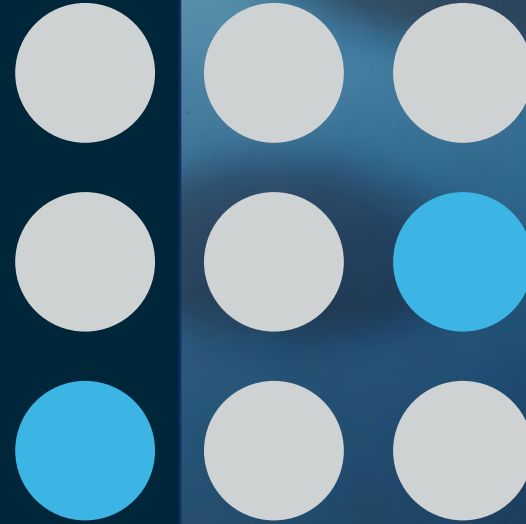


Court to Courtroom: Mastering Workplace Investigations



March 27, 2025

Littler® Compliance **HR**



Today's Webinar Host



STEPHANIE ZIELINSKI

Marketing Director

ComplianceHR

Simplify the complexity of employment law



PolicySmart™

Create and maintain an up-to-date and legally compliant employee handbook



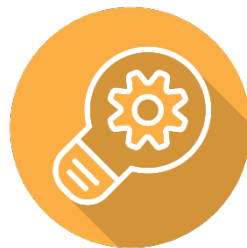
Navigator Independent Contractor

Remove risk in determining Independent Contractor status



Navigator Overtime

Determine if an employee is exempt or non-exempt



The Reference Center

A Comprehensive Solution for Employment Law and Common HR Compliance Questions



The Document Center

Efficiently generate state and federal compliant documents throughout the employee lifecycle

Our Most Popular Solutions



Compliance HR
PolicySmart™
Changing the way companies create and maintain compliant handbooks

Creating and maintaining compliant handbooks is a daunting task. Your company's employee handbook is an invaluable tool that helps shape company culture, communicates operational policies, and minimizes the risk of employment-related legal liability. A well-written and legally compliant handbook is essential to keeping the HR process running smoothly, and most employees would agree that keeping up with federal, state, and local employment laws can seem overwhelming.

PolicySmart™ takes handbooks to the next level.

PolicySmart™ is an intuitive handbook compliance tool that provides employers with national and state-specific templates, a unique compliance timeline, and so much more.

Fueled by the subject matter expertise of Littler, the world's largest employment law firm and built on Nacora's AI-powered platform, PolicySmart™ allows users to easily create and maintain legally compliant handbooks that are cost-effective, up-to-date, and delivered on-demand.

- Federal and State Compliant Templates:** A comprehensive library of federal and state-specific templates, as well as policy templates that are fully customizable, depending on your workforce and operational needs.
- Innovative Compliance Timeline:** Provides an up-to-date timeline of important legal changes that will soon take effect in your selected jurisdictions, helping to ensure that policies are updated at the right time.
- Handbook Policy Checklists:** Gain access to jurisdiction-specific checklists that tell employers which policies are required by law to appear in their handbook and who is covered by each policy.
- Automated Monthly Emails:** Receive a summary and analysis of relevant legal developments that impact your workplace, with guidance on how to revise policy language.



Compliance HR
Reference Center
The Comprehensive Solution for Employment Law and Common Compliance Questions

Last year, thousands of employment law requirements were created and overhauled. Monitoring compliance across all jurisdictions is an incredibly difficult task, but the Reference Center is here to help.

Answer your compliance questions with the Reference Center

ComplianceHR is committed to innovation. To better suit your workflow, we have created the Reference Center. This solution provides you with a simple way to answer your compliance questions, easily find content on several employment law topics, and even provide deeper content that bridges multiple employment law topics.

Your organization needs a proactive strategy instead of a reactive approach to compliance. The Reference Center provides state and local information for a variety of topics, such as final pay, FMLA, minimum wage, predictive scheduling, and workplace policies, among many others.

