

McGrath Investigation Checklist

Date
Completed

1. Complaint received from victim or third party.
2. Review any written complaint.
3. Review board policy/regulations and collective bargaining agreement.
4. Review the student files/cumulative records of alleged victim and perpetrator.
5. Review proposed investigation plan with legal counsel.
6. Interview complainant.
7. Interview the teachers/supervisor of the alleged victim and alleged perpetrator.
8. Interview witnesses
9. Interview the alleged perpetrator.
10. Re-interview the complainant and the alleged perpetrator after all other witnesses.
11. Evaluate the case to determine existence of bullying and/or illegal harassment.
12. Generate investigation report.
13. Submit report/interviews to designated district administrator.
14. Place in student file (if warranted).
15. Formally process any discipline that has been recommended/approved.
16. Notify complainant and alleged perpetrator as to the conclusion of the investigation.
17. Continue to monitor the situation and setting.

Interviewers' Checklist for Complainant

Instructions

When you interview the complainant, the team needs to be sensitive to the discomfort of the person. You may want to begin with having them tell you what the complaint is and how they are feeling prior to covering the necessary items contained within the checklist. However, the checklist items will each need to be discussed with the complainant at some point during the interview.

Date of Interview:

Initials

1. Right to have support person present
2. Since it is against the law to retaliate or enrage in reprisals
 against anyone involved in an investigation, assure complainant
 that such conduct against them will not be tolerated
3. Confidentiality ("need to know basis only')
4. Purpose of investigation is to "fact find"
5. Investigation report will be given to personnel office or student
 of office services and/or discipline
6. Personnel file or student file (when warranted)
7. Legal requirement for school district to:
 - a) Take all charges seriously
 - b) Take all measures for remediation, as warranted
8. End goal of school district is to stop unacceptable behavior
9. Get allegation(s) in detail
10. Identification of alleged perpetrator(s)
11. Complainant's name must be given to perpetrator (s)
12. Confrontation with perpetrator(s) will not, at this time, be necessary
13. Complaint in writing
14. Additional persons to interview
15. Notify complainant of right to file complaint with OCR or other agency
16. Notify complainant that they may be re interviewed later if necessary
17. Give complainant a general description of the investigation process

Interviewing the Complainant

Prior to beginning questioning, the investigative team needs to review each of the points presented in the Interviewers' Checklist with the complainant. This checklist provides specific information that must be explained to the complainant in order to provide legally fit and educationally sound investigation. In the case of student interviews, the investigation team may choose to cover these points at the end of the interview. As each point is covered, one of the investigation team members should initial that it has been discussed.

Both the interviewers' Checklist and Interview Notes and Reports should be used. The interview notes need to be labeled and dated, including the time of the interview and names of persons present at the interview. Have the complainant review the interview, make any corrections and sign and date the interview. Assess on a case-by-case basis whether to audiotape the interview or not. If the interview is taped, transcribe the tape word for word and have the complainant read the interview, make any corrections or additions, the sign/date the transcript.

1. Allow the complainant to have a support person of his/her choosing present during the interview, but make sure students only have an adult present rather than another student to ensure confidentiality. If it is a student, contact parent/guardian first and give them the option of being in the interview.
2. Take the complainant seriously.
3. Explain the investigation. Tell complainant that:
 - The alleged perpetrator and any witnesses will be interviewed;
 - A written report to the senior decision-making individual will be prepared;
 - After the investigation, any recommendation for corrective action will be communicated to the complainant.
 - Do not promise complete confidentiality.
4. Ask the complainant how they are feeling about the situation before seeking the facts. Stay emotionally connected while factually impartial.
5. Find out what happened. Get specific details. Some sample questions:
 - *Is something bothering you? / What is concerning you?*
 - *What happened?*
 - *Where did it happen?*
 - *Who was involved?*
 - *When did it happen?*
 - *How many times?*
 - *How did you respond each time?*

