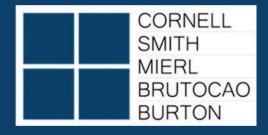
### INVESTIGATIONS



#### **CONNIE CORNELL**

www.cornellsmith.com Austin, Texas (512) 328-1540



#### 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.



#### 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







Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the <u>UT Law CLE eLibrary (utcle.org/elibrary)</u>

## Title search: Investigating Sensitive Employment Complaints: Investigations

Also available as part of the eCourse

<u>Investigating Sensitive Employment Complaints (2020)</u>

First appeared as part of the conference materials for the 2020 Essential Employment Law: A Practical Course in the Basics session "Investigating Sensitive Employment Complaints"