

Update for Stewards

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# Stewards and Technology



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**R**apid shifts in technology and massive changes in the workplace are matters of concern that may be off the radar screen for many stewards, but they shouldn't be. Technology's impact on the lives of your co-workers can be great, so it's important to stay tuned to what's going on around you, and make sure your union officers are kept informed.

What, exactly, is technological change that can have an impact on members' jobs? Here's what it can look like:

- n New equipment or changes in existing equipment (such as computers, machines, lasers, robotics, etc.)
- n New methods or processes or changes in existing methods or processes (such as customer service procedure, lean manufacturing, work cells, etc.)
- n New materials, or changes in existing materials (composites, plastics, chemical cleaners, etc.)

Some of these changes can benefit the member: not every change has to be for the worse. But in today's economy the reality is that change frequently results in immediate or future job loss through downsizing. The steward, as an informed observer, needs to be aware of how changes in the organization of work can be a risk or a reward to members.

As technological change makes its way into your workplace, and you weigh the impact it will have on your members, here are some questions to think about:

- n Will the members be trained in the technology?
- n Will the job roles be enlarged or more focused?
- n Will it eliminate jobs, or create new job opportunities?
- n Will it (or should it) increase or decrease wages?

- n Will it create flexible working arrangements, or make them more rigid?
- n Will it increase or decrease skill levels?
- n Will it increase safety or create more hazards?
- n Will it increase isolation or spur interdependence?

**Technology needs to be taken off the employer's agenda and put on ours**

- n Will it increase stress or boredom?
- n Will it be used to monitor the member?

Stewards need to anticipate changes — to look at trends, new developments, and forecasts.

"Future scanning" should become routine practice. Many times a new technology or change appears in the workplace, but members fail to realize that it can have a dramatic impact on their day-to-day worklives. Challenges should be dealt with long before they become crises.

Stewards need to tune in to new technologies that may be headed for their workplaces, anticipate as best they can

what tomorrow may bring, and be prepared to deal with the impact. If you have a feel for what the future may bring, you'll be able to help the union craft contract language to protect the people around you.

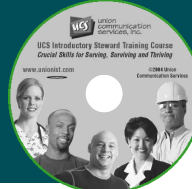
Informed observers can help determine the union's future. In the past, unions all too often have allowed management to be the sole decision maker in defining technologies that reshape the world of work and workers' everyday lives. Technology needs to be taken off the employer's agenda and put on our agenda if we are to save jobs and create new ones.

The mission is to make sure that technology is developed and used to achieve a positive future for workers and for society as a whole.

Stewards are leaders. The more we observe, the more informed will be our decision making. To sit back and allow technology and those who own and administer it to determine the structure of the workplace is not a socially responsible act and will not result in the empowerment of members. Informed observers have a duty to identify dangers to members posed by technology and other changes in the workplace. Once the danger is identified, the union can work on a solution.

— Nancy Bupp. The writer is on staff at the IAM's William W. Wimpisinger Education and Technology Center.

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*From the editors of Steward Update newsletter*

The UCS Introductory Steward Training Course offers everything a new steward needs to get up and running, and it's a great brush-up and refresher for veteran stewards as well.

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- Rallying members around bargaining or other issues,
- Duty of Fair Representation requirements

# “You Broke a Rule!”

**S**ooner or later, most every steward will be faced with grievances flowing from alleged violations of the employer’s rules. While no one questions an employer’s right to unilaterally establish reasonable workplace rules not inconsistent with law or your union contract, the right is not an absolute one and the way the rules are applied can be challenged by the union.

In general, a contract’s management rights clause spells out the employer’s right to establish rules. The key question is whether the rule is reasonable and just.

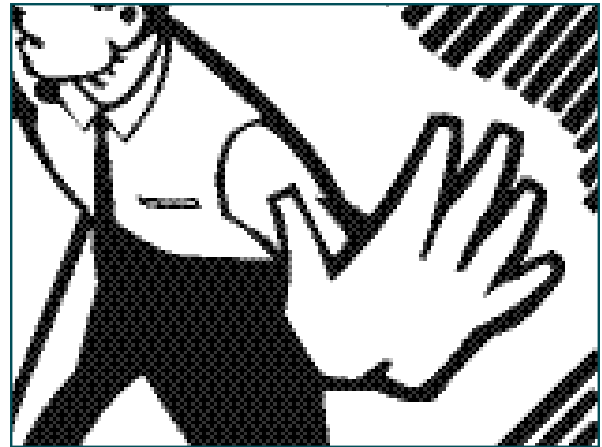
Most arbitrators agree that the mere existence of what appears to be an unfair rule is not a grievance issue until it has been applied to a real situation. The time to challenge a rule is after it is applied in a way that does harm to a group or individual. However, the National Labor Relations Board has recently ruled that employer rules governing conduct may “chill employee rights and conditions to bargain terms and conditions of employment” and therefore are unlawful *even if* they are not enforced. So, this assumes that the union has a responsibility to negotiate over conditions of employment of which rules of conduct are a part.

