

# **Certification of Shop Stewards**

APWU shop stewards are either appointed or elected under an article of a local's constitution and bylaws and it is the APWU's prerogative, not postal management, to decide which shop stewards are certified. Even so, sometimes management attempts to interfere in the selection of stewards. Whenever this occurs, they must be challenged immediately.

## **ARTICLE 17** **REPRESENTATION**

### **Section 1. Stewards**

*Stewards may be designated for the purpose of investigating, presenting and adjusting grievances.*

### **Section 2. Appointment of Stewards**

- A. The Union will certify to the Employer in writing a steward or stewards and alternates in accordance with the following general guidelines. Where more than one steward is appointed, one shall be designated chief steward. The selection and appointment of stewards or chief stewards is the sole and exclusive function of the Union. Stewards will be certified to represent employees in specific work location(s) on their tour; provided no more than one steward may be certified to represent employees in a particular work location(s). The number of stewards certified shall not exceed, but may be less than, the number provided by the formula hereinafter set forth.*

Employees in the same craft per tour or station:

<i>Up to 49</i>	<i>1 steward</i>
<i>50 to 99</i>	<i>2 stewards</i>
<i>100 to 199</i>	<i>3 stewards</i>
<i>200 to 499</i>	<i>5 stewards</i>
<i>500 or more</i>	<i>5 stewards</i>
<i>plus additional stewards for each 100 employees</i>	

- B. *At an installation, the Union may designate in writing to the Employer one Union officer actively employed at that installation to act as a steward to investigate, present and adjust a specific grievance or to investigate a specific problem to determine whether to file a grievance. The activities of such Union officer shall be in lieu of a steward designated under the formula in Section 2.A and shall be in accordance with Section 3. Payment, when applicable, shall be in accordance with Section 4.*
- C. *To provide steward service to installations with twenty or less craft employees where the Union has not certified a steward, a Union representative certified to the Employer in writing and compensated by the Union may perform the duties of a steward.*
- D. *At the option of the Union, representatives not on the Employer's payroll shall be entitled to perform the functions of a steward or chief steward, provided such representatives are certified in writing to the Employer at the Area level and providing such representatives act in lieu of stewards designated under the provisions of 2.A or 2.B above.*
- E. *A steward may be designated to represent more than one craft, or to act as a steward in a craft other than his/her own, whenever the Union so agrees, and notifies the Employer in writing. Any steward designations across craft lines must be in accordance with the formula set forth in Section 2.A above.*

(The preceding Section, Article 17.2, shall apply to Transitional Employees.)

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The local president must provide a list of all shop stewards and alternates to the Installation Head in accordance with Article 17 above.

- \* All local officers who serve as shop stewards “**must**” be certified and included on the list. **This includes the local president.**
- \* A list of shop stewards should be posted on all union bulletin boards.
- \* Shop stewards should wear badges for identification purposes. Badges are available free of charge by writing: Joyce B. Robinson, Director, Research and Education Department, APWU, AFL-CIO 1300 L Street, N.W., Washington, D.C. 20005.

## **Duties of Shop Stewards**

It is a mutual benefit for the Postal Service and APWU to have shop stewards available, during working hours, to discuss problems and potential grievances with members of the bargaining unit. Such discussions are essential for resolving potential disputes in an amicable manner and to avoid escalating into a grievance. The steward's primary duty is to understand and enforce the contract. He or she must have the knowledge, ability and determination to file grievances, in a timely manner, for every contract violation. Other duties of the steward are as follows:

- ◆ **Confidant**  
The steward should always handle grievances in a professional manner and assure that information obtained during a grievance investigating is held in the strictest of confidence.
- ◆ **Leader**  
As a leader, it is most important that shop stewards serve as role models and develop credibility among the membership to encourage participation in APWU programs.
- ◆ **Organizer**  
Organizing is critical to the APWU. The steward should assist with membership drives and be familiar with internal and external organizing policies.
- ◆ **Educator**  
Keeping abreast of the changes in the various handbooks and manuals, will assist the shop steward in informing members of their rights under the terms of the contract.
- ◆ **Communicator**  
Advising the membership of available resources is a primary job of the shop steward. In addition, the steward should notify the membership of upcoming union meetings, events, educational conferences and seminars.
- ◆ **Political Activist**  
The shop steward should work closely with the APWU's Legislative Department, Auxiliary and Central Labor Councils and notify members of pending legislation which will affect postal jobs and benefits.

