

HOW TO CONDUCT INTERNAL INVESTIGATIONS



INSTRUCTOR GUIDE
5-HOUR COURSE

HRDQ[®]

HOW TO CONDUCT INTERNAL INVESTIGATIONS

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Phone: (800) 633-4533
Fax: (800) 633-3683
Web: www.HRDQ.com

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Instructional Design and Learning Philosophy

We are committed to providing the best core skills content possible for Instructor-Led Training (ILT). The following principles are applied in the development of programs:

Sound Instructional Design

All course content is developed using a variety of research techniques. These include:

- Brainstorming sessions with target audience
- Library research
- Online research
- Customer research (focus groups, surveys, etc.)
- Subject Matter Experts (SME)
- Interviews with trainers

Expert instructional designers create imaginative and innovative solutions for your training needs through the development of powerful instructional elements. These include:





- Learning objectives — effective tools for managing, monitoring and evaluating training
- Meaningfulness — connects the topic to the students' past, present and future
- Appropriate organization of essential ideas — helps students focus on what they need to know in order to learn
- Modeling techniques — demonstrate to students how to act and solve problems
- Active application — the cornerstone to learning — helps students immediately apply what they have learned to a real-life situation
- Consistency — creates consistent instructions and design to help students learn and retain new information
- Accelerated learning techniques — create interactive, hands-on involvement to accommodate different learning styles

Application of Adult Learning Styles

Adults learn best by incorporating their personal experiences with training and by applying what they learn to real-life situations. Our experienced instructional designers incorporate a variety of accelerated learning techniques, role-plays, simulations, discussions and lectures within each course. This ensures that the learning will appeal to all learning styles and will be retained.

Course Timing

Chapter One: The Investigation Framework

Type of Activity	Segment	Time
	Introduction: Case study	20
	Facts and figures	10
	Elements of an investigation plan	20
	Investigation planning document	20





Reading



Written Exercise

Chapter Two: Understanding the Legal Issues

Type of Activity	Segment	Time
	Federal laws that affect employment decisions	30
	Avoiding lawsuits	40








Facilitate







Group Activity

Course Timing (cont.)

Chapter Three: The Interview Process

Type of Activity	Segment	Time
	Planning each interview	10
	Asking good questions	20
	Questioning techniques	15
	Communication techniques	20
	Interviewing practice	30

Chapter Four: Results and Recommendations

Type of Activity	Segment	Time
	Record-keeping	10
	Writing the report	20
	Reaching a conclusion	20
	Wrap-up	10



Reading



Written Exercise



Facilitate



Group Activity

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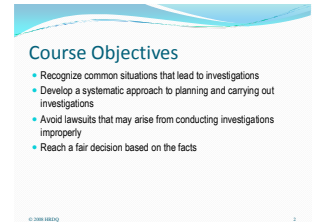
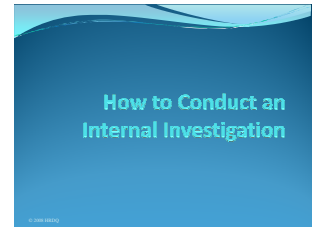
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Course Objectives

Successful completion of this course will increase your knowledge and ability to:

- ◇ Recognize common situations that lead to investigations
- ◇ Develop a systematic approach to planning and carrying out investigations
- ◇ Conduct investigations so you're confident all the bases are covered
- ◇ Understand the legal issues that affect internal investigations
- ◇ Avoid lawsuits that may arise from conducting investigations improperly
- ◇ Avoid claims of retaliation from employees who have been subjects of investigations
- ◇ Respect employees' privacy while collecting all the information you need
- ◇ Avoid common mistakes when asking interview questions
- ◇ Build rapport with different personality types in a way that encourages cooperation from all
- ◇ Recognize signs of escalating emotions in witnesses and avoid explosive situations
- ◇ Maintain documentation and records so they can stand up in court if necessary
- ◇ Write a report that is complete yet concise
- ◇ Reach a fair decision based on the facts
- ◇ Choose appropriate disciplinary measures if necessary



ChapterOne



THE INVESTIGATION FRAMEWORK

Use this case study as an icebreaker. Have participants work in groups of three to come up with a strategy they would use to investigate this claim. Debrief by sharing ideas and previewing the content of the day.

Specific answers are less important than the idea of having a plan or a system and sticking to it.

