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HRMORNING

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Managers struggling with recognition? Here's help

■ 5 common praise problems & how to address them

Even the best managers have weak spots, and one many leaders struggle with is delivering praise to their employees.

Some managers have trouble complimenting people in general. Others aren't sure when the appropriate time or place is to recognize good work.

And it's up to HR to help fix it.

Underdeveloped skills

Giving positive feedback is a crucial aspect of a manager's job, says author and leadership trainer Liz Uram.

"One of the most important

communication skills in a leader's skill kit is the ability to give employees praise," Uram says. But it's also one of the most underdeveloped skills.

According to Uram, "Some leaders just don't know where to start."

So why don't managers come to HR for assistance? Many of them fear their hang-ups about recognition are insensitive or naive.

Here are the top five types of praise-deficient managers and how to address each of their specific problem areas:

1. The "Why should I praise people for just doing their jobs?" manager. A

(Please see Recognition ... on Page 2)

Independent contractor rule put on hold – again

■ Will worker classification get simplified?

There's recently been some back and forth regarding the DOL's big worker classification rule.

Previously, the DOL had proposed a new rule for determining if a worker is an independent contractor (IC) or an employee under the FLSA.

It uses an economic reality test, looking primarily at whether a worker is in business for themselves or is economically dependent on a company.

In early January 2021, under the Trump administration, the rule was finalized in the Federal Register with an

effective date of March 2021.

But later, under the Biden administration, the rule was frozen (i.e., the effective date is stalled and indefinitely on hold).

Waiting it out

It's uncertain whether the rule will be allowed to take effect or if it will be challenged under Biden's new DOL.

As always, we'll keep you posted so you can stay in line with IC rules.

Click: bit.ly/ICtest573

Recognition ...

(continued from Page 1)

lot of leaders simply don't understand the purpose of positive feedback. Many of them might think they've done their jobs without needing banners and balloons – so why should their employees?

Uram says the response to this is simple. If you have a manager like this, give them two words: Positive reinforcement.

Behavior that gets rewarded gets repeated. If you have a fantastic employee and want them to keep turning out great work, reinforce their efforts by praising them. Employees will want to keep doing their jobs if they know their work is appreciated.

2. The “Shouldn't money be enough motivation?” manager. If your company pays well, a lot of leaders think that alone shows employees you value their effort. But Uram says that's just not enough.

Some people might get enough of

a reward from their paycheck, but others need additional motivation.

“The best leaders understand that everyone is different and they meet them without judgment,” Uram says.

The best way for managers to figure out what motivates each individual? Just ask! They might be craving a variety of things, from more challenging work to growth opportunities and job security.

HR should also encourage managers to meet with them and come up with specific motivational plans for each employee.

3. The “Won't my praise sound phony?” manager. Some leaders worry about sounding disingenuous with a generic “good job.” But Uram says the key to sounding sincere is being specific and timely with praise.

Say exactly what happened and why it's important. One example: “Thanks for jumping in to help with that order. Your extra effort will help the team reach our goal even sooner.”

It's also important to praise the employee right after the event happens so they associate the recognition with their actions.

4. The “I don't want to make other employees jealous” manager. Yes, it's important to give the praise in a setting the employee is most comfortable in. But that doesn't mean you shouldn't praise workers publicly, just because others might get jealous.

To combat this, work on praise both big and small. By sprinkling in some smaller compliments, you'll be able to recognize most of your team one way or another.

5. The “Isn't a performance review enough?” manager. In short, no, it's not enough. While too much praise can start to lose its effectiveness, once-a-year praise won't accomplish much.

A good rule of thumb is to praise each worker about once a week. If you don't think people do enough praise-worthy things each week, focus on smaller behaviors, like showing up to meetings on time and ready to participate.

Info: bit.ly/praise573

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 poor performance or bias complaint?

“Lynn, you wanted to see me?”

HR manager Lynn Rondo looked up to see employee Rick Mason standing in her doorway.

“Yes, Rick, come in,” Lynn said, dreading what was to come.

Rick sat down. “Is this about the issues between me and Larry?”

“Well, not really,” Lynn replied. “While Larry accused you of saying some racist things, that's not what I wanted to talk about.”

“Larry is ridiculous,” Rick insisted. “He's made some offensive comments about me being white. I'm the one being discriminated against here.”

Retaliation for complaints?

“What I wanted to talk to you about is your performance, which we've been discussing for a while now,” Lynn said. “It's severely declined in the past few months, and you constantly miss deadlines. I'm sorry, but we're letting you go.”

“This has nothing to do with my performance,” Rick declared. “Larry's been gunning for me, so you're using this as an excuse.”

“No,” Lynn insisted. “Your performance issues started long before Larry even complained about you. That has nothing to do with this decision.”

