



CWA
STRONG

STEWARDS
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STEWARDS RESOURCE MANUAL

COMMUNICATIONS WORKERS OF AMERICA

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CHAPTER 1

Roles of CWA Stewards

SECTION PREVIEW

In this section you will learn:

- Who is CWA, and what are our union values?
- The CWA Triangle
- How Union Dues Work
- The Steward's Job Description
- Strong Stewards Build Workplace Power

THE UNION DIFFERENCE: Building Power in the Workplace

***“Power concedes nothing without a demand.
It never has and it never will”***

– Frederick Douglass, Abolitionist

In workplaces without a union, the boss has all the power. Workers check their rights at the door. Workers have no say in their pay, benefits, or working conditions. Management can change rules or take away benefits without notice. If workers do speak up about a concern or an injustice, they risk discipline or retaliation. Management can fire people at any time for any reason.

When we form a union, we take some of this power into our own hands. We gain a legally protected voice in negotiating over key terms and conditions of our work. We also gain the power to hold management accountable to standards of fairness. Often, this power is realized through collective bargaining and a legally binding union contract—and through enforcement of this contract on the ground by strong union stewards.

WHO IS CWA?

Our Union Values, Past and Present

As a steward, you represent—and speak for—CWA. This makes it crucial for stewards to know who CWA is and what our union stands for.

CWA is dedicated to empowering workers through organizing, representation, and movement building. Today we are building a strong, multiracial, democratic organization to defend workers' rights into the future.

CWA got its start in 1938 in the telephone industry, and today represents workers in all areas of communications, and technology, as well as in health care, public service, customer service, broadcasting, airlines, printing, manufacturing, education, journalism and media, and many other fields.

Serving as a CWA union steward today means you are part of an international network of committed union activists.

Our members work for well-known employers such as AT&T, the New York Times, and United Airlines; for cities, states, schools, and universities across the country; and in factories, offices, call centers, hospitals, and more.

CWA is organized into seven geographic districts and the CWA-SCA Canadian region. There are six industrial Sectors and Divisions.

In addition to organizing workers and enforcing union contracts, CWA mobilizes members to build power in support of collective bargaining rights, sustainable jobs, health care, retirement security, economic justice, human rights, and other key economic and political issues with the goal of improving all workers' lives.

CWA policy on the local, District/Sector/Division, and international levels is set through a democratic process, voted on by rank-and-file members. The biennial Convention is the highest policy-making body of the union. Over 2,000 elected delegates attend the CWA Convention.

CWA SECTORS AND DIVISIONS



CWA is affiliated with the largest federation of U.S. unions, the American Federation of Labor-Congress of Industrial Organizations (AFL-CIO), the Canadian Labour Congress (CLC), and other national and international union organizations. This means we work with unions from all industries and sectors across the world. CWA stewards are encouraged to participate in activities of their AFL-CIO and CLC state, provincial, regional, or local bodies. Joining forces with other unions wherever we live is essential to building our power.

As a steward, you serve every day as the face and voice of CWA in your workplace and your community. Remember that the work you do today as a CWA steward will become the CWA history of tomorrow!

Overview

Beginnings The Communications Workers of America (CWA) was founded in New Orleans in 1938. First known as the National Federation of Telephone Workers, convention delegates in 1947 changed the name to the Communications Workers of America.

CWA joined the Congress of Industrial Organizations (CIO) in 1949 and has been an affiliate of the AFL-CIO since the two labor organizations merged in 1955.

Composition The CWA represents workers in telecommunications, broadcasting, cable TV, journalism, publishing, manufacturing, airlines, customer service, government service, healthcare, education, and other fields.

Geographic Spread CWA members live and work in more than 10,000 communities in the United States and Canada.

Collective Bargaining Among the largest employers are AT&T, Verizon, the State of New Jersey, United Airlines, G.E., Canadian Broadcasting Corporation, state and local governments, major newspapers, and universities.

Union Democracy CWA Conventions are the union's highest policy-making body.

Merger Unions

Association of Flight Attendants (AFA-CWA)



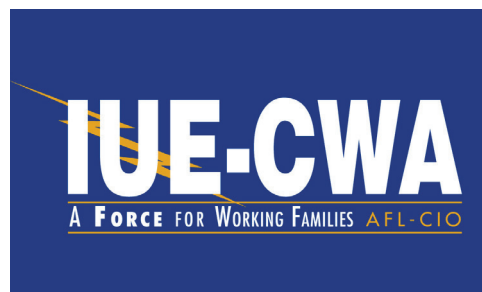
Established in 1945, the Association of Flight Attendants is the world's largest labor union organized by flight attendants for flight attendants. AFA-CWA represents nearly 50,000 flight attendants at 18 airlines, serving as a voice for flight attendants at their workplace, in the industry, in the media and on Capitol Hill. Through the years, AFA-CWA members have fought for, and won a number of changes in the airline industry that has led to safer airplanes and transformed the flight attendant profession. Flight attendants are trained professionals, First Responders in the air, and responsible for the safety of passengers in the

airplane cabin.

- AFA-CWA negotiates the best flight attendant contracts in the industry, maintaining and improving wages, benefits and working conditions for flight attendants.
- AFA-CWA has strength in numbers and a professional staff to assist flight attendants with workplace, career and interpersonal concerns.
- AFA-CWA is a democratic union representing flight attendants at every Mainline, Regional, Low Cost, Niche, and charter carrier. All AFA-CWA officers are flight attendants who solicit member input on policy and financial decisions.
- AFA-CWA shares information and strategies, working in solidarity with flight attendant unions around the world through the International Transport Workers Federation (ITF).

International Union of Electrical, Salaried, Machine and Furniture Workers (IUE-CWA)

The International Union of Electronic, Electrical, Salaried, Machine, and Furniture Workers' roots reach back to the early 1930's in the radio and electrical manufacturing industries at many of the world's largest companies, including General Electric, Westinghouse, and General Motors. In 1936 these independent unions coalesced to form the United Electrical, Radio and Machine Workers (UE), the first chartered CIO union. In 1949, as a result of disputes within the CIO, the UE left the CIO and the IUE was born as the union representing those workers who wished to remain in the CIO.



In the 1950's a growing IUE pioneered coordinated bargaining among the 14 unions at GE and Westinghouse, which became a model for the entire labor movement. In 1987, the United Furniture Workers of American merged with the IUE, and in October of 2000, the IUE membership voted to approve the merger with CWA, becoming the Industrial Division of CWA.

IUE-CWA members remain employed in manufacturing, but also now include private and public service-related industries, with over 100,000 active and retired members throughout the United States.

The IUE-CWA Division is known for its progressive history, including leadership in the area of social justice. Through the years, IUE has fought on behalf of civil rights and anti-poverty programs, equal employment opportunity, fair housing, education, national health care, pay equity, and trade reform. Currently, the Division is focuses on ensuring that a green economy and a U.S. manufacturing renaissance translate into high quality union jobs. The Division is active in the AFL-CIO Industrial Union Council and is outspoken in calling for fair trade laws and a fair and equitable U.S. manufacturing policy.

The NewsGuild (TNG-CWA)



Led by columnist Heywood Broun, The American Newspaper Guild began in 1933. Dissatisfaction with their pay was the main reason that editorial workers, traditionally independent, came together. In 1937 it expanded its membership to include commercial departments.

TNG has been at the forefront of labor law, social justice and worker safety throughout its history. In the 1940's it fought off attacks by publishers who claimed labor law violated their 1st Amendment rights. In the 1960s, the Guild actively pushed employers to end racial and gender discrimination in their hiring and employment practices. In the 1980's the Guild lead the fight to address workplace injuries and repetitive strain injuries caused by the introduction of poorly designed computer equipment.

In the past 20 years language workers, including translators and interpreters have been added to the ranks of Guild members.

At the 2015 TNG-CWA Convention, delegates approved changing the union's name to The NewsGuild-CWA, to better reflect the current news industry and diversity of Guild units. TNG today is primarily a media union whose members are diverse in their occupations, but who share the view that the best working conditions are achieved by people who have a say in their workplace through collective means.

National Association of Broadcast Employees and Technicians (NABET-CWA)

In 1994, NABET merged with CWA. NABET-CWA has 27 chartered Locals with over 10,000 members who are employed in broadcasting, distributing, telecasting, recording, cable, video, sound recording and related industries in North America. Radio announcers, technicians, clerical workers, set designers, directors, video camera operators, videotape editors, and audio visual technicians are among those represented by NABET-CWA.



NABET-CWA negotiates over 100 collective bargaining agreements for its members. Major employers include NBC, ABC and independent companies in the public and private sectors.

Early history of NABET-CWA:

- ✦ In 1933, some 300 NBC workers formed the Association of Technical Employees (ATE).
- ✦ In 1934, ATE signed its first contract with NBC. The contract called for a 48-hour work week and a monthly wage scale of \$175.
- ✦ In 1940, ATE changed its name to the National Association of Broadcast Engineers and Technicians (NABET).
- ✦ In 1941, NABET negotiated its first eight-hour day contract provision.
- ✦ In 1943, a Supreme Court decree splits up NBC and creates ABC. NABET adds ABC to its contracts.
- ✦ In 1951, NABET affiliates with the Congress of Industrial Organizations (CIO).
- ✦ In 1994, NABET merged with CWA.

CWA's founding mission is laid out in Article 3 of the CWA Constitution:

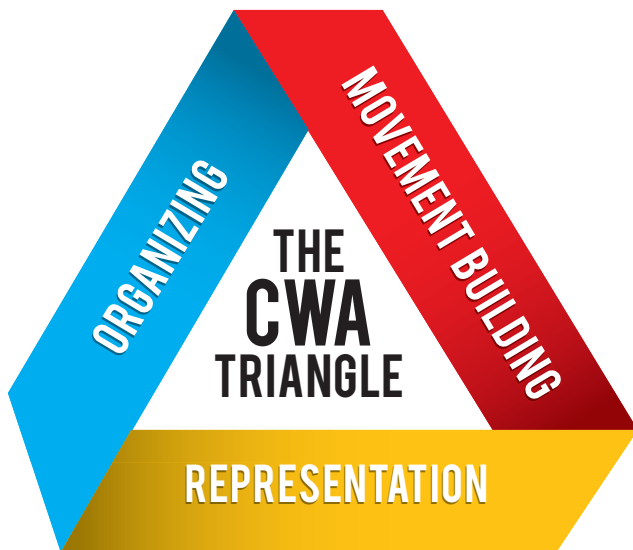
The objects of the Union shall be:

- A.** To unite the workers within its jurisdiction in a single cohesive labor union for the purpose of collective effort;
- B.** To improve the conditions of the workers with respect to wages, hours, working conditions and other conditions of employment;
- C.** To disseminate information among the workers respecting economic, social, political and other matters affecting their lives and welfare;
- D.** To advance the interests of the workers by advocating the enactment of laws beneficial to them and the defeat or repeal of laws detrimental to them;
- E.** To do all things which may be necessary or proper to secure for the workers the enjoyment of their natural rights.

The CWA Triangle

The CWA Triangle symbolizes the three major programs—and pillars—of our union.

If any one side of our triangle is weak, it diminishes our power and ability to effectively represent our members.



Representation: our ability to stick up for each other and enforce our rights under the law and the contract—is never a right we can take for granted. Our basic rights to form unions and collectively bargain are under attack and can only be secured through strengthening all sides of our triangle.

Organizing: means building up our membership in existing units, as well as strategically adding new groups. Organizing is how we build the power we need to maintain our rights.

Movement Building: means engaging our members and partner organizations across the nation to unify in support of economic justice and democracy.

When our founding president, Joseph Bierne, created the CWA Triangle in 1965, he dubbed it the “triple threat” and key to CWA’s future. By remembering our roots and the interdependence of the Triangle’s sides, we can strengthen our union and defend our rights.



CWA Union Dues

Together, hundreds of thousands of dues-paying members make up our union. Monthly dues are the way we each chip in to fund a strong, independent organization with the resources to defend our rights.

CWA members determine the union's dues rates and structure. This is one of many union policies set by convention delegates elected by rank and file members.

CWA union dues pay for the staff, legal services, materials, and programs we need to build power for members through:

- Contract negotiations
- Contract enforcement, grievance handling and arbitration
- Mobilization campaigns
- Education programs and training materials
- Research and communications
- Organizing
- Strategic Industry Fund campaigns

Current member dues rates are as follows:

- Members who have the right to strike pay minimum dues of 2.25 hours of pay a month based on a 40-hour work week. *For example, if you earn \$20/hour your dues are \$45 a month: \$20/hr x 2.25 hrs = \$45*
- Members who are legally restricted from striking pay dues of two hours of pay a month based on a 40-hour work week. *For example, if you earn \$20/hour, your dues are \$40 a month: \$20/hr x 2 hrs = \$40.00*
- Members who work in Passenger Service pay minimum union dues equivalent to 1.3% of monthly pay.

In CWA, 60% of our dues remain with the local to fund representation and other activities. The remaining 40% are split between the International Union and the Member Relief Fund. Check with your local to confirm your dues breakdown.

CWA Stewards: The Heart of Our Union

CWA stewards are the key to our union's power. Stewards bring our union to life each day by:

- **educating** co-workers about their rights in the workplace
- **building and maintaining** a strong, unified, and informed union membership
- **working** with members to solve problems, strengthen workers' rights, and improve conditions on the job, in the community, and beyond.

Within CWA, stewards are the most critical layer of leadership on all three sides of the "CWA Triangle." Where our stewards are strong, our union is

strong. Where stewards are absent or weak, our union is weak.

You should expect serving as a steward to be both rewarding and challenging. You may be called on to learn complicated rules and policies, creatively respond to tough problems, and juggle competing demands for your time.

Most of all, you should expect to encounter ongoing challenges to your power. Because management almost never shares power willingly, building and maintaining our union's power are constant priorities. Strong stewards stay vigilant in enforcing the limits of management's power, and never stop working to empower our members.

The Steward's Job Description



Stewards have a primary responsibility to build union power through organizing and representation. This involves playing multiple intertwined roles as workplace organizers, communicators and educators, problem-solvers, and representatives.

As **workplace organizers**, stewards engage and mobilize their co-workers to build power necessary to enforce the contract, but also to give workers power and a voice at work, in their communities, and beyond.

As **communicators and educators**, stewards keep critical information flowing between co-workers and union leaders. As a steward, you are accountable to the members you represent and to our union as a whole. Ideally, stewards advance our union's values and priorities through strong working relationships with members, other union leaders, management, and community leaders.

As **problem-solvers**, stewards actively seek to understand co-workers' issues and concerns, and to find positive resolutions to workplace problems.

As legally recognized **union representatives**, stewards serve as front-line enforcers of the union contract and the law each and every day, making sure workers' rights become realities. Without strong stewards to hold management accountable, language negotiated into collective bargaining agreements can easily be violated. Even major state and federal laws often go ignored unless knowledgeable stewards are in place to serve as workplace watchdogs.

Stewards who cultivate skills in each of these areas create a strong union where workers have the power to shape their workplace and their future.

Here is a sample list of some the specific responsibilities CWA local unions often call on stewards to take on:

1. Sign up every co-worker to be a participating member of the Union.
2. Sign up members to the CWA Political Action Fund and help facilitate the local union's political program.
3. Act as the face of the union on the job.
4. Communicate between and connect local leaders with all union members
5. Serve as "mobilization captain" to coordinate collective actions during contract bargaining or other issue campaigns.
6. Enforce the contract by educating members, monitoring for violations, and filing grievances.
7. Represent members during employer investigations and hold management accountable to "just cause" standards when issuing discipline.
8. Communicate with management on behalf of members.
9. Work with local leadership to advance union priorities and build the union's power.

EXERCISE:

Understanding Workplace Power: What difference do stewards make?

Questions for discussion:

- Why do members in workplaces with strong stewards have more power?
- What is an example of a time when you felt you and your co-workers had power in your workplace?
- Which of the four areas below is the strongest in your local union? In which area would you most like to increase your power? Why?

What happens to our power at work ...	When strong stewards educate, empower, and mobilize co-workers	When no one is organizing, educating, or mobilizing
Contract enforcement	Contract violations are less common. When violations occur they are addressed immediately.	Contract violations are frequent and routinely ignored.
Union membership	Membership is high. Non-members and new hires are immediately asked to join the union.	Membership is low. Non-members and new hires are never asked to join the union.
Weingarten rights	Members know their Weingarten rights. Stewards are always present during investigatory meetings.	Members are alone, without union representation, in investigatory meetings with management.
Contract bargaining	Members receive regular bargaining updates and are actively engaged in mobilizations to win a fair contract.	Members hear little about bargaining and play no role in affecting the contract outcome.

Key Takeaways



- ✓ CWA's power starts with our members. We engage our members to build power through **organizing, representation** and **movement building**.
- ✓ We pay union dues to fund a strong, independent organization with resources to defend our rights.
- ✓ CWA stewards are the heart of our union. As workplace organizers, educators, problem-solvers and union representatives, we play a critical role in making CWA strong!

CHAPTER 2

Exercising Your Legal Rights



SECTION PREVIEW

In this section you will learn your legal rights and responsibilities as a CWA steward, including the:

- **Equality Principle:** Why union stewards are management's equals
- **Duty of Fair Representation:** Our commitment to fair representation for all
- Sources of federal or state laws covering our union and workplaces
- **Weingarten Rights:** How to protect workers' rights through representation in management investigations

The Law and the Power You Hold

Stewards are legally recognized union representatives in the workplace, with special legal protections to carry out duties necessary to build power, engage members, and enforce the contract.

Knowing and asserting these legal protections is key to shifting the balance of power and leveling the playing field in the workplace. When we know our rights and vigorously enforce them, we become the legal equals of management in setting the terms and conditions of our work. Outside of union workplaces, this power does not exist.

Even with a union contract in place, if we don't have stewards in our workplaces, management has no counterpart that is *legally protected and legally recognized* as a representative for all members.

Whenever you act in your capacity as a union steward, you step out of your role as an employee and become an official union representative. Labor law recognizes that a steward cannot effectively represent workers unless they are able to freely communicate with management on a level playing field.

The Equality Principle

Whenever you deal with management as a steward, you do so *as an equal*. This means you have the right to openly disagree without being disciplined. Labor law ensures that when necessary, we can confidently push back, raise questions, argue our point, check any abuses of management power, and vigorously enforce our contract.

No Retaliation or Discrimination

Labor law specifically prohibits management from disciplining or intimidating you because of your union activity. For example, management cannot deny you promotions or other benefits, assign you extra work or undesirable jobs, or act in other ways that attempt to discourage you from doing your job as a steward.

Equal Standard Rule

It is also illegal for management to hold you to a higher standard than other workers or to harass you with extra supervision or stricter rules. As a steward, you should expect co-workers to look to you as an example—and you can protect yourself and the union's reputation by doing your job well. But being a steward does not allow management to expect more from you or discipline you more harshly than other workers.

Limits of These Rights

Stewards should be confident and resolute in demanding these representation rights—while also keeping in mind that your speech and actions are legally protected only when you are acting *in your capacity as a steward*. The law may not protect you from discipline, for example, if you shout at a supervisor in front of other workers while on the job (this could be considered insubordination).

Generally, the more formal the setting (a grievance meeting, arbitration hearing, etc.) and the clearer it is that you are acting as a union representative, the greater freedom of expression and legal protection you have. Likewise, labor law will generally not protect you against discipline for intentional lies, threats, or violent actions.



Sources of Stewards' Legal Rights

The legal rights of stewards described in this chapter are based on the National Labor Relations Act. Similar rights apply to many public sector workers and to airline or railway workers under separate state or federal laws.

National Labor Relations Act (NLRA)

The NLRA passed in 1935 under President Franklin D. Roosevelt. The Act covers most private sector workers. It establishes three key rights:

1. Rights to form, join, and assist labor organizations
2. Rights to bargain collectively with employers
3. Rights to engage in collective action ("concerted activities") to improve conditions in the workplace

Sec 7 of the NLRA:

"Employees shall have the right to self-organization, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid and protection."

The NLRA also establishes the **National Labor Relations Board (NLRB)**. The NLRB is responsible for protecting the rights of workers in the private sector under the NLRA and deciding cases under the law. Decisions of the NLRB can be appealed to federal courts.

Worker Power Wins Labor Rights

Unprecedented worker organizing created the pressure necessary to pass the 1935 NLRA. The year before, 1.5 million workers were on strike in major industries across the country, often joined by millions of unemployed workers agitating for economic rights.



Union membership soared and struggle continued with the new law in place. It took years of organizing, strikes and community, workplace, and court battles to gain union recognition and compel employers to bargain new contracts.

Who got left out? Limits of the Law

The NLRA brought groundbreaking union protections to many private sector workers in 1935 but also left out millions. Today the NLRA still does not cover:

- Public sector workers
- Agricultural workers
- Domestic workers
- Airlines and Railway Workers

Historically and today, these exclusions disproportionately disadvantage workers of color and women, who work in large numbers in these sectors. It's one of many legal limitations that continue to fuel economic inequalities today.

What if I work in the Public Sector?

The NLRA does not cover state and local government workers. Individual states are left to determine which rights to extend to workers in the public sector.

As of 2020, laws that protect public sector workers continue to vary by state. Some states have few or no protections in place at all.

Workers in states without public sector laws—including many CWA members—continue to struggle for union rights, often organizing as part of larger civil rights and social justice movements.

See a few examples below:

STATE	RIGHT TO ORGANIZE	RIGHT TO COLLECTIVELY BARGAIN	RIGHT TO STRIKE
TEXAS	✓ YES	✗ NO	✗ NO
NEW JERSEY	✓ YES	✓ YES	✗ NO
OHIO	✓ YES	✓ YES	✓ YES
IOWA	✓ YES	LIMITED	✗ NO
CALIFORNIA	✓ YES	✓ YES	✓ YES
FLORIDA	✓ YES	✓ YES	✗ NO
NEW MEXICO	✓ YES	✓ YES	✗ NO
TENNESSEE	✓ YES	✗ NO	✗ NO

Caution: Moving target!

Rights of public sector workers have been under intense attack in recent years. Even some states with long histories of protecting public sector workers' rights have revoked bargaining rights.

Wisconsin Governor Scott Walker's 2011 repeal of public sector bargaining rights is the most well-known example of these attacks, but workers in many states face similar threats. Iowa's legislature also severely restricted public employee bargaining rights in 2017.



What if I work in the Airlines or Railway Industry?

Protections for workers in the airline and transportation industry are found in the **Railway Labor Act (RLA)**. The **RLA** regulates labor relations in the railway and airlines industries, guaranteeing workers in these industries the right to form a union and bargain collectively.

The RLA also establishes the **National Mediation Board (NMB)** which conducts union representation elections, regulates major disputes, and appoints arbitrators and boards to decide minor disputes in the railway and airline industry.

Unlike the **NLRB**, the **NMB** has no enforcement powers over the **RLA**. Disputes regarding employer conduct under the **RLA** occur in Federal Courts.

Rights on the Rails—and in the Sky

The **Railway Labor Act of 1926** was a breakthrough in paving the way for the **NLRA** and other labor laws.



Dangerous conditions and low wages motivated decades of rail worker organizing prior to RLA's passage. In the absence of labor laws, these union actions and strikes were often violently crushed by railroad owners.

*In 1936—amidst the same worker struggles that led to passage of the **NLRA**—airline workers were added to the **RLA**.*

What if management violates your legal rights?

