



SUBJECT: DRC Investigation Policy	PAGE <u> 1 </u> OF <u> 4 </u>
	NUMBER: 09-INV-07
RULE/CODE REFERENCE: ORC 5120.30	SUPERSEDES: 09-INV-07 dated 09/21/15
RELATED ACA STANDARDS:	EFFECTIVE DATE: November 22, 2016
	APPROVED: 

I. AUTHORITY

This policy is issued in compliance with Ohio Revised Code 5120.01 which delegates to the Director of the Department of Rehabilitation and Correction the authority to manage and direct the total operations of the Department and to establish such rules and regulations as the Director prescribes.

II. PURPOSE

The purpose of this policy is to provide guidance, accountability, and documentation for investigations conducted in the Ohio Department of Rehabilitation and Correction (DRC).

III. APPLICABILITY

This policy applies to all employees of the Ohio Department of Rehabilitation and Correction (DRC).

IV. DEFINITIONS

Administrative Investigation - Detailed inquiry and systematic examination of an allegation of employee misconduct.

Criminal Investigation - An investigation conducted by an authorized law enforcement agency concerning an allegation of employee commission of a criminal offense.

Employee Misconduct - Any act or behavior which may be in violation or attempted violation of any law, regulation, act, or DRC's administrative rules, policies, or the Standards of Employee Conduct.

Evidence - Information, physical or otherwise, on which a conclusion can be based. (i.e., incident reports, videos, statements, timekeeping records, e-mail, etc.).

Garrity - Employee protection from the use of statements given in an administrative investigation being used in any criminal proceeding.

Investigating Employee - An exempt employee assigned as investigator of alleged employee misconduct.

Investigatory Interview - Interviewing an employee who is the subject of the investigation.

Special Investigation - An investigation requested by the Director, an institutional managing officer, managing director, or any other appropriate executive in response to an incident when it is directed that it be conducted according to DRC Policy 09-INV-043. It is the policy of the DRC to conduct special investigations when an incident is of great importance or consequence to the institution, the office, or the DRC, or when the issue is particularly complex.

Weingarten Right - The right to union representation during investigatory interviews.

Witness Interview (non-investigatory) - Interviewing someone who has firsthand knowledge of an incident of employee misconduct or possesses background information and who is not the subject of the investigation.

V. **POLICY**

It is the policy of the Ohio Department of Rehabilitation and Correction (DRC) that all allegations and possible incidents involving the violation of administrative rules, policies, procedures, or the Standards of Employee Conduct shall be investigated in a thorough and fair manner. Complaints received by members of the public shall also be reviewed by the appropriate deputy director/designee to determine if an administrative investigation is warranted.

VI. **PROCEDURES**

- A. All DRC employees shall report allegations of employee misconduct to their supervisors. The supervisor shall notify the appropriate appointing authority/designee, APA regional administrator or Bureau chief and the report shall then be staffed with the labor relations officer (LRO) to determine if an administrative investigation is warranted.
 1. The LRO or other administrative staff, as designated by the managing officer, shall then assign the investigation to an exempt employee who was not involved in or a witness to the alleged misconduct to complete the administrative investigation.
 - a. Responsibilities of the Investigator
 - i. Gather and examine evidence.
 - ii. Conduct Interviews.
 - (a) Ensure union representation is present during any investigatory interview if it is requested.
 - (b) Union representation must be a union steward, delegate, or site representative designated by the respective union.
 - (c) Complete an Acknowledgment and Waiver of Right to Representation form (DRC1311).
 - (d) All interviews must be memorialized. Interviews may be recorded, captured in writing (DRC1539 and DRC1540), or captured using a combination of both methods.
 - (e) Complete a Garrity form if applicable (DRC2588).

2. The investigating employee shall then make a determination on whether the alleged misconduct has been substantiated.
3. The investigating employee shall then utilize the Investigation Report (DRC2641) to summarize the final report of investigation. The only authorized exception to the use of this form is for documenting investigations conducted by the institution inspectors and those employees designated as institution investigators or the investigation has been designated a Special Investigation pursuant to DRC policy 09-INV-03, Special Investigations Policy.
4. The investigating employee shall then forward the Investigative Report (DRC2641) and all supporting documents and evidence to the LRO.
5. The LRO shall review the investigation packet. The LRO may return the investigative packet to the investigating employee for the purpose of gathering further evidence, interviews, or actions.
6. The investigation report shall then be staffed with the appropriate appointing authority/designee, APA regional administrator or Bureau chief, and the LRO to determine the appropriate course of action.

B. Employee Disciplinary Process

1. Corrective action of employee conduct shall be made in accordance with the DRC Standards of Employee Conduct.
2. If a determination is made that disciplinary action is warranted and the discipline is anticipated to be greater than a written reprimand, the LRO shall then assign a pre-disciplinary meeting officer and prepare the Notice of Pre-Disciplinary Conference and packet for the employee and union representatives.
3. The employee shall then be served with the Notice of Pre-Disciplinary Conference and packet (DRC1323 PRE to be utilized when preparing a packet that addresses actions that have occurred prior to the employee signing for the Standards of Employee Conduct (SOEC) effective May 2016; and DRC1323 POST to be utilized when preparing a packet that addresses actions that have occurred after the employee signed for the SOEC effective May 2016).
4. After holding the Pre-Disciplinary Conference, the meeting officer shall complete the Hearing Officers Report (DRC1336 PRE to be utilized when preparing a packet that addresses actions that have occurred prior to the employee signing for the Standards of Employee Conduct (SOEC) effective May 2016; and DRC1336 POST to be utilized when preparing a packet that addresses actions that have occurred after the employee signed for the SOEC effective May 2016) and return to the LRO.
5. The report shall then be staffed with the appropriate appointing authority/designee, APA regional administrator or Bureau chief, and the LRO.

6. The LRO shall then prepare the Notice of Disciplinary Action (DRC2241) or ADM4055 (if applicable for exempt employees).
7. The appointing authority/designee, APA regional administrator/designee, or Bureau chief shall then serve the Notice of Disciplinary Action to the employee and send a copy to the LRO.

C. External Accountability

Incidents which seriously threaten the health, safety, and/or security of a person or institution, including those incidents that might have external ramifications or news media interests, shall promptly be reported to the appropriate regional director. Incidents that may involve the commission of a criminal offense shall be reported to the Ohio State Highway Patrol for their review. An administrative investigation and subsequent administrative action, including disciplinary action against employees or inmates may proceed to the extent it does not interfere with the criminal investigation.

Related Department Forms:

Acknowledgment and Waiver of Right to Representation form	DRC1311
Pre-Disciplinary Meeting Notice	DRC 1323 PRE
Pre-Disciplinary Meeting Notice	DRC 1323 POST
Hearing Officers Report	DRC1336 PRE
Hearing Officers Report	DRC1336 POST
Investigatory Interview Q&A – Union	DRC 1539
Investigatory Interview Q&A – Exempt	DRC 1540
Notice of Disciplinary Action	DRC 2241
Garrity Form	DRC2588
Investigative Report	DRC2641