

## **Duties and Responsibilities**

### **Grievance**

#### **Qualifications and Expectations:**

Previous Grievance experience, strong knowledge of the Contract, communication skills, computer skills, writing skills and effective leadership are needed.

This Committee consists of one Chairperson. This Committee's primary objective is to enforce the Contract and protect all Flight Attendants against arbitrary and unjust disciplinary action. The Chairperson coordinates the processing of MEC Grievances and works directly with AFA- CWA Staff Attorneys. The Committee works with Local Grievance representatives to secure the best possible procedures for all Flight Attendants in the arbitration of their Grievances, compiles and distributes results of settlements and System Board Decisions and takes part in the Grievance Screening Committee.

#### **1. SCOPE:**

- a.** The Grievance Committee will have as its primary objective the protection of all Flight Attendants against arbitrary and unjust disciplinary action as well as the enforcement of all Contractual issues.
- b.** The Grievance Committee shall uphold the Collective Bargaining Agreement (the Contract), Hawaiian Airlines MEC Policy and Procedure Manual and the AFA-CWA Constitution and Bylaws.
- c.** The Grievance Committee shall act to secure the fastest possible procedures for all Flight Attendants in the arbitration of their grievances for disciplinary action.
- d.** The Grievance Committee shall follow the direction of the Grievance Screening Panel, defined below.

#### **2. POLICY/RESPONSIBILITIES:**

- a.** The MEC Grievance Committee shall consist of the MEC Chairperson and the Local Grievance Committee Chairperson from each council. The MEC may also appoint MEC Vice Chairpersons and MEC Grievance Representatives to the MEC Grievance Committee on an as needed basis.
- b.** The committee will assist AFA-CWA attorneys in the preparation of all Hawaiian Airlines Flight Attendant grievances.
- c.** Proposed settlements of disputes between the Union and the Company shall be presented to the MEC President.
- d.** Priority at the System Board shall be given to Flight Attendants who have been terminated by the Company. Issues of sufficient importance to the collective interest can be scheduled ahead of termination grievances with the MEC President's concurrence.
- e.** If any dispute arises regarding the merits of a contract grievance, the MEC will have the authority to terminate or continue the grievance process.
- f.** Grievant will be advised via Certified Mail of any Grievance Screening Panel determination.

#### **3. THE MEC CHAIRPERSON SHALL:**

- a.** Serve as a member of the Grievance Screening Panel.
- b.** Attend all discussions of contract items at all regularly scheduled MEC meetings.
- c.** Compose informational and educational articles of interest to the membership and provide them to the MEC Communications Chairperson to be included in MEC communications and posted to the MEC website.

#### **4. GRIEVANCE SCREENING PANEL:**

- a.** The Grievance Screening Panel will consist of the MEC President, the MEC Grievance Chairperson, the grievant's LEC President, and an AFA-CWA attorney. This panel shall determine if a grievant's case has merit and should be scheduled at the System Board of Adjustment.
- b.** The MEC President, any other member of the MEC or the Grievance Committee, may request that the Grievance Screening Panel review a grievance to determine if it should be scheduled at the System Board of Adjustment.

## 5. GRIEVANCE SCREENING PROCESS:

- a. Under its duty of fair representation, a union cannot display arbitrary, discriminatory or unfair conduct or personal animosity. However, a union can act in the best interests of its members. Therefore, the MEC shall establish a grievance screening process.
- b. The Grievance Screening Panel ("Panel") is comprised of the MEC President, the grievant's LEC President, the MEC Grievance Chair and the AFA-CWA staff attorney.
- c. The Panel is charged with determining whether a grievant's case has merit and should be scheduled for hearing at the System Board of Adjustment. A decision *not* to take a case forward to arbitration must be unanimous. The criteria to be used by the Panel in making its determination are described below.
- d. The Panel will meet and decide within 45 working days of a case being submitted to the System Board. The committee may also choose to establish a regular monthly meeting to review grievances, or it may meet on an *ad hoc* basis as the need arises. Prior to the full Committee convening, the MEC Grievance Chair and the staff attorney will meet with respective grievant(s) and review all terminations.
- e. The Committee may meet either in person at the MEC office or at any other mutually agreed location, by telephone conference call, or by any other agreed upon electronic means of communication.
- f. If the Panel determines that the grievance lacks merit, the grievant will be notified by certified mail within 10 working days that AFA-CWA will not represent him or her at System Board. The letter will also include information about what other remedies are available to the grievant.
- g. The Panel shall determine whether to represent a grievant at System Board based on the following overall criteria:
  - 1) Evidence in the file,
  - 2) Any additional investigation the committee deems necessary, and
  - 3) The likelihood of success at arbitration on the merits of the grievance.
- h. To determine the likelihood of success at arbitration, and whether a grievance has merit, the following factors will be considered. These factors are by no means inclusive or exhaustive. Nor will the committee necessarily review all the following factors in making its decision. These are merely guidelines the committee may take into consideration when evaluating a case:
  - 1) System Board precedent: Is there unfavorable or conflicting System Board precedent?
  - 2) The Collective Bargaining Agreement (The Contract): Is there a contract violation or infringement? If so, this would weigh against screening a case from arbitration.
  - 3) Previous discipline: Where is the grievant in the progressive discipline system? For example, is s/he at a suspension or on a last-chance agreement? What kind of disciplinary "involvement" with the Company has the grievant had in the past?
  - 4) Work history: What types of infractions have been incurred over the years? When did they occur and how close together or far apart in time are they? How many commendations (including comment cards) are in the grievant's record? Is anything out of the ordinary or does anything point to inappropriateness by the Company?
  - 5) Timeliness: How close was the grievant to being discipline-free? How much time elapsed between the triggering infraction and the issuance of the notice of investigation?
  - 6) Due process considerations: Was there adequate notice to all Flight Attendants about the infraction(s) at issue? Have there been retroactive charges?
  - 7) Evidence of accelerated discipline: Did the Company accelerate discipline (i.e., skip a stage in the disciplinary process or bring charges without giving the grievant a chance to improve after a previous stage of discipline?)
  - 8) Plausibility of grievant's story: Is the grievant credible? Does her/his story appear truthful?
- i. Factual landscape: Taken as a whole, do the facts weigh in favor of the grievant? Consider the following points:
  - 1) Witnesses
  - 2) Evidence of wrongdoing
  - 3) Validity of grievant's excuse

- 4) Any technical violation by the Company (contract/due process)
- 5) Disputed facts
- 6) Adequacy of documentation
- 7) Disparate treatment defense (were similarly situated Flight Attendants treated the same/given the same discipline?)
- 8) Past practice contradicting the Company's assertion of a rule violation
- 9) Company behavior: Have the Company's actions been arbitrary, capricious or discriminatory?
- 10) Interpersonal factors: Is there evidence of a personality conflict between the grievant and supervisor or base manager?
- 11) Effect of state or federal law: Does the grievant have a viable claim under a law such as the ADA, FMLA or civil rights act?
- 12) Mitigating factors: Has the grievant suffered from any serious "hardship" such as illness, death in the family, or other difficulty that would explain and/or mitigate the Company's charge?
- 13) Effect of outcome on prior or future cases: Is this a case of first impression? Is there a possibility of setting bad precedent or carving away good language in previous cases?
- 14) Seniority of grievant: Goes to mitigation.

(Updated 11/04/2020)