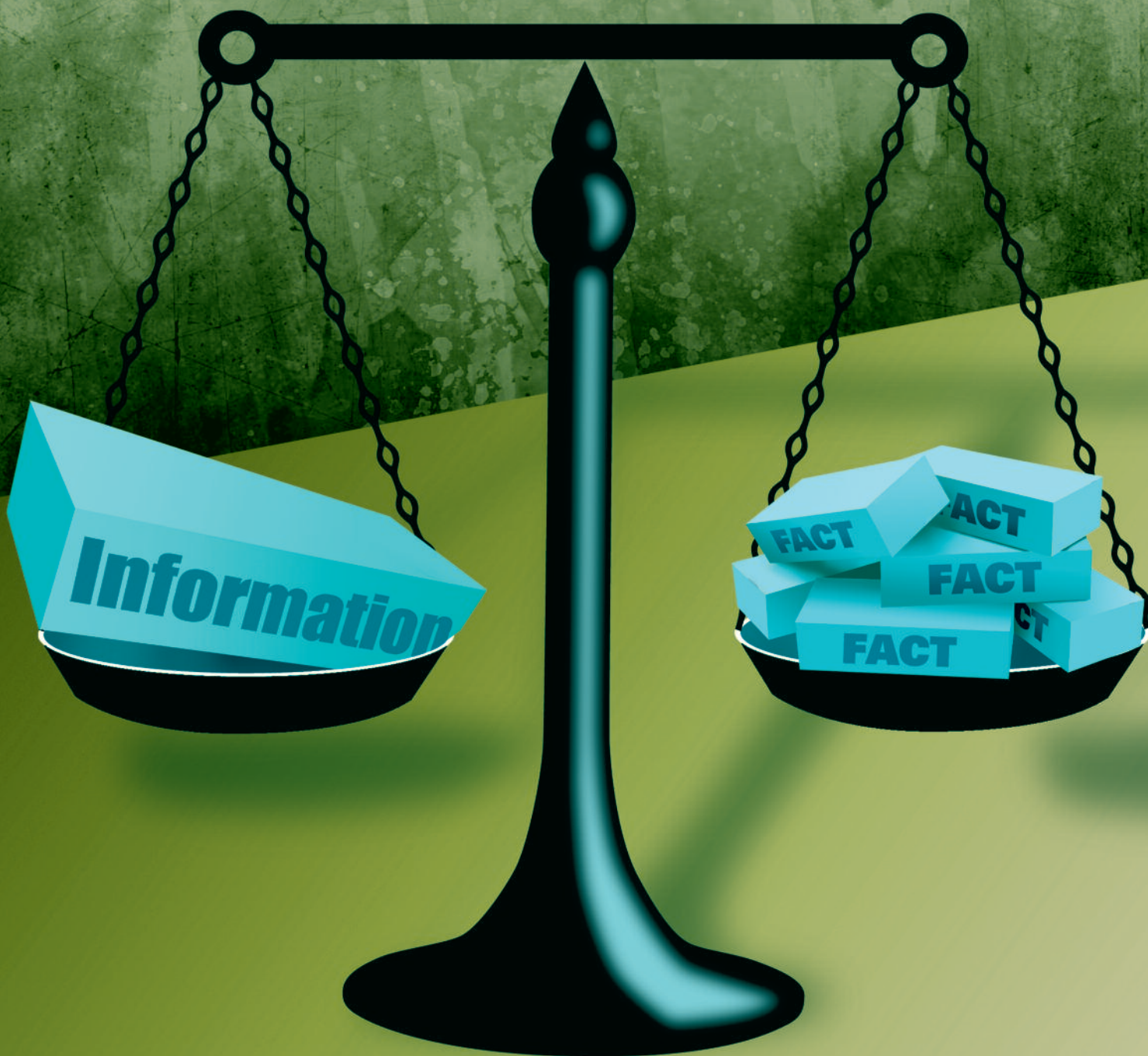


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E D U C A T O R

Update for Stewards Vol. 10, No. 5

Gathering and Weighing Information



Gathering and Weighing Information

Every steward who's ever looked into a grievance knows how crucial it is to conduct an investigation and gather the necessary information about the case. If you don't know *what* happened and *when* it happened and who was involved and so forth, you can't very well go to management and make your arguments. You can't even begin to.

