

Three steps to better workplace investigations

Preparing for probe

One of the most important aspects of a workplace investigation is the preparation. Here are several steps to undertake when you're preparing for a probe:

Select an investigator. When you're determining who should conduct the investigation, here are several questions to ask: Will the person be impartial? Does the person have knowledge about the subject matter of the investigation? Does the person have experience in conducting investigations? Will the individual be an effective and credible witness if the matter develops into litigation?

Identify witnesses. The investigator must select people who should be interviewed during the probe. They should include the complaining employee, the alleged wrongdoer, any third-party witnesses, and individuals identified by either the complaining employee or the alleged wrongdoer. After identifying the people to be interviewed, the investigator should outline the areas of inquiry and decide in what order to interview the people.

Identify documents. Before meeting with any witnesses, the investigator should determine if any documents should be reviewed, such as company handbooks or policies, written complaints about the incident, or internal e-mails. The investigator may also wish to review the personnel files of all involved employees.

Record information. Before beginning a probe, the investigator should decide how to record the gathered information. For example, will the investigator use handwritten notes or rely on written statements from the witnesses?

Set a timeline. The investigator should decide on a timeline at the outset of any probe. The timeline should be short but realistic, given the subject matter and the number of people to be interviewed or documents to be reviewed.

Weigh interim action. The investigator should decide whether the situation calls for a temporary change in any working arrangements pending the outcome of the probe. Interim action may be

appropriate for reported complaints of harassment, criminal misconduct, or workplace violence.

Conducting the investigation

Be prompt, thorough, and effective. Keep workplace disruptions to a minimum during the investigation. Address and quickly deal with any rumors. Timing is especially important. Since memories fade and documents may be lost, the investigation should be undertaken as promptly as possible. In addition, a prompt investigation lets the complaining employee know that you're taking the issue seriously. Plus, any delay may lead to the occurrence of another incident.

Maintain confidentiality. Investigators should never make an absolute promise of confidentiality. Rather, they should indicate that they'll do their best not to reveal any information except on a "need to know" basis. Further, all investigation documentation should be properly secured.

Provide assurances. During the interviews, investigators should make several assurances (e.g., that no conclusion has been reached). They should also indicate that appropriate action will be taken at the conclusion of the probe. But they should never guarantee a particular course of action. Let the complaining employee know that the company has an open-door policy. The employee should feel free to provide information or raise concerns during the probe. Finally, investigators should advise every interviewee that retaliation won't be tolerated.

Listen during interviews. The investigator's role during an interview is to listen and hear both sides of the story. Investigators must be objective, nonjudgmental, and sensitive to each interviewee. They should obtain the facts, not opinions. They should ask open-ended questions: who, what, where, when, how, and why. Follow-up questions may be narrower and more focused. Based on that information, they should develop a chronology of events. Remember to advise each interviewee that the information should be kept confidential and that retaliation won't be tolerated.

Keep accurate documentation. Investigation documentation should be factual, accurate, and concise. All contemporaneous notes should be factual and detailed. If the investigator obtains a

written statement, the interviewee should sign it to reflect that it's accurate. The investigator should also note any retaliation warnings or statements made about the company's open-door policy.

Reaching conclusions

Assess the gathered information. In reaching a conclusion after a probe, investigators should assess the information collected during the interviews and consider only relevant facts. It's also important for them to assess credibility: Is the story plausible? How was the interviewee's demeanor/body language? Does the complaining party or any witness have a motive to falsify information? What's the corroborating information? Are there any conflicts with the written documents?

Decide on discipline. In deciding what, if any, discipline should be administered because of the probe, the investigator should consider several factors: the egregiousness of the conduct, any past conduct by the accused employee, and any mitigating factors. Also, will the discipline deter others and prevent a recurrence of the conduct? In the end, any discipline should coincide with company policies and/or past practices.

Communicate the decision. The investigator should meet with both the complaining employee and the accused to explain the decision, and both should be given the chance to respond to the decision or supply new information that may justify further investigation.

Prepare a written report. The written report should start with a summary of the information gathered and set forth a chronology of events. Always keep in mind that the final report's goal is to have an objective person who is reading the report agree that the result is rational, reasonable, and defensible. If an accurate, careful, and clear report can't be created, it's better not to generate any document at all.

Dos and don'ts

A thorough, objective, and prompt investigation will help your company. A poor investigation will do nothing but harm you. It's therefore imperative that you have a good investigation process in place. Just remember:

- *Don't* delay the investigation. *Don't* get just one side of the story. And *don't* reach a conclusion before the end of an investigation.
- *Do* start the investigation as soon as possible. *Do* listen. *Do* preserve confidentiality as much as possible. And *do* administer discipline in a consistent manner.

If you keep these basic guidelines in mind, you should be able to reach a reasonable, appropriate decision.

Detective Sergeant Richard R. O'Connor

