

Internal Investigations Certificate Program Agenda

Day One

8:00 am: **Registration and networking**

8:30 am: **Trainer's welcome and introduction**

Module 1: Minimizing Liability by Addressing Root Problems that Require Investigations

- Identifying the most common types of workplace investigations
- Recognize dysfunctional organizational behaviors that lead to investigations so you can take steps to avoid them
- What happens when the leadership "light bulb" doesn't come on? Learning how to coach the leaders to spot workplace problems before they require investigations
- Distinguishing the difference between good and bad company policies so you can minimize complaints and ultimately workplace investigations
- Learning the five key strategies necessary for reducing complaints that lead to workplace investigations

Interactive Exercise:

Hostile Work Environment: The Leadership "Light Bulb" that Didn't Come On

While heading back to his cubicle, customer service supervisor, Joe Johnson, happened to glance at one of his employees, Henry, who was looking at a Web site with streaming video of sexy "Girls Gone Wild" on spring break. Joe broke out in a wide grin and then took the shortcut back to his desk.

- What potential legal liability does the organization have here?
- Why do you think Joe's "light bulb" didn't come on to help him identify Henry's behavior as inappropriate?
- What should Joe have done differently?
- How can you prevent this and other similar incidents from happening again?

10:00 am

Module 2: Avoiding the Legal Landmines: Ensuring Your Investigation Complies with the Law and Protecting Against Fallout from the Investigation

- Examining the laws that require workplace investigations: Civil rights and antidiscrimination laws, ADA, and health and safety laws
- Identifying when you must take remedial action—and what can happen if you don't
- Understanding one of the biggest legal land mines: Retaliation
- Clarifying how courts have defined your obligations in conducting investigations
- Clarifying the FCRA: Understanding the do's and don'ts of employee background investigations
- Ensuring you are not violating your employees' rights to privacy
- Protecting yourself from individual liability and knowing your rights while conducting investigations

Interactive Exercise:

Pregnancy Discrimination: The Dangers of Prejudice and Assumption

Given her outstanding performance reviews and company loyalty, Margaret has been anticipating a promotion to the CFO position. After announcing her pregnancy, however, she notices a sudden change in behavior toward her by her boss, CEO, Frank Smith. The next day, her friend and colleague, Alice tells her that she overheard Frank and the current CFO expressing their concerns about the potential interference that Margaret's pregnancy and impending motherhood could have with her job performance.

A few weeks later, Margaret is stunned by the news that one of her coworkers with significantly less work experience has been promoted to CFO. Angry and upset, she storms into the HR office.

- What are the legal issues here?
- How would you handle the initial complaint from Margaret?
- What steps would you take after you received the complaint from Margaret?
- How would you remain objective when the allegations made are against your immediate supervisors?

12:00 pm: **Lunch**

1:00 pm

Module 3: Laying the Foundation: Preparation and Strategy are the Keys to a Successful Investigation

- Distinguishing the difference between a workplace conflict and the need to launch an investigation
- Identifying core competencies every investigator must possess
- Selecting the right investigator(s): Senior leadership, human resources, an outside consultant, your attorney, or law enforcement authorities?
- Using a timeline for conducting a thorough investigation so you can effectively assess your workload
- Preparing for witness interviews through gathering physical and documentary evidence
- Identifying the 10 vital steps an investigator must take to prepare for every investigation

Module 4: Launching the Investigation: Conducting Interviews to Separate Fact from Fiction

- Getting ready to ask the “tough” questions: Establishing a physical and psychological comfort zone
- To tape-record or not tape-record; that is the question
- Knowing when your employee is entitled to representation during witness interviews
- Reading and interpreting body language to identify witness credibility
- Recognizing cultural diversity issues to avoid misjudging a witness
- Developing behavioral baseline questions that aid in separating fact from fiction
- Knowing when you’ve reached “point of engagement” during witness interviews to identify which investigator must take the lead in questioning
- Deciphering the difference between the “reluctant witness” and the “hostile witness” so you can change questioning strategy
- Strategies for successfully dealing with hostile and reluctant witnesses to ensure you get their testimony

4:00 pm: **Day One concludes**

Day Two

8:00 am: **Coffee and networking**

8:30 am

Module 5: Managing Interference to Keep Your Investigation from Getting Derailed

- Obtaining the authority to lead and manage workplace investigations so you can do your job without interference
- Overcoming “turf wars” when supervisors don’t want to cooperate with investigators
- Handling tough intimidation issues: Building your confidence when challenged as an investigator
- Techniques for effectively communicating the working hypothesis of a case so you’re speaking the same language as the boss
- Presenting preliminary findings and recommendations to “pave the way” for the final report
- Maintaining employee morale and keeping information confidential during the investigation

Interactive Exercise:

Handling the Politics: What to Do When a Manager Tries to Thwart the Investigation

The lead investigator, Amanda, is informed by her co-investigator, Jamie, that Bob, the department head, has ordered her to pull the plug on the investigation because it is disrupting work in the division. After advising Jamie to ignore Bob's order and continue interviewing witnesses, Amanda storms into Bob's office ready to go head-to-head with him.

