

Red Flag Moments

There are moments in the life of an education employee that should cause concern and “raise red flags” for a school employee before participating in a meeting with a building administrator or supervisor. Many times school employees will acquiesce to questioning without representation. That’s not a wise decision. The following list of phrases and situations commonly occur. When faced with the situations and phrases listed, members should take it as a silent signal that it’s time to find the first available association representative. Check out the phraseology!

- ✓ **You may need a building rep when** a building administrator says, “I just want to talk to you for a minute.” And then . . .
 - You walk into the office and the parent and principal are seated on the same side of the table.
 - There are two district administrators or even the superintendent in the office to meet with you and they didn’t bother to tell you what the meeting was about.
- ✓ **You may need a building rep when**, the administrator starts getting “hot-under-the-collar” with you and you’re alone.
- ✓ **You may need a building rep when** the building administrator says, “I’ve had some parent complaints about you.”
- ✓ **You may need a building rep when** the building administrator says, “I have some concerns we need to talk about.”
- ✓ **You may need a building rep when** the building administrator says, “There are rumors in the community about you that we need to discuss.”
- ✓ **You DEFINITELY need a building rep when** the building administrator says, “Do you want a building rep?” **THE ANSWER IS ALWAYS, “YES!”** If a building administrator is offering representation before the meeting takes place, the member must take it as a clue that the meeting is probably not going to be a happy event.
- ✓ **You DEFINITELY need a building rep when** the building administrator uses the following words in the course of the meeting: **discipline, termination, employment status, or negative evaluation.**

UNION REPRESENTATION REQUEST

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 Association Representative be present at the meeting. Without representation, I choose not to answer any questions.

Cut out the card above and keep in a handy place.

Weingarten Rights

The rights of unionized employees to have a union representative present during investigatory interviews 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.

Employees have Weingarten rights only during investigatory interviews: 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.

If an employee has a reasonable belief that discipline or other adverse consequences may result from what he 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) They can stop questioning until the representative arrives.
- (2) They can call off the interview or,
- (3) They can tell the employee that they will call off the interview unless the employee voluntarily gives up his/her rights to a union representative (**an option the employee should always refuse.**)

Once you've asked for union representation, any attempt by management to continue asking questions before a union representative gets there is **ILLEGAL**. **If supervisors pressure you by telling you that "you're only making things worse for yourself" by asking for union representation, that's against the law too.**

Employers will often assert that the only role of a union representative in an investigatory interview is to observe the discussion. The NLRA has established the following rules regarding Weingarten representation:

- Management must inform the union representative of the subject of the interrogation.
- The representative must also be allowed to speak privately with the employee before the interview.
- During the interview the representative cannot argue with the employer, but can interrupt to clarify a question or to object to confusing or intimidating tactics.
- While the interview is in progress the representative cannot tell the employee what to say but s/he may advise them on how to answer a question.
- At the end of the interview the union representative can add information to support the employee's case.

Know the limits:

Just as it's important to know what your Weingarten rights are, it is also important to know the limits.

*You are not entitled to have a representative present every time a supervisor wants to talk to you. Remember, if the discussion begins to change into questioning that could lead to discipline, you have the right to ask for representation before the conversation goes any further. **If you are called into the supervisor's office for an investigation, you can't refuse to go without your representative.** All you can do is refuse to answer questions until your union representative gets there and you've had a chance to talk things over.*