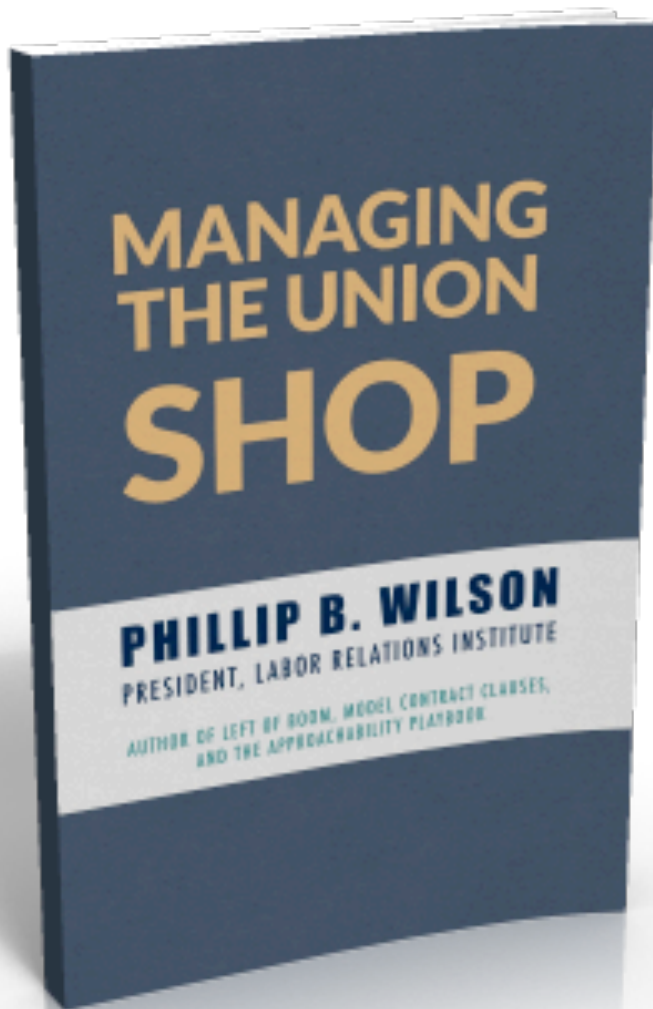


Managing the Union Shop

TOOLKIT



Enclosed are ready-to-use templates of the tools taught in our *Managing the Union Shop* workshop experience.

We hope you enjoy these tools. Please let us how you are using the tools and any success stories or suggestions for improvement.

Thank you!

Managing the Union Shop

TOOLKIT

Perspective Taking Tool

Many conflicts with union leaders can be resolved once you fully understand the perspective of the other side. This tool helps you practice strong perspective taking.

CHECKING IN

Tool in Brief

- **Understand Your Perspective:** Do underlying motives alter your point of view?
- **Understand Their Perspective:** Do underlying motives impact their point of view?
- **How could hidden motivations be discussed?** Are there safe ways to get hidden motivations in the open where they can be discussed and accommodated?

TOOL IN PRACTICE

Use the tool to recognize your own underlying motivations and reveal potential gaps in your understanding of their motivations. Then use the discussion starters to help shrink the gap.

Your Motivations

- Are there any unspoken motivations driving your point of view about the situation?
- Are your fears or concerns rational or true? Is there counter-evidence or a way to test?
- Can you think of a way to overcome fears and concerns while still resolving the issue?
- Can you think of a safe way to reveal your fears or concerns to the other side?
- How would you benefit by figuring out a solution? How would they benefit?

Their Motivations

- What unspoken motivations (fears, concerns) may be driving the other side?
- Are you sure these are rational or true? Is there counter-evidence or a way to test?
- Are you projecting your own concerns or blaming them?
- Even if these motivations are true, can you think of a way to overcome the concerns?
- How could you safely get them to discuss these hidden motivations?

