



# **Workplace Survival Guide**

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## **Tips for on the Job!**

### **SEIU Local 1021 Work Place Survival Guide**

#### **KNOW YOUR RIGHTS**

It is your right—to join a Union and...

- To be represented by your Union on work related matters. If you are a member, this representation is free.
- To a copy of your Union contract. (Sometimes called: M.O. U., M.O.A., Collective Bargaining Agreement, etc.) If you don't have a copy of your Union contract ask your Union Steward.
- To actively participate in your Union.
- To file grievances without fear of reprisals from management.
- To have a Union Representative present at any investigatory session which you reasonably believe may result in discipline, including review of the drive cam video.
- To refuse to answer any accusational questions without a Union Representative being present.
- To examine your personnel file and have a copy of items in the file.
- To refuse to sign any statement whatsoever.

Now, you are probably a good employee and firmly believe that as long as you do your job and work hard, you won't ever have to worry about most of these rights. In many situations this is true. However, we do not live in a perfect world and sometimes things go wrong when we least expect it. SEIU 1021 believes it is a good idea to be prepared. We offer this information as a way for you to be prepared, which will also help you be successful in the work place and in your job.

#### **NINE TIPS ON PASSING PROBATION**

Many of these tips may seem like common sense, and they are. However, some times when we are under the stress of a new job we temporarily forget to take these steps. Some of the information may be new to you. NOTE: Keep in mind that probationary

employees are considered “at will” employees. This means you may be disciplined or discharged at the will of the employer, with no right of appeal, at any time during your probation. After successful completion of probation, you may only be disciplined or discharged for just cause, and you have to appeal the discipline/discharge. Assistance from the Union can sometimes be helpful, in prevention or mitigation of disciplinary actions against probationary employees.

1. “The only stupid question is the one which is not asked. “ Don’t be afraid to admit that you do not know how to do something. Ask questions and clarify what is expected of you. For most jobs the probationary period is also the training period. Your boss expects you to have questions about the work.
2. Take your breaks & lunch period each day. You have earned them and they will help you deal with the stress of a new job. However, be careful to not abuse your breaks and lunch period. Make sure that you are only away from your work station for the allotted time period and that you are not putting undue hardship on co-workers when you leave to take a break or lunch. Some work sites have set break times and lunch periods, others are more flexible. Check with your supervisor about the best time to take a break or lunch period.
3. If you are consistently denied your breaks or lunch period, contact the Union. We need to know so that we can correct the situation. (And, you can remain anonymous if you wish.)
4. Come to work on time and don’t leave early. This may seem obvious, but it is a goal which is sometimes hard to achieve on a new job. A new job often means a new routine and a new route to work, so allow yourself plenty of time. Maybe, plan to arrive a few minutes early each day, so that if an emergency comes up you can respond without being late. This is especially important if you are responsible for getting the other family members of your household off to work, school, or child care each day.
5. Find out who to go to for information about the job each work place is different. In some job sites you only ask the Supervisor. In another worksite it may be the Supervisor and Lead Worker. In still another job site it may be the co-workers, or most senior worker. The important thing is to find out who to ask, and then follow the policy.
6. Whenever possible, approach things with a positive attitude. “This is not a problem, it is an opportunity.” We learn best through doing, and from our mistakes. Everyone makes mistakes. (Not everyone admits them, but everyone makes them.) Don’t be afraid to try. Just get as much information as possible, before you start a new task. Learn from mistakes as you go, so that you don’t repeat them. Periodically review what you did right, and explore how that might be applied to other situations.

7. Ask for help. If you are not going to be able to meet a deadline, let your supervisor know as soon as possible. Don't just keep quiet hoping for a miracle at the last minute. Chances are, with enough warning, some accommodation can be made; i.e. more help, a change in the deadline, approved overtime. People are counting on you and your job is important, so communicate when you need help to get the job done.
8. Be friendly. Many of you are in public service jobs. If you deal with the public remember – "The customer is always (well usually), right." We are not claiming that this is a "truth". However, this is the attitude you will most often hear from management and the public. If you encounter a particularly hostile person and feel that you are over your head, get help from a co-worker or supervisor. (That is far better than having the client demand to see your supervisor because they are so upset with you.) Try to keep control of the situation by thinking ahead.