Rick shook his head. “I'll see you in court.”

When Rick sued for retaliation, the company fought to get the case dismissed. Did it 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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What's Working in Human Resources, (ISSN 1088-3223) February 15, 2021, Vol. 25 No. 573, is published semi-monthly except once in December (23 times a year).

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No ADA violation: Employee fired for failing test, not his disability

■ Court said employer followed its policies

Is it a violation of the ADA when an employee is dismissed from their job because their disability prevents them from doing it properly?

In a recent lawsuit, the 3rd Circuit said ‘no.’

Denied the first time

Chase Frost worked as a firefighter for the city of Philadelphia when he obtained an injury on the job.

After his injury, Frost expressed interest in becoming a paramedic.

Though initially denied the first time he applied, a physical therapist examined Frost and cleared him for participation in the paramedic academy training class. However, Frost went on to fail a patient protocol test twice.

In accordance with its policy, the

city dismissed Frost. He then sued, claiming disability discrimination.

Frost claimed the city didn’t allow a physical therapist to examine him in time to enroll in the training class the first year he wanted to, thus amounting to disability discrimination.

But the 3rd Circuit disagreed. It said Frost wasn’t qualified the first year he applied because of his injury, and the timing of his evaluation wouldn’t have changed that.

Furthermore, Frost’s firing wasn’t discrimination either because the city had fired other employees for failing the same test as Frost.

Policies were followed and the ADA wasn’t violated, the court said.

Cite: Frost v. City of Philadelphia, 1/6/21.

5th Circuit revives pay bias suit for female employee paid less than 3 male predecessors

■ Court said company failed to explain discrepancy

When there’s a discrepancy in pay between two similarly situated employees, there needs to be a tangible reason, like a difference in experience or training.

But one company couldn’t offer a reason, and it landed in court for it.

Made thousands less

Sarah Lindsley worked for Omni Hotels in Texas for 16 years, starting out as a server and eventually becoming the food and beverage director.

Lindsley’s salary was \$11,000 less than her direct predecessor, a male. The two previous directors before him, also men, made \$6,000 and \$4,000 more than Lindsley,

respectively. Lindsley sued, claiming gender discrimination.

On summary judgment, a court ruled in favor of the company, stating Lindsley failed to show she held the exact same job as the men in question.

But the 5th Circuit reversed that ruling, reviving Lindsley’s claim. The court said it was clear Lindsley earned less than three predecessors, and “if there’s a good explanation for that disparity, Omni is required to put one forth.”

This case shows that pay disparities can exist if there are tangible reasons, but it’s illegal and unacceptable for them to exist on the basis of sex.

Cite: Lindsley v. Omni Hotels Management Corp., 1/7/21.

■ Sexual harassment, retaliation cost company \$200K payout

It’s bad enough for a company to turn a blind eye to sexual harassment. But when one employer fired a worker for complaining about harassment, the EEOC stepped in.

According to a recent lawsuit, MVM Inc., a security firm in Ashburn, VA, retaliated against an employee for reporting harassment.

The female security guard was subjected to unwanted touching and lewd comments, the EEOC said. It continued to escalate, and when the employee’s manager cornered her and kissed her, she filed a complaint. Two weeks later, MVM fired her.

This conduct is a direct violation of the Civil Rights Act, which prohibits sexual harassment and retaliation for speaking out.

MVM will pay \$100,000 to the fired employee in monetary relief as well as \$100,000 to a class of other female employees who experienced sexual harassment on the job.

Info: bit.ly/harass573

■ Company sued for failure to accommodate disabled worker

When a disabled employee has a simple accommodation request, it’s often best to grant it.

Atlanta-based food products manufacturer Treehouse Foods landed in hot water with the EEOC after refusing to accommodate a disabled worker, then firing her.

The employee, who had chronic bronchitis and an ulcer, requested unpaid intermittent leave for when her conditions flared up. The company denied this request. Instead, it continued to penalize the employee for missing work due to her conditions and later fired her.

This is a violation of the ADA, the EEOC said. Treehouse Foods is now facing a costly settlement or lengthy legal battle.

Info: bit.ly/ADA573

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.

How can we encourage staff to get the COVID-19 vaccine?

Q: We know we can't require our employees to get vaccinated, but are there ways we can encourage them to do so?

A: Yes – the CDC recently released guidance on how to get your people on board with the vaccine.

The best way is to make receiving the vaccine as convenient as possible, so a vaccination clinic in the workplace (with no cost for the employees) would be ideal.

If that's not feasible, the next best thing is allowing employees to take paid time off to get the vaccine somewhere else – even going as far as organizing transport to the location.

Another simple thing to do would be to just raise awareness about where and how to get the vaccine. Distribute emails and newsletters with this info.

Can an FMLA certification be done by telemedicine?

