

Steward

FIRST LINE OF DEFENSE!



USW International Union
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Pittsburgh, Pennsylvania
15222



Handbook

NOTE

The USW Constitution does not use the term “shop steward.” It refers to “grievance or other committee members or stewards” with regard to removal from office and appointment of temporary officers. Ref. Article IX, Section 6. The terms Griever or Grievance Committee Member or Grievance Committee Person can be substituted for steward or shop steward as used in this publication.

A STEWARD'S CREED

I believe that I am responsible to my union brothers and sisters at my workplace, and I will represent them without showing favoritism in any way. I will thoroughly investigate each complaint and if it is a grievance, I will do my best to present the union's case in a fair and competent manner. If the complaint is not a grievance, I will explain why it is not and will encourage the member to bring up future problems. If it is an important problem, but not a grievance, I will seek to find a way to solve it outside the grievance procedure.

I understand that my job as a Steward involves more than grievance handling. I am a communicator, educator, organizer, problem solver, and leader in the workplace. I believe that the power of our union depends on an informed and involved membership, and I will do my best to show them how goals are achieved through unity and active involvement.

I will seek to improve wages, hours of work, job security and other conditions of employment, including but not limited to those which are conducive to safety, good health, and the full enjoyment of life.

I will always strive for equality regardless of race, color, creed, sex, age, religion, or national origin.

I will engage in collective bargaining to support stability and prosperity in industry and to maintain harmonious relations between employers and the workers represented by this international union.

I will at all times discharge my obligations to the best of my ability.

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The Jobs of a Steward

A Steward has many important duties. At various times the Steward will be called upon to exercise leadership, provide education and information, organize, and unionize the workforce. In addition, one of the most important jobs of the Steward is to properly handle grievances.

The Steward's job requires an assortment of skills and knowledge, but no one expects you to become an expert overnight. You'll learn from experience as issues and questions come up. You're not expected to be a genius or a miracle worker—only to be that first important link between the member and the union; that first important connection between the worker and the employer.

A STEWARD IS THE COMMUNICATION LINK

Stewards are the key point of contact between USW members and their union leaders. Stewards notify members of all relevant meetings and encourage attendance; keep the members informed about actions of the Executive Board, Grievance Committee or other decision-making bodies as well as day-to-day matters that affect them; solicit opinions and communicate to the officers the feelings and concerns of the members on a regular basis; and build support for contract negotiations, Executive Board/membership action, and workplace actions.

A STEWARD IS AN EDUCATOR

USW Stewards explain to members their rights and how to exercise them; explain the contract, grievance procedure, health and safety and other workplace regulations and protections, internal union procedures, and relevant laws.

A STEWARD IS AN ORGANIZER

In your role as a Steward, it is important to welcome and reach out to new employees and provide an orientation to the union; mobilize members for tough grievance and contract fights; focus on internal organizing, and assist in external organizing.

A STEWARD IS THE GRIEVANCE HANDLER

Stewards speak for the union and act as the representative at the workplace. They represent all workers in the bargaining unit fairly and without discrimination; act as the primary contract enforcer and work to make management live up to the contract; listen to worker complaints; and investigate, prepare, present, and write grievances.

A STEWARD IS A PROBLEM SOLVER

When members have a problem, they bring it to their Steward who works to resolve problems before a worker is adversely affected or before the situation

escalates to a grievance. Stewards develop relationships of respect and trust among the membership; work to develop open communications with supervisors; and refer workers with problems away from the job to an appropriate agency, employee assistance program (EAP), or other program.

A STEWARD IS PART OF THE UNION LEADERSHIP

Members look to Stewards for knowledge, experience, and guidance. By taking a visible, active role in decisions that affect workers and working with other Stewards, officers, and activists, Stewards help build an active and unified membership resulting in a stronger union.

What Does a Steward Need to Know?

- Contract.
- Co-workers.
- Local and international union.
- Department and the jobs.
- Supervisors.
- Employer policies.
- Personnel manual.
- Important labor laws.

Know Your Contract

The contract is the agreement which sets the terms and conditions upon which labor and management agree to cooperate for a designated period of time.

YOUR CONTRACT:

- Read it.
- Ask questions about it.
- Discuss it with other stewards and officers.

