

Failure to follow reporting procedures can justify firing—even if boss should have acted

If an employer has a process in place for reporting wrongdoing that includes bypassing one's supervisor when necessary, employees who don't take that step can't avoid punishment by blaming the supervisor. That's not a justified excuse.

Recent case: Donis worked in a correctional institution as a middle manager. She had supervisory responsibility over a shift of corrections staff. Only the shift supervisor had more authority. The prison had a policy in place that required workers to go over their supervisor's head if they observed rules being broken or ignored.

Correctional institutions are required to comply with the Prison Rape Elimination Act, a federal law. To enforce the law, corrections officers must use a checklist to report any apparent rapes or consensual sexual activity between inmates. They are also required to separate the prisoners, collect evidence and notify supervisors.

An inmate reported an incident to one of the corrections officers that Donis supervised. The officer told Donis. She, in turn, told the shift supervisor, who shrugged off the incident. No checklist was filled out and no other action was taken.

When upper management learned of the incident, it investigated and decided that Donis, the shift supervisor and the subordinate who informed Donis should be terminated.

Donis sued, but didn't get far. The prison persuasively argued it had fired her and the others for ignoring the law and the official reporting procedure. Those were legitimate reason for termination. (*Parker v. Arkansas Department of Corrections*, 8th Cir., 2018)