Washington County School District
121 West Tabernacle Street
Saint George, Utah 84770
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District Policy 1700

Conducting an Administrative Investigation

Washington County School District - Approved 11-14-17

1. Purpose:

Essential to the administrative process is the ability to conduct a thorough and proper investigation.

2. Policy:

This policy should be followed when it becomes necessary to conduct an investigation for employee or student grievances, charges of discrimination, investigations of misconduct, and as necessary for other complaints or accusations. District Policies requiring proper investigation include but are not limited to 1450, 1710, 1720, 2110, and 2115.

3. Procedure:

3.1.1. **Define the complaint and Notify District Administration:** Defining the allegation you need to investigate is a must. Identify the applicable policies, laws, or directives allegedly violated and make copies of them for the case file. You must contact the Director of Human Resources, Assistant Superintendent, or Student Services Director if the complaint alleges violations of District Policy, federal, or state laws.

3.1.2. **Create a plan for the investigation:** List a timeline and identify potential witnesses. Start with the person making the complaint. Consider who may have witnessed the events or who may have firsthand knowledge of the concerns. The investigator must thoughtfully develop questions that are designed to obtain critical information or details. Write potential questions down in a document before beginning an interview. Begin with asking who, what, when, where, why or how. Your memory will not compensate for the lack of a written list. It is easy to forget to ask a question during an interview.

3.1.3. **Notice:** Upon receipt of a grievance, complaint, student or employee misconduct, charge of student or employee discrimination or harassment or other applicable matters, the investigator may be required to provide appropriate notice to all parties to include a copy of the policy that describes

any authority under which the investigation is completed; in some cases the notice should inform complainant of the right to file a criminal complaint or the right to have someone translate or interpret during the interview; depending on the allegation, the complainant or the respondent may have the right to representation; the right to confidentiality; the right to end the informal process at any time; the right to extend the informal complaint to the designated District official; the right to appeal; or the right to file an independent formal complaint with a state or federal agency.

3.1.4. **Reporting to Law Enforcement:** In cases involving potential criminal conduct, school personnel must **immediately** notify appropriate law enforcement authorities. When any person has reason to believe that a child has been subjected to abuse or neglect or that criminal conduct is a concern, that person shall immediately notify the nearest peace officer, law enforcement agency, or office of the Division of Child and Family Services. A law enforcement investigation does not relieve the school of its independent obligation to investigate the conduct.

3.1.5. **Interim Measures during an Investigation:** Take appropriate interim measures during the investigation of a complaint. For instance, if a student alleges that he or she has been sexually assaulted by another student, the school may decide to suspend or place the alleged perpetrator in a separate class or at another school location. If the alleged harasser is an employee, the employee may be placed on administrative leave pending an investigation into the allegations. You must contact the Human Resource Director if you believe it is necessary to place an employee on administrative leave. A notice of administrative leave must be issued in accordance with applicable policy. The investigator must warn the accused to not contact the alleged victim or potential witnesses during an investigation.

3.1.6. **Interview the Complainant, the Accused, and the Witnesses**

3.1.6.1. The investigator must ask witnesses to describe the events as they remember them. Actively listen and take notes. Record only the facts. Avoid assumptions, feelings, interpretations, frustrations or premature conclusions.

3.1.6.2. The investigator must ask questions until confidence is established and the investigator feels s/he as all of the facts. If an investigator is not confident in the answer given, s/he should ask the question again later to compare the statements for consistency. The investigator must not finish the interviewee's sentences or put words into their mouth. The investigator must not allow the witness to use vague terms such as always, never or everyone. It is important to not stop the interview until the investigator receives a clear answer.

3.1.6.3. To glean the most information, let the employee talk freely without interruption. Once they've finished, take a moment to make notes. This time may prompt the interviewee to continue talking, and offer additional information, to compensate for the silence. If an interviewee references documents or other evidence, such as emails, recordings, text messages or other materials, ask for copies. During each transition of facts, or when appropriate, ask the follow up question, "Anything else?" At the conclusion of the interview, quickly review your notes while the interviewee is still present. Read back pertinent sections to ensure the responses and your notes are in agreement. There's nothing worse than going back to your notes days later only to wonder what you wrote down.

3.1.6.4. The investigation may also include reviewing law enforcement investigation documents, if applicable; reviewing student or personnel files; and gathering and examining

other relevant documents or evidence. An Investigator must apply a balanced and fair process allowing the complainant any rights that it gives to the alleged perpetrator.

3.1.7. **Draw Conclusions, Identify Findings and if applicable the specific Violations of Policies or Laws, and Make Recommendations:** Most investigations are not clearly black and white and do not arrive at a "beyond a reasonable doubt," conclusions. This gives you the ability to make a credibility determination, consistent with logic and of whether the decision makes sense, based on your findings. Administrative investigation conclusions are based on the preponderance of the evidence standard. Legal Dictionaries define preponderance of the evidence as the greater weight of the evidence required to decide in favor of one side or the other. To do so the investigator must decide what conclusion is more convincing considering probable truth or accuracy, and not on the amount of evidence. “One clearly knowledgeable witness may provide a preponderance of evidence over a dozen witnesses with hazy testimony, or a signed agreement with definite terms may outweigh opinions or speculation about what the parties intended.” Reference: http://dictionary.law.com/Default.aspx?selected=1586

3.1.8. **Identify Findings and Conclusions in Writing:**

- Decide if the complaint is reasonable to believe, with a brief explanation. Identify the impact of the conduct to the employee or student.

- If it is not reasonable to believe, the investigator must explain the basis for the conclusion.

- It is always possible that the findings will be inconclusive. Again the investigator must explain the basis for an inconclusive conclusion.

- You must reference and rely on the facts, considering District Policy, state and federal laws. The investigator must arrive at a fair and reasonable conclusion using all available perspectives.

3.1.9. **Identify Recommend Corrective Action if Necessary:** Base your recommendations on precedent cases and District Policy. Consult with HR and District Administration. Corrective action should be based on preventing the recurrence of similar conduct and should also provide warnings for retaliation against victims or witnesses.