



# Member Advocacy Guide

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UTAH EDUCATION ASSOCIATION  
**MEMBER ADVOCACY GUIDE**  
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## I. INTRODUCTION

**The objective of this Guide and the training that accompanies it is to:**

- Build local capacity and effectiveness for handling basic employment disputes
- Improve local visibility, reputation, and clout for problem solving
- Increase the skill and confidence of Member Advocates in handling basic employment disputes

### HOW DOES INCREASED LOCAL POWER INCREASE PROFESSIONAL PROTECTION?



A powerful local can solve problems for one member or a thousand members by having the right relationships in place. The kind of power essential to UEA and its locals is power that stems from the relationships between and among our members and leaders, and also relationships with administrators and school boards. It is the kind of power that resides in the willingness and ability of the members to come together and create the power. And it must happen on all three levels, at the local, state and national. UEA is the only Association in a position to create and wield this power, but not without your active participation.

### HOW DO WE GET THE POWER?

The irony in the relationship between “Power” and “Protection” is power essential to providing protection is only present when the people who need the protection band together in relationships to create the power. **It is the power of collective action.** It is having enough members that your local can be a player in school board elections, and regularly provide input to top-level administrators about education, and the wages and working conditions of your members. It is the understanding of this kind of power and how you build it that sets UEA apart from the other organizations.

## HOW DOES BEING A MEMBER ADVOCATE RELATE TO ALL OF THIS?

A local that can solve member problems and make progress for all education employees at the local level is a powerful local. More powerful locals means UEA wields more power at the Capitol. The more powerful state associations, the more powerful the NEA is in Washington, D.C. As you can see, it all begins with you!

It takes a well functioning and organized local association to accomplish whatever it is you feel passionate about: salary, benefits, working conditions, paperwork reduction, respect, job protection—whatever your passions are. The more we accomplish, the more members we will gain—and the more members we have, the more power we create for the Association and for educators in Utah. When you connect all of the dots – and YOU are an important dot – it creates a circle within which our professional goals will be realized.

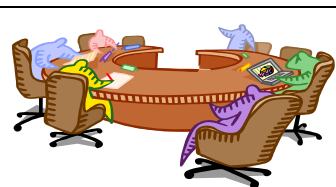
### INCREASING YOUR SKILL AND CONFIDENCE:

As a Member Advocate, you will gain from this Guide a new level of confidence and skill in representing your members in basic employment disputes. By agreeing to take an active role as a Member Advocate, you will become a major catalyst in building your local’s capacity and effectiveness. Additionally, serving as a Member Advocate will “grow” you as an individual, giving you new experiences that will improve you professionally and personally.



**The objective is for Member Advocates to handle routine employment disputes. A Member Advocate should not handle the following types of disputes, but rather should immediately refer these disputes to your UniServ director, or if you are unable to reach your UniServ director, to UEA Legal Services at 1.800.594.8996 x 110.**

- Where criminal conduct is or might be alleged
- Where the member will probably face dismissal for misconduct
- Where licensing issues might arise
- Where illegal retaliation might be alleged



### Local disputes are best handled by local members

This is because local grievance proceedings are often more political than legal. The grievance is conducted in front of your professional colleagues, administrators, and local school board—people who you know and with whom you are professionally or personally connected—and the rules are informal.

Will this Guide prepare you for handling all employment disputes in your school district? No guide can be all-encompassing. Besides, there are certain types of cases that the Member Advocate should not handle. When a member is accused of criminal conduct, when licensure is involved, or when termination or dismissal may result, the Member Advocate should **immediately** refer these cases to his/her UniServ director. The Member Advocate should only assist in these types of cases at the direction and request of the UniServ director.

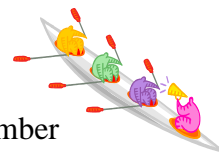
UEA lawyers are primarily used in employee dismissal cases, licensure, and suspension cases. In cases where a judge or jury decides issue, it is important to have a lawyer experienced in school law. UEA lawyers handle dozens cases for its members every year, at no cost or expense to the member. Unlike other organizations, UEA does not stop representing the member or send the member a bill once a pre-established limit on fees and expenses has been reached.

## II. THE ROLE OF THE MEMBER ADVOCATE



UEA leaders and members have a variety of names, appellations, and acronyms such as—“local president,” “building rep,” “association rep” (also known as an AR), “grievance rep,” etc. The title or even whether you have a title doesn’t matter. If you are ready, willing, and able to assist UEA members with basic employment issues at your school, work site, or school district, this Guide is for you. Indeed, this Guide acknowledges the overlapping nature of several key roles local leaders play in the association. This Guide provides you with tools you need to be an effective Member Advocate.

## THE MEMBER ADVOCATE AS LEADER

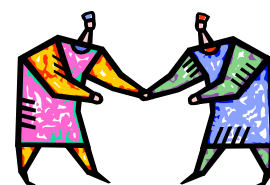


UEA members look to the Member Advocate as a leader in the workplace. To be a leader, the Member Advocate must understand the diversity of our membership—cultural, racial, and gender differences—and promote unity and solidarity to confront management attempts to divide workers.

As a Member Advocate, you have credibility (defined simply as being “worthy of belief or trust”) with members, co-workers, and with principals and supervisors with whom you address workers’ concerns and problems. Usually, credibility isn’t easily granted—it must be earned over time. You must be able to listen to the problems, concerns and issues of members and colleagues. Listening is a skill that must be learned and practiced. You must also be able to analyze the issues, look for solutions, and pursue the most effective course to resolve the problem.

Member Advocates must be able to motivate and involve others to take action, address concerns, and solve problems. Too often leaders who try to “do it all” become over-burdened, overwhelmed and stressed out; they do not involve other members in the local association. A local association’s strength and ability to endure are directly related to the amount and kinds of activities in which our members are involved.

## THE MEMBER ADVOCATE AS RECRUITER



**Reach Out to New Employees**—When a new educator arrives in your building, you have a great opportunity to “recruit” him/her—to get him/her to sign a membership form and join the Utah Education Association. Place a high priority on signing up new members, whether s/he is new, or has been around for years, but—for whatever reason—hasn’t joined UEA. The Number One reason educators give for not joining is, “No one ever asked me.” The problem is easy to fix—go out and ask colleagues to join!

