



Brothers and Sisters,

I feel like there is a need to send this information out to our membership. It is my advice to always exercise your Weingarten Rights when the company is conducting an investigation interview with you.

In Solidarity,

Randy Diehl

#### Union Representation



A guide to a member's right to union representation

## Weingarten Rights

The rights of employees to the presence of union representatives during investigatory interviews were announced by the U.S. Supreme Court in 1975 in *NLRB vs J. Weingarten, Inc.* Since that case involved a clerk being investigated by the Weingarten Company, these rights have become known as Weingarten rights.

Under the Supreme Court's Weingarten decision, when an investigatory interview occurs, the following rules apply:

**Rule 1.** The employee must make a 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 among three options. The employer must either:

- a. Grant the request and delay questioning until the union representative arrives and has a chance to contact 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 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 a refusal.

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

**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.

Investigatory interviews usually relate to subjects such as:

- \* Attendance
- \* Safety and Injury/Illness Investigations
- \* Damage to Company Property
- \* Drugs or Alcohol
- \* Falsification of Records
- \* Workplace Violence
- \* Insubordination
- \* Harassment
- \* Quality
- \* Work Performance
- \* Violation of Work Rules
- \* Requesting a Written Statement
- \* Personal Time