



**GRIEVANCE POLICY/PROCEDURES AND
ARBITRATION REVIEW AND APPEAL PROCESS**
AFSCME MINNESOTA COUNCIL 5, AFL-CIO

DISCIPLINE GRIEVANCES

Oral and written reprimands: Council 5 local unions have discretion to determine whether or not just cause provisions have been violated and thus, whether a grievance should be filed in cases of oral and written reprimands. As an example, if the Employer has a “no fault” policy regarding attendance and the first no call/no show automatically results in a written reprimand, the local may determine that there is no violation of just cause and a grievance need not be filed.

In the case of oral and written reprimands, local unions also may determine that no further appeal is appropriate following the Employer’s last response at any step in the process. If the local withdraws or settles the grievance, no review by the Arbitration Review Team is required.

Local unions who utilize this discretion should have a consistent procedure in place to ensure that decisions to withdraw or settle are consistent and rational. This may be through a committee discussion such as a stewards committee, local union chair officers, local union executive board, local union meeting, or such other mechanism. Consultation with the Council 5 Field Representative is encouraged and appropriate.

Oral and written reprimands which are not resolved or withdrawn by the local union following the final step before arbitration will be submitted by the Council 5 Field Representative to the Arbitration Review Team for analysis and determination regarding arbitration.

Suspensions & Terminations: Suspensions and terminations should be grieved by the local union if the employee requests a grievance be filed. If the grievance is not resolved or dismissed by signed agreement of the grievant and the Local it should be appealed through the final step prior to arbitration. If it is still not resolved following the final step before arbitration, the grievance will be submitted by the Council 5 Field Representative to the Arbitration Review Team for analysis and determination regarding arbitration.

LANGUAGE GRIEVANCES

A grievance regarding an interpretation of contract language need not be filed or appealed if the local union determines that there is no contractual violation. Locals do need to consult their Council 5 Field Representative if there is any question or doubt about whether or not there is a violation. This is particularly important in cases where the contract covers a number of different bargaining units or local unions.

In cases where a grievance regarding an interpretation of contract language has been filed and is not resolved or dismissed by signed agreement of the grievant/grievants and the Local following the final step before arbitration, the grievance will be submitted by the Council 5 Field Representative to the Arbitration Review Team for analysis and determination regarding arbitration.

TERMINATION OR NON-CERTIFICATION DURING THE PROBATIONARY PERIOD

This is meant to apply to those cases where an employee is terminated prior to having obtained permanent status and does not have the right to arbitrate the Employer’s decision. In these cases, if the employee has a limited right to grieve (many times through the lower steps of the process), and the employee wants to grieve, the local union should file the grievance through the available steps. As arbitration is not an option, no review by the Arbitration Review Team is necessary.

In the event the termination or non-certification is determined to be grievable through the arbitration step, then the process described above for suspension and termination should be followed.

ARBITRATION REVIEW TEAM

As soon as possible following receipt of a completed file, including the Employer's final response in the final step before arbitration, unresolved, arbitrable grievances shall be submitted to the Arbitration Review Team for analysis and review. The field representative who was present at the final step before arbitration shall include a written review of the case. The local union and/or the grievant may also submit their recommendation regarding arbitration by submission of a form, to be received by the field representative, no later than thirty (30) days following the date of the Employer's last response.

Upon completion of review by the Arbitration Review Team, the decision to arbitrate or not will be sent to the local union. This decision will also be copied to the grievant. The rationale for the decision will be provided to the field representative who can then discuss the rationale with the local union. If the decision is to proceed to arbitration, the field representative will begin to move the case forward.

If the decision is not to arbitrate, the grievance will not be officially closed until the local union's right to appeal, as defined below, is exhausted.

RIGHT TO APPEAL THE ARBITRATION REVIEW TEAM DECISION TO THE ARBITRATION APPEAL COMMITTEE

The local union may appeal a decision to not arbitrate by submitting an appeal form to the Council within sixty (60) days' notice of the Arbitration Review Team's decision. The Council Executive Board or a sub-committee of the Board (*Arbitration Appeal Committee*) would then consider the local union appeal and make a final decision regarding arbitration.

A local union appealing a decision of the Arbitration Review Team to dismiss a grievance from arbitration shall be provided the opportunity to make a presentation to the Appeal Committee by way of phone hook-up, in addition to their written submission.

The Arbitration Appeal Committee shall remain the final authority regarding decisions to arbitrate.

Per action of the Council 5 Executive Board on 10/24/2008, the above Policy and Procedures shall be reviewed on an as needed basis.

These policies and procedures were adopted by the AFSCME MN Council 5 Executive Board on 6/16/05. It applies to all grievances filed on or after 8/1/05. The policy was reviewed by a Committee of the Executive Board on 10/17/06, whose recommendations were adopted by the Executive Board on 11/16/06. The policy was reviewed by a Committee of the Executive Board on 10/24/2008 whose recommendations were adopted by the Executive Board on 10/24/2008. The policy was reviewed for purposes of clarification and recommendations were adopted by the Executive Board on 3/19/2009. The policy was reviewed by a Committee of the Executive Board on 1/17/2013 whose recommendations were adopted by the Executive Board on 2/21/2013. The policy was reviewed by a Committee on 3/17/16 whose recommendations were adopted by the Executive Board on 3/17/16.

Amendments to Policy:

11/16/2006 – Add phone hook-up opportunity to locals appealing to Arb Appeal Committee.

10/24/2008 – Change annual review to an as needed basis.

3/19/2009 – Clarify how the Arb Review Team rationale is provided to the Local.

2/21/2013 – Change the local union appeal period from 35 days from the notice of the Arbitration Review Team's decision to 60 days from the notice.

3/17/2016 – Add grievance can be dismissed by signed agreement of the grievant and local before sending to the Arb Review Committee.

12/7/16/mjs