



OREGON YOUTH AUTHORITY

Policy Statement

Part I – Administrative Services




Subject:

Professional Standards Office Investigations

<i>Section – Policy Number:</i>	<i>Supersedes:</i>	<i>Effective Date:</i>	<i>Date of Last Review:</i>
D: Personnel Management – 4.0	I-D-4.0 (12/13) I-D-4.0 (12/08)	07/05/2017	07/05/2019

Related Standards and References:	<ul style="list-style-type: none"> ▪ ORS Chapter 244 (Government Ethics) ▪ OAR Chapter 199 (Oregon Government Ethics Commission) ▪ DAS Human Resources Office statewide policy 70.000.02 Management Service Discipline and Dismissal ▪ Collective Bargaining Agreements: AFSCME Local 191; SEIU Local 503 ▪ Oregon Administrative Rules: 416-020 (Offender Grievance Process) ▪ 416-150 (Interviews with Offenders) ▪ 416-180 (Administration of the Juvenile Justice Information System) ▪ OYA policies: 0-A-2.0 (Principles of Conduct) <ul style="list-style-type: none"> 0-A-2.1 (Professional Standards) 0-A-2.2 (Relationship with Youth and Their Families) 0-A-2.3 (Mandatory Reporting of Abuse) 0-A-2.4 (Conflict of Interest) 0-A-3.0 (Harassment-free Workplace) 0-A-4.0 (Drug-free Workplace) 0-A-5.0 (Violence-free Workplace) 0-A-7.0 (Use of Electronic Information Assets and Systems) I-A-10.0 (Preventing, Responding to, and Monitoring Youth Sexual Abuse and Sexual Harassment) I-E-3.2 (Information Asset Classification and Protection) I-E-2.3 (Requests for Youth Information and Records) II-A-1.2 (Preserving Chain of Evidence) II-F-1.0 (Youth Rights) II-F-1.1 (Youth Grievance Process) II-F-3.4 (Youth Use of Telephones) ▪ JJIS policies: Security (Users) ▪ Attachment A: Investigations Decision Tree
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Related Procedures:	None
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Policy Owner: Professional Standards Office Chief Investigator	Approved:  Fariborz Pakseresht, Director
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I. PURPOSE:

This policy describes the role and responsibilities of the Professional Standards Office (PSO) and the process PSO will follow to conduct investigations relating to youth safety and staff and nonstaff conduct, or as requested by the director or director's designee.

II. POLICY DEFINITIONS:

Complaint Review: An informal inquiry into a complaint conducted by the Professional Standards Office, Human Resources Office, or a designated OYA staff member.

Investigation: An objective examination into a complaint or alleged violation of OYA policy, procedure, rules or statutes by OYA staff or nonstaff, usually conducted by an assigned supervisor, Human Resources or Professional Standards Office.

Nonstaff: OYA volunteers, mentors, interns, and service providers under contract with OYA or their agents.

PREA Coordinator: A full-time OYA staff member whose responsibilities include developing, implementing, and overseeing the agency's plan for zero tolerance of sexual abuse and sexual harassment.

Professional Standards Office (PSO): A semi-independent office within OYA that reports directly to the OYA director and is responsible for conducting or coordinating investigations concerning youth safety and allegations of staff and nonstaff misconduct.

PSO Investigation Report: An objective, confidential report containing the PSO investigator's factual findings and internal advisory statements regarding a specific complaint or allegation.

Staff: OYA employees.

III. POLICY:

OYA's mission is to protect the public and reduce crime by holding youth accountable and providing opportunities for reformation in safe environments. To uphold and fulfill the mission, OYA staff must demonstrate the highest standard of conduct. This includes respecting the rights of youth, each other, and community members. These standards and rights are also expressed in the agency's Principles of Conduct and Core Values.

OYA's Principles of Conduct specifically emphasize the value of honesty and truthfulness, reporting illegal and unethical behavior, and upholding the public trust. As such, any staff that has a reasonable basis for suspicion or information of an alleged misconduct is obligated to cooperate with all investigations and render a truthful report.

The Professional Standards Office (PSO) will respond to complaints and allegations of staff or nonstaff misconduct in an objective and expeditious way in order to gather information necessary to respond to and resolve complaints and allegations of misconduct.

Investigations by PSO may, when appropriate, be done in cooperation with law enforcement agencies, the Department of Human Services, Oregon Health Authority, or OYA Human Resources to ensure compliance with state and federal

law, Department of Administrative Services (DAS) and OYA policy, and, if applicable, collective bargaining agreements with Service Employees International Union (SEIU) and American Federation of State, County, and Municipal Employees (AFSCME). Investigations of youth sexual abuse or sexual harassment are in compliance with the Prison Rape Elimination Act (PREA) Standards.

