

Stewards Guide to Representation



Training Guide

UFCW3000



www.ufcw3000.org

206-436-0210 or toll free 1-800-732-1188

Member Resource Center: 866-210-3000



Office Locations

Seattle: 5030 First Ave S, Suite 200, Seattle, WA 98134-2438

Mt. Vernon: 1510 N 18th St, Mt Vernon, WA 98273-2604

Des Moines: 23040 Pacific Hwy S, Des Moines, WA 98198-7268

Silverdale: 3888 NW Randall Way, Suite 105, Silverdale, WA 98383-7847

Spokane: 2805 N Market St, Spokane, WA 99207-5553

Tri-Cities: 2505 Duportail St, Suite D, Richland, WA 99352-4079

Wenatchee: 330 King St, Suite 4, Wenatchee, WA 98801-2857

Yakima: 507 S 3rd St, Yakima, WA 98901-3219

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BUILDING A POWERFUL UNION THAT FIGHTS FOR ECONOMIC, POLITICAL AND SOCIAL JUSTICE IN OUR WORKPLACES AND IN OUR COMMUNITIES.

Thank you for joining us as a workplace leader and steward! Your Union, UFCW 3000 are over 50,000 members working in grocery, retail, health care, meat packing, cannabis, public sector & other industries across Washington state, north-east Oregon, and northern Idaho. UFCW 3000 is a chartered member of UFCW International with over 1.4 million workers in North America.

The strength we have as a Union is directly proportional to the strength of rank and file leaders in every worksite. The best contracts and laws we win, only help us if we know how to enforce, protect, and expand on those rights. This handbook, and the steward training classes it goes along with, will give you the basics.

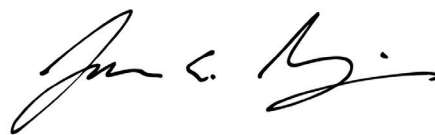
But being a leader in the workplace is a project for lifelong learning! We hope you will continue to participate in leadership classes offered by UFCW 3000 and Partner Organizations. Remember, we are never alone in this work- your Union Rep, Fellow Leaders, and Member Resource Center are here to support you and answer your questions.

We look forward to supporting your leadership growth and building our movement together.

In Solidarity,



Faye Guenther, President



Joe Mizrahi, Secretary Treasurer

UFCW 3000 Member Resource Center



What is the Member Resource Center? As Union Stewards you will be working with members on disciplinary actions, grievances, Weingarten meetings, investigations and more. We have created our Member Resource Center (MRC) as a centralized, dedicated resource for you as you perform your duties as a Union Steward. You will work directly with experienced, Union MRC Reps who in processing grievances, investigations, and disciplinary meetings.

Stewards are key to consistent contract enforcement and a strong Member Resource Center. You and your fellow leaders know the issues best in your workplace and are experts in your job functions and practices within our industries. Every time we represent our coworkers, we are affirming that we are the Union and helping create a power balance with management. Good stewards can help resolve issues for members at the lowest level possible.

Weingarten legal rights and definitions

Weingarten rights guarantee workers the right to Union representation during an investigatory interview. These rights, established by the Supreme Court, in 1975 in the case of *J. Weingarten Inc.*, must be claimed by the worker. **The supervisor has no obligation to inform us that we are entitled to Union representation. We have to ask for that representation.**

What is an “investigatory interview”?

An investigatory interview is one in which a supervisor questions one of our co-workers to obtain information which could be used as a basis for discipline or asks one of our co-workers to defend their conduct. **If we have a reasonable belief that discipline or discharge may result from what we say, we have the right to request Union representation.**

Examples of such an interview are:

1. The interview is part of the boss’ disciplinary procedure or is a component of the boss’ procedure for determining whether discipline will be imposed.
2. The purpose of the interview is to investigate a co-worker’s performance where discipline, demotion or other adverse consequences to our co-worker’s job status or working conditions are a possible result.
3. The purpose of the interview is to elicit facts from a co-worker to support disciplinary action that is probable or that is being considered, or to obtain admissions of misconduct or other evidence to support a disciplinary decision already made.
4. A co-worker is required to explain their conduct, or defend it during the interview, or is compelled to answer questions or give evidence.

