HR ACUITY® EMPLOYEE RELATIONS PLAYBOOK

INVESTIGATIONS:
From Allegation to Aftercare

When I founded HR Acuity, I had three goals in mind:

+ **To create the leading employee relations technology.**

+ **To build a strong community of ER leaders and practitioners that could help each other solve common challenges.**

+ **To become the leading source for industry best practices and benchmarks.**

I knew that delivering on these goals would fill a void, elevate our profession as a whole, and lead to better outcomes for organizations and their employees.

This series of employee relations playbooks is designed to help you build your practice on a strong foundation. I'd like to think these feel like the copious notes you'd take if you were at one of our ER roundtable events, hearing from the people who are the pioneers in this growing profession.

Thanks for downloading this series of frameworks. I can't wait to hear what you think.

Deb Muller

CEO, HR Acuity

HR**ACUITY**

Strong employee relations (ER) is a moving target, and ER professionals are *caught in the crosshairs.*

Strong employee relations (ER) is a moving target, and ER professionals are caught in the crosshairs of exponentially nuanced employee expectations, increasingly complex employment laws, rapidly changing corporate policies, and the constant pressure of avoiding a PR crisis.

Despite external pressures driving so much change, employee relations professionals must still deliver a consistent internal process that promotes transparency and builds trust for everyone involved. Only then can an organization proactively resolve complaints rather than defending them in the court of public opinion.

We've got your back.

We tapped into our network of employee relations experts to find out exactly how they are meeting the biggest challenges in today's employee relations. Unsurprisingly, they had a lot to say, so we've curated their feedback into a series of efficient playbooks, specifically designed to help ER leaders like you approach a wide variety of issues from a place of empathy, consistency, fairness, and, of course, compliance.

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Designed to guide your team from allegation to aftercare, this playbook arms you with evolved protocols, resources, and templates better suited for and more relevant to our *changing world of work.*

This playbook isn't a primer on how to conduct investigations, but rather a tool to evolve your own protocols in the context of today's world of work.

Here's what you can expect to gain from this playbook:

- Evolved protocols from allegation to aftercare

- Resources, best-practice examples, and tips from experts

- Ready-to-use, time-saving templates

We hope you'll find this playbook an invaluable part of your toolkit.
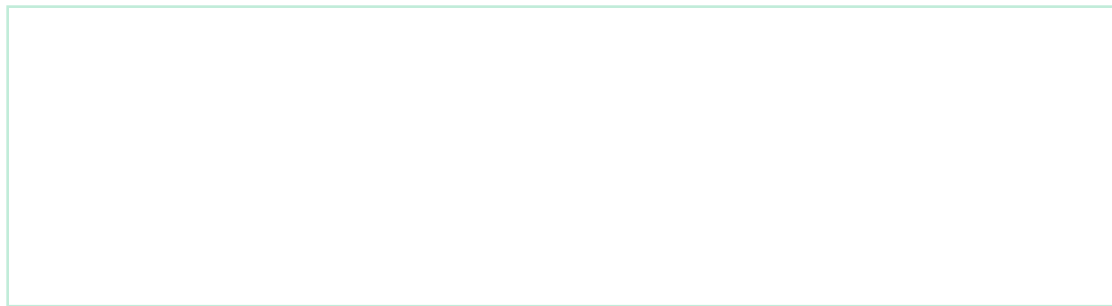
Part 1:
Notice of Allegation

How your organization responds to a notice of allegation sets the tone for everything that comes next. The truth is, that initial response is an important, yet often overlooked step — *big mistake!*

For a complainant, this critical first impression influences how they experience the rest of your process. A timely, respectful response that validates the fact that their allegation has been received and explains what they can expect to happen next goes a long way to reduce anxiety and to reassure them that your process is trustworthy and comprehensive. The secret to never making a bad first impression? Build in a consistent process for timely, well-crafted responses.

A consistent process and structure promotes transparency and builds trust for everyone involved. What's more, consistency also empowers a proactive ER stance, helping your team get ahead of issues before they become larger risks for the organization.

INSIDER TIP: Carefully consider the level of transparency you want to have with the broader organization during your investigation process. Being transparent about the investigative process increases trust, helping you head off more complaints internally rather than through external options.

