



msea core training

MINNESOTA SCHOOL EMPLOYEES ASSOCIATION

CHIEF STEWARD MANUAL

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STRENGTH IN UNITY

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MSEA Chief Steward Manual

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- On line resources of Unions across the United States
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Additional copies of this Chief Steward manual are available for download on the MSEA website or from the MSEA office.

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WHAT IS A LEADER?

Definition of a Leader

- One who, or that which, leads or conducts; a guide; a conductor.
- One having authority to direct; a chief; a commander.
- One who goes first.



“If your actions inspire others to dream more, learn more, do more and become more, you are a leader.”

President John Quincy Adams

There are several positions within a bargaining unit, including, but not limited to those listed below. This manual contains examples, information and suggestions that are valuable to many leaders within the union.

Unit Officers

CHIEF STEWARD

The chief steward of a unit must wear many hats. None of these responsibilities is too difficult to master. How you would see yourself in each role?

- **Spokesperson** - Speaks and advocates on behalf of the unit, before the employer, news media and within MSEA; serves as liaison with community representatives, maintains contacts with other unit officers.
- **Chairperson** - Presides over the various governing bodies of the unit, represents membership at all organization meetings.
- **Executive Officer** - Oversees the internal operation of the unit, which includes financial, personnel and program.
- **Organizer** - Serves as a catalyst to show people how to act together on their own behalf as well as on behalf of the unit; outlines and assigns tasks for individual members to participate in unit efforts; works to strengthen membership involvement and commitment; involves members in elections, meetings, committee work, school social functions and community events.
- **Communicator** - Informs members concerning the roles, responsibilities and services of the unit; maintains a flow of communication between members and those responsible for establishing and carrying out the objectives of the Association; helps resolve differences among membership; educates members as to the importance of union involvement.

VICE CHIEF STEWARD

Assists the Chief Steward in accomplishing unit business. These duties will depend on the relationship of the Chief Steward and Vice Steward and unit activities. The Vice Steward should also be prepared to temporarily assume the role of the Chief Steward if situations arise making it impossible for the Chief Steward to carry out his/her duties.

SECRETARY

Maintains the unit records. While this task can expand with increased unit size and activity, the main duty will be to take minutes (notes) of unit meetings and keep records of unit activities. The Secretary should also maintain a file of documents needed to operate an efficient union. (These documents are discussed in the section of maintaining unit records.)

TREASURER

Tracks and maintains unit funds; handle disbursement of all fund; keep accurate records of unit income and payments. In addition, they often maintain updated membership records and forward this data to the MSEA office.

BUILDING REPRESENTATIVE

Keeps members informed of the activities of the unit and state union; passes on members' concerns to officers and staff; serves as the unit's initial contact with new employees to encourage membership. Building reps are a vital link between the members and the unit officers!

NEGOTIATION TEAM

The team should fairly represent the diverse interests of the membership. Duties include compiling membership surveys, creation of language and wage proposals and attendance at negotiation meetings. Team members may also serve as a spokesperson at the bargaining table and be able to discuss the negotiations progress with the members.

GETTING STARTED

Organizing Your Space



Every Association needs a place of its own. It's up to the chief steward to find the spot. Visualize an organized and separate space in which to carry on your unit activities. Having this separate space lends legitimacy and gives identity to the organization. It's a place where all members can stop in, discuss individual or group concerns, formulate plans for action or work on goals.

Think of an area either in your school or your home where materials can be gathered, worked on and stored. Think of how large a space would be required and the amount of space to which you have access. Do you have a spare bedroom? An extra table in the back of your work area? A cardboard box under the counter next to the kitchen phone? No matter what space was available in the past, you must remember that the Association needs an area that is relatively permanent and which can provide privacy when necessary. It needs to be large enough to accommodate unit materials. Make your space help you do your job.

You need to remember as well that your office space must be secure. Information about individual members, grievances and arbitrations, and other things must not be shared with your spouse, children or friends. You must have a secure, locked place for important unit business. Following is a list of things you need in your office:

- easy access to a phone; ability to gain privacy
- file cabinet or pocket file folders, lockable file box or drawer
- list of member home and school telephone numbers
- bulletin board to tack up important dates, messages and reminders
- MSEA directory, Board of Directors and staff names and phone numbers
- superintendent, administrators, district school board numbers

IDENTIFY UNIT DOCUMENTS

As the new chief steward, you will need some of the past unit documents in order to begin your term in office. The problem often is one of sorting through old cardboard boxes full of papers and pulling the ones needed now. If your unit doesn't have some or all of these papers, this may be the first goal you want to accomplish. These documents are basic to the smooth operation of your unit. They provide the legal protection, the continuity of action and the established procedures for you. Pull together the following documents:

- **Operating Policy:** These are your unit's basic governing documents. You must read and follow them. In particular understand how to amend if these documents are out of date. Your field representative can provide you with model operating policies and advice on how to revise your own. MSEA's Model Operating Policy can be found at the end of this section.
- **Current Executive Board and Membership Meeting Minutes:** Obviously, the minutes will tell you what has happened last and what must be done now. Talk to the previous chief steward to gather this information. Ongoing problems should not become your major focus unless you incorporate them into your own goals. Solve them quickly and move into your own program.
- **Current Grievances, Arbitration Or Contested Issues Under Discussion:** Talk to your past chief steward and find out what these issues are. It is imperative that you see that these are resolved. Your field representative will handle arbitrations; call the MSEA office for information.
- **Current Contract:** This is the document that provides all the current language under which your members work. One of your main jobs as chief steward will be to see that supervisors and administrators live by this agreement. Read it over and over until you are familiar with and understand the language. Your members will expect you to be the expert! If there are unclear provisions, call your field representative for an interpretation.
- **Current Bargaining Package:** When you take office you may be in the process of bargaining a new contract. Get a copy of the language your bargaining team has or is proposing. Make sure you understand everything because you will be the one expected to maintain the new contract.

Box all the other papers that you find and label it with the year and contents. Store the boxes in a warm, dry place. You can find information from these boxes later if you need it.

ORGANIZATIONAL PAPERS

Active units must keep track of dates, events, notes, minutes, ideas and records of all kinds. This becomes a major responsibility of the chief steward. Under no circumstances can you allow your disorganization to cause you to miss timelines or adversely affect your members. You must have some system for keeping track of vast quantities of written and verbal information.



Further, a great deal of information will be sent to you from the MSEA office. While you need to read it all, much of it will not need to be kept handy. You should keep any information detailing dates, time lines, criteria or guidelines. Put the rest in boxes and store it where it won't clutter your workspace until the end of your term, then throw out everything but the manuals. Purchasing a two drawer file cabinet would be a good investment for your association. If that isn't in the financial cards, purchase pocket file holders or cover file folder size boxes with contact paper. You need to have a storage place for your papers.

Always have extra file folders or 3-ring binders on hand. Use them to handle the myriad subjects for which you as a local leader will come into contact. Place each case or individual problem into a separate file folder. Devise a system to separate the file folders into broad categories such as:

- grievances
- bargaining
- correspondence
- current issues

Other categories will evolve as you proceed through your term. No matter what system you develop, you should track the information listed below. These are some of the areas that you will need to deal with from the beginning of your term. Use 3-ring binders to hold material that is used regularly and may have to be carried from place to place. If you keep all of your current information in this book, you will have it when you attend your meetings. Use a separate notebook for special projects that you develop.

