



THE GRIEVANCE HANDLER'S POCKETBOOK



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Forward

Grievance handlers are union representatives who are elected by members in their department or district to handle grievances and administer the collective bargaining agreement. They are the cornerstone of our Union.

In addition to handling grievances, they must be negotiators, organizers, educators, counselors, and leaders.

Skills are acquired through study and experience. Grievance handlers need guidelines and up-to-date factual information to make sound judgments and recommendations to represent their constituents properly.

Collective bargaining gives members a voice and a seat at the table. With union representation, members are no longer subject to arbitrary management decisions and abuses. Through the work of grievance handlers, negotiated contract provisions can be enforced and given meaning.

Today, our collective bargaining agreements are complex and sometimes difficult to administer. Changing laws and legal interpretations of the union's duty of fair representation require that you be prepared to give positive leadership on a wide variety of subjects, most of which you will find in this guide.

This guide helps prepare grievance handlers to perform their many duties and responsibilities. It is intended to be a quick reference to grievance handlers of the broader content found in the ***Grievance Handler's Guidebook (UAW Publication 525)***. We encourage you to refer to Publication 525, which includes expanded information on the topics listed in this guide, including examples of well-written grievances and grievance presentations, how to conduct a grievance investigation, an explanation of relevant labor laws, other worker-protection laws, and links to useful resources.

Remember, you are the front line of defense, the “mover and shaker” for this union cause and the rights of our members. This guide will help you do a more effective job of representing our members.

Effective, Responsible Leadership

Your skill as a leader is critical in winning grievances and building the Union. The most skillful negotiator cannot continue to win unless management knows members are united. Solidarity provides real strength to the Union.

To those you represent as a grievance handler, you are the union. By electing you their grievance handler, your members indicated their trust and confidence in your ability to represent them. It is your responsibility to protect their wages, hours, and working conditions. It is UAW policy and the law that you provide fair representation.

You have an opportunity and a challenge when you accept a grievance handler's job. You will be judged by your fellow members by the kind of effort and interest you put into the job. The grievance handler is an important link between what the contract provides and how it is applied.

You can build solid support by keeping members informed on issues, by acquainting them with their rights and duties, and by showing them how goals are achieved through member unity and active involvement.

The Grievance Handler

You are on the “front lines” of the UAW’s fight for members’ rights. The members have selected you to be their spokesperson and advocate. Look for clues that will help guide you when problems arise. Strive to resolve problems before they become grievances.

Grievance procedures are different from contract to contract. It is extremely important that you know the precise requirements of your own contract and follow them.

Grievance handlers should also have an awareness of all contractual benefit plans and health and safety provisions. Specific problems should be referred to the designated local union representative.

Before the Union, workers had no recourse when they were subjected to hardships on the job, health hazards, favoritism, personal discrimination, or abusive treatment by supervision. With their Union, members have the right and the power to speak up and take action when aggrieved.

You Must Have All the Facts

The cases you will be handling for your members need to be based on facts. All facts are important and should be written down. The more background information you assemble, the better your chances of winning the grievance.

What You Decide Is Important

Many issues you will investigate may not become a grievance because there are complaints that do not breach the contract. You should decide each case on its own merits and act accordingly. The best grievance handler is the one who makes a decision and does not try to “pass the buck” to someone else.

Grievance or Complaint?

Members are human. They come to work with much on their minds. When they bring you problems, your questions (and their answers) will help you decide how real the grievance is or how to solve the problem. Your decision should only be made after careful thought and study.

It is your task to thoroughly investigate real grievances. If you are to win, careful consideration of the merits of each case and skillful presentation is essential.

Study Your Contract

Each UAW contract is different and so are its interpretations. Your contract should become as familiar to you as the face in your mirror. Study it and ask questions of those who know the interpretations until you are fully informed.

Remember to Watch Time Limits

Most UAW contracts call for grievances being filed (and answered) within certain time limitations. A delay by you can mean a good grievance being lost for your members.

Make Sure You Use the Contract

Knowledge of the contract language and its interpretation will be vital in policing the contract. To make sure none of its provisions are ignored by management, you will need to inform members how the various clauses should work.

Follow the Procedures

The steps to process grievances are spelled out in the grievance procedure of the contract. Following the steps outlined in the contract is the best means possible to win your case.

Don't Guess and Don't Bluff

When you are unsure whether there really is a grievance, don't rush into it! Study the issue, talk with others, and then make your decision. Bluffing may work occasionally, but eventually management will get the notion that you're always bluffing and delay settlements until they can do their own investigation.

Keep Your Contract Handy

There are few who can quote a contract's paragraph and section to answer every question that could be asked. Be prepared to show members the contract language so they learn to refer to it in their own copy of the agreement. But most importantly, make sure members have their own copy of the agreement!

For more information on how to identify a grievance and how to understand contract language, refer to sections *"The Grievance Process"*, and *"Contract Interpretation"* in the **Grievance Handler's Guidebook (UAW Publication 525)**.

Laws that Protect

Our members have the right to union representation and to bargain and enforce a collective bargaining agreement because our nation's labor laws provide those rights. The National Labor Relations Act (NLRA) covers all private-sector employees represented by the UAW. Similar state and local government bargaining laws cover public sector employees represented by the UAW. Normally, public sector labor law tracks the NLRA; your public sector law should be consulted for variations.

When It Comes to Labor Relations, You Are Equal to the Employer

When you are on the job and working as an employee, you are under the direction of the employer and must obey first and grieve later when a dispute arises in the worksite.

However, when you are serving as a union steward or committeeperson and handling a grievance under the collective bargaining agreement, you are representing the union and have equal standing to argue your position over an asserted contract breach.

You are especially protected by labor law to forcefully, passionately – but respectfully – argue your position and seek fair resolution on behalf of our members and to protect the promises outlined in our labor contract.

National Labor Relations Act

Congress passed the NLRA in 1935 to protect the right of employees to organize and bargain collectively through representatives of their choosing. The NLRA is enforced by the National Labor Relations Board (NLRB). The NLRB conducts secret-ballot union elections among unorganized employees and enforces organizing and bargaining rights by investigating and prosecuting unfair labor practice charges.

Filing an Unfair Labor Practice Charge

The NLRA – and similar state laws – protect your ability to file and investigate grievances, including the right to seek information. If the employer interferes with your grievance handling and representation rights, you have six months from the date of the employer's violation to file an unfair labor practice charge and serve a copy on the employer. You should follow Local Union protocol before filing a charge. Once the charge is filed at the NLRB regional office in your area, the charge will be assigned for investigation.

If the NLRB finds reasonable cause that the employer violated the NLRA, the NLRB will issue a complaint against the employer. If the matter does not settle, an NLRB attorney will prosecute the case in a hearing conducted before an NLRB administrative law judge. The administrative law judge's decision can be appealed to the NLRB in Washington and ultimately to one of the U.S. Courts of Appeal.

Go to www.nlrb.gov for the official charge form and instructions to help you with the process. Contact your Regional office if you need more help.

Prohibited Employer Conduct

Labor law prohibits certain employer conduct. The following sections of the NLRA prohibit the following actions.

Section 8(a)(1): Prohibits the employer from interfering with, restraining, or coercing employees in the exercise of their guaranteed rights to engage in union activity.

Section 8(a)(2): Prohibits the employer from dominating or interfering with the formation or administration of the union (no company unions).

Section 8(a)(3): Prohibits the employer from discriminating against an employee for union activity by means of discharge, layoff, or other adverse change in employment conditions. This section protects employee organizers and union grievance handlers from unjust employer harassment too.

Section 8(a)(4): Prohibits the employer from discriminating against an employee who has filed a charge or given testimony in an NLRB proceeding, including providing an affidavit to support an NLRB charge.

Section 8(a)(5): Prohibits the employer from failing and refusing to bargain with the union in good faith over wages, hours, and other terms and conditions of employment. This section also protects grievance handlers in fulfilling their duties under the collective bargaining agreement.

The employer's obligation to bargain in good faith does not mean that the parties must reach an agreement. But it does mean that the employer must:

- 1) Meet and confer at reasonable times;
- 2) Supply, upon request, relevant and necessary information to bargaining and the prosecution of grievances;

- 3) Refrain from unilateral changes in wages, hours, and other terms and conditions of employment; and
- 4) Refrain from bargaining directly with employees rather than their union representative or otherwise undermining the union (direct dealing).

Union Unfair Labor Practices

While most of the NLRB charges filed are against employers, the NLRA also regulates union unfair labor practices.

As a grievance handler, you have a duty to fairly represent all members, including bargaining unit members in “Right-to-Work” states who don’t pay union dues. Further, in grievance negotiations, just as the employer must provide the union with the relevant requested information so that you can investigate the grievance, the union has the same obligation to provide the requested relevant information to the employer.

Follow your Local Union protocol if you have questions involving labor laws and using labor board processes.

**Source: Robert M. Schwartz, “The Legal Rights of Union Stewards,” (Massachusetts: Work Rights Press, 1994).*

Weingarten Rights*

Union Representation During Investigatory Interviews

One of your most vital functions as a union steward is to prevent management from intimidating members. Nowhere is this more important than in closed-door meetings where management representatives try to compel members to confess to mistakes or wrongdoing that could result in their discipline.

Labor law protects a union member's right to assistance from union representatives during investigatory interviews that the member believes could lead to their discipline or termination. This right is from a U.S. Supreme Court decision *NLRB v. J. Weingarten, Inc.* The union member rights set forth in the decision are known as *Weingarten Rights*.

As a grievance handler, you should be sure that your bargaining unit members are knowledgeable about their *Weingarten Rights*. The presence of a steward in an investigatory meeting can help a member in many ways.

- The steward can serve as a witness to prevent supervisors from giving a false account of the investigatory interview

- The steward can object to intimidating management tactics
- The steward can seek clarification of confusing questions or a restatement of complicated questions for the member
- The steward can meet with the member before the interview to provide strategic advice and seek a caucus during an interview when appropriate
- The steward can raise known extenuating factors and circumstances, including relevant contractual terms

Weingarten Rights Only Apply During an Investigatory Interview

An interview is investigatory when:

- 1) Management ***questions a member*** to obtain information; and
- 2) The member has a ***reasonable belief that discipline or other adverse consequences*** may result from what he or she says

Investigatory interviews relate to disciplinary subjects such as:

- absenteeism
- accidents
- compliance with work rules
- damage to property

- drinking
- drugs
- falsification of records
- fighting
- insubordination
- lateness
- poor attitude
- poor work performance
- sabotage
- slowdowns
- theft
- violation of safety rules

***Weingarten* Does Not Apply in the Following Circumstances**

Shop floor conversations. Not every discussion with management is an investigatory interview. For example, a supervisor may speak to a member about the proper way to do a job. Even if the supervisor asks the member questions, this is not an investigatory interview because the possibility of discipline is remote.

However, if a routine conversation changes character and the supervisor – dissatisfied with a member's answers – begins to ask hostile questions, the meeting may **become** an investigatory interview so that *Weingarten* applies. At this point, the member can request union representation before proceeding to answer questions.

