

Stewards Handbook

Summer 2022

MESSAGE FROM THE PRESIDENT

Welcome to New Stewards AFGE

Congratulations on becoming an AFGE Steward. The job of the AFGE Steward is one of the most exciting and challenging jobs you can have. As a new Steward, you are the face of AFGE and you are managements equal. Members will look to you for guidance and leadership when they need to solve problems with their employer. During your time as a Steward, you will be involved in a wide variety of labor-management relations matters, including but not limited to engaging and representing members in your bargaining unit as well as organizing and mobilizing members around issues that impact workers in government service. It is often said that “Stewards are the backbone of the union.” This is true for several reasons; but it is mostly because Stewards have a direct line to our members and are in the best position to know what issues matter most to them.

You must be highly motivated and engaged in advancing the interests of our members and our union. Most importantly, you must have a continuous learning attitude, understanding there is always room to deepen your knowledge and hone your skills; and these new Stewards resources were created to aide you in doing so. You are not in this journey alone, you will have on-going support and training from the Local, District, and National offices of AFGE.

Your stewardship will help us to realize our goals in building strong, effective Locals, as well as developing an active and engaged membership. We thank you for your commitment, dedication, and hard work. With our shared goals and hope for the future, we are confident that your service to your union will be a rewarding experience!

In solidarity,



Dr. Everett B. Kelley
AFGE National President

INTRODUCTION

AFGE STEWARDS IN ACTION

Congratulations and thank you for becoming an AFGE Steward. Use this handbook to provide you with information and resources to help build a stronger AFGE through organization, representation, and mobilization of your co-workers. This handbook will provide some useful insights into your duties as a Steward and clarity as you navigate through your many roles and responsibilities. The job of the AFGE steward is one of the most exciting and challenging roles you can have. As a steward:

- You are management's equal;
- You are the face of AFGE for the members of your bargaining unit and their supervisors;
- You speak on behalf of your co-workers in the official day-to-day relations between AFGE and the employer;
- You are the person members look to for guidance and leadership when they need help to solve problems with their employer;
- Members look to you for information on what the union is doing and union leadership depends on you to let them know what issues members care about and what they think should be done about them; and
- You will be involved in a wide variety of labor-management relations matters, member recruitment, and the mobilization of support for the union's goals.

The AFGE steward is a key position in the union with many roles. AFGE stewards are organizers, problem solvers, educators, communicators, political/legislative activists, and worksite leaders. This guide is organized according to these roles.

In doing your job, it is important to know that you are protected as a Steward! When you're dealing with management on union business, you deal with the employer as an equal. Your contract may also spell out your rights, and perhaps you're covered by state and local ordinances if you're a government worker.

The Federal Service Labor-Management Relations Statute (5 U.S.C. Chapter 71) specifically protects you (and other union leaders) from punishment or discrimination by management because of your union activity. It's illegal for an employer to:

- Deny you promotions or pay opportunities.
 - Isolate you from other workers.
 - Saddle you with extra work or unusually tough assignments.
 - Deny you overtime opportunities.
 - Enforce work rules unfairly against you or harass you with extra supervision
- If your employer tries to discriminate against you in this way, it's a violation of federal law.

Table of Contents

Message From the President

9 Chapter 1. AFGE: WHO WE ARE

AFGE Profile

Bargaining Unit Members and Dues Paying Members: What's the Difference?

AFGE Governance and Organizational Structure

AFGE National Conventions

National Executive Council

AFGE Districts

AFGE Locals

National Bargaining Councils

National Office Structure

AFGE National Staff

How Much Are Minimum Dues? Who Decides?

What Are Dues Used For?

AFL-CIO Structure

15 Chapter 2. THE JOB OF THE AFGE STEWARD

What AFGE Stewards Need to Have

Roles of an AFGE Steward

19 Chapter 3. THE STEWARD AS COMMUNICATOR

What Should a Steward Communicate?

Welcoming New Employees

21 Chapter 4. THE STEWARD AS EDUCATOR

Educating About Dues

Educating About Union Benefits

Keeping Members Informed

23 Chapter 5. THE STEWARD AS ORGANIZER

Why Organize?

Workplace Actions

Activating New Members

Lunch and Learns: Identify the Issues

Your Rights to Organize – Federal Labor Law

AFGE Organizing Institute

29 Chapter 6. THE STEWARD AS REPRESENTATIVE AND PROBLEM SOLVER

Worksite Problems

Grievances: What is a Grievance?

Types of Grievances

Time Limits

Grievance Investigation

Get the Facts: The Art of the Interview

The Union's Right to Know

Articulating a Particularized Need

Promptness and Form

Analyzing the Problem

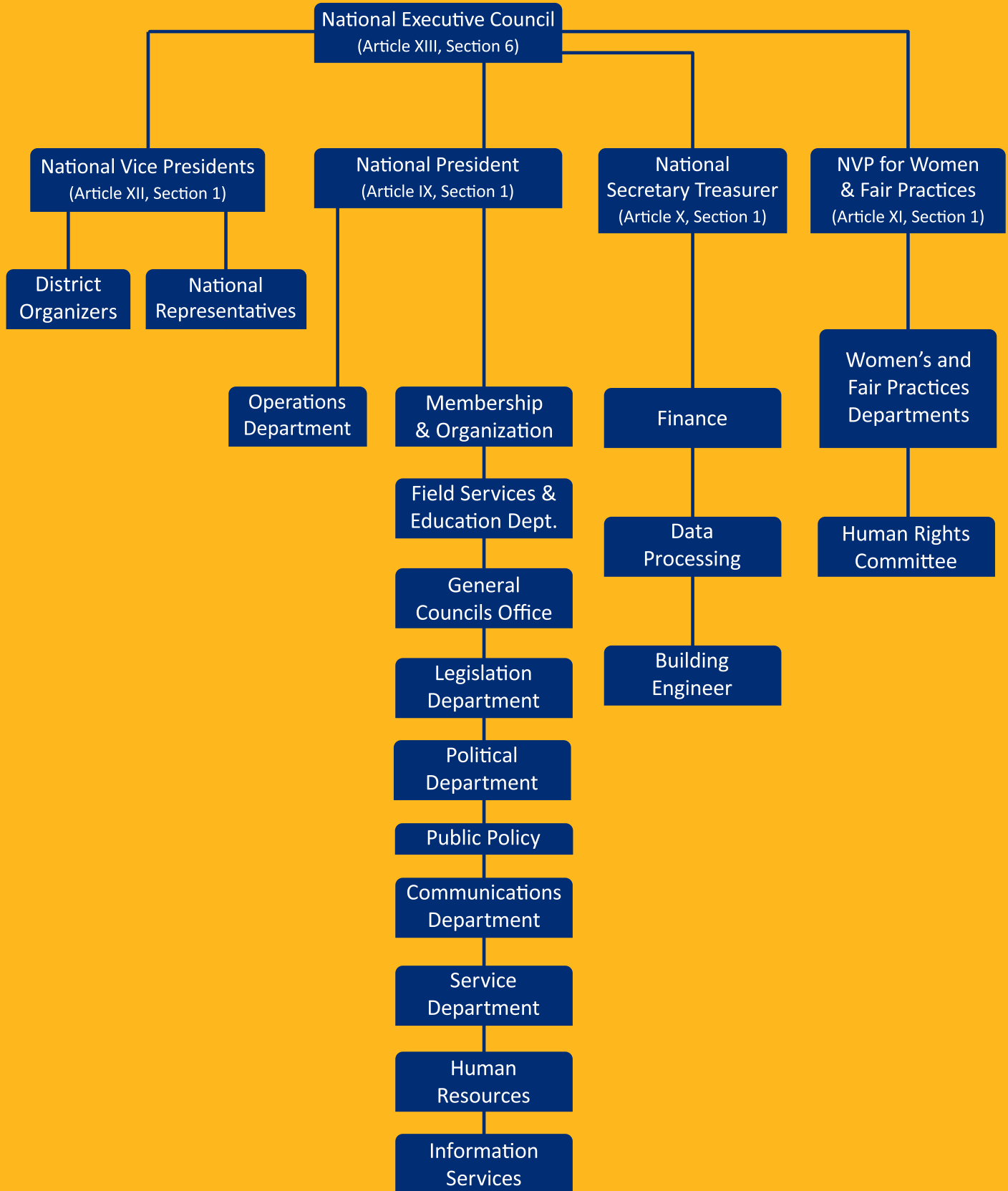
Putting the Grievance in Writing

Table of Contents

Preparing for Discussion	
Grievance Presentation	
The Role of Membership	
Arbitration	
Considerations in Moving to Arbitration	
Grievance Processing Mistakes to Avoid	
What if there is No Grievance?	
Formal Discussions	
Elements of a Formal Meeting	
The Steward's Right to Participate	
Investigatory Examinations (Weingarten Interviews)	
49 Chapter 7. THE STEWARD AS WORKSITE MOBILIZER	
Worksite Situations that Affect the Bargaining Unit	
Solving Worksite Problems through Membership Involvement	
Why Mobilize?	
Mobilization Strategy?	
How to Build a Mobilization Structure: The Local Communications Network	
Worksite Mapping	
Using Surveys to Collect Baseline Data On Bargaining Unit Members	
Using Employee Rosters to Gather Data	
52 Chapter 8. THE STEWARD AS LEGISLATIVE AND POLITICAL ORGANIZER	
Stewards' Role	
Political versus Legislative Activity	
Fundraising for AFGE PAC	
Hatch Act	
56 Chapter 9: ANTI-UNION MYTHS: HOW TO OVERCOME THEM	
"Unions were good at one time but they have outlived their usefulness."	
"Unions protect the lazy... the people who should be fired."	
"Unions are too big and powerful."	
"Unions are always making unreasonable demands."	
Dealing with the Critics	
60 Appendices	
Appendix A: Online Resources	
Appendix B: ULP Charge Against an Agency - FLRA Form 22	
Appendix C: Information Request Example	
Appendix D: Grievance Intake Form Example	
Appendix E: Grievance Example	

AFGE Organizational Chart

AFGE National Convention (Article V, Section 2)



CHAPTER 1. AFGE: WHO ARE WE



AFGE Profile

The American Federation of Government Employees (AFGE) was formed in 1932. It is the largest federal employee union in the United States, representing over 600,000 federal and DC government workers nationwide and overseas. Our national headquarters is located in Washington, DC. We are organized into 12 geographic districts with over 1100 locals. Agencies with the highest concentration of union membership include the Department of Defense, the Department of Veterans Affairs, the Social Security Administration, and the Department of Justice.

Bargaining Unit Members and Dues Paying Members: What's the Difference?

Under federal labor relations law, AFGE locals are certified to represent employees in bargaining units defined by the Federal Labor Relations Authority (FLRA). The number of employees in these units determines the number of employees the local is legally required to represent. Within the total bargaining unit are the dues paying members of AFGE. This is the number that defines our membership strength, not the total number of federal employees in the bargaining unit. In fact, the number of an agency's employees who are dues paying members of AFGE is a key criteria we use to determine the strength of our union within an agency.

AFGE Governance and Organizational Structure

At each level of our union, members have a direct say in the policy and focus of AFGE. The AFGE Constitution sets forth the rules by which the union conducts its business. Just like the Constitution of the United States, it is a living, changing document.

AFGE National Conventions

The highest governing authority is AFGE's national convention. The convention is held every three years, usually in August. Local unions elect delegates to the AFGE Convention. Each local's number of dues paying members, and not the size of the bargaining unit, determines the number of local union delegates. (Note: Please refer to the AFGE National Constitution for the delegate entitlement formula.)

The Convention has the power to:

- Adopt and promulgate laws and policies for AFGE;
- Interpret and amend the AFGE Constitution;
- Elect the National President, Secretary-Treasurer, and National Vice-President for Women and Fair Practices;
- Establish per-capita dues to the National; and
- Act as a final court of review for members who feel they have not been treated fairly at lower levels of the union.