Note: We will be referring to the scenario throughout the day to illustrate various aspects of conducting an investigation.

Introduction: Case study

Tasha is an administrative assistant at a large advertising agency. Fred is an account manager. Tasha has accused Fred of sexual harassment. She claims he has made demeaning comments to her and has repeatedly asked her out even though she has said no. She said the last straw was when he groped her in the copy room. Fred claims he is innocent, and that Tasha is just angry because he didn't pick her to work on his team with an exciting new client.

How would you go about investigating Tasha's claim?

Discrimination, harassment, theft, substance abuse, sabotage and misconduct are a few reasons why employers conduct internal investigations. Depending on the nature of the event, sometimes a simple investigation is all that is needed. At other times, a formal investigation is required. In any event, how the investigation is handled can make the difference between a fair outcome and a lawsuit. Your goal should be to conduct a good faith investigation with a reasonable conclusion.

Facts and figures

The 2000 National Business Ethics Survey (NBES) found that employees observe five main types of misconduct:

- ◇ Lying
- ◇ Withholding needed information
- ◇ Abusive or intimidating behavior toward employees
- ◇ Misreporting actual time or hours worked
- ◇ Discrimination

The Society of Human Resource Management’s 1998 Ethics Resource Center Business Ethics Survey supports the NBES findings:

- ◇ _____ Percent of employees observed stealing or theft
- ◇ _____ Percent of employees observed lying on reports or falsifying records
- ◇ _____ Percent of employees observed lying to supervisors

Financial cost

The average organization loses more than \$_____ a day per employee to fraud and abuse, according to a study conducted by the Association of Certified Fraud Examiners (ACFE). Among the study's other findings:

- ◇ The average organization loses approximately _____ percent of its total annual revenue to fraud and abuse committed by its own employees
- ◇ Fraud and abuse cost U.S. organizations more than \$_____ billion annually
- ◇ Small businesses are the most vulnerable

6

45

27

400

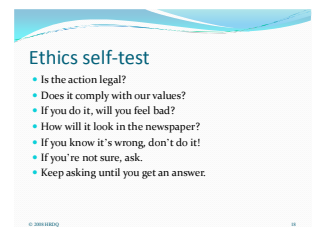
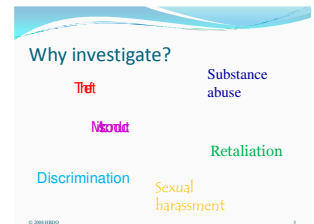
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The NBES survey was conducted by the Ethics Resource Center, based in Washington, D.C. They surveyed 1,500 U.S. employees.

Activity: Have participants work in pairs or small groups to fill in the blanks in the workbook by matching the numbers at the bottom of the page with the correct statement. Answers are as follows:

- 27 percent: stealing or theft
- 26 percent: lying on reports or falsifying records
- 45 percent: lying to supervisors
- \$9/day: average loss per employee per day
- 6 percent: average loss of total revenue to internal fraud and abuse
- \$400 billion: cost to U.S. organizations annually due to fraud and abuse



One of the keys to successful investigations is the ability to be consistent, thorough and fair with every investigation. Following a plan helps ensure success.

Some of the questions may be difficult or impossible to answer at this point in the investigation (especially those relating to motive or reasons for the alleged behavior). Nevertheless, include them as part of the plan.

This page presents an overall picture of the information that needs to be gathered and the questions that need to be answered. A usable form is located just a few pages later in the workbook.

Generally, it is best to interview people in this order:

1) person(s) who alleged misconduct or wrongdoing occurred

2) witness(es)

3) accused person(s)

Elements of an investigation plan

Use a systematic approach

By the end of the investigation, you will want to answer all of the following questions.

- ◇ Who is involved?
- ◇ What is the nature of the allegation?
 - What are the specific behaviors or activities that represent misconduct?
 - What policies, rules, regulations govern the alleged misconduct?
- ◇ When and where did the incident occur?
- ◇ How and why did it occur?
- ◇ Who are the witnesses or other people who will need to be interviewed?
- ◇ What evidence or documentation needs to be collected? What space needs to be secured?
 - Witness statements
 - Physical objects
 - Desks, lockers, computers (find out in advance whose help you'll need to accomplish this – facilities personnel, IT experts, etc.)
- ◇ Is the accused employee part of a collective bargaining agreement that entitles him or her to representation or other considerations?
- ◇ What resources and equipment are needed to conduct the investigation?
- ◇ What is the time line for the investigation?

