

# TAMI

E D U C A T O R

Update for Stewards Vol. 9, No. 4

## Signing Up Nonmembers

QUESTIONS.  
CONCERNS.

ANSWERS.  
ADVICE.

STEWARD



# Signing Up Nonmembers

**F**or a union steward in a workplace where membership is not a condition of employment, there's no more important role than building or maintaining the union's strength by recruiting new members.

It's a never-ending task, and the only way to take it on is to have a plan. Here's a program that works.

Depending on the size of your workplace and the size of your membership, your first task may be to recruit recruiters.

Trying to tackle a membership problem of any size by yourself is a recipe for failure — and burnout.

Recruiting, like news and politics, is local. The best person to talk to a nonmember is the person who works closely with him or her. The best recruiter is someone who is respected by the other employees, believes strongly in the union, and is able to express himself well.

## Find Recruiting Help

Finding someone to help in recruiting can actually be easier than trying to convince someone to take on another role — say shop steward? — because as a recruiter the person never has to confront the boss head-on.

When you convince someone to help in recruiting, you've also added an activist, a person who can be called on when the need arises for mobilizing or other union campaigns.

In the perfect scenario, there's at least one active union member talking to nonmembers on a regular basis in every department on every shift. After you have your team in place it's important they know how to talk to the nonmember.

There are several key things a recruiter needs to know.

- Recruiting should be done in person — not by phone, not by email, not by dropping membership material in a mailbox, at a locker or on a desk.
- A good recruiter is a good listener. Ask questions, don't preach. Be positive.

Employees don't want to be told they're working in a bad place.

- Approach new hires as soon as possible — their first day on the job isn't too soon.
- Pick the right time to approach: on break, lunch, before or after work.
- Be prepared to answer questions about the union. If you don't know the answer, don't bluff. Tell the person you will get back to them with an answer.
- Be prepared to sign them up immediately. Have membership authorization cards handy.



- To break the ice, have some union literature you can share — but don't make the mistake of relying on a union brochure to sign up a nonmember.

- Don't assume anything. Lots of union members presume someone won't join, thinking they're "too young" or "too old," or "a man" or "a woman," or "a minority" or "not a minority" and so on. Don't assume, don't say no for anyone. "No" is never the final answer. For many people it takes time and multiple contacts.

- Keep records — date of contact, response, questions asked.

Any effort to build your union will be aided greatly if the union is seen as the primary information resource for those you represent, and not just the people who negotiate the contract or handle the grievances. Recruiters should make sure the new hire knows, for example, not just how to fill out a time sheet or how overtime works, but the best places for a sandwich and where to park cheaply. Being helpful makes you likeable, and it's harder for an employee to say no when asked by a friend to join.

## Set Priorities

Once you've got your team you need to figure out how best to attack the problem by setting priorities. The first priority should be new hires. Depending on how low your membership numbers are, the longer you wait to approach a new hire,

the more likely his or her first contact will have been with a nonmember who poisons the new worker against the union. But if you get to the new worker first, joining the union can just be part of the new hire routine — she signs up for the company health insurance, signs off on company policies — you give her a union card, and she signs that too. Just another step in starting a new job.

After approaching new employees, your next targets should be those who have just completed their probation. Every new hire should be encouraged to join, but some are reluctant to commit until they're feeling more secure. One problem you may encounter is well-meaning union members who tell new employees to wait until after probation, or worse, tell them they aren't even eligible to join while on probation. That first bit of advice is bad; the second is just plain wrong.

Next, work your way up the seniority list. If the union hasn't undertaken a systematic recruiting program, chances are a lot of nonmembers simply may never have been asked to join.

## Track Your Progress

Finally, keep track. You should come up with a simple rating system. Some stewards like the stoplight system when recruiting new members: green for a good prospect; yellow for a maybe and red for a definite no. Others prefer a number system. Keep a database of who talked to whom, when, and what questions or concerns were raised by the nonmember. This is handy if you want to have a second recruiter talk to the person.

One last but critically important point if you truly want to build the union's power: Try to get new recruits to become active in the union. Invite them to meetings, get them onto committees, find initial tasks for them. It's great to have people become union members, but what really counts, ultimately, is getting them engaged as activists.

— Paul Reilly. The writer is a local representative for the Washington-Baltimore Newspaper Guild, TNG-CWA Local 32035.

