



ESC LOCAL 20 IFPTE

STEWARDS' MANUAL

A Guide for Local Union Stewards
Produced by:

The International Federation of Professional
And Technical Engineers
AFL-CIO,CLC

INTRODUCTION

STEWARDS

Trust! Your fellow union members have placed it in your hands. Whether you have been elected or appointed, they are now counting on you to represent them. They trust you to carry their concerns to the union leadership and to your employer. This responsibility must not be taken lightly. Your members expect you to be on their side even if the going gets tough. You are their Steward.

A strong Steward system is the foundation of an effective Local Union. It is a personal communications network in the work area through which the Local Union's collective activities are coordinated. The Steward's ability to achieve the members' goals is directly related to the Steward's ability to provide a communications link between the members and union officers.

This manual has been created to educate Stewards about union members' rights and how to protect them. It is a tool which we hope will become more useful, the more you use it. Being a Steward is hard work, but it is work you should be proud to do. You are part of the IFTPE family and a voice for the members of your Local Union. Congratulations and good luck.

Gregory J Junemann
President

Paul Shearon
Secretary-Treasurer

IFPTE Stewards' Manual

Table of Contents

Chapter 1 – Role of the Steward	1
Interpreter	
Fact Finder	
Problem Solver	
Team Leader	
Educator	
Chapter 2 – What a Steward Should Know	2
Stewards Role	
Stewards Legal Rights	
Duty of Fair Representation	
Worker's Right to Union Representation (<i>Weingarten</i>)	
Employers Policies	
The Law	
Chapter 3 – Problems and Grievances	10
Solving Problems on the Job	
Just the Facts	
What Kind of Problem is It?	
Using your Grievance Procedure	
Advantages and Limitations of the Grievance Procedure	
Types of Grievances	
Help Analyze Grievances	
Just Cause	
Past Practice	
Progressive Discipline	
Equal Treatment	
Group Grievances, Policy Grievances and Union Grievances	
Writing a Grievance	
Meeting with Management	
Chapter 4 – The Union's Right to Information	26
Preparing an Information Request	
Information Unions Can Request	
Requesting Information for . . .	
Disciplinary Grievances	
Contract Interpretation Grievances	
Promotion Grievances	
Past Practice Grievances	
Health and Safety Grievances	
Employer Defense	
Providing the Employer with Information	

Chapter 5 – Know the Labor Laws 30

- National Labor Relations Act
- Labor-Management Reporting and Disclosure Act
- Railway Labor Act
- Federal Civil Service Reform Act
- Postal Reorganization Act
- City, County and State Collective Bargaining Laws
- Labor Standards Laws
 - Fair Labor Standards Act
- Prevailing Wage Laws
 - The Davis-Bacon Act
 - The Service Contract Act
 - The Walsh-Healey Public Contracts Act
- Civil Rights Laws
 - The Equal Pay Act
 - The Civil Rights Act
 - The Age Discrimination in Employment Act
 - The Vocational Rehabilitation Act
 - Veterans and Military Reservists
 - Immigrants
- Wage Collection Laws
- Unemployment Insurance
- Worker's Compensation
- Safety and Health Laws
- Pension Laws
- Federal Election Campaign Act
- Privacy Acts

Chapter 6 – The Stewards Role in Building the Union 38

- The Steward's Role
- How do We Get Members Involved?
- Recruiting Volunteers and Keeping Them Active
- Increasing Attendance at Union Meetings
- Political Action
- Community Service

Chapter 7 – Commonly Asked Questions 43

- The Union
- NLRB and Steward's Role
- Grievance Matters
- Union's Right to Information

Chapter 8 – Glossary – Collective Bargaining Terms 52

Appendix..... 64

- Sample Grievance Form
- Sample of Steward's Notebook

Chapter 1

Role of the Steward

A steward is:



Interpreter

When members have a problem they should bring them to their steward. The steward will help the member interpret the contract or employer policy to sort the member's problem.



Fact Finder

Stewards act as a link between the members, the union officers and management in communicating factual information about the work place. These facts are not limited to grievance activities; they can involve any number of employee issues.



Problem Solver

A steward solves problems before they happen, whenever possible. When conflicts do occur, the steward works with the parties to develop a solution that is equitable to the parties concerned.



Team Leader

Stewards are an essential part of the union team. As the first point of contact for the membership, stewards play a key role in the workplace by standing up for member's rights on the job. Stewards should lead by example and help to build an active and unified membership by encouraging the members to participate in the union.



Educator

Stewards are educators charged with helping the members understand how to use and interpret the contract, participate in the union, and learn about broader issues that affect them and their communities.

Chapter 2

What a Steward Should Know



aterial the Steward must have.

Like most active members of our community, stewards have to juggle many responsibilities—work, family, union, and more. It is essential that stewards take extra care to be organized. By maintaining the following information stewards can better handle their union responsibilities.

- ✓ Names, titles, job descriptions, seniority lists, work schedules and phone numbers of the members they represent.
- ✓ A diary or log of their activities, observances, and information relevant to union representation.
- ✓ Grievance forms and a copy of all grievances they have filed along with the disposition.
- ✓ The Contract, Union Constitution and By-Laws.
- ✓ Employer policies and personnel manuals.
- ✓ Materials to use in signing up new members.

Steward's Role

Steward as a co-worker

A steward is a co-worker, not a business manager or hired gun of the local, but a worker just like everyone else. The steward, however, has decided to take on some added responsibility in the workplace by agreeing to help monitor the contract. For this reason the steward is the worker's most credible representative.

By being on the job and making frequent visits around their area of responsibility, the stewards will be able to keep their finger on the pulse of the workplace. Workers will get to know you so you can gain their confidence to work with you. This will allow stewards to dispel rumors and intervene in problems before they go too far, and will signal to the employer that stewards know what is going on.

If it's possible where you work, try scheduling a meeting at the lunch break on the same day each week or each month to have a brief discussion of union activities with the members in your area.



All Stewards should keep a diary.

This is a running log of what is going on in your area of representation. This will help the steward document member and non-member concerns, health and safety conditions, and situations that could lead to potential grievances. The steward should keep your Local President informed of all changes in the worksite operations and any potential problems they may cause.

The stewards of a local or chapter should meet on a regular basis to be briefed by the local officers on labor relations developments and to brief local officers about member concerns. This should also be an opportunity for stewards to compare notes. Stewards may have monthly meetings for this purpose.

Steward as a listener.

Listening is a skill and all stewards must be good listeners. Stop talking - you can't listen while you are talking. Ask questions when you don't understand, when you need further clarification and avoid jumping to assumptions and hasty judgments. Listen to the member's problems, write them down, read them back and listen to them again, even if you know the answer. By putting these questions in your diary, the stewards committee may find out what the most frequently asked questions are.

Steward as contract interpreter.

The steward should be very familiar with their contract - it is the law of the workplace. Keep it close at hand. When answering a question about the agreement you must look at all the relevant clauses, their relation to other clauses in the contract and their relation to the contract as a whole. The contract is only as strong as the union members and leaders who enforce it. A good steward should not feel bad about not knowing the answer to a member's question. He/she should be comfortable saying "I don't know, but I will get back to you with an answer." The steward should then seek the advice of another more knowledgeable steward, or one of the local union leaders.

Steward as an organizer

The steward can help grow the union by getting acquainted with new workers and informing them about the union and its activities. He/she can help new workers feel at ease by letting them know you are available to help them with problems that may arise. The steward should try to build interest in the union and invite the new workers to join the Union.



HELPFUL HINTS

Before you give a reaction or an opinion, listen carefully and ask plenty of questions.

For instance: “What’s an example of that?” or “Why do you think that happened?” or “What do you think should be done now?” Questions like that will help you understand the member’s concerns better, and will show them that you value their views and opinions.

Show you understand what the member is saying.

You may not be able to do exactly what the member wants done, but it will help to start by showing some interest. For example: “I can see how you feel about that. So let’s try to figure out whether anything can be done” or “I agree with you that the supervisor could have handled it better. That’s something we could talk to management about. But I don’t want to promise that we have grounds for filing a grievance until we look into it more.”

Give members an opportunity to make clear what they want you to know.

Many people are reluctant to admit they don’t know something. Try questions like, “Is there anything else about this that isn’t clear to you?” or “What else would you like to know?”

If you don’t know the answer to a question, don’t guess.

Promise to check and get back to the member, or have her or him go with you to ask someone who knows. Make sure you follow up on whatever you promise.

STEWARDS LEGAL RIGHTS



This section describes legal rights for private sector workers in the United States. Similar rights may apply to public sector workers in Canada. Check with your union leadership.

Legal Protection for Stewards

While performing union duties, a steward has the legal right to be treated as an equal by management. Conduct which could otherwise result in discipline *must* be tolerated.

The equality principle allows stewards to raise their voices, gesture, use forceful expressions, threaten legal action, or raise the specter of on the job protests. Aggressive advocacy may not always be successful, or even appropriate, but it is not something for which a steward can be punished.

Even when it applies, the equality principle does not provide 100% equality. Employers can discipline stewards for conduct which is “outrageous” or “indefensible”. This includes extreme unprovoked profanity, racial epithets, physical threats, or striking a supervisor. Stewards can also be disciplined for disobeying reasonable directions, violating work rules, encouraging slowdowns, or taking part in illegal strikes.

Under the National Labor Relations Act (NLRA), union stewards (and other union representatives) cannot be punished or threatened with discipline, demotion or discriminated against because of their union activity, such as filing grievances or speaking out on behalf of other workers. Among other things, an employer may not:

- ⇒ Order a steward to perform extra or more difficult work.
- ⇒ Deny a steward pay opportunities or promotions.
- ⇒ Isolate a steward from other workers.
- ⇒ Deprive the steward overtime.
- ⇒ Enforce rules more strictly against a steward.
- ⇒ Supervise a steward more closely than other employees.

Duty of Fair Representation



The union and its representatives have a legal obligation to represent all workers in the unit fairly, regardless of their membership status, race, religion, nationality, age, or gender. And, it must represent them fairly, without *discrimination*, *arbitrariness*, *hostility* or *dishonesty*. These four words were at the heart of what the Courts have termed the “*duty of fair representation*”. When any one of them is present, the Union is potentially subject to legal difficulties.

A worker who believes that the union has not met its “duty of fair representation” may file “unfair labor practice” charges with the National Labor Relations Board.

Therefore, stewards must be sure to do their best to handle each problem fairly, **even if the worker is not a union member**, has unpopular beliefs, or has personality conflicts with the steward or other union leaders.

This doesn’t mean the union can be found guilty of unfair labor practices simply for declining to take a case or losing a case. It does mean that each steward must . . .

- ⇒ Conduct a full, fair, and unbiased investigation and document it before deciding whether to pursue a grievance.
- ⇒ Act in good faith to process meritorious grievances.
- ⇒ Handle each case based on the facts and not on who the worker happens to be.

Worker’s Right to Union Representation (*Weingarten*)

Stewards work hard to prevent management officials from intimidating workers. This is especially important when supervisors conduct closed-door meetings to try to get employees to admit wrongdoing.

The right to have a steward or other union representative present in such meetings was established by the U.S. Supreme Court (*NLRB vs J. Weingarten, Inc.*, 420 U.S. 251) in a case known as *Weingarten*.

According to the Supreme Court, a worker is entitled to have a union representative present when a supervisor asks for information which could be used as a basis for discipline.

Under the Supreme Court’s *Weingarten* decision, when an investigatory interview occurs, the following rules apply:

RULE 1: ***The employee must make a clear request*** for union representation before or during the interview. The employee cannot be punished for making this request.

RULE 2: After the employee makes the request, the employer must choose from among ***three options***. The employer must either:

- a. ***Grant the request*** and delay questioning until the union representative arrives and has a chance to consult privately with the employee; or
- b. ***Deny the request*** and end the interview immediately; or
- c. Give the employee a choice of:
 1. having the interview without representation; or
 2. ending the interview.

