



# Transport Workers Union of America *Local 320 – Bikeshare*

## Key Tasks for Stewards

For new stewards, the first few days on the job as a union representative is critically important. You have got to demonstrate to the membership that you can get the job done. Your members must feel comfortable coming to you to resolve work-related issues.

At the same time, your supervisor and other management personnel are going to watch you and probably test you.

### **Establish Your Position**

When workers go directly to management, to another steward or to a higher union officer with a grievance, without first going through their assigned steward, we call that process “bypassing.” Bypassing is a problem for many stewards, especially new ones.

Granted some contracts call for the employee to speak with the immediate supervisor to solve problems informally. Whenever possible, we should encourage the member to bring along his/her shop steward to make sure that employee gets treated fairly. Often, when members go into meetings with their supervisors they are unaware of their rights and the stipulations of the contract.

As a steward, you cannot assume that the membership will automatically respect your abilities. Respect must be earned by showing the members that you will apply your skills and knowledge of the contract to represent all the members to the best of your ability. Keep the lines of communication open between yourself and other union representatives.

## **Management's Test**

Remember that if you are a new steward, management will often test you to see how well you represent the member. That test may be in the form of denying you reasonable time to do your job or giving you an extension of a time limit on a first step grievance. Your supervisor may try in some way to interfere with your investigation of a grievance by denying access to records. Or the supervisor may simply say no at your grievance meeting even though your member's grievance is a clear case of injustice and a breach of the agreement.

Expect to be tested. Don't get angry or flustered. Supervisors are often trained to incite a steward so that they will blow the grievance meeting. Don't lose your cool.

## **Establish the Union**

When they hire in, new workers are often given expensive "orientation" from management, but may not be exposed to the union view. Not realizing the struggle that went into winning these gains, many of them may believe the wages and conditions they enjoy came from the goodness of someone's heart.

Get to those new members early. Even if they are on probation, a friendly piece of advice and support will be long remembered.

## **Represent the Rank and File**

Always treat the member with respect and dignity. Work with the member. It is a sign of empowerment and the strength of the union as a group. The operative word is always "we" not I. The word "they" is always reserved for the company or management, not the local union or the International. If you truly believe that the union is not simply a servicing center for the membership, then these terms should be second-nature.

Always tell the truth. Sometimes you will have to say "no" and then try to convince the member that you are right. Have a reason for your decision and have some alternative strategy for the member if the situation merits it.

You have to keep favoritism out of the grievance procedure and avoid letting your personal feeling about a member cloud the way you represent him or her.

When one group of members is pitted against another, and while those who are favored might think small advantages are worth fighting for, everyone loses. Fair representation is a basic principle of unionism.

### **Build Solidarity**

Being situated right in the middle of the structure amid the union, management and the rank and file, the grievance representative can do a lot to build unity. In everything you do, you are setting an example for the rank-and-file that they have power and that power is the union. Your actions every day build the union.

### **Respect Management and Their Rights**

For the most part, the CBA protects management and its right to operate their business however they see fit. This is known as *management rights*. It covers everything from hiring practices, to scheduling, to rule changes and implementation, to all other general work rules. Undoubtedly, from time to time, the rank and file will take issue with a new rule or a new manager. It is the expectation that all member respect the rules and the managers who supervise them.

Refusing to work for **ANY REASON** for **ANY AMOUNT OF TIME** that is not explicitly because of a legitimate safety concern is grounds for immediate termination. We have an established grievance process and Workers Council that addresses concerns with issues of unfairness, unprofessionalism, favoritism, and the like.

On occasion, a steward may ask (or be invited by) Management for some paid time to be set aside to address the rank and file membership around a specific concern. Please understand, this is at the sole discretion of management to determine the date, time and duration, and should be requested several days in advance.

## What is a Grievance?

Too often, a shop steward does not know the answer to this basic question. A member comes to you with a problem. They spell out an incident, an event, or a problem and then tell you to file their grievance.

Shop stewards and local union officers are vested with the responsibility of enforcing the contract for everyone in the bargaining unit. That's a right we demand as a union when we organize workers. To enforce the contract, the union negotiates a grievance procedure that is the chief way, but not the only way, we can get justice for our members. According to one survey, some 91 percent of surveyed union contracts include a grievance procedure.

The first question we need to ask ourselves when a member comes to the steward with a problem "Is this issue a grievance?"

Strategically, we are asking is there any way we can deal with the issue through the grievance networks available to us?

The textbook definition of a grievance is a violation of the terms of the contract or interpretation or application of the contract. For many Railroad Division members, this does not seem unusual. Railroad grievances for years have been referred to as rule violations.

