



HR Specialist Summit

September 10-11 | 1:00-5:00 p.m. Eastern

Conducting Legally Sound Investigations

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HR Specialist Summit

Pro Tip #1: Use a toolbox.

- Investigative Plan
- IT/Litigation hold
- Issues list
- To-do list
- Witnesses List
- Witness scripts
- Interview notes/witness statements
- Documents reviewed list
- Call, email, & voicemail list
- Issue resolution list
- Remedial action list
- Ongoing draft report



Pro Tip #2: Do your homework before you start investigating.

- Summarize the complaint
- Define scope
- Identify policies implicated
- Consider potential witnesses & evidence
- Who is the decisionmaker?
- Policy findings, or just the facts?
- Form of the report?

Pro Tip #3: Know when to get help.

- Outside investigator needed?
- Do you need counsel?
- Organizational hierarchy/power issues



Pro Tip #4: Build a timeline.

- Start immediately
- Continuously add dates &/or times of relevant events
- Useful tool in fact-finding

Pro Tip #5: Use counsel wisely.

- Maintaining attorney-client privilege
- Role of investigator and lawyer
- Lawyer as witness

Pro Tip #6: Write a report that will stand up in court.

- Draft throughout the investigation
- Privilege issues
- Reporting options – form
- Reporting options – substance
- Executive summary?
- Tailor to the expected audience
- Do a thoughtful credibility assessment

Pro Tip #7: Make the hard credibility calls in a disciplined way.

- Inherent Plausibility
- Direct Corroboration
- Indirect Corroboration
- Material Omission
- Motive to Falsify
- Reputation
- Past Record
- Consistent Statements
- Inconsistent Statements [Caution: trauma informed]
- Demeanor [Caution: Trained in behavioral science?]

Pro Tip #8: Keep the parties informed.

- Avoids speculation
- Builds credibility for investigator
- Can be instrumental in resolution

Pro Tip #9: Avoid scope creep.

- Avoid issues that are not germane to the complaint
- Get input before expanding the scope
- Balance the need to complete the investigation with the need to investigate new issues
- Consider a second or “side” investigation instead of expanding the scope



Thank you!

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