Fact Finding Training Transcript

0:0:0.0 --> 0:0:14.200
Riggs, Scotty, VBAVACO
I will. Good morning or well I I guess it's good afternoon. I've been doing this all day so I went with the opening tagline starting this morning said this afternoon in our world so.

0:0:15.450 --> 0:0:32.780
Riggs, Scotty, VBAVACO
Appreciate you taking out the time to to do this training. Just up front. We'll, I'll tell you that this is a a training that's not new fact findings been around. We've done them for a long time. The kind of the the Skype calls just to start.

0:0:34.480 --> 0:0:47.70
Riggs, Scotty, VBAVACO
Doing fact finding, training again and and to have the this training is that there was a new OH 700 published that required all fact funders and to have training before they conducted a fact finding.

0:0:48.70 --> 0:0:51.270
Riggs, Scotty, VBAVACO
Before this new oh 700, we kind of always.

0:0:52.30 --> 0:1:0.820
Riggs, Scotty, VBAVACO
You know, kind of did that on an informal basis in, in the sense like, OK, well, I think they know how to do it. And here we go. Go do a fact finding.

0:1:1.690 --> 0:1:9.520
Riggs, Scotty, VBAVACO
The new UH-700 come out and it kind of added a little bit more formality to that training. There's a TMS number and.

0:1:10.280 --> 0:1:16.30
Riggs, Scotty, VBAVACO
The oh 700 you you were provided a TMS number to.

0:1:17.240 --> 0:1:33.830
Riggs, Scotty, VBAVACO
Register for this for us to be in time. Do you think we could have dinner tonight? question mark. To do a fact finding. And so that's how we arrived. Where we are this afternoon. Is that this presentation I went through GC because they're the authors of the OH 700 policy.

0:1:34.840 --> 0:2:5.980
Riggs, Scotty, VBAVACO
Gonna ask permission that if this slide deck was equivalent to the level of fact finding training required per the OH 700, and I did get that blessing that we can use this PowerPoint presentations. So upon your completion of your survey and TMS so that we can record that you actually tucked the training, then you would be you know you would be on the roster of certified fact finders for the PBA and be within be compliance with the policy and conducting fact finding investigations.

0:2:7.220 --> 0:2:33.10
Riggs, Scotty, VBAVACO
With that said, I'm Scotty Riggs out of the Office of Human Capital Services. You may have heard that as Office of Talent Management or they can get it done at the Houston Regional. Obviously heard the chief Human Capital Management. All those terms are the same office, just different names. We now are have a a name. We feel like it's a little bit more all-encompassing on what we.

0:2:34.50 --> 0:2:39.540
Riggs, Scotty, VBAVACO
We do is a human capital services but started working that BA in 2010.

0:2:40.980 --> 0:2:45.810
Riggs, Scotty, VBAVACO
Don't know various various jobs on my journey up to to where I'm at now.

0:2:46.930 --> 0:2:47.720
Riggs, Scotty, VBAVACO
Been a.

0:2:48.830 --> 0:2:54.10
Riggs, Scotty, VBAVACO
Equip specialist on opium pseudopod suitability adjudicator.

0:2:55.70 --> 0:3:10.830
Riggs, Scotty, VBAVACO
And I've done retirement specialist for a brief time. Then I wound up being would find my my love and passion, which is employee and Labor Relations. So that's where I'm at now. And that's just a little background of who I am. So it gives you a little.

0:3:11.660 --> 0:3:15.650
Riggs, Scotty, VBAVACO
Elementary understanding of who it is that's presenting the material of the day.

0:3:19.160 --> 0:3:19.770
Riggs, Scotty, VBAVACO
So.

0:3:21.90 --> 0:3:29.110
Riggs, Scotty, VBAVACO
This is kind of where we're going today and these are the things that I would, you know, at the conclusion of our training, we'll have a summary slide at the end of this and.

0:3:30.180 --> 0:3:37.0
Riggs, Scotty, VBAVACO
At that time, we hit to the summary slide. If I haven't articulated each one of these to a.

0:3:38.180 --> 0:4:4.710
Riggs, Scotty, VBAVACO
I common understanding for everybody on the call. Then you know, ask the question to make sure that you're clear on these these topics. We'll discuss them in depth, but this is kind of my educational contract with you is that by the end of this training session, these are the things that you should understand and that's what I need you to tell me. If if I've done that in a manner that's acceptable, that you do understand each one of these topics so.

0:4:6.290 --> 0:4:22.350
Riggs, Scotty, VBAVACO
We'll we'll leave some time. I'll, I'll try to go through the the course of the presentation at a pace that it's gonna leave time for some questions at the end. Each of the three prior sessions have done is I had a few questions towards the end. And so I'll be sure to afford you the same opportunity.

0:4:25.200 --> 0:4:43.80
Riggs, Scotty, VBAVACO
Alright, so as we begin into this, I'm just kind of as a ice breaker into this topic. We we figured a good scenario. This will be one of the two slides, this one in the next that you actually hear me read the slide. Everything else will just be kind of more of a color analyst version of the PowerPoint presentation.

0:4:43.840 --> 0:4:52.190
Riggs, Scotty, VBAVACO
So just kind of as you listen to this scenario, just understand that this is no, this is not actual.

0:4:53.710 --> 0:5:0.830
Riggs, Scotty, VBAVACO
Names or anything in here. And because we're on a recorded line, if you do, come on, come off mute or use anything.

0:5:1.990 --> 0:5:10.90
Riggs, Scotty, VBAVACO
In here, just make sure you sanitize anything we want. Don't wanna start using actual employee names or anything like that on a recorded line.

0:5:11.100 --> 0:5:20.170
Riggs, Scotty, VBAVACO
But here we go. So this is a scenario. This is about a year ago on this floor has alleged that Mr Salter engaged in inappropriate conduct directed towards her.

0:5:20.960 --> 0:5:32.580
Riggs, Scotty, VBAVACO
She told she told her supervisor, Miss Oversight, who called some friends she attended a supervisor training with called her friend at the District office and called a union steward about what she should do.

0:5:34.30 --> 0:5:45.10
Riggs, Scotty, VBAVACO
They recommended that she read some books and talk to some other people about what to do. Also, she watched an episode of the TV show The View, because they did an expose regarding the similar issue.

0:5:45.840 --> 0:5:49.600
Riggs, Scotty, VBAVACO
Miss Oversight referred this matter to the VRE officer Mr Rehab.

0:5:50.360 --> 0:5:52.820
Riggs, Scotty, VBAVACO
Who was more experienced? Asking people about stuff.

0:5:53.610 --> 0:6:0.70
Riggs, Scotty, VBAVACO
Furthermore, the VR and E officer is cousins with Mr Salter and already knows a little bit about this situation.

0:6:0.940 --> 0:6:5.350
Riggs, Scotty, VBAVACO
Mr Rehab decided to interview Mr Salter in the training room after a meeting one day.

0:6:5.990 --> 0:6:10.950
Riggs, Scotty, VBAVACO
Mr Walter said that he would like to have a Union representative and Mr Rehab responded.

0:6:11.830 --> 0:6:13.870
Riggs, Scotty, VBAVACO
Why do you have something to hide?

0:6:16.770 --> 0:6:34.390
Riggs, Scotty, VBAVACO
Mr EI have also interviewed a witness, Miss Witless. She declined to provide information because it could have criminal implications for Mr Salton. This upset Mr Miss oversight, so she ensured that the lack of being a team player was reflected on the next performance appraisal or appraisal of Miss Witless.

0:6:35.760 --> 0:6:47.890
Riggs, Scotty, VBAVACO
After the interviews and Mr Salter and Miss Flores, Mr Rehab concluded this is just a, he said. She said problem and told Miss Flores and Mr Salter that they should try to get along better.

0:6:48.860 --> 0:6:51.590
Riggs, Scotty, VBAVACO
That leads us to the question what went wrong?

0:6:52.640 --> 0:6:55.860
Riggs, Scotty, VBAVACO
And probably the more important question is.

0:6:56.540 --> 0:6:58.410
Riggs, Scotty, VBAVACO
What is right in this scenario?

0:7:0.630 --> 0:7:7.700
Riggs, Scotty, VBAVACO
So we have a give you this example, just to kind of lead out with this to show you that without.

0:7:8.200 --> 0:7:18.890
Riggs, Scotty, VBAVACO
Ohh proper planning and following certain procedures and techniques on how to interview that. There is a wrong way to do a fact finding investigation. They can go wrong.

0:7:20.600 --> 0:7:21.840
Riggs, Scotty, VBAVACO
That's not to.

0:7:22.530 --> 0:7:25.790
Riggs, Scotty, VBAVACO
You know, put anybody back and and and calls any.

0:7:26.690 --> 0:7:48.140
Riggs, Scotty, VBAVACO
Fear or anything like that related to this process. I'm fully confident you can do it, but it's just to to show you that there is a right and a wrong way to do fact finding training and throughout the course of this presentation, we'll kind of reference back to this scenario and kind of highlight different pieces that may have went where this fact finding kind of went off the rails in this scenario.

0:7:51.910 --> 0:8:2.480
Riggs, Scotty, VBAVACO
So as with anything I, if we're gonna do a fact funding, then it's a prudential us to understand what? What is a fact funding we may all have our different ideas and.

0:8:2.620 --> 0:8:10.200
Riggs, Scotty, VBAVACO
Uh, you know, own thoughts about what it is. But what does policy say about fact? Finding what it? What information does it give us?

0:8:10.830 --> 0:8:22.590
Riggs, Scotty, VBAVACO
And it and it clearly just talks about supervisory fact finding is an initial gathering of facts. So something occurred and now we as a fact Finder are chat charged are are.

0:8:24.670 --> 0:8:29.790
Riggs, Scotty, VBAVACO
We are told to go and start gathering some facts to determine whether this happened or not.

0:8:31.190 --> 0:8:32.400
Riggs, Scotty, VBAVACO
You know these and.

0:8:33.150 --> 0:8:47.670
Riggs, Scotty, VBAVACO
Contrary to what like an AB is, these are not sworn statements, so we're not gonna have a court reporter and all that that's in the AIB more formal, but in this you you will do interviews in some format, we'll talk a little bit more about that as we go.

0:8:48.910 --> 0:9:9.260
Riggs, Scotty, VBAVACO
And it's the you know. And then that now that you understand what a fact finding is, well, then what what? What's the purpose of it? That's we have to have a good foundation to to launch off of. You know we're gonna build this fact finding house then we got to have a firm foundation foundation is rooted in understanding what it is and what's the purpose behind it.

0:9:11.120 --> 0:9:40.490
Riggs, Scotty, VBAVACO
Part of that fact finding process is gonna give us and allow us to ascertain what the magnitude of the problem is. What are we dealing with? How big of a problem is this? We're going to gather and then it's really going as a fact Finder. You'll get into some what I would call graduate level analysis of the evidence. It's more than just looking at a piece of evidence, but you begin to do that graduate level analysis to understand what that evidence is telling us and how does it relate to the the incident that we're investigating.

0:9:41.560 --> 0:10:8.50
Riggs, Scotty, VBAVACO
You'll definitely want to identify the purpose is to identify and interview witnesses that we may think is a relevant to this investigation. You'll summarize and kind of record the witnesses statements we understand we're in a virtual world so that you may be doing this by a teams or you know we're on a Webex platform here today. So it's a whichever you choose, there's not a mandated platform you have to do these interviews on.

0:10:9.400 --> 0:10:22.530
Riggs, Scotty, VBAVACO
That's at your discretion. But you, you, you wanna make sure that when you do those interviews that I always send like a summary e-mail making sure that the interview part the witness, attest to what?

0:10:23.290 --> 0:10:27.620
Riggs, Scotty, VBAVACO
That you have reported as being what they said in the the interview process.

0:10:28.920 --> 0:10:32.210
Riggs, Scotty, VBAVACO
And it could be that you get into your fact finding as you began to.

