

Disciplinary Investigations

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Associated Fire Fighters of Illinois Legal Counsel J. Dale Berry has prepared the following list for AFFI members to keep in mind should they be subject to a disciplinary investigation.

1. Never meet with management representatives to answer questions that relate to subjects that could be the basis of disciplinary action without requesting union representation.
 2. If the employer says you do not need representation because you are not the target of the investigation, ask this question:
"If I answer a question with a statement that you allege to be false, will I be subject to disciplinary action for failing to answer your question truthfully?"
 3. If he says no, ask him to put this guarantee in writing. If he refuses to do so, proceed as if he said yes.
 4. If he says yes (which is the most likely response), ask him what the severity of the possible discipline could be. Under the Firemen's Disciplinary Act, Section 3.2, you are entitled to be informed in writing **before any questioning** of the allegation of misconduct being investigated and "...whether the allegations, if proven, involve minor infractions or may result in removal, discharge or suspension in excess of 72 hours."
 5. If he specifies any penalty, you are entitled to union representation under *Weingarten*.
 6. If he specifies a penalty of more than 72 hours, you are entitled to full FDA rights starting with legal representation and the right to reschedule to another time to allow such representation.
 7. If he says he does not know, it means he cannot assure you that you will not be disciplined for more than 72 hours and you are entitled to your FDA rights.
 8. If questioning is continued without affording you representation, ask to suspend the meeting so you can contact a representative.
 9. If this request is refused, record, if possible, or document in writing **at the time of occurrence** all the events that occur in regard to the meeting.
 10. If questioning occurs in violation of your rights, remedies are available. Violation of your *Weingarten* rights are enforceable by filing an unfair labor practice. Any admission obtained from you in violation of your FDA rights cannot be utilized in any subsequent disciplinary proceeding per FDA Section 3.10. Further, the FDA expressly prohibits the employer from retaliating against a fireman for exercising rights granted by the FDA.
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