

Conducting workplace investigations: A step-by-step guide

by Chuck Lentz, Esq.

Disputes between co-workers and between employees and their bosses are almost inevitable—which is why every HR professional must know how to gather the necessary facts to find out what's going on.

Whether it's a small inquiry that might involve only a couple of questions, or a weighty investigation into serious allegations of misconduct, being deliberate and intentional about an investigation will create a more helpful and less disruptive process.

Take some time to think about and plan your inquiry even for simple, seemingly routine issues. If the situation is complicated—or if a red flag about possible legal claims goes up in your mind—a well-planned investigation can be critically important.

Not only will careful and evenhanded fact-gathering lead to the best possible decision, it will also enhance the credibility of the involved managers and the organization.

These basic steps apply to any fact-finding mission:

Step 1: Making a plan

Remember, some workplace conflicts must be addressed without delay to avoid legal problems. But, regardless of how urgent the situation, there are important first steps to take before any fact-gathering, interviewing or document retrieval begins:

1. Stop for a moment. Step back to put the situation into perspective. Don't act on impulse. Give yourself an opportunity to think about what to do. Avoid the temptation to prejudge the situation based on what you think you already know.

2. Identify and list the specific issues, complaints and concerns involved in the situation you're looking at. There may be several.

3. Consider whether to get an outsider involved—typically your employment lawyer, an investigator or, possibly, the police.

4. Write a list of the information you need and the questions you need to ask, working from the specific issues you just identified. Then, note where that information is and who needs to be interviewed.

5. Decide who needs to know about the issue. A small group may need to know specifics, while others may need to know only that a claim is being investigated. Most people in your organization won't have a need to know, and should not receive information about the investigation. Confidentiality is important.

6. Institute a document retention plan. Make sure information you need isn't destroyed or in jeopardy of being compromised or altered. Get access to or control of written files and notes. Capture and freeze access to electronic files and e-mails.

7. Decide who will contact the people to be interviewed and what each of them will be told.

Step 2: Gathering the information

It is important to keep an open mind and learn from information *as you gather it*. That way, you will be able to expand or shrink the scope of the investigation in accordance with what you are learning.

First, review all pertinent documents, e-mails, data and files. This will almost always include the personnel files of involved employees. It will, in most situations, also involve a supervisor's notes pertaining to involved employees.

Then, schedule and conduct interviews (see *box below*). Remember to give yourself time in between interviews to make notes and think about what you heard.

Step 3: Reaching a conclusion

Once you have gathered all the information you can, management decision-makers need to reach conclusions and decide on what action to take. (Note: For help in sorting out the truth in he said/she said disputes, read our free white paper, [*Investigating Harassment: How to Determine Credibility*](#).)

At this point, it's appropriate to meet with the employee or employees who brought the issue.

Tell them that management has looked into the complaint and taken action that should address their concerns. Invite them to report any follow-up concerns. Then periodically contact them to find out if any new problems or issues have arisen.

If discipline or job action is to be taken, only the individual being punished needs to be told the specifics.

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Who said what: The basics of interviewing

When interviewing employees involved in a workplace dispute, it's vital to maintain a professional demeanor. Follow this list of interview basics:

1. Write out things you need to ask the person being interviewed. Make a separate list for each person you interview.

2. Decide how to introduce the purpose for the interview with each person. What you say will vary depending on the person's "proximity" to the events.

3. Maintain neutrality. Avoid reacting to the things you hear in either a supportive or dismissive way.

4. Don't promise confidentiality. The interview cannot be just between you and the person you are talking to.

5. Listen carefully and actively. Follow up on new or incomplete information.

6. Make and finalize notes of each interview. Make sure your notes don't contain conclusions, opinions or nonfactual commentary about the witness or the situation.