

DO YOU UNDERSTAND YOUR WEINGARTEN RIGHTS?

Don't hesitate to request union representation

Your dean calls you into her office, shuts the door and asks you to sit down. She questions you about the way you handled a certain situation and begins to make accusations. You start to feel anxious and begin to wonder whether you could face disciplinary action.

Should you invoke your Weingarten Rights? The answer is yes, absolutely.

Based on the 1975 U.S. Supreme Court ruling of National Labor Relations Board (NLRB) vs. Weingarten, union employees are entitled to have union representation at meetings with supervisors that are investigatory or that could lead to disciplinary action. These rights have become known as the Weingarten Rights.

To invoke Weingarten Rights, a union member should say something like this: "If my response to your questions could lead to my being disciplined, I request union representation at this meeting, and that the meeting be postponed until my union representative arrives." When the employee makes the request for a union representative to be present, management has two options:

- It can stop questioning until the representative arrives.
- It can call off the interview and proceed with the investigation without the benefit of the employee's input.

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 before 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 and at any time during 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 or she 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.

Employees must demand their right to be represented in these investigatory interviews.

More about the National Labor Relations Board (NLRB) vs. Weingarten

The 1975 U.S. Supreme Court case is based on an employee who worked at a store lunch counter as a sales person who was a member of the Retail Clerks Union. She was summoned to an interview with supervisors and questioned about failing to pay full price for a box of chicken she had purchased.

The employee asked for the presence of a union representative several times but was refused by the manager each time.

The employee reported what had happened to her shop steward and other union representatives.

As a result, an unfair labor practice proceeding was filed before the NLRB and the ruling in favor of the employee was appealed numerous times until going before the high court.

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The website of the Teachers Association of Long Beach has cards that can be printed out and distributed to your association members to inform them about their Weingarten Rights. Go to www.talb.org/contractandrights_weingarten_rights.php and click on "print cards".