Investigating harassment in the #MeToo era

Tales of sexual harassment from Hollywood to Washington have HR departments everywhere pondering the worst-case scenario: What if someone has been harassing co-workers for years? That ticking time bomb could go off at any time, now that people have begun talking openly about harassment.

In the #MeToo age, “Hear no evil, see no evil” is not a viable policy. Don’t worry about whether you will have to handle a sexual harassment complaint. Worry about how to respond when you do get one.

**Ask yourself these questions:** Who on staff has been trained to conduct an investigation? Do they need refresher training? Should you consider outsourcing investigations, for example, to the law firm that handles employment law issues for you?

**Investigative guidelines**

Regardless of who performs the investigation, some basic tenets of good investigations apply:

**Get all the facts.** Know exactly what the allegations are before investigating.

**Identify the people involved** to understand what obstacles the investigation will face. Who is involved and the scope of the allegations may influence who the company chooses to perform the investigation. Employers cannot afford investigators who are not objective.

**Ensure the investigation is legally sound.** Even if you don’t ask your attorney to conduct the investigation, have him or her sign off on the investigative procedures. For example, your attorney should ensure investigators don’t ask witnesses leading questions in an attempt to engineer a result. A “just the facts” approach is best.