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**GUIDELINES TO INVESTIGATING SENSITIVE
MATTERS**

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INVESTIGATING SENSITIVE MATTERS

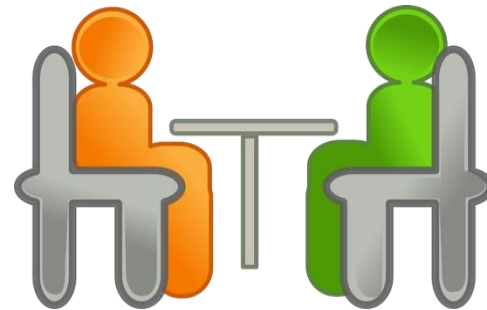
PROBLEM: This example relates to the energy sector, but the example can apply to a myriad of other business sectors.

A complaint is forwarded to you for investigation. The person lodging the complaint is a female engineer. Her statement is as follows: “While on location I have been harassed by not only our employees, but also other service hands and the Operator’s employees. I am forced to share a hotel room with a male, which makes me feel uncomfortable. I am not the newest service engineer, but I am paid lower wages than other comparable engineers. In the past I complained to my supervisor about the harassment and low wages, but nothing has been done. In fact, after I complained and while I am on location, no one talks to me.”



INVESTIGATING SENSITIVE MATTERS (con't)

- Investigating certain sensitive matters is a human resources function, the purpose of which is to identify the nature of the problem and to suggest possible solutions



I. PREPARATION

- Define the problem
 - Harassment, sex discrimination and retaliation
 - Who did it?
- Prepare a plan for the investigation
 - What are my resources?
 - Operations
 - Payroll
 - Legal
 - IT
 - Others

I. PREPARATION (con't)

- Develop the time frame for completion of the investigation
- Action Items
 - Collect documents and written communication
 - Interview: employees, customers and other service providers
- Review results of work and review notes
- Communicate with whom?
 - Operations Management
 - HR Supervisor
 - Legal
- Further action

I. PREPARATION (con't)

- Define the problem
 - Harassment, sex discrimination and retaliation
 - Who did it?
 - What resources do I use?
 - District Manager
 - Operations
 - Payroll
 - Legal
 - IT

I. PREPARATION (con't)

- District Manager: will likely provide a list of contacts
- Operations: Location manager and worksite supervisor, dispatcher and office manager
- Human Resources: personnel files
- Legal: Summary of applicable law
- IT: may need permission to review emails and hard drives. If so, review data privacy laws in the applicable state
- Payroll: will likely provide relevant payroll information

I. PREPARATION (con't)

- Time frame: circumstances will dictate time frame
- Action items
 - Obtain initial information from the District Manager
Obtain names of co-workers
 - Identify personnel interacted with the complaining party
 - Develop a time frame of the complaining party's allegations

I. PREPARATION (con't)

- By eliminating those who could not have been involved during the time frame, prepare a list of employees who may have knowledge or information
- Prepare a list of customers' employees
- Prepare a list of vendors who may have had contact with the complaining party
- Organize the written documents
- Review the results of your work

I. PREPARATION (con't)

- Reconvene with the District Manager
- Narrow the list of individuals who may have any interactions with complaining employee

I. PREPARATION: THE INTERVIEW

- Prepare to interview witnesses
 - **The better prepared you are for the interview, the better the results**
 - Make a list of the people who are least likely to have interacted with the complaining party and of those individuals, make a list of the ones with the most valuable information
 - Before you start interviewing witnesses, make a profile of the person you will be interviewing
 - Attitudes and Attributes

I. PREPARATION: THE INTERVIEW (con't)

ATTITUDES

Positive:

affectionate
candid
caring
cooperative
decisive
endures
flexible
grateful
hard-working
humble
modest
punctual
reliable
responsible

Negative:

distant
guarded
unfeeling
unhelpful
indecisive
gives up
rigid
ungrateful
lazy
arrogant
vain
late
unreliable
undependable

I. PREPARATION: THE INTERVIEW (con't)

ATTITUDES

Positive:

self-reliant
trusting
willing
alert
calm
constructive
deliberative
dynamic
energetic
imaginative
insightful
knowledgeable
leader

Negative:

dependent
suspicious
reluctant
dull
nervous
complaining
reckless
passive
unfocused
unimaginative
lack insight
uninformed
follower

I. PREPARATION: THE INTERVIEW (con't)

ATTITUDES

Positive:

objective
observant
patient
resourceful
relaxed
trustworthy

Negative:

biased or subjective
oblivious
impatient
helpless
stressed
untrustworthy

I. PREPARATION: THE INTERVIEW (con't)

ATTRIBUTES

Positive:

alert
calm
constructive
deliberative
dynamic
energetic
imaginative
insightful
knowledgeable
leader
objective
observant
patient
resourceful
relaxed
trustworthy

Negative:

dull
nervous
complaining
reckless
passive
unfocused
unimaginative
lack insight
uninformed
follower
biased or subjective
oblivious
impatient
helpless
stressed
untrustworthy

Attributes may be detected in the inflections and tone of the voice, as well as body movements.