Labor law prohibits management from interfering with the legal rights of stewards and workers to engage in union activities.

If management violates these rights, workers can file charges with the relevant enforcement authority. For example, if management violates the rights of private sector workers under the **NLRA**, workers can file an **Unfair Labor Practice (ULP)** charge with the National Labor Relations Board. The Railway Labor Act and many state public sector labor laws provide similar protections.

Employers engage in prohibited conduct if they attempt to dominate or interfere with union organizing, retaliate against an employee for union activity, make any financial contributions to a union in an attempt to control it, or refuse to bargain in good faith.

Examples might include management attempts to prohibit employees from discussing their wages, wearing union pins, or handing out union leaflets off the clock in non-work areas. Employers also cannot discriminate in any term or condition of employment on the basis of union membership.

Category of Employee	Applicable Enforcer	Charge
Private sector employees	National Labor Relations Board (NLRB)	Unfair Labor Practice (ULP)
State, county, or municipal employees	State labor board	Varies by state
Rail or airline employees	Federal Court	Violation of the Railway Labor Act

Duty of Fair Representation: Fairness and Equity

As a steward you have the legal obligation to represent all workers in the bargaining unit fairly, regardless of their membership status, race, sex, religion, nationality, or age. This legal obligation is known as the duty of fair representation.

The legal principle of fair representation aligns closely with CWA's commitments to equity and non-discrimination. At a bare minimum, the duty of fair representation requires that we consider all potential grievances without discrimination or favoritism. Ideally, the values of fairness and inclusiveness guide all of our actions as stewards, including proactive efforts to foster unity and actively combat racism, sexism, and other divisive "isms" in our workplaces.

If a worker believes the union has failed to provide fair representation, they have the right to file a labor board charge or a lawsuit against the union, often called a "DFR" claim or charge.

Does this mean we have to file a grievance on every problem, or take every grievance all the way to arbitration? No. It simply means decisions on whether to file grievances and how far to pursue them should be made based on the merits of each case.

Avoiding DFR charges: Tips for stewards

The Duty of Fair Representation does not mean that union stewards are required to be perfect or always be right—it just requires that you do your best to be thorough and fair. When asked to rule on duty of fair representation claims, labor boards and courts generally consider whether the union's action was **arbitrary, discriminatory**, or showed **bad faith**.

To ensure you are fulfilling the duty of fair representation:

- Consider all grievances solely on the merits.
- Investigate all grievances thoroughly.
- Process the grievance promptly – observe grievance procedure time limits for filing and appealing grievances.
- Take careful notes and keep detailed written records.
- Keep the grievant informed on the status of their case in a timely manner.
- Treat all members of the bargaining unit the same.
- Communicate all decisions and settlements to the grievant in writing in a timely manner.
- Have a valid reason for any action taken on a grievance.
- Work with your local leadership to understand procedures for withdrawing grievance cases in situations where the grievant does not accept the steward's decision to withdraw the case.

Caution: It matters who's in charge!

The legal standards for what is considered "arbitrary, discriminatory," or "bad faith" are defined, and can be changed, by the National Labor Relations Board (NLRB). For example, in 2018, the NLRB issued a new standard that made it easier for unions to lose DFR charges.

This is yet another reason we engage in political action to ensure that elected leaders—and those they appoint to the NLRB and federal courts—understand and protect workers' rights.

Rights to Organize, Educate, Agitate



Labor law protects workers' rights to organize unions and to engage in **"concerted activity,"** a term that includes a broad range of activities workers can engage in without fear of retaliation.

Generally speaking, it is concerted, protected activity when two or more workers act together to improve their terms and conditions of employment. This includes any time a union steward acts with or on behalf of one or more co-workers.

Union stewards (and all workers!) have the legal right to:

- **Talk to co-workers** about the union in the workplace (unless working in a setting where absolutely no talking is allowed on any subject). Management may legally limit conversations that occur in the presence of customers, patients, etc.
- **Sign up new members** at work.
- **Distribute union literature** at work (during non-work times and in non-work areas, such as break or lunchrooms or parking lots).
- **Take collective action** to improve working conditions. This could include anything from wearing a union button, t-shirt, sticker, or armband, to circulating a union petition (on non-work time and in non-work areas), talking to the boss about fixing a safety hazard, attending a rally, handing out union newsletters in the break room, etc. Almost any non-violent collective action of this sort is legally protected under labor law.

Note that in some workplaces that require uniforms or frequent interaction with customers or the public, management may sometimes be allowed to place limits on buttons, t-shirts, or other union insignia.

Your union contract may include additional rights, such as:

- The right to circulate in your department.
- Designated space to post union literature on workplace bulletin boards, and/or the right to take time to post notices on the bulletin board.
- The right to meet with new hires during their orientation.
- The right to unpaid or paid leave for union business.

Your union contract may also place limits on types of concerted activity that will be legally protected; for example, many contracts include a "no-strike/no lockout" clause in which the union waives its rights to strike and management waives its right to lock workers out during the term of the agreement (if the contract later expires without a new agreement, then the parties may legally engage in a strike or lockout). Occasionally, contracts include prohibitions on other specific types of concerted activity.

Rights to Represent Co-workers and Enforce the Contract

Union stewards have the legal right to:

- Aggressively **enforce and protect the contract**
 - **Vigorously represent workers** in the grievance process
 - Initiate, solicit, file, and **process grievances**
 - **Investigate** grievances or potential grievances, e.g., by interviewing witnesses (including management), visiting work sites where grievances occurred, and requesting relevant documents from management, etc.
 - **Assist members** with legal claims, referrals to government agencies, community services, employee assistance, etc.
- Your union contract may include additional rights, such as:
- The right to investigate and handle grievances on paid time.
 - The right to circulate in your department.
 - The right to unpaid or paid leave for union business including education.
 - The right to be notified of bargaining unit member discipline.
 - The right to “superseniority”—greater seniority rights during layoffs and recalls to ensure continuity in contract enforcement.

Rights to Information

Union stewards have a right to receive relevant information from management at any stage of an investigation or grievance related to a workplace issue. Management must provide you with this information upon request—this is considered part of management’s “duty to bargain.”

Examples of information you have the right to request and receive include:

- Personnel files
- Attendance records
- Discipline records
- Job descriptions
- Performance reviews
- Payroll records
- Equipment specifications, injury and illness logs, Safety Data Sheets for chemicals, etc.
- Seniority lists
- Management correspondence
- Time study records
- Bargaining notes
- ...and any other records relevant to the issue you are investigating.

Always make your request in writing. Date and sign your request and keep a copy for the union’s files.

If management refuses or fails to provide information in a timely manner, the union may need to apply

pressure through workplace actions or a grievance. Management refusals of relevant information requests are violations of labor law and can also be grounds for a labor board charge.

NOTE: Workers in airlines and railways covered by the Railway Labor Act (RLA) do *not* have the same statutory right to request information from management. This means it is even more important in these sectors to conduct a thorough investigation

through interviews, and to retain as many key company documents as possible (emails, notices, policy memos, etc.) to serve as supporting evidence when trying to resolve a workplace problem or grievance.

Stewards and members in airlines who are covered by the health and safety standards of the Occupational Safety and Health Administration (OSHA) or their state agency standards do have rights to infor-

Weingarten Rights

One of the most important jobs you have as a steward is educating members about their **Weingarten Rights** and accompanying them to meetings with management that could lead to discipline. A capable steward can play a critical role in helping members avoid self-incrimination when they go into these meetings.

A Supreme Court case in 1975 known as the Weingarten Decision found that employees have the right to union representation during meetings with management if the employee has a reasonable belief that management's questioning will lead to discipline.

This case, in addition to others later on, establishes the rights of both stewards and members during investigatory meetings.

Weingarten does not cover members who work under the **Railway Labor Act**, and rights vary for workers in the **public sector** depending on the state. Even though the RLA doesn't include Weingarten, in most cases a Weingarten clause is negotiated in collective bargaining agreements.

Many unions have created wallet-sized cards like the one pictured in this chapter. Distributing these cards is a great way to educate members about their rights.

Weingarten Rights: Educate Your Co-Workers!

Employers have no obligation to inform workers of their right to request union representation, unless specified by a contract.

As a steward, one of your responsibilities is to educate your fellow members about their *Weingarten rights* to representation and how to assert these rights in the workplace.

Educating Your Co-Workers on Weingarten Rights

If called to an investigatory interview with management that could lead to discipline, read the following to management or present the card before the meeting starts:

"If this discussion could in any way lead to my being disciplined or terminated or have any effect on my personal working conditions, I respectfully request that my union representative, officer, or steward be present at this meeting. Without union representation, I choose not to participate in this discussion."

This is my right under a Supreme Court decision called Weingarten.

Workers' Rights in Weingarten Situations

Members have the right to request union representation before or at any point during an investigatory meeting with management. Members cannot be disciplined for making this request.

Members should say:

"If there's any chance this discussion could lead to discipline, I'd like to have my union representative present.

Without representation, I choose not to answer questions. These are my Weingarten rights."

After the member makes the request for representation, any attempt by management to continue asking questions is illegal until the steward arrives.

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

1. Grant the request and delay questioning until the union representative arrives and has a chance to consult privately with the employee.
2. Deny the request and end the interview immediately.

3. Give the employee a choice of (1) having the interview without representation or (2) ending the interview.

If the employer denies the request for union representation and continues questioning the member, this is considered an **unfair labor practice** (violation of labor law). *[Note: If you work under the RLA and have a Weingarten clause in your contract, this would be considered a contract violation.]*

YOU HAVE RIGHTS!

If a supervisor or other management/security representative requests an investigatory meeting with you and if you have reasonable cause to believe that such meeting may result in disciplinary action, including a warning, you have the right to request Union representation.

You should take the following actions if a supervisor or other management/security representative desires to meet with you.

Contact your local for Weingarten Rights cards to distribute to your co-workers or check the CWA Steward's Web Portal.

Steward Roles in Weingarten Meetings

Stewards have three key responsibilities during an investigatory interview:

1. Provide assistance and counsel to the member.
2. Request information from management about the incident in question.
3. Serve as a witness and take detailed notes.

STEP 1: Talk with Management

When you arrive at an investigatory meeting, request to meet with management first. At a minimum, management has a legal obligation to give you information about the purpose of their investigation, but use this opportunity to get as much information as you can. Try to get answers to the following:

- **WHAT** is management investigating?
- **WHY** is management having an investigatory meeting?
- **WHO** is management investigating?
- **WHEN** did the incident take place?
- **WHERE** did the incident take place?

STEP 2: Talk with the Worker Alone

Take a few minutes to talk privately with the worker. Find out what you can and encourage them to share everything they know with you; emphasize that you need to know the truth to best represent them. Give them the following advice to prepare for being questioned by management:

- Keep answers short. Answer the question and only the question. Do not offer additional information about questions that were not directly asked in the meeting. What you say can be used against you.
- Keep calm during the meeting.
- It's okay to take your time before answering management's questions.

- Remember that you're not alone. The union is standing with you.

STEP 3: Be Part of the Investigatory Meeting

During management's investigatory meeting, you cannot answer questions for the worker or tell them not to answer. However, you are not required to stay silent. Your primary responsibilities during the meeting are to:

- Ask clarifying questions. If management asks a complicated or "trick" question, ask for clarification (i.e., "Can you restate the question?")
- Prevent repeat questions. If management repeats the same question in a different way, point out that it has already been asked. As a steward you can say, "Asked and answered."
- Take good notes. Write down who says what in the interview to make sure that management does not give a false account of the interview when issuing discipline or responding to a grievance.
- Prevent abuse or harassment of the worker. You can put a stop to browbeating or object to demeaning statements.
- Call a recess if needed to allow time to calm down or if you need another minute to talk privately with the worker when new information comes up.

STEP 4: Witness Any Discipline

In some cases, an investigatory interview will end with discipline. If so, make sure to ask management the following questions:

- What else do you plan to investigate?
- Why is discipline needed?
- How long will discipline last?

Other Legal Rights to Know About

You do not need to be an expert on all aspects of law governing the workplace, but it is helpful to know enough to detect when a violation might be occurring so that you can seek further information.

Stewards are often in a position to educate workers about their basic rights under these laws, to assist workers in defending their rights, and if necessary, to file grievances or complaints with government agencies. Many of the legal protections listed below may also be covered (and are often exceeded) by language in your union contract. When this is the case, your grievance procedure may be the most effective way to enforce rights under these laws.

Workers' Compensation (VARIES BY STATE)

Each state has a workers' compensation law in place that requires employers to carry insurance intended to financially compensate workers who are injured on the job.

Fair Labor Standards Act (FLSA)

Sets national minimum standards on minimum wage, child labor laws, and overtime pay. Many states have their own wage payment laws in addition.

Equal Pay Act

Requires equal pay for men and women for similar work in the same establishment.

Title VII of the Civil Rights Act

Prohibits employment discrimination in hiring, promotion, or job assignments on the basis of race, color, sex, national origin, or religion. Many states have their own civil rights act that expands further on these rights.

Age Discrimination in Employment Act (ADEA)

Forbids age discrimination, including mandatory retirement, against any employee or job applicant over 40, with some exceptions.

Occupational Safety and Health Act (OSHA)

Unions fought hard for many years to pass the Occupational Safety and Health Act of 1970. The OSH Act establishes the general duty of employers to provide employment and a place of employment which is free from recognized hazards. Specific health and safety standards passed over time set out further requirements covering various jobs, industries, and hazards. This act also gives workers the right to see the employer's required OSHA injury and illness logs, and protects employee rights to refuse dangerous work under limited conditions.

As a steward and worker, you have the right to:

- Raise health and safety concerns with your employer.
- Be trained about the hazards you may encounter in your work or at your workplace, in a language you understand.
- Report a work-related injury or illness without fear of retaliation.
- File an OSHA complaint and participate in an OSHA inspection.
- Be provided with required safety gear, such as hard hats, protective gloves, and reflective safety vests.
- Get copies of your medical records maintained by your employer.

- Get copies of environmental sampling test results conducted in your workplace to assess hazards and exposures.
- Be protected from toxic chemicals and hazardous materials and have access to, and training about, chemical Safety Data Sheets.
- Request copies of required work-related injury and illness logs, summaries, and incident reports.
- Be protected from retaliation for using your health and safety rights.

The fight for safe working conditions is best accomplished by the continuous efforts of the union through the collective action of union members. Health and safety laws and enforcement can be weak, provide minimal protections, and do not cover all workers, workplaces, or the hazards facing the membership. Health and safety laws can be one useful tool to help improve health and safety conditions, but they are not a substitute for mobilization and unity of the membership, a strong and active steward body, and effective health and safety contract language.

Whistleblower Statutes

There are more than 20 federal statutes enforced by OSHA that contain whistleblower (anti-retaliation) provisions that make it illegal for employers to fire or retaliate against an employee for filing a whistleblower complaint or for using their rights provided by the applicable statute. Section 11(c) of the Occupational Safety and Health Act (OSH Act) contains the whistleblower provisions which prohibit employers from retaliating against an employee for using their health and safety rights under the OSH Act. All of the statutes have requirements that complaints must be filed within a certain number of days after the alleged retaliation. For federal OSHA 11(c) whistleblower complaints the deadline for filing a complaint is 30 days from the retaliatory action, which is a very short amount of time. It is important to know the specific feder-

al or state requirements for filing whistleblower complaints as well as which rights are covered to make sure your rights are protected.

Americans with Disabilities Act (ADA)

Prohibits discrimination against qualified persons with disabilities and requires employers to make “reasonable accommodations” to allow disabled job applicants and employees to perform work for which they are qualified.

Family and Medical Leave Act (FMLA)

Guarantees covered employees up to 12 weeks of unpaid leave per year for:

1. Treatment or incapacity related to a serious health condition,
2. Caring for a spouse, child, or parent with a serious health condition,
3. Caring for a newborn, newly adopted, or newly placed foster child,
4. Certain circumstances related to a military family member’s deployment to a foreign country (with up to 26 weeks of unpaid leave available to care for a military family member with a serious service-related illness or injury).

What's the Future for Workers' Rights?

The principle that all workers deserve fair treatment has evolved from centuries of struggle to assert that all human have basic rights because of their inherent worth and dignity.

The complicated patchwork of federal and state workplace laws covered in this chapter reflects this long history of struggle. From protections for injured workers and minimum wage standards, to limits on child labor, health and safety protections, and the right to form unions—each of today's workplace

legal protections came into being because workers and advocates organized to pressure government and employers to establish new standards.

Today, none of these legal protections can be taken for granted, and the struggle to maintain and expand on existing workers' rights is alive and well. In the next chapter we will look at the serious economic and political challenges confronting workers, and how we can be part of CWA's fight to win a better future for all working people.



Key Takeaways

- ✓ Stewards are legally recognized union representatives in the workplace, with special legal protections to carry out work necessary to build power, engage members, and enforce the contract.
- ✓ While performing these duties, stewards are considered equal to management. When stewards interact with management, they can raise questions, argue their points, check any abuses of management power, and vigorously enforce the contract.
- ✓ Stewards are obligated to represent every member fairly, regardless of membership status, race, sex, religion, nationality or age. Fair and equal representation is a source of our power.
- ✓ One of stewards' most important jobs is educating their co-workers about their Weingarten rights to have a steward accompany them to any discussion with management that could lead to discipline. If you work in the airlines or public sectors, check your contract to see if you have a similar provision.
- ✓ Our rights in the workplace are a product of struggle. We must continue to organize and build power to maintain these rights. Your local union, and union contract are important resources to understand more about how certain laws do or don't apply to you.

CHAPTER 3

The Role of Stewards in the Struggle for Our Future

SECTION PREVIEW

In this section you will learn:

- How the broader economic and political environment in the United States impacts your work as a steward and our union's power
- Corporate America's strategy, agenda, and systematic plan to maximize profit and take power away from working class people
- How CWA members are fighting back and building a political voice for our union and all working-class people

WARNING! Our unions, our legal rights, and our democracy are currently under attack.

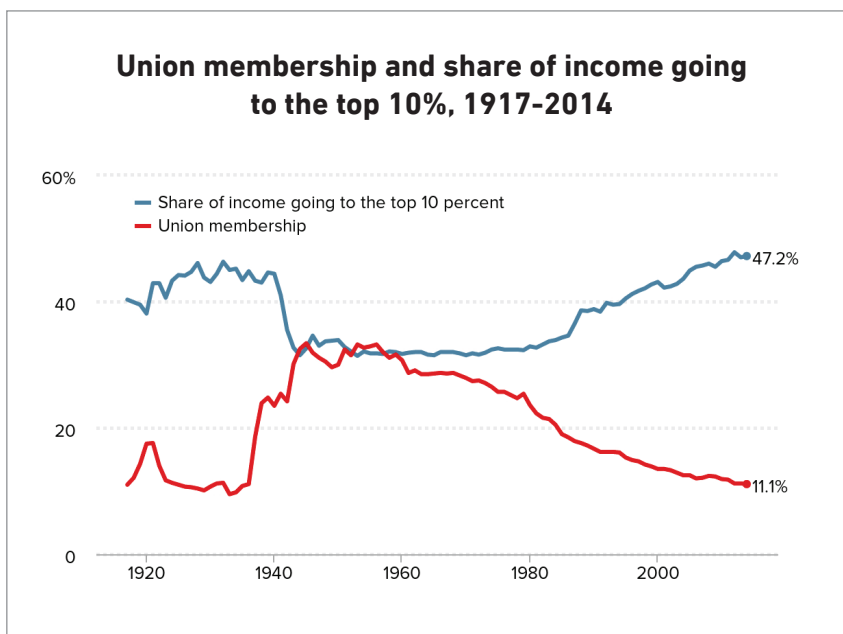


Chapter 2 describes the legal rights won by the struggles of rank-and-file workers in our history. It's important for stewards to understand that we are currently facing serious attacks on our unions, our legal rights, and our democracy. The threats to our movement have escalated over the past 40 years and have reached a critical level in every sector of the economy. Our generation has a historic role to play in defending our unions, workplace dignity, and our democracy for future generations.

Today's economy: attacks on unions and working-class people have led to historic level of inequality

Unions and shared prosperity have been closely related in U.S. history. The top line of this chart represents the portion of all income going to the richest 10% of Americans. The bottom line represents the percent of workers in unions.

As union membership soared in the 1930s and 40s, inequality rapidly declined and income became more broadly distributed. In the past 40 years, Corporate America has systematically implemented an agenda to increase its influence and weaken unions. As a result, income became concentrated in the hands of the richest Americans, and inequality surpassed record-highs of the 1920s.



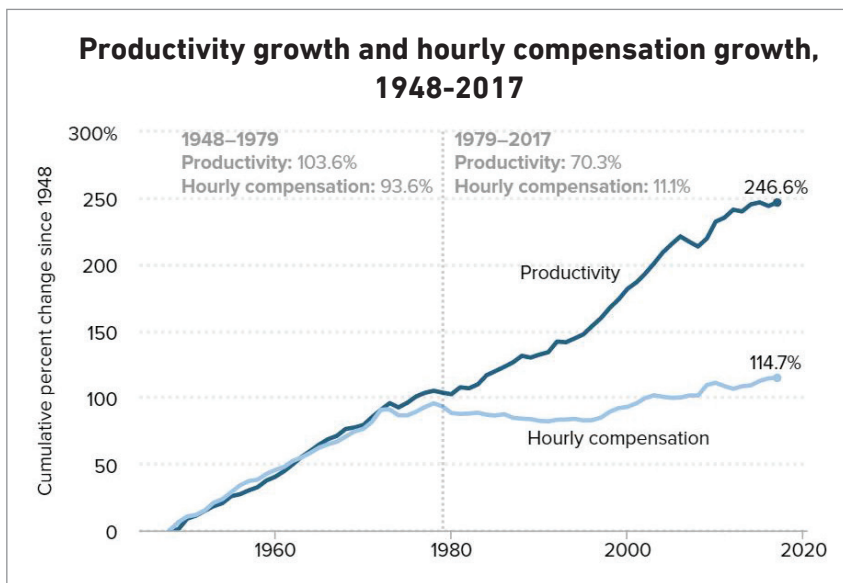
Source: Piketty and Saez (2014), Gordon (2013), and Bureau of Labor Statistics Current Population Survey public data series

Fewer unions has meant decades of “we make it, they take it” economics

In the 1940s and 50s, when union membership was relatively high, workers could expect that as they produced more, they earned more.

When union membership began to fall sharply in 1980, that history changed. Workers' productivity continued to rise, but pay did not.

How did working-class families get by while experiencing decades of flat wages? More members of each household worked more hours, and rising debt filled the gaps – further fueling inequality.



Notes: Data are for compensation (wages and benefits) of production/nonsupervisory workers in the private sector and net productivity of the total economy. “Net productivity” is the growth of output of goods and services less depreciation per hour worked.

Source: EPI analysis of Bureau of Labor Statistics and Bureau of Economic Analysis data. Updated from Figure A in Bivens et. al. 2014

1978 to 2018: CEO pay grew 940% vs. workers' 12%

In 2019, the Economic Policy Institute examined the average compensation of CEOs in the top 350 U.S. firms compared with workers over the past 40 years:



- ☐ From 1978-2018, CEO pay rose 940% (1,008% by some measures)
- ☐ Worker pay increased only 11.9% over the same 40 years.
- ☐ CEO pay outpaced the S&P stock market, which rose 707% during the same period.
- ☐ CEOs are getting more because of their *power* to set pay, not because of specific accomplishments or skills.

