

Procedure Name: Administrative Investigations

Procedure No: P 501

Issue Date: November 3, 2006

I. PURPOSE

- A. To provide guidelines for initiating and conducting administrative investigations when there has been an allegation of employee misconduct, or when a supervisor has reasonable cause to believe that an employee has violated any law, Department of Administrative Services or Division work rule, regulation, policy, or procedure, or any other Department directive.
- B. To assign responsibility for administrative action resulting from investigations.

II. POLICY

- A. Section administrators must approach each investigation with a sense of urgency. All reasonable steps shall be taken to immediately assign the investigation to a supervisor or designee, who is not involved as a witness or participant to the incident being investigated. Any unnecessary delay only serves to further complicate difficult situations for all concerned. In most instances, the investigation should be completed and forwarded to the Office of Employee Services (OES) within 7 work days after management becomes aware of the incident.
- B. The assigned supervisor is responsible for initiating, conducting, and reporting administrative investigations. If, during the course of the administrative investigation, criminal violations are uncovered or suspected, stop the investigation and seek assistance from the OES.
- C. All administrative investigations shall be reported to the OES, who may use all Department resources to disclose the facts of an incident, and will report to the Director of the Department of Administrative Services.
- D. All issues or questions concerning the administration of discipline resulting from administrative investigations will be directed to the OES, or designee.
- E. The decision to issue any discipline beyond a reprimand will be made by the Director and communicated to the Section Chief by the OES. However, any decision concerning discipline shall be discussed with the OES, prior to action being taken.

III. INVESTIGATIVE PROCESS

A. Interviews

1. Prior to investigative questioning of any employee concerning a complaint or allegation of misconduct, the supervisor will inform the employee of the nature of the investigation. The Department of Administrative Services Investigation Pre-Interview form will generally be used for this purpose. The investigating supervisor will review and complete the Pre-interview form with the employee who is the subject of an investigation. This form may also be used when interviewing an employee who may have witnessed an incident.
2. The Administrative Investigation packet should include the following when submitted to the Office of Employee Services.
 - a. Report of all investigative action for alleged incident, including any mitigating circumstances and a summary statement. Ensure the Who, What, Where, When, Why, and How of the incident are documented. Include the names of witnesses and other persons involved and their relation to the incident. Provide a brief description of the work unit operations.
 - b. Written statements or investigatory questions and answers:
 - i. If the alleged violation could result in a suspension or termination, obtain and include signed statements or questions and answers from the employee alleged to have violated the work rule, and all witnesses as well as any other relevant parties. A statement form is included in this packet and may be reproduced as needed. Statements, or questions and answers, should include all relevant facts known by the investigator; list of observations; names of others who may have witnessed the event; reference to any relevant evidence; etc.
 - ii. Exceptions – Written statements may not be necessary in some routine cases (e.g., tardiness, leave without pay incidents, etc.) involving minor violations where the facts have already been established, and which do not involve the possibility of suspension/fine/termination. In these cases, the supervisor should record the circumstances of the incident, which may be done as part of the reprimand.
 - iii. Investigatory interviews – Supervisors may conduct investigatory interview(s). Questions should be prepared in advance and should focus on what the interviewee knows or has seen. One method is to list and number the questions, leaving space for questions that may arise and be added during the interview. Questions not asked should be crossed out. Record the answers on a separate sheet of paper, and number them to correspond to the questions. The interviewer should note responses in a legible manner. At the conclusion of the interview, the employee will be provided an opportunity to review the questions and responses noted. Any changes noted should be initialed by the employee. The employee must review and sign the sheet containing his/her responses to ensure accuracy. If the employee initially refuses to sign, the supervisor shall issue a direct order to the employee to review the responses and sign the

sheet when his/her answers are accurately reflected. Templates for such direct orders are attached. Copies of the notes are not provided to the employee at this time, but are available when the investigation is concluded.