- What is the true role of an internal investigator?
- How is the investigation disrupting the department?
- What is wrong with Amanda's reaction to Bob's order? How should she respond?
- What could she have done to minimize the disruption to the workplace?

Module 6: Drawing Conclusions: Effectively Analyzing Data So You Can Begin Preparations for the Final Report

- Implementing effective documentation strategies for peak efficiency and to keep yourself organized
- Establishing secure files and records to avoid breaches in confidentiality
- Document control essentials and recordkeeping: How to manage the information you gather to have it work for you—not against you
- Analyzing the information you've gathered and applying the facts to applicable laws or policies
- Evaluating the "working hypothesis" of evidence collected so you can plot your next steps

Module 7: Writing the Final Report: Dotting the "i's" and Crossing the "t's" to Ensure Your Report Will Hold Up in Court

- Recognizing what courts and juries are going to look for should your case end up in court
- Avoiding liability for defamatory statements by sticking to the facts
- How to achieve closure when your investigation is inconclusive
- Knowing when to leave an investigation inconclusive—and dangers if you push to make it conclusive
- Recommending prompt, appropriate action: What should and should not be included in your report
- Identifying the vital components of an effective investigative report
- Taking appropriate disciplinary action based upon your final report

12:00 pm: **Lunch**

1:00 pm

Mock Investigation #1:

Sexy Subordinate Alleges Hostile Work Environment, Sexual Harassment, and Gender Discrimination!

After two years, Sandy Rhoads, an attractive female vehicle design engineer has had enough of the "shenanigans" of her boss, J.C. Jones, and her male coworkers at the plant. During the latest staff meeting, all engineers unveiled their new SUV designs targeting a young, female market. Sandy's male coworkers laughed and ridiculed her design, making wisecracks like Nick's comment: "So Sandy, is there room in the back for you and me, sugar, or will it be a tight fit?" Later that week, J.C. advises Sandy they are going with Nick's design and he is being promoted to lead engineer. Nick will now be Sandy's immediate supervisor. A week later Sandy's coworker, Amy overheard Scott, another engineer, "step out of line" with a junior designer. Amy can't stand it anymore and tells Sandy she's going to HR with her—or without her.

- At what point do jokes and workplace antics become a hostile work environment?
- What is your first step in launching an investigation?
- What remedial action should you take after receiving the complaint?
- If you take remedial action, how can you avoid the potential for retaliation claims?

Day Three

8:00 am: **Coffee and networking**

8:30 am

Mock Investigation #2:

Disabled Employee Singled Out—Raises Allegations of Disability Discrimination and Retaliation!

Sherry Madison is a sales representative for Sun Shades, a patio furniture company. After several visits to her doctor complaining of fatigue, dizziness, and some mild bladder control problems she was diagnosed with Multiple Sclerosis. Upon receiving the devastating news, she decided to talk with her boss, David Roth. During this meeting, David expressed immediate concerns about Sherry's ability to continue taking business trips as well as her ability to achieve the aggressive corporate goals set for the year. A week later, Sherry received a 90-day Performance Improvement Plan. She discovers that she was the only one in the department to receive a Performance Improvement Plan. In her 20-year career, she never received a poor review nor had she been placed on any kind of "plan." Convinced that her job is on the line due to her disclosure of her medical condition, Sherry heads for the HR office.

- What medical proof do you need to confirm that Sherry has a qualifying disability?
- How will you determine if any reasonable accommodations should be made for Sherry?
- What steps will the organization take if her condition worsens? How will you know whether or not she can still do the job?
- How will you handle the investigation and mitigate the risks associated with retaliation?

12:00 pm: **Lunch**

1:00 pm

Mock Investigation #3:

Employee on "Thin Ice" Raises Allegations of Hostile Work Environment, Age Discrimination, and Racial Discrimination Against Supervisor

Ryan Dennison is a Regional Account Manager with Calex Pharmaceuticals, is about to get on a plane to meet with one of his sales reps, Charles Smith, to deliver a performance action plan when his phone rings. Naomi, the HR Director, notifies Ryan that she just received a hotline report from Charles alleging hostile work environment and discrimination. Naomi requests that Ryan hold off on giving Charles his 90-day action plan. Later that week in Naomi's office, Ryan reads the hotline report alleging that Ryan uses profanity on a regular basis, made offensive and humiliating comments about Charles' age and race, and is frequently aggressive and threatened to fire Charles. Ryan is perplexed. And to make matters worse, several of Ryan's reps informed him that Charles called every rep in the region to share what he calls Ryan's "Chainsaw AI tactics" to fire reps who might be strong enough to take Ryan's job.

- What action should be taken immediately to maintain confidentiality?
- How will Ryan continue to manage Charles, and his performance issues, now that a formal report has been filed?
- What steps should be taken to minimize defamation to Ryan's character?
- How will you avoid claims of retaliation?

4:00 pm: **Program concludes**