

SPECIAL INVESTIGATIVE UNIT

Policy 4.9 Employee Disciplinary Guidelines

Workshop 2
May 15, 2018

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Collaborative Process to Recommend Revisions to Policy 4.9

- Meetings held with interested parties to update and improve Policy 4.9
- Issues and concerns identified and discussed by all parties
- Obtained agreement on many issues and improvements for the way forward
- Draft policy document developed for review at workshop



Policy 4.9

- **Primary Changes**

- Clarification that employees should not be disciplined for work performance matters that are covered in their evaluations – only issues outside of evaluation that rise to serious misconduct or criminal
- Terminology clarifications from probable cause to just cause for administrative cases, **and discipline to corrective action to support employees' workplace success**
- Identify matters excluded from Policy 4.9 such as fact-finding handled at the site and SBBC Policies 2400, 2405, 4002, 4100 and 4101
- Clarification of definitions, case milestones and when an investigation is completed
- Transition from working days to calendar days for requirements
- Document current practice that SIU Chief can close an unfounded case
- Clarification that subject matter experts may be consulted during case (**both sides**)
- Post PSC review process to ensure consistency of corrective action recommendations



Issues of Consideration Raised @ January 23, 2018 Workshop

- **Labor Groups**

- Calendar days for employee written response to allegations and Investigative Report do not include days for scheduled school breaks
- Opposed Employee & Labor Relations presence being added to PSC
- Use of electronic delivery/communication for delivery of Investigative Report – prefer “and” instead of “or”
- Right for representation when providing statements to investigator(s) not referenced
- Use of “gross insubordination” for failure to fully cooperate and providing false statements during investigative process
- Prefer higher standard of Just Cause - “clear and convincing” vs. “preponderance of evidence”

- **Board Members**

- Identify individuals assigned as designees
- Limit number of decision makers with respect to granting extensions
- Address terminology of “gross insubordination”
- Clarify use of subject matter experts
- Fine tune issues raised by public speakers
- Reorient staff to policy revisions prior to end of school year



Follow-Up Conversation with Labor Groups

Issues Raised

- Exclusion of federal law as applicable to “felony” criminal offenses
- Desire for higher standard for Just Cause - “clear and convincing” instead of “preponderance of evidence”
- Right for representation during interview with investigator
- Perception of misuse and abuse of “gross insubordination”
- Define all designee roles
- Provide designated representative a copy of Investigative Report
- Employees’ use of subject matter experts
- Grievance procedures following Superintendent’s decision of PSCs recommendation(s)
- Identification of PSC members – ensure subject matter experts are also represented
- Greater specificity of PSC recommendations for corrective action
- Face to face meeting to further discuss issues



Policy 4.9 Revision Conclusions

Consensus



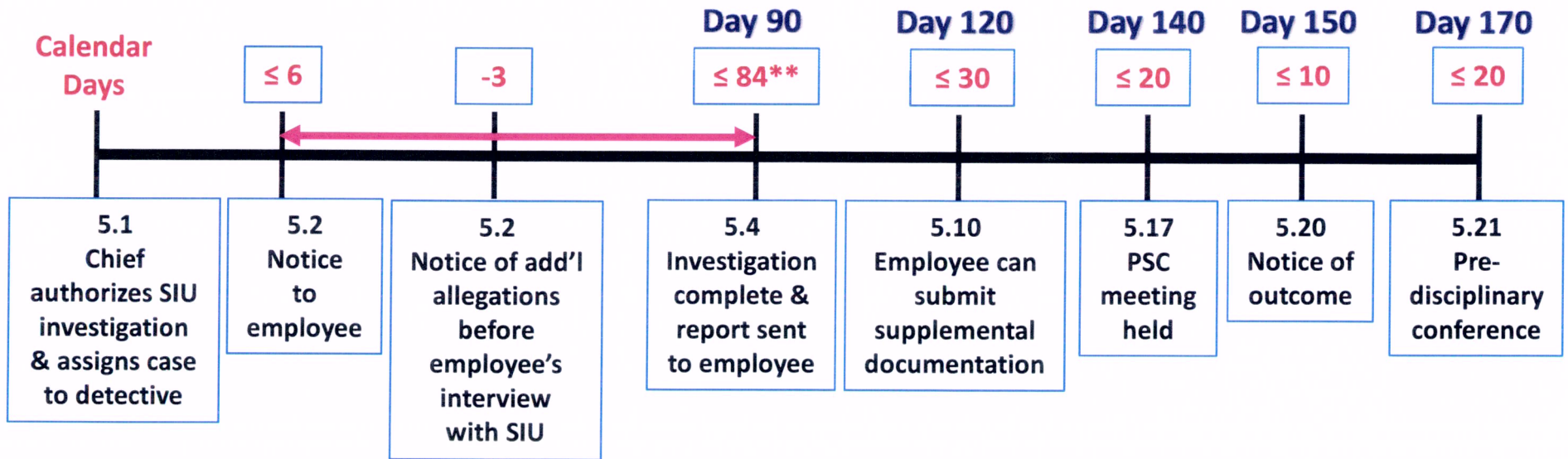
- **Policy title change to 4.9 CORRECTIVE ACTION**
- **Definitions** - Added language to clarify potential actions for “felony” criminal offenses
- **4.2** - Changed language from “will” to “may be deemed gross insubordination” and added statements to include employees’ rights for representation and protections afforded by *Garrity*
- **5.1, 5.2, 5.10, 5.18, & 5.19** – Defined SIU Chief designee as “SIU Major”
- **5.9** – Added “...and his/her designated representative...” to receive a copy of Investigative Report; also changed language from “or” to “and” relative to electronic delivery
- **5.13** - Added “The employee may consult and utilize independent consultants at the employee’s expense.”
- **5.14** – Added “When the grievance procedure is applicable, grievances may be filed directly with the Employee and Labor Relations Department.”
- **5.15** – Agreed to provide placards during PSC meetings that identify members’ titles
- **5.20** – Added “...including the recommendation on each allegation and the corresponding corrective action...” to provide specificity to PSC recommendations
- **5.21** – Clarified SIU Personnel Investigator as designee for Chief of SIU to receive employee’s reasons and additional information to dispute PSC recommendation(s)

Differences

- **Definitions** - Desire for higher standard for Just Cause - “clear and convincing” instead of “preponderance of evidence”



Timeline for SIU Investigations



**Does not include days between last day of school year and first day of next school year.

This timeline represents the maximum duration of an SIU investigation barring an authorized extension.



Questions?



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