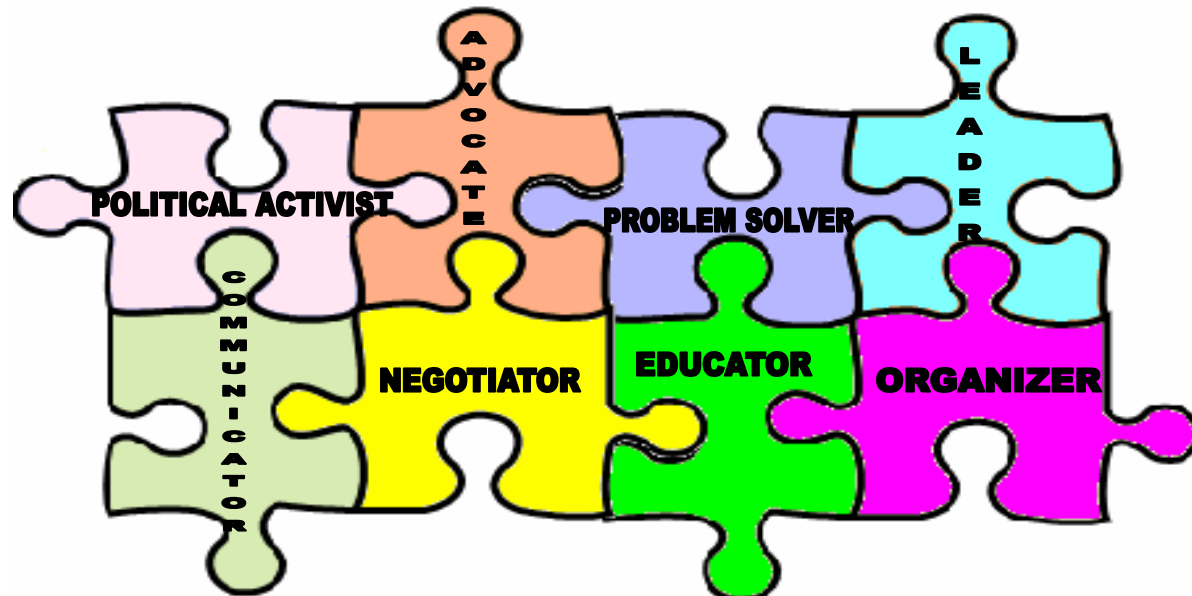


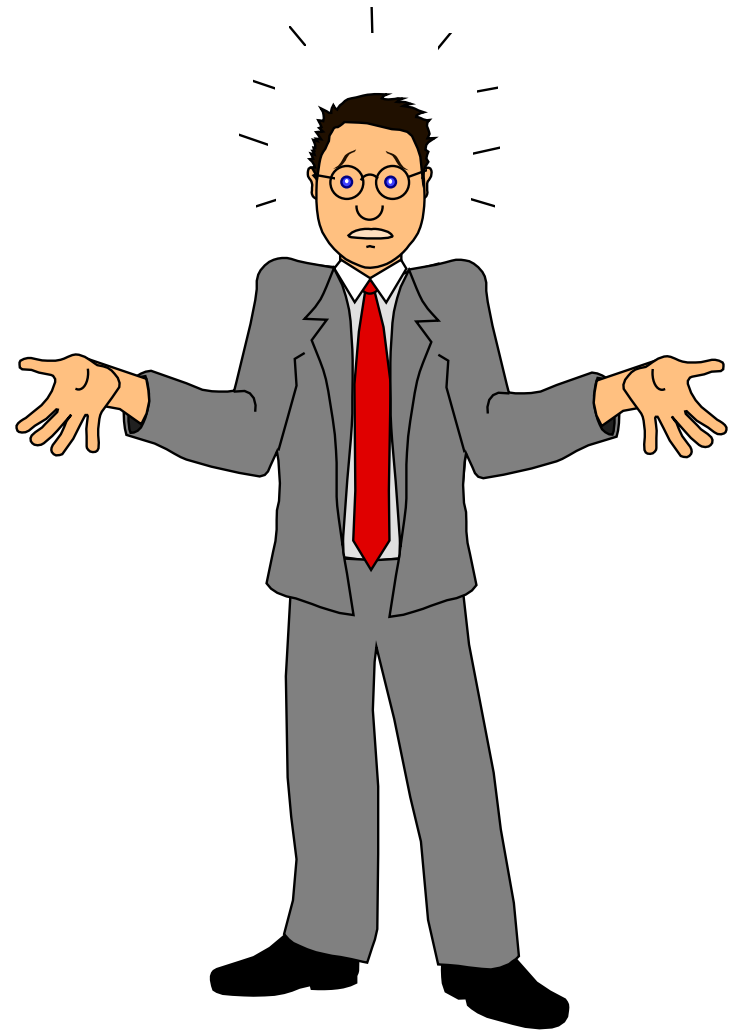
# Basic Union Representative

Sam Buck  
Labor Relations Specialist  
Tarrytown Regional Office  
Summer Workshop  
2023



- Role and Responsibilities
  - Resources
- Duty Of Fair Representation
  - Basic Grievances
  - Additional Tools

I' m the Union Rep...



...now what?

# Do Now

- What are your responsibilities as a UR?
- What tools do you need to be an effective UR?
- Who do you represent?

Write as many responsibilities and tools as you can think of.

Compare and put top 5 of each on flip chart

# The Union's Job is.....

- To protect our members' rights
- To improve our members' terms and conditions of employment

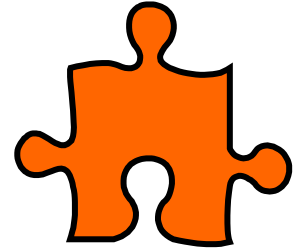


# Responsibilities of a Union Representative

- Organizer
  - Leader
  - Advocate
- Communicator
  - Educator
- Negotiator/Problem Solver



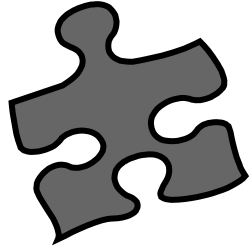
# ORGANIZER



Mobilizes and unites membership  
around common goals.

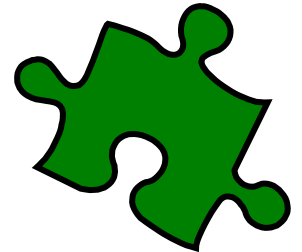


# LEADER



Sets an example, is visible and takes an active role in decisions that affect workers and uphold the **CBA**.

Works with other BR's, grievance committee members, officer and activists to represent the members and build the union.





# COMMUNICATOR



Liaison between union and  
the membership and vice  
versa



- How is information communicated in your union?
- What is good about how information is communicated?
- What could be improved?

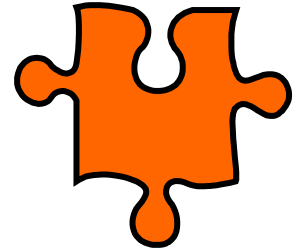


# Channels of Communications

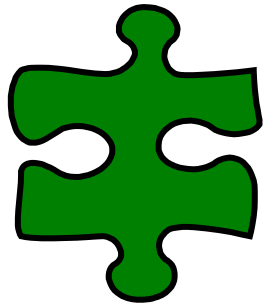
- Telephone Trees  
(Texting)
- Newsletters
- E-mail
- Social Media
- Word of Mouth



# EDUCATOR

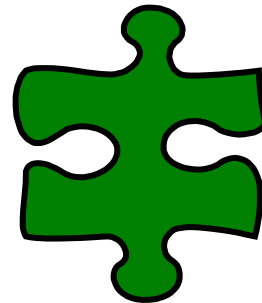


Keeps members up to date on  
the **CBA**, Union Policy, why  
changes occurred



# POLITICAL ACTIVIST

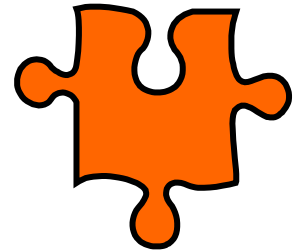
Keeps members aware of the political affairs that effect their livelihood and social well-being, including legislations that affects the CB process and climate as well as assisting and supporting in campaigns endorsed by the local.



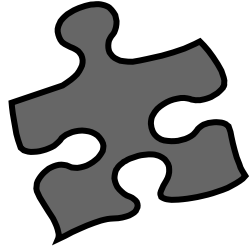
# NEGOTIATOR/ GRIEVANCE HANDLER



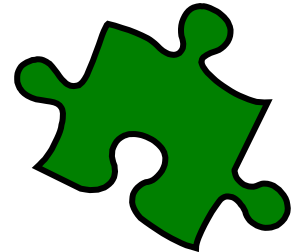
Uses negotiating skills  
primarily in the handling of  
grievances and in policing the  
contract



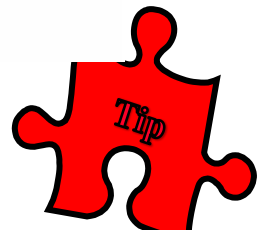
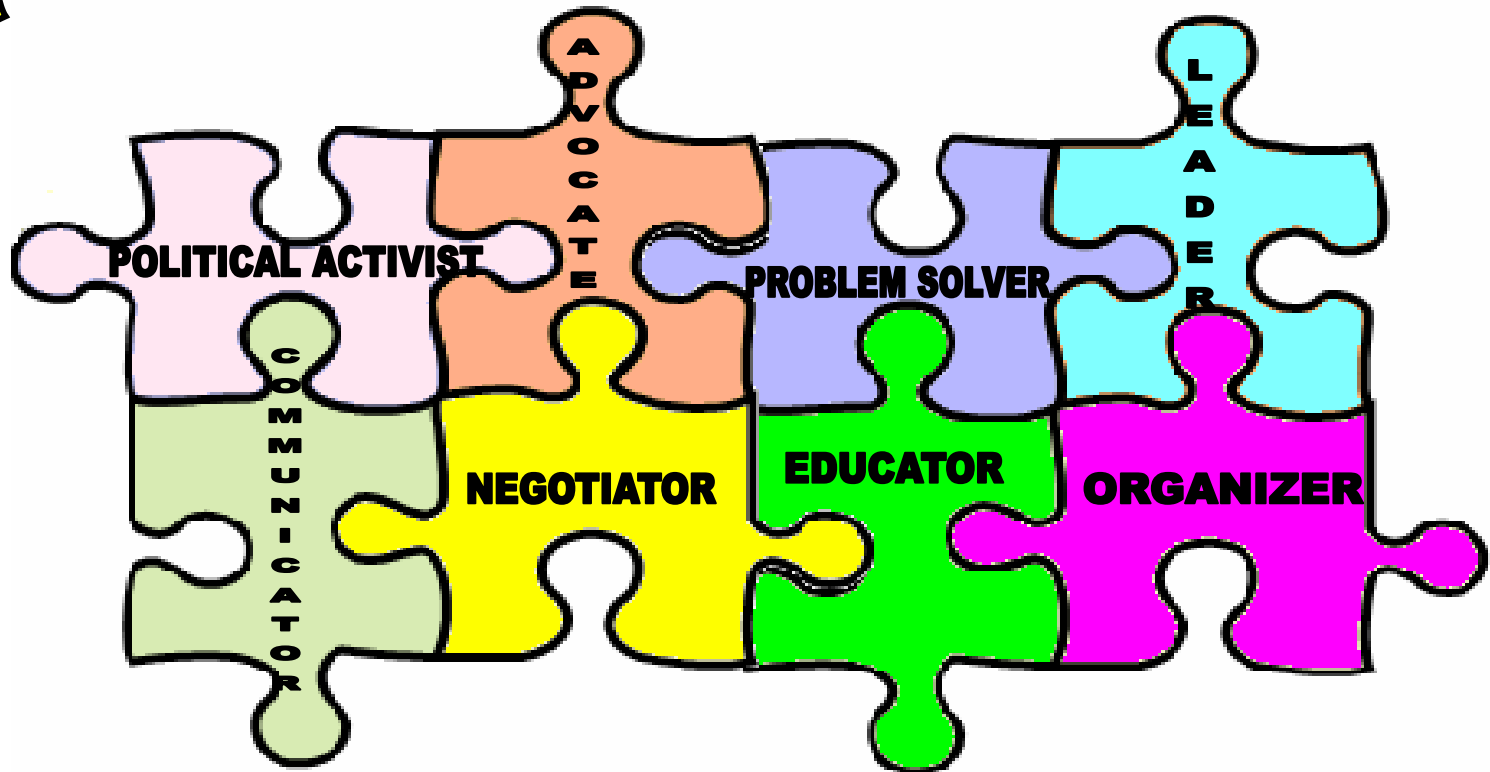
# ADVOCATE



Willing to stand up and fight for the rights of others.



