

7 WAYS TO LOSE

A WINNING GRIEVANCE

What's worse than losing a grievance?

It's losing a grievance that you and everyone else knew was a 100 percent sure winner.

Losing "sure winners" happens every day - not because of the quality of the grievance, but because of the way the union handled it. Making a fundamental error or forgetting a basic detail can snatch defeat from the jaws of victory. Here are seven surefire ways to lose even the best grievance.

1 MISS A DEADLINE

If you were management, would you give the union a little slack if they filed an appeal too late - especially on a case that was going to cost the employer either a lot of money, authority or embarrassment? No way.

If you have to do something within a certain time frame, get it done. It could be filing a document, preparing for a hearing, submitting a brief or filling out a form. It makes no difference. The longer you wait, the greater the chance that you'll miss the deadline and lose your case.

2 WAIT UNTIL SOMEBODY BRINGS THE ISSUE TO YOU

Just because nobody brought a problem to your attention earlier doesn't mean the union shouldn't have known about it. If it started happening a year ago, and nobody made it an issue until recently, it may be too late to do something.

That's why somebody, preferably a group of stewards, needs to examine changes in the workplace as they are happening. Can management do that under the terms of the contract? Does it hurt employees? Is it legal? If you wait

until someone complains about it, it may be too late.

3 FAIL TO ARRANGE FOR WITNESSES TO ATTEND HEARINGS

You may have a fantastic eyewitness who will verify everything the grievant alleges. But if you wait until the last minute to notify the eyewitness about a hearing date, you may find that he or she is out of town, in the hospital, or just plain unreachable. Then where will you be with no corroborating testimony?

Be sure your witness knows when and where the hearing is, too. Witnesses aren't much good if they show up at the wrong place or time to testify.

4 DON'T PREPARE YOUR WITNESSES

There's nothing like the sinking feeling you get in a grievance session when a grievant or witness says something that destroys your case. Go over every question you will ask beforehand. Witnesses shouldn't volunteer information. Their answers should be short, factual, and to the point.

5 FAIL TO CITE THE MOST COMPELLING SECTION OF THE CONTRACT

Some people routinely add the words "other related sections" to the part of the grievance form that asks you to specify the contract section that was violated. Later in the grievance process, somebody may figure out that some other section of the contract provides a stronger argument. Always check the full contract first. Talk it over with someone else who knows the agreement. Cite all the articles that reasonably seem to apply. But if you can hold open your options (by listing "and other related sections")

until you are asked to be more specific, you may buy some time to strengthen your case.

6 GET PERSONAL

It lessens your victory if management drags out the grievance process needlessly long. If they stall things because they think they can win, there's not much you can do. But if when they do it just out of spite and personal animosity, maybe you could have prevented it by keeping the grievance process strictly professional and not a grudge match between two individuals.

Winning is its own reward. You were right and management has to acknowledge it. Don't give them an unnecessary reason to postpone the final resolution.

7 FIGURE OUT WHAT WINNING REALLY MEANS-AFTER IT'S TOO LATE

"Winning" is not always as clear as it seems. Sometimes winning means getting redress - that is, undoing a wrong or winning some sort of compensation for the victim.

In other cases winning means setting a precedent for the future. In yet other cases, winning may be seen as holding management accountable for its actions - an apology, public acknowledgement that they were wrong or embarrassment of a particularly authoritarian boss. Know what kind of win you want when you start the process, because these goals may be competing - or even exclusive of each other. You may "win" the grievance, in the formal sense. But if you didn't demand the right resolution, it probably won't feel like much of a victory.

- Tom Israel. The author is Executive Director of the Montgomery County (MD) Education Association, NEA, and former president of SEIU Local 205.