

## STEWARD'S RIGHTS TO INFORMATION

**Q: Can you request information before filing a grievance?**

**A:** Yes. A Union has a right to information in order to make an informed decision on whether to file a grievance. However, some employers take the position that you don't have the right and the easiest way to get the information then, is simply to file the grievance.

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**Q: When an employee was suspended for absenteeism, I asked for the attendance records of all employees in her department. Their personnel manager said I could have the records of the grievant, but he could not release the records of others because they contain sensitive medical information. What are the Union's rights?**

**A:** There is no question that you are entitled to be told the number of absences of each employee in the department. If all you are looking for is numbers, the employer must supply them without forcing you to obtain authorizations. However, if you want to examine the attendance records themselves, and if these records contain information on the reasons for absence, such as sickness or injury, you may face the problem of medical confidentiality. An employer can refuse to disclose medical information but you can modify your request to allow the personnel manager to block out medical references in the records.

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**Q: Two employees were seen fighting, but only one was disciplined. We asked for the personnel files of both workers. The employer refused to give us the file of the worker who was not disciplined. Are we entitled to it?**

**A:** Private Sector should be allowed to request this information. The personnel files of both workers are relevant to the grievance and must be turned over to the union. Materials such as applications and work records must also be supplied. For public employees, probably not under Data Privacy laws.

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**Q: An employee left work without permission and was discharged. We know that in the past, several employees were only suspended for this offense. Can we get the disciplinary records of these employees without written authorizations?**

**A:** Yes. Records of employees disciplined in the past for the same offense are relevant to a grievance. You don't need signed consent forms. Once again, if the disciplinary records contain references to medical problems, these references may be deleted or withheld.

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**Q: Is the Union entitled to make photocopies of employer records that we request?**

A: This depends on the quantity of the material. If the relevant documents or entries are very brief, the employer can restrict the Union to reading the material and taking notes by hand. But if the material is voluminous and it would be a burden to insist on hand notes, the employer must provide photocopies or allow the Union to make them.

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**Q: The Union asked the employer for a list of hours worked over the past six month. The employer said that it would supply us with time cards but we would have to make our own list. Is this sufficient?**

A: Yes. An employer does not have to produce information in the precise form requested by the union. It can make the Union do research from basic documents. However, if the employer has already prepared the list in question, it must produce it rather than put the Union through unnecessary work.

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**Q: Arbitration is scheduled for next week. Is it too late to make a request for information?**

A: No. The duty to furnish information does not terminate when a grievance is taken to arbitration. If the information can be gathered within the remaining time, the employer must comply with the union's request.

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**Q: An employee was fired for failing to call in sick. The employer has a work rule on this, but we believe they do not treat the non-union salaried employees as strictly as the Union workers. Can we ask for the names of salaried workers who have been guilty of the same offense and see copies of their disciplinary records?**

A: Yes. A Union can request information about non-bargaining unit employees as long as it can show relevance to a grievance. However, legitimate disputes may arise concerning relevance when it involves comparisons of employees covered under different bargaining agreements or employees under contract compared to non-bargaining unit employees.

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**Q: To support a grievance against the results of a time study, can we bring a Union expert into the plant to analyze the job?**

A: Yes. The Union can bring in outside experts for studies or tests necessary to support a grievance. Access can be limited only if the expert's presence would disrupt production.

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**Q: An employee was fired for theft. Management says it has several witnesses. Does the employer have to reveal their names?**

**A:** Yes. Management must disclose the names of its witnesses and inform the Union of the substance of their testimony. It does not, however, have to provide copies of witness statements. An exception might be made if a witness fears retaliation.

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**Q: In the midst of a grievance over subcontracting, we learned that the employer hired a consultant to make a study of the work. Do we have a right to see his/her report?**

**A:** Yes. Internal employer reports that are relevant to a grievance must be disclosed to the Union so long as the Union is willing to agree to keep the information from reaching competitors or the public.

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**Q: The Union is pursuing several sex discrimination grievances for female employees denied promotions. The employer has an affirmative action plan that analyzes the workforce by sex and lists hiring and promotion goals. Can the Union demand a copy of the plan to help prepare the grievance?**

**A:** Yes, as a public employer, this is public information.

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**Q: The Union is going to arbitration to get full-time status for employees who contend they have worked 600 hours in the past six months. The employer is asking for our time records. We know they want this information to prepare for the arbitration. Do we have to give it to them?**

**A:** Yes. The duty to supply information goes both ways. The Union must provide information the employer needs to evaluate a pending grievance or to prepare for arbitration. Failure to respond may subject the Union to unfair labor practice charges.

## WHAT YOU CAN REQUEST

The obligation to supply information is extremely broad. Documents, factual information and data must be provided. Management must explain its actions and produce materials that may be useful to the Union or could lead to the identification of relevant information. The union, must, however, make specific requests. It is not entitled to conduct a "fishing expedition" into the employer's records.

Carefully drawn information requests are good tactics for unions. They help to achieve settlements and they discourage employers from violating the contract.

**DOCUMENTS.** You are entitled to examine employer records, which are relevant to your grievance. Here are some of the documents you can request:

accident records	job descriptions
attendance records	material records
bargaining notes	"notes to file"
employer memos	payroll records
contracts	performance reviews
correspondence	personnel files
disciplinary records	photographs
equipment specifications	reports and studies
evaluations	salary and bonus records
inspection records	seniority lists
insurance records	supervisors' notes
interview policies	time study records
interview notes	training manuals
job assignment records	videotape

## Grievance Files

All of the following information needs to be in the file by the time of the third step hearing.

1. Grievance forms for all steps
2. Grievance hearing responses for all steps
3. Copy of disciplinary letter
4. AFSCME grievance fact sheet
5. Appropriate check lists
6. Record of timeline
7. Investigatory meeting notes
8. Previous discipline file
9. History of coaching
10. Documentary evidence – memos, pay records, work product, etc.
11. Performance Evaluations
12. Commendations, awards, etc.
13. Communications from Employer
14. Communications by Union
15. Departmental and collegiate work rules
16. Record of relevant past practice (if applicable)
17. Info request to employer – “all statements, documents, other evidence used in determining discipline” and employer’s response.
18. Other similar grievances or arbitrations in the local
19. Witness list (names and phone numbers) and statements
20. Steward contact information