# UNION REPRESENTATIVE





# POWER





"Power properly understood is nothing but the ability to achieve purpose. It is the strength required to bring about social, political and economic change."

Martin Luther King Jr.

A large, orange, multi-pointed starburst shape with a black outline. The word "Power" is written in a bold, blue, sans-serif font across the center of the starburst.

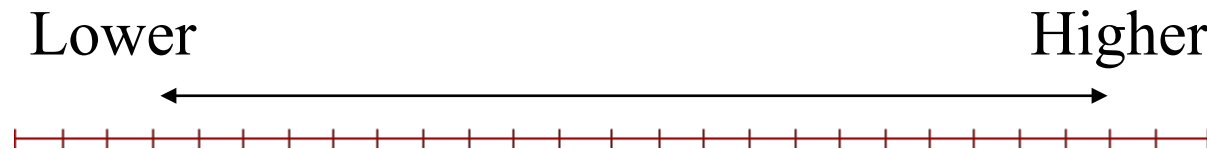
**Power**



The administrator/manager in your workplace may be the “boss” but that doesn’t mean (s)he is all-powerful.

We think there are many other sources of power. Discuss the possibilities in your group and list them below:

What is Your Power Potential:

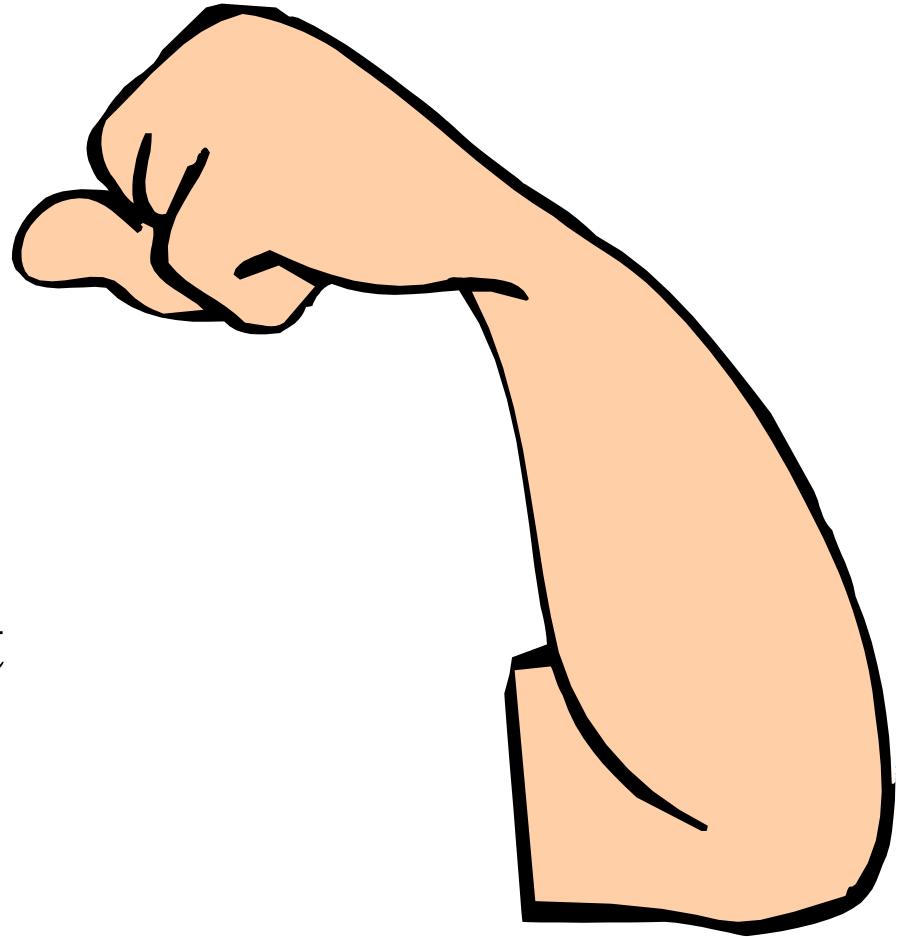


What can you do to increase your power potential?

How can you turn your potential into reality?

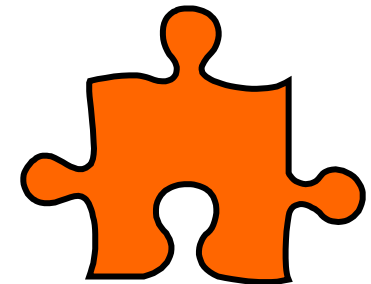
# The Union Representative is a Powerful Person

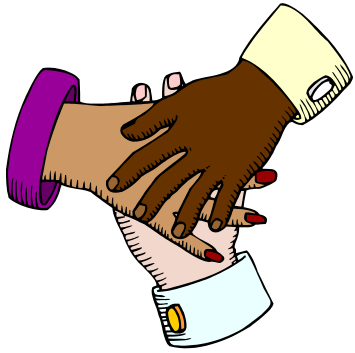
- On an equal level with management
- Access to information
- Access to management
- Access to members



# Special Status of the Union Representative

- When acting as a union representative, you step out of the shoes of an employee and into the shoes of an exclusive bargaining representative.
- The rights and new rules of conduct that apply to union union representatives are based on the following three principles:
  - Equality,
  - no retaliations,
  - and equal discipline standards.





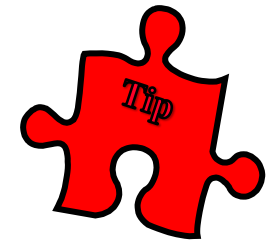
*But above all else ...*  
**Union Solidarity**

An injury to one is an injury to all.

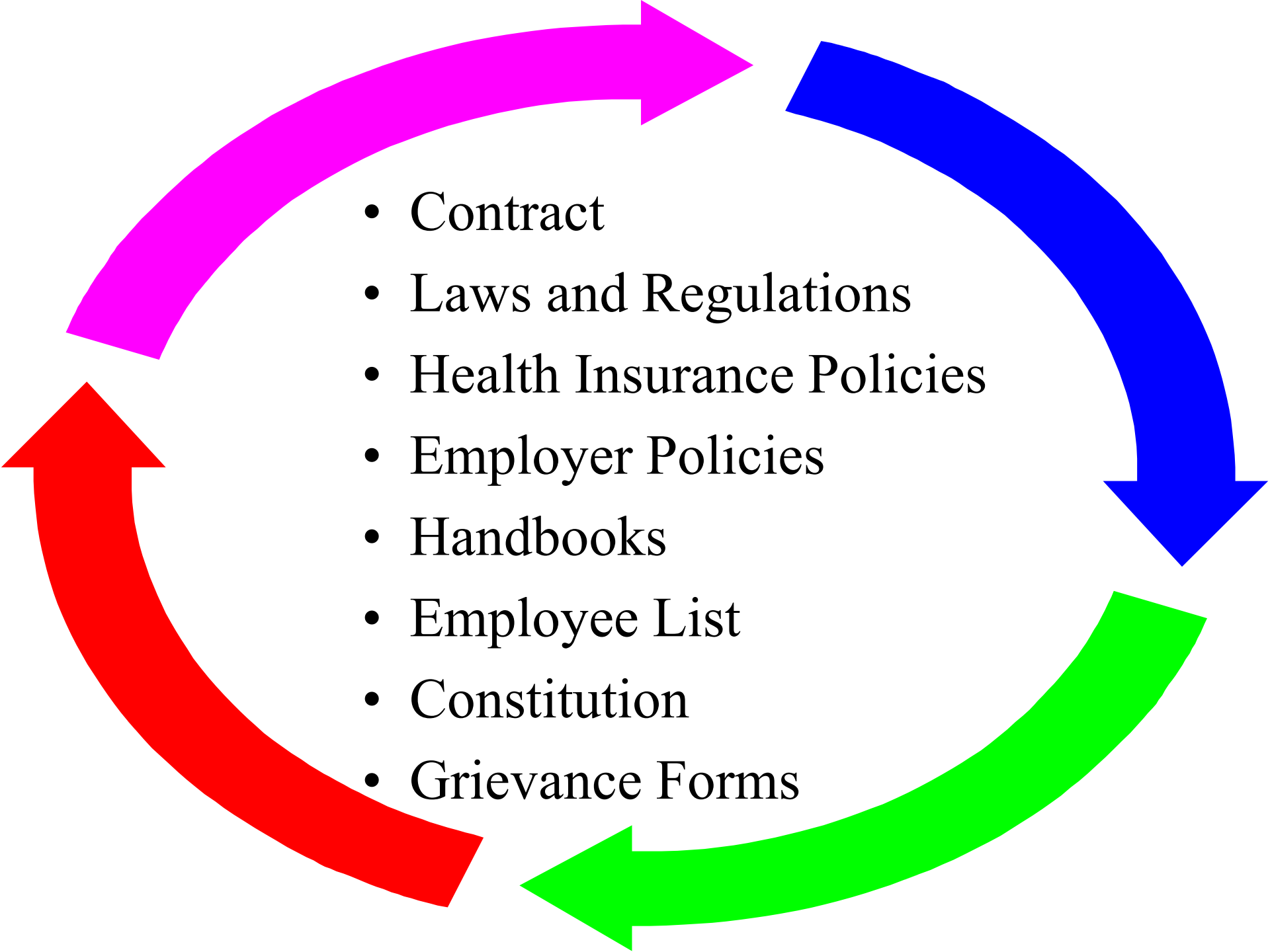
Means that the mistreatment of any individual worker creates the possibility of mistreatment for every worker.

Requires that workers come to the support and defense of fellow workers who are threatened.

# Union Representative's Tools





- 
- Contract
  - Laws and Regulations
  - Health Insurance Policies
  - Employer Policies
  - Handbooks
  - Employee List
  - Constitution
  - Grievance Forms

# What is a Contract?



- An exchange of promises
- Legally enforceable
- Specific duration

# Do you know your contract?

1. What is the minimum and maximum compensation provided by the contract?
2. Does your contract have a personal leave provision? If yes, what are the contractual requirements for use of personal leave?
3. How many sick days does your contract provide? What is the maximum accumulation, if any?
4. What provision does your contract have regarding length of the work day?

