



**National Justice
League and Security
Professional**

Stewards Manual

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Stewards training and Tips

So you and your co-workers decided to organize. This is great, but now you have been voted in as a steward and you have accepted. Now you are having second thoughts. You're not sure what a steward does, what makes a good steward, and you don't know where to turn to find out. Well you have found a good place to learn.

A steward's job is to protect your fellow co-workers, ensure the work sight is safe, maintain the validity of the contract, build the union, and many other duties that we will address in detail. We will also discuss pitfalls that many stewards make. What to do in specific situations.

Before your first day as a steward you should read the contract over and over. No one can know it all but by studying you have prepared yourself.

You have bought a small notepad so you are ready to write down any question members may have that you don't have the answer for. You also know that you will be using it in any contract issues or violations that may come to your attention. You are going to need it if you attend any disciplinary meetings for any member.

You have read and understand Weingarten rights. You know that any member who is asked to meet with a supervisor or company representative has the right to have a union representative attend the meeting, that they have a right to meet with the representative before the meeting or to ask for time to discuss the matter before continuing the meeting. You understand that

the employer does not have to offer these right, that it is up to the member to invoke his Weingarten rights. You have prepared yourself to educate the members on these rights. So what do you do if the meeting has already started? Knock on the door and ask the supervisor to inform the member that a steward is available if he would like union representation. If the supervisor refuses to do so record it in your trusty notepad and ask the supervisor to sign it.

You may have even purchased the book, "The Legal Rights of Union Stewards" by Robert M Schwartz. If not you may want to consider making this purchase.

You have read the CBA and have a decent handle on it so that you can protect it and the members from any violation of the contract by management. It is your duty to bring any violations to the attention of the management and the union so that the violation can be either stopped or if management refuses, that you can follow the grievance process outlined in the CBA.

You understand as a union steward that when acting in that position you have equal footing as the company representative. That you can act freely in the defense of the contract or co-worker. Although you know you need to act professionally, refrain from argumentative attitudes, posturing or anything that will be detrimental to presenting your case.

You may even have read up on labor laws. Understanding your legal rights will be beneficial to yourself and those you are representing as a steward.

Your position as a steward is strengthened by having a strong united union membership. By having a strong backing of the members of your union, you can approach situations knowing that if the company tries to discipline you for union activities that the members will have your back and support your efforts for them.

A strong union contract forbids discrimination against union activities and guarantees time for union business.

Federal and state labor laws prohibit interference with legitimate union activities. We will discuss what those activities are in detail a little later.

Your first day as a steward has arrived. Nervous? You shouldn't be. By now you have studied the Collective Bargaining Agreement. You may not fully understand it but keep studying it and you will get there. You know your Weingarten rights. You have come prepared with a notebook.

You have contact information with you if you need assistance. You know you can call another more experienced steward or union officer. So just relax.

The first day can be very nerve racking, but you must establish yourself on the first day. Demonstrate to the members that you can get the job done. You must assure that that the members, make them comfortable coming to you to resolve work related issues. Be aware that your supervisor and other management personnel are going to watch you and maybe even test you.

If the union has assigned stewards to specific work sites, departments, or any form of division, be aware that members may go to other stewards, especially if they have more experience, or union officers. They should be encouraged to speak with their assigned steward. Employees may speak with their immediate supervisor to solve problems informally, especially if this was common prior to organizing. Whenever possible, you should encourage the member to bring along his/her steward to make sure that the employee gets treated fairly. Employees are often unaware of their rights and aspects of the contract.

Bring the Union to the forefront of the members, especially with new hires, who typically are unaware of what the union has done for the employees. Often thinking that the benefit's and wages are just common practice for the company to give. Unaware of the struggle that went into establishing the current wages and benefits that he/she receives.

Introduce yourself to new hires as soon as possible. Make sure you introduce yourself as a steward, and if possible explain some of your duties to them. If they have never been in a union before they may not know what the role of the union is, or of the steward. Be sure to use the word we when talking about the membership or the Union. Use the word they when discussing the company or management.

We all make mistakes so here is a few that you can easily avoid by being aware of them:

Do not walk around the worksite with a chip on your shoulder.

Do not violate company rules.

Do not violate any part of the contract.

Do not wait until a member comes to you with a grievance.

Do not be a "know it all", if you don't know an answer to a question that is fine, let them know you will find out for them.

Do not use profane language to intimidate the boss.

Do not miss union meetings.

Never raise your voice to member in front of management or other members.

Do not forget to inform the union of issues you are dealing with.

Do not spread rumors or pass on information that is false.

Do not forget to let members posted on grievances you have filed on their behalf.

Do not talk members out of filing grievances unless the issue is not grievable.

Never file a grievance unless it is a grievable issue.

Never neglect to investigate a grievance thoroughly before filing.

Do not argue a grievance with personal issues or using personal remarks towards a supervisor.

