



What You Need to be Successful in Arbitration

MSBO School Finance Committee
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Disclaimer

- There are no guarantees in arbitration. The suggestions presented herein are meant to provide you the best opportunity to prevail.
- You can win the war but lose a battle
- If in doubt settle
 - A settlement is a deal you can live with better than the chance of losing

Basic Records to Keep

- Copies of all prior contracts
 - Signed copies are best
 - First source to track language
- Bargaining file
 - Proposals
 - Notes
 - Handouts
 - Second source to track language

Basic Records to Keep

- Seniority lists
 - Keep back records
- Personnel files
 - Know your rights

Grievance Procedure

- Definition of a grievance
 - Open
 - A claim by a teacher or the Local Unit that there has been a violation, misinterpretation, or misapplication of any provision of this Agreement or any rule, order, or regulation of the Board which conflicts with this Agreement may be processed as a grievance as hereinafter provided.
 - Closed
 - A "grievance" shall be defined as a misinterpretation or misapplication resulting in an alleged violation of the specific terms and conditions of this Agreement. All Articles of this Agreement are subject to the grievance procedure

Grievance Procedure

- Clearly defined
- Time limits
 - If extended note in writing
 - Make sense
 - "...at a meeting to be scheduled within five (5) days..."
 - Does that require "scheduled" or "held"?
 - Automatic appeal if not answered
 - Place burden on moving party to move the grievance to the next step

Grievance Procedure

- Arbitrators Powers
 - Clearly define what the arbitrator can and cannot do
 - First section of a contract I read before a hearing starts

Case Specific Records

- Video
 - A video system copies over itself within a matter of days
 - Capture a copy immediately
 - Convert to a common format

Case Specific Records

- E-mails
 - Source – view source feature
 - From - Tue Oct 18 08:15:04 2016 X-Account-Key: account5 X-UIDL: 1476725057.527206.p3plgemin16-07.prod.phx.1113949952 X-Mozilla-Status: 0001 X-Mozilla-Status2: 00000000 X-Mozilla-Keys: Received: (qmail 7685 invoked by uid 30297); 17 Oct 2016 17:24:17 -0000 Received: from unknown (HELO p3plbsmtp02-05.prod.phx3.secureserver.net) ([173.201.193.57]) (envelope-sender <lrapelje@msbo.org>) by p3plsmtp16-03.prod.phx3.secureserver.net (qmail-1.03) with SMTP for <davidhershey@laborrelationsresources.com>; 17 Oct 2016 17:24:17 -0000 Received: from NAM02-CY1-obe.outbound.protection.outlook.com ([104.47.37.72]) by p3plbsmtp02-05.prod.phx3.secureserver.net with bizsmtp id whQG1t00E1ZPhFL01hQG5p; Mon, 17 Oct 2016 10:24:17 -0700 DKIM-Signature: v=1; a=rsa-sha256; c=relaxed/relaxed; d=masb.onmicrosoft.com; s=selector1-msbo-org;



Case Specific Records

- Time Cards/Reports
 - Tardiness
 - Absenteeism



Case Specific Records

- Policies
- Handbook
- Work Rules
- Proof the Employee has seen, read or had access
 - Orientation – UM case



Case Specific Records

- Photographs
- Site visit
- Facebook
- Twitter



Putting it all Together

- Tell your story
 - Get from A to Z
 - Have witnesses explain exhibits

Case Study

- Union grievance alleging the CMU baseball team performed bargaining unit work laying sod at the (then) new stadium
 - Exaggerated number of players – Fall ball, no roster submitted NCAA rule on maximum team size
 - Exaggerated time the players worked – NCAA rule on how much time the practice could be
 - Misstated where the sod came from – Insurance binder from sub-contractor dated after the alleged grievance

Case Study

- Witness to the offense – Time cards indicated he was on vacation, pay records reflected he was paid vacation time
- Allegation grievance occurred at the same time as another ballfield was sodded - Contract with subcontractor stating required start date
- Allegation as to the size of the area – Hand drawn diagram and site visit



Last Word

There is no more important record than the one you don't have.