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Conducting an Effective Internal Investigation

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HC Course Objectives

- To establish why effective investigation skills are important
- To building skills necessary for conducting an effective internal investigation
- To provide guidelines on how to handle an internal appeal

HC Course Objectives

- To provide information on handling a charge from an outside agency
- To identify the role of HR in the issue resolution/appeal process
- To provide reference tools to assist in conducting an investigation

Standards of Proof

- Beyond a reasonable doubt - **CRIMINAL**
- Clear and convincing evidence - **CIVIL w/ DAMAGES**
- Preponderance of the evidence - **CIVIL**
- Good faith investigation/reasonable conclusion - **INVESTIGATION**

BEYOND REASONABLE DOUBT - 99%

- NOT APPLICABLE

CLEAR & CONVINCING - 75%

PREPONDERANCE - 50%+

"WHAT DO YOU THINK HAPPENED"

Initial Meeting – Purpose/Objective

4 GOALS

INVESTIGATOR - FREE OF BIAS

GIVE ACCUSED CHANCE TO RESPOND

MUST ALWAYS FEEL WELCOMING

MY JOB IS... I WORK I WORK I WORK
IMPORTANT TO PAUSE - & EXPLAIN
BUT TODAY I AM A NEUTRAL / FACT FINDING INVESTIGATION

YOUR JOB IS TO BE HONEST.

The Initial Meeting

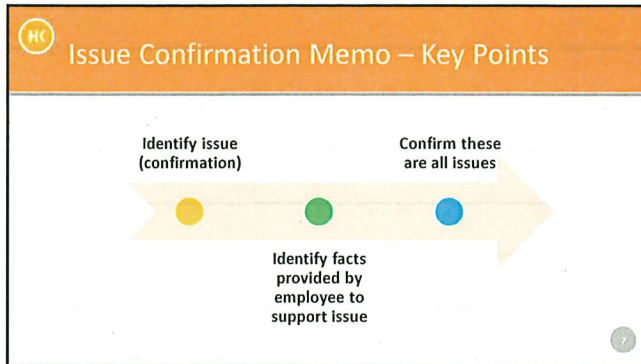
INVESTIGATOR - SHOULDN'T TAKE MORE THAN 10% OF TIME.

ALWAYS ASK IF THEY HAVE ANY DOCUMENTATION?

CURIOUS AS TO WHAT REMEDY YOU ARE SEEKING?

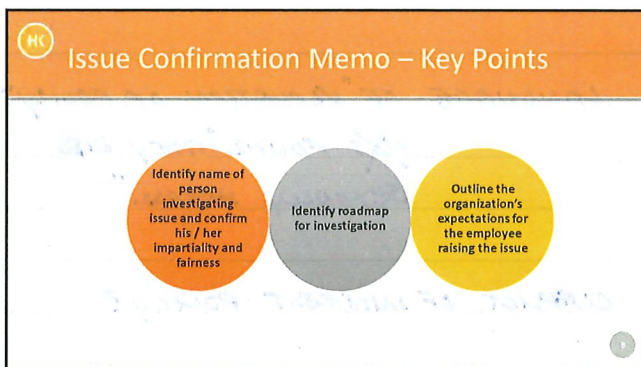
IF THEY USE LEGAL TERMS. PUT THEM IN "QUOTES" TO SHOW IT IS NOT YOUR FINDING OR WORDS.

"SEXUAL HARASSMENT"



FOOTNOTE IN THE INVESTIGATION
IF THEY REFINED & EXPAND THE SCOPE
LARGER & THERE ARE STEPS YOU DON'T TAKE
I CHOSE, I FIND, I CONCLUDE

...



- HC** Is a Formal Investigation Necessary?
- Employee initiates issue
 - You determine:
 - Employee misunderstands the organization's policy
 - There is a lack of communication between employee and another (supervisor)
 - No other facts are needed to resolve the issue
 - No other outside resources are necessary to resolve the issue
 - Issue is susceptible to informal resolution
 - Therefore, no internal investigation is necessary

HC Is a Formal Investigation Necessary?

- Employee initiates issue
- You determine:
 - You need additional facts
 - Employee cannot supply you with facts
 - You need to speak to others
 - You need the assistance or input from those with special expertise
- Therefore, you initiate an internal investigation

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HC Investigating Different Kinds of Issues

What are the issues the employee is raising?

What are the organization's obligations (legal and organizational) with respect to these issues?

Are there others within the organization with whom you should consult to resolve these issues?

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LANGUAGE OF "VIOLATION OF POLICY"

~~N~~OT FOUND "THEY DID SEXUALLY HARASS."

CONFLICT OF INTEREST POLICY?

HC Planning the Investigation Important Considerations

- What facts/documents can you unilaterally gather?
- Who should conduct the investigation?
- Who should be interviewed?
- How should the interviews be conducted?

