



STEWARDS CORNER

Monthly Newsletter for Union Stewards

The Fundamentals of Grievance Handling

Becoming a new steward or the grievance chair can be an overwhelming experience. As soon as you get the title, members come to you with their problems, expecting you to fix them. Suddenly, your thoughts are no longer your own but a swirling typhoon of facts, contractual language, complaints, and the anxiety of wondering how you will “fix it.” Experienced stewards develop a screening system to bring clarity in a world of noise. In this article, we will give you some ideas on creating your own grievance screening system.

Step 1: Active listening and Taking Notes.

Solving problems begins with truly understanding what the problem is. Use [active listening techniques](#) and carefully observe the member’s body language. We did previous articles on [active listening](#) and [grievance investigation](#), so check them out if you need to. Ask open-ended questions to get a more detailed story. Are the answers spontaneous, or did the person stumble when answering? Do your best to get to the real facts while remembering the adage: there are three sides to every story-- each person’s side and the real facts in the middle. Details matter, so getting them and [keeping good notes](#) are imperative.

Step 2: Is it a violation?

Once you have gathered all the necessary details, it is time to determine if the issue is a [grievance or a gripe](#). The definition of a grievance is typically defined in the collective bargaining agreement (CBA), but generally speaking, a grievance is:

- ▶ A violation of the terms of the CBA (including benefits supplementals).
- ▶ A violation of relevant employment law.
- ▶ A violation of the employer’s rules and policies.
- ▶ A violation of [past practice](#).
- ▶ [Unjust Discipline](#).

If you find that the issue before you doesn’t fit into these five criteria, then the problem is likely a [gripe and not a grievance](#). Avoid bogging down the grievance machinery with gripes. You can make an appointment with management to see if you can resolve the issue; remember, we can often find solutions to issues even if they aren’t grievances. So, “see if that dog will hunt,”... but if it’s unwinnable or management is unwilling to work with you, be honest with the member, withdraw the grievance early, and move on (jump to step 5).

Remember to show some empathy, clearly communicate that you did a thorough investigation, and go over why the issue is an unwinnable grievance. Let members know that you want to help them solve their problems, but you are not always able to.

Step 3: Filing Grievances.

Each location has its own culture regarding who is responsible

for doing this. As a steward, you need to know the [grievance procedure](#). You need to know how many days you have to file a grievance, how many steps are involved, and who is involved at each step. Avoid skipping steps and [resolve to settle grievances](#) at the lowest step possible. Use the lower steps for problem-solving and making our workplaces better for your members.

If you have a manager who will not work with you to make this possible, address that with the Local Union leadership. The USW Staff Representative may have to get involved as well.

Step 4: Get Members Involved.

Getting [member support and getting them involved](#) in the grievance process regularly will make management second guess the nonsense that bubbles up in their thoughts. It might be some work on the front end, but if management isn’t creating fires, you will not have as many problems to solve.

Think about this: it’s easier for management to deal with you individually than if you are backed up by a Local or department of members engaged in solidarity actions. The most basic action is to get all department members to sign onto a grievance. Wearing t-shirts, stickers, and buttons works because it shows that members support the Union and believe in solidarity. Solidarity is the vaccine against the unilateral implementation of management’s thoughtless ideas.

Step 5: Follow-up.

This step cannot be overstated. Following up with members keeps them engaged in the process and tells them you are doing the work of the Union.

Our ability to communicate is a superpower. We always need to communicate the work of the Union, why it’s important, and how they can help. You don’t have to be a superhero. Ask for help from your members to resolve a problem and what they think about a specific topic or ideas that may give you leverage to push management to a resolution.

It’s always great to follow up with members with news of a victory, but sometimes, we must deliver bad news. Be just as quick to deliver bad news as you would be good news. It’s an important part of our responsibility as union representatives.

Step 6: Document and Repeat.

Step 1 included taking notes, but be sure to document every step of the process, including who you talk to and when. These notes will help you clarify your thought process, ensure nothing is overlooked, show members that you take their problems seriously, and memorialize the work you have done. If we do this, we will be fairly representing all our members.

The point here is that the work of the Steward is ongoing. There will always be another issue; try not to be emotionally tied up in

every grievance or step of the process. Sometimes, you will find that difficult, but stepping back and having a bit of objectivity is a way to prevent burnout.