PSO may be involved in responding to complaints regarding contracted service providers or their staff when the complaint is an alleged violation of the service provider's contract, or is alleged nonstaff misconduct. In these incidents, PSO will coordinate a response to the complaint with the appropriate OYA manager/supervisor or designee.

IV. GENERAL STANDARDS

A. Duties and Responsibilities

1. PSO is supervised by and acts on behalf of the OYA director or designee.
2. PSO must coordinate and assist OYA's complaint process by receiving, tracking, or investigating these types of allegations:
 - a) Violation of youth rights;
 - b) Sexual abuse or sexual harassment;
 - c) Boundary issues, inappropriate contact, or relationships with youth;
 - d) Excessive force or abusive discipline of youth;
 - e) On- or off-duty criminal activity by staff;
 - f) Criminal activity by nonstaff when the activity may affect fitness to provide services to OYA; and
 - g) Any investigation requested by the director, or designee.
3. PSO must investigate each allegation/complaint it receives or refer the investigation to the appropriate agency, OYA Human Resources, or the appropriate supervisor/manager or designee.

(See [Attachment A](#): OYA Investigations Decision Tree.)
4. PSO must use the following reporting tools to monitor youth safety and complaints:
 - a) OYA Hotline;
 - b) Youth safety surveys;

- c) Electronic Complaint Form (available on the OYA website);
and
 - d) Data Tracking System.
5. PSO must contact law enforcement agencies in the event of suspected criminal activity by staff or nonstaff and act as OYA's liaison with any law enforcement agency investigating OYA staff or nonstaff.
 6. If PSO receives an abuse complaint that allegedly occurred while a youth was placed in the physical custody of another agency, PSO must notify that agency of the allegation within 24 hours of having received the allegation.
 7. PSO must not terminate an investigation based on the departure of a complaint's alleged victim or perpetrator from OYA's employment or control, or if the source of the allegation recants.
 8. PSO must notify the PREA Coordinator of sexual abuse or sexual harassment complaints to ensure PREA standards compliance.
 9. PSO investigations must include an effort to determine whether staff/nonstaff actions or failures to act contributed to the incident being investigated and must be documented in writing to include investigative facts and findings.
 10. The credibility of an alleged victim, subject, or witness must be assessed on an individual basis. Credibility must never be determined by the person's status as a youth, staff, or nonstaff.

B. Complaint Reviews

1. Reviews of complaints, alleged staff or nonstaff misconduct, or agency actions must be impartial, objective, confidential, and expeditious.
2. Upon receipt and review of a complaint if PSO determines an investigation is unnecessary, PSO may refer the matter to Human Resources and/or the appropriate supervisor/manager or designee for investigation and follow-through.
 - a) PSO receives complaints from a variety of sources including, but not limited to, staff, nonstaff, youth, families, the general public, and other agencies. PSO must respond to all sources by acknowledging the complaint or allegation and advising whether an investigation will be conducted by PSO or referred for follow-up.
 - b) PSO must respond to OYA Hotline calls within 24 hours of retrieval, when possible.

- c) Human Resources or a supervisor/manager must report their findings to PSO for review and record tracking when requested.
3. PSO must close complaint reviews within 60 days of receipt. PSO must complete a complaint review report containing a record of all the investigative activity.

Complaint review reports are classified as restricted information and must be handled according to OYA policy I-E-3.2 Information Asset Classification and Protection.

- a) PSO's investigation and timeline may be suspended if a law enforcement agency begins a criminal investigation regarding an alleged staff or nonstaff misconduct.
- b) If a PSO investigator cannot complete a review within 60 days of receipt of the complaint, the PSO investigator must notify the chief investigator.
- c) The PSO investigator will present the complaint review report to the chief investigator for approval.

C. Investigation of Alleged Misconduct

1. Investigations of alleged staff or nonstaff misconduct must be impartial, objective, and as confidential and expeditious as possible.
2. If the chief investigator determines an investigation is warranted, the chief investigator must consult with the appropriate assistant director prior to initiating the investigation.
3. The PSO investigator may use discretion and interview persons the investigator believes will have relevant information. Those interviewed may include the complainant, witnesses, and the subject staff or nonstaff. All relevant reports, records, information and materials must be reviewed to resolve the allegation objectively and expeditiously.
4. PSO must complete an investigation within 60 days of receipt of an allegation.
 - a) PSO's investigation and timeline may be suspended if a law enforcement agency begins a criminal investigation of the alleged misconduct.
 - b) If a PSO investigator cannot complete an investigation within 60 days of the receipt of the allegation, the PSO investigator must notify the chief investigator.

- (1) The chief investigator must notify the director, or designee, of any further time extensions.
- (2) The investigation report must document the reason for the extension.

D. Notice to Staff Subject of an Investigation

1. Notice must be provided to any represented staff member who is the subject of an investigation in accordance with applicable collective bargaining agreements.
2. Notice must be provided to any management staff member who is the subject of an investigation in accordance with Department of Administrative Services, Human Resources statewide policy 70.000.02 (Management Service Discipline and Dismissal).

