

The Definitive Guide to Conducting a Workplace Investigation Program Agenda

Day One

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

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

MODULE 1: An Ounce of Prevention: Laying the Groundwork to Prevent Conduct that Leads to Workplace Investigations

- Airtight workplace policies: Drafting and enforcing policies that protect your organization
- Organizational dysfunction: Identifying the underlying behavioral issues and implementing strategies to cure the problems
- Conflict resolution: Training managers and supervisors with techniques to reduce conflict and complaints that lead to investigations

9:15 am

MODULE 2: Ensuring Legal Compliance: How to Minimize Your Liability Risks

- Clarifying the laws: Civil rights and antidiscrimination, Fair Credit Reporting Act (FCRA), disability, and health and safety laws
- Employer obligations: When are you legally required to investigate and/or take immediate corrective action?
- Recent cases: Learn from the costly mistakes of others
- Rights to privacy: Are monitoring email and phone calls invasion of privacy or an employer's right to know?
- Retaliation red flags: How to avoid the most expensive liability risks

Interactive Exercise: The Dangers of Retaliation

Jason Bach works in the warehouse for dayshift supervisor, Marvin Sanders. Jason has had enough of Marvin's use of profanity, "put-downs" to women, and rude remarks, like his most recent comment to Jason, "I know you're a little light in the loafers anyway . . ." Jason finally complained to HR, and the next morning he learned that he was being moved from the dayshift to the graveyard shift, losing his weekends off, and would no longer be offered overtime.

- What steps should HR have taken after Jason filed a complaint?
- How can the organization minimize the risk of Jason filing a retaliation claim?
- How would you handle Marvin, if it was determined that he did retaliate against Jason?

10:30 am: **Break**

10:45 am

MODULE 3: Strategic Planning: Designing an Investigative Road Map that Yields Results

This module will focus on the essentials of investigative planning and preparation. Discover how to build a time line, select the right investigators, gather preliminary documentary evidence, and prepare for witness interviews to ensure a smooth and thorough investigation.

- Appointing the right investigator(s) to minimize perception of bias and to maximize the chances of gathering testimonial evidence
- 10-step preparation: What every investigator needs to do before talking with the first witness

- Your final destination: Anticipating push-back on investigative recommendations

11:30 am

MODULE 4: Effective Witness Interviews: Implementing Proven Strategies to Get to the Truth

- Tape recording: What if your employee demands to tape the interview?
- Body language: How can you tell if a witness is giving false testimony?
- Representation: When are your employees entitled to representation?
- Interview questions: What are the good questions to ask that get to the truth of the matter?
- Reluctant witness: Critical strategies for getting reluctant witnesses to testify
- Hostile witness: How to handle a “hot head” during an interview

Interactive Exercise I:

“Reluctant Rita”—Dealing With a Reluctant Witness

Rita saw what happened yesterday when a fight broke out in the frozen food section between two coworkers, but she has not breathed a word to anyone. She just got called into a meeting with two investigators, and is not the least bit happy about it as she does not want to get in the middle of the conflict.

- Why do you think Rita is reluctant to talk with investigators?
- What questions can you ask to yield relevant testimony?
- What will you do if she asks for anonymity and strict confidentiality in giving a statement?

Interactive Exercise II (optional to trainer—time permitting):

“Hostile Harry”—Dealing with a hostile witness

Harry is a 15-year employee and rather cocky in nature. He is a card-carrying member of the local union, and has a reputation as being a troublemaker and one who files a lot of grievances. He makes his negative opinions regarding management decisions known to everyone. During a workplace investigation, Harry does not want to cooperate or answer any questions and presents a very negative attitude to investigators.

- What would you do differently in planning for Harry’s interview?
- What are some hard-hitting questions you can ask Harry to get his testimony?
- What will you do if he continues refusing to cooperate with investigators?