RULE 3: If the employer denies a request for union representation, and continues to ask questions, it commits an ***unfair labor practice*** and the employee has a ***right to refuse*** to answer. The employer may not discipline the employee for such a refusal.

Similar rights exist for public employees, but the rules vary from state-to-state, so check with your Local Union.

SPEAK UP. The worker must ask for union representation before or during the interview. *Management has no obligation to tell workers they have the right to Union representation, unless the collective bargaining agreement requires such notice.*

Steward should inform all workers:

“If you are ever called in by management and asked questions you think might lead to discipline, ask for a union representative. You have a legal right to request your union steward or other union representative present.”

Once a worker asks for a union representative to be present, any attempt by management to continue to ask questions is illegal until the steward arrives.

The Steward’s Role in These Meetings . . .

The Supreme Court established the following procedures for a steward’s right to *assist and counsel* workers during the interview:

1. **Before the meeting takes place, management must inform the steward of the subject matter of the interview, i.e., the type of misconduct for which discipline is being considered (theft, lateness, drugs, etc.). If this**

information is not provided, ask management the purpose of the meeting.

2. **Before having the meeting with management, the steward must be allowed to meet privately with the worker.** Give the worker the following advice:
 - Anticipate questions that may be asked.
 - Watch what you say. It may be used against you.
 - Don't volunteer any extra information and keep answers short.
 - Keep calm during the meeting.
 - You are not alone! You're union is there to help you.
3. **Take good notes on who says what.** Keep them in a notebook for reference if the case goes to another step.
4. **Stop the supervisor from harassing or abusing the worker.** You have the right to ask the supervisor to clarify questions so the worker can understand what is being asked. You also have the right to give the worker advice on how to answer questions, and provide additional information to the supervisor after the meeting ends.

The steward has the right to speak during the interview. The steward does not have the right to bargain over the purpose of the interview.

However, under the *Weingarten* rules, stewards do not have the right to tell workers not to answer questions or to give answers that are untrue. If workers refuse to answer questions, they can be disciplined.

5. **Recess the meeting for a few minutes if you need to talk privately with the member.** You may also need to ask that the meeting be continued at another time. For example, if new information is presented that requires more investigation or preparation; you may want to ask for a continuance.



EMPLOYER POLICIES

All stewards must be familiar with employer policies. Most employers' policies are not covered in the written contract but none the less are considered work place rules. The policies should be uniformly applied to all the employees; it cannot discriminate between employees.

Example: The employer may have either a grooming or dress policy which employees must follow. Reasonable changes to those policies may or may not need to be discussed with the union. However, major changes must be brought to and discussed with the union.



THE LAW

Today many workers, even union members, work under ever expanding Federal and State laws that have an impact in the workplace. Unfortunately, the laws that were designed to protect workers are being ignored by an increasing number of employers. A synopsis of these laws is covered in Chapter 5.

HELPING YOUR LOCAL BUILD AN ACTIVE AND INFORMED MEMBERSHIP

The Steward's Role

Stewards play an important role in helping the Local Union get members involved.

- ❖ Membership involvement is the key to our power as a union.
- ❖ Finding solutions to on-the-job problems often depends as much on the amount of unity the membership shows as on the arguments we put forward.
- ❖ Winning better contracts or legislation depends largely on how organized and unified we appear to management or to public officials.

Chapter 3

Problems and Grievances



OLVING PROBLEMS ON THE JOB



When a member comes to you with a problem, get all the facts before seeking a solution. Problems have the potential for becoming grievances and therefore the procedure you use in problem solving should be identical to grievance handling.

Interview the Member

- ✓ **Listen well and let the member express his or her feelings about what has happened.** Ask questions to get all the facts and understand the situation. Don't interrupt with comments that may discourage the member from giving the full story.
- ✓ **Repeat what you have learned back to the member.** Ask them to stop you if you have gotten something wrong.
- ✓ **Listen to how something is said** – we frequently concentrate so hard on what is said that we miss the importance of the emotional reactions and attitudes related to what is said. Attitudes and emotional reactions may be more important.
- ✓ **Stewards should always strive to settle problems at the lowest possible level.**
- ✓ **Ask the member (and other members affected by the same problem) to help you get the facts you need and come up with proposed solutions.** You'll do a better job with their help, and they'll become more involved in the union.
- ✓ **Avoid hasty judgments** – wait until all the facts are in (or at least most of them) before making any judgments.
- ✓ **Recognize your own prejudices** – try to be aware of your own feelings toward the speaker, subject, occasion, and allow for these pre-judgments.



JUST THE FACTS

Get ALL the Facts and Analyze the Situation. Separate the facts from opinions and allegations.

Use the six W's

- **Who** is involved?
- **What** is the problem, and what do we want done about it?
- **When** did or does the problem occur? Did it happen recently enough to fall within any time limits in your grievance procedure? Be specific: time, date, shift, and week; is it an ongoing problem?
- **Where** does the problem occur? (In the parking lot, in one work group, on one shift?)
- **Why** does the problem occur?
- **Witnesses?**



What Kind of Problem is It?

- Contract violation?
- Violation of federal, state, provincial, or local laws or regulations?
- In conflict with employers work rules, personnel manual, civil service regulations, or other policies?
- Violation of past practices (a practice that the employer and union have accepted over an extended period of time)?
- Violation of fair treatment (treating one worker by different standards or rules than other workers)?

If the answer to one or more of these is “yes”, you have a grievance and you should use that information to seek a solution. Even if a worker’s problem does not fit into any of those categories, you should still try to help find a solution.

WHAT ARE POSSIBLE SOLUTIONS

If management would agree to any solution workers wanted, what would it be? Discuss this with the affected workers, other stewards, and, if needed, with the business agent or Local Union officers.

Consider all possible solutions, and weigh the pros and cons of each. For example, would a particular solution cause new problems for other workers? Is the solution embarrassing to managers? Many managers’ ego will not allow them to admit they have made a mistake if they think it will make them look weak to their peer group. That is why a good working relationship with line managers will often help the steward solve problems before they become grievances.

Decide on a Course of Action

1. Informal meeting with management.

Many on-the job problems are solved this way. Lay out the problem clearly and offer a reasonable solution. Listen carefully to management’s response for possible areas of agreement.

2. Communicate and educate.

If appropriate, make sure other members know about the problem, the union’s proposed solution, and management’s position. See what ideas they have. This process will prepare you for further action, if needed. Sometimes, the mere fact that you are talking with other members about a problem will convince management to agree to a solution.

3. File a grievance.

If the employer has committed an offense, such as a violation of the contract or past practice, and is unwilling to resolve it, a grievance may be necessary.






<p>If a problem or grievance is resolved early, the steward must document this in their log and let the chief steward know the outcome. It may be ground work for future problem solving or grievance handling.</p>
--

USING YOUR GRIEVANCE PROCEDURE

When is a work problem a grievance?

As a steward, you will be asked to help find solutions to a wide range of problems. It is important to know when a worker's particular problem includes grounds for a grievance. The five possible grounds for a grievance are:

Violation of –

-  The Contract
-  A Federal, State, Provincial, or Municipal law
-  Employer's rules or policies
-  Fair treatment/unfair discipline
-  Past Practice

Before you file a grievance, check your contract to find out about your specific grievance procedure. While the universe of grievances is wide, taking a grievance that is frivolous or without merit forward diminishes your effectiveness with management, and wastes valuable time and resources. It can also be frustrating.

When is a work problem a gripe?

A gripe is a complaint, while valid or not, that is not a violation of the contract, law, rule or regulation or past practice.

While it may not be a grievance, a gripe is still a valid concern of the worker. Try to solve the issue, if possible, but make it clear to the worker it is not a grievance. Gripes can be one of the following:

- Disputes between workers
- Personality problems
- Complaint – no facts
- Complaint motivated by revenge



Your Contract's Grievance Procedure

Grievance procedures generally provide for a series of steps. It is important that you be familiar with the grievance procedure which has been negotiated by the union and which is explained in your contract. ***Grievances can be lost if the time limits in the contract are not met.***

One method of extending the union's window to file a grievance is by requesting an extension of time. Stewards should always make a written record of these requests and management's response.

Another method is to file a grievance and request that the time limit be waived for a period of time in an effort to either resolve it or investigate further.

Unless management agrees to an extension, the Union must meet the contract deadlines to protect the members' rights. A very adversarial relationship will undoubtedly find management holding the Union to a strict adherence to the contract procedures.

Typically, the steps in a grievance procedure include

- Step 1** Meetings between the steward and line supervisor;
- Step 2** Meetings between a Local Union representative and worksite management if there is no solution (This step depends on your contract); and
- Step 3** Some contracts provide for another meeting between the Local Union and management. Others involve a grievance panel with representatives from both the union and management. Most involve binding arbitration by a third party chosen by both sides.

Your contract spells out the particular grievance procedure that applies to you and your co-workers. Read it carefully. Review it every time you process a new grievance.

Advantages and limitations of the Grievance Procedure

Advantages to using grievances

- ❄ Informs management that the union will not ignore violations of workers' rights.
- ❄ Draws upper management's attention to the failure of line supervisors to observe the contract or the law.
- ❄ Can achieve a solution imposed by a neutral third party that management must follow.

Disadvantages of relying only on the grievance procedure

- ❄ Management can delay a final decision, frustrating members and putting economic pressure on those affected, particularly in discharge cases.
- ❄ Instead of being involved in actions to solve problems, members learn to sit back and expect "the union" to take care of everything.
- ❄ Arbitrators often make compromise decisions. For example, an arbitrator may give a fired worker the job back without back pay, or rule in the union's favor one time and then management's favor the next, even if the union was right both times. They do this because they will have a hard time getting new cases if they get a reputation for finding in workers' favor too often.

"WORK NOW – GRIEVE LATER"

Arbitrators generally expect workers to follow instructions while waiting for a grievance to be filed and resolved.

Given these advantages and limitations of the grievance procedure, you may have to . . .

- ❖ File a grievance in order to pressure the employer and make sure you meet the deadlines; and
- ❖ At the same time, look for additional ways to bring about a solution.

TYPES OF GRIEVANCES

It is important for stewards to know which of the two basic types of grievances you may be dealing with in order to decide how to proceed.

Discipline Grievances

If the employer has “imposed discipline,” **then** the employer must prove it had “just cause”.

All Other Grievances (Usually Management Violations of Contract or Past Practice)

If no discipline is imposed, **then** the union must prove that an offense, like a contract violation, has occurred.



Checklist for Analyzing Grievances

Once you know which of the two types of grievances you have, use the appropriate checklist to analyze the grievance and develop the strongest arguments.

Discipline Grievance Checklist

The key question you must consider and investigate when handling a discipline case is “Did management have *just cause* for imposing the discipline?”

- Was the employee adequately warned of the consequences of his/her conduct? The warning may be given orally or in writing. Were the employees given copies of any workplace rules or asked to sign something indicating that they saw copies?

- Is the employee being punished for conduct which has been allowed in the past? Management can't suddenly begin to crack down without **first** warning employees.

The employer may not have to give a warning about certain conduct. For example - workers are expected to know it is unacceptable to steal company property.

- Was the employer's rule or order reasonably related to efficient and safe operations?
- Did management investigate before administering discipline? Who did they talk to? Or did they just act?
- Was the investigation *fair and objective*?
- Did the investigation produce substantial evidence or proof of guilt? It is not required that the evidence be preponderant, conclusive or "beyond reasonable doubt" but the evidence must be truly substantial and not flimsy.
- Was there equal treatment? Were the rules, orders, or penalties applied even handedly and without discrimination?
- Was progressive discipline used? Was a verbal or written warning given for the first offense?
- Was the discipline imposed too harsh? Was the discipline reasonably related to the seriousness of the offense?
- What does the employee's past record look like? How many, years of service does the employee have? Any past disciplinary action? If yes, when and for what? An employee's record of previous offenses may never be used to discover whether he/she is guilty of the immediate or latest offense. The only proper use of an employee's past record is to help determine the severity of discipline once he/she has properly been found guilty of the immediate offense.



