

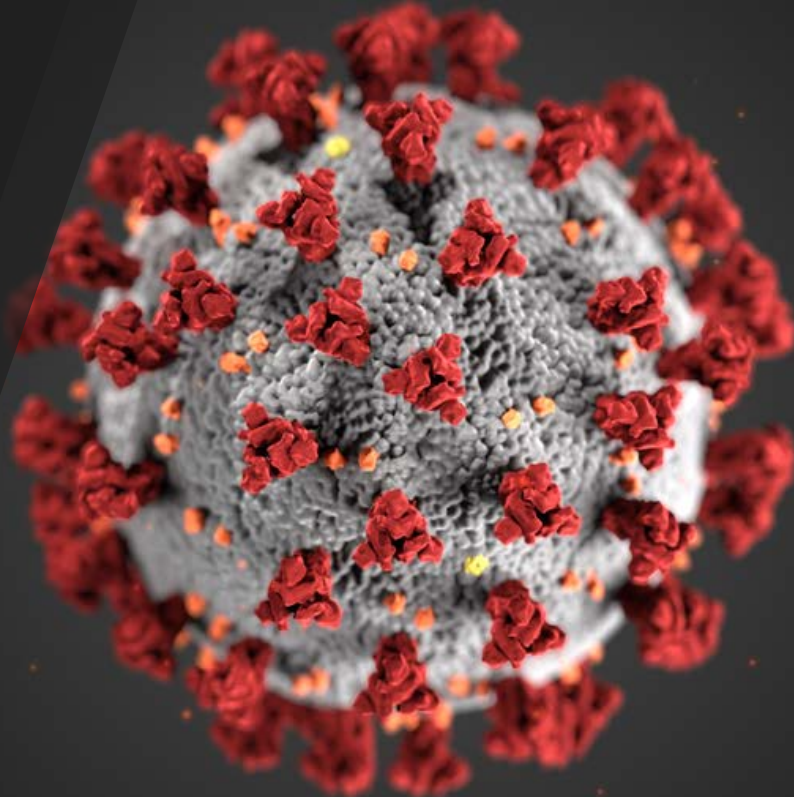
Ethics and Open Government in a Virtual World

Ethics Week 2020
**Board of Ethics and
Government
Accountability**

Ethics Week 2020

- John Cheek, DCHR Attorney Advisor
- Devonte Peterson, DCHR Sexual Harassment Program Coordinator
- Jaime Wojdowski, OHR Enforcement Manager
- Ronald Cook, Ralph Bradley, Ileana Corrales, BEGA Investigators
- Bernadette Todd, OIG Assistant Inspector General
- Matthew Wilcoxson, OIG Deputy Inspector General

Investigations



Investigations

Agency's mission

Types of
investigations

How to file a
complaint

Investigative
process

Conducting
investigations
during the
pandemic

D.C. Department of Human Resources



Mission



The Department of Human Resources (DCHR) provides human resource management services that strengthen individual and organizational performance and enable the District government to attract, develop and retain a well qualified, diverse workforce.

DCHR

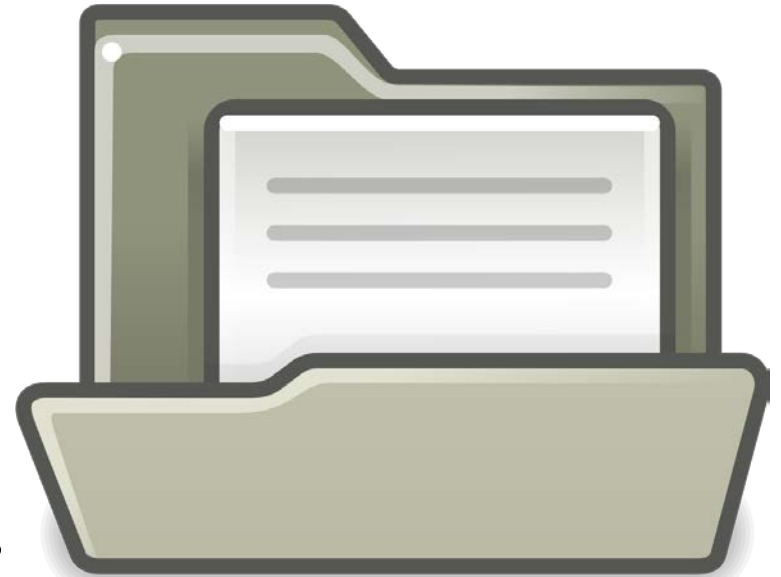
What Does DCHR Investigate?

- Complaint Referrals from BEGA & OIG
- Employee Suitability
- Personnel-related investigations where violations of District or federal personnel laws or regulations, the District Personnel Manual, or District policies have occurred

DCHR Overview

How to File a Complaint?

