

**Roseville Joint Union High School District  
Complaints and Investigations Training  
July 29, 2025**



**Roseville**  
Joint Union  
High School District

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# Roseville Joint Union High School District

## Complaints and Investigation Training

July 29, 2025

Presented By:

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Director, Management  
Consulting Services

### Notes:

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### 1 Workshop Overview

- Responsiveness to a complaint and an investigation will not only yield the best information and evidence, but it will also enhance both the investigator's and the employer's credibility
- Local educational agency (LEA) human resources (HR) professionals and site leaders are commonly "thrown to the wolves" when it comes to workplace investigations



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# Complaint Types



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### Categorize the Complaint—What Policy/Law Was Violated?



#### The governing board has discretion over:

- Hiring and evaluation of staff
- Student assignment and discipline
- Textbooks and materials
- Facilities

#### Complaints about special education

- Complaints can be filed with the LEA
- The California Department of Education (CDE) special education unit

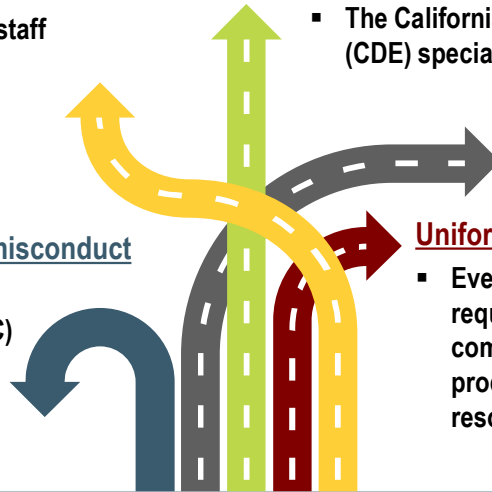
#### Concerns about educator misconduct

- California Commission on Teacher Credentialing (CTC)
  - The Division of Professional Practices
  - Mandated reporter

#### State and federal laws

#### Uniform Complaint Procedures

- Every LEA governing board is required to have established local complaint policies that describe the procedures that must be followed to resolve complaints



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#### 4 Statutory Laws and Local Policies

##### U.S. Equal Employment Opportunity Commission (EEOC)

- Enforces federal laws that make it illegal to discriminate against a job applicant or an employee because of race, color, religion, sex (including pregnancy or related conditions, gender identity, sexual orientation, national origin, age 40 or older, disability, or genetic information)
- Authority to investigate charges of discrimination against covered employers

##### Civil Rights Department (CRD)

- State agency charged with enforcing California civil rights laws
- Employment discrimination is prohibited by the Fair Employment and Housing Act
- Illegal for employers with five or more employees to discriminate based on a protected category

##### Board Policies and Administrative Regulations

- Board Policies (BPs) 4119.21(a), 4219.21, and 4319.21 regarding professional standards for LEA employees
- BP 1312.1 Complaints Concerning District Employees or Policies

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#### 5 Uniform Complaint Procedures



##### What Is a Uniform Complaint Procedure (UCP) Complaint?

- Written and signed statement alleging a violation of federal or state laws governing certain educational programs
- The UCP covers school districts, county offices of education, charter schools, and local public or private agencies that receive funding from the state



##### Programs and Activities Within UCP Scope

- Federal or state programs that use categorical funds such as Adult Education, Bilingual Education, Child Nutrition, Child Care and Development Programs, Special Education, and State Preschool

- Only allegations within the subject matters falling within the UCP can be appealed to the CDE
- See your BP 1312.3 and/or Administrative Regulation (AR) 1312.4 for your LEA rules and designated Uniform Complaints Compliance Officer

See the CDE's "[Uniform Complaint Procedures Pamphlet](#)"

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### 6 Common UCP Responsibilities—Who Should Investigate?

