

**Subject: Administrative Investigations**

**Date: April 15, 2009**

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**Replaces Policy Dated: N/A**

**1. PURPOSE**

To establish general guidelines for the conduct of County administrative investigations. Administrative investigations are conducted to collect information and analyze evidence to determine what actually happened and why it happened, so that individual and systemic deficiencies can be identified and effectively corrected.

“Administrative Investigation” means the collection and systematic review of all available information and/or evidence on matters referred for review, which may include investigations relating to programmatic issues, policy violations, conduct, work activity, or any other matter deemed appropriate.

**2. POLICY**

It is the policy of Pinal County to refer all matters requiring Administrative Investigations to the Human Resources Department to conduct objective and thorough reviews when indicated. The only exception to this policy is matters involving the Human Resources Department which should be brought to the attention of the Assistant County Manager for Administrative Services. Not all matters and issues referred to management’s attention require an administrative investigation. Administrative investigations are an option, at the discretion of the Human Resources Director, to assure an objective and thorough discovery of facts and circumstances in matters related to programmatic issues, policy violations, conduct, work activity, or any other matter deemed appropriate.

The Human Resources Department, Employee Relations Section is the county’s primary tool for this purpose. Human Resources will ensure timely, objective, complete, and thoroughly documented investigations. Human Resources staff assigned to conduct administrative investigation will have sufficient training and/or experience in the conduct of such investigations to address the wide array of situations meriting such investigations.

Nothing in this policy precludes the Human Resources Director from referring any matter for external investigation. The Human Resources Director, in consultation with the County Attorney, will refer matters to the appropriate authorities (law enforcement, Internal Audit, Attorney General, etc.) for external investigation.

Matters to be investigated may include but are not limited to:

- (1) Programmatic issues;
- (2) Serious complaints against employees;
- (3) Incidents which may result in litigation against the County;
- (4) Serious violations of departmental or County policy;
- (5) Property misuse, damage, or theft;
- (6) Identified incidents or issues with constituents or constituent groups;
- (7) Alleged civil rights violations, to include but not limited to allegations of discrimination based on race, sex, color, national origin, sexual orientation, religion, age, political affiliation, or

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disability; and, allegations of sexual harassment or workplace violence. Such violations are governed by State and County Policy, Federal and State law;

(8) Other identified issues at the Director's discretion.

The Human Resources Office shall:

(1) Report suspected criminal activity to the County Attorney's Office and/or law enforcement authorities for investigation.

(2) Maintain and disseminate information and/or data to Appointing Authorities who will assist with the disposition of, or recommendation for, appropriate corrective action when necessary.

(3) Provide periodic notification as necessary, to those with a legitimate need to know, on to the current status of the investigation until its final outcome. When the matter is complete and the findings have undergone thorough review, a written notification of the findings will be provided to the complainant(s) and individual(s) being investigated and their respective Appointing Authority. Individuals subject to formal discipline or counseling based upon the investigation will receive the appropriate level of progressive discipline specified in the Pinal County Polices and Merit Rules.

(4) At the conclusion of investigations, maintain appropriate records of the investigation and ensure the security thereof in accordance with statute and departmental policies.,

### **Investigation Process**

Matters requiring possible investigation should be referred to Human Resources as soon as they become known. In order not to compromise the outcome of an investigation all such matters should be held in the strictest confidence and should not be discussed with any person that does not have a need to know. Assigned investigators are responsible for maintaining the confidentiality of all internal investigations under their control. Upon receipt of an investigation request Human Resources will contact the County Attorney and inform them of the matter that has been referred to make an initial determination that an administrative investigation is warranted. If this initial review reveals the possibility of criminal activity, the matter will be immediately referred to the County Attorney or the appropriate jurisdiction for follow-up. If the initial review concludes that there is no criminal activity and that an Administrative Investigation is not necessary or appropriate, Human Resources will document the basis for that decision and the matter will be filed subject to record retention guidelines.

Internal administrative investigations shall be completed in a timely matter that takes into account the complexity and subject matter of the investigation. If at any point during an administrative investigation evidence of criminal activity is identified, the investigation will be suspended and the appropriate law enforcement authorities and/or the County Attorney's office will be notified.

Assigned investigators will interview complainants, witnesses, and other persons with knowledge regarding the allegation(s). They will also review relevant policies and other pertinent documents, including personnel information where required. They will generate a final report which presents all evidence discovered during the investigation in an unbiased and factual manner. They will document all interviews and statements for review as necessary. Attached to this policy and incorporated by reference are guidelines for the conduct of Administrative Investigations. These guidelines provide a general framework for the conduct of such investigations, The specific steps outlined need not be strictly followed in every case. It will be the responsibility of the assigned

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investigator to determine, based upon the matter under investigation, which steps are appropriate and applicable to the matter under investigation.

Interviewed employees will be provided the opportunity to offer complete statements during interview processes, and every effort will be made to ensure a professional interview environment is maintained that does not create an unnecessary adversarial relationship.

The administrative investigative report and associated findings will be presented to the Human Resources Director for final determination and will be forwarded to the County Attorney. Disclosure of the final report and/or the findings will, in the interests of confidentiality, only be shared with those who have a legitimate need to know.

All investigatory findings shall, after review by the Human Resources Director or his/her designee, be forwarded to the appropriate Appointing Authority for review and personnel action where appropriate. Copies of the findings and any resulting disciplinary records will be included in the personnel files of the employee subject to the investigation and/or disciplinary action.

The final administrative investigation and all supporting documentation shall be maintained in a secure confidential file within Human Resources, in accordance with Arizona State Library.

Archives and Public Records' retention schedules. These records may be retained longer if there is pending litigation. All documents relating to employment actions will be maintained in accordance with the Department of Human Resource Management policy and in accordance with the appropriate record retention schedule.