- *Who saw or heard what happened?*
- *What documentary evidence or other evidence do you have?*
- *Did you tell anyone about the incidents? If yes, who?*

6. Find out the effects of the bullying on the complainant. For example:

- *How did the alleged perpetrator's remarks/actions affect you?*
- *When you say you were upset, what do you mean by upset?*
- *How did you act? Did you experience any change in behavior?*
- *Did you miss any work/school days?*
- *Did you go to a doctor? (documentation) If yes, for what?*
- *Has your work/studies been affected? If yes, how?*
- *Have you spoken to anyone about your feelings after the incidents?*

7. Find out names of witnesses.

8. Ask the complainant what he/she wants.

- *How do you want the situation handled/resolved?*
- *What assistance can we provide?*
- *Is there any temporary/immediate action you believe is necessary?*

9. Assess the complainant's credibility.

- *How does the complainant appear during the interview?*
- *Does the complainant sound believable?*
- *What was the complainant's demeanor during the interview?*
- *Note the complainant's appearance, facial expressions, body language, etc.*
- *Does the story sound fabricated?*
- *Does the complainant have a motive to lie?*

Be careful in your assessment of the complainant's credibility as they are often scared, nervous and/or embarrassed which can invoke unexpected behavior during the interview, such as laughing. The mental state of the complainant can hinder or dilute the information about the situation and is important to note.

10. Document any refusal by the complainant to divulge information.

11. Get a signed written statement.

12. Ask the complainant to alert you immediately if any more incidents occur.

13. Immediately dictate or type the notes from the interview and have complainant sign/date the transcript.

Interview Notes and Report

Instructions

Prepare a separate set of Interview Notes and Report for each interviewee.

Interviewee:

Date of Interview:

Location of Interview:

Time of Interview:

Interviewers:

Others Present:

Regarding:

Background on Interviewee:

Interview Notes:

Prepared by:

Date:

Signature:

Interviewers' Checklist for Alleged Perpetrator

When an alleged perpetrator is contacted for an interview, it is advisable to encourage them to bring representation with them to the meeting. At the point of contact, you can inform him/her that you have some serious matters to discuss with respect to complaint which has been made. The details of such will be discussed at the time of the interview.

Begin with explaining to the alleged perpetrator that the complaint with respect to bullying has been received. You will be reviewing some important information with them, and then will be sharing the complaint and who complained. At that time, they will have the opportunity to respond.

Date of Interview :

Initials

1. Right to representation
2. It is illegal to retaliate or engage in reprisals against anyone involved in the investigation and such conduct will not be tolerated
3. Confidentiality ("need to know" basis only)
4. Purpose of investigation is to "fact find"
5. Investigation report will go to personnel office or those in charge of student discipline
6. Personnel file or student file (when warranted)
7. Legal requirement for employer/school district to:
 - a) Take all charges seriously
 - b) Take measure for remediation, as warranted
8. Goal of employer/school district is to stop unacceptable behavior
9. Remediation continuum (i.e. counseling through expulsion or termination)
10. Provide name(s) of persons bringing forth allegation(s)
11. List of allegation(s)
12. Gather facts
13. Additional persons to interview
14. May reinterview if necessary
15. Give alleged perpetrator a general description of the investigative process

Interviewing the Alleged Perpetrator

The next step is to interview the alleged perpetrator. The investigation team should use the same criteria for establishing the locale and setting for the interview with the alleged perpetrator as was used for the complainant. Both the Investigator's Interview Checklist and Interview Notes and Report should be used.

Assess on a case-by-case basis whether to audiotape the interview or not. If the interview is taped, transcribe the tape word for word and have the complainant read the interview, make any corrections or additions, the sign/date the transcript. This tape becomes part of the confidential file. If the alleged perpetrator requests the right to tape the interview make certain that you obtain a copy of the tape. The alleged perpetrator also may receive a copy of the investigator's tape recording. Tape recordings need to be labeled, dated and to include the time of the interview and names of persons present at the interview.

