

WORKPLACE INVESTIGATIONS

Top 3 Considerations for Employers when faced with a Workplace Investigation

by Rose Keith, KC & Lindsay Johnston

When employers are faced with a workplace investigation, it's essential to handle the situation with sensitivity, fairness, and diligence. Here are the top three considerations they should keep in mind –

1. FAIR AND IMPARTIAL INVESTIGATION PROCESS

- One of the most crucial considerations in an investigation is that it is conducted fairly and impartiality. This begins at the outset with appointing an unbiased investigator who is trained to conduct investigations. This could be retaining an external workplace investigator/lawyer or proceeding with someone internally from HR or an internal workplace investigator to conduct the workplace investigations. It is important that if the investigation is conducted internal to an organization, that the investigator has no personal interest or involvement in the case; for example, a trained internal investigator should not perform an investigation if the allegations concern the individual that the investigator reports to.
- The investigation process should be clear and transparent for the parties, including ensuring that all parties involved have an opportunity to present their side of the story and provide evidence. It should be confidential, to the extent possible by law and to perform the investigation, to protect the privacy of those involved.

2. COMPLIANCE WITH EMPLOYMENT LAWS AND COMPANY POLICIES

- Employers must ensure that the investigation process complies with relevant employment

laws and regulations. Different jurisdictions might have specific requirements regarding workplace investigations, so it is crucial to be aware of and adhere to these legal guidelines.

- Additionally, employers should follow their own company policies and procedures when conducting investigations. Consistency in applying these policies will demonstrate a commitment to treating all employees fairly and will help build trust within the organization.

3. PROMPT AND PROACTIVE ACTION

- Employers should act promptly when they receive a complaint or notice of an issue that requires investigation. Timely action, amongst other things, shows that the employer takes the matter seriously and is committed to resolving the situation efficiently.
- Being proactive means taking preventive measures to create a safe and inclusive work environment. This can involve providing training on workplace behavior, harassment prevention, and the reporting process. Proactive efforts can help mitigate the risk of potential issues arising and foster a positive workplace culture.

By following the steps above employers can help maintain a healthy work environment, protect the well-being of their employees and minimize potential legal liability from not conducting a proper workplace investigation to a complaint.



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