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- ii Then, think about whether there are any interim measures you should consider. For example, do you need to take steps to to ensure safety of reporter and others in workplace, prevent potential on-going injury/loss, and/or ensure evidence is not destroyed? What about if a witness self-identifies a potential medical condition?

For this exercise, which partners might you want to engage ?

- iii Next, think about how you will obtain the relevant information needed to make determinations about the allegations.

- For this exercise, who will need to be interviewed and in what order they will need to be interviewed? Identify potential witnesses (whether identified by the complaining party or not).

- Now think about what documents you will need to gather and review. Consider: demographic information, electronic communications, building access reports, expense reports, calendar information, personnel file, other reports, photos, etc.

iv It is generally a good practice to confer with Employment Legal before you begin your investigation. Be prepared to outline the allegations and discuss your intended approach to gather relevant information.

For this exercise, how would you describe the allegations and investigation plan?

B. FACT FINDING

Below are some helpful tips on how to approach an HR investigation.

i Preparing for an Interview

- Review all the information you have and make notes about what points you want to cover with each interviewee

ii Interviews

- Write down a list of questions, or topic areas, you want to cover with the interviewee, including introduction and closing.
- Introduce yourself and explain your role.
- It is important that you remain impartial and objective at all times; be mindful of your questions and avoid making responses and/or comments that might cause the interviewee to question your objectivity as a thorough and impartial investigator.

- Do not make any promises in advance about what the company will or will not do based on the results of the investigation. You could say that the Company takes the matter seriously and will fully and fairly investigate and then take appropriate action.
 - You may want provide a high level explanation of the nature of the interview, ie: the reason for the discussion.
 - Such as: “I’m looking into employee concerns that have been raised and you may have information relevant to my review.”
 - Confidentiality: Explain that you will keep the discussion confidential to the extent possible, this is not guaranteed and is not required of the employee(s).
 - Explain the policy prohibiting retaliation for raising concerns in good faith or participating in an investigation.
 - Explain that you will be taking notes, however you are not recording the conversation and do not give permission to be recorded as Oracle policy prohibits recording conversations.
 - Explain that the Company has an obligation to investigate the situation, and it is the obligation of every employee to comply with our company policies, which includes cooperating in an investigation. The interviewee is expected to provide complete, honest information during the course of the interview.
 - Let the interviewee know that is appropriate to let you know if they need a break, water, etc.
 - Ask the interviewee if there are any questions or concerns before beginning with the interview.
- iii Focus on Facts – who, what, where, when, and who else was there.
- Get details. Do not stop with a general characterization such as “he was harassing her” or “he made a crude comment.” Ask further questions such as: “What was he doing?” “Did he touch her?” “What did he say, exactly?”

- Obtaining dates and times is important; ask if the witness can remember.
- Ask witness to reveal the names of others who were present and who might also be witnesses.
- Ask whether the interviewee is aware of any similar conduct/behavior happening before or since, and if yes, ask for details.
- Ask whether the interviewee ever heard similar complaints from anybody else in the Company.
- Ask the interviewee whether they have any notes, emails, or other documents pertaining to any of the events being discussed (Follow-up after the interview to make sure you receive the documents as applicable.)
- Remain neutral and objective; always remain aware of your biases. Do not assume guilt or innocence of any party; you are collecting information and details in order to make a finding.
- Ask follow-up questions based on the interviewee's answers.
- Embrace silence. Allow the interviewee to fill in the gaps and wait until they are completely finished talking before going on to the next question.
- If there are particularly difficult, embarrassing, or uncomfortable questions that you have to ask, you might want to save them for the end.
- At the end, ask an open-ended "closing" question, such as "Is there anything else that you'd like to discuss?" Give them plenty of time to answer.
- Provide a reminder of policy prohibiting retaliation and a directive to call you if any concerns arise.