WHAT CAUSED THIS MASSIVE SHIFT IN POWER?

40 years of a corporate agenda.

In the 1970s, corporate executives made no secret of their intent to roll back the rights unions had won. In 1971, prominent corporate lawyer Lewis Powell, Jr. wrote a now-famous memo to the U.S. Chamber of Commerce that summarized ideas for how corporations could increase their power:

- *The American business executive is truly the “forgotten man”*
- *CEOs and business organizations need a strategy to promote pro-business policies in colleges, in the media, and particularly in the political arena.*
- *Business leaders must “press vigorously in all political arenas” and “penalize politically those who oppose” them*

Corporate executives organized aggressively in the years that followed. They formed new business alliances and political action committees. Meanwhile, in 1971, President Nixon nominated Lewis Powell to the Supreme Court.

What was the “**agenda**” or goals that business executives sought to achieve? They systematically pursued policies that would consolidate **power** and **money** for themselves. What “**strategies**” did they use to achieve these goals?

The 1%: Organized Against Us

On the role of the Chamber of Commerce:

"But independent and uncoordinated activity by individual corporations, as important as this is, will not be sufficient. Strength lies in organization, in careful long-range planning and implementation, in consistency of action over an indefinite period of years, in the scale of financing available only through joint effort, and in the political power available only through united action and national organizations."

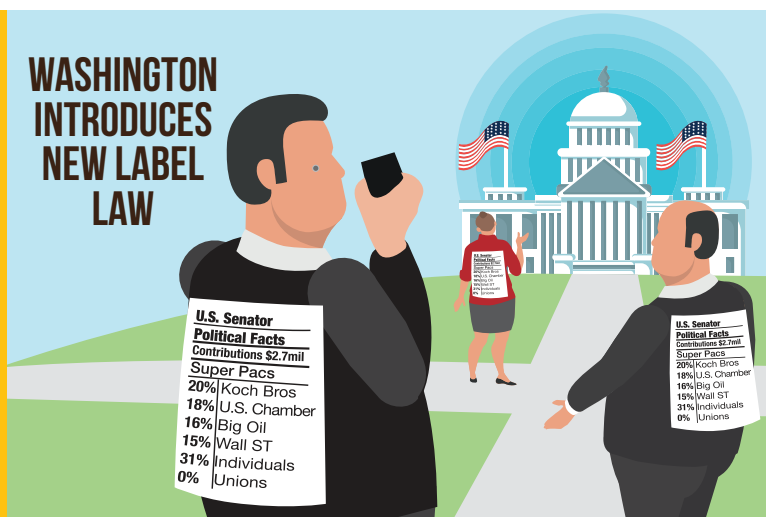
(Powell Memo, 1971)



Louis Powell, JR

Corporate strategies for maximizing power and money:

1. Flood politics with corporate money and lobbyists
2. Slash taxes for corporations
3. Attack unions and collective bargaining
4. Divide and conquer by fueling racism and discrimination
5. Offshore, deregulate, and privatize



CORPORATE STRATEGY #1:

Flood politics with corporate money and lobbyists

Since the 1970s, corporate executives have pursued a multi-pronged strategy for increasing their political influence in Congress, state and local governments, and the courts. Here are just a few examples:

The Rise of the Business Roundtable

In 1972, CEOs from large corporations such as GE, Alcoa, and U.S. Steel formed the Business Roundtable, merging three groups that had previously worked separately in opposition to unions and business regulations. Only CEOs can join; AT&T CEO Randall Stephenson was a key leader and chair of the Roundtable for several years. The Roundtable develops corporate policy positions and is a powerful lobbying group.

American Legislative Exchange Council (ALEC) targets state laws

ALEC was formed in 1973 to promote corporate economic policies in state and local government. It gathers state legislators, corporate lobbyists, and executives behind closed doors to vote as equals on “model bills” that are introduced in statehouses across the U.S. Its model bills include proposals to suppress voter turnout, privatize public services, and restrict unions and collective bargaining.

Citizens United Unleashes Billionaire Donors

In 2010, the U.S. Supreme Court case *Citizens United* upheld “free speech” rights for corporations, lifting existing restrictions on corporate political expenditures. The ruling led to an explosion of “Super-PACs” and increased the influence of megadonors like the Koch Brothers, billionaire executives who flooded campaigns with money to oppose unions and regulations.



We're Fighting Back: CWA members have helped put a spotlight on ALEC and its corporate interference in state legislative policies. Pressured by public opinion, many major donors have dropped their memberships, including AT&T, Verizon, Dow Chemical, and Honeywell.

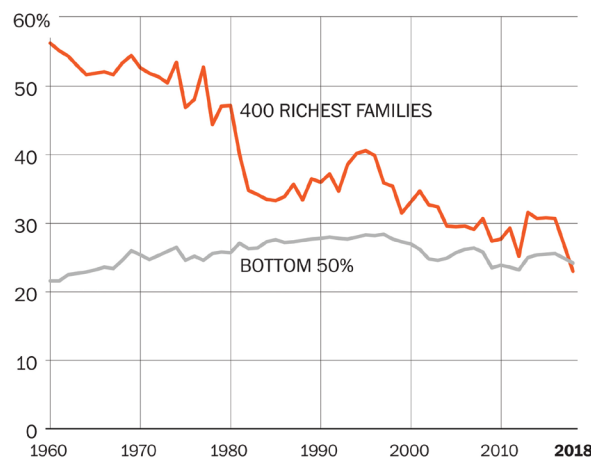
CORPORATE STRATEGY #2: Slash taxes for corporations

Today, income tax rates for corporations and the super-rich are at an historic low. In 2018, for the first time in U.S. history, the richest 400 families paid a lower average tax rate than the bottom half of Americans. This starves public budgets for roads, bridges, and schools and shifts costs to workers – and fuels inequality and instability.

In 2018, at least 60 Fortune 500 companies paid NO U.S. income taxes, and many received rebate checks from the government worth millions. According to the Institute on Taxation and Economic Policy, at least 60 of the nation's biggest corporations didn't pay a dime in federal income taxes in 2018 on a collective \$79 billion in profits. In spite of \$11 billion in U.S. income, retail giant Amazon paid no federal income tax and received a \$342 million federal tax rebate.

In 2018, the super-rich paid a lower tax rate than the bottom 50%

Average effective tax rates of the 400 richest families and the bottom 50 percent of U.S. households



Source: Emmanuel Saez and Gabriel Zucman

THE WASHINGTON POST

Note: Includes federal, state and local taxes.

CORPORATE STRATEGY #3:

Attack unions and collective bargaining

In 1981, President Reagan fired nearly 12,000 federal air traffic controllers who had declared a strike to address long hours and chronic fatigue. This marked a turning point, and attacks on unions escalated through the 1980s.

Promoting “Right to Work” (for Less) Laws

Solidarity is central to workers’ ability to build strong unions. The 1947 Taft-Hartley Act allowed states to pass “right to work” laws designed to weaken unions, lower wages, and roll back civil rights. These laws make it illegal to negotiate language specifying that all workers under a given contract will contribute equally to their union. Instead, workers are divided into “members” and “non-members.”

Corporate-funded groups have renewed the push for these laws, and currently 27 states have “right to work” laws. Missouri became the 28th state in 2017, but voters decisively overturned the law in a 2018 referendum.



We're Fighting Back: In 2018, Missouri unions won a decisive victory when voters overturned a new “right to work” law by a 2 to 1 margin in a state referendum. CWA members joined with workers across the state to gather signatures and educate

Gutting the Rights of Public Sector Workers

In 2011, despite strong public opposition, Wisconsin Governor Scott Walker signed Act 10, a bill that gutted collective bargaining rights for most public sector workers. States across the U.S. introduced copycat legislation. In 2017, Iowa passed a law modeled on Act 10. In addition to losing bargaining rights, public sector workers have to recertify their unions before each contract expires – but so far, workers are voting “union yes” by 98% margins.

Meanwhile, corporate-funded groups have taken cases to the U.S. Supreme Court to bring “right to work” divisions to public sector workers across the U.S. In 2018, the Court ruled in *Janus v AFSCME* that public employees cannot be required to contribute agency fees for their union representation.



CORPORATE STRATEGY #4:

Divide and conquer by fueling racism and discrimination

Racism and discrimination have long been used to justify abusive treatment of certain groups of workers, while stoking fear, division, and distrust among working people. Over the last 40 years, corporate-funded campaigns have rolled back the progress of the Civil Rights era and attempted to pit workers against each other – with voter restriction laws targeting Black communities, policies that undermine the rights of immigrant workers, people from Muslim-majority countries, or women and LGBTQ workers, and criminal justice systems where mass incarceration of working-class people benefits for-profit prisons.



We're Fighting Back: In 2019, CWA leaders joined with Verizon Wireless workers in Lancaster, Ohio to deliver a petition signed by 15,000 supporters to protest widespread racial discrimination at the company.

CORPORATE STRATEGY #5:

Offshore, deregulate, and privatize

Off-shoring: The Global Race to the Bottom

Large corporations increasingly outsource and off-shore jobs, pitting workers against each other in a global race to the bottom. They compete by moving operations wherever they can find the lowest wages and fewest worker protections.

The network of global call center vendors depends on weak labor laws and low wages. In the Philippines for example, more than one million people work in the “business process outsourcing” sector, often earning less than \$2 per hour.



We're Fighting Back: CWA members protest in solidarity with union activists in the Philippines, who face raids and arrests for defending workers' rights

Deregulation since 1970 cut labor, consumer, environmental protections

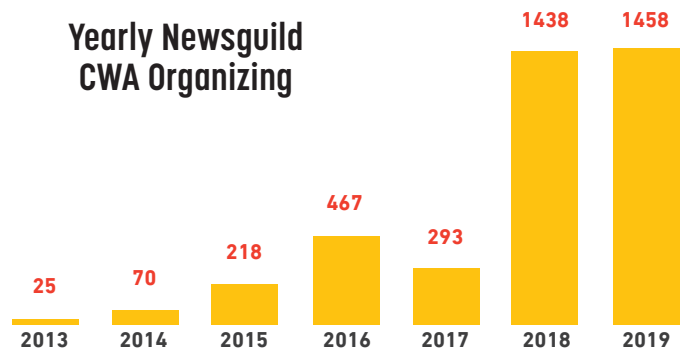
Corporations have consistently tried to reduce or eliminate industry regulations, citing “competition” or “lower prices” as the benefit of deregulation. In fact, deregulation routinely leads to corporations abusing their power, seeking profits by any means necessary without checks and balances. Its effects threaten all working-class people.

Deregulation triggered by the 1996 Telecommunications Act often meant customers paid more for less, wages declined, and companies launched non-union subsidiaries. The deregulation of banks in the late 1990s had a disastrous effect on our economy.

Hedge funds have had free rein to engage in destructive and predatory business practices in nearly every industry. Even trusted local news outlets have been targeted by large hedge funds that buy their companies, slash news staff, and sell off their real estate to extract profits, leaving communities with little or no news coverage. From 2012-2017, the Denver Post declined from 184 to 99 journalists and the Pottstown PA Mercury reduced its journalism staff from 73 to only 19.

News Employees Take On Wall Street Abuses

Yearly Newsguild CWA Organizing



We're Fighting Back: News professionals are standing up for accountability, quality journalism, good jobs, and democracy! This chart shows the soaring number of journalists who are joining CWA's News Guild, for a stronger voice in defense of a fully staffed free press for our communities.



Privatization

As corporations seek to continually expand their profits, they have systematically worked to move public services into private, for-profit companies. Postal services, child welfare agencies, prisons, dining services, health care – every public employee job classification has been vulnerable to the intensified pressures of privatization in the past 40 years. When public services are privatized, studies have repeatedly found that customer fees increase, the quality of services suffer, and job quality diminishes as public sector union jobs are displaced by low-wage jobs.

History shows that together, we can build working-class movements that transform the entire economy

The 1930s: “Transforming misery and despair into hope and progress”

In the 1930s, the U.S. was in the depths of the Great Depression caused by uncontrolled Wall Street speculation and an unstable, unequal economy. Unemployment was rampant and millions lost houses and farms. But elected officials were initially reluctant to take bold action to improve conditions for workers. Early in his administration, President Roosevelt even supported cutting federal workers' salaries and veterans' pensions, a far cry from the New Deal laws that came later.

It took courageous organizing and direct action by unemployed workers, union members, and small farmers in the 1930s to convince Congress and President Roosevelt to pass meaningful workers' rights over fierce corporate opposition. In less than a decade, most workers secured landmark union rights, unemployment benefits, Social Security, child labor and minimum wage protections, and banking regulations.

Dr. Martin Luther King, Jr. described the importance of the rise of the labor movement in a famous 1965 speech to the Illinois AFL-CIO:

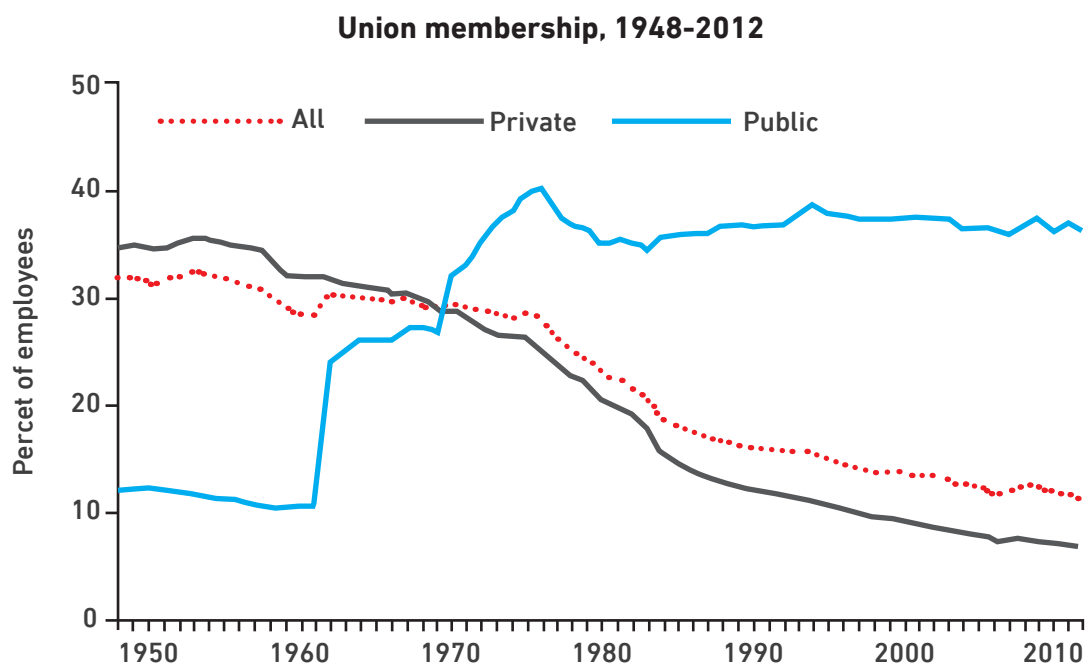
“The labor movement was the principal force that transformed misery and despair into hope and progress. Out of its bold struggles, economic and social reform gave birth to unemployment insurance, old-age pensions... relief for the destitute and, above all, new wage levels that meant not mere survival but a tolerable life.

When in the thirties the wave of union organization crested over the nation, it carried to secure shores not only itself but the whole society. The captains of industry did not lead this transformation; they resisted it until they were overcome.”



The 1960s: Organizing by public sector workers, hospital workers, and farmworkers expanded union rights to previously excluded sectors.

In the 1960s, a wave of public sector workers formed unions on a local, state, and national level



source: Labor Research Association and Bureau of Labor Statistics

The progress of the 1930s was profound, but New Deal laws excluded many workers, particularly in jobs often held by people of color and women. The National Labor Relations Act (NLRA) and Fair Labor Standards Act (FLSA) contained exclusions for agricultural and domestic workers, nonprofit hospital workers, and public employees in local, state, and federal government agencies.

Dr. King delivered the speech on the previous page as part of the Civil Rights Movement – in which people across the country were organizing to confront these and other exclusions. In fact, when Dr. King was tragically murdered in Memphis, Tennessee he was supporting striking African-American city

sanitation workers who were demanding workplace safety, dignity, and union recognition.

Hospital workers, farm workers, teachers, sanitation workers, firefighters, and postal workers struck in the 1960s and 70s to protest poverty wages and discrimination – and won new union rights under the law.

As the chart above shows, the struggles of the 1960s led to a wave of new organizing that extended union membership to nearly 40% of public sector workers. As a result, public sector jobs became stable, family-supporting jobs across the nation.

WE'VE SEEN CORPORATE AMERICA'S AGENDA.

What's Our Agenda?



Union stewards and activists today represent a proud tradition of working-class people. At every point in our history, workers have found ways to organize and raise our voices, even when facing extraordinary obstacles and ever-changing economic realities.

As working-class people and union members, we will resist corporate America's efforts to consolidate money and power and reject their attempts to divide us, silence our voices, and suppress our votes. But we won't just defend our current rights – we will organize and fight for our values.

What is our union agenda?

CWA members define our agenda through democratic decision-making at the Local, District, and National convention levels. Our union's goals include:

- ✓ **Freedom to organize unions** without employer interference
- ✓ The **right to bargain collectively** over our working conditions
- ✓ The **ability to retire with dignity** after a life of labor
- ✓ Meaningful protection of our **right to safe workplaces**
- ✓ Access to **stable employment with living wages**
- ✓ **Solidarity, equity, and freedom from discrimination**
- ✓ A commitment to **quality public services**
- ✓ A **free press** that brings transparency to our democracy
- ✓ Access to quality, **affordable healthcare**
- ✓ **A voice for workers in all levels of government**

What are our strategies for achieving these goals?

- ✓ Organizing the unorganized to build power for workers.
- ✓ Bargaining collectively and enforcing our union contracts.
- ✓ Mobilizing our members to participate in direct actions at work and in our communities in support of our goals.
- ✓ Educating and involving our members in CWA's political program.
- ✓ Building solidarity across the diversity of our membership and fighting against racism.

Our movement starts with YOU! Our union is only as strong as our base of engaged members. Stewards are a critical layer of union leadership. When stewards get our members involved, we truly become CWA Strong!

WHEN WORKERS FIGHT, WORKERS WIN!

Building our Political Voice

As a steward, you are in an important position to build legislative and political power by educating and organizing your co-workers on a day-to-day basis. Studies have shown that workers trust local union leaders and want to hear from you about political issues that affect them.

What is the Political Action Fund (PAF)?

The CWA Political Action Fund (PAF) is a non-partisan political action committee that fights for workers' political power. It is your chance to have your voice – and the issues you care about – heard at the local, state and national levels of government. Your voluntary contribution to the fund go toward policies and candidates that defend workers' rights.



Why should I contribute to PAF if I already pay dues?

Union dues cannot be used to fund our political and legislative work. Corporate America spends hundreds of millions of dollars on electing candidates and passing legislation to take away power from working people. We will never have as much money as they do, but if we work together, we can pool our resources to give working people and union members a seat at the table.

Examples of Political Action Fund Victories

Defeating Right-to-Work (for Less) Laws in Several States

Corporate America is organizing to expand so-called “Right to Work” laws in states across the country to weaken unions and increase corporate power and profits. With support from CWA’s Political Action Fund, workers have mobilized successful campaigns to defeat these laws in states like Colorado, Missouri, and Kentucky.

Fighting Bad Trade Deals to Stop the Global Race to the Bottom

For decades, global “free trade” deals have been written by and for multinational corporations, giving them more power to offshore jobs and undermine workers’ rights across the globe. The CWA Political Action Fund has helped workers fight back by exposing the details, lobbying Congress, and building global alliances.

Defending Workers’ Right to Vote from Corporate Attacks

The power of people to mobilize and to vote can overcome the power of corporate money. That’s why corporations have promoted laws to deny and limit voting rights. The CWA Political Action Fund has helped CWA members in states like Florida, North Carolina, Texas, New Jersey, and New York to stand up for democracy.

Pro-Worker and Progressive Elected Leaders

The PAF funds support the election of pro-worker champions across the country. The Political Action Fund supports candidates regardless of their political party who actively fight – not just talk – in support of workers’ rights and hold corporations accountable.



Understanding the class struggle and how Corporate America exerts control at the expense of working people is key to union members fighting back.

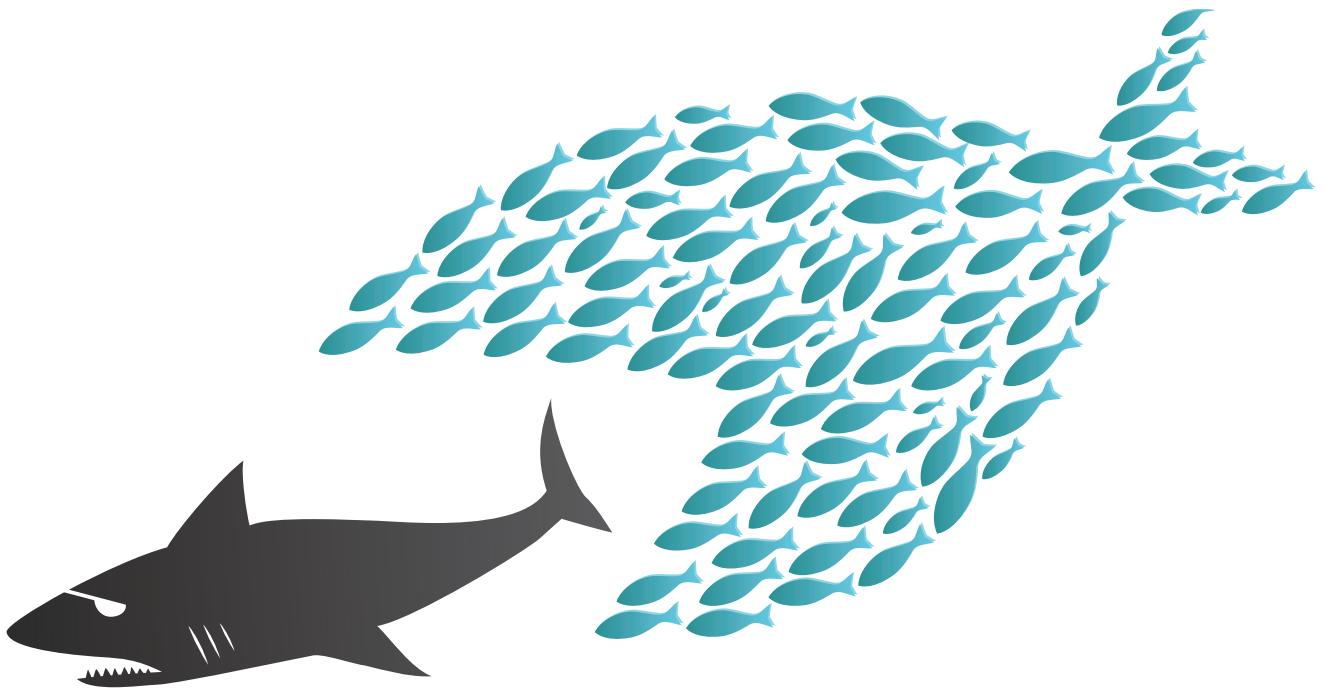


Key Takeaways

- ✓ Over the past 40 years, corporate America's systematic attacks on workers' rights have diminished union membership to levels not seen since before the Great Depression. This makes it harder to negotiate and enforce our contracts, organize new members, and pass laws that benefit workers.
- ✓ Corporate America invests their money across all levels of government (national, state, local) to advocate for tax cuts, fewer regulations, privatization of public resources, and attacks on unions and workers' rights. Attempting to divide workers from one another along lines of race, gender, sexuality, and country of origin is core to their strategy.
- ✓ **When workers fight, workers win!** CWA members are organizing and building a multiracial movement to fight for an agenda that works for working people. Stewards are key leaders in this fight.

