

The Concepts: Duty of Fair Representation

NYSNA Continuing Education

The New York State Nurses Association is accredited as a provider of continuing nursing education by the American Nurses Credentialing Center's Commission on Accreditation.

All American Nurses Credentialing Center (ANCC) accredited organizations' contact hours are recognized by all other ANCC accredited organizations. Most states with mandatory continuing education requirements recognize the ANCC accreditation/approval system. Questions about the acceptance of ANCC contact hours to meet mandatory regulations should be directed to the Professional licensing board within that state.

NYSNA has been granted provider status by the Florida State Board of Nursing as a provider of continuing education in nursing (Provider number 50-1437).

How to Take This Course

Please take a look at the steps below; these will help you to progress through the course material, complete the course examination and receive your certificate of completion.

1. REVIEW THE OBJECTIVES

The objectives provide an overview of the entire course and identify what information will be focused on. Objectives are stated in terms of what you, the learner, will know or be able to do upon successful completion of the course. They let you know what you should expect to learn by taking a particular course and can help focus your study.

2. STUDY EACH SECTION IN ORDER

Keep your learning "programmed" by reviewing the materials in order. This will help you understand the sections that follow.

3. COMPLETE THE COURSE EXAM

After studying the course, click on the "Course Exam" option located on the course navigation toolbar. Answer each question by clicking on the button corresponding to the correct answer. All questions must be answered before the test can be graded; there is only one correct answer per question. You may refer back to the course material by minimizing the course exam window.

4. GRADE THE TEST

Next, click on "Submit Test." You will know immediately whether you passed or failed. If you do not successfully complete the exam on the first attempt, you may take the exam again. If you do not pass the exam on your second attempt, you will need to purchase the course again.

5. FILL OUT THE EVALUATION FORM

Upon passing the course exam you will be prompted to complete a course evaluation. You will have access to the certificate of completion **after you complete the evaluation**. At this point, you should print the certificate and keep it for your records.

Objectives

At the completion of this learning activity the learner will:

- Define in a general way the term Duty of Fair Representation (DFR).
- Discuss the general circumstances in which an unfair labor charge could be filed against a union for failure to represent a member.
- Describe proper union guidelines for fair representation.

Introduction

The Duty of Fair Representation (DFR) protects union member's contractual rights, which is the foundation of a labor union's obligation to the members. In this course, the participant will gain a better understanding of this concept. It includes an explanation of the role of the union and the National Labor Relations Board with respect to DFR. It also includes an overview of how the proper union guidelines for fair representation.

Note: The information provided in this course is for educational purposes only, and should not be considered legal advice.

About the Author

Diane K. Salerno, MA, RN is a Labor Educator for the New York State Nurses Association. In this role, she is responsible for designing, implementing, coordinating, and evaluating educational labor programs. Diane's extensive labor experience includes member servicing, grievance handling, and contract negotiations.

What is Duty of Fair Representation (DFR)?

When a labor organization, or union, represents a group of employees, the union is given the right to exclusive representation of those employees regarding the terms and conditions of employment. The union's right to exclusive representation carries with it the right to negotiate collective bargaining agreements on behalf of its members, the right to process grievances arising under the contract, and the right to represent its members in disciplinary matters. Arising out of these rights is a union's duty to represent members and ensure that the employer complies with the contract in good faith. This duty, the Duty of Fair Representation (DFR), protects union members' contractual rights by requiring that all reported contract breaches are reviewed and dealt with fairly and without bias. This duty is an essential foundation of a labor union's obligation to its individual members.

This course focuses on DFR in the private sector, which is governed by the National Labor Relations Act (NLRA). Similar provisions exist in the New York State Taylor Law and the New York City Collective Bargaining Law (Maier, 2002).

How can a union breach its Duty of Fair Representation?

The following case study illustrates a breach of DFR that might arise in the healthcare setting. It involves the timely filing of a grievance.

Nurse Smith has worked as a registered nurse at a private hospital for 15 years on a medical-surgical unit. She is an active union member and attends most union meetings. She addresses her local bargaining unit delegates by name and educates herself on her rights as a member of a labor organization. When Smith is denied a clinic RN position, she is told the reason is her "low" seniority in the bargaining unit. Not being sure of her seniority ranking, Nurse Smith contacts her union delegate by phone for clarification.

According to Smith, she tells the delegate to file a grievance for the posted position if her seniority is about the same or more than the nurse who was given the position. While the delegate does inform Smith of her seniority level, no grievance is filed.

