



AFT Connecticut
A Union of Professionals

UNION 101:

WHAT ARE...

LOUDERMILL

RIGHTS

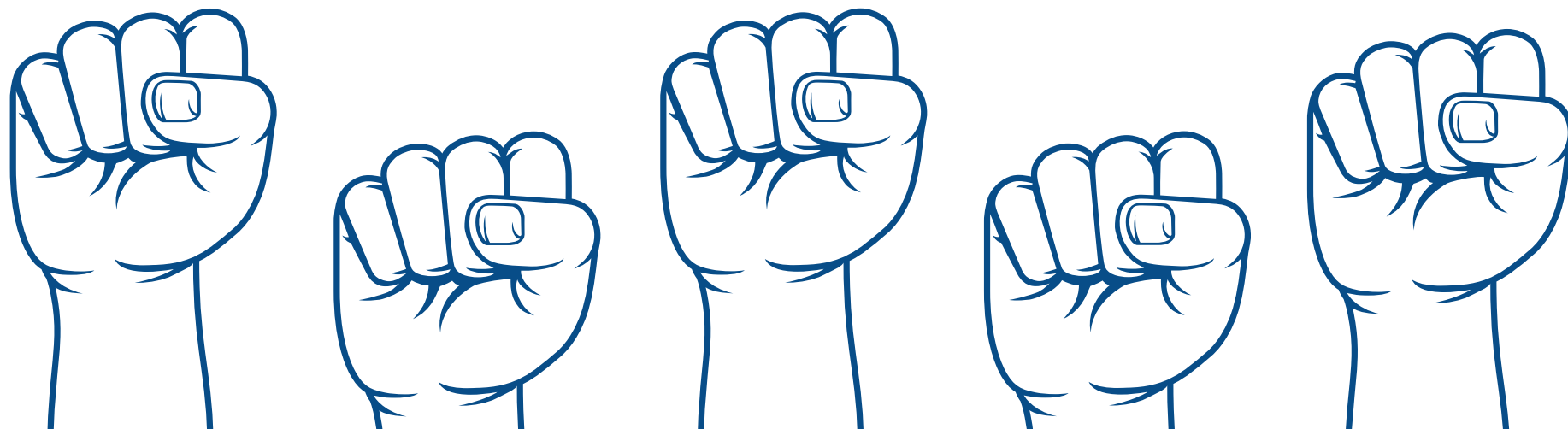


WHAT ARE LOUDERMILL RIGHTS?

In the 1985 U.S. Supreme Court case of Cleveland Board of Education v. Loudermill, the court stated that non-probationary public employees, who are facing discipline, are entitled to a certain due process.

This case became known as "Loudermill Rights" and provides constitutional protection, even if an employees' contract does not maintain this representational right.

Within the court's decision are elements that reinforce how important it is for employees to have notice, disclosure and the opportunity to defend themselves against charges that may carry severe disciplinary sanctions.



KNOW YOUR LOUDERMILL RIGHTS

The Loudermill Rights are based on 5 components:

Property Right

Due Process

Employee's Case

Before Final Decision

Hearing Check Against Mistakes



KNOW YOUR LOUDERMILL RIGHTS

1. Property Rights

Non-probationary public servants are considered to have a property right in their employment and can only be terminated for cause, a standard also applying to other levels of discipline, but not to reprimands.



KNOW YOUR LOUDERMILL RIGHTS

2. Due Process

If one's employment is a property right, the employee must have proper notice and an opportunity for a hearing, before he or she is deprived of any significant property right.



KNOW YOUR LOUDERMILL RIGHTS

3. Employee's Case

There are limits to the employee presentation during a Loudermill hearing. The meeting usually involves a manager from the human resources department and one at the highest program administrator level. The employee does not have an opportunity to cross-examine other people involved, or who may have given a witness statement in the investigation. Prior to the hearing, the employee needs to prepare their case presentation with their union staff. This will include decisions about the role each will play. The statements and information are important to emphasize as mitigating information.



KNOW YOUR LOUDERMILL RIGHTS

4. Before Final Decision

Following the common understanding of due process, the hearing, or written explanation from the member, must occur prior to the final decision on discipline (termination, suspension or demotion). Even if the original letter cites termination as the contemplated decision, the hearing is a unique and extremely important opportunity to present all rationale for the employer to dismiss an erroneously-based investigation and therefore, its contemplated discipline. Or, at the least, the employee may provide such explanation that will cause the original sanction to be reduced.



KNOW YOUR LOUDERMILL RIGHTS

5. Hearing Check Against Mistakes

The Loudermill “hearing” sounds like more of a formal process than it usually is. The courts use this hearing to fulfill due process rights. The goal of the meeting is to verify truth of the allegations, and whether or not the anticipated level of discipline can be substantiated and then justified.



HOW TO USE YOUR LOUDERMILL RIGHTS

Remember: you need to contact your union representative if you receive a disciplinary letter, and work closely with union staff to craft both your explanation and defense.

