Employee Investigations

Manual

For

Supervisors

August 2016
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Introduction
As supervisors, you may experience employee issues or complaints that warrant an investigation. This manual provides guidance on the investigatory process. It also outlines the support available from district administration and the Human Resources Department.

It is important to note, though issues may arise in the building or department, some issues are routine (e.g. performance evaluations), and require your attention and action, however they do not require a formal investigation involving the Human Resource Department.

Who Should I Call to Determine if a Matter Warrants an Employee Investigation?
Assistant Superintendent’s Office 452-2000 ext. 11411
Human Resources Department 452-2000 ext. 11393

What is an Employee Investigation?
A formal investigation is a tool to learn about, respond to, and gain clarity surrounding concerns or complaints that are brought to the attention of the district. The main purpose of an investigation is to fact find, which is to learn and understand the facts surrounding the allegation and/or complaints. From there, you take appropriate actions to resolve the complaint/allegation.

At times, it can be difficult to determine if issues are performance-related (evaluation) or conduct-related (potential discipline). If you have questions, contact the Employee Relations Specialist (x11393).

Why Should An Employee Investigation Be Conducted?
The district strives to make personnel decisions based on facts. Investigations, properly conducted, provide facts for the district to make responsible personnel decisions. Every complaint raised or received by the district will be processed. A solid investigation process helps ensure that:

- A climate of professionalism and high expectations pertains to all
- Employees, students, parents and the community understand the district’s commitment to objective, fair treatment of employees
- Reliable documentation exists for future decision-making and/or litigation
- Exposure to claims (risk management) is reduced

What Support Will I Receive Throughout an Employee Investigation?
An administrative support team has been created to provide support throughout an investigation and exists to answer questions and address concerns that may arise. The team consists of:

Wendy Tisland, Executive Director of Human Resources
Joann Riener, Assistant Director of Labor & Employee Relations
Ivory McDaniel, Employee Relations Specialist
Shaun Kraska, Assistant Superintendent for Secondary
Sandra Kowalski, Assistant Superintendent for Elementary
What Forms Do I Need to Initiate and Conclude an Investigation?

Employee Investigation Intake Form - This form captures a complaint and provides direction on who needs to be notified. It is to be completed and reviewed to determine the next possible step. The intake form should be sent to the Employee Relations Specialist for review and consideration.

Notice of Intent (NOI) - This form provides notification to the employee of the investigation, the investigatory meeting, and includes a synopsis of the complaint. Each employee group (FEA, ESSA, FPA or Exempt) has its own template. A copy of the NOI should be provided to the Human Resources Department.

Suspension with Pay - This form provides notification to the employee that they are immediately being placed on paid leave while the investigatory process ensues. A suspension with pay is not disciplinary. Prior to issuing a suspension with pay, you must consult with the Executive Director of Human Resources or Employee Relations Specialist. Each employee group (FEA, ESSA, FPA or Exempt) has its own template. A copy of the suspension with pay notice should be provided to the Human Resources Department.

Investigation Summary Form - When an investigation is complete, the supervisor or employee relations specialist is responsible for providing written documentation using the Investigation Summary Form as a guide. This form is for internal use only. It is not provided to the employee. A copy of the Investigation Summary should be provided to the Human Resources Department.

Investigation Timeframes

An investigation should occur in a timely manner. It is important to conduct and conclude investigations as quickly as possible, while ensuring that the investigation is thorough and complete. Recognizing that each investigation is unique and some may require more time than others, the following timelines are suggested* when an investigation is in progress:

Within One (1) Workday of the receipt of the complaint, the supervisor will complete and return the Employee Investigation Intake Form or contact the Human Resources Department for discussion.

Within Three (3) Workdays of the receipt of the complaint, determine if an investigation is warranted. If so, schedule the investigatory meeting and provide the employee with the Notice of Intent to Investigate and the Suspension with Pay letter, if warranted. The meeting should occur within six (6) working days of receipt of the complaint.