- Dependent on the concern, the matter may be referred to other agencies for resolution and also subject to the UCP (Department of Social Services or law enforcement, CRD)
- Not all complaints fall under the scope of the UCP—HR should not be tasked with resolving complaints in other functions alone; partnership is required:

 Business Services	 Student Services	 Educational Services	 Human Resources
<ul style="list-style-type: none"><li>• Buildings, property, “safe, secure, and warm”</li></ul>	<ul style="list-style-type: none"><li>• Student behavior and wellness, categorical areas</li></ul>	<ul style="list-style-type: none"><li>• Student learning, student materials, and resources</li></ul>	<ul style="list-style-type: none"><li>• Complaints against LEA staff</li></ul> <p>Outside of UCP scope: complaints of discrimination in hiring should be filed under complaints concerning employees</p>

**UCPs can be filed anonymously with the district superintendent or designee**

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#### 7 Williams Complaints



- **Williams Complaints** are a type of UCP complaint regarding instructional materials, emergency or urgent facilities conditions that pose a threat to the health and safety of pupils, and teacher vacancy or misassignment



#### With Whom Is the Complaint Filed?

- **Williams Complaints** are filed with the principal, or their designee, of the school in which the complaint arises
- These types of complaints are investigated under the UCP timelines—it is imperative that principals are trained in the *Williams* Complaint process



#### Areas Covered Under *Williams*

- Conditions of school facilities that pose a threat to the health and safety of pupils
- Textbooks or online learning materials
- Teacher vacancy or misassignment
  - This area overlaps with the CTC compliance oversight

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## Title IX Complaints



### Title IX

- Title IX of the Education Amendments of 1972 prohibits discrimination on the basis of sex in educational programs and activities that receive federal financial assistance
  - Includes sexual harassment, sexual violence, sex-based discrimination, and retaliation
  - LEAs must have procedures in place to investigate complaints of sexual harassment and sexual violence
  - Students, parents, guardians, or others can file a Title IX complaint



### Title IX Requirements

- LEAs must publicly post the following:
  - Name and contact information of the Title IX coordinator, including phone number and email address
  - Internet web links regarding Title IX rights and responsibilities must be available
  - Complaint procedures, including how to file a complaint, the process, and links to the U.S. Department of Education for more information

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## Title IX Updates: What Happened?



Title IX 2020 regulations did not include sexual orientation or gender identity within the scope of discrimination on the basis of sex

- In 2024, regulatory changes broadened the scope of Title IX to encompass all forms of sex discrimination, including discrimination based on sexual orientation, gender identity, sex stereotypes, and pregnancy or related conditions
- What should LEAs do now?
  - Revert back to the 2020 regulations
  - Follow California laws
  - Call your attorney if you have questions



- The 2024 Final Rule was set to go into effect August 1, 2024, and many LEAs updated policies, provided training, and communicated about the changes
- In January 2025, a federal district court in Kentucky issued a ruling striking down the 2024 regulatory changes

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### 10 Employment Complaints Received by LEAs



#### Americans with Disabilities Act (ADA) Complaints

The ADA requires that every LEA having 50 or more full- or part-time employees must designate at least one employee to coordinate their efforts to comply with the ADA, including complaint investigations



##### WHO INVESTIGATES?

Complaints against the district of some discrimination in hiring or employment will likely be filed with the EEOC—a federal non-discrimination enforcement agency that will investigate



#### Discrimination, Harassment, and Retaliation

The CRD prohibits discrimination, harassment, and retaliation and requires that employers “take reasonable steps to prevent and correct wrongful (harassing, discriminatory, retaliatory) behavior in the workplace” (Government Code Section 12940[k])



##### WHO INVESTIGATES?

HR administrator, third-party workplace investigator, or an attorney



#### Employee Misconduct

Misconduct in the workplace refers to any behavior that goes against your code of conduct or other policies that dictate how employees should behave at work—causes for discipline are typically found in your BPs and ARs and/or your collective bargaining agreement (CBA)



##### WHO INVESTIGATES?

Supervisor, HR administrator, third-party workplace investigator, or an attorney

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#### 11 Employee Complaints: Harassment



- Harassment occurs when a work environment is made to be hostile, offensive, oppressive, or intimidating—there are two main categories of harassment
- Common examples of harassment include frequent or severe offensive jokes, name-calling, derogatory comments about appearance, or inappropriate touching

#### Quid Pro Quo

A supervisor offers one of the following job perks in exchange for sexual favors:

- A raise
- Better working hours
- A promotion
- A favorable transfer
- Workplace perks (i.e., cars and vacations)

Threatening termination if a subordinate employee ends a consensual relationship also constitutes quid pro quo

#### Hostile Work Environment

Any employee can be responsible for creating a hostile work environment:

