

Canada

JAM

E D U C A T O R

Update for Stewards

Vol. 13, No. 4

I'll Get to It...Eventually





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for guidance, may run the risk of being on the wrong side of a Duty of Fair Representation legal action. At the very least, members reasonably expect timely answers to their questions.

So how to deal with those tasks you've put off?

Abandon Pride

Nobody is an expert on everything. There's no shame in acknowledging that you need guidance on something you're not all that knowledgeable about. Find someone who knows about the area you're unfamiliar with, but don't hand the task over to that person; better to work as a team on this one, so that next time around you'll be comfortable enough to tackle it yourself. And if something that you're not comfortable dealing with keeps coming up, it may be worthwhile

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for you to explore more formal training opportunities. Perhaps your union runs training sessions for member / activists. Or perhaps with financial support from your union or your employer you can take workshops or even college courses (in local labor education programs) that will make you at least a mini-expert in a new area.

Abandon Pride (Some More)

Maybe the reality is that the employer has gotten the better of the argument in times past, and this time they will again. Better to fight the good fight, though, than to leave a member hanging. (And you may find that you're older and wiser this time around, and you may come up a winner.)

Try a New Tack

If you're reluctant to lose again, take a step back and take a fresh look at the

problem. It might point to a different approach, like filing an equal employment opportunity complaint this time instead of another grievance.

Deal with Reality

Why do you keep not getting to a particular task or set of tasks? If you've truly got more on your plate than you can deal with, you need to delegate. No good comes from agreeing to do too much, and then disappointing people.

Organize, Organize, Organize

Set up a system to help you keep up with your steward responsibilities, whether it's a computerized calendar of things to do, ticklers in your date book, or stick'ems on your desk. Setting firm deadlines and making sure each one stares you in the face may help you keep up with all your responsibilities, not just the easy ones!

The Bottom Line: Priorities

It may be that no matter what changes you or your union make in how you process members' complaints, there's just no way to do everything for everyone. Rather than haphazardly put your effort into the cases that come up first, or most often, you (and your union) should periodically take a step back and figure out what the union's priorities should be. It may be that one type of problem just isn't likely to get solved right now, no matter what the union does, and that the smarter course of action is to wait until contract negotiations opens the door to a solution. You're not doing a service to your members (or to your mental health) by trying to tackle every problem, every time.

—Michael Mauer. The writer is a labor lawyer and author of *The Union Member's Complete Guide*.

There isn't a steward alive who hasn't had the experience of putting off and putting off some task. And then, putting it off for a while longer. Anyone who's been a steward for any length of time knows how common an occurrence it is for some tasks to get left undone.

What's behind these self-created delays? Odds are, one of the following:

- Sometimes you don't know the answer to a question, or don't know how to address a particular problem in a grievance (or don't even know whether you need to file a grievance or to do something else). You wish you knew more than you do, but are reluctant to let others see that.
- Sometimes (make that always?), between your full-time job and your full-time job as a steward, you're just too jammed for time to get to everything.
- Some problems (or some people, like the member requesting assistance or the supervisor on the other side) just aren't the types you enjoy dealing with, so they keep getting pushed to the bottom of the list.
- Sometimes the problem is one you've attacked before, and you've been defeated. You're not looking forward to yet one more demoralizing experience.

These are all understandable problems. But easy as it is to fall into the trap of just not getting to something, it's dangerous, too. Stewards who miss a filing deadline on a grievance, or who don't respond in a timely way to a request

Settling Disputes at the Lowest Level

Most grievance procedures encourage the parties involved to settle disputes informally, before they take the form of written grievances. This goal is often spelled out in contract language such as, “An earnest effort will be made to settle any complaints informally and personally between the aggrieved employee and his supervisor.”

An informal meeting with the steward, the supervisor and union worker present is an opportunity to resolve problems before a written grievance divides the parties into opposing camps and makes a settlement more difficult. Although the meeting is informal, you’ll still need to do your homework first.

