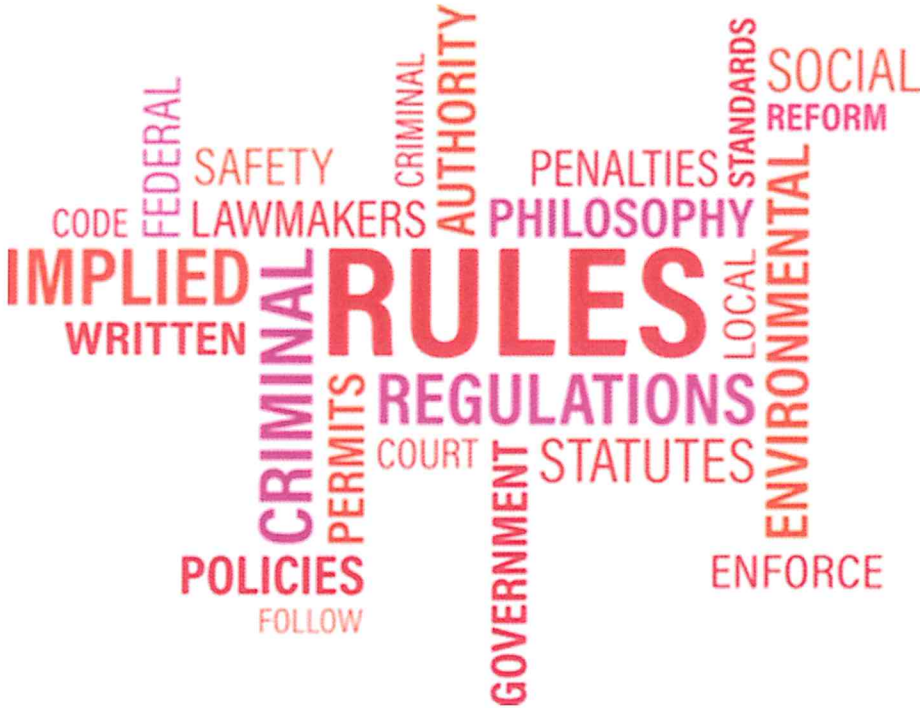




LOCAL CONSTITUTION



NEW YORK STATE UNITED TEACHERS
A MODEL CONSTITUTION and BY-LAWS FOR LOCAL AFFILIATES
Updated 12/14/18

I. NAME

This organization shall be known as _____.
(Association, Federation, Congress, Union, United Employees, etc.)

II. PURPOSES

The purpose of this organization shall be:

1. To advance the standards of its members' professions;
2. To secure the conditions necessary to provide the greatest rewards for its members in their work environment;
3. To promote the participation of its members in the operational decisions affecting their employment;
4. To promote the welfare and well-being of its members;
5. To promote mutual assistance and cooperation with other organizations with which it is associated;
6. To promote the aims and objectives of the New York State United Teachers and its national affiliates;
7. To expose and fight all forms of racism and discrimination;
8. To promote the unity and strength of its members.

III. AFFILIATIONS

This organization shall be affiliated with the New York State United Teachers (NYSUT) and its national affiliates.

IV. MEMBERSHIP

There shall be the following membership categories: Active and Special (Retiree).

1. Active: An Active member is any person currently employed or newly hired into a bargaining unit position, who has enrolled in membership and whose dues are current and paid in full. (*Locals may wish to use the term “member-in-good standing” “In-service,” “Current,” etc. instead of “Active” member. If so, be sure to adjust throughout.*)
2. Bargaining Unit Member on authorized Leave of Absence: *Insert Local determination here.*
3. *Optional Category for Locals*: Special (Retiree). Retiree membership in this organization shall be open to employees who have retired. (Locals have the autonomy to prohibit the retired member from holding office, voting on union matters, or voting on contract ratification; e.g. “Retirees holding special membership shall be prohibited from...)
4. *Optional Category for Locals*: Suspended: A Suspended member is one who completed all enrollment materials whose dues are not currently up to date and/or paid-in-full. A suspended member has not indicated an intention to withdraw membership.¹
5. Non-Member: A Non-Member is a person employed or newly hired into a bargaining unit position and, to whom one of the following applies:
 - a. The person has not completed enrollment into the union
 - b. The person enrolled into the union and has taken action to withdraw membership from the union
 - c. A person who was in Suspended status whom, after a reasonable period of time has refused to bring dues arrears up-to-date (*if Suspended category is created*).
6. Membership shall be maintained through the payment of all required dues.
7. All Active members shall have equal rights and privileges to nominate candidates to hold office, to vote in elections or referendum, to attend membership meetings, and to participate in deliberations and voting upon the business of the organization, *except as specified in (insert provision label) if such provision is created.*
8. Non-Members (*and Suspended*) shall have no right or privilege to participate in any election, nor will they be entitled to receive any NYSUT services as defined by

¹¹ For NYSUT membership record-keeping purposes, when a unit member submits notice of intention to withdraw membership (verbal, e-mail, fax, etc.) NYSUT considers the time period between receipt of that notice and receipt of the NYSUT withdrawal a “pending withdrawal.” A Local may wish to use the same or similar terminology for that period of time.

NYSUT polices pertaining to non-membership of April 16, 2018 and September 14, 2018. Neither a Suspended Member nor a Non-Member is considered to be “in good standing.”

This is the location where any provision that would speak to a Local curtail/restricting/limiting member rights due to re-entry/delayed entry would be inserted. Should a Local do so, it is strongly encouraged to carefully review the accompanying guidance memo with its LRS and fully discuss the matter prior to including any such restriction.

9. *If a provision is included:* Formerly Suspended and Non-Members, who have recently become Active members shall have their members rights curtailed only as set forth herein:

Insert Local determinations, if any, after discussion and review in accordance with companion memo

V. OFFICERS

1. The officers of the _____ shall be a President, Vice President, Secretary, and *Treasurer (plus any additional offices the local may wish to include) (i.e. multiple Vice Presidents, responsible for specific duties or representing specific constituencies; combine secretary/treasurer; separate recording/corresponding secretaries).*
2. Duties of the President: The President shall
 - a. Be chief executive officer of the _____.
 - b. Administer all affairs and execute all policies of the organization.
 - c. Be one of the responsible financial officers of the organization and shall be authorized to co-sign financial instruments and make regular and usual disbursements of funds.
 - d. Certify to the Secretary Treasurer of the American Federation of Teachers that the annual audit/internal financial review was presented to the Executive Board, as the organization’s governing body, and to the entire membership annually.
 - e. Preside at all meetings of the Executive Board and general membership.
 - f. Represent the organization with all external groups, and be the first delegate to the NYSUT Representative Assembly and the conventions of its national affiliates.