Checklist For All Other Grievances

- Is this a contract violation?
- Is this a violation of Federal, State, Provincial, or Municipal law?
- Is this a violation of employer rules?
- Is this a violation of equal treatment of all workers?
- Is this a violation of past practices? How long has this past practice existed?

HELP ANALYZE GRIEVANCES

Just Cause

A key question in discipline cases is “Did management have just cause” for imposing the discipline?

The “just cause” standard is written into most union contracts. Some contracts may use “cause”, “proper cause”, “reasonable and sufficient cause”, etc. These usually mean the same as “just cause”.

Even if a contract does not use the words “just cause”, an arbitrator may apply that standard anyway.

“Just cause” means that the employer. . .

- ❖ Had good reason to discipline the worker;
- ❖ Took action consistent with past practice;
- ❖ Treated the worker as other workers have been treated; and
- ❖ Took action that was appropriate for the particular offense.

Past Practice

Past practice is a consistent and frequent pattern or conduct by the employer over a period of years which benefits employees. Both management and the union must have known about and accepted the conduct.

An example of a past practice is a 15-minute wash up period at the end of a shift, not mentioned in the contract that for years has been allowed by a particular employer.

If an employer tries to discipline someone who was following a well-established past practice, you should file a grievance.

Past practice can also be used by management against employees. If members wait years to file a grievance against a new management policy that isn't directly addressed in the contract, management may argue that it has become a past practice. This is why it's very important to challenge management actions right away when you think they may violate members' rights.

Be sure to check your contract for any language that may limit the use of past practices for grievances.

The test for a valid past practice is as follows:

1. Did the practice exist for a substantial period of time and occur repeatedly?
2. Was the practice repeated over time and was not a special, one-time benefit or meant at the time as an exception to a general rule?
3. Was the practice clear and applied consistently?
4. Did both the union and management know the practice existed and did management agree with the practice or, at least, allow it to occur?
5. Was the practice accepted by both management and the union?

The practice must not be unsafe or illegal.

ALL QUESTIONS MUST BE ANSWERED "YES" FOR IT TO BE A "PAST PRACTICE".



Progressive Discipline

The Union should argue that management must use a system of progressive discipline, under which the employee is warned for a first offense and given a penalty for a second offense before being hit with a discharge.

A common pattern in progressive discipline is:

- ❖ Oral warning
- ❖ Written warning
- ❖ Suspension
- ❖ Discharge

Progressive discipline is usually not required for certain major offenses like theft of employer property or acts of violence.



Equal Treatment

All employees must be judged by the same standards, and the rules must apply equally to all. Disparate treatment arises when the employee has been treated unequally with respect to notice, the application of a rule, or investigation, proof, or penalty.

All employees who engage in the same type of misconduct must be treated the same unless there is a good reason for different treatment (such as differences in fault, or difference in past records).

Group Grievances, Policy Grievances, and Union Grievances

Group Grievances

Sometimes an employer will violate a contract in a way that affects more than one employee. Some contracts require that an individual grievance be filed by each employee. Others permit the filing of group grievances or a class action grievance.

Consult with your union leadership about whether your contract permits group grievances. If it does, you can file one grievance for all the affected employees.

Be sure that you either list the names of the employees on the grievance or specifically describe the group.

For example:

“The employer did not properly pay shift differential to Julie Smith, John Adams, and Ray Brown”.

“The employer did not properly pay shift differential to those employees who worked the 1st shift on November 1, 2006”.

Policy Grievances

One option is to wait until the first employee receives such a warning and then grieve the warning. Another option is to file a grievance against the policy on behalf of the employees even though no employee has yet been disciplined. This is called a policy grievance, and many contracts permit them. Check with your union leadership to see if your contract allows policy grievances.

Union Grievances

Many contracts permit the filing of grievances by the union on behalf of the membership in general as well as on behalf of individual employees. You should check with your union leadership to see if there is any reason why your contract would not permit such union grievances.

You may want to file a grievance on behalf of the union when the employer interferes with a contractual right of the union. Examples of such union rights include proper dues deduction, the sending of dues to the union, and union bulletin boards.

You may also want to file a grievance on behalf of the union when the employer violates the contract and no employee is willing to file a grievance about the contract violation. Sometimes employees are afraid to file grievances. You can consult with your local's leaders to decide whether to file a grievance on behalf of employees who do not want to grieve the problem.



Writing A Grievance

Most Local Unions have a grievance form which must be used when filing a formal grievance. You should request copies of this form and be familiar with the information required.

Below are some general points on writing formal grievances.

Limit Details to Basic Information

Provide only enough information to identify the grievance so that management understands . . .

- What the basic problem is;
- What violations occurred; and
- How the problem should be fixed.

The written grievance must be short and to the point and is often in the hands of management before the formal meeting.

Your opinions, feelings, etc., can be presented in your oral argument at the formal grievance meeting. Leave out the Union's arguments, evidence, and justification of position. That information should be revealed in the hearing.

Don't Limit Contract Violations

Your grievance should specify the articles of your contract which management violated. You should include the phrase "including but not limited to" before the specific contract articles. That phrase protects you in case you discover that more parts of the contract were violated than you thought.

Avoid Personal Opinions and Characterizations

The grievance states the union's position, not yours (or the grievant's) opinion. Avoid the use of phrases like "I think" or opinions about managers.

Don't Limit the Remedy or Solution

In stating the remedy or solution you want, say you want the grievant “made whole in every way”. Don’t forget to include whatever specific remedies the union has in mind to solve the problem or issue.

The phrase “made whole in every way” protects you in case you think of ways the employee has been hurt by management that didn’t occur to you at first.

Consult with the Grievant

Go over the written grievance. Explain the requested remedy or solution and get the grievant’s full understanding and agreement so there is no misunderstanding or question later. If you and the grievant disagree about the proper remedy, consult with your union leadership.

Consult with your Union Leadership

For grievances that are difficult or complicated, or that affect the whole workforce, you may want to consult your union leadership. However, make sure you file the grievance within the time limits in your grievance procedure.

Inform Other Members

If appropriate, explain the grievance to other members and ask for their support.



MEETING WITH MANAGEMENT

Be Prepared

Practice your arguments for the case. Include the worker in your practice session. Decide what can and cannot be said during the meeting. Be prepared to respond to management’s arguments and to present a solution or remedy.

Encourage the grievant to take part unless you and the grievant agree that the meeting will be more successful without him/her.

Having the grievant present . . .

- ◆ Keeps them involved in solving the problem;
- ◆ Avoids charges that you didn't provide good representation;
- ◆ Provides an additional witness to what is said;
- ◆ Keeps the supervisor from making statements the grievant knows are false.

In some instances the steward must make a judgment whether it is inadvisable for the grievant to be present due to the hostility between the worker and the supervisor.

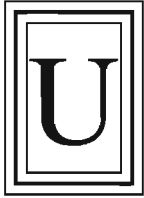
Conducting the Discussion

1. **Act as management's equal.**
While respecting their position, insist on respect for you and the grievant as well.
2. **Ask management questions.**
The more you ask, the more weakness you may discover in their case and the more information you will obtain.
3. **Stick to discussing your grievances.**
Don't allow management to sidetrack you by talking about topics unrelated to the grievance.
4. **Discuss the issues, not personalities.**
5. **Use a friendly, positive approach.**
6. **Listen for the main point of management's argument.**
Try to narrow your differences. Look for possible solutions.
7. **Avoid becoming excited, angry, or hostile.**
Management sometimes attempts to provoke you into losing your temper. It's hard to think straight when you are angry.
8. **Do set a definite time for an answer.**
If possible, try to get management to give you an answer right away. Management may say they want to think it over or need to check with higher management. Delays in receiving a reply may be justified or they may be a stall, designed to get you and the grievant to lose interest in the case.

9. **Do stick together with the grievant.**
If you and a worker disagree, **NEVER - EVER** get into a disagreement with a worker in front of management. This naturally weakens your position. Prepare your case ahead of time; brief the grievant and witnesses; decide among yourselves the way you will present the case - who says what and when - before you see management. If you hit a snag or disagreement between yourselves, ask to caucus. You have the right to do this. Then get your facts straightened out and go back to talk with management.
10. **Don't talk too much.**
You can talk yourself out of a good case. Once management agrees with you on a point, don't continue to hash it over. It's important to know when to stop talking.
11. **Don't bluff.**
If you have a real grievance and the facts to back it up, there will be no need to bluff. If you do not have a real grievance, you are not going to win by bluffing.

Chapter 4

The Union's Right to Information



Under the law, the union has the right to any information or employer documents which are “necessary and relevant” to properly represent members. Unions can request information anytime in the grievance process . . .

- When investigating a grievance;
- When preparing for a grievance meeting; and
- When deciding whether to drop a grievance or move it to the next step.

The employer is required to bear the cost of supplying relevant information to the union, unless it can show that there's a substantial cost involved. If it shows substantial cost, the employer has to bargain with the union over the amount the union must pay.

Employers can't refuse to provide unions with relevant information, but the union is required to make the request specific.

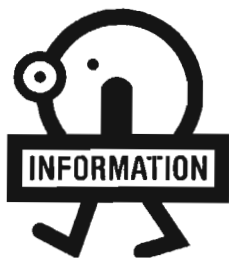
The union itself may have records of past grievances, agreements, arbitration decisions, or other information that may be useful in preparing a case.



Preparing An Information Request

Requests for information should always be made *in writing* and be as specific as possible. Remember that the union can make more requests for information based on information learned from the first request.

The union should give the employer a specific, reasonable deadline for supplying information. If the employer doesn't meet the deadline, the Local Union can take steps to enforce its right to information, including filing an unfair labor practice charge under the National Labor Relations Act, Civil Service Reform Act, or State law or regulation.



Information Unions Can Request

The Union may ask for a wide range of information, including any employer records relevant to the grievance, the names of persons, dates, descriptions of factual events, and relevant data and statistics.

Some examples are:

- Accident reports
- Attendance records
- Bargaining notes
- Employer memos
- Contracts
- Correspondence
- Disciplinary records
- Equipment specifications
- Evaluations
- Inspection Records
- Insurance Policies
- Interview notes
- Job assignment records
- Job descriptions
- Material records
- Payroll records
- Performance reviews
- Personnel files
- Photographs
- Reports and Studies
- Salary and bonus records
- Security guard records
- Seniority lists
- Supervisor's notes
- Time study records
- Training manuals
- Videotapes

Requesting Information for . . .

Disciplinary Grievances

When preparing grievances on warnings, suspensions, or discharges, stewards or Local officers should request a complete copy of the grievant's personnel file. It will provide information about any past offenses management might bring up.

If unequal punishment is an issue, stewards can also request information on workers with similar offenses, the names of witnesses to the offenses, and supervisors' notes. This information can be requested for non-bargaining unit personnel as well as union members. No consent forms are necessary to obtain this information.

Contract Interpretation Grievance

If contract language is in dispute, the union can request the employer's notes from the negotiating session that led to the disputed clause, as well as the dates and contents of any conversations between management and the union upon which the employer is relying.

Promotion Grievance

The steward can request the personnel file of the successful candidate as well as the grievant's file. The employer also must provide copies of interview notes and evaluation documents.

Past Practice Grievances

If the employer is claiming that the practice has not been consistently followed, stewards can ask management to give the dates and describe any times when management did not follow the past practice you are claiming.

Health and Safety Grievances



Local unions can request copies of all OSHA/PEOSHA citations, a list of workers made sick or injured, the Material Safety Data Sheet (MSDS) supplied by chemical manufacturers, and all employer studies on the effects of a chemical or working condition. The Local Union can also arrange for a union industrial hygienist to come in to make a safety and health inspection of the workplace. The employer can't bar union representatives from conducting tests necessary to support a grievance unless their presence would disrupt production.

