



Investigation of Employee Complaints

September 22, 2006

September 27, 2006

Michael W. Hawkins, Esq.

Robert J. Reid, Esq.

Dinsmore & Shohl LLP

255 East Fifth Street

Cincinnati, Ohio 45202

513-977-8200



Ten Steps to Prepare for an Investigation

- 1. Identify the need for the investigation.**
- 2. Assess the goals of the investigation.**
- 3. Assess the potential disadvantages of the investigation.**
- 4. Select the appropriate investigator.**
- 5. Identify potential witnesses.**



Ten Steps to Prepare for an Investigation

6. **Identify documents to be reviewed.**
7. **Prepare the strategy for the investigation.**
8. **Prepare an outline of questions.**
9. **Establish special, secure files and records.**
10. **Review investigation plan periodically to ensure it is comprehensive.**



Objectively Interviewing Witnesses

- **Conduct Individual Interviews.**
- **Prepare for the Particular Witness.**
- **Take Advantage of Unscheduled Interviews.**
- **Make Appropriate Disclosures.**
- **Maintain the Appearance of Objectivity.**



Objectively Interviewing Witnesses

- **Do Not Promise (but try to maintain) Confidentiality.**
- **Avoid Oral Agreements.**
- **Avoid Coercion.**
- **Leave Confrontations to Perry Mason.**
- **Relax.**



Questions to Ask

- **Begin with Inconsequential Questions.**
- **Use Open-Ended Questions in the Beginning.**
- **Develop the Facts.**
 - When did it happen?
 - Where did it happen?
 - Who was present?
- **Periodically Summarize and Review.**



Questions to Avoid

- **Avoid Loaded Questions.**
- **Avoid Accusatory Questions.**
- **Avoid Multiple and Compound Questions.**
- **Avoid Leading Questions.**



Seek Additional Information

- **Ask Follow-Up Questions.**
- **Ask Repetitive Questions.**
- **Look for Non-Verbal Signs.**
- **Ask for New Leads and Corroborating Evidence.**
- **Give Witness Time to Respond.**



Interviewing the Complainant

While the preceding guidelines apply to all witnesses, the complainant and subject of the complaint require a different focus and involve different questions.

- Ask if complainant has experienced any retaliation for filing the complaint.
- Reiterate the company's commitment to neutrality and impartiality in the investigation.
- Do not store the investigation in the personnel file. Instead keep notes and evidence in a confidential investigatory file.



Interviewing the Subject of the Complaint

- **Tell the employee that he/she is suspected of misconduct.**
- **Advise that no judgments have been made about the validity of the complaint.**
- **Give full opportunity for a response to each accusation.**
- **If you suspect the witness is lying, use fact-based questions to get back on track.**
- **Reiterate that retaliation against the complainant or others is prohibited.**



Conducting a Thorough Interview

- **Document each step of the investigation.**
- **Consult the advice of legal counsel.**
- **Be objective and be consistent.**
- **Follow up on all areas of reasonable inquiry.**
- **Develop a plan and act quickly.**
- **Investigative techniques.**



Closing the Investigation

- **Analyze results of the investigation.**
- **Determine the outcome.**
- **Document the results of the investigation.**
- **Keep investigation files current with wrap-up information and subsequent activity.**



Michael W. Hawkins, Esq. Robert J. Reid, Esq.

Dinsmore & Shohl LLP
255 East Fifth Street
Cincinnati, Ohio 45202
513-977-8200