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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.

Reviving company culture in post-COVID workforce

■ 7 tactics to regain your org's identity

Saying it's been a challenging year is an understatement. And while the pandemic is finally starting to wind down, everything won't magically go back to normal.

Both employers and employees will have to adjust to the post-COVID workplace – and companies will have to make some changes.

Culture has worsened

One of the biggest things leaders should focus on post-pandemic is reviving company culture. Odds are, in the past year, you may have felt as though your company lost some identity. Without everyone being

on-site, interactions likely dropped to an all-time low. You may have even had to reduce your workforce.

Over 25% of companies believe their company culture has worsened because of the pandemic – and this should be addressed before it gets any worse.

Tim Rowley, COO & CTO at PeopleCaddie, offered these seven strategies for employers wanting to get their culture back on track (or even build a new one).

1. Recognize the new norms. Whether you like it or not, work norms and procedures changed when

(Please see Post-COVID ... on Page 2)

Survey: Remote work is essential for employees

■ A third would quit a job that nixed working from home

Is your company looking to resume office life soon? You may want to gauge your staff's attitude.

Almost 30% of remote workers said they'll quit if they aren't allowed to continue remote work, according to research from LiveCareer. Another two-thirds said they prefer to only work for companies that offer remote options.

Meeting in the middle

Assuming employees aren't bluffing and really will give notice, how can

leaders avoid costly, time-consuming turnover issues?

The key to transitioning back to the office may be easing in and flexibility.

LiveCareer asked employees (if they had to go back) how many days a week they'd like to be on site. The top picks were three days (30%), two days (25%) and one day (19%).

Workers also said they could be enticed to go back by certain perks, like more PTO, more flexible scheduling and improved workspaces.

Click: bit.ly/remote579

Post-COVID ...

(continued from Page 1)

employees went remote. Everyone figured out how to do their jobs from home on the fly, but now it's important for employees to know definitively what's acceptable and what's not.

Leaders can host a meeting going through updated policies and practices. You can also survey employees to gauge their understanding of current company norms and values.

2. Have gatherings on-site.

Employers used to have team-building exercises off-site. Now, with many employees working remotely, the opposite is needed.

Even if your org is only partly remote, on-site gatherings are crucial to touch base with the company as a whole, and get your people feeling connected again.

3. Maintain a good balance. That being said, don't have everyone get

together just to get together. Pick the most opportune, efficient times to gather the troops.

Also consider the best method for the gathering. Does everyone really need to come into the office? Or can a Zoom meeting do the trick?

4. Help rebuild connections. More than half of all employees think the pandemic weakened their professional relationship with their colleagues. And it's up to you to help repair those.

Get everyone talking and laughing again with a simple Zoom coffee chat. Or, if some people are feeling comfortable with a distanced in-person hang-out, try that.

5. Expand your reach. The pandemic may have forced you to rethink your usual hiring methods. Maybe you hired temp or gig economy workers – about 40% of employers did.

In the past, these workers weren't exactly part of the company like permanent employees were. Now's a great time to change that. Reach out to your temp and gig workers and get their thoughts on company culture, values and norms. They'll have a unique perspective.

6. Focus on team culture, too. Harvard Business School researchers found employees tend to care more about their team than their company as a whole.

This is useful when employees transfer to different teams – they tend to bring their loyalty and positivity with them, spreading it throughout the company.

To encourage this, have each team create a road map for how to schedule and conduct meetings, how to distribute workloads, etc.

7. Be prepared for changes. Once you put some of these tactics into action, you may discover some processes just aren't working. Don't be afraid to be flexible, and be prepared to change things up again.

Perhaps the most important thing about company culture is whether it can be fluid.

Info: bit.ly/culture579

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.

■ Worker fired for not working Saturdays: Religious bias?

HR manager Lynn Rondo looked up from the remote work policy she was drafting to see employee Bianca Delano standing in her doorway.

"Come in, Bianca," Lynn said. "Thanks for meeting me."

"Sure," Bianca said as she sat down. "I'm assuming this is about my schedule request?"

"Yes," Lynn replied. "I reviewed your request carefully, but unfortunately, if you want the management position, you have to work Saturdays."

Unreasonable request

Bianca frowned. "I can't, though. It's against my religion. I explained that to you," she said.

"I know," Lynn replied. "But if you can't work on Saturdays, we'll need to have others work overtime, or even hire an assistant manager to help pick up the slack. It just doesn't make business sense for us."