- Membership names, addresses, home and school phone numbers
- District Administrator and school board member names, addresses and phone numbers
- MSEA staff representative name and phone number
- MSEA Director (Board; Unit Officers)
- Unit committee names/committee reports
- Contract and negotiation notes
- Articles of Incorporation and By-laws (MSEA and Unit)
- Unit correspondence and meetings minutes
- Publications (newsletter, newspaper articles, etc.)

Calendars Will help

Because it takes a remarkably active chief steward to produce an active unit, you will be very busy! The easiest way to get to the correct meeting at the correct time is to purchase a calendar. Write all the activities that involve the local on that calendar including grievances and time lines, dates for Association events, the time and location of meetings, dates of elections, MSEA meetings and MSEA training sessions. The best way to avoid the embarrassment of scheduling two meetings at the same time is to write everything down immediately. Fill in as many long-range dates as possible.



Plan officer and membership meetings for the same time each month and mark it on the calendar at the beginning of your term. Do the same with all other meetings that occur monthly. Fill in vacations, holidays and your children's birthdays. Including all of these important days will help you avoid duplication. Publicize the important dates to your members. They will also be able to plan if they are properly informed.

Take care to avoid such meeting "killers" as Monday Night Football, school board meetings, the night before vacations, and important community functions. Members shouldn't always have to make a choice between what you want them to do and something generally recognized as more fun or more important.

ACTION CALENDAR

One way to make members aware of unit activities at the start of the year is to print and distribute a yearly plan of action for the unit at the beginning of the school year and then update as necessary. Some activities should take place every month, such as:

- Noting School Board meeting information
- MSEA happenings
- Enrolling new members in your unit
- Updating MSEA with new hires, retirements, resignations

Listed below are some ideas to help you get going:

SEPTEMBER/OCTOBER

- *send to MSEA: unit officers, building reps, new member info
- *negotiation year - survey unit; what do they want for the upcoming year?
- *hold first unit meeting to introduce officers, explain contract and recognize new members
- *inform members of school board meeting dates and MSEA happenings
- *inform members of MSEA happenings

NOVEMBER/DECEMBER

- *American Education Week - participate
- *inform members of pending legislative action
- *MSEA fall training workshops
- *hold a social meeting to foster good will in your unit
- *submit local dues budgets to MSEA (if withholding local dues)

JANUARY/FEBRUARY

- *survey members for negotiation goals (negotiation year)
- *elect Delegates and register for the Delegate Assembly
- *discuss and prepare pending resolutions for the Delegate Assembly

MARCH/APRIL

- *prepare negotiation proposal (negotiation year)
- *list summer school employment prospects
- *prepare MSEA Delegate Assembly Resolutions
- *prepare slate of candidates for unit office
- *MSEA Delegate Assembly

MAY/JUNE

- *elect/install new officers - send names to MSEA office
- *report Delegate Assembly happenings to membership
- *end of year report to membership
- *recognize/remember retirees & notify MSEA office
- *recognize and thank unit workers
- *bring all material up-to-date and pass it on to new officer(s)

MEETINGS

Meeting Notification



We cannot expect members to know about unit meetings and events if we don't provide them with notice. While we would like to believe that everyone routinely checks and reads the notices things that are put on the employee bulletin board; experience has taught us differently. For this reason, units that are trying to increase participation have gone to distribute meeting notices to each member.

This section will outline some successful ideas to consider when designing your bargaining unit's notification system.

- **Advance Notice:** Most of our members have very busy schedules and are often involved in other civic and community organizations, not to mention family activities and obligations. It is necessary to give members as much advance notice of meetings and events as possible so that they can fit the bargaining unit activities into their schedules. As stated above, it is suggested that this notification be distributed to each member, as well as posting it on the employee bulletin board.
- **Clear Agenda:** All too often we expect members to come to our meetings with no more information other than "it is a bargaining unit meeting". Bargaining Unit leaders have learned that people are more likely to attend a meeting if they know what to expect at the meeting. For this reason, it is important to prepare and distribute a clear meeting agenda along with the meeting notification. In many instances this agenda can be a part of the meeting notification.
- **Flyers / Posters:** Flyers and posters on the employee bulletin board can be a constant reminder to members. Designs that catch the eye work best because people will look at them over and over. Take the opportunity to get one more member involved by searching your unit membership for that creative member who will volunteer to design flyers and posters for the bargaining unit.
- **Reminder Notice:** Depending on how much advance notice they have given the members, some units distribute a reminder notice just a day or two before the meeting. Meeting reminder notices don't have to be written. Some units have developed telephone trees to give meeting reminders. It also serves the dual purpose of checking how well the bargaining unit telephone tree works.

AGENDA

1. Elections
2. Volunteers
3. Newsletter
4. Spring Fling

Getting Them There

INCENTIVES TO ATTEND MEETINGS

Whether we like it or not, many units have found that more members will attend meetings and events if there is a chance they might walk away with something more than the important information available.

This section will give some incentives bargaining units are using to improve participation.



- **Financial Incentives:** Money always gets people's attention. Some units offer a dues rebate of a certain amount of money for each meeting attended during the year. The size of the rebate will depend on the size of your local treasury, as all rebates must come from local bargaining unit funds.
- **Door Prizes:** Many groups will conduct a drawing for door prizes at the end of the meeting. Bargaining Unit leaders using this method advise bargaining units to always hold the drawing at the end of the meeting, with the member needing to be present to win, so the members will stay for the entire meeting. You can be creative in your prizes, utilizing the resources available to your bargaining unit. Don't be afraid to ask unit members or local merchants to donate a door prize.

DOOR PRIZES

- Cash
- Gift certificates
- Crafts
- Services

- **Attendance Contests:** Contests among the membership can promote pride within the unit as well as increase member involvement. Units can have ongoing contests to see which group has the most members attend meetings throughout the year. Prizes and awards could be given for each meeting and/or the entire year. Prizes can be as simple as a certificate or as creative as the resources available to your bargaining unit allow. How you fashion the contest groups will depend on the makeup of your unit, but some possible groupings are by building, job classification, or bargaining units (if your membership has more than one bargaining unit).

MAKING MEETING ATTENDANCE CONVENIENT

Participants at almost every regional meeting identify transportation and childcare problems as reasons for lack of membership attendance at meetings. Some bargaining units have begun to meet away from district facilities in local cafes, community meeting rooms or members' homes. These bargaining units have found the membership feels more comfortable meeting away from the school buildings. If this is an issue with your bargaining unit you can check with local establishments as to the availability of meeting space. Here are a few helpful suggestions:

- **Meeting Location:** In almost every district, the bargaining unit has the right to use the school facilities for their events. Consider all the buildings available in the district to determine which building would be best for your meetings. Each bargaining unit will determine its own criteria for determining the best location, some of which may be:
 - ✓ Centrally located for all members
 - ✓ Most members located nearby
 - ✓ Best facility to handle your meeting / event
- **Transportation:** Some members don't always have transportation available at all times. It may be helpful to identify the transportation needs of your members and you can then determine which of the following methods will work for you.
 - ✓ **Volunteer Drivers:** Perhaps there are only a small number of people in need of transportation and members who will volunteer to give others rides. The unit leaders can match these people up in the beginning of the year and they can make their own arrangements whenever they receive notice of bargaining unit events.
 - ✓ **Car Pools:** The unit can also match members interested in carpooling. The individuals can then arrange carpools. Another method would be for members to arrange building car pools going from their building to the meeting site and back.
- **Child Care:** Many members have young children, which can understandably take priority over attending bargaining unit meetings and events. Using the resources available within its membership, the bargaining unit can determine how it can help with childcare such as:
 - ✓ **CHILD CARE POOLS:** The unit can match members in need of child care assistance with members' spouses, daughters or sons who are interested in providing supervision in a member's home. One person could supervise 2-4 children and the members could share the cost. Other possibilities could exist in your bargaining unit, depending on the number in need of assistance and the number of volunteers available.

