

Conducting Internal Investigations

State of Hawai'i
DEPARTMENT OF EDUCATION

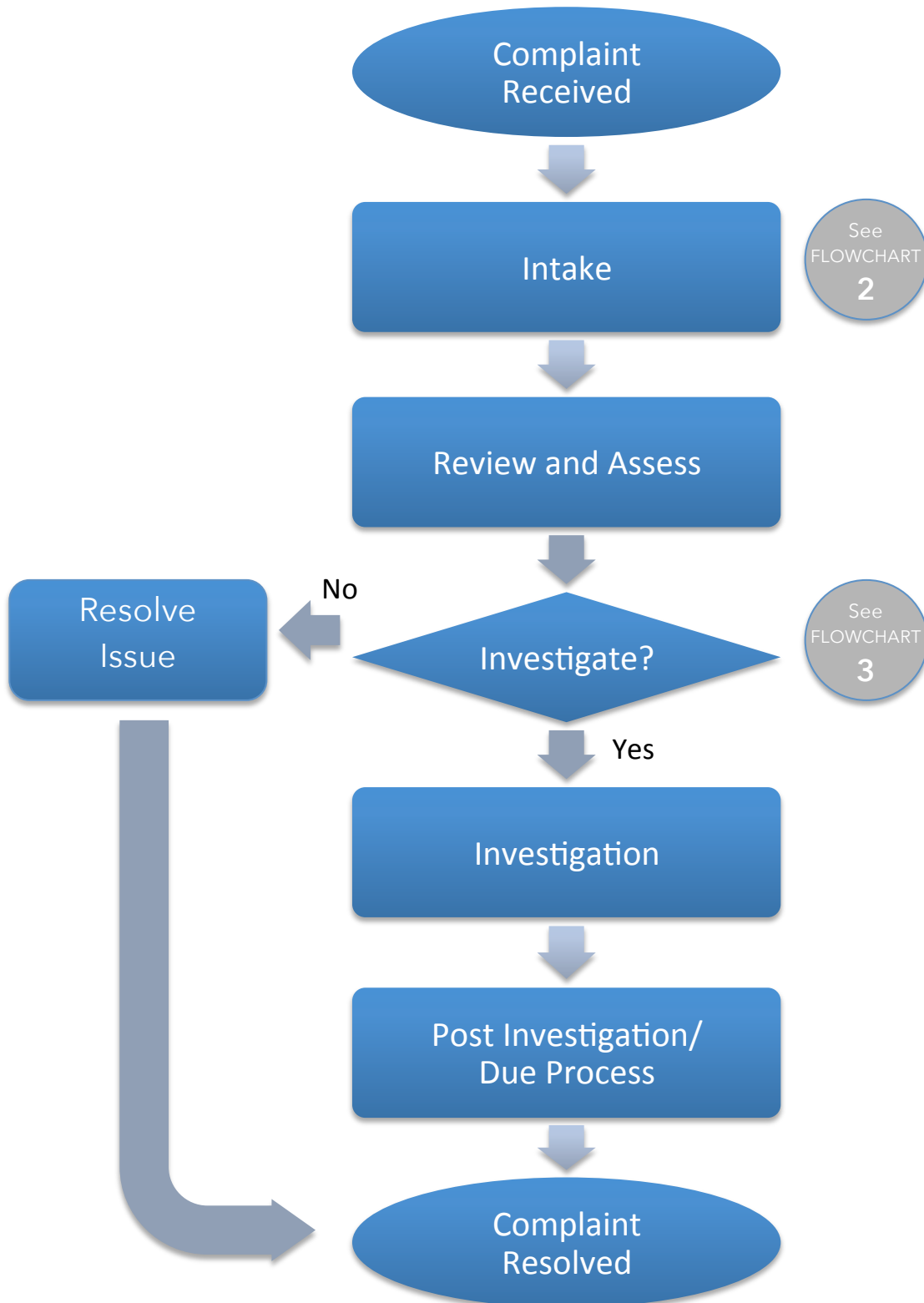
2015

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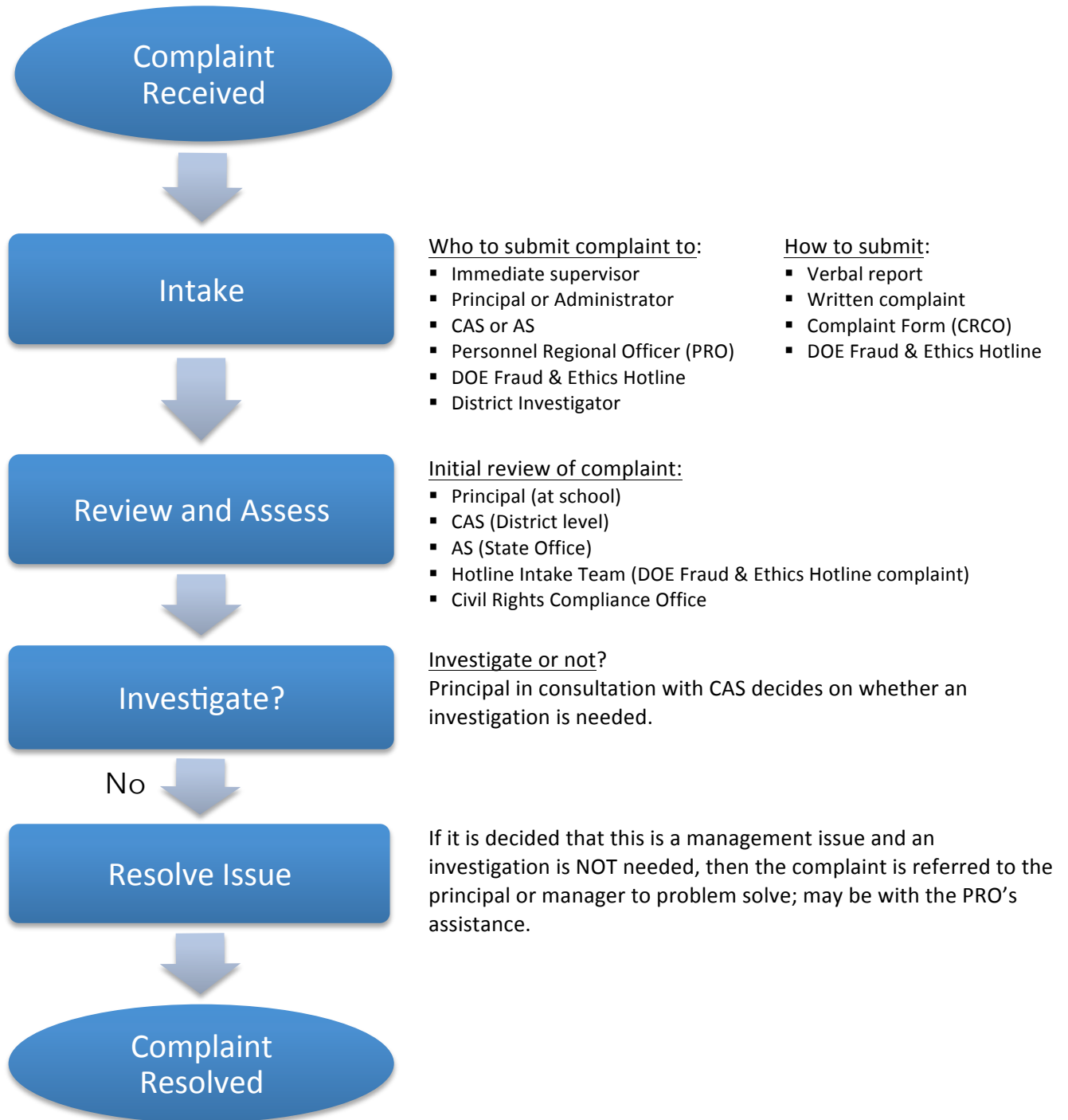
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Flowchart 1

Investigation Process for Alleged Misconduct by DOE Employee



INTAKE SUMMARY



INVESTIGATION SUMMARY

Investigate or Not?

Decide whether an investigation should be conducted
Principal or Administrator, in consultation with CAS/AS, decides whether an investigation is needed (see *Decide Whether to Investigate* section below).



Who Investigates?

Who Should Conduct Investigation

CAS/AS & Principal/Administrator decides who investigates

- Vice Principal
- District Investigator (CAPS, PAPA, or as assigned)
- OHR/Investigations Section
- Civil Rights Compliance Office



Assign Investigator

Case is assigned to investigator

- Telephone call or email notification to investigator that he/she is being assigned case for investigation.
- Investigator receives case assignment & copy of complaint



Send
NOTICE OF COMPLAINT AND
INVESTIGATION

Send NOTICE to accused employee/respondent

Decision maker reviews information received in complaint and sends out NOTICE OF COMPLAINT AND INVESTIGATION to respondent, as soon as reasonably possible.



Determine whether to place
accused employee on
LEAVE or REASSINGMENT

Place Respondent on Leave or Reassignment?

Decision maker decides whether respondent should be placed on leave or reassigned during investigation. Factors to consider:

- Potential for interfering or impacting the investigation
- Potential for negatively impacting operation of workplace
- Potential health or safety issues with staff or students
- Potential retaliation

INVESTIGATION SUMMARY (CONTINUED)

Plan the Investigation



Conduct the Investigation



Evaluate the Information Gathered



Write up
INVESTIGATION REPORT



Send Investigation Report to
Decision Maker for review



Decision Maker decides whether
investigation is sufficient for decision
making



Decision Maker accepts
Investigation Report;
Investigator sends
FINAL LETTER to parties (R & Cp)

PLAN YOUR INVESTIGATION

- Review complaint and other information you have
- Identify issues to be investigated
- Identify information you need (e.g. witnesses to be interviewed, documents to be obtained, policies or procedures that may have been violated)

Conduct Investigation

- Research and obtain copies of policies or procedures that may have been violated
- Conduct Interviews (document interviews)
- Obtain documents and other relevant evidence

Evaluate Evidence

- Review witness statements
- Do you have enough information to determine whether wrongdoing occurred or not?
- Do credibility assessment, if necessary

Write the INVESTIGATION REPORT

- Is there sufficient evidence that the alleged incident occurred or not?
- If you find that the incident occurred, was the inappropriate conduct a violation of DOE policy, procedure, or work rule?

Send Investigation Report to Decision Maker

Send the investigation Report to the Decision Maker for review.

The Decision Maker may request additional information or further investigation.

Decision Maker accepts Investigation Report

Once the decision maker accepts the Investigation Report, Investigator sends FINAL LETTER to respondent and complainant informing them that the investigation has been completed and forwarded to the decision maker.

