

EMPLOYER INVESTIGATIONS

INVESTIGATORY MEETING TIPS – STEWARDS

You should clearly understand your role when you are called on to represent a member during an Employer investigation.

You should have some clear objectives:

1. Find out as much as possible about the focus of the investigation.
2. Find out what information (including documents) the Employer already has.
3. Make sure the member is treated fairly.

BEFORE THE MEETING

- Request a copy of the questions the Employer will be asking the member. Sometimes Employers will agree to this. Ask the purpose of the meeting. Ask if the meeting is disciplinary.
- Ask for copies of any documents the Employer will be relying on. Sometimes Employers will agree to this.
- Meet separately with the member. Ask them if they know or suspect the purpose of the meeting. Take notes of their responses.
- If you have no information about the reason for the meeting, share that with them now.
- Advise them to be truthful but not to volunteer any information beyond what they are asked to provide. Ask them to pause and reflect before answering any questions; and to clarify any ambiguous questions before answering them. If inappropriate questions are asked, inform the member you will be advising them not to answer and will be calling a caucus immediately; they should not respond – you will speak for them at that point.
- Arrange a signal so that they can indicate if they need advice or a break so that you can call a caucus. Counsel the member to remain calm, no matter what is said and not to respond in anger or frustration.
- Reassure the member that the Union will represent them throughout the process as it may unfold – that they are not alone.
- Explain that sometimes discipline is initiated at these meetings while at other times nothing happens immediately, and sometimes issues are clarified and resolved without any further action.
- Be calm and reassuring but realistic and professional. Do not speculate on the strength of the Employer's case or the outcome.

DURING THE MEETING

- Introduce yourself if necessary and explain that you are present to represent the member and that you may advise them on how to respond to questioning. Indicate that you intend to cooperate fully in the Employer's investigation while safeguarding your member's rights.

continued

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INVESTIGATORY MEETING TIPS – STEWARDS *continued*

- Ask the Employer to explain the reason for the meeting. If the Employer is investigating a specific incident they should explain that up front so that there is a clear context for questions that follow. If they are investigating performance issues they should identify them. Do not tolerate “fishing expeditions” such as “did anything unusual happen during your shift on Wednesday?” If a question like that is asked, ask the Employer to be specific. “If you want to know about something that occurred on Wednesday, please indicate what it is and we will be able to respond.” Ask for any copies of any documents the Employer will be relying on.
- Be aware that the relationship between a steward and a member does not have legal privilege like a lawyer/client relationship. If an issue arises that could result in a police investigation, for example, anything that the member tells you could be used in court and you could be called to testify. The same applies to the Employer representatives at the meeting. So if the investigation is heading into that kind of territory, say theft of narcotics or assault, you should inform the Employer that you need guidance from the Union on how to proceed. Do not accept assurances that no such actions are contemplated – other people may make that decision down the road.
- Caucus and call your LRO. If they are not immediately available a duty LRO can be assigned to give you advice, so make sure you get help.
- On more mundane issues just make sure your member is not volunteering any information – they often think a full explanation will clear things up when it actually makes things worse – and get all the information you can from the Employer.

Notes are critical! Include a list of documents requested; track what you have received and what is pending.

Sometimes discipline will be initiated at the end of these meetings. Usually a letter of discipline is given to the employee. If a termination ensues, an employee may be escorted from the premises.

AFTER THE MEETING

- Debrief with the member. They are often distressed and frightened. Remember you are their advocate and representative – this is not a BFF relationship even with people you know well. Do not discuss potential outcomes, stick to process and the resources the Union has to assist members. If those questions persist, defer to the LRO and a later meeting.
- If a member has been disciplined explain that the Union has the ability to grieve the discipline, either to remove it or to reduce it. Sometimes members are embarrassed and do not want to grieve. Explain that these grievances are commonplace and that they have a right to due process and fair treatment.
- For suspensions and terminations, inform the Union immediately. Employers often fail to do so even though they are required to.
- Let your nursing experience and training guide you through the relationship with members and grievors – treat them like patients: respectfully and professionally with a view to their well-being, while respecting your own health and wellness in order to be of service over the long haul.
- Compile your notes and documents right away and store them safely.