



Breakfast Briefing: Best Practices for Conducting Internal Investigations in the Workplace

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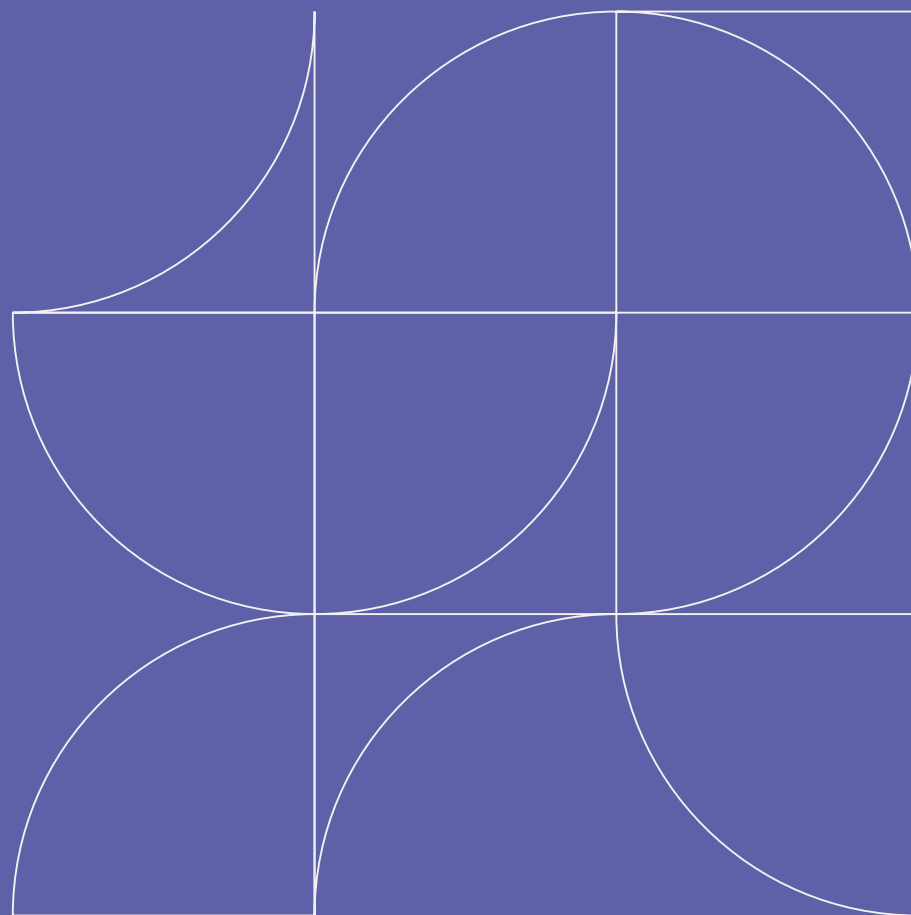
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Agenda

- 1 | Current Trends in Workplace Investigations
- 2 | Starting an Investigation the Right Way
- 3 | Common Pitfalls in Internal Investigations
- 4 | Building an Open-Door Culture

Current Trends in Workplace Investigations



Rise in Need for Workplace Investigations

Limited Government Resources

- Equal Employment Opportunity Commission
 - Reduced Capacity
 - Slower in investigating claim
- Department of Labor
 - Investigations are on Hold
 - Under-Staffed

Polarized Political Climate

- Heightened social and political tensions influencing workplace interactions and increasing internal complaints.
- Employers may be tempted to do nothing – Don't do that.

Evolving Workplace Dynamics

- Remote and hybrid models complicate monitoring and accountability.
- Greater emphasis on diversity, equity, and inclusion creates new compliance challenges.

Other Emerging Trends in Workplace Investigations

Mental Health Vocalization Has Increased

- Employees more likely to raise mental health as a concern than ever before.
 - Trend impacts witness interviews and overall investigation process.
- Emphasize psychological safety throughout investigations and be prepared to address mental health concerns sensitively and effectively.

