

When Does an Allegation Require Independent Investigation?

A Decision Framework for Youth-Serving Organizations and Their Counsel

█ Independent Investigation Required
 █ Strongly Recommended
 █ Proceed With Caution
 █ Internal Process May Be Appropriate
 █ Decision Point

You Receive An Allegation

Your organization receives a complaint or report of misconduct, abuse, or policy violation involving staff, volunteers, or leadership.

QUESTION 1 – STRUCTURAL CONFLICT OF INTEREST

Is there a structural conflict that makes internal investigation impossible?

An independent investigation is required if any of the following applies:

- The allegation is against a senior leader, executive, or board member — anyone with authority over those who would conduct the investigation
- The investigation must assess response to prior complaints, not only an individual's conduct - institutional self-investigation is an inherent conflict
- The allegation involves the person, department, or counsel who would otherwise conduct the investigation
- The institution's own counsel has previously represented or advised the accused on related matters
- A regulator, accreditor, or denominational body has indicated that it will not accept an internal investigation

YES — ANY ONE APPLIES

NO — NONE APPLY

INDEPENDENT INVESTIGATION STRONGLY RECOMMENDED

Do not proceed internally.

A structural conflict means an internal process is not likely to produce a credible or defensible result. An independent investigation may be your only option to retain credibility. Contact legal counsel before taking any investigative steps.

PROCEED TO QUESTION 2

Assess the risk factors present.

Even without a structural conflict, the combination of risk factors present may require or strongly recommend independent investigation.

QUESTION 2 – RISK FACTOR ASSESSMENT

How many of these risk factors are present?

- The allegation involves child abuse or maltreatment of any kind
- The allegation involves sexual misconduct by any staff member, volunteer, or leader
- The matter involves a Title IX complaint at an affiliated college, university, or school
- Law enforcement has investigated or declined to investigate due to statute of limitations or jurisdiction
- The situation has generated or is likely to generate media attention or public scrutiny
- Civil litigation has been threatened or is reasonably foreseeable
- There are multiple complainants or a pattern of prior complaints about the same individual or practice
- The complainant or their representatives have expressed distrust of internal processes
- The situation involves denominational or accreditor reporting obligations
- The institution has previously handled similar situations internally with poor outcomes
- Leadership has a personal or professional relationship with the accused that could compromise objectivity

3 OR MORE FACTORS

1-2 FACTORS

STRONGLY RECOMMENDED

Independent investigation is strongly recommended.

Multiple risk factors make internal investigation likely inadequate and the outcome likely to be challenged. Engage outside legal counsel before taking further investigative steps.

PROCEED TO QUESTION 3

Assess internal capacity honestly.

Internal investigation may be appropriate — but only if the institution meets all criteria below. One unmet condition is reason to reconsider.

QUESTION 3 – INTERNAL CAPACITY ASSESSMENT

Can the institution meet ALL of these conditions?

- The investigator has no conflicting relationship with the accused
- The investigator has training and experience conducting formal investigations
- Complainant and witnesses are willing to participate in an internal process
- The investigation scope can be clearly defined and contained
- Leadership is not implicated and can remain fully objective
- The institution can credibly demonstrate its process to outside scrutiny

ANY CONDITION UNMET

ALL CONDITIONS MET

PROCEED WITH CAUTION

Internal process carries significant risk.

If any condition cannot be met, the internal investigation is likely to be challenged, distrusted, or legally inadequate. Consult with outside counsel before proceeding. Independent investigation is strongly advisable.

FINAL CHECK

Apply the trust test.

Before proceeding internally, answer this question honestly: *Will all parties — including the complainant, the accused, your insurance carrier, your denominational body, and the public — trust the process and its findings?*

NOT A CONFIDENT YES

CONFIDENT YES

INDEPENDENT INVESTIGATION REQUIRED

Independence is not optional.

When trust in the process cannot be assured, independence is the only adequate answer. The cost of an independent investigation is far less than the cost of a distrusted one.

INTERNAL PROCESS MAY BE APPROPRIATE

Proceed — with documentation.

Document your decision rationale, follow a defined process, and consult with legal counsel if the situation changes. Re-evaluate if new information emerges that implicates any of the factors above.

CORE PRINCIPLE

**The question is not whether you can investigate internally.
The question is whether anyone will trust the result.**

Independent investigations for youth-serving organizations:

This framework provides general guidance and does not constitute legal advice. Every situation is unique. When facing allegations of abuse, misconduct, or other serious concerns, consult with qualified legal counsel before taking any investigative action.

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