Do not put off a member when they call you, deal with it immediately if at all possible, and if not as soon as you can.

Do not lose your temper when dealing with a supervisor or any one.

Do not let co-workers push you around.

Never try to manage your co-workers or allow a supervisor to use you as a means of doing his/her job by enforcing company rules or calling workers on minor abuse of privileges negotiated by the union.

Ok that is a few mistakes that you should never allow yourself to make. And if you do, learn from the mistake by not doing it again.

The biggest part of your job as a steward will be the grievance process. You can limit the time you spend doing this duty by being aware of what really constitutes a grievance. So a grievance is any violation of the terms of the contract, interpretation, or application of the contract. But we can better interpret this, most often it is a violation of an employee's rights on the job, usually, but not always defined by the contract.

Every union officer must go back to the contract first when a member comes to them with a complaint or a problem. This is one reason why you must know and understand the contract.

Secondly you must look to see if the company or employer is violating the law.

Thirdly you then can look to see if it is a change to what is known as "past practice". This is defined as a practice that both parties are aware of and has been accepted so frequently that it appears to a reasonable person that both parties have agreed informally to conduct business in this manner. If you are thinking of filing a grievance based on "past practice" it is advisable to speak to a union officer prior to filing the grievance.

A large number of grievances that you will file will be based around disciplinary actions. It is very important that you and your members understand your Weingarten rights. Steward is to prevent management from intimidating employees. Nowhere is this more important than in closed-door meetings when supervisors or guards, often trained in interrogation techniques, attempt to coerce employees into confessing to wrong doing.

The rights of employees to the presence of union representatives during investigatory interviews was announced by the U.S. Supreme Court in 1975 in *NLRB v. J. Weingarten, Inc.* Since that case involved a clerk being investigated by the Weingarten Company, these rights have become known as Weingarten rights.

Unions should encourage workers to assert their Weingarten rights. The presence of a steward can help in many ways. For example:

- The steward can help a fearful or inarticulate employee explain what happened.
- The steward can raise extenuating factors.
- The steward can advise an employee against blindly denying everything, (hereby giving the appearance of dishonesty and guilt).
- The steward can help prevent an employee from making fatal admissions.
- The steward can stop an employee from losing his or her temper, and perhaps getting fired for insubordination.
- The steward can serve as a witness to prevent supervisors from giving a false account of the conversation.

When a supervisor calls a member into his office to announce a warning or other discipline, this is not an investigatory interview, since it is announcing a disciplinary action and not questioning the worker. It can turn into one if the supervisor begins to ask questions to support the decision.

Under the Supreme Court's Weingarten decision, when an investigatory interview occurs, the following rules apply:

Rule 1. The employee must make a clear request for union representation before or during the interview. The employee cannot be punished for making this request.

Rule 2. After the employee makes the request, the employer must choose from among three options. The employer must either:

a. Grant the request and delay questioning until the union representative arrives and has a chance to contact privately with the employee; or

b. Deny the request and end the interview immediately;
or

c. Give the employee a choice of: (1) having the interview without representation or (2) ending the interview.

Rule 3. If the employer denies the request for union representation, and continues to ask questions, it commits an unfair labor practice and the employee has the right to refuse to answer. The employer may not discipline the employee for such a refusal.

The Supreme Court has acknowledged that a steward's right to assist and counsel members during the interview. Based on decided cases the following procedures are accepted:

1. When the steward arrives, the supervisor must inform the steward of the subject matter of the interview, i.e., the type of misconduct for which discipline is being considered (theft, lateness, drugs etc.).
2. The steward must be allowed to take the worker aside for a private pre-interview conference before questioning begins.
3. The steward must be allowed to speak during the interview. However, the steward does not have the right to bargain over the purpose of the interview.
4. The steward can request that the supervisor clarify a question so that the worker can understand what is being asked.
5. After a question is asked, the steward can give advice on how to answer.
6. When the questioning ends, the steward can provide additional information to the supervisor.

It must be emphasized that if the Weingarten rules are complied with, stewards have no right to tell workers not to answer questions, or to give false answers.

Workers can be disciplined if they refuse to answer questions.

Again remember that supervisors do not have to inform members of their rights. It is up to the member to invoke their rights. Remember to educate the members on their right and how to politely refuse to answer questions until they have union representation. The simplest thing for them to say is the following: "Without representation, I choose not to answer any questions."

Here is some basic guidelines:

Q. If I see a worker being interviewed in a supervisor's office, can I demand to attend the meeting?

A. Yes. A steward has a protected right to demand admission to a Weingarten interview. However, once the request is made, the employee being interviewed must indicate a desire for your

presence. If the employee states that he or she wishes to be interviewed alone, the steward must leave.

Q. An employee was summoned to an interview with his foreman and asked for his steward. In response, the foreman said. "You can request your steward, but if you do, I will have to bring in the plant manager, and you know how temperamental she is. If we can keep it at the level we're at, things will be a lot better for you." Violation?