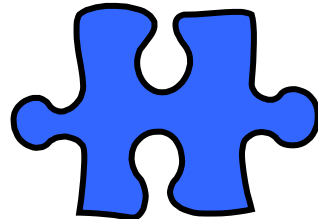
5. Does your contract grant a unit member the right to see the personnel file? If yes, what are the requirements for making such a request?
6. What provision does your contract have for medical benefits? Do unit members pay any of the costs; if so, how much?
7. Does your contract provide for child-care leave? If so, what are the requirements for obtaining such a leave?
8. What is the expiration date of your contract?
9. Does your contract have a provision regarding safety and health issues? Are alleged violations grievable?
10. Does your contract have a provision for on-going dialogue between the administration and the union at the district level? At the site level? Is the scope of discussions defined?

# Contract Rights

A set of binding rules of what is permitted and what is prohibited.

Parties are bound to its terms.

A grievance is a violation of a rule stated in the contract.



# The Union Representative as Contract Enforcer

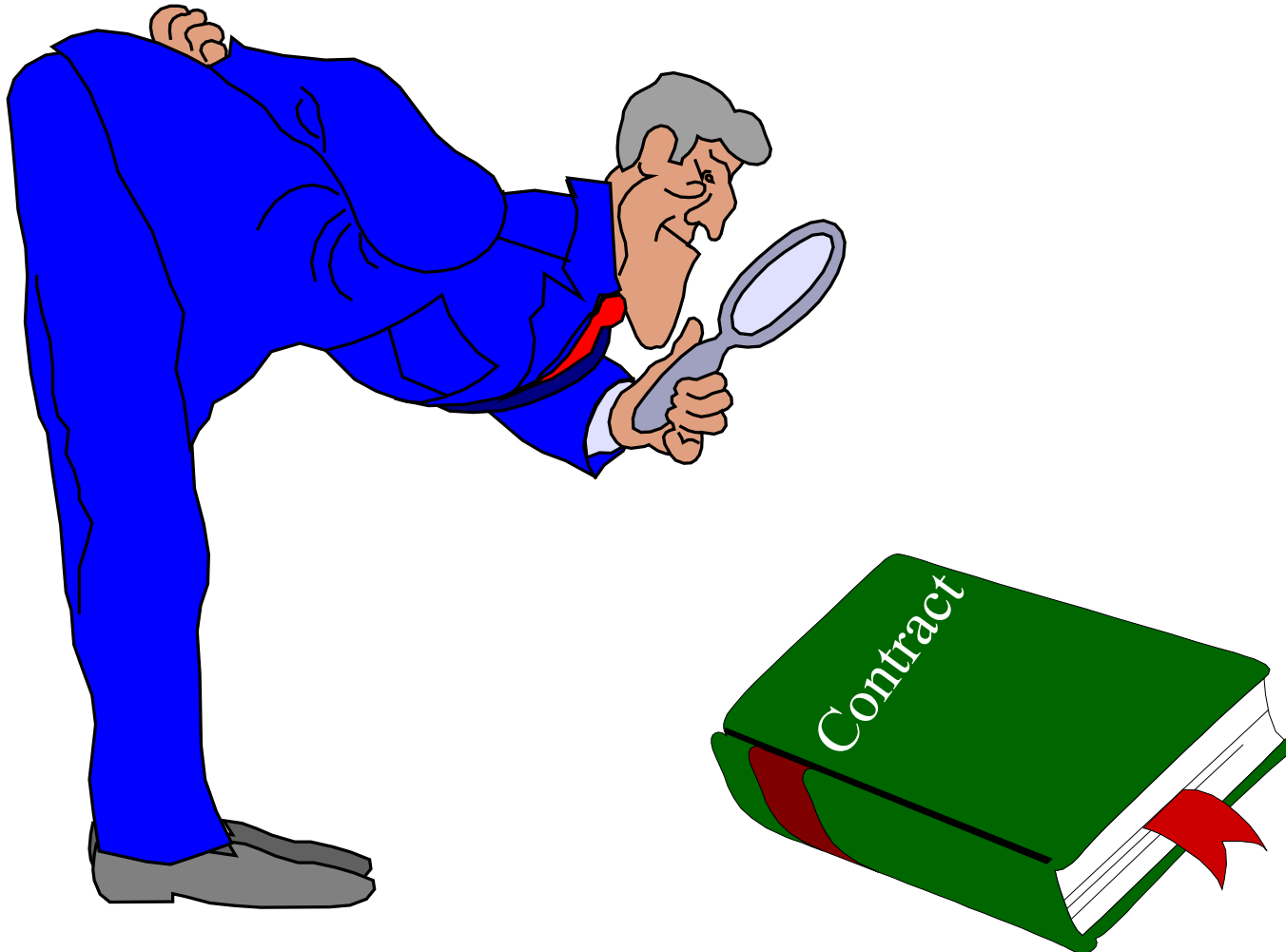
- Interview the complainant
- Secure available documentation
- Identify relevant contract language
- Meet with other parties as necessary
- Make a judgment
- File the grievance if appropriate



# The Union Representative and grievance processing

- Local Contract Guidelines
  - Local Grievance
- Grievance Procedure Analysis

# Contract Grievance





# Grievance Procedure Analysis



- Who can grieve?
- What is a grievance?
- Are grievances confidential?
- What happens if management settles a grievance without the union?
- When should a grievance be filed?
- What should you do if management fails to reply?
- Are time limits measured in school days or calendar days?
- What are the time limits if the violation occurs on the last day of school?
- Can a grievant represent him/herself?
- What are the time limits between steps?

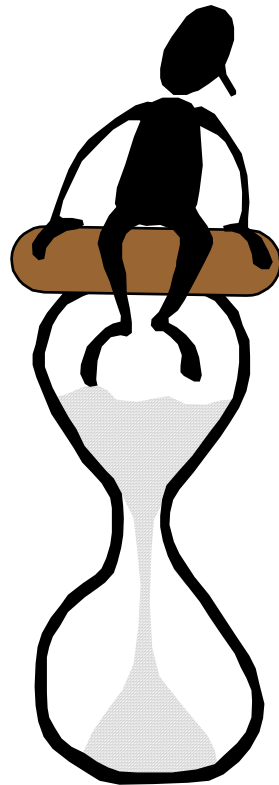
# I Think I Have A Grievance

- DIRECTIONS: THIS FORM IS TO BE COMPLETED BY THE PROFESSIONAL STAFF MEMBER(S) WHO FEEL THAT THEY MAY HAVE A GRIEVABLE SITUATION. THE P.R.&R. (PROFESSIONAL RIGHTS AND RESPONSIBILITIES) COMMITTEE AND/OR ASSOCIATION OFFICERS WILL CHECK INTO THE SITUATION AND CONTACT THE MEMBER(S) TO RELATE FINDINGS OR DETERMINATION.

# I think I Have A Grievance

- NAME:
- DATE OF OCCURRENCE:
- AREA/PAGE OF CONTRACT IN VIOLATION:
- THE SITUATION (NARRATIVE)

**TIME  
LIMITS!**



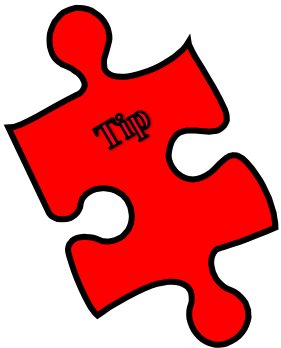
# Informal Problem-Solving

The UR . . .

- **Listens in a non-judgmental manner.**
- **Determines how best to handle a problem**
- **Is supportive of the member with a problem.**
- **Is assertive on behalf of the members and the Union.**
- **Preserves confidentiality.**
- **Maintains records.**



# The GRIEVANCE Form



## SOMEWHERE LOCAL UNION

Grievant: \_\_\_\_\_

Stage: \_\_\_\_\_

Contract Article(s) violate \_\_\_\_\_  
\_\_\_\_\_

Nature of Grievance: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Remedy Sought: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date  
\_\_\_\_\_

Union Representative  
\_\_\_\_\_

# Saying “No” to a Grievant (when necessary)



- ✓ Don't put it off.
- ✓ Explain the issue fully.
- ✓ Offer to help in other ways.

# Grievance Investigation: WHO

- ...is the complainant?
- ...is the witness
- ...is the management representative involved?
- ... is willing to stand behind the claim?



# Grievance Investigation -- WHAT:

- ...is the real or imagined complaint?
- ...is alleged to have been done or not done?
- ...section of the contract is involved?
- ...is the organizational interest in the claim?

# Grievance Investigation -- When

- ...did the incident occur?
- ...did the “clock” start running?
- ...is the filing deadline?

# Grievance Investigation -- Where

- ...is the violation alleged to have occurred?
- ...is the appropriate level to enter the grievance?

# Grievance Investigation -- WHY

- ...did it occur?
- ...is it a grievance?

# Grievance Investigation -- HOW

- ...is the organization affected?
- ...has the member been affected?
- ...have such matters been resolved in the past?
- ...should this matter be processed?

# Presenting a Grievance

- KNOW YOUR FACTS
- STICK TO THE POINT
- SETTLE THE GRIEVANCE  
AT THE LOWEST STEP  
POSSIBLE
- TAKE A POSITIVE  
POSITION...NOT  
DEFENSIVE





# Presenting A Grievance

- DISAGREE WITH DIGNITY
- MAINTAIN A UNITED POSITION
- BE PROMPT...FOLLOW THE GRIEVANCE THROUGH

# Gripes vs Grievances

## ▶ Gripes

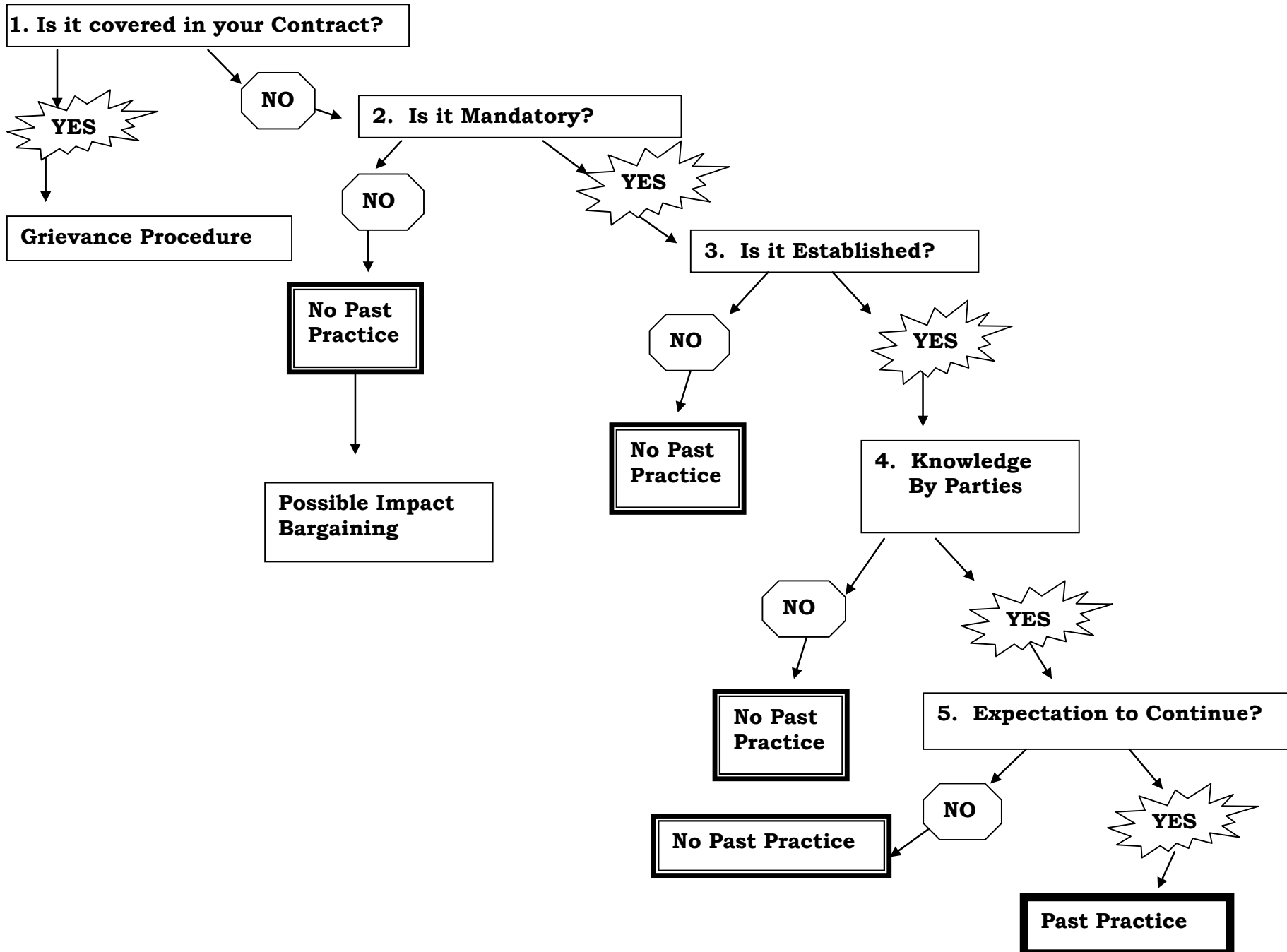
Complaints that do not meet the definition of a grievance in your contract.

