1.0 Duties Specified by EA Constitution

A steward is an officer of the Employees’ Association (EA) and member of the EA Board of Directors. The duties of the steward are specified in Article V of the EA Constitution:

“Stewards shall provide liaison for members in job-related areas, […] shall bring matters before the Board as a representative of that class of member; shall accept proxy votes; may assist members in processing of grievances and discrimination suits; shall make sure that all new employees in their respective classification are provided with copies of the Constitution & By-laws and Memorandum of Understanding; and shall provide other duties as assigned by the president.”

1.1 Representation at Investigatory and Disciplinary Hearings

1.1.1 “Weingarten” Representation

A represented employee may have an EA representative accompany him/her at an investigatory proceeding that the employee reasonably believes could result in a disciplinary action against the employee. This right was established by a 1975 U.S. Supreme Court decision (NLRB V. Weingarten, Inc) and is commonly referred to as the “Weingarten rule.” All employees eligible for union membership have Weingarten rights, whether or not they belong to the EA. Thus, the EA provides Weingarten representation to any eligible employee upon request. Importantly, the employee must invoke this right and employers are not obligated to inform the employee of their representation right. Therefore, stewards should ensure that the employees are aware of this right. The Supreme Court held that this right does not apply during routine interactions such as “the giving of instructions or training or needed corrections of work technique”.

The written opinion in the Weingarten case describes the role of the union representative during investigatory hearings:

“(Participation by the union representative) might reasonably be designed to clarify the issues at this first stage of the existence of a question, to give assistance to employees who may lack the ability to express themselves in their cases, and who, when their livelihood is at stake, might in fact need the more experienced kind of counsel which their union steward might represent. The foreman, himself, may benefit from the presence of the steward by seeing the issue, the problem, the implications of the facts, and the collective bargaining clause in question more clearly. Indeed, good faith discussion at this level may solve many problems, and prevent needless hard feelings from arising. ...(It) can be advantageous to both parties if they both act in good faith and seek to discuss the question at this stage with as much intelligence as they are capable of bringing to bear on the problem.

The procedure ... contemplates that the steward will exercise his responsibility and authority to discourage grievances where the action on the part of management appears to be justified. Similarly, there exists the responsibility upon management to withhold disciplinary action, or other decisions affecting the employees, where it can be demonstrated at the outset that such action is unwarranted. The presence of the union steward is regarded as a factor conducive to the avoidance of formal grievances through the medium of discussion and persuasion conducted at the threshold of an impending grievance. It is entirely logical that the steward will employ his office in appropriate cases so as to limit formal grievances to those which involve differences of substantial merit. Whether this objective is accomplished will depend on the good faith of the parties, and whether they are amenable to reason and persuasion.”

The steward should make the employee aware that an employer has the right to investigate work activities and that failure to respond to an employer’s questions could be considered insubordination.

1.1.2 Other Representation

In addition to investigatory representation allowed by the Weingarten rule, the MOU also allows EA representation during an employee-requested meeting with the District EO to appeal an extended suspension (MOU 5.05.2) or dismissal (MOU 5.06.2). Because of the seriousness of these situations, the EA representative would probably not be a steward.

Finally, an employee may request EA representation at a non-Weingarten or non-appeal proceeding. In this case, the District may or may not allow representation. If allowed to attend, the steward should serve primarily as an observer.

1.2 Potential Grievances

When an EA member approaches a steward with a potential grievance or when the EA president has assigned a steward to investigate a potential grievance, the steward should establish the following information, and promptly report his/her findings to the EA president:

• What provisions of the MOU have been violated?

• When did the violations occur?

• What deadlines exist for a grievance in accordance with Article IV, Section 4.03 of the MOU?

Occasionally, an EA member will approach an EA steward or other EA officer with an issue or dispute with a supervisor or manager that is primarily a disagreement about how best to perform work, or a personality conflict, with no safety implications and no contract violations or contract issues. Supervisory or management practices that are inefficient, counterproductive or wrong, are not, of themselves, subject to a grievance. However, the EA president should be made promptly aware of all complaints made by members.

1.3 Administrative Duties

Each steward should obtain and update a list of the employees in the class he/she represents, to allow timely communication with these members. For example, it is helpful for stewards to remind members of their Weingarten rights, of upcoming voting deadlines, of new policies established through interim bargaining, and of upcoming EA meetings. Announcements of new hires and promotions that are posted to the Personnel Bulletin Board by Human Resources are helpful in maintaining an updated list of employees.

Stewards should offer an EA application to all new employees in the class that they represent and encourage him/her apply for membership so that they will be eligible to vote on matters submitted to the EA membership for approval and generally participate in EA activities.

1.4 Time Allowance for Duties

The following table lists time allowances for various steward activities. Note that these are minimum allowances. On a case-by-case basis, the District may agree to extend these allowances. A steward should inform their immediate supervisor before they conduct EA work during normal work hours (MOU 13.04.2).

Activity Time Allowance and Authority

General EA activities, including:

• Preparation for board or general membership meetings

• Correspondence / Balloting activities

• Potential grievance investigation, grievance preparation, arbitration preparation

• Meet & confer or interim bargaining preparation

• Meetings with District non-management staff related to potential or filed grievances 7 paid hours per month, for all activities (MOU 13.04.4)

Meetings with District Management personnel (including HRO), including:

• Meet & confer or interim bargaining

• Meetings with District management staff related to potential or filed grievances

• Participation in litigation / arbitration proceedings (up to 2 EA representatives) Unlimited paid time (MOU 13.04.4; MOU 13.04.8 for litigation / arbitration proceedings)