

## WHAT'S A WEINGARTEN?

Weingarten was the Supreme Court case that clarified the NLRA (National Labor Relations Act). Workers have the legal right to have a union representative present during an investigatory interview.

## WHY IS THIS IMPORTANT?

- ◆ For protection from unfair discipline
- ◆ For fair and equal treatment
- ◆ To have a witness present

## WHAT HAPPENS ONCE MY UNION REPRESENTATIVE ARRIVES?

- ◆ The boss must inform the union rep of the subject of the interview (the type of misconduct being investigated);
- ◆ The union rep must be allowed to meet privately with the worker before questioning begins;
- ◆ The union rep may speak during the interview, or require that a supervisor clarify a question for better understanding.
- ◆ When the questioning ends, the union rep can provide information to justify the workers conduct.



WORKERS NORMALLY USE THE FOLLOWING LANGUAGE TO ASSERT THEIR WEINGARTEN RIGHTS.

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, officer, or steward be present at the meeting. Without representation, I choose not to answer any questions.



## 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 consult 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 a right to refuse to answer. The employer may not discipline the employee for such a refusal.