

# RAPID RESPONSE PROTOCOL

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## DISCLAIMER

The purpose of providing these sample policies to our contractors, unions, and training funds is to provide general guidance and general policies to assist in the preparation of employee handbooks or manuals. Some of your own policies may contain more decisive actions and consequences (where not constrained by Federal or other legal mandates). Each US state and Canadian province has specific laws which may require specific modification of the general policies outlined below. In addition, Federal, State & Provincial laws are constantly changing. We strongly encourage you to consult with a local attorney who is familiar with your specific local laws and who can review your handbook for compliance with applicable Federal, State & Provincial law.

You should use caution in modifying or editing any policies you adopt from this protocol, and you should not adopt and/or finalize policies without final legal review. SMACNA, SMART, and the ITI hereby disclaim all responsibility and liability for any loss or damage that may arise from the adoption and/or modification of the policies outlined in this protocol. Under no circumstances shall SMACNA, SMART, or ITI be liable for incidental or consequential damages.



# INTRODUCTION TO RAPID RESPONSE PROTOCOL

Dear Business Managers, Contractors and JATC Coordinators:

In a joint commitment to foster belonging and excellence in the Sheet Metal Industry, the BE4All Committee has developed a Rapid Response Protocol. The protocol is intended for use by all parties of the Sheet Metal Industry; local unions, regional councils, contractors, SMACNA Chapters, and JATCs to help navigate situations of bias and harm that may arise.

The Committee has worked to develop a template of policies and procedures that will foster an inclusive environment within the industry. It is our belief that by fostering a work environment free of bias our industry will be better able to retain our current talent, as well as recruit new talent to the workforce. These policies and procedures are intended to be a template and guide. Local areas are urged to work with their legal counsel to ensure that local laws are being followed.



# SECTION 1: PREVENTION

## PREVENTION IS KEY

Prevention is the best tool to eliminate harassment and other unwelcome conduct in the workplace. Employers, Unions, and Training Centers are encouraged to take appropriate steps to prevent and correct unlawful harassment, discrimination, hazing and/or bullying. They should clearly communicate to employees, members, and apprentices that such unwelcome conduct will not be tolerated. They can do this by adopting clear policies that prohibit unwanted behaviors and encourage a strong respectful work culture. Establishing an effective complaint or grievance process, providing anti-harassment training to their managers and employees, and taking timely and appropriate action regarding complaints will create an environment in which workers feel free to raise concerns and are confident that those concerns will be addressed.

## WRITTEN POLICIES

### **A Rationale for Written Policies**

There are many business reasons for having a written Personnel Policy and Procedure Manual. Written policies take expediency, snap judgment, and emotion out of the company's decision-making. Spur-of-the-moment action is unnecessary when fundamental, carefully worded company procedures are available to guide supervisors. When done well, everyone knows what is expected of them.

### **Workers' Protection**

**Policies offer safeguards for workers, mitigating issues that could have otherwise led to employment grievances.**

### **Set Expectations and Obligations**

Neither managers nor employees can excuse inappropriate conduct due to ignorance and supervisors become more effective because work conduct is clearly defined, resulting in fairness and consistency. A clear and comprehensive statement of company policies can offer these precise benefits.

Too often, employees are lost within six months of their hiring. This sudden turnover is costly and counterproductive. Poor communication, inadequate information and less-than-enthusiastic orientation are common causes. Written policies help new employees realize a quick appreciation of the potential rewards of longevity with the company.

### **Clear Communication**

Written policies provide managers and employees with a clear understanding of their responsibilities. A well-written personnel manual accurately communicates your organization's policies regarding employment, conduct and behavior, compensation, etc. It is the resource to which employees can refer for answers to questions related to employment pay and benefits. From the employee's perspective, searching for and starting a new job is a stressful exercise. Often potential new hires are fearful to ask too many questions and do not have a clear picture of what they should ask about a company's policies, procedures, and benefits.

### **Compliance with Federal and State and Provincial Employment Laws**

Regardless of where you operate or the number of employees you employ, as an employer, you are subject to Federal, State, &/or Provincial employment laws. A good personnel manual demonstrates that your organization strives for compliance through consistency in the handling of discipline, leaves of absence, hiring, promotion, layoffs, etc. Written guidelines make legal defense much easier should employment complaints be filed.

