

# IAMI

E D U C A T O R

Update for Stewards

Vol. 4, No. 2

# Canada

## Dealing with Difficult Bosses



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**U**nion stewards have to deal with all sorts of management representatives, people with a wide range of styles and approaches to their jobs and the ways they deal with the union. Check out some of the more exotic of these birds, as described in this article, and see how veteran stewards recommend handling them — and the lessons they've learned along the way. As you read, though, keep in mind that no two people are exactly alike and that these suggestions won't work in every situation. Ultimately, a steward's unique situation and workplace, combined with the school of hard knocks, will allow him or her to figure out how to deal with difficult supervisors.

## Friendly but Unresponsive

This type almost always says that she'll follow through on your requests (such as an information request or a proposal to transfer an employee away from an abusive supervisor, for example). But somehow there is always a hold-up. Maybe she puts the blame on upper management or says that it is harder than she thought to deliver what you want. Either way, if the request is not honoured in a reasonable time (and/or in accordance with your contract), move to the next step. That might be a grievance, an unfair labour practice or a meeting with higher-ups in management. Be sure to get everything in writing. This type cannot be depended on.

## The Intimidator

This person likes to shout or try to make you feel as if you don't know what you're doing — or both. You should stay calm and deal with him professionally, in a matter-of-fact way. If this doesn't work, particularly in a bargaining situation, the union team may want to walk out, letting the management side know that you will return when they can control their problem child. You can also consider exposing the obnoxious manager in

a leaflet or newsletter. (“Whose afraid of the big, bad manager? Not this union!” or “Meet Mr. Personality.”) If you really feel that he has greater knowledge than you, putting you at a disadvantage, ask your local leadership for guidance or assistance.

## In-Your-Face Anti-Union

This management rep doesn't hide the fact that she doesn't like unions. In fact, she tells you just that, and lets you know that she isn't going to do anything to help the union. In some ways, this person is easier to deal with than some other types because there is no question where she stands. Go by the book with her/him. Be careful to put everything in writing, don't miss deadlines and keep your membership informed and involved. If she/he is being obstinate in resolving a legitimate grievance, consider doing this: make sure that you are meeting with her/him one day during the lunch break or after work. Organize a large group of union members to come into the room and surround the table. Make the point that the members are not happy with management's behaviour and are involved and ready to act.

## Labor Relations Jock

This management type is very competitive and sees labour relations as a game of one-on-one basketball. After a particularly gruelling meeting he might approach you and say, “Good session” (as in “Good game”). He has a big ego, and frequently tries to try to impress you with his knowledge of precedents and the union contract, when half the time the “facts” he cites do not actually support management's position. Many stewards deal with him by asking him to point out specific cases and contract language that support his argument. Because this type wants to impress you with his research skills, he may actually give them to you (of course, you should ask for your local leadership's help in doing your own

research, where necessary). Do not let him intimidate you with his supposed knowledge. Be prepared when dealing with him and remember that labour relations is not a one-on-one game—it's a team sport. Involve your team by keeping your local leadership up to date and your members informed and active.

## The Liar

This person makes promises to the union that she breaks. One steward tells of a manager who said on a Friday afternoon that she was going to move one worker to a new work station, but the steward discovered on Monday that she had moved three workers over the weekend, without bargaining. It is important to expose such lies to the membership and even to others in management. If it is a bargaining issue, point out her lies during negotiations. If the lie is a violation of your contract or the law, consider filing a grievance or discuss with your local leadership the possibility of filing an unfair labour practice. Also, confirm in writing all of your discussions with the Liar to minimize her lying, or for evidence in grievances, unfair labour practices, and the like.

## The Fair Player

You will deal with many difficult types of bosses in your career as a union steward. However, you may run across a supervisor who is fair and reasonable, who actually wants to do the right thing. Help him or her develop arguments that can be used with upper management. Let this supervisor have small symbolic victories to strengthen his or her position with management, as long as these victories don't hurt the membership. But be careful to remember that this person is working for your employer, and do not let your relationship make you forget for whom you are working. Remember Duty of fair Representation.

Ultimately, whatever type of boss you are dealing with, remember these basics: always be prepared, adhere to deadlines, and know your contract. And most of all, communication, keep your membership informed and involved.