0:10:33.560 --> 0:11:5.310
Riggs, Scotty, VBAVACO
Understand the magnitude of the problem. It could be that you go back to that initiating authority and you and your recommendation, or you you have a conversation and say, hey, look, we thought this was a remote incident. It's very simple. Very, you know, not very complex in nature. And I I've just done some initial fact finding and some and manage this thing looks bigger than I thought. And I think I just wanna make sure you sure you're aware this is bigger than you know it has potential to be much bigger than what we thought. This is much more complex.

0:11:5.750 --> 0:11:7.230
Riggs, Scotty, VBAVACO
Then one remote instance.

0:11:9.130 --> 0:11:23.10
Riggs, Scotty, VBAVACO
And so that's just some of the purposes behind the fact finding. And so you need to have that good level understanding what that purpose is. So you'll understand your role, which we're gonna go over and just a minute as a fact Finder, what do you do in this process?

0:11:26.380 --> 0:11:38.740
Riggs, Scotty, VBAVACO
Clearly, we wanna maintain objectivity here, that when you get that letter and whatever is alleged in that letter that has occurred and it's just an allegation to this point.

0:11:40.590 --> 0:11:47.540
Riggs, Scotty, VBAVACO
You know, you may have some separate emotions about that, or you may have some personal feelings about this whatever was done.

0:11:48.800 --> 0:12:5.660
Riggs, Scotty, VBAVACO
And you know the hard thing for you is a fact Finder, but something that you you got to do is it's kind of what I would call as divorce your emotions in this process you want to remove your emotions out of your fact finding process because you don't want to start projecting emotions in this process.

0:12:6.950 --> 0:12:10.520
Riggs, Scotty, VBAVACO
Umm, part of that is just being that professional and and using professionalism.

0:12:11.670 --> 0:12:17.120
Riggs, Scotty, VBAVACO
When you read that letter, you know that's gonna tell you that you're you're you're being a.

0:12:17.920 --> 0:12:29.140
Riggs, Scotty, VBAVACO
Assigned to do a fact finding. You wanna understand what are the issues that is in this investigation, what it really am I looking at is there multiple issues as a single issue. What exactly am I looking at?

0:12:30.410 --> 0:12:52.890
Riggs, Scotty, VBAVACO
If you need any external support so like, let's say if you need something and it's gonna require you to get documents or something that maybe you don't have access to like you PDF. If you know you don't have access to, maybe some of these people to UPS, then you may have to have that coordination with your local HR staff there. They can help you in any those type documents.

0:12:54.70 --> 0:13:10.900
Riggs, Scotty, VBAVACO
Key thing is you're gonna collect your can preserve, and you're gonna secure material evidence. So that's, you know, your responsibility as a fact. Finder is really securing that information and making sure that, you know, not everybody in the RO is understanding and gets to see what everybody's testifying about.

0:13:12.640 --> 0:13:23.600
Riggs, Scotty, VBAVACO
As the note says, on the bottom of this slide, we're gonna be very clear and upfront with our expectations. The the best thing we can do in this case is do expectation management, do you think?

0:13:23.720 --> 0:13:36.210
Riggs, Scotty, VBAVACO
All right. Be in Charlestown by 6 question mark. You're asking someone to do a fact finding, then the expectation management needs to be that they're going to need to have a limited.

0:13:37.290 --> 0:13:52.960
Riggs, Scotty, VBAVACO
High priority tasks assigned to them. You know it shouldn't be that they're trying to do this fact finding at the same time they're doing, you know, 4 high level projects for the USB at the same time. That to me is not gonna be a recipe for success.

0:13:54.120 --> 0:14:20.630
Riggs, Scotty, VBAVACO
Just because they're something is not gonna get the attention it it it it it needs and deserves. And so in this fact, finding that needs to be that two way communication there between your the supervisors to understand the expectation of the time that's going to be required to to do this and do it right because we we we wanna make sure we're doing the fact findings of in a in a positive manner and we don't get to.

0:14:21.390 --> 0:14:27.170
Riggs, Scotty, VBAVACO
You know, we don't wanna do one that comes out any and to look anything like our scenario did as we opened up this training.

0:14:29.890 --> 0:14:52.500
Riggs, Scotty, VBAVACO
So just continuing those fact finding responsibilities is we obviously the OH 700 and that this is a brand new as I said, you can see that citation down there at the bottom of right on your slides is August 27th, 2021. So this is not very new as far as VA policy goes, you know, I know we have policy out there sometimes that's.

0:14:53.870 --> 0:14:57.690
Riggs, Scotty, VBAVACO
It's still relevant, but it's just, you know, when it was first developed as many years ago and.

0:14:58.690 --> 0:15:2.740
Riggs, Scotty, VBAVACO
So this is a brand new brand new policy in the sense that.

0:15:3.730 --> 0:15:22.650
Riggs, Scotty, VBAVACO
You know, they've really redefined the fact finding peace. That's in chapter four of, oh, 700. And what I would tell you is that the oh, 700, I believe it a copy of it, a link, not a copy of the actual document, but a link to that document will be put in your chat. And then just as a reminder, we will have.

0:15:23.560 --> 0:15:26.200
Riggs, Scotty, VBAVACO
A copy of the presentation will be provided to you as well.

0:15:27.510 --> 0:15:28.120
Riggs, Scotty, VBAVACO
So.

0:15:29.270 --> 0:15:56.830
Riggs, Scotty, VBAVACO
But you know you'll and then a key piece of your fact finding responsibility. And this is really gonna be a testament to the quality of work done during the investigation is the report you submit back to the initiating authority. That report is gonna be the testament of your fact finding, because that's what the initiating authority is gonna read. And that's gonna really tell the story of how you can connect this back to $100. Period. Do you want me to transfer you some money? question mark.

0:15:58.640 --> 0:15:59.830
Riggs, Scotty, VBAVACO
Right, so if you're.

0:16:0.630 --> 0:16:9.400
Riggs, Scotty, VBAVACO
And and this if we've got a good firm, they a firm foundation and we understand, you know what fact finding is that we the purpose and.

0:16:10.100 --> 0:16:16.260
Riggs, Scotty, VBAVACO
And all, you know, some different techniques. And then we begin to start thinking about the planning factor for it.

0:16:17.460 --> 0:16:44.550
Riggs, Scotty, VBAVACO
So as with anything we do, it's going to take some time. We wouldn't want to get, you know, there'll be a time parameter when the initiating the authority is expecting your final report and we don't want to wait till the last minute, you know, and have only three days to go and interview this and really put any time to it. You know, when you get that initial request for you to or assignment for you to be as a fact Finder, you need to start going through this process. You know, you need to be.

0:16:45.920 --> 0:16:52.630
Riggs, Scotty, VBAVACO
Be familiar with the accusations against it. You know what? What is it? What is being alleged that's happened and what's occurred?

0:16:54.970 --> 0:17:0.90
Riggs, Scotty, VBAVACO
You know, identify the potential witnesses and relevant evidence. You know, as you read this.

0:17:1.230 --> 0:17:6.620
Riggs, Scotty, VBAVACO
There may be some names already in that initial scope for you to kind of ascertain who did what.

0:17:7.240 --> 0:17:11.290
Riggs, Scotty, VBAVACO
Umm. And so you'll know you'll have a little a few witnesses there.

0:17:12.550 --> 0:17:29.230
Riggs, Scotty, VBAVACO
And then you'll start developing those as potential witnesses and then any relevant evidence. So if this is something to do with a leave, don't know, but it's four or five prescriptions have a copy of the handbook for 90 days. So it could be $30 each period.

0:17:29.300 --> 0:17:31.400
Riggs, Scotty, VBAVACO
Violation happened, or if there's a local?

0:17:32.600 --> 0:17:40.360
Riggs, Scotty, VBAVACO
Policy in place that, as far as requesting leave or whatever we want to start in that initial planning phase doesn't mean that.

0:17:41.10 --> 0:18:0.940
Riggs, Scotty, VBAVACO
Ohh, in no means and then planning phase or you gonna be able to pull everything and anything that you're gonna have in this investigation. That's part of the investigation. But there are certain things that can we can go and gather on the front end before we even start the interviews. That's gonna set us up for success as we go through this process.

0:18:3.450 --> 0:18:33.960
Riggs, Scotty, VBAVACO
You know we we need to Get the facts and and we need those facts to be supported by evidence. So it's and that's how a I found while since I did a transfer period is a fact is that it's supported by a piece of evidence. We need detailed documentation. You know everything we do in the VA requires documentation. We're always documented. You can wait till I buy when you get into a fact finding investigation that's not gonna be any different which account the 002 if you're fact finding investigation leads to.

0:18:34.60 --> 0:18:36.330
Riggs, Scotty, VBAVACO
Disciplinary action for that employee.

0:18:37.390 --> 0:19:6.360
Riggs, Scotty, VBAVACO
Then you know that's the decision by the proposing official or the initiating authority will decide to make that determination. And if that goes down to disciplinary action, then some of that evidence and some of those testimonies may be used as peace of the evidence files to support that action. So we wanna make be as detailed as possible that if someone that is not the initial fact Finder has to use piece of this that when they read it it's detailed enough.

0:19:6.490 --> 0:19:11.20
Riggs, Scotty, VBAVACO
And it gives them enough fidelity that they can clearly understand what it's saying.

0:19:12.860 --> 0:19:41.890
Riggs, Scotty, VBAVACO
Another common question I get on the fact findings is especially when it's the first time you've been asked to do this is man, I I just don't know if I can do this. I don't know if I if I'm prepared to do this well, one, that's what this training here for and then two, I can tell you that if you've ever been involved in kids in one way or the other, then you you've done a fact finding investigation because if something happens, this is almost innate to us. We begin to say.

0:19:42.260 --> 0:20:2.80
Riggs, Scotty, VBAVACO
Who, what, when, where, why? How? You know? We start asking those type questions at the core of fact finding. That's what you're doing, something that's happened and all your and what your primary role as the fact Finder is, is to flesh out those questions about The Who, the what, when and where and why.

0:20:3.680 --> 0:20:22.910
Riggs, Scotty, VBAVACO
And so that's part of your role as a fact. Finder is the flush those out. So I'm highly confident in your ability and and I'm I'm hoping by the end of this training you will have a a new level of confidence associated with fact findings that you can that you are equipped to do this and you can you can handle this responsibility.

0:20:26.210 --> 0:20:41.610
Riggs, Scotty, VBAVACO
Well, then another common question or here you we get asked about a lot in the fact finding is well do the employees have to cooperate in this it is there an element that would require them to be a part of this.

0:20:42.780 --> 0:20:46.90
Riggs, Scotty, VBAVACO
And I the the answer to that question is yes.

0:20:47.740 --> 0:20:51.50
Riggs, Scotty, VBAVACO
And it's right there in the CFR. You can see this citation on the slide that.

0:20:52.380 --> 0:21:12.190
Riggs, Scotty, VBAVACO
Employees are required to furnish the information, not testify freely and honestly. They they can't, you know, refuse to testify, conceal facts or willfully give inaccurate testimony in in, in part of this investigation process, you know, they that's where I stay in the CFR. And then if you look.

0:21:13.760 --> 0:21:26.20
Riggs, Scotty, VBAVACO
At the VA handbook, 50 to 21, it's father. You know that not only is it in the CFR, but our own VA policy requires that then they they have to provide full and truthful answers during an inquiry and investigation.

0:21:26.760 --> 0:21:28.930
Riggs, Scotty, VBAVACO
Umm. And there again, it's failure to do so.

0:21:29.0 --> 0:21:43.610
Riggs, Scotty, VBAVACO
So maybe grounds for disciplinary adverse action. So I'm understanding the wording of that sentence and it is a keyword that pivots on that and that that's may it's not a shall on there or will.

0:21:45.20 --> 0:21:58.290
Riggs, Scotty, VBAVACO
So it's as some discretion allowed within that statement and that would be the initiating no 40 precision, not yours as the fact finding fact Finder. So and as a note at the bottom of the said you know.

