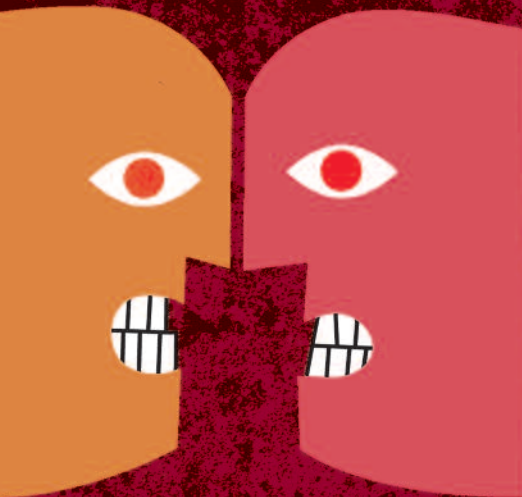
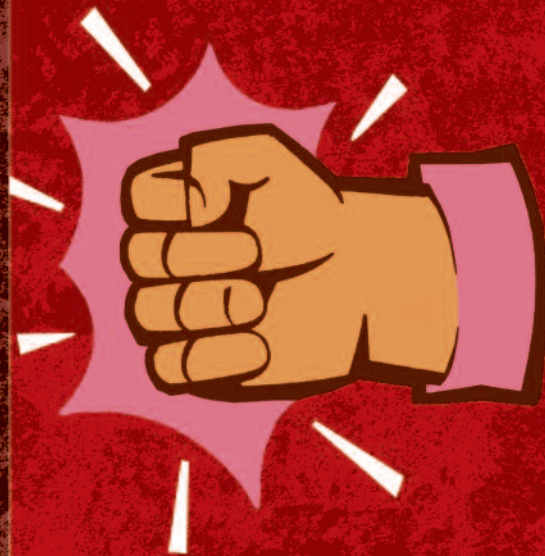




FIGHTS in the **Workplace:** *A Steward's Special Challenge*



Fights in the Workplace: A Steward's Special Challenge

Fighting in the workplace is a violation of the right of workers to a safe workplace. Fighting is not just physical violence. Name-calling, racist slurs, profanity, threats, invading personal space, grabbing and shoving, and throwing or spitting count as fighting even if they are not as directly violent as hitting, striking and the use of weapons. Workers who are in proximity to fighting experience fear and stress with consequent physical symptoms.

Fighting among workers, as compared to fights between a worker and a supervisor or boss, presents special challenges for the union. On the one hand, we do not want workers to have to work alongside someone who has serious anger issues or who can get impulsively violent. On the other hand, management may have a zero-tolerance policy and the union must prevent workers from being disciplined unfairly.

The Arbitration Record

When conflict explodes into fighting, management typically responds with discharge or suspension. When these cases get to arbitration, though, more than half of them are either overturned or modified. In public sector workplaces alone, the proportion modified or overturned is about two-thirds. This suggests that context matters. The way we learn about context is to do good investigations.

A Solid Investigation Needed

A steward defending a grievant accused of fighting has to do a broad investigation. Find out how the fight started. This isn't a simple matter. You can't just ask the grievant, who was undoubtedly upset at the time. It means interviewing witnesses, because their right to a safe workplace is at stake. This will help you decide if the right person is being disciplined, whether he or she was provoked, how the fight

escalated, whether self-defense is involved, and whether more conflicts like this are predictable.

Then consider the culture of the workplace. Is this kind of fighting behavior, like yelling, normal for that workplace? If it has happened before, is the discipline being applied in this case standard, or is it grounds for a disparate treatment challenge under just cause? Again, this involves interviews and looking at past grievances.

Perceptions Count

Ask for people's perception of the fighting. The grievant may think he or she was just engaging in horseplay or teasing. But were people nearby worried? Did it interfere with their work? Or did they just ignore it? Their perception matters because it is an aspect of their right to a safe and healthy workplace.

