

# UPSEU SHOP TALK



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## FAIR LABOR STANDARDS ACT

### What is the Fair Labor Standards Act?

The Fair Labor Standards Act (FLSA) is the federal law which mandates a minimum wage of \$5.15 per hour. The FLSA requires the minimum wage already referred to and also the payment for time and a half for overtime, after 40 hours, if an employee is not otherwise exempt. The FLSA also includes record keeping requirements for employers and protects minors.

(Note: State minimum wages are as follows:

Connecticut—\$7.10

New Jersey—\$5.15

New York 1/1/05- \$6.00

9/1/05- \$6.75

1/1/06- \$7.10

### Which UPSEU members are covered?

Nearly all UPSEU members are covered by the FLSA. You can file a complaint with the United States Department of Labor. (see "Who enforces the Act?" below) The primary group of employees exempt by law is certain executive, administrative or professional employees who meet certain criteria in terms of job duties and salary. There are also

other categories of employees who are exempt from minimum wage, overtime, or both.

### Who enforces the Act?

The FLSA is enforced by the United States Department of Labor, Wage-Hour Division. If you believe that your wages have been paid improperly under the FLSA, you should contact your UPSEU representative without delay. There are, as with grievances, time limits for filing complaints.

### What remedies are available?

There are several remedies available to you under the FLSA. First, the Wage and Hour Division may conduct an investigation of the employer and supervise the payment of any back wages it finds due. Second, the Secretary of Labor can sue for twice what is owed to you in back wages.

### Will UPSEU represent you in a FLSA action?

Yes. UPSEU not only represents bargaining unit employees with respect to the grievance procedure but also assists, as necessary,

issues outside the collective bargaining agreement in order to address a systemic issue.

### Are you protected if you file a complaint?

If you file a complaint under the FLSA, management is prohibited from firing you or in any manner discriminating against you for filing a complaint or for participating in legal proceedings under the FLSA.

### REMINDERS:

- ◆ The FLSA does not require approval by management before overtime is worked. (However, if management tells you not to work overtime, you are insubordinate if you do work it and could be disciplined)
- ◆ Longevity pay must be included in overtime rate.
- ◆ Night differential must be included if you are an evening or night employee.

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## A GOOD STEWARD



Works to increase employee respect at the worksite.

Works to educate employees regarding their rights.

Works to achieve solutions to problems.

Works against all forms of discrimination.

Respects the confidentiality of the information they receive.

Works with the membership, with other stewards and between bargaining units to build unity.

Does not advocate employee discipline to management or to other employees. (That's management's job!)

Works to build union membership.

Remember that above all: Your credibility and the union's are one.

*Leaders are those who know what to do next, know why that is important, and know what appropriate resources to bring to bear on the problem at hand. Then, through effective communication they influence others to follow.*

*Barry Bowater*

## DEALING WITH EMPLOYEE PROBLEMS

When UPSEU members have problems, work together with them to resolve the situation. Remember, the members are the Union. Only by teaching them to empower themselves through solving their own problems and grievances, can the union become stronger

- ◆ Listen carefully and take their concerns seriously.
- ◆ Ask "Is anyone else affected by this? Does anyone else have this problem?" Filing as a class-action adds to the power of a grievance by multiplying the remedy.
- ◆ Do not delay when dealing with member's problems. Time limits must be counted and watched closely.
- ◆ Be sure to involve the member in each step of the process. Don't let yourself be put in the position of solving the problem for the member.
- ◆ Listen to all parties to find a solution.
- ◆ If there is a decision to meet with management, don't do it alone. Sometimes it can lead to rumors and misunderstandings, which can undermine both the union reputation and your position as steward. (If any emergency meeting is held, inform those who were not at the meeting what happened.)
- ◆ Problem solving and grievance handling are important opportunities for UPSEU members to learn they are the union and what their power is.
- ◆ Never make promises. Involve the member, put up a good fight, but don't guarantee a particular outcome.
- ◆ Keep your chief steward and UPSEU representative informed.

## QUICK TIP

### The Three Stages of Every Negotiation

1. Learning your opponent's stated goals; stating what you want.
2. Gathering information on your opponent and his/her needs and/or problems. Objections can only be overcome when they are known.
3. Reaching for solutions.



**"We have to organize. For walking our humans, all we get is one lousy biscuit."**

## A STEWARD'S "DO NOT DO" LIST

Every steward in the world has a To Do list of one sort or another. That list consists of the continuing chores that come with your responsibilities, tasks that add up to the very basics of being a steward, from keeping paperwork properly filed to attending union meetings and keeping up with the work of the union.

But while the To Do list is important, just as important is the **Do Not Do List** – the actions and attitudes every steward should guard against. A conscientious and dedicated steward who faithfully checks off every item on his or her To Do list can still end of doing a bad job by ignoring the pitfalls of the Do Not Do list.

