

CHECKLIST FOR CONDUCTING MORE EFFICIENT AND EFFECTIVE WORKPLACE INVESTIGATIONS

Step 1: Prepare investigation strategy

- After receiving the information that triggers the investigation, prepare the strategy and consider:
 - What law or policy violation triggered this investigation?
 - Who should be interviewed? And in what order?
 - What questions need to be asked?
 - What documents need to be recovered?
 - What is the timeline for completion?
- Identify potential witnesses
 - Complainant (or alleged victim, if other than the source of information)
 - Accused
 - Coworkers who were in the area when the issue of complaint occurred
 - Witnesses
 - Supervisors/managers of both the accuser and accused
 - Others, as identified
- Identify documents
 - Handbook, policies, or procedures
 - Timecards
 - Security video
 - Emails or other correspondence
 - Prior complaints
 - Financial reports and receipts
 - Notes about incident
 - Photographs
- Investigator Objectives
 - Prepare an outline of topics and questions
 - The goal is to determine the 5 W's and How
 - Practice active listening
 - Avoid personal judgment or opinions
 - Take effective notes
 - Determine whether two people should be present for certain interviews

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Step 2: Interview the Complainant/victim

- When interviewing the party, preparation is key
 - Avoid loaded, accusatory and multiple questions
- Take your time, listen and ask follow-up questions
- Discuss the importance of confidentiality
- Calm any fears of retaliation
- Request that the complaint be made in writing
- Goals of this step
 - Extract basic factual information
 - Protect the company
 - Taking factual notes
 - Ensure the policy does not provide deadlines to complete or get back with the complaining employee

Step 3: Obtain documents and identify witnesses

- Gather the documents complaining employee identified in the interview
- Through the interview and documents, a clear picture begins to shine regarding who should be interviewed

Step 4: Interview the witnesses and accused

- The order of these should be strategic
- When interviewing the witnesses:
 - Attempt to maintain confidentiality
 - Advise on the importance of honesty
 - Ask the right questions (open-ended, observation, others with information, etc.)
 - Circle back, if needed, when new information arises
- When interviewing the accused:
 - It is important to organize the topics and questions
 - Ask for a general response to the complaint, then follow up with specific questions to each comment/action
 - Determine whether there is documentation that supports their position or witnesses with relevant information
 - Warn against retaliation
 - Discuss confidentiality

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Step 5: Evaluate the investigative findings and evidence

- Consider the witness's demeanor
- Did either the accused or complainant's stories make sense?
- Does the physical evidence support one witness's account over another?
- Did anyone else corroborate either party's accounts?
- Is there a history of this behavior?

Step 6: Reach a conclusion

- There are, generally, five possibilities
 - 1.** The event happened
 - 2.** More likely than not, the event did occur, for the most part, as described
 - 3.** More likely than not, the event did not occur, for the most part, as described
 - 4.** The event did not happen
 - 5.** Non-finding
- Note to investigators: This is an investigative summary, not a legal conclusion
- Does your conclusion have a documented basis?

Step 7: Meet with the parties

- When meeting with the Complainant:
 - Assure the company takes the complaint seriously
 - Inform them of the result of the investigation
 - Advise of substantiated and unsubstantiated claims
- When meeting with the Accused:
 - Inform them of the result of the investigation
 - Advise of action to be taken
 - Warn against retaliation

Step 8: Finalize the investigative report

- Have you compiled all relevant documents in an investigative file?
 - All complaints
 - Documentation on interviews, documents
 - All communications with witnesses and parties
 - Interview notes
 - Physical evidence

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Best Practices to Avoid Future Problems

- Tips for preventing harassment
 - Inform employees that harassment is prohibited
 - Identify who employees should contact to discuss harassment questions or concerns
 - Assure employees that they will not be punished for asking questions or sharing their concerns
 - Respond to harassment questions or concerns and investigating harassment complaints promptly and effectively
 - Ensure that managers understand their responsibility to stop, address and prevent harassment
 - State that you will protect the confidentiality of employees who report harassment or participate in a harassment investigation to the greatest possible extent
 - Require managers and other employees with human resources responsibilities to respond appropriately to harassment or to report it to individuals who are authorized to respond
 - Provide for prompt and effective corrective and preventative action when necessary
 - Describe the consequences of violating the harassment policy
 - Provide for prompt, thorough and impartial investigation of harassment complaints
- Tips for Avoiding safety hazards and property damage
 - Carry out regular risk assessments
 - Conduct physical assessments for demanding roles
 - Provide safety and wellness training regularly
 - Keep workspaces clean and walkways clear
 - Post proper signage
 - Provide adequate lighting
 - Give staff proper PPE
 - Perform regular maintenance on equipment

Note: This is not a comprehensive list of factors which employers should consider when conducting a workplace investigation. Readers should consult with their legal counsel to obtain advice with respect to specific matters.



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