

# STUDY GUIDE

---

## 101 Tough Conversations to Have With Employees

**Author: Paul Falcone**

**Course Developed by: David Lee; MBA, Certified NAB Course Developer**

The content, concepts, and ideas presented in this guide are those of the author(s) and are credited as such. Material Reproduction is not allowed and is a Federal crime.

## STUDY GUIDE

Having tough discussions with your employees will always be one of the most daunting tasks that you'll ever face. As a general rule, the path of least resistance is avoidance, and how many of us haven't been guilty from time to time of allowing problems to go on, hoping they'd simply fix themselves? You're probably someone who has faced this challenge on a number of occasion's through-out your career, but you instinctively know that if you simply have the right verbiage and a strategic game plan in place, you'd be able to address minor problems head-on before they escalated into something far more serious. Take comfort in knowing you're not alone. This course & book is designed and structured as a handy guide; and guiding hand; to walk you through some of the most common as well as the most serious employee problems that you could ever come across in your career.

### The Rules of Engagement:

To make employee turnarounds and epiphanies successful, there are a few key rules of communication to follow.

First, remember that it's not "what" you say but "how" you say it that counts. That may sound like an old saying that your grandparents taught you, but in the world of work, people tend to respond in kind. If you demonstrate respect and compassion, you're likely to receive a similar response, even when dealing with the most uncomfortable and confrontational workplace situations.

Second, your greatest asset when dealing with others is "guilt", not anger. Anger is an external response. When people are mad at another person, they look outward to voice their frustration. Guilt, on the other hand, is internal. When people feel guilty, they look inward and tend to assume responsibility for the problem at hand. That's the Golden Rule of Work Place Leadership: allow people to assume responsibility for their actions,

and you'll "pierce their heart" and get them to want to change things for themselves. Try to force them to do something by making them mad or by challenging or embarrassing them, and they'll resist the change that's being forced on them.

Third, remember that "whatever you want for yourself; give to another." So many times people demand respect, open communication, and other forms of social acceptance without realizing that they don't give those things to others. At a time when many demographers and sociologists are pointing to major shortages in the labor market because of the upcoming retirement of the baby boom generation, retention is vital. Yet people tend to join companies and leave managers. They initially see the value of the company, its reputation, and perception as a great place to work---only to flee from a manager whom they no longer trust or respect.

The fourth rule of thumb is honesty; "honesty is the best policy". Now I know what you're thinking; "Oh please, that's very easily said from the HR Ivory Tower, but I've got to work side by side with these people every day, so please spare me the hackneyed adages!" Being open and honest is particularly difficult when you're dealing with certain kinds of employees, and sometimes the confrontation just isn't worth it.

In reality, honesty has to be the basis of everything you do as a leader. Confrontation is tough for all of us; just remember that differences in opinion are perfectly acceptable; however, confrontation in the negative sense is optional. Speaking with others in a respectful and thoughtful tone, regardless of the content of your message, will allow them to assume responsibility for their actions or, in the case of termination, get on with their lives.

The fifth rule of thumb is the most important rule in this book and it is actually a word: "Perception". Perception is never right or wrong--- it just is. And whenever you use the word perception, you are not accusing anyone of anything or proclaiming to be stating facts, instead, you're simply

relaying how you're seeing things from your perspective or what you're hearing from others.

Let's look at the most common problem with people management in corporate America today, grade inflation during performance reviews.