- ✓ ON-SITE CHILD CARE: Check into the facilities available to you, especially if you're meeting in the schools. Perhaps the unit can reserve a gymnasium and equipment at the same time of the meeting or an empty classroom with a TV/VCR. One or two members, with the help of a few members' teenagers, can provide supervision.



LOCAL UNIT DUES

The Choice Is Yours

It is up to each bargaining unit to vote whether or not to withhold local dues. A unit that chooses to withhold local dues must adhere to the process as described in the MSEA Unit Treasury Financial Code of Standards. The options for local dues are determined by the Delegate Assembly and only collected by payroll deduction. The unit treasury account will be managed by the unit treasurer or chief steward as determined by the unit. Other than depositing the unit dues, MSEA does not directly access funds in unit accounts.

LOCAL DUES OPTIONS

	<u>Member</u>	<u>Fair Share Fee Payer</u>
Option A:	\$ 6.00	\$ 5.10
Option B:	\$12.00	\$10.20
Option C:	\$18.00	\$15.30
Option D:	\$24.00	\$20.40

PROCESS

- The unit must call a membership meeting to vote on the subject of withholding local dues. The vote must pass by a simple majority and the unit operating policy must also be amended to include collection of local dues.
- The unit must submit a Unit Funds Deduction Authorization Form to MSEA which is available online (www.msea-mn.com) or from the MSEA office.
- The unit must establish an account at the United Educators Credit Union and the account name must include MSEA's name and use MSEA's federal tax ID number. All accounts must have at least two unit signers in addition to the signature of the MSEA Executive Director.
- MSEA will process unit dues and send dues checks directly to the unit treasury account following any month in which dues are received at the state office (\$1.00 for every full member and \$0.85 for every fair share fee payer). Any remaining unit dues not paid during the school year will be deposited in to the unit accounts in July.

STIPENDS

Any stipend paid to members for unit work must be run through MSEA's payroll. Requests for stipends may be made twice a year to the state office using a form provided by MSEA that includes the member's name, address, SSN# and birthdate. MSEA will process the checks with its next regularly scheduled payroll and bill the unit for the cost plus the employer portion of FICA (7.65% at this time). Repayment to MSEA must be made by check from the unit account. If reimbursement is not received within a reasonable amount of time, MSEA may withhold future local dues until the amount due is satisfied and may request pre-payment of stipends in the future.

DEADLINE

Units withholding dues are required to submit the following by November 1st each year:

- An end of the year budget from the past year.
- A budget for the upcoming year. (Model budgets are available from the MSEA office.)

NOTE: The MSEA Unit Treasury Financial Code of Standards, Unit Funds Deduction Authorization Form, Projected Unit Budget and Annual Unit Budget forms are available for download off of the MSEA website (MSEA Policies link): www.msea-mn.com

DUTY OF FAIR REPRESENTATION

If mobilized members are the muscle of the labor movement, stewards are its bone. Stewards are educators, organizers, advocates and mediators, agitators and peacemakers. There are few rules. Being an effective steward mostly requires knowing a few basic principles, being able to listen well, having a willingness to learn combined with some passion and commonsense. This section outlines some basics. The rest can generally be improvised.

What Does "Fair Representation" Mean?



This means:

- All employees (members and non-members, good and bad, nice and hostile) have a right to due process and union representation to the best of your ability.
- As a steward you need to act fairly, impartially, in good faith, consistently, with reasonable care and not arbitrarily.

It does not mean:

- You must file a grievance on every complaint even if there is no contract violation.
- You must take every grievance through every step through arbitration.
- You do not need to satisfy all members of the bargaining unit.

WHERE DOES THIS DUTY COME FROM?

Federal law (NLRA) or state law (PELRA in Minnesota) recognizes your union as the "exclusive representative" of a specific group of employees (check your recognition clause in your contract). This means that employees cannot individually bargain over terms and conditions of employment. It also puts a responsibility on the union as exclusive representative (and on you as a steward, as the union's representative) to fairly represent the interests of all employees.

WHY IS SATISFYING THIS DUTY SO IMPORTANT?

Failure to satisfy the duty of fair representation (DFR) makes the union liable for damages suffered by the affected bargaining unit employee and may also make the union liable under the 1964 Civil Rights Act, which also prohibits unions from discriminating.

Legal Rights Of Stewards

With the duty of fair representation come certain protections for stewards. These are very important for understanding the protected status one has when working as the union's official representative.

THE EQUALITY PRINCIPLE

Under the NLRB (and PELRA) union stewards have a special legal status when they engage in union business or act in their official capacities. Chiefly, they are considered equals with management. According to the NLRB (and PELRA) this means:

- Conduct that might ordinarily result in discipline must be tolerated;
- A frank, and not always complimentary, exchange of views must be expected;
- The relationship between steward and employer is not a “master-servant” relationship but one of “equal opposing parties;”

“Robust debate” may occur, but not “intemperate, abusive, or insulting language”. To qualify as inappropriate the conduct must be “outrageous,” “indefensible,” or “of such a serious nature as to render the employee unfit for further service. An employer commits an unfair labor practice if the employer disciplines a steward for functioning in an official capacity.

THE EQUAL STANDARDS PRINCIPLE

The NLRB and PELRA prohibit employers from holding stewards to super or higher standards than other employees, except if there is an illegal strike or work stoppage. Then an employer can discipline a steward or union official who takes part in the illegal action. Except for this very rare occurrence, supervisors cannot discipline a steward to set an example for the rest the employees, or because the steward should, above others, know better, etc.

STEWARDS AS ORGANIZERS

One of the principle activities that stewards do is organize. Most people do not think of themselves as organizers -- but most of us are. Organizing is nothing more than taking big tasks, breaking them into little tasks and getting someone else to do them. Perhaps easier said than done at times, but building the union's strength internally is a key task of stewards.

Fair Share Conversions

Fair share fee payers are classified employees in your school district who are included within your bargaining unit and paying a service fee, but have not signed up as a full member of MSEA. By law, a fair share fee payer will receive the benefits of the contract and are required to pay for this representation, but will not receive the benefits of union membership as outlined above.

NEW EMPLOYEES

One of the key responsibilities of a steward is to contact new employees and help them understand the importance of joining the union. Do not assume that new employees know anything about unions (and what they know may not be favorable). Use tact. Remember your first day of work -- being friendly and helpful (not pushy and demanding) goes a long way.



Demonstrate through your actions that the union is supportive, reliable and a good resource. Asking existing employees who have not joined the union to consider joining is often more difficult, but rarely impossible. The key is to not give up.

The reasons employees continue to be non-members are varied, including they:

- Think they are a full member because a fee is being deducted.
- Have not been asked to join MSEA.
- Do not have information about MSEA.
- Realize that union membership means union responsibility.
- Are mistaken that union members are anti-employer.

SEE the difference? Union membership is better. Membership strengthens the union and puts money back into your pocket. Wouldn't you rather be a union member? And when they are asked, most non-members say YES to MSEA Membership.

