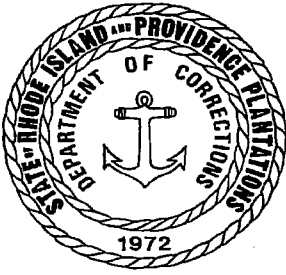


RHODE ISLAND DEPARTMENT OF CORRECTIONS POLICY AND PROCEDURE

	POLICY NUMBER: 3.22-1 DOC	EFFECTIVE DATE: 07/02/12	PAGE 1 OF 3
	SUPERSEDES: 3.22 DOC	DIRECTOR: <div style="font-family: cursive; font-size: 1.2em; text-align: center;">Arthur T. Wall II</div>	
SECTION: PERSONNEL		SUBJECT: UNION REPRESENTATION IN EMPLOYEE INVESTIGATORY INTERVIEWS	
AUTHORITY: Rhode Island General Laws (RIGL) § 42-56-10(o) (v), Powers of the director; <u>N.L.R.B. v. Weingarten</u> , 420 U.S. 251 (1975); and National Labor Relations Act 29 U.S.C. § 157.			
REFERENCES: RIDOC Policy # 3.14-2 DOC, Code of Ethics and Conduct (specifically, Provision of Information)			
INMATE ACCESS THROUGH LAW LIBRARY? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO			

I. PURPOSE:

To outline the conditions under which union employees are entitled to union representation during investigatory interviews.

II. POLICY:

It is the policy of the Rhode Island Department of Corrections (RIDOC) to ensure compliance with Section 7 of the National Labor Relations Act which establishes the statutory right of an employee to refuse to submit without union representation to an interview which s/he reasonably believes may result in his or her discipline.

III. PROCEDURES:

A. Investigatory Interviews

Under Weingarten, the right to union representation attaches whenever all of the following three (3) conditions are met:

1. The interview is investigatory in nature;
2. The employee's right to request representation as a condition of participation in an interview is limited to situations where the employee reasonably believes the investigation will result in disciplinary action.
 - a. Reasonable ground/belief is measured by objective standards.
 - b. The right to union representation, however, does not apply to such routine workplace conversations as, for example, the giving of instructions or training or needed corrections of work techniques. In such cases, there cannot normally be any reasonable basis for an employee to fear that any adverse impact may result from the interview.
3. The employee must make a request for union representation. The right arises only in situations where the employee requests representation. In other words, the employee may forego his/her guaranteed right and, if s/he prefers, participate in an interview unaccompanied by a union representative. It is not the duty of the Department or its representatives to advise the employee of his/her right to union representation.
 - a. An employee may waive his/her right to union representation prior to questioning, or at any time during questioning, by signing a Waiver of Union Representation form, provided by the Investigator (Attachment 1).
 - b. A request for union representation may be made verbally prior to the start of the interview, or at any time during the interview.
 - (1) No questioning of an employee will take place unless a union representative is present once the request has been made.
 - (2) A request to have a specific union representative present may be granted, provided the Investigator determines that the time frame will not hamper the investigation in any way.

c. Role of Union Representative

- (1) The Investigator has no duty to bargain with the union representative during an investigatory interview.
- (2) The union representative is there to assist the employee, and may attempt to clarify facts or suggest other employees who may have knowledge of the matter(s) under investigation.
- (3) The Investigator, however, is free to insist that s/he is only interested, at that time, in hearing the employee's own account of the matter(s) under investigation.
- (4) The union representative has no right to question an employee directly in an investigatory interview.

B. Employee Obligation to Provide Information in an Investigatory Interview

1. The exercise of the right to union representation may not interfere with legitimate Department prerogatives.
2. Employees have a continuous obligation to provide timely, accurate, and complete information relating to Departmental operations when required to do so, pursuant to RIDOC's Code of Ethics and Conduct (policy 3.14-2 DOC, or a successive policy).
3. If an employee refuses to state his/her own account of the matter under investigation, the Department is free to carry on its inquiry without interviewing the employee.

C. RIDOC Code of Ethics and Conduct

Nothing in this policy is intended to countermand any provision of RIDOC's Code of Ethics and Conduct (policy 3.14-2 DOC or a successive policy).

RHODE ISLAND DEPARTMENT OF CORRECTIONS

WAIVER OF UNION REPRESENTATION

I have been advised of my rights to have union representation before answering any questions or providing any information.

I have read and fully understand the above statement. I choose to waive union representation.

Name _____

Title _____

On this date, I have witnessed the signature of the above-named individual.

Name of Interviewer _____

Title _____

Date _____