

Corporate Compliance Forms and Tools

Checklist for Interviewing a Person Accused of Wrongdoing

Interviewing a Person Accused of Wrongdoing

As an investigator, take the following steps when interviewing a person accused of wrongdoing:

- Introduce yourself by name and (if appropriate) provide your business card or contact information.
- If interview is being recorded, ask for specific permission to record.
- If a notetaker is present for the interview, introduce the notetaker and explain their role as scribe.
- Identify yourself as a neutral fact finder representing the organization and conducting an investigation into a claim of wrongdoing.
- Explain this is a serious matter and that you are asking for their assistance in finding out what happened so you can advise the organization.
- Thank them in advance for their cooperation and assistance.
- If the investigator is an attorney, give an Upjohn Warning to make it clear the investigator represents the organization and not the individual, and explain attorney-client privilege and how it applies to this investigation.
- Confirm the individual believes that you can be impartial and neutral in the matter.
- Emphasize that the organization takes claims seriously and has a process to determine whether wrongdoing has occurred.
- Provide a brief overview of the investigations process.
- Share that you have already interviewed several people who have seen, heard, or know something about the issues involved but that no decision has been made at this point.
- Set your expectations of them as a witness: that they will be truthful and not misleading; that they will cooperate with you; that they will keep the matter confidential and not discuss it verbally or in writing with other witnesses or employees; and that if they violate confidentiality, they may be subject to disciplinary action.
- Provide an overview of the interview, how long it is expected to take, how it will work, and what you need from them.
- Explain that they have been accused of X and tell them that this is their opportunity to share their side of the story and provide any information they might have to provide mitigating and exculpatory information.
- Emphasize again the importance of full cooperation and truthfulness.
- Inform them there will be additional witnesses you will need to interview (do not name names).

- Set the expectation that you will not share their name with other witnesses unless there is no way to avoid doing so, and let them know who you will share your investigation findings with (e.g., them, management, others).
- Describe how other records or information might help you determine what happened and why (e.g., emails, voicemail messages, photos, other items).
- Ask if they are aware of any documents or records that might assist you.
- Ask them whether they can provide you with a list of names of possible witnesses they think might be helpful. (When they provide this list, ask them what they think each witness can provide. You may need to explain you are looking for people who saw or heard things, not “character” witnesses to vouch for people.)
- Let them know you will make the final decisions about who to interview.
- Describe the policy against retaliation and what it means to them and what they should do if they have any concern that they are being subjected to any sort of retaliation and the consequences if they retaliate against others.
- Ask questions (who, what, where, when, and why).
- Restate your understanding of the issue they have described to check for accuracy.
- Ask if there was anything you did not ask them that you should have.
- Ask if there is anything else they think you should know.
- Ask them to affirm their account has been complete and accurate.
- Ensure they understand how to contact you if they have questions or additional information to provide.
- Provide an estimated timeline for completion of the investigation and generally describe next steps.
- Explain what they can expect in terms of follow-up and information. Will they be informed when the investigation has been closed? If so, by whom and how?
- Reiterate that no decision will be made until the investigation is complete.
- Thank them for their time and cooperation.
- Ask if they have any final questions or concerns.
- Close the interview.

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