It is the set of rules which governs the behavior both of the worker on the job and the company; and it is your job as a Steward to see to it that management lives up to the terms of the contract. A contract is subject to interpretation, and you interpret the contract to the best interests of the people you represent.

Get Familiar With Your Contract

Become knowledgeable about all its articles and sections. No one expects a Steward to memorize the contract. Your familiarity will come from reading it, from trying to resolve grievances, and from discussions at Steward and union meetings. Other knowledge will come from talking over the articles and sections with the union committee which negotiated the contract.

Know Your Co-Workers

As a Steward, try to maintain frequent personal contact with each worker in your group. Make it a habit to talk one-on-one or in small groups about the job, the

workplace, and the union. In addition, it's important to know what is going on in the work units and keep in touch with the issues. Keep a list of members' names, addresses, and phone numbers. Sometimes you may need to call or perhaps visit a member at home.

Know Your Local and International Union

Knowing what the union wants and what it intends to do to get what it wants is essential. You must know the processes in your local and be aware that important issues to the membership change over time depending on current conditions in the facility and the economy.

Learn USW International policies and programs, in addition to your local's history of contract gains and other struggles.

Know Your Department and the Jobs

Most of the grievances you are asked to adjust will have their source in the department or area you serve. Thus, you will want to be well-acquainted with that department. The greater your knowledge about the workings of the department, the less chance you have of being misled into a compromise settlement of a grievance.

Know the Supervisors

Observe how the supervisor acts when discharging duties, how he or she reacts to grievances of one kind

or another. Be particularly careful to form your own judgments about a supervisor instead of accepting another's opinions.

Know the Employer Policies and Employer Personnel Manual

Valuable information about company policies and other criteria will be found in these materials.

Know Important Labor Laws

Becoming familiar with important laws that affect you and the membership will help you protect your members, build the union, and perhaps settle a problem or grievance. Some laws that benefit workers are described on page 30.

The Legal Rights of Union Stewards

As a Union Steward, you have special legal status that gives you both rights and responsibilities. Under the law, when you are acting as a Union Steward, you step out of the shoes of an employee and into the shoes of an exclusive bargaining representative. That means that the rules of conduct that normally apply to employees in their interactions with management do not apply to you. The rights and new rules of conduct that apply to Union Stewards are based on the following three

important principles. These also serve as guidelines for Steward-Management interactions. If management violates these principles, it may be committing an unfair labor practice under appropriate law.

1. Equality with the Boss

As an employee, you are in a subordinate role to supervisors and are subject to the regular and customary rules of discipline. Supervisors control what you say and do. You have a limited right to protest or disagree with management.

However, when you are acting in your official union capacity, you are no longer in a subordinate role but become an equal with the supervisor. You can openly disagree or argue vigorously with management during grievance meetings; question management's authority; demand certain actions of management—all without risking disciplinary action. The law recognizes that collective bargaining in general and the Steward's job in particular require open, direct, candid communication between equals. A Steward cannot effectively represent a worker if he or she can be subject to discipline for aggressive representation.

The Steward's rights and protections as a legal bargaining representative have limits. The equality principle applies only when a Steward is acting in an official capacity as a Steward, such as in a grievance meeting, representing a worker in an investigatory interview, investigating a grievance, etc.

Additionally, protection from discipline may be lost where the Steward's conduct exceeds appropriate bounds. For example, threatening a supervisor with bodily harm during a grievance meeting may be grounds for discipline.

2. No Retaliation

It is unlawful for management to retaliate against a Steward, just because he or she is a Steward or union leader. We are talking about actions by management that are intended to punish or intimidate a Steward in order to discourage the Steward from doing his or her job. An employer may not, among other things:

- Order a Steward to perform extra or more difficult work.
- Deny a Steward pay opportunities.
- Isolate a Steward from other workers.
- Deprive a Steward of overtime.
- Enforce rules more strictly against a Steward.
- Overly supervise a Steward.

3. Equal Discipline Standard

Stewards are employees and union representatives. When acting only as employees, not as Stewards, they must be treated just like other bargaining unit employees

in the same or similar situation. It is unlawful for management to hold Stewards to a higher standard of conduct just because they are Stewards. It is similar to retaliation.

