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## HRMORNING

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With **HRMorning** arriving in your inbox, you will never miss critical stories on labor laws, benefits, retention and onboarding strategies.

**HRMorning**, part of the *SuccessFuel* Network, provides the latest HR and employment law news for HR professionals in the trenches of small-to-medium-sized businesses. Rather than simply regurgitating the day's headlines, **HRMorning** delivers actionable insights, helping HR execs understand what HR trends mean to their business.

# Start 2021 off right: How to motivate exhausted workers

## ■ 6 ways to spot and stop burnout

**M**any employees thought working from home would be the greatest thing ever. Now they're burned out.

Almost 70% of remote workers experienced burnout symptoms while working from home during COVID-19, a recent *Monster.com* survey found. That's a 35% increase since early May.

The longer some remote employees work from home, the more stressed, disconnected and unsettled they've become.

It's crucial for HR leaders and frontline managers to help remote employees avoid and recover from burnout. And since employees won't always speak up when they need help,

it's up to you to be able to recognize when your workers have a hit a wall.

### Major burnout signs

It's tough for employees to recognize the signs of burnout themselves – and some might even be difficult for managers to spot. Here are six major signs of burnout to keep an eye out for:

1. **Avoiding work.** You may notice an employee's productivity decrease. They might be difficult to reach during agreed-upon work hours as well.

2. **Performing less.** Your employees may miss goals or don't produce the

*(Please see Motivate ... on Page 2)*

## House, Senate pass coronavirus relief bill

### ■ FFCRA tax credits get extended until March 2021

**A**fter months of back and forth, the House and the Senate agreed on a new coronavirus relief bill, and President Trump has finally signed it.

Besides sending out another round of stimulus checks worth \$600, the bill also extends employer tax credits for offering paid sick leave under the Families First Coronavirus Response Act (FFCRA) until March 2021.

The IRS's employee retention tax credit was extended until July 2021, and the Paycheck Protection Program (PPP), which provides loans for

businesses, received over \$284 billion in funding.

### Extended leave benefits

The bill also includes greater unemployment benefits.

While companies are no longer required to provide FFCRA leave, the tax credit gives employers incentive to continue to extend the benefit to their employees.

*Click: [bit.ly/covidbill571](https://bit.ly/covidbill571)*

## Motivate ...

(continued from Page 1)

same quality of work they did before the pandemic.

3. **Becoming apathetic.** Your employee doesn't seem interested in their work, team, company or clients. You may notice a lack of effort in their appearance on video calls and less participation in meetings.

4. **Not taking time off.** To compensate for decreased productivity, some employees may work extended hours and not use any vacation time. In fact, *Monster.com* found that 59% of employees are taking off less time than usual.

5. **Acting irritably.** Some workers could get easily irritated by colleagues or resent interruptions to their work. They may be short, snappy or downright rude.

6. **Appearing less cheerful.** A normally happy employee might not be as pleasant or cheerful as usual or

they may opt out of virtual employee engagement activities they normally like participating in.

### Helping them bounce back

The good news is these burned out employees aren't a lost cause. Leaders can both encourage good behaviors and provide resources for workers to avoid future burnout.

Here's what you can encourage:

1. **Boundaries.** While you can't dictate how your employees set up their workspaces at home, you can remind them to set barriers between work and home life. Ideally they have a door to close off their work space from their home, but if not, recommend they put all their tools away at the end of the day.

2. **Limits.** Once you get physical boundaries established, encourage other ones like turning off email alerts when they're done work for the day.

3. **Involvement.** One way to pull employees out of their funk is to get them to do activities they enjoy. Encourage them to pick up some hobbies or put walks or other physical activity into their schedules.

4. **Concentration.** Be as flexible as you can and give employees guaranteed uninterrupted time so they can focus.

### Additional resources

And here are some resources you can provide to help combat burnout:

1. **Self-care.** Offer employees access to virtual exercise classes or facilitate book clubs.

2. **Set limits.** Advise your workers to limit screen time by taking frequent breaks. Also suggest they work the same number of hours they did in the office.

