

Welcome to the Union

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Welcome to the Union

WHAT EXACTLY IS A UNION?

A union is nothing more complicated than a group of workers who have banded together to promote their common interests. One person standing alone may be weak, but all of us joined together have strength.

The union speaks with one voice on behalf of all of the employees in what is known as the “bargaining unit.” This means the employer loses the powerful advantage of dealing only with individuals, one-on-one, with every worker subject to the employer’s whim. With union representation in place, the employer has to reckon with all of us, united in the union as the collective voice of all of the workers.

Of course a group of union members does not consist of people with 100 percent identical interests and needs. The union’s voice also is heard for all the different smaller groups of employees in the workplace, whether those groupings are based on shift, work classification, age, how much money people earn, or any other employment-related factors.



My Union, Everyone's Benefits

In the different roles that unions play, they end up protecting all employees — in fact, everyone. In the legislative arena, many laws that benefit everyone would not have been passed without the efforts of organized labor. Examples include the establishment of our Social Security system, workplace health and safety and discrimination laws, and unemployment compensation benefits.

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Some of organized labor's proudest moments have come at those times in American history where unions took the lead in a fight to improve our society. Every American knows that Martin Luther King, Jr. was gunned down in Memphis in 1968. But how many know that what brought Dr. King to Memphis was his support for city sanitation workers who were on strike for union recognition? Dr. King traveled to Memphis because he understood that the union fight to improve wages and benefits was a part of the larger struggle to create a society where Americans of all races would be treated equally.

And today, unions stand alongside lots of other groups fighting for equality for all Americans, for immigrants' rights, and much more that's critical in our democracy.

HOW YOUR UNION OPERATES

The heart and soul of any union is its members, and they are pulled together by a network of first-line union representatives, often called stewards. Stewards are the "eyes and ears" of the union, keeping track of what's happening in the workplace on a day-to-day basis.

Your steward is your first point of contact when you have a

question about whether your workplace rights have been violated or when you have an idea about some union action that might improve conditions. Don't expect a co-worker who has become a union steward to be an expert on all aspects of workplace rights. But understand that it is a steward's responsibility to do what it takes to find out, if necessary, what action may be appropriate to challenge an employer initiative and to safeguard employees' rights.

Unions in the same area often work together to help each other out. For example, State Federations and Central Labor Councils are networks of the different unions that represent employees in a particular state or local area. These bodies often work together on legislative matters and support one another in organizing drives or in battles with local employers.

You most likely are part of a national union, too. (If your union is called an "international," this means that there are members outside of the fifty states, most often Canada or Puerto Rico.)

The American Federation of Labor – Congress of Industrial Organizations (AFL-CIO) and the smaller Change to Win federation are umbrella organizations bringing together sixty or so American unions, representing many millions of workers nationwide. Just as businesses band together in chambers of commerce, through these two labor federations at the national level most American unions work together on a wide range of common concerns.

And unions combine their efforts across national borders. In order to respond effectively to the challenges facing employees of multinational corporations worldwide, American unions participate in global union federations. These groupings by industry or occupation represent workers from over 160 countries.





YOUR RIGHTS AND RESPONSIBILITIES

The Duty of Fair Representation

Just as the union has the right to speak collectively for everyone in the bargaining unit, it also has an obligation to represent the interests of each individual. This requirement is called the duty of fair representation, or DFR. When a given issue arises, different individuals or groups within the bargaining unit may well have different and conflicting stakes in possible outcomes. For example, in contract negotiations should the union push for raises calculated as a percentage of salary or for raises as a flat dollar amount? In whatever course of action the union chooses, the law says that it's obligated to act fairly in how it decides which direction to take, recognizing that there's no magical solution that is perfect for everyone.

