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Breathing Easier

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Ten years ago September 11, millions watched as the twin towers of the World Trade Center collapsed under terrorist attack. Air samples taken in the weeks and months that followed revealed that the mushroom of dust that covered Lower Manhattan contained elevated levels of sulfur, silicon, titanium, cadmium, and nickel. Many samples also showed asbestos and fiberglass. This unprecedented contamination and its harrowing effects have raised public awareness about air quality, but most people in the U.S. and Canada are surprised to learn that indoor air pollution in buildings throughout North America is often worse than pollution outside.

U.S. Environmental Protection Agency (EPA) studies of human exposure to air pollutants indicate that indoor air levels of many toxic substances may be two to five times — and, occasionally, more than 100 times — higher than outdoor levels. Since it's estimated that most people spend as much as 90 percent of their time inside their workplace, home or school, there is good reason for stewards to become familiar with pollution sources and how to help co-workers breath easier.

Recognize Symptoms

Stewards should be familiar not only with the sources of indoor air problems, but with the health symptoms that can result from exposure, since it is likely that if one worker is sick from polluted indoor air, others are likely to follow. Among the common symptoms and illnesses are: eye, nose, throat, and upper respiratory irritation, rashes, chills, fever, cough, chest tightness, congestion, sneezing, runny nose, muscle aches, asthma and pneumonia.

When the cause of symptoms is hard to trace, the phenomenon has been labeled "sick building syndrome."

There are two types of contaminants at play indoors: manufactured products, like carpets, light fixtures, cleaning fluids, copy machines and the glue in wood furniture; and biological contaminants, like mold, pollen and bacteria, that result from water damage to roofs, ceilings, walls, floors and furnishings.

Laws and regulations are not much help in solving indoor air quality problems. There is no federal OSHA standard regulating indoor air, and New Jersey is the only state with a standard — and it's limited to the public sector. In Canada, provincial enforcement agencies have had limited success in using a "general duty clause" to cite employers for failing to ensure healthy indoor air, but there is no specific standard.

Whether a manufactured product or biological contaminant, the overall approach to improving air quality remains the same:

- Ensure an adequate supply of outside air.
- Eliminate or control known and potential sources of chemical and microbial air contamination.

What can stewards do? First, they can document health and building problems:

- Review the employer's OSHA-required Log of Injuries and Illnesses.
- Conduct a survey of workers to determine common symptoms and how many workers are affected, as well as when, where and how they are exposed.
- Review building operations and maintenance procedures to determine the chemicals being used.
- Determine if new furnishings — which may emit formaldehyde and other toxics — have been recently installed.
- Conduct a walk-through inspection to evaluate possible contaminant sources, including water-damaged walls, ceilings and carpets that can spawn mold growth.
- Inspect under-window ventilation units in classrooms and the central heating, ventilation and air conditioning (HVAC) system, and check the schedule for cleaning any air filters.

Note that air sampling for specific toxic substances is not recommended as a first step in solving problems. Such testing is expensive to conduct and often open to "interpretation" — that is, management manipulation. However, measurement of temperature, humidity, and carbon dioxide (CO_2), are often useful. Temperature should be between 68 and 79 degrees Fahrenheit and humidity between 30 and 60 percent. Levels of CO_2 above 1,000 parts per million (ppm) indicate that not enough fresh air is being provided by the ventilation system.

Possible Action Steps

After documenting the problem, stewards can suggest a variety of action steps:

- Form a health and safety committee to monitor conditions in the workplace.
- Negotiate health and safety language.
- File grievances regarding unsafe conditions using existing contract language. If indoor air quality becomes oppressive, stewards may want to consider a "mass grievance" strategy, whereby the broader impacts of contamination are addressed by many workers, not just the health symptoms of one worker.
- Demand health and safety training.
- If all else fails, remember the media. If an air quality problem has been identified, and the employer has been notified, but no improvement has been made, consider contacting local news outlets. Work with your union leadership on this.

The key to solving problems is sticking with it — and getting help. Health and safety departments of many unions and Committee on Occupational Safety and Health (COSH) groups have developed fact sheets, surveys and other information about indoor air quality. The U.S. EPA's web site provides valuable information at www.epa.gov/iaq/index.html. The New York Committee for Occupational Safety and Health (NYCOSH) site provides information at http://nycosh.org/index.php?page=office-clerical

— Jim Young. The writer is a veteran workplace health and safety journalist.

Stewards, Politics and Survival

There's an old saying among union veterans that what you win at the bargaining table can be lost at the hands of politicians. Any union steward who insists on ignoring that reality might as well hand in his steward pin at the next union meeting and check out the location of the nearest food bank. You may well be needing it.

