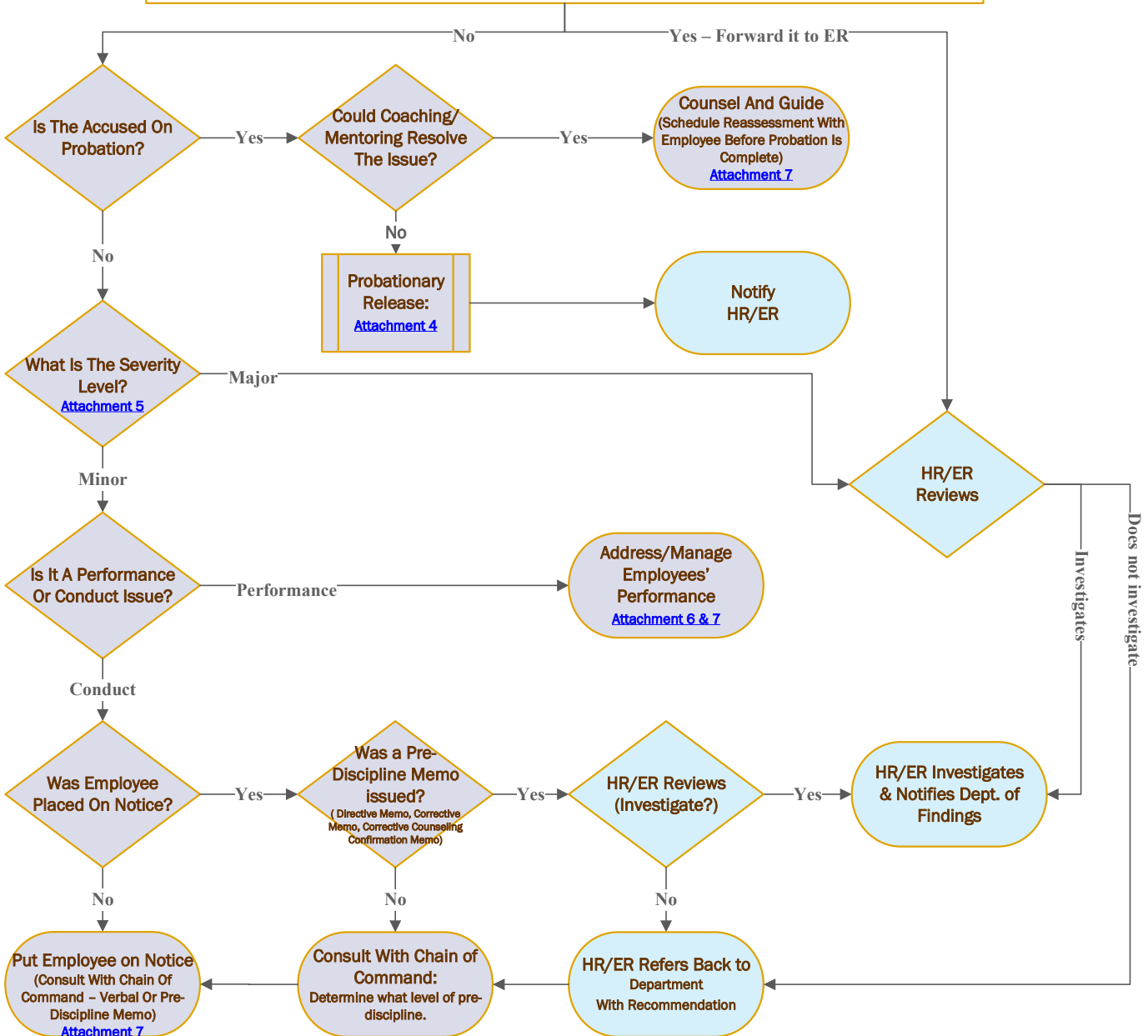
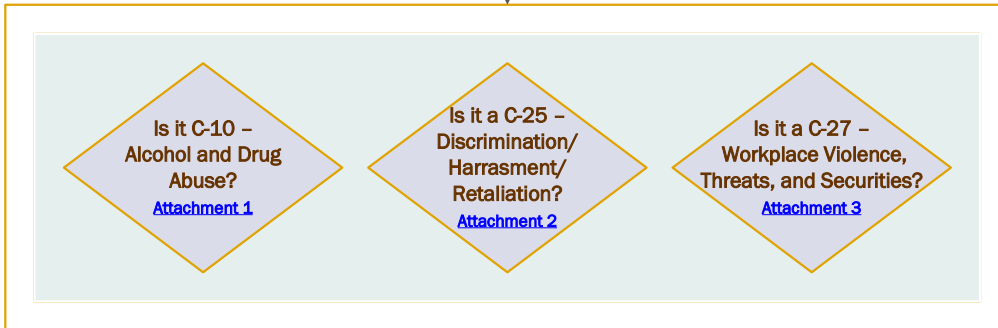