Why Investigations Are Important

- **Figure out what happened.** The Department of Education (DOE) should find out and understand the facts regarding a complaint or incident so that appropriate action can be taken to address the situation.
- **Enforce DOE policies and procedures consistently.** By consistently enforcing DOE policies and procedures, employees will understand that they have to follow the rules and future misconduct will be deterred.
- **Make sound decisions and impose fair discipline.** A fair, objective, and thorough investigation allows the decision-maker to make a fair and reasonable decision on an issue and determine whether there is sufficient information to take corrective or disciplinary action. A prompt and fair investigation provides the DOE with a basis to avoid liability for allegations of unfair or discriminatory employment decisions.
- **Identify areas of correction and/or prevention.** An investigation can assist in identifying areas in which corrective or preventative measures may need to be taken.
- **Required by federal or state law, regulations, or DOE policy.** The DOE may be required to conduct an investigation by federal or state law, regulation, or DOE policy.

Decide Whether to Investigate

Investigations should be conducted promptly and in a fair and objective manner. Investigations may find information or evidence of misconduct, but they may also exonerate an employee accused of wrongdoing.

A complaint is a verbal or written notification or allegation from a person who feels someone has behaved inappropriately or violated a DOE policy, procedure, rule, or law. (Note: a written complaint does not need to be submitted on an official DOE form although some forms are available from DOE's Civil Rights Compliance Office for complaints of discrimination, harassment, and/or bullying.)

Types of Complaints

- **Formal Complaints.** An employee may file a complaint directly with their manager, administrator, CAS or AS, Superintendent, the Civil Rights Compliance Office, or through the DOE Fraud & Ethics Hotline.
- **Anonymous Complaints.** Anyone may submit a complaint anonymously for various reasons. For example, an employee may file a complaint anonymously because of fear of retaliation from the respondent. An anonymous complaint may also come from someone who isn't involved in the

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situation. Anonymous complaints may be received via the DOE Fraud & Ethics Hotline.

A principal or manager (“decision maker”) must use her/his discretion in determining what can and should be done about an anonymous complaint. Generally, the more information provided by the anonymous complainant and the more serious the alleged misconduct, the more necessary it may be to initiate an investigation. If, however, the facts are so limited that there is no reasonable way to conduct an investigation, then it may be impractical to do an investigation.

- **Reports by Administrators and Supervisors.** Administrators or supervisors may witness or hear about improper activities. Administrators may need to initiate an investigation or take steps to address issues that they may observe or hear about.
- **Indirect Complaints.** Sometimes an employee may bring up a complaint indirectly, such as while he/she is having a conversation with an administrator regarding an unrelated issue. Or, during the course of an investigation an employee witness may bring up a problem unrelated to the situation being investigated.
- **Third Party Complaints or Reports.** Sometimes, a situation may be brought to the attention of a manager by someone outside of the DOE—a parent, a community member, a vendor, or a family member or friend of an employee or student.

In What Types of Situations Should Investigations Be Conducted?

To decide whether an investigation should be conducted, the decision maker may consider the following:

1. Does the complaint involve a DOE policy or contract provision that requires the DOE to conduct an investigation?
2. Does the complaint involve allegations, if true, are likely to result in disciplinary action against the respondent?
3. Does the complaint involve factual disputes?
4. How serious is the problem?
5. Has a complaint been filed with the police, an enforcement (government) agency or court?
6. Does the informal (or anonymous) complaint involve conduct that requires an investigation or serious misconduct (e.g. illegal behavior, violent or threatening behavior)?
7. Does the complaint involve any law that may require the DOE to conduct an investigation?

Examples of Allegations/Incidents That May Need An Investigation

- Workplace Violence
- Inappropriate Interactions with a student
- Use, distribution, sale, or possession of drugs or alcohol
- Harassment, Discrimination, or Retaliation
- Theft or misuse of DOE funds, equipment, or property
- Inappropriate use of DOE facilities or equipment
- Violation of DOE policies and procedures
- Non-compliance with laws and regulations

Not every complaint may require an investigation. Supervisors may handle certain complaints without an investigation.

To differentiate between a workplace conflict (or management issue) and workplace misconduct requiring an investigation, a few preliminary questions may be asked of the complainant:

1. "Please provide me with examples of exactly how you have been discriminated against, harassed, sexually harassed, treated differently, etc." (Note: use the complainant's exact words in asking the question.)
2. "What exactly did your supervisor/co-worker say or do, that may have violated DOE policy or procedure?"

The key is to ask specific questions that elicit examples of how a policy, procedure, or law has been violated.

If the complainant is not able to share examples, the situation may be a workplace conflict that may need management intervention or coaching on how to best resolve the conflict between employees, rather than an investigation.

Performance Issues

Issues of an employee's job competence and job performance are generally not issues for investigation since they do not involve misconduct; they are performance issues. It's important for managers and supervisors to determine if the employee's failure to do a job duty or task is due to the employee's inability to perform the assigned task or the employee's negligence or unwillingness to do it. In the latter case, an investigation of possible insubordination may be appropriate and could lead to discipline.

Decide Who Investigates

If the decision is to initiate an investigation, the next step is to decide who will conduct the investigation and assign the case to the investigator.

Who conducts the investigation?

School Level	Vice Principal	In general, it often works best to conduct school-based investigations since investigations can be done more efficiently and the on-site school administrators have more knowledge of the school, students, and community. Principal assigns investigation to vice principal.
District Level	Complex Area Personnel Specialist (CAPS) Program and Personnel Analyst (PAPA) CAS/AS may assign other district/State office staff to conduct the investigation.	The decision maker may decide that the investigation should be referred to the district level investigator due to various reasons, including but not limited to the complexity of the investigation, limited resources, involvement of school administrators (as parties to the complaint or witnesses in the investigation). Principal/Administrator consults with CAS/AS and requests that CAPS or PAPA (or other district/State office staff) conduct the investigation.
State Level	OHR Investigations Section	The decision maker may request that the OHR Investigations Section investigate due the complexity or difficult nature of the allegations. CAS or AS consults with OHR AS and requests that the OHR Investigations Section conduct investigation.
	Internal Audit	If the allegations involve fiscal improprieties, fraud, embezzlement, inappropriate use of school funds or facilities, the CAS/AS may request the Internal Audit Office to perform a fiscal review. CAS/AS will follow IA protocol to request such a review. IA may also provide assistance/support during an investigation involving these types of allegations.
	Civil Rights Compliance Office	If the allegations involve allegations of discrimination or discriminatory harassment (i.e. on the basis on one’s sex, race, religion, disability, etc.). Principal, CAS, or AS consults with CRCO to determine whether case should be referred to CRCO for investigation.
External Investigator		There may be times when the decision maker decides that it would be prudent to have an external investigator conduct the investigation (e.g. high level manager is accused of wrongdoing, special expertise is required, complex/difficult issues are involved). CAS or AS contacts OHR Investigations Section to coordinate contracting of an external investigator.

Important Considerations When Selecting an Investigator

When deciding who should conduct the investigation, consider that the individual should be:

- Impartial- no bias or perception of bias; no special relationship with key witnesses; no involvement in the incident(s) being investigated; preferably does not directly report to the respondent
- Trained - should have some experience and/or training on conducting investigations
- Organized and detail-oriented
- Calm and non-judgmental
- Available to conduct a prompt investigation
- A good witness - in the event that the investigation process is challenged

Department of Education
Internal Employee Investigations
Issue/Incident Levels

The following issue/incident levels are intended to be guidelines to determine who should conduct investigations. Principals should consult with their Complex Area Superintendent (CAS), who will determine whether a school level administrator or district level personnel should conduct an investigation. For state offices, directors should consult with their Assistant Superintendent (AS), who will determine whether an investigation should be conducted and assign an investigator.

As a general principle, the decision maker receiving the completed investigation report should be the principal or administrator unless they are involved in the investigation. For example, if allegations involve a school level staff member, the principal will be the decision maker. If the allegations are against a principal or director, the CAS or AS will be the decision maker. If the allegations are against a CAS or AS, the Deputy or the Superintendent will be the decision maker.

For referrals to the Office of Human Resources (OHR), Investigations Section, the CAS or AS will contact the Investigations Section to request assistance. For referrals to CRCO, as noted below, the CAS or AS (or designee) will follow the referral protocol as set out by that office. *The Internal Audit Office may be requested to perform a fiscal review in cases that involve fiscal improprieties.

Issue Type ¹	School or Office	DISTRICT or OHR INVESTIGATOR ²	CRCO	Internal Audit*
LEVEL 1				
Unfair Treatment by Manager	X			
Inappropriate Behavior/Abusive Language	X			
Insubordination	X			
LEVEL 2				
Time Abuse*	X	X		X
Student Health and Safety	X			
Unsafe Working Conditions	X			
Conflict of Interest	X			
Substance Abuse	X	X		
Bullying	X	X		
LEVEL 3				
Misuse of DOE funds or facilities*	X	X		X
Discrimination or Harassment			X	
Theft/Embezzlement		X		X
Retaliation*		X	X	
Falsification of Contracts, Reports or Records*		X		X
Disclosure of Confidential Information*	X	X		
Inappropriate Staff/Student Relationship			X	
Inappropriate Use of Internet and/or Equipment*	X	X	X	
Possession, Use or Sale of Illegal Drugs or Alcohol*	X	X		
LEVEL 4				
Assault/bodily harm		X		
Sexual Harassment (physical, sexual assault, etc.)			X	
Violence or Threat**	X	X		
Possession or Use of Dangerous Instrument/Weapons		X		

¹Will be assigned to appropriate investigator, depending on the facts. ²CAS/AS may direct principal to keep investigation at school level (VP investigator). Or, CAS/AS may assign to District Investigator (CAPS or PAPA), District Educational Specialist, School Renewal Specialist, or request that the Personnel Regional Officer conduct an investigation. CAS/AS may also request the assistance of OHR Investigations Section to conduct investigation.

Conducting the Investigation

Preliminary Steps To Investigation

- 1) **LEAVE DURING INVESTIGATION:** Decision maker in consultation with CAS or AS determines whether immediate removal of the employee from the workplace is necessary. Factors to consider when deciding whether the respondent should be placed on leave or reassigned to a different work location:
 - Respondent's presence may impede or interfere with the investigation
 - Health or safety issue. For example, is the respondent a threat to co-workers or students?
 - **Certificated employees** are placed on Department Directed Leave (DDL), in accordance with School Code #5411.L. (*See pp. 27-32*)
 - **Classified employees** are placed on Leave Pending Investigation (first 30 days without pay, thereafter, LPI with pay) (LPI), in accordance with the applicable collective bargaining agreement provision. (*See pp. 33-39*)
 - **Substitutes and Casual Hire employees** may be restricted from returning to work or the workplace for the duration of the investigation and decision-making. (*See pp. 40-42*)

An alternative to placing the respondent on leave is reassigning or relocating the respondent to a different worksite for the duration of the investigation.

