

LAW OFFICE OF LORI A. GOLDSTEIN, LLC

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DIFFICULT WORK CONVERSATIONS: TIPS FOR EMPLOYEES AND EMPLOYERS

From hire to fire, employers and employees often face communication issues and confront (or avoid) difficult conversations. Many of us spend much of our waking time (and sometimes sleep time) working, talking about work, and thinking about work. Work relationships and communications are significant and can sometimes cause as much emotion as personal relationships.

Why Work Conversations Are So Important

Work relationships that truly work are so important. Employers benefit by productivity, efficient operations, and motivated, dedicated workers. Employees feel productive, listened to, respected, and able to assert rights and voice opinions in a collegial, corroborative environment without retaliation.

For employers and managers, appropriately handling those difficult conversations can lead to **positive morale and a productive team, and also reduce the risk of perceived or actual claims of discrimination**. Clear instructions and work expectations, honest, timely feedback, constructive criticism as well as positive feedback, and an open door policy should be standard procedure.

For employees, you should feel comfortable seeking your boss' clarification on work expectations and goals, requesting time off, and even making complaints. Coworker communication is also key and can promote teamwork and reduce issues often caused by egos and personality differences.

Some topics may mandate communication between an employee and Human Resources, or between HR and a manager. When HR receives an employee complaint about a supervisor, or supervisor needs assistance in dealing with an employee, it can be challenging for HR to run interference.

Why Work Conversations Can be Difficult

We're all human, and the workplace is filled with different personalities and communication styles, and differences in roles and authorities at work. Sometime just like a child and parent, it can be difficult for a worker and her boss to have an important conversation. Bad relationships, **bullying or micromanagement aren't helpful for the employer or workers, and can be illegal if it targets a legally protected class**. Work also has a significant impact on life. The importance of our careers and our self-esteem, the financial benefits that help us live, and the amount of time spent at work certainly impact us. Sometimes coworkers are like family and employment terminations can be as emotional as divorce.

Respect Diversity and Communication Styles

While often the topic is the reason a conversation is difficult, differences in personality, communication style, background and experience, as well as different work ethic and generation, can cause problems. Employers and employees should respect and tolerate others, regardless of race, national origin, religion, gender, disability, age or other protected class, and should recognize differences in handling work communications.

Be Prepared for Difficult Conversations at Any Stage of Employment

Difficult conversations can occur in any aspect of employment, including recruiting/pre-hire, hire and employment terms, performance counseling and formal reviews, discipline, termination, and employee requests for medical/accommodations/leave of absence. At the recruitment stage, be aware of **laws that govern employee rights and employer obligations on appropriate interview questions**. (Ask me for a copy of my **interview no-no list**.) Once employees are on board, managers should be trained to offer regular feedback, constructive criticism and counseling; and performance reviews should be honest and provide suggestions for improvement. Policies should be enforced consistently and discipline even-handed.

Employees and employers should be aware of legal rights when an employee requests a change in work conditions, such as accommodations for a health condition, pregnancy, or to care for an ill family member. The end of employment, whether a voluntary resignation, a termination, or a reduction in force, should be communicated with honest reasons. A humane process helps to provide closure, ease transition, and reduce legal claims. An **exit interview** allows the employer to explain separation procedures and benefits, and employees to make suggestions for improvement and clue employers into any serious issues.

Legal Updates

Pregnancy leave rights. In the latest chapter on **pregnancy accommodations**, the U.S. Supreme Court confirmed last month that absent a legitimate non-discriminatory reason, employers must provide pregnant employees who have lifting or other restrictions, **similar accommodations** as those provided to non-pregnant employees with such restrictions. The Court returned the *Young v. United Parcel Service* case to the trial court to determine whether a pregnant employee has the same right to **light duty work as non-pregnant employees restricted by on-the-job injuries**. This decision is consistent with EEOC guidance issued last summer and with the new Illinois Pregnancy Accommodations Act.

Employees Beware: No More Tape Recording At Work. The Illinois eavesdropping statute has been amended and is now enforceable. Illinois employees can no longer tape record conversations at work **without the employer's consent**. The law requires that all parties involved in a private conversation give their permission to be recorded. A private conversation is one which the parties have a "reasonable expectation" will remain private. Note that most employers' policies state that employees have no reasonable expectation of privacy in the workplace. Therefore, **employers can generally tape record** without employee notice or consent.

This bulletin is an advertisement intended to provide clients and others with general information and is not intended to provide specific legal advice or opinions. Employers and workers seeking assistance with topics addressed in this bulletin or other workplace issues should contact Lori Goldstein at (847) 624-6640 or lori.a.goldstein@gmail.com. Visit www.lorigoldsteinlaw.com for more information about the Law Office of Lori A. Goldstein, LLC. © 2015 Lori A. Goldstein