

# Union Representative Handbook:

A Reference Manual for CTA Union Educators in Sonoma County



**“Unions have so much value not just to build the power required to undo the rot of democracy and rampant income inequality, but also to teach Americans how to unite again.”**

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Carol  
Simpson  
© 1988

“Let me guess. Is this another one of your group grievances?”

SUGGESTIONS FOR

# An Organizing Grievance Form

In order to encourage organizing at all times, a checklist could be printed on the back of a standard grievance form and used in steward trainings. Here's what it might look like:

# of Members in Work Area \_\_\_\_\_

**ISSUE** \_\_\_\_\_

To Whom Is This Issue Important? \_\_\_\_\_

How Many People are Affected by This Issue? \_\_\_\_\_

Can People Be Mobilized Around This Issue? Yes (  ) No (  )

Can This Issue:

Increase the Visibility of the Union? Yes (  ) No (  )

Improve the Representation of

Underrepresented Groups in the Union? Yes (  ) No (  )

Leadership Already Involved with This Issue:

Leadership Who Would Need to Become Involved:

**How can PRESSURE be exerted on:**

Decision-Makers in Management:

Outside Decision-Makers: *(e.g., government agencies, employer associations):*

**REMEDY or GOAL to be Achieved:**

**Is This Issue Winnable or Partly Winnable?** Yes (  ) No (  )

Possible Actions	Who Will Do	Date to be Done
Grievance	_____	_____
Group Meeting with Decision-Maker	_____	_____
One-Minute Stand-up on the Job	_____	_____
Buttons, same Color Shirts	_____	_____
Newsletter Article	_____	_____
Phone Tree	_____	_____
Involving Allies	_____	_____
Petition	_____	_____

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## **FIRST LINE OF DEFENSE: Union Educators at the School Site**

### **You Represent – and Speak for – Your Local Chapter, CTA, NEA & Education International**

As a union leader, you are the union's representative at your school site or department or across the district if you are on the chapter executive board. You are the heart and soul of our union. It is the union representative who first greets a new member, hears concerns, handles the day-to-day work of the union between membership meetings, and constantly works to build the unity and strength that makes a union good or not.

When most members think of their union, they think first about their union representatives at their site or department. Nothing is more important in a rank-and-file union than having responsible, active union representatives in every department and work area. You are the leader of educators in your area and the union's first line of defense in protecting the rights of CTA members. Everything we do, from everyday teaching in our classrooms to how we approach collective bargaining to participating in school board elections, should be driven by our CTA Mission Statement and our Vision of "The Public Education All California Students Deserve." Please take some time to reflect on how you can implement our collective mission and vision in your daily activities as an educator and as a union leader.

**CTA'S MISSION STATEMENT:** "The California Teachers Association exists to protect and promote the well-being of its members; to improve the conditions of teaching and learning; to advance the cause of free, universal, and quality public education for all students; to ensure that the human dignity and civil rights of all children and youth are protected; and to secure a more just, equitable, and democratic society."

Here is a PDF version of CTA's Mission Statement that you can post, distribute, and keep handy to remind you and others of our collective mission: <https://www.cta.org/wp-content/uploads/2021/11/CTA-Mission-Statement.pdf>

### **CTA'S VISION – THE PUBLIC EDUCATION ALL CALIFORNIA STUDENTS DESERVE:**

*The Public Education All California Students Deserve* is a research-based document by the California Teachers Association that outlines proven education strategies that improve and enhance student learning, are essential to providing a quality public education to all of California's 9 million students, build stronger local communities, and help maintain public education as the cornerstone of our democratic society. This document is based on education research and input from thousands of educators and community members.

### **A Well-Rounded Education**

We must invest in learning over testing. Invest to ensure that all students and schools have access to art, music, theater, dance, physical education, and career-technical education classes. All students should have access to world languages, a variety of subject choices and advanced placement classes. Every school should have a library with librarians to staff them. The focus on standardized testing has narrowed expectations and learning. Teachers need the freedom to use a variety of teaching techniques that are culturally relevant to the diverse students they teach.

### **Class Size Matters**

California has the largest class sizes in the country, which greatly inhibits the ability of our students to learn and thrive. Smaller class sizes give teachers more time to provide one-on-one instruction, significantly improve student learning – particularly for ethnic minority students and English learners – and allow for more communication between teachers and families.

### **Access to Preschool**

Learning begins before students enter kindergarten. All California kids deserve access to high-quality early childhood education.

### **Safe Learning and Teaching Environments**

Students need to be taught in facilities that are safe, well-maintained and show respect for those who go to school and work there.

### **Teaching All Students**

The principles of social justice, equity and diversity integrally shape public education in California. The chances of a child's success should not depend on living in the right zip code. Parents and educators recognize the inequities within the system and continue to support additional resources to those students and schools that need additional support.

### **Leading the Profession**

Education professionals are deeply committed to the success of every student, should be recognized for the experts they are and responsible for establishing the highest standards of quality for students and the profession. Teachers deserve teacher-directed professional development, time to plan lessons and collaborate with their colleagues and shared decision-making to determine the most effective teaching methods, curriculum, assessment and evaluation systems. Educators also need salaries comparable to others with the same education and experience to attract and retain quality educators for students.

### **Family and Community Engagement**

Parents and family members are an integral part of a child's education. Educators should have time to communicate regularly with parents to develop a shared vision for student learning. Public schools should serve as centers of community and adult learning.

### **Health and Support Services**

California ranks dead last in the number of counselors, nurses and social workers per student. Adequate health care, including eye and dental care, is essential to ensuring kids come to school ready to learn. Free and reduced meal programs and free transportation must be available to all students who need them. California schools need adequate counselors, nurses and other education support professionals to help meet the needs of all children.

### **Fully Fund Education**

Public education continues to be the great equalizer and the cornerstone of our democracy. California is the eighth largest economy in the world, but continues to rank well-below the national average in per-student funding. Investing in public education is an investment in our future.

### **Access to Affordable College and Careers**

All students deserve access to affordable college. Students should also have access to career and technical training programs, and other educational opportunities that will prepare them for the workforce.

Here is a PDF version of CTA's Vision – The Public Education All California Students Deserve that you can post, distribute, and keep handy to remind you and others of our collective vision: <https://www.cta.org/wp-content/uploads/2020/03/The-Public-Education-All-California-Students-Deserve-2-12-15.pdf>

### **California Teachers Association – History and Achievements**



When CTA was founded in 1863, only a few hundred students attended public schools and teachers were poorly prepared and seriously underpaid. Within three years, CTA persuaded the state legislature to establish free public schools for all children, including schools that educate students of color. We have had many victories since our founding almost 160 years ago. Do you know some of them? You should. Here is a partial list:

**1863**

CTA is founded as California Educational Society by Superintendent of Public Instruction John Swett with fewer than 100 members, all male.

**1866**

CTA's first legislative achievement establishes free public schools for all children in California—including schools that educate students of color.

**1890**

CTA wins state Supreme Court ruling on "fair dismissal" law.

**1895**

CTA backs the first class-size reduction law, limiting the number of students in a class to 80.

**1911**

CTA leads state funding fight to establish community colleges. At CTA's urging, free textbooks are printed and distributed at state expense.

**1913**

California State Teachers' Retirement System is created by legislation after CTA State Council calls for a statewide teacher pension system in 1910.

**1915**

CTA leads efforts to outlaw child labor and enact other legal protections for children

**1927**

CTA wins legal victory when state Supreme Court rules that a school board cannot fire a female teacher simply because she married.

**1940**

CTA is one of a few organizations in California to protest internment of Japanese-Americans at the beginning of World War II.

**1946**

CTA sponsors Proposition 3, which guarantees schools \$120 per student in funding from the state and a minimum teacher salary of \$2,400.

**1967**

CTA establishes schools for children of migrant workers and leads the authorization of bilingual instruction classes for English learners.

**1975**

Legislature passes the CTA-sponsored Rodda Act, making K-14 school employees the first public employees in California to win collective bargaining rights.

**1980**

Santa Rosa Teachers Association strike.

**1983**

CTA leads passage of SB 813, which provides significant additional revenue for California schools through equalization of revenue limits and new categorical programs. This bill also provides more rigorous graduation requirements, longer school day and year, and higher beginning teachers' salaries. It also establishes statewide model curriculum standards.

**1988**

CTA drafts and wins passage of Proposition 98, which guarantees a minimum portion of state money to fund K-14 education.

**1993**

Thousands of teachers and citizens mobilize to defeat Proposition 174, a school voucher initiative. 1994 – CTA opposes Proposition 187, a ballot initiative designed to deny undocumented immigrants social services, health care, and public education.

**1996**

CTA wins Class Size Reduction law for K-3 classrooms

CTA files lawsuit (CTA v. Gould) against the state to protect Proposition 98 and wins largest settlement in the country against a state government, providing \$540 million to schools in 1996-97 and more than \$1 billion in succeeding years. CTA membership reaches 270,000.

**1998**

CTA leads defeat of an initiative that would have restricted how unions participate in political campaigns and silenced member voices. CTA wins passage of a \$9.3-billion statewide school bond.

**2000**

After a massive mobilization effort with more than 10,000 CTA members attending a rally in Sacramento, public schools receive \$1.84 billion. CTA members defeat a second voucher initiative, Proposition 38.

**2002**

CTA wins passage of a \$13 billion statewide school bond.

**2003**

CTA wins passage of a \$12.3 billion statewide school bond.

**2005**

CTA members lead a broad coalition effort with other public sector labor unions to defeat Governor Schwarzenegger's initiatives that would have cut school funding, destroyed teachers' due process rights and silence the voices of public employees. CTA files a lawsuit against the state to get back all money owed to schools under Proposition 98.

**2006**

CTA's Quality Education Investment Act (QEIA) passes into law in 2006 to help schools that are serving a higher percentage of low-income, and English learners to close the achievement gap. CTA wins passage of a \$10.4-billion statewide school bond.

## **2007**

CTA members successfully mobilize to stop the harmful Miller-Pelosi reauthorization proposal for the Elementary and Secondary Education Act ( "No Child Left Behind Act"). The proposal would have placed more emphasis on test scores, created new sanctions for struggling schools, and eroded employee rights.

## **2011**

With CTA's support, the Legislature approved and the governor signed the California DREAM Act, which allows undocumented students who were brought to the United States under the age of 16 to apply for private scholarships and state-funded Cal Grants in order to make college affordable.

## **2012**

CTA leads fight to pass the Proposition 30, which generates \$42 billion for public schools and local services over seven years. CTA also defeats Prop. 32, another attempt to silence our political voices.

## **2019**

Successful 2019 strikes in August by the Forestville Teachers Association (4 days) and in November by the West Sonoma County Teachers Association (3 days).

## **2022**

Another winning strike in March 2022 by the Rohnert Park-Cotati Educators Association (6 days) that not even a pandemic could curtail.

### **Legacy of Social Justice Unionism and Nonviolent Action**

Through the coordinated efforts of the Sonoma County Educators Council (SCEC), over the last few years, we have highlighted the important legacy of Social Justice Unionism and Nonviolent Action in the United States that dates back to the early 1900s and, for example, connects the 1930s "sit-down" strikes with the 1960s "sit-ins." Educator Lois Weiner has summed up well what a social justice union is in her article "Social Movement Unionism: Teachers Can Lead the Way": "In a social movement union... the union derives strength from its ability to mobilize members to struggle on their own behalf. Power comes from the bottom up, as it does in social movements, and the union's organizational form is just as important as its purpose. Within a social movement union, the members' self-interest would be broadly defined—going beyond immediate economic and contractual concerns. Such a union struggles for its members' stake in creating a democratic and equitable society, and allies itself with other movements also working for social justice, peace, and equality."

We have drawn attention to how Dr. King, who was no stranger to confronting unjust laws and court injunctions, fully supported striking public sanitation workers' right to collective action in Memphis, TN where he was assassinated: "We can get more organized together than we can apart," King said in his March 18 [1968] speech. "And this is the way we gain power.... What is power? Walter Reuther said once that 'power is the ability of a labor union like UAW to make the most powerful corporation in the world – General Motors – say yes when it wants to say no.' And I want you to stick it out so that you will be able to make Mayor Loeb and others say yes, even when they want to say no." In Dr. King's famous Letter from a Birmingham Jail, he also justified the need to confront injustice with nonviolent action by saying: "Actually, we who engage in nonviolent direct action are not the creators of tension. We merely bring to the surface the hidden tension that is already alive. We bring it out in the open, where it can be seen and dealt with."