IMPORTANT NOTE: Do NOT relocate or otherwise impact the complainant unless the complainant has requested relocation and it is workable and will not create additional problems or major costs to the DOE. An involuntary relocation of a complainant could be viewed as retaliatory and lead to another complaint.

- 2) **NOTICE OF COMPLAINT AND INVESTIGATION:** Decision maker should send the Notice of Complaint and Investigation to respondent as soon as reasonably possible after the complaint is received. (*See Notice of Complaint and Investigation template, p.26*)
- 3) **KNOW THE RULES**
 - a) Identify policies, procedures, or work rules that may have been violated
 - b) Identify CBA provisions that may be applicable to the investigation
 - c) Identify policies or procedures that address the procedure for conducting the investigation (e.g. FERPA, Weingarten, **Code of Conduct**)
 - **Family Educational Rights and Privacy Act (FERPA):** notes of an interview with a student regarding allegations against a staff member may include information that is subject to FERPA requirements. Therefore, investigators must send the *Notice to Parent*

Complainant/Parent of Student Complainant or Notice to Parent of Student Witness, whichever is applicable, regarding use of statements in the course of an investigation of an employee.

- **Weingarten:** the respondent who is a union member has the right to bring a union representative to any investigative interview that could result in disciplinary action against the employee. While DOE does not have an obligation to inform the employee of this right, the investigator must allow a union representative to be present, if requested by the respondent. Note: DOE is not required to postpone an investigation or disciplinary interview for an “unreasonable” period of time when a particular union representative is unavailable for reasons not attributable to the DOE, as long as another representative is available.
- **DOE Code of Conduct:** in accordance with the DOE Code of Conduct, employees are expected to cooperate in the investigation of suspected violations of the Code of Conduct.

Plan the Investigation

Once it is determined that an investigation will be conducted, it is helpful for the investigator(s) to develop an investigation plan before conducting the investigation. This is one of the most important steps in the investigative process – deciding on what information is needed and how to obtain it and who should be interviewed and in what order. The plan should be flexible and changes made according to evidence received and/or testimony or suggestions provided by witnesses, the complainant or the respondent. A good investigator follows where the evidence leads and does not stay on a predetermined course regardless of what is learned.

WHAT DO YOU HAVE?

REVIEW What You Know/What Information You Have

- Review the complaint (or report by a manager)
- What misconduct is suspected or alleged?
- What DOE policies or procedures may have been violated?
- Create a chronology (if more than one or two allegations)
- Understand the scope of your investigation

WHAT DO YOU NEED?

FIGURE OUT What You Need to Know/What Information You Need to Get

- Who do you need to interview
- What order to interview witnesses (including complainant & respondent)

- What questions to ask
- What documents should be collected or reviewed
- Should you do a site visit

Getting Started

1) Review the Complaint and Identify the Allegations/Issues to be Investigated

Review the complaint. Identify the allegations and issues raised. If the complaint does not include sufficient information to identify what the specific allegations are, you may need to interview the complainant to gain clarity about the allegations and issues. This information usually sets the scope/parameters of the investigation.

2) Review the DOE policies and/or procedures that may have been violated

The following are some sources that you may wish to review for potential violations:

- BOE Policies
- Opening of School Year Packet
- Superintendent Memorandums
- Mandatory Reporting Requirements
- School Code (for certificated employees)
- Workplace rules
- **DOE Code of Conduct**

3) Identify possible witnesses

Develop a list of potential witnesses who you may wish to interview:

- Complainant
- Respondent
- Anyone who may have been present or in the area where the alleged incident occurred (may have observed the incident)
- Supervisors of complainant and respondent (for workplace/employment history)
- Witnesses identified by either complainant or respondent as having actual knowledge of the allegations/issues being investigated
- Others who may have been subjected to similar conduct by the respondent

From your list, decide who will be interviewed because they have first hand knowledge of the incident(s), and determine in what order witnesses will be interviewed. Other witnesses may be identified during the course of the investigation.

NOTE: You do NOT need to interview character witnesses (those who can only attest to the good character of the complainant or respondent) identified by complainant or respondent—those who do not have actual knowledge related to the allegations/issues being investigated.

4) Determine if there is any physical or photographic evidence that should be produced or sought

Physical evidence, that is not contraband, should become a part of the investigation file. If the physical evidence is too large or bulky, pictures may be included in the investigation file instead. If the physical evidence is considered contraband (e.g. drugs or weapons), then pictures should be taken to include as part of the investigation file, and the contraband should be turned over as required by protocols.

5) Work out a rough timetable and strategy for initiating and completing interviews

The complainant is usually interviewed first to obtain additional information and/or the specifics for each of his/her allegations. Following an interview with the complainant, it is usually helpful to interview the witnesses, according to the list you've developed (#3 above) and in the order you feel is most appropriate (present during incident, first hand knowledge of what occurred, etc.). Finally, interview the respondent to afford him/her the opportunity to respond to the allegations. Follow up interviews may need to be conducted if clarification or additional information is needed.

6) Develop questions for witnesses

Each interview should start with the "Introduction," which should be documented in the witness statement. The Introduction should include the purpose of the interview, expectation of cooperation and truthfulness, expectation that the interviewee keep the matter confidential, and reminder that DOE prohibits retaliation. (See *Template for Witness Interview, p.48*)

Conducting Interviews

Tips on Conducting Effective Interviews

When you interview witnesses, your goal is to find out what they know without revealing information unnecessarily. While respondents have a right to know the allegations that have been raised against them, witnesses do not have the same right, and confidentiality should be maintained to the extent possible. Provide only enough information to the witness to find out what he/she may know about the incident or situation.

Keep an Open Mind

Avoid making any assumptions or jumping to conclusions during the investigation. Don't reach any conclusions until you have gathered and evaluated all the facts.

Maintain objectivity and do not overly relate to the interviewee in order to try to get desired responses.

Establish and Maintain Control of the Interview

Keep control of the interview. Do not let the interviewee ramble or be evasive. If an interviewee goes off on a tangent, re-focus their attention by restating or asking your next question. Balance the need to build rapport during the interview with the need to find out what information the individual knows that may be relevant to the issues being investigated.

Start With Easy Questions

Some individuals are nervous and uncomfortable when they're interviewed. Don't start out the interview by asking the person directly about the alleged misconduct. Start with basic background questions such as:

- When did you start working for the DOE?
- What is your current position?
- What are your duties and responsibilities in your current position?
- What is your working relationship to the complainant?
- What is your working relationship to the respondent?
- How long have you known [name of complainant]?
- How long have you known [name of respondent]?
- Are you friends with [name of complainant]? Friends with [name of respondent]?
- Do you socialize with either one outside of work?

Ask Open-Ended Questions

When interviewing individuals, your goal is to get as much information as possible. The best way to do this is to ask open-ended questions. Avoid asking yes and no questions. Instead ask the interviewee what he/she heard, saw, or did, and why.

Don't ask:

Did you hear Matt call John, "Stupid _____" in the break room last Tuesday?

Ask:

Did you hear Matt and John talking in the break room last Tuesday? Tell me what you heard.

Don't ask:

Did you get to school after 8:00am last Tuesday?

Ask:

What time did you arrive at school last Tuesday?

Follow up with Probing Questions

When interviewing the witness, if he/she does not provide sufficient details, follow up your open-ended questions with probing questions:

You said there were three students standing close by when the two employees were fighting, what are their names? Do you know what grade they're in? How long were they standing there?

Where exactly were they standing? Where were you standing? What did you see? What did you hear? [May have witness draw diagram of incident]

Questions to Avoid

Avoid asking accusatory or leading questions. Also, avoid multiple or compound questions. Ask one question at a time and allow the interviewee time to answer each question before asking the next question.

Keep Your Opinions to Yourself

As your investigation progresses, you will start to develop some opinions about what really happened. You should not share these opinions with interviewees. If you come across as already having reached a conclusion about what happened, the interviewee may not freely share the information he/she has because he/she may not want to contradict you or the witness may feel that there is no point in sharing since you've made up your mind on what occurred. Furthermore, an interviewee may feel that it is a biased or unfair investigation.

Focus on the Facts

When interviewing witnesses, help them to focus on the facts. Separate fact from opinion. Find out the basis for the information that the witness is providing.

If you hear:

John has been out to get Kehau since he started working here. He doesn't like reporting to a female.

You might ask:

What have you seen or heard that makes you think that John is out to get Kehau?

What have you heard John say or seen him do that makes you think that he doesn't like reporting to a female?

Have you heard John make any negative comments in general about women?

What did he say? When? To whom?

Find Out About Other Witnesses or Evidence

Ask every person you interview whether they know of other witnesses or other information related to the incident(s) in question.

Ask About Contradictions

Sometimes, one witness contradicts what another witness has said. Oftentimes, what the complainant says and what respondent says contradict each other. You may want to ask the witness (or complainant or respondent) directly, about the inconsistencies.

If the respondent outright denies the complainant's allegations, ask him/her why he/she disagrees.

If you hear:

I have never intimidated or harassed any of my subordinate employees.

You might ask:

Have there been any incidents in the office in which you raised your voice? For what reasons? When did this happen? Who else was present when this happened?

Have you ever addressed Janice by any other names besides her own name? How else have you addressed her? For what reasons? Do you address anyone else in the office by any other names besides their own names? Who? What do you call them? When did this happen? Why did you address him/her in this manner?

Ask Repetitive Questions

If the witness doesn't answer a key question or evades answering it directly, you may try asking the question again after going over some other questions and letting a few minutes pass.

Keep It Confidential

It is important to stress to each witness that he/she keep what is discussed during the investigation confidential. It is also important that you, as the investigator, practice and maintain confidentiality during the investigation process.

With each witness share only enough information necessary to conduct a thorough interview. While the respondent should be asked to respond to each allegation against him/her, other witnesses do not need to hear every detail. Each witness should be informed that the investigation is confidential and should not be discussed with co-workers or friends/family. Employees should be warned that a breach of confidentiality may result in discipline.

Also, you (investigator) should not discuss the investigation in the lunchroom or with any other individuals who are not in the “need to know.” You should also keep your investigation materials in a locked cabinet when you aren’t working on them.

Interviews should be held in a private space where you won’t be seen or overheard.

Establish and Maintain Control of the Interview

Do not let an interviewee ramble or be evasive. Keep in control and rein in witnesses who wander. Balance the need to provide a comfortable setting and pleasant tone with the need to focus on the issues that are being investigated.

Don’t Retaliate

It is against DOE policy, and in certain cases against the law, to punish someone for making a complaint or participating in an investigation. Every witness should be reassured that he/she will not be retaliated against for coming forward or participating in the investigation.

Also, inform each witness (including complainant and respondent) that if he/she has any concerns about being treated differently because of his/her participation in the investigation, to let you (investigator) or their supervisor know so that issues can be looked into right away.

