

Section 7

Grievance Procedures and Jurisdictional Disputes



Things You Should Know

Grievance Procedures

Section 7

- Contractors, unions and employees can bring grievances.
- PSA Grievances may arise from the following:
 - Questions involving the interpretation or application of the PSA or
 - Alleged violation of the PSA, including but not limited to the following:
 - Non-payment or incorrect wages paid to the workers.
 - Non-payment of fringe benefits to the trust fund.
 - Failure to follow proper hiring procedures.
 - Failure to submit the Letter of Assent prior to beginning work.
 - Failure to sign a trust fund participation or subscription agreement.
- Regardless of winning or losing a grievance, contractors pay one half of the arbitration fees.
- Historically, if a contractor fails to show up at an arbitration hearing, the decision has gone in favor of the grieving party.
- Grievance timelines may be critical to the contractors' success in presenting their side in the arbitration process.
- If any party refuses to participate in the process, the process may continue.

This manual does not interpret or modify the terms of the PSA in any way nor is it legal advice. Contact your legal counsel for legal advice.

Things You Should Know

Grievance Timelines for Contractors and Unions

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STEP I

- Involved unions or Contractors have 10 working days after the disputing party knew or should have known of the violation to meet.
- If a settlement is not reached within 5 working days, either party may request, in writing, a Step II meeting.

STEP II

- Representatives from the involved local unions, contractors, and the PSA Coordinator shall meet within 7 working days after the date of the written request for a Step II meeting.

STEP III: Arbitration

- If grievances are not resolved at the Step II level, any of the involved parties may request, in writing to the PSA Coordinator within 7 calendar days, that the grievance be submitted to an arbitrator.

NOTE: Failure of the grieving party to act within the established time limits may cause them to lose their right to file a grievance.

NOTE: If any party refuses to participate in the process, the process may continue.

Things You Should Know

Grievance Timelines for Employees

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STEP I

- Employees have 10 working days from the alleged violation to, through their union steward or representative, notify the Contractor of their grievance.
- The union steward or representative has 10 working days after notifying the Contractor of the grievance to meet in an attempt to settle the grievance.
- If a resolution is not reached within prescribed time period, the grieving party has 10 working days to request, in writing, a Step II meeting.

STEP II

- Representatives from the involved local unions, contractors, and the PSA Coordinator shall meet within 7 working days after the date of the written request for a Step II meeting.

STEP III: Arbitration

- If grievances are not resolved at the Step II level, any of the involved parties may request, in writing to the PSA Coordinator within 7 calendar days, that the grievance be submitted to an arbitrator.

NOTE: Failure of the grieving party to act within the established time limits may cause them to lose their right to file a grievance.

NOTE: If any party refuses to participate in the process, the process may continue.

PSA GRIEVANCE PROCEDURES

ARTICLE 10: SETTLEMENT OF GRIEVANCES AND DISPUTES

PROCESSING GRIEVANCES

(PSA, Section 10.2, Page 33 paraphrased)

Any questions arising out of and during the term of the PSA involving its interpretation and application, which includes applicable provisions of the Schedule A's, but not jurisdictional disputes or alleged violations of Article 7 Section 7.1 and 7.4 and similar provisions, shall be considered a grievance and subject to resolution under the following procedures.

- The Grievance Procedure in the PSA ensures communication between labor and management. The procedure provides orderly expedited steps to resolve potential problems.
- Failure to adhere to the time limits of the grievance process shall make the grievance render null and void. The time limits can only be extended by mutual written consent of the parties at the particular step where the extension is agreed upon. The parties must meet within the stipulated time sequence to ensure prompt resolution of items of concern.
- Notify the PSA Coordinator if the grievance procedure is to be implemented.

EMPLOYEE GRIEVANCES

- If an employee feels that a violation occurred, the employee shall, through his local union business representative or job steward, within 10 working days of the violation, notify the work site representative of the contractor of the alleged violations which have occurred.

