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Managing Workplace Disputes

Jennifer Homer

Director of the NPIP Pre Litigation Program

Chris Youngberg

Director of the NPIP Risk Management Services

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Disclaimer

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Managing Complaints





Nonprofit Risk Management Center
...find the answer here

- Do **you** view complaints as a learning opportunity?
- Most of us have negative reactions to complaints.



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What is a complaint?

- In their classic customer service book, "[A Complaint Is a Gift](#)," Janelle Barlow and Claus Moller define a complaint as **"a statement about expectations that have not been met."**

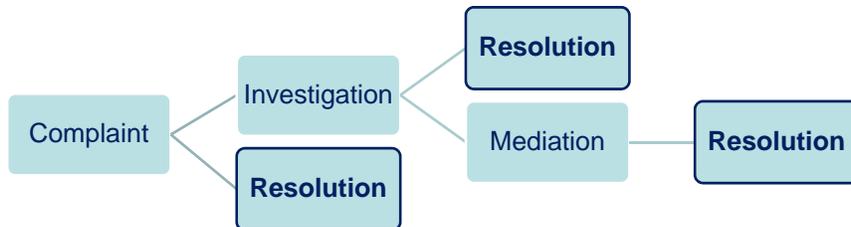
Why it's important

- Alerts you to problems
- Productivity
- Morale
- Turnover
- Lawsuits



- 89% of employees who file an employment lawsuit filed a complaint internally first
(according to the National Whistleblower's Center)

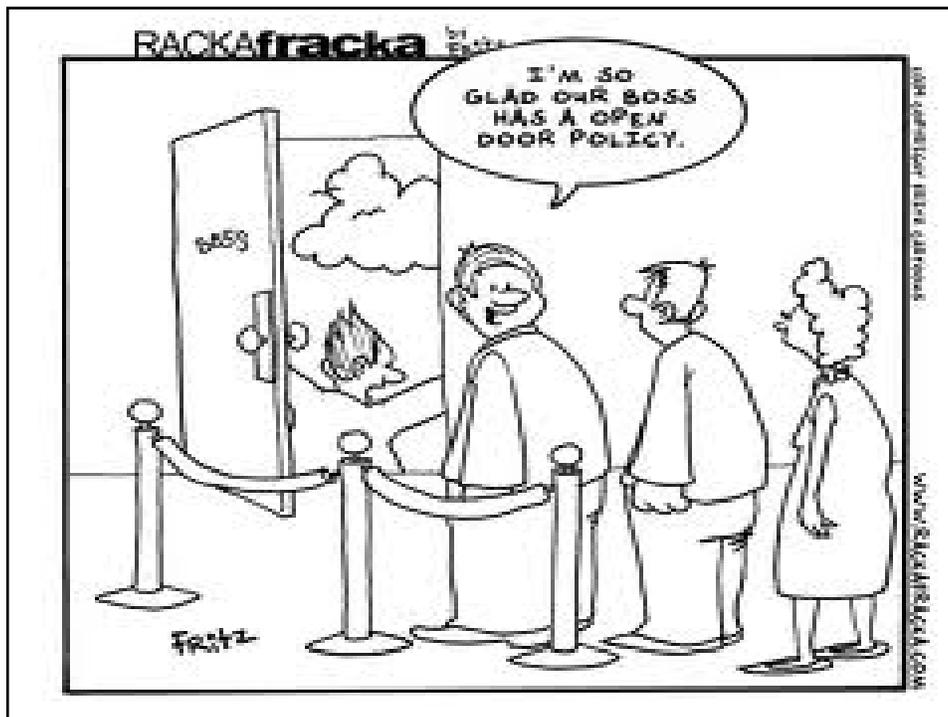
The Path of a Complaint



Open Door Policies

- Responding to Employee Concerns





Definition

- A true open door policy means that any employee can talk with any level of supervisor about any issue at any time.



What it should and shouldn't look like



Should:

- Provide guidelines that promote problem solving at the lowest level.
- Require an employee to address complaints about a supervisor with the supervisor first
- Honor chain of command
- Provide multiple levels of review and input in the event a resolution is not reached at the lower level.
- Allow an employee to discuss broad organizational concerns directly with more senior managers.

Should Not:

- Reward employees who go straight to the top or skip levels of management.
- Unreasonably restrict management

Responsibilities

- **Employee** has the responsibility to discuss any concerns with manager
- **Employer** has the responsibility to listen and assist in problem solving
- **Both parties** have the responsibility to provide feedback



Disagree agreeably



Adopting a Complaint Process

- Orderly, fair, and consistent process for identifying, investigating, and resolving complaints within your organization
- Guidelines for employees and management
- Unique to the needs of your organization

State the purpose

- i.e. The purpose of this policy is to provide employees an orderly process for the prompt and equitable identification, investigation, and resolution of complaints.

