

Michigan Employment Relations Commission
NOTICE
Understanding A Union's
Duty of Fair Representation

The Union's Duty of Fair Representation is made up of three distinct responsibilities:

1. to serve the interests of all union members without hostility or discrimination toward any one member;
2. to exercise its discretion in complete good faith and honesty;
3. to avoid arbitrary conduct

These three distinct responsibilities were laid out in *Goolsby v. Detroit*, 419 Mich 651, 358 NW2d 856 (1984).

A union's failure to comply with *any one* of these responsibilities constitutes a breach of its duty of fair representation.

What does each of these three responsibilities mean?

1. To work for the union as a whole, but in the process, not discriminate against any one member.
2. The union has *considerable* discretion in all grievance situations, but must use its discretion in full good faith and honesty toward each union member.
3. The union's conduct must be well reasoned, exercised in good faith and nondiscriminatory.

Quoting *Lowe v Hotel & Restaurant Emp Union, Local 705*, 389 Mich 123, 205 NW2d 167 (1973),

[The union] must be faithful to each member, to be sure, but it must be faithful to all of the members at one and the same time. The union must be concerned for the common good of the entire membership. This is its first duty. The duty of concern for the good of the total membership may sometimes conflict with the needs, the desires, even the rights of an individual member. When the general good conflicts with the needs or desires of an individual member, the discretion of the union to choose the former is paramount.

The above quotation is key in understanding a union's duty of fair representation. **The union as a whole comes before any single union member, even at the price of the member's interest.** As stated by the Michigan Supreme Court in *Lowe*, because a union owes a duty of fair representation toward the entire membership when processing grievances, "the union is vested with discretion which permits it to weigh the burden upon contractual grievance machinery, the amount at stake, the likelihood of success, the cost, even the desirability of winning the award, against those considerations which affect the membership as a whole." Therefore, an individual member *does not* have the right to demand that his or her grievance be pressed on, and the union *does not* have the duty to carry each grievance to the highest level. While keeping in mind the duty of fair representation, the union ultimately has full discretion as what to do with each member's grievance.