**Five ways to let members (and non-members) know about your efforts and victories:**

1. E-mail
2. Celebration party
3. Buttons
4. \_\_\_\_\_
5. \_\_\_\_\_

**What are some dynamics that could impact the tone of your message?**

\_\_\_\_\_

\_\_\_\_\_

**Know What We Are Doing**—It is not enough to simply say UEA is a great organization and provides job protection. By reading the *UEA Action*, receiving our e-mails, and visiting our website

**THREE WAYS TO SOLVE PROBLEMS:**



**1. ORGANIZING! (Turning “ME” into “WE!”)**

Organizing has proven to be a very effective tool for problem solving because there is safety and strength in numbers. As a Member Advocate you should not be afraid to be creative and look for Organizing Solutions for workplace issues and problems. Hold 10-minute meetings before or after school. Meet with colleagues and brainstorm ideas. Start a petition drive. Take a survey of members. Actions can be simple or elaborate—everything from petitions to button days to leaflets to press releases. It depends on the energy of the group—and you can cultivate these over time. The larger the group, the more likely you will be heard.

**2. WIN-WIN PROBLEM SOLVING**



Informal discussions with management can often successfully resolve workplace problems. The worker’s representative—the Member Advocate (that’s you)—could do this. Better yet, a group of workers—with their representative—could meet with the manager.

Most school districts require an informal conference with the immediate supervisor of the person whose rights may have been violated. The wise Member Advocate will assess the best way to solve the problem. A friendly meeting simply pointing out the problem or suggesting a mutually

acceptable resolution will often result in the best outcome. Some problems cannot be resolved because of the issues or personalities involved. Whenever possible, use “win-win” problem solving techniques to build relationships of trust and respect.

**3. FILING A GRIEVANCE**

If the dispute cannot be resolved informally, then a grievance may be pursued. See below.



(www.utea.org), you should be able to sign up just about everybody. UEA is involved in so many areas; something we are doing will appeal to any prospective member. Find out what your colleagues are interested in and share with them UEA’s involvement in that area.

**THE MEMBER ADVOCATE AS PROBLEM SOLVER**

Different problems arise on the job almost every day. Somebody is doing something s/he shouldn’t. Many problems are inadvertent, others result from someone intentionally doing something the boss wants done, but in ignorance of board policy or the collective bargaining agreement (“CBA”) or with the thought the teacher will not complain. Disagreements, bad feelings, and misunderstandings, are common occurrences in any job. Problems give the association the opportunity to shine! How will we respond? Will we become part of the problem, griping and groaning about it, or will we become part of the solution, in an attempt to move the organization forward and to create a better working environment for our colleagues and students? There are usually several approaches and options available to resolving workplace problems.

**III. “ME” BECOMES “WE” THE POWER OF ORGANIZING!**



**A well-run organizing project will always result in gain for the organization. Even if your main objective was not achieved, a well-run organizing project is action, and ACTION TO AN ORGANIZATION IS LIKE OXYGEN TO A PERSON!**

- Organizing is where leaders and members in your local, or on your campus, or at your work site, come together in unity to strategize about how to positively impact issues affecting your working conditions. Organizing acknowledges that you cannot and should not do it alone. Organizing demands that ME becomes WE.
- When a problem or issue arises that is widespread and impacts several members in the same way, organizing is the best approach to deal with it because it opens up the issue to many people for input and activity.

5. Involve more concerned individuals such as parents or other administrators (but never students).
6. Telephone and talk to board members.
7. Call the press.
8. Involve legal counsel.
9. \_\_\_\_\_
10. \_\_\_\_\_

Just remember: It takes YOU, the Member Advocate, to start organizing.

## ORGANIZING 201: DEVELOPING, EXECUTING, AND EVALUATING AN ORGANIZING PLAN

**Organizing projects require planning, executing, and evaluating. This can be done on a “bar napkin” for an extremely short-lived project on a small campus; but should probably be better conceived and planned for a district-wide project. In any event, commit the plan to paper, execute it, and then evaluate it when you are done!**

### ➤ PLAN:

1. *What are our interests/objectives?*
2. *What is our message?*
3. *How will our message play in the community?*
4. *What are the potential barriers and obstacles?*  
How can they be overcome?  
How can they be made to work for us?
5. *What resources do we need?*  
What do we have now?  
How do we get what we need?  
What is our financial budget?
6. *What action will we take?*  
What is the time line for action? (calendar)  
Who is responsible for what?

### ➤ EXECUTE

Activate the plan.  
Constantly evaluate the implementation of the plan.  
Be prepared to alter the plan as circumstances dictate.  
Hold everyone accountable.

## ORGANIZING IS THE KEY TO PROTECTING EDUCATOR RIGHTS!

Organizing is the quintessential UEA action. But, what is organizing? It’s where members in your local, your school, or at your work site, come together in unity to strategize about positively impacting issues affecting your working conditions. When a problem or issue is widespread and impacts several or more members in the same way, organizing is the best approach to deal with it because it opens the issue up to many people for input, action, and resolution.

Remember the first and last rule in organizing: **THERE IS SAFETY AND STRENGTH IN NUMBERS!!** Organizing enables your association to resolve problems or positively impact issues when individuals alone would be powerless. Organizing turns “me” into “we.”

## ORGANIZING 101: TEN ORGANIZING ACTIVITIES

Consider these activities:

1. Hold a ten-minute member planning meeting before or after school. (Let the local president know about this activity. Make sure to involve the AR. Personally ask members to attend.) Adjourn the meeting in ten minutes!
2. Hold a more extensive planning meeting after school. Provide food.
3. Start a petition drive.
4. Involve all employees concerned.

➤ **EVALUATE**

- Was our power increased?
- Did our visibility increase?
- Did new leaders surface?
- Were alliances created?
- How do we capitalize on the experience?
- What did we learn?
- Begin planning the next action.

Organizing motivates and energizes the local like no other activity. As we have seen above, when organizing can be used to address workplace issues, the local almost always wins. In the next section we will explore “win-win problem solving” as another strategy for addressing workplace issues.

**There is no such thing as “losing” a well-run organizing project. Even if your primary objective was not met, you have:**

1. Engaged and empowered the members
2. Increased the local’s visibility
3. Increased the value of the organization to the members
4. \_\_\_\_\_
5. \_\_\_\_\_

#### **IV. WIN-WIN PROBLEM SOLVING (a/k/a IBPS)**

Make no mistake: Organizing and win-win problem solving are not mutually exclusive. You may very well have an organizing project that has as part of its plan an objective of engaging in win-win problem solving.

Win-win problem solving (Interest-Based Problem Solving, or IBPS) is a somewhat different approach for assisting our members than the traditional positional problem solving which many of us are familiar (and comfortable).

An interest-based strategy is characterized by participants seeking to further, or to satisfy, their mutual interests by focusing on issues and the use of reason or persuasion (rather than power) to make decisions. When this works, it can become a great source of power!

Unlike traditional positional problem solving—such as filing a grievance—IBPS recognizes the importance of existing relationships between people and the benefits of continuing, if not improving, these relationships.