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Mastering your process for consistent timely and respectful responses isn't rocket science. It's smart planning. Prior to receiving a complaint, you'll want to know the answers to the following questions:

What does our initial response look like, and when should the complainant receive it?

While your specific messaging is subjective, timing is fairly straightforward. Most complainants want to hear from you as soon as possible. Start by standardizing fair response times. For example, for a non-emergency, a response within 24 hours thanking the individual for coming forward and advising them of what to expect next sets the tone for a respectful process and aligns with reasonable expectations. Of course, certain allegations that threaten physical danger require a faster response, and your process should have communications mechanisms ready for that as well.

How do we determine the appropriate depth of our investigation?

After the initial intake conversation, your organization should have consistent thresholds that help determine whether a complaint warrants an investigation and, if so, the depth of the investigation required. Many organizations rely on a consistent, tiered approach to help define next steps.

Well before eventual investigations come knocking on your door, create investigation tiers based on the values of your organization and the risk tolerance agreed upon among the executive team, human resources, and the legal department. For example, investigation tiers could span from "light" to "formal":

- A personality conflict among peers ("light")
- An initial performance concern ("light")
- Complaint involves misuse of social media (first offense, "light"; third offense, "formal")
- Complaint impacts a protected characteristic ("formal")
- Complaint involves a senior executive ("formal")
- Complaint involves fraud or theft ("formal")

INSIDER TIP: Just because something doesn't require a formal, in-depth investigation doesn't mean you can ignore it. If someone alleges that something occurred, your job is to get the facts. Think of an investigation as a fact-finding mission, even if that mission is straightforward and short-lived.

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Who will investigate?

Not all investigations are created equal, hence investigative teams are not always the same. Multiple factors should be considered when assembling the right investigation team.

Factors include but aren't limited to:

The seriousness of the allegation.
Generally, formal investigations require a larger team that includes an internal, well-trained ER or HR professional, a team member from legal, and/or a third-party investigator.

The presence or absence of protected characteristics.
When allegations involve a protected characteristic, your team must determine early on, or if the investigation escalates, whether the investigation report is covered by attorney/client privilege.

Trained resources on location.
When an investigation occurs in a remote location without an ER or HR team member present, or if you operate in a decentralized model or your organization simply doesn't have a dedicated ER team, investigation teams including an HR business partner or HR generalist may be required. Note: when significant risk is involved, consider the risk mitigation value of hiring an external investigator.

The type of allegation.
Some organizations share investigative responsibility among HR, ethics, audit, and security departments depending on the issue at hand. Determine in advance which types of allegations will be managed by which department(s), but ensure that the investigative experience and process for those employees involved is the same regardless of the lead investigator.

Investigator neutrality.
We're all human. As such, it's important to remain aware of and avoid unconscious bias when an ER or HR professional has been involved in a prior investigation or works closely on a day-to-day basis with the parties in question. Whether you are protecting neutrality or just the perception of it, it pays reputational dividends to assign another professional who can maintain it.

Credibility and optics.
When allegations involve senior leaders or members of the HR or legal team, neutral external investigators add a critical layer of credibility. Pre-vetting external investigative partners is a smart move too. If you've got them on speed dial, your ER function won't miss a beat, and fact-finding can begin as quickly as it would if you were running the investigation internally.

Potential Benefits of Investigations:

- Address employee concerns early, consistently, and appropriately
- Encourage employees to report concerns
- Reduce legal exposure
- Reinforce your organization's commitment to stated values and culture
- Help identify and resolve internal organizational opportunities
- Enforce policies, core values, and code of business conduct
- Identify employee confusion around company policy

Primary Method for Assigning Cases on the Employee Relations Team

+10 points from 2019

By Line of Business	40%
By Case Type	13%
By Geography	12%
1st In, 1st Out	10%
By Complexity	8%
By Issue Type	6%
Auto Assigned	2%

TIME SAVER TEMPLATE: This investigation flowchart helps you you consistently decide how deep an investigation should go. Make it your own!

VIDEO: This video shows you how to go deeper on managing investigations that involve senior leaders in your workplace.

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How should internal investigators be assigned?