The Union Steward's legal rights and protections can be a great source of power for the Steward and the union. Armed with these rights, a Steward can stand up to management, aggressively enforce the contract, and represent co-workers without fear of reprisal. In doing so, the Steward will raise the union's visibility and build the union's credibility in the eyes of the workers.

The Employee's Right to Union Representation—Weingarten Rights

One of the most vital functions of a Union Steward is to prevent management from intimidating employees. Nowhere is this more important than in closed door meetings when supervisors attempt to coerce employees into confessing to wrongdoing.

Employees have Weingarten rights (*NLRB v. Weingarten*, 1975) only during investigatory interviews. An investigatory interview occurs when a supervisor questions an employee to obtain information which could be used as a basis for discipline or asks an employee to defend his or her conduct. If an employee

has a reasonable belief that discipline or other adverse consequences may result from what he or she says, the employee has the right to request union representation.

Employers will often assert that the only role of a Steward in an investigatory interview is to observe the discussion. The Supreme Court, however, clearly acknowledged a Steward's right to assist and counsel workers during the interview.

NOTE: Stewards have no right to tell workers not to answer questions or to give false answers. Workers may be disciplined if they refuse to answer questions.

The Duty of Fair Representation

The Steward as a representative of the union has a legal obligation to represent all the workers in the unit fairly without regard to their union membership status, race, religion, nationality, age, or sex. This legal obligation is known as the duty of fair representation. Workers who do not receive fair representation can file unfair labor practice charges against, or sue, the union.

Remember, when handling a grievance:

- Pay attention to time limits.
- Conduct a full investigation.
- Keep the employee informed of any progress.

- Do not refuse to file or process a grievance because of a worker's sex, race, nationality, age, religion, politics, personality, or dues-paying status.

What is a Grievance?

Every complaint or problem brought to you by a member is not necessarily a grievance, and Stewards must learn the difference. There are five kinds of violations that can serve as the basis for a grievance. They include:

- Violations of contract.
- Violations of law.
- Unfair treatment (either covered by contract or law)
- Violations of company rules/policies.
- Violations of past practice.

Complaint vs. Grievance

If an employee kicks another employee in the shins, it is not a Steward's responsibility to bring a complaint before management. Such a problem should be resolved within the union. This is neither a contract violation nor unfair treatment by the company. It is a complaint. But should a supervisor kick an employee in the shins, this is a violation of most contracts and in any event unfair treatment by the company. It is a grievance.

Past Practice

In general, past practices are customs which are not written and which are not mentioned in the contract. A past practice is a reasonably uniform way in which a regularly occurring situation has been handled over a substantial period of time which has been openly accepted and not challenged as the proper way to do things and which is not in violation of the contract. The practice must be recurring and deal with the same type of situation. It must have existed over several contract periods. Generally, the burden of proof is on the union to show that the practice exists.

Whether a past practice can be grieved will often depend on other contract language, such as a management rights clause or what is frequently called a “zipper” clause. This is a clause in the agreement which makes the contract the exclusive statement of the parties’ rights and obligations.

Unfair Treatment

Unfair treatment by the company usually is covered in the contract, although the article or section may be very general in its language. Such clauses as those concerned with coercion and intimidation, working conditions, or disciplinary action are examples. These contract clauses usually contain language that workers can only be disciplined for just cause. The burden of proof falls on the employer in discipline cases.

Some Typical Grievances

Violation of seniority, improper recall, pay shortage, supervisor doing bargaining unit work, safety hazard, improper transfer, firing without just cause, abusive superior, improper classification, coercion and intimidation, favoritism, penalty overtime, violation of state labor and compensation laws, etc.

Steps in Handling a Grievance

Preparing a grievance for presentation requires a systematic approach for *effective handling*.

1. Receive the Problem: Interview the Grievant—Listen.

Hear the worker out. Give the member a chance to describe the problem and “cool off” if necessary. This means *listening actively*:

- Stop what you are doing.
- Take the person aside where you can hear them out.
- Face the person squarely.
- Make steady eye contact. Assume a relaxed but attentive posture (even if you don't like this person!)
- Start your questioning openly; for example, “Tell me what happened.”

