

Complaint Interview Guide

It is important to approach each investigation with an open mind and consider all relevant facts before reaching any conclusions or making recommendations. It is also important to ensure that the investigation is conducted fairly and impartially, with due regard for the rights of all parties involved.

When investigating a complaint of harassment or other employee relations issues, it is important to follow a structured process to ensure that all relevant information is gathered, analyzed and considered. Below are some best practices that can be followed when investigating a complaint.

Do the following when possible:

- Interview witnesses separately in an office or room where the discussion will not be overheard by other witnesses, the alleged harasser, or any other unauthorized persons.
Observe and record all physical and verbal reactions of the witnesses during the interviews.
- Ask open ended, non-judgmental questions. Avoid asking leading questions or those with a simple “yes” or “no” answer.
- Get all the facts: who, what, where, when and how. Identify any witnesses.
- Avoid the following types of questions: Multiple choice questions such as, "Did s/he touch you on the arm, the shoulder or breast?" Instead ask, "Where did s/he touch you?"
- If the accused admits to the harassing behavior, document the response and immediately tell him/her that it must stop immediately. Confirm his/her understanding.
- If the accused denies the behavior, remind the person that you are merely investigating both sides of the story at this point and that you have not made a final determination.
- Workplace harassment is a serious issue that requires a thorough investigation. When investigating workplace employee relations issues, it is important to gather all relevant facts to fully understand the situation. Here are some potential sources to consider when investigating.
 - Witness statements, performance evaluations, disciplinary records, emails, electronic records, timecards, video surveillance physical evidence (such as documents, notes, or objects) and attendance records.

Interview Opening

- 1 Introduce yourself
- 2 Explain the purpose of the investigation
- 3 Explain the purpose of the specific interview
- 4 Briefly describe the overall investigation process
- 5 Make a statement about the importance of accuracy and truth
- 6 Emphasize that the Company takes these allegations very seriously and that the Company is investigating these allegations by interviewing all potential witnesses in compliance with our policy.

- 7 Explain that confidentiality is necessary to protect the integrity of the investigation and to ensure that the Company receives trustworthy information in an atmosphere free from coercion (without violating Section 7 NLRB Rights).
- 8 Explain to all witnesses that retaliation will not be tolerated by anyone. If someone attempts to retaliate against them for complaining or participating in this investigation, advise the witness to contact you immediately to report such conduct.
- 9 Emphasis that to the best of our ability, we will maintain each person's confidentiality throughout the investigation however we can make no promises of confidentiality.

Sample Questions to Consider Asking During an Investigation

The Complainant:

- 1 Please tell me what happened in your own words. Be as specific and chronological as you can.
- 2 What exactly did s/he say to you?
- 3 If physical contact was made, ask, where on your body did s/he touch you and in what manner?
- 4 Did she appear to be speaking or acting in a joking manner? How do you know that s/he was serious?
- 5 Where did this behavior take place? Outside the workplace? Was it in the workplace?
- 6 How did the behavior make you feel?
- 7 How did you respond to the behavior at the time?
- 8 Did you tell him/her to stop? What was harasser's reaction?
- 9 Did you tell harasser in any way their behavior was unwelcome? What was harasser's reaction?
- 10 Did the complainant participate in the misconduct?
- 11 Did you ever tell him/her that you found the behavior offensive?
- 12 How frequently did the behavior occur?
- 13 Did it increase in severity as time went on? If yes, please explain.
- 14 Were there any witnesses to the encounter(s)? Who? What would they be able to add?
- 15 How would you characterize your relationship with him/her in the past? How would you describe it? How do you think s/he would describe it?
- 16 Did you ever go out for lunch or dinner or other forms of socializing, alone or as part of a group? How often?
- 17 To whom did you originally report the conduct? Why did you choose that individual?
- 18 How long after the conduct occurred did you report it? Were there reasons that caused you to wait to report it?
- 19 Have you suffered any adverse employment actions: bad performance evaluations, demotion, denial of pay or benefits?
- 20 Are there any people inside or outside of the company you talked to immediately after the incident(s)? Who?
- 21 Can you identify a triggering event or comment? What do you think provoked the incident(s)?
- 22 Upon completion of each interview, ask the interviewee to prepare their own written statement documenting in their own words what occurred (or what they witnessed, heard, etc.). Attempt to get a written and signed statement from each person interviewed. If a witness is unwilling to provide a written statement, ask them to read your interview notes and sign at the bottom, acknowledging that this is an accurate record of what they communicated to you.
- 23 Explain the process moving forward

The Alleged Harasser:

- 1 Explain the purpose of the interview by referring generally to the recent complaints.
 - a. Do not necessarily discuss the issue of type of harassment (sexual, bullying, verbal, discrimination, religious, other) so that you do not taint the witness's recollection of the events.
- 2 What would you like to say in response to the brief summary I've just given you?
- 3 Describe to me what occurred? What did s/he say? What did you say?
- 4 (Related to sexual harassment) Did you touch him/her? Where on his/her body did you touch him/her? What was your purpose? What did s/he say or do immediately before and after the touching?
- 5 Where did this occur? In a workplace location? Specifically? At a business-related function? As part of a social outing? Who else was there?
- 6 When was this? What time of the day?
- 7 Are there any aspects to the complaint that are true? What are they? What do you disagree with?
- 8 Are there others who might have seen or heard something relevant to our discussion? Who are they? What would they have seen or heard?
- 9 Did you tell anyone about the incident at the time? Later? Who did you tell and when? What is your relationship with that individual?
- 10 What kind of overall climate is there in the work group/department?
- 11 Is there any joking or teasing? Who participates?
- 12 How would you describe your relationship with him/her? Was it strictly business, entirely personal, or a mix?
- 13 How long have you known him/her? How do you think s/he would describe your relationship?

Witnesses/Relevant Others:

- 1 Ever seen or heard of anything you considered to be inappropriate in the workplace?
- 2 Have you ever personally seen or heard anything to indicate that s/he was being made uncomfortable at work, or that s/he found the work environment offensive? What did you see or hear? Who was making things uncomfortable? In what way?
- 3 Did the complainant ever tell you about this incident? What did s/he tell you? When was that?
- 4 What kind of relationship would you say you had with this individual? Was it strictly business, entirely social, or a mix? How long have you known each other? What would you say is going on between them?
- 5 Who else might know something about this?
- 6 How would you characterize the workplace atmosphere?
- 7 Have you observed any changes in the atmosphere since the incident(s)?
- 8 Were you a participant in the discussion?
- 9 Have you seen him/her act in a similar way with other employee(s)? Females? Males?

Upon completing the interview

- Without violating employees concerted activities rights encourage any witnesses interviewed not to discuss the matters covered during the interview with any co-employee or the alleged harasser.
- Tell them that if they remember anything following the interview that was not disclosed you would like them to seek you out and disclose what they left out.
- Emphasize the seriousness of the complaint and thank them for their participation.