

CHAPTER 14

Managers and Employee Problems

CHAPTER OBJECTIVES

After studying this chapter, readers will be able to:

- Accept the inevitability of people problems in any work group and understand some common origins of such problems.
- Understand that the primary purpose of most means of addressing employee problems is correction of behavior.
- Differentiate problems of performance and problems of behavior and be familiar with processes for addressing each.
- Address excessive absenteeism.
- Understand the purpose and applicability of an employee assistance program (EAP).
- Address different common forms of termination for cause: discharge for behavior problems and dismissal for performance problems.
- Appreciate the necessity of emphasizing problem prevention whenever possible.

► Chapter Summary

People problems are an inevitable concern for anyone who manages others. Some first-line supervisors, especially those who are relatively inexperienced, are inclined to regard people problems as intrusions on their work. They eventually learn, however, that addressing the problems and the needs of employees is at the heart of a manager's role. Employees are individuals; although all are different from each other to some extent, some are sufficiently different as to pose behavioral problems and other difficulties their managers must address. In pursuing the ongoing goal of having people produce goods or deliver services, a manager must maintain employees as producers. Doing so requires managers to address people

problems arising from both issues related to their work and difficulties arising outside of work.

The primary objective of a manager's actions in response to people problems should always be the correction of behavior. Depending on the nature of a specific problem, behavioral issues are addressed through individual coaching, counseling, activities aimed at improving performance, or disciplinary actions. Problems of performance and behavior can both be corrected. Behavior issues often constitute breaches of rules or policies.

Disciplinary action is customarily applied in a progressive manner. The extent or severity of the corrective action is proportional to the gravity of the problem or infraction. Correcting behavior is the main objective of disciplinary action except under extreme conditions or instances in which an employee must be removed from the organization.

🔍 CASE STUDY: Always Is a Dangerous Word

"I know what I heard, period," staff nurse Molly Stern said curtly. Her face was a mask of anger, and she spoke in the righteous tone that head nurse Penny Jerome had heard so many times.

"Dr. Benson says otherwise, Molly," said Penny. "She told me she was certain the instructions she left for you were just the opposite of what you actually did. And she really came on strong."

"She's wrong," snapped Molly.

"She seems just as certain that you were wrong," Penny paused before adding, "She explained the whole situation to me, and I have to admit that I understood her instructions. At least I was able to repeat them in my own words so she was satisfied that I understood."

Molly shrugged and said, "Then Dr. Benson changed her story between the time we talked and the time she spoke with you."

"Are you suggesting that she lied to me?"

"I didn't say that. I'm only saying that she told me one thing and then apparently told you something different. Maybe she didn't realize what she said. You know how she just rattles off something quickly and runs away?"

Penny said, "Did you consider the possibility that you didn't understand? It isn't hard to misinterpret a message when things happen so fast and—"

"I know what I heard," interrupted Molly. "When I know I'm wrong, I say so. But in this case, I know I'm right. I could not have misinterpreted Dr. Benson."

Feeling that Molly had given her cause to bring up something that had been nagging her for quite some time, Penny said, "It seems to me that you're never wrong, Molly."

Molly glared at her supervisor. "What do you mean by that?"

"I've been head nurse of this unit for 3 years, and in all that time I've never known you to admit being wrong about anything. This problem with Dr. Benson is just one more example of how you always turn things around so that you look innocent. Is it so necessary that you be right all the time?"

In icy tones, Molly said, "As I said, when I'm wrong I'll admit it—but only when I'm really wrong. And I want to know the other times you're talking about, the times you said I 'turned things around'."

"I don't have any specifics in front of me, but you ought to know what I'm talking about." Think about it, and you'll know what I'm saying. You seem to have an answer for everything, and it's always an answer that places you in the right."

"You can't think of any specific incidents because there haven't been any," said Molly. She rose from her chair and continued, "You may be my supervisor, but I don't have to listen to this. Is there anything else you wanted to say about Dr. Benson's problem?" She glared down at Penny.

Penny stood. "Just that the incident isn't to be considered closed. Dr. Benson insists that it be written up as a formal warning."

"I'll protest, of course," said Molly. "I won't accept a warning that I don't deserve, and I won't say I'm wrong when I know I'm right."

When Molly left the office, Penny began to regret having spoken as she did. She was convinced, however, that she had to try to get through to Molly about her apparent need to be right whenever a disagreement or a misunderstanding arose.

What critical error did head nurse Penny Jerome make in her one-on-one exchange with Molly Stern? Why was that particular action of Penny's wrong? How would you recommend that Molly and Dr. Benson resolve their misunderstanding? How would you respond to employees who are always right?

▶ People Problems Are Inevitable

Consider the following typical vignette. A chronic personnel problem involving differences between some staff members of two adjoining departments had surfaced once again. This time it affected two department managers, several rank-and-file employees, and an employee relations manager. A discussion meeting had been scheduled to explore the situation. After more than an hour of animated discussion during which charges and counter-charges flew back and forth, the employees were excused and the others continued for another half hour. When the meeting finally broke up, an hour and a half had elapsed, and only the most tentative of conclusions had been reached. As the participants rose to leave the room, one department manager's pager sounded. The manager checked the message and muttered, "I was expecting this. It looks like another of my pet troublemakers is acting up again." As he left the room, the manager also remarked, in a voice strained with frustration, "You know, I could probably get some real work done around here if it weren't for all these people problems that keep popping up."

Most managers have more than enough to do without spending time tending to the problems of the adults they supervise. However, any manager who feels frustration because of people problems must appreciate the fact that people-related problems are part of the job of anyone who supervises the work of others. A first-line manager supervises people who perform hands-on work and provides an interface between rank-and-file employees and the organization's management. If maintaining rank-and-file employees as effective producers did not include addressing the frustrations and issues that employees bring to their jobs, far fewer managers would be needed in work organizations. As long as there are people in the workplace, those who are responsible for getting work done through these people can expect people problems. Although it is a less than appealing aspect of being a manager, coping with people problems is an inevitable and unavoidable part of the department manager's role.

Problem Sources

Problems presented by employees can come about because of job-related difficulties, personal problems experienced largely outside of work, or a combination of the two. Some people are more successful than others at keeping the working side and the personal side of their lives separate from each other. However, it is not possible to completely and unfailingly separate the person on the job from the person off the job. Personal problems accompany people to their jobs and often affect job performance and employment relationships. Work-related problems go home and often affect personal lives and relationships.

One might be tempted to say that an employee's personal problems are no business of the manager. Such a position is correct but only up to a point. If an individual's personal problems are affecting work through deteriorating performance, reduced productivity, or disruption of a department's ability to operate normally, then a supervisor must become interested because of the negative effects on operations.

When an employee who has performed satisfactorily for a prolonged period and has always gotten along with others suddenly well begins to show signs of performance and relationship problems, the manager has every reason to suspect an underlying problem behind the changed behavior. It may not initially be evident whether the problem has its basis in the workplace or on the outside, but the results of the changed behavior are a manager's legitimate and immediate concern. Performance or relationship problems that affect the work environment are always of vital interest to managers.

Supervisors who suspect that personal problems are behind declines in performance must approach their employees in a manner respectful of their right to privacy. Although the performance resulting from an individual's behavior must be addressed for the sake of the department and the people being served, events in an individual's private life are not the business of the manager.

Managers must always address the *results* of behavior and never attempt to infer the *causes* of that behavior. As necessary, tell an individual, through whatever channel is used, about current behaviors or actions that appear to be causing problems. Point out errors of judgment or improper actions and offer suggestions as to how these can be corrected. Using the resources that are available, provide whatever help is needed to take appropriate corrective action. Do not, under any circumstances, probe for personal information. Managers must forever make it clear that they are there to listen if or when a person wants to talk, but managers must not ask individuals about problems that seem to lie outside of the working situation.

If employees volunteer information concerning personal problems, listen and be prepared to refer them elsewhere as necessary. Even if employees reveal their problems and ask for advice, wise supervisors will not respond to such requests. Even supervisors who are trained professionals working in a human service function are advised to keep their advice to themselves. Some of the most troublesome statements a manager can make begin with, "If I were you . . ."

Refer troubled employees to an appropriate person or agency from which they can be directed toward an appropriate source of knowledgeable help. This will most often mean referral to the employee health service or the organization's employee assistance program (EAP).

Primary Purpose: Correction

Throughout this chapter reference is made to corrective processes. Although there are instances in which the action taken in response to an employee problem is punitive, the primary purpose of the action is to correct employee performance or behavior. Although discipline involves punishment or the perception of punishment, its underlying purpose is to teach or to correct problem behaviors. The root of discipline is the word *disciple*, which is a learner, pupil, or follower.

Correction is always the primary intent of what is referred to as the *corrective process*. Nevertheless, there is an unavoidable punitive dimension in most corrective processes. Policies that are violated or rules that are broken result in warnings. Even though we may acknowledge the punitive aspect of true disciplinary action in some instances, we must recognize that it is not applicable to all employee problems. It is essential to separate problems of performance from true behavior problems.

