE PART TWO ADVANCED STEP MEETING

NEVER USE COMBINATIONS OF THESE WORDS IN ANNOUNCING YOUR DECISION

OR IN SETTLING A GRIEVANCE

PPROMISE

THESE WORDS WILL ONLY LIMIT YOUR FUTURE FLEXIBILITY OR WATER DOWN MANAGEMENT'S RIGHT TO MAKE CHANGES NECESSITATED BY CHANGING CONDITIONS IN THE FUTURE.

AALWAYS

IIN THE FUTURE

NEVER AGAIN

THESE WORDS MAY START A PAST PRACTICE THAT MODIFIES THE INTENT OF THE AGREEMENT.

___ DO NOT "SWAP" OR "TRADE" GRIEVANCES IN ORDER TO SETTLE THEM, OR YOU WILL BE ENCOURAGING MULTIPLE COMPLAINTS IN THE FUTURE.

___ REMEMBER: THIS SETTLEMENT APPLIES ONLY TO THE PARTICULAR SET OF CIRCUMSTANCES WHICH PREVAILED AT THE TIME OF THE ACTION BEING DISCUSSED. THIS SETTLEMENT MAY INFLUENCE YOU IN FUTURE SIMILAR INSTANCES UNDER SIMILAR CONDITIONS.

NOTE: THE LABOR RELATIONS MANAGER MAY FIND IT APPROPRIATE TO "BARGAIN" WITH THE UNION DURING THE ADVANCED STEPS OF THE GRIEVANCE, BUT THAT IS THE PREROGATIVE OF AND THE "TERRITORY" RESERVED FOR THE LABOR RELATIONS MANAGER AS THE COMPANY'S CHIEF NEGOTIATOR.

CHECKLIST FOR HANDLING THE ADVANCED STEP GRIEVANCE

CONDUCTING THE "PART 2" ADVANCED STEP GRIEVANCE MEETING COMMUNICATING THE ANSWER

- ___ ANNOUNCE YOUR DECISION AT THE START OF THE MEETING AND ANNOUNCE THAT YOU WILL NOW EXPLAIN HOW YOU REACHED THE DECISION.

TO AWARD A GRIEVANCE: USE THE FORMAL ANSWER, "YOUR GRIEVANCE HAS MERIT, IT WILL BE ADJUSTED ACCORDING TO THE AGREEMENT (EXPLAIN BRIEFLY WITHOUT DETAIL) AND THIS SETTLEMENT APPLIES ONLY TO THIS GRIEVANCE AT THIS TIME (STATE DATE)."

TO DENY A GRIEVANCE: USE THE FORMAL ANSWER, "AFTER CAREFUL EXAMINATION OF THE FACTS YOU PRESENTED, AND AFTER THOROUGH INVESTIGATION, YOUR GRIEVANCE IS DENIED. THERE WAS NO VIOLATION OF THE AGREEMENT." (EXPLAIN THE ANSWER BRIEFLY, BUT DO NOT RAMBLE AND DO NOT USE HYPOTHETICALS.)

- ___ ADDRESS THE "ISSUES" OR CLAIMS MADE DURING THE PART 1 MEETING OF THE PRESENT STEP. BRIEFLY EXPLAIN HOW EACH ISSUE AFFECTED YOUR DECISION, IN BOTH DENYING AND AWARDING THE GRIEVANCE. BRIEFLY EXPLAIN ALL DECISIONS VERBALLY IN DETAIL, WITH FACTS NOT OPINIONS. LIST ANSWERS ON PAGE ASG-2A FOR ALL ISSUES LISTED ON PAGE ASG-2A, AND USE ASG-2A AS A PART 2 MEETING OUTLINE.
- ___ IF A WRITTEN RESPONSE IS REQUIRED, KEEP THE WRITTEN RESPONSE BRIEF AND ALSO USE THE APPROPRIATE LANGUAGE FROM THE ABOVE BOX, BUT STILL EXPLAIN EACH ISSUE VERBALLY.
- ___ DO NOT TRADE GRIEVANCES IN ORDER TO SETTLE THEM.
- ___ HANDLE ONE GRIEVANCE AT A TIME AND RESIST THE URGE TO "COMBINE" OR ASSOCIATE GRIEVANCES, UNLESS WITH THE APPROVAL OF THE LABOR RELATIONS DEPARTMENT.
- ___ ASK THE GRIEVANT AND THE REPRESENTATIVE IF THEY HAVE ANY QUESTIONS REGARDING THE DECISION/THE PROPOSAL.
- ___ CLOSE THE MEETING BY RE-STATING THE DECISION/THE PROPOSAL.