Disciplinary Process Guide

Consult with ER as needed throughout the process



Is it a violation of any of the following Board Policies?



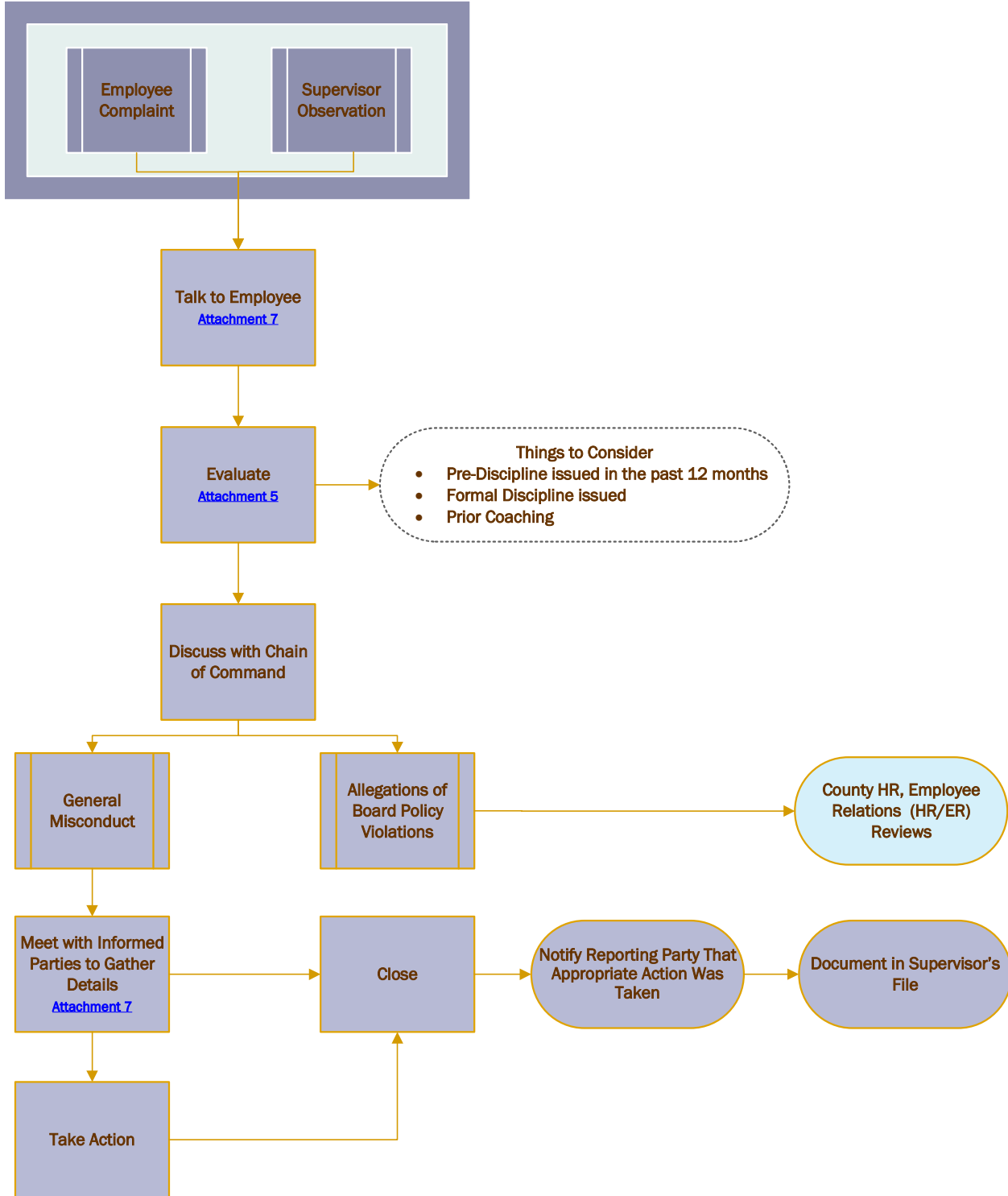
Note to supervisors: During the ER review/investigation of reported issue, all unrelated conduct/performance issues with complainant/accused should be addressed independently of the issue being reviewed by ER. If a new issue arises that is related to the issue under review/investigation, consult with the assigned investigator for guidance.