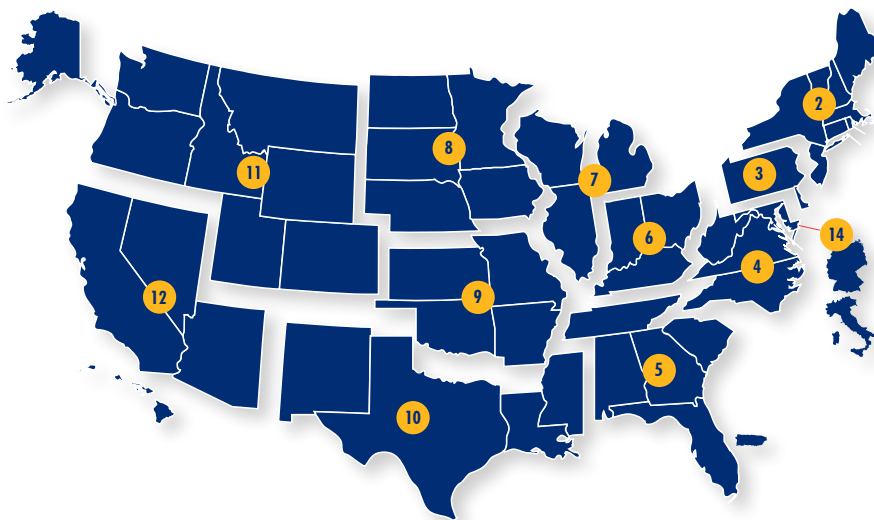
National Executive Council

Between AFGE National Conventions, the National Executive Council (NEC) is the policy-making and governing body of the union. The NEC monitors legislative matters directly affecting federal and DC government employees and initiates legislative action as directed by the National Convention. The NEC is comprised of the National President, National Secretary-Treasurer, National Vice-President for Women and Fair Practices, and 12 National Vice Presidents – one for each geographic district.

The NEC has the responsibility to instruct locals to affiliate and actively cooperate with central, state, district, or regional bodies of the AFL-CIO in their respective localities. The NEC is empowered by the National Constitution to use every legitimate means to consolidate or merge locals, irrespective of district boundaries, with the purpose of creating stronger union entities and eliminating fragmented organizations. (Note: Please see *AFGE's Local Officers Resource Guide* for a complete description of the job duties of the union's national officers.)

AFGE DISTRICTS

Although there is a 14th District, there are only 12 actual AFGE Districts – there being no District numbered 1 or 13. Each District is geographic as determined by the AFGE National Constitution and is lead by a National Vice President (NVP) who is elected once every three years by District Caucus delegates.



AFGE DISTRICT BREAKDOWN

2	CT, MA, ME, NH, NJ, NY, RI, VT
3	DE, PA
4	MD, NC, VA, WV
5	AL, FL, GA, SC, TN Puerto Rico, Virgin Islands
6	IN, KY, OH
7	IL, MI, WI
8	IA, MN, ND, NE, SD
9	AR, KS, MO, OK
10	LA, MS, NM, TX, Panama
11	AK, CO, ID, MT, OR, UT, WA, WY Okinawa, Guam
12	AZ, CA, HI, NV
14	DC Metro Area, EUROPE: Italy

AFGE Locals

AFGE has more than 1100 chartered local unions. Article 19 of the AFGE Constitution prescribes the minimum requirements for governing an AFGE Local including electing officers, setting the minimum dues, adopting a standard or local constitution, and accounting for local union expenditures.

Beyond this, the structure of an AFGE local varies and tends to reflect the size and culture of the agency where workers are represented. Some locals have only two officers – the President and Secretary-Treasurer (the minimum required by the AFGE Constitution), while other locals might have more. Each local union adopts by-laws that define its structure, including the number of officers and committees, whether stewards will be elected or appointed, and how stewards will be utilized. Because of this uniqueness, stewards must know the structure of their own local.

National Bargaining Councils

AFGE has more than 121 chartered Councils, of which nearly 40 act as Bargaining Councils. Bargaining Councils typically:

- Represent member locals at the department level of the labor and management relationship;
- Elect officers at their own conventions attended by locals within the Council;
- Negotiate agency-wide contracts covering Council locals; and
- Lobby for the issues of their locals.

National Office Structure

AFGE's National Headquarters is located in the Capitol Hill section of Washington, DC, near Congress, the White House, and most agency headquarters. Our headquarters consists of many offices and departments all working together for the benefit of our union's membership. Each department provides specialized services and assistance to the various parts of our union. Some of these services include:

- Implementing convention policy as decided by convention delegates;
- Providing resources and assistance to Locals, Councils, Districts, and members;
- Lobbying on federal and DC employee issues;
- Providing public relations services and information on our members' issues;
- Sponsoring training and providing materials and support to Locals, Councils, and Districts;
- Hosting national meetings and conferences of AFGE Locals and Councils;



- Assisting Locals, Councils, and Districts with organizing drives and representation petitions;
- Filing and litigating certain arbitrations, MSPB and EEO cases, and federal lawsuits on behalf of members;
- Providing support to Locals, Councils, and Districts for negotiating collective bargaining agreements;
- Providing representation for national consultations; and
- Administering the financial affairs of our national union.

AFGE National Staff. AFGE employs non-elected full-time staff to support National Union functions. Employees working for departments out of AFGE headquarters in Washington, DC are under the supervision of Department Directors who are in turn supervised by the National President, National Secretary Treasurer, or the National Vice President for Women and Fair Practices. National Organizers (NOs) direct and support organizing campaigns. Legislative Political Organizers (LPOs) direct and support grassroots lobbying and political action efforts. Attorneys defend and advance rights for members and AFGE in various legal forums throughout the country. Labor Relations Specialists (LRS) negotiate collective bargaining agreements. National Representatives (NRs) are dispersed throughout the Districts and are responsible for assisting locals and councils in meeting all of the goals of AFGE. District staffing levels are based on membership numbers within the District. District staffs are under the direct supervision of the National Vice President (NVP) for that District. All employees are involved in educating and training activists and members.





How Much Are Minimum Union Dues? Who Decides?

Effective January 1, 2016, the per capita tax (the amount of dues that goes to the National Union) is \$20.91 per member per month (\$21.96 for insured locals). Convention delegates elected by AFGE members in their locals establish the minimum dues structure for the national per capita tax. Many AFGE locals have provisions in their Constitution or Bylaws that require that any increase in the national per capita tax shall result in an increase in the local dues by that same amount so that the local will continue to have sufficient funds for local operations.

What Are Dues Used For?

At all levels of the union—Local, District, and National—our dues are used for:

- Researching and negotiating collective bargaining agreements;
- Organizing rallies, worksite actions, and press events;
- Defending members' rights and enforcing contracts, pursuing grievances, and litigating in arbitration, before the MSPB, EEOC, in the courts, and in other venues;
- Lobbying for improved legislation for government employees' pay, benefits, and job protections by researching, lobbying, and testifying before Congress and holding town halls and other regional and national meetings;
- Recruiting new members through Lunch and Learns, Metros, and Union Fairs to expand union services to government employees and increase our overall strength;
- Supporting programs on civil and human rights and equal employment opportunity;
- Education and training programs such as leadership classes, collective bargaining, occupational health and safety, and specialized training conferences, and the production of videos and online learning, and other training materials;
- Communications including AFGE publications, media campaigns, public relations, newsletters, opinion surveys, and web site development and maintenance;
- Office rents, travel, supplies, and general administration;
- Membership in the AFL-CIO as well as state and local labor federations and councils.

AFL-CIO Structure

AFGE, together with over 50 other national and international labor unions representing working men and women, is affiliated with the American Federation of Labor–Congress of Industrial Organizations (AFL-CIO). The AFL-CIO functions on three levels: Central Labor Councils, State Federations, and the National AFL-CIO.

The AFGE National Union is affiliated with the AFL-CIO at the national and state levels. Locals are strongly encouraged to affiliate with and become active in AFL-CIO Central Labor Councils in their local areas. Both the National President and the NVP for Women and Fair Practices are members of the AFL-CIO's National Executive Committee. A number of AFGE elected officers also serve as officers in AFL-CIO state federations and Central Labor Councils. For more information about the AFL-CIO, log on to www.afl-cio.org.

NOTES

CHAPTER 2. THE JOB OF THE AFGE STEWARD

What AFGE Stewards Need to Have

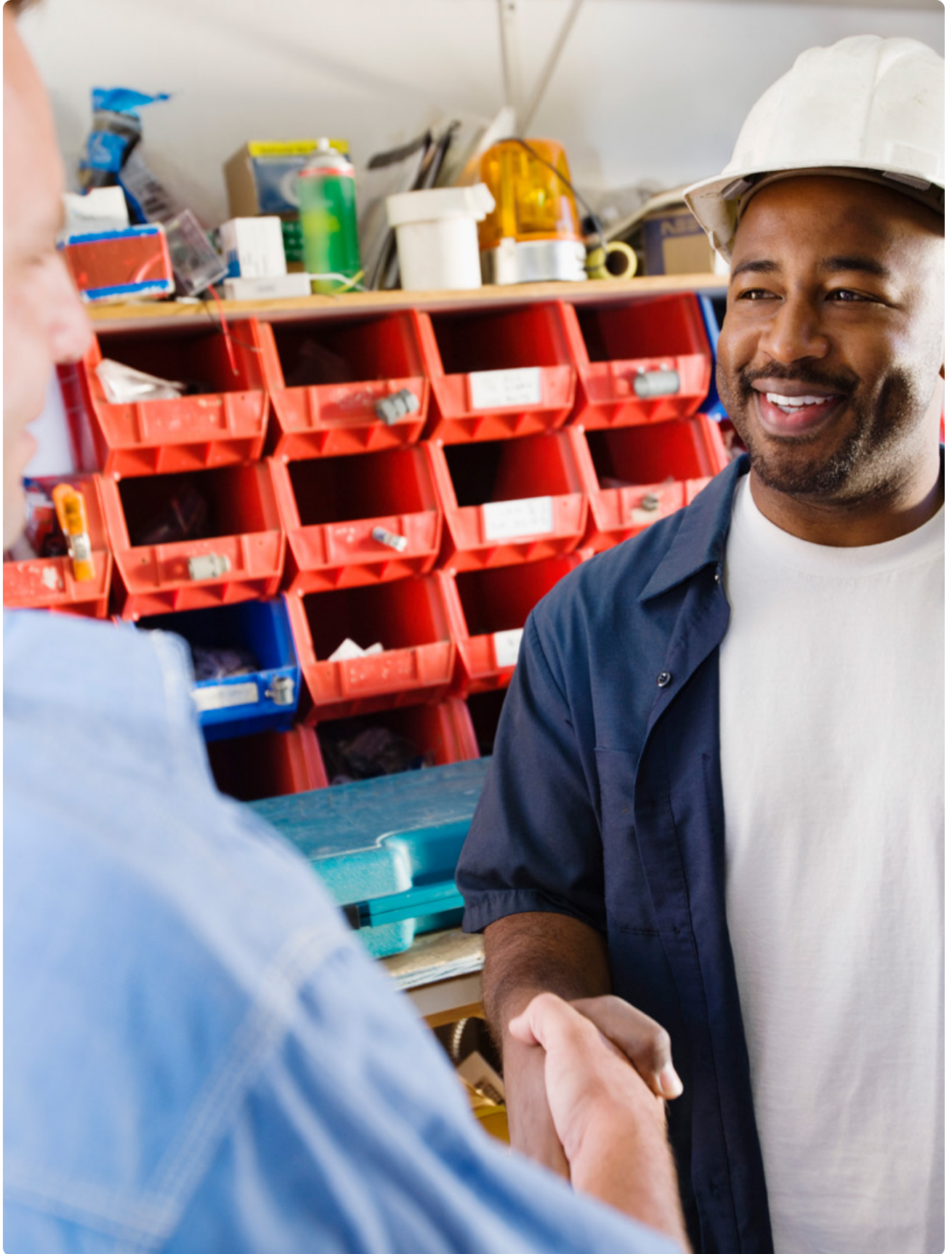
You'll need to have a lot of information close at hand, whether you are at work or at home. Some stewards find it most helpful to carry a notebook or a planner with them throughout their day.

You and your chief steward or union representative should check out your materials to make sure you have everything you need. Here are some possibilities:

- A list of the workers you serve as steward, including name, address, telephone number, email address, job title, and shift schedule.
- A seniority list of your workers (if applicable).
- The contract and any side letters.
- Local union constitution and bylaws.
- Agency rules, policies, regulations.
- Federal Service Labor-Management Relations Statute (5 U.S.C. Chapter 71).
- An organization chart of managers and supervisors.
- Organizing materials for new members, including authorization cards, copies of the contract, your union's web site and email address, and your union's constitution and bylaws.
- Grievance investigation forms.
- Political Action materials.
- You probably know the different occupations in your unit, but if not, you'll need some job descriptions.