NOTE: PLACE NOTES, MINUTES, ETC., FROM THE MEETING IN THE GRIEVANCE FILE WITH NOTES FROM THE PREVIOUS STEP(S) FOR THIS GRIEVANCE. DO NOT KEEP GRIEVANCE RECORDS IN EMPLOYEE FILES.

NOTE: SEE PAGE 64 FOR GUIDELINES FOR SUBMITTING MEETING NOTES AS EXHIBITS IN ARBITRATION.

OPEN-DOOR "INFORMAL COMPLAINT" ACTIVITY **"SKIP INTERVIEWS" - "SKIP CONTACTS" BY TOP-LEVEL MANAGERS**

In many instances employees may choose or may simply find it convenient and expedient to voice their complaints or concerns directly to top-level managers, either in addition to pursuing the formal grievance procedure or without resorting to the formal grievance procedure.

The phrases "skip interview," "skip contact," or "skip activity," describe that kind of activity where a top-level manager, either by choice, or chance or circumstance, engages in a conversation with an employee or a lower level supervisor who works for an intermediate manager or supervisor who directly reports to the top-level manager involved. This type of activity may occur as a result of the top-level manager making a direct effort or attempt to contact the individual who works for the supervisor or manager who reports directly to the top-level manager, or such activity might simply occur as a result of a situation in which the employee finds it convenient to discuss a topic or a problem with a top-level manager who is the employee's immediate supervisor's boss.

It is not the purpose of this discussion to discourage the use of skip activity as a management tool. However, while there are many possible benefits from skip activity, the top-level manager should keep in mind that such activity also has a potential to demoralize the supervisory staff and to create "mountains out of mole hills," if a few safeguards or caveats are overlooked. Likewise, such activity may be contrary to the Agreement's grievance procedure, and as such may raise serious legal questions regarding impropriety.

The top-level manager involved should conduct skip activity in such a manner that minimizes or eliminates the detrimental effects upon the authority of the intermediate person which may occur and in such a manner that prevents liabilities for the employer under the Agreement and under the National Labor Relations Act.

Many top-level managers purposely employ "skip interviews" or "skip contacts" in an effort to demonstrate on the part of the top-level manager concern for and appreciation of employees. Such motivation is commendable; however, the top-level manager may in effect be demonstrating lack of concern and lack of respect for the intermediate supervisor or manager if the top-level manager does not conduct "skip activities" in a prudent manner. Uppermost in the top-level manager's mind during "skip activity" should be the preservation of the integrity and the authority of the intermediate supervisor.

Top-level managers should enter into skip activity only after having made a realistic assessment as to precisely what expectations the top-level manager has or what goals the top-level manager hopes to achieve through such activity. Likewise, the top-level manager should keep in mind that complaints, criticisms, or protests from the individual who is talking with the top-level manager are very often likely to be very general in nature and generally are given on the part of the employee with the expectations of amnesty. Most top-level managers engaged in skip activity extend amnesty either as a result of a direct assurance of non-retaliation or non-retribution or as a result of an implied promise of amnesty inherent in such statements as, "I want you to feel free to talk to me," or "I hope that you will feel free to openly discuss your concerns with me, in order that I may consider your suggestions...."

"Skip interviews" often occur as a result of an "open door policy" or an "open door atmosphere." The implication given to employees is that by coming through the "open door" with complaints, the top-level manager will followup and investigate and take appropriate action, and the employee will not be retaliated against in any way for the comments offered.

The top-level manager should realize when engaged in "skip activity" that the comments or statements made are not made in such a way as to carry with them the same degree of accountability or credibility as if those same comments were made in the presence of the intermediate-level supervisor to whom the employee being interviewed reports.