MEMBER DUES VS. FAIR SHARE FEE

The difference between fair share fee and members dues is usually not as great as you might think. Actually the monthly difference between participating as a full member versus a fair share fee payer is minimal. For example:

Annual Salary	\$10,000
Full Member Monthly Dues	\$ 23.33 (over 9 monthly pay periods)
Fair Share Fee Payer Monthly Dues	\$ <u>19.83</u>
Difference Per Month	\$ 3.50

You can tell the fair share fee payer, that for approximately \$3.50 per month, you can take an active role in determining your unit's goals for contract negotiations. You will gain the right to voice your opinion and vote on all contractual issues. You will also gain the member-only benefits immediately upon joining.

FORM AN ORGANIZING COMMITTEE

The union Organizer plans and directs the Fair Share Conversion Plan. During the conversion campaign the committee is the forefront and the union organizer is in the background working with the committee providing ideas and organizing material. The committee does the actual work of converting fair share employees.



"Never doubt that a small group of thoughtful, committed people can change the world. Indeed, it is the only thing that ever has."

Unknown

The union Organizer will use building representatives, stewards and other leaders from each building in the district if possible. Each committee member must be a key individual, a leader -- thus sometimes an organizer sacrifices full representation from every building. The Organizer is also responsible for training the committee.

The function of the committee is to contact every fair share employee and ask him or her to become a full member. Because you work inside the district, you as a committee member are the only one who can maintain regular communication with co-workers. Tasks such as distributing literature, making personal contacts, and phone calling co-workers are part of the committee's job. A co-worker pays more attention to and has greater faith in a fellow co-worker than the organizer -- the stranger.

QUALITIES OF A COMMITTEE PERSON

As a committee member, your words and actions should be principled, professional and positive. Your tone and demeanor are as critical as your message. People will view the union based on how you conduct yourself. Your efforts on behalf of the union should bring out the best in you and your fellow committee members. It is particularly hard to stay positive when co-workers turn negative. Don't fight fire with fire. Don't mimic insulting or disrespectful behavior. Try to reduce and soften conflicts, not aggravate them. Disagreements should be based on principle, not on personality conflicts. Remember: The union is about respect for people.



You the committee member, have your own set of issues. You may be dissatisfied with pay or certain benefits. However, your issues are not necessarily the issues of other co-workers. Do not presume their concerns are the same as yours or other co-workers. The key is to explain to the individual how becoming a full member would make a difference in addressing his or her concerns.

Don't be afraid to ask people to sign a conversion form. If you do not ask, you'll never know. You should be assertive but do not be pushy. It is okay if they say no. Don't become defensive and don't make them feel uncomfortable. Stay on friendly terms that way you can go back and talk with them again. You might ask if they would be willing to talk with the organizer so they can hear his/her point of view also.

Most of the committee's time will be spent with people in the middle. These people are undecided if they want to be full members or remain fair share. If people are definitely against becoming a full member don't worry about it. Respect their opinion and move on. You have only one task in dealing with undecided co-workers: invite them to talk to you about their concerns. Don't argue, don't be defensive or confrontational – just keep the dialogue open.

Listen and be respectful. When someone asks a tough question, don't get annoyed or impatient. All questions are good questions and should be answered. The key is to listen and find common ground. Tolerating and respecting different views is the right way to treat others. Nowhere is it more important to be respectful and polite to people who disagree with you than when you are campaigning for the union. These are people you will continue to work with, so why make things unpleasant. If you remain friendly and avoid polarizing the situation, people will feel free to change their minds later.

Always remember that if you stay on good terms, people who do not want to become full members may change their mind as more people become full members or an influential co-worker becomes a full member. The more unified the workforce the easier it is to achieve the goals of all employees. It is the relationships and trust that you build with your co-workers that will lay the groundwork for a strong union.

Internal Organizing

As a steward you will be expected to help build a stronger union. But building a strong union does not happen overnight. It depends on taking a few first steps to organize members. The key to organizing is communication. Below are a few crucial internal organizing activities.

- Map your workplace and identify who works where (and when) and each employee's commitment to the union.
- Build a strong steward system and internal communication network.



- Develop a system of identifying when a new worker starts at a work site and who is responsible for contacting that member.
- Inform new workers (and existing members) about the union contract, benefits, services, and activities. Let the new employee know who they can go to with questions. Sign up new employees into the union. This can begin with simply asking them.
- Develop a plan to recruit existing non-members into the union.
- Involve membership in union planning, activities, and planning.

KEY PRINCIPLES OF ORGANIZING

- Build on the culture of the group and organize around winnable issues that people care about.
- Organizing starts with leaders -- but depends on ensuring members exercise real power and involvement.
- People get involved one small step at a time.
- Communicate honestly and often. Face to face communication is most powerful -- and a leaflet is only a "tool" to facilitate communication.
- Don't bore people. Make meetings, events and actions enjoyable, exciting and productive.
- Apathy isn't incurable -- keep trying to find ways to reach people.

MSEA Member-Only Benefits

MSEA members can take advantage of additional benefits and services offered directly through MSEA. Call the MSEA office or visit the MSEA website (www.msea-mn.com) for more information regarding:



United Educators Credit Union Membership



Nancy Crippen Educational Scholarship



\$2,000 Accidental Death Policy



\$2,000 Life Insurance Policy



MSEA "Classified" Newsletter



Low-cost Auto, Home & Cycle Insurance



Member Organizing Incentive



MN Zoo Discount Card



Member & Steward



Housing Benefit



Retirement



Nickelodeon Universe and (Seasonal) Valleyfair

STEWARDS AS EDUCATORS

One key way of building the union is educating members. Often stewards are asked "What are my dues going for?" One clear, useful way to answer this is through a purposeful, **ongoing** education program.



Education can take many forms:

- information on employee rights under the law and the contract
- information on federal and state laws that impact workers (e.g. Minnesota's School Activities Leave, or FMLA and ADA protections)
- information on employee rights if they are being investigated by their employer (e.g. the right to union representation, or Weingarten rights)
- information on union meetings, union stewards for the different worksites and important union decisions
- contract negotiation information and updates
- candidates endorsed by the union (and why they were endorsed)
- wins (and yes, even losses) by the union (e.g. important arbitration decisions, grievances that affect more than one person, etc.)
- issues that impact employees (e.g. the new generation of global trade agreements, overtime pay change, new clean indoor air rules, etc.)

One of the easiest ways of approaching someone you do not know very well (for those shyer ones out there) is to give the person new information. Generally speaking, most people want to know more information (or at least they don't want to be left out of the loop). Use this as a way of organizing and demonstrating that the union is a critical presence in the workplace.

SQUELCHING RUMORS

Most workplaces are swirling with rumors, particularly during contract negotiations and other stressful periods. As a steward, when you hear something that just doesn't seem right, or something you haven't heard before -- check it out. Find out the facts and if the rumor is false, get the correct information out. Gossip and rumors are ways of communicating, but when they are false they can be devastating.



EYES AND EARS AND VOICE

As a steward you will likely hear information from members (right or wrong) long before it is learned by your union representative or officers. Pass the information on when it impacts the union. Likewise, when you are at a meeting and hear information that can be distributed and impacts workers pass it on.

STEWARDS AS ADVOCATES

The most traditional view of a steward is as an advocate for co-workers. Stewards can advocate in a variety of ways. Two of the most important advocacy roles are:

- in investigatory interviews
- during the grievance procedure

Investigatory Interviews

One of the more common situations stewards become involved with is representing employees who have been called to answer questions by their employer. When these questions are part of an investigation, the affected employee has what are called Weingarten rights -- or the right to representation.



