



Representing Difficult Members



Representing Difficult Members

Few stewards would argue that most of their union work flows directly from problems with management. Contract misinterpretations and outright violations, thoughtless supervision, paperwork foul-ups and a million other things go wrong all the time, adding up to a real handful for stewards.

That's why it can be such a frustration and disappointment when some of your most difficult problems come not from management, but from your own ranks.

If you've been a steward for any length of time, you've certainly dealt with difficult members. These can be people who constantly attack the steward and the union over one issue or another, or demand the impossible — and then get angry when the impossible can't be made to happen. And then there are those co-workers who are whiners — always complaining and nagging the steward for help, but never doing anything to help themselves.

The fact is, most of your co-workers are probably fine folks. It's just that occasional difficult person who might be making you wonder why you ever agreed to be a steward in the first place.

The question is, what can you do about it?

A good start would be to try to understand why members sometimes act in these difficult ways. You've seen them all, at one time or another:

1. Members with legitimate complaints about the union or steward;
2. Members who demand “service” in exchange for their dues, because they view the union like an insurance company or other service they buy;
3. Members who seem to cause difficulty in everything they do, perhaps for psychological reasons.

Don't Yield to Temptation

It can be tempting — and easy — to put people into category number 3. But think long and hard before you do this. Listen to their complaints so you really understand where they're coming from.

Consider these steps to take, and to avoid, when dealing with difficult members.

And keep in mind that you have a legal obligation, under your Duty of Fair

Representation responsibilities, to do your best possible job on their behalf. Be really sure that there's nothing you can do about their complaints before you make the decision to reject them.

Whatever the cause for the anger, as a rule, when a co-worker is mad, you need to defuse the situation before you can get down to business. People who are angry usually just get more agitated if you tell them to “calm down” or if you respond with more anger. Instead, firmly say something like, “I see that you are really angry about this, I want to hear what you have to say, but I can't do that if you keep yelling.”

A Legitimate Complaint

If the member has a legitimate complaint, look for constructive ways they can help you solve their problem. If someone screwed up, acknowledge it and focus on what can be done now to make things

better. Try to involve other members in the discussion and the solution if possible.

If members are in the “service model” mindset and are demanding their “money's worth,” you have an education job to do. Scolding or lectures about what a union is, and what is expected of union members, will probably just make the situation worse. Show members that *they* are the union by the way you do your job. Keep them informed about everything, talking to them one-on-one as necessary.

Whenever there are problems in your workplace, call members together to plan actions to get solutions.

And that co-worker who is definitely a Category Three type? Well, there's an old saying, “If you wrestle with a pig you both get dirty and the pig likes it.” In other words, don't get sucked into this individual's personal problem. Don't argue or get into long discussions with him or her — it almost

always gets you nowhere. Instead, make clear, firm statements that don't engage the complainer. Say things like, “I hear what you said, and I'm sorry you feel that way, but now I have work to do.” You may even have to repeat it several times. Eventually the difficult person will see that they can't get you to “wrestle” with them and they will move on to something or someone else.

In all situations, it's important that you have developed good relationships with the members you represent: your best resource in dealing with difficult members is almost always going to be your ability to draw on other members for help and understanding.

— Ken Margolies. The writer is on the labor extension faculty of Cornell University.

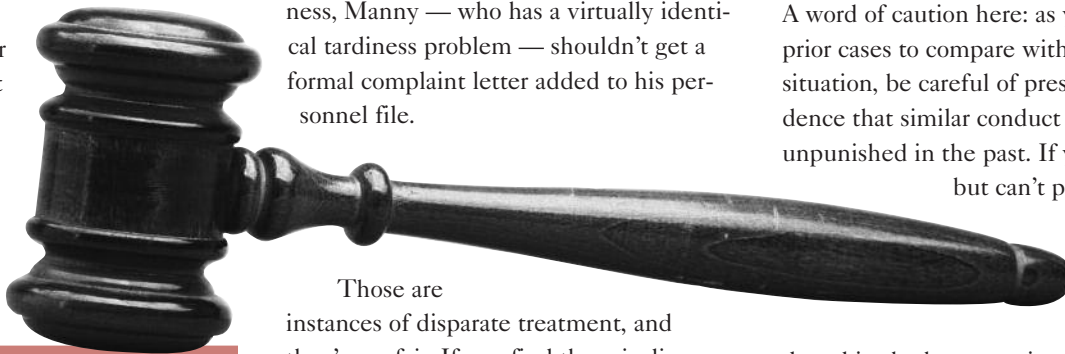


“Crime” and Punishment

It's one thing for a worker to be disciplined for messing up, but it's quite another when the penalty is more severe than the offense merits. An alert steward with a few aces in the hole might be able to save a workmate from suffering an unfairly painful fate.

