

RESOURCE MANUAL

Stewards

Communications Workers of America





Welcome to the ranks of active CWA Stewards. By joining with thousands of other CWA members who are already stewards, you have become a part of a team that is the very heart of our union. Over the years we have won many victories largely through the efforts of workers like yourself . . . workers who are willing to accept responsibility to provide the leadership to their fellow workers.

Labor's strength is in its members . . . members that are unified and well organized . . . The best education anyone can receive about the union is to be involved in the life of the union. Sharing information is vital but not enough. Members must be encouraged to act, to directly participate. In this way members get a sense of their power as trade unionists. They feel that the union is their organization.

Sometimes members view the union the way they do an insurance company. They may see their dues the same way they see an insurance premium or view a grievance like an insurance claim. Too often members say; "I've paid my dues, now you take care of it . . . you're the union." If the union "comes through for me" that's great. If it doesn't "who needs them." The steward has to deal with those kinds of attitudes head on. If members don't honestly feel that "it's our union" then the union will be weak.

The steward plays a key role in changing this attitude. You must be able to motivate others to action. To do this you must be motivated . . . see things as they are, envision what they could be and determine to do something about it. As a steward you can leave a mark and make a difference for your fellow workers and their families. Your job as steward may not be an easy one, but it is one to be proud of. You are a part of generations of workers who have stood up for the rights of workers and found dignity in the struggle.

In Unity,

Morton Bahr

Morton Bahr
President

Building The Union On The Job

Stewards Resource Manual

Congratulations on becoming a steward. The workers in your area will come to you with problems and concerns. Dr. Martin Luther King Jr. explained labor unions' accomplishments in this way:

"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, government relief for the destitute, and, above all, new wage levels that meant not mere survival but a tolerable life. The captains of industry did not lead this transformation; they resisted it until they were overcome. When in the thirties the wave of union organization crested over the nation, it carried to a secure shore, not only itself, but the whole society."

These hard won advances reflect the work of thousands of activists and millions of members. But the work doesn't stop. Every generation must defend what's been won and build the union in the workplace for an even better tomorrow. This is the tradition of the labor movement—a tradition that lives on with you and the work you do as a CWA steward.

In unity,

M. E. Nichols

M. E. Nichols
E.V.P. Responsible For Education Dept.

Prepared By:
COMMUNICATIONS WORKERS OF AMERICA
Education Department
501 Third St., N.W.
Washington, D.C. 20001-2797
202-434-1100

Morton Bahr
President

M. E. Nichols
Executive Vice President

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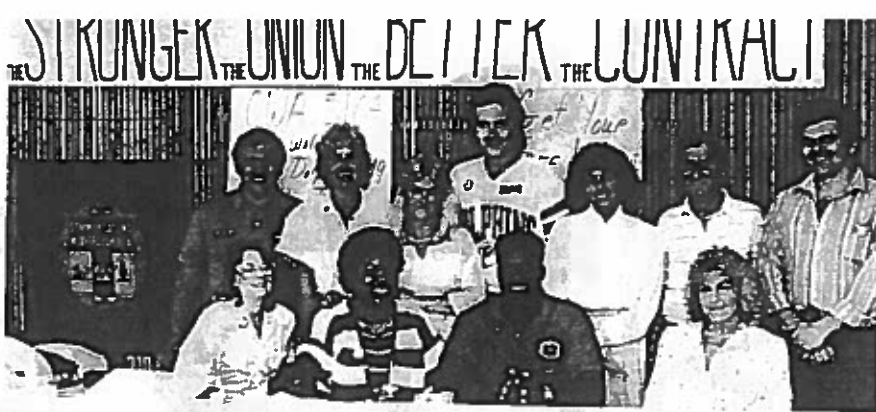
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ONE **Chapter**

INTRODUCTION AND OVERVIEW



How To Use This Manual

As a Resource

This manual includes resource materials which you can refer back to after you leave this training session. There is a separate section in the back of the manual with forms and posters for the bulletin board at your work area.

With Co-Worker

You can also utilize the materials in this manual in your face to face contacts with the workers. For example, if a member questions his/her dues you may want to give him/her a copy of "Where Our Union Dues Go" in this manual. Or, you may decide to use "The Employees's Rights to Union Representation" to educate a worker on his/her rights. Although written materials are no substitute for face to face contacts, it is often helpful to leave the worker with a written piece which he/she can read at their leisure.

Goals Of The Training

Upon completion of the course new stewards should:

1. Understand the organizational goals of CWA.
2. Understand the job and role of the steward.
3. Be aware of the major contract sections.
4. Be familiar with the rights of stewards and the rights of employees.
5. Be able to analyze workplace problems using a systematic problem solving approach.
6. Understand the grievance procedure, time limits, what constitutes a legitimate grievance and how to write a grievance.

Union Songs

We Stand Together

CWA Song

I have a voice
One that can speak for me,
I have a say
In my own destiny.

Here on the job
It is not hard to see
That it's the union of our hearts
That makes us a family, and that means you and me.

I have a voice
My union speaks for me.
I can be sure
That there will be equality.

CWA
Makes the truth so plain to see
That everyone deserves
To be treated with dignity, and we all agree.

We stand together
Keeping each other safe from harm,
We stand together
Hand in hand and arm in arm,
And if we must fight, then we'll fight together
Our union makes us strong
We stand together
Right where we belong.

I have a voice
One that can speak for me.
Working for justice
Throughout all our history
In just fifty years
We've come so far, to see
That leading the way is CWA
Our union is there for you and me, and we all agree.

We stand together
Keeping each other safe from harm.
We stand together
Hand in hand and arm in arm,
And if we must fight, then we'll fight together
Our union makes us strong
We stand together
Right where we belong,
We stand together
CWA.

We Shall Not Be Moved

The union is behind us; we shall not be moved.
The union is behind us; we shall not be moved.
Just like a tree that's planted by the water,
We shall not be moved.

CHORUS

We shall not be, we shall not be moved.
We shall not be, we shall not be moved.
Just like a tree that's planted by the water,
We shall not be moved.

CHORUS

We're fighting for our freedom; we shall not be moved.
We're fighting for our freedom; we shall not be moved.
Just like a tree that's planted by the water,
We shall not be moved.

CHORUS

We're fighting for our children; we shall not be moved.
We're fighting for our children; we shall not be moved.
Just like a tree that's planted by the water,
We shall not be moved.

CHORUS

We'll build a mighty union; we shall not be moved.
We'll build a mighty union; we shall not be moved.
Just like a tree that's planted by the water,
We shall not be moved.

CHORUS

_____ is our leader; we shall not be moved.
_____ is our leader; we shall not be moved.
Just like a tree that's planted by the water,
We shall not be moved.

CHORUS



Solidarity Forever

Tune to the *Battle Hymn of the Republic*
Words by Ralph Chaplin

When the union's inspiration through the worker's 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,
But 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 could 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 hundredfold.
We can bring to earth 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.

Chapter

Two

UNION STRUCTURE



CWA At A Glance

Beginnings

The Communications Workers of America (CWA) is a young union—it was founded in New Orleans in 1938.

Size

CWA, the largest telecommunications union in the world, representing nearly 700,000 workers in public and private sector employment.

Composition

CWA members are employed in the telecommunications industry, printing and news media, public service, health care, cable television, general manufacturing, sound and electronics, construction, and gas and electric utilities.

Geographic Spread

There are more than 1,250 CWA chartered local unions throughout the US and Canada. CWA members live and work in more than 10,000 different communities.

Collective Bargaining

CWA holds over 1,000 contracts. Among the largest employers are AT&T, the regional Bell operating companies, GTE and other independent telephone companies, state governments, and major newspapers.

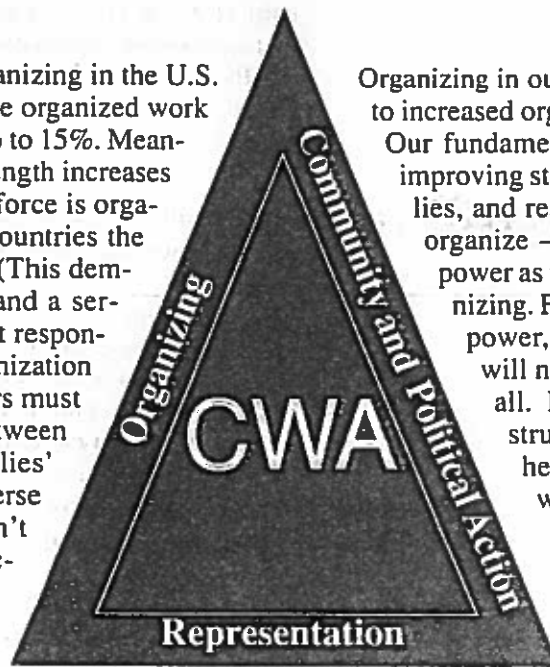
Union Democracy

CWA holds regular conventions. Elected rank-and-file delegates attending CWA conventions are the union's highest policymaking body.

The CWA Triangle

The triangle symbolizes the three major programs of the union. None can stand alone. If the triangle is broken on any side, sooner or later it will be broken on every side. Representation, day to day contract administration and collective bargaining, is the base of the triangle. Yet the other two sides—organizing and community and political action—are just as critical to our strength. Unless we build the labor movement through effective organizing inside existing bargaining units, and by organizing unorganized workers and adding new units, we will continue to be disappointed at the bargaining table. Similarly, unless we have effective community and political action programs, we will not have the kind of popular and legislative support we need to bargain effectively.

In the last fifteen years organizing in the U.S. has drastically declined. The organized work force has dropped from 30% to 15%. Meanwhile, in Canada, union strength increases and over 40% of the work force is organized. In other industrial countries the percentage is even higher. (This demonstrates that technology and a service based economy are not responsible for the decline of unionization in the U.S.) Union members must realize the connection between organizing and their families' well-being if we are to reverse this trend. Organizing can't be viewed as a separate activity, but as a key link in increasing the power of working men and women and their families.



Organizing in our workplaces must also lead to increased organizing in our communities. Our fundamental goals—job security, an improving standard of living for our families, and real protection for the right to organize—require increased political power as well as more workplace organizing. For example, without political power, health care for our families will never be a right guaranteed to all. Instead we will continually struggle to protect our right to health care with every contract we bargain, often sacrificing other bargaining goals when health care costs rise.

Many of us came to join the union solely for better representation on the job. In fact, that is the primary purpose of the union and remains the base of our triangle. Yet representation on the job depends heavily on our ability to increase our power through organizing and effective political action. Bargaining a contract during a time when union membership is decreasing will be increasingly disappointing. It is as if the unorganized workers in the same company, industry, or community are sitting on the other side of the bargaining table with management. They are pitted against us as management argues for lower wages and benefits and eliminates job security in the name of efficiency. Similarly, if our political power is waning, there will be fewer safeguards not only for the right to organize, but for the right to strike if necessary. The law will increasingly work against us when we try to mobilize our members and our allies in the fight for justice at the bargaining table. As we attempt to improve our working conditions and bargain new contracts we all need to enlist new volunteers for organizing and political action.

CWA Organizational Structure Chart

CONVENTION

The Convention is the highest governing authority of the Union. CWA has regular conventions, approximately 2,500 locally elected delegates and alternates attend.

EXECUTIVE BOARD ...

The Executive Board is elected at the Convention every three years and consists of:

- The President
- The Secretary-Treasurer
- The Executive Vice President
- Eight District Vice Presidents, and
- Four Vice Presidents for:
 - Communications and Technologies,
 - Printing, Publishing and Media Workers,
 - Public and Health Care Workers.
 - Telecommunications.

- President of NABET/CWA
- Broadcast and Cable
- Television Workers Sector
- (non-voting Board Member)

DISTRICTS

CWA is structured into eight geographic Districts. Each District has a District Vice President and Staff.

CHARTERED LOCALS .

CWA has more than 1,250 chartered local unions in the United States and Canada. Members elect local officers and the delegates to the CWA Convention.