Smith contacts her delegate some time later and learns that a grievance has not been filed. It is now too late to file a grievance for the position and Smith is angry that the union did not honor her request.

The delegate refers to her logbook of communication with members and states that Smith called only to inquire about her seniority, the seniority information was furnished, and the call ended. From other notes in the communications logbook, the delegate says that at a later date Smith contacted the delegate asking if a grievance had been filed. During that call, the delegate informed Nurse Smith that no request to file a grievance had been made during the initial call.

What recourse does Smith have? Could she file an unfair labor practice charge (ULP) with the National Labor Relations Board (NLRB) against the union for its alleged failure to protect her contractual right? What criteria would the NLRB use to determine if this issue is a DFR breach? Let's examine and provide answers to these questions.

What recourse does Nurse Smith have?

According to Gold (1989):

From time to time, individual union members are likely to become unhappy with the union that represents them. Any organization run by majority rule has this problem; a minority can become dissatisfied. We normally are free to quit organizations that make us unhappy. But because of exclusivity of representation, an unsatisfied member cannot escape representation by a union (unless one quits the job); as long as the majority wants the union, it bargains for all members, including those who are discontented. (pp. 7-8)

Nurse Smith would certainly be considered a discontented employee.

The DFR requires the union, through its agents (i.e., its officers, including those elected as local bargaining unit officers, delegates, stewards and its paid union representatives) to represent fairly the employees for whom the union acts as the exclusive bargaining agent and is obliged to protect the contractual rights of individual employees. Regardless of the fact that Nurse Smith is a discontented employee, the union must fairly address her issue. If Nurse Smith believes that the union does not fairly address her issue, she can file a ULP charge at her regional office of the NLRB.

The Role of the National Labor Relations Board

The National Labor Relations Board is an independent federal agency created by Congress in 1935 to administer the National Labor Relations Act. The NLRA is the primary law governing relations between unions and employers in the private sector.

The NLRB's primary responsibility is to administer the Labor Act and review charges that are brought before it, such as the unfair labor practice charge that Nurse Smith may want to file:

In its statutory assignment, the NLRB has two principal functions: (1) to determine, through secret-ballot elections, the free democratic choice by employees as to whether or not they wish to be represented by a union in dealing with their employers and, if so by which union; and (2) to prevent and remedy unlawful acts, called unfair labor practices, by either employers or unions. (NLRB, n.d.a)

This second statutory assignment of unlawful acts is when the question of whether or not a union's actions rise to the level of a DFR breach or violation.

NLRB regional offices are located in the telephone directory under the United States Government, National Labor Relations Board.

What criteria would the NLRB use in reviewing the case?

In accordance with case law, a union commits a DFR violation if its conduct in representing its employees is "arbitrary, discriminatory, or in bad faith. A union may be found to have breached its duty of fair representation by acting in an arbitrary manner" (*Vaca v. Sipes*, 1967).

Arbitrary action would be a situation in which there was no reason for the union to take the action it did. For example, if the union refused to process a grievance without investigating the facts of the grievance or with such a perfunctory investigation that it is obvious that the union could not have known the facts of the situation, a grievant could claim that the union's actions were arbitrary. The union should conduct an investigation that is thorough enough to reveal the full facts of the case and allows it to make a reasonable determination on how to proceed based upon the facts of the case (SEIU, 1977).

Discriminatory actions are found when delegates or other union representatives treat one employee differently than they would represent another employee because of non-relevant factors, such as personal hostility or political animosity.

Bad faith representation involves actions taken by the union representative for purposes other than representing the employee. A delegate or union may not consider a worker's race, gender, nationality, age, religion, politics, social graces, means of communication, union membership or dues paying status when deciding on when or how to represent that employee.

The task of the NLRB would be to determine if the miscommunication between the member and the delegate meets the criteria of being arbitrary, discriminatory or in bad faith.

How an Employee Files a Claim with the NLRB

If Nurse Smith decides to file a DFR, this is what will happen:

1. Filing of a claim at a regional office of the NLRB.

An unfair labor practice case, such as a DFR claim, begins with the filing of a charge at a regional office of the NLRB. The staff in a regional NLRB office is available by phone, mail, or in person. NLRB staff members are legally required to assist the public with inquiries concerning the NLRA. An information officer will provide appropriate forms and other technical assistance to those who wish to file charges. The unfair labor practice charge can be filed by fax, in writing, or in person. The NLRA provides that allegations of unfair labor practice violations must be filed and served within 6 months of the occurrence of the alleged.