- g. Appoint and establish the function of all committees with the approval of a majority of the other elected officers.
- h. Call regular and special meetings of the Executive Board and general membership.
- i. Fulfill such other duties as the office requires and as are consistent with this constitution.

3. Duties of the Vice President:

- a. In the President's absence, the Vice President shall assume the duties and responsibilities of the President and shall perform such other duties as the President may designate. (*specific duties may be delineated for each vice-president*)
- b. Co-sign financial instruments in the absence of the President or Treasurer.

4. Duties of the Secretary:

Shall keep all records, minutes of meetings, election reports and ballots and committee and officer reports (*Minutes of meetings should be kept indefinitely due to possible audit by the Dept. of Labor and IRS*).

Duties of the Treasurer:

- a. receive, record and deposit all dues monies and other income in the name of the organization;
- b. reimburse local officials as mandated by the Expense Reimbursement Policy;
- c. maintain accurate membership records;
- d. where appropriate, a local may assign the duty of issuing membership cards and sending notices of dues delinquency to a separate membership coordinator;
- e. be one of the responsible financial officers of the organization and be authorized to co-sign financial instruments and make regular and usual disbursements of funds;
- f. maintain all financial records of the organization;
- g. present periodic financial reports to the Executive Board and an annual report to the general membership;
- h. collaborate with the Executive Board in the preparation of the annual budget;
- i. arrange for an independent audit/internal financial review of the finances of the organization annually no later than (month/day) and make same available to the Executive Board and membership;
- j. transmit per-capita payments on a regular basis to the Membership Reporting Department of the New York State United Teachers;
- k. perform other financial duties as delegated by the President or assigned by the Executive Board;

1. perform duties of the office and reports as required by the Labor Management Reporting and Disclosure Act, the Internal Revenue Service and the guidelines developed by NYSUT, AFT and NEA.

Duties of Any additional Officer Delineated:

5. Nominations

- a. Each Active member shall be given reasonable opportunity to nominate candidates for office and to run for office. *If restrictions are in place amend to reflect provision and limitations.*
- b. Notice of the offices to be filled, the right to make nominations, and the time, place, and proper form for submission of nominations will be published in (local publication) and/or announced in a letter from the President and/or Executive Board and be prominently posted in each work site.
- c. Nomination procedures shall be determined by the Executive Board and shall be in compliance with the requirements of the Landrum-Griffin Act (as attached).
- d. Advanced notification of all qualifications for elected office shall be provided to the membership.
- e. The Executive Board shall appoint an Elections Committee to conduct and monitor each election held by the local.
- f. Any Active member is eligible for nomination for office. *If restrictions are in place amend to reflect provision and limitations.*

6. Elections

- a. Written notice announcing the time and place of elections shall be mailed to each Active member (*or other authorized voter per Art. IV*) to the member's last known home address at least fifteen (15) days prior to the election, not including the date of mailing.
- b. Election shall be by secret ballot. (*language may be added to this section to prohibit or allow write-in votes and/or proxy votes*). *The principle of one-person, one-vote shall apply to all elections. Please note that the USDOL has not yet formally recognized on-line voting as satisfying LMRDA requirements.*
- c. No union funds or employer funds shall be utilized in any local election unless such funds are expended in a way consistent with the standards applicable to a union election which is subject to and governed by Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA) ("Landrum-Griffin").

- d. Unless explicitly agreed to by the employer, no candidate is authorized to use employer e-mail addresses for campaign purposes.
- e. The results of the election shall be published in (local publication) and/or announced in a letter from the President or Executive Board, and posted prominently in each work site.
- f. The Secretary (and/or Elections Committee Chair) shall preserve all election records, including ballots, for a period of time equal to the term of office or the election cycle. (may be for a longer period if the local prefers). Further, if the election is contested, the records shall be preserved for a period of one year after a final determination is made in the contested election. (*again, may be for a longer period if the local prefers*)

(Note: The by-laws may provide that the notice of nominations and of the election may be combined in one notice mailed to each member's last known home address at least fifteen (15) days prior to the election, not including the date of mailing.)

[NOTE: Since the President, by virtue of his/her office is automatically the first delegate, the ballot for the election of President shall also specify, "President (Delegate to the NYSUT Representative Assembly and its national affiliates)"

- 7. Terms of Office. Duly elected officers shall serve a _____-year (*suggest 2 year*) term commencing _____. Each officer shall remain in office until his/her successor assumes the office. (*NYSUT does not recommend term limits.*)

(Note: Landrum-Griffin requires that a term of office not exceed three (3) years.)

8. Vacancies

- a. If the office of the President becomes vacant, the Vice President shall assume the office of President. *(if there are multiple vice-presidents, indicate which V.P. assumes presidency)*
- b. If any other office becomes vacant, it shall be filled by election by the Executive Board until the next election is held by the general membership.

(Note: Locals may have additional elected positions of Union Representative/Building Representative/ Department Representative/Shop Steward. If so, the Constitution should specify their duties, how they are elected, the terms of office and define the representation – i.e. levels, by title or population, proportional to number of members; e.g. 1 representative per 15 or 20 members)

VI. EXECUTIVE BOARD

1. The Executive Board shall be composed of the duly elected officers and other elected positions as determined by the local. The Executive Board shall meet at least monthly. Special meeting may be called by the President or by petition of a majority of the Executive Board.
2. Duties: The Executive Board shall:
 - a. establish the salary, benefits and expense guidelines of any general officer who is employed by the organization.
 - b. be empowered to make contracts and incur liabilities including the purchase of services, equipment and real property, to borrow money, to secure such obligations by mortgage or other instrument, and to otherwise engage in financial transactions to the extent permitted by applicable law or statute. The Executive Board shall have the power to sue, complain and defend on behalf of the membership.
 - c. ensure that an annual financial report and an audit/internal financial review is presented to the membership.
 - d. ensure that an audit/review by an independent accounting firm *or* an internal financial review conducted by a committee of 3 – 5 members who do not sit on the Executive Board is presented to the membership annually.
 - e. ensure that an annual budget is adopted, in collaboration with the Treasurer, by the Executive Board/Membership no later than (month/day) annually.
 - f. implement an Investment Policy determining acceptable types of investments, maturity timeframes, and number of commercial banking relationships with assessments of these relationships based on periodic ratings by an independent

ratings service.