Being friendly applies to co-workers as well. You may be entering an established work force with long standing relationships. It may at first, feel hard to gain entrance into the group. However, smile each day, say hello, ask how people are doing. In most cases people will begin to reciprocate; and chances are as they get to know more about you, a good working relationship will develop. Sometimes, you may make new personal friends through work.

9. If you have a work related problem, which you cannot resolve, contact your Shop Steward right away. The sooner your Shop Steward is involved the better. You cannot be fired for "going to the Union". And, if you want, we will keep it completely confidential that you contacted the Union. We sometimes just work "behind the scene" to answer your questions and give you advise or suggestions on how to deal with the problem. Yet, whenever more formal representation is necessary, the Union is there with you. The advantage of contacting the Union as soon as you become aware of a problem is that we can often give the assistance necessary to resolve the problem while it still is informal.

Read the job description for your position and make sure you understand it. Your employer should have a copy of it. Also review all the documents you received when you were hired.

## **PERSONAL PROBLEMS**

First, most of us hope that we don't have personal problems. And then, when we find that we do, we all hope that we can keep our personal problems from affecting our work performance. However, that goal is not always possible to achieve, especially as our lives become more complicated.

If you find that personal problems, such as child care arrangements, family problems, drugs or alcohol, behavior problems with children, tenant-landlord disputes, lawsuits, etc., are affecting your work; ask if your employer has an EAP Employee Assistance Program. Many employers are recognizing that they can support your efforts to be a productive employee by providing employee assistance programs.

Employee Assistance Programs use self-referrals. EAP's are completely confidential, i.e. your employer has no access to the information you share with the counselor knowledgeable about a variety of community resources.

The counselor will listen to your concerns and then give you the names of the community agency (ies) most likely to be able to assist you. There is no charge to the employee for using the EAP. However, the community agency (ies) will often have a fee for service arrangement. Help can be a phone call away. (If your employer does not have an Employee Assistant Program, you may want to ask for one in your next contract.)

Find out the phone number for the EAP for your work and write it below. That way you will have the number in case you need to call.

### **“MY BOSS CALLED ME INTO HIS/HER OFFICE, WHAT ARE MY RIGHTS?”**

When caught by surprise, you can be intimidated and frightened, and you forget to protect yourself by asking two very important questions:

#### **❖ What is the purpose of this meeting?**

If the purpose is just a supervisory conference for training, a discussion of your work performance, or a formal evaluation, you do not have the right to have a Union Representative present. However, if it is an investigatory meeting which may lead to discipline, you do have the right to have a Union Representative present. If told “We are investigating some complaints” or “We are investigating a situation”, you are entitled to have a representative present, if you believe the meeting could lead to discipline. **Any viewing of video should be viewed as a potential disciplinary action and you should have representation.**

Request to have your Union Representative (Shop Steward) present during the entire meeting. If necessary, postpone the meeting until a Union Representative can be present. Some times a supervisor or manager will insist on meeting immediately. It is our lawyer's opinion that you have the right to consult with your representative prior to such a meeting. While you may not postpone a meeting until your first choice of Union Representative is available, you do have the right to such a postponement until a Union Representative is available.

❖ **Can you assure that there will be no disciplinary action as a result of this meeting?**

- If the answer is yes, get it in writing before you continue with the meeting.
- If the answer is no, get a Union Representative before you continue with the meeting.

There is legal precedent (called your Weingarten Rights) for your right to be represented by a Union Representative, if you have reason to fear that disciplinary action may result from the meeting. The judgment is yours to make.

If you are assured by the supervisor, or manager, that the meeting will not lead to discipline, and begin the meeting on that basis, you can stop the meeting anytime if you feel it is leading to discipline, or if the focus of the meeting changes to that direction. At that point ask to stop the meeting, stating that you feel you need a representative. Whenever, you feel you need a representative, you must say so. Then ask for the opportunity to call the Union, before continuing with the meeting.