2. NLRB investigation of the charge(s).

Once the charge has been filed, the information officer will conduct an investigation to determine whether there is reasonable cause to believe the NLRA has been violated. The information officer will ask for: the nature of the complaint; a sworn statement; the name and address of the employer or union against whom charges are being filed; and any pertinent logs, copies of e-mails, transcripts, minutes of meetings, phone calls and other documents which either support or refute the charges. Documentation is often critical to the investigation. If there is sufficient evidence to warrant further investigation, the NLRB agent assigned to the case may contact other witnesses who possess relevant information. In Nurse Smith's case, the information officer would be looking for evidence of arbitrary, discriminatory, or bad faith actions on the part of the union.

3. Possible outcomes of the investigation: charge is dismissed, withdrawn, or upheld.

Following the investigation, the evidence is reviewed. If, in the opinion of the NLRB agent, it appears that there has been no violation of the NLRA, the agent will ask the person that filed the charge to withdraw it. If the person refuses, the NLRB officer would most likely dismiss the charge. An appeal of the decision to dismiss the charge can be filed at the NLRB Office of Appeals in Washington, D.C.

If, after reviewing the evidence, the NLRB officer determines that it appears a violation has occurred, the charged employer or union will be asked to remedy the violation. In this case, a remedy would be requested of the union. If the charged party refuses to voluntarily remedy the matter, a formal complaint would be issued against the charged party and the case would be heard before an administrative law judge. During the hearing, evidence would be presented concerning the allegations of the complaint (NLRB, 1997).

Does Nurse Smith's case have merit?

As stated previously, a union may be found to have breached its duty of fair representation if it has acted in ways that are determined to be arbitrary, discriminatory, or in bad faith. Nurse Smith contends that the employer may have violated the terms of the collective bargaining agreement by not awarding her the clinic position based on seniority. She also claims that the union failed to represent her by not filing a requested grievance against the employer in a timely manner. Nurse Smith received the information about time limit for filing a grievance during her second call to the union representative.

The union delegate contends that she logged the first phone call communication as only a seniority inquiry. The delegate further contends that the second call from Nurse Smith was the inquiry about a grievance being filed, that this second call occurred more than ten business days after the issue arose, and that the grievance is therefore time-barred.

If Nurse Smith requested that a grievance be filed during the initial call to the delegate, the delegate would be required to do a full and fair investigation of the facts surrounding the issues. Based upon the

findings of fact, the delegate would then have proceeded to file a grievance as requested. However, the delegate maintained that no request to file a grievance was made by Nurse Smith during the first phone call and that the only thing Nurse Smith requested was a determination of her seniority status. This would change the legal requirements owed by the union representative to Nurse Smith, thus limiting the delegate's duty to a simple return phone call with the requested information.

Clearly, miscommunication played a major role in Nurse Smith's feelings of discontent. A better outcome could have been achieved if the following had occurred:

1. The delegate had, in her follow-up phone call to Nurse Smith, asked Nurse Smith why she was checking her seniority status.
2. Nurse Smith had made a more timely follow-up phone call with the delegate regarding the filing of a grievance.
3. Nurse Smith had immediately, upon learning that she had not been granted the position, written a letter citing the contractual violation and forwarded copies of the letter to the department of nursing, the human resources department, and the union. This would have given the union the opportunity to advance the argument that, in fact, a grievance had been filed by virtue of the letter of dissatisfaction from Nurse Smith.

To prevail on a DFR charge, however, a discontented employee must not only prove that mistakes were made by a union. According to the NLRB, "mere negligence, poor judgment, or ineptitude in grievance handling is insufficient to establish a breach of the duty of fair representation. Union actions are arbitrary so as to constitute a breach of the duty of fair representation, only if, in light of the factual and legal landscape at the time of the union's actions, the union's behavior is so far outside a wide range of reasonableness as to be irrational" (SEIU, 1977). See also the 1991 Supreme Court decision *Airline Pilots v. O'Neill*.

There are several key factors in this case:

Opinion vs. Facts

Opinion: Nurse Smith believes a grievance should have been filed.

Fact: The delegate had not logged such a request.

Facts vs. Hearsay

Fact: The seniority inquiry by Nurse Smith was answered by the union delegate.

Hearsay: The filing of a grievance discussed on the initial call.

Relevancy of Facts

Is the miscommunication between Nurse Smith and the delegate relevant in this case?

How would the NLRB rule?

