

Workplace Investigations: Practical Guide for HR on Internal vs. External Options

BCASBO

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Welcome & Objectives

By the end of this sessions, you will:

- understand why it is important to investigate
- understand the important principles to conduct a *defensible* investigation
- understand costs of investigations
- identify key considerations for determining who should investigate
- understand District responsibilities for internal Investigations
- understand District responsibilities when instructing external investigators or legal counsel
- distinguish between common facts & myths about workplace investigations

Why Investigate?

To gather relevant facts and assess them objectively and without bias to determine what happened and whether corrective action is needed.

- Ensure fairness and organizational trust
- Meet legal obligations – duty to investigate
- Support safe schools and respectful workplaces
- Impacts on morale
- Support informed and defensible decisions
- Reduce risk to the organization
- Promote learning and improvement

Defensible Investigations

- Well planned investigation:
 - be prepared
 - gather evidence
 - plan interviews:
 - Introductory statement
 - Questions
 - Closing statement
 - document, document, document!
 - Privacy considerations (document security)

Defensible Investigations Principles



- Due process
- Procedural fairness
- Credibility
- Collective agreement requirements
- Consistent and structured process
- Findings of fact
- Determine an appropriate outcome

Defensible Investigation

- Defensible investigation is a Fair investigation

- ☒ Timely
- ☒ Thorough
- ☒ Impartial
- ☒ Fair

Investigation Costs

- CLASS
- District costs
- Legal costs
- Operational/reputational impacts
- Employee and leadership

Investigation costs may still arise despite conducting a defensible investigation

Who should investigate?

Procedural fairness

Impartiality (real or perceived)

Trusted leader

Experience

Confidentiality

Contextual knowledge

Employer responsibilities: Internal Investigations

Roles and responsibilities

Fairness & timeliness

HR - Integrity of the process & CA compliance

Manager – relationship & workplace

No retaliation

Confidentiality (to a degree)

District - Take a decision

Alternatives to discipline

Employer Responsibilities: External Investigations

Instructing client

Terms of Reference

Scope & mandate

Legal advice

Privilege

Oversight, direction, records

Reporting requirements

Determine an appropriate outcome

Facts and Myths

Beyond a reasonable doubt

Corrective or punitive

Partially substantiated

He said/she said decision making

Unsubstantiated

Speaking to the respondent before notice is given

Follow up interviews

What is discipline? Letter of Expectation/Discipline

Practical Next Steps

Encore offerings:

- Discipline in Education
- Writing Investigation Reports
- Investigating Employee Misconduct
- Investigations Allegations of Harassment

Investigation guide and supplemental external and manager documents

External investigator roster

BCPSEA District Liaison