



Steward Resource Manual



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FOREWORD

Dear NUHW Steward:

NUHW was founded by healthcare workers who strongly believe in the fundamental tenet of unions being worker-led and worker-controlled.

Since 2009, our dream of an independent, member-driven movement has inspired more than 20,000 healthcare workers to join us.

We've become the nation's fastest growing healthcare union because we've stayed true to our core principles:

- **A strong union is led by its members.**
- **Worker power is the foundation of a just society.**
- **Quality patient care requires that caregivers have a voice in their workplaces and are protected from retaliation.**
- **Healthcare is a human right.**

In NUHW, we believe a strong union begins with strong stewards. In order to be a strong, effective steward, you must understand your role and responsibilities, know your contract, and be committed to leading your coworkers to protect their rights and win the best contracts for themselves and their patients.

We congratulate you on taking this next step in your union journey, and we are excited for you to become leaders in NUHW.

Sincerely,

NUHW Executive Board

HOW TO USE THIS BOOK



Welcome! This manual is designed to be your resource as you conduct the very important work of leading, organizing, and representing your coworkers.

Structure

The manual is broken into chapters, with each chapter containing 2-3 modules. Each module contains learning objectives, definitions, an explanation of the key concepts being taught, and suggested activities to reinforce learning. Each module concludes with key learnings to reiterate concepts taught. There are also case studies to supplement learning.

As a reference guide

If you have a quick question about a topic, or if you need a refresher, just flip to the topic of interest and review the supporting documents. You can also use this manual for self-study if you are unable to attend a steward training.

As a training guide

This book can also be used as a facilitator guide for trainers. You can do a training focused on just one module, or an entire chapter, or multiple chapters, depending on the amount of time you have. Trainings can be offered at membership meetings, steward councils, bargaining caucuses, or any other creative spaces you determine. Each suggested training activity has an estimated time associated to help you determine what will fit within your allotted training time.

At the end of this manual, you will find the Answer Key, which contains the answers to certain suggested activities.

CHAPTER 1: BUILDING THE MODEL UNION

MODULE 1: THE MODEL UNION



LEARNING OBJECTIVES

Participants will be able to:

1. Describe NUHW's philosophy on what a union is
2. Define the Model Union and its components
3. Explain why the Model Union is important



DEFINITIONS

Union: An organization of workers who are employed by the same employer and who use their collective power to stop the employer from doing things workers don't want, as well as to get the employer to do things the workers want.

Union contract: A union contract, sometimes referred to as a collective bargaining agreement, is the legal, binding agreement negotiated between the union – you and your coworkers – and the employer.

Union dues: The small amount of money union members contribute to our union, so that our union has the resources to fight and win improvements.

CHAPTER 1: BUILDING THE MODEL UNION

What is a union?

A **union** is an organization of workers who are employed by the same employer and who use their collective power to:

- Stop the employer from doing what the workers don't want, such as firing employees without justification, discriminating against workers, making changes without workers' input, and cutting staff to increase profits.
- Make the employer do what the workers want, like paying fair wages, providing decent benefits, and hiring enough staff to provide quality care. Individual workers, on their own, just can't match the power of the employer, because the employer has the ability to fire workers.

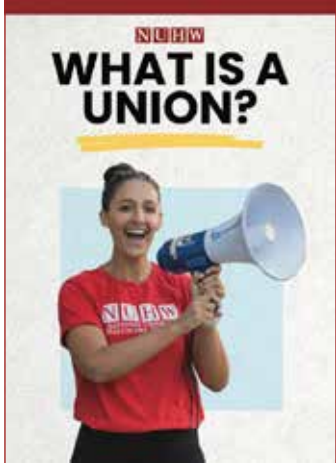
Without a union, the employer can cut pay, eliminate benefits, change working conditions, or fire employees for no reason.

For more than 200 years, workers have learned that they can match the strength of their employer if they stand together as a group.

By joining and participating in a union, you are taking part in a movement that has a long history. As a union member, you benefit not only from the gains won by your union in your workplace, but by all unions and all workplaces, going back decades, even centuries.

Many of the workplace standards many of us now take for granted were initiated, fought for, and won by unions.

The eight-hour work day, the five-day work week, sick pay, vacation pay, maternity and paternity leave, retirement benefits, health care coverage — none of these were offered by benevolent employers eager to improve the lives of their workers. These benefits were demanded and won by workers, by union members who fought, sacrificed, and even died in the struggle for workers' rights.



WHAT IS A UNION?

Download the
What is a Union?
booklet



WATCH THE VIDEO



CHAPTER 1: BUILDING THE MODEL UNION

Why is there conflict between management and workers?

The conflict between management and workers does not exist because managers are inherently bad and workers inherently good. It's a systemic problem: **The conflict exists because the employer makes a profit by demanding as much work as possible from employees in exchange for an hourly wage.** The more work produced at a lower hourly wage, the more the employer profits.

This is especially true in a labor-intensive industry like healthcare, where labor accounts for more than fifty percent of an employer's costs. This gives the employer a greater motivation to get more work out of fewer people. It increases the employer's profits. In the healthcare industry, there really isn't much difference between a for-profit and a non-profit institution. Most healthcare employers are large corporations where the CEO and other top administrators command millions of dollars per year in salaries and benefits — typically more than two hundred times what the average worker earns in a year.

When healthcare workers are not members of a union, management determines what workers are paid, what benefits workers receive, how many workers will get shifts, who will get them, and who will be laid off. **But when healthcare workers come together and form a union, the workers have the collective power to demand a voice in these important issues.** This is why employers oppose unions.

Union contract

The contract represents what your union, through its collective strength, has forced the employer to agree to. Although management often implies that it would provide good wages and benefits without pressure from a union, history shows that employers rarely offer higher pay, better benefits, or improved working conditions beyond the bare minimum unless compelled to do so. The union is the institution that forces an employer to go beyond the bare minimum, and the union contract incorporates those improvements into a legally enforceable document.

A union contract is unlike other types of contracts, like those used to purchase a car or a house. If those kinds of contracts are violated, you have to go to court and then convince a judge to enforce them. By contrast, **you and your coworkers are responsible for enforcing the union contract.** Employers, in the pursuit of greater profits, often try to get around the contract. If you and your coworkers do not vigilantly enforce the contract, then the employer has no reason to abide by it.

Contract enforcement

You and your coworkers enforce your contract through a variety of means: petitions, meetings, collective action, and through the grievance procedure. Effective contract enforcement requires union members to be well informed, unified in purpose, and well-organized. To accomplish this, **members in each department or unit of the workplace elect a well-respected coworker as a shop steward.**

Member participation is vital. **In workplaces where members are active, the union is strong; where participation is low, the union is weak.** It is only when workers actively participate in building the union that we have the power to force the employer to provide quality patient care, safe working conditions, and good pay and benefits.

CHAPTER 1: BUILDING THE MODEL UNION

Dues and representation

Member dues are your union's only source of funding; it is the members themselves who provide the resources necessary to operate their union. This not only ensures that members have a stake in the success of their union but also ensures that your union remains independent, with no obligations to anyone but the membership. Dues pay for union staff salaries, offices, supplies and utilities, negotiation and organizing costs, legal fees, and affiliation fees to other labor organizations.

NUHW members established the dues formula through a democratic, union-wide vote. The NUHW Constitution and Bylaws, ratified by a membership vote, established the dues formula at 1.5 percent of a member's straight-time hourly base wage rate. In other words, you don't pay dues based on overtime; you pay dues only on your regular pay for regular hours. And each month, one dollar of your dues goes into the union's Strike Fund, which ensures that if workers vote to strike there are resources available to make the strike successful.

There are a few common misconceptions about union dues. Employers often use unions and union dues to frighten workers. They sometimes tell new employees that they are required to join the union and that they will be forced to give up their hard-earned pay to a third party, with little in return. You are not required to join the union, but it is true that employees in a unionized workplace are required to pay dues as a condition of employment, because whether you are a union member or not, you benefit from previous and future contracts negotiated by the union.

Organizing

Your union's financial health enables you to expand the power of healthcare workers by unionizing unorganized workplaces. This brings more members into the union, which gives us greater leverage in negotiating contracts with employers.

But it has a larger effect as well. **The lower wages and benefits paid to non-union workplaces hold down the wages of unionized workplaces,** because employers with unionized workplaces can always point to the lower wages of their non-union competitors and say they need to cut wages and benefits in order to remain competitive. If more workplaces are unionized, it takes wages and benefits — labor costs — out of the equation when employers compete with one another. Employers then have to compete based on the quality of care they provide rather than how cheaply they provide it.

By taking an industry-wide approach, you can improve wages, benefits, and working conditions for all healthcare workers. Nearly all of the components of the healthcare industry — from insurance companies and healthcare systems to doctors, medical suppliers, and drug companies — are organized to promote their interests. Healthcare workers should be organized, too.

CHAPTER 1: BUILDING THE MODEL UNION

Equal rights

The power of your union comes from uniting all workers hired by the employer. Your union must be truly democratic with room for everyone, including those with different ideas. Your union should be the safest place in our society to disagree, a place where all workers and all ideas are welcome.

NUHW does not choose who belongs to your union; employers choose who belongs to your union by whom they choose to hire. Collectively we must work with everyone the employers hire, including new hires and probationary employees, to create the unity and strength we need to win goals that we all support.

Workers make up a majority of the population, but employers and their administrators and managers, who make up just a small part of the population, exercise tremendous influence over the rest of us. **To remain powerful, and to undermine the enormous power that workers have when they are united, employers continually attempt to divide workers** — by job classification, education, and training, and even by age, gender, race, ethnicity, sexual orientation, gender identity, and legal status. Employers try to use our differences to divide and weaken our union.

NUHW fights discrimination in three ways. **First, we support all movements that fight against racism, bigotry, and prejudice of any kind.** Second, our contracts include strong language that prohibits the employer from discriminating on the basis of race, creed, sexual orientation, age, gender, gender identification, and union activity. Third, we have a simple standard: all union members have the absolute right to be judged based on their own actions and behavior, regardless of what they look like, where they come from, what language they speak, whom they love, or what religion they practice, if any. We believe that an injury to one is an injury to all, and that what unites us is good and what divides us is bad.

Political action

Political action is critical in the healthcare industry. Every day, politicians and regulators make significant decisions at City Hall, in Sacramento, and in Washington, D.C. that affect the healthcare industry, healthcare providers, and patients. **Healthcare corporations, insurance providers, drug companies, doctors, and other interest groups are heavily involved in the political process; you and your coworkers need to be involved, too.**

The amount of public money devoted to healthcare, through Medicare and Medicaid primarily, but also at the local government level, is the result of political decisions. **We fight with employers for our share of the budget, and we fight with politicians for our share of city, county, state, and federal budgets.** Political involvement is crucial. We encourage our members to vote, but a real political voice for workers and our patients requires much more than that. Healthcare workers must be proactive in holding elected officials accountable.

Corporate lobbyists have succeeded in passing legislation that prohibits unions from using dues revenue in the federal political process. That weakens your ability to influence political decisions that would be favorable to healthcare workers and patients. **The only way you can raise money to have a voice in these important decisions is to ask members to make voluntary donations to your union's Committee on Political Education Fund (COPE).** Your union has no other source of money to advocate for federal legislation or elected leaders who will protect patients and healthcare workers.

CHAPTER 1: BUILDING THE MODEL UNION



Medicare for all and mental health parity

Healthcare is a human right. NUHW believes that the best way to ensure quality coverage for all is with a single-payer healthcare system, and the best way to achieve that is by improving and expanding Medicare to cover everyone. By expanding the nation's most successful and efficient healthcare program to cover everyone, we could solve the country's healthcare crisis once and for all. Under an expanded Medicare plan everyone would be included, regardless of age, pre-existing medical conditions, or ability to pay. Costs would be controlled through the elimination of wasteful insurance industry paperwork and expensive and unnecessary bureaucracies. We could then shift our focus toward preventive primary care, striving to keep people healthy rather than waiting until they get sick. Caregivers and patients, not profit-driven insurance companies, would be in control of making healthcare decisions.

NUHW has also taken a leading role in pushing for mental health parity by holding healthcare providers accountable for offering mental healthcare that is on par with primary healthcare. We forced Kaiser Permanente to start addressing the problem and we are expanding our efforts to other healthcare systems and providers.

We believe that the Model Union consists of the following. Does your workplace have all these elements? Does this list make you think about ways you could strengthen your union?

Democracy: members vote on officers, stewards, bargaining team, union proposals, contracts, next steps, changes to the union's constitution and bylaws

Workplace organization: well-charted facility with stewards in every department/group and each shift, regular membership meetings that ensure an engaged and involved membership

Training and development: regular steward trainings

Patient advocacy: cornerstone of our role as caregivers is to be able to ensure our patients receive the care they need and deserve

New organizing: bringing the bottom up to raise the ceiling and improve standards for all

Political action: members active in the cope fund and influencing elected officials

Research: investigating and documenting standards and practices of our employers and other employers to equip ourselves with valuable information to negotiate fair contracts and hold management accountable to quality patient care standards

Communication: regular newsletters, updated bulletin boards, getting the word out to our members and the larger community

CHAPTER 1: BUILDING THE MODEL UNION



SUGGESTED ACTIVITIES

Activity 1: What Is a Union to Your Coworkers?

Estimated time: 30 minutes

You are talking to your coworker, Marcus, in the breakroom. Marcus is frustrated because his manager just changed his schedule with only 24 hours' notice, disrupting his plans and leaving him scrambling for childcare. Marcus says: "I don't see why I should pay dues. What is the 'union' even doing about my schedule? They should just fix it."

In pairs or small groups, scan the QR code or use your NUHW "What is a Union" booklet to develop a response to Marcus. Answer the following questions:

1. Define the "Union": Find the section in the booklet that explains who the union is. Based on that, how do you correct Marcus's idea that the union is a "service" or a "third party"?
2. Look at the "How a Union Works" or "Member Power" sections: List three specific steps Marcus and his coworkers can take together to address the manager's behavior, rather than Marcus waiting for a "union rep" to do it for him.
3. The "Dues" Defense: Find the section on Dues. Discuss how you would explain to Marcus how his dues actually support the fight for his schedule.

Activity 2: Building the Model Union

Estimated time: 30 minutes

We believe that the Model Union consists of the following components. Does your workplace have all these elements? Using this list, discuss ways you and your coworkers could strengthen your union.



KEY LEARNINGS

- NUHW was founded to be a fundamentally democratic, member-led union.
- Organizing, political action, and fighting for medicare-for-all and mental health parity are just some of the ways NUHW strives to be a Model Union.
- Through your union, you and your coworkers can use your collective strength to negotiate improvements to your wages, benefits and working conditions, improvements that your profit-driven employer may not otherwise have offered.

CHAPTER 1: BUILDING THE MODEL UNION

MODULE 2: ROLE OF A STEWARD



LEARNING OBJECTIVES

Participants will be able to:

1. Describe the role of a steward
2. Articulate at least two practical, concrete actions that a leader can take at the worksite to strengthen understanding, involvement, and unity among coworkers.



DEFINITIONS

Steward: A worksite leader, elected by their coworkers, whose job it is to organize their coworkers to help them interpret and enforce the contract.

Duty of Fair Representation: The legal duty of all stewards to represent all members fairly and impartially.

Organizer: A steward must also be an organizer; that is, it is the steward's job to coordinate meetings, workplace actions and other collective actions, to systematically turn their coworkers out to participate in those meetings and actions, and to relay important information and interpret the boss messaging for their coworkers.

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The role of the steward in building the model union

Stewards are the foundation upon which any union is built. Strong, engaged stewards who organize their members and enforce their contract will help to build a strong, democratic union. Stewards who don't participate, don't lead their coworkers, and don't enforce the contract are building a weak foundation for their union.

