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Best Practices for Conducting Workplace Investigations

Workplace investigations are crucial when it comes to establishing a safe and welcoming work environment. However, these investigations are often complex and can involve navigating sensitive topics and disputes. More than ever before, companies face irreversible reputational damage and negative publicity if they mishandle workplace investigations.

There are many reasons HR professionals may have to conduct a workplace investigation, including, but not limited to, the following:

- Employee behavior
- Suspected substance use
- Concerns of discrimination, harassment or threats
- Violations of workplace rules
- Workplace theft

Employers are expected to take investigations and employee concerns seriously in order to foster a supportive workplace culture. In fact, organizations that fail to conduct proper investigations may face legal action if they mishandle a workplace investigation. In recent cases, companies that did not respond properly to investigation requests faced legal action and six-figure settlements.

Accordingly, it's important for mangers, HR professionals and business leaders to understand best practices for conducting workplace investigations.

Establish Investigation Goals Early On and Assess Complaints with Discretion

One of the best ways to ensure effective investigations is to establish a consistent framework. This framework should be repeatable for various incidents and account for the following:

- **Investigation objectives**—In general, the goal of an investigation is to resolve workplace issues in fair and efficient manner. Both the organization itself and its HR representatives must be aware of investigation objectives from the beginning. Clear objectives can guide investigators and promote the timely resolution of workplace incidents.
- **Investigation scope**—Determining the scope of an investigation early on can help focus investigative procedures. Specifically, formalizing the scope of an investigation can help investigators gather the appropriate information and carryout corrective action for various types of incidents.

Investigation timing— When it comes to workplace investigations, timeliness is key. Regardless of the perceived merit of the complaint, it's in a company's best interest to trigger investigations upon request. Failing to act quickly could be considered prejudicial to the employee and result in potential claims.

When assessing employee concerns, it's important to consider the nature of the issue, who's involved and what, if any, company policies apply. Employers should determine whether employees involved in the incident should be separated or given paid leave until the situation is resolved.

As a general rule, when assessing incidents, all concerns and complaints fielded from your employees must be taken seriously. While some investigations may not be carried out per the employer's discretion, companies should educate themselves on relevant laws regarding incident investigations and when they are necessary.

Carry Out Investigations in a Fair and Objective Manner

Employers must demonstrate procedural fairness when conducting workplace investigations. These investigations should be thorough and well documented before an employer takes any action. Additionally, effective workplace investigations embrace the following three principles:

- **Neutrality**—HR and other personnel involved in an investigation must be detached from an incident. Those involved should remain objective and have no personal stake in the outcome of an investigation. Employers have a duty to conduct workplace investigations in a fair and impartial manner. To remain neutral, it's important to give all employees involved in an investigation the opportunity to provide their version of the incident.
- **Thoroughness**—To ensure that the proper decision is made following an investigation, you must be thorough in uncovering all the necessary information. Ask detailed questions throughout the process.
- **Timeliness**—Once an investigation is triggered, investigators must act promptly to avoid further acts of wrongdoing. Any disciplinary action should be administered in a timely manner to avoid potential legal issues.

It's important for organizations to decide whether they will utilize internal or external investigators. While internal investigations tend to be quicker and comply with organizational policies, external firms ensure neutrality throughout all investigations.

Respect the Privacy of Those Involved in an Incident

In some instances, employees may be reluctant to participate in an investigation due to privacy concerns. Because of this, employers walk a fine line and must balance the privacy interests of their employees with their own legitimate business and safety interests.

All parties involved in an investigation have a right to privacy and confidentiality. These rights are especially important if an incident involves sensitive subject matter. Employers must be tactful and avoid oversharing details regarding the incident. Only those who need to know should be given the facts of the case.

It's better to be overly cautious when handling workplace investigations, limiting information as follows:

- Respondents (i.e., the alleged harasser, subject of an incident or a bully) are entitled to know that a claim has been brought against them. They should also be informed on the details of the claim and what to expect during a formal interview.
- Witnesses can provide your investigators with valuable information regarding workplace incidents. However, employers should still keep the details of the incident to a minimum when speaking with witnesses.

Conducting Interviews

Detailed interviews are the most important aspects of workplace investigations. Interviews can provide a clear understanding of an incident and help employers determine what, if any, disciplinary action should be taken.

Employers will want to decide:

Who to interview—Interviews should be conducted with respondents, complainants and witnesses at a minimum. It's a good idea to only interview those who have information relevant to the case. It may also be helpful to have more than one investigator present during the interview.

- What order to interview—Employers should be cognizant of the interview order. Generally, businesses should interview the complainant first, any witnesses second and the respondent third. Schedule follow-up interviews as needed. Each subject should be informed that the interview process is confidential.
- What to ask during interviews—Questions should be written and prepared ahead of time. These questions should be a mix of open- and close-ended questions. Above all, interview questions should help investigators gather details related to times, dates, locations, individuals involved and other witnesses. Sample questions include:
    - What happened?
    - When/where did it happen?

- Who was present?
- Who did or said what?
- Why did it happen?
- Is there evidence?
- Who else may have relevant information?

Interview responses and other relevant details should be recorded throughout the investigative process. Investigators should take detailed notes, which will help during the review process.

Taking Action

If, after an investigation occurs, you find that the employee's complaint is substantiated, the employer should take action to:

- Prevent the harassment, fraud or misconduct from recurring. To accomplish this, issue training and educational resources as needed.
- Make accommodations to ensure employees feel safe at work.
- Discipline the subject of the complaint in a manner proportional to the severity of the misconduct, up to and including dismissal. Do not take action against an employee if you have no clear evidence of misconduct.

If the complaint is not substantiated, the employer should notify the parties accordingly and explain how this conclusion was reached.

After an investigation concludes, you should compile your findings in a final report. It's also a good idea to assess the effectiveness of your investigation process and make any improvements.