How do stewards deal with such “rule violation” cases? Here are some principles to be aware of that can help a worker who is victimized by an unfair or stupid rule:

**n Is the rule applied evenhandedly to all the persons it covers?**

Sometimes rules are enforced more vigorously with women than with men, with unskilled workers than with skilled workers, or when help is hard to get as compared to periods when unemployment is high. Or, one person may be fired for a rule violation while another has merely

been suspended for the same thing. Women have successfully argued that their rights were violated by grooming standards placing more pressure on them.



**n Were there extenuating circumstances at the time the incident occurred?** Even when a steward might agree the worker violated a legitimate rule, should the employee’s age, past record, years of service, or family problems be taken into account to reduce the penalty?

**n Were workers notified when the rule was established, changed, or put back in force?** Did the employer take special effort to let susceptible workers know about the rule? Did the employer notify affected persons concerning penalties which might be imposed?

Can the employer prove that employees were contacted?

**n Was the rule understandable?**

The employer is obliged to make the rule crystal clear — exactly what behavior is unacceptable, and exactly what penalty will be imposed if the rule is violated. Thus, if “extended absence” may meet with discipline, just exactly how long is “extended?” How many hours, days, or weeks? Also, different rules might be cited in the same incident, and the different rules may call for different penalties. It must be clear which rule applies to the case in question, and why. And complicated rules covering issues like “sexual harassment” may require providing special training before they can be enforced.

**n Does the rule impose an undue hardship on some of the workers it covers?** A rule allowing for a ten-minute break every morning may be difficult for people to follow if they work far from the break room.

**n Did management discuss the rule or consult with the union prior to establishing or changing the rule?**

The union is entitled to notification and/or an opportunity to discuss changes in working conditions resulting from the application of rules before they are implemented.

**n Was due process followed?** Most contracts call for verbal warnings, then written warnings, then suspension, and finally, discharge if the worker persists in his or her misbehavior. And, nowadays employers are responsible for counseling wayward employees or offering retraining if they have a work performance problem.

**n Was management able to really prove that an employee was guilty of a rule violation?** Not only is circumstantial or hearsay evidence weak, but it could also implicate someone else as well as the accused person.

**n Does the rule serve a practical purpose to the employer?** If violation of the rule harms neither the employer nor fellow employees, then what is the rationale for it?

**Some principles that can help a worker who is victimized by an unfair or stupid rule**

— George Hagglund. The writer is emeritus professor with the School for Workers at the University of Wisconsin in Madison.

# Keeping Your Cool

**R**emember the TV show *Fantasy Island*, where visitors' dreams were made to come true? Try this one on for size:

Your workplace is the best in the world. As a steward, you never lose a grievance. The union leadership showers you with "attaboys" and backslaps on a daily basis and your co-workers surprise you with Steward Appreciation Fridays.

When the rare workplace dispute does arise, your supervisor always asks you what you think he should do to make things right. He also confides that he wants his children to grow up to be just like you.

Oh, it's not like that? You have people getting mad at each other, and at you? You're such a fine human being that that seems impossible... but let's look at a few situations where it can happen — and what you can do to keep from being the punching bag for others' anger, and end up feeling terrible yourself.

**Example One:** John doesn't want to work on Saturday, but the employer has the right to set the schedule. There has been no violation of the union contract and there's nothing the union can do. John insists that you get him the day off. He yells at you and won't take no for an answer.

**Example Two:** Mary doesn't want to wear her brown uniform because "it's ugly." She wants you to file a grievance. You tell Mary that "ugly" uniforms can't be grieved. She becomes enraged, insults you and calls you incompetent. She's so mad about your refusal that steam's coming out of her ears.