Our rights to Union representation in the following circumstances are typically limited and would be dependent on affirmative contract language:

1. The meeting is merely for the purpose of conveying work instructions, training, or communicating needed corrections in a co-worker’s work techniques.
2. A co-worker is assured by the boss prior to the interview that no discipline or employment consequences can result from the interview.
3. The boss has reached a final decision to impose certain discipline on a co-worker prior to the interview, and the purpose of the interview is to inform our co-worker of the discipline or to impose it.
4. Any conversation or discussion about the previously determined discipline which is initiated by a co-worker and without boss’ encouragement or instigation after our co-worker is informed of the action. If we ask to meet the boss does not have to allow union representation (this restriction does not apply to grievance meetings).

Even in the above four (4) circumstances, we should still ask for representation. Most bosses will permit a representative to attend even when not required to.

Workers' Right to Representation During Investigation

One of the most important rights union leaders can teach their co-workers about is their Weingarten Rights – the right of union workers to have a steward present if they find themselves in a situation where they might be disciplined. Because we are Union, none of us needs to stand alone.

Weingarten rights were won in a 1975 Supreme Court decision covering private sector union members; non-union workers do not qualify. In 2010 the State of Washington extended these rights to public employees in our state as well.

Members' Weingarten Rights:

- Our co-workers must make a clear request for union representation either before or during the interview. The boss does not have to inform our co-workers of their rights.
- Management cannot retaliate against our co-workers for requesting representation
- Management must delay questioning until the union steward arrives
- It is an unfair labor practice for management to deny a co-worker's request for a steward and to continue with interrogation. In this case, your co-worker can refuse to answer management questions (but should not leave the meeting until it is over).



Weingarten Rights **Your right to union representation**

If you're called into a meeting that you think could lead to discipline, **STOP!** Ask for union representation.

You have a right not to be alone.

“I request a union representative during this meeting. If you accuse me or ask me questions I believe may lead to my discipline, I have a right not to answer those questions and will continue to ask for a union representative until you comply with my request.”

Call the union office at
1-800-732-1188.



UFCW3000

Weingarten Rights
Your right to union representation

Derechos Weingarten
Su derecho a representación de la unión

温格腾权利
你有请求工会代表陪同的权利

Các Quyền Weingarten
Quyền của bạn đối với việc đại diện công đoàn

Право Вейнгартена
Ваше право на представителя профсоюза

Weingarten Rights

If you are called into a meeting that you think could lead to discipline, STOP! Ask for Union Representation.

“I request a union representative during this meeting. If you accuse me or ask me questions I believe may lead to discipline, I have a right not to answer those questions and will continue to ask for a union representative until you comply with my request.”



Derechos Weingarten Su derecho a representación de la unión

En caso de que lo manden a una junta que usted piense podría llevar a un castigo ¡DETÉNGASE! Pida representación de la unión.

Usted tiene derecho de no estar solo.

“Pido la presencia de un representante de la unión durante esta junta. En caso de que me acusen o me hagan preguntas que yo pienso podrían llevar a algún castigo, tengo el derecho de no contestar esas preguntas y seguiré pidiendo la presencia de un representante de la unión hasta que cumplan mi petición.”

Llame al: 1-800-732-1188

温格腾权利

你有请求工会代表陪同的权利

如果管理人员找你面谈，而面谈有可能导致对你的纪律处分，您可以暂时不去！您有权要求工会代表参加。

您有权不单独面对管理人员的质询。

“我要求工会代表陪同参加此次面谈。如果您指责我或者向我提出我认为有可能导致对我进行纪律处分的问题，我有权不回答那些问题并请求工会代表的参加，直到您答应我的请求为止”

请致电: 1-800-732-1188

Các Quyền Weingarten Quyền của bạn đối với việc đại diện công đoàn

Nếu quý vị được triệu tập đến một cuộc họp mà quý vị cho rằng có thể dẫn đến biện pháp kỷ luật, hãy DỪNG LẠI!! Hãy yêu cầu có đại diện công đoàn.