Performance reviews are often mandatory in many companies and needed to justify an employee's annual merit increase, but because many supervisors don't keep records of their employees' performance through the year or meet with their staff members on a quarterly or interim basis, they have little information on which to justify the grades they give. They of course want to avoid upsetting the employee, whom they have to deal with for the entire upcoming year, so rather than providing an honest grade showing that the person doesn't meet company expectations, they inflate the grade to show that the person is performing at an acceptable—albeit not stellar—level. This scenario goes on for several years, and low and behold, the company suddenly finds itself in dire straits and decides it must lay off a certain percentage of its workforce. Of course you want to lay off the marginal performer, the ones who have been “skating by” in a quasi-job that produces few results. However, not realizing that this paper record created over the past few years shows that this individual has consistently met expectations, you are shocked to find that you can't simply lay off the true substandard performer. Why not? Because more often than not, that particular employee is the longest tenured, the oldest, or otherwise the most protected person in the group. The fact that this employee (you might have inherited) was given an overall performance review score of 3—meeting expectations—while everyone else on the team got a 4 or a 5—exceeding expectations—means little in the grand scheme of things. That's because the employee “heard” that she met company expectations for the entire year with an overall acceptable score. Whether she knew that her 3 was the lowest score in the group isn't relative, a score of 3 still meets company expectations, and that's the only message that really counts in terms of the record your company has created. At that point, human resources or your outside legal counsel becomes a barrier that's

standing in your way of getting done what you want and need done, and then you are at odds with your own internal support team. It's a "lose—lose" situation because you or someone wasn't honest and upfront in with the subordinate all along. The end result is you have to lay off someone less tenured on your team, who happens to be a star performer and now begin the progressive discipline process with the laggard employee from scratch—even though she should have been disciplined a long time back.

Every manager in corporate America has felt frustrated over employee tensions and unresolved conflict. And let's face it, there is typically more than enough work that needs to be done without involving hurt feelings, resentment, and that walking—on—eggshells sensation that makes you feel more like a referee than the manager. With the critical need for retention of key talent, however, managers have to find ways to get their people "plugged in" again or else face premature turnover. The reality is that your staff members will almost always take the path of least resistance with each other—rather than address problem issues head on. As the manager, you must intervene in a mediating role to ensure that a lack of communication doesn't lead to performance problems or turnover.

The solution is; when two of your staff members are at war, meet with each individual separately and explain how you intend to resolve the problem. Privately find out their side of the story and ask why they think the other person feels the way they do. Ask them what they would like to see happen ideally in terms of their relationship with the other person, ask them if they would be willing to change their own thoughts, feelings, or behavior to elicit a different response from the other staff member in the future. Have a meeting where both or all involved come together and discuss the solution.

Understanding that employees may be nervous or anxious that a serious escalation may occur, so set ground rules. Some ground rules can be:

1. Don't hold anything back; this is their chance to get it all out in the open.

2. Everything that they share has to be said with the other person's best interest in mind and in a spirit of constructive criticism.

Setting up a meeting with these qualifiers automatically de-escalates feeling of angst or anger in the participants. It also gives you the chance to take a gentle approach to interpersonal issues that, like scars, sometimes run long and deep. Ask the participants to speak directly to the other person using phrases like; "this is how I feel" and "can you understand why I would feel this way?" Feelings aren't right or wrong—they just are. Since perception is reality until proven otherwise, each individual's responsibility to sensitize the other regarding the existence of perceptions that have developed over time. Knowing that guilt will allow for the assumption of partial responsibility for an imperfect situation, that element of accountability will serve as the seed of goodwill that helps heal old wounds. Remember, no matter how much you care, you can't manage their differences. Only they can do that. Still, you can provide a forum for solving employee disputes that brings out the best in people. Establishing a culture of openness means confronting people problems in an environment that's safe and that maintains the individual's dignity. It enhances your position as a leader and establishes your reputation as a fair arbiter of disagreements. There is no better formula for employee retention than treating people with respect, dignity, and a caring ear.

One of the most common challenges facing supervisors is dealing with employee attitude problems. You will know you have this situation, "employee attitude problems" on your hands when you sense an entitlement mentality evidenced by rolling eyeballs, sighs, and antagonistic body language. This silent behavior is difficult to stop because it's so easily denied by employees. As a manager you don't want to come across as too touchy or overly sensitive, still, the feelings of resentment linger and all too often result in the employee being publicly shunned and isolated. Sometimes those pent—up emotions result in a public shouting match

when some proverbial last straw is broken, and by then the situation is out of control.