Arbitrators agree that for an employer to subject a worker to punitive discipline — docking of pay, suspension, or termination, for example — the employer's case must pass the Seven Tests of Just Cause (see box). One of those tests is that the employer must apply his rules, orders and penalties with an even hand and without discrimination. There can't be what's called disparate treatment.

If the employer doesn't pass the test in this area, an arbitrator may well reduce the penalty — or reverse the discipline entirely.



Discipline lacks just cause unless management can show:

- The worker was warned.
- A reasonable rule or order covered the conduct and is related to the orderly, efficient and safe operation of the workplace.
- Management investigated before issuing the discipline.
- The investigation was fair and objective.
- There was substantial proof of guilt.
- Management has applied its rules, orders and penalties in a fair and even-handed manner, without discrimination.
- The degree of discipline is related to the seriousness of the offense and the worker's prior work record.

Look for Evidence

What do you do when faced with a discipline case in which the employer's remedy seems unduly harsh? You look for evidence that other employees received lesser punishment for similar offenses.

Check with other stewards and the union about similar cases. If Mary was suspended for three days because her inattention caused an expensive piece of machinery to break, Ronald shouldn't be terminated for the same offense. If Cassandra received a verbal warning from her supervisor because of excessive tardiness, Manny — who has a virtually identical tardiness problem — shouldn't get a formal complaint letter added to his personnel file.

Those are instances of disparate treatment, and they're unfair. If you find there is disparate treatment, ask why management is treating people differently: it could be arbitrary or it could be discriminatory.

Different Factors Can be Weighed

Understand, however, that management has the right to weigh different factors case by case.

There can be different standards in different departments or operations, for example, if management has legitimate reasons for the differences.

Additionally, mitigating and aggravating circumstances can be considered — but these are issues that can cut both ways.

Length of service, an employee's disciplinary record or other factors can be used by both sides to argue their case. The union should look for those elements that cast the worker in the most favorable

light and make sure they're put into the record.

Even when it appears that two people were involved in the identical, unacceptable situation, it doesn't mean that they merit the same punishment. If two workers fight at work and the employer discharges both, that's not right if one of the employees was a long-time employee who tried to walk away and had a spotless record, while the second had a history of fighting with co-workers and had provoked and prolonged the incident.

Prior Cases Can Help — or Hurt

A word of caution here: as you look for prior cases to compare with your current situation, be careful of presenting evidence that similar conduct has gone unpunished in the past. If you do that, but can't prove that management knew about the past conduct and condoned it, the boss may issue discipline in that older case.

It can be a chore to build your disparate treatment defense, but the outcome can make it worth the effort. Be sure to ask the grievant, witnesses and other employees about how similar infractions have been dealt with in the past. If you suspect disparate treatment has been imposed, you have the right to ask management, in writing, for documentation about the earlier cases.

No steward has ever been able to prevent every co-worker from being disciplined for one sort of infraction or another: that's an impossible task, no matter *how* good you think you are. But a lot of stewards are able to prevent management from going overboard on disciplinary penalties, and that's a goal well worth striving for.

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

The employer's case must pass the Seven Tests of Just Cause

Helping Members on Layoff

Bad economic times are times to build unionism, so a steward needs to get out of a defensive posture — hoping to prevent the worst from happening — and look at today's turmoil as an organizing or mobilizing opportunity.

Unionism, after all, is not a movement restricted to the active members and to the workplace — it includes all workers, their families and their communities. A steward whose responsibilities used to involve simply welcoming new members and processing grievances now has to grow — ready or not. The economy is entering a fast moving and fluid period and every steward will be severely challenged.

Following are ten things for a steward to look at in these times of layoff and out-and-out job loss. Remember, a member is still a member, even if laid off.

1 Be vigilant so that all money owed to your members, even when on layoff, is paid in full. Some contracts require the employer to supplement unemployment payments, to continue health insurance coverage or to subsidize educational programs. Make sure that these accounts are regularly checked so that a laid off member is not cheated out of a contractual right or stranded in school without support.

2 A lot of employers participate in Employee Assistance Programs (EAPs). Make sure that your members on layoff can use the EAP: the loss of a job frequently generates huge personal and emotional concerns. If your contract doesn't guarantee the access of laid off members to the EAP, try to negotiate some new language to broaden the coverage.