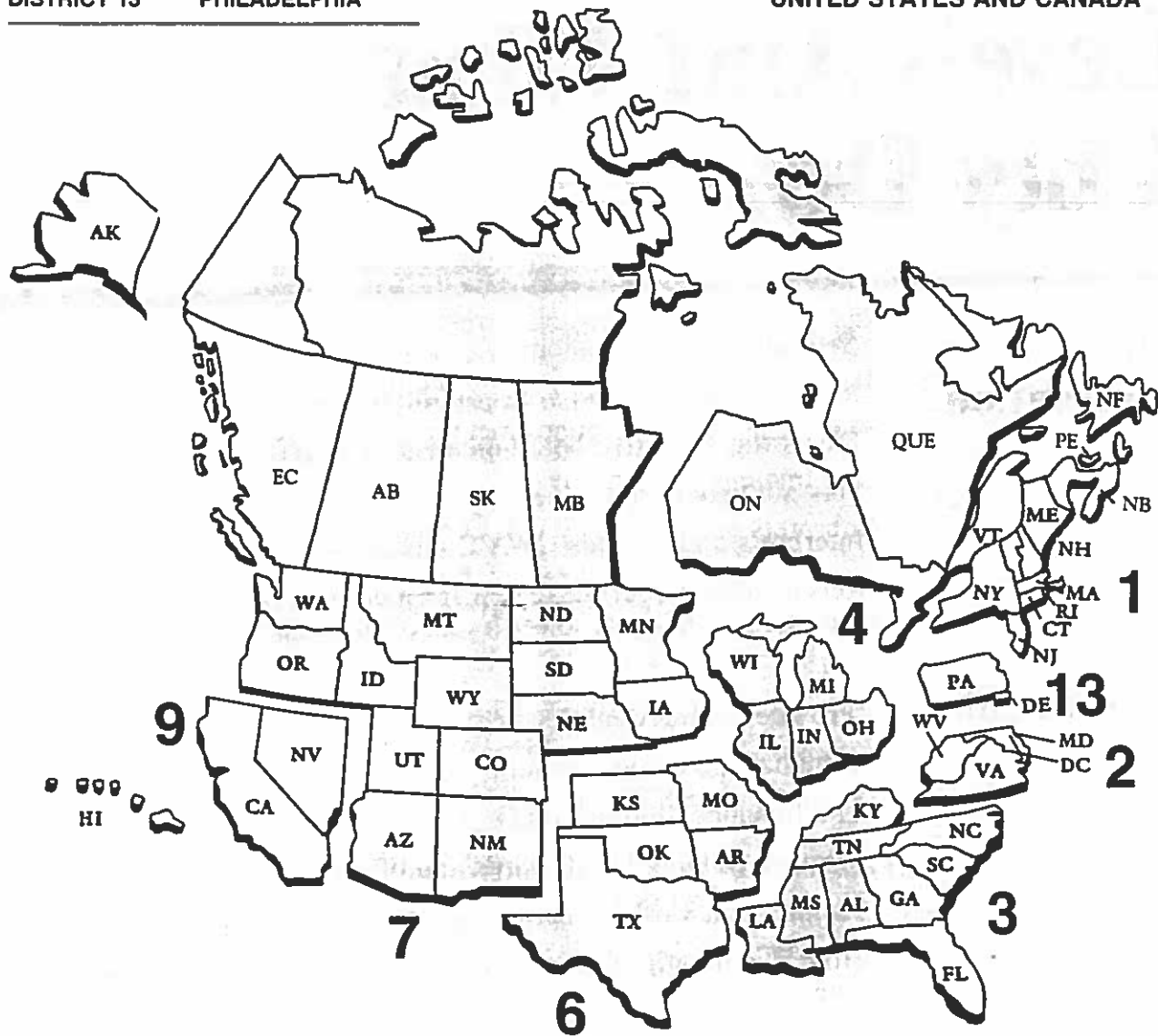
All CWA members, including International Officers, Staff and Local Officers must abide by the CWA Constitution and their Local's Bylaws.

Map of CWA Districts

CWA DISTRICTS

DISTRICT 1	NEW YORK CITY
DISTRICT 2	WASHINGTON, D.C.
DISTRICT 3	ATLANTA
DISTRICT 4	CLEVELAND
DISTRICT 6	ST. LOUIS
DISTRICT 7	DENVER
DISTRICT 9	SAN FRANCISCO
DISTRICT 13	PHILADELPHIA

UNITED STATES AND CANADA





CWA Organizational Levels And What They Do

The Convention

- Sets policy for the union.
- Reviews, debates and votes on the budget.
- Elects the executive board members and officers.
- Sets minimum union dues.
- Interprets and amends CWA Constitution.
- Acts as a final court of review for members who feel they have not been treated fairly at lower levels of the union.

The Locals

- Provide contract enforcement.
- Mobilize grass roots action.
- Hold membership meetings.
- Arrange training for stewards and officers.
- Identify and work on organizing targets in the community.
- Hold democratic elections for Local offices and convention delegates.
- Represent membership at district, area bargaining council meetings and in community.
- Work with other unions.
- Gather information on the bargaining priorities of the membership.

The International; Headquarters

Coordinates contract negotiations.

Keeps books and records of all monies and supervises the maintenance of membership lists.

Coordinates Locals organizing activities and provides staff, technical expertise and funds for organizing workers.

Produces educational programs for stewards, Local officers, and staff.

Handles members' appeals under the Constitution.

Makes all arrangements for the convention.

Follows federal legislation and lobbies for inclusion and passage of bills favorable to our members and workers.

Publishes and mails the CWA News to all members.

Provides research and analyses on industries and companies in which our members work.

Researches and documents health and safety hazards CWA members face.

Districts

Negotiate and enforce contracts.

Work with Locals to organize workers.

Provide representation in arbitration, civil service cases and other situations.

Assist Locals as needed.

Provide training for Locals.

Make arrangements for District and area meetings.

The AFL-CIO

Speaks for the whole labor movement before Congress and other branches of government.

Coordinates Labor's legislative agenda and lobbying efforts.

Brings different unions together in state committees for coordinated activities.

Coordinates grass roots action such as boycotts, demonstrations, etc.

Increases the public's awareness of unions and what they stand for through public relations including the series of TV and radio spots called UNION YES.

Provides the union privilege benefit programs.

NOTE: This is only a partial list of the support provided and responsibilities of the organizational levels. It is not intended to be a complete list.

Your Local Union Structure

LOCAL NUMBER _____

MEMBERSHIP

Our Local represents _____ workers

STEWARDS

We have approximately _____ trained
job stewards.

LOCAL COMMITTEES

Our Local has _____ functioning
committees.

LOCAL EXECUTIVE BOARD ...

There are _____ members on the Lo-
cal Executive Board. The Board mem-
bers are elected every three years by
the membership.

Local Committees

COMMITTEE	CHAIRPERSON	MEETING DATE
1. Organizing	_____	_____
2. Education	_____	_____
3. Legislative/Political	_____	_____
4. Community Services	_____	_____
5. Membership	_____	_____
6. _____	_____	_____
7. _____	_____	_____
8. _____	_____	_____
9. _____	_____	_____
10. _____	_____	_____

Local Bylaws And CWA Constitution

Notes

Where Your Union Dues Go

What Percentage Of Our Dues Goes To Work For Us?

**ALL OF IT
100%**

What Are Our Dues Used For?

CWA convention delegates elected by their co-workers decide how the union's money will be spent. Here are some benefits our dues help provide:

Negotiation of contracts to improve our wages, benefits and other terms and conditions by which we work. Our two hundred field staff are assigned to 50 international union offices in the United States and Canada. These staff people provide our Locals with expertise in collective bargaining. In addition, resources are used to enable rank-and-file members to participate in the bargaining process.

Enforcement of contracts and handling of grievances, including legal fees and the cost of arbitration and, in the public sector, civil service proceedings.

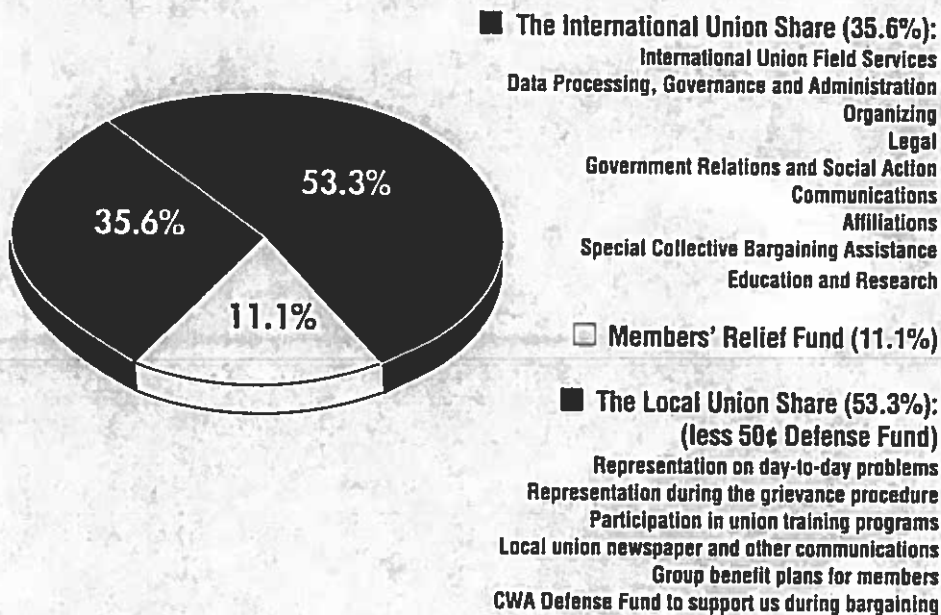
Research on employers' benefit plans and finances, to help us prepare for bargaining and to protect our interests during the life of our contracts.

Lobbying for legislation at the local, state, and national level to help working people.

Programs to provide safe and healthful workplaces and to address the problems caused by job pressures and new technology.

Union Dues

Where Do Our Union Dues Go?



Educational programs and publications for union officers, stewards, and members.

Programs for creating equal opportunity for all workers regardless of race, sex, age, or national origin.

Public relations to improve public understanding of our jobs and our union.

Organizing to help new members join the union.

Defense fund for the defense and relief of the union, its locals, their members, officers and agents when circumstances arising out of labor disputes make such defense and relief necessary.

Who Decides How Much Dues We Pay?

Only CWA members can decide our dues structure. The elected convention delegates have set the per capita dues to the international union at less than one-half of one percent (0.46%). Local union dues are established by the members themselves. To insure that our Locals remain strong and effective, convention delegates have mandated that Local union dues cannot be less than seven-tenths of one percent (0.7%).



THREE Chapter

THE JOB OF THE STEWARD

Your Job As Steward

Organize And Problem Solve

What The Steward Does

What is the Steward's job in the workplace?

What The Steward Must Know

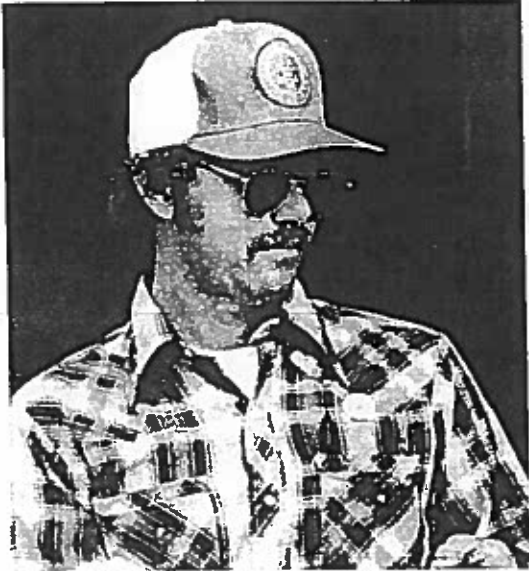
What must the Steward know to do a good job?

What Materials The Steward Needs

What materials does the Steward need to do a good job?

Steward's Role Within The Local Union

Steward's Relationship To Local Union Officers, Bargaining Committee And Co-Workers



Local Union Officers Need Stewards To

- Listen to workers.
- Identify and get others to identify and help solve workplace problems.
- Tell Local officer what's happening in the workplace—what people are concerned about.
- Sign up non-members.
- Communicate union issues and actions to members one-on-one or through work site meetings.
- Ask for advice, assistance on problems or contract interpretation when necessary.
- Keep union visible in the workplace.
- Educate workers on COPE and sign them up.

Steward Needs Local Officers To

- Provide advice on how to solve a workplace problem.
- Inform steward of local union news, policies and activities.
- Give advice, input, assistance and backing, and step in for especially tough sensitive problems (such as disputes between union members).
- Provide training.
- Provide opportunities for stewards to get together and discuss issues, problems—stewards meetings, and share success stories.
- Provide written material—informational and/or for bulletin board.

Bargaining Committee Needs Stewards To

Survey membership on their bargaining priorities and suggest how to tighten up contract language.
Mobilize workers around major bargaining issues. Involve workers in work actions, etc. Use face to face contacts or workgroup meetings.
Keep work group informed of progress during bargaining.

What The Steward Does

Builds the union on the job.
Solves workplace problems.
Gets the members involved in identifying and solving workplace problems.
Keeps members informed.
Enforces the contract.
Signs up new members.
Attends stewards and membership meetings.
Educates members about COPE and signs them up.

What The Steward Must Know

The contract.
The jobs.
The workers.
The Local union.
Employer policies/Personnel manual.
Supervisors.
Civil service regulations (public sector only).

What Materials The Steward Needs

The contract.
Names, addresses, phone numbers, job titles of workers in your jurisdiction.
Grievance forms.
Seniority list.
Steward's resource manual.
Union handouts for new employees.
Other.

How The Steward Does the Job

Gets to know co-workers, supervisors and fellow stewards.
Listens to employees.
Keeps an open mind—evaluates each case on its own merits.
Avoids favoritism—sets standard for fairness.
Vigorously enforces the contract and vigorously represents the workers.
Investigates, evaluates employee problems and tries to resolve on informal basis.
Reports back to employees to keep them informed regarding status of their problem.
Keeps members informed on union activities, priorities, programs, etc.
Files formal grievances when required.
Introduces himself/herself to new employees and orients them on the union and the workplace.

FOUR Chapter

YOUR FIRST ASSIGNMENT AS A STEWARD



“Getting to Know the Workers”—Organizing, Building Relationships And Solidarity

Stewards need to stay close to the people they represent. This means taking time for one-on-one and small work group meetings. It means staying posted on what co-workers are thinking on a variety of contract and union related issues. There's no substitute for personal contact. The steward should know each person. If the steward represents too many people for this to be a real possibility then the union must actively recruit and train additional stewards.

It is important that the steward greet new people and sign them up as members. It is just as important for the steward to “unionize the organized” by involving members in the life of the union. That can only be done where the steward has built solid relationships. A key phrase for an effective union steward is “know your co-workers.”

Your first assignment as a steward is to introduce yourself to all the employees you represent and make a list of the people you represent. You can use the form titled “Work Group Roster.”

