

**Exercise - What Would You Do?**  
**(Instructor Answer Key)**

**Scenario #1**

Tanya is a school custodian for Liunaville Elementary School. She has worked there for 9 months. Liunaville is a right to work jurisdiction (no agency fee law) and Tanya is not a union member.

Danielle is the steward for LIUNA L. 1234.

Mr. Meany is their supervisor.

The school custodians must report to work by 4pm and work until midnight Monday through Friday.

**Tuesday, February 21**

Tanya comes to work at 4:10pm. Her babysitter was late so she called Mr. Meany and left him a voice mail at 3:30pm to tell him she would be a little late. (The CBA requires all workers who will be late to call their supervisor to let them know as soon as possible, but before their shift begins).

When Tanya gets to work, Mr. Meany confronts her and asks why she was late, yelling “I am sick and tired of you coming in here whenever you want! What’s your excuse this time??” Tanya asks if she can have a steward present. Mr. Meany says that Danielle is not there today so Tanya should just tell him why she was late. Tanya asks if they can talk tomorrow when Danielle is back at work and Mr. Meany just walks away.

**Wednesday, February 22**

8am: Tanya receives an e-mail from Mr. Meany that says she is suspended for 10 days for being late and to not come back to work until then.

Noon: Tanya meets with Danielle, the union steward. Tanya tells Danielle that she was suspended for 10 days and wants the union to file a grievance. Danielle says that the union won’t file a grievance for Tanya because she is busy and doesn’t have time. Besides, she says, Tanya is not even a union member.

**QUESTIONS**

1. Were Tanya’s *Weingarten* rights violated by Mr. Meany? Why or why not? Be specific.  
*MAYBE – Tanya asked for a steward and Mr. Meany at first refused to allow her to have a steward and instead told Tanya to start answering his questions without the steward being present for this investigatory interview; but then Mr. Meany stopped the interview until the steward could attend.*
2. Name 2 things that Mr. Meany could have done differently to be sure that he avoided a *Weingarten* violation in this scenario?  
*He could have said that he would postpone the meeting until a steward was present and not asked Tanya questions until the steward arrived.*
3. Did Danielle violate the union’s duty of fair representation? Why or why not?  
*PROBABLY – the Union cannot generally treat members and non-members differently when deciding whether to file a grievance (with some exceptions, like Florida); what matters instead of whether she is a member is whether the grievance has merit. When Danielle said she did not have time to file the*

*grievance, he probably violated DFR because she was acting arbitrarily (about who she would file for) and in bad faith and by discriminating because Tanya is a non-member).*

4. Did Mr. Meany provide Tanya due process? Why or why not?

*NO. By sending Tanya an e-mail notifying her she's suspended, Mr. Meany did not provide Tanya with due process, which allows her to be informed of the charge against her and to make her case to the employer before discipline is imposed. It's also unclear if a tardy would mean that Tanya should be suspended for 10 days – the steward should review the CBA. If the Union decides the case has merit and files a grievance, Tanya's suspension may be overturned on both substantive grounds (the contract was violated) and/or procedural grounds (the employer did not follow due process).*