

Weingarten rights: Employee union representation

• The rights of employees to have present a union representative during investigatory interviews were announced by the U.S. Supreme Court in a 1975 case (*NLRB vs. Weingarten, Inc.* 420 U.S. 251, 88 LRRM 2689). These rights have become known as the Weingarten rights.

- Employees have Weingarten rights only during investigatory interviews. 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.
- If an employee has a reasonable belief that discipline or other adverse consequences may result from what he or she says, the employee has the right to request union representation. Management is not required to inform the employee of his/her Weingarten rights; it is the employees responsibility to know and request.
- When the employee makes the request for a union representative to be present management has three options:
 1. It can stop questioning until the representative arrives.
 2. It can call off the interview.
 3. It can tell the employee that it will call off the interview unless the employee voluntarily gives up his/her rights to a union representative (an option the employee should always refuse).

- Employers will often assert that the only role of a union representative in an investigatory interview is to observe the discussion. The Supreme Court, however, clearly acknowledges a representative's right to assist and counsel workers during the interview.
- The Supreme Court has also ruled that during an investigatory interview management must inform the union representative of the subject of the interrogation. The representative must also be allowed to speak privately with the employee before the interview. During the questioning, the representative can interrupt to clarify a question or to object to confusing or intimidating tactics.
- While the interview is in progress the representative can not tell the employee what to say but he may advise them on how to answer a question. At the end of the interview the union representative can add information to support the employee's case.
- When an administrator comes to a faculty member to discuss a potential disciplinary matter over workplace conduct or to impose discipline, the faculty member should:
 1. Always insist on their right to be accompanied by a CFA representative. If a CFA representative is not available, you can request a postponement of the meeting until such representation can be obtained.
 2. Refuse to engage in any informal discussions with management. Also, if the CSU denies a faculty member's right to have a CFA representative, contact CFA immediately.

**Also, see the additional resource Web link on Weingarten Rights from the Center for Labor Research and Education at the UC Berkeley, Institute of Industrial Relations : <http://www.cwa7019.org/Weingarten.htm>