A. Yes. The foreman is threatening greater discipline to coerce the employee into abandoning his Weingarten rights. This is an unfair labor practice.

Q. An employee was ordered by her foreman to the personnel office for a "talk" about her attitude. She asked to bring a union representative but the foreman said she would have to make her request when she got to the office. Can she refuse to go to the office?

A. No. Weingarten rights do not begin until the actual interview begins. The employee must go to the office and repeat her request to the official conducting the interview. Only if a supervisor makes clear in advance to the employee that he or she intends to conduct an investigatory interview without union representation, does an employee have a right to refuse to go to a meeting.

Q. The company is recalling workers from a layoff and is insisting on medical examinations for those out of work three months or more. Can the workers demand a steward's presence during the examination?

A. No. Medical examinations are not investigatory interviews. Weingarten rights do not apply.

Q. Does Weingarten apply to a polygraph examination?

A. Yes. An employee has a right to union representation during the preexamination interview and the examination itself.

Q. If management asks a worker to submit to a urine test for drugs, does Weingarten apply?

A. Yes and no. Since a urine test is not questioning, an employee does not have a right to the presence of a steward during the actual test. Management must, however, allow the

employee to consult with a union representative to decide whether or not to take the test.

Q. Can management order a worker to open a locker without a steward being present?

A. Yes. Locker searches, car searches, or handbag searches are not interviews. Employees do not have a right to insist on the presence of a steward.

Q. An employee was given a written warning about poor attendance and told he must participate in absence counselling sessions with a member of the personnel department. Does the worker have a right to demand the presence of a union steward at the counselling sessions?

A. This depends on whether the employee has a reasonable fear that the counselling sessions could result in further discipline. If notes from the sessions are kept in the employee's permanent record, or if other employees have been disciplined after counselling sessions, the employee's fears would be reasonable and would entitle him to bring a steward. But if the employer gives firm assurances that the meetings will not be used for further discipline and promises that the conversations will remain confidential, Weingarten probably would not apply.

Q. If a worker is given a warning slip for misconduct and is asked to sign the slip to acknowledge receipt, must the employer permit her to consult her steward before signing?

A. No. Since the employer is not questioning the worker, Weingarten rights do not apply.

Q. Can a worker insist on the presence of a lawyer before answering questions at an investigatory interview?

A. Where employers simply announce discipline. However, if the employer starts asking questions or tries to make the employee admit guilt, Weingarten would apply and the employee can insist on the presence of a steward or other union representative before answering.

Q. If a worker's steward is out sick, can the worker insist that the interview be delayed until the steward is available?

A. No. Management does not have to delay an investigation if other union representatives are available to assist the employee at the interview.

Q. If I am called in by my foreman to discuss my work record, do I have the right to a union representative?

A. Yes. Union stewards have Weingarten rights. If you fear discipline or other adverse action, you have the right to the presence of a union representative.

Q. Suppose a worker's request for a steward is denied. If the supervisor continues to ask questions, can the worker walk out of the office to get a steward?

A. In some cases, yes. According to NLRB decisions, when an employee is entitled to union representation and the employer denies the employee's request, an employee can refuse to participate in the interview, even to the point of walking out to seek a union representative. However, if the employee is told to wait while management gets the steward, the employee must stay in the office until the steward arrives.

Q. If the company calls a meeting to lecture workers about job performance, do the employees have a right to demand the presence of a union representative before attending the meeting?

A. No. Holding a meeting on work time which does not involve interrogation is not a Weingarten meeting. There is no right to a steward unless the employer begins asking questions of employees in a manner that creates a reasonable fear of discipline.

Q. If management refuses an employee's request for union representation, gets the employee to confess to theft, and then fires the employee, will the NLRB order the worker to be reinstated?

A. Probably not. The NLRB used to order the reinstatement of employees who were fired as a result of admissions during an illegal interview. But in 1984 the Board ruled that such a penalty was an unwarranted "windfall" for guilty workers. The standard Weingarten penalty is now limited to a bulletin board posting in which the employer promises not to repeat its violations.

Using your union's legal right to acquire information from the employer can help you defend your rights and win grievances and

arbitrations. This right is established by the National Labor Relations Act. Unfortunately, many members don't know about this right, and many union representatives don't use it unless members specifically ask them to.

This article outlines some of the basics of the right to information and how to use it. You will need more detailed information to effectively put this into practice. You can order two books from TDU that outline your rights under the grievance procedure in more detail ([download order form here](#)).

The union may request information to:

- monitor the employer's compliance with the contract.
- investigate whether a grievance exists.
- prepare for a grievance meeting.
- decide whether to drop or prioritize a grievance.
- prepare for an arbitration hearing.

