

# A Manager's Guide to Understanding The Union



**AFSCME Local 2380  
Montgomery College Staff Union**



Local 2380 — Montgomery College Staff Union

Written in collaboration with the Office of Human Resources, Employee Engagement.

August 2008



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### Preface

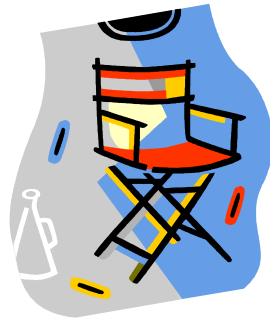
**I**t is important for every Supervisor and Manager to understand the basic procedures and rights of Employees that are covered by the Union Contract for Montgomery College. This guide has been written to provide information for some of the basic situations and topics specific to Montgomery College.

While the Union encourages every Supervisor and Manager to read and understand the Contract and its implications, provisions and procedures, Managers and Supervisors should also know that the Union is always available to contact directly for questions pertaining to specific circumstances. In addition, the College has an Employee Engagement Office within the Office of Human Resources which works closely with the Union and is able to address questions and concerns. The job for the Union and the Employee Engagement Office is to work together with Managers and Supervisors in a proactive and preventive manner to resolve issues for the greater good of the College.

### Myths and Misconceptions

It is not uncommon for Managers and Employees to be unfamiliar with how Unions really work and run, and that is okay. Let us dismiss the two most common myths and images people think about when they hear about Labor Unions.

First is the *Hollywood Image* of Unions which most are familiar with—which is the baseball-bat carrying angry mobs making demands or fighting and looking for arguments or wanting to strike. This type of image of a Labor Union is far from reality today. Unions are organizations of individuals who take their employment seriously and professionally, and in spite of what you may see in an action movie, they are not detrimental to a work environment or towards Management. Today's Unions work *with* Management, not against it.



Unions can be extremely beneficial to large organizations and businesses in that it gives Management a direct single point of contact to a mass of Employees. It helps in the Management process for better business relations and better productivity. Statistics show that when Labor Unions are involved with an organization there are happier Employees, less disagreements, and a safer better structured and positive work environment.

The second time people hear about Unions is when there is a Strike. It is often hard to understand the circumstances for some



kind of monetary disagreement. It should be known that Strikes occur for safety issues as well as health and fairness. Strikes are the absolute last resort for Unions and they do not occur lightly or without a lot of reasonable and collaborative alternatives being removed. Strikes are not desired by Unions as you may see in the movies or on TV. When they occur it is often because communication has broken down and normal means of compromise or reconciliation have not

been reached. The blame for a strike is the inability to compromise or communicate. It is very important in labor relations for each side to listen to and consider all points of the issue.

Now if you think there could be a strike at Montgomery College, rest assured that a strike can never happen because of Maryland laws. The Union and Management have fairly negotiated a "No Strike" clause in the Contract that will never shut the doors of Montgomery College.





### **Introduction to the Montgomery College Staff Union—AFSCME Local 2380**

**B**efore a Manager can begin to understand the Contract they should first understand the function and purpose of a Union and its Representatives in the workplace. For decades Unions have existed in the workplace to provide a unified voice and to ensure that fairness and equitable standards are kept and maintained. Unions are there for Employees to have a resource to go to for advice, support, and answers they may not be able to get from Management. They also provide a resource for legal rights and rules that may be outside the Contract. Unions are designed to work with Management cooperatively and in good faith; and not to work in opposition of Management.

The goals of the Union and of Management are similar in that both want good work environments, safe conditions, and that everyone who is employed and working functions to the best of their abilities towards the greater goals. The only time Management and Unions tend to disagree is when certain situations develop that require deeper discussion or a mutual resolution to accommodate fair workplace standards and considerations. The Union as a whole represents a body of labor at the College, and directly negotiates on behalf of the Employees for workplace conditions, work hours, break times, pay and benefits, leave times, and disciplinary procedures.

The Union is also in place for the benefit of Management. Unions provide Management a neutral, unbiased, and advisory view on disciplinary actions. It is a resource for both Employees and Managers to seek out labor concerns or questions. It provides Union trained representatives that work with both Management and Employees to find and resolve any conflict or problem. The Union also provides a neutral witness to situations or questioning meetings, a documentation and investigatory means of supporting or finding all circumstances in a situation, and the ability to weigh and present them in a fair and balanced manner.