0:22:1.340 --> 0:22:10.610
Riggs, Scotty, VBAVACO
If you come into a situation where someone is not wanting to walk through with your question process and they just don't want them, you know you're sending them interview request and they don't want to.

0:22:12.550 --> 0:22:20.100
Riggs, Scotty, VBAVACO
You know, they they're not adhering to those. And they're like, oh, I'm not doing an interview. Then you as a fact Finder wouldn't try to address the.

0:22:20.830 --> 0:22:30.520
Riggs, Scotty, VBAVACO
The the any corrective action in that scenario, you'd go back to the initiating authority and say, hey, I've employee X is in my.

0:22:31.0 --> 0:22:42.670
Riggs, Scotty, VBAVACO
Ohh, analysis is vital to this investigation and has key relevant information and they're refusing to cooperate in the vestigation and you would allow the initiating authority.

0:22:43.980 --> 0:22:54.820
Riggs, Scotty, VBAVACO
To handle that why you can talk continue with your investigation and that and you would, that's the appropriate way you would handle. You wouldn't wanna take control that process and start.

0:22:57.50 --> 0:23:2.690
Riggs, Scotty, VBAVACO
Committing yourself to saying I'm gonna take a suspension or anything like that because you wouldn't have the authority to do that.

0:23:5.940 --> 0:23:15.570
Riggs, Scotty, VBAVACO
So as we talk about that then we understand that there's another big piece of information and a contract that we all understand is AFG.

0:23:18.550 --> 0:23:31.890
Riggs, Scotty, VBAVACO
If you understand that in the context of the BAFG is the largest union representing us, I will make a disclaimer here that there is two other unions that we do have out there in the BBA. BHA has many more.

0:23:32.960 --> 0:23:38.760
Riggs, Scotty, VBAVACO
But within VBA, you may and there's about 6 offices and believe that have Nephi.

0:23:40.260 --> 0:23:46.510
Riggs, Scotty, VBAVACO
Employees. And then there's one RO in our VBA VBA construct that has.

0:23:47.760 --> 0:24:11.690
Riggs, Scotty, VBAVACO
Another union, which is the SEIU, but that one is only if you're at the Hawaii Regional Office, Honolulu Regional Office. So being that this is the Pacific districts call you that very well may come into play there. So you would you would need to consult your contract if you have some of those employees that fall into that category.

0:24:12.910 --> 0:24:47.140
Riggs, Scotty, VBAVACO
But we made the determination as we developed this training that we would go over the AFG contractual rights because they are the biggest one and they cover the majority of our VBA employees. So in Article 414 section 10, it further clarifies and gives us more information about this investigation process and how we're to do it. In regard to a bargaining unit employee. So this is what we sit down at the table in 2011 and at the conclusion of our negotiations and everything with the Union. This is our mutual agreement with the Union on how we would handle them.

0:24:47.210 --> 0:24:47.750
Riggs, Scotty, VBAVACO
Just in case.

0:24:50.730 --> 0:25:7.790
Riggs, Scotty, VBAVACO
You know, in, in, right there in the section B is talks about a reasonable effort will be made to reconcile conflicting statements by developing additional evidence so that they're, again, I told you that we it's an obligation and a an absolute duty of the fact Finder that if you get conflicting statements.

0:25:9.150 --> 0:25:25.150
Riggs, Scotty, VBAVACO
Then there's a reconciliation process that has to be done. Now there's some tools and some resources we'll give you and give you a better understanding how to process those conflicting sets of testimony. But it is in the contract also that requires us to do that.

0:25:26.460 --> 0:25:36.730
Riggs, Scotty, VBAVACO
The key thing is on another key point here is in bold the winegarden right? I don't know if you've all heard of that. You may or may not have the opportunity, and depending on how long you've worked for.

0:25:37.930 --> 0:25:44.550
Riggs, Scotty, VBAVACO
BBA you may never heard of a wine garden, right? But a wine garden, right is something that's afforded to the bargaining unit employees.

0:25:46.60 --> 0:25:47.270
Riggs, Scotty, VBAVACO
That they are.

0:25:48.790 --> 0:25:54.930
Riggs, Scotty, VBAVACO
They are. They have an absolute right and I'll call it a right because the contract provides it the to them.

0:25:55.570 --> 0:26:12.810
Riggs, Scotty, VBAVACO
That they can be represented by the Union during the investigation during this investigation of a bargaining unit employee. So if that's another part as you get your letter and you start doing your planning, you wanna start paying attention to, OK, if it's Joe.

0:26:13.530 --> 0:26:41.180
Riggs, Scotty, VBAVACO
You know John Q, who was an RV Sr and the veteran service center at any anywhere town, regional office within. That's enough information to probably tell you ohh wait, that's gonna be a bargaining employ. OK, let me make sure I'm on the. Let me get the relevant sections of the AMG Master Agreement out and make sure I have that ready because I need that to be a source of information. I'm a rely on because I'm. I know I'm gonna be dealing with the bargaining unit employee here.

0:26:42.360 --> 0:26:54.670
Riggs, Scotty, VBAVACO
And so that's what we call the Weingarden ride is to have the representation by Union deer and disciplinary process investigation processes or any, you know, any investigation process.

0:26:56.10 --> 0:27:1.90
Riggs, Scotty, VBAVACO
Closer related to this article is in the AFG master Agreement as well as Article 22.

0:27:2.380 --> 0:27:5.20
Riggs, Scotty, VBAVACO
And it covers investigations in general.

0:27:5.810 --> 0:27:11.520
Riggs, Scotty, VBAVACO
And it also covers our more formal investigation and Administrative Investigation Board investigations.

0:27:13.790 --> 0:27:28.490
Riggs, Scotty, VBAVACO
And right there in the section 2E there is if you ever heard the term terminology of weingarden plus or you know, sometimes there's practitioners the URL or practitioners, you'll hear that thrown out.

0:27:29.560 --> 0:27:48.530
Riggs, Scotty, VBAVACO
And what we're talking about is not only if they're going to be involved in this process. Are they afforded some union, do they have the right to be represented by Union Rep but also part of that process is if they're the subject of the investigation, then they have those same contractual rights to be represented by a Union representative.

0:27:50.140 --> 0:27:53.770
Riggs, Scotty, VBAVACO
Now let me go ahead and address.

0:27:54.940 --> 0:28:12.0
Riggs, Scotty, VBAVACO
Question I've received in the past so because you may have the same question. If not just log it down for information and store it for later. But if you get into a situation and the way the wording is, this is that they get a union Rep to represent them.

0:28:12.640 --> 0:28:19.10
Riggs, Scotty, VBAVACO
So if you're in the midst of your investigation and you're doing your due diligence and planning everything and.

0:28:19.640 --> 0:28:29.150
Riggs, Scotty, VBAVACO
You go to set up an interview for on a bargaining unit employee for them the rights. Say you know, here's your rights. You you can choose to have a representative if you like.

0:28:30.720 --> 0:28:50.620
Riggs, Scotty, VBAVACO
And they come back and say, hey, that's not gonna work for me, the Union president, who I prefer to work with just went on a week and 1/2 trip to the Bahamas, and he's not gonna be back till, you know, a week and 1/2 later. So I need you to, you know, I request not to be interviewed until he returns the office.

0:28:51.990 --> 0:28:56.540
Riggs, Scotty, VBAVACO
I would tell you that that's absolutely not gonna be something we're gonna comply with.

0:28:57.760 --> 0:29:23.890
Riggs, Scotty, VBAVACO
It doesn't mean we just ignore that we respond to that and a proper way to probably respond to that would be like, hey, I understand that your preferred union Rep is not available, but due to the time constraints and the timelines I have been given to complete this investigation, it's imperative that we complete this investigation and you're entitled to a union Rep you can. You need to contact.

0:29:25.120 --> 0:29:56.490
Riggs, Scotty, VBAVACO
Contact AFGE so they can provide you a steward or someone else that can represent you in these proceeds, and then you would you would annotate that and have that in writing that you afforded that alternate person and that you forwarded them their rights. You didn't violate their Weingarten rights, you were absolutely affording them the right to have a Union representation, but there's nowhere in that right saying that they get to choose their preferred union representative. So just a little bit of clarification in case you run into that scenario.

0:30:0.10 --> 0:30:16.440
Riggs, Scotty, VBAVACO
But then that begs the question, and goes to talk about, well, what, what if an employee refuses just outright refuses to participate in this? What do we do now? We talked about this underneath the understanding, the rules behind an employee cooperation that they are obligated to cooperate in this.

0:30:18.630 --> 0:30:24.0
Riggs, Scotty, VBAVACO
What may you say or what can you say or what's the best practice to say when you're dealing with that in addressing them?

0:30:26.210 --> 0:30:48.140
Riggs, Scotty, VBAVACO
And just what's in quotation here is what I would recommend as a best practice. This is not at. This is not a quote out of the OH 700. I'm just this is just something that we would recommend as a best practice. Is your refusal to cooperate with this inquiry has been noted for the record and you may be subject to disciplinary action, but you can word it subject to corrective action.

0:30:49.170 --> 0:31:9.100
Riggs, Scotty, VBAVACO
You know, so we don't even have to be a disciplinary action. It could be corrective action, which means that it may be something as simple as their supervisor calling them and saying, hey, I understand you're not gonna cooperate in this investigation, but you know, I I need you to be aware that you are you have, you know, even though you've told him as a fact Finder sometimes and has a little bit more.

0:31:11.0 --> 0:31:16.590
Riggs, Scotty, VBAVACO
It hits home a little bit more for the employees. If it's coming from the direct supervisor, so that may be the corrective action that happens.

0:31:19.600 --> 0:31:27.90
Riggs, Scotty, VBAVACO
You know, and that's just, that's the process. What we'd want to do. We don't wanna get in the process. We where we as the fact Finder.

0:31:28.260 --> 0:31:44.690
Riggs, Scotty, VBAVACO
Are trying to, you know, threaten them with a suspension or, you know, tell them we're gonna suspend them because we wouldn't have the authority to carry that out, even if even if that's somebody else decided that you as a fact Finder wouldn't have the authority to take that disciplinary action against them.

0:31:46.950 --> 0:31:57.440
Riggs, Scotty, VBAVACO
So here's just some shortcomings that a couple of us have come up with this couple colleagues. It's been in this fact finding an investigation world for a little bit.

0:31:58.160 --> 0:32:3.860
Riggs, Scotty, VBAVACO
And here's some is we just got through talking about it is failed to advise the witness of the rights and the obligations.

0:32:5.250 --> 0:32:32.420
Riggs, Scotty, VBAVACO
Our failure to reach a conclusion, you know, that's the the initiating authority really is is having a certain bit of trust in you that you can go through this investigation process and parse through the different pieces of evidence. And at the end of it conclude whether this allegation is true or not, you know. And so that's part of what you you need to do as a fact Finder, you need to, if you're going to make a conclusion.

0:32:33.690 --> 0:32:46.980
Riggs, Scotty, VBAVACO
You need to be substantiated by the evidence. It shouldn't be something that has the initiating authorities reading through the report. It shouldn't be something that's just where this came from. I didn't see this at all. I mean, I don't even know how they're making that conclusion.

0:32:47.760 --> 0:32:55.180
Riggs, Scotty, VBAVACO
We wanna. We wanna make sure that it's a clear linkage between the evidence, the findings and facts and our conclusion.

0:32:56.580 --> 0:33:14.590
Riggs, Scotty, VBAVACO
We wanna make sure we get detailed descriptions in the testimony, and we'll talk a little bit about interviewing witnesses and how that plays out and how some tips that you can do that and then you want to make sure that you pursue any relevant information contained in the interview process if a witness.

0:33:15.850 --> 0:33:22.960
Riggs, Scotty, VBAVACO
Give you names of somebody else that they think has relevant information. Then we wanna make sure that we're pursuing that.

