

TAMM

E D U C A T O R

Update for Stewards

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Gambling on the Job



Gambling on the Job

There was a time when all gambling in or around the job was illegal, unless you worked in a casino in Las Vegas. This is where the old rule came from, that all gambling on the job is a disciplinary and often a firing offense. As we all know, the social attitudes toward gambling have changed. In the United States, legal gambling is widespread and often even state-sponsored. In Canada, where government-regulated gambling brings in \$15 billion dollars a year, laws and regulations vary by province. In both countries, many forms of betting on sports are almost universally winked at.

Still, on most jobs and in many collective bargaining agreements, the old rule still applies, and this creates a number of obvious problems. When existing rules no longer correspond to the predominant social practices or attitudes of the people involved, the rules tend to be used unfairly and reflective of the power relations on the job.

This means that the employer breaks up those games run by people he doesn't like while winking and nodding at the gambling activity involving people he likes.

Arbitrators tend to follow the old rule. Arbitrators have upheld dismissals for gambling even if it was on the employee's own time. In some cases, they've even upheld dismissal for gambling while off the job if criminal action was taken against the employee, the theory being that it cast the employer into disrepute.

In the most extreme cases, that of professional athletes, historic rulings and many collective bargaining agreements ban players from any contact with gamblers or gaming at all. Luckily, few other workers face these sorts of strictures.

All of this is pretty much bad news for the steward who is trying to help a worker being disciplined for gambling. Some good news, though, is that the U.S. National Labor Relations Board has ruled that the union has the right to information from investigation of gambling as it applies to supervisors, not just workers. This is important because most workplace gambling occurs in the form of sports pools, collective buying of lottery tickets and small stakes card games. The gambling often involves supervisors as well as workers, and may even be done with the explicit permission and knowledge of the supervisor. So, the steward's investigation of potential disparate treatment, along with the careful examination of the facts, should be the core of the union's defense strategy.

Examples of unequal treatment would be if employers come down on bargaining unit members while turning a blind eye to gambling at employer-sponsored events like golf outings or company picnics. Another example: management has joined in on football pools and the like without being disciplined.

Protecting Management?

In many cases, rather than reveal information about the investigation or discipline of bosses, employers will drop the case against a worker. The relevant decision came from the Court of Appeals which upheld the labor board decision in the postal service in 1989, where it was shown that management was also involved in gambling activities. This expanded the potential argument for disparate treatment beyond the edges of the bargaining unit.

However, the union also has a stake in the matter. Just as smoking is one of the few markers of one's own time—a

break—so gambling provides one of the few opportunities for permissible, collective, non-productive recreation on the job in a very regimented wage labor situation. Workers who built the pyramids almost certainly gambled during breaks. But the power relationships at the job are complex; they may be invisible until something like an opportunity to gamble shows up. Then other realities come into play. Who can say no? Who says yes? Someone starts a card game and money changes hands rapidly.

Sharpening Inequalities

Gambling can sharpen inequalities among workers, sometimes with serious consequences. There is a reason why groups such as Smokers and Alcoholics Anonymous exist; so Gamblers Anonymous exists as well. And unlike smoking, with gambling, since one person's profit is another person's loss, gambling and the collection of gambling debt inherently gives rise to divisive, antagonistic and even fighting behavior.

There is a reason why the old Knights of Labor excluded gamblers, along with pimps, bankers, lawyers, liquor dealers and speculators, as "parasites" who lived off the labor of others by catering to their weaknesses.

The union's stake in the issue of gambling is the collective well-being of the workforce. This means both protecting the power of the workers against the bosses' attempt to further control them and divide them by unequal enforcement of rules, but also the union needs to be a force for the individual welfare of workers and not encourage risky behavior.

Like many problems the steward confronts, gambling on the job is not straight-up contract policing. Dealing with gambling should not come out of the boss's hip pocket—or out of the steward's hip pocket, either. It's best dealt with by transparent, public discussion within the union.

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



Be Strategic in Your Grievance Handling

Imagine a doctor who tells every patient to take aspirin no matter what the ailment, or a carpenter whose only tool is a hammer. It's unlikely you would want to use the services of either one of them. Applying the same thinking to grievance handling leads smart stewards to see that you don't want to "prescribe" a written grievance for every problem your co-workers encounter on the job, or view every workplace issue as a "nail" that needs pounding. You can be more thoughtful and strategic and strengthen your union and its ability to fight for the members by asking and answering questions along the lines of those below.