#### **GETTING TO YES**

In 1981 Roger Fisher and William Ury published *Getting to Yes; Negotiating Agreement Without Giving In*. *Getting to Yes* profoundly altered the methods by which people approach the opportunity to solve problems and identifies four points, listed below, which “define a straightforward method of negotiation that can be used under almost any circumstance.”

Seeking common ground toward solving problems is nothing new. The IBPS process is a system for seeking common ground. When accepted by both parties to a conflict, IBPS can a result in enhanced communication, less hostility, and better understanding.

#### **FOUR BASIC CONCEPTS**

##### **1. SEPARATE PEOPLE FROM THE PROBLEM**

- An interest based strategy IS NOT ego driven or dependent on personalities. It IS about being trusted, understanding (not judging) the other side’s interests and exploring future solutions rather than expounding on past problems.
- Always ask yourself whether you are paying attention to the “People Problem.” Actively listen for, seek out and understand the other side’s interests and perceptions.
- “People problems often require more attention than the substantive one.” (*Getting to Yes*, p. 157). Test your understanding of the other side’s interests and address (not “correct”) the other side’s misperceptions or erroneous assumptions. Fisher and Ury point out that “couples who have lived with each other for thirty years still have misunderstandings every day. . . . Whatever you say, you should expect that the other side will almost always hear something different.” (*Getting to Yes*, p. 32).

##### **2. FOCUS ON INTERESTS, NOT POSITIONS**

- An interest can usually be thought of as the motivation underlying a stated position. By

asking “why,” “why not,” “for what purpose” and similar questions, it is possible to move away from a positional approach to an interest-based approach.

- Before representing a member or presenting a matter to the school board you should be able to describe the interests you are representing and have some idea about the district’s interests.
- There will often be multiple interests; however, there are typically several methods to satisfy an interest and it is easier to reconcile interests than to reconcile positions. Even though positions may be on a collision course, underlying interests may be reinforcing and complementary.
- Problem solving is not commonly a zero-sum endeavor; it can involve expanding opportunities. Explicitly acknowledging shared interests benefits the process by creating trust and cooperation. Searching for and articulating shared interests also benefits the results as you are no longer trying to “win your case” but, instead, are actively working with a stakeholder to identify which solution can leave both parties satisfied.

### 3. GENERATE A VARIETY OF POSSIBILITIES

- Once interests are stated, brainstorm a variety of ideas of satisfying the interests. Never judge someone’s brainstorming idea. The goal is to let the creative juices flow and come up with as many ideas for solutions as possible.
- Shared Interest—Common Goals. These may be as superficial as necessary; i.e., a desire not to have the problem escalate or the need to maintain the relationship.

### 4. MEASURE THE RESULT ON SOME OBJECTIVE STANDARD

- Outcomes should be based on fairness, legitimate standards, precedents and other objective criteria.
- What is your Best Alternative to a Negotiated Agreement (BATNA)? Filing and winning a grievance or other legal action? What are your real chances of doing better? Can you think of others? \_\_\_\_\_  
\_\_\_\_\_
- What is your Worst Alternative to a Negotiated Agreement (WATNA)? Filing and losing a grievance or other legal action? Can you think of others? \_\_\_\_\_

**IBPS can be used in your role as a Member Advocate, but it can also be used in other family, social, and group settings to facilitate a resolution to perceived conflict.**

**Before you negotiate through IBPS, grievance timelines are ticking. How do you use IBPS without missing your deadlines?**

### HELPFUL PHRASES TO USE IN INTEREST-BASED PROBLEM SOLVING:

- “CORRECT ME IF MY UNDERSTANDING IS WRONG.”
- “COULD I ASK YOU A FEW QUESTIONS TO SEE IF MY FACTS ARE CORRECT?”
- “WE WOULD LIKE TO SETTLE THIS ON THE BASIS OF FAIRNESS, NOT ON WHO CAN DO WHAT TO WHOM.”
- “MAY I ASK WHY \_\_\_\_\_ IS IMPORTANT TO YOU?”
- “WHAT I HEAR YOU SAYING IS . . . .”
- “ONE FAIR SOLUTION MIGHT BE . . . .”

### PARAPHRASING IS IMPORTANT IN INTEREST-BASED PROBLEM SOLVING:

Pick up on a few key words from a person’s last statement, repeat them and show you are listening—this encourages the person to tell you more.

## V. ASSISTING A MEMBER IN AN ADMINISTRATIVE MEETING

Assisting a member in an administrative meeting may be one of the most valuable roles you play for the Association. Organizing opportunities may not arise in any given school year – a dispute may or may not escalate into a grievance. However, one thing is certain: Members frequently need collegial support when faced with the unpleasant directive to report to the office for admonishment. There may be nothing more important than learning the skills you need to be an effective Member Advocate in this situation. In all your roles as a Member Advocate, assisting a member in an Administrative meeting may be at the top of the list.

## ARE YOU ALLOWED TO ATTEND AN ADVERSARIAL ADMINISTRATIVE MEETING?

While all school employees in Utah have the right to have the assistance of a representative in a grievance, without a specific provision in a CBA or board policy, no Utah legal authority exists supporting the right of an employee to have representation in an adversarial meeting—although the right to have an advocate present in such a meeting exists in other states that recognize federal and state labor collective bargaining laws. Still, plenty of room exists for creative diplomacy you can exercise on behalf of members.

## WHY IS IT IN EVERYONE’S BEST INTEREST FOR YOU TO BE IN THE MEETING?

An enlightened administrator will want the presence of a Member Advocate in a disciplinary meeting. Your presence might dispel later arguments the administrator acted unfairly or coerced the teacher in some way. Further, if the administrator knows your role, s/he will not be threatened by your presence. Indeed, the administrator will want you in the meeting because of your track record as a loyal but reasonable advocate, and as a calming influence among your colleagues. With you present, the teacher has a sympathetic shoulder, a calm, objective presence, and sage advice before, during and after the meeting. The member also has an advocate respected by the administrator who may be able to broker a solution to the problem using IBPS skills.

### IF THERE IS NO *RIGHT* TO REPRESENTATION, HOW CAN YOU GET INTO THE MEETING?

1. Diplomatically ask the supervisor to reschedule the meeting so you may attend.
2. In advance of the meeting, diplomatically ask the supervisor if you may attend.
3. Diplomatically arrive at the meeting ready to assist the member.

What is the consistent message here?