- Give them feedback with your body and words to encourage them and convey that you are listening, that you care—“uh-huh,” “I see,” nods of the head, etc.
- Recap periodically what you understand—“so this happened and then this...?”

Once you have a general understanding of the nature of the problem, you should begin to ask more specific questions.

2. Compile Information: Investigate and Get the Facts

You may use the USW Grievance Investigation Form or the actual grievance form used by your local union.

- **WHO** is involved? Get complete information on the grievant, witnesses, management.
- **WHAT** happened? What is the grievance about?
- **WHEN** did it occur? Include time and date for the grievance and other related events.
- **WHERE** did it occur? Indicate exact location—machine, aisle, department, etc.
- **WHAT** are the demands for settlement? What is needed to place the aggrieved worker in the same position he or she would have been in had the injustice not occurred?
- **WHY** is this a grievance?

Sources of Information

Only a portion of this information will be available from the person with the potential grievance. There are other sources of information you should not neglect.

People who can Supply Information

- The grievant.
- Co-workers.
- Witnesses to events.
- Other union representatives and officers.
- Supervisors.
- Other company representatives.

Records that can Supply Information

- Past fact sheets, grievance files, arbitration decisions.
- The contract and supplemental agreements.
- Company rule books and work rules.
- Seniority, job classification, and payroll lists.
- Personnel, production, absentee, and medical records and files.

Union Access to Employer Information

Unions have the right to request and receive information from the employer that is relevant to processing grievances. The employer, as part of its duty to bargain in good faith, is obligated to provide the requested information.

- The union must request the information; this should be done in writing for the record.
- The information requested must be relevant to the actual or suspected grievance and has to be specific.
- The union must not be able to get the information any other way.
- The employer does not have to give you employee test scores, medical records, or trade secrets; however, there are exceptions you should discuss with your staff representative.
- The employer must provide the requested information in a timely manner and in a useful form.

Again, keep written records. You will need complete and detailed information at every step along the way. You can't remember it all. In addition, your notes and files can be used as a reference by you and other leaders involved in future grievances and contract negotiations.

Other Information Requests

You can request information which includes anything which is a mandatory subject of bargaining, such as but not limited to the following: accident records, attendance records, bargaining notes, company memos, contracts, correspondence, disciplinary records, equipment specifications, evaluations, inspection records, insurance policies, interview notes, job assignment records, job descriptions, material records, payroll records, performance reviews, personnel files, photographs, reports and studies, salary and bonus records, seniority lists, supervisors' notes, time study records, training manuals, and videotapes.

Keep the Worker Informed

The Steward has the responsibility to keep the worker informed of the complaint's status including:

1. Your next course of action.
2. When you will get back to them.
3. Status of the complaint even after it is out of your hands.

WARNING

Promise only what you can personally deliver and no more. Do not raise the worker's expectations—you do not control the grievance process nor management's response. You can promise to investigate the situation and do the best you can for the worker; and to get back to the worker when you say you will.

3. Identify Relevant Facts

One of the advantages of using the USW Grievance Investigation Form is that we can check the completeness of our information, the accuracy of our thinking on all aspects of the case, and the factual support for any action taken later. Grievances are won or lost on the completeness and accuracy of what we have recorded and our ability to evaluate it properly!

Next, Review

Go over the investigation form and evaluate the information recorded by using the “*Three Rules of Evidence:*”

1. Opinions are not facts.
2. Hearsay evidence is not factual.
3. Facts must be relevant.

Next, Decide

Is this a grievance? What has been violated? Contract? Law? Company rules/policies? Fair treatment? Past practice? If you determine that no legitimate grievance exists, tell the worker. Explain to the member their right to have their grievance reviewed under the guidelines outlined in the local union by-laws. (Be sure you know your local union’s guidelines for this type of situation.) Your responsibility of fair representation is only fulfilled if you fairly and completely investigate the case and make your decision based on the merits of the case.

4. Preparing Your Case and Presentation

Now that you have fully investigated the case and decided it should be grieved, get yourself and the grievant ready to give the best possible presentation. Your goal is to solve the problem at the lowest possible step of the grievance process.

The methods for introducing a grievance vary from plant to plant, from contract to contract. Be sure you follow the procedure that is practiced in your local situation.