- g. establish a fiscal year for the local which shall commence (month/day) and end (month/day).
- h. adopt an expense reimbursement policy and update as necessary.
- i. interpret the constitution and by-laws.
- j. act on policy matters for the organization between the meetings of the general membership.
- k. make policy recommendations to the membership for their consideration.
- l. approve committee appointments.
- m. serves to hear appeals from members regarding decisions by the Grievance Committee.

VII. STANDING COMMITTEES

Chairpersons and members of standing committees and ad hoc committees shall be appointed by the President with the approval of the Executive Board.

1. Negotiations (*having the Negotiations Committee be a standing committee will allow negotiations and preparation for negotiations to be an on-going endeavor; however, the Negotiations Committee need not necessarily be a standing committee; rather, an ad hoc committee appointed 1 to 1 ½ years prior to the expiration of the CBA*)
2. Grievance
3. Community Relations
4. Legislation/Political Action
5. Membership
6. Social Justice
7. Other (*Insert*)

VIII. DELEGATES TO NYSUT AND OTHER AFFILIATES

Delegates to the NYSUT Representative Assembly, and other affiliates shall be elected by secret ballot in a manner consistent with the Constitution and By-laws of the appropriate state and national organizations and with the Landrum-Griffin Act.

IX. PROTECTION OF RIGHTS OF MEMBERS AND ENFORCEMENT OF MEMBERSHIP STANDARDS AND OBLIGATIONS

1. No member may be fined, suspended, expelled, or otherwise disciplined (except for nonpayment of dues) by this organization unless such member has been served with written specific charges and given a reasonable time to prepare a defense and afforded a full and fair hearing. Suspension or loss of membership shall be subject to the definitions set forth in Article IV.
2. No officer of the organization may be removed from office unless such officer has been served with written specific charges and given a reasonable time to prepare a defense and afforded a full and fair hearing before the Executive Board. Any officer served with such charges may be represented by an advocate during such process. The Executive Board may be represented by an advocate during such process. Following the hearing, the Executive Board may recommend to the membership of the organization that the officer be removed from office by a two-thirds (2/3) vote of the Executive Board. Subsequently, the officer may be removed from office by a two-thirds (2/3) vote of the membership at a general membership meeting called for that purpose and pursuant to the organization's by-laws.
3. This organization shall not discriminate against any individual or group of individuals on the basis of sex, religion, color, race, marital status, sexual orientation, gender identity, national or ethnic origin, age, disability, or political activities and beliefs, except if such political activity is in support of a competing labor organization or otherwise acting in a way to dissolve the organization

X. RATIFICATION OF COLLECTIVE BARGAINING AGREEMENTS

Approval or disapproval of any Collective Bargaining Agreement with the employer shall be determined by a majority vote of the Active members, from the unit to which the Collective Bargaining Agreement *at a membership meeting called specifically for that purpose.* (or alternative method of ratification set by the Local.) *Specific procedures (building vote, mail ballot, etc. defined in appropriate By-Law.*

If a Local intends to have any modification of a CBA subject to ratification it must be clearly indicated, otherwise, the above should only be interpreted as to mean a full CBA

ratification, not a change to one provision as part of a grievance settlement, etc. Also please note, if a Local is going to require that a change to a single item, as one tied to a grievance settlement is the Local requirement, it must be disclosed to the employer when the settlement of that issue is reached otherwise, bringing to a vote is likely an Improper Practice on the part of the union.

XI. AMENDMENTS

1. An amendment to this constitution may be proposed by
 - a. A majority of the Executive Board.
 - b. No fewer than twenty (20) percent of the membership.
2. A proposed amendment must be posted in a conspicuous place in each work site and/or distributed in writing to each member at least five (5) days before the ratification vote.
3. An amendment may be ratified by a two-thirds (2/3) vote of Active at a general membership meeting, *or alternative method voting via mail ballot, etc.*

XII. PARLIAMENTARY AUTHORITY

Meetings of all duly constituted bodies of this organization shall be governed by Roberts' Rules of Order, Newly Revised, except as otherwise provided in this constitution.

BY-LAWS

DUES

1. The dues of this organization shall be _____, plus the prevailing per capita amounts for the AFT/NEA and NYSUT whenever the dues of a required affiliate increases, the dues of the local shall automatically and simultaneously increase by the same amount.
2. Special Membership: The dues shall be \$_____, for retired members and \$_____ for other special members, plus current NYSUT and national affiliate dues for their category of membership.
3. These dues may be changed by a simple majority vote of the general membership after reasonable notice of the intention to vote on such questions, or by majority vote of members in a membership referendum.

GENERAL MEMBERSHIP MEETINGS

1. Meetings of the general membership may be called by the President, by a majority of the Executive Board or by petition of twenty (20) percent of the membership. Membership meetings shall be held no less than one time per year. (may be minimum of two or more per year)
2. Members shall receive written notification of regular general membership meetings fifteen (15) days prior to the date of the meeting. Special membership meetings may be called with fewer than fifteen (15) day notice, but the notification must be written and must state the purpose and agenda for the special general membership meeting.
3. A quorum at a regular general membership meeting shall consist of Active members present at a meeting called pursuant to these By-laws. A quorum at a special general membership meeting shall consist of ten percent (10%) of the members in good standing. *(the percent of the membership required for a quorum may vary depending on the size of the local)*

(quorum may be established at a higher percentage for special meetings; percentage quorum may apply to regular general membership meetings as well; perhaps different percentages for regular and special meetings)

ELECTION PROCEDURES

List specifics of voting procedures: in-person meeting only, paper ballots, in building, etc. Length of time to vote. If overnight, identify ballot security procedures.

Example: Ballots may be cast at the designated voting site in each building between 3:00 p.m. and 6:00 p.m. All voters will sign-in to confirm that a vote was made, but only in a way that does not impact the anonymity of the vote itself. The designated representative of the election committee will retrieve the ballot box and bring it to the counting location.

List method for counting and reporting, observation of counting etc.

DISCIPLINE AND REMOVAL PROCEDURES

List specifics regarding hearing, witness, scope of evidence standards etc.

AMENDMENTS

1. An amendment to the By-laws may be proposed by
 - a. A majority of the Executive Board.
 - b. No fewer than twenty (20) percent of the membership.
2. A proposed amendment must be posted in a conspicuous place in each work site and/or distributed in writing to each member at least five (5) days before the ratification vote.
3. An amendment may be ratified by a simple majority vote at a general membership meeting.

