

Weingarten Rights

Represented employees' rights to union representation in investigatory interviews.

The right of employees to have union representation during investigatory interviews was announced by the U.S. Supreme Court in a 1975 decision, ([NLRB vs. Weingarten, Inc. 420 U.S. 251, 88 LRRM 2689](#)). That right to representation is known, colloquially, as *Weingarten* rights.

An investigatory interview occurs when a supervisor questions an employee to obtain information which could be used as a basis for disciplinary action. If an employee has a reasonable belief that discipline or other adverse consequences may result from the interview, the employee has the right to request union representation. Management is not required to inform the employee of their Weingarten rights; it is the employee's responsibility to know their rights and make the request.

Weingarten rights do not attach to "normal" daily conversations between managers and employees regarding performance, job duties, or even the act of presenting a disciplinary letter, if no evaluation of the facts leading to the letter will take place during the conversation.

In the context of an investigatory interview, if an employee requests union representation, management has three options:

1. Stop the questioning until the representative arrives and allow a reasonable time (generally up to 30 minutes) for the representative to arrive.
2. Reschedule the interview or,
3. Inform the employee that the interview will be rescheduled unless the employee voluntarily waives their right to a union representative.

During an investigatory interview, management must inform the union representative of the subject of the interview. The representative is allowed to speak privately with the employee before the interview. During the questioning, the representative may request clarification regarding confusing questions and otherwise support and assist the employee. The representative may not interfere with or impede the interview and the employee, not the union representative, is expected to provide answers to the questions being asked.

When an employee does request union representation at an investigatory

interview yet to be scheduled, the employer should work to arrange a mutually acceptable time for the interview, within a reasonable period (generally not longer than 2 days). The meeting need not be unreasonably postponed because the union is unavailable.

If you have questions about whether *Weingarten* rights apply to a situation, please contact your HR Business Partner or Enterprise Workforce Relations.