



Tips and Tidbits
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Question: What are Weingarten Rights and what is their importance in the workplace?

Weingarten rights are a provision, based on a Supreme Court decision, that entitle the Union to represent bargaining unit employees' at investigative meetings or examinations of a bargaining unit employee by an Agency representative. The Federal Service Relations Statute establishes three conditions that determine if a meeting is subject to Weingarten Rights:

- 1) One or more agency representatives question or examine a bargaining unit employee in connection with an investigation.

The investigation does not have to be formal. In this case, "investigation" can refer to a supervisor asking for information to determine whether disciplinary action should be taken against an employee. For example, an employee is suspected of being late to work, and the supervisor calls him or her into the office to determine if that is the case and, if so, why.

- 2) The employee reasonably believes the examination may result in disciplinary action; and,
- 3) The employee requests Union representation.

If all three conditions are met, supervisors should typically not continue the examination without allowing the employee the requested representation. However, management has the following options:

- 1) Grant the request and notify the Union that a meeting to examine a bargaining unit employee is going to take place and that the employee has requested union representation.
- 2) Discontinue the interview and rely on evidence already available or information obtained from other sources.
- 3) Offer the employee a clear choice to either continue the interview without representation or discontinue the interview.

If an investigatory interview is conducted with the Union present, the Union and the Employer have the following roles:

- a) The union representative assists the employee by clarifying facts or bringing out favorable information.

- b) The union can ask relevant questions and assist the employee to answer.
- c) The union cannot answer questions, break up the meeting, or prevent the Agency from carrying out the investigation.
- d) The employer may insist on hearing the employee's account of the incident.
- e) The employer does not have to permit an argument to develop with the union representative.
- f) The employer has no duty to bargain with the representative.

There are a couple of situations where Weingarten rights are not applicable.

- 1) When Management issues a disciplinary action to an employee. In this case, management is not asking the employee any questions.
- 2) When Management and an employee are engaged in a performance counseling addressing performance issues.

Locally, the American Federation of Government Employees (AFGE), Local 54 represents General Schedule employees; the Federal Employees Metal Trades Union (FEMTC) represents Federal Wage Schedule (FWS) employees; and the Service Employees International (SEIU) represents Non-Appropriated Fund (NAF) employees.

Contact your Civilian Personnel Advisory Center Human Resource Specialist for additional information on determination as to whether a meeting is investigative and subject to Weingarten rights.

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