

## Employment and Labor

### Grievances and Arbitrations

#### The Grievance Process

Employees who seek personal relief concerning unfair treatment by a manager or supervisor, harassment by a coworker, or allegations of coercion, reprisal or retaliation against them may be able to address these issues through the Administrative Grievance Process. The grievance process typically has two stages: informal and formal.

The grievance process can differ between the types of employees and employers that are involved. For instance, federal, state and local employees may either be eligible for the union grievance process or the administrative grievance process depending on their position. For private sector (private company) employees, the grievance process may be governed through a union, an administrative or complaint process or an informal process depending on the employer and the position involved.

A grievance can be either oral or written. Usually, it involves both components. Typically, when our firm represents employees in the grievance process, we meet with them, determine the facts that are important to the grievance, review any applicable Collective Bargaining Agreements (CBA) and draft a written grievance on their behalf. Typically, following the submission of the written grievance, we request an oral response meeting on the grievance with the official assigned to hear the grievance.

There can be multiple steps to the grievance process. Most grievance processes have two steps (often referred to as “Step 1,” “Step 2,” etc.), but we have seen some grievance processes that have as many as six steps. Each step is another chance to resolve the grievance before a new official. The goal of the grievance procedure is to present and resolve the workplace dispute.

#### The Arbitration Process

When an employment dispute does not resolve in the grievance process, the next step can be arbitration. Employers and/or unions often times require arbitration in the event of an employment dispute. The use of arbitration often occurs in both federal employee and private employee cases. Arbitration is a private process independent of the federal government or judicial system through which parties with adverse interests submit their disputes to an impartial arbitrator for resolution and agree to accept the decision of the arbitrator as final and binding. There is generally no automatic right to arbitration.

Although an employee is permitted to file a grievance and represent himself or herself through the steps of the grievance procedure, only an agency or union representative may usually invoke arbitration. In order to qualify, your union must authorize arbitration before it becomes an option.

Arbitration can apply to all types of disciplinary actions, Letters of Warning, Suspensions or Terminations. For federal employees, arbitration is far more inclusive than the Merit Systems Protection Board (MSPB) where federal employees can only appeal cases involving more than 14 days of suspension. Arbitration is equally broad, generally, for private sector employees covered by a CBA between a private company and a union.

Arbitration is a right provided through each union collective bargaining agreement. If an employee wishes to pursue arbitration, he or she must usually obtain their union's permission to do so. A union usually delegates this task to a committee independent of the union leadership, and a decision is made. If the union approves the case, it moves forward to arbitration. If not, a federal employee's only option may be to pursue his or her case at the MSPB, the Equal Employment Opportunity Commission (EEOC) or at the Office of Special Counsel (OSC).

### **We Can Help**

Please [contact Berry & Berry, PLLC](#) to schedule a consultation with an attorney to discuss your grievance or arbitration matter. Our firm is experienced in representing employees in employment grievances and arbitrations.