

## **WEINGARTEN RIGHTS**

The right of an employee to the presence of union representatives during investigatory interviews was announced by the US Supreme Court in 1975 in *NLRB v. J. Weingarten Inc.* Since that case involved a clerk being investigated by the Weingarten Company, these rights have become known as Weingarten rights.

Under Weingarten, an employee has a right to union representation when:

- He or she is subject to an investigator interview. Investigatory interviews happen when a supervisor or other management official 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 and;
- The employee has a reasonable belief that discipline or other adverse consequences may result from what he or she says in the interview.

The presence of a steward can help in many ways, for example:

- The steward can help a fearful or inarticulate employee explain what happened.
- The steward can raise extenuating factors.
- The steward can advise an employee against blindly denying everything, thereby giving the appearance of dishonesty and guilt.
- The steward can help prevent an employee from making fatal admissions.
- The steward can stop an employee from losing his/her temper and perhaps being fired for insubordination.
- The steward can serve as a witness to prevent supervisors from giving a false account of the conversation.

## **WEINGARTEN RULES**

### **RULE 1**

There must be an investigatory interview.

The employee must, either before or during the interview, ask for union representation.

### **RULE 2**

When the request is made:

- The supervisor must either grant the request and delay questioning until a union representative 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 (1) having the interview without union representation or (2) ending the interview.

### **RULE 3**

If the supervisor refuses to honor the employee's request and insists on the interview, he or she commits an unfair labor practice and the results of the interview may be set aside by the FLRA if the charge is upheld.