0:33:24.760 --> 0:33:47.230
Riggs, Scotty, VBAVACO
You know in not ignoring that you know relevant information, we don't want to be where something goes into a disciplinary action or something and then it gets challenged like well, you know, during my interview, I guess four other names of people that directly had knowledge of this situation and nobody and and these individuals were never contacted.

0:33:48.410 --> 0:34:0.20
Riggs, Scotty, VBAVACO
We need, you know, don't get into the the thing of oh, man, I got a deadline. I don't wanna if I have to set up four more interviews, that's gonna prolong the investigation. It's gonna take too much time. I just don't have time for all that.

0:34:0.770 --> 0:34:7.620
Riggs, Scotty, VBAVACO
Use of a fact Finder. Just go where the evidence is leading you. That's within the scope of what you've been asked to.

0:34:8.960 --> 0:34:9.660
Riggs, Scotty, VBAVACO
Investigate.

0:34:12.460 --> 0:34:25.230
Riggs, Scotty, VBAVACO
You know, if we if we don't clarify the answers, I I've said it, you know my my big thing is is I've hardly ever heard of anybody that when they got ready to write the report, they got to the end of the report and they said.

0:34:26.680 --> 0:34:56.930
Riggs, Scotty, VBAVACO
You know that when they they had an answer provided to him in an interview that they just initially said, well, I'm not real sure if they meant this or what they meant by that statement, but I'll figure it out later. I found very few people that's come there at the end of their report and been like ohh now I understand. Ohh yeah. I've got this great epiphany that now I know what they were talking about. If you don't understand it in the moment, it's not gonna cut more than likely it's not gonna come to you later on. So go ahead and ask a clarifying question. You know, hey, did you mean.

0:34:57.20 --> 0:34:59.190
Riggs, Scotty, VBAVACO
Yes, by when you said this.

0:35:0.290 --> 0:35:19.610
Riggs, Scotty, VBAVACO
And that way everything is documented exactly clearly. What they what they said you wanna resolve those inconsistent testimonies? I've two different testimonies are given about a situation you want to resolve or words why they're, you know, inconsistent disputed evidence.

0:35:20.960 --> 0:35:29.490
Riggs, Scotty, VBAVACO
If the evidence is a, you know, somebody's disputing a piece of evidence. You wanna be sure to reconcile that. You wanna cite them, you know?

0:35:30.230 --> 0:35:49.130
Riggs, Scotty, VBAVACO
You don't want to not cite important evidence in the body of the report. There again you you want to lead the initiating authority, authority, person that's going to get your final report. You want to be able to see that they can clearly follow where you're where you've come up with the findings of facts and how that's conclusions.

0:35:50.450 --> 0:36:13.440
Riggs, Scotty, VBAVACO
And then obviously, if we're if we're dealing with any kind of physical evidence, you know, if Sally hit John with a stapler, then we probably wanna see if that stapler still there. You know, we wanna get that staple, cause there may be something on there that would lead us to to believe that it actually did happen. So those are just some shortcomings we've seen from time to time throughout different fact findings.

0:36:16.70 --> 0:36:30.300
Riggs, Scotty, VBAVACO
Well, now we've been talking around this issue, but now we need to understand what is evidence. Well, evidence is just simply it's same permission information that tends to prove or disprove a a fact allegation or an assertion. It's a straight out of the handbook.

0:36:33.270 --> 0:36:40.610
Riggs, Scotty, VBAVACO
Evidence also is testimony or documents or physical and demonstrative, and we'll talk a little bit about those types. And just a minute.

0:36:41.680 --> 0:36:56.340
Riggs, Scotty, VBAVACO
It essentially is anything that a reasonable person would consider relevant in material to the issue that we're investigating, you know. And so you need to consider all evidence that's available. You know, we shouldn't ignore any piece of evidence, but.

0:36:57.270 --> 0:37:1.440
Riggs, Scotty, VBAVACO
Before we can analyse evidence, we really need to have a good understanding of what evidence is.

0:37:4.430 --> 0:37:18.50
Riggs, Scotty, VBAVACO
And so in talking about that, here's here's the classifications of evidence. And then, and what they are. This graphic on the the extreme left side is just a high, low scale here depicted by colors.

0:37:19.830 --> 0:37:27.30
Riggs, Scotty, VBAVACO
And what we wanna do is in the in the course of the investigation, we really want to have direct evidence if it's out.

0:37:27.680 --> 0:37:41.860
Riggs, Scotty, VBAVACO
Now we understand. None of us live in a perfect world where we're gonna have just everybody. You know, we're gonna investigate an incident that happened. And every witness is going to be the one, you know, just standing right there on top of what happened. And they can give you direct information.

0:37:43.110 --> 0:37:50.990
Riggs, Scotty, VBAVACO
I'm not saying they can't happen, but that's kind of a perfect world situation. But in the course of fact findings, sometimes that's not the case.

0:37:52.360 --> 0:38:9.790
Riggs, Scotty, VBAVACO
Sometimes you have to rely on what we call circumstantial evidence, and that's just information that you may have to gather two or three pieces of evidence or two or three facts that are going to infer that it happened. And so that's what we would call circumstantial evidence.

0:38:11.40 --> 0:38:26.440
Riggs, Scotty, VBAVACO
The last two I I would tell you is ones that we would probably not really wanna rely and put much credence to in our investigation, and that's hearsay. You know, we don't want to be reliant and make our home findings of fact.

0:38:27.670 --> 0:38:46.540
Riggs, Scotty, VBAVACO
The proven by hearsay cause you know, we've all we've all probably been whether a team, building, exercise or whatever, it's been in some scenario we probably have done it where we've all been in a circle and one person whispers something and somebody's ear and it goes around that circle. And by the time it gets back to that original person that started that.

0:38:47.360 --> 0:39:20.20
Riggs, Scotty, VBAVACO
They're like, oh, my goodness, how did we get to there? That's that's not even what I said. That's so far off from what I said that I. I mean, how did y'all get to that, you know, conclusion. And it's all about, well, you know, this person said they heard this and then that person. Well, if they heard this, then it means this. And then they tell the person what they think it means. And before you know, it's all out of control and nobody can verify anything. And then, you know, somebody we're not to here to do through this investigation process. We're not here to devalue anyone. It's opinions. Everyone has opinion.

0:39:21.180 --> 0:39:32.580
Riggs, Scotty, VBAVACO
But when it comes to the context of an investigation, we really wanna stay away from opinion based facts because they're not gonna really hold up and they don't have much weight to them.

0:39:33.810 --> 0:39:46.820
Riggs, Scotty, VBAVACO
You know an employee very well may consider and and have an opinion of the subject of the investigation inside the you know the NBA. It was the worst mistake the VA ever made by hiring this employee. And I don't know why he still working here.

0:39:47.640 --> 0:40:7.30
Riggs, Scotty, VBAVACO
You know, hey, that's their opinion. They're entitled to it. But as an investigator, we're probably not gonna put much weight on that because it's, you know, it it it's just his opinion. He has no facts to prove that. So it's just an opinion. So we really wanna stay in this direct and circumstantial evidence when we're gathering that evidence.

0:40:8.950 --> 0:40:21.930
Riggs, Scotty, VBAVACO
And if I didn't mentioned before, then you know you can ask your questions in the chat with. I've got my colleague monitoring that and she'll during the tactical pauses we'll ask those questions and we'll make sure we get your answers to you.

0:40:24.980 --> 0:40:55.490
Riggs, Scotty, VBAVACO
So here's some types and description of evidence. So we talked about the classification of evidence, and now we're talking about types of evidence is, you know, testimony that's that's, you know, interview statements. You know, when we we asked and we interview questions, we're gonna receive testimony regarding that those questions physical, you know, tangible things, you know in the example I gave earlier where Sally hit John over the head. Well that stapler now becomes a physical piece of evidence written statements or documents.

0:40:55.760 --> 0:41:1.740
Riggs, Scotty, VBAVACO
That could be a handbooks or local policies, or SOP's or things that we're supposed to follow.

0:41:3.530 --> 0:41:7.40
Riggs, Scotty, VBAVACO
We wanna make sure that we have are using those if they're.

0:41:8.160 --> 0:41:12.890
Riggs, Scotty, VBAVACO
Available and then the the last categories demonstrative and that's just.

0:41:14.110 --> 0:41:18.220
Riggs, Scotty, VBAVACO
By its very nature of the name it, it means it demonstrates or illustrates something.

0:41:20.290 --> 0:41:40.30
Riggs, Scotty, VBAVACO
Very good example of that one is a sea seating charter diagram. You know, I knew when we're all in person, everybody had an assigned to you people and because of emergency type situations it was prudent on us to be able to stand who was setting where or you know an emergency protocol scenario so.

0:41:41.320 --> 0:41:57.900
Riggs, Scotty, VBAVACO
You may have that seating diagram of the BSc. Let's say that could come up, and when you're trying to evaluate evidence and and see who would more likely be able to observe it, you could use a seating chart to help you in that guide you in that process.

0:42:0.760 --> 0:42:13.920
Riggs, Scotty, VBAVACO
So now the next thing is is what? What is the evidence level that we need to prove or to draw a conclusion? What's the conclusion based on whether it's based on preponderance of evidence, meaning more likely than not?

0:42:16.470 --> 0:42:21.400
Riggs, Scotty, VBAVACO
One of my colleagues kind of reference this is as a 50% + a feather.

0:42:22.90 --> 0:42:36.680
Riggs, Scotty, VBAVACO
So anything over 50% is preponderance of the evidence. So if that's where the investigation leads us and we have preponderance of evidence, and we have to conclude that it did happen because the preponderance of evidence supports that.

0:42:39.660 --> 0:42:47.710
Riggs, Scotty, VBAVACO
Alright, so here's just a little check on learning here for you. Which one of these statements AB and you can use your chat box to respond.

0:42:48.50 --> 0:42:52.400
Riggs, Scotty, VBAVACO
Umm is there an example of hearsay affinity evidence?

0:42:59.600 --> 0:43:1.760
Riggs, Scotty, VBAVACO
Alright, I'm starting to see some A's come through.

0:43:4.860 --> 0:43:35.240
Riggs, Scotty, VBAVACO
Right. And you would be correct, A is the A is an example of hearsay because we have very testifying that Sally told her so. It's not that Mary has direct knowledge of this, but she's just relying on what Sally told her, which may be factual. We don't know, but it's it's hearsay evidence, which they're again, is evidence, but it wouldn't be what we want. Would want to base our whole conclusion on is just what Mary told us that Sally told her.

0:43:35.680 --> 0:43:50.600
Riggs, Scotty, VBAVACO
You know, and in the second one, it's direct evidence where Sally testified that she heard the bedrooms VSR yell at the veteran's wife. So she has direct knowledge. She was there, she heard it, and she could tell us more accurately what led to that scenario.

0:43:52.880 --> 0:43:56.480
Riggs, Scotty, VBAVACO
I here's the second slide with some check on learning here so.

0:43:57.420 --> 0:44:8.140
Riggs, Scotty, VBAVACO
This is gonna be the first ones gonna be true or false, and then you use the chat box here. Evidence is information that tends to prove or disprove a purported fact allegation or assertion. Is that true or false?

0:44:12.990 --> 0:44:38.760
Riggs, Scotty, VBAVACO
Alright, starting to see a lot of truths come through. I'm I'm glad to see that nobody's putting false cause. True is the right answer. That is, by the handbook policy that is there. Alright, so the question two, what is the evidence standard that we use in the in administrative investigation there's a it's the 50% + a feather. What is that overarching classification call or level preponderance? Great. Great job.

0:44:40.180 --> 0:44:59.580
Riggs, Scotty, VBAVACO
Now #3, you gotta do a little bit of thinking here. What's the list list of two of the there's four that we had on the slide. But what's 2 classifications of evidence? Don't worry about typing out their whole definition. We'll just, you know, we'll just what's 2 classifications of evidence?