Is this a continuing problem or one-time occurrence?

When you've got a situation where one member is unfairly disciplined for absenteeism, a grievance that challenges management's action might be exactly the right thing to do. But what if the discipline is part of a new harsh attendance policy, and this one discipline is the beginning of management's expected crackdown? Filing one grievance at a time may never get you the solution you need, at least not in a timely manner. But dealing with the policy with some group grievances and actions, and perhaps making it an issue in bargaining, might get better and faster results.

If this case is going to create a precedent, is it the right test case?

If you decide to challenge management's new attendance policy through a grievance, you want to make sure you have a case that very clearly demonstrates the unfairness of the policy to an arbitrator. If the grievance goes to arbitration and you lose, you may be stuck with the result for a long time. It is often wiser—a better strategy—to wait for a stronger case or series of cases that the union can take to arbitration with the hope of getting a

favorable decision or a good settlement from management.

Who has the power and authority to resolve the issue?

It's not always clear who in management can resolve an issue. Often stewards are tempted to "beat up on" the closest or nastiest manager or Human Resources representative they can find. But if these are not the people who can change things, you are wasting a lot of energy and time on the wrong targets. It may take some probing to find out just who in management has the final say on an issue, but it's time well spent.

What is the source of the problem?

Let's say you are about to file your umpteenth grievance over an incident where a member curses out a supervisor—a supervisor who routinely provokes these incidents by "forgetting" to talk to employees with the proper respect. Does one more grievance challenging the discipline do anything to attack the source of the problem? A more strategic approach might be a group grievance about the supervisors' unacceptable behavior, or finding another way to put the supervisor under a spotlight.

Besides grievances, how else can we resolve this problem?

Would even an arbitrator's decision telling the disrespectful supervisor to "cease and desist" change the situation?

Perhaps yes, but more likely the problem will continue until you change or expand your strategy and tactics. It might be time for some kind of demonstration. Or giving the silent treatment to the supervisor. Or filing a discrimination charge (if some of the supervisor's

comments or conduct constitute unlawful discrimination). Or all of the above.

Like the carpenter with only a hammer, a steward whose tool belt contains only grievance forms doesn't have all the tools necessary to get the job done.

What forces are in the way of resolving the problem?

Let's say the disrespectful supervisor is getting the best productivity that management has ever seen from the workers. Does upper management have much incentive to lean on him to clean up his act? No, so your strategic thinking might lead

you to come up with a group plan that offsets the productivity gains. Perhaps bringing large numbers of workers to long grievance "meetings" with management, or making sure everyone is taking enough time to do every job exactly correctly and safely, will give you the leverage you need to achieve a solution.

Or maybe the reason management is dragging its feet on reining in the offending supervisor is its concern that it will cause them to lose "face"—look bad in front of the workers and weaken other supervisors. If this is the case, then you and your members need to do some strategic thinking about whether it's worth it to give management a face-saving way out of the situation.

So the next time management gives your members a "headache," don't just reach for the grievance aspirin. Stop and think strategically about other alternatives. And remember, sometimes it takes something other than a hammer to screw management's bad decisions to the wall.

—Ken Margolies. The writer is an Associate of the Worker Institute at Cornell University.

Filing a grievance isn't always the right approach to solving a workplace problem.

Mobilizing Your Members

Talk about “mobilizing union members” and many people picture mass rallies, large picket lines and similar actions—huge undertakings that involve considerable long-range planning, coordination and a lot of people working to make the activity a success. Such events can be vitally important to a union’s success, but it’s the smaller, more manageable mobilizations that can mean the most to stewards fighting day-to-day on behalf of their co-workers. It’s the smart steward whose bag of tricks contains a variety of small-scale mobilization tactics. Let’s look at some—and situations in which they can help.

Grievances

Grievances that affect a group of workers offer the opportunity to mobilize members. Activities like these have been successful in grievance situations:

- Talk to the affected workers one-on-one to gather information about the grievance. Informal one-on-one meetings enable you to talk to a worker in-depth about the issue and to explain what the union can do. It also shows that you care about the individual worker’s problems.

