DEAR MEMBER ACTION TEAM LEADER,

Thank you for stepping up! Your role as MAT leader is at the center of building our union’s power. Your willingness to be the first point of contact for your coworkers means that your manager won’t be the only one talking to our members, and we can more quickly and effectively communicate with our members and handle issues as they come up.

You will have support and training from your union organizer and fellow MATs to help you do this work because we want you to be successful — our winning depends on it. You should get signed up for MAT 101 and 102 trainings (if you haven’t already) where you will get some helpful training and materials for quick answers to questions that may come up. You should also find the monthly MAT meetings a good place to get the support of others who, like you, have made the commitment to do the necessary work it takes to win.

There is no substitute for what an informed and confident union member can do in the workplace to inspire and build the confidence of their coworkers to stand up for themselves. As a leader you will make a real difference that helps make us all stronger.

In Solidarity,

Kathryn Lybarger
President, AFSCME Local 3299
We are building the power of our Union at UC by developing our MAT organization. Winning our campaigns for wage equity, stopping contracting out, maintaining sufficient staffing, resolving workplace issues, and against benefit and pension takeaways means that we must have active leaders in every department and campus area. As a leader in my department, I will organize my co-workers to take action to win what we deserve, as stated in Article 8 of the AFSCME 3299 constitution.

**BEING A MAT LEADER MEANS THAT I COMMIT TO:**

1. Organize and educate a group of 10 of my co-workers to participate in our actions

2. Attend MAT meetings, check-in regularly with an organizer, and network with other MAT leaders

3. Be public about my leadership role with my co-workers and with UC management

4. Defend my co-workers, enforce our contract, and stand up to management in my department

5. Participate in Union-wide campaigns that build our power, including new organizing drives and PEOPLE

6. Participate in Union-wide trainings and education that helps me develop the skills I need to be an effective MAT leader

7. Support the goals, values and principles of our union.

Signed, MAT Leader: __________________________________________

PRINT Name: ___________________________________________________________________________

Department: ___________________________ Cell Phone: _________________
THE MAT HAS FOUR ROLES

1. LEADER

2. COMMUNICATOR

3. REPRESENTATIVE (OR ADVOCATE)

4. ORGANIZER

SAMPLE OF MAT RESPONSIBILITIES

- EDUCATE ABOUT ISSUES
- ENCOURAGE POLITICAL ACTION
- EXPLAIN THE CONTRACT
- FILE GRIEVANCES
- HELP WITH NEGOTIATIONS
- LISTEN TO PROBLEMS
- MEET WITH MANAGEMENT
- ORGANIZE WORKERS TO SOLVE PROBLEMS
- SIGN UP NEW MEMBERS ON MEMBERSHIP CARDS
- TURN WORKERS OUT TO ACTIONS
MAT STRUCTURE

MATs are responsible for communicating and working with approximately 10 coworkers on a regular basis.

MAT CAPTAIN

- MAT
  - 10 Workers
    - 10 Workers
    - 10 Workers
ORGANIZE AROUND ISSUES

MATs help to organize co-workers around issues in the workplace. The following pages provide information and tools for you to organize effectively.

ORGANIZING RESPONSIBILITIES OF A MAT

- Work with approximately 10 co-workers in his/her work area (less or more depending on the size of the department or worksite).
- Listen to members’ concerns and problems, and seek out their motivations to do more to build the union.
- Sign up and involve members in union activities, especially in their immediate work area.
- Work together with local officers and MAT captains on tasks that help build a stronger union.
- Have regular one-to-one conversations with co-workers about important issues, collective actions and other union activities.
- Explain to co-workers why the union needs everyone involved and working together to solve problems.
- Help mobilize members when action is needed on an issue or workplace problem.
- Distribute union newsletters, flyers, surveys and other information.
- Support union goals, values and principles.
CHECKLIST FOR CHOOING ISSUES

To be a good workplace issue to mobilize and activate members, the issue should:

- **BE WIDELY FELT** — the issue should affect a large number of people.

- **BE DEEPLY FELT** — workers want to do something about the issue.

- **BE WINNABLE** — the members believe there is a good chance of winning, or that they have a good strategy to win.

- **BE EASY TO UNDERSTAND.**

- **BE NON-DIVISIVE** — avoid issues that divide the membership and that might divide us from the public we serve.

- **BUILD LEADERSHIP AND OWNERSHIP** — there should be many ways for members to be involved.

- **GIVE MEMBERS A SENSE OF THEIR POWER** — by developing and carrying out a successful strategy.

- **HAVE A CLEAR TIME FRAME** — ideally, a short time frame for resolution.

- **BE WORTHWHILE** and result in real improvement in members’ lives.

- **BE CONSISTENT** with the union’s values.

- **ALTER THE POWER RELATIONSHIP** — activating members and winning victories changes the “balance of power” in the workplace.
RULES OF TACTICS

Tactics means doing what you can with what you have.

1. Power is not only what you have but what the opposition thinks you have.

2. Never go outside the experience of your people.

3. Whenever possible go outside the experience of the opposition.


5. Poking fun at the opposition is often a potent weapon.

6. A good tactic is one that your people enjoy.

7. A tactic that drags on too long becomes a drag.

8. Keep the pressure on.

9. The threat is usually more terrifying than the action itself.

10. The major premise for tactics is the development of operations that will maintain a constant pressure on the opposition.
HOW TO MARCH ON YOUR BOSS

Usually the fastest way to get resolution to an issue or problem in your department is to go directly to your supervisor and demand that they address the concerns. The key to making this tactic most effective is approaching the supervisor with as many co-workers as possible so that the supervisor sees and feels how important the issue is to the department and being prepared.

**STEPS TO ORGANIZING A MARCH ON THE BOSS:**

1. You have an issue/concern that a group of co-workers care about
2. Talk to your coworkers and decide on what you will demand as a resolution from your supervisor
3. Decide who will be the spokespeople for the group (should be those who can clearly state the problem and demands)
4. Choose a time and location when the largest number of coworkers can assemble
5. Once assembled, walk over to the supervisors office as a group and tell him your concerns and demands (best unannounced)
   a. If your supervisor tries to avoid talking to you:
      i. Demand that they take a few minutes to listen to real concerns from their staff
      ii. If the ultimately refuse demand a time later in the day or the next day
6. Tips for the discussion with your supervisor
   a. Spokespeople should be concise and to the point
   b. Set specific deadlines for resolutions your supervisor commits to
   c. Take notes during the meeting
7. Follow-up and make sure the supervisor follows through on any promises made. If they refuse to do anything to resolve the issues or concerns, organize the same march to the manager that supervises them.
DO’S AND DON’TS OF PICKETING

INSTRUCTIONS TO PICKETERS AND FLIER DISTRIBUTORS:

It is your constitutional right to picket your employer and pass out fliers during a strike. Your picketing is a form of free speech protected by the first amendment. Your right to strike, picket, flier, and engage other forms of concerned activities as workers are also guaranteed by Section 7 of the National Labor Relations Act.

WHEN YOU ARE PICKETING:

➤ Ask workers who have not yet honored the picket lines to do so. Even if they are not members of the Union, Section 7 protects them from Employer discipline when they refuse to cross a picket line.

➤ Ask the public not to patronize the employer, and ask persons making deliveries to the employer to honor the picket line.

➤ Communicate with the public in a courteous manner and thank them for their support. Tell them why you are striking.

➤ Cooperate with police officers and obey their instructions. If there is a problem, report information about police actions to the Picket Captain.

➤ Maintain peaceful and orderly picketing. Keep moving and maintain adequate space between pickets to allow for access through company entrances and gates.

➤ Do NOT use foul or abusive language to customers or others in the vicinity of picket lines.

➤ You have the right to call strike breakers “Scabs.” You may add descriptive adjectives such as “lousy scab.” You must NOT use any derogatory language regarding a person’s race, ethnic origin, religion, gender, age or sexual preference.

➤ Do NOT threaten patients, students, vendors, customers or others.
Do NOT physically touch any persons approaching or crossing picket lines.

Do NOT make any statements to police, reporters, TV/Radio, managers or security agents. Refer all questions to the Picket Captain and/or Assigned Spokespersons.

Do NOT litter. Keep the area clean.

Do NOT drink alcoholic beverages or bring any non-prescription drugs with you to picket duty.

Picket only the employer being struck and the workers performing the work of the employer being struck.

Do NOT picket gates reserved for employees of so-called ‘neutral’ employers. If you have questions about reserve gates, ask Picket Captain.

Report any incidents involving threatening or dangerous behavior by strike-breakers to the Picket Captain. Make note as to what happened (Date, Time, Place, description of individuals, witness names.)

Do NOT interfere with traffic beyond what pedestrians normally are entitled to do.

Do NOT argue with other picketers. If you have a problem, take it to the Picket captain.

Thank everyone for his or her support of the picket.

If you have any questions regarding where you can picket or how you can conduct strike activities, contact your picket captain.

