

Conducting an Effective Investigation



1. Investigate ASAP.

The investigation should begin as soon as possible. This will assist in getting information from all parties while it is fresh in their memories.

2. Determine who will investigate.

Decide who should conduct the investigation. Are you the right one? Can you be objective? In cases dealing with sexual harassment, the investigation should be conducted with a male-female team if possible and involve the EOO if involving staff or faculty and the SAVE team if involving students.

3. Interview the complainant.

- a) Meet with the complainant. Take notes but do not use tape or video recording devices. The purpose of the meeting is to identify all issues and accusations and gather all material facts.
 - i. Thank the complainant for raising the issue.
 - ii. Explain your role as investigator, the general manner in which you will conduct your investigation, your timetable, and the process that will be used to determine an outcome.
 - iii. Inform the complainant that the University does not permit any retaliation due to legitimate issues being raised.
 - iv. Tell the complainant that you will limit disclosure of information to people with a legitimate reason to know. Ask him/her to do the same.
 - v. Ask the complainant for suggestions on how to resolve the matter.
 - vi. Express your commitment to a timely resolution.
- b) Get the facts by first asking broad questions. After the complainant's narration, go back and ask detailed questions: What happened? Who was involved? When did the incident take place? Where did it occur? Who saw it happen? Other questions to ask:
 - i. Was the complainant's ability to work affected? How?
 - ii. Was the incident isolated or part of a pattern?
 - iii. Who else has the complainant talked to about the issue?
 - iv. Is there any tangible evidence to prove the complainant's claims (e.g., written documents, drawings, pictures, etc.)?
 - v. Has the complainant kept any relevant diaries?
 - vi. Do other individuals have similar experiences or concerns?
 - vii. Has the respondent made any threats or promises to the complainant?
 - viii. Any additional facts?

4. Document the interview.

Two documents should be drafted following this initial interview:

- a) Request that the complainant write down the complaint in detail, if he/she has not already done so. If the complainant has not written down his/her complaint, draft a summary of the interview and ask him/her to review, correct, and approve it. The memorandum should list:
 - i. All issues/concerns/complaints
 - ii. Relevant facts and dates
 - iii. Names of persons who should be interviewed
 - iv. Suggestions for obtaining relevant information
- b) Immediately following the meeting, draft a memorandum for your file to:
 - i. Confirm the issues raised
 - ii. Identify the facts to support the issues

5. Assess further action.

- a) Analyze what further stages to the investigation should be undertaken. Consider whether Human Resources or General Counsel should be involved in the investigation.
- b) Analyze whether suspending an employee or student while an investigation is in process is warranted. Consult with Human Resources or General Counsel.

6. Interview the respondent.

- a) Explain your role as investigator, the general manner in which you will conduct your investigation, your time table, and the process that will be used to determine an outcome.
- b) Obtain the respondent's side of the story. If an adverse employment/academic action was taken against the complainant, ascertain the respondent's reasons for such action and obtain any information or documentation which would bear on the legitimacy of the reasons given.
- c) Ask the tough questions. Do not let the respondent's discomfort stop you from getting to the truth.
- d) Do not stop after you have asked your pre-planned questions.
- e) Ask for a chronology of events. Comparing chronological versions of an event may help resolve credibility issues later on.
- f) Ask open-ended questions, and then ask detailed questions (who, what, when, where, how and why).
- g) Be sure the respondent has told you everything he/she knows. Ask for any other information or documentation which may assist you in reaching a resolution.
- h) Tell the respondent to get back to you if he/she has forgotten to tell you anything.
- i) Discuss confidentiality. Ask the respondent to limit disclosure of information to those with a legitimate need to know.
- j) Explain that retaliation against participants in an investigation will not be tolerated.

7. Interview others.

- a) Interview other relevant witnesses, such as:
 - i. Observers of the incident
 - ii. Anyone with relevant information
 - iii. Authors of relevant documents
 - iv. People who the complainant or respondent requests you to interview
- b) Follow a similar interview process as described above with broad open-ended questions first, and follow-up detail questions.

8. Analyze the facts and assess the credibility of the complainant, respondent, and witnesses. Consider:

- a) Whether information is based on firsthand knowledge, attributed hearsay, rumors, or gossip
- b) Bias/motive to lie or embellish
- c) Demeanor
- d) Presence or absence of corroboration
- e) Notes to help assess credibility:
 - i. Demeanor; body language; tone of voice; defensiveness; argumentativeness; hostility; overall impression; consistency of story
 - ii. Is the story farfetched? Does the account make sense?
 - iii. Was the interviewee forthcoming or did you have to "pull" information from him/her?
 - iv. Did the respondent make any admissions during the interview?
 - v. Are there things that the respondent has said or done in other situations which make it more likely than not that the facts in dispute actually happened?

9. Once the facts have been collected and analyzed, draft a summary of your findings and conclusions.