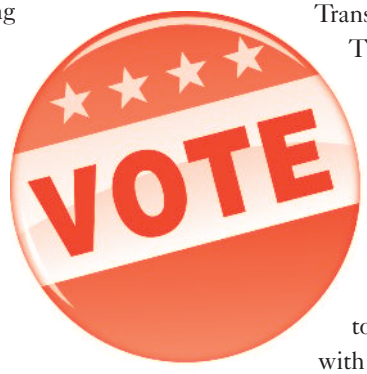
Working people across North America are being punched in the gut. Set aside the fact that the average worker hasn't seen a real increase in his or her standard of living for more than a decade. Now, we're heading backwards at breakneck speed, losing pay and benefits left and right even in unionized workplaces.

In the "good old days" we just had to worry about our employers, but today we have to worry more than ever about our legislators. Especially under the gun today are public workers. Thanks to conservative governors and state legislatures, unions are effectively being *outlawed* in some states, with no legal status to bargain over conditions, much less pay and benefits. In at least one state the governor now has the power to appoint his own agent to take over a financially stressed city or town government and, among other things, *unilaterally void any union contract* he doesn't like. It's getting worse every day.

But we can fight back. We can show real power in getting rid of bad politicians and electing people who understand what it's like to work for a living. Stewards must be sure their co-workers are aware of what's going on today, and get them involved in the political process. Here are some basic ways to do it.

Inform, Don't Dictate

No union can — or should — order its members to vote for specific candidates, but just about every union does try to inform its members about the important issues and which of the candidates it believes will best serve their interests if elected. It's often part of a steward's duty to pass along that information, just as he or she passes along information about contract changes, health and safety issues and other matters more immediately affecting the workforce.



How do you talk with your members about candidates, endorsements and the need to vote? How do you deal with workers who believe the union should stay out of politics, or who believe it's a "waste of time" to vote, or who just couldn't care less about the whole thing?

Here are some points to consider.

- Your primary role should be to make sure your people know what the issues are — not necessarily who's the good guy and who's the bad guy, but what important things will be decided on Election day. Candidates for major offices often have a record of their positions on such things as worker rights, affordable health care, workplace safety and health, the minimum wage, retirement security and whether labor laws should be strengthened — or gutted. When workers look at the candidates' records they'll see who's on their side.
- Let your members know how much money big business spends in the political arena — an estimated $4 billion was dropped on candidates and their parties in the 2010 elections, overwhelmingly from interests more aligned with the big corporations than with working people. If you think employers spent that kind of money to elect people who would promote *your* interests, you probably also believe in the tooth fairy and the Easter bunny. Working people can't possibly match those dollars, so we've got to beat their tactic by countering it with something more powerful: our presence at the voting booth.
- Workers who say they won't vote because they see no difference between the candidates or the parties should be reminded about what's going on around them today and some real, stark differences that exist. Ask the worker what his or her biggest concerns are. Jobs? Education? Trade? Health care? Transportation? Bargaining rights? The environment? Candidates have some strongly differing views on those issues. If you don't have a comparison, your union will. Get it and share it with your co-workers.
- To members who respond to any political information at all with the declaration that unions should "stay out of politics," remind them that, as we see today, the best contract and the best worker protections in the country can be shredded by politicians enacting bad laws. You may have great health care coverage, for example, but if enough politicians fall into the campaign-donations pocket of enough health care industry lobbyists, you'll find your out-of-pocket costs and deductibles skyrocketing and your benefits plunging. Or your employer will simply require you to pay a higher proportion — or even all — of the costs.
- Some members can't seem to see past their wallets. These folks should be reminded that taxes at all levels are determined by politicians, and politicians decide whether these taxes are fair to working people or are tilted to benefit business and the wealthy. Every politician in the world loves to talk about cutting taxes, but the question is *whose* taxes. A worker who thinks a one-dollar cut is a great thing, but doesn't tune in to the fact that his employer is getting a thousand dollar cut at the same time — and that thousand dollar cut means reduced government services for everything from highways to clean air and water — should take a closer look at what's going on.

— David Prosten. The writer is editor of Steward Update.

Interpreting the Contract

When the parties disagree about a grievance, there are generally two possible reasons: you and the employer have either a different view of the facts or a different view of the meaning of your contract language. When the argument is over what the words in your collective bargaining agreement really mean, there are a number of universal principles of contract interpretation that you should be familiar with, since these rules are what arbitrators will rely on.