# **Violating the Duty of Fair Representation**

## **Part 1**

The union is vested with the responsibility to represent all employees, both members and nonmembers to the best of its ability. The **Duty of Fair Representation** dictates that no union official may represent an employee in a **capricious, perfunctory, arbitrary or bad faith** manner.

### **Arbitrary**

The shop steward doesn't have an explanation why he or she failed to appeal the grievance.

**Example:** When asked why the grievance was not appealed, the shop steward may state that he or she does not recall.

### **Capricious**

The shop steward has a reason why he or she did not appeal the grievance, but the reason is not logical.

**Example:** If the shop steward refused to appeal all cases ending in the number five because five is his or her unlucky number.

### **Perfunctory**

The shop steward does not conduct a proper investigation before closing the case and puts forth little or no effort to determine the facts.

**Example:** The grievant gives the shop steward a list of witnesses to interview. The steward has a heavy case load and does not follow up with the interviews.

### **Bad Faith**

The shop steward allows personal feelings, union politics or bias to interfere with the representation of the employee.

**Example:** If a national arbitration advocate withdraws a removal case prior to going to arbitration, and it was later discovered that the grievant had dated the advocate's spouse.

# **Violating the Duty of Fair Representation**

## **Part 2**

### **Rights of the Employee**

Although the courts do not define the standards reflecting the union's duty of fair representation, they do reject extremes and mark boundaries providing some guidelines to the limits of the duty. The employee has certain legitimate rights by which the union must abide such as:

- ⇨ The right to clear and unquestionable terms of the collective bargaining agreement. The union cannot refuse to follow or enforce the rules and standards that it has established on behalf of bargaining unit employees.
- ⇨ The right to have his or her grievance decided on its own merits. The union violates the duty of fair representation when it trades a meritorious grievance, to secure a benefit for another individual or group of individuals.

### **Rights of the Union**

The duty of fair representation does not prohibit the union official from making sound, stable decisions to withdraw a grievance. Therefore:

- ⇨ The union has no duty to process frivolous grievances, and it must be free to settle a grievance in accordance with any reasonable interpretation. However, in settling such disputes, similar complaints should be treated consistently.
- ⇨ The steward can make good faith judgments in determining the merits of a grievance, but the steward must use reasonable care and diligence in investigating, processing and presenting grievances on the employee's behalf.

**SPECIAL NOTE:** Settlement of grievances for improper motives such as personal hostility, political opposition, or racial prejudices constitutes bad faith regardless of the merit of the case. The union, thereby violate its duty to represent fairly, by refusing to process grievances for these reasons even though the employer may not have violated the agreement.

## **Shop Stewards Rights, Part 1**

It is imperative that stewards know their rights under **Article 17 of the Collective Bargaining Agreement**.

### **Stewards Have the Following Rights:**

- ✘ To leave their work area with approval of the supervisor.
- ✘ To enter different sections or work locations with approval from the supervisor in that section.
- ✘ To receive any information in relations to the grievance.
- ✘ To interview the grievant, witnesses, other workers and supervisors during work hours.
- ✘ To determine whether or not a grievance exists.

### **The Stewards Should:**

- ✘ Make sure they have a signed PS Form 7020 or clock out on the appropriate clock ring for union representatives.
- ✘ Be the established leader of his or her section or tour.
- ✘ Provide a steady flow of information to the membership.
- ✘ Police the contract and uphold local union policies.
- ✘ Always follow up on questions and inquiries.
- ✘ Make every effort to resolve a grievance at the first step.
- ✘ Keep grievant informed of the grievance progress.
- ✘ Be fully prepared prior to presenting the case at Step 1.
- ✘ Challenge a supervisor who attempts to undermine his or her authority.
- ✘ Tell the member if he or she does not have a grievance.

