



# Know Your Weingarten Rights

## **AN EMPLOYEE'S RIGHT TO UNION REPRESENTATION**

An employee may be represented by the union at an investigatory interview with his/her supervisor when the employee reasonably believes that the interview may lead to a disciplinary action.

## **THE LAW**

In 1975, the Supreme Court of the United States declared in *NLRB v. J. Weingarten, Inc.*, that unionized employees have the right to have a union steward present during an investigatory meeting/interview with management when the employee believes the meeting might lead to discipline against her/him. The rights flow from the NLRA's Section 7's guarantee of the right of employees to act, "in concert for mutual aid or protection." Denial of this right violates the NLRA Section 8(a)(1).

## **WHAT IS AN INVESTIGATORY MEETING?**

Employees have Weingarten rights only during investigatory meetings/interviews. An investigatory meeting 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. Investigatory interviews usually relate to subjects such as:

- absenteeism/lateness
- accidents
- drinking/drugs
- falsification of records
- insubordination
- poor attitude
- theft/fraud
- violation of safety rules
- poor work performance
- violation of work procedures

## **WEINGARTEN RULES**

Under the Supreme Court's Weingarten decision, when an investigatory interview occurs, the following rules apply:

- 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.**
- After the employee makes the request, the employer must choose from among three options. The employer must:
  - a. Grant the request and delay questioning 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 the choice of: (1) having the interview without representation or (2) ending the interview.
- 3. If the supervisor denies the request for union representation and continues to ask questions, the employee has a right to refuse to answer.** In addition, the supervisor is committing an unfair labor practice.

## **THESE RIGHTS ARE IN OUR CONTRACT**

Refer to ARTICLE 2 - UNION REPRESENTATION and ARTICLE 10 - CORRECTIVE ACTION PROCESS AND DISCIPLINE

**If you have questions or need union representation, please contact UNAC/UHCP at (909) 599-8622.**