Additionally, in many instances, such handbooks or policies are required by Federal, State, &/or Provincial law. For guidance on personnel manuals that goes beyond creating a respectful workplace and responding to inappropriate behavior on the job, see SMACNA's contractor manual available on the SMACNA website.

## Support for Supervisors and Managers

A company's managers and supervisors have as much to gain from a comprehensive personnel manual as do the employees. The manual clarifies company procedures and expectations that foster healthy management-employee relationships and eliminates confusion and inconsistency. Managers and supervisors can refer to the handbook when answering questions or making decisions regarding your policies, and ensure their answers and actions are consistent with company policies and best practices.

## Enhance Productivity

Clearly defined policies and procedure allow everyone in the company to perform the job at hand. Everyone understands the demands of responsibility and the rewards of good performance. The benefit for Employers includes reduced conflict, improved employee satisfaction, and less time and resources spent addressing complaints.

## SAMPLE POLICIES

To assist employers in developing personnel handbooks, the BE4ALL committee has produced suggested sample policies for use by Contractors, Local Unions and Training Centers. The purpose of providing these sample policies to our members, unions and training funds is to provide general guidelines and general policies. Some of your own policies may contain more decisive actions and consequences (where not constrained by Federal or other legal mandates). Each US state and Canadian province has specific laws which may require specific modification of the general policies outlined below. In addition, Federal, State & Provincial laws are constantly changing. We strongly encourage you to consult with a local attorney who is familiar with your specific local, state, or provincial laws and who can review your handbook for compliance with applicable Federal, State & Provincial law.

**A single policy could encompass multiple individual policies. It is advisable to possess at least one policy addressing each of these specific areas.**

## EEO Statement

An EEO Policy Statement is a reminder that all employees are protected from discrimination under the laws designed to safeguard employees and job applicants from discrimination on the basis of race, color, religion, sex (including pregnancy, gender identity, and sexual orientation), parental status, national origin, age, disability, genetic information (including family medical history), political affiliation, military service, or other non-merit-based factors. These protections extend to all management practices and decisions, including recruitment and hiring, appraisal systems, promotions, training, and career development programs. Consistent with these obligations, the law also provides reasonable accommodations to employees and applicants with disabilities and for sincerely held religious beliefs, observances, and practices.

## EEO Policy Statement

## Checklists for Employers EEOC

## Unlawful Discrimination & Harassment

The primary goals of the policy are to:

- Provide a work environment free from harassment by ensuring that appropriate officials are notified of, and have the opportunity to promptly correct, harassing conduct;
- Communicate clearly that the employer will not tolerate sexual or non-sexual harassing behavior; and
- Address harassing conduct and hold employees accountable at the earliest possible stage, before the conduct becomes "severe or pervasive," i.e., harassment within the meaning of US anti-discrimination law. Note, in Canada, harassment is defined similarly. It is defined as a form of discrimination. It includes any unwanted physical or verbal behavior that offends or humiliates. Generally, harassment is a behavior that persists over time. Serious one-time incidents can also sometimes be considered harassment.

The policy achieves these goals by:

- Defining unacceptable conduct that violates the policy;
- Outlining the rights and responsibilities of employees, supervisors, and managers; and
- Establishing reporting procedures and accountability measures

### [Sample Prohibited Harassment Policy](#)

#### **Code of Conduct (Respectful Workplace)**

A respectful workplace code of conduct serves to clearly articulate and maintain the company's culture; it establishes a standard of respectfulness, clear communication, and professionalism as the acceptable behavior for all workers in the company. It is a reminder to the employees, whether executives, office staff or tradespeople, of what is expected from them in all their dealings within the company and without. It further highlights that their actions should always align with the ethos of the business, which is to operate with excellence and professionalism.

### [Sample Belonging Code of Conduct](#)

#### **Anti-Bullying & Hazing**

Even without a law against general bullying, employers can create policies and practices to prevent and prohibit such behavior. Ways of doing this include:

- Adopt clear, written anti-bullying policies in as many languages as are spoken in the workplace.
- Foster an organizational culture that prioritizes inclusion and doesn't tolerate bullying by regularly demonstrating a commitment to anti-bullying policies.
- Conduct bystander intervention training, which empowers co-workers to intervene when they witness bullying or harassing behavior. This "helps create a sense of collective responsibility for eliminating bullying and other problematic behavior in the workplace,"
- Conduct workplace civility training, which may reduce the likelihood that bullying will occur by promoting respect among employees from different backgrounds and at different job levels.
- Implement clear and straightforward procedures so that employees know how and where to report incidents. These procedures should include multiple confidential reporting channels.
- Make an effort to maintain employees' confidentiality throughout any investigation. If employees need to be identified, investigators should notify employees about the possibility that co-workers will learn about their complaints.

