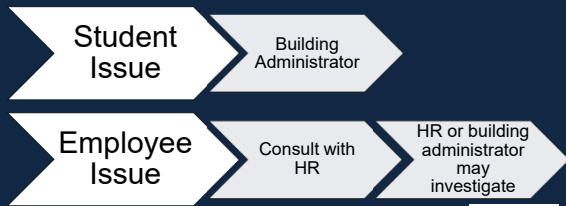


When is an investigation necessary?

- Any harassment, discrimination, bullying or sexual conduct complaints.
 - Always make child abuse report and obtain permission of law enforcement before proceeding with employment investigation.
- In a disciplinary setting, when you determine there is disagreement about the facts or you cannot obtain all of the facts from the employee.



Who Conducts the Investigation?



Consult Applicable Policies

- Student-specific policies:
 - Sexual Harassment- JBA
 - Hazing/Bullying- JFCF



Consult Applicable Policies

- Employee-specific policies
 - Sexual Harassment- GBN
 - Hazing/Bullying-GBNA & GBNA-AR
 - Staff Complaints-GBM (for non-represented employees)



Consult Applicable Collective Bargaining Agreement

- Classified
 - Article-Discipline
 - Article- Personnel Records
- Licensed
 - Article-Discipline
 - Article-Right to Representation
 - Article-Personnel Files
 - Article-Complaint Procedure



Planning your investigation

- Write down purpose and scope of investigation:
 - e.g. Determine if Teacher X violated the District's Sexual Harassment Policy. If so, what disciplinary action is warranted?



Planning your Investigation

- Gather all documents and evidence prior to beginning
 - Complaint
 - Witness statements
 - Supporting emails, social media, text messages
 - Video



Planning your Investigation


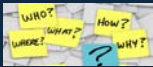
- Draft investigation questions
 - Remember the funnel approach: start open-ended and progressively become more specific.
 - Particularly for students, ensure you ask the same questions each time.



Planning your Investigation

Common questions:

- What happened?
- When? Where? Involving whom?
- Has this happened before?
- Who else saw/heard/knows about it?
- What happened immediately afterward?
- Did you make any notes about this or have other documentation?
- Is there anything else I should know?



Executing the Investigation

- Location matters- choose a safe, confidential location.
- Determine order of witnesses.
- If potential discipline, send investigatory meeting letter at least 24 hours in advance and allow representative to be present.



Executing the Investigation

- Explain the purpose of the interview.
 - Today we are meeting because an employee has alleged that you violated District policy and this is an opportunity for you to provide your perspective.
 - For witness: We are looking into some allegations of misconduct, and have been lead to believe that you may have some information that may be helpful to us in sorting it out.



Executing the Investigation

- Explain limits of confidentiality
 - I will do my best to keep the information you provide me confidential; however, I cannot promise absolute confidentiality as I may need to share the information to complete the investigation.
- Direct the witness to be truthful and document in notes.



Executing the Investigation

- Take thorough notes of what was asked and the response. Do not include subjective observations (have post it notes available for this purpose).
- Funnel approach
 - What do you remember about this incident?
 - Follow-up on specific details
 - Challenge inconsistencies only when you've obtained all of the details.



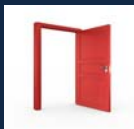
Determining Credibility

- Noticeable demeanor changes (flushed, agitated, avoiding eye contact)
- Motive: what does the witness have to gain or lose?
- Inconsistent statements
- Corroboration
- Past record
- Hearsay or direct witness



Executing the Investigation

- Concluding the investigation
 - Reminder that retaliation is prohibited
 - Ask if they have any questions
 - Leave an open door if they remember any additional information



Writing the Report

- In minor instances, a summary of your findings will be sufficient.
- In more serious instances, ideally a report would include:
 - Purpose of investigation
 - Materials reviewed
 - Witnesses interviewed
 - Applicable policies
 - Factual findings
 - Credibility determination (if necessary)
 - Conclusion regarding policy violation



Follow-up

- Inform complainant of result of investigation.
- Provide appropriate support.
- Schedule due process meeting if intention is to impose disciplinary action on employee.
- Take complaints of retaliation seriously.



Questions?

Rebekah R. Jacobson
Garrett Hemann Robertson PC
rjacobson@ghrlawyers.com
(503) 581-1501