

How to Conduct an Internal Investigation

Elected officials/department heads (or designee) are required to conduct an investigation when there is a suspected or alleged violation of a county policy, or federal and/or state law (to include discrimination, sexual harassment, violence in the workplace, or other prohibited conduct). The guidelines below will provide you with general guidelines necessary to conduct and complete an effective investigation. Please note that these guidelines pertain to civilian/non-law enforcement employees. *Law enforcement departments should consult their internal procedures for guidance.*

WHEN TO INVESTIGATE:

- When an employee informs the elected official/department head (or manager/supervisor) about circumstances that suggest misconduct even if the employee is not expressly complaining or asking for an investigation.
- Whenever the elected official/department head (or manager/supervisor) observations suggest possible misconduct. Even if an employee indicates they don't want the employee to take action or investigate, the elected official/department head (or manager/supervisor) should almost always proceed.
- When an employee is under investigation by an outside law enforcement agency for alleged criminal activity.

GUIDELINES:

Interview of Complaining Party:

- The elected official/department head (or designee) shall listen to and take careful notes of the employee's concerns. Do not be concerned with how the employee characterizes the behavior.
- After getting a general description of the complaint:
 - Inquire as to dates of incident(s);
 - Number of occurrences and when for each occurrence;
 - Where the incident(s) occurred;
 - Who was present; and
 - Who had similar experiences.
- If possible, have the complainant provide a written, signed statement stating what happened, who saw it and whether there is any documentary evidence to support or that relates to the claim(s) or allegations, e.g., e-mails, text messages, photographs, etc. The evidence should focus on specific facts, such as the date and time of the events, the actual words used by the persons involved, and the names of witnesses to the incident(s).

Interview of Responding Party

- The elected official/department head (or designee) shall notify the employee of the allegations. The elected official/department head does not need to disclose the source of all of the information.
- The elected official/department head shall inform the employee that he/she takes complaints or concerns of inappropriate comments and/or conduct serious and for that reason he/she is conducting the investigation.
- Let the employee know that he/she should keep the complaint and the investigation confidential and not discuss it with others in the work place.
- Explain that the elected official/department head cannot promise confidentiality.
- Explain that accurate and truthful information is required.

- Review specific allegations and ask for and document employee's response – ask open ended questions.
- Ask for witnesses to contact.
- Get exact descriptions of words used, actions taken, etc.
- If employee denies the allegations, ask why he/she thinks complaining party may have made them.
- Avoid the tendency to either assure employee that the charges will be dismissed or to assume that the employee is guilty of the conduct alleged.
- Expect fear and anger – remain calm, objective and sensitive.
- Advise the employee that if the results of the investigation find that inappropriate conduct occurred, the employer will take appropriate corrective action.
- Remind employee – no retaliation, and explain what is meant by retaliation.
- Require the employee to sign a confidentiality statement.

Note: The elected official/department head shall contact the director of human resources/civil service to review the allegation and determine whether the following should occur during the investigation (if applicable):

- Temporarily move the employee out of his/her current position;
- Temporarily allow the employee to work in another capacity within the department;
- Temporarily place the employee in *another* county department; or
- Place the employee on a Leave of Absence with Pay. If placed on Leave of Absence with Pay, the employee shall:
 - Be available to the department during normal business hours or as designated by the department;
 - Be cooperative with the County during the investigation;
 - Not discuss details or matters related to the investigation with other county employees or others who are not involved in conducting the review;
 - Maintain confidentiality as instructed by the investigator; and
 - Not work another job during their regular assigned work hours or during hours designated by the department. Law Enforcement personnel may have additional restrictions regarding outside employment.

Interviewing the Witnesses (or Persons having knowledge):

- Advise the witness that the department is conducting a workplace investigation.
- Let the witness know that there will be no retaliation for providing information and let him/her know who they should report to if they believe that he/she is being retaliated against.
- Remind him/her that gossip is harmful to both the complaining party and the accused and will not be tolerated.
- Explain the allegations (only as needed).
- Have witnesses or persons having knowledge provide a signed statement, if possible. Collect relevant documents. Require the witness(es) to sign a confidentiality statement.

Location for the Interviews:

- The interview of witnesses should be conducted in a location where the interview can be kept confidential and where the witness is not distracted. Sometimes, this requires conducting the investigations offsite, particularly for the complaining party and on occasion, the responding party.

Written Report:

- Summarize the nature of the allegations.
- Describe the scope of the investigation.
- Identify what documents were reviewed and obtained.

- Identify what witnesses were interviewed.
- Summarize the facts learned from the interviews and related documents.
- Reach factual conclusions about what happened.
- Conduct follow-up interviews or provide additional interview questions for response as additional information or issues.

Final Determination—Elected Official/Department, Human Resources/Civil Service/District Attorney’s Office

- A meeting should be conducted with the elected official/department, director of human resources/civil service, and the assigned attorney from the Civil Service of the District Attorney’s Office to discuss the facts as determined in the investigation.
- The elected official/department shall state the conclusions based on the facts.
- Based on the conclusion, the elected official/department shall determine the appropriate action to be taken, if any, against the employee. The elected official/department head shall consult with the director of human resources/civil service regarding any recommended action.

Handling the Results of the Investigation:

Complaining party and witnesses

- The complaining party should be told that an investigation has taken place but not given specifics about actual conclusions of the investigation. The elected official/department head tells the complaining party that he/she has found a certain activity to have taken place and that he/she has taken the appropriate corrective action.
- Witnesses are typically not informed of the results of an investigation except to say that the investigation has been completed.

The accused

- If the elected official/department head plans to take certain disciplinary action against an employee, the employee must be advised of the disciplinary action contemplated and given an opportunity to be heard prior the action being taken.
- Upon the conclusion of the investigative process, the elected official/department shall provide information to the employee regarding the action (if applicable) and his/her rights related to the grievance process.

For questions prior to starting an investigation, issues during an investigation, or interpreting the results of an investigation, please contact the Human Resources/Civil Service Department.