- DCHR receives complaints mostly by referral
- An employee files a grievance, requesting an investigation
- For Suitability Investigations, DCHR has Memoranda of Understanding with District agencies to conduct criminal background checks

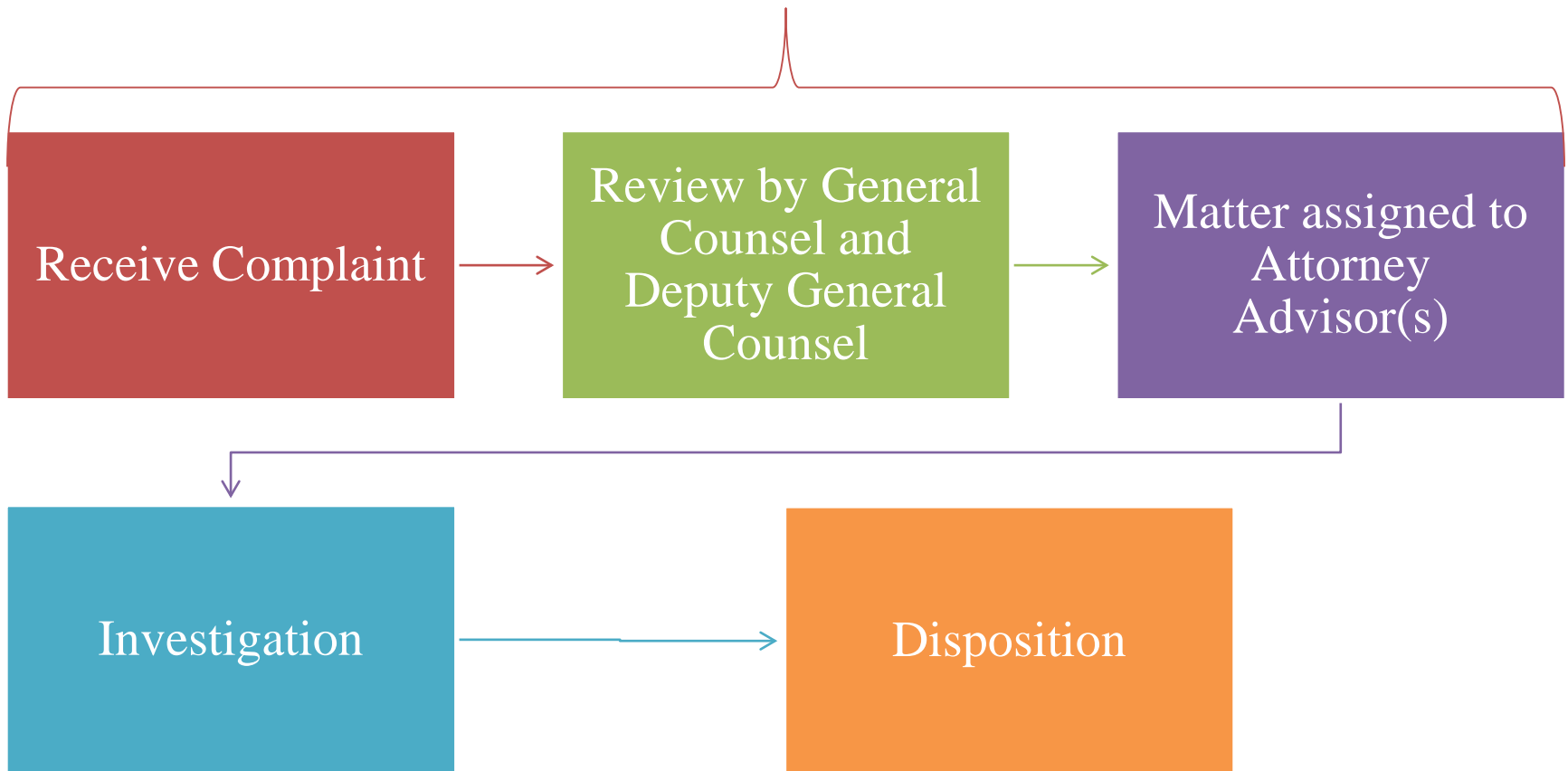


DCHR Investigative Process

- Complaint Referrals from BEGA & OIG
 - Mostly paper review
 - May require some interviews of employees
 - Issue formal responses to BEGA & OIG, notifying each agency what steps were taken, whether an investigation was required and the outcome of DCHR's review of the complaint
- Employee Suitability
 - Mostly paper review (FBI report, police and court records)
 - Interview applicant because of derogatory information in background check
 - Conduct 8-factor analysis and issue "suitable" or "not suitable" disposition

Life Cycle of a DCHR Investigation

Personnel-related investigations



DCHR Investigative Process

Investigation

Once complaint has been received:

- (1) Review Complaint
- (2) Create an investigation plan;
- (3) Conduct and review initial background research