Article 7 of NUHW's Constitution and Bylaws outlines the roles and responsibilities of a steward:

STEWARDS

1. Stewards are the worksite leaders of the union. A strong, democratic, and effective union is built on a solid foundation of stewards at each worksite. The responsibilities and roles of a steward are defined by this Constitution and Bylaws; union policies and procedures; as well as by the provisions of the collective bargaining agreements that are negotiated with the employers.
2. The diversity and complexity of the union only allow for a general description of the steward's roles and responsibilities in this Constitution and Bylaws. The Executive Board shall set policies as necessary on all matters relating to stewards, except the basic policies that stewards be members in good standing, and that they be elected, by ballot or petition, in a work area (unit or department or cluster) defined by the appropriate worksite steward council.
3. A steward has no greater rights than any of the members in their area. However, the responsibilities of a steward do outweigh those of other members. Being a steward requires that personal opinions and preferences are subordinate to that which represents the highest good to the members.
4. Stewards shall serve without compensation. However, based on the financial ability of the Union, the Executive Board shall consider and establish guidelines and policies regarding reimbursement for lost time wages and "out of pocket" expenses.
5. The responsibilities of a steward shall include, but are not limited to:
 - A. Mobilizing members to action;
 - B. Supporting the union's efforts to process grievances and resolve worksite issues;
 - C. Orienting new workers to the union;
 - D. Maintaining the Union's internal organization at the worksite;
 - E. Completing core steward training and any other required training;
 - F. Participating in the grievance appeal process, as appropriate;
 - G. Distributing and posting all appropriate information they receive from the union and updating the union bulletin board;
 - H. Collecting dues or other monies if so authorized by the union;
 - I. Representing their worksite in appropriate meetings of the union and representing the interests of the members in their absence;
 - J. Attending facility, worksite, geographic, and other appropriate meetings;
 - K. Effectively leading members to defend and advance the interests of the membership;
 - L. Participating in, promoting, and recruiting for the union's organizing and political programs;
 - M. Communicating with and leading members to implement the policies and programs of the Executive Board and the division steward council.

**To see the full article, visit www.nuhw.org/constitution-and-bylaws/*

CHAPTER 1: BUILDING THE MODEL UNION

Legal rights of stewards

While stewards have no greater rights than other union members, when we are functioning in the role of the steward, we do have the right to be regarded as equal to management. Stewards also have the right to:

- Investigate and file grievances, including the right to request information from management
- Be held to equal standards as other coworkers
- Organize collective worksite actions
- Actively participate in a Weingarten investigatory meeting, and to speak privately with an employee prior to an investigatory meeting

You may not be disciplined or retaliated against for filing a grievance or serving appropriately in your role as a steward.

Duty of Fair Representation

It is every steward's LEGAL duty to represent all members fairly and impartially, regardless of personal animosity or differences. As stewards we have to conduct a thorough investigation, be timely, and communicate with members on the progress of a grievance, whatever the outcome is.

Duty of Fair Representation requires three things on the part of the union:

- All members will be represented without discrimination.
- Discretion will be exercised with good faith.
- The union will not act arbitrarily.

To avoid opening yourself up to a Duty of Fair Representation (DFR) charge, remember to:

- Treat all members equally.
- Never discriminate against a member based on race, gender, sexual orientation, political affiliation, religion, national origin, or other reason.
- Do a thorough investigation of the facts of the possible grievance and be sure to keep good records of your investigation.
- Have an honest, transparent process about whether you intend to process a grievance and your objective rationale.
- File grievances within timelines.
- Consult with veteran stewards and union staff if you are handling a situation that you are unsure about.

CHAPTER 1: BUILDING THE MODEL UNION

Qualities of a Strong Steward: Self Assessment

I organize my coworkers to take action
(move petitions, have organizing conversations,
coordinate workplace actions)

- ☐ Yes, I do this often
- ☐ I do this sometimes
- ☐ I never do this

I investigate and file grievances

- ☐ Yes, I do this often
- ☐ I do this sometimes
- ☐ I never do this

I participate in or lead meetings with
management

- ☐ Yes, I do this often
- ☐ I do this sometimes
- ☐ I never do this

I participate in or lead bargaining
(contract bargaining or local issues
bargaining)

- ☐ Yes, I do this often
- ☐ I do this sometimes
- ☐ I never do this

I lead Weingarten meetings

- ☐ Yes, I do this often
- ☐ I do this sometimes
- ☐ I never do this

I facilitate steward council meetings

- ☐ Yes, I do this often
- ☐ I do this sometimes
- ☐ I never do this

I help to organize unorganized workers

- ☐ Yes, I do this often
- ☐ I do this sometimes
- ☐ I never do this

I mentor other stewards

- ☐ Yes, I do this often
- ☐ I do this sometimes
- ☐ I never do this

I recruit new stewards

- ☐ Yes, I do this often
- ☐ I do this sometimes
- ☐ I never do this

I participate in community and political
activities (canvassing, phonebanking,
meetings and events)

- ☐ Yes, I do this often
- ☐ I do this sometimes
- ☐ I never do this

I recognize and document legal violations
(health & safety, staffing, patient rights)

- ☐ Yes, I do this often
- ☐ I do this sometimes
- ☐ I never do this

CHAPTER 1: BUILDING THE MODEL UNION

Portrait of a well-organized workplace

The union is visible to members and management every day.

- **Face-to-face visits.** Stewards or union volunteers walk through the workplace regularly. They have relationships with all members, not just elected leaders.
- **Complete coverage.** There is a steward or union volunteer on every shift in every department. The list is written down, regularly updated, and widely available.
- **Lively meetings.** Membership meetings happen regularly and are well-attended.
- **New hires join.** A union representative attends every new employee orientation.
- **Word gets around.** There is regular communication through newsletters, flyers, up-to-date bulletin boards, and a member-to-member network. We defend our standards and enforce our contracts.
- **Action is the norm.** Members mobilize and use collective action to solve everyday problems. Grievances are not our primary line of defense.
- **We know our rights.** Contracts are widely available and promptly distributed, both electronically and in print.
- **Stewards do it.** Stewards are trained and empowered to resolve issues at the lowest level, including filing grievances.
- **Boss knows it.** Managers do not act unilaterally or abusively because they know they will get pushback.

Members own the union.

- **Confidence.** Members feel that their union is strong and can resolve problems.
- **Easy access:** Through stewards, members have immediate access to resources to resolve their problems, without having to track down the union staff person.
- **Participation:** Members participate in union-wide programs and campaigns.
- **Pride:** Members are glad they belong to the union. Social events are well attended.

Adapted from Labor Notes "Secrets of a Successful Organizer" training: <https://labornotes.org/secrets>.

CHAPTER 1: BUILDING THE MODEL UNION



SUGGESTED ACTIVITIES

Activity 1: Steward Self-Assessment

Estimated time: 15 minutes

Individually take the self assessment quiz on page 13 (*Qualities of a Strong Steward: Self Assessment*). Then, in pairs or small groups, share the areas you scored yourself high, as well as areas where you want to improve as a steward.

Activity 2: Portrait of a Well-Organized Workplace

Estimated time: 30 minutes

In pairs or small groups, review the bullet points listed under the *Portrait of a Well-Organized Workplace*, then discuss the following questions:

- Which of these elements do you see at your workplace?
- Which elements are lacking?
- What concrete actions could you take as a leader to organize your workplace?

Then come back together as a large group and, using the concrete actions groups came up with, put together an action plan for your facility.



KEY LEARNINGS

- As a steward, you are responsible for organizing your coworkers and increasing their understanding of and involvement in your union.

CHAPTER 1: BUILDING THE MODEL UNION

MODULE 3: BUILDING MEMBER UNITY TO WIN



LEARNING OBJECTIVES

Participants will be able to:

1. Utilize stories to build stronger relationships
2. Apply learned tools to address division and handle constructive criticism



DEFINITIONS

Unity: In the context of your union, unity means presenting a strong, engaged and united front to management in meetings, during bargaining, and when it comes to addressing issues in the workplace.

Constructive criticism: Feedback that is clear, direct, and honest, and comes with concrete suggestions for making positive changes. Stewards will not always receive criticism from members in a form that is constructive, but it's still the steward's responsibility to ensure members feel heard.

Steward council: The elected representatives of the members of the bargaining unit at a facility.

CHAPTER 1: BUILDING THE MODEL UNION

Building strong relationships

A strong, engaged and effective **steward council** can change the culture of a facility. If stewards are always speaking up and speaking out, the union is real for members and for management. When steward councils are disorganized or struggle with in-fighting, employers are more apt to take advantage and try to circumvent the contract.

Stewards don't have to be friends with each other or agree on everything. You don't even have to like each other. But things work better when stewards build strong relationships with each other based on mutual respect and accountability. You develop those relationships by showing up for each other over and over again, building trust over time.

Addressing division

Unity among members is essential so that you can build power. We can't afford to let greedy employers divide us against each other based on our differences of opinions, what someone looks like, where they come from, whom they love, or what language they speak. By joining together, we can make our workplaces work for all of us.

The boss is often the main cause of division, but sometimes members can be divisive too. Sometimes members will express negative or oppositional sentiments about your union, or voice opinions you don't agree with. Below is a helpful tool to use when a member approaches you with a challenging question or statement:

Tool 1: Responding to Challenging Questions

1. **LISTEN** mindfully before formulating a thoughtful response
2. **BREATHE** to help us relax and be receptive.
3. **ASK** questions when people express strong opinions.
4. **AFFIRM**: Clarify the difference between their good intentions and the impact of their words.
5. **SPEAK** from a place of mutual interest, sharing your personal experiences, emotions, and positive example. We're all in this together. Share some context or information.
6. **ENGAGE**: Involve the member. What current union activity will you ask them to get involved in?

What about when you are on the receiving end of **constructive criticism**? Perhaps a member doesn't agree with how you handled a grievance. Or perhaps you offended a fellow steward with a careless comment in a meeting. We are all human, and all make mistakes from time to time. A true leader acknowledges mistakes, takes responsibility and works to repair the relationship.

Here is another helpful tool for accepting constructive criticism. You'll notice it has a lot in common with the tool for handling tough member questions.

CHAPTER 1: BUILDING THE MODEL UNION

Tool 2: Accepting Constructive Criticism

1. **BREATHE:** To help us relax and be receptive.
2. **LISTEN:** Carefully to what the other person has to say so we can learn from the experience.
3. **THANK THE PERSON** for being honest and assertive.
4. **GO AWAY AND THINK ABOUT IT** and how we can do differently next time.
5. **TAKE APPROPRIATE ACTION:** Apologize, make an effort to seek knowledge to understand.

WHAT NOT TO DO: Argue or attack; become defensive; get angry; rebut...



SUGGESTED ACTIVITIES

Activity 1: Boss Tactics

Estimated time: 30 minutes

Often the boss will try to divide union members along race, class or gender lines in order to weaken the union. For example, when the boss implements a scheduling protocol that pits senior employees against newer ones, they are using years of service to divide people. In pairs or small groups, come up with a list of examples of when the boss has used differences of race, gender, sexuality, immigration status, or something else to divide you and your coworkers.

Activity 2: Sharing your Story

Estimated time: 30 minutes

How do we build connections and strong relationships within our steward councils? A good place to start is by sharing our stories.

Take a few minutes to answer the following questions individually, then pair up and share your responses.

1. How did I get into healthcare?
2. How has being a union leader changed my life?

Once both people have shared, return to a large group and reflect. What did you relate to from other people's stories? What surprised you in these stories? What are the ways we as stewards show up for one another?

CHAPTER 1: BUILDING THE MODEL UNION

Activity 3: Dealing with Division

Estimated time: 30 minutes

Dealing with division or discomfort is never easy, but practicing helps. In pairs or small groups, review the scenarios below, then use the response models on pages 17–18 to formulate your response. Then come back together as a large group and share your responses.

SCENARIO 1: A veteran nurse with 25 years of experience is complaining about the “new grads” coming onto the unit. They tell you: “These kids have no respect. They want everything handed to them, they complain about staying 15 minutes late to finish charting, and they think they’re ‘above’ the union because they plan on leaving in two years anyway. Stop trying to recruit them; they’re a waste of time.”

Use RESPONSE TOOL 1 to formulate your response.

SCENARIO 2: A member approaches you privately. They are worried because a group of their coworkers has started skipping a mandatory safety protocol (for example, two-person lifts or specific sanitization steps) because the unit is so short-staffed and they want to get home on time. The member says: “I know it’s unsafe, but if you bring this to management, they’ll just discipline us for ‘performance’ instead of fixing the staffing. You need to look the other way so we don’t all get written up for trying to survive the shift.”

Use RESPONSE TOOL 1 to formulate your response

SCENARIO 3: You’ve been a steward for years and pride yourself on being the “expert” who handles everything. A member pulls you aside and says: “Even though I’m a new steward. I want to help with the contract campaign, but every time a few of us ask, you just tell us ‘don’t worry, I’ve got it.’ It feels like a private club where only your friends get to know what’s happening in the meetings with HR.”

Use RESPONSE TOOL 2 to formulate your response.

SCENARIO 4: You just concluded a particularly difficult labor management meeting. During the meeting, management refused to discuss a number of important issues. You yelled at them and pointed out all the ways they are hypocrites. Afterwards, a member who was at the meeting told you they thought yelling was a bad strategy.

USE RESPONSE TOOL 2 to formulate your response.



KEY LEARNINGS

- In order to win strong contracts and improve working conditions, you must build strong relationships with other stewards and the members you represent.
- It’s important to remember that while we may not all be best friends as stewards the more we are able to work together means we’ll win more.

CHAPTER 2: ORGANIZING FUNDAMENTALS

MODULE 1: LEADERS ISSUES HOPE



LEARNING OBJECTIVES

Participants will develop a shared definition of leaders, issues, and hope, as well as the role these concepts play in organizing workers.



DEFINITIONS

Leader: Leaders are people who have followers.

Issue: The thing that matters most to someone.

Hope: A plan to win.

CHAPTER 2: ORGANIZING FUNDAMENTALS

The three-legged stool

At NUHW, we believe the effective cultivation of leaders, identifying and mobilizing around issues, and providing hope are the foundation of any successful organizing campaign.

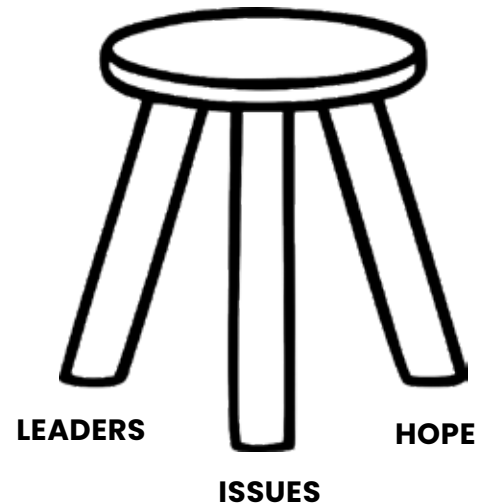
Leaders

Leaders have followers. People respect and trust them (or fear them) and will often do what they ask. Leaders can move petitions and convince coworkers to come to meetings and take action. Without leaders, it is hard to move campaigns, and impossible to win them.

Activists help build the union by participating in meetings, signing petitions, passing flyers and showing up to actions. Like leaders, they play an important role in moving campaigns forward, but, unlike leaders, they don't have followers.

You don't pick leaders. Your coworkers tell you who the leaders are. Questions to ask to identify leaders:

- Whom do people respect?
- Whom do people go to when the boss isn't around?
- Who organizes the department parties and potlucks?
- Who is someone people listen to?



Issues

A person's issue is:

- The thing that is most important to them
- The thing that pisses them off
- The thing that drives them to get involved in their union
- NOT an excuse or a doubt

Understanding issues is important because you can't move anyone without knowing what they care about. You have to ask open-ended questions in order to learn what matters to someone:

- How are things going in your department?
- How does that work?
- What do you think about that?
- How does that make you feel?
- How does that affect you outside of work?
- If it were up to you, what would you do to change things for the better?

CHAPTER 2: ORGANIZING FUNDAMENTALS

Hope

It is normal to feel hopeless when you face stressful situations, like a tough contract fight or a contentious workplace issue.

