

STEWARD RESOURCE MANUAL



NATIONAL UNION OF
HEALTHCARE WORKERS

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Foreword

Dear Steward:

NUHW was founded by healthcare workers who strongly believe in the fundamental tenet of unions being worker-led and worker-controlled. Since 2009, our dream of an independent, member-driven movement has inspired more than 16,000 healthcare workers to join us.

We've become the nation's fastest growing healthcare union because we've stayed true to our core principles:

- **A strong union is led by its members.**
- **Worker power is the foundation of a just society.**
- **Quality patient care requires that caregivers have a voice in their workplaces and are protected from retaliation.**
- **Healthcare is a human right.**

In NUHW, we believe a strong union begins with strong stewards. In order to be a strong, effective steward, you must understand your role and responsibilities, know your contract, and be committed to leading your coworkers to protect their rights and win the best contracts for themselves and their patients. We congratulate you on taking this next step in your union journey, and we are excited for you to become leaders in NUHW.

Sincerely,

Sal Rosselli, President

Sophia Mendoza, Secretary Treasurer



How to Use This Book



Welcome! This manual is designed to be your resource as you conduct the very important work of leading, organizing and representing your coworkers.

STRUCTURE

The manual is broken into chapters, with each chapter containing 2-3 modules. Each module contains learning objectives, definitions, an explanation of the key concepts being taught, and suggested activities to reinforce learning. Each module concludes with key learnings to reiterate concepts taught. There are also case studies, short brainstorm and quiz prompts and advice from NUHW executive board members to supplement learning.

AS A REFERENCE GUIDE

If you have a quick question about a topic, or if you need a refresher, just flip to the topic of interest and review the supporting documents. You can also use this manual for self-study if you are unable to attend a steward training.

AS A TRAINING GUIDE

This book can also be used as a facilitator guide for trainers. You can do a training focused on just one module, or an entire chapter, or multiple chapters, depending on the amount of time you have. Trainings can be offered at membership meetings, steward councils, bargaining caucuses, or any other creative spaces you determine. Each suggested training activity has an estimated time associated to help you determine what will fit within your allotted training time.

At the end of this manual, you will find a section called Answer Key, and a section called Facilitator Resources. The Answer Key contains answers to certain suggested activities, and the Facilitator Resources section contains tips and best practices for facilitating trainings.

Chapter 1: Understanding the Modern Healthcare Industry

Module 1: The Corporatization of Healthcare



LEARNING OBJECTIVES

Participants will be able to (1) identify the private interests vying for control of the healthcare industry, and (2) recognize the ways in which the corporatization of healthcare shows up in their workplaces.



DEFINITIONS

Corporatization refers to the restructuring or transformation of an organization into a corporation with a board of directors, management, and shareholders. The stated goal of Corporatization is to improve efficiency and to commercialize operations, which in practice often translate into an increased emphasis on profit.

Mergers and Acquisitions refers to the consolidation of companies or their major assets through financial transactions between companies.

Private Interests: Any interest, including but not limited to a financial interest, which pertains to a person or business whereby the person or business would gain a benefit, privilege, exemption or advantage from the action of a state agency or employee that is not available to the general public.

Fee-for-Service Model (FFS) is a payment model where services are unbundled and paid for separately. In health care, it gives an incentive for physicians to provide more treatments because payment is dependent on the quantity of care, rather than quality of care.

Medicare for All (M4A) refers to an improved and expanded version of the current Medicare healthcare program for older Americans, which would cover all residents of the US and replace commercial health insurance with this new version of Medicare that lowers costs and broadens benefits. Healthcare is guaranteed.



LEADERSHIP TIP



"If you've worked in healthcare for a while, you've seen firsthand how corporations are reshaping healthcare. The shift from non-profit to for-profit, big healthcare chains merging to create mega-corporations, monopolies that concentrate market share and drive up prices — these are just a few of the ways corporations are devaluing patient care in the name of profit."

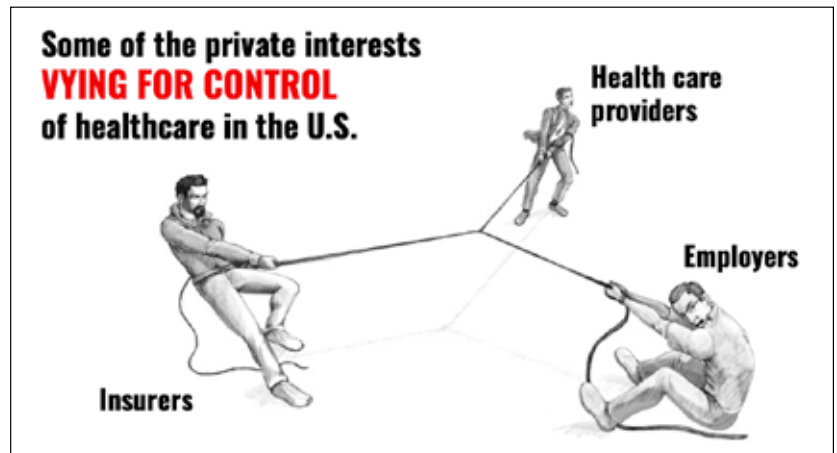


Justin Evans, VP
Fountain Valley Regional
Medical Center

Chapter 1: Understanding the Modern Healthcare Industry

WHO CONTROLS HEALTHCARE IN THE U.S.?

Our current system of health insurance linked to employment developed after WWII, as a way for employers to attract workers during a post-war period of wage caps. Though the linkage between health insurance and employment was somewhat accidental, it is no accident that the U.S. healthcare system is rife with inequalities. There have been many moments in our history when U.S. elected officials, professional organizations and other groups have had the choice to create a more equitable system, but have instead chosen to exclude certain groups, fight progress or remain silent. While Medicare was certainly a move in the right direction, structural racism and gaps in access are still defining features of our modern healthcare system, with private interests prioritizing profits above all.



INSURERS

Insurers created the template by which healthcare reform would be fought for the next 100-plus years. They argued that healthcare is a consumer good, not a public good, and that any departure from a fee-for-service model was tantamount to socialism. They also embedded early on the idea that differences between races would make broad universal coverage impossible.

HEALTHCARE PROVIDERS

Historically physicians have resisted control of their profession by both commercial interests and the state. For much of its history, the American Medical Association, the largest association and lobby group of physicians, fought to maintain control of the industry — contributing significantly to the deep segregation of the U.S. healthcare system. As the corporatization of healthcare has progressed, hospitals are becoming the dominant force on the provider side of the equation.

EMPLOYERS

In the years during and after WWII, employers agreed to a compromise to create a “private welfare state” in the form of employer-sponsored health plans. People on the margins of the labor market — poor people and people of color — were left out of the deal. As costs rose on employers, they fought to undo the private welfare state. They rolled back benefits and fought political battles to back away from their obligations.

CASE STUDY

Sutter Health: Building an Empire and Raising Prices



- One of the key forces shaping the modern healthcare landscape has been the rise of mergers and acquisitions which have created highly monopolized healthcare markets in much of the country.
- Sutter Health, which grew out of the consolidation of former community hospitals in California and then a merger with another hospital chain, has taken an “all or nothing” approach to its corporate empire building.
- They have squeezed out competition by dominating negotiations with insurance providers, while at the same time offering bailouts to struggling hospitals and sweetheart deals to doctors to join their network — in exchange for charging Sutter’s higher prices.

Chapter 1: Understanding the Modern Healthcare Industry



MODULE 1 SUGGESTED ACTIVITIES

Activity 1: Changes You've Seen

Estimated time: 15 minutes

Many union members are familiar with the experience of showing up to bargaining with an employer that is making record profits, only to be told the employer is in financial trouble and needs to make cuts to employee healthcare, pensions or other benefits. This drive to increase profits, at the expense of employees and patient care, is just one result of the corporatization of healthcare over the past few decades.

In pairs or small groups, come up with a list of changes you've seen at your facility since you've started. Have the changes been positive or negative for employees? How about for patients? Have the changes led to the hospital becoming more or less "corporate"?

Activity 2: Corporate Takeover

Estimated time: 15 minutes

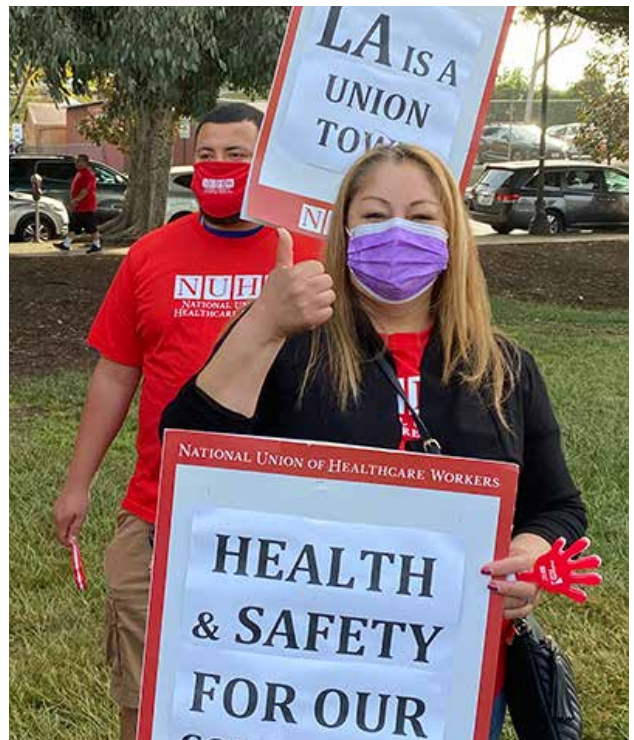
Break into pairs or small groups. Imagine you are a team of healthcare executives who have been brought in to make the healthcare company you work for more corporate.

What are some changes you would institute? Recall that the corporatization of healthcare shows up in different ways, from a focus on profits above patient care, to operational changes in the name of "efficiency," to efforts to consolidate and centralize decision making power.



KEY LEARNINGS FOR THIS MODULE

- Insurers, healthcare providers, and employers are some of the main private interests vying for control of healthcare in the U.S.
- Mergers and acquisitions, consolidation, and elimination of services, fancy marketing and an increase in billable procedures are just a few of the trends we see as American healthcare becomes increasingly corporate.



CASE STUDY

Providence Health: From Charity to "Too Big to Fail"



- Providence Portland Medical Center it has transformed in the past quarter-century in ways typical of hundreds of hospitals in the United States. Until 1979 the hospital was managed by the order of nuns who founded it.
- The passage of Medicare in 1965 changed the mechanism for covering hospital payments, and hospitals began charging more for their services.
- Awash in revenue, Providence hired its first secular hospital administrators in 1980 and added "stewardship of resources" to its long-standing guiding principles.
- By putting pressure on physicians to increase billable procedures, management restructuring, fancy marketing, and mergers, Providence is now the 3rd largest health system in the country. Like many hospitals, it has become "too big to fail."

Chapter 1: Understanding the Modern Healthcare Industry

Module 2: Race and Healthcare in the U.S.



LEARNING OBJECTIVES

Participants will be able to (1) recognize the intersection of race and the healthcare system, and (2) recognize how the current structure of the healthcare industry disproportionately harms Black and Brown workers, patients, and communities.



DEFINITIONS

Neoliberalism or neo-liberalism: Favoring policies that promote free-market capitalism, deregulation, and reduction in government spending.

Social Structure: The policies, economic systems, and other institutions (policing and judicial systems, schools, etc.) that have produced and maintained social inequities and health disparities, often along the lines of social categories (race, class, gender, etc.).

Racism is commonly thought of as individual prejudice, discrimination, or antagonism directed against a person or people on the basis of their membership in a particular racial or ethnic group, typically one that is a minority or marginalized.

Structural Racism goes beyond the level of the individual to understand the ways in which racism is entrenched throughout our social, political, economic, and legal systems and institutions. In particular, structural racism emphasizes the role of laws, policies, institutional practices, and social norms in marginalizing and oppressing people and communities of color.



RACE AND U.S. HEALTHCARE: 1960S TO TODAY

Prior to the passage of the federal Medicare program in the 1960s, medical care, like much of life in the United States, was tightly organized around race (e.g., Black Codes, Jim Crow Laws). In addition, America's "private welfare state" was failing a large portion of the population: almost 50% of seniors had no health insurance. Southern elected officials consistently refused any federal funds that tied healthcare dollars to the desegregation of health facilities. Many white-serving hospitals did not admit Black patients under any circumstances, and those that did often placed Black patients in the basement, near the coal furnace.

Because of how segregated it was, it is not surprising that health care policy would become enmeshed in the advances of the civil rights movement. Civil rights leaders, led by Dr. W. Montague Cobb (right), president of the National Medical Association (the black-led medical association), were successful in ensuring that federal funds would not go to segregated facilities, forcing the desegregation of thousands of hospitals in just a few months.



Medicare was a huge expansion of a public good, but embedded in that victory were also seeds of a future corporatization of healthcare. In an effort to limit the legislation's impact, some Southern elected officials negotiated that Medicare could only focus on controlling costs. Questions of controlling the quality of care were off the table. The legislation also allowed private insurers to play the role of middleman between providers and the government.

The 1980s ushered in a wave of industry deregulation, and healthcare was no different. It started with a law in 1983 changing how Medicaid paid hospitals to a fixed price per visit, regardless of the actual costs, providing an incentive to cut costs in order to maintain profit margins. Health care organizations became more concerned with growing in scale to absorb the higher level of risk, which pushed health care spending ever higher. States also got in on the deregulation act. In 1980 some 30 states had rate-setting and budget review laws in place for hospitals. These were systematically overturned. This era also saw the rise of direct-to-consumer marketing of health services with the FDA allowing pharmaceutical advertising in 1985.



RACE AND U.S. HEALTHCARE: 1960S TO TODAY

The politics of race and healthcare mixed in new ways during the neoliberalism of the 1990s. Gone were the days of open racial animus. In were the days of coded racial appeals. Opinion polls from that era showed opposition to growing the size of federal programs, and opposition increased when those programs were perceived as benefiting communities of color. With debates over welfare reform, crime, and border security in the backdrop, the Clintons proposed a market-based plan and sold it with their own coded racial language: it would benefit “middle class consumers.” When Democrats lost control of Congress, Newt Gingrich was less subtle in his racialized attacks on healthcare, stating that programs like Medicare created, “a culture of poverty and a culture of violence which is destructive of this civilization.”



All of this laid the groundwork for the “golden era” of corporate healthcare we’re living in today. Through an accelerating pace of mergers and acquisitions, the health industry is becoming more and more vertically integrated, with hospitals buying physicians groups, pharmacy chains buying insurance companies, etc. Additionally, corporate players who have traditionally played no role in delivering health care are getting into the act. In 2020, Walmart made a series of moves to increase its healthcare portfolio by opening more in-store and stand-alone clinics. Walmart has even been flirting with buying Humana, Inc., one of the largest insurers in the country.



A CALL TO ACTION

If you’re enraged by what you just read, congratulations! This means you care and want to make things better. As healthcare corporations continue to consolidate their power and prioritize their bottom line, the gap in access to care for traditionally marginalized groups only grows wider. And the more vital it becomes for you and your coworkers to organize and fight back to protect your jobs, your patients, and your communities.

Chapter 1: Understanding the Modern Healthcare Industry



MODULE 2 SUGGESTED ACTIVITIES

Activity 1: Profits above all

Estimated time: 15 minutes

Corporate healthcare is laser-focused on increasing profits. Often, the drive to increase profits reinforces structural racism, resulting in rules, structures and systems which further marginalize and oppress people and communities of color.

In pairs or small groups, list the ways in which you see structural racism show up:

1. In your department (for example, there are no managers of color, despite the diverse make-up of the department and the patient population served)
2. In your workplace (for example, a hospital choosing to lay off all interpreters when faced with a budget shortfall)
3. In your community (for example, a developer buys the land where a community hospital is located, forcing it to close)

Activity 2: Patient Case Study

Estimated time: 20 minutes

In pairs or small groups, read the patient case study on page 9. Do the patient's identities — race, class, gender, immigration status — play into the healthcare he receives? If so, how?

PATIENT CASE STUDY



John is a 38 year-old-man with a reported past history of schizophrenia versus schizoaffective disorder, PTSD, and unspecified anxiety who presented to the Kaiser Oakland ED in police custody from Santa Rita jail, one day post-arraignment for assault and battery (A&B) charges. He presented from Santa Rita due to "bizarre behavior" and auditory hallucinations to harm himself.

He is a Black man from Richmond who is unemployed and lives with his parents. He is also a refugee who immigrated to the United States at 10-years-old after witnessing the death of multiple family members in his home country. He is the father to four children who are in the custody of their mother and with whom he has frequent contact.

John reports the A&B charges were a misunderstanding from a dispute he had with people in his parking garage, where he felt they were following him, so he yelled back at them. Those individuals called the police and John was then charged with A&B and brought to Santa Rita Jail, where he was not given the option to post bail while awaiting arraignment.



LEADERSHIP TIP

"Health care is not race neutral. Within American Healthcare systems, the practice of hiding racial bias in supposedly objective scientific findings ("scientific racism") was common through at least WWII, and still shows its ugly legacy today as racial bias continues to exclude Black, Indigenous, and people of color from accessing basic and necessary health care. From theories that the Black race was 'going extinct,' to segregated blood banks, disbelief in the legitimacy of Indigenous health practices and any non-Western medicines — to today's data of increased Black infant and laboring mother mortality rates, repeated bias studies that have confirmed well over 50 percent of white primary care doctors believe as a matter of fact that Black bodies have greater pain thresholds, and use that as justification to deny necessary medications or impose more painful treatments without the common medical comforts offered to most white patients — systemic racism continues to plague our health care system. Race is a direct social determinant of whether or not you will access health care, and how good that care will be."



Ilana Marcucci-Morris, VP
Kaiser IBHS

Chapter 1: Understanding the Modern Healthcare Industry



KEY LEARNINGS FOR THIS MODULE

- Under our current healthcare system, the ability of healthcare providers to meet the cultural, social, and linguistic needs of their patients is severely limited. This is because corporate healthcare entities prioritize efficiency, productivity, and profitability above patient care.



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This image shows a single page of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page, typical of notebook paper. There are no margins, text, or other markings on the page.

Chapter 2: Building the Model Union

Module 1: The Model Union



LEARNING OBJECTIVES

Participants will be able to (1) articulate NUHW's philosophy on what a union is, and (2) discuss the different components of the Model Union and their importance.



DEFINITIONS

Union: An organization of workers who are employed by the same employer and who use their collective power to stop the employer from doing things workers don't want, as well as to get the employer to do things the workers want.

Union Contract: A union contract, sometimes referred to as a collective bargaining agreement, is the legal, binding agreement negotiated between the union — you and your co-workers — and the employer.

Union Dues: The small amount of money union members contribute to our union, so that our union has the resources to fight and win improvements.

WHAT IS A UNION?

A union is an organization of workers who are employed by the same employer and who use their collective power to:

- Stop the employer from doing what the workers don't want, such as firing employees without justification, discriminating against workers, making changes without workers' input, and cutting staff to increase profits.
- Make the employer do what the workers want, like paying fair wages, providing decent benefits, and hiring enough staff to provide quality care. Individual workers, on their own, just can't match the power of the employer, because the employer has the ability to fire workers.



LEADERSHIP TIP



"One common misunderstanding — one that is often encouraged and reinforced by employers — is that a union is an outside entity, a third party that intervenes between management and workers. It's simply not true. WE are the union. Together we set goals, choose our representatives, and negotiate with the employer."



Creight Fontanelle, VP
Keck/Norris

Chapter 2: Building the Model Union

Without a union, the employer can cut pay, eliminate benefits, change working conditions, or fire employees for no reason. For more than 200 years, workers have learned that they can match the strength of their employer if they stand together as a group.

By joining and participating in a union, you are taking part in a movement that has a long history. As a union member, you benefit not only from the gains won by your union in your workplace, but by all unions and all workplaces, going back decades, even centuries.

Many of the workplace standards many of us now take for granted were initiated, fought for, and won by unions. The eight-hour work day, the five-day work week, sick pay, vacation pay, maternity and paternity leave, retirement benefits, health care coverage — none of these were offered by benevolent employers eager to improve the lives of their workers. These benefits were demanded and won by workers, by union members who fought, sacrificed, and even died in the struggle for workers' rights.

CASE STUDY



NUHW and its predecessor unions, SEIU-UHW and Local 250, have been responsible for many of the most significant gains that healthcare workers have made since Local 250's founding in San Francisco in 1934.

By standing together with your fellow workers, you are honoring the efforts and sacrifices of previous generations of workers and helping to ensure better pay and working conditions for future generations.



Scan to watch "The Birth of NUHW"



Chapter 2: Building the Model Union

WHY IS THERE CONFLICT BETWEEN MANAGEMENT AND WORKERS?

The conflict between management and workers does not exist because managers are inherently bad and workers inherently good. It's a systemic problem: **The conflict exists because the employer makes a profit by demanding as much work as possible from employees in exchange for an hourly wage.** The more work produced at a lower hourly wage, the more the employer profits.