This list is modified from a list found online at http://dishita.com/buw_site/files/picketing.pdf
REPRESENTING YOUR CO-WORKERS

MAT AS REPRESENTATIVE

As an AFSCME MAT you are always representing the union as a whole in your daily conversations and actions. In order to be an effective representative, MATs must know the grievance procedure, the rights of workers in the contract and under applicable laws, and the Seven Tests of Just Cause. In addition, the MAT represents workers in informal problem-solving efforts and discussions with management.

GRIEVANCE HANDLING

The negotiated contract is the MAT’s most important document. It contains the wages, hours, working conditions and rights of bargaining unit employees. But management sometimes forgets, misinterprets or ignores what they agreed to at the bargaining table. To help address these management violations of employee rights, the contract contains a grievance procedure for addressing those violations.

TYPES OF GRIEVANCES

There are four types of grievances that the union MAT can file.

- **INDIVIDUAL:** This is when a management violation of the contract affects only one employee. Example: If Mary Adams was not allowed to take her afternoon 15-minute break, which was called for in the contract, the union could file a grievance on her behalf.

- **GROUP:** In some cases, a management violation of the contract affects more than one person. Example: If Mary Adams, Nick Brown, Patty Carson and Roger Davis were not allowed to take their afternoon 15-minute breaks, they could file a group grievance.

- **UNION:** Sometimes a contract or Memorandum of Understanding violation may affect the union as an institution. Example: If management failed to provide space for a union bulletin board required by the contract, a union grievance could be filed. Union grievances
protect the right of the union to function as the certified employee representative. In some instances, management may violate the contract but employees may be unwilling or afraid to file a grievance. The MAT has the option of filing a union grievance on behalf of the affected bargaining unit members.

**CLASS ACTION:** A class action grievance is one that is filed on behalf of a “class” of affected employees. The class may be as broad as the entire bargaining unit, or it may be more narrow — e.g., a particular job classification, job title or shift or, for example, “all women in the bargaining unit.” Example: If Office Assistant IIs were not given back pay after a reclassification of the position, a class action grievance could be filed for all employees with that job title.

**GRIEVANCE PROCEDURE**

Grievance procedures contain a series of steps negotiated to address workplace issues. While contracts differ in the number and specifics of these steps, below you will find explanations of common steps found in grievance procedures in AFSCME contracts.

**STEP 1:** Typically, this is a meeting — with the immediate supervisor and the grievant participating — to discuss the problem. Sometimes this is an informal step that attempts to solve the workplace issue before a written grievance is presented to management. In some contracts, the written grievance is initiated at this step. Always refer to the contract to ensure that you are performing the correct grievance action at this and any other step.

**STEPS 2-4:** If not submitted at Step 1, the written grievance is initiated at Step 2. When a grievance cannot be resolved at Step 1, it is reduced to writing. The written grievance can be appealed to progressively higher levels of the management structure in Steps 2-4. Those in the higher levels of management may include a department director, a division head and/or the agency administrator.

**ARBITRATION:** If the grievance is not resolved, the final step is the request for a hearing with a professional, neutral arbitrator whose decision is final and binding — depending upon the language in your specific contract.’
USING GRIEVANCES TO BUILD UNION STRENGTH:

- Enforce the contract when a management action, or inaction, violates the agreement.

- Interpret contract language when the union and management have differing views about the meaning of a particular section in the agreement.

- Improve the contract by revealing problem areas and deficiencies in the current agreement, which the union can address when it negotiates the next contract.

- Protect the rights of individual workers, groups of workers or the union itself.

- Organize workers who have not yet joined the union by publicizing victories that are won through the grievance procedure.

- Gain respect from management by showing that the union will not allow abuses or violations of the collective bargaining agreement or work rules.
Nearly every workday, MATs hear complaints about something on the job. Part of your role is to determine whether the grievance procedure is the right course of action in response to complaints or issues, or whether another course of action makes more sense. To help determine whether or not these are legitimate grievances, there is a five-step formula that you can follow:

1. IDENTIFICATION
2. INVESTIGATION
3. DOCUMENTATION
4. PREPARATION
5. PRESENTATION

STEP 1: IDENTIFICATION

Know the definition of a grievance in your own contract or work rules. In addition to stating what a grievance is (for example, “any dispute over the interpretation or application of the agreement”), your contract may also include provisions that are excluded from resolution through the grievance procedure.

Armed with the knowledge of the contract, applicable work rules and workers’ legal rights, you should be able to answer the following questions:

Did management violate any of the following?

- The contract
- A work rule or regulation
- A policy or procedure
- Any federal, state, county or municipal law
- Any health and safety regulation
- Past practice

Did management’s action constitute unfair, disparate or unequal treatment of an employee or group of employees?

- Did management engage in discrimination or harassment?
- Did management take unjust disciplinary action against an employee or group of employees?

*If the answer to any of these questions is “yes,” a grievance may exist.*
Past Practice

In general, a past practice is not covered in the contract but, over time, has come to be accepted as an employment condition. To cite “past practice,” these four elements must be present:

- **A CLEAR AND CONSISTENT COURSE OF CONDUCT:** The practice has to be normal activity. A “past practice” is not a vague activity or an occasional lapse in the usual way of doing business.

- **ACTIVITY OVER A REASONABLE DURATION:** The phrase “reasonable duration” is subjective and indefinite. Arbitrators decide — on a case-by-case basis — whether a practice has gone on “long enough” to be considered a condition of employment. One or two occurrences a year won’t be considered consistent over a reasonable duration. However, the same activity repeated once a week for five years might be.

- **FULL KNOWLEDGE:** Both parties, management and the union, must know the practice exists. This does not have to be officially stated or recognized, but it does have to be verified.

- **THE CONTRACT IS SILENT OR AMBIGUOUS:** When the contract is silent on the activity, the practice may be considered to be an implied term of the contract if all of the above elements are present. Where contract language is vague or ambiguous, it is implied the two parties intended the activity to be covered by the contract. Arbitrators look to the past practice to determine the intent of the contract.

**AN EXAMPLE OF PAST PRACTICE**

**SCENARIO:** At a state hospital, the workday in the Grounds Department ends at 4:30 p.m. Every day at 4:15, the workers return to the building where the tools and equipment are kept. The supervisor’s office is also located there. The workers clean up before they punch out for the day and go home. Though there is no language in the contract covering “wash-up time,” this practice has continued for as long as anyone can remember.

**CONCLUSION:** All four past practice elements are in place — consistent activity, lengthy duration, knowledge of the parties and a silent contract. Should management decide to change the practice, the union would have solid grounds for filing a grievance based on past practice.
STEP 2: INVESTIGATION

Investigation begins with talking to people, often several people. The gathering of information about the potential grievance is what can either make or break the case for the grievant and union.

A thorough investigation should include:

- A clear conversation with the affected employee that includes questions beginning with the 5Ws (who, what, when, where, why).
- Any witnesses who might have seen or heard anything related to the event. Interview witnesses separately — this helps gather information and sort out inconsistencies. Don’t settle for hearsay information. If someone says to you, “Harry told me. . . ,” go talk to Harry.
- The supervisor involved in the event. By meeting informally with the supervisor, you can sometimes learn helpful information and you may find a way of resolving the problem without having to file a grievance. (Before talking to a supervisor, always let the employee know you are going to do that.)

Asking the Right Questions:

Start by asking the same basic questions — known as the “5 WS”— to each person you talk to.

- **WHO** was involved? Names of people involved in event, including witnesses.
- **WHAT** happened? Description of the event.
- **WHERE** did it happen? Location of the event.
- **WHEN** did it happen? Date and time the event occurred.
- **WHY** is this a grievance? Contract sections being violated.

Remember:

- Listen carefully to what each person has to say.
- Take notes during or after each conversation. Review these notes to make sure the information is accurate and complete.
- Follow up to verify information; fill in gaps and clear up discrepancies.
What If There Is No Grievance?

Not every employee issue is a legitimate grievance. After conducting a thorough investigation and consulting with other MATs and local officers, you may conclude that management has not violated the contract, work rules, policies, past practice, etc., or done anything that falls within the definition of a grievance.

WHAT TO DO IF IT’S NOT A GRIEVANCE

➤ Inform the worker of your conclusion in a face-to-face conversation.

➤ Provide the employee with the opportunity to explain why he/she thinks a grievance should be filed — based on the contract or work rules or other criteria for filing a grievance.

➤ Even in cases where it might not be appropriate or effective to file a grievance, it is likely that a problem still exists. Talk with other MATs and employees to see if a broader problem exists.

➤ Hold an informal meeting with management and the affected employee(s) to see if a resolution is possible.

➤ Work with a group of members to develop an action plan to solve the problem outside of the grievance procedure

STEP 3: DOCUMENTATION

Documentation means collecting the evidence — mostly on paper — that will support your grievance case. Collect as much information as you can; you can never be sure which piece of evidence will turn the case in your favor. Documentation — the “physical evidence” you collect — can and will be used to verify the information you learned from each of the people you talked to during your investigation.
Information Requests

The National Labor Relations Act (NLRA) and most state collective bargaining laws covering public-sector workers grant the union the right to information maintained by the employer that concerns a grievance or potential grievance. Make your information requests in writing, and include a date by which you would like a response. The union can make additional information requests based on material gained from the first request. Failure by management to supply information that is relevant to a grievance may be grounds for unfair labor practice charges. Examples of information you can request are:

- Attendance records
- Material Safety Data Sheet
- Correspondence (MSDS)
- Discipline records
- Payroll records
- Equipment specifications
- Performance evaluations
- Inspection records
- Personnel files
- Job assignment records
- Photographs
- Job descriptions
- Seniority lists
- Management memos
- Supervisor’s notes

Collecting Evidence

- Research the contract, work rules, policies, procedures, etc., to determine which of these — and what sections or rules — management violated.