## **Shop Stewards Rights, Part 2**

### **Things Stewards Should Never Do:**

- ✘ Allow management to set time limits, dictate the time to investigate, interview or write a grievance.
- ✘ Speak against the union in front of management officials.
- ✘ Take management's side in a dispute between the worker and supervisor.
- ✘ Attempt to be a mediator. Remember that you are a union representative.
- ✘ Make decisions which can be construed as setting union policy.
- ✘ Hold back information relative to the processing of the grievance.

### **Stewards Should Have a Working Knowledge of the Following:**

- ✘ Collective Bargaining Agreement (contract).
- ✘ Local Memorandum of Understanding (Local Memo).
- ✘ Handbooks and manuals.

### **The Steward Should Utilize:**

- ✘ Notes from Labor Management and Safety and Health Meetings.
- ✘ Arbitration Awards.
- ✘ Local Precedents and Past Practices.
- ✘ Step 4 Decisions.

# PS FORM 7020

NAME OF EMPLOYEE OR NO. OF EMPLOYEES		DATE	
SOCIAL SECURITY NUMBER		SUPERVISOR'S INITIALS	TIME
LEAVE UNIT			
ARRIVE			
LEAVE			
RETURN TO UNIT			
<input type="checkbox"/> STEWARD'S DUTY TIME		<input type="checkbox"/> MEETING TIME	<input type="checkbox"/> OTHER TIME
REASON FOR ABSENCE			
<i>SEE REVERSE SIDE FOR INSTRUCTIONS.</i>			

PS Form 7020  
Jan. 1978

AUTHORIZED ABSENCE FROM WORKROOM FLOOR



## Steward's Special Immunity

A steward's responsibility is to uphold the rights of bargaining unit employees under the Collective Bargaining Agreement. To accomplish this goal, the law allows the steward to assume the status of an equal when dealing with management. Sections 7 and 8 (a) (1) of the National Labor Relations Act provides a safeguard against employer retaliation for statements made during the course of grievance meetings. Therefore, the shop steward is protected by immunity from discipline based on his or her conduct while acting as a steward.

- The National Relations Board (NLRB) applies the "**Special Immunity Rule**" so that stewards are not prevented from carrying-out their duties to represent bargaining unit employees.
- Steward's "**Special Immunity**" takes effect when it is necessary for a steward to investigate or adjust a grievance or to investigate a specific problem to determine whether to file a grievance.
- A Steward is generally protected against discipline when they raise their voice, use profanity or other berating language when in the status of a steward. **However, they cannot be disruptive on the workroom floor or use violence, physical or verbal threats against a supervisor.**
- The safest course of action for the steward to follow in potential insubordinate situations is to leave the grievance meeting. He or she should put the supervisor on notice that they are interfering with the grievance investigation and return to work. Next, he or she should file a grievance or unfair labor charge.
- In order to be in a protected status while discussing or investigating a grievance, the steward should either utilize a PS Form 7020 or be on a union operation utilizing the time clock.
- When the steward leaves his or her section or enter another section within the installation to investigate grievances or a specific problem, authorization should be obtained from both supervisors.

**SPECIAL NOTE:** Remember, the steward should always remain calm and exhibit self-control and should never represent themselves during the grievance process.

## **When Does Immunity Take Effect, Part 1?**

Immunity takes effect when it is necessary for a steward to investigate a grievance or specific problem to determine whether to file a grievance.

### **Specific Situations**

- The Steward's Tone of Voice or Abusive Language.**
  - Probably, the most frequent sort of conduct by a steward that attracts the wrath of management is what might be perceived as the steward's use of abusive language during a discussion with management pertaining to a grievance.
  - **Example:** The steward and supervisor are in a heated argument over disciplining an employee for using sick leave. If the steward raised their voice or even used profanity to make a point, they would be protected. However, if during the discussion, the steward started arguing about a matter unrelated to a grievance, they probably would not be protected against discipline.
  