Q: For an employee to be eligible for FMLA leave, they need to

have a health condition they're seeking continued medical treatment for. Do televisits count as continued treatment?

A: Yes – due to the pandemic, the DOL is allowing telemedicine to count as in-person visits when it comes to FMLA conditions, say employment law attorneys Cortlin Bond and Anne Yuengert of the firm Bradley Arant Boult Cummings LLP.

Typically, the FMLA defines continuing treatment as an "in-person visit to a healthcare provider," but now videoconferences can qualify as well – as long as they meets the following requirements:

- There is an exam, evaluation or treatment performed by a healthcare provider, and
- The visit is performed on video (phone calls or emails won't work).

What are some legal concerns for remote work?

Q: The pandemic and remote work have lasted a lot longer than any of us have thought. Are there any legal concerns we should be aware of as we continue to

extend our telework policy?

A: Yes, there are some potential compliance issues to be aware of with having a scattered workforce, say the employment law attorneys at the firm Seyfarth Shaw.

First of all, it's important to be up to date on your coronavirus leave laws. While the leave provided in the Families First Coronavirus Response Act hasn't been extended into 2021, at least 13 states currently require employers to provide some kind of paid sick leave.

Expense reimbursement is something to be aware of, too. A few states require employers to handle certain work-related expenses staff will encounter while working from home.

Posting requirements are another major issue. There's info you're required to post around the workplace, but with no workplace, that gets tricky. Sending out the info via email or on the intranet will suffice while the office is virtual.

If you have an HR-related question, email it to Rachel Mucha at: rmucha@HRMorning.com

Sharpen your judgment...

THE DECISION

(See case on Page 2)

Yes, the company won when a court dismissed Rick's case.

Rick's lawyer argued that performance problems weren't the real reason behind his termination, and it was Rick's involvement in a racial bias investigation – and his complaints about his co-worker Larry – that made the company want to fire him.

But a court disagreed. It said Rick's documented performance issues began well before the problems between him and Larry, and the company was justified in terminating an employee for consistently missing deadlines

– an important aspect of Rick's job.

The court ruled the company provided enough evidence to prove Rick wasn't fired for his bias complaints or the complaints against him.

■ Analysis: Document performance issues

This case goes to show how crucial it is to document performance problems. Because this company had evidence Rick's issues started well before the bias complaints were made, it could easily prove his termination was already in motion and the decision to fire him wasn't retaliation.

No matter how small the performance problems, it's always wise to document them – before they escalate.

Cite: *Fitzgibbon v. Fulton County, Georgia, U.S. Ct. of App. 11th Circ., No. 20-11583, 1/11/21. Fictionalized for dramatic effect.*

Financial wellness program reduced stress and anxiety for employees

■ *In the first year, they saved or paid off \$5,000*

Recognizing the impact of financial stress on our employees, we hoped to inspire healthy behaviors and attitudes by talking about personal finance and providing some resources to our people.

That's why we launched a financial wellness program to help spark the conversation around financial health.

No one-size-fits-all program

There's no one-size-fits-all financial hat, so it's important to meet employees where they are in their journey to financial wellness.

We set up learning cohorts around topics employees were interested in, such as budgeting, getting out of debt and investing. And we keep adjusting topics based on what employees are interested in.

We also connected workers to a financial education platform that provides video lessons, worksheets and tools, empowering employees on their journey. There's a high interest in quarterly virtual workshops.

Not to mention, we expanded our use of virtual tools as we transitioned to remote work in response to the pandemic. And with remote work likely to continue even after the pandemic, it's important to have a safe digital "meeting place" dedicated to talking about financial wellness.

That's why we set up a collaboration app where people can ask questions, post articles and share their journey.

Financial coach, debt counseling

Financial education is the most common financial wellness service

offered by organizations, but often education isn't enough. Coupling education with great benefits can further reduce financial stress.

One benefit we offer is an on-staff financial coach who provides individual coaching to employees.

And we continuously look for additional ideas, like debt counseling to help employees spend, save and invest wisely.

We track employee engagement with the financial education platform and ask our employees to anonymously report once a quarter how much debt they've paid off or how much money they've saved.

In just the first year, employees averaged a financial turnaround of \$5,000.

Happier employees

Our intent in embracing financial wellness wasn't to save money for the company – though having happier, healthier, more productive employees who took fewer sick days certainly didn't hurt our bottom line.

Our hope was that by talking about personal finance and providing some resources to our people, we'd inspire healthy behavior and attitudes.

And it's worked.

Every employer should think about the financial health of their employees as a lot like compound interest – over time, it has the potential to pay amazing dividends.

But you have to start making the investment now.

