

## Checklist for Conducting Internal Investigation

- | Yes                      | No                       |  |
|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | Have you received a formal complaint, or do you suspect or have informal knowledge that an informal misconduct has occurred?<br>If yes, initiate an investigation.   |
| <input type="checkbox"/> | <input type="checkbox"/> | Consider consulting with an attorney: <ul style="list-style-type: none"><li><input type="checkbox"/> To discuss strategy for investigation</li><li><input type="checkbox"/> To review proposed questions</li><li><input type="checkbox"/> To ensure laws, policies, procedures met</li></ul>   |
| <input type="checkbox"/> | <input type="checkbox"/> | Is there a need for precautionary measures (e.g., safety concerns, continued misconduct)?<br>If yes, take immediate action. <ul style="list-style-type: none"><li><input type="checkbox"/> Place accused on immediate leave with pay</li><li><input type="checkbox"/> Temporary transfer</li><li><input type="checkbox"/> Changed supervisory responsibilities</li></ul>   |
| <input type="checkbox"/> | <input type="checkbox"/> | Identify potential witnesses.  |
| <input type="checkbox"/> | <input type="checkbox"/> | Create an investigation file that includes the following: <ul style="list-style-type: none"><li><input type="checkbox"/> The investigation plan</li><li><input type="checkbox"/> Documentation of what investigative steps have been taken, when and by whom</li><li><input type="checkbox"/> Explanation of any significant departures from the investigation plan</li><li><input type="checkbox"/> Copies of documents, photos and other hard evidence</li><li><input type="checkbox"/> Witness statements and notes of witness interviews</li><li><input type="checkbox"/> The final investigative report</li></ul> |
| <input type="checkbox"/> | <input type="checkbox"/> | Gather pertinent documents, including: <ul style="list-style-type: none"><li><input type="checkbox"/> Personal file of accused, which may identify any past complaints and outcomes or possible motives</li><li><input type="checkbox"/> Company policies, directives or contract provisions that may apply</li><li><input type="checkbox"/> Other relevant documents (e.g., attendance records, production records, customer order forms, etc.)</li></ul>   |
| <input type="checkbox"/> | <input type="checkbox"/> | Retrieve e-mail, if permissible (including deleted e-mail).  |

- Conduct a search, if permissible:
  - Company premises and property, including desk, file cabinets, and parking lot are generally subject to inspection by the company
  - If suspect illegal drugs or a weapon, call the police to conduct the search
  - Exercise caution when searching employee's personal belongings, clothing or person
- Prepare strategy for investigation:
  - Define issues
  - Create timeline
- Select an investigator:
  - Internal (unbiased/uninvolved)
  - Outside investigator
  - Attorney
- Draft outline of questions:
  - Open-ended questions
  - General questions asked first
  - Specific questions follow the general questions
  - Avoid leading or accusatory questions
- Select location for interviews:
  - Maintain confidentiality and privacy
  - Limited distractions
- Schedule interviews:
  - Review contract for provisions regarding advanced notice
  - If no such provision, short notice is preferable
- Interview complaining party:
  - Take contemporaneous notes
  - Stick to the facts; avoid making written notes of your opinions and recommendations
  - Sign and date the notes
  - After the interview, have the notes typed and have the witness review them for completeness and accuracy. If changes need to be made, do so. Have the witness sign and date the statement

- Interview the accused employee:
  - It is preferable for two representatives of the employer to be present. It is usually advisable to allow the employee to have a witness, if requested, as long as the witness does not impede the investigation. (The witness may listen and observe, but not speak for the employee.)
  - Employee's attorney may not attend interview unless the company's attorney is also present
  - Take contemporaneous notes
  - After the interview, both representatives should prepare a memorandum of the interview which includes verbatim answers to critical questions
  - Have the accused review and sign the statement

- Interview other witnesses:
  - Do not interview two witnesses together
  - Do not promise complete confidentiality
  - Assure witness that there will be no reprisals for telling the truth
  - Tell the witness not to disclose the interview with anyone else
  - Face-to-face interview is preferable
  - After the interview, have the notes typed and have the witness review them for completeness and accuracy. If changes need to be made, do so. Have the witness sign and date the statement.

- Analyze results of investigation:
  - Review witness interviews
  - Review all evidence gathered
  - Assess credibility of witnesses
  - Ask complainant/accused for any more evidence

- Identify corrective action if necessary:
  - Consider severity of misconduct
  - Ensure consistency with company policies
  - Comply with labor agreement and policy handbook

- Prepare final report:
  - Describe question investigated
  - Identify scope of investigation
  - Identify witnesses and evidence examined
  - Describe information elicited

- ❑ Make credibility findings where facts conflict
- ❑ State any conclusions that are based on credible evidence
- ❑ Even if can't reach a conclusion, do a report and communicate with complainant and accused
- ❑ Make recommendation for correction action if necessary
- ❑ Limit distribution to a need-to-know basis only

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Notify complaining party:

- ❑ Explain that company conducted a fair and objective investigation into the complaint
- ❑ State that company will take appropriate action, if applicable
- ❑ Reiterate company's anti-retaliation policy
- ❑ Consider whether to avoid specifics

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Notify accused employee:

- ❑ Convey results of investigation
- ❑ Reiterate company policy
- ❑ Remind employee that retaliation is prohibited
- ❑ Identify correction action, if applicable

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Follow up:

- ❑ Ensure follow through with appropriate discipline