- Let the interviewee know that you may need to contact them again regarding the concerns raised.
- Reaffirm with the interviewee that they have been complete in answering questions and providing information.
- Remind the interviewee to provide you with any documents, emails, IMs, text messages, etc. that might be relevant to the investigation.
- Let the interviewee know that if they become aware of additional information about the topic or remembers something not revealed during the interview they need to contact you immediately.
- Ensure that the interviewee has provided you with the names and contact information of anyone else believed to have information relevant to the investigation.

C. ANALYSIS AND CONCLUSION

- i When you have gathered all your facts, it can be helpful to review the list of allegations that you wrote out at the planning stage. Take a look to see if any additional allegations were raised and looked into during your investigation. Note: If allegations were raised that were not within the scope of your investigation, be sure there is a plan to review those allegations separately as applicable.

For this exercise, list out all of the allegations that have been raised:

ii Think about what information you found that IS NOT in dispute?

iii Then think about the information that IS in dispute.

List that information:

iv What information is still unknown or missing? Do you believe this information is needed to make a finding?

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v Is any information in dispute? If yes, conduct a credibility assessment.

Credibility factors to consider:

- Corroboration: Is there a statement(s) or documentation that supports or confirms one version or another?
- Consistent Statements: Did the interviewee(s) tell others similar things at the time? Were there inconsistent statements or omission of material information?
- Plausibility: Does one version or another make more sense in context of the setting/circumstances?
- Motive to falsify: Has your investigation revealed any reasons for one or more persons involved to withhold information or be untruthful?
- Past Record: is there a history of similar behavior?

ii Using the credibility assessment questions above, what did you determine?

iii Double check your own biases:

- Against “whiners”/“complainers”
- Against poor performers
- Toward people you sympathize with

- Toward people with power
- Toward an easy answer

iv Make Findings – what did the investigation determine about each of the allegations?

- In situations where there is no “smoking gun” (e.g. like email or other documents that confirm or disprove an allegation), you will generally want to focus your findings on whether it is “more likely than not” that something did or did not occur.
- Make certain you can clearly articulate how you were arrived at your findings.
- It can be helpful to list facts that support your finding and information that is contrary to your findings.
- If applicable, think about how you arrived at your findings in light of contrary evidence? Did you assess credibility? If so, how did you do that? What factors did you use?

v For this exercise, write out your findings on each allegation and whether the allegation substantiated or unsubstantiated and why:

vi Before closing your investigation, you will generally want to confer again with Employment Legal to review your findings and any closure documents.

D. CLOSURE OF INVESTIGATION

- i Follow-up with the complaining employee.
 - Put together a close-out memo (or email, depending on the nature of the investigation) summarizing the results of the investigation.
 - Inform complainant of the findings of the investigation.
 - If remedial action was taken, advise the complaining employee that action was taken, without disclosing confidential actions taken.
- ii Follow up with the accused employee.
 - Put together a close-out memo (or email, depending on the nature of the investigation).
 - Provide findings from the investigation.
 - Remind them about policy prohibiting retaliation against any witness or against the complaining employee; state that consequence of retaliating can be severe and could include termination
- iii Make certain remedial and/or follow up actions are completed.
 - Ensure that any training, coaching and/or disciplinary actions are completed as soon as possible

E. RECORDKEEPING

- i Preserve a record of your investigation
 - It is good practice to file all relevant documents in Workspace.(add link)
 - Make certain any disciplinary action documents are placed in the appropriate employee file if required.

TIPS FOR CONDUCTING WITNESS INTERVIEWS

Conducting interviews of a complaining employee, the accused, and all witnesses should follow the basic WHAT, WHO, WHEN, WHERE, WHY, HOW format for gathering information and details. Try to keep each person focused on *one individual thing at a time*, before moving on to the next thing. Below are some sample questions (obviously questions should be tailored to each individual situation/set of allegations):

1. WHAT happened?

- Describe what occurred.
- Sort out each incident and address one at a time.
- What did he/she say?
- What did you say?
- If harassment: Describe or demonstrate how he/she touched you.
- Did you save any relevant evidence (emails, cartoons, notes, etc.)?
- Can you think of anything else about the incident?
- Can you think of any other incidents?
- Are you aware of any others who have experienced the same or similar conduct?

