

Guidelines for Investigations



Table of Contents

Investigative Responsibility.....Page 3

Investigations.....Page 4

Qualitative Standards.....Page 5

Investigative Techniques and Suggestions.....Page 7

Interviewing the Victims / Witnesses.....Page 8

Tips and Comments.....Page 10

Chain of Custody Form.....Page 12

Witness Statement Form.....Page 13

Educator Misconduct Reporting Form.....Page 15

**Florida Department of Education
Office of Professional Practices Services
325 West Gaines Street, Suite 224 E
Tallahassee, Florida 32399-0400**

Investigative Responsibility

Florida Public School Districts, Charter Schools, Private Schools that accept scholarship funds, and the Florida School for the Deaf and Blind are required to review allegations of misconduct by instructional personnel and school administrators as defined in s.1012.01, Florida Statutes.

When an allegation of misconduct by a certified educator is determined to be legally sufficient in that the investigation supports ultimate facts that show a violation has occurred as provided in s. 1012.795, Florida Statutes and as defined by State Board of Education Rule, a school or district must report the allegation, all supporting documents and findings to the Florida Department of Education, Office of Professional Practices Services within 30 days of knowledge of the incident.

In accordance with s.1012.796(5), Florida Statutes, when an allegation of misconduct affects the health, safety or welfare of a student, the district school must immediately suspend the instructional personnel or school administrators from regularly assigned duties, with pay, and reassign the suspended personnel or administrator to a position that does not have direct student contact. The suspension shall continue until the completion of the proceedings.

Definition: ***Instructional Personnel*** means any K-12 staff member whose function includes the provision of direct instructional services to students. Instructional personnel also includes K-12 personnel whose functions provide direct support in the learning process of students. Included in the classification of instructional personnel are the following K-12 personnel: Classroom teachers, student personnel services, librarians/media specialists, other instructional staff, and education paraprofessionals.

Definition: ***Administrative Personnel*** includes K-12 personnel who perform management activities such as developing broad policies for the school district and executing those policies through the direction of personnel at all levels within the district. Administrative personnel are generally high-level personnel who have been assigned the responsibilities of system wide or school wide functions, such as district school superintendents, assistant superintendents, deputy superintendents, school principals, assistant principals, career center directors, and others who perform management activities. Broad classifications of K-12 administrative personnel are as follows: District-based instructional administrators, district-based non-instructional administrators, school administrators.

Investigations

Investigations are conducted when allegations arise that an employee has violated the employee code of conduct, policy and procedures, the Principles of Professional Practices, the Code of Ethics or Principles of Professional Conduct, other State Board of Education Rule or violated a state or federal statute.

Investigations are comprehensive, in-depth, fact-finding endeavors to obtain all the information involving the complaint. These facts are used to ultimately determine if the allegations contained in the complaint are true. Investigations may involve obtaining, reviewing and analyzing documents, obtaining other forms of evidence, conducting interviews of victims and witnesses or other involved parties, and the individual who is the subject of the investigation. The investigation involves a complete analysis of all the facts and evidence gathered and is finalized with a comprehensive report which compiles all relevant statements and evidence obtained. The results of the investigation will typically determine if or to what degree the action(s) occurred and produce a determination as to whether the complaint is substantiated or not.

Types of Investigations

Schools and districts may encounter two standard types of investigations:

Administrative: Investigations that involve allegations that an employee has violated the code of conduct, district policy or procedure, state statute, rules or regulations, or federal statutes. Administrative investigations may be conducted to determine if disciplinary action should be taken by an employer against an employee or by the certificate issuing entity against the certificate holder.

Criminal: Investigations into possible criminal activity by a district employee, which if substantiated could result in arrest and prosecution. This does not include the administrative review of a criminal charge, or the determination of any action for a criminal act, but rather the actual investigation conducted by law enforcement to determine if a criminal offense may have occurred.

National Labor Relations Board v. J. Weingarten, Inc.
420 US 251, 43 L Ed 2d 171, 95 S Ct 959

In unionized workplaces, employees have the right under the National Labor Relations Act to the presence of a union representative during a management inquiry that the employee reasonably believes may result in discipline.

Weingarten does not apply to investigations by the Department for certificate purposes.

Qualitative Standards

Quality Control: Individual(s) assigned to an investigation should be impartial and have the ability to act independently. Individual(s) regularly assigned to conduct an investigation should have the knowledge, skills, and experience to conduct the investigative work.

Planning: A comprehensive review of reported facts is essential to a good investigation. A diligent analysis of the reported facts will help determine what documents will be needed and which individuals are to be interviewed. The analysis of the case facts should consider the number of individuals involved, the time period to be covered, the nature and extent of any evidence that should be collected, the challenges or constraints in interviewing parties or obtaining evidence and the time frame for completion.

