

IN THIS ISSUE:

- The Rights of Employees to a Fair Predisciplinary Process: Part XVIII – An Introduction to Loudermill Hearing Rights.



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THE RIGHTS OF EMPLOYEES TO A FAIR PREDISCIPLINARY PROCESS: PART XVIII – AN INTRODUCTION TO LOUDERMILL HEARING RIGHTS.

This article is the next in a series of articles considering the various prediscipline rights of employees. In this article we begin a sequence of articles concerning the Loudermill right to a presciplinary hearing.

Courts have held that under the United States Constitution, public employees with tenure are entitled to due process. The Fourteenth Amendment's guarantee of procedural due process protects individuals from erroneous or unjustified deprivation of life, liberty, or property. In a procedural due process case, the court applies a two-step analysis. First, it is necessary to determine whether a liberty or property interest exists entitling the individual to due process. Second, if a protected interest exists, then the court will employ a balancing test to determine "what process is due."

In *Cleveland Board of Education v. Loudermill*, the United States Supreme Court held that public employees with tenure were entitled to a pretermination hearing before being fired. This ruling was fully consistent with a

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long line of non-employment Supreme Court cases that had held that before a government can remove a property or liberty interest from a citizen, it must provide that citizen due process. And as we have already seen, the Supreme Court has ruled that public employees, no less than other citizens, are entitled to the protection of the United States Constitution.

In the next article, we will review types of interests the courts have recognized as protectable “liberty” or “property” interests sufficient to invoke Loudermill rights. We will also review what “due process” is due before the liberty or property interests may be taken away.

To learn more about Loudermill rights and the other rights of public safety employees visit the Cline and Associates website where you can order our book “THE RIGHTS OF WASHINGTON PUBLIC SAFETY EMPLOYEE: REPRESENTATIVE’S MANUAL.” This book is a 468 page compendium of labor law materials written especially for those involved in union-side representation of Washington public safety labor organizations.

Jim Cline

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