

# WEINGARTEN

NO INVESTIGATION WITHOUT REPRESENTATION

# GET THE FACTS



**UFCW**  
BUILDING A BETTER LIFE

**THIS BOOK BELONGS TO:**

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**NAME**

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**STORE**

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**MY UNION REPRESENTATIVE/CONTACT INFO**

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We are a diverse member driven union fighting for economic and social justice. Our mission is to empower through respect, integrity, and dignity. Our strength comes from standing in solidarity with our communities to build a better life. We bargain with the employer and push politicians to create laws to help workers. This raises standards in our industries which benefit all workers and the communities we live in.

As a UFCW 367 member you are part of a local union family of over 8,000 members in Washington covering the South Puget Sound region. UFCW 367 is part of UFCW International, the largest private sector union in the United States, representing 1.3 million professionals and their families in grocery stores, meatpacking, food processing, retail shops, healthcare, and other industries. Our members serve our communities in all 50 states, Canada, and Puerto Rico.



Mike Hines, President



Anne-Marie Cavanaugh, Secretary Treasurer



# Weingarten - Get the Facts

*Weingarten rights were won in a 1975 Supreme Court decision with these basic guidelines:*

**One of the most important rights union stewards can teach their co-workers about is their “Weingarten rights.” The right of union workers to have union representation present if they find they are questioned, and the questioning or information obtained could lead to discipline.**

- **The Employee must make a clear request** for union representation either before or during the interview. Managers do not have to inform employees of their rights.
- **Management cannot retaliate** for requesting representation.
- **Management must delay questioning** until a representative arrives.
- **It is unfair labor practice** for management to deny an employee’s request for a representative and continue with interrogation. In this case, an employee can refuse to answer management’s questions.



## During a Weingarten Meeting, the Union has a right to:

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- **Ask management to explain the nature of the investigation before the meeting begins.**
- **Exercise our right to speak privately to a union rep before the questioning begins.**
- **Take notes for future reference. Our notes can be invaluable in an arbitration setting.**
- **Ask clarifying questions to make sure the Employee understands what is being asked, or if you think management didn't understand the answer.**
- **Asserting our Weingarten Rights ensures managers respect our contract.**
- **Ask for a break if the Employee is emotionally distressed.**
- **Ask management to stop if they are badgering the Employee.**
- **Object to improper questioning by management.**

## The Employer Must :

**RULE 1** The Employee must make a clear request for union representation before or during the interview. The Employee cannot be punished for making this request.

**RULE 2** After the Employee makes the request, the Employer must choose from among three options. **A.** The Employer must: Grant the request and delay questioning until a representative arrives and has a chance to consult privately with the Employee. **B.** Deny the request and end the interview immediately. **C.** Give the Employee a choice of: having the interview without representation or ending the interview.

**RULE 3** If the Supervisor denies the request for union representation and continues to ask questions, he or she commits an unfair labor practice, and the Employee has the right to refuse to answer. The Supervisor cannot discipline the Employee for such a refusal.

# Weingarten Rights

SCENARIO - WINNER - WINNER CHICKEN DINNER

Jane Hernandez, a member of UFCW Local 367, works at Fred Meyer as a Deli Clerk. She was hired in 2011 at the Sumner store before transferring in 2020 to work at the Puyallup location. Jane Hernandez really likes the Home Chef Tender Sandwich Meal that costs \$5.00.

On April 20, 2021, Fred Meyer's Corporate office received a report that Hernandez was taking cash from her register. From late April through June 14, Loss Prevention Specialist John Smith ran a special under cover surveillance operation monitoring Hernandez's work without the knowledge of any store personnel including the Store Director.

On June 14, Smith disclosed the operation to the Store Director and reported that he observed no suspicious activities by Hernandez. The Store Director informed Smith that another coworker had just reported that Hernandez purchased a Chicken sandwich meal for lunch and had placed a \$1 bill rather than a \$5 bill in the register.

Fred Meyer maintains a policy that no employee may ring up their own purchases. However, in the Deli Department in Puyallup, the policy has not been strictly enforced and lax supervision has resulted in a practice of employees ringing up their own lunch purchases so long as they have another employee there as a witness.

Hernandez was summoned to an interview with the Store Director and LP agent Smith.

