

10 TIPS FOR BETTER SEXUAL HARASSMENT INVESTIGATIONS

Case IQ



Sexual harassment complaints are among the most difficult workplace misconduct allegations to investigate.

The complainant may be reluctant to come forward in the first place, and may be uncomfortable talking about the incident. The alleged harasser may be embarrassed, angry or defensive. Witnesses, even, may be uncomfortable and reluctant to get involved. It's important for investigators to handle these cases with sensitivity and professionalism.

Selecting an Investigator

When selecting an investigator for a sexual harassment case, consider who is involved and the nature of the allegations.

If the complainant is a female, it may be best to assign the case to a female investigator, or to at least have another female attend the investigation interview. *

- If the complainant is a male, don't assume that the gender of the investigator won't be an issue.
- Each case is different and investigator selection should be tailored to the circumstances and people involved.
- In a high-risk case, or when a senior manager or supervisor is involved, it's often a good idea to hire an external investigator. This can show good faith on the part of the employer.

*Keep in mind that this may not be the case, especially if the complainant is LGBTQ2, so keep this in mind when assessing the case assignment.

STEP 1

Keep in mind that you are just gathering the facts to determine whether a policy, not the law, has been broken. Avoid using legal terms, and jargon.

STEP 2

Ask who, what, where, when and how for each activity listed in the complaint and surrounding issues, but don't ask why. (For example: Why didn't you come to HR?) It's important to avoid giving the impression that the incident is the complainant's fault.

STEP 3

If the interview subject becomes emotional or starts to cry, give him or her time to recompose but continue the same line of questioning. Don't stop asking probing questions because the topic is uncomfortable.

STEP 4

To capture the details of the alleged incident ask the complainant and any witnesses to draw where they were standing in relation to others. Ask them to estimate distances. (For example: How close were you?) Use comparisons, such as table lengths, to put the distances into perspective.

STEP 5

Ask interview subjects to demonstrate the conduct described and provide as much detail as possible. (For example: Show me where he touched you. How many times?)

STEP 6

Ask subjects to clarify what they mean when they use emotionally charged words such as creepy, uncomfortable, stressful, grope, lecherous, etc. Words have different meanings to different people.

STEP 7

Be patient and conscious of cultural differences. Some issues are more sensitive in certain cultures. It's important to keep allegations in context, avoid judgement and be sensitive to the different perspectives of those from different backgrounds.

STEP 8

Seek corroboration when complaints involve people who have been involved in workplace relationships. Even if a relationship was consensual at one time, it may no longer be. Interviewing others who knew about the relationship can help to determine the credibility of the complaint.

STEP 9

When interviewing the subject of a complaint, use the word “alleged” and avoid using judgmental language in order to demonstrate impartiality. Outline the allegations and give the subject the opportunity to respond.

STEP 10

Familiarize yourself with EEOC guidance on conducting harassment investigations.

To access more helpful resources, please visit
[caseiq.com/resources](https://www.caseiq.com/resources).

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