We have also emphasized collective nonviolent action, including strikes. As unionists and writer Joe Burns has said, “During the 2018 West Virginia teachers’ strike, an old mineworker gave the teacher activists a good piece of advice: ‘Go all in or nothing.’ The advice proved sound – if teachers had struck in only one district, they likely would have been fired. But by all going in together it was impossible to replace them all, plus it magnified their political impact. This experience is consistent with the lessons of the public employee upsurge of the 1960s. Strikes were illegal in every jurisdiction in the United States until the late 1960s, yet public employees engaged in one of the biggest waves of civil disobedience to win their unions. Millions of teachers, sanitation workers, and others successfully violated labor law to win strikes during this period...” He also highlighted the need to free our minds by saying: “Combatting repression begins, first and foremost, with the battle of ideas. To defeat employers, we need to get their ideas out of our heads...we need an entirely different approach to labor organizing, to our theory of labor rights, and to our conceptions of unionism. In other words, it requires a complete break...”

### **Never Rely On or Be Limited By What is Legal**

Like Dr. King and many other social justice advocates such as teachers in West Virginia who conducted a statewide teachers strike despite it being illegal, we should never rely on or be limited by what is legal in our approach to our union work. Instead of asking if something is legal, we should primarily be asking if it is fair and just? Consider this quote below:

“The negative impact of U.S. labor law upon the trade union movement is well documented (for a recent overview, see Andrias and Rogers 2018). With the most draconian strike restrictions of any advanced capitalist democracy, the United States is out of compliance with most of the fundamental international standards established by the International Labor Organization (Weissbrodt and Mason 2014). “Labor laws in this country are formulated for labor to lose,” noted mineworker leader Richard Trumka before he became the head of the AFL-CIO (Burns 2013).”

Breaking the Law: Strike Bans and Labor Revitalization in the Red State Revolt by Eric Blanc, Labor Studies Journal, 2020, Vol. 45(1) 74-96

### **JOB DESCRIPTION – UNION REPRESENTATIVES**

- The union representative is an **organizer** who builds and maintains unity at the site and keeps the members involved in the union at all levels;
- The union representative is the **representative of the union** in his or her site/department;
- The union representative is **elected by the membership** to:
  - Defend and improve wages, hours, and working conditions; and
  - Resolve workplace problems by organizing the members.

### **Involve the Members!**

As you work with your co-workers, your energy, enthusiasm and leadership abilities are as important as your technical skill. Even if you know every line of your contract, you must also be able to motivate the members to solve problems creatively, as a group.

When you face a problem at the workplace, you should always ask, “How can I get my co-workers involved to solve this problem *and* build the union at the same time?” Dealing with workplace issues as a united group is the heart of a strong union. Building involvement takes constant communication with the members about workplace problems/issues, about the local union and how it operates, and about the union’s programs and activities. Equally

important is *listening*. Find out the members' concerns, problems and issues. Organize the members to do something about it.

Old-timers sometimes argue that unions were stronger in the days before dues-deduction – when union representatives collected dues by hand from each member. Why? Because each member could take the opportunity to let the union representative know how well - or badly – they thought the union was doing. As you might guess, union representatives really knew what the members were thinking. Today, it is just as important to spend the same kind of time listening to, and talking with, the members to build and maintain a strong, functioning local union.

### **A Strong Union Representative System at the School Sites**

CTA is built around a strong union representative system. Take away the union representative system, or have a weak one, and you will find yourself with a less effective local union. In some local unions, representatives are nonexistent. Some have one or two union representatives who are in charge of an entire school district. Such a union representative structure cannot possibly know the members they are supposed to represent, much less effectively handle their concerns.

The members in unions such as these come to think of their union as a faceless, bureaucratic institution. Instead of being part of the union, they see it as a type of “insurance policy.” If they have a problem, they seek out their “agent” and hope for the best. In these situations, true unionism – the idea of people working together to protect their rights – is lost.

### **Weak Union Representative Systems Help Administration**

District administration likes an ineffective union representative system that allows them to violate the contract. In many union negotiations, employers have often tried to insist on severely limiting the number of union representatives. They know they can weaken the union by keeping its presence to a minimum. CTA knows it, too, and has always fought to maintain a strong workplace organization. Over the years, history and our experience has shown us that a democratic, rank-and-file union requires us to have about one union representative for every 10 members. Does your local union infrastructure have this kind of system and accountability? In an emergency, would your union infrastructure allow you to reach every single member quickly (not just in an email)? Could you give every member a hard copy of an emergency bargaining update? Could you text every single member? If not, please think about how you can move toward doing so and build the strength of the union.

### **Doing Your Job Well Builds Participation**

The high level of participation in locals with active, involved memberships can often be directly tied to the work done by union representatives. One study found that union representatives in “high participation locals” did four things that seemed to make a difference in members' attitudes:

- They told the members what was going on in the local instead of scolding them for not coming to meetings;
- They asked the members for their opinions about union issues;
- They related to members in a friendly, personal way including such things as remembering birthdays and asking about kids and families; and
- They handle grievances effectively (by involving the membership to take action);

In other words, steady, consistent, personal two-way communication makes a difference in whether or not people feel they are part of a union. In CTA, we stress *involvement* and *participation* – two key methods of making sure members know they are vital parts of their CTA chapter.

## THE UNION REPRESENTATIVE'S TOOLKIT

### The Union Representative's Toolkit

Here is a list of the tools that can be found in a "Union Representative's Toolkit." Keep them together – and add anything else you might need:

- CTA's Mission Statement
- CTA's "The Public Education All California Students Deserve" (Our Collective Vision for Local and Statewide Public Education)
- Chapter members' key contact information including personal cell phone numbers and non-work emails for every member;
- CTA Membership Enrollment Forms (To ensure everyone is a member of the union)
- This manual;
- The contract and pay schedules;
- Any contract side agreements (MOUs - Memorandums of Understanding);
- Any district personnel manuals and policies;
- CTA's California Education Code Index;
- CTA's Teachers' Rights Mini-Guide: A Quick Reference Manual Designed to Help Teachers in Crisis;
- An up-to-date seniority list of the members in your area, including job classifications; and
- Your local chapter's bylaws;
- Wallet-sized Weingarten rights cards

### (Tools, Rules and Structures)

If you are just starting as a union representative, you will soon find out that there is a lot to know. But, no one expects you to become an expert overnight – you will learn from experience as issues and questions come up and from the advice you should seek from other local union officers and CTA staff.

The best starting point is to remember *the most important part of your job is building a strong organization to protect and fight for educators' rights*. This involves knowing the contract, the members you represent, the work they do, some history of your workplace, the powers and responsibilities you hold as a union representative, and how to organize and negotiate. Be patient, you will learn all of things in time.

### Enforcing the Contract and Defending Educators' Rights

Even before the ink is dry on a contract, you can expect administration to begin interpreting what has been negotiated to their advantage, no matter how carefully a contract has been worded, no matter how clear the language seems to be. Because the contract limits their authority, most administrators, are likely not to live up to the agreement. Issues also come up that are not specifically dealt with in the contract. In other words, the collective bargaining process never ends.

Once the contract is ratified, negotiations shift from bargaining to defending and enforcing the contract at our school sites. The job of a union representative is to defend the rights of our members as both an organizer and a negotiator. This means keeping an eye out for *any* unfair treatment of the people in your area involving wages, hours and working conditions and even violations of law. In order to do so, you must be familiar with the following:

### The Contract and Its Interpretation

Not every member will take the time to go through the contract and learn how it protects students' learning conditions and educators' working conditions. But everybody in your area will count on *you* to know it! Without effective union representatives to make sure it is followed, the best union contract in the world has little meaning.

## **Understanding the Contract**

Begin learning the contract by reading it. In time, you will not only know the sections of the contract that apply to a particular issue, but also the meaning and spirit of the contract language and how it has been interpreted in the past. No matter how clear the contract may seem to be, you will soon find that you and the administrator might not see it the same way.

Contracts can be confusing. They may have clauses that seem to contradict each other and others that are simply vague and unclear. There are several ways to sort this out:

- Explore previous grievances – Every CTA chapter should have grievances that it has taken up. By looking through these previous grievances you will know how contract issues have been resolved in the past.
- Check for side agreements – See if contract language has been modified by Memorandums of Understanding (MOUs).
- Ask what precedents have been set. When an agreement is reached, a precedent may be set, allowing the union or the administration to point to that decision when a similar case comes up. Learn the precedents that have been established by talking to other union representatives and local officers and, again, by examining past grievances.
- Discuss issues at union meetings.
- Talk with union bargaining team members (or read their notes) about what was meant when the provisions were negotiated.

## **District's Personnel Manuals and Policies**

School districts also have established board and district policies that are not covered in the contract. Find out what they are and become familiar with them. If the administration violates its own policies, you may have a basis for a grievance or a complaint to organize our members around.

## **The Members in Your Area**

Knowing the members in your area provides you with important information. Are they a member of the union? Do they support the union and its vision for the public schools? Do they participate in the union's activities? Make sure you have the member key contact information including cell phone numbers and non-work emails.

## **The Work Members Do**

A union representative must be familiar with the work done by the members he or she represents. Sometimes job descriptions are available from administration, but the best understanding comes from talking to your co-workers. Not only will you find out what they do, but you will also learn how they feel about their work and the issues they face.

## **Chapter Bylaws**

Your CTA chapter's bylaws will explain how your chapter works. They contain detailed information about its democratic operation, the election of officers, and other information that you will need to know when you talk to the members about the union.

## **Where to Call for Help**

You should also keep a list of important phone numbers available in case you need help. This list should include other union representatives at the site, local officers, and the CTA Regional Office.

## **Union Representative System to Support You**

Union representative may be called the “first line of defense” – but there is plenty of backup to do your job. The entire union leadership and CTA staff is there to support you.

### **The Grievance Chair and Site Reps**

The Grievance Chair’s job is to coordinate the work of enforcing the contract and report on workplace issues, problems, and successes to the membership. Together, with local leaders, the Grievance Chair helps develop strategies for maintaining unity and involvement among the members.

Experienced Grievance Chairs will explain past practices, contract language, modifications, and understandings between the employer and the union while helping Site Reps develop *organizational* solutions to workplace problems.

Site reps, should always keep the Grievance Chair informed about workplace issues and violations of the contract. Site reps should do their best to formulate a plan of action before they talk to the Grievance Chair about the issue. The system bogs down when the Grievance Chair is expected to solve every problem. Help the Grievance Chair by thinking ahead of time how we can mobilize people around the issue.

### **Working Together**

The system will work much more effectively when Grievance Chairs and Site Representatives work together as a team. They should get together regularly to discuss issues and strategies. It is the responsibility of the Grievance Chair and Executive Board to ensure these meetings occur regularly and that meetings are designed:

- To find answers to problems that come up in your site;
- To learn what is going on in other areas and how issues are being handled;
- To create and share information and materials that can educate and mobilize the membership; and
- To find ways to strengthen sites that are weakly represented or not represented at all.

### **Importance of Seniority**

Seniority is one of the most important principles of the workplace – something unions fought hard to win. It puts an end to favoritism and gives all workers an equal footing on the job. It is important to uphold this key principle in everything we do.

### **The Law and The Power You Hold**

When you were selected as the Executive Board Member, Grievance Chair or Site Representative, you were given a special position by the membership with special rights and responsibilities. By acting as a steward, you step out of your role as an employee and into a position of an official union representative – you speak for the union. This means that most rules which normally apply to workers as they deal with management do not apply to you when you are doing your job as the Executive Board Member, Grievance Chair or Site Representative.

### **The Equality Rule**

Employees are generally required to follow the instructions of the employer. In your role as an *employee*, you have a limited ability to protest or disagree with management. *When you are acting as a union representative*, you have entirely different rights. You are *equal* with the manager. You can openly disagree and argue vigorously with management during grievance meetings, question management’s authority, and demand certain actions of management without risking disciplinary action. The law recognizes that collective bargaining in general and the union representative’s job in particular requires open, direct, and candid communication between equals. A union representative cannot effectively represent workers if they are subject to discipline for assertive representation and advocacy.

Your rights and protections as a union representative as a union representative have limits, though. They apply *only* when you are acting in your *official capacity* in conversations with supervisors, in grievance meetings,



while you investigate a grievance, and so on. You are acting in your *individual capacity* when you discuss your own work assignments, work performance or compliance with work rules. Also, your protection from discipline may be lost if your conduct exceeds appropriate bounds. For example, threatening an administrator with bodily harm or physically striking an administrator obviously goes beyond the protections you have as a union representative. Because administrators often exaggerate when describing a union representative's behavior, it is always wise to bring another union representative with you to meetings with management.

### **No Reprisals**

It is illegal for the employer to use discipline, the threat of discipline, or any form of intimidation to discourage you from doing your job as a union representative. For example, it is illegal for management to deny you extra work opportunities, promotions, job transfers, or any other entitlement as punishment for being an assertive representative. Nor can management assign you the most undesirable jobs or supervise you more closely than other workers to "send a message" that your activities are not appreciated.

### **The Equal Standard Rule**

Finally, some supervisors take the attitude that union representatives can be held to higher standards than other workers. "You, of all people, should know the rules," is often heard for such things as coming in late or making an error. This is not legal. You are not a "super-worker" and you cannot be singled out for discipline, or harsher discipline, to "set an example" or "because you should know better." The only exception to this rule is in the case of an illegal work stoppage – and then, *only if* your contract contains language requiring the union and its leadership to stop the illegal action.

