How small businesses handle employee criminal allegations

Description

A criminal allegation brought by an employee is a very sensitive situation, especially for small companies.

In a small team, every employee has a significant role, and team members are more interconnected. So, when an issue such as a criminal allegation arises, the entire flow is affected.

Sadly, these situations happen. This is why, in todayâ??s guide, weâ??ll show you how to develop a clear, legally sound, and employee-centric protocol for handling such cases. After all, your interest is to solve the problem as quickly and smoothly as possible.

Phase 1: Immediate Assessment and Risk Mitigation

Most employee criminal allegations in small businesses involve different forms of theft, such as financial, intellectual, inventory and supply, or data. Small businesses are often more vulnerable to these crimes due to a lack of internal controls and an environment of high trust.

Of course, more serious scenarios are also possible, but at a lower rate. Overall, no matter the offense, once your HR department is made aware, itâ??s time to act. The first step is to determine whether the allegation is based on facts.

Start by gathering facts (secretly at first) and build a case. Do not assume guilt without evidence, and avoid making the situation public not to create a work environment of anxiety and fear. In short, focus on objective facts, not speculation.

Evaluate the nature of the allegation and whether the employeeâ??s presence poses a direct and immediate threat to safety, company property, or the integrity of the investigation (e.g., access to funds, confidential data, or vulnerable populations). If there is any credible threat of harm, take immediate action.

Phase 2: Internal Investigation and Legal Review

Moving forward, you have to launch an official internal investigation. A fair investigation must focus only on the connection to the employeeâ??s job duties and the workplace/company policy.

Does the alleged crime violate the Code of Conduct? Does it impact the employeeâ??s ability to perform essential functions (e.g., a commercial driver getting a license suspension)? Does it severely damage the companyâ??s reputation?

During the investigation, keep meticulous, dated records of all communications, interviews, evidence reviewed, policy checks, legal consultations, and decisions made. Use an objective, fact-based tone and keep all files confidential, out of other employeesâ?? sight.

Once you have all the facts, itâ??s time to bring in outside legal help. This is non-negotiable for a small business.

First, talk to an employment law attorney to ensure all actions are compliant with state/federal laws (especially EEOC guidelines) regarding privacy, background checks, and due process.

Then, you should contact a lawyer specializing in the type of crime that is alleged to have been committed. For instance, if an employee reports criminal sexual assault or serious misconduct allegations against a supervisor, the business may need to find legal help for sexual offense chargesâ??particularly from a criminal defense attorney experienced in handling such cases in Texas, including areas like League City. On the other hand, if the allegations involve financial fraud, you need someone with experience in this type of case.

Phase 3: Decision and Resolution

When the internal investigation concludes, itâ??s time to determine the appropriate action.

The most common options are:

- Reinstatement, if the investigation proved no wrong has been committed.
- Disciplinary action (warning, demotion)
- Termination.

Your decision must be based on a reasonable belief that a specific company policy was violated or that the conduct is incompatible with the employeeâ??s role (like a Finance Manager being convicted for embezzlement).

To communicate the decision, meet with the employee privately (with an HR/management witness). Stick strictly to the company policies that were violated and the business reasons for the action taken. Be clear and concise.

Say: â??*You are being terminated for violating the Code of Conduct policy against [specific misconduct, e.g., workplace violence/dishonesty] as determined by our internal investigation.*

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Lastly, maintain a strict policy of minimum disclosure. Only the involved parties need to know about the investigation and decision. This protects your business from defamation or a liability lawsuit.

How to Keep Your Business Safe

In a small business, prevention is less about elaborate security systems and more about establishing consistent policies and strong internal financial controls. Trust is vital, but controls ensure that trust is not tested.

Start by implementing a comprehensive Code of Conduct, where you define what constitutes unacceptable behavior, including specific examples of theft, dishonesty, data misuse, and workplace violence or sexual misconduct.

Make sure to explicitly state that any proven policy violation will result in immediate disciplinary action, up to and including termination and legal prosecution.

Lastly, encourage employees to come forward with what they see or experience. Create an easy, confidential, and non-retaliatory way for employees to report suspicious activity. This can be as simple as an anonymous email address or a designated third-party manager.

Wrap Up

Even as a small business, itâ??s important to have a good protocol in place for handling these types of allegations. Also, prevention and monitoring are necessary to keep the peace. However, the best way to protect your business and employees is to promote an ethical culture.

Fair pay, good morale, and feeling valued reduce the incentive for revenge or justified theft. Employees are less likely to steal from a company they feel is treating them well.

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Author
huubster