This is especially true in a labor-intensive industry like healthcare, where labor accounts for more than fifty percent of an employer's costs. This gives the employer a greater motivation to get more work out of fewer people. It increases the employer's profits. In the healthcare industry, there really isn't much difference between a for-profit and a non-profit institution. Most healthcare employers are large corporations where the CEO and other top administrators command millions of dollars per year in salaries and benefits — typically more than two hundred times what the average worker earns in a year.

When healthcare workers are not members of a union, management determines what workers are paid, what benefits workers receive, how many workers will get shifts, who will get them, and who will be laid off. **But when healthcare workers come together and form a union, the workers have the collective power to demand a voice in these important issues.** This is why employers oppose unions.



UNION CONTRACT

The contract represents what your union, through its collective strength, has forced the employer to agree to. Although management often implies that it would provide good wages and benefits without pressure from a union, history shows that employers rarely offer higher pay, better benefits, or improved working conditions beyond the bare minimum unless compelled to do so. The union is the institution that forces an employer to go beyond the bare minimum, and the union contract incorporates those improvements into a legally enforceable document.

A union contract is unlike other types of contracts, like those used to purchase a car or a house. If those kinds of contracts are violated, you have to go to court and then convince a judge to enforce them. By contrast, **you and your co-workers are responsible for enforcing the union contract.** Employers, in the pursuit of greater profits, often try to get around the contract. If you and your coworkers do not vigilantly enforce the contract, then the employer has no reason to abide by it.

Chapter 2: Building the Model Union

CONTRACT ENFORCEMENT

You and your coworkers enforce your contract through a variety of means: petitions, meetings, collective action, and through the grievance procedure. Effective contract enforcement requires union members to be well informed, unified in purpose, and well-organized. To accomplish this, **members in each department or unit of the workplace elect a well-respected coworker as a shop steward.**

Member participation is vital. **In workplaces where members are active, the union is strong; where participation is low, the union is weak.** It is only when workers actively participate in building the union that we have the power to force the employer to provide quality patient care, safe working conditions, and good pay and benefits.

DUES AND REPRESENTATION

Member dues are your union's only source of funding; it is the members themselves who provide the resources necessary to operate their union. This not only ensures that members have a stake in the success of their union but also ensures that your union remains independent, with no obligations to anyone but the membership. Dues pay for union staff salaries, offices, supplies and utilities, negotiation and organizing costs, legal fees, and affiliation fees to other labor organizations.



NUHW members established the dues formula through a democratic, union-wide vote. The NUHW Constitution and Bylaws, ratified by a membership vote, established the dues formula at 1.5 percent of a member's straight-time hourly base wage rate. In other words, you don't pay dues based on overtime; you pay dues only on your regular pay for regular hours. And each month, one dollar of your dues goes into the union's Strike Fund, which ensures that if workers vote to strike there are resources available to make the strike successful.

There are a few common misconceptions about union dues. Employers often use unions and union dues to frighten workers. They sometimes tell new employees that they are required to join the union and that they will be forced to give up their hard-earned pay to a third party, with little in return. You are not required to join the union, but it is true that employees in a unionized workplace are required to pay dues as a condition of employment, because whether you are a union member or not, you benefit from previous and future contracts negotiated by the union.

Chapter 2: Building the Model Union

ORGANIZING

Your union's financial health enables you to expand the power of healthcare workers by unionizing unorganized workplaces. This brings more members into the union, which gives us greater leverage in negotiating contracts with employers.

But it has a larger effect as well. **The lower wages and benefits paid to non-union workplaces hold down the wages of unionized workplaces**, because employers with unionized workplaces can always point to the lower wages of their non-union competitors and say they need to cut wages and benefits in order to remain competitive. If more workplaces are unionized, it takes wages and benefits — labor costs — out of the equation when employers compete with one another. Employers then have to compete based on the quality of care they provide rather than how cheaply they provide it.

By taking an industry-wide approach, you can improve wages, benefits, and working conditions for all healthcare workers. Nearly all of the components of the healthcare industry — from insurance companies and healthcare systems to doctors, medical suppliers, and drug companies — are organized to promote their interests. Healthcare workers should be organized, too.



EQUAL RIGHTS

The power of your union comes from uniting all workers hired by the employer. Your union must be truly democratic with room for everyone, including those with different ideas. Your union should be the safest place in our society to disagree, a place where all workers and all ideas are welcome.

NUHW does not choose who belongs to your union; employers choose who belongs to your union by whom they choose to hire. Collectively we must work with everyone the employers hire, including new hires and probationary employees, to create the unity and strength we need to win goals that we all support.

Workers make up a majority of the population, but employers and their administrators and managers, who make up just a small part of the population, exercise tremendous influence over the rest of us. **To remain powerful, and to undermine the enormous power that workers have when they are united, employers continually attempt to divide workers** — by job classification, education and training, and even by age, gender, race, ethnicity, sexual orientation, gender identity, and legal status. Employers try to use our differences to divide and weaken our union.

NUHW fights discrimination in three ways. **First, we support all movements that fight against racism, bigotry, and prejudice of any kind.** Second, our contracts include strong language that prohibits the employer from discriminating on the basis of race, creed, sexual orientation, age, gender, gender identification, and union activity. Third, we have a simple standard: all union members have the absolute right to be judged based on their own actions and behavior, regardless of what they look like, where they come from, what language they speak, who they love, or what religion they practice, if any. We believe that an injury to one is an injury to all, and that what unites us is good and what divides us is bad.

Chapter 2: Building the Model Union

POLITICAL ACTION

Political action is critical in the healthcare industry. Every day, politicians and regulators make significant decisions at City Hall, in Sacramento, and in Washington, D.C. that affect the healthcare industry, healthcare providers, and your patients. **Healthcare corporations, insurance providers, drug companies, doctors, and other interest groups are heavily involved in the political process; you and your coworkers need to be involved, too.**

The amount of public money devoted to healthcare, through Medicare and Medicaid primarily, but also at the local government level, is the result of political decisions. **We fight with employers for our share of the budget, and we fight with politicians for our share of city, county, state, and federal budgets.** Political involvement is crucial. We encourage our members to vote, but a real political voice for workers and our patients requires much more than that. Healthcare workers must be proactive in holding elected officials accountable.

Corporate lobbyists have succeeded in passing legislation that prohibits unions from using dues revenue in the federal political process. That weakens your ability to influence political decisions that would be favorable to healthcare workers and patients. **The only way you can raise money to have a voice in these important decisions is to ask members to make voluntary donations to your union's Committee on Political Education Fund (COPE).** Your union has no other source of money to advocate for federal legislation or elected leaders who will protect patients and healthcare workers.

MEDICARE FOR ALL AND MENTAL HEALTH PARITY

Healthcare is a human right. NUHW believes that the best way to ensure quality coverage for all is with a single-payer healthcare system, and the best way to achieve that is by improving and expanding Medicare to cover everyone. By expanding the nation's most successful and efficient healthcare program to cover everyone, we could solve the country's healthcare crisis once and for all. Under an expanded Medicare plan everyone would be included, regardless of age, pre-existing medical conditions, or ability to pay. Costs would be controlled through the elimination of wasteful insurance industry paperwork and expensive and unnecessary bureaucracies. We could then shift our focus toward preventive primary care, striving to keep people healthy rather than waiting until they get sick. Caregivers and patients, not profit-driven insurance companies, would be in control of making healthcare decisions.

NUHW has also taken a leading role in pushing for mental health parity by holding healthcare providers accountable for offering mental healthcare that is on par with primary healthcare. We forced Kaiser Permanente to start addressing the problem and we are expanding our efforts to other healthcare systems and providers.



Chapter 2: Building the Model Union



MODULE 1 SUGGESTED ACTIVITIES

Activity 1: What Is a Union: Small Group Discussion

Estimated time: 30 minutes

In pairs or small groups, select or assign one of the below sections from **What is a Union**, pages 13-14.

- Why Is There Conflict Between Management and Workers
- Union Contract and Contract Enforcement
- Dues
- New Organizing
- Equal Rights
- Political Action
- Medicare for All/Mental Health Parity

Read the section aloud, then answer the following questions. Then bring groups back together to share their answers.

1. What is the main takeaway you have from reading this section?
2. How have you seen (or not seen) this at your workplace?

Activity 2: Building the Model Union: Small Group Discussion

Estimated time: 15 minutes

In pairs or small groups, review the elements of **the Model Union** in the quiz corner on page 19.

What actions could you take in your role as a steward to strengthen your union so that every element is present in your workplace? Share your answers with your small group.



We believe that the Model Union consists of the following components. Does your workplace have all these elements? Check all that apply.

Does this list make you think about ways you could strengthen your union?

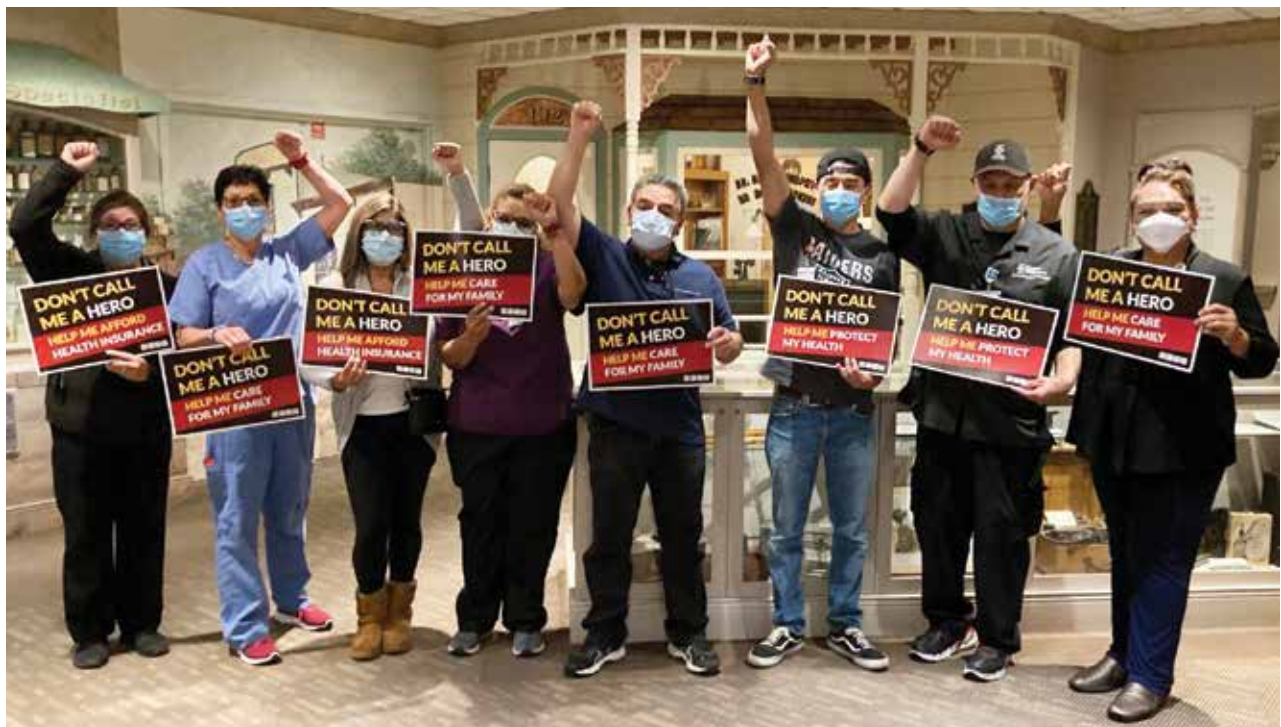
- ☐ **DEMOCRACY:** Members vote on officers, stewards, bargaining team, union proposals, contracts, next steps, changes to the union's constitution and bylaws
- ☐ **WORKPLACE ORGANIZATION:** Well-charted facility with stewards in every department/group and each shift, regular membership meetings that ensure an engaged and involved membership
- ☐ **TRAINING AND DEVELOPMENT:** Regular steward trainings
- ☐ **PATIENT ADVOCACY:** Cornerstone of our role as caregivers is to be able to ensure our patients receive the care they need and deserve
- ☐ **NEW ORGANIZING:** Bringing the bottom up to raise the ceiling and improve standards for all workers
- ☐ **POLITICAL ACTION:** Members participating in the COPE fund and influencing elected officials
- ☐ **RESEARCH:** Investigating and documenting standards and practices of our employers and other employers to equip ourselves with valuable information to negotiate fair contracts and hold management accountable to quality patient care standards
- ☐ **COMMUNICATION:** Regular newsletters, updated bulletin boards, getting the word out to our members and the larger community

Chapter 2: Building the Model Union



KEY LEARNINGS FOR THIS MODULE

- NUHW was founded to be a fundamentally democratic, member-led union.
- Organizing, political action, and fighting for medicare-for-all and mental health parity are just some of the ways NUHW strives to be a Model Union.
- Through your union, you and your coworkers can use your collective strength to negotiate improvements to your wages, benefits and working conditions, improvements that your profit-driven employer may not otherwise have offered.



Chapter 2: Building the Model Union

Module 2: Role of a Steward



LEARNING OBJECTIVES

Participants will be able to (1) describe the role of a steward, and (2) articulate at least two practical, concrete actions that a leader can take at the worksite to strengthen understanding, involvement and unity among co-workers.



DEFINITIONS

Steward: A worksite leader, elected by their coworkers, whose job it is to organize their coworkers to help them interpret and enforce the contract.

Duty of Fair Representation: The legal duty of all stewards to represent all members fairly and impartially.

Organizer: A steward must also be an organizer; that is, it is the steward's job to coordinate meetings, workplace actions and other collective actions, to systematically turn their coworkers out to participate in those meetings and actions, and to relay important information and interpret the boss's messaging for their coworkers.

THE ROLE OF THE STEWARD IN BUILDING THE MODEL UNION

Stewards are the foundation upon which any union is built. Strong, engaged stewards who organize their members and enforce their contract will help to build a strong, democratic union. Stewards who don't participate, don't lead their coworkers and don't enforce the contract are building a weak foundation for their union.

Article 7 of NUHW's Constitution and Bylaws outlines the roles and responsibilities of a steward:

STEWARDS

1. Stewards are the worksite leaders of the Union. A strong, democratic, and effective union is built on a solid foundation of stewards at each worksite. The responsibilities and roles of a steward are defined by this Constitution and Bylaws; union policies and procedures; as well as by the provisions of the collective bargaining agreements that are negotiated with the employers.
2. The diversity and complexity of the Union only allow for a general description of the steward's roles and responsibilities in this Constitution and Bylaws. The Executive Board shall set policies as necessary on all matters relating to stewards, except the basic policies that stewards be members in good standing, and that they be elected, by ballot or petition, in a work area (unit or department or cluster) defined by the appropriate worksite steward council.
3. A steward has no greater rights than any of the members in their area. However, the responsibilities of a steward do outweigh those of other members. Being a steward requires that personal opinions and preferences are subordinate to that which represents the highest good to the members.

Chapter 2: Building the Model Union

4. Stewards shall serve without compensation. However, based on the financial ability of the Union, the Executive Board shall consider and establish guidelines and policies regarding reimbursement for lost time wages and “out of pocket” expenses.
5. The responsibilities of a steward shall include, but are not limited to:
 - A. Mobilizing members to action;
 - B. Supporting the Union’s efforts to process grievances and resolve worksite issues;
 - C. Orienting new workers to the Union;
 - D. Maintaining the Union’s internal organization at the worksite;
 - E. Completing core steward training and any other required training;
 - F. Participating in the grievance appeal process, as appropriate;
 - G. Distributing and posting all appropriate information they receive from the Union and updating the union bulletin board;
 - H. Collecting dues or other monies if so authorized by the Union;
 - I. Representing their worksite in appropriate meetings of the Union and representing the interests of the members in their absence;
 - J. Attending facility, worksite, geographic, and other appropriate meetings;
 - K. Effectively leading members to defend and advance the interests of the membership;
 - L. Participating in, promoting, and recruiting for the Union’s organizing and political programs;
 - M. Communicating with and leading members to implement the policies and programs of the Executive Board and the division steward council.

**To see the full article, visit www.nuhw.org/constitution-and-bylaws/*



Chapter 2: Building the Model Union

LEGAL RIGHTS OF STEWARDS

While stewards have no greater rights than other union members, when we are functioning in the role of the steward, we do have the right to be regarded as equal to management. Stewards also have the right to:

- Investigate and file grievances, including the right to request information from management
- Be held to equal standards as other coworkers
- Organize collective worksite actions
- Actively participate in a Weingarten investigatory meeting, and to speak privately with an employee prior to an investigatory meeting

You may not be disciplined or retaliated against for filing a grievance or serving appropriately in your role as a steward.

DUTY OF FAIR REPRESENTATION

It is every steward's LEGAL duty to represent all members fairly and impartially, regardless of personal animosity or difference. As stewards we have to conduct a thorough investigation, be timely, and communicate with members on the progress of a grievance, whatever the outcome is.

Duty of Fair Representation requires three things on the part of the union:

- all members will be represented without discrimination
- discretion will be exercised with good faith
- the union will not act arbitrarily

To avoid opening yourself up to a Duty of Fair Representation (DFR) charge, remember to:

- Treat all members equally.
- Never discriminate against a member based on race, gender, sexual orientation, political affiliation, religion, national origin, or other reason.
- Do a thorough investigation of the facts of the possible grievance and be sure to keep good records of your investigation.
- Have an honest, transparent process about whether you intend to process a grievance and your objective rationale.
- File grievances within timelines.
- Consult with veteran stewards and union staff if you are handling a situation that you are unsure about.

Chapter 2: Building the Model Union

QUALITIES OF A STRONG STEWARD: SELF ASSESSMENT

I organize my coworkers to take action
(move petitions, have organizing conversations,
coordinate workplace actions)

- ☐ Yes, I do this often
- ☐ I do this sometimes
- ☐ I never do this

I investigate and file grievances

- ☐ Yes, I do this often
- ☐ I do this sometimes
- ☐ I never do this

I participate in or lead meetings with management

- ☐ Yes, I do this often
- ☐ I do this sometimes
- ☐ I never do this

I participate in or lead bargaining
(contract bargaining or local issues bargaining)

- ☐ Yes, I do this often
- ☐ I do this sometimes
- ☐ I never do this

I lead Weingarten meetings

- ☐ Yes, I do this often
- ☐ I do this sometimes
- ☐ I never do this

I facilitate steward council meetings

- ☐ Yes, I do this often
- ☐ I do this sometimes
- ☐ I never do this

I help to organize unorganized workers

- ☐ Yes, I do this often
- ☐ I do this sometimes
- ☐ I never do this

I mentor other stewards

- ☐ Yes, I do this often
- ☐ I do this sometimes
- ☐ I never do this

I recruit new stewards

- ☐ Yes, I do this often
- ☐ I do this sometimes
- ☐ I never do this

I participate in community and political activities
(canvassing, phonebanking, meetings and events)

- ☐ Yes, I do this often
- ☐ I do this sometimes
- ☐ I never do this


I recognize and document legal violations
(health & safety, staffing, patient rights)

- ☐ Yes, I do this often
- ☐ I do this sometimes
- ☐ I never do this

Chapter 2: Building the Model Union

PORTRAIT OF A WELL-ORGANIZED WORKPLACE

The union is visible to members and management every day.

- **Face-to-face visits.** Stewards or union volunteers walk through the workplace regularly. They have relationships with all members, not just elected leaders.
 - **Complete coverage.** There is a steward or union volunteer on every shift in every department. The list is written down, regularly updated, and widely available.
 - **Lively meetings.** Membership meetings are regular and well-attended.
 - **New hires join.** A union representative attends every new employee orientation.
- 
- The image shows three people standing in front of a building with a grid-like facade. On the left is a man with glasses wearing a red shirt with 'NUHW' and 'NATIONAL UNION OF HEALTHCARE WORKERS' printed on it, and a dark jacket. In the center is a woman with dark hair wearing a red NUHW shirt. On the right is a woman with glasses and a bun, also wearing a red NUHW shirt and holding a coffee cup. All three are smiling.
- **Word gets around.** There is regular communication through newsletters, flyers, up-to-date bulletin boards, and a member-to-member network. We defend our standards and enforce our contracts.
 - **Action is the norm.** Members mobilize and use collective action to solve everyday problems. Grievances are not our primary line of defense.
 - **We know our rights.** Contracts are widely available and promptly distributed, both electronically and in print.
 - **Stewards do it.** Stewards are trained and empowered to resolve issues at the lowest level, including filing grievances.
 - **Boss knows it.** Managers do not act unilaterally or abusively because they know they will get pushback.

Members own the union.

- **Confidence.** Members feel that their union is strong and can resolve problems.
- **Easy access:** Through stewards, members have immediate access to resources to resolve their problems, without having to track down the union staff person.
- **Participation:** Members participate in union-wide programs and campaigns.
- **Pride:** Members are glad they belong to the union. Social events are well attended.

Adapted from Labor Notes "Secrets of a Successful Organizer" training <https://labornotes.org/secrets>.

Chapter 2: Building the Model Union



MODULE 2 SUGGESTED ACTIVITIES

Activity 1: Steward Self-Assessment

Estimated time: 15 minutes

Individually take the self assessment quiz on page 24 (Qualities of a Strong Steward: Self Assessment). Then, in pairs or small groups, share the areas you scored yourself high, as well as areas where you want to improve as a steward.