First and foremost, arbitrators will try to give contract language the meaning that the parties themselves intended. If the meaning of contract language can be determined from the "four corners of the document" — that is, from examining only the words that are found in the agreement itself — then arbitrators won't look at evidence outside the contract (like bargaining history). These are the most important rules for interpreting language in the contract itself:

■ **Language that is clear on its face means exactly what it says.** So if an arbitrator finds no ambiguity about what the words in the contract mean, the ruling will be that this is the meaning of those words, regardless of what argument one side or the other may have about why those words really mean something else. (How do you determine what words ordinarily mean? One place to look — simple as this may seem — is the dictionary.) A related rule is that words will be given "their ordinary meaning" unless there's reason to conclude that some technical meaning was intended.

■ **Words are interpreted in light of the law.** If one interpretation of contract language would be consistent with some applicable law (such as language that conforms with discrimination law) and another would be inconsistent, arbitrators will choose that first meaning.

■ **Words are understood in context, and the agreement is "construed as a whole."** This means that the proper meaning of contract language will not be determined by looking at just one particular phrase or provision. An arbitrator will look at all related contract language to see what interpretation of each individual provision makes the most sense.

■ **Listing items means that the items listed are the only ones covered.** Often contract language will specify certain items, like the infractions that can result in termination for a first offense. If the employer then tries to fire an employee for an offense that isn't listed, you've got a strong argument based on the principle that "to express one thing is to exclude another." (Want to impress your friends and co-workers? Use the Latin for this: "expressio unius est exclusion alterious.")

Or sometimes a contract will set forth a general rule, followed by a list of specific items. For example: "Sick leave days may be used for illness or injury of the employee or the employee's spouse, children or dependent parents." If your grievance rests on an argument that the employee should have been allowed to use sick leave to care for an elderly grandparent, an arbitrator likely will rule that the contract language here doesn't cover that, since grandparents aren't listed. (Compare this with contract language that reads, "Sick leave may be used for illness or injury." In that case, an arbitrator might rule that the parties intended that the family members for whom sick leave might be taken wasn't restricted.)

When you and the boss disagree on what language means

Of course, if a phrase like "and other similar matters" is included in the contract language, then the list of particulars isn't exclusive.

■ **Specific wording trumps general wording.** Sometimes your contract will have a general principle ("Overtime is assigned by seniority") and then a specific provision ("Overtime work will be performed only by those finishing a shift.") In this case the specific provision will govern, and an arbitrator would rule that someone with greater seniority who wanted to be assigned overtime before the start of a shift doesn't have a winning grievance.

■ **All words in a contract have meaning.** The parties are presumed to have included only language that adds something to the contract. An arbitrator will find that all words and phrases should be given some meaning, and won't credit a possible interpretation of contract language that would render some language "surplusage" (that is, extra, unnecessary words).

■ **Nonsensical results will be avoided.** If there are competing interpretations for specific contract language, an arbitrator will disregard any interpretation that would produce a harsh, absurd, or nonsensical result. One famous case dealt with contract language that authorized sick leave based on producing a "physician's note." The arbitrator ruled that a grievant who produced a note from a dentist was entitled to use sick leave, since it would be absurd to expect the employee to get a physician to write a note confirming that a dentist had treated the employee.

This rule sometimes goes a step further, too. If both parties argue for extreme interpretations of contract language that would produce nonsensical results, an arbitrator will perform "arbitral surgery": that is, will decide on an alternative interpretation of contract language that will produce sensible or just results.

Next issue: when and how arbitrators will look outside language in the contract to determine what meaning to give to that language.

— *Michael Mauer. The writer is author of* The Union Member's Complete Guide: Everything You Want — and Need — to Know About Working Union.

Stewards and the Law

Your steward's tool box is probably already bulging, stuffed with the union contract and grievance forms, local bylaws, dues check-off cards, and notices of meetings, political action campaigns and general good and welfare developments. But there's another compartment that needs attention: the legal structure.

While a steward is most definitely not a lawyer, various laws — state, federal, provincial and local — overlap the union contract, so a steward is often the first contact a member has when there is a question. A steward should not offer detailed advice — a steward once was accused of practicing law without a license! — but should have a general knowledge of a law's coverage and impact, along with a list of contact numbers for the various enforcement agencies.

It is also helpful to have some basic understanding of important laws in case one of them might provide leverage in resolving a problem with a stubborn boss.

The most common laws that stewards deal with have different names and variations in the U.S. and Canada, but generally are much alike:

1 Workers' Compensation. Each state and Canadian province has different laws and coverage but all share the obligation that a workplace injury or illness is the employer's responsibility — so long as the problem happened at work. Most employers, then, try to avoid compensation claims as an unfortunate cost of doing business. A good steward should be alert to any workplace injuries, no matter how small, and make sure that the worker reports the injury to a supervisor and keeps a record of the notice. Too often, a worker will — many times under pressure from a supervisor — get hurt but decide to either keep working or to accept "light duty" in place of filing a workers' comp claim. If the injury worsens, the worker may have forfeited protection and reimbursement under workers' comp for the claim.

