

HR Management 101

VASWCD

Cynthia F. Soltis, SPHR, GPHR
Lord Fairfax Community College



Where We're Headed:

- Legal 101: Laws Governing Harassment
- Performance Management
- Communicating Effectively



Laws Governing Harassment

- Title VII of the Civil Rights Act of 1964
- The Age Discrimination in Employment Act of 1967
- The Age Discrimination Act of 1975
- The Americans with Disabilities Act of 1990.

Other federal and state laws prohibit further types of discrimination or harassment.



Does this Law Apply to Me?

Question	Yes	No
1. Is the employer big enough?		
2. Does the employer meet any other requirements imposed by the law?		
3. Is the employee covered?		
4. Do all of the law's provisions apply?		
5. Is your situation covered by the law?		



Title VII of the Civil Rights Act (1964)

- Purpose
 - An employer cannot discriminate on the basis of race, color, religion, sex, or national origin with respect to employment.
- Who Must Comply?
 - All public or private employers of 15 or more persons.
 - All private and public educational institutions, the federal government, and state and local governments
 - All public and private employment agencies
 - All labor unions with 15 or more members
- Covered Workers
 - Prospective, Current, and past employees



Of the 80,000 complaints
processed last year....

- Religion
- Equal Pay
- Race
- Sex
- Disability
- Age



Title VII of the Civil Rights Act (1964)

- What's Prohibited –
Discrimination – applies
to all terms and benefits
of employment – and
Harassment
 - Hiring
 - Firing
 - Compensation and
Benefits
 - Job Assignment
 - EE Classification
 - Transfer
 - Promotion
 - Layoff
 - Recall
 - Training and
Apprenticeship Programs
 - Use of Company facilities
 - Retirement Plans
 - Leave time



Pregnancy Discrimination Act of 1978 – Amendment to Title VII

■ What's Prohibited?

- Cannot discriminate against prospective and current employees on the basis of pregnancy, childbirth or related medical conditions

■ What is a related medical condition?

- Medical complication or disability as a direct result of pregnancy or childbirth that requires medical treatment
 - Recovery from childbirth, miscarriage, or abortion
 - Potential to become pregnant
 - Infertility – courts are divided
 - Breast feeding and child care are NOT covered.

Pregnancy Discrimination Act of 1978 – Amendment to Title VII

- What is Required?
 - May not fire or refuse to hire a woman because she is pregnant.
 - May not force a pregnant employee to leave if she is ready, willing, and able to work.
 - Must treat pregnancy the same as any other temporary disability.
 - If health insurance is an employee benefit, then policy must cover pregnancy and related expenses to same extent
 - Do not have to pay for abortions unless mother's life is in danger but do have to pay for complications from the abortion





Harassment is...

Verbal or physical conduct that denigrates or shows hostility or aversion toward an individual based on that person's:

- Race or color
- National origin or citizenship
- Religion
- Gender, marital status or sexual orientation
- Age
- Disability
- Or any other characteristic protected by law



How Does Being Harassed Feel?

- Insecure
- Lost self-esteem
- Decreased self-confidence
- Lost pride in work
- Question ability to make judgments
- Experience a fright / flight syndrome.



Discussion

- Have you ever witnessed someone being harassed or heard a story about someone being harassed in the workplace? What was the harassing behavior?
- Have you ever noticed behavior in your organization that someone might think is harassment? What was the potentially harassing behavior?



Harassing Behaviors Include...

- Abusive words or phrases
- Slurs or negative stereotyping
- Threatening, intimidating or hostile acts
- Put-down jokes
- Written or graphic material that shows hostility or aversion to an individual or group.



Stereotypes

- Generalizations

- About a person
- A group of persons
- Often leads people to make unfair judgments about individuals

- Stereotypes can be

- Positive or negative
- Held about any group
- Influence how we relate and our attitudes
- Barrier to a genuine relationship



Title VII: Sexual Harassment

- Sexual Harassment

- Harassment on the basis of sex that has the purpose or effect of substantially interfering with a person's work performance or creating an intimidating, hostile, or offensive work environment.

- Employers have an affirmative duty to maintain workplaces free of sexual harassment and intimidation.



Sexual Harassment Defined

- Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature that takes place under any of the following conditions:
 - Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment.
 - Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual.
 - Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.



