

### **What if I do not understand a question?**

You can always call the investigator at the phone number provided on the letter and ask for clarification. RISK help you with this if requested.

### **What do I do if the investigator asks for excessive or confidential/protected information that will be difficult to provide or you do not feel comfortable releasing?**

Do not ignore the request. Contact the investigator and ask if they can be more specific in their request for records. Contact the investigator also if you have questions, as he/she will be very willing to respond to your phone call or email if you ask for clarification.

Sometimes the investigator will ask for information you feel you have already provided when they want it in more detail or in a different format. The investigator will be very willing to respond to your phone call or email if you ask for clarification. This is also true about responding to the computer-generated questions where the response seems burdensome. RISK can help you with this if requested.

If you feel the investigator might be asking for protected or confidential records, please contact your RISK representative for assistance. When making reference in your report to other individuals who may be involved in the situation, you may leave out names and refer to them as individual "A", "B". RISK can provide examples of responses to requests for information protected under GRAMA.

### **What happens at the Resolution Conference?**

The mediator will ask questions of both parties and make recommendations. It is helpful to bring copies of your response to the Conference and you should use your response letter as a guide to re-state your position during the Conference. If the charge is not resolved at the Conference, the investigation will move forward and you will be asked to respond more thoroughly.

## **STATE OF UTAH DIVISION OF RISK MANAGEMENT**



### **WHAT TO DO AND EXPECT IF YOU RECEIVE A CHARGE OF DISCRIMINATION AND/OR RETALIATION**

Ideally, you would have contacted State of Utah Division of Risk Management (RISK) when you were first considering your options, and before you took appropriate employment actions. RISK will provide relevant and competent guidance to ensure you will have a legitimate defense to your actions. When a discrimination charge is subsequently filed, you will have a greater likelihood of prevailing.

### **What is a charge of discrimination/retaliation and who can file one?**

A charge of discrimination is a formal allegation made by an applicant or employee (past or present) that s/he suffered an adverse employment action because s/he belonged to a protected group or engaged in a protected activity. An adverse employment action is a measure that affects a term, condition or privilege of employment. Discrimination charges are filed with the Utah Antidiscrimination and Labor Division or the Equal Employment Opportunity Commission.

### **What to do and how to respond if a Discrimination/Retaliation charge is filed against you or your school?**

The Risk Management Liability Policy (Conditions, Section IV, A) requires you to immediately inform RISK of the charge. You must fax or email a copy of the charge to RISK:

**Fax: 801-538-9597**  
**Office: 801-538-9564**

**Email: [sgarcia@utah.gov](mailto:sgarcia@utah.gov)**

Be prepared to submit a written response to the charge. Gather relevant documents to support your position and institute a hold on all pertinent records, paper or electronic. You may ask for extensions of time. The charge letter will advise you how to do this. RISK will provide as much support as you need during this process: we can request an extension; help you draft the response letter; review the supporting documents; and make recommendations to strengthen your response.

According to the policy, you are required to cooperate with RISK. You will be expected to provide all necessary and requested information in a timely manner, return our phone calls, and facilitate communication between witnesses and RISK.

The charge letter will notify you of a pre-scheduled Resolution Conference. Unless you are certain that mediation is inappropriate, RISK will expect you to participate, and a RISK representative will accompany you. Please confirm your attendance according to the instructions in the charge letter. RISK will also confirm your attendance if requested.

RISK will assist you in responding to the charges and engaging in the Resolution Conference. If you need an attorney at any stage of a covered claim, RISK will indemnify you and assign an Assistant Attorney General to represent you. **If you choose to hire independent counsel, you will be solely responsible for his/her fees.**

You may not settle covered claims without involving RISK. If you settle a claim without RISK's participation and consent, you will be solely responsible for the costs and conditions of the settlement.

Be aware that RISK does not cover back wages, unless awarded in a Title VII case. Nevertheless, RISK may contribute to other relief.

## **What should I ask myself if I receive a charge of discrimination and/or retaliation?**

### If the charging party is an applicant:

Was the person offered a job? Did the person accept? Was a better qualified person hired instead? Did the applicant ask for an accommodation which you could not provide?

### If the charging party is an employee:

Did the person not meet your expectations relative to performance and conduct? Did you communicate and document your expectations? Was your decision justified by those expectations and your conclusions?

### In general:

Was there a legitimate business decision for the action?  
Was the charge filed timely?

## **How do I write the response to the charges?**

In order to avoid requests for more information or documentation, make sure to address all the charges as they appear on the charge letter. Number your exhibits and make reference to them in your letter when required. Provide factual information and use an outline format. Whenever you need to recount events, do so in chronological order. Try to be brief, but do not leave out relevant defense information and be thorough in your answers. Give enough historical information to help the investigator understand the employment relationship that existed. You may include information regarding hire date, position, salary increases, promotions, and disciplinary action(s). If the charging party is an applicant, then give relevant information about the applicant's relationship with your organization. Be honest in your response and admit mistakes. If mistakes were made, explain the measures that have been taken to correct those mistakes. Use witness statements (preferably affidavits) to support your position, if possible. In your documentation, attach and make reference to your numbered "exhibits" (supporting documentation).