"Our lives begin to end the day we become silent about things that matter."

Martin Luther King, Jr.

The key to determining whether a meeting is an investigation is whether a "reasonable person" might believe that the questions asked might possibly result in discipline for the employee or some other employee in the future. The language is important: if an employee believes or is even nervous about questions that might result in potential discipline, s/he should request union representation.

WEINGARTEN RIGHTS

Weingarten rights only apply to "investigatory interviews." Any employee being investigated by her or his employer has the right to representation -- in an organized workplace that means union representation. This principle was established in 1975 by the U.S. Supreme Court in *NLRB v. Weingarten, Inc.*

Weingarten rights help protect employees under investigation from over-zealous employers and help ensure that employees have access to a union steward to know what their rights and options are. Weingarten rights must be requested by the employee -- unless specified by contract the employer does not have to offer representation to the employee.

Once requested, the employer is obligated to provide representation before proceeding with the questioning. If the employer refuses the employee can refuse to answer questions (with some accompanying peril) or repeatedly request representation and answer only under protest.

WEINGARTEN RIGHTS

I believe this discussion could lead to my being disciplined. I therefore request that my union representative be present to assist me at the meeting. I further request reasonable amount of time to consult with my union representative regarding the subject and purpose of the meeting. Please consider this a continuing request; without representation, I shall not participate in the discussion.

INVESTIGATORY INTERVIEWS OFTEN RELATE TO SUBJECTS SUCH AS:

Absenteeism or tardiness	accidents
damange to company property	fighting
drug and alcohol use	insubordination
falsification of records	sabotage
tardiness	work performance (if it might result in discipline)
violation of safety rules	vulnerable adult complaints

INVESTIGATORY INTERVIEWS DO NOT NORMALLY INCLUDE:

staff meetings	briefings on new procedures or work rules
casual converations	handing out of discipline,
annual job reviews, unless they can result in discipline	as opposed to an investigation

When in doubt, it never hurts to ask for union representation. A rule of thumb is that if an employee desires union representation, then it should be afforded by a responsible employer.

STEWARDS RIGHTS DURING AN INVESTIGATORY INTERVIEW

As an official representation of the union the steward has several rights during an investigatory interview. The key thing to remember is that to satisfy your duty of representation, you also have to have the resources, access, and information to satisfactorily represent the employee.

Important: An investigatory interview is the employer's meeting (as opposed to a grievance meeting which is the union's meeting). This means that the employer has the right to ask any question and the employee has an obligation to answer it or risk insubordination.

Employers sometimes take this to mean that the only role for stewards in an investigatory meeting is to observe and take notes -- be the "silent witness." The Supreme Court, however, clearly acknowledges the steward's right to assist and counsel employees during the interview.

STEWARDS CAN:

- insist prior to the questioning that the employer give some indication of what the investigation is about (theft, client complaints, tardiness, etc.);
- take the employee aside and speak with the employee in private prior to the questioning or at anytime during the meeting;
- speak during the meeting, although the steward has no right to bargain over the purpose of the meeting. If a steward becomes too disruptive, s/he can be asked to leave;
- ask the interviewer to clarify a question so the employee understands the question;
- consult with the employee after a question has been asked to make sure the employee understands.



STEWARDS CANNOT:

- tell the employee to not answer a question, or lie (employees can be disciplined for refusing to answer questions);
- continually interrupt, badger, or disrupt the meeting.

PRIVILEGED VERSUS CONFIDENTIAL COMMUNICATION

Stewards have the right to "confidential communication" with an employee. This means that if a supervisor asks a steward what the employee said, the steward has no obligation (in his/her official capacity as a steward) to divulge the information.

However, this is not the same as "privileged communication" (such as that exercised by attorneys or ministers). This means that if a steward is asked under oath (say in a court proceeding) what the employee said, s/he would have to divulge the information or risk perjury.

Caution: It is not a good idea to ask an employee 'Just between you and me -- what really happened?' since it may ultimately not be just between you two. Employees should be told not to tell you anything that could not be revealed in a court of law.

STEWARDS ROLES DURING AN INVESTIGATORY INTERVIEW

The presence of a steward at an investigatory meeting can be helpful in many ways. A steward can:

- help a fearful or inarticulate employee explain what happened;


- help stop an employee from losing his/her temper and making the situation worse;
- help prevent supervisors from giving a false account or "spinning" the employee's answers;
- serve as a witness and recorder of the meeting;
- help keep the supervisor on track and prevent a 'fishing expedition' in asking questions;
- raise extenuating circumstances.

An investigatory meeting is the employer's meeting, so be respectful, just as you expect the employer to be respectful at the union's meetings. But remember the "equality principle." Your job is to represent the employee to the best of your ability, as an equal to management.

Having a contract does not guarantee that it will be followed by management. Part of a steward's duty of fair representation is to enforce the contract. The most common way this is done is through the grievance procedure.

STEWARDS AS GRIEVANCE ADVOCATES

Perhaps the most traditional role of a steward is as a grievance advocate. Virtually every contract defines what a grievance means. Usually this definition is early in the grievance procedure. Become familiar with this language in your own contract.

 *"One of the tests of leadership is the ability to recognize a problem before it becomes an emergency."*

Humorist Arnold Glasow

What is a Grievance?

Not all problems are grievable. Some are gripes that may or may not have merit. One of the most important skills of a steward is to begin sorting out what is a grievance, what is a legitimate problem (although not grievable) and what is mere whining.

To determine whether an action is grievable, ask the following questions:

- Did management violate the contract? (Which part and how?)
- Did management violate work rules? (Most arbitrators assume that management should follow its own rules, even if they are not in the contract. Look at the management rights clause for possible contract language.)
- Did management treat a worker unfairly compared to other workers in the same situation? (This gets at disparate treatment issues and can be linked with "just cause" language in most contracts.)
- Did management violate a "past practice"? (These are specifically non-contractual practices that have been going on consistently for a long time.)
- Did management violate a local, state, or federal law, or health and safety regulation? (Although many arbitrators are reluctant to decide on issues outside the contract, many



contracts require employers to follow the law. Check your contract for such language -- oftentimes in or near the savings clause if your contract has one.

If the answer is "YES" to any of the above, it is likely that you have a grievance and you will need to investigate further. "

NOTE: You will need to refer to your individual contract in order to process a grievance according to the specific timelines and which person receives which step of the grievance process.

DIFFERENCE BETWEEN A GRIEVANCE AND A GRIPE

Not all gripes are created equal. Some issues that are not grievances still demand attention and may require other creative strategies for resolution. Some complaints are simply whining. One of the hardest things for a steward to do is tell a member that s/he has no grievance. It may also be one of the most important things to say. Remember that your word is not the final word. If the member disputes your interpretation, s/he can always appeal to a higher authority in the union.

PAST PRACTICE GRIEVANCES

One of the most commonly heard (and most misunderstood) phrases is "past practice" -- as in "You can't do that because it's a 'past practice'."

A "past practice" is a non-contractual practice that over time becomes the 'way things are done' and achieves the same status as contractual language. This means that a past practice can not be changed unilaterally by the employer, but must be negotiated. Violation of a past practice can be grieved. It is generally difficult to sustain a past practice claim, and to be a genuine past practice it must satisfy all of the following four criteria:

A clear course of conduct. A past practice cannot be based on vague activity or occasional lapses of normal order by either employee or employer;

A consistent activity or practice over a reasonable duration. What is considered a "reasonable duration" is indefinite and imprecise and must be left to an arbitrator to decide. Certainly one or two occurrences over a period of a year or two will not be considered consistent over a reasonable period of time, yet twice a week for two years might be; over ten years would almost certainly be.