In all likelihood, the NLRB would rule in this case that there was no violation of the NLRA Duty of Fair Representation. Let's review what factors the NLRB would take into consideration during its investigation:

- Whether the union could explain its conduct.
- Whether the situation left the employee with no venue to obtain a hearing/remedy for the underlying dispute.
- Whether the union followed or deviated from its past practices in the manner in which it processed the dispute and dealt with the employee.

The law does not require union representatives or delegates to be private investigators or attorneys. Making an error in judgment about the merits of a particular grievance does not, in itself, constitute a breach of the duty. It is also not a basis for liability if the union adopts a particular interpretation of the contract and the interpretation differs from the interpretation that the employee is seeking in his or her grievance. However, the union must be reasonable in its interpretation of the contract. The fact that the

The Concepts: Duty of Fair Representation

union may be wrong in its interpretation does not establish a violation of law. The union must make a reasonable inquiry, which will satisfy the union's duty to fairly represent bargaining unit employees.

"The duty of fair representation is grounded in the principle that when a union attains the status of exclusive representative, it must use that power to fairly and equally represent all bargaining unit members in a bargaining unit" (Swerdsewski, n.d.).

Examples of union conduct which violates the NLRA (only some of these apply to DFR):

Threats to employees that they will lose their jobs unless they support the union's activities.

Refusing to process a grievance because an employee has criticized union officers.

Fining employees who have validly resigned from the union for engaging in protected activity following their resignation.

Seeking the discharge of an employee for not complying with a union shop agreement, when the employee has paid or offered to pay a lawful initiation fee and periodic dues.

Refusing referral or giving preference in a hiring hall on the basis of race or union activities. (NLRB, n.d.b).

Most union members file unfair labor practice charges against unions because they are dissatisfied with the handling of a grievance by the union, as in the case of Nurse Smith. A union may be charged with a DFR violation if it acts in an arbitrary or discriminatory manner or with bad faith when it:

- Fails to file a grievance.
- Withdraws a grievance.
- Settles a grievance short of full relief.
- Fails to take a grievance to arbitration.
- Fails to prepare for arbitration.
- Mishandles arbitration. (Rous, n.d.)

Arbitration is a method specified by the contract to settle grievance disputes in which an arbitrator is given the power to make a binding decision (Schwartz, 1999).

It is known that:

Most delegates do take their tasks very seriously, as well as they should. They understand that they are their co-workers' first line of defense against mistreatment by their employer and they understand the steward's responsibility, *by law*, to fairly represent bargaining unit workers to the best of their ability. But where some less experienced stewards (delegates) get tripped up is in their failure – well intended, to be sure, but still a failure – to draw a line between their responsibility to fairly represent aggrieved workers and their no-questions-asked representation of every worker who thinks he or she has a grievance. . . . But the simple act of deciding not to file or pursue a grievance does not mean there has been an automatic violation of the law's Duty of Fair Representation (DFR) requirement. (Oberstein, 2005)

Who owns a grievance if one is filed with an employer?

The union, not the union member, owns the grievance. A union does not have to file a grievance if the union representative has a rational, good faith belief that a claim is unfounded. That is, a union has the right to determine whether a matter cannot be won or has no basis in the contract.

Even if the matter has some merit, if the union believes it will not succeed and could receive an unfavorable decision, it does not have to pursue the matter to arbitration. For example, the union might be concerned that an unfavorable arbitration decision could be bad for employees represented by the union as a whole or may affect more employees than those involved in the grievance. In these circumstances, the union can decline to proceed to arbitration. The reverse is also true and is more common: a union can continue a grievance even if the grievant wants it dropped.

A union can take a settlement with an employer over the objections of the grievant as long as it has good reasons to do so. A union representative might settle if the offer was the best that could be obtained, given the grievant work history. No settlement should come, however, as a result of a “swap” of grievances with an employer. A union representative must carefully evaluate each grievance.

Whether or not a grievant or grievance fits into any particular category, there is one important thing for a union representative to remember. The course of action taken in any grievance case will be determined by the merits of the *grievance*, not by the merits of the *grievant*. When the latter becomes a determining factor in grievance handling, a breach of the duty of fair representation can occur.

The merit of a grievance depends on two things:

- Was there a violation of a union member's rights?
- Is there sufficient proof that the violation occurred?

It is the duty of the delegate, staff representative, grievance committee, or any other union body involved in grievance handling to determine whether these two things exist and to take appropriate action to either pursue the grievance or drop it.

