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Conducting Effective Investigations of Student and Employee Wrongdoing: A Comprehensive Guide for School Principals

Part I

I. *Introduction*

As the educational leaders of their schools, principals play a vital role in maintaining a safe, orderly and legally compliant learning environment. One of the principal's most important responsibilities is overseeing investigations into alleged misconduct involving students or staff. Regardless of the nature of the misconduct, all investigations must be conducted in a manner that is both lawful and thorough, following established procedures and fully, clearly and accurately documented. This article outlines the essential elements of effective school-based investigations and offers guidance to ensure that such investigations adhere to legal, ethical and administrative standards.

II. *Legal Framework and Authority*

A. Role of the Principal

The role of the principal varies depending on various circumstances, particularly the rules and practices within the school district. Different school districts have varying practices regarding when principals can or should conduct investigations into employee wrongdoing. Other factors influencing the principal's role include the nature of the alleged misconduct, the identity of the suspected perpetrator and the practices within the particular school district. For example, while principals may have the authority to suspend a student from school, they generally do not have the authority to suspend employees or place employees on administrative leave. Principals must not take any action outside the scope of their power as defined by applicable laws, their job descriptions, school board policies or school district administrative regulations or practices. In other words, principals need to "stay in their lane."

When there is alleged wrongdoing and the principal lacks the power or authority to act, the principal must make appropriate referrals. Referrals might be to law enforcement, Childline, the superintendent, the head of the human resources department, the head of pupil services, the Title IX coordinator and/or the Pennsylvania Department of Education.

B. Relevant Laws and Policies

When principals have the power and responsibility to investigate a matter, or are directed to conduct the investigation, they must ensure that they conduct investigations in compliance with applicable federal and state laws, as well as school district requirements.

Investigations must align with state labor laws and regulations, particularly when employee conduct is involved. They must adhere to school board policies, administrative guidelines and codes of conduct, which often establish specific procedures and reporting requirements.

C. Sexual Harassment

In 2020, the United States Department of Education adopted comprehensive regulations governing the conduct of investigations into sexual harassment when a "Formal Complaint" is filed by a "complainant" or the Title IX coordinator. Unless a principal has been appropriately trained and appointed as the investigator, when a Formal Complaint is pending, the principal cannot and should not conduct the investigation.

D. Criminal Conduct

Conduct may violate both criminal laws and school rules. If alleged conduct breaches criminal law, the school district should refer the matter to law enforcement, especially if the Memorandum of Understanding between the local police and

the district mandates such a referral. However, reporting the incident to law enforcement does not absolve the district or responsible administrators from taking appropriate action. The school district must act accordingly and should not wait for law enforcement to intervene. Deciding how to proceed is usually a decision for central administration.

III. *Initial Response*

A. Receiving the Report

When principals receive a report of, or suspect misconduct, they must first document the report in writing, including the date, time, source and a summary of the allegation's substance. **[Form 1]**

B. Immediate Assessment

Principals must then assess whether immediate action is necessary to ensure the safety of students or staff. Then, an assessment must be made to determine whether the principal should conduct the investigation or whether the matter needs to be referred to the central administration for investigation. Like all other matters, this assessment must be documented. **[Form 2]**

C. Document Immediate Actions Taken

It is not enough to do the right thing; the actions taken to do the right thing must be documented.

IV. *Planning the Investigation*

When it is determined that the principal will be conducting the investigation, the following planning should be undertaken.

A. Defining the Scope

In defining the scope of the investigation, principals should identify the alleged policy or rule violation. Principals should also determine who is involved in the matter, including the complainant or victim, the alleged perpetrator or respondent and any witnesses. In addition, principals should establish the relevant timeframe and locations where the events occurred. Finally, principals should determine who may have access to relevant evidence, such as the director of technology or the administrators responsible for the security video system.

B. Developing an Investigation Plan

The principal should create an investigation plan at the outset. This plan should include a list of witnesses, key documents and physical evidence to gather, as well as a timeline for interviews and completion. **[Form 3]**

C. Investigative Techniques

Principals may use a range of investigative techniques, including direct questioning, searches, review of security video, drug testing and medical or psychiatric evaluations. The goal of any method is to gather facts and not to harass, intimidate or embarrass anyone. Most information is typically obtained through direct questioning, which may include verbal interviews, written questions and answers, sworn responses to either written or oral questions or testimony under oath before a court reporter.

V. *Conducting Interviews*

A. Interview Best Practices

Interviews should be scheduled in a location that ensures confidentiality, maintains professionalism and minimizes disruption. Interviews should take place in a private, neutral space, such as a conference room, where conversations cannot be overheard. For both students and employees, the ability to enter and exit the interview location discreetly is important to avoid drawing attention.