CHAPTER 4

Educating and Organizing your Co-Workers



SECTION PREVIEW

In this section you will learn:

- Why it makes a difference when stewards communicate with their co-workers
- The “Science of Organizing” and how to work with lists and charts
- How to have effective conversations about the union with your co-workers
- How to respond to common misconceptions about the union

Solidarity is the foundation of all union power.

When co-workers are organized and understand the union and their rights, they can identify potential problems, develop solutions, and get results—often without having to use formal grievances. Instead of always putting out fires, you can focus more energy on creating an environment that respects workers' knowledge and skills.

Solidarity doesn't just happen; it needs to be built and rebuilt as new challenges come up, as new divisions surface, as new workers arrive, and as senior workers retire. Many workers won't know anything about CWA at first. They may lack experience with unions, or have negative attitudes based on past experiences. Regardless, it's your job to find out what co-workers think, then educate and organize them! This chapter contains some tools and ideas to help.

What do your co-workers need to learn from their union steward?

Clarify your education and organizing goals. What do you need to make sure each of your co-workers knows about the union? *For example:*

- **The union is the workers**, each of us has an important role to play, and we only have power when we have a high percentage of active members.
- **The contract** – what is it; where can you get one; what does it mean?
- **Dues** – why are they so important, how much are they, how are they used?
- **Stewards** – who should you contact if you are called into an investigatory meeting that might lead to discipline, or have a problem at work?
- **Union difference** – what have co-workers already accomplished as a union?
- **Meetings** – when and where are they, and why should you attend?
- **Committees and activities** – besides bargaining and filing grievances, what kinds of local committees and activities can members join?
- **Obey now; grieve later** – if management orders you to do something you don't agree with, DON'T be insubordinate by refusing but DO contact a union steward (unless it's a threat to your safety)
- **Weingarten rights** – if you're called into an investigatory meeting, ask for a steward before answering any questions.
- **The importance of movement building** – everything we accomplish in our workplace can be lost unless we build power for all workers, defend our rights, and pass strong laws.

What do stewards need to learn from co-workers?

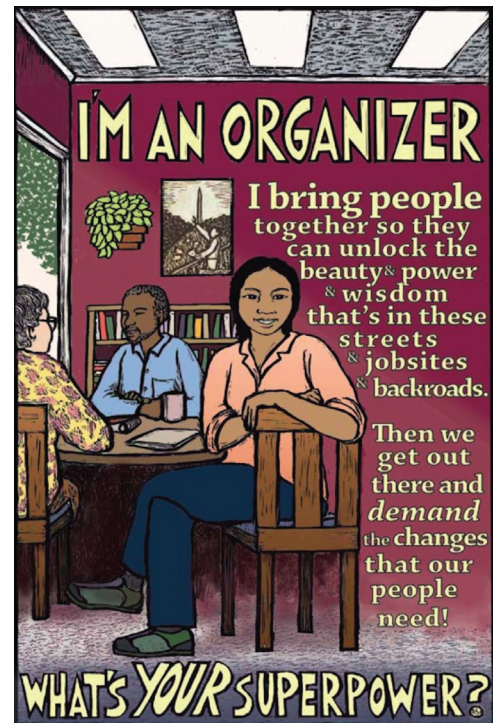
As a steward you'll need to understand and build trust with the people you represent. This means taking time for one-on-one or small group meetings and getting to know each person. It means staying posted on what co-workers are thinking about work, contract, and union-related issues.

There are some facts important to know:

- **Who are they?** Names, contact information
- **Where do they work?** Departments or work areas
- **When do they work?** Shift or work schedule
- **What do they do?** Job titles and descriptions
- **Are they union members?**
- **Have they joined the Political Action Fund (PAF)?**
- **How long have they worked here?**
Seniority

There is other less obvious but very useful information worth knowing:

- **What are the problems or goals that interest them at work?** For single parents, scheduling problems might be their top priority. For a worker near retirement, the priority might be protecting seniority rights. The only way to find out for sure is to ask them! Knowing what your co-workers care about helps you connect them to the union's efforts in meaningful ways.
- **What is their current opinion of the union?** It's worth knowing how each worker feels about the union. For example, if you



have limited time to spend signing up new members, you can focus on those who seem to be undecided, rather than those who are vocally opposed to the union.

- **Which group of co-workers do they socialize with?** People often make decisions in groups, not just individually. If someone eats lunch each day with a group of co-workers who spend time criticizing the union, that may explain why it's been difficult to get them involved. If they spend time with co-workers who are positive about the union but haven't yet gotten involved themselves, it could be that nobody has asked them to become more active.
- **What community organizations are they involved with outside of work?** If a co-worker is very active in their church or neighborhood association, their experience might make them more willing to coordinate community outreach in support of the union.

RESEARCH SHOWS: **Steward communication makes a clear, measurable difference!**

In December, 2017, Hart Research Associates conducted a poll of 500 workers covered by CWA representation who are not yet union members (workers who are not paying dues in “Right to Work” states, or who contribute agency fees but haven’t joined as full members in other states).

Key results of the poll include:

Nearly 2/3 of non-members support unions and CWA.

- Strong majorities of non-members (63%) and Agency Fee Payers (78%) say having a union in the workplace is a good idea.
- Strong majorities (63%) of non-members are happy with CWA’s representation.

Key reason some haven’t joined: They haven’t been asked!

- Fewer than half of those polled have been asked to join CWA!
- 20% of respondents are not aware they are represented by a union.

Contact with union stewards and pro-union friends makes a measurable difference.

- 56% of CWA members said they have a lot of contact with stewards, while only 48% of non-members did.
- Non-members and Agency Fee Payers are more than twice as likely to be interested in the union if most of their friends belong to the union.

People want power on the job.

- Respondents said that “There is strength in numbers” is a more convincing reason for belonging to a union than “You get to participate in elections of officers and other local decision making” (48% vs. 28%).



Top five reasons that people listed for joining the union:

1. There is strength in numbers
2. Unions are only as strong as their members
3. The union wants to keep workers safe on the job
4. Too many politicians want to lay off public employees
5. The union ensures that workers are treated fairly and protects workers from favoritism

THE “SCIENCE” OF ORGANIZING: Lists and Charts

Start with an accurate list.

To understand your work area, create a communication plan, and track your progress, you need to start with an accurate and complete list of all the workers you’re responsible for. The list should include their location, department, job title, shift, membership status, Political Action Fund participation, etc. Update your list constantly!

Convert your list into a “chart” highlighting current priority information.

Charts highlight selected information from your lists to create a highly visual snapshot of patterns, leadership gaps, and opportunities for organizing. Stewards are busy! You generally don’t have time to talk with every worker each week. A few good (or bad) conversations can inaccurately skew your impression of the overall level of union support and participation in your work area.

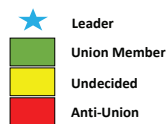
Charts help busy stewards more objectively assess work areas and prioritize outreach.

They don’t have to be complicated! See the chart below.

- You decide which information is currently most important to track – whether it’s union membership in a “right to work” state, or participation in the Political Action Fund, or who is wearing red t-shirts on Thursday, or some other goal.

- Divide workers into groups based on who they interact with at work. For example, group together people who physically work in the same line, room, or department (such as Agency A, B, and C below). In a more complicated situation such as outside technicians who work alone, charts could be organized by the barn where workers report for assignments or by supervisor.

- Assess each worker’s current level of support or activism. You could use a simple scale such as: 1=pro-union, 2=undecided, 3=anti-union (or *1=member, 2=approachable non-member, 3=anti-union*). The assessment isn’t intended as a moral judgement, just a realistic understanding of where people currently stand. The charts are your strategic tool, not something to publicize.
- Step back and analyze the trends. Where are your strengths and weaknesses? Where are your leadership gaps? Who should you talk with first, to fill in the gaps?



Agency A

1	Sara Hayes	★
1	Carla Robinson	★
1	Christy Brown	
1	Kelly Mathes	
1	Joe Johnson	★
1	Jason Park	
1	Tommy Smith	
1	Karen Brand	
1	Missy Clark	
2	Cathy Mitchell	
1	Cindy Carnes	
1	Sue Kelly	
2	Nancy Haas	
1	Bob Bett	
3	John Scott	
2	Bill Meyer	

Agency B

3	Matt Michaels	
3	Jeff Lee	
3	Jerry Kopp	
1	Patty Lewis	
2	JoAnn Park	
2	Deb Clark	
1	Rosa Miller	
3	Gary Moore	
2	Patty Petersen	
2	Kim Roland	
2	Lisa Stiver	
2	Paula Harris	
2	Theresa Pool	
2	Nichole Parsons	
2	Robin Allen	
2	Vicki Lincoln	

Agency C

1	Rhonda Montgomery	
3	Kelly LaPorte	
3	Shirley Eaton	
3	Mandy Robinson	
1	Greg Ferguson	
3	Tom Carpenter	
3	Nathan Wise	
2	Brian Atkins	
3	Sue Valentine	
1	Terri Lewis	★
1	Susan Struthers	
1	LaTonya Marshall	
1	Donna Craig	
1	Sandy Courtney	
1	Donald Jones	
3	Renee Fahey	

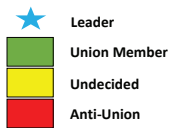
Sample Organizing Chart

Update your charts regularly! They are intended to track movement – to show what’s making a difference (or isn’t).

For example, let’s say that after reviewing the first chart on the previous page, you identify Agency B as a priority for your outreach. It has a lot of workers who are undecided about the union and doesn’t have any active union leaders.

You decide Patty Lewis has strong leadership potential, and make time for a one-on-one conversation with her, to hear what she’s seeing in the work-place, and talk about the union’s current projects. She gets excited about the potential to address some of the recent issues in her work area and agrees to help educate her co-workers and get them involved in the union. You ask her to start by talking with JoAnn Park and Deb Clark, and she identifies Paula Harris as another person she knows well and can talk with about the union.

You check in with Patty every few days to see how her conversations are going and help her prepare grievances to address the current problems in her workplace. After two weeks, she has recruited JoAnn, Deb, and Paula to get more active. Now your charts show that progress, and you can reassess your next steps!



Sample Organizing Chart (2 weeks later)

Agency A

1	Sara Hayes	★
1	Carla Robinson	★
1	Christy Brown	
1	Kelly Mathes	
1	Joe Johnson	★
1	Jason Park	
1	Tommy Smith	
1	Karen Brand	
1	Missy Clark	
2	Cathy Mitchell	
1	Cindy Carnes	
1	Sue Kelly	
2	Nancy Haas	
1	Bob Bett	
3	John Scott	
2	Bill Meyer	

Agency B

3	Matt Michaels	
3	Jeff Lee	
3	Jerry Kopp	
1	Patty Lewis	★
1	JoAnn Park	
1	Deb Clark	
1	Rosa Miller	
3	Gary Moore	
2	Patty Petersen	
2	Kim Roland	
2	Lisa Stiver	
1	Paula Harris	
2	Theresa Pool	
2	Nichole Parsons	
2	Robin Allen	
2	Vicki Lincoln	

Agency C

1	Rhonda Montgomery	
3	Kelly LaPorte	
3	Shirley Eaton	
3	Mandy Robinson	
1	Greg Ferguson	
3	Tom Carpenter	
3	Nathan Wise	
2	Brian Atkins	
3	Sue Valentine	
1	Terri Lewis	★
1	Susan Struthers	
1	LaTonya Marshall	
1	Donna Craig	
1	Sandy Courtney	
1	Donald Jones	
3	Renee Fahey	

Identifying and Recruiting “Leaders”

Start by recognizing your co-workers’ natural leadership patterns. Even in an unorganized workplace, people tend to organize themselves into social groups – people who eat together at lunch or spend time together outside of work. Within each of those groups, there are certain people who seem to have more influence than others, who people seek out for advice, or who tend to step up and coordinate events.

Leaders aren’t necessarily the loudest people, but what they say is respected. Identify who those people are. Make it a priority to talk with them about our union, hear their thoughts, and encourage them to get involved. Whether you notice it or not, they are likely influencing their co-workers’ views about the union, for better or worse. If they decide to get involved, they may bring their whole group with them!

One-on-one, face-to-face communication is by far the most effective way to organize.


CWA members in the Texas State Employees' Union have an organizing mantra that has helped them build a strong, active membership, even in a state that denies them collective bargaining rights under the law. The first three lessons emphasize the essential role of 1:1 communication. These lessons hold true whether you are asking co-workers to join, attend meetings, or take action:

1. No one joins the union unless individually approached and asked to join.
2. The more people who are asked to join, the more people who will join.
3. You cannot get hundreds of workers to join the union unless you have hundreds asking.

Tips for “talking union” with your co-workers:

1. Get their attention


Think about how to start the discussion, to show you want to hear their views about something relevant and urgent.



Union negotiations with management are beginning soon! I'd like to hear your thoughts and let you know how negotiations work.

2. Ask questions and listen to find out what they care about


People get involved because the union is linked to things they care about. Find out what's important to this person and why.



If you could improve anything at work, what would it be? How has that problem affected you and others you work with?

3. Educate - connect the union to their concerns


Educate about what union members have accomplished and what they are currently doing that relate to the person's issues and interests.



Other workers have been raising the same concern you have. It sounds like this could be an important issue to raise in negotiations. There's a meeting tonight at 6pm at the union hall where we will be talking about proposals and next steps.

4. Move them to action!

Explain why the person's involvement matters. Don't "beat around the bush" or drop hints. Ask the person to take a specific action! If the answer is no, find out why, consider other ways the person can get involved in the issues that matter to them, and plan to follow up.



If we want a good contract that addresses this and other important rights at work, it will take each of us doing our part. Will you attend tonight's meeting to work on proposals to address this issue?

Responding to common misconceptions about the union

It can seem intimidating at first to answer your co-workers' questions about the union – but you can do it! First, listen with respect and find common ground. That's important even if the concern can't be easily resolved. Next, answer the question as clearly as possible. Finally, think about whether this is an opportunity to educate them or connect them with other work of the union they may not know about!

Q: Is it true that in “Right to Work” states, I can get all the same benefits without paying dues?

A: That's a common misconception! In fact, our ability to win and protect decent raises, benefits, and working conditions depends on our power in numbers. When you join, our union is stronger and we can all achieve more. If you don't join, management can see that our union is weaker, and we all end up with less. What are the things you most want to improve in our workplace?

Q: What if I can't afford the dues?

A: I'm really careful with my budget too. Dues are worth it, because they are essential for protecting and improving our pay, benefits, and working conditions. If we want power and a voice at work, we need resources. Dues make everything we do as a union possible. The more people do their part by paying their dues, the stronger we are.

Q: Why should I support the union if it didn't help me when I needed it?

A: That sounds frustrating; tell me more about it. *[Ask questions and listen. Learn about the person's experience. If a mistake was made, empathize. Then refocus on the current struggles that affect this person today.]* I'm sorry that happened. It takes each of us getting involved to have the best possible ability to address the problems that affect us as workers. Dropping out is the worst thing to do – it makes our voice weaker. Together, we will continue



to strengthen our union. What are some of the things you would most like to improve in our workplace today?

Q: What if I don't agree with political candidates the union supports?

A: The union is a democratic, nonpartisan organization – we can disagree and debate while still sticking together for dignity at work. Our union endorsements are based on how candidates vote on the working people's issues our members have identified as priorities. Our union dues do not go to politicians – but a lot of members like me choose to contribute money to candidates who back our issues with voluntary contributions to the Political Action Fund.

Q: Is the union really doing anything? In the last contract we had a big insurance increase.

A: The more members in our union, the stronger we are. We need you in this fight. Health care is going up everywhere, along with corporate greed and economic inequality. Without the union, we have no way of fighting as individuals on a big issue like health care. Joining the union means more power for all of our fights. We can't do it without you.

FIRST IMPRESSIONS MATTER!

Talking with New Employees

When should you approach new workers?

Research Says: Immediately and Often!

The following lessons are drawn from Building More Effective Unions, by Paul F. Clark.

- **New employees form early and lasting impressions of the union.** Behavioral science research finds that people's earliest impressions and experiences with an organization are the most influential. Talk to them as soon as they start on the job.
- **The best way to educate new employees is through both formal orientation programs and informal one-on-one discussions.** In addition to workers' rights to discuss the union at work, many unions negotiate the right to have a presentation during new employee orientations. Studies show that **quality union orientation** programs and frequent **one-on-one conversations** with union members each have a measurable impact on increasing new employees' commitment to the union. Even if union leaders have talked with new hires in orientation, it's essential for you and your co-workers to follow up in person.
- **One-on-one discussions should happen early and often.** Ideally, a union steward should greet a new employee during their first day on the job, at the beginning of the workday. Overall, research suggests, the more **frequently** new employees have positive discussions with union activists, the greater their commitment to the union.

Tips for talking with new workers

- **Be positive, proud, confident and welcoming** — joining our union is a new worker's opportunity to have a voice on the job and improve their work life.
- **Learn about them** — show a genuine interest in the person. What attracted them to this job? Have they worked in a union workplace before?
- **Explain what CWA is and don't assume the workers have been a union member before.** We are a powerful group of workers joining together to improve our lives, on issues like wages, health benefits, pension, vacation, and safety.
- **Share contract highlights.** Explain that co-workers joined together to negotiate and vote on this agreement and that stewards help our co-workers enforce it.
- **Encourage new workers to get involved in the union.** Talk to them about how workers become members and get involved in committees, political action, etc.





Key Takeaways

- ✓ As stewards, you play an essential role in educating and organizing your co-workers to build solidarity among the members you represent. Most people want power on the job and believe that there is strength in numbers. The number one reason people have not joined the union is that they have not been asked.
- ✓ Stewards are busy! Lists and charts are key organizing tools that help you understand your work area, create a communication plan, and track your progress.
- ✓ One-on-one, face-to-face communication is by far the most effective way to organize. Careful listening and connecting the union to your fellow members' concerns helps move people to get involved and take action.

CHAPTER 5

Learning Your Contract



SECTION PREVIEW

In this section you will learn:

- The relationship between organizing, mobilizing and our power to win good contracts at the bargaining table
- The difference a union contract makes in the workplace
- How to work with your union contract and educate co-workers to do the same

Our Contracts Represent the Power We Have

If you have a union contract in place, it was the result of decades of worker struggle to achieve the legal right to sit down as equals with management and collectively bargain. In this process of collective bargaining, leaders we elect from our union negotiate with our employer over our wages, benefits, and working conditions, and members vote on whether to approve the written agreement.

Negotiating requires giving and taking, and what gets given or taken depends on the strength of the union. This means it isn't enough to win a fair contract. Someday, the contract we have in place will expire, and its terms will be up for renegotiation. Before, during, and after future contract negotiations, we must always be working to demonstrate our strength in order to improve our bargaining position.

This also means that while our current contract is in effect, we must fight to maintain, improve upon, and enforce it. Our union contract is only words on

paper unless stewards and members make sure management follows it.

If we compare our wages, benefits, and working conditions to every other company in our industry, the power of our union is clear. We don't earn higher wages because our employers are generous, kind, and just wanted to give us more money. We earn more because of decades of strong organizing, collective bargaining, and representation.

We know if management had a choice, they would never agree to wage and benefit increases or a formal grievance procedure. When we vigorously enforce our contracts and mobilize to strengthen our bargaining position, we have more power to force management to do what's right and meet our demands each time we bargain.

In other words, we win what we have the power to win. And, we keep what we have the power to keep.



Why Union Contracts Matter

The differences between a workplace governed by a union contract and one that isn't are clear. The advantages demonstrate the real-world value of the power workers have to create workplaces that work for them.

With a UNION Contract	Without a Contract
Your wages, benefits, and working conditions are protected by an enforceable contract.	Management can change wages, benefits, and working conditions whenever they want.
The contract spells out how much everyone earns.	No one else knows how much anyone else earns.
The union negotiates raises for everyone. The members vote on the settlement. If they think that it is not a fair settlement, they can vote it down.	If you want a raise, you have to beg for it or kiss up to the boss.
If you are disciplined for something you didn't do, the union will fight back alongside you.	If you are disciplined for something you didn't do, you're on your own.
If you do a good job and are in line for a promotion, you will have a fair shot at getting it.	Promotions can be handed out on any basis—friendship, loyalty, or favoritism.
If you don't like something at work, you can build power to change it.	If you don't like something at work, you can quit.
Vacations, shifts, and layoffs are based on seniority.	Vacations, shifts, layoffs can be based on the bosses' desires.

Learning the Contract

A contract spells out the terms and conditions of employment for a specified group of workers (legally defined as the “bargaining unit”—check the first few paragraphs of your contract to see who is listed as covered by your contract). Items often spelled out in a contract include but are not limited to wages, benefits, work hours, leave time, health and safety, seniority rights, and formal procedures for resolving problems (grievances) in the workplace.

As a steward, it's important for you to familiarize yourself with the contract as well as other work rules, policies, and procedures that might direct management's behavior such as the company code of conduct. The contract, however, is where you should start.

The Goal is Not to Memorize It!

Contracts are often full of details and legal terminology that can seem overwhelming. The point here is not to encourage anyone to memorize the contract. Rather, it is to learn how to *use* the contract so you can educate others about it and make sure management is abiding by it at all times.

As you encounter problems or handle grievances related to specific articles of the contract, you will better understand those articles. Over time, this gives you a better understanding of the contract as a whole and increases your ability to defend it. Each time you defend the contract, you guard against management abuses of power.

As you learn the contract, you can educate co-workers on how to do the same. The best way for co-workers to learn the contract is also to use it! Many may not understand the contract simply because they have not been involved in using it to resolve workplace issues. You can help empower them by showing them how to look things up related to their concerns, and explaining how they can be part of demanding that management follow what the contract says.



Key Takeaways

- ✓ Organized working people have fought for decades around the right to collectively bargain with their employers over wages, working conditions, and a voice at work. The contract is a product of that struggle for POWER.
- ✓ We win what we have the power to win, and we must keep fighting to maintain and build on what we have.
- ✓ Learn how to work with your contract – don't memorize it! The best way to learn your contract is to use it and empower co-workers to do the same.

CHAPTER 6

Investigating Workplace Problems

SECTION PREVIEW

In this section you will learn:

- How to identify and investigate workplace problems
- Best practices for gathering facts, conducting interviews, taking notes, and requesting information from management

What Kind of Problem Is It?

Knowing how to resolve workplace problems is an important responsibility of all CWA stewards. The first step in solving a problem is knowing what kind of problem it is. Is it a violation of our contract? Is it a violation of one of the laws protecting workers? Is it a problem that affects just one person or many? Is it a problem we can mobilize around? Can we file a grievance about it? Is there an outside enforcement agency we should talk to? And is it something we should take up in future contract negotiations?

Answering these initial questions usually requires investigation. This usually means finding out who is involved, talking to those individuals, and gathering written records or other evidence.

