

Why do workers need Unions?

Unions are service organizations that exist to help their members improve the value they get for their labor. Issues members look at include:

Being treated in a dignified manner by your employer.
Having the ability to resolve conflicts with your employer without being terminated.
Decent wages.
Holidays
Vacation time.
Health and Welfare benefits.
Pension

Members decide what issues are important to them and organize to get these issues covered by a Union contract. **Members are the Union's source of strength.** Employers cannot run their businesses without their employees. When those employees act together, they are very powerful.

Why do you need a Union?

Democracy! A union gives shape to a democratic process that enables employees to sit down together and collectively decide what they want from their employer. Workers using a union can then use their collective strength to bargain with their employer over their wages, hours of work and conditions of employment

People who negotiate contracts

A Union provides experienced professionals trained to negotiate good contracts. If the language it uses does not describe the things the employees want it to guarantee, your contract is worse than worthless.

People who enforce contracts

A Union provides Worker Advocate to enforce that contract. A contract is only valuable if people comply with the commitments it represents. Employers don't always keep their word. By pooling resources, in the form of union dues, Union members have a Worker Advocate who can remind an employer of his contractual obligations. If a gentle reminder is not enough, the union gives members the ability to use the legal system to enforce their contracts. Imagine how much it would cost one person to take the boss on all by him or herself.

A Grievance process for problems

A Union contract gives employees and their employer a defined grievance process to help them resolve conflicts in a timely and amiable fashion. This process also guarantees that employees who voice their complaints are protected, and it guarantees that employee concerns will not be ignored.

Improved Health & Welfare and Pension Benefits

UNITE HERE Locals allow members to pool their resources and purchase Health & Welfare (i.e. medical, dental and vision insurance) as well as Pension coverage for less than they would pay as individuals.

In addition, because so many people are part of these plans, they provide better health care benefits and pensions than most of our members, or their employer, could purchase on their own. Most union contracts **require the employer to pay for the major share of the cost** of these benefits. That means more money for you to take home and less fear about being hit unexpectedly with a huge medical bill.

Please read the other informational pages within this packet carefully, but remember: the benefits and protection these pages describe are backed up by a Union contract. Workers without a Union have little or no job protection or security.

Know your grievance process

Your job is your single greatest asset. However, you can lose it if you have a problem with your employer that cannot be resolved. The grievance process defined in your contract is designed to protect you while providing a means of resolving conflicts with your employer. The steps defined in that process are legally binding and must be strictly adhered to if your Union is going to be able to help you.

When was the last time you read your Union contract?

Are you aware that UNITE HERE has contracts with hundreds of employers and these different contracts each contain a slightly different grievance procedure, with a timeline that must be strictly adhered to?

The grievance process in your contract sets deadlines that must be met and defines actions that must be taken to enable your Union Representative to assist you in resolving problems you have with your employer.

Your Worker Advocate is there to help you with any problems you may have, but he or she needs your help in evaluating situations at the work site. You should know what the past practices at your work site are.

Employees will have different problems, depending on where they work, who they work for, and what language is (and is not) in their contract.

Keep your contract handy, and refer back to it if you have any questions.

Document your problems

Have you been disciplined recently? Regardless of whether you have or haven't been, you should know how to protect yourself. One of the best methods of protec-

tion is to keep your own documentation of events that may cause problems.

An employee who documents job related activity (dates, times, persons involved, witnesses, etc....) assists the Union in protecting his or her rights.

Your documentation can prove invaluable, if it becomes necessary for the union to assist you with a disciplinary or job-related matter. Remember; knowledge is power and the more information we have to work with the better.

Your right to Union Representation

The Weingarten Rule

If management requests you have an interview, which may lead to some disciplinary action, you are entitled to Union representation. **It is your responsibility to request there be a Union Representative present** during investigatory interviews you reasonably believe will result in disciplinary action. Remember: you must attend the interview - even if management refuses to respect your rights — but call your Worker Advocate immediately afterwards.

If management wants to question or “interview” you, ask what is involved and if the interview might lead to your being disciplined. If your manager answers yes:

- **Say you want a Worker Advocate present (your employer is not required to postpone the interview because a *particular* representative is unavailable.)**
- **While you are waiting for a Worker Advocate to arrive, don't answer any questions until he or she is present**
- **Refuse to allow any tape recording or any other electronic recording of the interview.**

If management insists on proceeding with an interview without regard for your rights, proceed, but make it clear that you are proceeding or signing a statement under protest. **If after you start an interview, you are disturbed by the direction the interview is taking, you can request a Worker Advocate be present before continuing.**

What should a person do if he or she gets a written warning?

Your employer might give you a written warning for an infraction of company rules. Members frequently don't know how to deal with these warnings. If not handled properly, written warnings could unfairly compromise your ability to defend yourself after some future disciplinary action (For more information, refer to the page titled ***How to tell if the punishment fits the crime***). Please read the following carefully, and call your Worker Advocate if you have any questions.

