

In Pursuit of Fairness and Competitiveness

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**“I wish this facility was Non-Union we could
make things happen!”**

“It is the Union we can't change anything.”

“What can we do, it's a Past Practice?”

**“When is management going to start to do
their Job?”**

In Pursuit of Fairness and Competitiveness

This paper outlines a protocol to:

- **Make changes in any Organization:
Union, Non-Union or Salaried**
- **Ensure Fairness**
- **Reduce Arbitration Cost**

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- The protocol presented is based on the Book – “Just Cause -The Seven Test”.
- The Seven Test in the order that they are presented in the book and this paper are a little out of order contemplating a future change.
- The order is perfect if you are looking back to see if you have a good case going to arbitration or court. Unfortunately this is when they are used most frequently.

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Assignment:

Think of the most difficult change you desire to make in your organization.

As we go through this presentation reorder the test into the steps you will take to proactively make a change in your organization.

At the end of the presentation, we will call on several from the group to share their change plan.

The Seven Tests

Was Notice Given?

What is the Business Case?

Was there an Investigation?

Was the Investigation Fair?

Is there Sufficient Proof to Take Action?

Has Treatment of Employees been equal?

Is the Corrective Action Reasonable?

Was Notice Given?

Types of Notice:

Should have knowns

Oral

Written

Instructions/Training

Progressive Discipline

Discussions with the Union

What is the Business Case?

Types of Business Cases:

- **Safety**
- **Economic**
- **Work Life Benefit**

Was there an Investigation?

**Did you talk with the employee
before you took action?**

Was the Investigation Fair?

- Was the investigation a fact finding investigation, looking for the Root Cause?
- Was the employee given the opportunity for representation?
- Was the person giving evidence, making the charge, and making the decision the same person? (Police, Judge, Jury, Prosecutor and Executioner as the same person does not seem fair)
- It appears more fair that the decision maker is a cool third party.

Was There Sufficient Proof to Warrant Corrective Action?

Evidence:

Employers word

Circumstantial Evidence

Other Employees statements

Employees can be compelled to testify

Burden- If a reasonable person would believe there is sufficient proof

No beyond a reasonable doubt test

Has the Treatment of Employees been Equal?

Neither too rigid nor capricious is equal treatment

Fair treatment takes into account :

- Employee's Record and Service
- Seriousness of the Offense
- Mitigating Circumstances
- Past Actions

Document action or reason for lack of action

Is the Corrective Action Reasonable?

- The corrective action is to motivate change not to be punitive.
- It should show resolve for change
- It is a form of notice.

In Conclusion

You can rest assured you treated employees fairly if:

If you have proactively answered yes to all seven tests.

In an environment where employees feel they are treated fairly, there is higher morale, desire for success and willingness to change.

Assignment Review

1. **Build the Business Case - economic, long-term security, work life benefit, safety. Tie-in the benefit to the majority of employees.**
2. **Notice – over communicate, with the Union, with the rank and file, with supervision, and with First Line Supervision especially. State the consequences of not making the change.**
3. **Investigate - Look for root causes, investigate systems, processes, equipment, training and then the people.**
4. **Hold a fair investigation.**
5. **Restate the evidence that would lead you to believe action is warranted.**
6. **Take action even handily. Do not single out an individual to be made an example of.**
7. **Action is to motivate change, not to be punitive.**

Assignment Review

Volunteers – to review their plans for change.

What brave soul cares to go first?

**Questions?
Comments?**

Credits

“Just Cause- The Seven Test” by Adolph Koven and Susan Smith. (Can be purchased through the Bureau of National Affairs. Contact at BNA.com)

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