



MANAGING AT SWCCD: PAST PRACTICE

A bona fide past practice is any long-standing, frequent practice that is accepted and known about by the union and management. A practice that meets the standards of being a bone fide past practice is considered to be part of the contract.

CHARACTERISTICS OF BINDING PAST PRACTICES

- **Clarity and Consistency:** The course of conduct must be clearly defined. It must also be viewed as the invariable response given a specific set of conditions.
- **Acceptability:** Responsible supervisors and employees alike must have knowledge of the practice and accept it as the correct and customary means of dealing with the situation. It is not, for example, something done when only in the presence of lax supervision or in ignorance of management.
- **Unchanged Underlying Circumstances:** A practice which is established solely as a result of a particular set of underlying circumstances is no broader than those circumstances. It cannot be generalized to other situations nor is it immune from repeal should the underlying conditions be changed. Hourly rest breaks given steel plant crane operators solely on the basis of high temperature in the crane cabs were, in one case, lost once the cabs were air conditioned.
- **Mutuality:** It cannot be the product of a discretionary act specifically reserved to management by the agreement or established as such by the parties through their conduct. It must instead be a product of their joint understanding as a condition of employment.
- **Longevity/Repetition:** There is no absolute standard as to how long a practice must exist or how frequently it must be indulged in, in order to be considered valid. If there are no contrary examples, and the situation in question is rare, a single instance may constitute a valid practice. Repetition and longevity will, of course, more firmly establish a practice.