Whether such "skip interview" comments are offered as a result of an "open door policy" or as a result of a planned "skip activity" on the part of the top-level manager, or whether they occur as a result of simple convenience when an employee has the opportunity to visit with a top-level manager, the top-level manager should remember, before taking action, to follow up and verify the accuracy of the comments offered. The top-level manager should remember at all times that there are "two sides to every story." The top-level manager should "leave the door open" to the supervisor before acting upon statements that are offered in a "skip context."

"SKIP ACTIVITY" CAVEAT IN UNION-ORGANIZED PLANTS

Top-level managers may be engaging in "skip activity" in an effort to practice and promote modernistic "involvement" management techniques or "employee participation" management techniques. While such activity is generally commendable, and likely to be seen as being "in the spirit" of the current "culture" being touted in many organizations, well-meaning managers may be creating unnecessary liabilities for their employer unless they prudently adhere to the cautions discussed below.

What is often overlooked in creating the liabilities alluded to above is that in a union-organized work force the employees have selected, under the law, to "participate" through their union representatives in their dealings with the employer in areas regarding "wages, hours, and other terms and conditions of employment."

In union-organized locations top-level managers are cautioned emphatically to keep in mind the Collective Bargaining Agreement as sanctioned under the National Labor Relations Act requires that the employer or the employer's representative recognize the union and its representatives as the "exclusive bargaining agent or agency" for employees in the matter of wages, hours, and other terms or conditions of employment. It is often very convenient for employees, for whatever motivation, selfish or otherwise, to offer persuasive arguments on their behalf regarding wages, hours, or terms or conditions of employment when they are talking in directly with top-level management, and when they are in the absence of their bargaining unit representative. The top-level manager may be vulnerable from the union or its officers to accusations of "dealing around the union" and dealing "directly with employees." Such accusations often carry with them the label of "Boulwarism," the term having been coined from the name of the individual involved in the classic General Electric case which occurred as a result of direct dealing of G.E.'s representative Mr. Boulware with employees who were members of the recognized bargaining unit. Top-level managers who during "skip activity" receive petitions or other formal requests from individual employees or groups of employees are "treading in dangerous water" and may be accused of attempting to by-pass the union and its representatives. Such activity may be criticized as improper and inappropriate, and in cases such as the "Boulware/GE" case such activity may be deemed to constitute an unfair labor practice under the Act.

"SKIP ACTIVITY" MORALE/ATTITUDE SURVEYS

In many cases top-level managers justify "skip interviews" or "skip activity" as an effort to try to determine the morale or attitude of employees in the workplace. Such top-level managers should be reminded that it is a primary function of the front-level supervisor to conduct employee "morale surveys" and employee "attitude surveys" on a daily basis as a result of the immediate supervisor's daily contact with those employees. Top-level managers should take steps to stress this responsibility to front-level supervisors as one of their prime responsibilities. Top-level managers who overtly engage in "skip activity" in an attempt to determine employee attitude and morale should ask themselves why they are not confident in the front line supervisor performing that function. Top-level managers should attempt to learn from immediate front-level supervisors what the supervisors believe will be brought forth in "skip interviews." Such information may indicate how well the supervisor knows the feelings of the employees.

"SKIP ACTIVITY" TO EVALUATE SUPERVISORY PERFORMANCE

Often top-level managers as a result of "skip activities" find themselves trying to answer the question: "Is the supervisor doing a good job as a supervisor?" Sometimes it is the purpose of the top-level manager engaging in the "skip activity" to determine precisely the answer to that question. Other times, however, the top-level manager finds himself/herself being steered toward answering that question as a result of the commentary or criticism offered by those interviewed. Top-level managers should keep in mind the familiar saying that, "An employee's favorite topic of conversation when speaking to the employee's boss's boss in the absence of the employee's boss is very often the employee's boss." The top-level manager should keep in mind and keep in perspective the fact that it is the immediate supervisor's boss, and not the employees of that immediate supervisor, who should ultimately be making the determination of "Is the supervisor performing satisfactorily and carrying out the duties of his/her job in an acceptable manner?" In effect, the question regarding the supervisor's performance which the top-level manager should be asking is: "Is the front-line supervisor pleasing his/her immediate boss?" rather than "Is the front line supervisor meeting the standards and expectations of what the employees believe their boss's responsibilities are?"