DCHR Investigative Process

*PRIVILEGED AND CONFIDENTIAL
ATTORNEY WORK PRODUCT*

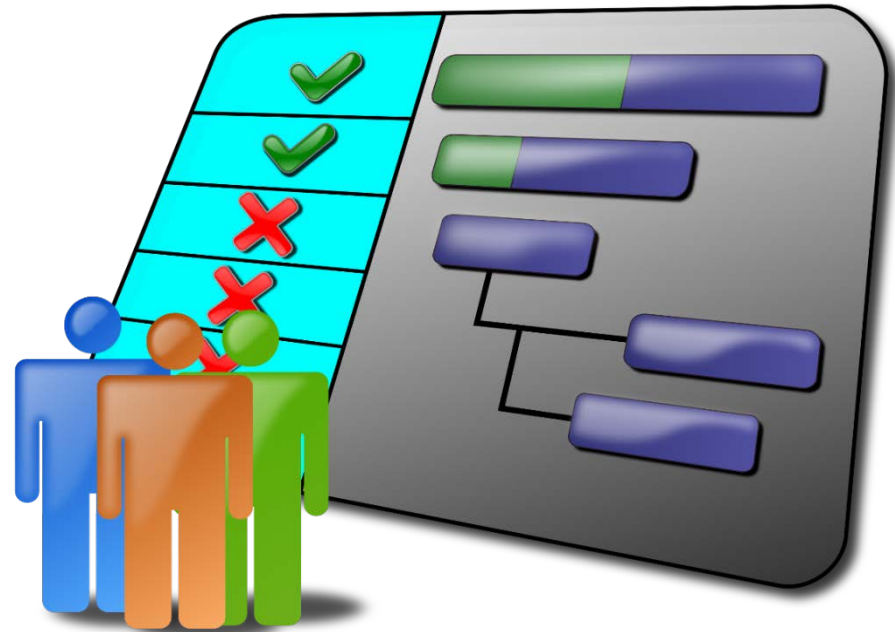
INVESTIGATION PLAN: Name of Employee

- I. OVERVIEW**
 - A. Name of Investigation
 - B. Brief description of the matter
 - C. Name(s) of Investigator(s)
 - D. Date Assigned
 - E. Any Applicable Deadlines (i.e., 60-day sexual harassment deadline)
- II. BASIC INFORMATION**
 - A. Allegations: Quote directly from Employee Complaint
 - B. Interviews to Conduct (Name(s) of individual(s) to interview)
 - C. Applicable District and Federal laws, rules, policies, etc.
- III. CHRONOLOGY OF EVENTS (known so far)**
- IV. EVIDENCE**
 - A. Evidence we currently have
 - B. Documentary evidence we are seeking
- V. QUESTION SETS**
 - A. Complainant
 - B. Other Witnesses
- VI. RECORD OF ACTIONS TAKEN BY INVESTIGATION TEAM**
 - A. List calls, meetings, emails, interviews conducted and provide notes or a brief description of each
- VII. NEXT STEPS**
 - A. List out what actions still need to be taken during the investigation
- VIII. LEGAL RESEARCH**
- IX. NOTES**

DCHR Investigative Process

Investigation (cont.)

(4) Schedule and conduct interviews



DCHR Investigative Process

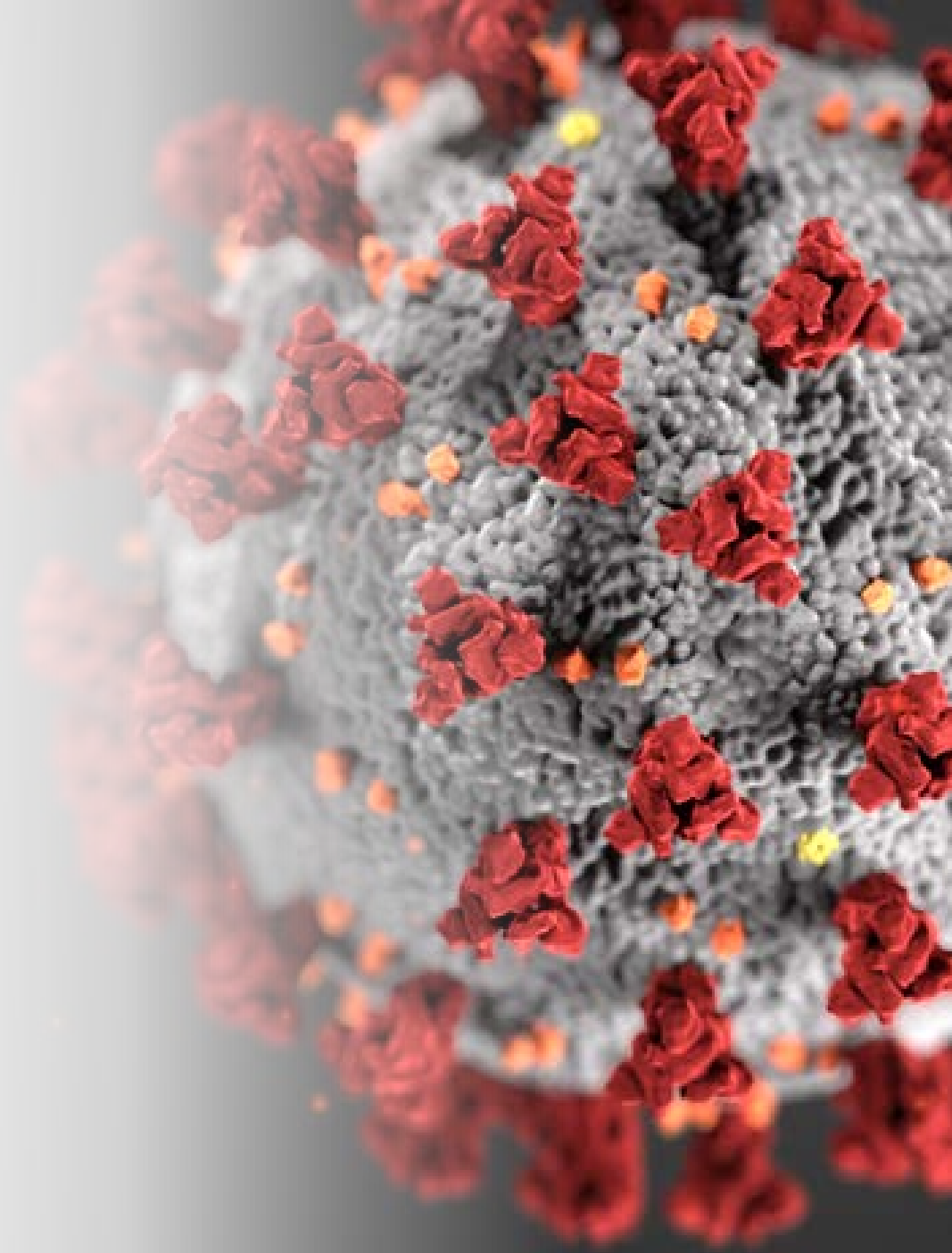
Investigation (cont.)