Use ALL Your Tools—and Involve Your Co-workers

We have many options when responding to workplace problems, including the option to file a grievance. Whether filing a grievance or not, each time we confront a problem, we should view it as an opportunity to build our power.

Our goal is always to solve problems at the lowest level possible—ideally, before a grievance is ever filed. This is the most efficient and effective way to resolve problems because it eliminates undue delays and avoids opportunities for management to dig in their heels. Some problems can be resolved informally, through quick discussion with a supervisor or a group response from co-workers. Some problems require persistent, long-term mobilizing in order to get management's attention or win an improvement at the negotiating table. Some problems are too urgent to wait, and require us to take escalating forms of direct action in conjunction with filing a grievance.

Whatever approach you take to a problem, look for ways to involve your co-workers in investigating and coming up with solutions. Each time you do, whether you involve one or one hundred of your co-workers, you educate, unify, and build the power of the union.

You can find ways to involve co-workers at every stage. Just a few ideas include:

- Investigate the problem as a team
- Have co-workers help educate others about the problem
- Meet with the supervisor as a group to gather information or present a solution
- Sit down together and look up sections of the contract that might apply to the problem
- Form a committee or task force to survey other co-workers about a problem

- Ask co-workers to monitor their shift or department and take notes documenting what they see and hear related to a problem
- Have co-workers help report at a union meeting on how the problem is affecting them
- Hold break or lunch meetings to discuss the problem and plan workplace actions

These ideas are just the beginning. What other approaches can you think of to engage co-workers and build the union in order to effectively investigate and solve problems?



Steps in Investigating a Problem

GET THE FACTS

- Have any affected co-workers complete a “Statement of Occurrence” (see next page).
- Identify the problem.
- Gather the 5 W’s.
- Interview others involved.
- Request any needed documentation.
- **Watch timelines, in case filing a grievance may be necessary!**

ANALYZE THE FACTS

- Does the problem violate:
 - the contract,
 - a work rule or regulation,
 - a policy or procedure,
 - any federal, state, county, or municipal law,
 - any health and safety regulation, or
 - a past practice?
- Does management’s action constitute unfair or unequal treatment of a worker or group of workers?
- Did management engage in discrimination, harassment, or retaliation?
- Does the problem involve disciplinary action?
- Does the problem affect many people or many work areas?
- Do people feel strongly about this problem?
- **Does it merit further formal action?**

YES

DETERMINE YOUR STRATEGY

- Hold an informal meeting with management—decide which manager to approach, and with which co-worker(s). Plan your questions, message, and proposed solutions carefully.
- Is it time to file a formal grievance?
- Is there a way to mobilize members to solve this problem? If so, what kind of mobilization might fit the problem?
- If a grievance should be filed, is there still a way to support the grievance through member actions, in the hopes of reaching a faster settlement?

NO

IF THE CASE IS TOO WEAK OR NOT GRIEVABLE

- Discuss this with the worker. Give the person a chance to offer any additional evidence.
- Help the worker understand the risks of pursuing a weak case and encourage the worker to participate in any related committees or union efforts.
- Consider other informal means of resolving the issue or options for addressing the member’s concerns.

GETTING THE STORY DOWN:

Statement of Occurrence

Sample Investigation Fact Sheet

When a co-worker comes to you for help, the first step is always to ask them to fill out a “statement of occurrence” (or to discuss the problem in detail so that you can fill it out along with them). It is important that you ask them to do this immediately because the more time that passes after an incident, the less likely they are to remember critical details.

Along with collecting critical information for a possible grievance, asking co-workers to complete a statement of occurrence is one way to immediately involve them in the union’s response to the problem, and to demonstrate that it takes everyone’s involvement for the union to effectively solve problems in the workplace.

The completed form documents what happened, why the worker believes it was wrong, which (if any) article of the contract was violated, and what their desired remedy is. This information will help you identify whether you have a potential grievance.

INVESTIGATION FACT SHEET

(For union investigative purposes only. Keep in union’s file. *DON’T* share with management.)

Worker’s Name _____ Phone _____

Department _____ Job _____

WHO is involved? _____

WHO from management is involved? _____

WHO are the witnesses? _____

WHAT happened? (If there was an incident, include WHERE and WHEN it took place.)

WHAT else is important to this case? (Worker’s record, other history of the problem, questions of “just cause”, management’s position, etc.?)

WHY, if so, is this a grievance? (contract violation, past practice, company rules, laws?)

HOW do we want the company to make it right? _____

Steward Name _____ Date _____

Gathering All the Facts

Before acting on a problem, you must investigate and learn the facts—and, often, this means digging for them. You may have to ask questions and seek evidence that management would prefer to avoid. Keep in mind you have both a right and an obligation to investigate workplace problems and potential grievances. Don't let anyone in management give you a hard time about doing your job!

Investigating a problem almost always begins with interviewing the people involved to collect as many facts as possible and/or requesting necessary information from management. Structuring your research and interview questions around the “5 Ws” and “1 H” can help you get necessary information quickly.



What Should you ask? The “5 Ws” and “1 H”

WHO—Who was involved and who are the witnesses? Identify by name the worker or group of workers, the immediate supervisor, and any other persons involved in or with personal knowledge of the situation.

WHAT—What exactly happened? What actions or inactions gave rise to the problem? Be specific and collect as much detail as possible. Clearly describe what happened.

WHERE—Where (precise location, department, and/or job site) did the incident take place or the problem arise?

WHEN—When did the incident occur? Be specific and include the relevant time, day, month, year, and shift. If it's an ongoing problem, include when it started and when it became known.

WHY—Why is this incident/problem a grievance? Identify the section of the contract, past practice, management rules, or municipal, state, or federal law violated.

HOW—How should the problem be resolved? Identify the specific remedy you are seeking. Also, consider how you can involve your co-worker and others in solving the problem and how you can educate members about it and mobilize them to help the union resolve the problem. Keep in mind that some information must be kept confidential.

Who should you interview?

Depending on the situation, to get the “5 Ws” you may have to interview several sources:

- ☐ The co-worker facing the problem
- ☐ Supervisor(s): It is important to try to get management's version of the facts. Interviewing management may also give you a better idea of their reasoning, which can help prepare you for presenting a grievance later on if it turns out you need to file one.
- ☐ Fellow workers, witnesses



- ☐ Other union stewards, officers, or staff familiar with similar problems/grievances
- ☐ Other experts if relevant (health care provider, health and safety officer, etc.)



Preparing for Interviews

- ☐ Write your questions out ahead of time.
- ☐ Review the “5 Ws” and prepare questions to help you answer each one. You don’t need to follow your scripted questions exactly as written. However, having them written out will help make sure you cover them all at some point in the interview.
- ☐ Be ready to take notes and/or use an investigation fact sheet to keep track of information you collect (see p. 60).
- ☐ Schedule a time/place for the interview when neither of you will be rushed.

Conducting Interviews

- 1. Introduce yourself and set the tone.** Tell the worker and/or witness who you are and why you are there. Tell them you want to know everything they know about the problem. Always make it clear you and the union are sincerely interested in what they have to say and in helping solve the problem. Try to put the person at ease so they speak freely. When interviewing management, explain your purpose, stick to the business of collecting facts, and do your best to avoid argument. Remember, at this point, you are just investigating. It’s not the time to lay out your case. That can and should be saved for later if you come back to propose a solution or schedule a grievance meeting.
- 2. Ask broad questions, listen carefully, and take notes.** Let the person tell their story in their own words. To get as much information as possible, start with broad, open-ended questions that get them talking. Questions

like, “So, tell me what happened,” can get the person to tell a story. Even if parts of the story may seem irrelevant at first, you may get crucial information this way. It’s important to show you’re willing to listen both to the facts of the case and the person’s feelings about it. At this stage, you can keep your comments to a minimum of short responses to show you are following along (“I understand” or “I see what you mean”).

- 3. Get an overview first, then focus in.** First, get an overview of what the person knows. Then focus on particular points you think are important. Following up with direct questions (“Could you tell me the exact words that person said?” or “Do you remember what time it was when that happened?”) will help you collect as many details as possible. Review your notes to ensure the “5 Ws” are covered and see what you still need to ask to complete your collection of facts.

- 4. Make sure you get the correct order of events.** Ask for a timeline of what happened. Use questions like, “When was the first time that happened?” “When was the next time?” to focus questions so that you clearly understand the order of events.
- 5. Be clear on what the person actually saw or heard.** When the person tells you what they know, make sure you are clear whether it’s first-hand knowledge, something they actually heard or saw, or something someone else told them about.
- 6. Get information on other witnesses.** Always ask the person what other people know and how you can reach them to ask questions. For example: “You said earlier that this happened right when everyone was returning from lunch. Can you tell me the names of any other workers who were present when this happened? Where can I find them? Where do they work?”
- 7. Get information on documents.** Ask the person what documents are related to the problem and whether they have copies. Ask them for copies of any documentary evidence they have.
- 8. Get information that hurts, not just helps you.** In investigating a situation, you want to know about helpful information, as well as information that doesn’t help in order to best prepare for management’s arguments.
- 9. Discuss possible solutions.** This is important so you know what your co-worker(s) might consider to be a fair settlement. Try to involve co-workers in coming up with ideas by asking, “What do you think would be an ideal solution to this problem?” You may have your own ideas already, but discussing solutions may bring up new angles, and is a great way to involve co-workers in contributing to solving the problem. Likewise, if you see barriers to addressing their concerns or know some remedies are probably out of reach, this is the time to educate co-workers about the grievance process, what the contract says, what expectations are realistic for solving the problem—and what additional actions co-workers may need to take to get management to agree to the best possible solution.



The Importance of Taking Notes

- Research shows that humans remember only a fraction of what we hear. It is almost guaranteed that you will not remember all the facts correctly unless you write them down.
- Written notes from interviews often become essential to others in the union who may have to work on the grievance at later steps or at arbitration. Always include the date on notes of your conversations.
- Written notes help you keep track of conflicting or changing accounts. Notes can help you compare the facts as told by a worker and a supervisor. Or if a supervisor tells one story one week, but changes it during your first grievance meeting, you have documentation of the discrepancy.
- Taking notes is part of being an “active listener” and is a concrete demonstration that you are taking seriously what someone says. To management, it also sends a signal that you consider the conversation to be “on the record.”
- Reviewing notes toward the end of an interview can help you check to see whether you have collected all of the “5 Ws.” You can also review notes with the worker to confirm you have recorded facts and statements accurately.
- Review your notes to help you identify what critical information you are still missing. Follow up as many times as is necessary to get the whole story.



Requesting Documents from Management

Management often has key documents such as job descriptions and postings, time sheets, health and safety logs, etc. that can be critical evidence. Submit a written Request for Information to get records you need from management.

EXAMPLE

To: Hugh Head, Human Resources

From: Jane Union, Steward

Date: August 1, 2020

Re: Possible Overtime Grievance

To investigate a possible grievance in Department A concerning overtime assigned on July 29, 2020, I request the following information:

1. Any and all documents related to the overtime assigned in Department A on July 29, 2020
2. Job descriptions for all second shift employees in Department A
3. Current seniority list for Department A
4. List of overtime assignments made during the past three months in Department A

I cannot adequately enforce the contract or investigate the occurrence without this information. Therefore, please respond in writing and provide the requested information on or before August 8, 2020.

If you have any questions or concerns about this request please contact me via email at janeunion@gmail.com on or before August 5, 2020. Thank you.

Sincerely,

Jane Union

Our Rights to Information

Remember that labor law requires management to share any information they have that's relevant to a grievance or investigation of a workplace problem (**See Chapter 2**). This means you have the right to receive almost any documents management possesses (personnel files, attendance records, health and safety records, job descriptions, etc.) as long as you can argue they are "necessary and relevant" to the case at hand. *[Note that this right does **not** apply for workers covered by the RLA].*

Request the Right Information, Not All the Information

The information you request should be specific in focus but give you enough samples of evidence to prove your point.

Use the following questions as a guide in thinking about what you need:

- What are the background facts and contract language that support your argument vs. management's argument?
- Is the information you are requesting relevant?
- Could it cause problems for other employees in the bargaining unit? If so, be sensitive to this.
- Did you ask for so much information that management will claim it's too burdensome to comply?
- Are you asking for information that is confidential or proprietary? If so, consider asking for confidential or proprietary information to be redacted.

Other Sources of Information

- **Union grievance files and past grievance settlements.** Records of past grievances may show patterns in management's actions and give you ideas of how other stewards have dealt with similar problems. They can also show you whether a "precedent" exists because the union has grieved the same issue in the past. Prior union wins related to the same problem can help support your argument for a quick settlement. Prior union losses on similar issues can signal that you need to strategize with others on how to fight the issue differently this time.
- **Arbitration standards and trends.** In some cases, it might help to research trends in arbitration cases dealing with similar

issues. See p. 100 for more information on arbitration and how familiarity with basic arbitration standards can help you prepare your arguments. For access to copies of published arbitration decisions, you can contact your local union or reference librarians at law libraries.

- **Laws and regulations.** If you think you are dealing with a problem which might also be a violation of the law, consult with union officers and staff about how to respond. If you need to research a particular law, sources of help include your local union, reference librarians at law libraries, or the CWA stewards web portal.

Deciding on Next Steps



Once you've gathered the facts, talked to those involved, collected documents, and consulted with other union leaders, it's time to decide your strategy for solving the problem. Remember two things: **1)** most problems can and should be resolved without filing a formal grievance; and, **2)** grievances are just one part of your primary responsibility as a steward: to build a united, organized, and involved membership in your workplace.

Your next steps might include **taking the issue to members to plan action** and/or **meeting with management to seek a resolution**.

A few other things to keep in mind when doing the challenging work of solving problems as a union steward:

- You are not alone! Seek and use the knowledge and support of your local union leadership, fellow stewards, and active members to help you solve problems.
- If after investigating you are still uncertain about whether a grievance is warranted, err on the side of filing it so you don't miss grievance deadlines (you can always withdraw a grievance later if you change your mind.)
- Problems are often solved and grievances often settled not just based on who has the strongest case or most logical arguments, but because of the support and strength the union has in the workplace.
- Sometimes co-workers bring personal problems to union stewards, which can't be resolved by the union. You can still convey that CWA cares by acknowledging the importance of the worker's concern while also explaining why it's outside the scope of the contract or the union's mission. You can also suggest where they might find help or refer them to employee assistance or other resources.
- If you see or hear of a problem, you do not have to wait for workers to come forward to complain about it. You have the right to take action to require management to act fairly and follow the contract.
- Your job is to fight for your co-workers and defend their rights under the contract. This does not mean you will always like or even agree with every worker you represent, but it does mean you must often separate your personal feelings from your overall duty to the union and the contract. Remember that even in cases where a worker is clearly "guilty" of making a mistake, the union is still responsible for making sure management has issued discipline in a fair manner and fighting for the worker's right to a chance to improve.

Key Takeaways



- ✓ When attempting to resolve workplace issues, it is important to gather as much information as possible. Identifying who you need to talk to and what information you need to gather will be key. The 5Ws (Who, What, When, Where, and Why) and 1H (How) will help set you on the right path.
- ✓ Prepare for interviews and take good notes. Thinking about your questions ahead of time will help ensure you are collecting all the information you need. Good notes will do the same and help you identify inconsistencies.
- ✓ You can gather additional information and records from management through formal Requests for Information.
- ✓ Conducting a thorough investigation and accurately assessing the problem will help you solve problems more effectively.

CHAPTER 7

Mobilizing Members to Solve Workplace Problems



SECTION PREVIEW

In this section you will learn:

- How to use mobilization as a tool for building power and solving workplace problems
- The different components of mobilization: building workplace structure, education, and collective action
- What makes collective action strategic and powerful

ACTIVE MEMBERS ARE THE CORE OF OUR POWER

mobilizing can solve problems and strengthen our union



Photo: Striking Workers During Historic Memphis Sanitation Workers Strike, 1968

Workers organized unions long before they had labor laws, and before they had contracts with grievance procedures and arbitration. These early unions relied on our most fundamental power – workers coming together and taking action in support of common goals, for a life with dignity on the job and in their communities.

The grievance procedure is an important tool! It also has limitations:

- Grievances may take weeks, months, or even years to be resolved
- The grievance procedure treats problems as individual issues – it may not always be the best approach for widespread problems
- If they are not directly involved in the grievance process, members may not feel as engaged in building the power of the union

- Some important workplace concerns are not covered by the contract

That's why it is important to consider all your possible tools – alone or in combination – for solving workplace problems. Some problems are better addressed by mobilizing members to demand change through group grievances, petitions, or collective actions. Often times, regular mobilizations around issues at work can help prevent grievances from happening in the first place.

Through mobilizing to solve problems, members build the power of the union, AND they demonstrate that power to employers, other co-workers, and the community. This chapter will show you how!

CASE STUDIES:

Mobilizing to Solve Workplace Problems

We can learn a lot from the creative approaches that other groups of workers have taken to solve problems. Below are just a few examples! What we can learn from steps workers took when facing problems in these workplaces?

“Standing up for Pat is Standing up for Me,”

CWA, Ohio Bell (Mary Baird, Troublemakers’ Handbook, 14-15)

“I was a service rep then. There was this poor older woman named Pat who was put on final warning and threatened with being fired if any time within the next 12 months she was a minute late to work or absent. It was terrible because she was only about nine months from getting all of her 25 years seniority, so they were trying to get rid of her. It put her in this position where she was about to have a nervous breakdown. This was a much bigger office, there were 50 some workers. A lot of people wanted to walk out, to go on a wildcat strike, they were pretty angry. But it wasn’t going to be effective, because only about a third of the people would do it.

So we made up a flyer and we put a little cartoon figure with a picket sign on it, and it said, ‘Standing Up for Pat Is Standing Up For Me.’ It outlined all of the atrocious things they were trying to do and really made the company look bad. Then we had a petition and five or six of us circulated the petition in the parking lot outside of the building in the morning. Everybody signed the petition because we were going into the first level grievance that day. Normally these things drag out and eventually go clear to the top and something may or may not happen, but this woman was desperate, and people were really angry and that’s how we organized around it. And when we went into the grievance meeting, the thing was settled. She was taken off final warning.”

STANDING UP
FOR PAT IS
STANDING UP
FOR ME!

.....

Defeating privatization in Salem County, New Jersey,

excerpt from CWA New Jersey online news article, June 21, 2016



CWA members in Salem County, NJ declared victory after county officials announced they will no longer consider proposals to privatize the county’s dispatching services and jail nursing jobs. By building a grassroots campaign alongside first-responders and community supporters, Local 1085 was able to successfully defeat the proposal that would have affected 35 emergency call center operators and 15 county jail nurses.

County officials began considering privatization in early April, and workers and their supporters mobilized. For three months, CWA members—clad in red—and their supporters packed county government meetings in opposition to the privatization scheme. Many testified on the impact privatization would have on their families and the community. Police unions, whose officers work with dispatchers, decried the potential privatization as a threat to public safety. CWA members flooded county officials with calls and emails. Residents circulated petitions, wrote letters to the editor to local newspapers, and displayed yard signs that read, “Say No To Outsourcing, Keep Nurses/9-1-1 Jobs In Salem County.” Workers and supporters took their efforts to social media to mobilize residents. Over 4,000 supporters joined the “Supporting Salem County 911 Dispatchers” Facebook group in just one month.

The mobilization efforts proved effective when officials unexpectedly tabled the budget at two consecutive meetings. On June 15, at the final budget meeting, the County permanently took the privatization of services off the table, voting 5-2 on a budget that maintained these middle-class jobs and public safety for the county.

The Dangers of Toe Cleavage, Columbus Ohio

The call center Director at an AT&T call center in Columbus Ohio would drop by from time to time (he was Director of another call center as well), and announce some new policy or another without any explanation. Though none of these new policies were terribly important, it was frustrating to members that each one placed another restriction on employees or a new rule they had to follow. Over time that frustration was building up. On one occasion, he dropped by and announced a new policy regarding employees’ footwear: Women would no longer be allowed to wear “open-toed shoes.” The workforce was predominantly female and it was a call center - no customer would ever know what kind of footwear the employees had on. It was the last straw.

Employees got together and considered their options. They could pursue a grievance or an Unfair Labor Practice complaint because management had unilaterally implemented the policy without notifying the union in advance. They could pursue a discrimination complaint, because the policy explicitly targeted women. They ultimately decided that instead of filing a grievance or an EEOC charge that could take months to resolve, they would mobilize.

The following morning, Stewards provided each member with plenty of fluorescent orange duct tape with which they could wrap up the front of their shoes, regardless of whether they were open-toed or not. The 120 employees paraded into the call center chuckling about their ridiculous orange clown feet and explained to their supervisors that the tape was to “ensure that absolutely no toe cleavage could be visible” which appeared to be the justification for the policy in the first place.

The Supervisors were shocked at the display and quickly huddled around the speaker phone in one of their glass-walled offices to call the Director. When the supervisors emerged, they announced that the center was revoking the new policy. The Director didn’t call a meeting or announce any new policies for months afterward.



Why We Wear Red



In 1989, along with many of our Union brothers and sisters across the country, CWA was on strike against NYNEX. The strike was successful, winning contract language that protected jobs for our members. It was a long 18-day strike. We stood strong and we still enjoy many of the protections that we achieved during that strike. The Company looks at us in a very impersonal manner, but this is our livelihood. It affects not just us but our families as well. A strike is never easy, and it is always our last resort to protect our future.

One of our members walking the picket line was E. Gerald Horgan, Chief Steward, CWA Local 1103. On August 15, 1989, Gerry Horgan was killed. His death was a result from injuries he sustained when he was run down by a “scab” as he walked picket duty. The driver of the vehicle which killed him was a manager’s daughter who was working as a “scab” during the strike.

The idea started small; we asked all of our members to wear red on Thursday to remind the

company of the blood they had spilled and to show support for our fallen brother. But it quickly spread nationwide and now every Thursday at CWA workplaces across the country, a sea of red has become an ongoing sign of solidarity. Wearing red is a simple but effective way to show the Company that we stand together as a Union. We all have personal lives and beliefs, but in the workplace every member shares the same goal – better wages, benefits, job security, and respect in the workplace.

No company that we work for can take away the wages and benefits that we have fought so hard to achieve when we stand together. Our solidarity will make these companies prosperous and provide good jobs for generations to come, but only when we stand united.

Solidarity is not just an idea.

It is a belief that together we can protect and improve our way of life.

When Is a Problem an Opportunity to Mobilize?

Through mobilizing together around problems inside and outside the workplace, members build the power of the union. Of course, not every problem is a good opportunity to mobilize members. It may be too private, divisive, or complicated to explain publicly. The checklist below can help you decide.

of members in work area: _____

Problem: _____

To whom is this problem important? _____

How many people are affected by this problem? _____

Can people be mobilized around this problem? Yes () No ()

Can this problem:

Increase the visibility of the Union? Yes () No ()

Improve representation of underrepresented groups in the union? Yes () No ()

Leadership already involved with this problem: _____

Leadership who would need to get involved: _____

How can Pressure be exerted on:

Decision-makers in Management _____

Outside decision-makers (government agencies, employer associations, public, etc.): _____

Remedy or Goal to be achieved: _____

Is this issue winnable or partly winnable? Yes () No ()

Possible actions	Who will do it?	When?
Grievance		
Group meeting with manager		
Buttons, T-shirts		
Newsletter article		
Phone tree		
Involving allies		
Petition		

Creating a Mobilization Program

Mobilization is not just the moment where we all rally in the lobby or wear red shirts. Mobilization is a continuous process of:

- Building a workplace structure
- Educating members 1:1 via the structure
- Collective action that tests our capacity



Building Workplace Structure

Management has the capacity to get a message out quickly through its supervisors. What's our communication capacity? We need to build it! A union mobilization structure allows us to communicate one-on-one, worker-to-worker, with every single member in a short period of time. Without a good structure, you won't be able to communicate effectively with members one-on-one, and you won't get membership participation in collective actions.

