

INVESTIGATING COMPLAINTS

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BEST PRACTICES FOR INVESTIGATING COMPLAINTS AGAINST EMPLOYEES

- A. When one co-worker or an outside party makes a complaint against another co-worker for acts of misconduct or violations of company policy, or when it is reported to a manager or a manager otherwise learns that an employee may have engaged in misconduct or violation of company policy, an investigation will need to be conducted into each complaint by the manager (with the assistance of the higher level manager and/or Human Resources) prior to determining further action (such as imposing any discipline).
- B. Typically, any investigation will require obtaining signed written statements by the complaining party and any witnesses as to who, what, where, when, why; gathering and reviewing any audio or video footage of the incident; and gathering and reviewing any relevant documentation about any prior counseling/disciplinary action.
- C. Typically, the manager responsible for the investigation should not settle for general or conclusory answers; be sure to get the full picture. Get both sides of the story – arbitrators and courts will react more favorably if the evidence establishes that the employer conducted a fair, even-handed and thorough investigation before acting.
- D. The manager responsible for the investigation should provide the higher level manager and/or Human Resources with a statement as to how the manager became aware of the incident and what was done to investigate. **JUST STICK TO THE FACTS!** Do not provide any extraneous personal commentary, opinions or thoughts.
- E. Send all information from the investigation to the higher level manager and/or Human Resources for review before addressing incident with the employee accused of wrongdoing.
- F. Depending on the nature of the incident, and only after consultation with the higher level manager and/or Human Resources (and outside counsel when necessary) a determination needs to be made as to whether, when and in what format (in-person or in-writing) the employee accused of wrongdoing will be asked to respond and what information will be shared with the employee.
- G. For complaints of serious or significant acts of misconduct or violations of company policy, an employee accused of wrongdoing may be suspended immediately pending the outcome of the investigation and/or after the incident has been addressed with them. Suspension may be with pay or without pay (depending on circumstances and applicable law).

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