

Investigation Tip Sheet 3

Things to Consider when Meeting the Investigator

Do not under any circumstances give your notes or the member's notes to the investigator or to management.

Always request a copy of the member's formal statement. You are entitled to this by virtue of Appendix COR 17. (You probably won't receive the notes or audio/video of the interview right away, due to standard investigation protocol as this could taint the investigation process. This highlights the importance of taking really good notes during the interview. You may need to rely on the information early in the grievance process.

If there are any written statements taken, carefully read over the statement make any necessary changes/clarifications. Make sure that you note and sign each page of the statement. This will not apply if the interview is audio taped.

Always take detailed notes of the entire interview with the investigator. It can't be said enough...**this is critical**.

When dealing with the investigator:

Don't be afraid to ask questions of the investigator, ask them about their authority, who hired them, who they work for, their experience.

Ask the investigator to explain or provide copies of any policies/guidelines that outline the investigation process, when you can expect the process to be completed, who will be notified, who gets copies of what etc.

Be very mindful of the following:

When the investigator conducts the interview they control the pace of the questions. Many investigators will often take their time which will create what is called the "uncomfortable silence". They will be observing you and your overall demeanor in an uncomfortable situation.

Do not feel the urgent need to respond with more information. Wait your time patiently.

Remember, more information usually creates more questions. The member can get tangled up or wind up contradicting themselves which can erode their credibility.

Try not to engage in small talk. Keep the process as formal as possible. The Investigator is not your friend. Also keep in mind that they will be observing your behaviour (body language) as well as your responses and demeanor to the questions.

Keep a closetful watch for the “**Big Questions**” such as;

“If I was to tell you that X said this – would they be lying?”

“Please describe your recollection of events...” Questions like this are open ended and can leave your member vulnerable if they have a rambling answer.

Be on the lookout for repeat questions of a specific incident or allegation that are worded differently each time they are asked by the investigator. The investigator will use this type of technique to test or review answers consistency and reliability or to try and trip up the member to erode their credibility.

Credibility will always come into play through the course of an investigation as well as through an arbitration process.

Note: If you get a chance you should go over questions like these in your mock interview to figure out the best way for the member to respond to this type of question.

Special Note: Criminal charges or potential of criminal charges.

The member may be entitled to a consultation with legal counsel on retainer by OPSEU. This could result in funds for legal counsel being provided or funds approved through the Solidarity Reserve Fund. Prior approval must be given. This process is done through your OPSEU Staff Representative. If there is a potential for criminal charges to be laid, this step is critical and should be done as soon as possible.

Be aware of the difference between a Ministry Investigator (CSOI) and a police investigation. You need to exercise caution so that there is no appearance of tampering or obstructing a police investigation. Remember you do not have the same rights and entitlements as a lawyer, especially lawyer/client privilege.

Corrections staff make sure that you have the Investigator note that you are here under duress and that your statement is compelled because of the possible penalties under the Correctional Services Act. On the opening statement make sure that is reflected in the audio recording and in writing, (Admissions or confessions by the accused made under duress to a person in authority, including a manager, are inadmissible at trial - See R. v. Hodgson (1998), 17 C.C.C. (3d) 449 (S.C.C.) at 468



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