



October 19, 2010

Can we talk? How to tackle tough disciplinary conversations

Being an effective manager means confronting those “challenging” employees who, while typically good at their jobs, too often display unprofessional or downright obnoxious behavior.

Simply tolerating such workers is a finger-in-the-dike approach, and it runs counter to two traits of good managers—leadership and decisiveness. Managers who silently put up with such behavior will undermine their own authority.

The best way to tackle such problems is to meet with employees right when you spot the problem behavior. Follow these guidelines, which have the side benefit of protecting the organization from employee claims that they weren’t treated fairly.

Explain the problem, impact

When you sit down with the employee, describe the behaviors and tell the employee firmly that those behaviors must stop. Point out the offending behavior using the D-I-S method:

Direct. Precisely pinpoint the problem—don’t beat around the bush. Too often, managers fail in their counseling efforts because they skip this basic, yet uncomfortable step. Don’t feel bad about being direct. Every manager has the right to demand that employees behave in a courteous and cooperative manner.

Immediate. Talk with employees right after you see (or hear about) offending behavior. That makes it harder for the employee to explain away your words.

Specific. Explain concrete examples of the employee’s actions, how they affect co-workers and the consequences. A vague accusation like, “We hear you’re being rude to co-workers,” isn’t as effective as, “Telling Mary her haircut looks like a rat’s nest is impolite and it won’t be tolerated.”

Make sure the employee understands the negative impact of his behavior on morale, productivity, service, legal risks, etc. Gain agreement with the employee that a problem exists. And discuss the consequences if the problem continues.

Discuss the solution, follow-up

Don’t let such a meeting end without deciding on the best course of action. Generate solutions to correct the problem—even if that just means having the person confirm that “I won’t do that anymore.” Gain commitment from the employee on his or her role in solving the problem.

Then establish a clear follow-up strategy. Determine how and when you and the employee will review progress. Set a specific date (or dates) for future check-in meetings.

Document, document

After the discussion, managers should write a summary to put in the employee’s file. Discuss specifics with HR.

This summary should be just that—a summary of the problem discussed. It should cite specific examples, the requested improvement (and timeline) and a proposed follow-up plan. The summary should be less than one page and completed in less than one day after the meeting.

4 reasons managers hesitate to confront obnoxious employees

Sometimes managers recognize why they tolerate habitually impolite employees, and sometimes they don't. Here are four reasons managers put up with such behaviors:

1. **“But he/she is one of my top performers.”** Managers may fear productivity would drop and the worker would be difficult to replace. Perhaps the employee has a special technical skill or valuable institutional knowledge. None of these are good reasons to tolerate unprofessional behavior.
2. **“It’s not worth the conflict.”** Management, when executed correctly, involves plenty of face-to-face conflict. But if those interactions are handled correctly, both sides walk away feeling satisfied. Managers can always seek advice from HR before initially bringing up the issue to the employee.
3. **“Maybe he/she will change.”** Don’t count on it. Use HR as a partner to point out the employee’s errors and deliver the appropriate warnings.
4. **“His/her skills are worth the headache.”** Don’t look at this person’s poor behavior in a vacuum. While he or she may still be productive, it’s quite likely an employee’s obnoxious behavior is pulling down the morale and performance of co-workers. Don’t cling to the notion that any employee is too talented to be disciplined or even fired.

7 tips for supervising 'difficult' personalities

1. **Focus on what you want to happen**, not on how you feel. The emotional response will kick in first, but the trick is not to act on it.
2. **Be assertive.** Don't expect an employee to read your mind. Let him or her know when you're annoyed, upset or disappointed.
3. **Give and request frequent feedback.** Don't stew over what an employee may be thinking. Ask.
4. **Model the type of behavior you want.** Exhibit the kind of upbeat, forward-looking professionalism you expect from your staff.
5. **Deal directly and discreetly.** Choose face-to-face talks in private to discuss an employee's attitude or behavior.
6. **Always document.** Keep a record of all communications to prevent lies or faulty recollections from taking over later.
7. **Be gracious.** Someone's rudeness doesn't give you the right to respond in kind.



How to Document Employee Performance

White Paper published by The HR Specialist, copyright 2009

It happens to every manager: You sit down to prepare a staff member's review and realize you can remember only what the person has done the past few weeks. Or you allow only a single incident (good or bad) to color your assessment.

Supervisors should never rely solely on memory to evaluate employee performance. That makes appraisals far more difficult than necessary. Instead, it's best to institute a simple recording system to document employee performance.

The most useful, easy-to-implement way is to create and maintain a log for each person. Performance logs don't need to be complicated or sophisticated. They can simply be sheets of paper in a folder or a file on your computer. Choose whatever means you're comfortable with.

The key is to establish a system that you will use regularly. No matter how you take notes, make sure to keep them confidential.

Many employee lawsuits can be quickly dismissed if performance logs can clearly demonstrate a history of performance problems leading to the firing.

