

We empower you to make the most of your public service career

What's Inside

This MyInfo sheet provides answers to some of the commonly asked questions about investigations in the BC public service.

The contents of this sheet are based on our extensive experience supporting our members who are facing an investigation as either a complainant, respondent, or witness.

Some of the ideas presented in this MyInfo sheet include:

- How the BCEEA can help
- How investigations are conducted
- Preparing for an investigation

Investigations in the BC Public Service

How the BCEEA Can Help!

No matter what your role is in an investigation, if you are a BCEEA member, we can help you with all aspects of an investigation. We can assist with preparation for investigation meetings, answer questions about the process, and attend meetings to support you and take notes on the proceedings. A BCEEA representative can also raise concerns about the timeliness of the process with appropriate parties. **If you are involved in an investigation, please call us right away!**

Why Am I Involved in an Investigation?

BC Public Service Agency (BCPSA) policy requires that allegations of BC Public Service employee misconduct should be taken seriously. More information on investigations can be found on the PSA site [here](#).

Investigations are initiated because an employee has raised a serious concern about a supervisor, colleague or another person employed in the BC public service.

An employee does not have the discretion to circumvent the process outlined in the [Standards of Conduct for Public Service Employees](#). To do so, would put the employee at risk of being the subject of an investigation and having disciplinary action taken. Should you not be sure if the information you have falls under this category, seek assistance from the BCEEA or your supervisor immediately.

Common Reactions to an Investigation

Most members find that it can come as a shock to receive a

letter notifying them of their involvement in an investigation.



Investigations can be one of the most stressful experiences you can have during your career regardless of your role. BCEEAs members react to investigations with a range of understandable emotions including fear, anger, and confusion. **We have never seen a member who felt an investigation was a good experience.**

Once employees have submitted complaints and/or have been notified that a matter is under investigation, they cannot discuss anything related to this matter with anyone other than their support person, spouse (privately) or the investigator. They cannot contact witnesses and they cannot discuss the matter with the complainant. Because of these requirements, investigations can be very isolating as you will not be able to discuss the details of the matter with anyone in your workplace.

Sometimes respondents are shocked to learn that someone has made a complaint against them. It is important to avoid reacting in an “over the top” manner. Even though you’re emotionally wrought, you’ll need to pay attention to pragmatic details that are critical to your future.

The BCEEAs has a wealth of experience in this area, and we can help you with all aspects of an investigation.

Who Leads an Investigation?

Investigations in the BC public service follow a prescribed process. Investigations can be led by BCPSA approved investigators, such as lawyers, an investigator from the BCPSA or a ministry investigator. Generally, a ministry will conduct their own investigation when the allegations, if substantiated, would not result in dismissal, removal from a position or other serious actions.

Not all topics brought forward for investigation are equal in seriousness. It is important to note that allegations of wrongdoing must be reported directly to the Deputy Minister of the Ministry. Allegations of wrongdoing include contravention of the law, misuse of public funds or assets, presenting a danger to public health and safety, or a significant danger to the environment.

Who is the Investigator and What Do They Do?

In our experience one of the most commonly question we receive is about who will conduct an investigation. This is particularly the case for individuals who have been identified as a respondent as they may be concerned about the impartiality of the investigator. Investigations can be conducted by either a ministry representative or by a BCPSA appointed person from either the BCPSA or an external agency. If the supervisor is involved in the complaint, then another person unaffiliated with the matter will be chosen as an investigator.

Outside investigators are often chosen from a pre-approved list coordinated by the BCPSA.

How to Respond

- Feelings of shock, fear, anger, and isolation are common
- Save reactions for trusted people
- Talk to the BCEEAs. We can help.



Most of these individuals have legal training and experience in conducting workplace investigations.

An investigator will usually conduct interviews with individuals relevant to the case including the complainant, witnesses, and the respondent. The investigator will also review all relevant documents. Once the evidence has been reviewed, the investigator will assess the “findings of fact” to determine if the allegations are supported. See the [BCPSA](#) for more information on how investigations are conducted.

The investigator must also ensure that the investigation is conducted in a timely manner.

How Long Does an Investigation Take?

In our experience investigations are sometimes completed in a reasonable amount of time (e.g. three months). Other investigations can take much longer because of a variety of factors that are difficult to predict.

What will happen to me during an investigation?

It is the responsibility of the employer to make sure that the discomfort of the allegations does not cause further damage. For this reason, you may be reassigned to another position until the matter is resolved.

On rare occasions, an employee may be suspended pending the conclusion of an investigation. Suspension usually only occurs where the allegations are extremely serious and there are overarching issues such as safety or security concerns. The suspended employee is usually the respondent, and excluded employees are suspended with full pay and benefits.

Preparing for an Investigation

- ✓ Create your own chronology of events
- ✓ Ensure you have all the details, including times, dates, actions, tone of voice, body language
- ✓ Identify any witnesses with first-hand experience of the incident(s)
- ✓ Work with the BCEEa to prepare

How Do I Prepare for Meeting With the Investigator

How you prepare can depend on the individual circumstances, but the primary goal should be to create your own chronology of events.

It is important to remember that the investigator is trying to establish what incidents took place and if those incidents provide a sufficient basis to support or refute the allegations. Your chronology needs to be detailed with dates, times, locations, and what actions took place, what was said, and any descriptions of tone, body language, etc. It is also important to identify if there were any witnesses to these events.

We can work with you to prepare this chronology and to help you differentiate between your assumptions about an individual's intentions and what actually happened. This last step is a crucial part of preparation for the investigator's interview questions.