E. Interviewing Staff or Nonstaff Subject to a Complaint Review or Investigation:

1. A staff member or nonstaff who is the subject of a complaint review or investigation may be informed of the date, time, location, and purpose of the interview.
 - a) If a staff member is represented by a labor union and chooses to have union representation, it is the staff member's responsibility to notify a union representative of the date, time, and location of the interview.
 - b) Interviews may take place at the PSO investigator's office or a reasonable and appropriate location designated by the investigator.
 - c) Interviews must be conducted at a reasonable time when the staff is on duty, unless the seriousness of the matter requires an alternative time.
 - d) The staff member's supervisor must be made aware of the time and place of the interview, unless doing so would jeopardize the investigation.
2. Interview sessions may be recorded by PSO.

F. Interviewing Staff or Nonstaff Who May Have Information Relevant to a Complaint Review or Investigation

1. A staff member or nonstaff who may have information pertaining to a complaint review or investigation may be informed of the date, time, location, and purpose of the interview.
 - a) Interviews may take place at the PSO investigator's office or a reasonable and appropriate location designated by the investigator.

- b) The staff member's supervisor must be made aware of the time and place of the interview, unless doing so would jeopardize the investigation.
2. If the staff member who may have information about a complaint or other allegation believes answers to questions posed during the interview may incriminate the staff member, the staff member must assert this belief and may ask for union representation and to reschedule the interview.
3. Interview sessions may be recorded if all parties in the interview are informed that the interview will be recorded.

G. Interviewing Youth Regarding a Complaint Review or Investigation

1. Investigators must hold youth interviews regarding complaints or allegations in an area that will not compromise the youth's safety.

Youth must not be interviewed within view or earshot of other youth, or staff who may be involved in the complaint or allegation.
2. Information acquired during a youth's interview is as confidential as possible.
3. Investigators must never retaliate or allow retaliation due to a youth's participation or nonparticipation in an interview.
4. Investigators must follow OYA policy I-A-10.0 Preventing, Detecting, and Responding to Youth Sexual Abuse and Sexual Harassment when interviewing a youth regarding sexual abuse or sexual harassment within an OYA facility.

H. Investigation Findings and Communication

1. A PSO investigator must complete an investigation report containing factual findings at the conclusion of the investigation.

Investigation reports are classified as restricted information and must be handled according to OYA policy I-E-3.2 Information Asset Classification and Protection.
2. The PSO investigator must review the report with the chief investigator. After the review, the PSO investigator must finalize the report and present the report to the chief investigator for approval.
3. PSO staff must forward the factual findings to the appropriate assistant director, superintendent, camp director, field supervisor, Human Resources, manager, and others as appropriate to the investigation.
4. If the final PSO Investigation Report findings indicate unfounded,

unsubstantiated, or substantiated as proper conduct, PSO must notify the staff or nonstaff subject of the investigation within 10 business days after the report is final.

- a) PSO must provide written confirmation of the findings.
 - b) PSO must retain a complete record of the investigation, including the report and related materials.
5. If the PSO Investigation Report identifies staff misconduct, the findings must be referred to Human Resources. Human Resources must inform the staff member subject of the investigation in writing of the report findings and any subsequent action that may take place in accordance with relevant collective bargaining agreements and laws.
 6. The PSO chief investigator must ensure a youth who is a victim of an abuse complaint or allegation is notified of the results of the investigation.
 7. The PSO chief investigator must ensure that alleged unethical or criminal misconduct involving the director is brought to the attention of the Department of Administrative Services, or the Governor's Office.

I. Records

1. PSO Case Management System
 - a) PSO must maintain a database accessible only by PSO staff. Other OYA staff may be given access based on a specific need, as determined by the chief investigator, director, or designee.
 - b) The purpose of the database is to serve as a record control device. It must maintain an inventory of complaints and investigation cases for case history and data analysis.
 - c) PSO staff must record all complaints and allegations described in this policy in the database. Entries must record the basic information on each case, including alleged subjects, allegations, complainant information, date complaint received, investigator assigned, disposition and disposition date for each complaint. A unique case number must be assigned to each complaint or allegation to simplify case tracking.
 - d) PSO investigators must impose a preponderance of evidence standard when determining whether any youth sexual abuse or sexual harassment complaint or allegation is substantiated.

2. PSO Investigation Records

- a) PSO staff must create a PSO investigation record for all investigated complaints received. The PSO investigation record must contain the entire work product of the investigation. This may include, but is not limited to:
 - (1) Investigator reports;
 - (2) Transcripts of statements;
 - (3) Copies of all documentation relevant to the investigation; and
 - (4) All related material from other agency incidents as may be applicable.
- b) PSO investigation records must be kept separate and distinct from personnel files. All records are subject to public records laws.