Quý vị có quyền không đi một mình.

“Tôi yêu cầu có đại diện công đoàn trong buổi họp này. Nếu quý vị buộc tôi tôi hoặc đặt ra những câu hỏi mà tôi cho rằng có thể dẫn đến biện pháp kỷ luật đối với tôi, tôi có quyền không trả lời các câu hỏi đó và sẽ tiếp tục yêu cầu có đại diện công đoàn cho đến khi quý vị đáp ứng yêu cầu của tôi.”

Hãy gọi: 1-800-732-1188

Право Вейнгартена Ваше право на представителя профсоюза

Если Вас позвали на собрание, которое, по-Вашему, может быть связано с дисциплиной, ОСТАНОВИТЕСЬ! Попросите о представителе профсоюза.

У Вас есть право не быть одиноким!

“Я прошу о представителе профсоюза во время этого собрания. Если Вы обвиняете меня или задаете какие-либо вопросы, связанные с дисциплиной, у меня есть право не отвечать на эти вопросы, пока Вы не обеспечите мне представителя профсоюза.”

Позвоните по номеру: 1-800-732-1188

Steward Rights: The Equality Rule and the No-Reprisal Rule

When acting as a representative during investigatory and disciplinary meetings, stewards are no longer subordinates to managers. They are equal for the purposes of the meeting. Management cannot retaliate against stewards for actions taken during the meetings.

Participating in Weingarten meetings is a key role for Stewards.

Workers standing up for each other in the workplace builds unity among workers and sends a message to management. Standing up for co-workers is the front line of protecting the rights we work so hard to win.

The Union Steward's Role in Investigatory Meetings:

1. Exercise your right to speak privately with the employee before the questioning begins.
2. Act as a witness in this meeting, not necessarily as a defense attorney.
3. Ask management to explain the nature of the investigation before the meeting begins.
4. Ask clarifying questions to make sure the employee understands what is being asked, or if you think that management did not understand the answer.
5. Take notes for future reference, and ask for copies of documents that management refers to.
6. Ask for a break if the employee is emotionally distressed.
7. Object to improper questioning by management.
8. Ask management to stop if they are badgering the employee.

Tips for Stewards representing co-workers facing discipline:

- *Don't be nervous. Ok, it's normal ~ remember to breathe*
- *Advise the employee on how the grievance process works. If and when they receive a disciplinary action, the contract will allow them to respond through a grievance. Explain the steps and timeline, and "just cause".*
- *Contact the Member Resource Center immediately. Don't wait, as there are time limits for taking action, and we may need to collect information, documents, etc.*
- *Respect the employee's confidentiality regarding the discipline; do not discuss it with other employees without the employee's permission.*
- *Provide the Member Resource Center with a copy of your notes from the investigatory meeting, and any other useful information. Retain a copy of your notes in case you have a role in the grievance process.*
- *Assist the Member Resource Center with any investigation that will help the employee.*
- *Help the employee write a rebuttal if they disagree with the discipline.*

The Power of Good Note-taking

The notes you take are an essential way to capture key points of a conversation with a member or to begin investigating a potential contract violation. Stewards' notes can function as "to do" lists noting what follow-up is required or can keep you on track for a grievance presentation with management. Good note-taking helps a steward to be more organized. But should you scribble down everything that's said? How many notes are too many notes? Are there best ways to take quality notes?

Why take notes at all?

Notes should be taken for two reasons:

1. To help you recall important thoughts or points from a conversation or exchange.
2. To create a record of an event.

If you will be following up to get more details for a grievance investigation, notes can keep you on track.