The human side of the investigation

- ◇ Maintain confidentiality as much as possible, but DO NOT promise confidentiality
- ◇ Notify on a need-to-know basis. This may include:
 - Employee’s direct supervisor or manager
 - Other manager in direct line of supervision (the boss’s boss)
 - HR manager
 - CEO
 - Labor counsel or union representative
- ◇ Employees should be able to bypass their normal chain of command to register complaints
- ◇ Treat the accused employee with dignity and respect
- ◇ Conduct the investigation in a professional and fair manner
- ◇ Remove yourself from the investigation if there is a conflict of interest or other reason the investigation cannot be conducted impartially
- ◇ Conduct all interviews in a private, comfortable setting
- ◇ Designate at least one male and one female as official sexual harassment complaint investigators
- ◇ If any employees are distressed or otherwise need help, refer them to your EAP (Employee Assistance Plan) if you have one, or local physical/mental health care providers
- ◇ Complete the investigation, and take appropriate action within days of a complaint

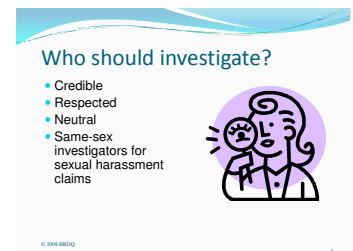
Time limits: According to the Society for Human Resource Management, the average time to initiate an investigation is 2.1 days and 6.7 days to complete.

Who should investigate?
Complaint investigators should be credible, respected and neutral.

Further, employers should allow employees to bypass their normal chain of command to register complaints so that they avoid fearing reprisals or their complaints going nowhere.

In sexual harassment investigations, complainants, witnesses and alleged harassers usually feel more comfortable discussing sensitive issues with someone of the same gender.

Regardless of who investigates, make certain every employee knows that all complaints are taken seriously.



This form serves as the nuts and bolts of the investigation. It becomes a tracking system to make certain all necessary information is gathered and all questions are answered.

Activity: Lead participants in filling out this form as if completing the case study presented at the beginning of the chapter. There are unlimited options, of course. We've suggested some below.

Name: Tasha Reynolds

Title: Administrative Assistant

Complaint: Fred Monroe made demeaning comments to her, repeatedly asked her out and groped her in the copy room.

Remedy sought: Make him stop.

Accused: Fred Monroe

Title: Account Manager

Notifications: (trainer or participants can make up names)

- Tasha's supervisor
- Fred's manager
- Director of HR
- Designated sexual harassment officers

Investigation planning document

Complainant information

Name:

Title:

Phone:

Complaint:

Remedy sought:

Accused information

Name:

Title:

Phone:

Notifications: Enter name, title, date and time notified

Witnesses to be interviewed
1. Name:
Title:
Phone:
Reason:
2. Name:
Title:
Phone:
Reason:
3. Name:
Title:
Phone:
Reason:
4. Name:
Title:
Phone:
Reason:
5. Name:
Title:
Phone:
Reason:

Witnesses (use these ideas or make up your own):

- Tasha’s coworker(s). Reason: Find out if Tasha talked about the incident with anyone else; find out if anyone else has had similar experiences with Fred.
- Administrative Assistant who often works with Fred. Reason: Find out how Fred treats her — whether there is any evidence of harassment.
- Fred’s coworker(s). Reason: Find out if Fred talked about the incidents and his general attitude toward Tasha and other women.
- Tasha’s supervisor. Reason: Find out if Tasha behaved any differently (upset, etc.) after alleged groping incident; find out any information about why Tasha wasn’t chosen to work with the new client.
- Fred’s manager. Reason: Find out what the manager has noticed about Fred’s behavior and performance.

Interview schedule: Make up dates following recommended order as shown.

Documentation:

- Performance appraisals for Tasha and Fred
- Personnel records -- record of any other complaints filed by Tasha or filed against Fred
- Job posting for the admin position Tasha didn't get or other records that would show Fred's process for selecting the admin to work with the new client

Interview schedule (list date and time)
Complainant:
Witness 1:
Witness 2:
Witness 3:
Witness 4:
Witness 5:
Accused employee:
Other:

Documentation		
Needed:	Obtained:	Refused:
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		