# Defending the “Indefensible”

**I**t’s a question that veteran stewards are frequently asked by members and by new, inexperienced stewards as well: how can you defend co-workers who are almost certainly guilty as charged?

Specifically, how do you defend someone who has incriminated himself or herself by a spoken or written statement of admission, strong eyewitness testimony or overwhelming physical evidence?

The question isn’t as straightforward as it might sound. It depends on who’s asking.

When posed by a member, the questioner is probably asking, “How can you defend someone you know is guilty? How can you waste your time and the union’s time on it — and how can your conscience permit it?”

When the question comes from a new and inexperienced steward, it probably means something else, something very practical: “How, procedurally and effectively, do you defend a member you have every reason to believe is guilty as charged?”

And if the question comes from something who’s thinking about becoming a steward, the question is probably coming with an eye toward both considerations.

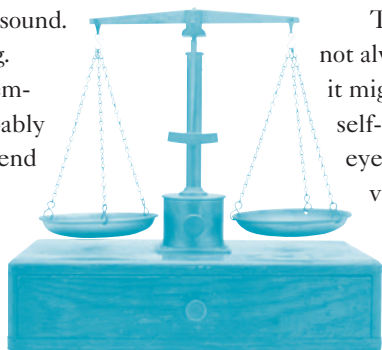
## So, what’s your answer?

Answering the first questioner — how can you spend the time on this, and how can your conscience allow it? — is easy. As a steward, you’re not defending the actions of the individual, you’re providing representation to a member as required under the collective bargaining agreement. Never forget, you are required by law to represent everyone in the workplace to the best of your ability: it’s called the Duty of Fair Representation. At

the risk of putting both yourself and your union in legal hot water, you must honour and respect that duty.

As to the question of how you go about your duty of representation, things get a little more complex. Regardless, it is just as important to your success as a steward and to your union’s continued success and well-being.

## Doing Your Duty . . .



To begin with, everything is not always as clear and simple as it might first appear. Though self-incriminating admissions, eyewitness statements and video or photographic evidence may seem insurmountable, often there are underlying intangibles that may not initially be known. For exam-

ple: Were statements coerced or obtained under duress? Was the member advised of his or her rights under the contract? Did the worker ask for, but was denied, union representation? Was there a history of bad blood between accused and the investigating management personnel or witnesses? How was evidence procured?

Remember, just because management says it has irrefutable proof of guilt against the individual doesn’t make it so. Many times, in a supervisor’s rush to judgment, mistakes are made. Until you have been able to interview witnesses, examine the evidence, and walk through the case with the accused member, don’t assume anything. Your investigation will often uncover contradictory evidence or underlying motives that will exonerate the accused — or at least cast doubt on management’s case.

And even if your investigation confirms the evidence against the accused member, you may be able to discover procedural flaws in management’s procure-

ment of the evidence or processing of the case — flaws that may allow for exoneration or dismissal.

Finally, even when the guilt of the accused member is not in doubt and management has flawlessly handled its case, a thorough investigation on your part might help ease the discipline received. Past practices in the workplace, a good work history, and length of service can all be used to help with mitigating discipline. Your diligence in cases like this can prevent the employer from hastily rushing to judgment and help to ensure that management does a thorough job investigating and processing each and every case. If you can poke holes in one such “un-winnable” case, odds are that your employer will think twice before they try the same thing again, against another worker.

## And More . . .

So, the debate over defending the guilty member is not a simple one, and certainly isn’t the black and white issue that many members make it out to be. It can involve a wide range of scenarios, some more complicated than others.

Take it as a fact of life that no matter what the situation, some members are never going to be convinced that certain allegedly guilty members deserve being defended. You have to remind them that, as a steward, you not only have a legal duty to provide representation to individual members but you are also a defender and protector of the collective bargaining agreement, with a duty to all members to ensure that proper procedures are followed and that all bases are covered. One day, you can remind those complainers, it may be them in the hot seat themselves.

So remember: The next time you find yourself questioned, challenged or simply involved in a philosophical debate concerning the defence of an apparently guilty member, it’s not about protecting an undeserving member. It’s about living up to your legal obligation, protecting the integrity of the process, and ensuring that set standards are maintained both now and in the future.

— David Bates. The writer is a 22-year member and former steward and president of a Transport Workers Union local in Florida.

