DID YOU KNOW?

Interrogation

New York State public sector employees have a statutory right to Union representation at any interrogation that might result in discipline. This right to representation is known as “Weingarten rights” (Weingarten Rights Bill, Ch. 244, L. 2007). This right is documented under Article 19 of the UUP Contract. Interrogations are conducted by Employee Relations.

The Weingarten Rights Bill amends the Taylor Law to add a new improper employer practice at Civil Service Law §209-a(1)(g). Specifically, new subparagraph "(g)" states that "[i]t shall be an improper practice for a public employer or its agents deliberately... to fail to permit or to refuse to afford a public employee the right, upon the employee’s demand, to representation by a representative of the employee organization, or the designee of such organization, which has been certified or recognized under [the Taylor Law], when at the time of questioning by the employer of such employee it reasonably appears that he or she may be the subject of a potential disciplinary action."

Under the law, the employee must affirmatively demand such representation, and the employer does not have to notify the employee of his or her right to demand representation.

The representative must be a representative of the union, or its designee. The employee cannot demand that the representative be another employee (who is not a union representative) or a private attorney, friend, family member, spiritual advisor, or other advisor with no connection to the union.

The legislation also provides that "if representation is requested, and the employee is a potential target of disciplinary action at the time of questioning, a reasonable period of time shall be afforded to the employee to obtain such representation." Such representational rights, however, apply only to investigations made by employers, and expressly do not apply to criminal investigations.