TIP

If an employee seems overly worried about confidentiality or of other employees finding out who complained or participated in the investigation, find out why. Sometimes these concerns indicate legitimate fears about retaliation. Ask whether anyone told the employee not to come forward or threatened or otherwise warned the employee against complaining or participating in the investigation. If yes, then add that to your list of issues to be investigated. Ask the employee to tell you immediately of any further threats, and monitor the workplace carefully for any sign of retaliation.

Ask Witnesses to Contact You With New or Additional Information

Some witnesses may recall additional information after you interview them. Ask interviewees to contact you should they recall or find out about any additional or new information.

Some witnesses may not be cooperative during the interview. You should offer every witness the opportunity to continue the conversation should he/she choose. Document that you tried to interview the witness, but the witness was not cooperative. If the investigation is challenged at a later time, you will be able to show that you made every effort to gather the facts.

Interviewing the Complainant

If the investigation is initiated because of a complaint, then you should start your investigation by interviewing the complainant. This is to explain the process and get specific information regarding the complaint or allegations.

Interviewing the Respondent

When interviewing the respondent, keep in mind that the employee may get defensive because he/she may have committed misconduct or feels wrongly accused. Reassure the employee that you are neutral and that you're trying to find out what happened.

REMINDER: Respondents who are Union Members Have the Right to Bring a Union Representative
Weingarten provides union members with the right to bring a union representative to any investigative interview that could result in disciplinary action against the employee. The DOE has no obligation to inform the employee of this right, however, DOE must allow a union representative to be present if the employee requests.

Interviewing Witnesses

Sometimes it may be difficult to decide who to interview as a witness, especially if both the complainant and respondent provide the names of several witnesses. You'll want to interview anyone who allegedly heard or saw something important [as it relates to the incident(s)]. If you decide not to interview witnesses suggested by either the complainant or respondent, you should document the reason(s) why in your investigation report.

Interviewing Reluctant or Hostile Witnesses

There may be different reasons why a witness may be uncooperative, reluctant, or sometimes even hostile about being interviewed. He/she may be afraid of getting involved, angry for being singled out, defensive, guilty of something, reluctant to snitch on friends, agitated at being pulled into an investigation, or worried about retaliation.

To help you handle the situation, you should find out why the witness is reluctant to talk to you. If you understand what his/her reservations are, then you may be able to address the reasons for the witness' resistance to cooperating.

If a complainant is reluctant to be interviewed, he/she should be informed that the DOE needs to look into the matter in order to take corrective action. Without his/her cooperation, the DOE may not have enough information to appropriately address the situation. To address a complainant's fear of retaliation, the investigator should emphasize that DOE prohibits retaliation and all information gathered will be shared on a need-to-know basis only.

Uncooperative Respondent. If a respondent is not cooperative or does not want to be interviewed, he/she needs to understand that this is his/her opportunity to respond to the allegations, and tell his/her side of the story. If the respondent still does not want to cooperate, you need to inform him/her that you will continue the investigation and your findings will be made with the information that you have available.

Document your attempts to engage the witness. If your investigation is challenged—either for negligence by the complainant or by the respondent who has been subjected to an adverse employment action because of the investigation—you want to ensure that the DOE has a defensible investigation.

- Document your attempts to schedule an interview with the complainant, respondent, or key witness
- Include notes to the file of when (date/time) telephone calls were made and messages left
- Include copies of any emails sent
- Include copies of certified letters sent
- Note any attempts at in-person visits

If a witness is willing to meet with you, but is not very responsive during the interview, except for “yes” or “no” answers, then you may need to ask detailed questions to draw out more information from the interviewee.

Interviewing Students

The school principal or designee may interview a student complainant or student witness to an alleged violation of BOE or DOE policies, procedures, or applicable school rules, who may have relevant information, without prior consent of the student’s parent/guardian. (See *Advice on Interviewing Student Witnesses* below.)

Student(s) who are victims of sexual abuse should NOT be interviewed. All cases involving allegations of sexual misconduct should be referred to the DOE Civil Rights Compliance Office. This includes investigations of employees who are allegedly acting inappropriately towards a student or group of students.

For student offenses and student misconduct against another student, Chapter 19 applies. When conducting an investigation, the principal or designee shall make a good faith effort at the earliest point possible to inform the parent (of the student alleged to have engaged in an activity warranting suspension) about the school’s investigation. If after making reasonable attempts, the principal or designee is unable to contact the parent, the school may engage in and complete the investigation.

The Notice to the Parent should be sent to the parent of the complainant/parent complainant/or parent of the student witness, if the student's interview statement will be used/referenced in your investigation report.

Advice on Interviewing Student Witnesses. Students who may be witnesses to the alleged misconduct of an employee should be interviewed. While not required, it is highly recommended that the student's parent/guardian be informed that the student is involved in an investigation of employee misconduct. It is also advisable to offer the parent or guardian an opportunity to be present for his or her child's interview. Information acquired from a student witness can be used in the report and the student can be identified by name, unless redacting identifiable student information is warranted.

Student's Statement. Every effort should be made to have statements referenced in the investigation report signed and dated, either by the student providing the statement, or his or her parent or guardian if a child is too young to read, understand, and sign his/her statement and parent was present during interview.

Document Your Interviews

Take notes during every interview. Include the date, time, and place of each interview, the name of the witness/complainant/respondent, and the names and titles of anyone else present, including your name and title (investigator).

Make appropriate *disclosures* at the start of each interview and document that these disclosures were made at the beginning of each interview statement:

INTRODUCTION:

- Purpose of interview
- Expectation of cooperation, and that you will be truthful and forthcoming with whatever information or knowledge you have related to this matter.
- Expectation of confidentiality.
- DOE prohibits retaliation.

Before the interview is over, review your notes and list of questions and figure out if there are any additional questions that you want to ask the witness before bringing the interview to a close.

As much as possible, after the interview, have the witness review his/her statement, include revisions, additions, or deletions, and then sign the statement. If the witness makes a change that contradicts what he/she told you during the interview, you should ask the witness about it. Once the statement has been finalized, the witness should sign his/her statement, acknowledging that his/her statement is a correct reflection of what was stated during the interview.

DO NOT give or email copies of the statements to anyone. This is to preserve the integrity of the investigation while an investigation is open and ongoing. If a witness insists on receiving a copy of his/her statement, inform the witness that you may provide a copy to him/her after the investigation is closed (investigation completed and due process procedures completed, if applicable).

Post-Interview Review

Evaluate the Interview. Immediately after the interview, evaluate the witness responses to determine if you got the information necessary or anticipated from the witness. If not, a follow up interview may be necessary and the witness should be informed of that possibility. Witnesses' memories can improve over time as well as deteriorate.

Your impressions or any observations of the witness' behavior, facial expressions, or body language during the interview should be documented on a separate sheet of paper, not on the interview statement. This information may be helpful in assessing credibility later.

Gathering Other Evidence

Gathering Documents

In some cases, the witness statements may be the only evidence for you to consider as a part of your investigation. However, in other cases documents may need to be obtained and reviewed.

Depending on the allegations, the documentary information that you may need to gather may vary. Relevant documents that you may want to gather may include attendance records, timesheets or timecards, email messages, meeting minutes, summaries of conference, and work schedules. See *DOCUMENT CHECKLIST* (p.48) for a sample listing of documents you may want to review.

If you plan to use a document as a part of an interview (for example, to show the respondent), don't take the original, make a copy. Also, make sure any documents you review during the interview are retrieved back from the interviewee; do not allow the interviewee to take any documents with them after the interview.

Also, you should document how and when you obtained the document, and/or who gave it to you.

Other Evidence

Other evidence that you may want to review/include as part of your investigation:

- Pictures of the site where the incident occurred
- Any physical evidence that witnesses may reference in their interviews

Follow-Up Interviews

After reviewing your interviews and any other evidence that you've gathered, consider whether follow-up or additional interviews are necessary, especially if you have received new allegations or information since your last interview.

If witnesses have provided significant details or documents supporting the complainant, it may be a good idea to get a response from the respondent regarding this additional information.

If the respondent or witnesses offered reasons why the complainant may not be telling the truth, you should re-interview the complainant to have him/her to respond to these statements.

Evaluate the Evidence

Your job as the investigator is to determine whether there is sufficient evidence to substantiate the allegations or not. And, if there is sufficient evidence to substantiate wrongdoing, determine whether the respondent violated any BOE or DOE policies, procedures, regulation, or other work rules, so as to be construed as misconduct.

Review the witness statements and any other evidence that you have gathered. If there are multiple allegations, review each allegation separately.

- Are there facts that everyone agrees on?
- Are there facts that are disputed? Review what each witness stated for each of these disputed facts. Are there any documents to support one side or the other?
- If you can make a decision (of whether wrongdoing occurred) based on the undisputed facts, then you may not have to do a credibility assessment to decide which witnesses are more believable.
- However, if there is not sufficient information to make a decision of whether misconduct occurred or not, or there are major disputed facts, then it may be appropriate to consider the credibility of the witnesses.

Assessing Credibility of Witnesses

Assessing the credibility of a witness may be important if you have conflicting statements. Factors to consider when evaluating credibility are:

- **PLAUSIBILITY.** Is the witness' statement believable on its face? Does it make sense?
- **SOURCE OF INFORMATION.** Did the witness see or hear the incident directly? Or, did the witness' account rely on information from other employees or rumor?
- **DETAIL.** How general or specific was each person's statement? If a witness provided a detailed account of an incident, were those details supported by other evidence? Did the respondent provide a general denial or details as to another version of what occurred?
- **CORROBORATION AND CONFLICTING TESTIMONY.** Are there other witnesses or documents that support one side of the story or the other?
- **CONTRADICTIONS.** Was each person's story consistent throughout your questioning, or when you asked him/her about it again? If the story changed, did it involve a minor issue or a matter of substance?
- **DEMEANOR.** How did the witness act during the interview? Did the respondent have a strong reaction to the complaint or no reaction at all? Did the complainant seem genuinely upset?
- **OMISSIONS.** Did anyone leave out important information during the interview? Is there a reasonable explanation for the omission? Did the respondent admit an important detail only after being confronted about it?
- **PRIOR INCIDENTS.** Does the respondent have a documented history of this type of misconduct? Has the complainant made previous complaints? Have there been any other incidents between the complainant and respondent?
- **MOTIVE.** Does the complainant or respondent have any motive or reason to lie about, exaggerate, or deny the incident? Is there any history between these employees that affects their credibility? Do any of the witnesses have a special loyalty to (or grudge against) any of the employees involved?

None of these factors are determinative as to credibility. The fact that there are no eyewitnesses to an alleged incident does not necessarily defeat the complainant's credibility. Furthermore, the fact that the respondent engaged in similar behavior in the past does not necessarily mean that he/she did so again.