# Figures Don't Lie, But Liars Figure

**A** key part of the steward's job is the evaluation of information — the critical judging of what you're being told. You can't represent your co-workers properly if you can't fight your way through the smoke to the true facts, and it's not always easy. Here are five tips to help you assess the truth and value of information that comes your way.

## Lying with Statistics

You're in a meeting with management and they hit you with this: "We have reasonable cause to institute a new attendance policy because absenteeism rose 52 percent this year."

There are a lot of ways the union can respond to this, but first things first. Don't just accept that management's statistics prove anything. Your first question should be, "Rose 52 percent over what?" If the previous year was an all-time low for absenteeism and this year (even with the 52 percent rise) is more normal, then the rise is not as significant. Your next question: "Why was there a rise?" Perhaps just one or two people had serious illnesses and used a lot of sick leave, and those isolated cases caused all or most of the increase. That's a lot different from an epidemic of absenteeism. For more examples of how statistics can be abused, check out the book *How to Lie with Statistics*, by Darrell Huff.

## Polished Presentations

Picture this: top managers in Armani suits, Gucci loafers and Rolex watches make a presentation using glitzy high-tech equipment and eye-boggling visual aids. They use words and phrases like "inevitable," "wave of the future," "new paradigm," "undeniably clear" and "studies have shown."

We tend to think others know what they are talking about because they are wearing a tie or nice suit, speak with cer-

tainty or in some other way come across with scholarship and conviction. We need to look past the window dressing and the staged confidence and closely examine what they are actually saying and whether they have real evidence to make their case.

## Confusing Correlation and Causation

A supervisor comes up to you one day and says, "Why do you keep trying to make trouble with your complaints about how I treat people? Since I got here turnover is down and productivity is up, so people must like me." Well, it may be true that turnover has gone down and productivity has gone up since the supervisor started, but do we know it is because the workers like the new supervisor? Maybe those things happened in spite of his being on the job.

When two things occur at the same time they are "correlated." "Causation" is different. It means there is evidence that one thing causes the other. There may be many reasons why turnover fell and productivity rose other than that the workers like the new supervisor. Perhaps the economy is bad and there are not a lot of other jobs available. Or maybe the company has bought new equipment that increased productivity. The supervisor could be as wrong about causation as the person who observes that it gets light outside soon after his alarm goes off and thus concludes that his clock causes the sun to rise.

## Halo Effect

When someone you like talks, you tend to listen with a more sympathetic ear. You fill in blanks and give him or her benefit of the doubt. This is called the "halo effect." The opposite is also true: when you don't like someone you hear what they say with much more scepticism and doubt. Because of the halo effect and its

opposite, you need to be careful when evaluating the information you get from various people. It's dangerous if you don't hear what is actually said but only what you think the other person really means or what you imagine they said.

## Arguing a Different Issue

Something has been stolen where you work and management doesn't know for sure who did it. To avoid their weak case they strongly argue that such a serious offence must be punished. Shifting the issue when you have a weak case is a common tactic, but not one you should fall for when others do it. Stay on the real issue. In the example above the real issue is "Was something actually stolen?" and if yes, who stole it?



Being aware of these tips for evaluating information will not only help you be a better steward, it will also help you in your other roles as family member, community activist and citizen.

— Ken Margolies. The writer is on the Labor Extension faculty of Cornell University.

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# Finding “Just Cause”

**E**mployees shall be disciplined only for just cause.” You hear the expression and see it in your contract.

What is just cause? It’s what the employer must have — a fair reason — to legitimately discipline a worker. If a worker is suspended without pay for a week for locking his supervisor in the men’s room overnight, for example, the odds are pretty good that at least some sort of discipline was legitimate. But if a worker is transferred to the night shift for rooting for the “wrong” team in the National Football League playoffs, you can be pretty sure that discipline was improper.

And just cause goes one step further. It means that not only must there be a legitimate reason for the discipline, but the penalty must be appropriate for the infraction. An employer can make a persuasive argument that a worker who intentionally drops a load of bricks on a co-worker should be fired. But termination would be an unduly harsh punishment for a 25-year veteran employee who was five minutes late returning from lunch.

Experienced stewards understand that there are a series of just cause standards to be weighed in almost every disciplinary case. You won’t see them written in any contract, but the employer knows that if he or she does not adhere to those standards, an arbitrator may throw out the employer’s discipline or reduce it substantially. These standards apply to almost all cases of discipline, from the lightest verbal warning all the way up to a discharge.