### **TIPS ON DEALING WITH THE BOSS**

1. Stick to the facts. Most Supervisors or Managers are busy people who will give you an hour of their time at most, and often have even less time to spend on an individual employee's problem or concern. Therefore, avoid going off on tangents or unrelated issues. It is a good idea to plan out, before the meeting what you want to say that way, once in the meeting, you can make the best use of time available. Realize that even though your particular issue may be the most important item to you at the time, it is competing with a lot of other issues for your boss's attention. Most Managers and Supervisors have been taught to make effective use of their time by concentrating on the facts and relevant information. If you are not focusing on these to make your point, you will lose their attention.
2. Get to know the style of your Manager. Learn which type of approach works best with your boss. Observe their style and behavior. Talk to co-workers about what style works best with the boss. And remember, there is no one right way, lots of different approaches work. Pick on that feels the most comfortable.
3. Do not lose your temper. People think less clearly when they lose their temper. Losing your temper can cost you the respect of management and possible the respect of your co-workers. If you become upset at work, allow yourself a "cooling off" period before dealing with the problem again.

4. Listen carefully to what others are saying. This is just as important as making your points if not more so. Effective listening can provide clues to where compromises or resolutions might be possible.
5. Know when to stop talking. It is usually better to say too little than too much. If Management has conceded the point, end the discussion and thank the Manager for cooperating in finding a solution. Leave him/her with a feeling that everyone has won.
6. Put everything in writing. Follow up meetings with a letter of confirmation on whatever agreements were reached. You may want to end the memo with the following phrase, "If I don't hear from you by (a specific date) I will assume this accurately reflects our agreement."

## **HOW TO FIND A UNION REPRESENTATIVE WHEN YOU NEED ONE?**

After a contract is negotiated, the major business of the Union is enforcement of the contract. It is a good idea to find out who your Shop Steward is, **BEFORE** you have a work related problem.

### **SHOP STEWARDS:**

Stewards play a major role in insuring that workers receive the rights and benefits guaranteed under the contract. Stewards are workers who volunteer part of their time for problem solving in the work place. Stewards are appointed, or elected from the Union membership. Stewards are often a good source of information about your work place, and may have additional tips on how to be successful in your job.

### **How to find out who your Shop Steward is:**

1. Check the SEIU Local 1021 bulletin board in your work place to see if the Steward is listed.
2. Ask several co-workers, until you find out.
3. Look to see if any co-workers are wearing a Steward's pin or badge.
4. Call the SEIU Local 1021 office.

### **When to go to your Shop Steward**

5. For assistance with work related problems.
6. To get answers to questions about the Union and Union sponsored activities.
7. For representation at pre-disciplinary meetings.
8. For assistance with investigating grievances, and in processing grievances.
9. With suggestions about how to improve the work place, or make it more organized. (Please be willing to help carry out these suggestions.)



## **Field Representative**

Field Representatives are the paid professional staff of the Union responsible for negotiating contracts and for processing the more complex aspects of contract enforcement. Field Representatives are assigned by the Union to represent a particular bargaining unit (group of employees) who work for an employer, called a jurisdiction. Field Representatives work with the Shop Stewards to make sure contracts are not violated, and consult with Stewards on work place issues and grievances.

## **DOCUMENTATION**

Documentation is the collection and recording of details of work place problems and situations. Documentation is one of your most useful tools. It is essential for effectively enforcing the protection and benefits contained in the contract. Documentation also plays important role in work place policy setting.

Accurate documentation is often the crucial difference in successful disciplinary appeals, winning grievances, and effective contract negotiations.

Develop the habit of taking notes at meetings, conferences, and to record specific incidents. Be as specific as possible in recording the WHO'S, WHAT'S, WHERE'S, AND WHEN'S. Be sure to list all people who were present at the meeting or incident.

Always keep a copy for your records. We recommend that you keep your notes (documentation) away from the work place so that the record is not "lost" or destroyed.

## **DISCIPLINE**

Nobody plans to get into trouble at work, but it can happen to the best of us. Sometimes it is due to circumstances beyond our control, or due to miscommunication.

**In the even you think that you may be disciplined, please take the following steps:**

1. Immediately contact a SEIU Local 1021 Shop Steward.
2. Document the Who? What? Where? Why? of the incident. Get your facts straight and list all possible witnesses.
3. Do not allow yourself to be interrogated without a Union Representative present.