Workers who are victims of bullying or harassment should know they can promptly report incidents to their supervisors, management-level employees, human resource representatives or other employees designated to receive reports.

### [Sample Anti Bullying Policy](#)

#### **Lactation**

A lactation policy can help a mother decide whether to return to work after maternity leave. A lactation policy or lactation support program also helps managers and supervisors communicate the importance of lactation breaks and private lactation space to all staff, not just the nursing mother.

### [Sample Lactation Policy](#)

#### **Implementation**

No policy is effective unless it is followed. Contractors need to be prepared to follow through with enforcing their respectful workplace policies. All personnel policies should include a way for employees to report incidents of inappropriate behavior.

### [Notification of Incident Violation](#)

## TRAINING

### A Rationale for Training

Traditionally, many employers have offered harassment training because 1) they are fulfilling harassment training requirements by Federal, State & Provincial regulations, 2) they wanted a stronger legal defense in case of potential lawsuits, or 3) they feared the negative impacts of workplace harassment on the company—both from a cost and reputation standpoint.

Today, better reasons for workplace harassment training revolve around protecting employees from harassment, creating a safe and supportive work environment for all, and building a workplace culture of mutual respect.

While compliance is important and organizations must adhere to Federal, State & Provincial requirements, there is real risk involved when organizations fail to protect employees from harassment in the workplace.

Many provinces and states have laws mandating that employers provide training on harassment prevention. But rather than taking a “check the box” approach to prove compliance, go beyond that and use the required training time to shape employee behavior and thereby prevent undesirable behaviors from happening in the first place. That is how contractors can truly work to reduce workplace harassment and mitigate risk.

Training can do that—but not the type of harassment prevention training that has historically been delivered.

### Effective Harassment Prevention Training: A Process

A mandatory, once a year (or once every other year) harassment prevention training session to remain compliant with legal requirements—without more—is not the type of effort that positively can shape a respectful workplace culture.

Effective harassment and discrimination prevention training should be part of an ongoing, prevention-focused communication process, rather than a single event. And like your training, the messaging that you create and deliver around preventing unwelcome conduct should be rooted in strong policies and a clearly articulated culture.

Prevention messaging—which can reiterate the importance of treating others with dignity and reinforce that disrespectful conduct will not be tolerated—can be incorporated into a wide range of interactions that might include all hands meetings, toolbox talks, on-demand webinars, FAQs, etc.

Consistent prevention messages, which are repeated regularly and embedded, as appropriate, into everything from onboarding to annual in-service training, to performance management sessions between employees and managers, help to keep workplace conduct, prevention—and employees’ roles in support of prevention—top of mind. These resources help to ensure a consistent message—a message that can be conveyed in many ways over a period of time. Not just once a year.

Importantly, training around harassment prevention should be championed by a variety of sources—from the board to your President/CEO, to superintendents, to forepersons, to colleagues and coworkers.

#### Training Resources:

1. [DOL Apprentice Harassment Video](#)
2. Enroll key staff in SMACNA's “Bias, Belonging, & Anti-Harassment training”. This 3-hour training is available virtually as well as in person by emailing SMACNA at [jsquirewell@smacna.org](mailto:jsquirewell@smacna.org)
3. [Ensure BE4ALL Toolbox Talks are being utilized](#)
4. [Watch “Create an Inclusive and Welcoming Workplace for Your Employees”](#)
5. [Encourage participation in BE4ALL's Learning Journeys](#)
6. [EEOC Harassment Prevention and Respectful Workplaces Training](#)



## SECTION 2: RAPID RESPONSE PROTOCOL GUIDELINES

The following guidelines outline the steps for addressing complaints concerning bias, discrimination, or harassment and conducting a comprehensive investigation. When a contractor becomes aware of a complaint their responsibility is to conduct a prompt, impartial, and thorough investigation. Effective investigations play a key role in establishing a workplace that is safe, fair, and conducive to productivity.