Recording employees' performance: 8 tips

To begin the process, create a file for each employee you supervise. Include in each file a copy of the employee's job description, job application and resume. Then follow these steps for recording performance:

1. Include positive and negative behaviors. Recording only negative incidents will unfairly bias your evaluation. Make a point to note instances of satisfactory or outstanding performance, too.

One way to ensure a balanced reporting: Update employee performance logs on a regular basis, instead of waiting for a specific incident to occur. Ironically, failing to document a positive performance can strengthen an employee's claims of discrimination. A file of all-bad comments may look like a setup.

2. Date each entry. Details such as time, date and day of the week help identify patterns that may indicate an underlying problem before it becomes more serious.

3. Write observations, not assumptions. In all log entries, be careful about the language you use. Performance logs can end up as evidence in a lawsuit. Your log comments should only focus on behavior that you directly observe. Don't make assumptions about the reasons for the behavior or make judgments about an employee's character. Keep out any comments that border on personal comment or that show personal prejudice.

Avoid emotional content, including personal impressions ("I think ..."), labels ("He's a whiner ...") and adjectives ("very unproductive ...").

Case in point: A Georgia factory worker sued after being fired for poor performance. The employee, who is black, argued that the real reason was race discrimination.

His proof? A white manager with the same title also received a poor evaluation but kept his job.

The company argued that the two managers weren't comparable because the fired employee had a much longer list of mistakes, and the company had clear documentation to prove it. The court agreed and tossed out the case. (*Frazier v. Doosan Infracore*)

Bottom line: Courts don't want to micromanage a manager's every move, but they do expect you to document your decisions.

Keep a performance log for every employee

It happens to every manager: You sit down to prepare a staff member's review and realize you can remember only what the person has done the past few weeks. Or you allow only a single incident (good or bad) to color your assessment.

That's why it's best to institute a system to document performance throughout the year. The easiest way: Keep a performance log for each employee. These can be as simple as sheets of paper in a folder or a Word document on your computer. Establish a system that you will use regularly. Also, keep the notes confidential. Here are some tips:

- **Include both positive and negative behaviors.** The easiest way to do this: Update logs on a regular basis, instead of waiting for a specific incident.
- **Date each entry.** Details such as time, date and day of the week help identify patterns.
- **Write observations.** Don't make assumptions about the reasons for the behavior.
- **Keep out biased language,** including references to an employee's age, sex, race, disability, marital status, religion or sexual orientation.
- **Don't suggest reasons for employee actions** without direct evidence.
- **Be brief, but complete.** Log entries should use specific examples rather than general comments.

What to include ...

- ✓ Project assignments and deadlines met or not met
- ✓ Your assessment of the quality of an employee's work
- ✓ Instances of tardiness, work absences or extended breaks
- ✓ Disciplinary discussions, actions taken
- ✓ Positive contributions to work

... And what to leave out

- × Rumors or speculation about the employee's personal life
- × Theories about the employee's behavior or work quality
- × Information about the employee's family, ethnicity, beliefs or medical history
- × Unsubstantiated complaints against the employee

These scenarios were designed to create lengthy discussion. The answers are not simple and need further explanation. Because the purpose of this exercise was to create dialogue followed by detailed discussion, you should contact a Supervisor that was present at the meeting or Human Resources to address questions.

Scenario #1:

Joe supervises numerous Circulation Clerks and Librarians at his library. He has noticed over the last few months that several of his employees have been routinely late for work. Peggy, a Circulation Clerk, is often 20-30 minutes late arriving to work in the morning. Dwight and Jim, both Librarians, are also frequently tardy but only by about 10-15 minutes. Joe decides to start documenting Peggy's tardiness because he feels that being more than 15 minutes late is just unacceptable.

Do you think documenting Peggy's tardiness is a good idea?

- A. Yes - Joe should document Peggy's tardiness because it is extreme.
- B. No - Peggy is female and the other tardy employees are male so it will appear to be discrimination.
- ☒ C. Yes – Joe should document Peggy's tardiness but should also document all other employees who are tardy.
- D. No – Dwight and Jim are both Librarians so their arrival time is not as critical as Peggy's.
- E. No – Joe can just wait to address tardiness issues on Peggy's next performance appraisal.

Scenario #2:

Cindy has worked for the library system for eight years and until recently, has been an exemplary employee. During Cindy's annual performance appraisal, Joe tells her that in the last four months her performance has not been up to her usual standards. As he begins to provide her specific examples of her declining performance, Cindy bursts into tears and blurts out that she has been under severe stress because the new Assistant Manager, Bob, has been sexually harassing her for the past several months. She says she has been unable to concentrate on her work because of it.

How should Joe respond?