**Some Helpful Reminders for Avoiding Disciplinary Action:**

1. A direct order that you do not agree with and that does not endanger yourself and/or the safety and health of your co-workers should be followed. If there has

been a violation of your rights, a grievance may be filed afterwards to correct the situation. Follow the order to protect yourself from a charge of insubordination. Insubordination is the refusal to follow a direct order from your superior, and may be cause for disciplinary action, including termination.

2. An order which does endanger the health and safety of yourself or co-workers may be refused. IF you have reasonable belief that the situation is truly hazardous. To protect yourself in this kind of situation:
  - a. Be very sure of your facts;
  - b. Document all the facts thoroughly in writing;
  - c. Provide your supervisor or manager with a written memo as to why the situation is unsafe' and;
  - d. give management an opportunity to correct the situation before refusing the assignment. SAFETY IN THE WORK PLACE.

## **WHEN DOES A COMPLAINT BECOME A GRIEVANCE?**

A grievance is a claim by an employee, or group of employees that there has been a violation of the contract, of a long standing accepted past practice, or another work rule, such as a department policy or procedure.

### **Not all complaints are legitimate grievances**

One of the most important duties of the Shop Steward is to thoroughly investigate complaints and to determine if the situation warrants the filing of a grievance. The Steward listens to the worker's complaint, and asks lots of questions to obtain as many facts and details as possible. The Steward then checks the facts to make sure they are accurate. This may include talking to other employees, or the supervisor, or the Manager, checking the contract, department policies, and past practice' and consulting with the Worksite Organizer.

If the Steward's investigation indicates the employee's complaint is a probable violation, the employee has a legitimate grievance.

If after the investigation the Steward finds that the employee has misunderstood the contract policy, past practice, etc., or misrepresented the facts, or that the issue is not within the scope of representation, it is not a legitimate grievance. In this case, the Steward may suggest other agencies to contact or other methods for resolving the dispute.

Sometimes, even after a thorough investigation, it will still not be clear cut as to whether or not an employee has a grievance. Usually when this occurs, the Union encourages the Steward to give the employee benefit of the doubt and file the grievance. One exception is if losing the grievance would set a bad precedent.

## **SAFETY IN THE WORK PLACE**

### **What to do if you are faced with an unsafe work place: Steps to take before you refuse to do an unsafe job:**

1. Tell your Supervisor or Employer about the hazard and ask that it be fixed.
2. Make it clear to your Supervisor that the only reason you are refusing to do the work is because you believe that your health, or safety, would be in danger if you did the work. Tell your Supervisor that you believe that doing the work would be a violation of the Federal or State Occupational Safety and Health standards, or the Labor Code.
3. Make it clear to the Supervisor that you are willing to do the work as soon as the job is made safe. Tell your Supervisor you will do other work which is safe in the meantime.
4. If you are not sure whether a particular job represents hazards, talk to your fellow workers or an SEIU Local Shop Steward.
5. If your employer fails to correct the hazard, or refuses to correct the hazard, you may want to contact the nearest Cal-OSHA office. You cannot be disciplined for contacting Cal-OSHA with your safety complaint.

### **Some Helpful Reminders for Avoiding Disciplinary Action:**

1. A direct order that you do not agree with and that does not endanger yourself and/or the safety and health of your co-workers should be followed. Follow the order to protect yourself from a charge of insubordination. Insubordination is the refusal to follow a direct order of your superior and is cause for disciplinary action of up to termination.
2. An order which does endanger the health and safety of yourself or co-workers maybe refused IF you have reasonable belief that the situation is truly hazardous. To protect yourself in this kind of situation:
  - a.) be very sure of your facts;
  - b.) document all the facts thoroughly in writing;
  - c.) give management an opportunity to correct the situation before refusing the assignment.

## WORKER'S COMPENSATION

Most California employees are covered by this system. Worker's Compensation is a system set up to compensate employees for work-related injuries. A work-related injury is an injury, disease, or other medical condition incurred by an employee in the course of his/her employment and which arises out of the employment; or a pre-existing injury, disease, or medical condition made worse by the employment.