- Based on race, sex, pregnancy, religion, age, disability, or other protected characteristics
- Continued and long-lasting
- Severe enough that the environment becomes intimidating, offensive, or abusive

An employee with an unlikable bad habit is not quite enough to create a hostile environment

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### 12 Employee Complaints: Discrimination

What Constitutes Discrimination in Employment?	Examples
<ul style="list-style-type: none"><li>• Discrimination in hiring, compensation, terms, conditions, and other privileges of employment</li><li>• Taking of an adverse employment action, such as termination or the denial of employment, promotion, job assignment, or training</li><li>• Unwelcome conduct, whether verbal, physical, or visual, that is so severe or pervasive as to adversely affect an employee's employment opportunities, or that has the purpose or effect of unreasonably interfering with the individual's work performance or creating an intimidating, hostile, or offensive work environment</li></ul>	<ul style="list-style-type: none"><li>• Job advertisements, applications, or screening criteria that would exclude individuals based on age, gender, or another protected characteristic</li><li>• Refusing to hire, refusing to promote, demoting, or firing workers because of their protected characteristic or their membership in a protected group</li><li>• Refusing to accommodate the religious or disability-related needs of certain employees</li><li>• Permitting employees to be frequently and severely harassed in the workplace</li></ul>

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### 13 Workplace Retaliation: Complaint Process Protections



- Retaliation is illegal conduct or actions that harass, demote, terminate an employee, or take other action affecting employment (threats, negative evaluations or references, increased surveillance)
- The EEOC provides that an employee's participation in an investigation is protected regardless of whether the claims are substantiated or reasonable
- The HR department should provide training to cover what happens during an investigation, in addition to implementing policies that prohibit retaliatory behavior
  - Training should include:



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#### 15 Other Types of Investigations



- Many of the complaints received will be related to employee misconduct—many will not constitute harassment, discrimination, or retaliation but will require an investigation
- Remember, some will be workplace drama and may result in discipline
- Employee misconduct and causes of discipline are defined in the Education Code Section 44932, BP, and/or your CBA, and include, but are not limited to:



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## Board Policies to Know



### BPs and ARs

- BP: 4119.21, 4219.21, and 4319.21 Professional Standards
- BP and AR: 1312.1 Complaints Concerning District Employees
- BP and AR: 1312.2 Complaints Concerning Instructional Materials
- BP and AR: 1312.3 Uniform Complaint Procedures
- BP: 1313 Civility
- BP and AR: 4030 Nondiscrimination in Employment
- BP and AR: 4118, 4218 Dismissal/Suspension/Disciplinary Action
- BP and AR: 4119.11, 4219.11, 4319.11 Sexual Harassment
- BP and AR: 4119.12, 4219.12, 4319.12 Title IX Sexual Harassment Complaint Procedures
- BP 4119.24, and 4219.24: Maintaining Appropriate Adult-Student Interactions
- BP and AR 4144, 4244, and 4344: Complaints

Resource: RJUHSD Summary of Most Common Complaint Procedures

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**The Mechanics of Complaint  
Management**



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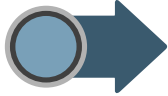
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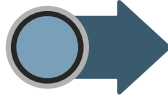
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### What Is the Problem That Needs to Be Solved?



The first step in the evaluation process is to determine the compliance concern or the rule that has been violated



You may not know the facts until you conduct an inquiry—but this information will determine the response plan

Rumors of inappropriate behavior that could result in serious consequences if substantiated

Complaints of coworkers engaging in conduct that is disruptive to the workday

Performance deficiencies that disrupt student learning or district operations

Incidents that do not rise to the level of misconduct—but have the potential to be serious

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#### 19 Defining the Problem



**Determining the appropriate response is critical in managing complaints and employee conflicts**

- The incident can be a lower-level issue which requires intervention, or a formal complaint which necessitates an investigation
- Is the complaint a performance concern and does it require an investigation or engagement with a supervisor?
- When the facts are not clear, consider preliminary information and details to determine the response
- Review the allegation or complaint immediately—the investigation needs to be timely so have a plan
- Complaints against employees involving misconduct, mistreatment, harassment, or discrimination—real or otherwise—must be investigated

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### 20 Narrow the Facts



#### Identifying the issue requires an examination process:

- A supervisor's unpopular decision may become discrimination in an employee's mind—ensure that you clarify the concern prior to initiating an investigation
- The complainant may require support in handling their own conflicts—employees commonly seek out HR assistance to handle problems for them
- Some problems are best served by the direct supervisor, unless the complaint is against them—then HR steps in!