Legend

Department Actions
County Human Resources,
Employee Relations (HR/ER)



Supervisor/Manager Receives Information



Legend

Department Actions
County Human Resources, Employee Relations (HR/ER)

ATTACHMENT 1



Board Policy C-10 – Alcohol and Drug Abuse

In accordance with Board Policy C-10, employees must be able to efficiently and safely perform their job while on duty, in the interests of their coworkers and the public, as well as themselves. For prescription medications, employees are required to notify their supervisor, before beginning work, when taking medication that may potentially interfere with the safe and effective performance of their duties or operation of county equipment.

Supervisors who believe that their employee may be under the influence of drugs and/or alcohol are required to complete a [Drug or Alcohol abuse Observation Form](#). Another supervisor or manager should also observe the employee and complete the Observation Form. **After completing the Observation Forms, if you believe that your employee is under the influence, contact the County Human Resources Employee Relations or Safety Office immediately for guidance on next steps.**

Employees who submit to a drug and alcohol screening are not allowed to return to work until test results are received. During this time, employees can use their own leave banks or AWOP. Once test results are received, if negative, employee is returned to work and leave banks are restored. Employees who test positive, will be placed on paid administrative leave or returned to work to be monitored by their supervisor and County Human Resources will conduct an investigation.

The Drug or Alcohol abuse Observation Form, along with a [Supervisor's Guide to Alcohol & Drug Abuse](#), can be found at the [Riverside County Leadership Library](#) in the Employee Relations section.

Board Policy C-10, Alcohol and Drug Abuse can be found at: <https://rivcocob.org/board-policies>. Visit the COR Learning website at <http://corlearning.rc-hr.com/training-login> to sign up for Disciplinary Process Training, which includes a segment on this policy.

A Safety Division employee is on call 24/7 at (951)955-3520 to answer any alcohol/drug abuse questions. If nobody answers, leave a message and someone will call you back.

ATTACHMENT 2



Discrimination/ Harassment/Retaliation

It is important that supervisors and managers understand what is considered discrimination/harassment/retaliation under Board Policy C-25 to determine when an employee issue is truly a possible violation of Board Policy C-25.

