

## Guidelines for Handling Discrimination and Harassment Complaints

Most managers are anxious when faced with discrimination and harassment complaints. And with good reason. Such complaints can lead to workplace tension, government investigations, and even costly legal battles. If you take the complaint seriously and follow a careful strategy for dealing with it, you can reduce the likelihood of a lawsuit and even improve worker relations in the process.

Here are some basic rules to follow if you receive a complaint of discrimination or harassment:

- **Keep an open mind.** Many managers have a hard time believing that discrimination or harassment could be happening right under their noses. As a result, they often fail to investigate complaints, assuming that they could not possibly be true. Unfortunately, failing to investigate a complaint is a surefire way to land in court. Investigate every complaint you receive. Don't come to any conclusions until your investigation is complete.
- **Treat the complainant with respect and compassion.** Workers often find it extremely difficult to complain about discrimination or harassment. They feel vulnerable and afraid. This can have an impact on the quality of their work, and it can also lead them to seek outside assistance from lawyers. When a worker comes to you with concerns about discrimination or harassment, be understanding. A worker who feels that you are taking the problem seriously is less likely to escalate the issue to a government agency or to court. You also run the risk of polarizing your workplace, damaging morale, and lowering productivity.
- **Follow established policies.** If you have a workers handbook or other documented policies relating to discrimination and harassment, follow those policies. Don't open yourself up to claims of unfair treatment by bending the rules.
- **Interview the people involved.** Start by talking to the person who complained. Find out exactly what the worker's concerns are. Get details, e.g. what was said or done, when, and where, and who else was there. Take notes of your interviews. Then talk to any workers who are being accused of discrimination or harassment. Get details from them as well. Be sure to interview any witnesses who may have seen or heard any problematic conduct. Gather any relevant documents.
- **Look for corroboration or contradiction.** Discrimination and harassment complaints often offer the classic example of "he said/she said." Often, the accuser and accused offer different versions of incidents, leaving you with conflicting stories. You may have to turn to other sources for clues. For example, schedules, time cards, and other attendance records (for trainings, meetings, and so on) may help you determine if each party was where he or she claimed to be.
- **Keep it confidential.** A discrimination complaint can polarize a workplace. Workers will likely side with either the complaining or the accused worker, and the rumor mill will start working overtime. Worse, if too many details about the complaint are leaked, you may be accused of damaging the reputation of the alleged victim or alleged harasser -- and get slapped with a defamation lawsuit. Avoid these problems by insisting on confidentiality and practicing it in your investigation.
- **Write it all down.** Take notes during your interviews. Before the interview is over, go back through your notes with the interviewee to make sure you got it right. Keep a journal of your investigation. Write down the steps you have taken to get at the truth, including dates and places of interviews you have conducted. Write down the names of all documents you have reviewed. Document any action taken against the accused or the reasons for deciding not to take action. This written record will protect you later if your worker claims that you ignored a complaint or conducted a one-sided investigation.
- **Cooperate with government agencies.** If the worker makes a complaint with a government agency either the federal Equal Employment Opportunity Commission (EEOC) or an equivalent state agency, that agency may investigate. It will probably ask you to provide certain documents, give your side of the story, and explain any efforts you made to deal with the complaint yourself. Be cautious, but cooperative. Try to provide the agency with the materials it requests, but remember that the agency is gathering evidence that could be used against you later. This is a good time to consider hiring a lawyer to advise you.

First Sun EAP has a dedicated Risk Management Team available to assist you with these issues. You can call any time for a free confidential consultation to discuss these or any workplace issues that affect the performance of your associates or to refer a worker if the need arises. Call toll free at **800-968-8143** or in Greater Columbia, **803-376-2668**.