Then the steward needs to investigate management's investigation. Arbitrators see discharge as serious discipline and expect to see a serious investigation on the part of management. If management has only done a cursory investigation, the union needs to do a better job.

Find out the grievant's intentions, too. You will need to learn his or her past history, and ask about mitigating circumstances and stresses both on and outside the job. Is there some history involved? "Bad blood," or a history of altercations, is a factor in many instances of fighting. There may be overall workplace issues, of which this incident is just the tip of the iceberg. If this is the case, the union needs



to address what lies below the surface.

A steward knows the workplace well and can sometimes see a conflict brewing. It may be possible, in the interests of safety for everyone, to offer advice or even support a transfer or change of duties to defuse a potential problem. The union may be able to step in, acknowledge the hot spots, warn the potential adversaries and suggest some ways to avoid open conflict.

If the situation involves a person with more social power leveraging this over someone with less social power (for example, a white male over a woman, older worker, disabled worker, minority, non-English speaker, etc.) the union should move to ease this right away, as patterns of injustice like this will undermine solidarity faster than anything else. This may mean dealing with the problem collectively via a training or open discussion at a meeting.

It's Not Just "Bullying"

Calling some behavior "bullying" instead of fighting can be a distraction. It's true that the actions that constitute fighting in the workplace are part of bullying. But the union should not let anyone, management or other workers, downplay fighting by saying, "Oh, it's just bullying," with its "boys will be boys" and playground implications. In fact, twenty-four states have now introduced legislation to control bullying using a model called the Healthy Workplace Bill. While this addresses the "protected class" limitations to getting redress from Title VII of the Civil Rights Act, the interaction of bills like this with collective bargaining agreements is yet to be seen and they certainly do not do anything to strengthen an existing union or support the collective right to a safe workplace.

—Helena Worthen and Joe Berry. The writers are veteran labor educators.

Discipline and Discharge Grievances: *The First Meeting*

A steward's very first meeting with management over cases involving discipline or discharge is often the most important: it sets the tone for the rest of the grievance procedure and possible arbitration, and deserves special care. A flawed first meeting can lead to the union deciding not to proceed to arbitration, or even worse—taking it to arbitration and losing.

Let's look at the critical steps, keeping in mind that because the employer usually has the burden of proof in such cases, your goal in the first meeting is to find out what "proofs" it has. So, you ask the employer:

Have you have completed your investigation and are ready to present your case?

If management responds by saying, "No, we have a few follow-up questions," the worker should not answer quickly, and let you have the chance to inject clarifying comments and questions.

Can I have the whole story? Don't leave anything out.

When the company finishes, ask if that is all, then thank them. The goal is to pin them down. Don't let the employer have days or weeks to build a more elaborate case.

What specific rule was broken?

If the rule showed up after the contract was signed, did the union receive notice? If so, ask "How was notice to the union given?" Is the rule reasonably related to the efficient and safe operation of the business? If not, be ready to challenge it. Is it overly broad and vague? Ask for it to be explained.

How was the member told about this rule or warned about the consequences of the misconduct?

Take the example of insubordination.

The rule is "refusing to work as directed." Well, supervisors give direction nonstop. Say a few workers linger. The supervisor says, "okay, back to work." A couple more minutes of lingering and the supervisor says, "You three are fired." Why? "Insubordination." The union's question should be, "Was the member warned that refusal to comply would result in immediate termination?"

How many times has this rule been broken over the last five years? By who? What was the penalty? May I have a copy of the records of each of these incidents?

Let's say you've already asked around and can't find anyone remembering the rule ever being enforced. Resist the temptation to shoot back, "No one has ever been disciplined over that!"

Why? Because when you make a statement, the burden of proof is on you; when you ask the employer, the responsibility is with the employer.

If it turns out there's been lax enforcement, make notes for your argument down the road.

Alternatively, management may not have reviewed the history of the enforcement and you are making a note to yourself to later argue that "the company did not do a fair and complete investigation." This question lays the groundwork for the future argument.

How does this compare to the discipline in other cases? Why is it more severe?