Of course, your local union staff rep and legal counsel will also have other valuable information including:

- Federal health and safety regulations.
- Federal labor laws and court decisions.
- Records of past investigations, grievances, and arbitrations.
- Lists of references, resources, and other helpful materials available from the AFGE National Office union.
- Links to use on the Web, such as AFGE.org for the latest updates across the country.
- Links to educational resources.



Roles of an AFGE Steward

The AFGE steward is a key position in the union with many roles. AFGE stewards are organizers, problem solvers, educators, communicators, political/legislative activists, and worksite leaders.

Educator and Communicator. *Am I covered by the Negotiated Agreements... Will Pay for Performance affect me...What's a "ULP"...How can I do this...Why did they do that?* The workplace can be a complicated place, and our members are counting on you to help them make sense of it. Equally important, your union officers are depending on you to help them keep in touch with your co-workers.

Organizer. As a steward, it is your job to let employees know about the benefits of union membership and to increase involvement in the union among our members and to recruit potential members into the union.



Problem Solver. You are the person workers turn to with their problems. It might be a worksite hazard, disciplinary issue, or it might be an employee with a question. Perhaps you can solve the problem with an informal conversation with management or you might need to organize a worksite action and/or file a grievance. Your judgment is critical in assessing situations and making decisions on the best courses of action.

Worksite Mobilizer. At the worksite, you are the face of AFGE. You make unity happen. You must never let anyone forget that that AFGE is the union at your worksite. To be an effective worksite leader, you must have credibility with members, potential members, and management. You must be a good listener and respond appropriately to situations that arise. Most importantly, you must be able to motivate members to get involved in helping you to solve problems, organizing new members, and keeping other members informed.

NOTES

CHAPTER 3. THE STEWARD AS COMMUNICATOR



Stewards are vital communications links between the union and our members. It is up to you to explain to members what AFGE is, what we stand for, how we operate, our goals, programs, and successes. Stewards are the ones who listen to members to find out what they feel and want, and then carry this information back to the union's leadership for action.

What Should a Steward Communicate?

Workplace Issues and How They Affect Employees. Stay informed on issues affecting AFGE members by developing relationships with your co-workers, and listening to employee concerns. You can also keep members informed about issues affecting AFGE membership across the country by reading union publications and by accessing the AFGE website: AFGE.org. Examples of such issues are outsourcing and contracting out, labor economics, and political and legislative issues. Share important information with co-workers through one-to-one communication.

The Contract. A contract contains the terms and conditions of employment for bargaining unit members. Those terms and conditions include but are not limited to the wages, hours of work, leave time and ways to address health and safety issues at the workplace. The contract will contain a majority of the terms and conditions of employment, but always be sure to simultaneously check other applicable employer policies so that as a steward you are informed of all possible ways to resolve any issue.

Work Rules. These may be found in such documents as the agency policies, rules and regulations. Get to know them so you can ensure that management applies them fairly and equitably. Your collective bargaining agreement may also include information on the work rules.

Union Structure. Know the names of the local's officers and stewards; any committees in the local and the names of committee chairs; the date, time and place of membership meetings; the phone number of the local union office; member benefits; and services provided by the local, council and AFGE National Office.

Union Goals. Be familiar with the union's objectives as explained in AFGE's goals plan and the union's mission and values as represented by the AFGE Constitution.

Job one for every AFGE steward is to get to know the workers they are assigned to represent. For some stewards that may be 10 – 20 co-workers, for others it might be 100 or more. Remember, building the power of our union is about creating relationships with co-workers that encourage them to join AFGE and

become involved in union activities. It starts with us. When our co-workers trust us and respect what we do, they will trust and respect AFGE.

Welcoming New Employees

An important role for AFGE stewards and all union leaders is to welcome new employees. Research shows that the major difference between local unions with high levels of membership participation and those with low levels is that in high membership unions, members had “positive personal contacts” with the union during their first months of employment. For detailed information on how to conduct a new employee orientation, please consult the publication, *AFGE Leaders’ Guide to New Employee Orientation*. You may obtain the guide from the AFGE Field Services and Education Department (FSED), or access this resource online at www.afge.org.

New employee orientations are considered under federal law to be “formal meetings,” at which the union has the right to participate. Many AFGE contracts have language that spells out the union’s role in formal orientation programs. For example, in the National Agreement with the Department of Veterans Affairs, the contract provides that AFGE may make a 30-minute presentation to new employees without management being present. So take advantage of this right! It is not only a great way to introduce yourself to new employees, it is also one of the easiest ways to recruit new members.

Regardless of whether or not your local conducts new employee orientations, make it a point to welcome new employees in your work group in the first few days after they arrive on their new job. Some locals make it a practice to take new employees to lunch as a way of developing a closer relationship with AFGE early on. Make sure employees have a wallet card with your name, email address, and phone number, and encourage them to contact you if they have any problems or questions.



Checklist for Conducting New Employee Orientations

- Negotiate the amount of time the union will have to participate.
- Connect it to a Lunch & Learn.
- Get a schedule of orientation dates in advance.
- Recruit local union volunteers to help.
- Know your audience.
- Prepare a new employee Orientation Kit.
- Go in with a positive attitude.
- Circulate a sign in sheet.
- Show an AFGE welcome video.
- Briefly review AFGE accomplishments and benefits.
- Invite a District or National staff member to speak.
- Walk participants through the Union Membership Form (only if it is non-work time, e.g., rest breaks, lunch breaks, etc.).
- Follow up.

CHAPTER 4. THE STEWARD AS EDUCATOR



As a steward, you have an obligation to educate AFGE members and other bargaining unit employees every time you come in contact with them. Make sure members know what the union is doing—and make sure the local union leadership knows what the members are thinking. Letting members know when a meeting or other union activity is taking place

and why is an important part of your job. Getting members involved in worksite and national campaigns to protect or expand government workers' rights and working conditions is also an educational activity. When members are informed, they are much more likely to get involved in the work of the union.

One thing to remember is that education for our members is not what you think of as traditional teaching. Education for union members is action-oriented. Union members learn by sharing their experience, accomplishing tasks, analyzing and discussing what has happened.

The steward has the responsibility of educating the members in his/her department, both the old and the new, about the collective bargaining agreement, union policy, and why changes occurred.

Educating about Dues

Dues are a touchy topic for any union. And when times are tough, almost any expense can seem burdensome to workers.

1. Some stewards believe in defusing the issue by raising it first with new workers. They explain how dues are really a good investment rather than a bothersome expense.
2. In general, union workers enjoy better health insurance, pensions, occupational safety and health, and job security than do unorganized workers.
3. Far more than unorganized workers, union employees receive fair treatment, rights, dignity, and respect on the job.

What are the dues used for? Talk to members about the following uses of dues:

- Negotiating contracts requires research analysts, negotiators, union reps, and field staffers to organize rallies, worksite actions, and press events.
- Defending members and enforcing contracts requires money for legal help as well as grievance and arbitration expenses.
- Winning improved legislation by lobbying, research, and testifying in Congress.
- Occupational safety and health programs.
- Education and publications for union programs of all kinds, including newsletters, media campaigns, public relations, and opinion surveys.
- Office rents, travel, supplies, and administration.
- Support for programs on civil and human rights, equal opportunity, senior members, and organizing.

Educating about Union Benefits

An important role for you as an AFGE steward is to educate potential and current members about the benefits of AFGE membership:

- A union contract that features alternative work schedules, fair evaluation and promotion procedures, training, equal employment opportunity, and grievance and arbitration procedures, among many other advantages;
- An active voice on Capitol Hill that fights for better pay and benefits, improved staffing, agency funding, and other employee concerns; and
- Expert legal and job-site representation that protects employee rights and ensures fair treatment.

Keeping Members Informed



Keeping members informed is one of the most important parts of your job as educator. Make sure members know what the union is doing – and make sure the union leadership knows what the membership thinks about what the union is doing. Letting members know when a meeting or other union activity is taking place is an important part of your job. Explaining the reasons for the meeting or the activity and how it fits into the overall union program is another opportunity to be an educator.

Getting members involved in local and national campaigns to protect workers' rights and to maintain decent standards of living in the community is also an educational activity.

Develop Leadership. The steward develops leadership by getting members to help with the work of the union. Ask people to volunteer for union committees or union action programs. Take note of the useful skills people have. If someone isn't ready for a committee, give him or her a specific task – but be sure you discuss what the task means and why doing the task is good for the union.

Recommend Training. Keep track of the kinds of grievances and concerns members bring up, and let the local leadership know what training programs are needed. Ask the Council or District staff to run health and safety programs if there are dangerous work stations or indoor air problems. The local can also request anti-racism or anti-sexual harassment training from the District and the AFGE Women's and Fair Practices Department if there are complaints or if cronyism leads to favoritism on the shop floor.

CHAPTER 5. THE STEWARD AS ORGANIZER



Why Organize?

AFGE has three major union programs - organizing, representation, and legislative and political action. If one of these programs is weak, sooner or later it will weaken the whole union. Organizing cannot be viewed as a separate activity your local might or might not participate in, but must be seen as a key tactic for increasing the power of government sector working men and women and their families. If we are to increase our strength at the bargaining table, in the legislative arena, and within our communities, then organizing must be more than just a slogan. At AFGE, we are all organizers and that means organizing must be incorporated into all we do.

AFGE's model for recruiting new members focuses on organizing employees around workplace issues such as health benefits, pay for performance, contracting out, or career advancement. The internal organizing we do must involve issues that our members care about. Such issues are the reasons that workers organize and join unions.

Stewards act as organizers in two primary ways. First, you can activate and mobilize union members on workplace issues that affect them. Second, you can sign up and activate new members.

Workplace Actions

To carry out successful workplace actions, stewards should:

- Develop a strategy and a plan of action. Actions can be simple or elaborate – everything from petitions to button days, to leaflets to delegations, to meeting with management.
- Involve as many workers as possible in planning and carrying out actions.
- Build support by talking with workers one-to-one.
- Keep co-workers informed so the group can continue to plan and act together.
- Publicize victories.

Checklist for Choosing Issues: To be a good workplace issue to mobilize and activate members, the issue should:

- Be widely felt – the issue should affect a large number of people.
- Be deeply felt – workers want to do something about the issue.
- Be winnable – the members believe there is a good chance of winning, or that they have a good strategy to win.
- Be easy to understand.
- Be non-divisive – avoid issues that divide the membership and that might divide us from the public we serve.



- Build leadership and ownership – there should be many ways for members to be involved.
- Give members a sense of their power by developing and carrying out a successful strategy.
- Have a clear time frame – ideally, a short time frame for resolution.
- Be worthwhile and result in real improvement in members' lives.
- Be consistent with the union's values.
- Alter the power relationship – activating members and winning victories changes the “balance of power” in the workplace.



Activating New Members

Reach Out to New Employees. In nearly every instance, the first union activist a new employee sees is the steward. Right away you have a golden opportunity to “organize” the new worker – that is, to ask the employee to sign a membership card, join and become involved in the union. Place a high priority on signing up new members, whether the employee is new on the job or if the worker has been around for years but – for whatever reason – has not yet joined the union.

Organizing New Members Checklist:

- Be a visible union presence on the job. A good first step is to wear your steward button at work every day.
- Greet new employees the first day on the job. The most effective new member orientation is one-to-one.
- Provide a “welcome kit” of union materials.
- Talk about the importance of being a member of the union and answer any questions the employee has about the union or about the job.
- Offer a membership card and ask the employee to sign and join the union. Sign the employee up for AFGE PAC at the same time.
- After signing up new members, keep in touch and ask them to participate in union activities and join union committees.

- Know the work area you represent – who’s in the union, who’s not, where they work, what shift, etc.
- Talk regularly with members and non-members – get to know them.
- If you do not have a central work location, go where your co-workers congregate (for example, pay centers or trainings).
- Provide union literature (e.g., newsletters) and materials about specific topics (e.g., health and safety, child care issues, privatization, etc.) so they can see union efforts on issues that affect them. Update your local union website so members can get current information online.
- On workplace issues that affect all employees, ask non-members to participate and become part of the solution.



Lunch and Learns: Identify the Issues

These meetings provide a non-threatening opportunity for local union officers, activists, and bargaining unit members to discuss their concerns. Experience has taught us that the best time for holding an issues organizing meeting is during the lunch and/or break periods, when workers are more likely to attend, especially if we provide a snack or beverage! Hence the term, “Lunch and Learn.”