Hope is really the plan to win. We can give someone hope by sharing the plan for achieving our goal, or by sharing a story of past successes. When giving someone hope, remember to “zoom in and zoom out.” Zoom in on the particular issue they are facing by using specific, concrete examples of how other departments or facilities faced a similar challenge and overcame it. Zoom out to paint a big picture vision of what their lives will look like once the goal is achieved.



SUGGESTED ACTIVITIES

Activity 1: Talking with a Coworker about a 1-Day Strike

Estimated time: 30 minutes

Imagine your union has been in contract negotiations for almost a year. You’re close to a deal, but the employer has made two bad economic proposals: increasing what employees pay for health insurance by 25% and cutting the employer’s contribution to the retirement plan.

Over the past several months, workers have signed petitions, worn union buttons, attended rallies, and participated in an informational picket. Management still hasn’t moved on these key issues. Now the bargaining committee is recommending a 1-day strike to show the employer that workers are serious.

You’ve been asked to talk with Derrick, a relatively new coworker in your department, and encourage him to vote YES on the strike authorization.

You know a few things about Derrick:

- He recently started supporting his parents financially.
- He relies heavily on his health insurance because his wife and two kids are on his plan.
- He has said he’s nervous about striking because missing a day of pay would be hard for him.

In pairs, take turns role-playing the conversation:

- One person plays Derrick, sharing concerns about losing pay and taking the risk of striking.
- The other person plays the steward and uses the Organizing Conversation Framework to unpack Derrick’s concerns and move him to vote yes to authorize the strike.
- After a few minutes, switch roles so each person practices both parts.

CHAPTER 2: ORGANIZING FUNDAMENTALS

Activity 2: Identifying Issues

Estimated time: 20 minutes

In pairs, ask each other open-ended questions to identify the other person's most important or pressing workplace issue. Avoid direct questions like, "Hey, what's your issue?" because this can be confusing or offensive.

Once you've identified the main issue(s), ask follow-up questions to explore why those issues are so important to the other person. You can use the questions provided on page 21 as a reference, or create your own.

After both partners have had a turn sharing and asking questions, return to the larger group and share your conclusion about the identified issue.

Activity 3: Creating Hope

Estimated time: 20 minutes

Think about a time when your union won. Maybe you won a grievance that you filed on behalf of a coworker, or maybe you and your colleagues stopped management from making changes to your department. Now imagine you're talking with a member who is facing a similar situation and feeling hopeless. What is the story you would tell them to give them hope? In pairs or small groups, share your stories of hope.



KEY LEARNINGS

- Any successful organizing campaign must have leaders, issues, and hope.
- You don't pick leaders, your coworkers do.
- To learn about what someone cares about, you have to ask questions and listen.
- You create hope by sharing the plan to win, as well as stories of past victories so your coworkers know they too can organize and win.

CHAPTER 2: ORGANIZING FUNDAMENTALS

MODULE 2: MOVING UNDECIDED COWORKERS



LEARNING OBJECTIVES

Participants will be able to:

- Apply best practices for moving undecided coworkers from a place of inaction to one of action
- Recognize and apply components of an organizing conversation



DEFINITIONS

Undecided coworkers: Coworkers whom you've asked to do something — sign a petition, attend a meeting, or come to a workplace action — and have told you they are not sure.

Organizing conversation: Different from a casual chat, an organizing conversation is usually a one-on-one conversation meant to build trust, identify issues and move someone from a place of inaction to one of action.

CHAPTER 2: ORGANIZING FUNDAMENTALS

Moving undecided coworkers is one of the hardest — and most important — things you will do as a steward. It is vital to move coworkers who are undecided because they make up the majority of the people at your workplace. They are the “missing middle,” the people who aren’t die-hard union supporters, but also aren’t totally anti-union. The main way you will be able to move your **undecided coworkers** is through **organizing conversations**.

BASIC ORGANIZING CONVERSATION FRAMEWORK

Introduction

- Introduce yourself if you don’t know them well
- Don’t just jump straight into the ask
- Let them know what you want to discuss

Anger/issues

- Engage in conversation by asking questions
- Listen to identify the issues they are experiencing and connect them to the larger issues at hand
- Ask open-ended follow-up questions
- Agitate
- This part should be mostly listening and asking questions

Hope/plan to win

- Don’t be afraid to get vulnerable (without getting too personal) and talk about how you got involved with your issues
- Provide examples of past successes, a credible plan to win, a vision for the future
- Without hope, people sink into cynicism or apathy
- Communicate that victory will take their involvement
- Make the decision clear for workers and leaders
- Provide them with two options that are clear, concise, concrete and impactful
- End with a question that challenges them to make a decision

Call the question/assessment

- Only one way to call the question: ASK!
- A petition can be a useful tool to assess their position

Inoculation

- Management will try to break down our campaigns. This will be the time in the conversation to fight back against their arguments preemptively
- Fight boss tactics and messaging by telling people what they can expect the boss to say and do

Follow-up

- Carefully track what commitments you get out of the conversation
- Do not forget to follow up or provide information if asked for more details
- Be reliable!
- If they’re receptive, move them into action with additional ways they can help:
 - List work, ID leaders and get contact info or set meetings, talk to another coworker
- Set a concrete follow up to convey urgency and help people understand the importance of the step they are taking

CHAPTER 2: ORGANIZING FUNDAMENTALS

UNDECIDED COWORKERS: DO'S AND DON'TS



- **Ask open-ended questions** if you aren't sure what they care about, and practice active listening by asking follow-up questions and repeating back what someone tells you to ensure clarity.
- **Go to their issue**, or the thing that matters most to them, and remind them of why they are fighting.
- **Validate their righteous anger** — agitating someone often means encouraging them in their anger about a workplace injustice.
- **Acknowledge** that it's normal to feel tired and frustrated by a long fight, while also reminding them they aren't fighting alone, that the fight is winnable, etc.
- **Share the plan to win** — share stories of past successes, of other workers at other facilities succeeding.
- **Figure out who their leader is** and get that person to talk to them.
- **Pay attention to what people are saying** and who they have relationships with — maybe there is another/deeper issue going on, and you need to ask more questions.
- **Be cognizant of yourself** — pay attention to the other person's body language. Are you talking to them about something that engages them? Don't check your phone or watch.
- **Win the environment** — undecided or apathetic workers often look to see who will win, so wear swag and do activities/actions to make your union feel like the winning team.



- **Argue.**
- **Assume** you know what someone's challenges or priorities are.
- **Talk more** than you listen — follow the 70/30 rule (listen 70%, talk 30%).
- **Put off** the conversation until a later date to avoid the hassle.

CHAPTER 2: ORGANIZING FUNDAMENTALS



SUGGESTED ACTIVITIES

Activity 1: Undecided Angie

Estimated time: 20 minutes

Imagine your union has been in contract negotiations for over a year. You're close to an agreement, but the employer has proposed raising employee contributions towards health insurance by 30%, as well as a reduction to 401k contributions. You've done petitions, marches on the boss, meetings with electeds, and an info picket. Now, the bargaining committee is recommending a 1-day strike. They've asked you to talk to Angie, a relatively new employee in your department, to persuade her to vote Yes on the strike. You know Angie is a single mom, and that health insurance is important to her, but your bargaining team members say she's unsure about striking because she's afraid to lose pay. In pairs, take turns playing Angie. The other person will play the steward.

Activity 2: What's a Petition Going to Do?

Estimated time: 30 minutes

You are circulating a petition to demand that management staff up the weekend shifts. You approach Andrea, a coworker who is generally well-liked but tends to stay on the sidelines.

The Conflict: When you ask Andrea to sign, they roll their eyes and say: "A petition? Seriously? Management is just going to throw that in the trash the second you hand it over. They don't care about a list of names; they care about the bottom line. Unless we're going on strike, this is just a waste of time and makes us look weak because we're 'asking' for permission instead of taking it. Call me when we're doing something real."

Using the organizing conversation framework and tips on page 25, discuss what you would say to Andrea in response.

Activity 3: Framing the Choice

Estimated time: 20 minutes

Your department is launching a "March on the Boss" to deliver a petition about unsafe working conditions. Your coworker Anton is terrified. He says: "I can't sign that and I definitely can't go to the manager's office. I have a family to feed. If the boss sees me there, they'll put a target on my back and find a reason to fire me. It's safer for me to just stay out of it."

In pairs, discuss how you would "Frame the choice" (see page 25) of the organizing conversation for Anton.



KEY LEARNINGS

- You can use organizing conversations to move undecided coworkers to take action and get involved in your union.
- You can't move your coworkers without understanding their issues and the things that motivate them.
- When in doubt, listen and ask questions!

CHAPTER 2: ORGANIZING FUNDAMENTALS

MODULE 3: COMBATTING THIRD-PARTYING



LEARNING OBJECTIVES

Participants will be able to identify and correct instances of third-partying by the boss, members, or themselves.



DEFINITIONS

Third-partying: The act of talking about or treating your union as an outside “third party” intermediary that is the go between the boss and you and your coworkers. In reality, you and your coworkers are the union. Your union is not some outside entity, but the boss will often try to get you to see it that way.

CHAPTER 2: ORGANIZING FUNDAMENTALS

Common third-partying messages from the boss

THIRD-PARTYING your union is one of the main tactics the boss uses to create fear, doubt, and disempowerment among workers.

But members (and even stewards) can also third-party their own union. They can do it when they talk about the work of their union, or in their actions. They can even do it by accident.

HOW THE BOSS THIRD-PARTIES THE UNION	
THE ARGUMENT	WHAT THE BOSS WILL OFTEN SAY
Union makes the rules, makes the decisions for you.	<i>"Union leaders" are determined to fight us over this contract, but the members feels differently. I can't do what you're asking because the union negotiated something else. Your union will force you to go on strike.</i>
Union interferes with our direct relationship.	<i>Because of the union, we can't speak directly to each other about issues in the department. You have to talk to your union rep first.</i>
Union is a big business looking out for its own interests.	<i>Unions just want your dues dollars. The union is just doing this for publicity/money to drum up new members.</i>
Union is dishonest, has a hidden agenda.	<i>The union isn't telling you the whole story. Union leaders have a hidden agenda that you have no say in.</i>

1ST PARTYING PRINCIPLES AND HOW WE PUT THEM INTO ACTION

Principle 1: Member leaders deliberate and make decisions collectively. You and your coworkers make the decisions/vote on the contract/decide what issues we prioritize. This is your union. The workers/members are the union

Principle 2: Members are ALWAYS included in conversations with bosses. Tell a boss: "We can't meet unless there is a steward/member present. Tell a coworker: "You, a coworker or a steward will need to join me in this meeting/caucus with the boss."

Principle 3: Collective action is the cornerstone of our success. You and your coworkers have to be willing to take action to win a good contract/improve your workplace. If a lot of members join the meeting/strike/bargaining, it sends the boss a strong message that we're united. If few members show up, it sends the boss the message that you and your coworkers are weak and divided

Principle 4: Staff is viewed as a resource: "As an organizer, I'm here to help facilitate what you and your coworkers prioritize, but you all have to make the decisions and do the work to win. I can certainly help you resolve this, but first you will need to forward me that email/get me a copy of your pay stub/survey your coworkers to get their opinion."

CHAPTER 2: ORGANIZING FUNDAMENTALS



Examples of members third-partying the union

Sandy

Sandy is an MRI tech who's worked at the hospital for 15 years. She's always been supportive of the union, attends meetings and bargaining sessions, and has even helped with strike sign-ups. Today she came to you, her steward, to complain that her paycheck is wrong. When you asked her to help you fill out the grievance form, Sandy says: "I don't have time to do this right now, that's why I'm bringing it to your attention. Aren't you the steward? Isn't it your job to file grievances for members?"

Dennis

After a long contract fight, you and your coworkers have just reached a tentative agreement on a new contract, with significant raises and improvements to health insurance. However, the one take-away was a slight increase to copays. Members have voted overwhelmingly to accept the new contract. Dennis, an LCSW who is about to retire, is angry because the slight increase to copays applies to retiree healthcare as well. Dennis says, "The union didn't get us a good contract last time around, and this one is even worse. Who even decides these things? None of us wanted this contract. The union sold us out."

Jason

Jason works in EVS and has always been anti-union. He never attends meetings, doesn't participate in votes or actions, and has even crossed the picket line during strikes. Recently, his department negotiated an agreement with management to change the way shifts are scheduled. The members were happy with the agreement and voted overwhelmingly to ratify it, but Jason is displeased. Jason says, "I'm paying for the union, but I never get anything out of it. What are my dues even going towards? The union is a service we pay for, and if we're not getting that service, then we're getting screwed."



HOW BOSSES THIRD-PARTY THE UNION

The below letter is an example of the kind of third-partying language bosses will use when communicating with union employees.

Memo: Open Letter to Caregivers

Subject: Ongoing Negotiations

Dear Cherished Caregivers:

As you may know, we've been in bargaining with the NUHW.

First, I want to just appreciate you all for all your hard work and tireless dedication during these difficult times. This pandemic has wreaked havoc on our communities, and has put our beloved hospital under significant strain, both emotionally and economically. Thank you for continuing to show up and do your best for our patients.

As you may know, we've been in bargaining with the union for over a year now, and have made good progress on a number of important issues. For example, we have graciously agreed to continue providing fully employer-paid healthcare, and we have heard from numerous caregivers how much they appreciate that generosity.

However, the union's continued insistence on raise amounts that are far above market rate – and far beyond what our little community hospital is able to afford – has left us at a crossroads. While we have no doubt that Prince caregivers seek to put patients first, it is increasingly evident that the union has other priorities.

Like many of you, I desire nothing more than to move past these protracted battles with the union and achieve an agreement that benefits you, dear caregivers, as well as the patients we serve. We encourage you to speak to your union leaders and urge them to seek compromise.

Sincerely,

Chad Hotchkins, III

CEO, Prince Hospital

CHAPTER 2: ORGANIZING FUNDAMENTALS



SUGGESTED ACTIVITIES

Activity 1: Bosses Third-Partying the Union

Estimated time: 20 minutes

In pairs or in groups, read the fictional letter in the case study on page 31. Can you identify the ways in which the boss third-parties the union?

Activity 2: Members Third-Partying Their Union

Estimated time: 20 minutes

In pairs or in groups, read the scenarios on page 30, then come up with what you would say to the person in response. How would you reframe the third-partying? How would you reinforce the idea that the workers are the union? Then gather back together as a large group and take turns role-playing the conversation.

Activity 3: Response Letter

Estimated time: 15 minutes

Imagine you've been asked to respond to the memo sent by the CEO of Prince Hospital (Case Study page 31). What would you say? In pairs or small groups, brainstorm a response in which you confront and correct the instances of third partying in the letter.



KEY LEARNINGS

- You and your coworkers are the union!
- Whether it comes from your manager, HR or your coworkers, as a steward, you must learn to identify and correct instances of third-partying.

CHAPTER 3: SOLVING PROBLEMS ON THE JOB

MODULE 1: ADMINISTRATIVE VS. DIRECT ACTION



LEARNING OBJECTIVES

Participants will be able to:

1. Articulate the pros and cons of administrative solutions vs. collective action
2. Apply the definition of a good organizing issue, as well as the concept of escalation.



DEFINITIONS

Organizing Issue: An issue that is deeply felt, widely felt, winnable, creates meaningful improvement in peoples' lives, and helps make the union stronger.

Administrative action: It is typically a formalized issue resolution procedure, like a grievance procedure, the employer's own compliance process, or negotiation.

Direct Action: Often called collective action, direct action is when union members use their collective power to make the boss agree to a desirable goal.

NLRA: The National Labor Relations Act.

Escalation: In a campaign, the act of starting with lower-intensity actions and building up to actions of increasing intensity until you achieve your goal.

Cease and Desist letter: An official legal notice sent to the employer to demand that the employer stop from implementing a unilateral change or to stop some type of misconduct.

CHAPTER 3: SOLVING PROBLEMS ON THE JOB

Workplace actions

Below is a list of workplace actions. Some you may recognize and others may be new. Are there any actions missing? Are there any listed that you are not familiar with?

