



#16

KNOW YOUR RIGHT TO REPRESENTATION

When Your Supervisor Calls You Into a Meeting!

CALIFORNIA

STATE

UNIVERSITY

EMPLOYEES

UNION

KNOW

YOUR

RIGHTS

An employee's right to representation

You have the right to union representation during an investigatory interview when you reasonably believe the interview might result in discipline. You have the right to know before a meeting what general matter (such as work performance, dishonesty, inappropriate use of the internet, absences, tardiness, etc.) is being investigated. (CSUEU Contract Article 12.11).*

You must request union representation! No request, no right.

Management is not required to tell you that you have a right to have a union steward present. **You must request their presence.** You should say something such as:

If this discussion could in any way lead to my being disciplined or terminated or affect my personal working conditions, I respectfully request that a union representative be present.

If the supervisor says that this discussion will not lead to your being disciplined, ask for a written statement to that effect. If he or she says that it could result in discipline or refuses to give you a statement to the contrary, tell him or her that you will not answer questions unless a union representative is present.

If the supervisor insists that you involuntarily answer questions without a representative present, s/he violates the contract and commits an unfair labor practice. Under these circumstances, the employee should avoid charges of insubordination by answering the questions. Because the employee will not have a witness to support his or her version of events, s/he should document the questions, as well as his or her answers. When the meeting is completed, the employee should immediately contact the union.

Management can call you into a private meeting as long as they are not questioning you. However, even a casual conversation with a supervisor that starts seemingly harmlessly (over work assignments, for example) can be stopped--until a steward can be asked to be present--if that discussion begins to lead to the possibility of trouble.

* These are called "Weingarten Rights," after a Supreme Court case. They are incorporated into the CSUEU contract under Article 12.11, which states:

Upon his/her request, an employee may be represented at an investigatory interview if he/she reasonably believes that disciplinary action may result. Prior to the interview, the employee shall be informed of the general nature of the matter being investigated. He/she may request to consult with his/her representative, if any. The right to representation does not apply to meetings held exclusively to inform an employee of a previously made disciplinary decision unless the CSU proposes to discuss or modify the disciplinary decision. If the representative an employee requests is unavailable, the employee may request alternate representation. The CSU is not obliged to postpone the interview, nor to suggest or secure the alternate representation; however, the employee shall not be required to answer any questions without a representative present, unless he/she voluntarily chooses to do so. At its discretion, the CSU may decline to hold any interview if the employee requests representation.

Role and rights of stewards in the investigatory meeting

Supervisors often assert that the only role of a steward at an investigatory interview is to observe the discussion, i.e., to be a silent witness. This is wrong. The role of the steward includes the following:

1. When the steward arrives, the supervisor must inform him or her of the subject matter of the interview, i.e., the type of conduct for which discipline is being considered (theft, lateness, drugs, etc.).
2. The steward must be allowed to take the worker aside for a private, pre-interview conference before questioning begins. The steward can take advantage of this time to:
 - a. Talk with the worker about questions that may be asked.
 - b. Advise the worker to be careful, reminding him or her that anything said could be self-incriminatory.
 - c. Warn the worker not to volunteer any extra information, to keep answers short, and to stay calm.
3. The steward must be allowed to speak during the interview. Although the steward doesn't have the right to argue over the purpose of the meeting, he or she can request a postponement if the subject matter requires the employee to research an issue.
4. The steward can request that the supervisor clarify a question in order for the worker to better understand what is being asked.
5. After a question is asked, the steward can give advice on how to answer.

Stewards don't have the right to tell workers not to answer questions or to give false answers. They do have an obligation to stop the boss from harassing or abusing the worker.

If the supervisor denies the request

If the supervisor denies the request for union representation and continues to ask questions, he or she commits a violation of the contract. The union and the employee have the right to file a grievance. A written grievance must be filed within 30 days of the incident.