3. **Mental health screenings.** Stress and anxiety have gone way up since the start of the pandemic. Offer your employees free and confidential mental health screenings, and regularly remind your staff about any resources the company offers.

Info: [bit.ly/burnout571](https://bit.ly/burnout571)

## 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.*

### ■ Was worker fired for lying or because of his national origin?

HR manager Lynn Rondo prepared herself as employee Oumar Sy entered her office.

"You wanted to see me?" Oumar asked.

"Yes, thanks for coming in," Lynn said, clearing her throat. "I wanted to talk to you about an incident on the loading dock the other day. Someone backed a truck into the building, causing some damage." Lynn paused. "Do you know anything about this?"

### Made fun of accent

"No," Oumar said, avoiding eye contact. "Must've happened after I left for the day."

"Are you sure you don't know anything?" Lynn pressed.

"Yes," Oumar insisted.

Lynn sighed and turned her computer screen toward him. "Oumar, we have security footage that clearly shows you were the driver." Oumar didn't reply.

"I'm sorry," she said. "The damage was bad enough, but dishonesty is strictly prohibited in our handbook. You're fired."

"This isn't fair!" Oumar said, standing up. "I know the real reason I'm being fired. It's because I'm from Africa. People here are always making fun of my accent, and you never did anything."

"Oumar, that's not ..."

Oumar stormed out and sued for national origin bias. Did the company win?

■ *Make your decision, then please go to Page 4 for the court's ruling.*

### What's Working in HUMAN RESOURCES

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# Disabled employee couldn't comply with safety regs, court OKs firing

## ■ Worker's condition made it impossible to wear proper PPE

**D**o you have to accommodate an employee when their disability prevents them from wearing the proper safety gear?

The 4th Circuit ruled no in a recent lawsuit. Here's a breakdown.

### Fired for disability?

Shelia Holmes worked as a shelter fabricator for General Dynamics Missions Systems in Virginia. Because she operated heavy machinery, Holmes was required to wear steel-toed boots for her safety.

But Holmes had a medical condition for which she had to wear flexible footwear – a direct conflict with her job's safety requirements.

For two years, the company worked with her to find an ADA accommodation that would work,

even exploring the idea of getting her custom-made shoes. When Holmes rejected this accommodation, the company considered exempting her from this safety requirement, but ultimately decided it couldn't. Holmes was then let go.

She filed a disability discrimination lawsuit, but the 4th Circuit ruled in favor of the company. The court said not only did the company go out of its way to try to accommodate Holmes, but she wasn't even qualified for her job anymore because her disability prevented her from wearing the required PPE.

The ADA doesn't ask employers to change essential job requirements for a disabled employee, the court said.

*Cite: Holmes v. General Dynamics Missions Systems Inc., 12/9/20.*

# NLRB: Employer violated NLRA by firing worker who reported racist manager

## ■ Company also tried to influence investigation

**W**hen several employees complained of a manager's racist comment, a company suspended that manager.

But when one employee demanded further action, he was let go, resulting in legal trouble for the company.

### Escalated complaint

Tou Vang worked at a Nestle frozen pizza facility in Wisconsin. When a line manager made a racist comment, Vang and a few co-workers reported the manager to HR.

The manager was suspended without pay, but Vang believed he should've been terminated. Vang continued to push the issue and reported the comment to other

supervisors. Nestle continued to investigate the incident, but coerced certain statements out of employees and asked questions about protected activity. Vang was later fired.

The NLRB ruled the company violated the NLRA several times with this conduct.

First, it fired Vang, a protected employee, for escalating the issue with the supervisor. Then, Nestle interfered with the investigation by swaying employee testimony and asking about protected activity.

This ruling acts as a reminder that employees who report misconduct are protected – and firing them soon after can look suspicious.

*Cite: Vang v. Nestle, 12/7/20.*

## ■ Company owes \$5M for rampant sex discrimination

For over 15 years, one employer had an ongoing practice to only hire men for certain roles, and ended up paying dearly for it when the EEOC got involved.