A penalty must fit the crime. The most common reason a discharge is overturned is because management overreacted and discharged for something that only rated a one-day suspension.

Who are the witnesses? May I interview them, and see any written statements?

Let's say the discipline all started with a customer complaint. The problem is that management can spin the complaint and you cannot interview. Interview is the word of choice, but really you are looking to quiz the customer to find out how solid the company case is.

Sometimes it all starts with a co-worker's complaint. Management can make the claim these statements are privileged or confidential or the person needs protection. Ask for the statements. If refused, consider an unfair labor practice charge.

Object to the lack of full disclosure. If the grievance goes to arbitration you will argue the witnesses should not be allowed to testify if they weren't questioned during the grievance procedure.

May I review the member's entire personnel file?

Be careful here: You may argue that this is a great a member with 20 years' service, and then find out there is a file full of issues.

You're not through with questions yet: you've got a few for the grievant, and for yourself.

After asking for a break to caucus, ask the grievant if the facts presented are accurate. Decide if the case can wait until requested documents are in hand, or should you move ahead without them. Decide if you should you consult with the union before proceeding.

When you present the union case, be persuasive, and civil. You've done your best to get all the information possible and to set the stage for possible next steps.

—Richard de Vries. The writer is a veteran steward with IBT Local 705. With thanks to Robert M. Schwartz's book, "Just Cause: A Union Guide to Winning Discipline Cases."

Setting the tone of the meeting is a critical first step.

The Steward and Public Speaking

Mark Twain said there are two types of speakers in the world: those who are nervous and those who are liars. Whether or not they show it, even the most seasoned public speakers can experience anxiety when faced with a new crowd, a new message or new surroundings.

So, if even the best speakers get nervous, where does that leave you—the steward—when it comes time to make a speech? On the spectrum of anxiety, the answer is: probably somewhere between a little nervous and on the verge of a panic attack.

As a steward, you talk with many people on a daily basis, but how much of that is considered public speaking? By definition, public speaking is the process of speaking to two or more people in a structured manner with the intention of informing, persuading or entertaining.

The bulk of your public speaking will be done in your membership meetings, member briefings or when you handle grievances with management. In all cases, you will definitely be doing some combination of informing, persuading, and entertaining.

The larger your audience, the more likely you are to be nervous. Chances are, though, if you chose to be a steward, you're already an outgoing person. Use your extroversion to your benefit when you have to make a speech. After all, you probably already have some of the qualities of an effective public speaker.

Good public speakers: talk rather than lecture; make their delivery look effortless; have a good understanding of the matter and are passionate about it; tell a captivating story; and change the way their audience thinks or acts.

Here, then, are four steps to successful public speaking:

Plan

Who is your audience?

Knowing your audience will help you choose the right words. Are your listeners fellow members, other leaders within your union, leaders from other unions, nonunion members, or members of management? Do certain characteristics define them (age, gender, race)? Also ask yourself what their attitudes, experiences, fears or expectations might be, as well as what questions they might have.

What are your goals?

Are you simply informing your listeners, or are you persuading them to do something? What is your message? Also determine what attitudes about the union you want to

convey. What action do you want members to take and what can you say to motivate them? What do you want them to remember after the speech is over? How can your speech encourage member participation or build respect for union values?

Make Notes

To begin writing, just jot down whatever comes to you. Use a conversational tone. Don't censor yourself. Weave your sentences around your main message. Wherever possible, use hard facts and statistics, and provide examples and anecdotes to illustrate your points—anything that will bolster your argument.

After you've written these random sentences, go back and begin to tie them together and place them in logical order. Omit anything boring or irrelevant. Write smooth transitions between ideas. Make sure you open with a striking quote or statistic.

Once you have something more final, make note cards with key words from your speech so that when you glance down, you will be reminded of the material you want to discuss.

Plan, make notes, practice, deliver. And end with a bang!