Q: *Should I sign a written warning?*

A: **Yes**, unless the warning specifically states that your signature indicates you are admitting to doing something wrong. If you refuse to sign, it generally makes you appear uncooperative. The notice goes into your personnel file, whether you sign it or not. In addition, by signing all warnings (and writing in appropriate denials of wrong doing, etc...) you make it more difficult for management to set you up by inserting warnings into your file without your knowledge. If they try to “stuff your file” — and you’ve signed all warnings management has shown you— you have proof to back up your claim that you never saw these write-ups and they should not be used to define a future disciplinary action.

Q: *What should I do about a written warning?*

A: **Rebut or Grieve.** Ordinarily a written warning has a space on it for you to make comments. If you are not guilty, or if there are extenuating circumstances, you should indicate this in your comments. In addition, you can use the grievance procedure defined in your contract to try to get the warning retracted and or removed from your file. Sometimes members feel written warnings are petty and stupid. Occasionally, people refuse to sign a warning, forget about the incident that prompted it, and return to work as if nothing happened. Unfortunately, this leaves the warning in your file and could provide justification for a severe disciplinary action in the future.

Q: *What if I don't know if I have a grievance?*

A: **Call your Worker Advocate as soon as possible after a warning is issued!** He or she can then advise you on the validity of the warning, and can tell you if you need to file a grievance. Under most contracts, members have only seven days from the date of the warning to go to the first step of the grievance procedure. Therefore, it is important that you don't put off calling your Union Representative.

How to tell if the punishment fits the crime.

The Seven Tests of Just Cause

How often have you heard someone say they didn't know what they did was “against the rules”? Can you count the times it seemed one person wasn't punished as severely as another for doing the same thing? And when was the last time you thought someone hadn't learned “the whole story” before taking disciplinary action?

These are just a few of the problems that frequently come up when an Employer is disciplining an employee.

Get it in your contract

The Seven Tests of Just Cause attempt to address these problems by laying out seven steps an employer should take to determine if a disciplinary action is fair and just. Although the seven tests are part of “common law” as interpreted by most arbitrators, many union contracts do not define these tests. This is why we are including those tests of “common law” on this page, known as the seven tests of just cause.

What are the Seven Tests of Just Cause?

What follows is a summary of these steps. If the answer to any of these questions is “no”, then the disciplinary action in question may be considered unjust because it contained one or more elements of possible arbitrary, capricious, unreasonable or discriminatory action and may constitute an abuse of managerial discretion.

Test (1) Notice: Did the employer tell the employee of the consequences of his or her action, before the employee did whatever he or she is being disciplined for? The employer must share this information verbally or in writing.

Test (2) Reasonable Rule or Order: Was the employer’s rule or order reasonably related to the safe and efficient performance of the job, and was it reasonable to expect the employee to obey the rule or order? (**Remember:** Unless you believe obeying a rule or order will seriously and immediately jeopardize your personal safety or someone else’s, you should obey the order. Think: Obey now; grieve later.)

Test (3) Investigation: Before administering the discipline to an employee, did the employer, make an effort to discover whether the employee did in fact violate or disobey a rule or manager’s order?

Test (4) Fair Investigation: Was the employer’s investigation conducted fairly and objectively?

Test (5) Proof: Did the employer obtain *substantial* evidence that the employee was guilty as charged?

Test (6) Equal Treatment: Has the employer applied his or her rules, orders, and penalties even-handedly and without discrimination to all employees?

Test (7) Penalty: Was the degree of discipline reasonably related to the seriousness of the employee’s proven offense and the record of the employee? (THINK: “Does the punishment fit the offense?”) If you have specific questions about a particular disciplinary action, call your Union Representative immediately.

Insubordination costs plenty

YOUR employer can terminate you immediately under “just cause” disciplinary procedures, if you are insubordinate. (“Just cause” is a disciplinary standard used in almost all Union contracts. See “*How to tell if the punishment fits the crime*” in this packet for more information on “just cause”.)

Because insubordination can be grounds for termination, it is important that all members understand what type of behavior can be construed as insubordinate.

There are two types of insubordination:

- 1** Refusal to obey an order from management
- 2** Abusive behavior toward a manager or supervisor

Remember: Work now and Grieve later

Unless you would endanger your health or safety, or the health or safety of someone else by obeying an order; you must first do what you were told. Then file a grievance if necessary. Management should make it clear when they are giving you an order. **If they are not clear then ask them to be clear!**

Questioning an order is not insubordination

When you need clarification of Management’s instructions, don’t be afraid to ask. You can also ask whether an order is necessary or prudent. However, if Management makes it clear that an order still stands despite your concerns—do as commanded. Then file a grievance if necessary.

Going over a supervisor’s head is not insubordination

If you have problems or concerns about your immediate supervisor; they need to be brought to the attention of that individual’s boss. It is not insubordinate for you to do that unless your Employer has a clear and well defined chain of command policy. Do not disobey an order in order to talk to your supervisor’s boss though, failure to perform assigned work is insubordination when the assignment takes the form of an order.

What is abusive behavior toward management?