Performance Food Group (PFG), located in Baltimore, was sued by the EEOC for sex discrimination.

According to the lawsuit, since at least 2004, PFG refused to give any women operative positions. The company also failed to promote a qualified woman to a supervisor role due to her sex. This is a violation of the Civil Rights Act.

PFG agreed to settle the suit for a whopping \$5 million in monetary relief to all the women who weren't hired for operative positions. The company will provide an additional \$75,000 to the female employee who wasn't promoted to supervisor.

The company also agreed to hire a VP of Diversity to ensure sex discrimination no longer occurs in hiring decisions.

*Info: bit.ly/sexbias571*

## ■ Decision to lay off only older employees costs firm \$700K

When laying off employees, it's a good idea to ensure they all don't belong to one protected class – or the EEOC will come knocking.

Computer Science Corporation (CSC), located in New York, was sued by the EEOC when it laid off a group of older employees.

CSC conducted a series of layoffs at its locations nationwide, and every person laid off was over the age of 40, according to the EEOC's lawsuit. This is a violation of the Age Discrimination in Employment Act (ADEA).

The company will pay \$700,000 in monetary relief and must review and revise its layoff policies to ensure compliance with anti-discrimination laws. The EEOC will monitor CSC for age bias.

*Info: bit.ly/agebias571*

## ANSWERS TO TOUGH HR QUESTIONS

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.

### Can we require proof of COVID-19 vaccination?

**Q:** Before we let employees back on site, can we ask them for proof they've received the COVID-19 vaccine?

**A:** The EEOC recently released guidance on this, and the answer is yes – with some exceptions, just like for employers who require workers to receive annual flu shots.

Inquiring about your employees' vaccine status isn't considered a medical exam under the ADA. However, it's important for employers to be able to prove that asking workers about this is job related and a business necessity.

But as always, there are a few exemptions for disabled employees or those with conflicting religious beliefs.

If a worker doesn't receive a vaccine under these circumstances, you should conduct an assessment to see if this person not getting vaccinated poses a threat to the workplace.

If a direct threat exists and no accommodation can help mitigate it, you can legally

require this employee to stay home.

### What's the best way to handle a company tragedy?

**Q:** Sadly, we've had an employee pass away recently. We delivered the news to our staff and personally checked in with those close to the worker. What else should we do moving forward?

**A:** You've already taken the first step by acknowledging the loss, but it's important to also help your employees make sense of it, says Joe Spratt, communications expert at McKinsey & Co.

The biggest mistake employers make is minimizing the loss or trying to move away from the tragedy too soon. Employees could become more upset if they feel the company isn't giving them the proper amount of time to process and grieve the loss.

Some managers may feel uncomfortable showing too much emotion, but in this case, being vulnerable will set the tone for the rest of your staff and show them it's OK to grieve.

### Should we adjust salaries for remote employees?

**Q:** Because of the pandemic, we're now allowing employees to work remotely forever, if they choose. Is it OK to adjust their salaries based on their location?

**A:** Some employers are choosing to do this, but you must think carefully before going this route, says Tauseef Rahman, partner at HR consulting firm Mercer.

It seems to make sense to adjust workers' pay if they're working from an area where the cost of living is much lower, but it's important to ask yourself if it matters where they live.

When it comes down to it, you're paying employees to do the job. And if talent for certain positions is particularly hard to come by, you wouldn't want to risk upsetting an employee by lowering their salary.

The cost of labor, not the cost of living, is the main driver of pay. Employees moving should not impact this.

*If you have an HR-related question, email it to Rachel Mucha at: [rmucha@HRMorning.com](mailto:rmucha@HRMorning.com)*

### Sharpen your judgment...

## THE DECISION

(See case on Page 2)

Yes, the company won when a judge dismissed Oumar's case.

Oumar's lawyer argued that the incident on the loading dock was a convenient excuse to fire Oumar. Really, he was fired due to his national origin, his lawyer claimed. Oumar was harassed by his colleagues due to his accent, which the company never handled properly.

