

APRIL 16, 2018

WHAT'S ONLINE

www.WhatsWorkinginHR.com

If you haven't been to our website recently, here's exclusive online content you've been missing:



Compliance Checklists

To ensure your company is in compliance with employment laws.



Training Materials

Get an exclusive **Sexual Harassment Prevention Training presentation** and **quiz** for your employees and their managers.

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'Don't say it!' 7 costly manager responses to harassment claims

■ #MeToo: Comments that lead to expensive lawsuits

If there are any guarantees for HR for the remainder of 2018, they are:

- sexual harassment claims will rise driven by the #MeToo movement, and
- front-line managers will be uneasy, and uncertain, when employees complain about harassment.

"frequently" occurs in their workplaces.

This creates a tricky legal landscape. HR pros are training managers how to handle complaints – and managers want to do the right thing – but even the best training may not account for the visceral response managers will have when they hear "sexual harassment."

And a slip of the tongue can create misunderstanding – and fuel a lawsuit.

Where it gets dicey

Some troubling new stats: 7 in 10 HR pros said in an HR Certification Institute survey that sexual harassment complaints at their workplaces in 2018 will likely be "higher" or "much higher."

Even more troubling is 30% of HR pros said sexual harassment

Reactions to avoid

So it pays to remind your managers not only what to do, but also what to

(Please see Responses ... on Page 2)

DOL expert: \$47K overtime limit still possible

■ Former agency administrator warns: Keep your old plans

Heads up: There's a scenario in which Democrats may get the \$47,000 overtime exemption threshold they wanted all along.

The Trump-led DOL could take so long coming up with a new threshold that the Obama-era \$47K limit may get new life.

The Obama-era DOL appealed the court injunction that halted its \$47K threshold from taking effect – and that appeal is still active. It's just on "pause" while the DOL works on a new exemption level.

But if a new level doesn't take effect before the next presidential election (a real possibility), the Democrats could win the White House and fight for \$47K again. So, McCutchen warned, don't throw away your \$47K (\$913 a week) pay plans just yet.

Info: www.bit.ly/overtime508

Next election could decide fate

This was the warning from Tammy McCutchen, a former DOL administrator-turned attorney, speaking at a recent employment law conference.

Responses ...

(continued from Page 1)

say – and not say – to workers who broach the subject of harassment.

Seven dangerous responses:

1. “Keep this quiet.”

This is akin to asking workers for confidentiality – and the National Labor Relations Board (NLRB) has something to say about that.

Unless the “need for confidentiality ... outweighs employees’ Section 7 rights” under the National Labor Relations Act, the NLRB says you can’t ask for confidentiality. And proving your need for confidentiality outweighs those rights won’t be easy.

2. “Tell me when it happens again.”

This is the equivalent of delaying an investigation, which increases the odds of the behavior in question becoming more severe or pervasive.

And while you’ve likely trained

managers to take action immediately, they may not think this kind of request is a delay. They may view it as asking an employee to wait until they know for sure something’s wrong.

But either way, it’s bad news.

3. “Put it in writing.”

The fact that an employee didn’t submit a formal, written complaint isn’t a good enough reason to delay an investigation. Again, it allows potentially inappropriate behavior to fester.

4. “He/she needs to complain to me.”

One thing that leads to a lot of problems is managers delaying investigations because they didn’t hear the words “sexual harassment” straight from the victim’s mouth.

But bystanders can file complaints on behalf of their co-workers as well. It doesn’t matter who does the complaining, companies can be held liable for harassment if they know, or should have known, harassment is taking place and they do nothing.

5. “OK. Let’s move you.”

Even if a manager has the best of intentions, removing the potential victim off a team or project to keep them away from their harasser could be viewed as retaliation – especially if the move could be viewed in any way as a demotion or adverse action.

6. “He’s/she’s just ...”

Managers mustn’t make assumptions about what they think an alleged harasser’s intentions were.

This leads to delaying appropriate action – like initiating an investigation.

7. “We’ll reassign the accused.”

