

# OCCUPATIONAL SAFETY AND HEALTH: NEGOTIATING COLLECTIVE BARGAINING LANGUAGE

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SOLIDARITY CENTER SERBIA PROGRAM

# WHY NEGOTIATE SAFETY AND HEALTH LANGUAGE?

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- Hazards are present in every workplace
- Laws and enforcement often weak
- Collective bargaining language is written to provide an increase in the level of protection
- Can help strengthen the trade union
- Can educate the community on exposure issues

# STRENGTHENING LEGAL PROTECTIONS

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- Access to information
- Concerted actions
- Rights to refuse hazardous work
- Quicker resolution of problem abatement
- Strengthening OSH Committees – both trade union and joint committees.

# DEFINING OSH GOALS

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- Win membership support for stronger OSH. Confront safety or cost mentality.
- What are the workers telling the negotiating committee? Identify core issues
- Increasing hazard awareness – collect information – propose solutions through language
- Publicize OSH initiatives.
- Plan to enforce improvements in collective bargaining language

# MEMBERSHIP INPUT AND DATA COLLECTION

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- Survey the membership – involvement creates ownership.
- Work with occupational medicine specialists and industrial hygienists.
- Priorities not wish-lists.
- Experiences not just opinions. Documentation – information from trade union and employer records on OSH – accidents, near-misses and illnesses related to work. Medical records.
- Review hazard communication plan and all appropriate MSDS information
- All other relevant information and minutes of OSH committee meetings with employer.

# PREPARING TO BARGAIN

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- Check how existing collective bargaining language is working
- Review changes in work practices that may necessitate changing collective bargaining language.
- Review new management practices, priorities and strategies for organization of work.
- Highlight problem areas by job, department, shift – what are the must address issues?

# GUIDELINES FOR DEVELOPING COLLECTIVE BARGAINING LANGUAGE

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- Be as specific as possible, but not if this would weaken broader rights – specific language means what is written – “*all necessary equipment, including but not limited too...*”
- Some things not achieved at the negotiating table may be achieved in implementation – through the clarification of meaning.
- Before you exchange language proposal with the employer carefully review and ensure that proposals are complementary not contradictory.
- Be internally consistent so that one group does not benefit at the expense of another.
- Use simple language

# DEVELOP SUPPORTING ARGUMENTS

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- Evidence that hazard exists and that current approaches are inadequate.
- Evidence that proposal will eliminate or reduce problem.
- Indication that members concerned on resolution



# TYPES OF CLAUSES FOR POSSIBLE INCLUSION IN COLLECTIVE AGREEMENT

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- General Duty – the employers obligation to provide a safe and healthful work place.
- Promise to obey the law.
- Training and access to information in a complete and timely manner
- PPE and clothing.
- Medical and emergency care.
- Other language areas to be defined for each workplace.

# HAZARD IDENTIFICATION AND RESPONSE

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- Time, skills and resources to identify and evaluate hazards.
- Union and joint committees.
- Criteria for functioning trade union committee
- Criteria for functioning joint committee – self- selection, equal representation; no term limits; regular meeting; committee functions; agenda setting; shared chair; conduct inspections; training; outside experts; actions on issues raised.
- Access and representation

# ASSURING JUST TREATMENT

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- Refusal of hazardous assignments: - define circumstances where refusal is justified; immediate danger; abnormally dangerous; imminent danger; serious hazard.
- Define procedures for unacceptable hazards- who can stop and restart an operation – have clear dispute resolution process.
- Reduce the burden of proof on worker – a “*reasonable belief*” is less stringent than “*objective evidence.*”
- Ensure worker informs employer and requests that problem be fixed.

# ASSURING JUST TREATMENT 2

- Language clarifying liability
- No discrimination language to protect those making legitimate complaints.
- Disability protections and the right to return to work.
- Medical and pregnancy leave – improvements on legal framework.
- Conflict resolution mechanisms - expedited; appeal process; protection from loss of income; protection from discipline.
- If possible have special dispute resolution process for OSH to ensure quick resolution – expedite where possible.
- Workplace actions such as stoppages.

# SPECIFIC HAZARDS

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- Each workplace has specific and unique hazards and unions seek to develop language to improve protections.
- Examples of specificity include:- work load and heavy lifting; temperature and air-quality; ventilation; toxic chemicals – cleanup and removal; hazardous energy and lock-out – tag-out rules; maintenance; unsafe vehicles; personal security; noise; lighting; training; MSDS availability; asbestos security; reassignment upon injury; medical examinations; ergonomic assessments.

# INFECTIOUS DISEASE

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- If this is an issue in the workplace the trade union should look to develop collective bargaining language that addresses the following:-
- Immunization; physical examinations;
- PPE and protective clothing;
- Waste disposal, cleaning and defumigation; Laundry;
- Right to know and training;
- Post-exposure strategy.

# STRESS

- This is a major issue in many workplaces:-
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- General language to reduce stress.
  - Work-time and shift work, overtime limitations, breaks
  - Scheduling – flexibility.
  - Staffing levels and relief operation
  - Workload
  - Changing workplaces, design, machinery, layout, ergonomics.
  - Other issues by workplace



# ENFORCING NEW COLLECTIVE BARGAINING LANGUAGE

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- Just as the law must be implemented, so too must collective bargaining language – the direct agreement between the parties and addressing the immediate issues at work.
- Educate – inform workers of the language protections. Make it easy for members to use the language with the assistance of the trade union.
- Involve members in the process of implementation.
- Documentation – first step to speedy resolution
- Establish precedents to ensure on-going resolution.
- Pressure as needed – be creative to increase engagement.