In your presentation to the supervisor you may use all the facts you have written down on the grievance investigation form or the actual grievance form, or you may only use a part of them. As a rule, the Steward should do all the talking; however, you should discuss this with the grievant beforehand and determine the best way to present the case. Practice your arguments for the case. Be prepared to respond to management's arguments and present a solution or remedy. See "*Tips for Discussion with Management*" on page 23.

Your Grievance Procedure

Complete the following grievance chart by referring to a copy of your collective bargaining agreement.

Grievance Steps	Union Rep(s)	Company Rep(s)	Company Time Limit	Union Time Limit
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Informal Steps

Step 1

Step 2

Step 3

Step 4

Step 5

Arbitration

5. Writing the Grievance

When you fill in a grievance form, whether it be the form supplied by the international union (see page 28) or one composed by your local union, remember to stick to the point when relating the facts you have found.

General Points

1. Limit details to basic information. Provide only enough information to identify the grievance so that management understands what the basic problem is, what violations occurred, and how

the problem should be fixed (the remedy). Keep documentation out of the grievance form. The facts are to support the union's contention; thus you may not want to introduce them until you get into formal discussion.

2. Don't limit contract violations. In stating why there is a grievance, use the phrase "violates the contract article ____, section ____ and **all other relevant articles of the contract.**"
3. Avoid personal remarks. State the union's position, not your opinion or the grievant's opinion. Avoid phrases like "I think" or opinions about management.
4. Don't limit the remedy. Use the phrase "**made whole in every way including ...**"
5. Consult with the grievant. Go over the written grievance with grievant. Make sure there is full understanding and agreement.

Keeping the Records

Keeping records about your activities as a Steward will pay off. Use grievances which have been won as a basis for winning similar cases in the future. Check lost grievances for mistakes in presentation to prevent yourself from making the same mistakes. The grievance records can also guide the negotiating committee in forming proposals and in bargaining.

A simple card file or computer system can be designed for record keeping. A card on each grievance should contain the following information:

- The affected clause of the contract and its page location.
- Short notes on the nature of the grievance.
- The kind of settlement and in what step it was reached.
- The name of the grieving party.

Other notes, such as the supervisor's behavior, can be included.

These cards, filed by contract article, will show whether the contract is working for the local union.

Article X, Sec. 8, pg. ___
TITLE OF CLAUSE: RECALL
Notes: Company recalled Jim White before George Macon. Macon has greater seniority. Settled in 3rd step. Company paid Macon for time he lost on recall.

Tips for Discussion with Management

1. Act as management's equal. While respecting their position, insist on respect for you and the grievant.
2. Use a friendly, positive approach.
3. Discuss issues, not personalities.
4. Stick to discussing your grievance. Politely but firmly keep the discussion on the facts.
5. Listen for the main point of management's argument. Try to narrow your differences. Look for possible solutions.
6. Avoid becoming over-excited, angry, or hostile. Management sometimes attempts to provoke you into losing your temper.
7. Avoid arguing with the grievant in front of management. If a disagreement occurs, ask for a caucus where you can leave the meeting room to iron out the problem.
8. Don't make threats.
9. When you disagree with management, do so with dignity. Remember, you and the supervisor will have to settle other issues in the future.
10. Try to resolve the grievance satisfactorily at the first step.
11. When withdrawing a grievance, notify the company in writing that the grievance is being withdrawn without prejudice and without establishing a precedent in the settlement of similar or like grievances in the future.

When the Grievance Procedure is Not Enough

ORGANIZING RANK-AND-FILE PRESSURE ON THE EMPLOYER

Filing a grievance does not eliminate the union's right (and sometimes necessity) to use collective action. Finding solutions to on-the-job problems often depends as much on the amount of unity the membership shows as on the arguments put forward by the Steward. Using collective action gets other workers involved in the struggle for justice for a co-worker. When an issue affects many workers, it is important to focus on communicating and mobilizing other workers around that issue. Here are some helpful ideas:

- File a group grievance.
- Hold a meeting of employees during breaks or at mealtime to discuss the grievance.
- Distribute leaflets about the grievance during breaks or before or after work.
- Circulate a petition in support of the grievance.
- Pick a day for everyone to wear the same color or an armband.
- Wear T-shirts, pins, or stickers with a slogan supporting the grievance.