If you have a pre-existing condition (e.g. a bad back, allergy, nervous condition) which is made worse by the work you do, you may be eligible for some Worker's Compensation benefits.

The cost of Worker's Compensation insurance must be paid entirely by the employer, with no contribution from the employee.

### **Benefits:**

Recent legislation has dramatically changed the amount and the duration of Worker's Compensation benefits. Go to this web site for additional current information: [http://www.dir.ca.gov/dwc/dwc\\_home\\_page.htm](http://www.dir.ca.gov/dwc/dwc_home_page.htm).

### **SICK LEAVE**

Review the contract for the appropriate use and notification of management.

## EVALUATIONS

**Purpose:** The purpose of an evaluation is to provide positive feedback and constructive criticism; recognition of achievement and growth; to promote the achievement of goals and objectives of the employer and employee; to clarify abilities and items most critical to successful job performance; to offer suggestions and direction regarding desired improvement; to assess the steps necessary to assist an employee with improving performance; and to obtain data for decisions regarding retention and assignment of employees.

**Evaluation Schedule:** Normally each employee is evaluated annually by his/her immediate Supervisor. However, with some employers, once the employee reaches the top step of the salary range, evaluations are done every other year.

**Observation of Work:** An employee may not have direct daily contact with the Supervisor. In such cases it's important that the supervisor observe job performance before writing an evaluation. You may want to keep your own file with samples of work you have done well or letters of thanks from "clients". Share the contents of this file with your Supervisor when it is time to do your evaluation.

**Content:** The comments accompanying the evaluation form usually contain recognition of areas where the employee is performing well and areas where the employee needs

to improve. Employees are to be evaluated on only job related areas. In addition to the direct observation the evaluation should include only job related materials; space for employee comments (There is sometimes a time limit for how long you have to respond.); narrative remarks to support ratings other than "satisfactory"; and a notice of the employee's right to grieve an evaluation, if any. (In some contracts evaluations are not grievable) The employee may submit items which document performance, including information from other persons knowledgeable about the employee's performance.

A Supervisor should informally discuss concerns about an employee's job performance with the employee at the time the concern arises. However, this does not always happen, which is why you may want to check in periodically with your Supervisor on how He/She views your performance.

If there is a complaint filed against an employee, the employee should be informed of the complaint, and given a chance to present his/her perspective on the situation. You are entitled to copy of any written complaint against you.

## **EVALUATIONS – (Continued)**

**Needs Improvement:** For areas needing improvement, the Supervisor works with the employee to prepare a plan for improvement which will include specific recommendations on how the employee needs to improve, including the following:

- ❖ **clear statement of the problem;**
- ❖ **suggested remedial action, and**
- ❖ **written evidence of prior counseling (if any) signed by the employee, which shall include: identification of the problem, suggested method of improvement, and the time frame in which the employee is expected to improve.**

## **BASIC INFORMATION ON LAYOFFS**

**Definitions:** Bumping: only occurs in case of a layoff. An employee whose position is being cut, AND who was hired before other employees in the same job classification, can take the position of the most recently hired employer rather than being laid off. Then the most recently hired employee is then laid off.

**Date of Hire:** The first day you were an employee in a permanent position. (With some employers time as an extra help employee will count towards seniority, but with many others it does not.)

**Job Classification:** The name of the job. For example—Teaching Assistant, Clerk Typist II, or Custodian, etc.

**Layoff:** Two kinds of circumstances cause a layoff—(1) separation from a permanent position because of lack of work or lack of funds or (2) because the position has been abolished.

**Seniority:** The amount of time you have been in a position, based on the specific date you were hired, or promoted into the position. (In some jurisdictions seniority is also based on the number of hours worked.) In the event that you receive a layoff notice contact the Union Business Office.