- File a grievance
- Bargain over a local issue
- Send a cease and desist letter
- Send an email to management
- Move a petition
- Pass flyers at the facility or in the community
- Hold a sticker-up
- March on the boss
- Hold an info picket
- Engage in a strike
- File a complaint with a state agency
- Meet with elected representatives
- Engage in *work to rule* (only doing exactly what's in your job description, by the book)
- Hold a town hall
- Hold a press conference

These actions fall into two categories: ADMINISTRATIVE and DIRECT.

An **ADMINISTRATIVE ACTION** is typically a formalized issue resolution procedure, like a grievance procedure, the employer's own compliance process, or negotiation.

A **DIRECT ACTION**, often called collective action, is when union members use their collective power to make the boss agree to a desirable goal like resolving an issue to the liking of union members, admitting fault on an issue, revealing alternative solutions, etc.

Some workplace issues affect just one or two individuals. Some affect a whole department or even the whole hospital. Issues that affect large groups of members have the potential to be good issues to organize around. Good **ORGANIZING ISSUES** are often:

1. Widely felt
2. Deeply felt
3. Winnable
4. Create meaningful improvement in peoples' work lives
5. Strengthens the union

The NLRA protects you when you engage in collective action.

Section 7 of the National Labor Relations Act states:

"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."

Escalation

Collective actions are usually part of an escalating campaign. In a campaign, **ESCALATION** is the act of starting with lower-intensity actions and building up to actions of increasing intensity until you achieve your goal. An example might be a campaign around unsafe staffing. You might start by filing a grievance, then moving a petition and delivering it to the manager if the grievance doesn't resolve things. If that doesn't work, organizing a press conference, meeting with elected officials, or filing a complaint with the state are other ways to consider escalating.

CHAPTER 3: SOLVING PROBLEMS ON THE JOB



SUGGESTED ACTIVITIES

Activity 1: Is it Administrative or Direct Action?

Estimated time: 20 minutes

In pairs or small groups, read the list of possible workplace actions on page 34 and determine whether it's an administrative action, or a direct action. Then come back together and share your answers. Are there any tactics not listed here that you've used to solve problems on the job?

Activity 2: Solving Workplace Issues

Estimated time: 20 minutes

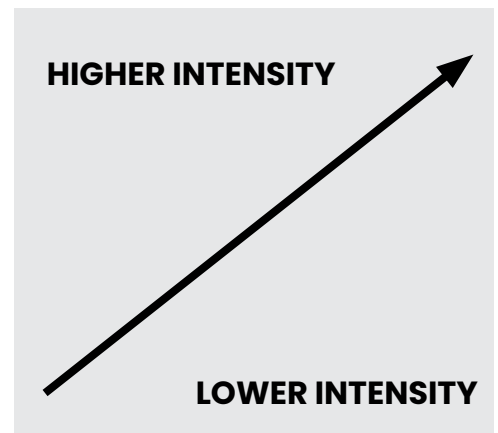
In pairs or small groups, make a list of worksite issues that you have had to deal with in the past month. What are some of the things you can do to try and resolve these issues? Reference the list on page 34 for ideas.

Activity 3: Escalation

Estimated time: 20 minutes

Materials: Flip chart, marker, post-it notes

On flip chart paper, draw a diagonal arrow. Label upper right corner "higher intensity," lower left corner "lower intensity." Then write down different workplace actions or tactics on post-it notes. Reference the list on page 34 if needed. It's okay if two people write down the same action. Then ask volunteers to come up and read what they wrote on their post-it notes. Ask: Is this action higher intensity, or lower intensity? As a group, decide where to place the tactic along the diagonal.



KEY LEARNINGS

- While grievances are important, organizing your coworkers to take collective action is the most powerful tool available to solve workplace issues that are deeply felt, widely felt, and winnable.
- It's most effective to start with lower intensity actions and escalate if the boss fails to resolve the issue.



CASE STUDIES

Escalation at Kindred Westminster

When COVID hit, management at Kindred Westminster was only doing the bare minimum to protect patients and caregivers. So NUHW members took matters into their own hands: they organized and met with management to demand N95s, universal testing, and a separate COVID unit.

Kindred management tried to buy them off with hazard pay, but didn't want to create a separate unit or implement any other protections. So the members reached out to local allies: CLUE Justice, the Orange County Labor Federation, and some local candidates for state assembly. They all supported NUHW members by writing letters to the CEO and also organized a picket.

That was still not enough pressure to win, so the members began organizing a second picket together with CNA (California Nurses Association). When they had gotten commitments from several elected officials to come out and speak at the second picket, that finally got the CEO's attention. The night before the picket, management called NUHW member leaders and agreed to most of their demands — monthly testing, weekly meetings, and improved PPE. And after some additional negotiation, management also agreed to set up a separate unit for COVID patients.

This was an example of an escalating campaign that ultimately moved management.

Novato Workers Win Scheduling Fight

In 2026, Novato Healthcare Center informed our members that they planned to begin imposing a rotating schedule that would force many workers who had weekday shifts to start working weekends. Our members were fierce in their opposition, and were already upset by unfair assignment of extra shifts.

In response, leaders moved a strike petition and, within 48 hours, gathered a majority of signatures. They delivered it to the administrator with a clear message that they would not accept the schedule changes, and would even strike.

In response, management backed off, agreeing they would postpone the implementation of the new schedule by 15 days, which was later extended, and then ultimately were pressured to reach a deal that would be added to the existing contract. The agreement prevents favoritism and ensures NUHW members get "first dibs" on extra days, double shifts, and overtime before hiring outside workers, promoting equal earning opportunities based on seniority. It also protects workers' schedules, avoiding disruptions to childcare and other jobs.

This was a good example of a deeply and widely felt issue that leaders were able to organize around and win on.

CHAPTER 3: SOLVING PROBLEMS ON THE JOB

MODULE 2: PLANNING SUCCESSFUL ACTIONS



LEARNING OBJECTIVES

Participants will be able to:

1. Identify opportunities to plan and execute workplace actions
2. Work with members and staff organizers to plan and execute successful workplace actions



DEFINITIONS

Organizing Issue: An issue that is deeply felt, widely felt, winnable, creates meaningful improvement in peoples' lives, and helps make the union stronger.

CHAPTER 3: SOLVING PROBLEMS ON THE JOB



In the previous section, you learned that there is a difference between administrative issues, which we often resolve using grievances, and organizing issues, which may involve filing grievances, but most often involve taking action at the workplace.

Remember: good ORGANIZING ISSUES are deeply felt, widely felt, winnable, create meaningful improvement in peoples' lives, and help make the union stronger.

Part of being a leader in NUHW means being able to identify good organizing issues, and planning actions at the workplace to resolve those issues.

In addition to resolving issues at the workplace, we organize workplace actions in order to:

- Develop leaders and members when they are the ones taking action to solve problems
- Make the issue more visible/public, and put pressure on the boss to do what we're asking
- Escalate during a contract campaign
- Generally raise union consciousness in the workplace
- Build workplace unity and confidence to take bigger actions

How do we know whether our action has had the desired impact? Here are a few different ways:

- There is a clearly defined, measurable goal that is achieved (e.g., members demanded and secured a meeting with the CEO, or circulated a petition demanding a stop to staffing cuts and management backed off)
- High member participation
- Members own the planning process, take the lead during the action, and feel good about the outcome
- The boss comes away with a distinct impression that workers are united and willing to do what it takes to achieve the outcome they want

CHAPTER 3: SOLVING PROBLEMS ON THE JOB

MOCK FACILITY CHART

DEPARTMENT	LOCATION	Total EE	AM Leaders	Total AM	PM Leaders	Total PM	NOC Leaders	Total NOC
Centralized Scheduling	980 Building	10	Sam	1		0		0
Laboratory – Outpatient	980 Building	10	Pablo, Eustace	2		0		0
Nursing Asst Float Pool	All Floors	40	Jackson	1	Alex, Carson	2	Lucia	1
Cancer Center	Cancer Center Main Hospital	5	Estaban	1		0		0
ICU	Herman Pavilion	3	Carter, Margaret	2		0	Marcus	1
Laboratory – Inpatient	Herman Pavilion	20	Jenna, Lindsey	1	Shiela, Pacual	2		0
Sterile Processing	Herman Pavilion, 1st floor	10	Martha	1	Lynn	1		0
Surgery	Herman Pavilion, 2nd floor	6	Jay	1		0		0
Dietary	Main Hospital	40	Jesse, Anne	1	Channing, Paul	1		0
ED Registration	Main Hospital	10	Maria C.	1	Kris	1		0
Purchasing	Main Hospital	5	Curtis	1	Kim	1		0
3rd South	Main Hospital	5	Joy Gumiran	1	Quinn	0		0
3rd North	Main Hospital	3	Rachel	1		0	Anna	1
Emergency Services	Main Hospital	10		0		0		0
2nd North	Main Hospital	3	Shundell	1		0		0
Environmental Services	Main Hospital basement	40	Maria, Ramon	2	Max, Sophie	2	Heidy	1
PBX Communications	Main Hospital basement	5	Sawyer	1	Laurie	1		0
Ultrasound	Main Hospital basement	8	Mohinder	1		0	Nick	1
CCT Scan	Main Hospital basement	6	Cameron	0		0		0
Cardiac Cath Lab	Main Hospital basement	5	Charmaine	1		0		0
Nuclear Medicine	Main Hospital basement	3	Curtis	1		0		0
Patient Access Reps	Main Hospital front entrance	10	Kathy	1		0		0
Radiology – Diagnostic	Main Hospital, first floor	20	Jared	1	Raul	1		0
OB	Main Hospital, first floor	6	Diana	1	Jose	1	Janet	1
Pharmacy	Main Hospital, 2nd floor	15	Scott	1	Mike, Andrew	1		0
Medical Records	Main Hospital, second floor	7		0		0		1
Respiratory Therapy	Main Hospital, 2nd floor	20	Betty, Katherine	2		0	Stacey, Joy	0
Procedure Center	Outpatient Surgery Center	3	Barbara	1		0		0
MRI	Profilli Imaging Center	5	Bono	1		0		0
Mammography	Wellness Center, 2nd floor	7	Darius	1		0		0
Physical Therapy	Wellness Center, 1st floor	10		0		0		0
TOTAL	350							

CHAPTER 3: SOLVING PROBLEMS ON THE JOB



SUGGESTED ACTIVITIES

Activity 1: Hiring Freeze

Estimated time: 30 minutes

In pairs or small groups, read the scenario below. Then use the petition planning worksheet and mock facility chart on page 39 to scope out a plan to circulate a petition.

SCENARIO: Management announces that due to “budget constraints,” they are freezing all “non-essential” hiring across the hospital, which includes several bargaining unit vacancies. The outrage is fierce! Social workers are already pissed about carrying excessive caseloads, the pharmacy is running with a skeleton crew, and nursing assistants are being floated to departments they’ve never been oriented to. You have one week to circulate a hospital-wide petition demanding that the boss release its reserve funds to fill all posted, vacant bargaining unit positions immediately. Use the below worksheet to make a plan for circulating the petition, based on the information in the mock facility chart.

PETITION PLANNING WORKSHEET

1. What is your percentage goal for signatures? _____%
We should always aim for AT LEAST 70% of the total bargaining unit to sign on to a petition.
2. How many leaders or stewards will be circulating the petition? _____
3. How many total members can these leaders reach? _____
4. What’s the plan for getting petitions into leaders/stewards hands?
For following up to collect signatures within a week?
Think about how many shifts there are, the best place to reach people before and after their shifts, etc.

CHAPTER 3: SOLVING PROBLEMS ON THE JOB

Activity 2: March on the Boss

Estimated time: 40 minutes

In pairs or small groups, read the scenario below. Then use the March on the Boss planning worksheet to scope out a plan for your action.

SCENARIO: Congratulations! You and your fellow stewards were able to get 80% of your coworkers to sign onto a petition protesting the hiring freeze. The next step is to organize a march on the boss to deliver the petition to the employer. As the steward, your job is to help plan the action. To whom should we present the petition? When and where should the march happen? What is the turn-out goal? What is our ask of management? What do we do after the march concludes? Fill in the below worksheet with the steps you'd need to take to help members organize this action. Don't be afraid to get creative!

MARCH ON THE BOSS PLANNING WORKSHEET

What needs to happen 1-2 weeks prior to the march?

What needs to happen a few days before the march?

The day of the march is here! What needs to happen during the action?

What needs to happen after the march?

CHAPTER 3: SOLVING PROBLEMS ON THE JOB



KEY LEARNINGS

- It requires careful planning to organize and execute a successful workplace action.
- Doing an action with poor turnout can be worse than not doing an action at all. It can demotivate members, cause division, and show the boss our union is not strong.

CHAPTER 4: GRIEVANCES

MODULE 1: GRIEVANCE HANDLING



LEARNING OBJECTIVES

Participants will be able to:

1. Define what a grievance is
2. List the basic steps involved in investigating and filing a grievance



DEFINITIONS

Grievance: A grievance is a formal complaint that the employer has violated the contract, past practice, applicable laws, fair treatment, or its own policies and rules.

Past practice: Any long standing, frequent practice that is accepted and known by both union and management.

Burden of proof: This basically refers to which side has to prove their point. If we have filed a grievance for a contract violation, then the burden of proof is with the union to demonstrate this. If the issue is a grievance about discipline, then the burden of proof is with the employer.

Request for Information (RFI): U.S. labor law obligates employers to furnish records and other information needed to investigate and process union grievances.

Skelly hearing: For employees in the public sector, a Skelly hearing is used instead of the Weingarten Rights. The purpose of the Skelly hearing is to allow employees an opportunity to respond to the charges and to request a reduction or elimination of the discipline. It also allows for an opportunity to check out the evidence that management has against the employee.

CHAPTER 4: GRIEVANCES

What is a grievance?

A grievance is just one tool for enforcing the contract and protecting rights of members. It ideally serves two purposes: making sure management is abiding by the contract and also educating, empowering and moving members to action. We need to be thinking about how each grievance can be used to increase participation, build the union, and create new leaders.

Investigating a grievance

Some problems are obvious grievances, but most of the time you'll need to know a lot more about what's going on. Jumping to conclusions based on false, faulty, or inadequate information will only undermine your credibility — and the union's. The steward should investigate to determine if there is a legitimate grievance and gather information needed to file and argue the grievance. Find the facts and learn about the issue!

INVESTIGATING GRIEVANCES	
Investigating a grievance 1. Who 2. What 3. When 4. Where 5. Why	Sources of information for an investigation 1. People: The grievant; coworkers; witnesses to the grievance; union stewards and staff who can supply ideas about similar grievances in the past; managers/supervisors. 2. Employee records: Personnel files (especially if a discipline is involved); absentee records; production/department process records; schedules; policy and procedures. 3. Union records: Union contract; past grievance files.

How to file a grievance

Once you determine there is a grievance, the next step is to notify management. In some shops, there may be a collaborative relationship with management and they may prefer you bring issues to them informally before filing a formal grievance. In others, a formal grievance may be the best way. If you decide to proceed with a formal grievance, you must fill out the grievance form.

Here are the main parts of the grievance form:

1. Statement of Grievance (just facts, no arguments)
2. Violation (What's being violated. List every article and section in the contract that you believe is being violated.)
3. Requested Resolution (How we want the problem to be fixed. What the union wants out of the grievance.)

CHAPTER 4: GRIEVANCES

GRIEVANCE FORM

Here are the main parts of the grievance form:

Statement of Grievance

Just facts — no arguments.

Violation

What's being violated. List every article and section in the contract you believe is being violated.

Requested Resolution

How we want the problem to be fixed. What the union wants out of the grievance.