Review Information Gathered

- Review the witness statements for corroboration and inconsistencies
- Review documents and physical evidence gathered
- Review the allegations
- For each allegation, align the relevant facts and applicable policies, procedures or work rules

Review Witness Statements

Was each witness credible? If a witness is not credible, why not? Do you need to re-interview anyone, or do additional interviews?

From the witness statements, do you know what factually happened based on the information gathered?

Review Documents and Physical Evidence

Do you have all the documents that are relevant to each allegation? What other documents or information do you need?

Have you verified the documents and the source of the documents, in case it is challenged?

Align the Allegations and Information Gathered

Do you have sufficient information to make a factual conclusion as to whether an allegation of wrongdoing should be substantiated or not?

Is the substantiated allegation a violation of DOE policy or procedure?

Is there any additional information you need before you write up your investigation report and findings?

Writing the Investigation Report

Drafting the investigation report is perhaps the investigator's most crucial task after the interviews are completed, witness statements analyzed, documents and policies reviewed, and evidence gathered. This report is to be submitted to the decision-maker, who will read it and determine a course of action.

Since this report may be a critical part of decision making and may be scrutinized in litigation or grievance arbitration, it is important to write clearly, concisely, and completely. Keep in mind that though the report may be going to the decision-maker, other administrators and managers who have a need to know may also read it. Also, your investigation report could be a key exhibit in a lawsuit or grievance arbitration, if the disciplinary action was based on your investigative findings.

Make sure you document all the information necessary to support each of your investigation findings/conclusions.

If you conclude that there is sufficient evidence or information to substantiate any allegation of wrongdoing, the next step is to determine:

1. Whether any DOE policy, procedure, or work rule was violated;
2. If any known workplace rule was violated, even if it's not written; and/or
3. Whether the employee's action was obviously inappropriate or dangerous, even if it isn't explicitly prohibited by DOE policy, procedure, or work rule.

NOTE: AVOID SAYING THAT THE EMPLOYEE VIOLATED THE LAW or making any other legal conclusions.

Your INVESTIGATION REPORT should include:

- Background:**
 - Why the investigation was initiated (e.g. received a complaint, verbal or physical altercation, employee suspected of theft or mistreating students)
 - If a complaint was received, date of complaint and name of employee who complained.
 - Who assigned the complaint to you for investigation, and when.
- Issues** - List each allegation separately
- Basis in Policy** - List policies, procedures, or applicable work rules that may have been violated

- **Investigation Findings**
 - List all witnesses interviewed
 - List all documents reviewed
 - List each allegation. For each allegation, you should include the following:
 - **Evidence gathered.** Insert the relevant information gathered (i.e. relevant parts of witness statements and/or documents)
 - **Analysis.** Why is there sufficient or insufficient evidence to substantiate the allegation? Upon your review of the information, what do you find? Include a credibility assessment, if necessary. Who is more credible & why?
 - **Conclusion.** Is there sufficient information to find that the incident occurred as alleged?
 - **Violation(s).** If an allegation is substantiated, did the respondent violate any DOE policy, procedure, or work rule? If not, explain why the conduct is not a violation.
- **Conclusion** - summarize your conclusion for each of the allegations and whether there is a violation of DOE policy, procedure, or work rule.
- **Additional Information** - include any information that you uncovered during your investigation that the decision maker may need to address. Any management type issues uncovered, any allegations that arose that were not related to the scope of your investigation, and/or any other concerns raised by witnesses (including or respondent) that may need to be addressed by the decision maker.
- **Sign and Date** - sign and date your investigation report prior to transmitting it to the decision maker.
- **List of Exhibits** - include all information that is referred to in your investigation report. Each exhibit should be labeled ("Exhibit 1," "Exhibit 2," etc.). In the report, when the statement, document, or other evidence is listed or referred to the corresponding exhibit should also be listed at the end of the paragraph or section.

Appendix

Template Letters and Checklists

Notice of Complaint and Investigation

Department Directed Leave (Certificated Employees)

- Confirmation of Authorization to Place Employee on DDL
- Notice of Department Directed Leave
- Request for Extension of DDL
- Notice of Extension of DDL

Leave Pending Investigation (Classified Employees)

- Confirmation of Authorization to Place Employee on LPI
- Notice of Leave Pending Investigation Without Pay (first 30 days)
- Notice of Leave Pending Investigation With Pay
- Notice of Extension of LPI With Pay

Temporary Block of Casual or Substitute Employee

- Confirmation of Authorization to Temporarily Block [Substitute/Casual Hire] Employment
- Notice of Temporary Block of [Substitute/Casual Hire] Employment

Request For Meeting Templates [Complainant/Witness/Respondent]

Notice to Parent Templates [Parent of Complainant/Parent of Student Witness]

Witness Statement Template

Investigation Report Template

Final Letter to Parties

Document Checklist

Credibility Checklist

Investigation Report Checklist

DECISION MAKER SENDS TO RESPONDENT
NOTICE OF COMPLAINT & INVESTIGATION
[ON SCHOOL/DISTRICT LETTERHEAD]

[Date]

[Name of Respondent]
[Address]
[City, State Zip Code]

CERTIFIED MAIL #
RETURN RECEIPT REQUESTED

Dear [Mr. or Ms. (Last Name of Respondent)]

Re: NOTICE OF COMPLAINT AND INVESTIGATION

This letter is written to inform you that I have received information that alleges you [insert allegation(s)]. An investigation has been initiated. The investigation will cover this allegation and any other issue(s) that are made known during the course of the investigation.

[Name & title of investigator] has been assigned to look into the matter. [Mr. or Ms. (last name of investigator)] will contact you to schedule a meeting to provide you with an opportunity to respond to the allegation(s). At that time, you may also provide the investigator with any additional information that you would like to have considered regarding the case.

Please be advised that you have a right to have a union representative present during the meeting. If you choose to have a union representative present, you are responsible to contact the union to arrange to have a representative present during the investigation interview.

To preserve the integrity of the investigative process, you are highly encouraged not to speak with anyone concerning the case. Please be advised that the Department of Education strictly prohibits any form of retaliation, and if this provision is not adhered to, it may mean an additional investigation of that matter.

Should you have any questions concerning this case, please feel free to contact me regarding the process. The investigator will be in touch with you.

Thank you for your cooperation.

Sincerely,

[Name of Decision Maker]
[Title of Decision Maker]

c: _____, Personnel Regional Officer
Name and title of investigator
Regular Mail

Department Directed Leave (DDL) - Certificated Employees

- Authority: **School Code Regulation 5411L**
- Imposed on CERTIFICATED employees.
- Approved by Complex Area Superintendent or Assistant Superintendent.
- Once approved by CAS/AS, can be implemented by Principal/Administrator.
- Immediately relieves certificated employee from duty.
- Must be “in the best interest of the students” or “for the good of the Department.”
- May be appropriate to place employee on DDL if employee’s presence at work:
 - Jeopardizes the health, safety, or welfare of students or employees; or
 - May interfere with or impact the investigation; and
 - Temporary reassignment to a different position or location is not an option

PROCEDURES:

1. Principal/Administrator calls and gets verbal approval from CAS/AS.
2. Upon CAS’/AS’ approval, Principal/Administrator sends **Confirmation of Authorization** letter to CAS/AS confirming verbal authorization from the CAS/AS.
3. CAS/AS sends **Notice of Department Directed Leave** letter to employee, placing employee on DDL for a period not to exceed 10 working days.
4. If DDL needs to be extended beyond 10 working days, CAS/AS sends **Request for Extension of DDL** memo to Superintendent, requesting an extension of the DDL and the reason for the extension.
5. CAS/AS sends **Notice of Extension of DDL** to employee.
6. Note: Investigator keeps copies of DDL letters in the investigation file.

MEMO FROM PRINCIPAL TO CAS
**CONFIRMATION OF AUTHORIZATION
TO PLACE EMPLOYEE ON DDL**

DATE: [Within 1 workday of the verbal approval]

TO: [CAS/AS's Name and Title]

FROM: [Principal/Administrator's Name and Title]
[Name of School or Office]

RE: **Confirmation of Authorization for Department Directed Leave**

This letter is written to confirm my telephone conversation with you on [insert date] in which you authorized Department Directed Leave (DDL) up to 10 days for:

Name of Employee:
Position:
Position Number:
School/Office:

This leave is being requested in accordance with School Code Regulation 5411L, [“in the best interest of the students” OR “for the good of the Department”]. The basis for requesting this DDL is to allow the [“school,” “office,” or “district”] time to conduct an investigation into allegations that [name of employee] [state nature of allegations].

It is my understanding that the employee will be notified by your office to clearly inform [him/her] that [he/she] is directed to remain off [name of specific school or “any DOE facility”] and away from the worksite for the duration of the investigation.

[If the employee's school property has already been collected, state:

I have already collected the employee's keys, DOE ID badge and ____ (list other DOE items collected) when I met with [him/her] yesterday to inform [him/her] that [he/she] was being placed on DDL.]

OR

[If the employee's school property has NOT YET BEEN COLLECTED, then state:

The employee should also be informed to turn in [his/her] keys, DOE ID badge, and ____ (list other DOE items that need to be collected from the employee) to [insert name of administrator] by (insert date).]

LETTER FROM CAS TO EMPLOYEE
NOTICE OF DEPARTMENT DIRECTED LEAVE
 [ON DISTRICT LETTERHEAD]

[DATE – within 1 workday of the verbal notice]

[Name of Employee]
 [Address]
 [City, State Zip Code]

CERTIFIED MAIL #
 RETURN RECEIPT REQUESTED

Re: **NOTICE OF DEPARTMENT DIRECTED LEAVE**

Name of Employee:
 Position:
 Position Number:
 School/Office:

Dear [Mr. or Ms. (insert last name of employee)]:

This letter is written to confirm verbal directions given to you on [insert date] by [insert title and name of administrator who gave directive] who informed you that you that you were being placed on Department Directed Leave (DDL) for the period of [enter to/from dates, not to exceed 10 working days from the date he/she was placed on leave]. You are being placed on DDL, in accordance with School Code Regulation 5411L, while the Department conducts its investigation into allegations that you [state allegations].

An investigator will be contacting you to schedule an interview, to provide you an opportunity to respond to the allegations. At that time you may also submit any relevant information that you would like to have considered as part of the investigation.

The following conditions apply during your DDL:

- You are directed to remain off [name specific school or office] or [any DOE facility], and away from the worksite during the investigative period.
- You are also prohibited from attending any DOE-sponsored activities related to that school or office.
- If you have not already done so, please turn in your DOE ID badge, any school or office keys, and/or DOE belongings to your [Principal or Administrator] by [insert date]
- As you are on paid status, you are directed to be available to confer with the investigator and other staff involved with this case, upon request. If at any time you are not available, you shall submit the appropriate request for leave form (Form G-1 or Form 400) for sick leave, vacation, or leave without pay, as applicable, and your leave status shall be changed from DDL to the appropriate leave for that period.
- You are also directed to not delete or remove any emails, documents and/or materials produced during your employment as a DOE employee.

