

How employers should support respondents during and after the complaint/investigation process

Who is a respondent?

A person named as having harassed another person or persons at the workplace.



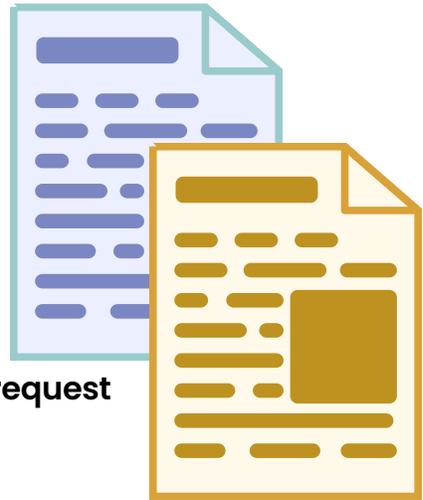
Why is it important?

Employers have a legal duty to treat respondents fairly and should not discipline respondents without first conducting a fair investigation. The failure to do so could lead to legal action against an employer.

At the first meeting with the respondent: after a report is made but before the investigation begins

- A trauma-informed approach should be used when communicating with respondents, as well as with complainants and witnesses. It is preferable to notify respondents in-person that a report about sexual harassment has been made.
- At the first meeting, provide materials detailing the complaint. This could be the entire complainant's report, a redacted version of the report, or a detailed summary of the complaint. It is critical that respondents are given enough information so that they can effectively respond to the complaint.
- Describe the contents of any physical evidence you have been given, such as emails, text messages, photographs, etc.
- Clearly explain all the steps in the investigation. Explain that they have the right to know the evidence against them prior to being interviewed, to provide a full response to that evidence, to call additional witnesses and submit evidence, and to be given up-to-date information if additional information comes to light.

- Provide a copy of your sexual harassment policy and any other relevant policies.
- Review your policies on retaliation and confidentiality. Tell the respondent that no contact with the complainant is preferred until the investigation is finished.
- Review the range of disciplinary outcomes if a finding of sexual harassment is made.
- Provide a list of relevant resources, including legal resources, support and counselling services, etc.
- After informing them of a report, allow respondents a reasonable amount of time to get further information, support and/or advice before scheduling an interview with the investigator.
- Interim safety measures should be considered for respondents as well as for complainants and witnesses, where applicable.



During the investigation

- Ensure respondents understand that they can submit documents or other evidence to the investigator and/or request that particular witnesses are interviewed.
- Give them the opportunity to have a support person at their interview, as long as the person is not also a witness, co-worker or otherwise involved in the investigation.
- Give them accommodations during the interview where required, in accordance with a trauma-informed approach. This could include breaks, opportunities to slow down or ask questions, choice of where to sit in the room, interpretation services, or other accommodations.
- Be open about timelines, including information about when the investigation is likely to be finished.
- Throughout the investigation, disclose new and relevant information that comes to light, including evidence from witnesses, and allow respondents a meaningful opportunity to respond, either in another interview or in writing.

After the investigation

- Inform respondents of the results in-person, and separately from complainants or other employees. Generally, however, respondents should not be provided with a full copy of the investigation report.
- If the investigation found that there was sexual harassment, inform the respondent of the discipline being imposed. In some cases, it may be appropriate to allow the respondent to make submissions before deciding on a disciplinary action.
- Ensure respondents have supports available and be able to provide a list of resources and support services.