Your best approach is to do your own job well. You protect yourself from attacks and reprisals and undercut the typical employer's argument that the "union is only needed by those who are not good workers."

### **Duty of Fair Representation**

Your chapter represents *every* worker in your bargaining unit, member and non-member alike. As a result, the union has a *legal obligation* to represent *everyone*, regardless of their union membership (or anything else). This is called the "Duty of Fair Representation" – and it means the decision to take on a grievance may not be affected by the worker's gender, race, sexual orientation, nationality, age, religion, politics, disability, union membership, dues-paying status, or lack of popularity.

If the chapter fails to vigorously pursue a grievance for any of the reasons above, it could face charges or be sued by the worker involved. Does this mean that we have to file a grievance for *every* problem a worker brings up? No. It simply means that we have to do as good a job for one worker as we do for anyone else. In general, a worker charging "failure to represent" must prove the union's actions were based on *hostility* or *personal bias* (refusing to fight the grievance of a non-member or an unpopular worker, for example). If this cannot be shown, it is unlikely the charge will stick.

Many union representatives may find it difficult to represent a non-member, especially those who are clearly anti-union. The best approach is to use the opportunity to persuade them that supporting the union is in their best interest and that it is not right to use the union's protections and benefits *without* joining in the collective fight for better working conditions. Remember, you cannot let the employer set a bad precedent by not challenging illegal or unfair actions no matter who is involved.

### **Weingarten Rights (This is Important)**

Workers have the right to ask for a union representative, if they find themselves in *any* conversation, discussion, or interrogation with management that *could lead to discipline*. This includes everything from closed-door meetings where an administrator is trying to get an educator to admit to wrongdoing to conversations about work that become heated.

This right stems from a 1975 U.S. Supreme Court case, which also spelled out the role union representatives can play during such encounters with management. The court's ruling became known as "Weingarten Rights" (from the name of the case) and it is a powerful right too. But, in most cases, workers and union representative have to know about and ask for their Weingarten rights before they can be used. Here below we will summarize some key aspects about Weingarten Rights. To find out more detailed legal information about Weingarten Rights, please visit the University of California Berkeley Labor Center's PDF book called "Hey, The Boss Just Called Me Into the Office! The Weingarten Decision and the Right to Representation on the Job" on the subject: <https://laborcenter.berkeley.edu/wp-content/uploads/2021/04/Hey-the-Boss.pdf>.

### **Workers Must Know Their Rights to Defend Them**

Unless your contract requires the employer to inform workers of their right to have a union representative present, they must *ask* for union representation during an interview or exchange with management. Or, you must take action yourself to be included in such meetings or encounters. Either way, management has no obligation to tell workers their rights (unless the contract states otherwise). If workers do not ask – or if you have not included yourself – they have waived their right to representation. Workers do have the right to know the subject of the meeting and should ask.

Union representatives should be sure all workers know their Weingarten Rights – that they have a right to union representation. After asking about the subject of the meeting and if they feel that it could be disciplined or impact their working conditions, the worker should say something like:

"I would be glad to meet and discuss this just as soon as we can set up a meeting with my union representative. Without union representation, I choose not to answer any questions. These are my Weingarten Rights."

Once a worker asks for a union representative to be present, any attempt by management to continue asking questions is illegal until the union representative arrives. We encourage chapters to print out and distribute wallet-sized cards to all members at the beginning of the year for workers to read to the administrator if they find themselves in danger of facing discipline. Here is sample language for these wallet-sized cards:

*Under the law, employees are entitled to have a union representative present during any interview which may result in discipline. These are called your Weingarten Rights.*

1. *You must request that a union representative be called into the meeting.*
2. *You must have a reasonable belief that discipline will result from the meeting.*
3. *You have the right to know the subject of the meeting and the right to consult your union representative prior to the meeting to get advice.*
4. *Do not refuse to attend a meeting if a union representative is requested but denied. We suggest that you attend the meeting and repeatedly insist upon your right to have a union representative present. If this fails, we suggest you no answer any questions and take notes.*

### **Your Role in Weingarten Situations**

The Weingarten cases gives union representatives specific rights. Here is how we suggest you approach Weingarten meetings as a union representative:

1. When you arrive in a meeting, make sure management explains the issues involved.
2. Take a few minutes to talk privately with the worker. Discuss questions that might be asked and how to answer. Give them the following advice:
  - a. Do not volunteer information. Keep answers short.
  - b. Watch what you say. It may be used against you.
  - c. Keep calm during the meeting. Tell them we can always caucus if we need to.
  - d. Remember, the union is standing with you to provide a fair process ("due process").

3. Take notes on who says what. Not only will this help you remember what happened if a grievance becomes necessary, you may unnerve a supervisor who does not have much of a case.
4. Stop the administrator from harassing or abusing the worker. You should ask the administrator to clarify questions the worker may not understand. You also have the right to advise the worker how to answer questions and to provide additional information to the administrator after the meeting ends. In most cases, you cannot tell workers *not* to answer questions or to give answers that are untrue. If workers refuse to answer questions, they can be disciplined. But – and this is important – if you find a member being questioned with little or no warning, or if the issue involved is not clear, it may be appropriate to advise the worker not to answer until the employer clarifies the matter.
5. Always feel free to recess the meeting for a few minutes at any time if you need to talk privately with the member. You may also need to ask that the meeting be continued at another time – for example, if information is presented that requires more investigation or preparation.
6. Be aware that you *do not* have the right to participate in every conversation a worker has with management. If, for example, the supervisor is informing a worker that disciplinary action *is being given*, we do not have a right to be at this meeting because the worker is not being asked any questions that could lead to discipline. The same is true with evaluations as they are not discipline. The response to an unjust evaluation is a written rebuttal to be placed in the file along with the evaluation so others can see the educator's perspective. Make sure you are familiar with what your contract says since it may give you additional rights in these cases.

### **If the Supervisor Ignores a Weingarten Ask for Representation**

It is possible that a supervisor will deny a worker's right to have union representation. Advise everyone that, if this happens, they should stay and hear management out. Tell them to take detailed notes stating that they *asked for a union representative and the request was denied*. After leaving the meeting, they should contact a union representative *immediately*. Denying representation is a violation of labor law and could be the basis of an Unfair Labor Practice charge. Again, we encourage chapters to print out and distribute wallet-sized cards to all members at the beginning of the year for workers to read to the administrator if they find themselves in danger of facing discipline.

### **The Tools of an Organizer**

All of these tools – your chapter's experiences in fighting for justice, the union representative system, your legal rights and responsibilities – gives you the means to do your job. But remember, this information is for you to use as an *organizer who involves as many people as possible in the process*, not as a technical, legal expert. See the Organizing Grievance Form included in this handbook.

### **What If...**

**...an administrator calls a member at home about their attendance. Should the educator talk with the supervisor?**

No! They can talk about work issues at work. Again, any time a worker fears discipline, they can refuse to answer questions until she can talk with their union representative.

**...a union representative is called into the office to discuss a problem with the union representative's work. Can they bring another union representative?**

Yes! Union representatives have the same rights as any other worker – if you could face discipline, you are entitled to assistance! Never meet with management alone.

**...a worker is called into the office and is asked to inform on other workers. They are not in trouble...can they ask for union representation?**

Yes, because they could get in trouble if they refuse to inform on their co-workers.

**...even with the union representative present, could the member be disciplined for refusing to talk?**

It is likely. As long as management has a legitimate right to be seeking the information, your best course of action is to advise the worker to: 1) answer truthfully; 2) volunteer nothing; and 3) answer only what you have been asked and what they directly saw or heard – no conclusions.

**...I make a mistake as a union representative and a worker gets in trouble because of what I told them. Can they accuse me of failing in my Duty of Fair Representation?**

No. If there is no hostility or bad faith on your part you have not failed to do your job to the best of your ability.

**...An educator at your site who never comes to meetings and is always criticizing the union, is not paid for doing some extra work. Another member tells you Mary was not paid as she should have been under the contract. Mary has not approached you about the problem. What do you do as Mary's union representative?**

Reach out to Mary and seek to enforce the contract. Some employers will pick on people to start breaking down the contract. Your job is to see to it that the contract is followed. Represent every worker fairly.

**...a supervisor approaches a union representative at work and makes a change in their job assignment. The union representative argues and calls the supervisor a "S.O.B." Can they be disciplined?**

Yes. The union representative is not acting in their official capacity. When you have a problem, it is always best to get another union representative to represent you.

**...at the site where you are a union representative, the supervisor generally looks the other way when people leave a few minutes early. Lately, though, people have been doing it more and more frequently. When you leave early one day, the supervisor issues you a warning saying, "I need you to set an example. Besides, you know the rules better than anyone." Is this a violation?**

This violates the "equal standard" rule and it would be illegal.

**...an administrator tells five members at your site to do something that violates the contract. They come to you – as their union representative – you tell them to refuse. Can they be disciplined for refusing? Can you be disciplined for telling them to refuse?**

Yes and yes. Unless your contract states otherwise, the general rule to use is: "obey now, grieve later." If this happens regularly, however, you should figure out ways to let the supervisor know that contract violations will not be tolerated.

**Assertively Advocating for Our Rights & Enforcing the Collective Bargaining Agreement through Grievances**

Assertively advocating for our rights and enforcing the collective bargaining agreement through organizing and grievances is the heart of the union representative's job. A grievance is a violation of a member's rights at work. It can affect an individual worker, a group of workers, or the entire bargaining unit. A grievance can be based on a member's complaint or based upon action that you take when you see a problem.

Watch this "Turn It Around" Video from Teamsters union to get a better idea of how to assertively advocate for our rights and enforce the collective bargaining agreement through collective action:

<https://www.youtube.com/watch?v=tsoaq3moNic&t=781s>.

When you discover a violation of the contract, you do not have to wait for a worker to come forward. As the representative of all the workers in your area (and as an organizer), you should look for ways to stop the employer's unfair treatment.

### The Union's Philosophy About Handling Grievances

- Being an effective union representative requires courage. It also requires membership involvement! It is easier to be courageous with support from the membership.
- Always keep the employer on the defensive.
- The aim of the union representative, in addition to enforcing an agreement, is to improve it.
- Grievances are often settled because of the support we have in the workplace (our "strength") not by pure reason.
- "Justice" in the workplace is not an abstract matter of moral right but is a reflection of the power dynamic in the workplace.
- In the most fundamental sense, always begin with the notion that the worker's position is correct.

### Is There a Grievance?

To know if there is a grievance, ask two key questions: Have the rights of a worker been violated? Has the worker been treated unfairly by some action of the employer? A "YES" to either of these questions indicates a probable grievance. If you are not sure that there is a grievance, consult with the Grievance Chair before taking up the problem with an administrator or any other person in management.

### The Union's Approach to Solving Grievances

The best way to handle a grievance is to resolve it informally at your site – before it is put into writing! The farther it goes beyond a site administrator, the tougher it can be to resolve. Here is why:

- When you first take up an issue, it is easier to mobilize the workers at your site, adding strength to your case.
- The job of the site administrator is to make sure things run smoothly and that public services are effectively delivered locally and, as a result, is subject to pressure in a way that those "higher up" are often not as susceptible to. Besides, the site administrator has to work with you and the members every day. This can be a key pressure point.



## Workplace Tactics

Lots of tactics can be used to tell the site administrator that the members are upset! But, plan your strategy carefully. Is the tactic appropriate to the issue? What will the reaction be?

- **Buttons and Stickers** – Easy to make (especially stickers) and the supervisor cannot miss the message.
- **Petitions** – Get signatures from the workers on a letter (maybe a poster?!).
- **Signing Group Grievances** – Attach everyone's signature to a formal grievance.
- **"Blowing the Whistle"** – This can be a fun and very effective. "Blow the whistle" on contract violations or unfair treatment. Equip everyone with a whistle and decide when you will all "sound off."
- **Silent Treatment** – On the other hand, maybe everyone is just too mad to talk! Give the administrator the "silent treatment" (except when you have to respond).
- **March on the Supervisor** – Organize the members to confront the administrator who is violating the contract or treating a worker unfairly.
- **Informational Picketing: Lunchtime and After Work Rallies** – You can picket, handout leaflets, and do some chanting and cheering.
- **Work-to-Rule** – Has the supervisor thrown the book at someone? Maybe we can turn the tables. Do your job to the letter and do not do the other "little extras." This is very difficult to do and if done it should focus on things that do not impact the students but administration. Otherwise, working-to-rule is likely not to visibly demonstrate unity and strength.

See the Organizing Grievance Form included in this handbook.

Your job is to show the administrator that the union is aware of the issue, to present the facts, and seek a remedy for the problem. Keep in mind how the decision-making process is structured so you can organize your actions to win the best results.