Disciplinary announcements. When a supervisor calls a member to the office to announce a warning or other discipline, this is not an investigatory interview because the supervisor is merely informing the member of a previously arrived-at decision. **However**, this meeting may become an investigatory interview if the supervisor asks the member questions related to the subject matter of the discipline and circumstances are such that a harsher discipline could result.

Member Weingarten Rights

Members have the following rights when subject to an investigatory interview.

- The member may request union representation before or during the interview
- After the request, the employer must choose from among three options:
 - 1) Grant the request and delay questioning until the union representative arrives
 - 2) Deny the request and end the interview immediately
 - 3) Give the member a choice of (a) having the interview without representation (usually a mistake) or (b) ending the interview

- If the employer denies the request for union representation, and questions the member, it commits an unfair labor practice and the member *may refuse to answer*

Steward Weingarten Rights

Supervisors sometimes tell the steward their only function at an investigatory interview is to observe the discussion – in other words, to be a silent witness. **This is wrong.**

The steward has the right to counsel and caucus with the member before, during, and after the interview and to assist the member to present the facts. Legal cases have established the following steward rights and obligations.

- When the steward arrives, the supervisor must inform the member and the steward of the subject matter of the interview – for example, the type of misconduct that is being investigated. (The supervisor does not, however, have to reveal management's entire case)
- The steward can take the member aside for a private pre-interview conference before questioning begins

- The steward can speak during the interview. (But, the steward has no right to bargain over the purpose of the interview or to obstruct or interfere in the interview)
- The steward can interrupt to object to a question or request that the supervisor clarify a question so that the member can understand what is being asked
- The steward can advise the member not to answer questions that are abusive, misleading, badgering, confusing, or harassing
- When the questioning ends, the steward can provide information to justify the member's conduct, including citing protective collective bargaining provisions, past practices, and arbitration holdings

The Employer Has No Duty to Inform a Member of *Weingarten*

Sometimes employers, members and even Union representatives confuse the *Weingarten Rights* with Miranda rules. Under the U.S. Supreme Court's 1966 *Miranda v. Arizona* decision, police who question criminal suspects in custody must notify them of their right to remain silent and to have a lawyer present.

Unfortunately, the Supreme Court did not impose similar requirements in its Weingarten decision. Employers do not have to inform members of their right to union representation unless the employer and union have bargained this obligation in their collective bargaining agreement. Otherwise, it is *the union's job* to make sure members understand their *Weingarten Rights*.

Unions should explain *Weingarten Rights* at new member orientation sessions, union meetings, and other union forums. Consider distributing wallet-sized cards with the following instruction:

Weingarten Rights

If called to a meeting with management, read the following to management or present the card before the meeting starts.

"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 this meeting.

Without representation present, I choose not to participate in this discussion."

You can order printed *Weingarten Rights* cards and badges from the UAW Supply Booklet through LUIS. They are available in multiple languages including English, Spanish, Arabic, and Burmese.

NLRB Charges for *Weingarten* Violations

An employer's failure to adhere to *Weingarten* requirements is an unfair labor practice. Charges should be filed if the employer disregards requests for union assistance or interferes with stewards' rights. See below for a sample charge.

Sample Description of *Weingarten* Violation for NLRB Charge Form

Basis of Charge

On October 1, 20XX, the employer refused the request of employee Harold Brown for union representation during an investigatory interview.

Follow your Local Union protocol for assistance. Electronic, fillable forms and instructions can be found at www.nlr.gov/guidance/fillable-forms.

Frequently Asked Questions & Answers Regarding *Weingarten Rights*

1. Request to Attend Meeting

- Q. I am a department steward. If I see a member being questioned in a supervisor's office, can I ask to attend the meeting?
- A. Yes. A steward has a protected right to request admission to such a meeting. If the meeting is routine, the employer can deny the request. But if the meeting is an investigatory interview, the member must be allowed to indicate whether the steward's presence is desired.

2. Coercing Member to Drop Request

- Q. A member, summoned to an interview with their supervisor, asked for their steward. In response, the supervisor said, "You can request your steward, but if you do, I will have to bring in the plant manager, and you know how temperamental they are. If we can keep it at this level, things will be better for you."
Violation?
- A. Yes. The supervisor is raising the specter of discipline to coerce the member into abandoning their *Weingarten Rights*. This is an unfair labor practice.

3. Member Refusal to Attend Meeting

- Q. A member was ordered by their manager to go to the personnel office for a “talk” about their attendance. They asked to bring their steward, but the manager said they would have to make this request when they got to the office. Can the member refuse to go to the personnel office without their steward?
- A. No. *Weingarten Rights* do not arise until the interview begins. The member must go to the office and make their request to the person conducting the interview. A member can refuse to go to a meeting only if a supervisor makes it clear in advance that union representation will be denied.

4. Medical Examination

- Q. Our company requires medical examinations for recalled members out of work for three months or more. Do the members have a right to a steward during the examination?
- A. No. Medical examinations are not investigatory interviews, therefore *Weingarten Rights* do not apply.

5. Lie Detector Test

- Q. Do *Weingarten Rights* apply to polygraph examinations?
- A. Yes. A member has a right to union assistance during the pre-examination interview and the polygraph examination.

6. Drug Test

- Q. If management asks a member to submit to a urine test for drugs, does *Weingarten* apply?
- A. Partly. When no questioning takes place, a urine test is not an investigatory interview, and a member does not have a right to the presence of a steward. Management must, however, allow the member to consult with a union representative to decide whether or not to take the test.

7. Locker Search

- Q. If management orders a member to open a locker, can the member insist on a steward being present?
- A. Not necessarily. Locker, car, or handbag searches are not investigatory interviews. A member does not have a right to insist on the presence of a steward unless a guard or supervisor asks the member questions.

8. Counseling Session

- Q. A member was given a written warning for poor attendance and told they must participate in absence counseling with the personnel department. Do they have a right to a union steward at the counseling sessions?
- A. This depends on whether the member has a fear that the counseling sessions could result in further discipline. For example, if notes from the sessions are kept in the member's permanent record, or if other employees have been disciplined for speaking up at counseling sessions, the member's fears would be reasonable and would entitle them to a steward. But if the personnel representative gives firm assurances that the meetings will not be used for further discipline, and promises that the conversations will remain confidential, *Weingarten Rights* probably would not apply.

9. Warning Slip

- Q. Supervisors in our shop give warning slips for misconduct and ask members to sign copies to acknowledge receipt. Does a member have a *Weingarten Right* to consult a steward before signing?
- A. No. If the supervisor does not ask questions, *Weingarten* does not apply.

10. Request for Private Attorney

- Q. Can a member insist on the presence of an attorney before answering questions at an investigatory interview?
- A. No. The *Weingarten Rights* only provide for the assistance of union representatives.

11. Telephone Interview

- Q. Over the weekend, a supervisor called a member at home to ask questions about missing tools. Did the member have to answer the questions?
- A. *Weingarten Rights* apply to telephone interviews. A member who fears discipline can refuse to answer questions until he or she has a chance to consult with a union representative.

12. Disciplinary Announcement

- Q. A member was called into the plant manager's office. They asked for their steward, but their request was ignored. The manager said, "Yesterday you violated a supervisor's order. We are giving you a one-day suspension for insubordination." Did the company violate *Weingarten*?
- A. No. *Weingarten Rights* do not apply to a meeting where an employer simply announces discipline.

13. Steward Not at Worksite

- Q. If a member's steward is out sick, can the member insist that an interview be delayed until the steward comes to work?
- A. No. Management does not have to delay its investigation if another union representative is available to assist the member.

14. Investigation of Steward

- Q. I am a steward. If I am called in by my supervisor to discuss a problem with my work, can I bring my chief steward?
- A. Yes. Stewards have the same *Weingarten Rights* as other members. If you have a fear of discipline or other adverse consequences, you are entitled to assistance.

15. Shop Meeting

- Q. If management calls a meeting to lecture members about job performance, do members have a right to bring a union representative to the meeting?
- A. Not necessarily. A meeting that does not involve interrogation is not an investigatory interview. *Weingarten Rights* do not apply unless management asks questions of members in a manner that creates a reasonable fear of discipline.

16. Remedies for *Weingarten* Violations

- Q. If management rejects a member's request for union assistance, questions the member, gets the member to confess to wrongdoing, and fires the member, will the NLRB order the member reinstated because of the *Weingarten* violation?
- A. Probably not. The NLRB used to order reinstatement with back pay for members who were fired as a result of admissions during an illegally conducted *Weingarten* interview. But in 1984, the NLRB ruled that such a remedy was an unwarranted "windfall" for members. The standard *Weingarten* penalty is now a workplace notice posting in which the employer acknowledges that it violated employee *Weingarten Rights* and promises to obey them in the future.

Note: The remedy is different for members discharged for exercising a *Weingarten Right* such as requesting a steward or refusing to answer questions when a request is denied.

In such cases, the NLRB imposes a "make-whole" remedy, including reinstatement and back pay.

You cannot be punished for making a request to have union representation present, or for refusing to answer questions without representation.

17. Recording the Interview

- Q. Can a supervisor tape-record an investigatory interview?
- A. Possibly. Nothing in the *Weingarten* decision prevents an employer from tape-recording an investigatory interview. However, if this represents a new employer policy, the steward should object on the grounds that the union should have received prior notice of the new policy and have an opportunity to bargain over it.

18. Can Members Select a Particular Union Representative?

- Q. If a member asks to be represented by their chief steward instead of their department steward, must management comply?
- A. Yes. If two representatives are equally available and within the jurisdiction served, a member's request for a particular representative must be honored.

19. Member Asked to Inform on Others

- Q. The employer summoned a member to a meeting and asked about the involvement of other members in illegal activities. Could the member have insisted on the presence of a union representative?
- A. Yes. Although the member may not be involved in wrongdoing themselves, they risk discipline if they refuse to inform on others or admits that they were aware of illegal activities. Because what they say or don't say at the meeting could get them into trouble, they are entitled to representation.

Now that you are equipped with an understanding of the labor law protections you and our members have, you are ready for the next phase: how to handle your grievances.

Grievance Handler's Decision Process

Weigh the Facts

As the members' representative, your first obligation is to know the case. Your job is to make sure you have all the facts – not just those which support the case! If you neglect the facts which could hurt the case, you can be sure management will find them and use them against you.

Analyze Your Case Carefully

If the facts support the presence of a grievance, check the contract carefully for all clauses which best support your position. Check all past practices and workplace rules. They may make the difference between winning and losing. Try to develop answers to the arguments management is most likely to use. If you can't answer management's arguments, you had better look again to be sure you have a case.

Don't Be Afraid to Ask for Advice

You can't be expected to have all the answers to every case brought to you, but you can get information on past practices and interpretations from those with greater experience or in other positions.

When in doubt, consult with other grievance handlers. One of them may have won a similar grievance. We make the Union stronger when we use our combined strength and knowledge.