Name of Employee
Notice of Department Directed Leave
[Insert Date]
Page 2

- Your access to DOE computers may be suspended for the duration of your DDL.
- To preserve the integrity of the investigation, you are highly encouraged NOT to discuss the matter under investigation with anyone.

Please be informed that the DOE strictly prohibits any form of retaliation.

Should you have any questions or concerns, please call _____, Personnel Regional Officer, at _____.

Sincerely,

[Name of CAS/AS]
[Complex Area Superintendent or Assistant Superintendent]

c: [Name of Principal or Administrator, Title, School or Office]
[Name of PRO], Personnel Regional Officer
Records and Transactions Section, OHR
Investigations Section, OHR
[Name of Investigator], Investigator
Regular Mail

MEMO FROM CAS TO SUPERINTENDENT
REQUEST FOR EXTENSION OF DDL

DATE: [Within 1 workday of the verbal approval]

TO: Kathryn S. Matayoshi
Superintendent

FROM: [Name of CAS/AS]
Complex Area Superintendent [or Assistant Superintendent]

RE: **Request for Extension of Department Directed Leave**
Name of Employee:
Position:
Position Number:
School/Office:

[Name of Employee] has been on DDL from [start date through end date] to allow the [school or office] adequate time to investigate the allegations regarding [state nature of allegations].

However, due to [state SPECIFIC REASON FOR REQUEST FOR EXTENSION] there is a need for more time to [“complete the investigation,” “schedule the post-investigation meeting,” “write up the decision or recommendation,” or “schedule the due process meeting with the CAS” (or Superintendent).] Therefore, I am requesting an extension of [title and last name of employee]’s DDL for the period of [state start/end dates for the next 30- day extension]. It is expected that the investigation (or “post-investigation meeting and principal’s decision” or “due process meeting and CAS decision”) will be completed by _____. Should the investigation (or “post-investigation meeting and principal’s decision” or “due process meeting and CAS decision”) is not be completed by that date, I will provide an update along with another request for extension.

[CAS initials]:[PRO initials, who drafted Request]:[typist’s initials]

c: [Name of Principal or Administrator, Title, School or Office]
[Name of PRO], Personnel Regional Officer
Investigations Section, OHR
[Name of Investigator], Investigator

Approved / Disapproved

SUPERINTENDENT’S COMMENTS:

Kathryn S. Matayoshi

Date

LETTER FROM CAS TO EMPLOYEE
NOTICE OF EXTENSION OF DDL
[ON DISTRICT LETTERHEAD]

[DATE – within 1 workday of Superintendent’s approval]

[Name of Employee]
[Address]
[City, State Zip Code]

CERTIFIED MAIL #
RETURN RECEIPT REQUESTED

Re: **NOTICE OF EXTENSION OF DEPARTMENT DIRECTED LEAVE**

Name of Employee:
Position:
Position Number:
School/Office:

Dear [Mr. or Ms. (insert last name of employee)]:

This letter is written to notify you that your Department Directed Leave (DDL) with pay is being extended from [start date] to [end date].

This action is being taken in accordance with School Code Regulation #5411L.

All directives in the original Notice of DDL, dated _____, still apply.

Should you have any questions, please feel free to call _____, Personnel Regional Officer, at [PRO’s telephone #].

Sincerely,

[Name of CAS/AS]
[Complex Area Superintendent or Assistant Superintendent]

c: [Name of Principal/Administrator], [Title]
[Name of PRO], Personnel Regional Officer
Records and Transactions, OHR
Investigations Section, OHR
[Name of Investigator], Investigator
[Name & title of union agent or UniServ Director, *if you have been informed of representation*]
Regular Mail

Leave Pending Investigation (LPI) - Classified Employees

- Authority: **Applicable Collective Bargaining Agreement**
 - Unit 1 (UPW): Section 11A.
 - Unit 2 (HGEA): Article 42K.
 - Unit 3 (HGEA): Article 40K.
 - Unit 4 (HGEA): Article 40K.
 - Unit 9 (HGEA): Article 46K.
 - Unit 10 (UPW): Section 11A.
 - Unit 13 (HGEA): Article 41K.
- Imposed on CLASSIFIED employees.
- Approved by Complex Area Superintendent or Assistant Superintendent.
- Once approved by CAS/AS, can be implemented by Principal/Administrator.
- Immediately relieves classified employee from duty.
- In essence the union contracts state that employees may be placed on leave pending investigation without pay if the employee's presence at the workplace is deemed detrimental to the proper conduct of the investigation or operations of the workplace.
- Employee shall be given written notice within forty-eight (48) hours after being placed on LPI. The Notice shall include the specific reason(s) for place Employee on LPI without pay.
- LPI without pay pending investigation shall not exceed thirty (30) calendar days. In the event that LPI needs to be extended beyond the 30 days, the employee shall be placed on LPI with pay, return the employee to work, or temporarily reassign the employee to another work unit or area in the same or different position.

PROCEDURES:

1. Principal/Administrator calls and gets verbal approval from CAS/AS to place employee on LPI without pay.
2. Upon CAS'/AS' approval, Principal/Administrator sends **Confirmation of Authorization** letter to CAS/AS confirming verbal authorization from the CAS/AS.
3. CAS/AS sends **Notice of Leave Pending Investigation Without Pay** letter to employee, placing employee on LPI for a period not to exceed 30 days.
4. If LPI needs to be extended beyond 30 days, CAS/AS sends **Request for Extension of LPI With Pay** memo to Superintendent, requesting an extension of the LPI and the reason for the extension.
5. CAS/AS sends **Notice of Extension of LPI With Pay** to employee.
6. Note: Investigator keeps copies of LPI letters in the investigation file.

MEMO FROM PRINCIPAL TO CAS
**CONFIRMATION OF AUTHORIZATION TO
PLACE EMPLOYEE ON LPI Without PAY**
[ON DISTRICT LETTERHEAD] (Initial 30 days)

DATE: [Within 1 workday of the verbal approval]

TO: [CAS/AS's Name and Title]

FROM: [Principal/Administrator's Name and Title]
[Name of School or Office]

RE: **Confirmation of Authorization for Leave Pending Investigation Without Pay**

This letter is written to confirm my telephone conversation with you on [insert date] in which you authorized Leave Pending Investigation (LPI) Without Pay up to 30 days for:

Name of Employee:

Position:

Position Number:

School/Office:

This leave is being requested in accordance with [cite applicable union contract section]. The basis for requesting this LPI Without Pay is to allow the [school/office/district] time to conduct an investigation into allegations that [name of employee] [state nature of allegations]. The employee was sent a Notice of Complaint and Investigation on [insert date of Notice], informing [him/her] of the investigation.

It is my understanding that the employee will be notified by your office to clearly inform [him/her] that [he/she] is directed to remain off [name of specific school or "any DOE facility"] and away from the worksite for the duration of the investigation.

[If the employee's school property has already been collected, then state:

I collected the employee's keys, DOE ID badge and _____ (list other DOE items collected) when I met with [him/her] yesterday to inform [him/her] that [he/she] was being placed on LPI Without Pay.]

OR

[If the employee's school property has NOT YET BEEN COLLECTED, then state:

The employee should also be informed to turn in [his/her] keys, DOE ID badge, and _____ (list other DOE items that need to be collected from the employee) by [date] to (insert name and title of administrator employee should turn in DOE property to).]

I understand that any LPI beyond 30 days requires your prior authorization and approval. I will notify you should there be a need to extend the LPI beyond 30 days.

We will make every effort to complete the investigation in a timely manner and take appropriate action where necessary.

c: [Name of PRO], Personnel Regional Officer
Investigations Section, OHR
[Name of Investigator], Investigator

LETTER FROM CAS TO EMPLOYEE
**NOTICE OF LEAVE PENDING INVESTIGATION
WITHOUT PAY (Initial 30 days)**
[ON DISTRICT LETTERHEAD]

[DATE – within 1 workday of the verbal notice]

[Name of Employee]
[Address]
[City, State Zip Code]

CERTIFIED MAIL #
RETURN RECEIPT REQUESTED

Re: **NOTICE OF LEAVE PENDING INVESTIGATION WITHOUT PAY**

Name of Employee:
Position:
Position Number:
School/Office:

Dear [Mr. or Ms. (insert last name of employee)]:

This letter is written to confirm verbal directions given to you on [insert date] by [insert title and name of administrator who gave directive] who informed you that you that you were being placed on Leave Pending Investigation (LPI) Without Pay for the period of [enter to/from dates, not to exceed 30 days from the date he/she was placed on LPI]. You are being placed on LPI, in accordance with (insert appropriate citation from the employee’s union contract [for example, “the Unit 3 Contract, Article 40, Section K. *Leave Pending Investigation of Charges*”]), while the Department conducts its investigation into allegations that you [state allegations].

An investigator will be contacting you to schedule an interview time with you, to provide you an opportunity to respond to the allegations. At that time you may also submit any relevant information that you would like to have considered as part of the investigation.

The following conditions apply during your Leave Pending Investigation:

- You are directed to remain off [name specific school or office] or [any DOE facility], and away from the worksite during the investigative period.
- You are also prohibited from attending any DOE-sponsored activities related to that school or office.
- If you have not already done so, please turn in your DOE ID badge, any school or office keys, and/or DOE belongings to your [Principal or Administrator] by [insert date]
- You are also directed to not delete or remove any emails, documents and/or materials produced during your employment as a DOE employee.
- Should you be required to participate in an investigation interview or other investigation-related activity, you will be paid for that period of time.
- Your access to DOE computers may be suspended for the duration of your LPI.
- To preserve the integrity of the investigation, you are highly encouraged NOT to discuss the matter under investigation with anyone.

Name of Employee
Notice of Leave Pending Investigation Without Pay
[Insert Date]
Page 2

Please be informed that the DOE strictly prohibits any form of retaliation.

Should you have any questions or concerns, please call _____, Personnel Regional Officer, at _____.

Sincerely,

[Name of CAS/AS]
[Complex Area Superintendent or Assistant Superintendent]

c: [Name of Principal or Administrator, Title, School or Office]
[Name of PRO], Personnel Regional Officer
Records and Transactions Section, OHR
Payroll Office, OFS (redacted)
Investigations Section, OHR
[Name of Investigator], Investigator
Regular Mail

MEMO FROM CAS TO SUPERINTENDENT
REQUEST FOR EXTENSION OF LPI

DATE: [Within 1 workday of the verbal approval]

TO: Kathryn S. Matayoshi
Superintendent

FROM: [Name of CAS/AS]
Complex Area Superintendent [or Assistant Superintendent]

RE: **Request for Extension of Leave Pending Investigation**
Name of Employee:
Position:
Position Number:
School/Office:

[Name of Employee] has been on Leave Pending Investigation (LPI) from [start date through end date] to allow the [school or office] adequate time to investigate the allegations regarding [state nature of allegations].

