

## LAWS OF NEW YORK, 2007

## CHAPTER 244

NYS COOPSA LEGISLATIVE  
DEPARTMENT

1 AN ACT to amend the civil service law, in relation to the representati  
2 of public employees during questioning which may lead to disciplina  
3 action  
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5 Became a law July 18, 2007, with the approval of the Governor.  
6 Passed by a majority vote, three-fifths being present.  
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8 The People of the State of New York, represented in Senate and Asse  
9 bly, do enact as follows:  
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11 Section 1. Subdivision 1 of section 209-a of the civil service law,  
12 amended by chapter 563 of the laws of 1998, is amended to read  
13 follows:

14 1. Improper employer practices. It shall be an improper practice for  
15 public employer or its agents deliberately (a) to interfere wit  
16 restrain or coerce public employees in the exercise of their righ  
17 guaranteed in section two hundred two of this article for the purpose  
18 depriving them of such rights; (b) to dominate or interfere with t  
19 formation or administration of any employee organization for the purpo  
20 of depriving them of such rights; (c) to discriminate against a  
21 employee for the purpose of encouraging or discouraging membership i  
22 or participation in the activities of, any employee organization; (d)  
23 refuse to negotiate in good faith with the duly recognized or certifi  
24 representatives of its public employees; (e) to refuse to continue a  
25 the terms of an expired agreement until a new agreement is negotiate  
26 unless the employee organization which is a party to such agreement ha  
27 during such negotiations or prior to such resolution of such negot  
28 ations, engaged in conduct violative of subdivision one of section t  
29 hundred ten of this article; ~~(e)~~ (f) to utilize any state funds appr  
30 priated for any purpose to train managers, supervisors or other admini  
31 trative personnel regarding methods to discourage union organization  
32 to discourage an employee from participating in a union organizi  
33 drive; or (g) to fail to permit or refuse to afford a public employ  
34 the right, upon the employee's demand, to representation by a represe  
35 tative of the employee organization, or the designee of such organiz  
36 tion, which has been certified or recognized under this article when  
37 the time of questioning by the employer of such employee it reasonab  
38 appears that he or she may be the subject of a potential disciplina  
39 action. If representation is requested, and the employee is a potenti  
40 target of disciplinary action at the time of questioning, a reasonab  
41 period of time shall be afforded to the employee to obtain such repr  
42 sentation. It shall be an affirmative defense to any improper practi  
43 charge under paragraph (g) of this subdivision that the employee has t  
44 right, pursuant to statute, interest arbitration award, collective  
45 negotiated agreement, policy or practice, to present to a hearing off  
46 cer or arbitrator evidence of the employer's failure to provide repr  
47 sentation and to obtain exclusion of the resulting evidence upon demo  
48 stration of such failure. Nothing in this section shall grant  
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50 EXPLANATION--Matter in *italics* is new; matter in brackets [-] is old l  
51 to be omitted.

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employee any right to representation by the representative of an employee organization in any criminal investigation.

§ 2. This act shall take effect immediately.

The Legislature of the STATE OF NEW YORK ss:

Pursuant to the authority vested in us by section 70-b of the Public Officers Law, we hereby jointly certify that this slip copy of this session law was printed under our direction and, in accordance with such section, is entitled to be read into evidence.

JOSEPH L. BRUNO  
Temporary President of the Senate

SHELDON SILVER  
Speaker of the Assembly