

TAM

E D U C A T O R

Update for Stewards

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Watch Out for Outsourcing



Watch Out for Outsourcing

Being a steward these days means more than keeping in touch with your members and watching your contract. You need to know about global trends in the economy and how these trends can affect your members. One of the most dangerous trends these days is the outsourcing of jobs.

Outsourcing is when your employer pays for services or products from an outside contractor, using outsiders to do work that should be done by you and your fellow employees. This has been a growing trend in recent years as employers try to cut costs or shed responsibilities. Union jobs are outsourced — to non-union, low wage providers here at home, or even outside the country altogether — at a much higher rate than other jobs largely because unionized jobs almost always are better paying.

A Problem Everywhere

Today, outsourcing is embraced by companies and industries of all sizes and types and government employers at all levels. Call center jobs are outsourced to India. Clothing and textile jobs have gone to Asia. Millions of industrial jobs have ended up in Mexico and China. Providers of janitorial services, electrical power production workers, accountants, truck drivers and air line pilots have all been victims of outsourcing. Even tax preparation and legal work is outsourced today — halfway around the world.

In a case that is still in the headlines, call centre work at the Air Canada was taken away from union-represented employees and outsourced to a private contractor in India. The low quality of the work performed by the contractor is exposed every time someone calls Air Canada for luggage or flight information.

Outsourcing in general is bad for workers, consumers and the economic growth of the country. It severs the relationship between employees and their employer and continues the corporate race to the bottom.

How do unionists combat outsourcing and protect their jobs? For starters, by keeping their eyes wide open. You owe it to yourself, and your members, to learn about outsourcing companies in your industry by keeping up with industry news, by talking to other workers, managers or supervisors, and, if possible, by attending industry conferences or seminars.

You have to be on the alert for changes in services or operations at your workplace. Watch for the appearance of consultants, contractors or outsourcing companies. And listen for talk about outsourcing. Your employer may use words such as restructuring, reengineering, non-core work, public-private partnerships, privatization, contracting out, and cost or efficiency savings. Any of those words should raise a red flag.

And, you must educate your members to report any signs of outsourcing. Use membership meetings and special bulletins to educate workers about the dangers of outsourcing and what signs to look for. Join together in the workplace to ask the employer to disclose any outsourcing plans.

Also, whenever possible, do what you can to promote union work as *quality* work to customers and the public. The Air Canada case is just one of countless examples where outsourcing may have helped an employer's bottom line, or made money for a private contractor, but hurt the public the employer serves.

Combatting Outsourcing

How should the union combat the threat of outsourcing? What steps can you take to protect your members' jobs? Here are some possible actions:

- Form departmental or workplace committees, or use surveys to monitor the workplace and advise the union of wasteful or costly practices by contractors, or inferior work or services.
- File grievances if you have applicable contract language.
- Whenever possible, talk to workers of

outsourcing companies about the importance of organizing into the union.

Examples of Fighting Back

■ Members of the International Brotherhood of Electrical Workers in Washington State — utility workers who were threatened with outsourcing — publicized the threat to customer safety and the increased risk of power outages. Union members wore red “Got Power?” buttons to the company's shareholder meeting. Although the union was not able to completely prevent the outsourcing, it was able to win agreement that the contractor for gas and electric construction and maintenance would be an IBEW-represented company. They also organized the administrative staff into the union, assuring that those jobs remained union.

■ In one clever tactic in an ongoing campaign against privatization, Canadian Union of Public Employees members in British Columbia threatened with the outsourcing of a public sewage treatment system decorated cookies with the message “Public Sewage Treatment: Clean, Green, Affordable.” They gave the cookies and informational leaflets to union members, who then brought the cookies and leaflets to a public forum with provincial legislators.

Don't ignore legislative solutions. Some states have passed laws on outsourcing. For example, New Jersey law prevents companies under contract to the state from sending work outside the United States. On the federal level, CWA has been promoting the “Call Center Consumers Right to Know Act,” which would require call center workers from U.S. corporations to disclose their location to callers.