Practice

Practicing allows you to do the bulk of your editing. Say your speech out loud several times. Say it while looking into the mirror. Ask a friend to be your test audience. Time yourself to decide if you should slow down, speed up, or cut any unnecessary information. If a word is hard to say, choose a simpler word. Become familiar with your note cards so you can anticipate what you will be looking at during the actual speech.

Deliver

Think of yourself as an actor when the big day arrives. After all, you have a lot in common with a performer. Both of you had to memorize some lines and rehearse them. You both have an audience and will improvise a bit during your performance.

While this is no acting school, here are some tips for making your speech go as smoothly as possible:

- Right before it's time to speak, use some relaxation techniques such as deep breathing or visualizing your speech going flawlessly.
- Watch your body language. Avoid slouching, crossing your arms, or putting your hands in your pockets. If you want, hold on to something like a pen or paper clip so that your hands aren't idle or jittery.
- Smile. Author Stanley Gordon West wrote, "Smile and the world smiles with you. Cry and you cry alone." While it's doubtful you will be doing any crying on the big day, you're sure to see a lot of happy faces if you initiate the smiling.
- Engage the audience. Make eye contact. Involve some of them in a conversation if possible. Talk *with* them, not *at* them.
- End with a bang. Cite another striking statistic, or quote a relevant union leader. Call your audience to action. And remember to thank them and other important people.

Making a speech doesn't have to be as scary as some people anticipate. With some careful preparation and rehearsing, you can easily swim your way through the waters of public speaking.

—Stephanie Correlli. The writer is on the staff of Steward Update.

“GLBT”: It Stands for “A Union Issue”

As times change, so does the range of issues a good union steward must be familiar with in order to serve the needs of members. A good illustration is concerns related to sexual orientation and identity that come up in the workplace.

Not too many years ago, the existence and the needs of those outside of mainstream society’s definition of sexual identity were pretty much ignored, and the question of their rights was just about universally ignored as a workplace issue. To say that things have changed in recent decades is a huge understatement. More and more people, from all walks of life, are “out,” including an estimated 8 million+ of our working brothers and sisters. Both the larger society and labor unions are engaged in lively discussion and action over issues including discrimination based on sexual orientation, marriage rights, and equal access for gays to the union contract rights and other benefits that are available to straight people.

Insufficient Legal Protections

But for all the advances in getting rid of this type of second-class citizenship, there’s still quite a ways to go. In the United States, the proposed Employment Non-Discrimination Act, which would outlaw employment discrimination based on sexual orientation, has not yet been enacted into law. While about half the states now bar at least some categories of discrimination based on sexual orientation, the absence of federal legislation means that discrimination is not illegal in the remainder. In Canada, both the Human Rights Act and legislation in most provinces outlaw discrimination based on sexual orientation, but transgendered people aren’t explicitly covered. (“GLBT” stands for “gay, lesbian, bisexual and transgendered” with that last category referring to someone who is not comfortable with or rejects the traditional definition of gender identity.)

The day-to-day consequences of the

lack of legal protection are broad and serious. Without the protection of a union contract, for example, many workers have no legal recourse if they are fired because they’re gay. And if your union contract, like most, gives rights based on marital status, you will be able to get health care coverage or to use leave time to care for your ill life partner only if you’re straight (unless you’re among those who’ve been able to enter into a legally enforceable gay marriage, and also unless you’re a federal employee, but that’s another story).

The national labor federations in the U.S. and Canada are actively working on these issues, and countless national and local unions have placed these items high on their bargaining and legislative agendas. What’s the basis for this understanding that GLBT issues are union issues?

- The fundamental union principle is *fairness*, and *every* union member deserves the protection the union offers; it simply doesn’t matter whether that member is black or white, male or female, or gay or straight;
- Since discrimination against GLBT people and assigning them to second-class citizenship is perfectly legal in so many instances, there’s extra importance to achieving protection in the workplace that only a union can win;
- Unions have the power to be a leading force for equal rights for GLBT people, just as they often have been for women, people of color, and others treated unfairly in society;
- Looking the other way when any type of discrimination exists in the workplace plays right into the employer’s hands; the oldest trick in the book for keeping workers weak as a group is to divide and conquer. For the maximum power in any fight

the union has with the employer, it needs the unity of all groups in the workplace.