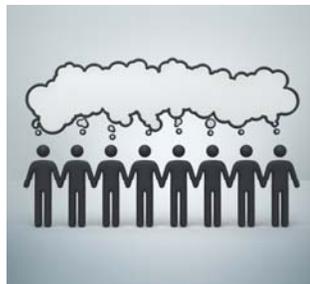


Define what a complaint is

- Termination
- Evaluation
- Performance concerns
- Discipline
- Grievances involving an employee's wages, hours or conditions of work
- Discrimination
- Retaliation
- Harassment
- Whistle blowing

Clarify to whom and under what circumstances it applies

- Employees
- Supervisors
- Vendors
- Board members



Guidelines for filing a complaint

Level One

1. **Who?** Direct Supervisor
2. **How?** Meeting/ writing
3. **When?** Timelines
4. **What?** Describe what information is required to be in the complaint
5. **Response/ Resolution**
6. **Appeal process**

Level Two

1. **Who?** More senior manager
2. **How?** Meeting/ Writing
3. **When?** Timelines
4. **What?** Describe what information is required in the appeal.
5. **Response/ Resolution**
6. **Appeal process**

Guidelines for filing a complaint

Up to the final level of appeal

1. Executive Director
2. Committee/ panel
3. Board
4. Arbitrator

Zero Tolerance for Retaliation

- Complainant
- Subject
- Witnesses
- Organization



Adopt a Practical Investigation Process



First Steps

- Act Now!
- Clarify the complaint
- Contact your general counsel
- Separate the parties



Select an investigator

- Internal
- External



Plan the Investigation

- The investigation should be thorough
- Identify Witnesses
- Gather Documents



Interview Preparation

- Location
- Read all of the gathered information
- Prepare questions
- Schedule witnesses



Conduct the Interview

- Cover basics before you begin
- Get the Facts
- Identify additional witnesses
- Document the interview



Evaluate the Evidence

- Witness statements
- Documents
- Photographs
- Follow-up



Credibility Determinations

- Inherent Plausibility
- Conduct and Demeanor
- Motive
- Corroboration
- Past Record



Investigation Report

- Written
- Oral



Concluding the Investigation

- Provide results
- Implement any discipline
- Implement any changes
- Reiterate zero tolerance retaliation policy
- Monitor
- Document



Pitfalls of investigators

- Appearing to have accepted the complainant's version of the facts
- Appearing to disbelieve the complainant
- Assuming education or intelligence levels
- Overreacting to emotion
- Making promises



Pitfalls of investigators, cont.

- Assuming you know what happened
- Leading your witnesses
- Not being thorough



Legal Pitfalls



Discrimination and Harassment

- Having an appropriate harassment, discrimination, and retaliation complaint policy can be a defense to a lawsuit based on those claims- if...

➤ Employer can establish:

- (a) that the employer exercised reasonable care to prevent and correct promptly any sexually harassing behavior, and (b) that the plaintiff employee unreasonably failed to take advantage of any preventive or corrective opportunities provided by the employer or to avoid harm otherwise.



Pitfalls, cont.

- Know and enforce your policy.
- Be thorough and be fair
- Confidentiality
- Document, Document, Document!
- Beware of retaliation

Final Thoughts

Managers create the highest risk of litigation loss. If a manager is put on notice, the organization is put on notice. Managers act as agents of the employer.

Managers MUST...

- Set a positive example– i.e. language, jokes, etc.
- Be the EYES and EARS of the employer.
- Do something-- Do not ignore problems
- Pass it on-- Do not “lone ranger” a risk
- Understand that PERCEPTION is REALITY to employees
- Be consistent

Being Proactive: Training Employees



“Productive Complaining”

1. Define the Problem
2. Identify the Motivation
3. Suggest Solutions
4. Resolve Issues



Understanding Conflict Style

- Competitive
- Collaborative
- Compromising
- Accommodating
- Avoiding



Respond to Complaints with Fairness and Finesse



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- Give your full attention
- Listen without interrupting
- Clarify by asking “how can I help?”
- Show understanding, but not agreement
- Remain neutral
- Ask questions to get the complete picture
- Explain what you are going to do, then do it.

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- Get permission to involve other employees
- Take legal issues to the appropriate people.
- Set a time for the employee to get back to you
- Keep information confidential
- Resolve the issue. Or clearly explain why you cannot



- If necessary, arrange a time to follow up
- Don't reward employees for complaining
- Watch your tone, body language, and tongue
- Be open, courteous, consistent. No favorites!
- Start with "I appreciate...I respect...I understand why you might feel that way."

Mediation and Dispute Resolution Technique



Interest-Based Relational Approach

- Good relationships are the first priority
- Keep people and problems separate
- Pay attention to the interests that are being presented
- Listen first, talk second
- Set out the “facts”
- Explore options together



Conflict Resolution Process

- Step One: **Set the Scene**
- Step Two: **Gather Information**
- Step Three: **Agree the Problem**
- Step Four: **Brainstorm Possible Solutions**
- Step Five: **Negotiate a Solution**



Benefits to resolving conflict successfully

- Increased understanding
- Increased group cohesion
- Improved self-knowledge



**Problems are only
opportunities in
work clothes.**



Henri Kaiser

Resources

- Managing Complaints. www.mindtools.com
- Responding to Employee Concerns. McIntyre, Marie G. www.yourofficecoach.com
- The Dangers of Turning Our Employee Complaints. Krotz, Joanna L. www.microsoft.com/business
- From Whiners to Winners: Channeling Employee Complaints. Varelas, Elaine. www.boston.com
- How an Open Door Policy Ought to Work. Heathfield, Susan M. www.about.com
- Open Door Policy, Susan M. Heathfield. www.about.com
- How Well is Your "Open Door" Policy Working? Sparks, Rick. The National Law Review (www.natlawreview.com)

Resources

- Employer Best Practice for Conducting Effective Investigations of Complaints of Discrimination and Harassment. Muskovitz, Melvin, J. www.nationalreview.com
- 8 Internal Investigation Tips. www.i-sight.com

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