Tough Talks: Scripts & Strategies for Difficult Employee Discussions

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Speaker Bio

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And Author of . . .

- **101 Tough Conversations to Have with Employees: A Manager’s Guide to Performance, Conduct, and Discipline Challenges** (April, 2009)

- **101 Sample Write-Ups for Documenting Employee Performance Problems: A Guide to Progressive Discipline and Termination** (one of SHRM’s “Great 8 of 2008”)

- **96 Great Interview Questions to Ask Before You Hire** (2nd edition)

- **2600 Phrases for Effective Performance Reviews**

- **The Hiring and Firing Question & Answer Book**
The Rules of Engagement

- Each to his own without judgment
- What you want for yourself, give to another
- Change your perspective and you’ll change your perception
- It’s not what you say but how you say it
- Perception is reality until proven otherwise
Rules (cont.)

- The path of least resistance is avoidance
- Feelings aren’t right or wrong – they just are
- Put others’ needs ahead of your own by treating them with dignity and respect, and expect them to respond in kind (“selfless leadership”)
- Life begins at the end of your comfort zone.
Your Tools

- We’re all responsible for our own *perception management* ("Let me share with you what it looks like from my vantage point. . . “)

- Invoke guilt, not anger!

- Positive confrontation = “I’m sorry” and “thank you” (the *magic words*)

- It’s all about heightened sensitivity and raised awareness
The Golden Rule of Enlightened Leadership

- A key tenet of adult learning theory is:

- Allow people to assume responsibility for their actions, and you’ll “pierce their heart” and get them to want to change things for themselves.
1. Speaking off the Record

- Qualify the nature of the issue upfront:
  
  "If it has to do with (1) discrimination or harassment, (2) potential violence in the workplace, or (3) a perceived conflict of interest with the company, . . .
  
  "... then I have an obligation to disclose that to management and can’t keep it confidential. . ."
2. New Supervisor Syndrome

- “Allow me to share with you what *the word on the street* is . . . Apparently more than one person on your staff has noticed that you appear to be. . . .

- “Is it possible that might be the case in your group?”

- “This is clearly your unit now, but let’s discuss how you want to run it. More important, let’s discuss what kind of reputation you want to develop with your staff as the new unit head and what kind of culture you want to emanate from the top down. . . .”
3. Stopping Attitude Problems in their Tracks

- **Rule 1:** Tell the person in private how you perceive her actions and how she makes you feel.

- **Rule 2:** Avoid the term “attitude” and replace it with “behavior” or “conduct.”

- **Rule 3:** Be specific and “paint a picture with words.”
Attitude Problems (cont.)

“Lisa, I need your help. You know they say that perception is reality until proven otherwise. I feel like you’re either angry with me or with the rest of the group. . . .

“I may be off in my assumption, but that’s an honest assessment of the perception you’re giving off. . . .”
Attitude Problems (cont.)

“I just want you to know that I wouldn’t treat you that way in front of others. I have too much respect for you to do that. . . .

“Let me ask you, how would you feel if you were the supervisor and one of your staff members responded that way in front of your team?

“Likewise, how would it make you feel if I responded to your questions with that kind of tone of voice or body language?”
4. Bad Breath

“Dominic, I called you into my office because I wanted to speak with you about something privately. The feedback is a bit difficult to share, and I’m fairly uncomfortable right now, so I want to make this as straightforward and simple as possible: I believe you may have a problem with bad breath.”
Bad Breath (cont.)

- “You know how most of us would appreciate it if someone told us that we had spinach stuck in our teeth or that our zipper was down just to save us from embarrassment? I see this as one of those conversations because even though it’s difficult news to share, it’s really in your best interests.

- “I know these things are usually the result of over-indulging in spicy or garlic-y foods, but is there something you might be able to do on your own to fix the perception problem that exists?”
5. Body Odor

“Roger, I wanted to meet with you one-on-one in my office because I need to share something with you privately, discreetly, and with as much sensitivity as possible.

“You may not realize it, but it appears that you have a body odor problem, and it isn’t merely a personal matter – It’s a workplace disruption issue that I’ll need your help to repair.”
Body Odor (cont.)

“I’ve had conversations like this with employees before, and usually they’re not even aware that the problem exists. I don’t mean to make you uncomfortable, but don’t mind my asking, Are you aware of the issue, and if so, is that something you could take care of on your end?”
Body Odor (cont.)

“Roger, listen, I’m here to help in any way I can. If you’d like us to set up a fan in your office, or if you’d like to change your schedule so that you could take breaks throughout the day to have time to freshen up, I’d be very supportive of that. Just let me know whatever I could do to help, okay?

