

Appendix D: Sample Memorandum

CONFIDENTIAL

TO: Management Decision Maker

FROM: Investigator

DATE:

RE: Investigation of Claim by Complainant

A. Overview Of Issues

[General description of the assignment: “Employee came to me with a complaint about her supervisor, John Doe. Employee asserts that Mr. Doe has violated the company policy against harassment/discrimination by engaging in the following activities.”]

B. Complainant’s Allegations

Appendix E: Sample Interview Forms

I. General Interview Form

Individual(s) originating allegations:

Individual(s) against whom allegations initiated:

Name, title and department of person being interviewed:

Open Ended Questions:

“How long have you worked for the company?”

“Who do you report to?”

“Tell me a little about the general environment of your department.”

Tell me about your work environment in general/describe what happened:

To whom were the allegations first reported and when and how?

Nature of allegations:

Dates and locations of alleged incidents:

What if anything has been done to date?

Did you witness the alleged incident?

Where were you?

Where did the incident take place?

Who else was present?

When (date and time) was the incident?

What happened?

What did you see?

What (word for word, if possible) did you hear?

Did anyone else do or say anything during the incident?

Is there anything else that you recall about the incident?

[Repeat and use wherever appropriate]

Is there anything else you would like to add about this incident?

Let me give you this information so that you can respond. [Information].

[Repeat and use wherever appropriate]

Do you have any theories as to the reason or motive for the incident?

Have you had any conversation(s) with anyone about the incident?

Have you had any conversation(s) with anyone about anything related to the incident?

Do you know whether anyone else has, or claims to have, any information about the incident?

Have you heard whether anyone else may have information about the incident?

Have you heard any rumors?

Who should we speak with concerning the claim(s)?

Are you aware of any documents (writings of any kind) that relate in any way to the incident?

Are you aware of any physical evidence that may relate in any way to the incident?

Are you aware of any electronic evidence that relates in any way to the incident?

Are you aware of any similar incidents?

[If so, repeat process]

Are you aware of any related incidents?

[If so, repeat process]

Are you aware of any similar claims?

[If so, repeat process]

Are you aware of any related claims?

Is there anyone else that you think I should talk to?

Are there any other files, records, or objects that you think I should examine?

Are there any documents, files, records, or other objects that might refresh your memory?

Is there anything else, no matter how remote, that I should know about?

Is there any other evidence or fact that you believe would help us resolve this?

Here is my card and cell phone number. If you think of anything else, no matter how trivial, or if anything at all comes up, please call me.

Name of Investigator: _____

Investigator's Signature: _____

Date: _____

II. Complainant Interview Form

Name: _____

Date: _____

Position: _____

Supervisor: _____

Name & position of the accused:

A. Initial Questions

Open Ended Questions:

“How long have you worked for the company?”

“Who do you report to?”

“Tell me a little about the general environment of your department.”

Tell me about your work environment in general/describe what happened:

Was this a single incident – Yes or No?

If Yes, what were the date and time of harassment?

For each incident, ascertain and document what occurred. Try to get as many details as possible, even though this may be uncomfortable for the Complainant. Use additional pages if necessary. Ask open ended, nonjudgmental questions, such as:

Did the accused touch the Complainant?

If so, where was the Complainant touched?

Was the Complainant touched more than once?

Did the accused threaten the Complainant in any way?

If so, what was the threat or threats?

How long was the incident? For example, a few seconds or five minutes?

Where did the incidents of harassment take place?

Were there any witnesses to the incidents of harassment? If so, who were the witnesses?

Does the Complainant know of any others subjected to the same behavior?

Does the Complainant know a motive for the harassment?

How did the Complainant respond to the harassment? Did he or she make any effort to bring it to a halt?

Did the Complainant tell anyone else about the incidents of harassment: superiors, coworkers, family, friends, government representatives, attorneys? If so, get details concerning who, what, when, where and the response, if any.

Does the Complainant have any tangible evidence or records of harassment: notes, letters or memos to or from harasser, witnesses; calendar or diary entries, memos, letters, etc. by Complainant; tape recordings, surreptitious or otherwise; formal complaint forms to any agencies?

Does the Complainant feel the same way now? If not, what is different about how the Complainant now feels, and what brought about the difference?

Does the accused have control over the compensation, working conditions or future employment of the Complainant?

Has the accused made or carried out any threats or promises in connection with the alleged sexual harassment?

Does the Complainant know or suspect there are other victims of harassment by the same person? If so, who are they?

To what extent were others in control made aware of the situation?

What action would the Complainant like to have taken?

Is there anyone else we should talk to that would shed light on this situation?

Is there anything else?