GRIEVANCE FORM/ FORMULARIO DE QUEJA

Name of Grievant/Nombre del Agraviado		Facility/Hospital o Lugar de Trabajo
Address/Dirección de Trabajo	Phone/Teléfono	Job/Puesto de Trabajo
Steward/Delegado Sindical	Department/Departamento	Phone/Teléfono
Date Filed/Fecha en que se presentó la Queja	Supervisor/Supervisor	
Step 1 Meeting Date/ Fecha de Reunión del Paso 1	Skelly Hearing Date/Fecha de Reunión Preliminar	
Statement of Grievance/Declaración de la Queja:		
Applicable contract provisions include but are not limited to (article/section paragraphs)/Estipulaciones del Contrato aplicables pero no limitados a (artículo/sección/párrafo):		
Requested Resolution/Solución Solicitada:		
Grievant/Firma del Agraviado:		
Pursuant to the Employer's duty to bargain in good faith, the union hereby requests the following information and/or documents which are necessary and relevant to process this grievance/Es deber del empleador negociar de buena fe y del Sindicato solicitar la siguiente información y/o documentos que son necesarios y relevantes para procesar la queja:		

Received by Administrator:	Title:	Date Received:			
Step 2 Answer:					
Answered Received by Union Rep:			Date Received:	Satisfactory?	☐ Yes ☐ No

Received by Administrator:	Title:	Date Received:			
Step 3 Answer:					
Answered Received by Union Rep:			Date Received:	Satisfactory?	☐ Yes ☐ No

Request for Arbitration Submitted by Division Director:		Date:
Date Closed:	Precedent-Setting:	Non-Precedent-Setting:

ORIGINAL: SUPERVISOR/ORIGINAL: SUPERVISOR

COPY: STEWARD/COPIA: DELEGADO

COPY: UNION FIELD REP/COPIA: REP DE LA UNION

CHAPTER 4: GRIEVANCES

Grievance writing tips

- Less is More: The written grievance simply activates the grievance process. So, just write a statement with basic facts; NOT your argument. Use very simple, short, clear sentences so they aren't misinterpreted.
- "On or about ____ date ____": This will keep you from a technical error from a possible wrong date.
- "Violates the contract, including but not limited to Article ____, Section ____": Use this statement so you are not limited — keeps the door open for other articles/sections to be included.
- "Make whole": This is a term used in the remedy section in reference to compensating a party for a loss sustained, such as any wages or benefits they weren't paid.
- "Disciplined without just cause": This is a standard phrase if management did not meet the 7 tests of just cause when disciplining someone.
- "All affected": If the grievance is on behalf of a whole department or group of members, you will write "All Affected" instead of one grievant's name.



SUGGESTED ACTIVITIES

Activity 1: Schedule Change (see answer key)

Estimated time: 20 minutes

Carla has worked on the Mother-Baby unit at Sunshine Medical Center for 15 years. When she arrived for work on Thursday, her manager told her she had been removed from the upcoming weekend schedule due to "operational needs," even though weekends are part of her regular schedule. Carla says no one discussed the change with her. The contract states that schedules must be posted two weeks in advance and cannot be changed without first seeking volunteers and discussing the change with affected employees.

Here is the contract language at Sunshine Medical Center:

Article 37: Schedules shall be posted two weeks before the start of the next four week schedule. Such schedule shall not be altered without first seeking volunteers to provide needed coverage or changes and without first discussing such changes and alternate suggestions with the affected employees. Such procedure with regard to volunteers and discussions shall also apply to alterations of the established weekend cycles. Where there are changes to be made, the least senior employee shall be the first to be affected.

In pairs or small groups, discuss the following questions. Assign a recorder and someone to report back.

- Is this a grievance? Why or why not?
- Could this be a good issue for collective action? Why?
- How would you investigate what happened? Include the information you would ask for and the people you would talk to.

CHAPTER 4: GRIEVANCES



Activity 2: Supervisor Surveillance (see answer key)

Estimated Time: 20 minutes

Joe is called into a meeting with his supervisor to discuss his work. In the past, the supervisor has criticized him, accused him of making paperwork mistakes, and spoken to him in a disrespectful way, although no discipline was issued. Recently, Joe feels like he is being closely monitored — his supervisor is often standing by the time clock when he arrives at work and when he returns from meal breaks.

In pairs or small groups, discuss the following questions. Assign a recorder and someone to report back.

1. Is this a grievance? Why or why not?
2. Could this be a good issue for collective action? Why?
3. How would you investigate what happened? Include the information you would ask for and the people you would talk to.

Activity 3: Cleaning Chemicals (see answer key)

Estimated Time: 20 minutes

Manya recently started working in Environmental Services (EVS) at a hospital. After a few days on the job, she developed headaches and rashes on her hands. The cleaning products she was given were in small, unmarked spray bottles. A more experienced coworker told her that one of the products is a strong disinfectant regulated as a pesticide and asked if Manya had received training on the chemicals used in the department. Manya said she hadn't — her supervisor told her to jump right in because the department was short staffed.

In pairs or small groups, discuss the following questions. Assign a recorder and someone to report back.

1. Is this a grievance? Why or why not?
2. Could this be a good issue for collective action? Why?
3. How would you investigate what happened? Include the information you would ask for and the people you would talk to.

CHAPTER 4: GRIEVANCES

Activity 4: Productivity Pressure (see answer key)

Estimated Time: 20 minutes

Alex is a mental health clinician in an outpatient behavioral health clinic. Recently, management announced that clinicians must complete at least 7 billable sessions per day. Alex's supervisor has started sending emails when clinicians fall short and has warned that continued "low productivity" could lead to discipline. Alex is concerned because many clients require longer sessions, crisis support, or coordination with family members, which often isn't counted as billable time. Several coworkers say they feel pressured to shorten sessions or avoid complex clients in order to meet the numbers.

Here is the contract language governing productivity:

Article 10: Productivity Standards

Reasonable Productivity Expectations

Productivity expectations for clinicians shall be reasonable and consistent with the delivery of safe, ethical, and high-quality patient care. Productivity standards shall take into account the clinical needs of patients, documentation time, care coordination, crisis intervention, and other non-billable duties required by the Employer.

Changes to Productivity Standards

The Employer shall not implement or modify productivity or billable session requirements without providing the Union with at least thirty (30) days' notice and an opportunity to bargain over the change.

Use of Productivity Data

Productivity metrics shall not be used as the sole basis for discipline. Supervisors will consider case complexity, patient acuity, cancellations, and other factors outside the clinician's control.

Patient Care and Clinical Judgment

Clinicians retain professional judgment regarding the length and frequency of sessions necessary to meet patient needs. No clinician shall be required to shorten or alter clinically appropriate services solely to meet productivity targets.

Transparency

Upon request, the Employer shall provide clinicians and the Union with written documentation describing how billable sessions and productivity are calculated.

In pairs or small groups, discuss the following questions. Assign a recorder and someone to report back.

1. Is this a grievance? Why or why not?
2. Could this be a good issue for collective action? Why?
3. How would you investigate what happened? Include the information you would ask for and the people you would talk to.

CHAPTER 4: GRIEVANCES



Activity 5: Completing the Grievance Form

Estimated Time: 20 minutes

Select one of the above scenarios. Imagine you have investigated and determined that it is indeed a grievance. In pairs or small groups, work together to produce the following elements of the grievance form.

- Statement of facts
- What was violated
- Possible remedy



KEY LEARNINGS

- When it comes to investigating grievances, you must do your due diligence, including interviewing employees and requesting information from the employer.
- There are a few key strategies to employ when writing grievances in order to increase your chances of success.

CHAPTER 4: GRIEVANCES

MODULE 2: MEETING WITH MANAGEMENT



LEARNING OBJECTIVES

Participants will be able to:

1. Discuss key things to do when meeting with management
2. Analyze lessons learned from practicing a meeting with management.



DEFINITIONS

Caucus: A closed meeting of members to discuss arguments and possible solutions either held before, during or after negotiations or a meeting with management.

Equality principle: Stewards obtain equal status to management when acting in an official union capacity.

CHAPTER 4: GRIEVANCES

What to do before, during, and after meeting with management

Whether it's a grievance meeting, a meeting to negotiate over working conditions, or something else, it is vital that you prepare ahead of time before meeting with management. What is the goal of the meeting? What do you hope to achieve? Whether the meeting involves an individual grievant or a delegation of union members, it's always a good idea to hold a pre-meeting to make sure that everyone is on the same page BEFORE you get in the room with management.

BEFORE the meeting

1. Determine the goal.
2. Make a plan.
3. Meet with the right person.
4. Hold a pre-meeting or union CAUCUS.
5. Agree on a spokesperson, note-taker, or other roles if needed.

DURING the meeting

1. Remember the EQUALITY PRINCIPLE.
2. Take control by starting and running the meeting.
3. Tone matters. Know when to "blow up," when to act professional, when to get righteously indignant, and when to appeal for clemency.
4. Ask questions and listen/watch carefully to identify management's position.
5. Be strategic and watch for opportunities to compromise.
6. STAY UNITED! Call a caucus if you need to discuss something privately.
7. Get any agreements in writing!

AFTER the meeting

1. If a favorable resolution is reached, get the word out to other union members.
2. If not, strategize on how to use collective action to put more pressure on management.

CHAPTER 4: GRIEVANCES



SUGGESTED ACTIVITIES

Activity 1: Pre-investigatory Meeting (See Answer Key)

Estimated time: 20 minutes

A member tells you they have been called into a meeting with their manager to discuss a workplace issue. The manager did not say exactly what the meeting is about, but said it is related to “concerns about their work.” The member is worried they could be disciplined.

Imagine you are meeting with the member to prepare them ahead of the investigatory meeting. In pairs or small groups, describe how you would prepare the member:

- What questions would you ask?
- How would you describe your role as the steward?
- How would you explain what an investigatory meeting is?
- How would you describe the things that could happen after the investigatory meeting?

Activity 2: Grievance Meeting Role Play (EVS)

Estimated time: 30 minutes

Several EVS workers reported developing headaches and rashes after their shifts; the cause was unlabeled cleaning chemicals in spray bottles, combined with a lack of safety training. Hospital policy states that all hazardous products must be clearly labeled, safety information must be available, and employees must receive training before using hazardous chemicals. State law says the same.

The steward has filed a class action grievance alleging that management violated hospital policy and safety rules, as well as state law. A step 1 grievance meeting has been scheduled, and several impacted EVS workers plan to attend.

In small groups, act out the grievance meeting. One person should play the steward, one person should play the EVS manager, and other participants should play the role of impacted EVS workers. Other participants may also play the role of HR or note taker/observer.

To prepare, think about the arguments the steward would make in favor of a grievance, and the arguments management might present against it. What will your requested remedy be? How will you involve the impacted members in presenting the case?

After the role play, discuss:

- Did the steward clearly explain the grievance?
- What were the key arguments in favor/against?
- Did the steward appropriately involve the members in the meeting?
- What could the steward do differently in a real meeting?

CHAPTER 4: GRIEVANCES

Activity 3: Grievance Meeting Role Play (Home Health Social Worker)

Estimated time: 30 minutes

Several home health social workers have reported safety concerns during patient visits. One worker, Ana, was assigned to conduct visits in a neighborhood where she had previously had her car broken into and been threatened by a patient's neighbor. She told her supervisor she did not feel safe returning alone and asked for support or reassignment. The supervisor told her the visit still needed to happen and that "everyone has to be flexible."

Other social workers later shared that they have also been assigned to high-risk home visits without safety planning, training, or backup. Agency policy states that workers must receive training on field safety and procedures for potentially unsafe home environments, and that supervisors should assess risks and take steps to protect staff.

The steward has filed a class action grievance alleging that management violated agency safety policy and failed to provide a safe working environment. A Step 1 grievance meeting has been scheduled, and several impacted social workers plan to attend.

In small groups, act out the grievance meeting. One person should play the steward, one person should play the Home Health manager, and other participants should play the role of impacted social workers. Other participants may also play the role of HR or note-taker/observer.

To prepare, think about the arguments the steward would make in favor of a grievance, and the arguments management might present against it. What will your requested remedy be? How will you involve the impacted members in presenting the case?

After the role play, discuss:

- Did the steward clearly explain the grievance?
- What were the key arguments in favor/against?
- Did the steward appropriately involve the members in the meeting?
- What could the steward do differently in a real meeting?



KEY LEARNINGS

- Prior to meeting with management, it's helpful to have an agenda, be clear about what you hope to accomplish.
- Be prepared to document and follow up on any next steps after the meeting.

CHAPTER 5: DEALING WITH DISCIPLINE

MODULE 1: WEINGARTEN RIGHTS



LEARNING OBJECTIVES

Participants will be able to:

1. Define Weingarten Rights
2. Articulate how the Just Cause standard works in cases of discipline



DEFINITIONS

Disciplinary meeting: A meeting in which management issues discipline to an employee. Unlike investigatory meetings (Weingarten meetings), members do NOT have the right to have a representative present in a disciplinary meeting, though some contracts and employers allow for it.

Investigatory meeting: This is a fact-finding conversation between an employer and union member. A steward or representative should also be present. This meeting is characterized by the employer asking questions to determine if disciplinary action is warranted.

Weingarten Rights: The right of union members to have a representative present with them during an investigatory meeting is referred to as Weingarten Rights, after *NLRB v. J. Weingarten, Inc.* It is important to note that the member has to ask for representation.

CHAPTER 5: DEALING WITH DISCIPLINE



Weingarten Rights

A big advantage to being a member of a union is that you have the right to have a representative present with you during an investigatory meeting. This is referred to as **WEINGARTEN RIGHTS**.

It is important to note that the member has to ask for representation. As a steward, you have the right to ask for the specific charges that are being investigated, to insist on a meeting with the member before meeting with management, to advise the member on how to answer questions including not to answer them, to clarify accusations and interrupt if the questions are perceived to be harassing or confusing, and to present extenuating and mitigating circumstances in defense of the member.

Sample Weingarten Statement

"I request to have a union representative present on my behalf during the meeting because I believe it may lead to disciplinary action being taken against me. If I am denied my right to have a union representative present, I will refuse to answer accusatory questions and any I believe may lead to discipline."

When representing members in Weingarten meetings, it is important to document what happened and any next steps. On the following page is a sample form for you to use.



WEINGARTEN MEETING FORM

Please complete this form after any Weingarten meeting you conduct or facilitate.

Date: _____ Type of meeting: ☐ Investigatory ☐ Follow-up/Disciplinary ☐ Other: _____

STEWARD INFORMATION

First Name: _____ Last Name: _____ Department: _____

MEMBER INFORMATION

First Name: _____ Last Name: _____ Department: _____

Position/Job Title: _____ Shift: _____

Cell Phone Number: _____ Email Address: _____

MEETING INFORMATION

Names and positions of all member in attendance at the meeting: _____

Full details of the alleged incident: _____

Evidence provided by managers: _____

Summary of the meeting — include questions asked by managers: _____

CONCLUSION AND NEXT STEPS

Do you believe the contract was violated? ☐ YES ☐ NO If YES, how so? _____

Conclusion: _____

Next steps: _____

As the steward, what follow-up do you need to do? _____

CHAPTER 5: DEALING WITH DISCIPLINE



SUGGESTED ACTIVITIES

Activity 1: Weingarten Rights: Video and Small Group Discussion (See Answer Key)

Estimated time: 30 minutes



Scan to watch
Weingarten
Rights video

Watch a 6-minute video on Weingarten Rights at nuhw.org/know-your-weingarten-rights, then break into small groups and answer the following questions:

1. What would you say to a member who is letting you know that they are being called into an INVESTIGATORY MEETING? How would you explain to them their Weingarten rights?
2. What are some things managers may say or do to discourage an employee from invoking their Weingarten rights?

Activity 2: Documenting Meetings

Estimated time: 30 minutes

Imagine you recently represented a member who was accused of committing time card fraud. During the Weingarten meeting, management asked the employee questions about when they arrived at work on certain days, which time clock they used to clock in, and what time they left work. During the meeting, you requested that management provide you with the time card logs for the employee dating back six months, which they committed to get you. In pairs or small groups, practice filling out the sample Weingarten meeting form, documenting what happened during the meeting and any next steps.

Activity 3: Miranda Rights vs. Weingarten Rights

Estimated time: 10 minutes

By law, after someone has been arrested, an officer must read them their “Miranda Rights” before asking any questions:

*“You have the right to remain silent. Anything you say can be used against you in court.
You have the right to talk to a lawyer for advice before we ask you any questions.
You have the right to have a lawyer with you during questioning.”*

Answer the following questions.

