

## School Board

### Administrative Procedure – Guidelines for Investigating Complaints and Allegations of Misconduct

As a general rule, all complaints should be investigated, even when the complainant requests that nothing be done or is anonymous.

#### **Step 1: Before the Investigation**

- A. School employees must immediately report a suspicion of child abuse or neglect to the Illinois Department of Child and Family Services in compliance with policy 5:90, *Abused and Neglected Child Reporting*. Reporting is required before proceeding further with the investigation.
- B. According to policy 2:260, *Uniform Grievance Procedure*, the Superintendent appoints at least two District Complaint Managers, one of each gender. A Complaint Manager investigates: (1) complaints filed under policy 2:260, *Uniform Grievance Procedure*, and (2) allegations of employee misconduct.
- C. The appropriate Building Principal or designee investigates all allegations of student misconduct.
- D. Anyone with a complaint or making an allegation of misconduct should be referred to a Complaint Manager of their choosing or a Building Principal without delay.
- E. A Complaint Manager or Building Principal (hereafter referred to as "investigator") will investigate all complaints or allegations of misconduct, except that, depending on the circumstances, the Superintendent or School Board may appoint a special investigator. Whenever the Superintendent deems necessary an attorney may serve as a special investigator. The investigator should not have any involvement with the complainant or the alleged wrongdoer outside of the investigation. The Superintendent will ensure that investigators have sufficient authority and resources, including access to the School Board Attorney.
- F. The investigator should provide a fair opportunity for both sides to be heard.
- G. The investigator should begin by carefully reading the complaint. Next the investigator should review applicable Board policies, administrative procedures and manuals, laws, regulations, and collective bargaining agreements.
- H. The investigator should develop a plan, including:
  - Witness list
  - Order of interviews
  - Questions for witnesses
  - Physical evidence needed, e.g., records, documents, reports, photos, and letters
- I. The investigator should make logistical arrangements, e.g., determine interview location and the need for photographs and/or a video or audio recording.
- J. If the investigator encounters an issue with legal ramifications outside of his/her understanding, either before or during the investigation, he/she should consult the Board Attorney before proceeding further on that legal issue, as well as any other areas of the investigation it impacts.

#### **Step 2: The Investigation**

- A. Typically, interview the complainant first, next the subject of the investigation, and, finally, all witnesses. The following applies to all interviews:

- If possible, statements should be written, dated, and signed by the person being interviewed. Consider audio or video recording statements.
  - Ask open-ended questions and do not suggest answers to questions.
  - Record important details, essentially who, did what, to whom, when and how done and, if appropriate, why?
  - Be objective and nonjudgmental; do not prejudge all alleged wrongdoer's guilt. Never show outrage or dismay.
  - Ask for the names of any other witnesses.
  - Deal with emotional outbursts and anger by patiently explaining that details are needed for an accurate investigation.
  - If a witness cannot be interviewed, record the reason.
- B. While confidentiality should be maintained, do not make promises of confidentiality or anonymity. Only the Superintendent may promise confidentiality or anonymity.
- C. Keep the Superintendent informed, but do not discuss the investigation with Board members in order to avoid the appearance of prejudice or unfairness.
- D. Obtain copies of all necessary papers. Originals are not needed, but record how to get them.
- E. Collect physical evidence and photographs. Keep a record of when, and where, or from whom physical evidence was gathered.
- F. Document any information about the interview that is, or may become relevant, including the person's demeanor, gestures, accuracy of memory, and overall credibility.
- G. During the investigation, keep the investigation file separate from personnel or student record files. In a subsequent hearing, the opposing side may be able to view the investigation file. Records relating to a public body's adjudication (hearing) of employee grievances or disciplinary cases are exempt from Freedom of Information Act public records request under 5 ILCS 140/7(1)(n). However, the exemption does not extend to the final outcome of cases in which discipline is imposed.

### Step 3: Following the Investigation

- A. Report to the Superintendent or designee the investigation results, that is, the matters investigated, facts, conclusions, and recommendations. Prepare a written report if requested.
- Answer who, what, when, where, why, and how.
  - Factual findings are based on whether an incident's occurrence is more likely than not. Identify as many factual findings as possible to support a conclusion. In a "he said, she said" scenario, a decision can be based on the credibility of the parties and witnesses. Include in the report any findings that are inconclusive.
  - Make a determination regarding credibility of specific evidence, that is, how believable is it and why by explaining the basis for the determination. Credible evidence is capable of belief by a reasonable person.
- B. Be prepared to testify as to the fairness of the investigation, the authenticity of the evidence, and the contents of the investigation report.

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