The Steward’s Job

What’s your job as a steward in fighting against these kinds of discrimination in the workplace and working toward equal rights? The main battlefield is usually the collective bargaining agreement. Contract provisions that include sexual orientation

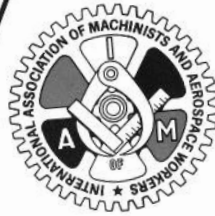
and identity on the list of prohibited types of discrimination are becoming increasingly common, as are extending various benefits—health care, sick and bereavement leave, and so on—to an employee’s gay or lesbian partner. And once the contract rights are won, your role as the “eyes

and ears” of the union and as an advocate for members’ rights comes into focus. You’ve got a key role to play both in educating your co-workers as to their collective bargaining protections and in uncovering instances of unfair treatment so that the union can use the grievance procedure or other tools to ensure equality. Outside the workplace, you can make legislative and other links between GLBT issues and other union issues.

Finally, a word to straight union steward brothers and sisters: as in every other aspect of your work as a union representative, no one expects you to be an instant expert in this particular set of issues. The only reasonable expectation is that you understand the importance of working for fair treatment for your GLBT co-workers, and that you turn to others for the background information you may need. There are resources provided by the national labor federations, and national and local unions that focus specifically on these issues. And, of course, the likelihood is that in your workplace are fellow workers who are gay, lesbian, bisexual or transgendered: surveys show that close to 4 percent of the population are GLBT. Your responsibility is simply to consult with “out” co-workers so you can learn what you need to know to be effective in this part of your job.

—Michael Maurer. The writer is author of *The Union Member’s Complete Guide*.

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OFFICE OF THE INTERNATIONAL PRESIDENT

Dear IAM Shop Steward,

Our union recently celebrated its 125th anniversary. To mark the occasion we held our annual National Staff Conference in Atlanta, GA, where our union was founded in 1888. We held several special events to highlight our connection to our union's rich history, including a march to the Georgia State Capitol building where our union held its first Convention in 1889, just one year after our founding.

The participants at our Staff Conferences and modern-day delegates at our Grand Lodge Conventions have the same goals as the participants at that first Convention: to celebrate their accomplishments and plan how to grow the union and make it stronger for the future.

In just one year, IAM members in 1888 grew the union from just 19 members to 34 lodges and 1,500 members by the time they met in Atlanta in 1889. And this was with almost no resources and just iron-willed determination on their side. And they didn't stop. Early organizers called "Boomers" rode the rails and kept spreading the word. By 1891 we had locals all across the United States, a local in Canada and one in Mexico.

So, a big part of our history is not only the contracts won and benefits gained, but organizing new members and growing our union. Organizing wasn't easy in 1888 and it isn't easy in 2013. But, if our union forefathers could do it with almost no resources, surely we can do it today.

As Shop Stewards, you can help organize in many ways. At your workplace, you can talk to your co-workers and ask them to help find organizing leads. Those leads can be forwarded to your Local Lodge, District Lodge or Territory for follow-up.

And, you can be part of a national IAM campaign to organize workers at Jeld-Wen, the world's third largest maker of windows and doors with operations in 21 countries and all IAM Territories. To help this campaign, all you have to do is go to the Jeld-Wen Justice Facebook page at <https://www.facebook.com/JeldWenJustice> and "like" the page. That simple act will show the workers they are not alone in this fight.

After you "like" the page, send it to all your friends and fellow members and ask them to do the same. If all of us just do these simple things — "like" an organizing campaign page, ask co-workers for organizing leads, volunteer to help on a local organizing campaign when needed — all these small efforts add up to a force for social change that can't be stopped. And by doing so, you will ensure future generations, including your children, will have the benefits of a good job, a secure retirement and respect at the workplace.

As always, thank you for being a Shop Steward and being an important part of our union.

In Solidarity,

R. Thomas Buffenbarger
International President

