

Weingarten Rules and Rights

Employees have Weingarten rights only during investigatory interviews. An investigatory interview occurs when a supervisor questions an employee to obtain information that 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 employee's responsibility to know their rights and make a direct request.

What You Must Know

What are Weingarten Rights?

In the early 1970's, 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 Union Representative 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.

This right allows a worker to have a union representative present, which may prevent management from coercing an employee into confessions of misconduct (either through threatening behavior, or simply through skilled interrogation techniques). The union representative can:

- Serve as a witness to the actual content of the investigation;
- Object to intimidating tactics or confusing questions;
- Help an employee avoid making "fatal admissions;"
- Advise an employee, when appropriate, against denying everything, and thereby giving the appearance of guilt or dishonesty;
- Counsel an employee against losing her/his temper;
- Discourage an employee from informing on others;
- Raise extenuating factors

FAQs About Weingarten Rights

When can I exercise my Weingarten Rights?

A: Weingarten rights apply only in investigatory interviews -- that is, when management questions an employee to obtain information; and the employee has a reasonable belief that discipline (or other negative consequences) may result. The employee may request union representation before, or at any time during, the interview.

How do I exercise my Weingarten Rights?

A: In the event of a potential disciplinary situation you can simply say:

"If this discussion could in anyway lead to my being disciplined or terminated, or affect my personal working conditions, I request that my union representative be present at this meeting. Until my representative arrives, I choose not to participate in this discussion."

Can I have an AEE Union Representative 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.

What is an investigatory interview?

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

Is Management obligated to remind me of my Weingarten rights prior to an investigatory meeting?

A: No, you must request an AEE Union Representative's presence. Management has no obligation to remind you of your right.

What if I'm told to be in my Supervisor's office at 10am but I do not 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 AEE Union Representative before, during and after the meeting.

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 an AEE Union Representative at the point you believe you are being asked questions which could result in discipline. You cannot be punished for requesting an AEE Union Representative 's presence.

If I request an AEE Union Representative, does the Employer have to comply?

A: The Employer must choose from among three options:

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

What is the role of an AEE Union Representative in an investigatory meeting?

A: During the investigatory meeting, the AEE Union Representative can do the following:

1. When an AEE Union Representative 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.
2. The AEE Union Representative must be allowed a private pre-interview conference before the questioning begins.
3. The AEE Union Representative must be allowed to speak during the interview.
4. The AEE Union Representative can give advice on how the employee should answer questions.

What if a Supervisor denies my request for an AEE Union Representative?

A: If you are denied an AEE Union Representative's presence and are still asked questions, the Employer commits an unfair labor practice and the employee has a right to refuse to answer. The supervisor cannot discipline the employee for such a refusal.

Who is my AEE Union Representative?

A: As defined by Article 16 in the AEE Collective Bargaining Agreement, your AEE Union Representative is either a Job Representative or an Association Representative. Job Representatives are the Region Directors elected by the AEE membership. The Association Representative is AEE's Field Representative, who is an AEE Staff Member. AEE Key Members are not designated as AEE Union Representatives for this purpose, and are not trained to perform those duties.

If you would like to contact an AEE representative please call the AEE Office at 503-585-6340.

For additional contact information for your AEE Region Director check the AEE website at www.aeeo.org.

What if my AEE Union Representative is not available?

A: If your AEE Region Director is not available, you can contact the AEE office (503-585-6340) and an Association Representative can represent you, either in person or by phone.

What if my supervisor/manager asks me to represent an AEE member?

A: You should not represent an AEE member if you are not a designated AEE Union Representative. You should refer your manager to the agency's Human Resource Department. The AEE office is also available to help locate an AEE Union Representative and make sure someone is available for an investigatory meeting.

KNOW AND EXERCISE YOUR WEINGARTEN RIGHTS

Sometimes, management tries to bully workers or confuse us about our Weingarten Rights. They might say that:

- "The investigation is not about you, it's about someone else."
- "If you don't have anything to hide you don't need a Union Representative."
- "This is about your work performance, not about discipline."

Use your own good judgment. Don't let management bully you!

Make sure your co-workers know:

Always demand an AEE Union Representative when management calls you in for an investigation!