- Be sure and check the employee’s official personnel file, which contains a wealth of information — e.g., date of hire, evaluations, promotions, transfers, leave use, past disciplinary actions, letters of recommendation, etc.

- Gather evidence from any and all sources and collect whatever you think may have a bearing on the case. Remember that it is better to have something and not need it than to need something and not have it.

- Make copies of any needed documents.

- Evidence may be something other than paper. A faulty piece of safety equipment or a photograph of where the event occurred could be part of your case.
To: Howard Watson, Human Resources Manager

From: Pat Bell, Union MAT

Re: Grievance of Gail Webb Regarding Overtime

To prepare for Gail Webb’s grievance, I request the following information:

1. Gail Webb’s personnel file and job description.

2. A current seniority list for the bargaining unit and for Gail’s department. I would like the job classification listed for each employee.

3. A list of all overtime assignments made in the past six months. For each assignment I would like the name of the employee and the amount of overtime worked.

Please respond to this request by _____ (date).

Sincerely,

Pat Bell
STEP 4: PREPARATION

Preparation is the key to success in most things we do. Grievance handling is no exception. The outcome of a grievance depends on how well the MAT prepares ahead of time. You do yourself and the grievant a disservice when you do not carefully, thoroughly prepare the case for presentation to management and/or an arbitrator in a professional, orderly and understandable manner.

WRITING A GRIEVANCE

✔ State the grievance in a concise description of the basic facts and information.

✔ Don’t include statements of personal opinion.

✔ Don’t include your evidence or arguments in the case — save those for when you meet with management.

✔ List any and all management violations of the contract, work rules, etc., that apply. Be careful to not reveal too much in detail about your case. After you list specific contract articles, you should include a phrase such as “and all other applicable sections of the contract.” This allows the chance to expand your arguments should additional details become known at a later time or if you failed to cite all relevant articles in the contract.

✔ Clearly state the desired remedy – exactly what the grievant and/or the union want as a solution to the problem. Make sure you ask the grievant what he/she wants before writing the remedy.

✔ When appropriate, conclude the remedy by asking that the grievant be “made whole”.

✔ Complete the grievance form with the knowledge and assistance of the grievant. Have the grievant sign the grievance form.

✔ Make a copy of the grievance form before submitting it to management and add it to your file on the grievance.
EXAMPLE OF HOW TO WRITE A GRIEVANCE

Each example shows a poorly written grievance followed by a much better version.

EXAMPLE 1 — CHANGE IN STARTING TIME RESULTS IN A REPRIMAND

POORLY WRITTEN:
STATEMENT OF THE GRIEVANCE
Without even talking to the union about it, management decided to change the starting time of the morning shift. Changing the start time for the morning shift by 45 minutes wreaked havoc on the lives of everyone, and John Wright received a written reprimand for having to leave early to pick up his school-age children, who he always picked up after his shift. Management never listens to the union and they can’t just go around doing whatever they want. This is unfair for all workers on these two shifts.

REMEDY
That management stop pulling stunts like this and start following the contract.

MUCH BETTER:
STATEMENT OF THE GRIEVANCE
On Oct. 30, management changed the start time of the morning shift without notice to the employees and the union. This change in the morning shift start time caused Mr. John Wright to receive a written reprimand due to inability to make needed arrangements as it related to those family members he acts as caregiver for. This action violates Article VII (Hours of Work), Article XIV (Definition of Shifts) and any other relevant articles of the contract.

REMEDY
That management immediately return to the schedule described in the contract. That the reprimand Mr. Wright unjustly received be rescinded and removed from his personnel records. That Mr. Wright be made whole.
EXAMPLE OF HOW TO WRITE A GRIEVANCE

Each example shows a poorly written grievance followed by a much better version.

EXAMPLE 2 — PERSONAL LEAVE

POORLY WRITTEN:

STATEMENT OF THE GRIEVANCE

Last week Mary Roberts had to stay home and take care of her child who was sick. Mary’s babysitter was sick that day and she couldn’t find someone on such short notice. Her husband was out of town so he couldn’t help. So she asked for personal leave because the contract says you can use personal leave for emergencies. But Mike Carr, her supervisor, told her she couldn’t have personal leave. He gave her an unexcused absence. He said everyone should have backups in place in case this kind of thing happens.

REMEDY

All the employees in the department from all the seven work locations should be gathered together for a meeting and Mike Carr should have to apologize publicly to Mary and promise to never do something like this again. Mary should get her day back.

MUCH BETTER:

STATEMENT OF THE GRIEVANCE

Mary Roberts was improperly denied personal leave for May 18. This action violates Article XIII (Personal Leave) and any other relevant contract provisions.

REMEDY

That Mary Roberts be granted a personal leave day for May 18 and that she be made whole.
STEP 5: PRESENTATION

Before meeting with management, prepare an outline for your case. This helps organize the presentation you will make to management. It can also help you define exactly what you want to accomplish in the meeting. A grievance presentation is another opportunity to put a face on the union and build union power. It is always helpful to practice your verbal presentation before you make it.

Remember: In a grievance meeting, you are on equal ground with management. It is no longer boss and employee. Carry yourself and present yourself as management’s equal in the meeting. Treat the supervisor with respect, and expect and insist upon respect in return.

GRIEVANCE PRESENTATION

- Be positive. Use a friendly down-to-business approach, without making threats. Avoid bluffing your way through a grievance.
- Stick to the subject of the grievance; don’t allow the discussion to be sidetracked on other issues, past problems or irrelevant topics.
- Focus on the issues, not the person or personalities.
- Remain calm, cool and collected. Avoid being angry, belligerent or hostile.
- Keep notes of what is said during the meeting.
- Listen for the main point of management’s argument and for possible openings to resolve the grievance. Don’t argue with the grievant during the meeting; if need be, ask for a caucus and step outside the room to iron out differences and clear up any confusion.
- Resolve each grievance at the lowest possible step. Remember your objective: a fair settlement at the lowest possible level. If management is not willing to fairly resolve the case, be prepared to appeal to the next step. Avoid swapping one grievance for another, meaning where the union wins one, management wins one. Each case should be decided on its merits.
- Give your understanding of what, if any, resolution was reached or what will happen next after the conclusion of the meeting. This helps avoid misunderstandings later.
- Get every grievance settlement in writing. Make sure that management’s verbal assurances are documented.
GRIEVANCE PROCEDURE
TIME LIMITS

Every grievance procedure contains specific time limits for each step of the process. There are time limits to file the grievance at the first step; time limits for management to hear the case and respond and time limits for the union to appeal to the next step.

KNOW THE TIME LIMITS. If the union fails to file or appeal a grievance within the specified time limits, it is grounds for the grievance to be dismissed. In other words, the grievance is lost.

TIME LIMIT EXTENSIONS. Sometimes you may want to extend time limits for various reasons (e.g., gathering additional evidence, needing more preparation time). To extend the time limits, management must agree to the request. Sometimes management wants to extend the time limits; in that case, the union would need to agree to that request. If you ever wish to extend time limits, get the agreement in writing, signed by the MAT and the management representative. But do not miss a deadline because you hope for an extension. Make sure the grievance is filed in a timely manner.

KEEP THE GRIEVANT IN THE LOOP!

Throughout the process, keep the grievant updated on the status of the grievance, the date of the next meeting or when the appeal is due back from management, and any discussions that occur concerning the grievance. The employee should never be left in the dark about his/her grievance.
# GRIEVANCE AND ARBITRATION DEADLINES

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In many grievance procedures, the final step is arbitration. This step is negotiated in the contract and it is not automatic. The union must formally appeal a grievance to the arbitration step.

A professional arbitrator hears the grievance. It is the most “legalistic” and formal of all the steps. The arbitrator is selected jointly by the union and management following procedures contained in the contract. The arbitrator is selected from an outside group, such as the American Arbitration Association, the Federal Mediation and Conciliation Service or a similar panel created by the state. This, too, is specified in the contract.

**PROS AND CONS OF ARBITRATION**

**PRO** Grievance is heard by a third party.

**CON** Usually a long period of time passes before the case is heard and decided. It is not a quick process.

**PRO** Decision is no longer made by someone in management.

**CON** Lower steps in the process tend to become a “going-through the-motions” formality where little effort is made to resolve the problem.

**PRO** Decision is final and binding (if this is called for in the contract) and both parties must adhere to the decision.

**CON** There are more compromise solutions, which may mean that justice is compromised.

**PRO** Decision can establish a precedent so the union doesn’t have to file grievances again and again on the same issue.

