

# Welcome

2018 Stewards Training  
March 21 2018

Please sign-in

# NLRA: (National labor Relations Act)

## **Prior to:**

Employer free to spy, interrogate, discipline, fire or blacklist union members

Great Depression, workers took over factories, general strikes, battled police / security forces

Wagner Act – bill to protect union organizing (1935)

Promulgated Labor Act to avoid potentially revolutionary confrontation

## **After passage:**

Declared collective bargaining official policy of U.S.

Forbid employers from discriminating against workers joining unions, exercising leadership, engaging in strikes

Many industries organized, unionized and thrived

Section, 7, 8, 9 important provisions

# NLRA (cont)

## **Section 7 –**

EE's free to:

Self-organization

Form, join, assist labor organizations

Bargain collectively

Engage in concerted activities for purposes of collective bargaining,

**or**

other mutual aid

**or**

protection

## **Section 8 –**

Defines employer violations: (union/collective bargaining)

Unfair Labor Practices (ULP)

Interference, restraint or coercion

Creation or domination of a labor organization

Discrimination against EE's because of union efforts or discourage support

Retaliation for filing ULP or cooperating with NLRB

Refusal to bargain in good faith

## **Section 9 –**

Lays out procedures for union elections

# NLRA (cont)

## ULP charges:

- Filed within 6 months of illegal conduct
- Handwritten or typed
- Can be filed by unions or individual/s
- Mail to regional office
- Regional office serves copy to employer

## Investigation:

- NLRB interview witnesses
- Reviews documents
- Recommendations to regional director
- Issue *complaint, defer to arbitration, dismiss*

## Complaint:

- Warranted – agent informs employer and attempts to bring about a settlement
- Efforts fail – region issues complaint and schedules hearing before administrative law judge (ALJ)
- NLRB attorney prosecutes
- ALJ can issue decision recommending cease illegal activity, make up for any harm,
- Post notice promising no to commit further violations

# NLRA (cont)

## **Appeal:**

Employer or union can appeal ALJ decision

Further appeals taken in federal court

## **Deferral:**

Policy – regional director frequently defer action on ULP charges if:

Employer agrees to allow matter to be heard by arbitrator

Conserves resources

Applies deferral to most union-files charges **other than** –

- Refusal to provide information
- Violation of Weingarten rights
- Retaliation for filing labor board charges

**NLRB** –cannot impose imprisonment or a fine.

# Stewards rights ?

## Stewards role:

Negotiator  
Leader  
Educator  
Communicator  
Organizer  
Political activist

✓ Union solidarity

✓ Contract rights

3 factors:

✓ Labor Law

Two main jobs – building a strong union / grievance handling

Expect to be tested - hazing

# Grievance?

- 1) Violation of the terms of the contract or interpretation or application of the contract
- 2) A violation of an employees rights on the job, a right that usually, but not always defined by the contract

Law

Past practice – benefits or privileges

Discipline – “just cause” or disparate treatment / unfairly

## “Get it in writing”

- ✓ **Investigation – 5W’s**
- ✓ **Take notes – vs memory**
- ✓ **What else – other info**
- ✓ **How - resolved**

### **Best “past practices” victories:**

Lost time while seeing company doctor

The right to swap shifts

The right to receive sick pay during layoffs

The right to use company vehicles to commute to work

Yearly company picnic

Discounts on company products

Free meals and coffee

Pay for travel time

Considering the lunch period as paid time

Christmas bonus

# Grievance Process:

NLRA staunchly defends employees who file grievances

Management may not:

Threaten

Abuse

Harass



**Grievant**

## **Employer violates Labor Act:**

- Uses harsh language to intimidate a grievant
- Tells a grievant to stay away from steward
- Tells a grievant, "If you're unhappy, why don't you look for a job somewhere else."
- Tells a grievant, "You should have spoken to me about it before you files."
- Repeatedly tells a grievant that the union is giving poor advice



# Key points in grievance handling:

- ✓ Know your membership
- ✓ Encourage your members to submit all grievances to their representative
- ✓ Discourage members from shopping around for a representative to file their grievance
- ✓ If a member has a complaint, not a grievance, take the time to explain why it cannot be processed as a grievance
- ✓ Do not make promises you cannot keep
- ✓ Know your collective bargaining agreement. (*Read and re-read it*)
- ✓ Get all the relevant facts about the grievance and record them
- ✓ Make sure the grievant knows what the issues are
- ✓ Be honest with the grievant
- ✓ Separate personal vendettas from real grievances
- ✓ Plan your case and prepare at every stage
- ✓ Keep the grievant informed at every stage
- ✓ Try to settle the grievance early on
- ✓ Discourage the member from discussing a grievance with management
- ✓ Try to retain your member's confidence at all times
- ✓ Discourage your members from processing their own grievances or settling privately with management
- ✓ Listen to the grievant --- know when he/she is telling the truth
- ✓ If a worker has an obvious grievance and won't file it, find out why
- ✓ Do not take bad grievances
- ✓ Keep written records of all conversations (*you will need them*)
- ✓ Setup a filing system that works for you

What did we learn last year?