Within Four (4) Workdays of concluding the investigation, meet with employee and union representative (if applicable) to provide the outcome of the investigation.

*Investigations that fall outside of these suggested timelines do not negate the investigatory process.

Written Complaints and Critical Material

The following timelines apply to written complaints and critical material:

Per ESSA Negotiated Agreement, Article 6.9 b. Personnel Files:

Critical material must be shown to the employee within ten (10) work days after receipt or composition, exclusive of any absences by the employee or supervisor. Any critical material not shown to an employee within ten (10) work days shall not be allowed as evidence in any grievance or in any disciplinary action against such employee. (p. 10)
Per FEA Negotiated Agreement, Article 501.1 Written Complaints:

*Under normal circumstances, any written complaint not shown to an employee within ten (10) work days after its receipt or composition by the supervisor, exclusive of any absences by the employee or supervisor, shall not be allowed as evidence in any grievance or in any disciplinary action against the employee. Under exceptional circumstances when disclosure to the teacher would jeopardize the integrity of the criminal investigation, this ten (10) work day provision will not apply. (p. 35).*

Per FPA Negotiated Agreement, Article 4900.2 Employee Discipline:

*Any written complaint not shared with a principal within ten (10) work days after it is received by a supervisor, exclusive of any absences by the principal or supervisor, shall not be allowed as evidence in any disciplinary action against the principal (p. 7).*

If a verbal complaint is received, the summary of the complaint in the NOI will serve as the notification to the employee.
Investigation Tips
What Constitutes a Good Employee Investigation?

As the person conducting the investigation, be polite, professional, serious, and direct. Inform the person being interviewed of the complaint/allegation and scope of the investigation. Inform witnesses that information will be kept as confidential as possible, in light of the district’s obligation to investigate the complaint. Advise all involved that there should be no unprofessional behaviors or retaliation toward anyone who registers a good faith complaint or participates in an investigation. If these behaviors occur, they could be subject to discipline.

During the investigation, it is imperative to ask questions to distinguish between personal knowledge and hearsay. Get specifics (date/time/who was present) for key information and underlying basis of any opinions. Conduct follow-up interviews as needed.

When conducting investigations, other sources of information may be reviewed, including but not limited to, emails, text messages, instant messages, voicemails, video surveillance, and photographs. Check with the Human Resources Department for guidance.

Tips and Guidelines for Written Documentation

1. Use ink – Pencils will fade and can be erased.

2. Sign and date hand written notes.

3. Use letterhead – Letterhead should be used for all official communication with the employee. Lack of letterhead makes documents look unofficial.

4. Use a RE: (regarding) in the heading of disciplinary letters and grievance responses. This immediately identifies the purpose and content of the document.

5. Document who was present for investigatory meetings, starting with the date/time and attendees. If a union representative is not present, document that the employee was advised of this option.

6. Follow up, as needed, on all written statements to clarify information provided.

7. Keep documentation of the investigatory process, including notes from meeting with employees or witness.
Post- Investigation
Introduction
Once the investigation has been completed, just cause, level of discipline considerations, and progressive discipline parameters should be reviewed by the supervisor.

Just Cause
To establish just cause, the following questions should be considered:

1. Was the employee forewarned of the consequences of his/her actions?
2. Are the employer’s rules reasonably related to business efficiency and performance the employer might reasonably expect from the employee?
3. Was an effort made before discipline or discharge to determine whether the employee was guilty of the infraction being investigated?
4. Was the investigation conducted fairly and objectively?
5. Did the employer obtain substantial evidence of the employee’s guilt?
6. Were the rules applied fairly and without discrimination?
7. Was the degree of discipline reasonably related to the seriousness of the employee’s offense and the employee’s past record?