Creating consistency in investigator assignment has a lot to do with your organization model and the depth of your ER resources. Ultimately, you'll have to decide what works best for your organization. Here are some of the most common assignment categories as reported by our experts in the [HR Acuity Annual Employee Relations Benchmark Study](#).

Be judicious with the use of external investigators. They are great in high-profile or high-risk investigations. However, overuse can plant seeds of employee mistrust in the ER function. When you do use external investigators, set them up for success by giving them enough to be informed while not tainting their neutrality. Not only should you be ready to share pertinent facts about the specific allegation, but having a standard culture and values dossier can go a long way to helping investigators understand your organization.

Sharing prior case determinations may risk *influencing* a conclusion.

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Business Unit:

This is probably the simplest and most straightforward method for assignment, so it's no wonder it's also the most popular (see the HR Acuity Annual Employee Relations Benchmark Study linked to the left). Many organizations dedicate ER professionals to business units. From there, they use a rotation strategy to help the team maintain neutrality.

Location:

This strategy is largely reserved for global organizations who face regional nuances and balance a variety of legal and compliance rules. For these organizations, ER teams function differently across geographies, but even more importantly, they must account for different laws, cultural norms, work councils, trade unions, and so forth.

Case Type:

Some organizations consider case type (e.g., investigations, performance) when making assignments. The more complex the issue, the higher the professional (i.e., less experienced team members start with simpler issues, continually growing their investigative skills as they mature toward tackling more complex issues). Finally, some organizations with deep resources go so far as to split their ER team into "arms," such as an investigation arm, a performance management arm, a leave-of-absence arm, or a compliance arm.

Rotation Until Capacity Reached:

Much like accounting, this method is a bit of a first in, first out strategy. Some organizations create a "point system" and then assign cases based on the complexity of the investigation, and once an ER professional reaches capacity, they are removed from rotation until they close a case and resume the ability to take on new investigations.

Now that we've covered questions you should answer to create consistency and build trust from the moment you receive a notice of allegation, let's move on to how our experts maintain those efforts as they begin the actual investigation.

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Part 2:
The Actual Investigation

Just as it does in the notice of allegation stage, a consistent process and structure for how you conduct investigations *promotes transparency and builds trust* for everyone involved. Similarly, mastering your process for consistent, thorough, and fair investigations requires smart planning.

INSIDER TIP: An ER case management solution like HR Acuity centralizes your documentation, streamlines your workflows, and provides robust trend analysis. We use the platform to link to key data points within our HR information system (HRIS), security system, and others to give us a more holistic view of our organization. **Learn More**

Prior to starting your investigation, you'll want to answer questions that contemplate a variety of fact-finding best practices. Our experts say they've solved for the key points below before they fire off the first interview question:

How do we track and store documentation related to investigations?

Our experts overwhelmingly recommend and use a robust ER management system. Their reasons are simple:

- A consistent process requires easy access, intuitive workflow, and of course a tight tracking system. Paper files simply aren't sufficient and can't keep up with location-sensitive workflows or timely, compliant version control.

- Simple case management systems or even "making it work in Excel" doesn't scale and therefore does nothing to promote consistency. In fact, their shortfalls open you up to unnecessary risk. Most don't allow you to attach, share, and edit full files, which opens you up to the risk of printing or duplicating sensitive documents or worse—using outdated documents.

- Confidentiality is key when dealing with such sensitive issues. Be sure that whatever employee relations tech you are leveraging provides enough granularity in permissions so that you can access what you need while keeping details related to these confidential matters just that—confidential.

- Simple systems don't support trend analysis. Smart teams keep a proactive eye on trends so they can identify and address issues before they escalate. Without visibility, that proactive stance is nearly impossible to achieve.

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What language do we use across the organization?

Words matter, and consistent language is a must. Make sure you have standard language to describe the person making the allegation. Are they a complainant, respondent, subject, person of interest, or something else? Are you conducting an investigation or an inquiry? While there are wide opinions on preferred word choice—for example, we're not big fans of the word "accused"—consistency across the organization is key.

Similarly, require consistency in how you identify people within documentation. When writing reports, do you use last names, initials, or full names to identify involved parties? Keep in mind that initials and first names are great for moving things along, but it pays to make sure each involved person is clearly identified somewhere in your files along with their title, role, and the date(s) of their interview(s).