1. Give a brief indication of the nature of the meeting. To the alleged perpetrator before you commence the interview.
2. The alleged perpetrator and/or investigator may tape the interview with knowledge and consent of other party.
3. Explain that the purpose of the interview is to investigate a complaint of sexual harassment that has been made against the alleged and that:
 - The employer takes all allegations of harassment seriously;
 - Each complaint of harassment is fully investigated;
 - No decision has been made regarding the truthfulness of the allegations;
 - The purpose of the interview is to elicit facts associated with a complaint; this is not a pre disciplinary opportunity to respond to charges.
4. Identify the complainant and the specific basis of the sexual harassment complaint (unless to do so would place the complainant in immediate danger)
5. Ask the alleged perpetrator for whatever information he or she has in regard to the complaint.
6. Find out names of any witnesses to corroborate statement.
7. Assess the alleged perpetrators credibility.
8. Have the alleged perpetrator submit a written statement.
9. Immediately dictate of type the notes from the interview and have alleged perpetrator sign/date the transcript.
10. Investigators can now identify areas of agreement and areas of conflict between the complainant's and the alleged perpetrators statements and determine follow up questions to ask the complainant/alleged perpetrator and witness.

Interview Notes and Report

Instructions

Prepare a separate set of Interview Notes and Report for each interviewee.

Interviewee:

Date of Interview:

Location of Interview:

Time of Interview:

Interviewers:

Others Present:

Regarding:

Background on Interviewee:

Interview Notes:

Prepared by:

Date:

Signature:

Interviewers' Checklist for Witness

Instructions

The witness is not provided names and specifics of incident(s). He or she can be told that the interview is regarding a complaint of which they are not being accused. Inform them that their name has been given to talk to with respect to a (some) complaint(s).

The lead questions are generally:

- "How are things at _____?"
- "Are there any behaviors or actions which you have found to be uncomfortable?"

Date of Interview:

Initials

1. It is illegal to retaliate or engage in reprisals against anyone involved in the investigation and such conduct will not be tolerated
2. Confidentiality ('need to know' basis only)
3. Purpose of investigation is to "fact find"
4. Investigation report will go to personnel office if the alleged perpetrator is an employee or to the student services or student discipline office if appropriate.
5. Legal requirement for employer/school district to:
 - a) Take all charges seriously
 - b) Take measure for remediation, as warranted
6. The goal of employer/school district is to stop unacceptable behavior
7. Name of the complainant, witness will be shared with the perpetrator(s)
8. Confrontation with perpetrator(s) will not, at this time, be necessary
9. Names of additional persons to interview
10. Notify interviewee that he/she may be interviewed again if necessary

Interviewing Corroborative Witness

Generally speaking, an identified witness will have prior knowledge about why he or she is being interviewed. However, it is essential that the investigation team not begin any interview by divulging to the witness the names or allegations under investigation. If the witness identifies the complainant and/or alleged perpetrator by name, then it is acceptable to ask direct questions about this individual when requesting specific or more detailed information.

Begin to interview witness by asking how things are at the school site or workplace. The interview team may want to ask if there are any behaviors that have occurred in these settings which make the witness feel uncomfortable. The interview team will want to elicit information about how the witness feels in general about the surrounding school site or workplace environment.

Particularly with adult witnesses, it is appropriate to inform them that they were suggested as important and knowledgeable people to talk to about the school site or workplace environment.

1. If no witnesses were identified, investigators should interview someone who works/studies in the same department/class or in close proximity to both parties.
2. Ask broad questions. Tell witnesses and others interviewed that you are doing an overall review of the school/work environment to make sure that it is comfortable.
3. Inform the witness that retaliation is illegal.
4. Do not identify the complainant and the alleged perpetrator to the interviewee at the beginning of the interview.
5. If the interviewee doesn't volunteer information, the next step should be to ask the interviewee if he/she has observed any bullying in the environment being investigated.
6. Find out what the interviewee knows.
7. Distinguish between firsthand and secondhand knowledge/opinion.
8. Assess the credibility of the interviewee.
9. Have him/her submit a written statement.
10. Immediately dictate or type the notes of the interview, and develop followup questions for any party if necessary. Have the witness sign/date the transcript.
11. Tell the interviewee to keep the interview confidential.