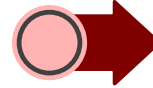
Please provide examples of how you have been discriminated, harassed, or treated differently?



What policy, rule, or procedure did your coworker violate?



Who committed the alleged behavior?  
Who else may have seen this or heard this as a witness?



Have you reported or discussed this with anyone?

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### 21 Who Should Investigate?



- Who investigates may depend upon the identity of complainant or accused employee as well as the nature and severity of the problem
- In many cases, supervisors are responsible for the initial investigation and must ensure a fair and legally defensible inquiry—that means HR needs to provide them with training
- Workplace investigators must:



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#### 22 The Investigation Plan



- In order to process a timely investigation, which includes a thorough examination of the details to extract the facts, a plan should be established prior to taking action

Notification of Complaint	Identify Witnesses	Estimate Timeline	Document the Outcome
<ul style="list-style-type: none"> <li>• Confirm receipt of the complaint to the complainant</li> <li>• Notify the respondent(s)</li> <li>• Notify supervisor(s)</li> <li>• Communicate to the superintendent, dependent of level of concern</li> <li>• Determine if information should be shared with the governing board during closed session</li> </ul>	<ul style="list-style-type: none"> <li>• Create a list of who may have knowledge of the incident(s)</li> <li>• Establish witnesses named in the complaint</li> <li>• Determine if there are witnesses who may not be involved in the events, but could have knowledge about past behaviors</li> </ul>	<ul style="list-style-type: none"> <li>• Create a timeline to complete the investigation</li> <li>• This will be dependent on number of witnesses and also if students are involved</li> </ul>	<ul style="list-style-type: none"> <li>• Documentation of the complaint, the events, and the findings are critical in effectively resolving the concern</li> <li>• Allegations that are not substantiated should be documented</li> <li>• Disciplinary action, or letters of warning and corrective action should be included in the documentation plan</li> </ul>

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#### 23 Develop a Communication Plan



- The severity of the allegations drives the communication plan—there is a thin line between confidentiality and failure to communicate effectively
  - Use the “Need to Know” test to determine the communication procedures

Communication Checklist	Example
What is the information that will be communicated to other interest holders?	The district is in receipt of a complaint regarding workplace misconduct
Who is requesting the information?	Complainant receives confirmation of receipt of complaint and notification that an investigation will be initiated Respondent receives notification of complaint and the employer’s intent to investigate
The person is a person of authority and will be required to make decisions and take action	Notify the superintendent due to potential liability Inform the immediate supervisor and any other supervisor with oversight responsibilities Communicate to the governing board should the claims be particularly egregious and result in legal action

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### 24 The Investigator's Checklist



Notify the accused employee and the complainant in writing that the complaint has been received and provide instructions to maintain confidentiality

Remember that employees have a right to have a representative present during an investigation or disciplinary meeting



#### Coordinate the logistics

- Who will investigate the complaint?
- State the duty of the employer to protect their rights and the rights of the employee

Complainants and accused employees have a right to know the disposition of the investigation once it has been completed

**Investigation MUST DO List—obtain a copy from your HR Department**

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#### 25 Investigation Process—Statement of Complaint



- An investigator may receive a complaint from various sources—anonymous, direct complaint from individual or group of individuals, secondhand complaint, a parent or other school community member, an audit, or a state or federal agency
  - Written complaints do not automatically trigger a formal investigation
  - Verbal complaints may initiate a formal investigation—the investigator should document the nature of the concern and other details

<b>The Statement of the Complaint is the intake document that clearly defines the nature of the concern and the true risk</b>
Date of statement
Employee name/title/department
Date of event/incident
Specific allegations
Policies violated

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## “If It Is Not Documented, It Did Not Happen”



### Good documentation demonstrates that the employer:

- Took factual, thorough, and objective steps to determine if there was misconduct
- Remedied harm and took steps to make sure the misconduct stopped
- Ensured that no retaliation was experienced by anyone who provided information or participated as a witness or complainant in the investigation

