
MANAGEMENT SYSTEMS
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Adverse Action Procedures For Employees Accused Of Child Abuse

1. ADVERSE ACTION PROCEDURES FOR EMPLOYEES ACCUSED OF CHILD ABUSE

1.1 General Provisions for Treatment of Bureau of Indian Affairs (BIA) Permanent, Temporary and Conditionally Accepted Employees Alleged to have Participated in Child Abuse or Neglect.

1.2 Policy.

A. The Bureau of Indian Affairs shall be fully committed to preventing child abuse, including, but not limited to, all forms of neglect and other physical, emotional, psychological and sexual abuse. The BIA is dedicated to providing the best and safest care for the children it serves, including employing and retaining only those persons suitable for regular contact with and/or control over children.

B. It shall be the policy of the BIA that any employee against whom any specific allegation of child abuse is made shall be automatically reassigned to a position requiring no contact with or control over children until the decision is made by appropriate official(s) that the allegation is unfounded. A general allegation that a BIA employee is a child abuser/molester, without a specific current charge of abuse, shall be referred to Law Enforcement and Child Protective Services. This policy does not assume guilt on the part of the BIA employee, but rather places safeguarding of children as its highest priority.

1.3 Purpose.

A. This chapter implements automatic procedures for the investigation and treatment of BIA employees, regardless of employment status, who are suspected or accused of child abuse, including automatic reassignment away from contact with or control over children. The procedures apply to all accused employees, to their supervisors, and to various other BIA officials who have specific or general responsibility for child abuse prevention or treatment.

B. The provisions of this chapter also apply to conditionally accepted employees in sensitive positions which require regular contact with or control over children and to selecting officials making appointments to such positions. Applicants for these positions are appointed pending completion of the background investigation and clearance by the BIA Security Officer. For purposes of these procedures, these employees are to be treated in the same manner as other temporary or permanent employees; however, in the event of negative results of a background check, they may be immediately terminated from service. Time frames are short and automatic to protect both the BIA employees and the children they serve.

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1.4 Responsibilities. All BIA employees must report suspected cases of child abuse to law enforcement authorities, either to the local law enforcement agency or to the National Child Abuse Reporting Hotline (1-800-633-5155 or subsequent number), immediately upon witnessing, suspecting, or being notified of such abuse.

1.5 Procedures.

A. When a background check, initial and/or update, discloses allegations of child abuse or neglect, the BIA Security Officer shall immediately notify the employee's supervisor, except in cases where there is reasonable belief that notification of the supervisor shall result in the destruction of evidence, intimidation of witnesses or victims, or shall otherwise impair the investigation.

B. The local law enforcement office, which has received a report of child abuse against a BIA employee or other state or tribal worker who has regular contact with or control over children, shall advise the employee's immediate supervisor of the allegations against the employee, unless the law enforcement contact has sufficient reason to believe that notification to the supervisor shall cause the destruction of evidence, intimidation of victims or witnesses, or shall otherwise impair the investigation. Law enforcement officials who make such a determination must submit their reasons, in writing, to their next line supervisor.

C. When a supervisor receives notification of the report described in 1.5A, or receives any other specific report of child abuse or neglect by a BIA employee, whether the employee is permanent or conditional, the supervisor shall, within 24-hours of receipt of the information from the BIA Security Officer or other source, provide notification to the employee. The supervisor shall fully inform the employee of the charge(s) or allegation(s) and all related pertinent information, unless Child Protective Services or Law Enforcement Services officials reasonably believe that notification of the employee shall result in the destruction of evidence, the intimidation of witnesses or victims, or shall otherwise impair the investigation. In cases where the employee is immediately notified, the supervisor shall provide the employee with a copy of these procedures.

D. The notified employee shall be given 24-hours in which to respond orally or in writing to the allegations or information.

E. After the 24-hour period has expired, or the employee has responded orally or in writing, whichever comes first, the supervisor shall make an initial determination on the merits of the allegations and explanations or responses. The supervisor shall state, in writing, whether or not there is sufficient reason to believe the allegations have merit. The supervisor shall immediately submit the employee's

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written response or a summary of the oral response and the supervisor's written findings to the next line supervisor for evaluation and further transmittal to the BIA Security Officer.