(Grant Simmons, senior talent development consultant, TiER1 Performance, Denver)

REAL PROBLEM REAL SOLUTION

■ Completed required training during COVID-19

Once a year on the same day, we have a companywide training event for all of our employees to get federally-required instruction on the latest regulations and procedures for our industry.

But because of the coronavirus pandemic, we needed to avoid large gatherings (which this event typically is).

Having everyone under the same roof for the training this year simply wasn't an option.

On top of that, to keep our employees safe, we've been encouraging those who could do their jobs from home to do so. These days, our workforce is 50% remote and 50% on-site.

Because one of the first things regulatory inspectors will check is if our mandatory training is up to date, there's no wiggle room due to the pandemic – it has to be completed no matter what.

Other options

Fortunately, there are digital and virtual learning options out there that can meet the obligation.

I emailed our employees the necessary links, dial-ins and materials, and later sent reminders about when they needed to have the training finished by. I was also on standby to answer any questions.

Also, our people have a good awareness of the company's continuing education policy, so they're doing a good job with meeting the deadlines so far.

I've already started looking into virtual/digital options for our employees on other hot topics they'll be required to get training on this year, such as physical information and security.

(Juli Popp, education coordinator, Farmers & Merchants State Bank, Pierz, MN)

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.

Employee's performance declines: Did she return to work too soon?

The Scenario

HR manager Stu Capper was going through his mail when he noticed supervisor Brock Bideau was standing outside his office door.

"Oh hey, Brock," Stu said, putting on his mask.

"Hi, Stu. I was just making sure you weren't about to start a meeting with somebody," Brock said, walking in. "I really need your help with Ashley."

Fatigued new parent

"She just came back from FMLA leave last week, didn't she? How's her baby doing?" Stu asked.

"Rough," said Brock. "Ashley says the baby wakes up crying every

hour on the hour. I can tell she's not getting enough sleep and it's affecting her work."

"How bad is it?" asked Stu.

"I won't sugarcoat it – she's making a lot of sloppy mistakes, and I'm spending way too much time fixing them," Brock said.

"I understand what she's going through, but in my opinion she came back to work too early," he continued. "I want to encourage her to take more time off to care for her child, but I think she'll take it the wrong way."

"You did the right thing coming to me about it," said Stu. "If Ashley's struggling, we should help her out."

If you were Stu, how would you handle this situation?

Reader Responses

1 **Johanny Torres, HR director, New York County Health Services Review Organization MedReview, New York**

What Johanny would do: I'd discuss Ashley's situation with her, including any family issues, and see if there's anything we can do. It might be good for her to take additional time off.

Reason: Our return to work policy is to have clearance from a doctor first. So if her doctor said it was OK to go back to work, it's crucial to pinpoint why Ashley's having trouble after returning from FMLA leave. Are there other issues besides being tired? Because of how valuable our employees are to the organization, we work with them individually to understand and accommodate their specific needs. We also tell them to

be honest with themselves about their readiness to return to work because they need to be able to dedicate adequate time to their jobs.

2 **Juanita Yazzie, HR administrator, Navajo Nation Shopping Center, Window Rock, AZ**

What Juanita would do: I'd meet with Ashley one-on-one and ask if a different schedule, cutting back her hours or some other flexible work arrangement would help. Depending on the outcome of the meeting, I might sit down with both Brock and Ashley to ask more questions and discuss possible solutions.

Reason: Ashley's not going to be productive if she's coming in tired every day. I'd rather see her take whatever amount of time away from work she needs to take care of her family – whether that's paid or unpaid time off – so she can come back to her job at full capacity.

HR OUTLOOK

■ Tips to help employees manage child care costs

The Families First Coronavirus Response Act helped out workers that suddenly found themselves without child care because of COVID-19 shutdowns.

But the pandemic is presenting a new challenge for working parents. Costs involved with implementing new COVID safety guidelines at child care facilities are getting passed along to families.

As a result, child care expenses have gone up by more than 40%, rising to around \$14,000 annually per child.

Easing the stress

If your workforce is feeling a financial squeeze and having a hard time paying for child care, try sharing these *LendingTree* recommendations with them:

- 1. Budget for the extra costs.** Depending on how much child care costs have risen, you may be able to save money by cutting back on things like streaming services or takeout.
- 2. Ask if there are ways to lower your child care costs.** Explaining circumstances, such as reduced hours, to the administrators of your child/children's day care could work in your favor.
- 3. Check if your state offers child care grants.** Because the level of assistance and qualifications vary by state, a good place to start researching is bit.ly/grants573

In a *BenefitsPro.com* report, LendingTree chief credit analyst Matt Schulz said, "If you simply can't afford your current child care anymore, shop around. You might be able to find a new center that works for you."

Employers may also have to consider supporting employees by adding benefits, such as flexible schedules, dependent care savings accounts, virtual parent support groups or even a child care stipend.

Info: bit.ly/children573