

SEXUAL HARASSMENT AND WORKPLACE LITIGATION

Co-workers Carla and Les dated for a year. They broke up recently. Les has complained that Carla is now harassing him on the job.

Les has agreed to meet with you to discuss the situation with Carla. You're brainstorming some investigatory questions you'd like to ask him and are trying to determine if these interview questions are legally compliant with a hostile work environment investigation.

Review the following evidence and select interview questions that you have for Les.

Determine whether or not Carla's actions arise to the level of hostile workplace harassment.

EVIDENCE

E-mail from Carla:

Les, I thought you were stupid, but now I KNOW you're stupid. Stop telling everyone I went to a relationship counselor. You weren't even worth the money I spent on it anyway!

Defaced Picture:

Picture of Les that was posted on the employee bulletin board located in the workplace cafeteria: Someone has drawn devil horns and a pitchfork on the picture. Message scrawled on the bottom: "Date from Hell: Watch out for this evil jerk, ladies!"

Voicemail from Carla:

Les, I think your report was in the printer. If so, I tossed it out. I hope you saved a copy on your computer. Then again...you never save your work! Ha ha...better luck next time sucker! Payback is FOR REAL!

Interview Questions

Question #1

You would like to know how all of the harassing behavior started between Carla and Les. Which investigatory question will help you the most in ascertaining this type of information?

- Can you prove Carla's actions are really harassing you?
- Can you tell me why you think Carla is acting this way towards you?
- Carla has a different view of what has been happening. Why is that?

Answer: "Can you tell me why you think Carla is acting this way?" is better because it is neutral and doesn't require Les to defend himself. Questions 1 and 3 are confrontational. They will make Les defensive and this could hinder the investigators attempt to get information.

Question #2

You would like to know how long the harassing activity has been going on between Carla and Les. What investigatory question will help you the most in ascertaining this information?

- Do you have an idea about how long Carla has been harassing you?
- How long did you and Carla date?
- Can you tell me the exact date when the harassment started?

Answer: "Can you tell me the exact date when the harassment started?" is better because it helps to pinpoint a date when the harassment started. This helps the investigator to determine the pervasiveness of the harassment. If the employee does not know the exact date, then the next best question is Question A which asks them to describe in general terms when the harassment started. Although question B is a good investigatory question, it doesn't inquire about how long the harassing behavior has been going on.

Question #3

After listening to the voicemail Carla left for Les, you would like to know if Les and Carla have been sabotaging each other's work. You are particularly interested in her comment about "payback." What investigatory question will help you the most in ascertaining this information?

- On the day that Carla took your report from the copier room, what do you think she meant about the "payback" comment she made in her voicemail message?
- Have you and Carla been retaliating against one another because of your recent breakup?
- Who started the practical jokes between you and Carla? How long has it been going on?

Answer: "On the day that Carla took your report from the copier room, what do you think she meant about the "payback" comment she made in her voicemail message?" is better because it tries to ascertain possible reasons why Carla is retaliating against Les. This helps the investigator to determine to some extent possible reasons why Carla is behaving the way she is. We do not know if this retaliatory act resulted from practical jokes between the two or was a result of their recent break up. By letting Les provide a narrative, this investigatory lets him provide the possible reasons.

Question #4

You have the copy of the picture someone posted of Les with devil horns and a pitchfork. You would like to know if he has proof that Carla was the one who posted the picture. What investigatory question will help you the most in ascertaining this information?

- Did anyone see Carla put this picture on the employee bulletin board?
- Is this Carla's handwriting?
- Was Carla the one who took the original picture of you?

Answer: "Did anyone see carla put this picture on the employee bulletin board?" is better because in a preliminary investigation we'd like to know first and foremost if anyone saw Carla putting the picture on the employee bulletin board. If not, the other 2 questions can be asked because they may provide evidence linking Carla to the picture itself (through her handwriting or possession of the picture).

Question #5

Before you conclude your preliminary interview with Les, you would like to know if you left anything out. What question would best help you ascertain that you've done a good job gathering evidence?

- May I keep the evidence that you've provided me with?
- Is there anything else you'd like to tell me?
- Do you mind if I contact Carla?

Answer: "Is there anything else you'd like to tell me?" is better because we'd like to know if there's anything else Les may want to tell us about the conflict. It allows him to provide information that the interviewer may not have asked about.

CREDITS

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