Activity 2: Portrait of a Well-Organized Workplace

Estimated time: 30 minutes

In pairs or small groups, review the bullet points listed under the Portrait of a Well-Organized Workplace, then discuss the following questions:

- Which of these elements do you see at your workplace?
- Which elements are lacking?
- What concrete actions could you take as a leader to organize your workplace?

Then come back together as a large group and, using the concrete actions groups came up with, put together an action plan for your facility.



KEY LEARNINGS FOR THIS MODULE

- As a steward, you are responsible for organizing your coworkers and increasing their understanding of and involvement in your union.



Chapter 2: Building the Model Union

Module 3: Building Member Unity to Win



LEARNING OBJECTIVES

Participants will be able to (1) share stories to build stronger relationships, and (2) use learned tools to address division and handle constructive criticism.



DEFINITIONS

Unity: In the context of your union, unity means presenting a strong, engaged and united front to management in meetings, during bargaining, and when it comes to addressing issues in the workplace.

Constructive Criticism: Feedback that is clear, direct, and honest, and comes with concrete suggestions for making positive changes. Stewards will not always receive criticism from members in a form that is constructive, but it's still the steward's responsibility to ensure members feel heard.

Steward Council: The elected representatives of the members of the Bargaining Unit at a facility.

ADDRESSING DIVISION

Unity among members is essential so that you can build power. We can't afford to let greedy employers divide us against each other based on our differences of opinions, what someone looks like, where they come from, who they love, or what language they speak. By joining together, we can make our workplaces work for all of us.

The boss is often the main cause of division, but sometimes members can be divisive too. Sometimes members will express negative or oppositional sentiments about your union, or voice opinions you don't agree with. Below is a helpful tool to use when a member approaches you with a challenging question or statement:

Model 1: Responding to Challenging Questions or Statements

1. **LISTEN** mindfully before formulating a thoughtful response
2. **BREATHE**
3. **ASK** questions when people express strong opinions.
4. **AFFIRM:** Clarify the difference between their good intentions and the impact of their words.
5. **SPEAK** from a place of mutual interest, sharing your personal experiences, emotions, and positive example. We're all in this together. Share some context or information.
6. **ENGAGE:** Involve the member. What current union activity will you ask them to get involved in?

Chapter 2: Building the Model Union

What about when you are on the receiving end of constructive criticism? Perhaps a member doesn't agree with how you handled a grievance. Or perhaps you offended a fellow steward with a careless comment in a meeting. We are all human, and all make mistakes from time to time. A true leader acknowledges mistakes, takes responsibility and works to repair the relationship.

Here is another helpful model for accepting constructive criticism. You'll notice it has a lot in common with the model for handling tough member questions.

Model 2: Accepting Constructive Criticism from Coworkers

1. **BREATHE:** To help us relax and be receptive.
2. **LISTEN:** Carefully to what the other person has to say so we can learn from the experience.
3. **THANK THE PERSON** for being honest and assertive.
4. **GO AWAY AND THINK ABOUT IT** and how we can do differently next time.
5. **TAKE APPROPRIATE ACTION:** Apologize, make an effort to seek knowledge to understand.

What not to do: Argue or attack; become defensive; get angry; rebut...

BUILDING STRONG RELATIONSHIPS

A strong, engaged and effective steward council can change the culture of a facility. If stewards are always speaking up and speaking out, the union is real for members and for management. When steward councils are disorganized or struggle with in-fighting, employers are more apt to take advantage and try to circumvent the contract.

Stewards don't have to be friends with each other or agree on everything. You don't even have to like each other. But things work better when stewards build strong relationships with each other based on mutual respect and accountability. You develop those relationships by showing up for each other over and over again, building trust over time.

BRAINSTORM

Think of the people who mean the most to you. How did that relationship grow? What are some actions you can take to bring that sense of quality and belonging to your steward council?



MODULE 3 SUGGESTED ACTIVITIES

Activity 1: Boss Tactics

Estimated time: 30 minutes

Often the boss will try to divide union members along race, class or gender lines in order to weaken the union. For example, when the boss implements a scheduling protocol that pits senior employees against newer ones, they are using years of service to divide people. In pairs or small groups, come up with a list of examples of when the boss has used differences of race, gender, sexuality, immigration status, or something else to divide you and your coworkers.

Chapter 2: Building the Model Union

Activity 2: Sharing Your Story

Estimated time: 30 minutes

How do we build connections and strong relationships within our steward councils? A good place to start is by sharing our stories.

Take a few minutes to answer the following questions individually, then pair up and share your responses.

1. How did I get into healthcare?
2. How has being a union leader changed my life?

Once both people have shared, return to a large group and reflect. What did you relate to from other people's stories? What surprised you in these stories? What are the ways we as stewards show up for one another?

Activity 3: Dealing with Division

Estimated time: 30 minutes

Dealing with division or discomfort is never easy, but practicing helps. In pairs or small groups, review the scenarios below, then use the response models on pages 27-28 to formulate your response. Then come back together as a large group and share your responses.

Scenario 1: A white member from housekeeping complains to you about coworkers of color “playing the race card.” They ask whether the union can start a petition to get the two managers — both of whom are Black — terminated for discriminating against white workers.

USE RESPONSE MODEL 1 to formulate your response.

Scenario 2: A member tells you they want a male steward to defend them in their upcoming investigatory meeting because they don't trust a female steward to “come down hard on management.”

USE RESPONSE MODEL 1 to formulate your response.

Scenario 3: At a recent steward council meeting, you made a joke about Republicans being incompetent. Another steward approached you afterwards and told you they felt offended by your comment.

USE RESPONSE MODEL 2 to formulate your response.

Scenario 4: You just concluded a particularly difficult labor management meeting. During the meeting, management refused to discuss a number of important issues. You yelled at them and pointed out all the ways they are hypocrites. Afterwards, a member who was at the meeting told you they thought yelling was a bad strategy.

USE RESPONSE MODEL 2 to formulate your response.

Chapter 2: Building the Model Union



KEY LEARNINGS FOR THIS MODULE

- In order to win strong contracts and improve working conditions, you must build strong relationships with other stewards and the members you represent.



[illegible]

This image shows a single page of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page, providing a guide for handwriting or typing. There are no margins, text, or other markings on the paper.

Chapter 3: Organizing Fundamentals

Module 1: Leader Issues Hope



LEARNING OBJECTIVES

Participants will develop a shared definition of leaders, issues, and hope, as well as the role these concepts play in organizing workers.



DEFINITIONS

Leader: Leaders are people who have followers.

Issue: The thing that matters most to someone.

Hope: A plan to win.

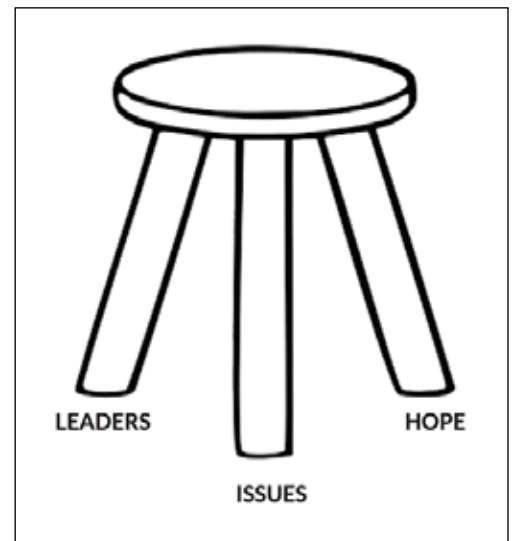
THE THREE-LEGGED STOOL

At NUHW, we believe the effective cultivation of leaders, identifying and mobilizing around issues, and providing hope are the foundation of any successful organizing campaign.

LEADERS

Leaders have followers. People respect and trust them (or fear them) and will often do what they ask. Leaders can move petitions and convince coworkers to come to meetings and take action. Without leaders, it is hard to move campaigns, and impossible to win them.

Activists help build the union by participating in meetings, signing petitions, passing flyers and showing up to actions. Like leaders, they play an important role in moving campaigns forward, but, unlike leaders, they don't have followers.



You don't pick leaders. Your coworkers tell you who the leaders are. Questions to ask to identify leaders:

- Who do people respect?
- Who do people go to when the boss isn't around?
- Who organizes the department parties and potlucks?
- Who is someone people listen to?

ISSUES

A person's issue is:

- The thing that is most important to them
- The thing that pisses them off
- The thing that drives them to get involved in their union
- NOT an excuse or a doubt

Chapter 3: Organizing Fundamentals

Understanding issues is important because you can't move anyone without knowing what they care about. You have to ask open-ended questions in order to learn what matters to someone:

- How are things going in your department?
- How does that work?
- What do you think about that?
- How does that make you feel?
- How does that affect you outside of work?
- If it were up to you, what would you do to change things for the better?

HOPE

It is normal to feel hopeless when you face stressful situations, like a tough contract fight or a contentious workplace issue.

Hope is really the plan to win. We can give someone hope by sharing the plan for achieving our goal, or by sharing a story of past successes. When giving someone hope, remember to “zoom in and zoom out.” Zoom in on the particular issue they are facing by using specific, concrete examples of how other departments or facilities faced a similar challenge and overcame it. Zoom out to paint a big picture vision of what their lives will look like once the goal is achieved.

LEADERSHIP TIP



“We don't just go up to someone and ask, ‘Hey, what's your issue?’ People will be confused or maybe even offended. Generally, we want to ask open-ended questions that get the person to talk and open up. And once we get a sense of the thing that matters most to someone, we don't just say, ‘ok, thanks, bye.’ We have to ask follow up questions to find out why that thing is so important to them. How does it affect their home life? What would a change/improvement mean for them?”



Elizabeth White, VP
Kaiser Psych-Social



MODULE 1 SUGGESTED ACTIVITIES

Activity 1: Turning a Disorganized Group into an Organized Group (see Answer Key)
Estimated time: 30 minutes

What role do leaders play in turning a disorganized group to an organized group? In pairs or small groups, review the chart below, then fill in the middle column with actions you think a leader would take to fix the disorganization. Ask yourselves: what would a leader do unite people who are divided? How would a leader create shared understanding when members are confused?

DISORGANIZED GROUPS	WHAT LEADERS DO	HIGH-FUNCTIONING GROUPS
Divided		United
Confusion		Shared understanding
Reactive - just putting out fires		Proactive
Low participation		High Participation
Problems continue		Problems are solved, things get done

Chapter 3: Organizing Fundamentals

Activity 2: Identifying Issues

Estimated time: 20 minutes

In pairs, ask each other questions to identify your main issue(s). Reference the questions on page 34, or come up with your own. After each person has had a turn, come back to the larger group and share what you think the issue was.

Activity 3: Creating Hope

Estimated time: 20 minutes

Think about a time when your union won. Maybe you won a grievance that you filed on behalf of a coworker, or maybe you and your colleagues stopped management from making changes to your department. Now imagine you're talking with a member who is facing a similar situation and feeling hopeless. What is the story you would tell them to give them hope? In pairs or small groups, share your stories of hope.



KEY LEARNINGS FOR THIS MODULE

- Any successful organizing campaign must have leaders, issues, and hope.
- You don't pick leaders, your coworkers do.
- To learn about what someone cares about, you have to ask questions and listen.
- You create hope by sharing the plan to win, as well as stories of past victories so your coworkers know they too can organize and win.



LEADERSHIP TIP



"Even as a steward, I struggle to feel hopeful all the time. But when I remind myself of stories of past victories we've had in our union, it helps me remember that we can do hard things, because we've done it before and succeeded."



Jackie Schalit, VP
UCSF Benioff Children's
Hospital Oakland

Chapter 3: Organizing Fundamentals

Module 2: Moving Undecided Coworkers



LEARNING OBJECTIVES

Participants will be able to (1) apply best practices for moving undecided coworkers from a place of inaction to one of action, and (2) recognize and apply components of an organizing conversation.



DEFINITIONS

Undecided Coworkers: Coworkers whom you've asked to do something — sign a petition, attend a meeting, or come to a workplace action — and have told you they are not sure.

Organizing Conversation: Different from a casual chat, an organizing conversation is usually a one-on-one conversation meant to build trust, identify issues and move someone from a place of inaction to one of action.

Moving undecided coworkers is one of the hardest- and most important- things you will do as a steward. It is vital to move coworkers who are undecided because they make up the majority of the people at your workplace. They are the “missing middle,” the people who aren't die-hard union supporters, but also aren't totally anti-union. The main way you will be able to move your undecided coworkers is through organizing conversations.

BASIC ORGANIZING CONVERSATION FRAMEWORK

Introduction

- Introduce yourself if you don't know them well
- Don't just jump straight into the ask
- Let the member know what you want to discuss

Anger/Issues

- Engage in the conversation by asking questions
- Listen to identify issues they are experiencing and connect them to the larger issues at hand
- Ask open-ended follow-up questions
- Agitate
- This part should be mostly listening and asking questions

Hope/Plan to Win

- Don't be afraid to get vulnerable (without getting too personal) and talk about how you got involved with your issues
- Provide examples of past successes, a credible plan to win, a vision for the future
- Without hope, people sink into cynicism or apathy
- Communicate that victory will take their involvement

Chapter 3: Organizing Fundamentals

BASIC ORGANIZING CONVERSATION FRAMEWORK (CONTINUED)

Frame the choice

- Make the decision clear for workers and leaders
- Provide the member with two options that are clear, concise, concrete and impactful
- End with a question that challenges them to make a decision

Call the question/assessment

- Only one way to call the question: ASK!
- A petition can be a useful tool to assess their position

Inoculation

- Management will try to break down our campaigns. This will be the time in the conversation to fight back against their arguments preemptively
- Fight boss tactics and messaging by telling people what they can expect the boss to say and do

Follow-up

- Carefully track what commitments you get out of the conversation
- Do not forget to follow up or provide information if asked for more details
- Be reliable!
- If they're receptive, move them into action with additional ways they can help:
 - List work, ID leaders and get contact info or set meetings, talk to another coworker
- Set a concrete follow up to convey urgency and help people understand the importance of the step they are taking



Chapter 3: Organizing Fundamentals

UNDECIDED COWORKERS: DO'S AND DON'TS

DO:

- **Ask open-ended questions** if you aren't sure what they care about, and practice active listening by asking follow-up questions and repeating back what someone tells you to ensure clarity.
- **Go to their issue**, or the thing that matters most to them, and remind them of why they are fighting.
- **Validate their righteous anger** — agitating someone often means encouraging them in their anger about a workplace injustice.
- **Acknowledge** that it's normal to feel tired and frustrated by a long fight, while also reminding them they aren't fighting alone, that the fight is winnable, etc.
- **Share the plan to win** — share stories of past successes, of other workers at other facilities succeeding.
- **Figure out who their leader is** and get that person to talk to them.
- **Pay attention to what people are saying** and who they have relationships with — maybe there is another/deeper issue going on, and you need to ask more questions.
- **Be cognizant of yourself** — pay attention to the other person's body language. Are you talking to them about something that engages them? Don't check your phone or watch.
- **Win the environment** — undecided or apathetic workers often look to see who will win, so wear swag and do activities/actions to make your union feel like the winning team.

DO NOT:

- **Argue.**
- **Assume** you know what someone's challenges or priorities are.
- **Talk more** than you listen — follow the 70/30 rule (listen 70%, talk 30%)
- **Put off** the conversation until a later date to avoid the hassle.



Chapter 3: Organizing Fundamentals



MODULE 2 SUGGESTED ACTIVITIES

Activity 1: Undecided Angie

Estimated time: 20 minutes

Imagine your union has been in contract negotiations for over a year. You're close to an agreement, but the employer has proposed raising employee contributions towards health insurance by 30%, as well as a reduction to 401k contributions. You've done petitions, marches on the boss, meetings with electeds, and an info picket. Now, the bargaining committee is recommending a 1-day strike. They've asked you to talk to Angie, a relatively new employee in your department, to persuade her to vote Yes on the strike. You know Angie is a single mom, and that health insurance is important to her, but your bargaining team members say she's unsure about striking because she's afraid to lose pay. In pairs, take turns playing Angie. The other person will play the steward.



KEY LEARNINGS FOR THIS MODULE

- You can use organizing conversations to move undecided coworkers to take action and get involved in your union.



Chapter 3: Organizing Fundamentals

Module 3: Combatting Third-partying



LEARNING OBJECTIVE

Participants will be able to identify and correct instances of third-partying by the boss, members, or themselves.



DEFINITION

Third-partying: The act of talking about or treating your union as an outside “third party” intermediary that is the go between the boss and you and your coworkers. In reality, you and your coworkers are the union. Your union is not some outside entity, but the boss will often try to get you to see it that way.

COMMON THIRD-PARTYING MESSAGES FROM THE BOSS

Third-partying your union is one of the main tactics the boss uses to create fear, doubt, and disempowerment among workers.

HOW THE BOSS THIRD PARTIES THE UNION	WHAT THE BOSS WILL OFTEN SAY
Union makes the rules, makes decisions for you.	<i>“Union leaders” are determined to fight us over this contract, but the members feels differently.</i> <i>I can’t do what you’re asking because the union already negotiated something else.</i> <i>Your union will force you to go on strike.</i>
Union interferes with our direct relationship.	<i>Because of the union, we can’t speak directly to each other about the issues in the department.</i> <i>You have to talk to your union rep first.</i>
Union is a big business looking out for its own interests.	<i>Unions just want your dues dollars.</i> <i>The union is just doing this for publicity/money to drum up new members.</i>
Union is dishonest, has a hidden agenda.	<i>The union isn’t telling you the whole story.</i> <i>Union leaders have a hidden agenda that you have no say in.</i>

Chapter 3: Organizing Fundamentals

But members (and even stewards) can also third-party their own union. They can do it when they talk about the work of their union, or in their actions. They can even do it by accident.

EXAMPLES OF MEMBERS THIRD-PARTYING THE UNION

SANDY

Sandy is an MRI tech who's worked at the hospital for 15 years. She's always been supportive of the union, attends meetings and bargaining sessions, and has even helped with strike sign-ups. Today she came to you, her steward, to complain that her paycheck is wrong. When you asked her to help you fill out the grievance form, Sandy says: "I don't have time to do this right now, that's why I'm bringing it to your attention. Aren't you the steward? Isn't it your job to file grievances for members?"

DENNIS

After a long contract fight, you and your coworkers have just reached a tentative agreement on a new contract, with significant raises and improvements to health insurance. However, the one take-away was a slight increase to copays. Members have voted overwhelmingly to accept the new contract. Dennis, an LCSW who is about to retire, is angry because the slight increase to copays applies to retiree healthcare as well. Dennis says, "The union didn't get us a good contract last time around, and this one is even worse. Who even decides these things? None of us wanted this contract. The union sold us out."

JASON

Jason works in EVS and has always been anti-union. He never attends meetings, doesn't participate in votes or actions, and has even crossed the picket line during strikes. Recently, his department negotiated an agreement with management to change the way shifts are scheduled. The members were happy with the agreement and voted overwhelmingly to ratify it, but Jason is displeased. Jason says, "I'm paying for the union, but I never get anything out of it. What are my dues even going towards? The union is a service we pay for, and if we're not getting that service, then we're getting screwed."



Chapter 3: Organizing Fundamentals



MODULE 3 SUGGESTED ACTIVITIES

Activity 1: Bosses Third-Partying the Union

Estimated time: 20 minutes

In pairs or in groups, read the fictional letter in the case study on page 39. Can you identify the ways in which the boss third-parties the union?

Activity 2: Members Third-Partying their Union

Estimated time: 20 minutes

In pairs or in groups, read the scenarios on page 38, then come up with what you would say to the person in response. How would you reframe the third-partying? How would you reinforce the idea that the workers are the union? Then gather back together as a large group and take turns role-playing the conversation.

Activity 3: Response Letter

Estimated time: 15 minutes

Imagine you've been asked to respond to the memo sent by the CEO of Prince Hospital (Case Study page 42). What would you say? In pairs or small groups, brainstorm a response in which you confront and correct the instances of third partying in the letter.



KEY LEARNINGS FOR THIS MODULE

- Whether it comes from your manager, HR or your coworkers, as a steward, you must learn to identify and correct instances of third-partying,



CASE STUDY



How bosses third-party the union

The below letter is an example of the kind of third-partying language bosses will use when communicating with union employees.

Memo: Open Letter to Caregivers

Subject: Ongoing Negotiations

Dear Cherished Caregivers:

As you may know, we've been in bargaining with the NUHW.

First, I want to just appreciate you all for all your hard work and tireless dedication during these difficult times. This pandemic has wreaked havoc on our communities, and has put our beloved hospital under significant strain, both emotionally and economically. Thank you for continuing to show up and do your best for our patients.

As you may know, we've been in bargaining with the union for over a year now, and have made good progress on a number of important issues. For example, we have graciously agreed to continue providing fully employer-paid healthcare, and we have heard from numerous caregivers how much they appreciate that generosity.

However, the union's continued insistence on raise amounts that are far above market rate — and far beyond what our little community hospital is able to afford — has left us at a crossroads. While we have no doubt that Prince caregivers seek to put patients first, it is increasingly evident that the union has other priorities.

