

COMMON MISTAKES BY MANAGEMENT

- ✓ Management does not consult with the Director of Social Equity and Civic Engagement before taking action and/or when it is aware of actual or potential sexual harassment situations.
- ✓ Management dissuades the complainant from complaining about her/his sexual harassment situation.
- ✓ Management overacts by taking action before the investigation is completed.
- ✓ Management does not tell the alleged offender the specific allegations.
- ✓ Management does not provide the alleged offender an opportunity to respond to each allegation.
- ✓ Management interferes with the investigation.
- ✓ Management lets preconceived beliefs and prejudices negatively influence the investigation process.
- ✓ Management believes that, because its workplace is naturally sexual, the women/man who finds that behavior to be unwelcome is going to have to put up with it in order to continue working there.
- ✓ Management resents the complaint and /or sees it as a nuisance.
- ✓ Management doesn't take it seriously.
- ✓ Management doesn't take action unless a complaint is received.
- ✓ Management tells complaining party that the sexual harassment procedure is completely confidential.
- ✓ Management does not go forward because complaining party decides that he/she does not want to continue the complaint.
- ✓ Management does not take steps to ensure that persons with less "permissive" attitudes about sexual issues or sexual innuendoes are made to feel welcome on the work force, in the workplace, or in the classroom.
- ✓ Management reacts to the circumstances "it" has heard and unofficially draws conclusions before the investigation is complete.
- ✓ Management is not sensitive to the work relationship of the complaining party and the respondent during the investigative phase and after determination of the facts.
- ✓ Management presumes that a complaint about offensive behavior in which sexual terms and suggestions are interpreted by the complainant is sexual harassment.

INVESTIGATION TRAINING SEMINAR CONDUCTING OBJECTIVE INVESTIGATIONS

(Presented by Charmaine Clowney, J.D., Director of Diversity and Equal Opportunity)

- Be objective in “what you say” (verbal comments) and “how you say” it (voice tones and inflections).
- Avoid verbal and non-verbal comments (*i.e.*, touching or telling jokes) that might imply you agree or disagree with allegations made by the complainant, the accused or witnesses.
- Avoid making any comments that would lead the complainant, the accused or witnesses, to believe you agree or disagree with allegations or comments.
- Avoid socializing with the complainant or the accused.
- Avoid conversations and discussions about the investigation.
- Avoid being “bated” or led into conversations by the complainant, the accused or witnesses about your personal views regarding the investigation.
- Do not send correspondence or e-mails that reveal your personal views about the investigation.

CHECKLIST: KNOWING HOW TO ASK QUESTIONS IS THE KEY

- Draft in advance a preliminary list of questions you want to ask the interviewee.
- Save unfriendly or embarrassing questions until the end of the interview.
- Don't begin with hostile or "tough" questions; this will cause the person to become defensive.
- Start with "broad" questions; move to "narrow" questions after the interviewee has sketched the parameters of the events as he/she knows them, that is:
 "Now that you have read what the person who raised the complaint had to say, what is your response?"
- Do not put words in the person's mouth. Avoid leading the person in any particular direction, such as "Isn't it true that Bob started acting differently toward his female employees shortly after he got divorced?"
- Ask the tough questions. Don't let the interviewee's discomfort stop you from getting to the truth. Even if the person is uncomfortable, make sure you are satisfied that he/she is giving you all the information he/she has.
- The answers to your previously planned set of questions will provide you with a base for asking additional questions. Don't stop after you have asked your pre-planned questions.
- Ask questions which force a person to relate events chronologically. Comparing different chronological versions of an event will help resolve credibility issues later on.
- Ask questions which are designed to give you relevant facts.
- Ask open-ended questions.
- Don't ask compound questions; ask one question at a time.
- Don't form conclusions.
- Ask *who*, *what*, *when*, *where*, *how* and *why* type questions.
- Review your understanding of the information you received with the person you're questioning.
- Before excusing the interviewee, be sure the person has told you everything he/she knows. Specifically ask if he/she has any other information or documentation that may assist you in reaching a resolution. Ask if there are any questions you have *not* asked which he/she feels you should have asked.

INTERVIEWING THE PERSON RAISING THE ISSUE

- What happened?
- Who was involved?
- When did the incident take place?
- Where did the incident take place?
- Was the employee's/student's ability to work/learn affected?
- Were there any witnesses?
- Was the incident isolated or was it part of a pattern?
- Has the employee/student talked to anyone else about the issue?
- Are there any written documents relevant to the issue that the employee/student knows about?
- Has the employee/student kept written records or diaries that are relevant to the issue?
- Does the person raising the issue know if anyone else has the same or similar concerns?
- Are there any other issues this employee/student wants to discuss?
- Does the employee/student have any additional facts or information that would be helpful in an investigation, if one is merited?
- What is the outcome the employee/student expect?