\_\_\_\_\_

\_\_\_\_\_

## WHAT IS YOUR ROLE IN THE MEETING?

Assuming you are able to attend, your role may be wide-open or very limited, depending on what kind of deal you had to negotiate with the administrator to gain attendance. Before the meeting, try to arrange a time to discuss the situation with the member. This may have to be done quickly; sometimes on the way to the meeting. Why does the member think s/he is being called to the meeting? This will give you a heads-up on the situation and allow you to become a valuable sounding board for the member. If the member has a valid rebuttal to the suspected allegations, you can begin to figure out how you might voice that rebuttal in a diplomatic way at the meeting. **If the member believes s/he will be accused of committing a crime (e.g., inappropriate conduct with a student) the member should not make any admissions to you, and you should immediately refer the member to your UniServ director who will refer the matter to the UEA Legal Services. The person should make no statement, or state the allegations are not true. It’s a common technique to ask an accused person why a student (or someone) would make such a charge. Unless the accused has a very good response based on fact, the appropriate response is, “I don’t know.” The less said, the better in these situations.**

### AT THE MEETING:

1. Maintain a level head. Assist the member to remain professional and calm. Use diplomacy with the supervisor. This may very well save the employee from further harm. If you do nothing else, you will have provided the member a great service.
2. Take notes—this will allow the member to remain focused on what is being said, rather than worrying about documentation. It will also give you an informal record to review with the member after the meeting.
3. Run interference for the member if the member gets flustered. Ask for a break, etc.
4. If criminal allegations are involved, politely ask for an adjournment so that the member can speak with an attorney. Call UEA Legal Services immediately for further advice.

5. Thank the supervisor for letting you sit in.

After the meeting, give the member objective feedback and/or advice if asked. If the member is wrong, diplomatically say so. If the member is right, consider the best way to resolve the problem.

### **WHETHER TO TAPE RECORD**

Some people believe that the tape recorder or other digital recording mechanism is the great equalizer. Maybe in some limited circumstances that is so. If the supervisor is hostile, and will not let you attend the meeting as a Member Advocate, then perhaps the member might use a recording device for security. (If the administration uses a recording device, you can probably obtain a copy by making a GRAMA request.) It is not advisable, and we do not recommend, anyone secretly record a meeting. While it is legal, surreptitiously recording a meeting is rarely, if ever, beneficial. What is the best way for a member to tape a meeting?

#### **WHAT DO YOU TELL A MEMBER DIRECTED TO ATTEND A MEETING?**

1. Go to the meeting. Refusal to attend is insubordination.
2. Be professional. Do not overreact. If parents are involved, be on your absolute best behavior. Many employees get into more trouble than initially alleged solely because of unprofessional conduct toward administrators or parents during the meeting. Your calm and professional conduct when faced with an irate parent will score you points with the supervisor.
3. If criminal allegations are made, politely ask to call UEA for more information. If criminal allegations are made, statements you make or sign can be used against you in a criminal proceeding. It is best to deny the charge then not to speak to anyone about it until you have spoken to an attorney.
4. Write down your thoughts as soon as possible after the meeting.
5. It is okay to sign for the receipt of a document in a meeting, as long as it is clear that your signature does not constitute agreement. Indeed, failure to sign for the mere receipt of a document may do more harm than good.
6. Do not sign a resignation statement until you have had sufficient time to discuss the matter with your family, friends, or UEA.

## **VI. WHAT IS A GRIEVANCE?**

So it has come to this—nothing else has worked. The dispute does not lend itself to organizing (or the grievance is part of an organizing strategy) and the administration will not engage you in IBPS. Perhaps it's time to file a grievance. As you will see, filing a grievance is as easy as 1, 2, 3.

Technically, any complaint about one's wages, hours, or working conditions can be a grievance. All one has to do is fill out and file the proper grievance form in a timely manner and "wolla," a grievance is born! A grievance is a formal way to air an unresolved complaint. Many complaints are settled with a discussion between the employee, a rep, and the immediate supervisor. The complaint becomes a grievance only if it is not settled at this level.

**Obtain, read, and develop a working knowledge of your school district's grievance policy. It is your road map, nay, your bible, in proceeding through your school district's grievance system!**

### **THE RESPONSIBILITY OF SCHOOL OFFICIALS IN A GRIEVANCE**

School officials should follow and comply with the grievance policy. If they do not, their inability or refusal to follow it may cause the local to pursue another grievance. However, school officials have very little legal responsibility in the grievance system. One court has said that the school board is only obligated to "stop, look, and listen." The grievance procedure should be strictly followed. Because it places the burden on the employee to pursue the grievance, the employee must file the grievance within the time provided and appeal it to each level within the time provided. If an administrator fails to respond within the time allowed, the employee must appeal to the next level within the time provided.

## **VII. YOUR DUTIES AND AUTHORITY AS A MEMBER ADVOCATE**

### **NO DUTY TO FILE A GRIEVANCE OR REPRESENT**

Neither you, the local, nor UEA has a duty to file every grievance requested or to represent every member that demands it. This would be impossible, and would place the association in an untenable position. We are required to deal with our members equitably and professionally. But we are not required to, nor should we, file frivolous, unsupported, and speculative grievances merely for the purpose of harassment or revenge. Nor should we file grievances that the local does not support, or that are contrary to the policies and by-laws of the local association and UEA. We expect our grievances to have merit and serve a legitimate purpose before proceeding.

There is no duty to represent uncooperative, abusive, or belligerent members. A teacher accused of not doing his/her job or of misconduct is in a bind and stressed. They may be contentious and more demanding. The Member Advocate should be patient, understanding, sympathetic and encouraging, but abusive behavior need not be tolerated.

- Do not file frivolous or speculative grievances.
- You need not represent an abusive or uncooperative member.
- Document reasons for denying assistance, and write the member as soon as possible advising him/her of the association's decision so s/he can decide whether to proceed on his/her own.

It may be difficult or awkward to decide to not assist a member. The decision could happen before the grievance is filed or during the grievance process. It would be best if you, as the member Advocate, discussed this situation with local leadership. If the decision to not provide representation is made, document the reasons why, and put it in writing for the member as soon as possible, so that the member may proceed on his or her own.

### **YOUR DUTY OF CANDOR**

Sometimes the member is just plain wrong and it will do him/her more harm than good to pursue a grievance. Using your best diplomatic skills, you should explain to the member how and why s/he's wrong. In some cases, we've told the member s/he is likely to lose his/her job if the objectionable conduct persists. Other times, we point out administrators have considerable authority to operate the building, make assignments, and decide discretionary matters *and the superintendent will support his/her administrators* as a matter of course even though a better decision might have been made by somebody else.

### **RIGHT TO REPRESENTATION IN GRIEVANCES**

An employee is generally entitled to be represented by a person of his/her choosing when a meeting is held on a grievance. (This does not mean an employee has a right to representation at other meetings called by the employer.)

### **REBUTTAL LETTERS**

In lieu of a grievance or sometimes within the content of one—some members may want your assistance in writing a rebuttal letter. Here are some pointers:

- Let the member write the first draft. Let the member vent. Then work with the member to adhere to the following rules:
- Keep it brief.
- Keep it accurate.
- Keep it professional.
- Don't let the rebuttal letter take on a life of its own. It should be diplomatic.
- Keep it unemotional.

