

THE LEGAL RIGHTS OF UNION STEWARDS

Total Time—2 hours

Learning Goals

- Learn more about the legal rights of unions stewards.
- Consider the legal responsibilities of union stewards.
- Practice explaining these rights and responsibilities to co-workers.

Sections—Time

- I. Welcome, Review Goals of the Training—5 minutes
- II. Legal Protections of Union Stewards—30 minutes
- III. Legal Rights of Union Stewards Quiz—40 minutes
- IV. Stewards Who are Immigrants/ Representing Immigrant Workers—10 minutes
- V. Weingarten Rights: Overview—5 minutes
- VI. Weingarten Rights: Role-Play—20 minutes
- VII. Duty of Fair Representation—10 minutes

Materials Needed

Flip Chart, Markers, Tape
Internet Connection
Laptop, Projector, Speakers and Screen/Blank Wall
Copies of the Steward Handbook

Handouts/Worksheets

Your Rights as a Union Steward Quiz Worksheet
Your Rights as a Union Steward Quiz Answers Handout
Legal Protections Handout

NOTES**I. Goals for the Training—5 mins**

Post and review the goals for the training:

- Learn more about the legal rights of union stewards.
- Consider the legal responsibilities of union stewards.
- Practice explaining these rights and responsibilities to co-workers.

II. Legal Protections of Union Stewards—30 mins

Explain that the rights of union stewards are protected by our contract and by labor law—the National Labor Relations Act (NLRA). Our rights under the contract are enforced through our grievance and arbitration process and our rights under the NLRA are enforced through the National Labor Relations Board (NLRB).



Break the participants into four groups. Assign each group **one of the four** numbered legal protections on the handout: No Retaliation/Discrimination, Equality Rule, Equal Standard and Legal Right to Information.

Explain that each group has 15 minutes to familiarize themselves with the information for the number they're assigned and to develop a quick and interesting way to present the information to the other participants.

They can create a skit or “dramatization” that illustrates the information or a drawing or other artwork on a flip chart page, etc.

After giving the groups a two minute warning, bring everyone back together for the four presentations, encouraging questions/discussion after each.



Point out that the information we just reviewed is covered starting on page 29 of the Steward Handbook.

III. Legal Rights of Union Stewards Quiz—40 mins

“Distribute the Legal Rights of Union Stewards Quiz” worksheet and ask the participants to work in small groups, reading and answering the questions together. Ask each group to select a reporter and explain that they'll have 20 minutes to complete the quiz.

Module Icon Key

Flip Chart



Ideas



In Handbook

Worksheet/
Handout



In advance of the report-backs, write the numbers 1-9 vertically on a flip chart. When it's time, give the groups a two minute warning and bring them back together for discussion.

Starting with the first question on the quiz, ask the group if they'd come up with yes or no for each number (write "Y" or "N" next to the numbers on the chart). For questions where there's disagreement, write a "?" on the chart.

Focus the discussion on the questions with a "?."



Distribute the "Your Rights as a Steward" worksheet that contains the answers to the quiz.

IV. Stewards Who Are Immigrants/ Representing Immigrant Workers—10 mins

Explain that immigrant workers have always been at the forefront of organizing unions. We also know that management can try to intimidate immigrant workers so that they don't speak up or become involved in our union.

Ask the group: Are stewards who are immigrants protected by the same legal rights as other stewards? Answer: Yes.

Explain that all federal laws which protect employees in the workplace protect immigrant workers as well. The National Labor Relations Act (NLRA) provides that an employee, whether documented or not documented, has the right to form, join, and assist a union and to bargain collectively with their employer through the union. This means that regardless of the employee's immigration status, workers can join together to talk about and attempt to make changes in wages, hours of work, and other employment conditions.

Under the NLRA, our union has the same obligation to represent immigrant workers as other workers and owes them the same duty of fair representation. As the union is obligated to represent all workers in the bargaining unit, an immigrant worker's particular status is usually not relevant to a steward's daily representation duties.

Employers may target immigrant workers during a labor dispute, such as during a strike, contract negotiations, investigating unfair labor practice charges, and investigating alleged violations of other laws. This targeting of immigrant workers may happen regardless of the workers' documentation status, and may play on workers' fears of threats, retaliation and deportation. You should be aware that such threats and other retaliation for asserting federal rights are illegal, and inform your union representative about a possible grievance or additional charges.

NOTES



Point out that page 45 in the Steward Handout covers the rights of immigrant workers in more detail.

V. Weingarten Rights: Overview—5 mins



Pre-chart the following:

If this discussion, meeting or telephone call could in any way be related to my being disciplined or terminated or affect any of my working conditions, I exercise my federal rights and hereby request that a steward of my choice be present. Without that steward's presence, I choose not to participate in this discussion or meeting. Please do not request that I waive this right. I will not.