- Invite the affected workers to a group meeting to get more information, and to discuss what they as a group can do with the union to solve the problem. The meeting will show them that they are not alone, and that, collectively, there is a better chance to achieve success.

- If your contract and your union’s practice allows for the filing of group or mass grievances, ask all of the affected workers to sign the grievance form. This is a petition with teeth.

- In some locals it is the practice to file many individual grievances and swamp management with paperwork and grievance meetings. This can also be very effective.

- When you present the grievance(s), take all of the affected workers with you to the boss’s office. The boss may know how to deal with a routine grievance, but will be less sure of himself when faced with a group of united workers.

Unfair Labor Practices

If you have the authority to file unfair labor practices (ULPs), consider the following: in addition to filing with the labor board, you’re required to serve a copy of the ULP on management. Instead of mailing it, why not deliver it yourself? Take a group of workers affected by the ULP with you. I have done this with groups ranging from six workers to 250. You should see the look on the boss’s face when a group shows up at his office to serve the ULP. And even more important is the look on the faces of the union member participants right after the action. They are glowing with a sense of power.

Keep in mind that many of the workers you bring may not have the authority to use the employer’s time, so you may want to plan this activity on their lunch hour. And always coordinate this type of action with your leadership.

Mid-term Bargaining

In many locals, stewards are responsible for bargaining over changes in working conditions that arise during the term of the contract. Use these occasions to mobilize your co-workers. Get input from the affected workers using one-on-one discussions and group meetings. Discuss

with them how they feel about the proposed change and get ideas for bargaining proposals. Brainstorm on actions that they can do to support the union bargaining team, such as petitions, surveys, T-shirt days, wall signs, and so on. This will enable the bargaining team to go to the table with the workers visibly behind them.

Legislative Activities

Ask your union leadership for help in calling a meeting before or after work or at lunchtime to work on a legislative issue that directly affects your members. Examples could include legislation involving fair trade, attacks on collective bargaining, public sector cutbacks and privatization, health and safety, your state’s workers’ compensation program or a community Living Wage standard. At the meeting explain the issue and ask members to write letters to politicians, sign petitions or do other appropriate tasks. Ask your local leadership for help in getting information on the subject at hand. In the public sector you should also check with your leadership about any laws or regulations affecting when and where workers can engage in legislative activity.

Building Membership and Participation

Small-scale worker mobilizations are a perfect opportunity to recruit new members in situations in which union membership is not a requirement of employment. Involving workers in union struggles around issues they care about is one of the best ways to sign up new people. Explain that the union strength comes from a large and involved membership. The more members we have, and the more involved they are, the stronger the union will be—and the better able to win on the issue at hand. Tell the workers that the best way for them to achieve victory is to become an active union member. Make sure to check your contract and with your local leadership on the appropriate times and locations to conduct membership recruiting.

Whether you’re in an open shop, agency shop, or union shop, small-scale mobilizations are one of the best methods to recruit new members, increase involvement and achieve victory. They take a minimal amount of planning, and increase everyone’s sense of power and solidarity.

—Carl Goldman. The writer is executive director of AFSCME Council 26.

Mobilizing your co-workers can lend huge weight to the union’s causes.

Keeping a Grievance File

Are you satisfied with the way you keep grievance records? If you're not, you should be: your records could make the difference between a co-worker losing a day's pay, missing out on a promotion, or maybe even losing a job. What you do with your notes and paperwork can be critical to the union's ability to help a worker win justice, avoid disaster, or just plain get a fair shake.

Veteran stewards and union staffers will tell you that unless they are accurately written down and carefully filed, even the best facts and evidence are useless to the union if management is determined to have its way. These experienced hands know that a well-organized grievance file can be one of the union's most effective resources—and you, as steward, are key to making sure it's built correctly.

One Grievance, One File

As a steward you will want a file—paper, on the computer, or both—for each grievance you are working on. It's a file that must be available for use by higher-ups in the union chain of command if—and when—the grievance moves through the steps of the grievance procedure. Not only that, it may well become part of your union's files and serve as a vital resource for new stewards and officers preparing for their duties.

Routines differ from union to union, but most have grievance files. Some locals have organized their files by cutting up the contract and pasting each section on a separate folder, either on paper or on a computer. Others may keep them chronologically, by department, or in other ways, but most locals have a central index so they can track down specific cases by the issue, by the grievant, or by both. Whatever the system, it depends on the facts and information gathered, at least initially, by the

stewards. This information, in fact, serves as the very foundation of the union's case.

