

Stewards

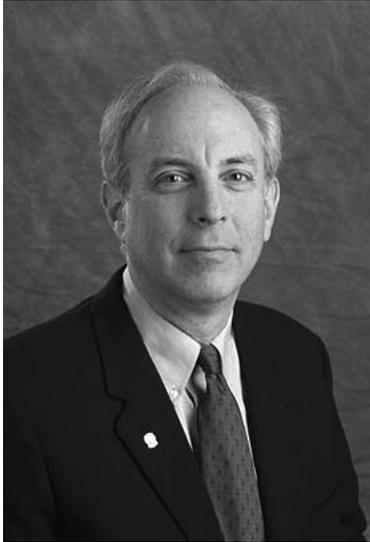
Resource Manual

Communications Workers of America



**District 7 Informational Picketing
for Justice at AT&T**

President's Letter



Dear Stewards:

Congratulations on becoming a CWA steward. You are joining thousands of other activists across the country who are committed to improving the work lives of their co-workers. Leaders like you, who are willing to build unity and fight for what's right in the workplace, make our Union strong.

Being an effective steward is about motivating workers in your area to identify and resolve workplace issues. It's about keeping other members informed and listening to their concerns while also educating and mobilizing them to action. Together, we demonstrate the power in our Union because we are the union.

Three years ago we launched our stewards army, mobilizing not only around contract issues but also critical issues like health care reform and bargaining and organizing rights. Stewards education continues to advance not only with this manual and training but with support from the Strategic Industry Fund on industry and national campaigns. The CWA steward is the center of our union's strategy.

Every CWA victory is a result of thousands of activists and members who stand together in solidarity for what they know is just. Every day we must defend what's been won and build the Union stronger for a better tomorrow. It will take a movement to make sweeping change; your role is part of that change and essential to the future of the Labor Movement.

In Solidarity,

A handwritten signature in black ink, appearing to read 'Larry Cohen'. The signature is stylized and fluid, with a large loop at the top and a long, sweeping tail.

Larry Cohen
President CWA



District 4 Members Meet with Senator Debbie Stabenow

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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.

With Co-Workers

You can also utilize the materials in this manual in your one-on-one contacts with co-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 Employee’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 his/her leisure.

Goals of the Training

Upon completion of the course new stewards should:

- 1.** Understand the role of unions and the environment in which we bargain
- 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.** Understand the grievance procedure, time limits, what constitutes a legitimate grievance and how to write a grievance



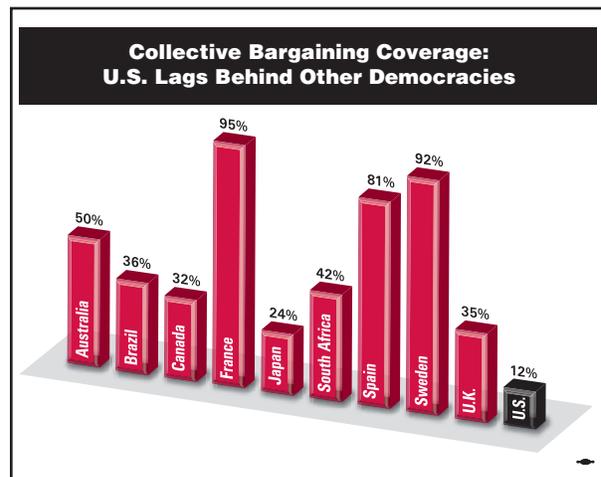
AFA-CWA Lobbies to be Covered by FMLA

CHAPTER ONE:

The Role Unions Play

The Role Unions Play

1. What do workers want and need from their jobs? (Give four examples)
2. Why is a union (as compared to an individual worker) more effective at obtaining the needs listed above in question # 1?
3. What groups oppose unionization and work to decrease the percent of workers in unions and covered by collective bargaining agreements in the U.S. How do these groups benefit from having fewer and fewer workers in unions and covered by collective bargaining agreements?



4. What factors contribute the most to CWA's strength at the bargaining table?
Select three from below that you think are most important and explain why you choose them.

Factor

(✓) Top Three

- 1. Employer profitability
- 2. Percent of workers in the industry unionized and covered by collective bargaining agreements
- 3. Good relationship with employer
- 4. Skilled and aggressive union negotiator
- 5. Percent of workers in the company unionized and covered by collective bargaining agreement
- 6. Membership mobilization/solidarity
- 7. Employer's ability to move work
- 8. Non-union competitors
- 9. Union-busting law firms
- 10. CWA Strike Fund
- 11. CWA Strategic Industry Fund
- 12. Political support from elected officials for union's bargaining goals
- 13. Health care crisis

Differences Between a Union and Non-Union Workplace

We sometimes take for granted the protections the union provides for us on the job, and the difference a union can make in the way we are treated at work. Sometimes it's worth reminding ourselves, and others, what things would be like without a union.

Union	Non-Union
<ol style="list-style-type: none"> 1. Your wages, benefits and working conditions are protected by a legal contract. 2. The contract spells out how much everyone earns. 3. The union negotiates raises for everyone. The members vote on the settlement. If they think that it is not a fair settlement, they can vote it down. 4. If you are disciplined for something you didn't do, the union will defend you. 5. If you do a good job and are in line for a promotion, you will get it. 6. If you don't like something at work, you can work to change it. 7. Vacations, shifts, layoffs are based on seniority. 	<ol style="list-style-type: none"> 1. Management can change wages, benefits, working conditions whenever they want. 2. No one knows how much anyone else earns. 3. If you want a raise, you have to beg for it or kiss up to the boss. 4. If you are disciplined for something you didn't do, you are on your own. 5. Promotions can be handed out on any basis—friendship, loyalty, etc. 6. If you don't like something at work, your only option is to quit. 7. Vacations, shifts, layoffs can be based on the bosses' desires.

CWA at a Glance

Beginnings The Communications Workers of America (CWA) is a young union—it was founded in New Orleans in 1938. First known as the National Federation of Telephone Workers, the union became the Communications Workers of America in 1947. CWA joined the Congress of Industrial Organizations in 1949 and has been an AFL-CIO affiliate ever since the 1955 merger of the two labor groups.

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

Composition CWA members are employed in telecommunications, the airlines, printing and news media broadcasting, public service, health care, cable television, general manufacturing, construction, gas and electric utilities and other fields.

Geographic Spread

There are more than 1,200 CWA chartered local unions throughout the U.S., Canada, and Puerto Rico. CWA members live and work in more than 10,000 different communities.

Collective Bargaining

CWA holds over 2,000 bargaining agreements that spell out wages, benefits and working conditions for its members. Among the largest employers are AT&T, Verizon, NJ State Workers, Qwest, United Airlines, GE, the Canadian Broadcasting Company, Disney/ABC, NBC, major newspapers, and universities.

Union Democracy

CWA holds annual conventions and District/Sector meetings. Elected rank-and-file delegates attending CWA conventions are the union's highest policymaking body.

Legislative/Political

CWA's legislative and political program supports the election of worker-friendly politicians and the passage of laws that benefit workers and their families. CWA also is in the forefront of legislative initiatives to maintain fair wage and job laws, improve workplace safety and health, strengthen workers' rights, retain good-paying, high-skilled jobs in America and improve the lives of America's working families.

Around The World

CWA maintains close relations with counterpart unions in Asia, the United Kingdom, Europe and Latin America. CWA has taken a leading role in working with unions on global issues and organizing worldwide actions to monitor global development and investment in telecommunications and other industries.