The key to DFR is described by the courts in this way: A grievance must be taken through the grievance process by the union representative based on the merits of the case. The union member must not be denied the process through any discrimination, or by any arbitrary or capricious decision to drop the case. There is, however, no obligation to pursue grievances that are totally lacking in merit or where the prospects of success are remote.

Union representatives sometimes make mistakes. The courts leave room for human failings, even when they sometimes adversely affect union members. What the courts have determined is that the union representative of the workers cannot disregard their responsibilities for no real reason.

Dissatisfied members can take their complaint beyond the NLRB and file a lawsuit charging a breach of the duty of fair representation (DFR) suit (AFSCME, n.d.). Notably, most cases alleging a breach of the DFR are found to be without merit by both the NLRB and the courts (Rous, n.d.).

How to Avoid Breach of DFR Charges

There is no foolproof way to avoid lawsuits, but there are basic things that can significantly protect delegates and other union representatives against DFR suits. The following should be considered only guidelines and suggested approaches.

- Do not refuse to process a grievance because of an employee's sex, race, nationality, age, religion, politics, personality, or dues-paying status. Diligently represent all employees in the bargaining unit, even if you consider the employee to be a destructive force within the union.
- Follow and enforce the contract in all provisions regarding grievances. Time limits which are clearly stated in a contract, as well as the steps involved in the grievance procedure must be followed strictly.
- Investigate all grievances and interview the grievant and other witnesses. Request documents, files, and other information requests.
- Adhere to the grievance filing time limits in the contract.
- If necessary, obtain extension of contract time limits signed off by both parties to avoid claims of negligence.
- Maintain written log following the progress of the case.
- Maintain a good relationship with grievant and advise the person in writing of pertinent information during the grievance process.
- Alert the grievant in the presence of a witness or in writing of a settlement agreement or grievance resolution. Keep the grievant in the loop.
- If the union decides to drop a grievance for lack of merit or any other reason, the grievant should be notified in writing and be informed of the reasons for the decision.
- Prepare for grievance meetings and arbitrations. A pre-arbitration meeting with the grievant and union attorney prepares the grievant to proceed.
- Always keep the worker informed about the status of the grievance. The grievance representative should always keep a written record of the progress of a grievance, noting dates, contacts, decisions regarding the grievance and reasons for the decisions. A good practice is to ask the grievant to sign or initial the record or grievance form at each significant stage of the process. This practice will insure that the appropriate contact is maintained with the grievant and will confirm the contact in writing. If a union decides to drop a grievance for lack of merit, or any other reason, the grievant should be notified of this in writing and be informed of the reasons for the decision.
- The union should always allow a worker the opportunity to submit additional evidence or further arguments in support of the grievance at any stage in the grievance procedure.

The Value of an Internal Appeals Process

Some union locals or councils have established internal appeals processes. The appeals process provides the grievant with a forum in which to be heard if she or he challenges a union decision to drop the grievance. A grievance committee, a special session of the executive board, a committee on appeals, or a similar structure can become a permanent part of the union's grievance procedure. This forum allows the grievant to present her or his side of the case and gives the union representative the chance to explain the union's decision and answer questions about it.

An internal appeals process enhances the democratic nature of the union and creates more trust and goodwill for the union among members. The feasibility of such a process depends, of course, on the size and structure of the local or council, and on other practical considerations. Of course, at the local level, a grievant may appeal any union decision to the body of the membership at the union membership meeting.

The agreement with the employer should be flexible enough to allow an internal appeals process. Although the union's internal appeals body can be a vital tool in assuring the grievant of the union's intent to fulfill its duty of fair representation, it cannot be effective unless the contract agreement allows enough time for it to function. Allowing time for the appeals process can benefit the employer as well as the union. Not only can the employer avoid the expense of defending many more grievances in arbitration, where decisions can often be unpredictable, but it can also more easily avoid costly involvement in civil suits over unsettled grievances, particularly when a question of liability is raised. The 1983 U.S. Supreme Court decision *Bowen vs. USPS* is a good example how an internal appeals process might have benefited both union and employer.

Affording an opportunity for appeal demonstrates the willingness of the union to investigate grievances fully as to their merit. At the same time, by listening to grievants and considering aspects of the case that are important to them, union representatives can offer grievants a measure of satisfaction and a feeling of being part of the process. It also may make the investigation process easier and more accurate for union representatives (AFSCME, n.d.).