## ▶ Grievances

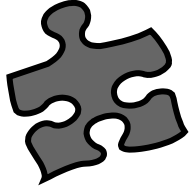
Complaints that do meet the definition in your contract.



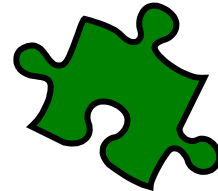
# PAST PRACTICE FLOW CHART



# Disciplinary Meetings



- Find out what the meeting is about
- Advise member to answer questions directly; do not add unnecessary information
- Make sure members know rights ahead of time

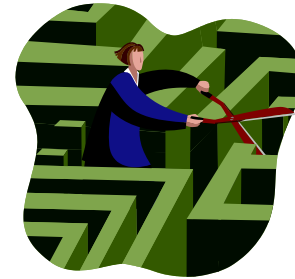


# Preparing the Employee

- Obligation to answer questions (or not)
- Value of truthfulness
- Limited value of candor
- “Cue” to stop talking
- Breaks as necessary
- Union rep does NOT enjoy attorney-client privilege



# In the meeting

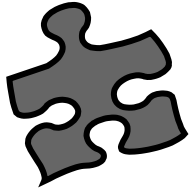


- Establish “ground rules”
- Rephrase: “What he/she meant to say was....”
- Take good notes
- Get a copy of any transcript and/or tape recording

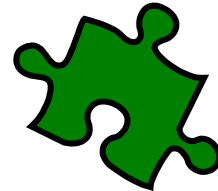
# Probationary Teacher Rights

- Termination according to Educ. Law 3031:
  - No hearing required
  - Notification to teacher
  - Right of teacher to request reasons in writing
  - Teacher has opportunity to respond to reasons for termination

# Weingarten Rights



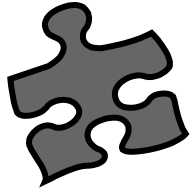
If you are called into a disciplinary meeting, or a meeting you think might result in disciplinary action, you have the right to union representation. The member **MUST** make the request for union representation!





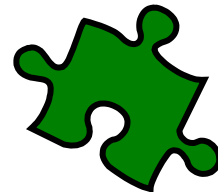
**Best advice to a member  
who is called on the  
carpet:**

**“Request a  
representative.”**

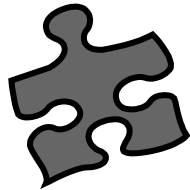


# Cadet Rights

A **tenured** teacher can refuse to answer questions, without being found insubordinate, during an investigation that the teacher believes could lead to such disciplinary action.

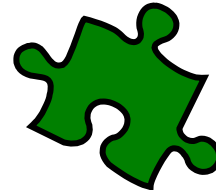






# Garrity Rights

- Garrity rights can be asserted whenever an employee believes they are being investigated for events that might involve possible criminal conduct. If the employer demands that you answer questions concerning possible criminal misconduct, then Garrity rights apply because you are being “forced” to answer possibly incriminating questions.





**DUTY  
OF  
FAIR  
REPRESENTATION**

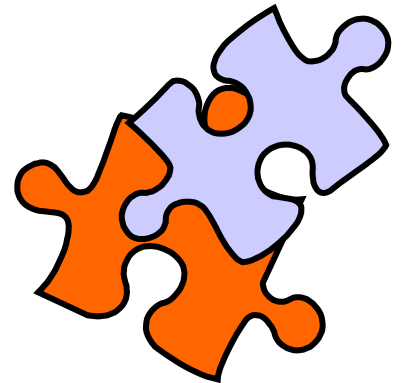
# **CASE STUDY AND PRACTICE - Duty of Fair Representation**

The Union Representative has announced that he will represent only members in discussion with the administration and in processing grievances.

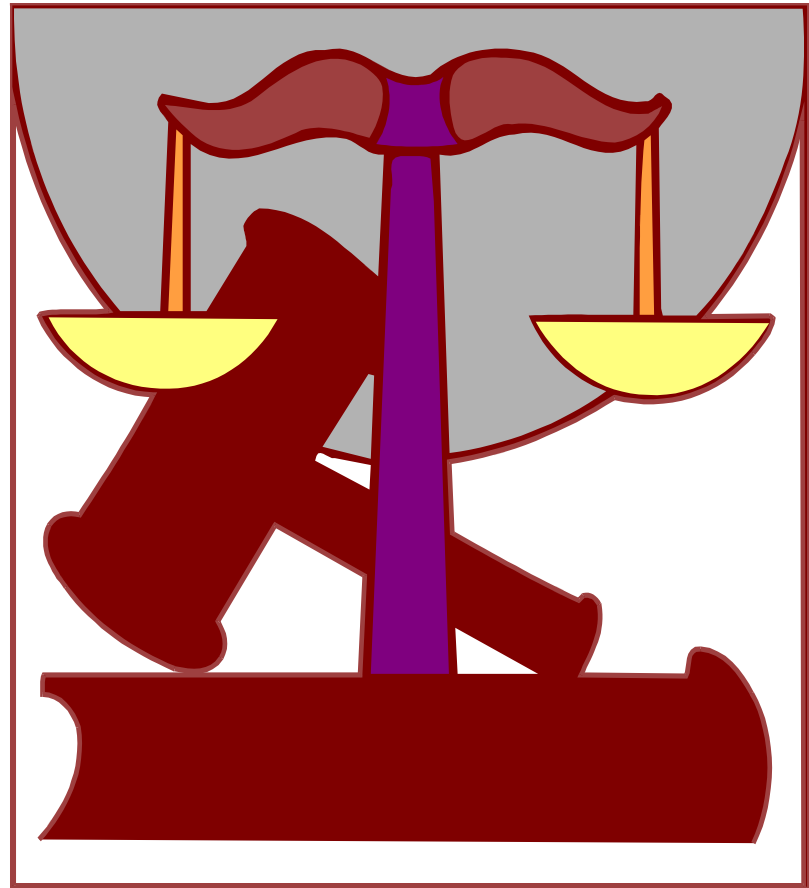
1. Do you agree with the Union Representative's position?  
Why?
2. Was the Union Representative correct in assuming this position?
3. Is the Union Representative responsible for representing non-members?
4. How would you handle this situation?

**THE UNION HAS A  
RESPONSIBILITY TO REPRESENT  
ALL MEMBERS OF THE  
BARGAINING UNIT:**

**Fairly  
Faithfully  
Fully  
Without bias**



- Obligation to all bargaining unit members
- Arbitrary Actions
- Negligence
- Bargaining Information
- Pursuit of Grievances



# Duty of Fair Representation

Unemployment Compensation

Workers' Compensation

Publications

Negotiations

Ratification

Internal Elections

Union Meetings

	Member		Non-Member
Unemployment Compensation			
Workers' Compensation			
Publications	★		
Negotiations	★		★
Ratification	★		
Internal Elections	★		
Union Meetings	★		

# Representation

Member		Non-Member
★		★
★		★
★		★
★		
★		
★		★

Covered by the contract?

Entitled to a copy of the contract?

Entitled to representation in grievances?

Entitled to representation in arbitrations?

Entitled to a NYSUT lawyer in legal cases?

Representation in contractual discrimination cases?

Representation before the NYS Division of Human Rights

# Duty Of Fair Representation: Hypos

You are a building rep. There is a teacher in your building named Penelope Paininthe. In Penelope's 6 years as a teacher in your district, there has never been a semester that she has not brought to you a complaint—and every time, after investigation, the complaint was unfounded. You've learned that she is a complainer and she is unreliable.



# DFR Hypos (cont.)

- On October 1, Penelope Paininthe comes to you claiming that her principal is making her supervise her 2<sup>nd</sup> grade students beginning at 7:50, even though the contractual workday does not begin until 8:15. You know this is ridiculous. You would have heard about it. You do nothing.
- DFR?

## DFR Hypos (cont.)

Same as above: But your contract has a grievance procedure that mandates that Stage 1 grievances be brought within 20 days. You file Stage 1 on December 11, and it gets denied because of timeliness.

DFR?

## DFR Hypos (cont.)

Same as above, except you investigated, and found that children were not brought into the classroom until 8:15. Therefore, you did not proceed. The following April, the Union gets served with a DFR Charge from Albany, brought by Penelope Paininthe.

How do you defend the DFR?

## DFR Hypos (cont.)

Same as above, except you investigated, and found that children were not brought into the classroom until 8:15. After your investigation, you did not advise Penelope of your findings and decision. DFR?

## DFR Hypos (cont.)

Same as above, except you investigated, and found her statements and complaints to be true. However, Penelope is 82 years old, eligible to retire, has lost a few miles per hour off her fastball, and, if she retires, 2 newer teachers (including your sister-in-law) will avoid being laid off. You did not file a grievance.

DFR?

## DFR Hypos (cont.)

Same as above, except 5 teachers come forward with the same complaint—you can only prosecute 2 grievances at a time (because you're too busy), so you pick 2 names out of a hat. One of the names you do not pick is Penelope.

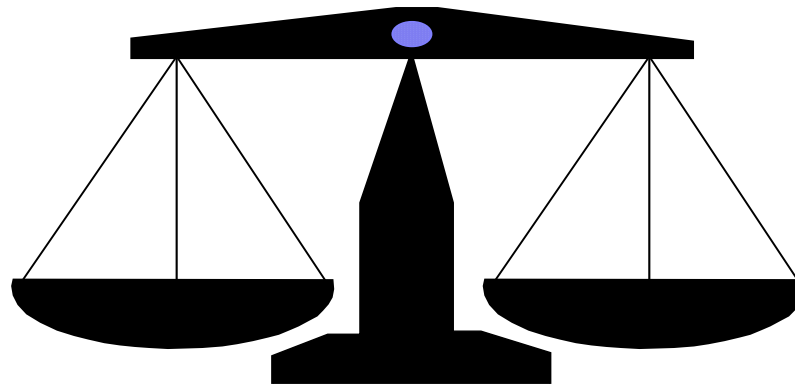
DFR?

## DFR Hypos (cont.)

Same as above. But Penelope is not just a complainer and unreliable. She is not a member. You decide you can't take the time to look into this for someone who is not even a member.

DFR?

