

Weingarten Rights

What's A Weingarten?

Weingarten was the Supreme Court case that clarified the NLRA (National Labor Relations Act). Workers have the legal right to have a union representative present during an investigatory interview.

Why Is This Important?

- **For protection from unfair discipline**
- **For fair and equal treatment**
- **To have a witness present**

What Happens Once My Union Representative Arrives?

- **The boss must inform the union rep of the subject of the interview (the type of misconduct being investigated);**
- **The union rep must be allowed to meet privately with the worker before the questioning begins;**
- **The union rep may speak during the interview, or require that the supervisor clarify a question for better understanding.**
- **When the question ends, the union rep can provide information to justify the workers conduct.**

Workers Normally Use The Following Language To Assert Their Weingarten Rights.

“If this discussion could in any way lead to my being disciplined or terminated, or affect my personal work conditions, I respectfully request that my union representative, officer or steward be present at the meeting. Without representation, I choose not to answer any questions.”

Under The Supreme Court's Weingarten Decision, When An Investigatory Interview Occurs, The Following Rules Apply:

Rule 1: The employee must make clear request for union representation before or during the interview. The employee cannot be punished for making this request.

Rule 2: After the employee makes the request, the employer must choose from three options. The employer must either:

a: Grant the request and delay questioning until the union representation arrives and has a chance to consult privately with the employee; or

b: Deny the request and end the interview immediately ; or

c: Give the employee a choice of: (1) having the interview without the representation or (2) ending the interview.

Rule 3: If the employer denies the request for union representation, and continues to ask questions, it commits an unfair labor practice and the employee has the right to refuse to answer. The employer may not discipline the employee for such refusal.

How Can Having A Union Representative Present Help?

It depends on the situation, but here are some examples. The union rep can:

- **Help a fearful or inarticulate worker explain what happen.**
- **Raise extenuating factors.**
- **Advise a worker against blindly denying everything, thereby giving the appearance of dishonesty and guilt.**
- **Help prevent a worker from making fatal admissions.**
- **Stop a worker from losing his or her temper, and perhaps getting fired for insubordination.**

**Employers Have No Obligation To Inform Workers Of
Their Right To Request Union Representation.**

KNOW AND ASSERT YOUR RIGHTS!