But while every steward knows the basic Who-What-When-Where-Why-How questions to ask, the experienced steward knows that you have to dig a little deeper. You have to know what the information *means*.

The Devil's in the Details

As the saying goes, the devil is in the details.

Let's look at a couple of examples.

A co-worker comes to you and says she's been suspended for three days because of repeated tardiness. In fact, you find out, she's been late to work ten times, and there are a couple of warnings in her file cautioning her that she's risking discipline if she doesn't show up on time.

On the face of it, management's got a case. Ten times late, warnings in her file, her own admission that she has, in fact, built the record that management's now pointing to.

But wait a minute. While all that's true, is it the full story? When you look a little deeper you find that yes, she's been tardy ten times—but that's been over the entire period she's worked there, four years. And yes, there were two warnings in her file, but a closer look shows that the most recent warning was issued more than two years ago. And, it turns out, the only reason she was late this time—the incident that led to the suspension—was that because she had been on vacation for a week she hadn't seen the notice about the employer's parking lot being closed for repaving and she had to search around for a spot off-site.

Digging Deeper Reveals the Truth

Everything management charged was true, and everything your initial investigation came up with appeared to justify the suspension. It was only after you dug deeper that you came up with the real truth of the situation—a truth that should be powerful enough to make management back down.

Or how about the case of a production worker who has \$2,000 worth of scrap on his record. That's a lot of faulty work, for sure, and it might justify discipline.

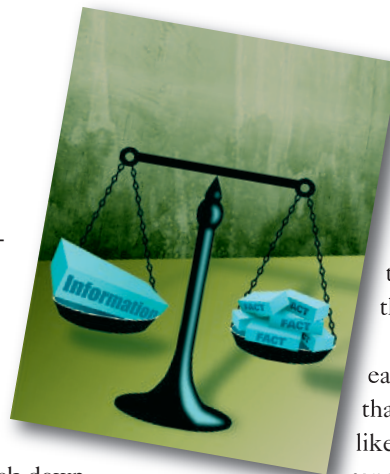
But hold on. What does that amount of scrap really mean?

Your investigation may find that the worker's foreman ordered him to continue production even though the worker knew there was something wrong with the setup and had objected to continuing work until things were fixed. Or perhaps the work had been approved by an inspector, and only later was found to be faulty. Or perhaps, compared to other workers who do the same work, \$2,000 is a good record.

So, while there had in fact been \$2,000 worth of faulty product produced, that alone was not sufficient to discipline the worker. Your deeper investigation found other factors that clarified what was really going on, factors that took the burden off the worker and established his lack of fault in the situation.

Don't Just Gather Facts, Measure Them

In many ways it comes down to *measuring* the information you gather. You measure a worker's record of tardiness against her length of employment, the record of other workers, the special circumstances that may have made the worker late. You measure a worker's alleged productivity failings against the circumstances surrounding those failings: Did management



contribute? Are they not failings at all, but typical of what happens in the performance of the job in question?

Some things are easier to measure than others. Words like *attitude* and *personality* and *character*

tell very little about workers and their actions, but they tend to pop up with some frequency in management's arsenal of discipline. Here, as is the case with factors such as hours worked and goods produced, the steward must insist on measurable information that has clear meaning.

Important questions to ask would be things like, Why do you say the worker has a bad attitude? What happened? What did the supervisor do that contributed to the situation in question? Did this interfere with production? What do poor personality and character mean? What specifically makes you say that about a worker? What did he do that violated the employer's rules or management rights?

Management must be able to prove its accusations, just as it has to be able to prove that someone missed work or was responsible for bad work. Simply saying someone has a "bad attitude" isn't enough. The attitude must be measurable in a real way, one that is reflected in work performance or the health of the business.

The bottom line is this: Never take management's presentation of fact as the truth until you conduct your own investigation, and be sure you get to the real meaning of what you find. At the same time, be prepared to reject or deflect management's reliance on vague considerations such as "attitude" that cannot be measured in any real way.