3 Make sure that you develop a contact network with any members who are laid off so that you can continue to

represent them. A layoff situation is a crisis that provides the opportunity to develop new ways of maintaining contact with your members. Does your local have a website where the latest information can be posted? Do you have cell phone or e-mail contacts for all of your members so that, no matter where they are, you can reach out to them and them to you? How about a discussion board so that everyone can share information about possible recalls, procedures for collecting unemployment, or even new job opportunities?

4 Keep this contact network up to date — remember that members may need help with issues like insurance that fall under the union contract or with public issues, like foreclosure. Members will appreciate personal contact and won't think "the union has forgotten us." A big responsibility for stewards is trying to keep up the morale of members on layoff, who will quickly become discouraged.

5 Laid off members may need financial aid or guidance, so a steward should develop a list of community agencies and legal resources. Get the word out through your communications network — ideally, offering a central contact number at the union so that members can have a one-stop shop for a variety of personal and financial issues. With the wide range of individual savings plans, like 401(k)'s, you should post information about how — or if — members can withdraw money in case of financial emergency.

6 Laid off members will pick up every rumor of a recall, no matter how far-fetched, so be ready to respond with accurate information. Honesty should be one of every steward's best qualities, but sometimes it's hard to keep repeating bad news — like, "No recall in sight." Raising

false hopes for your members doesn't help anyone, and eventually discredits a steward and the union as a whole. Stewards should therefore demand regular and accurate information from the employer and should speak as one when passing on information to the members, both active and laid off.

7 Be alert to political changes that can affect your laid off members. The American Recovery and Reinvestment Act of 2009, also known as the U.S. economic stimulus package, contains provisions to subsidize COBRA payments and eliminate some taxes on unemployment compensation payments. Check out these changes and pass information along to your members. A good resource is www.recovery.gov.

8 Even bad times can lead to good things. A major problem for workers on layoff is loss of health coverage, so it's a time when they could get interested in advocacy campaigns for national health insurance. The Canadian single-payer system is an example of a good solution for the U.S. because Canadian workers, even on layoff, are guaranteed coverage. Other campaigns could include pushing for extended unemployment benefits or higher weekly allotments.

9 Think about working with the union leadership to develop social activities for members and their families — both active and laid off. Have the laid off members in for lunch, invite their families to a holiday party, and create educational or social programs to keep their minds occupied and their spirits up.

10 Also in the category of bad times leading to good things: be alert for new organizing opportunities at your workplace. Are there categories of unorganized, nonmanagement workers? They could be suffering not only from a layoff but, without the seniority protections of a union contract, from an unfair layoff process itself. Talk with these workers about joining the union so their misery will be at least lessened.

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

**Remember:
a member is
still a member,
even if laid off.**

Stewards: Act Today on EFCA!

The U.S. Congress *today* is considering legislation that will have the most profound impact of our lifetimes on our living standards and working conditions. It's all about protecting — or losing — the pay and benefits that we can expect for the future.

The Employee Free Choice Act, introduced in the House and Senate in March and to be voted on any day now, is all that stands in the way of new hope for the future or a continuing decline for America's workforce.

All union stewards who care about their future, and that of their co-workers and their children, must act on this *now*. We must help pass the Employee Free Choice Act — EFCA — by contacting our U.S. senators and representatives today. It only takes a minute by going to www.americanrightsatwork.org. Click on "Take Action" and send Congress an e-mail message. Bulletin board materials and fact sheets on EFCA also are available from the AFL-CIO (see box).

Wages, Benefits At Risk

As stewards know all too well, sometimes union members take their contractual gains for granted. Unionists earn wages 30 percent higher than non-union workers; most of us have health insurance that is largely employer-paid, and some kind of pension or retirement plan, while most non-union workers don't. But everything is on the line today. As we're already seeing, what we have today can be lost tomorrow.

It's now a constant struggle to fight to save those benefits and good wages and job protections at every round of bargaining. There is growing pressure to drive us all down to the lowest standards of the overwhelmingly non-union majority of workplaces.

Our power is ebbing and the trend is stark — from 35 percent union membership in the private sector in the 1950s to 25 percent in the 1970s, and now to only

7.5 percent (12 percent overall including public workers.)

If unions don't reverse that trend and start organizing new members, our movement and our bargaining clout will die off like the dinosaurs.