# Resolving Disputes Over Contract Language

**W**hen the parties disagree about what language in a collective bargaining agreement means, arbitrators first will examine that language itself, and apply certain universal principles of contract interpretation. But keep in mind that your best arguments for having the arbitrator interpret the language the way you want may be to look outside the language in the contract itself.

So here are some principles of contract interpretation stewards should be familiar with, since these rules are what arbitrators will rely on when looking beyond “the four corners of the document.”

First, if particular contract language is not clear on its face, arbitrators may try to determine the intent of the parties when they agreed to include that language in the collective bargaining agreement. If the parties’ intent is clear, then an arbitrator will interpret the words so as to give them the meaning that the parties themselves intended.

Where do arbitrators look to determine intent of the parties?

■ **Bargaining history.** Often the back and forth during negotiations (or even the parties’ communications before bargaining begins) fleshes out what the parties understood certain words to mean. So, for example, a counterproposal may make it clear to the arbitrator that a word used in the earlier proposal had a certain meaning that the counterproposal was responding to. Or discussion at the bargaining table may show what the parties mutually understood certain words to mean. Evidence of this nature may be introduced at an arbitration hearing by means of testimony by one of the negotiators. But a word to the wise: having complete and reliable notes taken at bargaining sessions is often the most persuasive evidence.

■ **Continued use of contract language.** With or without bargaining over particular wording in a contract, it’s not unusual for the exact words to carry over from one contract to another. Arbitrators will usually conclude that when this happens, the parties understood the language that carried over kept the same meaning that it had under the earlier agreement. (This reasonable conclusion may be

drawn by an arbitrator even in the absence of any discussion at the bargaining table over why the language was being carried over.)

In addition, there are other facts — beyond the words in the collective bargaining agreement itself —

that arbitrators may look to in order to determine the meaning of contract language.

■ **Prior settlements.** It may be that the parties settled a grievance (either during the steps of the grievance procedure or in connection with a case going to arbitration) that dealt with the same contract language in dispute in a later case. When this happens, an arbitrator will give weight to the meaning that the parties themselves earlier gave to the contract language in question. To put this another way, settlements may become, in effect, precedent for future interpretation of contract language.

Two tips on this: First, if you don’t want the terms of a settlement to come back and bite you in this way, you may want to make sure that you get language stating that a settlement is “non-precedential in nature, and may not be cited in any subsequent grievance or arbitration.” Second, be careful! Even if an earlier grievance was settled orally, a party can still cite the terms and the circumstances.

■ **Past practice.** Arbitrators will look to see whether the parties’ past conduct sheds light on what disputed contract lan-

guage really means. Books have been written (and should be read!) about what proof is needed to establish a binding custom or past practice. Keep in mind that if you are trying to prove that an enforceable past practice exists, most arbitrators will require evidence that: (1) there is mutuality, meaning that the parties both know (or “should have known”) that something was occurring in the workplace; and (2) the practice was well established (even if it wasn’t 100 percent consistent).

■ **Industry practice.** Beyond what may be an established workplace practice, arbitrators may look to general industry customs and practices. (Note, though: usually an arbitrator will examine general industry practice only if there’s no established past practice in your workplace.) These industry practices will be most persuasive when they involve the same industry or the same employer as yours, or when they involve multiple employers with different unions in similar workplaces.

One final factor that arbitrators may look to in determining what dispute words in a contract may mean: who drafted particular contract language. To resolve an argument over what ambiguous language in a contract means, arbitrators usually will give the benefit of the doubt to whichever side did *not* draft the language. (The reasoning is that that the drafter could have chosen whatever words best expressed what was intended.) So a related practice tip: if you’ve taken the initiative to draft the terms of a settlement agreement, appendix to a contract, or something similar, you may want to include language along the following lines: “It is agreed that the language used herein expresses the mutual intent of the parties, and is not to be construed against the drafting party.”

— Michael Mauer. The writer is a veteran union organizer, representative, attorney, and author of *The Union Member’s Complete Guide*.

**When arbitrators look beyond “the four corners of the document”**

# Take That Break!

**W**ho wouldn't take a paid break when offered one — when, even, their union contract *requires* it? Unfortunately, way, way too many workers.

Some may not know that their contract requires breaks. Others may not appreciate the ergonomic or other health reasons for taking a break, while yet others are vulnerable to being pressured by the impatient public, by supervisors or by other workers to work through their breaks. For whatever the reason, if your co-workers are not taking breaks to which they are entitled, the steward is faced with a valuable opportunity to teach and organize.