### **SHOULD THE TEACHER RESIGN?**

A member may be asked to resign and may want your input and advice. Our first interest is in making sure that the member is not rushed or pressured into resigning. UEA members should at least have a chance to calmly analyze the situation with their family, a Member Advocate, or the UEA. Often your input as a local Member Advocate will be very valuable to the member in this predicament. Too often an administrator will confront a teacher with charges of misconduct and tell the teacher s/he

must resign before the sun goes down or s/he will be fired. Don't let the administrator force the resignation. An employee can always resign.

**The member must make the ultimate decision to resign, not you.**

## **THE RELATIONSHIP BETWEEN THE MEMBER ADVOCATE AND THE ADMINISTRATOR**

It is important the Member Advocate understand his/her relationship with administrators. Although the supervisor exercises certain authority over the Advocate as an employee, when they meet to discuss grievances the Advocate is the representative of the member and the local. The Member Advocate has every right to express him/herself fully on the issues discussed.

## **CONFIDENTIALITY**

Confidentiality is an essential part of the grievance process. All parties involved in resolving the problem, including the Member Advocate, the grievant, and other involved members of the local should keep confidential all discussions related to the grievance.

A valuable way to remember the importance of confidentiality is to put yourself in the place of the person you are assisting and ask yourself if you would want this information shared about you. A grievance is a confidential matter.

**You should automatically and immediately refer non-routine cases (i.e., cases involving criminal allegations, dismissal for misconduct, certification, or ethics cases, etc.) to your UniServ director who will contact the UEA Legal Services department if needed.**

## **VIII. INTERVIEWING A POTENTIAL GRIEVANT**

### **THE POWER OF LISTENING:**

Do not underestimate the power of listening. Many times a member only needs to be heard. You provide a huge service in this regard. Often, a sympathetic shoulder is all that is needed.

## **FILLING OUT A GRIEVANCE INTAKE FORM**

If time permits, ask the member to fill out a grievance intake form. This form should include all the basic questions that need to be answered. The form requires and allows the member to think and express his/her actual complaint. A follow-up interview allows the Member Advocate time to explore the details.

## **LISTENING AND LEARNING**

When a member comes to you with a workplace problem, you must gather some basic information. Interviewing the member is the first step of the investigation process. The Member Advocate's next job is to listen as the member expresses his or her feelings about what happened.

- Be aware when you have "tuned out." Check yourself to see if you can repeat what you have heard. If not, your mind wandered. Go back and get the information again. Concentrate on what is being said. Use the interview to get as much information as possible.
- You and your local association should decide who keeps copies of the interview worksheet and other grievance documents. For example, decide whether the Association President or a Grievance Chair should receive copies. The Association should establish a system for keeping track of grievances.

## **INFORMATION YOU MUST EXTRACT FROM THE INTERVIEW**

### **1. What is the specific harm?**

Narrowly describe the member's issue or concern in one sentence.

If you don't understand the harm well enough to explain it to someone else, keep asking questions!

### **2. When did the harm occur? When did the member learn of the harm? How did the member learn of the harm?**

- Be specific (date, time, shift, week, year, etc.)
- You need this info to calculate your timelines!

### **3. Who is involved?**

- Are other members in the same boat? (Think "Organizing.")
- Administrator or Supervisor

- Parents, students
- Other witnesses

**4. Where did the incident that caused the harm occur?**

- State the exact place the incident occurred.
- Be specific (in what room, in which building, etc.)

**5. What is the remedy?**

This is important because it will give you an idea of whether the grievant has realistic expectations. A Member Advocate should never promise any specific remedy. You might brainstorm remedies with the member, including remedies based in fantasy or reality. It might be a good venting process, after which time you may hone the realistic remedy.

**Develop “LISTENING LADDER” skills:**

- L** Look directly at the person talking. Use your eyes. Concentrate on the other person.
- A** Ask open-ended questions like “Tell me about it,” or “How did you . . . ?”
- D** Don’t interrupt.
- D** Don’t change the subject.
- E** Check your emotions. Hear others first. Don’t overreact or jump to conclusions.
- R** Be a responsive listener. Body language says a lot. Lean forward, maintain eye contact, and use head and hand gestures to indicate empathy and understanding.

**Some interview pointers:**

- Don’t commit yourself or the local to a course of action.
- Don’t judge. Be empathetic. Listening may be the only service that you end up providing.
- Ask specific questions.
- Gently demand specific answers.
- Avoid personal involvement in the issue.

Consider the following points when contemplating a remedy:

- Is the remedy commensurate with the harm?
- Anticipate the district’s interest and reaction.
- Identify multiple remedies.
- Don’t expect an apology.
- Don’t expect anyone else to be punished.
- Is there a face-saving remedy?

**6. Is there anything else about this situation the member should tell you?**

Explain that it is better for you to be prepared than surprised with new information during the grievance process.

**IX. WHETHER TO FILE A GRIEVANCE**

As easy as it may be to file a grievance, we do not advocate filing grievances over every conceivable complaint about one’s wages, hours, and working conditions. A grievance should only be pursued if other methods of diplomacy or advocacy have failed, if the grievance will likely be successful (or will serve some higher purpose), or in order to preserve important timelines that may be lost by not filing one.

It is best to be judicious in pursuing grievances. Filing numerous grievances that stand little chance of success ultimately damages the association’s credibility. We must make it known that when we file a grievance, we mean business!

Whether to file a grievance can be an important and sometimes stressful decision that may be best made on a collaborative basis by you, the member, and other local leaders, perhaps on occasion with advice and insight from the UEA, will use most of the same criteria described below to decide whether to assist in a grievance.

**Questions to ask before filing a grievance:**

1. Is the grievance winnable?
  2. Can the local benefit, even if we lose the grievance?
- If your answer is “No” to these questions, then ask yourself: “Should we pursue this grievance . . . ?”

**IS THE GRIEVANCE WINNABLE?**

**Can the Grievance be won?**

- Is it timely?
- Does it involve specific, credible violations?
- Does written evidence or documents exist that verify or refute the allegations?
- Are there credible witnesses? If so, who are they, and do they corroborate the story as it has been related to you?
- Can it be won politically?
- Is there a viable and reasonable remedy?

## Is it timely?

For any grievance, the first question asked is whether the grievance will be timely. Most grievance procedures require filing the grievance within a short period of time—usually 10 to 15 days. If the grievance is not filed on time, it should be denied because it was not filed in time.

Timelines are triggered by when the grievant (the one in whose name the grievance is filed) knew or should have known of the alleged harm.

