

Members need to know their *Weingarten* rights

The Supreme Court's *NLRB v. J. Weingarten Co.* 420 US 251 (1975) decision gives workers the right to union representation when employers interview them under threat of discipline.

- **Make sure that all workers in the bargaining unit are aware of their Weingarten rights before they get called in for an investigatory interview** - if the worker does not ask, they waive their right to representation. Not every interview or meeting with management qualifies for *Weingarten* protection. **The interview has to be investigatory in nature.** If the meeting is merely to announce discipline and not to investigate, the worker has no right to representation.
- **The interview has to involve the possibility of discipline.** If the employer provides a clear assurance that no discipline will result, the worker has no right to representation and must participate *or face discipline for insubordination.*
- **Workers are entitled to a representative, not to the representative of their choosing.**
- **Once the employee makes a valid request for representation, the employer may grant the request, discontinue the interview, or offer the employee the option of continuing the interview without representation or having no interview at all.**

We should encourage workers to discontinue the interview without a steward.

- **Stewards need to know that Weingarten entitles them to speak to the grievant in private before the interview begins** and that they should take advantage of that right to sort out what the grievant is going to say and whether the grievant will refuse to answer certain (or even all) questions.
- **Stewards are not just witnesses to investigatory interviews – they can and usually should participate.** During the interview, stewards can insist that the employer's interviewer stays honest, object to intimidating tactics, and help the accused worker avoid damaging admissions or insubordination.
- **The Local Union should provide Weingarten Cards to new members when they start employment.**

Stewards do not have the right to be obnoxious, abusive, or obstruct the investigation, but they can advise grievants not to answer questions (although they cannot prevent them from answering questions). Any resulting discipline *against the steward* will be unlawful.