

# General Principles of Investigative Interviewing Techniques



Presenters:

Ali Fisher

Outreach & Education  
Coordinator

EEOC Chicago District

[Outreach@eeoc.gov](mailto:Outreach@eeoc.gov)

Nanisa Pereles

Deputy Director

EEOC Chicago District



# Goals of an interview

- Identify and obtain relevant information
- Learn what the witness knows
- Draw out relevant information
- Assess witness credibility
- Avoid assumptions
- Create a written interview record



# What is an interview?

- An interview is a conversation with a purpose.
- Regardless of the specific purpose, the interview is essentially a method of collecting information.
- An interview is not a natural conversation – it's designed to obtain facts.



# Interviewing is a key skill

- Must be learned and practiced
- The way you plan for and conduct interviews affects the success of the interview.
- Can establish direction of the investigation
- Poor interviews can result in errors, missing information, impact the ability to prepare accurate complaints and witness statements, and/or impede the ability to render an informed decision.



# Conducting effective interviews: the learning curve

- ▶ No slide I can show you, will make you feel ready
- ▶ There is no substitute for the real thing
- ▶ It's okay to feel nervous



# Examples of interview styles

- ▶ Nosy neighbor
- ▶ Tough guy/authoritarian figure
- ▶ Scripted and Rehearsed
- ▶ Kill them with kindness
- ▶ Acting Naïve
- ▶ Boring HR rep “just doing my job”
- ▶ Read the room
- ▶ Analytical / detail oriented



# The successful interviewer

- Prepares and plans
- Maintains professionalism and objectivity
- Maintains control and probes persistently
- Listens well
- Is flexible



# How much information do you have going into the interview?

## ▶ Uninformed interview

- The initial complaint or intake process

## ▶ Informed interview

- Already gathered a lot of information so the interview can be more directed if necessary
- Witnesses or third-party interviews

## ▶ Alleged harasser, decision maker, or bad actor





# Preparing for the interview

- ▶ Plan, prepare, analyze and know your case.
- ▶ For those making case decisions, identify the basis, issue and theory of discrimination for each of the complainant's allegations.
- ▶ Determine who is going to conduct the interview.
- ▶ Decide where the interview will take place.
- ▶ Determine which witnesses or representatives need to be interviewed and their respective alleged roles in the complainant's allegations



# Preparing for the interview, continued

- ▶ Outline the facts you know and identify the “holes”
- ▶ Prepare relevant questions
  - Write about your questions in logical order but remain flexible.



# Who's going to conduct the interviews?

- Single person
- Team of two
- Panel / committee
- Human Resources representative
- Supervisor / Manager
- Attorney, e.g., in-house counsel or private



# Benefits of the buddy system

- ▶ More accurate note taking
- ▶ Two heads are better than one
- ▶ Complimentary interviewing styles
- ▶ Helpful to have an experienced interviewer if you are new



# Examples of interview styles

- ▶ Tough guy/authoritarian figure
- ▶ Scripted and Rehearsed
- ▶ Kill them with kindness
- ▶ Acting Naïve
- ▶ Boring HR rep “just doing my job”
- ▶ Read the room
- ▶ Analytical / detail oriented



# Tips for having hard conversations at work

- ▶ As much as possible, stay at about the same eye level
- ▶ Speak directly to the other
- ▶ Speak as calmly in a matter-of-fact tone as possible
- ▶ Make sure you understand what the other person has said before you respond.
- ▶ Approach the conversation with openness and an interest in problem solving, rather than needing to be “right.”
- ▶ Allow for the possibility of time-outs



# Case study: interview of a restaurant owner on alleged sexual harassment

1. Have you ever hugged or kissed any of your employees? If so, who, when, and how often?
2. Have you ever commented about the physical appearance of any of your employees? If so, what comments did you make?
3. Have you ever put your arms around any of your female employees?
4. Have you ever grabbed any of your female employees' backsides?
5. Have you ever told one of your employees that she should wear a mini-skirt to show off her backside?



