ASEA AFSCME Local 52

# INTRODUCTION TO STEWARDING

April 2022

# TRAINING OBJECTIVES

1. Recognize the source of our union's power.
2. Define the steward's roles and responsibilities
3. Learn important member rights and the steward's responsibilities

# WHY DID YOU DECIDE TO BECOME A UNION STEWARD?

# WHAT IS A UNION?

- An organization of workers united for a common goal.
- Together we strive elevate our working conditions, families and communities through collective, concerted activities and collective bargaining.
- A group of organized workers who together build power at the workplace.

# WHAT IS THE SOURCE OF OUR UNION'S POWER?

- Union members are the source of the union's power
- We exercise this power collectively
- If members are educated about their rights, they are in a better position to defend their rights
- Power is exercised workers organizing at every jobsite

# 4 MAIN ROLES OF A STEWARD

- Leader
- Communicator
- Representative
- Organizer and Mobilizer

- **Leader**
- Builds Unity in the workplace
- Actively participates in union decisions/actions/protections
- Positive role model
- Engaging

- **Communicator**
- Listens and learns
- Teaches coworkers about their Union and rights
- Unites and Inspires others
- Serves as a conduit of information

- **Organizer & Mobilizer**
- Friendly – Welcoming – Open – Available
- Willing and ready to recruit new Union members
- Encourage member involvement to affect change

- **Representative**
- Enforces rights of the Union contract and labor law
- Informs workers of rights and benefits
- Defend member and nonmember alike
- Secure documentation - records, statements, etc...
- Professional and

# Weingarten Rights

**What are Weingarten Rights?**

- The right of a unionized employee to request union representation for any investigatory interview conducted by their employer, in which the employee has the reasonable belief that the discussion could lead to disciplinary action.

# Weingarten Rights

**History**

- J. Weingarten, Inc., whose employees were represented by a labor union, was charged with an unfair labor practice by the National Labor Relations Board because the company denied union representation to an employee during an investigatory interview.
- The US Supreme Court held in National Labor Relations Board v. J. Weingarten Inc.(1975), that an employee has the right under Section 7 of the National Labor Relations Act to have union representation, when requested, at an investigatory interview, where the employee reasonably believes the investigation will result in disciplinary action.

# Weingarten Rights

**Alaska - Adopted by the Alaska Labor Relations Agency (ALRA)**

- In a case (Munson v. State) involving a ASEA/AFSCME Local 52 member, the State was found to have committed an Unfair Labor Practice (ULP) and ordered to cease and desist in violating the Weingarten rights of our member as protected by Alaska Statute.
- In Decision & Order 206 (1996) the Agency found that, “By refusing an employee’s request for a Shop Steward at an investigative interview that the employee reasonably believes could result in discipline and by continuing the interview, an employer violates AS 23.40.110 (a)(1)”.

# Weingarten Rights

**Alaska ALRA Case**

**Four elements of the Weingarten right were discussed.**

- 1. The employee must first request union representation; the Employer does not have an obligation to inform the employee of the right.
- 2. The employee must reasonably believe that the interview will lead to discipline.
- 3. The representation may not interfere with legitimate employer interests. Employers may respond to the request either by granting it or terminating the interview.
- 4. If a union representative does attend the interview, the Employer has no obligation to bargain with him or her.

# How do I exercise my right?

- The employee must make a **clear request for union representation before or during the interview**. The employee cannot be punished for making this request.

- "If this discussion could in any way lead to discipline, termination, or affect my working conditions, I respectfully request that my Union Representative or Steward be present at this meeting."

# Garrity Rights

**What are Garrity Rights?**

- The right of a public employee not to be compelled to incriminate themselves by their employer. Garrity Rights apply only to public employees because the government itself is their employer.
- Applies to Investigations by public employers about matters with potential criminal liability.
- Garrity Rights are comparable to Miranda rights for public employees.