The CWA Triangle

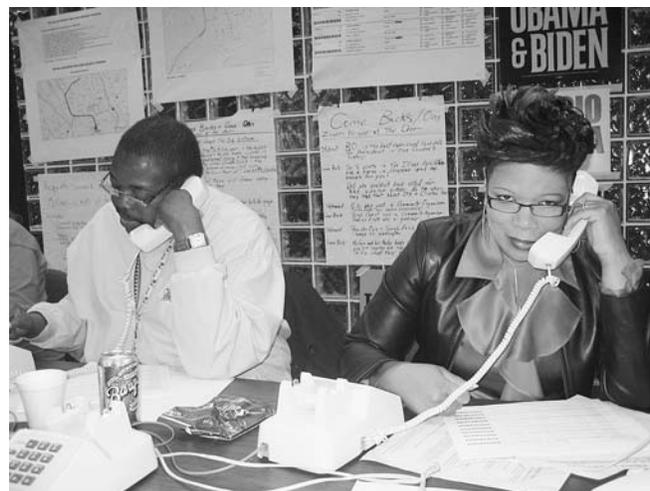


The triangle symbolizes the three major programs of the union. We need all three programs to be effective in order to accomplish our goals and maintain our standard of living. Representation—day to day contract administration and collective bargaining—is the base of the triangle. Yet the other two sides—organizing 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 in our industries

and sectors—we will be disappointed at the bargaining table. Similarly, unless we have effective political action programs, we will not have the kind of legislative support we need to bargain effectively. In fact, we will have more and more anti-worker legislation proposed and pushed by corporations.

Organizing is a key to increasing the power of working families. CWA's organizing strategy relies on strong working committees who are supported by staff and resources from the international union. Our four fundamental goals (good jobs, universal health care, retirement security and collective bargaining and organizing rights) require legislative and **political** power.

The primary purpose of a union is **representation** on the job. It 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.



**District 13 Election Phonebank
CWA Members to Get Out the Vote**



Newspaper Guild members from several midwest locals, attending a district council meeting in St. Louis, chalk their sentiments about contract talks with the St. Louis Post-Dispatch on the sidewalk in front of the newspaper's offices (photo by David Carson, St. Louis Newspaper Guild)

CHAPTER TWO:

The Union Structure

CWA Structure

- Convention** The Convention is the highest governing authority of the union. 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:
President
Secretary-Treasurer
Executive Vice President
Sixteen Vice Presidents:
Eight District Vice Presidents and
Eight International Vice Presidents for:
Communications and Technologies
Printing, Publishing and Media Workers
Public, Health Care and Education Workers
Telecommunications
AFA-CWA
IUE-CWA
NABET-CWA
TNG-CWA
Four at-Large Diversity Board members
Canadian Director
- Districts** CWA is structured into eight geographic Districts and a Canadian Region. Each District has a District Vice President and Staff. The Canadian Region has a Canadian Director and staff.
- Merger Partners** Over the years a number of unions have merged with CWA and become Sectors/Division. They are:
PPMWS-CWA Sector
NABET-CWA Sector
TNG-CWA Sector
IUE-CWA Division
AFA-CWA Sector

Chartered Locals

CWA has more than 1,250 chartered local unions in the United States and Canada.

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, NY	DISTRICT 7	DENVER, CO
DISTRICT 2	BOWIE, MD	DISTRICT 9	SACRAMENTO, CA
DISTRICT 3	ATLANTA, GA	DISTRICT 13	PHILADELPHIA, PA
DISTRICT 4	CLEVELAND, OH	Canadian Region	OTTAWA, ON
DISTRICT 6	AUSTIN, TX		



Union Dues

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 is what 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 international union offices in the United States and Canada. These staff provide 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.

Strategic campaigns to protect our jobs and standard of living using the Strategic Industry Fund.

Organizing to help new members join the union and protect our standard of living.

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

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

Educational programs and publications for union officers, stewards, and members including CWA's online education courses offered through cwanett.org.

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

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

Website development and maintenance including assistance with Local union websites.

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.

How each dues dollar is allocated*



53 cents

Local Unions. Supports more than 2,000 local union offices covering the cost of representation on day-to-day problems; organizing; members' grievances; training programs; local union publications and communications; participation and support for local union members during negotiations with management; and the CWA Defense Fund which supports strike and mobilization efforts.



11 cents

Members' Relief Fund. This fund (supported by dues from CWA members with the right to strike), provides financial support to members who are on strike or locked out by their employer.



36 cents

International Union. Programs, services and assistance provided to members by CWA international headquarters and district offices, including 200-person professional field staff, collective bargaining assistance, organizing support, legal assistance, mobilization campaigns, government relations and community action, communications, education, research, health and safety, and governance and administration.

** This breakdown is representative for members with collective bargaining rights and the right to strike. For members without the right to strike, the Local Union-International Union breakdown is 60% /40%.*

Who Decides How Much Dues We Pay?

Only CWA members can decide our dues structure. The national CWA dues rate for members is set at 1.3 percent of base wages. The elected convention delegates have set the per capita dues to the international union at less than one-half of one percent (0.46%). 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%).

Your Local Union Structure

Local Number

- 1. Membership** Our Local represents _____ workers in:

- 2. Stewards Army** We have approximately _____ trained representation stewards.
We have approximately _____ mobilizers/activists in Stewards Army.

- 3. Local Committees** Our Local has _____ functioning committees.

- 4. Local Executive Board** There are _____ members on the Local Executive Board.
The Board members are elected every three years by the membership.

- 5. Bargaining Units** There are _____ different bargaining units in the Local.

Local Committees

Committee	Chairperson	Meeting Date
1. Organizing	_____	_____
2. Education	_____	_____
3. Legislative/Political	_____	_____
4. Community Service	_____	_____
5. Women's	_____	_____
6. Equity/Civil Rights	_____	_____
7. Safety and Health	_____	_____
8. _____	_____	_____
9. _____	_____	_____
10. _____	_____	_____



IUE-CWA Local 201 Rallies for Healthcare

CHAPTER THREE:

The Job of the Steward

Your Job as Steward: Organize and Problem Solve

1. What the Steward Does

What is the Steward's job in the workplace?

2. What Materials/Documents the Steward Needs

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

3. What the Steward Must Know

What must the Steward know to do a good job?

4. What is the Stewards Army?

Steward's Role within the Local Union

Steward's Relationship to Local Union Officers, Bargaining Committee and Co-Workers

Local Union • Listen to workers.

Officers Need • Identify and get others to identify and help solve workplace problems.

Stewards to: • Tell Local officers 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 worksite meetings.
- Ask for advice, assistance on problems or contract interpretation when necessary.
- Keep the 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 to 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 workgroup informed of progress during bargaining.

The Job of the Steward

**What the
Steward
Does:**

- Builds the union on the job.
- Solves workplace problems.
- Gets members involved in identifying and solving workplace problems.
- Keeps members informed.
- Enforces the contract.
- Signs up new members.
- Attends steward 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.

**The
Steward's
Responsibilities:**

- 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 and evaluates employee problems; tries to resolve on informal basis.
- Reports back to employees to keep them informed regarding status of their problems.
- 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.

**Your First Assignment as Steward—
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 workgroup 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. This can only be done if the steward has built solid relationships. A key phrase for an effective union steward is “know your co-workers.”

Remember, you are seen as a spokesperson for the local. Your fellow union members rely on you to explain the contract and get their message to the local's officers and the officers rely on you to let them know what the members in the workplace are concerned about.

