

WORKPLACE HARASSMENT/DISCRIMINATION INVESTIGATION PROCESS OUTLINE

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The following is an example process outline for workplace harassment and discrimination investigations:

1. Begin the process promptly, don't delay. *Additionally, throughout the process evaluate and re-evaluate the disinterested people who are involved and who should be involved in the investigation process and decision making.*
2. Compile the readily available background information to obtain a quick read of the situation.
3. Preliminarily evaluate the perceived seriousness of the immediate situation, and take prompt stabilizing or protective action if necessary.
4. Evaluate whether to investigate (facts in dispute, seriousness, parties involved, past actions taken in similar situations).
5. Evaluate manner of investigation (investigator from within or outside the organization; possibly through counsel from within or outside the organization).
6. Consider and select an investigator.
7. Plan the investigation.
8. Consider possible confidentiality and privacy issues.
9. Conduct the investigation.

Interview the complainant.

Interview the accused.

Interview other (third party) witnesses.

Gather documents, and other information and evidence.

Other.

The allegation, interview, information, document and other evidence obtaining process is fluid and constantly changing. While there are certain steps or approaches that might generally be outlined or followed, the manner in which the investigator might approach the different parties and witnesses will vary, and, of course, from circumstance to circumstance it is not possible to predict the information and evidence that might be available, or the personalities and demeanors of the various people who might be relevant to the situation.

In an interview situation, for example, you might (or might not, depending on the circumstances) generally proceed in the following manner: introduction; establish the appropriate environment and parameters; obtain information about the allegations, and the broad factual overview and evidence in a chronological order (or in select circumstances obtain immediate specific information, or proceed in a select, non-chronological order); obtain information about relevant specific, more detailed

facts and evidence; evaluate witness demeanor and credibility; evaluate document and other evidence credibility; follow up and revisit areas in which information is incomplete or remains unclear; and evaluate and discuss next steps.

Of course, throughout this process the investigator also will be evaluating or re-evaluation the environment, and the information and evidence obtained, not obtained/provided, or not available. The investigator will want to confirm that he or she has obtained and correctly understands the allegations, information and evidence; and, throughout the process the investigator will want to evaluate how to next proceed, inquire or respond, including by comparing possible corroborating, contradicting or stand alone allegations, information, facts, documents, witness statements, other evidence, and credibility.

10. Document the investigation, and prepare the investigation report.

This area of importance might not be thought of as being of much interest; however, investigation documentation and investigation report preparation--the important points to note, and the appropriate and clear use of wording--are extremely important to the scope and sufficiency of the investigation process, the employer's evaluation and decision making, and risk management. Effectiveness in this area is a skill acquired by experience and education.

11. Submit the investigation report.
12. Evaluate the investigation and report.
13. Consider whether to obtain additional information, documents, testimony, and feedback; from complainant, accused, and possibly witnesses; if necessary.
14. Consider whether the investigation report should be updated, and update if necessary.
15. Consider possible additional evaluation of the investigation and report, if necessary.
16. Repeat steps 9-15 if necessary until the investigation is complete.
17. Evaluate the action options available, past actions taken, and past actions taken in similar situations.
18. Make and document the decision, and actions to be taken.
19. Review the decision with the complainant and the accused, and possibly with other other employees or officers as prudence dictates.
20. Take action.
21. Conduct subsequent follow-up and evaluation.
22. Consider any need to modify the employer's policies or procedures in the workplace.