"SKIP ACTIVITY" CRITICISM

Some of the most commonly heard criticism regarding information gathered during "skip activity" is that "skip complaints are too easy to make, too general in nature, lack follow-up accountability, and very often are offered as broad conclusive statements when in fact they emanate from a single isolated incident or problem which was either detrimental to the employee or was not handled to the employee's satisfaction."

Another commonly heard complaint regarding comments heard in "skip interviews" or "skip contacts" is that the comments often refer to things the supervisor has previously done or previously said which has been taken out of actual context and offered in a context which is more advantageous or self-serving to the employee. Such remarks may be called "out-of-place" or "oops" comments which many times the immediate supervisor wished he/she had not made and often which the supervisor has taken steps to correct or explain to the employee.

While comments obtained by top-level managers in "skip interviews" may be characterized in many ways, perhaps the single most important distinction of many comments is that the immediate supervisor has already addressed the employee's concerns or that the immediate supervisor has already answered the employee's questions, but that the supervisor's response did not meet the expectations or the approval of the employee. As such, the employee may be merely on a "fishing expedition" seeking out a more favorable answer or a more receptive manager. One supervisor, when questioned by a top-level manager regarding an employee's complaint about the meaning of a company policy, remarked to the top-level manager, "Yes, I am aware that is a concern of his. In fact, only as late as yesterday I spent five minutes discussing that policy with him and answering his questions. My discussions and my answers to his questions came about after I followed up his question and discussed it with the personnel manager. I believe the problem the employee has is that he just simply did not like my answer because it was not the answer he wanted. Now he has come to you to see if he can get an answer which is more pleasing to him." The supervisor went on, "This is not the first time he has done this, and I assure you I am probably more interested in the answer that you gave him than he is at this point in time."

"SKIP ACTIVITY" SAFEGUARDS

Because of the negative impact that "skip activity" can have upon the stability and morale of the supervisory team and indeed upon the authority of the intermediate and front-level supervisors themselves, and because of the various motivation that may underlie many of the questions asked and comments made in "skip contacts," some important guidelines should be followed by the top-level manager engaged in "skip activity." The most important guideline for the top-level manager to follow is that when "skip comments" are offered by employees the top-level managers should bear in mind the importance of probing for "specificity" in pursuing those comments or complaints and in discussing them with the individual. Immediately when a comment is offered or a question is raised or a suggestion is made by an employee in a "skip comment" the top-level manager should ask the employee to be very specific about the matter. In this regard, the top-level manager should keep in mind the following points immediately when "skip comments" are offered.

- ___ Strive for specificity when probing. Ask the employee
 -specifically who
 -specifically when
 -specifically what was said
 -specifically what was done
 -specifically who else in management is aware of this or has information regarding this?

- ___ Ask up front, "Have you asked/talked to any other supervisor about this?" If so, "Who?" and "What did they say?" If not, "Why not?"

- ___ Ask the complainer, "Are you certain you have told me everything about this?"

- ___ Ask if the complaint was a result of a single incident or of several incidents and ask when the incidents occurred and determine other parties involved or affected.

- ___ Before concluding the "skip activity" the top-level manager should ask for positive feedback in addition to negative feedback; "What do you like?" - "Have you seen any improvements?" "What is the best part of working here for you?"

Additionally, in union organized companies, top-level managers, before answering questions raised during "skip contacts," must consider the following:

- ___ Has the union, through its representatives, pursued and agreed to a different solution?
- ___ Has the union already pursued and dropped this matter?
- ___ Has there been strongly stated a managerial position to the contrary by either this management team or a previous one?
- ___ Has the topic been a "bargaining topic" in past negotiating sessions?
- ___ If there has not been a grievance filed in the matter, attempt to determine why has no grievance been filed?
- ___ In the event a grievance has been filed, determine the outcome or status of that grievance.
- ___ Did a local manager already know this? (If so, what was done about it?)