Work Group Roster

Steward Name _____ Telephone _____

Building Location _____

Department/Floor/Unit _____

Shift _____

Date Completed _____

NAME	JOB TITLE/ SENIORITY DATE	WORK/ HOME PHONE	MEM- BER?	COMMENTS
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				
11.				
12.				
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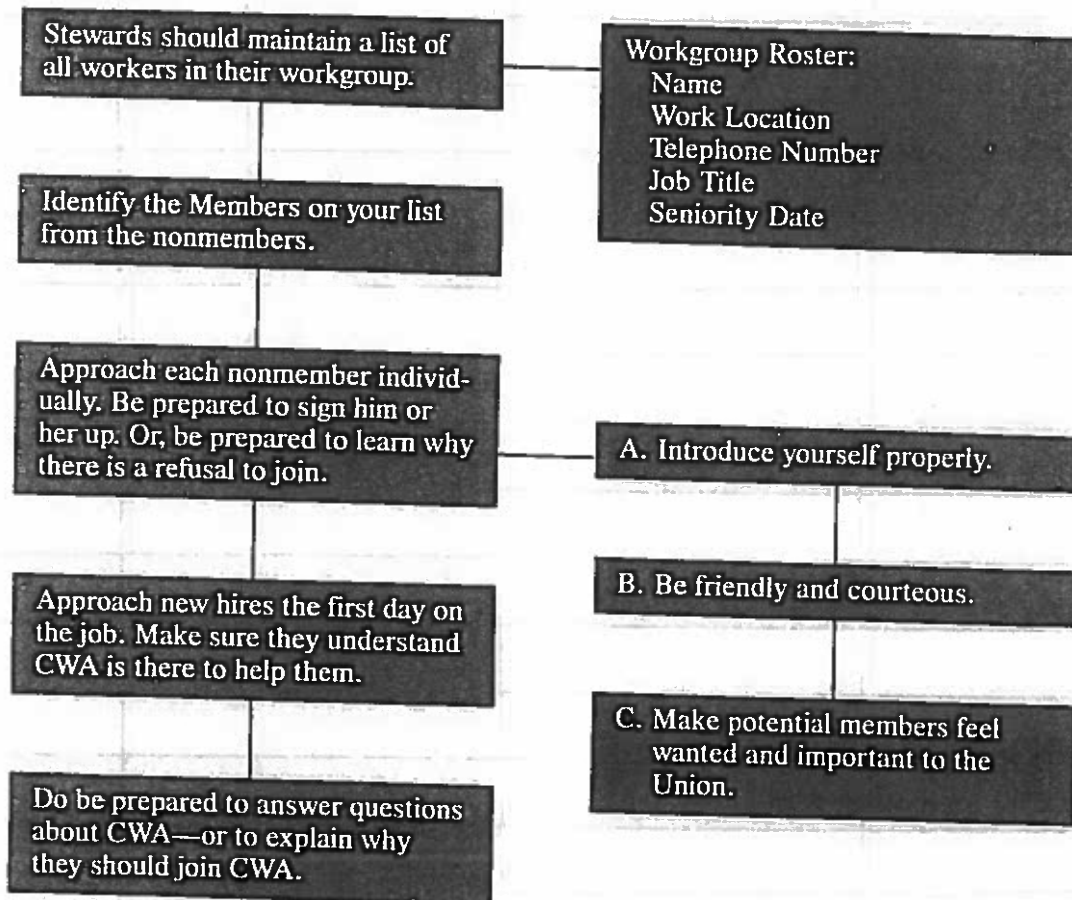
tips for race to race Contacts

1. Introduce yourself.
2. Make eye contact.
3. Contact at right time—do not contact employee during normal work hours—catch them during break, lunch, before or after work.
4. Be yourself—smile, relax, use the kind of language you use everyday.
5. Have some piece of information to give or leave with the worker, to break the ice.
6. Be polite—if worker refuses to talk to you, don't get into an argument—tell the person you'll catch them another time (do follow up).
7. Be frank, if you get a question that you can't answer don't try to bluff. Tell the person you will try to get the answer for him or her.
8. Don't preach—you should talk about the issue to help lead the person to his/her own conclusion. This is a much more effective approach than a hard sell speech.
9. Listen—listen to what the worker says—it will give you insight into their particular concerns and objections. Sometimes the best way to convince a person is just by listening and letting them know that the union cares what they think.

Signing Up The Nonmember

Probably the most important, day-to-day job of the CWA steward is to reach and maintain 100 percent membership in the union and to build pride and trust in CWA. When every eligible worker is a member, CWA will be a stronger, more effective union—able to solve workplace problems and negotiate better contracts.

There are several time-proven, basic steps to 100 percent membership.



EDUCATING THE MEMBER

In those areas where the member's knowledge is inadequate you have a responsibility to devise ways to get some of it across to the member. There are many one- or two-minute opportunities to give some information. When a member asks how the contract negotiations are going, you can explain something about the negotiation process. When he/she asks why a certain case was not taken to arbitration, you have the opportunity to give a brief outline of the way arbitration works and why only certain cases are taken and others are not. When he/she asks why they call people out of order at the membership meeting, you can explain the reasons for using rules of order.

If the member perceives you as a steward who is concerned about his/her problems, he/she will be more likely to accept your explanation on matters about which he/she does not have information. If he/she sees you as someone who is not interested in him/her, all the expertise in the world will not convince him/her to go along with your advice on the issues in the local.

Yeah But...

Objections To Joining The Union

List Possible Responses To These Frequently Voiced Objections To Joining The Union

1. "Why should I join the union?"

2. "I can't afford to join. I've got a family to support and my check just isn't big enough" or "the dues are too high."

3. The union doesn't do anything for you (grievances are not settled satisfactorily) or "I don't like people who are running things in the union."

4. "I don't believe in unions. They're too strong and powerful now to suit me."

5. "I don't need a union; the employer is fair. The employer will take care of us without a union. I get along fine with my boss. What has the union gotten for us that we wouldn't have gotten anyway?"

6. "I'm only going to be working here a short while (on temporary or part time job)."

7. "My spouse would divorce me (or my parents don't like unions)."

8. "I can't afford to strike. How can I be sure I won't be out on strike? I don't believe in strikes."

9. "I can handle my own affairs. I can take care of myself. I'll make my own decisions. I don't intend to stay on this job forever; I'm looking for a promotion."

10. "My religion doesn't permit me to belong to any outside organization."

11. "My boss doesn't believe in unions."

12. "I don't want anything to do with unions. They're all corrupt."

FIVE **Chapter** **PROBLEM SOLVING**

The Steward As Problem Solver—And Union Builder

The steward's primary jobs are to organize and problem solve.

In order to build the union in your workplace people must view the union and their involvement in a positive way. One very important way to do this is to identify workplace problems (with the help of co-workers) and solutions (also with the help of co-workers). Through problem solving the union becomes a positive visible force in the workers' lives. And if workers feel good about the union and see that it is trying to make things better—it will be easier to organize.

Problem Solving is a creative process which involves listening, brainstorming solutions and meeting informally with management. Many new stewards think that filing a grievance is the only tool available for solving a problem. But the grievance procedure is only one tool or strategy for solving certain kinds of problems—for example when discipline is imposed unjustly. Many other kinds of workplace problems can be addressed successfully using other strategies.

Tools And Strategies For Solving Workplace Problems

1. **Informal meeting with management.** Lay out the problem clearly and offer a solution. Remember to listen to management's response(s) for areas of agreement and obstacles. Many workplace problems are resolved everyday by stewards through informal meetings with management.
2. **Involve the workers in a workgroup action.** One workgroup was successful in having a supervisor transferred by having a petition signed by every worker stating that they found his language and behavior toward the female workers offensive.
3. **File Grievance.** Remember to watch out for the time limits. Always protect your option to file a just grievance.

In Certain Situations There Is A Fourth Tool

4. **Use Government Agencies.** One workgroup was able to have the asbestos cleaned out from their workplace by threatening to go to the Occupational Safety and Health Administration (OSHA).

MEMBERS

You will have no difficulty deciding what to say to the new worker if you simply remember how you felt on your first day. What was going through your mind?

In the first place, you were wondering whether you were going to come back tomorrow. You were worried about whether you could keep up with the work. The instructions you had received from the supervisor were not adequate. You hoped you wouldn't foul up too badly. Some of the people didn't seem very friendly. Coming to work in this place didn't seem like a very wise decision. If only there were a few familiar faces around!

Knowing all this about the new worker, it is not difficult to determine what you should do. Introduce yourself as the steward. If possible, spend the coffee break with him/her, telling him/her about the cafeteria, rest rooms, and what the

opportunity to ask questions, and ask him/her some questions about him/herself. Introduce him/her to a few people who are nearby.

During all of this time the subjects you are talking about with the new worker are not as important as the attitude you are showing: that he/she is accepted and welcome and that people care what happens to him/her.

This kind of approach is more likely to make the new worker favorably disposed toward the union than any discussion of the union's achievements. That should come later. It would then be coming from someone the new member liked.

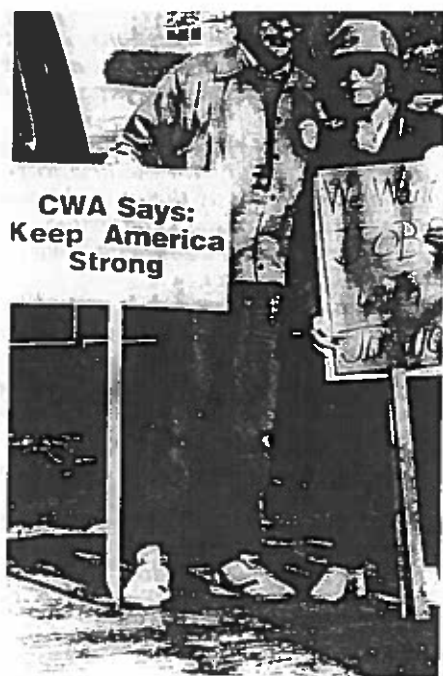
I believe the steward must do these things on the first day for maximum impact. For every day that goes by, you lose something.

*The Story of a Steward by
Terrence F. Connors*

Active Listening For Stewards

Active listening takes place when a listener makes a direct verbal or non-verbal response to a message from a speaker.

BASIC IDEA	PURPOSE	EXAMPLES
1. Use non-verbals (eyes, facial expression, body posture and movement) to indicate focus on speaker	Convey interest in speaker and his/her message	Eye contact Affirmative nodding Facing speaker
2. Use non-committal words, not agreeing with or disagreeing with speaker	Encouraging speaker to continue talking without interference	"I see" "Uh-huh" "Interesting"
3. Ask questions Asking who? what? when? where? why? how?	Gathering additional information Helping speaker explore all aspects of an issue or concern	"When are they going to install the new machines?" "How did the other workers respond to the new policy?"
4. Respond both with content and feeling to what speaker is saying	Show you understand what the speaker said and how he/she is feeling about what he/she said	Speaker: "That was the worst workgroup training I ever attended." Listener: "You're really upset about the quality of the training."



How To Solve Problems— A Problem Solving Model

Step 1. Identify The Problem

After listening to co-workers describe the problem try to clearly define the problem in *one* sentence.

Note: You will probably need to revisit Step 1 and redefine the problem after going through the other Steps. This is good. Most of us do not identify the *correct* problem at first. The real problem becomes clearer after some investigation.

Step 2. Get All The Facts—The Five W's

1. Who is involved? (Don't forget to note their position, such as "supervisor.")
2. What exactly happened?
3. When does the problem occur? (Be as specific as possible: date, shift, week, year, etc.)
4. Where does the problem occur? Again be as specific as possible. (in one work group, in one building location, in one job title, in one supervisor's area, etc.)
5. Why does the problem occur? Examine history of bargaining, grievances, policies, etc.

Note: Now that you have this new information re-evaluate Step 1 and identify problem differently if necessary.

Step 3. What Kind Of Problem Is It?

1. Contract violation?
2. Violation of federal, state or regulatory laws?
3. Is it in conflict with the employer's internal policies? (Personnel practices, civil service regulations, etc.)
4. Past practice violation?
5. Violation of fair treatment?
6. None of the above. (Even though the problem does not fit into one of the first five categories does not mean it should not be addressed. The steward should try to solve all legitimate worker complaints, involve the workers in determining the solution and build the union through problem solving.)

Note: A problem can fall under more than one of the above categories. Once you determine what category(ies) the problem fits into you can identify what avenues are available and develop a strategy for solving the problem.

Important: You may decide to pursue more than one avenue to resolve the problem. For example, if it is a sex discrimination problem you could meet informally with management to resolve the problem, file a grievance, file an EEO charge, get a workgroup petition signed or all of the above.

Step 4. Brainstorm Solutions

List *all* possible solutions. Do *not* evaluate or limit solutions in this step.

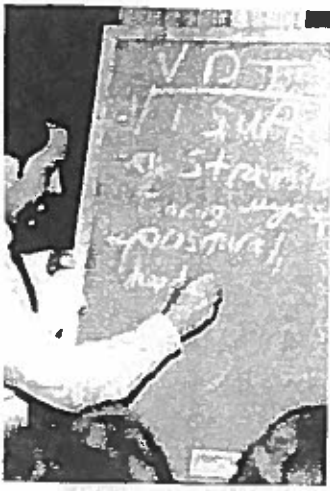
Step 5. Prioritize Solutions (Strategies)

1. Rank the solutions.
2. List the pros and cons of the top ranked solutions and discuss.
3. Select solution(s)/strategy(ies).
4. Outline your plan in writing.
5. Set timetables.