All Union Representatives and Officers in the Union at Montgomery College are UNPAID VOLUNTEERS who choose to participate actively. They balance their daily job duties, requirements, and hours with the needs of other fellow Employees and the Union. This is critical for all Management to understand, as often when a Union Representative is called or needed, their ability to respond may not be immediate or on-demand and must be scheduled. Union Representatives work on their days off and often have to be flexible.

The Union designation is 'Local 2380'; it is chartered from Council 67 of the Maryland Chapter of AFSCME (American Federation of State, County, and Municipal Employees) and came to be in November 1996. AFSCME is an international Union, with a longtime standing and presence with many other major labor unions and is part of the AFL-CIO.

The AFSCME Union is an 'open shop' which means dues-paying membership is currently a choice, but inclusion and protection under the Union Contract is extended to every job title listed in the bargaining unit regardless of dues paid by an Employee. So



whether a listed Employee, covered by the collective bargaining agreement is a dues paying member or not—the Union represents them all. They all have the same rights for protection and fair representation, and receive the same service from the Union. Only dues-paying members, however, may hold office in the Union, actively vote on issues, or seek additional grievance procedures for arbitration in matters of discipline appeals.

The AFSCME Union represents the bargaining unit Staff of the College consisting of various aides, technicians, building and trades workers, facilities workers, and other various jobs as listed in the Union contract. It is important for a Manager to know which Employees are Bargaining Unit Employees.



In every Union there are various Officers elected by the membership which become the Executive Board. Additional Officers or committees are appointed by the Executive Board of the Union as needed. There is a President, Vice President, Treasurer, Secretary as well as Executive Board members. There are also Union Trustees whose purpose is to check the officers and executive board decisions and appropriations, and ensure things are being run equitably.



Finally there are “Shop Steward” officers who are the active counsel and Representatives of the Union, and who interact most with Management and the Employees. They are the experts on contract and disciplinary measures. Most Officers in a Union are, or have been trained, as a Shop Steward at one time.

While any Union Representative can be called upon for answers, the active Shop Steward (and/or the Union President) is the primary contact for any Union need. Each campus of Montgomery College has at least one Shop Steward, depending on the size and needs of the campus. All of the Union Representatives work directly with the Maryland State AFSCME Council for consulting and contract negotiations and advisement. Union Representatives also receive formal training and certifications from the Council and AFSCME International. They also participate annually in caucuses and conventions held nationwide. It should be noted that all Union Officers, Executive Board Members and Trustees, Stewards, and Convention Delegates are entitled to Union Business Leave. The preference is to work during their free time. The Union meets regularly with open meetings for anyone to attend, and travels from campus to campus regularly.



### **The Union Contract Summarized**

The Union Contract, often referred to as “the Contract”, is a negotiated set of terms and conditions made with Management. The Contract is put in place with various negotiated allowances, entitlements, and rules which may differ from other known College policies or procedures.



The Union Contract may not undermine any federal or state laws, but it may detail its application or additional terms. New federal, state, or county laws as they come to pass and apply to labor, conditions, or employees are often added and amended periodically to revise the contract terms to ensure full compliance by both the Union and the College.

### **The Union Representative’s Role**

Most interaction that Management will encounter with the Union will come through the Shop Steward and/or the Union President. Depending on the circumstances, Union representation may include the Shop Steward, the President, and/or a Union designee. The Union Representative is the key point person that is called when problems arise or mediation is needed between Management and an Employee. They are responsible for researching and investigating situations.

Whenever a problem of discipline between an Employee and Management needs resolution or an employee needs representation, a Union Representative is called. Each campus has at least one Union Representative to provide service to that area. Union Representative can come from any campus as requested. These are voluntary jobs in addition to regular job duties; Union Representatives will often need to be flexible in demand. All attempts are made by the Union to meet or provide a representative within 24 to 48 hours of a request being made.

The main job of the Union Representatives is to try to resolve any issue through professional, fair, good faith measures and discussions first. The Union and the Union Representative file grievances only as a last resort and only when necessary because resolution can not be obtained through normal procedures for some reason. If resolution can not be made between an Employee and a Manager, the Union Representative may seek assistance from the Managers' Supervisor, and/or thru the College's Employee Engagement Office.

The Union Representative will counsel Employees and advise them of procedures and options, as well as be available to discuss with Management options available to them as well. Union Representatives are there to help both Employees and Management resume their normal routines and resolve any issues as efficiently and diplomatically as possible. Discretion and confidentiality is an utmost priority for a Union Representative in all discussions and dealings, but there is a legal obligation for a Union Representative to keep the Employer and Human Resources informed of any illegal activities discovered or any direct knowledge or witnessing of illegal activity. While a Union Representative has a duty to the Union and Staff, the Union Representative also has a duty and obligation to their Employer. They are there to be unbiased, neutral, third party mediators, but at all times will keep the rights of an Employee and the legal issues or concerns as a top consideration.