“If you wouldn’t mind, though, I’d prefer not to have to address this with you again because it’s a bit uncomfortable for me, so is this something you feel you could fix on a go-forward basis?”
6. Excessive Absenteeism and “Patterning”

“Sarah, now that we’ve discussed the number, or quantity of incidents, we’ve got to discuss the quality, so to speak. Yes, I look at the number of unscheduled absences. But I also look to see when they’re occurring on the calendar.

“In your case, two of the three incidents either happened on a Friday or a Monday, and that’s a separate problem in and of itself.”
“Patterning” (cont.)

“The way we look at it, any time an employee takes more than 50% of his or her time off around weekends and holidays, then we may have a “pattern” problem on our hands.

“In your case, with two of the three incidents happening around the weekend, that represents 66% of your incidents occurring on either end of your regularly scheduled time off. That’s an additional problem and is considered a separate infraction, as far as I’m concerned.”
“Patterning” (cont.)

- “Yes, three occurrences of unscheduled absence won’t trigger anything formal at our company in terms of a disciplinary response. And two of three incidents occurring on Mondays or Fridays may be pure coincidence. But I need you to become very sensitive to this issue as well.

- “In short, I need you to fix both areas. Can I count on you to do that?”
7. Foul Language

“Jim, you’re not hearing me. You’re on the offensive when you should be playing defense. This isn’t about you any longer – it’s about your coworkers and our company.

“When someone puts us on notice that they’re no longer comfortable with the curses, loose banter, and jokes that arguably become “pervasive” in the workplace, then in the eyes of the law, the whole company is placed on notice. At that point, we no longer have the discretion to laugh it off and ignore it. . . .”
Foul Language (cont.)

- “In fact, if we do, we could have a hostile work environment situation on our hands, and as you know, hostile work environment claims are a subset of sexual harassment, which in turn, falls under our company’s anti-discrimination policy.

- “In short, we’re putting you on notice that the language and behavior have to stop immediately.”
Foul Language (cont.)

- “If you really feel you can’t accommodate our request, then you may have to make an employment decision: In other words, if you can’t or won’t agree to this at this point, you’ll either have to resign or realize you’ll be terminated for cause should this occur again.”

- Note: Performance infractions and conduct violations are typically not treated the same: you have a lot more discretion to escalate the process when a conduct issue is at hand!
“Oh, and Jim, there’s one more thing: I’m not saying this to scare you – it’s just that I want you to be fully educated on the matter. If the company were to be sued, you would also be named as an individual defendant in the lawsuit.

“In fact, in extreme cases where the company warns the employee and the employee refuses to change his ways, then he may be considered to be acting outside the course and scope of his employment.”
Foul Language (cont.)

- “And under those circumstances, the company’s legal team wouldn’t necessarily protect you. In short, you could be on your own to find your own lawyer and pay the damages that arise from the claim.

- “We don’t pay you enough money to risk your home and your bank account for work-related lawsuits, so any time you find yourself slipping back into your old ways, be sure and stop by my office so that I could remind you about the risks you’re assuming when it comes to foul language in the workplace. . . .”
8. Leering

“Bill, there’s a difference between *perception* and *reality*. Reality is what you know to be true or what you do purposely; perception is what others see, regardless of your intentions.

“As they say, perception is reality until proven otherwise, and perception is in the eyes of the beholder. So even if you don’t realize it, you may be creating a perception that’s offending others.”
“From this point forward, I want you to think of it this way: *You have to hold yourself accountable for your own perception management.* In other words, you have to become sensitive to how you’re coming across to others. When you speak with someone else, especially a woman, make sure you look at them eye-to-eye, even if they’re much taller than you.”
Leering (cont.)

“Likewise, don’t stare at anyone’s chests under any circumstances—men or women—so that no one could accuse you of inappropriate behavior. Does that make sense?

“Finally, Bill, like I said, I have no reason to doubt your sincerity. However, I also have to take other peoples’ complaints seriously. As a result, I need a commitment from you right now that you’ll be very conscious of the perception you’re creating at all times and, more importantly, that after today we’ll never have to have a conversation like this again. Agreed?”
9. Layoff / Position Elimination

“I just want to thank you for all your hard work and dedication over the past two years and say *I’m sorry* that this is happening.

“You’ve made it a better place around here, and I’m going to miss working with you. *Thank you* for all you’ve done for us.”
Question: Why was my position chosen for elimination?

Answer: “It was a business decision. Please don’t take this personally; when a reduction in force occurs, positions are eliminated. The people who are attached to those jobs then get laid off. It’s the hardest thing a manager can do – selecting positions for elimination is so difficult because you realize that people’s lives will be interrupted. That’s why I’m so sorry that this is occurring.”
Layoff (cont.)

Question: Who else is being laid off? Am I the only one in our department? Why me?