## interviewing, listening, writing

JOINT STATEMENT OF FACTS AND CONTENTIONS		BARGAINING UNIT	GRIEVANCE NO.
FACTS DEVELOPED AT _____ STEP			
UNION CONTENTIONS:			
COMPANY CONTENTIONS:			
THIS GRIEVANCE WAS <div style="display: inline-block; vertical-align: top; margin-left: 20px;"> <input type="checkbox"/> SETTLED AT _____ STEP           </div> <div style="display: inline-block; vertical-align: top; margin-left: 20px;"> <input type="checkbox"/> REFERRED TO _____ STEP ON THE BASIS THAT:           </div>			
UNION SIGNATURE _____		COMPANY SIGNATURE _____	
DATE _____		DATE _____	

GT 929-1 (3-80)

Round 1

# Grievance process (cont)

Investigate

Informal meeting to discuss issue

Allow time for supervisor reply / resolution (No / Denial)

Don't take no for an answer

Process doesn't end - File written grievance (1<sup>st</sup>)

Notes, forms etc. to file for next step – keep appealing

Move grievance to higher level (2<sup>nd</sup> step)

Move grievance to next higher level (3<sup>rd</sup> step)

Begins and ends with the steward

Few grievance go up ladder or to arbitration

Treat/handle as if it will go to arbitration

Be timely

Be brief – tell the story

Remedy

Follow-up

## **Resolving early:**

Members see results quickly (drawn out shows... )

Justice delayed is .....

Builds relationships

If written, forces both sides to posture/inflexible

Handled by discussion vs grievance process

# Union Stewards:

Special status-

Immunity

No reprisals

Equal standards

ULP charges

# Goals of Union Steward:

Keep yourself informed of union affairs

Serve as an example to your members

Keep the members informed on union policies and union activities

Attend union meetings and union affairs

Meet new members, inform them, educate them, help them become members

Get your crew to act as a union

Act as a leader - don't let like / dislikes prejudice your actions

Fight discrimination, whether overt or very discreet

Keep accurate and up-to-date records. Write it down.

Do not promise, if you can't deliver.

Encourage political action

Be active politically.

Know how to refer to the union contract, by-laws, and international constitution.

Encourage and support union activities on behalf of organizing and the unorganized.

Inform the membership of union services.

Fight, the anti-union element

Do not hesitate or stall. Don't know, ask!

Keep workers informed on sources of information.

In dealing with management, remember you are elected or appointed.

Be proud of your position.

Wear your union button and encourage your coworkers to wear them.

Investigate every grievance as if it were your own, and keep member informed, and don't forget deadlines.

Attend and encourage attendance at any labor education program.

Remember your goal ... to be the best union representative you can be. Excellence has no substitute!

# Nobody's Perfect: 20 mistakes

- Always wait until a worker comes to you.
- Walk around the worksite with a chip on your shoulder.
- Pretend to know all the answers to all problems.
- Give out false information or spread rumors.
- Fail to keep members posted on disposition of grievances.
- Violate company rules.
- Violate the contract.
- Always try to talk members out of filing grievances.
- Present a grievance that isn't one.
- Forget to investigate a grievance thoroughly before handling
- Blow up when dealing with supervisors or workers.
- Use profane language to intimidate the boss.
- Argue a grievance by taking personal issue with the supervisor and directing personal remarks.
- Miss membership.
- Bawl out a member in front of co-workers or in front of a supervisor.
- Stall when workers call you.
- Keep all information to yourself.
- Permit workers to push you around.
- Enhance the supervisor's prestige by permitting the supervisor to use you as a means of doing his/her dirty work.
- Manage the workers.



