

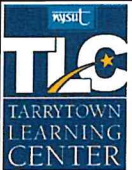
Welcome to Advanced Union Rep

Activity 1 – (individual):

On one of the pink half sheets of paper at your table, please brainstorm and list all the different responsibilities of a union rep (building rep, shop steward, etc.).



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Advanced Union Rep

TRO Summer Leadership Conference
August 2023
Sarah Arbitrio, Labor Relations Specialist




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Housekeeping/Expectations

- Restrooms
- Cellphones
- Participate (don't dominate)
- Breaks





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The Role of the Union Rep

At your table, share your pink lists of Union Rep Responsibilities.

What items were on everyone's list?
What items were unique?

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The Roles of the Union Rep

- ▶ Leader
- ▶ Communicator
- ▶ Advocate
- ▶ Organizer











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Union Reps are Leaders

- Educate members.
- Run meetings.
- Interpret local's policies.
- Speak on behalf of members.
- Gather support for local's programs and positions.
- Assist members with problems or concerns.
- Act as a liaison with principal/supervisor.
- Represent constituency at all organizational meetings.
- Assume decision-making role in certain situations.
- Be available.
- Know where or how to find answers.
- Be enthusiastic.
- Be committed. (not that way!)
- Be self-directed.
- Model appropriate union member behavior.
- Involve others.
- Promote and support VOTE-COPE.
- Listen.

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Union Reps are Communicators

- Attend all meetings.
- Keep members informed.
- Communicate on behalf of members.
- Coordinate membership communications system (e.g. text blasts, phone tree, bulletin board, mailing list, personal email addresses).
- Dispense timely and critical information.
- Communicate constituents' needs to local leadership.
- Communicate constituents' needs to administration.
- Maintain strong public relations image (tell the good news).
- Promote internal communications (e.g. local newsletter, website, socials).
- Are accessible to the members.
- Ask questions.
- Promote coalition building.
- Listen.



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Union Reps are Advocates

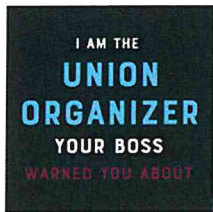
- Are assertive on behalf of members and the union.
- Are supportive of the member with a problem.
- Attend all meetings.
- Utilize resources.
- Work collaboratively with other local leaders.
- Prepare, present & monitor grievances.
- Preserve confidentiality.
- Maintain records.
- Determine how best to handle a problem.
- Listen.



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Union Reps are Organizers


- Involve others.
- Delegate responsibilities.
- Build action teams.
- Are issue-oriented and action-oriented.
- Know the contract, the local constitution and bylaws, employer handbook, and policies.
- Know where to find answers.
- Have resources needed to get results.
- Have the desire to succeed.
- Are visible.
- Persevere, are persistent, and patient.
- Are indispensable.
- Are innovative.
- Communicate.
- Attend all meetings.
- Listen.



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The Union Rep's Resources

- ▶ Contract



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Activity 2 - (table group):

As a group at your table, brainstorm & list all the resources a Union Rep might need at a moment's notice.

Use the chart paper & markers.
Ask one person to act as recorder & another to report out.

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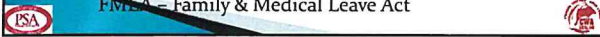
The Union Rep's Resources: The Contract. What Else?

- ▶ Constitution & Bylaws
- ▶ Employer Policies
- ▶ Member Lists & Contact Info
- ▶ Insurance Info
- ▶ Benefit Trust Info
- ▶ Grievance Forms
- ▶ Websites for:
 - NYSUT/AFT/NEA/AFL-CIO
 - Insurance Info
 - Retirement System
 - Workers' Comp

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The Union Rep's Resources: Helpful Laws & Regulations

- ▶ §75 – Disciplinary Action for Civil Service Employees
- ▶ §913 – Medical Examinations of School Employees
- ▶ §3012-c & §3012-d – APPR
- ▶ §3020-a – Discipline of Tenured Teachers
- ▶ §3023, 3028, 3811 – Indemnification of School EEs
- ▶ §3031 – Termination of Probationary Teachers
- ▶ SED Commissioner's Regulations
 - Part 80.5-3 – Incidental & Substitute Teaching
 - Part 80.5-6 – Teacher Aides & Teaching Assistants
 - Part 80.6 – Certification Requirements
- ▶ DASA – Dignity for All Students Act
- ▶ FERPA – Family Educational Rights & Privacy Act
- ▶ FMLA – Family & Medical Leave Act