**AN INJURY TO ONE
IS AN INJURY TO ALL!**



GRIEVANCE INVESTIGATION FORM

FOR THE UNION ONLY

GRIEVANT NAME _____ JOB TITLE _____ WAGE RATE _____
EMPLOYEE NO. _____ SHIFT _____ SECTION _____ LOCATION _____ SENIORITY DATE _____

WHO IS INVOLVED? (Witnesses, management personnel, grievant.)

WHAT HAPPENED? What is the grievance about? Facts behind different viewpoints.

WHEN DID THE GRIEVANCE OCCUR?
(Date and time grievance began? How often? For how long? Is it within time limits to proceed with a grievance?)

WHERE DID THE GRIEVANCE OCCUR?
(Exact location—department, machine, aisle, job number, etc.; include diagram, sketch or photo if helpful.)

WHAT ARE THE DEMANDS FOR SETTLEMENT?
(Adjustments necessary to completely correct the situation; in case of discharge ask for back pay including interest.)

WHY IS THIS A GRIEVANCE?
(Violation of contract? Memorandum? Law? Past practice? Safety regulations? Rulings or awards? Unjust treatment, etc.)

GRIEVANCE INVESTIGATION FORM

FOR THE UNION ONLY

COMPANY CONTENDS

COMPANY RECORD OF CONDUCT

WARNINGS AND/OR PENALTIES FOR LATENESS, ABSENTEEISM, QUANTITY OR QUALITY OF WORK, ETC.

DATES

REASONS

VERBAL WARNINGS ISSUED: _____

WRITTEN WARNINGS ISSUED: _____

PENALTIES IMPOSED: _____

TESTS FOR JUST CAUSE

WHAT IS THE WORK RULE INVOLVED? _____

DO WE ACCEPT THE RULE? _____

IS THE EMPLOYEE AWARE OF THE RULE? _____

DID MANAGEMENT FAIRLY INVESTIGATE BEFORE TAKING ACTION? _____

HAS MANAGEMENT EVENLY AND FAIRLY ENFORCED THE RULE IN QUESTION? _____

HAS THE WORKER'S RECORD BEEN TAKEN INTO CONSIDERATION? _____

DOES MANAGEMENT HAVE SUBSTANTIAL EVIDENCE OF GUILT? _____

ADDITIONAL INFORMATION

INFORMATION GIVEN BY WITNESSES

(PRINT THE NAME OF EACH WITNESS FOLLOWED BY A SUMMARY OF WHAT EACH SAW AND HEARD; GET A SIGNED STATEMENT IF NECESSARY). USE ADDITIONAL PAPER.

ATTACH DOCUMENTARY EVIDENCE

(SENIORITY LIST, WAGE SCHEDULE, WORK TICKET, RECORD OF SIMILAR GRIEVANCE, ETC.)

DATE _____

SIGNATURE OF STEWARD OR COMMITTEE PERSON _____

SIGNATURE OF EMPLOYEE _____



FILL OUT IN TRIPLICATE

GRIEVANCE REPORT

USW Local Union No. _____

Grievance No. _____

Location _____

Date _____

Employee Name	Identification No.	Department	Job Title

Use the space below to write in other important Grievance information

Nature of Grievance

Settlement requested in Grievance _____

Plus the Union requests that the grievant(s) be made whole in every respect, including interest on any monies owed.

Agreement Violation _____

Signature of Aggrieved:

Signature of Union Representative:

_____	_____
_____	_____

Form USW 122 - Revised 2010



Summary of Important Labor Laws

NATIONAL LABOR RELATIONS ACT (NLRA)—1935

This is the most important law for workers in the United States. It guarantees workers in the private sector the right to engage in concerted activities (taking collective action) for the purpose of collective bargaining or other mutual aid or protection. It outlaws company unions and guarantees the right to organize and join unions, bargain collectively, strike, and covers most aspects of labor-management relations. Because the NLRA sparked a tidal wave of union organizing, big business was furious. In 1947, business won passage of the **Taft-Hartley Act**, which modified the NLRA, allowing unions to be prosecuted, enjoined (meaning judges could issue injunctions to stop union activity) and sued for a variety of actions including mass picketing and secondary boycotts. The NLRA was further weakened in 1959 with the passage of the **Landrum-Griffin Act**. Some court decisions in recent years have also further weakened the NLRA. The NLRA is administered by the National Labor Relations Board (NLRB).