Evidence Collection and Storage: Evidence in an investigation may consist of many types of documents or items. Evidence should be relevant and useful in documenting the facts and the conclusion. Information, evidence and data gathered during an investigation should be carefully documented and organized and should be supported with a chain of custody which includes who accessed or collected the data and when and how the data was collected, and any transfer of the item.



Case # 055-0123

Timeliness: All investigations should be completed within a reasonable time period, based upon the nature of the investigation. Pursuant to s.1012.796 (1)(c), Florida Statutes, each school district, charter school and private school that accepts scholarship students shall file in writing with the Department all legally sufficient complaints within 30 days after the date on which subject matter of the complaint comes to the attention of the school or school district. To fulfill this statutory obligation, a district or school must determine if the allegation is supported and if so, shall forward all information to the Department within 30 days of knowledge of the complaint. *Schools and districts should not wait for conclusion or determination of employment action(s) to report legally sufficient allegations to the Department.*

Reporting/ Documentation: A final written report that thoroughly addresses all relevant aspects of the investigation, should be accurate, objective, timely, understandable, and logically organized. The report should summarize the original complaint and relevant information gathered pertaining to the original complaint (Who, What, When, Where). Supporting documents must be attached if available and the investigator should include a conclusion.

Independence / Objectivity: The person(s) investigating or reviewing the misconduct should be an impartial and unbiased party. If the person(s) assigned to the investigation is unable to be objective or may not be considered as someone who can be impartial, it is recommended that the investigation be reassigned to an impartial party.

Confidentiality of Investigations

District Investigations: Pursuant to s.1012.31(3)(a)(1), Florida Statutes any complaint against an employee shall be confidential and exempt from the provision of s.119.071(1) until the conclusion of the preliminary investigation or until such time as the preliminary investigation ceases to be active.

Department of Education Investigations: Pursuant to s.1012.796(4), Florida Statutes the complaint and all information obtained pursuant to the investigation by the Department shall be confidential and exempt from the provisions of s. 119.07(1) until the conclusion of the preliminary investigation or until such time as the preliminary investigation ceases to be active.

Investigative Techniques and Suggestions

When charged with conducting an investigation into allegations of misconduct by an educator or other school employee:

- Take ALL allegations seriously and treat them accordingly.
- Use due care in conducting investigations and preparing reports.
- Take steps to ensure the safety and well being of students; remove the accused from contact with victims / witnesses.
- Notify the subject of the investigation of the allegations and provide direction that he/she should conduct him or her self in an appropriate fashion.
- If there is a suspicion of criminal activity, contact the appropriate law enforcement agency immediately. Coordinate with the law enforcement agency to determine if the administrative investigation would interfere with criminal proceedings. Administrative investigations should always defer to criminal proceedings.
- When appropriate notify the Department of Children and Families (refer to s. 39.201, Florida Statutes.)
- Acquire any physical evidence relative to the case. Document each item and properly maintain it in a secure location throughout the investigation.
- Establish a chain of custody for the evidence.
- Determine pertinent victims / witnesses, i.e. typically individuals that have or may have first hand knowledge of the incident.
- If an alleged incident occurred in a classroom, obtain and keep the class roster.
- Compile victims / witnesses statements and physical evidence in a comprehensive report which presents the facts fairly and objectively.
- Complete the investigation in a timely manner.

Interviewing the Victims and Witnesses

Interviews should be conducted in a private room or area that is sparsely decorated and is neat and orderly with minimal contents or distractions. For example, a small conference room with a table and chairs.

When conducting an interview:

- Plan questions to establish good flow to the interview, but be prepared to improvise and ask impromptu questions.
- Be aware of employees' rights and requirements.
- Victims / witnesses should be interviewed first; in private and confidentially.
- The accused should be interviewed last.
- Never interview the victims / witnesses in the present of the accused.
- Interview victims / witnesses individually, in private, and with limited distractions.
- Begin interviewing pertinent victims / witnesses as soon as possible while events are fresh in their minds.
- Establish a positive rapport with interviewees, but remain professional and objective.
- Advise the victims / witnesses to remain truthful at all times and that the purpose of the interview is to establish the facts of the complaint.
- Avoid intimidation tactics and accusatory tones.
- During the interview, ask variations of, "Is there any other information that you can remember/provide that would be helpful in determining what happened?"
- Do not interrupt a victim/witness during an interview, allow them to talk; Silence between questions will often elicit additional information.
- Be an active listener during an interview and reiterate or restate responses to ensure accuracy if necessary.

- Record victims / witnesses written statements according to the guidelines established by the district.
- Victims / witnesses statements should be specific, provide complete information, and whenever possible should include who, what, when, where, why, and how.
- Encourage reporting of retaliation and any attempts to influence victims / witnesses.
- When the interview is complete, explain the remaining steps before the process is complete.
- Remind all individuals that the conversation is confidential and should not be discussed with others.
- Obtain current and accurate contact information (full name, age, date of birth, address, and telephone numbers) for all victims / witnesses.
- Provide victims / witnesses with your contact information in the event that they have additional information to provide.



