



Duty of Fair Representation

“In exchange for exclusive representational right the union obligated to do a faith, non-arbitrary investigation of the issues that are brought forward. “

- The Dills Act

WHAT IS THE DUTY OF FAIR REPRESENTATION?

In the private sector, the Duty of Fair Representation (DFR) is not created by statute. Rather, it is a judicially-created, federal common-law doctrine that has been incorporated into labor law.

For state public employees, however, the duty may also be created by statute, often as part of a state's Public Employment Relations Board (PERB). The duty is intended to ensure fair treatment to all employees in a bargaining unit who are represented by an exclusive bargaining agent. It seeks to guarantee that unions and employers are sensitive to individual rights and interests of those not in the majority. Federal courts and the National Labor Relations Board (NLRB) have concurrent jurisdiction over DFR actions. The legal issue in a DFR suit is whether the union's acts or omissions are "arbitrary, discriminatory or in bad faith." (Rachel Levinson, AAUP Staff Counsel, July 2007)

- Duty of Fair Representation means that the union is obligated to do a good faith, non-arbitrary investigation of the issues that are brought forward.
- Decisions on whether or not to arbitrate a grievance, pursue a hearing or submit an appeal cannot be made on the basis of a person's union membership or any protected status.
- Always find out what the issues are. Consult with union staff and make sure you have all the facts before deciding on the merits of any matter.