What can you request? The obligation of an employer to provide information is extremely broad. It includes relevant documents, data, and facts. Information is considered relevant if it might be useful to the union or could lead to the identification of useful information. Information requests can be quite general. For example, employers must respond to broad inquiries such as: "Please supply all documents or records which refer to or reflect the factors causing you to reject this grievance." , "Please supply all factual bases for the company's decision." or "Please provide all documents, reports, and other evidence utilized in making the decision to discipline the employee."

Management may complain that such information requests are "fishing expeditions," but this language has been upheld by the NLRB which has ordered employers to comply. These kinds of requests can be extremely useful in nailing down management's position so that they cannot shift their argument later in the grievance procedure or at arbitration. Other information requests can be very specific. The union is entitled to a wide variety of specific documents. See examples in the box accompanying this article.

If management refuses to provide information or unreasonable delays violate Section 8(a)(5) of the National Labor Relations Act. The union can file an unfair labor practices charge with the NLRB if the company refuses to cooperate with an information request.

Only shop stewards and union officers can request information from the company. Although shop stewards can request information, if the employer is intent on blocking the request or stalling, the backing of the business agent can be crucial to winning an NLRB charge. So whenever possible, it is best to get your business agent on board with an information request.

Many business agents aggressively use information requests as a tactic to win grievances. If you are worried that your business agent might not be eager to request the information, ask them to request information from the company and explain specifically in writing what information you would like them to request.

The union can challenge certain rules or their application. We may argue that a member is being disciplined without "just cause" or he or she is suffering from disparate treatment. Simply stated that they are being treated unfairly. Always go with a contract violation first.

When you are approached by a member with a grievance. Your job starts immediately. You will need to interview the member to see if the issue is something that is grievable or not. The issue may not be a grievable issue in which case you need to be honest and tell the member so. But your job as a steward does not end there. You need to think of another way to solve the issue. You may be able to solve the issue by a meeting between the supervisor, the member and yourself.

If it is a grievable issue you should investigate the problem further. At this point you need to find out exactly what happened.

Just like a journalist investigating a story, you must ask the five w's. Who: is involved, get the names of the workers, titles, seniority, and employee numbers. Get as much information as you can. When: Did the incident occur? Make sure to get dates and times as accurate as you can. What: happened or didn't happen? What did the worker(s) do or not do? What did the worker(s) say? What did management do or not do? What did management say? What has happened in the past when this issue occurred? Where: Did the incident take place? Be as accurate as possible. Why: Did the incident occur? This may be different from each person interviewed. Take each statement as given, and then sift through it later to try to determine the facts.

Remember you bought that notepad for a reason, this is one time you really need to have that notepad. You will never remember

every detail given to you in an interview. You never know what little detail may become a big factor down the road.

Your local may have supplied you with grievance investigation forms. If so this is the time to use it. These can be used as a record for the union to ensure that the issue or discipline is fair for everyone. It also is a record of what happened while the issue was fresh in members and witness' minds. This preserving the incident in case further action in the grievance process occurs.

As the interviewer you must practice good listening skills.

You need to focus on the interviewee.

Take notes, get as much as you can down

Nod your head to show you are listening to them

Do not interrupt the interviewee - you take notes to clarify any confusion later.

When the person is done, read over your notes.

Clarify any confusing or misleading statements up

Get as many facts as you can, it is ok if they give their opinion just make sure that it is clear to any future readers what is fact and what is opinion

If you need to ask them to give more details

Remember listening is not always about what is said but sometime what is not said.

Pay attention to body language

Don't judge what is being said

Don't take sides, you are here to get information at this moment, not to who is right or wrong at the moment, that will come later

Sometimes reflective listening is important, so use it as a tool. Reflective listening is putting what they said in your own words and asking them if that is what they are saying.

Ask them what they would like to see the resolution to the issue be

Make sure that they understand that you can make them no promises to what the resolution will be.

After the interview with the person(s) with the issue, make sure that you let them know you will be in touch with them to follow up and let them know what is going on with the grievance, and make sure you do

After you have conducted the all the interviews you need to think about how this issue can be resolved. If the person(s) have suggested a resolution, you need to look at how it will affect the union membership as a whole.

Now that you have done this work you need to let the other stewards know what is going on. They need to be informed especially if several members are involved so that they don't start working on the same issue as you are. This is even true on issues that are not grievable, you don't want the member going to other stewards in the hopes that one of them will start a grievance that should be started.

Less discuss what to do if the member does not have a grievable issue. You must be honest with the member tell him that role is not grievable. Do not have the impression that you can achieve something with the grievance procedure that it is not designed to do it. I filing a grievance that is not a grievable issue as your credibility with management. You will also lose destroy your credibility with the member when the grievance is lost. To resolve a grievance issue, you need the cooperation of both sides.

You should explain to the member are reasons that the issue is not grievable. You should be sympathetic to the member's problem and explain the process of grievances to them. Some members may become belligerent when given this bad news. If so remain professional and end the meeting.

You should always take good notes whenever you are conducting union business, this is especially true even if there is no grievance. Having to tell a member that an issue is not grievable is difficult but necessary.