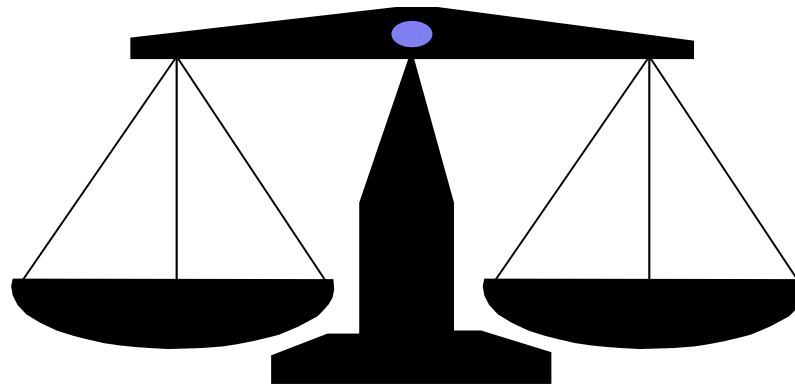
# Labor Law



The Taylor Law is one of many labor laws covering employees in New York State.

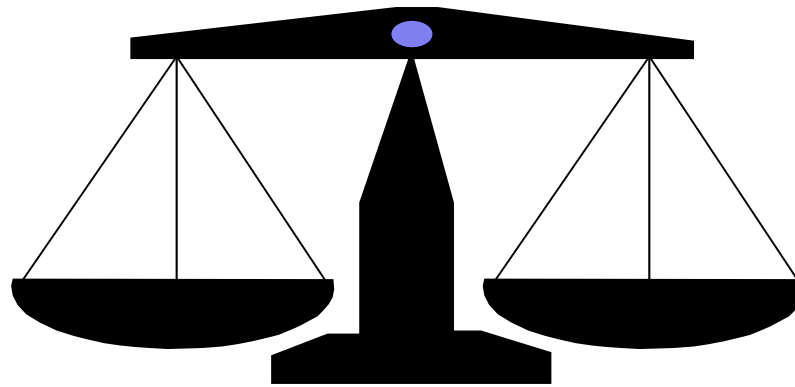


# Education Law



The Education Law is a New York State statute covering school employees in New York State.

# Civil Service Law

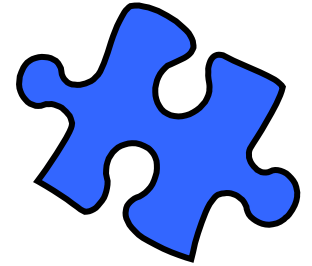


The Civil Service Law is a labor relations statute covering civil service employees in New York State.

# What is the Taylor Law?

- Article 14, NYS Civil Service Law (1967)
  - Public Employee Rights
  - Public Employee Responsibilities
    - Establishes PERB
- Promotes & Protects Positive Labor Relations

# Taylor Law continued



The Taylor Law does the following:

- grants public employees the **right to organize** and to be represented by employee organizations of their own choice;
- *requires* public employers to **negotiate** and **enter into agreements** with public employee organizations regarding their employees' terms and conditions of employment;
- **establishes impasse procedures** for the resolution of collective bargaining disputes;

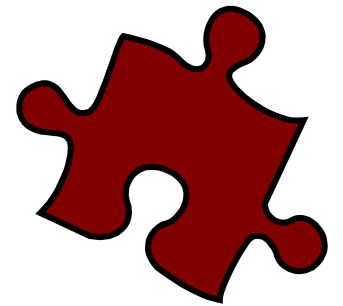
# Taylor Law continued



- defines and prohibits **improper practices** by public employers and public employee organizations;
- prohibits strikes by public employees;
- and establishes a state agency to administer- the Law - the **Public Employment Relations Board (PERB)**.

# Improper Labor Practices

- These Taylor Law rights are enforced by the Section 209 a, Improper Labor Practice sections of the Law.
- If management violates these principles, it may commit an improper labor practice under appropriate law.



# Taylor Law Enforcement

## Improper Practice Charges

- Investigate
- File the Charge
- Informal Conference
  - Formal Hearing
- Administrative Law Judge Decision
  - Appeals

# Seniority

- Seniority
  - Sections 2510, 3013, NYS Education Law
  - Accruing seniority
- Abolition of Positions
  - Least senior in tenure area
  - “Bumping” rights
- Preferred Eligibility Rights



# What is Civil Service Law Section 75?

- Civil Service law section 75 ensures that an employee may not be removed or subject to discipline except for incompetency or misconduct shown after written charges and a hearing on those charges.
- Section 75 provides employees with due process.
- Section 75 is due process.

# The Standard

**Incompetence**: The inability to perform resulting from a lack of aptitude, a deficiency in knowledge, or a disregard for direction, procedures or methods.

**Misconduct**: An act or omission of intentional wrongdoing, deliberate violation of law, rule or regulation, improper behavior, or refusal to obey or comply.

# Who does Section 75 apply to?

Section 75 applies to employees in the competitive class upon permanent appointment and employees in the non-competitive class **AND** labor class after five years of continuous service.

## **Are probationary employees covered?**

The only exception to the probationary period rule would apply to a permanent employee who has received a promotion and is serving a probationary period in the promoted position. In such cases, any Section 75 protection the employee was previously entitled to would continue.

## **Are temporary employees covered?**

No, temporary employees are not covered. You must have a permanent appointment to a position.

# Section 75 process

1. Investigation by District (employee typically placed on administrative leave)
2. Meeting with employee and union representative (employee must request union representation as per Taylor law)
3. Charges are drafted and approved by Board of Education
4. Charges are served on employee
5. NYSUT counsel's office or LRS assumes representation of employee
6. Employee is placed on leave without pay status for up to 30 days prior to hearing
7. Employee either a) agrees to settlement; b) resigns; c) charges are withdrawn; or d) proceeds to Section 75 hearing.
8. Section 75 hearing officer determines a) misconduct and, b) what the penalty should be.

The DFR extends to non-members because of the exclusivity of your union to represent all employees in the bargaining unit.

What activities must be provided:

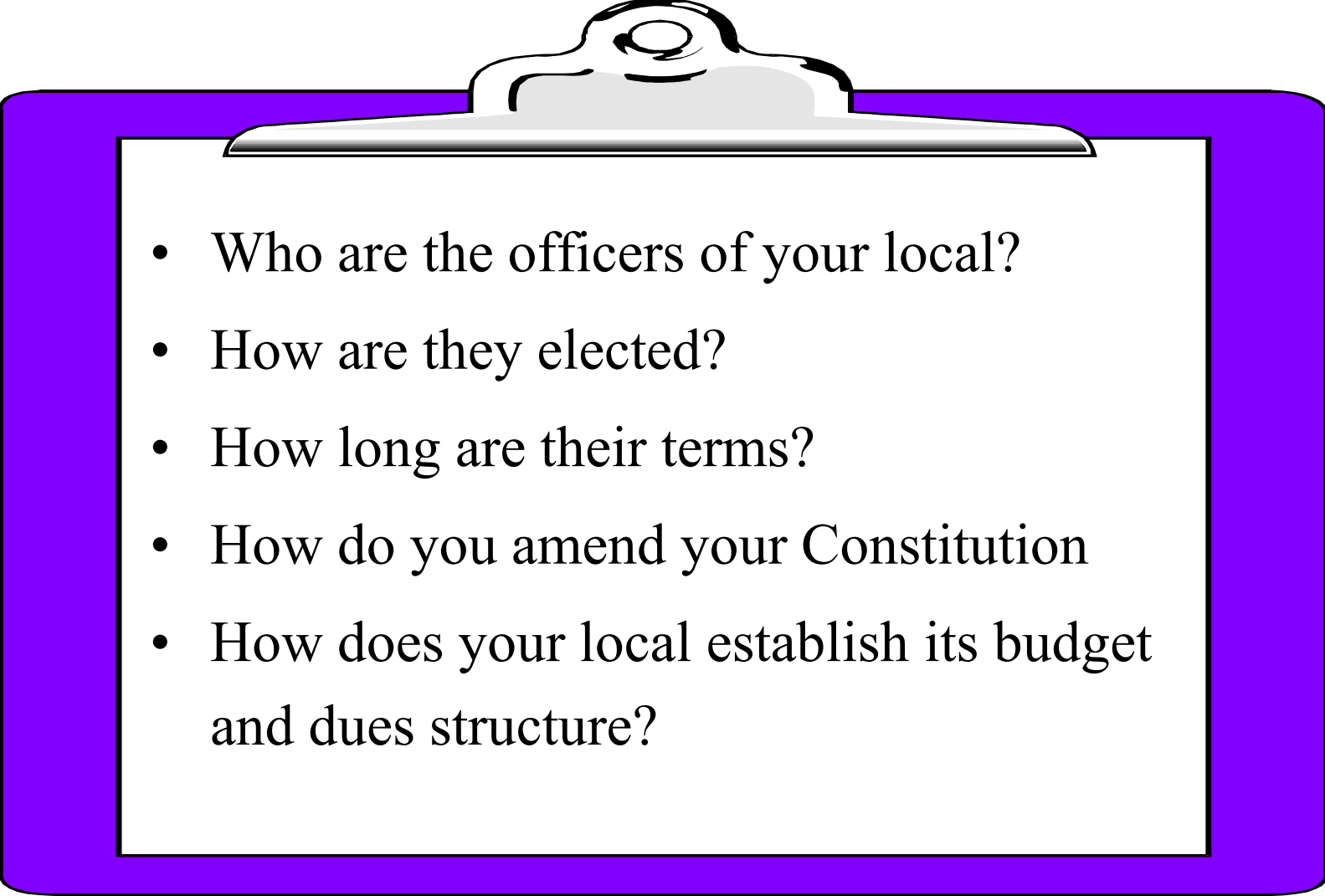
- Enforcement of the contract.
- Negotiation of the contract.
- Who must comply with DFR?  
Union officers, building reps, and anyone affiliated with a union position.

NYSUT GOVERNANCE and  
YOUR LOCAL

Developing a working knowledge of the structure and relationships of the Union



# Local Structure and Function

- 
- Who are the officers of your local?
  - How are they elected?
  - How long are their terms?
  - How do you amend your Constitution
  - How does your local establish its budget and dues structure?