- c. Documentation of the alleged violation. This could include copies of leave slips, call off forms, or sign in sheets; emails to or from the employee or relevant witnesses concerning the incident; division, section or work unit procedure; performance evaluations, performance action plans, or other notice of performance expectations; copies of inappropriate material or work product; payroll records, mileage reports; leave balances; witness statements, phone records, customer complaints, spoilage or incident reports; pictures, diagrams; etc.
 - d. Copies of all current discipline for the employee/subject.
 - e. A copy of the work rule(s) violated and the relevant employee acknowledgement.
 - f. Copy of the completed Pre-Interview Form(s).
3. Union Representative Participation- In all instances in which a meeting with or questioning of a bargaining unit employee may lead to discipline, that employee has a right to be accompanied by a union representative. The investigating supervisor may arrange through OES Labor Relations for a union steward in advance of notifying the employee of the interview, notify the employee of the interview in advance and ask if the employee wants a steward, or stop the investigatory if a steward is requested until a steward is available. The role of the union representative during the investigatory interview is that of an observer. The employee may be allowed the opportunity to confer with the union steward prior to the investigatory, but the union steward should not take an active role in the defense of the employee. In general, the interviewer should not permit the union representative to comment until the conclusion of the meeting. The employer may insist that the employee is heard or questioned first before the union representative is allowed to add remarks to the meeting record. The union representative cannot counsel the employee to not respond to questions.

IV. FOLLOW-UP & DISPOSITION

- A. The prompt and thorough completion of administrative investigations is critical to Department operations. Discipline packets should generally be completed promptly and sent to OES Labor Relations for processing.
- B. It is the supervisor's responsibility to maintain follow-up on administrative investigations, completing necessary interviews, preparing necessary documentation, forwarding the completed investigation packet to the OES through the chain of command, etc.

- C. OES Labor Relations is responsible for reviewing the administrative investigation packet, and working with the supervisor and divisional representative to determine the need for a pre-disciplinary meeting. The manager recommending the disciplinary action and or the division Human Resource Coordinator will attend the pre-disciplinary meeting to present the management case.
- D. The pre-discipline meeting officer is responsible for attending the meeting if not waived by the charged employee, reviewing the information provided in the packet and the meeting if held, and preparing and submitting to the OES a written report, generally within five (5) work days of the meeting conclusion. OES will review the proposed action with the Office of Collective Bargaining if necessary, and forward the proposal for action to the Director.
- E. OES will work with the supervisor and divisional representative to implement the Director's decision within relevant timelines.

V. SPECIAL PROVISIONS

- A. Refer to the applicable bargaining unit agreement for specific due process rights. Refer questions to OES Labor Relations.
- B. Leave Without Pay situations may involve Family and Medical Leave. The supervisor should contact OES Payroll & Benefits to discuss the issue.

VI. REFERENCES, ATTACHMENTS, REVIEW & CERTIFICATION

- A. Policy References
 - 1. Applicable Labor Agreements
- B. Attachments
 - 1. Administrative Investigations Pre-Interview Bargaining Unit Form and Exempt Statement Form.
 - 2. Direct Order templates: Department of Administrative Services and Office of Information Technology.

VII. REVISION HISTORY

Date	Description of Change
6/15/05	Original Draft
10/28/05	Final Approved Procedure
11/3/06	Revised: Issuing a "Direct Order" in section III(2)(b)(iii)

ADMINISTRATIVE INVESTIGATION PRE-INTERVIEW FORM

Purpose

- A. To provide consistent treatment for an employee who is the subject of, or a witness in, an administrative investigation. Use the form appropriate to the employee's bargaining unit or exempt status.
- B. To document the employee was:
 - a. advised generally of the issue leading to the investigation,
 - b. informed of the internal investigation warning, and
 - c. if covered by a collective bargaining unit agreement, informed of the right to the presence of a union steward if the employee has reasonable grounds to believe the interview may be used to support disciplinary action against him/her.
- C. The Department of Administrative Services will not assume the responsibility to inform the employee of additional allegations developed during the investigations.