When you are building your structure think about your workplace, using the lists and charts we discussed in Chapter 4. How many shifts are there? Do people work in different departments or on different floors? Make sure your structure includes at least one person from every group of people in your workplace.



Education

Once you have built your structure, you can use it to educate your membership through 1:1 conversations. As stewards, you must constantly communicate with your membership. Members have to know what's happening, what's at stake and why their participation is needed before we can ask them to take action.

Collective Action

We've built our structure and educated our co-workers...it's time to take action! But the rally, red shirt day, or leaflet at lunch is not the end of the mobilization. Every time we take action together as a union, it's important that you look around and notice who is enthusiastic or has leadership potential to try and bring them into the structure. You should also notice where there were gaps, and who didn't follow through, so you can review your charts and strengthen those areas for the future. Stewards shouldn't try to solve all the problems alone – you need to recruit other leaders and get co-workers involved to solve problems with you, together.

Powerful Collective Action...

Breaks down fear

The main reason why members don't participate in the union is out of fear, whether people are afraid of getting on management's bad side or fear missing out on a promotion. Collective action is critical to break down fear because when members see everyone participating in an action together, they are reminded that we have strength in numbers. Without collective action, fear grows.



Builds Confidence through Solidarity

When members see each other participating in collective action in large numbers, the confidence of the membership goes up.

Builds Leaders

The leaders you identify during mobilization aren't always the loudest members on the picket line. Sometimes the best stewards are the quietest people, but are the most respected by the membership.

Leads to More Action

If you are taking collective action, breaking down fear, building confidence, and developing leaders, you will be able to continue to take action that puts more and more pressure on management over time.

Involves Members

Members should walk away from any direct action feeling a sense of their own power. Collective action shouldn't just be about one or two members; it should involve the majority of our people because that is where our strength comes from. Make sure you are taking action around issues that bring members together and don't pit members against one another.

Deepens Understanding

If the union never takes mass collective action, members will view the union as an insurance policy. Taking collective action educates members about what the union really is and where our power comes from.



Start Small, then Turn up the Pressure!

Typically, we don't win our demands as a result of our first action. It takes persistence and gradual, intentional escalation to show management that workers aren't backing down and their momentum is growing.

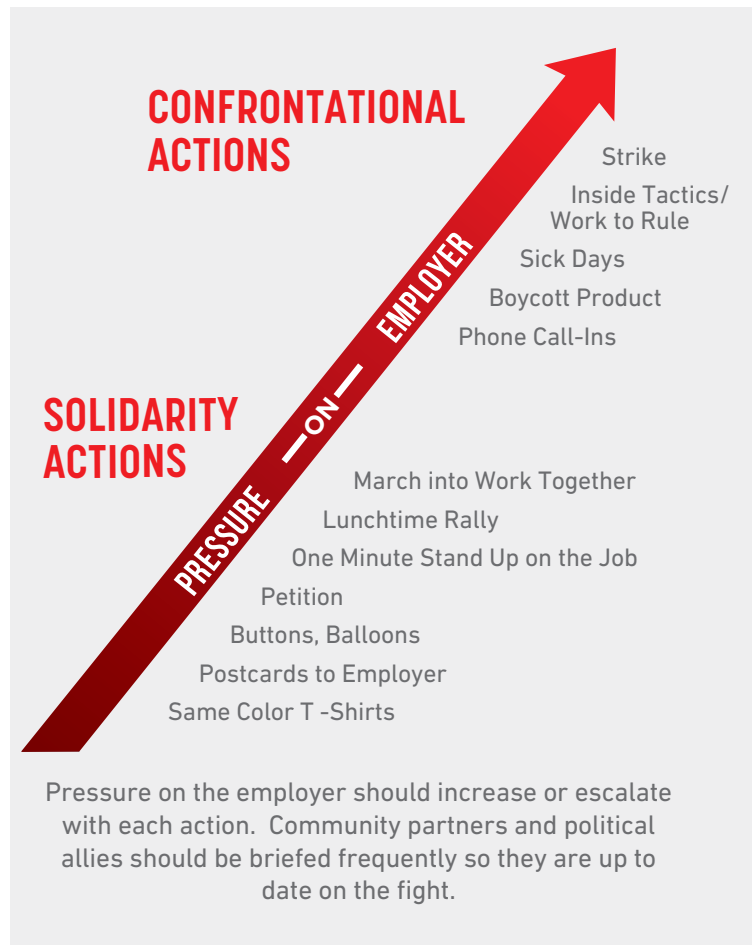
Starting with small, achievable, low-risk actions also gives workers confidence and gives leaders the chance to test and strengthen the mobilization network.

You might start with a survey – a more private way for nervous co-workers to describe how the specific problem you're mobilizing to address affects them. Keep track of who did and didn't participate and have one-on-one conversations in areas where there were gaps. The survey could be followed up with public leaflet distribution highlighting key results. As workers gain confidence, you can plan more public actions like t-shirt days, buttons, petitions – and pave the way for possible strikes or work actions, knowing that you've tested your network and can succeed!

Examples of actions might include:

- Mass filing a grievance
- Wearing red on Thursdays
- Bringing balloons into work
- Petitions around workplace issues
- Lunch or break time rallies
- March together into work
- Withhold labor

Why do such simple actions bother management so much? They can see we are organized and have power. A credible threat to strike is terrifying to them. When the boss sees every member wearing red or everyone's name on a petition, they worry about what else we can do!



Using Surveys as Tools for Change

One good way to begin mobilizing members to address a workplace problem is to conduct an issue survey with your members. Carefully planned surveys can build unity, agitate for change, provide valuable information, and test your mobilization networks with an easy action that isn't as publicly visible as a petition. Be careful what you ask! Test your survey with a few co-workers to see if the questions are understandable, easy to complete, and set appropriate expectations. Distribute it face-to-face for best results. Here is an example:

Whispering Pines Local 224 Staffing Survey

What is Your Experience with Staffing Levels at Whispering Pines?

Since staffing levels were cut last June, co-workers have raised serious concerns. It's time we come together to assess the impact and decide what needs to be done to protect quality care for our residents, and a reasonable work environment for our staff.

- 1.** In the past month, have you worked on a shift without enough staff to meet residents' basic needs? (circle one answer)

☐ Yes ☐ No

- 2.** If you answered "yes" to question #1, approximately how often does that happen? (circle one) if you answered "no" to question #1, please go to #3.

☐ Several times/week ☐ Once/week ☐ Twice/month ☐ Once/month

- 3.** Do you feel that patients' care has improved, declined, or stayed the same since the decrease in staffing levels last June?

___ Patient care has improved

___ Patient care has declined

___ Patient care has stayed about the same

___ Don't know

Please provide examples _____

- 4.** How do you feel lower staffing levels have affected staff morale at work?

___ Staff morale is better

___ Staff morale hasn't changed

___ Staff morale is worse

___ Don't know

Please provide examples _____

Using Petitions as Tools for Change

If members feel strongly about an issue and are willing to show it publicly, petitions can be very effective tools to demand change. Below is one example of a petition developed by out of Local 1038 who work for the State of New Jersey. They used the petition to address unresolved health and safety problems in their worksite. They successfully recruited over 270 co-workers to sign it, and union members delivered it to the Chief of Staff and Director of Facilities. The petition made a difference! As a result of this mobilization, 72 co-workers joined the union, and management began working with the union to implement a plan to address the problems.

To whom it may concern:

We, the employees, deserve the right to work in a safe and healthy environment. We recommend the following issues be fixed immediately:

➤ **Bedbugs**

As you know, the fifth floor is infested with bed bugs. Once one floor has been infected, bed bugs can travel quickly through all the floors of a building. We recommend the entire building be inspected and treated.

➤ **Mice**

There have been numerous and regular reports of rodents throughout the building. This is not only unsanitary but also dangerous as a health hazard.

➤ **Office Temperature**

Employees on the third floor have reported that their workspace is consistently below 65 degrees. We request facilities check the temperature on the third floor and if it is below 65 degrees in any workspace, we ask that it be made warmer.

➤ **Mold and Air Quality**

We are concerned about mold throughout the building. There are areas where there are leaks and the carpet is visibly wet. We request that there be an investigation into the mold

and appropriate remediation action be taken. For example, we ask that wet carpets be replaced, all the other carpets be cleaned, and the air vents and filters be replaced regularly.

➤ **Snow and Ice Removal**

The sidewalk and walkway in the back of the office have been treacherous due to winter conditions. Snow and ice needs to be removed so that our members don't slip and fall when they enter and exit the building.

➤ **Parking Safety and Security**

Our parking conditions are subpar and frightening. A lack of lighting and broken down elevators is a regular source of frustration. For example, an entire floor of the Warren Street garage has no working lights. Additionally, the lights on the Warren Street garage's 7th floor elevator landing and corresponding stairwell were also out. A dark stairwell is dangerous for many reasons. We also ask for more lights in the back of the building to increase visibility so we can see our way to our cars when it's dark. And the elevators at the Warren street garage are scare and unsafe. Many employees get stuck in them when they break down which happens regularly.

Sincerely,

The undersigned employees

More Union Building Actions

Here are a few activities you can consider using to educate members on issues, get members involved in a fight, show unity, put pressure on management, or develop new union leadership in your workplace. What can you add to the list?

- ☐ Have an informal meeting in the lunchroom
- ☐ Pass out leaflets
- ☐ Set up an informational table in the break room
- ☐ Have short meetings right after work, maybe in the parking lot
- ☐ Have a button (or sticker) day
- ☐ Have a day where everyone wears RED
- ☐ Get lots of people to file individual grievances
- ☐ Get people to sign a petition or group grievance
- ☐ Get a big group together to deliver a petition or group grievance
- ☐ Get lots of small groups of people to ask the boss when the problem is going to be solved and keep asking until they get an answer
- ☐ Put daily notices on the union bulletin board to keep people up to date
- ☐ Have a rally or informational picket line outside your workplace before work
- ☐ Ring bells or blow whistles or shake soda cans full of pebbles at appropriate times (when the boss does something wrong, or every time the problem happens, or every hour or so as a reminder)

Key Takeaways



- ☒ Mobilization is the core of our power as a union. Mobilizing allows every member to play a role in improving working conditions and building a strong voice at work. Mobilizing can also prevent workplace grievances.
- ☒ Thinking strategically is critical for effective mobilization. Start with smaller actions that give members confidence (like a survey) before taking more public actions (like delivering a petition to management).
- ☒ Mobilization is not just the moment where we all rally in the lobby or march on the boss. It is a continuous process of **building workplace structure** to effectively communicate with each member face-to-face, **educating** fellow members about issues that confront us and what we can do about it as a union, and **taking collective action** to win changes that improve our workplaces and communities for the better.

CHAPTER 8

Handling Grievances to Address Workplace Problems



SECTION PREVIEW

In this section you will learn:

- Your Grievance Procedure
- What a Grievance is
- Types of Grievances
- The Seven Tests of Just Cause
- Past Practice
- Writing a Grievance
- Keeping a Grievance File
- Preparing to Present a Grievance
- Presenting a Grievance
- Weingarten Rights
- Investigatory and Disciplinary Meetings

Handling Grievances

When a problem that violates our contract can't be resolved informally, it's time to use our formal grievance procedure.

Steps in the Grievance Procedure

Most grievance procedures consist of a series of meetings or "steps" designed to give the union an opportunity to contest some decision or action taken by management.

On some occasions, the first step is a meeting between the grievant, the steward, and the immediate supervisor. In some contracts, the first step is "informal," meaning that the grievance does not have to be in writing. Usually, the last step in the process is arbitration where a third-party neutral will decide the matter.

Between the first step and arbitration, most contracts have one or more intermediate steps. Generally, each step moves up the chain of management and becomes more formal.

Grievance Procedure Time Limits

Every contract attaches time limits to the grievance procedure. In some contracts, the grievance process and timelines vary depending on the type of grievance. You must know the time limits and be especially careful not to miss deadlines. Generally, the time allowed for filing a grievance starts running out from the date when a contract violation first happened or from when a worker or the union first knew (or should have known) about the violation. If a grievance isn't filed within the time limit, then the union has missed an opportunity to challenge management's action.

THREE KINDS OF MEETINGS

The disciplinary process often includes three (3) different types of meetings. The role of the steward differs depending on the type of meeting.

1. In the **investigatory meeting (called by management)**, the worker being questioned has Weingarten Rights (p. 23) if they have a reasonable belief the meeting could lead to discipline. You, as the steward, have the right to know the general subject matter of the meeting and to have a brief meeting with the worker beforehand.
2. In the **disciplinary meeting**, management will notify the worker of the discipline. Your role, as the steward is to ask clarifying questions, establish the clear reasons why discipline is being issued, and take detailed notes.
3. In the **grievance meeting (called by the union)**, you will present reasons why the employer does not have just cause (see p. 86) to discipline the worker or why the discipline imposed is too severe, and propose how management should remedy the situation.

Time limits in most contracts dictate deadlines for:

- filing the original grievance,
- management's written response to a grievance at each step, and
- appealing a grievance from one step to the next.

Contracts set time limits for management's responses at each step of the process. For example, if the first step is an informal meeting between the grievant and their immediate supervisor, the contract might require a written response from the supervisor within a specific number of days from the informal meeting. Once the union receives the written response, it typically has a set number of days to move the grievance to the next step. If management fails to answer (generally indicating

a denial of the grievance), the union is usually still responsible for moving the grievance to the next step.

The company and the union can mutually agree to timeline extensions, but it is imperative to get any agreement to extend timelines in writing. Since the company is generally under no obligation to agree to an extension, you should never rely on getting one until you have it in writing.

Your Contractual Grievance Process and Timelines

Grievance related provisions are key aspects of the contract that you should become familiar with quickly. Take some time to create your own reference guide below.

Under your contract:

- Can stewards participate in **grievance meetings during regular work hours and while on paid time?**

Yes ☐

No ☐

Relevant contract Article(s) _____, Section(s) _____, Page(s) _____

- What article(s), section(s), and page(s) outline the **first step?**

Relevant contract Article(s) _____, Section(s) _____, Page(s) _____

Create your own grievance roadmap now to help you keep track of where you are in the process and anticipate the next steps. Review the sample table below as an example of how to complete your own. Then, review your contractual grievance process and use the table **on the next page** to outline the process.



SAMPLE Grievance Process Overview

STEP OF GRIEVANCE PROCEDURE	1	2	3	4 Arbitration
IS A WRITTEN GRIEVANCE REQUIRED?	NO	YES	YES	YES
TIMELINE FOR GRIEVANCE OR APPEAL	Within 20 days from date violation known/should've known	Within 10 days from the date decision received	Within 10 days from the date decision received	N/A
WHO REPRESENTS UNION?	Steward	Steward	Steward/Staff	Union's Staff/Attorney
WHO REPRESENTS MANAGEMENT?	Immediate Supervisor	Department Director	Division Head	Employer's Attorney
TIMELINE FOR MANAGEMENT RESPONSE	Within 10 days from the date of the informal meeting	Within 10 days from the date of the 2nd step meeting	Within 10 days from the date of the 3rd step meeting	N/A

What's Your Contractual Grievance Process?

Use your contract to look up the steps and timelines that apply under YOUR contract.

STEP OF GRIEVANCE PROCEDURE				
IS A WRITTEN GRIEVANCE REQUIRED?				
TIMELINE FOR GRIEVANCE OR APPEAL				
WHO REPRESENTS UNION?				
WHO REPRESENTS MANAGEMENT?				
TIMELINE FOR MANAGEMENT RESPONSE				

Note: After your contractual grievance process changes as a result of negotiations, remember to confirm this overview is still accurate and make any necessary changes.

What is a Grievance?

It depends on what your contract says. A grievance may be defined as a contract violation or a violation of laws, policies, or past practices. Most collective bargaining agreements include a definition of a grievance, usually in the first paragraph of the grievance procedure. Every contract is different, and your contract language may include other kinds of disputes or it may exclude certain issues from the definition of a grievance. You can start by asking yourself:

Did management violate any of the following?

- The contract
- A past practice
- A work rule or regulation
- A policy or procedure
- A federal, state, county or municipal law
- A health and safety regulation

Did management violate workers' rights?

Did management take unfair action by:

- Discriminating against a worker
- Harassing a worker
- Disciplining a worker without just cause

If the answer to any of these questions is yes, there's a good chance a formal grievance may be one way to address the issue. Always, check your contract language to confirm.

Is It a Past Practice?

Long-term agreements in a union workplace can sometimes take on the status of contractual policies even if they are not written down. To establish a past practice is legally enforceable, you need to show the practice has:

- ☐ existed for a reasonably long time
- ☐ occurred repeatedly
- ☐ was a clear and consistent course of conduct
- ☐ was known to both parties, and
- ☐ was accepted by both parties.

See page 104 for more on Past Practice.



Types of Grievances

There are typically two types of grievances—disciplinary grievances and non-disciplinary. It is important to know what kind of grievance you are dealing with to solve it in the best way possible.

Types of Grievances			
Type	Violation	Burden of Proof	Relevant Arbitrators' Standards
Discipline	Unjust discipline	Employer	Seven tests of just cause (p. 107)
All Other Types	Violation of contract language, work rule/policy, past practice*, or law	Union	Contract interpretation and past practice principles (p. 102)

*While the union will have the burden of proof when it files a grievance alleging a violation of past practice, when the employer raises past practice as a defense or justification for its actions, the employer has the burden of proving the past practice.

Disciplinary Grievances

Disciplinary grievances arise when management disciplines a worker in a manner the worker and the union believe is unfair.

In these cases, management has the burden of proof to demonstrate they had *just cause* to discipline the worker. This means it is the employer's responsibility to prove the worker is guilty of the misconduct alleged and that the discipline was appropriate based on the misconduct.

If a discipline grievance goes to arbitration, the arbitrator will analyze the case using "The Seven Tests of Just Cause." These are "tests" management must pass if they want to show they had just = cause for any discipline they issued. Knowing these tests can help you analyze discipline, know what to investigate, and develop strong arguments for your meetings with management. See page 108 for tips when dealing with specific types of discipline cases and using the tests to your advantage.



SEVEN TESTS OF JUST CAUSE

1) PRIOR NOTICE

- ☐ **Did the grievant know about the rule and penalty for violating it?**

The notice of a rule may be given orally or in writing. There are exceptions for certain types of conduct so serious (insubordination, coming to work drunk, or stealing company property) employees are expected to know the conduct could result in discipline.

2) REASONABLE RULE

- ☐ **Is the rule reasonable?**

Reasonable rules serve a practical purpose by being related to maintaining safe and efficient operations and are uniformly and unbiasedly enforced.

3) ADEQUATE INVESTIGATION

- ☐ **Did management conduct a complete investigation before imposing discipline?**

Normally, the employer's investigation should be conducted before the decision to impose discipline is made and the employer should have talked to all witnesses and the worker being disciplined and reviewed all relevant evidence.

4) FAIR INVESTIGATION

- ☐ **Was the investigation fair and objective?**

The employer's investigation should have been timely without significant delay from when the infraction occurred. Again, the employer should have considered all evidence and talk with everyone involved.

5) SUFFICIENT PROOF

- ☐ **Did the employers investigation produce substantial evidence or proof of guilt?**

The employer's conclusions should be clearly supported by substantial evidence. Conclusions based on opinions, speculation, hunches, gut feelings, and assumptions are not enough.

6) EQUAL TREATMENT

- ☐ **Were the rules, orders, and penalties applied evenhandedly and without discrimination?**

The employer should be consistently holding all workers accountable and imposing similar discipline on similarly situated (similar work performance and disciplinary records) workers.

7) FITTING PENALTY

- ☐ **Was the penalty appropriate given the offense and the grievant's work record?**

The employer should be proposing discipline reasonably related to the seriousness of the conduct, the worker's length of service and record, and consistent with prior discipline imposed on similarly situated workers.

Recommended Resource: Just Cause: A Union Guide to Winning Discipline Cases by Robert M. Schwartz

Additional Disciplinary Grievance Considerations

Other factors can strengthen your case in disciplinary grievances. To have “just cause” for discipline, management must show that a punishment is appropriate in relation to the offense.

Employee Record

Always review prior work records (including prior discipline, length of service, and performance records) of the grievant and others disciplined for the same conduct. An excellent past work record may be a strong argument for decreasing the level of discipline a worker receives for a first or minor offense (even if others with less stellar records have received harsher punishments in the past).

Progressive Discipline

Some contracts require management to practice progressive discipline. Progressive discipline is a system of imposing discipline in steps, starting with less harsh penalties for minor infractions, and escalating to more serious penalties. A typical order of progressive discipline is oral warning, written warning, suspension, and discharge. Progressive discipline is intended to give workers a signal that they need to correct their behavior, so the lowest level of discipline which achieve this outcome is what management should start with. Often, stewards need to remind management of this.

All Other Types of Grievances

Non-disciplinary grievances include those involving violations of our contract, employer work rules or policy, a law, or a unilateral change to a past practice. They can involve virtually any section of the contract—for example, disputes over pay, benefits, work schedules, overtime, promotions, transfers, layoffs, discrimination, or health and safety issues.

In most cases, management is not going to tell us when they violate the contract, work rules, policy, past practice, or the law. Instead, it's our job to monitor for violations, police our contract, and maintain strong communication networks with co-workers who know how to alert us to possible violations.

In these cases, the Union has the burden of proof to demonstrate that management violated contract language, past practice, or law. This means we must carefully investigate and document violations to prove our case.

If a non-disciplinary grievance were to go to arbitration, the arbitrator would consider the issue using guiding principles of contract interpretation. Knowing these principles can help you evaluate your case and develop your arguments. See page 106 for tips on contract interpretation and past practice principles you can apply.

Keeping a Grievance File

Prepare and maintain a file for each grievance you work on. From your notes from the investigatory meeting and the member's statement of occurrence or incident report, to the findings from your investigation and employee records, having all your evidence in one place will keep you organized and prepared for each step of the process.

A well-prepared grievance file also makes life much easier for local officers, union staff, attorneys, and arbitrators who might be involved in the grievance process down the road. This way, anyone can pick up the file and understand exactly what's happened in the case. Use the checklist below to be sure your grievance file is complete.

Grievance File Checklist

- ☐ Grievance summary
- ☐ Grievance form
- ☐ Discipline letter
- ☐ Statement of Occurrence form (See page 60)
- ☐ Dated notes from all conversations with the grievant, including investigatory fact sheets
- ☐ Dated notes from investigatory meetings
- ☐ Request for Information (RFI) letter (See page 65)
- ☐ 1st step meeting dated notes
- ☐ Grievant's evidence – substantiation of grievant's case
- ☐ Employer's evidence – substantiation of employer's case (to better understand it)
- ☐ Relevant parts of personnel files (commendations, discipline, attendance, performance reviews, etc.)



Good files protect the Union! Documenting all of your evidence, as well as the reasons behind each decision you make (to file a grievance or not to file, etc.), also protects the union from possible Unfair Labor Practice and Duty of Fair Representation charges.

