

Sexual Harassment Investigation Interview Questions

Conducting a thorough investigation of any sexual harassment (or other harassment) complaint is critically important to controlling potential liability for sexual harassment under federal or state law.

START WITH AN EXPLANATION AND GENERAL QUESTIONS:

There has been an allegation of [charge made by complaining employee] and we are conducting an investigation. We take claims of discrimination and harassment seriously. We have a zero tolerance for harassment and discrimination on the one hand, but on the other hand we do not want to act on false or misleading accusations. I need you to answer my questions honestly. There will be no negative consequence of your answers and the Company will make every effort to keep your answers confidential.

INTERVIEW QUESTIONS FOR THE COMPLAINING EMPLOYEE

- Who committed the alleged harassment?
- What exactly occurred or was said?
- When did it occur and is it still ongoing?
- Where did it occur?
- How often did it occur?
- How did it affect you?
- How did you react? What response did you make when the incident(s) occurred or afterwards?
- How did the harassment affect you? Has your job been affected in any way?
- Are there any persons who have relevant information?
- Was anyone present when the alleged harassment occurred?
- Did you tell anyone about it?
- Did anyone see you immediately after episodes of alleged harassment?
- Did the person who harassed you harass anyone else?
- Do you know whether anyone complained about harassment by that person?
- Are there any notes, physical evidence, or other documentation regarding the incident(s)?
- How would you like to see the situation resolved?
- Do you know of any other relevant information?

INTERVIEW QUESTIONS FOR THE ACCUSED EMPLOYEE

- What is your response to the allegations?
- If you believe the claims are false, have you any idea why the complaining employee might lie?

- Are there any persons who have relevant information?
- Are there any notes, physical evidence, or other documentation regarding the incident(s)?
- Do you know of any other relevant information?

INTERVIEW QUESTIONS FOR WITNESSES

- What is the general workplace atmosphere like in your group/department/area?
- Do you know [Name of Employee]? What is the nature of your relationship?
- How would you describe him/her if describing to a fellow employee?
- How would you describe your supervisor?
- What is your supervisor's managerial style?
- Are there any particular conflicts or other problems in the work group?

Continue with more specific questions:

- Have you witnessed any discriminatory or harassing behavior with regard to anyone or any group of persons?
- Have you heard off color jokes or stories that might be offensive to some persons or some group of persons, e.g., racial, sexual, or religious based jokes or stories?
- Who made these remarks? What exactly was said?
- Have co-workers complained about inappropriate behavior in the work group?
- Have you ever personally noticed or been offended by inappropriate behavior? Describe any inappropriate or offensive behavior that you have experienced or witnessed.
- Have you seen pictures, You Tube videos, or any other images that might be offensive to any person or any group of persons, e.g., pin up posters, cartoons, etc.?
- Have you ever experienced or witnessed any touching or contact in the workplace that might be offensive or unwanted?
- What did you see or hear? When did this occur? Describe the alleged harasser's behavior toward the complainant and toward others in the workplace.
- What did the complainant tell you? When did s/he tell you this?
- Do you know of any other relevant information?
- Are there other persons who have relevant information?

If answers don't corroborate what the charging employee has claimed, be more exact:

- On _____ at about _____ did you notice anything in your work area that disturbed you or caused you concern or that might have had that effect on another employee?

- Do you know [Name of Complaining Employee]?
- Did [Name of Complaining Employee] tell you anything about his/her allegations of discrimination or harassment? What did the complainant tell you? When did [Name of Complaining Employee] tell you this information?
- What is the relationship like between [Name of Accused Employee] and [Name of Complaining Employee]?
- Have you heard any inappropriate remarks made by [Name of Accused Employee] to [Name of Complaining Employee]?
- Have you observed any interaction, including touching, conversation or anything else between these two persons that might reasonably feel offensive to [Name of Complaining Employee]?
- What did you see or hear? When did this occur? Describe [Name of Accused Employee]'s behavior toward [Name of Complaining Employee] and toward others in the workplace.

Notice: After the interview, be sure to remind the employee again that there will be no retaliation for his/her cooperation and invite the employee to call you if he/she thinks of anything else that could assist in the investigation. Stress the issue of confidentiality and the avoidance of the appearance of collusion. Also stress the importance for the company to find out the truth of the matter for the benefit of the company and all employees.

CREDIBILITY DETERMINATIONS

If there are conflicting versions of relevant events, you will have to weigh each party's credibility. Credibility assessments can be critical in determining whether the alleged harassment in fact occurred. Factors to consider include:

- **Inherent plausibility:** Is the testimony believable on its face? Does it make sense?
- **Demeanor:** Did the person(s) interviewed seem to be telling the truth or do you believe they were lying or being less than forthcoming?
- **Motive to falsify:** Did the person interviewed have a reason to lie?
- **Corroboration:** Is there **witness testimony** (such as testimony by eye-witnesses, people who saw the complaining employee soon after the alleged incidents, or people who discussed the incidents with him or her at around the time that they occurred)?
- **Is there physical evidence** (such as written documentation) that corroborates the party's testimony?
- **Past record:** Does the accused employee have a history of similar behavior in the past? Does the complaining employee have a history of unfounded complaints or similar behavior?