Separate Issues of Performance and Behavior

Separate managers will find it necessary to address different kinds of problems presented by employees on the job. Some will involve behavior issues, while others will involve issues of performance. These two kinds of problems must be addressed using different approaches.

Performance problems are manifested in an employee's failure to consistently meet the expectations or requirements of a job and generally show up as difficulty doing the work and producing the minimum level of quality or output required. *Behavior problems* involve violations of policies or work rules; these are conduct issues. Usually issues of conduct are unrelated to performance; they may have no bearing on how an employee is performing on the job.

It is sometimes necessary to determine whether a particular employee *cannot* perform as expected or *will not* perform as expected. The former requires the employee's immediate supervisor to address a performance problem; the latter may require disciplinary action. These areas occasionally overlap when an individual's deliberate acts of recklessness, negligence, or carelessness cause performance to fall below accepted standards. In other words, when an employee *cannot* perform, the issue consists of a performance problem. When an individual *will not* perform, then the issue consists of a problem of conduct or behavior.

A thorough orientation to the organization is—or most certainly should be—a requirement for all employees. Workers are entitled to know what is expected of them, whether related to performance or behavior. Concerning behavior, it is essential that employees are informed of all applicable policies and work rules. Concerning performance, it is equally essential that all employees be thoroughly trained and given every opportunity to learn their jobs. Such opportunities must be consistent among all employees. Whether behavior or performance is involved, the first area of concern for a department manager to examine should be the expectations of an employee: was this person fully knowledgeable of the expected behavior or performance? This is a critical question; all employees at every level from the chief executive officer to the newest entry-level laborer are entitled to know what is expected of them.

Addressing Performance Problems

Employees who do not meet their expected performance levels commonly fall behind in output, produce poor-quality work, or simply do not follow established procedures. The first step a department manager should take is to look for the source (not the *cause*) of the problem. The initial critical issue to address is whether the immediate supervisor (and perhaps predecessor) did everything reasonably possible to help this employee succeed. That is, the first place that supervisors must review is their own actions or behavior.

Performance problems, especially those occurring early in a person's employment, are often the result of a weak or sketchy orientation to the job. To address a performance problem, a department manager must positively identify the problem and proceed to work out, preferably with the participation of the employee, what must be done to correct the difficulty and a time frame for action.

The performance improvement process should proceed in the following manner. A manager observes a problem situation involving substandard performance in some form. Common issues include unacceptable quality of work, poor service quality, insufficient productivity, complaints by customers or others receiving services, complaints by visitors, or other less-than-acceptable results. The manager next conducts an investigation to verify the existence and nature of the problem. Prudent managers ensure that their facts are correct before addressing the situation with an employee. A supervisor next meets privately with the problem employee. The purpose of the meeting is to define and discuss the perceived difficulty with the employee and to elicit the employee's views and perspectives.

The manager should next make every reasonable effort to secure the employee's agreement concerning the nature of the problem and what should be done to correct the unacceptable performance. Ideally, the two should agree on a brief written description of what is wrong and what is needed for correction. The agreement should include a timetable for correction, with both parties agreeing on a date by which corrective action must be accomplished. Part of this agreement should specify whether interim checkpoints will be needed at which to review progress. Some corrective processes may require a brief period, while others may require more time. When the evaluation points are reached, the supervisor must follow up in good faith, completely, and on time. One of the greatest shortcomings encountered with corrective processes in general is a manager's failure to provide timely follow-up.

At the end of the evaluation period, the manager must decide whether the employee's performance improved as required, improved partly, did not improve, or deteriorated further. The desired result of an evaluation period is returning an employee to an acceptable level of performance. Depending on the actual outcome, however, other steps can be taken. These include extending the improvement period in the case of partial improvement or dismissal for failure to meet expected evaluation standards.

How should managers treat employees who modify their performance well enough to get by the correction period and then go back to substandard performance some weeks or months later? Some department managers may elect to repeat the performance improvement process with such employees, but most will not look forward to going through it for a third time. The documentation created the second time through the process should include wording to the effect that subsequent

performance must remain at or above standard or the person will be at risk for dismissal.

EXHIBIT 14-1 presents a model procedure for addressing the need for improvement in performance.

EXHIBIT 14-1 Model Policy and Procedure: Performance Improvement Process

The following procedure is provided to establish clear direction for the resolution of problems concerning an employee's substandard job performance.

Substandard performance is defined as a demonstrated lack of acceptable work performance, or chronically unsatisfactory results that prevent an employee from attaining or maintaining the job standard.

Job standard is defined as the average or acceptable level of output provided by employees in the same or similar position or classification, or the standard level of results defined in advance by the department manager clearly identifying the quality or quantity of output expected.

In the event that nonprobationary employees exhibit substandard performance of job duties or fail to fulfill all the responsibilities of their positions, a department manager should make a sincere and adequate effort to guide them in returning to an acceptable level of performance. The first steps in this process include the following:

- Verify the job standard for accuracy and applicability and make any necessary adjustments
- Advise and guide employees to create a plan for their return to standard performance and a time frame for doing so, documenting this effort using a Counseling Form (Attachment A)
- Guide and monitor employee efforts to attain standard performance
- Remove obstacles to employee progress where possible

In the event an employee does not attain the job standard within the agreed-upon time, department managers should next:

- Complete a Work Improvement Evaluation (Attachment B)
- Repeat the creation of a mutually agreed upon plan of action, this time including referral to Employee Relations or Employee Health, if applicable (should there be some documentation of an underlying difficulty or problem to warrant such a referral)

If the second effort is unsuccessful in returning the employee to standard performance within the agreed-upon time:

- Complete a Performance Expectations form (Attachment C), placing the employee on notice of probationary status and calling for dismissal on the grounds of substandard performance no later than 30 days following this final notice unless standard performance is attained during that period

Note: Once an employee has been through the Performance Expectations stage and has again achieved standard performance, that person's performance is expected to remain at standard or better. Without extenuating circumstances (e.g., undergoing auspices of Employee Health), reversal to substandard performance will result in dismissal.

EXHIBIT 14-1 Model Policy and Procedure: Performance Improvement Process

(continued)

Attachment A: Counseling Form

Performance Counseling _____
 Probationary Counseling _____
 Other _____

Employee Name: _____ ID No.: _____
 Department: _____ Hire Date: _____
 Job Title/Grade: _____ Job Date: _____

Summary of Discussion: _____
 Action to Be Taken by Manager: _____
 Action to Be Taken by Employee: _____
 Date of Follow-Up Meeting: _____

Employee Signature: _____ Date: _____
 Manager Signature: _____ Date: _____

Attachment B: Work Improvement Evaluation

This document summarizes a work improvement discussion between manager and employee. An initial effort to correct a documented performance problem was unsuccessful, indicating the need for additional corrective action represented by the numbered objectives that must be met to return the employee to an acceptable level of performance.

Description of Objective and the Agreed-Upon Criteria for Achievement

1. _____
2. _____
3. _____

Referral to Employee Relations or Employee Health as appropriate: _____

Date of Next Review: _____ Date: _____
 Employee Signature: _____ Date: _____
 Manager Signature: _____ Date: _____

Attachment C: Performance Expectations

Employee Name: _____ ID No.: _____
 Department: _____ Hire Date: _____
 Job Title/Grade: _____ Job Date: _____

Summary of Performance-Problem Discussion: _____
 Follow-up was performed on the following dates: _____

Continued substandard performance makes it necessary to place this employee in probationary status subject to dismissal during or after 30 days from the date of signing unless fully satisfactory and lasting improvement is demonstrated by the employee.

Employee Signature: _____ Date: _____
 Manager Signature: _____ Date: _____

Addressing Behavior Problems

Disciplinary Action

A chief reason why many supervisors do not confront problem employee behavior is their discomfort with the traditional punitive discipline systems many are required to use (Segal, 1990). This comment says a great deal about why supervisors frequently shy away from disciplinary action even when it may be deserved. Regardless of how a system is designed, most employees, supervisors, and managers perceive their disciplinary systems as punitive. To repeat, the goal of disciplinary action is to correct behavior. Few managers ever look forward to delivering disciplinary action. The mere thought of having to take disciplinary action is unsettling to many managers. Impending disciplinary action can make managers apprehensive. Some managers simply ignore situations, postponing action until events resolve themselves (least likely) or the problems can be entirely forgotten (rarely occurs). Others approach disciplinary action with hesitation, watering it down so much that it becomes ineffective.

Disciplinary action is similar to any other difficult task. Conscientious attention to the process and practice eventually leads to a degree of familiarity. At that stage, a manager can apply disciplinary action honestly and confidently when needed. Most managers never become entirely comfortable with the process. Given that disciplinary action has the potential to affect one's employment or damage a career, a certain level of discomfort or uneasiness with the process is healthy in that it heightens the supervisor's awareness of the importance of the action to the employee. Praised differently, a manager who can freely dispense serious disciplinary action without experiencing qualms or doubts is ill suited for the responsibilities inherent in managing people.