However, due to [state SPECIFIC REASON FOR REQUEST FOR EXTENSION] there is a need for more time to [“complete the investigation,” “schedule the post-investigation meeting,” “write up the decision or recommendation,” or “schedule the due process meeting with the CAS” (or Superintendent).] Therefore, I am requesting an extension of [title and last name of employee]’s LPI for the period of [state start/end dates for the next 30- day extension]. It is expected that the investigation (or “post-investigation meeting and principal’s decision” or “due process meeting and CAS decision”) will be completed by _____. Should the investigation (or “post-investigation meeting and principal’s decision” or “due process meeting and CAS decision”) not be completed by that date, I will provide an update along with another request for extension.

[CAS initials]:[PRO initials, who drafted Request]:[typist’s initials]

c: [Name of Principal or Administrator, Title, School or Office]
[Name of PRO], Personnel Regional Officer
Investigations Section, OHR
[Name of Investigator], Investigator

Approved / Disapproved

SUPERINTENDENT’S COMMENTS:

Kathryn S. Matayoshi

Date

LETTER FROM CAS TO EMPLOYEE
NOTICE OF EXTENSION OF LPI

[DATE – within 1 workday of Superintendent’s approval]

[Name of Employee]
 [Address]
 [City, State Zip Code]

CERTIFIED MAIL #
 RETURN RECEIPT REQUESTED

Re: **NOTICE OF EXTENSION OF LEAVE PENDING INVESTIGATION WITH PAY**

Name of Employee:
 Position:
 Position Number:
 School/Office:

Dear [Mr. or Ms. (insert last name of employee)]:

This letter is written to notify you of the extension of your Leave Pending Investigation with pay from [start date] to [end date].

This action is being taken in accordance with the Unit [enter collective bargaining unit number], section [insert appropriate section of union contract].

All directives in the original Notice of Leave Pending Investigation, dated _____, still apply. Also, as you are on paid status, you are directed to be available to confer with the investigator and other staff involved with this case, upon request. If at any time you are not available, you shall submit a Application for Leave of Absence form (G-1) for sick leave, vacation, or leave without pay, as applicable, and your leave status shall be changed from LPI to the appropriate leave for that period.

Should you have any questions, please feel free to call _____, Personnel Regional Officer, at [PRO’s telephone #].

Sincerely,

[Name of CAS/AS]
 [Complex Area Superintendent or Assistant Superintendent]

c: [Name of Principal/Administrator], [Title]
 [Name of PRO], Personnel Regional Officer
 Records and Transactions, OHR
 Investigations Section, OHR
 Payroll Office, OFS (redacted) **[include Payroll only if this is the first extension following LPI Without Pay]**
 [Name of Investigator], Investigator
 [Name & title of union agent or UniServ Director, *if you have been informed of representation*]
 Regular Mail

Substitutes and Casual Hire Employees

There may be times when a substitute or casual employee may be subject to an investigation. The principal/administrator may determine the employee should be removed from the workplace because of potential for interfering with or impacting the investigation or his/her continued presence may be detrimental to the operations of the workplace.

- Imposed on SUBSTITUTES or CASUAL HIRE employees.
- School administrator may block substitutes from their school.
- Complex Area Superintendent or Assistant Superintendent may block substitutes or casual hires from the district or statewide.
- Immediately relieves the substitute or casual employee from duty.

PROCEDURES:

1. If the Principal/Administrator wants to temporarily block the employee from substituting in the school, he/she informs the employee of the block, and then notifies the District Office and OHR and requests a "blocked" status. The principal/administrator submits copies of all documentation to District Office justifying the block. For school block, principal sends ***Notice of Temporary Block*** letter to employee.
2. If the Principal/Administrator wants to temporarily block the employee from substituting in the district or statewide, he/she may contact the PRO and calls and gets verbal approval from CAS/AS to inform the substitute or casual employee that his/her casual employment in the district or in the DOE (statewide) will be temporarily blocked for the duration of the investigation, and the employee will not be allowed to work at any DOE school or facility during that time.
 - a. Upon CAS'/AS' approval, Principal/Administrator sends ***Confirmation of Authorization*** letter to CAS/AS confirming verbal authorization from the CAS/AS.
 - b. CAS/AS sends ***Notice of Temporary Block*** letter to employee, informing the employee that he/she will not be able to substitute or do casual work for the DOE for the duration of the investigation.
 - c. Note: Investigator keeps a copy of the Notice of Temporary Block in the investigation file.

MEMO FROM PRINCIPAL TO CAS for District or Statewide Block

**CONFIRMATION OF AUTHORIZATION
TO TEMPORARILY BLOCK SUBSTITUTE or
CASUAL HIRE EMPLOYMENT**

DATE: [Within 1 workday of the verbal approval]

TO: [CAS/AS's Name and Title]

FROM: [Principal/Administrator's Name and Title]
[Name of School or Office]

RE: **Confirmation of Authorization Temporarily Block [Casual Hire or Substitute] Employment**

This letter is written to confirm my telephone conversation with you on [insert date] in which you authorized to temporarily block [casual or substitute] employment for:

Name of Employee:
Position:
Position Number:
School/Office:

This temporary block is being requested to allow the [school/office/district] time to conduct an investigation into allegations that [name of employee] [state nature of allegations]. The employee was sent a Notice of Complaint and Investigation on [insert date of Notice], informing [him/her] of the investigation.

It is my understanding that the employee will be notified by your office to clearly inform [him/her] that [he/she] is directed to remain off [name of specific school or "any DOE facility"] and away from the worksite for the duration of the investigation.

[If the employee's school property has already been collected, then state:

I have already collected the employee's keys, DOE ID badge and _____ (list other DOE items collected) when I met with [him/her] yesterday to inform [him/her] that [he/she] was being temporarily blocked from employment.]

OR

[If the employee's school property has NOT YET BEEN COLLECTED, then state:

The employee should also be informed to turn in [his/her] keys, DOE ID badge, and _____ (list other DOE items that need to be collected from the employee) by [date] to (insert name and title of administrator employee should turn in DOE property to.)

We will make every effort to complete the investigation in a timely manner and take appropriate action where necessary.

- c: [Name of PRO], Personnel Regional Officer
Investigations Section, OHR
Certificated Personnel Unit Administrator, OHR **[cc only if Substitute Teacher]**
Recruitment Section Administrator, OHR **[cc only if Casual Hire]**
[Name of Investigator], Investigator
Regular Mail

REQUEST FOR MEETING – COMPLAINANT
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NOTE: This request may be sent via e-mail or letter, or you may call the Complainant to request a meeting. If emailing Complainant to request meeting, insert into Subject: “CONFIDENTIAL: Request for Meeting”

Dear [Insert name of Complainant]:

I have been assigned to conduct an investigation of your complaint against [insert name of Respondent] regarding your allegation(s) that he/she [insert general nature of allegations]. For the purpose of looking into the allegations, [“I need to schedule an interview time with you” or “I have scheduled a time to meet with you.”]

[Please call me at _____ or email me to let me know your schedule on [may specify dates and times] so that we may schedule a meeting.]

OR

[I have scheduled our meeting for (insert date) at (insert time) at (insert place). Please call or email me by (insert date/time) to confirm your attendance.]

The Department of Education (DOE) prohibits retaliation. If at any time during or after the investigation you believe that you are being subjected to retaliatory actions, please contact your district Personnel Regional Officer, [insert name of PRO], at [insert PRO’s telephone number].

To preserve the integrity of the investigation, you are advised to keep this matter confidential and not discuss it with anyone. If you have questions about the investigative process you may contact your manager and/or your district Personnel Regional Officer, [insert name of applicable PRO]. If you have any questions about this investigation, please feel free to call me at [insert your telephone number].

Mahalo,

Name of Investigator
Job Title

REQUEST FOR MEETING – WITNESS

NOTE: This request may be sent via e-mail or letter, or you may call the witness to request a meeting. If emailing the witness to request meeting, insert into Subject: “CONFIDENTIAL: Request for Meeting”

Date } *Include*
Name of Witness } *this information*
Address } *only if mailing letter*
City, State Zip Code } *to witness*

Dear [Insert name of Witness]:

I am conducting an investigation regarding a workplace issue. The complaint is not against you but it is my understanding that you may have some information that may be relevant to this investigation.

[Please call me at _____ or email me to let me know your schedule on [may specify dates and times] so that we may schedule a meeting.]

OR

[I have scheduled our meeting for (insert date) at (insert time) at (insert place). Please call or email me by (insert date/time) to confirm your attendance.]

The Department of Education (DOE) prohibits retaliation. If at any time during or after the investigation you believe that you are being subjected to retaliatory actions, please contact your district Personnel Regional Officer, [insert name of PRO], at [insert PRO’s telephone number].

To preserve the integrity of the investigation, you are advised to keep this matter confidential and not discuss it with anyone. If you have questions about the investigative process you may contact your manager and/or your district Personnel Regional Officer, [insert name of applicable PRO]. If you have any questions about this investigation, please feel free to call me at [insert your telephone number].

Mahalo,

Name of Investigator
Job Title

REQUEST FOR MEETING – RESPONDENT (ACCUSED EMPLOYEE)

NOTE: This request may be sent via e-mail or letter. If emailing the Respondent to request a meeting, insert into Subject: “CONFIDENTIAL: Request for Meeting”

[Insert name of Respondent]:

I have been assigned to conduct the investigation of [insert “a complaint received by the Department of Education” or “a complaint received from (insert Complainant’s name)] regarding allegations that you [insert nature of allegations]. For the purpose of providing you an opportunity to respond to the allegations, [“I need to schedule an interview time with you” OR “I have scheduled a meeting”].

[Please call me at _____ or email me to let me know your schedule on (may specify dates and times) so that we may schedule a meeting.]

OR

[I have scheduled our meeting for (insert date) at (insert time) at (insert place). Please call or email me by (insert date/time) to confirm your attendance.]

Please be advised that you have a right to have your union representative present during this meeting. You will be responsible to make arrangements with your representative to be present during this investigation interview.

The Department of Education (DOE) prohibits retaliation. Anyone who engages in retaliatory conduct may be subject to disciplinary action.

To preserve the integrity of the investigation, you are advised to keep this matter confidential and not discuss it with anyone. If you have questions about the investigative process you may contact your manager and/or your district Personnel Regional Officer, [insert name of applicable PRO]. If you have any questions about this investigation, please feel free to call me at [insert your telephone number].

