

A STEP BY STEP GUIDE

For

CONDUCTING EFFECTIVE & COMPLIANT HARASSMENT & DISCRIMINATION INVESTIGATIONS

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STEP BY STEP INVESTIGATION GUIDELINES

Step One: Before A Complaint or Need for Investigation Arises

- Written Policies
 - Governing Conduct
 - Explain Complaint Process
 - Policies Effectively Communicated to Employees
- Trained Supervisors
 - Know policies and are capable of taking initial complaint
 - Know when to call in Human Resources

Step Two: Initial Investigation & Documentation of Complaint

- Name of complaining party
- Name of individual allegations are against
- Nature of allegations
- Dates, locations, witnesses to alleged incidents
- What if anything has been done to date
- What effect did incident have on work, if any
- What resolution does complaining party want

Step Three: Plan the Investigation

- Determine Scope of Investigation
 - Identify Issues
 - Identify Witnesses (complainant, alleged wrongdoer, co-workers & others)

Step Four: Conduct Investigation

- Review Documents
 - Company policies
 - Personnel files
- Interview Witnesses
 - Follow-up interviews as necessary
 - Revisit scope of investigation as necessary
- Interviewing Tips: Logistics
 - At least 2 uninvolved managers (one to interview, one to take notes)
 - Confidential separate office
 - Interview witnesses separately
 - Investigate and conclude investigation as promptly as possible
 - Consider "Blue Flash"
- Conducting the Interview: The Ground Rules
 - Explain purpose of interview by giving general reference to incident
 - Explain company policy and process
 - Tell involved parties that "results" will be communicated to them
 - Instruct witnesses not to discuss matters covered to protect integrity of investigation
 - Explain no retaliation for truthful participation
- Interviewing Tips: Questions
 - Avoid leading questions
 - Ask open ended questions
 - General to specific
 - Avoid judgmental questions or perpetuating myths or stereotypes and avoid appearance of favoritism or impropriety in interviews
 - Be objective
 - Be aware of facts bearing on credibility (e.g.: memory, perception, opportunity to observe incidents, bias, corroborating or lack of corroborating information, plausibility, prior interactions with parties, etc.)
- Adapt Investigation as Necessary

Step Five: Reach Conclusions

STEP BY STEP INVESTIGATION GUIDELINES

Step Six: Take Appropriate Remedial Actions

- Action must be effective to STOP harassment or other offensive conduct
- Implement training or amend policies as necessary

Step Seven: Communicate conclusions to involved parties

- Conduct prompt investigation and communicate results on a need to know basis
- Help employees re-focus on being productive
- Minimize gossip when it occurs during the investigation and after

Step Eight: Document Corrective Action

- Document Corrective action
 - Verbal counseling
 - Written warnings
 - Suspension
 - Termination
- Document training or dissemination of policies to larger employee group
- Interview and investigation notes in "Risk Management File" but documentation of corrective action always should be included in the personnel file
- Memoranda of results may be included in personnel file
- Document training or dissemination of policies to larger employee group, and retain in training file(s)
- Documentation of follow-up actions in "Risk Management File"

Step Nine: Follow-Up

To ensure remedial action taken was effective

To ensure no retaliation is occurring

To ensure opportunity is given to complaining employee to raise any issues (or be found to have acted unreasonably if issues are not raised)

Step Ten: Evaluate & Improve Policies and Practices

- Were the company's policies adequate?
- Did employees know about the policies?
- How well did the complaint procedure work?
- Did the investigation uncover other issues that need to be addressed?
- Is there anything that company can do to prevent similar claims in the future?

INVESTIGATIVE INTERVIEW STATEMENT

STATEMENT:

I have been advised by _____, of the following:

- A. The purpose of this interview is to investigate a complaint of misconduct;
- B. I am a potential witness to that complaint;
- C. Full, truthful cooperation is expected of me;
- D. There will be no retaliation for cooperating in the investigation and I have a right and a duty to report any perceived retaliation; and
- E. There is a need for confidentiality and I am requested not to discuss this matter with anyone else.

I acknowledge that I understand what I have been advised of as described above and have freely participated in this interview and confirm that my statement is true and correct.

Employee Signature: _____ Date: _____

Signature of Preparer: _____ Date Completed: _____

I have received a copy of this statement.

Employee Signature: _____ Date: _____

INCIDENT INTERVIEW FORM

Where did it happen? _____

Who was present? Who was responsible for the act? _____

How did it happen? _____

Who did/said what? In what order? _____

Why did it happen? Could it have been avoided? _____

Is there any evidence? Notes, documents, etc. _____

How was the work of the involved parties affected? _____

Who else may have relevant information about the situation? _____

INCIDENT INTERVIEW FORM

What knowledge do(es) the witness(es) have? _____

I have freely participated in this interview and confirm that this statement is true and correct.

Employee Signature: _____ *Date:* _____

Signature of Preparer: _____ *Date Completed:* _____

I have received a copy of this statement.

Employee Signature: _____ *Date:* _____