Timelines are measured in “days,” and most district policies define a “day.” For example, a day could be a “business day” in which the school district is open and operating. A day also could be a “calendar day.” Calendar days go by faster. Know the definition of “day” for your district and the number of days to file a grievance, by heart.

Some grievances are “continuing” in nature. That means the event giving rise to the grievance continues to occur. For example, a teacher is placed on the wrong salary step and receives less pay than s/he should. The violation occurs every time the teacher receives less pay than s/he should and the grievance can be filed any time even if the teacher “knew or should have known” s/he was being underpaid months before the grievance was filed.

Also, failure to process a grievance to the next level within the time limits may be acceptance of the decision, and you may lose the right to appeal the decision to the next level.

Might there be situations where you file a grievance knowing that it is untimely?

## Does it involve a violation of the CBA, law, regulation, or policy?

Technically, a grievance is a violation of a CBA or board policy. Sometimes the CBA or policy will include in the definition of “grievance” any “violation of law, regulation, contract, or board policy.” A grievance is a violation of a specific right established by the CBA or policy. Showing an administrator or school board how a specific board policy, regulation, law, or contract has been violated is more likely to get their attention than grievances about fairness, harassment, or other hazy and hard-to-prove concepts.

The UEA and your UniServ director are available to assist in analyzing and determining whether a

violation has occurred and whether a grievance should be filed.

An initial task is to find relevant board policies or the CBA, and be sure you have a complete and current version. The most up-to-date policy book is at the district office, maintained by the business manager, the superintendent, or the personnel director. Many district’s policies are on the Internet. District policies are public records. Districts must make public records available on request, and they may charge a reasonable amount for photocopying. Attach copies of relevant policies to the written grievance.

Demonstrating your knowledge of such matters, and being prepared and concise in your presentation goes a long way to convincing (a mostly biased) school board you are right and the administration is wrong! This increases your chance of winning a grievance.

## Does written evidence or documents exist that might verify or refute the allegations?

Ask your potential grievant to provide you with relevant documents such as the contract, evaluation, reprimand, memo, e-mail, etc. Ask yourself, “Do the documents verify or contradict the case?”

## Are there credible witnesses? If so, who are they, and do they corroborate the story as it has been related to you?

With respect to witnesses, find out:

- What they know?
- How they know it?
- What statements did they hear? From whom?
- Where were they when they heard the statements?
- What did they see?
- Where were they when they saw it?

Talk to as many people as possible who may have witnessed the incident or who are able to verify facts surrounding the grievant’s story. If the witnesses’ statements help your case, encourage each witness to provide detailed written and signed statement about the incident.

**Determining whether there is a violation of the CBA, law, regulation, or policy can be difficult at times. When in doubt, call your UniServ director or UEA Legal Services for assistance.**

**Grievance timelines are of paramount importance!**

- Timelines to file a grievance are very short—usually 10 to 15 days.
- Timelines are triggered by when the grievant knew or should have known of the alleged harm.
- Know the definition of “day” in your school district’s policy and the number of days to file a grievance, by heart.

**Can the grievance be won politically?**

Grievances are often more political than legal. Important considerations include, does the local association have the clout, the influence, (i.e., the votes on the board) to win the grievance? The local’s reputation with the board is an issue to consider in determining whether the grievance is winnable or if the board will merely “rubber stamp” the administration’s recommendation. Only you and your association leadership can make this determination.

Here are some examples of situations where you might win politically, even if you don’t have a “legal leg to stand on.”

1. Parents or other influential members of the public are on your side. The media is involved. This is issue organizing at its very best, and it can be effective.
2. The board is split and/or the superintendent is in trouble.
3. You are taking the high road and can shame the board into doing the right thing, even if they are not legally obligated to do it. Inform the local media about your grievance before it goes to the school board.

*Can you think of other ways to score a political victory even if you don’t have a “legal leg to stand on?”*

4. \_\_\_\_\_
5. \_\_\_\_\_

**Is there a viable or reasonable remedy?**

See the discussion about grievance remedies in Section VII.

**You and your association leaders are the experts on your board politics. Do you have the votes? If not, how can your association be more influential in the next board election?**

**CAN THE LOCAL BENEFIT IF THE GRIEVANCE IS LOST?**

How can you turn a loss into a win? Recall the discussion about organizing. In a well-run organizing campaign, the local cannot lose. It can only make progress and grow. If your grievance is part of an organizing campaign, it might not matter whether you actually win the grievance. Taking a stand and taking the high road may be more important than winning! Often, success is defined just by trying.

**How can you win even if you lose?**

1. The membership is galvanized in solidarity and your grievance speaks for a large number of members. Those members show up at the board meeting. Even if you lose, you are stronger for having fought. This is organizing and it can be very effective.
2. Parents or other influential members of the public are on your side. The media covers the event. The local gains stature in the community for its efforts. This is organizing and it can be effective.
3. The grievance activates the local, and creates new leaders. Once again, organizing is involved.

*Think of other ways to turn a loss into a victory for the local?*

4. \_\_\_\_\_

**X. MAKING A GOVERNMENT RECORDS ACCESS AND MANAGEMENT REQUEST**

After filing a grievance, pay close attention to timelines. What is the deadline for filing the grievance? When will the level one grievance be heard according to the policy? Do you need certain documents in the possession of the school district? How will you get those documents in time for the level one or level two hearing?

Title 63, Chapter 2—the Government Records

Access and Management Act (GRAMA) and § 67-18-3, Utah Code Annotated 1953—give you the

right to obtain copies of the grievant's personnel files and public school district records; and the school district may not ask why you want them. All school district information is presumed to be public, subject to certain exceptions. The district should promptly release requested information that is not confidential by law, either constitutional, statutory, or by judicial decision, or information for which an exception to disclosure has not been sought.

To obtain copies of the grievant's personnel file, either the grievant must make the request to inspect and copy the file, or provide you with a "power of attorney" authorizing you to act for the grievant. The "power of attorney" form is available from UEA.

## **COST OF RECORDS**

The school district may charge a nominal fee for copies and for the time involved copying the documents. A requester may choose to have access to public information or copies of the information, or both. Fees charged should be established in the district's policy manual. The district may not charge more than the actual cost of duplicating a record (including staff time).

If fees are expected to exceed \$50, the district may require payment prior to processing the request. Any prepaid amount in excess of fees due will be returned to you.