Full knowledge and agreement concerning the activities or practice by both parties. There are no such things as "secret past practices." Both parties must know that the activity exists. This does not have to be in writing (and often isn't) but it does have to be verifiable that both parties were aware of the practice and gave it tacit approval.

Silence or ambiguity in the contract concerning the activity or practice. Where the contract is silent, past practice may be considered to be an implied term of the contract if the first three conditions are satisfied. If the contract is vague or ambiguous, past practice has its strongest impact, since in this instance there is no doubt that the activity or practice was meant to be a contract item.

Just Cause

Most contracts have some reference similar to "Disciplinary action may be imposed upon an employee only for just cause." Put simply "just cause" means "with good reason," but this does not mean what is just is left up to the employer. Just cause is the heart of most grievance procedures. The basic elements of just cause have been reduced to seven tests by Arbitrator Carroll Daughtery. His tests, formed as questions, represent the prevalent understanding of just cause among arbitrators.

THE SEVEN TESTS OF JUST CAUSE:

Key Questions Include:

- **Notice.** "Did the Employer give the employee forewarning or foreknowledge of the possible or probable consequences of the employee's disciplinary conduct?"
- **Reasonable Rule or Order.** "Was the Employer's rules reasonably related to (a) the orderly, efficient and safe operation of the Employer's business, and (b) the performance that the Employer might properly expect of the employee?"
- **Investigation.** "Did the Employer, before administering discipline to an employee, make an effort to discover whether the employee did, in fact, violate or disobey the rule or order of management?"
- **Fair Investigation.** "Was the Employer's investigation conducted fairly and objectively?"
- **Proof.** "At the investigation, did the 'judge' obtain substantial evidence or proof that the employee was guilty as charged?"
- **Equal Treatment.** "Has the Employer applied its rules, orders and penalties evenhandedly and without discrimination to all employees?"
- **Penalty.** "Was the degree of discipline administered by the Employer in a particular case reasonably related to
 - ✓ the seriousness of the employee's proven offense, and
 - ✓ the record of the employee in his service with the Employer?"



A "no" answer to any of these tests means that just cause was not satisfied or was weakened. The degree is often more subjective in front of an arbitrator. The more these just cause tests were violated the stronger the case. Violation of just cause is the violation stated for virtually all disciplines -- e.g. "the grievant was disciplined without just cause."

LOUDERMILL HEARING

Under a 1983 court ruling, every employee has a right to a hearing prior to termination. Named after a case filed by James Loudermill, a Cleveland school district security guard who was not allowed to respond to or challenge his dismissal for dishonesty filling out his job application.

GARRITY WARNING

A Garrity Warning is only applicable to public employees and only when potential criminal charges are involved. In 1967, the United States Supreme Court ruled that public employees could not be forced to choose between losing their job or giving up their 5th Amendment rights -- the "right to remain silent."

Ordinarily, if questioned about committing a crime, a citizen is given a Miranda warning: the person has the right to remain silent, but anything that is said can be used against that person in a court of law. The right to remain silent when questioned by a government authority and not self-incriminate is guaranteed under the 5th Amendment of the U.S. Constitution. For public employees there is a dilemma. On the one hand they have the right to remain silent under the Constitution; on the other hand, the employer is the government and refusal to answer an employer question is insubordination and grounds for termination.

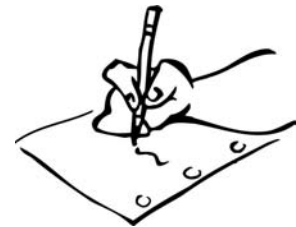
The Supreme Court resolved this dilemma by defined what has become known as the Garrity warning. This warning informs the employee s/he will be questioned as part of an official investigation. It guarantees the employee that anything s/he says cannot be used later in a court of law to prosecute the employee. Once a Garrity warning is issued, the employee must answer the employer questions or face discipline for insubordination. Answers can be used in disciplinary proceedings, but not in criminal proceedings.

NOTE: A sample **Garrity Warning** with signature lines is included at the end of this manual.

How To Write A Grievance

Grievances should be clear, direct, and short. They are not the opportunity to go into the blow-by-blow account -- that comes during the hearings -- but "just the facts please." Normally the MSEA Field Representative will write and process a grievance on behalf of the bargaining unit. Every grievance should include the six W's:

- **WHO** is involved in the grievance?
- **WHEN** did the grievance occur (give the date)?
- **WHERE** did the grievance occur (department, division, etc.)?
- **WHY** is it a grievance? What has been violated or misinterpreted?
- **WHAT** occurred (briefly -- e.g. Suspended, denied vacation, etc.)?
- **WHAT** are your demands? What remedy do you seek to resolve the grievance?



NOTE: Sample **Grievance Forms** are included at the end of this manual.

Key tips to remember when filing a grievance:

- Check your grievance procedure in your contract. Learn the timelines for the various steps. Learn what constitutes a grievance in your contract.
- Pay attention to timelines. Make sure you understand whether the timeline is in "calendar days" or "working days."
- Find out who the grievance needs to be filed with according to the contract. Some contracts say the direct supervisor, some the Department Head, some a human resource employee.
- What does the union require when filing a grievance? Check to see if they need to assign an official grievance number or other means for tracking the grievance.

INVESTIGATING GRIEVANCES

Stewards often are involved in gathering information related to grievances and investigating grievances. This should be done prior to filing the grievance.

Access to an employees file may be necessary. Minnesota Data Practices Act requires that the employee give permission in writing for you to do so under most circumstances. Have the employee(s) provide you written permission to view their file.

NOTE: The written permission can be a simple handwritten note, or you can use the Informed Consent form included at the end of this manual.

RIGHT TO INFORMATION

As a steward you have a right to get the information necessary to represent the grievant (or investigate to see if a grievance occurred). This legal right to relevant information is implicit in the obligation to represent all employees in the bargaining unit. In most situations the request for information will come from the MSEA Field Representative. Contact him/her if you have questions or suggestions.

Documents and factual information relevant to a legitimate investigation by the union must be provided, unless it is proprietary or confidential in a narrow sense of confidentiality. Management has an obligation to explain its actions and justify them, and stewards can legitimately expect and insist on such explanations.

Carefully drawn up information requests can be good tactics for a union. Sometimes a well-thought out information request is enough to prompt the employer to seek a settlement, rather than disclose the requested information.

There are differences between public and private sector unions when it comes to the right to information.

PUBLIC SECTOR

Public sector unions have extraordinary rights to information. Minnesota's data practices law provides that all data is public data unless specifically exempted by law. This definition is very, very broad and includes budget and financial information generally unavailable to the private sector. The defined exemptions are quite narrow and include items such as certain personnel records, personal contact information, medical records, etc. A public sector steward confronted with a reluctant employer should ask the employer representative to state specifically which part of the data practices law exempts the requested material.

The Minnesota Data Practices Act provides access to **public information** to any individual or organization which requests the information. The Minnesota Data Practices Act also provides access to certain private or personal information to the Union which represents the employee.

NOTE: For more information or interpretation about the Minnesota Data Privacy Act, please contact your Field Representative.

