

Board Issues A Weingarten Reminder

August 3, 2012 | [Labor Relations](#)



**Gerald F.
Lutkus**
Of Counsel
(Retired)

You remember Weingarten, right? When an employee is brought in for an investigatory interview that could lead to disciplinary action, he or she has the right to Union representation upon the employee's request. On the other side of that coin, if the employer has already decided that discipline is required, there is no right to representation when the employee is called in to receive the discipline (unless, of course, your CBA says something else). Well, what happens if the discipline is pre-determined, handed to the employee when he comes in and then the employer starts asking questions about another subject?

That's the issue the NLRB recently examined in [General Die Casters, 358 N.L.R.B. No. 85 7/25/12](#).

It should come as no surprise that the Board decided that representation is required if the employee requests a Union rep as the session moved into another area. Specifically, the plant manager started asking the employee about an unrelated aspect of his conduct that bothered management. The employee asked whether he needed "to get someone in here." The plant manager said that he did not need to do that. During the following discussion, the plant manager mentioned problems that the employee needed to address and he noted that these were "traits that have got you in trouble in the past." That was enough, the Board concluded, to find that a Weingarten right had arisen.

RELATED PRACTICE AREAS

Labor and Employment
Labor Relations