Conduct a Thorough Investigation

- Interview the worker(s) making the complaint.
- Check the facts: talk to workers, talk to management, check documents and records.
- Check the contract, laws and policies.
- Consult with union officers when appropriate or if you have questions.
- Decide whether there is a legitimate grievance.
- Get back with the worker. If you decide the grievance or complaint should be pursued, explain the informal step of the procedure and the role of the grievant.
- Fill out a fact sheet. This creates a record of your investigation and gives you a firm handle on the sequence of events and any possible violations.

Develop a “Theory of the Case”

Once you have compiled your information, you need to shape it into a clear and compelling account that will make the supervisor more receptive to a settlement.

To make your case convincing, ask yourself:

What do I need to prove? How did management’s actions violate the union contract? Example: *Supervisor Simmons violated the contract by doing bargaining unit work.*

What is the best evidence I have to prove it? Witness statements, documents, records—use the materials that best support your theory. Example: *Records show punch press #7 operating at 80% capacity although no employee was assigned to press #7 during the time the supervisor, Simmons, was accused of doing bargaining unit work.*

How can I best present my evidence? Sometimes just telling the supervisor about a fact or piece of evidence is enough to put management in a settlement mood. You may need to share some specifics to convince a reluctant supervisor, but it’s not necessary or advisable to make a detailed presentation at the informal level. Formal presentations should be reserved for formal grievance hearings.

Have Your Settlement Ready

Your proposed settlement should be carefully thought-out prior to meeting with management. An ideal remedy should match the situation, satisfy the grievant, fit your argument, be consistent with the contract, and appeal to management’s self-interest. For example, you might propose an oral warning in lieu of a written reprimand for an employee accused of tardiness—a solution that represents the worker’s interests while acknowledging management’s need for timeliness.

Run an Effective Informal Meeting

Prepare yourself. Know the strongest arguments in your favor, the supervisor’s position and the remedy that best addresses the issue.

Prepare the grievant. Make sure he/she is familiar with the process,

understands the arguments you intend to make and knows what and what not to say.

Set the tone. Be polite but assertive, listen carefully, question anything you don’t understand and keep your statements short and simple.

Reach a Settlement

Taking a problem-solving approach is the key to reaching a workable resolution. Keep in mind the interests of management as well as the union to increase your chances of reaching a settlement.

Stick to the point. Avoid discussing personalities, tangents or side issues and look for possible areas of compromise.

Paraphrase key statements. Clarify management positions with phrases like “*Is it your position that...*” or “*So what I’m hearing is...*”

Summarize areas of agreement. “*We all recognize that the notice on the new policy was not distributed to everyone.*”

Avoid win-lose situations. Putting the supervisor on the defensive only makes a settlement more difficult.

Offer a settlement. Propose your remedy once you’ve made your case and heard management out. Make sure you emphasize how your solution can work for management as well as the union.

Maintain a Good Working Relationship with Your Supervisor

Understand your counterpart’s roles and responsibilities and know the scope of his/her authority. Mutual respect is key to developing a joint problem-solving approach that makes informal settlements more likely.

You won’t settle every grievance at the informal level, but if you make the most of the opportunity you can increase member confidence in the union, build trust with management and make your workplace more upbeat and productive.

—Grainger Ledbetter. The writer is a labor educator at the University of Arkansas at Little Rock.

Last Chance Agreements

Here's the scene: You're called into the supervisor's office and informed that an employee you represent will be discharged for being under the influence of alcohol — cause for termination under company rules, even though it's the employee's first such offense. The supervisor tells you that the only way you can save the employee's job is to sign a "last chance" agreement. The agreement requires completion of an alcohol abuse treatment program, and failure to complete the program or violating *any* company rule during

the next year will result in discharge. Your investigation and the evidence in the case indicates that the employee did indeed come to work intoxicated, and you're convinced you would lose a discharge grievance. Should you sign the last chance agreement?

A last chance agreement, if you haven't encountered the practice before, allows a worker to be given one "last chance" and continue in the job even though management has sufficient reason for termination. Be aware that if you believe you can win a grievance, a last chance agreement is not appropriate. Last chance agreements should be for desperate situations where they're the only way to save a job.