Step 6. What Action Will Be Taken?

(Include action, individual(s) responsible and date action will be completed).

1. Hold informal meeting with management. Be firm but reasonable. Approach manager as equal. Leave manager a way out, save face. Get manager talking, listen. Keep remedy clearly in mind, stay calm, state your case clearly, outline the facts.
2. Hold meeting with co-workers if appropriate.
3. File grievance if appropriate. (See steps in handling a grievance—page 64.) Pay close attention to time limits.
4. Other actions.



Workplace Problem Situation For Problem Solving Model

A clerical workgroup in the Local has twenty workers. The workgroup is 90% unorganized. Only two of the workers are union members—the rest are non-members. There is no steward for this group. The workgroup is isolated in the back corner on the ground floor. They have little to no contact with other workers.

Step 1. Identify The Problem

Describe the problem in one sentence.

Step 2. Get The Facts—Five W's

1. Who is involved?

2. What exactly happened?

3. **When** does the problem occur? (Be specific: date, shift, week, year, etc.)

4. **Where** does the problem occur? (Be specific—in one workgroup, in one building, in one title, in one supervisor's area, etc.)

5. **Why** does the problem occur? (Examine history of workgroup, bargaining, grievances, etc.)

Step 3. What Kind Of Problem Is It?

☐

1. Contract violation?

☐

2. Violation of federal, state, or regulatory laws?

☐

3. Is it a conflict with the employer's internal policies? (Personnel practices, civil service regulations, etc.)

☐

4. Past practice violation?

☐

5. Violation of fair treatment?

☐

6. None of the above.

Step 4.

Brainstorm Solutions?

List all possible solutions—do not limit or evaluate in this step.

Step 5.

Prioritize Solutions (Strategies)

Discuss, evaluate solutions, rank, select solution(s), set timetable.
Top three solutions:

1.

2.

3.

Step 6.

What Action Will Be Taken?

ACTION	WORKER RESPONSIBLE	DATE ACTION COMPLETED
--------	--------------------	-----------------------

<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>



Short Problem Solving Situations—Discussion Questions

Read Each Situation And Answer The Questions That Follow

- 1.** John Goodfellow, a member of Local 100, receives a two-day suspension for "sick leave abuse." His steward Roger Friendly, who John met just the other day, looks at the suspension paper and tells John, "No sweat. I had a case just like this last month. Don't worry. Just go home and relax. We'll get you off the hook." John breathes a sigh of relief. He picks up his jacket and heads home.

Do you anticipate any problems that Friendly, the steward, might run into? What would you have said to the member?

- 2.** Edgar Freerider just received a three-day suspension. Freerider is not a member of CWA and has on many occasions said nasty things about the union. He is not well liked by his co-workers.

Freerider comes to you, the union steward for help. What do you do?

3. Eve Work, a member in your work group catches the flu bug and is out for four days. Eve's supervisor, Avery Stickler, demands that Eve provide a doctor's note. Eve didn't see a doctor while she was out sick and wonders what to do. She comes to you for help.

What appears to be the problem?

What kind of problem is it? (refer to Step 3 in How to Solve A Problem on page 31)

What action(s) could you take to begin to solve this problem?

4. Sarah Melody comes over to you during break and begins to complain to you about the bathrooms. She explains that the cleaning people just are not doing their job. "They never mop the floors and at least once a week there's no soap or paper towels. I'm not the only one that feels this way," Sarah goes on to say. "A lot of the others are unhappy with the maintenance of the bathrooms also. Is there something you can do?"

What appears to be the problem?

What kind of problem is it? (refer to Step 3 in How to Solve A Problem on page 31)

What action(s) could you take to begin to solve this problem?

5.

Ed Ornery, a member of Local 100, has been absent from work at least one day a week for the past six weeks. When Ed doesn't show up, the supervisor does Ed's work out to the rest of the crew. Ed is disliked by most of his co-workers for his frequent absences and foul moods. Ed's behavior has gotten even worse lately. The crew is fed up and comes to you for help.

What appears to be the problem?

What kind of problem is it? (refer to Step 3 of How To Solve A Problem on page 31)

What action(s) could you take to begin to solve this problem?

6.

Betty Jones, an active member of Local 123, is handing out union leaflets outside the work building just before her shift on Monday, March 2. Up comes Betty's division manager, Will Lynch, who takes a copy, stops, and reads it. He growls at Betty, "You troublemaker. We'd all be a lot better off without you and your union. Why don't you girls just mind your own business and go back home where you belong?" Lynch walks away.

On Wednesday morning, March 4, Betty's supervisor, Ralph Nosepin, tells Betty that she's been taking too long on her breaks and she's been leaving early. He informs her that from now on her after-noon breaks are cancelled. He also says that he's under orders to start "picking up the slack" on Betty's work. Betty protests that this is both wrong and unfair. She tells Nosepin she needs the break time for fresh air because her work area is stuffy and gives her headaches. Nosepin says he's sorry, but "orders are orders." Betty comes to you for help.

What appears to be the problem?

What kind of problem is it? (refer to Step 3 in How to Solve A Problem on page 31)

7. Several of the workers on the third floor have come up to you recently complaining about glare on their new VDT screens. They say that the glare makes it difficult to read the information on the screen and gives them headaches. They tell you they didn't have this problem with the old machines.

What appears to be the problem?

What kind of problem is it? (refer to Step 3 in How to Solve A Problem on page 31)

What should you do?

8. It's a hot summer's day and the air conditioning in Section B of the second floor is broken. It's 11 a.m. and you start getting phone calls from the workers in that section complaining that it's too hot to work. A couple say that they're feeling faint.

What appears to be the problem?

What kind of problem is it? (refer to Step 3 in How to Solve A Problem on page 31)

What should you do?

SIX Chapter

THE CONTRACT

What It's Taken To Win In The Past

Learning The Contract

A new steward doesn't learn the contract from Page one straight through Page 200. Instead, he/she learns Page six, Section II, Article 3; then Page 26, Section IV, Article 5, and so on, as he/she handles grievances on each of these sections.

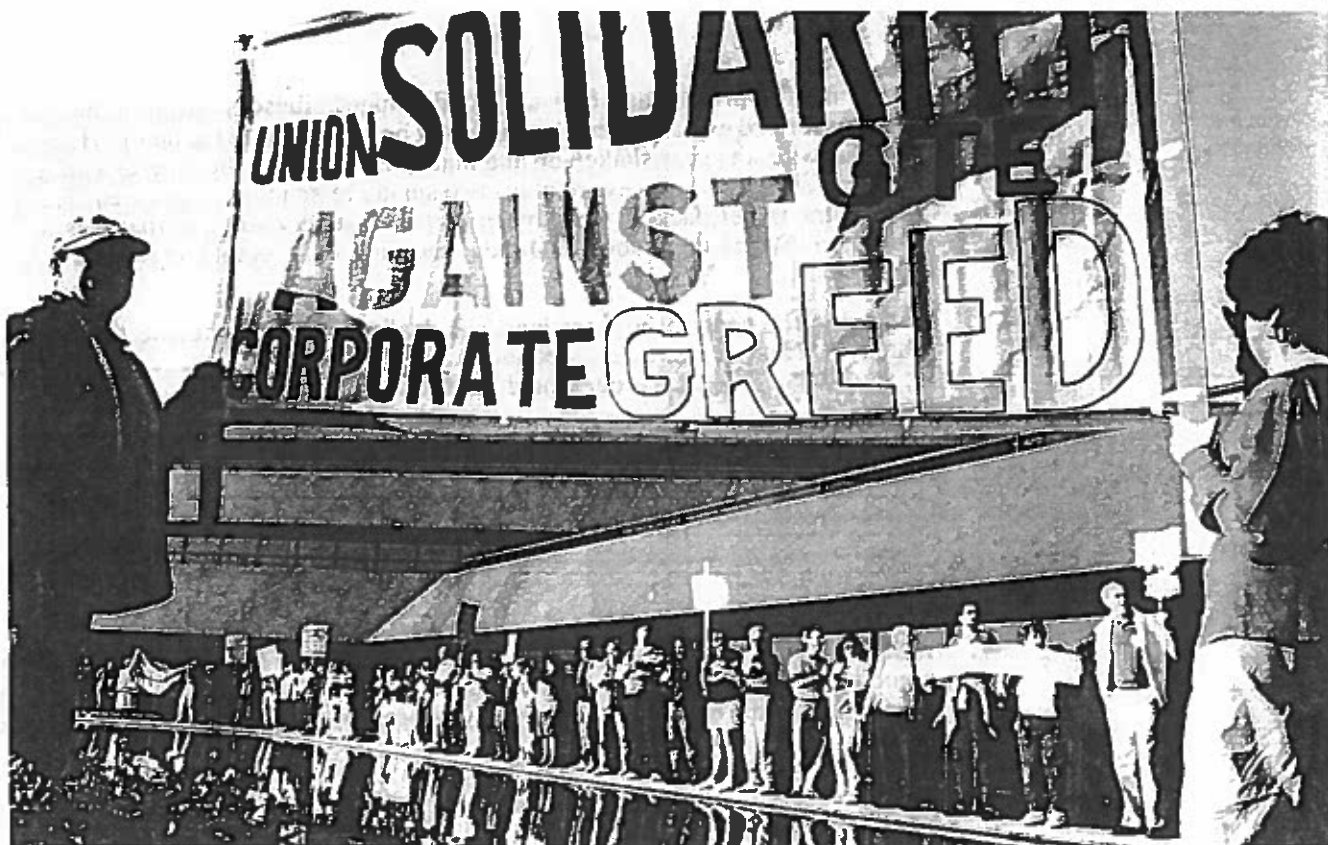
After handling a grievance on a particular section, he/she understands that section very well. After numerous cases on various sections of the contract, he/she begins to get a good understanding of the contract.

The reason the members do not understand the contract is simply because they have not had the opportunity to go through the process of handling grievances day after day. Just reading the contract (which most of them do not do anyway), would not give them an understanding of the contract.

We Make A Difference

	CONTRACT ITEM	YEAR ACHIEVED	JOB ACTION
1.			
2.			
3.			
4.			
5.			





Contract Questionnaire

Please Use Your Contract To Answer These Questions

1. You are a steward and have notified a supervisor that you want to meet with him/her to present the first step of a grievance.

Will the meeting take place during regular work hours? _____ Will the employer pay your regular wages? _____ What contract article(s) _____ section(s) _____ page(s) _____ deals with this issue.

2. Mary, who has fifteen years service comes up to you and starts to complain that she has been informed by her supervisor that she did not get the vacation week she had selected for December. The supervisor told her that only two employees from her work group can be on vacation at any given time and that two other employees in the group with more seniority selected the same week.

Where in the contract is there language dealing with the selection of vacation? Article(s) _____ section(s) _____ page(s) _____. How does the selection procedure work?

3. Ted's mother-in-law passed away Monday night. Tuesday morning he called his supervisor and explained that he would not be in because of the death. He explained that his wife was very shaken up and that he had to make the funeral arrangements and find someone to take care of his two small pre-school age children. Ted said he would try to get back to work by Friday. The supervisor said that was fine. Ted returned to work the following Monday morning and was told he would not be paid for Friday.

Where in the contract is there language dealing with absence due to death in the family? Article(s) _____ section(s) _____ page(s) _____. What does it say? Should Ted have been paid for Friday?

4. A higher paying job opened up in Betty's department and she applied for it. Betty is a good employee with an excellent record and ten years service. Betty has just found out that the employer gave the job to someone with only three years' service.

Where in the contract does it deal with promotions? Article _____ section(s) _____ page(s) _____. What is the basis for selection for a promotion as stated in the contract?

What questions do you need answered before you proceed?

5. Jack has just been told his work location is being closed and his job is being moved to another location fifty miles from his home. The employer has told him that he can either report to the new location in three weeks or look for another job.

Where in the contract is there language that deals with forced transfers? Article(s) _____ section(s) _____ page(s) _____. What rights does Jack have in this situation according to the contract?

6. If Jack decides to take the job in the new location and move his family, will the employer pay for any of these expenses? _____. Where (if anywhere) in the contract is there language dealing with moving expenses? Article(s) _____ section(s) _____ page(s) _____.

7. Jack has thirteen and one-half years of service and decides to resign from his job rather than move his family. Is he entitled to termination pay? _____ Where in the contract is there language dealing with termination pay? Article(s) _____ section(s) _____ page(s) _____. How much (if any) termination pay is he entitled to (in weeks)?

8. Gary is a _____ (Job Title).
Other facts you need to calculate wage:

According to the contract, as of _____ date what is Gary's wage rate?
\$ _____

Note: Instructor will give you job title, date and other facts.

9. Kate is a _____ (Job Title).
Other facts you need to know to calculate wage rate:

According to the contract as of _____ date what is her wage rate? \$ _____

Note: Instructor will give you job title, date, and other facts.

10. Leslie's regular work hours are 8:30 a.m. to 5 p.m. with a half hour for lunch. Monday she took a sick day. Leslie worked fourteen hours of overtime on Saturday. Other facts given by instructor:

What contract article(s) _____ section(s) _____ page(s) _____ deals with overtime payments?

How many *hours* of overtime will she be paid for? _____



Chapter SEVEN

STEWARDS RIGHTS
AND
CONVICTS DUTIES

The National Labor Relations Act (N.L.R.A.)

