What are Weingarten rights?

- Weingarten rights guarantee an employee the right to union representation whenever an employer’s investigatory interview could lead to discipline.
- Weingarten rights were established in a 1975 United States Supreme Court decision, *NLRB v. Weingarten, Inc.*
- In Massachusetts, the Massachusetts Department of Labor Relations extended Weingarten rules to apply to all public employees, regardless of union or non-union employment status. This is covered under M.G.L. Chapter 150E.

Situations that give rise to Weingarten...

- Employee is in a meeting with their supervisor and is being issued a warning through the employer’s disciplinary procedure.
- Supervisor is investigating an employee’s alleged work performance or other misconduct and discipline of any kind is a possible result.
- Supervisor is investigating alleged misconduct or inadequate work performance and calls a meeting to elicit facts or get the employee’s “side of the story.”
- Supervisor is investigating an incident or allegation and the employee being questioned has a *reasonable expectation* that discipline may result.

What constitutes a *reasonable expectation* that discipline may result?

- **Objective test**: Is the employee reasonable in believing that discipline might result?
- **Factors to consider**: Has the supervisor provided any oral/written warnings about the conduct in question? Has the employee been under scrutiny previously? Have other employees been disciplined for conduct similar to that being investigated at the meeting?

Best Practice...

- Notify the employee of their right to have a union representative at the time you schedule the disciplinary/investigatory meeting.
- If the purpose of the meeting shifts during the course of the meeting, stop the meeting, and notify the employee of their right to have a union representative.

Questions?
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