1. How are Weingarten Rights similar to Miranda Rights? How are they different?
2. How would you explain Weingarten rights to a coworker?



KEY LEARNINGS

- Union members have the right to representation in meetings with management that could potentially lead to discipline. These rights are called Weingarten Rights.
- Members must be sure to ask for union representation in a Weingarten meeting.

CHAPTER 5: DEALING WITH DISCIPLINE

MODULE 2: JUST CAUSE



LEARNING OBJECTIVES

Participants will be able to explain how the Just Cause standard works in cases of discipline.



DEFINITIONS

Just Cause: Refers to the 7 tests that are typically used by arbitrators to make their decision on disciplinary cases. The union's position is that the employer must meet ALL of the seven tests for the discipline to be considered "just," or to have just cause. However, just because management fails to meet one (or more) of the 7 Tests does NOT automatically mean an arbitrator will overturn the discipline.

CHAPTER 5: DEALING WITH DISCIPLINE



Seven Tests of Just Cause

As a steward, it's your responsibility to investigate potential grievances. In the case of discipline, you are investigating whether the disciplinary action was fair and justified under the circumstances. Or was it unfair and unjustified, and maybe a grievance should be filed to try to get the discipline reversed? The tool to help you determine this is the Seven Tests of **JUST CAUSE**.

The seven tests are:

1. **FAIR NOTICE:** Did management make the worker aware of the rule or policy which they are being accused of violating?
2. **PRIOR ENFORCEMENT:** Has management recently enforced the rule or policy or penalized other workers for violating the same rule or policy?
3. **DUE PROCESS:** Did management conduct an interview or hearing before issuing the discipline, take action promptly and list charges precisely?
4. **SUBSTANTIAL PROOF:** Was management's decision to accord discipline based on credible and substantial evidence?
5. **EQUAL TREATMENT:** Is the punishment management is proposing consistent with the punishment other workers received for the same or substantially similar offense?
6. **PROGRESSIVE DISCIPLINE:** During the disciplinary process, did management issue at least one level of discipline that allowed the employee an opportunity to improve?
7. **MITIGATING AND EXTENUATING CIRCUMSTANCES:** Was the discipline proportional to the gravity of the offense, taking into account any mitigating, extenuating, or aggravating circumstances?

CHAPTER 5: DEALING WITH DISCIPLINE



SUGGESTED ACTIVITIES

Activity 1: 7 Tests of Just Cause: Scenario (See Answer Key)

Estimated time: 20 minutes

Read the below scenario about registration clerk Max and his manager Phyllis. Then break into small groups and come up with a list of questions for both Ronnie and manager Phyllis to determine if Max's discipline passes the seven tests of just cause. Assign a recorder and someone to report back.

For example, to determine whether there are any mitigating or extenuating circumstances, a question for Max could be whether he's had something going on in his personal life that is out of the ordinary, affecting his concentration. A question for Phyllis could be: "What are the productivity metrics Max is required to meet?"

SCENARIO: Max has worked at Health-up as a registration clerk for the past five years. In that time, he has been promoted twice and now operates as a Registration Clerk III. Recently, he has had difficulty with his direct manager, Phyllis. Namely, issues concerning his productivity.

Last week, Max came to you, as the chief shop steward, to report that he has been disciplined for underperformance. He has been given an unpaid suspension for three days. Max wants to fight it.

Bring the groups back together, and have them share the questions they came up with. Take ONE question from each group, then circle back to ask if groups have any additional questions they'd like to share.

Activity 2: 7 Tests of Just Cause: Roleplay (See Answer Key)

Estimated time: 40 minutes

Facilitators will play Max and Phyllis. Each group will ask Max and Phyllis the questions they came up with. Participants should listen carefully to their answers, and take notes if needed. After all groups have gone, review whether the 7 Tests of Just Cause have been met based on Max and Phyllis' responses.



KEY LEARNINGS

- When grieving disciplinary cases, you can use the 7 Tests of Just Cause to poke holes in management's case.
- Just because management fails to meet one (or more) of the 7 Tests does NOT automatically mean an arbitrator will overturn the discipline.

Does Your Employer Have Illegal Rules on the Books?

by Robert M. Schwartz, Attorney at Law

On August 2, the National Labor Relations Board (NLRB), now controlled by Democratic appointees, issued a game-changing decision known as *Stericycle*. The ruling enables unions to effectively challenge company rules that intimidate or chill workers from engaging in protests, picketing, demonstrations, and other legitimate union activities.

Marvin Kaplan, the one dissenting Republican board member, bitterly complained that the new standard returns the board to “a bygone era... when the Board rarely saw a rule it did not find unlawful.”

Stericycle, a Pennsylvania medical waste disposal company whose employees are represented by Teamsters Local 628, maintained handbook policies governing personal conduct, conflicts of interest, and confidentiality. The Board said the rules were illegal because they could reasonably deter workers from taking part in activities protected by Section 7 of the National Labor Relations Act.

Stericycle overturned the Labor Board’s 2017 *Boeing* decision, which allowed employers to maintain work rules even if they discouraged workers from taking part in union activities such as rallies, picketing, distributing handouts, wearing strongly worded buttons, or vigorously arguing with supervisors.

According to *Stericycle*, if a reasonably apprehensive worker could read a rule as banning or limiting union activity, the rule is illegal and must be withdrawn or rewritten to clarify that it does not apply to union activities. Discipline pursuant to an over-broad rule is illegal. An over-broad rule may not be maintained even if it has a “legitimate” purpose and even if it has never been enforced against union activity. An employee may not be disciplined for insubordination for ignoring instructions to obey an unlawful rule.

The new standard compels an employer to take “narrowing” measures regarding over-broad rules, such as issuing clear

assurances that the rule does not apply to lawful union activities. Until that happens the rule is illegal and the employer cannot enforce it with warnings, suspensions, or discharges.

EXAMPLES OF ILLEGAL RULES

It may seem hard to believe but, in the absence of a narrowing clarification (for instance, an express notice that the rule does not apply to protected union activity, or a list of examples of wrongdoing that make clear that only serious misconduct is prohibited), the Board is likely to find the following rules unlawful—even if the rule has been on the books for years:

- No taking pictures of employer facilities
- No recording conversations with managers
- No sharing information with outside media
- No discussing wage rates with fellow employees
- No failing to work “harmoniously” with fellow workers or managers
- No disclosing company investigations
- No communicating with employees or supervisors in an unprofessional or disrespectful manner
- No taking part in activities that “adversely reflect” on the integrity of the company
- No personal phone calls outside meal and break periods
- No behaving in ways that “damage” the company’s reputation

ARE ALL EMPLOYER CONDUCT RULES ILLEGAL?

Stericycle does not make all rules of conduct illegal. For example, consider a rule banning assaults on supervisors.

The rule is lawful because no employee could reasonably conclude that it

prevents him or her from taking part in a union activity. A rule banning weapons on the premises would also be lawful.

REVIEW ALL RULES

Almost every U.S. workplace is currently in violation of *Stericycle*, often to a pervasive extent. A union that wants to clean things up should review all company rules and policies. Requests for information should be submitted until the union is satisfied that no rules have been missed.

Each rule should be carefully analyzed under *Stericycle*. If one or more rules violate the law, the union could take it up with management, either one at a time, or all at once. Or it could file unfair labor practice (ULP) charges at the NLRB or, if it represents public employees, with the applicable state labor board.

ULP charges should assert that over-broad rules violate Section 8(a)(1) and, if appropriate, 8(a)(3) (when discipline has been imposed). The charge might state: “The employer is interfering with, restraining, and coercing employees by maintaining or enforcing rules that restrict employees from taking part in concerted activities protected by Section 7 of the Act.”

TIMING

A particularly effective time to file ULP charges is when the union is negotiating a new contract. As part of its bargaining demands the union can insist that illegal rules be rescinded or rewritten. This could allow the union to claim that any subsequent walkout in support of its demands is an unfair labor practice strike with protections against permanent replacement of strikers.

Labor attorney Robert M. Schwartz is the author of Just Cause: A Union Guide to Winning Discipline Cases.

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<https://labornotes.org/2023/10/does-your-employer-have-illegal-rules-books>

CHAPTER 6: INTERPRETING YOUR CONTRACT

MODULE 1: CONTRACT INTERPRETATION



LEARNING OBJECTIVES

Participants will be able to:

1. Identify the differences between common, similar-sounding terms often found in union contracts
2. Correctly analyze and interpret contract language



DEFINITIONS

Union Contract: Also called a collective bargaining agreement or CBA, a union contract is a written agreement between the employer and your union, NUHW, which details the terms and benefits of your employment in a clear and legally-binding way.

Common contract terms

One of your primary jobs as a steward is to read the language of the CONTRACT, interpret it correctly, and be able to explain it to members. Often, the terminology used in a contract may be different from what is used by employees in on-the-job conversations.

Each term, each word in a contract is important. One word can determine if you win or lose a grievance. And some contract language is stronger and preferable from the perspective of the union. When it involves the Employer's obligations toward your union, you want to use words like "should or shall," and when it involves your obligations toward the Employer, words like "may" or "exercise its best efforts" will suffice. For example, "the employer shall offer NUHW members a 401(k) option," is stronger than "the employer may endeavor to offer NUHW members a 401(k) option."

CHAPTER 6: INTERPRETING YOUR CONTRACT

One of your primary jobs as a steward is to read the language of your UNION CONTRACT. These are terms that frequently impact union members, about which stewards get the most questions. These are also terms that tend to be confused, misused, or misunderstood.

Seniority: Seniority should be understood simply as a definition that establishes the relationship between employees — how they relate to one another on an objective basis vs. a subjective basis. Definitions may vary. Common examples include “most recent date of hire in the bargaining unit,” or “total years of employment with the Employer.” Seniority is not absolute, and what really matters is how each provision of the contract (e.g., overtime, vacation, filling vacancies) applies seniority.

Years of Service: Sometimes referred to as anniversary date, years of service addresses the relationship between the employee and the employer, as it relates to wages and benefits. Examples include: years of service for purposes of movement to higher levels of vacation (PTO) accrual, or movement from one step to another on the wage scale. It means the time you’ve spent with the employer.

Hours Paid vs. Hours Worked: “Hours paid” refers to how many hours an employee is paid by the employer. In most cases, the term “hours paid” is preferable to “hours worked” when it comes to benefit accrual.

For example, imagine the contract says, “Regular employees shall accrue PTO based on hours paid.” In this example, “regular” refers to any benefited employees. A part-time worker who works more hours one pay period will accrue more PTO under this language than if the language said “hours worked.” Also, it clarifies that if someone is on any paid time — PTO [vacation], ESL (sick leave), Bereavement Leave, Education Leave, etc. — they continue to accrue PTO because these hours are PAID as opposed to hours WORKED.

Probation vs. Evaluation Period: Usually, according to the contract, an employee goes through one probationary period when first hired — the amount of time varies from contract to contract. During that period the employer can terminate the employee without access to the grievance procedure. When an employee is promoted to a position within the bargaining unit or transfers to the same or similar position within the bargaining unit, the contract will usually call for an evaluation period the length of which will vary according to the contract. During the evaluation period, unlike the probationary period, if employees are not succeeding, they do not get terminated without access to the grievance procedure. They may be returned to their former position or a comparable position, depending on what the contract says.

Classification, Category and Status: Classification is the title of your job or profession, such as “EVS Technician,” “RN,” or “X-ray tech.” Within a job, there may be several different classifications based on bargained criteria (e.g., Radiology Tech I, Radiology Tech II). An employee’s category will be full-time, part-time, or per diem, while an employee’s status refers to how many hours they typically work. For example, the category of part-time can include employees with various statuses: you can be a .5 FTE (full-time equivalent), .8 FTE, etc.

Disciplinary Meeting vs. Investigatory Meeting: An investigatory meeting provides an employee faced with possible discipline an opportunity to tell their side of the story, so to speak. In this meeting, the employee is entitled to union representation, as a result of

the 1975 *Weingarten* Supreme Court decision. That’s why investigatory meetings are sometimes called Weingarten meetings. In this meeting, the employee and/or union rep and/or union steward has the opportunity to (a) advance an argument in defense of the employee, (b) make relevant requests for information, and (c) negotiate potential disciplines away or into lower degrees.

A disciplinary meeting should occur after an investigatory meeting. Oftentimes, though, employers will attempt to conflate these two types of meetings, conducting the investigatory interview while having a discipline already planned. Technically speaking, an employee does not have the right to union representation in a disciplinary meeting, since all that really occurs in a disciplinary meeting is the issuance of the discipline. The investigation, arguments, negotiations, and decision-making should occur in the investigatory meeting. As a steward, you are not a silent witness — you are an advocate.

Department vs. Unit: These two terms are a good example of how contract terms can be confusing because the way the contract defines them may be different than how members use the terms, or how the Employer uses them. For example, a member may work as a Nurses’ Aide in the ICU of the hospital. Management and members refer to the ICU as a “department.” HR may internally refer to a group of units or a single unit as a “cost center” or “department.” However, the contract may refer to the ICU as a unit within the Nursing Department. In this example, the ICU is the “unit,”

CHAPTER 6: INTERPRETING YOUR CONTRACT

while the department is the Nursing Department. These terms must be well defined in the contract because they will be used in many articles, from bidding on vacancies to reductions in force.

Schedule vs. Job Assignment vs. Job description vs. Position:

A schedule is a list of the days, starting times and hours you will be working in a given week, pay period or month. A job description is a generic inventory of the duties that could be performed by a classification. A job assignment is the specific duties of the job description that you do in your job. Often, members are not expected to do all that is included in their job description on a daily basis. Finally, a position is one of those words that only means something in the context of a specific article of a specific contract section. It can have a specific meaning or a broad meaning. Look for its meaning within the context of where you find it in your contract.

Call vs. Standby vs. On-call:

Standby, in most cases, is the contractual term used when an employee is off duty but required to be available to return to work within 30 minutes to assist in a procedure — could be surgery, could be to do an MRI, etc. BUT most workers refer to this as “Call” or “On-call.” To add to the confusion, the term on-call is used in some contracts to refer to the category of Per Diem or Casual employees. There are also variations in contracts that become even more specific as to what type of call or standby it is and what the pay for this work is. There’s no way around it for these terms in particular: you

will have to read your contract to determine the unique definitions of each.

Overtime: Overtime is actually a penalty the Employer must pay for having workers work beyond their regularly scheduled hours. Overtime as a term is used in a contract for non-exempt (i.e., hourly) employees. In regard to “pyramiding” of overtime, there are a couple of meanings. If an hourly employee is eligible for two types of premium pay for the same hours worked, they are only eligible for the higher premium of the two, not a compounding of the two, or using overtime hours to justify receiving other overtime hours. Here is an example: You work a second shift of eight hours overtime on a holiday. You get time and one half for working a holiday. For the second shift, you normally get time and one half for the first four hours of overtime and double time for the second four hours. In this case, you would get the time and one half for the first eight hours, time and one half for the first four hours of the second shift, and double time for the last four hours — not triple time for four hours and triple time and one half for the second four hours.

Earned vs. Accrued Benefit:

An earned benefit is vacation or PTO. That is a benefit that the employee has earned by law and the employer maintains a liability for that benefit. If an employee quits or is terminated, the Employer must pay the employee that benefit. An accrued benefit could be sick leave or ESL (Extended Sick Leave). This benefit is not earned. The Employer will not pay this out to an employee

upon termination, unless there is some provision in the contract that provides for it.

Exempt vs. Non-exempt: An exempt employee is a “salaried” employee, as opposed to “hourly,” or non-exempt. Salaried employees don’t have to punch a time clock and are able to exercise some flexibility in their schedule. One day they may work only a few hours but the next day several hours more than 8 hours. They do not get overtime. The laws that cover non-exempt or “hourly” employees in regard to overtime and breaks do not apply to exempt (salaried) employees. Each contract covering exempt employees may specify or give guidelines how these employees exercise the flexibility of their position.

