

Loudermill Hearings

A "**Loudermill**" hearing is part of the "due process" requirement that must be provided to a public employee prior to removing or impacting the employment property right (e.g. imposing severe discipline).

The purpose of a "Loudermill hearing" is to provide an employee an opportunity to present their side of the story before the employer makes a decision on discipline.

Loudermill Hearings stem from *Loudermill v. Cleveland Board of Education* where the United States Supreme Court held that permanent employee civil servants had a property right to continued employment and such employment could not be denied to employees unless they were given an opportunity to hear and respond to the charges against them prior to being deprived of continued employment. In Minnesota such meetings have been referred to as "Pre-Deprivation" Hearings.

While originally this type of hearing was utilized for the purpose of deciding continued employment, it has since expanded in certain courts that this includes denials of continued employment at their current rate of pay. In Minnesota specifically, guidance from the Minnesota Management and Business agency states:

"To advise agencies about hearings the agency must provide prior to taking disciplinary action by demoting, suspending, or discharging a public employee with permanent status. In addition, if a permanent status employee is placed on an unpaid, employer initiated leave, the agency should follow the same procedure.

Agencies must follow the provisions of this policy when demoting, suspending or discharging a public employee with permanent status with a resulting loss of pay or benefits. In addition, if an employee is placed on an unpaid, employer-initiated leave, the agency must follow this same procedure.

This policy applies to employees of executive branch agencies and classified employees in the Office of Legislative Auditor, Minnesota State Retirement System, Public Employee Retirement System, and Teachers' Retirement System."

There is no legal right to union representation however also stated by MMB documentation:

"You should permit the union representative to attend if requested by the employee. This is contractually required for discharge and it is expected for suspensions and demotions."

From the 2019-2021 Mape Labor Agreement, we see that:

“Section 8. Loudermill Hearing. If the intent of the Appointing Authority is to suspend or discharge an employee they shall first notify the employee that they may request an opportunity to hear an explanation of the evidence against them and to present their side of the story and is entitled to Association representation at such meeting. The right to such meeting (Loudermill Hearing) shall expire at the end of the next scheduled work day of the employee after the notice of a suspension or discharge is delivered to the employee, unless the employee and the Appointing Authority agree otherwise. The discipline shall not become effective during the period when the meeting may occur. The employee shall remain in their normal pay status during the time between the notice of discipline and the expiration of the meeting.”