REVIEW OF PERSONNEL RECORD BY EMPLOYEE 181.961

Subdivision 1. **Right to review; frequency.** Upon written request by an employee, the employer shall provide the employee with an opportunity to review the employee's personnel record. An employer is not required to provide an employee with an opportunity to review the employee's personnel record if the employee has reviewed the personnel record during the previous six months; except that, upon separation from employment, an employee may review the employee's personnel record only once at any time within one year after separation.

Subd. 2. **Time; location; condition; copy.** (a) The employer shall comply with a written request pursuant to subdivision 1 no later than seven working days after receipt of the request if the personnel record is located in this state, or no later than 14 working days after receipt of the request if the personnel record is located outside this state.

(b) With respect to current employees, the personnel record or an accurate copy must be made available for review by the employee during the employer's normal hours of operation at the employee's

place of employment or other reasonably nearby location, but need not be made available during the employee's working hours. The employer may require that the review be made in the presence of the employer or the employer's designee. After the review and upon the employee's written request, the employer shall provide a copy of the record to the employee.

(c) With respect to employees who are separated from employment, upon the employee's written request, the employer shall provide a copy of the personnel record to the employee. Providing a copy of the employee's personnel record to the employee satisfies the employer's responsibility to allow review as stated in subdivision 1.

(d) The employer may not charge a fee for the copy.

Subd. 3. **Good faith.** The employer may deny the employee the right to review the employee's personnel record if the employee's request to review is not made in good faith. The burden of proof that the request to review is not made in good faith is on the employer.

Subd. 4. **Employer defined.** For the purposes of this section, "employer" includes a person who has one or more employees.

HIST: 1989 c 349 s 2; 1992 c 445 s 1; 1994 c 595 s 2; 1997 c 180 s 3
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TYPES OF INFORMATION A STEWARD CAN REQUEST

The following list is meant to be illustrative. It is not inclusive, and certain items may be legitimately withheld by an employer under certain circumstances.

accident reports	inspection records	personnel files
attendance records	insurance policies	photographs
bargaining notes	interview notes	productivity reports or studies
company memos	job assignment records	salary and bonus records
contracts	job descriptions	seniority lists
correspondence	material records	sick leave and vacation usage
disciplinary records	some "notes to file"	time sheets and time study records
equipment specifications	payroll records	training manuals
evaluations	performance reviews	videotapes

NOTE: Employers have an obligation to provide information to the union, but not necessarily in the form requested. If you wish to request information from your employer you may need to consult with your Field Representative for advice or have her/he make the request on your behalf.

MAKE ALL REQUESTS IN WRITING

A reminder; it is important to be specific about what type of information you are requesting, and to provide a reasonable amount of time to grant it (usually a week or two depending on the type and amount of material) and ask for it in writing. If the employer does not respond, send another letter. Employers will sometimes play the game of giving you exactly what you request, and if the request is vague or too broad (or too specific) you may not get what you want. Written requests are critical for establishing a record.

PRODUCTION COSTS

Employers may charge a "reasonable cost" associated with providing materials, but costs cannot be extraordinary or designed to limit legitimate access to information. If costs are too high, the union has a right to negotiate alternative means for receiving or viewing the information.

TIPS FOR GRIEVANCE MEETINGS

- **Remember it is about power.** Grievance meetings do not have to be contentious or confrontational; they can be (and should be) good faith efforts to find a resolution to a disagreement. However, they are still power struggles.
- **Remember the "equality principle."** In meetings with your employer as a union representative you are an "equal" to your employer.
- **It is your meeting -- run it like it is your meeting.** Your employer is accustomed to calling meetings and running them. A grievance meeting is the union's meeting and should be conducted as such.
- **Limit the employer's ability to ask questions.** Do not let the employer go on a fishing expedition asking questions. And when the employer asks questions, answer only the question asked.
- **Your employer is an advocate, not an arbitrator.** In a grievance meeting, both the employer and union are advocates. Do not let the employer assume the power of becoming an arbitrator during the meeting.
- **Make your employer make its case.** The employer needs to justify its actions, especially when discipline is involved. Make sure your employer defends its actions with specifics. One of your key tasks in a grievance meeting is to secure information from the employer.
- **Do not deliver your entire case immediately.** Grievance meetings, like negotiations, are all about timing. You are not obligated to (nor should you) lay all of your arguments on the table at first. Wait until the employer starts to make a case.

TENNESSEN WARNING

Minnesota Statutes Chapter 13.04, Rights of subjects of data.

Subdivision 1. Type of data. The rights of individuals on whom the data is stored or to be stored shall be as set forth in this section.

Subd. 2. Information required to be given individual. An individual asked to supply private or confidential data concerning the individual shall be informed of: (a) the purpose and intended use of the requested data within the collecting state agency, political subdivision, or statewide system; (b) whether the individual may refuse or is legally required to supply the requested data; (c) any known consequence arising from supplying or refusing to supply private or confidential data; and (d) the identity of other persons or entities authorized by state or federal law to receive the data. This requirement shall not apply when an individual is asked to supply investigative data, pursuant to section 13.82, subdivision 5, to a law enforcement officer.

Subd. 3. Access to data by individual. Upon request to a responsible authority, an individual shall be informed whether the individual is the subject of stored data on individuals, and whether it is classified as public, private or confidential. Upon further request, an individual who is the subject of stored private or public data on individuals shall be shown the data without any charge and, if desired, shall be informed of the content and meaning of that data. After an individual has been shown the private data and informed of its meaning, the data need not be disclosed to that individual for six months thereafter unless a dispute or action pursuant to this section is pending or additional data on the individual has been collected or created. The responsible authority shall provide copies of the private or public data upon request by the individual subject of the data. The responsible authority may require the requesting person to pay the actual costs of making, certifying, and compiling the copies.

The responsible authority shall comply immediately, if possible, with any request made pursuant to this subdivision, or within ten days of the date of the request, excluding Saturdays, Sundays and legal holidays, if immediate compliance is not possible.

Subd. 4. Procedure when data is not accurate or complete. (a) An individual subject of the data may contest the accuracy or completeness of public or private data. To exercise this right, an individual shall notify in writing the responsible authority describing the nature of the disagreement. The responsible authority shall within 30 days either: (1) correct the data found to be inaccurate or incomplete and attempt to notify past recipients of inaccurate or incomplete data, including recipients named by the individual; or (2) notify the individual that the authority believes the data to be correct. Data in dispute shall be disclosed only if the individual's statement of disagreement is included with the disclosed data. The determination of the responsible authority may be appealed pursuant to the provisions of the Administrative Procedure Act relating to contested cases. Upon receipt of an appeal by an individual, the commissioner shall, before issuing the order and notice of a contested case hearing required by chapter 14, try to resolve the dispute through education, conference, conciliation, or persuasion. If the parties consent, the commissioner may refer the matter to mediation.

Following these efforts, the commissioner shall dismiss the appeal or issue the order and notice of hearing. (b) Data on individuals that have been successfully challenged by an individual must be completed, corrected, or destroyed by a state agency, political subdivision, or statewide system without regard to the requirements of section 138.17.

After completing, correcting, or destroying successfully challenged data, a state agency, political subdivision, or statewide system may retain a copy of the commissioner of administration's order issued under chapter 14 or, if no order were issued, a summary of the dispute between the parties that does not contain any particulars of the successfully challenged data.

