

INVESTIGATION CHECKLIST

- 1. Create an environment that encourages early reports of inappropriate conduct.**
 - Training for all about appropriate workplace conduct and anti-harassment policy
- 2. Intake and immediate response:**
 - Consider level of seriousness in determining whether a full-scale investigation is necessary
 - Protect complainant and accused from retaliation; consider interim remedial measures
- 3. Do not promise “strict confidentiality” to complainant; do stay neutral.**
 - Confidentiality to the extent consistent with effective investigation, for legitimate business reasons
- 4. Determine who will conduct the investigation.**
 - Outside or inside investigator? Attorney?
 - Confirm that investigator, especially inside investigator, has no conflicts
- 5. Plan your investigation in advance**
 - Witnesses
 - Documents
 - Scope: relevant witnesses
 - Documents: written complaint? company policies? emails?
 - Interview outline: open-ended questions first, then details of incidents, who involved, what occurred, who witnessed, documents/evidence
 - Interview order: 1) complainant, 2) witnesses identified by complainant, 3) accused, 4) witnesses identified by accused (flexibility in order after complainant)
- 6. Be open and receptive to supplemental and surprise information; conduct follow-up interviews**
- 7. Review and evaluate all information obtained as a result of the investigation**
- 8. Resolve complaint as soon as possible once the investigation is complete**
 - Be consistent
- 9. Document the investigation process and the information received**
 - Focus on facts
 - No editorializing
 - No admissions
- 10. Remedial measures, closing communication**
 - Stop behavior, avoid recurrence
 - Complainant and accused should receive closing communication

EEOC Guidance on Questions in Harassment Investigation
See <https://www.eeoc.gov/policy/docs/harassment.html>

Questions to Ask the Complainant:

- Who, what, when, where, and how: *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?

Questions to Ask the Alleged Harasser:

- What is your response to the allegations?
- If the harasser claims that the allegations are false, ask why the complainant 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?

Questions to Ask Third Parties:

- What did you see or hear? When did this occur? Describe the alleged harasser's behavior toward the complainant and 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?