Make It Your Decision

After all the questioning, analyzing, and thinking is done, YOU must decide

Is it a grievance?

If the answer is “YES”

Get ready to win it!

If the answer is “NO”

Tell the member why!

Put the Facts in Writing

Nothing is quite as difficult as searching out facts from people's memory, and nothing is more unreliable than how we remember! You may pride yourself on "complete recall," but the only sure way to remember all the facts is to write them down as quickly and accurately as you can.

Even though your contract may not allow for written grievances at the first or second step of the grievance procedure, a good grievance handler will write up the complete facts for three very good reasons:

- 1) In case the problem isn't settled satisfactorily in the earlier stages, you will have a complete record for filing briefs in the arbitration stage;
- 2) It will act as a reference in settling similar cases that might arise; and
- 3) Written statements will give you and others a first-hand picture of your supervisor or manager, and how they bargain over a period of time. Be sure to write up every case with all the facts.

Grievance Fact Sheet Information

A fact sheet must accompany all complaints and written grievances. A fact sheet should include:

- Grievant's Name, Address, & Telephone Number
- Badge/Identification Number
- Seniority Date
- How Long Has Member Been In Classification?
- Rate of Pay (Per Hour)
- Cost of Living (Per Hour)
- Supervisor / Manager
- Exact Wording of Grievance Date Grievance Arose
- Date Grievance Was Filed
- Has Member Had Any Disciplinary Action on Record?
- Yes/No (If Yes, Explain)
- Who Is Involved In This Grievance? When Did It Happen?
- Where Did It Occur?
- What Time of Day Did It Happen?
- Why Is This A Grievance?
- What Do We Want? What Is The Remedy Requested?
- Supervisor's Statement Grievant's Statement Your Observations
- Grievance Handler's Signature, District, Shift

These facts are basic requirements for the grievance fact sheet and will be needed to argue your case. Many local unions provide forms for their grievance handlers' use. As self-protection, this written record is invaluable to the grievance handler and the local union.

For a sample Grievance Fact Sheet, refer to the section "*The Grievance Process*" found in the ***Grievance Handler's Guidebook (UAW Publication 525)***.

The Three Basic Kinds of Grievances

- 1) The **individual** grievance involves a single individual in the complaint or grievance procedure.
- 2) The **group** grievance may be for two or more individuals, an entire department, or classification of members. When filing a group grievance, you need to list all the affected members. It is good to get all the affected members to sign it to show support as well.
- 3) The **policy** grievance is much broader in its scope than the individual or group grievance.

Policy grievances may involve members in several departments within the bargaining unit structure – even the entire workplace.

Policy grievances may involve new jobs, new classifications, new wage rates, mutual understandings, and past practices that have been in effect for a long time.

They may include working conditions, concessions, and/or practices that exist in departments or workplaces under the union's jurisdiction.

As such, policy grievances tend to become the responsibility of the bargaining/grievance committee rather than the individual grievance handler. When a policy grievance comes to the grievance handler, he or she should not hesitate to seek the advice of the bargaining/grievance committee person, because it may affect other members beyond those represented by the grievance handler.

There may be combinations of the three basic kinds of grievances referred to above. These are the individual-policy grievance and the group-policy grievance. By such combinations of grievances, we merely mean that a policy grievance can affect a single individual or an entire group of people. It may even cross work groups, departments, and workplaces.

Grievance Definition

A grievance is:

A violation of the contract and incorporated supplementary agreements, state and federal labor laws, health and safety regulations, National Labor Relations Board rulings, arbitration or umpire decisions, past practices and policies, and employer work rules.

Most Grievances Fall into the Following General Categories

- 1)** Pay shortage (regular, overtime, Holiday, call-in, etc.)
- 2)** Production speed-up
- 3)** Workplace health hazards
- 4)** Favoritism
- 5)** Discrimination
- 6)** Abusive or inconsiderate supervision
- 7)** Failure and refusal to bargain in good faith
- 8)** Coercion and intimidation
- 9)** Employer representative(s) undermining the union
- 10)** Complaints against supervisory methods
- 11)** Unfair penalty (discharge, disciplinary layoff, reprimand, etc.)

- 12)** Improper classification
- 13)** Seniority violation (promotions, demotions, change of classifications, transfers, layoffs)
- 14)** Rate increase claim (merit and automatic increases)
- 15)** Inadequate relief
- 16)** Improper interpretation of agreements, directives, etc.
- 17)** Failure of the employer to post notices of regulations
- 18)** Faulty or inadequate eating facilities
- 19)** Inadequate sanitation facilities
- 20)** Violation of incorporated state labor, safety, or compensation laws
- 21)** Improper pay deductions
- 22)** Violation of pay rate adjustment
- 23)** Unreasonable production standards
- 24)** Unfair spread of work or hours
- 25)** Seniority miscalculation
- 26)** Violation of the supplementary agreement

Investigate

First, the grievance handler must investigate a member complaint to determine if it is a legitimate grievance. If you still are not sure a grievance exists after assessing all the facts, seek advice from other union representatives. After careful investigation, if you are convinced the case is not sound, tell the member that they do not have a grievance. In some cases, the nature of the dispute or the individual will require that the explanation be in writing.

A mere complaint that does not constitute a contract breach cannot be won, regardless of the amount of time and energy you spend on it. **Do not waste your time attempting to negotiate complaints that are not grievances.**

Listen carefully to the member's version of the situation. Interview everybody involved in the grievance to make sure that you have all the facts which have a bearing on the case.

Investigate the member's story. You need proof when you negotiate a grievance with supervision, so know the facts before you proceed.

Requesting Information

Besides interviewing and getting statements from members and management, you will also likely need other things to support and win your grievance. The Union has the right to request and obtain relevant information from the company while enforcing the collective bargaining agreement.

The Union has a right to information such as, but not limited to:

- Accident reports
- Attendance Records
- Disciplinary records
- Inspection records
- Job descriptions
- Pay records
- Personnel files
- Photographs/video
- Reports and studies
- Supervisor's notes
- Security guard's records

All Requests For Information (RFIs) should be specific, written and with a reasonable, exact date the information should be provided to the union. Refer to the section *“The Grievance Process”* in the ***Grievance Handler’s Guidebook (UAW Publication 525)*** for more information and examples of written RFIs.

Six W's of a Well Presented Grievance

Nothing is more important to your work than the facts you need to win your case. Without all the vital information, you will not be able to present the evidence needed to win.

WHO is involved? The member, the supervisor, the witnesses, or anyone who can contribute to your knowledge about the case.

WHAT really happened? What was the sequence of events? What is the background? What happened before? What was said?

WHEN did it happen? Time, date. Do significant holidays or time periods tie in?

WHERE did it take place? The location should be identified if possible or if important, including building, department, and area.

WHY is this a grievance? Why can it be a grievance? The clause in the contract or the law violated, or the harm done to the member should be spelled out so you can ask for the remedy.

And That's Not Quite All – There's the Sixth "W"

WHOA! Double-check to make sure you have all the facts and have them written down!

Ask the Right Questions

Only through the use of questions can you get to the heart of the matter and determine all the facts. Question the member and all others who may have knowledge of the facts. Remember, you need both supporting and damaging facts. Ask your questions and listen carefully to the answers!

How to Write a Grievance

The manner in which a grievance is written often determines whether it is won or lost. It should be written simply and contain all essential facts. **Remember, facts (not opinions) decide the merit of a grievance.**

In writing a grievance, guide yourself by the six W's - Who? What? When? Where? Why? - and Whoa! Be specific in your requested relief. Ask for a definite type of action which would remedy the real cause of the grievance. Ask for full redress, such as back pay for hardship imposed on the member. **Don't just ask for an explanation.**

A guide to gauge whether you've asked for proper adjustment is asking yourself the question: If the employer grants my request, would the member receive all that he or she is entitled to without being unfair to other members? Be sure to get the grievant's signature. As a grievance handler, you also sign the grievance.

Refer to section *"The Grievance Process"* in the **Grievance Handler's Guidebook (UAW Publication 525)**. for more in-depth information regarding investigations, interviewing, and your right to information requests. You can also find examples of well-written grievances.

When Writing a Grievance, Remember

The protest, charge, or demand are the three basic elements of every grievance. The three basic elements of each grievance should be stated so that any reasonable person reading that grievance would understand exactly what section of the contract was violated and/or what discipline was protested and the rationale of each complaint along with the request for proper damages.

Past Practice

Not every issue can be covered in contract language. You can grieve a past practice if the company changes a practice without notifying or bargaining with the union.

Past practice grievances require a lot of supporting evidence to win.

Refer to the section *“Past Practice”* in the ***Grievance Handler’s Guidebook (UAW Publication 525)*** when handling a company’s violation of a past practice.

Management's Rights Clauses

Most contracts will include a Management's Rights clause. These give general rights to the company to run their business and manage their workforce.

Management will likely refer to this clause whenever the union claims there was a change or action the company has taken without negotiating with the union.

While these clauses seem far-reaching, any change or action the company takes cannot violate the contract. Also, new changes in working conditions during the life of the agreement must be negotiated union.

Don't let management's claim of this clause stop you from investigating and grieving violations.

Seven Tests of Just Cause

While the company has the right to discipline, they must obey the law, the contract, and precedent. The company must have "just cause" when disciplining members.

There are seven tests for "just cause" in discipline:

- Fair notice
- Reasonable rule of order
- Investigation
- Fair and Objective Investigation
- Proof of Evidence
- Equal Treatment
- Appropriate discipline/penalty

Read more about the seven tests of just cause in the section "Discipline & Discharge Grievances" found in the ***Grievance Handler's Guidebook (UAW Publication 525)***.

Presenting a Grievance

Table pounding and loud talk does not win a grievance. A grievance handler can lose a case if he or she is not prepared and does not know how to present the case properly. Your goal is to win grievances, so don't rely on guesswork. Never forget that you are representing the UAW. Here are a few helpful pointers.

Make sure you understand the case thoroughly before you attempt to take up a grievance. Have all the facts. Don't deal in generalities. A statement that the employer is **always** breaking safety rules, for example, is weak unless you have the specific grievances, dates, specific locations, etc. to make that point.

Whenever possible, present concrete evidence, such as a doctor's certificate, a timecard, etc. Investigate and use the employer's own records to prove your case. Once you have all the facts, use them intelligently. Start out by presenting facts and evidence with which management will agree.

Stick to the point: Management representatives sometimes resort to the tactic of suddenly switching the argument to something which has nothing to do with the grievance under discussion. When this happens, switch the conversation back to the grievance.

Don't lose your temper: Many times, management will deliberately use sarcastic and insulting language to provoke you into some rash act. If management representatives are insulting, you may have a basis for a grievance against them. Keeping your cool defeats their attempt to throw you off course.

Be firm without being discourteous: Don't be timid or apologetic. Many grievance handlers fear the supervisor will be angry about having to discuss a grievance, saying, "I wouldn't bother you with this, but so-and-so is griping again." It's your job to fight for a member's grievance. Don't apologize! If you're only half convinced there's a contract breach, how can you expect to convince management?