Ask if anyone's ever heard of "Weingarten Rights." Explain that the rule on the flip-chart is often referred to as "Weingarten" because it was established by a Supreme Court decision in 1975 called Weingarten vs. NLRB. It ensures that workers are not intimidated or coerced during closed-door sessions with management.



Explain that because workers need to know that they have this right in order to exercise it, teaching other members about Weingarten is an important role for union stewards.

VI. Weingarten Rights: Role Plays—20 mins

Ask for volunteers to role-play the following scenarios in front of the group (one pair of volunteers can try the first scenario and another pair the second):

- Explain to a member what they should do if they're asked to come to a meeting that seems like it might be disciplinary. This scenario requires two characters: a member and a steward.
- Explain to management that, as a steward, you'll be accompanying a member to a meeting that appears to be disciplinary. This scenario requires two characters: a steward and someone from management.

After each role-play, applaud the actors and thank them for volunteering. Ask them, and then the rest of the group, if they have other ideas about how to approach similar situations.



Mention that there is more information about Weingarten Rights starting on page 32 in the Steward Handbook.

VII. Duty of Fair Representation—10 mins

Explain that along with legal protections, union stewards also have legal responsibilities. Ask if anyone's heard of the Duty of Fair Representation (DFR) and ask them to explain what it is.

NOTES

Provide an overview of DFR:

Once workers elect a union, the union becomes legally certified as the exclusive bargaining representative for all employees in the bargaining unit.

Courts have ruled that this right to exclusive representation carries with it a duty to fairly represent all employees, members and non-members alike. This means the union is obligated to listen to and consider potential grievances raised by all workers in the bargaining unit, without discrimination or favoritism.

If a worker believes the union has failed to provide fair representation, they have the right to file a labor board charge against the union, often called a “DFR” claim or charge.

The duty of fair representation does not mean that stewards are required to be perfect or to always be right—it just requires that we do our best to be thorough and fair.

Similarly, we do not need to take every grievance all the way through to arbitration, but we do need to make the decisions about which grievances we take further in fair manner, based on the merits of each case.

Ask for and discuss questions the participants may have about DFR.



Point out that more information about DFR can be found starting on page 34 of the Steward Handbook.

NOTES

1. Equality rule

When you interact with management as a steward, you do so as an equal.

This means you have the right to openly disagree, question, and argue with management when necessary without being disciplined. Labor law recognizes that a steward cannot effectively represent workers unless they are able to freely communicate with management as equals.

2. No retaliation or discrimination

Labor law and your contract prohibit management from disciplining or intimidating you because of your activity as stewards. For example, management cannot deny you promotions or other benefits, assign you extra work or undesirable jobs, or act in other ways that attempt to discourage you from doing your job as a steward.

3. Equal standard rule

It is illegal and a violation of the contract for management to hold you to a higher standard than other workers or to harass you with extra supervision or stricter rules. As a steward, you should expect co-workers to look to you as an example—and you can protect yourself and the union's reputation by doing your job well. But being a steward does not allow management to expect more from you or to discipline you.

4. Legal right to information

By law, we, as the union, have a broad right to receive relevant information from management at any stage of the grievance process, including investigations to determine whether a grievance exists. Management must provide you with this information upon request—this is considered part of management's "duty to bargain."

WORKSHEET: YOUR RIGHTS AS A UNION STEWARD QUIZ

Answer the following questions the best you can. This is not a test and is for your reference. After you finish the quiz we'll discuss the questions.