Discussion Starters... How to talk about each other's perspective

- "Okay, I do the same thing you're doing now. I just react by saying no – it's my first reaction, even when I know we could probably work it out. Can we just toss out some possible solutions?"
- "Look, you and I both have bosses to keep happy. Can we be straight with each other about what we need to get out of this?"
- "I know you can't look like you are just rolling over on this – I don't want to put you in that position either. Can we talk about how to make this a win-win?"
- "Can you give me some advice? I feel like I'm doing something that makes you think I don't want to work with you. Everything seems like a battle. Is there anything I can do to make this better?"
- "I need your help. Can you be honest and tell me exactly what you think about this?"
- "I may be completely off base here; I don't know. Can you tell me what you really think?"

Managing the Union Shop

TOOLKIT

7 Tests of Just Cause Tool

CHECKING IN

Tool in Brief

- **The 7 Tests:** What are the 7 tests arbitrators use to determine just cause?
- **When can I prove just cause?** How to know when you have it... and when you don't.
- **What should I do if I fail one of the tests?** How to discipline when you fail a test, and tips on how to make sure you can prove just cause the next time.

TOOL IN PRACTICE

Use the tool to determine whether you can prove Just Cause and what to do if you fail to prove that step.

The Seven Tests of Just Cause		YES?
1	Was employee adequately warned of the consequences of his conduct?	GO TO Q2
NO	Exit process here. Make sure your disciplinary procedure includes providing clear and documented warning of consequences of violation, up to and including termination.	
2	Rule reasonably related to efficient and safe operation?	GO TO Q3
NO	Exit process here. Make sure that any work rule or policy that can lead to termination is clearly related to efficient and safe operation of the business. How can you prove it?	
3	Did the employee breach the rule or commit the offense?	GO TO Q4
NO	Exit process here. If you can't prove the employee breached the rule you can't justify the disciplinary action. In cases of termination arbitrators will require strong evidence.	
4	Did management investigate prior to acting?	GO TO Q5
NO	Exit process here. Never take disciplinary action BEFORE a full investigation. Timing is everything. Suspend if necessary but always complete investigation before acting.	
5	Was investigation fair and objective?	GO TO Q6
NO	Exit process here. Did you interview ALL witnesses (even those testifying in favor of the employee?) Did you actively seek evidence opposing termination?	
6	Was there substantial evidence of guilt?	GO TO Q7
NO	Exit process here. The majority of evidence should support the decision to terminate. It is okay if there is some counter-evidence, but most evidence should support termination.	
7	Is the discipline/punishment reasonable given the severity of offense and employee's work record?	JUST CAUSE
NO	Exit process here. Be able to prove termination was a last resort, given either the severity of the offense or the amount of prior warning. Long-term employees get leeway.	

Almost all union contracts require "just cause" to terminate someone.

This "cheat sheet" helps you determine if you can prove just cause and if not, what to do about it to make sure future decisions stand up.

Managing the Union Shop

TOOLKIT

Past Practice Tool

Past practice and contract erosion are important labor law concepts a front-line supervisor can impact. This tool helps you avoid creating negative past practice or undo a past practice already created.

CHECKING IN

Tool in Brief

- **Contract Erosion:** How does past practice erode a labor agreement?
- **Past Practice:** How does past practice get created?
- **Overcoming Past Practice:** What steps can you take to undo a past practice?

TOOL IN PRACTICE

Contract Erosion – What Is It?

- ☐ The contract is a compromise where management gives up some of its rights
- ☐ Managers can “compromise of the compromise” by not following the contract
- ☐ If a term of the agreement isn’t followed over time that term can become unenforceable
- ☐ Over time these exceptions can “erode” the original agreement

Past Practice – Where Does it Come From?

Past practice is created when managers or union officials fail to object or enforce a provision in an existing labor agreement (or a prior practice between the parties). If it is ignored over time the practice becomes the “new normal” and the other party may lose the right to enforce that provision. Past practice can be created by:

- ☐ Inconsistent or poor management (dormant rules, lack of enforcement)
- ☐ Uncommon incidents or occurrences that weren’t anticipated by the parties
- ☐ Equivocal actions - supervisors trying to “repay” an employee for prior mistakes or for helping out earlier
- ☐ “Fixed and established” past practice: unequivocal (consistent); acquiesced (leaders from both sides know and follow); for a long time

Overcoming Past Practice

- ☐ Make it equivocal: Attempt to follow the original rule, clearly disagree that the practice is “fixed” or “established.”
- ☐ Grieve it: Consider a grievance challenging the practice.
- ☐ Change operation: Is there a way to change things so the practice no longer applies?
- ☐ Announce a new rule that alters the prior practice.