### Organizing to Win Grievances

Every contract should contain a formal grievance procedure outlining how problems can be solved by taking workplace issues through increasingly higher-level meetings between union and management. Make no mistake, the grievance procedure is important and you must know how to use it. But, do not let the fact that it is spelled out in the contract confuse you about an important point: *Your aim is always to resolve a problem **before** it becomes a formal written grievance! Talk with the educators, plan a strategy, mobilize the members, and try to solve the problem informally first.*

One trap union representatives can fall into is thinking that the grievance process is mostly a legal exercise. Looked at too narrowly, the grievance process may seem to be something like a court case. We file and argue our case, a decision is made which, if unsatisfactory, we appeal to the next higher level, and so on. In fact, as a union representative, you **must** look at the situation from a much different and broader point of view. Thinking legalistically about defining problems and arguing cases can weaken and destroy what is most important to your local union: a strong, unified membership.

It is important to understand that many grievances are ultimately resolved on the basis of strength and unity – much more than on the basis of pure reason. If the administrator can get away with denying a grievance, they will often do so, not matter how justified the union's position. You will win more grievances if you have the backing of the educators at your site. With their support, you can easily say to the administrators, "It is in everyone's best interests to resolve the matter now."

Here are some tips on how to organize to win grievances:

- **Inform and Involve the Members** – Union representatives must mobilize the workers we represent to solve their grievances. Even the best and most logical argument has to be backed by the strength of union members and their readiness to fight for a just agreement when necessary. Of major importance is keeping the affected worker and the entire site fully informed at all times on the status of the grievance, especially if the grievance is dragging on without an agreement. By involving and informing the members, the union representative helps to avoid rumors, misunderstandings and from being associated with management's bureaucracy and their likely delays.
- **Show the Boss the Members are Upset!** – Make the union's strength visible! Whether it is through a group meeting with the supervisor, march-on-the-boss, a petition, wearing buttons/stickers, asking educators to let the site administrator know they are mad, or asking everyone to sign a grievance, etc. Having the support of educators at your site makes the administrator think twice before denying a grievance. They know it cannot be pushed aside or forgotten. When the members are sharing the problem with management, you will get their attention and focus. Your fellow educators, local leaders, and CTA staff can help you brainstorm for tactics and strategies that will work.

### **Types of Grievances, Burden of Proof & Democracy**

In general, grievances fall into two categories: *discipline grievances* and *non-disciplinary grievances* like contract interpretation issues. In discipline cases, the employer *must prove that it had "just cause"* to take the action it did. Think about how important just cause protections are if we want a democratic society and workplace where most people spend their waking hours! No one, for example, should be disciplined or deprived of their livelihood unless the employer can prove that they indeed did something to justify these actions. Anything else is contrary to the basic democratic principles of due process and justice. In cases where no discipline has been applied, the union *must prove that a violation of the contract has occurred*.

### **Discipline Grievances**

*If the employer has imposed discipline, then the district must prove it had "just cause."* Discipline grievances raise four issues:

- **Is the educator guilty of the offense and can the district prove it?** In discipline cases the employer has the burden of proof. The employer must be able to show that it was justified or had "just cause" for imposing discipline. If the district does not appear to have proof, we should not attempt to "prove the worker innocent" as the presumption should be that they are innocent." Ask the employer why it disciplined the worker. Probe for how much evidence the employer has including information from witnesses and documentation. In the initial meeting, have the employer lay out why we are meeting and have them share information before we speak.
- **Did the employer follow the proper procedure when it imposed the discipline? Did the employer violate the worker's right to basic democratic procedural due process?** Even if the worker is guilty of the conduct in question, you may be able to successfully resolve the grievance if the employer has not respected the procedural rights of the worker. Were Weingarten Rights respected?
- **Is there a reasonable, clearly defined work rule that covers the behavior? Does – or should – the employee know the rule? Is it necessary to the orderly, efficient, and safe operations of the district?**
  - Was the rule applied fairly and consistently? Or, was the worker singled out for different treatment?
  - Did the district investigate before taking action – or has this case been "cooked up" for another reason? Was the investigation fair? Did someone other than the immediate administrator make the ultimate decision?

- **Even if the worker is guilty – is the penalty too severe?** Discipline should be corrective, not punitive. Except in extreme situations penalties should be applied gradually increasing severity before discharge is invoked – verbal reprimand, written reprimand, suspension, discharge.
  - Does the “punishment fit the crime?”
  - Has the employer followed the principle of progressive discipline? Was the employee warned?
  - Is there a past practice of lesser discipline for the same offense?
  - Is there some reason the offense could be partially excused, and the penalty be made less severe?

### **When a Reprimand Is Not Resolved**

If you cannot resolve a reprimand informally or at any step in the grievance procedure it is doubtful that your chapter will take the issue to arbitration (or strike). But employers try to build their cases through written reprimands in order to get rid of workers. If the member and the union regard a reprimand as wrong, and the employer refuses to compromise, then the union should tell the administrator, in writing:

“This reprimand is unfair and we reserve our right to challenge both its content and its use in any future disciplinary proceeding.”

This way, you can revive your arguments if the administrator takes more serious disciplinary action at a later date.

### **Non-Disciplinary Grievances**

If the contract, laws, or rights are violated, then the union must take action. A non-disciplinary grievance is a violation of a worker’s rights on the job. If trouble occurs at work – you see a violation or a member comes to you with a problem – ask yourself the following questions:

- **Is it a violation of the contract?** Contract grievances includes violations of the contract, memoranda of understanding (MOU), and previous grievances (including arbitration decisions) that have been agreed to under the contract. Contract violations involve issues such as seniority, hours of work, staffing, pay, working conditions, and discipline.
- **Is it a violation of federal, state, or local law?** Laws written to protect workers are implicitly part of the contract and violations of laws can be the basis for a grievance. Some laws to consider include OSHA, Worker’s Compensation, ADA and others. Your contract may modify how certain laws apply to your workplace, usually by expanding legal protections but occasionally, and sometimes unfortunately, by limiting them. If you think a law may apply, make sure you know what the contract says about the issue.
- **Is it a violation of past practice?** No contract can cover every practice on the job. A practice (way of doing things) that has been in place for a long while and is accepted by both the union and management may well be the basis for a grievance if it is violated. A short definition of past practice is any long-standing practice that: 1) occurs regularly; 2) both the union and management have accepted in the past without challenge; and 3) does not violate the contract or any written employer rule. Past practices usually cover situations where the contract is silent or unclear. A past practice grievance usually arises when management unilaterally and without notice to the union changes an established procedure or disciplines a worker for following a past practice. These guidelines will help you determine if a past practice violation has occurred:
  - **Uniformity** – Was the practice consistently applied over a long period of time? Did at least a majority of the employees have the opportunity to enjoy the practice?
  - **Longevity** – The longer the practice has been in effect, the stronger the case for it to be considered a “past practice.”
  - **Acceptance** – Both the union and management know that the practice has been in effect with no objections?
  - **No Written Language** – There is nothing written in either the contract or district policies regarding the practice. Lax enforcement of a rule does not create an enforceable past practice.



- **Is it a violation of management's rules or responsibilities?** Management has the responsibility to provide safe and healthy working conditions. Likewise, management has the right to set certain policies under the contract as long as:
  - Notice is provided to the employees and the union;
  - The rules are reasonable "on their face" and
  - The rules are reasonably and fairly applied.

If management fails to fulfill its responsibilities or violates its own policies, it may be necessary to take on the issue. For example, you may use a district's policy prohibiting sexual harassment to defend a worker being harassed by an administrator.

- **Is it a violation of fair treatment?** Management cannot legally discriminate on the basis of race, sex, age, nationality, religion, or union activity. Discrimination grievances can be difficult to prove but are important to pursue. We must work with the members to carefully document all evidence of discrimination against a worker.
- **Is it just plain unfair?** Finally, remember, anything that is unfair we should still consider organizing around the issue. For example, even if the contract does not say a word about the issue, we should still work to undo the injustice through organizing.

### **Investigate – and Keep Good Records**

Before acting on a grievance, you must investigate and learn the facts and often this means digging for them. Keep in mind, you have a right and an obligation to investigate grievances as thoroughly as possible. Do not let the district give you a hard time about doing your union work.

### **Interview Everyone Involved**

When a member is angry, in trouble, or afraid, he or she needs time to tell the complete story. Sometimes part of the story may be unfavorable to the worker; sometimes workers think you already know the background. To get the full story, remember to ask the "five Ws:"

- **Who** is involved (including the grievant, witnesses, and supervisors)?
- **What** was said or done?
- **When** did it happen?
- **Where** did it happen?
- And, even more important, **Why** did it happen (what was the underlying cause)?

Talk not only to the grievant, but with co-workers, witnesses to the event, other union representatives, administrators (you need to know management's view too, so you will be prepared).

### **Look for Precedents (And Keep Good Records!)**

Keep detailed, accurate notes on every grievance and a complete record of the facts (even those which are not formally put in writing). With good records, not only will you be well prepared to argue each grievance, you will easily know if a similar case has been resolved before. If all union representatives keep records, they can know whether similar cases in other school sites have been addressed previously.

Check your chapter's grievance file, and with other union representatives, to see if a similar case has come up. If you find an unfavorable precedent, you will need to think about how the current issue is different than the earlier case. Keeping good records helps formulate bargaining demands (proposals), too, as contract clauses that should be changed can be quickly identified.

### **Tips on Interviewing**

The key to conducting a good interview is active listening. Since interviewing is your primary method of investigating a grievance, here are some tips:

- Take your time and be relaxed. Concentrate on listening and drawing information from the person you are interviewing.
- Show understanding and respect. Encourage the worker to "get it all out" – both facts and feelings. Make the person you are interviewing feel comfortable as it will lower their anxiety and help them tell their full story.
- Ask questions to clarify what they have said or what you do not understand. But, ask "open-ended" questions that cannot be answered with a "yes" or "no." For example: "What did the administrator tell you?" will produce more information than "Did the administrator tell you to leave the site?"
- Occasionally repeat back to the member what you have heard to show you understand and to bring out new facts.
- Avoid making judgments during the interview. Form your opinion later, after you have gathered all the facts.
- End the interview by assuring the member that you will keep them informed about your progress. Tell them when you will get back to them.

### **Demands for Information**

Another place to look for information relevant to a grievance is the employer! You have the legal right to obtain information you need from the district to pursue a potential grievance at any stage in the grievance process. Not providing the information could be an Unfair Practice Charge. Demands for information may include: documents, factual information, data compilation, and general inquiries. Be as specific as you can and, unless the information is immediately available, put the demand for information in writing and keep a copy!. Demands for information have two benefits. First, you will end up with more information. Second, you may make your district think twice about the violation. In some cases, the district has actually given in rather than go to the trouble of digging up the information that is required.

### **Working With the Facts**

Unless the grievance is very simple, you will need to analyze the facts and get your thoughts in order. Working from your notes taken during interviews and investigation, along with any other information, you may find it helpful to get the story down on paper:

- What exactly happened?
  - Why did it happen?
  - What has been violated (the contract, past practice, fair treatment, management policies)? Write the story in complete sentences.
  - Why is (or is not) this a grievance?
- Plan your argument. Ask yourself:**
- What is the specific issue?
  - Do I need more information? Where will I find it?
  - Has the grievant(s) given me all the information they have?

## **Right to Demand for Information**

Under the law, unions have the right to demand information from the employer as long as it is information needed to enforce the contract and represent our members including in bargaining. Documents and records we can ask for include the following:

- Accident records, attendance records, contracts with other bargaining units/unions, contracts with outsiders, disciplinary records, employer memos, equipment specifications, health and safety studies, inspection records, insurance policies, job descriptions, job evaluations, names of witnesses, payroll records, personnel files, seniority lists, training manuals, videotapes, etc.

Ask for documents when it is necessary for a grievance or to counter a district claim. For example, if an educator is terminated in a way that relates to "complaints," you can ask for the relevant information. Or, if the district claims it has no problem in getting qualified applicants for jobs, you may ask the district to provide documents to support that claim.

Tips to remember:

- The union may demand information before filing a grievance. You are under no obligation to reveal the nature of the grievance. This is part of your right to make sure the contract is being enforced. Remember, though, the union must have some suspicion of a grievance. "Fishing for information" is a violation of the union's obligation to bargain in good faith.
- Multiple information requests concerning a single grievance are allowed at any stage of the grievance process.
- The employer must pay for supplying the information, unless it can show that "substantial costs" are involved. In this case, the union and employer must bargain over sharing the costs. If costs are a problem, the union can ask for direct access to the information.
- The employer does not have to produce information in the precise format requested by the union (for example, a summary of the extra hours worked by employee). However, if the information does exist in the format requested, it must be produced.
- If it is necessary to your argument (demonstrating unequal treatment, for example), the union may also request information on non-bargaining unit employees.

## **Can the District Demand Information from the Union?**

The union is not required to furnish employers with much information. Our obligation is limited to telling the district who they are dealing with, such as names of officers, union representatives, etc. The only other information the district can legally obtain are the financial reports which should be filed by each local union with government agencies.