If you've worked around computers at all you've probably heard the term GIGO. That stands for Garbage In, Garbage Out. If the data you put in a computer is bad, the output will be bad—worthless, in fact, like garbage. The same holds true of what you put in a grievance file.

So, what would be the contents of a grievance file?

For each grievance, you might want the following facts:

1 Notes on your initial talk with the grievant or grievants. Obviously, you need the Who, What, When, Where, Why and How of the case. You need names spelled right, job titles, accurate notes on what people say happened when—all the basics you collect when beginning the grievance process.

2 Your working file would contain all your notes on conversations with the grievant, the supervisor or supervisors involved, and witnesses. Be sure to write down the date and time of these conversations, even if they're just on the phone. The exact time and date of a conversation can be very important later on in piecing together the chronology of a case.

3 The file should contain notes on your own thinking as to which parts of the contract apply to the situation. Don't tell yourself you'll remember. Jot it down.

4 The file should contain any documents you have requested from management and copied for possible use as union exhibits. You'll want these in a safe and secure place, because management's not likely to respond well if you have to come back to them and say you've misplaced your copies and need them

researched and copied again. If you can, scan relevant documents into a computer.

5 The file should contain your notes on, or copies of, relevant supporting evidence. This could include relevant arbitration cases or grievance settlements and federal, state or provincial laws or regulations (health and safety, family leave and so forth).

As you build your file keep in mind that the material you're accumulating may not be called into play for days, weeks, maybe even months into the future—even years, in fact, if it becomes a part of the union's permanent files, to be used as a resource for other stewards who end up handling similar or related cases. So that means the file has to be organized in a way that someone else can pick it up later and make sense of what's inside.

Are Your Notes Clear to Others?

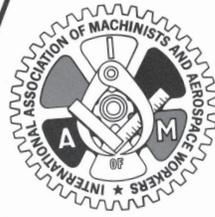
In the same way, while you may be able to read your notes without difficulty the day after you make them, would they make as much sense to you weeks or months down the road? And would they be decipherable by someone else? The file may be called into use some day when you're not available to elaborate on what one of your notes really means. So be sure to go over them with a careful eye before turning them over to another union official or putting them into a file for possible use sometime in the future.

Finally, keep the file in a safe place. A lot of stewards have a secure place at work where they can keep their union paperwork, while others have space at home. If they're on a computer, be sure you have your system backed up. The best research and the best notes in the world are no good to you, or a grievant, if they can't be located when needed.

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

A well-organized grievance file can be one of the union's best assets.

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OFFICE OF THE INTERNATIONAL PRESIDENT

Dear IAM Shop Steward,

Another year is almost gone and many of us are preparing to share the holiday season with family and friends. For those of us with retired parents, let's be thankful for programs like a traditional pension plan, Medicare, Social Security and other hard-earned benefits that help them enjoy a secure retirement.

And let us resolve to protect those many benefits so that others may enjoy their retirement years, and more importantly, ensure that the costs of caring for our aging baby boomer generation are not passed on to our children just because Big Business considers providing a good retirement for a lifetime of work too much of a burden.

Under the cover of conservative propaganda declaring that things like retiree health care and good pensions are unaffordable "legacy costs," too many companies are getting away with dumping onto workers all the risk and all the costs of funding a decent retirement.

That grand experiment isn't working. Approximately half of American workers have less than \$2,000 saved for retirement. Thirty-five percent of Americans over the age of 65 rely almost entirely on Social Security payments alone. Only 20 percent of American full-time employees have a defined benefit pension plan.

Worse, Congress is considering weakening traditional pension plans even further with misguided "reforms" that would let deeply-troubled pension plans reduce benefits for workers who have already retired - a move that is now illegal.

The IAM is leading the fight to protect America's pensions. As Shop Stewards you can help by urging fellow brother and sister members, friends and family to tell Congress to vote NO on any proposal to cut pensions (visit the IAM Activist Center at www.goiam.org to send a message to your Senators and Representative in Congress).

We must protect America's workers and their pensions. Thank you for helping in this fight and thank you for all you do as Shop Stewards.

In Solidarity,

R. Thomas Buffenbarger

R. Thomas Buffenbarger
International President

