

discipline, you must make the request for representation *promptly* upon realizing that you are a target of the investigation. You need to make the request only once.

Such requests are considered on-going and need not be repeated in subsequent meetings with higher level management or with the same supervisor on the same subject.

Your representative's role during the interview is to assist you.

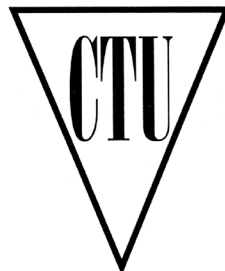
Your UR or Contract Administrator is there to safeguard not only your interests, but also the interests of the entire bargaining unit by making certain that the employer does not unjustly impose punishment. Your representative may also provide information or suggest the testimony of other people that may enable the employer to quickly discover the true facts of your situation. You and your representative are entitled to enough advance notice of the interview to meet for a private consultation.

Please note: The employer's right to carry out an inquiry without interviewing you does not violate your Weingarten Decision rights.



**The Clerical-Technical Union of
Michigan State University
—Your Union—
is always
ready to assist you!**

Your union stands ready to assist you at all times. If you have questions about the Weingarten Decision or other disciplinary action, or need assistance in any workplace matter, please contact your Union Representative or call the CTU office at 355-1903.



Clerical-Technical Union
of Michigan State University

Your Union Representation Rights

Please refer to your CTU membership card if you are requested to attend an investigatory interview. Your card carries the following information:

In the event you are called by supervision to participate in an investigation, or other discussion which you believe may lead to your being disciplined or discharged, you have the right to request the presence of a Union Representative. You may invoke this right by stating the following:

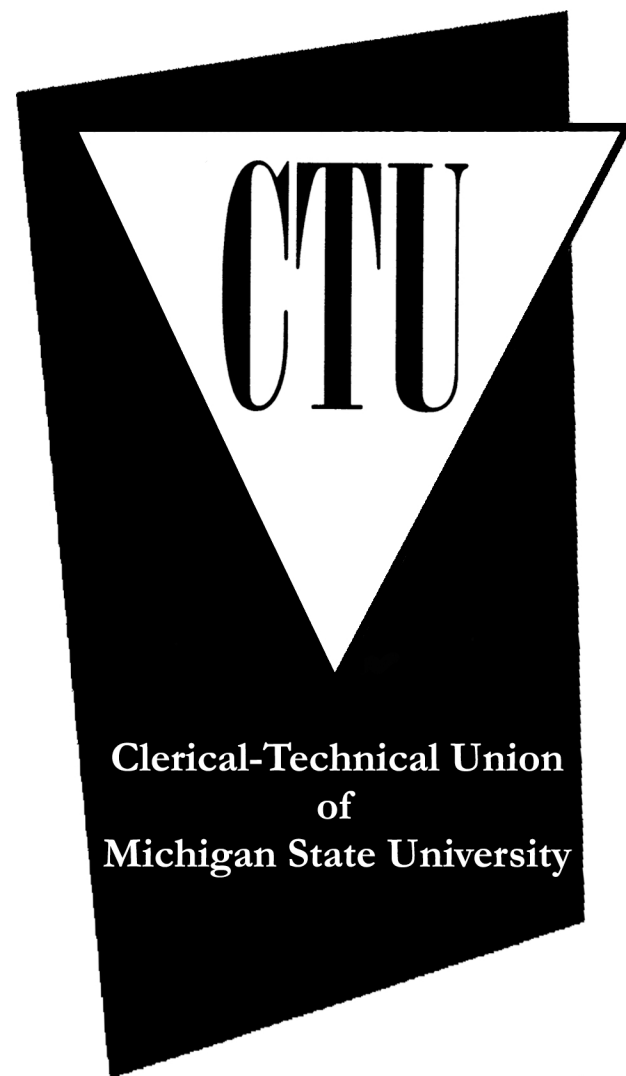
"I respectfully request a CT Union Representative or officer be present at this meeting."