— Teresa Conrow. The writer has worked full time with unions throughout the world for more than twenty years on global strategic campaigns against transnational companies, internal and external union organizing, and labour education methodologies. She is a member of AFT Local 1521.

Stewards and Credibility

Credibility is defined as being believable, trustworthy and reliable. For stewards it's the foundation for being a good, effective representative. Without it, you might just as well turn in your badge.

But credibility isn't something handed to you when you accepted the position. Credibility has to be earned and maintained through continuous effort. Before that can be accomplished, however, you have to understand the meaning as it applies to a steward. There are three components.

1 You have to be believable.

You say what you mean and mean what you say, with the ability to back it up. Most important, if you don't know the answer to a question or the solution to a problem, or you're not sure, don't say anything until you can get your facts straight and confirmed.

2 You have to be reliable. You always show up when and where you're supposed to be, and you're always fully prepared when you get there.

3 You have to be trustworthy. When you commit to carry out an assignment or obligation, you do it, without fail, no excuses.

Credibility shouldn't be confused with respect or admiration. Both are fine qualities but, for a steward, they can be fleeting. From the employer's view, if you're being effective it's usually at management's expense. In the view of most members, you're only as good as the outcome of the last issue you helped them resolve. When you have credibility, though, you can be depended upon to deliver, and that's, ultimately, what counts.

So, how do stewards achieve credibility? It's about showing, not telling.

It's easy to tell a member she/he doesn't have a grievance, a management representative that she/he's wrong, or your union leadership that the union should use every possible resource it can muster to push a case forward. But those

things can be easily dismissed as just words and personal opinion.

Instead, you achieve credibility by showing the member the contract article or case precedent proving his case good, or not; collecting and providing evidence and witness statements proving management wrong; and preparing a combination of all these items to demonstrate to union leadership justification for pushing a good case with everything it's got.

Now you have a general understanding of credibility and what's needed to achieve it. But wait!

Credibility has to be earned and maintained through continuous effort

Nobody's Perfect

Between job responsibilities and representation duties most stewards put in long hours and have, at times, an overwhelming workload.

Given this, every steward is prone to make mistakes: you forget to file a grievance in a timely fashion. You misplace a case file. You fail to secure a witness statement or key piece of evidence.

Having credibility is not about being perfect. If you make a mistake, admit it, try to limit the damage, be diligent in your future efforts so as not to repeat it, and move on.

With determination and due diligence, mistakes can be kept to a minimum. Using some of the following tools can help.

Tools of the Trade

From basic to high-tech, there are numerous tools to assist a steward in efforts to achieve and maintain credibility.

Basic tools include a watch and calendar for ensuring timeliness; pen and notepad for recording vital contact and case information; an accordion file folder to separate and organize current grievances and related documents; and an inexpensive plastic file cabinet for storing

past cases for precedent reference.

High-tech tools include an electronic organizer, Palm Pilot, BlackBerry or other similar mobile device for recording vital case information; a cell phone that does that plus takes photos and video, and can send text messages and e-mails; a laptop or desktop computer for recording and retaining current case info and past case precedent references; and a palm-size video recorder and home fax machine. It seems the sky's the limit on the modern-day technology available to assist stewards.

Whether choosing basic, high-tech or some combination, these helpful tools can make any steward more efficient and reliable, two qualities that will only enhance credibility.

A Juggling Act

In closing, it's also important to understand that being a steward is a three ball juggling act involving members, management and union leadership. Each has different requirements for developing and maintaining an effective relationship. However, by being timely, doing your homework, and showing, not telling, you can easily establish credibility with them all.

And don't forget that credibility isn't automatically renewable or transferable. With every new situation, every different worker or member of management encountered, and every new work area or location entered, credibility has to be re-established. Credibility is earned, not given. It takes time and effort to achieve, but can be quickly and easily lost if not continuously maintained.

Just remember that with diligence, a little nurturing, and the proper tools, it can flourish for a lifetime and serve as a major asset.