Fixing a Corrupted System

EFCA is the answer — a law that will more easily allow the 60 percent of workers who want to join a union to gain representation, and help build our collective strength. Right now, corporate America and legions of anti-union management lawyers have corrupted the system, using so-called "free election" processes in labor law to terrorize and coerce workers during union drives.

But under EFCA, when a majority of workers show union support by signing authorization cards, they get union recognition immediately, without being subjected to an employer fear campaign. And they are guaranteed reaching a first collective bargaining agreement, because EFCA won't let employers delay and stall and refuse to bargain fairly.

Laws like EFCA are in place in most other countries and they make a huge difference. That's why union strength is at least three times greater in Canada and throughout Europe than in the U.S. It's greater even in once repressive nations like Brazil and South Africa.

In Quebec, the notoriously anti-labor Wal-Mart was forced in 2004 to recognize a union for the first time because several Canadian provinces allow "card verification" union recognition, similar to EFCA.

No Surprise: Wal-Mart's Opposed

So it's no shock that Wal-Mart is a prime leader in the anti-EFCA fight in the U.S., and a top Wal-Mart executive was quite candid in explaining why: "We like driving the car and we're not giving the steering wheel to anybody but us."

It's all about power and control, and

all of corporate America knows it.

Corporate bosses would have the public believe they are protecting workplace democracy and the system of "secret ballot" union elections. What they are protecting, of course, is a sham system that they control — one that allows them to intimidate and spy-upon workers, threaten to close facilities and even fire union supporters to crush union recognition drives.

"Free Choice" truly is what this issue is all about. Corporate bosses hate the idea. For us, it means protecting and strengthening our bargaining power, rebuilding the middle class, and making sure unions are around for future generations. Contact your Washington representatives today!

— Jeff Miller. The writer is a veteran labor journalist.

Take Action for EFCA

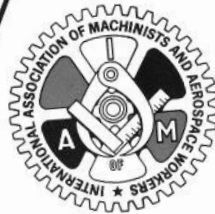
Contact Congress by going to www.americanrightsatwork.org. Click on "Take Action" to send a sample letter of support for EFCA to your U.S. senators and representative. You can modify the sample letter or substitute your own.

You can also phone your members of Congress by calling the U.S. Capitol switchboard at 202-224-3121 and asking for their offices. Ask for the staff member who works on labor issues like the Employee Free Choice Act.

If you prefer to mail a letter to your senators and representative, address them at U.S. Senate, Washington, D.C. 20510 or U.S. House of Representatives, Washington, D.C. 20515.

Educate Your Members: To help explain what's at stake to your members, you can download PDFs of bulletin board posters and fact sheets by going to www.aflcio.org. In the box on the homepage for Employee Free Choice Act, click on "Get the Facts." That will take you to a downloadable fact sheet, and you can then click on "Get Materials" on the right.

**International
Association of
Machinists and
Aerospace Workers**



9000 Machinists Place
Upper Marlboro, Maryland 20772-2687

Area Code 301
967-4500



OFFICE OF THE INTERNATIONAL PRESIDENT

Dear Brothers and Sisters,

When was the last time you heard a president of the United States praise organized labor? Not in a while, I'm sure. In the midst of the greatest economic crisis since the Great Depression, President Obama declared "I do not view the labor movement as part of the problem. To me, and my administration, labor unions are a big part of the solution. We need to level the playing field for workers and the unions that represent their interests — because we cannot have a strong middle class without a strong labor movement."

And President Obama is putting those words into action. His appointments at the Labor Department, the National Labor Relations Board and the National Mediation Board will transform those agencies to better the lives of working Americans.

Now it's time to do our part. A big part of getting the economy back on track is to ensure Congress passes the Employee Free Choice Act. Union membership has always been the ticket to middle-class jobs. The Employee Free Choice Act will make union membership easier for more people, which will put money back into an economy that desperately needs it.

The Employee Free Choice Act has been introduced in the House and Senate. The crucial test will be getting 60 votes in the Senate to block an expected Republican filibuster. As Stewards, you can play an important role in making the Employee Free Choice Act the law of the land by educating your members about the bill and why it's important to all working families.

This edition of the *IAM Educator* has important resources for educating your brother and sister members about the Employee Free Choice Act, helping members deal with layoffs, dealing with discipline cases when the punishment outweighs the crime, and tips on dealing with difficult members.

Thank you for being a Steward and let's make sure Congress passes the Employee Free Choice Act.

In Solidarity,

R. Thomas Buffenbarger

R. Thomas Buffenbarger
International President