1. You are the steward representing a member at a grievance meeting. At the meeting, your supervisor refers to you and the member by your first names. At work you usually refer to your supervisor as Mr. Smith. At this meeting, you decide to call him by his first name. Do you have a right to do this?
2. While doing your steward job of interviewing a supervisor to investigate a grievance, you say you think the supervisor is "bending the truth." Does the supervisor have a right to discipline you for making that comment?
3. While you are working, your supervisor tells you to "move it." In a loud voice you reply, "screw you." Is your comment protected?
4. Management announces that it is closing part of the operation. On your break, you and a few members go to the manager's office and tell him that if he doesn't hold off and talk to the union first he can expect lawsuits, unfair labor practices, grievances and a whole lot of protests. He says, "If you threaten me again, you'll be fired." Is he within his rights?
5. At a labor management meeting to discuss a controversial issue, the discussion gets very heated. Management calls you, the steward, an unreasonable "hard head." You say, "I will personally kick your @#% out in the parking lot." Is that comment within your rights to say?
6. A member who always goes his own way and has never been involved with our union gets a 3-day suspension for absenteeism. You don't really know his attendance record, but have the impression that it's pretty bad. He asks you to file a grievance on the suspension. You say, "So, now you need the union? We might just not have time to help you on this one because we are busy with real union members." Is this within your rights as a steward?
7. You ask management to see the time cards of all the employees on the night shift on a specific day last week. Management says these are private and that you can't see them. Do you have a right to see the time cards?
8. The supervisors put out a new rule that everyone hates. As the steward, you start collecting signatures on a petition against the new rule. You do this on your own time and only ask members to sign at times when they are also not working. A supervisor takes you aside and tells you, "If I were you, I wouldn't be making waves on this one, it could cost you." Is this a violation of your steward's rights?
9. A member who was just fired wants to meet with you. Your work is not particularly busy and you tell your supervisor that you are leaving your work area to meet with a member on union business. Your supervisor says, "Forget it, the company pays you for working. Wait until you are off the clock and then have your meeting." Is this a violation of your rights as a steward?

WORKSHEET: YOUR RIGHTS AS A UNION STEWARD QUIZ ANSWERS

1. You are the steward representing a member at a grievance meeting. At the meeting, your supervisor refers to you and the member by your first names. At work you usually refer to your supervisor as Mr. Smith. At this meeting, you decide to call him by his first name. Do you have a right to do this?

Yes, when you are doing union business in your role as a steward, you are equal to your supervisor. If he is using first names, you can use his first name. You can also insist that you be addressed as Mr., Mrs., Miss, Ms. The key here is that whichever way you and the supervisor address each other, it should be equal.

2. While doing your steward job of interviewing a supervisor to investigate a grievance, you say you think the supervisor is "bending the truth." Does the supervisor have a right to discipline you for making that comment?

No, you have the right to question the truthfulness of management when you are performing union duties as a steward.

3. While you are working, your supervisor tells you to "move it." In a loud voice you reply, "screw you." Is your comment protected?

Not by the rule that protects steward's rights. You were not performing union functions as a steward when this happened.

4. Management announces that it is closing part of the operation. On your break, you and a few members go to the manager's office and tell him that if he doesn't hold off and talk to the union first he can expect lawsuits, unfair labor practices, grievances and a whole lot of protests. He says, "If you threaten me again, you'll be fired." Is he within his rights?

No, as a steward performing union functions, you have the right to tell management what the union might do in response to management's actions. Note that all the things mentioned are legal. Threatening illegal actions may not be protected and would not be a good idea anyway.

5. At a labor management meeting to discuss a controversial issue, the discussion gets very heated. Management calls you, the steward, an unreasonable "hard head." You say, "I will personally kick your @#% out in the parking lot." Is that comment within your rights to say?

No, the cursing alone is usually protected, but combined with the threat of violence the comments are "outrageous" and "indefensible."

6. A member who always goes his own way and has never been involved with our union gets a 3-day suspension for absenteeism. You don't really know his attendance record, but have the impression that it's pretty bad. He asks you to file a grievance on the suspension. You say, "So, now you need the union? We might just not have time to help you on this one because we are busy with real union members." Is this within your rights as a steward?

No, under the Duty of Fair Representation, you must treat all cases seriously and equally regardless of who is involved. You must investigate the case before making any statements or judgments on the strength or weakness of the case.

WORKSHEET: YOUR RIGHTS AS A UNION STEWARD QUIZ ANSWERS

7. You ask management to see the time cards of all the employees on the night shift on a specific day last week. Management says these are private and that you can't see them. Do you have a right to see the time cards?

Most likely yes. As long as the time cards are relevant to your job of investigating and handling grievances; you should be able to see them.

8. The supervisors put out a new rule that everyone hates. As the steward, you start collecting signatures on a petition against the new rule. You do this on your own time and only ask members to sign at times when they are also not working. A supervisor takes you aside and tells you, "If I were you, I wouldn't be making waves on this one, it could cost you." Is this a violation of your steward's rights?

Yes, even though the supervisor's remarks are somewhat unclear, they would make reasonable stewards feel like they were being threatened with some kind of adverse action for doing protected union activity on their own time.

9. A member who was just fired wants to meet with you. Your work is not particularly busy and you tell your supervisor that you are leaving your work area to meet with a member on union business. Your supervisor says, "Forget it, the company pays you for working. Wait until you are off the clock and then have your meeting." Is this a violation of your rights as a steward?

It depends on what your contract says. While the law gives you the right to represent members who have been disciplined, it does not give you the right to do so on work time. Most contracts, however, give stewards the right to handle grievances on work time subject to reasonable restrictions.