SOCIAL SECURITY ACT—1935

The first program to provide a national system of social insurance to provide protection for wage earners and their families against loss of income

due to unemployment, old age, and death. A system of federal aid for relief for specified groups was also included in the original act. The scope of the act has been extended over the years to provide more services for more people.

Benefits for totally disabled workers were later included in the program. In 1965, a system of hospital and nursing home care for the aged was added, along with a program for voluntary medical care insurance, financed jointly by the federal government and individuals. The retirement, disability, and survivors' insurance and Medicare are financed by a tax on workers and employers, and benefits are determined by Congress.

FAIR LABOR STANDARDS ACT (FLSA)—1938

This act established a minimum wage, outlawed child labor, and mandated overtime pay. Provisions of FLSA are normally duplicated in union contracts, but its rules can be used to define when pay is due for disputed hours of work (such as waiting time, rest periods, meal periods, travel time, on-call time, and so on). In general, compensation is covered by FLSA. Most workers are covered by this law; among the exceptions are trucking employees. The law is administered by the U.S. Department of Labor, Wage and Hour Division.

EQUAL PAY ACT—1963

The Equal Pay Act was designed to eliminate discriminatory treatment of women. The act requires equal pay for equal work on jobs requiring equal skill, effort, and responsibility and which are performed under similar working conditions (administered by the Wage and Hour Division, U.S. Department of Labor).

WALSH-HEALEY ACT—1936

This law covers work performed on Federal Government contracts involving \$10,000 or more per year. It requires payment of time and one half after 8-hours per day and 40-hours per week. Minimum wages are set for each industry doing business with the government after a public hearing to determine the prevailing minimum in the industry. It is usually higher than the minimum required by the **Fair Labor Standards Act** (administered by the Public Contract Division, U.S. Department of Labor).

EXECUTIVE ORDER: EMPLOYEE MANAGEMENT COOPERATION IN THE FEDERAL SERVICE—1962

President Kennedy issued this order to all agencies of the Executive Branch of the Federal Government (excluding the FBI and CIA). The order guarantees the right for employees of these agencies to join and assist

any employee organization or to refrain from any such activity. Procedures are outlined for the agencies to recognize the employees' organization. Once recognized, the employees' association may bargain with the specific agency as to personnel policies and working conditions which are not already established by law. **The Wagner Act** granted similar rights to employees employed by companies in interstate commerce.

AGE DISCRIMINATION IN EMPLOYMENT ACT —1967

This Federal statute promotes the employment of the older worker based on ability rather than age, prohibits arbitrary age discrimination in employment, and helps employers and employees find ways to meet problems arising from the impact of age on employment. Specifically, it is against the law for an employer to fail or refuse to hire, or to discharge, or classify employees or otherwise discriminate against any individual as to compensation, terms, conditions or privileges of employment because of age. Under the law, it is illegal for a labor organization to discriminate by limiting, segregating, or classifying its membership on the basis of age. In addition, a union is prohibited from causing or attempting to cause any employer to discriminate because of age. Exceptions to this law are made for cases in which there is a bona fide occupational qualification, a bona fide seniority system or discharge is for good cause (administered by the EEOC).

TITLE VII

Title VII passed as part of the 1964 Federal Civil Rights Act. It applies to private-sector employers with more than fifteen (15) employees and to all state and local government employers. Title VII outlaws employment discrimination on the basis of race, color, sex, national origin, or religion as well as employer toleration of harassment. This act prohibits discrimination in hiring, promotes promotion and job assignments. Title VII is enforced by the Equal Employment Opportunity Commission (EEOC). State and local agencies also enforce Title VII as well as state and local anti-discrimination laws.

