

Workplace Investigations

Contributing Editors

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05. Can the employee under investigation bring legal action to stop the investigation?



South Korea

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An employee under investigation cannot bring legal action (eg, an injunction) to stop a workplace investigation. However, there have been instances where an employee under investigation raised legal challenges concerning the investigation (eg, breach of privacy). Please see question 19. While the company would not be legally compelled to stop the investigation when legal challenges are raised, they may face penalties under the relevant laws if it is determined they have committed a violation.

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Switzerland

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The accused could theoretically request a court to stop the investigation, for instance, by arguing that there is no reason for the investigation and that the investigation infringes the employee's personality rights. However, if the employer can prove that there were grounds for reasonable suspicion and is conducting the investigation properly, it is unlikely that such a request would be successful.

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13. Can non-disclosure agreements (NDAs) be used to keep the fact and substance of an investigation confidential?



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Some companies require an employee subject to investigation to sign an NDA or other similar documents (eg, a pledge of confidentiality) agreeing not to disclose information relating to the investigation to outside parties.

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In addition to the above-mentioned statutory confidentiality obligations, separate non-disclosure agreements can be signed. In an internal investigation, the employee should be expressly instructed to maintain confidentiality.

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