Your local is there to support you—with contract enforcement, mobilization, and arranging training. 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/Cell/ Home Phone	Member?	E-mail
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				
11.				
12.				
13.				
14.				
15.				
16.				
17.				
18.				
19.				
20.				

Welcoming New Workers

First impressions are lasting. When a new worker arrives at a job site, their introduction to the union should be a pleasant one. As a steward, you should be able to conduct new worker orientation. The orientation should be conducted as soon as possible after hiring.

What You are Trying to Achieve

At the end of the orientation you want the new employee to:

Be aware that CWA represents them.

Understand that wages, benefits and working conditions are a result of negotiations between the union and the employer.

Fill out and sign a membership card and become a CWA member.

Know a friendly face he or she can come to with questions or problems.

Orientation of New 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 supervisor is like. Invite him/her to have lunch with you. At lunch, give him/her 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

The orientation should be broken down into four simple parts:

- 1. Introduce yourself.** Put the new employee at ease. Find a quiet place where you and the new employee can sit down and talk. If there is more than one worker in the orientation, make sure you engage each in conversation. (If it is a large group this will not be possible.) With large groups it is especially important that the new workers leave the orientation knowing who in CWA they can contact one on one with questions.
- 2. Give the new employee a copy of the union contract.** Briefly explain the sections on vacations, holidays, wages, and health care and let them know the union negotiated these wages and benefits. Don't cover the grievance procedure in this first meeting. Remember, the new worker hasn't been there long enough to be mad at management. They are probably feeling pretty grateful to have a good job. Do not make a big deal out of management problems.
- 3. Ask the new worker to sign a membership card for CWA.** Explain that workers need an organization, in order to have a voice at the workplace. The union is basically a volunteer membership organization, and like any other membership organization, our strength and power is based on the membership. Let the worker know how proud you are of what has been achieved and how many years of bargaining it's taken the union to obtain what we have. Explain that membership entitles them to be able to vote on their contract, elect officers and run for office. Tell them how much their dues will be, and what the money is used for: educating members and stewards on how to resolve problems, processing of grievances, newsletter expenses, legal representation when necessary, and a lot of other things.
- 4. Follow up in a couple of weeks with the new employee and ask him/her how things are going.** Take the opportunity to invite the new member to the next union meeting. You may want to review the grievance procedure or at least let him/her know his/her rights to union representation at all disciplinary meetings, so he/she knows if he/she has a problem with management he/she should call his/her steward.

Tips for One-To-One Contacts

1. Introduce yourself.
2. Make eye contact.
3. Contact at the right time—do not contact employee during normal work hours—catch them during a break, lunch, before or after work,
4. Be yourself—smile, relax, speak like you would normally speak.
5. To break the ice have some piece of information to give the worker.
6. Be polite—if a 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.
9. Listen—listen to what the worker says. It will give you insight into his/her particular concerns and objections. Sometimes the best way to convince a person is just by listening and letting him/her know that the union cares about what he/she has to say.

Active Listening for Stewards

Active listening takes place when a listener makes a direct 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.	Conveying interest in speaker and his/her message.	Eye contact, affirmative nodding, facing speaker.
2. Use noncommittal words, not agreeing with or disagreeing with speaker.	Encouraging speaker to continue talking without interference.	<i>"I see."</i> <i>"Uh-huh."</i> <i>"Interesting."</i>

3. Ask questions: Who?
What? When? Where?
Why? How?

Gathering additional
information.

“When are they going
to install the new machines?”

Helping speaker explore
all aspects of an issue
or concern.

“How did the other workers
respond to the new policy?”

4. Respond both with
content and feeling to
what speaker is saying.

Showing 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.”*



**Registered Nurses from the
Kimball Medical Center Take
Their Fight for a Fair Contract
to the Streets**

CHAPTER FOUR:

The Contract

Employers Don't Just Give Wage Increases, Vacation, Employment Security, etc.

	Contract Item	Year Achieved	Job Action
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____
4.	_____	_____	_____
5.	_____	_____	_____

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; Page 26, Section IV, Article 5, and so on, as he/she handles questions or 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 members do not understand the contract is simply because they have not had the opportunity to go through the process of handling contract problems day after day. Just reading the contract (which most of them do not do anyway), would not give them an understanding of the contract.

Importance of Collective Bargaining

Collective bargaining is the most important right union workers have to increase their standard of living and gain a voice in the workplace. Without a union and collective bargaining wages, benefits and work rules are left to the whim of the employer. One worker, no matter how skilled, is no match for the power of an employer. The power and clout which comes from all the workers bargaining together balances the power of the employer in negotiations.

The National Labor Relations Act (NLRA), enacted in 1935, established the right of workers to collective bargaining.

NLRA Section 7:

“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.”

Once the NLRA was enacted, corporations argued that the law was unconstitutional and took their case all the way to the Supreme Court which in 1937 upheld the constitutionality of the law stating:

“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 percentage of workers in the United States covered by collective bargaining agreements has declined dramatically over the last 20 years. About 7 percent of private sector workers currently enjoy a union contract compared to 35 percent in 1948. The rate of collective bargaining coverage in every other industrial nation is substantially higher than in the U.S. The decline in collective bargaining coverage is a result of a concentrated and lengthy attack on workers' rights by U.S. corporate and political interests that want to consolidate their own power at the expense of middle class families.

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 15 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 10 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 50 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 13 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 14 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? _____



**CWA Members in Puerto Rico
Protest the Newspaper *El Vocero*,
for Dismissing 107 Workers in
the Circulation Department**

CHAPTER FIVE:

Steward's Rights and Employee's Rights

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, 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 NLRA protects stewards who are punished or disciplined because they file 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 Standards

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 NLRB, “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 violates 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 troublemaker.
- 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 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.

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 decided 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' rights to union representation during investigatory interviews vary from state to state.



**Members of Local
6222 Mobilize for
AT&T Contract Fight**

TO THE STEWARD: Educate your co-workers on their right 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.

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

1.

2.

3.

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

CHAPTER SIX:

Problem Solving/Grievances

1. What are the characteristics of a positive organization?
2. What is the purpose of the negotiated grievance procedure?
3. What do workers in **non-union workplaces** do if they have a grievance?
4. What can be the result, over time, if the contract is being violated and no one ever grieves the violation?

The Two Basic Kinds Of Grievances: Discipline & All Others

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. Disciplinary Grievances

Characteristic

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

Steward Must:

- Determine if there was just cause for discipline (see page 46)
- Determine if progressive discipline was used
- Determine if disparate treatment exists
- Weigh years of service and past record
- Determine if discipline imposed was too harsh (see page 56)
- Review Arbitrators Guidelines for approaching disciplinary grievances (see page 57)
- Get facts to support position—five W's

2. All Other Grievances

Characteristics

- Union or employee initiated
- Union has burden of proof

Steward 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

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.

Video: Handling Grievances

- 1.** What did Mr. Adair say is the most important information to get in the meeting with management?
- 2.** What is the main goal of the initial meeting with management?
- 3.** What did Mr. Adair suggest stewards prepare before meeting with management?
- 4.** What are the two kinds of grievances? (See information in this chapter).
- 5.** What does 'just cause' mean? (See information in this chapter).
- 6.** What did he say about the phrase 'work now grieve later'?

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/her 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 there is a decision to discipline.
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.

Steps for Resolving Workplace Problems/Grievances

Step 1. Identify the Problem

Describe the problem in one sentence.

Step 2. Get All the Facts—the 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?

Is it a grievance?

Yes, (Go to Step 4)

No (Go to Step 5)

Step 4. What Kind of Grievance Is It?