**CON** Arbitration decisions can set a permanent, bad precedent for the union in “grey areas” of the contract.

**PRO** By appealing grievances to arbitration, the union can gain respect from management by showing it will fight hard to defend employees’ rights.

**CON** It costs money to take a case to arbitration. In addition to other costs, arbitrators charge a fee for their services. In most contracts, the union splits those costs with the employer.
DISCIPLINE CASES

Discipline is a formal penalty imposed by management. It can include verbal counseling, written reprimands, suspensions without pay, demotions, forced transfers and, finally, termination. Note that not all contracts permit all of these actions to be taken as discipline.

Management usually cites one of two reasons for taking disciplinary action: 1) it believes the employee is guilty of misconduct — that is, not following legitimate management orders, rules or policies; or 2) it believes the employee is failing to perform job functions to the standards of the workplace.

The general theory of discipline is that it should not be punitive in nature but rather corrective — that is, designed to correct behavior with the goal of encouraging an employee to carry out his/her assigned job duties.

First and foremost, MATs must know the procedure for appealing a discipline case. This is found in the contract. Often the process differs from that used for other grievances (e.g., there may be a pre-disciplinary hearing called for in the contract, or you may file discipline grievances not at step 1 but at a higher step).

Management has the burden of proof in discipline cases.

THE SEVEN TESTS OF JUST CAUSE

The basic underlying principle in discipline cases is that management must have “just cause” for imposing the disciplinary action. Many contracts state that discipline will only be given “for just cause.”

A common test for determining whether just cause existed was developed by arbitrator Carroll Daugherty in a 1966 case. This standard has come to be known as the “Seven Tests of Just Cause.” To meet the standard, management must be able to answer “yes” to the following seven questions.

1. Was the employee adequately warned of the probable consequences of his/her conduct?

2. Was the employer’s rule or order reasonably related to the efficient and safe operation of the job function?

3. Did management investigate before administering the discipline?
4. Was management’s investigation fair and objective?

5. Did the investigation produce substantial evidence or proof that the employee was guilty of the offense?

6. Has the employer applied its rules, orders and penalties evenly and without discrimination?

7. Was the amount of discipline reasonably related to the seriousness of the offense and the employee’s past service and record? Did the “punishment fit the crime?”

A “no” answer to one or more of the questions indicates management’s action was arbitrary, capricious and/or discriminatory in one or more respects. The union can argue that management did not have just cause to take the disciplinary action.

PROGRESSIVE DISCIPLINE

Discipline is normally viewed as a progressive process, especially where the issue is failure to perform the assigned job. This means that for the first offense in a given subject (attendance, for example), the discipline will be mild (e.g., verbal counseling or a written reprimand); for subsequent offenses on the same subject the discipline will become progressively more severe (e.g., a short suspension, a longer suspension, termination). The intent of progressive discipline is to provide the employee the opportunity to improve performance or correct unacceptable behavior. If management does not follow progressive discipline, the union may make this failure part of its grievance case.

The major exceptions to the concept of progressive discipline are those instances where an employee’s conduct is so severe or unacceptable that management feels justified in immediately terminating the employee.

Examples would be theft, drug or alcohol use on the job, or threatening or using physical violence.

OBEY NOW, GRIEVE LATER

A general rule that arbitrators apply is that workers are expected to follow management’s instructions and directives. If the worker believes the instruction to be unfair or a violation of the contract,
he/she can file a grievance at a later time. Arbitrators customarily hold that failure to follow management directions can lead to the employee being charged with — and disciplined for — insubordination.

There are two recognized exceptions to the “obey now, grieve later” principle. Employees may refuse a supervisor’s order when they believe that following the order would either 1) result in them doing something illegal; or 2) put them in “imminent danger” of their health and safety. Of course, if management takes disciplinary action after such a refusal, the employee must prove that his/her belief about the unsafe condition was justified.

**INSUBORDINATION**

Insubordination is refusing or failing to carry out a direct order. To claim that a worker was insubordinate, management must 1) issue a direct order, and 2) make the worker aware of the consequence of not following the order.

**WARNINGS ABOUT “MANAGEMENT RIGHTS”**

- Sometimes management will cite the “management rights” section of the contract to justify an action — when, in fact, management is violating another article of the contract.

- While management may have the right to establish policies, those policies cannot contradict the contract.

- Management must implement its policies, procedures and work rules in a fair and equal manner.
# Sample Grievance Form

**AFSCME Contract Grievance**

Allegations of a violation of a contract in effect between the University and AFSCME must be filled in on this form. See your contract for details regarding the filing of a grievance. ALL INFORMATION REQUESTED BELOW MUST BE PROVIDED, EITHER PRINTED OR TYPED, BY THE GRIEVANT OR THE GRIEVANT’S REPRESENTATIVE.

<table>
<thead>
<tr>
<th>Grievant’s Name</th>
<th>Name of Grievant’s Immediate Supervisor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Campus/Medical Center</td>
<td>Department/Division</td>
</tr>
<tr>
<td>Employee Classification Title &amp; Bargaining Unit</td>
<td>Address to which correspondence may be sent to grievant</td>
</tr>
<tr>
<td>Class Title:</td>
<td></td>
</tr>
<tr>
<td>☐ Service</td>
<td>☐ Patient Care Technical</td>
</tr>
<tr>
<td>Employee Employment Status</td>
<td>GRIEVANT’S NORMAL HOURS OF WORK</td>
</tr>
<tr>
<td>☐ Career/Regular</td>
<td>☐ Probationary</td>
</tr>
<tr>
<td>☐ Casual/Temporary</td>
<td>☐ Per Diem</td>
</tr>
</tbody>
</table>

If represented in this grievance, provide the following:

<table>
<thead>
<tr>
<th>Representative’s Name</th>
<th>Representative’s Organization</th>
<th>Representative’s Telephone Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>AFCSME 3299</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Representative’s Address, City, State, Zip Code

<table>
<thead>
<tr>
<th>Grievance</th>
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</thead>
<tbody>
<tr>
<td>Type of Grievance:</td>
</tr>
<tr>
<td>☐ Individual</td>
</tr>
<tr>
<td>☐ Group (just all grievants)</td>
</tr>
</tbody>
</table>

Date Received

<table>
<thead>
<tr>
<th>Alleged Violation of Agreement</th>
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<tbody>
<tr>
<td>AND ANY AND ALL APPLICABLE ARTICLES</td>
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</tbody>
</table>

Remedy Requested

<table>
<thead>
<tr>
<th>AND ANY AND ALL REMEDIES DEEMED JUSTIFIED BY AFSCME 3299</th>
</tr>
</thead>
</table>

Grievant’s Signature | Date | Representative’s Signature | Date |

Grievance Review - Step 1
**SAMPLE GRIEVANCE FORM**

<table>
<thead>
<tr>
<th>DATE RECEIVED</th>
<th>DATE OF RESPONSE</th>
<th>STEP 1 DECISION TO BE ENTERED BELOW</th>
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</tbody>
</table>

**STEP 1 DECISION**

<table>
<thead>
<tr>
<th>SIGNATURE OF STEP 1 REVIEWER</th>
<th>PRINTED NAME AND TITLE</th>
<th>TELEPHONE NUMBER</th>
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☐ I ACCEPT AND DO NOT APPEAL TO THE SECOND STEP

☐ I DO NOT ACCEPT AND APPEAL TO THE SECOND STEP. (STATE REASON BELOW)

<table>
<thead>
<tr>
<th>GRIEVANT'S SIGNATURE</th>
<th>DATE</th>
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</thead>
</table>

**STEP 1 REASON FOR APPEAL**

<table>
<thead>
<tr>
<th>DATE RECEIVED</th>
<th>DATE OF RESPONSE</th>
<th>DECISION ATTACHED</th>
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</table>

**GRIEVANCE REVIEW - STEP 2**

<table>
<thead>
<tr>
<th>DATE RECEIVED</th>
<th>DATE OF RESPONSE</th>
<th>DECISION ATTACHED</th>
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<tr>
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<table>
<thead>
<tr>
<th>SIGNATURE OF STEP 2 REVIEWER</th>
<th>PRINTED NAME AND TITLE</th>
<th>TELEPHONE NUMBER</th>
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☐ I ACCEPT AND DO NOT APPEAL TO THE THIRD STEP

☐ I DO NOT ACCEPT AND APPEAL TO THE THIRD STEP. (STATE REASON BELOW)

<table>
<thead>
<tr>
<th>GRIEVANT'S SIGNATURE</th>
<th>DATE</th>
</tr>
</thead>
</table>

**STEP 2 REASON FOR APPEAL**

<table>
<thead>
<tr>
<th>DATE RECEIVED</th>
<th>DATE OF RESPONSE</th>
<th>DECISION ATTACHED</th>
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**GRIEVANCE REVIEW - STEP 3**

<table>
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<tr>
<th>DATE RECEIVED</th>
<th>DATE OF RESPONSE</th>
<th>DECISION ATTACHED</th>
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<table>
<thead>
<tr>
<th>SIGNATURE OF DIRECTOR OR DESIGNEE</th>
<th>PRINTED NAME AND TITLE</th>
<th>TELEPHONE NUMBER</th>
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<tbody>
<tr>
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GRIEVANCE INVESTIGATION NOTES
For Union Use Only
(This form is the property of AFSCME Local 3299 and is intended only for internal use by authorized MATs.)
(Information here to reviewed with Lead Organizer along the process/at transition to appeal to step 3)

MAT Conducting Investigation _________________________ Date: __________

WHO? (Who is involved in this grievance?)