The problem is, if a worker is fired while working under the terms of a last chance agreement, the union has little ammunition with which to fight the discharge. Most arbitrators are only concerned with one issue if such a grievance is filed under a last chance termination: was the agreement violated by the worker? Remember, the union can no longer argue that the worker was discharged without just cause. No more arguing about a lack of warning, that no fair rule existed, that an investigation was unfair, that there was disparate treatment, that the penalty is too

harsh — none of these standard arguments are possible.

Most arbitrators will not lessen a punishment under a last chance agreement that calls for discharge if the agreement is violated. Even if a lesser punishment is appropriate the arbitrator is unlikely to take that route. In one case, an employee with several incidents of alleged insubordination on her record signed a last chance agreement that prohibited tantrums and visual displays of disgust such as rolling her eyes. Soon after signing the agreement she rolled her eyes and slammed a

book down on the counter when a supervisor made a comment to her. While an arbitrator later said he would not normally sustain a discharge for "such a mild display of irritation," he said the worker had violated the last chance agreement. He said he could not mitigate the punishment under the deal, and upheld the discharge.

Last chance agreements can save jobs, but a union should not sign such deals unless they meet certain standards:

- The agreement should have an expiration date, usually no longer than one year.
- The agreement should be removed from the personnel file when it expires.
- The agreement should not make the worker satisfy vague or general expectations.
- Any requirements in the agreement should be directly related to the conduct that is charged.
- The agreement should not deny access to the grievance procedure or the courts.
- The agreement should not make the worker give up any contract rights (for

Last chance agreements can save jobs, but be sure they meet certain standards.

example, bidding rights, overtime or use of sick leave) or statutory rights, such as guaranteed by federal, state or provincial health and safety, anti-discrimination or other laws.

■ The agreement should not require the release of confidential medical or psychological records (but it may require certification that the worker completed a drug or alcohol treatment program).

The union must negotiate last chance agreements that meet these *minimum* standards *or* the agreements are not in the best interests of the worker or the union. Punitive last chance agreements that cede too much power to management may just postpone a discharge and undermine the collective bargaining contract.

A last chance agreement can save the job of a worker who has slipped badly and who may be able to correct his behavior with another chance. In some cases, the

shock of the threatened discharge and a last chance agreement will cause the worker to adhere to rules that have been broken. If you can negotiate a good one, you can use a last chance agreement in an appropriate situation.

So what happened to the worker who signed the last chance agreement

to go to alcohol rehab and not violate any company rule for a year? He forgot to wear safety glasses one day and thus violated a company safety rule. He was fired and the arbitrator upheld the discharge because the last chance agreement had been violated: the union had agreed to general terms that were unrelated to coming to work intoxicated. A more carefully written last chance agreement would have saved his job a second time.

—Joel Rosenblit. The writer is a staff attorney for Oregon Public Employees Union, SEIU Local 503.

Bad agreements may just postpone a discharge and undermine the collective bargaining contract.

Figures Don't Lie, But Liars Figure

A key part of the steward's job is evaluating information—the critical judging of what you're being told. You can't represent your co-workers properly if you can't fight your way through the smoke to the true facts, and it's not always easy. Here are five tips to help you assess the truth and value of information that comes your way.

Lying with Statistics

Suppose you're in a meeting with management and they hit you with this: "We have reasonable cause to institute a new attendance policy because absenteeism rose 32 percent this year."

There are a lot of ways the union can respond to this, but first things first. Don't just accept that management's statistics prove anything. Your first question should be, "Rose 32 percent over what?" If the previous year was an all-time low for absenteeism and this year (even with the 32 percent rise) is more normal, then the rise is not as significant. Your next question: "Why was there a rise?" Perhaps there was a flu outbreak or a few people had serious illnesses and used a lot of sick leave, reasons that would not be changed by an attendance policy. For more examples of how statistics can be abused, check out the book *How to Lie with Statistics* by Darrell Huff.

Polished Presentations

Picture this: Well-dressed managers make a presentation, using 3D charts and other high-tech visual aids, to try to convince you to accept proposed changes that will cost your members money or even their jobs. They use words and phrases like "inevitable," "burning platform," "the new normal" and "think outside the box."

