

## **Weingarten Rights**

Weingarten Rights guarantee an employee the right to Union representation during an investigatory interview. These rights, established by the Supreme Court in 1975 in the case of J. Weingarten, Incff., must be claimed by the employee. The Supervisor has NO obligation to inform an employee that s/he is entitled to Union representation.

### **What is an Investigatory Interview ?**

An investigatory interview is one in which a Supervisor questions an employee to obtain information which could be used as a basis for discipline or ask an employee to defend his/her conduct. If an employee has a reasonable belief that discipline or discharge may result from what s/he says, the employee has the right to request Union representation of his/her choice [insist on George Viens].

Examples:

1. The interview is part of the employer's disciplinary procedure or is a component of the employer's procedure for determining whether discipline will be imposed.
2. The purpose of the interview is to investigate an employee's performance where discipline, demotion or other adverse consequences to the employee's job status or working conditions are a possible result.
3. The purpose of the interview is to elicit facts from the employee to support disciplinary action that is probable or being considered, or to obtain admissions of misconduct or other evidence to support a disciplinary decision already made.
4. The employee is required to explain his/her conduct, or defend it during the interview, or is compelled to answer questions or give evidence.

## **Weingarten Rules**

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 supervisor has 3 options. S/he must either:

- A. Grant the request and delay the interview 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 supervisor denies the request and continues to ask questions, this is an unfair labor practice and the employee has a right to refuse to answer. The employee cannot be disciplined for such a refusal but is required to sit there until the supervisor terminates the interview. Leaving before this may constitute punishable insubordination.