CWA Private Sector Workers

The most important law for U.S. workers is the National Labor Relations Act (N.L.R.A.) enacted by Congress in 1935.

During the 1930's there was a great deal of worker dissatisfaction. There were many violent confrontations between workers trying to form unions and the police or private security forces defending the interests of anti-union employers. In 1932, two hundred forty-three thousand workers went out on strike; by 1933, that number had jumped to almost one million. Congress adopted the N.L.R.A. in the hope of achieving greater labor peace in the country.

Many employers originally defied the N.L.R.A. and refused to abide by its terms. Employers challenged the legality of the law and questioned the constitutionality of the Act. The issue reached the Supreme Court which, in 1937, upheld the law.

Chief Justice Charles Evans Hughes, regarding the constitutionality of the National Labor Relations Act, in the Jones & Laughlin Steel Co. case, 1937, stated:

"Long ago we stated the reason for labor organizations. We said that they were organized out of the necessities of the situation: that a single employee was helpless in dealing with an employer; that he was dependent ordinarily on his daily wage for the maintenance of himself and his family; that if the employer refused to pay him the wages that he thought fair, he was nevertheless unable to leave the employ and resist arbitrary and unfair treatment; that union was essential to give laborers opportunity to deal on an equality with their employer."

The N.L.R.A. guaranteed workers the right to join unions without fear of management reprisal and created the National Labor Relations Board (NLRB) to enforce this right.

The three most important sections of the N.L.R.A. are Sections 7, 8 and 9.

Section 7 is the heart of the N.L.R.A.—it protects union and collective activity. In addition to organizing it protects workers who take part in grievances, on the job protests, picketing and strikes. Stripped to its essentials it reads:

Employees shall have the right to self-organization, to form, join, or assist labor organizations, 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.

Section 8 defines employer and union unfair labor practices. Five types of employer conduct are illegal:

1. Employer interference, restraint, or coercion against union or collective activity;
2. Employer domination of unions;
3. Employer discrimination against employees who take part in union or collective activities;
4. Employer retaliation for filing unfair labor practice charges or cooperating with the N.L.R.B.;
5. Employer refusal to bargain in good faith with union representatives.

Section 9 provides that unions, if certified or recognized are the exclusive representatives of bargaining unit members.

Public Workers Bill of Rights

1. The right to join a union without fear of reprisal.
2. The right to a law in each and every state which provides for collective bargaining over all terms and conditions of employment, and all rules and decisions which affect working conditions.
3. The right to strike. (Where safety forces are denied the right to strike, all differences will be resolved through binding arbitration.)
4. The right to job security.
5. The right to binding arbitration of all unresolved grievances.
6. The rights to freedom from discrimination and to equal opportunity in employment.
7. The right to safe and healthful working conditions with a state agency entrusted with enforcement.
8. The right to engage in political activity.
9. The right to equal pay for work of comparable worth.
10. The right to be retrained in the event of lay-offs, job obsolescence or dead-end jobs.

Public Workers And The Law

Since state and local government workers were excluded from the N.L.R.A. and there is no other federal legislation providing such protections, it has been left to the individual states to determine whether to extend such rights to the public workers within each state. As a result, public workers are covered by a variety of statutes and ordinances which provide varying degrees of protection and rights. For example, in Texas, state workers may organize but they do not have bargaining or strike rights. In New Jersey, state and local government workers can organize and bargain, but they do not have the right to strike. In Ohio, public workers can organize, bargain collectively, and strike (except for safety personnel).

Because not all public workers have the basic rights needed to assure just working conditions and democratic rights on the job, in 1983 the CWA Convention, the highest governing body of the union, passed the Public Workers Bill of Rights. That resolution instructs the union to work through its Locals and state legislative-political councils to achieve for all public workers the rights to organize, to bargain and to strike, as well as other job protections.

The Evolution Of Public Workers Rights

Attempts to organize public workers began in the 1930s, but it was in 1959 when Wisconsin became the first state to enact legislation giving public workers (in this case municipal workers) a legally enforceable right to bargain collectively. During the 1960s, sixteen states enacted twenty-six statutes extending bargaining rights to public workers within their jurisdictions. The federal government did not recognize federal employees' right to join unions or bargain collectively until 1962.

For many years, the courts with near unanimity held that public workers did not have any constitutional right to join or form unions and that legislative bodies could forbid their employees from joining and forming unions. In 1968 the United States Court of Appeals for the Seventh Circuit (Illinois, Indiana, and Wisconsin) held for the first time in *McLaughlin vs. Tilendis* that "an individual's right to form and join a union is protected by the First Amendment." This landmark case involved two teachers who sued a local school district for not renewing their contracts because of their activity with the American Federation of Teachers.

This decision began the trend toward greater judicial protection of the rights of public workers to join and form unions, and encouraged the passage of laws extending representation and bargaining rights to public workers. But even today many public workers do not enjoy the right to bargain collectively—only twenty-six states and the District of Columbia have enacted comprehensive collective bargaining laws for public workers.

Obstacles To Public Worker Rights

There are several reasons why the development of public sector labor law took so long. For example, there was and continues to be a belief that public sector employees provide a unique service—service to the public—which requires a special kind of employment contract.

In addition, there is an assumption that the private sector bargaining model is inappropriate for the public sector because, according to the assumption, public employers require greater managerial discretion.

Also there was, and for some continues to be, a feeling that civil service and collective bargaining are incompatible. The civil service concept placed heavy emphasis on the individual. Opponents argue that the notion of group action or collective effort which unions and collective bargaining embody are contrary to this.

But eventually more and more public workers saw the need for representation and collective bargaining rights. They found that protections provided by civil service laws could be undermined by so-called merit systems. They found that collective bargaining acts as a check against political patronage and favoritism. They found that union representation and collective bargaining could actually improve public services by improving working conditions.

Public Sector Labor Law Today

Today, twenty-six states and the District of Columbia have enacted comprehensive collective bargaining laws for their public employees. While some states have a single law covering all of these workers, many states achieve comprehensive coverage with several laws. For example, the state of Washington has eight separate statutes covering its state and local employees—one for state workers, one for municipal employees, one for teachers, one for community college academics, one for higher education employees, one for port district employees, one for marine employees, and one for utility district employees.

Of those states without comprehensive laws, some have laws covering only certain classes of workers such as teachers or police or firefighters. Some have laws which provide for a “meet and confer” approach to negotiations. Some have no law at all, or there may be a ban on collective bargaining for public workers.

Most of the public worker collective bargaining laws address four basic issues, though each law may apply different provisions and rights, as the examples below demonstrate.

CWA Public and Health Care Workers Sector

CWA represents nearly 100,000 state and local government workers in 25 states and the District of Columbia.

1. **The right to bargain collectively.** Ohio is credited with having the most advanced collective bargaining statute, while the law in Texas specifically prohibits collective bargaining for public workers.

2. **The scope of bargaining.** Some of the state laws spell out in detail the items that are bargainable at the negotiating table, while others are less specific. For example, Iowa’s statute lists sixteen specific items, including wages, hours, vacations, seniority, but specifically excludes the merit system and retirement. The language of the New Jersey law is more general, listing the grievance procedure and “terms and conditions of employment” as within the scope of bargaining.

3. **Resolution of collective bargaining at impasse.** In Florida, the law provides for mediation and fact finding in the event of impasse. If either party rejects the mediator’s report, then the impasse is submitted to the legislature. In New York, public workers may use the collective bargaining process itself to establish a procedure for dealing with impasse.

4. **Strike policy.** Most public workers do not have the right to strike. Some states have adopted laws permitting public employees to strike, other state statutes are silent, while still others prohibit strikes. Even in those states where strikes are permitted, the right is not always universal. For example, in Wisconsin, only municipal workers have the right to strike and only if both parties withdraw their final offers under the mediation-arbitration procedure. In Pennsylvania, all employees except prison and mental hospital guards and court employees may strike after mediation and fact-finding.

Other major subjects generally covered by the state laws include the right to organize, the determination of appropriate bargaining units, and union security arrangements. Also, most of the statutes establish public employee relations boards or commissions, often modeled after the N.L.R.B., to administer the act.



The Special Status Of Union Stewards

Stewards Are Considered Equals With Management

Under National Labor Relations Board doctrine, union stewards (and other union representatives) have a special legal status when they engage in union business or act in their official capacities. When representing employees, stewards are considered to be equals with management.

The equality principle allows stewards to raise their voices, gesture, use forceful expressions, or threaten legal action. **These tactics may not be appropriate or even successful, however, they are protected activities.**

The equality principle applies when a steward is acting in an official capacity. It does not apply when a steward is acting in an individual capacity.

Unlawful Retaliation Against The Steward

The N.L.R.A. protects stewards who are punished or disciplined because he/she files grievances—even if management considers them overly frequent, or petty.

Retaliation in any form is illegal. Among other things, an employer may not:

- Order a steward to perform greater or more difficult work
- Deny a steward pay opportunities
- Segregate a steward from other employees
- Deprive a steward of overtime
- Enforce rules more strictly against a steward
- Overly supervise a steward

Holding Stewards To Higher Standard

Stewards are not superworkers and cannot be held to higher standards than other workers. Some supervisors expect the steward to set an example and say things like “of all people you’re supposed to know the rules.” This attitude has no support in law.

Reprinted from “The Legal Rights Of Union Stewards” by Robert M. Schwartz, Works Rights Press.

Duty Of Fair Representation— Fairness And Equity

The steward as a representative of the union has a legal obligation to represent *all* the workers in the unit fairly without regard to their union membership status, race, religion, nationality, age or sex. This legal obligation is known as the duty of fair representation.

Workers who do not receive fair representation can file unfair labor practice charges against the union. Most Duty of Fair Representation (DFR) violations occur during the grievance procedure.

In general, a dissatisfied employee *must prove more* than poor performance or mistakes by the union. According to the N.L.R.B., “mere negligence, poor judgement or ineptitude in grievance handling are insufficient to establish a breach of the duty of fair representation.”

Examples Of Conduct That Violate The Duty Of Fair Representation:

- Failure to file grievances because of an employee's race, sex, nationality, age, religion, politics, personal unpopularity or history as a trouble maker.
- Refusal to process a grievance because an employee does not pay union dues.

Remember, when a grievance is brought to your attention:

- Pay attention to time limits.
- Conduct a full investigation.
- Keep employee informed of the progress of the grievance.
- Do not refuse to file or process a grievance because of a worker's sex, race, nationality, age, religion, politics, personality or dues-paying status.

The Employee's Right To Union Representation During An Investigatory Interview

One of the most vital functions of a union steward is to prevent management from intimidating employees. Nowhere is this more important than in closed door meetings when supervisors attempt to coerce employees into confessing to wrongdoing.

The rights of employees to have present a union representative **during investigatory interviews** was announced by the U.S. Supreme Court in 1975 in *NLRB vs. J. Weingarten, Inc.* This case involved a clerk in the Weingarten Company and the rights have become known as the Weingarten Rights.

What Is An Investigatory Interview?

Employees have Weingarten rights only during investigatory interviews. An investigatory interview occurs when a supervisor questions an employee to obtain information which could be used as a basis for discipline or asks an employee to defend his or her conduct. If an employee has a *reasonable belief* that discipline or other adverse consequences may result from what he or she says, the employee has the right to request union representation.

Note: In the Public Sector, Employees' Right to Union Representation During Investigatory Interviews Vary from State to State.

The bottom line is that while the union has considerable latitude in deciding whether or how far to take a case, it must act in good faith—based on the merits and not on the identity or personalities of the people involved.

1. In what ways do you think the presence of a steward could help the employee in an investigatory interview?

1. _____

2. _____

3. _____

TO THE STEWARD: Educate your co-workers on their rights to union representation during an investigatory interview. Employers have no obligation to inform workers of their right to request union representation (unless required by contract). This is the union's job. Remember, the boss won't do it.

2. How could you educate your co-workers on their Weingarten Rights?

Employee's Rights To Union Representation—Rules

Under The Supreme Court's Weingarten Decision, When An Investigatory Interview Occurs, The Following Rules Apply

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

Rule 2. After the employee makes the request the employer must either:

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

Rule 3. If the employer denies the request for union representation and continues to ask questions, it commits an unfair labor practice and the employee has a right to refuse to answer.

Note: In the Public Sector, Employees Rights to Union Representation rules vary from state to state.

Rights Of Steward During An Investigatory Interview

Employers often assert that the only role of a steward at an investigatory interview is to observe the discussion, in other words to be a silent witness. The Supreme Court, however, clearly acknowledged a steward's right to assist and counsel workers during the interview. Decided cases establish the following procedures:

- When the steward arrives, the supervisor must inform the steward of the subject matter of the interview, i.e., the type of misconduct for which discipline is being considered (theft, lateness, etc.).
- The steward must be allowed to speak during the interview. However, the steward does not have the right to bargain over the purpose of the interview.
- The steward can request that the supervisor clarify a question so that the worker can understand what is being asked.
- After a question is asked, the steward can give advice on how to answer.
- When the questioning ends, the steward can provide additional information to the supervisor.

Important: It must be emphasized that if the Weingarten rules are complied with, stewards have no right to tell workers not to answer questions, or to give false answers. Workers may be disciplined if they refuse to answer questions.



Employee's Right To Representation— Exercise

Read Each Question And Answer Yes Or No

1. Coercing employee to drop request

Q. An employee was summoned to an interview with his supervisor and asked for his steward. In response, the supervisor said, "You can request your steward, but if you do, I will have to bring in the department manager and you know how nasty she can be. If we can keep it at the level we're at, things will be a lot better for you." Violation?

