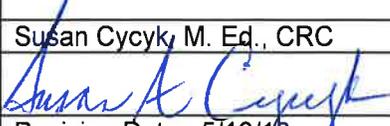




Division of Prevention and Behavioral Health Services
Department of Services for Children Youth and Their Families
State of Delaware

PBHS ADM 016	Conducting Workplace Investigations		
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I. INTRODUCTION

A variety of situations or concerns can lead to a workplace investigation; some common reasons to initiate an investigation include:

- Suspected employee misconduct
- Suspected substance abuse
- Reports of safety violations
- Reports of harassment

NOTE: Affirmative Action complaints will be handled in accordance with DSCYF Policy #302.

II. PURPOSE

The purpose of the workplace investigation is to gather information in a systematic, uniform and impartial manner to drive and support human resource-related decisions, including decisions to take further personnel-related action, as well as, supporting decisions that action is not warranted.

- A. Unless associated with a discrimination complaint, gathering information about employee related complaints or concerns and achieving acceptable resolutions are the responsibility of the assigned Division supervisors and managers.
- B. All contact with the DSCYF Human Resources Office must occur through the Unit Director/Administrator. For this process, Unit Director/Administrator refers to the lead person for the Division work units, including the ACCESS, Administrative Services, Child & Family Care Coordination, Prevention, Quality Improvement, Residential, and Specialized services units.
- C. For this process, second-line manager refers to the person that directly manages the employee's supervisor.

III. GOAL OF THE INVESTIGATION

The main goal of any workplace investigation is to provide a sound, factual basis for decisions by DPBHS management. The investigation should produce reliable documentation and evidence that can be used to support management actions. Also, an investigation of employees should strive to reveal whether any misconduct has occurred, identify (or clear) specific employees who are suspected or accountable for misconduct, and prevent further wrongful actions.

IV. AUTHORIZATION AND NOTIFICATION OF A WORKPLACE INVESTIGATION

A. Authorization to Conduct a Workplace Investigation

No investigation of a DPBHS employee involving the interview of witnesses will be initiated without the knowledge and agreement of the employee's second-line manager.

B. Notification Requirements

When authorization for a workplace investigation involving the interview of witnesses is issued, the second-line manager will notify his or her unit director/administrator **prior to the start of the investigation** process and at the **completion of the investigation report**.

V. PLANNING THE INVESTIGATION

When authorization is received to conduct a workplace investigation, it is important to lay out as many details as possible prior to interviewing the first witness or employee.

A. Selecting the Investigator

In situations involving a complaint about a Division employee, the employee's direct supervisor or second-line manager commonly serve as the workplace investigator.

In all cases, it is essential to ensure that the investigator approaches and conducts the process in an unbiased and systematic manner to uncover and document all of the facts from all parties related to the situation or condition that triggered the investigation.

B. Planning considerations include:

1. What policies/guidelines apply to this situation?
2. How have similar incidents been handled in the past?
3. Who will be interviewed and in what order?
NOTE: It is preferable to interview the person (or persons) at the center of the investigation last.
4. What special expertise is needed?
5. What interim action (such as a suspension) is necessary?
6. Does the potential for violence or risk exist?

C. Interview Questions

Prior to interviewing any witnesses, the assigned investigator develops, with assistance if necessary, a well-thought out list of questions based on the nature of investigation being conducted. Since the components of each investigation are rarely the same, each situation demands different questions. Generally, each witness will need to answer questions relating to:

1. What they observed, as well as the date, time and location of the observation,
3. Who else was there or may be a witness,
4. What factors may have contributed to the event, and
5. What happened next.

Although it is important to consistently ask the same general set of questions to all witnesses, some witnesses will know more than others and the investigator must have the ability to develop follow up questions on the spot to further clarify or validate information provided by the witness or other individuals interviewed.

VI. CONDUCTING THE WORKPLACE INTERVIEW

A. An investigator should be mindful that employees who are interviewed during an investigation frequently feel some stress and fear. Sensitivity to the interviewee's feelings by taking the time to provide some information and reassurance can help put the person at ease and therefore encourage them to be more open and candid. Interviewers should initiate the meeting with some information about the following:

1. The reason for the investigation,
2. The role of the interviewee in the inquiry,
3. How the information will be used, and
4. Inform interviewees that all parties are required to keep all discussions confidential.

NOTE: If an employee covered by a union believes the investigation may lead to discipline or other adverse outcome, the employee may have a union representative attend the interview as an observer.

B. To help assure that the investigation is successful, the assigned investigator will:

1. Start the interviews soon after the need is determined and authorization is received.
2. Conduct individual interviews in a private, quiet location to uphold confidentiality.
3. Start the interview with general questions, then graduate to more closely-focused questions to generate details.
4. Repeat important questions, but with different wording, to see whether the witness provides consistent responses.
5. Document witness responses and conduct during the interview.
6. Use silence after a question as a technique to encourage reluctant witnesses to start talking - people often feel a need to "fill in" periods of silence.
7. Be ready with follow-up questions if appropriate.