During the interview, principals should begin by explaining the purpose of the conversation and advising the participant of their obligation to provide truthful information. The tone should remain neutral and professional throughout.

Open-ended questions should be used to gather information, while leading or accusatory language should be avoided. Principals should explain that they will maintain confidentiality, but only to the extent possible, to properly investigate the matter and adhere to applicable laws. It is also essential that principals refrain from expressing belief or disbelief in what the interviewee says and avoid making promises about the outcome, such as stating that the alleged perpetrator will be punished or that the interviewee will not face consequences.

An outline of questions is helpful to ensure that all necessary questions are asked. However, the principal must be prepared to deviate from the written questions when necessary to uncover the truth. The same questions are not required to be asked of all witnesses, as not all witnesses have the same opportunity to see or hear the conduct. (This is fundamentally different than interviews of applicants for employment where the same questions should be asked of each candidate.) While broad questions can and should be asked, principals need to drill down with specific questions to ascertain the details. **[Form 4]**

B. Interviewing Students

When planning interviews, principals should consider both the student's age and the topics to be discussed. Sensitive topics discussed with young students, often, but not always, require prior notice to the student's parents. On the other hand, parents of students aged 18 and older should not be contacted in advance unless the student consents or the law requires it.

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When interviewing a student, principals should ensure the student understands the purpose of the conversation and that the discussion is conducted using age appropriate language. Principals should consider the student's age, maturity and ability to understand and respond accurately when deciding how to proceed. It may be desirable to involve a school professional, such as a counselor, psychologist or social worker, to help ensure the student feels supported and that accurate information is gathered.

If a student has a disability, necessary accommodations must be provided in accordance with federal laws such as the Individuals with Disabilities Education Act , Section 504 of the Rehabilitation Act and the Americans with Disabilities Act , if necessary, to enable the student to participate in the interview. Before the interview, principals should review the student's Individualized Education Program or Section 504 Plan to identify the needed supports, including communication tools, behavioral strategies or environmental adjustments. Consulting with the student's case manager, special education teacher or school psychologist can help determine the best approach.

The interview should take place in a calm, non-intimidating setting and accommodations such as simplified language, visual aids or the presence of a trusted adult should be provided as needed. For students with disabilities like autism, ADHD or anxiety, additional supports (e.g., scheduled breaks, fidget tools or a clear visual structure) may be appropriate. If the student appears confused, distressed or unable to participate meaningfully, the interview should be paused and reevaluated with support from special education staff. All accommodations and supports provided during the interview should be documented, including the names of those present and the students' responses.

If the interview of a student results in the production of any document that qualifies as an "educational record" under Family Educational Rights and Privacy Act, there may be restrictions on the use and disclosure of the document.

C. Interviewing Employees

When interviewing an employee as part of an investigation, principals should begin by providing a general description of the allegation. A written notice of the interview, including a general description, is recommended. Principals must maintain neutrality and fairness and inform employees of their rights under any applicable labor agreements. **[Form 5]**

Employees accused of misconduct who are represented by a union must be allowed to have a union representative present if they request one. According to the U.S. Supreme Court decision in *NLRB v. J. Weingarten, Inc.*, 420 U.S. 251 (1975), an employee who is part of a collective bargaining unit has the right to union representation at an interview if they reasonably believe the interview could lead to disciplinary action and request such representation. While the union representative is not allowed to interfere with the interview process, the employee is permitted to speak privately with the union representative before answering any questions.

Furthermore, the school district has the right to require the employee to answer the questions and can prohibit the union representative from answering on behalf of the employee.

If, after an investigation, the school district plans to impose significant discipline, such as suspension without pay or termination, the employee may be entitled to a *Loudermill* hearing prior to the imposition of discipline. As established in *Cleveland Board of Education v. Loudermill*, 470 U.S. 532 (1985), this type of informal hearing process provides the employee with notice of the charges, an explanation of the evidence and an opportunity to respond, either in writing or in person, before a final decision is made.

D. Documenting Interviews

A principal conducting an investigative interview — whether involving students, staff or other individuals — must ensure that the interview is accurately and thoroughly documented. Proper documentation protects the integrity of the investigation, supports due process and provides a defensible record if legal or administrative proceedings follow. Following is a comprehensive list of all appropriate and legally defensible methods a principal can use to document an investigative interview:

(1) Contemporaneous Written Notes

Notes can be either contemporaneous handwritten notes, typed interview summaries or memoranda. If handwritten notes are taken, they should be taken during the interview by the principal or a designated note-taker. The notes should include:

- Date, time and location of the interview.
- Names and roles of all present.
- Questions asked and responses provided.
- Observations of demeanor (e.g., "appeared anxious" or "became emotional").
- Any clarifying or follow-up questions.
- The notes should be signed by the interviewer.

