

Workplace Investigations Processes

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"The Curious Case of the Coffee Thief (and Other Mysteries)"

When drama brews by the office sink,
And rumors fly before we blink,
HR arrives—not with a cape—
But clipboards, forms, and legal tape.

We're not the feds, we don't wear wire,
We just want facts—not office fire.

Objectives

- Understand the types of investigations
- Understand legal and institutional responsibilities
- Understand key steps in investigative process

Purpose of Workplace Investigation

- Maintaining institutional integrity and trust
- Protecting employees, students, and institution from violations and harm
 - Protecting the complainants and respondents alike
- Legal compliance (Title VII, Title IX, CA laws)

Steps in an Investigation

- Intake and initial assessment
- Notification to involved parties
 - Content and timeline depends on allegation
- Interim measures (if Title IX)
- Collection of evidence
- Interviews
- Documentation and analysis
- Findings and report
 - Includes credibility findings
- Next steps: resolution or disciplinary action

Workplace Investigations Types

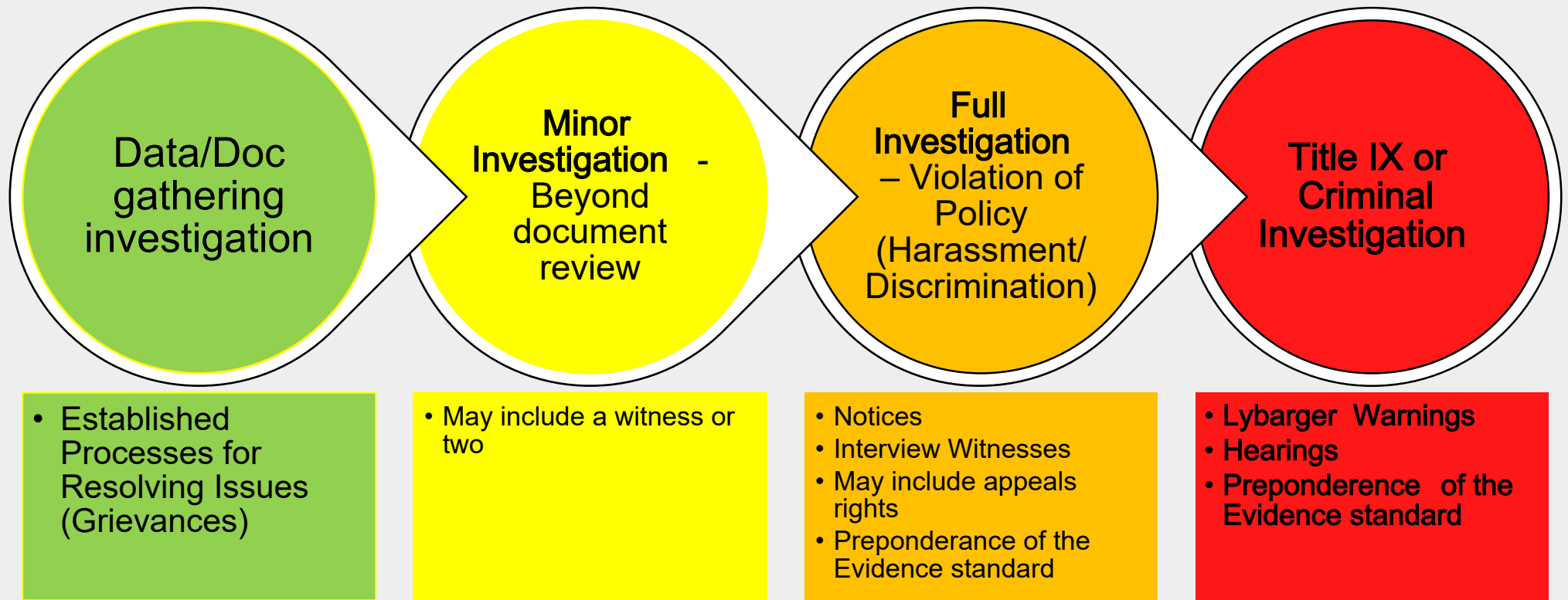
- Misconduct
 - Violations of Board policy and/or CBA
- Discrimination, including harassment and retaliation
- Title IX
- *Criminal

What HR Investigations are Not

- A weapon or tool for personal gain/agenda
- A venue for petty differences or typical workplace annoyances



Investigations by Severity



Formal vs. Informal Complaints

Formal

- Harassment/Discrimination/Retaliation
- Would constitute a violation of Policy, if proven true.
- Signed and dated
- Within 180 days or (1 year non-employment)

Informal

- Outside of 180 days
- May not be a violation*
- At HR's discretion to determine process/response

* May also be dismissed

Formal vs. Informal (continued)

AP 3435

If the Formal Complaint does not meet the requirements set forth above, the Chief Human Resources Officer will promptly return it to the Complainant and specify the defect. If the sole defect is that the Formal Complaint was filed outside the applicable prescribed timeline, the Chief Human Resources Officer or designee will handle the matter as an informal complaint.

Investigations by Timeline

Formal Complaints =
within 180 Days and

30 Day Appeal
Window



90 Day Investigation,
if possible. Breaks in
academic calendar
extend this timeline.

Overview of Applicable Laws and Policies

- California Fair Employment and Housing Act (FEHA)
- Title VII (Employment discrimination)/Title 5
 - BP/AP 3401, Nondiscrimination
 - BP/AP 3420, EEO
 - BP/AP 3430, Prohibition of Harassment
 - AP 3435, [Discrimination and Harassment Complaints and Investigations](#)
- Title IX (Sex-based discrimination in education)
 - BP/AP 3433, Prohibition of Harassment under Title IX
 - AP 3434, Responding to Harassment Based on Sex under Title IX

Outside Agencies for Filing Complaints

Agency	Students	Employees
OCR: Department of Education Office for Civil Rights	X	
CCCCO: California Community Colleges Chancellor's Office	X	X
CRD: Civil Right Department (was DFEH)		X
EEOC: Equal Employment Opportunity Commission		X

Role of HR

- Intake
- Notices to Parties
- Scheduling Interviews*
- Errors of Fact Correction
- Administrative Determination



Role of Investigator

- Neutral and impartial fact-finder
- Ensuring procedural fairness
- Confidentiality and privacy obligations



Types of Evidence

- Physical

Documentation (emails, texts, minutes, logs, video, etc.)

- Human

Witnesses/Complainant/
Respondent testimony

- Policies



Harassment/Discrimination/Retaliation

- Severe
 - Pervasive
 - Objectively Offensive
- *Not business necessity

Evidentiary Standard

**Preponderance of the
Evidence**

- 50%+1

Beyond a Reasonable Doubt

- Criminal Standard

Challenges

- Fear/reluctance to engage
- Breach of Confidentiality
- Cherry Picking Evidence
- Coersion/collusion
- Timeline(s)
- Strict adherence to process
- Timeline(s)
- Delays
- Pressures from the parties
- Politicizing Complaints

Investigative Support

Employee Assistance Program: 800-999-7222

Valley Crisis Center: 209-725-7900

For Title IX, Support Person

Questions?