Grievant(s) (MAT can also ask the grievant to fill out a lot of this information):

Grievant(s): _____________________________________________________
Date of Hire: ___________________________________________________
Department:____________________ Classification: ________________
Shift: Status (full-time, part-time, etc.): ____________________________
Schedule: _____________________________________________________
Home phone: ___________________________________________________
Work Phone: ___________________________________________________
Address/City/Zip Code:________________________________________

Supervisor or other management involved:

Name: _______________________________________________________
Job Title: ____________________________________________________
Department: ________________________________________________

Chain of Command (i.e. Charge Nurse, Assistant Manager, etc): _________
________________________________________________________________
________________________________________________________________
GRIEVANCE INVESTIGATION NOTES

Witnesses or other persons involved:

<table>
<thead>
<tr>
<th>Name</th>
<th>Dept.</th>
<th>Classification</th>
<th>Phone</th>
<th>Date Interviewed</th>
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</thead>
<tbody>
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<td>1.</td>
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<td>5.</td>
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Who else is affected by this issue? Who else has had a similar problem?
__________________________________________________________________________
__________________________________________________________________________
__________________________________________________________________________

WHEN? (When did the grievance occur?)

Date of Event Causing Grievance: ____________________________________________

Did the grievance happen more than once?  □ Yes  □ No

If so, how often and when? ________________________________________________

Date complaint made known to supervisor? ________________________________

Date grievance submitted to supervisor? ________________________________

WHERE? (Where did the grievance occur?)

List exact location: Department, unit, room, floor, etc. Include diagram, sketch or photo, if helpful.
__________________________________________________________________________
__________________________________________________________________________
__________________________________________________________________________
# GRIEVANCE INVESTIGATION NOTES

## WHAT? *(What happened?)*

Describe what the grievance is about:

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

## WHY? *(Why is this a grievance?)*

List why this is a grievance (violation of contract, past practice, law, unjust treatment, and management’s rules):

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

Articles & Section of contract violation:

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

Law:

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

Relevant Past Practices(s):

________________________________________________________________________
________________________________________________________________________

## REMEDY *(What does the union want? How will the grievant(s) “be made whole”?)*

**Union’s Position** *(Remedy recommendation is done by the representative and discussed with the grievant.)*

Union’s Position/Arguments in Support of Grievance:

________________________________________________________________________
________________________________________________________________________

Supportive Contract Provisions:

________________________________________________________________________
**GRIEVANCE INVESTIGATION NOTES**

**ADDITIONAL INFORMATION & NOTES**

What additional documents will you need to support this case? Check appropriate ones:

- [ ] pay stubs
- [ ] correspondences
- [ ] overtime records
- [ ] attendance records
- [ ] shift schedule
- [ ] injury logs
- [ ] disciplinary records
- [ ] personal file
- [ ] pictures/video evidence
- [ ] witness statements
- [ ] minutes — employer mtgs
- [ ] personal file
- [ ] doctors’ notes

Other — list:


Prior Work Record — List all Prior Discipline:

<table>
<thead>
<tr>
<th>Date of Action</th>
<th>Verbal, Written, Suspension</th>
<th>General Reason for Action</th>
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<tbody>
<tr>
<td>1.</td>
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Prior Performance Evaluations:

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<thead>
<tr>
<th>Date</th>
<th>General Rating</th>
<th>Noteworthy Ratings</th>
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</table>
GRIEVANCE INVESTIGATION NOTES

JUST CAUSE DISCIPLINE CHECKLIST

1. Can the employer prove that it gave proper notice of misconduct consequences?
   □ Yes □ No

2. Can the employer prove that its rule is related to efficient and safe operations?
   □ Yes □ No

3. Can the employer prove that it investigated before deciding to administer discipline?
   □ Yes □ No

4. Can the employer prove that it investigated fairly and objectively?
   □ Yes □ No

5. Can the employer provide evidence or proof of guilt?
   □ Yes □ No

6. Can the employer prove that it has applied its rules, orders and penalties even-handedly and without discrimination to all employees?
   □ Yes □ No

7. Was the discipline reasonable related to the seriousness of the proven offense and the employment record of the employee?
   □ Yes □ No

NOTE: Don’t forget to prep for your Grievance Meetings. Role play and PRACTICE with the Grievant.
GRIEVANCE INVESTIGATION NOTES

STEP 1 SUMMARY

Date(s) of Step 1 Meetings: __________________________________________
Individuals Present at Step 1 Meetings: __________________________________
Employer’s Position/Arguments: _______________________________________

Date Grievance: ____________________________  ☐ Denied  ☐ Resolved
Resolution: __________________________________________________________

If grievance denied, complete the following:
MAT/Organizer Recommends: _______________________________________
Withdrawal of grievance
Appeal to Step 2
Reason for recommendation: _____________________________________
Next steps taken (List with dates below): __________________________________

STEP 2 SUMMARY

Date(s) of Step 2 Meetings: __________________________________________
Individuals Present at Step 2 Meetings: __________________________________
Employer’s Position/Arguments: _______________________________________

Date Grievance: ____________________________  ☐ Denied  ☐ Resolved
Resolution: __________________________________________________________

If grievance denied, complete the following:
MAT/Organizer Recommends: _______________________________________
Withdrawal of grievance
Appeal to Step 3
Reason for recommendation: _____________________________________
Next steps taken (List with dates below): __________________________________
Several federal laws and Supreme Court decisions have a direct impact on the work of the union MAT. State laws and regulations are not covered in this section; make sure you are aware of any that may apply during investigatory meetings. Here is an overview of the most relevant federal laws and Supreme Court decisions that affect most members.

**WEINGARTEN RIGHTS**

In the 1975 case NLRB v. J. Weingarten Inc., the U.S. Supreme Court declared that unionized employees (in the private sector) have the right to have a MAT present during an investigatory meeting with management when the employee believes the meeting might lead to disciplinary action being taken against him/her. According to the court, these rights arise as a result of the proper functioning of the National Labor Relations Act (NLRA). The rights flow from NLRA §7’s guarantee of the right of employees to act “in concert for mutual aid and protection.” Denial of this right violates NLRA §8(a)(1). While this case applies to workers in the private sector, some public employees have similar rights, and the rules vary from state to state, so check your state’s labor laws.

Weingarten rights apply during investigatory interviews when a supervisor questions an employee to obtain information that could be used as grounds for discipline. When an employee believes such a meeting may lead to discipline, he/she has the right to request union representation. These basic Weingarten rights stem from the Supreme Court’s decision:

- The employee must request representation before or during the meeting.
- After an employee makes the request, the supervisor has these choices:
  - grant the request and wait for the union representative’s arrival;
  - deny the request and end the meeting immediately; or
  - give the employee the choice of either ending the meeting or continuing without representation.
- If the supervisor denies the request and continues to ask questions, the employee has a right to refuse to answer. In addition, the supervisor is committing an unfair labor practice.
EMPLOYEE RIGHTS IN “WEINGARTEN” MEETINGS

Beware that management is not obligated to inform employees of their Weingarten rights – employees must ask for them. Unlike Miranda rights — where police are required to tell a suspect of his/her right to an attorney, etc. — employees must ask for their Weingarten rights.

Some locals provide members with a wallet-sized card they can keep with them. If they find themselves in a meeting they believe may lead to discipline, they can read or hand the card to the supervisor.

SAMPLE WEINGARTEN CARD

If the discussion in this meeting could in any way lead to my being disciplined or terminated or impact on my personal working conditions, I request that my MAT, local officer or union representative be present. Without union representation, I choose not to answer any further questions at this time. This is my right under a Supreme Court decision called Weingarten (or cite a state law).

MAT RIGHTS IN “WEINGARTEN” MEETINGS

➤ Ask to be informed of the purpose of the meeting.
➤ Meet with the employee before the supervisor begins questioning the employee.
➤ If necessary, request clarification of a question before the employee responds.
➤ Offer advice to the employee on how to answer a question.
➤ Provide additional information to the supervisor after the meeting is over.

If called into a “Weingarten” meeting, you should also: 1) take detailed notes on the questions asked and the answers given during the meeting; and 2) help the employee remain calm during the meeting, and remind the employee to keep answers short and truthful and not volunteer additional information.
THE DUTY OF FAIR REPRESENTATION

When the union wins a representation election, it gains a special status — it is certified as the exclusive representative of all employees in the bargaining unit. The union has the authority to negotiate and administer the contract and address issues concerning the terms and conditions of employment.