Local Union  
Membership

**Local Union  
Membership**

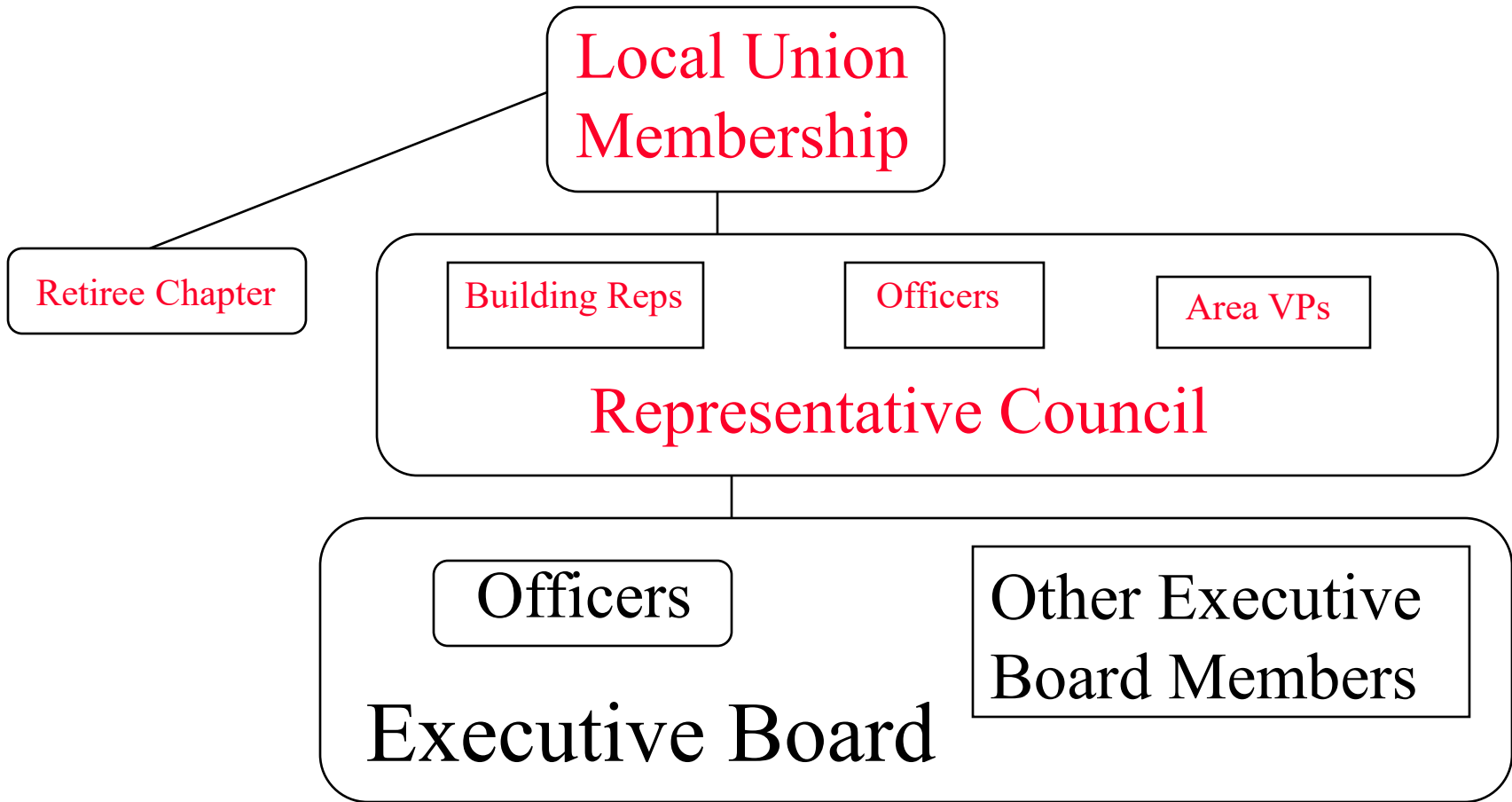
Retiree Chapter

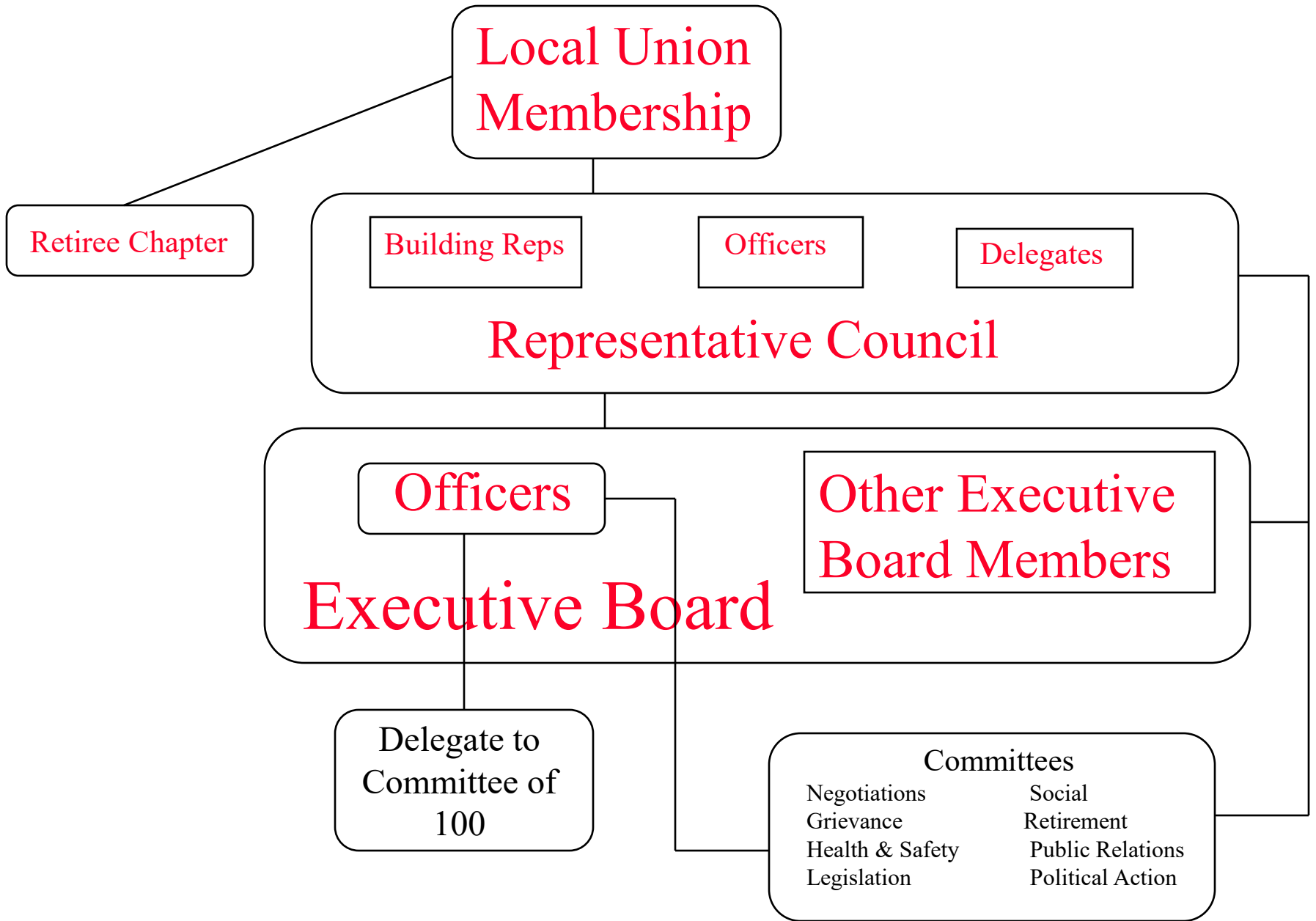
Building Reps

Officers

Delegates

**Representative Council**





**Local Union  
Membership**

**Retiree Chapter**

**Building Reps**

**Officers**

**Delegates**

**Representative Council**

**Officers**

**Other Executive  
Board Members**

**Executive Board**

**Delegate to  
Committee of  
100**

**Committees**

Negotiations

Grievance

Health & Safety

Legislation

Social

Retirement

Public Relations

Political Action

# REGIONAL ORGANIZATION STRUCTURE

## NYSUT Regional Office

Provides support services to all locals in region.

## NYSUT Election District (ED)

Provides grassroots communication with elected local leaders

## Local Organization

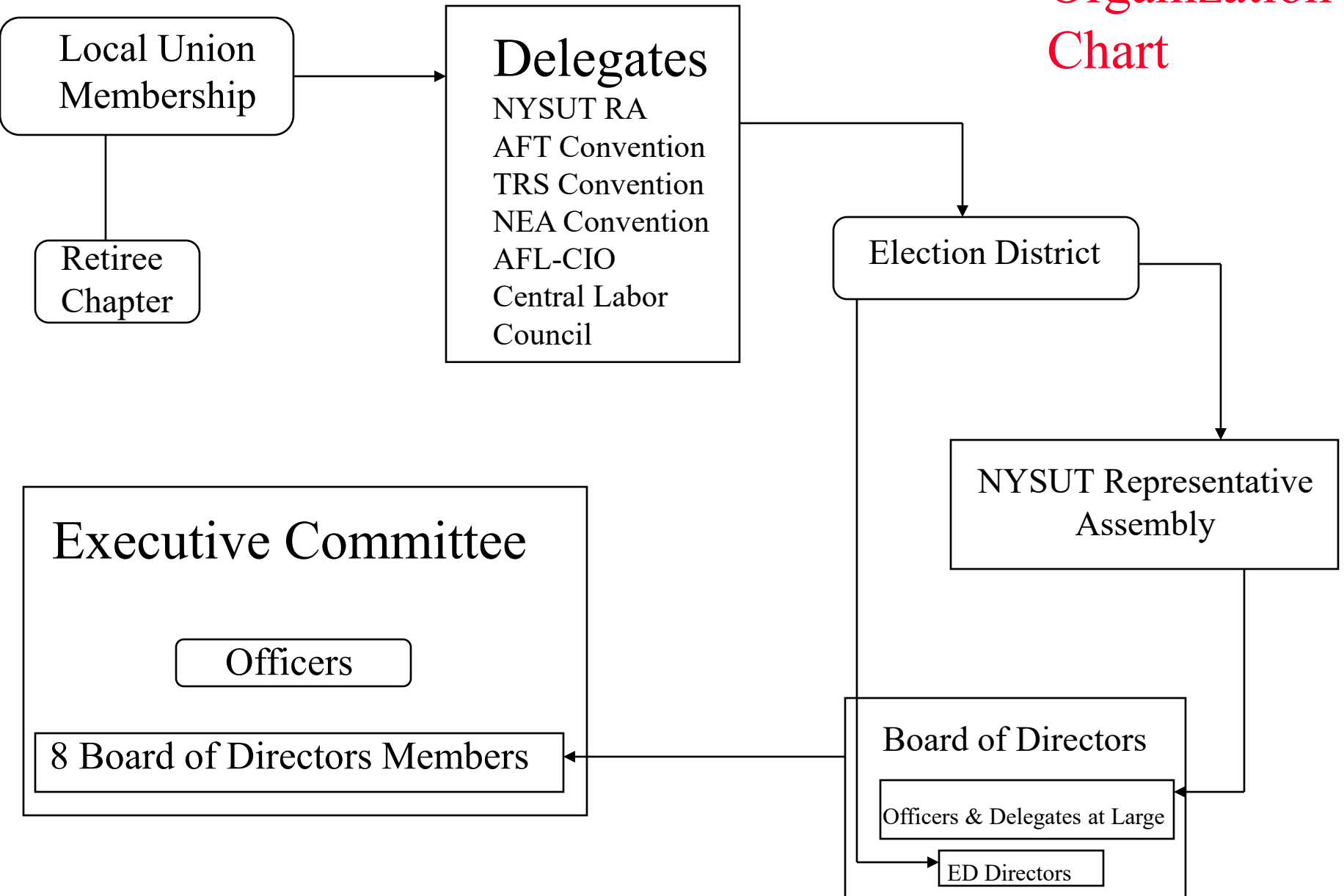
## AFL-CIO Central Labor Council

Membership open to all AFL-CIO affiliated local organizations. NYSUT pays dues for all its affiliates.

## County or Regional Councils

Optional information sharing organizations of presidents, negotiators, etc.

# NYSUT Organization Chart



Human Relations Skills  
in  
Labor Relations



# Human Relations Skills in Labor Relations

- Dealing with a member who received a poor evaluation
- Dealing with a member who is being disciplined
- Dealing with a member who is being laid off



# Planning a Meeting with the Employer

- Size of group - how selected?
- Where will you meet?
- How long will you meet?
- What are the seating arrangements?
- What are the agenda items and desired outcomes?
- What research is required -- who will do it?
- Who will speak
- What will you do if no decision is reached?