Don't continue to argue after management has granted your point. You may give management a reason to change its mind and talk yourself out of a resolution!

Drive for an immediate settlement whenever possible. Delay may result in giving management new ammunition.

If another union representative is helping you negotiate a resolution with management, stick together. Don't argue with each other in front of management! If you have differences, settle them in a caucus between yourselves.

Have Your Facts Ready

The greatest chance to win your case comes before management's first denial. Therefore, how you handle the case can make a vital difference in the outcome.

Make careful notes of all the case facts so that you can refer to them quickly. Before you meet with the employer, review your facts and take your notes with you!

Know Your Management Counterpart

Make an effort to get to know your management counterpart. Does he or she brush off problems early in the day, but talk more reasonably after lunch? Is he or she harder to deal with just before quitting time, but more amiable after a break?

Getting to know the supervisor will help you be more effective when you take a case to them for discussion and possible resolution. Study each supervisor and test your conclusions about them with other grievance handlers and key unionists.

Avoid Getting a Quick “No!”

There will be many times when it becomes apparent that the supervisor is ready to deny your case, so there may be value in delaying that decision. Beware of demanding an answer “right now” because it will often be the wrong answer. A delay may make it possible to “build a little pressure” on the supervisor which will change his or her decision. Urge the supervisor to think it over carefully and to look for more facts.

If the Supervisor’s Answer Is “No”

When the supervisor says “No,” tell the grievant! They’ll find out eventually, so don’t avoid it and frustrate the grievant by not informing them in a timely manner. It is much better for you and the union if the member knows who denied the grievance.

Refer It Quickly

Writing and processing grievances in a prompt and timely manner increases your chances of winning them. Witness memories fade and urgency and important points may be lost with the passage of time.

Your contract outlines specific timelines to file and appeal grievances through the steps. Refer to your contract and the section “The Grievance Procedure” in the **Grievance Handler’s Guidebook (UAW Publication 525)**.

Put Your Fact Sheet to Work

Those background facts on your fact sheet are very important. Retain them with the union’s copy of the grievance. Pass on the information for use in the next step of the grievance procedure. Offer your help to explain additional details.

Keep Track of Your Grievance

Note the date you processed your grievance with a reminder on your calendar when an answer is due. If that answer isn’t given, find out why and act accordingly consistent with your grievance procedure!

Inform the Grievant

Whether the answer is “yes” or “no” – or if there is no answer yet – the grievant should know the status of the grievance. Keep the grievant updated so that they know you are engaged in trying to resolve their problem.

Grievance Responses

There are 2 possible answers to a written grievance.

- 1) "Yes", the company offers a settlement to resolve the grievance
- 2) "No", the company denies the grievance and does not offer a settlement

When accepting a settlement, be sure that the grievant is "made whole" in every possible way. It is important to only accept settlements that are in the best interest of the aggrieved member, as well as the union as a whole. Settled grievances typically become precedent.

When the company denies a grievance, you must review your case and determine the next step you are going to take.

If the grievance does not hold merit, meaning the evidence does not support a violation, the union may withdraw the grievance at any step of the grievance process.

All grievances that hold merit and are denied by the company, should be appealed to the next step of your grievance procedure.

You should always discuss with your Local Union leadership the details of your denied grievance before appealing to the next step.

Refer to your Local Union contract for details and time limits to appeal, as well as the section [“Outcomes and Next Steps”](#) in the **Grievance Handler’s Guidebook (UAW Publication 525)**.

Best Practices for Grievance Handlers

Maintain Up-to-Date Grievance Files

In our technology age, many grievance handlers keep electronic grievance records, while others use paper records or a combination of electronic and paper. Whatever your filing system, keep your grievances organized and updated. Your ability to easily reference files to make important points may make the difference between a “yes” or “no” from management when you argue your case.

Read the section *“Record Keeping”* in the ***Grievance Handler’s Guidebook (UAW Publication 525)*** for tips and tricks on keeping yourself and your local organized, as well as for a sample Grievance Log.

Keep a Written Record

Use grievances that have been already won to win similar grievances in the future. Evaluate denied grievances to determine whether a future loss on a similar case can be prevented.

Avoid making “deals” with management by trading one grievance to win another. Management will sometimes offer to grant one member’s grievance if you agree to withdraw a grievance on another member’s demand.

This is commonly known as “horse trading.” Your job is to establish equity for each individual member based on the merits of each case.

Don't be shy about consulting your local union officer when you are in doubt about any problem. Asking questions is not a sign of ignorance. It's a sign of strength. No one knows all the answers.

Brief Your Replacement or Alternate

Brief your replacement or alternate on current grievances and worksite issues that they may be handling during your absence. Also, provide relevant information on your past grievances.

Review Your Grievances Regularly

Look at the type of grievances you have processed for improvements and/or changes you may want to recommend for your next contract negotiations.

Get Changes Approved

Talk over recommended changes with other grievance/bargaining representatives. Get their reactions and ideas. The changes you recommend for the next contract need active support.

Members Who Want to Back Down

There are times when a member may not want to pursue a grievance even when there is a clear violation. It is important to remember that the union owns the grievance. And while one member may not want to file, failure to grieve a violation can set a precedent and harm other members in the future.

This is also important to remember when representing non-members in Right-to-Work states. We must grieve all injustices against non-dues payers to protect and prevent the company from committing the same violation to dues paying members.

Duties of a Grievance Handler

A Good Grievance Handler Must:

- Keep a complete record of all members in their jurisdiction, including their name, address, phone number, email address, classification, seniority date, and wage rate
- Know the contract, particularly clauses on seniority, grievance procedure, wages, benefits, classifications, and all sections pertaining to disciplinary action
- Know employee rights under federal and state labor and employment laws
- Know local union bylaws and the International Union, UAW Constitution
- Attend local union meetings and encourage other workers to attend
- Attend union education classes and share the knowledge with members
- Strive to keep the workplace free from all health and safety hazards
- Keep bulletin boards, information racks, and websites updated
- Check the dues standing of all members in the department/jurisdiction

- Reduce member demands for grievance filing over gripes by listening to their issue, explaining the contract, and working with management to address issues
- Distribute union information and literature to all members under your jurisdiction and get to know the members by talking things over
- Hold regular meetings with members to keep them informed and hear their concerns

A Good Grievance Handler Must Not:

- Assume responsibilities of management
- Pass the buck or make false promises to members
- Discriminate or play politics with the grievance procedure

New Member Orientation

Introduce Yourself to the New Member

- Make them feel welcome
- Learn something about the member and his or her family
- Give the member needed information
- Tell the member how to contact you and ask how you can contact the member outside of working hours

Tell the Member about the Union

- The benefits the member receives
- The location and open hours of the local union office
- The name of the local union president and other relevant representatives

Encourage the Member to be an Active Union Member

- Offer to take them to the next Union meeting
- Explain how he or she can help the Union build for the future
- Provide the time and date of your next membership meeting

Your Other Duties as a Leader

Along with handling workplace problems, another important duty of a grievance handler is that of performing educational functions necessary to the development and morale of all union members.

A good grievance handler will give all new members a copy of the union contract and will explain to them their responsibilities as union members.

An active and well-informed grievance handler will stimulate greater participation on the part of each union member and, thus, strengthen the union. He or she will develop leadership and utilize the ability of others.

The grievance handler will attend and invite the membership in advance of meetings, classes, and special union events. He or she will also provide constructive leadership, cooperate in the distribution and communication of educational materials, and use bulletin boards, break rooms, and other opportunities to build solidarity in the membership.

Political Action

In a fight for better wages and working conditions for all working men and women, a good grievance handler will remember that the fight doesn't begin and end in the workplace. Remind members in your jurisdiction that – in the words of the great Walter Reuther, “There is a direct connection between the breadbox and the ballot box.”

Discuss the fact that laws that protect workers – like the Occupational Safety and Health Act (OSHA) or Family and Medical Leave Act (FMLA) – were enacted by federal representatives elected by working people who knew they would pass good public policy.

The grievance handler will stress the importance of political activity and participation to the members and discuss issues relevant to their lives to get them to vote for those who will act in the best interest of working people.

He or she will make sure that every member understands the importance of the UAW Community Action V-CAP program and ask members to donate by signing up for V-CAP check-off or buying V-CAP tickets.

The grievance handler will refer any member with a personal problem to an EAP representative or others designated by the union to handle issues that arise outside of the workplace – but which impact a member’s ability to focus on his or her job – including child and elder care assistance and other matters requiring personal counseling.

Strike Education Classes

During a work stoppage, one of the most effective instruments we have as a union are education classes.

Education classes give our union the opportunity to talk with the entire Membership about our concerns, responsibilities, goals, and future.

The UAW Education Department and several other International Departments have developed workshops to assist in preparing Local leadership and the membership in the event of a strike.

Local leadership should contact their International Servicing Representatives to request strike preparation training in advance of contract negotiations.

The entire Administrative Letter governing Strike Assistance can be found on LUIS. Contact your local union leadership to request the latest copy of the *“UAW Administrative Letter - Strike Assistance.”*

The UAW and Work Standards

To help UAW members resist unreasonable work demands, the UAW has Time Study experts to evaluate such issues. All requests for time study assistance must be made to your Regional Director.

Time Study Assistance:

- 1)** Helps in disputes about production standards, incentive rates, incentive plans, and job evaluation plans
- 2)** Provides classes on time study information to help union members handle the type of dispute noted above

To Obtain Assistance:

- 1)** Your local union must first ask the Region to help settle the dispute
- 2)** If the Region cannot settle the dispute, it may request Time Study services. Any request involving an employer operating more than one worksite must first be cleared with the proper national department
- 3)** Your local union and your Region will then be notified who has been assigned to help you and when they will be available

- 4) Your local union must have made no commitment to the employer regarding the methods to be used by the UAW

In Any Dispute:

- 1) Do not argue over the time study, which ultimately is only an opinion about how long it should take a member to do a job. Try to settle the dispute based on what is a reasonable production standard. Avoid technical time study arguments
- 2) A grievance over time study is like any other grievance. Be sure you get all the facts that show what the grievance is, how it came about, and who is involved
- 3) Do not agree to make a union time study to compare with the employer's time study
- 4) Do not agree that management and union should take a joint time study
- 5) Do not agree to allow a third party to make a time study
- 6) Do not under any circumstances make commitments of any kind on what procedure the UAW is to use if it enters the dispute

- 7)** If management offers to train time study representatives of the union, be sure to consult the Region before discussing the management proposal, as such training is always management oriented
- 8)** Make sure that the time study allows for the reproduction of the conditions and circumstances exactly in terms of physical setup and exact working conditions. If this is not possible, the time study is defective and without validity
- 9)** If all the facts are given, check them to see if the job is actually done exactly the way the time study describes it
 - a.** Is the material the same?
 - b.** Are the work conditions the same?
 - c.** Is the material placed in the same location?
 - d.** Is the material brought to the job in the same way?
 - e.** Is the material removed from the job in the same way?
 - f.** Is the machine operating in exactly the same way?
 - g.** Are the same tools and fixtures being used?
 - h.** Is the motion pattern of the worker the same?
 - i.** Do the members now doing the job have the same amount of training and experience as the member who was time studied?