Interviewer: _____

Date: _____

Witness, if any: _____

Date: _____

III. Accused Interview Form

Accused Pre-Interview Considerations:

- Prepare for the investigation meeting with the accused. This meeting should take place in private, although as the investigator, you may arrange to have a witness present as appropriate. The investigator should outline the allegations in advance to ensure that all subjects are discussed.
- Provide the accused with a copy of the harassment policy, emphasizing the company's commitment to enforcing the policy. This step should be followed even if it is suspected that the allegations are not true.
- Answer the accused's pre-interview concerns and suspicions about the investigation.
- Advise the accused generally about the investigation and strict policies of confidentiality and avoidance of retaliation.
- Ask direct and detailed questions based on information provided by all witnesses, such as those on the following interview form.

Name: _____
Position: _____

Date: _____
Supervisor: _____

Open Ended Questions:

“Let’s talk about why we are here today.”

“Tell me about your working relationship with _____.”

Were you and the Complainant working together on the date(s) Complainant says harassment occurred?

Do you recall any interaction with Complainant on those dates?
If so, what was the context of the interaction?

Were there any witnesses present?

What was the substance of any conversation between you and the Complainant?

Expect an adamant denial. For each denial, request that the harasser identify corroborating witnesses or evidence, and detail any “alibi.”

If the accused acknowledges any conduct, ascertain and document what occurred. Try to get as many details as possible, even though this may be uncomfortable for the accused. Use additional pages if necessary. Ask open ended, nonjudgmental questions, such as:

Did the accused touch the Complainant?

If so, where was the Complainant touched?

Was the Complainant touched more than once?

Was the touching done at the direction of the Complainant or the accused?

Did the accused threaten the Complainant in any way?

If so, what was the threat or threats?

How long was the incident? For example, a few seconds or five minutes?

Where did the incident take place?

Were there any witnesses to the incident? If so, who were the witnesses?

How did the Complainant respond to the incident?
Did he or she make any effort to bring it to a halt?

How did the accused feel about the incident at the time it occurred?

Did the accused do or say anything that could have been misunderstood or could be intentionally misrepresented?

Ask the accused about his/her beliefs or suspicions as to why the reports or complaints have been made (*i.e.*, ulterior motives, prior consensual relationships, retaliation by the complaining employee, attempts at job security in the face of poor performance evaluations, etc.).

Did the Complainant engage in any conduct which the accused felt was inappropriate or made the accused feel uncomfortable?

Has the Complainant ever said or done anything that would lead the accused or others to believe that the complained-of conduct was not “unwelcome?”

What is the level of supervision between the accused and the Complainant?

How frequently do the accused and the Complainant work together?

Has the accused previously been accused of harassment?

If so, what were the circumstances?

Advise that if the evidence establishes harassment, the company will take appropriate disciplinary action against the accused and the Complainant will be fully informed that the investigation has been completed, and whether the allegations were substantiated. The Complainant, however, is not provided with any information about the specifics of any disciplinary actions, but should be informed that the company is addressing the issue appropriately.

Other:

Interviewer: _____

Date: _____

Witness, if any: _____

Date: _____

IV. Coemployee Interview Form

Name: _____

Date: _____

Position: _____

Supervisor: _____

Start with Open Ended questions:

- “How long have you worked for the company?”
- “Who do you report to?”
- “Tell me a little about the general environment of your department.”

Reassure that this coemployee is not the subject of the investigation

Did the coworker see any alleged harassing incident?

If so, what occurred?

Try to get as many details as possible (use additional pages if necessary), asking open ended, nonjudgmental questions such as:

What happened?

What was said by the accused?

Did the accused touch the Complainant in any way?

When did all of this happen?

Who else was present?

What (if anything) did the Complainant say or do in response to the accused's conduct?

Did anyone else say or do anything during the incident?

Did the coemployee later tell anyone about the incident and if so whom did he/she tell and what was their response?

Did the coemployee see more than one alleged harassing incident between the accused and the Complainant? If so, ask questions such as those on the preceding list for each incident.

Did the Complainant ever discuss the issue of alleged harassment with the coemployee?

How did the Complainant respond to the harassment?

Did he or she make any effort to bring it to a halt?

Did the coworker notice any appreciable change in the Complainant's behavior?

Did the Complainant become more or less emotional, upset, or moody at work, specifically with or near the accused? Please specify.

Has the coemployee personally seen or heard of sexual harassment by the accused against any other company employees besides the Complainant? If so, try to get as many details about what occurred as possible, asking open ended, nonjudgmental questions such as those listed above.

Has the coemployee heard another coemployee speak or complain about sexual harassment by the accused that the coemployee did not personally witness?

If so, who told the coemployee about the alleged harassment?

Who was allegedly harassed?

What was the form of the alleged harassment?

What happened?