### Examples of Physical Evidence



- Text messages and emails
- Expense reports
- Evaluations and supervisor notes
- Security video
- Photographs
- Damaged assets
- Attendance reports

### Draw Reasonable Conclusions



- Witness testimonials are important, but reliance on witness interviews only exposes the investigation to weaknesses
- If evidence must be transferred from witness to investigator, or other party, ensure the transfer of information is documented to record how the evidence was handled

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### Operational Advice: Investigatory Strategies



Timelines are of the essence, but don't rush the witness interviews if you do not have all of the documentation and evidence that you need to formulate the questions and prepare the plan



Confidentiality is important—but notification and communication practices help put the parties at ease that the District is taking action and applying good-faith effort to resolve the concern



Documentation and evidence should be logged and tracked—document chain of custody if a supervisor provides you with evidence to track the change of possession of evidence



If there are emails or other electronic evidence provided by the information technology (IT) staff, the IT employee who provided the information should sign a confidentiality agreement to prevent exposure regarding the investigation

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**Confidentiality and  
Employee Rights**



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### 30 Employee Rights



- Employees have a right to representation in their employment and to engage in protected activity

- Employees “have the right to union representation in their professional relationship with the employer and not just the employment relationship (regarding wages, work conditions, etc.)” (*Crowell v. Berkeley Unified School District* [February 19, 2015] *Public Employment Relations Board Decision No. 2411.[2]*)

- This would include the right to representation in the following:



Meetings regarding reasonable accommodations for the employee’s disability



Grievance meetings



Disciplinary meetings



Investigatory interviews

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### 31 Employee Rights



- Representation during an investigation or disciplinary meeting is not limited to a union representative—it could also be a coworker, friend, spouse, or attorney
- When an employee is accused of misconduct—which could include, but is not limited to, harassment or hostile work environment—they have a right to:



Know the allegations that have been brought against them



An opportunity to be interviewed and to tell their side of the story



Know the outcome, or disposition, of the investigation once it is completed



Privacy

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#### Paid Administrative Leave—Adverse Action or Not?



- Paid administrative leave is to temporarily remove an employee from the workplace to address a particular situation
- Paid administrative leave has also been used by employers when they feel it is better that the subject of an investigation is not in the workplace while the investigation is pending
  - The employee is relieved of all duties and responsibilities of their position
  - An LEA may prohibit the employee from entering facilities and require the surrender of keys, IDs, computers, and other agency-owned property



Caution: Be aware of the stigma for employees of being placed on paid administrative leave. The decision should be made on a case-by-case basis, and should consider the implications of putting one employee out on leave while the other remains at work (applies to workplace conflict complaints)

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#### 33 Weingarten Rights



- The Weingarten rights require that the employee must make a clear request for union representation before or during the interview—the employee cannot be disciplined for making this request
- Upon request for representation, the employer must provide one of the following:



Grant the request and delay questioning until the union representative arrives



Deny the request and end the interview immediately



Give the employee the option to continue without representation

If the employer denies the request and continues the interview, the employee may refuse to answer questions and cannot be disciplined for their refusal to engage

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### Operational Advice: Union Representation



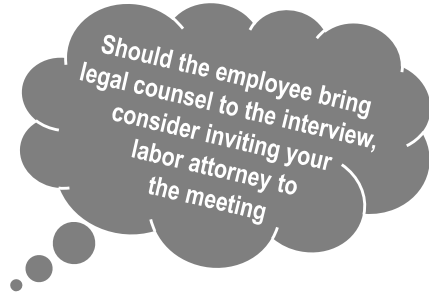
Communication with labor is important—notify the union that HR is engaging in a formal investigation with a unit member



Confirm that HR will work with union representative regarding the interview schedule, and will allow for union representation for the complainant, the employee(s) under investigation, and witnesses per their request



Include in the opening statement of witness interview that union representative should refrain from engaging in the interview, answering for the interviewee, or disrupting the line of questioning—secure a room nearby to allow for conferencing space for the representative and employee



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### 35 Employee Rights



An employer must respect employees' privacy rights when conducting internal investigations in response to a claim or allegation



At the same time, it is necessary and important for the employer to obtain all of the relevant factual information



Employers must balance their right as an employer to investigate and take disciplinary action against an employee's right to be free from an unreasonable invasion of their privacy

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### 36 Confidentiality



- There are two key, and sometimes opposing, questions related to the confidentiality of complaints
  - How confidential must the investigator keep the information gathered during the investigation?
  - Can I require employees (complainants, accused, or witnesses) to keep information confidential?



