

Know your Weingarten Rights on the job

UC-AFT, Contractual Rights Training

CFT Burbank Office

July 25th, 2014

The Right to Union Representation

- An employee has a right to the presence of a Union representative in any meeting with the employer where the employee reasonably believes that the meeting could lead to their own:
 1. Discipline
 2. Discharge
 3. A Change in their Personal Working Conditions

Commonly called the “Weingarten Right”

- This right was established by the U.S. Supreme Court in the Weingarten case decided under the National Labor Relations Act (the private sector labor law)
- The right exists under each of the public sector labor laws, including HEERA (the Higher Education Employer-Employee Relations Act, Government Code Section 3565). Non-senate faculty and Librarians fall under HEERA.
- The employer DOES NOT have to inform the employee of the right to demand a Union representative, but must allow the employee to have one when the employee asks.

Once the employee has requested a representative...

- The employer must postpone the meeting until a Union representative can be present.
- The employee may not postpone the meeting just to find one particular representative – there is no right to have the Field Representative and no one else. The employee may have to accept a steward or other Union official (President, Vice President, etc.)
- The “reasonable amount of time” to find a Union representative depends on the seriousness of the discussion, and if there are timeliness issues. If the individual is being accused of being drunk on the job, the “reasonable amount of time” would not be the next day. However, to discuss a change in work assignment, the “reasonable amount of time” could be several days later. These are examples.

The Employer's Choice Once the Steward is Requested:

1. Cancel the meeting completely and take action with the information the employer already had with no input from the employee
2. Stop the meeting, call in a steward or other readily available Union representative/officer of the Union, and continue with the meeting
3. Reschedule the meeting

ENFORCEMENT

- Denying an employee their Weingarten right is an “unfair labor practice” under HEERA, as enforced by the Public Employment Relations Board (PERB).
- To file an “unfair labor practice” charge for failure to adhere to Weingarten, one would file under 3571 (a) of HEERA:
 - “It shall be unlawful for the higher education employer to do any of the following:
 - (a) Impose or threaten to impose reprisals on employees, to discriminate or threaten to discriminate against employees, or otherwise **to interfere with, restrain, or coerce employees** because of their exercise of rights guaranteed by this chapter.” (emphasis added)
 - With a derivative B. charge “(b) Deny to employee organizations rights guaranteed to them by this chapter.”

Please assist!

- If you are the steward being called into a meeting to represent a co-worker, please assist!
- See if you can reschedule the meeting for a time in the future so you can prepare with your co-worker for the meeting
- If you can't reschedule, you have the right to a preparatory meeting alone with your co-worker in a private location.
- Any time you are unsure about anything, take a "caucus" or a "time out" and call a more experienced steward, a more experienced Union Officer, or your Field Representative for advice
- Any time it feels like your co-worker may be going down the wrong path and/or hurting their own case (whether it be in a disciplinary situation or a change in working conditions) take a "caucus" or a "time out" and make sure s/he gets back on track
- You can take as many caucuses/time outs as you need to!
- Please take copious notes (ALWAYS TAKE COPIOUS NOTES)

ANY QUESTIONS?