

## WEINGARTEN RIGHTS

### EMPLOYEE'S RIGHT TO UNION REPRESENTATION

The rights of unionized employees to have a union representative present during investigatory interviews were 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 says, the employee has the right to request union representation. **When the employee makes the request for a union representative to be present management has three options:**

- (1) They can stop questioning until the representative arrives.
- (2) They can call off the interview or,
- (3) They can tell the employee that they will call off the interview unless the employee voluntarily gives up his/her rights to a union representative (**an option the employee should always refuse.**)

Once you've asked for union representation, any attempt by management to continue asking questions before a union representative gets there is **ILLEGAL**. **If supervisors pressure you by telling you that "you're only making things worse for yourself" by asking for union representation, that's against the law too.**

Employers will often assert that the only role of a union representative in an investigatory interview is to observe the discussion. The NLRA has established the following rules regarding Weingarten representation:

- Management must inform the union representative of the subject of the interrogation.
- The representative must also be allowed to speak privately with the employee before the interview.
- During the interview the representative cannot argue with the employer, but can interrupt to clarify a question or to object to confusing or intimidating tactics.
- While the interview is in progress the representative cannot tell the employee what to say but he may advise them on how to answer a question.
- At the end of the interview the union representative can add information to support the employee's case.

#### **What to Say if Management Asks Questions That Could Lead to Discipline:**

**"If this discussion could in any way lead to my being disciplined or terminated, or affect my personal working conditions, I request that my union representative, officer, or steward be present at the meeting. Without representation, I choose not to answer any questions."**

#### **Know the limits:**

Just as it's important to know what your Weingarten rights are, it is also important to know the limits. *You are not entitled to have a representative present every time a supervisor wants to talk to you. Remember, if the discussion begins to change into questioning that could lead to discipline, you have the right to ask for representation before the conversation goes any further. **If you are called into the supervisor's office for an investigation, you can't refuse to go without your representative.** All you can do is refuse to answer questions until your union representative gets there and you've had a chance to talk things over.*