- 10)** Note carefully any difference between the details of the job as the job was set up for the time study, and as it is being performed at the time of the dispute. These differences may require more time for the job. If so, they should be cited in bargaining with the employer to get additional time
- 11)** Remember, one of the frequent shortcomings of a time study arises when a job is not operating under exactly the same conditions and circumstances as those in effect when the time study was made. It may also be that the time study person's record of the job in dispute is incomplete or inaccurate. In either case, the original time study becomes invalid, even in the employer's terms. Thus, an incomplete or inaccurate record nullifies the employer's case and substantiates the union's position that the disputed production standard is in error
- 12)** Read over the time study person's record of all the work elements very carefully to be sure that each one follows logically from the next one, and that the beginning and ending of each work element is carefully defined. When the beginning and ending of each work element is not clearly defined, any attempt to establish a time value for its performance is almost impossible

UAW Policy

The method analyzed above is not the only method used by management to set standards. Several systems have been developed and are in use. These systems are commonly known as Predetermined Time Systems. Included in these systems are “Methods-Time Measurement” (MTM), “Motion Time Survey” (MTS), “Work Factor” (QSK), and others.

The International Union, UAW generally opposes the use of any predetermined time system to set standards and reserves the right to protest such standards.

However, if a Predetermined Time System is in use at your worksite, the following steps and language should be taken into consideration once a grievance is filed concerning an established or changed production standard:

- 1)** The employer will re-check the disputed standard using the continuous watch-reading method of time study
- 2)** The results of this time study shall be the subject of discussions between the parties so that a grievance settlement may be reached

- 3)** Any grieved standard deemed settled by the parties using the above procedure will stand on its own and have no effect on any other standards

In short, if Predetermined Time Systems are as good as their proponents claim, then certainly, they should stand up to a continuous watch-reading time study.

Resources for Grievance Handlers

The International Union, UAW has many resources at its headquarters in Detroit, MI, and at its regional and sub-regional offices throughout the country. International representatives who work from these locations are assigned to each local to assist in their day-to-day problems.

You can obtain assistance on employer financial status, health and safety, civil and human rights, legal issues, and constitutional interpretations, among many others.

Follow your Local Union protocol to obtain International Union assistance if you feel you need to address a grievance.

Federal Labor and Employment Agencies

Government and quasi-governmental agencies have important resources to help a grievance handler's grievance investigation. Here is a quick checklist of some agencies and laws that may help you represent your members.

American Arbitration Association: This is the "other AAA," which provides trained labor arbitrators to hear union grievance disputes under collective bargaining agreements. AAA provides rules governing labor arbitrations which are often incorporated into UAW labor agreements, as well as rules of conduct that govern arbitrators. Go to www.adr.org.

U.S. Department of Labor: The Department of Labor's website provides a range of information about wage and hour law, Family and Medical Leave Act, minimum wage, pension benefits and rights, and many other areas important to working people. Go to www.dol.gov.

U.S. Bureau of Labor Statistics: The Department of Labor's Bureau of Labor Statistics has a wealth of information on contracts, contract clauses, wage rates, working conditions, prices, cost of living, and productivity. It also has a very informative monthly labor newsletter. Go to www.bls.gov.

Women's Bureau: The U.S. Department of Labor's Women's Bureau provides information and support to issues and problems relating to working women. Go to www.dol.gov/wb.

National Labor Relations Board: The National Labor Relations Board's website contains information about employee rights under the National Labor Relations Act, new and past NLRB case decisions, and other information of interest to working people and their union representatives. Go to www.nlr.gov.

Federal Mediation and Conciliation Service: The FMCS provides neutral arbitrators to assist labor and management in disputes involving grievances, strikes, and negotiations. Go to www.fmcs.gov.

Social Security Administration: Besides administering the old age and survivors' insurance program and working with the states in the administration of unemployment compensation, the Social Security Administration also distributes aid through the states to needy seniors and dependent children, and disabled individuals. Go to www.ssa.gov.

Office of Apprenticeship: The federal Department of Labor's Employment and Training Administration works with employers and unions with apprenticeships and training programs and provides regulation and guidance for employers and unions that want to start one.

Go to www.doleta.gov/oa.

Equal Employment Opportunity Commission (EEOC):

The EEOC administers Title VII of the Civil Rights Act of 1964 which prohibits discrimination in employment on the basis of race, color, religion, sex, or national origin. The agency investigates discrimination charges and attempts to reach settlements with employers on meritorious complaints. Charges must be filed with the EEOC before a suit can be brought in court. District offices are located throughout the United States and are often combined with state-level civil rights agencies.

Go to www.eeoc.gov.

Pension Benefit Guaranty Corporation (PBGC):

The PBGC is a federal government corporation that administers the plan termination provisions of the Employee Retirement Income Security Act of 1974 (ERISA). The PBGC can terminate plans, sue employers for certain unfunded benefits, or impose trusteeships on plans. Pension plan administrators have a fiduciary duty to notify the PBGC of certain events which are relevant to the continued viability of the plans. Go to www.pbgc.gov.

Occupational Safety and Health Administration (OSHA): The U.S. Department of Labor's OSHA administers the Occupational Safety and Health Act of 1970 and sets and enforces the law's health and safety standards. It also provides a wide variety of training programs and educational materials. Go to www.osha.gov.

State and Local Resources

You may need to contact local government agencies to assist members from time to time. The agency names may be different depending on your location, but generally, the following services can be found in your location under one title or another.

Fair Employment or Human Rights Agency:

Administers state and local laws prohibiting discrimination in employment, housing, state and local contracts, etc. State or local laws sometimes cover more forms of discrimination than federal anti-discrimination and civil rights laws.

Unemployment Compensation Agency: Administers unemployment compensation benefits, decides claims, and assists workers in finding new employment.

State Occupational Safety and Health Agency:

Investigates and handles workplace health and safety issues under state law. Sometimes local health and safety laws provide broader protection than the federal OSHA.

State Labor or Employment Agency: Investigates and handles wage and hour issues and enforcement of state minimum wage laws.

Workers' Compensation: Administers cases involving an injury on the job.

Vocational Rehabilitation Service: Can be helpful for workers who have been injured on or off the job in a manner hindering their ability to work.

Health Department: May include a division enforcing workplace industrial safety and industrial health issues.

State Labor or Mediation Agency: Administers public sector union representation elections and unfair labor practice charges and accepts notices of collective bargaining negotiations under Section 8(d) of the National Labor Relations Act.

Veterans Agency: Provides job and health care resources and services to veterans of the armed services.

Social or Human Service Agency: Provides cash, medical, childcare, and other assistance to individuals requiring social services due to their income and financial circumstances.

Public School Systems: Have resources available for union education programs.

Universities and Community Colleges: Have labor studies programs and classes for union members wishing to learn more about labor history, worker rights, and leadership development.

United Way: In partnership with labor, offers a wide variety of services to union members, including personal assistance, advice on family problems, and financial relief.

Other Labor Laws You Should Know

In your grievance handling duties, you may encounter issues covered by various labor laws other than the NLRA or a state or local equivalent. The following labor laws regard union member rights, including internal union rights, health and safety, job security, medical leave, disability rights, and other pertinent protections.

Labor-Management Reporting and Disclosure Act of 1959 (Landrum-Griffin Act)

The Labor-Management Reporting and Disclosure Act (LMRDA) — also known as the Landrum-Griffin Act — deals with the relationship between a union and its members.

The LMRDA grants certain rights to union members and protects their interests by promoting democratic procedures within labor organizations. The Act establishes a Bill of Rights for union members, reporting requirements for labor organizations, union officers and employees, employers, labor-relations consultants, and surety companies; standards for the regular election of union officers; and safeguards for protecting labor organization funds and assets.

Wage and Hour Law

The Fair Labor Standards Act (FLSA) regulates child labor and minimum wage and overtime payments for most workers employed in the private and public sector.

The federal minimum wage is set by Congress. States have the right to set a higher minimum wage through legislative action. You can check the current federal and state minimum wage rates on the federal Department of Labor's website at www.dol.gov.

The FLSA also requires that covered employees be paid not less than time-and-one-half of their regular pay rate for all hours worked over 40 hours in a workweek.

Employers are required to display an official Department of Labor **Notice to Employees** about their wage and payment rights where employees can readily see it. In addition, employers must maintain complete and accurate pay and hour records for each employee. Failure to do so is grounds for the Department of Labor to impose warnings and a penalty on the employer.

Family and Medical Leave Act (FMLA)

Administered by the federal Department of Labor, this law covers employers with 50 or more employees and guarantees employees who work the required number of hours up to 12 weeks of unpaid leave each year to care for an immediate family member, including a child, spouse or parent with a serious health condition or care for a newborn child, including a newly adopted or newly placed foster child. It also permits a leave to treat or recover from a serious health condition. Training and informational materials are on the DOL's website.

Go to www.dol.gov/whd/fmla.

Trade Act and USMCA

Workers who are unemployed as a result of increased competition of like or directly competitive products from foreign countries can apply for Trade Adjustment Assistance Program benefits. The Department of Labor's Employment and Training Administration Office of Trade Adjustment Assistance administers this program.

This program seeks to provide trade-affected workers with opportunities to obtain the skills, credentials, resources, and support necessary to become reemployed.

More general information can be obtained at www.doleta.gov/tradeact or by calling (888) DOL-OTAA / (888) 365-6822. Questions about eligibility under either program should be directed to your Regional Office.

Employee Retirement Income Security Act (ERISA)

ERISA sets minimum standards for private sector pension plan participation, vesting, and funding. The law requires plans to report information annually to the federal government and plan participants. All plan administrators use fiduciary principles to guide their investments and decisions. Union and employer fiduciaries may face personal liability if they do not act solely in the interest of the plan participants and beneficiaries.

The law also prohibits certain financial deals between the plan and the interested parties. In addition, ERISA creates the Pension Benefit Guaranty Corporation (PBGC) which **partially** guarantees pension benefits in case of plan termination, if certain criteria are met.

The PBGC must be notified by plan administrators of a reportable event such as a long-term layoff of over 20 percent of the plan participants, an insufficiency in plan assets or funding, or a plant shutdown. Failure to notify the PBGC may breach the administrator's fiduciary duties.

Finally, the law enables plan participants or beneficiaries to sue for benefits that are legally due to them. Further information on ERISA is available from the UAW Social Security Department or the U.S. Dept of Labor at www.dol.gov.

Veterans Employment and Training Services and the Uniformed Services Employment and Reemployment Rights Act

VETS is a division of the Department of Labor and provides information on the employment and reemployment rights of U.S. veterans. It also administers the Uniformed Services Employment and Reemployment Rights Act (USERRA).

USERRA protects qualified veterans returning from active military service from employment discrimination. The USERRA also protects past and present members of the uniformed services and applicants to the uniformed services.