STEPS FOR CONDUCTING A LUNCH AND LEARN

- **Planning.** This is the most important aspect of holding a “Lunch and Learn.” Each person takes responsibility for a specific task including selecting the room, ordering the food, and setting up the literature table, including new member applications.
- **Logistics.** Getting the word out is critical. Talking with members one-on-one, utilizing the union bulletin board, desk drops, newsletter, and/or e-mail announcements are all good ways to communicate to members and bargaining unit employees that the local is hosting a Lunch and Learn.
- **Presentation.** As workers come into the Lunch and Learn, they should be greeted by a member of the Membership and Organizing Committee or by another local activist. This might be the first time many of them have come into contact with the union. It is important to start and end the Lunch and Learn on time. A guest speaker usually addresses the issue at hand with time built in for signing up new members.
- **Follow-Up.** Follow-up should be conducted right away when new members are still thinking about what they learned and how they can help. This is best conducted one-on-one with each new member, informing them when the local holds its regular meetings, how the local operates through its various committees, who is their area steward, and letting them know how they can get involved in the union.

Your Rights to Organize – Federal Labor Law

When you speak with government workers about organizing a union in their workplace, briefly explain to them the labor law as it relates to organizing. This includes their right to speak and pass out literature at work during breaks and lunch or before and after shifts.

Remember, employees did not give up their basic rights the day they became federal employees.

Many rights are provided by law and additional rights have been negotiated. All are enforced daily by AFGE. The Federal Service Labor Management Relations Statute (the Statute) defines and protects employees' rights. As a federal "employee," they have the right under the law to:

- Join AFGE;
- Actively participate as members of AFGE;
- Serve as duly appointed representatives of AFGE;
- Participate in the decisions affecting their work life through the union;
- File grievances and statutory appeals; and
- Be guaranteed protection in exercising their rights.

It is against the law for management to take any action against an employee because of their membership in, support of, or active participation with AFGE. The union has the right to file a formal charge known as an unfair labor practice if management violates these rights.

AFGE Organizing Institute

Each quarter, AFGE offers a five-day Organizing Institute for local union members who have an interest in becoming a volunteer organizer. After completing this training, activists are eligible for placement on a national roster of Temporary Organizers and may be called on to work in future Council, District, or National campaigns. Contact your District Office or the Membership & Organizing Department at headquarters for more information.

NOTES



CHAPTER 6. STEWARDS AS REPRESENTATIVE AND PROBLEM SOLVER



Worksite Problems

One of the most rewarding parts of your job as a steward is resolving worksite problems. It is important that workers see AFGE as the source of effective problem solving. If there is a problem and we ignore it, the union loses credibility, the contract is weakened, management's misbehavior is encouraged, and employees suffer. So, what are some of the kinds of problems you will be asked to solve? Some scenarios might include the following:

- A claims examiner complains that another worker is talking to the supervisor about her;
- A baggage screener was fired on the spot – nobody knows why;
- A laundry worker is stuck with a hypodermic needle while bundling sheets;
- A commissary employee says the crumbling material in the storeroom looks like asbestos;
- A customer service representative tells you that management is going to start telecommuting in two units;
- A correctional officer brings a matter of staff safety to your attention; or
- A program officer says he was denied a promotion because of his gender.

Different problems arise on the job nearly every day. The supervisor is treating workers unfairly. Management is ignoring or misinterpreting the contract. The administrator is not doing what he promised, or the administrator is doing exactly what he said he wouldn't do. To address most workplace problems, there are several approaches and options available:

Informal discussions with management can sometimes resolve workplace problems. The worker's representative – the steward – can help do this. Better yet, a group of workers – with their steward – can meet with the manager. Strength in numbers! This can be done before filing a grievance (when there may be a better chance to solve the problem). Or, it can be done instead of filing a grievance.

The grievance procedure is the formal problem-solving process found in the contract or in the work rules if there is no contract. But the grievance procedure has several drawbacks: Many problems are not covered by contract language. It takes time to process a grievance and "justice delayed is justice denied." A grievance often involves only one steward and one worker, and management has to deal with only those two people. And where do unions find their strength? In numbers! So, stewards should always think about how to involve members to address on-the-job problems. Mobilizing members to solve workplace problems is the best way to build union strength and power in the workplace. This approach takes advantage of the source of the union's strength – the members!

Grievances

What is a Grievance?

Generally, a grievance exists when there is: a violation of the contract, law, or regulations governing working conditions; changes in working conditions or past practices; improper disciplinary actions; violations of health and safety standards; or unfair treatment of an employee.

The “grievance procedure” is the article of the collective bargaining agreement that gives you the authority to file a grievance and establishes the method by which grievances will be processed.

The “scope” of the grievance is defined in the grievance procedure. For example, it may say “a grievance is any violation over the interpretation or application of this negotiated agreement” or it may be broader and say “a grievance is any dispute between an employee or the union and management.”



Types of Grievances

There are three types of grievances that the union steward can file:

Individual: This is filed when a management violation of the contract affects only one employee. Example: If Cory Williams was not allowed to take his afternoon 15-minute break, which was called for in the contract or by past practice, he could file a grievance.

Group: In some cases, a management violation of the contract affects more than one person. Example: If Cory Williams, Lucy Garson, and Luz Munez were not allowed to take their afternoon 15-minute breaks, they could file a group grievance.

Union: Sometimes a contract violation may affect the union as an institution. Example: If management failed to provide space for a union bulletin board as required by the contract, a union grievance could be filed. Union grievances protect the right of the union to function as the certified exclusive representative of employees.

In other instances, a union grievance may be filed when management violates the contract but employees may be unwilling or afraid to file a grievance themselves.

Time Limits

Grievance procedures usually contain specific time limits for each step of the process. It is critical that all stewards know and follow the timeframes for the grievance process listed in their collective bargaining agreement. There are time limits to file the grievance at the first step; time limits for management to hear

the case and respond; and time limits for the union to appeal to the next step. If the union fails to file or appeal a grievance within the specified time limits, such a failure is normally grounds for the grievance to be dismissed. In other words, the grievance is lost.

Time limit extensions. Sometimes you may need to extend time limits for various reasons (e.g., gathering additional evidence, needing more preparation time). To extend the time limits, management must agree to the request. Conversely, if management wants to extend the time limits, the union would have to agree to that request as well before an extension is allowed. If you ever wish to extend time limits, get the agreement in writing, signed by you as the steward and the management representative for the particular grievance step. If a grievable matter is ongoing, a grievance may be filed at any time; however, it is always best to challenge a violation as soon as possible rather than allow the matter to continue and have to overcome timeliness arguments that might be advanced by management in an effort to kill the grievance.

Grievance Investigation



Different problems require different strategies. Sometimes grievances involving an individual member's alleged indiscretion – tardiness, unauthorized absence, errors in judgment – require you to respect the person's privacy. Other grievances – the discovery of management's use of performance rating quotas, the institution of sign-in logs, or inequitable assignment of overtime – require informing and involving the entire membership. But no matter what the problem is or who brings it to you, you always begin by doing the following:

- Get the facts.
- Analyze the facts.
- Determine a strategy.
- Mobilize the members (if applicable).

Get the Facts: The Art of the Interview

As union leaders, it is our job to gather information to help us represent our co-workers. Prior to discussing an individual grievance, make sure you have studied your current contract including past grievance resolutions, prior arbitration awards, agency rules and policies, and minutes of union meetings, if relevant.

Facts might be hard to get. For example, if some details of an incident are unfavorable to the employee, he or she might leave out these facts. An excited employee might have difficulty telling his or her story clearly. That is why developing good interviewing skills is critical to representing employees effectively.

Interviewing is a form of communication that is most effective when it is two-way. It is not enough that a steward understands the employees; the steward must also give employees the feeling that she or he is sincerely trying to help them.

Listening is the key to conducting a thorough interview. Below are some time-tested tips for interviewing workers about worksite issues.



Conducting Effective Interviews

1. Find the right place and time for the interview. A quiet, private place and sufficient time are key. Be relaxed.
2. Show the worker you are interested. Look them in the eye. Encourage the worker to “get it all out” (both the facts and the feelings).
3. Be sympathetic and understanding. This grievance may be a very serious matter for the worker. Also, she or he may be very nervous about “confronting” the boss.
4. Write down the important facts, including who, what, when, where, how, why, and the names of all witnesses. Ask questions when you do not understand something or when you need clarification.
5. Ask “open-ended” questions that cannot be answered “yes” or “no.” Some good questions include: “Why do you think this happened?”; “What’s an example of that?”; “What do you think should be done now?”; “When has this happened before?”; and “When did you first notice this?”
6. Now and then, repeat back to the worker what you have understood so far. This checks your accuracy and often brings out previously overlooked facts.
7. Avoid making judgments during the interview. Control your feelings so you can concentrate on listening.
8. If you don’t know the answer to a question, do not guess. No one expects you to know everything. Promise you will find out and get back to them. Then do it.
9. Avoid making promises about future action. If it is a discipline problem, you might say, “I agree the supervisor handled it badly, but I don’t want to promise that we will grieve this until we investigate the matter completely.” If working conditions are involved, say, “I am really glad you told us about this. We are going to give this our full attention.” Assure the worker that the problem will be investigated fully. Be sure to keep the employee informed of your progress.
10. Interview all the witnesses in the same manner. Never depend on a single version of what happened if you can avoid it.

The Union's Right to Know

Interviews are a primary way of getting to the truth, but they are not the only way. In many cases, you will have the right to any “necessary and relevant” information the employer has which is pertinent to the issue.

The right to information is a right guaranteed for federal employees under 5 USC 7114(b)(4). The agency has an obligation to supply the union with the information needed to intelligently represent bargaining unit employees. You can request this information anytime during the grievance process, including the initial investigation. Make the request in writing, be as specific as you can, and give management a reasonable deadline by which they are to respond.

Some of the materials stewards can request include:

- Personnel files
- Payroll records
- Performance reviews
- Time and attendance records
- Accident reports
- Inspection records
- Disciplinary records
- Correspondence
- Memoranda
- Emails
- Job Descriptions



Articulating a Particularized Need

In years past, there was a general presumption that if we wanted information from an agency we were entitled to it as the exclusive representative of employees in our bargaining units. In recent years, the FLRA has restricted the rules for getting information. Therefore, a general statement that the information is necessary for us to carry out our duties as the exclusive representative is no longer legally sufficient. The rules now require us to show that the information we seek is necessary by articulating a “particularized need.”

The particularized needs test requires us to:

- (1) tell the agency why we need the information;
- (2) tell the agency how the information will be used; and
- (3) describe how the use of the information relates to our representational responsibilities.

When we are done with all three of the items identified (and they need to be in writing), we have articulated a “particularized need” for the information requested. In meeting the particularized need test, we have shown that the information we are requesting is necessary in doing our job of representing

employees and are therefore entitled to it, unless its release is prohibited by law. If management makes such a claim, insist on a copy of the law. Absent the production of such a law and/or your agreement that such a law is applicable, insist that management provide the information requested.

Promptness and Form

Once a request for information is made, management should provide it to us within a “reasonable” period of time. Toward this end, you should include a date certain by which the requested information should be provided. Usually, 10 days from the agency representative’s receipt of the request is a reasonable amount of time to set for compliance. The law equates management’s failure to make a diligent effort to provide us the information with an outright refusal. The employer cannot present the information in a form that would prevent its intelligent consideration. An agency may be required to produce information that does not exist in the precise format requested, but which can be extracted from records within the agency’s control, provided the burden of compliance is not overly severe. The agency must provide information to which the union is entitled free of charge. The agency’s failure to provide information for which we have articulated a particularized need in a timely manner and in an intelligible form is an unfair labor practice. All such failures should result promptly in an unfair labor practice charge with the FLRA, a grievance under the contract, or – if the request is connected to a grievance already filed – an amendment to that grievance. Consult your chief steward or other local officer for advice.



Analyzing the Problem

Once you have gathered all the facts, it is time to analyze the information. If you are a new steward, you will probably consult with your chief steward or another local official. Questions to consider in your analysis include:

- What is the real problem? Is this what it seems or a reflection of something deeper?
- Why did (or does) the problem occur?
- When did the problem occur? How long has it been going on? Is it a safety or health hazard? Has this occurred in the past? If there is the possibility of a grievance, be sure to determine the time limits for filing as established in your contract.
- How did the problem come about? Misunderstanding...Provocation... Carelessness? Where did (or does) it occur? Be specific. Location can be important.
- Who is involved in the problem? List everyone involved or affected by the problem, not just the principals.
- Witnesses to the situation. Reliable...Intimidated...Biased...Highly credible... All in agreement? Is there conflicting evidence?