# Garrity Rights

**History**

- In the case of Garrity v. New Jersey, the U.S. Supreme Court determined that public employees could not be forced, under clear threat of discipline, to violate the principles of compulsory self-incrimination.

# Garrity Rights

**Keep in mind**

- If one refuses to answer questions after being assured that statements cannot be used against them in a subsequent criminal proceeding, the refusal to answer questions may lead to the imposition of discipline for insubordination.
- Further, while the statements made may not be used against the member in a subsequent criminal proceeding, they can still form the basis for discipline on the underlying work-related charge.
- When in doubt, assert that Garrity Rights are being recognized.

# Loudermill Rights

**What are Loudermill Rights?**

- Employees are entitled to due process rights prior to termination.
- Generally, these rights require the public employer to offer a pre-disciplinary meeting with the affected employee; at this meeting, the employer presents their grounds for discipline, and the employee is given the opportunity to respond.
- Loudermill Rights are applicable in instances when the employee may have a loss of pay, such as suspension, termination, or demotion.
- Like Garrity Rights, these rights only apply to public employees because the government itself is their employer, and the Constitution only applies to actions taken by the government.

# Loudermill Rights

**History**

- In 1979, the Cleveland Board of Education hired James Loudermill and would later dismiss him after discovering an error on his application, without giving him a chance to respond or challenge his dismissal.
- The US Supreme Court would later decide in Cleveland Board of Education v. Loudermill (1985) that *"...Due Process Clause provides that certain substantive rights – life, liberty, and property – cannot be deprived except pursuant to constitutionally adequate procedures… The right to due process is conferred, not by legislative grace, but by constitutional guarantee."*

# Loudermill Rights

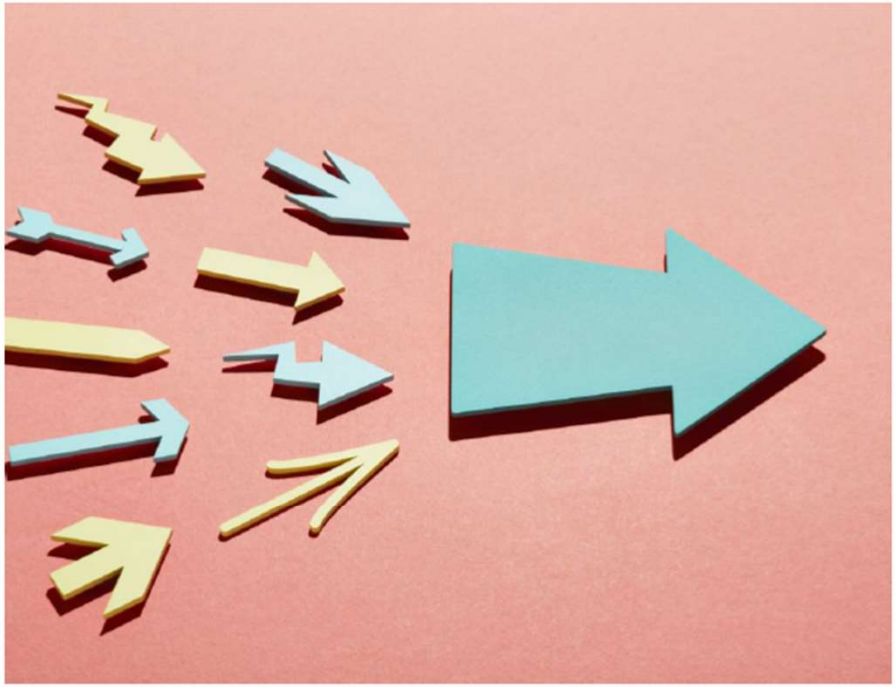
**Keep in mind**

- Pre-disciplinary meetings require prior notice.
- Once the meeting is held and an initial discipline is determined, the employer must put the decision in writing, and provide a copy to the employee and union representative.
- The employer can hold the pre-disciplinary meeting in absence of the employee. Although notice must be given, meeting avoidance does not require the employer to delay the hearing.