Employers are required to restore returning veterans to similar positions held prior to military service with credit given for all advancements, including seniority and wage increment benefits which would probably have been earned but for military service.

Additional information can be found at www.dol.gov/vets or by calling 866-4-USA-DOL. Specific questions should be directed to your Regional Office.

Equal Employment Opportunity Act

This law – also known as Title VII of the Civil Rights Act of 1964 as amended – is very important to our local unions and the International Union, UAW. General information is below to guide you in evaluating circumstances you encounter in your grievance-handling duties.

Contact your Region if you have a specific problem that requires input from the UAW Civil and Human Rights Department or UAW Legal Department.

General Principles

The Civil Rights Act bans discrimination on the basis of race, color, religion, sex, or national origin in a wide range of public and private employment practices and in union membership.

The Equal Employment Opportunity Commission (EEOC) enforces the law by investigating worker charges and settling meritorious complaints or suing employers for failing and refusing to follow the law. Labor unions can also bring lawsuits on behalf of their members.

Grievance handlers should carefully consult the collective bargaining agreement's non-discrimination or anti-discrimination clause and the grievance procedure to determine whether the aggrieved person should pursue redress under the collective bargaining agreement, the EEOC, or both.

Note: Filing a grievance does not extend the deadline for filing an EEOC charge (within 180 days of the discriminatory act). While certain exceptions to the 180-day filing requirement are applicable in certain locations, strict adherence to the 180-day rule is urged.

An employer, labor union, employment agency, or joint labor-management apprenticeship or training committee does not have to intend to discriminate to violate Title VII. It is also illegal to engage in practices that tend to have a discriminatory effect or impact on those protected under the law.

A union that condones an employer's discriminatory practices or discriminatory collective bargaining language risks liability for violating the Civil Rights Act along with the employer. Local unions should keep accurate records of all efforts made to eliminate the employer's discriminatory practices.

An examination or test used in employment may be illegal if it operates to disqualify minorities or women at a substantially higher rate than other bargaining unit employees. A test may also be illegal if it has not been validated as an accurate predictor of job performance or necessary to the employer's business.

Sex Discrimination

It is illegal for an employer to impose employment conditions on women that do not apply to men. For example, height and weight restrictions which apply to only one sex are discriminatory. It is also illegal for an employer to add a job condition to deny a female an employment opportunity that is not applied to men, such as having young children at home.

Pregnancy Discrimination

It is unlawful to discriminate against women because of pregnancy, childbirth, or a related medical condition. The ban on pregnancy discrimination covers all areas of employment, including hiring, promotion, seniority rights, and fringe benefits.

Sexual Harassment

It is illegal for an employer, employment agency, joint apprenticeship, committee, or labor organization to permit – by its representatives, employees, members, and in certain cases, non-employees such as vendors – to engage in sexually offensive conduct such as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature in the workplace.

While it is mostly women impacted by the problem of workplace sexual harassment, the law applies equally to men as well.

Prevention is the best tool for the elimination of sexual harassment. Therefore, an employer and union should jointly take all steps necessary to prevent sexual harassment from occurring, such as taking the initiative to raise the subject to express strong disapproval, developing appropriate sanctions for harassers, informing employees of the process to raise harassment issues, and developing methods to sensitize all in the workplace.

Labor organizations have the responsibility and duty to strive to eliminate workplace sexual harassment. Contact your local union leadership to request the latest copy of the “UAW Administrative Letter - Sexual Harassment.”

As a grievance handler, you should read and familiarize yourself with the section “Sexual Harassment” in the **Grievance Handler’s Guidebook (UAW Publication 525)**, in order to be best equipped to handle a sexual harassment situation in your facility and to know what resources are available to you.

The UAW Education Department has developed training for local union leadership and members on how to identify sexual harassment, how to intervene if they are a witness, and what to do if someone has been harassed or has been a harasser themselves. Contact your Regional or International Servicing Rep to request this important training.

National Origin Discrimination

It is unlawful for an employer to make an employment-related decision based on the national origin of the person adversely affected by that decision. It is also unlawful for a union to make representation decisions on the same grounds. Unlawful national origin bias includes discriminatory hiring, assignment, seniority, promotion and representation policies and actions. An example of illegal national origin discrimination is requiring English language skills for an assignment when the language requirement has no demonstrable relationship to the successful performance of that assignment.

Religious Discrimination

The employer and the union must make reasonable accommodations to respect a person's religious beliefs and practices. Most problems occur when employees must observe a Saturday Sabbath. A union's efforts to achieve reasonable accommodations for such members may involve one of these options: (1) obtaining a permanent, excused absence for the Sabbath period, with work to be made up at another time; (2) if seniority permits, suggesting a bid to a shift which does not conflict with the Sabbath; (3) arranging a transfer to a job which avoids Saturday work; (4) working out a voluntary shift while on the Sabbath; (5) pursuing voluntary overtime; (6) making any other arrangements which would solve the problem with a minimal impact on other bargaining unit employees.

Where You Can Find More Help

Your regional International Representative should be informed immediately of alleged workplace discrimination issues. The International Union, UAW's Civil and Human Rights Department can also assist and work in cooperation with the Region and Local Union to resolve discrimination problems. It is the UAW's policy to work cooperatively with every member who uses his or her contractual and legal rights to complain about discriminatory treatment.

When a member exercises their right to file an EEOC discrimination charge, it is the member's responsibility to notify their Local Union president who will notify the Regional Director. The Region will pursue the assistance needed in cooperation with the International Union's Civil and Human Rights Department.

Note: For issues involving sex discrimination against UAW women, the International Union, UAW Women's Department works with the UAW Civil and Human Rights Department. The International Union's Civil and Human Rights and Women's Departments provide information upon request to help Local Unions eliminate discrimination in the workplace, the community, and the nation.

Age Discrimination

The Age Discrimination in Employment Act of 1967 (ADEA) prohibits discrimination by employers and unions against employees who are at least 40 years old. Employment practices based on age may be illegal. The EEOC also administers the ADEA and all charges must be filed within 180 days of the alleged discrimination. Many state civil rights laws also prohibit age discrimination.

Any employment decision involving an employee 40 years old or over must be based on the individual's ability or capability to perform the work in question.

Equal Pay Act

The Equal Pay Act requires men and women to be paid equally for work that requires equal skill, effort, and responsibility and is performed under the same working conditions. Unions are prohibited from causing or attempting to cause an employer to violate the Equal Pay Act. Those who suffer an Equal Pay Act violation can receive up to two years of back pay.

Rehabilitation Act of 1973

The Rehabilitation Act of 1973 bans employment discrimination based on disability against disabled workers and covers employers with a federal contract over \$10,000. The employer must take affirmative action to hire and promote qualified physically or mentally disabled persons. Unions are required to cooperate with the employer in its nondiscrimination and affirmative action efforts. The federal Department of Labor investigates violations of this law which also funds vocational rehabilitation programs.

Americans with Disabilities Act of 1990

The Americans with Disabilities Act of 1990 (ADA) protects disabled job applicants and employees. The ADA prohibits an employer or a union from discriminating against any qualified individual on the basis of disability.

Any selection criteria that screen people based on disability must be job-related and consistent with business necessity. The ADA also requires employers to provide “reasonable accommodations” to help disabled applicants or workers meet legitimate job criteria. The EEOC enforces the ADA.

Affirmative Action in Employment

Companies holding contracts or subcontracts with the federal government must take affirmative action to eliminate employment discrimination based on race, sex, national origin, color, disability, and veteran status. Employers must establish numerical goals and timetables for the employment of minorities and women throughout their workforce. These requirements are administered and enforced by the U.S. Department of Labor. A union also has a duty to refrain from discriminating and refrain from encouraging an employer to discriminate.

The DOL can investigate a federal contractor on its own or in response to an employee complaint. If discrimination or lack of affirmative action is discovered, an employer may be required to change certain employment practices. Because this may involve alteration of the collective bargaining agreement or past practices, the union should be involved in negotiations that the DOL conducts with the employer.

Unemployment Insurance

The UAW worked hard to advance the concept of unemployment insurance for those involuntarily out of work and was instrumental in the passage of the unemployment insurance law in the 1930s. Unemployment insurance is provided through a cooperative arrangement between the federal government and various state governments.

Unemployment insurance rights and processes vary from state to state, but in general, most workers in workplaces with four or more persons are covered if they have been employed for a certain minimum number of weeks.

To collect benefits, a member must be unemployed either part-time or full-time, be available for work, be seeking work, and be willing to accept a suitable job. Coverage of members out of work in cases of strike or lockout varies from state to state.

To claim benefits, a member must immediately contact their state's unemployment office and fulfill the requirements to receive unemployment benefits. A member may be disqualified to receive unemployment insurance if the member:

- a.** Quits their job without good cause
- b.** Fails to accept a suitable job
- c.** Is discharged for work-related misconduct

The member has the right to appeal a denial of benefits. Usually, there is a time limit for an appeal, so appeals should be filed immediately under the state's procedures. There may be more than one appeal level if the first appeal is denied.

Sometimes the state unemployment office will determine that a member who earlier received state unemployment benefits was not actually eligible or qualified to receive benefits. Under this circumstance, the state may try to recoup those already paid benefits. The member should act promptly to challenge a recoupment notice if the right to receive benefits was properly established.

Procedures and requirements to receive unemployment insurance in your state can be found online or by contacting your Region.

Worker Adjustment and Retraining Notification Act

The Worker Adjustment and Retraining Notification (WARN Act) requires an employer to provide the union or all affected workers at least 60 days advance notice of a plant closing or mass layoff. WARN applies to employers with at least 100 full-time employees. It also applies to any employment setting, not only industrial "plants."

The “plant closing” must include job loss for at least 50 employees at a “single site” of employment. The “mass layoff” must affect at least one-third of the workforce **and** at least 50 employees at a single worksite, or an employment loss of 500 or more workers at one or more worksites. Either of these tests can be met by combining employment losses occurring over a 30-day period. If the employer does not provide 60 days advance notice, back pay may be available.

“Employment loss” means termination or layoff of over six months or the reduction of hours by 50 percent or more. Your collective bargaining agreement may provide additional notice and bargaining requirements in circumstances of layoff or plant closing, including successorship obligations.

Social Security, Old Age Survivor’s Insurance, and Medicare

You may need to address issues involving Social Security, Survivor’s Insurance and Medicare in your grievance-handling duties. The U.S. Social Security Administration administers these provisions.

More information can be found by browsing www.ssa.org. You can also seek assistance from the UAW Social Security Department through your Region.

Occupational Health and Safety

It is one of the UAW's highest priorities to ensure that our members – and all employees – work in a healthy and safe environment, free of hazards and danger.

As a grievance handler, you are on the front lines to ensure that the employer follows health and safety requirements; and that the contract's health and safety provisions are honored and enforced.

Following the checklist below can help you fulfill your contractual and representation obligations.