Interview Notes and Report

Instructions

Prepare a separate set of Interview Notes and Report for each interviewee.

Interviewee:

Date of Interview:

Location of Interview:

Time of Interview:

Interviewers:

Others Present:

Regarding:

Background on Interviewee:

Interview Notes:

Prepared by:

Date:

Signature:

Interviewers' Checklist for Environmental Scan

Instructions

When you interview for an environmental scan, it is most important that you do not pollute the information obtained by asking directly about the specific allegation and/or about persons allegedly involved in the incident(s).

Begin by asking about how things are at (location). After finding out about how they feel about the school/workplace, you can ask them if they have any concerns. Then you can ask if they have observed anything which could make them feel uncomfortable.

If, during the environmental scan, an interviewee brings up feelings or concerns about bullying or harassment, you can pursue those specifically, using types of questioning appropriate for a witness.

Date of Interview

Initials

1. Explain that you are there to check how things are going in the school/workplace
2. Refrain from leading questions which indicate the incident and/or persons under investigation
3. Ask if they have any concerns they would like to share
4. Ask if there are particular persons you should talk to who might have concerns.
5. Ask if they have observed any behavior that is "not O.K." in the school/workplace
6. Ask if there are any rumors that need to be looked into
7. Review what they have said and thank them

Environmental Scanning

Environmental scanning can occur at any stage during an investigation.

Environmental scanning is a process of observing and interviewing a random sample of people with respect to the environment in which they attend school, classes or work. These people may or may not have information about the incident under investigation. However, they will be knowledgeable about the climate of their site.

When the Team interviews for environmental scanning purposes, it is most important that they refrain from introducing or discussing the alleged incident(s) unless individual being interviewed brings it up. When initiating these interviews, open the discussion with, "We're here to find out how things are going. Do you have any concerns or acknowledgements you'd like to share about your school, classroom or workplace?" Thereafter, discuss how the interviewee feels about the environment, whether they have observed anything that makes them (or others) feel uncomfortable, and what goes on in the environment. The Interviewers' Checklist for Environmental Scan provides guidelines for the Team when performing an environmental scan.

The environmental scan can provide valuable information with respect to practices that enable or permit a hostile environment to exist. These can be addressed when the final report is written.

Final Investigation Report

SYNOPSIS (Complete this section last)

1. Summary of Evidence: allegations and investigation steps

2. Conclusions regarding the facts

3. Recommendations to stop any appropriate behavior in the school setting or school related activities (by final decision maker)

FACTS

1. Timeline of Investigation

2. Authority (Relevant rules, policies, statuses, etc.)

3. Facts (Who? What? Where? When? How do you know?)

Final Investigation Report (page ____ of ____)

Facts(continued)

IMPACT

- 1. Timeliness of Investigation

- 2. Notoriety of Conduct

Final Investigation Report (page _____ of _____)

3. Motive for Conduct

4. Personal vs. Group Interests

CONTEXT: PRIOR INCIDENTS AND PRIOR INTERVENTION

1. Student Training on the Issue

2. Extenuating/Aggravating Circumstances Surrounding the Conduct

3. Prior Help Given to Remediate Issue (if any)

Final Investigation Report (page _____ of _____)

4. Alleged Perpetrator’s Efforts to Correct

5. Likelihood of Recurrence

ACTION

1. Pinpoint Areas for Correction

2. Recommendations for Accomplishing Correction

Final Investigation Report (page _____ of _____)

3. Resources Available to Student

4. Measure(s) of improvement to be Applied

5. Schedule of Follow-Up by Investigator and/or Principal

6. Right to Respond

Signed: _____
Name(Please Print): _____
Title: _____
Date: _____