### WHAT CONSTITUTES A COMPLAINT?

A harassment complaint is not strictly limited to written documentation or formal reporting; it can also arise through informal channels such as casual conversations or general comments indicating that an employee feels they have experienced harassment. While employees often bring their complaints to a supervisor, supervisors may also become aware of potential complaints through these informal means. In such informal scenarios or when misconduct is suspected, it is essential to promptly initiate an investigation and follow-up, treating the matter with the same seriousness as a formal complaint.

Once a complaint is received, the contractor should assess the necessity of involving external bodies based on the severity and nature of the incident:

- Involve legal counsel to ensure adherence to proper protocols. Ensure that communication is prompt, intentional, and specific to enhance effectiveness.
- Evaluate whether the incident warrants communication to SMACNA, SMART, or the ITI.
- Assess if police involvement is warranted, considering state-specific criteria for criminal offenses. Determine if the incident meets the criteria for hate crimes or involves unwanted physical contact or violence.
- Evaluate whether informing clients or general contractors is necessary. Recognize that information tends to spread quickly, and it may be advantageous for the client or general contractor to hear from you first.

It is best practice to preserve all business records, whether in paper or electronic form, as soon as you learn about an incident. This is especially important if you reasonably anticipate a legal claim. Consult legal counsel to ensure appropriate holds are placed on all relevant documents and information.

### ROLE OF THE CONTRACTOR AND UNION

In cases where the alleged incident occurred on a large jobsite, possibly implicating multiple trades or being particularly serious, the general contractor often takes charge of the investigation. As the contractor, you may only play a peripheral role, attending interviews with your employees and receiving investigation reports as determined by the owner and general contractor.

Maintaining open communication with the general contractor and other subcontractors during the investigation is crucial. This helps prevent the spread of misinformation that could strain relationships and hinder future collaboration.

Apart from the general contractor's investigation, it's incumbent upon the contractor to conduct a thorough investigation into any reported incidents of harassment or discrimination in which the contractor's employees are involved. The union is obligated to represent its members fairly during the contractor's investigation and any subsequent adverse employment actions and there may be points of contention between the union and the contractor.

Despite potential conflicts, both the contractor and union should share the goal of ensuring a work environment free from harassment, discrimination, and other prohibited behaviors for the contractor's employees and the union's members. It is crucial for both parties to emphasize that the primary objective is to determine what occurred and take corrective action if policies were violated.

*Contractors should be aware that the union might conduct its own investigation if the incident involves its members. Where an alleged incident implicates a provision of the Collective Bargaining Agreement, the union may initiate the grievance process, starting by communicating with the contractor about the potential problem and attempting resolution. Additionally, if the matter involves disputes between union members, the union may take internal disciplinary action against its member for a breach of the code of conduct. This disciplinary action is distinct from any steps taken by the contractor.*

### **ESTABLISHING A RAPID RESPONSE TEAM**

Before work begins and in anticipation of potential incidents, it is advisable to collaborate with the local union to establish a Rapid Response Team. This team will be responsible for investigating and addressing any issues that may arise during the course of operations. Careful consideration should be given to selecting the members of this team. Handling sensitive issues requires individuals with specific qualities. When selecting team members, consider the following criteria:

1. Confidentiality: Identify individuals who have consistently demonstrated the ability to maintain confidentiality.
2. Fairness and Objectivity: Look for team members with a track record of remaining fair and objective, avoiding premature conclusions.
3. Composure under Stress: Prioritize individuals who can maintain composure during stressful situations.
4. Interpersonal Skills: Choose team members with strong interpersonal skills, enabling them to build rapport with involved parties and be perceived as neutral and fair.
5. Appropriate Temperament: Seek individuals with the right temperament to effectively handle these sensitive complaints.

To ensure proper handling of complaints, we strongly recommend making it mandatory for team members to undergo training (which may encompass implicit bias training, viewing the Department of Labor training video, or participating in any other available training) before serving on the team.



## STEPS TO A COMPREHENSIVE CONTRACTOR INVESTIGATION

### Step 1 – Pre-investigation:

This initial step serves as the foundation for a thorough and effective investigation. Pre-investigation lays the groundwork for a comprehensive understanding of the situation before formally initiating the investigative process. It involves gathering essential information and identifying potential challenges to ensure a smooth and focused investigation.

