



“Is this conversation confidential?”

Advice to Human Resource Representatives from Central HR and the Office of General Counsel, prepared by Kevin Ward and Josephine Bathke

“Personnel matters are generally confidential, limited to those that have a need to know... Can you explain your concern? “

- Attempt to clarify your **role**, your **obligations** and identify what you can do within your **discretion**. Seek to find “comfort zone” to continue the conversation and/or offer more confidential resources.

HR Role:

- As a Human Resources professional, you represent the University and its interests. You cannot serve as a personal advocate, but you can advocate for the interests of staff from the standpoint of recruitment, retention and the best interests of your unit and the University.

“As a representative of the University, I may be obligated to take action upon the information you tell me. For example, I am obligated to take immediate action to preserve the health and safety of faculty and staff, and to report allegations of sexual harassment. I may also be obligated to report violations of University policies, such as research misconduct or financial impropriety. If your concern is outside of these requirements, we can talk more about what discretion I have in acting upon the information you want to share with me.”

Obligations:

- As an agent for the employer, in certain circumstances you have an obligation to report information to other University officials or outside agencies. Some examples where you are obligated to report information include:
 - An immediate risk of harm to self or others would be required under the OSHA “General Duty” clause, and the University Policy on Violence (<http://www.uiowa.edu/~our/opmanual/ii/10.htm>);
 - Violations of the University’s Sexual Harassment Policy (<http://www.uiowa.edu/~our/opmanual/ii/04.htm>);
 - Reports of research misconduct (<http://www.uiowa.edu/~our/opmanual/ii/27.htm>);
 - Violations of regulatory requirements required under “whistle blower” regulations;

- Work comp injuries or illnesses;
 - Any allegations of criminal activity or financial impropriety (<http://www.uiowa.edu/president/ethics-conduct/handbook.htm>);
 - Serious violations of other University policies; and
 - Knowledge of a health condition may trigger obligations under FMLA or ADA
- If you are uncertain about your reporting obligations you should consult with your immediate supervisor, the Senior HR Leader for your college or division, Central HR or the OGC.

Discretion:

- As a Human Resources professional, you can make judgments about how you respond to information you receive that is outside of the obligations listed above. You can utilize your judgment to determine:
 - whether to take action or initiate communication with anyone based upon what you have heard,
 - when you initiate your action or communication,
 - the nature of your actions,
 - the contents of your communication, and
 - whether you reveal how you obtained the information.
 These can be the basis for your response as to how you may use discretion with the information you receive.

Examples:

- Provide time for the employee to resolve an issue on their own with their supervisor without your intervention.
 - Offer suggestions to a supervisor regarding an issue without revealing detail about how the issue came to you or why you recommend that course of action.
 - Initiate reminders of policy and practice to supervisors and managers without explaining why these are timely.
 - Maintain confidentiality to only those with an official need to know. Consider whether sharing the source of the information is truly constructive or necessary.
- Be transparent about how you intend to proceed: what actions you will take and to what extent you will hold confidential the content or source of the information you received. Clarifying roles and setting appropriate expectations can help avoid problems/misunderstandings in the future.

“If you are looking for a resource that is more confidential, you may want to consider...”

- Office of the Ombudsperson
- Faculty and Staff Services (an Employee Assistance Program)
- RVAP
- WRAC
- University Counseling Service (available for students)