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Common Misconceptions about Absenteeism

- ▶ Contractual Allocation ≠ Entitlement
- ▶ Validity of Excuse
- ▶ Impact on Students' Education
 - Number of absences
 - Qualifications of substitutes
- ▶ Excessive Tardiness
- ▶ Patterns of Absence



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The Union Rep's Tools

- ▶ Grievances
- ▶ Past Practice
- ▶ The Taylor Law – Improper Practices





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**The Union Rep's Tools:
Grievances**

▶ **Activity 3 (pair & share)**

▶ Share the circumstances of a grievance that was filed (or you think should have been filed) at your workplace.





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Grievance vs. Gripes

▶ Not every concern is a grievance.



▶ But that does not necessarily mean the issue is not a union issue.



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Grievances as Organizing Opportunities

▶ There is no better antidote to apathy than a shared injustice.



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Contractual Grievance Language

- ▶ Definition
- ▶ Steps
- ▶ Ownership
- ▶ Timelines



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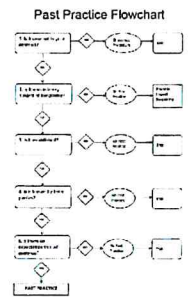
Grievance Processing

- ▶ Investigation
 - Investigate thoroughly
- ▶ Communication
 - Keep grievant informed
- ▶ Record-keeping
 - Take notes
 - Keep written records



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The Union Rep's Tools: Past Practice



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Past Practice Question 1

- ▶ Is it covered in your contract?
 - YES
 - You do NOT have a past practice.
 - Use the grievance procedure.
 - NO – Proceed to Question 2



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Past Practice Question 2

- ▶ Is it a mandatory subject of bargaining?
 - NO
 - You do not have a past practice.
 - Consider possible impact bargaining.
 - YES – Proceed to Question 3



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Past Practice Question 3

- ▶ Is it “established”?
 - NO
 - You do not have a past practice.
 - No further recourse.
 - YES – Proceed to Question 4.



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Past Practice Question 4

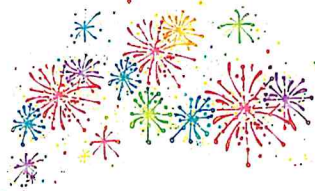
- ▶ Is it known by both parties?
 - NO
 - You do not have a past practice.
 - No further recourse.
 - YES – Proceed to Question 5.



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Past Practice Question 5

- ▶ Is there an expectation that it will continue?
 - NO
 - You do not have a past practice.
 - No further recourse.
 - YES – Congratulations! You have a past practice!



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The Union Rep's Tools: Improper Practices & The Taylor Law



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The Taylor Law – An Overview

- ▶ Establishes rights of all public employees in NY to organize & be represented by employee organization of their choice.
- ▶ Establishes Public Employment Relations Board
- ▶ Requires employers to negotiate terms & conditions of employment
- ▶ Establishes impasse procedures
- ▶ Defines & prohibits improper practices
- ▶ Prohibits strikes by public employees.



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The Triborough Amendment

- ▶ Effected as a result of court cases holding that public interest required, as a quid pro quo for losing the right to strike, that public employees continue to receive the terms & conditions of an expired collective bargaining agreement.



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Mandatory/Non-mandatory Subjects

- The NLRA and the Taylor Law designate specific topics as:
 - Mandatory (must be negotiated)
 - Non-Mandatory (may be negotiated if the parties so choose)
 - Prohibited (may not be negotiated)



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Activity 4

As a group at your table, determine if each of the following is a Mandatory or Non-Mandatory Subject. You may use the reference books provided.

