

## STATEMENT OF EMPLOYEE RIGHTS

### TO BE READ AND GIVEN TO EMPLOYEES PRIOR TO INTERROGATION

As an employee subject to Article 33 and about to be interrogated pursuant to Section 33.2 (b), you have the following rights:

- A. An employee shall be entitled to representation by CSEA<sup>1</sup> or by private counsel selected at his or own expense at each step of the disciplinary procedure.
- B. (1) For the purposes of this Article, the term "interrogation" shall be defined to mean the questioning of an employee who, at the time of such questioning, appears to be a likely or potential target or subject for disciplinary action.  
  
(2) If an employee is improperly subjected to an interrogation in violation of the provisions of Section 33.2, an arbitrator appointed pursuant to this Article shall have the authority to exclude information obtained thereby or other evidence derived solely through such interrogation. The State shall have the burden of proof to show that, upon the preponderance of the evidence, such evidence sought to be introduced was not derived solely by reason of such interrogation and was obtained independently from the statements or evidence so provided by the employee.
- C. No employee shall be required to submit to an interrogation by a department or agency (1) if the information sought is for use against such employee in a disciplinary proceeding pursuant to this Article or (2) after a Notice of Discipline has been served on such employee, or (3) after the employee's resignation has been requested pursuant to Article 35, unless such employee is notified, in advance of the interrogation, that he or she has the right to have CSEA representation or private counsel provided at his or her own expense present or to decline such representation and that if such representation is requested a reasonable period of time will be afforded for that purpose. If the employee requests representation and the CSEA or employee fails to provide such representation within a reasonable time, the interrogation may proceed. An arbitrator under this Article shall have the power to find that a delay in providing such representation may have been unreasonable.
- D. No recording devices or stenographic or other record shall be used during an interrogation unless the employee (1) is advised in advance that a transcript is being made, and (2) is offered the right to have CSEA representation or private counsel provided at his or her own expense present. Unless the employee declines such representation he or she will be given a reasonable period of time to obtain representation. If the employee requests representation and the CSEA or employee fails to provide such representation within a reasonable time, the interrogation and taking of a record thereof may proceed. An arbitrator under the Article shall have the power to find that a delay in providing a representative may have been unreasonable. A copy of any stenographic record (verbatim transcript) and/or tape recording made at any interrogation pursuant to Section 33.2 shall be supplied to the employee upon the request of the employee and/or his or her representative.

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CSEA representation, for the purpose of interrogation, and requests to sign statements pursuant to Section 33.2, is defined in Section 33.2 (d) of Article 33.

(Over)

- E. No employee shall be requested to sign any statement regarding his or her incompetency or misconduct unless the employee is offered the right to have CSEA representation` or private counsel provided at his or her own expense present. Unless the employee declines such representation he or she will be given a reasonable period of time to obtain such representation. If the employee requests representation and the CSEA or employee fails to provide such representation within a reasonable time, the employee may be requested to sign such a statement. An arbitrator under this Article shall have the power to find that a delay in providing such representation may have been unreasonable. A copy of the statement shall be supplied to the employee at the time the employee is requested to sign the statement. The statement shall be submitted to the employee within a reasonable time after the interrogation. Prior to signing the statement, the employee may make such modifications or deletions in such statement that the employee deems necessary. Any statements or admissions signed by him or her without having been so supplied to him or her may not subsequently be used in any disciplinary proceeding.
- F. In all disciplinary proceedings, the employee shall be presumed innocent until proven guilty and the burden of proof on all matters shall rest upon the employer. Such burden of proof, even in serious matters which might constitute a crime shall be preponderance of the evidence on the record and shall in no case be proof beyond a reasonable doubt.
- G. An employee shall not be coerced, intimidated or caused to suffer any reprisals, either directly or indirectly, that may adversely affect his or her hours, wages or working conditions as the result of the exercise of his or her rights under this Article.

The above statement has been read to me and I have been given a copy of it.

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Signature

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Date

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2 CSEA representation, for the purpose of interrogation, and requests to sign statements pursuant to Section 33.2, is defined in Section 33.2 (d) of Article 33.