ITS A FLOOR, NOT A CEILING

Collective Bargaining and the Investigation/Discipline Process

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The Firefighters Procedural Bill of Rights Act, Government Code section 3250 et seq. was enacted in 2008 as a comprehensive legislative scheme regulating personnel investigations and disciplinary procedures related to firefighters wherever situated within the State of California.

However, these are simply the minimum rights that must be provided to firefighters during the investigation and discipline process. The FBOR acts as a floor – not a ceiling. Through the collective bargaining process, firefighter labor organizations can secure additional procedural rights for their members.

Because FBOR is modeled on the Public Safety Officers Procedural Bill of Rights Act, Government Code section 3300 et seq., which was enacted in 1977, we can benefit by the ways peace officer organizations have enhanced the rights available to them over the last 30 years through the collective bargaining process.

For example, labor organizations representing peace officers have negotiated a shorter statute of limitations for completing misconduct investigations than the one-year provided for in Government Code section 3304. Indeed, the Memorandum of Understanding between the City of Berkeley and the Berkeley Police Association contains a 120-day rule, which states:

   The City agrees that no disciplinary action against an employee covered by this Understanding, which action involves a loss or reduction of pay or discharge, shall be imposed unless such action is taken within one hundred twenty (120) calendar days after the date of the incident giving rise to the disciplinary action or within one hundred twenty (120) calendar days of the date the City has knowledge of the incident giving rise to the disciplinary action.

Additionally, both FBOR and PSOBR are applicable only to a limited number of job classifications. Many peace officer organizations have extended by contract the PSOBR rights to those classifications that they represent that are not specified in the Act directly.
These are but a few of the many examples of expanded rights in the disciplinary process achieved through collective bargaining. The ability to craft additional rights for your membership is only limited by your imagination and tenacity. Thus, while the rights under FBOR are critical to the maintenance of stable employee-employer relations, these statutory rights are simply the minimum that must be provided as a matter of law. If you look at these rights as a floor, not a ceiling, additional important protections for your membership can be obtained.

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