

Workplace Investigations in 2022: Ringing in the New Year on the Right Foot

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According to a poll conducted during an Ogletree Deakins webinar in 2021, 70 percent of approximately 1,200 attendees had experienced an increase in internal workplace complaints. In addition, a recently published outlook for the legal industry projected a continued increase in the investigations practice area for 2022. Given the current climate, employers should expect an uptick in internal complaints, as well as corresponding workplace investigations and organizational assessments.

The beginning of the year can be a good time to take stock of the year behind and set goals for the year ahead. Below are four topics employers should consider adding to their lists of New Year's resolutions to assist them in effectively handling employee complaints.

1. Conducting Comprehensive Training for In-House Investigators

At the start of the year, employers may want to schedule any overdue investigation training to ensure that they have competent investigators in their human resources, compliance, and legal departments. If internal investigators are ill equipped to handle the nuanced and complex employee complaints predicted in the new era, their investigative efforts may prove to be useless. Needless to say, it may be very risky to attempt to resolve a serious workplace complaint with inexperienced or untrained personnel. An investigation training agenda for this year might include updates on current events, a discussion of the "new" vernacular often used in employee complaints, a refresher on report-writing skills, and a review of current company policies.

2. Shoring Up the List of Outside Investigators

Another resolution for employers: update lists of outside counsel to contact when an employee complaint arises. Utilizing third-party investigators to conduct an investigation may help employers avoid a perception of bias. Notably, outside counsel typically retained for general business matters may not be best suited for every internal investigation. Investigators who can draw on litigation

experience involving comparable employee allegations and/or those with specific expertise handling the issues raised in the complaint may be most helpful.

The beginning of the year may be a good time to review these contacts and research various resources with a goal of updating a list of qualified investigators. Frantically searching for the proper investigator after receiving a time-sensitive complaint could result in a serious mistake.

3. Optimizing Company Policies to Foster Consistency

The beginning of the year may also be the right time for employers to review their company policies. If these policies are outdated and ambiguous, employees may have a hard time understanding them. Employees should fully understand code-of-conduct expectations, complaint-handling procedures, and whistleblower protections. Employer policies may serve as a framework for reviewing, analyzing, and investigating workplace complaints for all persons involved. Keep in mind that disciplinary systems outlined in these policies should be fair and apply uniformly.

4. Leveraging the Value of an Organizational or Cultural Assessment

Lastly, employers may want to begin the new year by examining their cultural climate. An investigation is not always the last stop because the results will sometimes uncover an ongoing, large-scale, institutional issue. In these circumstances, an employer may want to consider conducting an organizational assessment. This proactive measure can help employers better understand their workplace cultures, provide additional protection from future litigation, and identify ways to improve employee morale.

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