What do you need to do next?

With whom do you need to speak?

With this type of note keeping there is no need for formality – keep them short and to the point, just a simple road map of where the investigation is leading is fine. Once the matter is settled, there is no need to keep these notes, as they were your notes to guide your investigation.

Other types of notes are more formal, for example to record an agreement or to note key events of a meeting. When recording an event, simple facts should be written down in case they are needed at a later date:

- What occurred?
- Date, time and location of event
- Who was witness to the event?

Both types of notes have one purpose: to help stewards recall something they need to remember to properly do their job and support their members.

Good Note-taking starts with good listening, by focusing on what is being said.

How many notes are too many?

Many stewards start meetings with members by grabbing a pen and pad of paper and scribbling notes with pen blazing. **Instead, imagine what could happen by focusing on listening to what the member has to say, then capturing the most important points in note form.**

The result will likely be greater attention paid to the issue at hand, and the opportunity to build a greater steward-member relationship. You'll have been more attentive to the member's concerns and be better able to figure out what the real issues are, rather than wasting time and paper on keeping a record of mostly useless conversation.

Don't let taking notes get in the way.

Imagine you are a member asking a steward for help for the first time. As you are explaining your concern to the steward, you notice that she isn't looking at you at all, but is simply focused on writing down what you say.

How might that make you feel?

Might you begin to be self-conscious about your words?

Might you wonder if she is really hearing what you're saying?

Would you feel like you were connecting with the union rep?

Failure to make eye contact with the member can send the unintended message, **"You are not important, I'm only interested in your words."**

As steward you can build trust and rapport if you:

- Look up as you take notes to make eye contact with the speaker.
- Nod your head slightly once in a while to show that you are listening.
- Make notes of the most important facts while the member speaks, later adding your personal notes of actions needed.

By following these simple tips you will better communicate your interest in the member while getting the notes you'll need in order to help.

What is the best way to take quality notes?

Good note-taking starts with good listening, by focusing on what is being said, who is saying it, tone of voice and nonverbal messaging. A union representative may miss many of these if his or her head remains buried in a notepad. Asking relevant, probing questions will help clarify the who, what, when, where, how, and why of the issues.

Using these skills will help you build trust with the speaker, be it a line supervisor or a disgruntled member. It puts you and them at ease. It also helps you to separate key points in the conversation from general information, allowing your notes to reflect the key issues you need to follow up on.

Well-taken notes that are to the point, focused on the main concerns and facts, will help you to be better organized, better prepared and better able to assist members. Quality over quantity is the key.

—Patrick Domaratz.

UFCW3000 Investigatory Meeting Notes

Member Resource Center: 866-210-3000

Date:

Time:

Location:

In Attendance:

Management Statement- What they are Investigating?

Questions Management Asked/Members Answers:

Relevant Documents:

Names and people mentioned
with possible knowledge of situation:

Grievance Investigation Sheet

*This document is to be used as an investigatory tool and can be filled out by Reps. or Stewards.
This document is property of UFCW 3000 and should not be submitted to any employer.
Member Resource Center: **866-210-3000**

Name Of Grievant

Department

Title

Hire Date

Date Of Birth

Wage Rate

Member Number

Address

City

State

Zip

Home Phone

Mobile Phone

Name Of Immediate Supervisor

Name Of Unit Rep (Steward)

What happened? Also describe previous incidents that may be related.

Who was involved? Include names and titles: (include witnesses)

When did the incident occur? Include date and time:

Where did the incident occur? Include Specific location:

Why is this an issue? List alleged violation: contract, policy, unfair treatment, past practice, local, state, or federal law, and/or other:

Signature _____

Date _____

UFCW3000

Note: Please keep a copy of this form for your records.