## Stand Up to Pressure

In truth, it can take a certain amount of confidence to claim your break in the face of pressure. There is nothing as irritating to an employer as the sight of a worker not working, and nothing annoys the unthinking public as much as waiting in line at the post office, a toll booth, or a grocery counter while the worker packs up to go on break. How often have we heard, “He just sits in the truck while two other guys empty the bins.” These are the kinds of things that people say who know nothing about what doing a job, year after year, can be like.

Taking breaks is a matter of great personal importance to workers, because they can head off all sorts of health problems: not just stress and exhaustion, but back injuries, deafness, skin diseases, and kidney and eye damage, among others. But while breaks are important for each individual worker, getting everyone to take their breaks has to happen collectively.

This is where the steward acts as educator and organizer.

First, your members should know the law about breaks. Contrary to what a lot of people think, the U.S. Fair Labor Standards Act of 1938 does not require breaks. Nine states — California, Colorado, Illinois, Kentucky, Minnesota, Nevada, Oregon, Vermont and Washington — have laws requiring paid 10-



**There are many reasons to use it — including the risk of losing it.**

15 minute breaks, but you should look up your state law for specifics, because even these laws don't cover everyone. In Canada, there is no national legislation about

breaks either, but individual provinces and territories have laws requiring 30-minute meal breaks. The differences have to do with whether the break is during, after or between 5-hour shifts. These breaks are unpaid unless you have to be available for work or actually do work during your break. Again, look up the law that applies to you.

## Know the Contract

Then your members should know what their contract says. If people are working through their breaks despite their being guaranteed them in the union contract, you need to have a talk with them about past practice. This is a use-it-or-lose-it situation. If you have breaks in your contract but not in state law, and your people not taking them, the union is risking losing breaks altogether,

for everyone covered by the contract. Likewise, in Canada, where there are no coffee breaks in the law, if you have them in your contract, the same thing applies.

Finally, if workers have worked through their contractual or legal breaks, their employer owes them for the extra time they've put in. Working and not getting paid is called “wage theft.” Unfortunately, employer wage theft is not a criminal offense. But you can make an employer pay money owed to workers who worked through their breaks: file a mass grievance under the contract or, if you have a good state law, file a complaint with your department of labor. In Canada, file with the Ministry of Labour's Labour Board. They will investigate and bring a claim against the employer.

As steward, getting people to take their breaks means you have to organize them, both for effectiveness and for their own protection. A single person taking a break when everyone else is working becomes an instant target for the employer. Even if a grievance is filed, the outcome is not likely to be good. The flip side is that this is a great organizing opportunity. As part of learning about the law and your contract on breaks, and about solidarity in general, teaching the people you represent about how to start taking breaks together (or in rotation, or sequence, or whatever makes sense so that the workplace is covered) is an opportunity not to be missed.

## It's a Health Thing

People need to take their breaks because work can be stressful, both physically and psychologically, and stress is a major cause of diseases that cause pain, inhibit mobility, create dependence on expensive medications and make workers less able to deal with life's challenges. It may not seem to have this impact while you're in your twenties, or even your thirties. But you want to live longer than that, right? You want to retire someday, buy that apple farm in the country, and live to see your grandchildren. That's called “surviving the job.”

Remember, breaks were created to help you survive your job.

— Joe Berry & Helena Worthen. The writers are veteran labor educators.

# Have a Laugh!

## Bosses Aren't So Smart

The president of a company announced a drive to raise productivity in all facilities. When the campaign was a month old, he visited a plant near Boston. As he walked around, he observed a worker sitting down doing nothing. A half hour later he saw the worker reading a magazine. Outraged, he went up to the worker and demanded his name and his weekly pay rate.

The worker said his name was Tony Peters and he made \$600 a week. "Stay right there," said the president as he headed to the payroll department.

Ten minutes later he returned and told the worker: "Peters, you are a lazy parasite and this is your last day working for me. Here is a check for \$600 for the rest of the week. Get out."

A few minutes later, the manager of the plant came by. The president told him what he had done. "By the way," said the president, "what does that bum Peters do here?"

"Oh, him," said the plant manager, "he's the guy that delivers for Luigi's Pizza."

