

UNION:101

WHAT ARE GARRITY RIGHTS?

In the 1966 case of *Garrity vs. 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.

The burden is on the employee to assert their Garrity rights.

Compelled statements cannot be used in a subsequent criminal proceeding

KNOW YOUR GARRITY RIGHTS

Once an employee has asserted their Garrity Rights management must:

- Give a direct order to answer the question;
- Make the question specific, directly and narrowly related to the employee's duty or fitness for duty;
- Advise the employee that the answers will not and cannot be used against them in a criminal proceeding, nor the fruits of those proceedings;
- Allow union representation if the employee also asserts their Weingarten Rights.

KNOW YOUR GARRITY RIGHTS

To ensure that your Garrity Rights are protected, you should ask the following questions:

1. If I refuse to talk, can I be disciplined for the refusal?
2. Can that discipline include termination from employment?
3. Are my answers for internal and administrative purposes only and are not to be used for criminal prosecution?

KNOW YOUR GARRITY RIGHTS

Should you ever find yourself in a situation where Garrity Rights are needed, understand that your employer may have never heard of Garrity Rights and their meaning.

Simply let your employer know that you understand that they need to investigate, but that you also have a Fifth Amendment right against self-incrimination.

Be cautious.

Exercise your rights.

Seek legal advice.