

WEINGARTEN RIGHTS ... DO YOU KNOW THEM?

Employee's right to union representation:

The rights of unionized employees to have present a union representative during investigatory interviews were announced by the U.S. Supreme Court in a 1975 case (NLRB vs. Weingarten, Inc. 420 U.S. 251, 88 LRRM 2689). These rights have become known as the Weingarten rights.

Employees have Weingarten rights only during investigatory interviews.

- An investigatory interview occurs when a supervisor questions an employee to obtain information which could be used as a basis for discipline or asks for an employee to defend his or her conduct.
- If an employee has a reasonable belief that discipline or other adverse consequences may result from what he or she says, the employee has the right to request union representation.

When the employee makes the request for a union representative to be present management has three options:

1. Management can stop questioning until the representative arrives.
2. Management can call off the interview, or
3. Management can tell the employee that it will call off the interview unless the employee voluntarily gives up his/her rights to a union representative (an option the employee should always refuse).

Once you have asked for union representation, any attempt by management to continue asking questions before a union representative gets there is **ILLEGAL**. If supervisors pressure you by telling you that "you're only making things worse for yourself" by asking for union representation, that is against the law, too. Employers will often assert that the only role of a union representative in an investigatory interview is to observe the discussion. The Supreme Court, however, clearly acknowledges a representative's right to assist and counsel workers during the interview. The Supreme Court has also ruled that during an investigatory interview management must inform the union representative of the subject of the interrogation. The representative must also be allowed to speak privately with the employee before the interview. During the questioning, the representative can interrupt to clarify a question or to object to confusing or intimidating tactics.

While the interview is in progress the representative cannot tell the employee what to say but he may advise them on how to answer a question. At the end of the interview the union representative can add information to support the employee's case.

What to say if management asks questions that could lead to discipline:

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

Questions? If at any time you are concerned about an interaction with a supervisor, contact your building representative or local president.

Jedd Rivera, UniServ Representative, jrivera@washingtonea.org