

Local Government Insurance Trust

RISK MANAGEMENT BULLETINNo. 80 *REVISED*

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Employer / Employee Relations

On November 30, 2001, LGIT issued a Risk Management Bulletin (Risk Management Bulletin 80) regarding a recent decision of the United States Court of Appeals for the District of Columbia, affirming a decision of the National Labor Relations Board to expand an employee's Weingartner Rights under Section VII of the National Labor Relations Act to non-union employees. See *Epilepsy Foundation of Northeast Ohio v. National Labor Relations Board*, 268 F.3d 1095, (D. C. 2001). The Court in *Epilepsy Foundation of Northeast Ohio* ruled that under Section VII of the National Labor Relations Act, non-union employees could have a representative present at meetings where disciplinary action may be taken.

Decisions of the National Labor Relations Board interpreting the National Labor Relations Act are a useful guide in developing and implementing procedures in the context of employer/employee relations. Because LGIT is mindful that its members may model their procedures based upon the requirements of the National Labor Relations Act, the decision of the United States Court of Appeals for the District of Columbia is instructive and you may wish to consider allowing employees to have a representative present when disciplinary action may be taken. However, LGIT also wishes to remind members that counties and municipalities are not within the definition of an employer under the National Labor Relations Act. See 29 U.S.C. § 152. Therefore, while the Court's decision in *Epilepsy Foundation of Northeast Ohio* provides guidance, it is not binding upon LGIT's membership and you are not required to allow an employee to have a representative present unless your policies and procedures provide for such representation.

If you have questions or comments, feel free to contact Vance Petrella at 800-673-8231.

This bulletin is intended to be merely informational and is not intended to be used as the basis for any compliance with federal, state or local laws, regulations or rules, nor is it intended to substitute for the advice of legal counsel.

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