Managing the Union Shop

TOOLKIT Handling Grievances Tool

Every grievance is an opportunity to increase your credibility. As your credibility increases, the number of grievances decreases.

CHECKING IN

Tool in Brief

- **Approachable Grievance Handling:** means you are objective, thorough, and looking for opportunities to find a win-win solution
- **Investigate Thoroughly:** verify all facts and take every grievance seriously
- **Behavioral Gaps:** many times actions speak louder than words – watch for gaps between what someone says and what they do

TOOL IN PRACTICE

Use the tool to help you receive, investigate and (hopefully) resolve a grievance effectively.

New Grievance

- Is it timely?
- Do we have all the facts?
- Was the contract violated?
- Who was impacted?
- What was the impact?
- Has it happened before?
- Can we fix it easily if we were wrong?

Verify The Grievance As Presented:

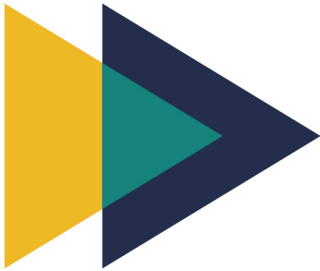
- Has enough detail to demonstrate the nature of the violation?
- Includes the specific contract violation? Which Article?
- Includes the correct names/roles of people involved?
- Does not include suspicions?

At Step 1... These are your most important behaviors:

- Assume positive intent, be patient, assume everything claimed is true and let them vent a little
- Be open-minded – acknowledge we could be wrong (and grant a legitimate grievance and build your credibility!)
- Treat the Steward respectfully in their official role, they are not there as an employee
- Do not be defensive (your behavior is training for the Steward and Rep)
- Ask questions, gather information and take notes (confirm that your notes say what they have said)
- Ask what remedy they seek but generally don't give an answer on the spot

In Subsequent Steps:

- Ask yourself if it is fair; what if it's not fair, but follows the contract
- Not "because we say so"
- Prepare an articulate written response, with specific facts
- Refer to specific infraction
- Cite applicable contract provisions
- Refer to consistent past practice
- Address union's claims
- Assert timeliness defense if applicable
- Specifically reserve other defenses
- Clear, concise and objective
- Is there a win-win?



Take Action

What's The Next Step On Your
Approachable Leadership Journey?



Take Action What's Next?

Does your company struggle with change, engagement or turnover?

Approachable Leadership can help.

Here are some useful next steps you can take *today* to help increase “grit” and enthusiasm, improve cooperation and reduce turnover in your company:

Pick up *The Approachability Playbook* for your leaders.

[The Approachability Playbook](#) is a simple, easy-to-read (just over 100 pages) and practical book on the one simple behavior that is transforming leaders around the country. Pick up a copy for each leader on your team today.

Learn more about our Learning System.

Like the Survival Kit? We offer a number of ways to introduce Approachable Leadership® to organizations. You can provide a year's worth of powerful leader training at an investment that will make your finance team smile.

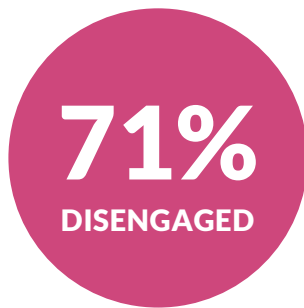
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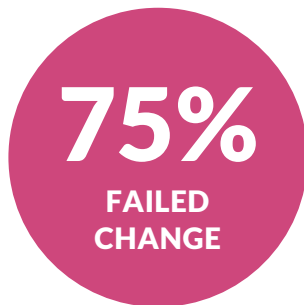
Summing Up **Return on Investment**



Companies with highly engaged employees perform **202% better** than competitors.



Turnover costs the average small company over **\$1.3 million per year**.



Companies who excel at innovation and change **earn 1/3 more** than competitors who don't.



The average company loses **over \$7 million per year** due to the “silent killers.” What are they costing you?

A small investment in improving first-level leaders offers huge return—and a much better place to work.