F. Written notice of the allegations must be provided to the accused employee within 10-days of the initial receipt of the report, even where there is reasonable belief that notification of the allegations shall result in the destruction of evidence, intimidation of victims and witnesses, or shall otherwise impair the investigation. In addition, any supervisors not previously advised of the charges against the subordinate employee, must be notified of the charges against the subordinate at the same time.

G. When any supervisor has sufficient reason to believe that the information or allegations may have merit, or believes that an additional investigation should be undertaken before making such a determination, the supervisor shall immediately remove the accused employee from contact with or control over children.

H. Any employee convicted of child abuse automatically shall be removed permanently from contact with or control over children.

I. Any employee receiving even a general allegation that a BIA employee is a child abuser or molester, without a specific charge of abuse, shall refer this information to law enforcement services, and when required by a state or tribal law, to Child Protective Services. However, reassignment of the accused employee away from contact with or control over children may not be necessary, unless recommended by Law Enforcement Services. Law Enforcement Services and Child Protective Services shall make a preliminary investigation prior to making a recommendation on whether to reassign a BIA employee. However, all other provisions in the chapter apply.

J. If there are two or more general nonspecific allegations of child abuse or molestation, the employee shall be automatically reassigned away from contact with or control over children.

K. When allegations of abuse and neglect are made against BIA employees which require removal from contact with or control over children, the supervisor shall, as a first measure, immediately reassign the employee under investigation to a vacant or unclassified position that protects the employees rights. The reassignment shall be continued until the supervisor determines, with the concurrence of the BIA Area Child Protection Coordinator or the Child Protective Services for those areas that do not have an Area Coordinator, whether the employee shall be suited for continued employment in his or her permanent, temporary, or conditional position occupied prior to the reassignment. In making the determination, the supervisor shall review and take into account the investigation by the BIA Security Office.
The

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determination shall be submitted, in writing, to the next line supervisor for transmittal to the Division of Personnel Management in the BIA central office, for further transmittal to the Central Registry. The reassignment may continue for a period of 60-days.

L. During the 60-days of the reassignment, the BIA Security Office shall supply, at a minimum, a preliminary report for the supervisor to use in making a decision on further action. In addition to this preliminary report, the supervisor shall consult with the Office of the Solicitor, Child Protective Services or the Area Child Protection Team, Law Enforcement officials, and/or personnel management officials, before determining any further action. Further action may include:

- (1) the extension of the reassignment for no more than 120 days without a finding that adverse action should be initiated against the employee;
- (2) adverse action;
- (3) reinstatement;
- (4) other actions deemed necessary by the supervisor.

M. Employees appointed pending completion of the background check may be removed from service upon the receipt of a negative background check and the determination by the selecting official and the BIA Security Officer that the employee is not suitable for permanent placement in a position which requires regular contact with or control over children.

1.6 Confidentiality of Information. All BIA supervisors and other employees with access to child abuse and neglect information by any BIA employee shall keep this information strictly confidential and shall release this information pursuant to the provisions of the Privacy Act and the Freedom of Information Act.

1.7 Administrative Action Versus Criminal Action. Supervisors are expected to take adverse action against any BIA employee if the supervisor has reasonable grounds to believe the truth of the allegations against the employee, regardless of whether criminal action is brought against the employee.

1.8 Conflict of Interest. In all cases which present a conflict of interest or the appearance of a conflict of interest, the BIA official, whether immediate, second, third or fourth-line supervisor, law enforcement official, child protection official, or other decision-making official, shall recuse himself or herself from any further follow-up actions on the allegations and request his or her

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line supervisor to conduct the necessary follow-up. Examples of conflict of interest include close familial or friendship relationships with the alleged perpetrator or the victim.

1.9 Good Faith Reports. No adverse action shall be taken against BIA employees who, in good faith, report allegations of child abuse and neglect, regardless of the outcome of the case.