But the court disagreed. It said Oumar committed two fireable offenses: the damage at the loading dock and lying about it afterward.

The court went on to say that the company's handbook

clearly stated dishonesty wouldn't be tolerated. Therefore, it was just following its own policy by firing Oumar for lying. His national origin had nothing to do with his termination, the court concluded.

### ■ Analysis: Following policies saves the day

This case acts as a reminder of how important it is for employers to follow and enforce policies consistently. The company was able to present a very clear-cut case: an employee committed two separate offenses, then was fired due to what was stated in the handbook.

If the company didn't have a clear policy or didn't follow it to the letter, Oumar's bias claim could've held more weight.

**Cite:** Tamba v. Publix Super Markets, Inc., U.S. Ct. of App. 11th Circ., No. 19-14108, 11/20/20. *Fictionalized for dramatic effect.*

# Company restructuring led to revamp of talent acquisition strategy

■ We identified pain points to improve on current processes

We split into two individually operating companies last year, which led to some big questions regarding talent acquisition.

How will our recruiting resources be allocated? Who would be making the major decisions? How do we move forward separately, but cohesively?

Since we were now operating under a global TA leader, we took the opportunity to rebuild our processes from the ground up. We could write a new playbook and invest in new systems.

And our first step was figuring out what was wrong with our old process.

### Identifying pain points

We began by assessing our business needs by having conversations with HR and hiring managers. We asked them what their expectations were for us and where we had the opportunity to improve.

We then sent out surveys, which encapsulated a lot of different areas, such as:

- sourcing
- interviewing
- screening
- job descriptions, and
- employee referrals.

We encouraged our survey recipients to be brutally honest about how we were doing in these areas.

They told us we were doing a pretty good job overall, but the overall TA experience was disjointed and inconsistent in different areas of the company. Every location had a different hiring experience.

Thanks to the survey, we were able

to create a giant wish list.

Other needs surfaced as well. We realized we needed to create a structure that could easily be communicated across the org.

### Accountability, expectations

Going hand in hand with a universal process, we wanted everyone to recognize their role. We needed to empower our recruiters so they saw themselves as talent consultants and not “order takers.”

Metrics were also an important addition, so we could tangibly measure how well we were doing. We looked at how satisfied candidates and recruiters were afterward to ensure everything was working properly.

### New process

We took everything we gathered and created a streamlined TA process. We had five clear steps now: Pre-recruiting, Review process, Interviewing, Selection and Post-offer. Each step became a work stream in and of itself. We set clear timelines, put people in charge of each step, and went to work.

These new, uniform steps allowed us to reap the rewards. Some benefits we discovered included better consultations with hiring managers, more diverse candidates thanks to new sourcing strategies, and better alignment and speed.

We can now train all TA leaders on the same strategy across the country and get the same, great results.

*(Courtney Jones, VP of university relations and Dee Brogan, VP of TA, Nielsen, as presented at the ERE Digital 2020 Conference)*

## REAL PROBLEM REAL SOLUTION

### ■ Boosted engagement with remote workforce

To engage employees in the past, we've had daily, weekly and monthly events – plus a huge annual retreat, much to everyone's delight.

Now, we don't even see each other at all.

Like many organizations, when the pandemic began, we moved to a remote work environment.

We quickly figured out how to get work done and keep operations running. But we realized staffers were experiencing a loss of engagement and motivation.

We knew we had to make communication and interaction an even bigger priority while we were all dispersed.

### 3 unique efforts

In terms of boosting engagement, here's what we settled on that showed us the results we were looking for:

- We use daily group rendezvous on Slack to check status and discuss any concerns.
- We host weekly one-on-one video chats between employees and their direct supervisors to go over projects, check on resources, and just stay in the loop.
- We have a monthly all-hands video meeting. Leaders share current company performance metrics, department highlights and a “show and tell” on something unique we're working on.

Fortunately, these remote meetings haven't overwhelmed employees.

