Workplace investigations

Employee misconduct policies save companies money and time

MICHAEL SHAW | STAFF WRITER

Janitorial services firm ABM Industries Inc. paid $5.8 million last year to settle claims filed by the Equal Employment Opportunity Commission on behalf of 21 female employees in central California. The nationwide company, which EEOC said ignored sexual harassment complaints for years, also was ordered to institute a litany of safeguards, from establishing a toll-free number for complaints to ensuring third-party monitors will review investigations of future allegations.

While most business owners aren’t likely to face allegations of negligence to the degree ABM was accused — the complaints ranged from male workers repeatedly exposing themselves to rape of one female worker — the case demonstrates the need for strong policies regarding employee misconduct, according to employment lawyers.

In a recent online seminar, two attorneys who serve as counsel to the California Chamber of Commerce noted the importance of policies that establish clear rules for workplace investigations. The potential consequences of failing to do so are clear from the settlement in the ABM case, said Erika Frank, the chamber’s vice president and general counsel.

“Knowing when and how to conduct workplace investigations is a critical skill for both large and small businesses,” Frank said.

Some allegations come directly to company officials, and other times they come from an outside agency, such as EEOC. In the case of the latter, companies should immediately contact counsel to represent them, Frank said.

Having a clear set of rules, however, can be important if the case eventually goes before a judge or jury, as even situations where a thorough investigation has been completed can wind up in the court system.

“The courts have stated it’s the employer’s duty to conduct a prompt, appropriate investigation,” Frank said. “It stops the misconduct and clears innocent people.” It can prevent the loss of valuable information and could limit liability or damage.

So when is a formal investigation appropriate?

Susan Kemp, senior employment law counsel for the California Chamber, said companies can choose to treat every incident with a formal investigation, but that could be time-consuming. More likely, issues such as inappropriate water cooler talk, the displaying of racy calendars or office gossip, won’t need anything other than an informal inquiry.

But if there are serious allegations, such as a quid pro quo allegation of sexual harassment, a formal investigation with interviews is warranted. The chamber recommends training human resources employees or others in investigation, or hiring a third party to perform them. The third party should be an attorney or a licensed private investigator, or the results could be challenged in court. If the investigator is an attorney, however, he or she should not be the one who typically represents the company because a lawyer or firm involved in investigating a complaint could be barred from subsequently representing the company in a lawsuit.

Investigators should ask open-ended, non-leading questions initially to solicit information, narrowing down questions as needed. Any criminal activity uncovered should be turned over to law enforcement agencies.

The standard for proper investigations has been established by the courts, Kemp said. It requires that investigators talk to the accuser; accused and relevant witnesses; advise the accused of the misconduct allegation; and allow ample opportunity to defend against, correct or contradict.

---

BIZ SAVVY

Checklist for starting your own business

Take this test to see if you’re ready for entrepreneurship

I have never met anyone who left his or her job — whether fired or voluntarily — who then started his or her own business and regretted it.

What these people always regret is not having done it sooner. This includes people who eventually failed and had to go back to work for someone else.

Afraid to try something new? Most of us are. But our regrets will invariably be for what we didn’t do rather than for what we did.

So are you ready to be an entrepreneur? Do you have the right stuff? Before you take the plunge and start your own business, take this test:

• Do you need a new idea? It isn’t the quality of the ideas you have that will determine whether you are successful, it’s the qualities you bring to those ideas.

New ideas are wonderful if you can come up with them. But your best chance of success is working hard, using established values and ideas if necessary.

• Who are your customers? “Everyone” is the wrong answer. If your concept is going to succeed, you have to be able to identify a realistic target audience, big enough to be profitable yet small enough to be profitable yet manageable.

I have never met anyone who left his or her job or her job — whether fired or voluntarily — who then started his or her own business and regretted it.

What these people always regret is not having done it sooner. This includes people who eventually failed and had to go back to work for someone else.

Afraid to try something new? Most of us are. But our regrets will invariably be for what we didn’t do rather than for what we did.

So are you ready to be an entrepreneur? Do you have the right stuff? Before you take the plunge and start your own business, take this test:

• Do you need a new idea? It isn’t the quality of the ideas you have that will determine whether you are successful, it’s the qualities you bring to those ideas.

