

SAMPLE Intake Form**Intake Protocol—Action Log (Page 1)**

This form should be faxed to Human Resources, and case conference should be recorded on the reverse side of the original.

Intake Manager _____ Date _____
Time _____

First Contact:

___ Telephone

___ In person

___ Written communication

___ Other _____

Complainant Name _____

Position/Dept _____

Telephone _____ PVM? Y N

How does the employee describe the issue or problem?	
How long has the issue or problem been going on?	
What prompted the employee to bring this forward today?	
Who has witnessed (W) or participated (P) in the situation?	
Briefly note specific incidents described to you, including when and where they occurred.	
Has the employee taken any steps to try to address the problem? What steps?	
Has this situation been previously reported to a supervisor or manager? If yes, when?	
How is this matter currently affecting the employee? Can he or she comfortably return to work?	

Intake Protocol—Action Log (Page 2)

To be completed by HR or investigative coordinator in collaboration with supervisor.

Date Received by IC _____ Contact Name _____
 Date of Case Conference _____ ID those on call _____

Action plan:

1. Interim actions

2. Additional fact-finding/discussions

3. Problem-solving strategy

4. Support provided

5. Other actions

Actions Taken	Parties Involved	Date	Time

COVER SHEET INFORMATION FOR INVESTIGATIVE FILE

Date investigation Opened _____

Date of Final Report Written _____ Verbal _____

Investigator Name _____

Complainant Name(s) and interview date _____

Respondent Name(s) and interview date _____

Witnesses Interviewed	Date/Time/Place

Summary and form of complaint

Relevant policies

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Findings of Investigation

Communication of Findings to:

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Investigator Decision Making Tool

IF THE ALLEGATIONS ARE COMPLETELY TRUE

- ☐ Would it be a violation of policy?
 - Serious enough to warrant discipline? (Investigate)
- ☐ Would it be a violation of policy
 - That would result in coaching or a warning? (Consider coaching or warning without facts)
- ☐ May be part of a larger pattern (investigate)
- ☐ There is a dispute about what happened
 - Yes- Investigate
 - No- Document

LEGAL DUTY OR POLICY REQUIREMENT TO INVESTIGATE

- ☐ Alleged discrimination or harassment? Investigate
- ☐ No legal duty? Consider corrective action.

If indications are to investigate, consider the following

- ☐ Is the alleged misconduct ongoing? Interim actions.
- ☐ Is the alleged misconduct historical but no longer happening?
 - Is the alleged bad actor or actors still employed or doing business with the company?
 - Is an understanding of the facts essential to remediation or prevention?
 - Can remediation or prevention happen without an investigation?

INTERIM MEASURES REPORT FORM

- ☐ Complaining employee asks for interim measures
- ☐ Risk of interference with investigation high
- ☐ Risk of further misconduct high or
- ☐ Alleged behavior sufficiently severe as to require risk reduction or
- ☐ Risk of further complaints likely without structural change

Options: Separate Parties

- ☐ Reassign complainant/ respondent by hours or location (attach notice)
- ☐ Work from home complainant/respondent (attach notice)
- ☐ Paid administrative leave respondent (attach notice)
- ☐ Intensive supervision plan (attach)
- ☐ No contact order respondent/mutual (attach)

Options: Preserve Evidence

- ☐ Forensic collection of email communication: parties/others (attach justification)
- ☐ Forensic collection of browser history: parties/others (attach justification)
- ☐ Claim possession of company owned devices or storage media (attach justification and notice)
- ☐ Security review of card swipes parties/others (attach parameters)
- ☐ Seal personnel file parties/others (attach parameters)
- ☐ Investigative hold letter/retention of documents sent (attach)

Options: Reduce Risk

- ☐ Expand or deploy facility/organizational security (attach details)
- ☐ Disable data access (attach details)
- ☐ Issue warnings (attach copies)
- ☐ Secure police involvement/TRO (attach report)
- ☐ Take hazards offline (Document)
- ☐ Notice to supervisory personnel regarding retaliation (attach)
- ☐ Institute monitoring (attach instructions)

SAMPLE NOTICE TO PRESERVE DOCUMENTS

October 1, 2017

Marvin Manager
Acme Widget Corporation
333 Main Street, E
Yourtown, MN 51628

Dear Mr. Manager;

As you know, you have retained this firm to conduct an investigation into allegations brought forward by employees and by their union representatives.

In order to move this investigation forward, we will need to examine a variety of records that may be retained within corporate data storage or may be maintained on site. A list of the records we are requesting is attached to this letter.