- When Counseling Employees to Refuse to Answer Questions.**
  - In addressing this issue, the National Labor Relations Board ruled that an employer may lawfully discipline a shop steward for advising employees who witness an event, which could give rise to disciplinary action against other employees, not to answer the employer's questions about what happened.
  - It is advisable to refrain from conduct which could be perceived as suggesting that employees refuse to obey the orders of a supervisor concerning work related duties.
  
- A Direct Order to Cease Grievance Investigations.**
  - Arbitrators have held that a supervisor does possess the authority to terminate a conversation or interview through a direct order to a steward so long as the order is conveyed in a clear and responsible manner and does not constitute a mere emotional outburst in anger.

## **When Does Immunity Take Effect, Part 2?**

- However, even when the order is given in the correct form, a shop steward clearly has the right to question the order and argue its propriety, so long as the argument is not carried to the extreme.
- A steward has the right to aggressively process a grievance in good faith, and does not have to back down and show subservience at the whim of a supervisor
- Disruption of the Workplace.**
- A charge by management that a steward is disrupting the workplace may be sustained as the basis for discipline. The outcome of such a charge depends on the circumstance and who instigated the situation.
- The consensus appears to be that a steward's limited immunity does not protect him or her where the disruption is shown to have been caused by the steward's conduct and other mitigating factors are not present.

### **SAFEGUARDING IMMUNITY**

There are several ways in which the steward can insure that his or her conduct or speech is protected. The steward should:

- Utilize a PS Form 7020 or be on a union operation utilizing the time clock when discussing or investigating a grievance.
- Request permission from his or her immediate supervisor when it is necessary to leave the work area to investigate grievances.
- Keep a cool head. Do not become outraged or indignant.
- Never represent himself or herself.
- Try to avoid confrontations on the workroom floor; request a private meeting with the supervisor to discuss issues, grievances and concerns.**

**SPECIAL NOTE:** The steward should remember that his or her responsibility is to uphold the rights of the bargaining unit members. To accomplish this goal, the law allows the steward to assume the status of an equal when dealing with management. Likewise the law protects the steward against transgressions by a supervisor who refuses to recognize him or her as an equal.

## Handbooks and Manuals, Part 2

M-4	Vehicle Maintenance Program Guidelines
M-5	Schemes: Constructions, Assignment, Training & Proficiency
MS-1	Operation And Maintenance of Real Property
MS-10	Floors, Care And Maintenance
MS-21	Elevator Maintenance
MS-22	Street Letter Box Maintenance
MS-24	Heating, Venting And Cooling
MS-39	Fluorescent And Mercury Vapor Lighting
MS-43	General Maintenance For Mail Handling Equipment
MS-45	Area Maintenance Office
MS-47	Housekeeping - Postal Facilities
MS-55	Neighborhood Delivery And Collection Boxes
MS-58	Maintenance Performance Criteria
MS-63	Maintenance Management Class A Offices
MS-65	Maintenance Management Class B Offices
MS-70	Intra-BMC Container-lightweight
MS-110	Associate Office Postmaster's Facilities Maintenance Guidelines
PO 201	Philatelic Center Operations Guide
PO 401	Manual Distribution Operating Guidelines
PO 402T	Scheme Training Instructor's Guide
PO 502	Container Methods Handbook
PO 406A	Flat Sorting Machine Guidelines
PO 409	Pitney Bowes OCR/CS Operating Guidelines
PO 411	Burroughs OCR/CS Operating Guidelines
PO 602	CFS Management Guidelines
PO 701	Fleet Management

- ⊗ Maintenance Systems and Procedures (Interim Handbook) Issued January of 1975
- ⊗ Interim BMC Staffing Guidelines

**The handbooks and manuals listed above are available from the APWU Order Department.**