Proving Sexual Harassment

- Quid pro quo
 - Rejecting a supervisor's advances adversely affects the employee's tangible benefits, such as raises or promotions.
- Hostile environment created by supervisors
 - Behaviors that substantially affect an employee's emotional and psychological ability to the point that they affect the employee's ability to continue with the employee's job.
- Hostile environment created by co-workers or non-employees
 - Advances by the employee's co-workers (or even the employer's customers) can cause harassment.



Quid pro quo

- Literally translates “this for that”
- Threat of demotion
- Promise of promotion
- Usually perpetrated by a supervisor or other person in position of authority
- It is about disparity of power, or the perceived disparity of power



Quid pro quo conduct consists of:

- Unwelcome sexual advances
- Requests for sexual favors
- Verbal or physical conduct of a sexual nature, such as lewd comments or inappropriate touching where...
- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or as the basis for employment decision affecting that individual



Hostile Work Environment

- Harassers can be supervisors or co-workers
- Hostile environment exists when:
 - A person is subjected to sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature
 - The conduct is unwelcome
 - The conduct unreasonably interferes with an individual's work performance or has the effect of creating an intimidating, hostile, or offensive working environment



Situation One

- Linda does a lot of research on the Internet. Occasionally she finds funny jokes or photos, some of them off-color, that she likes to email to her co-workers. Most of her co-workers find these jokes a welcome break. John, however, finds them offensive and would like Linda to stop sending them. When he asks her to stop, John is ridiculed by his co-workers for being a “Puritan.”



Situation Two

- Jamal works in a graphic arts department. He is the only man among many women. Every day the women in the office await the arrival of a very attractive delivery man. After he leaves, the women spend several minutes making suggestive remarks and jokes about the man's attractiveness. Jamal just rolls his eyes, but this daily ritual clearly makes him uncomfortable.



Situation Three

- Susan wears very short skirts and low cut blouses to the office, and frequently gets “noticed” by her co-workers and customers, who whistle, or express their appreciation in less direct ways. Today Susan complained to her supervisor that a customer made her feel uncomfortable by how he looked at her.



Examples of Verbal Harassment

- Idle chatter of a sexual nature
- Sexual slurs, teasing, or innuendos
- Offensive jokes
- Suggestive sounds such as whistling or cat-calls
- Comments of a sexual nature about weight, body shape, figure, clothing
- Implied or overt threats for a sexual favor
- Repeated unsolicited propositions for dates and/or sex



Examples of Physical Harassment

- Patting or stroking
- Brushing up against the body
- Cornering a person
- Invading another's "personal space"
- Attempted or actual kissing or fondling
- Physical assaults
- Coerced sexual intercourse



Examples of Non-verbal Behavior Harassment

- Leering or ogling
- Holding items provocatively
- Eating food provocatively
- Lewd hand language
- Unwelcome, repetitive flirting



Vicarious Liability

Managers and supervisors are “agents of the company” and therefore the company is liable for their actions. Concept is based on these two principles:

1. An employer is responsible for the acts of its supervisors
2. Employers should be encouraged to prevent harassment and employees should be encouraged to avoid or limit the harm from harassment.

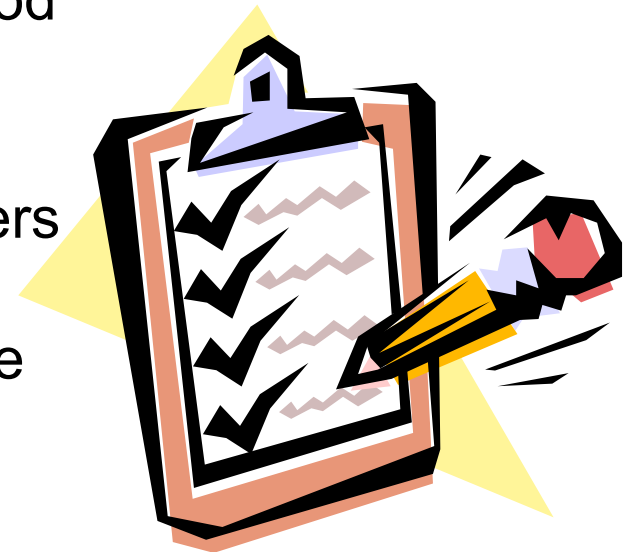


Age Discrimination in Employment Act of 1967

- Purpose
 - To prohibit age discrimination against employees and applicants age 40 or older
- Who Must Comply?
 - Employers with 20 or more employees.
 - Unions with 25 or more members.
 - Employment agencies and apprenticeship programs.
- What is Prohibited?
 - Employment discrimination for persons age 40 and over.
 - Mandatory retirement based on age.
 - Limiting employee status due to age.