The Process of Progressive Discipline

The complete progressive disciplinary process consists of counseling, one or more oral warnings, one or more written warnings, suspension with or without pay, and termination. A considerable range of possible violations is subject to progressive discipline. Not all infractions are subject to the entire range of progressive discipline. Lesser violations—for example, absenteeism or chronic tardiness—may include some but not all of the steps. With minor infractions, it may be advisable to repeat a step if a significant time lapse has occurred between infractions. Some infractions may involve only two steps. For example, sleeping on the job might call for a written warning for the initial offense and termination for a second offense.

The initial step in many instances is informal counseling. Counseling is best undertaken when a manager observes an employee headed for difficulty but is not yet at the point of requiring disciplinary action. An oral warning is the first formal step in the progressive disciplinary process. Although it is delivered orally to an employee, a supervisor should create a written record and ask the affected employee to review and sign it so that evidence that this step was followed is available if needed. Many organizations have forms specifically designated for documenting oral warnings.

The requirements for documentation and associated procedures can be confusing. Although a record is created, in many instances this record never goes into an employee's personnel file unless the problem is repeated and a written record is required. Documentation is essential to prove that an organization's processes were followed. If a disciplinary policy states that an oral warning is the first level

of response for a given infraction, it may later be necessary to prove that the oral warning was actually given.

At all steps of the disciplinary process, the affected employee is asked to review and sign the documentation created. The manager should stress that signing does not necessarily indicate agreement with the action. Rather, signing simply acknowledges that the employee has seen the document, has discussed the problem with the manager, and has been provided with a copy. It is not unusual for an employee to refuse to sign a warning or even to acknowledge its receipt. When an employee refuses to sign a warning, the supervisor simply notes that fact in the signature area, "Employee refused to sign," and ensures that the document is dated. In difficult circumstances when a manager has reason to believe that disagreement may escalate and involve others, another manager should witness an employee's refusal to sign and so note on the document. The second supervisor should also sign the document.

When Discipline Is Not Progressive

Disciplinary action cannot always be progressive. Some infractions, usually clearly defined in policy manuals and employee handbooks, call for immediate termination. These may move to immediate suspension pending investigation as necessary. Such transgressions ordinarily include fighting or physical assault, using illegal drugs or alcohol on the job, carrying a weapon on the premises, theft, or threatening other employees or managers. Immediate termination with no chance to change an individual's behavior is hardly corrective. Experts note, however, that when an employee is released for a serious infraction, the problem has been corrected by removing its cause.

EXHIBIT 14-2 presents a sample progressive discipline policy and procedure for a healthcare organization, including the recommended treatment for different infractions.

EXHIBIT 14-2 Model Policy and Procedure: Progressive Discipline

This organization is committed to providing the best possible working conditions for all employees. Rules of conduct have been established to assist the organization and its employees in achieving organizational goals as well as providing a safe and productive work environment. All employees are expected to observe all rules of conduct and to follow the instructions provided by their immediate supervisor. Supervisors and managers are responsible for applying the rules to all employees in a fair and consistent manner. When an employee appears to have violated a rule, the immediate supervisor should address the specific problem through the progressive discipline process.

- A. Steps in Progressive Discipline
 1. Counseling

Before informal or formal disciplinary action is taken, the employee's supervisor has the responsibility to counsel the employee to correct the undesirable behavior. Use the Counseling Form (Exhibit 14-1, Attachment A), which is retained in departmental files until the employee terminates employment, at which time the form is forwarded to human resources (HR).
 2. Oral Warning
 - a. An informal disciplinary conference may be scheduled when an employee repeatedly displays undesirable behavior and does not respond to counseling. The conference should be summarized on

the Record of Oral Warning (Attachment A), which is retained in the department manager's files.

- b. If further disciplinary action is necessary for the same offense, then the Record of Oral Warning should be forwarded to human resources for inclusion in the employee's personnel file.
3. Written Warning
 - a. If counseling and oral warnings fail to correct employee behavior, a written warning should be generated. The employees will be informed that the Record of Oral Warning and the Written Warning will be included in their personnel file and they will perhaps be ineligible for transfer for some period of time. Repetition of the offense will lead to more serious disciplinary action such as suspension without pay or termination of employment.
 - b. An employee whose inappropriate behavior has not been corrected by counseling, oral warning, or written warning will be referred to Employee Relations for further counseling or to Employee Health or Employee Assistance for evaluation and referrals if appropriate.
4. Suspension Without Pay
 - a. A temporary termination of work at the will of the employer may be initiated if an employee fails to respond to the foregoing steps. Time off may be waived at the discretion of the manager if staffing needs require the employee's presence. However, waiver of time off does not lessen the severity of the disciplinary action.
 - b. At the discretion of the manager, indefinite suspension pending investigation may be utilized to provide time and a thorough opportunity to investigate an alleged violation that has the potential to result in termination.
5. Discharge

Termination of employment for violation of organizational rules may apply after repeated counseling, warnings, referrals, and suspensions or after initial commission of specific severe violations.
6. General

The organization reserves the right to amend these rules as necessary. Each manager has the right to initiate the progressive disciplinary process at any step, depending on the severity of the offense. All violations leading to potential suspension without pay or discharge must be reviewed with human resources.
- B. Violations and Severity
 1. Carelessness: Careless acts that could result in personal injury to patients, employees, or visitors, or damage to property.
 - a. First violation: Written warning
 - b. Second violation: Up to 5-day suspension without pay
 - c. Third violation: Discharge
 2. Insubordination: An employee's refusal to comply with a reasonable and safe work instruction as required by an immediate supervisor.
 - a. First violation: Up to 5-day suspension without pay and referral to Employee Relations
 - b. Second violation: Discharge
 3. Absenteeism: Excessive absenteeism is the frequent use of sick time that in the judgment of the department manager adversely affects the operation of the department, regularly occurs before or after scheduled days off, weekends, holidays, or scheduled vacations, or that results in sick time

EXHIBIT 14-2 Model Policy and Procedure: Progressive Discipline *(continued)*

Previous Actions Taken: _____
 Date Action Taken: _____
 Suspended for _____ days from above date. Report back on _____
 Time off waived by manager for the following reason (waiver does not lessen the severity of the action): _____
 Employee Signature: _____ Date: _____
 Manager Signature: _____ Date: _____
 This is a final warning. Failure to respond appropriately may result in discharge.

Attachment D: Notice of Discharge or Dismissal

Employee Name: _____ ID No.: _____
 Department: _____ Hire Date: _____
 Job Title/Grade: _____ Job Date: _____
 You are being terminated from employment for the following reasons:
 Previous Actions Taken: _____
 Date Action Taken: _____
 _____ Check here to indicate that the employee desires an exit interview to discuss benefits. If the employee declines this opportunity, then continuation of benefits information will be mailed to the employee's home address.
 Employee Signature: _____ Date: _____
 Manager Signature: _____ Date: _____

► **Employee Absenteeism**

Some degree of absenteeism is accepted as a fact of organizational life. People become legitimately ill or experience family emergencies and other urgent matters that sometimes keep them away from work. As many department managers have discovered, however, the line between acceptable and unacceptable levels of absenteeism is extremely fine and difficult to recognize.

Some department managers appear to pay little or no attention to employee absenteeism. Such attitudes set the standard for a department. Managers who seem to ignore absenteeism usually wonder why their absenteeism rates are higher than normal for their organization.

Absenteeism costs money. While someone may be receiving paid time off for being away from work, a job that must be covered incurs the direct cost of a temporary replacement or staff overtime. For nonessential positions, a replacement may not be needed for an absence of 1 or 2 days. However, a department will experience lost productivity as a result of the absence.

Experience with traditional sick-time benefit programs has suggested that an organization's sick-time benefit often generates its own usage. Consider the experience of two healthcare organizations in the same community. One provided a benefit of 12 sick days per year, and the other provided 5 days per year. In the facility where employees received 12 sick days per year, the average usage per employee was approximately 7 days per year. In the facility where employees received 5 sick days

per year, the average usage per employee was slightly more than 3 days per year. The organization with the higher rate of sick-time consumption did not necessarily have fewer healthy employees than did the other facility.

Such experiences with sick time have encouraged an increasing number of organizations to reduce their absolute sick-time benefit and combine it with vacation and other personal time in a paid-time-off (PTO) bank. Under these plans, a person who uses little or no time off for illness has the time left for other uses. Critics point out that such a policy encourages ill people to come to work and potentially infect other workers. Both sides in this argument have merit.

