

*Weingarten rights allows employees to have union representation at investigatory interviews.*

The right of employees to have union representation at investigatory interviews was 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 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. Management is not required to inform the employee of his/her Weingarten rights; it is the employee's responsibility to know and request.

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

1. It can stop questioning until the representative arrives.
2. It can call off the interview or,
3. It can tell the employee that it will call off the interview unless the employee voluntarily gives up his/her rights to a union representative.

During an investigatory interview, management must inform the union representative of the subject of the interview. The representative is allowed to speak privately with the employee before the interview. During the questioning, the representative can request clarification of confusing questions and otherwise support and assist the employee. The representative may not interfere with or impede the interview.

When an employee requests union representation at an investigatory interview, the employer should work to arrange a mutually acceptable time for the interview within a reasonable period of time (1-2 days). The meeting should not be unreasonably postponed because of the unavailability of union representation.