There are two key points to keep in mind when attempting to eradicate this all too common workplace problem. First, tell the person in private how you perceive her/his actions and how they make you feel. Be specific and paint a picture with words so that the employee clearly understands the behaviors in question. Ask for their help solving the perception problem that exists, and make a mutual commitment to hear that person's side of the story and better the situation. Second, avoid the term "attitude" in your discussion and replace it with words like, behavior and conduct, which are much more neutral and objective. The word "attitude" is simply too subjective and inflammatory a word and typically escalates disagree, by fostering feelings of resentment and anger. Courts have interpreted attitude problems as being mere differences of opinion or personality conflicts. It is therefore critical that you avoid that specific term in any of your conversations or disciplinary documentation.

Before you place someone on a "decision-making leave" of sorts, be sure and check with your human resources department or other members of senior management. When it comes to matters that could result in termination, you don't want to assume all the responsibility by yourself. Instead think of it as a "hot potato" that you want to share with others in management. So before you officially terminate the employee, see if they want to resign or remain an employee, and make sure they are aware of your intended actions, this is important should your company ever be legally challenged by the outcome.

Today's workforce is the most diverse in history. We work at a time when many of us take for granted the fact that men and women of various ages, ethnicities, and religious beliefs work side by side every day, and for good reason, because as a society, we've become a lot less judgmental and open to other people's differences. We've learned that diversity in the workplace is a profitable business practice.

This positive trend has been due to the gradual expansion of our tolerance and acceptance levels—not to close a blind eye to others’ differences or to pretend that they don’t exist. Instead as a working society, we’ve come much closer to living by the mantra, “each to their own, without judgment.” However, because differences still persist, there’s always an underlying threat that someone may take offense at others’ behaviors and turn that perception of unfairness into a claim of discrimination or harassment.

It is best to keep religious and social issues from intruding into the workplace.

Sometimes a manager has to deal with employees speaking a foreign language in the workplace. Although no federal law specifically supports or prohibits employees from speaking in a foreign language at work, it is best not to create any specific hard and fast rules without gaining appropriate legal counsel first. One of the more balanced interpretations taken by certain states is to allow employees to speak with each other in a foreign language during breaks and meal periods, while requiring them to speak English during the normal work shift. This reasonable approach allows coworkers to converse in their own language during their free time, while permitting management to supervise and maintain control and safety during the regular shift.

Performance transgressions occur when employees fail to meet established production or output guidelines. Underperforming salespeople, marketing director, analysts with excessive error rates in their calculations and “customer service” representatives with an inordinate amount of complaints all fall under this category.

Unlike behavior and conduct infractions, like theft and embezzlement, which may justify immediate termination for a first offense, performance transgressions usually require that you, the employer, accord your workers with workplace due process in the form of written warnings and “decision-making leaves” or unpaid suspensions, as outlined in your



company's policy manual and in accordance with your organization's past practices.

"Decision-making leaves" typically lasts one day and are paid. They represent a once-in-a-career benefit that allows employees to rethink their commitment to the company and decide whether they wish to resign or re-engage. Unpaid suspensions, in comparison, typically dock workers anywhere from one day to one week's pay. As such they contain a "shaming element" because workers must explain to their family why their pay was docked. Whenever possible, look to shift your unpaid suspension practice to a paid, one-day decision-making leave because it treats adults like adults and appeals to people's sense of guilt rather than anger, also they are more effective at achieving true employee turnarounds.

The typical first step in such interventions lies with verbal counseling or sensitivity sessions so that your workers are aware of their errant performance and understand what they need to do to fix that perception problem. Failure to make the necessary improvements after intervention will then logically lead to a written warning. When it comes to progressive discipline, keep in mind that each attempt to address an ongoing performance problem adds a more serious or progressive element to the process, until the employer reasonably concludes that it must terminate the individual for cause. As such, the progressive discipline process ensures that your company acts reasonably and consistently and documents the effects of the worker's unwillingness or inability to do the job adequately.