Employer Defense

The National Labor Relations Board (NLRB) has rejected most employer excuses for not giving the union relevant information. Some examples of excuses the NLRB has denied are:

- ◆ The employee already has the information.
- ◆ The request is too lengthy.
- ◆ The information was posted on employer bulletin boards.
- ◆ The grievance isn't arbitrable.
- ◆ The union can subpoena the information for arbitration.
- ◆ The employer won't raise that particular issue at arbitration.

Employers sometimes successfully claim they can't give the union information because it is confidential. The NLRB only considers this excuse valid for particularly sensitive information, such as medical records and aptitude tests.

To use this defense, the employer must have an established personnel privacy policy barring the disclosure of information (even to supervisors and management personnel) and must have consistently followed that policy. If the employer says it can't release information because it is confidential, the union can either modify its request or challenge the employer's excuse before the NLRB.

Management also can't refuse to provide the union with information it considers internal or proprietary, as long as the union agrees to safeguard the employers' interests and not release the information to competitors or the public.

Providing the Employer with Information

The duty supply information goes both ways. Employers may request from the union information the employer needs to evaluate pending grievances or prepare for arbitration.

Chapter 5

Know the Labor Laws



Stewards should have a basic familiarity with the labor laws that affects workers. This section of the *Stewards Manual* provides a basic outline of the laws that establish collective bargaining rights and other laws affecting how unions can represent workers. The Local Union should have a complete set of the laws that affects their jurisdiction.



National Labor Relations Act

The Wagner Act of 1935 is the nation's principle private sector labor-management relations law. It was amended in 1947 by the Taft-Hartley Act and again in 1959 with the Labor-Management Reporting and Disclosure Act.

The 1947 amendment first authorized the so-called "right -to-work" authority for States. Sections 14-b of the Taft-Hartley Act gave States the right to outlaw union shop agreements-meaning that in those States with right-to-work laws contracts could not contain union shop and other maintenance of membership provisions. The 1959 amendments limited both strikes supporting others, and the right to refuse to work on goods produced by struck employers.

The Act is enforced by the National Labor Relations Board headquartered in Washington, D.C., with regional offices in most major cities. These offices investigate complaints of violations of the Act and conduct elections.

Labor-Management Reporting and Disclosure Act

This law provides detailed requirements on the reporting of union financial affairs, union investments, and the election of union officers. It also requires that each worker covered by a collective bargaining agreement have access to the agreement and that some union officers be bonded.

Railway Labor Act



This Act covers employees of railroads and airlines. It was passed in 1926 and is the nation's first law establishing collective bargaining rights for workers. It provided workers the right to join unions and bargain agreements, and set up the Federal Mediation Board (now the National Mediation Board) to settle disputes. The National Mediation Board (NMB) handles disputes concerning union representation, bargaining units, and contract terms. The Act encourages mediation of disputes. If mediation fails, an emergency disputes procedure with fact finding and a cooling off period can be used.

Federal Civil Service Reform Act

Passed in 1978, this law establishes the right of federal civil servants to be represented by unions and to negotiate a grievance system to include binding arbitration. The Act established a body of unfair labor practices. Decisions by an agency on a grievance may be appealed to the Federal Labor Relations Authority and ultimately to the courts. In addition to its role in the grievance process, the Federal Labor Relations Authority adjudicates unfair labor practices, and conducts elections. The Merit System Protection Board and Federal Services Impasses Panel are agencies also established under the Act. Although federal workers do not have the right to strike, federal unions can force employers to submit bargaining impasses to the Impasses Panel for mediation and resolution prior to implementation.



Postal Reorganization Act

This 1970 statute provides collective bargaining and negotiated grievance procedures basically like those under the National Labor Relations Act. However, it does not authorize the right to strike. Instead it requires fact finding and final and binding arbitration.

City, County and State Collective Bargaining Laws

As of 1997, twenty-five States had collective bargaining laws or administrative policies under which unions can negotiate grievances procedures. Many other States practice collective bargaining without a specific statute. A few States ban collective bargaining and negotiated agreements cannot be enforced in those States. In recent years a number of cities and counties have enacted local collective bargaining ordinances, many of which provide for negotiated grievance procedures.



In those jurisdictions with collective bargaining, stewards can proceed under the terms of their agreements. In those States without such laws, the steward's role is to assist other workers in seeing that the employer abides by the terms of the civil service rules for the jurisdiction.

Some states have a Public Employment Relations Commission (PERC) or Board (PERB) that has jurisdiction to deal with certain labor relations issues involving public employers, public employees, and unions that represent public employees in the State, Counties, Municipalities, public schools, colleges and universities and autonomous agencies, authorities boards and commissions. Such issues include representation matters, the scope of negotiations, unfair practices, mediation, fact-finding and arbitration.

LABOR STANDARD LAWS



Fair Labor Standard Act

Passed in 1938, and amended six times since, this statute sets the nation's basic labor standards. It requires that public and private employers engaged in interstate commerce adhere to certain minimum conditions of employment. Basic to these conditions are the minimum wage; time and one-half pay for work over 40 hours per week; equal pay for equal work; and limits on the employment of children in hazardous work such as, mining, manufacturing and most construction, and limits on industrial homework. The Fair Labor Standards Act is enforced by the Department of Labor's Wage and Hour Division with offices in most major cities.

The **minimum wage provisions** have changed regularly but no more often than once a year. A steward should know the current minimum wage. If in doubt, a phone call to the Wage and Hour Division will provide the answer. Additionally,

most States have minimum wage laws. If they are higher than the federal law they become the controlling minimum wage in the State, but enforcement must be through the State's Department of Labor or similar agency.

The minimum wage regulations of the Fair Labor Standard Act have special provisions for workers who receive tips, room and board, uniforms, or work on incentives or commissions. Some employers can obtain special permission to employ students and trainees at less than the minimum wage. If these become a problem, the steward should seek help through the local union officers.



The **hours of work** provisions of the Act provide the overtime premium of time and one-half for all hours of work over 40 in a week. There are special provisions for state, county, and municipal employees allowing for compensatory time off. But, time off instead of overtime pay for other workers is not allowed, and workers can recover back pay. Additionally, there are special rules for fire fighters, medical workers, and police. As a general rule, professionals, administrators and managers are excluded from the overtime provisions of the law.

However, employers often classify employees as professionals or administrators just to avoid paying overtime premiums. If you believe IFPTE members are misclassified, bring the situation to the attention of your local union officers.

The forms of pay included in the base rate for over-time premium pay computation, such as shift premiums and profit-shares and lump sum payments, are defined in the regulation. Again, because these rules are complex the steward should seek help when in doubt.

Prevailing Wage Laws

The **Davis-Bacon Act** provides that locally prevailing wages be paid to construction workers working on federally-funded projects. This law is also enforced by the Wage and Hour Division of the U.S. Department of Labor with offices in most major cities. Bids for these projects must be based on wage determinations issued by the Department of Labor for specific classes of work. The employer may not pay less. The law also provides that workers be paid each week.

Many states and some cities also have construction prevailing wage laws. If appropriate, stewards should make themselves aware of these laws.

The **Service Contract Act** is similar to the Davis-Bacon Act but applies to employers providing services to the federal government. Like the Davis-Bacon Act, the Service Contract Act requires that the employers bidding on federal contracts for Service Contract Act is a provision requiring that a negotiated collective bargaining agreement becomes the prevailing wage. This means that a contractor bidding on a contract cannot bid based on wages and benefits less than those in the agreement.

The **Walsh-Healey Public Contracts Act** was to provide the same prevailing wage and hour protection to workers who manufacture goods for the use of the federal government. However, legislative and administrative actions have largely eroded these protections. A Walsh-Healey prevailing wage determination has not been made since 1965 and the 8 hour day rule was lost in 1987.

CIVIL RIGHTS LAWS

The **Equal Pay Act** of 1963 was an amendment to the Fair Labor Standards Act, discussed above. It declares that workers must be paid the same wage for essentially the same work without regard to race, sex, national origin or religion.



The **Civil Rights Act** of 1964 requires in Title VII that employers, unions and employment agencies treat all persons equally, without regard to race, color, religion, sex or national origin. This applies to all phases of employment including hiring, promotion, firing, apprenticeship, training, and other job assignments. The coverage threshold requires that there be 15 or more workers. The five members Equal Employment Opportunity Commission (EEOC) administer the Act and tries to promote voluntary compliance with the Act. In doing so, it requires that complaints come through state agencies first.

Stewards should become familiar with the state statutes on Equal Employment Opportunities and the state's human rights procedures. It is worth noting that on some points, some state laws are stronger than the federal law. Stewards should try to resolve EEO issues through the grievance procedure first, but be aware of the rights under these statutes. All agencies will look for voluntary efforts at resolution and efforts through the grievance procedure are a part of the process.

The **Age Discrimination in Employment Act** of 1967 was amended in 1978 and 1986. Basically, this law prohibits employment discrimination against individuals in the age bracket 40 to 70. The 1986 amendments removed the mandatory retirement exemption for those over 70, excluding public employers in police and firefighting, and tenured professors.

The **Vocational Rehabilitation Act** of 1973 and its 1986 amendments require that federal agencies and employers with federal contracts take affirmative action to employ the handicapped. The EEOC and state rehabilitation plans are integrated into the voluntary compliance procedures. This law provides for legal fees for workers filing claims. Enforcement is through the U.S. Department of Labor.



Veterans and military reservists are covered by a number of laws, the last of which is the Vietnam Era Veteran's Readjustment Assistance Act last amended in 1982. This law applies to government contractors and requires affirmative action in the employment of Vietnam era veterans. Earlier laws provide that veterans have reemployment rights without loss of benefits for the first enlistment, even if they volunteered. Reservists are entitled to time off without loss of benefit for their annual active duty periods and their regular monthly meetings. These laws are enforced by the U.S. Department of Labor and more detailed information is available through its regional offices.

Immigrants are protected under Title VII of the Civil Rights Acts, and the Immigration Reform and Control Act of 1986. This law provides penalties for employees who knowingly hire illegal immigrants. This law carries with it the prospect that employers may overreact and discriminate against aliens who have become citizens or who have valid work visas. The steward must be aware that complaints of discrimination under this Act must be filed within 180 days of the event with the Office of the Special Council for Immigration.

WAGE COLLECTION LAWS



In order to collect debts many state laws authorize courts to order employers to turn over wages earned by workers to settle debts, court costs and fines. Some employers object to the extra problems this involves and fire the worker. Effective in 1970, the **Consumer Protection Act** provides that a worker cannot be fired for the first garnishment, and that the court must leave one quarter of the worker's disposable earnings. However, when garnishment stems from a child support obligation, special rules apply. Many states have more protective laws which control. The federal law is enforced by the U.S. Department of Labor. Individuals do not have a private right to seek enforcement in the courts.



UNEMPLOYMENT INSURANCE

Although unemployment insurance is a federal/state program, benefit levels, rules and enforcement are left to the individual employers, and to some extent related to how many of their workers draw benefits. Unemployment benefits are a legitimate right of jobless workers. Nevertheless, employers sometimes seek to limit claims and occasionally protest worker claims. Stewards should have knowledge of the eligibility requirements, duration and benefit levels under their state unemployment insurance laws.

Additionally, some states have Short-Time Compensation rules which allow the union to bargain and the employer to file for unemployment insurance for workers on reduced work weeks. The rules in each state are different, but all those that have work sharing provisions provide the union with a role in how it is handled.

WORKER'S COMPENSATION

Each state has a worker's compensation law that provides for medical care and cash benefits in the event that a worker is injured on the job. The level of benefits and their duration vary widely from state to state. Within each state some firms will be insured through insurance companies and others will be self-insured. In any case, the steward should have a working knowledge of the state law and how claims are filed. The local union will generally have a relationship with a law firm that handles these cases, so detailed information and help is readily available.



