

Weingarten Rights

In 1975, the U.S. Supreme Court ruled on a case known as the NLRB vs. Weingarten. The principles laid down in Weingarten are important ones which all association members should be aware of.

In Weingarten, the Supreme Court upheld the following interpretation of employees' rights to union representation as outlined by the National Labor Relations Board:

1. An employee has a right to union representation in an interview with the employer, if he or she reasonably believes the investigation will lead to disciplinary action.
2. An employee only has this right if he or she requests such representation before or during the interview. The employee cannot be punished for making this request.
3. After an employee makes the request, the employer must either:
 1. grant the request and delay questioning until the union representative arrives and has a chance to consult privately with the employee;
 2. deny the request and end the interview immediately; or
 3. give the employee the choice of having the interview without representation or ending the interview.
 4. If the employer denies the request for union representation and continues to ask questions, it commits an unfair labor practice and the employee has a right to refuse to answer. The employer may not discipline the employee for such a refusal.

The essence of "Weingarten Rights" is to give employees the opportunity to have a union representative in a situation that may lead to a punitive act against the employee. The rationale behind this concept as put forth by the Supreme Court is that a single employee being interviewed might be intimidated and, therefore, may not raise facts in his or her favor during the disciplinary interview. A knowledgeable association representative, on the other hand, would offer "aid and protection" by helping to guide the interview.