Conducting HR Investigations

1. Determine the Allegations
   - How did we receive the allegations?
   - Where is the documentation regarding the initial allegation?
   - When did the District first receive notice of an issue?
   - What are the possible angles?
     - State and Federal law
     - Employment issues
     - Student/parent issues
     - Discrimination/Harassment issues
   - Create an outline of individuals involved in order to perform steps 2 and 3

2. Immediate Actions
   - Mandatory reporting
   - Law enforcement notification
   - Notification to the compliance officer
   - Develop a response plan and one P.O.C.
     - Inquiries made by staff
     - Inquiries by parents/students
     - Media requests
     - Board of Education notification
   - Consider whether removal of an employee is immediately required
     - Written statement THEN
     - Paid administrative leave
     - Lock down access/contacts

3. Interim Measures
   - Job duties/locations
   - Administrative directives
   - Extra duties
   - Student-related measures (e.g. safety plans)
   - If sexual harassment is alleged, consider additional interim measures
   - Paid administrative leave (non-disciplinary)
   - Notices of non-retaliation

4. Securing Documentation
   - Ask the reporter to reduce the allegations to writing
     - Collect other evidence/documentation available at that time
     - If unwilling or unable to provide information:
       - Ask reporter to verify a written statement
       - OR (last resort) reduce to writing without verification
   - Create a comprehensive investigation outline
     - Separate individual allegations
     - Make a list of witnesses and determine best order for interviews
       - Students?
       - Parents?
       - Staff?
     - Organize by time/date
   - Review policies/regulations and procedures
     - Policies that apply to specific kinds of investigations
     - Also policies that may be at issue regarding violations
     - Calendar deadlines
5. Collect Evidence
- Review all documentation immediately available
  - Personnel files
  - Email correspondence
  - Electronic files/data
- Meet with individuals involved
  - Obtain written statements
  - Take notes
  - Collect evidence other than written statements
  - Inquire about others who may have information
  - Discuss confidentiality and retaliation
  - Inform regarding timeline of investigation
- Always obtain written statements
  - Various effective methods for this
  - Purpose that you request/collect firsthand evidence
  - Cell phone records
  - Photos/videos
  - Email correspondence
- Student interview tips
- Parent interview tips
- Personnel interview tips
- Interacting with law enforcement
- Preserve evidence we have control over
  - Digital files
  - Video files
  - Computer data

6. Prepare Documentation of the Investigation
- Compile evidence related to each separate allegation
- Review the relevant policies and procedures
- Draft a report addressing each allegation
- Come to a conclusion about violations of policy
  - Preponderance of the evidence standard
  - Credibility weighing
- Determine remedial action required for each allegation
  - Fact-specific
  - Calendar follow-ups to determine whether remedial action is effective
- Maintain documentation in appropriate files within the district

7. Notify Individuals of Determination
- This step is very scenario-specific
- Requirements regarding confidential personnel information
- Board Policy re: discrimination/harassment
  - Appeal rights under policy
  - Non-retaliation
- Consider face-to-face meetings versus written notice, or both
- Develop notification/communication plan for other stakeholders
  - Staff
  - Parents/students
  - Board
  - Media

Assessing the Risk Associated With Investigation Outcomes
- Employee disciplinary action factors
  - Employment status
  - Timeframe
  - Cost
- Weighing risk of termination versus other remedial action
- Board sentiments/community norms
- Discrimination, harassment and retaliation issues
  - Alleged victim?
  - Alleged perpetrator?
  - Special considerations related to sexual harassment
- Precedent
  - What precedent is in place?
  - What precedent will this set?