

ISSUES



- To defend the members and the union contract, the union has a legal right to seek information from an employer - and the employer has a legal obligation to provide it as long as the union's request is relevant and not unreasonable.
- The employer is required to provide relevant information in a variety of circumstances - don't assume that a grievance has to be filed before you can ask!
- Put information requests in writing!

To properly police the Union Contract, the Union often needs information that only the employer can provide. Every steward should be aware that the employer must provide the Union with the information that it needs to properly represent the members. This includes information that will help the Union:

- To decide whether to file a grievance;
- To prove a point to win a grievance;
- To make the employer prove something they have said;
- To prepare and present an arbitration case; and
- To prepare for negotiations.

You have the right to ask for information. Some employers try to deny giving the Union information until the Union files a grievance. This is wrong. **The Union can ask for information before it files a grievance to decide if a grievance exists.**

Example: An employee claims that there is an unfair distribution of overtime in her department. The union steward can request a departmental overtime log or payroll record to see if this is true.

Proving Claims: The Union can request information that makes the employer prove a claim they have made.

Example: The employer announces that welfare case workers now have quotas to meet on the number of clients they help each day. This change rests upon the claim that the welfare case workers in Iowa "see the fewest number of clients of any state in the country." The union could request the information the employer has to back up this statement. Employers often back down from outrageous claims once the Union confronts them with a demand to prove what they say.

Requests must be relevant and not unreasonable: The obligation of the Union is to ask for information that is **relevant** to the case and **not an unreasonable request** aimed at harassing the employer. The NLRB (and state Labor Boards) will back up information requests if they meet these two criteria.

Example: Pete receives a warning for punching in late twice in one week. Pete said that Joe and Kate, friends of the boss, came in late but never got warned. It would be correct to ask for the time cards and warnings issued to Joe and Kate over the last several months. It might not be proper to ask for 300 employees' time cards for the last six years.

Confidentiality. Occasionally the Union may have to pledge that it will keep the information confidential. This may occur if the information concerns health problems or information about a production process that is unique to the employer. Customer or client complaints may fall under this category. Confidential material can be presented to an arbitrator, who will also agree to keep the material secret.

How quick do the employers have to provide the information? Employers cannot unreasonably delay giving information to the Union. If the employer estimates that getting the information will take some time, they must show that they are working on it, not just stalling.

The employer sometimes can provide the Union access to information rather than providing a copy.

Example: In response to the employer's plan to set up a new absentee point system, the Union requests the employer to provide the Union with absentee records of all employees for the last two years. Instead the employer provides the Union with all the records and a space to examine them at work. The employer must allow the Union to copy all relevant records. If the employer can claim that the cost of copying the records is extreme then they must bargain with the Union over how much the Union will pay. In all extreme cases the costs should be split. The Union should not pay the entire cost.

Put the request in writing. This way the employer knows exactly what the Union needs and the Union has proof of when and what was requested. Having this proof is necessary if the Union must go to the NLRB (or state Labor Board) to enforce its demand for information.

Refusal to Provide Information. If the employer refuses to provide relevant information, discuss the possibility of filing an Unfair Labor Practice charge with the NYSNA Field Organizer assigned to your local.

WHAT CAN YOU REQUEST?

The following is a list of the various kinds of information that Unions have requested and employers have had to give them. Remember the Union must show this information is relevant.

- Accident Records
- Attendance Records
- Bargaining notes
- Client complaints
- Contracts (from other bargaining units)
- Contracts with suppliers
- Correspondence
- Customer contracts
- Customer complaints
- Customer lists
- Disciplinary records
- Employer memos
- Equipment specifications
- Health & Safety studies
- Inspection records
- Insurance policies
- Interview notes
- Job assignment records
- Job bids
- Job evaluations
- Job descriptions
- Material Safety Data Sheets
- Names of witnesses
- OSHA logs
- Payroll records
- Pension contribution records
- Performance reviews
- Personnel files (with or without employee's consent)
- Piece rate records
- Production records
- Photographs
- Salary records
- Security Guard records
- Seniority lists
- Subcontracting contracts
- Supervisor's notes
- Time cards
- Time study records and raw data
- Training manuals
- Videotapes
- Wage and Salary records
- Work Rules

SAMPLE WRITTEN REQUEST

To: *(Name of Boss)*

From: *(Union Representative)*

Re: *(Contract clause, grievance, subject of inquiry)*

Date: _____

Dear _____:

(Pick one of the following openings:)

- To monitor and administer the collective bargaining agreement, the Union requests the following information:
- To decide if a grievance exists, and if it does, to prepare and process the grievance, the Union requests the following information:
- The Union requests the following information relevant to the above named grievance:

1. _____
2. _____
3. _____
4. _____

The Union reserves the right to request further relevant information on this matter. Please provide this information by _____. Please notify the Union immediately if there are any difficulties in providing any of this information.

EXAMPLE 1:

To: Mr. Swope

From: Albert Fitzgerald, NYSNA RN

Re: **Suspension of Al Coulthard for production of excess scrap**

Date: Dec. 1, 1941

To decide if a grievance exists, and if it does, to prepare and process the grievance, the Union requests the following information:

1. All daily production and scrap records of Mr. Coulthard for the last six months.
2. All daily production and scrap records of all employees in Dept. 13 for the last six months.
3. All discipline records of any employee disciplined for excessive scrap in the last six months.

The Union reserves the right to request further relevant information on this matter. Please provide this information by Monday Dec. 7, 1941. Please notify the Union immediately if there are any difficulties in providing any of this information.

EXAMPLE 2:

To: James Carey

From: Leon Massa

Re: **Job bidding award of grinder job**

Date: March 21, 2006

The Union requests the following information relevant to the above named grievance:

1. The names, seniority, and employment records of all employees who bid on the grinding job.
2. Copies of all production or quality related warnings that any of the bidders have received in the last year.
3. The employer claimed that Joe Jones, the least senior employee displayed “special skills.” Please provide a written list of all special skills Mr. Jones possesses, how he used these skills on the grinding job, and the dates when he has displayed these special skills.
4. A copy of the job description for the grinding job.

EXAMPLE 3:

To: Joe McCarthy
From: Joseph Hill
Re: **Denial of Personal Leave of Absense**
Date: July 17, 2005

To decide if a grievance exists, and if it does, to prepare and process the grievance, the Union requests the following information:

1. The names of all employees who applied for personal leaves of absense during the last 3 years. Please include the reasons for their leave, whether the leave approved or denied, and if denied, the reason for the denial.
2. The work schedule and work load for the refab department for the month of December 1999.
3. For every leave that was approved during the last three years, please include information showing the work schedule and work load for that department while the employee was on a leave of absense.

EXAMPLE 4:

To: A. Markley
From: Amy Newell, Chief Steward
Re: **Plans to subcontract**
Date: March 20, 2004

To monitor and administer the collective bargaining agreement, the Union requests the following information.

1. Copies of any studies concerning the plans to subcontract the cafeteria work.
2. Copies of any information showing the alleged cost savings.
3. All information concerning the cost of running the cafeteria, including but not limited to wages, benefits, overhead etc.
4. A list of all employer dinners provided to non-bargaining unit personnel or customers over the last two years. Include the cost for each of these events.
5. Copies of any correspondence or contracts with MacDonalds concerning the possible subcontracting