Like many of you, I desire nothing more than to move past these protracted battles with the union and achieve an agreement that benefits you, dear caregivers, as well as the patients we serve. We encourage you to speak to your union leaders and urge them to seek compromise.

Sincerely,

*Chad Hotchkins III
CEO, Prince Hospital*

[illegible]

[illegible]

Chapter 4: Solving Problems on the Job

Module 1: Administrative vs. Direct Action



LEARNING OBJECTIVES

Participants will be able to (1) articulate the pros and cons of administrative solutions vs. collective action, and (2) apply the definition of a good organizing issue, as well as the concept of escalation.



DEFINITIONS

Organizing Issue: An issue that is deeply felt, widely felt, winnable, creates meaningful improvement in peoples' lives, and helps make the union stronger.

Direct Action: Often called collective action, direct action is when union members use their collective power to make the boss agree to a desirable goal.

NLRA: The National Labor Relations Act.

Escalation: In a campaign, the act of starting with lower-intensity actions and building up to actions of increasing intensity until you achieve your goal.

Cease and Desist Letter: An official legal notice sent to the employer to demand that the employer stop from implementing a unilateral change or to stop some type of misconduct.

WORKPLACE ACTIONS

Here are some actions union members might engage in:

- File a grievance
- Bargain over a local issue
- Send a cease and desist letter
- Send an email to management
- Move a petition
- Pass flyers at the facility or in the community
- Hold a sticker-up
- March on the boss
- Hold an info picket
- Engage in a strike
- File a complaint with a state agency
- Meet with elected representatives
- Engage in work to rule (only doing exactly what's in your job description, by the book)
- Hold a town hall
- Hold a press conference



Look at the list of workplace actions. Are there any missing? Are there any listed that you are not familiar with? Ask a fellow steward or your NUHW organizer to explain the action to you.



Chapter 4: Solving Problems on the Job

These actions fall into two categories: administrative and direct.

An **ADMINISTRATIVE ACTION** is typically a formalized issue resolution procedure, like a grievance procedure, the employer's own compliance process, or negotiation.

A **DIRECT ACTION**, often called collective action, is when union members use their collective power to make the boss agree to a desirable goal like resolving an issue to the liking of union members, admitting fault on an issue, revealing alternative solutions, etc.

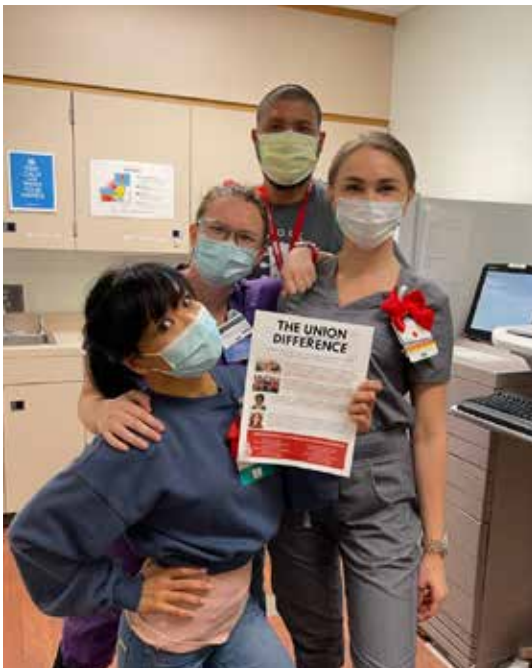
Some workplace issues affect just one or two individuals. Some affect a whole department or even the whole hospital. Issues that affect large groups of members have the potential to be good issues to organize around. Good organizing issues are often:

1. Widely felt
2. Deeply felt
3. Winnable
4. Create meaningful improvement in peoples' work lives
5. Strengthens the union

THE **NLRA** PROTECTS YOU WHEN YOU ENGAGE IN COLLECTIVE ACTION

Section 7 of the National Labor Relations Act states:

"Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid and protection."



CASE STUDY

Children's Hospital Oakland



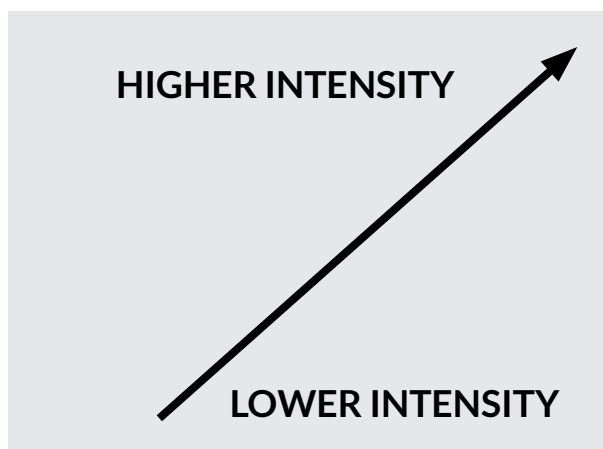
In 2017, UCSF Benioff Children's Hospital Oakland (then Children's Hospital) proposed a rebid in Housekeeping that would result in 20 people losing their benefits and being converted from full-time employees to per diem employees without guaranteed hours. People were furious: the housekeeping department was already short-staffed, and areas were often too big to clean properly.

In response, leaders moved a petition that gathered over 1,400 signatures in one week, and on the first day of bargaining for the rebid, 45 housekeeping employees delivered this petition to management. In response, management backed off of any reduction in hours or loss of benefits. This was a good example of a deeply and widely felt issue that leaders were able to organize around and win on.

Chapter 4: Solving Problems on the Job

ESCALATION

Collective actions are usually part of an escalating campaign. In a campaign, escalation is the act of starting with lower-intensity actions and building up to actions of increasing intensity until you achieve your goal. An example might be a campaign around unsafe staffing. You might start by filing a grievance, then moving a petition and delivering it to the manager if the grievance doesn't resolve things. If that doesn't work, organizing a press conference, meeting with elected officials, or filing a complaint with the state are other ways to consider escalating.



CASE STUDY

Escalation at Kindred Westminster



When COVID hit, management at Kindred Westminster was only doing the bare minimum to protect patients and caregivers. So NUHW members took matters into their own hands: they organized and met with management to demand N95s, universal testing, and a separate COVID unit. Kindred management tried to buy them off with hazard pay, but didn't want to create a separate unit or implement any other protections. So the members reached out to local allies: CLUE Justice, the Orange County Labor Fed, and some local candidates for state assembly. They all supported NUHW members by writing letters to the CEO and also organized a picket. That was still not enough pressure to win, so the members began organizing a second picket together with CNA. When they had gotten commitments from several elected officials to come out and speak at the second picket, that finally got the CEO's attention. The night before the picket, management called NUHW member leaders and agreed to most of their demands--monthly testing, weekly meetings, and improved PPE. And after some additional negotiation, management also agreed to set up a separate unit for COVID patients.

LEADERSHIP TIP

"In campaigns, we start with lower-intensity actions because it gives us room to build. We want to give the boss the chance to do the right thing; that way, if they do not, we can always say we tried. It's also good practice to try and resolve an issue with a simpler action first."



Denenea Conner, VP
Kaiser Psych-Social

Chapter 4: Solving Problems on the Job



MODULE 1 SUGGESTED ACTIVITIES

Activity 1: Is it Administrative or Direct Action?

Estimated time: 20 minutes

In pairs or small groups, read the list of possible workplace actions on page 43 and determine whether it's an administrative action, or a direct action. Then come back together and share your answers. Are there any tactics not listed here that you've used to solve problems on the job?

Activity 2: Solving Workplace Issues

Estimated time: 20 minutes

In pairs or small groups, make a list of worksite issues that you have had to deal with in the past month. What are some of the things you can do to try and resolve these issues? Reference the list on page 43 for ideas.

Activity 3: Escalation

Estimated time: 20 minutes

Materials: Flip chart, marker, post-it notes

On flip chart paper, draw a diagonal arrow. Label upper right corner "higher intensity," lower left corner "lower intensity." Then write down different workplace actions or tactics on post it notes. Reference the list on page 43 if needed. It's okay if two people write down the same action. Then ask volunteers to come up and read what they wrote on their post-it notes. Ask: Is this action higher intensity, or lower intensity? As a group, decide where to place the tactic along the diagonal.



KEY LEARNINGS FOR THIS MODULE

- While grievances are important, organizing your co-workers to take collective action is the most powerful tool available to solve workplace issues that are deeply felt, widely felt, and winnable.
- It's most effective to start with lower intensity actions and escalate if the boss fails to resolve the issue.



Chapter 4: Solving Problems on the Job

Module 2: Planning Successful Actions



LEARNING OBJECTIVES

Participants will be able to (1) identify opportunities to plan and execute workplace actions, and (2) work with members and staff organizers to plan and execute workplace actions



DEFINITION

Organizing Issue: An issue that is deeply felt, widely felt, winnable, creates meaningful improvement in peoples' lives, and helps make the union stronger.

In the previous section, you learned that there is a difference between administrative issues, which we often resolve using grievances, and organizing issues, which may involve filing grievances, but most often involve taking action at the workplace.

Remember: good organizing issues are deeply felt, widely felt, winnable, create meaningful improvement in peoples' lives, and help make the union stronger.

Part of being a leader in NUHW means being able to identify good organizing issues, and planning actions at the workplace to resolve those issues.

In addition to resolving issues at the workplace, we organize workplace actions in order to:

- Develop leaders and members when they are the ones taking action to solve problems
- Make the issue more visible/public, and put pressure on the boss to do what we're asking
- Escalate during a contract campaign
- Generally raise union consciousness in the workplace
- Build workplace unity and confidence to take bigger actions

How do we know whether our action has had the desired impact? Here are a few different ways:

- There is a clearly defined, measurable goal that is achieved (e.g., members demanded and secured a meeting with the CEO, or circulated a petition demanding a stop to staffing cuts and management backed off)
- High member participation
- Members own the planning process, take the lead during the action, and feel good about the outcome
- The boss comes away with a distinct impression that workers are united and willing to do what it takes to achieve the outcome they want

Chapter 4: Solving Problems on the Job

MOCK FACILITY CHART

DEPARTMENT	LOCATION	TOTAL EE	AM LEADERS	TOTAL AM	PM LEADERS	TOTAL PM	NOC LEADERS	TOTAL NOC
Centralized Scheduling	980 Building	10	Gabbi					
Laboratory- outpatient	980 Building	10	Erica, Jen					
Nursing Asst Float Pool	All Floors	40	Hermie		Cathy, Elaine		Sandra	
Cancer Center	Cancer Center off of Main Hospital	5	Jill					
ICU	Herman Pavilion	3	Cindy, Juan				Charlie	
Laboratory- inpatient	Herman Pavilion, 1st floor	20	Jenna, Lindsey		Shiela, Pascual			
Sterile Processing	Herman Pavilion, 1st floor	10	Martha		Mary Lu			
Surgery	Herman Pavilion, 2nd floor	6	Jay					
Dietary	Main Hospital	40	Jesse, Anne		Katie, Susan			
ED Registration	Main Hospital	10	Maria C.		Tracy			
Purchasing	Main Hospital	5	Curtis		Margarita			
3rd South	Main Hospital	5	Joy G		Joy L			
3rd North	Main Hospital	3	Rachel				Sonia	
Emergency Services	Main Hospital	10						
2nd North	Main Hospital	3	Shundell					
Housekeeping/Environmental Services	Main Hospital (basement of old hospital)	40	Maria M., Ramon		Bertha, Susana		Heidy	
PBX Communications	Main Hospital Basement	5	Tammy		Sandra B.			
Ultrasound	Main Hospital Basement	8	Charlene				Nick	
CT Scan	Main Hospital Basement	6						
Cardiac Cath Lab	Main Hospital Basement	5	Mary Ann					
Nuclear Medicine	Main Hospital Basement	3	Jon					
Patient Access Rep	Main Hospital Front Entrance	10	Kathy					
Radiology-Diagnostic	Main Hospital, 1st Floor	20	Misha		Ray			
OB	Main Hospital, 1st floor	6	Diana		Josie		Janet	
Pharmacy	Main Hospital, 2nd floor	15	Gavin		Donn, Vanessa			
Medical Records	Main Hospital, 2nd floor	7						
Respiratory Therapy	Main Hospital, 2nd floor (old building)	20	Jeanine, Ellen				Stacey	
Procedure Center	Outpatient Surgery Center	3	Judy					
Magnetic Resonance Imaging	Profili Imaging Center	5	David					
Mammography	Wellness Center, 2nd floor	7	Daisy					
Physical Therapy	Wellness Center, 1st floor	10						
TOTAL		350						

Chapter 4: Solving Problems on the Job



MODULE 2 SUGGESTED ACTIVITIES

Activity 1: Circulating a Petition

Estimated time: 40 minutes

In pairs or small groups, read the scenario below. Then use the petition planning worksheet and mock facility chart on page 50 to scope out a plan to circulate a petition.

SCENARIO

Imagine you just learned management is planning to do layoffs in the Housekeeping (EVS) department. But the housekeepers are already spread too thin, and people complain all the time about the hospital being dirty. Management has emailed asking to meet in one week to bargain over these layoffs, so you have one week to circulate a hospital-wide petition calling on management to cancel the layoffs. Use the below worksheet to make a plan for circulating the petition, based on the information in the mock facility chart.

PETITION PLANNING WORKSHEET

- What is your percentage goal for signatures? _____
* Tip: We should always aim for AT LEAST 70% of the total bargaining unit to sign on to a petition.
- What is the total number of leaders or stewards you will have circulating the petition? _____
- How many total members can these leaders reach? _____
- What's the plan for getting petitions into leaders/stewards hands? For following up to collect signatures within a week? Think about how many shifts there are, the best place to reach people before and after their shifts, etc.

Chapter 4: Solving Problems on the Job

MODULE 2 SUGGESTED ACTIVITIES

Activity 2: March on the Boss

Estimated time: 40 minutes

In pairs or small groups, read the scenario below. Then use the March on the Boss planning worksheet to scope out a plan for your action.

SCENARIO

Congratulations! You and your fellow stewards were able to get 80% of your coworkers to sign onto a petition protesting EVS layoffs. The next step is to organize a march on the boss to deliver the petition to the employer.

As the steward, your job is to help plan the action. To whom should we present the petition? When and where should the march happen? What is the turn-out goal? What is our ask of management? What do we do after the march concludes? Fill in the below worksheet with the steps you'd need to take to help members organize this action. Don't be afraid to get creative!

MARCH ON THE BOSS PLANNING WORKSHEET

What needs to happen 1-2 weeks prior to the march?

What needs to happen a few days before the march?

The day of the march is here! What needs to happen during the action?

What needs to happen after the march?

Chapter 4: Solving Problems on the Job



KEY LEARNINGS FOR THIS MODULE

- It requires careful planning to organize and execute a successful workplace action.



[illegible]

NOTES

[illegible]

NOTES

[illegible]

Chapter 5: Grievances

Module 1: Grievance Handling



LEARNING OBJECTIVES

Participants will be able to (1) define what a grievance is, and (2) list the basic steps involved in investigating and filing a grievance.



DEFINITIONS

Grievance: A grievance is just one tool for enforcing the contract and protecting rights of members. It ideally serves two purposes: making sure management is abiding by the contract and also educating, empowering and moving members to action. We need to be thinking about how each grievance can be used to increase participation, build the union, and create new leaders.

Past Practice: Any long standing, frequent practice that is accepted and known by both union and management.

Burden of Proof: This basically refers to which side has to prove their point. If we have filed a grievance for a contract violation, then the burden of proof is with the union to demonstrate this. If the issue is a grievance about discipline, then the burden of proof is with the employer.

Request for Information (RFI): U.S. labor law obligates employers to furnish records and other information needed to investigate and process union grievances.

Skelly Hearing: For employees in the public sector, a Skelly hearing is used instead of the Weingarten Rights. The purpose of the Skelly hearing is to allow employees an opportunity to respond to the charges and to request a reduction or elimination of the discipline. It also allows for an opportunity to check out the evidence that management has against the employee.

LEADERSHIP TIP

"I use the grievance procedure as a tool to educate myself and my coworkers about my contract. When we use it the right way and move into action together, we end up educating the boss as well."



Kellie Shaner, VP
St. Joseph Eureka



A grievance is a violation of what?
Check all that apply.

- ☐ The Contract
- ☐ Past Practice (past practice is a practice that has existed over time allowed by both the employer and the union)
- ☐ Laws
- ☐ Fair Treatment
- ☐ Management's own rules (e.g., policy handbook, safety procedures, etc.)
- ☐ Not getting the shift you want



Chapter 5: Grievances

INVESTIGATING A GRIEVANCE

Some problems are obvious grievances, but most of the time you'll need to know a lot more about what's going on. Jumping to conclusions based on false, faulty, or inadequate information will only undermine your credibility – and the union's. The steward should investigate to determine if there is a legitimate grievance and gather information needed to file and argue the grievance. Find the facts and learn about the issue!

INVESTIGATING GRIEVANCES	
Investigating a grievance	Sources of information for an investigation
1. Who	1. People: The grievant; coworkers; witnesses to the grievance; union stewards and staff who can supply ideas about similar grievances in the past; managers/supervisors.
2. What	2. Employee records: Personnel files (especially if a discipline is involved); absentee records; production/department process records; schedules; policy and procedures.
3. When	3. Union records: Union contract; past grievance files.
4. Where	
5. Why	

HOW TO FILE A GRIEVANCE

Once you determine there is a grievance, the next step is to notify management. In some shops, there may be a collaborative relationship with management and they may prefer you bring issues to them informally before filing a formal grievance. In others, a formal grievance may be the best way. If you decide to proceed with a formal grievance, you must fill out the grievance form.

Here are the main parts of the grievance form:

- 1. Statement of Grievance (just facts, no arguments)
- 2. Violation (What's being violated. List every article and section in the contract that you believe is being violated.)
- 3. Requested Resolution (How we want the problem to be fixed. What the union wants out of the grievance.)



Chapter 5: Grievances

GRIEVANCE FORM

Here are the main parts of the grievance form:

Statement of Grievance

Just facts — no arguments.

Violation

What's being violated. List every article and section in the contract you believe is being violated.

Requested Resolution

How we want the problem to be fixed. What the union wants out of the grievance.



GRIEVANCE FORM/ FORMULARIO DE QUEJA

Name of Grievant/Nombre del Agraviado		Facility/Hospital o Lugar de Trabajo
Address/Dirección de Trabajo	Phone/Teléfono	Job/Puesto de Trabajo
Steward/Delegado Sindical	Department/Departamento	Phone/Teléfono
Date Filed/Fecha en que se presentó la Queja	Supervisor/Supervisor	
Step 1 Meeting Date/ Fecha de Reunión del Paso 1	Skelly Hearing Date/Fecha de Reunión Preliminar	
Statement of Grievance/Declaración de la Queja:		
Applicable contract provisions include but are not limited to (article/section paragraphs)/Estipulaciones del Contrato aplicables pero no limitados a (artículo/sección/párrafo):		
Requested Resolution/Solución Solicitada:		
Grievant/Firma del Agraviado:		
<i>Pursuant to the Employer's duty to bargain in good faith, the union hereby requests the following information and/or documents which are necessary and relevant to process this grievance/Es deber del empleador negociar de buena fe y del Sindicato solicitar la siguiente información y/o documentos que son necesarios y relevantes para procesar la queja:</i>		

Received by Administrator:	Title:	Date Received:			
Step 2 Answer:					
Answered Received by Union Rep:			Date Received:	Satisfactory?	<input type="checkbox"/> Yes <input type="checkbox"/> No

Received by Administrator:	Title:	Date Received:			
Step 3 Answer:					
Answered Received by Union Rep:			Date Received:	Satisfactory?	<input type="checkbox"/> Yes <input type="checkbox"/> No

Request for Arbitration Submitted by Division Director:		Date:
Date Closed:	Precedent-Setting:	Non-Precedent-Setting:

ORIGINAL: SUPERVISOR/ORIGINAL: SUPERVISOR

COPY: STEWARD/COPIA: DELEGADO

COPY: UNION FIELD REP/COPIA: REP DE LA UNION

Chapter 5: Grievances

GRIEVANCE WRITING TIPS

- **Less is More:** The written grievance simply activates the grievance process. So, just write a statement with basic facts; NOT your argument. Use very simple, short, clear sentences so they aren't misinterpreted.
- **"On or about __date__":** This will keep you from a technical error from a possible wrong date.
- **"Violates the contract, including but not limited to Article __, Section __":** Use this statement so you are not limited — keeps the door open for other articles/sections to be included.
- **"Make whole":** This is a term used in the remedy section in reference to compensating a party for a loss sustained, such as any wages or benefits they weren't paid.
- **"Disciplined without just cause":** This is a standard phrase if management did not meet the 7 tests of just cause when disciplining someone.
- **"All affected":** If the grievance is on behalf of a whole department or group of members, you will write "All Affected" instead of one "Grievant's Name."