Revised December 2018

Addendum I to Model Constitution and By-Laws for Local Affiliates

Chapters

Where the local affiliate represents more than one bargaining unit, the Constitution may contain provision for a chapter structure, i.e. each bargaining unit becomes a separate chapter of the local.

Each chapter shall have an Executive Officer whose title shall be "Chapter President".

The Chapter President(s) shall serve as a member(s) of the local's Executive Board.

If the chapters are large, consideration should be given to creating the additional positions of Chapter Vice President and Chapter Secretary.

There should not be separate "chapter dues" or a separate "Chapter Treasurer."

Chapter Presidents (and other chapter officers) are elected by a majority vote of the chapter's membership, to serve a term of _____ year(s). Refer to Model Constitution, Article VI, for Duties, Nominations, Elections, etc., (substitute "chapter" for "organization") the Chapter's Bylaws or policies;

Any Chapter policies, Bylaws, or Constitution shall be consistent, and not in conflict, with the local's constitution.

Addendum II to Model Local Constitution and By-Laws for Local Affiliates

NYSUT Requirements

1. In order for a local to affiliate with NYSUT, the local's constitution must contain provision for:

- The election of local officers.
- The composition and election of an Executive Board.
- The election of delegates to the NYSUT Representative Assembly, the AFT Convention, the NEA Representative Assembly and other national affiliates.
- The process of selection and function of local committees.
- The amount of dues for local programs.
- The protection of members' rights.
- Procedures for amending the local's constitution and by-laws.
- No discrimination on the basis of sex, sexual orientation, creed, color, race, national origin, or political activities or beliefs.

2. Policy of the NYSUT Board of Directors provides that the guidelines for determining whether or not a local is in compliance with By-Law A-1 of the NYSUT Constitution shall be the Rules and Regulations promulgated by the U.S. Department of Labor, pursuant to the Landrum-Griffin Act. A quick check-list of these requirements, as they pertain to local union elections, follows:

Guidance for adjusting Local Constitutions and By-Laws in a Post-*Janus* World Regarding Membership Participation

Introduction:

The following provides guidance to the field on how Local affiliates can review, and potentially revise, their constitutions and by-laws on matters surrounding membership and re-entry of membership following the *Janus* decision and amendments to the Taylor Law.

On September 14, 2018, NYSUT's Board of Directors adopted a policy governing the restrictions and limitations for receipt of NYSUT services for a bargaining unit member who either becomes a member after a period of initial non-membership, or resigned membership but subsequently re-joins after some period of time. (A copy of the September 14, 2018 Board policy is attached).² In addition, NYSUT recommended that Local affiliates determine what, if any, restrictions or limitations will be placed on such members.

It may be difficult to project precisely which limitations would be upheld by a court or PERB, as the analysis of Section 202 rights turns on the motivation behind the local's actions, which, in turn, requires a fact-specific, case-by-case analysis. Further complicating matters is that in a post-*Janus* world without agency fee payers, Locals may lawfully refuse to provide representation in certain "extra-contractual" matters such as §3020-a and §75 hearings, support before the Department of Labor, EEOC, etc. However, PERB has ruled³ that there is an Improper Practice and/or a breach of the Duty of Fair Representation ("DFR") if the union's actions harm the person's employee status (are disciplined or laid off) or impact the terms and conditions of employment (lose benefits, over-time, job bidding, etc.) As a result, if a Local seeks to implement any limitations around membership and/or re-entry policies, the limitation should be "reasonable." Lastly, as illustrated below, even if a policy is arguably legal, it may be detrimental to the long-term health of the union.

Legal Background:

The Taylor Law⁴ provides that it is an improper employee organization practice for a union or its agents deliberately:

(a) to interfere with, restrain or coerce public employees in the exercise of the rights granted in section two hundred two, or to cause, or attempt to cause, a public employer to do so provided, however, that an employee organization does not interfere with,

² The policy refers to the possibility of creating a re-entry committee. This memo will not address that aspect. Should a Local want to consider that option, the LRS should speak directly with the Director of Field and Affiliate Services.

³ *Transport Workers' Union* (Charles K. Asamoah), 47 PERB 3033 (2014).

⁴ N.Y. Civ. Serv. Law §209-a.2. Underlined reflects April 2018 amendment. Also, for ease of reading the second paragraph of the statute that relates to a union's ability to handle disciplinary matters was omitted.

restrain or coerce public employees when it limits its services to and representation of non-members in accordance with this subdivision; (b) to refuse to negotiate collectively in good faith with a public employer, provided it is the duly recognized or certified representative of the employees of such employer; or (c) to breach its duty of fair representation to public employees under this article.

As stated in the introduction, PERB has only issued a few decisions related to membership rights that we can look upon for guidance to this specific analysis in the post-Janus world. There are countless cases that speak to traditional claims of the union not taking a grievance, excluding someone from a bargaining team, dissatisfaction with the outcome of negotiations, etc., which, while relevant to our overall approach, are not related to the immediate issue being examined. Based on the few cases from PERB (along with guidance from the NLRB) we can make some assumptions around what type of changes in a Local's constitution and by-laws would likely be examined by PERB.

It has been found that "the establishment of rules and qualifications for membership in an employee organization does not, *per se*, constitute an improper interference with the right to join an employee organization."⁵ Similarly, "complaints about internal union discipline or other internal affairs which neither affect an employee's terms and conditions of employment nor violate any fundamental purposes of the Act"⁶ aren't subject to PERB review. Further, PERB has held "[a]n employee's right to join an employee organization must, as a matter of reason and logic, be limited by and subject to the employee organization's membership requirements."⁷ This decision continued by stating, "so long as those membership requirements do not conflict with the purposes and policies of the Act, and do not affect terms and conditions of employment, their application is beyond our jurisdiction."⁸

Also, in a case where members were expelled through a disciplinary process it was found "[t]here is no allegation in this case that the charging parties' expulsion for disloyalty had any effect upon their employment relationship. Neither does such expulsion impinge upon the basic policies and rights set out in §202 of the Taylor Law. The grant to employees of the right to join and participate in any employee organization does not preclude a union from the exercise of self-government, which may include the placement of reasonable conditions upon continued membership."⁹

In a similar case¹⁰ the union expelled an employee from membership based on his support of a competing employee organization. Further, the employee alleged that the process for the expulsion was "undemocratic." PERB dismissed his charge even though "expulsion from

⁵ Civil Service Employees Association (William Stanley), 23 PERB 3052 (1990).