## **When There Is Really No Grievance**

Occasionally you will be confronted by a situation where a worker feels abused, but there seems to be no contract relief and no organizational way of handling the problem. This presents a special problem. First, make sure the issue is not based on a dispute between workers rather than with the employer. Then, if you are sure there is no grievance, go over the results of your investigation with the worker, point out the consequences of taking up cases without proof (it discredits the union, for one thing), and take the worker with you as you consult the Grievance Chair, chapter officers, or CTA staff. Explain the situation to the person diplomatically, so that they know the union is trying to help and explain it in a way that encourages them to bring up future problems.

## **Taking Action**

You have gathered the facts, interviewed everyone involved, obtained information, talked with other union representatives and local leaders and it seems clear that there is a grievance. Time to file a grievance, right? NO!

Now is when you should think through your strategy for winning the grievance and resolving the problem. Remember two things: 1) most problems on the job can be and should be attempted to be resolved without filing a formal grievance; and 2) grievances should never be confused with your chief responsibilities as a union representative – to build a united, organized and involved membership! The next steps to take are up to you, depending upon the circumstances. They involve taking the issue to the members and exploring the problem with management. The order in which you do these two things will depend on your workplace, administration's likely response, and the seriousness of the problem. Think it through and decide on your best course of action. Keep in mind the time limits that are part of the formal grievance procedure in the contract in case you do have to file a formal grievance.

Be prepared for your informal meeting. Have a preliminary strategy and a tentative solution in mind. Keep these points in mind anytime you meet with management:

- While you are doing union work, you have the protection of the law (remember the equality rule). Keep administration accountable by making sure they are respectful and professional.
- Discuss issues, facts, and procedures – not personalities or rumors.
- Do not lose your temper – use it! Becoming disrespectful will only discredit yourself as a negotiator and representative and will interfere with your ability to think clearly.
- Take notes on management's position and ask questions. This will break up any attempt by administration to turn the session into a "lecture" and will bring out information you can use to expose weaknesses in management's position.
- Remember, you are trying to solve a problem for the good of our members and students.

In any grievance, your position will be much stronger if you have taken the time to organize and inform other members so that you can honestly share their collective anger to the district. This will be a powerful message.

### **Not Resolved? Then Use the Grievance Procedure**

If all else fails and a grievance cannot be resolved informally, use the formal grievance procedure in your contract. Since it was not possible to solve the grievance during an informal meeting, you will have to develop a strategy to move the grievance through negotiations in escalating grievance meetings with administrators.

Chapter contracts contain exact steps to be followed in filing a grievance. The early, or first steps, focus on relatively informal efforts to solve a problem – probably in grievance meetings between the educator, an administrator, and the union representative. If a grievance cannot be resolved, informally or at the first step, it moves to the next step in the process. Each additional step calls for progressively higher level meetings between union and management representatives. Be especially careful to note the time limits that have been set for each level for both the district and the union.

You will be directly involved in the early stages of the grievance process: hearing the complaint, investigating the issue, informing and involving the members, deciding on a course of action and taking up the grievance with supervisors. If the grievance cannot be resolved early on, you will be responsible for moving the grievance to the higher steps.

By following the grievance procedure as it is spelled out in the contract, you take away the administrator's chance to deny the grievance for that reason (timeline). Remember to keep the members involved and the grievant informed through the formal grievance process too! Keeping the pressure on the administrator can only help you win the case. It also keeps the issue from "fading away" and reminds everyone that the union is taking action.

### **The Formal Grievance**

Formal grievances are workplace issues that have been reduced to writing. Keep your written grievance as short and concise as possible. It does not have to be complicated and you do not have to argue the case on paper! Be sure to include the basic facts and dates and the remedy you are seeking (what we want the employer to do to resolve the grievance). A good written grievance contains three brief parts:

- **The circumstances:** A one-sentence description of what happened or failed to happen. This statement should include the grievant's name and state where and when the grievance happened.
  - "Rebecca Smith was transferred without the required notice per the contract."
- **The violation:** What is violated? If you know of any past practices or other specific violations of district policies or federal, state, or local laws, add these violations to your grievance. Please be sure to always add "and any other relevant sections of the contract" to cover yourself and include any other provisions that you might have missed. If you feel there is a grievance (you know something is unfair) but cannot find anything that has been specifically violated, consider using the Recognition Clause of the contract as the basis for the grievance and attempt to organize our members around this. This clause, in every contract, recognizes the union as the exclusive bargaining agent for workers wages, hours, and working conditions.
  - "The district violated Section \_\_\_\_\_ of the contract and any other relevant sections of the contract."
- **The remedy:** How do you want the employer to correct the situation? Consider what the educator would have if the grievance had never happened – wages, back pay, benefits, seniority rights, etc. Since determining all of these factors may often be difficult at the time you are writing the grievance, you should use the phrase "that the worker be made whole, including but not limited to \_\_\_\_\_." If the grievance is a group grievance (if management takes actions which affect entire departments or sites or the entire bargaining unit), your remedy will call for management to "rescind this change and restore former conditions" or "cease and desist this practice." Do not include arguments, evidence or justifications in the written grievance! Disclosing this information could give the district an edge in preparing their case against the union. Review the written grievance with the grievant(s) and have them sign it. This guarantees that the grievant has seen, read and understood the grievance and the remedy being sought and provides legal protection for the union when determining the final agreement. The exception: if the grievance does not involve discipline, the union representative may sign the grievance on behalf of the union in order to stop a contract violation.

### The Grievance Meeting

A face-to-face meeting with management can be intimidating for a new union representative, but it helps to remember that when you are representing the union on union matters, you and the employer are equals. The law protects you from being disciplined or threatened with discipline for union activities. Many union representatives find it helpful to write out their main points and the facts that back them up. It also helps for you to "think like the administrator" so you can anticipate the arguments management will use. Always meet with everyone involved from the union side before meeting with the employer. Inform the grievant about what points you will make. Decide what the grievant should and should not say or whether they should be at the meeting. Prepare the educator for what you think administration will say. If the grievant will not be at the grievance meeting, have another union witness present with you.

- **Always maintain a united front when dealing with management!** Call a caucus (a private meeting) if any member has an objection or suggestion or if anything unexpected occurs.
- **Never volunteer information not helpful to the case or facts that damage your case.** Make management prove their own case with their own witnesses, etc.
- **Keep a record of all verbal comments by the employer.**
- **Do not be afraid to ask for help from the Grievance Chair or another union representative.**
- **Point out the collective support of the membership behind the cases you present to management.** In the last analysis, the strength of the union and the unity of the members is what counts.

### Management Tactics

Most administrators do not like having to deal with union grievances and many will do whatever they can to make the formal procedure ineffective. Often, they will try to reduce the real grievance handling to one step by refusing to answer the union, ignoring time limits or issuing routine denials in the early stages of the grievance process. Sometimes, when chapters have mechanically relied on *filing* grievances instead of *fighting* and organizing around them or when management has made a mockery of the process, even the members may begin thinking there is no point in taking grievances through each step. This paper approach (reliant on paper grievances without organizing the members around the grievance/issue) can destroy your chapter's ability to fight for the members and plays into the hands of the district (quick, easy, and clean denials with no workplace opposition). Do not let this happen! If this is the case, look hard at why your grievance procedure is not working and organize to make it work!

### **Management Tactics (& Individual Grievances)**

In addition to undermining the entire grievance process, management may also use these tactics to keep from resolving a grievance:

- **Stalling** – If the administrator stalls in giving an answer on a grievance, do not hesitate to invoke the time limits in the contract. It is always the union's job to move the grievance along. If a supervisor cannot or will not deal with a grievance, move it to the next step once the time limit has passed.
- **Horsetrading** – When you have one or more grievance pending, management may offer to trade one for another. But since each worker has a right to fair treatment, each grievance should be heard on its own merits. Trading is a bad practice and destroys confidence in the union.
- **Discussing Side Issues** – To get you off track and try to gain the upper hand, management may bring up issues that are not related to the grievance at hand. Insist that any discussion stay focused on the grievance.
- **Provoking Emotion** – Some supervisors will say things intended to make you or the grievant fearful or angry. Do not take the bait! Call a caucus, if you think the grievant might say something that they may regret.

Despite your best efforts, grievances can move to beyond the informal stage. Because some grievances can take weeks or even months to fully process, it is critical to keep the grievant and the members fully informed of the progress of the grievance as well as any agreements offered by management. Again, always incorporate organizational (collective action) ways to keep pressure on the administrator to address the issue. Remember: the further up the ladder, it is often less likely a grievance will be resolved in the grievant's favor.

### **Arbitration is a Dangerous Game**

Ultimately, when a grievance has not been resolved along the way, the chapter will face the question of whether to send the issue to arbitration to have the problem resolved by a third party. Here is where we urge all chapters to use extreme caution because the use of arbitration to settle grievances, unless absolutely necessary, for four very good reasons:

1. **Arbitration Weakens the Union.** Arbitration, which gradually replaced the right to strike over grievances, can undermine union strength. As a means of settling grievances, arbitration was a creation of employers in the 1930s trying to tame union strength and union leaders who were looking for an easy way out. Arbitration offers a way to "pass the buck" for some union leaders instead of fighting the grievance by mobilizing and organizing member they can blame the arbitrator for a ruling that goes against the worker and for the employer.
2. **It is Difficult to Win in Arbitration.** Our odds of winning in arbitration are just not that good. For example, figures from the American Arbitration Association, covering a 10 year period, showed that just about 50 percent of all union grievances were denied, between 28 and 30 percent were upheld, and about 20 percent were "split decisions" where the rulings gave something to the employer as well as the union. In

other words, about 70 percent of all grievances going to arbitration are denied in whole or in part. In our experience, unions fare best in discipline and discharge cases, where union's odds improve to about 50-50. Arbitrators, usually selected by both parties per their contracts, are supposed to issue decisions based on the case and its facts. Arbitrators have lots of room to make decisions for their own personal reasons. For example, some arbitrators split decisions because they believe they will have a hard time getting cases if they decide in the workers' favor too often.

3. **Arbitration is Expensive.** Even though costs are often split between the local union and the employer, there are plenty of administrators who know they can bankrupt local unions by forcing case after case to arbitration. With empty treasuries, it is difficult for chapters to function, and the bad employers sometimes seek to employ this strategy for this reason. Do you qualify for the CTA Crisis Assistance – Arbitration Participation Fund? The chapter must have a local dues level of at least thirty percent (30%) of CTA dues rounded down to the nearest \$5. This dues level applies to the fiscal year prior to the year in which the application is received. Under special circumstances the CTA Board of Directors may waive this requirement. (The local dues level for 2019-20 and 2020-21 is \$180). See the CTA Guidelines for Chapters Requesting Crisis Assistance document.
4. **In many instances, it may be better to leave a grievance unsettled** until the time is right to make another effort. This prevents an arbitrator from making a ruling that would scrap the contract provision or other practice in question and set a bad precedent for similar cases in the future. In the final analysis, it may be better to “lose” a grievance and “live to fight another day” than have an arbitrator write a decision that the employer will wave in your face every time the issue comes up. Sometimes, when the employer knows we will keep on objecting, they will back off even though they will officially continue denying the grievance. Seriously consider writing a letter maintaining our position and documenting our disagreement on this issue while withdrawing the grievance at this time. It could be say, “While we are withdrawing our grievance at this time, we continue to disagree on this issue and we reserve our right to challenge this issue again in the future.”

The final decision to arbitrate a grievance should be made by the members at a membership meeting or rep council meeting. And, arbitration should only be used when there is no other organizational way to win and only when the union's case is so strong that even a management-minded arbitrator would have trouble ruling against the union.

### **Other Actions Worth Considering**

Sometimes, organizing in your workplace and using the grievance process are not enough. Here are some more strategies to consider:

- **Organizing Community Support** can bring pressure to the district in ways you cannot. Ask for support from other unions, churches, community groups and others. Put together a leaflet showing how workers have been treated unfairly and spread it far and wide.
- **Involve Public Officials** who can do a little arm-twisting with management.
- **Use the New Media** to get out your story and pressure the district. This can work especially well if the members are mobilized at a rally or demonstration. Make sure you present your side of the story as clearly and briefly as you can. Reporters do not necessarily want more than the bare facts and many have a short attention span.
- **File a Complaint with a Government Agency** such as the Occupational Safety and Health Administration (OSHA), the Equal Employment Opportunity Commission (EEOC), etc. Be prepared to for delays for these agencies to respond but make sure the employer knows what you have done (or are planning to do). Just the threat of government reporting can sometimes produce the result you want from the employer. Once again, combine this approach with organizing whenever possible.