Tips and Comments

- Review victims / witnesses statements and evidence for incongruities, inconsistencies, additional witnesses, and / or other information that could be pertinent.
- Organize case material in a logical manner
- Physical Evidence:
 - May include, but is not limited to, photographs, seating charts, measurements, attendance records, personnel records, written reports, e-mails, court documents, computer access logs, social network pages, text messages, letters/correspondence, gifts, or memoranda.
 - Should be stored in safe place, clearly identified, and readily accessible
 - Picture color and quality is critical when used as evidence.
 - Computer data should be properly extracted and promptly catalogued. Various internet and file monitoring software programs are available to assist with this task.
 - Some cell phones have data ports to hook up to a computer or printer. The service provider can provide details on how to access text messages.

Sample Forms

- Chain of Custody Form
- Witness Statement Form

Sample forms may be modified or altered for the needs of the user.

Required Form

- School/District Reporting Form – For reporting legally sufficient allegations of misconduct by certified educators to the Office of Professional Practices Services

This form should be used by schools and districts to report legally sufficient allegations of misconduct by certified educators to the Office of Professional Practices Services and should not be altered or modified by the user.



Chain of Custody

The item(s) described below were obtained as evidence by the undersigned during an official investigation of the : (name of school, district, or entity)		
Description of Item:		
Obtained from: (title, name, location, phone number)		
Printed name of investigator:	Signature of Investigator:	Date Obtained:
Case Number:		
Temporary disposition of item (s): (where stored)		
Released by: (printed name and signature)	Released to: (printed name and signature)	Date:
Temporary disposition of item (s): (where stored)		
Released by: (printed name and signature)	Released to: (printed name and signature)	Date:
Temporary disposition of item (s): (where stored)		
Released by:(printed name and signature)	Released to: (printed name and signature)	Date:
Temporary disposition of item (s): (where stored)		
Released by: (printed name and signature)	Released to: (printed name and signature)	Date:
Temporary disposition of item (s): (where stored)		
Released by: (printed name and signature)	Released to: (printed name and signature)	Date:
Temporary disposition of item (s): (where stored)		
Released by: (printed name and signature)	Released to: (printed name and signature)	Date:

STATEMENT

I have read each page of this statement consisting of ____ page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct to the best of my knowledge.

Signature of person witnessing statement

Signature of person giving statement

EDUCATOR MISCONDUCT REPORTING FORM

Office of Professional Practices Services

REPORTER INFORMATION:

Public School Charter School Private School FSDB Lab School

REPORTER CONTACT INFORMATION:

School/District: _____

Contact Person Name and Title: _____

Contact Address and Telephone: _____

INFORMATION REGARDING THE EDUCATOR BEING REPORTED

EDUCATOR'S NAME _____

ADDRESS: _____

HOME PHONE: _____ WORK PHONE: _____ CELL PHONE: _____

SSN: _____ DATE OF BIRTH _____ DOE CERTIFICATE # _____

ASSIGNED SCHOOL: _____

POSITION: _____ SUBJECT/GRADE LEVEL: _____

YEARS EXPERIENCE: _____

CONTRACTUAL STATUS: _____

CURRENT EMPLOYMENT STATUS _____

SUMMARY OF THE ALLEGATION:

Reporting Directions

For questions, contact our office at 850.245.0438

In addition to the reporting form, submissions to the Office of Professional Practices Services should include:

1. All investigative materials, reports, evidence, documents or related materials (Examples include, victim or witness statements, arrest reports or court documents, newspaper articles, computer evidence, video or audio tapes, text messages or cell phone records, photographs, grade books or calendars, gifts/items, statements, arrest report(s), court documents, local investigative reports, termination or disciplinary documents, letter of resignation, district disciplinary action documents, DOAH Orders, and class rosters). **Do not send sanitized or redacted documents.**
2. The educator's current certification information and any applications processed or renewed at the local level
3. Name and contact information for all victims and witnesses (see and duplicate page two as necessary).

Direct all correspondence via regular mail to:

Florida Department of Education, Office of Professional Practices Services,
325 West Gaines Street, Suite 224-E, Tallahassee, Florida 32399-0400

**EDUCATOR MISCONDUCT REPORTING FORM
PAGE TWO**

VICTIMS

Name: _____

Name: _____

Address: _____

Address: _____

Telephone: _____

Telephone: _____

DOB: _____

DOB: _____

Current School: _____

Current School: _____

WITNESSES

Name: _____

Name: _____

Address: _____

Address: _____

Telephone: _____

Telephone: _____

DOB: _____

DOB: _____

Current School: _____

Current School: _____

Name: _____

Name: _____

Address: _____

Address: _____

Telephone: _____

Telephone: _____

DOB: _____

DOB: _____

Current School: _____

Current School: _____