

Scenario #1

Nathan has been a grocery clerk for Universal Grocery for twelve years. Universal has a contract with a checker testing firm which periodically observes and critiques checkers. On June 1, one of the checker testing firm's employees picked up a can of mushrooms (\$2.79) and looked for a substantial checkout line. She then pushed her way to the front of that line, as politely as possible, apologized to Nathan, told him that she had a pot of spaghetti sauce on the stove and couldn't wait, and put down a \$5 bill and left. That was a common pattern of the checker testing firm, applying Universal Grocery's rule that "Any money put down while a checker is involved in servicing one customer must be deposited in the till and recorded immediately after that customer leaves." That rule falls under "Dischargeable offenses" and it is included in the Read-&-Sign sheets handed out to every checker at least twice a year.

The testers, as usual, gave the store the time and amount of the transaction, but when Nathan's tape was checked there was no sign of a \$5 entry at the time in question. The Store Manager was informed of that result just as they were leaving for a two-week vacation. They left Nathan's interview for the Asst. Manager to deal with, but the Asst. Manager did not get that message, and the Manager's absence actually turned out to be just over a month.

In the interview, promptly after the Manager's return, Nathan said they had no idea what the Manager was talking about, and Nathan was discharged. The Union grieved.

Did Universal have just cause to discharge Nathan?

Scenario #2

Grievant is a Clerk for the County Court. She has been a Clerk for six years and has no prior discipline. Her job is to enter hard copies of traffic citations into the court's electronic records system. The information on the ticket is available to the public on the court's website the day after it is entered.

The Grievant entered a citation that she realized was for a co-worker's son. She immediately texted the mother of the son and told her that her son was ticketed for speeding. The co-worker liked to brag about her son. The Grievant and the co-worker were not friends.

The co-worker no longer worked for the court and was very upset about receiving this information. She called the Grievant's supervisor and reported the text and that the co-worker believed it violated her son's privacy.

The Grievant was called into her supervisor's office and asked three times whether the Grievant had contacted anyone about a citation. The Grievant denied all three inquiries. When asked if the Grievant had "reached out to anyone" about a citation, the Grievant acknowledged she had sent a text to a co-worker. The Grievant added: "I guess I should not have done that" and then said she did not think the co-worker would complain.

The Grievant was discharged for violation of the code of ethics as her actions showed "favoritism toward family and friends" which is prohibited:

Safeguard confidential information, both written and oral, unless disclosure is authorized by the court, refusing ever to use such information for personal advantage, and abstain at all times from public comment about pending court proceedings, except for strictly procedural matters.

Did the Employer have just cause to discharge the Grievant?

Scenario #3

The Employer administers two medical centers: the Northside Medical Center and the Southside Medical Center in a metropolitan area. The Grievant is a Medication Auditor Technician (MAT) in the pharmacy department of the Northside Medical Center.

The Union was approached by the Employer in 2017 with their idea to create a new position that would provide support for medication reconciliation. The MAT position was created. Negotiations between the Employer and the Union resulted in a Letter of Understanding (LOU). The LOU language at issue in the case at hand is regarding coverage for vacancies because of call outs or vacations:

Coverage for call outs/vacations will first be filled by seniority with trained Pharmacy Technician staff who are working in the Medication Auditor role within the inpatient pharmacy where the vacancy occurred. If no such staff is available to work[,] the vacancy will be offered by seniority to the Medication Auditor Technician in the other inpatient pharmacy.

In 2021 the MATs were understaffed. MATs would bid to fill vacancies in the schedule by seniority and were paid overtime. The Grievant became aware in November 2022, that her counterpart MAT at Southside Medical Center would be on vacation four days in December. The Grievant approached her supervisor and said she was thinking about filling in on overtime for at least two extra shifts and asked: “is that still allowed?”. Her supervisor responded to the Grievant that as the MAT program was currently in a good place (well-staffed) they would “hold off on overtime shifts”. The Employer denied the Grievant’s request for overtime to fill two vacant shifts and the vacant shifts were not filled. The Union filed a Grievance.

The Union argues that the language in the LOU is unambiguous and requires the Employer to cover or automatically backfill call out or vacation vacancies.

The Employer argues that the LOU language is unambiguous and does not require the Employer to cover or automatically backfill vacancies.

Did the Employer violate the LOU when they denied the Grievant overtime to work two vacant shifts?

Scenario #4

Alice has worked for the Unemployment Department for about two years. The Department has a work rule that “All material in Departmental files is confidential and may not be released without specific authorization.” That rule is frequently discussed in weekly employee meetings.

While working up an application, Alice discovered that the applicant was the subject of a current felony arrest warrant in California. Alice was appalled that State funds would be paid to a California felon. The Department shared its office building with an office of the State Patrol, and Alice discussed the problem with the Patrol. When the applicant came in for his appointment, Alice went through the door connecting the two offices and informed the Patrol that he was in the building. As the applicant left, he was arrested on the California warrant. Alice was discharged the next day, and the Union grieved. The Union also publicized Alice’s treatment by the Department, and newspapers throughout the state picked up the story. So did the State legislature, which happened to be in session.

By the time the case came before the arbitrator, Alice’s discipline had been reduced to a 60-day disciplinary suspension.

Did the Department have just cause to discipline Alice?

Scenario #5

Sam has been a records technician in a large hospital for eight years and has no prior discipline. A small child was brought into the Emergency Department (ED) with injuries which were unlikely to have been caused by accident. Two mothers came with the child, its stepmother, and its birth mother, who still had visitation rights. The injuries were so severe and so suspicious that the ED called Children's Services, and Children's Services called the local police. An officer responded promptly and talked to both mothers and to the ED doc.