MODULE 1 SUGGESTED ACTIVITIES

Activity 1: Grievance Scenarios (see Answer Key)

Estimated time: 30 minutes

In pairs or small groups, read the scenarios below and answer the following questions:

- Is this a grievance? Yes No Maybe Why?
- Would it make a good issue to use collective action? Why?
- How would you investigate this issue?
- If it is a grievance, write a statement of fact, what is violated, and a remedy.
- Which legal rights that we discussed in part 1 of this training, if any, would you want to keep in mind in this situation?



Chapter 5: Grievances

MODULE 1 ACTIVITIES (CONTINUED)

SCENARIOS

1. CARLA works at Sunshine Medical Center on the hospital's large and prestigious postpartum Mother-Baby unit. She has worked on this unit for fifteen years and has oriented many new employees in the department over the years. When she came into work on Thursday she was told that she was now scheduled off this weekend. Carla told her manager, Julia, that this weekend was her usual weekend to work and noted previously posted regular weekend schedules. Carla raised an objection that no one had discussed this change with her. The manager, Julia, told Carla that she didn't have a choice. They had to drop Carla from the schedule due to hospital operational needs. Julia said that she couldn't guarantee that Carla would get those work hours back this month. Julia said that Carla and her co-workers would just need to be flexible as more schedule changes were expected as management tried to be more responsive to patient and operational needs. Sometimes more coverage would be needed and other times less. Here is the contract language at Sunshine Medical Center:

Article 37: Schedules shall be posted two weeks before the start of the next four week schedule. Such schedule shall not be altered without first seeking volunteers to provide needed coverage or changes and without first discussing such changes and alternate suggestions with the affected employees. Such procedure with regard to volunteers and discussions shall also apply to alterations of the established weekend cycles. Where there are changes to be made, the least senior employee shall be the first to be affected.

2. JOE is called into a meeting with his supervisor to discuss his work. His supervisor has been critical of him in the past and has said disrespectful things to him. She previously accused him of mistakes on paperwork, though no discipline was issued. The supervisor has been watching Joe like a hawk and is always by the time clock when he gets to work in the morning and when he returns from meal breaks.

3. MANYA works in EVS. She was new to hospital janitorial work. After her first couple of days, she started getting headaches and rashes on her hands. She was concerned that it might be from one of the cleaning products. The products she had been given by her supervisor were in smaller, unmarked spray bottles. A more veteran co-worker, Shirley, told her that at least one of the products was a powerful disinfectant that was actually regulated as a pesticide. The co-worker asked if Manya had been trained on the products used in the department when she started. She hadn't. Things were very busy that first day and the department was short-staffed so her supervisor said that since she had experience cleaning office buildings they needed her to just jump right in and help out. Shirley let her know that the law says that workers need to receive training when using hazardous products, that everything should be labeled, and that written information about the product must be available to workers. Shirley was working in a small, offsite clinic office now, but the situation with Manya raised concerns that maybe the EVS management had gotten lax over at the main hospital building.

Chapter 5: Grievances

Activity 2: Grievance Writing Practice

Estimated Time: 30 minutes

Each group is assigned one of the scenarios on page 61. Assign a recorder to document how you would fill out the grievance form.

Groups have 20 minutes to fill in the following sections of the grievance form:

- **Statement of Grievance** (just facts no arguments)
- **Violation** (What's being violated. List every article and section from your contract that you believe is being violated.)
- **Requested Resolution** (How we want the problem to be fixed. What the union wants out of the grievance.)

Debrief questions:

1. Did the group have any disagreements?
2. Does anyone think that an article listed as a violation can be rightfully challenged by management?
3. Is the resolution requested realistic, shooting for the stars, or not enough?



KEY LEARNINGS FOR THIS MODULE

- When it comes to investigating grievances, you must do your due diligence, including interviewing employees and requesting information from the employer.
- There are a few key strategies to employ when writing grievances in order to increase your chances of success.



Chapter 5: Grievances

Module 2: Meeting with Management



LEARNING OBJECTIVES

Participants will be able to (1) discuss key things to do when meeting with management, and (2) analyze lessons learned from practicing a meeting with management.



DEFINITIONS

Caucus: A closed meeting of members to discuss arguments and possible solutions either held before, during or after negotiations or a meeting with management.

Equality Principle: Stewards obtain equal status to management when acting in an official union capacity.

WHAT TO DO BEFORE, DURING, AND AFTER MEETING WITH MANAGEMENT

Whether it's a grievance meeting, a meeting to negotiate over working conditions, or something else, it is vital that you prepare ahead of time before meeting with management. What is the goal of the meeting? What do you hope to achieve? Whether the meeting involves an individual grievant or a delegation of union members, it's always a good idea to hold a pre-meeting to make sure that everyone is on the same page BEFORE you get in the room with management.

Before

1. Determine the goal.
2. Make a plan.
3. Meet with the right person.
4. Hold a pre-meeting or union caucus.
5. Agree on a spokesperson, notetaker, or other roles if needed.

During

1. Remember the equality principle.
2. Take control by starting and running the meeting.
3. Tone matters. Know when to "blow up," when to act professional, when to get righteously indignant, and when to appeal for clemency.
4. Ask questions and listen/watch carefully to identify management's position.
5. Be strategic and watch for opportunities to compromise.
6. STAY UNITED! Call a caucus if you need to discuss something privately.
7. Get any agreements in writing!

After

1. If a favorable resolution is reached, get the word out to other union members.
2. If not, strategize on how to use collective action to put more pressure on management.

Chapter 5: Grievances



MODULE 2 SUGGESTED ACTIVITY

Activity 1: Meeting with Management Role Play

Estimated time: 45 minutes

Break the group into two groups. One for each of the scenarios, Carla and Joe. Give each group about 10 minutes to plan for the meeting. The groups have to decide who's going to play the steward(s), who's going to play Joe or Carla and who will be on the boss's side. In your group, everyone reviews the scenario together and helps each other prepare for a management meeting.

ROLE PLAY SCENARIO #1: CARLA AND SCHEDULING: Use the Carla scenario from the previous activity. You've filed a grievance on Carla's behalf and now it's time for a first step meeting with the employer. You've also learned in your investigation that two other people, Gina and Monica, have also been affected by a similar scheduling change in the department. So, you added them to the grievance as well as all other affected employees. And, the breakroom talk is that other co-workers are concerned and upset about the frequent schedule changes – no one wants it to happen to them in the future.

ROLE PLAY SCENARIO #2: JOE AND DISCIPLINE: Following the investigatory Weingarten meeting that you had with Joe, the next day management issued him a written warning and a two-day suspension for being late to work on seven occasions over the last two months, with the most being 35 minutes late. In your investigation you learn that Joe has never had any previous discipline and that no one has ever complained about the quality or quantity of his work. Joe tells you he's a single parent with three kids ages two, five, and eight, and the mornings have been stressful recently as his mother used to come by the house in the morning to help, but she's been sick and in the hospital lately. He's worked at Sunshine Medical for five years and up until two months ago he'd never been late.

Role play Carla's scenario followed by a debrief. Repeat for Joe's scenario.

Possible debrief questions:

1. How did it feel to be in your role?
2. What worked?
3. What could be done differently?
4. Review **Before**, **During**, and **After** steps.



KEY LEARNINGS FOR THIS MODULE

- Prior to meeting with management, it's helpful to have an agenda, be clear about what you hope to accomplish, and be prepared to document and follow up on any next steps after the meeting.

[illegible]

NOTES

[illegible]

Chapter 6: Dealing with Discipline

Module 1: Weingarten Rights



LEARNING OBJECTIVES

Participants will be able to (1) define Weingarten Rights, and (2) articulate how the Just Cause standard works in cases of discipline.



DEFINITIONS

Disciplinary Meeting: A meeting in which management issues discipline to an employee. Unlike investigatory meetings (Weingarten meetings), members do NOT have the right to have a representative present in a disciplinary meeting, though some contracts and employers allow for it.

Investigatory Meeting: This is a fact-finding conversation. Typically to determine if disciplinary action is warranted.

Weingarten Rights: The right of union members to have a representative present with them during an investigatory meeting is referred to as Weingarten Rights, after *NLRB v. J. Weingarten, Inc.* It is important to note that the member has to ask for representation.

WEINGARTEN RIGHTS

One big advantage to being a member of a union is that you have the right to have a representative present with you during an investigatory meeting. This is referred to as Weingarten Rights.

It is important to note that the member has to ask for representation. As a steward, you have the right to ask for the specific charges that are being investigated, to insist on a meeting with the member before meeting with management, to advise the member on how to answer questions including not to answer them, to clarify accusations and interrupt if the questions are perceived to be harassing or confusing, and to present extenuating and mitigating circumstances in defense of the member.



Chapter 6: Dealing with Discipline

SAMPLE WEINGARTEN STATEMENT

"I request to have a Union representative present on my behalf during the meeting because I believe it may lead to disciplinary action being taken against me. If I am denied my right to have a Union representative present, I will refuse to answer accusatory questions and any I believe may lead to discipline."

When representing members in Weingarten meetings, it is important to document what happened and any next steps. Below is a sample form for you to use.

NUHW		WEINGARTEN MEETING FORM	
Please complete this form after any Weingarten meeting you conduct or facilitate.			
Date: _____		Type of meeting: <input type="checkbox"/> Investigatory <input type="checkbox"/> Follow-up/Disciplinary <input type="checkbox"/> Other: _____	
<u>STEWARD INFORMATION</u>			
First Name: _____		Last Name: _____ Department: _____	
<u>MEMBER INFORMATION</u>			
First Name: _____		Last Name: _____ Department: _____	
Position/Job Title: _____		Shift: _____	
Cell Phone Number: _____		Email Address: _____	
<u>MEETING INFORMATION</u>			
Names and positions of all member in attendance at the meeting: _____ _____ _____			
Full details of the alleged incident: _____ _____ _____ _____			
Evidence provided by managers: _____ _____			
Summary of the meeting — include questions asked by managers: _____ _____ _____ _____			
<u>CONCLUSION AND NEXT STEPS</u>			
Do you believe the contract was violated? <input type="checkbox"/> YES <input type="checkbox"/> NO If YES, how so? _____ _____			
Conclusion: _____ _____ _____			
Next steps: _____ _____ _____			
As the steward, what follow-up do you need to do? _____ _____ _____			

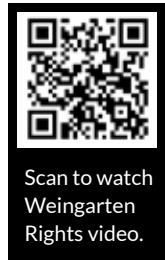
Chapter 6: Dealing with Discipline



MODULE 1 SUGGESTED ACTIVITY

Activity 1: Weingarten Rights: Video and Small Group Discussion

Estimated time: 30 minutes



Scan to watch
Weingarten
Rights video.

Watch a 6-minute video on Weingarten Rights at nuhw.org/know-your-weingarten-rights, then break into small groups and answer the following questions.

1. What would you say to a member who is letting you know that they are being called into an investigatory meeting? How would you explain to them their Weingarten rights?
2. What are some things managers may say or do to discourage an employee from invoking their Weingarten rights?

Activity 1: Documenting Meetings

Estimated time: 30 minutes

Imagine you recently represented a member who was accused of committing timecard fraud. During the Weingarten meeting, management asked the employee questions about when they arrived at work on certain days, which timeclock they used to clock in, and what time they left work. During the meeting, you requested that management provide you with the timecard logs for the employee dating back six months, which they committed to get you. In pairs or small groups, practice filling out the sample Weingarten meeting form, documenting what happened during the meeting and any next steps.



KEY LEARNINGS FOR THIS MODULE

- Union members have the right to representation in meetings with management that could potentially lead to discipline. These rights are called Weingarten Rights.
- Members must be sure to ask for union representation in a Weingarten meeting.



By law, after someone has been arrested, an officer must read them their “Miranda Rights” before asking any questions:



“You have the right to remain silent. Anything you say can be used against you in court. You have the right to talk to a lawyer for advice before we ask you any questions. You have the right to have a lawyer with you during questioning.”

**How are Weingarten Rights
similar to Miranda Rights?
How are they different?**

Chapter 6: Dealing with Discipline

Module 2: Just Cause



LEARNING OBJECTIVE

Participants will be able to articulate how the Just Cause standard works in cases of discipline.



DEFINITION

Just Cause refers to the 7 tests that are typically used by arbitrators to make their decision on disciplinary cases. The union's position is that the employer must meet ALL of the seven tests for the discipline to be considered "just," or to have just cause.

SEVEN TESTS OF JUST CAUSE

As a steward, it's your responsibility to investigate potential grievances. In the case of discipline, you are investigating whether the disciplinary action was fair and justified under the circumstances. Or was it unfair and unjustified, and maybe a grievance should be filed to try to get the discipline reversed? The tool to help you determine this is the Seven Tests of Just Cause.

The seven tests are:

1. **FAIR NOTICE:** Did management make the worker aware of the rule or policy which they are being accused of violating?
2. **PRIOR ENFORCEMENT:** Has management recently enforced the rule or policy or penalized other workers for violating the same rule or policy?
3. **DUE PROCESS:** Did management conduct an interview or hearing before issuing the discipline, take action promptly and list charges precisely?
4. **SUBSTANTIAL PROOF:** Was management's decision to accord discipline based on credible and substantial evidence?
5. **EQUAL TREATMENT:** Is the punishment management is proposing consistent with the punishment other workers received for the same or substantially similar offense?
6. **PROGRESSIVE DISCIPLINE:** During the disciplinary process, did management issue at least one level of discipline that allowed the employee an opportunity to improve?
7. **MITIGATING AND EXTENUATING CIRCUMSTANCES:** Was the discipline proportional to the gravity of the offense, taking into account any mitigating, extenuating or aggravating circumstances?

Chapter 6: Dealing with Discipline



MODULE 2 SUGGESTED ACTIVITY

Activity 1: Tests of Just Cause: Scenario and Role Play (see Answer Key)

Estimated time: 60 minutes (about 20 minutes for part 1 and 40 minutes for part 2)

PART 1: Read the below scenario about registration clerk Ronnie and his manager Phyllis. Then break into small groups and come up with a list of questions for both Ronnie and manager Phyllis to determine if Ronnie's discipline passes the seven tests of just cause. Assign a recorder and someone to report back.

For example, to determine whether there are any mitigating or extenuating circumstances, a question for Ronnie could be whether he's had something going on in his personal life that is out of the ordinary, affecting his concentration. A question for Phyllis could be: "What are the productivity metrics Ronnie is required to meet?"

SCENARIO: Ronnie has worked at Health-up as a registration clerk for the past five years. In that time, he has been promoted twice and now operates as a Registration Clerk III. Recently, he has had difficulty with his direct manager, Phyllis. Namely, issues concerning his productivity.

Last week, Ronnie came to you, as the chief shop steward, to report that he has been disciplined for underperformance. He has been given an unpaid suspension for three days. Ronnie wants to fight it.

Bring the groups back together, and have them share the questions they came up with. Take ONE question from each group, then circle back to ask if groups have any additional questions they'd like to share.

PART 2: Facilitators will play Ronnie and Phyllis. Each group will ask Ronnie and Phyllis the questions they came up with. Participants should listen carefully to their answers, and take notes if needed. After all groups have gone, review whether the 7 tests of just cause have been met based on Ronnie and Phyllis' responses using the answer key on page 102.



KEY LEARNINGS FOR THIS MODULE

- When grieving disciplinary cases, you can use the 7 Tests of Just Cause to poke holes in management's case.
- Just because management fails to meet one (or more) of the 7 Tests does NOT automatically mean an arbitrator will overturn the discipline.

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Chapter 7: Interpreting Your Contract

Module 1: Contract Interpretation



LEARNING OBJECTIVE

Participants will be able to (1) identify the differences between common, similar-sounding terms often found in union contracts, and (2) correctly analyze and interpret contract language.



DEFINITIONS

Union Contract: Also called a Collective Bargaining Agreement or CBA, a union contract is a written agreement between the employer and NUHW, as the union representing employees, that details the terms and benefits in a clear and legally-binding way.

COMMON CONTRACT TERMS

One of your primary jobs as a steward is to read the language of the contract, interpret it correctly, and be able to explain it to members. Often, the terminology used in a contract may be different from what is used by employees in on-the-job conversations.

Each term, each word in a contract is important. One word can determine if you win or lose a grievance. And some contract language is stronger and preferable from the perspective of the union. When it involves the Employer's obligations toward your union, you want to use words like "should or shall," and when it involves your obligations toward the Employer, words like "may" or "exercise its best efforts" will suffice. For example, "the employer shall offer NUHW members a 401(k) option," is stronger than "the employer may endeavor to offer NUHW members a 401(k) option."

Below is a list of contract terms and their definitions. These are terms that frequently impact union members, about which stewards get the most questions. These are also terms that tend to be confused, misused, or misunderstood.



LEADERSHIP TIP



"It is important that, as stewards, we know the contract, we read it, and can answer questions regarding it. Our ability to respond to members' questions gives our union credibility."



James Clifford, VP
Kaiser Psych-Social

Chapter 7: Interpreting Your Contract

- 1. Seniority:** Seniority should be understood simply as a definition that establishes the relationship between employees — how they relate to one another on an objective basis vs. a subjective basis. Definitions may vary. Common examples include “most recent date of hire in the bargaining unit,” or “total years of employment with the Employer.” Seniority is not absolute, and what really matters is how each provision of the contract (e.g., overtime, vacation, filling vacancies) applies seniority.
- 2. Years of Service:** Sometimes referred to as anniversary date, years of service addresses the relationship between the employee and the Employer, as it relates to wages and benefits. Examples include: years of service for purposes of movement to higher levels of vacation (PTO) accrual, or movement from one step to another on the wage scale. It means the time you’ve spent with the employer.
- 3. Hours Paid vs. Hours Worked:** “Hours paid” refers to how many hours an employee is paid by the employer. In most cases, the term “hours paid” is preferable to “hours worked” when it comes to benefit accrual.

For example, imagine the contract says, “Regular employees shall accrue PTO based on hours paid.” In this example, “regular” refers to any benefited employees. A part-time worker who works more hours one pay period will accrue more PTO under this language than if the language said “hours worked.” Also, it clarifies that if someone is on any paid time (PTO (vacation), ESL (sick leave), Bereavement Leave, Education Leave, etc.) they continue to accrue PTO because these hours are PAID as opposed to hours WORKED.
- 4. Probation vs. Evaluation Period:** Usually, according to the contract, an employee goes through one probationary period when first hired — the amount of time varies from contract to contract. During that period the Employer can terminate the employee without access to the grievance procedure. When an employee is promoted to a position within the bargaining unit or transfers to the same or similar position within the bargaining unit, the contract will usually call for an evaluation period the length of which will vary according to the contract. During the evaluation period, unlike the probationary period, if employees are not succeeding, they do not get terminated without access to the grievance procedure. They may be returned to their former position or a comparable position, depending on what the contract says.
- 5. Classification, Category and Status:** Classification is the title of your job or profession, such as “EVS Technician,” “RN,” or “X-ray tech.” Within a job, there may be several different classifications based on bargained criteria (e.g., Radiology Tech I, Radiology Tech II). An employee’s category will be full-time, part-time, or per diem, while an employee’s status refers to how many hours they typically work. For example, the category of part-time can include employees with various statuses: you can be a .5 FTE (full-time equivalent), .8 FTE, etc.
- 6. Disciplinary Meeting vs. Investigatory Meeting:** An investigatory meeting provides an employee faced with possible discipline an opportunity to tell their side of the story, so to speak. In this meeting, the employee is entitled to union representation, as a result of the 1975 *Weingarten* Supreme Court decision. That’s why investigatory meetings are sometimes called Weingarten meetings. In this meeting, the employee and/or union rep and/or union steward has the opportunity to (a) advance an argument in defense of the employee, (b) make relevant requests for information, and (c) negotiate potential disciplines away or into lower degrees.

SENIORITY

In any contract, there is the definition of seniority, and the application of seniority.

Looking at your contract, can you find the definition of seniority? How is seniority applied in the following sections: Overtime, Vacation and Filling of Vacancies?



Chapter 7: Interpreting Your Contract

A disciplinary meeting should occur after an investigatory meeting. Oftentimes, though, employers will attempt to conflate these two types of meetings, conducting the investigatory interview while having a discipline already planned. Technically speaking, an employee does not have the right to union representation in a disciplinary meeting, since all that really occurs in a disciplinary meeting is the issuance of the discipline. The investigation, arguments, negotiations, and decision-making should occur in the investigatory meeting. As a steward, you are not a silent witness — you are an advocate.