## Ha ha ha!



## The Boss Speaks

"I don't want any yes-men around me. I want everybody to tell me the truth even if it costs them their jobs." Movie mogul Samuel Goldwyn

## Rep. Weiner's Steward

What did NY Rep. Anthony Weiner's shop steward say to him when the news of his Twitter indiscretions broke — "If you want to know what's really hard, try finding a job"

## Missing Person

George had worked hard for Bushcorp Inc. for 42 years, never missing a day. His loyalty had gone unrewarded, however, with no promotion or raise in all those years. At his retirement lunch down at Arby's, George was presented by the company president with a Casio wristwatch and a framed picture of Bushcorp headquarters. Apparently overcome with emotion, George accepted the watch and photo, turned to the company president, and said "I've never seen you before, do you work here?"

## Once Upon A Time

Once upon a time, in a nice little forest, there lived a blind little bunny and a blind little snake.

One day, while the bunny was hopping along and the snake was slithering along, the bunny tripped over the snake and fell down. This, of course, knocked the snake about quite a bit.

"Oh, my," said the bunny, "I'm terribly sorry. I didn't mean to hurt you. I've been blind since birth, so I can't see where I'm going. In fact, I don't even know what I am."

"It's quite okay," replied the snake. "Actually, my story is much the same as yours. I, too, have been blind since birth. Tell you what, maybe I could kinda slither over you, and figure out what you are, so at least you'll know a little more about yourself."

"Oh, that would be wonderful," replied the bunny. So the snake slithered all over the bunny.

"Well," the snake reported, "you're covered with soft fur; you have really long ears; your nose twitches; and you have a soft cottony tail. I'd say that you must be a bunny."

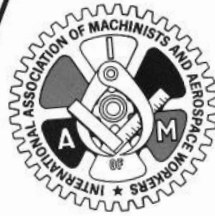
"Oh, thank you! Thank you!" cried the bunny in obvious excitement. In gratitude, the bunny then suggested to the snake, "Maybe I could feel you with my paw, and help you the same way you've helped me." The snake happily agreed.

So the bunny felt the snake all over, and reported his findings: "Well, you're scaly and smooth, and you have a forked tongue, no backbone and no balls. I'd say you must be either a politician, an attorney, or possibly someone in upper management."

## Endangered Species

What does Wisconsin Governor Scott Walker have in common with a polar bear? They are both endangered species — but the polar bears are worth saving.

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OFFICE OF THE INTERNATIONAL PRESIDENT

Dear Sisters and Brothers,

The massive heat wave plaguing North America this summer may have been caused by the massive amounts of hot air coming from Washington, DC. After an anemic economic report in June of just 18,000 new jobs in the United States, the President and Congress kept almost silent on the jobs crisis and spent the summer figuring out ways to slash federal spending on working family programs. Those kind of cuts in the short term will only cause the economy to sink back into recession.

With unemployment still above nine percent and the economy stuck in neutral, all the President could do was ask Congress to extend the reduction in the Social Security payroll tax, approve a rash of anti-worker free-trade agreements and streamline patent procedures. The Republicans in Congress, for their part, refused to consider any taxes on the super-wealthy and insisted all debt reduction must come from cuts in programs that sustain working families.

It's astonishing that politicians, especially conservatives in the United States and Canada, are acting as if the plight of millions of unemployed workers and the suffering it is causing their families isn't a crisis that demands bold, immediate action. In fact, as the suffering of the unemployed grows more desperate, states controlled by the GOP are enacting laws to *lower* benefits for the unemployed, not help them.

The slow pace of both hiring and consumer demand is due in large part to the lack of bold government action to create jobs, and the incredible income shift in the United States that is taking money away from average Americans and creating a small class of super-wealthy families. One economist estimated if middle-class households kept the same share of productivity gains today as they did in 1980, they would have about \$12,500 more income today. That \$12,500 has gone to the super-rich and given them an extra trillion dollars in household wealth.

That loss of middle class income means families have less to spend on houses, cars, food and other goods. It's no wonder consumer demand has collapsed and the job market right along with it. Now, Republicans want to make the situation even worse by removing billions of dollars in federal spending and public sector jobs that will further reduce demand. With this kind of hot air coming out of Washington, North America is in for a long, hot decade, not just a long, hot summer.

Please help keep the pressure on your legislators to make creating jobs their top priority. Remind them that our economy needs immediate, large investments in job-creating projects that will stimulate private-sector hiring. The best way to solve the debt crisis is to get the economy going with short-term spending that creates jobs and increases revenue.

In Solidarity,

*R. Thomas Buffenbarger*

R. Thomas Buffenbarger  
International President