Inspect the worksite regularly. The Local Union's Health and Safety Representative or Health and Safety Committee should have special training in hazard recognition. Work with them to ensure that the worksite has been inspected to spot every detectable hazard. Some inspections should be more targeted, such as looking for noise problems caused by poor maintenance or for proper safeguards on all presses. Grievance handlers should also inspect their own work areas for hazards and poor housekeeping.

Survey the members. Conduct a member survey to learn what hazards they are aware of and want eliminated.

Surveying the members also helps raise their awareness about the hazards they face and the union's role in negotiating with management to eliminate them. Ask your members whether they have ideas on how to fix the problem.

Be alert for medical complaints and symptoms.

Problems like headaches, nausea, dizziness, shortness of breath, frequent coughs, and irritation to the eyes, nose, throat, and skin could easily be caused by work conditions. Workers and their union representatives (with the worker's permission) have the right to see and have a copy of the worker's medical record, under provisions and regulations of the Occupational Safety and Health Act (OSHA). (See OSHA At A Glance section below for more information).

Find out what medical tests are being given by the employer.

Learn what the tests are and their purpose. Go to www.osha.gov to check for more information. You can also contact the UAW Health and Safety Department through your Region for assistance.

Advise your members to request exact copies of any medical exam conducted due to a workplace health and safety issue, along with a written opinion of the significance of any findings.

Employer Records

Check OSHA Form 200. OSHA requires employers to keep a daily log of worker injuries and illnesses. The Form 200 should contain both the daily list and a summary of recordable injuries and illnesses. Union representatives and current and former workers have the right to obtain a copy of this form. Use the log to:

- Check the accuracy of log entries
- Identify patterns of injuries or symptoms requiring further investigation
- Trace the effects of potentially toxic materials
- Learn about past problems and exposures

Notify management of the hazards you discover or suspect and enforce your contractual and OSHA rights to have the problems corrected. Keep track of all unresolved or repeating problems so that they can be addressed through the grievance procedure or contract bargaining.

Investigate all injuries and near misses. Correct the unsafe condition which caused the action. Was supervision aware? Why or why not?

Study new and existing jobs and operations for hazards. Audit new and existing jobs and operations for possible health and safety problems. Ask yourself: Can someone be killed here? Can

someone be injured? Is there anything that might harm someone's health? Watch the workers' actions through a complete work cycle to determine what might go wrong.

Get copies of all safety procedures. Make sure the employer follows its own rules, in addition to the collective bargaining agreement.

Noise

At work, if you need to shout to be heard by a coworker a few feet away, you probably have a noise problem.

Inform workers in noisy areas that noise causes hearing loss and other health problems.

Measure the noise levels. Insist on getting the results of employer noise-level measurements. Demand that the employer measure levels if an assessment doesn't exist or is outdated. Negotiate for the right for the Local Union Health and Safety representative or committee to take noise measurements.

Demand that the employer act to eliminate or reduce the noise level. Negotiate over the plan or enforce existing contractual requirements regarding workplace health and safety or specific provisions regarding noise levels. Ask for progress reports.

Watch for noise enclosures that have been left open, or “garbage noise” caused by machines in need of repair. Seek correction of these on your safety tours or investigations.

Insist on engineering controls. OSHA requires employers to implement hearing conservation programs to solve noise problems. The UAW’s position is that ear protection should only be used as a temporary measure until noise levels are reduced by engineering controls.

Air Contamination

Check for smoke, clouds of dust, mists, and unusual odors and identify all raw ingredients and by-products (for example, what the dust consists of). Be aware that many contaminants cannot be detected through your senses. Special detection devices may be needed to expose the health hazards.

Know Airborne Contaminant Measurements

Employer experts and government inspectors can take these measurements. Your right to information as a grievance handler and OSHA regulations allow you to have a written copy of the results from such tests. The Union can also negotiate the right for the Local Union Health and Safety representative or committee to be involved in this sampling test.

Notify members of health hazards. Inform them of any problems in their area or in the worksite and let them know of the Union's efforts to eliminate the hazard.

Insist on engineering controls. OSHA requires that engineering controls be used to solve air contamination problems, not respirators. Face masks can be used only as a temporary measure until the air contamination is eliminated, if engineering controls have failed, or if the worker is exposed to air contamination very infrequently.

Look for existing exhaust ventilation ductwork and hoods. Check to see why they are there and what the hazard is. Ask whether the ventilation is adequate, faulty, or blocked. The best way to ventilate toxic materials is through an exhaust duct which is positioned right down to the source of the exposure and eliminates exhaust before it contaminates the air that a worker might breathe.

Bargain for Quality UAW Working Conditions

Demand specific improvements in the workplace through contract negotiations or agreements with management at the corporate or local level. Filing and winning health and safety grievances also establishes precedents that can be used to maintain healthy and safe work conditions in other similar circumstances.

Set high standards. Our members expect the UAW to see that they have the healthiest and safest work conditions – not to ensure that minimal government standards are met.

While OSHA standards are important, treat them like the minimum wage law. We need minimum regulations, but a union worksite should have as close to maximum protection as possible. Our union contracts usually contain far stricter health and safety protections than what OSHA requires.

Do not take employer claims for granted.

Employer claims that chemicals or fumes are harmless should not be accepted without documentation. Too many workplace hazards have never been adequately researched or conditions are based on questionable or outdated assumptions about health and safety.

Management's Safety Program

Insist that management develop a good health and safety program. The employer should:

Consult with a professional health and safety experts to survey the workplace for hazards and recommend solutions.

Conduct a Job Safety Analysis and develop written safe job procedures for each job.

Under OSHA 1910.1200 the Employer Must:

Develop and implement a written hazard communication program and prepare a list of workplace hazardous chemicals. The written hazard communication program and list of hazardous chemicals should be contained in a hazardous materials manual. The manual should contain a Safety Data Sheet (SDS) for each material with information on the health hazards of the chemical(s) and instructions on safe use and emergencies.

OSHA requires workers and their union representatives to have access to this information upon request.

Containers must have labels with appropriate hazard warnings. All containers must be labeled, except worksite transfer containers for the sole use of the employee doing the transfer to be used during that shift.

Give detailed instructions to new hires or newly transferred members about potential hazards in their area and how to do their job safely. Provide refresher information periodically.

Members have the right to receive training on the chemicals and hazards they may have been exposed to, and necessary precautions to reduce exposure. The training must specifically address the hazards they may encounter; general training is insufficient.

The Local Union Should Insist That The Employer:

Establish a Health and Safety Maintenance and Housekeeping Crew to correct all maintenance and housekeeping problems identified by the Health and Safety Representative or committee.

Provide periodic medical examinations for employees exposed to potentially harmful materials.

Report periodically to the local union on the implications of the results of periodic medical exams.

Prepare written plans for improvements in workplace conditions. These plans should be negotiated or shared with the local union.

OSHA at a Glance: What the Law Says

Standards

The Occupational Safety and Health Act of 1970 established minimum workplace health and safety standards. Hazards not specified in the standards are covered by the law's "general duty clause," which requires each employer to maintain a workplace "free from recognized hazards."

Enforcement

The Occupational Safety and Health Administration enforces OSHA standards by inspecting workplaces and levying fines. The law provides for fines for each violation and increased fines for willful or repeated violations.

Inspections

Any employee covered by OSHA can request an inspection by filing an OSHA complaint. OSHA will not reveal your name at your request. On the day of the inspection, an OSHA inspector tours the workplace, accompanied by a designated union representative and management.

After the inspection, a citation listing violations and deadlines for correcting them is sent to management and to the person who requested the inspection. The union can request a copy.

Management must post its copy of the citation in the vicinity of the violations for three days or until the violations have been corrected, whichever is longer. If a citation is not issued, OSHA informs the person who requested the inspection that no violations were found.

Appeals

OSHA has its own Review Commission (OSHRC). Management can appeal violations, fines, and deadlines for eliminating hazards. Workers can appeal only the deadlines. Workers or their union can elect “party status” in OSHRC proceedings by filing a written notice with the OSHRC. Such action ensures that no cases are settled without union involvement. Go through your Region to contact the UAW Health & Safety Department for more details.

Right to Know

Federal OSHA Access to Medical Records and Exposure Records Standard 1910.1020. The standard allows workers and their union representatives to examine and copy an employer’s records of exposure to toxic materials, medical records, and analyses based on these records. The employer must provide access no later than 15 days after a request.

The Union has immediate access to data on chemical exposures and to studies based on either this data or on medical records. The Union may also access a member’s personal medical file with the specific written consent of that member. Individual employees have a right to access their own file.

“Toxic exposure records” include:

- Industrial hygiene reports and data
- Biological monitoring such as blood lead data
- Safety Data Sheets or other identity of toxic substances

“Medical records” include:

- Medical histories and questionnaires
- Results of medical examinations and laboratory tests
- Medical opinions, diagnoses, and recommendations
- Worker medical complaints

“Studies” include:

Any studies or analyses the employer has done, based on these records. They are also available to any employee or union representative. The standard applies to all employer-generated records, regardless of whether created or maintained by the employer or by outside contractors.

Federal OSHA Standard 1910.1200 Hazard Communication Standard

Written Hazard Communication Program

Employers shall develop and implement a written hazard communication program for their workplaces.

- i)** A list of the hazardous chemicals known to be present using an identity that is referenced on the appropriate Safety Data Sheet (the list may be compiled for the workplace as a whole or for individual work areas);
- ii)** The methods the employer will use to inform employees of the hazards of non-routine tasks (for example, the cleaning of reactor vessels), and the hazards associated with chemicals contained in unlabeled pipes in their work areas; and
- iii)** The methods the employer will use to inform any contractor employers with employees working in the employer's workplace of the hazardous chemicals their employees may be exposed to while performing their work, and any suggestions for appropriate protective measures.

The employer shall make the written hazard communication program available, upon request, to employees, their designated representatives, and OSHA, in accordance with the requirements of 29 CFR 1910.1020.

Labels and Other Forms of Warning

OSHA requires that labels and other forms of warning be provided to inform workers of potential hazards and proper handling of machinery and materials. OSHA has also established a uniform labeling system for hazardous workplace chemicals, using written warnings and picture icons.

- 1)** The employer may use signs, placards, process sheets, batch tickets, operating procedures, or other such written materials in lieu of affixing labels to individual stationary process containers, as long as the alternative method identifies the containers to which it is applicable and conveys the information required to be on a label. The written materials shall be readily accessible to employees in their work area throughout each work shift.
- 2)** The employer is not required to label portable containers into which hazardous chemicals are transferred from labeled containers, and which are intended only for the immediate use of the employee who performs the transfer.
- 3)** The employer shall not remove or deface existing labels on incoming containers of hazardous chemicals, unless the container is immediately marked with the required information.

- 4)** The employer shall ensure that labels or other forms of warning are legible, in English, and prominently displayed on the container, or readily available in the work area throughout each work shift. Employers having workers who speak other languages may add the information in their language to the material presented, as long as the information is presented in English as well.