# Solicitation of grievances:

Is a protected activity for stewards and employees

Employer may not prohibit stewards from approaching EE's (*on/off? ... investigate?*)

Conversations with members are confidential

## **Adjustment:**

Unions have right to resolve bargaining-unit grievances on term they deem proper or expedient

Strengths, weaknesses and not influenced by personal animosity

Union can withdraw grievance for tactical reasons or lack merit

## **Labor law rules apply to adjustments:**

At the request of union, employer must put adjustment in writing and sign it

Employer can insist “action taken not to be considered precedent setting”

EE can meet with supervisor to complain about schedule, job assignment, co-employees or other work conditions

Management cannot resolve the complaint without contacting the union and allowing it to be present at the adjustment

Management may not make a settlement offer to a grievant without the presence of the union

# Solicitation of grievances:

## **Support:**

Union can organize support for grievances through measures such as:

- ✓ Handbills
- ✓ Petitions
- ✓ Button and Tee Shirts
- ✓ Meetings during break or mealtime
- ✓ Letters to customers
- ✓ Press releases
- ✓ Off-duty picket lines

# Dozen Points on Grievance Presentation:

- I. Prepare the case beforehand
- II. Avoid arguments among union people in presence of the company
- III. Stick to the point, avoid getting led off on side issues by the company
- IV. Get the main point of the company's argument
- V. Disagree with dignity
- VI. Avoid unnecessary delays
- VII. Settle at the lowest possible step
- VIII. Burden of proof is on the supervisor
- IX. Avoid bluffing
- X. Maintain your position on a grievance until proven wrong
- XI. Be prompt ... follow the grievance through
- XII. Enforce the contract

# Listening?

Skill – one relies on the other (talk/listen)

- Body language is a cue
- Empathize
- Ask questions
- Don't give up too soon - .... (125 / 300)
- Concentrate on what is said
- Look at the other person
- Leave your emotions behind
- Control your anger
- Get rid of distractions
- Get to the main point
- Share responsibility
- React to ideas, not to the person
- Don't argue mentally
- Use the difference in rate
- Listen to what is not said
- Listen to how something is said
- Don't antagonize the speaker
- Listen for their personality
- Avoid jumping to assumptions
- Avoid classifying the speaker
- Avoid hasty judgement
- Recognize your own prejudices
- Identify the type of reasoning
- Evaluate facts and evidence

# Request for information:

- Police the contract

- Investigate violations

- Prepare for grievance meetings

- Decide whether to move a grievance to a higher step

- Prepare for arbitration

Relevant - to grievance or other union responsibilities

- It bears on the issue/s involved

- Lead to the identification of useful data

Specificity – all documents to broad

Good faith – demand solely to harass employer

Data

Facts

# Documents - that can be requested

Accident reports

Air quality studies'

Annual reposts

Attendance records

Bargaining notes

Benefit plans

Bonus records

Consultants' report

Correspondences between  
management and supervisors

Customer complaints

Customer lists or others

Drug tests

EEO reports

Employee evaluations

Equipment specifications

Handwriting analysis

Injury reports

Insurance policies

Internal memos and policies

Interview notes

Investigative reports

Investigatory files

Job assignment records

Job descriptions

Leave requests

Manuals

SDS (MSDS)

Memorandums prepared after  
meetings with employees

Merger agreements

OSHA logs

Overtime records

Payroll records

Pension contributions records

Personnel files\Photographs

Piece-rate records

Policies

Prior grievances and arbitration awards

Private detective reports

Sale of enterprise reports

Schedules

Security logs and reports

Seniority lists

Supervisor notes and files

Telephone and cell phone records

Test results

Time cards

Time study records

Training manuals

Video surveillance tapes

Wage and salary records

Work rules

Round 2

# Weingarten Rights:

**“Would you mind stepping into my office for a minute?” ... What's up?**

Always question the nature of a meeting?

“I will comply with your request if you share the nature of the meeting”

“Sure, just tell me what this is all about”

If manager/supervisors answer in any way indicates:

Investigating incident

Reviewing a record

Member Feels meeting or outcome in any way will go toward discipline

Member must ask for union to be present

- ✓ Supreme Court ruling (1975)
- ✓ Safeguard for employees / from supervisor or employers agent interrogation or coercive methods
- ✓ Right to request union assistance
- ✓ Can refuse to answer questions until request is honored (at beginning or anytime thereafter)

## Stewards can:

- Offer advise on how to answer a question
- Help the employee avoid making fatal admissions or insubordinate outbursts
- Object to intimidating conduct
- Insure that the interviewer does not distort the employee's answers
- Point out extenuating circumstances

## ULP:

Compelling workers to answer question without representation

Limiting a steward to being a silent witness

Withholding any other Weingarten rights violates NLRA



# Weingarten (cont)

Once Weingarten is requested:

Interrogator has 3 options:

- Halt questioning and call the requested representative
- Discontinue the interview
- Offer the employee a choice of continuing without representation or ending the interview

# Weingarten (cont)

## Educate your members

### Steward:

On arrival – insist on subject matter of interview

Can insist on private pre-interview consultation with employee

Can advise employee on how to respond

Can object to harassing line of questions

? Disciplinary announcement ?