# Identify who to interview (and in what order?)

- The complainant
- The accused/alleged offender
- Anyone who directly observed an incident
- Any other witnesses identified by the complainant or accused
- Anyone who created any relevant documents
- The complainant's supervisor
- The accused's supervisor
- Anyone else who may have relevant information





# The interview process

- ▶ Establish rapport and control.
- ▶ Remain objective and neutral at all times
- ▶ Introduction and purpose
- ▶ Background questions
- ▶ Increasingly detailed questions



# The interview process, cont.

- ▶ Follow-up and clarification
- ▶ Identification of other sources of evidence
- ▶ Closure
- ▶ Prepare an interview record for the file and obtain signatures as appropriate.



# General Interview Tips – *cont.*

- Emphasize the anti-retaliation policy
- Don't give the impression there is any time limit on the interview, especially when interviewing the complainant and accused
- Start interviews soon after situation arises.
- Maintain objectivity.



# General interview tips: Have an intro spiel or script

## ▶ The spiel may include:

- Express your appreciation for the employee's time and cooperation
- Relevant company policies or laws
- Explain the complaint/investigative process
- Emphasize the agency's/company's commitment to a complete evaluation of the complaint
- Emphasize confidentiality or need-to-know basis, but never promise absolute confidentiality



# Tips for interviewing complainant or alleged victim

- ▶ Don't be dismissive of their testimony.
- ▶ Listen to their story.
- ▶ Don't challenge their allegations immediately.
- ▶ Do not interrupt in the first part of the interview.
- ▶ This is an informational interview and not an interrogation.



# Interviewing complainant or alleged victim

## Big picture

- What happened?
- Why did it happen?
- What's the harm?



# Interviewing complainant or alleged victim: elements broken down

- Establish the timeline.
- Get details about the conduct / allegations (5Ws).
- How did the conduct affect you?
- How did you react? What was your response?
- How frequent was the conduct? Were there witnesses?
- Anyone else subjected to this?
- Any documentation? Any other relevant information?



# Interviewing accused or alleged offender

- ▶ Response and actions to the allegations?
- ▶ If they deny, ask, why would the complainant say these things?
- ▶ Any other persons with relevant information or who witnessed events?
- ▶ Any documentation?
- ▶ Anyone else ever made the same/similar allegations?
- ▶ Any other relevant information?





# Interviewing third parties - 1

- Ensure confidentiality and non-retaliation
- What did you see or hear?
- What did the complainant or accused tell you?
- Are there other persons who may have seen or heard something or that have relevant information?
- Any documentation?
- Any other relevant information?



# Interviewing for ADA or Reasonable Accommodation

- This is an example of a more technical and analytical interview style.
- ▶ “Show and tell” style of interview
  - Interview those who can provide relevant information as to whether a job can be performed with a specific accommodation
  - Interview those who can explain what an essential function of the job
- ▶ Understanding what documentation is necessary and relevant



# Witness Challenges

- Lack of witnesses is common, especially in more egregious harassment cases
  - Does not necessarily undermine the complainant's allegation
- If you're fortunate to have several witnesses to assist the investigation, there are many other challenges you may have to be prepared for in order to get forthcoming and accurate information.



# Witnesses challenges - 1

- ▶ Most witnesses are not skilled at describing events, due to:
  - Lack of practice



# Speaking the right “language”

- ▶ Do you speak your agency's/employer's language?
  - If not, how do you learn the language?
- ▶ Teaching/Counseling the interviewee the language
  - e.g. harassment, discrimination and retaliation



# Witness challenges - 2

- ▶ Most witnesses are not skilled at describing events, due to:
  - Emotional investment
  - Fears
  - Assumptions about the listener's knowledge.



# Interviewee types

- Passive, introverted, apathetic, very quiet, frightened.
- Arrogant, evasive, manipulative, intelligent.
- Hostile, aggressive, angry, violent.
- Talkative, overeager, rambles, won't focus, won't respond to what you want.

# Interviewing challenges – the “bad actor”

- ▶ Most people won't lie outright, but may:
  - Omit.
  - Exaggerate.
  - Rely on the interviewer's assumptions.
  - Give the shortest possible answers.
  - Answer only the questions asked; won't volunteer information.
  - Display hostility.





# Questions?





**Break time**

**We will take a 5 minute break**



# Diving deeper and building out roadmaps



Welcome back!