Mahalo,

Name of Investigator

Job Title

**NOTICE to Parent Complainant
or Parent of Student Complainant**

Date

Mr. or Ms. [First Name][Last Name]
Address
City, State Zip Code

Dear **[Mr. or Ms (Last Name)]**:

I am writing in regards to the complaint that **["you" or "your child"]** filed alleging that **[name of Respondent][summary of allegation]**, and/or other issues that may arise from the investigation of **[name of Respondent]**. Thank you for bringing your concerns to our attention.

An investigation has been initiated. At the conclusion of the investigation, an investigation report will be presented to **[Title and Name of Decision Maker]**.

This letter is written to give you formal notification that the investigation report related to the above-mentioned investigation may include your child's statement. The statement may include identifiable information about your child, which may be covered under the Family Educational Rights and Privacy Act (FERPA). Furthermore, the investigation report may be used for subsequent actions that may be taken.

If you have any questions, you may contact **[Investigator's Name & Title or Administrator's Name and Title]** at **[insert telephone number and/or email address]**.

Sincerely,

Administrator's name
Job Title

c: **Name & Title of investigator**

NOTICE to Parent of Student Witness
--

Date

Mr. or Ms. [First Name][Last Name]
 Address
 City, State Zip Code

Dear [**Mr or Ms. (Last Name)**]:

A complaint alleging inappropriate _____ by a school staff member has been received. Your child, (**insert name of child**), has been identified as someone who may have information about (“**the incident**” or “**the situation**”). Due to the nature of the complaint and because the allegations have been brought to our attention, an investigation has been initiated. At the conclusion of the investigation, an investigation report will be presented to [**Title and Name of Decision Maker**].

This letter is written to give you formal notification that the investigation report related to the above-mentioned investigation may include your child’s statement. The statement may include identifiable information about your child, which may be covered under the Family Educational Rights and Privacy Act (FERPA). Furthermore, the investigation report may be used for subsequent actions that may be taken.

If you have any questions, you may contact [**Investigator’s Name & Title** or **Administrator’s Name & Title**] at [**insert telephone number and/or email address**].

Sincerely,

Administrator’s Name
 Job Title

c: **Name & Title of investigator**

TEMPLATE FOR WITNESS STATEMENT

**CONFIDENTIAL
INTERVIEW WITH [NAME OF WITNESS]**

Interview with: [Name of Witness]

Date:

Place:

Interviewed by: [Name(s) & Title(s) of Investigator(s)]

INTRODUCTION:

Purpose of Interview: The purpose for this interview to give you an opportunity to respond to the allegations from a parent complaint that the principal received on _____, and other issues that have come up during the course of this investigation.

Expectations: It is expected that you cooperate with the investigation, and that you will be forthcoming and truthful with the information that you have knowledge of.

Confidentiality: It is also expected that you keep what we discuss today confidential and you not discuss this matter with anyone (except your union agent, if applicable), especially your co-workers.

Non-Retaliation: The Department of Education prohibits retaliation. Anyone whose conduct is found to be retaliatory toward individuals who participate in this investigation may be subject to disciplinary action. If you believe you are being subjected to retaliation, please inform your supervisor, Personnel Regional Officer, or OHR Investigations Section.

Do you have any questions before we start?

Employment History:

1. How long have you worked for the DOE?
2. How long have you been at _____ School?
3. What is your current position?
4. How long have you been in this position?

Interview with (insert name of witness)
Date of Interview
Page ___ of ___

Questions about incident(s)

I have reviewed my statement above and it is an accurate reflection of what we discussed during this meeting.

(Insert name of witness)

Date

TEMPLATE FOR INVESTIGATION REPORT

CONFIDENTIAL
INVESTIGATION REPORT

Date:

To: (Name of Decision Maker), (Job Title)
(Name of School or Office)

From: (Name of Investigator), (Job Title)

Re: Complaint against (NAME OF RESPONDENT), (Job Title)
(Name of School or Office)

A. Background

[Insert background information on complaint: when it was received and by whom, and generally what the allegations are.]

[Also state how the matter was referred to you to be investigated.]

B. Issues

C. Basis in Policy

[Cite any DOE policies, procedures, or work rules that may have been violated if the allegations were true.]

D. Investigation Findings

Witnesses Interviewed:

1. (List name & job title of each witness interviewed)
- 2.
- 3.
- 4.
- 5.
- 6.

Investigation Report

Re: Complaint against (RESPONDENT'S NAME)

Date

Page ___ of ___

Documents Reviewed:

- 1.
- 2.
- 3.
- 4.
- 5.

For each issue/allegation, list the relevant information obtained (witness statements or documentation).

Allegation #1:

Reference relevant parts of witness statements for this allegation

Reference information from relevant documents for this allegation

Is there sufficient evidence to substantiate the allegation occurred?

If there is sufficient information to substantiate the allegation, were any DOE policies, procedures, or work rules that violated, so as to be construed as misconduct.

(Note: Even if the inappropriate behavior/conduct does not rise to the level of a violation of a DOE policy, procedure, or work rule, you would still note that the conduct/behavior was inappropriate and why, because the decision maker may still need to address the inappropriate conduct and/or take appropriate corrective action.)

Allegation #2:

Reference relevant parts of witness statements for this allegation

Reference information from relevant documents for this allegation

Is there sufficient evidence to substantiate the allegation occurred?

Investigation Report

Re: Complaint against (RESPONDENT'S NAME)

Date

Page ___ of ___

If there is sufficient information to substantiate the allegation, were any DOE policies, procedures, or work rules violated, so as to be construed as misconduct.

Allegation #3:

Reference relevant parts of witness statements for this allegation

Reference information from relevant documents for this allegation

Is there sufficient evidence to substantiate the allegation occurred?

If there is sufficient information to substantiate the allegation, were any DOE policies, procedures, or work rules violated, so as to be construed as misconduct.

cc: _____, Personnel Regional Officer

Final Letter to Parties

INVESTIGATOR SENDS THIS LETTER TO RESPONDENT AND
COMPLAINANT AFTER DECISION MAKER HAS INFORMED
INVESTIGATOR THAT NO ADDITIONAL INFORMATION IS NEEDED
FOR THE DECISION MAKING PROCESS

Date

[Name]

[Address]

[City, State Zip Code]

Re: Completion of Investigation

Dear (Name of Complainant or Respondent):

This letter is to inform you that I have completed my investigation and the investigation report has been forwarded to (Title & Name of Decision Maker) for (his or her) review.

Should you have any questions, please contact (Title and Name of Decision Maker) at (decision maker's telephone number).

Sincerely,

(Name of Investigator)

(Title of Investigator)

Investigator

c: (Name of Decision Maker), (Title of Decision Maker)

(Name of PRO), Personnel Regional Officer

Document Checklist

- Complaint and notes regarding the complaint
- Relevant BOE/DOE policies, procedures, regulations, administrative rules, work rules
- Any memos or notes about the incident(s)
- Managers' notes and files
- Statements written or obtained from person(s) involved (complainant, witnesses, accused employee)
- Time cards
- Work schedules
- Calendars
- Diaries or notes taken by an employee involved
- Tape recordings, photographs, logs
- Physical evidence (such as samples)
- Diagrams of worksite or location where incident occurred
- Inventory records
- Email messages
- Collective bargaining agreement
- Text messages
- Pictures or drawings

Credibility Checklist

- Plausibility:** Whose story makes the most sense? Could the employees involved have heard and seen what they claimed to have witnessed? Should they have heard and seen things that they did not admit?
- Source of Information:** Did the witness see or hear the event directly? Did the witness report firsthand knowledge, or rely on statements from other employees or rumors?
- Detail:** How general or specific was each person's statement? Were details supported by other evidence? Did the accused or suspected employee deny the allegation in detail or only generally?
- Corroboration and Conflicting Testimony:** What witnesses or documents support each side of the story? Does the evidence contradict one person's statements? Do the witnesses support the person who suggested you interview them? If there are conflicts, are they over minor or significant issues?
- Contradictions:** Was each person's story consistent throughout your questioning or on a second telling? Did any of the witnesses contradict themselves? If so, did the change involve a minor issue or a matter of substance?
- Demeanor:** How did the witnesses act during the interview? Did they appear to be telling the truth or lying? Did the accused employee have a strong reaction to the complaint or no reaction at all? Did the complaining employee seem genuinely upset? Were any witnesses' reactions unusual, based on their ordinary demeanor or behavior?
- Omissions:** Did anyone leave out important information during the interview? Is there a reasonable explanation for the omission?
- Prior Incidents:** Does the accused employee have a documented history of this type of misconduct? Has the complaining employee made previous complaints? Have there been other incidents between the complaining and the accused employee?
- Motive:** Does anyone have a motive to lie about, exaggerate, or deny the incident? Is there any history between the employees involved that affects their credibility? Do any of the witnesses have a special loyalty to—or grudge against—anyone involved in the incident?

Investigation Report Checklist

- Title: INVESTIGATION REPORT
Complaint Against [insert Title and Name of Respondent]
- The name and title of the investigator
- The date the report was completed
- Introduction & Background.**
 - If there is a complaint, the date of the complaint and name of the individual who complained
 - If there is no complaint, how and when the DOE learned of the problem (for example, a fight broke out or an outside audit revealed accounting irregularities)
 - A summary of any actions taken before the investigation began, such as placing an employee on leave, reassigning an employee to a different location or position, or hiring an outside investigator
 - Date complaint was assigned to you for investigation
 - When the investigation began, including the reasons for delaying any part of the investigation (if applicable)
- Allegations/Issues.** A summary of allegation(s) under investigation, from the complaint or other information that caused the DOE to investigate
- Basis in Policy.** List the policies and cite the relevant part of each policy that may have been violated.
- Investigation Findings**
 - Witnesses. List witnesses interviewed
 - The date and time of each interview (in witness statements)
 - The names of any witnesses whom you chose not to interview, and the reasons for your decision
 - List documents or other evidence that were gathered
 - Where documents or evidence were found (for example, in an employee's personnel file, pinned to the company bulletin board, or in an employee's desk drawer)
 - When documents or evidence were gathered
- Analysis & Conclusion**
 - For each allegation investigated, summarize the witness statements and any other facts you considered in relation to the allegation under investigation. Include a credibility assessment (if necessary).
 - State your conclusions and how you came to them
 - If the allegations are substantiated, state whether or not a DOE policy, procedure, or other work rule was violated
- Any important issues left unresolved or additional information (out of the scope of the investigation) for the decision maker to consider or take follow up action on
- List of Exhibits.** Include all statements, documents, and other evidence referred to in your investigation report. Label each exhibit ("Exhibit 1," "Exhibit 2," etc.) and reference accordingly in investigation report.