(Reference: Lee Liggett, Esq., Former General Counsel to the University of Houston System, Virginia Polytechnic and State University, and The University of Vermont.)

CONDUCTING THE INTERVIEW WITH THE COMPLAINANT

- Review your role and the procedures for investigating allegations as provided in the IUP Sexual Harassment Policy.
- Explain that depending on the information that is shared at the meeting, the investigation may be resolved at the informal complaint resolution stage or it may have to be escalated to the formal complaint resolution stage.
- If the complainant requests that he/she wants only to inform the University of their concerns but does not want to have an investigation conducted, inform the complainant that depending on the information they share at the initial meeting, the university may have a legal obligation to investigate the sexual harassment allegation.
- Tell the complainant that to the extent possible, all complaints are considered confidential and only those people who are necessary for the investigation and resolution will receive information.
- Inform the complainant that the university does not permit any retaliation or reprisal due to a legitimate complaint having been raised.
- Advise the complainant that if there is a need to undertake an investigation, he/she will be apprised of this fact and will be told who will be conducting the investigation.
- Inform the complainant that the written complaint or a summary of the complaint will be provided to the alleged offender. Encourage him/her to assist you by providing a summary of the complaint in writing.
- Inform the complainant that he/she, as well as all individuals involved in an investigation, have a strict duty to keep investigation information confidential.
- Tell the complainant that you will be getting back to him/her from time to time during the investigation and that his/her continued cooperation in the investigation will be necessary to reach a resolution.
- Let the complainant know the university will make any final determination regarding the best way to resolve the complaint; however, the complainant's input is valuable and will be considered seriously.
- Thank the complainant again for raising the complaint and express your commitment to resolving the matter in a timely manner.

CONDUCTING THE INTERVIEW WITH THE ALLEGED OFFENDER

- Thank the person for meeting with you and their cooperation during the investigation.
- Review your role and the procedures for investigating allegations as provided in the IUP Sexual Harassment Policy.
- Explain that the purpose of the meeting is to share the sexual harassment allegation and to provide the alleged offender with the opportunity to respond to the allegation(s).
- Explain the university has a legal obligation to investigate sexual harassment allegations.
- Tell the alleged offender that to the extent possible, all complaints are considered confidential and only those people who are necessary for the investigation and resolution will receive information.
- Inform the alleged offender that the university does not permit any retaliation or reprisal due to a legitimate complaint having been raised.
- Provide the alleged offender a copy of the written complainant or a summary of the complaint and the opportunity to read the information.
- Tell the alleged offender that you will be getting back to him/her from time to time during the investigation and that his/her continued cooperation in the investigation will be necessary to reach a resolution.
- Let the alleged offender know the university will make any final determination regarding the best way to resolve the complaint; however, the complainant's input is valuable and will be considered.
- Thank the alleged offender and express your commitment to resolving the matter in a timely manner.

Sexual Harassment Complaint Form Informal Investigation

Date Initial Complaint Received: _____ Investigator: _____

Name of Complainant: _____

Name of Alleged Harasser: _____

Explain to everyone interviewed (complainant, alleged offender, and witnesses):
Explain the IUP Sexual Harassment Policy and the role of the investigator. Explain the purpose of the investigator is to investigate the complaint informally and in a fair and impartial manner. Explain the investigator will protect the rights of all individuals involved and the role of the investigator is to obtain information to verify the complaint. Checklist:

- | | |
|--|---|
| <input type="checkbox"/> Review policy | <input type="checkbox"/> Review confidentiality |
| <input type="checkbox"/> Review procedures | <input type="checkbox"/> Review retaliation |
| <input type="checkbox"/> Review role of investigator | <input type="checkbox"/> Review obligation for timely investigation |

Explain to the complainant that depending on the allegations, the complaint may be resolved at the informal stage or it may have to be forwarded to the formal investigation stage.

Complainant's specific allegation: (attach all documents and notes from meetings)

Names of witnesses to contact: _____

Outcome Requested by Complainant:

Explain how the sexual harassment complaint was resolved:

continued

Meeting with the alleged harasser:

A copy of the written complaint or summary of the complaint was provided to the Alleged Offender on _____. Explain that as much information as possible will be collected and provided to help with the investigation.

Alleged offender's response to the allegations: (attach all documents and notes from meetings)

Meetings with witnesses:

Date and name of person interviewed: _____

Date and name of person interviewed: _____

Summary of meetings with witnesses: (attach all notes)

At the conclusion of each meeting, thank the person for their cooperation. Again, state the importance of confidentiality. Explain that a thorough investigation will be conducted. Inform the complainant and the alleged offender they will be informed of the outcome of the investigation when it has been completed. Ask all interviews to contact you if they recollect any additional information. State that a timely investigation is important and if possible, state the time frame in which you expect to be completed with the investigation. Thank each person for their continue cooperation.

Date all information from the investigation was submitted to the Director of Social Equity and Civic Engagement for the confidential file. _____.