

Internal Investigation Checklist

*****Please utilize this document as a reference tool and consult with your organization for preferred items to place on this checklist and proper processes to follow within your organization.*****

IMPORTANT: To the extent possible, all investigations must be completed within X # of days of receiving notification or otherwise becoming aware of an incident. Additionally, recommendations and action plans resulting from the investigation should be communicated as soon as possible, but no later than x # of business days upon completion of the investigation.

Section 1: Common Workplace Complaints

A: Critical Policies

- | | |
|---|---|
| <input type="checkbox"/> Code of Conduct | <input type="checkbox"/> Technology P&P's |
| <input type="checkbox"/> Conflict of Interest P&P's | <input type="checkbox"/> Social Media P&P's |
| <input type="checkbox"/> Drug/Alcohol Use P&P's | <input type="checkbox"/> Workplace Relationships/Boundaries P&P's |
| <input type="checkbox"/> Financial P&P's | <input type="checkbox"/> |
| <input type="checkbox"/> Gifts/Gratuities P&P's | <input type="checkbox"/> |
| <input type="checkbox"/> Interactions with Patients/Clients P&P's | <input type="checkbox"/> |
| <input type="checkbox"/> Harassment/Discrimination P&P's | <input type="checkbox"/> |
| <input type="checkbox"/> Privacy P&P's | <input type="checkbox"/> |

B: Situations Meriting an Investigation

- | | |
|---|--|
| <input type="checkbox"/> Billing and Coding Issues | <input type="checkbox"/> Improper Employment or Disciplinary Actions |
| <input type="checkbox"/> Conflict of Interest | <input type="checkbox"/> Misconduct/Inappropriate Behavior |
| <input type="checkbox"/> Disclosure of Confidential Information | <input type="checkbox"/> Patient Care/Safety |
| <input type="checkbox"/> Discrimination | <input type="checkbox"/> Theft/Vandalism |
| <input type="checkbox"/> Drug/Medication Control | <input type="checkbox"/> Unlawful/Improper Payments |
| <input type="checkbox"/> Harassment | <input type="checkbox"/> Workplace Retaliation/Retribution |

Section 2: Preparing for an Investigation

A: Considering Risk Factors (if you answer yes to any questions, consult the Legal Department)

- | |
|---|
| <input type="checkbox"/> Y <input type="checkbox"/> N Alleged violation of state or federal law or the code of ethics that would result in serious harm to individuals or the organization, or significant civil or criminal penalties? |
| <input type="checkbox"/> Y <input type="checkbox"/> N Allegation against executive leadership member? |
| <input type="checkbox"/> Y <input type="checkbox"/> N Allegation involving more than a single team or multiple reports from various teams directed toward a single leader? |
| <input type="checkbox"/> Y <input type="checkbox"/> N Allegation involving multiple sites, a region or the organization? |
| <input type="checkbox"/> Y <input type="checkbox"/> N Allegation that could undermine the effectiveness of the compliance program? |
| <input type="checkbox"/> Y <input type="checkbox"/> N Allegation that could result in media attention, damage (monetary or reputational)? |
| <input type="checkbox"/> Y <input type="checkbox"/> N Allegation that could result in government actions against the company? |
| <input type="checkbox"/> Y <input type="checkbox"/> N Allegations that could result in the need to make a regulatory report? |

IMPORTANT: If you answered yes to any of the questions above, consult with the Legal Department

B: Determining Investigation Participants

- | |
|---|
| <input type="checkbox"/> Lead Investigation Dept |
| <input type="checkbox"/> Lead Investigator |
| <input type="checkbox"/> Co-investigator/Note-taker |

- Stakeholders
- Reporter(s)
- Implicated Person(s)
- Witnesses/Interviewees
- In-house Counsel