⁶ 47 PERB 3033.

⁷ 23 PERB 3052.

⁸ Id

⁹ Civil Service Employees Association (Liebler, et al) 17 PERB 3072 (1984).

¹⁰ 23 PERB 3052.

membership in CSEA has resulted in the loss of life insurance policies available to CSEA members, and has resulted in his exclusion from the contract ratification and union officer election processes."

The analysis changes though "[w]hen a decision to penalize a public employee is substantially motivated by reasons that are improper under the Taylor Law, the party imposing the penalty commits an improper practice even if additional legitimate reasons underlie its decision to do so."¹¹

This distinction comes into focus in one case where the union committed a violation when the union caused the charging party to be put at the bottom of the seniority list for non-payment of dues. PERB held that this action violated 209-a.2(a).¹²

Moreover, in another case that pre-dated the creation of Agency Fee, the union assessed the employee \$100.00 when he rejoined the union. The union claimed that the \$100 represented an amount charged to members for funding a lawsuit. The employee claimed that it was a fine for dropping his membership. PERB found that it would be acceptable for the employee to pay the \$100.00 as a condition of membership since all union members had recently paid this amount under the special assessment, but that if it was found to be a fine for dropping membership, it was, in fact a violation of the Act.¹³

Conclusion:

PERB has generally declined to review cases that are explicitly related to internal union matters, such as a union's handling of its internal elections. However, PERB will likely assert jurisdiction on limitations on membership rights and/or re-entry policies as those facts tend to be intertwined with the employee's right to non-discrimination in membership decision and/or rights under the duty of fair representation. Similar rules apply within the NLRB context, from which PERB draws much of its reasoning. That means unions are free to set terms of membership, provided those terms do not deprive the individual of any rights under the collective bargaining agreement and provided those terms do not violate the Taylor Law.

It is understandable that a Local may wish to take a "hard line," or even "send a message" to members and non-members with respect to re-entry rules by creating strict requirements. However, for the reasons provided, Locals must be careful not to do so in a way that is overly restrictive or could negatively impact terms and conditions of employment.

Practical Guidance:

The following scenarios highlight some of the issues a Local may want to consider:

¹¹ Captain's Endowment Assn. (Bruce J. Mallory), 15 PERB 3019 (1982).

¹² 47 PERB 3033.

¹³ 15 PERB 3019.

1. The union takes the position that a unit member (covered by the collective bargaining agreement) must be a union member (dues paying member in good standing) for at least three years before the member can run for office. At first glance, this seems permissible. However, the CBA has a release time provision, which from the perspective of some is viewed as a benefit. The release time benefit would only be potentially available to members who have been union members at least three years. Taken together, this creates a situation where a union member, who has arguably been a member since day one, is not able to be eligible to take advantage of that CBA provision and could assert that he or she has been denied a benefit due to the Local's internal rules. Now, the issue has converted from an internal rule into one covered by the Taylor Law and potentially subject to PERB enforcement.

If we take the same scenario, but change the waiting period to six months is the possible exposure still there? Yes, but as it is a shorter and more reasonable period, it is unlikely—though not impossible -- that if a charge were filed, PERB would deny the charge due to the reasonableness of the overall circumstances.

2. The Local has a modest initiation fee of \$50.00. It also has a policy stating that if a member leaves, then wants to re-join, there is a fee equal to the Local dues that would have been paid over that time period. Local dues are \$200 per year. A unit member works for three years and then decides to join which requires a \$650.00 payment. That may be permissible. However, adding in reasonably likely facts, the situation becomes more complicated.

The union also has a policy (like NYSUT's) that it will not support non-contractual advocacy. The reason the person decided to join after three years is because the employer is delaying the employee's return to work (to align with a semester change) after being on an unpaid FMLA leave. The person wants help filing a complaint with the Department of Labor as he or she has been without pay for months and can't afford to go any longer without money. The person simply does not have \$650.00 for joining and may not for the foreseeable future. The union refuses to waive the fee and denies membership.

Even if legally permissible, it places the union in a dangerous place. Consider that one of the main reasons for having a union is to "be there" in times of need. In this situation, the person needs help and is in a very vulnerable situation that will generate sympathy from many people. Having such a firm rule could backfire on the union with the decision possibly viewed by some as "heartless." Not only does the potential member not join, but the decision could have a cascading effect that either results in political unrest or prompts members to drop in reaction to it.

Based on the foregoing, consider the following as general guidelines a Local may use in reviewing and revising its constitution and by-laws.

1. Objective criteria should be used. For example, avoid a policy where officers vote on the rights for non-members who re-enter membership each time someone re-enters.

Subjective criteria could lead to inconsistent results and allegations of discrimination or bad faith.

2. Avoid imposing excessive, lengthy time restrictions. For example, it would not be advisable for a Local to require a member to wait six years to run for union office following re-entry of membership. Shorter time restrictions will likely be considered more reasonable and not found to be an impermissible interference or restraint on membership.
3. Avoid imposing excessive re-entry fees or requiring large payments of back dues that could arguably be deemed financially restrictive for certain members. The analysis should factor in criteria such as title, salary, etc. As discussed above, even if it is legally permissible (maybe) it could lead to an unintended de-stabilizing outcome.

Looking at Local Union Administration

The officers of the union are the administrators of the union. They are elected to run the union and to provide for the welfare of its members. The union's role is to advocate for its members and to represent them with the employer through the collective bargaining and dispute resolution processes.

The union is actually a business. It needs money (dues) to operate. The very nature of the union requires it to have expenses and, therefore, assets. It costs money to negotiate contracts, to process grievances, and to perform other representation functions for the members.

In order for the union to run smoothly and efficiently, two documents are of primary importance: a constitution and bylaws, and a compilation of written policies. The constitution and bylaws defines the union's structure and functions. The written policies define how the union will perform its functions.

A well-administered union is essential to contract negotiations and grievance processing. The administration of the local union can be described in four areas.