ADEA Exceptions

- The company has a bona fide seniority or benefit plan.
 - OWBPA – an amendment to ADEA
- Reasonable factors other than age
- The employee is disciplined/fired for good cause.
- The employee is a top executive.
- Firefighters and Law Enforcement officers
- BFOQ – interest of public safety or otherwise required to be of a certain age





Common Age Discrimination Issues

- Help Wanted Ads
 - “young”, “college student”, “recent college graduate”, “boy”, “girl”, “youthful”, “retired person”, “supplement your pension”
- Apprenticeship Programs
- Employment Applications
 - Date of birth, state age
- Age Based Stereotypes
 - Diminished physical strength, stamina, vision, etc.



Americans with Disabilities Act (ADA) - 1990

- Purpose:

- Prohibits discrimination against a “qualified individual with a disability”
- Requires employers to make reasonable accommodations for disabled employees

- Who must comply?

- Private employers with 15 or more employees
- Employment agencies
- Labor organizations
- Joint labor/management committees
- Local governments, their agencies, and subdivisions



Americans with Disabilities Act (ADA) - 1990

- Covered Workers - all qualified individuals with a disability
 - Must be a current or prospective employee of a covered employer; and
 - Must be qualified for the position;
 - Must have a disability within the meaning of the ADA



What is a Disability Under the ADA?

1. A physical or mental impairment that substantially limits one or more major life activities.
 - Major life activity
 - Caring for oneself, performing manual task, walking, seeing, hearing, speaking, breathing, learning, working, continence, eating, possibly sitting, standing, lifting, reaching
 - Not climbing, kneeling, twisting bending, crawling, squatting, and general mobility
2. A record of such an impairment; or
3. Being regarded (by the employer) as having such an impairment.



The ADA Amendments Act of 2008

- Recent legal developments, both in Congress and in the courts, have evidenced a shift toward a more expansive interpretation of the ADA.
- This will cause an increased expectation of accommodation for employers and providers of public accommodation
- These shifts will make it easier for many more individuals to qualify as disabled under the ADA.

The ADA Today



- On September 25, 2008, President Bush signed into law the **ADA Amendments Act** (“**ADAAA**”), which strikes down several established court cases and expands the definition of “disability” under the ADA.
- *The ADAAA went into effect on January 1, 2009.*