#### Investigators

The short answer is no  
You can only promise limited confidentiality  
Limit the information shared to those that need to know

#### Employees



You can expect managers to keep complaints confidential  
Courts have ruled that you cannot require employees to keep the information secret  
If you believe confidentiality is needed, consult with an attorney

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# Conducting the Investigation



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### 38 Investigation Management—Screening Process



- Review every case individually to organize the steps and establish a timeframe—be prepared to make adjustments based on information revealed during interviews



- Establish the questions for complainant(s), respondent(s), and witnesses
- Engage in scenario planning: What if the allegations are denied? Will that change the questions? Will it change who should be interviewed?
- Time is of the essence, but do not rush interviews until you have reviewed all of the documentation and physical evidence

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### 39 Operational Advice: Interview Location



- Witness interviews should be held in a safe and neutral space that protects confidentiality
- Choose the location strategically—the intent is for witnesses to feel comfortable and that their participation is safe from the rumor mill
- Set the stage by greeting witnesses professionally and courteously
  - Introduce the investigator
  - Explain that you will be taking notes—but intently listening
  - Clarify the time scheduled for the witness interview to prevent them from trying to leave early if things get intense



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### 40 Interview Logistics

- The statements of the accused employee, complainant, and witnesses will likely contradict one another—the workplace investigator will have to determine who is telling the truth

#### Conducting Witness Interviews



- Witnesses may be nervous even though you have assured them they have not been accused of any wrongdoing
- Put the interviewee at ease to help with sharing information
- Body language and demeanor are important to assess if the witness is telling the truth
- How do they react when asked tough questions?

#### Interview Tips



- Tell each witness only what is necessary
- Consistently ask if anyone witnessed the incident
- Ask all witnesses if there is any physical evidence
- Expect accused employees to be defensive or frightened
- Warn all interviewees that jeopardizing the investigation can result in discipline

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### 41 Interviewing the Complainant Party



- Be clear on what the complainant is alleging—often, statements can be long and unorganized
- Summarize the allegations as you heard them during the interview with the complainant
  - Do not lead the complainant towards any specific allegations
  - Ask them to confirm your understanding of what they are alleging
- Be sure that you ask, even if it is included in the complaint, the remedy they are seeking
- Begin the interview with some background questions

- How long have you worked for the ABC School District?
- What is a typical day like for you?

- What is your relationship with (insert accused employee)
- What exactly occurred or was said?

- When did the incident occur?
- Do you know why it occurred or was there any indication that suggests why it occurred?

- How did it affect you?
- Was there anyone present when the alleged incident occurred?

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#### Operational Advice: Developing Interview Questions



- Utilize the “Bullseye Technique” to encourage the witnesses’ ability to recall information from an event they witnessed
  - Start with broad questions, and move to narrow and specific questions



Bullseye Technique Source: *How to Conduct Internal Investigations*, by Natalie Ivey

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### 43 Analyze the Interview



- It is the investigator's responsibility to conduct a thorough investigation that tells the "story"
- Sticking to the plan and interview questions is important to ensure coverage of the details—but allow the witness opportunity to add additional details before the conclusion of the interview
  - Prompt the witness by asking if there are any additional details relevant to the investigation that they can share:



Allow the witness time to think before responding



Witnesses who are vague or providing short answers may be avoiding the questions—allow them to sit in silence, do not fill the void



