

New Article 2

Old Article 3

## Employee Rights and Responsibilities

### 3.1 Employee Rights

Each employee shall have the right to form, join or assist any labor organization or to refrain from any such activity, freely and without fear of penalty or reprisal, and each employee shall be protected in the exercise of such right. Except as otherwise provided in 5 U.S.C., Chapter 71, such right includes the right:

3.1.1 To act for a labor organization in the capacity of a representative and the right in that capacity, to present the views of the labor organization to heads of agencies and other officials of the executive branch of the Government, the Congress, or other appropriate authorities; and

3.1.2 To engage in collective bargaining with respect to conditions of employment, through representatives chosen by employees under said Chapter 71.

### 3.2 Representation

#### 3.2.1 Self-Representation

Each employee shall have the right to self-representation in a grievance or to representation by the Union. However, when an employee chooses to present a grievance on his/her own behalf, the Union shall have the right to be present during the grievance proceeding.

#### 3.2.2 EEO Representation

Consistent with law and regulation, employees will be permitted to have a representative during EEO Counseling.

### 3.3 Weingarten Rights

The Union shall be given the opportunity to be represented at any examination of an employee in the unit by a representative of NRC in connection with an investigation if:

3.3.1 The employee reasonably believes that the examination may result in disciplinary action against the employee; and

3.3.2 The employee requests representation.

### 3.4 ~~Initial Contact By the~~ Office of the Inspector General (OIG) Investigations

At the time the employee is initially contacted by OIG to schedule an interview, the employee is normally provided with the following information:

3.4.1 The general subject of the interview or allegation;

3.4.2 That he or she is the subject of the interview investigations or whether the employee is being interviewed as a witness;

3.4.3 That if the employee reasonably believes that the interview may result in disciplinary action, the employee is entitled to representation during the interview by a person designated by NTEU;

3.4.4 For non-criminal investigations, the interview is normally scheduled to allow the employee an opportunity to seek the counsel of an NTEU representative. Such counseling shall not, as determined by the OIG, unduly delay the interview;

3.4.5 For criminal investigations, the interview is normally scheduled to allow the employee an opportunity to seek legal counsel from their own attorney. Such counseling shall not, as determined by the OIG, unduly delay the interview.

### 3.5 Office of the Inspector General (OIG) Interview Warnings

Warnings given by the Office of the Inspector General, as appropriate include:

1. Miranda: Given when an individual is being interviewed concerning his or her own potentially criminal misconduct and is taken into custody or deprived of freedom in a significant way. This warning advises, ~~under the Fifth and Sixth Amendments to the Constitution~~, that the individual is entitled to remain silent or otherwise not incriminate himself or herself and to the assistance of an attorney.

2. Garrity: Informs Federal employees who are subjects of investigations, that although they would normally be expected to answer questions regarding their official duties, refusal to answer on the ground that the answers may tend to incriminate them will not subject them to disciplinary action.

3. Kalkines: Advises that the possibility of criminal prosecution has been removed, usually by a declination to prosecute by the Department of Justice, and that the employee is required to answer questions relating to the performance of their official duties or be subject to disciplinary action.

### 3.6 Grievance Participation

Employees, designated representatives and employee witnesses will be assured freedom from restraint, interference, coercion, discrimination, intimidation or reprisal arising out of their initiation or participation in the resolution of a grievance.

### 3.7 Employee Compliance

Employees recognize their responsibility to promptly comply with all orders and instructions from their supervisors. If an employee reasonably believes that an order or instruction patently violates any law, rule or regulation, he/she should state his/her beliefs to his/her supervisor. If the instruction remains unchanged, he/she should state concisely his/her beliefs promptly and orally to the next higher level of management, if that higher level of management is immediately available. If the order or instruction is confirmed by that higher level of management, or if the next higher level of management is not immediately available, then the order of instruction will be carried out promptly by the employee.

### 3.8 Reaction to Supervisory Instruction

The employee may document his/her belief that the order or instruction violated one or more laws, rules or regulations. If an employee refuses to carry out an order or instruction promptly and the NRC takes an adverse personnel action against the employee as a result of such refusal, that employee may assert as a defense that he/she believed the order or instruction to be illegal.

### 3.9 Document Concurrence

In situations where an employee disagrees with all or part of a document for which he/she would be in the concurrence chain, (including situations where the employee would be the originator of the document), the employee shall not be required to concur on any approval document ~~regarding those areas which he/she has disagreed~~. In addition, the employee shall be allowed to document such differences to higher level management. However, an employee will otherwise be required to comply with supervisory direction regarding the assignment of work. Nothing in this section shall preclude any employee from exercising his/her rights under Management Directive ~~6.2, Differing Professional Views or Opinions~~ 10.159, The NRC Differing Professional Opinions Program.

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