COMMON "SKIP CONTACT" EMOTIONAL BUZZWORDS

Historically, employees tend to choose a routine collection of "buzzwords" with which they season their comments in "skip discussions," apparently because such words are "shockers" and have attracted attention in the past. Some usual buzzwords or buzz phrases are:

- ___ "Intimidating"/"abusive"/"threatening"/"vindictive"
- ___ "If top-level management knew about this"
- ___ "Harassment"/"disrespectful"/"communism"
- ___ "Militaristic environment" or "prison environment"
- ___ "The way they talk to us"
- ___ "It's not just me, there are a lot of people who feel the same way"
- ___ "Others won't tell you, they're afraid of retaliation"
- ___ "I have even heard some people talk about sabotage"
- ___ "People out here are afraid to do anything"
- ___ "No one ever tells us what is going on"
- ___ "Local management doesn't practice what they preach."
- ___ "We've been told that what we think isn't important - we're not paid to think"
- ___ "No one ever says 'thank you' around here"
- ___ "I knew that if you had been aware of this it would not have been tolerated."

COMMON "HIDDEN-AGENDA" "SKIP CONTACT" SITUATIONS

Many top-level managers in their initial experiences with "skip contacts" are often alarmed or shocked at the seemingly serious nature of the comments heard. More experienced top-level managers, however, become accustomed to the comments which many employees offer and keep them in perspective.

Likewise, top-level managers soon realize that many "skip comments" have been taken out-of-context and couched in terms which are often for the convenience of selfish interests to support specious arguments.

In one "skip contact" an employee complained that supervisors were "disrespectfully harassing" employees. Further discussion with the employee revealed that the employee was particularly upset with the department requirement for each employee to report directly to his/her immediate supervisor following each instance of absence or lateness. The "harassed" employee, it was learned by the top-level manager, was the department's leading absence and tardiness policy abuser.

Another top-level manager in a "skip interview" heard a complaint regarding "intimidation" by one supervisor. As he probed the complainer, he learned that the middle-level supervisor had discovered three employees in the parking lot, following a lunch period, and had "...attempted to intimidate us by the way he kept looking at us then looking down at his watch." The complainer then went on to report, "And then he went to our boss and 'sicked' him on us."

Upon follow up, the top-level manager was told by the middle-level supervisor, "I probably did look at my watch, but I hardly find that intimidation. They were not on the job when they should have been. I went to their boss because I have been trained to correct employees' performance through their immediate supervisors. If they had been doing something unsafe or illegal, I would have stopped them myself. They were merely fifteen minutes late coming back from lunch. I felt their supervisor should correct that!" In retrospect the top-level manager was pleased with the way the supervisor had handled the situation, and the top-level manager told the supervisor and the employee so.

On another "skip interview" visit a top-level manager heard about "prison-like treatment" in one department. Follow up indicated that the supervisor in that department had been at one time a prison guard. That supervisor in his present position rigidly enforced housekeeping and break time policies. No specific instances were identified which could be characterized as unfair or abusive.

Similarly, one employee complained in a "skip interview" that his supervisor had told him that..."all labor unions are communistic and union members are communists." When asked about the comment, the supervisor stated that in a night class he had been studying a book *The Brothers Reuther* which included information about a visit to Gorky by Victor and Walter Reuther. The supervisor said, "One night during a lunch break the guys saw me reading the book and asked me if I was thinking of joining the union. We then discussed what I was reading and how the Reuthers became involved in the McClellan Committee investigations, which was also a part of what I was studying in the night class. That became a periodic topic of conversation for a while after that, and at times I felt I was being 'baited' by some of the guys. I never said our guys were communists or that any union guys were communists, because I don't believe that."

Another common "skip contact" complaint is that..."management only uses the Agreement against us." This is especially prevalent in those companies which are rigidly enforcing the provisions of the Agreement and especially when the present management team has become more assertive of management's rights which may have been ignored or only loosely enforced under previous administrations.

One of the most common "skip contact" areas of complaint regards failure of supervisors to allow employees to have..."pride in my work." A top-level manager who hears this complaint should be very cautious of a "hidden agenda." In one specific "skip interview," a top-level manager heard, "I can't have pride in my job when they don't ever let me finish jobs I start. I should be allowed to finish jobs I start, especially those I start toward the end of my shift which are not completed by quitting time and which get assigned to the oncoming shift to complete." These comments were heard from employees in one department where supervisors had been instructed by their manager to curtail overtime usage. The top-level manager initially responded in a critical manner toward the supervisors, until the manager pointed out that overtime reduction had been a major topic in the top-level manager's monthly meetings for the past three months.