How do we communicate with the involved parties during the investigation?

Consistent communication workflows are critical and should be mapped in advance. Like tiering, this should be done before an investigation arises. Mapped communication workflows should answer questions like who should be notified, how and when they should be notified, and of course, by whom. Answering these questions in advance ensures there is no confusion when it's "go time."
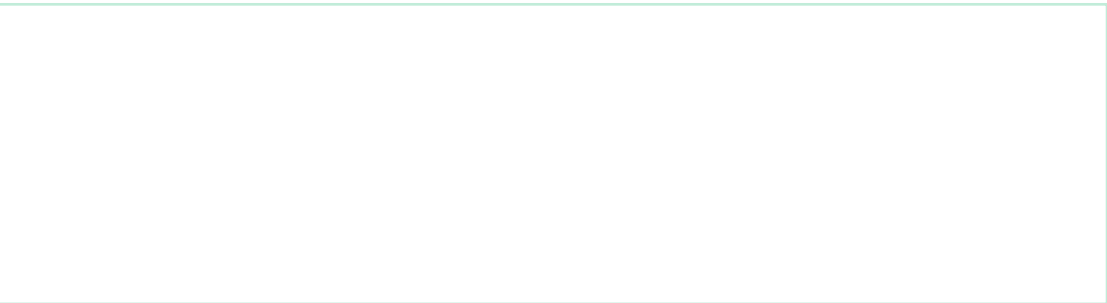
Considering what type of case management is best for you?

Check out the ER Technology Buyers Guide.

COMPLAINANT

- Acknowledgement of allegation and what to expect
- Introduction to the process
- Periodic updates
- Findings and closings
- Aftercare

SUBJECT OF INVESTIGATION

- When to notify
- What type of communication throughout investigation
- Closing and follow-up activity
- Aftercare

WITNESSES

- Notifications
- Required follow-ups throughout
- Closure
- Aftercare

OUTSIDE ENTITIES

(for example - regulatory agencies, law enforcement)

- Who makes contact
- In what situations is contact made
- What internal approvals are required

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What are our interview protocols?

Regardless of who sits down to interview an employee in the course of an investigation, the process should be the same. Establish standard protocols and review them with involved parties at both the beginning and end of the interviews. These protocols establish that your company has a process in place for managing allegations of misconduct and that they are critical for setting expectations. Protocols may include things like formally thanking the employee for coming forward, discussing your policy regarding retaliation, and establishing an explicit process for communicating and confidentiality. Certain regions may also have specific regulations that must be reviewed, such as regulations related to data privacy. Not only are you setting the tone, but you are also creating a record of formal communication.

When to get others involved?

Well before investigations start, the details of your partnership with your legal team should be buttoned up. Skipping or underestimating the tactical details of this step is a big, yet avoidable, mistake. The presence or absence of your legal team impacts the experience for everyone, and it's just as important to know when to have them as it is to know when to leave them out. Our experts recommend completing this as part of the overall process discussed above. It is also a good idea to determine under what circumstances and when a designation of attorney/client privilege may be requested by your counsel so that it is consistently and properly applied.

Don't assume that just because someone is an ER or HR professional they actually understand the nuances and importance of privilege and how to protect it. When in doubt, ask your counsel to host a session to educate your team and make sure everyone is on the same page.

INSIDER TIP: For employees, the perceived difference between investigation and interrogation can be deceptively subtle. When legal is unnecessarily involved, things inevitably slow down and feel much more formal. Employees can easily start to feel cross-examined rather than simply heard. On the flip side, omitting legal when they are truly needed opens avoidable risk as ER teams can inadvertently waive attorney/client privilege for the organization.

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Do we allow recording?

Unless you are extremely concerned about the investigation skills of all your investigators, it is recommended to put the recorders away—that includes phones! Check your company policy, which may restrict recording, and lean on that, but keep in mind that different states have different laws. Be aware of applicable state laws for recording devices and confirm whether or not two-party consent is required. It is a recommended practice to let your interviewee know (during the protocols perhaps) that you are not recording and confirm that they are not as well. Make sure your team has a ready response if a participant wishes to record the conversation. Your best partner in defining this process is your legal team.

