

## **Frequently Asked Questions Regarding Investigations**

**Q: What is an investigation?**

A: An investigation is a fact finding interview conducted in response to a complaint and to gather information from potentially involved parties. At this point there has been no determination of any wrongdoing.

**Q: What is my role?**

A: An involved person can either be the complainant (person bringing the complaint), respondent (person accused) or a witness. All parties are entitled to the same rights and protections regardless of their status.

**Q: How long will the process take?**

A: There is no way to predict with certainty exactly how long an investigation will take. It often depends on the availability of witnesses. This is often affected by breaks in the academic year. You can expect that an investigation will generally take several weeks to a couple months.

**Q: Will I be notified when the investigation is complete?**

A: Generally, the investigator will notify the parties when the investigation is complete and has been forwarded to the decision-maker.

**Q: Who conducts the investigation?**

A: The investigator must be a neutral party. The individual must also be trained in appropriate investigative techniques. Depending on the situation, the investigator can be the supervisor, the manager, an outside consultant, a representative from Human Resources, or a representative from the Office of Affirmative Action.

**Q: What happens at an investigation meeting?**

A: The process will be explained at the beginning of the meeting. An interview with structured questions will follow. The investigator will take notes and ask follow-up questions as appropriate. The interviewee will be given the opportunity to add additional comments at the end of the interview.

**Q: What does Union Representation mean?**

A: It means that if an employee is covered by a collective bargaining agreement, s/he has a right to have a union representative present at any time they are being questioned / interviewed during an investigation that may lead to disciplinary action. The union representative will not be speaking on behalf of the employee, nor will the representative have an active role in the interview. The union representative is there for support and to ensure the appropriate process is followed.

**Q: If I want union representation, how do I get it?**

A: It is your responsibility to contact your union representative and arrange for their participation in any investigatory meeting. Management cannot notify the union due to confidentiality concerns. If you desire union representation, please contact them. Management does strongly encourage you to contact your union representative as they are very helpful in the process.

**Q: Am I required to have union representation?**

A: You are not required to have union representation. It is your choice. However, if you choose not to have union representation, you will be asked to sign a written waiver of union representation.

**Q: What is a Tennesen Warning and why is it given during an interview?**

A: A Tennesen Warning is a notification that must be given to an individual that is asked to supply private or confidential data concerning him/her. It is provided during an investigatory interview to inform the individual of the purpose and intended use of the requested data; whether the individual may refuse or is legally required to supply the requested data; any known consequence arising from supplying or refusing to supply the data; and the identity of other persons or entities that may be authorized to receive the data collected.

**Q: If I file a complaint, will others know that I was the one who filed it?**

A: It will not be specifically stated who filed the complaint. However, enough information regarding a particular situation has to be shared to allow for others to respond. This may lead to other individuals interviewed being able to draw a conclusion on who filed the complaint simply based on the information shared.

**Q: Am I required to attend an investigatory meeting if asked to do so by management?**

A: Attendance is not required. However, if it is the decision of an employee not to attend, a decision on what happened and whether any misconduct occurred will be made without input from the employee.

**Q: Where do I turn if the conflict I am experiencing in the workplace is directly with my immediate supervisor?**

A: If an employee is in a situation where they are having a conflict with his/her immediate supervisor, s/he should bring the concern / complaint to the next level of management and/or Human Resources. If the conflict involves discrimination or harassment the employee should go to the Affirmative Action Office.

**Q: Will the information I give be kept confidential?**

A: The information will be shared with the appropriate individuals that need the information to make a decision as to whether or not misconduct has occurred. It is otherwise confidential.

**Q: Do I need to provide documents or evidence regarding the complaints?**

A: If you have documentation it is always helpful. If you do not know what to bring initially, the investigator will always give you the opportunity to provide documents at a later date.

**Q: Will it be publically known that a complaint has been filed and what it is regarding?**

A: It is public under the law that a complaint has been filed and the status of the complaint. Other information is not public but can be shared with individuals involved to the extent necessary to allow them to respond to the allegation(s) in the complaint or make a decision.

**Q: What type of discipline can be imposed against me?**

A: Each person's respective collective bargaining agreement or personnel plan outlines the ranges of discipline that are possible if there is a determination that misconduct occurred. Please refer to your own collective bargaining agreement provisions.

**Q: Will I automatically be disciplined just because an investigation is started?**

A: No. The investigation is a neutral fact-finding process. It is possible that no misconduct will be found, and it is possible that misconduct may be found. The employer has the burden to establish "just cause" for any disciplinary action taken.

**Q: What is "just cause"?**

A: Just cause is defined in terms of six elements: 1) has there been notice of the rule or policy in question; 2) is the rule or policy reasonable; 3) has there been a fair and thorough investigation; 4) is there sufficient proof of wrong doing (a preponderance of the evidence); 5) is there fair and consistent treatment of individuals; and 6) does the penalty match the offense (considering the past record).

**Q: Can someone take adverse action against me if I bring a complaint / concern forward?**

A: The State of Minnesota, as well as Minnesota State University, Mankato, does not allow retaliation against anyone involved. It would not allow you to retaliate against others; nor would it allow others to retaliate against you for bringing a concern forward. Retaliation takes many forms; none of which will be allowed. Should retaliation occur, it will be investigated and dealt with accordingly.

For more information contact:

Human Resources 507-389-2015

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Bargaining Unit Representatives and their contact information:

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- o Don Larsson – IFO at extension 2368
- o Barry Wilkins – MMA at extension 1034
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