If, after an investigation, you determine an employee did harass someone, it can be a natural reaction to want to reassign the harasser to a different area of the company.

But having that person remain in the building can still make the victim uncomfortable – and it may not stop the harassment.

As a result, it can be wise to run potential remedies by the victim to see what would satisfy them long term.

Info: www.bit.ly/survey508

Sharpen your JUDGMENT

This feature provides a framework for decision making that helps keep you and your company out of trouble. It describes a recent legal conflict and lets you judge the outcome.

■ Can worker claim ‘sex bias’ if she didn’t use those words?

HR manager Lynn Rondo sat across from employee Ellie Miller in uncomfortable silence. Lynn always hated this part of her job.

“As you know, you’ve had some serious performance issues.” Lynn said. “And you haven’t been improving. I’m sorry, Ellie, but we’re going to have to let you go.”

“We both know this has nothing to do with my performance,” Ellie responded sharply. “You’re punishing me for complaining that Alec makes \$10,000 more than me.”

Never said ‘discrimination’

Lynn was stunned. “I can assure you this is completely performance-based,” she said.

“So it’s just a coincidence that I’m getting fired two weeks after accusing the company of sex discrimination?” Ellie asked.

“Whoa, hold on a minute,” Lynn said, putting her hands up. “You never said anything about sex discrimination.”

“Yes, I did!” Ellie insisted. “I said it wasn’t fair that Alec, who happens to be a *man*, makes way more than me, even though we basically have the same job.”

“Well, it doesn’t matter, because this has nothing to do with your complaint. Your performance just isn’t cutting it anymore,” Lynn said.

Ellie sued, claiming retaliation. She said federal law protected her from retaliation after making a bias charge. The company fought to get the suit dismissed. Did it win?

■ *Make your decision, then please turn to Page 6 for the court’s ruling.*

WHAT’S WORKING in Human Resources™

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Lousy documentation leads to FMLA courtroom losses for employers

■ *Got troublesome workers? Managers can't skimp on this paperwork*

Firing an employee who's recently taken FMLA leave is always tricky. It can be done, but you must be able to prove, beyond a doubt, the person wasn't fired *because* they took leave – but rather for some performance issue or act of misconduct instead.

And proving that requires rock-solid documentation from your managers. Vague notes can cost you in court.

Example: After firing auto mechanic Jeffrey Baske just days after he returned from FMLA leave, Public Service Electric & Gas (PSE&G) of New Jersey claimed Baske's dismissal was based on performance.

What was the real reason?

But Baske said other than in a few minor instances, he wasn't told he was under-performing. So he concluded

he was fired in retaliation for taking FMLA leave, and he sued PSE&G.

The company fought to get his FMLA retaliation lawsuit thrown out. It said Baske had been warned numerous times by supervisors about his work.

But the court said there was no documentation of those discussions.

And what little documentation PSE&G's managers did have – a few vaguely dated and ambiguous notes that simultaneously praised and criticized Baske – failed to prove his performance was the sole reason for his firing, the court said.

So the court is allowing Baske's case to go to trial. Now PSE&G is facing an expensive lawsuit or settlement.

Cite: Baske v. Public Service Electric & Gas, *U.S. Dist. Ct., D. NJ, No. 16-105 (JLL), 2/14/18.*

EEOC: When you have to grant pregnant employees light-duty accommodations

■ *This once-common employer policy is no longer legal*

A new EEOC lawsuit is a powerful reminder that it's no longer permissible to have a light-duty policy that treats pregnant workers differently from those with on-the-job injuries.

The agency sued Century Care of Laurinburg, a nursing center in North Carolina, on behalf of two employees.

It says Century Care violated the Civil Rights Act when it denied light duty to the employees when they were pregnant despite granting similar accommodations to employees with on-the-job injuries.

Because the employees couldn't work without light duty, they were placed on leave and later terminated when their leave ran out.

The EEOC is seeking back pay,

compensatory damages and punitive damages for the two employees.

It's discrimination if ...