Writing Grievances: Three Easy Steps

The key to writing a grievance is to keep it simple. Your local may have a particular form or format for stewards to use to write grievances—if so, use it. But whether you write the grievance on a prepared form or on a blank sheet of paper, almost every grievance contains just three key elements:

- What happened (what did management do or not do to cause the grievance)?
- Why is it a grievance?
- What does the union want management to do to solve the problem?

These three questions can be answered using just three short sentences:

First Sentence: What happened? What did management do (or fail to do) to cause the grievance, and when and/or where did they do it?

“On or about May 1, 2020, management unjustly laid off Billy Brown and all other affected employees.”

Useful phrases: “On or about,” “Beginning on or about,” and “and all other affected employees”

Second Sentence: Why is it a grievance? What part of the contract (or law, policy, past practice, etc.) did management violate?

“This violates Article IV, Section 9, and all other relevant articles of the contract, management policies, and federal, state, and municipal law.”

Useful phrases: “all other relevant contract articles, management policies, and federal, state and municipal law.”

Third Sentence: What do you want? What remedy is the union seeking? What do you want management to do to fix the situation?

“The Union demands that Mr. Brown and all other affected employees be made whole in every way, including but not limited to recall to his job classification, full back pay for all wages and benefits lost, and any other appropriate relief.”

Useful phrases: “be made whole in every way,” “including, but not limited to,” and “and any other appropriate relief.”

Note: These phrases do not mean that an arbitrator or management will search out all specific benefits that management denied the grievant. It is still the responsibility of the steward – verbally or in writing – to eventually, prior to arbitration, list remedies not included in the original written grievance.



Best Practices & Tips

- **Always consult the grievant.** Even better, work alongside the grievant to complete the form and determine the requested remedy. Make sure to get the grievant's signature on the form before turning it in to management. Keep the grievant informed about each step you take. Don't wait for the grievant to come to you!
- **Make a copy!** Always make a copy of the grievance form for the grievance file before submitting it to management.
- **Don't include arguments, evidence, or personal opinions.** Because you usually know a lot about a case and have strong feelings about it, often the most challenging part of writing a grievance is knowing what **NOT** to include. Don't include:
 - **Arguments.** Save these for the grievance meeting.
 - **Evidence you have collected to support your case.** Save this for making your case when you present the grievance.
 - **Personal theories, observations, and feelings.** Writing these down is not going to help your case and may distract from the essential points you need to make; personal attacks may also make it harder for management to agree to the settlement you are seeking) Avoid phrases like "I think" or opinions about management officials.
 - **Involve co-workers in the process.** Throughout the process, find ways to keep building union power. Whenever possible, involve co-workers in mobilizing for fair grievance resolutions, gathering evidence to support our case, communicating about grievance victories, and building solidarity among co-workers in defense of our contract.

Sample Grievance Form and Guidance

This section of the grievance form is used to document basic information about the grievant.

Some locals will assign the grievance a tracking number based on the year, the employer, the local number, and the number of grievances so far in that calendar year. As a steward, work with your local to figure out which parts of the form they want you fill out and which parts of the form will be completed by a local officer

SAMPLE GRIEVANCE FORM

UNION LOCAL NUMBER:

UNION CASE NUMBER:

☐ DISCIPLINE ☐ OTHER GRIEVANCE

EMPLOYER:

DATE OF OCCURRENCE:

TRACKING NUMBER:

GRIEVANT (IF APPLICABLE)

TOE

STATEMENT OF GRIEVANCE/ARTICLE OR SECTION VIOLATED:

UNION RESOLUTION:

SIGNED-UNION REPRESENTATIVE

PRINT NAME

DATE

PHONE NUMBER

COMPANY DISPOSITION - STEP ONE

Meeting Date

SIGNED-COMPANY REPRESENTATIVE

PRINT NAME

DATE

PHONE NUMBER

UNION: ☐ ACCEPTS ☐ REJECTS ☐ APPEALS

SIGNED-UNION REPRESENTATIVE

PRINT NAME

DATE

PHONE NUMBER

COMPANY DISPOSITION - STEP TWO

Meeting Date

SIGNED-COMPANY REPRESENTATIVE

PRINT NAME

DATE

PHONE NUMBER

UNION: ☐ ACCEPTS ☐ REJECTS ☐ APPEALS ☐ INTENDS TO ARBITRATE

SIGNED-UNION REPRESENTATIVE

PRINT NAME

DATE

PHONE NUMBER

Here is where you add the 1st and 2nd sentences described on page 89.

Here is where you add the 3rd sentence described on page 89.

Preparing to Meet with Management

Prepare your facts, arguments, and evidence

Review all of the evidence you have collected and decide what your strongest arguments are. It's better to have one or two strong, convincing arguments (and to keep repeating them) than to have five weak ones. Then, write down...

- the issue as you intend to frame it
- the arguments and facts you intend to present and describe how the evidence supports your arguments.
- the remedy you will seek and why it's in everyone's interest to settle the grievance now.

Union Arguments	Facts

Anticipate management's position.

You may have a good idea already (from your prior interviews) of what management's position is. How will you respond to their claims? What remedies might management offer and how will you respond?

Management Arguments	Union Responses

Prepare the grievant

Prepare the grievant for what will happen at the meeting, reviewing what you plan to say and what you anticipate management might say. Make it clear that you will do most of the talking and will need to remain in charge of the meeting. If you plan to have the grievant speak to some aspect of the case, rehearse this ahead of time. Remind the grievant not to volunteer extra information and they may hear management say things they disagree with or may find upsetting. Convey the importance of the grievant controlling their emotions during the meeting. Plan a nonverbal signal to use in case either of you decides you need to pause for a caucus during the meeting.

Know your remedy and settlement range

Consider an acceptable settlement and how it may legally affect your contract. A grievance meeting is a form of bargaining, and you should prepare just as you would for contract negotiations. Review remedy options with the grievant and consult union leadership about acceptable settlement terms that will not undermine your contract. Explain to the grievant the remedy the union is asking for and what a realistic outcome might be. Have a “settlement range” in mind. Make sure you know what a satisfactory bottom line would be for the grievant and, above all, the union before you agree to anything.

Preparing to meet with management about unjust discipline

Seven Tests of Just Cause	Management facts/arguments	Union facts/arguments
Prior Notice: Did management inform grievant about the rule? Did the grievant know about the penalty?		
Reasonable Rule: Is management's rule reasonable? Does it serve a business purpose? Was the rule reasonably applied?		
Adequate Investigation: Did management investigate before the discipline took place?		
Fair Investigation: Was management's investigation fair? Were all witnesses interviewed by management?		
Sufficient Proof: Does management have sufficient evidence that the grievant is “guilty”?		
Equal Treatment: Was the discipline even handed or were other people not punished for the same offense or punished less severely?		
Fitting Penalty: Was the penalty appropriate for (1) the offense, (2) the grievant's work record, and (3) any mitigating circumstances that have been present?		

Presenting Your Grievance to Management

The steward, not the grievant, should present the grievance

The steward's role in a grievance meeting is to be an advocate for the grievant, the contract, and the union as a whole. This meeting is an important opportunity to get management to change their minds and fix a problem. Very few managers want to admit they made a mistake, so this can be difficult. Your job is to present a strong argument and keep the meeting on track.

You should decide whether it is helpful to have the grievant attend the grievance meeting. If the grievant does attend, ordinarily they should be quiet unless the steward calls on them to talk. Remember, a grievance meeting is your meeting! If management tries to cross-examine the grievant, the steward should intervene to protect the grievant. This may even include having to end the meeting.

Frame the issue

At the beginning of the meeting, focus the discussion by formally summarizing what the union believes the grievance is about. This can help keep the discussion centered on relevant contract language rather than the personalities involved.

EXAMPLE

"The issue in this grievance is whether management violated Article 3, Section 2 of the contract by not awarding the second shift clerk job to Jose Rodriguez despite him being the most senior and qualified to do the work."

"The question is whether management had just cause to terminate Jerome Robinson, a twenty-year employee with an outstanding work record, after she mistakenly sent the wrong order."

"The issue is whether management unilaterally changed a past practice when, without notice, it ceased providing tools to service technicians that it has consistently and repeatedly provided over the last fifteen years."

You will want to use language that supports your argument and is most compelling for your side. The employer will also attempt to frame the issue in a way that is most favorable to them. Ultimately, if your case goes to higher levels of the process and you can get the arbitrator or other deciding party to adopt your framing, you are well on your way to winning your grievance!

Whose framing, the union's or management's?

Read the issue statements below and determine whether the framing is the union's or management's. Check the box indicating which side you think framed each example.

<i>The question is whether...</i>	
...the employer had just cause to terminate the employee after he put himself, his co-workers, and the community at risk when he failed to do his job in a safe manner and caused toxic chemicals to be leaked.	...the employer had just cause to terminate the employee despite the employer's failure to notify the employee of a change in protocol which had the employee been informed of would have been followed.
Whose framing is this? <input type="checkbox"/> Union's <input type="checkbox"/> Management's	Whose framing is this? <input type="checkbox"/> Union's <input type="checkbox"/> Management's
<i>The question is whether...</i>	
...the employer violated Section 4, Paragraph A of the contract when it failed to offer overtime to Allan Whitaker, the most senior employee on the shift, who was qualified and available to work the overtime.	...the employer violated the contract provision on overtime despite the employee not being qualified to do the work and not being in his assigned area when his supervisor was looking to assign overtime.
Whose framing is this? <input type="checkbox"/> Union's <input type="checkbox"/> Management's	Whose framing is this? <input type="checkbox"/> Union's <input type="checkbox"/> Management's

Present the grievance with a clear, logical argument.

If you present the grievance in a way that makes it sound inevitable the union will win eventually, a manager may be convinced to resolve the problem now, rather than have an arbitrator decide the case later in a way that is more costly and embarrassing.

- State the issue of the case (see “frame the issue” above)
- Present the main points of your argument
- Include a reference to the relevant contract language

EXAMPLE

“The issue in this grievance is whether management violated Article 3, Section 2 of the contract by not awarding the second shift clerk job to Orville Bush despite him being the most senior and qualified to do the work. Article 3, Section 2 of the contract, requires that all vacancies be awarded to the qualified bidder with the most seniority. Orville Bush was the most senior bidder. And, he has all the qualifications outlined in the job description. However, the job was improperly awarded to another bidder with similar qualifications, but less seniority.”

Review the facts that support your argument in more detail.

If you know what management’s case will be, point out the flaws in their argument.

EXAMPLE

“While management might argue that Orville Bush was not interested in the vacancy, they base that assertion on the fact that he did not apply for the position when became vacant the first time two years ago. However, the fact that he did not apply for the position two years ago is not an indication of his interest in the position now. He applied for the position this time, he is the most senior, he is qualified, and clear contract language indicates that he should have been offered the position.”

Conclude the meeting with a description of your requested remedy.

EXAMPLE

“Given that Orville Bush is the most senior, qualified, and should have been offered the position, we respectfully request/demand that he be offered the position, that he be given back pay and benefits relevant to the position retroactive to the date he would have started (August 12, 2020), and that he be made whole in every way.”

Tips for Meeting with Management

You are an equal. Act as an equal! A grievance meeting should be a meeting between two parties on equal footing. Remember the Equality Principle you learned about on page 16. When you are acting as a steward, you have the right to speak freely with management, defend the rights of your members, and uphold your contract. Ask yourself: “Would this supervisor treat another management person this way?” If not, then you should not expect to be treated that way when acting as a steward. You may have to command respect and actively assert your right to be treated as an equal.

Remember your goal. You are striving to settle the grievance at the lowest level possible. Start out by assuming you have a chance to convince everyone involved that it would be best to resolve the issue quickly. At early stages, try to avoid backing management into a corner or putting them on the defensive. Leave them an “out” if possible, so that they can save face and have room to cooperate in negotiating a settlement with you.

Stick to the point. Take charge of the meeting and stick to your plan of attack to the extent you can. If a supervisor wants to shift the discussion to unrelated issues, insist that you return to the grievance at hand. If management wants to stall with too much small talk or pauses for interruptions (phone calls, etc.), firmly remind them why you are there and get the meeting back on track.

Maintain a united front. Avoid ever having an argument among union people in the presence of management. Call a recess if needed. Make sure management knows that union membership is united behind the grievance.

Take notes. Record what management says. This may help you better identify their concerns and provide you with an opportunity to address them while still advocating for your desired remedy at a later point in the grievance process.

Repeat your best arguments and facts. Don’t let management derail you or bait you into a defensive position on weaker aspects of your case. If you get off track, return to your best arguments. It’s ok and, in fact, usually effective to repeat yourself.

Disagree with dignity. Avoid getting excited, angry, or hostile. On rare occasions, planned and strategically timed demonstrations of emotion might be useful to make a point. But usually, losing your cool means you have lost control of the meeting.

Be ready to end or suspend the meeting. If unexpected information (from the grievant or the supervisor) crops up during the meeting, call a caucus to discuss it with the grievant or collect your thoughts and strategize. If the information radically alters the case, ask to postpone the meeting so you can better prepare. If you’re getting no response or only “no” as a response from management, use your judgment on when the meeting has become unproductive and end it by indicating you intend to move the case on to the next step of the process.

When Management Says “No”

Since it is nearly always in the union’s best interest to reach a fair settlement early in the process, try to get as much information as possible about management’s position when they are refusing to settle a grievance. You may discover they don’t fully understand the grievance, or you might identify new settlement options.

The following are suggested questions for getting management to say more than “no” to your grievances:

- **Do you understand the problem we are trying to solve with our remedy? How do you see that problem?** Maybe the supervisor isn’t clear on the real issue. Getting the supervisor to state it may open the door to a resolution.
- **Can you explain how you arrived at that position?** If you understand management’s logic you may be able to more successfully counter their arguments. Perhaps a particular supervisor misunderstands or doesn’t know about a basic fact in the case.
- **What about our proposed remedy do you have a problem with?** Maybe the remedy’s fine with the supervisor but one element sticks in his/her craw. You might be able to modify the one point, as long as your basic issue is dealt with.
- **Do you have other suggestions for how we can resolve this?** Who knows, maybe management has an approach that will be acceptable or at least a place from which to start.
- **What are you concerned would happen if you agreed to our proposed remedy?** The answer may surprise you. It may be something you can assure management is not in the cards. They may be overestimating the impact or misunderstand the true nature of the remedy you’re seeking.
- **This is very important to us. Are you saying you have no flexibility at all?** If a supervisor indicates flexibility, you’ll know you’ve got some room to operate. If they don’t, at least you’ll know you’ve hit the wall and can prepare for the next step.

Source: Union Steward’s Complete Guide, 2nd edition., ed. David Prosten, pp. 56-57.





Key Takeaways

- ✓ A grievance is a violation of our contract or workers' rights. Check your contract to see how it defines a grievance in your workplace.
- ✓ Our contract spells out grievance steps and timelines. Missing timelines could put the union at legal risk. It also could mean missed opportunities to take back power!
- ✓ There are two primary types of grievances: disciplinary and non-disciplinary.
 - The employer has the burden of proof in disciplinary grievances
 - Management must meet seven specific tests to show there was "just cause" for discipline.
 - The union has the burden of proof in non-disciplinary grievances
 - We must monitor for violations to make sure all articles of our contract are being followed.
- ✓ Keep careful grievance files. Good records strengthen your case, enable others to pick up the work at higher levels, and protect the union.
- ✓ Prepare to meet with management by outlining your arguments and key facts, preparing the grievant, and identifying your remedy.
- ✓ The grievance meeting is your meeting! You should set the agenda and do most of the talking. Frame the issue from the union's point of view and back it up with a clear and logical arguments.
- ✓ When meeting with management, remember you are an equal! Keep your goal of reaching a fair resolution in mind and stick to your plan.

CHAPTER 9

Understanding Arbitration (*Optional*)

Arbitration Basics for Stewards

What is arbitration?

Arbitration is the final step of most grievance procedures. It is a dispute resolution process in which an impartial third party, the arbitrator, conducts a hearing and considers arguments and evidence from both the union and management. After considering all the arguments and evidence, the arbitrator issues a decision. An arbitrator's decision is almost always final and binding.

Your contract may spell out a process that your union and management must follow to select an arbitrator. Most union contracts provide for the use of arbitration only after a grievance procedure has been followed and exhausted. In many CWA agreements, the grievance procedure is a three-step process that must be exhausted before a demand for arbitration can be filed. In other agreements, either the employer or the union can take a dispute to binding arbitration after the first or second step. The union and the company typically split the costs associated with arbitration (arbitrators charge a fee for their services).

Generally, an arbitrator is selected from a list provided by a government agency (i.g., the Federal Mediation and Conciliation Service, Public Employment Relations Board) or a private company (American Arbitration Association). The typical procedure is for each party to take turns eliminating names from the list until only one name remains. That person becomes the arbitrator for that case.



Why Arbitration Matters for Stewards

How you pursue a grievance can determine the outcome of an arbitration case. The chances of succeeding in arbitration are improved by building a strong, detailed case with solid evidence early on. This means stewards have a very important role in ensuring a successful outcome of cases that do go to arbitration.

If you prepare every case as if it will go to arbitration, you'll have the evidence and information you need to win, hopefully long before ever going to arbitration.

To Arbitrate or Not to Arbitrate? That is the Question

When grievances can't be resolved, arbitration can break the gridlock when an impartial third party decides.

On the other hand, the arbitration process is risky (you might lose!), and it's not quick. It can take months before a case is decided.

Unlike grievance settlements, arbitration decisions are final and binding. This means that the decision of an arbitrator establishes a permanent precedent for how similar issues are resolved in the future.

This can benefit the union if an arbitrator rules in the union's favor and the union no longer has to file grievances on the same issue. But if the arbitrator's decision sets a bad precedent, this can be very difficult to overcome in future cases.

SHOULD A GRIEVANCE GO TO ARBITRATION?

1. What are the chances of getting a favorable decision in arbitration?
2. What will the union gain if we win? For example, will it clarify a contract right or enforce a right which is in the contract but which the union has been unable to enforce?
3. What will be the effect of an unfavorable arbitration decision? Can the union live with that decision?
4. Does the union have a strong set of facts/evidence to support our position? If not, are we better off waiting for a stronger case on which to arbitrate the issue?
5. Is the issue important to the bargaining unit?
6. Is there a way other than arbitration to achieve the same or better results? Would it be better to wait until negotiations? Could workplace mobilization achieve a better result?

DELVE DEEPER

- The most widely recognized authority on trends and standards in arbitration is a book titled *How Arbitration Works*, Elkouri & Elkouri, 8th Ed., 2016. It is available for review at many public libraries and most law libraries.

Arbitration Standards

Contract Interpretation Principles

The arbitrator's mission is to resolve disputes by determining what the intent of the parties was at the time they entered into the agreement and interpreting the contract language in a way that is consistent with that determination. This means arbitrators must often wrestle with ambiguity. Ambiguity exists when contract language is reasonably susceptible to more than one meaning.

There are no hard and fast rules about how an arbitrator must resolve ambiguity and interpret contract language. However, over the years there are certain standards of interpretation that have become generally accepted by most arbitrators. This doesn't mean every arbitrator in every case will follow them in the same way every time. However, these standards can provide guidance towards predicting how an arbitrator will or would decide your grievance.

Clear and unambiguous contract language: Generally, arbitrators will focus first on the contract itself. If the meaning and intent of the language at issue is clear on its face, then the arbitrator does not need to consider anything more. If the language is *not* clear, *then* the arbitrator may consider other evidence to clarify the intent of the parties. It's up to the arbitrator to decide whether language is ambiguous.

EXAMPLE

"The Employer shall reimburse each employee for the purchase of one pair of steel toed boots each calendar year."

If the employer argues the employee must show the boots were worn out before s/he will be reimbursed for new boots, an arbitrator is likely going to disagree and determine the language is clear and unambiguous at least as it relates to how the employer is trying to interpret it. There is nothing in the language specifying that boots must first be shown to be worn out prior to reimbursement for the purchase of a new pair.

Ordinary meaning: Words should be given their ordinary and popularly accepted meanings, unless something indicates the parties intended some special or technical meaning. A reliable dictionary definition may be used.

EXAMPLE

"Employees shall reserve and check out vehicles used to transport tools."

The employer previously applied the language to motor vehicles but recently began requiring employees to reserve and check out push carts and dollies used to transport tools. An arbitrator is likely going to disagree and determine the ordinary or popularly accepted meaning of "vehicle" is "motor vehicle."

Interpretation of the contract as a whole: The contract should be interpreted as a whole. In other words, particular language is not read in a vacuum. Other parts of the contract can be used to inform the meaning of the language at issue. Therefore, if there are two ways to interpret the language and one interpretation contradicts some other part of the contract, an arbitrator is likely to favor an interpretation consistent with other parts of the contract.

EXAMPLE

“Employees shall be entitled to a minimum of five (5) work-days of bereavement leave for the death of a member of the immediate family.”

If the phrase “immediate family” is defined elsewhere in the contract, and arbitrator is likely going to adopt that definition for this purpose.

To express one thing is to exclude others: Listing specific items implies the parties intended to exclude things not expressly listed.

EXAMPLE

“For purposes of job bidding, the term ‘qualifications’ means prior experience, training and seniority.”

“The following offenses are considered so severe they will result in immediate discharge for the first offense and there shall be no progressive discipline requirement: theft, fighting, drinking on the job, or insubordination.”

In these examples, an arbitrator would probably reject a claim that having a college degree could be considered in evaluating a job bidder’s qualifications or that progressive discipline didn’t apply in cases of excessive absenteeism

Bargaining history: Generally, the first place arbitrators look outside the contract is bargaining history. Arbitrators believe it is one of the best ways to determine the intent of the contract, because it tends to show how and why the language was originally negotiated. Bargaining notes, copies of draft proposals, and even personal recollections can all be presented as evidence at the arbitration hearing in order to show how the language was intended to be understood.



TIP

Bargaining history can be used to answer a variety of questions meant to identify the intent of the parties. When was the language adopted? Was the current language written to replace earlier language? Was there a particular problem the parties were trying to solve? At the time the language was drafted, did the parties discuss specific examples of how the language would be applied?

Don’t advocate for an interpretation which reflects a bargaining proposal rejected during negotiations. Arbitrators will usually not issue decisions adopting interpretations reflecting what was rejected in negotiations. Since the proposal was rejected, it is clearly not what the parties intended when they entered into the agreement.

Past practice: How parties have actually conducted themselves provides guidance to arbitrators in discovering their intent. Past practice is simply a pattern of handling a certain situation in a certain way. The thinking is, if there is a clear and consistent way of doing things that has existed over a period of time, that is known, and that no one has objected to, then the union and the employer have essentially agreed through their actions to that way of doing things.

Past Practice

How is past practice used?

Past practice is most commonly used by arbitrators to **give meaning** to contract terms which are vague or unclear. Past practice is less frequently used to **“create” new contract terms** where the contract is silent on a particular issue; however, some arbitrators are reluctant to let unions create new “rights” through past practice rather than negotiations. Finally, the rarest and most difficult use of past practice is to **contradict existing contract language**. While it is possible, don’t count on it! Only in limited cases have arbitrators accepted the argument that a past practice is a silent agreement to “modify” the contract language.

How do you prove something is a binding past practice?