**Example Three:** You find yourself having to negotiate with an arrogant, unresponsive supervisor. The guy is a first-class jerk and it gets worse every time he opens his mouth. You have every good reason to be irate, but you know it won't help your cause if you blow your stack. This time, steam is coming out *your* ears.

The common thread in all these situations is that you, as steward, have to find a way to manage your own emotional reactions to these provocations. The question of the day is a three-parter: How can you respond effectively to these challenging people? How can you protect yourself emotionally? How can you stay focused on your duties?

Here are some ideas, case by case.

In example one, where John is told to work Saturday, he's expressing frustration because he has unrealistic expectations about what a steward can do about the situation. Frustration arises when we employ a technique in work or life that simply isn't effective. John tried to ask for help, but when told no, he tried to force it. To deal with this you have to acknowledge his frustration without letting him intensify into rage. You can do this in several ways.

**n Clear up misunderstandings.** Find out what John knows about your role as steward and where he is confused.

**n Tell him you hear him and mirror his feelings.** "I know you're frustrated, John. I'm frustrated too because I want to help, but I'm limited in what I can do." This validates him as a human being, and you are also sharing your common humanity.

**n Give him a chance to wind down.** Maybe Saturday is so important to him because of something going on in his family. He may just need to talk about it.

**n If he seems really troubled, refer him to the Employee Assistance Program or some other counseling option.** Remember that, ultimately, it's his problem, not yours.

In example two, Mary has also expressed frustration, but she has upped the ante by insulting you. She is actually being verbally abusive, and abusive people always elicit anger in return. How do you carry out your responsibility without allowing the situation to escalate? Three things:

**n Internally acknowledge your own anger.** Anger is what we feel when our boundaries have been violated. This is the message of anger.

**n Tactfully, but assertively, put your foot down.** Tell her that insulting you will not get her what she wants, and explain that the union simply does not have the legal power to obtain the solution she demands.

**n Give her a task to do.** One idea would be to tell her that if she can get enough of her co-workers to sign a petition, you may be able to bring up the concern about uniforms in future contract negotiations.

In the third example, that of the condescending supervisor, remember that your goal is to have a say in how your co-workers are represented, so don't take the supervisor's arrogance personally.

**n Prepare ahead of time.** Instead of attacking your supervisor, go the "it's in your best interest" route.

**n Keep your supervisor informed.** Most arrogant people are insecure, and they become controlling as a defense tactic. Information is appreciated.

**n Because you can count on the supervisor to act like the jerk he always is, have some fun with it.**

As he plays out his jerk role, just think of him as an animal in a zoo, or imagine you are seeing him from the wrong end of a telescope, and he's very far away. It won't change his bad personality, but internally you'll take it a little easier and feel a lot less reactive.

**n Keep the time spent with him as short as possible.**

After any of these difficult encounters, take some deep, relaxing breaths. Make sure you get some exercise in the next few days to "detoxify." Remember the good days, when things work out so well you may think you're the union steward on *Fantasy Island*.

— Margery Silvertown, LCSW. The writer is a Maryland counselor specializing in personal and relationship problem-solving.

# Duty of Fair Representation

**M**ost stewards take their task very seriously, as well they should. They understand that they are their co-workers' first line of defense against mistreatment by their employer and they understand the steward's responsibility, *by law*, to fairly represent bargaining unit workers to the best of their ability. But where some less experienced stewards get tripped up is in their failure—well-intended, to be sure, but still a failure—to draw a line between their responsibility to fairly represent aggrieved workers and their automatic, no-questions-asked representation of every worker who thinks he or she has a grievance.

The fact is, the union *does not* have to file or pursue a grievance each and every time a bargaining unit member thinks it should! The steward who does that is actually doing damage to himself, his co-workers and the union.

The law does require a union to equally and fairly represent all members of the bargaining unit. This means that when making grievance decisions a union or steward should not consider a bargaining unit member's race, gender, nationality, age, religion, politics, unpopularity, union membership, or status as a dues paying member. But the simple act of deciding not to file or pursue a grievance does not mean there has been an automatic violation of the law's "Duty of Fair Representation" (DFR) requirement.

This duty to fairly represent every worker is a requirement under the U.S. National Labor Relations Act (NLRA). But the law does *not* require stewards to file a grievance every time a bargaining unit member complains. A union does *not* have to file a grievance if it has a rational, good-faith belief that the grievance lacks merit. Nor does a union have to take

ridiculous or impossible positions to argue for grievances that lack merit. (Canadian Labour Code is similar to U.S. law regarding DFRs, but stewards should also check their provincial laws, just to be cautious. In general, however, the Canadian standard closely mirrors that in the United States.)