The ADA Amendments Act

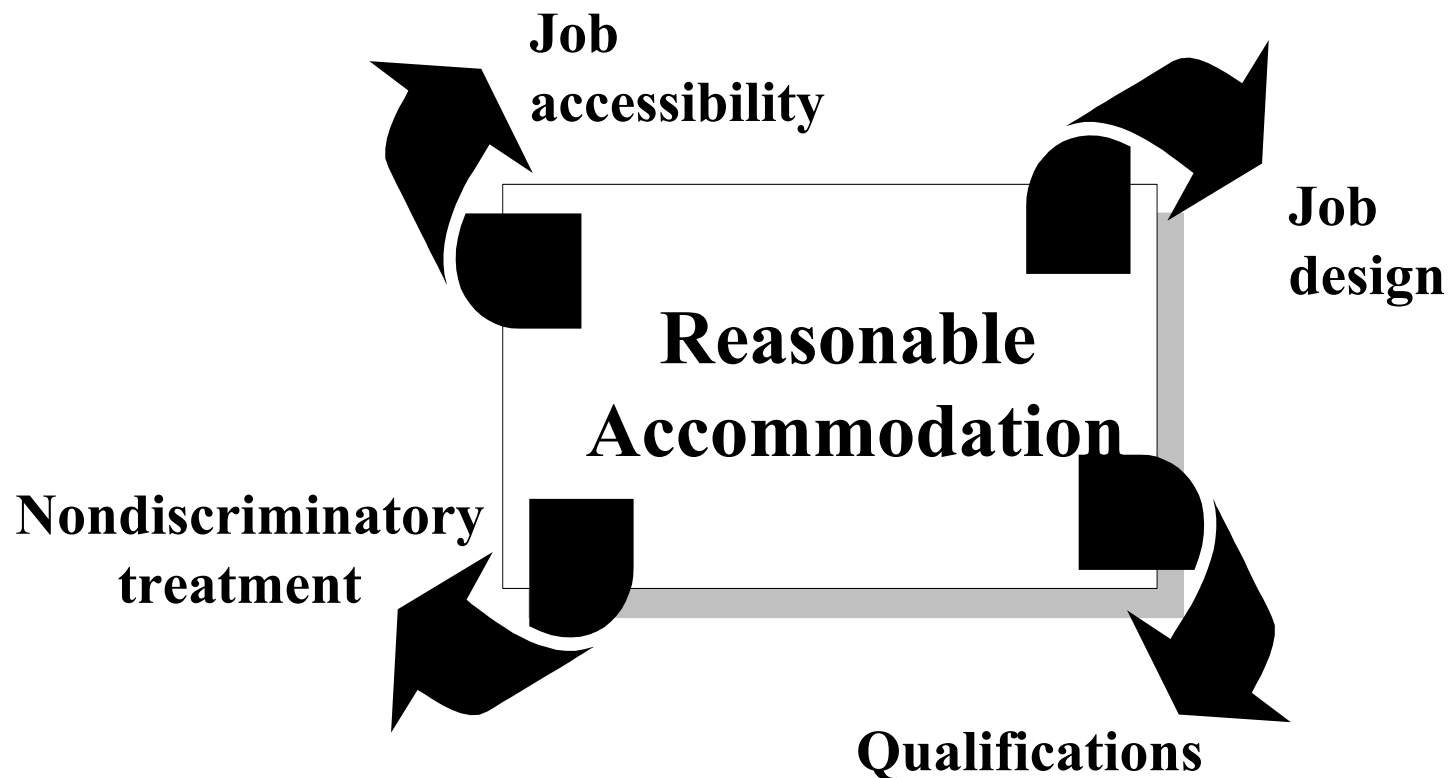
- **Broadens the definition of major life activity** by including two non-exhaustive lists.
 - General physical and sensory activities such as concentrating, bending, and reading (not previously specifically recognized)
 - “major bodily functions,” such as “functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions”



MAJOR LIFE ACTIVITIES (42 U.S.C. 12102)

- (A) IN GENERAL. — For purposes of paragraph (1), major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.
- (B) MAJOR BODILY FUNCTIONS. — For purposes of paragraph (1), a major life activity also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

What does “Reasonable Accommodation” mean?





Practical ADA Advice for Employers

- An employer must make a reasonable accommodation for a qualified disabled individual unless doing so would result in undue hardship.
- Employers are not required to lower existing performance standards or stop using tests for a job.
- Employers may ask pre-employment questions about essential job functions but should not make inquiries about disability.
- Post offer Medical exams (or testing) for current employees must be job-related.
- Employers should review job application forms, interview procedures, and job descriptions for illegal questions and statements.
- Employers should have up-to-date job descriptions that identify the current essential functions of the job and physical requirements.



What Employers Should Do to Minimize Liability in Discrimination/Harassment **Claims**

- Take all complaints about discrimination/harassment seriously.
- Issue a strong policy statement condemning such behavior including discrimination/harassment of all types.
- Inform all employees about the policy and of their rights.
- Develop and implement a complaint procedure with accessible points of contact
- Protect Confidentiality to the extent possible.
- Establish a management response system that includes an immediate reaction and investigation by senior management.
- Begin annual management training sessions with supervisors and managers to increase their awareness of the issues.



What Employers Should Do to Minimize Liability in Discrimination/Harassment **Claims**

- Discipline managers and employees involved in discrimination/harassment.
- Assurance that retaliation will not be tolerated.
- Keep records of complaints, investigations, and actions taken.
- Conduct exit interviews that uncover any complaints and that acknowledge by signature the reasons for leaving.
- Re-publish the discrimination/harassment policy periodically.
- Encourage upward communication through periodic written attitude surveys, hotlines, suggestion boxes, and other feedback procedures.



Managing Performance

- How to GET the best
- How to GIVE your best



Do Your Employees Have the Big Picture?

- **At the *organization* level:**

- Organization mission – Why does it exist?
- Business operating strategies. – What major actions should we take?
- Organization goals – What are our broad goals for this year?