You will not win every grievance you file, no one expects you to, not even the members. All they are really asking you to do is give them a fair shake. If you do your job to your best ability and with credibility in a fair and professional manner you will earn the respect of you fellow members.

If you do the following you will have a good lead on grievances. Get to know the members you are the steward for, what their job is, but also get to know them by name, situation, a little about their family.

Encourage them to submit all grievances to their representatives in a timely manner. If an issue is not grievable, explain to the member why it is not grievable. They will appreciate the time you spend explaining it and better understand the process. Let them know that the other stewards will say that it is not grievable and repeat why if need be.

Make sure you do not make any promises you cannot keep. You will lose all credibility if you do. Separate any personal vendettas from real grievance issues. Plan and prepare your grievance every step of the process. Try to settle the grievance as early on in the process as you can and as quickly as you can. Let the member know that he should not discuss the grievance with management. Make sure your members know that they should not process their own grievance or settle privately with management, this ensures that the contract is maintained and all members' interest are looked after. You don't have to have a grievant to file a grievance, but if you do and they don't want to file one, make sure to ask them why.

Now that you have completed the interviews, and decided that there is a grievance the job is not over. Most contracts provide for the steward or representative from the union to write the grievance on behalf of the member. This allows the union to better track the issue and control the grievance procedure. The member is better represented in the process because of the experience of the steward or representative. The grievance form is the first step of the process. Meeting with the member and his supervisor. Your goal is to resolve the issue as early as possible. Take a notepad with you. Take notes of each participants statements. If you are unable to settle the issue let the supervisor know that you will need a verbal response by the second working day after the grievance was presented. If the grievance is denied, complete the grievance form, be sure to

include the company's response and turn it in to the local president with a copy of the investigation form and notes.

The local president will proceed to submit a second step grievance notice to the company. Usually this must be done within 10 working days or within the allotted time in the contract the grievance will be considered settled in favor of the company.

The grievance should contain the basic information, just enough to identify the grievance so that management can understand the problem, what violations have occurred and how the problem should be fixed.

A grievance notice should be brief. You are not obligated to disclose the results of your investigation. State the union's position. A grievance is a statement of an injustice so you need to include a remedy, but do not limit it. You should word the remedy so that it is not limited, use the phrase "the grievant should be made whole in every way including..." and ask for what you want. Do not leave it at just the above statement but include specific remedies that you want met.

So you have investigated the grievance, interviewing everyone involved and met with the supervisor. The grievance was denied and you have passed the information on to the other stewards. You have passed on the grievance documents to the local. What do you do when the member comes to you and asks why the grievance has not been resolved? You wonder that yourself at times. But being familiar with the process you know that it starts with the member and the steward and should end there. And if you can resolve it before step two and three all the better. Here is why. Members who see results and results in a quick manner see an effective union. As the old saying goes justice delayed is justice denied. By resolving issues early you build a good relationship with the supervisors you have to deal with. It also can build confidence in solving other issues in the future. If a grievance is put in written form it can force both sides to become inflexible. Finally grievances can be costly to both the union and company.

Does this mean we shouldn't file grievances, NO, we need to treat every issue as if it will go to arbitration. But if can work with the company to resolve issues fairly and quickly we all win.

We cannot stress enough how important it is to write everything down. Not just in interviews, but in grievances, informal meetings, and union meetings. No one's memory is perfect and in arbitration and grievances your memory may be brought into question. But your notes can not be questioned.

At the end of any meeting that results in a resolution of the problem make sure that you get the resolution in writing. This prevents any misinterpretation of the resolution by the either party down the road.

When you get to the point of meeting with the company for a grievance you will be presenting the union case. You should have prepared for this beforehand. You should have all the facts in writing. Have organized all your notes. Prepared your grievant and any witness' and thought out the companies arguments.

If you need to discuss any issue regarding the grievance or resolution with the grievant, other stewards are Union officers, you should do this away from any management. It is perfectly fine to take a short recess. You can do this if the grievant or any witness is damaging the case, take the time to let the person calm down.

Stick to the issue or issues. If management wants to discuss other issues, firmly but politely offer to set up a meeting at another time to discuss those issues.

Listen to the company's issues and try to look for solutions. Use your listening skills discussed earlier for the real issue and solutions.

You can disagree with them and still be professional. The advantage will go to the side that remains calm. Don't be goaded into anger, this is a tactic that a company will use especially if they know they are wrong.

Be prepared to settle the grievance as soon as you can if a reasonable solutions is offered. If a postponement is reasonable allow it, but if it is just a stall tactic then you should deny any delay.

In a disciplinary case, it is up to the supervisor to prove his case. Let him show that the action he is taking is the correct one. Attempt to show where he or she is wrong and why.

Do not bluff about anything, if you do not follow through on your bluff the company will never believe any future statements of action that you will take. It will also only be a matter of time before your bluff is called. Advise the grievant not to bluff either. A common bluff from a grievant is that the company will be hearing from his/her attorney.

