

Weingarten Rights

Prior to employees being disciplined by management, generally they will be given a pre-disciplinary interview (PDI) or an investigatory interview (II) by management. If you are given one of these interviews, there is no doubt your supervisor or manager is looking for information to use against you so they can issue you discipline. All letter carriers, including CCAs (regardless of how long they have been employed) have Weingarten Rights, which means you have the right to have a union steward present during a meeting in which management asks you questions that could lead to discipline. Stewards can assist you in any investigation by management and help ensure you get your “day in court.” If called to a meeting with management, U.S. postal inspectors, or an Office of Inspector General (OIG) agent, read the following statement to the person you are meeting with before the meeting starts:

“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 union representative, officer, or steward be present at this meeting. Without my Union representation present, I respectfully choose not to answer any questions or participate in this discussion.”

U.S. postal inspectors are federal law enforcement officers who carry firearms, make arrests, execute federal search warrants, and serve subpoenas. Inspectors work with U.S. Attorneys’ Office, other law enforcement, and local prosecutors to investigate cases and prepare them for court. Inspectors throughout the country enforce roughly 200 federal laws related to crimes that adversely affect or entail fraudulent use of the U.S. Mail, the postal system, postal employees, and customers.

Office of Inspector General (OIG) agents are utilized by the Postal Service to investigate internal crimes and frauds against the Postal Service. These agents conduct investigations in areas such as:

- Contract Fraud
- Financial Fraud
- Healthcare Fraud
- Internal Mail Theft
- Official Misconduct
- Technical Investigations
- Special Inquiries
- Whistleblower/Reprisals

OIG agents also investigate bribery, kickbacks, extortion, conflicts of interest, and allegations against Postal Service executives. In addition, the Office of Investigations combats fraud and theft through the Countermeasures Directorate’s crime prevention efforts.

Weingarten Rights have been afforded to employees because of federal labor law which was created in the U.S. Supreme Court ruling *NLRB v. Weingarten, INC.*, 420 U.S. 251 (1975). After that ruling from 1975, it created what is known as the Weingarten rule, giving each employee the right to representation during any investigatory interview which he or she reasonably believes may lead to discipline.

This rule applies during any investigatory interview - whether management is searching for facts and

trying to determine the employee's guilt or deciding whether or not to impose discipline. These questions could be posed during a closed door meeting, through text messaging, a phone conversation or through an informal conversation at the supervisor's desk. In any situation, if the employee reasonably believes that discipline could result, they have Weingarten representation rights.

Whether or not an employee's belief is "reasonable" depends on the circumstances of each case. Some cases are obvious, such as when a supervisor asks an employee whether he discarded deliverable mail. Generally, if you are asked a question concerning something you allegedly did wrong, you should reasonably believe that discipline could result and you should request a steward.

The steward cannot exercise Weingarten Rights on the employee's behalf. And unlike "Miranda Rights" which involve criminal investigations, the employer is not required to inform the employee of the Weingarten right to representation. You must ask for representation. You can ask at any point during an interview, even if you didn't ask for it in the beginning. No matter how smart you think you are, no matter how innocent you are, you should never under any circumstances participate in an investigative interview without a steward present.

Employees also have the right under Weingarten to a pre-interview consultation with a steward or other union representative. Federal courts have extended this right to pre-meeting consultations to cover Inspection Service interrogations as well. No matter who is questioning you, if you believe the questioning could lead to discipline, then you have the right to have union representation present during the line of questioning.

In a Weingarten interview the employee has the right to a steward's assistance, not just a silent presence. The employer would violate an employee's Weingarten Rights if it refused to allow the representative to speak or tried to restrict the steward to the role of a passive observer.

Although postal employees are required to cooperate with postal investigations, the carrier still has the right under Weingarten to have a steward present before answering questions. In the event a steward is not made readily available or if a steward is not present after you have asked for one, you may respond that you will be happy to cooperate in any investigation, but you will only answer questions once a steward is provided.

All of the above information can be found in the *Joint Contract Administration Manual*.