New ideas are wonderful if you can come up with them. But your best chance of success is working hard, using established values and ideas if necessary.

SWIM WITH THE SHARKS

HARVEY MACKAY

The Sharks are small businesses. They may be big enough to be successful yet small enough to be profitable.

Do you have the right stuff? Before you take the plunge and start your own business, take this test:

• Do you need a new idea? It isn’t the quality of the ideas you have that will determine whether you are successful, it’s the qualities you bring to those ideas.

New ideas are wonderful if you can come up with them. But your best chance of success is working hard, using established values and ideas if necessary.

• Who are your customers? “Everyone” is the wrong answer. If your concept is going to succeed, you have to be able to identify a realistic target audience, big enough to be profitable yet small enough to be profitable yet manageable.

I have never met anyone who left his or her job — whether fired or voluntarily — who then started his or her own business and regretted it.

What these people always regret is not having done it sooner. This includes people who eventually failed and had to go back to work for someone else.

Afraid to try something new? Most of us are. But our regrets will invariably be for what we didn’t do rather than for what we did.

So are you ready to be an entrepreneur? Do you have the right stuff? Before you take the plunge and start your own business, take this test:

• Do you need a new idea? It isn’t the quality of the ideas you have that will determine whether you are successful, it’s the qualities you bring to those ideas.

New ideas are wonderful if you can come up with them. But your best chance of success is working hard, using established values and ideas if necessary.

• Who are your customers? “Everyone” is the wrong answer. If your concept is going to succeed, you have to be able to identify a realistic target audience, big enough to be profitable yet small enough to be profitable yet manageable.

Checklist for starting your own business

Take this test to see if you’re ready for entrepreneurship

I have never met anyone who left his or her job — whether fired or voluntarily — who then started his or her own business and regretted it.

What these people always regret is not having done it sooner. This includes people who eventually failed and had to go back to work for someone else.

Afraid to try something new? Most of us are. But our regrets will invariably be for what we didn’t do rather than for what we did.

So are you ready to be an entrepreneur? Do you have the right stuff? Before you take the plunge and start your own business, take this test:

• Do you need a new idea? It isn’t the quality of the ideas you have that will determine whether you are successful, it’s the qualities you bring to those ideas.

New ideas are wonderful if you can come up with them. But your best chance of success is working hard, using established values and ideas if necessary.

• Who are your customers? “Everyone” is the wrong answer. If your concept is going to succeed, you have to be able to identify a realistic target audience, big enough to be profitable yet small enough to be profitable yet manageable.
INVESTIGATION | Hiring an outside party to review serious allegations can be beneficial

FROM PAGE 14

statements of others. And the witnesses and parties involved in an allegation of misconduct should not be promised confidentiality, as the matter could be revealed in court. At the same time, only those parties necessary to the investigation should have access to the information or files.

Employees who refuse to participate in an investigation can be disciplined according to that company’s policy. And employees who sign a statement are entitled to a copy of that statement, the lawyers said.

Often it makes sense to separate the responsibilities for investigating allegations and disciplining employees. That way, the investigator is less likely to be accused of bias if he or she has no input into the decision. Only after an investigation is complete should a permanent decision be made about whether company rules were violated.

The lawyers noted that California law prohibits taking action that could be considered retaliatory to a whistle-blower. That includes changing work hours or locations to avoid contact with an employee accused of misconduct, which could be perceived as retaliation if the change inconveniences the worker.

Ultimately, the investigation should determine whether it’s reasonable to conclude that a violation of company policy took place. The courts have established that businesses don’t have to prove the conduct occurred.

“The question is not whether the person did it, but did the employer act in good faith,” Kemp said. “Did the decision follow an appropriate investigation.”

mshaw@bizjournals.com | 916-558-7861

MACKAY | Create a business plan, seek advice, eliminate fear of failure to achieve success

FROM PAGE 14

enough for you to service it thoroughly.

• Why should anyone want to buy your product or service? Find an unmet, unanswered need by identifying a market segment that isn’t being served or is being served inadequately.

For example, take the post office, which served everybody but unprofitably. Then FedEx and UPS jumped in and redefined the industry. They are profitable, while the post office is bleeding red ink.

• Who is your competition? If there is a market for your product or service, someone is supplying that market.

He or she may be using another product or a uniquely identical product that you can outperform on price, quality, service or performance.