**Stewards have a legal Duty of Fair Representation, but that doesn't mean filing every grievance brought to you**

For sure, there's nothing to stop a bargaining unit member from filing a charge with the National Labor Relations Board *claiming* he or she was treated unfairly because the union failed to file a grievance, withdrew a grievance, settled a grievance for less than the member thought right, failed to take the grievance to arbitration, didn't prepare well for the arbitration or even mishandled the arbitration. But to win a DFR case a member must prove not just that the union made a mistake, but that the mistake was due to personal hostility or political animosity. And it's not enough to show the union was negligent, inept, or exercised poor judgment; such actions had to be the result of a personal effort or campaign to deny the bargaining unit member his or her rights. A union that breaches its DFR duty in the case of a discharged bargaining unit member can be held liable for back pay.

How do you avoid getting on the wrong side of a DFR case? Take the following precautions:

- n Investigate all potential grievances thoroughly. Interview not just the bargaining unit member but all other possible witnesses as well.
- n Request all information that you legally can (files, documents, etc.).
- n Observe the contractual time limits.

n Do not refuse to fully investigate a potential grievance solely because of the bargaining unit member's sex, race, nationality, age, religion, politics, personality or dues paying status.

n Diligently represent every member of the bargaining unit, even if you consider the complainant to be a destructive force within the union. Just because a person's "bad," in your mind, doesn't mean he or she doesn't have a legitimate grievance.

n Keep the complainant informed of your progress.

n Maintain a good working relationship with the complainant.

n Keep a record of what you have done on the case.

n If the union decides to either not file a grievance or to drop the grievance at some future point, advise the bargaining unit member of this fact in writing or in the presence of witnesses as soon as possible. Explain the reasons for the decision and keep dated notes of the conversation. (This is important because the bargaining unit member will have six months to file a DFR charge with the labor board from the day he was notified by the union.)

n Inform the bargaining unit member of any appeal procedures within the union. The same rules apply after a grievance has been filed, even if it has gone to arbitration.

In summary, the union should only file grievances based on merit and the greater good they will do for the bargaining unit members as a whole. This will also increase the credibility of the union officials with their management counterparts, which will in turn promote a productive labor-management relationship -- which always benefits bargaining unit members.

— Bob Oberstein. The writer is a professor at Ottawa University, Phoenix, where he teaches courses in labor management relations, human resources, effective grievance processing, arbitration and labor/employment law. He also serves as an arbitrator, mediator and fact finder.

**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 Sisters and Brothers,

I want to take this opportunity to thank every IAM Shop Steward and Local Lodge representative for the work they do on behalf of this great union. Providing members with the service they deserve, handling grievances and protecting our hard won contracts requires constant vigilance that can only be achieved with a loyal and dedicated network of front line representatives. You are truly the heartbeat and the backbone of the IAM.

In times such as these, when unions and union members find themselves in the crosshairs of a fiercely anti-worker administration in Washington, D.C. where business lobbyists are seeking to roll back pension protections, Social Security benefits and organizing rights, we need all hands on deck to hold back this rising tide of anti-union activism.

Organizing new members at the local level continues to be the best way to protect what is ours and to gain even greater strength for the battles ahead. At the 2004 Grand Lodge Convention in Cincinnati, OH, the delegates decreed that every IAM lodge should provide an organizing report at every local lodge meeting. The importance of establishing new member organizing as a top priority for this union cannot be overstated.

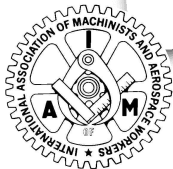
Local lodge representatives and Shop Stewards have a unique vantage point when it comes to identifying potential organizing targets. As you move through your workplace and your community, be especially watchful for workers who would welcome the kind of pay, benefits and protections that can only come with an IAM contract.

I am asking every IAM Shop Steward to make a concerted effort to identify at least one potential organizing target in their community. Collect the basic information about the potential organizing target, i.e., address, size of workforce and any other pertinent information, and forward it to your Local Lodge Organizing Committee.

The true strength of any union comes from its members. I am convinced that working together, we can organize our way out of the challenges we face today and continue to provide for our fellow members, our families and ourselves while we make the benefits of IAM membership available for new generations of IAM members.

In solidarity,

R. Thomas Buffburger  
International President



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