I. If it is a Disciplinary Grievance, ask yourself the following:

- a) What reason did management give? For discipline it is important to have exact wording.
- b) Was there "just cause?" (see page 46)
- c) Was progressive discipline used?
- d) Did disparate treatment exist?
- e) What were the years of service and past work record?
- f) Was the discipline imposed too harsh? (see page 56)

Note: Review guidelines that arbitrators use in discipline cases (see page 57)

II. If "All Other" Grievance, ask yourself the following:

a) Was any part of the contract violated?

Yes (What part) No

If Yes, how will you prove it?

b) Was past practice violated?

Yes No

If Yes, how will you prove it?

c) Was the worker treated differently from other workers who did the same thing?

Yes No

If Yes, how will you prove it?

d) Were any federal, state or municipal laws violated?

Yes No

If Yes, which laws?

e) Were any employer policies violated?

Yes No

If Yes, which ones?

Step 5. What Is the Solution/Remedy?

Step 6. What Action Will You Take Next?

Write/File grievance

Meet with management (have plan/questions)

Meet with co-workers

Hold informal meeting

Contact chief steward or local officer for assistance

Other

Exercise: How to Approach a Grievance

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

Read the following situations and determine which kind of grievance it is.

- 1.** A member tells you he just got suspended for three days and wants to file a grievance. What type of grievance is it? Why?
___ Disciplinary Grievance ___ Other Grievance

What key questions do you need to research?

(See page 48 step 4 of “Steps For Solving Workplace Problems”)

- 2.** Several members come up to you and complain that they never get offered overtime. They tell you the supervisor always gives all overtime to the same three workers. What type of grievance is it? Why?
___ Disciplinary Grievance ___ Other Grievance

What key questions do you need to research?

(See page 48 step 4 of “Steps For Solving Workplace Problems”)

- 3.** A member says she was bypassed for a promotion. She says a worker with less seniority got the job and she wants to file a grievance. What type of grievance is it? Why?
___ Disciplinary Grievance ___ Other Grievance

What key questions do you need to research?

(See page 48 step 4 of “Steps For Solving Workplace Problems”)

4. A member just got a final warning from management for something that was not his fault. He wants to file a grievance. What type of grievance is it? Why?
___ Disciplinary Grievance ___ Other Grievance

What key questions do you need to research?

(See page 48 step 4 of “Steps For Solving Workplace Problems/Grievances.”)

5. A member was fired today and she wants to file a grievance. What type of grievance is it? Why?
___ Disciplinary Grievance ___ Other Grievance

What key questions do you need to research?

(See page 48 step 4 of “Steps For Solving Workplace Problems”)



**CWA Members Rally
for Healthcare**

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 ____		Number of days to file ____
Who _____	Step I	Who _____
Written __ Oral __		Written __ Oral __
Number of days to file ____		Number of days to file ____
Who _____	Step II	Who _____
Written __ Oral __		Written __ Oral __
Number of days to file ____		Number of days to file ____
Who _____	Step III	Who _____
Written __ Oral __		Written __ Oral __
_____	Arbitration	_____

Special cases:

Reprinted from Institute for Labor Education and Research, New York

Short Problem Solving Situations—Discussion Questions

Read Each Situation And Answer The Questions That Follow

1. Tyree Lewis, a member of Local 100, has been put on a final warning status for “Low Sales Quotas.” He contacts his steward, Marilyn Jackson, who tells him, “Don’t worry, your supervisor does that to everybody. It’s no big deal! I’ll take care of it, forget about it.” Tyree feels much better after talking to her. He knows the union will take care of everything.

Do you anticipate any problems Marilyn may 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? Why?

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

- 5.** Ed Ornerly, 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 doles 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 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 Morris, tells Betty that she's been taking too long on her breaks and she's been reported as leaving early. 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. Ralph says he's sorry but "orders are orders."

What appears to be the problem?

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

- 7.** Several of the workers on the third floor have come up to you recently complaining about glare on their computer monitors. 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 action(s) could you take to begin to solve this problem?

- 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 that section complaining that it's too hot to work. A couple workers say that they are feeling faint.

What appears to be the problem?

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

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.

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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?
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?

Fighting

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 the 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?

Subcontracting

The right of management to subcontract, in the absence of specific contract restrictions, has been the subject of numerous grievances. In earlier cases, arbitrators generally held that management had the right, if exercised in good faith, to subcontract work to independent contractors.

Later cases, however, have held that management's right to subcontract is not unrestricted but must be judged against the recognition, seniority, wage, and other such clauses of the agreement. Standards of reasonableness and good faith are applied in determining whether those clauses have been violated.

Arbitrators 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 lost 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 if the items are of relatively little value. However, arbitrators tend to modify discharge penalties where the value of the goods taken is small and the employee's 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.

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**Districts 1, 2 and 13 Rally at New York City
Verizon Headquarters for a Contract**

CHAPTER SEVEN:

Family and Medical Leave Act

What the Law States

- A.** A. The Family and Medical Leave Act (FMLA) is a federal law that allows eligible employees to take up to 12 weeks of unpaid leave in a 12-month period. This leave can be taken for:
1. Birth, adoption, or foster placement of a child.
 2. Care of a spouse, child, or parent with a serious health condition.
 3. The employee's own serious health condition—making the employee unable to perform his/her job functions. (Generally, a serious health condition is one that requires hospitalization, lasts for more than three days, or has been medically certified as an ongoing, chronic health problem that requires ongoing medical supervision and treatment.)
 4. Any qualifying urgent situation arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member who is on active duty or has been notified of an impending call or order to active duty in support of a contingency operation.
 - a. In the case of urgent leave, the son or daughter on active duty or on call to active duty status can be of any age.
 5. Caring for a covered service member with a serious injury or illness if the employee is the spouse, son, daughter, parent, or next of kin of the service member. This leave is also known as "military caregiver leave."
 - a. In the case of a "covered service member," the son or daughter can be of any age.
- B.** B. Although FMLA leave is unpaid, employees may use any accrued or unused paid leave for purposes covered by the law consistent with the employer's normal paid leave policies. Similarly, employers may designate certain types of paid leave as FMLA leave (ex: workers' compensation leave) if the basis for the leave falls within the categories covered by the law.

- C.** All employees who have 12 months of service and at least 1,250 hours within the 12 months immediately preceding the commencement of the FMLA leave are eligible, so long as the employer has 50 or more employees at the work location or within 75 miles of multiple work sites.
- D.** The leave can be taken consecutively or intermittently. Intermittent leave is intended to cover medical treatments required for a serious or chronic health condition, as well as periodic absences that may be caused by flare ups of a chronic serious health condition. An employer may not force an employee to take more leave than is medically necessary. Leaves during any year may be taken for many different reasons, as long as they all qualify under the FMLA.
- E.** Employers must continue to provide healthcare coverage to the employee while on FMLA leave under the same terms as when the employee was not on FMLA leave. Employee must continue to pay any portion he/she is responsible for.
- F.** FMLA does not require accrual of seniority during the unpaid leave for job bidding purposes, or for purposes of vesting in or eligibility for pension benefits or 401(k) benefits. (If the employee has substituted paid contractual leave, then seniority does accrue during the leave period.) If a pay increase occurs during the time an employee is out on FMLA leave, she or he must receive it upon returning to work
- G.** All benefits that were earned when the leave began (vacation, etc.) must be granted when the employee returns to work.
- H.** Time taken as FMLA leave cannot be counted under absence control policies and an employee cannot be disciplined for taking FMLA leave. (This is why it is extremely important to make sure that covered leaves are treated as FMLA leaves.) FMLA leave may also not be counted in determining eligibility for bonuses that the employee would otherwise be qualified to receive, including attendance bonuses.
- I.** An employee is entitled to be reinstated to the same job s/he held before FMLA leave was taken or to a job of equivalent pay, benefits, job duties, working conditions and status.
- J.** Employees must give their employers notice of their leave (but do not have to specify that they need “FMLA leave”), and will generally be required to provide medical certification to support the leave request.