- ▶ Length of school day
- ▶ Length of workday
- ▶ Transfer of union work to employees outside unit
- ▶ Qualification of new employee
- ▶ Procedures for employee evaluation
- ▶ Substance of employee evaluation
- ▶ Installation of cameras in work areas



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Improper Practices-Public Employer

- a. interfere, restrain or coerce employees in exercise of union rights to deprive them of same
- b. dominate or interfere with formation or administration of union to deprive of rights
- c. discriminate against employee to discourage union membership or participation
- d. refuse to negotiate in good faith with the union
- e. refuse to continue conditions of expired contract
- f. utilize state funds to discourage union organizing
- g. refusal to provide union representation upon request



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Improper Practices-Public Employee

- a. interfere, restrain or coerce employees in exercise of union rights
- b. cause or attempt to cause employer to interfere with union rights
- c. refuse to negotiate in good faith with the union
- d. breach its duty of fair representation (DFR)



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Investigatory Interviews

- ▶ Special Status of the Union Rep.
- ▶ Right to Information
- ▶ Weingarten
- ▶ Cadet



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Investigatory Interviews

- ▶ An investigatory interview is a meeting where a supervisor or employer questions an employee to obtain information
- ▶ AND
- ▶ The employee has reasonable belief that discipline, or other adverse consequences, may result.

- ▶ Not every discussion is an investigatory interview. But the discussion can change...



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Union Rep's Job in Investigatory Interviews

- ▶ Serve as a witness
- ▶ Object to intimidation tactics or confusing questions
- ▶ Help employee avoid making fatal admissions
- ▶ Advise employee, when appropriate, against denying everything (and thereby looking guilty)
- ▶ Warn employee against losing their temper
- ▶ Discourage employee from informing on others
- ▶ Raise extenuating factors



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Union Rep Has the Right to:

- ▶ Learn the nature of the interview
- ▶ Meet privately with the employee prior to the questioning
- ▶ Participate – obtain clarification, object to unfair or improper questions, provide information to justify employee's conduct
- ▶ Take notes!



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Special Status of Union Rep

- ▶ Representational Capacity
 - Investigating grievances
 - Requesting information
 - Presenting a grievance
 - Representing employees
- ▶ Individual Capacity
 - Your own work assignments & performance
 - Your own compliance with work rules



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Special Status of Union Rep



- ▶ Equality Rule
 - "robust debate" is protected
- ▶ No Reprisals
 - Warning/discipline
 - Poor evaluations
 - Burdensome work schedules
 - Unjustifiable transfers
- ▶ Same Standards
 - But for work slowdowns/strikes
- ▶ NO attorney/client privilege with members



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Right to Information

- ▶ The union is entitled information under both the NLRA and the Taylor Law.
 - Monitor employer's compliance with contract
 - Investigate complaint by employee
 - Determine whether to grieve or move a grievance ahead
 - Prepare for arbitration

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Weingarten Rights



- ▶ 1974 Supreme Court ruling
NLRB v. Weingarten
- ▶ Intended to prevent employers from using coercion or deception to build a case against an employee.




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Weingarten Rights, con't.

- ▶ 1. Employee must make clear request for representation before or during the interview.
- ▶ 2. Employer can then a) deny the request & end the interview, b) grant the request & delay until rep arrives, or c) provide Employee the clear choice between continuing without the rep or ending the interview.
- ▶ 3. If the Employer denies the request, they have committed an unfair labor practice and the Employee may refuse to answer questions w/o fear of discipline.

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Cadet Rights

- ▶ Tenured teachers & teaching assistants ONLY
- ▶ Employment equivalent to "pleading the 5th."
- ▶ Can only be invoked when the Employee is the subject of the investigation.

- ▶ Union leaders do not have any equivalent to attorney/client privilege.



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Duty of Fair Representation - DFR

- ▶ The Union's obligation to fairly represent all members as the "exclusive" bargaining representative.
 - Union's actions cannot be:
 - Arbitrary
 - Discriminatory
 - In bad faith



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Organizing

- ▶ Organizing vs. Servicing
- ▶ Members v non-members





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Members vs. Non-Members



Members	Potential Members
Pay Dues	No dues
Full Benefits of Contract	Full Benefits of Contract
May Attend Union Meetings	May Not Attend Union Meetings*
Entitled to Vote	Not Entitled to Vote*
Entitled to Union Rep for Discipline	Not Entitled to Rep for Discipline*
NYSUT rep for Discipline	No NYSUT rep for Discipline
Purchase NYSUT Member Benefits	No NYSUT Member Benefits
Access to ELT	No Access to ELT

*Check your local Constitution & Bylaws






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Questions???

TLC
TARRYTOWN
LEARNING
CENTER

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