—David Prosten. The writer is editor of Steward Update. With thanks to Solidarity in Action: A Guide for Union Stewards, from the Labor Center at the University of Iowa, Iowa City

No Investigation Without Representation

Even the most dedicated labor historians have never heard of Leura Collins, but it was a series of meetings in 1975 about her alleged theft of chicken pieces from her employer, J. Weingarten, Inc., that established the legal precedent popularly known as “Weingarten rights.” Even though Collins was cleared of all suspicion, her union still filed charges with the U.S. National Labor Relations Board (NLRB) over the refusal of her supervisor to allow her to have union representation at the first meeting—best known as an “investigatory interview.”

In an investigatory interview, a boss knows, or thinks he knows, or has heard something, about a possible violation of workplace policy and wants to question a worker. A critical question is whether there can be, or should be, an investigation without representation—that is, should a steward be present for the investigatory interview and, if so, what role should the steward play?

Stronger than Weingarten

Most stewards get some training in how to handle a grievance meeting and deal with a decision like discipline that the boss has already made. But as important as investigatory interviews are, many unions do not have solid practices for such interviews and often rely on Weingarten rights. Having strong contract language guaranteeing the right to union representation whenever a worker faces a possible discipline would be a lot better than such a reliance. Maybe you can put that language on your wish list for your next round of negotiations.

Keep in mind that for unionized workers, there have been significant reductions in Weingarten protections. At one time, if a boss was considering discipline, the worker was routinely advised “ . . . and you better bring your steward.”

Later decisions by the NLRB changed this policy so that now a worker must take the initiative to ask for representation. For this reason, many unions distribute a Weingarten card to members to read to their supervisors so the request for representation is loud and clear.

Be sure your members know their Weingarten rights.

Representation Every Time

Another legal restriction is that an employee must have “a reasonable belief that discipline or other adverse consequences may result from what he or she says.” All too often, however, a member finds this out too late to ask for a steward.

The most important aspect of this discussion should be the importance in every workplace of establishing strong procedures for representation, both through good union practices and through solid contract language. The boss should not be able to make a move—including calling in a worker for an investigation—without agreement from the union, which has the *right*, under law, to deal with “terms and conditions of employment,” a right that is covered under the recognition clause of a union contract. Relying on Weingarten rights alone leaves members and stewards at the mercy of external political forces, which can weaken the protections that union members should have as a right.

Relying on the law alone weakens your power to defend.

Union policy could include some of the same “rights,” such as the ability of a member to demand representation any time a member is called into a supervisor’s office, even if the employee’s job is not immediately “in jeopardy.” One major hazard of investigation without representation is that a member, caught by surprise and perhaps pressured by a supervisor, may not only admit to some violation of workplace discipline but may try for a plea bargain by asserting “I only did what lots of others did.” By implicating co-workers as a defense, a single discipline can become a plague that spreads throughout the union, creating more grievances and dividing the membership in the union against the snitch.

Don’t Just Observe

As important as is a member’s demanding representation, stewards should also be prepared for an investigatory meeting. In some unions, the practice has been for the steward to simply serve as an observer while a supervisor—following television detective Jerry Orbach’s best practices—grills a potential perpetrator. Bad idea. A steward should first try to find out from the boss what the meeting is about and what “evidence” will be presented. The steward should also meet with the member to see what he or she knows about the situation and plan a strategy for the meeting. In the meeting, the steward should force the boss to prove the case before volunteering any information, so that fishing expeditions by management can be blocked.

The union officers and members should determine best practices, including areas of representation. It is helpful if there are laws—like Weingarten—to support your policy, but it is the bargaining power of the union, supported by a strong steward system, that really provides protection for the members.

—Bill Barry. The writer recently retired as director of the labor studies program at the Community College of Baltimore County.

Building Unity In the Workplace

One of your most important jobs as a steward is unifying the members in your area to work together and build the union. Building solidarity is essential, especially in tough times, but it can be challenging.

Here are things you can do to build and maintain unity:

Introduce Members to Each Other

Find opportunities for members to get to know each other in comfortable situations like lunches or union social functions. Look for key members to help you connect groups to each other. This could include people who speak more than one language or get along particularly well with lots of different kinds of members.