- K.** When an employee has submitted a certification which is complete and sufficient, the employer can only contact the employee's healthcare provider for two reasons. Those reasons are "authentication" and "clarification."
1. Clarification means that the healthcare provider is being contacted so the employer can understand the handwriting or to understand the meaning of a response. The employer cannot ask the healthcare provider for any information other than what is required by the certification form.
 2. Authentication means the employer provides the healthcare provider with a copy of the submitted certification to check that the healthcare provider [or someone the healthcare provider authorized] who signed the form filled it out. The employer cannot ask for more medical information.
 3. The employer may have a healthcare provider, a human resources professional, a leave administrator, or a management official contact the employee's certifying health care provider. An employee's direct supervisor may not under any circumstances contact the employee's healthcare provider.
 4. Mary's son Martin is in the Army. Martin is also a single parent of a four year old girl. Martin receives orders that he will be deployed. He has several urgent arrangements to make in order to get his affairs in order before he leaves. Martin asks Mary to care for his daughter for three days while he gets his affairs in order.
 - a. Is Mary entitled to take exigency leave under the FMLA?
 - b. Why?
 5. Louise's nephew Stephen is in the Marines. Louise is Stephen's only living relative. Stephen fractured his leg while he was on active duty in Iraq. The Marines returned him to the United States for recuperation and therapy. Louise asked for intermittent leave to take her nephew to his scheduled doctor's appointments. The employer denied her request, because she was not his mother.
 - a. Was Louise entitled to take the FMLA leave she requested?
 - b. Why was she entitled to take the leave?
 - c. What would you advise Louise to do?
- L.** Once an employee has requested FMLA leave and submitted all necessary supporting documentation the leave request, the employer has five business days to notify the employee whether the leave is covered.

- M.** An employer may ask an employee returning from FMLA leave to provide a fitness for duty certification IF all employees in the same job category and with the same serious health condition that made the employee unable to perform the job duties are asked to do so under similar circumstances. The employer can only ask for a fitness-for-duty certification for the condition for which the employee took FMLA leave.

- N.** An employer may ask an employee returning from FMLA leave to provide a fitness for duty certification IF all employees in the same job category are asked to do so under similar circumstances. If the employee's health care provider has certified that he/she can return to work, the employer is obligated to provide immediate reinstatement. The employer may not second guess the doctor's judgment.

- O.** An employer may not retaliate or discriminate against an employee for taking or seeking to take FMLA leave. If an employee is disciplined for FMLA-protected absences, refused benefits or treated adversely because of FMLA leave, there are several remedies available:
 - 1. A grievance should be filed with the employer.
 - 2. A complaint may be filed by the employee or another person authorized to file on the employee's behalf with the U.S. Department of Labor (DOL) which enforces the FMLA.
 - 3. A private lawsuit can be filed by the employee.

- P.** If the employer violates the FMLA, the employee can receive:
 - 1. Lost wages, salary and benefits, plus interest.
 - 2. Reinstatement.
 - 3. Removal of disciplinary action or absence program steps.
 - 4. Attorneys fees, if litigation was filed.
 - 5. Double damages if the employer's violation of the law was willful or in bad faith.

- Q.** The FMLA is a floor, not a ceiling. If the collective bargaining agreement provides better benefits or coverage for absences, those benefits take priority over the lesser benefits in the FMLA.

Exercise—FMLA Situations

A. Jessica, a reservations agent, is having a difficult pregnancy. She fills out and submits the FMLA form, and receives approval for intermittent leave. The intermittent leave is needed because Jessica’s blood pressure goes through the roof periodically, and her doctor prescribes complete bed rest until it comes back down. So far, Jessica has taken four days (not consecutive) of approved FMLA leave to deal with this situation. On Tuesday, Jessica falls while at home and starts cramping. She goes to see the doctor, and he tells her to stay in bed until the cramping goes away. She calls the office on Wednesday to tell them she is taking FMLA leave. On Friday, she returns to work. During a normal conversation, she tells her supervisor about the fall. A few hours later, she hears from her supervisor, who tells her the two days she took off because of the fall was not covered under FMLA and had nothing to do with her high blood pressure. The two days get coded as vacation days. Jessica comes to you and says this is wrong, and demands to file a grievance. How do you handle this?

1. Has Jessica been approved for FMLA? ___ Yes ___ No
2. What is the “serious health condition” for the approved FMLA?
3. Why was Jessica denied FMLA time off for the Tuesday fall?
4. Does Jessica have a grievance? ___ Yes ___ No
5. What would be the best resolution to Jessica’s problem?

6. How can you make this happen?

B. Nick Nelson's wife is scheduled to have major surgery. Nick needs to be home to take care of his wife the week after her surgery. He fills out the FMLA papers, and returns them to his supervisor. Nick asks about the request every week, and is told that they have not returned from Human Resources. It is Friday, the surgery is in two days (Monday), and Nick still has not heard anything back. He goes to his supervisor, and is told that he will have to take vacation leave for the week. Nick is frustrated and angry. He comes to you and asks what can be done. How do you handle this?

1. Has Nick followed the procedure for requesting FMLA leave? ___ Yes ___ No

2. Can the employer deny leave to Nick because it disagrees with the doctor's medical certification papers? What should the employer have done here?

3. What would you advise Nick to do?

C. Andy Smith, a telephone installer, fell and injured his back while at work. He was off the job for two months and received workers' compensation during his absence. When Andy returned to work, his doctor recommended that he be given light duty for two to three months, and that he avoid sitting for prolonged periods of time. Andy never asked for FMLA leave because his employer did not provide him with any information about FMLA. When he returned to work, Andy's supervisor informed him that his job location was being changed, and that Andy would have to drive almost one hour longer each day to get to his new work location. When Andy complained, the supervisor told him that he should be glad he still had a job, especially now that his doctor was recommending "easy" work, because he did not think Andy was ready to return to duty. After several weeks in the new location, Andy's back problems worsened and he began missing work due to periodic flare ups. Andy's supervisor issued a warning after Andy missed four days in one month and, after another four days' of absence the following month, Andy was suspended for excessive absenteeism.

1. Is Andy's leave covered by FMLA? Yes No
2. Was the employer entitled to reassign Andy to a new location? Yes No
3. Does Andy have a grievance? If so, how would you frame the issue to be resolved?
4. What should Andy have done when he began having back flare-ups?
5. If Andy did not have 1,250 hours of work at the time of his back flare-ups, could the employer deny FMLA leave to him on that basis?

Yes No

Discuss



Local 2204 Members Who Work at the Virginia Relay Center for the Deaf Conduct an Informational Picket/Mobilization in Preparation for AT&T Bargaining

CHAPTER EIGHT:

What is the ADA?

The Americans with Disabilities Act (ADA) was passed in 1990. CWA and the AFL-CIO were main proponents of its passage. Since its passage, the ADA has come under major attack by business and its allies in Congress. The ADA, like the Family Medical Leave Act (FMLA) and the Occupational Safety and Health Act (OSHA), is a tool in the shop steward's tool box, not the ultimate answer to workplace discrimination.