Level of Discipline Considerations
To assist in determining the appropriate level of discipline, the following factors may be considered:

1. seriousness and nature of the offense; number of occurrences
2. employee’s job; contacts with the public
3. employee’s past conduct or disciplinary record
4. length of the employee’s service with the district

Progressive Discipline
The negotiated agreements between the FNSBSD and the Fairbanks Education Association (FEA), the Education Support Staff Association (ESSA) and the Fairbanks Principals Association (FPA) describe the levels of discipline which may be imposed by the District. Consult with the administrative support team if you have any questions or concerns.

“Without limiting the District’s right to impose an appropriate level of discipline, including discharge/dismissal/termination, when the seriousness of the offense warrants, the District recognizes/will practice the principles of progressive discipline.”

FEA Negotiated Agreement (2013-2016)
Level 1 - a written letter of warning
Level 2 - a written letter of reprimand
Level 3 - a written letter of reprimand indicating loss of pay
Level 4 - a written letter indicating a recommendation for termination

Level 1 - a written letter of warning
Level 2 – a written letter of reprimand
Level 3 – a written letter indicating loss of pay
Level 4 – a written letter indicating termination
FPA Negotiated Agreement (2013-2016)
Level 1 – a written letter of warning
Level 2 – a written letter of reprimand
Level 3 – a written letter indicating loss of pay
Level 4 – a written letter indicating termination

Non-Disciplinary Options

No Findings of Wrong Doing
At the conclusion of the investigation, you may determine there are no findings of wrong doing related to the complaint/allegation. If the investigation reveals no finding of wrong doing, you must inform the employee during a follow-up meeting. During the meeting, a Letter of No Findings of Wrong Doing will be provided to the employee. A copy should be provided to the Human Resources Department.

Document of an Oral Conversation (DOC)
At the conclusion of the investigation, you may find discipline is not warranted; however, ensuring the employee understands the work rules and acknowledges your expectations is vital. You can meet this obligation through the issuance of a Document of an Oral Conversation (DOC). DOCs are not considered disciplinary.

Frequently Asked Questions
1. What is a Documentation of an Oral Conversation (DOC)?
It is a written document prepared by a supervisor that summarizes an oral conversation with an employee. It addresses a concern and provides guidance on work rules and the expectations for future performance or conduct. A DOC is also a written document that is provided at the conclusion of an investigation to summarize the investigation and set expectations related to performance or conduct for the employee.

2. When would a supervisor use a DOC?
There are two occasions when a DOC would be utilized:
   1. To summarize and capture a prior conversation between the supervisor and employee
   2. To provide expectations to an employee as a result of an investigation, including the expectation of no retaliation

3. Is a DOC considered discipline?
No, a DOC is not a disciplinary action.

4. Should a DOC be given without a prior meeting with the employee?
No, a DOC should only be given following a conversation between a supervisor and an employee or following an investigation.
5. Should a DOC contain language that reflects future discipline consequences?

No, a DOC should not contain any language that references future disciplinary consequences. A DOC is not a disciplinary document and should not contain any references such as, “if this action reoccurs in the future, you may/will be subject to disciplinary consequences.”

6. Does the employee sign and date the DOC?

Yes, the employee should sign and date the DOC as a record that they received the document.

7. Where is the DOC placed after it is issued?

The DOC is placed in the employee’s building/department file. A copy of the document will also be maintained in the investigatory file and should be sent to the Employee Relations Specialist.

8. If the DOC is the result of an investigation, does the meeting to deliver the DOC need to be at the Administrative Center?

The supervisor may issue the DOC at the building level or at the Administrative Center. Discretion should be used to determine the best location to ensure privacy, along with the least amount of disruption.

9. If a union representative was part of the initial investigatory meeting, should they be included in the meeting when the DOC is issued to the employee?

Yes, an employee should be offered the right to have a union representative when issued a DOC as a result of an investigation.

