

WORKPLACE INVESTIGATIONS

Investigation Intake

When to use: A new workplace-misconduct complaint just came in.

RECEIVE & RECORD

- ☐ **1 Record the complaint in whatever form it arrived.**
Written, verbal, anonymous, or observed; do not require a formal written complaint to act.
- ☐ **2 Decide whether a formal investigation is warranted.**
When in doubt, investigate. The duty is triggered once management is on notice.
- ☐ **3 Note the date and time received and who took the intake.**

PROTECT THE PARTIES & THE EVIDENCE

- ☐ **4 Put interim measures in place to separate the parties if needed.**
- ☐ **5 Default to relocating the accused, not the complainant.**
Unless the complainant prefers otherwise. Interim measures should be individualized, non-retaliatory, and proportionate; route reassignment or leave decisions through counsel.
- ☐ **6 Give a no-retaliation instruction to everyone involved.**
- ☐ **7 Issue an evidence hold; preserve texts, emails, video, and digital records.**

SET UP A NEUTRAL, IMPARTIAL PROCESS

- ☐ **8 Confirm the investigator is neutral and not under the respondent's control.**
- ☐ **9 Decide internal vs. third-party neutral investigator.**
Use an outside neutral for senior respondents, high risk, or where credibility of the outcome is at stake.
- ☐ **10 Define the scope in writing.**
The specific allegations and issues to be examined.
- ☐ **11 Build the investigation plan.**
Evidence to gather, witnesses, interview order, and admonitions.

PREPARE TO INTERVIEW

- ☐ **12 Set a sensible interview order.**
Typically complainant, then respondent, then witnesses; adjust as facts develop.
- ☐ **13 Prepare the opening admonitions.**
Confidentiality, no retaliation, duty to cooperate, and duty to tell the truth.
- ☐ **14 Note any Weingarten or Upjohn rights that apply.**
Union representation on request; counsel-led interviews need the Upjohn warning.
- ☐ **15 Safeguard confidentiality without promising anonymity.**
Follow current NLRB limits on blanket confidentiality instructions.
- ☐ **16 Set a prompt timeline and document any unavoidable delay.**