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- A business representative of the local union or the job steward and the work site representative of the contractor shall meet and try to come to a resolution of this matter within 10 working days of notification of the occurrence.
- Grievances and disputes settled at Step I shall be non-precedential except for the involved parties.
- If within 10 working days a resolution is not reached, the grieving party may request in writing a Step II Meeting. This should be done by completing the Standard Step II Grievance form (EXHIBIT E) and submitting it to the PSA Coordinator.
- The PSA Coordinator will attempt to mediate/facilitate a resolution at the Step II meeting.

UNION OR CONTRACTOR GRIEVANCES.

Step I

- If a union or contractor has a dispute, they must first make the other party aware of the alleged violation(s) within 10 working days of discovery of the alleged violation(s). At this point, the involved parties must meet within 10 working days and attempt to resolve the dispute (Union or contractor should notify the PSA Coordinator of Step I Grievances).
- If within 5 working days of a meeting, a resolution is not reached, either party can request, in writing, that a Step II Meeting be held. This should be done by completing the Standard Step II Grievance form (EXHIBIT E) and submitting it to the PSA Coordinator.
- Make sure to follow all established timelines and copy all parties on any written requests.

Step II

- Upon receiving a request for a Step II Meeting, the PSA Coordinator will arrange a meeting between all parties.
- Representatives from the involved local unions, the involved contractors and the PSA Coordinator shall meet within 7 working days after the date of the written request for a Step II Meeting was received.
- The PSA Coordinator then will attempt to mediate/facilitate a resolution at the Step II Meeting.
- If the parties fail to reach an agreement, the dispute may be appealed in writing within 7 calendar days after the initial Step II Meeting, under the provisions of Step III.
- Make sure that you follow all timelines and copy all parties of any written requests.

Step III

- If the grievance is not resolved at the Step II level, any of the involved parties may request in writing to the PSA Coordinator, within 7 calendar days, that the grievance be submitted to an arbitrator from the agreed upon list in the PSA.
- The decision of the arbitrator shall be final and binding to all parties, but will apply only to the PSA-covered work named in the original grievance.
- The fees and expenses of the arbitrator will be split equally among the involved union and the involved contractor.
- The arbitrator shall have the authority to make decisions only on issues presented and shall not have the authority to change, amend, add to or detract from any of the provisions of the PSA.

PROCEDURAL CONSIDERATIONS

- Failure of the grieving party to follow the established time limits may cause that party to lose its rights to file a grievance.
- The time limits established may only be extended by submitting in writing to the PSA Coordinator, by all parties, that they wish to extend the time for resolution of this matter. There must be a MUTUAL agreement between the involved parties for time limits to be extended.
- The PSA Coordinator will make every attempt to accommodate the schedules of those involved in the grievance, but will proceed with the grievance procedure regardless if one or more parties decides not to participate.
- The PSA grievance procedure outlined above applies to any alleged violation of the PSA except union jurisdictional disputes (refer to Section 7, Jurisdictional Disputes) and work stoppages or lockouts. The procedures for union jurisdictional disputes are outlined in the PSA, Article 8, Pages 28-29. The procedures for the unlikely event of a work stoppage or lockout are addressed in the PSA, Article 7, Pages 24-28.
- The only exception is that any employee discharged for violation of the PSA, Article 7, Section 7.2, or Article 8, Section 8.3, may use the grievance procedures to determine only if he/she was, in fact, engaged in that violation.

NOTICE

(PSA, Section 10.4, Page 35 paraphrased)

- The PSA Coordinator (and the District, in the case of any grievance regarding the Scope of the PSA), shall be notified by the involved contractor of all actions at Steps 2 and 3, and further, the PSA Coordinator shall, upon its own request, be permitted to participate fully as a party in all proceedings at such steps. The District highly recommends that all grieving parties involve the PSA Coordinator as soon as an alleged PSA grievance is discovered.

