

WEINGARTEN RIGHTS

What Are Weingarten Rights?

- The National Labor Relations Act gives workers certain rights during investigatory interviews with management that may result in discipline to the worker.
- These rights are called “Weingarten Rights” after the Supreme Court decision that first established these rights. (That case was initiated by Local 455 of the then Retail Clerks International Union, which is now the UFCW).
- The rights apply only to meeting where the employer intends to question the employee for purposes of determining whether discipline should be imposed. Where the meeting is only for the purpose of informing the employee of the results of an investigation or the discipline that will be imposed, Weingarten Rights do not apply.
- Where the union is the exclusive bargaining representative, the employee has a right to have a union representative or steward present if the employee reasonably believes the employer’s investigation may lead to disciplinary action.
- In the non-union setting, the employee had a right to have a co-worker present if the employee reasonably believes the employer’s investigation may lead to disciplinary action.
- The employee must clearly request representation before or during the interview. If no request is made, Weingarten Rights are waived for the interview.
- When the representative or co-worker arrives, the supervisor must disclose the subject matter of the interview.
- The representative or co-worker must be allowed to speak during the interview, but does not have the right to bargain over the purpose of the interview.
- Weingarten Rights also apply to telephone interviews. A worker can refuse to answer questions until he/she has spoken with the representative or co-worker.

What Are The Employer's Obligations?

- After the employee makes the appropriate request, the employer can choose from three options:
 - ◆ grant the request and delay questioning until the union representative or co-worker arrives and has a chance to consult privately with the employee;
 - ◆ deny the request and end the interview immediately; or
 - ◆ give the employee the choice of having the interview without representation or ending the interview
- If the employer denies the request for representation and continues to ask questions, it commits an unfair labor practice and the employee has the right to refuse to answer. The employee may not be disciplined for such a refusal.