## **Grievances, Unfair Practice Charges and PERB**

There are times when your chapter may consider taking an issue to the Public Employees Relations Board (PERB). This is appropriate when you are sure that management has violated labor law and you are positive there is no other way to solve the problem. You file an "Unfair Practice Charge" (UPC), PERB investigates and, if it determines your charge is valid, it issues a complaint against the district (this is another way of saying that, if PERB agrees with you, it will take legal action on your behalf). Be careful! PERB is notoriously slow at handling cases and a decision to go to the board could backfire if it is used without organizing our members and the community. The best rule is to not rely on "legal strategies" or "legalistic thinking" to solve problems with the employer. If you must take an issue to PERB, you have six months to file a UPC charge and you can withdraw the charge if you come to an agreement.

## **Approach to Using PERB**

In most cases, our approach should not rely on using PERB. A legal approach alone instead of a focus on an organizing approach can weaken our local chapter since relying on PERB can often "take the fight out of the members." The issue is completely removed from the workplace and you will probably wait a long time before a ruling. Plus, a PERB decision by the Board can set a bad precedent just as easily as an arbitrator, leaving the union with problems in the future. Occasionally, it might be a good tactic, or even be necessary, to use PERB but it should not be relied upon by itself. We cannot emphasize enough how important it is to mobilize and rely on the strength of our members as it is absolutely key to having the power to create good working conditions. For example, if we file a UPC and our members are willing to participate in a legal Unfair Practice Strike to highlight and expose the issue, this obviously will certainly increase our chances for success than if we simply filed a UPC.

## **The First & Final Word on Rank & File Collective Action**

Why put such emphasis on workplace solutions to grievances and issues? Because that is where we are and have always been the strongest. In the early days of the labor movement, there were no rules about how to address workplace issues. Contracts were simple, short and, for the most part, covered only such things as wages and hours. Handling a "grievance" usually meant union members saw something was wrong and did something about it on the spot. Employers faced immediate and direct action and a lot of work stoppages! Problems, however, were solved quickly. As time went on, employers sought to control these workplace actions in negotiations. Spontaneous work stoppages became "the right to strike over grievances" and, later, the grievance procedures we have today. Adding arbitration to the grievance process was the "icing on the cake" for the employer because it meant there would be much less the union could do to interfere with the smooth flow of production or the delivery of services, the things (aside from profits/costs) that are most important to employers.

While this might have sounded good on paper, the price was high. In many unions, membership action was replaced by a paper grievance process that often produces delays and ineffective results (a "paper tiger"). The addition of arbitration only meant turning worker's problems over to lawyers, consultants, and people who are removed from the issues and realities of the workplace. The result is usually weakened unions that have forgotten how we got our rights and how we should defend them. We should fight this tendency to "de-activate" our chapter members. We urge chapters to be assertive and to always emphasize our collective strength through workplace actions.



## **What If...**

*What if the grievant reveals a fact in the grievance meeting that I did not know about?*

Call a caucus and find out what it is about. Good interviewing can sometimes help prevent this, but it happens to every union representative at some point. When you meet with the member before the grievance meeting, always ask "Is there anything else that I should know about?"

*What if I cannot make a full investigation within the time limits to determine if there is a grievance?*

File the grievance and continue your investigation. The union can withdraw the grievance at any time.

*What if I make an error at the first step?*

You will have another chance at the second step and you will have time to discuss the case with other union representatives to help you.

*What if a worker's rights have been violated but they do not want to file a grievance?*

Fear is a very real feeling in the workplace today and a union representative needs to assure members that the union and their co-workers will support them. Remember, though, "an injury to one is an injury to all" and we have the responsibility to make sure the contract is enforced, and workers' rights are not violated. If filing a grievance is necessary but a member is not willing to come forward, it could potentially be filed as a "union grievance." Letting violations pass without some kind of union action weakens the union and encourages the employer to single out other fearful workers.

*What if an educator is violating the contract or otherwise doing something that will get them in trouble?*

Consider talking with the educator privately and ask a friend of the worker to discuss the issue with them. Your role is not to be a "police officer" but rather that of a union leader concerned that the worker will be disciplined, and the entire union will be weaker because of this action.

*What if administration interviews and disciplines an educator without the presence of a union representation?*

Under a 1975 U.S. Supreme Court, a worker has the right to request union representation when the worker reasonably believes that disciplinary action may result from a meeting with management. This is known as "Weingarten Rights." However, it is up to the worker to request the union representation. The employer is under no obligation to inform the worker of their rights. It is important for you to tell workers you represent about this right.

*What if a non-member asks me to handle their grievance?*

You must handle it just as you would handle a member's grievance. Under the law, the union must represent everyone in the bargaining unit fairly, without discrimination or hostility. This is known as the "Duty of Fair Representation". It gives you an opportunity to show the non-member rank-and-file union in action and they may reconsider joining.

*What if there is a provision in the contract about scheduling that you are getting a lot of complaints about. You investigate but their does not seem to be a violation of the agreement. What do you do about it?*

Put the employer on notice that this is a problem and figure out some ways for the members to let the district know that we do not like it. They may be willing to work it out. If there is an element of unfair treatment involved, you may be able to pursue the problem under the contract's union recognition clause, but what are some organizational ways you can address this concern? Can you make a proposal in negotiations the next time the contract is open and organize around it?

*What if we win a grievance?*

Make sure everybody knows it! All too often, members do not hear about union successes. Let them know we have won and that it is a victory for the entire union.

### **Organizing our Members for Success (A Good Offense is the Best Defense)**

Union representatives have a much easier time handling workplace problems when they have built a strong workplace organization. Here is where your skills as an organizer are as important as what you know about the contract, laws, and the operation of your chapter.

Communicate and talk with all members, not just your friends for example, and find out what they are thinking. Ask them about their problems and issues. Tell them about news from other areas of the workplace and union and always try to unify the workers and bring a sense of solidarity.

### **Welcome New Members**

Try to be the first person to welcome new members and sign them up for the union. Seek out new educators yourself and introduce them to the union. Do not leave it to the district and administrators to introduce new educators to the union.

- Give them copies of the contract and show them how their rights and benefits are an achievement of the union and not a gift from the district.
- Give them a welcome packet. Tell them what the union has won and how it has improved wages and working conditions. Explain that the union is the members – the people all around them – and not some outside agency.
- Give them your contact information. Emphasize that you are the person to come to if they have a concern.
- Show them the ropes – where people meet for lunch, what the supervisor is like, etc.
- Ask other union members to spend time with the new educator.
- Invite them to the next union meeting.
- Make them feel welcome and important!

### **Make Sure Members Know They Are the Union**

Always work to make all members feel like they are part of the union. This is essential to build democratic participation.

- Keep members informed about the union's achievements and current challenges. This includes local union issues as well as political action, organizing campaigns and other union activities. Do not forget about listening to their concerns and keeping them updated on grievances and workplace issues.
- Hold regular open worksite meetings at lunch, before/after work, or whenever it is convenient for members to discuss issues.
- If your chapter has t-shirts, buttons, etc. to show solidarity and strength, give the members these items.
- Lead by example and wear these solidarity items yourself.
- Build a network of union leaders by asking co-workers to help on projects and campaigns.
- Get the strongest members to help in distributing literature, talking to members, and getting people's contract ideas. Ask them to write up victories for the chapter newsletter (or a special flyer).

When members know what is going on in their union, when their concerns, issues and ideas are heard and respected, you will be more likely to hear them say "what are we going to do" about a problem. If you hear the question "What is the union going to do about this?" then you will know you have more work to do to educate the members about what the union is, their role, and how it gets its strength. At the very least, this member does not yet understand that they are the union.

### **Tell Members About the Union**

Sooner or later, you will probably hear a worker say something like "What has the union ever done for me?" When that happens, there can always be a good answer. However, you must be prepared.

Know the history of your chapter and unions and what it was like for educators and workers in general before the union and what it took to win union representation. How have conditions improved and what difference has the chapter made?

Look at wage increase and benefits that have been won over time. Find examples of how your chapter has saved jobs and won such things as better working conditions. Keep examples in mind of how union representation has made a difference. Compare what it is like in a non-union job. These are all things that union members take for granted over time.

Members should also understand that they are part of a democratic union that requires their active participation if it is going to achieve its goals. They should also understand that they are part of a larger labor movement as well, including the Red for Ed movement that has been sweeping the nation in recent years. In the end, the members must understand that the union will only be as strong as they collectively make it.

### **Rank-and-File Unity is the Foundation**

The unity of the members determines how well we can advocate for and defend the rights of CTA chapter members. A contract, laws, etc. will not help if the district thinks they can get away with violating them and have no consequences.

### **Democracy & Your CTA Chapter**

- Your chapter is a rank-and-file, democratic union that is run by its members.
- Your chapter establishes its own constitution and bylaws (in keeping with the constitution of the state and national unions), elects its own officers and conduct their own affairs by bargaining with the district and enforcing their own contracts, etc.
- Your chapter members ratify (vote on) contracts directly and make their own decisions on all important local issues, including the decision to strike.

### **Recruit New Members**

A union representative must try to sign-up non-members and win over anti-union educators. Ask them about their issues and concerns and learn why they are anti-union. Try to educate them about the union and respond to their objections. Often, educators object to union membership out of fear or misinformation. Take the long view: it may take a while to overcome their objections so be persistent.

### **Dealing With Objections to Joining the Union**

When talking with people who have objections about joining the union:

- Try to discover their real reasons for not joining, instead of the excuses they may give.
- Do not be discouraged if they fail to join on your first try (they probably will not). Keep communicating and have patience.
- Your job is not simply asking people to sign a card. You are building and maintaining your union chapter and your message must be that "we are the union." Try to involve the non-member in union activities and actions so they see and feel the union in action.
- Use examples of the progress made and benefits won through your local union as you handle objections to joining the union.

## **Objections to Joining the Union**

### ***Why should I join the union when I get exactly the same wages and benefits without joining?***

What we win in wages and benefits depends entirely on how strong we all are – together, collectively. That is why it is called collective bargaining. To be strong, every educator must belong and participate. Without that kind of unity, the district has the upper hand. Besides, it is only fair to share in the responsibilities and costs when you are enjoying the benefits!

### ***The dues are too high.***

What is expensive is not having a union. Our dues are a small price to pay for what we get: decent wages and benefits, job protection, pension, and representation and a voice in the workplace. The union is run by the members. Members are really not paying for anything. They are simply contributing their fair share to our collective goal of better working and learning conditions. The dues we collect allow all of us to function together as a union. It is democratic and it has proven to work when we all contribute and participate.

### ***I disagree with the union's politics.***

Do you agree with everything your church does? Everything your credit union does? Do you agree with everything your significant other believes or does? Probably not. So, why would you expect anything different with the union. If we all took this all or nothing approach, it would not be long before we all would be working for low wages in bad conditions. Besides, what we do politically is critical in a democracy and a public school district. There would be no checks and balances on districts, no unemployment checks, no workers compensation, no pensions, and even no public education if it had not been for political battles fought by union members – just to name a few.

### ***I cannot afford to strike (or, I do not believe in strikes).***

It is up to us, the union members, to collectively decide whether or not to strike. The vast majority of all negotiations end with a contract that does not involve a strike. If we do not authorize a strike when the employer wants to force low pay and bad working conditions down our throats, what do we do? Simply accept their low pay and bad working conditions? No one in their right mind wants to go on strike but they are necessary sometimes when the employer is unreasonable. History has proven that strikes are effective if the workers are united, strategic and determined. Additionally, if you ever want to change your financial situation so you can afford the basic necessities, then you cannot keep doing more of the same.

### ***I do not need the union; I can handle my own affairs.***

I am sure you are capable and so am I. That is why it is so effective when educators unite together – two heads are better than one, etc. We are the ones who truly keep this district together, functioning. None of us ever knows when we will run into a problem – supervisors and administrators change, etc. There is strength in unity. Meanwhile, what force on earth is weaker than the feeble strength of one?

### ***The employer is fair.***

One of the big reasons that the employer seems fair is that the union works hard to make them fair (give examples). Workers uniting together, protecting what we have and winning improvements is always necessary.

### ***I (my family) had a bad experience with a union...***

The union is all of us. The national and state unions sometimes gives us advice, but we, local union members, are the ones who decide how to handle our issues. The members make all the key decisions and elect their leaders. The union is a democracy where all of us work for the benefit of our members and the students. Unions fail to do their job when the members are not involved.

### **Barriers to Unity**

Every person has likes and dislikes and sometimes it is hard to develop unity among members who do not like each other. But when union members focus on their common problems with the employer, it is easier to achieve solidarity. As a union representative, your responsibility is to represent every educator in your area, whether you like them or not, without discrimination of any kind – even their union membership status. Discrimination and disrespect go directly against what we are trying to achieve – unity. Additionally, it can be illegal.

### **Discrimination Destroys Solidarity**

Good unions have a long and proud history of fighting against all kinds of discrimination. One reason why discrimination continues is because it helps employers divide and conquer. Employers use discrimination and its resulting division keeps wages low and working conditions bad for all workers.