Use

- A. Initiate the attached form prior to questioning any employee subject of or witness in a suspected violation of any Department or Division rule, regulation, policy, procedure, directive, or civil service law.

The Form – Bargaining Unit or Exempt Forms

- A. **Name – Classification - Division – Section – Work Schedule-** complete for the witness or the employee who is the subject of the investigation.
- B. **Date – Location – Time –Interviewer** - When, where interview was held; Name of supervisor conducting the interview.
- C. **Subject or Witness** – circle appropriate information.
- D. **Allegations** – supervisor to provide brief description of the incident or allegation, eg. tardiness.
- E. **Representation Requested** – Ask if employee wants a union steward. Circle Yes or No. If No, have the employee initial and date.
- F. **Representative – Division – Section:** Name (Title, First Name, Last Name), Division, and Section of representative present during the interview process.
- G. **Signature of Employee & Date** – Acknowledges that employee was read and given a copy of his/her rights and allegation. If the employee refuses to sign, note that fact on this line.
- H. **Signature of Witness & Date** – Signed by union representative or other party present.
- I. **Signature of Interviewer** – Self explanatory

Disposition

- A. Include as part of the investigation. Give photocopy to the employee at time of signature.

STATEMENT FORM

Purpose

To provide a standard form to obtain written statements or document questions asked and answers provided from employees and witnesses during an administrative investigation.

Use

This form should generally be used during an administrative investigation. Obtain a statement in those instances where the alleged violation could result in suspension or termination. Start a fresh sheet for each interview. Mark through and initial unused lines at the end of each sheet used. Any “scratch outs” should be initialed by each person signing the document. Statements may also be submitted by email or completed on the computer. All statements should be signed and dated by the person providing the statement.

Disposition

Include with the Administrative Investigation as documentation.

**DAS Administrative Investigation Pre-Interview
Bargaining Unit Employee**

Name and Classification Division Section Work Schedule

Interview Date Location Start and End Time Interviewer

You are the *subject of* a *witness in* an administrative investigation.
(Circle appropriate selection)

Give a brief description of the known allegation:

Do you want a Labor Representative (union steward) present during the interview? YES NO

If request for a Union Steward is made, DO NOT INTERVIEW until a steward is available.

If steward is requested, name and division of union steward provided: _____

If no, have employee sign and date below.

I waive my right to have a union representative present during this investigation.

Name

Date

Witness

Date

You are being interviewed as a part of an official administrative investigation by the Department of Administrative Services (DAS). DAS is committed to conducting a thorough investigation and preventing retaliation. You will be asked questions related to the alleged violation as described above, and you may be subject to discipline, after the investigation is complete. You are advised that if you refuse to answer questions completely and/or accurately you may be subject to disciplinary action for insubordination, up to and including termination. You are directed to cooperate with this investigation and maintain its confidentiality by not disclosing or discussing your statement with others, until the investigation has been completed. Upon completion of the investigation and related administrative action, the information provided is available through Public Records.

Employee Signature Date Witness Date

Interviewer _____ Date: _____

Provide a copy of this form, when completed, to the employee.

Ohio Department of Administrative Services
Bob Taft, *Governor*
Carol Nolan Drake, *Director*

Office of Employee Services
30 E. Broad St., Rm 4001
Columbus, Ohio 43215-3414

614.466.2136 voice
614.466.7949 fax
www.state.oh.us



TO:

FROM:

DATE:

SUBJECT: Direct Order to Cooperate with Investigatory Interview

This memo serves as notice you are being given a direct order to review and sign the administrative investigation notes presented to you as part of the investigatory interview conducted (fill in relevant date). You are required to cooperate with this investigation by reviewing the notes and placing your signature on the designated page to confirm their accuracy. You have been given the opportunity to review your responses to the investigatory interview questions and to clarify this direct order.

If you do not comply with this order, you will be considered insubordinate and will be subject to discipline up to and including termination.

Signature_____

Date_____

Witness_____

Date_____