



# Handling Employee Complaints: Best Practices for Investigation & Resolution

# Agenda for today

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Employee Complaints and Internal Investigations

2

Fact-Finding, Documentation, & Confidentiality

3

After the Investigation: Resolution & Preventing Retaliation

4

Q & A

Today's session is being recorded! A link to the recording + slides will be sent to your email within 24 hours after the webinar.

# Employee complaints: Burden or opportunity?

- In many cases, employee complaints present an opportunity for an organization to address a workplace situation before:
  - ◆ An employee is injured
  - ◆ Problems in a workplace environment take root
  - ◆ The organization loses employees or suffers reputational harm
  - ◆ Government regulators get involved
  - ◆ A lawsuit is filed
- Smart organizations view employee complaints as opportunities to fix problems before they get worse.

# Before you investigate, build the trust that makes people willing to talk.

Remember: Trust isn't always about giving employees the answer they want. Your job is to:

**FOLLOW THROUGH**

**LISTEN BEFORE REACTING**

**BE CONSISTENT**

**BE HONEST ABOUT CONFIDENTIALITY**

**BE TRANSPARENT ABOUT PROCESS**

**CREATE PSYCHOLOGICAL SAFETY**

# Common types of employee complaints

- **Equal Employment Opportunity (EEO) Complaints**
  - Include discrimination, hostile work environment, and retaliation
- **Workplace Safety Complaints**
  - Include dangerous working conditions and other safety threats
- **Whistleblower Complaints**
  - Include reports of fraud and other types of misconduct
- **Miscellaneous Complaints**
  - Include complaints about company policies and practices

# What counts as an employee complaint?

## How concerns surface:

- Formal complaints and informal concerns
- Verbal disclosures to managers or HR
- “Just venting” that may require follow-up
- Anonymous reports, hallway conversations, Slack, email, hotlines, and exit interviews

## What complaints may involve:

- Harassment, discrimination, or retaliation
- Workplace bullying or inappropriate conduct
- Pay, timekeeping, or safety concerns
- Management conduct, favoritism, or unfair treatment
- Policy violations or employee relations conflicts

## When should you pay attention?

- You hear about or witness potentially concerning behavior
- An employee expresses feeling unsafe, mistreated, or afraid to speak up
- You notice repeated concerns or patterns of behavior
- You become aware of potential misconduct, even without a formal complaint

# General principles for submitting employee complaints

- **The process should be:**
  - Documented in a way that is easy for employees to access and understand
  - Structured to make it easy for employees to submit complaints
  - Built to create consistent records of when complaints were received and how they were addressed
- **Think carefully about whether to accept anonymous complaints**
  - Pros: You may get more complaints that alert you to important issues
  - Cons: Anonymous complaints can be difficult to fully address

# Poll question

What do you believe is the biggest reason employees hesitate to report workplace complaints?

# “What happens when an employee doesn’t want to get involved, or asks for confidentiality?”

**You can't promise absolute confidentiality.**

- Explain the limits honestly and share information only as appropriate.

**An employee can withdraw their complaint, but the company may still need to act.**

- The response depends on the nature and seriousness of the allegations.

**Not every concern requires a formal investigation, but every concern needs appropriate assessment.**

- Don't confuse the absence of a formal complaint with the absence of an organizational responsibility.

# State specific requirement example: Oregon

Oregon employers must:

1. Adopt a policy against sexual harassment in the workplace,
2. Provide Oregon employees with a copy of that policy when they start work, and
3. Make the policy generally available to employees.

The policy must, among other things: Describe the reporting process, and identify at least two different people who have been designated to receive reports of prohibited conduct.



## The first steps:

- **Recognize notice:** Managers may put the organization on notice without a formal complaint
- **Start with listening:** Ask neutral questions to understand what happened and who was involved, and avoid jumping to conclusions
- **Focus on behavior:** Employees won't always use the right terminology—evaluate the underlying facts, not labels like “hostile work environment”

**Key takeaway:** Take every concern seriously, document objectively, and consult HR when in doubt.



## Assessing risk

- Identify safety, ongoing behavior, and retaliation risks
- Consider severity, prior complaints, and potential impact
- Escalate serious concerns to HR/Employee Relations
- Consider appropriate interim measures