## **RIGHTS OF REQUESTERS:**

You have the right to:

1. Prompt access to information that is not confidential or otherwise protected;
2. Receive treatment equal to all other requesters, including accommodation in accordance with the Americans with Disabilities (ADA) requirements;
3. Receive certain kinds of information without exceptions, like the voting record of public officials, approved board minutes and other information;
4. Choose whether to inspect the requested information (most often at no charge), receive copies of the information, or both;

## **Procedures to Obtain Public Information**

1. Submit a request by mail, fax, email or in person according to school district procedure. Usually this is done by submitting a request to the superintendent. In larger districts there may be a different public information officer.
2. There is no "magic" form letter needed. Just include enough description and detail about the information requested to enable the district to accurately identify and locate the information requested. It doesn't hurt to mention GRAMA. UEA has a sample letter you can use as a guide.
3. Cooperate with the district's reasonable efforts to clarify the type or amount of information requested.
4. Remember: GRAMA does not allow you to have questions answered, or new documents created. It only allows you access to existing documentation, including electronic records.
5. The Request must contain the name, address and daytime telephone number of the person making the request and describe the records requested with reasonable specificity.

Usually, the district does not charge for copies of personnel records and other public documents. Don't volunteer to pay for verbally requested records, but the written request should contain an offer to pay.

## **RESPONSIBILITIES OF THE SCHOOL DISTRICT:**

All governmental bodies responding to information requests have the responsibility to:

1. Establish reasonable procedures for inspecting or copying public information and inform requesters of these procedures;
2. Treat all requesters uniformly and give to the requester all reasonable comfort and facility, including accommodation in accordance with ADA requirements;
3. Be informed about open records laws and educate employees on the requirements of those laws;
4. Inform the requesters of the estimated charges before imposing a fee and allow the requester to withdraw the request based on this information;

5. Respond to the written request within ten business days, or five business days if the requester demonstrates that expedited response to the record request benefits the public rather than the person;
6. Segregate public information from information that may be withheld and provide the public information promptly;
7. Make a good faith attempt to inform third parties when their proprietary information is being requested from the governmental body.

For more information on GRAMA, go to this website and check out this resource from the Utah Attorney General's office:

<http://attygen.state.ut.us/GRAMA.html>

## **XI. WRITING THE GRIEVANCE**

Let's recap: You are asked to respond to a member's complaint about his/her employment. You, as the Member Advocate, are asked to take some sort of action. You have considered an organizing project, you have thought about IBPS, but all signs still point to filing a grievance. You consider whether to file a grievance (as discussed earlier) and it appears that this is the best plan of action. What next?

### **TELL THE STORY IN WRITING**

Within the number of days specified in the grievance policy, you must present the written grievance to the immediate supervisor. Some districts use a particular form, that includes a statement of the harm, the decision at the informal level (if any), and the remedy sought.

A grievance needs to describe in a logical and unemotional way the players, what happened, where it happened, when it happened, and how the grievant wants it resolved. The written grievance at level one becomes the blueprint of the story throughout the whole grievance process.

Do not be intimidated when writing a grievance. A grievance is not a lawsuit. Remember, a grievance is informal, and exists for ordinary people to use. It should only rarely be commandeered by lawyers! As long as timelines are met, and the nature of the alleged harm has been adequately described, your grievance will likely withstand any legal challenges.

A grievance tells Who, What, When, Where, and How the grievant wants it resolved, all in a concise and unemotional fashion. Include all relevant facts, but keep it brief, neat, and professional.

After writing a grievance, have another person review it, or contact your UniServ director for a second opinion. Are the issues easily understood? Are there other realistic remedies that could be sought?

### **KEEP IT SIMPLE (KIS)**

Complete the grievance form accurately and completely. Most grievance forms contain four elements:

1. A concise statement of all the issue(s);
2. The harm that occurred;
3. The remedy requested; and
4. The citation to or description of the policy, CBA, law or regulation violated.

Provide enough information so that the supervisor understands:

- *What the basic problem is;*  
Example: Grievant was wrongfully denied work related injury leave.
- *What violations have occurred;*  
Example: The district failed to comply with Policy # \_\_\_\_\_ on work related injury leave, and § \_\_\_ - \_\_\_ - \_\_\_ of the Utah Code with respect to on the job injuries.
- *The remedy to solve the problem.*  
Example: Grievant should be made whole in every way, including reinstatement of all sick leave deducted from her/his leave bank while s/he was recovering from the injury.

### **KEEP IT LOGICAL (KIL)**

Organize the facts in a logical manner. It is usually helpful to tell the story in chronological order. Emphasize the important facts, and use separate paragraphs for each new idea. Avoid extreme statements, profanity, and unfounded accusations. Add a plea for fairness. Also avoid adding facts to the grievance that contribute little or nothing to the

specific grievance. Grievances are not about every insult or imagined injury the grievant ever experienced.

**The grievance policy may list some exceptions to the rule that a grievance should be initiated at Level One. Whistleblower, sexual harassment, dismissal cases and other disputes are often begun at Level Two. Check your CBA and policy. Call your UniServ director when in doubt.**

## **XII. PRESENTING THE GRIEVANCE**

You screened it. You wrote it. Now it's show and tell time! Grievance procedures usually have three (or four) levels. Many begin at the "informal" level. An informal level is a good place to reach an agreement. See IV, Win-Win Problem Solving, above. Prepare for it just like you would a level one meeting. Take the position it is in everyone's interest to resolve the grievance at this point. If the administrator has made a mistake, gently remind him/her that the issue is not one to be taken before the superintendent or the board.

### **PREPARING FOR THE LEVEL ONE GRIEVANCE PRESENTATION**

**Know the facts.** Prepare for a discussion with the immediate supervisor knowing the relevant facts and the basis for the grievance. Anticipate the supervisor's side of the story and understand his/her viewpoint and interests. Be prepared to respond to the supervisor's interests in the situation. Be prepared to listen for areas of agreement and solutions. This may be the best chance to reach an agreement, especially if the grievance relates to a purely campus or site-based problem. Brush up on your IBPS skills!!

**Do documents come in at Level One? Level Two? Find out now! You will probably be prevented from introducing new documents at any level higher than the one designated for document submission.**

**Will the grievant speak?** Decide whether the grievant is going to participate in the presentation of

the case. Prepare the grievant to answer questions carefully. These tips for witnesses are helpful:

- Listen carefully to the question.
- Answer only the question that is asked.
- Ask for an explanation if you don't understand a question or an issue.
- If you don't remember or know the answer to a question, don't guess, don't speculate, and don't make up an answer.
- Ask for a break if you become tired, flustered, intimidated, or confused.
- If the grievant is asked, "Why would so-and-so say you did it?" unless the grievant has very good and credible answer, say, "I don't know."
- It's okay to occasionally say, "I don't remember, let me think about it for a minute."
- Always tell the truth.