☐ Yes ☐ No

2. Lie detector test

Q. Does Weingarten apply to a polygraph test?

☐ Yes ☐ No

3. Steward's Not at Worksite

Q. If a worker's steward is out sick, can the worker insist that the interview be delayed until the steward is available?

☐ Yes ☐ No

4. Steward's Right to Representation

Q. If I (the steward) am called in by my supervisor to discuss my work record, do I have the right to a union representative?

☐ Yes ☐ No

5. Telephone Interview

Q. Over the weekend, a supervisor called one worker at home to ask questions about missing tools. Did the worker have to answer the questions?

☐ Yes ☐ No

6. Announcing Discipline

Q. A worker was called into the division manager's office. The worker asked for her steward, but was refused. The manager said, "Sarah, yesterday you refused a direct order to work overtime. Therefore, we're giving you a one-day suspension for insubordination." Did the employer violate Weingarten?

☐ Yes ☐ No

Note: In the Public Sector, Employees' Rights to Union Representation vary from state to state.

Steward's Rights/ Employee Rights Fact Situation

Ron Johnson, a union activist and long time employee is called one day into the office of his supervisor, Sherman Goodtidings. Ron and Goodtidings go way back and Goodtidings asks Ron about his children, now in college, and his plans for the holidays. A few minutes into the conversation, Goodtidings casually mentions to Ron that he's been looking at the attendance records. Goodtidings complains about Ron's "talking on the job," "taking too many days off" and supplying a "variety of excuses" for the absences. Goodtidings says, "You know Ron, we've known each other a long time . . . just what's going on here? How come the poor attendance? What happened to that good attitude?"

At this point, Ron asks for Gloria (the steward) to be present in the meeting. Goodtidings replies, "Oh, c'mon now Ron, do you always have to get the union involved. I don't think it's necessary. Can't we just talk about this man to man?" Ron repeats the request. Goodtidings says, "Alright Ron, we'll let Gloria sit in." Goodtidings then calls to have Gloria come to his office but is told that Gloria is out with a bad case of the flu. Ron suggests that Charlie Smyth, steward in another unit, be brought in.

About twenty minutes later Smyth arrives at Goodtidings office. In Ron's presence Smyth asks, "What's this all about anyway?" Goodtidings replies, "Oh I'm just telling Ron here that we've missed him a lot lately and asking him what's been going on. I want to see what can be done to get him with the program again." Smyth starts to speak but Goodtidings immediately interrupts him and orders Smyth to "Sit down, be quiet and don't get in the way." Smyth starts to object and Goodtidings cuts him off by saying, "Let me remind you Smyth that you're an employee too. So keep your shirt on. You're in here at my good graces." Smyth sits down, takes notes during the subsequent questioning, and says nothing. The next week Ron is informed that he's been suspended for a week for "excessive absenteeism."

Ron without hesitation goes to Gloria (his steward), since returned from her illness. After talking with Ron, Gloria sets a time and meets with Goodtidings. In the course of the discussion, Goodtidings asks Gloria for a copy of Smyth's notes from the meeting. Gloria informs Goodtidings, that the information belongs to the union and need not be shared with management. At this, Goodtidings explodes. A verbal confrontation ensues. Goodtidings calls Gloria "an insubordinate troublemaker" and Gloria accuses Goodtidings of being "patronizing, close minded, and a real pain in the a_____." The next day, the union files a grievance over Ron's suspension. Attached to the grievance is a written request for "division wide attendance figures for all bargaining unit employees for the last two years." In a separate reply back, the employer says, "We have better things to do than your research. You represent the employees. You ask them yourselves."

Answer the questions on the next page.

Questions For Fact Situation

1. Would you, too, have asked the steward to come to Goodtidings office? Was Ron within his rights to have a steward present? If so, should Ron have asked the steward to be with him for the beginning of the meeting?

2. When Goodtidings at first refused to have the steward present, should Ron have walked out of the meeting? Should he have refused to meet until Gloria, his steward, returned to work?

3. How would you evaluate Smyth's handling of the meeting? Is there anything you would have done differently?

4. How would you evaluate Gloria's handling of her meeting with Goodtidings? Should she have shared Smyth's notebook with him? Did she go too far by calling Goodtidings "patronizing, closeminded and a pain in the a_____"? Is she risking disciplinary action?

Chapter

EIGHT

HANDLING A GRIEVANCE

Your Grievance Procedure

Grievance procedure found in: Article: ____ Sections: ____, ____, ____, ____ Page(s) ____.

Remember: Grievance could be lost if not filed within ____ days from the time the problem occurred.

Union		Management
	Grievance	
Number of days to file ____ Who ____ Written <input type="checkbox"/> Oral <input type="checkbox"/>	Step I	Number of days to respond ____ Who ____ Written <input type="checkbox"/> Oral <input type="checkbox"/>
Number of days to appeal ____ Who ____ Written <input type="checkbox"/> Oral <input type="checkbox"/>	Step II	Number of days to respond ____ Who ____ Written <input type="checkbox"/> Oral <input type="checkbox"/>
Number of days to appeal ____ Who ____ Written <input type="checkbox"/> Oral <input type="checkbox"/>	Step III	Number of days to respond ____ Who ____ Written <input type="checkbox"/> Oral <input type="checkbox"/>
Number of days to appeal ____ How ____ Who ____	Arbitration	

Special cases:



The Two Basic Kinds Of Grievances

There are two basic kinds of grievances: Disciplinary grievances and all other grievances. It is important for the steward to know what kind of grievance he/she is dealing with in order to know how to proceed. The following chart lists the characteristics of the two kinds of grievances and what the steward must do to handle the grievance.

1. Discipline Grievances

CHARACTERISTICS

- Employer initiated
- Employer has burden of proof
- Employer must meet 'just cause' standard

STEWARDS MUST:

- Determine if there was just cause for discipline (see page 69)
- Determine if progressive discipline was used.
- Determine if disparate treatment existed.
- Weigh years of service and past record
- Determine if discipline imposed too harsh (see page 70)
- Review Arbitrators Guidelines for approaching disciplinary grievances (see page 71)
- Get facts to support position—five W's

Employer's Duty To Provide Information

It is often necessary to review management documents related to such matters as job descriptions and posting, disciplinary actions, job performance, and health and safety.

The employer has a broad duty to provide the union with information which it needs to represent its members. (The legal language is "necessary and relevant" information). It is important to ask for the information by a particular date as a way to hold management accountable.

Although the law says there should be no "unreasonable delay," employers often do try to delay. It's useful to request that the management representative contact the steward by a certain date if they "anticipate any problems or have any questions." Request that they respond in writing.

2. All Other Grievances

CHARACTERISTICS

- Union or employee initiated
- Union has burden of proof

STEWARDS MUST:

- Prove contract violation and/or
- Prove violation of past practice and/or
- Prove violation of fair treatment (discrimination) and/or
- Prove violation of federal, state or municipal law and/or
- Prove violation of employer rules
- Get facts to support position—five W's

Steps in Handling A Grievance— The Steward's Role

Step 1: Investigating The Grievance

Interviewing the grievant: Your first job is to listen well, to let the grievant express his or her feelings about what has happened. Get all the facts you can from the grievant. Ask grievant to fill out and sign statement of occurrence and waiver (page 88).

Next, ask the grievant to listen as you give a "recap" of the story and to correct you if anything is not right.

As you work together, take notes on the "w" questions. Use a Problem Fact Sheet (page 89). Be sure to note any additional information you're going to need.

Follow-up: Now is the time for research. Talk to people who may have witnessed the incident or be able to verify facts surrounding the grievant's story. Check the contract and any other relevant documents including the grievant's personnel file, if necessary. Find out what past practices have been. Indicate this information and your sources on the Problem Fact Sheet.

Step 2: Analyzing The Grievance

Determine which of the two basic kinds of grievances you're dealing with—(see page 62) and the strategy you should pursue.

Review "Arbitrators Guidelines" on pages 71–76 to help identify areas where management's case is weak.

Follow-up: After you have worked through the analysis, you may find you need more information before you can begin following the plan you've worked out.

Step 3: Preparing For Discussion

Prepare for a discussion with management. Develop your argument for the case. Be prepared to respond to management's arguments. Use Preparing For Formal Grievance Discussion With Management on page 77.

Follow-up: This is the time to do any last minute research and to prepare the grievant if he or she is going to be participating in the discussion. Make sure to ask the grievant if there is anything else about the situation you should know. Explain to the grievant that it is better to be prepared than surprised with new information during a grievance meeting.

Step 4: Writing The Grievance Form

Fill out the grievance form. Write a short, concise statement of the grievance and the remedy. Union grievance forms will vary in format, but the two essential elements are always statement of grievance and remedy (relief desired, adjustment).

SENIORITY

"Scarcely a day passes that I do not find myself involved in an argument about seniority. The young people argue that it holds them back, that it is only for the good of the old folks, that they pay the same dues, but don't get the good jobs. The older people say that at some stage of your life you need to feel secure in your job, that the young people will get their chance when even younger people are hired. The arguments are endless—and they all miss the point.

If George has five years seniority and Joe has three years, why does the union fight so desperately to get the upgrade for George rather than Joe? They are both union members, aren't they?

The union pushes hard for seniority because it is the single most important issue in the contract. It is more important than the size of the wage increase, increased vacation time, and so on. Why? Because, in a workplace, if you don't have seniority, you have nothing.

Let us take an example. There are five clerks. Each one has bid on an opening in a higher paying title. Without seniority, on what basis will the promotion be made?

Management will promote the person they wish to promote. That sounds simple. Obviously they will promote the person with the most ability. But, will they? The management is not a computer, that would

ignore emotions, feelings, favoritism, likes and dislikes. The supervisor is a person. He does not like each of the five equally well. Would he be likely to promote someone he dislikes? Would the fact that one of the people is a friend of his have any affect? Would his decision be influenced by the fact that one of the five had written a grievance that caused the supervisor some embarrassment?

We are not saying that the supervisor is a rascal. Only that he is a human being, and human beings do not keep their feelings out of their decisions.

Without seniority, each of the five people would be under the absolute control of the supervisor. He could decide to promote any one of the five. He could decide that one of them stay on his present job forever. The supervisor would now have too much power over these five people. And we know enough about power to say that most people will abuse power, and the greater the power, the more likelihood that it will be abused.

Seniority then is what will allow these five people to retain their dignity. It is what frees them from unreasonable demands. It permits them to speak up when they are mistreated, to grieve when deprived of their rights. For all of these reasons, I have no difficulty in getting the adrenalin flowing when fighting a seniority case."

*The Story of a Steward
by Terrence F. Connors*

Tips For Interviewing Witnesses/Management

Witnesses

Just what do they know and how do they know it? What statements did they hear from whom? Where were they when they heard the statement or saw the incident? How far away were they at the time?

Interview witnesses separately. This will bring out any inconsistencies between stories.

Ask the witness to read and sign the written statement of the interview. It may be many months before an arbitration hearing. Memories tend to fade. Having a signed statement in the file that's written soon after an incident could be important evidence and could be used to refresh a witness' memory at a later stage.

Management

What's their side of the story and why do they think that way? Try to find out as much information as possible and make this part of the union's grievance file. It may be useful to the union at a later stage.

Listen for areas of possible settlement. When investigating a problem (it may not yet be a grievance) there's no need for the steward to commit himself/herself to a particular position and he/she should feel no pressure to do so. First get all the information possible then make judgements.





The James Perdue Situation

Please Read This Grievance Situation And Fill Out The Problem Fact Sheet

The grievant, James Perdue, has ten years seniority on the job. He is married, and his wife has just recently had a fourth child. Perdue is finding it difficult to support his family on his present pay and has been nervous and on edge because of this. Recently a higher classification (better paying) job opened, and management gave the job to Bill Blue. The promotion clause of the contract reads:

"In making promotions, seniority will apply if after a fifteen day trial period the employee can perform the new operation satisfactorily."

Perdue claims that Blue has only eight years seniority, and a check on seniority confirms this. After stewing over the matter for ten days, Perdue goes up to see Bill Blue. They get into an argument over the promotion and Perdue says "You rotten _____. You knew I put in for this job—you knew it and you did everything but clean Fitch's shoes to get it." Blue says, "Get out of here—what's done is done." Perdue loses his temper and begins yelling obscenities at Blue. Steve Fitch, the supervisor, comes over, suspends Perdue for one day for misconduct.

Perdue claims that he merely wanted to give Blue his side of the story but Blue wouldn't talk to him. Perdue provides two witnesses who will verify his story. He says Supervisor Fitch has it in for him and that everyone in the work group agrees with him. As a settlement, Perdue requests immediate promotion, since he never received the original trial period; removal of the one day suspension from his record, reimbursement for lost pay, and transfer of Supervisor Fitch to another location or shift.

Upon checking further, the steward obtains additional information. The two workers who were interviewed agreed that the supervisor acted unfairly, cutting Perdue off in midsentence and then suspending him. Until seven years ago Perdue and Fitch were neighbors and they had engaged in a running feud about who was responsible for cleaning up the rotten apples that fell off Perdue's tree into Fitch's yard. Roscoe Tilly, a co-worker, told one of Perdue's witnesses that another worker overheard Fitch tell a fellow supervisor that Perdue would get a promotion "only over my dead body." Perdue comes to you for help.