12:30 pm: **Lunch Break**

1:30 pm:

MODULE 5: Investigative Challenges: Effectively Penetrating the Organizational Barriers to Keep Your Investigation on Track

- Taking the lead: How do you get management to authorize you to run your investigation?
- Uncooperative supervisors: Strategies for handling difficult leaders who try to impede your investigation
- Tough intimidation issues: How do you handle a senior leader who challenges your authority as an investigator?
- Communication: How do you present an “unpopular” investigative recommendation and minimize political interference?
- Rumor mill: Maintaining confidentiality during an investigation and minimizing disruption to the work environment

Interactive Exercise:

Serena Stonewall is the Executive VP of First Savings Bank and has a reputation for “playing favorites.” The HR department currently has her protégé, Alexander, under investigation for allegations of sexual harassment filed by one of the young bank tellers. Serena believes that the allegations are untrue and were made in order to get Alex fired. Serena is taking actions that are making it very difficult to

investigate. And, when it is determined that Alexander did violate company policy, Serena vehemently objects to the investigators' recommendation to terminate Alex.

- How would you handle these challenges to your investigation?
- What are the risks if Alexander is retained?
- If Serena chooses to ignore your recommendations and wants to simply discipline Alexander, how would you respond?

2:45 pm: **Break**

3:00 pm:

MODULE 6: Drawing Conclusions and Writing the Final Report: Making Sure Your Report is Ready for Court

Interactive Exercise:

In this module you will analyze a case and prepare a final investigative report by following these steps:

- Step 1: Identify the components of an investigative report that will hold up in court
- Step 2: Analyze the evidence collected in the sample case
- Step 3: Apply the facts to applicable laws or policies
- Step 4: Identify if all allegations have been substantiated, noting the applicable policy and law violation
- Step 5: Determine recommendations
- Step 6: Prepare the final investigative report

4:30 pm: **Day One Concludes**

Day Two: Workshop – 8:30 am – 4:30 pm

Investigator's Boot Camp: Mock Sexual Harassment Investigation

Employer Alert!

The Supreme Court has clearly stated that a proper investigation is an essential part of an affirmative defense to harassment claims. And as you can see from the headline below, employers who heed this warning are significantly reducing their liability risks.

The Good News: Recent court decisions indicate that employers are being saved from liability for harassment by conducting "prompt and thorough" investigations and taking appropriate, remedial action.

The Bad News: Employers who fail to follow the court's advice are paying a high price in the form of settlements and large jury verdicts.

Protect your organization by attending this interactive workshop. Gain expertise by participating in a realistic sexual harassment workplace investigation.

8:00 am: **Registration**

8:30 am: **Workshop program begins**

The Facts:

Rick Riley, General Manager of The Steak House, a chain restaurant known for its casual dining and personalized service, is under investigation for making unwelcome sexual advances toward two of his

employees. The allegations were made by Amy Spencer, a server, and chronic complainer who Rick had recently "written up" for poor attendance.

Gain Expertise in Conducting Workplace Investigations:

Hone your skills in every aspect of the investigation by taking part in an internal investigation of Rick Riley's alleged misconduct. During this interactive workshop, you'll gain expertise in planning and leading investigations that will hone your skills and aid in minimizing risk to your organization.

As you participate in each stage, you will have an opportunity to critique your performance and analyze any changes you would make to improve your results. By the end of the workshop you will be prepared to conduct an effective internal investigation.

- **Analyze** a sexual harassment complaint from all angles
- **Design** and implement a strategic plan for your investigation
- **Develop** questions for witnesses that will ensure consistency in gathering the facts
- **Practice** strategies for conducting mock interviews of hostile and reluctant witnesses
- **Employ** techniques for taking witness statements
- **Construct** an action plan in response to a threat of workplace violence
- **Examine** physical and documentary evidence and evaluating their usefulness
- **Draft** your final mock investigation report utilizing a model format
- **Use** your evidence and final investigation report as a road map to lead you to determining the appropriate action to take
- **Communicate** your results to management and all interested parties

Benefits of Participation:

- Prepare for the challenges you will face when conducting a real-life workplace investigation
- Sharpen your skills in every aspect of conducting workplace investigations and minimize the liability risks to your organization
- Apply proven techniques for interviewing hostile and reluctant witnesses
- Gain the confidence you need to be an effective investigator