Clerical-Technical Union
of Michigan State University
2990 E. Lake Lansing Rd.
East Lansing, MI 48823-2281

www.ctumsu.org
(517) 355-1903
FAX: (517) 353-3284

**8 a.m. to 5 p.m.
Monday-Friday
or by appointment**

The Weingarten Decision



**Clerical-Technical Union
of
Michigan State University**

*Your rights
when facing an
investigatory
interview*

The Weingarten Decision: Your Rights

CTU has prepared this brochure to provide you with basic information about the Weingarten Decision and how it protects your right to union representation should you be requested to attend an investigatory interview (a meeting at which you may be disciplined or from which discipline may be issued). Please read this brochure carefully and save it for future reference. If you have further questions or need assistance, please contact your UR or the CTU office at 517-355-1903.

History of the Weingarten Decision

Since the 1930s, the National Labor Relations Act (NLRA) has given employees the right to organize, form, join, or assist labor organizations to bargain collectively and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection. To protect these rights, Section 7 of the Act makes it an unfair labor practice to interfere with the exertion of these rights.

Prior to the Weingarten decision, there had been a reluctance on the part of the National Labor Relations Board (NLRB) and the courts of appeal to recognize the right of either a labor union or an employee to have a union representative at meetings between management and employees. That right was seen as a bargaining table issue and not the personal right of the employee. Therefore, if an employee was not a union official, neither the employee nor the union had a right to union representation at an investigatory meeting with management.

Three disciplinary action cases then arose which brought about a modification of that earlier position. The most significant case was the *National Labor Relations Board vs. J. Weingarten, Inc.*

In that case, the administrative law judge found that because the employee was being questioned about a possible act of dishonesty, she could reasonably have concluded that the interview might put her job security in jeopardy even though the people doing the questioning had no authority to impose discipline. It was found that the employee had a right to union representation during the investigatory interview.

However, the courts of appeal refused to enforce any of the three Board orders, including Weingarten.

In 1975, *Weingarten* was taken to the Supreme Court where the Court upheld a 1972 interpretation by the NLRB that Section 7 of the National Labor Relations Act protects the right of an employee to refuse to submit, without union representation, to an investigatory interview that the employee fears may result in discipline. Similar provisions in Michigan's Public Employment Relations Act (PERA) are construed to give public employees, such as MSU CTU employees, the right to request that a union representative be present at an investigatory interview.

How the Weingarten Decision works for you

You should proceed carefully when exercising your rights under the Weingarten Decision as they are recognized only in very specific situations.

You may exercise your rights under the Weingarten Decision only where you reasonably believe that an investigatory interview will result in disciplinary action.

The employer has the right to hold meetings to explain work rules, give instruction, correct employee actions and attitudes and even criticize employees for rule violations. The employer also has the right to hold a

meeting at which you are advised of discipline so long as the discipline is not affected by any information obtained in the meeting.

(The grievance process is your method of redress when this type of meeting takes place.)

You may not refuse to leave your work area if directed by your supervisor to attend an investigatory interview elsewhere.

Once you arrive at the meeting place, you may make your request for representation if you believe the interview will result in disciplinary action. If your request for union representation is denied, remain at the meeting until dismissed, participating as little as possible in the discussion. Be sure to document what took place. Immediately contact your UR or the union office as a grievance may be filed.

You must request representation.

The right to exercise your rights under the Weingarten Rule arises only when you request representation. Having a UR or any other union person make the request for you is not sufficient. If you request a particular representative and that person is not available, the employer may deny the request and proceed with the interview unless you request alternative representation. *MSU policy states that employees should be informed by their supervisor of their right to representation. Take no chances. Request union representation when in doubt.*

The request must be timely.

When you know at the start of the interview that discipline could result, you must make the request when the interview begins. If you have no reason at the start of the interview to fear you might be subject to