Either way, competition is a mixed blessing. It doesn’t really matter how many others are doing something similar. All you have to do is find a way to do it better.

FROM PAGE 14

MACKAY is author of the New York Times bestseller “Swim With The Sharks Without Being Eaten Alive.” Reach him at harvey@mackay.com, harvey@mackay.com or by writing him at MackayMitchell Envelope Co., 2100 Elm St. S.E., Minneapolis, Minn., 55414.

抢劫犯不会对你造成伤害。如果你做的是坏事，抢劫犯也不会对你造成伤害。但如果你做的是坏事，抢劫犯就会对你造成伤害。所以，你必须谨慎行事，避免成为抢劫犯的目标。

抢劫犯不会对你造成伤害。如果你做的是坏事，抢劫犯也不会对你造成伤害。但如果你做的是坏事，抢劫犯就会对你造成伤害。所以，你必须谨慎行事，避免成为抢劫犯的目标。

抢劫犯不会对你造成伤害。如果你做的是坏事，抢劫犯也不会对你造成伤害。但如果你做的是坏事，抢劫犯就会对你造成伤害。所以，你必须谨慎行事，避免成为抢劫犯的目标。

抢劫犯不会对你造成伤害。如果你做的是坏事，抢劫犯也不会对你造成伤害。但如果你做的是坏事，抢劫犯就会对你造成伤害。所以，你必须谨慎行事，避免成为抢劫犯的目标。

抢劫犯不会对你造成伤害。如果你做的是坏事，抢劫犯也不会对你造成伤害。但如果你做的是坏事，抢劫犯就会对你造成伤害。所以，你必须谨慎行事，避免成为抢劫犯的目标。

抢劫犯不会对你造成伤害。如果你做的是坏事，抢劫犯也不会对你造成伤害。但如果你做的是坏事，抢劫犯就会对你造成伤害。所以，你必须谨慎行事，避免成为抢劫犯的目标。

抢劫犯不会对你造成伤害。如果你做的是坏事，抢劫犯也不会对你造成伤害。但如果你做的是坏事，抢劫犯就会对你造成伤害。所以，你必须谨慎行事，避免成为抢劫犯的目标。

抢劫犯不会对你造成伤害。如果你做的是坏事，抢劫犯也不会对你造成伤害。但如果你做的是坏事，抢劫犯就会对你造成伤害。所以，你必须谨慎行事，避免成为抢劫犯的目标。

抢劫犯不会对你造成伤害。如果你做的是坏事，抢劫犯也不会对你造成伤害。但如果你做的是坏事，抢劫犯就会对你造成伤害。所以，你必须谨慎行事，避免成为抢劫犯的目标。

抢劫犯不会对你造成伤害。如果你做的是坏事，抢劫犯也不会对你造成伤害。但如果你做的是坏事，抢劫犯就会对你造成伤害。所以，你必须谨慎行事，避免成为抢劫犯的目标。

抢劫犯不会对你造成伤害。如果你做的是坏事，抢劫犯也不会对你造成伤害。但如果你做的是坏事，抢劫犯就会对你造成伤害。所以，你必须谨慎行事，避免成为抢劫犯的目标。

抢劫犯不会对你造成伤害。如果你做的是坏事，抢劫犯也不会对你造成伤害。但如果你做的是坏事，抢劫犯就会对你造成伤害。所以，你必须谨慎行事，避免成为抢劫犯的目标。

抢劫犯不会对你造成伤害。如果你做的是坏事，抢劫犯也不会对你造成伤害。但如果你做的是坏事，抢劫犯就会对你造成伤害。所以，你必须谨慎行事，避免成为抢劫犯的目标。

抢劫犯不会对你造成伤害。如果你做的是坏事，抢劫犯也不会对你造成伤害。但如果你做的是坏事，抢劫犯就会对你造成伤害。所以，你必须谨慎行事，避免成为抢劫犯的目标。

