

# Weingarten Rights Law and Legal Definition

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The Weingarten right is a right is derived from the Supreme Court's 1975 Weingarten decision where the court recognized union employees' rights to representation at investigatory interviews. The National Labor Relations Board now takes the opposite position and holds that the right to representation at investigatory interviews applies equally to union and non-union employees.

Weingarten rights includes the right to have a coworker present at an investigatory interview that the employee reasonably believes might result in discipline. Weingarten rights must be invoked by an employee before an employer has any corresponding obligations. An employee must request the presence of a coworker at an investigatory interview.

*The portion of the relevant federal statute provides that:*

*"(2) An exclusive representative of an appropriate unit in an agency shall be given the opportunity to be represented at -*

- 1. Any formal discussion between one or more representatives of the agency and one or more employees in the unit or their representatives concerning any grievance or any personnel policy or practices or other general condition of employment; or*
- 2. Any examination of an employee in the unit by a representative of the agency in connection with an investigation if -*
  - 1. The employee reasonably believes that the examination may result in disciplinary action against the employee; and*
  - 2. The employee requests representation.*

*(3) Each agency shall annually inform its employees of their rights under paragraph (2)(B) of this subsection."*

On June 15, 2004, The National Labor Relations Board ruled that nonunionized employees are not entitled under Section 7 of the National Labor Relations Act to have a coworker accompany them to an interview with their employer, even if the employee reasonably believes that the interview might result in discipline. This was a reversal of the July 2000 decision of the Clinton Board that extended Weingarten Rights to nonunion employees.

# Encourage all members to exercise their Weingarten rights.

This is important because a member waives the right to a witness if the member does not speak up and expressly request a witness.

The role of stewards in disciplinary meetings is to hear everything that is said, and to ensure that supervisors and managers do not question the member unfairly by, for example, putting words in the member's mouth or by bullying members into agreeing to things they otherwise would not agree to.

When supervisors or managers ask unfair questions, stewards should interrupt and demand that the supervisor or manager ask questions clearly and fairly. If they ask an awkward, run-on or confusing question, the steward can jump in and ask them to rephrase the question. Similarly, the steward can jump in if the supervisor or manager tries to trick the member into agreeing to something.

Stewards can insist that supervisors and managers permit members to tell their side of the story and present their case, and can ask for meeting breaks to confer with members.

# 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.