Fueled by the subject matter expertise of Littler, the world's largest employment law firm, the Reference Center is a critical tool for your HR and legal teams.

- Local, State and Federal Information**
A comprehensive library of state and national information that bridges a variety of compliance topics to ensure you're able to access important data.
- Wide Range of Compliance Topics**
From COVID-19 to final pay, FMLA to state changes, pay frequency to an 11th, organizations of any size and in any sector can benefit from this information.
- Streamlined Workflow**
The Reference Center is designed to help people across your organization quickly find answers to their questions, whether they're on a centralized legal team or an HR team distributed across the country.

PolicySmart provides you with:

- Federal and state-compliant templates
- Innovative compliance timeline
- Handbook policy checklists
- Automated twice monthly legal update emails

The ComplianceHR Reference Center provides you with:

- Local, state and federal information
- Streamlined workflows
- Wide range of compliance topics
 - Leave, final pay, FMLA, minimum wage, and more

When coupled, these two solutions provide you with comprehensive compliance program support

Sign Up for a Demo

Three ways to sign up for a demo:

1. Reply “Yes” to the on-screen poll
2. Visit our website: [Compliancehr.com](https://compliancehr.com)
3. Email our team at demo@compliancehr.com

Benefits of a custom demo:

- Discuss your organization’s requirements/challenges
- Review Navigator Suite Solutions
- Share compliance methodologies

ComplianceHR Demo & Free Trial:

<https://compliancehr.com/webinar-demo/>

Resources

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[BeaconLive - How to Access Certificates](#)

Presented By



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Tip-Off: Setting the Stage

- Why We Investigate
- Planning Investigations
- Conducting Investigations
- Avoiding Common Investigation Mistakes



Why Workplace Investigations Matter?

- Avoids lawsuits
 - Provides defenses
- Reputational damages
- Employee morale
- Compliance violations



Common Challenges to Workplace Investigations

- Pre-game jitters
- Fickle fans / bias creeping in
- Need for a formal complaint – its all about “notice”
- Shot clock pressure
- Confidentiality challenges - loose lips sink ships and cases.