#### Key Actions:

- Identify Potential Witnesses:
  - Begin by compiling a list of individuals who may have relevant information about the incident or issue under investigation. These could include employees, supervisors, or any other parties directly or indirectly involved.
- Review Records:
  - Conduct a careful examination of pertinent records, documents, and any available data related to the matter. This step helps in identifying patterns, timelines, and any existing evidence that might be crucial to the investigation.

By completing the pre-investigation phase, you establish a solid foundation for the subsequent steps. This includes a list of potential witnesses and a thorough understanding of the relevant records. This information will guide the development of a well-informed investigation strategy in the next steps.

### Step 2 – Provide Interim Protection:

Take immediate measures to ensure the safety and well-being of those involved in the investigation. The primary objective of providing interim protection is to create a secure environment during the investigation. This step is crucial for preventing further harm, harassment, or retaliation and maintaining the integrity of the investigative process.

#### Key Actions:

- Consider Immediate Measures:
  - Evaluate the need for urgent actions to protect individuals involved, such as separating the alleged victim from the accused. This could involve changes in work assignments, schedules, or physical locations to prevent potential harm.
- Prevent Harassment or Retaliation:
  - Identify and implement measures to safeguard the accuser, alleged victim, or any other involved parties from harassment or retaliation. This may include temporary adjustments to work arrangements or providing additional support.

By providing interim protection, you create a safer environment for everyone involved in the investigation. This not only ensures the well-being of individuals during the process but also reinforces the organization's commitment to a fair and impartial inquiry. The protected environment facilitates open communication and cooperation from all parties, contributing to a more effective investigation.

### Step 3 – Prepare Investigation Strategy:

Prepare a strategic plan to guide the investigation. The preparation of an investigation strategy is critical for ensuring a systematic, thorough, and fair inquiry. This step helps define the scope of the investigation, set clear objectives, and establish a roadmap for the entire process.

#### Key Actions:

- Develop a Comprehensive Strategy:
  - Outline a detailed plan that includes the scope, objectives, and specific steps to be taken during the investigation. This strategy serves as a roadmap for investigators and helps maintain focus throughout the process.

- Establish a Timeline:
  - Define a realistic timeline for the investigation. This ensures that the process is conducted in a timely manner, balancing the need for a thorough inquiry with the importance of resolving the matter promptly
- Create an Outline of Questions:
  - Formulate a set of clear and relevant questions to be used during interviews and data collection. These questions should align with the investigation's objectives and help gather information effectively.
- Consult Relevant Policies and Agreements:
  - Review and consider company policies, union agreements, or arbitration restrictions that may impact the investigation. This ensures that the process adheres to established guidelines and legal considerations.
- Consider Applicable Legal Requirements Relating to Interviews:
  - Depending upon who an investigator is interviewing, the investigator may be required to comply with state or federal law relating to conducting interviews.

The outcome of this step is a well-defined investigation strategy that provides a clear direction for the subsequent phases. The strategy serves as a guide for investigators, ensuring consistency and transparency throughout the process and enabling a more efficient and effective inquiry.

#### **Step 4 – Choose an Investigator:**

Carefully select an investigator who will lead the inquiry. Selecting the right investigator is crucial for maintaining the integrity and impartiality of the investigation. This step ensures that the person leading the inquiry possesses the necessary skills, independence, and objectivity.

##### **Key Actions:**

- Select an Impartial Investigator:
  - Choose an investigator who is unbiased and impartial, with no personal stake in the outcome. This individual should be free from any conflicts of interest that could compromise the objectivity of the investigation.
- Consider External Expertise:
  - Evaluate the option of selecting an investigator from outside the department or company. External investigators often bring a fresh perspective and can be more effective witnesses in the company's defense if legal challenges arise.
- Verify Required Skills:
  - Ensure that the chosen investigator possesses the essential skills, including prior investigative experience, a working knowledge of employment laws, strong interpersonal skills, attention to detail, and the right temperament for conducting interviews.

The outcome of this step is the selection of a qualified and impartial investigator who is well-equipped to lead the investigation. This choice sets the tone for a fair and thorough inquiry, building trust among all parties involved and reinforcing the credibility of the investigative process.

#### **Step 5 – Face to Face Interview of Complainant:**

Conduct a structured and sensitive interview with the individual who raised the complaint. The purpose of interviewing the complainant is to gather detailed information about the alleged incident, address privacy concerns, and establish a foundation for the investigation.

