

281—102.8(280) Duties of designated investigator—physical abuse allegations.

102.8(1) Upon receipt of the report, the designated investigator will make and provide a copy of the report to the person filing, to the student's parent or guardian if different from the person filing and to the supervisor of the employee named in the report. The school employee named in the report is to receive a copy of the report at the time the employee is initially interviewed by any investigator. However, if this action would conflict with the terms of a contractual agreement between the employer and employee, the terms of the contract control.

102.8(2) Within five school days of receipt of a report of physical abuse, the designated investigator will conduct and complete an informal investigation after reviewing the report to determine that the allegations, if true, support the exercise of jurisdiction pursuant to rule 281—102.3(280).

102.8(3) If, in the investigator's opinion, the magnitude of the allegations in the report suggests immediate and professional investigation is necessary, the designated investigator may temporarily defer the level-one investigation. In cases of deferred investigation, the investigator shall contact appropriate law enforcement officials, the student's parent or guardian and the person filing the report, if different from the student's parent or guardian, documenting in writing the action taken.

102.8(4) The investigator shall interview the allegedly abused student, any witnesses or persons who may have knowledge of the circumstances contained in the report, and the school employee named in the report. The investigator will exercise prudent discretion in the investigative process to preserve the privacy interests of the individuals involved. To the maximum extent possible, the investigator shall maintain the confidentiality of the report.

102.8(5) The designated investigator's role is not to determine the guilt or innocence of the school employee, the applicability of the exceptions or reasonableness of the contact or force listed in rule 281—102.4(280). The designated investigator shall determine, by a preponderance of the evidence, whether it is likely that an incident took place between the student and the school employee. However, if the complaint has been withdrawn, the allegation recanted, or the employee has resigned, admitted the violation, or agreed to relinquish the employee's teacher's certificate or license, the designated investigator may, but need not, conclude the investigation at level one. The designated investigator will follow the applicable provisions of paragraphs 102.11(2) "b" and "c" when resolution occurs at level one.

The level-two investigator appointed, contracted, requested or retained under subrule 102.5(2), when called upon for further investigation, will consider the applicability of the exceptions listed in rule 281—102.4(280) and the reasonableness of the contact or force used under subrule 102.4(2) in reaching conclusions as to the occurrence of physical abuse as defined by these rules.

102.8(6) Within 15 calendar days of receipt of the report, the designated investigator will complete a written investigative report, unless investigation was temporarily deferred.

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