SEXUAL HARASSMENT—1980

The Equal Employment Opportunity Commission (EEOC) is the agency that enforces Title VII and issues guidelines interpreting the law to forbid sexual harassment as a form of sex discrimination. In the 1986 decision of *Meritor Savings Bank v. Vinson*, the Supreme Court issued a decision addressing sexual harassment for the first time, stating that an employer can be held liable for sexual harassment committed by a supervisor, if it knew or should have known about the conduct, and did nothing to correct it. In 1993 the Supreme Court's second decision on sexual harassment in employment in the *Harris v. Forklift Systems* case, decided that proof of psychological harm is not necessary for a successful suit; it is enough if (1) the employee subjectively

perceives a hostile work environment as a result of gender-based conduct; and (2) the conduct was severe or pervasive enough to create an objectively hostile work environment—one that a reasonable person would find hostile.

FAIR EMPLOYMENT PRACTICES

State laws on fair employment practices have become less important due to Title VII of the Civil Rights Act. More states are encouraged to adopt such laws and to increase activity under present laws. Check your state laws because some have existing laws which forbid discrimination in employment because of race, color, sex, or creed.

UNEMPLOYMENT COMPENSATION

Unemployment compensation is handled through the states with benefits and requirements varying from state to state. However, it was through a special federal tax provided for under the Social Security Act that the states were forced to devise a system of unemployment compensation.

WORKERS' COMPENSATION

All states now have laws providing benefits for workers injured on the job or suffering a disabling occupational disease. As is the case with unemployment compensation, the benefits under workers' compensation vary from state to state.

“RIGHT-TO-WORK” LAWS

Under the misleading title of Right-to-Work laws, 22-states have passed laws outlawing all union security provisions in collective bargaining agreements, namely, union shops. These laws cannot guarantee anybody a job; they just protect free riders, people who take all the benefits of unions without paying any dues. Section 14B of the **Taft-Hartley Act** permitted states to pass such legislation. The following states have right to work laws: Alabama, Arizona, Arkansas, Florida, Georgia, Idaho, Iowa, Kansas, Louisiana, Mississippi, Nebraska, Nevada, North Carolina, North Dakota, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia and Wyoming.

AMERICANS WITH DISABILITIES ACT (ADA)— 1990

The ADA outlaws discrimination against qualified persons with disabilities and requires employers to make *reasonable accommodations* to allow job applicants and employees to perform work for which they are qualified. ADA covers private and public-sector employers with fifteen (15) or more employees. The ADA has clout—and Stewards can use it to not only help disabled USW members, but all workers. Unions are also required, under the law, to ensure that disabled workers are treated the same as anyone else. The law is enforced by the Equal Employment Opportunity Commission (EEOC).

FAMILY AND MEDICAL LEAVE ACT (FMLA)— 1993

This law covers private-sector employers with fifty (50) or more employees and all state and local government agencies. FMLA guarantees employees up to twelve (12) weeks of *unpaid* leave each year for the following: (1) to care for an immediate family member (spouse, child, or parent) with a serious health condition; (2) to care for a newborn, adopted, or newly-placed foster child; and (3) and to treat or recover from a serious health condition.

USW members should be careful about how the FMLA interacts with vacation and leave provisions in our contracts. FMLA is administered by the U.S. Department of Labor Wage and Hour Division.

OCCUPATIONAL SAFETY AND HEALTH ACT (OSHA)—1970

The goal of this act is to assure, as far as possible, every working man and woman in the nation safe and healthful working conditions. The OSH Act is important to know. It establishes health and safety standards for various jobs and industries. Employers can be fined for violations and it gives employees the right to refuse dangerous and unsafe work under certain conditions. Employers and pro-business elected officials have worked hard to weaken OSHA as much as possible, but the act is still a useful tool in protecting worker health and safety. This

law is generally enforced by the Occupational Safety and Health Administration (OSHA). Some states, however, have claimed responsibility for enforcing the law. Additionally, some workers (such as state employees) are not covered by OSHA; check your state's health and safety regulations for more information.

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USW

**United Steel, Paper and Forestry, Rubber,
Manufacturing, Energy, Allied Industrial and
Service Workers International Union**

MY UNION REPRESENTATIVE IS:

NAME

PHONE NUMBER

Form 341

WEINGARTEN RIGHTS

If this discussion could in any way lead to my being disciplined or terminated, or affect my personal working conditions, I respectfully request that my union representative, officer, or steward be present at the meeting. Without representation, I choose not to answer any questions.

