

Labor-Management Desk Guides

Will My Meeting Be a Formal Discussion?

FORMAL DISCUSSION ELEMENT	FACTORS INDICATING A FORMAL DISCUSSION	FACTORS NOT INDICATING A FORMAL DISCUSSION
FORMALITY	Do you intend to require employees to attend?	Do you intend to make attendance voluntary?
FORMALITY	Do you intend to take notes or minutes, or record the results of the meeting, use an agenda or a plan for conducting the meeting?	Do you intend to have a casual conversation?
FORMALITY	Do you intend to hold the meeting in a conference room or other non-workplace area?	Do you intend to hold the meeting on the shop floor?
FORMALITY	Do you intend to invite higher level management officials or other agency employees not involved in the day-to-day work with the employees?	Do you intend to only have a first line supervisor present?
FORMALITY	Do you intend to schedule the meeting in advance?	Do you intend to inform the employees just before the meeting is to take place to gather together?
FORMALITY	Do you intend to conduct the meeting for a scheduled amount of time?	Do you intend to plan to only talk for a few minutes?
FORMALITY	Do you intend to discuss a significant topic of concern to the employees and the union?	Do you intend to discuss a routine topic?
SUBJECT MATTER	Do you intend to discuss any pending grievance, whether at the informal or formal stages of the negotiated grievance procedure?	Do you intend to discuss a matter of concern raised by a particular employee?
SUBJECT MATTER	Do you intend to discuss a workplace matter of concern to employees generally?	Do you intend to meet only with one employee to discuss a performance matter that concerns only the employee?

SUBJECT MATTER	Do you intend to discuss a personnel policy or practice that pertains generally to all the employees?	Do you intend to meet with one or a few employees to discuss the routine monitoring of job functions?
SUBJECT MATTER	Do you intend to discuss with one employee a formally proposed or final decision on a performance or disciplinary matter?	Do you intend to discuss an employee's job performance or conduct?
SUBJECT MATTER	Do you intend to discuss a formal EEO complaint?	Do you intend to discuss an informal EEO complaint?

What Union Can and Cannot Do at a Formal Discussion?

UNIONS CAN	UNIONS CANNOT
<p>Designate its own representative to attend the formal discussion</p> <p>Ask management for a short delay so that a representative versed in the subject matter of the meeting may attend to represent the union</p>	<p>Unreasonably delay the meeting because a particular representative is not able to attend at the scheduled time</p> <p>Insist that more than one union representative attend</p>
<p>Designate a particular individual (with backup) as the union official to receive notice of all formal discussions or designate different individuals depending upon the type of meeting</p>	<p>Refuse to attend a formal discussion where there has been actual notice which allowed the union to select a representative of its choice, but there was no formal notice of the meeting</p>
<p>Ask management what the meeting is going to be about</p>	<p>Demand that all information to be discussed at the meeting first be discussed only with the union (assuming the meeting would not be a bypass)</p> <p>Demand that other unrelated topics be added to the agenda</p>
<p>Clarify matters being discussed</p>	<p>Engage in an argument with the management officials conducting the meeting which interferes with the purpose of the meeting</p>
<p>Represent the interests of the bargaining unit</p>	<p>Raise issues that are not related to the topic or purpose of the meeting so as to disrupt the meeting and thwart its purpose</p>
<p>Speak, comment and make statements about the subject matter of the meeting</p>	<p>Take charge of the meeting so as to disrupt the meeting and thwart its purpose</p>
<p>Ask questions concerning the matter being discussed</p>	<p>Act in a manner that disrupts the meeting</p>
<p>Propose to negotiate at the applicable time over the manner in which the formal discussion right will be implemented by the parties</p>	<p>Insist that the notice be given and meeting be conducted in a particular manner as decided by the union</p>

What Union Can and Cannot Do at an Investigatory Examination?

UNIONS CAN	UNIONS CANNOT
Designate its own representative to represent the employee at the exam, absent special circumstances	Designate a representative whose participation as a representative will interfere with the employer's interest in achieving the objective of the investigation or compromise its integrity
Ask management for a short delay so the a representative versed in the subject matter of the exam may attend to represent the union	Unreasonably delay the exam because a particular representative is not able to attend at the scheduled time Insist that more than one union representative attend
Ask management what the investigation is about	Demand that all questions to be discussed or documents to be referred to at the meeting be given first to the union representative before the meeting
Briefly consult with the employee before the exam	Delay the exam
Raise relevant facts and issues related to the investigation	Hide or confuse facts, mislead the investigators or delay or impede the investigation
Clarify questions being asked to ensure the employee understands the question	Answer the questions for the employee or repeatedly interrupt the questioning of the employee
Represent the interests of the bargaining unit and assist the employee in raising all relevant facts and issues	Raise issues that are not related to the investigation so as to disrupt, delay or impede the exam Engage in an argument with the management officials conducting the meeting which interfered with the purpose of the exam
Elicit favorable facts and extenuating circumstances	Take charge of the meeting so as to disrupt, delay or impede the exam
Consult with the employee during the examination	Disrupt, impede or delay the exam; or answer questions for the employee
Ask questions concerning the matter being discussed	Act in a manner that: interferes with achieving the objective of the exam; damages the integrity of the investigation; or creates an adversarial contest
Propose to negotiate, at the applicable time, over the manner in which the investigatory examination right will be implemented by the parties	Insist that the investigatory examinations be conducted in a particular manner as decided by the union

Will My Meeting be an Investigatory Examination?

INVESTIGATORY EXAMINATION ELEMENT	FACTOR INDICATING AN INVESTIGATORY EXAMINATION	FACTOR NOT INDICATING AN INVESTIGATORY EXAMINATION
PARTICIPANTS	Do you intend to have an agency or department employee, or a contractor as a substitute for the agency, conduct the exam	Do you intend to have an outside law enforcement official not affiliated with the agency or department, without agency or department participation, conduct the exam?
PARTICIPANTS	Do you intends to examine a unit employee	Do you intend to examine an employee who is not in the bargaining unit?
EXAMINATION IN CONNECTION WITH AN INVESTIGATION	Do you intend to ask questions of, or solicit information from, the employee about a matter under investigation?	Do you intend to ask questions about a routine workplace issue?
EXAMINATION IN CONNECTION WITH AN INVESTIGATION	Do you intend to secure an admission from the employee or ask the employee to explain his/her conduct	Do you intend to ask the employee for his/her opinions on a topic?
REASONABLE BELIEF OF DISCIPLINE	If you were in the employee's place, and under the circumstances, would you be concerned that a response could "get you in trouble with" management?	If you were in the employee's place and under the circumstances, would you have no "worries" about providing any information about the topic under investigation?
REQUEST FOR REPRESENTATION	Did the employee make a clear request for representation?	Did the employee make no request for representation?