A department manager's conscientious attention to absenteeism is a significant component of controlling employee absences. Some employees will be inclined to abuse sick time if they see that their manager pays no attention to their absences. They interpret the lack of attention as approving their conduct. In truth, this interpretation has merit; such behavior by the manager is in fact approval by default.

For controlling absenteeism in a department, a supervisor cannot clearly remember everyone's attendance, so accurate attendance records are required. Effective managers do not rely on other departments to maintain their attendance records. By personally monitoring attendance, they stay in closer touch with their employees. They check in with employees after they return from any absence, even a single day. A simple question or statement, such as "Feel better today?" or "Good to have you back," tells employees that their supervisors are aware of their attendance. Attentive supervisors watch for patterns of absences. Patterns are among the more reliable signs of sick-time abuse. Common examples of sick-time abuse include holiday stretching: being absent the day before or the day after a scheduled holiday. Weekend stretching involves being absent on a Friday or Monday. Employees tend to be "sick" on Monday more than on any other day of the week.

Counsel any employee who appears to be getting close to a level of absences that can trigger disciplinary action. For example, if the policy says that five instances of unexcused absence in a 12-month period call for the start of disciplinary action, meet with an individual who has been absent four times in 8 months, explain the policy, and point out the consequences of the next unexcused absence. Effective supervisors do not wait until disciplinary action is required before speaking up. They do not avoid taking disciplinary action for absenteeism when it is deserved. Finally, they are not punitive. A progressive system allows more than ample room for improvement. A supervisor's intent should be to help employees improve and succeed.

Employee Assistance Programs

An EAP sends a message to employees that their employer cares about them beyond the usual demands of the organization. An EAP provides information, assessments, advice, and referrals for employees who are experiencing personal problems that can affect them as individuals and as producers of goods or services. Employees who take advantage of an EAP will receive a confidential assessment that is ordinarily followed by a referral to an appropriate source for professional help.

It is common practice to use an external assessment and referral agency rather than have organizational employees—for example, someone in HR—perform this task. This helps to preserve employee confidentiality and allows employees to build a level of confidence in the EAP. For obvious reasons, many employees are more likely to share personal issues with someone outside of their organization than with another employee.

Improvements realized through intervention by an EAP ordinarily require some time. There is often a temptation to look for short-term improvement, rather than long-term benefits for both an employee and the organization. Quick fixes for the kinds of problems addressed through an EAP are unlikely. The EAP frequently addresses difficult issues such as substance abuse (drugs or alcohol), marital or family problems, financial troubles, compulsive gambling, and other addictions. Most EAPs ordinarily provide two or three counseling sessions to determine an appropriate referral path. After these initial visits, an individual's health insurance or other applicable program takes over.

Employees can enter an EAP through self-referral, meaning that they voluntarily approach the EAP themselves. Alternatively, employees can be referred by a supervisor, a manager, or by an employee health office. If an individual's problem has the potential to negatively affect performance or presents a danger or risk to people or property, then the organization can mandate referral to the EAP and require completion of a subsequent program as a condition of continued employment. An example of a potentially dangerous problem is alcohol abuse that requires rehabilitation. Managers and supervisors do not need to know details of a problem. However, when a problem affects the performance or safety of other patients, visitors, or employees, it becomes a manager's business.

An EAP usually costs an organization a set, nominal amount of money per employee or full-time equivalent (FTE) per year. Often the cost of an EAP for an entire year is less than the costs associated with replacing one or two employees. Most HR experts agree that an EAP is cost effective. To serve its intended purpose completely, an EAP requires support from senior and executive managers, adequate funding, an efficient and confidential assessment and referral process, record keeping that ensures confidentiality, and educating employees and managers about the EAP program and how to access it.

An EAP can relieve department managers of difficult problems involving ordinarily good employees who encounter personal difficulties. An EAP can effectively assist a person for whom termination would be the alternative. Department managers usually agree that there is far more satisfaction in helping to salvage one or more employees who might otherwise fail than there is in firing any of them.

► When Termination Is Necessary

Discharge Versus Dismissal

It is helpful to distinguish between the two most common kinds of involuntary separation. These are dismissal and discharge. Dismissal is related to performance, while discharge is related to conduct or behavior.

Dismissal is the appropriate path for an employee who must be released because of performance problems. This will apply to newer employees who are unable to gain sufficient control of their jobs to pass the probationary period. Dismissal may also be appropriate for employees who experience performance problems and do not respond to corrective processes. Dismissal should be the final resort following all reasonable efforts to improve performance.

A dismissal is the equivalent of a layoff; it is a separation that does not involve fault. Human resource experts often refer to this as no-fault separation. A no-fault

separation concedes only that a person did not fit a particular kind of work and makes no judgments about the person's ability to succeed elsewhere. Similar to the situation of a layoff, a dismissed employee is eligible for unemployment compensation.

Discharge is related to conduct or behavior. Discharge is termination for cause, more commonly referred to as being fired. Discharge should occur only after all elements of an organization's progressive disciplinary process have been applied and failed to correct the offending behavior. Employees who are discharged for cause are usually ineligible for unemployment compensation. However, an outside agency ultimately determines eligibility for unemployment compensation.

An Important Caveat

No employee should ever be summarily discharged, fired on the spot, or fired in anger. The nature of any given infraction does not negate this rule. An appropriate reaction to the most blatant of offenses that are punishable by immediate discharge is to place the offender on indefinite suspension or administrative leave pending investigation and discharge. This provides a cooling-off period for all concerned, and it provides time for a fair and thorough investigation if needed.

► Partnership with Human Resources

Disciplinary action is one area in which department managers and human resources (HR) personnel frequently collide. Such controversy, however, can be minimized by having clearly stated policies governing who is responsible for each part of the process. A significant number of organizations require managers to coordinate all disciplinary actions with HR. This is a reasonable requirement. Human resources can help to ensure that the elements of a progressive discipline program are consistently applied and to confirm that all legal requirements are observed.

Human resources should be allowed to serve as a central monitor for disciplinary actions, initially rendering an opinion as to whether a proposed action is appropriate to the situation. Another important aspect of the HR role in discharge is to ensure that all of the proper steps called for in the policy have been fairly applied.

► Prevention When Possible

Active prevention is important in reducing the need for disciplinary actions and keeping them to a minimum. Two important keys to prevention are information and education.

Be certain that all new employees are familiar with the work rules and applicable policies, all of which should be identified in the employee handbook. These may have been covered during the organization's general new-employee orientation, but do not assume so. It certainly will not hurt to go over them a second time.

Make sure each new employee goes through the employee handbook and signs and turns in the handbook receipt as required. Employees will rarely read an

employee handbook if they are determined not to do so. However, a signed receipt shifts the responsibility for knowing the contents to employees.

Managers should periodically review rules and policies with the entire staff. This can be conveniently accomplished by covering one or two items at every regular staff meeting. Personnel policies should be periodically revised and updated. Publication of a revision presents a good opportunity for a review. If the rules and policies are kept fresh in employees' minds, they will be less likely to ignore them.

Preventive employee relations has the potential to avoid disciplinary actions. Successful supervisors remain alert to signs or signals that indicate the possibility of employee problems. They talk to their employees when they sense problems. Actual problems are far more difficult to manage than are avoided issues.

Managers who remain visible and available to employees can help to prevent the need for disciplinary actions. When a department manager is present, many issues that might otherwise escalate into behavioral problems can be identified and addressed. The presence of a manager tends to have a stabilizing effect on a work group. A supervisor who stays in touch with employees and maintains solid one-to-one relationships with them helps to prevent disciplinary problems.

Elements of Effective Corrective Action

Knowledge

Supervisors must be thoroughly familiar with their organization's policies and work rules. Thorough familiarity means that they do not have to look in a book whenever questions or problems arise.

Likewise, they must be completely familiar with the progressive disciplinary process and know the contacts in HR with whom to coordinate disciplinary actions. To keep their knowledge current, they take advantage of training in these processes whenever it is offered within the organization.

Timing

Effective supervisors do not delay deserved criticism or disciplinary action any longer than is necessary. Delay only weakens the impact of actions taken and lessens their importance. Immediate actions are more likely to be effective.

Consistency

Managers must strive for consistent treatment of employees. Work rules and policies must be applied consistently regardless of who is involved in a particular problem or infraction. This can be difficult to accomplish in situations involving people with other personal issues or involving friends. Consider the situation of two employees: one has long-standing health problems, and the other routinely abuses sick time; but they must be treated equally if they are chronically absent.

Intimidation

Effective supervisors do not allow themselves to be influenced by employees who try to outsmart or intimidate them. The job market and the attendant scarcity of certain

kinds of employees can cause intimidation. Supervisors must react to problems as they arise without being influenced by issues such as scarcity of employees with particular skills. No matter how specialized or valuable they may think they are, no employees are indispensable. What applies to one must apply to all. A department or organization cannot maintain a double standard of employee conduct. This again raises the issue of consistency, which is arguably the most important single factor in a department manager's handling of corrective processes.