? Medical examination ?



### Repeatedly:

- Interrupt
- Unnecessary question
- Verbally abuse interrogator
- Debate

# Midterm changes: apply to matters not covered by the contract

Contract terms may not be changed even if the employer offers to bargain

NLRA obligates employer bargain before making mid-contract changes

Adverse impact on employees

Contract language and nature of change determines bargaining:

Decision

Effects

Or

Both

Unilateral changes - bargain in good faith is violated:

Employer makes a unilateral change in EE terms or condition

Policy or rule put into place without advance notice to union

# Midterm changes (cont)

Union has six months after employer implements unilateral change

Based on change, employer may need to bargain on merits along with effects of the change

NLRB can issue order for employer to:

- Rescind policy

- Compensate EE's

- Remove any discipline

“Fait Accompli:”

Employer cannot cure a unilateral change by offering to bargain after the fact

Unions ability to negotiate is unfairly diminished

Union does not have to request bargaining before filing ULP

NLRB divides bargaining subjects into two categories:

**Mandatory or Permissive**

Scope of negotiations based on category the change falls into / waivers in the contract

# Mandatory Subjects: terms or conditions that vitally affect employees

Assign. Of Bargaining-unit work to non-bargaining-unit employees

Attendance policies

Bonus programs

Business ethics policy

Cafeteria & vending machine policies

Clean-up rules

Compulsory OT

Decision to close facility or department due to labor cost

Disciplinary procedures

Dress codes

Drug & alcohol testing

Eating & drinking in work areas

Elimination of positions

E-mail policies

Employee privileges (radios / telephone. etc.)

Employee purchase plans

Evaluation methods

FMLA policies

Food service hours

Funding of sports leagues

Grievance procedures

Grooming standard

Hidden cameras

Hiring temporary employees

Holiday procedures

Incentive plans

Insurance plans

Job assignments

Layoffs

Leave policies

Light-duty policies

Meal or coffee breaks

Medical examinations

Method to calculate OT pay

Methods for filling vacancies

New eqpt. Or machinery if it affects EE working conditions or safety

On-call requirements

Outside conduct rules

Outside employment rules

Parking policies

Pay check procedures

Pay for meals during OT

Pension & 401(k) plans

Poster and pictures in work area

Production quotas

Promotions

Removal of refrigerators, microwaves, chairs

Restroom policies

Safety and health rules

Safety awards

Smoking policies

Staffing levels

Subcontracting decisions

Tardiness rules

Telephone policies

Transfers

Uniforms

Union privileges

Vacation schedules

Vending machines

Wages

Workload

Work rules

Work schedules

**Permissive matters:** indirect impact on employees or if it lies “at the core of entrepreneurial control.”

Advertising policy

Automation decisions not based on labor costs

Financing arrangements

Decision to close a company, facility or department for reasons other than labor costs

Hiring additional persons to existing positions

Methods of distribution

Product decisions

Selecting supervisors

Subcontracting or transferring bargaining-unit work because of a basic change in operation

Employer can change a permissive subject without debating its reasons with the union.  
Does not mean that the employer can implement the change unilaterally.

