

Know Your Rights

Employees have the right to on-the-spot representation in any situation involving actual or potential disciplinary action. It's something every bargaining unit member should know.

An employee is asked to report to the supervisor's office. The supervisor fires off a question. The employee asks: "Could this meeting lead to discipline?" The supervisor says, "Maybe." The employee responds, "I want to see my steward/union rep before I answer!"

Legal? Yes! All bargaining unit members can — and should — make this request if they're being questioned by management about *anything* that could lead to disciplinary action. Employers have no right to refuse.

THE WEINGARTEN CASE

Why? Because of a 1975 case in which the U.S. Supreme Court ruled that all workers have the right to union representation when a supervisor or boss asks for information that could be used as the basis for discipline. This decision gave workers and unions specific rights called *Weingarten Rights* (from the name of the case). All bargaining unit members in your workplace should know about them.

(Public employees are not covered by Weingarten Rights under the National Labor Relations Act but are covered by similar state and/or federal regulations.)

Weingarten Rights won't help if workers don't know about them, because *the* supervisor *doesn't* have to tell them. (Your contract may require notice.) If employees answer the questions, they've given up their right to representation.

FROM CONVERSATIONS TO CLOSED-DOORS

Members should understand that if *any* discussion with management — from a closed-door meeting to a conversation with a supervisor on the job — could lead to the possibility of discipline, they should ask immediately for a steward or local officer. The request can be made at any point.

Ideally, a member should say something like: *"If this discussion could in any way lead to my being disciplined or terminated, or affect my personal working conditions, I request that my steward (or a union officer) be present. Without representation, I choose not to answer any questions. This is my legal right."*

Anything close to this statement will do. Any further attempt by a supervisor to ask questions is illegal until a union representative arrives. If management denies a request for union representation, this is an unfair labor practice—and the member *may refuse to answer any questions until the supervisor tells you if you do not answer, it will be insubordination.*

Weingarten Rights are not like Miranda Rights. If you answer the questions, everything you say is in the record. If you are forced to answer the questions call your union representative immediately after the conversation. This would include if the supervisor wants you to write a statement regarding an issue if your statement could lead to the employee being disciplined.

WHAT YOU CAN EXPECT FROM YOUR EMPLOYEE REPRESENTATIVE

During the meeting, the Employee Representative should take notes on what was said and who said it. Giving you the member a witness to the discussion.

As an Employee Representative, their power includes:

- Advise you to answer questions honestly and don't guess;
- Request a recess anytime during the meeting if you need more time to talk privately with the Employee Representative.
- Stop the supervisor from harassing or abusing the worker during the meeting;
- Ask the supervisor to clarify any questions you the member may not understand;
- Provide the boss with additional information when the questions have ended.
- Request that the meeting continues another time if information is presented that requires additional investigation or preparation.

WHAT YOUR EMPLOYEE REPRESENTATIVE CANNOT DO

They cannot negotiate over the subject of the meeting.

They cannot tell you not to answer a question or to give untrue answers. Refusal to answer questions can be a reason for discipline.

AN EMPLOYEE HAS NO RIGHT TO THE PRESENCE OF A UNION REPRESENTATIVE WHERE:

1. The meeting is merely for the purpose of conveying work instructions, training or communicating needed corrections in the employee's work techniques.
2. The employee is assured by the employer prior to the interview that no discipline or employment consequences can result from the discussion.

3. The employer has reached a final decision to impose certain discipline on the employee prior to the interview, and the purpose of the interview is to inform the employee of the discipline or to impose it.
4. Any conversation or discussion about the previously determined discipline which is initiated by the employee and without employer encouragement or instigation after the employee is informed of the action.

Even in the above four (4) circumstances, the employee can still ask for representation. Most employers will permit a representative to attend even when not required to.

EVERYONE IS REPRESENTED

Even the Free Riders.

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 respectfully choose not to answer any questions.