Insubordination vs. Poor Attitude:

To prove insubordination, an employer must typically show that:

- the employee’s refusal to obey was knowing, willful, and deliberate;
- the order was explicit and clearly given so that the employee understood its meaning and its intent as a command;
- the order was reasonable and work related;
- the order was given by someone in authority;
- the employee was made aware of the consequences of failing to perform the work or follow the directive; and
- if practical, the employee was given time to correct the allegedly insubordinate behavior.

These terms may be referred to in the contract, but they are usually not given definitions. This is important because a supervisor may ascribe the questioning of certain directives as insubordination. Another supervisor could say that the employee doesn’t smile enough and is too stern in their behavior and therefore has a bad attitude. When a contract does not clearly define a term, an arbitrator will use the dictionary definition, the definition used by other arbitrators, an established definition used by the sector in which the worker works, or even the worker’s own definition. Poor attitude does not constitute insubordination but could involve behavioral issues that might rise to disciplinary action.

CHAPTER 6: INTERPRETING YOUR CONTRACT



SUGGESTED ACTIVITIES

Activity 1: Interpreting Contract Language

Estimated time: 30 minutes

In groups of three, reference the contract terms and definitions to complete the exercises below. Assign a recorder and a reporter.

1. Bilingual Differential

Is there any disadvantage to this provision for the bilingual workers?

Regular employees who have successfully passed the employer's qualifying examination for bilingual status for approved languages will receive \$1.00 per hour for all regular hours worked.

2. PTO Accrual

Which is the preferable language for a Part-Time benefited employee specifically? Why?

- Regular employees shall accrue PTO based on status.
- Regular employees shall accrue PTO based on hours paid.
- Regular employees shall accrue PTO based on hours worked.

3. Grievance Time Limits

Which is these is preferable contract language? Why?

- Option 1: A grievance must be submitted in writing within thirty (30) work days of the alleged violation of the Contract.
- Option 2: A grievance must be submitted in writing within thirty (30) calendar days of the alleged violation of the Agreement.
- Option 1: A grievance must be submitted in writing within thirty (30) days of the alleged violation of the Collective Bargaining Agreement.

4. Status vs. Category vs. Classification

- Is the designation of Full-Time a Status, Category, or Classification?
- Is .5 FTE a Status, Category, or Classification?
- Is Respiratory Therapist II a Status, Category, or Classification?

5. Schedule vs. Job Description vs. Job Assignment

Fill in the blank using one of these terms: Schedule, Job Description, Job Assignment

1. A _____ is a list of the days, starting times and hours you will be working in a given week, pay period or month.
2. A _____ is a generic inventory of the duties that could be performed by a classification.
3. A _____ is the specific duties of the job description that are your actual job, things you do on a daily or regular basis.

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Activity 2: Practice Scenarios

Estimated time: 45 minutes

In pairs or small groups, reference the contract terms and definitions to complete the exercises below.

1. Right to Representation

SCENARIO: Yesterday, Cynthia was called into a meeting with her manager. The manager started to ask her questions about a patient Cynthia had seen the previous week. The patient had left the appointment in a rage and later filed a complaint against Cynthia, as well as a complaint against the receptionist. After the second or third question, Cynthia interrupted her manager to ask for a steward to be present. The manager said Cynthia wasn't entitled to representation because the manager planned to give her a discipline in this meeting.

Was management right or wrong? What recourse does Cynthia have?

2. Insubordination

SCENARIO: Dan is an RN and a 10-year employee at Pro-Profita Healthcare, Inc. Last week, his manager told him he needed to include more detail in his patient charting, or he would be at risk of discipline. Dan told his manager he really hates all the documentation he's required to do, and that he got into nursing to care for patients, not update charts all day. Yesterday, Dan's manager told him he needed to come to his office and bring a steward. The manager told Dan he was getting disciplined for insubordination since he failed to improve his charting after receiving a direct order, and because he had responded to the order by challenging his manager.

Was Dan insubordinate? Did the employer demonstrate that all of the following happened in order to be able to assert insubordination?*

1. The employee's refusal to obey was knowing, willful, and deliberate;
2. The order was explicit and clearly given so that the employee understood its meaning and its intent as a command;
3. The order was given by someone in authority;
4. The employee was made aware of the consequences of failing to perform the work or follow the directive; and If practical, the employee was given time to correct the allegedly insubordinate behavior.

* These principles are commonly found in state labor codes, and are used by arbitrators, labor lawyers, and HR to distinguish between simple mistakes and punishable behavior.

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Activity 2: Practice Scenarios (continued)

3. Sam and St. Ima Donuthin: Overtime

SCENARIO: Sam has worked at St. Ima Donuthin for seven years. He works a schedule of Monday through Friday with Saturdays and Sundays off. He worked both Saturday and Sunday this past week, but when he got his paycheck he did not get double time for Sunday. He talked to his boss who said that the Hospital's workweek is Sunday through Saturday and the Sunday he worked fell in a different workweek. Sam knows that in the past he has always gotten paid double time for the seventh consecutive day worked, regardless of work week, and wants to file a grievance.

Does Sam have grounds for a grievance? What laws or contractual language is the employer violating, if any?

Here is the contract language at St. Ima Donuthin:

Article VII

Section 1. The employee's workweek shall be designated by the Medical Center and shall be a consecutive period of seven (7) calendar days. Straight-time hourly rates shall apply up to a maximum of forty (40) hours per week, eight (8) hours per day or five (5) days per week. All work in excess of eight (8) hours per day or five (5) days per week shall be paid at the rate of one and one-half (1½) times the basic straight-time hourly rate. All work in excess of twelve (12) hours per day shall be paid at the rate of two (2) times the basic straight time hourly rate. All work on the seventh (7th) consecutive day of the week shall be paid at the rate of two (2) times the basic straight time hourly rate.

Section 2. An employee required to work more than seven consecutive days without a day off shall be compensated thereafter at time and one-half (1½) the employee's basic straight-time hourly rate for each day worked or portion thereof until granted a day off.

Activity 3: Interpreting Seniority

Estimated time: 20 minutes

In any contract, there is the definition of seniority, and the application of seniority. Looking at your contract, answer the following questions:

1. How does your collective agreement define seniority?
2. How is seniority applied in the following sections: Overtime, Vacation, and Filling of Vacancies?
3. How does your contract address breaks in service — does seniority reset or continue?

Activity 4: Interpreting PTO

Estimated time: 20 minutes

Find the clause in your contract that addresses paid leave or PTO, then answer the following questions:

- How do employees accrue PTO? Is it via hours paid, or hours worked, or something else?
- Is there a cap on how much PTO you can accrue? What happens if you reach the cap?
- What does the contract say about requesting and approving PTO?
- What additional leave types does your contract provide for OTHER than PTO?

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Activity 5: Interpreting grievances

Estimated time: 20 minutes

Open your contract and find the grievance section, then answer the following questions:

- How many steps are there in your grievance process?
- What kinds of issues can be grieved under the contract?
- What is the role of the union representative or steward at each step?
- What happens if management misses a deadline? What if the union misses one?

Activity 6: Interpreting holidays

Estimated time: 20 minutes

Open your contract and find the section that addresses paid holidays, then answer the following questions:

1. How many paid holidays are provided in your contract?
2. What does your contract say about holiday pay (e.g., time-and-a-half, double time, or regular pay)?
3. What happens if you are scheduled to work on a holiday?
4. What happens if a holiday falls on your regular day off?



KEY LEARNINGS

- Every word in a union contract has meaning.
- You must be able to read and correctly interpret your contract, and explain the contract to members.

CHAPTER 6: INTERPRETING YOUR CONTRACT

MODULE 2: UNDERSTANDING PAST PRACTICE



LEARNING OBJECTIVES

Participants will be able to:

1. Define what a past practice is and is not
2. Recognize the different types of past practice
3. Develop an organizing plan to proactively protect the past practice



DEFINITIONS

Past Practice: Any long-standing, frequent practice that is accepted and known by both union and management.

CHAPTER 6: INTERPRETING YOUR CONTRACT



HOW TO IDENTIFY A PAST PRACTICE

A past practice is any long-standing, frequent practice that is accepted and known by both union and management. Something could be considered a past practice if it:

- **Has existed for a reasonably long time.** The longer a practice has been in effect, the more weight it carries. Many arbitrators think that a practice must be three to five years old and must have been in practice during at least two contracts.
- **Occurs repeatedly, the more times the better.** An exception might occur around a holiday. If every year for seven years management allowed workers to go home early Christmas Eve, this could be a valid past practice.
- **Is clear and consistent, repeated the same way each time.** If there are minor deviations, there must be at least a predominant pattern of consistency. An example: management has always let workers accept personal phone calls. You can document 100 times this has happened in the last five years. Management points out three occasions where workers were refused the right. The overwhelming pattern favors your union.
- **Is known to both management and union.** While a past practice does not have to be "negotiated," it must be something that both parties know about. Sometimes it's not good enough for a low-level foreman to know; it must be higher management. For instance: workers have been leaving work a little early on Fridays for years. According to the absentee program, they should receive one point, but the foreman never gives points for Friday. Upper management finds out and decides to give everybody warnings. Management did not inform your union that it wanted to change the practice. However, since upper management did not know about this practice, it would be hard to argue that workers could continue to leave work early every Friday.
- **Is accepted by both management and union.** Often the fact that a practice occurs frequently over a long period of time indicates that the parties agree to it. A practice that is openly agreed to by both parties gains past practice status quicker than one that is not openly accepted.

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THE THREE TYPES OF PAST PRACTICE

A CONTRACT-CLARIFYING past practice is the strongest type. When contract language is vague or general, the practice clarifies the general language.

For instance, contract language reads, “The company will allow union stewards reasonable time off to attend union meetings.” For many years the company has allowed stewards to attend monthly union meetings and attend the district council meeting three times a year. This practice now clarifies and backs up what the contract means by “reasonable.” With such a strong past practice, an employer must bargain to change it and cannot change it if the union doesn’t agree. The only time such a past practice can be bargained by the employer is during contractual negotiations.

An INDEPENDENT past practice is not addressed by any contract language. Most often these are “benefits” that workers take for granted and so were not included in the contract, such as vending machines in the cafeteria or free parking in the company lot.

While the union’s position would be that management cannot just do away with these benefits, management can terminate independent past practices under three conditions:

1. It can prove the original conditions that started the practice have changed significantly
2. It can prove significant ongoing employee abuse of the practice
3. It notifies the union during contract negotiations that it will end the practice during the next contract

Even in the first two situations, the employer must bargain to mutual agreement or impasse with your union before ending the practice.

One caveat: most arbitrators will not extend these past practice rights to work methods. For example: Management wants rad-techs to run three machines instead of two, claiming new technology makes them easier to run. You probably cannot claim it is a past practice that workers run only two machines. However, you can demand that management bargain over a change in working conditions.

A CONTRACT-CONFLICTING past practice is typically the hardest to prove, with most arbitrators saying the contract should prevail.

However, the arbitrator may rule in favor of practices that have existed for a long time, happen frequently, clearly conflict with the contract, and were clearly known to both parties.

Take the following example: management routinely allows employees who work on a recognized holiday to take a compensatory paid day off whenever the department is able to accommodate it. But the contract states that employees who work recognized holidays may take a compensatory paid day within 30 calendar days preceding or following the recognized holiday. Although the practice conflicts with the contract, it probably would be considered valid.

The employer must notify your union of its intent to end this type of past practice and must bargain if your union requests.

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PROTECTING AND DEFENDING PAST PRACTICES

You probably know that employers tend to respond when you take collective action, rather than engage in paper-pushing, but a big part of protecting past practices involves documenting the practice:

- Print out and save all email correspondences noting the application of a past practice.
- Keep all records of past practices and meet with new managers to hold them accountable to following them. Get all non contractual agreements signed and in writing.
- File and win class action grievances on a written and signed agreement.
- Have all NUHW members in a department covered by a written and signed agreement send an email department administrators and HR about the awareness of the agreement and the intent to hold the employer accountable to it.
- Obtain an NLRB decision recognizing the past practice as part of the “terms and conditions” of a collective bargaining agreement.



SUGGESTED ACTIVITIES

Activity 1: Past Practice Brainstorm (See Answer Key)

Estimated time: 10 minutes

We often talk about what makes a good organizing issue. To organize your coworkers around an issue, first you have to figure out if that issue is deeply felt and widely felt. Think about practices in your department. Then, in pairs or small groups, discuss: are there any current practices which people would be upset to see disappear? What can you and your coworkers do to try and preserve or protect the practice?

Activity 2: Labor Management Meetings

Estimated time: 15 minutes

In pairs or small groups, read the scenario, then answer the following questions:

1. Is it a past practice? Why?
2. If it is a past practice, what kind of past practice is it?
3. What argument could you make to the employer to demonstrate your union never waived its right to allow the employer to change the agreement?
4. Based on the strategies we discussed, what can you do to document and hold the employer accountable to the past practice?

SCENARIO: For years, all union members who have attended monthly, hour-long Labor-Management meetings have been paid for their time. Sometimes 5 people attend, sometimes 10 people attend, but everyone always gets paid. The contract reads: “Within reason, the Employer will compensate employees who attend monthly labor management meetings.” Recently, management has said they are only willing to pay for two members to attend the monthly Labor-Management meetings.

CHAPTER 6: INTERPRETING YOUR CONTRACT

Activity 3: Athletic Shoes (See Answer Key)

Estimated time: 15 minutes

In pairs or small groups, read the scenario, then answer the following questions:

1. Is it a past practice? Why?
2. If it is a past practice, what kind of past practice is it?
3. What argument could you make to the employer to demonstrate your union never waived its right to allow the employer to change the agreement?
4. Based on the strategies we discussed, what can you do to document and hold the employer accountable to the past practice?

SCENARIO: The employee handbook says no athletic shoes may be worn to work, but this rule hasn't been enforced in recent memory, and everyone wears athletic shoes to work. On Monday, management put out a memo demanding staff cease wearing athletic shoes to work. Three members were given verbal warnings that same day for violating the rule.

Activity 4: Breakroom Fridge (See Answer Key)

Estimated time: 10 minutes

In pairs or small groups, read the scenario, then answer the following questions:

1. Is it a past practice? Why?
2. If it is a past practice, what kind of past practice is it?
3. What argument could you make to the employer to demonstrate your union never waived its right to allow the employer to change the agreement?
4. Based on the strategies we discussed, what can you do to document and hold the employer accountable to the past practice?

SCENARIO: Every nursing unit has a small kitchen with fridges that store patient food, but nurses also use the fridge to store their lunches. Management recently decreed that nurses may only store their food in the fridge in the breakroom. However, the nursing units are spread over floors 2–6, and the only break rooms with fridges are on floors 3 and 5, meaning nurses would have to expend more time during their breaks and lunches to access their food.



KEY LEARNINGS

- Past practices are any long-standing, frequent practices that are accepted and known by both the union and management, but which may not be expressly delineated in the contract.

ANSWER KEY

CHAPTER 4: GRIEVANCES

Module 1: Grievance Handling

Activity 1: Grievance Scenarios

CARLA: Yes, this is a clear grievance. In this case, management appears to have violated Article 37 in three distinct ways:

- **Failure to Seek Volunteers:** The contract explicitly states that schedules shall not be altered without “first seeking volunteers.” Carla’s removal suggests this step was skipped.
- **Lack of Discussion:** The contract requires “discussing such changes and alternate suggestions with the affected employees.” Carla stated that no one discussed the change with her; she was simply told it happened.
- **Seniority Violation:** The contract mandates that the “least senior employee shall be the first to be affected.” Carla has 15 years of seniority. It is highly probable that there are employees with less seniority than Carla who should have been moved before her.

JOE: Maybe/Potentially. Whether this is a grievance depends heavily on the specific language in the Sunshine Medical Center contract.

