

Weingarten Rights

One very important right that workers have is the right to union representation during an investigatory interview. This right was established by the Supreme Court in 1975 and provides that a worker who is being interrogated by management may request that a union steward be present during the interrogation. The right belongs to the worker, not the union, and can be invoked only by the worker. Management is not obligated to inform a worker that he or she has a right to a union steward, so it is critical that the union educate workers to the existence of this Supreme Court ruling.

For Weingarten to apply there must be several conditions or tests to be met. The employer must be conducting an investigatory interview (or questioning a worker) to obtain information that could lead to discipline. If such an interview takes place, the following rules apply:

- The worker must make a clear request for union representation.
- Management then has the following options:
 1. Grant the request and delay questioning until a steward arrives and has an opportunity to talk privately with the worker,
 2. Deny the request and end the interview, or
 3. Give the worker the choice of having the interview without a steward present or ending the interview.

If a steward is called into an interview, he or she has the right to advise and counsel the worker. Case law has established the following rights for the union steward:

- The supervisor must inform the steward of the reason for the interrogation.
- The steward has the right to take the worker aside for a private meeting before questioning begins.
- The steward has the right to speak during the interview.
- The steward can ask for clarification of questions so that the worker can understand what he or she is being asked.
- The steward can give advice on how to answer a question.
- When the questioning is over, the steward can provide additional information to management.

However, stewards have no right to tell workers not to answer questions or to give false answers, and workers can be disciplined for not answering questions from management. Stewards can be helpful to workers in a number of ways in an investigatory interview. Besides being a witness for the worker, stewards can:

- Help the worker explain what happened.
- Raise extenuating circumstances.
- The steward can help a worker from making a fatal admission.
- The steward can prevent the worker from denying everything, thereby giving the appearance of dishonesty.
- The steward can help the worker from losing his or her temper and getting fired for insubordination.

Weingarten Rights Questionnaire

1. A worker is called into the boss' office in order to be informed that she has received a one-day suspension. She requests that she have a steward attend the meeting. Management refuses to have the steward attend the meeting. Is this a violation of her Weingarten Rights?

Yes _____ No _____

2. John is called into the supervisor's office by his foreman for a discussion of his work record. John's steward is sick, so John asks that the interview be delayed until his steward returns. Must management delay the interview until John's steward returns to work?

Yes _____ No _____

3. You are a union steward and are called into the office to discuss your work record. Under Weingarten, are you entitled to a union representative?

Yes _____ No _____

4. A worker was given a written warning about poor attendance and told that she must participate in absence counseling sessions with a member of the human resources department. Can this worker demand the presence of a union steward at the counseling sessions?

Yes _____ No _____

5. You are a steward and notice that a worker is being interviewed in a supervisor's office. Can you request to attend the meeting?

Yes _____ No _____

6. A worker is called in for an interview regarding a recent accident. The worker requests that a union steward be present. The supervisor refuses to allow the steward to be called in, claiming that he is only trying to get the facts that led to the accident, and continues to question the worker. Can the worker refuse to answer the questions of the supervisor?

Yes _____ No _____

7. A foreman stops by Sheila in order to give her the work assignment for the day. Sheila hates all foremen and tells him that she isn't saying anything to him without her steward present. Must the foreman provide Sheila with a steward?

Yes _____ No _____