With this status comes a responsibility known as the duty of fair representation. This duty is not found in a particular law or statute; rather, it is the result of several court decisions that were handed down through the years. Simply put, the union has the duty to fairly represent all employees in the bargaining unit, regardless of whether they are members, agency fee payers or non-members. Some state laws modify this basic principle, so check the labor laws in your state.

**REPRESENTATION RESPONSIBILITIES**

- Fully investigate possible grievances to determine if they have merit.
- Follow the time limits in your contract’s grievance procedure.
- Keep accurate, written records of each grievance.
- Be a strong advocate for all members of the bargaining unit throughout the grievance procedure.
- Keep the employee informed about the status of the grievance at all steps of the process.
- Always allow the grievant to submit additional evidence or data.
- If the union decides to drop a grievance for lack of merit or other reason, notify the grievant as soon as possible — in writing.
- Locals or councils, whichever is the certified representative, should have an internal appeals process. Notify the grievant, in writing, about this process and how to appeal the union’s decision to drop the grievance.

To meet this responsibility, follow this principle: Investigate, file and process your grievance cases based on the merits of the grievance, not the merits of the grievant. There cannot be any discrimination, obvious negligence or an arbitrary decision to drop the case on the part of the union. On the other hand, the union has no obligation to take up frivolous grievances that have no merit.
THE AMERICANS WITH DISABILITIES ACT (ADA)

Passed into law in 1990, the ADA prohibits employment discrimination against a qualified individual who, with or without a reasonable accommodation, can perform the essential functions of a job he or she holds or wants. An employer does not have to provide accommodation if doing so would impose an undue hardship on the employer’s operation.

Reasonable accommodation means making modifications or adjustments to a job application process or work environment that makes it readily accessible and usable to people with disabilities. Examples would be modifying schedules, buying new equipment, altering a worksite, etc.

Undue hardship means a significant difficulty or expense that would be unduly disruptive to the employer. Considerations include the nature and cost of the accommodation, the size and financial resources of the employer, etc.

A PERSON WITH A DISABILITY IS ANYONE WHO:

- Has a physical or mental impairment that substantially limits at least one major life activity (such as walking, talking, seeing, hearing, learning, breathing, working and performing manual tasks such as reaching, standing and lifting);
- Has a history of, or has recovered from, such an impairment (such as cancer or emotional illness); and/or
- Is perceived as having an impairment (such as a facial disfigurement or the mistaken belief that a person is HIV positive or is a person with AIDS).

Users of illegal drugs are not protected. However, individuals who are enrolled in or who have completed drug or alcohol rehabilitation programs are protected.

When AFSCME schedules any type of event, it qualifies as a public accommodation situation. Therefore, the ADA requires that all AFSCME services, programs and activities are accessible to members with disabilities.

Opportunity Commission (EEOC) revised Title I regulations “are designed to simplify the determination of who has a disability and make it easier for people to establish that they are protected by the ADA.”

While the definition of disability remains the same — a physical or mental impairment that substantially limits a major life activity — the EEOC added a non-exhaustive list of certain conditions. These conditions still require individual assessments, but will “virtually always” constitute disabilities. Individual assessments are still necessary, but should demand less analysis. “The term ‘substantially limits’ shall be interpreted and applied to require a degree of functional limitation that is lower than the standard for ‘substantially limits’ applied prior to the ADA.”

**WHAT MATS CAN DO:**
- Protect the rights of AFSCME members who have disabilities.
- Provide representation for a member who is seeking a reasonable accommodation from management.
- Educate bargaining unit members and management about the rights of workers with disabilities.
- Assist members if they wish to file a discrimination complaint with the Equal Employment Opportunity Commission (EEOC) or similar state agency.
- Make sure all AFSCME events and meetings are accessible to members with disabilities.

**THE FAMILY AND MEDICAL LEAVE ACT (FMLA)**

Enacted in 1993, the FMLA sets a minimum standard for providing job-protected leave for those employees who need time off to care for their families or themselves. (Note: State laws or negotiated contracts may provide additional or superior benefits.)

The FMLA provides eligible employees with up to 12 weeks of unpaid leave per year for any of the following:
- Caring for a spouse, parent or child with a serious health condition;
- Caring for a newborn, adopted or foster child;
- The employee’s own serious health condition; or
To help with “qualifying exigency” or need arising from the deployment of a service member in the family.

As of September 2012, the FMLA permits a spouse, child, parent or next of kin to take up to 26 weeks of leave to care for a service member recovering from a serious injury or illness suffered in the line of active military duty.

The FMLA only applies to employers that meet certain criteria.

**A COVERED EMPLOYER IS A:**

- Private-sector employer, with 50 or more employees in 20 or more workweeks in the current or preceding calendar year, including a joint employer or successor in interest to a covered employer;
- Public agency, including a local, state or federal government agency, regardless of the number of employees it employs; or
- Public or private elementary or secondary school, regardless of the number of employees it employs.

**AN ELIGIBLE EMPLOYEE IS ONE WHO:**

- Works for a covered employer;
- Has worked for the employer for at least 12 months (not necessarily consecutive);
- Has worked at least 1,250 hours (an average of 25 hours per week) for the past 12 months; and
- Works at a location where the employer has at least 50 employees in a 75-mile radius (each state, county, city and school district is considered an employer under FMLA guidelines).

**THE FMLA ALSO:**

- Requires the employer to maintain health benefits during FMLA leave;
- Guarantees employees can return to the same or equivalent position following FMLA leave;
- Allows employers to require employees to use vacation or sick leave for all or part of the 12-week FMLA entitlement; and
- Is enforced by the U.S. Department of Labor, Wage and Hour Division.

**WHAT MATS CAN DO:**

- Educate bargaining unit members about their rights under FMLA;
Discuss the issue at labor/management meetings to ensure that management knows its obligations under FMLA;

Represent members — in the formal grievance procedure or in informal efforts — to gain FMLA leave for which they are entitled; and

Assist members in filing complaints with the Wage and Hour Division of the Department of Labor if they are denied a valid leave request.

THE OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA)

In 1971, OSHA was created by the passage of the Occupational Safety and Health Act. OSHA provides workplace health and safety protections to private-sector workers. At present, AFSCME members in 25 states (AK, AZ, CA, HA, IN, IA, IL, KY, MD, MI, MN, NV, NM, NC, OR, SC, TN, UT, VT, VA, WA, WY, CT, NJ, NY), Puerto Rico and the Virgin Islands are covered by OSHA-approved state plans. Several states without OSHA coverage have state safety and health laws. In other instances, AFSCME negotiated contract language requiring employers to comply with federal OSHA standards.

While protections may vary from state to state, federal OSHA regulations and state programs have several common elements:

- Standards for protection against safety hazards, noise, chemicals and radiation;
- Enforcement of those standards by state health and safety inspectors;
- Employees’ right to request an inspection if they think health or safety hazards are present at the workplace;
- The right to have a union representative accompany the inspector and be informed of the results of an inspection;
- Protection against discrimination for exercising these rights under OSHA; and
- Access to information for unions and individual workers on injuries, chemicals in the workplace and medical exam reports.

WHAT MATS CAN DO:

- When a health or safety hazard is discovered or reported, immediately inform management and request that the problem be corrected.
- Report any health or safety issues to the local’s health and safety committee.
Educate workers about health or safety hazards.

File any appropriate grievances or complaints to correct health and safety problems and hold management accountable to its commitments.

Become familiar with your state’s safety and health laws.

Survey members to see if they have any health and safety concerns in their work area.

Review any safety and health contract language in your collective bargaining agreement (you can only grieve what you have language for).

**SEXUAL HARASSMENT**

The U.S. Supreme Court ruled that sexual harassment is illegal sex discrimination covered by Title VII of the Civil Rights Act. Sexual harassment subjects an employee to adverse working conditions that have nothing to do with job performance. Management is legally responsible for the actions of its employees if it knew or should have known of the problem and did nothing to stop it. The victim, as well as the harasser, may be a man or woman; the victim and harasser do not have to be of the opposite sex.

- Sexual harassment is any unwelcome sexual advance, request for sexual favors or other conduct of a sexual nature when:
  - Submission to the conduct is either an explicit or implicit term of employment;
  - Submission to or rejection of the conduct becomes the basis for employment decisions; or
  - The conduct interferes with an employee’s work performance or creates a work environment that is intimidating, hostile or offensive.