The ADA prohibits discrimination in employment, public services, public and private transportation, public accommodations and telecommunications services. The ADA requires employers to provide "reasonable accommodations" to individuals with disabilities so that they are able to be hired, work and be promoted. The ADA covers private employers with 15 or more employees, employment agencies and state and local governments. The federal government is covered by the Rehabilitation Act. Note: The ADA does not cover people with temporary disabilities, minor illness or who are engaging in the illegal use of drugs.

The ADA is broken into four main sections reflecting the above mentioned areas:

1. **Title I: Employment.** This section is enforced through the Equal Employment Opportunities Commission (EEOC).
2. **Title II: Public Services and Public Transportation.** This section is enforced through the Departments of Justice (DOJ) and Transportation (DOT).
3. **Title III: Public Accommodations and Commercial Facilities.** This section is enforced by the DOJ and DOT.
4. **Title IV: Telecommunications.** This section is enforced by the Federal Communications Commission (FCC).

Who Are Individuals with Disabilities?

The ADA defines a person with a disability as an individual who:

- Has a physical or mental impairment (either obvious or hidden) that substantially limits one or more of a person's major life activities;
- Has a record of such an impairment;
- Is regarded as having such an impairment.

Some people are explicitly excluded from coverage, including:

- Those currently engaging in the illegal use of drugs (but those with a history of drug or alcohol abuse are covered, and an employer may continue to conduct drug tests on employees for illegal drugs).
- Those with transvestitism or transsexualism, and
- Those who have the conditions of compulsive gambling, kleptomania, or pyromania.

What is a “Reasonable Accommodation?”

A “reasonable accommodation” is any change in the work environment or in the way a job is performed that enables an individual with a disability to enjoy equal employment opportunities. There are three categories of “reasonable accommodations:”

- Changes to the job application process;
- Modifications to the work site or the way a job is normally performed to allow a qualified individual with a disability to perform the essential functions of the job; and
- Adjustments that allow an employee with a disability to enjoy benefits and privileges of employment equal to those enjoyed by employees without disabilities.

“Reasonable accommodation” is defined in the ADA by examples. Some of the examples given in ADA are:

- Making facilities physically accessible;
- Job restructuring;
- Part-time or modified work schedules;
- Reassignments to a vacant job;
- Acquisition or modification of equipment or devices;
- Adjustment or modification of examinations, training materials or policies;
- Providing qualified readers or interpreters; and
- Other similar accommodations.

These are only examples. They are not the only reasonable accommodations that may exist for a particular impairment or position.

Reasonable accommodations might include, for example, allowing an employee to nap on the job after a seizure or permitting a clerical worker to use the accessible executive bathroom.

Under the ADA there is only one exception an employer has for denying a reasonable accommodation. That exception is that the accommodation would cause an “undue hardship on the employer.” Undue hardship means “an action requiring a significant difficulty or expense” when considered under certain factors discussed in the ADA. However, the fact that a particular accommodation may create an undue hardship does not eliminate the employer’s obligation to reasonably accommodate an individual with a disability. The employer must continue to work with the employee to try to identify another accommodation that will not pose an undue hardship.

Examples of “Reasonable Accommodations”

The following examples of “impairments” are taken from the Job Accommodation Network’s (JAN) Searchable Online Accommodation Resource (SOAR). These are situations that many CWA members face at work:

- **Cumulative Trauma Disorders**
- **Sensitivity to Extreme Temperatures**
- **Back Conditions**
- **Vision Impairments**
- **Hearing Impairments**

The SOAR Database can take the member and union representative through a series of steps to determine possible accommodation for that impairment.

Here are two examples of impairments and “reasonable accommodations” for these impairments taken from the SOAR data base.

1) An outside telecommunications technician.

Situation

A technician in the telephone service industry used a hearing aid. The job duties included installing and repairing telephone lines, which included using a “butt-in” portable test phone that was attached to telephone lines being repaired. The test set interfered with the technician's hearing aid.

Solution

A “butt-in” test set equipped with an audio speaker was purchased that allowed the worker to test lines without having to place the test set against the ear. This device was also useful for workers NOT wearing hearing aids. In addition, the technician was provided with an amplified tone locator. Cost: \$200.

2) A maintenance mechanic.

Situation

A maintenance worker with rotator cuff syndrome was having difficulty reaching cleaning areas and moving cleaning supplies.

Solution

The employer replaced his tools with long-handled, pneumatic, and lightweight tools.

Note: Under the ADA each situation is evaluated on a “case by case” basis.

3) An office worker.

Situation

An office worker has bi-lateral carpal tunnel syndrome and cannot use the keyboard provided at work.

Solution

The technology has several components: noise-canceling input, a speech recognition engine, vocabularies, application interfaces, and rudimentary natural-language processing. (The JAN data base has several examples of this software.)

ADA True or False

1. In order to be covered by the ADA one has to have a visible disability. __ T __ F?
2. Once a “reasonable accommodation” is determined it always applies to the same disability. __ T __ F?
3. An employer can refuse to provide an accommodation saying that it costs too much. __ T __ F?
4. Disabilities such as “Carpal Tunnel Syndrome” are not covered under the ADA. __ T __ F?
5. The essential functions of a job are the key duties of a position. __ T __ F?
6. If the employer refuses to provide an accommodation, there is nothing that the union can do. __ T __ F?

(answers on next page)

Sources

1. Communications Workers of America. *ADA: What You Need To Know*.
2. Council for Disability Rights. "The Americans with Disabilities Act: Frequently Asked Questions."
3. Job Accommodation Network's (JAN). "Searchable Online Accommodation Resource (SOAR)."

True or False Answers

1. False
2. False
3. False
4. False
5. True
6. False



**Local 3511 Celebrates a Victory
at the AT&T Mobility Call Center
in Jackson, Mississippi**

Writing The Grievance

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 scale
- 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** Briefly state why complaint is a grievance (or nature of the grievance)
- 5. What** "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) "Reimbursement with full back pay and benefits with no loss of seniority"; (general remedy) "Make grievant whole in every way, including but not limited to. ..."

Nine Points on Writing a Formal Grievance

Point 1. Limit Details of 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, its 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 by Terrence F. Connors



NABET-CWA Rallies in Chicago for a Contract

CHAPTER TEN:

Grievance Meeting With Management

Exercise—Preparing for Meeting with Management

You have a grievance meeting with management in two days. Your initial informal meeting with management did not resolve the matter. Below are the facts you have collected. Using the facts set out below answer the questions which follow.

I. Facts of Grievance #1:

- This is a disciplinary grievance. The employee was suspended for 3 days for an accident in a company vehicle. The accident caused minor damage to the front of the vehicle (a bucket truck) and to the other car.
- No one was injured. The police did come to the scene.
- Grievant has 10 years service with a good work record; he did have a minor accident in company vehicle 3 years earlier but a warning letter was removed from the grievant's file in settlement of grievance. No previous discipline appears in his file.
- Grievant had finished a job and was driving back to his work location at the time of the accident.
- Conditions were not good; it was snowing and the roads were starting to freeze.
- The grievant hit the car in front of him when the driver stopped at a stop sign. The grievant tried to stop, pumping his brakes but the brakes locked and the vehicle slid into the car in front causing some minor damage.
- Police arrived and did not charge either party in the accident saying it was due to weather.
- Company says grievant had been trained in defensive driving tactics, therefore, he should have known how to avoid the accident by using the six second rule. Management cites him for failing to follow safety rules.
- Company rules require an on site investigation of accidents by management. You asked for report but have not received it.