Keep Members Informed

When members don't know what you as steward are doing, or what others in the union are doing, they sometimes think the worst. They may assume nothing is happening or someone is making deals without their knowledge. That's why it is so important to keep members informed of any union activities or actions you take as a steward.

Stop Rumors

Members hear and repeat rumors all the time. Sometimes rumors lead to arguments, suspicion and divisions. Talk to members about the danger of starting and repeating rumors. Encourage them to not believe rumors about work or the union but instead to come to you so you can get the correct information. If you don't have the information, say you will find out and then always get back to the person—even if it's to say you weren't able to get the facts requested.

Be Inclusive

Actively seek to have all groups where you work involved and represented. This

could mean job titles, workshifts, ages, races, ethnicities, gender, sexual orientations or any other aspect of your co-workers. If you see groups of members who are not involved in the union, get to know one or more people from the group that is not involved. At some point you can discuss why they are not involved and how to turn that around. Often you will find that they stayed out of union activities because they didn't feel welcome or needed.

Reach out to all groups of workers, not just the "regulars."

Be Transparent in Decision-making

Make sure everyone knows what questions the union is considering, how and when the decision will be made, and how the members can get involved. Invite everyone to give their opinions. Talk to members who may not readily volunteer their ideas and ask them to share their thoughts. Once a decision is made, make sure everyone hears about and understands it.

Bridge the Generation Gap

Members with seniority often say that younger workers don't understand or appreciate how hard it was to win the

things the union fought for over many years. Younger or newer members may feel that others in the union don't take their ideas seriously.

If you are one of the senior members, a younger person can help you learn about the concerns of the other generation. Perhaps they have an issue that the union is not addressing. Maybe they feel excluded because at union social events their music doesn't get played or they are

turned off by how meetings are run. Once you better understand the younger members you can start finding ways to involve them more in union activities and start a dialogue that can lead to greater unity.

Bring People Together to Address Common Issues

It takes a lot of communication, especially one-on-one discussions with your members, to identify common issues and convince people to work together for solutions. Start with an issue that's winnable and affects many members. Together, discuss ways to resolve the problem and then develop a plan of action to convince management to agree. Once members are involved in a common struggle they are more likely to become a strong, united group, more prepared to fight the big battles that almost always lurk just down the road.

—Ken Margolies. The writer is a senior associate at the Worker Institute at Cornell University.

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Read Aloud if Facing Possible Discipline

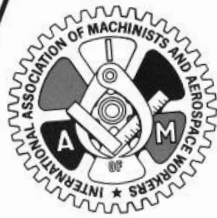
"If the discussion I am being asked to enter could in any way lead to my discipline or termination or impact my personal working conditions, I ask that a union steward, representative or other officer be present. Unless I have this union representation I respectfully choose not to participate in this discussion."
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OFFICE OF THE INTERNATIONAL PRESIDENT

Dear IAM Shop Steward,

As this edition of the *IAM Educator* was being prepared, we just finished the 38th Grand Lodge Convention in Toronto, Ontario and we were in the final weeks of the election season in the United States.

Our Convention was a great success and the delegates, who were elected from Local Lodges in the United States and Canada, did a tremendous job making sure our union is prepared for the many challenges ahead.

I'm proud that one of the most important items of business the delegates considered was securing the financial future of the William W. Winpisinger Center Education and Technology Center. Delegate after delegate expressed their deep appreciation of the training they received at the Center and their desire to see it continue. If you were a delegate, thank you for your enthusiastic support. And if you weren't a delegate, most likely you have or will attend classes at the Center to give you the training and skills to be a more effective leader in our union.

And whoever wins in November in the United States, we will have a lot to do in the years ahead. If President Obama wins a second term, we will have to make sure we hold him and other labor-friendly candidates accountable. If Mitt Romney is our new president, it will be four years of nonstop attacks on collective bargaining rights and on our very existence as a union.

It will be a busy year ahead and I want to thank you for all you have done so far in 2012. May you and your family enjoy the upcoming holiday season and let us all work together in 2013 to make sure we get the unemployed back to work, invest in manufacturing and North America's infrastructure and build an education system that gives workers the skills they need for the jobs of today and tomorrow.

In Solidarity,

R. Thomas Buffenbarger
International President