

WEINGARTEN RIGHTS

In 1975, the U.S. Supreme Court ruled on an 8 (a) (1) case known as National Labor Relations Board (NLRB) v. Weingarten. This case was initiated by Local 455 of the then Retail Clerks International Union which is now the UFCW.

In Weingarten, the Supreme Court ruled that employees have specific rights during investigatory interviews with management. During such interviews management asks questions of the employee. This is different from meetings where management announces what the discipline will be for the employee.

The specific rights are as follows:

- A. The employee has a right to union representation if he or she reasonably believes the investigation will lead to disciplinary action against them.
- B. The employee must make a clear request for union representation before or during the interview. If no request is made, Weingarten Rights are effectively waived for the interview.
- C. After the employee makes the request, the employer can choose from three options:
 1. Grant the request and delay questioning until the steward arrives and has a chance to consult privately with the employee;
 2. Deny the request and end the interview immediately;
 3. Give the employee the choice of having the interview without representation or ending the interview.
- D. 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 employee may not be disciplined for such a refusal.

The court rationale in the case is that an employee being interviewed might be intimidated and, therefore, may not raise facts in his or her favor during the investigatory interview.

Additional information:

- A. When the steward arrives, the supervisor must disclose the subject matter to be discussed.
- B. The steward must be allowed to speak during the interview but does not have the right to bargain over the purpose of the interview.
- C. Weingarten Rights also apply to telephone interviews. A worker can refuse to answer questions until he has spoken with the steward.

In 2000, the NLRB extended this right to all workers covered under the NLRA. Under the NLRB ruling, workers have the right to have a trusted co-worker, of their choosing, present for any conversation, matter that may lead to their discipline or termination.

Weingarten Rights

Read Word for Word to Your Supervisor

If this discussion, meeting or telephone call could in any way be related to my being disciplined or terminated or affect any of my working conditions, I exercise my federal rights and hereby request that my union representative or shop steward be present. Without their presence, I choose not to participate in this discussion or meeting. Please do not request that I waive this right.