- Definitions:
 - **Discrimination** - is the disparate or adverse treatment of a person or applicant based on the group, class, or category to which that person or applicant belongs rather than on individual merit. Group, class, or category includes, but is not limited to, race, color, national origin, denial of family and medical care leave, sex, age, disability (physical and mental), medical condition, marital status, military and veteran status, sexual orientation, gender (including gender identity and gender expression), or any other legally protected classes under state or federal law.
 - **Harassment** - can be a form of discrimination if it is unwelcomed and is sufficiently severe or pervasive and objectively offensive so as to substantially interfere with terms, conditions, or privileges of employment. Harassment may be verbal, physical, visual, or sexual.
 - **Retaliation** - taking adverse employment action against an employee because of the employee's protected activities. Adverse employment actions may include but are not necessarily limited to denial of a promotion, refusal to hire, and/or imposition of discipline.

Employee issues that do not fall under these definitions are likely not going to a violation of Board Policy C-25. All C-25 complaints received by County Human Resources are reviewed to determine if a C-25 investigation is warranted. If not, the complaint will either be investigated as a general misconduct complaint or returned to the department for internal resolution. If you are unsure if the issue falls within a protected category, contact County Human Resources.

- Examples of what **is not** discrimination and/or harassment:
 - Susie was yelling at me in front of my coworkers and I was embarrassed.
 - I have a new supervisor and she has placed me on a PIP.
 - Ed comes in every morning and says hi to everyone but me.
- Examples of what **is** discrimination and/or harassment:
 - Supervisor was counseling a female employee over 40 regarding her failure to meet standards and told the employee, "this is why I don't hire employees over 40."
 - Joe will frequently attempt to massage Betty's shoulders even though she has told him to stop.
 - Mary told an employee transitioning from female to male that he couldn't use the men's restroom.

Board Policy C-25, discrimination/harassment/retaliation can be found at: <https://rivcocob.org/board-policies>.

Visit the COR Learning website at <http://corlearning.rc-hr.com/training-login> to sign up for Management Harassment Prevention training. **This training is required every 2 years.**

ATTACHMENT 3



Board Policy C-27, Workplace Violence, Threats, and Securities

It is the policy of Riverside County that there is a zero-tolerance standard for all threats and violent behavior in the workplace. The intent of the zero-tolerance standard doesn't result in automatic termination of an employee who violates the policy, only that some form of disciplinary action will occur.

If there is imminent danger, immediately call 911, your management, and the Human Resources Safety Office at (951) 955-3520 – a person is available 24/7.

Any report of workplace violence must be reported immediately to your management, your Human Resources contact, and the Safety Division of Human Resources. In addition, incidents of workplace violence should be reported on SOP Form 2010-1, attached to the Board Policy. Copies of the SOP Form 2010-1 should be forwarded to your chain of command and to the County Human Resources Safety Office via email. Once the Safety Office receives the SOP Form 2010-1, they will conduct a threat assessment on the incident and notify the Human Resources Business Partner, the Employee Relations Portfolio, and Critical Incident Response Team (CIRT) whether the threat was Significant, Questionable, or No Significant Threat.

Board Policy C-27, Workplace Violence, Threats, and Securities can be found at: <https://rivcocob.org/board-policies>.

Visit the COR Learning website at <http://corlearning.rc-hr.com/training-login> to sign up for Violence in the Workplace for Managers and Supervisors training.

ATTACHMENT 4



Justification for Probationary Release or Return to Former Class

(Provide the following information to Employee Relations at HRInvestigationsUnit@rivco.org)