Problem Fact Sheet

1. Who is involved? Write down name, position, or role in grievance.

2. What exactly happened?

3. When did these incidents happen?

4. Where did these incidents take place?

5. Why did these incidents take place?

6. Who do you, the steward, need to talk to? What questions will you ask them?

7. What additional information do you, the steward, need? Where will you go to get it?

Guidelines For Determining If There Was Just Cause For Discipline

A basic principle underlying most disciplinary procedures is that management must have "just cause" for imposing the discipline. This standard often is written into union contracts or read into them by arbitrators.

While the definition of "just cause" necessarily varies from case to case, one arbitrator has listed these tests for determining whether an employer had just cause for disciplining an employee:

1. Was the employee adequately warned of the consequences of his conduct? The warning may be given orally or in writing. An exception may be made for certain conduct, such as insubordination, coming to work drunk, drinking on the job, or stealing company property, which is so serious that the employee is expected to know it will be punishable.
2. Was the employer's rule or order reasonably related to efficient and safe operations?
3. Did management investigate before administering the discipline? The investigation normally should be made before the decision to discipline is made.
4. Was the investigation fair and objective?
5. Did the investigation produce substantial evidence or proof of guilt?
6. Were the rules, orders, and penalties applied evenhandedly and without discrimination? If enforcement has been lax in the past, management can't suddenly reverse its course and begin to crack down without first warning employees of its intent.
7. Was the penalty reasonably related to the seriousness of the offense and the past record? If employee A's past record is significantly better than that of employee B, the employer may properly give A a lighter punishment than B for the same offense.

Is The Discipline Imposed Too Harsh?

Arbitrator's Guidelines For Evaluating Severity Of Penalty

In ruling on the fairness of the discipline imposed for such offenses as insubordination, misconduct, absenteeism, and poor work, arbitrators do not concern themselves merely with whether the workers involved are guilty. They also examine the severity of the punishment and determine if it is appropriate for the offense.

These guidelines can help the steward analyze if an argument can be made that the discipline imposed was too severe. This argument can become particularly important in discharge cases.

Factors which arbitrators use to review management's penalties include

1. The nature of the offense. How serious is it?

2. Progressive discipline.

For most offenses, management is expected to use a system of progressive discipline under which the employee is warned or given disciplinary suspensions before being hit with the ultimate penalty of discharge. A common pattern is: oral warning, written warning, disciplinary suspension, and discharge.

3. Double jeopardy.

It is a well recognized principle that discipline should be reasonably prompt and that a penalty, once announced, should not be increased lacking evidence that the offense was more serious than it looked at first. The principle of double jeopardy has been applied by arbitrators to prohibit the impositions of two successive penalties for the same offense, such as a recorded warning and a suspension.

4. Employee's past work record.

5. Employee's length of service.

6. Employer's lax enforcement of rules.

7. Unequal or discriminatory treatment of the employee.

Arbitrators Guidelines For Approaching Disciplinary Grievances —Ten Grievance Issues

Arbitrators look at specific factors or guidelines when deciding arbitration cases having to do with disciplinary action. Although most grievances do not go to arbitration it is instructive for stewards to be familiar with the general guidelines used by arbitrators. The guidelines offer stewards insight into what factors arbitrators consider particularly important and can provide stewards with a strategy for presenting the grievance. Listed below are guidelines for several different types of disciplinary grievances.

Remember, these guidelines do not necessarily reflect the views or positions of CWA. They are intended as a general summary of the factors most arbitrators examine in specific disciplinary cases.

Absenteeism

Generally, arbitrators agree that chronic or excessive absenteeism is just cause for discharge. However, the real problem has been to determine when absenteeism is excessive. No general rules can be laid down, thus arbitrators consider a variety of factors in deciding such cases.

In determining whether an employer acted reasonably in disciplining an employee for absenteeism or tardiness, most arbitrators use a case-by-case approach, focusing on the particular facts and circumstances of the immediate situation. Several factors are examined by arbitrators, including:

1. How long was the length of time during which the employee had a poor attendance record?
2. What were the reasons for the worker's absences?
3. What was the nature of the employee's job?
4. What is the attendance record of other employees (department averages, etc.)?
5. Does the employer have a clear disciplinary policy relating to absenteeism which is known to all employees and which is applied fairly and consistently?

6. Was the employee adequately warned that disciplinary action could result if the worker's attendance record failed to improve?
7. What is the prognosis for the employee's health?

Refusal To Obey Directives—Insubordination

Most cases of insubordination involve a worker's refusal or failure to follow the directive of management or comply with an established procedure. On reviewing the discipline in such cases, arbitrators generally consider not only the magnitude of the offense and prior occurrences of such behavior but also:

1. Was the order or procedure clearly expressed?
2. Was the employee made aware of the possible consequences of his/her action?
3. Was the discipline applied in a nondiscriminatory and progressive manner?

Fight

1. Was the employee's conduct a single, thoughtless incident or a series of acts?
2. What was the degree of violence involved: Was the blow struck with an instrument, clenched fist, open hand, etc.?
3. Was the employee the aggressor?
4. Was the employee merely exercising the right of self-defense?
5. Was the employee provoked?
6. Where and when did the fight occur? Did the fight disrupt the work area?
7. What is the employee's length of service and work record?

Dress And Grooming

While management is concerned with an employee's appearance from the standpoint of the organization's public image, as well as from the standpoint of job safety and health factors, employees are opposed to broad prohibitions or requirements regarding dress and grooming, considering them an infringement on their personal rights.

When ruling on the right of employees to determine their own clothing or hair styles, arbitrators usually point out that this right may be limited by the nature of the employee's job. Arbitrators generally are aware of the effect of changing times on dress and grooming habits, and unwarranted interference by management with an employee's preference for a particular mode of dress or hair length is prohibited. However, arbitrators recognize management's legitimate business reasons for regulating the personal appearance of employees.

In dealing with discipline for violation of dress and grooming standards, arbitrators consider:

1. Was the standard clear, unambiguous, and consistently enforced?
2. Was the rule adequately communicated to the employees?
3. Was the standard reasonably related to a business need of the employer (or a safety consideration)?
4. Was the standard reasonably attuned to contemporary mores and attitudes toward dress and grooming?
5. Was the employee given an opportunity to comply with the dress or grooming requirements?

Discourtesy To Public, Patients Or Customers

Employees, particularly those involved in serving the public, are expected to be courteous and solicitous. Many arbitrators will uphold discipline in situations where employees are guilty of abuse toward members of the public with whom they come in contact, if the following conditions are met:

1. Does the evidence clearly support the allegations of discourtesy or is the evidence merely hearsay?
2. Does the employee have a record of poor conduct toward public, patients or customers?
3. Are there clearly stated rules on employee behavior and was it communicated adequately?
4. What are the adverse effects resulting from the employee's discourtesy?

Intoxication And Alcoholism

Arbitrators, generally, accept the idea that intoxication on the job may indicate that an employee has a drinking problem. If the worker is an alcoholic, then the feeling is that this should be treated as an illness rather than as simply misconduct. In such cases, some arbitrators uphold management's view that progressive discipline, with increasingly harsher penalties, is

the best way to correct the employee's behavior; others believe that rehabilitation, through counseling and other alcohol treatment programs, is the key to getting the worker back on track.

1. Have there been frequent absences as a result of drinking?
2. What is the evidence that the employee was intoxicated? The evidence must be sufficiently specific regarding the employee's state of sobriety.
3. Did drinking result in an inability to perform the work?
4. Does the employee have a record of other misconduct?
5. Has the employee made a good faith effort at rehabilitation?
6. What is the employee's length of service?

Drug Abuse

Arbitrators generally support management's view that employee's possession or use of drugs, especially during work hours and in the workplace, is a serious offense. The severity of the 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.

In determining the proper penalty for drug-related offenses, arbitrators first will focus on:

1. Was the employee properly notified or previously warned that drug use would result in discipline?
2. Is there clear and convincing evidence that the employee took drugs?
3. Has the employer been lax in enforcing its rule against drugs?
4. Was the worker's ability to perform work impaired? Did the drug use pose a health and safety issue?
5. Did the drug use take place off the employer's premises and off work hours? If the drugs were taken off the premises during personal time did the employer clearly inform the workers that this was a forbidden act punishable with discharge?
6. How many years service does the worker have? And what is his/her work record?

Note: CWA has a pamphlet "Drug Testing—What You Should Know and What You Should Ask—A Brochure for Union Stewards."

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 these clauses have been violated.

Arbitrators generally apply the following standards in deciding subcontracting cases:

1. Is there a past practice? Has the employer contracted out the work in the past?
2. What is the justification for subcontracting? (economic, security, etc.)
3. Is the subcontracting of work being used as a method of discriminating against the union and substantially prejudicing the status and integrity of the union?
4. What has been the effect of the subcontracting? Have union members been displaced, laid off, or deprived of jobs previously available to them, or lose regular or overtime earnings by reason of the subcontract?
5. What type of work is involved? Is it the work that is normally done by bargaining unit employees or work that is frequently subcontracted or work that is of a "marginal" or "incidental" nature?
6. Were qualified union employees available to perform the work?
7. Are the necessary equipment and facilities presently available or can they be economically purchased?
8. Is the particular work frequently or intermittently subcontracted?
9. Is the work subcontracted for a temporary or limited period or for a permanent or indefinite period?
10. Was there an emergency or special situation that necessitated the subcontracting action (strike, unusual situation, etc.)?
11. Has management's right to subcontract been the subject of contract negotiations?

Theft

Arbitrators generally believe that no employee needs a rule to tell him that stealing property that belongs to the employer is wrong and constitutes a dischargeable offense. This is true even of items of relatively little value. However, arbitrators tend to modify discharge penalties where the value of the goods taken is small and the employee's seniority is long.

Factors considered include:

1. What was the value of the item taken?
2. What is the employee's length of service?
3. Has the employee admitted taking the item? If not, what is the evidence?

Overtime Issues

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 that overtime work has not been distributed properly, and (3) complaints that 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, he/she should be given pay for the missed work.

The contract language is often critical in these cases.

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Tips For Discussions With Management

1. *Act as management's equal. While respecting their position, insist on respect for you and the grievant as well.*
2. *Use a friendly, positive approach.*
3. *Discuss issues, not personalities.*
4. *Stick to discussing your grievance. Don't allow management to sidetrack you by talking about topics unrelated to the grievance. Politely but firmly keep the discussion on the facts of the grievance and the contract, and nothing else.*
5. *Listen for the main point of management's argument. Try to narrow the area of your differences. Look for possible solutions.*
6. *Avoid becoming excited, angry, or hostile. Management sometimes attempts to provoke you into losing your temper. Remain calm and cool. It's hard to think straight when you are angry.*
7. *Avoid arguing with the grievant in front of management. If a disagreement occurs, ask for a caucus where you can leave the meeting room to iron out the problem.*
8. *Don't make empty threats. This weakens your ability to resolve the grievance.*
9. *When you disagree with management, do so with dignity. Remember that you and the supervisor will have to settle other issues in the future.*
10. *Try to resolve the grievance satisfactorily at the first step.*

Preparing For Formal Grievance Discussion With Management

Worksheet

List major points you want to make in your opening presentation. Do not use full sentences, just memory joggers.

List possible management comments/arguments and your response.

Management Arguments	Your Response
1.	
2.	
3.	
4.	



“The Grievance”— Questions For Video

1. Video stops

What would you (the steward) do in this situation? What would you say to the worker?

2. Video stops

What major areas does the steward need clarified?

What questions should the steward ask Jack?

What other information does the steward need, and where can he/she find it?

3. Video stops

What major points should the steward make in the meeting with management?

4. Video stops

What is the situation?

What should the steward do? What should the steward say?

What could the steward have done to prevent this situation?

5. Video stops

What is the situation?

What should the steward do? What should the steward say?

6. Video stops—End of video

What happened to the steward at the end of the meeting?

Could this situation have been prevented?

How could the steward have handled this new and possibly damaging information?

Chapter

NINE

WRITING THE GRIEF VANCE



The Five W's

1. Who

Employee's name, address, work and home phone number
Employer's name
Supervisor's name
Department, division, or office and building location
Shift (if applicable)
Classification/Job Title
Length of employment or seniority
Pay rate/Wage schedule

2. When

Date grievance is written
Date and time of the incident
Date grievance is actually filed
Date of supervisor's decision

3. Where

Exact place the grievance incident(s) occurred
(be specific as to building, floor, and office)

4. Why

(or nature of the grievance)

Briefly state why complaint is a grievance

5. What

(should be done)

The "Remedy" or "Settlement Desired" should appear on all grievances; arbitrator's award may depend on how this request is made, so ask for the maximum. Example: (discharge cases) "Reinstatement with full back pay and benefits with no loss of seniority"; (general remedy) "Make grievant whole in every way, including but not limited to. . . ." This is discussed in more detail on page 84.

Points On Writing A Formal Grievance

Point 1. LIMIT DETAILS TO BASIC INFORMATION:

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

- a) What the basic problem is;
 - b) What violations have occurred and;
 - c) How the problem should be fixed (remedy).
-

Point 2. ON WRITTEN GRIEVANCES THAT ARE TURNED IN TO MANAGEMENT:

OMIT UNION'S ARGUMENTS, EVIDENCE AND JUSTIFICATION FOR POSITION: This information could be used by management to prepare a better case against the union.*

Example:

(wrong)

Instead of writing, "The grievant, Billy Brown, who has six years seniority in her job classification, was abused and discriminated against by management by laying her off while three other people in the same classification, with less seniority, were kept on."

(right)

It would be better to write, "Management unjustly laid off Billy Brown. . . ."