7. **Department vs. Unit:** These two terms are a good example of how contract terms can be confusing because the way the contract defines them may be different than how members use the terms, or how the Employer uses them. For example, a member may work as a Nurses' Aide in the ICU of the hospital. Management and members refer to the ICU as a "department." HR may internally refer to a group of units or a single unit as a "cost center" or "department." However, the contract may refer to the ICU as a unit within the Nursing Department. In this example, the ICU is the "unit," while the department is the Nursing Department. These terms must be well defined in the contract because they will be used in many articles, from bidding on vacancies to reductions in force.
8. **Schedule vs. Job Assignment vs. Job description vs. Position:** A schedule is a list of the days, starting times and hours you will be working in a given week, pay period or month. A job description is a generic inventory of the duties that could be performed by a classification. A job assignment is the specific duties of the job description that you do in your job. Often, members are not expected to do all that is included in their job description on a daily basis. Finally, a position is one of those words that only means something in the context of a specific article of a specific contract section. It can have a specific meaning or a broad meaning. Look for its meaning within the context of where you find it in your contract.
9. **Call vs. Standby vs. On-call:** Standby, in most cases, is the contractual term used when an employee is off duty but required to be available to return to work within 30 minutes to assist in a procedure — could be surgery, could be to do an MRI, etc. BUT most workers refer to this as "Call" or "On-call." To add to the confusion, the term on-call is used in some contracts to refer to the category of Per Diem or Casual employees. There are also variations in contracts that become even more specific as to what type of call or standby it is and what the pay for this work is. There's no way around it for these terms in particular: you will have to read your contract to determine the unique definitions of each.
10. **Overtime:** Overtime is actually a penalty the Employer must pay for having workers work beyond their regularly scheduled hours. Overtime as a term is used in a contract for non-exempt (i.e., hourly) employees. In regard to "pyramiding" of overtime, there are a couple of meanings. If an hourly employee is eligible for two types of premium pay for the same hours worked, they are only eligible for the higher premium of the two, not a compounding of the two, or using overtime hours to justify receiving other overtime hours. Here is an example: You work a second shift of eight hours overtime on a holiday. You get time and one half for working a holiday. For the second shift, you normally get time and one half for the first four hours of overtime and double time for the second four hours. In this case, you would get the time and one half for the first eight hours, time and one half for the first four hours of the second shift, and double time for the last four hours — not triple time for four hours and triple time and one half for the second four hours.

PTO

Look at the clause in your contract that addresses paid leave or PTO. How do employees accrue PTO? Is it via hours paid, or hours worked, or something else?



Chapter 7: Interpreting Your Contract

11. Earned vs. Accrued Benefit: An earned benefit is vacation or PTO. That is a benefit that the employee has earned by law and the employer maintains a liability for that benefit. If an employee quits or is terminated, the Employer must pay the employee that benefit. An accrued benefit could be sick leave or ESL (Extended Sick Leave). This benefit is not earned. The Employer will not pay this out to an employee upon termination, unless there is some provision in the contract that provides for it.



12. Exempt vs. Non-exempt: An exempt employee is a “salaried” employee, as opposed to “hourly,” or non-exempt. Salaried employees don’t have to punch a time clock and are able to exercise some flexibility in their schedule. One day they may work only a few hours but the next day several hours more than 8 hours. They do not get overtime. The laws that cover non-exempt or “hourly” employees in regard to overtime and breaks do not apply to exempt (salaried) employees. Each contract covering exempt employees may specify or give guidelines how these employees exercise the flexibility of their position.

13. Insubordination vs. Poor Attitude: To prove insubordination, an employer must typically show that:

- the employee’s refusal to obey was knowing, willful, and deliberate;
- the order was explicit and clearly given so that the employee understood its meaning and its intent as a command;
- the order was reasonable and work related;
- the order was given by someone in authority;
- the employee was made aware of the consequences of failing to perform the work or follow the directive; and
- if practical, the employee was given time to correct the allegedly insubordinate behavior.

These terms may be referred to in the contract, but they are usually not given definitions. This is important because a supervisor may ascribe the questioning of certain directives as insubordination. Another supervisor could say that the employee doesn’t smile enough and is too stern in their behavior and therefore has a bad attitude. When a contract does not clearly define a term, an arbitrator will use the dictionary definition, the definition used by other arbitrators, an established definition used by the sector in which the worker works, or even his/her own definition. Poor attitude does not constitute insubordination but could involve behavioral issues that might rise to disciplinary action.

GRIEVANCES

Open your contract and find the grievance section. How many steps are there in your grievance process?

What does your contract say about time limits? Is there anything that seems unclear or that you don’t understand?



Chapter 7: Interpreting Your Contract



MODULE 1 SUGGESTED ACTIVITIES

Activity 1: Interpreting Contract Language (see Answer Key)

Estimated time: 30 minutes

In groups of three, reference the contract terms and definitions to complete the exercises below. Assign a recorder and a reporter.

1. Bilingual Differential

Is there any disadvantage to this provision for the bilingual workers?

Regular employees who have successfully passed the Employer's qualifying examination for bilingual status for approved languages will receive \$1.00 per hour for all regular hours worked.

2. PTO Accrual

Which is the preferable language for a Part-Time benefited employee specifically? Why?

- Regular employees shall accrue PTO based on status.
- Regular employees shall accrue PTO based on hours paid.
- Regular employees shall accrue PTO based on hours worked.

3. Grievance Time Limits

Which of these is preferable contract language? Why?

- Option 1: A grievance must be submitted in writing within thirty (30) work days of the alleged violation of the Contract.
- Option 2: A grievance must be submitted in writing within thirty (30) calendar days of the alleged violation of the Agreement.
- Option 1: A grievance must be submitted in writing within thirty (30) days of the alleged violation of the Collective Bargaining Agreement.

4. Status vs. Category vs. Classification

- Is the designation of Full-Time a Status, Category, or Classification?
- Is .5 FTE a Status, Category, or Classification?
- Is Respiratory Therapist II a Status, Category, or Classification?

5. Schedule vs. Job Description vs. Job Assignment

Fill in the blank using one of these terms: Schedule, Job Description, Job Assignment

1. A _____ is a list of the days, starting times and hours you will be working in a given week, pay period or month.
2. A _____ is a generic inventory of the duties that could be performed by a classification.
3. A _____ is the specific duties of the job description that are your actual job, things you do on a daily or regular basis.

Chapter 7: Interpreting Your Contract

Activity 2: Practice Scenarios (see Answer Key)

Estimated time: 45 minutes

In pairs or small groups, reference the contract terms and definitions to complete the exercises below.

1. Right to Representation

Scenario: Yesterday, Cynthia was called into a meeting with her manager. The manager started to ask her questions about a patient Cynthia had seen the previous week. The patient had left the appointment in a rage and later filed a complaint against Cynthia, as well as a complaint against the receptionist. After the second or third question, Cynthia interrupted her manager to ask for a steward to be present. The manager said Cynthia wasn't entitled to representation because the manager planned to give her a discipline in this meeting.

Was the management right or wrong? What recourse does Cynthia have?

2. Insubordination

Which of these is preferable contract language? Why?

Scenario: Dan is an RN and a 10-year employee at Pro-Profita Healthcare, Inc. Last week, his manager told him he needed to include more detail in his patient charting, or he would be at risk of discipline. Dan told his manager he really hates all the documentation he's required to do, and that he got into nursing to care for patients, not update charts all day. Yesterday, Dan's manager told him he needed to come to his office and bring a steward. The manager told Dan he was getting disciplined for insubordination since he failed to improve his charting after receiving a direct order, and because he had responded to the order by challenging his manager.

Was Dan insubordinate? Did the employer demonstrate that all of the following happened in order to be able to assert insubordination?

1. The employee's refusal to obey was knowing, willful, and deliberate;
2. The order was explicit and clearly given so that the employee understood its meaning and its intent as a command;
3. The order was reasonable and work related;
4. The order was given by someone in authority;
5. The employee was made aware of the consequences of failing to perform the work or follow the directive; and If practical, the employee was given time to correct the allegedly insubordinate behavior.

Chapter 7: Interpreting Your Contract

Activity 2: Practice Scenarios (continued)

3. Sam and St. Ima Donuthin: Overtime

Scenario: Sam has worked at St. Ima Donuthin for seven years. He works a schedule of Monday through Friday with Saturdays and Sundays off. He worked both Saturday and Sunday this past week, but when he got his paycheck he did not get double time for Sunday. He talked to his boss who said that the Hospital's workweek is Sunday through Saturday and the Sunday he worked fell in a different workweek. Sam knows that in the past he has always gotten paid double time for the seventh consecutive day worked, regardless of workweek, and wants to file a grievance.

Does Sam have grounds for a grievance? What laws or contractual language is the employer violating, if any?

Here is the contract language at St. Ima Donuthin:

Article VII

Section 1. The employee's workweek shall be designated by the Medical Center and shall be a consecutive period of seven (7) calendar days. Straight-time hourly rates shall apply up to a maximum of forty (40) hours per week, eight (8) hours per day or five (5) days per week. All work in excess of eight (8) hours per day or five (5) days per week shall be paid at the rate of one and one-half (1½) times the basic straight-time hourly rate. All work in excess of twelve (12) hours per day shall be paid at the rate of two (2) times the basic straight time hourly rate. All work on the seventh (7th) consecutive day of the week shall be paid at the rate of two (2) times the basic straighttime hourly rate.

Section 2. An employee required to work more than seven consecutive days without a day off shall be compensated thereafter at time and one-half (1½) the employee's basic straight-time hourly rate for each day worked or portion thereof until granted a day off.



KEY LEARNINGS FOR THIS MODULE

- Every word in a union contract has meaning.
- You must be able to read and correctly interpret your contract, and explain the contract to members.



Chapter 7: Interpreting Your Contract

Module 2: Understanding Past Practice



LEARNING OBJECTIVES

Participants will be able to (1) define what a past practice is and is not, (2) recognize the different types of past practice, and (3) develop an organizing plan to proactively protect the past practice.



DEFINITION

Past Practice: Any long-standing, frequent practice that is accepted and known by both union and management.

HOW TO IDENTIFY A PAST PRACTICE

A past practice is any long-standing, frequent practice that is accepted and known by both union and management. Something could be considered a past practice if it:

- **Has existed for a reasonably long time.** The longer a practice has been in effect, the more weight it carries. Many arbitrators think that a practice must be three to five years old and must have been in practice during at least two contracts.
- **Occurs repeatedly, the more times the better.** An exception might occur around a holiday. If every year for seven years management allowed workers to go home early Christmas Eve, this could be a valid past practice.
- **Is clear and consistent, repeated the same way each time.** If there are minor deviations, there must be at least a predominant pattern of consistency. An example: management has always let workers accept personal phone calls. You can document 100 times this has happened in the last five years. Management points out three occasions where workers were refused the right. The overwhelming pattern favors your union.



LEADERSHIP TIP



“Bona fide past practices are considered part of the contract, so grievances can be filed if management violates them. Be sure to check your contract for language that limits their use for grievances. In most cases, management cannot end a past practice without first bargaining with the union. In some cases management must wait until contract negotiations to change a past practice.”



Sean Taylor, VP
Santa Rosa Memorial Hospital

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- **Is known to both management and union.** While a past practice does not have to be “negotiated,” it must be something that both parties know about. Sometimes it’s not good enough for a low-level foreman to know; it must be higher management. For instance: workers have been leaving work a little early on Fridays for years. According to the absentee program, they should receive one point, but the foreman never gives points for Friday. Upper management finds out and decides to give everybody warnings. Management did not inform your union that it wanted to change the practice. However, since upper management did not know about this practice, it would be hard to argue that workers could continue to leave work early every Friday.
- **Is accepted by both management and union.** Often the fact that a practice occurs frequently over a long period of time indicates that the parties agree to it. A practice that is openly agreed to by both parties gains past practice status quicker than one that is not openly accepted.

THE THREE TYPES OF PAST PRACTICE

1. **A contract-clarifying past practice** is the strongest type. When contract language is vague or general, the practice clarifies the general language.

For instance, contract language reads, “The company will allow union stewards reasonable time off to attend union meetings.” For many years the company has allowed stewards to attend monthly union meetings and attend the district council meeting three times a year. This practice now clarifies and backs up what the contract means by “reasonable.” With such a strong past practice, an employer must bargain to change it and cannot change it if the union doesn’t agree. The only time such a past practice can be bargained by the employer is during contractual negotiations.

2. **An independent past practice** is not addressed by any contract language. Most often these are “benefits” that workers take for granted and so were not included in the contract, such as vending machines in the cafeteria or free parking in the company lot.

While the union’s position would be that management cannot just do away with these benefits, management can terminate independent past practices under three conditions:

1. It can prove the original conditions that started the practice have changed significantly
2. It can prove significant ongoing employee abuse of the practice
3. It notifies the union during contract negotiations that it will end the practice during the next contract

Even in the first two situations, the employer must bargain to mutual agreement or impasse with your union before ending the practice.

One caveat: most arbitrators will not extend these past practice rights to work methods. For example: Management wants rad-techs to run three machines instead of two, claiming new technology makes them easier to run. You probably cannot claim it is a past practice that workers run only two machines.

However, you can demand that management bargain over a change in working conditions.

3. **A contract-conflicting past practice** is typically the hardest to prove, with most arbitrators saying the contract should prevail.

Chapter 7: Interpreting Your Contract

However, the arbitrator may rule in favor of practices that have existed for a long time, happen frequently, clearly conflict with the contract, and were clearly known to both parties.

Take the following example: management routinely allows employees who work on a recognized holiday to take a compensatory paid day off whenever the department is able to accommodate it. But the contract states that employees who work recognized holidays may take a compensatory paid day within 30 calendar days preceding or following the recognized holiday. Although the practice conflicts with the contract, it probably would be considered valid.

The employer must notify your union of its intent to end this type of past practice and must bargain if your union requests.



PROTECTING AND DEFENDING PAST PRACTICES

You probably know that employers tend to respond when you take collective action, rather than engage in paper-pushing, but a big part of protecting past practices involves documenting the practice:

- Print out and save all email correspondences noting the application of a past practice.
- Keep all records of past practices and meet with new managers to hold them accountable to following them. Get all non contractual agreements signed and in writing.
- File and win class action grievances on a written and signed agreement.
- Have all NUHW members in a department covered by a written and signed agreement send an email department administrators and HR about the awareness of the agreement and the intent to hold the employer accountable to it.
- Obtain an NLRB decision recognizing the past practice as part of the “terms and conditions” of a collective bargaining agreement.



BRAINSTORM

We often talk about what makes a good organizing issue. To organize your coworkers around an issue, first you have to figure out if that issue is deeply felt and widely felt.

Think about practices in your department. Are there any that are “deeply or widely felt,” which people would be upset to see disappear?



Chapter 7: Interpreting Your Contract



MODULE 2 SUGGESTED ACTIVITIES

Activity 1: Interpreting Contract Language (see Answer Key)

Estimated time: 30 minutes (10 minutes per scenario)

In pairs or small groups, read the scenario, then answer the follow questions:

1. Is it a past practice? Why?
2. If it is a past practice, what kind of past practice is it?
3. What argument could you make to the employer to demonstrate your union never waived its right to allow the employer to change the agreement?
4. Based on the strategies we discussed, what can you do to document and hold the employer accountable to the past practice?

Scenario 1: For years, all union members who have attended monthly, hour-long Labor-Management meetings have been paid for their time. Sometimes 5 people attend, sometimes 10 people attend, but everyone always gets paid. The contract reads: “Within reason, the Employer will compensate employees who attend monthly labor management meetings.” Recently, management has said they are only willing to pay for two members to attend the monthly LM meetings.

Scenario 2: The employee handbook says no athletic shoes may be worn to work, but this rule hasn’t been enforced in recent memory, and everyone wears athletic shoes to work. On Monday, management put out a memo demanding staff cease wearing athletic shoes to work. Three members were given verbal warnings that same day for violating the rule.

Scenario 3: Every nursing unit has a small kitchen with fridges that store patient food, but nurses also use the fridge to store their lunches. Management recently decreed that nurses may only store their food in the fridge in the breakroom. However, the nursing units are spread over floors 2-6, and the only break rooms with fridges are on floors 3 and 5, meaning nurses would have to expend more time during their breaks and lunches to access their food.

Activity 2: Peer Learning Discussion

Estimated time: 15 minutes

Think about a past practice in your department. Then, in pairs or small groups, review the tips for protecting and defending past practices and determine some actions you can take to protect and defend the practice.



KEY LEARNINGS FOR THIS MODULE

- Past practices are any long-standing, frequent practices that are accepted and known by both the union and management, but which may not be expressly delineated in the contract.

NOTES

[illegible]

[illegible]

[illegible]

Chapter 8: Regulatory Agencies and Complaints

Module 1: Regulatory Agencies



LEARNING OBJECTIVES

Participants will be able to identify key regulations and agencies that protect healthcare workers and patients.



DEFINITION

Regulatory Agency: An independent governmental body established by legislative act in order to set standards in a specific field of activity, or operations, in the private sector of the economy and then to enforce those standards. Examples include the California Department of Public Health (CDPH) and California Occupational Safety and Health Administration (Cal-OSHA).

REGULATORY COMPLAINTS

Filing complaints with regulatory agencies can be one way to push employers to fix workplace issues that negatively impact the health and safety of patients and workers. If investigators find that the employer violated the law, they can issue a citation and, in some cases, a fine. But the process requires persistent follow up, can take a long time, and doesn't always result in a win for workers.

Even when you do win, and investigators issue a citation, the work doesn't end. You still have to educate members about the citation, so they understand the regulatory findings and can hold the employer accountable. And you still need to fight to win contract language that has strong protections for worker and patient safety and gives members a voice on these issues (for example, through the establishment of a Patient Care Committee and/or Health and Safety Committee).



LEADERSHIP TIP



"No matter how strong on paper, regulations are only effective if we the workers exercise our right to have the law enforced. We have to be involved in investigating and documenting the violation and gathering evidence to present to state agencies. Most importantly, we have to be prepared to bring that evidence to the public and the press, and educate members and elected officials so we can actually hold our employer accountable."



**Ken Rogers, VP
Kaiser IBHS**

Chapter 8: Regulatory Agencies and Complaints

When using a regulatory complaint as a tool to solve a problem on the job, it is important to:

- Investigate the issue and understand what laws, policies or regulations are being violated.
- Notify management of the issue and document this notification (for example, by completing an Objection to Assignment form)
- Have a clear plan for how a violation of law (and possible complaint) fits into a larger, escalating campaign strategy, which may include other workplace actions and engaging elected and organizational allies and the press.
- Also address the issue through contractually provided structures, such as a Health and Safety Committee and/or a Patient Care Committee

Finally, remember that filing a regulatory complaint is not a magic wand. Unfortunately, our elected leaders have not encouraged and empowered regulatory agencies to effectively hold employers accountable to the law. Regulatory agencies are understaffed, so it may take a very long time for regulators to conduct site visits or publish citations. Regulators may give employers “the benefit of the doubt” and not be very aggressive in their enforcement, or they may not “substantiate” or validate our complaint at all. And even when they do, consequences can be limited. Financial penalties are typically small and in most cases employers appeal them. The general public is typically unaware when a facility is cited, so unless we publicize the issue the employer’s public image won’t suffer.



Chapter 8: Regulatory Agencies and Complaints

REGULATORY AGENCIES: CALIFORNIA

There are three *main* regulatory agencies that govern healthcare in California:

CALIFORNIA DEPARTMENT OF PUBLIC HEALTH (CDPH)

WHAT IT COVERS*

Health and safety of patients and the public

Direct complaint to CDPH if an issue primarily concerns the safety of patients (RN-to-patient ratio violations, preventable patient injuries or deaths, hospital-acquired infections, etc.)

Conducts licensing surveys

KEY REGULATIONS

California Health and Safety Codes including Division 2: Licensing Provisions (for healthcare facilities)

California Code of Regulations: Title 22, Social Security

Regulations we will generally be concerned with fall under Division 5. Licensing and Certification of Health Facilities, Home Health Agencies, Clinics, and Referral Agencies but sometimes other Divisions (like Division 7 and Division 9) may have applicable regulations.

Some examples of key Title 22 sections:

- Div 5, Chapter 3: Skilled Nursing Facilities
- Div 5, Chapter 1, Article 8, Physical Plant: For GACHS, includes sections relevant to EVS
- Div 5, Chapter 1, Article 3, Section 70217: Nursing Service Staff: RN-to-patient ratios and CNA staffing

** Some issues impact the safety of both patients AND workers. In these cases, you can file complaints with both CDPH and Cal/OSHA.*



Chapter 8: Regulatory Agencies and Complaints

CALIFORNIA DIVISION OF OCCUPATIONAL HEALTH AND SAFETY (CAL/OSHA)

WHAT IT COVERS*

Safety of workers

Direct complaint to Cal/OSHA if the issue is about PPE, ventilation, hazardous equipment, safe patient handling, workplace injuries or violence, etc.

KEY REGULATIONS

The Aerosol Transmissible Diseases (ATD) Standard: Title 8, Section 5199

AB 685: Workplace Exposure Notifications

Injury and Illness Prevention Program (IIPP): Title 8, Section 3203

Bloodborne Pathogens Standard- Title 8, Section 5193

Safe Patient Handling (Part of the IIPP)

- Also see Title 8, Section 5120. Health Care Worker Back and Musculoskeletal Injury Prevention

Workplace Violence: Title 8, Section 3342

Mechanically Driven Heating, Ventilating and Air Conditioning (HVAC) Systems to Provide Minimum Building Ventilation. Title 8, Section 5142

- Also see COVID-19 specific ventilation guidance issued jointly by CDPH, OSHPD, and Cal/OSHA? NOT specific to healthcare facilities? also consult the ATD Standard

* Some issues impact the safety of both patients AND workers. In these cases, you can file complaints with both CDPH and Cal/OSHA.