# Additional Tools for your Belt

# Six Rules for More Effective Listening



- Look at the other person



- Ask questions



- Don't interrupt



- Don't change the subject

- Check your emotions; suspend judgment



- Be responsive



A black-outlined scroll is unrolled, showing three lines of red text. At the bottom right, a red ribbon is tied into a bow, with a yellow circular seal featuring a black sunburst pattern in the center.

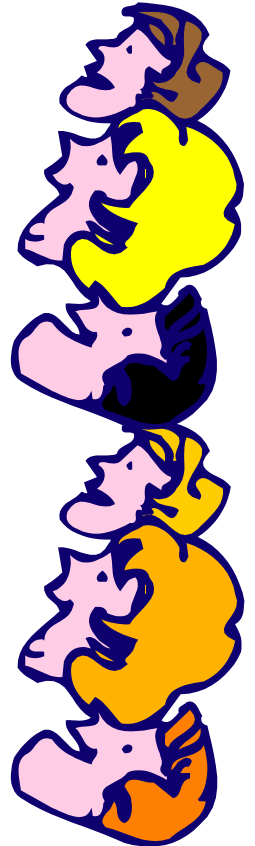
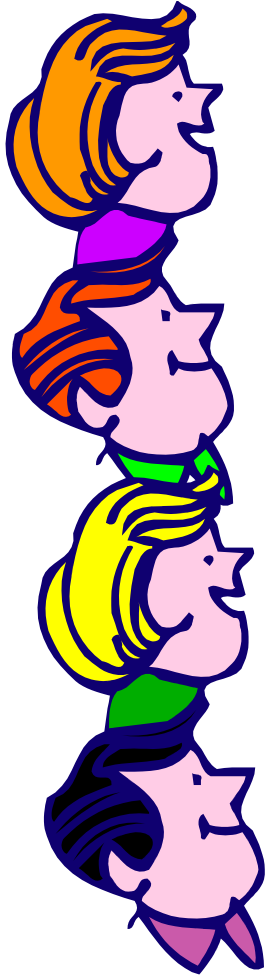
UNDERSTANDING

PRECEDES

EVALUATION

# Problem Resolution Techniques

- Prepare before you meet
  - State proposals clearly
    - The “Yes” habit
- Emphasize the solution, not the problem
  - Be confident
  - The forced choice
  - Allow for face-saving
- Explain, discuss, persuade -- don't plead
- Avoid personality-centered discussions
  - Seek closure
  - Keep records

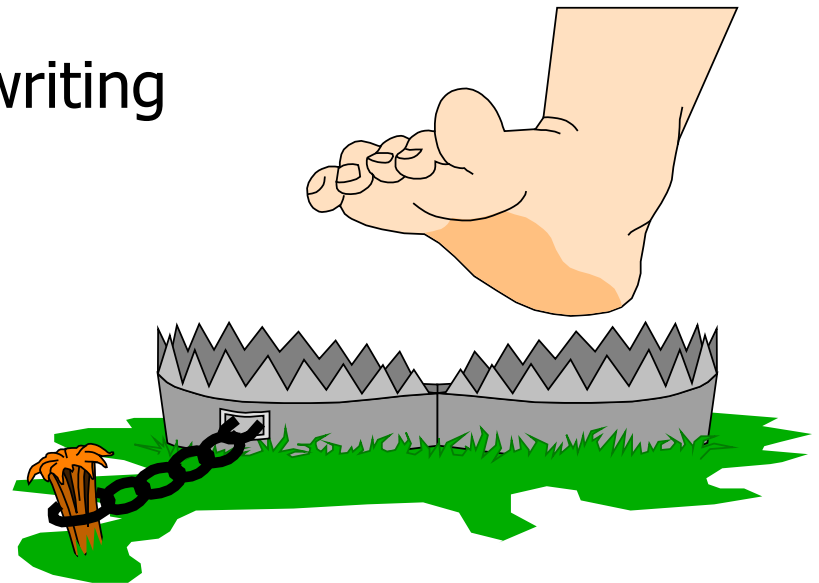


# CASE ANALYSIS

- Is the matter covered by the contract? Which provisions apply?
- What responsibility and authority does the Union Representative have for handling this problem?
- What information should the Union Representative seek before proceeding?
- Should the Union Representative inform or consult with anyone before or after proceeding?
- What skills would be useful in addressing this case?

# It's a Mistake to:

- ☹ Represent unfairly or unequally
- ☹ Promise remedies too quickly
- ☹ Fail to speak with new members
- ☹ Fail to adhere to time lines
- ☹ Let grievances go unfiled
- ☹ Fail to get settlements in writing
- ☹ Fail to publicize victories





# UR Tip

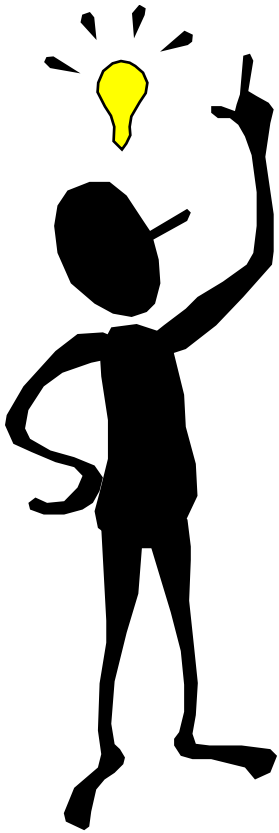


**You have a duty to  
represent all members  
fairly.**

# UR Tip



**Make no deals without  
Association approval.**



## UR Tip

**Best advice to a member  
who is called on the carpet:**

**“Request a  
representative.”**



# UR Tip

**Keep Good Records.  
When in doubt, keep it.**



# UR Tip

**Your union is the  
exclusive bargaining agent.**

# UR Tip



**Terms and conditions of employment can be protected whether they are in the contract or not.**

# UR Tip



**Remind your members:  
first follow orders;  
then grieve.**

# UR Tip



**Whenever terms and conditions are changed (or created) without negotiations, sound the alarm.**



# UR Tip



**When feasible, don't talk to management about a member without informing the member.**

### **3. What do effective URs do?**

Quick Answer:

**Effective UR's are leaders,  
organizers, and advocates.**

# Need help?

Training is available on....

- Advanced Union Rep Training
- Coalition Building
- Decision Making
- Negotiations
- Assertive Behavior
- Communications
- Problem Solving
- Grievance Processing
- Leadership
- Public Relations
- Membership Promotion
- Organizing
- Conflict Management
- Local Political Action



**Contact regional office or Labor Relations Specialist for additional training programs.**

Please....

Fill out the  
Evaluation Form



*Thank you!*

## Channels of Communication Hypotheticals

At times it may be necessary for you to communicate with your entire membership and/or with the administration. Channels of communication should be set up for use when the need arises. Discuss the steps you want to take in the following situations:

- A. It has been reported that a student in a middle school classroom has decided to change her first name to a gender neutral name and wants to be identified in school as a boy.

The classroom teachers want to support the student's wishes. But the student's parents insist that teachers use the student's name that was assigned at birth and refer to the student's gender accordingly.

A group of parents plans to picket the school in protest, on both sides of this issue.

Your union's executive committee has asked that members in each building contribute ideas for a course of action that will protect the child's rights and decrease community tensions.

- B. A serious impasse exists in negotiations. The negotiator for the employer recently issued a public statement accusing your negotiation team of being a small clique of super-militants out to make a name for themselves and are not really representing the desires of local members. Your local president has responded by demanding to speak at the next meeting of the board and urging all members to attend as a show of solidarity. The meeting is scheduled four days from now.

- C. NYSUT has advised all locals that a bill, aimed at seriously reducing negotiable items under the Taylor Law, has been reported out of committee and will be debated by the Senate and Assembly the day after tomorrow.

## CASE STUDY AND PRACTICE

### School Reorganization

The Board of Education has adopted a reorganization plan changing the grade levels in the schools. The union executive board has endorsed the plan. Some members, however, are upset about mass transfers and potential layoffs. A number of members have approached you complaining that they have been sold out by the union.

How do you respond?

### Endorsement of a Candidate

Several members have become annoyed at the union's endorsement of a candidate. They are threatening to terminate their membership and argue that they are intelligent, independent beings and resent the union telling them how to vote.

Two members have taken the initiative of urging others to join them in sending a letter of protest to the president. You, as Union Representative, are meeting with them to discuss the union's position. How will you prepare for this meeting?

## EXERCISE 1 - CONTRACT TEST

(Refer to your contract for the answers)

1. What is the minimum and maximum compensation provided by the contract?
2. Does your contract have a personal leave provision? If yes, what are the contractual requirements for use of personal leave?
3. How many sick days does your contract provide? What is the maximum accumulation, if any?
4. What provision does your contract have regarding length of the work day?
5. Does your contract grant a unit member the right to see the personnel file? If yes, what are the requirements for making such a request?
6. What provision does your contract have for medical benefits? Do unit members pay any of the costs; if so, how much?
7. Does your contract provide for child-care leave? If so, what are the requirements for obtaining such a leave?
8. What is the expiration date of your contract?
9. Does your contract have a provision regarding safety and health issues? Are alleged violations grievable?
10. Does your contract have a provision for on-going dialogue between the administration and the union at the district level? At the site level? Is the scope of discussions defined?
11. What is the definition of a grievance in your contract? Within how many days must a grievance be filed?
12. Does the contract exclude subjects from grievance?
13. Is there a written guarantee, which protects the employee from reprisal?
14. Who may present a grievance?
15. What are the time limits at each step of the procedure?

## EXERCISE 2 - ANALYSIS OF THE GRIEVANCE PROCEDURE

1. Who can grieve?
2. What is a grievance? Are past practices and/or maintenance of benefits included?
3. Must or should grievances be kept confidential?
4. What can the Union do if grievances are resolved without the involvement of the Union?
5. When is a grievance filed?
6. What do you do if management fails to reply?
7. Are time limits measured in school days, work days or calendar days? Other?
8. What happens to time limits when a grievance occurs on the last day of school or toward the end of the year?
9. Can a grievant represent him/herself?
10. What are the time limits between steps?



INSERT GRIEVANCE FORMS

Then Past practice worksheet

## POTENTIAL GRIEVANCE SITUATIONS

1. The middle school librarian is called into the principal's office and asked to work Wednesday afternoon from 3-7 p.m. on the middle school book fair.
2. An employee requests and receives approval for a personal leave day. The employee then is seen at a local shopping mall on that personal leave day. The employee's next paycheck has a day's pay deducted.
3. A teacher aide has been assigned to cover a class for two periods while the teacher deals with an emergency.
4. An employee receives a memo berating him for his behavior at the recent faculty meeting. He has been advised the memo has been placed in his personnel file.
5. A clerk/typist is directed to work late to enter data into a computer program.
6. A high school English teacher has been assigned six classes.
7. A community resident has been appointed varsity football coach (or substitute: time-keeper, chaperone, cheerleading coach, etc.). Bargaining unit members are irate at being bypassed.
8. An employee is directed by a school administrator to search the building after a bomb threat has been phoned in.

SAMPLE GRIEVANCE FORM

Union Letterhead

Grievant: \_\_\_\_\_ Grievance No. \_\_\_\_\_

Stage: \_\_\_\_\_

Contract Article(s) Violated \_\_\_\_\_

Nature of Grievance:

---

---

---

---

---

---

---

---

Remedy Sought:

---

---

---

---

---

---

---

---

Date Union Representative

\*Your contract may already include a Grievance Form

## DUTY OF FAIR REPRESENTATION QUESTIONNAIRE

(Adapted from The Legal Rights of Union Stewards by Robert M. Schwartz)

1. We are grieving a one-day suspension. The grievant wants us to go to arbitration, but this could cost the union \$2,000 in legal expenses. It seems foolish to spend this much money for one day's pay, especially when the union is low on funds. Do we have to arbitrate?