### Union Representative's Rights

Employers believe that the only function of a Union Representative is to be a silent witness. **This is not correct.**

The Union Representative must be allowed to advise and assist the Employee in presenting the facts. When a Union Representative arrives or is called:



- The Supervisor or Manager must inform the Union Representative of the subject matter of the interview; the type of misconduct being investigated, etc.
- The Union Representative must be allowed to have a private meeting with the Employee before questioning begins.
- The Union Representative can speak during the interview, but cannot end the interview unless the interview becomes hostile.
- The Union Representative can object to a confusing question and can request clarification so that the Employee understands what is being asked.
- The Union Representative can advise the Employee not to answer questions that are abusive, misleading, badgering, or harassing.
- When the questioning ends, the Union Representative can provide information for consideration to justify the Employee's conduct.
- The Union Representative can provide extenuating circumstances or alternate explanations which may not have been known or presented clearly, but which could affect the outcome and consideration.
- The Union Representative can assist in negotiating a resolution that is mutually satisfactory to the Employee and the Supervisor.

### **The Right to Union Representation**

The first thing every Manager and Supervisor should understand and know when considering discipline measures are the rights for Union Representation granted to all Employees in cases of discipline or pending discipline. Employees must request a Union Representative when being called for a meeting that is investigatory or may result in disciplinary action. The Employer has certain obligations and choices on how to proceed once that right is requested.

While a Manager does not have the legal obligation to remind an Employee of their right to representation, it is a good practice by Management to know about these rights and to remind the Employee of them, especially in severe cases of issue. Some Managers will even request Union Representation be present for a meeting and inform the Employee they have called them on their behalf because of the pending circumstances.

### **What is an Investigatory Interview?**

An investigatory interview occurs when:

(1) Management questions a bargaining Employee to obtain information; when information collected in that interview could or will be used for disciplinary actions against another Employee

and/or

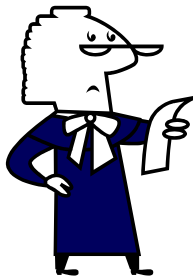
(2) The bargaining Employee has a reasonable belief, concern, or fear that discipline or other adverse consequences may result from answering certain questions put to them during a meeting.



The protection of group activity includes the right of an Employee to request assistance from a Union Representative during investigatory interview. Denial of the right to representation, when requested, is an unfair labor practice and can be seen as unprofessional and unfavorable by outside groups. In some cases, the denial of the right to representation can nullify or contribute to the repeal of the disciplinary action.

The purpose of the Union Representative during investigatory meeting includes:

- Being an advisor to the Employee and serve as a witness to prevent a Supervisor or Employee from giving a false account of the conversation at a later time;
- Asking for clarification to prevent intimidation tactics or confusing questions;
- Help an Employee avoid making false or fatal admissions;
- Warn an Employee against losing his or her temper, or worsening a situation by being unprofessional;
- Raise extenuating factors and reasons which may otherwise be unheard or not considered.



### Employee Rights

The following rules apply to investigatory interviews:

- The Employee can request Union representation before or at any time during the interview or meeting.
- When an Employee asks for representation, the Employer must choose from three options:
  1. Grant the request and delay questioning until the Union Representative arrives;
  2. Deny the request and end the interview immediately; or
  3. Give the Employee a choice of:
    - (a) Having the interview without representation or
    - (b) Ending the interview. (No employee should continue an interview without representation but it is their choice.)
- *If the Employer denies the request for Union representation and continues the meeting, the Employee can refuse to answer questions.*

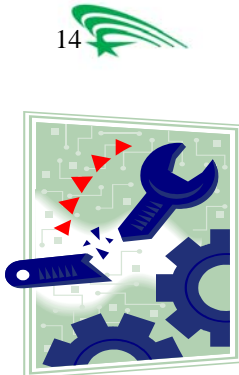
## SOME COMMON QUESTIONS AND ANSWERS

### ◆ “Shop-Floor” Conversations

**Question:** Does an Employee need representation during a casual “shop-floor” conversation with their Supervisor?

**Answer:** No. Not every discussion with a Supervisor or Manager is considered an investigatory interview when the likelihood of discipline is remote or nonexistent; a casual conversation is not an investigatory interview. However, any “fishing” trips taken by Management trying to obtain information are very grey areas and can quickly turn a casual “shop floor” conversation into an interrogation or investigatory interview. A ‘shop-floor’ conversation can easily and quickly change its tone if Managers are not careful and if Employees are not aware. If a Supervisor’s attitude becomes hostile or directly confrontational, and the meeting turns into an investigatory interview, the Employee is entitled to representation.