SAFETY AND HEALTH LAWS



The **Occupational Safety and Health Act** of 1970 (OSHA) is the nation's basic work-place safety standards act. Federal employees are covered by agency rules that are based on OSHA. The federal law allows states to enforce safety standards consistent with federal safety standards. Thus, although basic responsibility for OSHA resides with the U.S. Department of Labor, in some states the first level of enforcement is with the state agency. In other states responsibility lies with the federal OSHA branch office. The steward should develop a working understanding of how safety and health enforcement takes place within the state.

There is also an OSHA Hazard Communications Standard requiring all employers to provide workers with information on hazardous chemicals through material safety data sheets, labels, and training programs. This requires detailed information on health and safety dangers. A number of states have enacted “**right to know laws**” entitling workers, and communities to know the nature of health risks stemming from the chemicals with which they work. Again, the steward should become familiar with the worker’s rights in this critically important area.

PENSION LAWS



The **Employee Retirement Income Security Act (ERISA)** is a federal law providing that pension plans pay an insurance fee to secure the retirement benefits of workers. The Act also requires that the plan administrator provide workers with a summary of the plan, annual reports and appropriate notices of events that affect the plan.

FEDERAL ELECTION CAMPAIGN ACT

This law allows unions to solicit voluntary contributions, set up a separate fund and distribute money to political candidates.



PRIVACY ACTS



A number of states have laws limiting the employer’s ability to gather personal information on workers. These laws provide that workers have a right to see their personnel files. These laws generally limit the ability of employers to share information on employees with third parties such as lenders and other employers.

In most cases the steward will have to look to state law for worker privacy rights. But, there is also the federal Privacy Act of 1974 which is an amendment to the Administrative Procedure Act. This law applies to the records kept by federal agencies on individuals.

Chapter 6

The Stewards Role in Building the Union



he Steward's Role

Stewards play an important role in helping the Local Union get members involved.

Membership involvement is the key to our power as a union:

- ◆ Finding solutions to on-the-job problems often depends as much on the amount of unity the membership shows as on the arguments we put forward.
- ◆ Winning better contracts or legislation depends largely on how organized and unified we appear to management or to public officials.

How Do We Get Members Involved?

Organization

Membership involvement depends on a strong network for two-way communications with every member.

Stewards work with the union's leadership to set up that network. But since stewards work with fellow members on a daily basis, it is largely up to you to make it work.



Education

Through your communication network, you can make sure every worker understands issues that confront us and what the union is doing about them. That helps you to identify and answer workers' questions, doubts, and concerns. This can be done one-on-one and in worksite group meetings.

Action

Local Unions sometimes organize actions on a particular issue in order to accomplish three goals.

- ◆ They send a clear message to management or politicians that members are united and serious about the issue.
- ◆ They allow members to participate directly in an activity helping them see that “we are the union.”
- ◆ They may draw public attention to the union’s goals, helping to build community support.

Recruiting Volunteers and Keeping Them Active

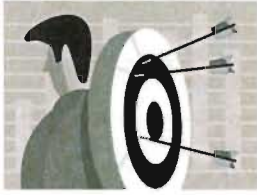


Serving as a steward requires a lot of time and hard work, but don’t feel you have to do it all yourself. Get help from other members. Involving others helps you get the job done and strengthens members’ understanding of the union. Here are some examples of what members have been asked by their Local Union to do:

- ☞ Help give out leaflets to workers who are organizing at a nonunion employer.
- ☞ Picket an employer in the area where workers are on strike.
- ☞ Collect food for members in the Local who have been laid off.
- ☞ Write an article for the Local newsletter.
- ☞ Circulate a petition about legislation on health care or workers’ rights.

A newsletter article or bulletin board notice asking for volunteers usually is not enough. You probably will need to actively *recruit* people.

How can you get people to help you?



Target people to approach in person.

Keep a list of potential volunteers with their names, phone numbers, activities they're involved in, and interests they have. Try to match activities to the abilities, interests, and time volunteers can contribute.

Remind potential volunteers of the special skills or expertise they have to contribute.

When members believe their particular skills are needed, they feel more committed to the work.

Think about who should talk to the potential volunteer first.

Members should be asked to participate by someone they know and respect.

Ask someone to take on one limited task.

If they agree and carry it out, ask them to do something else.

Don't overload new people.

The easiest way to discourage volunteers is to give them too much work. If there's too much to be done, recruit more volunteers.

Be clear about the job you are asking them to do and the time that's involved.

People generally are unwilling to make an open-ended commitment, but will volunteer for jobs with a definite beginning and end.

Assure recruits they'll have the training and support they need.

As their confidence grows, so will their participation.

Make sure volunteers complete their assignments.

This sends the message that their contribution is important, and helps you catch mistakes early on.

Encourage people to report their successes.

No matter how small, give them recognition at meetings, in newsletters, or on bulletin boards.

Involve members' families and retirees in union work.

That gives you a larger pool of people. Some members will find it easier to participate if their families are involved as well.

Increasing Attendance at Union Meetings



Stewards play a major role in getting members to come to union meetings.

Ask each member to attend.

Most of the time, just posting a notice isn't enough. More members will attend if they are personally asked to do so. If you can't contact each member yourself, ask others to help you.

For example, you could ask the most active members to take responsibility for inviting particular co-workers.

Ask those who didn't attend "why not"?

Talking to each member who didn't attend can help you suggest ways to increase turnout at meetings.

For example, some members may not be able to attend because they have no ride. Perhaps car pools could be organized. Others may not be able to find child care. Perhaps teenagers could be recruited to take care of children in a separate room during the meeting.

Asking members directly is the best way to find out if the meetings are at an inconvenient time, or if certain subjects they are interested in should be added to the agenda.

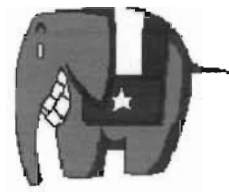
Tell workers who didn't attend what happened at the meeting.

It's important to keep people as informed as possible. Plus, the more they learn about union activities, the more likely they'll become interested in getting involved.

Political Action



Our Union's grassroots political action program gives IFPTE families a voice in government. It allows us to counteract powerful corporate special interests on issues such as workers' rights, fair trade, health care reform, fair taxes, regulatory reform, and investment in good jobs. Stewards play a big part in involving members in our political action program.



Campaign on Issues

Our union conducts campaigns on major national, state, or local issues to hold politicians of all parties accountable to working people. These issue campaigns may involve petitions, rallies, town meetings, visits to public officials, or other actions. Often, these campaigns are organized in cooperation with other unions and community groups. You can help by participating yourself, encouraging others to do so, and keeping all workers informed about the campaigns.

Electing Pro-Labor Candidates

Stewards should help the Local Union with voter registration drives, support for worker friendly politicians, and getting out the vote on Election Day. Your Local Union officers can give you more details.

Community Service

It is not unusual to find union members involved in a wide variety of community service activities. Since stewards have the ability of being in day to day contact with the members, they are very likely to know about these activities. Stewards should make the Editors of their local union's Newsletter aware of these individuals. Stories such as these are good human interest features for the local's Newsletter, and it allows the union to connect with their member on a different level.



Example: Down a pint of Blood! Bob Flemming of Engineering has donated 5 gallons of blood to the Red Cross. Thanks Bob.

Chapter 7

Commonly Asked Questions?



As a steward you are often the person that members and non-members alike will turn to for answers. Below are listed a series of questions and answers you may encounter.

The Union

1.1 Q. Why should I join the Union?

A. **It is only through the collective voice of a unified membership that management will listen to the workers.** Each of us spends a large part of our lives working and depending on the wages and benefits earned on the job so we can care for ourselves and our families. We need, and have the right to expect, to be treated fairly and equitably on the job; to have the benefit of training and promotion opportunities and rewards for long service; and to receive the protection of laws enacted to protect worker safety, health, wages and hours. Our interests and those of our employers are not exactly the same. **The employer and employees should mutually benefit from the success of the employer. But more often than not, this is not what happens.** For example, it is in the employer's interest to hold down wages and benefits and to pressure employees to work long hours without compensation in order to hold down costs and to increase profits. **The only proven effective method for ensuring that the employees' interests are protected in this environment is through organized, collective action.** The government cannot do this job and no one worker standing alone can offset the power of the profit motive. Employees do not have to be adversarial to collectively protect their interests. But they do have to join forces.



1.2 Q. Why am I required to pay dues?

A. The sole income of any labor union, including this local is membership dues. The costs of collective bargaining, work location representation, communications and other important services are covered by your dues. Think of it this way: without the union, your wages, benefits and other privileges would be much lower. Your dues are an investment that makes your standard of living higher, and your job security, a reality. Furthermore, if you took advantage of all the extras that the union offers (from discounts on eye care, to reduced fees on legal services, to other savings) the combined savings would be worth much more than you pay in dues.

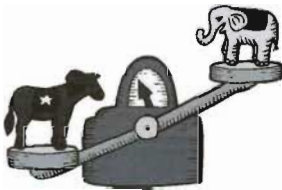


1.3 Q. Do the Union Officers, Business Representatives and staff pay union dues?

A. Yes, they certainly do. There are no exceptions: all union staff are members of an IFPTE Local and they pay dues, just like you!

1.4 Q. Why does IFPTE almost always support Democrats, and how do we decide who to endorse for political office during a campaign?

A. First of all, IFPTE does not always support Democrats. However, the Democratic Party has traditionally and historically shared a common vision and similar goals as the labor movement. It has been known to be progressive and sensitive to the concerns of working people to a greater degree than the other major party. So it makes sense that Democrats receive our backing more often. Endorsements for candidates are made after it has been determined that an office seeker would likely serve the best interest of our members. Candidates are interviewed, their voting records and background are carefully checked, and references are often sought to confirm that this person would probably work on behalf of our members once elected.



NLRB AND STEWARD'S ROLE

2.1 Q. Does a union need a lawyer to file an NLRB charge?

A. No. The charge form is simple to fill out and does not require the signature of an attorney. Personnel at the NLRB regional office can assist in writing up the charge. The NLRB serves the charge on the employer.

2.2 Q. Does the NLRB ever allow charges to be filed more than six months after a violation?

A. Only rarely. The six-month rule is usually strictly enforced. One exception occurs if the employer fraudulently conceals its illegal actions from the union. In that case, the six months start when the union becomes aware of the violation.

2.3 Q. During a grievance discussion, I shook my finger at the Engineering Manager. He said, "If you ever do that again, you're finished here." Could he really fire me for this?



A. No. Shaking a finger falls well below the level of "outrageous" conduct forbidden of stewards. File an unfair labor practice charge because of the illegal threat.

2.4 Q. Our contract permits stewards a reasonable amount of working time to conduct union business. Last week, while I was investigating a grievance, my supervisor came over and for no good reason ordered me to return to my work station. Could I have refused?

A. This is a difficult question. Most arbitrators take the position **"Obey now, grieve later."** Refusing a management order, even one which violates the contract, is considered insubordination. However, NLRB cases provide that a steward can refuse an illegal order from a supervisor who is bent on preventing the steward from engaging in legitimate union business, as long as union business on working time is allowed by contract or past practice, does not disrupt the work of other employees, and does not constitute an attempt to avoid work.

2.5 Q. My supervisor is upset because I file lots of grievances. Last week, he suggested I slow down if I still hope for a promotion. Is this an unfair labor practice?

A. Yes. It is unlawful to threaten a steward with adverse action for filing grievances.

2.6 Q. The day before Christmas, a few employees, including myself, celebrated at work with a few beers. A supervisor reported us. The other workers received warnings, but I was hit with a suspension. The boss said, **“You’re the union steward and you should be setting the example.”** Can he do this?

A. No. It is illegal discrimination to hold a steward to a higher standard of conduct than other employees or to impose unequal punishment.

2.7 Q. Our contract permits stewards to spend “a reasonable amount of time” in the performance of union business. Yesterday, I received a disciplinary warning for spending too much time away from my work. Can I file an NLRB charge in addition to a grievance?