Union Membership: The Right Thing to Do

Even if your contract or the law your union operates under doesn't require it, everyone the union advocates for should be a full dues-paying union member. Why? Because:

- You get to participate in decision making on contract negotiations and the rest of the union's agenda; non-members usually can't come to meetings where important decisions are made, nor vote on officers or on whether to approve a new contract;
- You create power in the union by sending a message to the em-

ployer that the individual employees stand united with their leaders in fighting for improvements in the workplace;

- Information is power, and being a member puts you in the loop;
- Plus, it's the fair thing: everyone benefits from the union's work, so everyone should do their part to make that work possible.

Internal Union Rights

Union members enjoy a broad set of rights similar in many ways to the rights found in the First Amendment to the U.S. Constitution. The “Bill of Rights of Members of Labor Organizations” in the Labor Management Reporting and Disclosure Act (LMRDA) applies only to unions that have private sector employees among its membership. But state and federal statutes as well as court decisions provide many of the same rights for others in the public sector: a guarantee that all union members have the right to nominate candidates for union office, to vote in union elections, and to attend and participate in union meetings. Your union's constitution and bylaws also speak to member rights.

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YOUR UNION CONTRACT

Exactly how the bargaining process shapes up is determined by several factors, but a lot of the general process of getting a new contract looks pretty much the same, everywhere.

The formal bargaining process generally begins when the union presents its proposals at the negotiating table, at a time and place agreed to by both sides. Either at that session or later on, the employer usually brings in proposals of its own.

The process the union goes through to figure out what proposals to present usually includes looking at a number of factors:

- what problems arose under the existing contract;
- how to balance the needs and expectations of various groups of employees represented by the union;
- what the union itself needs so it can function as an effective advocate for its members (like getting time off for union stewards so they can process grievances);
- and the reality of what's happening in other workplaces, or in society generally (things like inflation, health care costs, and whether your employer is facing hard times or is doing well).

To get information needed for bargaining, the union may hold meetings to ask you and your co-workers what problems you'd like your negotiators to tackle in bargaining. Most unions use written or on-line surveys to determine what the top priorities should be.

Throughout negotiations, unions look for ways to demonstrate that the members stand behind their bargaining team, to create pressure on the employer.

The bargaining process always includes face-to-face sessions, conducted in a fairly formal way. The bargainers present proposals and the facts, figures and arguments that justify them.

For the most part, the law doesn't dictate the specifics of what must end up in a collective bargaining agreement. But there is a legal "duty to bargain in good faith," which requires each party to be willing to meet with the other at reasonable times and places, and to be reasonably flexible in modifying its positions.

Bargaining a contract from start to finish can take quite a bit of time, with agreements being reached point by point until the entire new contract is in place. When the parties can't reach final agreement at the table, often a mediator will work with both sides to try to find areas of compromise. If common ground still can't be found, the law your union operates under may provide other mechanisms for resolving the impasse. An arbitrator or factfinder, for example,

may either play an advisory role or have full authority to dictate the terms of a new contract. Strikes in the private sector are legally protected, as they are in some public sector workplaces, as well.

Even when the parties reach agreement at the table on all items, these “tentative agreements” are usually not a done deal until the members vote to ratify. (Almost always, only dues-paying members of the union get to vote on accepting or rejecting the contract.)

But the real power in bargaining lies away from the table. Each side constantly evaluates whether it can hold firm in its positions or whether it must compromise, based on its assessment of how much pressure each side can exert on the other if agreement is not reached. So throughout negotiations, unions look for ways to demonstrate that the members stand behind their bargaining team, to create pressure on the employer.

EXPLAINING “GRIEVANCES”

In a labor union, a grievance is the subject of a complaint filed by an employee to be resolved by procedures provided in the union contract. Such a grievance may arise from an alleged violation of the collective bargaining agreement, or violations of law, such as workplace safety rules. Virtually every union contract contains a grievance/arbitration procedure, which is the way the union and the employer tackle disagreements about workplace rights. A conversation between your steward and a management official may be all

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that it takes to solve a problem. But sometimes a steward will have to set in motion a formal challenge to an employer action, the most common type being a contract grievance. Filing a grievance is the equivalent of starting a lawsuit: you put in writing what you believe another party has done that is contrary to the law, and you specify what action will be necessary to correct the situation.

