

Why Exit Interviews are Important in the Compliance Landscape

Labor & Employment Law Update

By Suzannah Wilson Overholt on December 14, 2018

Exit interviews have been a mainstay of the HR world for years. They are most often viewed as a means of obtaining insights into employee satisfaction related issues, such as compensation, benefits and work environment. However, such interviews are a valuable component of a compliance program designed to prevent, detect and stop potential or existing fraudulent or otherwise illegal conduct. This is especially true in the health care industry.

Why health care? The media has regular accounts of various types of health care providers being investigated or sued under the False Claims Act (FCA) or other statutes governing the behavior of providers who receive money as part of the federal health care programs, e.g. Medicare and Medicaid. The number of FCA actions being brought each year has increased dramatically, with most of them being brought by current or former employees of the entity being sued. The rise of these so-called qui tam actions is what should give any entity with federal contracts reason to double down on identifying fraud, waste and abuse. If the provider does not identify it, an employee may and that employee will not hesitate to blow the whistle to the government.

This is where exit interviews come in. The goal is not to identify whistleblowers or take action against them. Rather the goal is to develop the trust of employees so they will share their knowledge and work with the provider to correct the conduct rather than make an external report or file a qui tam action.

When it is feasible to do so, conduct exit interviews in-person and well in advance of the employee's last day rather than as part of the usual exit process of completing paperwork and turning in company property. Those conducting the interviews must be properly trained to obtain useful information and should not be the exiting employee's supervisor.

If a face-to-face interview is not possible, have a questionnaire ready to go that can be sent to the individual. Employees who have already left the organization may be more forthcoming. Do not exclude involuntarily terminated employees. They may share more because they feel they have nothing to lose.

The interview should primarily be the responsibility of HR, with limited involvement by compliance. The interviewers should ask whether the exiting employee observed any violations of laws, regulations, the Code of Conduct, or policies. The compliance office should be told about any reported violations. Any management, regulatory, or legal issue raised should be addressed before the employee leaves employment, if possible. Doing so may prevent the employee from reporting the issues externally.

Finally, keep a record of the process – any and all communications with the employee regarding an exit interview or follow-up questionnaire, what the employee said during the interview, and steps taken in response to what was said. In addition, follow up with the employee to report what action was taken in response to the allegations.

Note: The following articles are great additional resources for this topic and I encourage you to review.

- Tips for a Successful Exit Interview Program By Richard Kusserow | August 2018
 - <https://compliance.com/blog/tips-for-a-successful-exit-interview-program>
- 13 Questions to Ask During a Compliance Exit Interview By Maryann Palmeter | May 2016
 - <https://www.aapc.com/blog/34770-13-questions-ask-compliance-exit-interview>
- Exit Interviews: An Overlooked Tool in the Anti-Fraud Toolbox By Andi McNeal | July 2016

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