APPENDIX A- Public Sector

Public Employees Members'

Loudermill Rights:

Public employees in our union have an additional constitutional right, to a hearing prior to a disciplinary termination or suspension. Unlike under Weingarten, a public agency is required to inform the member of their rights to a “Loudermill hearing”, by providing the employee:

- Oral or written notice of the charges against them;
- An explanation of the employer’s evidence;
- An opportunity for the employee to present his/her side of the story.

The pre-termination hearing gives an opportunity for the employee to tell their side of the story; but is not set up to allow for a full defense (with witnesses and documents). The employee can waive their rights to the Loudermill hearing or can attend to listen only without making any statement.

“Loudermill Rights” – Public Employee Rights to a pre-termination hearing:

The Supreme Court decision stated that non-probationary public employees, who are facing discipline, are entitled to certain due process rights (now known as the Loudermill Right).

Here’s an explanation of those rights:

- 1. Public employers must provide public employees with notice** of an opportunity to be heard when considering the imposition of discipline that would deprive them of a property interest. The following should be provided to the employee:
 - Oral or written notice of the charges;
 - An explanation of the employer’s evidence;
 - An opportunity for the employee to present his/her side of the story.
- 2. Public employees with “just cause”, “for cause” or other similar protections through a collective bargaining agreement** have a property interest in their public employment. Loudermill applies to disciplinary suspensions (unpaid) as well as termination of employment.

- 3. How much notice is sufficient?** The answer to that question may be established by the collective bargaining agreement. If not, notice is generally deemed sufficient where the employee was adequately apprised of the disputed issue and given a meaningful opportunity to prepare a defense. Notice of less than one day in advance has been deemed adequate by the courts in particular situations, but generally more sufficient notice is recommended. It is the quality, not the quantity, of the notice that determines whether the due process requirements of *Loudermill* have been met.
- 4. The notice should describe the charges against the employee,** provide a summary explanation of the employer's evidence, indicate that dismissal or suspension is contemplated and not simply that the dispute will be reviewed and include a description of all charges levied, with reference to applicable rules violations.
- 5. The way the pre-disciplinary hearing is conducted may be established by contract or practice.** The pre-disciplinary hearing may combine investigatory and adjudicatory functions. An employer should read the charges and summary of the evidence at the outset. The employer should permit the employee or the employee's Union representative to question witnesses when it would constructively help illustrate "the other side of the story." However, an employer should not allow the employee or the union representative to take advantage of this opportunity. The Employer should remain in control of this process; if the questions are irrelevant, overly burdensome or repetitive, the employee should be instructed to return to the issues at hand.

Interestingly – since the *Loudermill* decision was handed down, lower courts have tended to limit the remedy for any violations.

Specifically, reinstatement will not occur if the employer can prove there was just cause for the discharge. The hearing's purpose is simply to give an employee the opportunity to present the reasons why the employer should not take the adverse action being contemplated.

<https://www.kemlaw.com/2019/11/05/due-process-rights-for-public-employees-during-the-disciplinary-process/>

Resources for Leaders

UFCW 3000 Web site: www.ufcw3000.org

UFCW 3000 Member Resource Center: **866-210-3000**

Washington State Labor Council: www.wslc.org

The Stand- news about working people standing together in Washington State! www.thestand.org/

U.S. Equal Employment Opportunity Commission: www.eeoc.gov/

Washington State Human Rights Commission: www.hum.wa.gov/

Unemployment Law Project: unemploymentlawprojec.org

Project Help: www.projecthelpwa.com

Office of the Ombuds: ombuds.selfinsured.wa.gov/

Job Accommodation Network (JAN): askjan.org/index.cfm

Northwest Immigrant Rights Project: www.nwirp.org

Washington Paid Family Medical Leave: paidleave.wa.gov/

Washington State Workers' Rights Manual On-line: www.RightsAtWorkWA.org

Find Out If I Am Registered to Vote: voter.votewa.gov/WhereToVote.aspx

My Union Rep is:

Their phone number is:

WWW.UFCW3000.ORG

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