A. Yes. According to NLRB doctrine, a steward has certain rights when a collective bargaining agreement or past practice allows stewards time off for union business but does not cap the amount. The employer may not discipline a steward for excessive time off without *first* notifying the union of the problem and attempting to come to an *accommodation*. The two sides must attempt to balance the steward’s right to time off with the employer’s right to expect productive work.

2.8 Q. In preparing a grievance, I compiled exhaustive documentation. The company has demanded my records and has threatened to suspend me if I refuse. Violation?



A. Yes. Although the union may have an obligation to supply the information, the employer may enforce this obligation only by filing an unfair labor practice charge *against the union* at the NLRB. Threats directed at individual union representatives are unlawful.

2.9 Q. Last month management adopted a grooming code forbidding beards. When we reminded the personnel director of the law against unilateral changes, she said she would bargain on the new policy but would maintain the new rule in the meantime. Is this sufficient?

A. No. An employer cannot escape its obligations by agreeing to bargain on a subject *after* a unilateral change is already in place. This is called a *fait accompli* and gives the employer an unfair advantage in any subsequent bargaining. NLRB policy requires employers to restore the *status quo ante* prior to bargaining.

GRIEVANCE MATTERS

3.1 Q. After an employee had a grievance filed, her supervisor approached her and angrily said, “Hey stupid, what’s the big idea of calling in the union?” Is this allowed?

A. No. Employers violate the NLRA if they make intimidating statements that might discourage employees from filing grievances. File a charge at the NLRB.

3.2 Q. Our supervisor told me she plans to suspend a worker for three days for loafing. When I said I would have to grieve it, she replied, “In that case, I might as well fire him.” If she does, do I have an NLRA case?

A. Yes. Increasing a penalty because a grievance is filed, or because of a threat to file one is unlawful.

3.3 Q. An employee was fired for fighting. As his steward, I conducted an investigation and interviewed him. Can the company require me to show my notes of the conversations?



A. No. The relationship between a worker and a steward is a *confidential* one. It is unlawful for an employer to question a steward about information that the steward has learned in his or her *official capacity*. According to the NLRB, management cannot probe into a conversation between an employee potentially subject to discipline and a steward because such a conversation “constitutes protected activity in one of its purest forms.”

3.4 Q. The company is conducting an investigation of an employee suspected of stealing. Can management require other employees to answer questions about this worker?



A. Yes. Employees must cooperate when management conducts a legitimate investigation of misconduct. Employees who refuse to provide information may be disciplined.

3.5 Q. During negotiations on a new collective bargaining agreement, the company is insisting that the union withdraw a pending grievance. Is this allowed?

A. No. An employer can ask a union to withdraw a grievance, but commits an unfair labor practice if it *insists* on withdrawal as a condition to signing a new contract.

3.6 Q. Our collective bargaining agreement has expired. If we choose to work without a contract, can we still file grievances?

A. Yes. An employer may not terminate the grievance procedure when a contract expires unless this was one of the demands made by management prior to a bargaining impasse. If you have a grievance procedure in your contract, and your employer has not demanded elimination of the procedure during the current negotiations, it must continue to process grievances after the contract expires.

3.7 Q. If we lose an arbitration case, can we appeal to the courts?



A. Yes, but it probably won't get you anywhere. The courts offer a very narrow opening for the review of arbitration decisions. Judges almost always uphold arbitrators as long as there is a plausible basis for the award. Only if the arbitrator's decision is completely at variance with the contract, or if the arbitrator clearly failed to be impartial during the hearing, is a court appeal likely to succeed.

3.8 Q. If management refuses an employee's request for union representation, gets the employee to confess to theft, and then fires the employee; will the NLRB order the worker to be reinstated?

A. Probably not. The NLRB used to order the reinstatement of employees who were fired as a result of admissions during an illegal interview. But in 1984 the Board ruled that such a penalty was an unwarranted "windfall" for guilty workers. The standard *Weingarten* penalty is now limited to a bulletin board posting in which the employer promises not to repeat its violations.

3.9 Q. It sounds as if a union must grieve every employee complaint no matter how far-fetched. Is this true?

A. No. A grievance does not have to be filed if the union believes it is *unfounded, unwinnable, or without any basis in the contract*.

3.10 Q. We are grieving a one-day suspension. The grievant wants us to go to arbitration, but this could cost the union \$5,000 in legal expenses. It seems foolish to spend this much for one day's pay – especially when the union is low on funds. Do we have to arbitrate?

A. Not necessarily. Unions are entitled to consider the financial costs of arbitration. A union with a small treasury may not be able to arbitrate a case that a larger union could take on. The NLRA is not violated when a union, in good faith, declines to arbitrate for financial reasons.

If the union decides not to proceed to arbitration on a case for financial or other reasons, the union should do two things:

1. Whichever vehicle the union uses to determine to proceed or not to proceed to arbitration; let's say it is the authority of the Executive Board of the local, the minutes for that meeting should clearly reflect the reason why the union will not proceed. A copy of that portion of the minutes and/or a letter to the grievant explaining the same.
2. The grievance should be finalized with the employer as either withdrawn without prejudice or settled without prejudice to the union's position. The union need not tell the company why they are not proceeding, but should send a letter to the employer stating their position as being without prejudice to allow the union to bring this question forward in the future.

UNION'S RIGHT TO INFORMATION

4.1 Q. We suspect that the company is not making its proper contributions to the union health and welfare plan (payments are based on hours worked). Can we request company records *before* filing a grievance?



A. Yes. A union has a right to information in order to make an informed decision on whether to file a grievance. Your employer must disclose its records showing hours worked and payments into the plan.

4.2 Q. Two employees were seen fighting, but only one was disciplined. We asked for the personnel files of both workers. The company refuses to give us the file of the worker who was not disciplined. Are we entitled to his records?



A. Yes. The personnel files of both workers are relevant to the grievance and must be turned over to the union, with the qualification that medical records may be held back if the company has a privacy policy. Materials such as applications and work records must also be supplied.

4.3 Q. Is the union entitled to make photocopies of company records that we request?

A. This depends on the *quantity* of the material. If the relevant documents or entries are very brief; the employer can restrict the union to reading the material and taking notes by hand. But if the material is *voluminous* and it would be a burden to insist on hand notes, the employer must provide photocopies or allow the union to make them.

4.4 Q. We asked the company for a list of hours worked over the past six months. The company said that it would supply us with time cards but we would have to make our own list. Is this sufficient?

A. Yes. An employer does not have to produce information in the precise form requested by the union. It can make the union do the research from basic documents. However, if the company has already prepared the list in question, it must produce it rather than put the union through unnecessary work.



4.5 Q. Arbitration is scheduled for next week. Is it too late to make a request for information?

A. No. The duty to furnish information does not terminate when a grievance is taken to arbitration. If the information can be gathered within the remaining time, the employer must comply with the union's request.

4.6 Q. An employee was fired for failing to call in sick. The company has a plant-wide rule on this, but we believe they do not treat the non-union salaried employees as strictly as the union workers. Can we ask for the names of salaried workers who have been found guilty of the same offense and see copies of their disciplinary records?



A. Yes. A union can request information about non-Bargaining-unit employees as long as it can show relevance to a grievance. In your case, the disciplinary records of the salaried employees are relevant in determining whether the call-in rule is applied uniformly within the company.

4.7 Q. An employee was fired for theft. Management says it has several witnesses. Does the company have to reveal their names?

A. Yes. Management must disclose the names of its witnesses and inform the union of the substance of their testimony. It does not, however, have to provide copies of witness statements.

4.8 Q. Does the company have to give the union the telephone numbers of new employees?

A. Yes, along with job locations, hours of work, addresses, job classifications, and starting salaries.



4.9 Q. We are going to arbitration to get full-time status for employees who we contend have worked 600 hours in the past six months. The company is asking for our time records. We know they want this information to prepare for the arbitration. Do we have to give it to them?



A. Yes. The duty to supply information goes both ways. Unions must provide information the company needs to evaluate a pending grievance or to prepare for arbitration. Failure to respond may subject the union to unfair labor practice proceedings at the NLRB.

Chapter 8

GLOSSARY – Collective Bargaining Terms

Accretion – The addition of consolidation of new employees to or with an existing **bargaining unit**. Labor relations agencies (**NLRB**, **PERC**, Personnel Resources Board) decide disputes over whether accretion is lawful or appropriate for a particular bargaining unit.

Across The Board Increases – A raise in wages, in terms of dollars or a percentage, given at one time to all employees, or to a large group of employees. This is distinguished from a raise that gives different rates of increase to different groups of employees.

Administrative Agency – A neutral agency that is charged with administering the public sector laws. Example: In many states this agency is the **Public Employment Relations Commission (PERC)**.

Affirmative Action – A written plan calling for an assertive program to combat employment standards or procedures which tend to discriminate on the basis of sex, race, age, color, religion, or national origin. Affirmative action not only deals with overtly discriminatory practices, but also with those practices which are fair in form, but discriminatory in effect.

Agency Shop – A union security provision in a **collective bargaining** agreement that calls for nonunion employees in a **bargaining unit** to pay the union as “agency fee,” a sum equal to union fees and dues, minus the portion not spent on negotiating and administering the contract, as a condition of their continued employment. Nonunion employees, however, are not required to join the union. Synonymous with “**fair-share** agreement.” See **Union Security Clauses**.

Agent – A person who acts on behalf of either the union or the employer. Any illegal actions the agent commits, such as unfair labor practices or discriminatory conduct subject to court litigation, may implicate the employer or union he or she represents, even if the illegal act was not authorized or approved. Stewards who are officially appointed by the union are the union’s agents.

Alternative Dispute Resolution (ADR) – The use of dispute resolution techniques, such as **mediation**, **fact-finding**, and **arbitration**, as an alternative to the courts or federal regulatory agencies.

American Arbitration Association (AAA) – A private, nonprofit organization established to promote **arbitration** and **mediation** as methods of settling labor disputes. The AAA provides lists of qualified **arbitrators** and **mediators** to unions and employers on request as well as rules of procedure for the conduct of **arbitration**.

American Federation of Labor – Congress of Industrial Organizations (AFL-CIO) – A federation of unions created in 1955 by the merger of two more specialized federations – the

American Federation of Labor and the Congress of Industrial Organizations. The AFL-CIO is not in itself a bargaining agent. Its primary functions are: education, **lobbying**, and assisting constituent unions in organizing. The International Federation of Professional and Technical Engineers (IFPTE) is affiliated with the AFL-CIO.

Arbitrability - The extent to which management is obliged by contract to take a particular grievance or dispute to **arbitration**. The answer is usually determined by an **arbitrator** or by a court.

Arbitration – A method of settling a labor management dispute by having an impartial third party hold a hearing, take testimony, and render a decision. The decision is usually binding upon the union and management. The most common types of **arbitration** are **grievance arbitration** (usually the last step in the grievance procedure), and **interest arbitration** (sometimes used to settle negotiating impasses).

Arbitration, Grievance - **Arbitration** of disputes that arise over the interpretation or application of the existing **collective bargaining agreement**. An **arbitrator** interprets the meaning and intent of the contract.

Arbitration, Interest - **Arbitration** of disputes that arise during the course of contract negotiations, where the **arbitrator** makes a decision on what will be contained in the agreement. It is usually employed after **mediation** and/or fact-finding have failed to resolve the conflict.

Arbitrator – An impartial third party to whom disputing parties submit their differences for a decision. An ad hoc arbitrator is one selected to act in a specific case or a limited group of cases. A permanent arbitrator is one selected to serve for the life of the agreement or a stipulated term, hearing all disputes that arise during this period.

Back Pay – Compensatory wages due an employee because of **(1)** employer violation of **minimum wage** or **overtime** provisions of the **Fair Labor Standards Act**; **(2)** suspension or discharge in violation of the law or a **collective bargaining agreement**; and **(3)** adjustment following a **grievance**. As distinguished from **retroactive pay**.

