



PERSONNEL INVESTIGATIONS

Personnel investigations are necessary whenever there is an allegation or indication of employee misconduct. Serious allegations such as assault, sexual misconduct or abuse may require that the accused be suspended pending administrative investigation. Under these circumstances, administrative personnel should report the incident to the proper authorities and involve their human resources director and legal counsel to ensure that the investigation is conducted properly.

Upon first learning of an allegation of employee misconduct, a preliminary investigation should be conducted to determine the nature of the situation and whether staff is indeed involved. If a decision is made to proceed with a formal investigation, interviews should be conducted as soon as possible to preserve recollection and to capture important information. The following are some tips regarding the interview process:

1. The person conducting the interview should be an objective, neutral party in order to eliminate bias.
2. Make a list of who should be interviewed, such as the staff involved in the resident's care at the time of the incident and anyone else that can reasonably shed light on the situation.
3. Determine the order in which the interviews will take place. Protect employee privacy by spacing the interviews far apart from each other.
4. Prepare a standard list of topics to be covered, rather than trying to "wing it." Include topics such as the timeframe of contact with or observation of the resident; involvement or interaction with the resident; observations of others' interactions (for example, staff, visitors, or family). The list of questions and topics will differ for the victim, complainant, family members, alleged perpetrator, and witnesses.
5. Allow sufficient time for the interview and provide privacy with decreased distractions. Don't hurry the conversation or interrupt the person while he or she is talking.
6. Ask open-ended and non-leading questions, as you want them to tell their story in their own words. Encourage them to recreate and describe their involvement, yet caution them to just state the facts (i.e. what they observed or heard) and not to speculate.

7. Avoid compound questions, such as “what were you and the resident doing at the time...”
8. Avoid emotional discussions and never become argumentative, angry or interrogative. If an employee refuses to participate and wants to leave, he or she should not be stopped. However, you can inform him or her that leaving the interview will be considered a failure to cooperate, which may result in disciplinary action up to and including termination. Alternatively, if an employee chooses to resign rather than to be interviewed, have the employee sign a statement reflecting that decision.

Use a standard format or form to document the interviews and subsequent investigation. Some states require that witness statements be written by the witness and no one else. Paraphrasing or summarizing the words of another inserts a potential source of bias, and can be considered less reliable because the reviewer will need to assume that the interviewer heard the person correctly, understood what they were saying and either remembered the words correctly or made accurate notes.

After the interviews have been conducted, the investigator should review documents and statements for:

- Gaps in time;
- Inconsistencies;
- Contradictions;
- Missing evidence; or
- Obvious omissions.

The investigator may need to re-interview an individual or seek additional information. Depending upon the situation, the investigator may also need to continue the fact-finding process through a record review, observation or examination. When all of the facts have been gathered, the administrator should perform a root cause analysis to assess whether the allegation or incident can or cannot be substantiated.

Finally, the investigator should assess the evidence for completeness and relevancy, and then weigh the evidence against the applicable legal or organizational standard before reaching a conclusion. If the outcome of an investigation requires employee corrective actions or termination, the administrator must follow their corporate or facility policies and procedures on employee conduct as published.

By responding immediately to allegations or indications of employee misconduct, investigating thoroughly and fairly, and making informed conclusions, administrators can safeguard their facility.

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