

INVESTIGATIONS



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1

An Affirmative Defense May Exist if:

Once the Employer knew or should have known of a violation;

- it investigated

&

- took prompt action reasonably calculated to correct the problem.



2

Who Should Investigate?

- Supervisor
- HR
- In House Counsel
- Outside Investigator
 - Non-Attorney
 - Attorney

Identify the Investigator's Role

- To Be Neutral
- To Gather Information
- To Present Information to Whom?
 - **Orally?**
 - **In Writing? (Signed Witness Statements?)**
- To Draw Conclusions?
- To Make Recommendations?

UNIVERSAL RULES OF THUMB

- R*E*S*P*E*C*T
- Neutral
- Let common sense rule
- 0 Tolerance for retaliation
- Document each step

TYPICAL STEPS

- Enlighten the Accused
- Interview:
 - Complainant
 - Accused
 - Witnesses
- Present the Evidence
- The Decision Makers Review the Evidence
- A Decision is Made
- The Investigation is Closed:
 - With the Accused
 - With the Complainant

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Title search: Investigating Sensitive Employment Complaints

First appeared as part of the conference materials for the
2023 Essential Employment Law "Nuts and Bolts" (Live Webcast Replay) session
"Investigating Sensitive Employment Complaints"