**Goal:** Prevent harm and ensure timely escalation.

## Documenting the process

- Record dates, individuals, witnesses, and evidence
- Use objective language;
- Document actions, escalations, and interim measures
- Store records securely and limit access

**Example:** “The employee stated their manager called them incompetent” rather than “The manager bullied the employee.”

**Goal:** Document what was reported—not what you assume happened.



## DO escalate when:

- The concern involves harassment, discrimination, retaliation, or other **potentially unlawful conduct**
- There are **allegations involving a manager** or someone in leadership
- There is a safety concern, threat, violence, or other **immediate risk**
- The complaint involves wages, leave, accommodations, or another potentially **regulated area**
- The employee alleges serious misconduct or a **significant policy violation**
- There may be a **conflict of interest** for the person receiving the complaint
- You're simply not sure how to handle it



### How NOT to respond:

- **Making inappropriate promises** like, “I’ll keep this completely confidential”
- **Investigating on your own** if the matter needs to go through HR
- **Confronting the accused employee** before getting guidance
- **Telling the employee what the outcome will be**
- **Dismissing the concern** because it seems minor to you
- **Asking leading questions** designed to prove or disprove the allegation
- **Retaliating**, or allowing retaliation to occur
- **Promising that the employee will never have to work with the person again**

# The importance of documentation

## Make sure to document:

- What the employee reported, using their own words when appropriate
- Who was involved
- Dates, times, and locations when known
- Specific behaviors or statements alleged
- Relevant witnesses or evidence identified
- Any immediate safety or retaliation concerns
- What you did in response
- Who you escalated the concern to and when
- Follow-up or next steps

## Avoid these in your documentation:

- Personal opinions or assumptions
- Statements like *“She is being dramatic”* or *“He clearly misunderstood”*
- Speculating about someone's motivation
- Diagnosing someone's mental or emotional state
- Exaggerating or minimizing the allegation
- Editing the employee's story to make it sound more serious—or less serious—than what they reported



# How to conduct an employee investigation

A good investigation isn't about finding someone to blame. It's about finding the facts and applying them fairly.

1. Plan before you start
2. Start with the complainant
3. Interview witnesses
4. Interview the person accused of misconduct
5. Gather and evaluate evidence
6. Analyze the facts objectively
7. Reach a conclusion and take appropriate action
8. Close the loop

# Investigations: EEO complaints

- The EEOC has explained that an effective response to an EEO Complaint often involves two steps:
  - ◆ Conducting an investigation; and
  - ◆ if needed, taking appropriate corrective action.
- Investigations into EEO complaints should be:
  - ◆ Prompt
  - ◆ Impartial
  - ◆ Thorough
- What steps to take, what evidence to gather, and whom to interview will depend on the particular facts and circumstances of the allegations.

# Investigation recordkeeping

Organizations should keep detailed records of:

- All complaints received
- If an investigation was conducted:
  - What was done to investigate the complaint
  - What was the outcome of the investigation
- Any actions that were taken in response to a complaint

Investigations records should be kept confidential and should **not** be stored in an employee's personnel file.

# Poll question

What is the primary challenge your organization faces when investigating employee complaints?

# After a complaint: Preventing retaliation

- ➔ Retaliation occurs when an employer takes an adverse action against an employee for engaging in protected activity.
- ◆ **Adverse action:** Any action by an employer that significantly harms, changes, or negatively affects an employee's status, pay, benefits, or working conditions
- ◆ **Protected Activity:** Any action taken by an employee to assert or protect rights in areas such as discrimination, harassment, unsafe conditions, and wage violations.
  - Participation in an EEO investigation is a protected activity
- ➔ Retaliation is illegal under statutes such as Title VII, ADA, ADEA, FLSA, and OSHA.

# After the investigation

What happens after the investigation is just as important as how we conduct it.

- **Prevent retaliation during and after the investigation**
- **Determine and document corrective actions:** Make sure the response aligns with company policy
- **Consider past precedent and consistency:** This *does not* mean every situation gets the exact same disciplinary action
- **Close the loop and look for lessons learned:** Look for opportunities to fortify against future issues with manager training, clearly policies, or communication changes

# SixFifty tools for reports & complaints



**Anonymous Report Form**

Submitted by:  Anonymous

What would you like to report?

When and where did this happen?

How would you like us to follow up?

☐ Through my anonymous secure inbox

☐ No follow-up needed

 Identity protected

## Connect with the speakers



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