Bargaining in Good Faith - A legal requirement between the union certified as the representative for a **bargaining unit** and the employer that they will meet at reasonable times and places and attempt to reach settlement of all issues in dispute.

Bargaining Unit – Group of positions determined by job title, classification or duties, with sufficiently common interests to be legally represented by a union.

Bifurcate – A legal term to describe the separation of issues for the purpose of hearing the issues separately. A determination of the first issue could negate the second issue. For example, the union files a grievance for a bypass of overtime. The employer could dismiss the grievance claiming the grievance was not filed within the time limits of the grievance procedure. The union continues to move the grievance through to arbitration. The employer

may request the Arbitrator to “bifurcate” the case to conduct a hearing on the timeliness of the grievance only. If the Arbitrator rules the grievance is “untimely”, the grievance for the bypass of overtime is mute and will not be heard.

Boycott – A way of bringing collective pressure against an employer by discouraging the purchase of his product or services.

Bumping – Exercise of seniority rights by longer service employees to displace junior employees when economic conditions require temporary lay-offs or the discontinuance of departments, or to obtain preference in choice of shifts, dates of vacation periods, length of vacation, and retirement benefits.

By-Laws – Rules adopted by an organization (i.e. the local union) for the purpose of governing its membership and regulating its day to day affairs.

Call-Back Pay – Compensation, often at higher pay rates, for workers called back on the job after completing their regular shifts. Contracts usually call for workers to receive a minimum amount of pay when called back to work, regardless of the number of hours they actually work.

Call-In Pay – The amount of pay (ranging from two to eight hours) that is guaranteed to employees who report for work and find there is not enough work to do. Provisions for call-in pay are usually spelled out in **collective bargaining agreements**.

Certification – Official designation by a labor relations board or similar government agency identifying a union as sole and exclusive bargaining agent, following proof of majority support among employees in a bargaining unit.

CLC-Canadian Labor Congress – A federation of unions, the Canadian counterpart to the **American Federation of Labor and the Congress of Industrial Organizations**. The CLC is not in itself a bargaining agent. Its primary functions are; education, **lobbying**, and assisting constituent unions in organizing. The International Federation of Professional and Technical Engineers (IFPTE) is affiliated with the CLC.

Closed Shop – A union-security arrangement illegal under federal and state labor laws – where the employer is required to hire only employees who are members of the union.

Coalition (Coordinated) Bargaining – The joint or cooperative efforts by a group of unions to negotiate contracts with the employer. In coalition bargaining, the unions usually sit together at the bargaining table to negotiate one agreement or a set of identical agreements. In coordinated bargaining, the unions often negotiate simultaneously at different locations attempting to refrain from settlement until all are ready to settle on substantially the same terms.

Collective Bargaining – A method of determining wages, hours and conditions of the employees. The results of the bargaining are set forth in a **collective bargaining agreement**.

Collective bargaining, is to be distinguished from individual bargaining, which applies to **negotiations** between a single employee and the employer.

Collective Bargaining Agreement (CBA) – A written agreement or contract that comes out of negotiations between an employer and a union. The CBA sets out the conditions of employment (wages, hours, fringe benefits, etc that are permissible under the law) and ways to settle disputes and grievances. Collective bargaining agreements run for a definite period, usually three years or less.

Community of Interest – A criterion often used by an **administrative agency** to decide whether a group of employees, who want to be represented by a union, make up an appropriate **bargaining unit**. A community of interest exists if there is similarity of skills and duties, common supervision, common hours, wages, and working conditions.

Complaint – The document that initiates “formal” proceeding in an unfair labor practice case. The complaint sets forth all allegations and information necessary to bring a case to hearing.

Confidential Employee – An employee whose unrestricted access to confidential personnel files or to knowledge or information pertinent to the labor relations activity of the employer makes him or her inappropriate for membership in a union. Labor relations statutes usually exclude confidential employees from the regular employee **bargaining unit**.

Consumer Price Index (CPI) - A measure of the average change in prices paid by urban consumers for a “market basket” of goods and services, including food, clothing, shelter, transportation and prescription drugs. The items in the index are averages that relate to their importance in overall spending. The increase in the CPI is what most people think of as the “inflation rate.” Compiled by the U.S. Department of Labor. Fluctuations in the CPI are widely used in **collective bargaining agreements** to specify adjustments in wages.

Decertification - The withdrawal of a union’s official designation as **exclusive representative** of a bargaining unit. Usually a result of employee disaffection, it follows a decertification election.

Demotion (downgrading) - Moving an employee to a position lower in the wage scale or in rank. It may be in the form of a penalty, discipline; or it may be voluntary, resulting from cutbacks or layoffs.

Disability - The inability of individuals to perform their ordinary or customary work or routine because of injury. Also, under the Americans With Disabilities Act, a “disabled” person has a physical or mental impairment that substantially limits a major life activity, has a past record of impairment, or is regarded by others as having impairment.

Discharge - Dismissal of an employee, usually for breaking specific rules or policies, incompetence or some other justifiable reason. A discharge means loss of seniority and other rights, and affects the employee’s chances for employment elsewhere. **Collective bargaining agreements** protect employees from arbitrary or discriminatory discharge.

Discipline - The action taken by an employer and/or union against an employee for infraction of management or contract rules or union procedures.

Discrimination - Unequal treatment of workers because of race, religion, nationality, gender, or union membership. Discrimination may occur in hiring, types of jobs given, rates of pay, promotion, layoffs or other actions.

Dues Check Off - A system by which union dues and other assessments are deducted from employees' paychecks, either automatically or on specific employee authorization. The duration of the check-off is one year and is automatically renewed unless the employee revokes it at that time.

Dues, Union - The monthly or yearly sum paid by union members to their **Local unions**. The amount of dues is set by the local constitution. Dues are used to finance the labor relations and political functions of the union. A portion of the dues is sent to the International in the form of a **per capita tax**.

Duty of Fair Representation - A union's obligation to represent fairly all **bargaining unit** members in negotiations and in the enforcement of the agreement, without hostility, **discrimination**, or arbitrary conduct.

EEOC - Equal Employment Opportunity Commission, a federal agency charged with enforcing the federal civil rights laws, the Americans with Disabilities Act and other similar statutes.

Employee Benefits - Commonly known as "fringe benefits," and form of employee compensation other than direct wages, such as a pension plan or a health and welfare plan.

Employee Retirement Income Security Act of 1974 (ERISA) - Federal statute that regulates private pensions. ERISA was enacted to ensure that all employees covered under pension plans would receive the benefits promised. It does not require employers to establish pension plans, but sets minimum standards for employee participation, portable pensions, vesting rights, funding, reporting and disclosures.

Employee Rights - The privilege afforded to a worker under federal and state laws and common decency. The **collective bargaining agreement** vastly expands the majority of these rights.

Executive Board - The governing body elected to oversee the **Local union**. The board is comprised of Rank and File members and may also have dues paying union staff as members.

Fact Finding - A process whereby an independent third party takes evidence from management and the union on disputed issues and makes a written, non-binding recommendation.

Fair Labor Standards Act (FLSA) - A federal statute, the FLSA was enacted in 1938 and sets minimum hourly wages and maximum daily and weekly work hours after which overtime must be paid.

Fair Share - A fee paid to the union by members of a **bargaining unit** who have not joined the union. The fee covers the services of the union in negotiating a contract and **grievance arbitration** procedures. See **Agency Shop, Union Security Clauses**.

Federal Mediation & Conciliation Service (FMCS) - Federal agency supplying **mediators and arbitrators** to union and management to solve negotiating impasses or to settle strikes.

Good Faith Bargaining - Legal obligation of both union and management to make reasonable efforts to settle **grievances** and **negotiations**. Lack of **good faith bargaining** may be an **unfair** labor practice.

“Grandfather” Clause - A contract provision stipulating that those employees on the payroll before a specified time will not be subject to certain terms of a new contract.

Grievance - Complaint against management by one or more employees, or a union, concerning an alleged breach of the collective agreement or an alleged injustice. Procedure for the handling of grievances is usually defined in the agreement. The final step (last resort) of the procedure is usually **arbitration**.

Personal Grievance - A grievance that affects only one member.

Principle Grievance - A grievance that deals with a basic principle or contract right that affects all the members at a particular work location.

Group Grievance - A grievance that affects several members at one time.

Union Grievance - A grievance that is initiated by the union on behalf of the member(s).

Illegal (Prohibited) Bargaining - Items which by Federal or State law may not be bargained. For example, a **closed shop** and clauses promoting **discrimination** are barred.

Injunction - A court order restraining individuals or groups from committing acts which the court determines will do irreparable harm. A favorite device used to prevent strikes.

Informational Picketing – Picketing to publicize either the existence of a labor dispute or information concerning the dispute.

Insubordination - Failure to follow directions in the performing of a job which can lead to discipline up to and including termination.

Interest-Based Bargaining - A **collective bargaining** approach in which group problem-solving, open communication, cooperation, and the mutual interests of the union and the employer are emphasized.

International Unions - The national or “international” organization of a labor union. (The term “international” is used because many unions have affiliates in Canada). It is financially supported by a **per capita tax** on all its **members**. Its functions include: chartering local unions and conducting education and research.

Job Classification - Job rating based on an analysis of the requirements of the work.

Job Description – Part of job evaluation involving a review of the nature of the work, its relation to other jobs, the working conditions, the degree of responsibility, and the other qualifications called for by the work.

Job Security - Provision in a collective bargaining agreement protecting a worker’s job, as in the introduction of new methods or machines.

Jurisdiction - A claim by a union that it represents employees in a specific department or job classification, or performing a specific type of work. Jurisdiction disputes are usually settled by an **administrative agency**, not in **arbitration**.

Just Cause – Grounds for discharge or demotion of an employee based upon acts that violate the collective bargaining agreement, company policy, and/or state or federal law.

Lobbying - The process of working closely with public officials to promote the passage of legislation that supports the organization’s best interest.

Local Union – The basic unit in union organization, a local, has its own constitution and by-laws, elects its own officers, and is chartered by an International Union.

Lockout - Shutdown of a facility by the employer to discourage union membership or activity or to enforce economic demands.

Maintenance of Membership – Form of union security requiring anyone who is a member of the union at the time the contract is signed to remain a **member**. This does not require nonmembers or new employees to join.

Make Whole – The remedy for an employee who was illegally discriminated against by an employer. For example, an employee discharged for union activity is “made whole” by being reinstated, receiving back pay, **seniority**, and benefits he or she would have enjoyed if there had been no **discrimination**.

Management Rights - Rights reserved to management which are not subject to **collective bargaining**. They include such things as hiring of employees, methods of production, and scheduling of work.

Mandatory Bargaining - Those items included under “wages, hours and other terms and conditions of employment” over which the union and employer must **bargain in good faith**.

Mediation - The use of a third party to end negotiating impasses or work place disputes. The **mediator**, usually from the FMCS, the Personnel Resources Board or PERC, may make suggestions or seek compromises but does not require union and management to accept suggestions.

Mediator - An impartial third person who acts as a facilitator or go-between, suggesting possible avenues for resolving disputed issues.

Member - A dues paying employee covered by the **collective bargaining agreement**.

Merit Increase - An increase in employee compensation awarded on the basis of that person's efficiency and performance.

Merit System - An employment scheme, common in civil service, in which the selection of an employee for entry-level positions, promotions or pay raises are based on the employee's capabilities and experience.

National Labor Relations Act (NLRA) - The federal law passed in 1935 which created the **National Labor Relations Board**, guaranteed employees the right to organize and join unions and to bargain collectively. The NLRA was later amended by the **Labor Management Relations (Taft-Hartley) Act** of 1947 and the **Labor-Management Reporting and Disclosure (Landrum-Griffin) Act** of 1959.

Negotiation - The process whereby the union and the employer meet to reach agreement on wages, hours and working conditions and on methods for administering the agreement.