Now that you have command of the facts of what actually happened or what is going on, you can establish the category of the problem or grievance and decide

what strategy and tactics can best be used to address the issue.

Most grievances will fall into one (or more) of four general categories:

- (1) Violation of the contract;
- (2) Violation of federal laws including OSHA, fair labor standards, FMLA, and equal employment opportunity;
- (3) Violation of the agency's policies, work rules, or administrative procedures; and
- (4) Violation of "past practice."

If the problem fits one or more of these categories, further action is probably appropriate. Even if the employee's problem does not meet these standards, unions have a wide range of other options available to seek resolution.

Putting the Grievance in Writing

Many AFGE agreements have an official grievance form that is used when filing a written grievance. If your local does not have its own form, you can obtain the standard grievance form from the AFGE Field Services and Education Department (FSED) or online at www.afge.org. Some grievance forms contain a section that asks for basic information about the grievant. Additional sections require you to simply state the grievance issue, what provisions of the contract, law, past practice, etc. were violated, and clearly identify the remedy the union is seeking.

Tips for Writing a Grievance

- State the grievance concisely.
- Do not include statements of personal opinion.
- Do not include your evidence or arguments in the case – save those for when you meet with management.
- List any and all management violations of the contract, work rules, etc., that apply. After you list specific contract articles, laws, or regulations, you should include a phrase such as "and all other applicable sections of the contract, laws, or regulations." This allows an opportunity to expand your arguments should additional details become known at a later time.
- Clearly state the desired remedy (that is, exactly what the grievant and/or the union want as a solution to the problem); make sure you ask the grievant what he/she wants before writing the remedy.
- When appropriate, conclude the remedy by asking that the grievant be "made whole" and for "any other remedy deemed appropriate."
- Complete the grievance form with the knowledge and assistance of the grievant. Have the grievant sign the grievance form.
- Make a copy of the grievance form before submitting it to management and add it to the grievance file.
- Have the person who receives the grievance sign and date it, or make sure you sign, date, and time label it, noting they refused to sign.
- Enter the grievance file into AFGE's Case Track.



Preparing for Discussion

Most problems on the job can be resolved without resorting to formal grievances. Once you have gathered all the facts and interviewed all the witnesses, determined that a problem really exists, and that it requires further action, you are ready for an informal meeting with management to discuss the situation. Sometimes this is called a “pre-step” meeting. At this stage, you are usually dealing with the first level supervisor. But even if this first meeting is informal, you should prepare carefully. If you conduct a “pre-step” meeting, be aware that your contract might not extend the time limit to formally file the grievance. Always file the grievance timely to preserve employees’ grievance rights. You can talk to the supervisor at any time.

Grievance Presentation

Under the law, when dealing with management on workplace issues, including grievances, you are the equal of management and should act and be treated that way. Establish a cordial but businesslike relationship. Treat the supervisor with respect and expect and insist upon respect in return. For the same reason, when meeting with management on union business, you have every right to request to meet in a conference room or similarly neutral area rather than the supervisor’s office.

Before meeting with management, prepare an outline for the points you want to discuss. This helps organize your presentation. It can also help you define exactly what you want to accomplish in the meeting. Some stewards practice their verbal presentation in front of a mirror.

When presenting the grievance, remember your goal is to win and build AFGE’s strength.

In making your presentation to the supervisor, use your best judgment as to the most likely approach that will produce success for the grievant. It is very important that the grievant feels that you have acted responsibly and professionally in presenting his or her interests to management. Make sure that all the pertinent facts are presented.

When presenting the case, stick to the facts. Do not embellish or add personal opinions. Get the main point of the union’s or employee’s claim and the supervisor’s argument. Try to narrow the differences between management and the union by presenting options that will benefit both sides, if possible. Remember that a good negotiator is also a good listener. The more the supervisor talks, the more he/she might reveal about his/her motives and desires regarding the grievance. By listening, you might pick up information to help fashion a solution or gain knowledge that will help win the grievance now or later in the process.

Finally, to avoid future misunderstandings, make sure all agreements with management on a solution are in writing. If you and management cannot come to a mutually satisfactory agreement, know what your next step will be. Check your contract for options. In addition, if management fails to meet a deadline for responding, consider what the contract identifies as the consequences for doing so, including whether the grievance normally should be advanced to the next grievance step or to arbitration and the time limits within which you must act. If your contract explicitly grants the grievant the remedy sought when management is late in responding, move to enforce the remedy immediately.

Tips for Grievance Presentation

- Use a positive, friendly, professional approach.
- Stick to the subject of the grievance.
- Discuss issues.
- Remain calm, cool and collected.
- Keep notes of what is said during the meeting.
- Listen for the main point of management's argument and for possible openings to resolve the grievance.
- Attempt to resolve each grievance at the lowest possible step, but if management is not willing to fairly resolve the case, be prepared to appeal to the next step within the contractual time limits.
- Get every grievance settlement in writing.
- Give your understanding of what (if any) resolution has been reached or what will happen next after the conclusion of the meeting. This helps avoid misunderstandings later.

The Role of the Membership

A steward can make the most logical oral presentation of a grievance, or write the perfect grievance, and still not convince the employer. In order to get the best results quickly out of the grievance process, the employer must be aware that there is a supportive union membership behind you. It is your job to make sure the members know what is going on to the extent privacy issues allow and, when necessary, get them to show their support. Support can be shown in many ways — wearing buttons, stickers, signing petitions, attending lunch-time meetings, etc.



Arbitration

In many grievance procedures, the final step is arbitration, the most “legalistic” and formal of all the steps. Only the union may formally appeal employee and union grievances to arbitration.

Make sure you know the contractual time limits for invoking arbitration and selecting an arbitrator. Failure to comply with the time limits might result in your losing the right to arbitrate the case. A professional arbitrator hears the grievance. The arbitrator is selected jointly by the union and management following procedures contained in the contract. The arbitrator is selected from an outside group such as the American Arbitration Association (AAA) or the Federal Mediation and Conciliation Service (FMCS) or from a panel mutually established by the parties. This, too, can be specified in the contract. Once an arbitrator is selected, scheduling the arbitration hearing requires all three parties to agree on a date for the hearing. Payment for arbitration cases is also a matter that is controlled by the contract.

The arbitrator will determine the procedures used to conduct the arbitration. Both parties will have the opportunity to call their own witnesses and cross-examine the other party's witnesses. The arbitrator's decision is final and binding. If the timeframe for the delivery of the arbitrator's decision is not contained in your contract, the arbitrator will usually let you know when you can expect the decision. Either party may file an appeal of the arbitrator's award to the FLRA in accordance with applicable law and regulations. Such appeals are called exceptions.

Prepare each grievance on the assumption that it will need to be arbitrated. Proper investigation, research, preparation, and presentation within the grievance procedure might persuade management to grant the grievance and thereby save your local from having to proceed to arbitration. However, if the case is not resolved in the grievance procedure, those advance efforts will greatly improve the chances of success at arbitration.

Considerations in Moving to Arbitration

The decision to take a case to arbitration is at the sole discretion of the local union or council under whose authority the grievance was filed (or the agency if it filed the grievance against the union). In making that decision, there are several factors to consider. Each AFGE local should have a formal process for considering cases subject to arbitration. Without a formal process for making decisions related to arbitration, the union could be at risk for allegations of an unfair decision-making process. Document all decisions related to arbitration and inform the grievant of the reasons when the decision is not to arbitrate the grievance.

Grievance Processing Mistakes to Avoid

- Failing to represent fairly – This undermines the whole purpose of the union and the very idea of solidarity.
- Making backroom deals – Every member deserves a fair shake and each grievance must be evaluated on its own merits.
- Promising remedies – You are giving the member false hope and damaging your credibility if you promise a result over which you have no control.
- Letting the grievance go unfiled – Failing to file grievances with merit

undermines the contract and member confidence in AFGE and encourages misbehavior from management.

- Failing to adhere to time limits – Once a grievance is filed, even the strongest case can be lost by failing to pursue it according to the time limits established in the contract.
- Meeting with management alone – When trying to settle an individual grievance, normally the grievant should be in the meeting to avoid suspicions of backroom dealing. Only meet with management alone after you have let the grievant know your intentions. Let the grievant know how the meeting went as soon as possible.
- Failing to get settlements in writing – Always get agreements in writing to protect against future misunderstandings.
- Failing to publicize victories – Let the members know of successes while observing privacy requirements.
- Failing to organize – Organized members are power at the bargaining table, in the grievance process, and in meetings with management.

What if there is No Grievance?

Not every employee complaint is a legitimate grievance. After conducting a thorough investigation and consulting with other stewards and local officers, you may conclude that management has not violated the contract, work rules, policies, past practice, etc., or done anything that falls within the definition of a grievance. In these cases:

1. Inform the worker of your conclusion and how it was reached.
2. Provide the employee with an opportunity to explain further why he/she thinks a grievance should be filed based on the contract or work rules, past practice, or other criteria for filing a grievance.
3. Even in cases where the filing of a grievance might not be appropriate or effective, it is likely that a problem still exists. Attempt to work with the employee to look at ways to resolve the problem. You might want to discuss the issue with other employees to see if a broader problem exists.
4. Work with the employee and other affected workers to develop an action plan to solve the problem.
5. If the employee insists on filing the grievance against your advice, you will have to decide whether you will file the grievance or if the employee will file and represent him/her self. This decision must be made on a case-by-case basis and in consultation with your chief steward or other officials in your local. If the employee represents him/her self in a grievance, the union is entitled to attend all grievance meetings.

Duty of Fair Representation

When a union wins a representation election, it gains a special status—it is certified as the exclusive representative of all employees in the bargaining unit. With this status comes a legal responsibility known as the “duty of fair representation.” The duty of fair representation doctrine arises from 5 USC 7114(a)(1), which requires the union to represent the interests of all bargaining unit employees without discrimination and without regard to their union membership status. A Steward’s failure to fulfill the requirements of the duty could result in a bargaining unit employee filing an unfair labor practice charge against the union. To avoid violations of the duty of fair representation, all AFGE representatives must perform their duties in a fair, impartial, and consistent manner.

Representation Responsibilities

To ensure that AFGE Stewards fulfill their duty of fair representation to all members of the bargaining unit, they must:

Represent the interests of all employees in the unit, regardless of whether they are union members;

Not waive, ignore, or attempt to change an employee’s benefits or rights guaranteed by the clear language of the contract;

Settle similar grievances in a consistent manner as far as possible, recognizing the union’s right to interpret ambiguous contract language as it deems appropriate;

Not refuse to process a grievance for improper or illegal reasons, such as social prejudice, personal hostility, or union membership status

Consistently apply the standards used for determining whether to file and process a grievance, including whether to submit it to arbitration;

Thoroughly investigate each case to determine whether a violation actually occurred;

Comply with all applicable time limits and never act in a way that would allow a reasonable

person to infer that the Steward could care less about the resolution of the issue;

Never agree to withdraw an employee’s grievance in exchange for settling one or more other grievances without the employee’s written consent;

Properly and fully document all actions, and related reasons, taken in handling employees’ cases;

Be a strong advocate for all members of the bargaining unit and keep them informed; and

Notify employees as soon as possible in writing if the union decides to not pursue a matter for lack of merit, or other legitimate reason.

The Union is Not Always Required to Represent Non-Members

It is important to know when the union does not have a duty to represent employees. The U.S. Court of Appeals and the FLRA have identified situations in which AFGE has no duty of fair representation. Specifically, the union has no duty of fair representation in cases where employees have an appeal route provided by statute that does not require the union's involvement. For example, employees may appeal suspensions of more than 14 days, demotions, and removals to the MSPB without involvement of the union. Likewise, employees can challenge illegal discrimination, denials of workers' compensation benefits, or retaliation for whistle blowing without the assistance of the union. In these areas, employees are provided access to appeal mechanisms through statutes. Wherever employees have a statutory appeals option, AFGE's authority is not exclusive; therefore, AFGE is not legally required to provide representation - we have no duty of fair

representation. AFGE may also exclude non-members from contract ratification votes.

Violations of Federal Employment Law

In addition to filing grievances for violations of the contract, union Stewards can also file grievances or claims against management for violating federal employment laws. For example, Women's and Fair Practices Coordinators at the district and local levels work exclusively to investigate and represent union members who have experienced discrimination in violation of EEO laws. What follows is a summary of major federal employment laws you will need to become familiar with in your representation work.

