

# **The Hotline Is Ringing — Now What?**

## **Best Practices for Managing and Coordinating Investigations in an Academic Environment**




**KIMBERLY L. FEARNEY,**  
Chief Compliance Officer, University of Connecticut

**JORDAN E. SEGALL,**  
Legal Counsel, Ethics and Compliance, Xylem, Inc.

**ROBERT F. ROACH,**  
Senior Advisor, Guidepost Solutions LLC



# Overview – Session Topics

- Compliance and Ethics Complaint General Intake
  - Conduct of Investigations
  - Final Investigative Reports, Conclusions and Recommendations
  - Disclosure to the Government
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# Exclusions and Limitations

*What we won't be covering*

- **Exclusions:** Complaint and investigation processes set by federal law (e.g. Title IX and Research Misconduct)
- **Limitations:** Will will be discussing complaint processes and investigations arising in the United States but NOT matters arising from International locations and operations.

(Many international jurisdictions have very specific limitations and widely varying requirements regarding compliance complaints and internal investigations, which are beyond the scope of this session)



## II. Compliance Complaint Intake

A. Reporting Options

B. Compliance Hotlines

C. Compliance Complaint Triage and Coordination

Complaint Intake has come a long way...





## A. Reporting Options

- Within the Unit and Chain of Command
- Human Resources
- Internal Audit
- Dean of Students/Community Standards
- Specialized Offices (Title IX, Athletics Compliance, Research Compliance)



## B. Hotlines

- In-House, Third Party (strengths and weaknesses)
- Marketing your Hotline – Not just Annual Compliance Training
- Ways to Submit Complaints – Apps, Webforms, etc.
- Using Hotline Software for Case Management and Data Collection
- Running and using Analytics from your Hotline – reports to University leadership and the Board
- Handling Anonymous Complaints
- Handling Complaints from Students or the General Public

A Roundtable Discussion- Best Practices and Issues

**We want to hear from you! What has been your experience?**



## C. Compliance Triage and Coordination

### *It Takes a Village*

- Compliant Referral and follow-up
- Coordination with Other Offices (ensure full compliance data picture, consistency of investigations, and appropriate training of university investigators)
- Labor Unions and Complaint Processes
- Specialized Policies and Procedures (e.g. Compliance Complaint Policy, etc.)
  - **See** Example UCONN Internal Investigation and Case Management Procedural Guidelines in Appendix.
  - **See** FCPA Compliance Report Podcast on Whistleblower Response in Appendix.

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## III. Conduct of Investigations

A. Approach and Philosophy

B. Preliminary Steps and Considerations

C. Conducting the Investigation



# A. Approach and Philosophy

## *Procedural Justice and Neutral Factfinding*

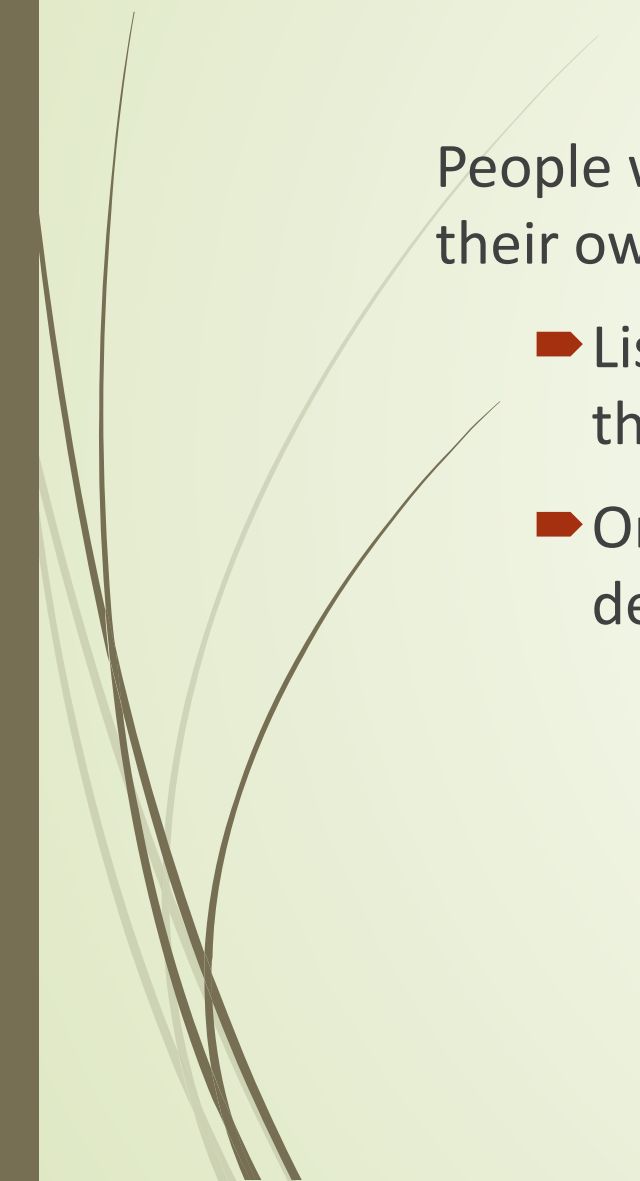
Four key procedural justice concepts for Neutral Factfinding:

- Voice
- Neutrality
- Respect
- Trust



# Voice

People want to have an opportunity to tell their side of the story in their own words.