0:45:1.670 --> 0:45:10.170
Riggs, Scotty, VBAVACO
Hi direct and hearsay. Yep. So, hey, there you go. That's probably the the, the Ying and Yang of evidence, right. One is good and one bad, right?

0:45:11.310 --> 0:45:25.100
Riggs, Scotty, VBAVACO
So very good job. Alright, so now the question 4. You have to reference that chart that's down below and we wanted to identify a type of evidence. So there was, you know, four different types that we went over. What would a technical manual be?

0:45:26.860 --> 0:45:28.170
Riggs, Scotty, VBAVACO
Which one of those four?

0:45:28.290 --> 0:45:32.280
Riggs, Scotty, VBAVACO
Uh, classifications of evidence would attack them on my annual be.

0:45:33.790 --> 0:45:54.740
Riggs, Scotty, VBAVACO
So am I saying direct? I don't know if that's in still coming through from question three, but this is I'll do the first one. So technical manual would be a documentary documentary so that that's something that that is a document or a reference or something that we have that we can reference to a policy.

0:45:56.150 --> 0:45:59.910
Riggs, Scotty, VBAVACO
Alright, So what would an organizational seat diagram be?

0:46:1.520 --> 0:46:5.330
Riggs, Scotty, VBAVACO
Demonstrate for us and I get that one right off the right off the bat.

0:46:5.990 --> 0:46:9.920
Riggs, Scotty, VBAVACO
Alright uh a transcript would fall into what category or classification.

0:46:17.450 --> 0:46:24.700
Riggs, Scotty, VBAVACO
Right. That one would be testimony. And then lastly the empty prescription bottle, that one would be.

0:46:26.30 --> 0:46:42.280
Riggs, Scotty, VBAVACO
That would be what we call good job, what we'd call physical evidence, and that's something physical, tangible we can hold. You know, we can go put our eyes on that prescription model. So that's a tangible piece of evidence. It's a great job with all those questions.

0:46:46.380 --> 0:47:17.280
Riggs, Scotty, VBAVACO
Alright, so now we're talking about as we transition, we pivot and we're talking about planning this interview. So part of that planning, the interview you wanna review, what evidence is out there, if we're talking about a leave issue, we wanna look at time and attendance records. You know, hey, does the time card reflect that he was AWOL for five days? If he's, you know, if he's in a leave without pay status for five days and the investigation says we're charging them that the allegation is AWOL. Well, I can tell you that's that's the two done mirror each other leave without pay as an approved leave status.

0:47:17.620 --> 0:47:25.540
Riggs, Scotty, VBAVACO
A wall is not so we need to make sure so we didn't wanna go find that time card. What? What? How are they recorded on the time card?

0:47:27.360 --> 0:47:53.70
Riggs, Scotty, VBAVACO
We wanna make sure we use open-ended questions to provide the the overall picture. We don't want to just bunch of yes and no questions we can use, yes no questions and sometimes they absolutely the the best course of action. But we don't wanna make sure we don't want to get to the point where our whole investigation is just a bunch of yes no responses because it's going to be really hard to write our findings of facts and really draw a conclusion based on yes and Nos.

0:47:54.360 --> 0:48:5.440
Riggs, Scotty, VBAVACO
But as we were talking about earlier where we would not, you know, in the the, the shortcomings where we didn't clarify an answer a yes, no question could very well be a.

0:48:6.100 --> 0:48:13.910
Riggs, Scotty, VBAVACO
Prime opportunity to ask that's kind of questions. Hey, if I heard you right and I understand you correctly, did you say this?

0:48:15.50 --> 0:48:17.170
Riggs, Scotty, VBAVACO
And then you can very well get a yes or no.

0:48:18.320 --> 0:48:31.130
Riggs, Scotty, VBAVACO
You know, don't accept generalities, ask clarifying questions, be inquisitive. Probe. They're again. I'll put that disclaimer out for the record that when I say inquisitive and probe, I am not trying to.

0:48:31.890 --> 0:48:53.780
Riggs, Scotty, VBAVACO
I'll tell you to go and be the Tom Cruise and a few good men and where you're just trying to be so aggressive with the witness that you're wanting to break them. That's not our intent. It is to we want to ask questions that pull information out, but no means. Are we talking about going to the extreme level depicted in as Tom Cruise played that role in a few good men?

0:48:57.260 --> 0:49:0.770
Riggs, Scotty, VBAVACO
So just some tips and practices we wanna start with.

0:49:2.280 --> 0:49:17.420
Riggs, Scotty, VBAVACO
Open questions and work towards the more Pacifics confirm details, details that you've heard correctly. This is the kind of a the school of thought of active listening. If you've heard of that before, you want to not be listening, just to.

0:49:18.80 --> 0:49:33.630
Riggs, Scotty, VBAVACO
Ohh and be thinking about after you asked your question. You don't want to immediately start thinking about. OK, I'm gonna ask this Ness and because at that point you're probably disengaged at a level that that's gonna cause you to miss important information. So we wanna be. We wanna try to stay engaged with the.

0:49:34.750 --> 0:49:38.800
Riggs, Scotty, VBAVACO
The inner the witness and make sure that we're clearly understanding what they're saying and hearing.

0:49:40.160 --> 0:49:58.90
Riggs, Scotty, VBAVACO
You wanna ask who else may have heard or seen this incident and in our best planning that effort, we've probably done all we can to ascertain is as much relevant information as we can, but sometimes the witnesses just has more information about it than we do and we need to give them an opportunity to tell us that.

0:49:59.630 --> 0:50:30.790
Riggs, Scotty, VBAVACO
We need to ask the witness about their knowledge of the rules and regulations. So, like I said, if it's a case where it's a wall and it's they didn't call in and didn't notify their supervisor, they were gonna be out and it then we need to know one that is there a policy that says they have to call in if you're not going to be out? And I'll I'll tell you. Yes, it is. And then we need to know, OK, do they have knowledge of this or is this some obscure policy nobody's ever heard of? And we're just kind of pulling it up to, you know, and we can't really prove.

0:50:30.920 --> 0:50:45.260
Riggs, Scotty, VBAVACO
That the employee ever had knowledge of it. I can tell you that's not gonna be a very hard, very what I would tell you winnable case and from a third party is if we can't link how they knew, you know and it could be something as simple. If you're discussing a new.

0:50:46.360 --> 0:51:10.550
Riggs, Scotty, VBAVACO
Technique or practice related to your team. It could be a teams meeting where you have the Minutes from that meeting where you discuss this and went over it and you haven't attendance roster and that employee was in was in that meeting that day where you discussed this policy and you provided minutes to it attesting to that fact. Then that's enough evidence to to know that they had they were aware of that that new policy or practice.

0:51:12.380 --> 0:51:31.910
Riggs, Scotty, VBAVACO
Ask those catch all questions. Is there anything else I should know about this incident? You wanna take notes and actually accurately capture the things and pay attention to their nonverbal cues. That's typically we will be able to pick up on those in a much deeper level on an in person interview.

0:51:33.50 --> 0:51:36.550
Riggs, Scotty, VBAVACO
Face to face, I would probably the better terminology there but.

0:51:37.670 --> 0:51:53.970
Riggs, Scotty, VBAVACO
Understand in the virtual world, we're operating in right now. Most of that's gonna be through teams and you wanna also make sure you get all sides of the story when you're interviewing this. Now, don't you know, don't make your own presuppositions about you, what you think happened.

0:51:54.720 --> 0:52:4.940
Riggs, Scotty, VBAVACO
Yeah. You wanna be objected even if you, even if you think you know where the evidence is gonna kind of lead you, you still wanna give that person in front of you the ability to tell their side of the story.

0:52:9.840 --> 0:52:12.520
Riggs, Scotty, VBAVACO
So here's just a interview question and we'll.

0:52:13.660 --> 0:52:19.190
Riggs, Scotty, VBAVACO
What are the first two are kind of what I would classify as as as weak interview questions.

0:52:20.910 --> 0:52:47.210
Riggs, Scotty, VBAVACO
They're not wrong on their own merits, but it's just probably not the best questions to ask. Is the way I would phrase that. So you look at it and you say, do others person perceive your relationship with miss floors as appropriate? It's a couple problems with that. One is it's probably you're gonna get the automatic response of no and then it's gonna be kind of hard to flesh out. Well, how do I know that that's not true?

0:52:48.460 --> 0:52:58.590
Riggs, Scotty, VBAVACO
And then the other thing you're doing is really trying to get that witness to attest to what others may perceive.

0:52:59.270 --> 0:53:13.660
Riggs, Scotty, VBAVACO
And they may not have. I mean, they may not know. I mean, it kind of in our URL. Our world is kind of where we talk about intent. It's it's so hard to improve intent. And in this same way this question is kind of hard for that.

0:53:13.740 --> 0:53:21.190
Riggs, Scotty, VBAVACO
And the the witness? You're asking that question to you is how are they going to know what others perceive?

0:53:22.560 --> 0:53:31.470
Riggs, Scotty, VBAVACO
So that's why I say it would probably be a week interview question. The second one I I, I've I've reviewed some fact findings and I see this one pop up sometimes.

0:53:32.730 --> 0:53:36.480
Riggs, Scotty, VBAVACO
And it's like, well, are you always performing your duties as required?

0:53:38.140 --> 0:53:44.460
Riggs, Scotty, VBAVACO
You know, I I just haven't ever experienced the A scenario where that question is went out.

0:53:45.780 --> 0:53:56.250
Riggs, Scotty, VBAVACO
More than more than likely what you get and the question that you get are response you get back from that is absolutely I always do what I what I'm required to do now. I've never not done my job.

0:53:57.690 --> 0:54:2.520
Riggs, Scotty, VBAVACO
Very rarely would you run into a situation or scenario where an employee would.

0:54:3.840 --> 0:54:7.810
Riggs, Scotty, VBAVACO
Say, well, you know that's a good question. And now that you ask.

0:54:8.940 --> 0:54:31.170
Riggs, Scotty, VBAVACO
Amateur duties 8 hours long, but time I take into account the time I spend on Facebook and ESPN and yeah, go around and talk in the hallways and good bid. So I probably I'd have to say that about 6 1/2 hours out of my, you know, 8 hours. Then I'm gonna sign to do duties. I I I could just test. I'm doing about 6-9 hours with the.

0:54:31.770 --> 0:54:36.280
Riggs, Scotty, VBAVACO
You're not gonna get that kind of information. I mean, just employees are not going to.

0:54:37.230 --> 0:54:54.60
Riggs, Scotty, VBAVACO
To say that. So that's why I say it's just kind of a weak you question I but a stronger way to approach interview questions is this. And this way you start to one you break it up and you start pulling different pieces of information out by your how you're framing your questions.

0:54:55.350 --> 0:54:56.50
Riggs, Scotty, VBAVACO
So it's like.

0:54:56.870 --> 0:55:21.800
Riggs, Scotty, VBAVACO
Yesterday morning. Did you hear Miss Flores scream? So you're asking them about a A, A. A very narrow focus timeline here because you need to know this cause you've already you already have in the letter when this alleged incident happened. And so you're starting to narrow down their their focus of where you want them to focus at in this this interview. And you're referencing yesterday morning.

0:55:22.910 --> 0:55:46.720
Riggs, Scotty, VBAVACO
And then you wanted to start using those action words I described to me what you saw or heard. Where did this occur? Who else was in the area? Because they're again, you may only have the initial thing that the it's the person that you know, let's say, in case of Sally and John were Sally hit John, you may initially only in the the letter have that Sally went to her supervisor and said John.

0:55:47.840 --> 0:55:57.60
Riggs, Scotty, VBAVACO
Hit me with a stapler, but then when you begin to flesh out those initial interview questions, you can ask who else was in the area and.

0:55:58.10 --> 0:56:12.690
Riggs, Scotty, VBAVACO
He could be Sally testifies at that point. Well, you know that Sue Mary and Jane were all standing right beside me at the time he did it. Well, now the sudden you just got more witnesses interview and you got more people that can start helping you ascertain whether this happened or not.