The seven standards were written forty years ago in an arbitration case and remain virtually unaltered since then. Let’s examine each one.

**1 Did the company give the employee warning of the consequences of his or her conduct?** The warning may be written, as a posted rule or in a rule-book handed out at employee orientation. Or the member may be told that certain observed conduct is unacceptable and he or she will be disciplined if it continues. Some conduct — theft, fighting or alcohol consumption, for example — is viewed as so serious that the employee is expected to know the consequences of such acts without a warning.

**2 Was the company’s rule reasonably related to orderly, efficient, and safe business operations?** Rules can be grieved if they don’t meet these criteria, and disciplines can be grieved for the same reason. Dress codes and appearance rules often fall into this category. Unless there is a threat to health and safety or they constitute an illegal act, however, the rules must be obeyed — and then grieved. “Do now grieve later”.

**3 Did the employer investigate before administering discipline?** A worker has the right to know what he or she is being charged with. Normally, the employer investigation must be conducted before discipline is handed down. Even if the employer feels he must take immediate action, the proper procedure is to suspend the worker prior to investigation. If later found innocent of charges, he or she will be restored to the job with full pay for lost time.

**4 Was the employer’s investigation conducted fairly and objectively?** A management official may act in a hearing as a prosecutor and judge but that person *cannot also be a witness* against the member. All key witnesses must be interviewed. Otherwise the union can object to the investigation as unfair.

**5 Did the investigation produce substantial evidence or proof of guilt?** This means that the facts presented by management must outweigh the facts presented by the union. It does not mean that evidence be preponderant or beyond reasonable doubt. The employer must prove his or her case; the worker doesn’t have to prove his or her innocence.

**6 Has the employer applied its rules, orders and penalties evenhandedly and without discrimination?** For example, if the company has been lax in enforcing a rule in the past, it must inform its employees it intends to enforce the rule in the future. The logic here is that choosing a worker to discipline to begin enforcing a rule may be viewed as discriminatory because others guilty of the same offence were not penalized.

**7 Was the penalty reasonably related to the severity of the offense and the worker’s record of service?** A trivial offence does not merit harsh discipline unless there is a continual pattern of guilt for the same offence. A worker’s past record may not be used to determine guilt of the most recent charge — although it may be used to determine the severity of punishment for the charge. Therefore, favourable work histories and longevity with the employer may lighten some penalties.

When you investigate and present disciplinary grievances for your union, use these seven standards as a guideline. You don’t automatically win your case if the employer violates one of these, but if there is a pattern you may be able to build a strong enough case.

The key to winning discipline cases is for the union to conduct a complete thorough investigation. Interview everyone and take good notes and write everything down. Remember that, in disciplinary cases, the employer is the moving party. Let them try to prove his case. Take notes while management representatives talk and reserve your comments until they have finished. Make sure you ask questions of their witnesses.

# International Association of Machinists and Aerospace Workers



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OFFICE OF THE INTERNATIONAL PRESIDENT

Brothers and Sisters,

Union members live better, it's a fact. The average union worker makes more in wages and benefits than a non-union worker. But in today's economy, both union and non-union workers lose if their wages don't keep up with inflation. Union-represented workers lead the way for many non-union workers, but that gets harder to do if the number of union workers isn't growing.

As stewards, you can help do something about it. Help your co-workers understand that they have a stake in organizing. As union density is on the decline we have to organize. With more organized workers, we have the power to negotiate better industry wages that won't leave families struggling to catch up. And we will have a stronger voice in government.

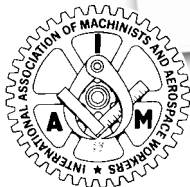
Winning real raises is just part of the fight. Who we elect in government has a direct connection to our ability to enjoy superior wages and benefits we have as union members. So let's make sure our members know who the right candidates are for working family issues.

This edition of the IAM Educator features articles to help you be a better steward, from representing a co-worker who faces a tough disciplinary situation to strategies for dealing with difficult bosses.

Keep up your outstanding work as shop stewards for this great union. You are leaders in this union and we need your help now more than ever. Join us as we grow the IAM and strive to improve the lives of Machinists and all workers across North America.

In appreciation and solidarity,

R. Thomas Buffenbarger  
International President



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