**WHAT MATS CAN DO:**

- Educate co-workers about sexual harassment;
- Take necessary actions to ensure that sexual harassment will not be tolerated;
- Discuss the issue at labor/management meetings;
- When sexual harassment does occur, act to protect members by offering support and investigating and processing appropriate grievances;
- Assist members if they wish to file a complaint with the Equal Employment Opportunities Commission (EEOC); and
- Reference the Online Leadership Academy (OLA) OnDemand class “Respect in the Workplace.”
## WAGES

<table>
<thead>
<tr>
<th>Date</th>
<th>Percentage</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>October 2013</td>
<td>1.5% ATB</td>
<td>(increase already implemented)</td>
</tr>
<tr>
<td>May 2014</td>
<td>4.5% ATB</td>
<td></td>
</tr>
<tr>
<td>April 2015</td>
<td>4% ATB</td>
<td></td>
</tr>
<tr>
<td>April 2016</td>
<td>4% ATB</td>
<td></td>
</tr>
<tr>
<td>April 2017</td>
<td>4% ATB</td>
<td>+3% Retro for April 2012 - March 2013, 120 days after ratification</td>
</tr>
</tbody>
</table>

- **Across-the-board (ATB) raise for everyone** *(Article 42 - Wages)*
- ATBs are effective the first full biweekly pay period of the month listed
- Retro is on base pay minus regular deductions (not including overtime, differentials, etc.)
- To receive each increase, workers have to be on pay status or approved leave on the effective date of the increase and the date of payout
- How to calculate a pay rate after a raise (example of 4.5% ATB): 
  \[ \text{Current pay rate} \times 1.045 = \text{Pay rate after 4.5\% raise} \]
- To look up current pay rates, visit: https://tcs.ucop.edu/tcs/jsp/nonAcademicTitlesSearch.htm

<table>
<thead>
<tr>
<th>Date</th>
<th>Percentage</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>July 2014</td>
<td>2% Step</td>
<td></td>
</tr>
<tr>
<td>July 2015</td>
<td>2% Step</td>
<td></td>
</tr>
<tr>
<td>July 2016</td>
<td>2% Step</td>
<td></td>
</tr>
<tr>
<td>July 2017</td>
<td>2% Step</td>
<td></td>
</tr>
</tbody>
</table>

- **Steps** *(Article 42 - Wages)*
- Steps for Student Health Centers at UCB, UCSC, UCSB, UCR, and UCM are contingent on receipt of funding in campus budget

<table>
<thead>
<tr>
<th>Source</th>
<th>Increase Amount</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>UCIMC</td>
<td>$0.50/hour</td>
<td>$0.50/hour increase 7/2014 and</td>
</tr>
<tr>
<td></td>
<td>increase 7/2014</td>
<td></td>
</tr>
<tr>
<td></td>
<td>$0.50/hour</td>
<td>$0.50/hour increase 7/2015</td>
</tr>
<tr>
<td></td>
<td>increase 7/2015</td>
<td></td>
</tr>
<tr>
<td>UCDMC</td>
<td>$1.00/hour</td>
<td>$1.00/hour increase 7/2014</td>
</tr>
<tr>
<td></td>
<td>increase 7/2014</td>
<td>(titles at $8.00/hr or less)</td>
</tr>
<tr>
<td>UCSDMC</td>
<td>$0.75/hour</td>
<td>$0.75/hour increase 7/2014</td>
</tr>
</tbody>
</table>

- **Call Pay** *(Side letters)*

### Contract Web Page
http://ucnet.universityofcalifornia.edu/labor/bargaining-units/ex/contract.html
### WAGES

| **Rest Period**  
| *(Article 12 - Hours of Work)* | • Workers not getting 6-hour rest period between shifts can request to be excused for all or part of their shift  
|  | • Workers not getting 6-hour rest period between shifts will be paid time and a half |
| **Duration**  
| *(Article 8 - Duration)* | • Expires December 31, 2017  
|  | • No re-openers |

### BENEFITS

| **Healthcare**  
| *(Article 4a - University Health & Welfare Benefits)* | • Freeze healthcare rates for Kaiser and Health Net Blue & Gold (pay bands 1 & 2) at 2014 rates, for the entire contract  
|  | • Rates for Kaiser and Health Net Blue & Gold (pay bands 3 & 4) will not increase by more than $25/month each year of the contract  
|  | • 2014 healthcare rates effective in April 2014  
|  | • No re-openers |
| **Pension**  
| *(Article 4b - University Retirement & Savings Plans)* | • One Tier Pension: all PCT workers have a pension benefit age factor of 2.5% at 60, and the option of a lump sum cash out  
|  | • Pension contributions will increase by 2.5% in July 2014  
|  | • No planned re-openers, and language preventing UC from re-opening only with AFSCME |
| **Retiree Healthcare**  
| *(Article 4b - University Retirement & Savings Plans)* | • PCT workers are grandfathered into existing retiree healthcare eligibility rules (no formula that your age + years of service must = 50)  
|  | • Workers in a UCRP-eligible position as of December 31, 2013 are grandfathered  
|  | • Retiree Kaiser rates will be frozen for workers who retire during the contract, for the duration of the contract |
| **No PTO**  
| *(Side letter)* | • No PTO  
|  | • Our vacation and sick leave banks will be converted back by August 2014 |
| **Family Leaves**  
| *(Article 14 - Leaves of Absence)* | • Up to 30 days of sick leave can be used to care for a family member with a serious health condition (not just 5 days)  
|  | • Additional improvements to leaves based on improvements in leave laws |
| **Catastrophic Leave Donation**  
| *(Article 14 - Leaves of Absence)* | • All workers are now allowed to participate in catastrophic leave sharing programs and donate vacation leave to co-workers |
| **Parking**  
| *(Article 24 - Parking and appendix)* | • UC cannot raise parking rates each year by more than caps established at each medical center/campus (see appendix for caps) |
## Job Security/Staffing

| ✓ Layoff Protections  
(Article 13 - Layoff and Reduction in Time and new Seniority article) |
<table>
<thead>
<tr>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>• No emergency layoffs and no side letter: strengthening our current contract language to protect us from emergency call off/layoff</td>
</tr>
<tr>
<td>• For indefinite layoffs, UC must lay off registry, travelers, and per diems before career workers (unless UC has a narrow, bonafide business need to keep a per diem)</td>
</tr>
<tr>
<td>• Laid off workers retain recall/rehire rights if they accept per diem or limited positions</td>
</tr>
<tr>
<td>• Grievance rights if UC doesn’t follow inverse seniority for indefinite layoffs</td>
</tr>
<tr>
<td>• For purposes of layoffs, transfer, and promotion, seniority is based on workers’ most recent date of hire in a staff career position at UC</td>
</tr>
<tr>
<td>• Tiebreaker: when workers have the same date of hire, seniority shall be determined according to total hours on pay status</td>
</tr>
<tr>
<td>• Severance provisions no longer expire when our contract expires</td>
</tr>
<tr>
<td>• Additional alternatives to layoffs</td>
</tr>
</tbody>
</table>

| ✓ Per Diem Conversion  
(Article 29 - Positions/Appointments and side letter) |
<table>
<thead>
<tr>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>• UC will now convert per diems after May and November reviews:</td>
</tr>
<tr>
<td>• Those who worked 1000 hours in a 12-month period, even if they didn’t work 50% every single month</td>
</tr>
<tr>
<td>• Convert within 120 days of hitting 1000 hours</td>
</tr>
<tr>
<td>• Only need to submit one written request (not annual requests)</td>
</tr>
<tr>
<td>• Those who worked 750 hours in a 12-month period cannot be released for the purpose of denying conversion to a career position</td>
</tr>
<tr>
<td>• Grievance rights if UC fails to follow conversion procedures</td>
</tr>
<tr>
<td>• UC cannot have the ratio of per diem FTEs to career worker FTEs exceed 6% or 8%, depending on the medical center</td>
</tr>
<tr>
<td>• If the Affordable Care Act requires UC to provide healthcare benefits to per diems, UC must meet and discuss or confer with AFSCME, and then can adjust per diem rates by the cost of the healthcare</td>
</tr>
</tbody>
</table>

| ✓ Contracting Out Protections  
(Article 5 - Contracting Out and side letters) |
<table>
<thead>
<tr>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>• UC cannot contract out work solely to save money on UC pay and benefits</td>
</tr>
<tr>
<td>• New grievance and arbitration rights if UC fails to give us other UC jobs after contracting out work</td>
</tr>
<tr>
<td>• UC agreed that biggest new developments will be staffed by UC/AFSCME PCT workers: UCSF Mission Bay and UCSD Jacobs Hospital</td>
</tr>
<tr>
<td><strong>Job Security/Staffing</strong></td>
</tr>
<tr>
<td>---------------------------</td>
</tr>
<tr>
<td><strong>Contracting Out Protections</strong> <em>(Article 5 - Contracting Out and side letters)</em></td>
</tr>
<tr>
<td>• UC is now required to provide extensive data regarding any plans to contract out, including cost analyses and consultant reports</td>
</tr>
<tr>
<td>• UC committed to a minimum of 2 statewide labor management meetings to discuss contracting out plans, another forum to push for insourcing agreements</td>
</tr>
<tr>
<td>• Our contracting out protections cannot prevent UC from using registry employees</td>
</tr>
<tr>
<td><strong>Seniority in Scheduling</strong> <em>(Article 12 - Hours of Work and new Seniority article)</em></td>
</tr>
<tr>
<td>• When a shift assignment or work location becomes available in a department, UC must post the opening in writing and offer the shift to the most senior, qualified worker who requests the shift</td>
</tr>
<tr>
<td>• The most senior worker can be retained on their existing shift for a maximum of 6 months, if moving sooner would jeopardize quality patient care</td>
</tr>
<tr>
<td>• For purposes hours of work and vacation leave, seniority is based on workers’ most recent date of hire into a job title in the department</td>
</tr>
<tr>
<td>• UC will let departments currently using title series continue using title series, and departments using just title have the option to switch to title series</td>
</tr>
<tr>
<td>• Tiebreaker: when workers have the same date of hire, seniority shall be determined according to total hours on pay status</td>
</tr>
<tr>
<td>• UC must provide seniority lists within 10 business days, when requested</td>
</tr>
<tr>
<td><strong>Missed Breaks</strong> <em>(Article 12 - Hours of Work)</em></td>
</tr>
<tr>
<td>• When workers miss breaks more often than occasionally, and notify their supervisor, supervisors must make an adjustment to reduce missed breaks</td>
</tr>
<tr>
<td><strong>Staffing Committee</strong> <em>(Article 37 - Staffing Committee article)</em></td>
</tr>
<tr>
<td>• Size of staffing committees doubled — we can now have 8 members on UC-paid time for staffing committee meetings</td>
</tr>
<tr>
<td>• UC is required to provide workload guidelines when requested by AFSCME, information we can use to push for increased staffing</td>
</tr>
<tr>
<td><strong>Safety Equipment</strong> <em>(Article 10 - Health and Safety)</em></td>
</tr>
<tr>
<td>• When workers request additional safety equipment, UC is obligated to conduct a review of the request</td>
</tr>
<tr>
<td><strong>Union Leave and Release Time for Negotiations</strong> <em>(Article 15 - Leaves of Absence for Union Business and Article 32 - Release Time for Negotiations)</em></td>
</tr>
<tr>
<td>• AFSCME executive board members and bargaining team members can take 2 one-day union leaves per month, not just 1</td>
</tr>
<tr>
<td>• Added another bargaining team position for a total of 11 PCT bargaining team members</td>
</tr>
</tbody>
</table>
**WAGES**

