

Workplace Internal Investigations

THE EMPLOYER'S PRACTICAL LEGAL ROADMAP

An executive guide to conducting legally defensible workplace investigations.

BEFORE YOU BEGIN

Not every complaint requires the same response, but every complaint mandates an appropriate one.

Before launching an investigation, employers should determine:

- What policy or legal issue is involved?
- Who should conduct the investigation?
- Whether attorney-client privilege should be considered.
- Whether immediate interim measures are necessary.
- What documents and electronic evidence should be preserved.

AFTER THE FINDINGS

The investigation is only one part of the process.

Employers should also evaluate:

- Bespoke corrective action
- Communication with involved employees
- Documentation of decisions
- Follow up monitoring
- Potential litigation or agency exposure
- Policy or training improvements

CONDUCTING A DEFENSIBLE INVESTIGATION

A well-conducted investigation should include:

- ✓ Consistent with industry best practices
- ✓ A clearly defined scope
- ✓ Timely action
- ✓ Neutral and unbiased investigator
- ✓ Consistent witness interviews
- ✓ Appropriate documentation
- ✓ Confidentiality to the extent practical
- ✓ Credibility assessments supported by facts
- ✓ Well-supported findings

WHEN OUTSIDE COUNSEL OR AN INDEPENDENT INVESTIGATOR MAY BE APPROPRIATE

- Executive leadership is involved
- Allegations involve discrimination or harassment
- Multiple complaints suggest systemic issues
- Litigation appears likely
- Independence or credibility could be questioned
- Specialized investigative experience is needed



COMMON MISTAKES THAT INCREASE RISK

Employers often create unnecessary exposure by:

- Pausing before investigating
- Improper decision logs
- Allowing investigator bias
- Ignoring inconsistent evidence
- Failing to follow internal policies
- Ignoring industry best practices
- Retaliating against participants
- Treating investigations as HR paperwork instead of risk management and information gathering

THE BOTTOM LINE

“A well-conducted investigation protects more than compliance. It protects people, preserves credibility, and reduces organizational risk.”

REMEMBER Every investigation you conduct today may be scrutinized tomorrow. Do it right. Document it well. Protect your organization.



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