

Know Your Rights!

- In trouble at work?
- Where you notified of a complaint?
- Are you getting a corrective memo or other form of discipline?
- Are you being asked to sign a counseling memo?
- Do you think the Agency is out of compliance with the Collective Bargaining Agreement (CBA)?

If you have questions about the CBA, potential discipline or a grievance you can contact a union representative at work during normal work hours, however, keep in mind that all Agency e-mails are subject to public disclosure so be careful what you put in writing. Send e-mails of a sensitive nature from your home computer if possible or contact us by phone.

NOTE: There are timelines that must be adhered to. In order to preserve your rights do not wait to contact us. Please take a moment to familiarize yourself with some of your rights as a member of the Association.

LOUDERMILE RULE

This is your right to respond in person or in writing prior to disciplinary action. Before an employer takes away the “property right” of an employee to an employee’s job or to a full paycheck by way of a suspension or a termination, the employer must:

- Give the employee a pre-disciplinary or pre-termination hearing;
- Provide the employee with specific notification of the charge against the employee;
- Allow the employee on an informal basis to respond to the charges against the employee;
- The employer may prohibit the employee from calling witnesses, but the employee may indicate what witnesses would say;
- The employer must give you enough information about the allegation, the investigation and findings, and the recommended discipline so that you can be prepared to respond.

It is highly advisable to ask for a Representative immediately upon receiving any letter that hints at the potential for disciplinary action or requires you to respond within a given time frame.

GARRITY RIGHT

An employee's legal right to be ordered to answer questions in an internal interview under penalty of discipline if the employee refuses to do so. This order turns the statement into a compelled statement against interest which cannot be used against you in a criminal proceeding. The Supreme Court has held that if an employer orders an employee to answer a question, the employee's answer and the "fruits" of that answer cannot be used against the employee in a subsequent criminal proceeding.

Although it is rare to find an employee charged with any criminal law violations, invoking the Garrity Right should be part of the pre-disciplinary investigation process. The Union Job Representative's role is to ensure whenever an employee is being asked a question about alleged misconduct, the employee always solicits an order prior to "voluntarily" responding to the question(s). The first words out of an employee's mouth should be "Am I being ordered to answer this question?" If the employee is informed that they are not being ordered to answer the question, then the employee should respectfully decline to proceed with the interview. If the employee is informed that they are required to answer the question, then the employee should cooperate fully with the investigation (the employee could be charged with insubordination if they do not answer the questions), bearing in mind that the statements made cannot be used against the employee in a criminal setting.

It is highly advisable to invoke your Weingarten Right to Union Representation and have a Representative present if you are going to invoke your Garrity Right.

WEINGARTEN RULE

Employees are guaranteed the legal right to ask for union representation whenever an employee is being questioned under circumstances which may lead to discipline. In each case, however, the employee is entitled to representation only if the employee requests representation. Weingarten rights exist under the following circumstances:

- Any disciplinary interview concerning a citizen's complaint.
- Any disciplinary interview concerning a department-initiated complaint.
- Any situation where the employee is required to give an oral or written report about the use of force.
- When in doubt; ask for union representation upon notice of a complaint or investigation.
- Failure to do so may result in the loss of your rights.

If your supervisor refuses to allow you to seek representation then have him/her put in writing "I denied [your name] right to seek union representation" and then have them

sign and date it. Keep the original copy and answer their questions directly, honestly and in brief. Take notes and then contact a job representative immediately afterwards.