What data are we capturing?

It's important to capture and document the right facts. Doing so ensures that future auditors or other interested third parties have an accurate understanding of exactly what occurred. While some fact-finding is obvious, such as the details surrounding the complaint, some fact-finding can appear inconsequential in the moment but prove important later on. Best practices include standardizing how you capture dynamic facts that can change over time, such as job titles, job locations, team members, and direct managers. Quickly preserving this data in your tracking management solution helps avoid inadvertently deleting evidence because, really, who wants to piece together shredded documents or recreate documents that are out of date? You also want to preserve all the documentation and evidence that is presented during an investigation in a centralized, well-maintained, and secure location.

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When and how do we involve other parts of the organization, such as security and IT?

Again, establishing early partnerships is key. IT and security teams are pulled in a lot of directions, so when it's time to pull them into ER investigations, everyone will appreciate your consistent, thoughtful planning.

Our experts suggest having ready answers to the following questions when building these important partnerships:

- When can employee emails be pulled? This should be established in accordance with the organization's values.

- Are there other platform communications that should be captured (e.g., IM systems or Slack).

- Is there relevant video available, and who is allowed to request it?

- Are there company-issued cell phones that should be reviewed? Can you pull text messages?

- When should security do further review? For example, in cases of potential physical threat, do they have access to weapons review?

- Do your privacy policies allow you to pull this information? Are there additional internal steps required before taking this step?

INSIDER TIP: As ER teams wrap up investigations, they should have a consistent way to evaluate the effectiveness of those investigations while the experience is still fresh for everyone involved. Consider a predesigned survey that can feed into employee net promoter scores (eNPS).

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How do we document our findings and recommendations associated with investigations?

Before you wrap up an investigation, it's important to already know how and when to document final conclusions and what you'll include in your report. Our experts recommend making sure initial reports stay limited to facts and fact-based determinations. Here are some other recommendations they shared:

- Standardize what is or isn't included in the initial report. Some investigation reports are considered complete at the point of factual determination, but recommendations for next steps and remedial measures are kept in a different report or process. Whatever process you choose, just keep it consistent.

- Include credibility assessments. Credibility statements help others understand why an investigator chose to believe one or more witnesses over others. When recording a credibility assessment, make sure it's obvious your investigators have considered all facts, inconsistencies, and motivations of individuals involved. The determination and the factors considered should be clearly documented in the report.

What is our decision-making process?

After ER has done its job and conducted a thorough, fact-based investigation, someone has to make a final decision about the organization's response. These can be tough decisions, so there must be clarity around who is responsible for making those final decisions and what escalation routes exist if the ER team has concerns about the decision.

- Identify who is responsible for making conclusions, drafting recommendations, mapping next steps, and informing participants. Once factual conclusions are made, many organizations choose to pull together a broader team to help inform recommendations, verify next steps, and so forth. For example, ER teams pull in HR to review prior cases for precedent or review conclusions with legal to understand where risk mitigation is necessary. They may also invite business decision-makers to weigh in on the right next steps. For example, next steps could include discipline, up to and including termination, training, coaching and ongoing review.

- Identify who communicates final outcomes to participants. Once the investigation is truly closed, participating parties must be informed of the final conclusion, appropriate information must be shared, and aftercare should begin.

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Part 3: Aftercare

The period following an employee investigation is a sensitive time. Taking the time to create consistent, thoughtful aftercare processes *goes a long way.*

Traditionally positioned as risk mitigation, aftercare has been associated with proactively avoiding retaliation or ensuring remedial measures were effective. However, in leading-edge ER functions, aftercare has earned a promotion from follow-up tactic to follow-through commitment.

Aftercare is generally defined as supportive interventions and resources for individuals involved in ER investigations. It's designed to assess individual well-being and team effectiveness, help repair potentially fractured relationships, and maintain a workplace culture aligned with company values.

INSIDER TIP: Proactive sharing of aggregated, anonymized investigation data with employees is a best practice that goes a long way toward building trust and transparency while creating a culture of accountability.

A thoughtful aftercare program should touch everyone who participated in an investigation. After all, each person feels an impact and walks away with their unique perception of the process and overall experience. As such, when there is opportunity to personalize aftercare, it's effort well spent.