Your verbal counseling and subsequent documentation accords employees with workplace due process because they learn of their problematic performance, are told what they need to do to fix the problem, and are given a reasonable amount of time in which to do so. Should your company later be sued for wrongful termination, you should then be able to demonstrate that, despite your interventions to better the situation, you were ultimately left with no choice but to terminate the substandard performer for "cause" (aka "good reason"). In fact you will very likely be

able to argue that the employee terminated himself despite your proactive attempts at rehabilitating him. And it all begins with verbal interventions, sometimes known as verbal counseling or verbal warnings.

Violation of company policy has many faces, including personnel, computer, security and safety applications. Companies often have different approaches toward policies in general; while some organizations publish policy and procedures manuals, employee handbooks, and code of conduct ethics statements, other companies choose to forgo documentation, if at all possible, in an attempt to retain total discretion to handle violations and breaches on a case-by-case basis. Most employees would argue that they prefer to have handbooks policy and procedure manuals so that they understand a company's rules and guidelines. It also benefits companies to publish such documents in an effort to consistently accord workers with workplace due process. In essence, if employees clearly know what's expected of them and violate a documented policy nonetheless, then the employer (theoretically) has a much cleaner termination to defend.

Lack of requisite skills: have you ever wondered what makes some people successful in the business world, while others never quite reach their desired level of achievement? Generally speaking, three ingredients are necessary to make someone successful in the business world: intelligence, motivation, (desire factor) and communication (bonding, people skills). If any one of these three factors is missing, a career will typically fall short of its potential. For example, deep intelligence without motivation will typically not go very far. Intense motivation without the ability to bond with others makes it difficult for a career to take root because people skills make up the glue that bonds us together. And great communication and people skills without intelligence and motivation will make it equally difficult to launch a successful career in business.

All people have differing levels of intelligence, motivation, and communication abilities, and all three of these traits determine an

individual's competence. However, although employers can't really impact these innate character traits in others, there are subgroups of characteristics that are indeed, "influence-able" from the standpoint of human interaction and conditioning. When employees excel in areas such as organization, time management, technical know-how, and logical problem solving, then their careers will typically stand out, and your company will reap the benefits.

Harassment refers to a wide spectrum of offensive behaviors. What constitutes inappropriate workplace conduct is often subject to debate because subtleties and innuendos can be difficult to prove, but one thing is clear; when sexual harassment charged issues become pervasive in the workplace, a claim of sexual harassment may be sustained.

Claims of harassment and discrimination, unlike other workplace situations, require that a company conduct an internal investigation. The standard expectation is that employers will intervene and remedy the situation in a timely manner after having completed a thorough investigation and reaching a reasonable conclusion. In fact, failure to take immediate corrective action after conducting a timely investigation, especially in cases of repeated harassment, could be viewed as evidence of a company's "malice" and therefore could be the basis for an award of punitive damages.

There are two types of sexual harassment claims: (1.) quid pro quo and (2.) hostile work environment charges. Quid pro quo makes up 20% of case law, and hostile work environment charges, in comparison, make up roughly 80% of the claims that find their way into courtrooms across the nation. In cases of hostile work environment charges, physical sex need not come into play, instead a workplace charged with ongoing sexual innuendos or banter may make the work environment intolerable according to the plaintiff who is bringing charges against the company. In addition, two conditions have to occur for a sexual harassment claim to be substantiated. First, the harassment must be (a) sexual for (b)

gender-based in nature. Second, the conduct must be unwelcome. Here's the catch; employees can "consent" to behavior that they don't necessarily "welcome", and it's a fairly low threshold to argue that the employee put up the intolerable behavior for fear of retaliation or out of peer pressure not to say anything. The key therefore, will lie in ridding your workplace of unnecessary exposure to these potentially lethal elements. Remember that harassing behavior can be physical, verbal, visual or auditory in nature.

