



# GRIEVANCE PROCEDURES TO ADDRESS FOA VIOLATIONS

## FACT SHEET 5

The importance of employers adopting procedures in which workers can file individual or collective grievances regarding any violations of their rights established in law, employment contracts, collective bargaining agreements, or workplace rules is well recognized internationally. The International Labor Organization (ILO) provides guidance on what should be included in a grievance procedure and how it should be implemented.<sup>1</sup> In this document, we focus on how to address grievances concerning freedom of association violations.

### Adopt and Communicate a Grievance Procedure

In addition to adopting a Freedom of Association (FOA) Policy and effectively communicating it to all workers and management personnel, employers should also adopt a grievance procedure as one means of making the FOA Policy effective in practice for resolving issues within the enterprise.

If an employer already has a grievance procedure in place as part of its standard policies and procedures, the grievance procedure should be updated to explicitly reference the right of workers to file anonymous complaints regarding any violations of the FOA Policy or other violations of their associational and collective bargaining rights that might arise in the workplace covered by the Policy.

All workers and management personnel should be made aware of the grievance procedure and the fact that workers can make anonymous complaints with the company's Human Resources Department, or with other designated senior management staff with the authority to

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<sup>1</sup> ILO Factsheet No 5, Grievance Handling, March 2018: [ilo.org/global/topics/collective-bargaining-labour-relations/publications/WCMS\\_622209/lang--en/index.htm](https://ilo.org/global/topics/collective-bargaining-labour-relations/publications/WCMS_622209/lang--en/index.htm).

ILO Recommendation 130, Examination of Grievances Recommendation, 1967 (No. 130): [ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:R130](https://ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:R130).

investigate and resolve grievances, if they believe they have been subjected to any violations of the FOA Policy or other associational and collective bargaining rights. Management personnel must also be made aware that the employer will not tolerate freedom of association violations, and that if such violations are verified, those responsible will face appropriate disciplinary measures, up to and including dismissal.

The grievance procedure should be accessible to both individual workers and groups of workers if they believe they have been subjected to the same violation(s).

The grievance procedure should guarantee confidentiality for the complainant(s), if they wish to remain anonymous, and a commitment on the part of senior management to investigate and resolve such complaints in a timely manner. Workers should be made aware that there will be no adverse consequences or retaliatory actions against any employee who files a complaint.

The employer should explore and determine which communications option or options are best suited for making the filing of complaints simple, accessible, trustworthy and effective, while protecting the complainants' anonymity. Examples might include a dedicated hotline or secure email address for registering a complaint. A complaint or suggestion box is not an acceptable option, since it could expose workers who use it to monitoring and retaliation.

When an initial CBA or revisions to that CBA are negotiated, the employer and the union with the legal right to negotiate may choose to seek agreement on a grievance procedure to be included in the collective bargaining agreement.

In cases where there are one or more unions that represent workers in the workplace, the employer should respect the right of workers to be represented by and/or accompanied by a representative of the union to which they are affiliated in communicating with management and attempting to resolve a grievance.

If workers are not satisfied with the proposed resolution to the grievance, they or their union may choose to file a formal complaint with the Federal Center for Conciliation and Labor Registration (Federal Center) or its local conciliation office, a judicial authority, or with one of the complaint channels of the USMCA. If so, the employer should refrain from taking any prejudicial action against the worker(s) who filed such a complaint, and should cooperate fully with any investigative or conciliation process resulting from the complaint and any remediation plan resulting from such an investigation or conciliation process.

*This fact sheet is part of the MSN's Resource Kit on Freedom of Association in Mexico available at: [maquilasolidarity.org/en/resources-foa-mexico](https://maquilasolidarity.org/en/resources-foa-mexico).*