

# How NOT to respond to a harassment complaint

An employee walks into your office and makes the following statement: "During my interview for a promotion, the CEO asked me about Asian massages and happy endings. I didn't get the promotion, and now I feel that I was sexually harassed."

What do you do?

1. Launch an immediate investigation into the CEO's comments, and take the prompt, remedial action necessary to ensure he doesn't recidivate?
2. Ignore the company's written harassment policy and trust your "intuition and instinct" to conclude that nothing needs to be done?

If you chose #1, you would have acted prudently and within the law to exercise your responsibilities under Title VII and to protect your company from liability for sexual harassment. If you chose #2, as the employer did in [\*Volland v. Mobile Mini \(D. Ariz. 7/16/12\)\*](#), you would cost your company a chance at having the case dismissed on summary judgment, resulting in a costly and risky jury trial, or expensive settlement.

That's how *not* to respond to a harassment complaint.

But, do you know what you should do when that complaint lands on your desk? Here are 8 steps you should be taking.

1. If you are not the person in your organization trained to address and investigate these situations, immediately refer the matter to the person who is. If no one is, hire a consultant or attorney who specializes in these issues to do the investigation for you. One word of caution. If you hire an attorney to do the investigation, do not make the mistake of assuming that the investigation will be privileged. It likely won't be.
2. Separate the complaining employee from the accused harasser. If that means you need to send someone home, with pay, while you complete the investigation, so be it. Better you eat a few days pay than risk the accused making matters worse by harassing again.
3. As soon as possible, interview the complaining employee (or, if someone else made the complaint, the victim), the accused, and any witnesses.
4. Compile and review any pertinent documents. Don't forget social media accounts, email, and text messages. They are your best friends in these cases.

5. Guard against retaliation, and ensure all employees that their participation will be free of retaliation.
6. Review all information and make a reasoned decision as to the credibility of those involved and what happened.
7. Take prompt and effective remedial action, and communicate your conclusions to the complaining employee.
8. Document the investigation.

Following these steps will go a long way to minimizing your company's potential liability for harassment claims. Additionally, you will foster a work environment in which your employees know that harassment is not condoned, and misconduct is promptly investigated and resolved.