Chapter 8: Regulatory Agencies and Complaints

CALIFORNIA DEPARTMENT OF MANAGED HEALTHCARE (DMHC)

WHAT IT COVERS

Patient rights to care under managed health plans (HMOs)

Return mental health and Substance Use Disorder (SUD) appointments must be made available every 10 days (2 days for urgent cases) unless the treating provider documents in the notes that a longer wait will not have a detrimental impact.

KEY REGULATIONS

Timely access standards (including SB 855 & SB 221)

In addition to these two agencies, members can meet with representatives from local health departments to discuss workplace safety concerns. It is common knowledge that employers fear site visits from private accreditation agencies for hospitals. For example, The Joint Commission (TJC; formerly JCAHO) certifies to CMS that hospitals licensed in California meet federal requirements. These accreditation visits can be an opportunity for coordinated member action to highlight safety issues the employer has refused to address.

REGULATORY AGENCIES: HAWAII

There are two *main* regulatory agencies that govern healthcare in Hawai'i:

DEPARTMENT OF HEALTH – OFFICE OF HEALTH CARE ASSURANCE

WHAT IT COVERS

Health and safety of patients and the public

Return mental health & SUD appointments must be made available every 10 days (2 days for urgent cases) unless the treating provider documents in the notes that a longer wait will not have a detrimental impact.

KEY REGULATIONS

Licensure requirements – acute care (“broad service”) hospitals (Chapter 93)

Certification of mental health rehabilitation services providers (Chapter 172)

Certification of substance use disorder providers & programs (Chapter 177.1)

Chapter 8: Regulatory Agencies and Complaints

DEPARTMENT OF LABOR & INDUSTRIAL RELATIONS – HAWAI’I OCCUPATIONAL SAFETY & HEALTH (HIOSH)

WHAT IT COVERS

Safety of workers

KEY REGULATIONS

Occupational Safety & Health Code (Chapter 396)

**Some issues impact the safety of both patients AND workers. In these cases, you can file complaints with both the Office of Healthcare Assurance and HIOSH.*



CASE STUDY

Fountain Valley: Fighting Back Through the Regulatory Process

In the summer of 2020, NUHW members at Fountain Valley Regional Medical Center and Hospital successfully used the regulatory process to protect themselves and their patients amidst serious infection control lapses during the COVID-19 pandemic.

These NUHW members documented repeated violations of regulatory guidance for controlling the spread of COVID-19 in healthcare settings and aggregated this evidence in a complaint filed with the California Department of Public Health (CDPH) on July 22, 2020. As a result of this complaint, CDPH launched a multi-day, facility-wide investigation of Fountain Valley on behalf of the federal-level Centers for Medicare and Medicaid Services (CMS). Between July 14 and July 22, a team of CDPH surveyors made multiple site visits and interviewed hospital employees including several NUHW members.

Over the course of their investigation, these surveyors found that the hospital did not properly implement infection control procedures on numerous occasions including failing to appropriately cohort patients (isolate suspected and confirmed COVID-19 positive patients in separate areas) and to assign dedicated care teams to provide care to suspected and confirmed COVID-19 positive patients. Some of these failures took place in settings with particularly vulnerable patient populations like the Pediatric Intensive Care Unit, Telemetry Unit, and OB/GYN Unit where pregnant people receive care.

At the conclusion of their investigation, CDPH published a “Statement of Deficiencies” listing all their findings, and Fountain Valley was required to correct each regulatory violation identified. This resulted in an overhaul in how the hospital was cohorting patients, which was a tremendous victory for NUHW members who had been working tirelessly to advocate for the safety of their patients. The CDPH investigation also attracted the attention of the press and local elected officials which put additional pressure on the hospital to improve its COVID-19 policies and procedures. In sum, through their organized efforts to document, report, and publicize regulatory violations, NUHW members at Fountain Valley were able to hold their employer accountable to following the law and prioritizing the safety of both patients and staff.



KEY LEARNINGS FOR THIS MODULE

- Filing complaints with state regulatory agencies is one strategy you can use to try and get the employer to resolve unsafe working conditions.

Chapter 8: Regulatory Agencies and Complaints

Module 2: Documenting and Filing Complaints



LEARNING OBJECTIVES

Participants will be able to identify issues that are violations of law and warrant filing complaints, including how to document violations and engage in workplace advocacy.



DEFINITIONS

Objection to Assignment Form: A form created by NUHW to document patient or worker safety violations for the purposes of reporting to management, regulatory agencies or elected officials.

LMAC: Labor-Management Committee.

INVESTIGATING COMPLAINTS

There are some steps to follow when documenting and filing complaints.

1. Interview members, either one-on-one or in a group meeting.
2. Collect evidence in the form of photos and documents. Examples of helpful documents include:
 - Objection to assignment (OTA) forms;
 - Photos of staffing schedules showing the day shift and/or night shift assignment. Make sure these photos only include staff names and number of patients, NOT patient names or any other form of protected health information (PHI), and use your personal phone and/or email to collect photos — not your work phone or email.
 - Staffing matrix;
 - Copies of the employer's policies and procedures (infection control policies, etc.) since CDPH can cite a facility for failing to follow its own written policies and procedures;
 - Copies of communications from members or NUHW representatives to management alerting them to the issue and/or dates and times of labor-management meetings in which an issue was discussed. This type of documentation demonstrates that the employer was made aware of the violation and, in turn, cannot claim they were unaware of workers' concerns.

**When providing documents, members must be careful not to include PHI. Photos and other documents should only be provided using personal phones and emails.*

Chapter 8: Regulatory Agencies and Complaints

OBJECTION TO ASSIGNMENT FORMS

One important way to assemble detailed and dated reports of patient or worker safety violations is by using NUHW's Objection to Assignment (OTA) form.

You can fill out a hard copy, or you can complete the form digitally at nuhw.org/ota.



Objection to Assignment/Oposición a Asignaciones

The undersigned NUHW members object to our assignment and have accepted it only because we have been instructed to do so, despite our objections.

Los siguientes miembros del NUHW nos oponemos a nuestras asignaciones y solo las hemos aceptado porque fuimos instruidos a hacerlo, a pesar de nuestra oposición.

Name (print)/Nombre (en molde)	Job Title/Título	Signature/Firma	Cell Phone Number/ Número de Tel. Móvil

Unit/unidad: _____ Assignment date/fecha de asignación: _____ Assignment shift/ jornada de asignación: _____

Supervisor notified of conditions/supervisor fue notificado de condiciones: _____

Time supervisor notified/hora que supervisor fue notificado: _____

Charge nurse notified of conditions/enfermera principa fue notificado de condiciones: _____

Time charge nurse notified/hora que enfermera principa fue notificado: _____

Reasons for Objection to Assignment/Razones para oponerse a la asignación

Understaffing/baja de personal: Number of/número de: RNs: _____ LVNs: _____ Nursing assistants/asistentes de enfermería: _____

Unit secretaries/secretarias de unidad: _____ Techs/técnicos: _____ Sitters/sitters: _____

Was a lift team available for the shift?/¿Estaba disponible un equipo de lift para la jornada? _____

Patient census on shift/censo de pacientes durante la jornada: _____ Total bed capacity of unit/capacidad total de camas en la unidad: _____

Other reasons for Objection to Assignment/Otras razones para oponerse a la asignación:

- ☐ Not oriented to unit/no está orientado en unidad
- ☐ Not trained for assignment/no está capacitado para la asignación
- ☐ Excessive registry personnel/personal de registro excesivo
- ☐ High level of admissions and discharges/alto nivel de admisiones y dados de alta
- ☐ Number of high acuity patients/alto número de pacientes de agudeza
- ☐ Assignment poses risk to safety and health of staff/asignación pone en riesgo la seguridad y salud del personal

Other reason/Otra razón:

What occurred during shift which was detrimental to patient care or had the potential to be detrimental to patient care?/¿Qué paso durante la jornada que perjudico el cuidado al paciente o que pudo haber perjudicado el cuidado al paciente?

Was a physician notified of conditions or problem?/¿Se notificó a un médico de las condiciones o el problema? _____

Name of facility/nombre de la instalación: _____ **City, State/Ciudad, Estado:** _____

*White copy goes to Supervisor. Yellow copy goes to Union. Pink copy is kept by member.
Copia blanca es para el supervisor. Copia amarilla es para el sindicato. Copia rosa es para el miembro.*

Chapter 8: Regulatory Agencies and Complaints

OTA forms are useful because they:

- Create an enduring record that memorializes when management was notified of an issue
- Identify members who can give first-hand accounts to regulatory agencies
- Can indicate the extent of a problem (i.e. a high volume of OTA forms means that an issue is likely impacting many workers)

In order for the OTA forms to be helpful for filing complaints, they must be filled out correctly. Review these tips for filling out OTAs.

DOCUMENTATION OF ISSUES RELATED TO PATIENT AND STAFF SAFETY MUST ALWAYS INCLUDE:

- Date, time and shift (e.g., day shift or night shift)
- Unit name and floor
- Staffing ratios/staff assignments (number of patients per RN, LVN, CNA, respiratory therapist, and number of EVS staff assigned to the unit)
- Room number (do NOT include any protected health information such as patients' names, birth dates, or other patient identifiers)
- Documentation of the name of supervisor/manager you notified of your objection

ISSUES TO LOOK OUT FOR:

- Inappropriate nurse-to-patient ratio (Title 22)
- Too many patients assigned to a single CNA
- An LVN delegated tasks for too many patients
- No CNA support/no CNA assigned to the unit
- Inadequate EVS staffing
- Staff injuries (musculoskeletal injuries like a back injury, etc.)
- Patient falls or other injuries

IMPACTS OF SHORT STAFFING ON PATIENTS:

- Ulcer development due to not being cared for in a timely fashion
- Any new skin breakdown as a result of inadequate toileting, turning, or other patient care duties
- Unanswered call bells or delayed responses
- Vitals and/or blood sugar checks not performed according to patients' schedules/care plans
- Delays in or inadequate assistance with any ADLs (toileting, mobilizing, transferring, turning, feeding, hydrating, etc.)
- Ambulation of patients not being performed according to patients' schedules/care plans
- Urinary tract infections development as a result of unsanitary conditions and/or inadequate toileting
- Catheter-associated urinary tract infections
- Central line-associated bloodstream infections
- Delayed or missed med passes; medication administration errors
- Delayed or missed daily nursing assessments
- Delayed or missed IV care (IV site checks, tubing changes)
- Delayed or missed skin checks, delayed or inadequate wound care
- Episodes of hyper- or hypoglycemia from failure to check blood sugars and/or feed patients on schedule
- Failure to provide adequate patient education and/or discharge instructions
- Inadequate hospital sanitation due to insufficient EVS staffing (overflowing trash or soiled linen bins, rooms not being cleaned at all or on time, other hospital areas not being cleaned frequently enough or on time)

DETAILS TO RECORD ON OTA FORMS:

Due to my excessive patient assignment, I will not be able to/was not able to:

- pass PO meds or hang/replace IV fluids/meds on time
- provide timely wound care
- perform all the required patient assessments on time
- answer my patients' questions in a timely fashion
- provide any/adequate discharge instructions
- administer vital signs and/or blood glucose checks according to patients' care plans
- respond to call bells in a timely fashion
- assist patients with toileting and other hygiene activities in a timely fashion
- assist patients with transfers and ambulation in a timely fashion
- turn or reposition patients according to their care plan
- assist patients with eating and drinking in a timely fashion

Due to short staffing:

- I had to move or reposition patients without assistance
- I had to deal with aggressive or agitated patients without assistance
- patients requiring a one-on-one sitter did not get a dedicated sitter
- patients' families did not receive timely communication
- I was not able /will not be able to clean patient rooms on time or some patient rooms were not cleaned at all during my shift
- trash bins and soiled linen bins will not be/were not emptied frequently enough

Chapter 8: Regulatory Agencies and Complaints

OTA CAMPAIGNS

It is important to have an organizing plan to circulate OTAs successfully. Before you start, select a few member leaders who will spearhead the effort, including educating people on how to fill out the forms and making sure they get submitted to management. To drive participation and create urgency, set a kick-off date and an end date for the campaign (i.e., “We will collect OTA forms for 30 calendar days beginning December 1”). At the end of the allotted time period, have a plan to bring people together to review the results and plan next steps, which could range from extending the deadline to collect more data, to demanding a meeting with management, to working with NUHW staff to produce a regulatory complaint.



MODULE 2 SUGGESTED ACTIVITIES

Activity 1: OTA Form

Estimated time: 20 minutes

In pairs or small groups, brainstorm a recent situation in which patient or worker safety was compromised. Then practice completing the **OTA form** on page 96. Were there sections you were unable to complete? What steps could you take to gather the information to complete those sections?

Activity 2: OTA Campaign

Estimated time: 30 minutes

It's not enough just to fill out an OTA form whenever your safety (or your patient's safety) has been compromised. OTA forms must be part of a comprehensive campaign to push the employer to resolve safety issues in the workplace. In pairs or small groups, think of a safety issue you have recently faced in your department. Then come up with an organizing plan to move OTA forms. *Tip: think back to the lessons in section Chapter 4, Module 1, about planning successful actions, as well as the lessons in Chapter 4, Module 2 on how to plan an escalating campaign.*

Activity 3: OTA Brainstorm

Estimated time: 20 minutes

OTA forms are typically geared towards nursing staff. If you work in another job class, spend a few minutes coming up with a list of things you would document in order to show the employer was violating the law and compromising workplace or patient safety.



KEY LEARNINGS FOR THIS MODULE

- Unsafe staffing is one of the most common safety issues healthcare workers experience.
- Carefully documenting unsafe staffing helps union members advocate for improvements with management, elected officials, and state regulators.

[illegible]

NOTES

[illegible]

Answer Key

CHAPTER 3: ORGANIZING FUNDAMENTALS

Module 1: Issues Leaders Hope

Activity 1: Turning a Disorganized Group into an Organized Group

DISORGANIZED GROUPS	WHAT LEADERS DO	HIGH-FUNCTIONING GROUPS
Divided	Build relationships	United
Confusion	Explain and interpret what's going on	Shared understanding
Reactive — just putting out fires	Motivate and mobilize	Proactive
Low participation	Strategize and plan	High participation
Problems continue	Provide leadership, guidance, and structure	Problems are solved Things get done

CHAPTER 5: GRIEVANCES

Module 1: Grievance Handling

Activity 1: Grievance Scenarios

Carla: Yes, it's a grievance, it violates the contract. Not a great collective action issue unless similar schedule changes are happening to others, worth investigating whether this is the case.

Joe: It could be a grievance, since the hospital likely has a No Harassment policy on file. Part of your investigation should be finding out whether this is the case.

Manya: Yes, it's a grievance, it violates the law, and probably sections of the contract about workplace safety and proper training to a new job assignment. All this should be looked into as part of investigation.

Answer Key

CHAPTER 6: DEALING WITH DISCIPLINE

Module 2: Just Cause

Activity 1: Tests of Just Cause: Scenario and Role Play

QUESTION: Fair notice: Did Management make the worker aware of the rule or policy which they are being accused of violating?

RONNIE'S POSITION	PHYLLIS'S POSITION
<p>"My understanding is that I've been doing an exceptional job."</p> <p>"Sure, she has mentioned that I should up my productivity but I didn't realize that it would result in discipline."</p>	<p>"We talk about productivity in our weekly team meetings. And have told him a least once a month over the past 6 months in our one-on-one check ins that his productivity numbers are too low."</p> <p>"Last week, I told Ronnie that if he didn't increase his work load, I would have to take disciplinary action."</p>

ANSWER: Yes.

QUESTION: Prior Enforcement: Has Management recently enforced the rule or policy or penalized other workers for violating the same rule or policy?

RONNIE'S POSITION	PHYLLIS'S POSITION
<p>"No one else is being asked to meet productivity guidelines."</p> <p>"We all know productivity numbers come from Corporate, and that they don't capture a lot of the complex patient navigation work we do at our site. Previous managers understood that and never bothered us about productivity."</p>	<p>"I remind all employees about productivity metrics are our weekly meetings."</p>

ANSWER: Inconclusive — the steward would need to determine whether other employees are being asked to meet the same productivity level Ronnie is being asked to meet, and if they aren't, whether and how they are being held accountable.

Answer Key

QUESTION: Due Process: Did Management conduct an interview or hearing before issuing the discipline, take action promptly and list charges precisely?

RONNIE'S POSITION	PHYLLIS'S POSITION
<p>"We never had any sort of meeting until suddenly Phyllis called me in to tell me I was being suspended."</p> <p>"I feel targeted — Phyllis doesn't like me because she's a new manager and I know more about the work than she does."</p>	<p>"I've told Ronnie numerous times over the last several months that his productivity was an issue, and have been monitoring his work logs and comparing them with other level III clerks."</p>

ANSWER: No — while Phyllis may have mentioned productivity issues and done some investigating on her own, she did not give Ronnie a chance to share his side before according discipline.

QUESTION: Substantial Proof: Was Management's decision to accord discipline based on credible and substantial evidence?

RONNIE'S POSITION	PHYLLIS'S POSITION
<p>"If Phyllis thinks I'm so slow, she should ask another Registration clerk III to take my difficult intake cases. I would like to see if they can do it in even the same amount of time that I complete my work. Let alone faster."</p> <p>"There are two other level III clerks in my department, but they just got promoted and are newer than I am. Neither have the experience to handle the complicated cases yet, so I get them all."</p>	<p>"Though I only took over in this department six months ago, I have the job log of Ronnie's past two years. In that time, his productivity has decreased."</p> <p>"I have reviewed the job logs of the two other Registration Clerk IIIs in Ronnie's department and found that he is completing half the number of cases compared to his counter parts."</p>

ANSWER: Yes.

QUESTION: Equal Treatment: Is the punishment management is proposing consistent with the punishment other workers received for the same of substantially similar offense?

RONNIE'S POSITION	PHYLLIS'S POSITION
<p>"No one has ever been suspended without pay before. And for three days! How could that be fair?"</p>	<p>"I don't know what was done in the past, and that's not my concern. I'm here to set a clear standard going forward."</p>

ANSWER: No — to confirm Ronnie's statement, the steward would want to ask other employees or request information about past disciplinary action related to productivity.

Answer Key

QUESTION: Progressive Discipline: During the disciplinary process, did Management issue at least one level of discipline that allowed the employee an opportunity to improve?

RONNIE'S POSITION	PHYLLIS'S POSITION
"Ever since Phyllis took over, I've been in the dog house about my productivity but before that all my managers sang my praises."	"I clearly followed progressive discipline. I've spoken to him about it numerous times and I even wrote in his last evaluation last month that I was looking to see an increased number of assignments completed per day within this month. But there was not an improvement." "The CBA states that employees unresponsive to verbal and written counseling can be suspended without pay for up to three days."

ANSWER: Technically, yes — though Phyllis should have done a better job to make clear that what Ronnie was receiving in those meetings was verbal and written counseling. Her failure to make this clear could be a due process error.

QUESTION: Equal Treatment: Is the punishment management is proposing consistent with the punishment other workers received for the same of substantially similar offense?

RONNIE'S POSITION	PHYLLIS'S POSITION
"No one has ever been suspended without pay before. And for three days! How could that be fair?"	"I don't know what was done in the past, and that's not my concern. I'm here to set a clear standard going forward."

ANSWER: No — to confirm Ronnie's statement, the steward would want to ask other employees or request information about past disciplinary action related to productivity.

Answer Key

QUESTION: Mitigating and Extenuating Circumstances: Was the discipline proportional to the gravity of the offense, taking into account any mitigating, extenuating or aggravating circumstances?

RONNIE'S POSITION	PHYLLIS'S POSITION
<p>"Why did I get promoted twice in the last year if I'm so bad at my job?"</p> <p>"Our department has a ton of turnover. I'm one of the most senior employees even though I've only been here 5 years, so lots of my coworkers come to me with questions. What am I supposed to do, tell them to take a hike?"</p> <p>"Phyllis is new- she doesn't really understand our department yet. It takes time for newer employees- even level III clerks – to gain the experience needed to handle the most complex intakes."</p>	<p>"Every Registration Clerk III has the same expectations and should be expected to work at a similar pace. Ronnie sometimes does harder cases but it does not account for his slow pace."</p>

ANSWER: No – clearly there are a lot of things going on that affect Ronnie's productivity, but some of them point to him being a valuable employee. Also, Phyllis is new, and it isn't clear that failing to meet productivity numbers is a grave offense. There is a lot of opportunity for a steward to poke holes in management's case based on this test.