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Guidelines for the conduct of Administrative Investigations

The following steps are intended to serve as suggested guidelines for use when conducting administrative investigations. Before an employee is disciplined for unsatisfactory job performance including grossly inefficient job performance or unacceptable personal conduct, a thorough investigation may be needed to determine if sufficient evidence exists for the appropriate action to be taken. It is recommended that investigations be initiated as quickly as possible.

The purpose of an investigation is to:

- Gather the relevant facts.
- Obtain the employee's side of the story.
- Consider any extenuating circumstances.
- Determine the applicable policies violated
- Determine the appropriate disciplinary action or make recommendations to management.

The assigned investigator should develop an investigative plan by assessing the information at hand to determine the specifics. (The information at hand may be a written statement or a verbal complaint.)

Determine the following:

- What happened?
- Who was involved?
- When did it happen?
- Where did it happen?
- Were there any witnesses?
- Was the incident discussed with anyone?
- Is there any documented evidence?
- Are there others who have same concern?

Determine how you are going to document the interview. (Audio tape or rely on handwritten notes.)

Determine if any interim action is needed such as:

- Temporary Reassignment/Transfer
- Transfer to another shift
- Transfer to another duty station, or
- Administrative Leave with or without pay

If such action would appear appropriate secure the necessary approvals prior to proceeding.

Determine the witness list as follows:

- The individual(s) having first hand knowledge of the issue
- The individual(s) directly involved in the incident
- The individual(s) named by the complainant or the accused who may have knowledge
- Individual(s) who the employee asked you to interview
- Individual(s) who may have observed
- Supervisors/manager of parties involved

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#### Guidelines for the conduct of Administrative Investigations (cont.)

Prepare open ended questions for the interview as follows:

- Prepare a list of general questions.
- Move to more narrow questions about issue.
- Ask questions that will give you relevant facts.
- Ask who, what, when, where, why, and how.
- Ask tough questions but save them for last.
- Always ask, "Is there anything about this issue that you feel I need to know but did not ask?"

Put the employee at ease and Conduct the interviews. (In some situations it may be necessary or appropriate to have a witness present during the conduct of the interviews, in the case of Law Enforcement where the employee may reasonable expect disciplinary action to follow it may be required)

Be prepared to respond to their questions.

Example:

What are you investigating?  
How will you use the information I give you?  
Is this confidential?  
Will I get in trouble by talking to you?  
Am I being investigated?

Stress the confidentiality of the investigation and have the employee complete and sign an investigation acknowledgement form

Explain the nature of your investigation.

Gets a detailed account of all events surrounding the issue(s)

Have the employee provide a handwritten signed statement after the interview covering the information provided to you.

Prepare the investigative report.

Start the report with a summary of the issues providing background information as follows:

- Name, position and location of individual who raised issue.
- Date the issue was filed.
- Name, position and location of the accused.
- Name, position, and location of others involved in the investigation.
- A statement summarizing the issue(s).

List all findings of fact or evidence. Be sure to provide a copy of all documents referenced in your report and include any written statement(s) from witnesses.

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Guidelines for the conduct of Administrative Investigations (cont.)

Some examples of facts are as follows:

- Employment history of employee who filed the issue
- Employment history of employee(s) accused in issue
- Any relevant training the employee has taken
- Any prior disciplinary action(s) (active)
- Relevant facts derived from the interviews
- Applicable Personnel Policies
- Applicable Standard Operating Procedures
- Applicable Federal and State Laws
- Date investigation began
- List of the names of people interviewed
- Relevant Employee Time Sheet Information
- Relevant Office Memorandums
- Mileage Logs
- Expense Records
- Notes, or Diaries
- Phone records

Write the Conclusions.

- Include any policy or procedures applicable that were violated
- Identify conflicting or inconsistent statements of witnesses
- Identify direct information to support or dispute issue
- Identify any eye witnesses
- Identify the creditability of any witnesses
- Do not make assumptions
- Be sure to introduce the accuser's reasons for allegation being untrue
- Identify any observed demeanor of persons interviewed
- Chronologically report the information
- Make reasonable conclusions when necessary
- Was this something the employee knew or should have known?
- Was the act personal conduct or job performance?
- How serious was the offense?
- How has the division/facility/school dealt with similar cases?
- What is the employee's disciplinary history?
- Is the intent to modify or eliminate behavior?

Recommendation:

In some investigations it is appropriate not to make a recommendation as to disciplinary actions and to leave that to the Appointing Authority, in others, the Appointing Authority may request a recommendation based upon actions taken previously against other employees found to have engaged in similar behaviors.



**P I N A L • C O U N T Y**  
*Wide open opportunity*

**MEMORANDUM FROM HUMAN RESOURCES**

**To:**

**From:**

**Date:**

**Subject:** Administrative Investigation Acknowledgement Form

This memorandum is to inform you that an Administrative Investigation has been initiated into a complaint about \_\_\_\_\_. You have been named as a Witness (Principal).

You will be asked questions specifically directed and narrowly related to the matter at issue. You are entitled to all the rights and privileges guaranteed by the law, the Constitution of this State and the Constitution of the United States, including the right not to be compelled to incriminate yourself in any criminal proceeding. If you do answer, neither your statements nor any information or evidence which is gained by reason of such statements can be used against you in any subsequent criminal proceedings. However, I further wish to advise you that if you refuse to answer or you answer questions falsely, your conduct can result in disciplinary action up to and including termination.

This Investigation is not to be discussed by you with any person, other than the assigned investigator(s). Failure to maintain such confidentiality can result in disciplinary action.

I acknowledge that I have read and understand this memorandum.

\_\_\_\_\_

Name

\_\_\_\_\_

Date