I. PREPARATION: THE INTERVIEW (con't)

The foregoing is done to prepare you how to approach the interview – NOT determine who is the most likely to be involved with the complaining party

FIVE W's

WHO

WHAT

WHEN

WHERE

WHY

I. PREPARATION: THE INTERVIEW (con't)

- During the course of the interview, these questions (five W's) may likely be answered in varying degrees, depending upon the knowledge of the person interviewed
- Review the documentation you will use to ask questions
- Frame the questions to take into consideration the employee's attitudes, attributes and biases
- Formulate your questions

I. PREPARATION: THE INTERVIEW (con't)

- The next step in the process is providing a venue in which employees feel they can come forward and talk
- This venue must be non-threatening
- Be courteous and respectful to all employees involved, and never make light of the situation
- You are almost ready to begin



II. HOW TO CONDUCT INTERVIEWS

Checklist of Do's and Don'ts

Before you start your interview:

The DO's:

- **Be a Good Sales Person. You are selling the process of the investigation. If the employee buys into the process, your job will be much easier.**
 - You have to give the employee a good reason to give you the information you are seeking.
 - “You are an important person with something valuable to offer.” This is the message that needs to be conveyed.
- **The fine art of listening and observing:**
 - Listening means carefully training yourself to hear every specific detail that is given.

II. HOW TO CONDUCT INTERVIEWS (con't)

- At times nonverbal clues such as eye or hand movements, body gestures or facial expressions will either reinforce or contradict what is being said.
- The more the employee talks, the more information you will obtain.
- Be flexible.
- Keep the conversation going. If the employee is telling a story, do not interrupt. You can always ask follow-up questions.
- Like me, many of you like to take notes. In the interview, if you feel compelled to take notes, use word associations for events. Skip the adjectives and adverbs, etc. Just write nouns, verbs and pronouns. You can add additional wording when you are writing your notes after the interview is over.

II. HOW TO CONDUCT INTERVIEWS (con't)

- Crossing arms or legs may indicate a defensive position.
- Your physical posture also conveys messages.
- Research background of persons to be interviewed (personnel file).

II. HOW TO CONDUCT INTERVIEWS (con't)

- **The DONT's:**
- Do not appear to be too clever.
- Do not assume any consequences of facts or actions.
- Do not conduct the interview like a criminal investigation. Remember you are gathering facts.
- Don't be blunt, but be factual.
- Do not be unfriendly.
- Do not intimidate witnesses by taking notes, unless they are identifying persons, places and events.
- Do not require the witness to write a statement at this time.
- Do not accuse.
- If you do all the talking, you will not hear anything.

III. INTERVIEW THE EMPLOYEE

A. Whom to Interview

- Complaining party
- The least suspected employee with the most knowledge should normally be interviewed first and progress from there

B. Tone

- Behave professionally
- Although you may want to be sympathetic, you should always maintain objectivity. This may be

III. INTERVIEW THE EMPLOYEE (con't)

difficult, but remember, do not pass judgment on the validity of the witness's verbal statements.

C.Opening

- Begin the interview by stating the purpose of the interview
- Make sure that the employee understands the interview is confidential

III. INTERVIEW THE EMPLOYEE (con't)

D. Ask your questions

E. Closing

- Thank the employee for his/her cooperation
- Assure the employee that HR will conduct its investigation as discretely as possible
- Remind the employee to contact you if he/she remembers any additional facts or information

III. INTERVIEW THE EMPLOYEE (con't)

F. What if the employee resists?

- Many employees may resist your efforts to investigate and will request that you take no action. This typically stems from fear of retaliation or fear of the unknown.
- Explain that the Company has an obligation to investigate and take appropriate action.
- The Company must move forward “promptly” and take appropriate action.

III. INTERVIEW THE EMPLOYEE (con't)

- INSTRUCT THE EMPLOYEE NOT TO SPEAK TO ANYONE ABOUT THE SUBJECT MATTER OR THE INTERVIEW, AND, IN PARTICULAR, TO RESIST THE URGE TO TALK TO OTHER EMPLOYEES OR THE SUSPECTED EMPLOYEE ABOUT IT.
- Close your door and prepare your notes of the interview. Include only the witnesses' comments, not your opinions.



IV. INTERVIEW CUSTOMERS AND VENDORS

- Repeat the steps for interviewing employees
- Considerations when dealing with Customers:
 - The customer is the CUSTOMER!
 - No accusations
 - Interview Customer's employees
- Considerations when dealing with vendors or service providers:
 - Could be a valuable source of information

V. WEIGH THE INFORMATION WITH SENIOR HR MANAGEMENT/LEGAL

- After you have gathered all of the information, including reviewing any relevant files, then consider the credibility of each person, which is not necessarily in writing.



- Is there any reason for those who were interviewed to be lying or not telling everything he or she knows?

V. WEIGH THE INFORMATION WITH SENIOR HR MANAGEMENT/LEGAL (con't)

- Are the witnesses intimidated about being honest?
- Was anyone's story internally inconsistent?
- What underlying motives could each party have?



VI. FLAWS OF AN INVESTIGATION

- Not knowing when to stop
 - Not knowing what is important
 - Not listening
 - Not doing enough
-
- Meet with District Manager/Region Manager/Regional Vice President to review your analysis and interview notes
 - Contact Senior HR and the appropriate attorney to discuss further action(s)

VII. CONCLUSION

- Investigations, which include interviews, are not a science
- Handling such sensitive matters is not easy
- Emotions can run high
- At times you may be in the awkward position of investigating a claim against a fairly high-ranking manager within the Company

VII. CONCLUSION (con't)

- When to defer to another HR Manager or to an Attorney
- The comments in this presentation are meant only as guidelines - local laws, customs and procedures may require different approaches to the investigation