



Requesting Written Documentation

In evaluating a grievance or an issue facing a local chapter, information is often needed from the employer and/or another organization involved. It is important to analyze a problem early to determine what information is required to understand the situation properly. It is also useful to request information early in the process, since certain documents and reports "slip away" over time.

Requests for information should:

- Be in writing.
- Cite the authority (i.e. 149.43 of the Ohio Revised Code, Section 25.09 of the collective bargaining agreement) that gives the right to request information.
- State a reasonable time line by which material should be received. The time frame chosen depends on how much effort is involved in getting the requested information. A standard required timeline is 10 days.

Ohio Revised Code: 149.43

This section of the Ohio Revised Code is the foundation of the right of individuals to get public documents in Ohio. This section provides that public records shall be available and copied for cost upon request during regular business hours. A public record is defined as any record kept by any public office, including state, county, village, township and school district units. Certain records having to do with criminal investigation and trial preparation, as well as some medical records, do not have to be made available. This section is particularly useful in getting documents dealing with financial records and personnel transactions. Financial records and personnel changes are the type of information needed in subcontracting cases and cases dealing with

seasonal & temporary employees. Requests for information should be in writing and be given to the person in charge of the specific information needed. Generally, information should be requested of the personnel department and/or the labor relations department of an agency. Recognize that if a request for information is made under ORC 149.43, costs may be assessed. It is usually just as easy to use the language of Article 25.09.

Requesting information through contract language

Article 25.09 of the contract provides the right for the union to request documents and witnesses from the state. Put the request in writing. Request information at any step of the grievance procedure. Management's failure to provide information can be a very effective procedural objection to add to a grievance and should be revised in writing to management as soon as trouble getting documents is experienced. Also, this specific contract language on requesting information supersedes any limitation in the Ohio Revised Code.

In an effort to resolve disputes about receiving information, the parties shall adhere to the following at all steps of the grievance procedure: The employer shall provide copies of documents, books and paper relevant to the grievance without charge to the union, unless the request requires more than ninety (90) minutes of employee time to produce and/or copy, at which time the union will be charged \$.10 per page.

(Continued)

Patient Records

In cases dealing with inmate and or patient abuse, the medical and criminal histories of the inmate(s) or patient(s) may be needed to deal with the credibility of their testimony. These records should be requested through Article 25.09 of the state collective bargaining agreement. Because the grievance hearings are private in nature, the disclosure of this information does not hurt the patient or inmate to the same degree that not giving such information could hurt the grievant. Also, because the grievance procedure is a legitimate legal procededure, the Federal HIPPA law allows the disclosure of this type of information. Therefore, it is the position of the union that this information should be provided. Fully document in writing any objections to management refusal of a patient record pertinent to a grievance.

Highway patrol and local police records

In a variety of circumstances, the highway patrol and or the local police are involved in a situation. The report of the incident itself is public information and may be obtained through the Ohio Revised Code 149.43. There are certain exceptions which provide that certain law enforcement investigatory records are confidential and not subject to disclosure pursuant to the Ohio Revised Code 149.43.

When law enforcement official reports are relied upon in discipline situations, request this information under Article 25.09 of the contract.

Personnel Files

Clarifying language in Article 23.02 provides that reasonable requests to provide one copy of any documents in personnel files shall be honored at no charge.

Management Request for Information

As a general rule, it makes sense to comply with management's request for information. However, a specific right for management to request information **AT THE ARBITRATION LEVEL** is also a part of Article 25.03 of the state contract. However, notes and documentation prepared in anticipation of arbitration and in accordance with union representational duties are not subject to disclosure in labor-management settings and must be kept confidential unless properly waived by the bargaining unit member being represented or an issue of representation is raised and OCSEA must defend itself. Outside of the labor/management setting, the documents must be released if subpoenaed.

References

Article 23.02; 25.03; 25.09
ORC 149.43
Arb. #694

OCSEA

AFSCME Local 11 - AFL-CIO