

SUNDAY BUSINESS

& THE WALL STREET JOURNAL SUNDAY.

SUNDAY
May 29, 2005

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Investigating sexual misconduct

It appears that sexual harassment claims are on the rise.

Investigating complaints of sexual harassment demand that managers exercise skill and discretion. The integrity of a sexual harassment investigation will often determine whether a claim is settled without going to an administrative agency or to court.

Ultimately, someone within the organization must be responsible for designing, implementing and following up on the investigation process. This may be a human resources professional, upper level management, in-house retained counsel or the owner.

The person who is designated to conduct the investigation must be fair and impartial to seek the integrity of the investigation, conduct fair and objective interviews, gather documents and summarize all the information that has been gathered.

If the incident involves a high-ranking official, consider using an outside expert or attorney. Prior to the investigation, one must create a file, review the personnel folder, check age, race, years of service, etc., determine who will be interviewed and where the investigation will take place.

Depending on the severity of the incident, you must consider putting the accused on paid administrative leave pending the outcome of the investigation.



MARIE H. REICHEL
Corporate Perspective

The investigation should start immediately.

Here is a check list of a sexual harassment investigation:

In your initial meeting with the complainant, be sure that the complainant is comfortable with the investigator. Get the facts — who, what, when, where, how and why.

Determine if an internal investigation is warranted. Are there other employees involved? Do you need more facts than the employee is able to provide? Do you need other resources?

Plan the investigation. Determine which policies, procedures and guidelines to apply. Obtain all relevant documents necessary, and determine who is best suited to conduct the investigation.

Decide the sequence of the interviews, outline the questions you will ask and determine if any actions are necessary before the investigation.

Anticipate the questions that

each of your interviewees will ask. Be prepared to explain why you are investigating, why the interviewee is being interviewed and how the information will be used. Remember to stress that no conclusion has yet been reached, and be sure to emphasize your company's policy regarding confidentiality and reprisal.

Questions to ask include: Have you ever witnessed any unprofessional or inappropriate behavior of a sexual nature? Has anyone ever confided in you that he/she has been a recipient of unwelcomed behavior of a sexual nature?

Be sure to explain the ground rules and protect the identity of witnesses. Be a good listener and don't ask leading questions.

If someone is leaving who might be a witness, get a statement before the person leaves. Be sure to have all the witness statements reviewed and signed by each witness.

A prompt and thorough investigation can minimize any potential liabilities for the company. Resolution and any disciplinary actions taken internally reduce the potential for future sexual harassment.

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