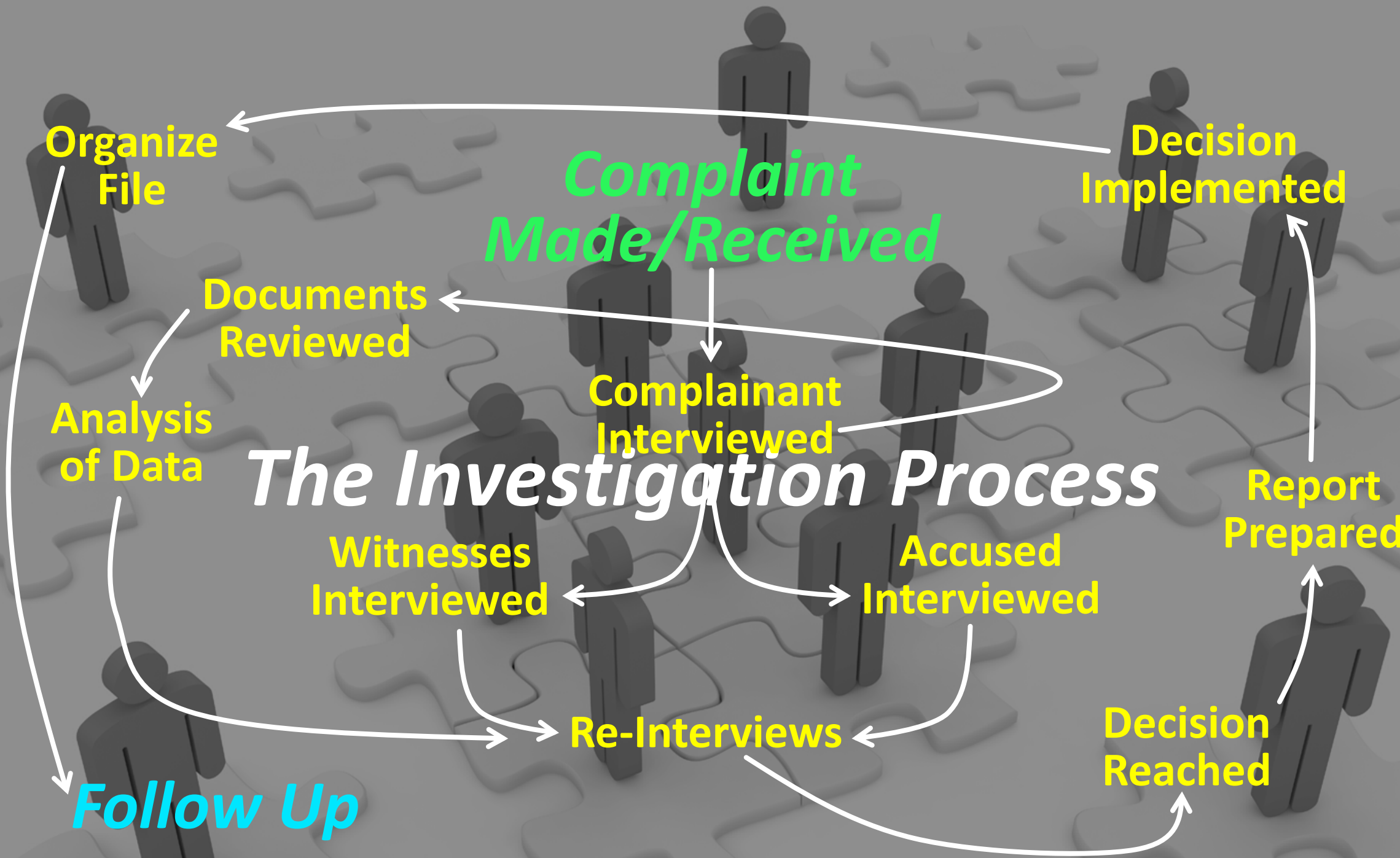


First Half: Building a Strong Investigation Game Plan

The Starting Line-Up: Key Players In Investigations

- **Investigators** = *Head Coaches*
 - *Leading the strategy*
- **Complainant** = *Point Guard*
 - *Initiates action*
- **Accused** = *Opposing player*
 - *Their story matters too*
- **Witnesses** = *Other players on the teams*
- **HR/Legal** = *Referees*





**Complaint
Made/Received**

**Decision
Implemented**

**Organize
File**

**Documents
Reviewed**

**Complainant
Interviewed**

**Analysis
of Data**

The Investigation Process

**Report
Prepared**

**Witnesses
Interviewed**

**Accused
Interviewed**

Re-Interviews

**Decision
Reached**

Follow Up

The Complaint

- Hi this is... I am a long term employee and I have had enough. My working environment – in Customer Service – has become unbearable – and I am being treated unjustly. Look, being passed over for a promotion in favor of a racist – well, that just can't be overlooked. Now I understand why some employees can give perks to some clients, but some clients aren't worth it. Anyway, I'm not sure how this hotline works...but hopefully something can be done...

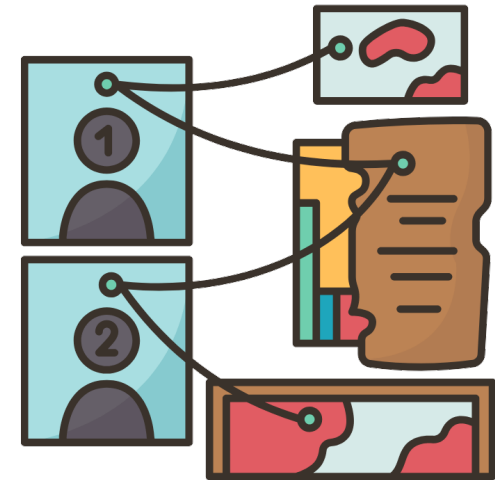
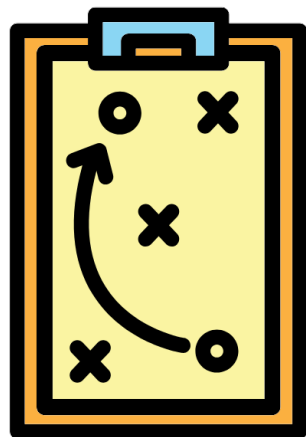
Defining the Scope: Setting the Ground Rules