- **At the *business unit and/or department* level:**

- Business unit and/or department goals – What will we accomplish; what performance standards (SMART)?

- **At the *team* level:**

- Team goals or objectives – What will we accomplish; what performance standards (SMART)?

- **At the *individual* level:**

- Team goals or objectives – What will I accomplish; what performance standards (SMART)?



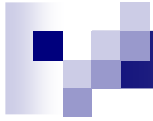
In Your Dealings with Employees

- Maintain or Enhance Team Member/Employee Self-Esteem.
- Focus on Behavior.
- Encourage Team Member/Employee Participation.



Performance Goals and Standards

- Planning--An Effective Motivational Tool
- Getting Team Member Commitment and Accountability
- Clear Performance Standards



A Performance Standard:

- Assures clarity about what is to be produced or performed
- Makes it clear to the team member and others about what will be measured



S.M.A.R.T. Based Performance Standards

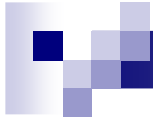
S.M.A.R.T.-based performance standards are:

- ***Specific*** – Detailed and clear
- ***Measurable*** – Quantity and unit of measure stated
- ***Attainable*** – Can be performed by the team member
- ***Results-Oriented*** – An output is produced, not an activity
- ***Time-Framed*** – Completed by a definite time



Skill Points

- 1: State the Broad Goal of the Plan and the Team Member's Role within it.*
- 2: Ask the team member's view of what his or her performance standards should be within the plan.*
- 3: Negotiate by modifying unrealistically high or low performance standards.*
- 4: Agree on performance standards that are S.M.A.R.T.-based.*
- 5: Confirm team member's commitment and set up review.*



Sharing of Performance Feedback

- Under-management Epidemic
- What is Performance Feedback?
- The Value of Performance Feedback
- How to Evaluate Fairly and Consistently
- How to Handle a Failing and/or Angry Team Member



Skill Points

- *1: Ask for team member's evaluation and give your evaluation of performance.*
- *2: Identify what will help maintain or improve performance.*
- *3: Ask team member to identify how improvement could be achieved.*
- *4: Agree on a plan.*
- *5: Get commitment and set up review.*



Skill Practice

Roger supervises parts storage for an auto parts wholesaler. Special components are bought from outside suppliers in advance and stored until they are needed. Bud, who reports to Roger, picks up the shipments from quality control and shelves them. At the end of each quarter, Bud checks with Purchasing about the volume of parts expected during the next quarter so he can be sure to have enough shelf space. Roger is reviewing Bud's work after the quarterly report.

Bud did a thorough, careful job, but he created problems when he learned that shelf space was going to be tight for the next few months. Instead of reporting that to Roger so that they could decide what to do, Bud worked hard to figure out a more efficient way to store cartons. Then he restacked them.

Although he saved space, cartons were no longer as efficiently organized for easy inventory taking. When it's time for the next inventory, the job will be more complicated. Roger must explain to Bud that he should check before making changes in procedures next time.



Benefits of Effective Performance Management...

- Committed team members
- Focus is on most important things
- Team members can perform and judge their work against clear, measurable standards.
- Team leaders have clear standards with which to observe, coach, and support performance.



NOW...

Let's Talk About
YOU!!!

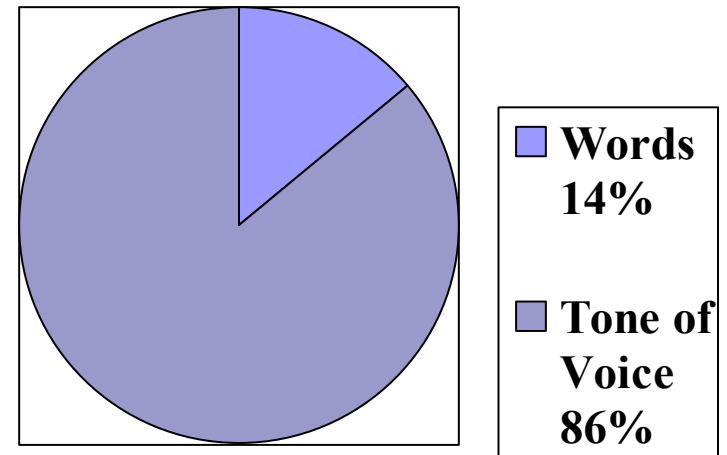


Our Day... Our Approach...