In 2015, the Supreme Court ruled it's discriminatory to treat pregnant workers differently from others who have similar physical limitations. It said a pregnant worker has a valid pregnancy discrimination claim if:

- she requested an accommodation and was denied, and
- the accommodation had been given to non-pregnant employees with similar abilities/inabilities to work.

Cite: EEOC v. Century Care of Laurinburg Inc., *U.S. Dist. Ct., M.D. NC, R.Div., No. 1:18-cv-00170, 3/7/18.*

■ Incomplete job description costs company \$250K

Despite any disabilities or accommodations, a worker still has to be able to perform the essential duties of their job. But when the job description isn't clear what those duties are, it creates ADA problems.

Florida A&M University in Tallahassee denied a disabled employee's accommodation request, forcing him to retire. He then sued.

A schedule change required employees to start working 12-hour shifts. The employee, who had high blood pressure, requested 8-hour shifts as an accommodation for his disability. The university said working 12-hour shifts was an essential job duty and denied his request.

But upon examining the job description in court, a federal jury found 12-hour shifts were listed in the "Working Hours" section, but not under the essential duties. So the jury said the university will now pay \$250,000 to the employee.

Info: www.bit.ly/essential508

■ Company pays \$47K over retirement policy

Firing an employee for violating company policy isn't unusual. But when a policy is discriminatory, enforcing it can be costly.

Michigan oral surgery practice Professional Endodontics had a policy requiring employees to retire at age 65. According to the EEOC, when one worker refused, she was fired – four days after turning 65.

So the agency filed a lawsuit, claiming this policy – and the employee's firing – amounted to age discrimination. Professional Endodontics settled the suit, paying \$47,000 to the fired employee. The company also agreed to a consent decree, which prohibits it from similar acts of discrimination.

It'll also have to provide anti-discrimination training to all employees.

Info: www.bit.ly/retirement508

Experts give their solutions to difficult workplace problems

HR professionals like you face new questions every day on how to deal with workplace conflict and employment law. In this section, experts answer those real-life questions.

Questions to ask about your sexual harassment policy

Q: We feel our sexual harassment policy is strong (even in this post-Weinstein era). Still, you can't be too careful. Is there an area we should really focus on to make sure it's up to par?

A: A good place to start is with your complaint procedures, says employment law attorney Matt Gilley (mgilley@fordharrison.com) of the firm FordHarrison LLP, who also contributes to the firm's *EntertainHR* blog.

Ask yourself: If an employee needed to come forward with a complaint, does the policy make it clear whom the employee needs to contact (ideally, they should be able to go to more than one person).

Next, you need to question whether the person(s) they go to can handle the complaint properly. If you have any doubts, correct the situation and send the policy to employees again.

How can we handle medical marijuana use at work?

Q: Medical marijuana is now legal in our state. Do we have to allow staffers with prescriptions to work under the influence in some cases?

A: No. But in states like yours, you can't discharge, refuse to hire or otherwise discriminate against individuals based on their status as medical marijuana users, says employment law attorney Tracey Diamond (diamondt@pepperlaw.com) of the firm Pepper Hamilton LLP.

Since marijuana use remains prohibited under federal law, employers in most states are not required to accommodate its use at work, and may discipline or terminate an employee for being under the influence at work, particularly if their performance falls below accepted standards.

But things get tricky when an employee shows no outward signs of impairment at work, but tests positive in a drug test. The laws in this area can be very state-specific. So before taking action, consider consulting an attorney.

Will time sheet requirement save us from OT claims?

Q: We know a few employees under-report their hours. But we require time sheets to be as accurate as possible. Will that protect us from liability?

A: Probably not, especially if you know the submitted records are incorrect, says attorney Meredith Campbell (mcampbell@shulmanrogers.com), chair of the Employment and Labor Group at Shulman Rogers.

When employees have sued to collect unpaid overtime, courts have said employers have little defense when they knew or had reason to know employees worked overtime and weren't paid for it.

It can help to address this by requiring accurate time records, training on the obligation and rejecting inaccurate records.