10. Can a union representative be part of a DOC meeting that is not a result of an investigatory process?

Yes, an employee may have a union representative at a DOC meeting. The employee may arrange for the union representative to be present, if desired; however, such is not required, as a DOC is non-disciplinary.
Charts, Forms and Templates
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<th>ADMINISTRATIVE REGULATION</th>
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<th>OTHER</th>
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Employee Investigation Intake Form
Reference Number (to be assigned by HR) FY16-____

Complaint regarding:
Employee Name/School: ____________________________________________ Date: ____________

☐ PA  ☐ FA  ☐ ESSA  ☐ Exempt  ☐ Sub  ☐ Emp  ☐ Volunteer

Alleged Victim(s): ____________________________________________________________

☐ Student  ☐ Staff  ☐ Other

Complaint received from: ______________________  Willing to participate in investigation?  ☑ Yes  ☐ No

Date, Time and Location of Alleged Incident: ________________________________

Possible Injury  ☑ Yes  ☐ No  Medical attention sought  ☑ Yes  ☐ No

Statement of complaint/incident (attach written complaint or additional sheets, as necessary):

Witness #1: __________________________________________  ☑ Student  ☐ Staff  ☐ Other

Witness #2: __________________________________________  ☑ Student  ☐ Staff  ☐ Other

Witness #3: __________________________________________  ☑ Student  ☐ Staff  ☐ Other

Documentation (e.g. police report, summarized notes): ________________________________

Parent Notification, if applicable

Parent/Guardian Name: __________________________________________

Date and Time Contacted: ________________________________

Internal Document/Tool for Supervisor (Please Provide to Human Resources)
PRE-INVESTIGATION CHECKLIST

Have you............

Reviewed Applicable School Board Policies, Administrative Regulations and Negotiated Agreements?
☐ Yes ☐ No

Notified Human Resources? If so, whom and when?
☐ Yes ________________________________ ☐ No

Notified the Office of Children’s Services? If so, whom and when?
☐ Yes ________________________________ ☐ No

Notified Law Enforcement? If so, whom and when?
☐ Yes ________________________________ ☐ No
POST-INVESTIGATION CHECKLIST

Have you ...........

Completed the Investigatory Meeting with the Employee and Union Representative?

☑ Yes ☐ No

Date_____________________________     Representative___________________________

Gathered Witness Statements?

☑ Yes _______________________________ ☐ No

Consulted with Employee Relations Specialist?

☑ Yes ☐ No

Completed the Investigation Summary?

☑ Yes _______________________________ ☐ No

Notified Law Enforcement or OCS, if applicable? If so, whom and when?

☑ Yes _______________________________ ☐ No

**DISCIPLINE CANNOT BE ISSUED TO THE EMPLOYEE WITHOUT CONSULTATION OF THE ADMINISTRATIVE SUPPORT TEAM. PLEASE CONTACT THE EMPLOYEE RELATIONS SPECIALIST (X11393) WITH THE FOLLOWING DOCUMENTS, AND YOU WILL BE SCHEDULED TO MEET WITH THE ADMINISTRATIVE SUPPORT TEAM FOR REVIEW.**

1. COMPLAINT
2. WITNESS STATEMENTS
3. INVESTIGATORY MEETING NOTES
4. INVESTIGATION SUMMARY
The templates have been moved to the supervisor’s website that is provided and maintained by the Human Resources Department. The following templates can be located on the supervisor’s webpage:

**Employee Investigation Intake Form**  
**Notice of Intent to Investigate (ESSA, FEA, FPA and Exempt)**  
**Suspension with Pay Memorandum (ESSA, FEA, FPA and Exempt)**  
**Investigation Summary**  
**Documentation of an Oral Conversation**  
**Documentation of an Oral Conversation Post Investigation**  
**Letter of No Findings of Wrong Doing**

To access these templates, please logon to the District website and use the following link:

http://www.k12northstar.org/Page/5863

You can also use the sidebar on the Human Resources Department website, and follow the links for supervisors. You will then find a link for *employee relations documents*. 