A tactical retreat is sometimes in order when you have been proven wrong. But never retreat until you have been clearly proven wrong.

Now that you have a good idea what to do in a grievance meeting we must tackle the issue of witness'. The investigation you have done, the documentation you have prepared can only help you win a grievance. A witness can destroy all that work if you have not done your work with the witness.

You should know what your witness' will say when questioned. You can only do that if you have spent time with them going over what happened, questioning them as you will in the meeting, and preparing them to answer questions the company is likely to ask them. This practice session of questions is not designed to put words in their mouth, always tell them to simply tell the truth. This session has the purpose of getting them comfortable with answering questions, and to help you to think through your case.

Remind your witness to answer the questions in brief statements and not to argue. That they should not be evasive but that if they don't know the answer to a question it is perfectly acceptable to say so. That an answer of I don't know or I don't recall is an answer.

They should use confident sound words when they know the answer, and therefore should avoid starting answers with: I remember, I think, I believe.

Remind the witness' that they should remain calm during cross examination. If you need to take a recess to keep a witness calm it is better to do so then let them get to upset. If a witness becomes emotional they may become careless, confused, or argumentative and lose credibility.

When you prepare a witness be as thorough as possible. Take them through the process step by step, describe the room and the process to them.

Make sure your witness know to admit if asked, that they have spoken to you ahead of time. Make sure that they know your expectation of them, is that they will tell the truth and that preparing them for testimony is just part of the process.

A great deal of your time will be spent on disciplinary issues. They can be long and difficult processes, but very rewarding at the same time.

The very first thing you need to do is educate your members about their Weingarten Rights. So let's go over that in a little more detail.

Whenever a member is asked to talk with a supervisor and they believe that the discussion could lead to a disciplinary action they have the right to have a union steward or other representative attend the meeting.

The United States Supreme Court has ruled that you have a right to refuse to answer any questions until the union steward is there, that you have a right to first discuss the issues with the union steward. This right included if you are called on the phone.

Once the steward arrives you are required to answer the questions truthfully. The supervisor does not have to tell you of these rights. You must invoke these rights for yourself. One you have asked for the steward management must stop questioning, if they fail to stop, they are in violation of the law. If they try to pressure you into answering questions this is also a violation of the law. You do not have a right to have a steward at every meeting but if you have a reasonable belief that the meeting can result in you being disciplined then you have every right to a steward being in attendance.

Preparing for a disciplinary case is not much different than preparing for a grievance. Disciplinary can result from violation of company's rules or policies and procedures, poor job performance, absenteeism, insubordination, or inappropriate behavior at work.

Credibility is huge in disciplinary hearing and grievances based on disciplinary actions. The case must be built so that if it goes to arbitration, the neutral arbitrator will believe the union's side of the issue. As in all cases you need to make sure to check the story from every aspect. Have them repeat the incident repeatedly and question every aspect of it. Explain to

the member that you are doing this just as the company will so that he is prepared. Interview all witness' including any management that may have been involved.

Get the employee's personnel records, this will provide you with information about previous disciplinary actions he/she was involved in. If you can't get these records prior to the hearing, ask for a postponement. Make sure that the records are accurate. If expired documentation exist in the file request it to be removed.

You need to verify what the contract and the company's policy and procedure's manual says in regard to the alleged violation. Remember that if there is a violation, the fight is not over. The rule must be reasonable, known and there may be mitigating circumstances. Lastly we must look to see if other co-workers have done the same thing or worse and not been discipline or received a lighter penalty. Discipline cannot be discriminatory or arbitrary.

The nature and procedures of disciplinary hearings are governed by law, contracts, and/or procedures. In general, the steward should follow these guidelines at a hearing:

1. Speak to the member prior to the hearing. If it is a formal disciplinary hearing with a notice, check the notice and proceed with an investigation of the alleged infraction. If you are called in at the last minute, seek a postponement so that you can make a proper investigation. If the meeting is informal, make sure the member has time to talk with you ahead of time or take a recess to get some understanding as to what happened.
2. Prior to the hearing, inform the member who will be present how the meeting will be conducted and what he/she should expect.
3. Get as much information as you can beforehand. Do not let the employer withhold information. If they do, speak to your local union. Document any denials of information in writing and get it on the record.
4. If there are any witnesses at the meeting or hearing you should question them as you see fit. In most formal hearings, the process of questioning the company's witness is called cross-examination. You have a right to ask these witnesses questions to determine the accuracy of their testimony and their biases. Your rights to questioning should not be interfered with by management. If you are

denied that right, make sure that such denial is entered on the record.

5. It is perfectly proper for members to answer questions with, "yes," "no," or "I don't know." Once the member has answered a question, he/she is under no obligation to elaborate.
6. At most hearings the steward can take as active a role as he/she sees fit.
7. You can stop the meeting at any time to speak privately with the member.
8. Take notes or bring in a second person to take notes.
9. Do not rely on the supervisor's notes.