During the course of this investigation, we ask that you, in your corporate role, instruct your own Human Resources staff and ensure that the managerial and supervisory staffs at the North Dakota, Western Ohio and East Tennessee sites are instructed to preserve any and all documents that may pertain to the management of personnel, past or present at these sites. Please take affirmative steps to ensure that these records are preserved in their current form. Specifically, we ask that you retain any records of hiring, requests for leave, assignment rosters, duty rosters, disciplinary records, records which are used to track EEOC-related or Affirmative Action related data, and any other records related to the allegations as you currently understand them, or past allegations of a similar nature, regardless of who made them or when they were made. The records and things to preserve include notes, forms, personnel data, analog recordings of images, sounds, or other data; digital recordings of images, sounds, or other data; notes, reports, letters, drafts, e-mail, and memoranda; database components, including tables, indices, memos, and queries; electronically created or stored files; electronically created or stored backup files and electronically created or stored backup fragments; all logs related to all such documents.

Thank you for your assistance in ensuring a complete and thorough investigation.

Sincerely,

Fran A. Sepler, President
Sepler & Associates

NEED TO KNOW ANALYSIS

Needs to Know Detailed Information about some or all Allegations	1) Investigator 2) In House Counsel	1) Conduct Investigation 2) Advise Investigator
Needs to Know Party/Parties Involved in Complaint	1) Area HR Rep 2) Supervisor X 3) IT	1)Administrative Leave 2)Enforce no contact order 3) Needs id to collect forensics
Needs to Know Investigation Occuring	1) Area Manager 2) Witnesses 3) Board President	1) Maintain Operations 2) Participate in Interviews 3) Put Review Process on Hold
Needs Limited Information	1) Finance	1) Request to provide financial information
Other	1) Respondent's direct reports	1) Alternate reporting chain

ACTIVITY LOG

Date	Time Begin/End	Activity	Comments

EVIDENCE LOG

ITEM/EXHIBIT LABEL	DATE RECEIVED OR DOCUMENTED	DESCRIPTION	Comments

DO YOU NEED AN OUTSIDE INVESTIGATOR?

No one can absolutely answer this question for you, but here is a tool to help you make your decision

Look at the matter	(1 point)	(2 points)	(3 points)
The matter to be investigated is	Simple, involving two parties and one or two incidents	Moderate in Complexity, involving more than two parties or multiple incidents	High in complexity, involving multiple parties and multiple incidents, or allegations of hostile environment
The person(s) accused of misconduct	Are non managerial and at the same rank as the complainant	Are middle management and higher in rank than the complainant	Are senior managers or executives
The complaints involve	Inappropriate language, jokes or simple misconduct	A combination of inappropriate language and multiple acts of misconduct	Extreme racial, sexual or threatening/harassing behavior
The person to do the investigating	Is extremely experienced and confident	Has some experience, but is uncertain about the best way to proceed	Is inexperienced OR is in a reporting relationship to a party in the investigation

1-4 points: Almost certainly manageable internally

5-9 points: Consider using outside investigator

10 points: Recommend outside investigator

Investigative Plan

Name of Matter _____

Date _____

List and Attach Relevant Policies

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Investigative Questions	Sources to seek answers	Materials to be requested
Who had input into the promotional decision?	Hiring Manager, HR, Interviewers	Correspondence related to promotional decision
Was there a prior relationship between candidate selected and VP FS? Nature of relationship?	Candidate, FS, HR	Seek emails between FS and candidate prior to position opening

Scope Check: What is the focus of this investigation

<p>What was the basis for offering the position to candidate?</p> <p>Was complainant eliminated from candidacy for the job for discriminatory reasons?</p> <p>Did VP FS have a sexual or romantic relationship with candidate prior to or during the hiring process?</p> <p>If so, to whom was that disclosed?</p>
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Employee Contact Script

We have a consultant who is interviewing people today in Conference Room C. They will need to meet with you, and I am calling to make those arrangements. The consultant will explain to you the scope and reason for your discussion when you meet with him/her/them, and you will have an opportunity to ask any questions you have. The meeting should take no more than one hour. What is your availability?

FAQ

Can I know what this is about?

The consultant will answer any questions you have as soon as you meet with him/her/them.

Am I in trouble?

I don't have any information about the specific reason that the consultant needs to meet with you, but you will certainly know the answer to that question soon after arriving at the meeting.

Do I have to meet with the consultant?

At this time you are being directed to meet with him/her/them. If you opt not to participate in the interview s/he/they will explain how that works.

Employee Contact e-mail

Good afternoon. My name is <<>>. I am (organizational affiliation and role). I have been retained by <<>> to conduct a neutral employment investigation into allegations of possible misconduct. Please feel free to verify this with them directly if you have concerns about this email. In order to conduct such an investigation, I need to acquire a full understanding of concerns that have been raised, and for this reason I am requesting the opportunity to meet with you and to conduct an interview with you. At that meeting, I would begin by providing you with a full explanation of the investigative process including limits on privacy and protections against reprisal, and you would have the opportunity to ask any questions you have about that process or my methods. I would expect our meeting to last between one and two hours. The dates I would be available to meet would be:

Investigative Notices

Investigator has reviewed the following topics with me. I have had the opportunity to discuss them. I understand them.