Request Type: Probationary Release Return to Former Class

1. Name of supervisor/manager preparing the justification.
2. Name of the employee and ID.
3. Is this a time sensitive request requiring the release within two (2) business days of when Employee Relations receives the request? If so, please provide information as to when the employee must be released and why the release must happen by that date.
4. Date employee was hired/promoted.
5. Union affiliation, and is this an initial probation or a promotional probation period? (Refer to the employee's [Memorandum of Understanding](#))
6. Reason(s) for the release: Attendance Behavior Performance and/or Other Misconduct
7. Has the employee been placed on notice about the department's expectations and the concerns/issues that led to this decision?
 - a. Was the employee counseled regarding the issues and your concerns? Did you provide them with clear directions of your expectations going forward and the requirement for improvement?
 - i. Provide details regarding the date(s) of when they were placed on notice, the incident(s), what the employee was told to do going forward, and the employee's response.
 - ii. Include dates of the incident(s) and of any remedial action(s) taken such as counseling/coaching/training/etc.
 - iii. Describe how the employee has continued to repeat the same errors or behavior, thus showing a failure to improve despite your counseling. Be sure to include the date(s) of the incident(s) to show that these were subsequent to the remedial actions previously taken.
 - iv. Attach any available supporting documentation (proof of trainings, coaching, meeting agendas, sign-in sheets, emails, etc.)
8. Or is the behavior or conduct so egregious that it warrants release without prior counseling and/or opportunity to improve?
 - a. Briefly describe the incident and why it is considered egregious, and how it impacted the department.
9. Are you aware of any formal or informal complaints, reports, or comments made by the employee regarding their work environment or other individuals, unsafe working conditions, Workers' Comp claims, medical conditions impacting their job performance, need for an ADA Accommodation or Leave of Absence?
 - a. If so, provide information about what the employee said and when, and what action(s), if any, the department took to address them.
10. Have you received approval for the release or return to former class from your chain of command?
 - a. Provide name/title of the highest approval received.

ATTACHMENT 5



Major and Minor Disciplinary Issues

Some general things for supervisors and managers to keep in mind when deciding the level of action to take and when to contact County Human Resources. There are relatively minor instances which result in large consequences, as well as incidents which on the surface seem especially egregious or extreme yet are best handled with a corrective conversation. However, for standard employee actions or inactions, the general recommendation for supervisors and managers is:

- 1) First occurrence = verbal counseling;
- 2) Second occurrence = Directive Memorandum (DM);
- 3) Third occurrence = Corrective Memorandum (CM) or Corrective Counseling Confirmation Memorandum (CCCM).

* All incidents should be documented in the supervisor's working file. Documentation should include what occurred and specifically what should be corrected.

The County follows progressive discipline, however, depending on the nature of the conduct or behavior may warrant a higher level of discipline.

Examples of minor employee issues:

- Disrespectful behavior (not treating co-workers/customers respectfully, name calling, gossiping, rolling eyes, poor attitude, etc.);
- Behavior which reflects negatively on the Department or County (e.g., first offense for violation of speed limit in County vehicles);
- Not returning phone calls on time;
- Customer complaints/poor customer service;
- General case management negligence, for example, timely submittal of data requests;
- Absenteeism/tardiness;
- Dress code violations;
- Untimely submittal of work product.

Examples of major employee issues:

- Actions by any employee involving sexual harassment, discrimination, retaliation, or workplace violence should be brought to County Human Resources immediately for determination, even if considered mild;
- Using case management or IT systems for inappropriate/personal use;
- Direct insubordination of an employee when instructed to perform a task;
- Extreme neglect of duty, for example, being arrested for a crime while on duty;
- Failure to contact customers, impacting their safety or wellbeing;
- Blatant dishonesty;
- Gross misuse of County property, including stealing;
- Using demeaning language with customers, clients, or co-workers, for example, racial epithets;
- Under the influence of alcohol or drugs in the workplace;
- Continued pattern of minor employee issues.