(5) Draft investigation report and notify the complainant and the accused of the outcome of the investigation

(6) Fulfill action items in the investigation report

DCHR Investigations Conducted During Pandemic

- **Except for in-person interviews, the Investigation Process at DCHR has remained intact**
- **Nearly 100% of DCHR employees are situationally teleworking. Because of this, we have had to increase our communication with colleagues, agencies and parties through email, telephone, and electronic messaging apps (Microsoft Teams)**



DCHR Investigations Conducted During Pandemic (cont.)

WITNESS INTERVIEWS

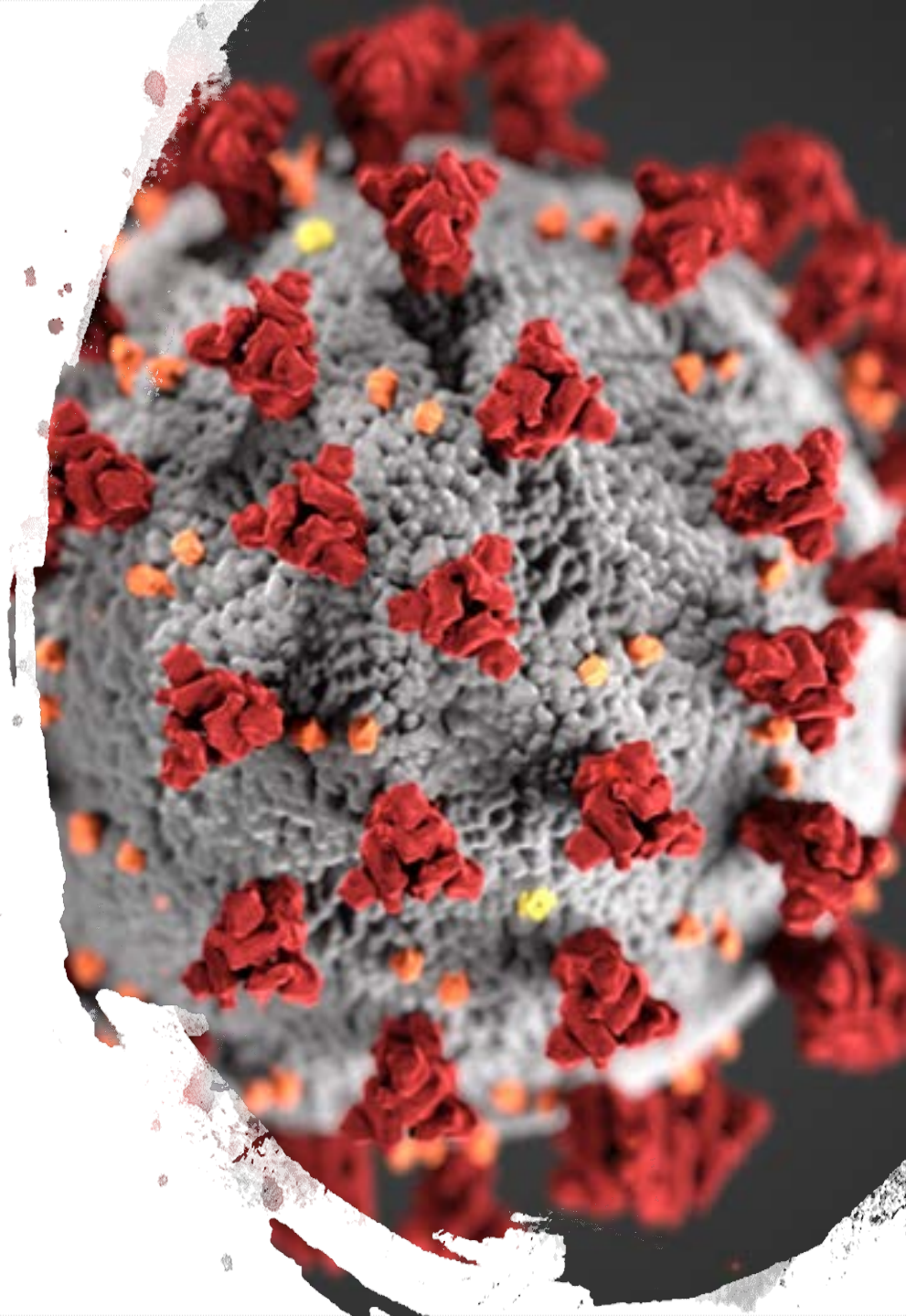
Use videoconferencing apps

Microsoft Teams

WebEx

Zoom

- Confirm videoconference access
- Privacy & confidentiality
- Sharing of evidence