Things You Should Know

Jurisdictional Procedures Section 7

- A work assignment is the identification of the craft responsible for performing a task.
- The contractor determines work assignments and which craft and union to choose. These assignments must be made in accordance with the procedure in “The Plan”.
- The PSA Coordinator can assist in the proper procedures for making work assignments.
- Jurisdictional disputes arise when two or more unions claim the work the contractor has assigned.
- The PSA utilizes a jurisdictional dispute resolution procedure known as “The Plan”, which details how jurisdictional disputes are to be settled.
- The PSA Coordinator will work with Contractors and unions to prevent the occurrence of jurisdictional disputes and will assist in resolving any that may occur.
- There will be no work stoppages or slowdowns over jurisdictional disputes.

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PSA JURISDICTIONAL PROCEDURES

Article 8: Work Assignments and Jurisdictional Disputes

A jurisdictional dispute is when one or more unions have a disagreement about to which union(s) a contractor is assigning its work. The PSA utilizes a jurisdictional dispute resolution procedure known as the “Plan for the Settlement of Jurisdictional Disputes in the Construction Industry”, also known as “The Plan.” Both contractors and unions will need to adhere to “The Plan” when jurisdictional disputes arise. “The Plan” details procedures and regulations for making proper work assignments and outlines how jurisdictional disputes are to be settled among unions that are party to the LAUSD PSA.

The PSA Coordinator will work with contractors to prevent jurisdictional disputes from happening and assist in resolving them when they do occur. The PSA expressly prohibits any work disruptions by a union or contractor over a jurisdictional dispute.

If a contractor becomes involved in a jurisdictional dispute, the Contractor should advise the PSA Coordinator and provide it with all the pertinent facts in writing immediately.

The PSA Coordinator will assist you with the proper procedures for making work assignments and resolving jurisdictional disputes. These include researching International Agreements, Decisions of Record, local agreements between unions, along with local contractor and association practices. It is important to understand that the PSA Coordinator or LAUSD will never make the work assignment for a contractor.

It is important for the contractor to make work assignments prior to work beginning when possible (see Pre-Job Conferences in Contractor Roles and Responsibilities).

The following excerpts from the PSA explain the requirements for work assignments and jurisdictional disputes:

Assignment of Work. The assignment of work will be solely the responsibility of the contractor performing the work involved; and such work assignments will be in accordance with “The Plan” for the Settlement of Jurisdictional Disputes in the Construction Industry currently in effect, or any successor plan. (PSA, Section 8.1, Page 28)

“The Plan”. All jurisdictional disputes between or among Building and Construction Trades Unions party to this Agreement, shall be settled and adjusted according to “The Plan”, or any other plan or method of procedures that may be adopted in the future by the Building and Construction Trades Department. Decisions rendered shall be final, binding and conclusive on the contractors and Union parties to this Agreement. (PSA, Section 8.2, Page 28)

No Work Disruption Over Jurisdiction. All jurisdictional disputes shall be resolved without the occurrence of any strike, work stoppage, disruption, or slow down of any nature, and the contractor’s assignments shall be adhered to until the dispute is resolved. Individuals violating this section shall be subject to immediate discharge. (PSA, Section 8.3, Page 29)

Pre-Job Conferences. As provided in Article 16, each contractor will conduct a Pre-Job conference with the appropriate affected union(s) prior to commencing work. The Council and the Project Labor Coordinator shall be advised in advance of all such conferences and may participate if they wish. (PSA, Section 8.4, Page 29)

Resolution of Jurisdictional Disputes. If any actual or threatened strike, sympathy strike, work stoppage, slow down, picketing, hand-billing or otherwise advising the public that a labor dispute exists, or interference with the progress of Project Work by reason of a jurisdictional dispute or disputes occurs, the parties shall exhaust the expedited procedures set forth in “The Plan”, if such

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procedures are in “The Plan” then currently in effect, or otherwise as in Article 7 above. (PSA, Section 8.5, Page 29)