C. The proper actions and conduct of the assigned investigator are crucial to a successful investigation; therefore, all assigned investigators must:

1. Maintain objectivity during the investigation process.
2. Take good notes. Write down only the facts; avoid interpretations, feelings, assumptions, and frustrations. Write direct quotes, if possible.
3. Do not interrupt witnesses while they are sharing relevant information. Avoid confrontational or accusatory questions.
4. Explain limits to confidentiality (possible legal proceedings and the need to keep Human Resources and Division managers informed); however, assure all witnesses that the Division will only share information on a "need to know" basis and will do its utmost to protect employees' privacy unless forced by a court or agency order to do otherwise.
5. Inform all witnesses that any information shared, including the questions asked, during the interview is confidential and cannot be disclosed by them outside of the interview.
6. Maintain the confidentiality of all parties involved in the investigation and any information gathered during the investigation process.

VII. DEVELOPING THE INVESTIGATION REPORT

Following the completion of interviews for all witnesses and parties involved, the investigator will generate a written investigation report. The report shall provide, at minimum, the following:

- Brief Description of Incident/Complaint and Incident Date (Example: PBH Employee Conflict on March 13, 2016),
- Employee name and title,
- Employee's supervisor name and title,
- Investigator name and title,
- Dates investigation started and completed,
- Summary of incident/complaint,
- Name, title, date and interview location for each witness or party interviewed, as well as a brief summary of each witness interview,
- List and copies of documents reviewed (Example: copy of email messages received, etc.),
- Findings of Fact – This is a bullet point list of statements, documents, information or observed behavior discovered during the investigation process. Each bullet-point should address one finding and provide adequate detail.
- Discussion (To be completed in a later step by second-line manager.)
- Conclusions (To be completed in a later step by second-line manager.)
- Recommendations (To be completed in a later step by second-line manager.)

VIII. CONCLUSIONS AND RECOMMENDATIONS

- A. Upon completion of the investigation report, the investigator will immediately forward the report and attachments to the second-line manager. Following the review of the investigation report, the second-line manager may discuss the report with the investigator and the employee's supervisor to clarify details presented in the report. In addition, the second-line manager may request and consider the suggested recommendations of the employee's supervisor and the unit director/administrator prior to developing a preliminary recommendation.
- B. When developing a preliminary recommendation, the second-line manager should keep in mind that the standard of proof in a workplace investigation is not equal to the level of the judicial system; however, the preliminary recommendation must be based on a well-documented unbiased investigation to reach a reasonable conclusion that is supported by facts, applicable laws, policies and/or practices.
- C. The second-line manager completes the **Discussion, Conclusions and Recommendations** sections of the investigation report and immediately forwards the report to the unit director/administrator for further review.
- D. Upon receipt and review of the report, the unit director/administrator will:
 1. Endorse the report and contact the Department's Human Resource Office as specified in Section IX. B., or
 2. Contact the second-line manager and/or the investigator to discuss and clarify the report findings, conclusions or recommendations in order to reach a recommendation that the unit director/administrator will support and present to the Department's Human Resource Office as specified in Section IX. B.

IX. WHEN TO INVOLVE HR

All contact with the Department's Human Resource Office shall occur through the **Division unit director/administrator**. When informed, the unit director/administrator will:

A. Immediately notify HR when the matter involves:

1. A discrimination complaint. These complaints will be handled in accordance with DSCYF Policy #302.
2. Any work place violence, impairment (i.e., drug/alcohol) or sexual harassment allegation.

B. Notify and consult with HR prior to discussing any disciplinary actions with the employee.

1. When the workplace investigation results in a recommendation for employee disciplinary action, the unit director/administrator will contact the DSCYF Human Resource Office within 48-hours following the development of the preliminary recommendation to set up a telephone consultation with the Department Labor Relations Coordinator and/or the Human Resource Manager.
2. Prior to the telephone consultation with HR, the unit director/administrator will:
 - Forward a copy of the investigation report and all attachments to the Department Labor Relations Coordinator and Human Resource Manager.
 - Request and ensure the availability of the investigator, employee's supervisor and/or the second-line manager for the telephone consultation.
 - Consider the option to release a **restricted copy** of the report to the employee's supervisor and/or second-line manager. The report is not to be discussed outside of the distribution group.
3. Telephone consultation activities with HR include, at minimum:
 - Review and discussion of the investigation report,
 - Reaching an agreement on the findings, conclusions, and recommendations, and
 - Development of a plan for next steps.
4. Coordination and Follow Up

Follow up activities include the completion of the steps established in Section B.3 above and active communication between the unit director/administrator and HR to ensure that the plan is fully and timely completed.