The Fair Labor Standards Act of 1938 (FLSA) establishes the federal minimum wage,

minimum overtime pay, pay record keeping, and child labor standards for private sector and government workers. The FLSA is administered by the Wage and Hour Division of the Employment Standards Administration (ESA), U.S. Department of Labor (DOL).

The Federal Employees' Compensation Act (FECA) is a comprehensive workers' compensation program that pays compensation for the disability or death of a federal employee resulting from an injury sustained while in the performance of duty. It is administered by the Office of Workers' Compensation Programs (OWCP), DOL.

The Occupational Safety and Health Act of 1971 states that employers have a general duty to provide their employees with a safe work environment and a workplace free from recognized, serious hazards. The law is administered by the Occupational Safety and Health Administration (OSHA), DOL.

The Family and Medical Leave Act (FMLA) requires employers of 50 or more workers to allow up to 12 weeks of unpaid, job-protected leave to eligible employees for the birth or adoption of a child or for the serious illness of the employee, spouse, child, or parent.

Uniformed Services Employment and Re-Employment Rights Act (USERRA), requires that certain persons who serve in the military, e.g. National Guard or Reserves, have a right to reemployment with the employer they were with when they entered service. USERRA complaints are filed administratively initially with either the Veterans' Employment & Training Service (VETS), DOL or the MSPB.

The Labor Management Reporting and Disclosure Act 1959 (LMRDA), administered by the Office of Labor-Management Standards (OLMS), DOL, requires labor unions to file annual financial reports, establishes standards for the election of union officers, and provides a "Bill of Rights" for union members.

The Whistleblower Protection Act of 1989 (WPA) comes into play when an agency official takes, or threatens to take, (or fails to take in the form of promotions or raises, for example) a personnel action against an employee for an employee's whistle blowing activity. That is an illegal form of retaliation or reprisal. WPA complaints are filed with

the Office of Special Counsel (OSC).

The Consolidated Omnibus Budget Reconciliation Act (COBRA) provides continuation of group health coverage that otherwise might be terminated when a worker is no longer employed by the government.

The Americans with Disabilities Act of 1990 (ADA) makes it illegal for private and public employers to discriminate against qualified individuals with disabilities in job bids, hiring, firing, advancement, compensation, job training, and other terms and conditions of employment.

The Rehabilitation Act of 1973 makes it illegal to discriminate on the basis of disability in federal jobs and in programs or contracts receiving federal funds. The standards for determining employment discrimination under the Rehabilitation Act are the same as those used in the Americans with Disabilities Act. Agencies are required to process complaints of disability discrimination under the same procedures and regulations that they use to process discrimination complaints under the Civil Rights Act of 1964.

The Age Discrimination in Employment Act (ADEA) was enacted in 1967 and became effective for federal employment practices in April 1974. It prohibits discrimination on the basis of age against persons who are 40 years of age or older.

The Equal Pay Act of 1966 was applied to the federal workplace by the FLSA amendments of 1974. The Equal Pay Act prohibits paying males and females different wages for "equal work" when performing the work requires an equal

amount of skill, effort, and responsibility and the work is performed under equal working conditions.

On May 28, 1998, President Clinton amended Executive Order No. 11478 to prohibit discrimination on the basis of sexual orientation in the federal workplace. There is no EEO process through which this right can be enforced. Enforcement is available only through the union contract or the U.S. Office of Special Counsel (OSC).

The NO FEAR Act requires agencies to pay out of their own budget awards or judgments against them in whistleblower and discrimination cases. The law also requires that employees be notified of their rights under discrimination laws and the WPA. OSC is responsible for enforcing the Act.

The Civil Rights Act of 1964 (CRA) prohibits discrimination based on race, color, religion, sex, or national origin. The CRA also includes the prohibition against sexual harassment. The Equal Employment Opportunity Commission (EEOC) enforces the provisions of Title VII of the CRA with appropriate remedies, including reinstatement or hiring of employees with or without back pay, and issues regulations, orders and instructions as it deems necessary and appropriate to carry out its responsibilities under this section.

5 USC 2302 - Prohibited Personnel Practices (PPP) outlaw discrimination based on any employee conduct that does not adversely affect the performance of the employee or the performance of others. PPPs are administratively enforced by the OSC.



Formal Discussions

One of the most important roles of the steward is participating in “formal discussions.” Formal discussions provide AFGE with important opportunities to be visible and active in the workplace. This right is established under 5 USC 7114(a)(2)(A) which states:

(2) An exclusive representative of an appropriate unit in an agency shall be given the opportunity to be represented at –

(A) any formal discussion between one or more representatives of the agency and one or more employees in the unit or their representatives concerning any grievance or any personnel policy or practices or other general conditions of employment

Examples of a formal discussion include, but are not limited to: new employee orientations, town hall meetings, notifications of moves, reorganizations, RIFs, interviews with bargaining unit employees to prepare them as witnesses in a hearing before the MSPB, and meetings held to discuss settlement of an EEO complaint filed by a bargaining unit employee. Not all meetings between bargaining unit employees and agency representatives are formal. For example, individual performance counseling sessions do not generally qualify as formal meetings under the law. However, meetings that begin as informal may evolve into formal meetings that trigger the union’s right to attend. For more information on formal discussions, see the FLRA guidance document entitled “Guidance on Meetings” which was produced by the FLRA Office of the General Counsel and can be found on their website at https://www.flra.gov/webfm_send/1025.

Elements of a Formal Meeting

There is no mathematical formula for determining what is or is not a formal meeting. The FLRA looks at the “totality” of the circumstances in reaching a conclusion. Some considerations in determining whether a meeting is formal are:

- The status of the management individual who held the discussion;
- Whether more than one manager attended;
- The site of the discussion – if it was held in a formal setting;
- How long the discussion lasted;
- If it was scheduled in advance rather than impromptu;
- Whether employee attendance was mandatory;
- If there was a formal agenda or minutes were taken; and
- There was a discussion of a grievance, general policy, or practices rather than the isolated problems of one or two people.

The Steward’s Right to Participate

Once you know which meetings you are entitled to attend, it is just as important to know what your role is as a steward. The principal function of stewards at

formal discussions is to safeguard both the union's institutional rights and the interests of bargaining unit employees. In these meetings, an AFGE steward has the right to:

- Receive reasonable formal advance notice of the meeting or in accordance with the provisions of the contract;
- Comment, speak, and make statements about anything reasonably related to the subject matter discussed by management;
- Request information the manager might have that is reasonable and necessary for the union to consider the issues raised by the meeting;
- Ask questions to clarify issues raised;
- Assert the union's position on the topic, including objections to management's position and state the union's options; and
- Invite employees to contact you after the meeting to discuss their concerns and the issues raised in the meeting.

The only legal limit on the steward's participation is that he or she cannot take charge of or disrupt the meeting.

Investigatory Examinations (Weingarten Interviews)

A vital function of the steward is to prevent management from intimidating employees. The steward plays a critical role in ensuring workplace fairness when representing an employee being questioned by management as part of an investigation. The presence of a steward in these meetings is to ensure the protection of employees' rights.

The right of an employee to have representation during such questioning comes from a Supreme Court decision, *National Labor Relations Board vs. J. Weingarten, Inc.*, 420 U.S. 251 (1975). That case set out certain rules for private sector employees who are subject to investigatory interviews on the job. The Weingarten rules apply to federal employees because they were adopted in the Civil Service Reform Act of 1978 (5 USC 7114(a)(2)(B)).

Under Weingarten, an employee has a right to union representation when he or she is subject to an investigatory interview. Under Weingarten, employees are entitled to union representation and not a private lawyer, another employee to represent them, or any other non-union representative. Investigatory interviews happen when a supervisor, other management official, or agent of an agency questions an employee to obtain information that potentially could result in disciplinary action against the employee. Weingarten allows union representation when employees ask for union representation. The Weingarten rule neither requires the agency to inform employees of their right to union representation nor does it require agencies to ask employees if they want union representation. However, some contracts impose the affirmative duty on agencies to both let employees know of their right to union representation and to ask if they want representation.

Under 5 USC 7114(a)(2)(B), agencies do not have an affirmative duty to inform employees of their right to union representation if they inform their employees annually of their Weingarten rights as required under 5 USC 7114(a)(3). If annual notices are not given, agencies have an affirmative duty to tell employees before they are questioned that they have the right to union representation even if their contracts do not include such a provision.

The following steps outline how employees may assert their Weingarten rights when there is no affirmative duty for an agency to let employees know of their right to union representation:

1. There must be an investigatory interview and the employee must, either before or during the interview, ask for union representation;
2. When the request is made, the interviewing official must either
 - (a) grant the request and delay or reschedule questioning until a union representative arrives and has had a chance to consult privately with the employee;
 - (b) deny the request and end the interview immediately; or
 - (c) give the employee a choice of having the interview without union representation or ending the interview;
3. If the official refuses to honor the employee's request and insists on proceeding with the interview, the official commits an unfair labor practice. The FLRA or an arbitrator may set aside the results of the interview if the charge is upheld.

In the federal sector, agencies are required to notify employees of their Weingarten rights annually in accordance with 5 USC 7114(a)(2)(B)(ii). Stewards can advise employees of their Weingarten rights and advise them to assert these rights any time she/he has a "reasonable belief" that discipline or other adverse consequences may result from what they say. Some of the circumstances under which investigatory interviews are likely to occur include such subjects as:

- Absenteeism
- Tardiness
- Rude or inappropriate behavior
- Damage to government property
- Drug tests
- Violation of safety rules
- Drinking while on duty
- Theft
- Fighting in the workplace

How can you offer support in a Weingarten Meeting

- Be a calming presence for a fearful or inarticulate employee in his or her attempts to explain what happened.
- Make sure that if the matter under investigation is criminal in nature that the employee either receives immunity from criminal prosecution in writing or the meeting is ended until the employee can obtain a criminal attorney.
- Ascertain the specific topic of the investigation and whether the employee is the subject of the investigation or a witness.
- Raise extenuating circumstances.
- Advise the employee, preferably out of the presence and always out of earshot of agency officials.
- Make sure that questions are understood by the employee and that as much as possible questions require a “yes” or “no” answer.
- Object to trick or otherwise unfair questions. Insist on breaks as needed.
- Demand that the employee be allowed to review any documents or other evidence mentioned by the interviewer before the employee responds to questions about them.
- The Steward can help prevent the employee from being tricked into answering questions beyond the scope of the investigation. Toward this end, the Steward should write down all questions asked and answers given.
- The Steward can help employees to answer as to their direct knowledge of the situation and not make guesses about what might have happened or who might have been involved.
- The Steward can help prevent a worker from losing his/her temper and perhaps being disciplined for failure to cooperate in an official investigation.
- The Steward can assure that the employee is not intimidated, coerced, bullied, or disrespected by the interviewer.
- The Steward can be a witness to assure that the interview is accurate when reduced to writing.

END

Additional Resources

Education website offers a wealth of education and training materials for new officers and stewards. You can visit our website at www.afge.org to learn more.



CHAPTER 7. THE STEWARD AS WORKSITE MOBILIZER



Worksite Situations that Affect the Bargaining Unit

Making AFGE strong in the workplace requires that union stewards and other leaders be vigilant in identifying situations that significantly affect the bargaining unit and using these issues as opportunities for increasing our members' power

with the employer. How?

1. By looking at individual complaints, grievances, or problems as issues that might affect an entire work group or class of employees. For example, an employee receiving lowered performance ratings might be an indication of a much bigger issue such as understaffing or forced distribution of ratings.
2. By thinking of strategies and actions to win our issues as a group. We do this through group grievances, causing Congressional letters of inquiry, circulating petitions on an issue, holding employee and mass meetings with the employer, and staging other workplace shows of solidarity.
3. By understanding that a steward's job is not just about solving problems or winning issues, but doing it in a way that builds AFGE by involving and empowering our members and developing new leaders.

Solving Worksite Problems through Membership Involvement

How often has this happened to you? An individual member complains to you that he or she has been passed over yet again for a promotion. You work diligently to investigate the issue and grieve it for the individual. You interview co-workers and the employee's supervisor. You request information from the employee's personnel file. You file and gather other necessary documentation and fight for this individual to get a deserved promotion. The employee thanks you for your help. But what you didn't know is that 12 other employees in the bargaining unit have had similar experiences. How does a steward develop the ability to scan the worksite for unit wide issues?