- What kind of day have you had?
- Do you bring an issue with you from home?
- Is there an issue festering at work?
- What kind of day are they having?
- How will your approach impact the resolution of their issue?

What can people learn from your tone of voice?

- The minute you pick up the phone, body language disappears and your tone of voice becomes 86% of the story!





What can people learn from your tone of voice?

- _____% of every piece of orally communicated information is lost!
- Your tone of voice can increase or decrease this percent!
 - Monotone, speaking slow, abrupt, loud, high pitched, fast – all negative factors
- Four techniques to improve inflection:
 1. Smile
 2. Practice stressing words
 3. Take a deep breath
 4. Exaggerate your tone.



Perception Equals Reality

There Are Three Parts To Communication:

- Words
- Body Language
- Tone of Voice

Face to Face Communication

~ 7% Words ~ 38% Tone of Voice ~ 55% Body Language
(93% Tone and Body)

Telephone Communication

~ 14% Words ~ 86% Tone of Voice ~

People pay attention to the HOW not the WHAT.



REMEMBER...

Our **words** convey the
content of our message, and
our **nonverbal behaviors**
convey the **intent**.



Effective Listening

- Is critical for effective communication.
- Requires concentration and discipline.
- Is needed and used the most, but taught the least.



The “Take 10 Check-In”

- How are you doing?
- How is the team doing?
- How can I help?



The Buck Stops Here...

- 20,000 departing workers surveyed revealed that the supervisor's behavior was the main reason people quit.
- A 25 year continuous Gallup Poll study based on 12 million departing workers interviewed, representing 7000 companies, found that the relationship with the manager determines the length of an employee's stay
- Research found that most retention factors are within managers' influence.
- Study conducted by Saratoga Institute in 2000 concluded that 80% of turnover can be related to unsatisfactory relationships with the boss.



Do You Listen To Words or Feelings?

- Sympathy – sharing the same feelings or interests
- Apathy – a lack of feeling, emotion, interest or concern
- Empathy – understanding and being sensitive to others' thoughts, feelings and experiences



Listen and Respond with Empathy

- Spend more time listening than speaking.
- Don't make assumptions.
- Don't confuse empathy with agreement.



Listening Fun Facts

- Students need to listen three times more than read.
- People can listen well one third to two thirds of the time.
- 85–90% of communication is nonverbal.
- With six seconds or more between eye blinks, people aren't listening.



Nonverbal Communication

■ Internal Noise

- Personal Biases and Prejudices
- Moods/Feelings
- Information Overload

■ External Noise

- Loud talking
- Slang/Jargon



Internal Noise

- Interpersonal Problems
- Preoccupation
- Reactive Listening
- Personal Bias



External Noise

- Interruptions
- Noises
- Physical Discomfort
- Poor Oral Communication Skills
- “Insider” Language
- Visual Distractions



Verbal: The Content

- Semantics and ambiguities
- Open and closed questions
- Power of disclosing



What Do You Mean?

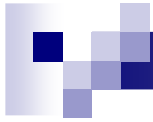
Sending Clear Messages

- Two distinct “speaker” skills
- Use the right questions
- Disclose your thoughts and feelings



Ask The Right Question:

- WHO?
 - Who would be a good addition to this project?
- WHAT?
 - What do you think about these new procedures?
- WHEN?
 - When will you be ready to present your research?
- WHY?
 - Why did approach the project this way?
- HOW?
 - How are you feeling about the direction the team is going?



Questioning Techniques

- Keep It Simple
- Start Broad, Get Specific
- Be Specific
- Clarify To Be Sure
- Be Honest and Straightforward
- Use Nonthreatening Questions
- Be Sensitive



People Who Disclose Their Thoughts and Feelings:

- Provide a more complete understanding of their positions and opinions.
- Provide an open door for the listener to agree, disagree, ask questions, or share his or her thoughts and feelings.
- Build trust by letting the listener inside.



To speak, or not to speak.
That is the question.



Where We've Been Today...

- Legal 101: Laws Governing Harassment
- Performance Management
- Communicating Effectively



THANK YOU!

Cynthia F. Soltis, SPHR, GPHR
Coordinator of Business and Industry Training
Workforce Solutions and Continuing Education
Lord Fairfax Community College
173 Skirmisher Lane
Middletown, VA 22645
www.lfccworkforce.com