



# CALIFORNIA MILITARY DEPARTMENT NOTICE

NGCA-JSD-MP  
DISTRIBUTION: TA

CMDN 1420.20  
18 May 2020

## ANNUAL NOTICE OF WEINGARTEN RIGHTS

References: 5 USC §7101-7135

1. Purpose. This California Military Department Notice (CMDN) provides notice of Weingarten Rights.

2. Cancellation. This notice supersedes CMDN 1419.13, Annual Notice of Weingarten Rights, dated 27 March 2019.

3. Applicability. This notice applies to California National Guard Technicians and their commanders, managers, and supervisors.

4. Background. The Civil Service Act of 1978, codified by 5 USC §7101-7135, gives technicians represented by an exclusive labor organization the right to have union representation at a formal meeting that involves an examination by a representative of an agency in connection with an inquiry or investigation.

5. Action or Procedure.

a. Supervisors and managers must advise employees of their Weingarten Rights in accordance with the applicable Collective Bargaining Agreement (CBA).

b. 5 USC §7114(a)(2) provides the following:

“(2) An exclusive representative of the appropriate unit in an agency shall be given the opportunity to be represented at--

(A) any formal discussion between one or more representatives of the agency and one or more employees in the unit of their representative concerning any grievance or any personnel policy or practices or other general condition of employment; or

(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 may result in disciplinary action against the employee; and

(ii) the employee requests representation.”

6. Releasability. This issuance is approved for public release; distribution is unlimited. This notice will be posted in a prominent visible place.

7. Effective Date. This notice expires one year from the date of publication.

BARBARA J. BEEGLES  
LTC, LG, CAARNG  
Director, Human Resources Office

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ENCLOSURE A

GUIDANCE ON REPRESENTATION

1. Formal Discussions. The statute provides the Union the right to be present at a formal discussion to protect the institutional rights of the bargaining unit even if the employee objects.

a. Participants. The Union has the right to be present at a formal discussion with the following participants:

(1) Meeting must involve one or more employees in the bargaining Unit represented by the Union.

(2) Involve one or more supervisors, managers, or other representatives of the agency.

b. Criteria. To determine if the discussion is formal use the following criteria:

(1) Level of Supervisory officials and number of supervisors or managers. A first-line supervisor may be formal, but a meeting with higher ranking officials is considered to be formal.

(2) How long the meeting is expected to be in session. A quick huddle may not be considered formal, but an extended meeting is usually formal.

(3) How the meeting is called. A formal email or memorandum normally constitutes a more formal meeting.

(4) Where the meeting is held. The more formal the setting the more likely it is to be considered formal.

(5) An agenda indicates formality.

(6) Mandatory attendance at the meeting indicates formality.

(7) Recording minutes or transcript of the meeting indicates formality.

(8) Subject matter may make it formal in nature (i.e. a discussion which includes a RIF).

(9) A meeting concerning one of the subjects listed in the statute-concern either a grievance, general personnel policy, or other general conditions of employment indicates formality.

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2. Examination. This CMDN provides the required notice to employees of their Weingarten Rights. A supervisor may also notify an employee of their Weingarten Rights at the time of an examination. A supervisor may allow an employee to have a Union representative for other discussions; as having a Union presence is not limited to involvement listed in this statute.

GLOSSARY

ACRONYMS

CMDN  
USC  
CBA

California Military Department Notice  
United States Code  
Collective Bargaining Agreement