- A. Comfort Cindy and help her calm down; tell Cindy he will report her allegation; remain professional, and proceed with completing the performance evaluation.
- ☒ B. Stop the appraisal and tell Cindy it will be finished in the future after he has an opportunity to report the allegation and have it thoroughly investigated.
- C. Ask Cindy how she wants to proceed; if she does not want to report Bill that is her prerogative.
- D. Since Joe knows Bill personally and he is a great guy, he should tell Cindy that she is over-reacting and just making excuses because her performance has declined; he should confront Cindy because he feels she is being dishonest.
- E. Joe should tell Cindy she's delusional, needs to get it together, and ask that she contact the EAP for counseling.

Scenario #3:

Mary and Sue have worked together for many years and are good friends. Sue reports to Mary and so far this year, she is again one of the library's top performers. Earlier in the year, the department director implemented a new policy requiring all staff to submit daily reports of their activities to their supervisor. All of Mary's employees are complying with the new policy except for Sue. Sue claims she is just too busy with "real work" to put together a daily report and says she will try to do weekly or monthly reports instead. Mary does not want to make a big deal out of the reports because everyone loves Sue (including Mary), she is so good at performing her other job duties, and Mary doesn't think the reports are useful anyway.

How should Mary handle the situation?

- A. Ignore it - Sue is an outstanding employee and the report isn't that big of a deal.
- B. Wait and see if Sue starts complying and, if she doesn't, talk to her about the policy at her next performance appraisal.
- C. Meet with Sue now; tell her that she is an exceptional employee and ask her to complete her reports; explain to Sue that it is Administrations decision, not hers, and if it was her choice she wouldn't even have the employees complete the reports.
- ☒ D. Meet with Sue now and go over the policy requirements. Let her know that daily reports are required of all employees and failure to follow the policy could result in disciplinary action.

Scenario #4:

Betty is one of Dave's best employees when it comes to job performance, but she often has attendance issues. She consistently calls into work for a variety of reasons (broken down car, childcare issues, etc.) and thus has used up all her available sick leave and AVL. Recently, Betty requested a schedule change or unpaid leave to get treatment for depression and anxiety following a sexual assault by an intruder in her home. Because Betty did not have the available leave and did not work enough hours to qualify for FMLA, Dave denied her request. Dave told Betty that in order to ensure fair and equal treatment for all his staff, he must apply the MLS leave and attendance policies consistently and the same way to all employees.

Did Dave handle this situation correctly?

No

If yes, why?

If no, why and how should he have handled it?

(This answer involves an in-depth lengthy discussion and explanation regarding domestic violence and ADA requirements)

Scenario #5:

Jack has been documenting performance issues on his employee Brenda for the past several months. He is frustrated and has sent his documentation to Human Resources for review and is asking for assistance on how to give Brenda a written warning. The following is his documentation:

08/15/12: Brenda called in 2 hrs after her shift began and said her car broke down so she wasn't coming in.
08/30/12: Brenda was 30 min late and did not notify anyone she would be tardy.
09/10/12: Brenda called in and reported she would be 1hr late to work because she overslept; her coworkers say they heard she was out drinking the night before.
09/21/12: Brenda did not report to work and did not call in.
09/22/12: Brenda reported that she did not know she was on the schedule yesterday so that is why she was absent.
10/07/12: Brenda was 20 min late and did not notify anyone she would be tardy.
10/17/12: Brenda called and said she couldn't find childcare so she wouldn't be in.
10/18/12: Brenda called and said she still couldn't find childcare but would be in tomorrow.
10/31/12: Brenda called in 1 hr after her shift began and said she wasn't feeling well and wouldn't be in.
11/07/12: Brenda was 45 min late and did not notify anyone she would be tardy.
11/19/12: Brenda called and said she had a doctor appointment so she wasn't coming in; I suspect she is really going on job interviews.
12/03/12: Brenda did not report to work and did not call in.

Do you think Jack's documentation is good or bad?

(The answer is both - involves in-depth lengthy discussion & explanation)

Is this how you would have handled the situation and why?

True or False:

- F 1. An employee is caught stealing company equipment. It's best to list the termination reason as "gross misconduct" since "stealing" could be defamatory.
- F 2. An employee with a disability is having trouble meeting job standards. It's better to list her performance as "satisfactory" so she doesn't become discouraged or we risk the chance of a lawsuit.
- T 3. A disciplinary warning should always contain language that spells out the potential penalties the employee faces if he repeats the offense.
- F 4. If an employee is terminated for poor performance, the best way to disqualify him from unemployment benefits is to use terms such as "unsatisfactory work" or "totally inefficient."
- F 5. A non-exempt (hourly) employee was scheduled to work today from 8:00 to 4:30 with a 30 min lunch and this time is already entered into his timesheet. Due to last minute scheduling changes, the employee instead works 8:30 to 5:00 with a 30 min lunch. Since the total hours for the day did not change, it is not necessary to make changes in his timesheet.
- F 6. An employee calls in and tells her supervisor that she is not feeling well, is taking her intermittent FMLA/sick leave, and doesn't know when she will return to work. The supervisor does not have the right to ask for a specific return date.