

The rights of unionized employees to have present a union representative during meetings with their supervisors were announced by the U.S. Supreme Court in a 1975 case ([NLRB vs. Weingarten, Inc.](#), 420 U.S. 251, 88 LRRM 2689). These rights have become known as the *Weingarten* rights which have been held to be applicable to public employees by under Section 6 of the Illinois Labor Relations Act. [See [Morgan v. State of Illinois](#), 1 PERI 2020 (1985), [Kostro v. Chicago Police Department](#), 3 PERI 3021 (1987), [AFSCME v. City of Chicago Police Department](#), 4 PERI 3015 (1988), [SEIU v. Cook County Sheriff](#), 5 PERI 3001 (1989)] These rights are separate from *and in addition to* any other rights specifically provided by contract or state law (eg. The Peace Officers' or Firefighters' Disciplinary Acts).

Employees have *Weingarten* rights during any “investigatory interview” as that term is defined by applicable law. Under the Labor Act, and the above cited cases, an “investigatory interview” occurs when a supervisor questions an employee to obtain information which could be used for disciplinary purposes or asks an employee to defend his or her conduct.

If an employee has a reasonable belief that discipline *or other adverse consequences* may result from what he or she says, the employee has the right to request union representation.

When the employee makes the request for a union representative to be present management has three options:

- (1) it can stop the meeting until the representative arrives.
- (2) it can call off the meeting or,
- (3) it can tell the employee that it will call off the meeting unless the employee voluntarily gives up his/her rights to a union representative (an option employees usually refuse.)

Employers often assert that the only role of a union representative in an investigatory interview is to observe the discussion. The Supreme Court, however, clearly acknowledges a representative's right to *assist and counsel* workers during the interview.

The Supreme Court has also ruled that during an investigatory interview management must inform the *union representative* of the subject of the meeting. The representative must also be allowed to speak privately with the employee before the interview. During any questioning, the representative can interrupt to clarify a question or to object to confusing or intimidating tactics.

While the interview is in progress the representative can not tell the employee what to say but he may advise them on how to answer a question. At the end of the meeting the union representative can add information to support the employee's case.