It is also important to prepare a list of witnesses who may have first-hand, relevant information about any of the allegations. "Hearsay" evidence is not permitted in an investigation. For this reason, it is important to accurately describe a witnesses' knowledge of the situation.

While respondents may want to identify "character" witnesses to counter any adverse impressions the investigator may have, unless these witnesses have relevant information about the allegations, they will likely not be interviewed.

What Happens in an Investigation Meeting?

The Investigator will meet separately with the respondent, complainant and witnesses and will present you with a set of questions that you must answer in as much detail as possible. All participants can be accompanied by a support person including a BCEEa representative. During the meeting, support persons are not permitted to answer questions on behalf of respondents, but you can confer privately with your support person during the meeting. If the investigation interview is conducted in person/onsite, the employer should provide a private place to meet. You can also ask your spouse, partner, or friend to attend, provided they agree to keep the proceedings confidential. You cannot, however, have more than one support person accompany you to meetings.

The investigator always records the meetings and is the only participant permitted to do so. This requirement is meant to protect the privacy of all participants including anyone not previously identified as part of the investigation. Participants and support persons can take notes of the proceedings. We recommend that both you and your support person take detailed notes.

Over time we have observed that one of the most difficult parts of an investigation is the first part of the initial interview with the investigator. If you are a respondent, at this point in the process, the investigator's questions are based almost entirely on the information provided to them by the complainant. As a result, BCEEa members have reported feeling accused or attacked by this process. It is important to remember that the investigator is seeking accurate information about what took place. If you are the complainant, the investigator will ask probing questions to get sufficient detail to both understand the substance of the complaint and to formulate questions of other interviewees. The

The Investigation Meeting

- Investigator will meet with you in private
- Bring a support person and take detailed notes
- Investigators will take notes and record the meeting
- Investigators will ask probing questions. Be prepared.
- Investigators will identify a timeframe for conclusion of the investigation.



investigator will press respondents and complainants for details and may challenge their answers if there is conflicting information.

At the end of the meeting, the investigator will identify a timeframe for participants to provide additional information requested of them, or for participants to identify additional information they would like to submit. The investigator may schedule a follow-up meeting with both the complainant and/or respondent to clarify any discrepancies that have arisen in the investigation.

How Does an Investigator Arrive at a Decision?

At the conclusion of the process, the investigator will review and analyze all information gathered during the investigation and evaluate the credibility of participants. This review will result in “findings of fact” based on a “balance of probabilities”. The balance of probabilities is the standard of proof for workplace investigations and is interpreted to mean that there is more than 50% likelihood that an allegation is either substantiated or unfounded. Findings are also measured against the [BC Public Service Standards of Conduct](#), collective agreements, applicable legislation and government policies. See the BCPSA [handout](#) on investigations for more information.

How Will I Find Out About the Decision?

Once the process is complete, the investigator will provide a report of their findings to employee relations staff in the BCPSA who will review the report for completeness. The report is then shared by a BCPSA human resource specialist with the appropriate decision-maker in the workplace/ministry. The BCPSA human resources specialist will discuss options and recommendations with the decision-maker.

A ministry person responsible for decisions about the outcome of an investigation, will hold separate meetings with the complainants and respondents. The decision maker will provide a verbal summary of the findings and discuss any action arising from the findings specific to everyone involved.

Where are Investigation Documents Kept?

Any documents related to the investigation will not be kept in an employee’s personnel file. The only documents added to a personnel file are any actions taken by the decision maker because of the findings of the investigation. These documents could include a Letter of Expectation, Letter of Reprimand, Suspension letter, Demotion letter, or Termination of Employment letter.

Documents related to the investigation, including the final report, are held by the BCPSA. These documents include invitations to meetings, any correspondence between the investigator and the employee, and any documents relating to suspension pending conclusion of the investigation.



GLOSSARY OF TERMS

Allegation: This term refers to a claim that someone thinks or makes that is not yet proven.

Balance of Probabilities: The standard of proof for workplace investigations. It means that it is more likely (more than 50%) than not that an event occurred and allows for findings to be reached at the conclusion of an investigation.

Complainant: The person who submits the complaint or brings forward the information that begins the investigation process.

Confidentiality: The duty not to share information created or received in private without explicit permission of the individual the information is about, or the employer who is conducting the investigation.

Credibility: The quality of being trusted and believed.

Due Process: A requirement that matters be resolved according to established rules and principles and that individuals be treated fairly. Sometimes referred to as administrative fairness.

Fact: A fact is an event or statement that what happened is an objective truth. Facts are typically proven through a variety of methods and once established are accepted by all parties involved in the matter.

Hearsay: Information received from other people that one cannot adequately substantiate because they did not see or hear it firsthand. Hearsay is not admissible as evidence in investigations.

Inference: When two or more related elements from an investigation are drawn together with an individual's reasoning and evidence. Also known as an "educated guess."

Natural Justice: The right to a fair and objective investigation process conducted by an impartial individual. This means that the respondent receives adequate notice of the allegations against them and can present their case.

Relevance: This term refers to information or evidence that can prove a matter of fact significant to the investigation.

Respondent: The person accused of the violation or misdeed in a complaint.

Retaliation: This term refers to any form of intimidation, threats, coercion, discrimination, or adverse employment action because an individual has brought forward information or is participating in an investigation.

Witness: A person having knowledge of an event or information under investigation, either from observation or personal experience.

Workplace Investigation: Objective, independent and systematic process of gathering facts about a particular incident that either occurred at work or outside the workplace that has an impact on the workplace. Once collated, the facts are analyzed and based on a balance of probabilities, final conclusions are reached.