Tips for Discussion 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.
- 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 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.

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



Penny Leytem, CWA Local 9400, joins other CWA Members in Oakland, CA Protesting Comcast's Anti-worker, Anti-union Treatment

CHAPTER ELEVEN:

Public Workers and the Law

Since state and local government workers were excluded from the NLRA 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 Workers' 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 counter to 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, 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.

- 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 NLRB, to administer the act.

CWA Public and Health Care Workers Sector

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



CWA'ers Lobby Congress

CHAPTER TWELVE:

Mobilizing

The Role of Stewards and Stewards' Army

Stewards have been the backbone of CWA since its early beginnings. More recently, however, CWA created a “Stewards Army” of rank-and-file activists to mobilize for positive change within our industries and communities. There is an overlap between your work as a Steward and the Stewards’ Army activist. Both roles can require educating workers about issues, and turning out to workplace actions, rallies, and other events. The Steward, however, has the additional responsibilities of knowing the contract and handling workplace grievances and problems.

Dear CWA Officers and Activists:

When we wrote the mobilization resolution adopted at the 1988 CWA Convention, I could not have imagined the amazing work done since by locals all over the country on campaigns ranging from first contracts to health care cost shifting fights, to plant closings, state budget cuts, regulatory issues....

The dedication and commitment to membership education and mobilization in CWA locals is unparalleled in any other union. In CWA, we truly believe that our members, at their worksites, are our strength and the source of our power and we show it in our actions every day, somewhere in this great union—and we are a stronger union because of it.

The CWA mobilization program is recognized and respected in the labor movement, both in this country and internationally. We must continue to stay focused on the basic components which we talked about in 1988, and that are just as important today: (1) worksite structure; (2) information and education; and (3) collective action

In Solidarity,
Larry Cohen

Why Mobilize?

CWA, like most unions, was organized on the basis of member involvement. Fundamentally, a union's power at any point in time is nothing more than the total energy and support of its members who can be mobilized.

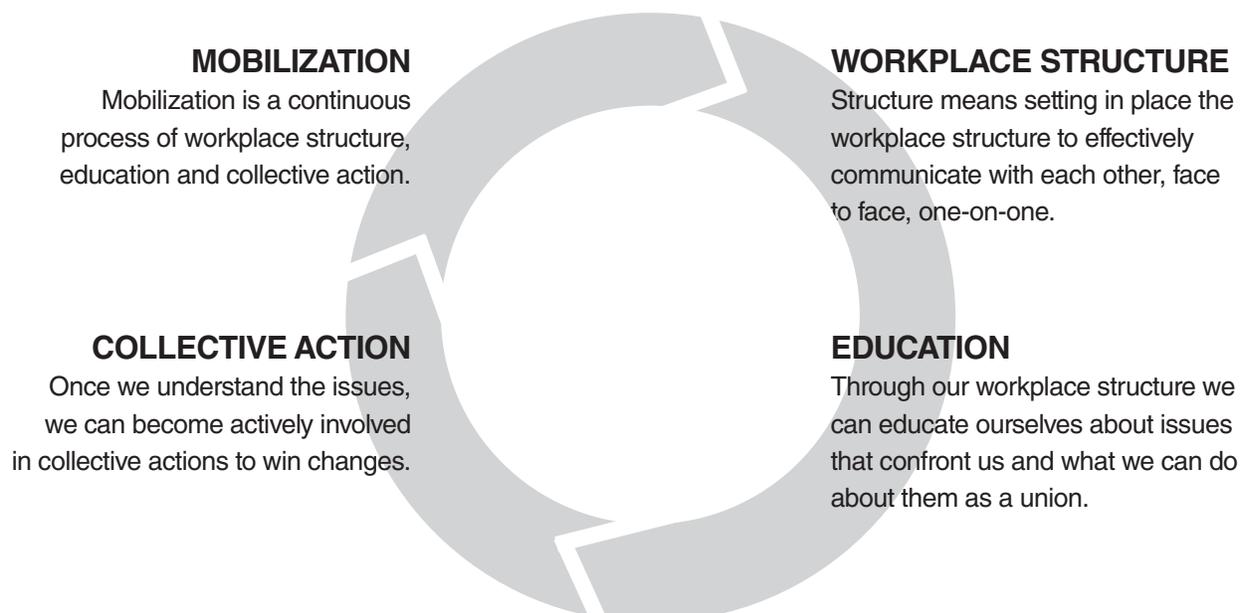
Yet, during the last few decades there has been an increasing tendency to view "individuals" (experienced, bright union leaders) as the problem fixers. We became too reliant on the union negotiator, the chief steward, or the local president to solve our problems. We can no longer rely solely on grievances, arbitrations or labor laws to achieve workplace justice.

The basic premise of mobilization is that we must return to our roots and commit to a strategy that rests on increasing our power through membership education and involvement.

Mobilization of our members is the strategy for achieving our three major goals.

- 1.** Contract negotiations and enforcement, and resolution of workplace issues;
- 2.** Effective community and political action; and
- 3.** Organizing new members into new bargaining units and building our membership in current units to increase our power through additional members.

These goals make up the sides of the CWA Triangle: representation, community/political action, and organizing. Each side must be strong to support the others. Conversely, a weakness in one side weakens the others.



What is Mobilization?

Mobilization is an information/action program which allows every member to play a positive role in improving working conditions and building a strong voice at work or in their communities. Mobilization allows us to systematically, through a structure, educate members on issues and to achieve a high level of participation in collective actions. The issues can be at the workplace or in society as a whole (the broken healthcare system, for example). The foundation of mobilization is the workplace structure that allows the union to communicate one-on-one, worker-to-worker, with every single member in a short period of time. Without a good structure, you won't be able to do one-on-one effectively, and without one-on-one, you won't get high participation in collective actions.

Mobilization is a continuous process of:

1. Structure (in workplaces)
2. Education/Knowledge
3. Collective Action

STRUCTURE: Every local should have a Local Mobilization Coordinator, a Building Mobilization Coordinator for each workplace, and a Work Group Mobilization Coordinator for every 20 members.

