



**Office of Human Resources
Standard Operating Procedure
HR SOP #402**

Subject: Internal Investigations

Effective Date: September 1, 2020

Policy Statement:

When appropriate, the Department will conduct formal inquiries to determine facts regarding an employee's misbehavior, or failure to adhere to laws, rules, regulations, policies or Standard Operating Procedures. These inquiries may be administrative or criminal in nature. Investigations will be prompt, thorough and effective.

Definitions:

Polygraph: An instrument that simultaneously measures and records changes in physiological processes such as blood pressure, pulse, respiration, and skin conductivity while the subject is asked and answers a series of questions.

Procedure:

Conducting the Investigation:

Investigation must be initiated with the approval of the appointing authority. Division level management may conduct investigations; however, appointing authority approval and coordination with the DNR Office of Human Resources is required prior to initiating the investigation.

Investigations will be conducted in an impartial, objective and thorough manner. Individuals appointed to conduct investigations should have the necessary knowledge, skills and ability to conduct such investigations.

Employee Rights and Responsibilities:

All employees shall cooperate fully with any internal investigation including, without limitation, employee interviews by investigators and submission to polygraph examinations.

Employees subject to an internal investigation shall be notified in writing by the appointing authority of such investigation as shown in *Employee Notification – Subject of Internal Investigation* (Attachment 1).

The employee shall be informed of the nature of the allegations being investigated and, other than introductory questions, shall be asked to respond to specific and narrow questions that relate to the activities being investigated.

Questioning:

Upon the Commissioner's (Director's for EPD) or their designees' direction, an employee may be ordered to answer a question directly related to their official duties, or their fitness to perform those duties, regardless of whether the answer may tend to incriminate the employee. If so ordered, any answer given may not be used in any criminal prosecution of the employee.

Failure to comply may be deemed insubordination and may subject the employee to disciplinary action, up to and including dismissal from employment.

Legal Representation:

Employees may not have any third party, including an attorney, present during an interview by and investigator or during a polygraph examination unless they are the direct subject of an internal investigation that is being pursued with the objective of a criminal prosecution.

Any employee who has become the direct subject of an internal investigation that is being pursued with the objective of criminal prosecution shall be advised of his/her right to have an attorney prior to being asked to take a polygraph examination or to participate in an interview with an investigator. No such interview or examination will occur without the consent of the employee.

Polygraph Examinations:

Polygraph examinations shall be used only upon the order of the Commissioner (Director for EPD) or their designees, and only after other investigative techniques have been utilized to provide reliable information to substantiate the allegations resulting in the internal investigation. The Commissioner's (Director's for EPD) or their designees' determination that the requirements of this subparagraph have been met shall be conclusive.

Only persons reasonably believed to be involved in or a witness to the activities being investigated shall be ordered to take a polygraph examination.

Any person ordered to take a polygraph examination, or participate in an employee interview, by an investigator shall be informed of the nature of the allegations being investigated and other than introductory questions shall be asked to respond only to specific and narrow questions that relate to the activities being investigated. See *Employee Notification – Requirement to Take Polygraph* (Attachment 2).

Employee Refusal to Cooperate:

The refusal or failure of any employee to cooperate fully with any part of an internal investigation, including the submission to an interview or polygraph examination and responding substantively to all questions in such an interview or examination, even if such refusal or failure is on the advice of counsel, shall be considered an act of insubordination and may subject the employee to disciplinary action, up to and including dismissal from employment.

Investigation Findings:

Investigation findings will be presented to the appointing authority for the unit the employee is assigned to for final determination of action required, if any. A report and recommendation of

disposition will be completed on all investigations. The Investigative Report will include supporting documentation including but not limited to:

- Executive Summary of the incident(s) being investigated, to include factual findings, key dates, individuals involved, policy violation(s), and specific conclusions and recommendation;
- Witness statements;
- Interview notes;
- Telephone logs;
- Audio/video recordings; and
- Any other required documentation.

Investigations are all conducted on a confidential basis to the extent permitted by law. Any employee who releases information considered part of an investigation without the authorization of the appointing authority, or other than as may be required by law, may be subject to disciplinary action up to and including dismissal from employment.

Attachments:

Attachment 1 - Employee Notification – Subject to Internal Investigation

Attachment 2 – Employee Notification – Requirement to Take Polygraph