Our job is to help solve our member's problems; this often means we must work to enforce the agreement. After all, the agreement

is only as strong as its enforcement. Never be afraid to ask for help from your members, leadership, and your assigned USW Staff Representative. We are much stronger when we work together as a team and support one another.

Civics for the Shop Floor

What impacts your job as a Union steward? Is it your demeanor or your knowledge and experience? Is it management's willingness to work with you? These definitely make a difference and are very visible, but some factors aren't so apparent; governmental agencies, laws, and court decisions all frame our relationship with management and shape how we negotiate and enforce our collective bargaining agreements (CBAs). Some have more of an influence than others, but without a doubt, the legal system casts a big shadow over your role as a steward.

Throughout U.S. history, the courts have weighed in on workers' rights – for better and for worse. For example, in 1806, a Philadelphia court ruled that a group of eight journeyman shoemakers who went on a seven-week strike for higher wages had acted in a “criminal conspiracy” in restraint of trade. As a result, they were fined and all organizing was considered a criminal conspiracy until the 1840's. On the other hand, in 1937, the Supreme Court upheld the constitutionality of the National Labor Relations Act (NLRA) in a case involving steelworkers in Aliquippa, Pennsylvania, affirming the right of private sector workers to organize unions and collectively bargain. So even at the most basic level, our right to organize, courts have played a central role.

The Supreme Court of the United States (SCOTUS) has been in the spotlight lately, but its central role in our work is often overlooked. This article discusses cases that have impacted our work for decades.

Why Can Employers Hire Scabs During a Strike?

In *NLRB v. Mackay Radio and Telegraph (1938)*, the Supreme Court issued a 7-0 decision* that permitted employers to hire permanent replacements during an “**economic strike**.” In an “**economic strike**”, a union strikes in support of its priorities during negotiations; in spite of its name, these strikes are not necessarily over wages or other monetary items such as health care or retirement benefits. (*Two Justices did not participate in this ruling).

Beginning in the 1970s, employers began using the Mackay ruling as a union-busting weapon. Taking advantage of high unemployment and import competition, employers demanded severe concessions from workers during negotiations. Once unions went on strike to defend their bargaining positions and protect their hard-fought gains, employers replaced them with scabs who voted to get rid of (or “decertify”) the union after they were on the job for more than 12 months.

Workers' Right to Representation During Disciplinary Interrogations

In *NLRB v. Weingarten (1975)*, the Supreme Court ruled, in a 6-3 decision, that workers in unionized workplaces have a right to

representation in disciplinary interrogations. The case originated when management at a Weingarten grocery store interrogated a bargaining unit member, Leura Collins, for taking chicken from the lobby food department. Collins asked for a union steward, but management didn't honor the request, calling it a “private matter between her and the company.”

Collins's union filed a ULP against Weingarten for refusing Collins's request for a steward and the National Labor Relations Board (NLRB) concluded that the refusal violated the NLRA, ordering Weingarten to cease and desist interrogating employees who requested union representation.

When a Court of Appeals ruled that “an employee has no “need” for union assistance at an investigatory interview” and refused to enforce the NLRB order, the NLRB took the issue to SCOTUS, which led to the ruling. Today, almost 50 years later, [Weingarten Rights](#) are an important workplace right for unionized workers.

Imagine in your own work if the Supreme Court decided to change this ruling and our members no longer had a right to during investigatory meetings.

Duty of Fair Representation

As a steward, you know that we work to represent workers in a fair and non-discriminatory manor, but did you know that our legal obligation to do so grew out of cases that were taken to the Supreme court. The concept of a [DFR](#) originated in the 1940s in *Steele v. Louisville & Nashville Railroad*, a case involving racial discrimination by railway workers' unions covered by the **Railway Labor Act**. The idea underlying DFR was then formalized in *Vaca v. Sipes* in 1967.

Our Rights as Citizens

Effectively representing our members is not just influenced by factors in our workplaces and does not occur in a vacuum. It's shaped by a number of factors, some of which we have a great deal of influence over. As local union leaders, for example, we can build local union solidarity to show our employers that we are united behind our bargaining priorities.

As constituents of federal, state, and local elected officials, we can voice our support for legislation that improves family and medical leave and requires the use of domestic content on infrastructure projects, but we can also have an impact on the courts through our right to vote. Under the U.S. Constitution, the President nominates candidates to serve as judges in the federal courts, subject to confirmation by the Senate. That means that if we elect a worker friendly President and Senate, we are more likely to have worker friendly judges.