

# TAMM

E D U C A T O R

Update for Stewards

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## Handling Disciplines Involving Profanity

# Handling Disciplines Involving Profanity

In most workplaces, and especially those employing men and blue collar workers, rough language and a certain level of swearing are commonplace. Most employers have rules that provide the option of some level of discipline for profanity. The fact is, coarse and profane language happens from time to time, and people get in trouble. How to tell the difference between “shoptalk” and serious profanity is the problem that stewards face. It is not an easy task.

What is “profanity?” Generally it involves the use of unusually offensive language: vulgarity, swearing, curses, foul words or phrases that are intended to have an impact on the listener. A certain level of profanity, through overuse, may become part of the environment in a workplace. If the listener is not offended by what is said, it rarely becomes a problem. The trouble comes when someone finds the profane statements to be objectionable and contributing to a state of discomfort, anger, or fear. If the profanity is unusual for that particular workplace or situation, then it may break the employer’s rules.

There are no absolute standards that guide how an arbitrator will decide in any given situation. Both the steward and the workers must exercise common sense in their dealing with others, as the following arbitration decisions suggest:

## Cussing in a Meeting

A worker was called into a meeting to discuss his refusal to come to work immediately. He used profanity during the course of the meeting and was fired. In ordering reinstatement, the arbitrator

thought he was treated unjustly, in that the profanity was general in tone, and emphasized that the grievant and his union steward disagreed with the company’s position.

Another worker was fired for using profanity against the company nurse, saying on her way out of the meeting, “You had better call someone because you are going to need (someone) to take my foot out of your ass!” The arbitrator did not think that her action was grounds for a discharge, and reduced it to a 29-day suspension. He felt the statement was not a threat and the action treated the employee disparately. Still, he said, while it was not a specific threat, a significant penalty was appropriate.

## An Altercation Situation

A worker got into an argument with a fellow employee for using obscene language and swear words, and was fired. The arbitrator agreed with the firing, noting that the employee “showed a pattern of insubordination, rudeness and poor attitudes that had become egregious in nature.”

Another employee was discharged after an incident during which he exchanged profanities with another employee, removed his hand from the other person’s chest, where he had placed it previously, and walked away after the co-worker threatened him, saying he would not fight the other worker on the job but would fight him after working hours.

## The Swearing Steward

During a meeting with a supervisor over

the issue of having taken a break early, a union steward used expletives and was fired. The arbitrator thought the company went too far and ordered him back to work. The supervisor should have given the grievant a direct order not to take his break early, and discharge was an unwarranted penalty for use of foul language.

## Swearing at Top Brass

A foreman was suspended for five days for using abusive and profane language with the company president; he said that the president “ought to fire every one of the goddamn sons of a bitching mother f——s, starting with you!” The arbitrator said a foreman is expected to show leadership qualities, and despite his claim that he had a frustrating day, he had ample time to cool down. He said the dispute issue was not similar to cases of other lesser-disciplined employees who made inappropriate remarks to fellow workers, since they did not demean the company president. The five-day suspension was reduced to three days, because other employees engaging in abusive conduct received warnings, a pattern of penalty that differs from five-day suspension. Further, another foreman who was a union leader was not punished for union activities when suspended for using abusive and profane language toward the company president.

## The Common “F” Word

An employee was fired for saying “f—— you” to his supervisor. The arbitrator sustained the company’s action. He said that despite the claim that the “f” word is commonly used in the workplace, there is a difference between using the word as a modifier to add force to a statement and saying “f—— you!” in defiance of a supervisor.

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



# Using Your Employer's E-mail System

**A**s certain as death and taxes is the principle that when workers figure out a good way to organize and communicate with each other, the bosses will make it illegal. This truism was illustrated in the United States in December 2007, when the National Labor Relations Board (NLRB) finally issued its decision on a hotly contested case involving a newspaper in Eugene, Oregon.