PROFESSIONAL COURTESY TOWARD MANAGERS AND SUPERVISORS

If top-level managers intend to utilize "skip interview" activity, then top-level managers should inform intermediate-level managers and supervisors that the "skip activity" will be occurring. If the top-level manager believes that the sight of him or her meeting with the intermediate-level manager or supervisor at the start of the "skip visit" would be detrimental insofar as employee trust is concerned, then the top-level manager utilizing the "skip contact" approach should consider use of the "telephone entry and exit" professional courtesy steps with the intermediate-level manager or supervisor in whose area the top-level manager will be visiting.

Topics or questions which can be discussed during the pre-visit "entry courtesy" step include:

___ "What are some of the things I might be hearing from employees today in your area?"

___ "Is there anything you would like me to look into for you while I am there?"

___ "Has anyone in the area done anything which you, the supervisor or manager, have complimented them on which I can help to reinforce?"

Some of the topics or comments which may be appropriate during the "exit courtesy step" include:

___ "In addition to the items you said I would hear, I also heard....."

___ "You really had your finger on the issues, is there anything I can do to help you on these?"

UTILIZING "SKIP INTERVIEWS" OR "SKIP CONTACTS" TO RECOGNIZE OUTSTANDING PERFORMANCE AND TO CREATE A POSITIVE RESULT

While the "skip activity" is most likely to produce commentary from employees which is negative or critical in nature, many prudent managers have developed the skills to use the "skip contact" to compliment outstanding performance and to encourage a positive atmosphere in the department they are visiting.

When the top-level manager briefly informs intermediate-level supervisors that the top-level manager will be in the department visiting with employees, the top-level manager should inquire as to if some employees have recently done outstanding work. If so, the top-level manager should state to the supervisor: "If you have already complimented the employee, I'll be glad to tell him or her that you were telling me about the good work. If you haven't complimented him/her yet, I'll wait until you do so before I offer my compliments." Such inquiry on the part of the top-level manager will encourage the supervisor to recognize outstanding performance. The act of checking with the supervisor first is a prudent step which alleviates the possibility of alienating the employee against the supervisor as a result of the top-level manager complimenting the performance when the front-level supervisor has failed to do so.

The fact that a supervisor informed a top-level manager of an employee's outstanding performance is usually very pleasing and reassuring to the employee. The employee thus realizes that the immediate supervisor is likely to give employees credit for their accomplishments and for the department's successes.

Another technique which the top-level manager may utilize in order to create a positive atmosphere as a result of "skip activity" is simply to ask the employee questions such as the following:

... "What is the most important improvement you have seen in the company in the past year?"

... "What are the most enjoyable things to you about your job?"

... "What do you especially like about working here as compared to other places you have worked?"

Likewise, when a top-level manager hears positive comments from employees during "skip activity", the top-level manager should pass those comments along to intermediate-level managers and front-level supervisors.

CHECKLIST FOR PREPARATION FOR "SKIP INTERVIEWS"

Top-level managers should refer to this checklist before conducting "skip interview" activity and they should follow the following points during the "skip interview" discussion.

- ___ Before engaging in any planned "skip activity" identify the realistic expectations or anticipated goals for the "skip activity."
- ___ Keep the "skip comments" in perspective.
- ___ Remember, "There are two sides to every story"; and follow up with other people mentioned or criticized in "skip contacts" and get their side of the story.
- ___ Do not allow "skip activity" to undermine the authority of intermediate managers and supervisors.
- ___ Do not overreact to emotional buzzwords or phrases.
- ___ Be alert for hidden agenda arguments or criticisms which are specious and self serving toward the individual being interviewed.
- ___ Utilize "professional courtesy" entry and exit discussions with the manager or supervisor with whose employees the top-level manager will be visiting.
- ___ Probe for and insist upon "specificity" from the individual who offers criticism or complaints.
 - ___ Find out specifically:
 - ___ Who?
 - ___ When?
 - ___ What was said?
 - ___ What was done?
 - ___ Who else in management is aware of this or has information regarding this?
- ___ Be prepared to ask the employee, up front: "Have you talked to any other supervisor about this?"
 - ___ If so, ask "Who?" "What did they tell you?"
 - ___ If not, ask, "Why not?"
- ___ Ask the employee: "Have you told me everything about this?"
- ___ Determine if the criticism/complaint arose out of a simple incident or as a result of several incidents.
- ___ Do not look only for negative comments or criticism. Ask questions about things employees like or enjoy about their jobs and compliment employees about **good comments** heard from their supervisors about their performance.
- ___ Pass along to intermediate-level managers and front-level supervisors positive comments heard during skip activity.
- ___ Pass along to employees positive comments made by intermediate-level managers and front-level supervisors.