The written record is important. It documents what actually was said, not what was allegedly said. Cases have been won and lost on the accuracy of the record. The bottom line is to make sure that the member is treated as fairly as possible under circumstances that are heavily weighted against him/her. You must handle all discipline as if the case will go to arbitration. Remember, even if the investigation does not go the way you had hoped, you can challenge the discipline, how management conducted itself through the process, or the just clause section of your contract by appealing through your grievance procedure.

One of the most difficult to defend disciplinary action is for insubordination. Many contracts have the language that an employee can be disciplined and/or discharged for insubordination. Insubordination will be dealt with quickly, harshly and with little to no forgiveness. Arbitrators have for the most part dealt with insubordination ruling that you should, "Obey now, grieve later".

Insubordination is usually defined as the failure or refusal by an employee to perform a task or comply with an order given to him/her by a supervisor. Usually this order will have to be reasonable and basic to the conduct of the employers business. This is such a serious issue that insubordination is considered a terminal offense.

Let us consider some issues that will affect the results of insubordination in a disciplinary hearing. Some people work in very noisy work environments so the order would have to be heard before insubordination could be considered. Was the order clear? Could the member have misunderstood what the supervisor meant? Was the member given an order or was it instructions, suggestions, or advice? Did the supervisor give the member a warning of the consequences for failing to comply with the order? Was the order a reasonable order?

Was the order that the member thought would endanger himself/herself or His/her co-workers? The Occupational Safety and Health Act (OSHA) provides for employees to refuse to follow an order that is dangerous. If the work is unsafe, the employee must report it and ask that it be made safe. Not just refuse to do the work. The other side of this is that the order should be reasonable and necessary to the safe, orderly, and efficient operation of the business. It should not violate the contract, work rules, past practice, past arbitration decisions, or the law.

Was the member aware that he/she was being given a direct order? Was the member provoked by the supervisor? Was there an ongoing dispute between the supervisor and the member? Could the member been set up by a supervisor who had previous conflicts with the member?

Most important did the insubordination occur when the member was performing a duty for the union as an officer, representative or steward in the union? Remember the steward, officer, representative acting as such is protected and considered equal when performing the duties of their union position.

Remember and educate your members that is it best to obey any order, then grieve it later.

There are a lot of labor laws on the books but probably the most important one is the National Labor Relations Act of 1935. Before this act employers could freely interrogate, fire, discipline, and even spy on employees. During the great depression workers went on strikes, battled police, and security forces.

The NLRA forbids employers from discriminating against workers who join unions, exercise leadership, or engage in strikes.

The NLRA has 41 sections. The most important are Sections 7, 8, and 9.

Stripped to its essentials, Section 7 reads: 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.

Section 8(a) defines employer violations. These are known as "Unfair labor practices" or "ULPs." Five types of conduct are prohibited:

- Interference, restraint, or coercion directed against union or other collective activity [Section 8(a) (1)]
- Creation or domination of a labor organization [Section 8(a) (2)]
- Discrimination against employees to discourage support for a union [Section 8(a) (3)]
- Retaliation for filing ULP charges or cooperating with the NLRB [Section 8(a) (4)]
- Refusal to bargain in good faith with union representatives [Section 8(a) (5)]

Threats and interference in union activity violate Section 8(a) (1). Discharges and suspensions violate Sections 8(a) (1) and (3). Unilateral changes, refusals to supply information, and denials of union assistance during investigatory interviews violate Sections 8(a) (1) and (5).

Section 8(b) proscribes union unfair labor practices, including unfair representation, bargaining in bad faith, and secondary picketing.

Section 9 sets out procedures for union certification elections.

The National Labor Relations Board (NLRB) enforces the NLRA. The NLRB has 52 regional and sub-regional offices. A five-person board heads the NLRB. The President of the United States, with Senate consent, appoints Board members to staggered five-year terms (one member's term expires each year). The President also

appoints a General Counsel, who is in charge of prosecuting unfair labor practices.

ULP Charges

Union attorneys, officers, and stewards can file unfair-labor-practice charges. The charge must be filed within six months of the event or conduct that forms the basis of the charge. Charge forms can be requested from an NLRB office or downloaded from the NLRB website: www.nlr.gov. Procedure. A ULP charge can be hand written or typed. The easiest method is to fill it in on the NLRB website. Print and sign it, then mail, fax, or hand deliver the charge to the Regional Office with jurisdiction over the worksite. The NLRB will serve a copy on your employer. (The union should do this itself if near the end of the six-month limitations period.) Investigation. Board agents investigate ULP charges by interviewing witnesses and reviewing documents. When the investigation is complete, the agent and his supervisor make a recommendation to the Regional Director to issue a complaint, defer, or dismiss the charge.