CHAPTER 7: INTERPRETING YOUR CONTRACT

Module 1: Interpreting your Contract

Activity 1

1. The way this language is written, the differential is only available to "regular" employees. It excludes temporary/per diem employees and is only available on regular hours worked, not on overtime, and not on paid leave hours. Other questions: it is not clear what is involved in the employer's qualifying exam, and there is no list of approved languages, so it is unclear which bilingual workers are eligible.
2. Hours paid is preferable. A part-time worker who works additional hours on top of their FTE status will accrue additional PTO. This means PTO will accrue if you're on some kind of paid leave, not just when you're paid for hours actually worked. Status wouldn't be as beneficial to a part-time worker. For example, imagine an employee is a .5 FTE but has been regularly working full-time hours. Under "based on hours paid," he'd accrue more PTO. "Based on status" benefits full-time employees, but not part-time employees.
3. The answer is 30 calendar days. Broad language may give us the impression of flexibility, but flexibility most often redounds to the benefit of the employer. More specific language is better- we know the rules and know where we stand, and there is less chance of the employer treating people differently or unequally.
4. Sometimes folks will use these terms interchangeably but generally, they are not interchangeable. It is always good to see how these terms are defined in each contract. The term category refers to Full time, Part time, Per Diem, Temporary etc. in a contract. The term classification refers to the title of a job such as Housekeeper, Psychologist, Surgical Tech etc. Status is a little more complicated. Often the term status

Answer Key

can hold several definitions in a contract. But when referring to the actual hours of an employee's regular schedule, it is expressed in terms of an employee being a .5, .6, .7, .8, .9 or 1.0. In other words, the employee's regular hours of work as they relate to a full time equivalent or 1.0 or 10 days (80 hours) in a pay period. If I work half of an FTE (full time equivalent) or 40 hours in a pay period, my status would be .5.

5. A schedule is the days, start times and hours you'll work in a given week. A job description is the generic inventory of the duties of a job classification. Finally, a Job assignment is your actual job, things you do on a daily or regular basis. Often an assignment is only part of a job description.

Activity 2

1. Management was not right to deny Cynthia union representation because the meeting was investigatory, not disciplinary. We know this because the boss is asking Cynthia questions, which is a hallmark of an investigatory meeting. The employer is within its rights to discipline Cynthia. What it cannot do, however, is combine a disciplinary meeting and an investigatory meeting. Again, because the employer is asking questions here, we would argue that they are conducting an investigatory meeting. Rather than answer the employer's questions directly, Cynthia has the right to repeatedly state her right to representation rather than answer any questions. Despite being denied a steward, she can record all the questions she is asked by the employer.

In terms of recourse, Cynthia can file a grievance and/or ask her rep to file an unfair labor practice (ULP) charge, alleging her Weingarten rights were violated. If a steward had been present, they could have prepped Cynthia beforehand and advised her what to say/not say in the meeting.

Cynthia should not get up and leave the meeting or refuse to sit through the meeting. The employer could perceive this as insubordination and take further disciplinary action against her.

2. Facilitators should make sure participants don't get into the weeds on the charting issue. Focus participants on the insubordination question.
 - The 6 standards to determine insubordination are not met- at least 1,2,6 are not met.
 - The employer is confusing insubordination with performance. If Dan's manager wants to discipline him for his charting, they'd need to be more clear about what specifically Dan needs to change about his charting, and probably give him more than just one week to improve.
 - There is no objective evidence that Dan committed insubordination. Dan's tone, inflection, and communication style do not rise to the level of insubordination. We may agree that he could improve his attitude, but not much more.
3. To be able to figure this out, you need to know how the contract defines a work week, what the rules are to qualify for premium pay, and understand the concept of past practice. Keep in mind, exempt employees do not receive overtime.

Based on the scenario, Sam may have a valid grievance based on past practice. To bolster our grievance around past practice being violated, we would want to ask Sam to furnish us with past pay stubs that illustrate he'd previously been paid double time on the 7th consecutive day worked. Or we could submit

Answer Key

an RFI to the employer as part of our grievance, and ask about Sam as well as other employees in order to understand whether and how many other employees had been paid double time for their 7th consecutive work day.

We could have the language be clearer by specifying How the employer defines the work week. Also, in the second paragraph of section 1, it should say “work week,” not just “week” just to make it clearer.

4. Part time, Per Diem, Temporary etc. in a contract. The term classification refers to the title of a job such as Housekeeper, Psychologist, Surgical Tech etc. Status is a little more complicated. Often the term status can hold several definitions in a contract. But when referring to the actual hours of an employee’s regular schedule, it is expressed in terms of an employee being a .5, .6, .7, .8, .9 or 1.0. In other words, the employee’s regular hours of work as they relate to a full time equivalent or 1.0 or 10 days (80 hours) in a pay period. If I work half of an FTE (full time equivalent) or 40 hours in a pay period, my status would be .5.
5. A schedule is the days, start times and hours you’ll work in a given week. A job description is the generic inventory of the duties of a job classification. Finally, a Job assignment is your actual job, things you do on a daily or regular basis. Often an assignment is only part of a job description.

CHAPTER 7: INTERPRETING YOUR CONTRACT

Module 2: Understanding Past Practice

Activity 1: Interpreting Contract Language

Scenario 1

1. Yes — it’s been going on for years and we have the pay stubs to prove it.
2. Contract Clarifying
3. Document pay stubs, sign in sheets from previous meetings, absence of any email or correspondence that says we agree to reducing the number of paid attendees. In this case, because the contract doesn’t state an exact number, it may make sense to demand to bargain over the change and negotiate the number up from two to five or ten or whatever you can get.

Answer Key

Scenario 2

1. Yes
2. Contract conflicting — the practice flies in the face of what the rule book says
3. Submit an RFI about employees who've been disciplined for violating the rule in the past 10 years (should turn up that no discipline has been accorded). RFI on when that section of the rule book was last updated/ shared with employees via in service or similar. Arguments could focus on how there are many rules and regs on the books that employers fail to follow, because they are archaic (no athletic shoes) or sexist (women must wear skirts); grieve the disciplines because they fail to meet the 7 tests of Just cause- employees were not properly noticed about the rule.

Scenario 3

1. Yes
2. Independent
3. Argue that this drastically inhibits nurses on certain floors from accessing their food in a timely manner and may result in returning late from breaks. Elevators/stairs can be slow, etc. Nurses could track how long it takes them to go from their units to the nearest breakroom. Demand to bargain, propose longer breaks for nurses in impacted units, food carts on every floor, or better yet create break rooms and buy fridges for each floor.

Facilitation Best Practices

IN GENERAL

- **Be prepared.** Familiarize yourself with the curriculum and do run-throughs if possible.
- **Bring high energy.** You set the tone for the energy in the room. Your excitement and engaging attitude towards the material tells the participants that what you are saying is important.
- **Stay on schedule.** Review the agenda and timelines beforehand and get everyone's collective agreement to stick to them. Determine at the outset, based on the number of participants and material covered, what makes sense in terms of small group numbers. To save time, decide ahead what mechanism to use for determining how groups will be broken up (number off, split room in half, by department, pair up with the person next to you, etc.).
- **Use real life examples.** Be prepared to use examples of situations you or participants you know have been involved in when explaining concepts.
- **Consider setting collective ground rules.** Include: respect, turn off phones, step up/step back, parking lot and ask for input. Before moving on, ask everyone to agree to the ground rules.
- **It's ok to not know the answer.** If you don't know the answer, defer to the participants: "Has anyone had experience with that?" and/or you can say, "I don't know but I will get back to you with an answer." Do not attempt to give an answer if you don't know.

PRIORITIZE PARTICIPATION

- **Be clear, and repeat as necessary.** Always read aloud the title and page numbers, and ask participants to do so when they are speaking. With small group work, give clear instructions, and ask if participants are clear before breaking up. Once in groups, check in with each group to gauge whether the group is confused or needs more explanation, needs more time (circle if in person, pop into breakout rooms if remote).
- **Get clarity.** If you are unsure about something a participant is saying, ask them to "say more" or ask follow up questions to flesh out an idea.
- **Don't reword or summarize responses.** Repeat back (mirror) some of participants' key words, or just say "thanks" and move on.
- **Step up/Step back.** Be aware of the varying levels of participation. If you notice some people talking more than others, say, "Let's hear from some folks who we haven't heard from yet" or "Let's give others a chance to weigh in."
- **Read the room.** If the energy room is low, offer an impromptu break or ask participants to stand up and stretch. If you see participants becoming uncomfortable due to comments or other reasons, assess the situation and address it in the moment.
- **Prioritize peer learning.** When someone has a question, ask "does anyone know the answer?" before answering yourself. When possible, err on the side of doing work in small groups, allowing participants to converse with and learn from each other.
- **How to handle "wrong answers":** Don't be hesitant to correct a participant if they are categorically wrong, but ask yourself: is there a way to value their contribution even if they answered incorrectly? Always correct gently and with tact to avoid alienating participants or stifling discussion. Remind people everyone is here to learn.

Troubleshooting

How do I keep everyone together and on task?

- Think of group situations when you've gotten lost or can tell that someone else has. It's uncomfortable and distracting. It takes you out of the learning experience. A facilitator's job is to keep that from happening.
- Be very clear about when an activity is beginning or ending.
- If you're calling people together, make sure you have everyone's attention before proceeding.
- Keep everyone on the same page — literally. Whenever you or a participant refers to a specific information sheet in the workbook, make sure all participants turn to the page.

How do I encourage participation and manage conflict?

- Trainers are responsible for making the workshop a positive learning event.
- Create opportunities for everyone to participate:
 - For small group work that includes a report-back, ask groups to choose a different spokesperson for each activity (and don't let them get away with not doing it).
 - During large group discussions, ask to hear from people who haven't been saying as much.
 - You don't have to call on every person who raises their hand and you don't have to call on them in order.
- One of the most important rules of facilitation is: Keep discussion flowing, but never shut people down. There are ways to handle groups or individuals who take up more than their share of time or, intentionally or not, derail the discussion.
- If one group is still talking when you're ready to begin the report back, call on that group first. Otherwise, they're likely to keep talking while others are reporting.
- If there are one or two people who are dominating the small group discussions, consider rearranging the groups.
- If someone is being argumentative, consider the role they're playing. If they're being argumentative but still constructive, don't take them on yourself; call on the group: "What do others think? Does anyone have a different view?" If they're being purely antagonistic or going far afield from the discussion, listen to what they have to say and move on.
- Sometimes you will simply have to interrupt someone. Try phrases like, "I'm going to have to stop you there" or "I need to ask you to hold onto that for now."
- If there are questions that you can't answer, that's okay. If you don't know, just say you don't know, and offer to get the answer and circle back.

What do I do when I sense energy is flagging?

- Look for opportunities to have people get up and move around. Bring people to the front of the room to give report backs, or if on Zoom, encourage people to get up and stretch.

Troubleshooting

- If the energy starts to flag:
 - Talk louder! It makes a difference.
 - Move around the room.
 - Have people stand up for every report back. Make sure they're talking loud enough that everyone can hear them.
 - If it's too soon for a break, have everyone stand and practice some chants or try one of the energizers below.
 - Don't be afraid to call it out: "The energy seems to be flagging. Who has an idea to wake us up?"
- If there's a lunch break, try rearranging participants after lunch
 - Be very clear and direct. Avoid "Why don't some people shift to a new table" and try "three people from each table, please find a new table. Make sure we still have five (or whatever the appropriate number is) at each table."
 - Give specific instructions. For example, if there are two friends who've been talking to each other more than with the group, direct one to a different table.

How Do I Stay on Time?

- The time frames are suggestions. In practice, some activities may be longer or shorter depending upon the level of discussion and size of the group.
- It's always good to:
 - time yourself during run-throughs
 - consider the number of participants ahead of time, and how this could impact timing
 - assign someone to serve as timekeeper
- Prepare to be flexible about scheduled breaks and lunches. Check in with participants. Would they prefer to break early/late for lunch? Do they need a five-minute bio break?
- Something will always take longer than planned, so keep track of the time as you go and adjust plans accordingly, so you don't have to rush at the end.

Facilitator Cheat Sheet

When you're teaching the material:

- "Today's training is on X."
- "Turn to page X."
- Convey key concepts or information (read aloud, Q&A, etc.)
- "Any questions?"
- **Key to success: Be very clear.**

When you're doing activities/small group work:

- Read all instructions and prompts aloud as a large group and check for comprehension BEFORE splitting up.
- Circulate around the room/pop into breakout rooms
- Answer questions or nudge slower groups along.
- As discussion starts to die down, announce that participants have 1 more minute. Usually, discussion will increase again. After a few more minutes, end small group discussions and bring the large group back together.
- **Key to success: Pay attention to room dynamics.**

When you're facilitating a debrief or report back:

- Make sure you have everyone's attention before you begin.
- The "Triple O" rule of thumb for report backs: Take One response from each group (rotate which group you call on first), Open discussion to the whole room, then share your Own thoughts if you have something new to add.
- DO NOT SUMMARIZE OR REPHRASE PARTICIPANTS' COMMENTS. Repeat back some of the participant's own words or simply say thank you and move on.
- Once all small groups have reported, open up discussion.
- Finally, offer your own point of view if you have something to add.
- **Key to success: Repeat participants' words. Wait to offer your opinion until the end of the discussion.**

When you're summarizing key points

- Read the summaries as written.
- If time, add your own opinion, information, or experience.
- **Key to success: Clearly tie the concepts taught to strengthening our union at the workplace.**

Facilitator Cheat Sheet

When you're flip-charting responses:

- Write down a few key words from each response. Don't paraphrase or reword.
- Try to capture key ideas using only participants' own words. Just as with facilitating, we want participants to speak for themselves.
- Try to use two different color markers, alternating colors with each comment for easy reading
- The trainer who's facilitating doesn't need to wait for the person flip-charting to catch up or really pay much attention to them at all. The important thing is the discussion: if the facilitator is constantly looking at the flip chart or waiting for the notetaker to catch up, it takes energy away from the discussion.
- ***Key to success: Don't stress about flip charting. Get down what you can and prioritize the discussion.***

Facilitator Checklist

MATERIALS

- ☐ Sign-in sheets
- ☐ Flip charts
- ☐ Markers and pens
- ☐ Paper
- ☐ Steward training manual copies
- ☐ Other: _____

ZOOM

- ☐ Plan for taking attendance
- ☐ Hard copy of steward training manual for facilitation purposes
- ☐ PDF or link to facilitator guide (webpage, NOT google drive link)
- ☐ Working computer with video and screen share capabilities
- ☐ Other: _____

LEAD FACILITATOR PREP

- ☐ Determine which chapters/modules to teach
- ☐ Coordinate with NUHW education and training team to confirm marketing plan and mailings if needed
- ☐ Meet with co-facilitators to review curriculum and assign roles
- ☐ Have a plan for taking attendance and administering evaluations
- ☐ Schedule and lead run-through(s), track timing
- ☐ Arrive early on day-of to set up/ensure tech is working
- ☐ Other: _____

AFTER THE WORKSHOP

- ☐ Schedule and hold debrief and review evals
- ☐ Convey relevant feedback/attendance information to NUHW education and training team
- ☐ Other: _____

Suggested Icebreaker Questions for Trainings

Before you begin your session, consider doing an icebreaker. Icebreakers are good for warming up the participants to talk, create an environment of trust and commonality and generally set the tone for a more open and productive conversation. When selecting the right icebreaker for your group, decide if you would like the tone of the icebreaker to help participants get to know each other better, dive deeper and explore their personal challenges at the worksite or just have some fun and loosen up the group. There are three separate categories below to choose from, or you can come up with your own. Also, depending on the size of your group and question you select, the icebreakers can be held in pairs, small groups, or as a large group.

Meeting for the first time or deepening relationships:

- Name three things you and your partner appear to have in common.
- For what in your life do you feel most grateful?
- If you could change anything about the way you were raised, what would it be?
- Take four minutes and tell your partner your life story in as much detail as possible.
- Take a few minutes and tell your partner why you chose to go into healthcare.
- Is there something that you've dreamed of doing for a long time? Why haven't you done it?
- What is the greatest accomplishment of your life?
- What do you value most in a friendship?
- What is your most treasured memory?
- What is an activity from childhood that you loved but no longer do now?
- What is your most comforting food or meal?
- Would you be friends with your younger self?

Working through worksite challenges:

- What is your work life balance like now?
- What is the hardest thing about your job?
- What challenges does your department face?
- How does this job bring you closer to your personal goals? How and why?
- Would you like for one of your children or friends to work here? Why or why not?
- Can you share a moment at work where you wish you would have stood up? Why didn't you? What held you back? What was going through your mind?

Suggested Icebreaker Questions for Trainings

Fun and goofy:

- Given the choice of anyone in the world, whom would you want as a dinner guest?
- Would you like to be famous? In what way?
- What would constitute a “perfect” day for you?
- When did you last sing to yourself? To someone else?
- If you were able to live to the age of 90 and retain either the mind or body of a 30-year-old for the last 60 years of your life, which would you want?
- If you could wake up tomorrow having gained any one quality or ability, what would it be?
- What is the origin of your name?
- If a crystal ball could tell you the truth about yourself, your life, the future or anything else, what would you want to know?
- What is your favorite seat on the airplane? Aisle, Middle or Window?
- Describe your perfect weather.

Annotated Chapter

AT THE START OF EACH TRAINING, always read the chapter name and module name aloud. If you have time, you can choose to read the Learning Objectives and Definitions aloud as well. And throughout the training, always tell participants what page you are on.

Chapter 6: Dealing with Discipline

Module 1: Weingarten Rights



LEARNING OBJECTIVES

Participants will be able to (1) define Weingarten Rights, and (2) articulate standard works in cases of discipline.



DEFINITIONS

Disciplinary Meeting: A meeting in which management issues discipline. In investigatory meetings (Weingarten meetings), members do NOT have to have a representative present in a disciplinary meeting, though some contracts and employment agreements require it.

Investigatory Meeting: This is a fact-finding conversation. Typically to determine if discipline is warranted.

Weingarten Rights: The right of union members to have a representative present in an investigatory meeting is referred to as Weingarten Rights, after *NLRB v. J. Weingarten*. Note that the member has to ask for representation.

WEINGARTEN RIGHTS

One big advantage to being a member of a union is that you have the right to have a representative with you during an investigatory meeting. This is referred to as Weingarten Rights.

It is important to note that the member has to ask for representation. As a steward, you have the right to ask for the specific charges that are being investigated, to insist on a meeting with the member before meeting with management, to advise the member on how to answer questions including not to answer them, to clarify accusations and interrupt if the questions are perceived to be harassing or confusing, and to present extenuating and mitigating circumstances in defense of the member.

Each module contains a section that describes and explains the key concepts being taught. Ahead of the training, you should carefully review this section and come prepared to summarize or teach it in your own words. You may start by assessing participant knowledge ("Does anyone know what Weingarten Rights are?"), then filling in any gaps in the explanation yourself. You can also ask stewards to read the section ahead of time, break into small groups to read the material aloud, or read the material aloud as a large group. Note that these latter options may take more time.



Chapter 6: Dealing with Discipline

Module 1: Weingarten Rights



LEARNING OBJECTIVES

Participants will be able to (1) define Weingarten Rights, and (2) articulate how the Just Cause standard works in cases of discipline.



DEFINITIONS

Disciplinary Meeting: A meeting in which management issues disciplinary action. In investigatory meetings (Weingarten meetings), members do NOT have a representative present in a disciplinary meeting, though some contracts and collective bargaining agreements may require it.

Investigatory Meeting: This is a fact-finding conversation. Typically to determine if disciplinary action is warranted.

Weingarten Rights: The right of union members to have a representative present at an investigatory meeting is referred to as Weingarten Rights, after *NLRB v. J. Weingarten, Inc.* Note that the member has to ask for representation.

WEINGARTEN RIGHTS

One big advantage to being a member of a union is that you have the right to representation with you during an investigatory meeting. This is referred to as Weingarten Rights.

It is important to note that the member has to ask for representation. As a step in the process, for the specific charges that are being investigated, to insist on a meeting with representation. Management has the right to ask the member to answer questions with management, to advise the member on how to answer questions including clarifying accusations and interrupt if the questions are perceived to be harassing. Management has the right to ask the member to provide extenuating and mitigating circumstances in defense of the member.

In addition to text describing key concepts, each module contains discussion prompts (Quiz Corner or Brainstorm) for the participants to grapple with individually, in small groups, or as a large group. There is also advice from other NUHW leaders in their own words (Leadership Tips) and Case Studies that use real life examples to teach a concept.





MODULE 1 SUGGESTED ACTIVITY

Activity 1: Weingarten Rights: Video and Small Group Discussion

Estimated time: 30 minutes

Watch a 6-minute video on Weingarten Rights at nuhw.org/know-your-weingarten-rights, then break into small groups and answer the following questions.

1. What would you say to a member who is letting you know they are being called into an investigatory meeting? How would you explain to them their Weingarten rights?
2. What are some things managers may say or do to discourage an employee from invoking their Weingarten rights?

During group work, facilitators should gauge whether participants are on task, need more explanation, or need more time (circle and listen if in person; pop into breakout rooms if remote). If there is a debrief or report back component, you may consider asking groups to assign a recorder or someone to report back. During the report back, take one response from each small group. After every group has had a chance to share, you may open it up for further answers/comments.

Each activity will have a title and estimated time associated. Most ask participants to break into pairs or small groups. Depending on the activity and number of participants, the groups may be larger or smaller. As the facilitator, you should determine at the outset how many per group and, if doing multiple activities, whether participants remain in their same groups or switch. You should decide on the mechanism for splitting participants into groups so you don't waste time during the training. To ensure comprehension, always read the activity and instructions aloud as a large group, and ask if there are any questions before breaking into pairs or small groups.

AT THE END OF THE TRAINING, summarize what participants learned by reading the summary of key points at the end of each chapter, or re-sharing the learning objectives at the beginning of the module. You should also use examples from participants' own comments to summarize key learning points.