

## Conducting Internal Investigations

In schools, allegations of sexual misconduct or assault can arise in many different contexts, from sports-related scandals to misconduct in the workplace to student sexual assaults.

These kinds of allegations can have profound implications for everyone involved. Issues of physical and mental health, privacy, rights of the accused, retaliation, and criminal and civil liability all hang in the balance. Additionally, in this age of the 24/7 news cycle, hyper-media coverage, and social media ubiquity, how reports of sexual misconduct are investigated and handled can impact a school's reputation for years to come.

Here at Kroll, we understand the importance of institutional compliance with Title IX of the Educational Amendments of 1972 and of protecting students and employees from sexual misconduct. We are also cognizant of the responsibilities and challenges faced by employers in other sectors when such allegations arise in the workplace.

Kroll's Sexual Misconduct and Title IX Investigations Practice offers the knowledge and insight of leading experts who have extensive experience investigating allegations of sexual misconduct at educational institutions and at other organizations. We are especially mindful of the unique sensitivities and concerns when conducting these kinds of investigations and are prepared to address each client's specialized investigative needs.

In addition to providing independent investigations and retrospective reviews, Kroll offers guidance on proactive and/or remedial measures that include assistance with policies and procedures as well as staff training and audits.

### Independent and Fair Investigations

Given our firm's reputation for independence and integrity, Kroll is often retained by academic institutions and other organizations to conduct sensitive internal investigations related to allegations of sexual assault or misconduct. Our team of professional investigators has decades of investigative experience in which our mission is to determine credibility, develop facts, and reach findings with independence and objectivity. We conduct our investigations with professionalism, discretion, and sensitivity to the legal, privacy, human resource, and other particular concerns of the case at hand.

As necessary, Kroll interviews relevant witnesses and examines pertinent documentation, such as written statements, medical records, email, and other communications. At the conclusion of our investigation, we deliver a confidential report of our findings and recommendations.

Kroll experts can also conduct lookback audit engagements, where we evaluate an educational institution's prior responses to complaints of sexual misconduct and, if applicable, suggest areas for improvement.



**Mark Ehlers**  
Managing Director and Head of  
Philadelphia Office  
Business Intelligence and  
Investigations  
*Philadelphia*

+1 215 568 8305

✉️ ↓



**Julieanne Himelstein**  
Associate Managing Director  
Business Intelligence and  
Investigations  
*New York*

+1 212 833 3307

✉️ ↓

# Sexual Misconduct Investigations:

## 12 Basic Principles of Internal Investigations

1. **Be fair and objective.** Everyone involved in an investigation deserves to be treated with respect and dignity.
2. **Do not pre-judge.** Wait until all witnesses have been interviewed and evidence examined before reaching factual determinations and ultimate conclusions.
3. **Avoid the appearance of bias.** If the key parties to a dispute or allegation of misconduct are personally known to the investigator, or if the allegation of misconduct is against a high-level officer or manager, someone more independent should be brought in to conduct the investigation.
4. **Plan and outline the investigation before starting.** Think through who should be interviewed and in what order; what documents and evidence should be gathered before interviewing certain witnesses; and what interim measures are needed (e.g., temporarily restricting access to computers).
5. **Investigate Promptly.** Certain investigative steps may need to be done immediately – for example, preserving electronic and other evidence. But rarely should an investigation be rushed and prematurely concluded due to some arbitrary deadline.
6. **Keep the investigation separate and independent from the stakeholders.** Especially in sensitive matters, the company president, general counsel, or board members may wish to be kept apprised of the investigation's progress and preliminary findings. This should generally be avoided so as not to compromise the integrity and independence of the investigation itself.
7. **Never mislead a witness.** Do not disclose details of the investigation to witnesses, do not make promises that cannot be kept and do not lie or make misleading statements to the witnesses.
8. **Protect confidentiality.** Failure to take reasonable precautions to protect the confidentiality of the investigation and the witnesses being interviewed can damage reputations and potentially lead to cover-ups, liability and retaliation.
9. **Protect reputations.** Nothing can undermine the credibility of an investigation more severely than if the investigation fails to adequately protect the reputations of employees and witnesses.
10. **Investigate acts of retaliation.** If during the investigation a report or allegation of retaliation against the person who reported the misconduct or any other witness is received, the alleged retaliation must be immediately and thoroughly investigated.
11. **Seek every witness's cooperation.** Try to obtain the cooperation of all potential witnesses, not only those who may support or corroborate one side of a dispute.
12. **Reach a conclusion.** Even in difficult cases involving conflicting accounts from equally credible sources, it is important to make determinations regarding credibility and reach reasonable fact-based conclusions based on a thorough evaluation of the evidence.