- A public employee is called to their supervisor's office for questioning. Having a reasonable belief that the questioning is an interview for determining possible discipline, the employee invokes his/her **Weingarten Rights** and requests union representation.
- The Business Agent arrives, and it becomes clear that the investigation involves potentially criminal liability. The Business Agent and the employee secure an affirmation from the supervisor stating that the questioning is for disciplinary purposes only, that the employees' answers will not be used in a criminal proceeding, and that failure to answer will result in termination. Now, the employee is protected by their **Garrity Rights.**
- A few days later, the employee receives notice that management wishes to meet again, and that they believe they have grounds for terminating the employee for misconduct based on the employee's answers provided at the investigatory interview. The notification states that at this meeting, management will explain why they think they have grounds for termination, and the employee will have the opportunity to respond. These steps satisfy the employee's **Loudermill Rights**.

# Scenario where all three rights coexist

# DUTY OF FAIR REPRESENTATION

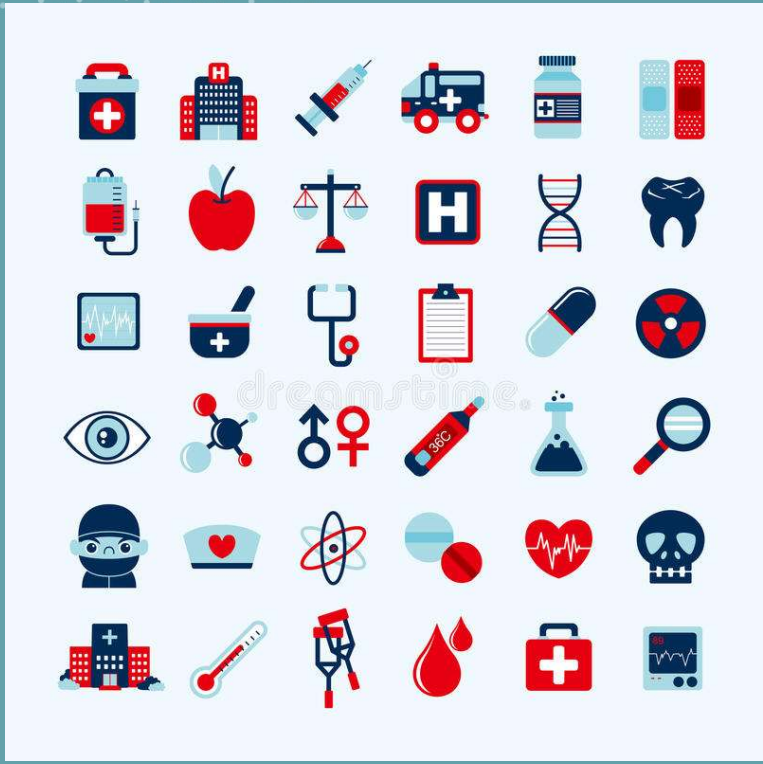


When a union has won the right to be the exclusive representative of workers in a bargaining unit, it also has the duty to fairly represent all employees in that bargaining unit

# Notice of Pay Problem -Why is this important?

- Why do I need to file?
- What is the process?
- When should I expect a response?

Family Medical Leave
Alaska Family Leave
ASEA Emergency Leave Bank
Americans With Disabilities Act



# TEAMS in the Workplace

- TEAMS is not your friend – It is a work tool
- TEAMS conversations are used in PreDisciplinary Meetings
- When it comes to what Microsoft Teams track, basically, **everything that you create using Microsoft Teams is visible to your employer**.

- All one-on-one chats, group chats, and meeting chats as well as anything you have deleted.
- All of the meetings you have created or joined, along with the subject, date and time, attendees and duration.
- All of the things you create or delete such as Channels, Teams.
- The times and dates that you have logged in and logged out of Teams and the IP address from which you did so, the device you connected with and its operation system.
- All of the apps you use inside Teams.
- Any meetings you recorded – including the recordings.
- All files that you create or attach in Teams.