They may feel pressure to speak

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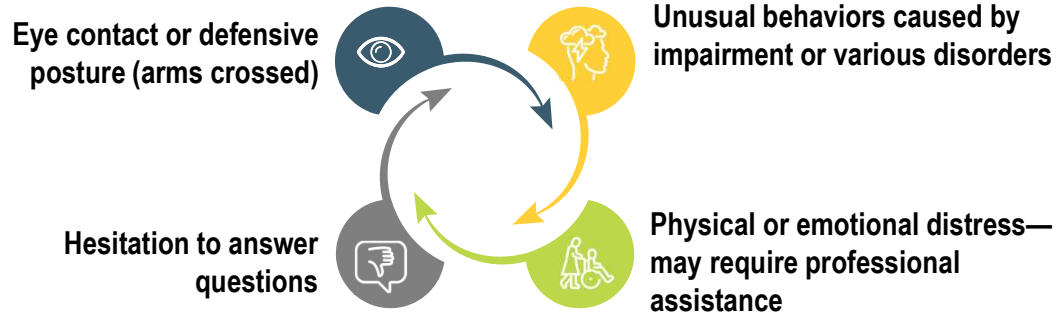
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### 44 Read Physical Cues



- Witnesses are likely under stress if they are participating in an investigatory interview—but there are physical signs which may indicate dishonesty in their answers:



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### 45 The "Bullseye" Interview Technique



#### Behavioral Baseline Questions

- Questions the witness will answer truthfully
- Baseline questions are asked to assess witness responses



#### Chronology Questions

- Gather the who, what, where, when, and how of the incident
- Very important! Plan carefully as these questions develop the story



#### Open-Ended Questions

- Reveal background information which can have direct impacts on investigations



#### Clarifying Questions

- Ensure that the investigator has heard the witness correctly and that notes are accurate



#### Close-Ended Questions

- Get to the truth with targeted questions
- Direct questions may get a confession from the accused

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# Documenting Investigation Outcomes



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### Assess the Facts and Make a Determination



Review witness statements and look for inconsistencies and alignment in the story



Review witness responses to clarification questions



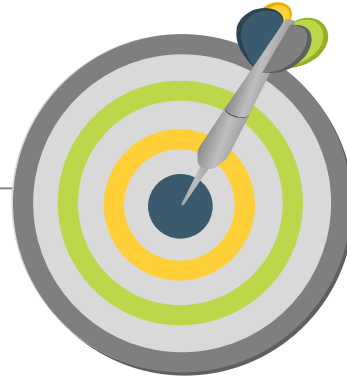
Inconsistent witness statements could lead to a conclusion of dishonesty



Collaborate with another investigator to talk through your findings and share your preliminary conclusions



Determine the credibility of witnesses by assessing their engagement and interactions during interviews



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#### 49 Determining Credibility



- Determining the credibility of evidence collected during the interview process is rarely easy, but it is an essential part of conducting an accurate, thorough investigation
- Various relationships within the workplace might color or shape the evidence provided by employees who are involved in the investigation

Are there reasons why an employee might make false statements?



Does the accused employee have a pattern of misconduct?

Does the history of the complainant suggest any pattern of behavior or motivation that might lead them to make unfounded allegations?



Did the complainant and accused employee have difficulties in the past?

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### Assessing Your Bias



▶ Assessing obstacles and impacts will minimize the risk of bias in an investigation

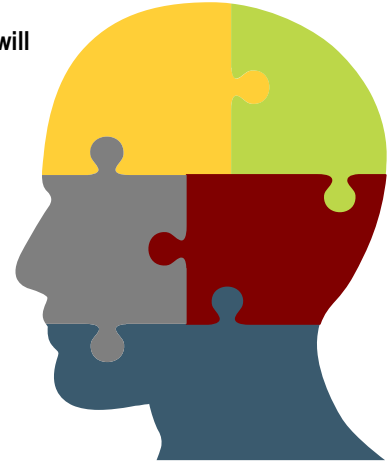
▶ Perception is everything! If participants view the investigator as biased, the reception of the findings of the investigation and level of trust in the process will be influenced

▶ Being a good investigator means knowing when to step back from an investigation because of real bias or the perception of bias

▶ **Example:** Complaint regarding employee that had previous disciplinary actions taken against them, and you were involved

▶ **Example:** Complaint regarding your supervisor or someone within your department

▶ **Example:** Complaint against a colleague with whom you have a close working relationship