C: Collecting Evidence

- | | |
|--|--|
| <input type="checkbox"/> Personnel file (<i>Implicated Person</i>) | <input type="checkbox"/> Department Schedules/Shift Logs |
| <input type="checkbox"/> Personnel file (<i>Reporter</i>) | <input type="checkbox"/> Timecards |
| <input type="checkbox"/> Prior Investigation Files (<i>Implicated Person</i>) | <input type="checkbox"/> Financial records |
| <input type="checkbox"/> Prior Investigation Files (<i>Reporter</i>) | <input type="checkbox"/> Email communications |
| <input type="checkbox"/> Supervisory files | <input type="checkbox"/> Surveillance footage |
| <input type="checkbox"/> Photographs | <input type="checkbox"/> Network drives / Hard drives |
| <input type="checkbox"/> Voicemails | <input type="checkbox"/> Professional Code of Conduct |
| <input type="checkbox"/> Incident Reports | <input type="checkbox"/> Policies & Procedures |
| <input type="checkbox"/> Patient Records | <input type="checkbox"/> Social Media Activity |
| <input type="checkbox"/> Electronic health record activity (<i>Keystrokes</i>) | <input type="checkbox"/> Text Messages |

D: Interview Planning

- Plan the order of interviews (*often with the reporter first, then witnesses, and the implicated person last*)
- Be aware of interviewee's employment status & regular work hours
- Mark calendar invites "private"
- Schedule interviews in a confidential location
- Whenever possible, do not include managers/supervisors in direct report interviews
- Limit information shared with managers/supervisors (*minimum necessary; need to know*)
- Prepare interview script and questions
- Anticipate interviewee answers/reactions/behaviors/questions and plan your response

Section 3: Conducting Workplace Investigations

A: Investigation Reminders

- Begin investigation as soon as practical after receipt of complaint or once there is reason to believe that inappropriate conduct, violation of policy, etc. has occurred.
- Open and maintain a case (whether electronically or on paper); document in real-time
- Create a timeline and update as investigation evolves
- Determine whether an investigation should be attorney-client privileged (*consult with in-house counsel*)
- Assume that all emails, notes and other investigation materials are discoverable in litigation
- Determine who needs to be in the know and how much information should be provided
- Determine who needs to be part of your investigation interviews and involve them right away in the process

B: Conducting Interviews

- Introduce and provide explanation of interview (i.e. goal to gather information that person may have)
- Explain the investigation process and your role
- Discuss confidentiality; do not promise absolute confidentiality
- Review non-retaliation policy; explain what constitutes retaliation; provide interviewee with notice doc
- If the interview is conducted by an attorney, provide Upjohn Warning

- | Let the interviewee give their story; record all details (*day, time, place, witnesses, documents*)
- | Begin with general non-leading questions (*what is your role at the organization; how long have you worked with the implicated person; how would you describe your relationship*)
- | Move into more specific questions (*when did the incident occur*)
- | Drill down highly specific questions (*describe the incident, persons involved, has this happened before*)
- | Determine identity of all persons involved in conduct
- | Determine identity of all witnesses involved in conduct
- | Explore whether the interviewee knows if any other individuals have been subjected to conduct
- | Go through events chronologically again; document details and relevant statements
- | Do not record or transcribe interviews, document exact statements in quotes, as appropriate
- | Obtain or request relevant documents or evidence
- | Invite the interviewee to contact you with questions or additional information

C: Determining Interim Remedies

- | | |
|--|---|
| <input type="checkbox"/> Separate parties | <input type="checkbox"/> Temporary reassignment |
| <input type="checkbox"/> Administrative leave (<i>with or without pay</i>) | <input type="checkbox"/> |
| <input type="checkbox"/> Suspend network/email access | <input type="checkbox"/> |

Section 4: Closing an Investigation

A: Preparing a Final Written Report

- | Review all notes, statements and evidence
- | Determine if any additional or follow-up interviews are needed
- | Update timeline
- | Analyze each interviewee's story; assess credibility and plausibility
- | Determine whether a violation of policy, Code of Ethics, the law or inappropriate conduct has occurred
- | Prepare final report; detail steps taken and reasons for conclusions; do not make legal conclusions

B: Remediating Workplace Complaints

- | Inform the key stakeholder(s) of the findings; share the final report with person(s) responsible for determining remedial/corrective action
- | Offer recommendations (*i.e. Coaching; verbal or written warning; PIP; termination, return to work plan*)
- | Follow-up with reporter to ascertain whether retaliation has occurred
- | Follow-up with key stakeholder(s) to learn final actions/disciplinary action

C: Completing Final Steps

- | Document the case outcome
- | Document final actions taken
- | Close the investigation (*i.e. close electronic file or finalize and secure all documentation if on paper*)