Safety Data Sheets

Employers shall have a Safety Data Sheet (SDS) for each hazardous chemical they use. Each SDS shall be in English and shall contain at least the following information:

- i)** The identity used on the label:
- a.** If the hazardous chemical is a single substance, its chemical and common name(s);
 - b.** If the hazardous chemical is a mixture that has been tested as a whole to determine its hazards, the chemical and common name(s) of the ingredients which contribute to these known hazards, and the common name(s) of the mixture itself; or
 - c.** If the hazardous chemical is a mixture that has not been tested as a whole:

- 1)** The chemical and common name(s) of all ingredients which have been determined to be health hazards, and which comprise 1% or greater of the composition, except that chemicals identified as carcinogens under paragraph (d) (4) of this section shall be listed if the concentrations are 0.1% or greater; and
- 2)** The chemical and common name(s) of all ingredients which have been determined to present a physical hazard when present in the mixture;
 - ii)** Physical and chemical characteristics of the hazardous chemical (such as vapor pressure, flash point);
 - iii)** The physical hazards of the hazardous chemical, including the potential for fire, explosion, and reactivity;
 - iv)** The health hazards of the hazardous chemical, including signs and symptoms of exposure, and any medical conditions which are generally recognized as being aggravated by exposure to the chemical;
 - v)** The primary route(s) of entry;
 - vi)** The OSHA permissible exposure limit, ACGIH Threshold Limit Value (American Conference of Governmental Industrial Hygienists), and any other exposure limit used or recommended by the chemical manufacturer, importer, or employer preparing the SDS, where available;

- vii)** Whether the hazardous chemical is listed in the National Toxicology Program (NTP) Annual Report on Carcinogens (latest edition) or has been found to be a potential carcinogen in the International Agency for Research on Cancer (IARC) Monographs (latest editions), or by OSHA;
- viii)** Any generally applicable precautions for safe handling and use that are known to the chemical manufacturer, importer, or employer preparing the SDS, including appropriate hygienic practices, protective measures during repair and maintenance of contaminated equipment, and procedures for cleanup of spills and leaks;
- ix)** Any generally applicable control measures which are known to the chemical manufacturer, importer, or employer preparing the SDS, such as appropriate engineering controls, work practices, or personal protective equipment;
- x)** Emergency and first aid procedures;
- xi)** The date of preparation of the SDS or the last change to it; and
- xii)** The name, address, and telephone number of the chemical manufacturer, importer, employer, or other responsible party preparing or distributing the SDS, who can provide additional information on the hazardous chemical and appropriate emergency procedures, if necessary.

- 1)** If no relevant information is found for any given category on the SDS, the chemical manufacturer, importer, or employer preparing the SDS shall mark it to indicate that no applicable information was found. Where complex mixtures have similar hazards and contents (i.e., the chemical ingredients are essentially the same, but specific composition varies from mixture to mixture), the chemical manufacturer, importer, or employer may prepare one SDS to apply to all of these similar mixtures.

- 2)** The chemical manufacturer, importer, or employer preparing the SDS shall ensure that the information recorded accurately reflects the scientific evidence used in making the hazard determination. If the chemical manufacturer, importer, or employer becomes newly aware of any significant information regarding the hazards of a chemical, or ways to protect against the hazards, this new information shall be added to the SDS within three months. If the chemical is not currently being produced or imported, the chemical manufacturer or importer shall add the information to the SDS before the chemical is introduced into the workplace again.

- 3)** Chemical manufacturers or importers shall ensure that distributors and manufacturing purchasers of hazardous chemicals are provided an appropriate SDS with their initial shipment and with the first shipment after a SDS is updated. The chemical manufacturer or importer shall either provide SDS with the shipped containers or send them to the manufacturing purchaser prior to or at the time of the shipment. If the SDS is not provided with the shipment, the manufacturing purchaser shall obtain one from the chemical manufacturer, importer, or distributor as soon as possible.
- 4)** Distributors shall ensure that SDSs, and updated information, are provided to other distributors and manufacturing purchasers of hazardous chemicals.
- 5)** The employer shall maintain copies of the required SDS for each hazardous chemical in the workplace and shall ensure that they are readily accessible during each work shift to workers when they are in their work area(s).
- 6)** SDS may be kept in any form, including operating procedures, and may be designed to cover groups of hazardous chemicals in a work area where it may be more

appropriate to address the hazards of a process rather than individual hazardous chemicals. However, the employer shall ensure that in all cases the required information is provided for each hazardous chemical and is readily accessible during each work shift to workers when they are in their work area(s).

- 7) SDSs shall also be made readily available, upon request, to designated representatives and OSHA, in accordance with the requirements of 29 CFR 1910.1020. OSHA shall also be given access to SDSs in the same manner.

Employee Information and Training

Employers shall provide employees with information and training on hazardous chemicals in their work area at the time of their initial assignment and whenever a new hazard is introduced into their work area.

- 1) **Information.** Employees shall be informed of:
 - i) The requirements of this section;
 - ii) Any operations in their work area where hazardous chemicals are present; and

- iii) The location and availability of the written hazard communication program, including the required list(s) of hazardous chemicals, and SDSs required by this section.

2) Training. Employee training shall include at least:

- i) Methods and observations that may be used to detect the presence or release of a hazardous chemical in the work area (such as monitoring conducted by the employer, continuous monitoring devices, visual appearance or odor of hazardous chemicals when being released, etc.);
- ii) The physical and health hazards of the chemicals in the work area;
- iii) The measures employees can take to protect themselves from these hazards, including specific procedures the employer has implemented to protect employees from exposure to hazardous chemicals, such as appropriate work practices, emergency procedures, and personal protective equipment to be used; and
- iv) The details of the hazard communication program developed by the employer, including an explanation of the labeling system and the SDS, and how employees can obtain and use the appropriate hazard information.

Employee Rights Under OSHA

Employee rights include the following:

- 1)** Access to the employer's written program. This required document must detail the specific methods of complying with the standard
- 2)** Containers must have labels with appropriate hazard warnings. All containers must be labeled, except in-plant transfer containers for the sole use of the employee doing the transfer, to be used during that shift
- 3)** Workers are guaranteed access to SDSs for all hazardous chemicals that they handle or may be exposed to. These data sheets must be "readily available" on every work shift

What Chemicals are Covered?

The standard references a floor of 1,300 substances that must be considered hazardous, but also applies to any other chemicals known to be present in the workplace which are considered to be hazardous.

Any positive test that shows a chemical to be hazardous must be disclosed. The standard relies on suppliers to disclose hazardous ingredients as defined by the standard.

Local and national agreements should be made to pressure suppliers for complete ingredient disclosure so that a complete hazard evaluation can be done independently of the chemical manufacturers.

State Plans

A number of individual states have elected to adopt Right To Know and Health and Safety Standards in addition to those required by federal OSHA. Workers in those states should contact the state administration for information and assistance.

UAW Right to Know Action Plan

- All containers should be labeled
- All ingredients should be identified by chemical name and percentage of composition
- Identities and percentages of the composition of dangerous chemicals should not be hidden as trade secrets
- All workers should be fully trained
- All workers have the right to receive a copy of their medical and exposure records

Grievance Handler Inspection Checklist

Use this list as a guide for making plant inspections when presented with a health and safety issue. Details on requirements are found in the OSHA General Industry Standards. Keep a record of what you see and the action demanded and taken!

Walking-Working Surfaces

- Slippery
- Damaged
- Clear
- Openings
- Egress

Electrical

- Disconnects
- Defective
- Exposed
- Controls

Housekeeping/General Plant Environment

- Clean
- Debris
- Ventilation
- Sanitation

Compressed Air and Gases

- Storage
- Secured
- Use

Vehicles

- Authorized Use
- Defective-Daily Inspection
- Rules and Regulations
- Adequate Safeguards
- Charging Areas
- Battery
- Preventive Maintenance and Tag-Out Procedure
- Fueling Procedures

Cranes and Hoisting Equipment

- Defective
- Capacity
- Controls
- Authorized Use
- Daily Inspection

Powered Tools

- Defective
- Guards
- Use
- Storage

Personal Protective Equipment

- Head/Face/Eye/Body Protection
- Emergency Equipment
- Sanitation and Storage

Fire Hazards

- Flammable Combustible Materials
- Access
- Areas Identified
- Storage

Machinery and Equipment

- Defective
- Lock-Out Capability
- Use
- Guarding
- Controls
- Safety Devices
- Pinch Points

Material Handling and Storage

- Hazardous Material
- Proper Use
- Identification
- Containment
- Proper Location

Hazardous Materials

- Chemicals
- Fumes
- Noise
- Dust
- Safety Data Sheets

Safe Job Procedures

- Job Safety Analysis Conducted
- Proper Training
- Job Procedures

Workers' Compensation

Workers' Compensation laws provide compensation and medical care and, in some states, medical and vocational rehabilitation, to members who are injured on the job or acquire diseases due to their employment. Injuries in and around the worksite while eating lunch, going to the restroom, parking, and so on are compensable.

The protection provided to members under a state's law depends on how effectively they mobilize their political power for an employee-centered compensation law. Usually, employers and insurance companies have powerful lobbyists in state capitals who work to cut benefits and restrict payments to injured working men and women.

Under most state workers' compensation programs, there is a waiting period before payments are made to the injured employee. Waiting periods can range from one to seven days, while retroactivity periods can range from one day to six weeks.

Benefits are usually granted for a certain number of weeks, based on a percentage of the member's average weekly wage. Only a few states provide weekly payments for the full period of disability.

Many states stop benefits after a specific number of weeks, whether or not a return to work is possible.

Medical aid usually includes artificial limbs and medical appliances as well as medical treatment and hospital care. In some states, if a member does not recover within a particular period, they must pay for their own medical care when the covered period expires.

To collect compensation, the member must report the injury to the employer and file a claim for compensation.

Usually, filing requirements are governed by specific time frames, so members should follow procedures immediately after an injury or the discovery that they may have an occupational disease.

If the employer objects to voluntary payment of the claim, the employee must prove they have lost earning power as the result of their injury or health condition. Members involved in a workers' compensation dispute with their employer should document and maintain all information about their injury and copies of notices provided to the employer.

Injured members should not sign any agreement or statement in connection with an injury without the advice of the union or a knowledgeable attorney.

Some employers try to settle disputed compensation claims by offering a monetary settlement in exchange for the member waiving their seniority rights to return to work. Neither the law nor our collective bargaining agreements require an injured member to give up seniority rights.

Members who are made offers should not agree to them without a thorough understanding of what a waiver of seniority means and all of the rights and benefits they may give up. Injured members should sign a waiver only if they believe it is in their long-term best interest.

If the employer refuses to voluntarily pay a member benefits, the member should consult the Union for assistance. Information is located on your state's workers' compensation website. You should contact your Region for additional assistance.

UAW Administrative Letters Relevant to Grievance Handlers

The International Union, UAW releases administrative letters from time to time to convey official Union policy to Local Unions and members.

Some UAW Administrative Letters touch on your duties as a grievance handler.

All UAW Administrative Letters are available online through LUIS. Contact your Local Union leadership to access them.

When in doubt, follow your Local Union protocol for guidance.



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