BusinessManagement DAILY

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# Workplace investigations: The do's and don'ts of workplace law


There are countless news stories about what can result from conflict within the workplace. Whether it's accusations of harassment, policies not being implemented, or abuse of power, these complaints can affect an employer's reputation and lead to a workplace investigation. Some complaints may be deemed not serious from an initial viewpoint, however,


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conducting an investigation ensures everyone involved is protected and appropriate policies and procedures are followed thoroughly.

In more recent years, the law has offered additional safe harbors to protect employees. This means their complaints have to be taken seriously, and their evidence examined to ensure that workplaces follow through with their strict procedures. Courts have even ruled that if a workplace fails to investigate a serious case, it can result in a discrimination charge. It's essential now more than ever for HR departments, managers, supervisors, and other persons of authority to implement the proper protocol of workplace investigations. Doing so will keep employees, visitors, and clients safe.

Considering these tips will assist with future planning to avoid investigation mistakes:

## Investigation ***don'ts***

While this list may seem simple, managers and leaders can forget easy points that will make a workplace investigation run smoothly. It's also important to note that since COVID-19 is still preventing many from working in-person, several of these do's must be translated into a remote setting and should be treated with the same care. Just because someone is working virtually, it doesn't mean misconduct can't happen.

**Don't violate confidentiality**

Maintaining confidentiality is critical. If you're in a position of authority, it's vital not to leak information that you are trusted with. The parties involved in the investigation and any witnesses will share sensitive information throughout the process. While employees might gossip, it's your job to be transparent and maintain your employees' full trust so they will always notify you of misconduct without fear of information leaking.

**Don't be biased**

As someone in charge, it's your responsibility to listen to both sides of an investigation and be completely honest. It's in your better judgment to open a case, even if a complaint seems questionable. To get the entire story, you'll need to ask for evidence and interview witnesses. Whether for in-person or remote issues, obtaining all the evidence is necessary to make sure you can get a complete view of the case. Your bias shouldn't interfere with your investigation.

**Don't make it complicated**

The initial reporting procedure should be simple, and the complainant shouldn't need to be always available. Once the claim is made, an investigation should begin.

**Don't procrastinate**

Don't procrastinate on starting an investigation. With everything HR departments, managers, and leaders have to do; it's easy to lose track of time. Once a complaint is made, the clock starts ticking for leaders to obtain the necessary evidence, sort through it, and come to a timely conclusion. Suppose the person with authority doesn't get started immediately or leaves any part of the case unresolved. In that case, the investigation can escalate by having a court intervene, making everything worse for everyone.

**Don't leave loose ends**

A case that begins needs a conclusion. The complainant relies on you to do everything possible to ensure the issue is properly investigated and a judgment is drawn. You don't want to lose your team's trust, so you'll need to go through the evidence, decide what happened to the best of your ability, and come to a final decision – no matter how difficult it may be.

## Investigation ***do's***

Establishing clear rules and procedures for employees is necessary, so everyone in a workplace knows what is expected during a workplace investigation. A case can quickly escalate to the courts, but you can show you acted in good faith by integrating these tips into your investigation plan.

### Do set boundaries

You'll need to set clear boundaries with employees regarding what's expected of them, specifically if they're working remotely. Many employees and leaders can become relaxed working in this environment, but misconduct can still occur, and you need to stay on top of it. Setting rules for computer usage during work hours and encouraging employees to save all information and communications will be critical if an investigation needs to be conducted.

### Do listen to complaints

Encouraging employees to report issues when they happen is essential. This can be the difference between a situation that can get settled immediately versus one that has to go to court. You will have to provide employees with various avenues to file their claims, so they know they will have somewhere to go if they are uncomfortable.

### Do preserve evidence

Whether it's remote work or in-person, evidence can go missing easily, so you need to take all the necessary steps to protect and preserve it. Proof will come in many forms, such as text messages, emails, video surveillance, and even physical documents or physical contact. Developing a system for keeping records of workplace investigations is necessary to keep everything organized to reference back to or to provide to a court if the issue furthers.

### Do protect anonymity

If a complainant is coming to you with a case, they expect you to take care of their issue without having them involved any further. When interviewing witnesses and the person who committed the misconduct, make sure to meet with each person individually and don't share information about the complainant if not needed. As the person in charge, the complainant's well-being is in your hands, and you will have to protect them to an extent until the investigation concludes.

### Do take corrective action

As a leader, you're in charge of developing a plan to ensure the misconduct doesn't happen again. Once an investigation is finished, you will need to determine how severe the misconduct is and then apply the necessary corrective procedure. You will have to communicate with the person guilty in the case and have them agree to additional training and the appropriate punishment that will also serve as a preventative measure for your company. If this isn't done, an investigation may be considered unresolved, which will allow the complainant to take it further by getting the law involved.

## Clarity is key

Even with all of the do's and don'ts, it's important to remember that clear communication and policies are imperative to set proper boundaries and ensure employees and others are safe, healthy, and happy. With many companies having to transition to a remote platform, updating expectations and reiterating your employee handbook policies is principal for each individual, knowing that they should be acting professionally and respectfully at all times as representatives of your company.


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