# Ten Mistakes A Steward Should **Never** Make:

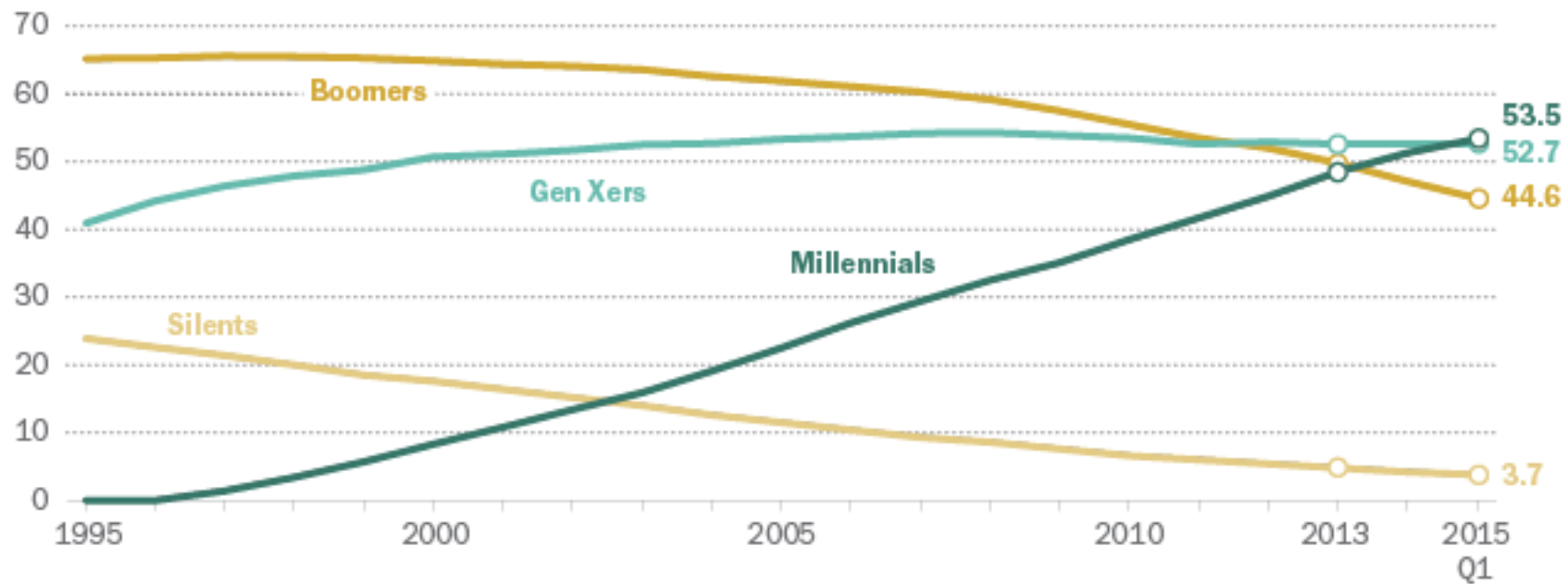
- ⑧ Miss a deadline
- ⑧ Never get back to the grievant
- ⑧ Bad mouth the union
- ⑧ Drop a routine fly ball
- ⑧ Sit down/shut up at meetings with management
- ⑧ Lose control
- ⑧ Write long grievances
- ⑧ Meet grievant first time at hearing
- ⑧ Wait for member to come to you with issue/problem.
- ⑧ Forget to take a breather

# Generations in the workforce

## U.S. Labor Force by Generation, 1995-2015

### U.S. Labor Force by Generation, 1995-2015















*In millions*





# The Survey Says...

## Talking a different language

	<b>Maturists</b> (pre-1945) Wartime rationing Rock'n'roll Nuclear families Defined gender roles - particularly for women 	<b>Baby boomers</b> (1945-1960) Cold War 'Swinging Sixties' Moon landings Youth culture Woodstock Family-orientated 	<b>Generation X</b> (1961-1980) Fall of Berlin Wall Reagan/Gorbachev/ Thatcherism Live Aid Early mobile technology Divorce rate rises 	<b>Generation Y</b> (1981-1995) 9/11 terrorists attacks Social media Invasion of Iraq Reality TV Google Earth 	<b>Generation Z</b> (Born after 1995) Economic downturn Global warming Mobile devices Cloud computing Wiki-leaks 
Formative experiences					
Percentage in UK workforce	3%	33%	35%	29%	Employed in either part-time jobs or apprenticeships
Attitude toward career	Jobs for life 	Organisational - careers are defined by employees	"Portfolio" careers - loyal to profession, not to employer	Digital entrepreneurs - work "with" organisations	Multitaskers - will move seamlessly between organisations and "pop-up" businesses
Signature product	Automobile 	Television 	Personal computer 	Tablet/smartphone 	Google glass, 3-D printing
Communication media	Formal letter 	Telephone 	E-mail and text message 	Text or social media 	Hand-held communication devices
Preference when making financial decisions	Face-to-face meetings	Face-to-face ideally but increasingly will go online	Online - would prefer face-to-face if time permitting	Face-to-face	Solutions will be digitally crowd-sourced

Source: Barclays, University of Liverpool

# Other Federal labor laws:

# B&W

- ❖ Fair Labor Standard
- ❖ Family and Medical Leave Act
- ❖ Occupational Safety and Health Act
- ❖ Americans with Disabilities Act

## Others:

- Age Discrimination in Employment Act
- Davis-Bacon Act
- Employee Retirement Income Security Act
- Equal Pay Act
- Labor-Management Reporting and Disclosure Act
- Worker Adjustment and Retraining Notification Act (Warn)

# Questions / Concerns

Thanks  
for  
what  
you  
do  
!