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Individual members of the bargaining unit — that is, you and your co-workers — can initiate grievances under the contract if you believe that the terms of the collective bargaining agreement have been violated. And unions themselves also initiate grievances to challenge employer conduct that negatively affects everyone in the bargaining unit or one particular group of employees.

All grievance procedures require going through a series of steps, usually including one or more face-to-face meetings, with the procedures getting more formal as you go through each of the steps. If the dispute remains unresolved, then the last step of the grievance process — arbitration — is the equivalent of appearing before a judge to argue the case out and obtain a final resolution, one way or the other.

WORKPLACE RIGHTS

As a union member, your workplace rights come from a number of different sources, not just from the collective bargaining agreement. You and your co-workers have other rights, including those found in:



- Laws and regulations at the federal, state or local level. Some — such as wage and hour laws, health and safety statutes, and laws against discrimination — apply to both unionized and non-unionized workplaces. Others come into play only in workplaces where the employees are organizing into a union or already have unionized;
- Employer handbooks and regulations;
- Unwritten laws: it may be that the way things are in your workplace — established “past practices” — are actually enforceable under the contract or in another legal forum.

The Basic Labor Law Framework

In the private sector, the National Labor Relations Act (NLRA) is the law that establishes union rights for most private sector employees. Public sector bargaining laws generally draw heavily from the NLRA.

The NLRA states: “Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, and shall also have the right to refrain from any or all such activities...”

Certain actions on the part of an employer or a union are defined as unfair labor practices. The basic categories of employer conduct that are illegal include:

- statements or actions that interfere with, restrain, or coerce union activity;
- domination of unions (that is, any form of a “company union,” where the employer really controls the union);
- discrimination against employees who engage in union activity (or who decline to do so);
- retaliation against individuals who file unfair labor practice charges or who cooperate with a labor board in pursuing such charges;
- refusal to engage in good faith bargaining with the union.

Other Laws

Many parts of workplace life are regulated by other legislation as well, such as:

■ **Wages and hours:** The Fair Labor Standards Act is the federal law setting the minimum wage and standards for hours of work and overtime pay at the national level. When a state or local law sets more favorable standards, those will govern.

■ **Discrimination:** A variety of statutes outlaw a number of different kinds of discrimination against both job applicants and current employees. The precise coverage depends on which jurisdiction you're employed in. But these laws, plus your union contract, may provide a means of challenging discrimination based on such factors as race, ethnicity, age, religion, sex (including sexual harassment), sexual orientation and gender identity, marital or veteran's status, and mental or physical disability (including pregnancy).

■ **Family and Medical Leave:** The 1993 Family and Medical Leave Act (FMLA) says that most workers are legally entitled to take unpaid leave because of any of the following: the birth, care, or adoption or foster care of a child; the care of an immediate family member with a serious health condition; or the employee's own serious health condition. This law also gives returning employees the right to go back to their old jobs, or to equivalent positions, without being penalized.

■ **Health and safety:** Under either the federal Occupational Safety and Health Administration (OSHA) or an equivalent public sector agency, most workers have significant rights to a healthy and safe working environment. You and your union can request a workplace inspection, and also have a legal entitlement to a wealth of information from your employer pertaining to workplace injuries and to health and safety conditions. Other federal and state laws and agencies, such as the Environmental Protection Agency, provide protections as well.

■ **Pension and health care:** ERISA, the federal law that governs private employer-provided retirement and health benefit plans, is

not applicable to government workers. But a variety of other statutes provide important equivalent protections for public employees.

■ **Immigration Laws:** To control the hiring of undocumented workers, federal laws set forth requirements as to what personal identification documents your employer can insist upon seeing, and when.