## DISCUSSION

- 1. SHOULD HERNANDEZ DO ANYTHING PRIOR TO REPORTING TO THE OFFICE FOR THE INTERVIEW?**
- 2. IF SO, HOW WOULD HERNANDEZ KNOW TO TAKE THIS ACTION?**
- 3. ARE THERE ANY RISKS ASSOCIATED WITH TAKING ACTION PRIOR TO REPORTING TO THE OFFICE?**

# Weingarten Rights

SCENARIO - WINNER - WINNER CHICKEN DINNER

**Hernandez sat down across the desk from the Store Director.**

**Transcript:**

Store Director: Did you purchase lunch from the store today?

Hernandez: Yes.

Store Director: What did you purchase?

Hernandez: Chicken.

Store Director: Did you ring it up at your own register?

Hernandez: Should I have my Union Representative?

Store Director: Did anyone see you ring up your purchase?

Hernandez: Greg (a coworker) was there. He saw me ring it up.

Store Director: Are you aware of the company policy regarding ringing up your own purchases?

Hernandez: I really think I need my shop steward or the Union Rep.

## DISCUSSION

When Hernandez reported to the office she was introduced to John Smith, a loss prevention agent

**4. SHOULD HERNANDEZ TAKE ANY ACTION AT THIS POINT?**

**5. IF SO, WHAT ACTION?**

**6. ARE THERE ANY RISK TO TAKING THIS ACTION?**

**7. WHEN SHOULD HAVE HERNANDEZ REQUESTED A UNION REPRESENTATIVE?**

**8. AT WHAT POINT MUST THE STORE DIRECTOR ALLOW HERNANDEZ TO SPEAK WITH A STEWARD OR REP?**

# Weingarten Rights

SCENARIO - WINNER - WINNER CHICKEN DINNER

LP Smith: If you didn't do anything wrong, why would you need to speak with your Union Rep? We want to help you, and we can only do that if you answer our questions. If you tell us what happened here, I'll go to bat for you. I'll make sure Corporate knows your side of things. But if you insist on having a representative, we may need to end this meeting and make our decision based on what we already know.

Hernandez: Yes, I'm aware of the policy but we've always been told it is okay as long as there is another person there to witness it. Greg was standing right there. He's my witness.

Store Director: You said you purchased chicken. The Home Chef Tender Sandwich Meal, right?

Hernandez: Yes. Umm. I mean no. It was chicken but I didn't say it was the Home Chef meal.

Store Director: It wasn't the Home Chef Tender Sandwich Meal? Remember we have you on video and can see the box.

Hernandez: I purchased chicken, but just a single tender because I had a snack earlier. There wasn't a small box for the tender, so I used the larger box for the Chef meal.

## DISCUSSION

### 9. IS LP SMITH'S STATEMENT AND QUESTION ALLOWED?

### 10. IF NOT, WHAT IS WRONG WITH IT?

### 11. WHEN SHOULD HERNANDEZ BE GIVEN ACCESS TO A UNION REPRESENTATIVE?

# Weingarten Rights

SCENARIO - WINNER - WINNER CHICKEN DINNER

The meeting was paused, and LP Smith left to check Hernandez's explanation with Greg, the other employee in the Deli. Greg confirms the deli ran out of the smaller boxes and that he is unaware of how much chicken was in the larger meal box.

LP Smith returned to the interview and told Hernandez that her explanation checked out, that he was sorry if they had inconvenienced her, and that the matter was closed.

Hernandez thereupon burst into tears and blurted out that the only thing she had ever gotten from the store without paying for it was her free lunch. This revelation surprised the Store Director and Smith because, although free lunches had been provided at the Sumner store, Fred Meyer policy was not to provide free lunches at the Puyallup store.

Smith and the Store Director closely interrogated Hernandez about violations of the free lunch policy at the Puyallup store. Hernandez asked for her Union representative and was again denied it. Based on the interview and the estimated number of free lunches Hernandez had taken, the Store Director calculated that Hernandez owed \$850. LP Smith prepared a statement that indicated the amount and an agreement to repay it and asked Hernandez to sign it. Hernandez refused to sign the statement.

The Store Director asked that Hernandez not discuss this private matter with anyone else. However, Hernandez immediately reported it to her Shop Steward.

## DISCUSSION

### 12. WHAT SHOULD THE SHOP STEWARD DO?

### 13. WHAT SHOULD THE UNION DO?

**If you are called into a investigatory meeting, hand this card to your manager.**



## **WEINGARTEN RIGHTS**

"If this discussion could in any way lead to my being disciplined or terminated, or affect my personal working condition. I respectfully request that my union representative or steward be present at the meeting. Without representation, I choose not to answer any questions."