Think about it. A lower wage for women, for example, actually means lower earnings for men because the employer will use this as a threat to keep men from demanding more. The threat of using “cheap labor” helps the employer – as long as workers are competing against each other, we cannot achieve the unity we need to win improvements. Discrimination of any kind only helps employers in the long run. Even when it is difficult or unpopular, union representatives must set an example by refusing to go along with any form of discrimination, including jokes and humor that result in hurt and division. Standing up to this type of behavior takes a lot of courage. Over time, however, your members will respect you for taking a stand, especially if you educate them on this issue and share why it is an essential part of rank-and-file unionism.

### **More Anti-Union Tactics**

Employers use all kinds of tactics to weaken union strength. They may circulate anti-union literature, encourage the creation of non-negotiated “budget advisory committees,” play favorites among educators, try to divide educators, etc. Some of these tactics may violate the contract and others will not. Learn ways to expose them for what they really are: an effort to weaken the union.

### **Organizing Around the Contract: TAKE THE OFFENSIVE NOT REACTIVE APPROACH**

One of the best opportunities you will have to develop a strong union in your workplace is at contract time. Members are generally willing to become more involved in the union because they know what is at stake – their wages and working conditions. If you do your job well during this period, you will be able to build a strong level of organization that can be maintained when the new contract is in effect. Begin by making sure all the members understand the nature of collective bargaining.

### **Collective Approach to Collective Bargaining**

The contract is the written agreement between the union and the district that spells out the wages, benefits, and working conditions on the job. It is the result of negotiations between the union and the district and what we are able to negotiate *depends entirely on the strength of the union*.

Therefore, the union needs to visibly demonstrate its unity and strength in order to get the best possible agreement. Good unions have always taken pride in an assertive but respectful approach to collective bargaining. We want what is best for our members and the students. Delivering that message to the district requires unity and an organized membership. Here is a definition, goal and best practices in collective bargaining:

### **Definition of Collective Bargaining**

The practice of participatory democracy - engaging the membership to exercise their collective strength and create real voice and power in the workplace through a written contract (law) and in the larger society.

## Goals of Collective Bargaining

To win a strong collective bargaining agreement but also to: 1) recruit and develop leaders committed to democracy, 2) build a democratic union infrastructure at the worksites, 3) change the power dynamic/culture in the district/society, and 4) be in a position to enforce the contract (local law) after it is agreed to.

## Best Practices of Collective Bargaining

- Treat management with respect and professionalism, not deference! Be bold and assertive in asking for what is right and just.
- Create a multi-year strategic plan and prepare for the bargaining sessions. Bargaining success is not achieved at the table, but by revealing the collective strength and unity of our membership!!!
- Sit at the bargaining table in a manner that conveys unity to the employer (i.e., on the same side of the table, same color t-shirt, etc.) and that allows you to communicate with one another.
- Recognize bargaining for what it is (two parties with some common interests and with some very different interests on important matters like money and a real voice in the workplace) and do not agree to take joint notes and publish joint messages.
- Do not agree to ground rules (i.e., confidentiality which is essentially a gag rule, etc.).
- Proposals should come from listening to the members - bargaining surveys, meetings with members, grievances, CTA legal/staff, and CTA's Public Education All California Students Deserve (mission/vision).
- Bargaining Team should try to reflect the membership (age, gender, etc.) and include the chapter presidents.
- Bargaining Team should always show unity in front of the employer (verbal & non-verbal). If there are disagreements (which is natural in a democracy), we work them out in union caucuses.
- Consider including your initial proposals along with rationale for them ("in order to recruit and retain the best educators for our students") in your sunshine letter so that the board, the public, and the community know from the very beginning what we are fighting for and why.
- Use logic and reason when presenting our proposals. However, expect the district to not act logically and reasonably with their proposals, especially with respect to issues of money and power (real voice in the workplace).
- No empty threats. If we threaten something, we better be able to deliver (union infrastructure is necessary to deliver).
- Give the district three chances to make a reasonable counter proposal and then declare impasse if they do not.
- All tentative agreements are all subject to a ratification vote by the membership.
- Mid-stream MOUs should be very rare, and it is okay to say no. Negotiations should have a specific timeframe. They should not be ongoing every year and year-round.
- How to handle "sidebars" needs to be discussed before bargaining begins. A union leader should never go alone to sidebars to avoid even the perception of wrongdoing.
- Know the difference in the employer's overall strategy vs. the union's – that is the stall (employer) vs. the push (union).
- Timing – the momentum at the bargaining table and the momentum in our organizing campaign must be in synch.
- Key student-centered demands should stay on the table even through impasse mediation and fact-finding until a final settlement is reached.
- Relationship with administrators ("Employer alliance" often expressed through IBB, "collaboration," etc.) is not a successful collective bargaining strategy. It is the opposite of collective bargaining - high participation,

high transparency local democratic union. Time Test: Are you spending more time talking to the administrators or our members? To be successful, we must listen to and engage the membership – participatory democracy. Relationship building with our members is crucial to every aspect of garnering maximum worker participation to win a great contract.

- Need to establish a relationship and communicate with all board members regularly.
- Bargaining team members need to be visible and communicate regularly with the membership. This includes frequent walk-throughs on the school campus, regular membership meetings, and Negotiations Updates sent out immediately after each session.
- All union proposals should be made in writing! Proposals should include the date and time of the proposal and a title such as “Union Proposal to District; Article 15 – Class Size.” When proposing changes to current contract, we should start with the current language and then strike through language that we want to delete and bold the new language that we want to add.
- Remember, educators fighting for the schools that students deserve in collective bargaining are teaching the students about justice, equity and democracy – arguably the most important lessons they could learn.
- How unions negotiate is a strategic and moral choice. What is your chapter’s choice?: Secrecy, small group, and low participation or high transparency and high participatory democracy with collective action? Remember, power is what wins in union negotiations, and in a democracy, participation equates to power.

“Sadly, negotiations today function a bit like our crippled democracy: people are told that voting every four years in the presidential election cycle is all they have to do in order to live in a democracy. Similarly, workers are mostly given the right to ratify or reject a contract presented to them at the end of lengthy contract negotiations. When workers haven’t been deeply engaged in the process, turnout for the ratification votes is minimal. People in the United States are learning quickly that simply voting once every four years is grossly inadequate for safeguarding democracy. Union leaders should have learned long ago that voting to ratify or reject a contract settlement offer inside a unionized workplace is equally inadequate to safeguard workplace democracy, as in a union... Despite the ongoing degradation of workplace and civic democracy, most unions can still choose to transform the negotiations process from a closed one with little input into a key lever for rebuilding robust worker participation.”

Jane McAlevey & Abby Lawlor, UC Berkeley Labor Center

### **Organizing Around Health and Safety**

Everyone has a right to a safe workplace, and this is another issue that union representative can and should organize around. Listen to members’ concerns about health and safety issues and then organize around them. Not only can organizing around health and safety issues save lives and improve working and learning conditions but safety issues can often unite workers who might otherwise be divided or isolated. Create a petition for everyone to sign so they are aware of their rights and collectively defend them. Additionally, most contracts have a provision in the contract that recognizes the right to a safe and healthy workplace so file a grievance and organize collective actions around the issue. Consider filing a CalOSHA complaint (<https://www.dir.ca.gov/dosh/complaint.htm>) and organizing around it. Remember, do not just rely on a paper tiger. The district needs to know that the tiger of collective action is behind every piece of paper asking for justice. This collective show of unity and strength makes it more likely that the district will listen and respond as they should.

### **Union Representative Fighting for Justice in Larger Society**

Most of this handbook is focused on how you, as a union representative, can do a good job representing and working with the members in your local union, especially those in your area. But just as important as defending members, winning and enforcing the contract, maintaining a strong local organization is building a strong union in the broader sense. A democratic, rank-and-file union depends heavily on the involvement of members in all aspects of the lives



of our members and at all levels – local, regional, national, and international. Here is where union representatives play a crucial role:

### ***Union Representative as Educators***

To truly be a part of the union, members must understand how decisions are made, how union policies are formulated, where the union has come from and where it is headed. They should know the challenges the union faces and have every opportunity to participate in the union. Union representatives have the best opportunity of anyone in the union to educate members about these issues. The rewards for this work are invaluable. Educated members support the union when it fights for improvements and defend the union when it is under attack. Union "education" is action oriented. It involves sharing experiences, accomplishing tasks, and discussing issues in the workplace and the community. This can range from talking about the importance of solidarity after a workplace action has won a grievance, to the importance of winning better contract language when a grievance has been lost, to discussing the union's efforts to elect school board members and other elected officials.

### ***Union Representative as Communicators***

The best place to start is to make a commitment to keeping the members informed. Make sure the members know what the union is doing. Tell them what happened in meetings and why. Encourage them to be there next time. Explain the importance of being involved in union activities. Encourage involvement in local, county, regional, state, national, and international union campaigns to protect workers' rights, organize new union members and win quality standards of living.

### ***Union Representative as Developers of Union Leaders***

Just as important as keeping members informed is involving members in the work of the union. If you are investigating a grievance, ask the member to help. Ask other members at the worksite to participate keeping in mind their skills and interests. Do not be afraid to delegate some of your responsibilities to other members. For many people, this can be difficult. The mark of good leadership is the ability to involve people, delegate responsibility, and develop new leadership. These are the key elements to building a strong union local that can not only take on struggles in the present but will have the strength to fight future battles as well.

### ***Union Representative as a Union Organizer***

The union's priority is organizing our members into a strong unified force to create justice and fair working conditions for all workers. It has always been clear that the stronger we are, the higher the living, learning, and working conditions of our members and students and working families in the society.

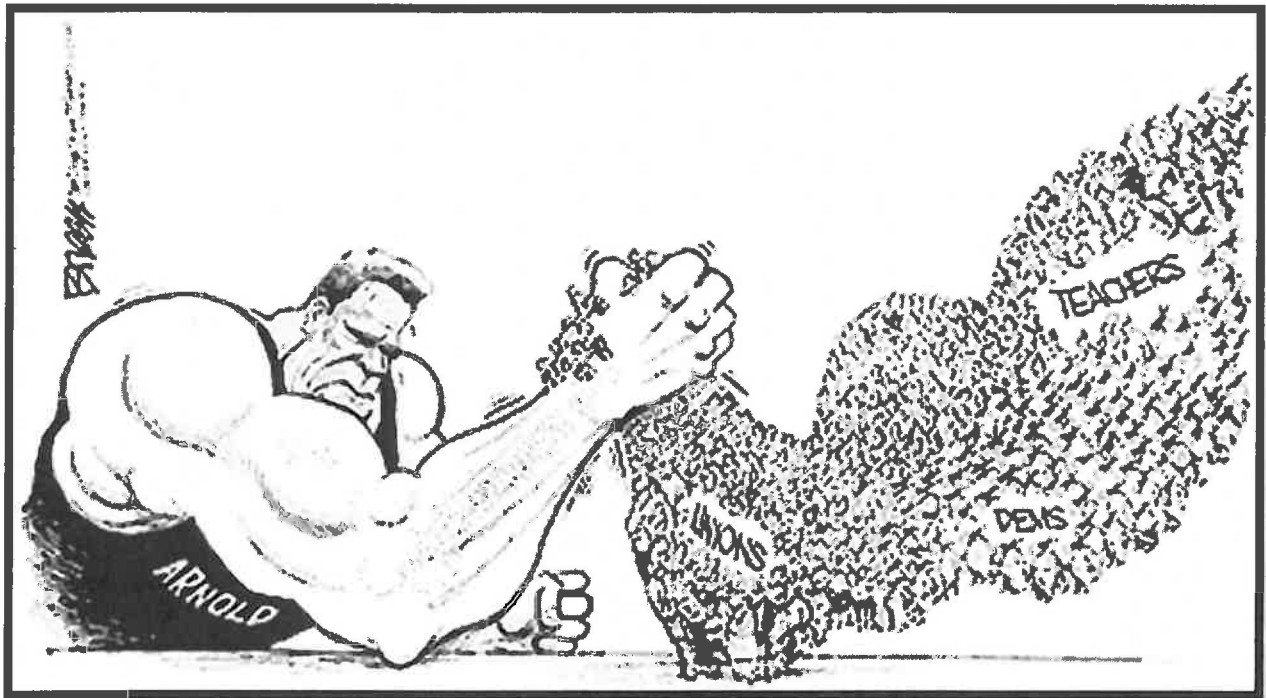
### ***Union Representative as a Political Force***

Our fight for working people extends far beyond organizing in our workplaces. Much of what working people take for granted today, such as universal public education, health and safety regulations, Medicare, and Social Security, collective bargaining, union recognition, right to legally strike, etc., we would not have if were not for political fights waged by organized labor. The union has won improvements in wages, hours and working conditions by fighting hard in many arenas including school boards, county government (County Superintendent), state capitol, and U.S. Congress. We participate in politics to win on issues that affect us both at work and home because we know that what we win at the bargaining table can be lost at the ballot box. Programs enacted by our government affect all of us. For example, government agencies set standards on health and safety matters which union members work with or are affected by every day. Politicians make policy on education and taxation to name a few of the issues that affect us and our families. Public sector workers have undertaken especially difficult and long fights to win the right to collective bargaining. In 37 states, public sector workers still do not have the legal right to strike. For these members, politics affects just about everything of concern to them since legislatures decide budgets for public



services including education. In California, we do have the right to collective bargaining and the legal right to strike. This was won in 1975. However, how often have you seriously considered exercising this legally protect right to strike? How has this impacted the kind of working conditions and collective bargaining agreements we have had?

