P18 - INVESTIGATIONS WORKSHOP Part 5: PREPARING the INVESTIGATION REPORT



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TOPICS TO BE COVERED IN THIS SESSION

- Investigation Report
 - Written or oral?
 - What is contained in the report?
 - Who gets to see the report?
 - Tracking data from investigation reports
 - · Types of infractions
 - Discipline
 - · Process improvements
 - Closing the loop with the reporter
 - Record retention

Good Documentation is Key

- Document the following throughout the investigation process:
 - > The issue
 - > The information provided by the reporter
 - > The reporter's motivations/expectations for reporting the issue; and
 - The person(s) assigned to investigate the issue (confirming the person(s) impartiality and fairness)
 - > Identify and obtain documents concerning the issue
 - List/catalog all pertinent documents
 - > Basis for conducting interviews
 - > Retain to support investigation report
 - > Interviews with subject matter experts
 - Interviews with witnesses
 - Interviews with implicated persons



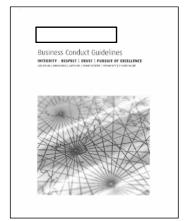
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Reporting the Investigation

- Notes:
 - > Take notes of meetings, interviews, phone conversations, etc.
 - Use of Audio or video recording devices should be done with caution and in rare circumstances. If used, do obtain written permission of interviewees!
- Notes should:
 - Include only the relevant facts
 - > Be succinct and objective
 - Consist of factual accounts of interactions
 - Include your observations of behavior

Analysis – Work Papers

- Include a description of how the facts collected were analyzed
- Use facts, not assumptions of intent
- Consider circumstances
- → Use timelines
- Reference your company's Code of Conduct, Policies and Procedures, when appropriate, as opposed to citing laws or external regulations



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SAMPLE INVESTIGATION REPORT TEMPLATE Date: _____ **Draft** or **Final Report** Matter # _____ Category: _____ Business Unit/Location: _____ Investigator(s): Attorney(s): Was the allegation or concern Substantiated? Y/N Significant: (If yes, have the following been notified?) __ Chief Legal Officer ___ Chief Financial Officer ___ CECO __ Audit Committee ___ Board of Directors ___ Others Describe any disciplinary actions taken: ___ Verbal Warning __ None Written Warning (1st, 2nd, 3rd) ___ Demotion ___ Deduction of Bonus Suspension without pay Termination ___ Other (describe)

SAMPLE INVESTIGATION REPORT TEMPLATE Describe any corrective actions taken: None Policy/Procedure Revision ___ Education /Training Other (Briefly Describe) Other Actions Taken by Reporter or Complainant: Lawsuit Union Action (Briefly Explain) __ Other (Briefly Describe) Government Agency Notice (e.g. EEOC, Dept of Labor, State HR Commissions, Call to a Government Hot Line) **Investigation Summary:** (Briefly describe the actions taking in conducting the investigation.) (Please list the name(s) of the individual(s) who were involved in the investigation. If an outside source was involved, please note.)

SAMPLE INVESTIGATION REPORT TEMPLATE

Who was Interviewed(s):

(Describe who was interviewed during the investigation include full name and title along with date of interview.)

 If matter involves/reports alleged issues with an employee, has employee been named in prior reports over the past year? Y/N N/A

If yes, please provide summarize prior incidents noting if matter reports same issue with employee.

This investigation was conducted to answer the following:

Summarize the Investigation:

· Conclusion:

Summarize Findings

- Document conclusions in a concise, objective, and neutral style
- Stick to the facts
 - → Reporter and witness accounts
 - → Documented evidence
 - Investigator findings and observations
 - → Consider using timelines
 - → Corrective actions taken, if any
- Do <u>not</u> include any content from conversations with or written communications from legal counsel



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Summarize Findings

- → Avoid personal opinions
- → Avoid drawing legal conclusions
- Present what happened and only what happened.

Continuous Improvement to the Culture

- Process improvements
 - Identify any systems or lack thereof that failed to prevent the misconduct
 - Expose any loop holes that were exploited
 - "Where there is a will there is a way"
 - Identify the need for additional internal controls
 - Communicate any Breakdown in "Corporate Culture"
 - Management's Role (could have, should have known)
 - Improvements to the Compliance and Ethics Program/Culture
- · Ownership of the corrective actions
 - Design, Training, Implementation & Verification

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Final Investigation File

The Final Investigation File constitutes the company record:

- Written communication from the reporter raising the issue(s)
- Your documentation of the issue(s) reported
- Investigation Summary
- Analysis and Conclusion
- Resolution Corrective and Disciplinary Actions
- Notes and Support Documentation as necessary to support key facts, analysis, conclusions, or resolutions.

Final Investigation File

- Only final copies of documents should be placed in the Final Investigation File.
- Consider destroying any draft materials.
- All other files and notes should be destroyed (including information stored on computers and disks).
- → Access to the file should be limited to only those with a legitimate business need-to-know.
- → Take care when releasing information in the Final Investigation File to anyone outside the Company.
- → Keep investigation files in accordance with your company's Record Retention Requirements.
 - Destroy investigation files as you would any critically sensitive documents.

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Close the Loop with Stakeholders

- Validate remedial actions
 - Disciplinary Actions
 - Training and Education
 - Changes in Policy & Procedures
 - Other communications
- Prevent further misconduct
- Disclosure to internal parties
- Disclosure to external parties
- Debrief the reporter
- Share "lessons learned"



Final Thoughts

A well conducted and documented investigation process:

- Mitigates risk
- → Is viewed favorably by stakeholders
- → Builds trust and credibility for the E&C Organization
- Avoids unnecessary costs to the company – Adds Value



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Questions, Comments, Concerns?



INVESTIGATIONS WORKSHOP Part 6: QUESTIONS & ANSWERS PANEL

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