



Mastering Workplace Investigations

Course Description

For too many organizations, resolving employee concerns is seen as an unpleasant cost of doing business -- conflict is seen as something to "avoid" rather than an opportunity to learn and improve.

In this course, we'll flip the script on that mentality. Along the way, you'll sharpen workplace skills that will:

- **Help** you teach employees how to resolve conflict;
- **Modernize** the way you receive complaints;
- **Revolutionize** the way you investigate allegations of misconduct; and
- **Introduce** an entirely new way to positively resolve conflict.

The course will address issues related to workplace culture, employee relations and relationship management from both the organizational and individual perspective.

Learning Outcomes

At the end of this course, students will:

- Understand how focusing on the larger issue of creating and sustaining a healthy workplace culture is necessary to master the art of conducting workplace investigations.
- Understand the need to teach employees and managers how to solve conflict when it is still low-level.
- Be able to help their organizations implement policies and practices making it more likely that employees will speak up, intervene, and report concerns so that fair and consistent investigations can be conducted.
- Recognize the types of unconscious biases that could negatively impact decision-making at every step of the conflict resolution process, and learn to disrupt those biases to eliminate that negative impact.
- Have a deep understanding of each step required to conduct fair, thorough and timely workplace investigations.
- Understand the need for developing mechanisms to determine both backward-looking accountability principles (discipline if misconduct found) and forward-looking accountability principles (what was learned, what preventive measures can be implemented to prevent recurrence).

Module 1:

Introduction/Overview

In this overview module, we will cover an introduction to the course's big themes, including:

- An introduction to the 3 Rs (**R**eceive-**R**eview-**R**esolve)
- Getting in the right mindset
- Workplace culture issues
- Overview of legal issues related to this work (these will also be addressed throughout the course)
- Eliminating unconscious bias in investigations
- Characteristics of an excellent workplace sleuth
- Root causes of workplace drama

Module 2

The First R - Receiving Complaints

Creating a Culture of Truth-Telling

In this module, we will discuss setting policies with the right tone and how to empower employees and managers to address and resolve conflict when it is low-level (so that it doesn't become a formal complaint). We will also discuss other alternatives for early conflict resolution and setting up systemic solutions for the entire process.

- The virtuous cycle of the 3 Rs
- Setting the stage. Before complaints:
 - Policies
 - Onboarding
 - Manager education
 - Employee education
- Empowering employees
 - Objecting
 - Intervening
 - Reporting
- Empowering managers
 - How to respond to an employee objecting to behavior
 - How to address conduct you see or find out about
 - What to do if you receive an actual complaint
- Intake
 - No preconceived notions - no bias
 - Intake form
 - Two-track system
- How this work impacts/connects with DEI efforts

Module 3

The 2nd R: Responding to/Investigating Complaints

Creating a Culture of Curiosity

We will explore the need for an immediate response depending on the nature of the allegations. We will also discuss what it takes to start an investigation with a strategic focus.

Overview of the investigation process:

- Define the scope
- Strategy and planning
- Interviews
- Evidence collection, including interviews
- Analysis
- Conclusions
- Report
- Remedial measures
- Getting back on track

Module 4

Digging Deeper into Investigation Best Practices

In this module, we will focus on collecting evidence, interview tips, gathering and analyzing documents and doing additional work to acquire all the information you need to be thorough and fair.

- Starting the interviews
 - Confidentiality
 - Scope
 - Retaliation
- Interviews
 - Tips for creating an environment conducive to sharing information
 - Best tips on how to ask the right questions in the right way
- Digging deeper
 - Techniques for helping the witness recall events
 - Note-taking tips
 - Beware of bias in questions
 - Ending the interview
 - Specific issues related to complainant and accused interviews

Module 5

Finishing Investigations

We will explore how to analyze the evidence and use that analysis to reach fair and consistent conclusions.

- Analyzing the evidence, fairly and thoroughly
- Reaching conclusions/findings based on that analysis
- Creating a written record (report, etc.) of your work
- Additional evidence necessary?
- Legal standards for investigations
- Analysis:
 - Credibility determinations
 - Putting it all together
- Findings/Conclusions
 - Standard of proof
 - Reasonable findings
 - No legal conclusions
 - “Inconclusive” should be rare
 - Test your conclusions
- Report
 - Show your work/analysis
 - Structure

Module 6

The Final R: Resolving Issues Fairly and Effectively

Creating a Culture of Radical Fairness

In this module, we will discuss remedial measures, closing cases and following up with the next steps.

- General factors to consider
 - Discipline commensurate with wrongdoing
 - Should prevent recurrence
- Backward-looking accountability
- What else?
 - Precedent?
 - Position (employee or leader), years of service, history
 - Were they informed
 - What did you learn about the person’s motivation during interview
- Forward-looking accountability
- Closing the loop
 - Reporting back to main parties
 - Record-keeping