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Summary of Changes in First Revision of Guiding Principles
Prepared by AWI Staff • Not Reviewed by Committee or Board
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Title, Date, Introduction, and Delineation of Key Factors

- The title was changed from “Guiding Principles for Investigators Conducting Impartial Workplace Investigations” to the current title. The Guiding Principles remain focused on impartial workplace investigations, as explained in paragraph 4 of the introduction.
- The publication date was moved from below the title to footnote 1. The first revision date was added to footnote 1.
- Footnote 2 was added.
- The former introduction of one paragraph was divided into the current first three paragraphs of the introduction, and those paragraphs were reworded for clarity.
- AWI membership was updated from 350 to 400.
- Paragraphs 4 and 5 were added to the introduction.
- Paragraph 6 of the introduction was reworded to include the revision and for clarity.
- The key factors are now delineated by letters instead of bullet points.

Guiding Principle 1

- The title was changed from “Whether to Conduct an Investigation” to the current title.
- The Guiding Principle was changed from “An impartial workplace investigation should occur when an employer has determined that one is necessary” to the current text.
- Key factors a, b, and c were reworded for clarity.
- Former key factor bullet 4, (“Is there a legal obligation to investigate?”) was deleted.
- Key factor d was reworded for clarity, and the former phrase “rules, ethics or expectations” was changed to “rules, policies, practices, or expectations.”
- Key factor e was reworded for clarity.
- Former key factor bullet 7, (“Will the investigator be able to maintain the impartiality of the investigation?”) was deleted.

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Guiding Principle 2

- The title was changed from “Determining Who Should Conduct an Investigation” to the current title.
- The Guiding Principle was reworded for clarity.
- Key factor a was reworded for clarity and to add impartiality “in fact”.
- Key factor b was reworded for clarity and to add avoiding “the fact” of bias or compromised objectivity.
- The former two sentences of former key factor bullet 3 were divided into separate key factors d and e, and key factor d was reworded for clarity.
- The phrase “for example, without limitation,” was inserted in the second sentence of key factor e, and that key factor was reworded for clarity.

Guiding Principle 3

- The title was changed from “Defining Investigation Scope” to the current title.
- Former key factor bullet 1 (“To promote clarity, the investigator may wish to obtain appropriate documentation of the scope of the investigation.”) was deleted.
- Key factor a, which was formerly the last sentence of former key factor bullet 5, is now a separate key factor.
- Former key factor bullet 2 (“Where the employer has decided not to investigate a major issue substantially related to issues within the scope of the investigation, after the investigator has made a reasonable effort to resolve any difference of opinion, the investigator may wish to consider whether to go forward with the investigation and may wish to document that decision.”) was deleted.
- Key factor b was reworded for clarity.
- Key factor d (formerly the first sentence of key factor bullet 5) was reworded for clarity.

Guiding Principle 4

- In key factor a, the former phrase “who will be able to provide them” was changed to “how to obtain them”, and the former phrase “and written statements” following “investigation materials” was deleted.
- Former key factor bullet 3 (“Verbal and/or written advisements that the investigator and/or the employer will be providing to witnesses should be considered”) was changed to the current text of key factor c.
- Key factors d, e, f, and g were reworded for clarity.

Guiding Principle 5

- The title was changed from “Communicating with Representatives of the Employer” to the current title.
- The Guiding Principle was reworded for clarity.
- Key factor a was reworded for clarity, and the third category of communications (“(3) background information”) was added to it.

- Former key factor bullet 2 was separated into key factors b and c. The former first sentence of former key factor bullet 2 (“Whenever feasible, an employer representative should not be a witness or participant in the matters being investigated.”) was changed to the current text of key factor b. Key factor c was reworded for clarity.
- Key factor d was reworded for clarity.
- Former key factor bullet 4 (“An employer representative is also generally the most appropriate person to make the initial contact with witnesses who are third parties and/or former employees”) was deleted.
- Former key factor bullet 5 (“An investigator should understand the employer’s policies with respect to allowing others, such as attorneys, union representatives, friends and family members, to be present during an interview.”) and former key factor bullet 6 (“An investigator should clarify union involvement, if any.”) were both deleted.
- Key factor e was added.

Guiding Principle 6

- Former footnote 2 (“Currently there are significant developments regarding instructions to witnesses regarding “confidentiality” by both the National Labor Relations Board and the EEOC. Therefore, care and research in this area should be considered.”) was changed to the current text of footnote 3.
- Former key factor bullet 1 (“The investigator or employer may wish to provide the parties and witnesses with a written explanation of the need for confidentiality.”) was deleted.
- The phrase “consistent with the employer’s instructions and legal requirements” was added at the end of key factor a, and that key factor was reworded for clarity.
- Former key factor bullet 3 (“The investigator should not reveal the details of the investigation, or the contents of the investigation file, to anyone other than the employer except in compliance with employer directives, legal process, and the law. However, the investigator may share information with participants on a ‘need to know’ basis and is not precluded from revealing information necessary, in the investigator’s judgment and consistent with any employer directives, to conduct or attempt to conduct, and effective interview and/or to apprise an individual whose conduct, or lack thereof, is at issue, of the facts sufficient to allow the individual the opportunity to respond.”) was replaced by key factor b.

Guiding Principle 7

- The phrase “without limitation” was added to the first sentence of key factor a.
- Sub-factor ii was added to key factor a.
- Sub-factor iii of key factor a was reworded for clarity.
- Former sub-factor bullet 4 (“If the investigator requests evidence from the employer that the employer declines to produce, a note to this effect (that

evidence was requested but not produced) may be made in the final report, depending on the investigator's judgment concerning its significance.") was replaced by key factor b.

Guiding Principle 8

- Former key factor bullet 9 ("Whenever feasible, the parties and critical witnesses should be interviewed in person.") was replaced by key factor a.
- Former key factor bullet 7 ("Use the interview to assess witness credibility.") was replaced by key factor b.
- Former key factor bullet 1 is now key factor c, with no change in the text.
- Former key factor bullet 2 ("The investigator or employer representative should explain the investigator's role, explain the general purpose of the investigation, and give each witness admonishments concerning confidentiality, retaliation and the like.") was replaced by key factor d.
- Key factors e, f, and g were reworded for clarity.
- Former key factor bullet 6 ("The respondent should generally be provided with a full and fair opportunity to respond to the allegations; specific admissions or denials should be sought.") was replaced by key factor h.

Guiding Principle 9

- The Guiding Principle was reworded for clarity.
- Key factor a was added.
- Former key factor bullet 1 ("The investigator should consider using quotation marks when directly quoting an individual.") was deleted.
- Former key factor bullet 2 ("The investigator should consider documenting: Instances where road blocks were experienced; The process used to verify the accuracy of information considered.") was replaced by key factor b.

Guiding Principle 10

- The phrase at the end of the first sentence of key factor a was changed from "determinations of fact" to "determinations of fact and/or policy violations."
- Former key factor bullet 2 ("If documentation is prepared, the documentation should be reasoned.") was replaced by key factor b.
- Former key factor bullet 3 ("When evaluating the evidence, the investigator generally considers use of an evidentiary standard similar to the "preponderance of the evidence" standard used in civil courts: after weighing all evidence, (a) is it more likely than not that the alleged incident occurred or (b) is it more likely than not that the alleged incident did not occur.") was replaced by key factor c.
- Former footnote 3, which contained additional text regarding standards of proof, was deleted.

Guiding Principle 11

- The text was reworded for clarity.