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

Resolving Conflicts In the Workplace

It's one thing to have your co-workers in conflict with your employer, but it's quite another to have them in conflict with each other over what position the union should take on an issue. Unfortunately, that can happen, especially when the issue is serious and everyone has a different, strongly held view of how to deal with it.

This kind of conflict can really hurt everyone involved and seriously weaken the union. A good steward will look for ways to manage conflict and focus everyone's energies where they belong: on the overall good of the group.

The disagreement can be over most anything. Maybe management wants to change the way a certain kind of job is performed, and half the people think the change is great while the other half think it stinks. Whatever the issue, a divided membership can cripple the union and help give the boss free rein to do things the way he wants, without full consideration of the wants and needs of the workforce.

When such situations arise in the workplace, the smart steward will look at these five steps to successful conflict management as a way to get everybody back on the same team.

1 Sort out exactly what the conflict's about and how important it is to the union and its mission. Help everyone agree on the nature of the problem and determine whether a quick solution can be reached.

2 Agree to a set of rules for your process of resolving the problem. Make a list of dos and don'ts that everyone will follow. Here are some possible starters:

DO:

- Focus on one issue or problem at a time.
- Focus on the *issue*, not on people.
- Listen carefully. People should let others know that what they've said has actually been heard.
- Use "I" statements rather than "you" statements. It should be "I feel this is the right thing to do because of A, B and C," and *not* "you" statements describing or accusing the other person.
- Be serious, but keep a sense of humour.

DON'T:

- Use expressions of anger, such as yelling, insulting words or profanity.
- Blame or put down other people. Don't

try to make others feel guilty.

■ Interrupt. Instead, take turns explaining points of view.

■ Stop working on the conflict until everyone agrees to a resolution. Take time off if needed, but always come back. The process may take a while, but perseverance pays off.

3 Discuss the results that everybody wants. Don't talk about *solutions*, but rather what's *important* about the issue. This can take some time to sort out. We should have a set timeline to resolve issues, no longer than 30 days from when you first became of the issue.

4 Identify common interests. After needs and points of view have been discussed, you'll see areas of agreement and understand that everyone wants to see the problem resolved. Focus on the problem that will need resolved. If we agree, move forward.

5 Brainstorm a list of possible solutions and select the one that most meets the needs of those involved. Then decide how to go about implementing the group's decision.

If, after all these steps, you're still stuck, you may need to ask for some help. Your best bet is to seek out someone in union leadership, whose own experience might offer insight on what's workable and what isn't and who may be able to mediate. If the problem is bigger in nature, seek the representatives input.

Make sure everyone understands that if the group fights itself, the winner will be the employer. Employers know this better than anyone, and some of the nastier ones will do everything they can to foment conflict among the workforce. We shouldn't do anything to help employers divide us.

— Adapted from "The CoMotion Guide to Youth-Led Social Change" by Leigh Dingerson and Sarah H. Hay, Alliance for Justice, 11 Dupont Circle NW, 2nd Floor, Washington, D.C. 20036. Phone: 202-822-6070.

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Enforcing Past Practice

One of the most controversial issues stewards encounter is that of past practice — in particular, whether longstanding benefits and working conditions are binding, even though they're not referred to in a written collective bargaining agreement.

Over the years arbitrators have frequently considered whether and to what extent past practices is part of the contract. Several agreed-on principles have emerged. Chief among them are the following:

- Past practices that concern valuable personal benefits and privileges for employees or the union are generally considered binding on the employer.
- Past practices that concern methods of work or the direction of the workforce are generally considered subject to change.

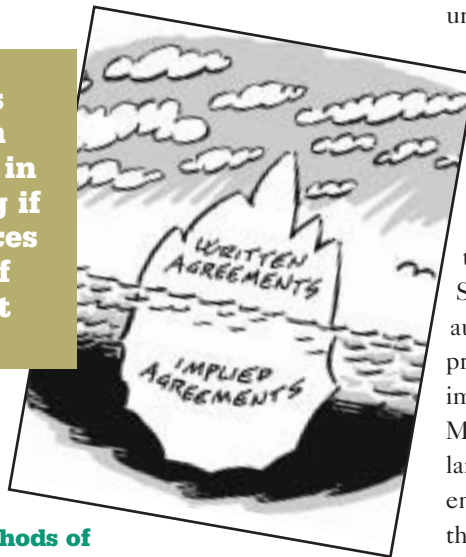
Let's look at some specifics.

