

Weingarten Rights

Background: Weingarten Rights

- In 1975, the U.S. Supreme Court upheld a National Labor Relations Board decision that employees have a right to union representation during investigatory interviews, which became known as the Weingarten rights. These rights are expanded on in Article 4 of the CBA.
- As a result of the decision and the CBA, the following rules apply:
 - Rule 1:** When it is known that the meeting could result in a disciplinary situation, the agency must notify the employee of the subject matter of the meeting in advance. The agency must inform the employee of his/her right to be accompanied by a union representative.
 - Rule 2:** The employee must make a clear request for union representation before or during the interview and cannot be punished for making this request.
 - Rule 3:** After the employee makes the request, the employer has three options: 1. grant the request and delay questioning until the union representative arrives and has a chance to meet with employee; 2. deny the request and end the interview; or 3. give the employee the choice to have the interview without representation or end the interview.
 - Rule 4:** The employer commits an unfair labor practice if it continues to ask questions after denying union representation.

Situations Where WEINGARTEN RIGHTS May Be Exercised:

- When the agency asks the employee questions and the answers could result in discipline.
- If employee has a reasonable expectation that discipline may result.
- If the purpose of the meeting is to investigate an employee's allegedly inadequate work performance or misconduct.
- If the employee is required to explain or defend conduct in a situation.

At a WEINGARTEN Meeting, a Representative Has the Right to:

- Consult privately with the employee before the meeting.
- Speak and be proactive during the interview, as long as doing so does not interfere with or disrupt the meeting.
- Advise and counsel the employee.
- Provide additional information to the agency after the meeting.
- Take notes on the employee's behalf as a witness.

WEINGARTEN RIGHTS Best Practices and Reminders:

- The employer cannot discipline employees for asking for representation.
- Under our CBA, employees shall be notified of their right to have a rep.
- Be sure to review Article 4 of our CBA for additional information.

References:

5 USC 7113 (a)(2)(B)

PASS/FAA CBAs: Article 4, Section 3