- Define what the investigation covers – identify the allegations. Don't let it go into overtime.
- Identify policies, procedures, and standards at play.
- Set objectives and boundaries to keep the investigation focused.



The Playbook: Developing An Investigation Strategy

- Set a timeline—delays create credibility issues.
- Determine the order of interviews—who should go first?
- Choose the right setting – in person v. virtual interviews
- Gather evidence—emails, documents, surveillance footage, policies.



Maintaining Impartiality: Avoiding Bias “Fouls”

- No Home Court advantage allowed!
- Stay **neutral**—leave personal biases on the bench
- Stick to facts, not assumptions
- Document consistently and objectively to ensure fairness



Managing Confidentiality: Keeping Locker Room Talk Contained

- Ensures investigation integrity
- Protects from retaliation
- Must balance confidentiality with fairness
- What you CAN promise? Limited confidentiality
- What you CANNOT promise? To keep secrets.
- Remind employees to refrain from workplace gossip

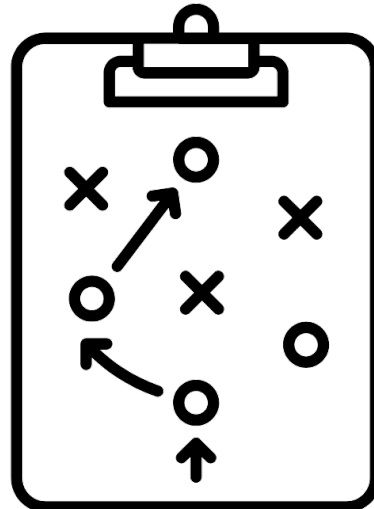


Opening Tip-Off: Conducting Initial Interviews

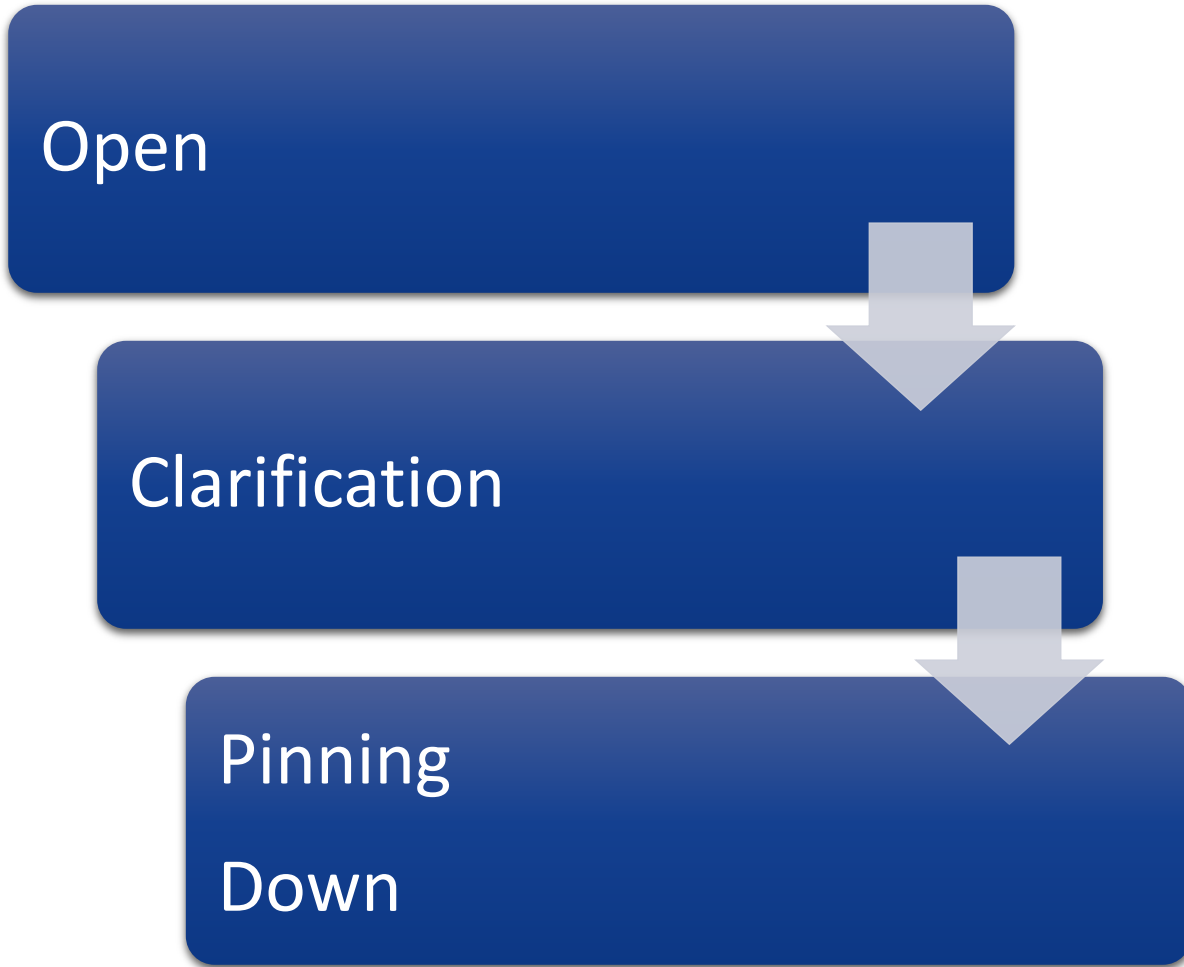
- Be prepared
- Written outline of allegations
- Written list of basic questions organized by allegation
- Space for “parking lot” issues
- Acknowledge what you are doing and why
- Set a neutral tone & explain confidentiality.
- Ensure interview feels safe and encourage cooperation
- Avoid leading questions or those based on assumptions

Offensive & Defensive Strategies For Handling Witnesses

- **Offense** = dig deep with follow-up questions
- **Defense** = prepare for evasive answers
- Watch for **fake outs** – inconsistencies and misleading statements



Funnel Method



Active Listening