They're hoping to use their appearance of expertise and lots of "corporate-speak" to overwhelm you and get you thinking that this is unstoppable. You need to look past the window dressing and the staged confidence and closely examine what they are actually saying and whether they have real evidence to make their case. Additionally, make them identify



Be careful when evaluating information.

who gains and who loses from their proposed plans.

Confusing Correlation and Causation

Imagine that a supervisor comes up to you one day and says, "Why do you keep trying to make trouble with your complaints about how I treat people? Since I got here, turnover is down and productivity is up, so people must like me."

Well, it may be true that turnover has gone down and productivity has gone up since the supervisor started, but do we know it is because the workers like the new supervisor? Maybe those things happened in spite of his being on the job.

When two things occur at the same time they are "correlated." "Causation" is different. It means there is evidence that one thing causes the other. There may be many reasons why turnover fell and productivity rose other than that the workers

like the new supervisor. Perhaps the economy is bad and there aren't a lot of other jobs available. Or maybe the company has bought new equipment that increased productivity. The supervisor could be as wrong about causation as the person who observes that it gets light outside soon after his alarm goes off and thus concludes that his clock causes the sun to rise.

Halo Effect

When someone you like talks, you tend to listen with a more sympathetic ear. You fill in blanks and give him or her the benefit of the doubt. This is called the "halo effect." The opposite is also true: When you don't like someone, you hear what they say with much more skepticism and doubt. Because of the halo effect and its opposite, you need to be careful when evaluating the information you get from

various people. It's dangerous if you don't hear what is actually said but only what you think the other person really means or what you imagine they said.

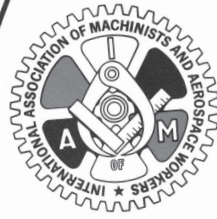
Arguing a Different Issue

Perhaps something has been stolen from the workplace and management doesn't know for sure who did it. To avoid their weak case, they strongly argue that such a serious offense must be punished. Shifting the issue when you have a weak case is a common tactic but not one you should fall for when others do it. Stay on the real issue. In the example here the real issue is, was something actually stolen? And if yes, who stole it?

Being aware of these tips for evaluating information will not only help you be a better steward, it will also help you in your other roles as family member, community activist and citizen.

—Ken Margolies. The writer is a senior associate of the Worker Institute at Cornell University's School of Industrial and Labor Relations.

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OFFICE OF THE INTERNATIONAL PRESIDENT

Dear IAM Shop Stewards,

The IAM reached a milestone this August as we welcomed Dora Cervantes, our first female General Secretary-Treasurer. Bringing a wealth of skills and experience to the job, Dora exemplifies unionism in the 21st Century. With the benefit of her financial stewardship, we will be able to continue as the most progressive and influential union in the labour movement.

In Washington, D.C., we now face even tougher times on the job front, as the administration and many of our elected officials pushed Fast Track Trade Authority through both houses of Congress. We battled long and hard but it seems that corporate influences have blinded legislators to their duty to the American public. This means our fight to stop the terribly flawed anti-worker Trans-Pacific Partnership (TPP) must escalate to hold accountable those who promote its deceptive claims.

As stewards you have the opportunity and responsibility, to impress upon your co-workers and your communities the devastating effect passage of the TPP will have upon all of us. We can win this battle only through the unified voices of Canadians and Americans alike.

The fast approaching federal elections in Canada offer a great opportunity to break the anti-labour hold Stephen Harper has on Parliament. The New Democratic Party's decisive success in Alberta this year sets the stage for Canadians to continue that trend this fall to ensure that workers have a new federal government that truly represents them come October.

In the U.S., right-to-work (for less) laws now plague working families in 25 states and anti-worker forces show no signs of stopping the attacks. Concerns that the trend will surface in Canada as well cannot be ignored. Until we elect worker friendly legislators at the local, state and provincial level, unions and workers in general, will continue to be targets for regressive right wing attacks.

Our task in the next few months has never been more vital. As stewards, you will make the difference by engaging your co-workers, friends and neighbours in real conversation about what is at stake. I urge you to accept this challenge head on.

Thank you for your hard work and I look forward to good things for the Machinists Union and all working families.

In Solidarity,

R. Thomas Buffenbarger
International President