#### ◆ Refusal to go to a Meeting

**Question:** Is an Employee permitted to refuse to go to a meeting without consulting a Union Representative first?

**Answer:** No. The right to representation does not arise until proof of an investigatory interview actually begins or the Supervisor gives cause by stating the purpose of the meeting. Just summoning an Employee to a meeting is not an issue. The Employee must comply and attend the meeting and must not be insubordinate when requested to attend. However, when the meeting begins and the Employee believes the questions to be interrogatory and their answers may result in discipline, the Employee may ask for representation. The Employee must make a request for representation to the person conducting the interview.

However, if a Supervisor makes it clear in advance that this is an investigatory interview and says Union representation is not necessary, the Employee may refuse to attend the meeting.

#### ◆ Union Representative Observation of a Meeting

**Question:** If a Union Representative sees a worker being questioned in a Supervisor's office, can they ask to be admitted and ask about the situation?

**Answer:** Yes. A Union Representative has a right to request admission to a meeting that appears to be investigatory in nature. If the interview is investigatory, the Employee must be allowed to indicate whether he or she desires the Union Representative to stay. The Union Representative then may request information on the situation and to meet with the Employee in private before further questioning continues.



◆ **Interrogation of a Union Representative**

**Question:** If an Employee who is a Union Representative is called in by their Supervisor to discuss their work, can the Employee insist on the presence of another Union Representative?

**Answer:** Yes. Union Representatives have the same rights to assistance as other Employees.

◆ **Coercion**

**Question:** An Employee, summoned to a meeting with a Supervisor, asked for a Union Representative. The Supervisor said, *“You can request your Union Representative, but if you do, I will have to bring in the Upper Manager. If we can keep it at this level just between us, things will be better for you.”* Is this a right to representation violation example?

**Answer:** Yes. The Supervisor is raising the level of implied increased discipline to intimidate or coerce an Employee into abandoning their right to representation.

◆ **Intimidation**

**Question:** An Employee is summoned to a meeting with their Supervisor and possibly upper Manager. The Employee is not told the subject of the meeting. In response and because of concern, the employee requests their Union Representative be present. The Manger denies the request for the Union Representative and says the meeting is “informal”. The Employee attends the meeting, is interrogated “informally” and further denied Union representation. Later the Employee is brought up for disciplinary actions based on or in part of the information collected at the “informal” meeting. Is this a violation?



**Answer:** Yes. This is a violation of the right to representation and is also an unethical interrogation technique. When an Employee meets with a Supervisor there is no “informal” setting or structure, as the hierarchy between Employee and Employer still remains.

Any meeting which collects or seeks information from an Employee is an investigatory meeting. The above example is an unfair labor practice and coercion. Any information gathered could be dismissed for the unfair labor practice method used. The Employee being denied any information about the meeting could choose not to answer after they have been denied the right to representation.

◆ **Management Meeting on Rules**

**Question:** When Management calls a staff meeting to go over work rules and other issues, do Employees have a right to demand a Union Representative?

**Answer:** No. Management has the right to discuss work rules, policies and procedures, and general business.

◆ **Questions About Other Employees**

**Question:** If an Employee is summoned to a meeting and asked about the role of other Employees in illegal activities or to name names and implicate others, can an Employee insist on having a Union Representative present?

**Answer:** Yes. Although the Employee may not be involved in wrongdoing activity, he or she risks discipline if they refuse to inform on others or admit that he or she was aware of illegal activities when questioned. If an Employee's statements at the meeting could get him or her into trouble; he or she is entitled to Union representation.

◆ **Counseling Sessions**

**Question:** An Employee is referred to counseling with the Faculty/Staff Assistance Program. Does the Employee have a right to a Union Representative at the counseling sessions?

**Answer:** No. Meetings with the Faculty/Staff Assistance Program are completely confidential. No one will ever know if the Employee went to counseling unless they choose to divulge this.

◆ **Steward Out Sick**

**Question:** If an Employee's Union Representative is out sick, can the Employee insist that an investigatory interview be delayed until the Union Representative returns?

**Answer:** Usually, no. Management does not have to delay an investigation if another Union Representative is available to assist the Employee. If none are available, then the first available date must be made for a Union Representative to attend.