## IMPORTANT ADDRESSES AND TELEPHONE NUMBERS

### **CAL-OSHA**

1221 Farmers Lane, Ste. 300  
Santa Rosa CA 95405  
(707) 576-2388 (24 hrs)  
**Assistance with work site hazards**

**Employment Development Dept. (EDD) –Unemployment Coverage**  
1-800-300-5616  
**Unemployment insurance claims and appeals of denial of unemployment benefits**

### **National Labor Relations Board (NLRB)**

San Francisco Region 20  
901 Market Street, Suite 400  
San Francisco CA 94103  
(415) 356-5130  
**Hearing Board for unfair practices and unit determination for the private sector**

### **U.S. Department of Labor, Wage & Hours Division**

San Francisco Area Office  
455 Market Street, Suite 800  
San Francisco CA 94105  
(415) 744-5590  
**Enforcement of minimum wage laws, Federal overtime laws, such as the Fair Labor Standards ACT (FLSA), and other Federal statutes**

### **Worker's Compensation Appeals Board**

50 "D" Street, 4<sup>th</sup> Floor  
Santa Rosa CA 95404  
(707) 576-2452 (Benefit Assistance)  
Or 455 Golden Gate Ave, 2<sup>nd</sup> Flr  
San Francisco CA 94102  
**Appeal of denial of Worker's Compensation benefits**

**Food Stamps**

2550 Paulin Drive  
Santa Rosa, CA  
(707) 565-2715

**A safety net for low income families**

**Medi-Cal**

2550 Paulin Drive, Santa Rosa (to apply in person)  
520 Mendocino Ave, Santa Rosa (for forms and information)

**Medical Coverage for low-income families**

## KNOW YOUR RIGHTS

**Know Your Rights: The Right to Representation**

If you are ever called into an interview meeting with your Supervisor or Manager so they can investigate a situation which might result in discipline, you have specific representational rights. These rights are summarized below:

1. You have the right to have a Union Steward present.
2. If you want a Steward there, you must ask for him or her.
3. If you do not know why your Manager wants to meet with you, ask him/her if it is a meeting that could result in a discipline.
4. If your Manager refuses to allow you to bring a Steward, repeat your request in front of a witness. Do not refuse to attend the meeting; do not answer any questions either. Take notes. Once the meeting is over call your Steward at once.
5. You have the right to speak privately with your Steward before the meeting and during the meeting.
6. Your Steward has the right to play an active role in the meeting. He or She is not just a witness.

These rights are called "Weingarten Rights" based on a 1975 Supreme Court decision (NLRB vs J. Weingarten). As with all rights, if we do not use them we lose them.

**This statement could save your job:**

"If this discussion could in any way lead to my being disciplined or terminated, I respectfully request that my Steward be present at the meeting. Without representation present, I choose not to respond to any questions or statements."

RG:cb/opeiu29aficio

# WEINGARTEN RULES AND RIGHTS

A worker who is called to an interview with his or her employer which may lead to some disciplinary action is entitled to Union representation.

In NLRB v. Weingarten and its companion case ILGWU v. Quality Mfg. Co., the Supreme Court agreed with the NLRB that an employee has the right to Union representation at an investigatory interview the employee reasonably believes will result in disciplinary action.

The following rules apply when an investigatory interview occurs:

- The worker must make a clear request for Union representation before or during the interview.
- Worker's right to representation may not interfere with Employer's right to conduct an interview without undue delay (in certain circumstances.)
- The Steward has a right to consult with the worker before the interview.
- When the worker requests Union representation, the Employer has 3 options:
  1. Grant the request and delay questioning until the Union representative is available.
  2. Deny the request and end the interview.
  3. Give the worker a choice of:
    - (a) Having the interview without representation or
    - (b) Ending the interview.

It is the Steward's right and the Steward's duty to assist and counsel workers during investigatory interviews. Steward's right during investigatory interviews include:

- The right to be informed of the subject matter of the interview (i.e., the charges).
- The right to consult with the worker before the questioning begins.
- The right to speak during the interview.
- The Steward can request the Supervisor clarify a question.
- After a question is asked, the Steward can give advice on how to answer.
- When the questioning ends, the Steward can provide additional information to the Supervisor.

If Weingarten rules are complied with, stewards have no right to tell workers not to answer questions, or to give false answers.

Stewards should explain Weingarten rights to co-workers. The following statement is useful for workers who may be asked to attend an investigatory meeting:

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