- ☐ You are being spoken to because (Organization) requires a fuller understanding of a concern that has been raised by an individual.
- ☐ Investigator has been retained by the (Organization) to ensure that this interview is neutral and objective.
- ☐ This is an internal inquiry to assist (Organization) to determine if employment policies have been violated and if corrective action, discipline or discharge is warranted. None of those decisions will be made by Investigator, who is here as a neutral fact finder only.
- ☐ Your communication with Investigator will be kept as private as reasonably possible. S/he/they will explain the limits on that privacy.
- ☐ The Investigator will be taking notes, which s/he/they will retain unless legally required to provide them to others.
- ☐ Investigator will make a report which will be submitted to the (Organization.) This report will be a finding of fact and not contain recommendations.
- ☐ I may discuss the terms and conditions of my employment; it is requested that for the next 48 hours, however, that you limit your conversation about the specific questions you are asked and answers you provide in this interview.
- ☐ You are agreeing to participate in this interview. If you choose not to participate or not respond to particular questions it will require conclusions to be drawn without your perspective.
- ☐ Retaliation of any kind against you or others for truthfully explaining your experiences is prohibited. If you feel you are being retaliated against, please report it immediately to your supervisor or HR.

Signature

Today's Date

Printed Name: _____

Investigative Report Work Sheet

ALLEGATION	TESTIMONY	OBSERVATIONS RE: CREDIBILITY	EVIDENCE CONSIDERED: EXHIBIT?	TIES TO WHAT POLICY?	UNANSWERED INVESTIGATIVE QUESTIONS	SUBSTANTIATED OR UNSUBSTANTIATED OR UNABLE TO SUBSTANTIATE

Investigative Report Format

OPTION 1

Section 1: Impetus for the Investigation

Why was this investigation begun? If there was a complaint, who received it? Who commissioned the investigation, selected the investigator? If there was an anonymous complaint, say so. If there was no complaint but it was determined a pattern of conduct was being brought to management attention, describe that. If ethics line or other hotline, describe.

Section 2: OPTIONAL Executive Summary

This includes a summary of allegations, a brief synopsis of any pertinent corroboration or rebuttal, any key credibility analysis and a list of findings of fact.

Section 3: Allegations of Misconduct (If no allegations or complaint, this can be a topical list)

If you have an identified complainant, this section should be written to describe the allegations and laid forth by the complainant. If this was an anonymous complaint or there were multiple complaints, you can break this down by topic, such as "Behavior Generally," or "Work Environment," or "Protected Class Directed Behavior." It should explain in some detail the narrative around each of the topics

Section 4: Relevant Statements of Witnesses

Allegation by allegation, what did witnesses say that was material, corroborated or rebutted. Include the number of witnesses that do not recall or were present but did not see/hear something even if they do not refute it happened.

Section 5: Response to Allegation by Accused

Writing allegation by allegation, what was the response; admission, admission but contextual difference, dispute facts, present evidence to the contrary? Include responses such as "I don't remember" or "I don't know"

Section 6: Analysis and Credibility Assessment

This is the section to present an overall analysis, pointing out corroboration where it exists and where it does not, observations and evaluations of the truthfulness of parties and witnesses, plausibility, motives to be truthful or untruthful, likelihood and other factors.

Section 7: Findings

This can be a finding focused on policy language, or it can be an allegation by allegation set of findings, with the latter being preferable. Identify the standard of proof being applied. Did the behavior more likely happen than not? Certainly happen? Can it not be determined whether or not something happened? Was something in fact found to not have happened (because, for instance, an incident was alleged to occur when one of the parties could not possibly have participated.)

EXHIBITS: Incorporate relevant evidence/documents into the main document by reference and include them in the final section of your report.

Investigative Report Format

OPTION 2

Section 1: Impetus for the Investigation

Why was this investigation begun? If there was a complaint, who received it? Who commissioned the investigation, selected the investigator? If there was an anonymous complaint, say so. If there was no complaint but it was determined a pattern of conduct was being brought to management attention, describe that. If ethics line or other hotline, describe.

Section 2: OPTIONAL Executive Summary

This includes a summary of allegations, a brief synopsis of any pertinent corroboration or rebuttal, any key credibility analysis and a list of findings of fact.

Section 3: Overview of Allegations, Relevant Witness Statements and Responses

In this section, each allegation should be described, relevant witness statement included, response of the accused identified and a credibility analysis applied to each. Place relevant exhibits in the body of the report in the pages immediately following the discussion of the allegation.

Section 4: Analysis and Credibility Assessment

This is the section to present an overall analysis, pointing out corroboration where it exists and where it does not, observations and evaluations of the truthfulness of parties and witnesses, plausibility, motives to be truthful or untruthful, likelihood and other factors.

Section 5: Findings

This can be a finding focused on policy language, or it can be an allegation by allegation set of findings, with the latter being preferable. Identify the standard of proof being applied. Did the behavior more likely happen than not? Certainly happen? Can it not be determined whether or not something happened? Was something in fact found to not have happened (because, for instance, an incident was alleged to occur when one of the parties could not possibly have participated.)