



WHAT TO DO BEFORE STARTING AN INVESTIGATION

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Compliance officers are often tasked with investigating reports received through their ethics and compliance hotlines. However, most compliance officers are not professionally trained investigators and deciding whether a matter warrants an investigation is a critical decision. On the other hand, the majority of issues presented to compliance officers will involve issues that are relatively easy to resolve and will remain in the domain of administrative action.

The compliance officer and other personnel involved in the investigation must rely upon professional competence and friendly persuasion to get the job done, not upon the authority and power of a government agency backed by the courts. The most common, and also costly mistake, is having personnel conducting an investigation without proper training and protocols. Therefore, it is advisable to have protocols in place in advance of being confronted with an investigation. This would provide guidance on how to proceed with an internal investigation.

Upon the receipt of hotline reports, compliance officers must analyze the information to determine what needs to be done. It is critical to take the time to analyze all known facts upon receipt of a complaint, allegation, or information suggesting a potential wrongdoing has taken place. Once compliance officers have analyzed the information one of the following decisions should be made:

- ✓ Close the matter without the need of further action.
- ✓ Take adverse action against one or more individuals.
- ✓ Request additional investigative steps to clarify issues.
- ✓ Refer the matter to legal counsel for further legal review and action.
- ✓ Disclose to a duly authorized law enforcement or governmental authority.

If the decision is made that an investigation is necessary, then the following must be decided.

- ✓ Who is the deciding official on the investigation's results?
- ✓ What is included in the investigative plan?
- ✓ What is the scope of the investigation?
- ✓ Will the investigation be under the direction of legal counsel?
- ✓ Who is most qualified to conduct the investigation?

For those unaccustomed to conducting investigations, it will become apparent that conducting internal investigations properly is not easy, nor is it fun and instead can be at times trying, frustrating, and intimidating. On the other hand, it can be very gratifying to resolve a serious problem for the organization or for an individual suffering within the organization. Time is a major enemy and a force to contend with in any internal investigation.

There are many elements involved in even a simple investigation. However, there are three key elements, document examination, interviews and reporting. Knowing what documents is a critical step that can facilitate conducting interviews. Being able to properly conduct interviews requires training and skill to produce optimum results and reduce the risks of losing valuable information and time. Lastly, compiling all findings and a final resolution is important to document in a final report. Written reports of interviews and the final investigation may possibly be included and challenged in litigation forums.

In every phase of an investigation there are rules that must be followed. These include how things must be done, how to work with other parties internal or external to the organization, how to manage the records of investigations, and so on. It is important for anyone who may be called upon to conduct an investigation to take time to learn some of the fundamentals of the process.