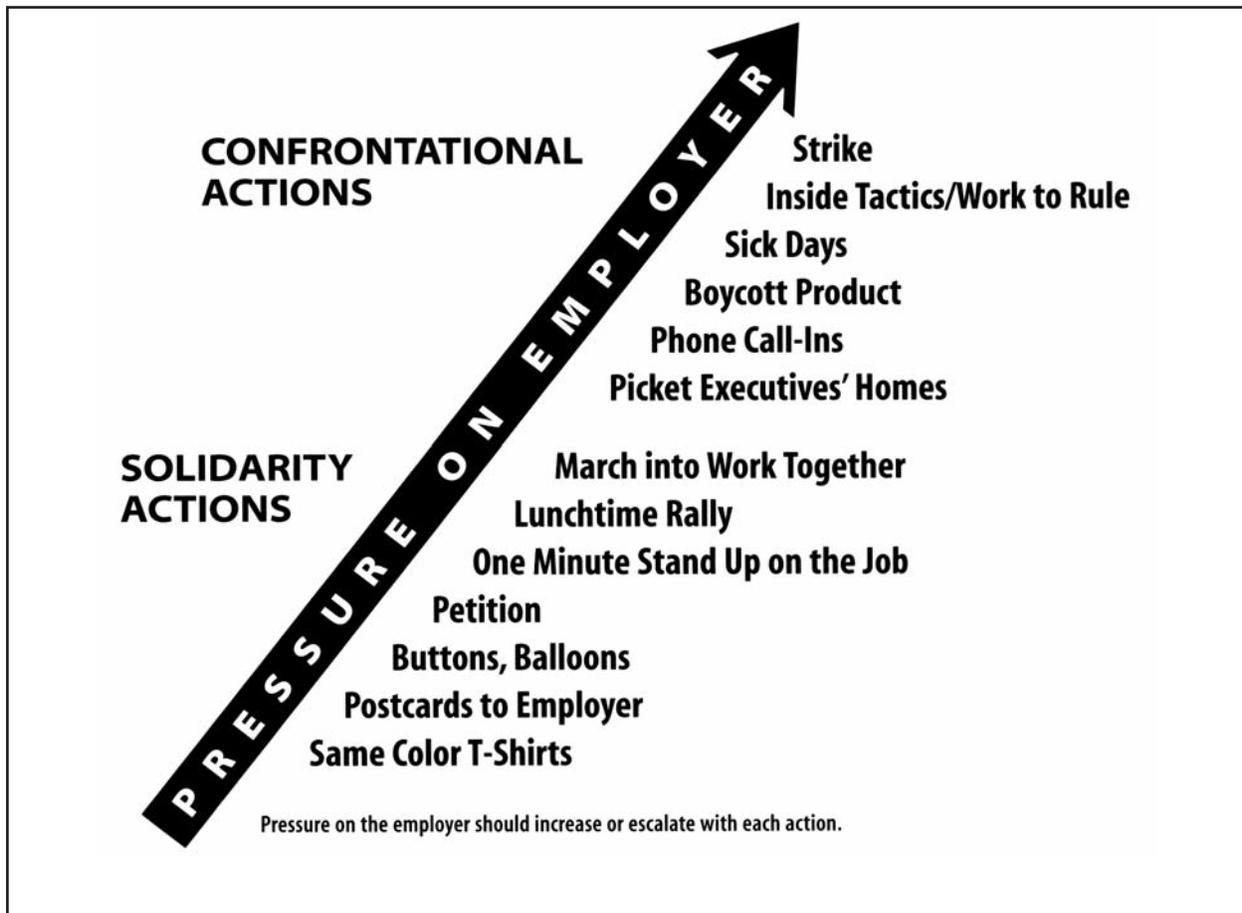
LOCAL MOBILIZATION STRUCTURE CHART



Note: Every work location must have a Building Mobilization Coordinator. In work locations with only a few workers (10-20), there is no need to have a Work Group Mobilization Coordination—the Building Mobilization Coordinator can do the one-on-one contacts.

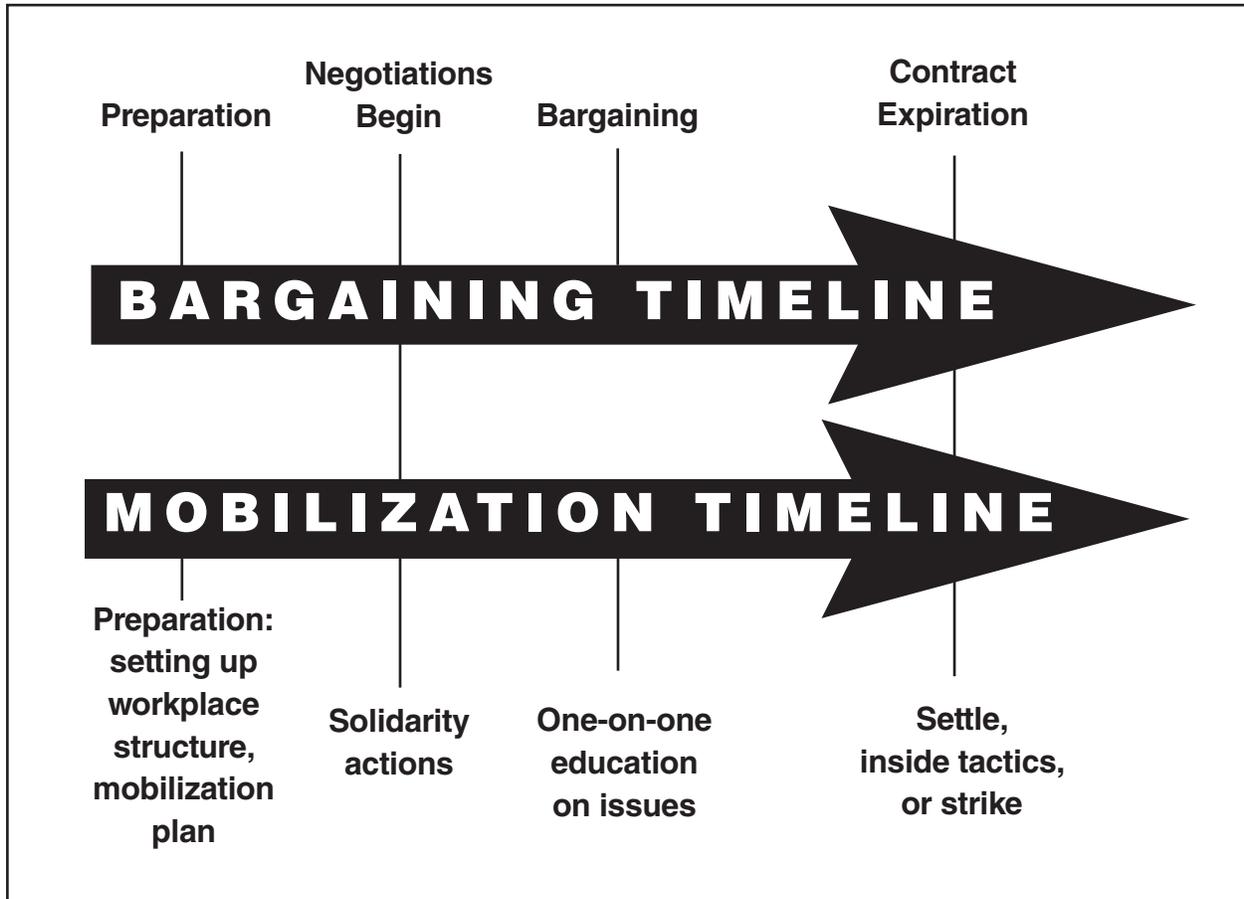
EDUCATION/KNOWLEDGE: Education is a vital component of mobilization. The reason is simple: if workers don't understand the issue or how it affects them, they will be less willing to get involved in workplace actions. When considering this, lunchtime meetings, flyers, and informational e-mails can be very helpful. Keep the communications straightforward and be clear about what you want workers to do with the information.

COLLECTIVE ACTIONS: Collective actions can be anything from wearing red to hand-billing major customer, attending stockholder meetings or more. Collective actions build on the one-on-one education and issue information. They give members a chance to do something visible on the issue, to send a message, or to take a stand. While there are many different types of collective action, the graphic below illustrates how actions can escalate in a campaign to get a contract.



How Do We Mobilize for a Good Contract?

Collective bargaining is a power relationship. The unity of our membership is the most important source of power we have as a union. **Contract mobilization is based on the truth that good contracts are won in the workplace, not merely at the bargaining table.**



Good planning and effective communications are key to successful contract mobilizations. Preparation for mobilization should begin several months before contract talks start. Building the structure is the first critical task. Then, once bargaining begins, it is vital that the Local Mobilization Coordinator and the Bargaining Committee remain in constant contact throughout the bargaining process in order to mobilize effectively.

CWA Education Department

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