
**STOREY COUNTY ADMINISTRATIVE
POLICIES AND PROCEDURES**

NUMBER: 1000
EFFECTIVE DATE: 12/04/18
REVISED:
AUTHORITY: BOC
COUNTY MANAGER: PAW

SUBJECT: INVESTIGATIONS OF ALLEGED MISCONDUCT

I. Policy:

To perform and manage investigations of complaints of harassment, discrimination, retaliation, and safety and ethical allegations of misconduct in a timely manner in order to ensure that prohibited actions and behaviors cease immediately and in order to protect the parties involved in the investigation process.

1.1 Purpose

When an employee makes an informal or formal complaint, the employer will take prompt steps to stop the alleged conflict, protect involved parties, and begin investigations. Under many laws [e.g., Title VII, the Americans with Disabilities Act (ADA), the Age Discrimination in Employment Act (ADEA), the Occupational Safety and Health Act (OSHA), the Sarbanes-Oxley Act, state and local nondiscrimination laws], employers are legally obligated to investigate complaints (harassment, discrimination, retaliation, safety and ethical) in a timely manner. In addition, reasonable action is required to be taken by the employer to ensure illegal actions and behaviors cease immediately.

Responsiveness to a complaint and an investigation will not only yield the best information and evidence, but it will also enhance both the investigator's and the employer's credibility. Investigations can help the organization identify and resolve internal problems before they become widespread. Storey County takes all complaints seriously, and will conduct appropriate, reasonable, and prompt investigations.

1.2 Investigation Process

No investigation should be undertaken without the Administrative Officer and/or Personnel Director. The following steps will be taken as soon as the employer receives a verbal or written complaint that warrants an investigation.

a. Maintain Confidentiality

The employer will protect the confidentiality of employee claims to the best of its ability and in accordance with law. At the same time, the employer must conduct a prompt and an effective investigation. It may not be possible to keep all information completely confidential.

The employer should explain to the complaining party and all individuals involved in the investigation that all information gathered will remain confidential to the extent possible for a thorough investigation. It should also be explained to the parties that to conduct a prompt and effective investigation, some information may be revealed to the accused and potential witnesses, but that information will be shared only on a need-to-know basis. An employer cannot promise absolute confidentiality to any party involved in the investigation.

b. Provide Interim Protection

The employer may take immediate measures for the protection of the accuser or the complainant. Separating the complainant from the accused may be done to guard against continued harassment or retaliation. Actions such as schedule changes, transfers, or leave of absence may be necessary, and are not done for retaliatory purposes.

In certain instances where an elected official is accused of misconduct against an employee employed by him/her, and where the elected official refuses to make changes to his/her schedule or otherwise create separation from the complainant in the workplace, and there is a need to separate the parties in order to protect the complainant, the complainant may be subject to temporary schedule changes, transfers, or leave of absence during the investigation. The employer and the accuser must attempt to work together to arrive at an amenable solution.

The status of protective action may be changed at any time by the Administrative Officer and/or Personnel Director during the investigation.

c. Select an Investigator

An investigator will be chosen by the Administrative Officer and/or Personnel Director in conjunction with the County Manager or other appropriate personnel, such as the District Attorney.

The employer may use the resources of experienced HR professionals, internal security, legal counsel (inside or outside), a third-party investigator, or the employer may use a team approach.

1.3 Determination

Upon receipt of the completed investigation report, the Administrative Officer and/or Personnel Director will review the entire investigative file, the employee's personnel file, and any other relevant materials. The Administrative Officer and/or Personnel Director may return the entire investigation to the assigned investigator for further investigation of action. Once the investigation report is to the satisfaction of the Administrative Officer and/or Personnel Director, s/he will review the report and its findings, and will provide to the department head, County Manager, or other appropriate person potentially taking disciplinary action against the employee.

Any decisions to impose disciplinary action against any regular employee must conform to the procedures set forth in Policy 1001 Disciplinary Action and Appeals.

1.4 Closure of Investigation

Once a decision is made, the Personnel Director and/or Administrative Officer will notify both the complainant and the accused that the investigation is complete, that the employer took the complaint seriously, and that the employer took appropriate action. The employer is not obligated to disclose to the complainant what actions were taken against the accused.

The Administrative Officer and/or Personnel Director should set a time frame to follow up with the complainant to ensure there are no other issues and that no retaliation has been endured. The employer should encourage communication and follow-up until the complainant is comfortable again. Finally, the Administrative Officer and/or Personnel Director should remind all parties to preserve confidentiality as appropriate.

When necessary, the employer must take reasonable action that is appropriate to the situation.

1.5 Archiving

The Administrative Officer and/or Personnel Director will maintain confidentiality of all materials related to the investigation and will store the materials separately from the employee's personnel file.

II. RESPONSIBILITY FOR REVIEW: The County Personnel Director and/or Administrative Officer will review this policy every 5 years or sooner as necessary.