Here are some best practices our experts recommend for achieving a consistent approach:

- Most ER aftercare programs have components focused on those involved in the investigation (i.e., complainant, subject, and witnesses) and include post-investigation check-ins one month after case closure and subsequent check-ins at regular intervals as needed, such as three to five months.

- Be sure to consider aftercare for allegations that were both substantiated and unsubstantiated. Withholding aftercare because a claim is unsubstantiated can further isolate a complainant and make the whole ER program feel disingenuous.

- Pull in your legal partners to make sure your post-investigation activities follow relevant legislation, union, or works council requirements in an individual jurisdiction.

- Don't forget to consider those who may have been indirectly impacted by the circumstances such as leaders and other employees. Include training or other programs to openly address workplace concerns as needed.

- Document aftercare initiatives as vigorously as you do the rest of the process.

- Dedicate resources that can commit to follow-through. A well-planned but under-resourced aftercare program can boomerang and demolish the trust earned throughout the process. Participants may interpret unkept promises as a sign that the organization no longer cares once the investigation is over. Make sure proper resourcing is forecast and secured prior to implementing a full aftercare program.

AFTERCARE

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Conclusion

We've covered what ER experts are doing during investigations, from allegations to aftercare. By answering the right questions early, they are *evolving consistent protocols, resources, and templates* that keep them ready for investigations in our changing world of work. We hope you've found this playbook full of value you can reference with your team.

If you liked Investigations: From Allegation to Aftercare, we think you'll love our other playbooks:

- People Leaders: The Critical Link to Great Employee Relations
- ER Org Structure: How to Design and Optimize

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ADDITIONAL RESOURCES

HR Acuity Employee Relations Benchmark Study

ER Technology Buyers' Guide

HR Acuity Investigation Flowchart

HR Acuity Expert Webinar: Conducting Executive Level Investigations

HR Acuity Interview Protocol Checklist

HR Acuity Investigation Report Template

HR Acuity Case File Checklist

Additional resources shared by members of the HR Acuity Employee Relations Roundtable can be found on **empowER**, the only online employee relations community.

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Contributors

Deb Muller
CEO & Founder, **HR Acuity**

Rebecca Trotsky
VP of People & ER Strategy,
HR Acuity

Kristin Binkley
Principal, **Athlone Consulting**

Leslie Crowe
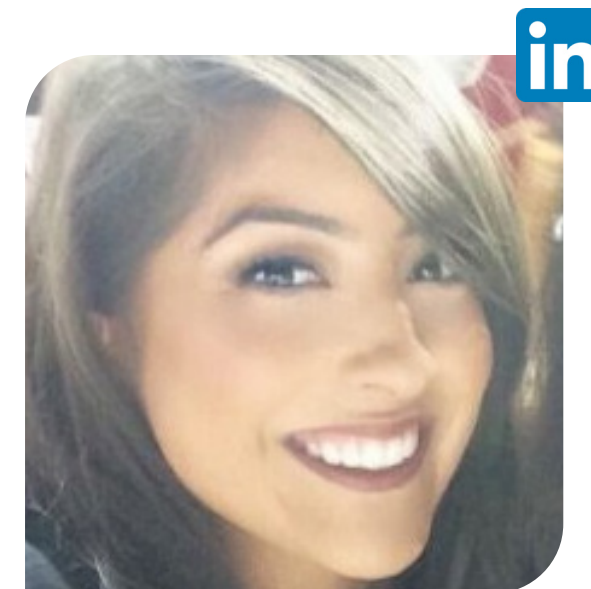Manager of Employee Relations
and HR Policy, **Williams Energy**

Kelly Hale
Director of Employee Relations,
Salesforce

Tracy Tate-Gowins
AVP, Employee Relations,
Metlife

Melissa Villanueva
Senior Employee Relations Partner,
Workday

We'd love to help

Employee Relations is growing more complex daily. Yet while you've got more challenges, you've also got *more opportunities* to drive organizations forward and influence company culture than ever before. Thankfully, you've also got more tools at your disposal.

We'd love to talk to you about how we can help you and your team build trust and engagement between your organization, leadership and employees through our purpose-built software and robust community of employee relations professionals.

GET IN TOUCH

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