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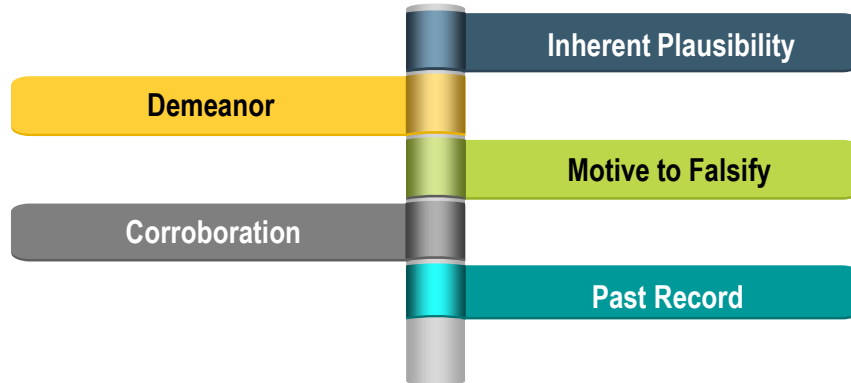
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### 51 Making Credibility Determinations



- The statements of those involved in the investigation sometimes provide conflicting accounts
- The EEOC has put together a list of five “*credibility determinations*” to consider when reviewing the information provided by complainants, witnesses, and accused employees



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### 52 Operational Advice: Making a Determination



- Burden of Proof—investigators should make findings based on a “preponderance of the evidence” standard
- This standard is also called “more likely than not”—the investigator is making a finding that it is more likely than not that the conduct alleged occurred, or more likely than not that it did not occur

Investigators need to make factual conclusions, not legal conclusions

Investigators confirm, or not, that the alleged behavior or incident occurred



Even if the allegations include concerns related to violations of law, investigators should not indicate that there was unlawful conduct

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### 53 Investigation Findings



- Document investigation findings and recommendations in a written report
- Inform complainants and accused employees of the disposition of the investigation in writing
- Letters should include:



- Summary of findings
- Summary of evidence and the degree to which it was insufficient or supported the allegations
- Remind employees of the confidentiality of the investigation and the prohibition of retaliation
- Inform complainant of their right to appeal or seek civil remedies

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### 54 Complaint Dispositions



- When an investigation occurs, each allegation is examined on its own merits and workplace investigators must make findings on each specific allegation made
  - This is why it is essential to know what you are investigating
  - Ensure that the allegations are clear from the start and confirmed by the complaining party



**Sustained**—The investigation disclosed enough evidence to clearly prove the allegation

**Not Sustained**—The investigation failed to reveal enough evidence to clearly prove or disprove the allegation

**Unfounded**—The investigation has produced sufficient evidence to prove that the act or acts alleged did not occur

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#### Sample: Investigation Report Findings (Complainant)



- Dolly alleged that Sally was rude to her and excluded her from activities that were planned with department staff. The complaint submitted to the HR department was a complaint of hostile workplace.

Sally was placed on administrative leave and an investigation was conducted regarding the allegations. The following sample statements were included in the investigation report:



#### Investigation Summary:

Dolly alleged that Sally treated her in an “unprofessional and discourteous” manner, excluded her during a workplace training event and failed to appropriately train her. After investigating this matter, the findings of fact are as follows:

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#### Sample: Investigation Report Findings (Complainant)



##### Sally Made Inappropriate and Non-Constructive Comments About Dolly's Work Performance.

The investigator found by a preponderance of the evidence that Sally made discourteous, inappropriate, unprofessional, and abusive comments to Dolly and about Dolly. More specifically, it was determined that Sally communicated with Dolly in a short and blunt tone on numerous occasions. Sally also complained to other employees about Dolly's work performance. Sally also whispered to a co-worker when Dolly was present and on numerous other occasions, as well as made exaggerated sighs when Dolly asked questions related to work.

##### Sally Engaged in Exclusionary Behavior Towards Dolly in the Workplace.

The findings do not support that Sally engaged in exclusionary behavior.

##### Sally Failed to Appropriately Train Dolly.

The findings do not support that Sally failed to appropriately train Dolly.

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#### 57 Closing Thoughts



**You cannot control the number of complaints; however, the response is within the span of control. Remember, addressing concerns at the lowest level possible minimizes the number of serious issues down the road!**

Ensure that front line supervisors are trained and informed, and that they are held accountable when they are aware of workplace misconduct

Implementation of complaint procedures, effective communication, and training for HR professionals will help protect your LEA—and mitigate future complaints of misconduct



Develop an effective internal investigation process which keeps operational issues at a minimum and disrupts the absence of employee accountability

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**Thank you!**

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