0:56:13.700 --> 0:56:14.130
Riggs, Scotty, VBAVACO
Umm.

0:56:15.50 --> 0:56:18.920
Riggs, Scotty, VBAVACO
You can ask the question like has anything like this happened before?

0:56:19.970 --> 0:56:21.770
Riggs, Scotty, VBAVACO
That's a good question because.

0:56:22.640 --> 0:56:33.650
Riggs, Scotty, VBAVACO
It helps you determine how big of a problem you're dealing with. We mentioned that way in the beginning of your responsibilities is we may think this is a remote incidence that nobody you know.

0:56:34.850 --> 0:56:40.560
Riggs, Scotty, VBAVACO
Has ever done this kind of action that you know that Sally is just a remote incident that she?

0:56:41.980 --> 0:57:5.180
Riggs, Scotty, VBAVACO
Hit John with a stapler or you know, and that's all we think it is. But then when we get to interview in it and witnesses and they're like, yeah, you know, this is some makes sense while y'all are just now deciding to investigate this. I mean, this is the fifth time John's been hit over the head with the stapler. I I don't understand why nobody's even bothered to investigate it before. Well, those kind of questions will pull out that type of information.

0:57:5.840 --> 0:57:14.210
Riggs, Scotty, VBAVACO
And then always that catch all question, there's the last one is what additional information can you provide that will help better understand this matter that way it it's one.

0:57:15.240 --> 0:57:45.240
Riggs, Scotty, VBAVACO
It's validating them as a witness when you answer it and phrase it that way. It is you're like, you know, hey, I understand you have information that can help me in my process and so help me better understand this matter. Tell me, you know, if there's anything I'm missing or anything that I haven't went over yet. And so you become and you know, they go from just being a as a inactive role in this to a collaborative role in this interview process with you. So just to.

0:57:45.590 --> 0:57:49.100
Riggs, Scotty, VBAVACO
Tip on some way to phrase questions and ask questions.

0:57:50.710 --> 0:57:55.890
Riggs, Scotty, VBAVACO
It's scary. Uh, we have a question about uh, hearsay. Do we open up the opportunity to hearsay?

0:57:58.670 --> 0:58:23.470
Riggs, Scotty, VBAVACO
Do we open up the opportunity for hearsay AM regarding to what context? I'm let me gather what maybe the question is and someone may have to clarify, do we open up the opportunity for hearsay? I I guess it since I'm talking my questions. Are you talking about like has anything else happened like this or what else, what? What other additional information can you provide? OK, so if we're underneath that context.

0:58:24.570 --> 0:58:26.990
Riggs, Scotty, VBAVACO
You may get hearsay off of that.

0:58:27.740 --> 0:58:28.260
Riggs, Scotty, VBAVACO
But.

0:58:29.720 --> 0:58:34.890
Riggs, Scotty, VBAVACO
We don't wanna just because it could lead to you're saying we don't want to also.

0:58:35.510 --> 0:58:51.10
Riggs, Scotty, VBAVACO
Uh, you know, not pay attention to potential information that they could have that would understand this matter. You know, they may have information and we'll and that's part of that, analyzing that evidence we talked about earlier and we're we're gonna talk a little bit more here in just a minute.

0:58:53.50 --> 0:58:53.550
Riggs, Scotty, VBAVACO
Is.

0:58:54.220 --> 0:59:5.500
Riggs, Scotty, VBAVACO
Even if they give you hearsay, it it's it's OK because you'll know how to, as a fact Finder to evaluate that and how what level of credence that hearsay is gonna get. But.

0:59:6.450 --> 0:59:22.430
Riggs, Scotty, VBAVACO
You very well could get direct evidence in that same manner, so I I get your point that it it does kind of almost beg the question. Well, what if they just start talking about their opinions are here and say or hearing what they've heard about this situation. Yes, it it is a risk.

0:59:23.600 --> 0:59:36.440
Riggs, Scotty, VBAVACO
But I I will tell you the value of that you would potentially gain out of answering a question similar to that would probably outweigh the the, the you know the negative of getting here say.

0:59:37.220 --> 0:59:38.660
Riggs, Scotty, VBAVACO
Hopefully that answered your question.

0:59:45.620 --> 0:59:54.120
Riggs, Scotty, VBAVACO
Alright, so another thing we need to be aware of and pay attention of is what, what what I would classify as of surprise answers.

0:59:55.360 --> 1:0:1.190
Riggs, Scotty, VBAVACO
So you know you you do your planning and you've got, you know, four or five. You know how many depending on the.

1:0:2.270 --> 1:0:21.910
Riggs, Scotty, VBAVACO
The witness you may have, you know, up to 10 questions that you've come up with that. Hey, I wanna make a note on the. Write them down so I don't make sure. You know I don't wanna miss asking the question that I think is relevant to this process. And you got your 10 questions and you're going through and you've asked the first three. Don't active listening make your notes and everything.

1:0:23.90 --> 1:0:28.190
Riggs, Scotty, VBAVACO
And then you get the question four and all of a sudden they give you an answer you didn't see coming.

1:0:28.860 --> 1:0:33.820
Riggs, Scotty, VBAVACO
It's a surprise answer and you're like ohh wow. So what? This graphic is really.

1:0:35.590 --> 1:1:4.100
Riggs, Scotty, VBAVACO
Wanting to depict and and kind of get you to focus is that when you get a surprise answer, all that's gonna do is cause you to reevaluate. So you you're gonna reevaluate some assumptions and and knows that you may have thought, you know, you may have had some assumptions before that. Now this surprise answer is gonna either cause you to evaluate that assumption and it may very well cause you to pivot the rest of that interview or it may cause you to pivot the rest of your investigation based on this answer.

1:1:5.780 --> 1:1:22.430
Riggs, Scotty, VBAVACO
It very well could create more answers and ultimately it's probably going to lead to the discovery of new information or reinterpretations of information that's already available. So the the key thing is is just understand and be flexible.

1:1:23.340 --> 1:1:45.60
Riggs, Scotty, VBAVACO
In your interview process that you can pivot as required by surprise answer that you're ready to do that and you're not so focused on, you know, here's my 10 questions and I'm just gonna read this one. OK, they're through talking. Here's question to you way through talking. Here's question three. You go down that list and you're missing something that they're telling you that could be.

1:1:46.70 --> 1:1:54.670
Riggs, Scotty, VBAVACO
You know a surprise answering something that you wasn't looking for that may cause you to pivot into a different direction and the investor.

1:1:59.210 --> 1:2:31.930
Riggs, Scotty, VBAVACO
So when receiving the answers, we talked a little bit about this. But you know you wanna listen carefully. You wanna keep an open mind? Ohh, paraphrase the responses that show that you're listening. That paraphrase the the response was back to them is one of those components of active listening. You wanna control the interview but don't dominate the discussion. So you wanna be respectful in it. You want to keep control of the interview and not allow them to, you know, sidetracked you or or go off on tangents or rabbit holes throughout the process. You want to be in control of the interview.

1:2:32.20 --> 1:2:34.660
Riggs, Scotty, VBAVACO
But you always want to do that with professionalism and respect.

1:2:35.870 --> 1:2:48.640
Riggs, Scotty, VBAVACO
You want to summarize key points. It could be a point that you may ask a question and don't rush. If you ask a question, give them time to sit there in that silence because as human.

1:2:49.300 --> 1:3:22.830
Riggs, Scotty, VBAVACO
Silence is it's kind of awkward for us. We don't know. Some folks like it. If you if you are in the practice of doing meditation, that's probably something you would enjoy. But for most people, especially in an interview scenario, when there's just this awkward silence, it it makes us feel uneasy. And sometimes out of that uneasiness comes a response. So now I'm not telling you to sit there in an interview and do a 10 minute stare down with him, interview just to intimidate them. That's not what I'm saying. But sometimes I tactical pause or.

1:3:23.10 --> 1:3:24.790
Riggs, Scotty, VBAVACO
Just a brief moment of silence could.

1:3:25.970 --> 1:3:42.40
Riggs, Scotty, VBAVACO
Make you adhere to make a response, come out and then react to the unexpected disclosures we talked about on the previous slide. Just be sure to have enough flexibility in your interview that you can pivot if you need to.

1:3:44.560 --> 1:4:14.930
Riggs, Scotty, VBAVACO
Alright, so now we're gonna talk about some different types of witnesses here. The first one is what I call the lawyer witness. That's the one that is really what the intent of them participating is, is they want to prove to you how much smarter they are than than you. You know, they'll start quoting, you know, anything and everything. And they may quote citations and they may even start quoting case law and whatever else. And that's all fine. And and it's great that they have that knowledge, but.

1:4:15.50 --> 1:4:18.200
Riggs, Scotty, VBAVACO
When I that previous side said you control the interview.

1:4:19.450 --> 1:4:28.110
Riggs, Scotty, VBAVACO
What that in practical and how this would flesh out is if you get someone that you kind of feel like men every time I ask a question, all I get is like this.

1:4:28.780 --> 1:4:59.690
Riggs, Scotty, VBAVACO
You know this academic jargon that's just trying to prove how smart they are, and it's not really answering my questions. You know, you would need to pivot the investment, the interview back to pay. I understand it sounds like you got a breadth of knowledge and man, that's awesome to have the, you know that you got that knowledge, but hey, can you pacifically answer this question for me? You know, that's what I and the course in the context of this investigation, this is what I need answered. So that would be just a way that you would kind of pivot that.

1:5:0.660 --> 1:5:4.320
Riggs, Scotty, VBAVACO
Back to, you know, the questions that you're answering.

1:5:7.780 --> 1:5:29.40
Riggs, Scotty, VBAVACO
Right. And then the the these next two, how you may have someone that's called that's the incident expert. You know if we've ever watched crime drama shows, you'll you understand they always have that every crime drama show I've ever watched is especially the law and order world. There's always that one witness that comes in and the whole case just pivots in the direction based on this one testimony.

1:5:29.800 --> 1:5:47.570
Riggs, Scotty, VBAVACO
And so you may have somebody that comes in and believes that that's that's their role and that's their function and they're there to become the subject matter expert with witness. And when the BBA list of Hall of Fame witnesses gets published, their names gonna be at the top of it. And that's what they're gonna.

1:5:48.520 --> 1:6:16.940
Riggs, Scotty, VBAVACO
That's what they're there to prove to you is that you know, hey, I this is this is absolutely. I'm the best thing they ever had. And this is the, you know, I'm the best solution to BBA when it comes to talking about this incident there again, just control the interview. Reed pivot them back to the question on hand. If they're trying to answer more about their abilities as a witness and not answering your questions as the interview interviewer.

1:6:18.870 --> 1:6:23.700
Riggs, Scotty, VBAVACO
The next one is is a fun one to deal with. Have you ever experienced this?

1:6:24.740 --> 1:6:39.710
Riggs, Scotty, VBAVACO
Well, a lot of times this could be prompted by nerves, but we have what we call a fire hose witness and this is this is one that we said that we have to active listening, right? That's a a best practice is to active listening and then component of that is to be able to paraphrase things back.

1:6:41.290 --> 1:6:41.910
Riggs, Scotty, VBAVACO
So if.

1:6:42.640 --> 1:6:55.140
Riggs, Scotty, VBAVACO
They go on and you get you asked the simple question and you may out, you know, ask like a simple open-ended question of you know, hey, how long have you worked for the VA and what's your current position? Just kind of you know easing into the interview?

1:6:56.590 --> 1:7:3.300
Riggs, Scotty, VBAVACO
And the next thing you know, 10 minutes later, they're still telling you about every job they've had since they've graduated high school.

1:7:4.860 --> 1:7:14.970
Riggs, Scotty, VBAVACO
Great information. If it was just casual conversation, right? But in in the interview process where you're mentally engaged in this and you're trying to active listening and paraphrase.

