

Weingarten Rights

What Are They And How Do I Use Them

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In the 1975 U.S. Supreme Court Decision *NLRB v. J. Weingarten* the Court issued rules known as the Weingarten Rights. These rules provide employees the right to be accompanied by a Union Representative during investigative interviews. An investigative interview occurs when management questions the employee to obtain information and the employee has *reasonable belief that discipline or other adverse consequences* may result from what he or she says. Investigative interviews relate to such things as:

- Absenteeism
- Failure to follow instructions
- Tardiness
- Accidents
- Insubordination

When an investigative interview occurs, whether the supervisor announces it or because you a *reasonable belief* that discipline may be forthcoming depending on your answers, you have the right to request Union representation.

- You may request Union Representation before or during the interview.
- After the request the employer must choose from among three options:
 1. Grant the request and delay questioning until the union representative arrives.
 2. Deny the request and end the interview immediately.
 3. Give the employee a choice of (a) having the interview without representation (usually a mistake) or (b) ending the interview.

If the employer **denies the request** and continues questions, you may refuse to answer.

Why have a Union Representative present?

- The steward can serve as a witness to prevent supervisors from misrepresenting the conversation.
- The steward can object to intimidating tactics or confusing questions.
- The steward can help an employee avoid making fatal admissions.
- The steward can warn the employee against losing his or her temper.
- The steward can raise extenuating factors.
- The steward can provide support and answer questions.

Once your steward arrives, the supervisor must inform the steward and employee of the reason for the interview. Before questioning begins the steward has the right to speak to the employee privately.

The employee must **assert** their Weingarten Rights. **Management is not required to notify you of your Weingarten Rights.** In other words, if you don't state that you want a steward management isn't required to provide one for you. Whenever you have a reasonable belief that discipline may result, you must either request a steward or notify management that you want to assert your Weingarten Rights.

Normally Weingarten Rights don't apply to official discussions because it's not considered discipline and the supervisor isn't contemplating any. When in doubt as to whether it's a discussion or a investigative interview **assert** your Weingarten rights and request your steward. Only after strong assurances by your supervisor that the conversation is only a discussion should you continue to participate.

REQUEST FOR UNION REPRESENTATION

If you are called to a meeting with management, read the following or present this card when the meeting begins.

If this interview could in any way lead to my being disciplined or terminated, or affect my personal working conditions, I respectfully request that my union representative, officer or steward be present at this meeting. Until my representative arrives, I choose not to participate in this discussion.

THE STATEMENT ABOVE COULD SAVE YOUR JOB!



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WEINGARTEN RIGHTS

The U.S. Supreme Court has ruled that the National Labor Relations Act gives workers the right to request union representation during investigatory interviews by supervisors, security personnel, and other managerial staff. These are called *Weingarten Rights*

An investigatory interview occurs if 1) management questions you to obtain information; and 2) you have reasonable apprehension that your answers could be used as a basis for discipline or other adverse action.

You must ask for union representation either before or during an investigatory interview. Management does not have to remind you of this right.

If your request is refused and management continues asking questions, you may refuse to answer. Your employer is guilty of an unfair labor practice and charges may be filed.

If you are questioned in a situation where *Weingarten* may apply, read or present the statement on the other side of this card.