Document, Document

Most HR practitioners can relate to the following situation. A department manager came to HR prepared to discharge a particular employee. The HR representative heard a ringing indictment of the employee. The individual is never cooperative, is the department's worst performer, has the worst attendance record of anyone in the department, is frequently insubordinate, and is constantly making trouble for other employees. The employee has once again caused a problem. The angry manager demands, "I want this person discharged, now." The HR person begins to consider the manager's request by pulling the employee's personnel file and going through it item by item. The HR representative finds no warnings, no discussions about performance or behavior issues, and no record of disciplinary actions. The file contains middle-of-the-pack satisfactory performance appraisals covering several years. The discussion of discipline for behavioral issues is over at this point. Without supporting documentation of similar past difficulties, those past problems simply do not exist.

There are lessons in the foregoing story. Instances in which an employee deserves some form of reprimand or formal disciplinary action must not be ignored. Every instance of reprimand or disciplinary action must be properly documented and submitted for inclusion in an employee's personnel file. If an employee's file contains nothing about a particular problem, then for all practical purposes, it never happened. Finally, less-than-honest performance appraisals are never appropriate, when the record appears to support the employee; it can be used to challenge almost any disciplinary action. Documentation is critical for every disciplinary action.

Supervisors should never attempt or proceed with a personnel action without ensuring the existence of the appropriate documentation. Managers must always remain aware that any employee-related document generated can be made public should an employee become involved in a legal proceeding against the organization.

Conclusion

Problems related to employees are inevitable in any organization. No employee is immune to experiencing personal difficulties. Supervisors must respond to behavior, and personal opinions or predispositions must be set aside. The rules, procedures, and penalties for noncompliance must be clearly explained to all employees.

The primary objective of disciplinary actions is correction. Performance problems relate to meeting the expectations or requirements of a job and difficulty doing

the work and producing the minimum level of quality or output required. Behavior problems involve violations of policies or work rules. In other words, when an employee is *unable* to perform, the issue involves a performance problem. When an individual *will not* perform, the issue involves a behavior problem.

Performance and behavior problems should both be addressed in a progressive manner using a protocol that has been approved in advance. The steps for each type of issue differ. Discipline should be progressive. All actions taken by any supervisor or manager must be documented. EAPs provide confidentiality for workers.

Separating employees is occasionally required in most organizations. Dismissal is a no-fault separation. Dismissed employees are usually eligible for unemployment benefits. Discharge is separation for cause, and discharged employees are usually not eligible for unemployment compensation. Eligibility for unemployment compensation is ultimately determined by an external agency. All separations require documentation. Discharges must never occur immediately, and no one, regardless of circumstances, should ever be discharged in anger. Suspensions can be immediate for actions in unusual and well-defined situations. Discharges should occur only after allowing time for anger to dissipate and thorough investigations to be made.

Preventive measures can help to avoid some disciplinary actions. Thorough and ongoing education is important for prevention to occur. Supervisor availability has the potential to open lines of communication. Documentation is an absolute requirement for any employee action involving human resources. The importance of documentation cannot be overstated.

CASE STUDY: Resolution

Returning to the opening case study, Penny Jerome's damaging error relates to generalizing. When delivering criticism, do not generalize. "Always" is a dangerous assertion to make; in the sense of being absolute, two of the most dangerous words in the language are *always* and *never*, because rarely is either state provable. Penny was doing fine while talking about the specific problem Molly had with Dr. Benson. When she generalized, she greatly reduced the chances of engaging in meaningful communication.

When criticizing an employee or delivering disciplinary action, a supervisor must be specific. Valid criticism must include a constructive element. It must indicate or suggest a direction for correction.

If Penny pursues the matter, she must try to have a joint meeting with Molly and Dr. Benson. Having all concerned parties together is the only realistic way to resolve this kind of issue. If Penny shuttles between the parties, she is likely to accomplish little or nothing.

Penny should have already learned that when interacting with Molly, she must be clear, specific, and detailed at all times. Furthermore, Penny must always be prepared to explain the reasoning or logic of any criticism directed at Molly. Finally, Penny must be absolutely certain that her documentation concerning Molly is both correct and complete.

SPOTLIGHT ON CUSTOMER SERVICE

Customer Service Aspects Related to Managers and Employee Problems

Customer service includes both external (members of the general public) and internal (organizational employees) individuals. Troubled employees present an uncommon organizational problem because they can affect both external and internal constituencies.

Employees with personal problems are often distracted, and they frequently exhibit internal constituencies. This translates to rudeness toward customers, patients, clients, or other individuals seeking services from the organization. Such behavior reduces the probability that the individuals being served will return in the future. Over time, revenue, reputation, and goodwill are likely to be lost.

Distacted or troubled employees usually treat their coworkers to the same spectrum of unacceptable behavior. Over time, colleagues come to resent such treatment and learn how to avoid the irritating persons. At best, this can result in service delays for external customers. At worst, it can disrupt internal operations.

All managers have an obligation to promote good customer service. This means getting to know the people whom they supervise. Being vigilant in this situation includes providing adequate training and making referrals to EAPs as appropriate. Any successful restaurant owner will agree that the negative impact of a single dissatisfied customer more than offsets the positive impacts of 20 people who enjoyed their meals. These numbers also apply to organizations that provide services related to health.

Modified from Segal, J. A. (1990). Did the Marquis de Sade design your discipline program? *HR Magazine*, 35(9), 90-95.

Questions for Review and Discussion

1. Comment on the claim that "like it or not, people problems are the legitimate terrain of a first-line manager." Why is this often true?
2. Why do experts strongly recommend that regardless of the apparent severity of an infraction, no employee should be summarily discharged but rather be placed on indefinite suspension pending an investigation?
3. Why do we stress that an employee's personal problems are no business of the manager? Under what conditions and to what extent can a department manager be concerned with any facet of an employee's personal problems?
4. We repeatedly stress that the primary purpose of disciplinary action is *correction of behavior*. If this is so, why have we delineated specific behavioral problems that call for loss of employment upon a single occurrence?
5. Explain why corrective action should be taken as soon as possible and practical following an infraction.
6. Why do experts strongly recommend that performance problems be considered separately from conduct or behavior problems?
7. Why is it necessary to have a completely documented history leading up to an employee's involuntary termination? With what must this documented history agree?
8. Why is a department manager's timely follow-up so important in the performance improvement process?

CHAPTER 15

Addressing Problems Before Taking Critical Action

CHAPTER OBJECTIVES

After studying this chapter, readers will be able to:

- Recognize the importance of preventing employee problems whenever possible.
- Understand that visible attention to chronic absenteeism and tardiness can reduce both.
- Recognize and address potentially troublesome issues concerning employee privacy and confidentiality.
- Respond to legal orders such as subpoenas, summonses, and warrants.
- Understand the organization's policies and legal posture concerning searches of employees' desks and lockers.
- Know the rules governing access to employee personnel records and health records.
- Understand the actual and perceived hazards of personal relationships in the workplace.
- Know the causes and possible means of preventing violence in the workplace.
- Appreciate the power and value of employee participation and involvement in avoiding potential problems.
- Understand the use of counseling for preventing certain circumstances from becoming genuine problems and for resolving small problems before they become large problems.

► Chapter Summary

The best time to address a problem is before it occurs. In terms of time, cost, and aggravation, problem prevention—finding solutions for problems in their earliest stages or avoiding problems altogether—is most effective. Many contemporary workplace problems concern issues of privacy and confidentiality that have been

○ CASE STUDY: A Good Employee, Except for—

Supervisor Alice Ross faced a situation that left her feeling uneasy about the action she might have to take. In discussing the matter with fellow supervisor Ed Wilson, she began by saying, "I have no idea what to do about Jane Lawson. I just don't recall ever facing one like this before."

Ed asked, "What's the problem?"

"Excessive absenteeism. Jane has rapidly used up all of her sick time, and most of her sick days have been taken immediately before or after scheduled days off."

"What's unusual about that? Unfortunately, we have any number of people who use their sick time as fast as it accrues. And most get sick on very convenient days. I should say convenient for them, not us."

"What's unusual is the fact that it's Jane Lawson. She's been here for 7 years, but the apparent sick time abuse has all been within the recent few months. She's used up her whole sick time bank in 6 months, and most recently she was out for 3 days without even calling in."

Ed said, "You can terminate her for that."

"I know," said Alice.

"Especially when you take her other absences into account. Have you warned her about them?"

After a brief hesitation, Alice said, "No, not in writing. Just once, face to face."

"Is there any record of it? Any form she had to sign?"

"No," said Alice. "I really hated to make her sign a form. I know I should have taken some kind of action by now, but I can't seem to make myself do it."

"Why not?"

"Because she's always been such a good employee. She's always been pleasant, always done what she's told, and always done quality work. She's still that way, when she's here. She's also a friend. I guess what I'm hung up on is, um, how do I discipline someone who's usually a good employee and do it in a way that doesn't destroy any of what's good about her?"