CHECKLIST FOR FOLLOW UP/VERIFICATION OF "SKIP CONTACT "INFORMATION

Top-level managers should consider the following items following "skip interviews" before making decisions regarding correcting conditions cited by employees during "skip contacts."

- ___ Do not over react to emotional "buzzwords" or "phrases".
- ___ Be alert for "hidden agenda"/"fishing expedition" items.
- ___ Has there been recent disciplinary action/job promotion denial/leave request denial/etc. toward the employee?
- ___ Has the intermediate supervisor/manager of the front-level supervisor (who has been criticized) been following the directives of a top-level manager in the areas where the criticisms have been directed?
- ___ Has the intermediate supervisor/manager or the front-level supervisor been satisfying his/her immediate supervisor?
- ___ What is the "bottom-line" performance of the criticized manager/intermediate supervisor/front line supervisor, i.e., safety record, cost performance, quality/quantity of performance, equipment availability, achievement of planned goals to which the department is committed, etc.?
- ___ Are there differences between the top-level manager's goals and objectives and the goals and objectives of intermediate-level managers?
- ___ Examine how the content or nature of the "skip complaint" compares with the content and nature of formal grievances.
- ___ Determine if the employee has previously called the matter to the attention of the immediate supervisor and, if so, what was the response/result; and if not, find out why not. If appropriate, encourage the employee to do so.
- ___ Attempt to determine if the immediate supervisor/intermediate manager was aware of the alleged problem and what action they have taken, if any.
- ___ Do not retaliate against employees who offer comments during "skip interviews" in which implied amnesty has been extended to the employees being interviewed.
- ___ Have the topics which were criticized been taken out-of-context or been offered following "out-of-place"/"oops" comments or discussions?
- ___ Attempt to correct or improve situations through the chain of command or through utilization of channels of communication and action involving intermediate level managers and front-level supervisors.
- ___ Consider utilization of the employee's supervisor to follow up and properly address and attend to items learned about in "skip interview" activity.

It is critical in union-organized companies for top-level managers before answering questions raised during "skip contacts" to consider the following:

- ... has the union, through its representatives, pursued and agreed to a different solution?
- ... has the union already pursued and dropped this matter?
- ... has there been strongly stated a managerial position to the contrary by either this management team or a previous one?
- ... ask the complainer: "Are you certain you have told me everything about this?"
- ... has the topic been a "bargaining topic" in past negotiating sessions?
- ... why has no grievance been filed?
- ... in the event a grievance has been filed, determine the outcome or status of that grievance.
- ... did a local manager already know this ? (If so, what was done about it?) (Do not make the "Boulware mistake" of being criticized/charged with dealing "around the union.")

NOTE: Top-level management discussions with groups of employees can also be criticized as attempts to deal "around the union." Also, "skip activity" conducted with groups of employees may provide the forum for a single employee's complaints to be elevated to a group concern.

MISCELLANEOUS FOLLOW-UP CONSIDERATIONS:

- ___ For complaints which are general in nature, the top-level manager should not reveal the identities of interviewed employees. Identities should only be discussed with other managers and supervisors when discussions can be maintained in a positive, constructive, and non-retaliatory manner.

- ___ Consider the overall negative impact of the problem cited upon the ability of the individuals to work together, the accomplishment of departmental goals and objectives, the ability of the company to obtain supervisory candidates from employee classifications, the ability of employees to move between jobs and classifications according to acceptable procedures and guidelines, frequency of use of the Employee Assistance Program to address the same or similar problems, turnover, the presence of graffiti or vandalism or damage of company property, etc.