1. Governance

- a. Does the local have an up-to-date constitution?
- b. Does the local have a set of written policies?
 - i. Are they easily accessed?
 - ii. Are they widely known?
- c. Do the members of the local have copies of their constitution and policies?
- d. Does the local's executive board meet regularly?
- e. Does the local's executive board or representative council regularly make time for strategic planning?
- f. Does the local have a representative council/delegate council?
- g. Does the representative/delegate council meet regularly?
- h. How frequent are general membership meetings?
- i. Are agendas for meetings prepared and distributed in advance?
- j. Are minutes for meetings taken, distributed in a timely fashion, and retained?
- k. Is the local represented at NYSUT E.D. (election district) meetings?
- l. Does the local send representatives to the NYSUT and national (AFT & NEA) conventions?
- m. Does the local have a comprehensive, up-to-date system for management of member data?
- n. Does the local keep an updated calendar of union events?
- o. Does the local comply with required mandates?
 - i. AFT constitutional mandates

- ii. Annual audit
- iii. IRS filing
- iv. NYS mandated harassment training of officers

2. Structure

- a. What titles/positions does the local have?
- b. Have the members of the executive board been trained?
- c. Does the local have a membership coordinator/chairperson or other officer overseeing membership? If so, have they been trained?
- d. Does the local have building representatives in the various buildings? If so, have they been trained?
- e. Does the local have “ambassadors” who meet regularly with members on a one-to-one, face-to-face basis? If so, have the ambassadors been trained?
- f. Does the local have a new member committee or a comprehensive program to welcome and support new members? If so, have the members of the committee been trained?
- g. Does the local have a grievance committee? If so, have the members of the committee been trained?
- h. Does the local have a nominations and elections committee? Are the members of the committee aware of the Landrum Griffin mandates and of the local’s policies for nominations and elections?
- i. Does the local have a political action committee (PAC) or get involved in board of education elections, budget votes and facilities referenda?
- j. Does the local have a VOTE-COPE committee?
- k. Does the local participate in the Committee of 100?
- l. Does the local participate in NYSUT conferences and workshops?

3. Finances

- a. Is a treasurer’s report given at all meetings?
- b. Is the report distributed to all members attending the meeting?
- c. Has the treasurer been trained?
- d. Is an annual budget prepared and adopted in accordance with the local constitution?
- e. Does the local conduct an annual audit? Have the members of the audit committee been trained?
- f. Does the local have a set of financial policies?
- g. Does the local require vouchers and receipts for all expenditures?

4. Communication

- a. Is there a regular newsletter?
 - i. Paper
 - ii. Electronic
- b. Does the local have a social media presence? How frequently are posts made/updated?
 - i. Private Facebook group
 - ii. Public Facebook page
 - iii. Twitter account
 - iv. Instagram account
- c. Does the local publicize its activities and accomplishments?
- d. Does the local recognize/celebrate members' professional and personal milestones?
- e. Are union activities recognized as distinct from employer activities?
- f. Do building representatives hold building meetings?
- g. What forms of communication does the local use? With what frequency?
 - i. personal email
 - ii. phone chains
 - iii. text message blasts
 - iv. communication apps
 - v. work mailboxes
 - vi. US mail service
 - vii. 1-to-1 "ambassadors"
- h. How are changes in policy communicated to the members?
- i. Does the local have a place where members can locate general union information?
 - i. Website?
 - ii. Union handbook?

Suggested Responsibilities
(partial list) for
Local Union Officers
and
Local Union Structure

Responsibilities of the President

1. Preside over membership meetings, representative council meetings, delegate assemblies and special meetings. Most unions designate the first vice president to conduct the meeting in the President's absence.
2. Oversee the following:
 - a. The negotiation and enforcement of the collective bargaining agreement (contract).
 - b. Membership development and participation.
 - c. A broad program of union activities that will help maintain membership confidence and trust.
 - d. An effective internal and external communications program.
 - e. An effective political action program.
 - f. An organizational structure that allows for effective delivery of services and carry out union policies.
 - g. The efficient, honest use of all union funds.
3. Regularly participate in affiliate activities.
4. Ensure the union develops policies and programs to address important public policy and professional issues.
5. Establish effective procedures to track grievances and contract timelines, correspondence, membership records and other important information and records.
6. Monitor the school board, appropriate State and Federal agencies, and/or the legislature.

Responsibilities of the Treasurer

The Treasurer administers the finances of the union. He or she has direct fiduciary responsibility for collecting and expending the members' dues appropriately. He or she must keep accurate financial records, to ensure the integrity of the union accounts, to facilitate the union's budget-making process, and to facilitate the annual audit. The Treasurer will maintain a current copy of NYSUT's manual for treasurers'. (Copy included in this manual)

The Treasurer must:

1. File the necessary reports with the Internal Revenue Service, including a Form 990 if the local's gross receipts are above a certain amount.
2. File appropriate reports with the Labor Department, if the local has private sector members.
3. Pass through NYSUT and AFT dues.
4. Report regularly at representative council/membership meetings, and prepare an annual financial report which is available to the membership.
5. Prepare a budget and conduct the union's financial business within its parameters.

Establishing a Budget:

The Treasurer works with the President and other members of the Executive Committee to establish a budget. In developing a budget proposal, the Treasurer reviews the financial records from the previous year to determine expenditures for each budget line.

The treasurer then projects possible spending pattern changes. Do you expect steep price increases? Do you plan to expand or reduce programs? Do you foresee any extraordinary expenses? A budget projection proposal needs to be reviewed and approved by whichever union body makes financial policy decisions. Usually this is the executive board or the general membership/representative council.

Once adopted, the budget is the union's guide for future spending. Any major changes in budget projections should be reviewed and cleared with the appropriate union body.

Membership/Representative Council

The membership is the ultimate source of authority in all unions. A protocol must be available that allows the members to communicate with the union leadership and assert that authority. Some locals (usually small ones) use a regular general membership meeting for this purpose, others (usually large ones) use a representative council (sometimes known as a delegate assembly). In addition, most Constitutions allow the President to call special meetings as needed.

Governance by Representative Assembly

In the representative council structure, the representatives (or delegates) are elected by the worksite membership according to a proportional formula similar to the U.S. House of Representatives (i.e., there may be one delegate for 25 or 50 members in a building). A representative may also serve as the Union (Building or Department) Representative at his or her job site.

Those locals with representative councils maintain this structure:

- The local is able to vest the Union Representative with more authority and prestige; consequently, the Union Representatives take their work more seriously;
- Greater representative democracy is achieved. Especially in a large local, most members won't attend regular meetings, leaving the meeting – and the union – vulnerable to manipulation by a minority. The representative council structure assures that union decisions will represent the desires of the broad membership.

Governance by Membership Meetings

In contrast, regular membership meetings guarantee that every member can bring his or her concerns to the union. In small locals in particular, membership meetings can assure direct contact between members and officers.

Some unions combine the two approaches: Members elect delegates who meet at regular representative council meetings and, two or three general membership meetings are held each year.