ATTACHMENT 6



Performance Evaluation Guide

- Examples, errors, or areas of a deficiency referenced in the evaluation should not be a surprise to the employee. You should be able to reference dates in the evaluation where you discussed or placed the employee on notice of your concerns.
- The dates referenced in the evaluation should correspond with the evaluation period.
- If you are referencing a policy within in the evaluation, it should be included as an attachment to the evaluation.
- If referencing an email within the evaluation it should be included as an attachment.
- Every section where the employee is rated at a “below” in the competency, the notes must include description of the impact to the unit, department, or customer. If they are a “meets” in a category, notes are optional, but you can provide directions for improvement if the rating is borderline meets.
- In every below category, include two or three examples with actual dates the errors occurred or when they were discovered. If there are 25 errors, you do not have to detail all 25 errors, but can document two or three errors and then state that they had 23 similar errors throughout the evaluation. Dates should be double checked for accuracy.
- Refrain from switching audiences throughout the evaluation. For example; On 5/9/18, **you** did XYZ. On 5/12/18, I counseled you and gave you tools to use for XYZ. On 6/15/18, **she you** continued to make the same error. On 6/19/18, **the Office Assistant -!** you made the same mistake. Refer to the employee as “you” or by name, for example: You did not... or John, we have discussed...
- The information entered into each category should correspond with the competency. For example: In Record Keeping – it should address their deficiency in recording keeping and not the employee’s substandard performance conducting interviews with clients.
- Each acronym must be spelled out. An arbitrator does not know specific county or department acronyms.
- The evaluation needs to be clear on what constitutes an exceed, below, or meets rating.
- Some Evaluation Forms have limited space in each competency to document all pertinent information to support the below standard comments. Therefore, it is acceptable to state: see addendum and document all the information in the addendum.
- An example of a good format to document in each competency that is below standard would be the following:
 1. Note the error(s), including dates and specific examples
 2. Note how the employee was made aware of the error(s)
 3. List the tools or resources the employee was given to correct their mistakes
 4. Dates the employee continued to make the same errors, despite being counseled
 5. Describe the impact their errors made on the unit/department.

- When drafting the Performance Improvement Plan (PIP) be specific on what action you want the employee to take going forward. The employee should be able to clearly read what steps they need to take to improve their performance over the next 60 days. The “Specific Improvement Expectations” section of the PIP should be customized to reflect the below competencies on the performance evaluation. The [PIP template](#) provides a list of competencies for reference only, and your draft must reflect the actual competencies listed on the employee’s performance evaluation that were rated below standards.
- Below standard evaluation needs to be approved by the employee’s Chain of Command before it is sent to HR for review and approval.
- Once the Evaluation and PIP are approved, County HR will draft the disciplinary document that will accompany the final evaluation and PIP.

ATTACHMENT 7



Pre or Formal Discipline Assessment Tips

These tips are intended to assist supervisors and managers on areas to consider when gathering information to determine if a workplace situation requires consultation with your chain of command and/or if the scenario warrants a referral to County HR. Note that each situation is unique, and this serves only as a guide.

Have conversations with your Chain of Command

When situations arise in your workplace, address them timely and thoroughly. Discuss situations that you believe would warrant some type of pre-discipline or discipline with your chain of command first. If your chain of command determines that County HR should be consulted, send an email to the Employee Relations Team at HRInvestigationsUnit@Rivco.Org with the following details regarding the situation:

- Employee Name(s) and ID(s)
- Date of the incident(s) and details of what happened
- What are the concerns?
- Who in your chain of command is aware of the situation? And have they indicated how they would like to see this resolved?
- Is this conduct/behavior that has been addressed previously, and if so, when?
- Has prior discipline or pre-discipline been issued to this employee(s)? (Attach any memo issued to employee)

When do you start your assessment?

If you observe, are made aware of, and/or know of an incident that violates policy, law, and/or practice, you should gather additional information to determine if or what corrective action is necessary.

It is important that when you become aware of an incident, you address it timely. Depending on the situation, this can be immediately and/or as soon as it appears reasonable.

If the incident in question appears to be egregious in nature, contact your chain of command and/or County HR prior to gathering additional information.

How should you gather additional information?

First, you should be objective; you are only interested in what happened, when, where, who was involved and what the policy/practice violation is or may be.

- You should first meet with the person who you observed or the person who brought the information to you. For example, if you observed an employee coming in late, you should talk to the person coming in late. If a person comes to you and states someone else is continually arriving to work late, you want to gain more information from the person bringing you the information.
- Meet the person in a private location, usually in an office or conference room, and TAKE NOTES
- You want the person to provide you as much information as possible:
 - What EXACTLY is the incident?
 - When did it happen? How often? Obtain date and time if possible.
 - Did the person personally witness the incident or is this a spokesperson?