The goal is not to rid the workplace of niceties like compliments and flatteries to the point where your managers are afraid of putting their socks on in the morning; instead, it is to sensitize workers as to how their behaviors and comments may be perceived. Because potentially harassing behavior is among the more serious of conduct infractions, it is often in the company's best interests to respond formally to claims in writing. Remember that with conduct, as opposed to performance related infractions, the company has a tremendous amount of discretion to accelerate through the progressive discipline process. In fact, a first offense may result in either immediate termination or a final written warning stating that, "if you ever again engage in behavior that could be construed as offensive, demeaning, hostile, or in any way makes a coworker feel diminished or less of a person, you will be immediately discharged for cause.

Substandard communication skills: Arguably the most important skill that workers need to excel in their careers lies in their communication abilities. Survey after survey finds that employees look to staffers' communication skills above all else to ensure that business progresses without undue interruption. Still, it's more than just how well someone speaks when spoken to when it comes to communication. More often, it has to do with a level of awareness or sensitivity in terms of feeding information up to management and keeping senior leaders in the know, lest they find out about surprises from individuals outside the group. There is even further issue of concern regarding communication abilities; the record being set by employees who engage in activities in a particular order, without regard to the

consequences of their actions. Gossips typically initiate unfounded rumors; rumormongers perpetuate them, even if they lack any foundation of truth or could potentially damage others' reputations or hurt their feelings.

Snitches—well, snitches are just snitches, and most of us know intuitively that playing the tattletale role is just plain wrong. These behavioral workplace factors occur around us all the time to differing degrees, but few things in the workplace do more to damage employee morale and trust than corporate “grapevine” that is allowed to go unaddressed and unchecked. People who initiate unfounded rumors and who gossip about their coworkers' or bosses' personal problems, work styles, or private challenges stir up drama for no good reason. They act like a worm in an apple, slowly coring away the goodwill and respect that creates camaraderie and trust. Left unaddressed and potentially unpunished, they could damage team spirit and goodwill more than just about anything else that the workplace could conjure up. Be direct, be open, and shy away from nothing when it comes to eradicating these insidious forces from the workplace. Your team will benefit, your subordinates will respect and appreciate you, and those wrongdoers will learn the errors of their ways before those same types of mistakes wreak havoc on their careers.

Surprisingly little has been written about effectively dealing with managerial style challenges at work because it's simply too difficult a topic to pin down. In reality, however, that more than anything ties into an individual's ability to manage his or her career successfully. How do you tell someone something as subjective and subtle as the following? (a) You appear to avoid confrontation at all costs, (b) you've developed a reputation as someone who has an argumentative and intimidating disposition, (c) you tend to over delegate and not do enough of the work yourself, or (d) you appear to instill fear in your subordinates.

These are strong accusations that more often than not will be met with stiff resistance. This creates another hurdle for you; fear of retaliation. Why? Because once you make someone aware that others may indeed think this way about them, they may become paranoid and initiate a witch hunt in the

form of a self-initiated internal investigation to determine who indeed made those comments to you for you to address them. Telling one of your supervisors that their management style is confrontational, bullying, over optimistic, wishy-washy, or anything in between creates lots of dialog that—let's face it—you'd rather avoid if at all possible. That's why so many of us practice the path of least resistance and avoid dealing with these subtle and subjective perceptions and indignities that occur day in and day out. How do you get someone to listen objectively to you when your message can be cutting? Well, don't expect it to be too easy, seeing that people are sometimes fickle and emotional toward anything that sounds to them like subjective criticism. Still, if you don't tell them about this perception problem that plagues them, they may never realize it's detrimental to their career until it's too late.

Arguably one of the most critical skills that any administrator/manager could have has to do with commenting on a subordinate's performance. Some administrator/managers are thoughtful, kind, and patient, while others yell, scream, and humiliate. Of course, it's up to you to determine what style you use to address the situation, and what works best for your company. However, a lot depends on your company's history and past practices. You may have a manager who runs roughshod over his staff members and delivers criticism with as much tact and diplomacy as a buzz saw, for example; ("you should know that", "I don't even understand why we're having this discussion") your goal is to help him tone down the angst and drama he uses with his staff members.