##### **Key Actions:**

All interviews should take place in a private, neutral setting at your location. The following outlines the key areas the investigator should address during the complainant's interview:

- At the outset of the meeting, the investigator should:
  - Clearly establish their role as a neutral investigator conducting an inquiry on behalf of the company.
  - Assess the complainant's comfort level with the investigator's neutrality and ability to conduct an impartial investigation. If discomfort or doubts arise, efforts should be made to identify an alternative investigator. If challenges persist, contacting an HR supervisor or the company's attorney is advised.
  - Explain that the company is undertaking a prompt and thorough investigation to determine the validity of inappropriate conduct allegations.
  - Reassure the complainant of the company's commitment to treating harassment claims seriously and emphasize the prohibition of retaliation for making a good faith complaint.
  - Clarify that information sharing will be on a need-to-know basis, avoiding promises of absolute confidentiality. Sample script:
 

"I cannot promise complete confidentiality. Certain people will need to be made aware of the concern to address it. However, I respect your privacy and I will do my best to share information only on a need-to-know basis. People who will need to know will likely include relevant management employees, people mentioned in the complaint, and others with relevant information. I am not able to conduct a meaningful investigation or resolve the issue without making at least limited disclosures."
  - Outline the anticipated investigation procedure and expected timeframe.
- During the interview, the investigator should:
  - Gather Detailed Information:
    - Ask open-ended questions, specifically utilizing the five "W" questions.
      - a. What happened?
      - b. Where did it happen?
      - c. Who was present?
      - d. Do you know why it happened?
      - e. When did it happen?
    - Determine the existence of any physical evidence related to the harassment (e.g., emails, voicemails, notes) and document its availability.
    - Identify potential witnesses, including those suggested by the complainant.
    - Review key allegations with the complainant, create a written record for the complainant to review, make changes, and sign for accuracy. Advise the complainant of the possibility of further communication and commit to updating them on the investigation's conclusion.
- Throughout the process, the investigator should:
  - Refrain from making judgments about the allegations until the investigation is complete.
  - Assess credibility during the interview, noting any behaviors that may impact the complainant's credibility, such as evasive responses or inconsistencies.

By conducting a respectful and secure interview with the complainant, this step aims to gather accurate and detailed information while reassuring the individual of the company's commitment to a fair and confidential investigative process. This sets the stage for subsequent interviews and data collection in the investigation.

### **Step 6 – Face to Face Interview of Accused:**

Conduct a fair and unbiased interview with the individual who is the subject of the investigation. The

purpose of interviewing the accused is to allow them the opportunity to respond to accusations, present their perspective, and contribute to the investigation's overall understanding.

**Key Actions:**

- Inform the Employee of Suspected Misconduct:
  - Clearly and professionally communicate to the employee that they are suspected of misconduct. This transparency is essential to maintaining a fair and open investigative process.
- Provide an Opportunity to Respond:
  - Give the accused employee a full and uninterrupted opportunity to respond to each accusation. This ensures that their perspective is considered and adds depth to the investigation.
- Ask for Corroborating Witnesses:
  - Encourage the accused to provide any corroborating witnesses or evidence that may support their response to the accusations. This helps in gathering a comprehensive picture of the events in question.
- Reiterate Prohibition of Retaliation:
  - Emphasize to the accused that retaliation against the complainant or any other parties involved in the investigation is strictly prohibited. Reinforce the importance of maintaining a respectful and cooperative workplace.

By conducting a thorough and respectful interview with the accused, this step aims to gather their perspective on the alleged misconduct. This input is crucial for a balanced and fair assessment of the situation. The information obtained during this interview contributes to the overall analysis of the investigation results.

**Step 7 – Face to Face Interview of Witnesses:**

Conduct interviews with individuals who may have relevant information about the incident under investigation. The purpose of interviewing witnesses is to gather additional perspectives and details to build a comprehensive understanding of the situation. This step contributes to the objective and unbiased assessment of the allegations.

**Key Actions:**

It is imperative to interview all individuals identified by both the complainant and the accused as having relevant knowledge. Additionally, if any other witnesses suggest individuals with pertinent information, the investigator should include them in the interviews.