- **The “No” Argument:** Most contracts allow management the right to “direct the workforce,” which includes observing employees and ensuring they are on time. If there is no discipline yet, a traditional “Just Cause” grievance might not be appropriate.
- **The “Yes” Argument:** * **Harassment Clause:** If the contract has language requiring employees to be treated with “dignity and respect” or a clause prohibiting “harassment,” the supervisor’s disrespectful tone and “stalking” the time clock could be a violation.
- **Discrimination/Favoritism:** If Joe is the only one being watched while others are not, this could be argued as disparate treatment or a violation of a “fair treatment” clause.
- **Weingarten Rights:** The meeting itself is a potential grievance flash point. If Joe reasonably believes the meeting could lead to discipline, he has a legal right to union representation (Weingarten Rights). If the supervisor denies him a steward, that could be a grievance.

MANYA: Yes, this is a major grievance. It likely violates both the collective bargaining agreement (CBA) and federal law.

- **Health and Safety Clause:** Almost all union contracts contain a clause stating the employer must provide a “safe and healthy workplace.” Forcing an employee to use hazardous chemicals without protection or training is a direct violation of that promise.
- **Safety Training Requirements:** The contract usually specifies that employees must be properly trained before performing tasks. “Jumping right in” due to short-staffing is not a legal or contractual excuse to bypass safety protocols.
- **Legal Violations (OSHA):** Under OSHA’s Hazard Communication Standard (Right to Know), employers are legally required to provide training on hazardous chemicals, Safety Data Sheets (SDS) that are accessible to workers. Proper Labeling on all containers. Small, unmarked spray bottles (secondary containers) are a direct violation of OSHA labeling requirements.

ANSWER KEY

ALEX: Yes, this is a major grievance. Management appears to be in breach of multiple sections of Article 10:

- **Failure to Bargain (Article 10.2):** This is the most objective violation. The contract requires a 30-day notice and an opportunity to bargain before implementing or modifying productivity requirements. If management simply “announced” the 7-session rule and began enforcing it, they bypassed the legal and contractual bargaining process.
- **Interference with Clinical Judgment (Article 10.4):** The contract explicitly protects a clinician’s right to determine the length and frequency of sessions. By pressuring clinicians to shorten sessions to hit a numerical target, management is violating the “Patient Care and Clinical Judgment” clause.
- **Unreasonable Expectations (Article 10.1):** The standards are required to take into account non-billable duties like crisis intervention and care coordination. A flat requirement of 7 sessions that ignores these duties is, by definition, “unreasonable” under this contract.
- **Improper Use of Data (Article 10.3):** Management is using “low productivity” as a threat for discipline without (seemingly) considering the case complexity or patient acuity factors required by the agreement.

CHAPTER 5: DEALING WITH DISCIPLINE

Module 1: Weingarten Rights

Activity 3: Miranda Rights vs. Weingarten Rights

Q: How are Weingarten Rights similar to Miranda Rights? How are they different?

Both rights give an individual the ability to have someone else present during an interrogation or interview to ensure the process is fair. If you are arrested, the clock starts when the officer speaks. If you are called into your manager’s office, the clock only starts if and when you invoke your Weingarten rights. If you don’t ask for a steward, your employer can proceed with the interview and use everything you say against you – they don’t HAVE to remind you of your Weingarten Rights. Once you invoke your Weingarten rights, your boss has three choices: Grant the request and wait for the steward, End the interview immediately or Offer you a choice: “We can talk now without a steward, or we don’t talk at all and I make my decision based on the facts I already have.” (Hint: Usually, you should wait for your steward)

Module 2: Just Cause

Activity 1: Tests of Just Cause: Scenario and Role Play

QUESTION: FAIR NOTICE: Did Management make the worker aware of the rule or policy which they are being accused of violating?

MAX’S POSITION:

- “My understanding is that I’ve been doing an exceptional job.”
- “Sure, she has mentioned that I should up my productivity but I didn’t realize that it would result in discipline.”

PHYLLIS’S POSITION:

- “We talk about productivity in our weekly team meetings. And have told him a least once a month over the past 6 months in our one-on-one check ins that his productivity numbers are too low.”
- “Last week, I told Max that if he didn’t increase his work load, I would have to take disciplinary action.”

ANSWER: Yes.

ANSWER KEY

QUESTION: PRIOR ENFORCEMENT: Has Management recently enforced the rule or policy or penalized other workers for violating the same rule or policy?

MAX'S POSITION:

- "No one else is being asked to meet productivity guidelines."
- "We all know productivity numbers come from Corporate, and that they don't capture a lot of the complex patient navigation work we do at our site. Previous managers understood that and never bothered us about productivity."

PHYLLIS'S POSITION:

- "I remind all employees about productivity metrics are our weekly meetings."

ANSWER: Inconclusive — the steward would need to determine whether other employees are being asked to meet the same productivity level Max is being asked to meet, and if they aren't, whether and how they are being held accountable.

QUESTION: DUE PROCESS: Did Management conduct an interview or hearing before issuing the discipline, take action promptly and list charges precisely?

MAX'S POSITION:

- "We never had any sort of meeting until suddenly Phyllis called me in to tell me I was being suspended."
- "I feel targeted — Phyllis doesn't like me because she's a new manager and I know more about the work than she does."

PHYLLIS'S POSITION:

- "I've told Max numerous times over the last several months that his productivity was an issue, and have been monitoring his work logs and comparing them with other level III clerks."

ANSWER: No — while Phyllis may have mentioned productivity issues and done some investigating on her own, she did not give Max a chance to share his side before according discipline.

QUESTION: SUBSTANTIAL PROOF: Was Management's decision to accord discipline based on credible and substantial evidence?

MAX'S POSITION:

- "If Phyllis thinks I'm so slow, she should ask another Registration clerk III to take my difficult intake cases. I would like to see if they can do it in even the same amount of time that I complete my work. Let alone faster."
- "There are two other level III clerks in my department, but they just got promoted and are newer than I am. Neither have the experience to handle the complicated cases yet, so I get them all."

PHYLLIS'S POSITION:

- "Though I only took over in this department six months ago, I have the job log of Max's past two years. In that time, his productivity has decreased."
- "I have reviewed the job logs of the two other Registration Clerk IIIs in Max's department and found that he is completing half the number of cases compared to his counter parts."

ANSWER: Yes.

ANSWER KEY

QUESTION: PROGRESSIVE DISCIPLINE: During the disciplinary process, did Management issue at least one level of discipline that allowed the employee an opportunity to improve?

MAX'S POSITION:

- ""Ever since Phyllis took over, I've been in the dog house about my productivity but before that all my managers sang my praises."

PHYLLIS'S POSITION:

- "I clearly followed progressive discipline. I've spoken to him about it numerous times and I even wrote in his last evaluation last month that I was looking to see an increased number of assignments completed per day within this month. But there was not an improvement."
- "The CBA states that employees unresponsive to verbal and written counseling can be suspended without pay for up to three days."

ANSWER: Technically, yes — though Phyllis should have done a better job to make clear that what Max was receiving in those meetings was verbal and written counseling. Her failure to make this clear could be a due process error.

QUESTION: EQUAL TREATMENT: Is the punishment management is proposing consistent with the punishment other workers received for the same of substantially similar offense?

MAX'S POSITION:

- "No one has ever been suspended without pay before. And for three days! How could that be fair?"

PHYLLIS'S POSITION:

- "I don't know what was done in the past, and that's not my concern. I'm here to set a clear standard going forward."

ANSWER: No — to confirm Max's statement, the steward would want to ask other employees or request information about past disciplinary action related to productivity.

QUESTION: MITIGATING AND EXTENUATING CIRCUMSTANCES: Was the discipline proportional to the gravity of the offense, taking into account any mitigating, extenuating or aggravating circumstances?

MAX'S POSITION:

- "Why did I get promoted twice in the last year if I'm so bad at my job?"
- "Our department has a ton of turnover. I'm one of the most senior employees even though I've only been here 5 years, so lots of my coworkers come to me with questions. What am I supposed to do, tell them to take a hike?"
- "Phyllis is new- she doesn't really understand our department yet. It takes time for newer employees- even level III clerks — to gain the experience needed to handle the most complex intakes."

PHYLLIS'S POSITION:

- "Every Registration Clerk III has the same expectations and should be expected to work at a similar pace. Max sometimes does harder cases but it does not account for his slow pace."

ANSWER: No — clearly there are a lot of things going on that affect Max's productivity, but some of them point to him being a valuable employee. Also, Phyllis is new, and it isn't clear that failing to meet productivity numbers is a grave offense. There is a lot of opportunity for a steward to poke holes in management's case based on this test. Information about past disciplinary action related to productivity.

ANSWER KEY



CHAPTER 6: INTERPRETING YOUR CONTRACT

Module 2: : Understanding Past Practice

Activity 2: Labor-Management Meeting Pay

QUESTION: If it is a past practice, what kind is it?

This is a Clarifying Past Practice (also known as an “Interpretive” practice).

The contract contains the phrase “Within reason.” This is what labor experts call “ambiguous language”—it doesn’t define a specific number. Because the language is vague, the way the parties have acted over the years serves as the official definition of what “within reason” actually means. By paying for up to 10 people for years, management has effectively agreed that 10 people is “within reason.”

The “No Waiver” Argument: Management may argue that they have a “Management Right” to change their mind or that the union “waived” its right to demand payment for more than two people by not having a specific number in the contract. Your counter-argument could be that the Union never waived its rights; rather, both parties reached a binding interpretation of the word “reason” through years of consistent conduct. We could also argue that the “status quo” of the contract includes the past practice. Any unilateral change to a binding practice is a violation of the duty to bargain. By choosing the word “reason” and then paying for 10 people, they established the standard they are now stuck with until the next round of contract negotiations.

To hold the employer accountable, you should formally ask management for payroll records and attendance logs for every LM meeting over the last three to five years. This proves the “long-standing” and “unequivocal” nature of the practice. Secondly, we can gather statements from long-term employees who can testify that “it has always been done this way.” Additionally, we can review old meeting minutes that list attendees to cross-reference with who was paid. Finally, we could file a grievance, citing a violation of the contract (specifically the “within reason” clause) as defined by past practice, and engage in collective action.

ANSWER KEY

CHAPTER 6: INTERPRETING YOUR CONTRACT

Module 1: Interpreting Your Contract

Activity 1: Interpreting Contract Language

1. Bilingual Differential

Is there any disadvantage to this provision for bilingual workers?

Answer: While getting a \$1.00/hour differential sounds positive on the surface, contract provisions structured this way (a flat \$1.00/hour rate) is often significantly less than a percentage-based differential.

2. PTO Accrual

Which is the preferable language for a Part-Time benefited employee specifically? Why?

- Regular employees shall accrue PTO based on status.
- Regular employees shall accrue PTO based on hours paid.
- Regular employees shall accrue PTO based on hours worked.

Answer: The second choice "Hours paid" covers all time you receive compensation for, not just physical time on the job (ie, you accrue new PTO while taking existing paid time off).

3. Grievance Time Limits

Which is these is preferable contract language? Why?

- Option 1: A grievance must be submitted in writing within thirty (30) work days of the alleged violation of the Contract.
- Option 2: A grievance must be submitted in writing within thirty (30) calendar days of the alleged violation of the Agreement.
- Option 3: A grievance must be submitted in writing within thirty (30) days of the alleged violation of the Collective Bargaining Agreement.

Answer: "Work days" typically exclude weekends, company holidays, and scheduled closures. This gives you a significantly longer window to notice an issue, investigate, gather evidence, and draft a formal grievance.

4. Status vs. Category vs. Classification

- Is the designation of Full-Time a Status, Category, or Classification?
- Is .5 FTE a Status, Category, or Classification?
- Is Respiratory Therapist II a Status, Category, or Classification?

5. Schedule vs. Job Description vs. Job Assignment

1. Schedule
2. Job description
3. Job assignment

ANSWER KEY

CHAPTER 6: INTERPRETING YOUR CONTRACT

Module 1: Interpreting Your Contract

Activity 2: Practice Scenarios: Dan and Cynthia

1. Right to Representation

Cynthia's meeting with management describes a textbook violation of an employee's Weingarten Rights. An employee has a legal right to union representation during any meeting or interview with management that the employee reasonably believes could lead to disciplinary action.

Recourse: Cynthia should document everything that happened in the meeting (who was present, what was asked, when she requested a steward, the exact response of the manager denying the request. Contact your NUHW steward and file a grievance, and potentially file an Unfair labor practice.

2. Insubordination

Was Dan insubordinate?

Answer: No, there is no objective evidence that Dan committed insubordination. The employer is confusing a performance issue (charting documentation) with insubordination.

Did the employer demonstrate that the list of four questions on page 65 occurred to assert insubordination?*

Answer: No, the employer failed to demonstrate these four elements. Dan did not refuse to chart, simply expressed dislike for the work task. The employer's ask to include "more detail" was vague, not explicit. While the order was given by a manager, the consequences of failing to perform the work were vague. Dan was also not given clear guidance or time to correct specific charting deficiencies.

CHAPTER 6: INTERPRETING YOUR CONTRACT

Module 1: Interpreting Your Contract

Activity 2: Practice Scenarios: Sam and St. Ima Donuthin: Overtime

Answer: Yes, Sam has valid grounds for a grievance under the Collective Bargaining Agreement (CBA) based on contractual ambiguity and past practice. The strongest element of Sam's grievance relies on Past Practice.

In labor arbitration, if contract language is ambiguous or open to interpretation, an established past practice can become a binding term of the agreement. Since Sam knows that the employer has consistently paid double time for the 7th consecutive day worked regardless of the workweek, the employer cannot unilaterally change this interpretation without bargaining with the union. Recommended Course of Action for Sam is to file a grievance, citing Article VII, Section 1 and Article VII, Section 2, and gather evidence of past practice.

ANSWER KEY

CHAPTER 6: INTERPRETING YOUR CONTRACT

Module 2: Understanding Past Practice

Activity 3: Athletic Shoes

QUESTION: IS IT A PAST PRACTICE? WHY?

Yes (with some nuance). Rule exists, but:

- It has been openly and consistently ignored
- Management knew or should have known
- No enforcement “in recent memory”

QUESTION: IF IT IS A PAST PRACTICE, WHAT KIND IS IT?

- Past practice modifying or nullifying a written rule through non-enforcement

ARGUMENT TO EMPLOYER:

The employer:

- Waived enforcement through long-term inaction
- Cannot suddenly enforce without notice and bargaining

SUDDEN DISCIPLINE IS UNJUST BECAUSE:

- Workers relied on the accepted practice

KEY FRAMING: You can't selectively enforce a rule after years of ignoring it.

STRATEGIES TO DOCUMENT/ENFORCE:

- Collect statements:
 - “How long have you worn athletic shoes?”
- Show:
 - Widespread use across departments
 - Lack of prior discipline

GRIEVE THE DISCIPLINE (JUST CAUSE + PAST PRACTICE):

- Demand:
 - Discipline be rescinded
 - Employer bargain before changing enforcement

TEACHING POINT: Non-enforcement over time can override written policy in practice, especially around discipline.

ANSWER KEY

CHAPTER 6: INTERPRETING YOUR CONTRACT

Module 2: : Understanding Past Practice

Activity 4: Breakroom Fridge

QUESTION: IS IT A PAST PRACTICE? WHY?

Yes. It is:

- Consistent (nurses regularly store food in unit fridges)
- Widespread (across units)
- Known to management

QUESTION: IF IT IS A PAST PRACTICE, WHAT KIND IS IT?

- Working conditions past practice (not directly tied to explicit contract language)

ARGUMENT TO EMPLOYER:

This is a mandatory subject of bargaining (working conditions, break access)

- The change:
 - Makes breaks less usable
 - Disproportionately impacts certain workers (floors 2, 4, 6)
- Employer cannot make unilateral changes to established working conditions

STRATEGIES TO DOCUMENT/ENFORCE:

- Map the issue:
 - Which floors lack fridge access?
 - Time it takes to access breakroom
- Collect worker statements:
 - Impact on breaks, patient care, workflow
- File grievance and/or demand to bargain
- Use health & safety / break rights framing

TEACHING POINT: Past practice doesn't have to be in the contract — it can be about day-to-day working conditions.

Additional steward resources are available at nuhw.org/education