Subd. 5. Education records; child with a disability. Nothing in this chapter shall be construed as limiting the frequency of inspection of the educational records of a child with a disability by the child's parent or guardian or by the child upon the child reaching the age of majority. An agency or institution may not charge a fee to search for or to retrieve the educational records. An agency or institution that receives a request for copies of the educational records of a child with a disability may charge a fee that reflects the costs of reproducing the records except when to do so would impair the ability of the child's parent or guardian, or the child who has reached the age of majority, to exercise their right to inspect and review those records.

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NOTE: A sample Tennessee Warning is included at the end of this manual.

Sample Garrity Warning

I wish to advise you that you are being questioned as part of an official investigation of your employer. You will be asked questions specifically, directly, and narrowly related to performance of your official duties or fitness for office. You are entitled to all the rights and privileges guaranteed by the law and the Constitution of the United States, including your right not to be compelled to incriminate yourself. I further wish to advise you that if you refuse to testify or to answer questions relating to your official duties or fitness for duty, you could be subject to discharge. If you do answer, neither your statement nor any information or evidence which is gained by reason of such statement can be used against you in any subsequent criminal proceedings. However, the statements may be used against you in relation to subsequent discipline.

BY _____
FOR EMPLOYER

DATED: _____
EMPLOYEE

Tennessee Warning

1. The purpose of this interview is to collect information concerning allegations against you as an employee of the School District.
2. The information collected may be used in assessing the allegations, determining whether the alleged conduct occurred and whether discipline should be imposed against you. The information collected also may be used in a report of the investigation surrounding the allegations. The information may be used in administrative proceeding such as grievance procedures and discipline proceedings, including arbitration, if any. The information may also be used in judicial proceedings, if any.
3. At this time, you are not legally required to provide any private or confidential information regarding yourself during this interview. However, if you refuse to answer the questions, disciplinary action can and will be taken including suspension or termination.
4. This interview may be the only opportunity you will have to present your side of the story prior to a conclusion/decision being reached regarding the allegations. Failure or refusal to provide all relevant information may result in a conclusion/decision based on incomplete information.
5. The information that you provide during this interview may be released to the Administration, the School Board, The School District's legal counsel, and other individuals directly or indirectly involved in the matter(s) discussed.

Sample Tennessee Warning (to be read prior to interview)

My name is _____, and I am an HR Director supporting _____ Public Schools. I am here to investigate issues/concerns brought to my attention alleging violations of the District's _____ Policy, specifically _____. My role is to be a neutral party in conducting this investigation. This is a formal investigation and will require that I ask specific questions of you. During our discussion, I will make a detailed record of your responses.

First, I would like to go through a few preliminary matters before we get into the questions.

Tennessen Warning Checklist

If the following information is not given by the supervisor conducting an investigation meeting with a bargaining unit employee, the MSEA Staff and/or Steward should request the following information.

Pursuant to MN Statutes 13.04, Subd. 2, an individual asked to supply private or confidential data concerning the individual shall be informed of:

1. The purpose and intended use of the requested data:
Response: _____

2. Whether the individual may refuse or is legally required to supply the requested data:
Response: _____

3. Any known consequence arising from supplying or refusing to supply private or confidential data:
Response: _____

4. The identity of other persons or entities authorized by state or federal law to receive the data:
Response: _____

Supervisor Providing Responses: _____

Supervisor's Title: _____

MSEA Staff / Steward Attending: _____

Sample Grievance Form #1

Administrator
School name or District name
Address
City, State, Zip Code

RE: Employee Claim of Alleged Grievance

Dear:

Pursuant to Article ____, Section ____ of the **Year/Name of Contract** this letter shall constitute Level I of the grievance procedure.

- (a) **Name of employees involved:** Name of individual or on behalf of the bargaining unit.
- (b) **The facts giving rise to the grievance:**
- (c) **All provisions of the Agreement alleged to be violated:**

NAME OF ARTICLE

Section Number: _____ Quote the contract provisions violated here.

(d) **The contention of the bargaining unit and the exclusive representative:** MSEA maintains that the district violated the contract (and any applicable laws/statutes) by _____

(e) **The relief requested:** MSEA requests that the School District _____

This completes the outline of the pending grievance. Level I of the grievance procedure requires that _____ I can be reached at _____. I look forward to hearing from you.

Sincerely,

c:

Note: There are two phrases that should be included in every grievance. (1) *"and all other relevant articles"* in the violation section. This protects you from accidentally overlooking a key contract provision. (2) *"...and in all other ways made whole"* in the remedy section. This means: make it like it never happened and avoids having to list every way this needs to occur. Save your arguments for the grievance meetings. The grievance form is simply to document the grievance and start the process.

Sample Grievance Form #2



MINNESOTA SCHOOL
EMPLOYEES ASSOCIATION
Unit designation:

GRIEVANCE FORM STEP

NAME OF GRIEVANT _____

CLASSIFICATION _____

STATEMENT OF GRIEVANCE:

(State the nature and the facts of the grievance: who, what, where, when)

CONTRACT VIOLATIONS:

(List contract Articles)

REMEDY SOUGHT:

(What employer action will resolve this grievance)

Date _____

MSEA Chief Steward _____

Presented to: _____

Title _____

Sample Grievance Fact Sheet



MINNESOTA SCHOOL EMPLOYEES ASSOCIATION GRIEVANCE FACT SHEET

GRIEVANT _____ DATE _____

ADDRESS _____

PHONE: (HOME) _____

(SCHOOL) _____

CLASSIFICATION _____

SENIORITY DATE _____

1. Statement of issues involved: (a precise statement of the issue to be decided)

Remedy sought by grievant:

Detailed account of dispute: (who, what, when, where, why)

Data Practices Release

MINNESOTA SCHOOL EMPLOYEES ASSOCIATION Data Practices Advisory For Release of Personnel Record

The Minnesota School Employees Association ("MSEA") has requested to review your personnel record in connection with MSEA's representation of you.

Data requested. The specific data you are being asked to authorize MSEA to review is any data kept by the Independent School District No. _____ (the "District") as part of your "personnel record," as defined by Minnesota Statutes section 181.960, subd. 4. Under that statute, a "personnel record" includes any application for employment; wage or salary history; notices of commendation, warning, discipline or termination; authorization for a deduction or withholding of pay; fringe benefit information; leave records; and employment history with the employer, including salary and compensation history, job titles, dates of promotions, transfers and other changes, attendance records, performance evaluations, and retirement record.

Purpose and intended use of data. The purpose and intended use of the data is to assist MSEA in representing your interests under the collective bargaining agreement between MSEA and the District. Please be advised that any data collected pursuant to this Informed Consent may be used by MSEA in connection with a grievance, arbitration or other collective bargaining agreement proceeding, but will only be used in connection with MSEA's representation of you in such proceedings. After MSEA has reviewed the data and the proceeding in connection with which the data was requested is completed (including all levels of appeal authorized by MSEA), MSEA will retain the data for a period of one year.

Expiration date of consent. You may revoke this authorization in writing at any time and in no event will it be valid for more than one year from the date below.

You are not legally required to provide the requested information. However, if you do not, MSEA's ability to represent you in connection with disciplinary and other matters may be limited.

INFORMED CONSENT

I, _____, have read and understand the information stated above. In accordance with Minnesota Statutes section 13.05, subd. 4(d), I hereby authorize the District to release my personnel record, as defined in Minnesota Statutes sec. 181.960, subd. 4, to MSEA. I understand that some of this data may be classified as private data under Minnesota Statutes and I hereby give my informed consent to the release of that private data by the District to MSEA and its employees.

(Print Name)

Signature

Date