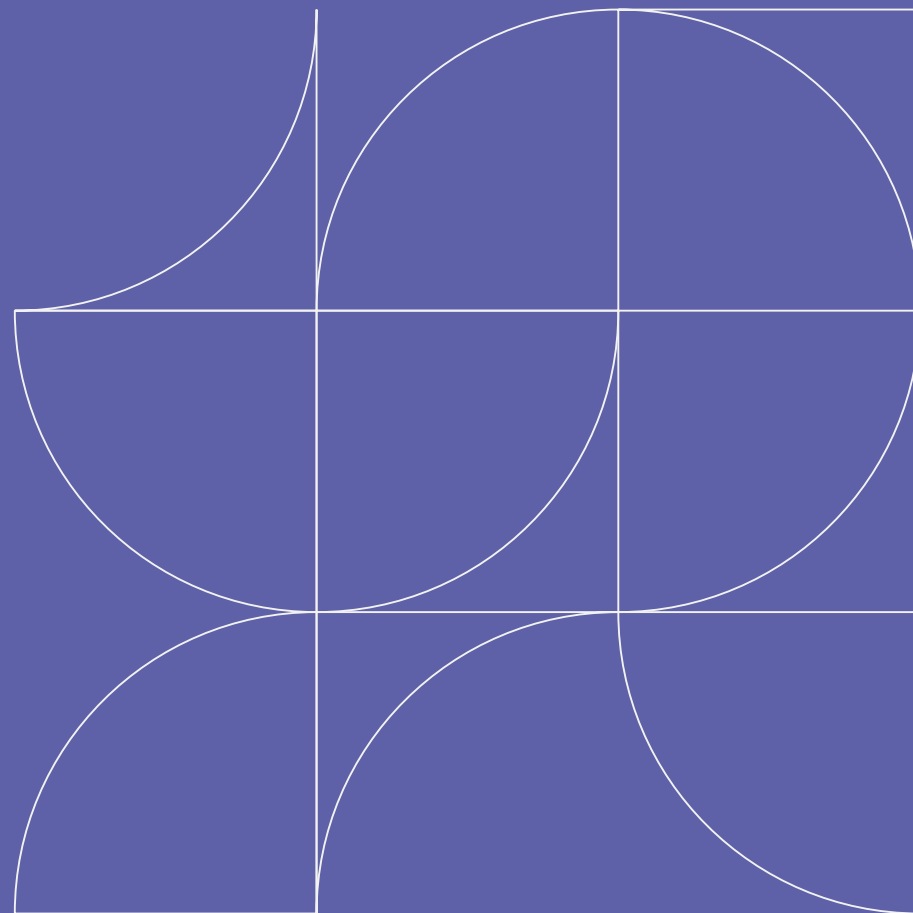
Post-Separation Grievances More Common

- Look for “investigation triggers” in resignation letters, exit interview statements, and close-out emails.
- Such triggers may prompt need for an investigation.

Artificial Intelligence

- Emergence of artificial intelligence (AI) and deepfake technology has made accurate information gathering in workplace investigations more complicated.
- Technology also makes it possible to fabricate or falsify evidence.
- Credibility assessments and corroborating evidence are even more critical for investigators.

Starting an Investigation the Right Way



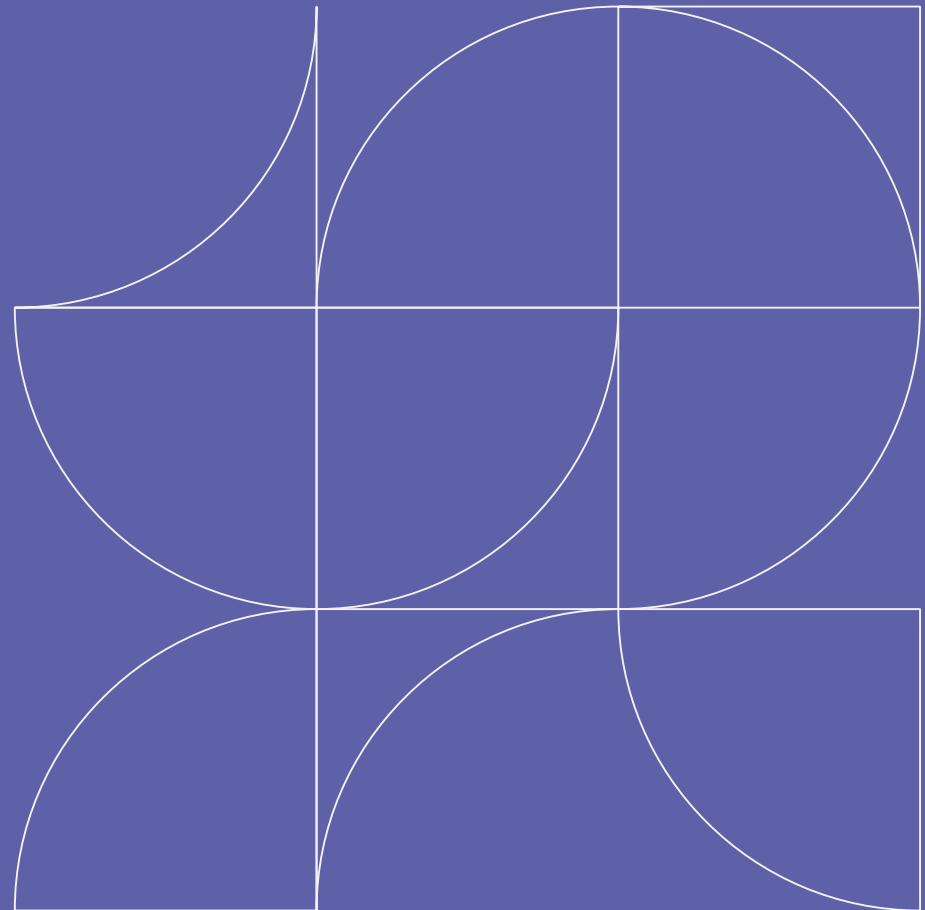
Begin with the End in Mind

- **Maintain Neutrality**
 - Keep Decision Makers Separate from Investigation Process
 - Set expectations early regarding communications during the investigation
- **Identify Key Policies to Guide the Investigation**
- **Identify Key Witnesses Up Front**
 - Be Strategic about Who you speak with and When you speak to them
- **Avoid Delays**
 - Quick and thorough investigations are critical
- **Privilege**
 - When should an investigation be conducted under privilege?
 - When should you waive privilege in an investigation?
 - How do you communicate during a privileged investigation?