- Inform Witnesses Without Making Judgments:
  - Clearly communicate to witnesses that the investigation is ongoing, and no judgments have been made about the validity of the complaint. This encourages witnesses to provide information without feeling pressured or biased.
- Avoid Promising Confidentiality:
  - Like in the interview with the complainant, refrain from promising full confidentiality to witnesses. Instead, emphasize the importance of discretion and make them aware that certain details may need to be disclosed in the interest of a thorough investigation.
- Emphasize Prohibition of Retaliation:
  - Clearly state that retaliation against the complainant or any other involved parties is strictly prohibited. This reassures witnesses and fosters an environment where individuals feel safe sharing information.
- Instruct Witnesses Not to Discuss the Interview:
  - Advise witnesses not to discuss the details of their interview with others. This helps maintain the integrity of the investigation and prevents the potential influence of external opinions on witness statements.

By conducting interviews with witnesses, this step aims to collect diverse perspectives on the incident. It promotes an open and transparent process, ensuring that the investigation is thorough and unbiased. The information gathered from witnesses contributes to the overall assessment of the situation.

### **Step 8 – Analyze Results:**

Carefully examine the collected information, assessment of witness credibility, and consideration of potential disciplinary actions. The purpose of analyzing results is to review all gathered data, assess the credibility of witnesses, and determine the accuracy of the information provided. This step guides the investigator in forming conclusions and deciding on appropriate next steps.

#### **Key Actions:**

- Review Investigation Notes:
  - Thoroughly review the notes and documentation from interviews, ensuring a comprehensive understanding of the information gathered during the investigation.
- Assess Witness Credibility:
  - Evaluate the credibility of each witness, considering factors such as consistency, reliability, and any potential biases. This assessment contributes to the overall reliability of the investigation's findings.
- Ensure Consistency with Company Practices:
  - Verify that any proposed disciplinary actions align with past company practices and policies. This consistency is crucial for maintaining fairness and avoiding potential legal challenges.
- Consider Additional Investigation Levels:
  - If needed, evaluate whether further investigation levels, such as involving law enforcement or private investigators, are necessary based on the complexity or severity of the allegations.

The outcome of this step is a comprehensive analysis of the investigation results. This analysis forms the basis for making informed decisions about the next steps in the process, including implementing disciplinary actions, if warranted, and addressing any potential systemic issues identified during the investigation.

### **Step 9 – Implement Action:**

Take concrete and timely measures based on the results of the investigation. The purpose of implementing action is to address the findings of the investigation, ensuring that appropriate measures are taken to resolve the issues identified and prevent their recurrence.

#### **Key Actions:**

- Take Prompt Remedial Measures:
  - Based on the investigation results, promptly implement remedial measures. This may include disciplinary actions, changes in workplace arrangements, or other interventions deemed necessary to address the situation.
- Consider Educational Measures:
  - Evaluate whether educational measures, such as training programs on topics like sexual harassment or anger management, would benefit the individuals involved or the broader workforce.
- Review, Modify, or Redistribute Policies:
  - Determine if there is a need to review, modify, or redistribute workplace policies based on the findings of the investigation. This ensures that policies are aligned with the company's values and regulatory requirements.
- Evaluate Complaint Resolution Processes:
  - Assess whether a review of the investigation and complaint resolution processes is necessary to



identify areas for improvement. Continuous improvement in these processes strengthens the organization's ability to handle similar situations in the future.

The outcome of this step is the implementation of concrete actions designed to address the findings of the investigation. By taking prompt and appropriate measures, the organization demonstrates a commitment to a fair and supportive workplace environment while mitigating the impact of the issues identified during the investigation.

### **Step 10 – Follow Up:**

The final step involves post-investigation activities, including documentation, employee training, and reinforcement of company policies. The purpose of the follow-up step is to document the results of the investigation, conduct any necessary employee training, and reinforce the organization's commitment to maintaining a safe and respectful workplace.

#### **Key Actions:**

- Draft a Confidential Report:
  - Compile the results of the investigation into a confidential report. This document should include a summary of findings, actions taken, and any recommendations for future improvements.
- Conduct Follow-Up Training:
  - If applicable, organize training sessions for employees in relevant areas. This training could focus on topics identified during the investigation, reinforcing company policies, and promoting a culture of respect and inclusivity.
- Remind Employees of Policies and Procedures:
  - Use the opportunity to remind employees of company policies and procedures. Communication can be through written reminders, company-wide announcements, or training sessions.

The outcome of this step is a comprehensive report documenting the investigation's results and any subsequent actions taken. By conducting follow-up training and communication, the organization reinforces its commitment to maintaining a healthy work environment and ensures that employees are aware of and aligned with company policies.