Good unions fight for working people on the basis of independent political action not based on political party, etc. This independent political action is a no-compromise approach to winning gains for working people that is based on the issues. It is based on pressuring politicians regardless of party, government agencies, and businesses to do "what is right" for union members and all workers. For example, if politicians (including local legislators and school board members) refuse to publicly support teachers who are forced to strike, we should not support these politicians regardless of their party or previous endorsement. Candidates should earn our support based on whether they fight on behalf of working people. Both major political parties are too closely tied to the wealthy and big corporations to be dependable advocates for working people. Genuine, democratic, rank-and-file unionism takes independent political action and amplifies our strength and collective voice in the larger society that our schools are situated in.



Sources: Primarily adapted from UE Steward Handbook but also used materials from Turning the Tables: Participation and Power in Negotiations (University of California Berkeley Labor Center - McAlevey and Lawlor) and Contract Servicing from an Organizing Model (Conrow)



# Valley of the Moon Teachers Association (VMTA)

## WE DEMAND CHANGE, RESPECT & SUPPORT FROM ADMINISTRATION!

We, the VMTA educators, are demanding that administrators support their frontline educators and create a safe and secure school environment for students and staff. By law, teachers have the right to: 1) Suspend students from class for the day of suspension and the following day and ask the parent/guardian to attend a conference ASAP (Ed Code 48910); and 2) Be informed of each student who engaged in, or is reasonably suspected of, acts that are grounds for suspension or expulsion, within the past three years (Ed Code 49079). We collectively assert our legal rights and demand that administration respond by respecting these legal rights and responding appropriately to create a safe learning environment for students and staff.

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**There is Strength in Numbers!**  
Return to Your Union Site Rep.

## **Red for Ed Union Movement is Strong and Growing in California's Wine Country: Could It Be a Model for Broader Social Change?**

By Erik Olson Fernández

In Sonoma County, California, which is about an hour north of San Francisco on the coast and neighbors Napa's wine region, there had not been an economic teachers' strike for nearly 40 years prior to 2019. The last strike in the County occurred in 1980 in Santa Rosa only a few years after the legislature passed the Rodda Act in 1975 making K-14 school employees the first public employees in California to win collective bargaining rights. In this vacuum of concerted activity by educators, superintendents and school districts depressed wages and working and learning conditions for many years in one of the most expensive places to live in the nation where nearly half of all the students are on free/reduced lunch and Latino. This injustice is reflected in the fact that as of 2018 not one of the 40 school districts in the County was paying their teachers above the statewide average pay despite many districts being amongst the most well funded in the state. Sounds like a microcosm of the massive economic inequality in the larger society and with U.S. workers and corporations? However, in 2018, after implementing a Social Justice Unionism approach and coordinating bargaining across the County, teachers have transformed the educational landscape in Sonoma County with, for example, 3 successful, short strikes in August 2019 (Forestville – 4 days), November 2019 (West Sonoma County – 3 days) and March 2022 (Rohnert Park-Cotati – 6 days). Furthermore, during this timeframe, in our 36 California Teachers Association (CTA) chapters, educators across the County conducted:

- 15 strike votes with nearly 100% support from all the members and all but the above mentioned three situations averted strikes by winning historic contracts;
- 9 state-sponsored fact-findings proceedings that resulted in advisory public recommendations that created significant public pressure to address these injustices or agreements prior to the recommendation being written; and
- More than 35 impasse declarations that led to major agreements and showed that educators are determined to create the schools our students and teachers deserve.

With the raising of expectations and through strategic, planned countywide coordinated bargaining combined with assertive nonviolent action from local chapters and leadership from our Sonoma County Educators Council (SCEC), wages, healthcare, working and learning conditions have improved significantly. In February 2022, the neutral Fact-Finder in Rohnert-Park-Cotati contract campaign captured the spirit of this improvement by saying:

*"...it appears that the public interest has been changing rapidly in recent years throughout Sonoma County. With each new collective bargaining agreement, Sonoma County districts have accelerated wage increases to prioritize teachers...The Union presented undisputed evidence that the jurisdictions making strides to reprioritize teachers are doing so because of a Sonoma County public interest in improving teacher living conditions, preventing good teachers from leaving, and correcting a history, perceived by the public, of neglect for teacher welfare..."*

Sadly, the district did not listen to the Fact-Finder nor did it learn from history, so Rohnert Park-Cotati was our third strike in less than 3 years. Our first recent strike took place in Forestville in August of 2019 after years of unsuccessful "collaborative" Interest-Based Bargaining (IBB) that was common prior to

implementation of Social Justice Unionism and a focus on democratic, high transparency and high participation collective bargaining. Forestville is an highly-funded district, which receives much more money per student than the average district in the state, and yet its educators were poorly paid and the district's last proposal before we declared impasse was a 0% raise in late January 2019. Then, in early February 2019, neighboring Oak Grove Union educators won a 3 year contract with raises of 5%, 5%, and 3% after ousting the Chief Business Officer and Superintendent and electing two new school board members in November 2018. This helped set a new standard for the entire County for the coming years but it did not persuade the Forestville district to be reasonable in impasse mediations in March and April 2019. So, in early May 2019, our Forestville teachers unanimously voted to authorize a strike if needed prior to the Facting Finding hearing in late June 2019. In July 2019, the Fact Finding report was published and it recommended a 3 year deal with a 4% bonus, 5% raise and 4.5% raise. The District responded by proposing essentially what the Fact Finder recommended, which was a huge increase from their original 0% raise just a few months ago. Regardless, our educators were not willing to accept these unjust off-schedule bonuses instead of ongoing raises since bonuses had been a common tactic used for years by superintendents to keep wages low. So, in August 2019, Forestville teachers struck at the beginning of the school year with the Education Support Professional (ESP) staff joining them. Schools were nearly shut down completely as, for example, two buses arrived on the first day with 5 kids. The few students who did attend school quickly found themselves in chaos and dysfunction despite administrators false promises that school would be held as normal. Shortly thereafter, our educators won a 3 year deal of 5%, 5% and 3% plus significant increases to district healthcare contribution. Sixth grade teacher and bargaining chair Ryan Strauss was quoted in the local press saying, "I think they severely underestimated our connection with the community." University of California at Berkeley students who interviewed our Forestville educators and asked the question "What made Forestville successful?" came to the conclusion that "It wasn't the teachers fighting for their rights. It was *Forestville* fighting." These two statements describe our experience well as we were actually fighting not for a raise but to create a public school district where the elected representatives and administrators truly listen to and respond to the needs of the teachers, the parents, the students and the community. In fact, this same dynamic of underestimating our educators' strong connection with the community was repeated within just a few months after our Forestville strike and took place literally just down the road with a strike in November 2019 in the overlapping high school district in West Sonoma County.

After these first two strikes in 2019, Sonoma County educators continued to achieve historic contracts across the County and avert many strikes even during the pandemic. In fact, the 2019 strikes and continued collective actions helped set the stage to achieve important negotiated protections during the pandemic. Yet, once again, the same pattern of undervaluing our connection to the community was repeated two years into the pandemic in the Rohnert Park strike in March 2022 when essentially 90% of the students did not come because supportive parents did not send their kids to school.

Shortly after the Rohnert Park strike, in April 2022, our Forestville educators won the best 2 year agreement we have had in Sonoma County without much hassle. The district seemed to be learning from history. Obviously, this did not happen in a vacuum and this would not have been possible without the unfortunate, but necessary August 2019 strike and the countywide coordinated bargaining. Forestville teachers obtained a 2 year agreement with more raises in 2 years (13.5%) than in the

previous 3 year agreement (13%) plus very significant district healthcare contribution increases (from \$11,520 to \$16,000/year) and huge structural changes to the salary schedule. At the end of this agreement, the salary schedule will be reduced from 30 steps to 18 steps and the top step will be near \$106,000. We also removed the cap on years of experience for the new hires. This agreement and the previous one certainly moves us closer to creating the schools our educators and the students deserve and it will help us recruit and retain the best educators for our students.

Like most educators across the country, in Sonoma County, we were inspired by the Red for Ed teachers' strikes that took place in 2018-19 in West Virginia, Arizona, Oklahoma, Colorado, Virginia, North Carolina, Los Angeles and Oakland. And, we cannot forget the series of Chicago Teachers Union strikes starting in 2012. Similarly, one of the things that makes what is happening in Sonoma County special is the sustained nature of this strategically coordinated and planned movement over a 4 year period that not even a pandemic could curtail. One way to think about it is to compare it to the late 1950s and 1960s Freedom Movement. After the inspiring Montgomery Bus Boycott in 1955-56, organizers struggled for years to find ways to move the movement forward. Then, the sit-ins broke out in February 1960 but the [Nashville Sit-In Movement soon became the model](#) for social change that spread across the country. In the Summer of 1960, Dr. King praised the Nashville Movement as "the best organized and the most disciplined in the Southland." The key leaders involved in the 1960 Nashville Sit-In Movement then went on to play key roles in the 1961 Freedom Rides, 1962 Albany, Georgia desegregation campaign, 1963 Birmingham campaign and March on Washington for Jobs and Freedom, 1964 Freedom Summer, and the 1965 Selma, Alabama right-to-vote campaign. This sustained, strategic, multi-year movement of 1960s campaigns radically changed the course of our nation. Today, we need a broad, multi-year, multi-campaign movement addressing economic inequality and all the other social issues that are deeply connected to inequality. Could what is happening in Sonoma County be a model for unions across the country?

A 2021 Op-Ed in the LA Times, entitled "Learning from the Nashville model of social change," said the following:

*"The Nashville model is a replicable model - if not in all its details, then certainly in its principles - for contemporary justice movements. It shows that clearly articulated objectives are crucial to building credibility. The effectiveness of the Nashville campaign was rooted in the intensive workshops on nonviolence that preceded the actual sit-ins."*

Through the Sonoma County Educators Council, we meet each year for a summit at the beginning of the school year and then each month to coordinate our collective bargaining and learn about the legacy of Social Justice Unionism. We have made deliberate efforts to view and practice our union work under the framework of nonviolent action and to connect, for example, the 1930s sit-down strikes and with the 1960s sit-ins. We have highlighted Dr. King's Letter from a Birmingham Jail and its emphasis that those "we who engage in nonviolent direct action [strikes, etc.] are not the creators of tension. We merely bring to the surface the hidden tension that is already alive. We bring it out in the open, where it can be seen and dealt with." Through these sessions on Social Justice Unionism, Sonoma County educators are learning to be masters of creating justice through participatory democracy. Rohnert Park-Cotati high school teacher and chapter president, Denise Tranfaglia, summed it up well when she told



the school board, "A strike is not a threat but a peaceful solution to economic inequality." This is especially true for educators who are mostly women and are already vastly underpaid compared to other professionals with similar education and considering that Bob Moses, a well-respected but overlooked 1960s movement leader, said that education was the "subtext" and "unfinished business" of the 1960s Freedom Struggle and that the "clearest manifestation of our caste system is the education system."

Assertive but nonviolent coordinated countywide bargaining in Sonoma County has revealed itself to be a model for addressing economic inequality over a sustained timeframe. Can we find ways to expand it beyond Sonoma County and create a new 1960s-like Freedom Movement that expands democracy across the nation? As Jane McAlevey has said "Unions have so much value not just to build the power required to undo the rot of democracy and rampant income inequality, but also to teach Americans how to unite again." Unions, at their best, can be models of democracy as we cannot have a democracy without having a democracy at work, where people spend most of their waking hours. If we can find ways to expand this model, Rev. James Lawson, who was a key leader in the Nashville movement, who Dr. King called the "the leading theorist and strategist of nonviolence in the world" and who has been arrested more times in union movements than during the 1960s Freedom movement, could be right that:

*"Just as the explosions that caused [Dr.] King to emerge and the [1960s Freedom] movement to emerge, you will help ignite one day in this country again when millions of people from ocean to ocean will be in the streets."*

And, history tells us that this, millions of people in the streets, is what it will take to change the power dynamic and address the great challenges we face as a nation and world. We would all do well by remembering Dr. King's little-known speech to striking public sanitation workers on March 18, 1968, a couple weeks before his assassination, where he said:

*"We can get more organized together than we can apart...And this is the way we gain power.... What is power? Walter Reuther said once that 'power is the ability of a labor union like UAW to make the most powerful corporation in the world – General Motors – say yes when it wants to say no.' And I want you to stick it out so that you will be able to make Mayor Loeb and others say yes, even when they want to say no."*

Let us all be good students of history and learn from effective models of social change!