## Prepare relevant questions

- For each key interviewee, prepare a list of must-ask questions for each issue at hand.
  - **Complainant**
  - **Accused/alleged offender**
  - **Supervisory/managerial representative**
  - **Specific witnesses**



# Note taking: a skill but also tool

- ▶ Note taking is a skill and can be developed.
- ▶ Who will be taking notes?
- ▶ How to use note-taking as a tool for effective interviewing?



# General Interview Tips

- Don't give the impression there is any time limit on the interview, especially when interviewing the complainant and accused
- Start interviews soon after situation arises.



# Beginning the interview

- ▶ Introduce yourself (name and role).
- ▶ Confirm the identity of the witness (are you talking to the right person?).
- ▶ Explain the purpose of the interview.
- ▶ Explain your role as a neutral fact-finder.



# Building Rapport

- Establishing a proper tone or manner of expression at the beginning is crucial.
- Express your appreciation for the employee's time and cooperation
- Be open to answering questions about the investigative process.
- Address confidentiality issues.
- Explain protection against retaliation.
- Remain neutral (do not display any strong emotional reactions).\*\*





# Start with background information

- Full name and contact information
- Their race, sex, date of birth, etc. – only as it applies to the protected bases of the allegations
- Employment history with the agency/company
- Current position and time in position
- Duties
- Last evaluation
- Name of supervisor
- For third parties, their relationship with the complainant and accused



# Effective questioning – general tips - 1

- Let the witness tell the story
- Ask probing questions
  - Ask open-ended questions
  - Ask one question at a time
  - Ask follow-up questions

▶ **Example from the case study:**

“Have you ever hugged or kissed any of your employees? If so, who, when, and how often? ”

# Effective questioning – general tips - 2

- Focus on actions
- Clarify in exact terms
- Use deep listening
- Remain in control of the interview
- Remain neutral (don't display strong emotions)



# Deep listening

The process of hearing what is said and paying attention to how it is said to adjust further dialogue to elicit needed responses.



# Your best tool: the “5 W” questions

- ▶ Who
- ▶ What
- ▶ When
- ▶ Where
- ▶ Why
- ▶ and How. . .



# Question Technique: Probes

- **Direct probe** – Come right out and ask
  - “What happened after that?”
- **Silence** – Remain silent or use non-verbal signals; not a good probe
- **Minimum Encouragement**
  - “I see” or “Yes, go on.”
- **Restatement** – Repeating, but not parroting, witness’ statement
  - “You called in...?”
- **Reflection** – Reveals the feelings behind
  - “And that made you upset?”



# Concluding the interview - 1

- Summarize and review with the witness what was said.
- Get any corrections from the witness.
- Ask if the witness has any questions.
- Do not make any promises or predictions.



# Concluding the interview –2.

- ▶ Explain the possibility that they may be contacted in the future to provide follow-up information.
- ▶ Provide your contact information.
- ▶ Always ask if there is anything further they would like to add.
- ▶ Thank the witness for their cooperation.





# Create a written interview record - 1

- ▶ Every interview record includes
- ▶ Name of the witness
- ▶ Interviewer's name
- ▶ Date and time of interview
- ▶ Method of contact
- ▶ Phone number for phone interviews
- ▶ Physical location for in-person interviews



# Create a written interview record - 2

- ▶ Others present
- ▶ Summary of the information provided during the interview – interview notes or narrative witness statement
- ▶ Your factual observations
- ▶ An interview record does NOT include your thoughts, impressions, or opinions



# A solid interview

- ▶ Knowing yourself, method of interviewing. Road map
- ▶ You are prepared
- ▶ Deep listening and following leads
- ▶ Solid record



# How to continue to develop your skill set

- ▶ Identify your weaknesses:
  - Note taking? Difficulty with uncomfortable silences? Building a road map?
- ▶ Exposure
  - Mentors, observing others in your agency/company conduct interviews
- ▶ Tuning in to everyday interviews that are all around us:
  - Podcasts, late-night talk shows



# Questions?



# Thank You!

Presenters:

Ali Fisher

Outreach & Education Coordinator

Nanisa Pereles

Deputy Director



outreac