◆ **Particular Union Representative Request**

**Question:** If an Employee asks to be represented by a specific Union Representative must Management comply?

**Answer:** Usually, yes. If Representatives are equally available, an Employee's request for a particular Representative must be honored. Neither the Employee nor the Union can request an excessive delay in continuing a meeting or postpone a disciplinary action just to accommodate an Employee's request for a specific Union Representative.



**IMPORTANT NOTE ABOUT REQUESTING  
UNION ASSISTANCE**

An Employee can not be disciplined for requesting Union representation and assistance at anytime. If an Employee is demoted, transferred, or loses privileges because of a request for Union representation, the Employer will be held accountable. Employers have the obligation to conduct proper investigations.

## WORKPLACE RETALIATION AND “WHISTLEBLOWER” LAWS

Under “whistleblower laws,” Employee rights are protected from Employer retaliation for “blowing the whistle” on the Employer for potentially violating the law. Retaliation provisions include protection from discharge and harassment. Whistleblower laws are established by Acts of Congress and State Legislatures.



If an Employee should be aware of any illegal or questionable practice by their Employer or Management, it is illegal for an Employer or Supervisor to retaliate against the Employee for reporting such actions to higher authority or legal authority outside the organization.

For an Employee to have a legitimate complaint regarding working conditions, safety concerns, or any reason that will disrupt or endanger a work environment, Federal laws are in place to protect Employees making such reports. This does not give protection to a person who makes false or erroneous claims, reports, or statements. An Employee must have reasonable cause to report possible issues to an authority.

Any evidence an Employee provides for retaliation must show that the Employer or Supervisor was motivated to impose retaliation. State and Federal employment laws prohibit retaliation against Employees for one or more of the following reasons:

- Reporting alleged Employer violations to the proper authorities
- Participating in legal proceedings as a plaintiff or witness
- Reasonably exercising their employee rights under the law.

## CONCLUSION

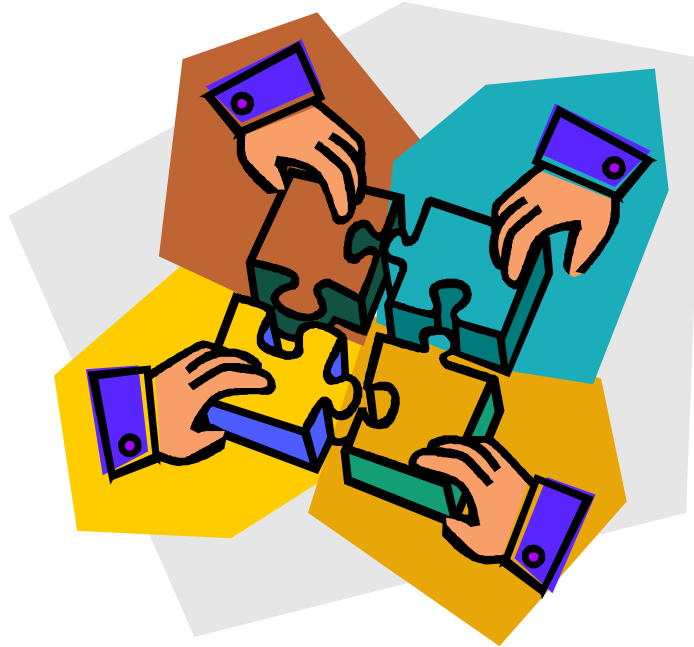
We hope this Manager's Guide is helpful in your present or future position as a Manager or Supervisor. It is our intent that you will look for answers here in this guide, and if not found, call any of the contacts listed below for assistance and guidance.



## CONTACT INFORMATION

### AFSCME Local 2380

President	Liz Brandenburg	(240) 567-5123
Vice President	Carl Shorter	(240) 567-7544
Secretary/Treasurer	Debra Ritenour	(240) 567-8089
Recording Secretary	Patricia Secreto	(240) 567-7619
Executive Board Members	Shannye Carroll	(240) 567-7744
	Dennis Mulligan	(240) 567-5385
	Harold Williams	(240) 567-1463
Shop Stewards	Stan Jones – Chief	(240) 567-7171
	Shannye Carroll	(240) 567-7744
	Dave Holcomb	(240) 567-7340
	Carl Shorter	(240) 567-7544
	Harold Williams	(240) 567-1463



**AFSCME**<sup>®</sup> *AFSCME Local 2380*  
**Montgomery College Staff Union**

Representing the Bargaining Staff of  
Montgomery College's Campuses at  
Germantown, Rockville, Takoma  
Park/Silver Spring, and Off-Site  
Centers

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