

Insubordination

Insubordination is refusing or failing to carry out a direct order. To claim that a worker was insubordinate, management must (1) issue a direct order, and (2) make the worker aware of the consequence of not following the order.

Weingarten Rights

In the 1975 case *NLRB v. J. Weingarten Inc.*, the U.S. Supreme Court declared that unionized employees have the right to have a steward present during a meeting with management when the employee believes the meeting might lead to disciplinary action being taken against him/her. This case applies to workers in the private sector. Most public employees have similar rights, but the rules vary from state to state, so check your state's labor laws.

Weingarten rights apply during investigatory interviews when a supervisor is questioning an employee to obtain information that could be used as grounds for discipline. When an employee believes such a meeting may lead to discipline, he/she has the right to request union representation. These basic Weingarten rights stem from the Supreme Court's decision:

1. The employee must request representation before or during the meeting.
2. After an employee makes the request, the supervisor has these choices:
 - a. grant the request and wait for the union representative's arrival;
 - b. deny the request and end the meeting immediately; or
 - c. give the employee the choice of either ending the meeting or continuing without representation.
3. If the supervisor denies the request and continues to ask questions, the employee has a right to refuse to answer. In addition, the supervisor is committing an unfair labor practice.



Bright Idea ***Employee Rights in "Weingarten" Meetings***

Beware that management is not obligated to inform employees of their Weingarten rights — employees must ask for them. Unlike Miranda rights — where police are required to tell a suspect of his/her right to an attorney, etc. — employees must ask for their Weingarten rights.

Some locals provide members with a wallet-sized card they can keep with them. If they find themselves in a meeting they believe may lead to discipline, they can read or hand the card to the supervisor.



Bright Ideas **Steward Rights in “Weingarten” Meetings**

- Ask to be informed of the purpose of the meeting.
- Meet with the employee before the supervisor begins questioning the employee.
- If necessary, request clarification of a question before the employee responds.
- Offer advice to the employee on how to answer a question.
- Provide additional information to the supervisor after the meeting is over.

If called in to a “Weingarten” meeting, you should also: 1) take detailed notes on the questions asked and the answers given during the meeting; and 2) help the employee remain calm during the meeting, and remind the employee to keep answers short and truthful and not volunteer additional information.

Sample Weingarten Card

“If the discussion in this meeting could in any way lead to my being disciplined or terminated, or impact on my personal working conditions, I request that my steward, local officer or union representative be present. Without union representation, I choose not to answer any further questions at this time.”

This is my right under a Supreme Court decision called Weingarten (or cite a state law).