Ed said, "Good performer or not, you should be going by the policy book. That's all I can suggest."

How has Alice's failure to take action as troubles emerge or do anything about the signs of impending problems hampered her ability to take effective action now? What has Alice actually done by allowing matters to proceed as far along as they have? What impact will their friendship have on the situation?

addressed in legislation. Sexual harassment, workplace violence, and personal relationships create problems for managers at all organizational levels. Many difficulties can be avoided through employee participation and involvement in programs that raise awareness of these issues. Astute managers offer some counseling to their employees or refer them for other assistance when indications of problems begin to emerge.

► Prevention when Possible

The best time to address a problem is before it becomes a problem. Managers can not accurately anticipate difficulties in specific forms or at particular times, but by

developing an awareness of behavioral patterns and learning how to spot signs of trouble, a manager can catch many actual or would-be problems in their early stages. An example illustrates the value of prevention in a proactive approach to absenteeism: Consider a policy concerning absences that specifies a supervisor must start disciplinary action after an employee has five instances of unexcused absence within a 12-month period. A supervisor learns that a particular employee has just been absent for the fourth time in 8 months. The supervisor has two options: ignore the problem but prepare to begin disciplinary action as soon as absence number five occurs, or hold a conference to warn the employee about the possibility of disciplinary action.

Why simply ignore the issue now? Why let it go further if there is a course of action that can be taken to prevent more serious consequences in the future? The supervisor should take the employee aside and address the recent absences before formal action is indicated. Prevention should be practiced whenever possible. In addition to being less stressful for both supervisor and employee, prevention improves morale by showing that the manager cares enough to pay attention to employees and their circumstances and behavior.

Employee tardiness and absenteeism deserve a department manager's visible attention. If employees see their manager paying attention to these problem areas, some will be deterred from abusing the rules. Conscientious and common-sense management can help minimize or avoid many problems.

► Employee Privacy and Confidentiality

Issues of employee privacy and confidentiality are pervasive in contemporary organizations. This is especially true in health care. Human resource professionals are familiar with the debate between employee privacy on one hand and the right to know on the other hand. In other terms, the conflict frequently amounts to individual rights versus business needs. The rights of individuals to privacy and confidentiality have been a growing concern in contemporary American society.

► Privacy and the Changing Times

There is an increasingly strong belief in society concerning the right of an individual to privacy. There is also increasing apprehension about how the government might use information it gathers about individuals. This stems from a number of concerns. Many observers feel that agencies are intruding more deeply into people's lives as the government enacts new legislation and increases demands for information. Businesses are widely perceived as exercising their legal right to review computers and electronic documents and to monitor telephone conversations as they strive to learn more about the people they employ. Advancing and expanding computer technology is simplifying the collection, storage, and retrieval of personal information. Since September 11, 2001, the government has been responding to a perceived need to monitor many individuals and their movements.

Because employees are becoming increasingly aware of their rights, they are coming to expect their privacy to be protected. At the same time, organizations are requesting an increasing amount of information from people when making

decisions about hiring, promotions, benefits, and security. When individuals seek employment, work organizations want information about past and present employers and often additional information. Depending on the requirements of a particular job, the application process may involve detailed security screening. Employees continue to grow more sensitive to the issue of privacy rights, and they perceive that organizations are delving continually deeper into their personal lives.

Many individuals believe that organizations collecting data about them ask for more personal information than is legitimately needed. Petrocelli (1981) offers a classic definition of the right to privacy: "It is the right to be free from the unwarranted appropriation of one's personality, the publicizing of one's private affairs with which the public has no legitimate concern, or the wrongful intrusion into one's private activities, in such a manner as to outrage or cause suffering, shame or humiliation to a person of ordinary sensibilities" (112).

Consider the rights of privacy and drug testing. Individual rights are continually giving way to perceived needs for drug testing, especially for people in occupations having responsibility for public health and safety. Consider AIDS and testing for the presence of HIV. This represents a constant collision of individual rights with the need to have information about people seeking treatment and employees' coworkers. Concern about HIV was largely responsible for the adoption of universal precautions under which all bodily fluids are regarded as potentially hazardous.

Many organizations once routinely used polygraph (lie detector) tests to screen potential employees and randomly test existing employees. Adverse reactions to that practice led to passage of the Employee Polygraph Protection Act of 1988.

Most controversies that arise concerning employee information and organizational management involve business needs versus employee expectations of privacy.

Privacy in the Computer Age

Many of today's privacy issues arise from the ever-expanding use of electronic means of creating, capturing, storing, and transmitting information. Means of protecting data in electronic form (statistics, records of all kinds, correspondence, and information of essentially every conceivable kind) and providing security and ensuring privacy have steadily improved. However, the techniques of hackers and data thieves have likewise continually advanced, so unwanted intrusions into our programs and files continue to present problems.

We hear much in the news about major data breaches that occur from time to time involving the exposure of massive amounts of personal information, much of it of a financial nature (credit card numbers, bank account numbers, and such). What we do not hear about are the multitude of smaller breaches affecting the records of individuals or specific organizations.

Data breaches, even major breaches, are readily accomplished in very little time; it has been claimed that more than 90% of data breaches are accomplished in minutes or even seconds by data thieves who know what they are doing. And one highly unsettling estimate suggests that as many as 7% of data breaches exist undiscussed for a year or longer.

It has been established that at the level of the working manager, looking at individual computer use and an organization's business systems, more than 60% of

identified and confirmed breaches involve weak, stolen, or default passwords. The lesson here, of course, is for those who control access to electronic files or data systems to get serious about applying passwords that are not easily compromised.

Legislation Affecting Privacy

Since 1975, employees have developed stronger voices in the workplace, and government has responded to those voices. Large amounts of personal information were formerly requested on job applications and in employment interviews. Curtailment of such practices commenced when antidiscrimination laws began to limit the kinds of information employers could request.

Title VII of the Civil Rights Act of 1964 was the first major law to have a significant bearing on individual privacy. The next major attack on this issue resulted in passage of the Privacy Act of 1974. Officially applying only to agencies of the federal government (but often regarded as a model for other employers), this legislation stated that an agency may obtain and retain only information relevant and necessary to accomplish its official purposes. Furthermore, it requires that as much essential information as possible be obtained directly from individual rather than from secondary sources. The law ensures record confidentiality, guarantees employees the right to examine their personnel files, and requires that no information be disclosed without the consent of affected employees.

In addition to providing a useful guideline for most employers, the Privacy Act has served as a model for the privacy laws of many states. In the majority of states, privacy laws allow employees to know that a personnel file is maintained and to examine it when desired. Most state statutes permit employees to enter information in their files to clarify whatever they may consider to be inaccurate.

The Polygraph Protection Act of 1988 proclaimed the practice of routinely administering lie detector tests to be an invasion of privacy. The act prohibited the use of the detectors in most screening situations, stated that employees cannot be randomly tested during their terms of employment, permitted polygraph use if there is a reasonable suspicion of involvement in workplace incidents resulting in economic loss or injury to an organization, and exempted government employers from the provisions of the law. The Polygraph Protection Act does allow testing of selected employees in positions of responsibility for significant dollar value, including armored car employees, employees of alarm and security-guard firms, and current or prospective employees of firms handling controlled substances.

The Fair Credit Reporting Act limited the extent to which an organization can delve into the personal finances of an individual. This legislation regulates the conduct of consumer reporting agencies and users of consumer credit reports, prevents unjust damage from inaccurate or arbitrary information in credit reports, and keeps employers from receiving reports about employees, with the exception of specifically defined purposes related to work.

Legal Orders

It is a relatively common practice for agencies to serve subpoenas, summonses, and warrants to employees in the workplace. While many such orders are served at employees' homes, officers frequently attempt to serve them at job sites because no

one can be found at an employee's last known home address. If they enter via administration, they will probably be referred to human resources (HR). In either administration or HR, they will frequently ask for directions to the employee's department. Although the practice may vary, many organizations prefer to have HR arrange for such an order to be served in private and avoid unnecessary embarrassment to an employee.

Managers who become aware of an attempt to serve a legal order on an employee in the department should send the serving officer to HR. Human resources will arrange for the order to be served in private or, in some instances, be permitted to accept it on behalf of the individual. The latter possibility is usually restricted to an employee being summoned as a witness in a legal proceeding.

Any external request for information about an employee should be referred to HR. Occasionally, human resources will receive a legal order calling for employee information required in legal proceedings. With the exception of responding to legal orders, HR should not release any information to outside persons or parties without first securing a signed release from the affected employee.

