

How to question a witness about a workplace incident

Whether you're an HR pro digging to the bottom of a legally dangerous workplace conflict, or simply a manager calling someone in to ask the details of a minor incident, the same psychological principles apply when seats are taken and notepads are pulled out. Ann Kotlarski, a partner in the labor and employment department of Payne and Fears in Los Angeles, offers tips on questioning witnesses:

- 1. Avoid judgmental terms.** This includes the terms *harassment*, *discrimination*, *safety violation*, *victim* or *perpetrator*. These slipups convey bias and corrupt both the interviewee's statements and your analysis of the situation.
 - 2. Temper your reactions.** So much of our attitude is conveyed through body language and tone of voice; keep a poker face on and keep your gestures to a minimum. And statements like "You're kidding me!" or "Well, if that happened, we'll have to terminate him!" destroy your neutrality and legal footing.
 - 3. Avoid leading questions.** "Isn't it more likely that..." or "Well, obviously what must have happened is..." are the types of lead-ins that guide someone to an answer instead of letting the truth come naturally.
 - 4. Start open-ended.** A little uneasy when you enter the room for an investigatory interview, you'll likely be tempted to talk too much up front, over-describing and offering too much history and background. Try not to recap what has happened beyond the minimum you need to get the ball rolling. "Please tell me what occurred on March 14, 2016" is an example of a simple, open-ended request that allows a freer response. The details of the case should not be revealed in your initial question.
 - 5. Become increasingly specific.** Your first question about a topic should lead to a more specific follow-up, and that one to something even more detailed. Listen for cues you can use to probe deeper into the issue. "I saw her put a bunch of stuff into a bag" should lead to "Can you describe individual items?" and "My boss was standing too close" should lead to "Exactly how close?" Once you begin to zero in on a topic, don't leave it until you have all the information you need. Having to return to a topic can be confusing, or even signal that you don't quite believe what was said the first time.
- Kotlarski has found it helpful to have the interviewee draw a chart or timeline, then sign and date it. This helps in both jogging memories and keeping stories linear and clear.
- 6. Prepare for conflicting information.** The best approach when a witness seems to have changed a story or misrepresented something is to say, "I'm a little confused about what you said before. Can you help me understand that difference?"
 - 7. Keep a scorecard.** Kotlarski writes down the key points she needs to cover and refers to the list not just before the interview, but before concluding it, to make sure all the bases have been covered.
 - 8. Write up a standard closing.** Always ask the witness if he or she knows of anyone else who might have useful information. If you've gotten any answers you're not 100% sure about, review those next. Then, because

witnesses tend to go over the interview in their minds long after it's finished, provide an offer to contact you anytime they remember more or want to clarify details. Remind them of the need for confidentiality while making no promises that you yourself can stick to the same standard—you can't possibly know which direction an investigation will go and what you may need to reveal in order to get the necessary facts.

Finally, ask one key question: "Where do you think I should turn next?" Witnesses will appreciate being asked for their viewpoint and will sometimes volunteer information that wouldn't come otherwise. Many people are hesitant to point fingers or say more than they need to unless they're given a simple invitation like this one.