Whether the local holds general membership meetings and/or representative council meetings, the meetings should be scheduled in advance. The logistics of running a successful meeting are discussed later in this section.

Building a Sound Committee Structure

Define the committee's task. Know exactly what the committee's goals are and clearly articulate them to the chair. Each committee should assure that the task has a beginning, a middle and an ending.

- **Select Chairs Carefully** - When selecting committee chairs, consider the following:
 - ⇒ Talent
 - ⇒ Competence
 - ⇒ Interest
 - ⇒ Time availability
 - ⇒ Ability to balance and harmonize ideas

- **Outline the Chair's Responsibilities** - Tell the chair:
 - ⇒ Budget Constraints
 - ⇒ Purpose and specific activities
 - ⇒ Recruitment of members
 - ⇒ Project Development
 - ⇒ Hold meetings as needed

- **Outline the Chair's and Committee's Responsibilities:**
 - ⇒ Prior approval or expenditures
 - ⇒ maintain and submit receipts
 - ⇒ Provide updates and progress reports as requested
 - ⇒ Receive training necessary to perform the committee tasks

Responsibilities as a Union Representative

Union representatives are often referred to as the "eyes and ears" of the local. They may be called upon to assist the local in a variety of ways. As such, the tasks listed below are representative of the responsibilities the Union Representative may oversee. The Union Representative is not expected to be an expert. However, the Union Representative should know the local's procedure for communicating members concerns to the officers.

1. Distribute union literature.
2. Organize union projects at the worksite level (e.g., solicit VOTE/COPE dollars).
3. Communicate union policy to members.
4. Transmit the opinions and concerns of members to the leadership.
5. Build a strong union spirit at the worksite level.
6. Spearhead membership involvement at the worksite.
7. Make presentations at membership meetings.
8. Hold chapter meetings (for all union members at the worksite).
9. Hold worksite meetings (for members and agency fee payers).
10. Monitor and report possible contract violations.
11. Process level one (1) grievances. (in some locals).
12. Organize building/floor/department committees.
13. Serve as liaison to the area coordinator. (where applicable)

Forming, Storming, Norming, and Performing

You can't just switch on teamwork. It takes time for a new team to "gel" and work to its full potential. What's more, team members go through stages as they move from strangers to co-workers.

Bruce Tuckman's Forming, Storming, Norming, and Performing model describes these stages. When you understand Tuckman's model, you'll know how to help your new team to become effective – faster. Let's look at how.

[Download transcript](#)

Where Does Forming, Storming, Norming, and Performing Come From?

Psychologist Bruce Tuckman came up with the memorable phrase "forming, storming, norming, and performing" in his 1965 paper, "Developmental Sequence in Small Groups." [1] It describes the path that teams follow on their way to high performance. Later, he added a fifth stage, "adjourning" (also known as "mourning") to mark the end of a team's journey.

What Happens at Tuckman's Forming Stage?

In the beginning, when a new team forms, individuals will be unsure of the team's purpose, how they fit in, and whether they'll work well with one another. They may be anxious, curious, or excited to get going. However they feel, they'll be looking to the team leader for direction.

This may take some time, as people get to know their new colleagues and one another's ways of working.

What Did Tuckman Mean by Storming?

In the storming stage, people start to push against the established boundaries. Conflict or friction can also arise between team members as their true characters – and their preferred ways of working – surface and clash with other people's. At this stage team members may challenge your authority or management style, or even the team's mission. Left unchecked, this can lead to face-to-face confrontations or simmering online tensions.

If roles and responsibilities aren't yet clear, individuals might begin to feel overwhelmed by their workload or frustrated at a lack of progress.

How Do I Recognize the Norming Stage?

Gradually, the team moves into the norming stage. People start to resolve their differences, appreciate one another's strengths, and respect your authority as a leader.

Now that they know one another better, your team members will feel more comfortable asking for help and offering constructive feedback. They'll share a stronger commitment to the team's goals, and they should make good progress toward it.

What Does the Performing Stage Look Like?

Now your team is in flow and performing to its full potential. With hard work and structured processes, the team is likely to achieve its goals efficiently.

Judith Stein, from MIT's HR department, says of this stage, "Roles on the team may have become more fluid, with members taking on various roles and responsibilities as needed. Differences among members are appreciated and used to enhance the team's performance." [2]

What About Tuckman's Adjourning (or Mourning) Stage?

Many teams reach this stage naturally. For example, projects come to an end, or permanent teams are disbanded and people redeployed.

People who like routine, or who have developed close working relationships with colleagues, may find this time difficult.

Using the Forming, Storming, Norming, and Performing Tool

Follow the steps below to ensure that you're doing the right thing at the right time:

1. Identify the stage that your team is at from the descriptions above.
2. Consider what you need to do to move on to the next stage.
3. Schedule regular reviews of where your team is at, and adjust your behavior and leadership approach accordingly.

Tuckman's model isn't a one-way street – teams may go back and forth between stages. When you hit the performing stage, keep observing your team's progress in case it slips back. For example, a new team member can disrupt the group dynamic, or a new business direction might mean you have to reevaluate your team roles and goals.

Leading Through the Forming, Storming, Norming, and Performing Stages

Forming to Storming

To establish clear objectives for the group at this first stage, create a team charter. And help team members to set personal goals so that they can see how their work will fit with the bigger picture.

The forming stage is also about people getting to know one another. If you're working remotely, try virtual onboarding exercises to forge a group bond and establish buy-in to your vision.

Storming to Norming

Storming can make or break a team, so it's essential that you establish processes to track the progress and success of tasks.

The group must also feel safe putting forward ideas. To build team trust, try asking for help on tasks. That way you'll encourage people to reflect on what they can offer and what they need from other team members.

Don't leave team conflict unchecked, but remember that a little friction can be a good thing – it might reveal inefficiencies for the group to fix together and, ultimately, lead to innovation.

But you may have to help quieter team members to have their say. To avoid louder individuals dominating face-to-face or virtual team meetings, ask for, and hear, everyone's point of view.

Norming to Performing

Get your team to bond further with face-to-face or virtual team-building exercises. These social connections are especially important right now, as more of us work from home. So, keep them up through the norming period and beyond. Use your regular one-on-ones to encourage individuals to step back, review their goals, and take responsibility for them.

Performing to Adjourning

When the team has settled into the performing stage, you can focus on other goals and new areas to benefit the business. Free up more time for yourself – and boost team engagement – by delegating tasks and projects. You should also make time for the group's personal development. Discuss with your team what opportunities and resources are available to them.