If typed interview summaries or memoranda are used to document the interview, they should be prepared immediately afterward and include the same types of information as the handwritten notes.

(2) Witness Interview Forms

Principals may want to use a structured form completed during or immediately after the interview. Such a form may include:

- Fill-in-the-blank or checkbox sections for consistency.
- Space for verbatim quotes or summaries. **[Form 6]**
- A place for the interviewee to initial or sign, indicating accuracy. **[Form 7]**

(3) Verbatim Transcription

It is legally proper for the principal or a designated notetaker to prepare a verbatim transcription where the interviewee's statements are taken down word-for-word in writing. This is not always practical in real time. Additionally, a stenographer or court reporter can be utilized. Although this is rare in K–12 settings, it may be used in high-profile or high-stakes investigations. I strongly recommend that stenographers be used in informal employee hearings that could result in suspension without pay or dismissal charges. (Such informal hearings are usually presided over by a central administrator, rather than a principal.)

*Please **scan the QR code below** to access the **investigation forms** referenced in the article. Refer to the disclaimer and instructions regarding the use of these forms on the following page.* ■

***Editor's Note:** Due to the length of this article, it is being split into two parts. The next magazine will address such topics as audio and video recording, signed witness statements, best practices, gathering and preserving evidence, investigative reports, confidentiality and retaliation, communicating results and coordinating with law enforcement.*

Disclaimer and Instructions Regarding Use of Investigation Forms

Disclaimer:
The forms and materials provided in this article are for **informational and educational purposes only**. They are intended to serve as general templates to assist school entities and their administrators in documenting and conducting employee or student investigations. **They do not constitute legal advice** and may not reflect the requirements of all applicable federal, state or local laws, regulations or board policies. Users of these forms are solely responsible for ensuring that they are adapted to fit the facts, circumstances and legal requirements of their particular situation.

Administrative Approval:
Before initiating or using any form or investigative step outlined herein, **principals and other building-level administrators must seek prior review and approval** from the appropriate central office administrator, such as the Superintendent, Assistant Superintendent, Human Resources Director or other designated official. Investigations often involve sensitive legal, contractual and personnel considerations that require oversight and coordination at the district level.

Instructions for Use:

1. **Review Board Policies and Procedures:** Confirm that the investigative steps align with the school entity's adopted policies, collective bargaining agreements and administrative regulations.
2. **Secure Authorization:** Obtain approval or direction from the appropriate central office administrator **before** beginning interviews, collecting documents or issuing notices.

Adapt as Needed:
Modify forms to ensure compliance with applicable laws (e.g., Title IX, Section 504/ADA, state mandatory reporting laws) and to reflect the unique facts of the matter.

1. **Maintain Confidentiality:** All documents and information generated during an investigation should be treated as confidential and shared only with individuals who have a legitimate need to know.
2. **Seek Legal Counsel When Appropriate:** Complex matters, such as those involving potential termination, litigation risk, discrimination claims or law enforcement involvement, may require consultation with the school entity's solicitor or legal counsel.

Important: Failure to follow appropriate chain-of-command or procedural requirements may result in the investigation being compromised or subject to challenge.

PA Principals Association is Offering New EdCamp Across PA

Transforming Student and Teacher Learning through EdCamps and Effective Professional Development

Qualifies for 40 Act 45 Hours! *40-Participant Minimum to Hold EdCamp*

Schedule:
8:00 a.m. - 8:30 a.m. - Orientation *(for those attending for Act 45 hours)*
8:30 a.m. - 12:00 p.m. - EdCamp

Cost:
$99 for Act 45 hours *(discounted from standard Act 45 course cost)*; **FREE**, if attending for experience only.

Presenters:
Primary Facilitator/Act 45 Coursework Coordinator: Dr. Beth Haldeman
Co-Facilitators may include PA Principals Association Staff and Board Members.

PLEASE NOTE: EdCamp can be offered virtually. If you wish to hold it in your district, this is an option. In addition, this new EdCamp would be perfect for a Saturday, after school hours, a day off school or summer inservice.

For program requirements or to schedule an EdCamp in your district, please contact Dr. Beth Haldeman at haldeman@paprincipals.org