- Listen to the witness
- Don't be wedded to your outline
- Be ready for completely unexpected issues to arise
- Hearing is different than listening
- Don't miss obvious or subtle cues
- Don't redirect them just because you weren't prepared for a particular subject—EXHAUST

Interviewing the Accused

- Two goals:
 1. Information gathering
 2. Fair opportunity to respond
- Consider ways to give accused employee notice of the allegations against them without compromising confidentiality

Interviewing the Accused

- Start with broad, neutral questions
 - “Can you describe your working relationship with the complainant?”
- Use open-ended questions to encourage detailed response
 - “Tell me what happened from your perspective”
 - “Is there anything else you think I should be aware of?”
- Probe inconsistencies or gaps in their story without leading
 - “Earlier you mentioned X, but the witnesses described Y. Can you clarify?”
 - “Is there any documentation or evidence that supports your version of the events?”
- Assess credibility without confrontation

Interviewing the Accused: Handling Common Challenges

- Denial of allegations
- Getting defensive or angry
- Blaming the complainant
- Requests to see evidence before responding



Interviewing the Accused: Wrapping Up

- Summarize key points
- Ask final questions
 - “Is there anything else you want to add that might be relevant”
 - “Are there any other witnesses or evidence you believe we should review”
- Reinforce investigation integrity

Fast Breaks & Time-Outs: Managing Unexpected Challenges

- What about “demand” for attorney?
- Right to be represented?
- What if someone refuses an interview?
- Witness issues:
 - Uncooperative
 - Evasive
 - Hostile
 - Too-talkative
 - Scared
- New allegations?
- Retaliation concerns reported by witnesses?



