

Investigation Checklist

General Outline/Steps of an Investigation:

1. Approval
2. Investigator's role
3. Timing
4. Interview alleged victim
5. Decide whom to interview next
6. Interview witnesses
7. Interview accused individual(s)
8. Follow-up after accused individual(s) interview
9. Was policy violated?
10. Inconclusive investigation
11. Implement the decision
12. Post decision follow-up

I. When a complaint is received:

- First ensure complainant and any other alleged victims are safe and free from further harm during course of investigation (until permanent resolution is decided).
- Notify the appropriate management personnel (legal, appropriate top executives, appropriate line management).
- If accused individual(s) is a Company employee, remove accused individual(s) from same working vicinity as complainant (if appropriate) for duration of investigation (assign to another location or suspend pending outcome of investigation, as appropriate).
- Determine who should conduct the investigation. It is good practice to have a second person witness the interviews/investigation when appropriate.
- Ensure the investigators have no conflict of interest or history that may discredit the investigation.
- Determine who should be interviewed/investigated (names of complainant(s) accused individual(s), witnesses, etc.). Limit discussion of incident to these individuals.
- Establish a timetable, if possible, for resolution of the matter. Harassment investigations should generally begin within the first 24 to 48 hours of the time the first complaint was made.

Consider the order in which the investigation will be conducted:

- Complainant(s)
- Accused individual(s)
- Co-workers and other witnesses
- Second interview of the complainant to discuss any factual questions as a result of the investigation.
- Second interview with the accused individual(s) to discuss any factual questions as a result of the investigation.
- Gather all relevant evidence, including documents, emails, time records/cards, photos, voice messages and videos as well as any physical evidence. Document the source of the evidence and ensure that it is handled in a way that preserves its integrity.

II. Interview Process:

Investigator's Role

The duty of the investigator is to get the facts straight. The investigator should not be trying to build a technical case or a defense, either for the company or for the alleged victim. Withhold any judgments until investigation is complete. It is highly recommended that the investigator has another individual witness all conversations.

Key points for the investigator:

- Prepare a confidential space for the interview. Interview witnesses separately in an office or room where the discussion will not be overheard by other witnesses, the accused individual(s), or any other unauthorized persons.
- When possible two managers should participate in the interview process. At least one of the investigating managers should be familiar with any applicable law(s) and the Company's policies and procedures. One manager should be designated as the interviewer, and the other should act primarily as a witness and take notes of the discussion.
- Remind the investigators 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 Section 7 Rights coercion. Identify who they should and should not share investigation information with.
- Remind the interviewers to observe and record all physical and verbal reactions of the witnesses during the interviews.

III. Documenting the interviews:

- Use investigation interview forms where appropriate.
- Make copies of any records including documents, emails, time records/cards, photos, voice messages and videos as well as any physical evidence.
- Collect all notes and documents from the interviewer. Maintain one investigation file.
- Decide if electronic interview notes will be utilized for this investigation.
- Decide if recording devices will be used for this investigation (usually no).

IV. After the interviews are completed:

- Review the results of the investigation. Determine whether anyone should be re-interviewed. Resolve inconsistencies wherever possible. When reviewing the evidence, consider the following:
 - The absence of corroborating evidence.
 - Whether the conduct was unwelcome.
 - Distinguish between behavior that was "voluntary" but coerced, and behavior that was clearly unwelcome.
 - Delays in complaining about the alleged behavior.

- Discuss investigation results and proposed action with the investigation team and/or Human Resources. This discussion should be limited to those with a need to know the results of the investigation.
- Consider credibility determinations, if applicable. Factors include:
 - Memory
 - Perception
 - Truthfulness
 - Corroboration or lack thereof
 - Bias of witnesses
 - Consistency of accounts
 - Prior misconduct or lack thereof, and implications of such conduct
 - Plausibility of accounts
- Review any relevant documentary evidence (records, video tapes, timecards, etc.).
- Keep secondary performance issues separate from this investigation.
- Take appropriate corrective action based on your findings and your company's policy:
 - Document in personnel file
 - Verbal warning
 - Written warning
 - Suspension
 - Demotion
 - Termination
 - Coaching / Training / Counseling
- Factors in determining appropriate remedial action to take include:
 - Credibility of accused individual(s), complainants and witnesses
 - Prior conduct, if any (positive or negative)
 - Prior discipline of accused individual(s)
 - Level of accusation, including type and frequency of conduct
 - Accused individual(s) knowledge of applicable Company rules of conduct
 - Prior disciplinary "precedent" for identical, similar or analogous misconduct
 - Public and employee relations issues

V. Communication of findings and finalization of investigation

- Communicate findings, determination, and actions to be taken to the accused individual(s), reminding them not to discuss situation with others and policy against retaliation.
- Communicate findings, determination and actions taken to the complainant, reminding complainant of Section 7 Rights to not discuss the situation and to report any issues of retaliation.
- Inform the complainant that action has been taken. Indicate that you will follow up with them in the future to determine if the unwelcomed behaviour has been corrected.
- Follow up with all parties involved to officially close out the investigation. Thank them for participation. Encourage confidentiality.
- Finalize documentation of investigation and place in confidential harassment investigation file.
- File the complete investigation.
- Determine if the applicable Company policy was properly written, communicated, employees were aware of policy and how to report, and any other related issues. Take action to correct any deficiencies.