Employee Searches

It is sometimes necessary to conduct searches of areas within a facility such as desks and lockers that legitimately contain the personal property of employees. Organizations should have a published policy governing such searches. The organization should publicize the policy so employees know searches can occur and the basis for the surveys, specifically whether they are to occur at random or for reasonable cause or both. Steps should be taken to ensure that the search policy is justified and that there are good reasons for random searches. All search policies must be applied evenly and consistently to eliminate any perception of discrimination. No employees should be exempt from a search. Employee consent should be requested before a search. While it may not be legally required, consent can often avoid charges that might arise after the fact. Every search should be conducted discreetly and with respect for individual persons and property.

Access to Employee Information

Employee confidentiality always involves questions of access to information. Once information is collected, who is entitled to see it? Although arguments can be made about the need to know, legitimate needs can usually be determined by answering the question: What will be the result if this information is not made available?

Employees have a legally protected right to examine their personnel files and add clarifications they believe are necessary. Organizations ordinarily have policies governing employee access to records, usually including a requirement that files may not leave the HR department. Most such policies require that files must be reviewed in the presence of an HR employee to ensure that no material is removed.

Employee personnel files may be made available to managers who are considering particular persons for transfers. The need to know in such an instance is a legitimate requirement to review the employment history of persons being considered for a position in a manager's own department.

All organizations should have a written policy governing the release of information concerning both employees and others, such as patients for whom they provide services. Although department managers often maintain files concerning their own employees, it should be generally known that this practice is followed. Similar information should be kept for all employees, with no exceptions. Supervisors should not maintain secret files on selected individuals.

Employee Health Records

Many organizations formerly kept records related to Workers' Compensation, disability, and the like in employees' personnel files. Because they relate to employee health or physical condition, these documents and records are now considered to be medical records and are subject to stricter rules of accessibility. Employee health records are now customarily filed separately from personnel information, often in a separate office such as the employee health service. They are commonly retained by the employee health office and are subject to the same rules of access that govern patient records in a physician's office.

Personal Relationships

Some organizations have rules governing personal relationships, particularly those of a romantic nature. The likelihood of such rules increases as the size of an organization increases. It is not uncommon to have a prohibition against employees being involved with each other or being involved with employees of direct competitors. Generally, however, employers can do nothing regarding the conduct of employees off of the job. They typically do nothing as long as there is no adverse effect on job performance or on the organization's reputation. Employees should be encouraged to disclose the existence of romantic relationships involving coworkers voluntarily to their supervisors. Organizations often require employees to disclose the existence of personal or romantic relationships with individuals employed by direct competitors.

There are legitimate concerns about the appearance of favoritism and an increased likelihood of sexual harassment claims and employee unrest when romantic relationships exist between management and nonmanagement employees. Such relationships may create conflicts between an employee's right to privacy and the organization's legal responsibility to prevent sexual harassment. An organization is particularly vulnerable when a member of management is involved. Courts have held organizations liable for sexual harassment by a manager even if senior managers did not know about the specific relationship. As many organizations have discovered, relationships that begin as consensual can go sour and lead to charges of sexual harassment.

Many organizations have policies that prohibit having one spouse under the supervision of the other, or even placing both spouses in the same department or group. Experience has shown that harmful perceptions often arise in the group when these prohibitions are ignored. Little or no inappropriate behavior may occur, however, because the possibility of discriminatory behavior is present, perceptions arise. To the perceiver, perception is reality.

A rule against having spouses in a superior–subordinate relationship will ordinarily hold up under scrutiny, but prohibiting spouses in the same department may be challenged. Generally, a no-spouse rule will prevail if it can be shown that the rule is designed to avoid aggregation of family members, is applied evenly and consistently, and results in no adverse impact on either gender. However, inconsistent or uneven enforcement of this and similar rules can result in discrimination charges. Overall, all rules concerned with personal relationships are especially vulnerable to challenge under privacy and antidiscrimination laws.

► Sexual Harassment

The risk of sexual harassment charges was mentioned in association with personal relationships on the job. In reality, this risk extends far beyond the boundaries of failed consensual personal relationships.

Under Title VII of the Civil Rights Act of 1964, sexual harassment is a form of sex discrimination. Many kinds of actions can result in charges of discrimination against employers: sexual harassment relates to just one particular area of troublesome behavior. However, sexual harassment has for some time been one of the two most frequently charged forms of discrimination for employers in the United States. (The other is discrimination based on age.)

The increasing number of cases and increasingly large monetary settlements involved make sexual harassment a concern of every employer. Thus, it becomes important for every department manager. Without exception, all employees of any organization must understand sexual harassment and know about organizational policies relative to it.

We hardly need to point out that in recent times, sexual harassment and sexually related interpersonal conduct have been showcased prominently in the news, especially as more and more individuals have felt encouraged to claim past transgressions they had previously been hesitant to reveal. This surge in complaints some time ago reached a stage at which careers have been damaged or destroyed by allegations of past sexual conduct. The lesson in this for managers in health-care organizations is to take all such complaints seriously but do not automatically accept them as truth. Investigate every such allegation following the organization's policy for doing so. Surely there is some truth in most allegations of such conduct but investigation is always essential. In the eyes of the law, we still remain innocent until proven guilty.

Sexual Harassment Defined

Sexual harassment consists of unwelcome sexual advances, demands or requests for sexual favors, or other conduct of a sexual nature. It is harassment if acceptance of or submission to such conduct is either explicitly or implicitly a term or condition of employment, if acceptance or rejection of such conduct is used as a basis for making employment-related decisions, or if the conduct can be viewed as unreasonably interfering with work performance or creating an offensive or intimidating work environment. The latter condition is often referred to as a hostile environment.

Sexual harassment can be as direct and blatant as offensive touching or making direct sexual propositions. Alternatively, it can be as indirect as exhibiting sexually suggestive posters or calendars, or allowing sexually related humor to be overheard by parties who find it offensive. Both extremes and any behaviors in between constitute sexual harassment. A list of concrete examples, specific instances of behavior that could be interpreted as sexual harassment, could easily fill several pages without covering all of the possibilities. A particular mode of behavior might constitute sexual harassment at one time but not at another time. For example, it is ordinarily not considered sexual harassment for an individual to ask a coworker for a date. If the person who is asked declines and the other party repeatedly makes the same request, this may then be construed as sexual harassment. Often, determining whether some mode of conduct is or is not considered sexual harassment rests with how the conduct is perceived. Much behavior that is judged to be sexual harassment is generally unwelcome, unwanted, and repeated.

All organizations should have policies that prohibit sexual harassment and also specifically prohibit retaliation against anyone complaining of such harassment. Department managers and all supervisors have the responsibility to know the sexual harassment and antiretaliation policies in sufficient detail. They must be able to train employees in the contents of the policy and the procedures for reporting sexual harassment. Human resources should include a briefing on sexual harassment in the new-employee orientation. Organizations should also have printed guidelines in their employee handbooks and their personnel policy manuals. These documents are often available on an organizational website. All employees should be offered copies of the sexual harassment policy or otherwise have direct access to this information. It is essential that all employees know the process for reporting sexual harassment and be aware of the processes by which any charges of such behavior are investigated. Most organizations require a complaining employee to report any issues relating to sexual harassment to the immediate supervisor. Alternative procedures usually allow employees to make harassment complaints directly to HR or to another point in the organization should an employee's immediate supervisor be the subject of the complaint.

It is difficult to say whether sexual harassment is declining overall or continuing at its previous levels. It is clear, however, that since the passage of antidiscrimination legislation, sexual harassment has become more visible because people who once had no recourse to such behavior now have legal channels through which they may lodge complaints. Sexual harassment has long been prevalent in business and industry, but before 1964 there was little its victims could do about it. In other words, before the emergence of legal channels through which to complain, sexual harassment was entirely “underground,” and for the most part it was shrugged off or deliberately ignored. Surely anyone who has been in any portion of the American mixed-gender workforce for a few years can attest to the continuing presence of significant sexual harassment.

Sexual harassment remains a major concern throughout business and industry. It must remain a key concern of every manager in every organization. Sexual harassment cannot be condoned or tolerated. Every manager should maintain a zero-tolerance policy toward sexual harassment; to do otherwise is to leave employees open to the possibility of huge financial penalties and some of the most negative publicity an organization can experience.

► Violence

Violence in the workplace is often the result of stress. It frequently occurs when individuals become stressed to an unbearable level. When stress becomes unbearable, some people become ill, some break down, and some walk away from the situation. However, some become violent. Violence is similar to other forms of human behavior in that it is action in response to a condition, need, or demand.

Every organizational change that alters expectations held by employees becomes fertile territory for anger. Over time, chronic anger can lead to diminished productivity, reduced quality, increased fatigue, burnout, depression, and violence. In 2002, the Federal Bureau of Investigation reported that on average 12.5 of every 1000 employees are the victims of violence in the workplace.

A department manager's best approach to workplace violence involves awareness and prevention, but this advice introduces the manager to another potential source of trouble: there is no consistent profile to describe persons who commit violent acts in the workplace. Individuals who perpetrate workplace violence may be experiencing family problems; have a history of abuse; have problems stemming from substance abuse involving alcohol or drugs; have a history of violence; have an aggressive personality; experience mental conditions such as depression, paranoia, or schizophrenia; or have a poor self-image or low self-esteem.