If you have an HR-related question, email it to Christian Schappel at: cschappel@pbb.com

EFFECTIVE COMMUNICATION

■ Hate confrontation? 6 tips to handle it like a pro

Dealing with confrontation isn't fun, and a lot of people prefer to avoid it at all costs.

But for HR pros, this isn't always possible, since dealing with conflict is a big part of the job. But the way you approach confrontation can drastically change the outcome.

The communication experts at *ResourcefulManager.com* have six tips for the next time you find yourself in a disagreement:

1. Assume positive intent.

Usually, confrontational people are just trying to be helpful – it's their tone that's unpleasant. Recognizing their good intentions can make them feel like their opinion matters. Try saying, "I know you're trying to be helpful by saying that, but ..."

2. Be polite, to an extent.

Keeping a calm tone can help cut the tension. But don't be too polite or you could come across as timid. The goal is to sound firm and assured without being aggressive. Try, "Allow me the opportunity to address your complaints."

3. Explain your point. This will help prevent misunderstandings from the beginning. But the right tone is crucial so they're not offended. Say something like, "I just want to make my point clear so we're on the same page."

4. Clarify their goal. Once you explain what you mean, make sure you grasp what they want. Ask them to share what their goal is. This will put it all on the table and make it easier to come to a solution.

5. Understand their perspective. Flat out disagreeing with someone – and not looking at the argument from their side – will only lead to more frustration and anger. Ask, "What's your take on this?"

6. Thank them for speaking up. Combative people are valuable. They force everyone to consider all possibilities in any situation. Thank them for contributing their opinion.

Info: www.bit.ly/confront508

WHAT WORKED FOR OTHER COMPANIES

Our subscribers come from a broad range of companies, both large and small. In this regular feature, three of them share a success story illustrating ideas you can adapt to your unique situation.

1 Hiring? 'Here's my go-to interview question'

I'm always trying to come up with interview questions that help me identify top candidates and see where they'll fit in with my company.

I had a lot of past experience conducting interviews. But it wasn't until a few years ago, when I began interviewing applicants for my new business, that I came up with my go-to interview question.

My secret weapon: "What's your favorite part of your current job?"

I want to know what a candidate enjoys doing because it shows me if – and where – the person may be able to thrive in our company.

What are they good at?

If a candidate has something they enjoy doing, then they're probably pretty good at it, and this helps us assess whether there's a fit for them at the company.

When I come across a candidate who isn't currently employed, I'll change the question

slightly and ask: "What did you like best about your last job?"

If a candidate is taking too much time to think of an answer, I'll ask him or her to share with me the first thing that came to mind, because that's usually the most honest answer.

These questions have served me well – I've conducted more than 60 interviews in recent years, and I've asked one just about every time.

(Becca Brown, co-founder, SoleMates LLC, New York)

**REAL
PROBLEMS,
REAL
SOLUTIONS**

2 Time-off incentive helped slash tardiness

We had a handful of employees who were chronically late. They never missed a day of work, but showing up late made things harder on the employees who covered for them.

Things had to change, but at the same time, we didn't want to enforce policies that were heavy-handed.

Plus, the stragglers were already hurting themselves when they ended up with smaller paychecks at the end of the week due to their tardiness.

Knowing that taking a break from work is a real priority for some workers, we came up with a great incentive that slashed late arrivals.

40-hour challenge

If someone works a full 40 hours each week for a month, they earn three hours of personal/sick time. It adds up to another full week off a year.

Before we knew it, our stragglers were getting to work on time and their personal/sick days were adding up.

Employees are using their days for

long holiday weekends, doctor's appointments or just banking them for extra down time.

Another plus: The hours accrued for perfect monthly attendance can be rolled over if an employee doesn't use his or her time by the end of the year.

It shows employees we value their time, and it has helped keep tardiness under control and production on track, as well as reduce stress on those who provide shift coverage.

(Donna Kent, HR director, Tri-Cities Manufacturing Inc., Tusculmbia, AL)

3 A better way to cover for sick workers

Every year, we're faced with staffing shortages when cold and flu season hits.