The case focused on the rights of workers to use company “property”— in this case, the newspaper’s e-mail system—to conduct union activities.

Locked in tough contract negotiations with the publisher of *The Register-Guard*, Suzi Prozanski, president of The Newspaper Guild/CWA local, sent out three e-mail messages regarding union activities in the summer of 2000. One of them was sent from her desk while she was on break, the other two were sent from the union office—but all were sent to union members at their company e-mail addresses.

The company wrote up Prozanski for violating a “Computer Systems Policy,” issued in October 1996, stating that “communications systems are not to be used to solicit or proselytize for . . . outside organizations.”

Since the NLRB had historically allowed employees to use company premises during nonwork time — to pass out union leaflets, for example — and made it clear that a company could not set up a special set of rules just for union activity, it seemed that a decision should support Prozanski and her local.

Wrong. Using convoluted logic, and dumping a long-standing NLRB precedent, the board ruled 3 to 2 that the company could, in fact, prohibit “union activi-

ty” on the company e-mail system, even if other personal uses were permitted. The two NLRB members who disagreed with the decision published a vigorous dissent, but the decision stands. What’s a good steward to do now?

■ In the first place, a steward should keep a positive attitude and look at this NLRB decision as just another obstacle to be overcome. After all, unions and employers have always fought back and forth over what is “legal” and what is not. If you visualize a long road, with the boss rolling logs onto it to trip up the union, and visualize a steward hopping over the logs, you’ll get the picture.

■ It would be helpful for the union to negotiate with any employer a consistent policy regarding the use of the company e-mail system. After all, we negotiate—sometimes at excruciating length—over bulletin boards. They, like e-mail, are on company property and a way of communicating with union mem-

bers. The refusal of the NLRB to specifically protect some union activities does not prevent a union from negotiating for them.

■ Without such an agreement, a steward can act like an organizer — after all, in a new organizing campaign, the workers do not have access to the company e-mail system, so the organizer works around this obstacle.

■ A steward should rearrange the e-mail distribution lists to include members’ home addresses, explaining that it is The Big Bad Boss who is shutting off the use of the company system, which is usually more convenient. Statistics show an enormous increase in computer usage and e-mail access across North America, so a steward can be sure most members (or at

least their kids) have a home e-mail address.

■ Sometimes, the old ways still work even in the electronic age. If there is information to be distributed, call a break time meeting or set up a lunch-and-learn — preferably on company property, which is still “legal,” even under this NLRB decision. If you schedule enough of these, and clog up the company routines, the boss may become more lenient about letting a steward use the e-mail system.

■ A steward may have to go back to old fashioned leaflets, which can also be distributed on employer property in nonwork areas, like employee mail boxes or lunch rooms, and on nonwork time. It may be a hassle to prepare and print the leaflets but

nothing in the steward’s job description is classified “easy.” Such a distribution has the advantage of building up the union’s visibility, as e-mail does not, and getting help from your members really increases their participation in the union.

■ The steward can set up (or again have their kids show them how) a department website or blog to post the information and comments that previously sped along the e-mail system. In most cases, a company will not block access of workers to outside websites — after all, the boss needs to make travel plans, doesn’t she? — so workers can peek into the union site from their work stations.

The most important thing is attitude: a steward determined to communicate with members will find a way and may even be a better steward for the effort.

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

**One of many options: back to old-fashioned leaflets.**

**Keep a positive attitude: it’s just another obstacle to overcome.**

# Responding to Anti-Union Arguments

Every workplace is different, but some things are universal. For example, just about every steward in North America faces one of two situations when dealing with new employees and their reaction to the union:

**Example no. 1:** You work in a union shop and that means all employees are required to become members. If you're lucky, new workers think that's just fine and appreciate that they've got a strong union. But if you're unlucky, you get nothing but moans and groans and complaints.

**Example no. 2:** You work in an open shop, which means that union membership isn't required as a condition of employment. If you're lucky, the new worker understands the value of the union and signs right up. If you're unlucky, you get a free rider, someone happy to take the benefits of the union's work while doing nothing to support that work. If you're *really* unlucky you get a free rider who likes to complain.