Complaint:

If the Regional Director concludes that a complaint is warranted, the Board agent will inform the employer and attempt to bring about a settlement. If these efforts fail, a complaint will issue and the matter will go to hearing before an Administrative Law Judge (ALJ). An NLRB attorney will prosecute. The ALJ can order the employer to cease its illegal conduct, make up for any harm, and post a notice promising not to commit further violations. The ALJ cannot impose imprisonment or issue a fine. The employer or the union (or both) can appeal an ALJ decision to the five-member Board in Washington. Further appeals can be taken to a U.S. circuit court and the U.S. Supreme Court.

Deferral to arbitration:

Under a policy called "deferral," Regional Directors hold up investigations of ULP charges if the matter appears resolvable under the parties' grievance and arbitration procedure. The NLRB justifies deferral as a way of conserving resources. Unions contend that the policy takes away their right to have ULPs rectified by the NLRB and forces them to incur arbitration

expenses for matters that may not be covered by the contract. The NLRB applies its deferral policy to most ULPs by employers that occur while a contract is in effect.

The following are exceptions:

- 1) Refusals to furnish requested information.
- 2) Violations of Weingarten rights (see Chapter 5).
- 3) Retaliation against employees for filing NLRB charges
Deferral may also be withheld if the deadline for a grievance has expired and the employer refuses to allow a late filing; if the employer has exhibited hostility to the grievance and arbitration process; or if animosity between the union and the grievant could affect the union's handling of a matter. Despite the likelihood that a regional Director will defer, there are several reasons to file ULP charges:
- 4) The NLRB's preliminary investigation may induce the employer to rectify the violation.
- 5) If the charge is deferred, the union grieves, and the case is taken to arbitration, the arbitrator will be more likely to apply NLRA precedent when deciding the matter.
- 6) If the arbitrator rules against the grievance, the union can ask the Regional Director to revoke deferral, reopen the ULP investigation, and issue a complaint.

Dismissal:

In addition to lack of merit, a Regional Director can dismiss a ULP charge because the violation is technical, minor, or of limited duration, and no other meritorious ULP charges have been filed against the employer for the past several years.

Wow, this is a lot of information to take in at one time. I would suggest that you download the pdf copy of this document and print it out so that you can read it again and again. You can also use it as a reference when you have a question or you are not sure of what to do in a situation.

Just keep the following items in mind and you will do fine.

1. Keep yourself informed on union affairs.
2. Serve as an example to your members.

3. Keep the members informed on union policies and union activities.
4. Attend union meetings and union affairs. Encourage and bring the members from your department. Don't chide members for missing meetings. Think of other ways to communicate with them.
5. Meet the new members early, inform them, educate them, and help them become members - make them more than dues payers.
6. Get your location to act as a union - have them stick together.
7. Act as a leader - do not let personal likes or Dislikes prejudice your actions as a grievance representative.
8. Fight discrimination, whether it be overt or very discreet. Discourage prejudice of any kind.
9. Keep accurate and up-to-date records. Write it down.
10. Do not promise, if you cannot deliver.
11. Encourage political action on the part of your members.
12. See to it that they are registered and vote.
13. Be active politically. Encourage members to exercise Heir right to vote, and to vote for labor friendly candidates.
14. Know how to refer to the union contract, by-laws, and international constitutions. If you are not sure, see help so that you can become familiar with the documents.
15. Encourage and support the union's activities on behalf Of organizing the unorganized.
16. Inform the membership of union services. Encourage them to take advantage of not only the services the

union sponsors outright, but those that the union helps subsidize. If your local does not already have a community services representative, encourage the local in creating one.

17. Fight, whenever you meet it, the anti-union element. You can best do this by being informed and being dedicated to the labor movement.
18. Do not hesitate or stall. If you do not know, admit you do not know. Then try to get the answer.
19. Keep your workers informed on sources of information. Give pertinent information whenever a worker wants it.
20. In dealing with the management, remember that you are The elected or appointed representative of your fellow members. Never consider yourself to be inferior to management representatives. You are always their equal.
21. Be proud of your position. Remember you are a union representative of your local union which has the full support of members bound together in an international union, with the support of millions of other union members.
22. Wear your union button and encourage your coworkers to wear it.
23. Investigate every grievance as if it were your own. Keep the member informed. Make sure you keep your deadlines. There is no excuse for missing a time limit. Research every grievance as if it were going to arbitration but try to resolve it at the lowest possible level. Keep your local union informed of the status of each grievance.
24. Attend and encourage attendance at any labor education program that might be available to you and your members.
25. Remember your goal is to be the best union representative you can be. Always strive for this goal. Excellence has no substitute.

Now you have a good idea of what being a stewards is about, what you need to study up on, you know your contract. You know what to do is disciplinary meetings. You have studied what to do when approached with a grievance, how to investigate it, and how to handle a grievance hearing. So relax a little, you need to remember to take time out for yourself every so often. Now get out there and start performing like a rock star!!