### **PRESENTING THE LEVEL ONE GRIEVANCE**

- **Use your Interest-Based Problem Solving skills!** This is your chance to strike a compromise if one is to be reached. The degree to which grievances are successfully handled at the first step is dependent largely on the authority granted the supervisor. In some districts s/he is only a messenger for the management representative in the next step of the grievance procedure. If this situation exists, few settlements will take place at this level. If you know this is the case, you might ask to waive the step in the grievance. On the other hand, the step might be used to learn more about the district's side. Use it to gain information by asking about the facts.
- **State the grievance as clearly and completely as possible.** If you present your facts logically, completely, and persuasively your chances for success increase.
- **Introduce all documentary evidence "on the record."** "On the record" merely means that you specifically identify each document on the tape recording made at the same time you are discussing and sharing the document with the supervisor. Never say, "Here are all the documents we think are relevant." You might say, "Here are the documents we have at the

present time that appear relevant to the issues.” Most level initial level grievances are not “on the record.”

- Never lose your temper. The grievant or grievance representative who loses his/her temper loses the ability to think and communicate clearly. Disagree in a calm, firm, positive manner.
- Be firm when necessary. It is important to firmly express your case and stick to your guns. You also need to recognize when compromise or settlement is advisable. Experience in handling grievances and familiarity with the administrators hearing grievances will enable you to decide when to be firm, when to compromise, and when to admit that you may be wrong.
- Have a private caucus with the grievant if necessary. Be sure you and the grievant agree on the facts and issues before the meeting with the immediate supervisor. If you disagree during the meeting, ask for a break and work out the problem in private. (Conversely, don't be surprised if the grievant states something you have never heard before, or if the supervisor provides information the grievant never told you about. Just don't act surprised. You knew it all along—right?)

**If you talk about a document in the grievance, or rely on it in any way, make it become part of the grievance record. Identify the document on the tape recording being made. If you have lots of documents, number them, and identify them by number (“I am talking about Teacher exhibit 1, which is the employment contract for the 2003-04 school year . . .”) This makes the grievance easier to figure out in the event of an appeal.**

**Submit a copy of the grievant's employment contract** (including supplemental contracts) or relevant portions of the CBA in every grievance. The contract or CBA can be relevant for many reasons on appeal not apparent at level one or two. Introduce relevant memos, witness statements, and all other relevant, favorable documentary evidence, i.e., if the grievant is complaining about a reprimand, a copy of the reprimand should be included in the grievance.

## RECEIVING THE LEVEL ONE RESPONSE

The immediate supervisor has a timeline to communicate a response. However, this timeline is not binding on the supervisor!! So what happens if you do not get a response? Your timelines for appealing to Level Two usually begin to run the day after the Level One response was due. Don't be tricked by the timelines! If the last day to appeal a decision or failure to make a decision is the 20<sup>th</sup> day, appeal no later than the 19<sup>th</sup> day.

**Great! You met the initial filing deadline. Just remember, there are new deadlines for appealing at every level. Know your district's deadlines in the grievance policy!**

## APPEALING TO LEVEL TWO

Within the number of days specified in policy after you receive (or should have received) the immediate supervisor's decision, you may appeal to Level Two if not satisfied with the Level One decision. Some grievance policies require the appeal to be submitted on a district form. (In other districts any writing indicating it is an appeal will do.) If the form asks for the same information as the original grievance form, just attach a copy of the original grievance to the Level Two form. Do not rewrite the grievance, unless strategic changes need to be made!! Stick with the original grievance. You may be asked to submit with your appeal a copy of the original grievance, a copy of the immediate supervisor's decision, and a clear and concise statement of the reasons for the appeal. An appropriate response is “Because we did not receive the remedy we sought at Level One.”

Level Two is usually before the superintendent or a designated individual in larger districts.

## PRESENTING THE LEVEL TWO GRIEVANCE

Your presentation at Level Two might be very similar to Level One. Will there be any differences?

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## RECEIVING THE LEVEL TWO RESPONSE

Within the specified number of days of hearing the appeal, the superintendent or his/her designee must issue a written decision. Once again, this timeline is not binding on the superintendent!! So what happens if you do not get a response? Your timelines for appealing to Level Three usually begin to run the date after the Level Two response was due. Don't be tricked by the timelines! Consult your local grievance policy!

## APPEALING TO LEVEL THREE

Within the specified number of days after you receive (or should have received) the Level Two decision, you may appeal in writing to Level Three, which is the school board in most districts, but may be a hearing officer. In some districts, the school board or hearing officer will not review any documents or entertain any arguments that were not made at the lower levels. Many policies allow for new issues and evidence to be presented. Again, it's a matter for your district's grievance procedure. You should come prepared to state why the grievant should prevail. The statement should be written, include a brief statement of the facts, the legal issues (CBA or policies governing the dispute) and remedy sought.

Additionally, this might also be a good time to present the school board with options for resolving the dispute without having to pick a winner or loser. Maybe these are alternatives already rejected by the administration, but might make you appear to be imminently reasonable in front of the school board. Be reasonable and professional. It might help you persuade board members.

(Some school boards will only review the grievance on the record, and will only entertain argument at its discretion.)

## PRESENTING THE LEVEL THREE GRIEVANCE

Your presentation to the school board might be very different from Level One and Two: How so? Should the grievant address the board? Why or why not?

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## RECEIVING THE BOARD'S RESPONSE

For most grievances, the board's decision is final. The next step is court. Most courts will not reverse the decision of the elected board of education if any basis in fact and law support the decision. If disputed facts were presented to the board, the board is entitled to pick and chose the facts on which it basis its decision. The board has no obligation to believe one witness as opposed to another—and board's tend to believe the administration. If the dispute is based on interpretations of law, the court may intervene substituting its judgment about the law. Disputes arising out of constitutional rights, civil rights, and other rights protected by law can be litigated *de novo* meaning the court will not give any particular weight to a board's decision. We remind the reader, technically, violations of constitutional, statutory and civil rights laws are not grievances although they may go through the process. Grievances are, properly defined, an allegation of a violation of the CBA or board policy.

## XIII. CONCLUSION

As you've learned, member advocacy is not simply filing grievances. Being a true member advocate means you are prepared and equipped to play many roles. You are a leader, communicator, recruiter, educator, and most importantly, a problem solver.

You are on your way to actively build your local's capacity and effectiveness, and improve the visibility, reputation and clout of your local for problem solving. To reach these goals, you will now be able to effectively implement organizing strategies and ideas as well as win-win negotiation tactics.

However, sometimes our members' concerns cannot be resolved with these strategies. If it comes to filing a grievance, though, you are now prepared! You are now equipped with the knowledge about what a grievance is, how to determine whether you should file a grievance, how to determine when to file a grievance, how to interview a grievant and prepare for a hearing, and finally, how to appeal and present grievances at each level.

We invite you to take the tools and skills you've learned today and use them to build your local's capacity and effectiveness.