There are some variations, of course. You could be in an "agency shop" situation, for example, in which membership isn't required but the payment of dues is. Regardless, when you've got people in your workplace who have something against unionism, you've got a real challenge.

There are ways to deal with it. Nothing short of heavenly intervention will turn some folks around. But you'll find that knowing how to respond to the biggest anti-union arguments can help make some nonunion or even anti-union employees into real members.

When confronted with the issue of union membership, the five biggest arguments you're likely to hear revolve around dues, "corruption," "I don't need anybody's help," "I don't like being told

what to do," and "Only troublemakers need unions."

Let's look at them one by one.

## "I Don't Like Paying Dues"

Do a little math for the worker. Show how the union-negotiated wage rate more than makes up for the cost of dues. Put a dollar figure to any health and pension benefits, paid days off and paid vacations — not to mention the value of job protections.

Make sure the worker knows that the union is required, by law, to represent *everyone*, members or not. Even if the worker objects to paying taxes, he doesn't turn away tax-supported firefighters or law enforcement officers when he's in trouble, or refuse to drive on streets and highways paid for by his taxes. It's no different than with union "taxes" — that is, dues.

## "Unions Are Corrupt"

Sure, there are crooks in the labor movement. We're part of society, and you can't escape society's ills. But the overwhelming majority of unions and union leaders are honest. Far more bankers and accountants and businessmen are convicted of fraud and ripoffs than are unionists.

Remember that there are more than 50,000 local, national and international unions across the U.S. and Canada, with hundreds of thousands of elected officers and more than 18 million members. If unions were corrupt — even if just one percent of them were — it would be front-page news, every day.

## "I Can Look Out for Myself"

Someone may think he can handle any problem that comes his way, but it's not that simple. Will the boss turn up the

heat in cold weather because one employee complains? Will an assembly line operation be changed because one worker fears being hurt? Will an employer deal with a supervisor who decides to make one underling's life miserable? Don't count on it.

There are some problems that can be dealt with only by everybody standing together in common cause. Plus, doesn't every person have the responsibility to help those around him?

## "Don't Tell Me What to Do"

Unions are run democratically — a lot more so than workplaces, for sure. Union members are encouraged to come to meetings and voice their concerns. They are urged to participate in officer elections, and run for office themselves if they don't like the way things are going. They are urged to vote in contract ratifications. Every union has a constitution that outlines the right of workers to be involved in their union. If they don't like whatever rules the majority of union members set for their union, they have the legal right to try and change them, just the way governments change. These rights are backed up not just by union constitutions, but by government itself.

## "Only Troublemakers Need Unions"

Every member, not just the troublemaker, is protected by the contract. Don't worry so much about a troublemaker potentially getting away with bad behavior: instead, think about how the union contract helps you when you bid on a job, use seniority preference for a shift change, or avoid a health hazard. And of course everyone benefits from future gains negotiated by the union, from higher pay to better health insurance to more vacation time. And remember as well that the union helps everyone when it works in the political arena for more worker-friendly elected officials, and when it organizes new workers, making it harder for your employer to cry about low-wage nonunion competition.

— David Prosten. The writer is editor of Steward Update.

“**N**o.” It’s one of the shortest words in the English language, but it can be the most devastating.

Saying “no” is part of a steward’s responsibility when a worker wants the union to file a grievance over a problem that just isn’t a grievance.

Here are some ways to deliver the message and move forward with the worker:

**1 Don’t put it off.** It’s natural to want to put off delivering bad news. But as soon as you have determined that the problem is not a grievance, it’s best to tell the worker. By responding in a timely way you’ll convey that the union took the worker’s problem seriously enough for the union to investigate it promptly.

