

# You Are Being Asked Questions That Might Lead To Disciplinary Action: What Do You Do?

If you believe that discipline will result from a meeting with management/administration (in legalese, “an investigatory interview”), you can insist that a union representative be present during this interview. This is part of your “Weingarten Rights,” which references the United States Supreme Court case *NLRB vs. Weingarten*. Weingarten Rights apply only to members of a collective bargaining unit and are among the many benefits of having a union.

When an investigatory interview occurs, the following rules apply:

**Rule 1)** - You must make a clear request for effective union representation before or during the interview. Often an employee may not know at the outset that a meeting with management could lead to discipline. If such a meeting is or becomes an “investigatory interview,” you should assert your right to have a union officer of your choosing present. You *cannot* be punished for making this request. (Note: If the union representative of your choice is not available in a reasonable time period, it may be necessary for an alternative union officer to represent you.)

A typical Weingarten request would be: "If this discussion could in any way lead to my being disciplined or terminated, or affect my personal working conditions, I respectfully request that my union representative be present at this meeting. Until my union representative arrives, I choose not to participate in this discussion." Or you may simply say, **“I want my union representative here.”**

**Rule 2)** - After you make this request, the interviewer has three options:

- a. Grant the request and delay the interview until your union representative arrives and has a chance to consult privately with you. (Note: The right to representation is the right to *effective* representation, which translates in this rule as the right to consult privately with the representative before the interview. The union representative should also know what the meeting is about ahead of time so that he/she can effectively advise you.)
- b. Deny the request and end the interview immediately; or
- c. Give you a choice of: (1) having the interview continue without representation or (2) ending the interview. (Note: *It is not wise to choose the first option.*)

**Rule 3)** - If the interviewer denies your request and continues to ask questions, this is an unfair labor practice. You have the right not to answer any questions until you have union representation. You cannot be disciplined for refusing to answer the questions, but you are required to sit there until the supervisor terminates the interview. Leaving before this happens may constitute punishable insubordination in some cases.

The AAUP Utica/AFT 6786 represents *all members of the bargaining unit*, both those who pay dues and those who do not, and is obligated to come to your aid without prejudice. If you are summoned to a meeting with a member of administration and discover that it is an “investigatory interview,” assert your right to have a union representative present.