In other cases, employer medical personnel are trained to coax information from an injured worker that an injury might — just might — have happened at home, relieving the boss of any financial responsibility. A good steward will make sure the members understand the law and any recent decisions and will make certain that an injured worker notifies the employer's medical office and the steward at the same time.

Many basic claims can be filed with help from the steward and, so long as the employer does not contest the claims, the members can avoid paying a lawyer a piece of the compensation. If it's a complicated case, however, the union office should have a list of supportive compensation lawyers available.

2 Family and Medical Leave Act (FMLA). With increasing pressure on attendance in the workplace, many employers are willfully ignoring the protection of this U.S. law, which gives a worker unpaid leave up to 12 weeks a year to deal with specific family situations or with the worker's own health. Most important, the time missed cannot be used as a basis for disciplining a worker, so stewards generally become familiar with FMLA while handling a grievance over absenteeism, a glistening example of the overlapping of the law and your union contract.

3 The Civil Rights Act of 1964, which prohibits discrimination in the workplace. This is by far the most complicated law for a steward because there is usually language in the union contract that duplicates, or even expands, the language in the act. In many states and Canadian provinces , moreover, there are separate agencies that enforce laws concerning discrimination. The first question for every steward is whether to "grieve" under the union contract or "sue" under the law. The answer can be — both. While every union contract has a clause prohibiting discrimination, the remedies are limited to actual loss while a law suit — which can last for years and be very expensive — could include additional financial penalties on your employer.

4 The Occupational Safety and Health Act (OSHA) imposes on every U.S. employer a "general duty" to provide a safe and healthy workplace, and Canadian law does the same. Every union contract should have a health and safety clause but the steward's main responsibility is to be aggressive about enforcing safe conditions, stepping up if members are either intimidated or unaware about reporting unsafe conditions. Long term health problems — from exposure to chemicals, for example — are another area for a steward to watch, especially since any problems could also be filed as workers' compensation cases.

If all this sounds complicated, with all of the laws, and all of the decisions that change the laws, it is essential that every local regularly sponsor labor law workshops for the stewards. A sharp steward in the U.S. can look at http://www.dol.gov/compliance/laws/main.htm for a long list of federal laws, which saves trying to stuff hard copies into the steward's toolbox. In Canada, stewards should check out http://www.collections canada.gc.ca/caninfo/ep034.htm.

— Bill Barry. The writer is director of labor studies at the Community College of Baltimore County.

International
Association of
Machinists and
Aerospace Workers

9000 Machinists Place
Upper Marlboro, Maryland 20772-2687

Area Code 301
967-4500

OFFICE OF THE INTERNATIONAL PRESIDENT

Dear Sisters and Brothers,

As fast as the Republican surge to power spread across the nation in 2010, the backlash to their unbridled hostility to collective bargaining rights and their attacks on America's middle class is growing every day. In Wisconsin, voters ousted Republicans in two special elections in seats that had been long held by Republicans. In one of the races, a Democrat beat the Republican candidate who was running to fill GOP Governor Scott Walker's former Milwaukee County Executive slot. And in the other race, a Democrat won a state assembly seat that had been held by the GOP for 16 years.

Citizen outrage in Wisconsin has resulted in at least three recall elections targeting the GOP State Senators who colluded with Governor Walker to attack state employees' collective bargaining rights. Other recall petitions were under review as this edition of *IAM Educator* was being prepared.

The same outrage and activism is showing up in states like Ohio, Indiana and Tennessee as working families react to unfair proposals at the state level and pack town hall meetings of their U.S. Senators and Representatives to protest Republicans plans to dismantle Medicare and balance the budget on the backs of average Americans.

In Canada, after years of Conservative politicians dominating the federal government, the worker-friendly National Democratic Party made historic gains in May when it increased its number of seats in Parliament from 36 to 102.

Across North America, working families are fed up and showing up at the polls to defeat the conservative attempts to enrich their wealthy corporate backers and abandon long-standing promises to both nations' working families.

As Stewards, you can help by keeping the spirit of activism going in your workplace. Join the fight to protect collective bargaining rights in your state and educate your co-workers about the attacks on vital social programs like Medicare and Social Security.

Thank you again for your efforts as an IAM Shop Steward.

In Solidarity,

R. Thomas Buffenbarger

R. Thomas Buffenbarger
International President

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