Conclusion

As the exclusive bargaining agent, the union has an obligation to protect the rights of individual employees. Member rights are protected by the good faith efforts of the union representatives in investigating, advocating and informing the members utilizing the contract provisions. Unions have certain latitude in how it represents employees. Within the context of the duty of fair representation, the union is permitted to exercise its collective judgment and wisdom in connection with its representation.

References

Air Line Pilots v. O'Neill, 499 U.S. 65 (1991).

American Federation of State County and Municipal Employees (AFSCME). (n.d.). *Understanding the duty of fair representation we do it best!* Retrieved November 15, 2007, from <http://www.afscme.org/publications/1685.cfm>

Bowen v. USPS, 459 U.S. 212 (1983).

Gold, M. (1989). *An introduction to labor law*. Ithaca, NY: Cornell University, ILR Press.

Local 307, National Postal Mail Handlers Union, 339 NLRB 93 (2003).

Maier, P. (2002). *The Taylor Law and the duty of fair representation*. Albany, NY: Public Employment Relations Board.

National Labor Relations Board. (1997). *Basic guide to the National Labor Relations Act: General principles of law under the statute and procedures of the National Labor Relation Board*. Retrieved from http://www.nlr.gov/nlr/shared_files/brochures/basicguide.pdf

National Labor Relations Board. (n.d.a). *The NLRB: What it is, what it does*. [Brochure]. Retrieved from http://www.nlr.gov/nlr/shared_files/brochures/whatitis.pdf

National Labor Relations Board. (n.d.b). *The National Labor Relations Board and you: Unfair labor practice*. [Brochure]. Retrieved from http://www.nlr.gov/nlr/shared_files/brochures/engulp.pdf

Oberstein, B. (2005). Duty of fair representation. *Stewart Update*, 3(2). Retrieved from <http://iamlocal698.com/stewardsandtechnology.pdf>

Rous, L. (n.d.). *Duty of fair representation* (chap. 7). Retrieved November 15, 2007, from www.teamsterslocal17.org/LROUS/Chapter7.htm

Schwartz, R. (1999). *The legal rights of union stewards*. Cambridge, MA: Work Rights Press.

SEIU Local 579, 229 NLRB 692 (1977).

Swerdzewski, J. (n.d.) *Executive summary: FLRA general counsel Joseph Swerdzewski's memorandum to regional directors on "The Duty of Fair Representation"*. Retrieved January 30, 2008, from http://www.flra.gov/gc/ulp_remedy/gc_ulpr1.html

Vaca v. Sipes, 386 U.S. 171 (1967).

The Concepts: Duty of Fair Representation Course Exam

After studying the downloaded course and completing the course exam, you need to enter your answers online. **Answers cannot be graded from this downloadable version of the course.** To enter your answers online, go to e-learnRN's Web site, www.elearnonline.net and click on the Login/My Account button. As a returning student, login using the username and password you created, click on the "Go to Course" link, and proceed to the course exam.

1. A union is legally obligated to equally and fairly represent all members that are represented under collective bargaining.
 - a. True
 - b. False

2. A union has to file or pursue a grievance each and every time a bargaining unit member thinks it should.
 - a. True
 - b. False

3. The duty to fairly represent every member is a requirement under the U.S. National Labor Relations Act (NLRA) for private sector and under the Taylor Law for public sector.
 - a. True
 - b. False

4. Unions win most Duty of Fair Representation lawsuits.
 - a. True
 - b. False

5. A Duty of Fair Representation complaint must be filed within nine months of incidence.
 - a. True
 - b. False

6. A DFR charge can be filed only for the bad faith actions of a union.
 - a. True
 - b. False

7. A union delegate is entitled to preferential treatment over another member when it comes to filing a grievance.
 - a. True
 - b. False

8. A reasonable member inquiry and investigating the facts can avoid claims of DFR by a member.
 - a. True
 - b. False

9. A union member can remain anonymous when filing a charge with the NLRB.
 - a. True
 - b. False
10. The union member owns the grievance that the union files on their behalf.
 - a. True
 - b. False
11. A union can successfully be sued in a DFR claim because a member was fired based upon the advice given by a union delegate.
 - a. True
 - b. False
12. The grievant should be notified when a grievance is withdrawn.
 - a. True
 - b. False
13. To prevail on a DFR claim, an unsatisfied member must do more than prove mistakes were made by the union.
 - a. True
 - b. False
14. Miscommunication between the member and union is just cause for a DFR claim.
 - a. True
 - b. False
15. Contractual time limits should be followed to avoid claims of DFR.
 - a. True
 - b. False