抢劫犯不会对你造成伤害。如果你做的是坏事，抢劫犯也不会对你造成伤害。但如果你做的是坏事，抢劫犯就会对你造成伤害。所以，你必须谨慎行事，避免成为抢劫犯的目标。

抢劫犯不会对你造成伤害。如果你做的是坏事，抢劫犯也不会对你造成伤害。但如果你做的是坏事，抢劫犯就会对你造成伤害。所以，你必须谨慎行事，避免成为抢劫犯的目标。

抢劫犯不会对你造成伤害。如果你做的是坏事，抢劫犯也不会对你造成伤害。但如果你做的是坏事，抢劫犯就会对你造成伤害。所以，你必须谨慎行事，避免成为抢劫犯的目标。

抢劫犯不会对你造成伤害。如果你做的是坏事，抢劫犯也不会对你造成伤害。但如果你做的是坏事，抢劫犯就会对你造成伤害。所以，你必须谨慎行事，避免成为抢劫犯的目标。

抢劫犯不会对你造成伤害。如果你做的是坏事，抢劫犯也不会对你造成伤害。但如果你做的是坏事，抢劫犯就会对你造成伤害。所以，你必须谨慎行事，避免成为抢劫犯的目标。

抢劫犯不会对你造成伤害。如果你做的是坏事，抢劫犯也不会对你造成伤害。但如果你做的是坏事，抢劫犯就会对你造成伤害。所以，你必须谨慎行事，避免成为抢劫犯的目标。

抢劫犯不会对你造成伤害。如果你做的是坏事，抢劫犯也不会对你造成伤害。但如果你做的是坏事，抢劫犯就会对你造成伤害。所以，你必须谨慎行事，避免成为抢劫犯的目标。

抢劫犯不会对你造成伤害。如果你做的是坏事，抢劫犯也不会对你造成伤害。但如果你做的是坏事，抢劫犯就会对你造成伤害。所以，你必须谨慎行事，避免成为抢劫犯的目标。

抢劫犯不会对你造成伤害。如果你做的是坏事，抢劫犯也不会对你造成伤害。但如果你做的是坏事，抢劫犯就会对你造成伤害。所以，你必须谨慎行事，避免成为抢劫犯的目标。

抢劫犯不会对你造成伤害。如果你做的是坏事，抢劫犯也不会对你造成伤害。但如果你做的是坏事，抢劫犯就会对你造成伤害。所以，你必须谨慎行事，避免成为抢劫犯的目标。

抢劫犯不会对你造成伤害。如果你做的是坏事，抢劫犯也不会对你造成伤害。但如果你做的是坏事，抢劫犯就会对你造成伤害。所以，你必须谨慎行事，避免成为抢劫犯的目标。

抢劫犯不会对你造成伤害。如果你做的是坏事，抢劫犯也不会对你造成伤害。但如果你做的是坏事，抢劫犯就会对你造成伤害。所以，你必须谨慎行事，避免成为抢劫犯的目标。

抢劫犯不会对你造成伤害。如果你做的是坏事，抢劫犯也不会对你造成伤害。但如果你做的是坏事，抢劫犯就会对你造成伤害。所以，你必须谨慎行事，避免成为抢劫犯的目标。

抢劫犯不会对你造成伤害。如果你做的是坏事，抢劫犯也不会对你造成伤害。但如果你做的是坏事，抢劫犯就会对你造成伤害。所以，你必须谨慎行事，避免成为抢劫犯的目标。

抢劫犯不会对你造成伤害。如果你做的是坏事，抢劫犯也不会对你造成伤害。但如果你做的是坏事，抢劫犯就会对你造成伤害。所以，你必须谨慎行事，避免成为抢劫犯的目标。

抢劫犯不会对你造成伤害。如果你做的是坏事，抢劫犯也不会对你造成伤害。但如果你做的是坏事，抢劫犯就会对你造成伤害。所以，你必须谨慎行事，避免成为抢劫犯的目标。

抢劫犯不会对你造成伤害。如果你做的是坏事，抢劫犯也不会对你造成伤害。但如果你做的是坏事，抢劫犯就会对你造成伤害。所以，你必须谨慎行事，避免成为抢劫犯的目标。

抢劫犯不会对你造成伤害。如果你做的是坏事，抢劫犯也不会对你造成伤害。但如果你做的是坏事，抢劫犯就会对你造成伤害。所以，你必须谨慎行事，避免成为抢劫犯的目标。

抢劫犯不会对你造成伤害。如果你做的是坏事，抢劫犯也不会对你造成伤害。但如果你做的是坏事，抢劫犯就会对你造成伤害。所以，你必须谨慎行事，避免成为抢劫犯的目标。