### What are some Do Not Do's?

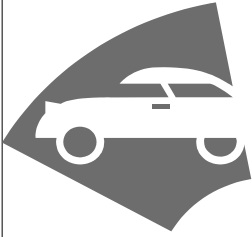
1. **Don't always wait for a worker to come to you with a grievance.** It's part of your job to keep your ears and eyes open to problems on the job that affect your co-workers, so don't hesitate to be the initiator of action. Don't just react to the complaints and concerns of others. UPSEU prides itself in being proactive.
2. **Don't act like you're somebody special,** just because you're the steward. You don't need a chip on your shoulder. Ultimately, you're a worker just like everyone else. You got the job of steward because people have faith in your decency and good sense. Don't disappoint them.
3. **Don't pretend to know all the answers.** Nobody does. When a member comes up with a question or problem you don't know how to handle, seek advice from more experienced stewards or your UPSEU representatives . The only thing worse than not offering advice is offering bad advice.
4. **Don't fail to keep workers up to date on what's happening with their grievances.** Even if a member's grievance is just working its way through the process, tell them that. Otherwise they'll think their issue has been forgotten or dumped onto some back burner.
5. **Pursuing grievances is a lot of work, and there can be a temptation always to try to talk members out of filing. Don't fall into that lazy rut.** Nor, when you do file a grievance, should you present it as if you're only doing it because you're obligated to. That's not fair to the member or to the union. Your chances of winning a grievance rise in proportion to the conviction with which you present it.
6. **Don't make assumptions:** many a grievance has been lost because a steward figured "this kind" of case can be handled the way "it's always been handled." Investigate each grievance properly and thoroughly. Every situation



is different, and a solid investigation will most likely turn up some evidence that can give you an advantage.

7. **Don't get carried away with your legal right to be management's equal** while discharging your duties on behalf of the union. You don't have to take any nonsense from management, and you should stand toe –to-toe when arguing your case. But you should also remain civil and thoughtful in your presentation. Routinely resorting to yelling and profanity will only make your work more difficult in the long run and lessen the effectiveness of those tactics when they can, on rare occasion, be strategically used.
8. **If you've got a problem with a member, work it out in private.** Don't bawl out a member in front of a group of workers or in front of a supervisor.
9. **Don't procrastinate.** Not every member concern has to be addressed the very minute it's brought to your attention, but some should be: a major health or safety issue, for example. If a member calls with a problem, even if you can't deal with it immediately, let the member know that you're aware of his or her concern. If nothing else, set a specific time and place where you can get together and discuss what should be done. Don't hesitate to ask for assistance from your UPSEU representative.
10. **Don't be an information hog.** Everyone likes to know stuff that others don't, and get a little kick out of telling people, in dribs and drabs, about important things that can affect their lives. When you learn something that is going to have an impact on your co-workers, tell them.
11. **Don't let yourself be pushed around.** As steward you're there to help your co-workers, but you're not a servant. Just because someone thinks he or she's been wronged and the union should pursue a grievance, that doesn't automatically mean you have to file one. If your understanding of the situation and investigation make it clear to you that there's simply no justification in filing a grievance, tell that to the worker. If you allow yourself to be pushed into pursuing unreasonable cases, you'll only weaken the union and its ability to help in legitimate situations. If there is any doubt, consult with UPSEU.
12. **Remember whose side you're on and don't allow yourself to be used as a management tool.** Don't enhance a supervisor's prestige by permitting him to have you do his dirty work, such as enforcing your employer's rules or calling workers to task for minor abuses of certain privileges negotiated by the union. It's management's job to manage the workforce, not yours.

## IRS MILEAGE RATE



The IRS has issued it's 2005 mileage rate for business use of personal vehicles. The rate will increase from 37.5¢ in 2004 to **40.5¢ in 2005**. This 3¢ represents the largest increase ever.

If your contract is tied to the IRS rate, make sure the rate is increased by your employer. Some contracts, or the past practice of your employer may be to implement IRS increases at the beginning of it's fiscal year. (e.g. July 1 for school districts) Check with your UPSEU representative if you are unsure.

## SCHOLARSHIPS



UPSEU offers 34 scholarships annually!

For members, we offer ten \$500 scholarships.

For eligible dependent children, we offer two \$1,000 scholarships and twenty two \$500 scholarships.

(members must be active for a minimum of 24 months)

For further information or to obtain an application form, call Scholarship Chairs

Kim Nowakowski at 631-738-8773 or Kathy Wright at 518-464-9114.

Application forms and filing requirements can also be downloaded from our

Website at [www.upseu.org](http://www.upseu.org)

The UPSEU Scholarship deadline is each July 1st  
for the following school year!



*We wish all of our Shop Stewards, Unit Officers and their families*

*A Happy and Healthy New Year!*



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[WWW.UPSEU.ORG](http://WWW.UPSEU.ORG)

***United Public Service Employees Union***

***WE'RE MAKING A DIFFERENCE IN THE WORKPLACE!***

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