

INVESTIGATIONS BY THE INSTITUTION

15



15.1 OVERVIEW

In our experience, a disproportionate number of claims arise from the failure to conduct investigations—properly, or at all. This is not surprising, because the administrators and teachers who conduct most investigations often lack sufficient training or experience.¹ This chapter seeks to fill that gap.

The legal principles governing investigations of students are derived from much the same case authority as the rules applicable to employee investigations. For the most part, the practical considerations are the same as well. Thus, this

¹ Section 5.7 discusses effective training programs.



chapter generally focuses on the relevant law and provides a practical guide for conducting all kinds of investigations—whether the alleged misconduct or complaint involves students, teachers, or other employees. After summarizing the principles and problems in Section 15.2, Section 15.3 discusses the constitutional and other legal constraints on searches and other investigative techniques. The remaining sections provide concrete advice for successfully navigating three key aspects of institutional investigations: preparing for an effective investigation (Section 15.4), productively and fairly interviewing parties and witnesses (Section 15.5), and assessing and documenting the fruits of the investigation (Section 15.6).