Arbitrators generally believe past practices are binding only if they meet the following five criteria:

- 1. Longevity**—A past practice must have existed for reasonably long period of time. We are talking years rather than days. Some arbitrators think a past practice should have spanned at least three years and two contracts. This helps show neither party has attempted to change it in bargaining.
- 2. Repetition**—A past practice must have occurred repeatedly. A single occurrence doesn't make a past practice. There must be a well-established pattern in order to prove a binding past practice exists.
- 3. Consistency**—A past practice must involve a clear and consistent course of conduct. If the situation is handled differently each time, there isn't a consistent pattern. Only when a consistent treatment of the issue can be shown do you have a past practice. On the other hand, 100% consistency is not required when there is a predominant pattern. If there are many, many consistent repetitions, a single exception may not be enough to overcome the pattern.
- 4. Knowledge**—A past practice must be known to both parties. The essential idea of a past practice is that the parties have, through their actions, agreed to it. If either party is unaware of the practice, then it's hard to argue that they have agreed to it.



EXAMPLE

If some workers have been leaving work 30 minutes early every Friday for the last 20 years, it's still not a binding past practice unless management knew about it.

Acceptance—A past practice must have been agreed to by both parties.

EXAMPLE

If workers have been leaving early on Friday for 20 years but management has disciplined everyone that they've caught, then the company hasn't accepted the past practice. Similarly, if the union has grieved or otherwise objected to an ongoing practice, then the union hasn't accepted it.

Again, the key element is a signal of agreement. Attempts to try to change the practice during bargaining can also be signals of non-acceptance.



Common Non-disciplinary Grievance Issues*

Overtime: Grievances concerning overtime work generally fall into one of three categories—(1) challenges of the employer’s right to require workers to put in overtime, (2) complaints overtime work has not been distributed properly, and (3) complaints work has not been paid for at the proper rate.

If a worker is deprived of overtime work to which he/she is contractually entitled, arbitrators often have held pay for the missed work is an appropriate remedy. A guarantee the affected employee will get the next opportunity to work overtime is not a satisfactory remedy because it tends to deprive another employee of the right to that allocation of overtime.

Subcontracting: The right of management to subcontract, in the absence of specific contract restrictions, has been the subject of numerous grievances. In earlier cases, arbitrators generally held that management had the right, if exercised in good faith, to subcontract work to independent contractors. Later cases, however, have held that management’s right to subcontract is not unrestricted but must be judged against the recognition, seniority, wage, and other such clauses of the agreement. Standards of reasonableness and good faith are applied in determining whether those clauses have been violated. Arbitrators consider the:

- past practice of contracted out work
- justification for subcontracting
- use of contracting out to discriminate against the union and substantially prejudice the status and integrity of the union
- effect of subcontracting and whether union members have been displaced, laid off, or deprived of jobs previously available to them, or lost regular or overtime earnings
- type of work is involved and whether it is normally done by bargaining unit employees or frequently subcontracted or whether the work is of a “marginal” or “incidental” nature
- availability of qualified union employees to work
- availability of and economic feasibility of purchasing the necessary equipment and facilities
- frequency of subcontracting the work at issue
- temporary or limited nature versus permanent or indefinite nature of the subcontracting
- existence of an emergency or special situation necessitating the subcontracting (strike, unusual situation, etc.)
- the extent to which management’s right to subcontract has been the subject of contract negotiations

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Discipline: Just Cause Principles

How Do Arbitrators Decide Discipline Grievances?

Just Cause is a concept that is unique to union contracts. The vast majority of union contracts include a clause requiring that management must have “just cause” to discipline an employee.

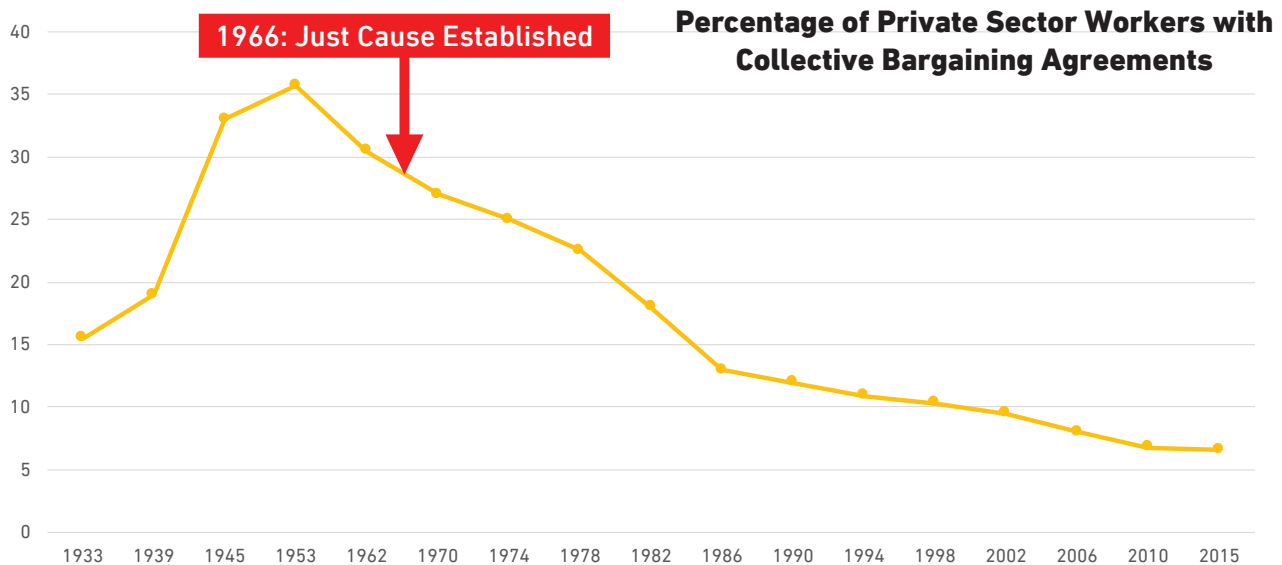
There is substantial agreement among arbitrators on how to interpret what “just cause” means. Most arbitrators have accepted the “Seven Tests of Just Cause,” which come from a 1966 arbitration case called *Enterprise Wire Co.* In that decision, arbitrator Carroll R. Daugherty offered seven tests or questions for evaluating just cause. Daugherty’s “seven tests”

have since become the general guide used by most arbitrators in determining whether an employee was justly disciplined or discharged. (Of course, every arbitrator still uses their own interpretation of what these tests mean.)

Management has the burden of proof to show they had just cause for discipline. If management fails to meet any one of the seven tests, the union has the opportunity to get the discipline reduced or overturned. See p. 86 for a full list of the seven tests.

Delve Deeper

ORIGINS OF JUST CAUSE



Traditionally, in disciplinary arbitrations, arbitrators looked at whether the employer proved the employee's wrongdoing and appropriateness of the discipline imposed. In a 1966 arbitration case, arbitrator Carroll R. Daugherty elaborated upon these two key questions and came up with the "Seven Tests of Just Cause" that most arbitrators use in determining disciplinary cases today.

When Seven Tests of "Just Cause" were established in 1966, it was near the height of our power as a movement. This is another key example of how the economic and political reality affects our work as unionists. When we have power, our laws, court, cases, and even political appointees better reflect and protect the interest of the working class.

Common Disciplinary Grievance Issues*

Absenteeism: Chronic or excessive absenteeism is just cause for discharge. In determining whether absenteeism is excessive arbitrators consider the:

- duration of the poor attendance
- reasons for absences
- nature of the worker's job
- attendance records of other employees
- existence of a clear and known disciplinary policy relating to absenteeism
- extent to which the policy is consistently and fairly applied
- extent to which the worker was warned that disciplinary action could result if attendance did not improve
- prognosis for the employee's health

Insubordination: Many cases involve a worker's refusal or failure to follow a clear management directive or procedure. Arbitrators generally consider not only the magnitude of the offense and prior occurrences of such behavior, but also the:

- clarity of the order or procedure
- extent to which the employee was warned of the consequences for not following the order or procedure
- extent to which discipline was applied in a nondiscriminatory and progressive manner

Fighting: Fighting is just cause for discipline. In determining whether the penalty is appropriate, arbitrators consider the:

- extent to which the conduct was a single, thoughtless incident or a series of acts
- degree of violence involved and use of an instrument, clenched fist, open hand, etc.
- extent to which the employee was the aggressor
- extent to which the employee was merely exercising self-defense
- extent to which the employee was provoked
- location of the fight occurred and any disruption of the work area
- employee's length of service and work record

Dress and Grooming: Employee clothing and grooming may be limited by the nature of the job. In balancing employee choice against the employer's legitimate business reasons, arbitrators consider the

- clarity of the standard and consistency of enforcement
- adequacy of the communicated of the rule to employees
- relation of the rule to a business need
- contemporary mores and attitudes towards grooming and dress
- sufficiency of the employee's opportunity to comply with the rule

Discourtesy to the Public, Patients or Customers: Many arbitrators will uphold discipline in situations where employees are guilty of abuse toward members of the public with whom they come in contact. Arbitrators consider the:

- adequacy of evidence clearly supporting the allegations of discourtesy (hearsay is weak, whereas witnesses and video and audio evidence is much stronger)
- employee's record of poor conduct toward public, patients, or customers
- clarity of rules on employee behavior and adequacy of communication of the rules to employees
- adverse effects resulting from the employee's discourtesy

Intoxication and Alcoholism: Intoxication on the job may indicate an employee has a drinking problem. This should be treated as an illness rather than as simply misconduct. In such cases, arbitrators generally support progressive discipline or rehabilitation through counseling and other alcohol treatment programs as the key to getting the worker back on track. Arbitrators consider the:

- frequency of absences resulting from drinking
- evidence the employee was intoxicated
- inability to perform the work
- employee's record of other misconduct
- good faith effort at rehabilitation
- employee's length of service

Drug Abuse: Arbitrators generally acknowledge employee possession or use of drugs, especially during work hours and in the workplace, is a serious offense. The severity of discipline agreed to by arbitrators, however, has been reduced over the years. The contemporary emphasis on privacy and separation of work and leisure activities also is reflected in present arbitral decisions, which increasingly require management to show that a worker's substance use has a harmful effect on some aspect of the employment relationship. Furthermore, there is a growing awareness that drug abuse, like alcoholism, warrants rehabilitative efforts. Arbitrators consider the:

- previous warnings to the employee that drug use would result in discipline
- extent to which there exists clear and convincing evidence that the employee took drugs
- lax enforcement of the rule against drug use
- impairment of ability to perform work and creation of a health and safety issue
- use taking place off the employer's premises and off work hours (if off the premises during personal time, the employer clearly should have clearly informed workers this is forbidden and punishable with discharge)
- employee's years of service and work record

Theft: Arbitrators generally believe employees should just know stealing property belonging to the employer is wrong and constitutes a dischargeable offense. This is true even if the items are of relatively little value. However, arbitrators tend to modify discharge penalties where the value of the goods taken is small and the employee's time of service is long. Arbitrators consider the:

- value of the item(s) taken
- employee's length of service
- employee's admission of taking the item(s)
- evidence the employee took the item(s) when there is no admission

Solidarity Forever

by Ralph Chaplin

"When the union's inspiration through the workers'
blood shall run
There can be no power greater anywhere beneath
the sun
Yet what force on earth is weaker than the feeble
strength of one
For the Union makes us strong

Solidarity forever, solidarity forever
Solidarity forever
For the Union makes us strong

Is there aught we hold in common with the greedy
parasite
Who would lash us into serfdom and would crush us
with his might?
Is there anything left to us but to organize and fight?
For the union makes us strong

Solidarity forever, solidarity forever
Solidarity forever
For the Union makes us strong

It is we who ploughed the prairies, built the cities
where they trade
Dug the mines and built the workshops, endless
miles of railroad laid
Now we stand outcast and starving 'midst the
wonders we have made
But the union makes us strong

Solidarity forever, solidarity forever
Solidarity forever
For the Union makes us strong

All the world that's owned by idle drones is ours and
ours alone
We have laid the wide foundations, built it skyward
stone by stone
It is ours, not to slave in, but to master and to own
While the union makes us strong

Solidarity forever, solidarity forever
Solidarity forever
For the Union makes us strong

They have taken untold millions that they never
toiled to earn
But without our brain and muscle not a single wheel
can turn
We can break their haughty power gain our freedom
when we learn
That the Union makes us strong

Solidarity forever, solidarity forever
Solidarity forever
For the Union makes us strong
In our hands is placed a power greater than their
hoarded gold
Greater than the might of armies magnified a
thousandfold
We can bring to birth a new world from the ashes of
the old

For the Union makes us strong
Solidarity forever, solidarity forever
Solidarity forever
For the Union makes us strong"

"Solidarity Forever" is one of the most famous anthems of the union movement. It is sung to the same tune as Battle Hymn of the Republic. It was written in 1915 by a man named Ralph Chaplin. Union members across the country still sing this song today - fists held high - as our struggle for dignity, respect, and justice marches on.



Steward's Glossary

Agency Shop

A provision in a collective bargaining agreement which requires that all employees in the bargaining unit who do not join the union pay a fixed amount monthly, usually the equivalent of union dues, as a condition of employment.

AFL-CIO

The American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) is a democratic, voluntary federation of 55 national and international labor unions that represent 12.5 million working men and women. They bring unions together to fight and ensure all working people are treated fairly, with decent paychecks and benefits, safe jobs, dignity, and equal opportunities.

Arbitration

Where it is available, a method of settling a labor-management dispute by having an impartial third party hold a formal hearing, take testimony and render a decision.

Authorization Card

A form voluntarily signed by an employee whereby the employee authorizes a labor organization (Union) to represent the employee for the purpose of collective bargaining. Some cards will also state that the employee desires an election to be held to determine whether or not the Union has the full support of the majority of the employees in the bargaining unit.

Bargaining Unit

Group of employees recognized by the employer or group of employers, or designated by an authorized agency as appropriate for representation by the union for purposes of collective negotiations. A bargaining unit is usually defined by the National Labor Relations Board, or similar federal, state or local agency.

Boycott

A concerted refusal to work for, purchase from, or handle the products of an employer. Where the action is directed against the employer directly involved in the labor dispute, it is termed a primary boycott. In a secondary boycott, the action is directed against a neutral employer in an attempt to get that employer to stop doing business with the company with which the union is having a dispute. *Secondary boycotts are illegal under the Taft Hartley Act.*

Card Check

Procedure whereby signed authorization cards are checked against a list of employees in a prospective bargaining unit to determine if the union has majority status. The employer may recognize the Union on the basis of the card check without the necessity of a formal election. Often conducted by an outside party.

Certification

Official recognition by a labor relations board that an employee organization is the exclusive representative for all the employees in an appropriate bargaining unit for the purposes of collective bargaining.

Charge

A written statement of alleged unfair practices. Filing a charge with the NLRB is the first step in an unfair labor practice proceeding. If the NLRB or relevant labor board decides to take up the charge, it will issue a formal complaint to start a unfair labor practice hearing.

Check-Off (Payroll Deduction of Dues)

An arrangement under which an employer deducts from the pay of employees the amount of union dues they owe and turns over the proceeds directly to the union.

Closed Shop

An agreement between an employer and a union that, as a condition of employment, all employees must belong to the Union before being hired. The employer agrees to retain only those employees who belong to a union. Closed shop agreements were declared illegal by the Taft-Hartley Act.

Collective Bargaining

Negotiations between an Employer and Union, representing a group of employees, that determines the conditions of employment. The result of Collective Bargaining is a contract. Collective Bargaining is governed by Federal and State Statutory Laws, Administration Agency Regulations, and Judicial decisions.

Concerted Activity

Actions taken by an employee or employees (generally on behalf of fellow-workers) in order to improve their working conditions or benefits. Bargaining law considers this type of activity protected from retaliation.

Decertification

Removal by the National Labor Relations Board or relevant labor agency of a union's certification as the exclusive bargaining representative.

Duty of Fair Representation

A union's obligation to represent all people in the bargaining unit as fairly and equally as possible. This requirement applies both in the creation and interpretation of collective bargaining agreements. A Union Steward, for example, may not ignore a grievance which has merit, nor can that grievance be processed in a perfunctory manner. It should be noted, however, that the employee in the bargaining unit has no absolute right to have a grievance taken to arbitration. The union is obligated to give fair representative to all union members, and also to collective bargaining unit members who have not joined the union in "right-to-work" states or in public service units.

Family Medical Leave Act

Federal law establishing a basic floor of 12 weeks of unpaid family and medical leave in any 12-month period for the birth or adoption of a child, to care for an immediate family member with a "serious health condition", or to receive care when the employee is unable to work because of his or her own "serious health condition."

Grandfather Clause

A contract provision specifying that employees placed on the payroll before a specified time will retain certain rights and benefits even though newer employees are not entitled to these rights.

Grievance

Any type of worker dissatisfaction including violations of the collective bargaining agreement, violations of law, violations of employer policies, violations of fair treatment, and violations of past practices. The definition of a grievance is usually part of the contract, and therefore may vary from one contract to another.

Grievance Procedure

A procedure usually established by a collective bargaining agreement to resolve disputes, problems or misunderstandings associated with the interpretation or application of the collective bargaining agreement. It consists of several steps with the last step of the procedure, usually being arbitration.

Group Grievance

A grievance signed by many people in a workplace in order to show management that members are united in their opposition to a management's action.

Informational Picketing

A type of picketing done with the express intent not to cause a work stoppage, but to publicize either the existence of a labor dispute or information concerning the dispute.

Just Cause

A reason an employer must give for any disciplinary action it takes against an employee. An employer must show just cause only if a contract

requires it. Most contracts have just cause requirements which place the burden of proof for just cause on the employer.

Lockout

Shutdown of worksite by the employer to discourage union membership or activity to force employees to meet the demands or economic terms of the employer.

Made Whole

A catchall phrase used in grievance or other legal action where a remedy is sought from an employer. Often used in discharge and discipline cases where the union seeks to have a worker, who had been wrongly terminated or disciplined returned to work and reimbursed all wages, benefits, or other conditions lost due to an employer's unjustified action.

Movement Building

Working with other groups outside of CWA to build a multi-racial, multi-generational, working class base of people who can challenge corporate power and fight for dignity, respect.

National Labor Relations Act of 1935 (NLRA)

The federal act, also known as the Wagner Act, guarantees private-sector employees three things: **1)** the right to form a union and engage in collective action; **2)** requires employers to negotiate with the union; and **3)** requires employers to provide certain information. The Act also established the National Labor Relations Board (NLRB) and defined unfair labor practices (ULP). It was amended by the Labor Management Relations Act of 1947 and the Labor Management Reporting and Disclosure Act of 1959.

National Labor Relations Board (NLRB)

Agency created by the National Labor Relations Act (1935). The functions of the NLRB are to define appropriate bargaining units, to hold elections to determine whether a majority of workers want to be represented by a specific union or no union, to certify unions to represent employees; to interpret and apply the Act's provisions prohibiting certain employer and union unfair labor practices; and otherwise administer the provisions of the Act.

National Mediation Board (NMB)

Established under the Railway Labor Act, the NMB conducts representation elections, regulates major disputes, and appoints arbitrators and boards to decide minor disputes in the railway and airline industry.

Occupational Safety and Health Act (OSHA)

The Law which authorizes the OSHA agency to set standards, obligates employers to provide a safe workplace, and provides for enforcement of the standards.

Past Practice

A customary way of doing things not written into the collective bargaining agreement. Past practices can sometimes be enforced through the grievance procedure if the practice has been long-standing, consistent, and accepted by the parties.

Phone Banking

The organized calling of large numbers of members to inform them of a union policy or action or to gather information. This is often done by members volunteering who come into the union hall and call members to move them to action on an issue.

Picketing

The carrying of signs or the passing out of literature protesting working conditions or actions taken by the employer. Picketing occurs during a strike, or in the form of an informational picket. In this tactic, designed to put pressure on the employer, union members inform the public and other workers about the conditions they feel are unfair.

Political Action Fund

A non-partisan political action committee that fights for workers' political power. Members' chance to have a voice on the issues they care about at the local, state, and national levels of government. Voluntary contributions to the fund go toward policies and candidates that champion workers' rights.

Railway Labor Act of 1926 (RLA)

This law regulates labor relations in the railway and airlines industries, guaranteeing workers in these industries the right to form a union and bar-

gain collectively. The RLA severely controls the timing and right to strike. Also, bargaining units under the RLA are usually nation-wide, making it more difficult for workers to form a union.

Rank and File

The members of a union. The source of our union's power.

Recognition

The employer's acknowledgement of a union as the exclusive bargaining agent for the employees, given either voluntarily upon evidence of an employee petition, or by legal requirement after an election conducted the government.

Right-to-Work (For Less)

Anti-union term coined to describe state laws that make it illegal for a collective bargaining agreement to contain clauses requiring union membership as a condition of employment. So called "right to work" laws encourage the use of "free riders" by forcing union members to subsidize the benefits of collective bargaining for people not willing to pay their fair share.

Scab

A person who continues to work, or who accepts employment, while the workers are on strike. By filling the jobs of striking workers and keeping the employer operational, scabs may weaken or help break the strike.

Sexual Harassment

Any unwanted comments, looks, suggestions, advances or physical contact based on sex. Sexual harassment is against the law when it is so frequent or severe that it creates a hostile or offensive work environment, or when it results in an adverse employment decision, such as firing or demoting the victim.

Strike

Temporary stoppage of work by a group of workers (not necessarily members of a union) to express a grievance, enforce a demand for changes in conditions of employment, obtain recognition, or resolve a dispute with management.

Taft Hartley Act

The Taft Hartley Act of 1947 was an amendment to the NLRA which prohibited jurisdictional strikes, wildcat strikes, solidarity strikes, secondary picketing, and outlawed closed shops – giving workers the right to decline to join a union.

Unfair Labor Practice (ULP)

Action by either an employer or union which violates certain provisions of national or state employment laws, such as a refusal to bargain in good faith.

Union Activist

Union members who are active and involved to make sure the union thrives, meets the needs of its members, and is a force for social and economic justice. CWA Activists play a critical role in advancing our Political/Legislative, Human Rights, Health & Safety, and Organizing programs.

Union Label or Bug

A stamp or tag on a product or card in a store or shop to show that the work is done by union labor. The "bug" is the printer's symbol.

Union Shop

A form of union security provided in the collective bargaining agreement which requires employees to belong or pay dues to the union as a condition of retaining employment. It is illegal to have a closed shop which requires workers to be union members before they are hired. The Union shop is legal, except in so-called "right-to-work" states, because it requires workers to join the union or pay dues within a certain time period after they are hired.

Weingarten Rights

The rights of employees covered by the NLRA to request union representation during investigatory interviews if they reasonably believe that the interview could result in discipline. Weingarten rights also guarantee the rights of union representatives to assist and counsel employees during interviews which could lead to discipline.

Workplace Action

A concerted activity by employees designed to put pressure on the employer without resorting to a strike. Examples include: wearing T-shirts, buttons, or hats with union slogans, holding parking lot meetings, collective refusal of voluntary overtime, reporting to work in a group, petition signing, jamming phone lines, etc.

Work-to-Rule

A tactic in which workers agree to strictly follow all work rules, even those which are usually not followed. The result is that less work is performed or that the employer is forced to deal with more paperwork, putting pressure on the employer to settle workers' complaints. Some, but not all, work-to-rule campaigns are considered slowdowns, and may violate no-strike clauses in particular contracts or public sector laws.

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