Instead, they've been the right mix of interaction to keep people engaged, informed and motivated, despite all the challenges of remote work and the pandemic in general.

*(Thibaud Clement, CEO, Loomly, Los Angeles)*

**Case Study:**  
**WHAT**  
**WORKED,**  
**WHAT**  
**DIDN'T**

## 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.

### Two great workers, but only one job: Who stays and who goes?

#### The Scenario

HR manager Stu Capper had just finished his lunch when vice president Karen Wheeler walked into his office.

"Hi, Karen, have a seat," Stu said.

"Hi, Stu," Karen said, without much enthusiasm.

"Something wrong?" Stu asked.

"It looks like we're going to have to get rid of either Anna or Paul."

#### 'Out of our hands'

Stu sat back, shocked. "Why?"

"We just don't have it in the budget to keep both of them on," Karen said.

"They've been doing a great job, though," Stu pointed out. "Ever since they both started running things,

we always meet our deadlines."

Karen nodded. "I know, but it's out of our hands. We don't have the money to keep paying two manager salaries, and we've had one person do the job before."

"But the department's bigger now," Stu said.

"We don't have a choice," Karen replied.

Stu sighed. "Who were you thinking of laying off?"

"I'm not sure. They're both great," Karen said. "Paul's been here forever, but it seems like the employees prefer Anna. I don't want to hurt morale, but I don't want to get rid of the one who had the job first."

*If you were Stu, who would you lay off?*

upset about having to apply for the job, but they'd much rather go through that than lose their job right away.

#### 2 Margie Tuckta, director of HR, Indian Head Casino, Warm Springs, OR

*What Margie would do:* Because Paul has been here for so long, we really should try to keep him since he's been loyal to the company. I'd go back and look at his records to try and find if his unpopularity has anything to do with performance. I'd see if there was something we could fix to make him the best fit. Maybe there's a simple misunderstanding with his co-workers.

*Reason:* Paul has been here longer, so it's only fair that he should get to keep the job. If he's been doing well other than some likability issues, we owe it to him to work around those.

## HR OUTLOOK

### ■ 4 ways to boost morale – even during a pandemic

It can take a lot of energy to maintain positive employee morale, especially if your staffers are going through coronavirus-related challenges at work or home.

But there's more you can do besides limiting negativity, encouraging gratitude among your employees or acknowledging the pervasive anxiety that's out there.

#### Empower your people by ...

1. **Regularly checking in with employees.** Spend the first five to 10 minutes of one-on-one meetings asking about their well-being, what they've been up to, etc. Asking these questions shows that you value their happiness.
2. **Taking time for your own mental health.** A manager unable to model positivity isn't likely to boost morale. If you're struggling with anxiety or negativity, try stepping away from your desk and writing down some recent big accomplishments.
3. **Establishing an employee-to-employee recognition program.** Encourage your staff to reward co-workers for doing good work by setting up a gift-giving system. The rewards can be as simple as a \$5 gift card. Allot a certain number of gifts per quarter and be sure to track giving and redemption. Consider reporting on it in your weekly or monthly company communication to emphasize the importance of companywide recognition.
4. **Getting employees more invested in their work.** Encourage managers to intentionally assign tasks to specific employees instead of teams or a team lead. They should be given autonomy to perform the work, report back and share results with the team. This gives employees ownership over their work.

*Info:* [bit.ly/morale571](https://bit.ly/morale571)

#### Reader Responses

##### 1 Judy Schreckenbach, HR VP, Community Connections, Inc., Durango, CO

*What Judy would do:* Instead of trying to make this choice right away, I would open up the job and allow anyone at the company to apply for it (including Paul and Anna) to ensure we select the best candidate. We'd assemble a team to conduct interviews and make the decision.

*Reason:* This would be the fairest way to do it. The hiring team would prevent a biased decision and ensure we didn't make any rash choices. Opening up the job is important; we can make sure that Paul and Anna are both actually interested in the job, and we can see if there's a more qualified candidate out there, too. This process keeps everyone in the loop – no surprises. Paul and Anna might be