Employees were getting sick and calling out of work, which left managers scrambling to find replacements.

And when they came back to work, employees sometimes struggled getting back up to speed.

For this year, we decided to do something to alleviate those headaches.

Last August, we started preparing for this flu season. At that time we brought on some extra workers specifically to fill in for any employees who'd later be out due to an illness.

'Yup. We've got it covered'

All these employees were trained in many different areas, mostly through job shadowing. This way, we'd have someone who could jump into any position at any time.

Sure enough, it paid off. When employees starting coming down with the flu, we dispatched the

replacements to whichever locations they were needed.

These floaters were able to fill in without skipping a beat.

Plus, we get use out of these workers during the rest of the year. Whenever someone takes vacation or is on medical leave, it's no problem.

So productivity stays up, and employees don't have to worry about playing catch-up when they return to work.

(Deedra Wilkerson, HR director, Galen Medical Group, Chattanooga, TN)

High Court makes it easier to apply FLSA exemptions

The Supreme Court may have just helped turn the tide in how the FLSA's overtime exemption definitions will be interpreted.

In a lawsuit that hinged on the question of whether a California car dealership's service advisors fall under the FLSA's automotive sales exemption, the Supreme Court ruled FLSA exemptions shouldn't automatically be narrowly construed.

This is a significant change from past precedent from federal courts that have said exemptions should be interpreted narrowly – and, thus, applied to fewer workers. The High Court ruled since Encino Motorcars LLC's service advisors sell services to customers for vehicles, the advisors are actually exempt salespeople.

It's too early to tell exactly what legal ramifications this will have moving forward, but it's likely to make it easier for employers to claim overtime exemptions for more workers.

Info: www.bit.ly/ruling508

Toolkit to help employers deal with opioid epidemic

Eighty percent of large employers are "concerned" about employees' abuse of prescription opioids, found

a National Business Group on Health employer survey.

In response, the Ohio Chamber of Commerce pulled together a task force to explore options and resources that could help employers.

The result? An Opioid Toolkit with strategies and resources designed to help employers counter the opioid epidemic.

It's a five-module course with each lasting 13 to 16 minutes. While the emphasis is on helping Ohio businesses, there's helpful info for just about any employer.

Toolkit: www.bit.ly/opioid508

Controversial fiduciary rule vacated by court

The rule that would increase who'd be considered a fiduciary to retirement and investment plans has been vacated by the Fifth Circuit Court of Appeals.

Now employers can stop worrying (at least for now) how the rule would impact their plan participants.

Info: www.bit.ly/fiduciary508

Lighter side: The craziest excuses for being late

When employees are late, it's usually due to traffic or oversleeping, but some come up with creative excuses. Here are some great ones HR

WHAT COMPANIES TOLD US

Sexual harassment

% of employees who have/haven't experienced sexual harassment at work (not all survey takers answered this question, so numbers don't equal 100%)



■ Have experienced
□ Have not experienced

Source: Peer Research Center survey of working adults.

Now that the #MeToo movement has provided a better understanding of how prevalent harassment is, the challenge is to find ways to make employees feel comfortable reporting it before it spreads further.

Each issue of WWHR contains an exclusive survey to give executives insight into what their peers nationwide are thinking and doing.

pros told CareerBuilder they've heard:

- It was too cold to work.
- A man said he had morning sickness.
- Fake eyelashes got stuck together.
- A worker arrived on time, but fell asleep in the parking lot.
- An employee forgot they didn't work at their old job anymore and drove to that location by accident.

Info: www.bit.ly/late508

Sharpen your judgment...

THE DECISION

(See case on Page 2)

No. The company lost when a court ruled there was evidence of retaliation, so the lawsuit will go to trial. The company is now facing a long legal battle or a costly settlement.

The company argued Ellie was fired due to her poor job performance. It also claimed she hadn't made a sex discrimination claim, since she never said those words, so it couldn't have retaliated against her for doing so.

