

DHR PROCESS - ALLEGATIONS OF MISCONDUCT

State of Vermont - Department of Human Resources



Misconduct Reported to DHR:

Sources:

- Line Employee
- Supervisor
- John Q. Public
- Media Report of Criminal Charge



Review of Allegation by DHR (Legal, Labor Relations, Investigative Unit [IU], DHR Field Professional)

DHR Decision Points:

- Does allegation constitute misconduct?
- Are there sufficient facts to determine if investigation is warranted?
- Does allegation involve possible criminal conduct for referral?
- Is employment investigation warranted?
- Who should perform investigation (IU, Field DHR, or Department/Agency)?



If DHR decides no investigation warranted:

- DHR Manager works with Agency/Department to address issue appropriately
 - Coaching
 - Feedback
 - Advice RE: Performance process under agreements with VSEA if issue is one of performance



Paid Temporary Relief from Duty is Considered

- DHR weighs in if consulted
- Leadership at Employee's Agency/Department decides:
 - ▶ Is employee presence at work detrimental to the best interests of state, public, morale?
- Extension beyond 30 days requires DHR Commissioner concurrence



Investigation is Conducted

Whether by IU, DHR Field, or (Local) Department

Investigation involves:

- Collection/review of physical evidence (emails, documents, state phone, tangible things)
- Interview of Complainant
- Interviews of Witnesses
- Interviews of Subject (with union representation)
- Draft and Legal review of written report

In 2019:

93% of Reports Completed within target period (80/90 days)

Average number of days to complete report: **53**



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Report submitted to Commissioner/Secretary or Designee

- Commissioner/Secretary or Designee Decision Points:
- DHR provides advice on appropriate discipline, but Employee's Commissioner/Secretary or Designee is the decider
 - ▶ Are Allegations Substantiated?
 - ▶ If so, what level of discipline is warranted?
 - ▶ *If feedback* or oral/written reprimand, it is implemented at this point

If suspension, demotion or termination is contemplated:

- Employee gets written notice and an opportunity to be heard (due process requirement)
- Meeting is scheduled/held - attended by Decider, DHR, Employee, VSEA
- Settlement is a possibility at all points in this process
- Process is halted by good faith settlement negotiations
- Absent settlement, discipline is imposed, triggering employee's grievance rights



Post-Discipline Follow Up

- Documentation of discipline or copy of stipulation is placed in employee's official Personnel File to establish record of misconduct
- In certain cases (e.g. sexual harassment, discrimination, bullying) a 'close-out' letter is sent to the complainant advising that matter has been dealt with appropriately
- Current confidentiality policy mandates that follow-up letter be general and not specific



CHANGES TO PROCESS SINCE 2017:

September 2017

- Cross-functional review process added.
- Emphasis changed to favor investigations by IU or DHR Field Manager, providing more consistency and objectivity.
- Mandatory legal review of investigation reports added
- Meeting between DHR & Agency/Department Leadership added as a required step in the process

December 2017

- AHS IU is transferred to DHR.

July 2019

- AHS and DHR investigations databases are updated and combined