According to the Occupational Safety and Health Administration (OSHA), workplace violence consists of any act or threat of physical violence, harassment, intimidation, or other threatening disruptive behavior that occurs at the work site. It ranges from threats and verbal abuse to physical assaults and even homicide (Lebron, 2018). And the most dangerous setting in which to work is health care. Although employees in health care account for about 12.2% of the working population, nearly 75% of all workplace assaults occur in a healthcare setting (Lebron, 2018). Experience has shown certain healthcare personnel, specifically nurses and nurse aides, to be at greatest risk when employed in emergency departments, psychiatric settings, and dementia units.

There are no all-inclusive reasons why people commit violent acts. Reasons driving workplace violence include the inability to cope with unbearable levels of stress; drug reactions; problems involving job, money, or family; reaction to the loss of employment; reaction to the loss of a relationship; frustration with long waits or with what may be perceived as rude or indifferent treatment; confusion or fear; and perceived violations of privacy.

Managers, psychologists, and criminal justice professionals cannot with unfailing accuracy identify persons who may resort to violence. However, there are steps that can be taken to prevent violence. Treat everyone, including employees, patients, visitors, and customers, with respect and consideration. Keep all objects that could be used as weapons stored out of easy access. Employees should remain beyond the reach of patients and visitors in tense situations and take all threats seriously, immediately reporting them through proper channels. All managers must know the organization's security procedures, alarms, and warning codes and unhesitatingly initiate these when an apparent threat arises.

Employees and managers should be extra alert to the possibility of violence if a person appears under the influence of alcohol or drugs; appears to have been in a fight, is brought into a facility by law enforcement, or is already being restrained.

Visible indicators of potential violence include obvious possession of a weapon; nervousness; abrupt movements; extreme restlessness; pacing; or obvious agitation; hitting walls or objects; or breaking things.

When observing an individual who appears to be on the edge of losing control, notify other staff and call the security department. Remain alert but remain calm. Always maintain a safe distance, giving an agitated person plenty of space. Under no circumstances should an untrained employee touch an agitated or upset person. Obstacles between an upset person and others provide some protection. Untrained employees in the vicinity of an agitated person should always be certain of a clear way out; dead-end corridors or corners are especially dangerous. Listen to the agitated individual, never display anger or defensiveness, and do not argue. Speak calmly, slowly, and quietly.

Some departments, a case in point being emergency rooms, are relatively more likely than other departments to experience violence. However, violence is possible anywhere in any facility or organization. Therefore, all employees should receive training in how to react to violent behavior. If violence does occur, employees should protect themselves to the extent necessary; sound an alarm, call the appropriate code, or call security. Employees should help remove others from the vicinity, if necessary. Employees who lack specific training must not try to disarm or restrain an agitated person. If possible, meet the violent person's demands if these are within reason.

► Employee Participation and Involvement

The employee participation has the potential to influence behavior positively and avoid potential problems. Participative management is not a program with a beginning and an end; rather, it is a continuing relationship between a manager and the employee group. It requires management commitment. Individual managers must be willing to allow employees to participate in decisions. Employees must know that managers genuinely want their input and that it is valued. Involving employees requires that management listen to them. Managers should be both visible and available. Walking around and visiting with employees at their workstations is valuable. The more employees feel that managers are interested in what they do and in their thoughts, the more they will feel respected, challenged, and constructively utilized.

A few employees prefer to simply do just as they are told, put in their hours, and go home. The majority of employees, however, usually prefer to be challenged. They have the potential to become engaged in their jobs. Many people are capable of managing their own work if they are provided with a supportive environment and given the opportunity to perform. Effective managers remember that nobody knows the inner detailed workings of a job better than the person who does it every day. This is the source of knowledge that a manager should try to access through honest participation.

The primary factor in employee involvement is supportive managerial behavior. Managers must be able to empower their employees. They will not necessarily always get to make the decisions or develop the solutions, but employees must understand how they can influence processes and whom they will help decide. Decisions that relate to individual jobs are usually best made by the people who perform the

jobs. The more levels of management separating a decision maker from the person affected by the decision, the greater the chances the outcome will be unfavorable.

Effective employee involvement requires a gradual transition as mutual trust develops between managers and employees and each becomes more willing to help the other succeed. An organization or department that can achieve effective employee participation will usually experience a significant increase in productivity and a noticeable decrease in employee problems. Interested, stimulated, and challenged employees constitute the best possible means of preventing problems.

► Counseling

Counseling is appropriate for addressing problems and potential problems at their early stages to keep them from becoming larger problems. Sometimes counseling is informal guidance and work-related advice provided by a supervisor. Overall, counseling may be employed to identify problems in their early stages and attempt to resolve them before they become overwhelming. Counseling can be used to strengthen weaknesses in employee performance and provide ongoing guidance. Counseling may enable a manager to recommend developmental activities for an employee or improve communication between supervisor and employee.

Supervisors should try to counsel employees when problems appear to be developing rather than letting them continue to grow until some form of corrective action is required. A need for counseling may be signaled by a noticeable decline in an individual's performance or a person's failure to continue meeting job standards. A decline in performance, especially in an employee who has performed well for an extended period, often indicates the presence of a personal problem. A counseling session can afford employees the opportunity to talk. This provides a manager the opportunity to make an appropriate referral. Employees should not be allowed to continue on a path toward disciplinary action when a friendly one-to-one counseling session may be able to head off further trouble. Changes in individuals relative to their jobs are often indicators that counseling may be appropriate. Changes in interpersonal relationships are another indicator of potential trouble. Complaints about an employee from other people, especially those involving alleged rude or inappropriate behavior, are often indicative of personal problems.

Discussing a need for counseling with a subordinate is not easy for every manager. Managers should remember that they are primarily conduits to trained professionals. Effective counseling requires training. However, managers can provide basic advice and guidance to their employees. A first rule is to understand the boundaries. Supervisory counseling encompasses coaching on job-related topics or on behavior relative to policies or work rules. Counseling must never become personal—that is, it should never involve intrusions into private lives.

Many common obstacles to counseling success may be overcome. Practice and experience should overcome uneasiness and a lack of experience. Lack of time can be addressed by making appointments and clearing a calendar for 30–60 minutes at a time. Friendships are more difficult. Counseling friends is not much easier than disciplining friends, so many managers tend to avoid both activities. Counseling a person with more seniority than the counselor is often awkward. If awkwardness at

counseling is not overcome with practice, it will likely not disappear with the passage of time. A reasonable fear of making mistakes is healthy and helps managers respect appropriate boundaries and guidelines. Fear of a lawsuit should reinforce the directive to refer people with problems to qualified professionals.

To provide effective advice in appropriate settings, managers must be knowledgeable and credible. Managers must know what they are talking about and avoid trying to bluff their way through unfamiliar situations. Effective counselors stick to known facts and avoid generalizations. Timeliness is appreciated by all concerned. As with delaying disciplinary action, delaying counseling until a later time dilutes the message and diminishes its impact.

Effective managers are alert for employee defensiveness and do not argue with them. Some employees will interpret any effort at counseling as direct criticism and will immediately become defensive. Should this occur, hear an employee out and avoid contradicting the person. Successful counselors are as positive as possible. Counseling may indeed contain elements of criticism, but a positive direction to a discussion is always helpful. Effective counselors listen, really listen. When an employee is speaking, they provide their undivided attention and focus on what is really being said.

At all times, department managers must remember that their primary goal should be focusing on the results of behavior, not on the supposed causes. In talking with subordinates, managers should never attempt to infer the cause of behavior and should not attempt to look for it. Focusing on the results of behavior and correcting inappropriate behavior help managers to avoid entering an employee's personal life. Wise managers document each counseling session briefly and informally, making note of employee name, date, and nature of the discussion. The aim of such informal and personal notes is to capture the essence of the discussion objectively and using anecdotes. These notes are not considered permanent records but should be retained for 1–2 years in the event the problem recurs. These personal notes should be destroyed if the problem has not recurred within 2 years.

► Conclusion

Many employee-related problems can be prevented by timely and appropriate interventions. Employee confidentiality and privacy must be respected and protected; federal legislation has reinforced this need.

Personal relationships involving colleagues or supervisors present significant problems. Most organizations have established policies to address such situations in an effort to protect all concerned. Sexual harassment is one of the most serious problems facing workers in contemporary organizations. All employees must understand and follow organizational policies and procedures that address sexual harassment. Zero tolerance for such activities is the only defensible position an organization can adopt.

Violence has become more common in the workplace. All employees must be instructed in how to respond to threats of violence because violence is possible anywhere in any type of facility or organization. Employee involvement can facilitate and improve organizational operations. Supervisors should be able to provide advice or limited counseling to their employees.