

# **INVESTIGATORY INTERVIEW**

## **WEINGARTEN RIGHTS**

The National Labor Relations Act's protection of concerted activity includes a Union Member's right to request assistance from Union Representatives during investigatory interviews.

### **1. What is an investigatory interview?**

An investigatory interview occurs when: (1) management questions an employee to obtain information; and (2) the employee has a reasonable belief that discipline or other adverse consequences may result.

The shop-floor conversation is likely not an investigatory interview (depending on the supervisor's questions). Likewise, it is not an investigatory interview when a supervisor/HR manager issues discipline to an employee without questioning.

### **2. What are an employee's rights?**

An employee can request union representation before or at any time during the interview. When an employee asks for representation, the employer must choose from among three options:

- 1: Grant the request and delay questioning until the Union Representative arrives;
- 2: Deny the request and end the interview immediately; or
- 3: Give the employee a choice of (A) having the interview without representation or (B) ending the interview.

If the employer denies the request for Union Representation and continues the meeting, the employee can refuse to answer questions.

### **3. What are Steward's rights?**

A Steward's role at an investigatory interview is not just a silent witness to the discussion. A Steward **MUST** be allowed to advise and assist the employee in presenting the facts. In addition, a Steward should remain respectful throughout the process.

#### **When a Steward participates in an interview, they should do the following:**

- A) Ask the supervisor/HR manager about the interview's subject matter (in other words, the type of misconduct being investigated).
- B) Ask to have a private meeting with the employee before questioning begins.
- C) Speak during the interview if you believe your perspective/input would be helpful. However, you cannot insist that the interview be ended.
- D) Object to confusing questions and request that questions be clarified to understand what is being asked.
- E) Advise the employee not to answer questions that are abusive, misleading, badgering, or harassing.
- F) When the questioning ends, provide information to justify the employee's conduct.

**If the supervisor/HR manager refuses to let a Steward do any of the above, that refusal MUST be DOCUMENTED!**

# STEWARD'S INVESTIGATORY INTERVIEW CHECKLIST

Name of Affected Member: \_\_\_\_\_

Date: \_\_\_\_\_

Time: \_\_\_\_\_ AM or PM

Place of Interview: \_\_\_\_\_

Management Personnel Present: \_\_\_\_\_

Other Persons Present: \_\_\_\_\_

---

1. READ THE FOLLOWING AND DOCUMENT THE RESPONSES:

A. What is the purpose of this interview: \_\_\_\_\_

B. What misconduct is being investigated: \_\_\_\_\_

---

**If the Company refuses to provide you with an answer, notify them that they are committing an Unfair Labor Practice and ask a second time.**

2. I would like to speak with the member alone. \_\_\_\_\_

**If the Company refuses to allow you to talk to the member alone, notify them that they are committing an Unfair Labor Practice and ask a second time.**

**If the Company refuses to answer or allow you to meet, inform the member that the Company is VIOLATING THEIR WEINGARTEN RIGHTS! You cannot tell the member not to answer questions; they must make that decision for themselves.**

**Notes:** \_\_\_\_\_

---

---

---

---

---

---

---

---

---

---