Benefit Practices

Arbitrators are likely to find benefit practices binding because it is reasonable for a union to expect that longstanding benefits and privileges will continue during the contract if management does not object to the practice during negotiations. Arbitrators often classify such customs as “silent” or “implied” agreements. Some of the practices that they typically enforce under this principle include:

- Paid lunch periods
- Christmas bonuses
- Free meals
- Vending machines
- Time off for union business
- Lockers
- Pay for arbitration time
- Short shift on day before Christmas break

Principles have been established in determining if past practices are part of a contract



Methods of Work

Past practices involving methods of work are everywhere. For example, a trucking company may have used manual transmission trucks for 50 years. If it changes to automatics, does it violate the past practice doctrine?

The answer is no. Arbitrators do not regard work practices as silent or implied agreements. They consider it “unreasonable” for a union to assume that by signing a contract, the employer has agreed to freeze its work methods until the contract expires. So, a union that wants to guarantee a work practice needs to obtain agreement in writing.

The doctrine of past practice does not prevent management from:

- Adopting new work rules
- Changing work assignments
- Contracting out
- Installing new machinery or equipment
- Creating new work schedules

Of course, the fact that a past practice grievance is not appropriate doesn't mean that the union will have no grounds to object. Language in the written agreement — a no-subcontracting clause, for example — may stand in the way.

Moreover, the National Labour Relations Act (NLRA) and most public sector bar-

gaining laws, and provincial laws in Canada, impose a duty on employers to give notice and bargain before changing matters that vitally affect employees. The union can file an unfair labour practice charge if the employer makes a change unilaterally. You should always seek advice from your representatives.

Problem Language

Before taking a past practice grievance to arbitration, the union should consider whether there is language in the contract that would block such a move.

Some agreements confine an arbitrator's authority to the enforcement of written provisions. Others explicitly nullify implied or past practice agreements. Management rights or zipper clauses — language precluding any discussion of employment conditions during the life of the contract — are generally not bars to past practice grievances.

Exceptions

Employers can ignore or modify an otherwise binding benefit practice under the following conditions:

- Employees persistently abuse the practice.
- The basis for the practice no longer exists.
- The employer gives notice **during negotiations** that it does not intend to observe the practice during the term of the next collective bargaining agreement.

Filing

When filling out grievance forms for a violation of a silent agreement, the union can cite:

- The contract's management-rights clause, on the theory that it forbids the employer from taking an action that conflict with a binding past practice.
- The contract's recognition clause, on the theory that it obligates the employer to respect implied agreements.
- The entire agreement; implied agreement; and standards of *reasonableness and fairness*.
- Bargaining obligations.

— Robert Schwartz. *The writer is the author of How to Win Past Practice Grievances, published by Work Rights Press. A new third edition was published in March 2007.*

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OFFICE OF THE INTERNATIONAL PRESIDENT

Dear Brothers and Sisters:

This month's IAM Educator newsletter examines two of the most important qualities an IAM representative can bring to his or her job: professional credibility and a work ethic that ensures members will receive the representation they deserve.

A Steward's credibility is rooted in the members' confidence that they will get prompt, accurate information about a contractual issue, even if it's not always the information they want to hear. A professional work ethic includes informing members of the status of any grievance they may have, educating them about the due process provisions in their contract and using facts rather than emotions to resolve conflicts.

This month's newsletter also examines the use of past practice in the workplace and provides Stewards with guidelines to help them understand how certain long-standing but unwritten benefits can be protected and enforced.

The job of an IAM Shop Steward is among the most important and varied in the entire labour movement. While the demands may at times be great, the rewards and the respect that comes from a job well done are even greater.

In Solidarity,

R. Thomas Buffenbarger
International President