- Where did it occur, and who else is involved?
- If needed, ask the person if he/she is willing to write a statement and sign it.
- If there is policy on this incident, review and/or provide a copy to the person.
- You are to thank the person for the information and inform them that you will look into the incident. DO NOT share any specifics and/or final dispositions of the process.
- Continue to meet with applicable people, asking them the same questions.
- If your conclusions do not require County HR input, circle back with your chain of command to support your conclusions and then the initial person who brought the information to you. Inform the person that appropriate action has been taken. Do not inform the person if, or what, disciplinary action was taken as this is considered confidential information.
- If your conclusions do require County HR input, with the support of your chain of command, you will reach out to County HR for consultation on next steps by emailing your assigned Employee Relations team.
- If someone confesses something to you that you feel might be cause for discipline, let them know that you need to consult with your chain of command and/or County HR before moving forward with the discussion on a possible outcome. If you move forward prematurely, your actions might violate a person's Weingarten rights.

What are Weingarten Rights?

The rights of unionized employees to have present a union representative during investigatory interviews were announced by the U.S. Supreme Court in a 1975 case (*NLRB vs. Weingarten, Inc., 420 U.S. 251.88 LRRM 2689*). These rights have become known as the Weingarten rights.

Employees have Weingarten rights only during investigatory interviews. An investigatory interview occurs when a supervisor questions an employee to obtain information which could be used as a basis for discipline or asks an employee to defend his or her conduct.

If an employee has a reasonable belief that discipline or other adverse consequences may result from what he or she says, the employee has the right to request union representation. Management is not required to inform the employee of his/her Weingarten rights; it is the employees' responsibility to know them and request that a union representative be present.

The supervisor or manager is responsible for clearly stating the purpose of the meeting. The supervisor or manager needs to provide enough information to the employee so he or she can decide whether or not to invoke their right to request a representative.

Examples of investigatory meetings are:

- When the purpose of the meeting is to question an employee about a situation/incident or investigate an employee's alleged misconduct, where discipline of any kind is a possible result.
- When the purpose of the meeting is to elicit facts, the employee's "side of the story," or obtain admissions or other evidence either to determine whether or not discipline is warranted OR to support a disciplinary decision already made.
- When the employee is required to explain or defend his/her conduct in a situation which the employee reasonably fears could result in discipline.

Examples of meetings that are not normally considered investigatory. Keep in mind however, that it is the employee's reasonable belief that is the deciding factor.

- Where the meeting or discussion is merely for the purpose of conveying work instructions, training, or needed corrections.
- Where the purpose of the meeting is to inform the employee about a disciplinary decision that has already been made and no information is sought from the employee.
- Where the employer has clearly assured the employee prior to the interview that no discipline or adverse consequences will result from the meeting.

When the employee makes the request for a union representative to be present, management has three options:

1. You can stop questioning until the representative arrives.
2. You can call off the interview or,
3. You can tell the employee that you will call off the interview unless the employee voluntarily gives up his/her rights to a union representative. Advise the employee that if he/she changes their mind during the meeting, you will halt the proceedings and resume when a representative can be present.

Employers will often assert that the only role of a union representative in an investigatory interview is to observe the discussion. The Supreme Court, however, clearly acknowledges a representative's right to assist and counsel workers during the interview.

The Supreme Court has also ruled that during an investigatory interview management must inform the union representative of the subject of the interrogation. The representative must also be allowed to speak privately with the employee before the interview. During the questioning, the representative can interrupt to clarify a question or to object to confusing or intimidating factors.

While the interview is in progress the representative cannot tell the employee what to say but he or she may advise the employee concerning their answer to a question. At the end of the interview the union representative can add information to support the employee's case.