*Arguments, evidence and justification for grievance should only be used in oral arguments with management. In this way, you can introduce this material when it best helps in winning grievance. If need be, jot these facts down on a separate piece of paper before you argue case with management.

Point 3. DON'T LIMIT CONTRACT VIOLATIONS:

In stating WHY there is a grievance, use the phrase "*violates the contract*" and cite specific articles or sections in the contract and add "and all other relevant articles of the contract."

Example:

(wrong)

Instead of writing, "This action violates Article VIII, Section 4 and 5 of the contract."

(right)

It would be better to write, ". . . This action violates Article VIII, Sections 4 and 5, and all other relevant articles of the contract."

By adding the words "all other relevant articles of the contract," you can always add additional violations of the agreement if they are found later.

Point 4. AVOID PERSONAL REMARKS:

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

Point 5. DON'T LIMIT THE REMEDY:

If you limit the remedy you might limit the union to something less than full compensation for the grievant by leaving out something you may remember later. This can be accomplished by using the general phrase "*made whole in every way*" and the word "*including*" when referring to specific remedies."

Example:

(wrong)

Instead of writing, "The union requests that the grievant, Billy Brown, be recalled to his job classification with full back pay for all wages and benefits lost."

(right)

It would be better to write, "The Union requests that Billy Brown be made whole in every way, including recall to his job classification and full back pay for all wages and benefits lost."

The general phrase "*made whole in every way*" means that the grievant should receive any and all losses due to management's action. This could include wages, seniority, job rights, etc. whatever is due the grievant according to the contract. The word "*including*" allows you to add *specific* remedies later on, in writing *or* in oral arguments with management.

BUT: Just because you use the general phrase "*made whole in every way*," does not mean that an arbitrator or management will search out all the specific benefits management denied the grievant *for you*. It is up to you to list (verbally or in writing) any remedies not noted in the original written grievance.

Point 6. CONSULT WITH THE GRIEVANT:

Go over the written grievance. Explain the requested remedy and get the grievant's full understanding and agreement.

Point 7. SOLIDARITY:

If an appropriate issue, explain the grievance to the work group and be sure they understand and support your efforts on the appropriate issue.

Point 8. Keep the grievant UP TO DATE on each action. Don't wait for him or her to come to you.

Point 9. ARBITRATION:

Prepare each case on the assumption that it may go to arbitration.

*Remember: Writing concisely may help clarify thinking.

Material adapted from the Indiana University Union Leadership Program Materials.

I Learn How To Write A Grievance

You have heard of short story writers. Well, I was a long story writer. I not only put in a few facts, but every opinion I had about the supervisor, the grievant, and union-management relations in general. Nothing was too trivial to include, because I was afraid that I might leave out something vital.

Once I learned about the 5 W's (who, what, where, when, and why), I began to include even more things in the grievance and it became an even longer story. Even nasty comments by the chief steward didn't help me. One day after giving him a grievance he would have to argue at the next step he said "There's nothing in here about your wife, your kids or your hobbies."

Being a little slow on the up-take, I said, "They have nothing to do with the grievance."

He then asked, "Do you think the rest of this stuff has anything to do with the grievance?"

It was interesting he brought up the subject of my wife because it was in talking with her that I learned how to write grievances. When I would get home she would ask me if anything interesting had happened at work. I would reply that I had a grievance today that was interesting. She

would ask. "What happened?"

I would reply. "A senior person was bypassed on a job bid." She would then ask "Can the employer do that?" And I would reply "No, it's a violation of the promotion section of the contract."

She would then want to know what the union was going to do about it. I would tell her that we were going to insist he get the job and any pay he lost.

Another day she would ask what happened at work. I would tell her that the employer sent a person home for refusing to drive a fork lift. She asked if it was wrong for the employer to do this. I told her it was against the safety regulations because he didn't know how to drive a fork lift. She would ask the next logical question, "Will you be able to do anything about it?" I would reply, "I'm going to insist he be paid for the hours he lost."

As the weeks went by, I began to see that in writing any grievance I would have to ask the same three questions she tended to ask in trying to understand the case;

- 1. What happened?*
- 2. Why is it a grievance?*
- 3. What do I want done about it?*

I no longer write a story. I no longer argue the case in the grievance.

*The Story of a Steward
Terrence F. Connors*

"The Labor Movement doesn't just try to do something about wages and hours for its own people. No group in the country works harder in the interest of everyone. It helps young and old and middle aged. It's interested in education, in housing, in the poverty program, and does as much good for millions who have never belonged to a union as for its own members. That is my conception of an organization working in the public interest."

President Lyndon B. Johnson 1965

Vocabulary For Grievance Writing

The Following Words And Phrases Are Commonly Used In Grievance Writing

Violated the collective bargaining agreement and/or past practice.
Performed a discriminatory action.
Discipline (discharge, demote, suspend, transfer, fine, reprimand).
Failed to comply with laws or regulations.
Obstructed due process.
Jeopardized health or safety.
Reinstate.
Make whole in every way.
All rights and benefits.
Article _____; governing _____;
and all other relevant articles in the contract.
Past practice.
Consideration.
Letter of warning (reprimand).
Verbal criticism.
Transfer from station to station.
Upgrade in classification.
Violation of contractual rights.
Interference in the performance of duties.
The rights of employees to effective and fearless representation.
The work station.
Matters affecting the terms and conditions of her/his employment.
Without just cause.
Arbitrarily.
Entitled to.

Forms and Posters

211701

0116

219101

Work Group Roster

Steward Name _____ Telephone _____

Building Location _____

Department/Floor/Unit _____

Shift _____

Date Completed _____

NAME	JOB TITLE/ SENIORITY DATE	WORK/ HOME PHONE	MEM- BER?	COMMENTS
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				
11.				
12.				
13.				
14.				
15.				
16.				
17.				
18.				
19.				
20.				

LOCAL _____

The following is a statement of what happened to me on _____ 19_____

Signed _____

Problem Fact Sheet

1. Who is involved? Write down name, position, or role in grievance.

2. What exactly happened?

3. When did these incidents happen?

4. Where did these incidents take place?

5. Why did these incidents take place?

6. Who do you, the steward, need to talk to? What questions will you ask them?

7. What additional information do you, the steward, need? Where will you go to get it?

Workplace Problem Solving Model

Step 1. Identify The Problem

Describe the problem in one sentence.

Step 2. Get The Facts—Five W's

1. Who is involved?

2. What exactly happened?

3. When does the problem occur? (Be specific: date, shift, week, year, etc.)

4. Where does the problem occur? (Be specific—in one workgroup, in one building, in one title, in one supervisor's area, etc.)

5. Why does the problem occur? (Examine history of workgroup, bargaining, grievances, etc.)

Step 3.

What Kind Of Problem Is It?

☐

1. Contract violation?

☐

2. Violation of federal, state, or regulatory laws?

☐

3. Is it a conflict with the employer's internal policies? (Personnel practices, civil service regulations, etc.)

☐

4. Past practice violation?

☐

5. Violation of fair treatment?

☐

6. None of the above.

Step 4.

Brainstorm Solutions?

List all possible solutions—do not limit or evaluate in this step.

Step 5.

Prioritize Solutions (Strategies)

Discuss, evaluate solutions, rank, select solution(s), set timetable.
Top three solutions:

1.

2.

3.

Step 6.

What Action Will Be Taken?

ACTION

WORKER RESPONSIBLE

DATE ACTION COMPLETED

LOCAL # _____

EMPLOYER

AGGRIEVED

DATE _____

EMPLOYER COMMITTEE:

TIME IN: _____

TIME OUT: _____

EMPLOYER[illegible]

Grievance Form

LOCAL _____ BUILDING LOCATION _____
STEWARD _____

1. WHO has Grievance?

Name _____ Grievance Number _____
Job class & title _____ Dept. _____
Seniority _____ N.C.S. _____

2. WHERE did it happen?

Location _____

3. WHEN did it happen?

Time _____ Date(s) _____
Shift _____

4. WHAT happened? Describe events including:

MEMBER's story and explanation

MANAGEMENT position

OTHER people involved including their names, job titles, seniority, shift and additional useful information.

WITNESSES and their stories.

BACKGROUND information, such as previous accusations, reprimands and events that relate to this problem.

5. WHY is it a grievance?

Violation of contract clause(s)

Article _____ Section _____

Past practice (describe fully)

Unfair treatment (attach paper with detailed description of evidence)

6. REMEDY: (What should management do so the member does not lose rights or benefits?)

7. SUPERVISOR'S ANSWER

Supervisor's Name _____ Date _____

Dept. _____

During grievance meeting management: (check one)

☐ Agreed with union position (describe what supervisor did to correct situation)

☐ Refused to accept union position

Date _____

Check one:

☐ Grievance closed

Date _____

☐ Grievance referred to: (Local President)

Date _____

Describe company answer completely:

Management person to whom grievance should be appealed:

Name and work location of steward:

CUT OUT AND POST AS A CAPTION ON BULLETIN BOARD

CNWA NEWS Bulletins

Communications Workers of America AFL-CIO, CLC

CWA

Communications Workers of America AFL-CIO, CLC

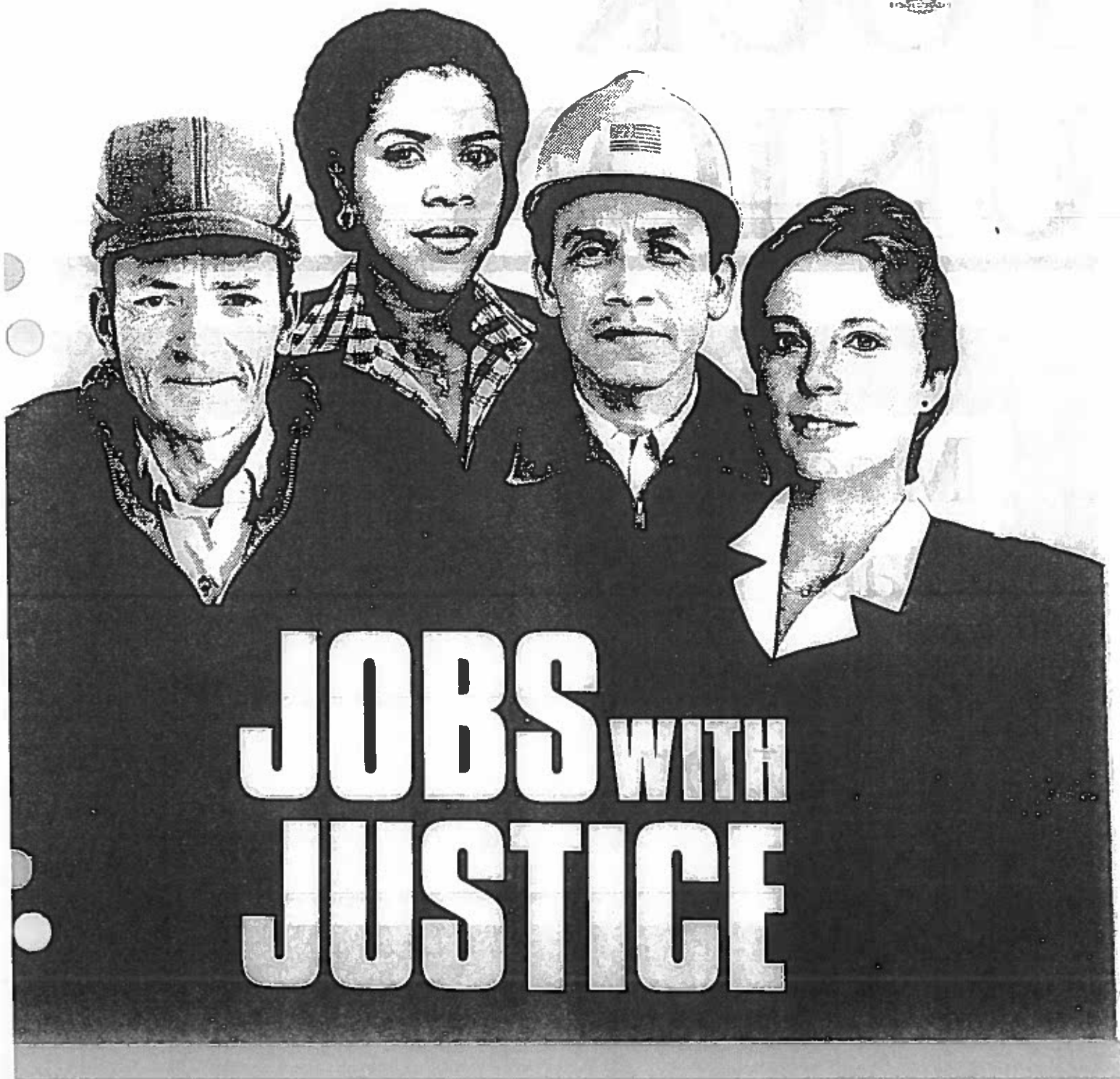


Local # _____

Your Officers

Your Stewards

Make A Difference



BUILDING YOUR UNION

Meeting _____

Date _____

Time _____

Location _____

Local Number _____

Location of Program _____

Dates of Program _____

1. How valuable was this training program for you?

2. Was this training program the right length?

3. How long do you think this program should be? _____ days.

4. Did you find the videotape presentations useful?

5. Were the facilities adequate?

6. Did you find the Stewards Resource Manual useful?

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Communications Workers of America, AFL-CIO, CLC
501 Third St., NW
Washington, DC 20001-2797