1:7:16.690 --> 1:7:19.990
Riggs, Scotty, VBAVACO
It's hard to paraphrase something back after 10 minutes.

1:7:20.730 --> 1:7:32.880
Riggs, Scotty, VBAVACO
And furthermore, all those jobs he did previously is not relevant to the question you asked. You merely want to know what is his the amount of time he's been a VA employee in the position that he's currently holding. So there again, you may.

1:7:34.310 --> 1:7:47.440
Riggs, Scotty, VBAVACO
We typically don't recommend interrupting, you know someone. It's it's, you know, just professionalism and and being the professionals we are. We wanna give everybody opportunity to respond and without interruptions.

1:7:48.100 --> 1:7:57.860
Riggs, Scotty, VBAVACO
But I will tell you that this is probably one of those exceptions that were you may need to step in very in a very delightful, polite manner and kind of do an interruption and kind of say hey.

1:7:59.430 --> 1:8:29.190
Riggs, Scotty, VBAVACO
I appreciate all this information and it sounds like you got a lot to say, but you know in in the context of me trying to active listening, I I need you to just make your answers a little bit more concise so I can clearly understand what you're talking about and keep them relevant to the question I've asked. I understand you have a lot of information. You know, you may know a lot of information, but I just need them in a very concise manner. So it'd be a way that you could pivot that back into controlling that interview process.

1:8:31.220 --> 1:8:46.900
Riggs, Scotty, VBAVACO
The last one we'll talk about is this clueless witness. This could be somebody that you know understands their right to cooperate, but they really don't want to cooperate. But they understand. Well, I don't want to get in trouble for not cooperating. So I'm just going to go in there and act clueless like.

1:8:47.740 --> 1:9:0.620
Riggs, Scotty, VBAVACO
You know you're I I don't even understand why I'm even on the witness list. I have. No, I you know, I have no knowledge of anything. And it could be, you know, you could answer a simple question. Hey, what is the?

1:9:1.340 --> 1:9:2.160
Riggs, Scotty, VBAVACO
What is the?

1:9:3.320 --> 1:9:12.390
Riggs, Scotty, VBAVACO
Software we use to record all of our, you know, leave in and they'll be like, well, I don't know. I I I don't know anything about leave.

1:9:15.10 --> 1:9:48.660
Riggs, Scotty, VBAVACO
You know it, it could be something like that. You know that. Why? I don't know what you're talking about. I don't even. I don't even. I don't even know anything about leave. We got leave in the VA. Wow, that's news to me. That could be a very, you know, good indication to you like, Umm. So. OK, so this employee really doesn't want to cooperate in this. So they don't wanna go on record that they provided any information. And you may have to pivot that. And if you've got some evidence or you got some other facts you wouldn't wanna, you know, pull out anybody else's testimony, disclose that to them. But if you have a piece of evidence and e-mail that they send or something.

1:9:48.900 --> 1:10:9.160
Riggs, Scotty, VBAVACO
That, you know, is an e-mail like, hey, I just saw Sally hit John and they come in there and you start asking questions. They're like, I don't know. I don't know anything about this. I don't know why I'm in here. Then you may just slide that e-mail that they sent saying, hey, can you attest that this is your e-mail and that that that's your e-mail address and that you sent that on this day.

1:10:9.830 --> 1:10:19.100
Riggs, Scotty, VBAVACO
Be just a way that you pivot it to kind of clue them back in like hey, you've got some information and this is part of the process you need to cooperate and provide what relevant information you have.

1:10:24.600 --> 1:10:28.730
Riggs, Scotty, VBAVACO
So we talked about it before, is that the preponderance of evidence is what we need to.

1:10:30.0 --> 1:10:56.690
Riggs, Scotty, VBAVACO
The standard of proof it's it's basically 50% + a feather. If you wanna look at it that way and we don't wanna get into a no witness and you know our our conflicting accounts, we don't wanna just flip a coin per se and say, well, Umm, I feel like it's in a day. So I'm gonna choose employees. A's testimony over employee's testimony. We want to be able to prove and show how we got to that conclusion that one testimony is more.

1:10:58.640 --> 1:11:0.120
Riggs, Scotty, VBAVACO
You know, believable than the other.

1:11:3.200 --> 1:11:14.990
Riggs, Scotty, VBAVACO
Which then begs the question, well, what do I do if who I have conflicting evidence? Well, we need we we must reconcile that conflict. You know, it it not like that scenario. We went over at the beginning of it.

1:11:16.130 --> 1:11:18.210
Riggs, Scotty, VBAVACO
We don't wanna get to the point where we're like.

1:11:18.820 --> 1:11:46.220
Riggs, Scotty, VBAVACO
Well, it's just that he said. She said there's two different sides of this story. I don't know who's right. I'm not gonna really bother with trying to reconcile that. Good luck. Initiating story. You determine if you think anything's here now as a fact, Finder, that's part of our responsibility. We have to reconcile that. And there's some, and we'll talk just on these next few slides. Just about how we do that evaluation. And and that analysis of that information to come up with.

1:11:46.920 --> 1:11:48.520
Riggs, Scotty, VBAVACO
Reconciling that conflict.

1:11:51.950 --> 1:12:4.30
Riggs, Scotty, VBAVACO
And here's some of the questions you want to consider. You know is is 1 document more reliable than the other you know? Is it an original? Is it certified or authenticated copy you know within?

1:12:5.200 --> 1:12:28.10
Riggs, Scotty, VBAVACO
Let's say that you need something out of an EPS. Then if I'm requesting that from HR because my you know unless you work in HR a lot of times you don't have access to EPS. But if there's a document that you feels relevant to your investigation that is in the UPS, then you may wanna ask HR hey, can you send me a copy? And now by the way, when you send me a copy, can you?

1:12:28.350 --> 1:12:42.20
Riggs, Scotty, VBAVACO
Ohh, you know they can print it to Adobe PDF, but when they do that hey can you print it within a watermark on it? That way it authenticates it a little bit more because it it it tested the hey this is the original that was in there. It's a watermark on this.

1:12:44.350 --> 1:12:56.850
Riggs, Scotty, VBAVACO
Is War One witness more competent? And that's when we was talking about that demonstrative evidence earlier. We're the seating chart could lead us to that, that hey, you know, I understand you said that this did not happen but.

1:12:57.520 --> 1:13:15.370
Riggs, Scotty, VBAVACO
You know, I I have consulted with IT. I see that you were logged on, you were, you know, at your you're supposed to be at your computer working and there was activity on your computer and you said all the way across this room. But you're adamant that it happened, but yet there's somebody that was sending right next to this person.

1:13:17.110 --> 1:13:35.170
Riggs, Scotty, VBAVACO
Says that it didn't happen. When you do that, then you start that analysis, then it leads you kind of believe like and how did they actually see this? They were at their desk and how they're so adamant that this happened when somebody that was sitting right next to him says it didn't. So that's just part of the process you would have to go through.

1:13:36.450 --> 1:13:55.320
Riggs, Scotty, VBAVACO
And then we'll talk about this, the credibility of a witness. So we talk about comp when we're talking about competence, we're talking about the competence of the evidence. But when we get into credibility, we're talking about the witness. And I'll go to this next slide. And this is all away from 1987, a court case that went up. Ohh and.

1:13:56.580 --> 1:14:20.860
Riggs, Scotty, VBAVACO
This is what came out is that hey, when you get into determine the credibility of a witness, here's the seven factors you need to evaluate and use to come to a conclusion about that. It's the witness and opportunity and capacity observed that event, the character prior inconsistent statements. Now you may say well, how do I know if they ever testified in the investigation that's been inconsistent.

1:14:21.590 --> 1:14:38.580
Riggs, Scotty, VBAVACO
Narrow that scope down to your investigation. Did they say something in one time while you were you had you know they were testifying, then other evidence come out. They conflicted. That and you said, hey, I need to clarify some information. Let's do another interview. You get there in, in there and.

1:14:39.590 --> 1:15:4.670
Riggs, Scotty, VBAVACO
You know, you start asking about the clarifying information based on new effort and they're like, well, now that you now that you said that, yeah, I'm gonna change my story. I I yeah, this is what actually happened. I just throw out what I said before. That's not that. You know, I was just nervous. Don't don't pay attention to that. Well, that's a priority inconsistent statement. So that could be used in the in this factor analysis.

1:15:5.790 --> 1:15:30.140
Riggs, Scotty, VBAVACO
The witnesses bias obviously in that scenario we had some bias issues going on. The contradiction of the witnesses version of events, the inherent propability improbability of the witnesses version of events, and then the witnesses demeanor, you know, those are all factors that we wanna consider and look at when we're determining the credibility of the witness. So the hill and factors associated to the credibility of that witness.

1:15:34.450 --> 1:16:4.260
Riggs, Scotty, VBAVACO
Just a word of note about release of information, cause typically within a fact finding we will get questions about releasing information. The key thing for you to know is a fact Finder. If you get a request for information, whether it's from the Union or anybody else, go back to the initiating authority. Let them make that determination and give you permission. We all understand and BA we have privacy officers that can be the sneeze and the subject matter experts on releasable information. So we just don't want to do that.

1:16:4.390 --> 1:16:12.150
Riggs, Scotty, VBAVACO
On our own and just well, I think it's OK because if we get challenged on that, we're gonna have to defend that decision to release that information.

1:16:14.730 --> 1:16:37.680
Riggs, Scotty, VBAVACO
So now we're going to talk about, like the report when we get down to the finding the facts. What's the finding? The fact if we're gonna put it, if it's a section in the the report and you'll find that you 700 a sample report, there's this section in there says finding the fact we need to know that. And these are just factual statements relevant to the issues for the investigation that the NBA the fact finding has been determined to be true.

1:16:38.920 --> 1:16:44.830
Riggs, Scotty, VBAVACO
And they're not subject to reasonable doubt. You know, the things like times and places and persons and events and.

1:16:45.250 --> 1:17:14.820
Riggs, Scotty, VBAVACO
Umm one just note about the your report is if you're going to reference something in your report, that's a piece of evidence. Let's say you're gonna reference the VA handbook 5011. Well, that's a pretty that's over, you know, 200 pages long, if I remember correctly. So you don't want to make a generic reference. And like, yeah, according to a policy or VA handbook, 5011, the employee violated said policy by when he, when they did X.

1:17:16.80 --> 1:17:30.930
Riggs, Scotty, VBAVACO
And a better way and a better approach to that is lead the initiating authority in your report to the citation of where you're going, you know, hey, VA Handbook 5011, part one, chapter 2, paragraph 7, #2.

1:17:31.730 --> 1:17:50.80
Riggs, Scotty, VBAVACO
And then that you can do that through parenthetical citation or an end note of footnote. We're not, you know, requiring you to do a full blown research paper. But you know, that's just easy way that you're communicating to the initiating authority where you have that where you're drawing that fact from what piece of evidence leads you to that fact.

1:17:53.480 --> 1:18:1.310
Riggs, Scotty, VBAVACO
And a factual statement, if it's. If it doesn't meet these three criterias, then it should be listed as a conclusion. You know if it's not.

1:18:1.390 --> 1:18:4.460
Riggs, Scotty, VBAVACO
Ohh substantially contradicted by.

1:18:6.290 --> 1:18:22.400
Riggs, Scotty, VBAVACO
Other evidence, you know, if it meets that, then it's it's good. If it's not supported by the evidence establishing is truth and it doesn't require you to take a whole lot of leaps of faith. You know, we don't want me taking leaps of faith in our evidence in our in determining our facts, that evidence should lead us to it.

1:18:23.640 --> 1:18:51.920
Riggs, Scotty, VBAVACO
And I'll tell you the easiest way that you know when you go through this process and the whole fact finding process, one of the key things is is you may have a lot of assumptions about what happened or didn't happen. And the only way to turn that assumption into a fact is by asking a question, that's how we turn assumptions into facts. We need to ask a question whether that question is, is, hey, what policy you reference a policy, but what policy is it that God's that or maybe through interview questions we have to ask those, but we wanna.

