

TO ALL EA MEMBERS FROM YOUR STEWARDS:

IMPORTANT INFORMATION ABOUT YOUR RIGHTS

We'd like to remind you about your right to union representation in disciplinary matters. There have been instances where management has requested a meeting with an employee on a subject that could have led to disciplinary action where the employees repeatedly requested union representation and was either convinced it wasn't necessary or the employee allowed the questioning without representation. It is important that you know your rights in these types of situations. Please read over the document entitled "Your Weingarten Rights." This document should answer you questions about your right to union representation when questioned about matters that may lead to disciplinary action. Please read this document carefully, and keep it where you can reference it if needed later. The information was obtained from the AFSCME Council 57 website (www.afscme57.org).

According to Weingarten, management is not obligated to offer you union representation; you must request it. However, our contract requires that "[I]f a situation arises where an employee will be counseled by a supervisor for any matter that may result in disciplinary action being taken against the employee, *the employee will be notified that he/she has the right to have Union representation...*" (Article XI, Section 11). While written reprimands are not grievable, they are considered discipline; and you are entitled to representation to discuss any such written reprimand.

You should never agree to meet with management in a potential disciplinary matter without union representation. Your job may be at risk. Management has a habit of choosing the "A" Friday for disciplinary meetings because they know many stewards are off. Most meetings can wait until you can obtain representation. You should also be aware that retaliation for exercising your rights is not only a violation of our contract but of state and federal law. You should report any retaliation to a steward immediately. You should also report any comments from your supervisor such as "Why are you getting the union involved?" or "This isn't going to look good for you because you got the union involved."

For your information, a list of stewards is provided below. A steward is a union representative who has had specific training in representing employees in grievances and disciplinary matters. All of our stewards have been trained.

YOUR WEINGARTEN RIGHTS

Almost thirty years ago a counter clerk who worked for a J. Weingarten store in Houston, Texas, was questioned by her employer for alleged theft. Although she was cleared in the investigation, she had been denied, after several requests, the presence of her shop steward during the questioning. The union representing her filed an unfair labor practice after the incident and, in 1975, the Supreme Court ruled in the union's favor. An important new right for workers emerged from this decision: *An employee may be represented by the union at an investigatory interview with his/her employer when the employee reasonably believes that the interview may lead to disciplinary action.*

Q: Can I have a shop steward present at any meeting I have with management?

A: No, only when you have a reasonable belief that discipline will result from an investigatory meeting.

Q: What is an investigatory interview?

A: An investigatory interview occurs when a supervisor 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.

Q: Is management obligated to remind me of my Weingarten rights prior to an investigatory meeting?

A: No, you must request a steward's presence. Management has no obligation to remind you of your right. [Note: The EA MOU does require that the employee be told they have a right to representation in a disciplinary matter.]

Q: What if I'm told to be in my supervisor's office at 10am but I do not know the nature of the meeting?

A: You have the right to know beforehand what the subject of the discussion will be; and you have the right to consult (caucus) with your steward before and during the meeting.

Q: What if a routine work meeting is taking place between my supervisor and me, but the nature of the meeting suddenly changes?

A: You have the right to stop the meeting and call in a steward at the point you believe you are being asked questions which could result in discipline. You cannot be punished for requesting a steward's presence.

Q: If I request a steward, does the employer have to comply?

A: The employer must choose from among three options: (1) grant the request and delay questioning until the steward 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 a choice of having the interview without representation. [Note: We would not recommend that an employee allow No. 3 to happen.]

Q: What is the role of a steward in an investigatory meeting?

A: (1) When a steward arrives, the supervisor must inform him/her of the subject matter of the interview, i.e., the type of action/misconduct for which discipline is being considered. (2) The steward must be allowed a private pre-interview conference before the questioning begins. (3) The steward must be allowed to speak during the interview. (4) The steward can give advice on how the employee should answer questions.

Q: What if a supervisor denies my request for a steward?

A: If you are denied a steward's presence and are still asked questions, the employer commits an unfair labor practice and the employee has a right to refuse to answer. The supervisor cannot discipline the employee for such a refusal.

Q: If I receive discipline that I don't think I deserve, what can I do?

A: Consult your steward or union contract. Any inappropriate discipline is grievable under the contract.

KNOW AND EXERCISE YOUR WEINGARTEN RIGHTS