Office of Human Rights



OHR

OUR MISSION

- On behalf of residents, employees, and visitors to the District, to:
- Eradicate discrimination
- Increase equal opportunity
- Protect civil rights through enforcement



OHR COVERED AREAS

- Employment
- Housing
- Public Accommodation
- Educational institutions



Jurisdiction

- Includes:
- DC Government
- Private sector
 - *Including non-profits, corporations, contractors, et*
- Excludes:
- Federal Government, including Metro/WMATA
- District of Columbia Courts

OHR ENFORCES

- **DC Civil Rights Laws**
 1. DC Human Rights Act of 1977 (DCHRA)
 2. DC Family and Medical Leave Act of 1990 (DCFMLA)
 3. Protecting Pregnant Workers Fairness Act (PPWFA)
 4. Fair Criminal Record Screening Amendment Act (FCRSA)
 5. Paid Family Leave Act (retaliation only)
 6. Language Access Act
 7. Youth Bullying Prevention Act
 8. Unemployment Antidiscrimination Act
 9. Parental Leave Act

- **Federal Civil Rights Laws**
 1. Title VII of the Civil Rights Act of 1964 (Employment)
 2. Title VIII of the Civil Rights Act (Fair Housing)
 3. The Age Discrimination in Employment Act (ADEA)
 4. The Americans with Disabilities Act (ADA)
 5. Genetic Information Nondiscrimination Act (GINA)

OHR ENFORCES

- **Additional DC Laws (Enforcement date)**
- Fair Criminal Record Screening for Housing Act of 2016
(October 1, 2017)
- Fair Credit Information Amendment Act of 2016
(October 1, 2017)
- Employment Protections for Victims of Domestic Violence, Sexual Offenses and Stalking Amendment Act of 2018
(October 1, 2019)

21 PROTECTED TRAITS

Race	Matriculation
Color	Political Affiliation
Sex	Personal Appearance
National Origin	Credit Information
Religion	Victim of Domestic Violence, Sexual Offenses, and Stalking (DVSOS)
Disability	Source of Income
Age	Status as Victim of an Intrafamily Offense
Sexual Orientation	Familial Status
Gender Identity & Expression	Place of Residence or Business
Genetic Information	
Marital Status	
Family Responsibilities	

REQUIREMENTS FOR FILING

- 1.- Incident occurred in DC
- 2.- Based on one or more of the 21 protected traits (or one of the other laws OHR enforces)
- 3.- Happened within the last year*

***Except for DC government employees filing an employment complaint (180 days)**

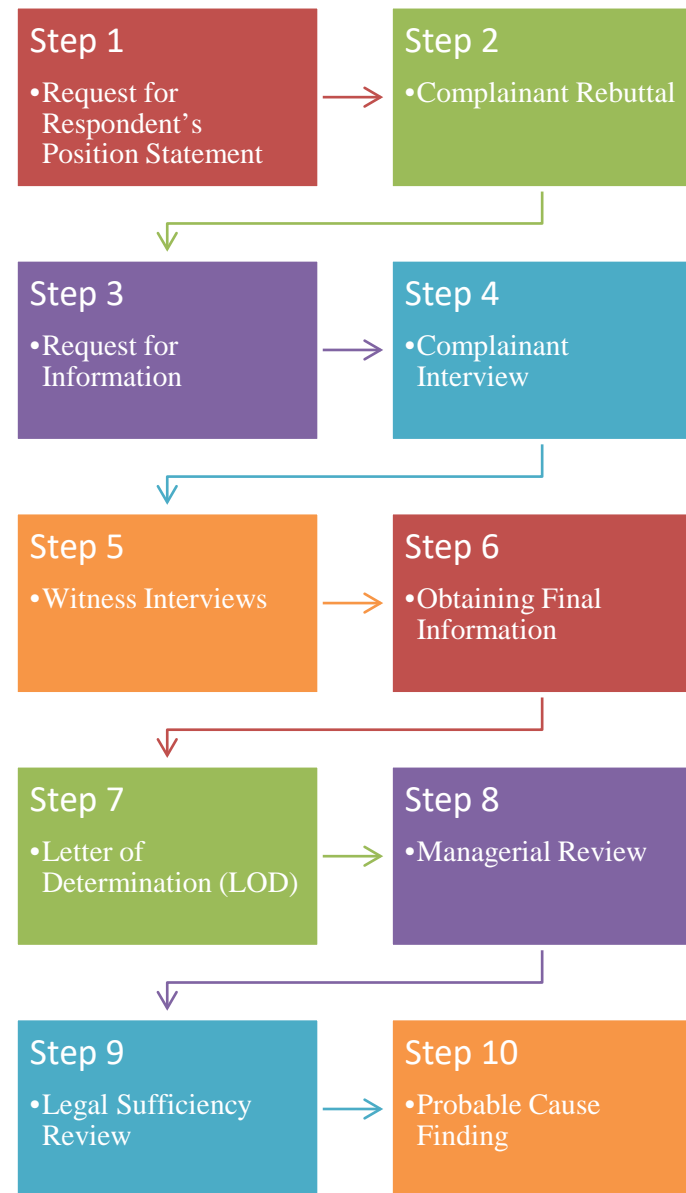
COMPLAINT PROCESS

1. Questionnaire*
2. Intake
3. Mediation
4. Investigation
5. OHR Decision
6. Public Hearing





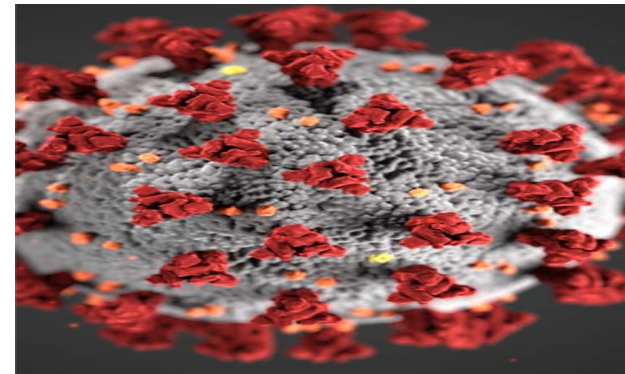
Investigative Process



IMPACT OF COVID-19

Issues Faced by OHR

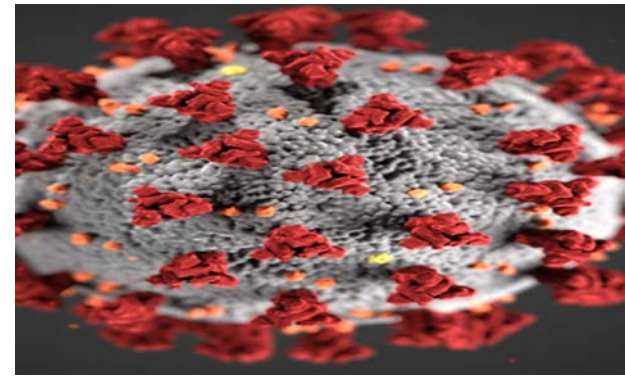
1. - Paper Case Files/Staff Access to Files
2. - Establishing Electronic Procedures
3. - Virtual Mediations
4. - Parties' Access to Files/Witnesses
5. - COVID-Related Extension Requests
6. - Hiring Freezes and Understaffing
7. - High Case Dockets
8. - Enforcement of Emergency DCFMLA Amendments
9. - Universal Paid Leave Act (effective 7/01/20)



IMPACT OF COVID-19

Changes to Investigations

1. - Establishing electronic files
2. - No in-person filing
3. - Intakes by phone
4. - Notarization no longer required
5. - Mediations by video or phone
6. - All Complainant/witness interviews by phone
7. - Documents cannot be submitted in person





OFFICE OF GOVERNMENT ETHICS

BEGA



OGE



OGE is an office within the Board of Ethics and Government Accountability (BEGA) that investigates allegations of ethical misconduct concerning District government employees and officials.

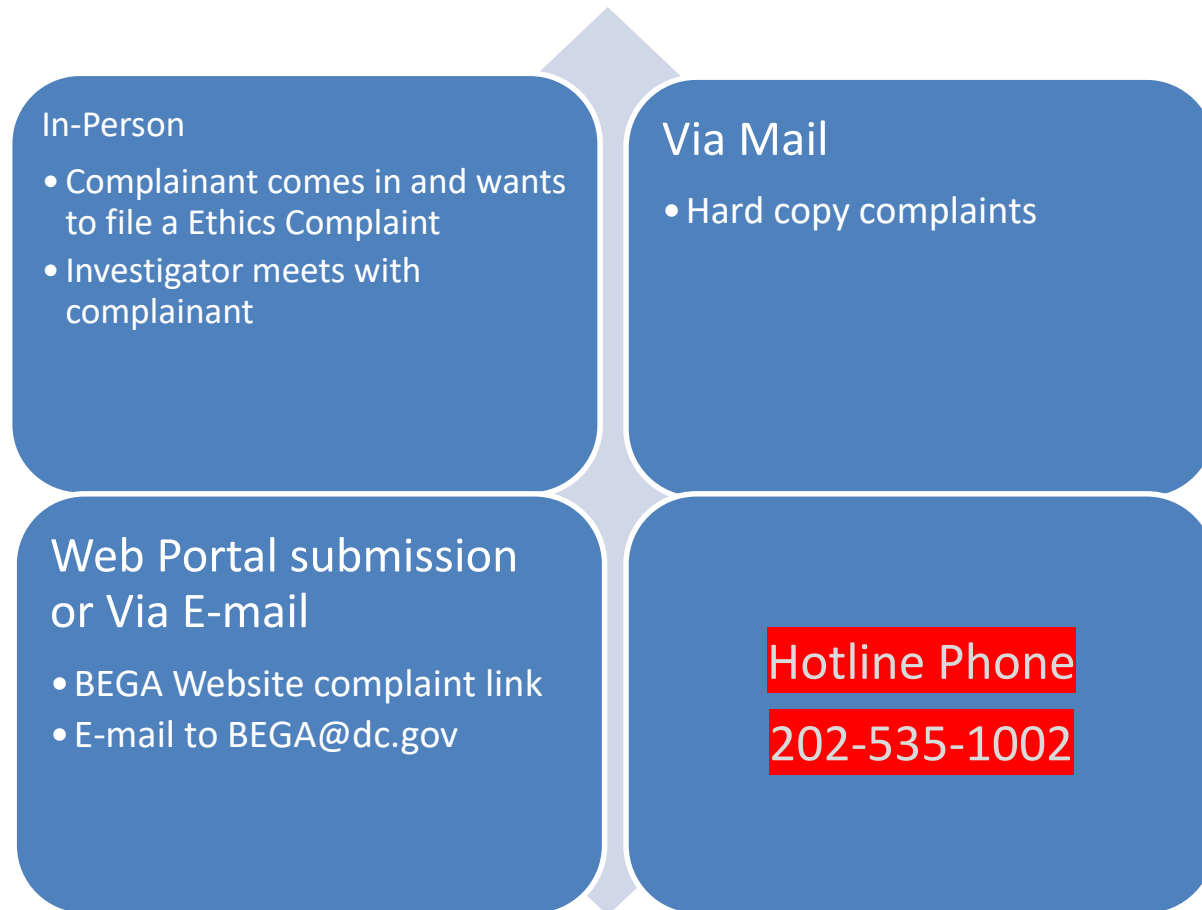
OGE

In addition to its ethics enforcement role, OGE is also responsible for providing binding ethics advice and training to District employees.

- Oversight of Lobbyist registration and activity.
- Compliance with Financial Disclosure Statement filing requirements.

BEGA Investigative Process

How do I submit a BEGA Complaint?





Case File
BW/078.3b

BEGA Investigative Process

- **Case Types:**
 - **Formal**
 - Allegation received with a Sworn Complaint
 - A finding by the OIG, DC Auditor, or court
 - Presented to the Board within 14 days
 - **Preliminary**
 - **Regulatory**
 - FDS and Lobbyist

BEGA Investigative Process

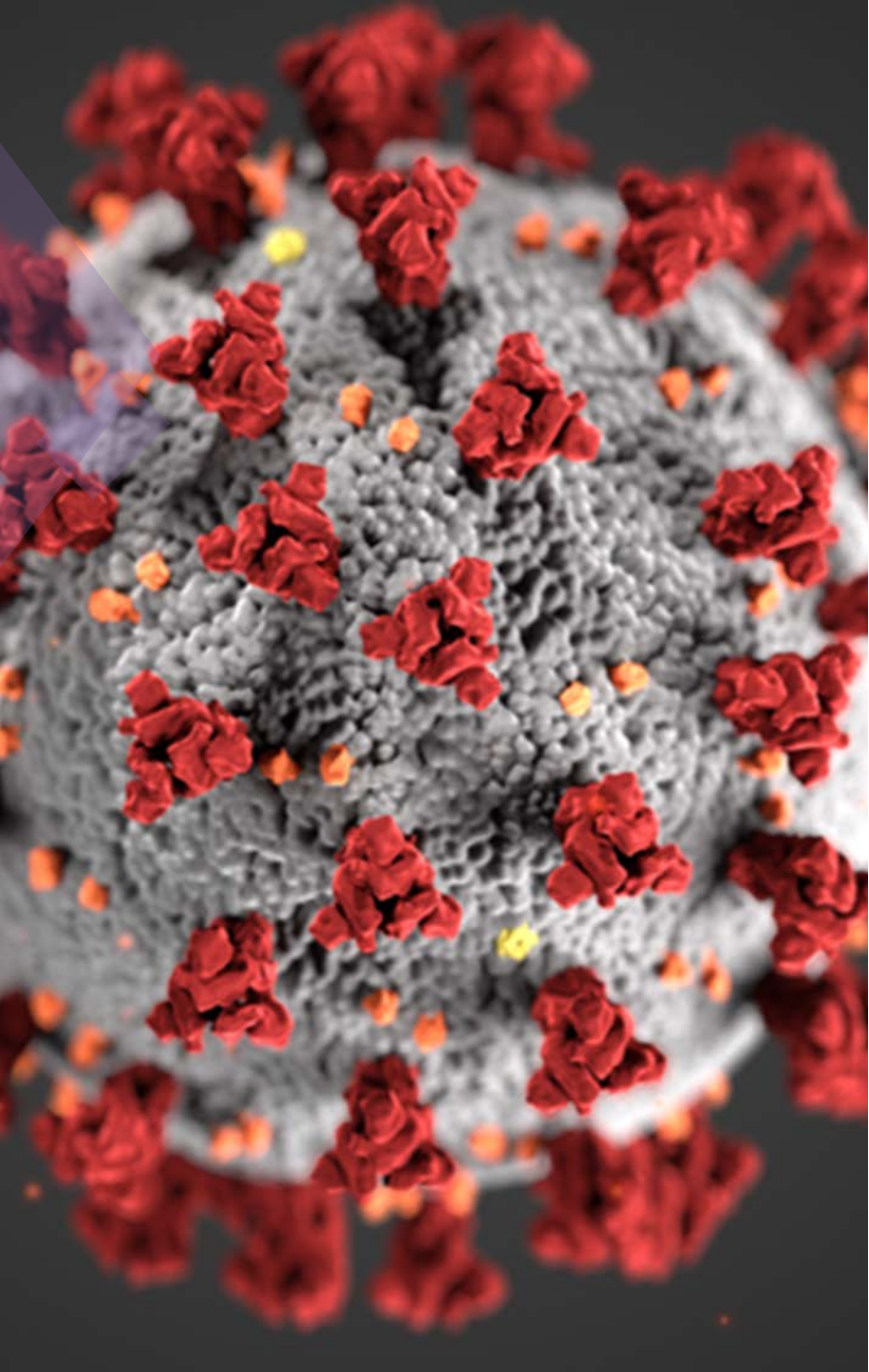


- **Investigation**
 - Conduct Research
 - Employment (PeopleSoft, Email,...)
 - Personal (CLEAR, Lexis, TLO...)
 - Business/Corporate
 - Public and Social Media
 - Determine Agency Coordination
 - Law Enforcement (OIG, OAG, MPD...)
 - Regulatory (DHCF, DCHR, OPRS...)

BEGA Investigative Process

Investigation (continued)

- Information Requests
 - Issue Requests for Assistance/Information
 - Subpoenas
 - Develop Witness Lists
 - Send notifications
 - Schedule Interviews
- Prepare Investigative Summary of Facts
- Recommend Disposition/Proposed Penalty



Changes implemented due to Covid-19

- **In-person interviews**
 - BEGA suspended all in-person interviews amid concerns over the coronavirus outbreak. Eliminated the element of surprise and allowed more time for witnesses and respondents to prepare.
- **Video Conferencing**
 - This has become the preferred method to conduct interviews of witnesses and respondents who may have relevant information for our investigations.
- **Phone Interviews**
 - This is better than no interview at all, but makes it almost impossible to assess attitude, nonverbal cues and potential deception.
- **Obtaining investigation documents**
 - While this process for us has remained normal, it has been slow as employees on situational telework do not have access to non-electronic documents, such as hard copy files may be needed to further our investigation.

BEGA Ethics Investigations

Conclusion

One Judiciary Square
441 4th Street, NW, 830 South
Washington, DC 20001
Phone: (202) 481-3411

Hotline: (202) 535-1002

Email: bega@dc.gov

OFFICE OF THE INSPECTOR GENERAL



Help Prevent Fraud, Waste, and Abuse

Mission and Function of the OIG

- Responsibilities:
 - “The Inspector General shall... [c]onduct independent fiscal and management audits of District government operations”
 - “Independently conduct audits, inspections, assignments, and investigations as the Mayor shall request, and any other audits, inspections and investigations that are necessary or desirable in the Inspector General's judgment”²
- OIG investigators may carry firearms,³ make arrests,⁴ and serve search warrants⁵ in the course of their official duties

OIG and District Oversight Entities

- Multiple Touch Points:
- Work with the D.C. Auditor during the development of our Annual Audit and Inspection Plan (available at oig.dc.gov)
- Work with District Agencies as they conduct administrative investigations and assume the investigation if potential criminal misconduct is uncovered
- Coordinate with other federal OIGs, the FBI, the U.S. Attorney's Office, and the Office of the Attorney General
- Refer substantiated reports of investigation to District agencies for action deemed appropriate
- Coordinate with BEGA on addressing ethical misconduct discovered during the course of the OIG's work

Know Your Responsibilities

- Per District Personnel Manual (DPM) § 1800.3(k), employees shall report credible violations to appropriate authorities:
- OIG: required “to independently . . . [c]onduct and supervise . . . investigations relating to the programs and operations of the District government departments and agencies, including independent agencies”
- BEGA: enforces the District’s Code of Conduct, applicable to all District government public officials, including elected public officials, and employees in Executive and Legislative branch agencies and Independent agencies, and members of Boards and Commissions, including ANC Commissioners

Know Your Responsibilities

- Best to notify OIG and/or BEGA prior to the initiation of any management action – but why?
- Agencies conducting administrative inquiries may jeopardize effective criminal and/or civil prosecution
- Subjects, witnesses, and evidence may become tainted and/or disappear
- For more information, see the OIG's Management Implication Report, dated March 14, 2016.
- At the end of the day, District management officials are responsible for an effective internal control system within their areas of responsibility.

How to File a Complaint

- General Questions:
 - OIG Main Number: 202-727-2540
 - Hotline Complaints:
- Phone: (202) 724-TIPS (8477) or (800) 521-1639
 - Email: oig@dc.gov
 - Online form available at: <http://oig.dc.gov>
- Mail: 717 14th Street N.W., Suite 500 Washington
D.C. 20005

OIG Investigative Process



OIG Investigations

- Investigative Process:
 - Allegation and Validation
 - Investigative Plan and Investigation
 - Disposition and Report
- Impacts due to COVID-19 Public Emergency:
 - Risks associated with gathering evidence
 - Impacts to the District and Superior Court Dockets
 - Prioritizing activities that advance a matter while not increasing existing risks

OIG

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