**2 Make sure the worker is the first to know.** Other workers may know about the worker’s problem and will be curious to know what the union is going to do. Be sure to talk to the worker first, before you have a discussion about the issue with others. It shows the union’s respect for the worker.

**3 Explain the issue fully.** Choose a time when both you and the worker can talk without interruptions. Go over the criteria for determining a grievance and explain why the problem does not meet the criteria. Show the parts of the contract or personnel rules that pertain to the issue but do not address it fully. If the union has faced the problem before, discuss the background.

**4 Acknowledge the worker’s feelings.** Faced with this news, a worker may react with fear, disappointment, or anger— directed at you, at the union, or at the employer. As long as the abuse isn’t directed toward you, allow the worker an opportunity to express his or her feelings.

**5 Explain the pitfalls of filing grievances on nongrievable issues.** Many workers do not understand that the union will lose credi-

# When A Steward Has to Say “No”

bility with both its members and management if it files on frivolous, impossible-to-win issues. Doing so can undermine the union’s ability to bargain and handle legitimate grievances and it can lead to petty retaliation from management. Point out that the time spent fighting a losing battle could be better used to work on the issue in a more meaningful way.

**6 Offer to solve the problem in other ways.** If the worker has a legitimate problem, filing a grievance is only one way to deal with it. Offer to go with the worker to the supervisor and have an informal discussion. Enlist the worker to find out if others have experienced the same problem, and find out how they’ve handled it. Ask the worker to relate his or her experience at the next union meeting or to the bargaining committee, so others are aware and can come up with ideas on how the union can address the problem.

If the worker’s problem stems from a

personal difficulty — for example, domestic problems or disrupted child care arrangements — refer him or her to the community services offered through many central AFL-CIO labor councils.

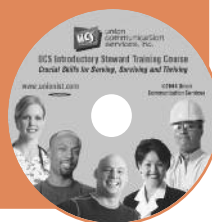
**7 Use the opportunity to involve the worker in the union.**

Through working on other ways to solve the issue with the worker, you have shown that the union cares. You’ve created an opportunity to say, “We need your work on this issue so that the next time someone has a problem, we’ll be in an even stronger position to address it.”

These ideas for dealing with the “no” won’t satisfy everyone. Ironically, the most enraged workers will be those who have the most frivolous complaints. But these guidelines can help you present a positive side to an unpleasant situation and create an opportunity to build the union.

— Pat Thomas. The writer is on the staff of the Service Employees International Union, CTW.

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From the editors of *Steward Update* newsletter

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OFFICE OF THE INTERNATIONAL PRESIDENT

Brothers and Sisters,

Let me take this opportunity to again thank you for the outstanding service you provide your brothers and sisters in the IAM. Your dedication and tireless work as Shop Stewards keeps the IAM moving forward.

With the Democratic presidential primary ongoing and the general election approaching quickly, I ask that you keep your brothers and sisters educated about the candidates and the issues that will impact working families for the next four years and beyond.

Just last week Senator Hillary Clinton embarked on a "Solutions for the American Economy" tour, where she announced a \$2.5 billion per year workforce training program that focuses on preparing every worker for the high-wage, high-skill jobs of the future. The plan is an example of the leadership that Machinists — and our kids — need from the next president of the United States. No more job-killing trade deals, no more empty promises, no more crippling health care costs! If working families and the middle class are to prosper, we need to elect a president who will stand with us.

And the facts are clear: Hillary Clinton has been there for us and she will continue to be there for us. Talk to your fellow IAM members, your friends, your family, and make sure Americans elect the right person for the job.

As far as your day to day duties as a shop steward go, you'll find a wealth of valuable information in this edition of *The Educator*, including valuable advice on how to handle the sometimes difficult responsibility when a shop steward has to say 'no' in certain situations. You will also get important information on using your employer's email system, handling disciplines involving profanity and responding to anti-union arguments.

Again brothers and sisters, thank you for the outstanding job you do as stewards of the IAM.

In Solidarity,

R. Thomas Buffenbarger  
International President



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