

## CEP Magazine – January 2021 Ensuring organizational justice for all

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Ralph Waldo Emerson said that “A foolish consistency is the hobgoblin of little minds.”<sup>[1]</sup> While this is generally true, achieving organizational justice, through focusing on fairness and well-reasoned consistency when determining and administering discipline, is a coveted sign of sophistication and effectiveness in the world of ethics and compliance.

### So what is organizational justice?

Organizational justice is the process by which an organization investigates and addresses employee misconduct, and the way an organization manages employee perceptions about and expectations around that process. To be clear, there are aspects of investigations and how the organization addresses employee misconduct that need to remain “behind the veil” for privacy and employment law reasons. However, there are many aspects of the same that can and should be shared with employees, some of which are highlighted below. This transparency helps manage employee expectations and reduces the inherent concerns and consternation employees have related to investigations. This in turn helps employees feel more comfortable about coming forward and participating in investigations. It is difficult to trust the process if you have little, if any, visibility into that process.

There are three aspects of organizational justice, and they all center around a notion of intentional fairness: fair process, fair treatment, and fair discipline.

### Fair process

Fair process deals with how the company investigates misconduct (i.e., how an organization views the complaint, the accuser, and the accused). All complaints (or portions thereof) should be treated as potentially credible unless they clearly are not. All accusers should be treated with respect and repeatedly encouraged to provide information. All those accused of misconduct should be a presumed innocent until proven otherwise. There should be a commitment to follow the evidence and not to try to fit the facts into a preconceived conclusion. There should be an intentional balancing of the employee's legal rights with the company's reputation, ongoing business interests, and stated company values. Lastly, the process should be based on an established investigation protocol that is used clearly and consistently.

### Fair treatment

Fair treatment deals with how those directly involved in the investigation will be treated—specifically, the maintaining of confidentiality and anonymity (where requested). This involves sharing information on a strict “need to know” basis and, when in doubt, not sharing it. Fair treatment also means treating everyone involved

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(the accuser, the accused, and witnesses) with respect and guarding their reputations. Those involved should be interviewed, not interrogated; the interviewers should be courteous but thorough; and the interviewees should be told that their cooperation and candor are required and expected. Lastly, a “no retaliation” warning should be given to all involved.

## **Fair discipline**

Fair discipline deals with providing management with enough information to determine the appropriate level of discipline once misconduct is verified. This involves sharing key verified facts about the investigation, information about how similar cases were handled in the past and an appropriate range of discipline levels. In other words, the goal is to ensure the determined discipline is consistent with the organization’s core values and with disciplines for similar misconduct in the past.

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