Effective Note Taking

- Take accurate notes during interviews and finalize them once interview is over
 - Summarize knowledge – just the facts
 - Include dates, times, names
 - Avoid including personal opinions



Do's

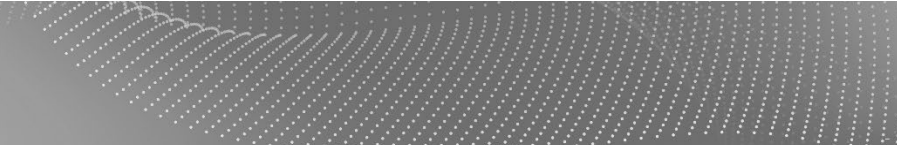
- Write objectively
- Summarize knowledge
- Use quotes
- Close the funnel
- Use relevant facts regarding credibility

Dont's

- Makes conclusions as to the facts and credibility
- Use shorthand for quotes
- Stick unwaveringly to script



Halftime Break: Recap & Key Takeaways





Second Half: Driving To A Successful Investigation Outcome

The Data Game: Collecting And Analyzing the Evidence

- No guesswork – stick to facts
- Types of evidence:
 - Emails
 - Policies
 - Witness statements
 - Surveillance footage
 - Texts/personal messages



Reviewing the Game Tape: Analyzing Statements & Behavior

- Spotting the real fouls
- Look for contradictions – is the witness changing their story?
- Credibility check: who has the best field-goal percentage (aka most reliable account)?



Avoiding Turnovers: Managing Legal/Compliance Risks

- Rushing the process
- Delay
- Retaliation is automatic ejection = take it seriously.
- Follow company policies to avoid legal pitfalls.



The Assist: Collaborating With Legal & HR Teams

- Know when to loop in HR to ensure fair resolution
- Know when to involve legal counsel
 - Internal vs external
 - Beware potential privilege issues



Making The Call: Drafting Investigation Findings

- **CLEAR, CONCISE, FACT-BASED!!**
- **No speculation!!**
- Address all allegations raised
- Identify and review the policies, procedures, and business practices that pertain to the allegations
- Make a record of your reasoning and steps taken
- Avoid unnecessarily controversial comments



Presenting the Findings: Communicating Investigation Outcomes



- Different audiences, different messaging
 - Keep it professional and neutral

Actionable Follow-Through: Implementing Recommendations

- Take corrective action if necessary
- Update policies and trainings to prevent future issues





Overtime: Special Considerations & Emerging Trends

Navigating Remote & Hybrid Investigations



- **Digital evidence dunk** → emails, chat logs, video meetings—new sources of workplace conduct evidence
- **Body language timeout** → reactions over Zoom/Teams, beware of misinterpretations!!
- **Confidentiality concerns** → how to ensure privacy when employees aren't in a controlled environment?

Workplace Investigations & AI: The Future of Fact Finding

- Can help analyze data, sort through large volumes of emails/documents
- Helps detect patterns, but doesn't replace human judgment
- Bias in algorithms, privacy concerns, and legal implications



Preventing Future “Fouls”: Proactive Investigation Strategies

- Prevention is the best defense – train managers and employees before problems arise
- Encourage early reporting
- Regular policy review





Final Buzzer: Wrapping Up The Playbook

The Championship Mindset: Key Takeaways

- Preparation is key = structured approach ensures fairness
- Stay neutral = investigators must remain unbiased
- Follow the rules
- Document everything



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Questions?

This information provided by Littler is not a substitute for experienced legal counsel and does not provide legal advice or attempt to address the numerous factual issues that inevitably arise in any employment-related dispute. Although this information attempts to cover some major recent developments, it is not all-inclusive, and the current status of any decision or principle of law should be verified by counsel.

Fueled by ingenuity.
Inspired by you.®



Thank You



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