

DEPARTMENT OF EMPLOYMENT RELATIONS BULLETIN

Date March 18, 1986

Subject REQUIREMENT FOR PREDISCIPLINARY
HEARING OR INVESTIGATION

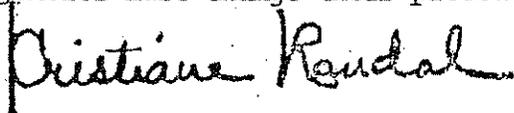
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Although contracts currently in effect between the State and its certified bargaining units do not require that a predisciplinary meeting be held with an employe prior to imposing discipline, a recent arbitration decision has made such a meeting mandatory.

In Hargove v. State of Wisconsin Historical Society (Case #4286, 1986) Arbitrator Kerkman has adopted the decision of the U.S. Supreme Court in Loudermill v. Cleveland Board of Education, 105 S. Ct. 1487 (1985). Kerkman's award did not apply the Court's decision retroactively, however, it will apply to all disciplinary actions after the date of the award, February 25, 1986.

To comply with the award, each employe who may be subject to disciplinary action must be given an opportunity for a meeting with the management person having the authority to make the disciplinary decision or his/her designee. The employe must be given oral or written notice of the meeting, including a description of the misconduct and a summary of the evidence supporting it. At the meeting the employe must be given an opportunity to tell his/her version of the incident(s) relied on by management. The purpose of this meeting is to provide an initial check against mistaken decisions by assuring there are reasonable grounds to believe the charges are true and support the proposed action. The meeting need not definitively resolve the propriety of the disciplinary action.

The standards above are provided for informational purposes since most agencies already comply with the requirements when they hold predisciplinary meetings. Thus, for the majority of agencies, no change in meeting format will be needed. It is only where predisciplinary meetings are not being held at all that agencies must change their procedures.



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