

Making an Information Request: Use Wisely

Having enough information to make good decisions can make the difference between successful or failed grievances and negotiations.

Fortunately, Washington state law provides Stewards with two powerful tools for gathering information. While the Public Employees' Collective Bargaining Act is useful for requesting information pertinent to contract negotiations, the state Public Disclosure Act (PDA) can be used to find information that you suspect may be present, but aren't sure specifically what to request. The PDA is often under-used.

The Washington State Public Disclosure Act (RCW 42.17.010) creates an affirmative assumption that all documents created by the government are available to state residents unless those documents fall into a limited number of exceptions found under RCW 42.17.310 (excluding personnel information, investigatory files of police, etc.). The agency receiving the request must respond within five business days. However, the response can simply be "we're working on responding to your request."

IFPTE Local 17 has successfully used the PDA to defend members being disciplined for personal use of their work email or web access by requesting the emails and web browsing records of managers. The information provided proved that the accusing managers had also engaged in the same behavior. The PDA can also be used to request copies of policy and planning documents that management may not voluntarily share with the union.

The information request is a very powerful tool. Just the act of making the request sometimes is enough to get the desired results.

Caution: Use Wisely

There are two notes of caution when making a public disclosure request. First, remember to request that the documents be made available for your review **INSTEAD** of requesting copies of the documents. If you request copies, the agency will provide them to you at a cost of 15 cents per page. If you request that the documents be made available for review, the agency must provide you with an opportunity to review the documents yourself and decide which if any you really need copies of.

The second caution goes to the scope use. If you start requesting the email records of management without a purpose, you may find management doing the same thing to you and your fellow workers. Be careful not to

Sample Letter

Date, Director of Agency, Address

The following is a Public Disclosure Request pursuant to RCW 42.17.010. I am requesting that the following records be made available for inspection:

1) Copies of all email sent by account (manager@employee.gov) since 2-6-02 to date of receipt of this request which mention any of the following words: "union", "Smith", "discipline."

2) Copies of the web-browsing logs and cookies for computers assigned to manager@employer.gov since 2-6-02 to date of receipt of this request.

3) Copies of any documents generated by the department since 2-6-02 that mention the words/phrases "privatization", "contracting out", or "layoff."

Thank you for your time. I look forward to your prompt reply within 5 days as required by RCW 42.17.320.

open a process which results in members being disciplined for violating agency policies.

The Public Employees' Collective Bargaining Act (RCW 41.56) creates a "duty to bargain" in good faith that includes the duty to provide requested information. Shop Stewards can request information under this act to prepare for negotiations, grievances, or even to sift out whether a claim has enough merit to warrant pursuing a grievance. The Public Employment Relations Commission has articulated three standards which must be met by the requester of information:

- 1) Relevance (information pertaining to bargaining unit members is presumed relevant);
- 2) Need for the requested information; and
- 3) Request for use in a Collective Bargaining Context (Processing potential grievances, advising union members of their rights in a grievance situation, defending union members in disciplinary proceedings, and negotiating terms and conditions of work are all activities that occur in a Collective Bargaining Context). An additional standard is imposed upon the receiver of the information request: "The information provider must articulate and negotiate any concerns about responding to the request."

In other words, if the agency doesn't believe the request meets one of the three standards that must be met to request information, the agency has a duty to explain their concerns and initiate a dialogue. Failing to respond to an information request without an articulated concern is an Unfair Labor Practice subject to civil prosecution. — By Ray Goforth, Union Representative (reprint)