Abusive behavior toward management is insubordination. It can range from verbal abuse—such as swearing at or belittling a manager, especially when this is done in front of others—up to physical abuse and/or assault.

How to protect yourself from charges of insubordination

Employees can avoid being insubordinate by following two simple rules: 1. Work now and grieve later. 2. Be polite. It is often hard to comply with both these rules, but members who do will never be successfully disciplined for insubordination. If you have questions about insubordination or any other problems at work, call your Worker Advocate.

What's an unfair labor practice?

Federal Law is designed to protect Union members and encourage people to form and join Unions. If your employer says or does any of the things listed below he or she may be committing an unfair labor practice which is a violation of federal law.

Under Federal Law employers can't do the following:

- Threaten or actually discharge, discipline or lay-off an employee because of activities in behalf of the Union.
- Spy on Union meetings.
- Act in a way which would indicate to the employees that they are being watched to determine whether or not they are participating in Union activities.
- Discriminate against employees actively supporting the Union by intentionally assigning undesirable work to the Union employee.
- Transfer employees prejudicially because of Union affiliation
- Make any work assignment for the purpose of causing an employee who has been active on behalf of the Union to quit his or her job.
- Take any action that is intended to impair the status of or adversely affect an employee's job or pay because of his activity on behalf of the Union.
- Intentionally assign work or transfer people so that those active in behalf of the Union are separated from those believed not interested in supporting a Union.
- Select employees to be laid off with the intention of curbing the Union's strength.
- Ask employees for an expression of their thoughts about a Union or its officers.
- Ask employees at the time of hiring or thereafter whether they belong to a Union or have signed a Union application or authorization card.
- Ask employees about the internal affairs of the Union (such as meetings, etc..). An employer can listen to information an employee volunteers, but cannot ask questions to obtain additional information.
- Make statements to the employees to the effect that they will be discharged or disciplined if they are active in behalf of the Union.
- If your employer says or does any of these things, he or she may be committing an "Unfair Labor Practice". Report it immediately to your Worker Advocate.

Union members provide their Union with Power

Remember, your Union is only as strong as you make it. Our power comes from all of our members working together to collectively improve wages, benefits and working conditions. Watching for unfair labor practices is just one of the ways you can help increase your Union's strength.

WHAT DOES THE UNION DO FOR ME?

- Job Security: You know what you can and cannot be fired for.
- Guarantees on Wages and Benefits.
- A Voice in Work Rules.
- A Voice in Job Description Changes.
- Fairness in scheduling shifts, work assignments, vacation preference, etc.
- A Neutral and Fair Way of Solving Disputes with the Employer
- Free Representation (including free legal representation if necessary) if in "trouble" with the management (so you don't have to "go it alone").
- Many other items and rights covered in the contract. Most of these are taken for granted unless they are lost.

A better question:

WHAT DOES BEING UNION GAIN FOR ME?

Of course, all of the above, plus;

Collective Bargaining Power (it means you can maximize the money and benefits gained from the employer for the quality service you provide to make their profits). You have that Collective Power (if it is organized) to do anything reasonable at any time to make your lives and jobs better.

Non-Union Houses: They have none of these benefits and if you've worked in many of them, you know they have the same problems that a Union Contract seeks to control or correct. Always present in a non-union house is the fear of losing one's job for simply speaking up for changes. Unfortunately, even the law cannot protect someone in that predicament. In addition, even if it could, the individual employee pays for the lawyer. In most cases, an employee can legally be fired at the employer's whim. Only a Union Contract prevents that.

The Union: Quietly Working for You

An employer that is unionized (and has accepted the presence of the union) tends to treat employees with more respect over all. They know that their feet are always held to the fire by the contract. Thus, when they make their day to day decisions affecting your lives, they take much more time and care to consider your point of view. They actually become better employers and supervisors. When this is working successfully, you will not even see that decision process in operation. It then becomes very easy to mistakenly assume that unionization is not doing anything for you, when in fact it is working 24 hours a day.

On a Larger Scale: Beyond Any Single Workplace

You have the strength of numbers fighting on your behalf in the government. The Union has been instrumental in fighting off the Restaurant Association's attempts to (a) lower the minimum wage and to have tips counted as apart of the basic wage, and (b) make employees buy their own work clothes. These are just a few of the battles we have fought and won.

Even though there currently no single group of employers bargaining together (as there was as recently as 1981), union contracts still set the standards by which all houses, union and non-union alike, pay their people. Working conditions and industry traditions are included in this "standard".

Why change the question to:

"BEING UNION"

AS OPPOSED TO "WHAT THE UNION DOES FOR ME"?

Because if you think of a union as "out there" somewhere, you have just cut off most of your own power to make things in the workplace as you'd like them to be. In fact, you and all of your co-workers are **THE UNION**.

Our real strength as working people is in our numbers and our ability to work together. This is true with any situation from bargaining a contract to internal work site campaigns to change the workplace or make it fair. Of course, there is the strength of the Union in the community and in legislative affairs.

YOUR UNION IS ULTIMATELY WHAT
YOU MAKE OF IT