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HC

Interim Actions

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HC

Key Points of Consideration

- Will administrative leave take place before or after you confront the accused?
- Will removing the accused make things better or worse?
- Who should you consult beforehand? HR? Legal? Is a risk or threat assessment necessary? *PUBLIC SAFETY*

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HC

Key Points of Consideration

- How will you respond to the accused when asked why removing him or her is necessary?
- What, if anything, should co-workers and members of the public be told about the employee's departure?
- What are the terms of the leave? With pay? Who should he or she contact? What should he or she do during that time?

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HC Preparing for and Conducting an Effective Investigation

- Contracting for expectations
- Showing sensitivity toward interviewee
- Putting interviewee at ease

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HC Preparing for and Conducting an Effective Investigation

- Stressing that no conclusions have been reached
- Minimizing risk of retaliation
- Protecting the investigation's integrity

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HC Meeting with the Accused Outlining Your Approach

| Outline the Issues | List the Facts | Leave Room | Notetaking is Critical |
|-------------------------------------|---------------------------|--|--|
| Carefully analyze all issues raised | That relate to each issue | Underneath each fact to work in the individual's answers | Do the best you can to get down key facts during the interview and complete your notes IMMEDIATELY after the interview is completed while the information is still fresh |

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BUILDING RAPPORT IS CRITICAL!

GIVE LOTS OF TIME!

BE THOUGHTFUL OF WHEN & WHERE

HC

Asking Effective Questions

- Broad to narrow questions
- Leading questions
- Tough questions
- Follow-up questions
- Avoid compound questions
- Committing interviewee to a story/chronology

DON'T COMBINE 2 QUESTIONS
INTO ONE.

*

HC

What if the Accused denies wrongdoing?

- Explore possible ill-motives
- Ask:
"Do you have any idea why he/she would make this up?"
- Ask:
"Have you had any conflicts or problems with him/her?"

HC

Concluding the Interview

- Offer general time frame for investigation - DON'T GIVE
- Encourage the supplying of facts
- Stress need for confidentiality
- Stress no retaliation

SPECIFIC TIME BUT RATHER TERMINOLOGY
LIKE SOON, QUICKLY.


LEAVE DOOR OPEN TO COME BACK TO
THEM. "I MAY NEED TO FOLLOW
UP... BEST WAY TO FOLLOW UP."

BRING UP REQ UP FRONT - TO ALL EMPLOYEES RATHER THAN WHEN SOMEONE IS DIFFICULT.; TRANSPARENT; NEUTRAL ABOUT W/ RETALIATION
10/17/2019
SPEECH UP FRONT.

1. MAY GIVE STUFF TO THAT PERSON? - LOOK INTO FURTHER
2. MAY GIVE STUFF TO HELP PERSON? - GIVES CREDIBILITY
~ SPEAKS TO CREDIBILITY.

HC Interviewing Witnesses

- Non-cooperative witness
- Witness who loves the limelight
- Witness with an axe to grind



IF THEY GIVE ME A LONG LIST - WHO SHOULD I TALK TO FIRST?
- TOP THREE

WHY DO YOU NOT WANT TO GET INVOLVED?

HC Assessing Credibility

- Demeanor
- Logic/consistency of story
- Corroborating evidence
 - Evidence that supports other evidence
- Circumstantial evidence
 - Collection of facts that, when considered together, can be used to infer a conclusion about something unknown

LOOK AT BASELINE; THEN NOTE WHEN THINGS CHANGED.
- CALM THEN CERTAIN WORD/COMMENT TRIGGERS RESPONSE.
- ASK WHY THEY CHANGED. "I NOTICED YOU SEEM IRRITATED WITH THIS/THAT WHEN I ASK THIS QUESTION?"
THEN NOTE

HC Reaching a Conclusion

DON'T BE AFRAID TO BE WRONG!

HC Reaching a Conclusion

A diagram with four colored squares arranged in a 2x2 grid, each containing a factor for reaching a conclusion. The top-left square is orange and labeled 'Timeliness'. The top-right square is grey and labeled 'Pattern and Practice'. The bottom-left square is yellow and labeled 'Motivation'. The bottom-right square is blue and labeled 'Truthfulness'. The squares are connected by a light pink star-like shape in the background.

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HC Making a Recommendation

A diagram with two overlapping rounded rectangles. The top-left rectangle is blue and labeled 'Issues to review'. The bottom-right rectangle is orange and labeled 'Options to consider'.


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HC Preparing Your Investigation Report

- Preparation of the report
- Contents of the report
- Access to the report


An illustration of a spiral-bound notebook with a white cover and a black spiral binding. The word 'Report' is written in bold black letters on the cover.


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Implementing Recommendations

- Discuss with your manager
- Recommend to line management
- Determine who will implement
- Implement
- Skelly rights





Charges from Outside Agencies



Appeals Process

HC

Documentation Retention

- INV. SUMMARY

- NOTES

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Attorney-Client Privilege


1. CONFIDENTIAL COMMUNICATION

FOR PURPOSE OF OBTAINING OPINION.

PROTECTED BY PRIVILEGE -

HC

Conclusion and Wrap-Up

**Hirschfeld
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We work for employers


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