"The author, Paul Falcone says; that writing a book on how to manage people is like writing a book on how to raise kids; all parents have a different answer based on their kids' personalities, their family histories, and any number of other considerations. Therefore, it's up to you to determine what is appropriate and what will work under the circumstances you face from time to time in your company.

I want to say a little about corporate intention actions. Corporate actions include probationary terminations, administering written warnings, terminating employees for cause, and occasionally talking employees into leaving your company for your and their best interest. In short, it's where the rubber meets the road in terms of ultimate workplace confrontations, and it's where verbal skills and strategies will serve you best in terms of protecting yourself and your company from liability. If that sounds overly defensive, there's good reason. Inappropriate tactical approaches or the selection of the wrong word or phrase at the wrong time could have disastrous results in the litigation arena. It's important to look at this in an "offensive mode" as well, however. Positioning these conversations the right way and allowing employees to proceed with their respect and dignity intact is one of the most important roles you play as a supervisor. There's a lot of power that comes with the job of management, but a wise leader knows that it's not about power, it's about strength. And strength comes from self assuredness and selflessness, as when extending an olive branch at the time of administering a written warning or even termination. Most employers realize that they have a right to terminate new hires while in a probationary period, however, terminating an at-will probationary employee still carries legal risk, and you may want to occasionally provide some form of workplace due process, typically in the form of a written warning even to the new hires in their probation periods. It never hurts to provide a written warning as a cheap insurance policy should that individual choose to sue your company for wrongful probationary termination.

No fault actions are often the most difficult concept to explain to employees. After all, they're no one's fault. They are simply the result of doing business in an economy that sometimes appears to be based on survival of the fittest. In fact, it's arguably easier to terminate someone for "cause", than to lay them off. Why? Because with a termination for cause, the employee could at least see it coming and arguably had some ability to avoid the outcome. That's not the case with layoffs, where positions are eliminated, and the people occupying those positions are then let go—often

without much warning or notice. However, if you see yourself as a coach, consultant, facilitator, and networker who is willing to help your displaced worker, you may just lose some of that panic feeling that goes along with letting people go due to downsizings. Simply see yourself as their champion and initial support network. After all, it does eventually happen to almost all of us, and the goodwill that you spread at this point for others may very well come back to your aid at some point in your own career. You might want to provide them with copies of their performance reviews so that they could show them to prospective employers as a reference. Provide them with information regarding unemployment insurance coverage, benefits, continuation through COBRA, and then remain in touch with them if for no other reason than to listen to their issues and needs. With this help most workers can refocus on their future rather than bemoaning their past.

Terminations for first-time offenses are always challenging and while most supervisors assume that written warnings are the norms before terminating someone, not all offenses in the workplace are actually subject to progressive discipline. For example; if someone steals from your company, the organization has the right to terminate immediately, even for a first time offense. In fact, failure to do so could make your company appear irresponsible and set a dangerous precedent in terms of your ability to terminate future thieves. Employers have a significant amount of discretion to move to immediate dismissal for “conduct-related infractions”, like stealing, fraud, embezzlement, and gross insubordination. When it comes to performance-related transgressions, in comparison, employers are typically expected to go through all the normal steps of progressive discipline as accorded under company policy and practice.

Finally, note that “You’re Fired!” is not a nice way to end anyone’s employment as it deprives the person of respect and dignity. Although you may feel the employee has forfeited any right to respect and dignity by his or her egregious actions, keep in mind that firing people on the spot “a` la Donald Trump as in the Apprentice is best left for Hollywood. When you



suspect that a summary dismissal may be warranted, it's best to send the employee home with pay on an "administrative or investigatory", leave so that he or she is off the premises and you have the time to investigate your intended action more thoroughly.

Terminating the individual over the phone while he's at home can then take place, which provides you and your company with more safety while allowing feelings of anger and resentment to subside. You will make a much better record for the company if you place the individual on paid administrative leave before rushing to judgment, and courts and juries favor that type of corporate wisdom and restraint.

**NOTES:**