Yes \_\_\_\_\_ No \_\_\_\_\_

2. A worker was suspended for two weeks because of absenteeism. At the third step of the grievance procedure, the company offered one week's back pay. We think this is a reasonable settlement, but the employee wants us to go to arbitration to get full back pay. If we accept the company's offer, can the employee sue us?

Yes \_\_\_\_\_ No \_\_\_\_\_

3. Our contract says that employees must serve a 90-day probationary period. Do we have to represent them during this time?

Yes \_\_\_\_\_ No \_\_\_\_\_

4. Two employees were suspended for one week for serious insubordination. At the first step of the grievance procedure, the company offered to reinstate one employee with back pay if we dropped the grievance of the second worker. Can we do this without risking a DFR suit?

Yes \_\_\_\_\_ No \_\_\_\_\_

5. We filed a grievance against a letter of warning. At the grievance meeting, the company presented good reasons for its actions. Do we have to make fools of ourselves by pursuing this grievance?

Yes \_\_\_\_\_ No \_\_\_\_\_

6. If we decide not to arbitrate a grievance, is there a time limit if the employee wants to file a DFR suit against the union?

Yes \_\_\_\_\_ No \_\_\_\_\_

## TRUE OR FALSE QUIZ- TENURE AND SENIORITY

1. \_\_\_ Only tenured employees have seniority rights.
2. \_\_\_ Tenure is the same as seniority.
3. \_\_\_ Tenure areas are different after August 1, 1975.
4. \_\_\_ Your seniority for excessing or layoff may be different from your seniority for recall.
5. \_\_\_ Part-timers do not accrue seniority.
6. \_\_\_ Tenure area and certification are identical.
7. \_\_\_ Prior service as a regular substitute counts toward seniority.
8. \_\_\_ A teacher can accrue seniority in two different tenure areas at the same time.
9. \_\_\_ A teacher who voluntarily leaves a tenure area keeps recall rights to that area.
10. \_\_\_ Bumping rights and layoff rights are the same.
11. \_\_\_ Time spent on unpaid leave counts toward seniority.
12. \_\_\_ A full-time teacher can voluntarily accept a part-time position without adversely affecting seniority and tenure.
13. \_\_\_ Teaching assistants accrue seniority in the same way as teachers.
14. \_\_\_ Teaching assistants do not have tenure.
15. \_\_\_ Teaching assistants have many different tenure areas.
16. \_\_\_ A teacher assigned to a middle school can teach any grade in that school and still accrue seniority.
17. \_\_\_ Teacher aides receive tenure.
18. \_\_\_ Local school boards can establish tenure areas.
19. \_\_\_ If a district re-creates a position by changing the title, it can avoid the recall list.

KNOW YOUR RIGHTS (Please answer True or False)

UNDER NEW YORK STATE EDUCATION LAW AND COMMISSIONER'S REGULATIONS...

1. \_\_\_ all teachers (and teaching assistants) must be given 90 days' notice before termination of services.
2. \_\_\_ teachers with good observations/evaluations cannot be dismissed.
3. \_\_\_ if a teacher is dismissed, the Board must provide reasons.
4. \_\_\_ a probationary teacher is entitled to a hearing or appeal before dismissal.
5. \_\_\_ either the Superintendent or the Board can recommend a teacher for tenure.
6. \_\_\_ probationary terms must be three years long.
7. \_\_\_ probationary service can be transferred from district to district.
8. \_\_\_ teachers with tenure can be discharged at the district's discretion.
9. \_\_\_ a teacher who teaches 2 years of third grade and 1 year remedial reading has completed his/her probationary period.
10. \_\_\_ regular substitute service does not count toward probationary service.
11. \_\_\_ tenured teachers can use all their sick days and have their jobs secure.
12. \_\_\_ if a position is abolished, the Board can choose the teacher it wants to excess.
13. \_\_\_ if I am sued by a parent for alleged negligence in the classroom that lead to the injury of a student, NYSUT will provide a lawyer to defend me in court.

Session 5 – Page 3

14. \_\_\_ the school district has no right to send a tenured teacher to a psychiatrist for a psychiatric exam.
15. \_\_\_ Kindergarten Teaching Assistants and Special Education Teaching Assistants are employed in two different tenure areas.

## TAYLOR LAW

### IMPROPER PRACTICE EXERCISE

With each of the following scenarios, what possible IP could the union allege?

1. After a bitter negotiation, the chief negotiator for the union is denied his career increment (a merit based longevity increment) that 99% of teachers normally receive. Teacher's evaluations have been good to excellent for entire 18 year career.
2. After well publicized local union meeting to talk about issues in the elementary school, the elementary principal calls a probationary person at home in the evening to find out what happen at the meeting.
3. School district unilaterally takes away the morning coffee break for secretaries in the school district. The contract is silent.
4. School district ignores an executed side letter at the beginning of the new school changing the distribution of special education facilitators in the elementary and middle schools back to the original distribution stated in the contract. The side-letter had altered the distribution. The contract expired at the end of last school year.
5. The president of the teaching assistant union in the BOCES is reassigned to a remote site off campus. The president is the only teaching assistant at the site.
6. A well publicized effort is underway to organize the custodians in the school district. The Assistant Superintendent for Business visits the afternoon shift at the MS/HS during their coffee break and tells the custodians that if the organizing effort continues, the BOE will sub-contract the cleaning and custodial work in the district.
7. The school district has on the bargaining table an increase of 20 minutes in the teacher workday at the middle school. The parties have not reached any final agreement on this or any other proposal on the table. The new school year begins under the expired contract; the district implements the addition 20 minutes in the teacher workday at the M.S.

INSERT GRIEVANCE IP or other here



## UNION REPRESENTATIVE'S STATUS AND LEGAL RIGHTS

### WHAT CAN YOU DO?

1. At a grievance meeting, you get upset and call the supervisor a liar. As it turned out, you were wrong. Can you be disciplined for your actions?
2. After a grievance meeting with management, you receive a warning for "extremely loud behavior." Can you be disciplined for raising your voice?
3. During a grievance meeting, the supervisor makes a number of ridiculous statements. Infuriated, you call him a "jackass." Can management discipline you for what you said?
4. You get involved in a heated grievance meeting with the boss. In the middle of it, she says, "This meeting is over. Go back to work!" You continue to argue with her for several minutes. Are you subject to discipline for not immediately obeying her order?
5. Your contract permits Union Representatives a reasonable amount of working time to conduct union business. Last week, while investigating a grievance, your supervisor came over and ordered you to return to work. Can you refuse the order?
6. The District is investigating drug use. Can a Union Representative tell workers not to answer questions about their own drug use? Or the drug use of other employees?
7. A supervisor frequently makes workers do work outside of their job classification. As a Union Representative, do you have a legal right to tell workers to refuse their assignments?
8. You have a meeting with a supervisor in his/her office to discuss your own schedule. During the meeting you lose your temper and walk out of the room, muttering obscenities that are overheard by the office manager. Are you subject to discipline?

## WEINGARTEN RIGHTS QUESTIONNAIRE

(Adapted from The Legal Rights of Union Stewards by Robert M. Schwartz)

1. A worker is called into the boss' office in order to be informed that she has received a one-day suspension. She requests that she have a Union Representative attend the meeting. Management refused to have the Union Representative attend the meeting. Is this a violation of her Weingarten Rights?

Yes \_\_\_\_\_ No \_\_\_\_\_

2. John is called into the supervisor's office by his supervisor for a discussion of his work record. John's Union Representative is sick, so John asks that the interview be delayed until his Union Representative returns. Must management delay the interview until John's Union Representative returns to work?

Yes \_\_\_\_\_ No \_\_\_\_\_

3. You are a Union Representative and are called into the office to discuss your work record. Under Weingarten, are you entitled to a Union Representative?

Yes \_\_\_\_\_ No \_\_\_\_\_

4. A worker was given a written warning about poor attendance and told that she must participate in absence counseling sessions with a member of the human resources department. Can this worker demand the presence of a Union Representative at the counseling sessions?

Yes \_\_\_\_\_ No \_\_\_\_\_

5. You are a Union Representative and notice that a worker is being interviewed in a supervisor's office. Can you demand to attend the meeting?

Yes \_\_\_\_\_ No \_\_\_\_\_

6. A worker is called in for an interview regarding a recent accident. The worker requests that a Union Representative be present. The supervisor refuses to allow the Union Representative to be called in, claiming that he is only trying to get the facts that led to the accident, and continues to question the worker. Can the worker refuse to answer the questions of the supervisor?

Yes \_\_\_\_\_ No \_\_\_\_\_

## CASE STUDY AND PRACTICE

### **Extra Pay Assignments**

Several members complain to you that they are not receiving extra pay assignments. They indicate that a favored few get all of them. They have complained to their supervisor who has replied, “This is how we have always done it.

### **A Teacher’s Complaint About a Fellow Teacher**

A young teacher complains to you about the teacher in the room next to hers. She claims that this teacher is constantly borrowing supplies from her, that the noise level in his class is so great that she cannot conduct her own classes and that students from the other room often harass her kids. She comes to you and angrily demands that the organization do something about this situation

### **Failure to be Recommended for Tenure**

A teacher has just received a letter from the Superintendent informing him that he will not be recommended for tenure. He has come to you for advice.

Garrity/Cadet/Weingarten

1. Teacher Bob is called into a meeting about the conduct of another teacher. There is no union representative in the meeting. Bob is told during the meeting that the investigation is not about him. The school administrator asks Bob whether he saw the teacher hit another student.

Can/Should Bob request union representation?

What, if any, consequence is there if Bob requests Union representation, and the Employer denies his request?

2. A teacher aide is called into a meeting to investigate an allegation of verbal abuse against her. There is not a union representative in the meeting, and the aide admits to cursing at the student. Did the District violate the Union member's Weingarten Rights?
3. H.S. junior varsity track team maintains a team Facebook page. During a prep period, the coach updates the page with pictures and information from the race this past weekend.

Teacher called into a meeting, and refuses to answer questions, can they be disciplined for that refusal? What if they were a teacher aide and they refused to answer questions?

Teacher receives written counseling letter. Teacher claims she did not have any due process and letter was unilaterally placed in file. What can you do?

Teacher is removed from coaching position for next year. What if anything can you do? What potential issues are raised by the underlying facts?

P.R.&R. FORM  
I THINK I HAVE A GRIEVANCE

DIRECTIONS: THIS FORM IS TO BE COMPLETED BY THE PROFESSIONAL STAFF MEMBER(S) WHO FEEL THAT THEY MAY HAVE A GRIEVABLE SITUATION. THE P.R.&R. (PROFESSIONAL RIGHTS AND RESPONSIBILITIES) COMMITTEE AND/OR ASSOCIATION OFFICERS WILL CHECK INTO THE SITUATION AND CONTACT THE MEMBER(S) TO RELATE FINDINGS OR DETERMINATION.

NAME: \_\_\_\_\_

DATE OF OCCURRENCE: \_\_\_\_\_

AREA/PAGE OF CONTRACT IN VIOLATION: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

THE SITUATION (NARRATIVE): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

THE BEST TIME TO REACH ME IS BETWEEN \_\_\_\_\_ AND \_\_\_\_\_ .EXTENSION \_\_\_\_\_.

DATE: \_\_\_\_\_ SIGNATURE: \_\_\_\_\_

\_\_\_\_\_ RESOLVED: (EXPLAIN) \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ MOVE TO P.R.&R. COMMITTEE LEVEL

(Local)-REP: \_\_\_\_\_ DATE: \_\_\_\_\_