

NOTICE OF EMPLOYEE RIGHT TO REPRESENTATION AT CERTAIN INVESTIGATIVE EXAMINATIONS

This serves as notice to all bargaining unit employees of their statutory right to representation during investigative examinations. Often referred to as the “Weingarten right” after a 1975 United States Supreme Court decision, this right was extended to Federal employees by the Federal Labor Relations Statute.

Statutory Requirement: 5 U.S.C. 7114 (a) (2) (B)

An exclusive representative of an appropriate unit in an agency shall be given the opportunity to be represented at –

(B) any examination of an employee in the unit by a representative of the agency in connection with an investigation if –

- (i) the employee reasonably believes that the examination will result in disciplinary action against the employee; and*
- (ii) the employee requests representation.*

All bargaining unit employees are covered by this provision. Excluded from coverage are professional employees, employees engaged in personnel work, supervisors, managers or employees who have been designated as confidential employees.

Investigative Examination: An investigative examination is an interview concerning alleged misconduct where the employee has reason to believe that he or she may be subject to disciplinary action. Routine work-related conversations, instructions or guidance given by a supervisor and performance reviews are examples of discussions that are not covered.

Questions may be addressed to the servicing Labor Relations Office.

AFSC/DP 11 February 2015

AFSCVA 36-701

No releasability restrictions on this aid

AFI 36-701 and 5 USC 7114