

**Springfield Federation
of Paraprofessionals**
Making a Difference



Weingarten Rights

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Basic Weingarten Right: A member who has a **reasonable belief** that a meeting with a supervisor **may lead to discipline** has the right to have a union representative present at that meeting.

Like Miranda rights (where the police officer must tell the suspect "you have the right to remain silent, etc."), the supervisor must inform the employee of his/her Weingarten rights ("you have a right to have a union representative present").

FALSE

When an employee requests the presence of a union representative at an investigative meeting, the supervisor can follow any of these courses of action:

a. Grant the request and wait for the union representative to arrive;

OR

b. Deny the request and immediately end the meeting:

OR

c. Give the employee the choice of ending the meeting or continuing without union representation.

All of the above

When an employee requests that a union representative be present, the supervisor can select which union representative is called in.

FALSE

If an employee requests a particular union representative, and that union representative is on sick leave or on vacation, the supervisor must postpone and investigative interview until the union representative returns to work.

FALSE

If a supervisor denies a request for a union representative, the employee must continue to answer the supervisor's questions.

FALSE*

Upon arrival at the meeting, the union representative should ask the purpose of the meeting and has the right to meet privately with the employee before questioning begins.

TRUE

The union representative is not allowed to take notes during the meeting.

FALSE

The union representative has the right to a) ask the supervisor to clarify confusing questions; and b) to object to harassing questions.

TRUE

What situations give rise to Weingarten rights?

- Where the employee has a reasonable expectation that discipline may result; for example, where the meeting is part of the employer's disciplinary procedure.
- Where the purpose of the meeting or interview is to investigate an employee's allegedly inadequate work performance or other misconduct, where discipline of any kind is a possible result.
- Where the purpose of the interview or meeting is to elicit facts, the employee's "side of the story," or obtain admissions or other evidence either to determine whether or not discipline is warranted OR to support a disciplinary decision already made.
- Where the employee is required to explain or defend his/her conduct in a situation which the employee reasonably fears could affect his/her working conditions or job security.

What situations DO NOT give rise to Weingarten Rights?

- Where the meeting or discussion is merely for the purpose of conveying work instructions, training, or *needed corrections*.
- Where the purpose of the meeting is simply to inform the employee about a disciplinary decision that has already been made and no information is sought from the employee.
- Where the employer **has clearly and overtly assured** the employee prior to the interview that **no discipline or adverse consequences** will result from the interview.
- Where any discussion that occurs after the employer has notified the employee of the discipline has been **initiated by the employee** rather than the employer.

If an employer has provided all the necessary Weingarten rights, may an employee refuse to answer questions?

No, unless the matter under discussion has **criminal implications**. Generally, an employee generally does not have the right to remain silent, as long as his/her representational rights have been honored, nor may the union representative direct the employee to remain silent.