The hospital records system has several "flags," including "DS"—drug-Seeker—for patients who repeatedly try to get drug prescriptions through the ED. Sam was on duty in the ED, looked at the birth mother's records, and found what they thought was a DS flag. Sam got the responding officer's attention and shared that information.

Hospital records are covered by HIPPA confidentiality rules, and those rules are commonly discussed in monthly employee meetings. The hospital's own formal rule says, "All patient records are confidential and shall be disclosed only through a formal request to the Records Department which will safeguard our HIPPA compliance."

Sam's disclosure of what they thought the birth mother's record showed came to the hospital's attention, and Sam was discharged. The Union grieved.

Was there just cause for the discharge?

Scenario #6

The Grievant is a Parts Assistant in a County Central Shop. Her duties include recording stock items, checking inventory and occasionally getting parts. She previously held the positions of Land Fill Transfer Station Attendant and seasonal flagger with the Traffic Control section of Public Works.

The Grievant bid for a promotional opportunity to a Traffic Control Specialist 1 (TCS 1). As a seasonal flagger the Grievant had performed duties that constituted much of what a Traffic Control Specialist 1 or 2 would do, including the expectation of working on the striper vehicle during striping season. The Collective Bargaining Agreement provides how vacancies shall be filled:

Employer shall fill such position with the applicant who has the most superior qualifications, training and experience sufficient to meet the minimum qualifications for the position. When qualifications, training and experience are equal between any two or more qualified applicants, the Employer shall fill the position with the unit employee possessing the most seniority.

The Grievant was not awarded the position. She asked her supervisor why she did not get the position. She was told that she and the person awarded the position were equally qualified, so the most senior applicant was awarded the position.

A year later another vacant TCS 1 position was posted. The Grievant applied and again was not awarded the position. The position was awarded to an applicant who was less senior than the Grievant and had a Commercial Drivers' License (CDL). A CDL is not a skill or certification required in the TCS 1 job description. The Union filed a Grievance.

Did the Employer violate the Collective Bargaining Agreement when they awarded the TCS 1 position to a less senior applicant than the Grievant?

Scenario #7

Margey has worked for the Highway Department as a survey assistant for three years. She had been the junior member of a three-person survey team for three days, holding the object pole at a fixed location as the other surveyors determined distance and bearing from various points. The equipment she dealt with was highly technical and cost about \$20,000. On all three days, at lunch and at the end of the day each team member had folded up their equipment and locked it in the truck.

On the fourth day, the ranking member of the team had to temporarily switch to a different project, and he told Margay and her co-worker to finish up the small amount of work remaining just as they had been doing when he was around. At lunch time, the truck had been parked over a hundred yards away, and Margay's co-worker folded up their equipment but seemed to be leaving it by the side of the road. Margay asked him if they shouldn't put the gear into the truck, but he just walked off toward a closer fast-food outlet. Margay then packed up her equipment in its bright yellow plastic cases and followed him, leaving the equipment beside the road. When they got back from lunch all the equipment was gone. The County has a rule requiring every employee to "take care of all County equipment you are entrusted with," and it gave Margay (and her co-worker) a three-month disciplinary demotion. The Union grieved.

Was Margey's discipline for just cause?

Scenario #8

The Grievant is a nine- year police officer in a large city and has no prior discipline. He is married with two young children. The police chief was called by an anonymous citizen who complained that an officer appeared in an online sex video while wearing his uniform shirt.

After an investigation it was discovered that the officer in question had responded to an ad on “Back Page”, a site where escorts advertise, and sex is solicited. In the ad, a woman said she was searching for a man who would wear a police uniform and have sex with her on camera. She openly advertised it as a “revenge video”. No money was offered.

The Grievant appeared in the fifteen-minute video with his badge clearly visible. The city has a clearly communicated policy that states that employees must never engage in an activity on or off duty that “brings disrepute to the department or the city”. The Grievant was discharged after he admitted his role in the video.

Did the police department have just cause to discharge the Grievant?

Scenario #9

The Grievant is a Road Specialist II (RS II) on a county road crew in Eastern Washington and has no prior discipline. She was assigned to a three person swing shift crew during the snow season to sweep streets after sanding and snow removal. The supervisor assigned the crew their duties at the end of his day. The crew would work independently for their shift. The crew was assigned to move a Front-End Loader (Loader) from one gravel pit to another. The Grievant volunteered to move the Loader.

The way to move up from one classification to another is through informal on-the-job training or self-training and seniority. A Loader is normally operated by employees within the next higher classification of Road Specialist III (RS III). The Grievant wanted to learn how to operate a Loader so she got on one at the job site and operated it. When the Grievant was comfortable with operating the Loader, her supervisor allowed the Grievant to move it from one job site to another. One week prior to the incident in question the Grievant moved a Loader from one work location to another on the four-lane freeway Interstate 90 (I-90).

On the day in question, the Grievant moved the loader on I-90 with an operating flasher on top. She hugged the fog line and traveled at a speed of about 23 miles per hour. She saw a semi-truck approaching her from the rear, so she moved over to the shoulder. The truck did not stop or move to the passing lane and struck the Grievant from the rear. A State Trooper and the Grievant's supervisor reported to the accident. The Grievant told her supervisor she had taken I-90 because it seemed like a safer and smoother route than a windy, bumpy county road. No one received a citation for the accident. There was only minor damage to the Loader.

Without further investigation, the Grievant was suspended for three days for being negligent when she moved the Loader without a pilot car on I-90 rather than a two-lane county road with a lower speed limit and placing herself and other motorists in jeopardy.

Did the Employer have just cause to suspend the Grievant for three days?