When do you need outside counsel?

- Complainant Requested a third-party investigation
- Increased Litigation Risk
- Senior Executives Implicated
- HR Implicated
- Practical Reasons: Human Resource Departments are incredibly busy.

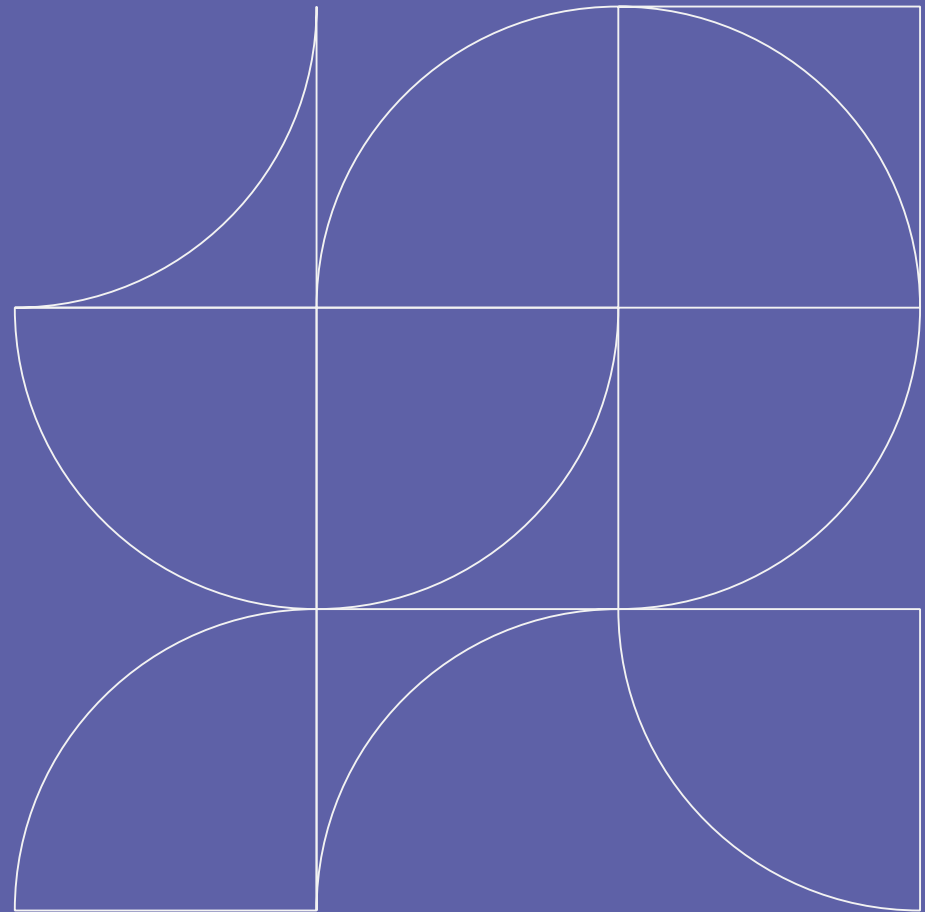
Common Pitfalls in Internal Investigations



Common Pitfalls

- Privilege
 - “At the direction of counsel”
- Ignoring the obvious
 - Security Video
 - Roster of Employees
- Making assumptions
 - Defining regularly used terms
 - Deepfakes
- Untrained Managers/Supervisors
 - Lack of training could impact the results of the investigation
- Confidentiality
 - Inform key stakeholder about how the investigation will be conducted.
- Retaliation
 - Emphasize that there is no retaliation for participating in the investigation.

Building an Open-Door Culture





Open-Door Policy: Impact

- Encourages employees to share concerns freely without fear of retaliation.
- Promotes transparency and trust
- Early detection of issues reduces legal and reputational risks
- Enhances employee morale and engagement



Tips for Building an Open-Door Culture

- Establish Clear Policies
 - Define policy in writing.
- Train Managers and Employees
 - Equip them to handle complaints professionally.
- Foster Culture of Trust and Transparency
 - Encourage accessibility.
- Implement Consistent Investigation Protocols
 - Standardize intake.
 - Document everything.
- Follow-Up
 - Close the loop with employees to reinforce trust.

**thank
you**

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