

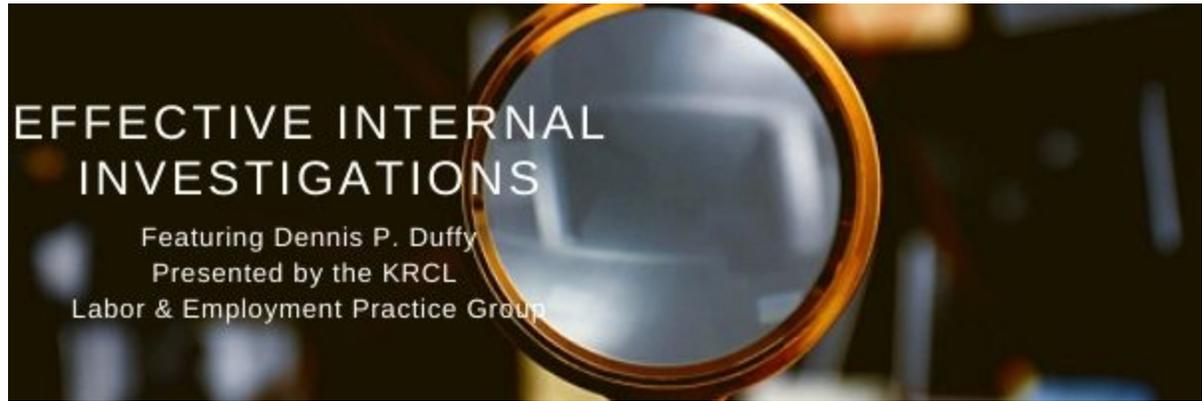
Tips for Conducting Effective Internal Investigations – Including "Zoom" Investigations – Part II

Employment Law, Internal Investigations / March 16, 2021 / Dennis P. Duffy

The need to conduct internal investigations has continued, even in a COVID and remote environment. In **Part I** of this post, we discussed important decisions to make prior to the investigation, ensuring that the witness' interview area maintains confidentiality, establishing a style of conducting the witness interview, and setting the expectation for confidentiality. **Part II** provides additional tips for conducting effective internal investigations.

- **Don't get rushed by scheduling interviews too closely.** If a scheduled interview "goes long," reschedule the next witness rather than rushing to conclude to fit a pre-determined schedule.
- **Don't get sidetracked by a pejorative opinion or framing by the witness—stay focused on drawing out and documenting the FACTS (who, what, when, where, how).** If the witness gives a conclusory label, follow up by asking the witness what facts of which he/she is aware that supports the conclusion or label. Confirm whether the conclusion or label is based on what the witness personally observed or based on second or third-hand information (and identify the source).
- **Work from the assumption that your investigation notes will be discoverable and read to the jury.** Therefore, if you take notes, use plain English, avoid sarcasm and extraneous comments or asides that are not relevant to the investigation and its findings.
- **Write the investigation report on the assumption that it will be read by the judge/jury/Government.** The report should identify the issue prompting the investigation and outline the investigative steps taken including witnesses interviewed and evidence gathered. The report should state findings of fact, the basis for those findings, and how they relate to the issue being investigated. Do not editorialize, particularly on matters not germane to the matter under investigation ("Jane/John is a big flirt") or play psychologist ("Jane/John seems to have an inferiority complex"). In most cases, investigation conclusions should be drawn based on the relevant company policies and the facts that support them rather than legal conclusions. Although employer policies may prohibit conduct that may also violate applicable federal or state laws, in most cases, the employer's policy defines a violation at a lower threshold than the applicable law.

Click [here](#) to register for the March 23 webinar "Conducting Effective and Lawful Internal Investigations" presented by the Kane Russell Coleman Logan Labor & Employment Practice Group. If you have any questions regarding your employment needs, please do not hesitate to reach out to the KRCL Labor & Employment Team.



EFFECTIVE INTERNAL INVESTIGATIONS

Featuring Dennis P. Duffy
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