## **NAVIGATING CRISIS COMMUNICATIONS**

Dealing with a media crisis after an incident is an unwanted but possible scenario, and preparation is key. Despite efforts to maintain confidentiality, news of an incident may circulate among employees, necessitating a swift response. In such instances, issuing a holding statement, both internally and externally, becomes a critical initial step.

A holding statement is a pre-prepared, fill-in-the-blank template designed for swift issuance, allowing the communications and crisis management team to buy time for a thorough understanding of the situation. Acting as a preemptive measure, it curtails the spread of rumors before a comprehensive communication plan is in place.

The guiding principle is to “act fast but think carefully.” Speed is essential to publish your perspective before potential public relations damage occurs due to communication delays. However, it's crucial to prioritize a thoughtful response over a rushed, poorly crafted comment that could exacerbate the situation.

When drafting holding statements, include only verified, definitive facts, avoiding speculative details. Authenticity and appropriateness for the specific situation are paramount. A standard holding statement should cover a factual headline, date and time, incident location, confirmed basic details, the awareness timeline, public actions taken, and, if suitable, an expression of compassion or empathy.

Conversely, a holding statement should never contain unconfirmed details, speculation, responses to rumors, blame or finger-pointing, or victim names without consent. Timing is critical, and studies suggest companies have only about 15 minutes to respond to a crisis. Preparing these statements in advance ensures adaptability to the situation without appearing defensive or as a cover-up.



A sample holding statement for a harassment or discrimination allegation might be as follows:

- **Accusation Only:**

We are saddened by the recent allegations surrounding the [incident/accusation] involving [employee]. [Company] is committed to being a safe and inclusive workplace and has zero tolerance for discrimination, harassment, or bullying. We are currently assessing the situation and these accusations. Our next step is to collaborate with our [people operations/human resources/executive/legal] team(s) to determine the best course of action. Meanwhile, we extend our sincerest apologies to all affected or upset by these accusations.

- **Confirmed Evidence:**

The viewpoints expressed by this employee do not align with [company's] values, and we empathize with those hurt, upset, and disturbed by the employee's [words/actions]. We vehemently denounce what [employee] has [said/done] and, consequently, have decided to no longer [represent/employ/collaborate/partner with] [employee]. Committed to maintaining a safe and inclusive work environment, we are working with our [people operations/human resources/executive/legal] team(s) to determine the best course of action. Once again, we extend our wholehearted apologies to [person/people] affected.

### CONSIDERATIONS TO KEEP IN MIND

- Maintaining confidentiality may be crucial for the contractor, accuser, accused, and witnesses. While the investigation is generally privileged, communicate that certain details may need disclosure, and the contractor may share information with relevant authorities.
- If electronic communication or files are monitored during the investigation, ensure there is a well-crafted written policy in place. Be mindful of state laws regarding employee privacy rights and limitations on accessing social media accounts.
- Stay informed about federal and state laws related to drug and alcohol testing, as well as searches of personal belongings or workspaces. Balancing business confidentiality needs with employees' rights to discuss employment conditions is essential.
- Defamation: Avoid making conclusive statements during the investigation that could lead to a defamation claim. Refrain from labeling the accused with potentially damaging terms and be cautious with statements that could be misinterpreted.
- Discovery: Recognize that investigation materials may be subject to discovery in a lawsuit. Having legal counsel conduct the investigation can protect materials under privilege and attorney work product. Depending on circumstances, the contractor might choose to make the investigation discoverable for an affirmative defense.
- NLRA (National Labor Relations Act): Ensure investigations respect employees' rights under the NLRA, which extends to non-supervisory employees, whether or not they are part of a union. Employees should not be hindered from engaging in protected concerted activity, such as discussing employment conditions.
- Unionized Employees: Consider collective bargaining agreements and federal labor laws when investigating unionized employees. There may be specific limitations on the process, and employees might have the right to request a union representative during interviews.

These guidelines should provide a framework for contractors to address workplace complaints promptly and ethically, fostering a safe, respectful, and inclusive environment for all employees. From comprehensive investigation steps to proactive measures like establishing a Rapid Response Team, the policy emphasizes fairness, thoroughness, and a commitment to a quick resolution. Additionally, insights into crisis communication underscore the importance of thoughtful and timely responses. Overall, these guidelines aim to ensure a workplace that upholds the values of safety, respect, and equality for everyone involved.