- ▶ Listen to people. Give them a chance to explain their side of the story.
  - ▶ Once people have done so, they are more willing to defer to decisions.
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# Neutrality

People bring their problems to authorities because they view them as neutral, principled, decision makers who...

- ▶ Make decisions based on rules and values, not personal opinions.
- ▶ Apply rules consistent with values across people and over situations.



# Respect

Authorities are representatives of the organization.

People draw a message about their status in society in within an organization from the way they are treated by these authorities.

- Respect communicates high status and value.
- Disrespect suggests that you are marginal and unimportant.



# Trust

Studies of authorities constantly show that the central attribute influencing their evaluations are judgments about the character of the decision maker (sincere, caring).

- ▶ Are you listening to and considering people's view?
- ▶ Are you trying to do what is right for everyone involved?
- ▶ Are you acting in the interests of the parties, not out of personal prejudice?



## B. Preliminary Steps and Considerations

### 1. Preliminary Review: Determining “sufficient cause” to conduct an investigation

- Review of facts in complaint
- Collect and analyze initial background information regarding the complaint, such as review of available basic records related to complainant
- Check complainant and investigative records (case management system) regarding prior matters involving complainant and respondent

## B. Preliminary Steps and Considerations (continued)

### 2. Preliminary Notice and Coordination:

- Initial contact with complainant and subject/respondent (timing and issues, such as non-retaliation)
- Manager and Executive Notification
- Labor Unions (role and rights under contracts)
- Special Considerations (e.g. students and faculty)
- Role of General Counsel and Conducting Investigations under Attorney Client privilege
  - Processes for ensuring attorney client privilege, such as Upjohn Warnings, when to retain outside counsel or independent investigators. (**See** Sample Upjohn Warning in Appendix.)





## C. Conducting the Investigation

- Document/Comms Production and Collection (other university units, Internal Audit, and special privacy consideration, such as surreptitious access to faculty and staff email)
- Interviews- Who, What, Where (Zoom versus In-Person), When, Why
- Right to Counsel and Union Reps
- Communications with Individuals
- Note Taking and Other Documentation Practices
- Public versus Private Institution Considerations
- “Progress Reports” (complainant, respondent and leadership)

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## D. Final Reports, Conclusions, and Recommendations

- Written Report Template/Standardization (See UCONN Final Report Template in Appendix)
  - Fact Finding
  - Standards for Conclusions
  - Recommendations- Discipline, Training, Policies/Processes
- Communication of the Report
- Navigating Conflicts over the Report
- Monitoring Remediation

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## E. Disclosure to External Regulators

- ▶ Required versus Recommended
- ▶ Scope and Timing of Disclosure
- ▶ Examples of Relevant Evolving Regulatory Standards
  - ▶ Department of Justice (**See** March 2023 Update in Appendix)
  - ▶ Department of Commerce/Export Control Guidance (**See** Department of Commerce Memorandum in Appendix)
  - ▶ NIH/NSF re: bullying/harassment (**See** NIH Expectations and Requirements in Appendix)
  - ▶ Local FOIA/RTK Laws

A Roundtable Discussion- Best Practices and Issues

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# Questions?

**KIMBERLY L. FEARNEY,**  
**Chief Compliance Officer, University of Connecticut**  
**[kim.fearney@uconn.edu](mailto:kim.fearney@uconn.edu)**

**JORDAN E. SEGALL,**  
**Legal Counsel, Ethics and Compliance, Xylem, Inc.**  
**[Jordan.Segall@xylem.com](mailto:Jordan.Segall@xylem.com)**

**ROBERT F. ROACH,**  
**Senior Advisor, Guidepost Solutions LLC**  
**[rroach@guidepostsolutions.com](mailto:rroach@guidepostsolutions.com)**

# References

## Procedural Justice

Taylor, Dienhart, Thomas, The Ethical Commitment to Compliance: Building Value-based Cultures That Encourage Ethical Conduct and a Commitment to Compliance, California Management Review (January 2008)

<https://journals.sagepub.com/doi/abs/10.2307/41166434>

Taylor, Procedural Justice, Legitimacy, and the Effective Rule of Law, Crime and Justice, Volume 30 (2003), pp 2893-357

<https://www.jstor.org/stable/1147701>



# Appendix

- UCONN Internal Investigation and Case Management Procedural Guidelines (attached)
- [FCPA Compliance Report Podcast- Maria D'Avanzo on Corporate Whistleblower Response](#)
- Sample Upjohn Warning (attached)
- UCONN Final Report Template (attached)
- [US Department of Justice, Criminal Division, Evaluation of Corporate Compliance Programs \(Updated March 2023\)](#)
- Department of Commerce/Export Control Guidance Memorandum (April 2023) (attached)
- [NIH Expectations, Policies and Requirements related to Respectful Workplaces \(October 2022\)](#)