■ **Workers' Compensation:** All states and the federal government cover employees who are injured or disabled in connection with their jobs. These laws mandate a set payment for the employee's loss and reimbursement for any medical expenses, and also entitlement to weekly disability payments.

IF YOU GET IN TROUBLE

Whether you're "innocent" or "guilty," one day you may find yourself called into the office of your supervisor or an investigator to answer questions. Your first thought may be "I haven't done anything wrong, so there's no harm in answering a few questions." But many workers find themselves in hot water when an over-eager supervisor or investigator deliberately twists perfectly innocent answers to questions or takes answers out of context to create a misleading impression. So better safe than sorry; educate yourself now about your basic rights in this area, so you can use them if you have to.

Unfortunately, there's no workplace equivalent of the *Miranda* right to remain silent, or even notification of the right to have a lawyer (or union steward, in your case) present. If you're asked questions about a work-related matter, you do have to give answers. But you can — and should — provide yourself with the protection you will have if a union representative is

"Unless you can assure me that the discussion I am being asked to enter into will not lead to disciplinary action being taken against me, I ask that my steward or another union representative be present. Unless I have union representation, I respectfully choose not to participate in this discussion."

(This is my right under a Supreme Court decision called Weingarten)

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present:

- your steward can learn beforehand what the questioning is going to be about;
- you can consult with your steward privately before the questioning starts;
- your steward can keep a written record of the meeting and serve as a witness afterward about what was said; and
- your steward can make sure the questioning stays within reasonable bounds.

Your rights to union representation are known as “Weingarten Rights,” after a Supreme Court ruling. Under Weingarten you have the legal right to have a union representative (but not necessarily a lawyer) present during a meeting with the management if ALL of the following conditions are met:

1. The meeting is part of an investigation.
2. You “reasonably believe” that disciplinary action may result.
3. You make a request for representation.

YOUR ROLE IN THE UNION

The decision you have to make, as an individual represented by a union, is really no different from your obligations as a member of society. You can choose not to keep informed about union issues and not to participate in the daily life of the union. Then, just as with what happens in the larger society, you can gripe about who’s running the union and the decisions they make. But there is an alternative, of course: since your union is nothing more than a collection of individual members, you can choose to become involved, and in so doing shape what your union is and what it does.

So if you want to “own” your union, and to share in the members’ responsibility of running it, what can you do?

- **Educate yourself:** Take the time to learn about the union and the issues it is dealing with on behalf of the members. If you don’t have a copy of the union contract, get one and look through it, at

least enough to get a good idea about what topics are covered and what the specifics are.

■ **Check out** your union’s website and social media presence, and also print publications. Take the time to attend union meetings.

■ **Be a set of “eyes and ears”:** “The union” can’t take any action unless it knows what the facts are, so part of your job as a union member is to be on the lookout for things in the workplace that the union needs to know about, and to pass along the necessary information.

■ **Show solidarity:** “An injury to one is an injury to all” is not just an abstract notion. So if your co-workers on the night shift are getting cheated out of their differential, the test is whether you and your co-workers on the day shift make it your business to make sure that the union can do what’s needed to take on the employer.

■ **Be a union ambassador:** There are a lot of popular misconceptions about what unions are and what they do. Letting friends and neighbors know about your own experiences as a unionized employee can be the most effective way possible to correct popular distortions about the labor movement.

■ **Get involved:** Part of the work that unions do is accomplished by paid union staff members or consultants and by stewards and union officers, who may get some time off or some additional compensation to do their union work. But the resources of any union are limited. A union’s real power is unleashed when individual members take it upon themselves to pitch in and each does a little something to contribute to the larger effort.

Unions are every working person’s best defense against employer excesses and mistakes, and they are the way our collective voice is heard. Take what you have learned from this pamphlet, and use it as a starting point to become a voice and presence in your union. The union is you and your co-workers; you have it within your power to make your union an ever-more-effective fighter for workplace rights and justice.

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