

## SAMPLE DISCRIMINATION/HARASSMENT CHECKLIST

### INVESTIGATING COMPLAINTS OF HARASSMENT OR DISCRIMINATION

In most countries, the law requires a company to promptly and thoroughly investigate claims of harassment or discrimination. Remember that if a lawsuit is filed, many courts will require you to fully disclose your investigation. So don't rush through it! Depending on the individual situation, most or all of the following should be considered during an investigation.

| Harassment Checklist     |  |
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| <input type="checkbox"/> | Remember your focus is to gather facts and commit to legal compliance.   |
| <input type="checkbox"/> | Be sure to understand that harassment and discrimination are very often about <i>power, ignorance and fear</i> .   |
| <input type="checkbox"/> | Address the <i>psychological needs</i> of those involved. Don't begin by telling the claimant they have no claim.  |
| <input type="checkbox"/> | Keep matters confidential but <i>don't promise absolute confidentiality</i> because of your need to investigate, communicate, discipline and terminate.  |
| <input type="checkbox"/> | <i>Contact your attorney</i> if you think the matter could possibly lead to a claim.   |
| <input type="checkbox"/> | Get the complete story from the claimant in writing.   |
| <input type="checkbox"/> | Keep all interview notes, forms, etc. in a separate file, not part of the personnel file and limit access on a need to know basis only. Mark all documents "CONFIDENTIAL."                                     |
| <input type="checkbox"/> | <i>Don't spread rumours</i> about the employee or the complaint. Resist the temptation to gossip about these matters. Share any information on a need to know basis only.                                      |
| <input type="checkbox"/> | Don't leap to conclusions! Perform a complete investigation. Interview the employee complaining, the person accused and any witnesses named by either. Take good notes.  |
| <input type="checkbox"/> | Make sure to ask for all <i>facts, documents and witnesses</i> supporting any claims made.   |
| <input type="checkbox"/> | Take detailed notes and consider preparing <i>written statements</i> for signature by the employee, harasser and witnesses signed under the penalty of perjury (see Witness Statement Form).                   |
| <input type="checkbox"/> | This is serious business. If you feel uncomfortable performing the investigation, hire an <i>outside investigator, consultant or attorney</i> to do it for you. Check out their experience and qualifications. |
| <input type="checkbox"/> | Consider using a third party <i>mediator</i> (e.g. Business Savvy) with an organizational psychology background to help resolve differences between two or more employees.                                     |
| <input type="checkbox"/> | <i>Look for the motive</i> behind the allegations and defences. Things are seldom what they appear to be. Evaluate the credibility and weight of the evidence.   |

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| <input type="checkbox"/> | Do your best to <i>follow company policies and procedures</i> that apply to grievances, discipline, privacy, etc. Treat all employees equally.   |
| <input type="checkbox"/> | <i>Assure the complaining party</i> that you have completed your investigation, inform them of the facts you gathered without divulging your sources. Offer claimants the opportunity to address your final factual determinations before taking appropriate action. Do the same with the <u>accused</u> .   |
| <input type="checkbox"/> | If warranted, engage in <i>appropriate discipline</i> ranging from a warning, to leave without pay, transfer, demotion or termination. Document the discipline. Make sure the discipline does not violate any contract or procedure. Seriously consider a neutral evaluation before termination and give the accused the right to appeal any decision. |
| <input type="checkbox"/> | Make sure to <i>warn</i> and <i>monitor</i> the parties to avoid repeated claims or possible retaliation.  |
| <input type="checkbox"/> | <i>Change</i> any part of <i>your personnel system</i> that needs changing to avoid repeat scenarios.  |