

WEINGARTEN RIGHTS

In 1975 a counter clerk who worked for a J. Weingarten store in Houston, Texas, was questioned by her employer for alleged theft. Although she was cleared in the investigation, she had been denied, after several requests, the presence of her shop steward during the questioning. The union representing her filed an unfair labor practice after the incident and, in 1975, the Supreme Court ruled in the union's favor. An important new right for workers emerged from this decision: An employee may be represented by the union at an investigatory interview with his/her employer when the employee reasonably believes that the interview may lead to disciplinary action.

Q: Can I have a shop steward present at any meeting I have with management?

A: No, only when you have a reasonable belief that discipline will result from an investigatory meeting.

Q: What is an investigatory interview?

A: An investigatory interview occurs when a supervisor questions an employee to obtain information which could be used as a basis for discipline or asks an employee to defend his or her conduct.

Q: Is management obligated to remind me of my Weingarten rights prior to an investigatory meeting?

A: No, you must request a steward's presence. Management has no obligation to remind you of your right.

Q: What if I'm told to be in my supervisor's office at 10 a.m. but I don't know the nature of the meeting?

A: You have the right to know beforehand what the subject of the discussion will be. And, you have the right to consult (caucus) with your steward before and during the meeting.

Q: What if a routine work meeting is taking place between my supervisor and me, but the nature of the meeting suddenly changes?

A: You have the right to stop the meeting and call in a steward at the point you believe you are being asked questions which could result in discipline. You cannot be punished for requesting a steward's presence.

Q: If I request a steward, does the employer have to comply?

A: The employer must choose from among three options:

Grant the request and delay questioning until the steward arrives and has a chance to consult privately with the employee; or
Deny the request and end the interview immediately; or
Give the employee a choice of having the interview without representation.

Q: What is the steward's role in an investigatory meeting?

A: The steward's role is:

When a steward arrives, the supervisor must inform him/her of the subject matter of the interview, i.e., the type of action/misconduct for which discipline is being considered.

The steward must be allowed a private pre-interview conference before the questioning begins.

The steward must be allowed to speak during the interview.

The steward can give advice on how the employee should answer questions.

Q: What if a supervisor denies my request for a steward?

A: If you are denied a steward's presence and are still asked questions, the employer commits an unfair labor practice. The employee should attend the meeting but may remain silent. Afterwards the employee can file a grievance or unfair labor practice charge. This is an extension of "obey now, grieve later."

KNOW AND EXERCISE YOUR WEINGARTEN RIGHTS

Cross the river in a crowd and the crocodile won't eat you. Proverb from Madagascar