3. Records Retention

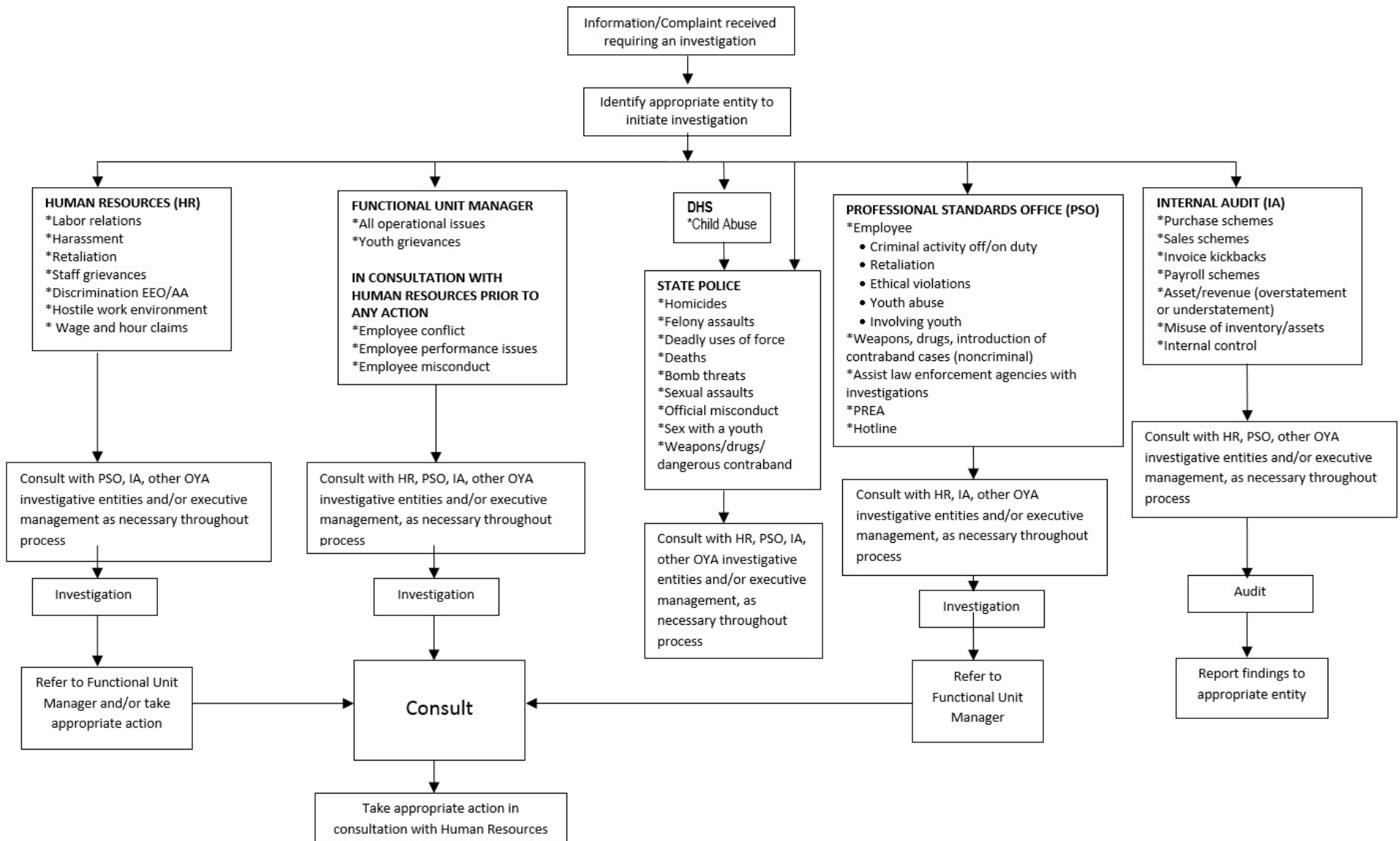
- a) PSO investigative records as they relate to a particular OYA staff must be retained for the career of that staff, plus 20 years.
- b) Records related to other issues must be retained for 20 years from the date of investigation closure.

J. Other Reporting

1. PSO must report the findings of an investigation to specific state agencies and relevant licensing bodies as required by law or as determined by the director, or designee.
2. PSO must prepare periodic reports for the director, or designee, that summarize the nature and disposition of all complaints received by PSO for data analysis.
3. Other generic or statistical reports may be prepared as necessary.

V. LOCAL OPERATING PROTOCOL REQUIRED: NO

Attachment A: OYA Investigations Decision Tree



Functional Unit Manager: Any person within OYA who reports either to the director, deputy director, an assistant director, or an administrator and has responsibility for the delivery of program services or the coordination of program operations.