1:18:52.600 --> 1:19:7.950
Riggs, Scotty, VBAVACO
Make sure that we have a clear linkage between what was alleged. Here's what the evidence says, and based on that evidence, here's the facts. And based on those facts, here is what I conclude. You wanna make sure that the initiating authority has a clear.

1:19:9.540 --> 1:19:13.600
Riggs, Scotty, VBAVACO
Linkage between those two things, and we're really articulated that in our report.

1:19:13.680 --> 1:19:39.890
Riggs, Scotty, VBAVACO
You're gonna hear you. No, we're gonna get the questions. They must be based on the problems of evidence. We said that we rarely. Do you not have a good solution on the particular matter? If you've been doing, can't conclude that it occurred in the reciprocals. True. Let me turn instead. It didn't. You know, based on the preponderance of this so evidence. Unfortunately, I started this recording plus the feather. And I gotta let it run until the end. And I think it has 10 more minutes on it. So.

1:19:41.370 --> 1:19:53.500
Riggs, Scotty, VBAVACO
In summary, this is what we talked about today. I will tell you one last thing about recommendations. It is at the discretion of the initiating authority. More about that once the recommendation in the report.

1:19:53.580 --> 1:20:8.530
Riggs, Scotty, VBAVACO
Along that path tell you it's not highly advised by GC to recommend anything, and I'll tell you why. Because the moment you go when you recommend that based on my investigation, I think a 10 day suspension is warranted. Check this out.

1:20:9.270 --> 1:20:17.550
Riggs, Scotty, VBAVACO
Now you've just limited and put your proposing and deciding official. That would have to decide to depose and decide this action in a box.

1:20:18.190 --> 1:20:20.830
Riggs, Scotty, VBAVACO
So you have just limited them in their.

1:20:21.750 --> 1:20:30.660
Riggs, Scotty, VBAVACO
They're flexibility to decide what's appropriate corrective action. That's the best way to put a recommendation is appropriate corrective action, because if they want us to go.

1:20:31.740 --> 1:20:35.900
Riggs, Scotty, VBAVACO
And so you recommended a 10 day suspension based on your investigation.

1:20:36.680 --> 1:20:43.190
Riggs, Scotty, VBAVACO
And then the proposing official goes and says no, this is gonna be a 30 day suspension, and that's what I'm gonna pose. And then the deciding official.

1:20:44.590 --> 1:20:49.820
Riggs, Scotty, VBAVACO
Says. You know what I think actually maybe 15 days suspension is proper.

1:20:50.480 --> 1:21:20.850
Riggs, Scotty, VBAVACO
Well, that deciding official now is at risk, because if somebody challenges that like, hey, the fact Finder that conducted this investigation said a ten day suspension was the appropriate penalty, why did you decide in official who didn't even have, didn't even to conduct the investigation? Why did you determine 15 days? So it just put your deciding to propose officials at risk when you do that. So that's why we don't really recommend putting recommendations in there. But if you do.

1:21:21.250 --> 1:21:31.670
Riggs, Scotty, VBAVACO
Simply just say I recommend appropriate corrective action, cause it could just be a lack of training that calls this whole situation to occur and we can simply address that training need and move forward.

1:21:33.940 --> 1:21:40.940
Riggs, Scotty, VBAVACO
So I'll go to the last slide and that's the question slide that hyperlinked e-mail address is our.

1:21:42.20 --> 1:21:42.940
Riggs, Scotty, VBAVACO
Consolidated.

1:21:44.260 --> 1:21:50.730
Riggs, Scotty, VBAVACO
URL or HCS is corporate mailbox. That's one that what we did behind that is.

1:21:51.460 --> 1:21:58.740
Riggs, Scotty, VBAVACO
We wanna make sure that you have an Ave that you don't have to try to decide. Hey, who's that work today? And if they're not at work, who? Who do I contact?

1:21:59.710 --> 1:22:10.940
Riggs, Scotty, VBAVACO
If you send it to this mailbox, then you know it's monitored and then that way you're complaint or not complaint, but you're asked for guidance or anything.

1:22:11.900 --> 1:22:29.820
Riggs, Scotty, VBAVACO
Can be properly assigned to somebody that is in the office and that you know if if you know somebody that it can get properly addressed in a timely fashion. So that's the the idea in the concept behind that, I think there was some official communication that went out to everybody about these boxes, visual explanation of why they exist.

1:22:30.730 --> 1:22:40.790
Riggs, Scotty, VBAVACO
With that, I'm going to open it up for questions. If if there's questions out there I haven't addressed or something that maybe one of the slides didn't.

1:22:42.180 --> 1:22:47.810
Riggs, Scotty, VBAVACO
Hit on that. You wanna ask? I'm on calls for a minute and ask for any questions.

1:22:50.560 --> 1:22:59.510
Riggs, Scotty, VBAVACO
Hey, Scotty. We had a couple of questions in the chat. Umm, can we record interviews and if so, is there some type of disclaimer we have to provide?

1:23:0.850 --> 1:23:6.930
Riggs, Scotty, VBAVACO
OK, great question. This came up before and here's my response cause I've had to address this before.

1:23:9.450 --> 1:23:13.580
Riggs, Scotty, VBAVACO
VBA does not have a policy on recording.

1:23:15.830 --> 1:23:39.250
Riggs, Scotty, VBAVACO
You know when we're in these interviews, so I've I've asked OG C in an opinion and the best guidance I've gotten from OG C is because each individual state has the ability to determine whether a mutual consent is the threshold to record someone, or is it only one one party that has to consent to recording?

1:23:40.470 --> 1:23:44.330
Riggs, Scotty, VBAVACO
So I can tell you as a best practice if someone is.

1:23:44.990 --> 1:23:47.360
Riggs, Scotty, VBAVACO
Objecting to recording.

1:23:48.150 --> 1:23:49.320
Riggs, Scotty, VBAVACO
I don't think.

1:23:50.100 --> 1:23:59.970
Riggs, Scotty, VBAVACO
That the risk versus ward is high enough for you to record that anyway, even if you're in a state that only requires one party to consent to recording.

1:24:0.610 --> 1:24:16.950
Riggs, Scotty, VBAVACO
It just opens us up for risk if we get challenged on it. So if they voluntarily say, hey, yeah, I'm. I'm gonna be on video that's I have no problem, then go ahead. But if they, if you have someone that objects then I would recommend not doing it a recorded session.

1:24:19.610 --> 1:24:25.130
Riggs, Scotty, VBAVACO
And related to that, could we transcribe the recording and provide it to the employee for signature?

1:24:26.500 --> 1:24:41.800
Riggs, Scotty, VBAVACO
Yes, if you're doing it in teams chat, where the teams I believe has the ability to have a a chat, a transcript provided, then if it's their individual testimony and and that's an easy way for you to to send that to them and say, hey, can you, here's the what the.

1:24:43.70 --> 1:24:47.830
Riggs, Scotty, VBAVACO
You know, here's the transcript from our call today and our interview that you participated in.

1:24:48.990 --> 1:24:56.220
Riggs, Scotty, VBAVACO
Can you clarify you know any, you know misspelled words or you know anything because we know when we talk sometimes that.

1:24:56.990 --> 1:24:58.790
Riggs, Scotty, VBAVACO
The our computer system they made.

1:24:59.850 --> 1:25:8.410
Riggs, Scotty, VBAVACO
We may have said one word, and they may have translated as a different word. So yeah, there's no issue with asking them to to attest to that.

1:25:11.400 --> 1:25:25.650
Riggs, Scotty, VBAVACO
OK. What is what direction would we take when a Union representative interrupts the questioning or answering? I was investigating and the Union representative kept interrupting and wanting to lead the answering of the employee.

1:25:27.200 --> 1:25:30.630
Riggs, Scotty, VBAVACO
OK, great question, there's.

1:25:32.610 --> 1:25:38.360
Riggs, Scotty, VBAVACO
Unions are there is a contractual right for them to be there as a they represent their employee.

1:25:39.490 --> 1:25:48.10
Riggs, Scotty, VBAVACO
But the union hasn't cannot answer for the employee, and the Union cannot interrupt and control this process.

1:25:49.90 --> 1:25:52.740
Riggs, Scotty, VBAVACO
If that is happening and it sounds like you've already experienced that.

1:25:54.270 --> 1:26:1.930
Riggs, Scotty, VBAVACO
Then the best practice I would have is to go on record at that moment. If they keep interrupting and trying to answer for their client.

1:26:3.460 --> 1:26:12.30
Riggs, Scotty, VBAVACO
Is I would I would immediately pause my interview and say, hey, we're gonna enter, we're going to pause this interview.

1:26:13.540 --> 1:26:32.610
Riggs, Scotty, VBAVACO
I'm gonna allow you some time if you need to confer with your with the employee on what's the best way for him to respond to these questions? Because that's in your advisory role. That's within your roles, but the employee is here to testify in their own words. They have to be said testifying.

1:26:33.750 --> 1:26:49.760
Riggs, Scotty, VBAVACO
And you can't, you know, interrupt this process and there's a there's a chart about unions, cans and cannots during these FLRA puts that out about, and that's one of the things they can't do is disrupt the meeting. Now did that.

1:26:50.440 --> 1:27:6.30
Riggs, Scotty, VBAVACO
Does that mean that they'll never do it? Obviously, that's not the case, because if you've already experienced that, it does happen, but sometimes they'll do it until you, you know, kind of call them on it and they know that, you know their rights and how they're supposed to interact. So that's what I would recommend.

1:27:8.600 --> 1:27:20.930
Riggs, Scotty, VBAVACO
As someone has made the comment that witnesses sometimes no longer work for the agency, witnesses will come up, which brings up a good question. Can we compel Nonemployee witnesses to testify?

1:27:22.640 --> 1:27:38.280
Riggs, Scotty, VBAVACO
No. Everything I've I've I've talked about as far as employee cooperation, non non employees or the VA or otherwise a, you know, a a partner example like the spouse of a veteran or, you know, a spouse of an employee.

1:27:39.130 --> 1:27:55.220
Riggs, Scotty, VBAVACO
They can participate on a volunteer basis, but they're same. The guidance and regulations that governs us as far as cooperation does not apply to them. That is the only to VA employee. So it's on a voluntary basis. If they choose to participate.

1:27:58.950 --> 1:28:10.190
Riggs, Scotty, VBAVACO
We have a clarifying question about recording. Can you record for your own use when preparing your report? If you don't plan on using it for public record?

1:28:12.220 --> 1:28:22.280
Riggs, Scotty, VBAVACO
I he would still be. It goes to that consent if you know the employee is not aware that you're recording that, then I think you put yourself at risk.

1:28:28.630 --> 1:28:38.350
Riggs, Scotty, VBAVACO
Yeah, if they're not, if they're not consenting to your reporting, whether it's for your own personal use or for you using it as a piece of evidence, it's still gonna come down to that same threshold.

1:28:46.790 --> 1:29:3.920
Riggs, Scotty, VBAVACO
It looks like those are the questions we haven't chat. I just put the TMS or I'm putting the TMS information in right now. And just for reminder that to be a trained fact Finder for VBA. Please be sure to certify your completion and TMP buddy, we're going to leave here in two seconds. All right, well.

1:29:4.570 --> 1:29:32.870
Riggs, Scotty, VBAVACO
I I saw the final yeah, going to the things as thank you so much for your time this afternoon. Your your questions, your participation in this education journey. It's been my pleasure. And you know, if I never help you in any way, just reach out and let me know. Thanks to all the background help from the IT side and you've heard Miss Laura the voice there helping with the chat box it really may help me to.

1:29:33.660 --> 1:29:38.170
Riggs, Scotty, VBAVACO
Keep my focus on the training. Not having to worry about all the chat box and making sure that.

1:29:39.0 --> 1:29:44.980
Riggs, Scotty, VBAVACO
She was handling that and we could get your questions answered. So thank you for your time with us today.