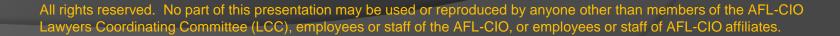
#### The Duty of Fair Representation







## **Objectives**

- Define the duty of fair representation (DFR)
- Know when the DFR applies
- Understand how accusations of DFR violations can harm the union
- Identify ways to prevent DFR accusations

#### **Good Grievant Relations**

- Assume you're the grievant. You've been a good employee for a long time. Your employer accuses you of dishonesty on the job. The accusation is not true. Your employer fires you.
- What are the five most important things that the union can do to make you, as a grievant, feel like you've been represented well?

#### The Duty of Fair Representation

A union that is the exclusive representative of a bargaining unit *must* represent bargaining unit members in a way that is:

- Reasonable
- Fair and focused on the facts
- Acting honestly and in good faith

### Breaching the Duty of Fair Representation

A union that is the exclusive representative of a bargaining unit **violates** the duty of fair representation when it acts in ways that are:

- Arbitrary
- Discriminatory orIn bad faith

#### **Focus on the Facts**

Investigate:

Interview the grievant
Check the grievant's points
Review your findings with the grievant
Focus on the grievance, not the grievant

#### Non-union? Anti-union? Don't ask!

Taking an answer into account violates the duty of fair representation

# WHEN When Does the Duty of Fair Representation Apply?

- Union acting in collective bargaining context
  - Grievance handling
  - Contract administration
  - Contract negotiations

NOT for statutory claim that individual can raise.

#### **DFR and Arbitration**

- Do not have to arbitrate every grievance.
- Do not have to provide grievant with attorney.
- Do not have to pay for grievant's own attorney.
- Do not have to raise every argument/theory grievant wants you do.

How Can an Accusation That Your Union Violated the Duty of Fair Representation Harm the Union?

Back pay and benefits to affected workers

- Your attorneys' fees
- Your union staff time and effort
- Division and distraction
- Harmful publicity

#### **Avoiding Accusations of a Violation**

Treat the grievant as you would like to be treated

- Listen carefully
- Respond fairly and thoughtfully
- Keep informed
- Investigate thoroughly
- Check your contract, past practices, and earlier decisions - Meet grievance deadlines
- Document your case and efforts