But the court disagreed. By Ellie mentioning a male co-worker was making significantly more money for doing a very similar job, it should've been clear to the company

that she was suggesting gender had something to do with the pay disparity, the court said. That should've been enough to trigger retaliation protections under federal law.

The court also said the company's reasoning and timing of Ellie's firing could've been a false excuse for firing her.

■ Analysis: Employees don't need to be so specific

The case demonstrates an employee doesn't have to be explicit when making a discrimination complaint. The words "sex discrimination" don't need to specifically be used. The same thinking applies to harassment complaints as well.

Bottom line: There were enough clues in Ellie's complaint to create a formal claim and trigger an investigation.

Cite: *Mumm v. Charter Township of Superior, U.S. Ct. of App. 6th Circuit, No. 16-2142, 3/2/18. Fictionalized for dramatic effect.*

2 ways we made our company more alluring to retain high-demand talent

■ Down-to-earth perks kept top performers from leaving

As the job market started improving, we knew we were going to have a tougher time holding onto our top performers because their skills would be in higher demand.

The only problem: We weren't in a position to offer staffers big bonuses or higher salaries to keep them from jumping ship.

So we looked for some alternative ways to boost our retention that wouldn't involve bolstering employees' paychecks.

'Want to advance?'

Our first step was to offer employees more opportunities to continue their professional education.

We started by offering online training resources to staffers.

And rather than develop the training materials ourselves, we found a third-party that offered a plethora of online courses at a fraction of the cost of what workers would pay if they tried to buy the materials or take classes on their own.

Workers could find classes on a variety of topics to help them develop their skills in different areas.

Then, we made it clear that taking these courses could help them advance within our organization.

We knew if we gave employees training resources that helped them advance in-house, they'd be more likely to stick around.

Lightening the mood

After we showed employees we were willing to help them develop professionally, we set out to find a way to inject more fun and camaraderie into our workplace.

Our thinking: Happier workers were less likely to go job hunting.

And when staffers know their co-workers well, they're more hesitant about giving up their office friends to start all over in a new environment.

Grandma's recipe

So we started tossing around new ideas for employee appreciation events that would lift people's spirits – while also building stronger bonds between co-workers.

Some of the events we'd done in the past included things like special holiday lunches and chili cook-offs.

This time, we came up with the idea for a "diversity lunch."

But rather than bring in food from a caterer, we decided to let employees share food and recipes from their ethnic backgrounds.

Then, we all gathered for an informal meal together where employees shared information about their dishes or pictures from a recent trip to their family's native country.

Sticking together

We've already received great feedback on both initiatives – and started seeing benefits: improved retention.

Our training resources have laid out a clear path for advancement for employees, which has kept many from leaving for greener pastures.

And the diversity lunch is just one of the events we've implemented that's helped co-workers form stronger bonds.

(Julie Baker, HR director, KPERS Inc, Topeka, KS)

Case Study:
WHAT
WORKED,
WHAT
DIDN'T

■ How 2018 is changing the way you hire: 3 big trends

In today's tight labor market, the search for top talent is becoming tedious. Recruiters are constantly searching for quality candidates to fill open positions.

And lately, the hiring process is evolving. To find more high-potential talent, recruiters are being more strategic.

LinkedIn just released its 2018 "Global Recruiting Trends Report," which identified the top trends in the way companies are hiring.

1. Diversity

Seventy-eight percent of recruiters say diversity is what's impacting hiring most.

With diverse teams proven to be more productive, innovative and engaged, 78% of recruiters are looking to increase diversity to improve company culture, and 62% want to do it to improve financial performance.

2. Switching up the interview

Fifty-six percent of hiring managers are focusing on changing their interview process.

Many recruiters are realizing the traditional interview can be ineffective. Unintentional bias, as well as a limited analysis of a candidate's soft skills, can prevent you from seeing the whole picture.

Popular solutions: job auditions or online assessments of soft skills.