Answer: “Laura, I can’t share who else is being laid off in the department at this point. We haven’t spoken to the other individual(s) yet, so I’d ask that you allow me to hold off on answering that for now.”

[Or]
“Yes, yours is the only position in our department that’s being eliminated. Again, please don’t feel that you’ve disappointed anyone. I want you to know that you’re eligible for rehire once the hiring freeze is lifted, although we can’t guarantee that.

“For now, though, understand that we had to eliminate one headcount, and purely from a functional standpoint, your position made the most sense.”
Layoff (cont.)

- **Question**: How can that be? Who’s going to do all the work that I do once I’m gone?

- **Answer**: “That was part of the pre-layoff analysis that we performed, and I want you to know that we looked at all the positions in our department and unanimously agreed on the position that should be eliminated. Let’s discuss some of the details related to your severance package and other important benefits details relating to this layoff . . . .”
Layoff (cont.)

- **Question**: Wait. You can’t lay me off and keep Susan. I have more longevity than she does!

- **Answer**: “I recognize that. I want you to know that we did indeed consider tenure in our decision, but it wasn’t the only factor. We also looked at how the roles could be reconfigured and redesigned when determining who would be qualified to assume the remaining job duties after the reduction-in-force. *Are there any other questions I could answer for you?*”
10. Summary Offense: Time Card Fraud

“Cindy, timecard fraud literally steals time from the company. The old adage “time is money” is relevant and real in this case: Time is a proxy for money, and stealing time is the same thing as stealing money.

“We don’t provide progressive discipline to employees who engage in theft of any sort, and I’m afraid we’ll have to terminate your
"The best advice I could give you under the circumstances would be to learn from this experience.

"Most companies handle this matter the same way that we do, and you have to be very careful about and conscious of the record that you’re creating at any given time. Again, I’m very sorry that this happened. . . ."
11. Mediating Disputes among Subordinates

- Meet with each individual 1-on-1

- Share the other person’s side of the story in advance of the group meeting so that the “what” is known. (You could then focus your meeting on the “how.”)

- “There is then no need for attacking or defending – we’re simply coming together as adults to solve a problem” (which deescalates feelings of angst or anger)
At the time of the 3-person meeting, set the rules as follows:

- “Don’t hold anything back.”

- “Everything you share has to be said with the other’s best interests in mind and in a spirit of constructive criticism.”

- “Determine what you will change about your own behavior in order to invoke a different response in the other person.”
12. Incentivizing Longer-Term Employees to Leave when There’s No Corrective Action on File

Third-party arbiter / broker states:

- “It appears that you may not be happy in this role, and I suspect that your supervisor may not be either . . .”

- Beginning the progressive disciplinary process could ultimately result in a termination for cause, which is something I know you wouldn’t want on your record after so many years at our company . . .”
Incentivizing Longer-Term Employees (cont.)

“I want to be sure that you feel like you have options here . . .

1. If you choose to stay and work this out, then that’s certainly an option for you that we’ll support in any way we can.

2. If you’d prefer to schedule a timeline where you could look for work while still remaining employed with us, we could help with that as well.
3. And if you’d prefer to leave the company now, we wouldn’t contest your unemployment. We’d respect your decision to leave on your own terms and will work with you to craft a message that we’re both comfortable with.

I just don’t want you to feel like you’re heading down this irreversible path – Life is really too short for that, so please sleep on this and let me know how I could help.”
A Few Final Tips . . .

- Don’t ever rush to judgment: You’re better of placing an individual on a paid, investigatory leave when you need additional time to reach a conclusion.

- Don’t manage by fear of a lawsuit: Instead, make sure that if one comes your way, you’re getting sued on your terms, not theirs!
Final Tips (cont.)

- Always focus on shifting responsibility for improvement away from your company and to the employee (where it rightfully belongs).

- Successful verbal interventions allow you to handle matters respectfully, responsibly, and in a timely manner, which are the key tenets of workplace due process and fairness.
Question & Answer Session

- Have a question for the speaker? Press “Star” and then “1” on your phone to enter the queue.

- If, during the Q&A, your question has been answered, or you wish to remove yourself from the queue, press “Star” and then “1.”

- The moderator will open your line when it is your turn to speak.


- We’d love your feedback regarding the conference and other topics you’d like to hear about! Contact Heather Rice at: hrice@BusinessManagementDaily.com.

Thank you for participating!
Other resources

**HR Specialist: Employment Law** newsletter

Plain-English and actionable employment-law advice that helps you keep your organization in compliance and out of court. Learn lessons from recent court rulings, read about happenings at the EEOC, DOL and IRS, and find answers to your questions in our Mailbag Q&A column. Two FREE bonuses when you subscribe. Eight-page monthly newsletter. $97/year.

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