- May 2014: 4.5% ATB
- July 2014: 3% ATB (-2.5% pension contribution increase)
- October 2015: 3% ATB
- October 2016: 3% ATB

Bonus: $200.00 for career and limited workers with 50% appointment or greater, effective 60 days after ratification.

- ATBs and bonus are effective the first full biweekly pay period of the month listed.
- To receive each increase, workers have to be on pay status or approved leave on the effective date of the increase and the date of payout.
- How to calculate a pay rate after a raise (example of 4.5% ATB):
  \[ \text{Current pay rate} \times 1.045 = \text{Pay rate after 4.5\% raise} \]
- To look up current pay rates, visit: https://tcs.ucop.edu/tcs/jsp/nonAcademicTitlesSearch.htm

**Steps**

- July 2014: 2% Step
- July 2015: 2% Step
- July 2016: 2% Step

**Duration**

- Expires June 30, 2017
- No re-openers

**BENEFITS**

- Freeze healthcare rates for Kaiser and Health Net Blue & Gold (pay bands 1 & 2) at 2014 rates, for the entire contract.
- 2014 healthcare rates effective in April 2014
- No re-openers
## BENEFITS

| **Pension**  | • One Tier Pension: all Service workers have a pension benefit age factor of 2.5% at 60, and the option of a lump sum cash out  
     | (Article 4b - University Retirement & Savings Plans) | • Pension contributions will increase by 2.5% in July 2014  
     | | • No planned re-openers, and language preventing UC from re-opening only with AFSCME  |
| **Retiree Healthcare**  | • Service workers are grandfathered into existing retiree healthcare eligibility rules (no formula that your age + years of service must = 50)  
     | (Article 4b - University Retirement & Savings Plans) | • Workers in a UCRP-eligible position as of December 31, 2013 are grandfathered  
     | | • Retiree Kaiser rates will be frozen for workers who retire during the contract, for the duration of the contract  |
| **No PTO**  | • No PTO  |
| **Family Leaves**  | • Up to 30 days of sick leave can be used to care for a family member with a serious health condition (not just 5 days)  
     | (Article 14 - Leaves of Absence) | • Additional improvements to leaves based on improvements in leave laws  |
| **Catastrophic Leave Donation**  | • All workers are now allowed to participate in catastrophic leave sharing programs and donate vacation leave to co-workers  
     | (Article 40 - Vacation and local program) |  |
| **Parking**  | • UC cannot raise parking rates each year by more than caps established at each medical center/campus  
     | (Article 23 - Parking) | (see appendix for caps)  |

## JOB SECURITY/STAFFING

| **Contracting Out Protections**  | • UC cannot contract out work solely to save money on UC pay and benefits  
     | (Article 5 - Contracting Out and side letters) | • New grievance and arbitration rights if UC fails to give us other UC jobs after contracting out work  
     | | • UC agreed that biggest new developments will be staffed by UC/AFCMME Service workers: UCSF Mission Bay, UCSD Jacobs Hospital, and UCLA Luskin Hotel & Conference Center  
     | | • UC is now required to provide extensive data regarding any plans to contract out, including cost analyses and consultant reports  
     | | • UC committed to a minimum of 2 statewide labor management meetings to discuss contracting out plans, another forum to push for insourcing agreements  |
| **Layoff Protections**  | • For indefinite layoffs, UC must lay off limited employees before career employees  
     | (Article 13 - Layoff and Reduction in Time and new Seniority article) | • Laid off workers retain recall/rehire rights if they accept limited or per diem positions  |
## JOB SECURITY/STAFFING

### Layoff Protections
(Article 13 - Layoff and Reduction in Time and new Seniority article)
- For purposes of layoffs, transfer, and promotion, seniority is based on workers’ most recent date of hire in a staff career position at UC
- Tiebreaker: when workers have the same date of hire, seniority shall be determined according to total hours worked
- Severance provisions no longer expire when our contract expires
- Additional alternatives to layoffs

### Seniority in Scheduling
(Article 12 - Hours of Work and new Seniority article)
- When a shift assignment or work location becomes available in a department, UC must post the opening in writing and offer the shift to the most senior, qualified worker who requests the shift
- UC is now required to offer overtime by seniority
- For purposes hours of work and vacation leave, seniority is based on workers’ most recent date of hire into a job title in the department
- Tiebreaker: when workers have the same date of hire, seniority shall be determined according to total hours worked
- UC must provide seniority lists within 10 business days, when requested

### Missed Breaks
(Article 12 - Hours of Work)
- When workers are required to miss breaks, breaks will be granted later in the shift (with supervisory approval)

### Staffing Committee
(Article 36 - Staffing Committee)
- Size of staffing committees doubled—we can now have 8 members on UC-paid time for staffing committee meetings
- UC is required to provide workload guidelines when requested by AFSCME, information we can use to push for increased staffing

### Limited Work-er Conversion
(Article 28 - Positions/Appointments)
- To assist in enforcing limited conversion, UC must now provide AFSCME with data on the number of hours worked by limited workers 4 times a year
- Stronger language preventing UC from releasing limited workers to deny conversion

### Safety Equipment
(Article 10 - Health and Safety)
- When workers request additional safety equipment, UC is obligated to conduct a review of the request

### Union Leave and Release Time for Negotiations
(Article 1 - Access and Union Rights and Article 31 - Release Time For Negotiations)
- AFSCME executive board members and bargaining team members can take 2 one-day union leaves per month, not just 1
- Added another bargaining team position for a total of 12 Service bargaining team members
AFSCME LOCAL 3299
LOCATION & CONTACT INFORMATION

AFSCME 3299 Central Office
2201 Broadway Ave, Suite 315
Oakland, CA 94612
(510) 844-1160
1-888-856-3299
Fax: (510) 844-1170

UC Davis
2400 O Street
Sacramento, CA 95831
Tel: (916) 491-1426
Fax: (916) 443-1747

UC Los Angeles
5601 W. Slauson Ave Suite 243
Culver City, CA 90230
Tel: (310) 338-1299
Fax: (310) 338-1574

UC Santa Barbara
900 Embarcadero Del Mar, Suite E
Goleta, CA 93117
Tel: (805) 685-3760
Fax: (805) 685-3270

UC San Francisco/Hastings
1360 9th Ave, #240
San Francisco, CA 94122
Tel: (415) 566-6477
Fax: (415) 566-6846

UC Berkeley & LBNL
2519 Telegraph Ave, Suite B
Berkeley, CA 94704
Tel: (510) 486-0100
Fax: (510) 486-0111

UC Irvine
1740 W. Katella Ave., Suite 1
Orange, CA 92867
Tel: (714) 634-1449
Fax: (714) 634-0705

UC Riverside
1280 Palmryta Avenue, Suite F
Riverside, CA 92507
Tel: (951) 781-8158
Fax: (951) 781-7034

UC San Diego
4241 Jutland Dr. #105
San Diego, CA 92117
Tel: (619) 296-0342
Fax: (619) 702-8311

UC Santa Cruz & UC Merced
501 Mission Street, Apt. #4
Santa Cruz, CA 95060
Tel: (831) 425-4822
Fax: (831) 316-0049

American Federation of State, County and Municipal Employees, AFL-CIO
1625 L Street, N.W.
Washington, DC 20036-5687
Tel: 202-429-1000
Fax: 202-429-1293
www.afscme.org