3. Data and artificial intelligence

The third top trend is recruiters using data and AI to improve hiring. While it can't replace the human aspect, data can predict and track hiring decisions, helping managers get a better outcome.

AI can help recruiters quickly find candidates that match certain criteria, while managers can focus on building relationships with them.

Info: www.bit.ly/trends508

WHAT WOULD YOU DO?

Companies face competing agendas when dealing with their employees. They must find ways to inspire their people to excel, while controlling costs and staying within the law. Here we present a challenging scenario and ask three executives to explain how they'd handle it.

Does employee's solid work make up for the fact he's biased against his manager?

The Scenario

HR manager Stu Capper was reviewing his packed schedule on his computer when he heard a timid knock at the door.

"Come in," Stu said.

"Hi, Stu," employee Tim Blake said. "You got a minute?"

"Sure," Stu responded. "What's up?"

"I'm not sure if this is worth mentioning," Tim started. "But I think Andy is crossing the line with some comments about Joanne."

"What kind of comments?" Stu asked.

"Ever since Joanne got promoted and started managing us, Andy's been saying things like he can't believe a woman is his boss and that she should be focusing on raising her kids," Tim said. "Stuff like that."

Stu sat back in his chair. "That's not good," he said. "Thanks for telling me, Tim.

You did the right thing."

Stu knew he needed to talk to Joanne right away.

Good worker, bad attitude

"How have you and Andy been getting along?" Stu asked Joanne later that day.

She looked uncomfortable. "Not great, honestly," Joanne said. "I can tell he doesn't like me. He only speaks to me when he absolutely has to. And even then, Andy is pretty hostile. So it's awkward, but we make it work."

"Have you two talked about it?" Stu asked.

Joanne shook her head. "It hasn't affected his work at all. In fact, I've been very pleased with it. Sure, his attitude could be better, but I'm no pushover. I can deal with it."

If you were Stu, what would you do next?

Reader Responses

1 Raymond Canales, HR manager, Boomerang Tube LLC, Chesterfield, MO

What Raymond would do: I'd bring Andy in right away and explain that comments like his will not be tolerated. At the very least, I'd document this and give him a written warning. If the behavior continued, further discipline would be warranted.

Reason: Even though Andy's behavior doesn't seem to bother Joanne that much, it's completely unacceptable. Documentation and discipline would make it clear that no one can get away with this behavior, no matter how well they've been performing.

2 Nora Derrick, HR director, Nathan Associates Inc., Arlington, VA

What Nora would do: This is something that needs to be addressed immediately. I'd talk to Andy and go over the company's harassment policy with him, making sure he understands these comments are a violation of that policy. If this refresher

isn't enough to stop his behavior, we'll have to explore discipline.

Reason: In instances like this, company policy is often the first line of defense. Maybe Andy forgot about the policy, or doesn't realize he's crossing the line. But since he signed off on our policies we need to let Andy know he must follow them.

3 Cathy Archibald, HR manager for an engineering company in the South

What Cathy would do: I'd start an investigation immediately. I'd ask employees other than Tim if they'd heard Andy make sexist comments, then I'd talk to Andy himself. If the behavior was severe and persistent enough, Andy could be terminated.

Reason: At my company, we have a zero-tolerance policy for behavior like this. It doesn't matter how well a certain employee performs; our No. 1 goal is the safety and comfort of our staff. No one should get a free pass. Terminating Andy would let everyone know this behavior is unacceptable.

QUOTES

To me, the only sin is mediocrity.
Martha Graham

Adopting a really positive attitude can work wonders to adding years to your life, a spring to your step, a sparkle to your eye, and all of that.

Christie Brinkley

Only by self-respect will you compel others to respect you.

Fyodor Dostoyevsky

Find something you're passionate about and keep tremendously interested in it.

Julia Child

Once you replace negative thoughts with positive ones, you'll start having positive results.

Willie Nelson

To be yourself in a world that is constantly trying to make you something else is the greatest accomplishment.

Ralph Waldo Emerson

Laziness may appear attractive, but work gives satisfaction.

Anne Frank