A union steward who is visible in the workplace is much more likely to learn about critical worksite issues from employees. A steward who is signed up for AFGE's Action News or who browses the AFGE website on a regular basis will be more alert to opportunities for challenging unfair practices or contract or statutory violations on a broader scale. The following questions are helpful in determining which issues to pursue as worksite campaigns.

Why Mobilize?

AFGE, like most unions, is only as strong as its member involvement. Organizing, problem solving at the work site, legislative/political action, and contract negotiations all rest on AFGE's ability to sign up more members and increase their involvement. In some local unions there is a tendency to view individuals (experienced, bright union leaders) rather than the membership as the source

of our power. We can become too reliant on the crafty union negotiator, the clever chief steward, and the effective local president to solve member problems. This is fine as far as it goes. The union needs smart, dedicated leaders dealing with agency management. However, at best, this approach will make a handful of unionists a thorn in management's side. This approach by itself will not increase our union's strength; it will not alter the balance of power between our members and their agencies. Mobilization recognizes the fact that our members are the source of the union's power. Mobilization increases this power through member education and involvement.

Once mobilized, instead of a being confronted by a handful of employees, management has to deal with a multitude of workers who have joined together to actively resist management's unfair treatment, disrespect, and incompetence.

Mobilization Strategy?

A mobilization strategy allows us to systematically, through an internal communications network or structure, educate members on issues and achieve a high level of participation in collective actions. It is a continuous process of organization, education, and collective action.

How to Build a Mobilization Structure: The Local Communications Network.

The foundation of mobilization is the workplace structure. This structure allows AFGE to communicate one-on-one, worker-to-worker, with every single member in a short period of time. Without a good structure, you will not be able to conduct one-on-one communications effectively. Without one-on-one contacts, you will not get high participation in collective workplace actions.

Worksite Mapping

One tool for building your communications network is worksite mapping. Mapping gives you a visual tool for identifying who everyone is in the local and where they are located. Once you have a visual picture of who is in your bargaining unit (or the worksite you are assigned to represent), you can use this map to develop strategy on a number of fronts: targeting organizing to those areas where union membership is the weakest; identifying union members in different locations who you can recruit to help organize and mobilize their co-workers; and developing a schedule of regular visits to particular locations, to name but a few.

Mapping requires two fundamental tasks:

- (1) getting a physical map or blueprint of the entire bargaining unit (for example, most military installations and VA Medical Centers have a map of the campus or facility displayed in the front of the phone directory. Photocopy and enlarge this map and it will provide you with a physical layout from which to map your local); and
- (2) collecting data on the individual members of the bargaining unit you wish to place on the map (e.g., name, title, shift, RDO [regular days off], work



location, member status, telephone #s [office, cell, home], email addresses [work/home], etc.).

Using Surveys to Collect Baseline Data on Bargaining Unit Members. One way to get the data you need is to ask the members directly. You can develop an easy to complete survey form for members. A good mobilization activity is to go to the membership and ask them directly for their contact information. This is an easy opportunity to interact with members and let them see who you are. This activity also gives you a chance to engage in one-on-one conversations with them. A general rule of mobilizing is that it takes from three to six one-on-one contacts before members are willing to engage in some type of union action or event. The survey form should be formatted so that it is easy to complete, covers all the information you will need to gather, and makes transferring data from the form to a computer easy (if that is the format you choose to use).

Using Employee Rosters to Gather Data. Another valuable tool for gathering data on how to reach members of the bargaining unit is the Employee Work Group Roster. For example, most agencies have an employee work group roster that lists the employee's name, job title, department and work location. This is information the union has a legal right to obtain in order to carry out its representational duties. Most likely, your local union president or secretary-treasurer will already have this important information. It should be kept current at all times.

Once you have acquired the data, use it as an opportunity to talk with members one-on-one to make sure the information you have is correct and up-to-date. Be sure to include all the data you will need for different purposes: sending out birthday cards to local union members, contacting them at home by email for political events, targeting recruitment, etc.

Stewards' Role

NOTES

CHAPTER 8. STEWARD AS LEGISLATIVE AND POLITICAL ORGANIZER



Stewards are a critical part of AFGE's grassroots legislative and political action programs. It is part of a steward's job to understand the legislative and political processes and their impact on the working conditions of federal and District of Columbia employees. Union stewards play a key role in keeping AFGE members informed about legislative issues and mobilizing them to take action.

Many union members are hesitant to engage in political and legislative activities. Much of this stems from the perceived restrictions on political activity under the Hatch Act. In 1939, the enactment of the Hatch Act was hailed as a critical step toward ending political patronage in government. In 1993, Hatch Act reform broadened the scope of union legislative and political action. Your rights as a government employee to engage members in grassroots actions are determined by the nature or type of grassroots activity expressed.

Political versus Legislative Activity

Political activity relates to elections. Legislative activity relates to governing. Political activity includes everything you might do to help elect a candidate to office – from stuffing envelopes, to organizing a get-out-the-vote phone bank, to managing a political campaign. Legislative activity is directed at influencing legislators to do something about an issue of importance to AFGE members. Legislative activity may be as simple as calling your local legislator's office to recommend a vote in favor of a pay raise or inviting a legislator to come to a union meeting to talk about issues of interest to AFGE members.

The distinction between legislative and political activities is critical, because most current legal restrictions only apply to political activity. Under legislative activity, employees can lobby the legislature to both introduce and pass legislation. Legislative activity may be performed on official time if provided by your contract. To the extent permitted by your contract, your use of official time and government facilities for legislative activity should follow the same rules as other union representation.

The rules for political activity are much stricter, and you must be very careful not to violate them. Political activity is limited to off-duty time and to off-worksite locations. Political activity must not be conducted while an employee is wearing a government uniform or in a government vehicle.

The scope of permissible workplace activity depends upon the type of direct

action and whether the activity is political or legislative. There are two basic rules that you need to keep in mind when you plan your legislative and political activities:

- You may pursue legislative activity on official time (if provided by your contract) and on site (if not prohibited by your contract), but you may not perform political or electoral work on site or on official time.
- You may solicit financial contributions to the AFGE PAC off-site only, and you may only ask other AFGE members to give.

Fundraising for AFGE PAC

Fundraising for union political committees is specifically allowed by law. This means that AFGE PAC is a great opportunity for you to help employees use their dollars to increase their voice in the political process. This is necessary and important work because it is the only way we fund campaign contributions to candidates for political office. No AFGE dues monies are used for political campaign contributions.

Hatch Act

The following are the guidelines for activities allowed and prohibited under the Hatch Act.

Employees **are** permitted to:

- Register and vote as they choose;
- Assist in voter registration drives;
- Express opinions about all candidates and issues privately and publicly;
- Run for election to a non-partisan office;
- Contribute money to political organizations or attend a political fund raising function;
- Sign petitions, including nominating petitions;
- Wear political badges or buttons (except in government buildings or on uniforms);
- Run for office within party organizations and affiliate groups;
- Attend political conventions, rallies, and meetings as an elected representative of a partisan organization;
- Take an active part in political management of campaigns;
- Solicit contributions to the political action committee of the organization to which employees belong provided that the contributor is not a subordinate employee;
- Conduct voter registration drives on-site prior to AFGE's endorsement of a candidate.

Employees **are not** permitted to:

- Be candidates for public office in partisan politics;
- Use their official position to influence or coerce colleagues or election results;
- Wear partisan political buttons or stickers while on duty;

- Collect, solicit, receive, handle, disburse, or account for contributions from the general public;
- Wear a government uniform or government insignia while engaged in political activities;
- Sell tickets to a political fund raising function to the general public;
- Use government equipment such as email for political activities.

NOTES



CHAPTER 9. ANTI-UNION MYTHS: HOW TO OVERCOME THEM



“Unions were good at one time but they have outlived their usefulness.”

This is still one of the most common arguments against unions.

Without unions, how many workers would have been granted a decent wage or have leisure to enjoy it? You can't have prosperity or social justice when two-thirds of the people are broke. Thanks to the wage levels established by the labor movement, even unorganized and anti-union workers have benefits today.

In light of the world-wide trends of globalization of trade and economics, it is more important than ever to recognize that without a collective agreement outlining the conditions of work, wages and benefits, the employer has the right to treat its workers in any way it wants. Workers would have no protection from a management that could alter any work process or pick favorites and play off worker against worker. Without a union acting as a form of insurance and security, workers are like sitting ducks in a shooting gallery.

“Unions protect the lazy... the people who should be fired.”

No union contract requires an employer to keep a worker who is lazy, incompetent or constantly absent or tardy. What the union does is make sure dismissals are for “just cause” – for real reasons – and not personality clashes between supervisors and employees.

Yes, some older employees can't be fired as they once were when they were considered to not be as useful or productive to their employer. Women who have a union can't suffer discrimination from their boss because the boss fears they may get pregnant, for example. In that way, unions do protect people's jobs. That's the purpose of a union.

“Unions are too big and powerful.”

Comparing “Big Unions” to “Big Corporations” and “Big Government” is a favorite trick of the media. “Big” and “powerful” are relative terms. In actual fact, most unions are quite small, and together they represent a small percentage of the country's workforce!

Unions are made up of all kinds of people. They're human. They negotiate for what they can. After all, they get plenty of examples from the business world. We all have ringside seats to the profiteering by oil companies, supermarket chains and banks.

If unions were even one-tenth as powerful as they are said to be, they would be able to organize millions more workers. They would be winning more of their

strikes and increasing their members' wages and benefits a lot more than they actually are.

“Unions are always making unreasonable demands.”

What is a reasonable wage demand? One that meets the workers' needs? One based on the employer's ability to pay? One that's tied to productivity? Or one that the business media thinks is responsible?

The fact is that nobody has yet devised a workable formula for determining wage increases that would be considered reasonable by the workers, by their employers, by the public, by the press and by the government. One group or another will always be unhappy.

Besides, most employers – except occasionally when in genuine financial stress – still refuse to open their books to union negotiators. Unions are thus denied access to the data on profits, productivity and labor costs they must have in order to formulate “reasonable” demands. The only alternative in our private enterprise society is for unions to go for as much as they think their members are entitled to. To some segments of our society, anything they try to negotiate is too much.

Dealing with the critics

Other than having to deal with these general misconceptions about unions, you will always have at least one member who is the “union critic”. For the steward, the critic is your heckler, dampening morale within your local and irritating you and others.

Their complaints run the whole gamut and can include:

- “The union is meddling with everything.”
- “The union is too cozy with management.”
- “The union is too confrontational with management.”
- “The union should stay out of politics.”
- “The union should do more politically.”

The union critic may be someone who is negative about everything else in life. Because complaining is their chief activity, critics take no direct action to undermine the union. A negative person does not attract followers and usually is a loner. Be realistic about what you can achieve with such a person. Give them a friendly ear, point out the positive and suggest ways for them to get involved. But don't be surprised if you don't make headway – this kind of person just needs to complain.

Another type of critic is someone who feels that the union has somehow wronged them. Maybe a grievance was lost, or something was not resolved in bargaining, or some concern was not defended adequately. This person tells a tale of woe to anyone who will listen, and it often gets exaggerated with each telling. This can often turn people off the union.

Sometimes this critic's dissatisfaction is fueled by misinformation or unrealistic expectations about what the union can reasonably accomplish. You should talk it through with this person – perhaps no one has really explained how the grievance process works or what happens in bargaining. It is important that the members understand that the union is not a miracle worker. If what happened was a legitimate mistake on the part of the union, acknowledge it and shift the discussion to how you both can make sure that it doesn't happen again. Emphasize that the union works best when people are involved.

Probably most frustrating for the steward is the critic who belittles what the union does but offers no constructive advice. When asked to get involved, this person pushes it off on to the steward, saying, "It's their job." If you are someone who tries to do everything yourself, you probably have many critics like this. Remember, the more you involve others the more difficult it is for them to continue their griping.

The bottom line with the critics is that they are the union. If they make no effort to change the aspects of the union which make them dissatisfied, they have no right to complain.



In 2016, AFGE updated its Steward's Handbook to provide you with general guidance and resources to help you better serve your bargaining unit. As you know, changes and updates often occur quickly. To better equip you as a Steward, and as a complement to the Handbook, the AFGE website now includes a comprehensive list of current Steward resources, guidance, and training at www.afge.org/stewards. Additional online resources are listed under Appendix A of the Handbook.

Whether you find your answer online or in the pages of the Handbook, we hope that these resources make your work easier and more effective. Thank you again for your hard work and service as an AFGE Steward.

