



How to Address Derogatory Comments You Overhear Among Staff Members

By Jodi Schafer, SPHR, SHRM-SCP | HRM Services | www.WorkWithHRM.com

January 2024

QUESTION: I hired a woman with very little experience as my Office Manager. She retired from the corporate world and understands management better than anyone I know. She has cleaned up the office and we no longer have excessive absenteeism and tardiness; people are working together and productivity is up. She had to do this with some tough love, but it appears to be working. This may seem like all is good, but I overheard two of my longest tenured employees discussing her and making derogatory remarks about her sexuality. They did not know that I was listening to their conversation. They do know that she is gay.

I am very angry and am ready to fire them both. Their comments were crude and very unkind, however they have over 50 years' worth of combined knowledge of my business and of our industry. It would be a great loss if I was to fire them, especially since my Office Manager is still learning the industry. What should I do?

ANSWER: I'm going on the assumption that you have a policy of nondiscrimination which includes anti-harassment language and protections based upon sex (which includes sexual orientation and gender identity). If you do not have a policy like this, you will need to put one in place. Lack of policy, however, should not prevent you from being able to address the comments.

The first thing you need to do is document the incident. Write down the date, time, who was involved and what you heard. Meet with each employee involved, **individually**. Schedule two meetings, one right after the other. You do not want them to have a conversation between meetings. At each meeting let the person know you overheard their conversation and show them your notes. Ask them what they have to say for themselves, as this is the opportunity to give their side of the story. Then be silent and listen - let them react. Their reactions will give you insight as to how to handle the situation.

Below are three possible reactions you might hear:

1. They may become very defensive and angry at you for eavesdropping on a private conversation. This person will generally refuse to take responsibility for their behavior and try to shift the blame to you. They may admit to the conversation, yet will not be apologetic.
2. They may admit to everything, but place all of the blame on the other person. They may not take responsibility for the comments or apologize. They will say that it wasn't their fault and that she was just going along with the other employee to get along, and it was the other employee's fault.
3. They will admit everything, apologize, and ask for your forgiveness. They will take full responsibility for their behaviors.

As each employee speaks, take notes on what they are saying. Do not get into an argument with them or become defensive. They may say things that are ridiculous, like blaming you or your Office Manager for their behavior. Just give them a chance to talk and take thorough notes.

The disciplinary action you take should be based upon the employee's response. Based upon their reactions, are they worth saving? Does their behavior align with the values you want expressed in the office? If you do choose to keep them, write a disciplinary document outlining their behavior, again make these individual to each employee, and indicate that it is not acceptable and is a violation of your policy. If you do not have a policy, you may indicate that their behavior is not acceptable and will not be tolerated (making no mention of a policy). If you choose to terminate either of them, you need to evaluate whether you will have a potential claim of discrimination or retaliation prior to termination. An attorney or HR expert can help you with this analysis.

Essentially, you must act, whether it is a formal disciplinary document or termination. If they did not know you overheard them then they don't know who else may have overheard them. Making derogatory remarks about another person, especially comments based upon a person's protected classification, is not acceptable under any circumstance and must be addressed.