That's a pretty narrow definition of a grievance and one with which most union representatives might feel uncomfortable.

As we all know, textbooks are not the final word on anything. So let's develop this definition a bit further.

A grievance is more than likely a violation of an employee's rights on the job, a right that is usually, but not always defined by the contract. In seeing a grievance in this way, we can understand better that the best place to look for a way to defend the member is in the language of the contract.

If you have any doubts as to the contract's importance on this fundamental issue, think about how your employer tries to chip away at the contract – not just at contract negotiations, but every day. The employer knows that if all else fails, it's the contract that protects our members.

So for all practical purposes, every union officer must go back to the contract first when a member comes in with a complaint or a problem. The contract provides us with the strongest ammunition in resolving the issue for our member.

That is why it is so critical to know your agreement and use it as creatively as possible to handle grievances. Many TWU local officers have surprised themselves by grieving issues on language in the agreement that is close enough to the problem to get a positive response from management.

Is the contract the only means to resolve member's grievances? Of course not! But it is probably the strongest leg you have to stand on.

A grievance may exist if the company or employer violates the law. In almost every case, contract language or employer practices cannot violate the law. Filing a grievance based on the law does not limit pursuing legal remedies, but the act of filing is sometimes enough to get the employer's attention. Additionally, if the law provides greater protection than the contract, it supersedes the contract in this issue. If the contract provides greater benefit or protection, the contract, not the law prevails. By law, the overtime rate is time and a half but some TWU contracts offer double the hourly rate. The contract prevails here.

There is also the issue of past practice. Most new shop stewards rely on the concept of past practice far too often.

Past practice is roughly defined as a practice that has been repeated over a period of time. It's not something that has happened once or twice or that has been in place for a week. It is a practice that has been going on for enough time and so frequently that it appears to a reasonable person that both sides have agreed informally to conduct their business in this manner. Really this is a case of lax enforcement of a rule.. Be prepared that once a practice is challenged it will be ended.

These requirements show why it is so difficult to win a past practice grievance. Many if not all go to arbitration and arbitrators do not like to rewrite contracts.

The best advice is that stewards should not take it upon themselves to grieve on the basis of an employer violating past practice. Discuss the issue with other union officers.

Lastly, there are many grievances that fall into a large category that we say are discipline related. The union can challenge certain rules or their application. We may argue that a member is being disciplined without “just cause” or he or she is suffering from disparate treatment. The two expressions are simply an arbitrator’s or lawyer’s way of saying the member is being disciplined unfairly.

So the best advice that can be offered in handling a member’s problem is to check the contract first. If there is any reasonable way of dealing with the issue as a contract violation, you ought to use it.

You and your local union are only limited by the contract, the skills of the grievance representatives, and the power of the local union.

## **Handling Grievances**

There is no magic to handling grievances. Your membership expects you to give them a fair shake. That’s what they pay dues for. Your ability and credibility are the strongest attributes you possess to doing your job in a fair and professional manner.

To help you keep your eyes on the process and gain justice for your member, I have included 20 key points in grievance handling. Read them carefully and then read them again.

1. Know your membership
2. Encourage your members to submit all grievances to his or her representative
3. Discourage members from shopping around for a representative to file their grievance.

4. If the member has a complaint, not a grievance, take the time to explain why it cannot be processed as a grievance. Then see if you can help resolve the issue.
5. Do not make promises you cannot keep.
6. Know your collective bargaining agreement. Read and reread it.
7. Get all the relevant facts about a grievance and record them.
8. Make sure the grievant knows what the issues are.
9. Be honest with the grievant.
10. Separate personal vendettas from real grievances.
11. Plan your case and prepare at every stage.
12. Keep the grievant informed at every stage.
13. Try to settle the grievance early on.
14. Discourage the member from discussing a grievance with management.
15. Try to retain your member's confidence at all times.
16. Discourage your members from processing their own grievances or settling privately with management.
17. Listen to the grievant — know when he/she is telling the truth.
18. If a worker has an obvious grievance and won't file it, find out why.
19. Do not take bad grievances.
20. Keep written records of all conversations. You will need them.

### **Keeping a Journal**

It's good practice to keep some kind of written journal, electronic note taking, or task manager to help you stay organized and prepared. A quick recap of in-person interactions or conversations over the phone can help you to recall information later on. Always ask for written statements from grievants to be emailed to you. That way, you know they are truly serious about the issue, and there can be no misunderstanding or confusion about their narrative.