2. WHO did it?

- Who engaged in the conduct?
- Who else was present?
- Have you spoken to anyone else about the incident?
- Have you reported this incident to anyone? Who? Why or why not?
- Who was your supervisor at the time?

3. WHEN did it occur?

- On what date did the incident occur?
- What day of the week was it?
- What time of day was it?
- How long did the incident last?
- Has it happened since then? How often?

4. WHERE did it occur?

- Where were you when the incident occurred?
- Where were any witnesses? If yes, where were they standing or located, if any?

If the allegation includes potential harassment:

- Describe the area and where you were standing or located.
- Where was the accused standing or located?
- Did you move during the incident? Where did you move?
- Did the accused move throughout the incident? Where?
- Did anyone enter or leave the area while it was occurring?

5. WHY did the incident occur?

- Have you had any similar problem with this person before?
- What happened, etc.?

6. HOW did you handle the situation?

- What was your immediate reaction to the incident?
- How do you feel now about it?

7. ASK: IS THERE ANYTHING ELSE?

SAMPLE OUTLINE FOR INTERVIEW OF REPORTING EMPLOYEE

Below is a sample outline for an intake interview with a complaining employee. Interview questions should be customized based on the allegations/circumstances at issue, but this will give you an idea of how you might want to structure this type of interview.

Referring to each specific allegation, ask questions such as:

- When did this occur?
- Where did this occur?
- Who was present when this occurred?
- Exactly what happened, or exactly what was said?
- What conversation occurred with the accused before the offensive statement or conduct occurred?
- What response did you make to the accused when the offensive statement/act was occurring and when it ended?
- Was anyone else present during this subsequent conversation?
- Did you ever indicate to accused employee that you were offended or somehow displeased by his statement/action?
- What did you do or say to indicate your displeasure?
- Did you tell (accused) to stop?
- Did you tell (accused) that you found his/her conduct to be offensive or that it was sexual harassment?
- Did you speak with anyone else about (accused's) offensive statement/behavior? With whom did you speak? When did this conversation take place? What did you say and what did he/she say?
- Did you continue with normal activities after the incident?
- Has anything else happened? ? If so, when/where/what happened?

At the end of interview, if applicable in certain cases you might want to ask:

- What are your expectations in regards to these concerns? Is there something specific you are expecting in this regard?? NOTE: avoid promising or implying that any particular action(s) will or will not be taken.

SAMPLE OUTLINE FOR INTERVIEW OF ACCUSED

Below is a sample outline for an intake interview with an employee that is the subject of the allegations raised. Interview questions should be customized based on the allegations/circumstances at issue, but this will give you an idea of how you might want to structure this type of interview.

Identify each alleged improper statement or action in detail and allow the accused the opportunity to respond and tell his/her side of the story. (Note: It may not be necessary to disclose the identity of the complaining party in some cases. This should be reviewed case by case with Legal.)

Items to cover during the interview with accused:

- Start with general questions and broad questions regarding the team, org chart, interactions, dynamic within the team.
 - How are things going?
 - Communication/Management styles

Consider each alleged improper statement, action/conduct in detail.

Work on developing questions that will develop your factual understanding of the concerns raised, which will generally include questions that give accused employee an opportunity to respond and tell his/her side of the story. Note: In some cases, it may not be necessary to disclose the identity of the complaining party. (Confer with Employment Legal on this question).

- If the accused employee suggests that the allegations are false, think about asking why HR would receive such a report.
- Think about asking why they think someone would have that impression/ perception?
- Think about asking if they can see how their interactions may have come across as reported (based on specific allegation)
- Think about asking them to identify any witnesses and any other persons with relevant information.

- Explore any working and personal relationship between the complainant and the accused.
- In the event that an accused employee gets defensive, remind them that we take all concerns seriously and need to follow up as appropriate. At this time, we are just going through the process of gathering information, getting their input so we can effectively look into the matter. We appreciate their cooperation and remind them of Oracle's Retaliation Policy if appropriate.