Appendices

Appendix A: Online Resources

Appendix B: ULP Charge Against an Agency - FLRA Form 22

Appendix C: Information Request Example

Appendix D: Grievance Intake Form Example

Appendix E: Grievance Example

Appendix A: Online Resources

The following are a list of online websites where you can find additional Steward information, resources, and training.

Website	Description
<i>www.afge.org</i>	The AFGE website has a wealth of resources to assist stewards including information on communication, organizing, representation, collective bargaining, and other topics.
<i>www.afge.org/stewards</i>	This site includes steward-specific information, resources, and training.
<i>www.flra.gov</i>	The Federal Labor Relations Authority site includes guides, manuals, forms, checklists as well as current information on the 5 U.S.C. Chapter 71 (the Statute) and associated case law.
<i>https://www.dol.gov/olms/index.htm</i>	The Department of Labor provides important information on the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA)
<i>https://www.youtube.com/watch?v=s8-gmmx9eXI&list=PLnY1508ZqZy2ftWzujJIX0edBiznR--NR&index=2</i>	10 minute training video on how to effectively conduct a Weingarten meeting. Produced by OPEIU Local 8 and the Washington State Labor Council.
<i>http://www.workrightspress.com/lrus.html</i>	Designed for private sector unions, the Legal Rights of Union Stewards by union attorney Robert M. Schwartz provides useful information for new stewards on what they can and cannot do. Cost is \$20.00.
<i>http://www.afge171.org/Council/StewardsJob.htm</i>	A short description of steward and member responsibilities developed by AFGE Local 171.
<i>http://www.afgelocal1345.org/gpage.html</i>	A comprehensive list of resources developed by AFGE Local 1345.

Appendix B:

ULP Charge Against an Agency

FLRA Form 22

Appendix B:

Information Request Example

Date

Agency Point of Contact
Agency
Mailing Address

Re: AFGE Local # and Agency Component: Request for Information

Dear Agency POC:

Pursuant to 5 USC Section 7114(b)(4), AFGE Local # (Union) hereby serves this request for information. The Union requests responsive information by the close of business on reasonable date, as the arbitration/grievance meeting is scheduled for date. Please convey the response via facsimile or overnight mail to the undersigned.

The Union requires the information requested in this correspondence to allow us to provide adequate and effective representation for the above captioned arbitration/grievance meeting for further investigation this matter and to prepare the case for arbitration. This information is required to determine if the agency had sufficient justification to propose the instant discipline and to also evaluate the Douglas factors.

INFORMATION REQUESTED

1. All documents collected by the Agency regarding the incident on Date that gave rise to the instant discipline, including but not limited to statements written by Witness #1, Witness #2, Witness #3, Witness #4, and Witness #5.
2. All documents, minutes, and notes regarding management's decision to issue new SOP **Title** and effective **Date**.
3. Grievant **Name** OPF.
4. Any documents reflecting discipline, if any, for Grievant not already contained in the OPF.

Thank you for your cooperation in this matter.
Sincerely,

Union Representative
Phone #

cc: Local President, other representatives as appropriate

Appendix C:

Grievance Intake Form Example

**American Federation of
Government Employees, AFL-CIO**

Local #
Mailing Address

GRIEVANCE INTAKE FORM

Date of Contact: _____ File ID Number: _____

Employee's Name: _____ Department/Clinic: _____

Job Title: _____ Series/Grade: _____

1st Line Supervisor: _____

2nd Line Supervisor: _____

Work Location: _____

Personal Email: _____

Cell Phone: _____

Home Phone: _____

Home Address: _____

SUMMARY OF COMPLAINT

1. Date of Incident: _____

2. Time of Incident: _____

3. Location of Incident: _____

4. What happened that caused you to contact the union? _____

_____.

5. Is this a repeat occurrence (check one)? ☐ Yes ☐ No

If yes, give the date and time of first

offense _____.

6. What did you see? Who said what? What specific actions were taken and by who?(list in chronological order; you may attach additional paper) _____

7. Are there any witnesses involved (check one)? ☐ Yes ☐ No

If yes, please provide their information below:

Name: _____

Phone Number: _____

Name: _____

Phone Number: _____

Name: _____

Phone Number: _____

8. Is there any evidence besides your statements and recollections?

☐ Yes ☐ No

If yes, please list and attached copies off all documentation:

9. Have you lost anything you already had? ☐ Yes ☐ No

Explain:

10. Have you lost something you would otherwise have had? ☐ Yes ☐ No

Explain:

11. How have all or any of these events harmed you?

12. Have you already discussed this with anyone in management? ☐ Yes ☐ No

If so, who? What did they say?

13. Have any other employee been harmed similarly by these management actions? If so, who are they? _____

May we contact them? ☐ Yes ☐ No?

14. What remedy do you want or what will make you whole again?

FOR INTERNAL USE ONLY

Steward who took initial complaint:

Date initial case reviewed by Chief Steward/Vice President:

Case assigned to:

Steward briefed on case and received documentation:

STEWARD ACKNOWLEDGMENT

I understand it is my responsibility to investigate the allegations listed above as early as possible and to provide the Chief Steward/Vice President with an update of the "Grievance Intake Form" no later than the close of the following business day via email and/or on my official Union day.

Steward Name

Date

Appendix D:

Grievance Example

January 30, 20__

Agency POC, Title
Mailing Address

Re: Grievant Name, Title
Step 3 Grievance

Dear Agency Director:

Pursuant to Article 42 of the Collective Bargaining Agreement, please accept this letter as AFGE Local 25001's Step 3 Grievance to challenge the January 24, 20__ decision to remove Grievant. The Union is filing this initial grievance at a Step 3 pursuant to Article 42(7)(Note 5) of the Collective Bargaining Agreement and all other applicable sections of the contract, policy, custom, laws and/or regulations. In short, the Union asserts that the Agency did not have just or sufficient cause to remove Grievant and that her termination is in unlawful retaliation for her union activity, EEO activity, and Whistleblower activity.

The Agency is in violation of Article 13 of the Collective Bargaining Agreement for it did not have Just or Sufficient Cause to terminate Grievant.

Although the Agency has charged Grievant with seven reasons for the proposed removal, most of those reasons refer to one incident, specifically, Grievant's alleged retrieval of unprotected files and her notification of this security breach to Agency representative through her union representative. Grievant denies that her actions were misconduct. Grievant is required – as all agency employees are – with reporting Privacy Act violations; this is exactly what she did. Additionally, Grievant denies that she was absent without leave on October 12 and 13, 20__. Grievant was prevented from requesting leave herself on October 12, 20__, due to her arrest. Notwithstanding, Grievant requested leave for both days through her union representative. Article 32(1)(D) and (E) of the Collective Bargaining Agreement is clear that leave shall not be denied for the purposes of discipline and that no arbitrary restraints on requesting leave shall be imposed.¹ Since Grievant did not violate any agency policy by her actions, the Decision to terminate her is without just and sufficient cause.

¹ Therefore, the Union asserts that Article 32 has also been violated by the Decision.

² Although Grievant submitted a comprehensive written opposition to the proposed termination, the January 24th Letter of Decision does not address any of her points. In fact, the Decision does not explain on what basis or even which of the charges were sustained. Instead, it merely concludes that "the sustained charges against you are of such gravity, mitigation of the proposed penalty is not warranted." Therefore, the only alleged legitimate reasons remain those documented in the proposed termination.

The Agency is in violation of Article 2 and Article 13(6) of the Collective Bargaining Agreement for its termination is in retaliation for statutorily protected conduct.

Article 2 and Article 13(6) of the Collective Bargaining Agreement requires the Agency to follow all laws in its disciplinary actions. However, the Agency has not done so in this Decision as the removal is in retaliation for Grievant's statutorily protected (1) EEO activity, *see* 42 U.S.C. § 2000e *et seq.*, (2) whistleblowing activity, *see* 5 U.S.C. § 2302(b)(8), and (3) her union activity, *see* 5 U.S.C. § 7116(a)(1), (2), (4) and (8). Therefore, Article 2 and Article 13(6) of the Collective Bargaining Agreement have been violated.

The Agency is in violation of Article 16(1) and Article 17 of the Collective Bargaining Agreement for its termination is in retaliation for protected EEO conduct.

In addition for violating the Collective Bargaining Agreement in its protection against unlawful retaliation, the Agency also violated the Collective Bargaining Agreement in its own protection against retaliation for EEO activities. It is undisputable that Grievant has engaged in recent, protected, EEO activity. Similarly, there can be no doubt that ___ (the proposing official) and you (the deciding official) were aware of Grievant's protected activities. Lastly, there is a temporal nexus between the proposed termination, termination and Grievant's protected activities. Therefore, Grievant has presented a *prima facie* case of retaliation with respect to the proposed termination. The Agency's alleged legitimate reasons as documented in the proposed termination² are pretextual.

Because Grievant's actions were not only consistent with the Agency's policy and/or agency management's express directions, discipline for the specifications outlined in the proposed termination is pretextual. Therefore, Article 16(1) and Article 17 of the Collective Bargaining Agreement have been violated.

The Agency is in violation of Article 16(9) of the Collective Bargaining Agreement for its termination is in retaliation for protected whistleblowing conduct.

In addition for violating the Collective Bargaining Agreement in its protection against unlawful retaliation, the Agency also violated the Collective Bargaining Agreement in its own protection against retaliation for whistleblowing activities. Grievant engaged in whistleblowing activity when she collected the evidence of supervisory misconduct, contacted to agency representative ___ via her union representative, and by making a protected disclosure by forwarding the evidence. It is undisputable, given that five alleged reasons for the proposed termination are related to said disclosure, that the disclosure was a contributing factor in the agency's decision to propose the termination. As applied herein, Grievant had a reasonable belief that her disclosure to the agency management Privacy Officer was a disclosure of unlawful activity or gross mismanagement

by her supervisor. Notwithstanding agency management's assurances that no disciplinary action would result, Grievant has now been issued a Decision of termination. Therefore, Article 16(9) of the Collective Bargaining Agreement has been violated.

The Agency is in violation of Article 16(1)(C), (2), and (5) of the Collective Bargaining Agreement for its termination is in retaliation for protected union activities.

In addition for violating the Collective Bargaining Agreement in its protection against unlawful retaliation, the Agency also violated the Collective Bargaining Agreement in its own protection against retaliation for union activities. Grievant was open and public about her union activities beginning with her support for a union candidate's election as the new local president of AFGE Local #. On June 27, 20__, the Union held elections and that evening, Union candidate's was elected and he appointed Grievant to union steward. The very next day, the Agency issued Grievant a disciplinary action which was mitigated to an admonishment. In early August 20__ the Agency again issued proposed discipline but this proposal was rescinded. Thereafter, on or about August 17, 20__, the Agency issued a proposed 10-day suspension for alleged failure to follow a supervisory instruction which was mitigated to written reprimand.³ This termination is yet another in the litany of meritless disciplinary actions that have begun since the day Grievant assumed any role in the union. Therefore, Article 16(1)(C), (2) and (5) of the Collective Bargaining Agreement have been violated.

Alternatively, the Agency failed to properly address *Douglas* factors.

Grievant began employment with the Agency on or about February 9, 20__. In September 20__, she was promoted to be the supervisor of the geriatric and extended care social work service. From her hire through mid-20__, Grievant has consistently received awards for her performance and contributions. Many of her awards were listed in her written opposition to the notice of proposed removal and total thousands of dollars. Similarly, Grievant received the best performance appraisal ratings possible within the Agency, i.e., "outstanding" with much praise in the narrative portions. Grievant's employment history and lack of discipline through February 20__ – before the filing of her first EEO complaint, her nomination to a union position, and her whistleblowing activity – are all factors which mitigate against the imposition of any adverse action. Nevertheless, in the Decision to terminate Grievant's employment, you expressly declined to evaluate mitigating facts and instead concluded "the sustained charges against you are of such gravity, mitigation of the proposed penalty is not warranted." Your failure to consider mitigating factors is a violation of the Collective Bargaining Agreement, case law, and public policy.

³ The September 20__ formal EEO complaint was amended to include this disciplinary action as a basis for retaliation.

CONCLUSION

The Agency has not and cannot establish that Grievant violated Agency regulation or policy as outlined in its proposed termination. Furthermore, the proposed adverse action is in retaliation for protected activities. Therefore, for the foregoing reasons, Grievant respectfully requests that the January 24, 20__, Decision to terminate Grievant be rescinded with prejudice and the Grievant be restored to her position without restriction, and made whole with any other remedy deemed appropriate.

Sincerely,

Union Representative

[illegible]



AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO