

How to Conduct Thorough and Fair Workplace Investigations

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Today's Presenters



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When to Conduct a Workplace Investigation

- Employee behavior
- Suspected substance use
- Concerns of discrimination, harassment, or threats
- Violation of workplace rules
- Workplace theft



Why Conduct a Workplace Investigation

- Resolve internal issues
- Advise, counsel, and develop organizational leaders to better manage employees
- Increase engagement of employees by providing confidential channels to address their concerns
- Protecting the organization from lawsuits and safeguarding their tangible and intangible assets



Why Conduct a Workplace Investigation

- Reduce the risk of government intervention
- Mitigate litigation
- Limit damages with lawsuits



Trends in Workplace Investigations

Investigations
beyond sexual
harassment

Complaints from
witnesses

Complaints against
officers and board
members

Remote
investigations

Investigations
arising outside the
worksite

More use of social
media and video
evidence

Be Prepared for Your Next Investigation

Employers should have policies and procedures in place to address employee complaints:

- A written process on how complaints will be handled
- A process of how complaint investigations will be conducted, if required
- A complaint form easily accessible to all employees
- Understanding of complaints that require investigation



Best Practices for Conducting Workplace Investigations

- Establish investigation goals early on
- Assess complaints with discretion
- Carry out investigations in a fair and objective manner
- Respect the privacy of those involved
- Conduct detailed interviews
- Take action if the complaint is substantiated



How to Conduct a Workplace Investigation

1

Take action to stop the suspect conduct

2

Determine whether to conduct an investigation

3

Choose the right person to conduct the investigation

4

Determine whether to involve in-house or outside counsel

How to Conduct a Workplace Investigation

5

Determine whether to impose restrictions on employee activity

6

Craft the investigation to address a specific target audience

7

Interview the complaining witness

8

Interview the employee against whom accusations were made

In-House vs Third Party Investigator

In-house investigator considerations:

- Do you have the necessary experience in-house?
- Can they be objective?
- Could there be a fear of retaliation or directed outcome?

Third party investigator considerations:

- Experienced investigator with clear process
- Objective, thorough approach
- Can make recommendations for policy changes, training, discipline, or termination
- Understands when to consult with legal counsel



Importance of Communication

- Responding and acknowledging when a complaint is received
- Identifying the principal company contact and discussing the scope of the investigation
- Understanding of the disruption factor
- Ensuring limited or no contact of the complainant and the accused during the investigation
- Need-to-know basis for company personnel
- Regular updates with the principal company contact
- Involving legal counsel



Preserving the Integrity of the Investigation

- Order of the investigation process
- Objectivity and perseverance
- Confirmation of the verbal/written complaint
- Understanding confidentiality and discussing the investigation
- Reporting retaliation
- Following the course of the information obtained
- Examining all the information



Reaching a Determination

- Why a non-determination is unacceptable
- Weighing the information
- Risks of reaching the wrong conclusion
- Completing a written report with the determination
- Reviewing the report with the company principal
- The responsibilities of the company



After the Report



Follow- up responsibilities: impact on the company



Notifying the complainant of the results



Notifying the accused of the results



Reviewing retaliation again



Workplace expectations



Policy changes and/or required training

GTM's Workplace Investigation Service

- Investigation led by an independent, unbiased, season HR professional
- Review compliant
- Schedule and conduct interviews
- Review documents
- Complete a comprehensive written report
- Review report with principal official
- Recommend next steps





QUESTIONS

Continue the Conversation...



Questions about workplace investigations

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Information on GTM's investigation service

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