No-Lockout Clause - A provision in a collective bargaining contract in which the employer agrees that the employer will not close down the operation in order to force the employees to accept terms for a collective bargaining agreement.

No-Strike Clause - A provision in a **collective bargaining** contract in which the union promises that during the life of the contract the employees will not engage in strikes, **slowdowns**, or other **job actions**. A union often agrees to such a clause in exchange for a **grievance arbitration** clause.

Open Shop - A workplace in which union membership is not required as a condition of obtaining or retaining employment.

OSHA (Occupational Safety and Health Act) - Passed in 1970, this federal law establishes health and safety standards covering workers in private employment. Many states have their own form of OSHA.

Overtime - Premium pay consisting of an amount over an employee's regular daily or weekly pay. The Fair Labor Standards Act (FLSA) made it mandatory to pay time-and-a-half pay for all work performed beyond 40 hours a week. Some contracts call for double-time pay in certain circumstances.

Past Practice - A reasonably uniform response to a recurring situation over a substantial period of which has been recognized by management, the union and the employees implicitly or explicitly as the proper response. For example, employees are allowed a few minutes returning from breaks because the break room is distant from their workplaces.

PERC (Public Employment Relations Commission) - The State labor relations agency empowered to administer the public sector **collective bargaining** statute.

Per Capita Tax - Required payments (usually per member, per month) by a Local to its National or International Union.

Permanent Replacement Workers - A non union worker hired by the company during a union dispute or strike to fill the job of the striking union member.

Permissive (Non-mandatory) Bargaining - Those items over which union and management are not required to bargain but may do so if they both agree. Permissive bargaining subjects for the union include the method of selecting stewards or ratifying a contract and the composition of bargaining committees. On management's part, permissive subjects include the right to determine which equipment to purchase.

Picketing - The visible (and lawful) presence near an employer's place of business by union members and supporters to publicize the existence of a labor dispute, to persuade workers to join a strike or the union, or to discourage customers from buying or using the employer's goods or services.

Post-hearing Brief - Filed after the **arbitration** hearing is completed. It not only summarizes the arguments made at the hearing, but also draws conclusions.

Premium Pay - Additional money is paid to an employee for certain types of work. (e.g. night shifts, overtime or hazardous work.) Premium pay is paid in addition to the regular pay to compensate employees for the special effort required, the unpleasantness of the work, or for the inconvenience of the time during which the work takes place.

Professional Employee - Under the FLSA, an employee engaged in work that (a) is predominantly intellectual rather than routine mental or manual work, (b) involves the consistent exercise of discretion and judgment, (c) requires advanced knowledge acquired through prolonged and specialized study, and (d) is of such a character that it cannot be performed in a specific period of time. For example, doctors, lawyers, nurses, teachers, and engineers.

Ratification - The process by which affected members vote via secret ballot to accept or reject a contract proposal. Passage is based on returned ballots only.

Recognition - Employer acceptance of a union as the exclusive bargaining representative for employees in the **bargaining unit**.

Refusal to Bargain - Findings made by **administrative agency** indicating that either the employer or the union has failed to **bargain “in good faith”**. The refusal to bargain may be indicated by specific actions (such as adding new demands during **negotiations**) or by the overall behavior of the union or management during **negotiations**. See **Good Faith Bargaining**.

Reinstatement - The restoration of employees to their former or substantially equivalent positions without the loss of **seniority** or other benefits. Reinstatement may result from an **arbitration** decision regarding an employee’s improper discharge; or decisions involving **unfair labor practices**. Reinstatement may occur with or without **back pay**.

Reopening Clause – A provision in a **collective bargaining**, agreement stating circumstances under which wages and other issues can be renegotiated while other terms of the agreement remain in force. Often called a “reopener.”

Retroactive Pay - Income due to employees when a new contract provides for a wage increase for work completed prior to the effective date of the contract, often dating back to the expiration of the previous agreement. (e.g. a contract signed in June may call for a 3% increase beginning the first day of the previous January, the beginning of the new contract.)

Right to Strike - The right to stop work for, the purpose of gaining concessions from the employer, available to employees in the private sector under federal and state laws. Public employee strikes are prohibited. Public employee **collective bargaining** laws usually provide for alternative methods, called impasse procedures, for settling disputes.

Scope of Bargaining - The range of issues which management and unions bring to **negotiations**. Disputes over whether a demand is an appropriate subject matter for bargaining are resolved by administrative agencies and the courts. See **mandatory** and **permissive subjects** of bargaining.

Seniority - An employee’s status determined by length of continuous employment, used to determine which employees should secure advantages at the work-place (e.g., promotion, shift assignment, or layoff survival), and to measure employee entitlement to benefits. Example: Seniority clauses determine which employees will be laid off, recalled, have choice of vacation time, overtime and work shifts, transfer and promotion, etc. See **Bumping**.

Seniority List A – A list of individual employees ranked in order of **seniority**.

Severability Clause - A **collective bargaining agreement** may also incorporate a severability or “savings” clause so that if part of the agreement is held to be invalid or unenforceable, the rest of the contract will remain in effect.

Severance Pay - a lump sum paid to a worker who through no fault of their own has been permanently separated from the job due to a reduction of the work force, the elimination of certain **job classifications**, or other reason spelled out in the contract.

Shop Steward - The union representative who carries out union duties (e.g., handling **grievances**) and who is elected by union members or appointed by union officials. Distinguished from business agent or union representative.

Strike - Stopping work for the purpose of gaining concessions from the employer. Types of strikes: **Wildcat strike**, triggered by an incident on the job and usually short of duration, without union authorization and in violation of the contract; **Sympathy Strike**, a strike taken to support for other strikers and to increase pressure on the employer to settle in negotiations; **Unfair labor practices strike**, a strike to force an employer to cease engaging in alleged illegal activity.

Subcontracting - A procedure to sublet certain work to subcontractors rather than have **bargaining unit** employees perform the work, frequently on the grounds that the work can be performed more efficiently and at less expense. Many negotiated agreements specify the conditions under which work previously performed by the bargaining unit employees may be subcontracted.

Supervisor - A person having the authority, in the interests of the employer, to hire, transfer, suspend, promote, layoff, recall, discharge, assign, reward, or discipline other employees or to effectively recommend such action, or to adjust employee **grievances**. A supervisor's authority is not of a routine nature, but requires the use of independent judgment. Supervisors are usually either excluded from union coverage or placed in separate **bargaining units**.

Title VII (Civil Rights Act of 1964) - A federal law prohibiting employers, unions, employment agencies and joint labor-management committees from discriminating against any employee or job applicant on the basis of race, color, sex, religion, national origin, or pregnancy with regard to compensation, hiring, firing, promotion or admission to training programs. Often referred to simply as "Title VII". The EEOC and the courts are responsible for enforcing Title VII regulations.

Unfair Labor Practice (or ULP)- Conduct on the part of either union or management that violates provisions of federal or State labor laws. For example, management may commit an ULP by refusing to **bargain in good faith**.

Uniformed Services - Public employees, usually police, firefighters and transit workers, covered under different labor relations statutes than other public employees. If impasse is reached in negotiations with uniformed personnel, by statute they are barred from striking and must use the interest **arbitration** process.

Union Membership Card - A document identifying union affiliation by the bearer. Membership cards may be used as an admittance procedure to Local union meetings and events.

Union Security Clause - A contract provision designed to protect the union as an organization by requiring that all employees in a **bargaining unit** contributes to costs of **collective bargaining**. May be an **agency fee or maintenance of membership** clause.

Union Shop - A **bargaining unit** covered by a **union security clause** stipulating that the employer is free to hire whomever it chooses, but new employees must join the union as a condition of employment within a specific period of time (by law, not less than 30 days) after their date of hire and retain union membership as a condition of continued employment.

Weingarten Card - A listing of a member's right in the event that management requests a meeting that may lead to discipline. The card advises the member that they are entitled to union representation.

Win-Win Bargaining - A non-adversarial interest-based approach to **collective bargaining** and joint problem-solving. Mutually advantageous, "win-win" bargaining relative to the traditional, adversarial approach.

Workers' compensation Programs - State-mandated insurance programs requiring the payment of benefits to workers suffering from occupational diseases or injuries sustained on the job.

Affirmative Action Zipper Clause - A contract provision that states that the contract is the complete agreement of union and management and that nothing is agreed to unless it is in writing and signed by both parties as part of the contract. The zipper clause is intended to stop either party from demanding renewed negotiations during the term of the contract. See **Reopener Clause**.

Appendix



- Sample Grievance Form
- Sample of Steward's Notes

SAMPLE GRIEVANCE FORM

William Wilson 623-9826
Grievant's Name Telephone Number

January 3, 2007 January 6, 2007
Date of occurrence Date reported to steward

Suffork County Morgue/25 Bakster Lane/Autopsy
Employer/location/section

September 30, 2006 Forensic Technician II
Date of Hire Classification or Job Title

Dr. Howard Fine 623-9829
Supervisors Name Telephone Number

Type of Grievance (check):

<input type="checkbox"/> Discharge	Date _____	<input type="checkbox"/> Wage Claim	Date _____
<input checked="" type="checkbox"/> Suspension	Date <u>1 - 10 - 07</u>	<input type="checkbox"/> Work Condition	Date _____
<input type="checkbox"/> Warning	Date _____	<input type="checkbox"/> Other	Date _____

Grievance Description (State Article violated):

Article 3 Vacations
Having completed my probationary period on December 31, 2006, I was entitled to one day
vacation to use at my discretion. Dr. Howard Fine ordered me to work on Friday, January 3, 2007
and I refused. On Monday, January 6, 2007, Dr. Fine called me in and told me that I was being
suspended for one day on January 10, 2007.

Drop the suspension. Expunge any report of this from the record.
Remedy asked

Daniel Jones
Name of processing Steward

SAMPLE OF STEWARD'S NOTEBOOK

Date: Monday, January 6, 2007
Grievant: William Wilson
Job: Forensic Technician II
Location: Suffolk County Morgue/Autopsy

Summary (in grievant's own words):

I just finished my probationary period and had been planning to take a long weekend trip for months. Then Dr. Fine tells me I can't take the day off. That really ticked me off. I told Dr. Fine that I refused to work on Friday, January 3, 2007. Dr. Fine told me I would regret this insubordination. When I returned to work on Monday January 6, 2007 Dr. Fine called me in and told me that I was being suspended for one day on Friday, January 10, 2007.

Summary of Steward's investigation:

Contract language: Article 3 Vacations

After an employee completes his first consecutive 90 days of employment he/she shall be entitled to one day of discretionary vacation.

Further contract language to investigation:

Definition of first consecutive 90 days? Does this mean if the employee was out for any reason at all, the consecutive days are broken? If no language clarifies this what is the accepted practice or work rules?

Employer Interview:

Steward should meet with Dr. Fine to hear his side of the story before the grievance meeting occurs.

Supporting evidence or past practice:

Is there any supporting evidence? (e.g. witnesses etc. that can shed any light on the grievance)

What has the past practice been?

Remedy sought by the grievant:

What will resolve this matter and be consistent with the contract language and the past practice of the parties?

Steward's Comments:

It is important that the steward briefly and concisely write down his understanding of the case to help the parties find a solution.

Notes of the Grievance meeting:

While this manual is dedicated to what the steward should know it is important to remember that what happens in the grievance meeting should be accurately reflected in the minutes of the formal grievance meeting.

Final Step:

If the parties have a satisfactory solution to the grievance they should say so in writing.

If the union is not quite sure that they have a solution they should not hastily make one, but rather, ask for an extension to respond to the employer (the employer may also ask for this).

If no solution is possible say so to the employer in writing and state what steps the union will be taking (e.g. arbitration, mediation etc.)

*The International Federation of
Professional and Technical Engineers
AFL-CIO, CLC*



*501 3rd Street NW, Suite 701
Washington, DC 20001*

Phone – 202-239-4880

Fax – 202-239-4881

www.ifpte.org