Adjourning (or Mourning)

Take the time to celebrate the team's achievements – having positive shared experiences will make it easier if you work with some of the same people again in the future.

If any team members feel uncertain about what's ahead, boost their confidence and career prospects by praising them at company meetings. And offer to provide LinkedIn recommendations and references if they're moving on.

You can also ask the group for 360-degree feedback to reflect, learn, and better manage future teams.

Key Points

Psychologist Bruce Tuckman described how teams move through stages known as forming, storming, norming, and performing, and adjourning (or mourning).

You can use Tuckman's model to help your team to perform better. First, identify the stage your team is at, then use our tips to move them through the stages.

Remember, teams can slip back a stage, too. Use Tuckman's model to continually review where your team is at – and make any necessary changes to get back on course.

References

[1] Tuckman, B.W. (1965). 'Developmental Sequence in Small Groups,' *Psychological Bulletin*, 63(6). Available [here](#).

[2] Stein, J. *Using the Stages of Team Development* [online]. Available [here](#). [Accessed 30 October 2020]

SAMPLE

President		
Status	Task	When
	Update members on all official paperwork (Benefits Trust Fund, checking, etc)	
	Directory from Admin	
	Update email distribution lists	
	Update and check for accuracy all personal email group distribution lists	
	Establish Committees and chairs (consider moving to annual May meeting in future so summer training can occur)	
	Know your Contract Activity	
	Review Constitution and By-laws	
	Seniority lists; check for accuracy; in contract by October	
	Negotiations year	
	Nominating Committee/Voting	
	Elections, stipends voted on and approved yearly Negotiators, Executive Team	
	Meet and review with new executive board accomplishments and recommendations	
	New team meet and discuss roles: i.e. will all team member be part of decisions or President	
	Maintain ALL communication via email and/or cell with local NYSUT Representative	
	Maintain email communication with NYSUT and forward important info	
	Maintain membership drive	
	Maintain Association Filebox/update documents Keep original copies of MOAs	
	Committee Reports	

	Pass account mailing on to the treasurer	
	Promote positive Public Relations within the community (Making Strides, etc.)	
	Meet with NYSUT rep	
	Meet with admin	

Vice President

Status	Task	When

Treasurer

Status	Task	When
	<p>New members- changes throughout the year based on resignations, new hires, etc.</p> <p>Change membership roster on NYSUT website to reflect retirees, new members, etc. NYSUT Member Link (will need new Treasurer to set up NYSUT account for access)</p>	
	<p>Change name on Banking account to reflect new Treasurer Change of Signers</p>	
	<p>Annual Budget presented and voted on by Rep Council at first meeting Annual Budget</p>	
	<p>Submit Membership Categories to Business Office with dues withdrawn noted Membership Categories</p> <p>Needs to be completed as soon as possible <i>*Business Office needs to have a copy of all new member enrollment papers</i></p>	
	<p>Tax Exempt Postcard - submit online for non-profit tax exemption www.irs.gov/990n</p>	

	Have Audit from previous fiscal year completed by Association members Audit Requirements	
	Deposit bi-monthly checks into Association Bank account	
	Pay NYSUT Dues (per billing cycle)	
	Maintain ledger of incoming/outgoing expenses	
	All checks/expenses need approval of Association and receipts	
	All checks need 2 signatures	
	NO CHECKS made out to cash	

Secretary

Status	Task	When

Other Important Committees ex Benefit Trust Fund

Status	Task	When

SERVICING MODEL VS. ORGANIZING MODEL

The key to success in any internal organizing campaign is involvement of the membership in actions and decisions that affect them – whether bargaining for a contract, recruiting and activating new members, settling a grievance, or lobbying on a bill in the legislature.

In trying to do a good job, local union leaders often defeat their own efforts by relying too heavily on the “servicing model” of local union leadership – trying to help people by solving problems for them.

Many local union leaders are finding that using an “organizing model” – involving members in solution – results in a higher degree of organization and success.

Here are some examples of these two different models.

Issue/Problem – Employer is violating a safety standard.

Service Model – Union Representative files grievance or complaint with safety agency.

Organizing Model – Union asks affected workers to sign a petition, complete a survey or take part in a protest or go as group to the State or Federal safety agency to file a complaint.

Issue/Problem – Contract is up for negotiation.

Service Model – Negotiations Chairperson and/or Field Representative negotiates contract and presents it for ratification.

Organizing Model – Members participate in formulating demands, doing research, participate in pressure actions, then vote on ratification/rejection.

Issue/Problem – Union wants legislation passed.

Service Model – Full-time union lobbyist talks to legislators.

Organizing Model – Members sign petitions, write cards, visit legislators, attend hearings.

The advantages of the "organizing model" are several.

First it is frequently more **effective**. An employer is more likely to bargain fairly if there is a clear indication that a large number of workers are involved in and behind the union. A public agency is more likely to solve a problem if it knows many people want it resolved. A politician is more likely to support pro-labor and pro-education legislation if he or she knows the membership is involved and knowledgeable.

The second advantage is that it gives members a sense of power as a group by letting them share in the decisions and the victories. It is one thing to read in the union newsletter that the union won an arbitration or got a health and safety problem resolved or delivered a decent contract; it is quite another to know that by attending a rally or participating in a bargaining session *you* affected the outcome. The membership takes "**ownership**" in both the problem and the solution.

Third, the "organizing model" educates members about the nature of the dispute between the union and the employer. Often when the union loses a battle, the member blames the union because he or she didn't participate and doesn't know what happened.

Last, and perhaps most important, the "organizing model" enables the local union to take on and solve more problems because more people are involved and available to help.

In the short run, using the organizing model requires a lot of work, flexible leadership and the shedding of old ways of doing things.

But in the long run, it helps build the union into a force of many, as apposed to a service organization of just a few leaders.

Tips on Tactics
Organizing Professionals

The issues, substantively, are basically the same for all workers. Bread and butter issues – like health insurance or salary, and dignity on the job. The only real difference with professional employees is a question of style. Union leaders have to use a different style in communicating with professional employees. Union leaders need to appeal to members' self interest...intellectually, emotionally and professionally.

One fundamental point is that leaders of professional employee unions want to tap the talents and personalities in the members, whether that's writing talent, cartooning talent, a talent for public speaking or computer skills.

The local will succeed, not because the union leadership has gone out and discovered some magic for organizing professional workers, it is because the leadership is using professional workers who are volunteers to organize other professional workers.