Bianca's eyes narrowed as she grew angrier. "You have to accommodate my religious beliefs," she said. "I know my rights. You can't deny me the job because of my religion."

"We're required to give you a *reasonable* accommodation," Lynn pointed out. "And your request isn't reasonable."

"I'll see you in court," Bianca huffed.

When Bianca sued for religious discrimination, the company fought to get the suit 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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Company didn't advise worker of FMLA rights, lands in hot water

■ Employee fired after being physically unable to return to work

It's always a complicated situation when an employee gets hurt on the job. Besides workers' compensation, the employee might not be able to return to the job yet.

A recent court case highlighted where an employer went wrong after this situation happened.

Unaware she qualified for leave

Noorjahan Ramji worked as a housekeeper for Hospital Housekeeping Systems in Georgia when she injured her knee on the job.

Ramji filed for workers' comp, and her employer granted the request. However, things got complicated when Ramji was unable to pass several physical tests in order to return to work.

Instead of allowing Ramji to take

FMLA leave to recover, the company fired her. At the time, Ramji was unaware she qualified for leave. She then sued Hospital Housekeeping Systems for FMLA interference.

After a court initially ruled in favor of the company, the 11th Circuit reversed the decision and sided with Ramji. It said the company failed to inform Ramji of her rights when it didn't give her the two FMLA notices she was owed.

The company tried to argue providing workers' comp should've been enough to inform Ramji of her FMLA rights, but the court rejected that argument, saying, "the FMLA does not set up a clash of Titans between itself and workers' comp." It still had a responsibility to alert her.

Cite: Ramji v. Hospital Housekeeping Systems, LLC, 4/6/21.

Court: Employee who self-diagnosed disability isn't protected under ADA

■ Doctor's note made no mention of depression, anxiety

When an employee discloses a disability, typically that triggers employers' ADA responsibilities.

But what happens when that worker wasn't officially diagnosed with their alleged disability?

Difficulty concentrating

Susan Jones worked as an accounts technician at the Department of Veterans Affairs in Nashville when she let her manager know about her depression and anxiety after her performance began to suffer.

When asked to produce a doctor's note, Jones did – however the note simply said she was starting a new medication and had "difficulty concentrating," and her performance

should improve in a few weeks.

When Jones' performance didn't improve, she was let go. Jones sued, claiming disability discrimination.

But a court ruled in the employer's favor. It said Jones was never diagnosed with depression and anxiety – she'd diagnosed herself. The doctor's note made no indication that she had an ongoing mental condition – and workers who self-diagnose their disabilities aren't protected under the ADA, the court said.

This acts as a reminder to always receive the proper documentation from employees before getting the ADA involved.

Cite: Jones v. Department of Veteran Affairs, 3/15/21.

■ Restaurant owes \$200K for racial hiring preference

If a company favors hiring one group of people over everyone else, the EEOC will be sure to teach them an expensive lesson.

Helados La Tapatia, an ice cream company based in Fresno, CA, was sued by the EEOC for racial discrimination.

According to the lawsuit, the company favored Hispanic job applicants over non-Hispanic candidates for entry-level warehouse positions. The company also discouraged non-Hispanic applicants from applying in the first place, the lawsuit says. This is a violation of the Civil Rights Act.

Helados La Tapatia will settle the suit for \$200,000, as well as hire an equal employment opportunity consultant to ensure a non-biased hiring process going forward.

Info: bit.ly/racebias579

■ Sexual harassment, retaliation costs company almost \$90K

Firing an employee who reported being sexually harassed is a surefire way to attract the EEOC's attention – and land in legal hot water.

Sealy Management Company, located in Tuscaloosa, AL, was sued by the EEOC after reports of sexual harassment were ignored.

An assistant manager at the company experienced harassment when her colleagues spread rumors that she received her promotion because she had sex with the company president.

When she got wind of these rumors, the assistant manager reported the conduct, but her complaints were ignored and never investigated. She was then placed on unpaid leave for filing the complaint.

Sealy Management Company will pay \$88,785 to settle the lawsuit, and must also conduct anti-harassment training.

Info: bit.ly/harass579

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.

When can we end our workplace mask mandates?

Q: With more and more people getting vaccinated against COVID-19, when is it OK for us to stop requiring masks in the workplace?

A: Between the increasing amount of vaccinations and many states ending mask mandates, it can be tempting to end yours as well – but the CDC and OSHA say it’s too soon.

You may receive pushback from employees who think masks are becoming a thing of the past, but your goal as an employer is to continue to reduce the spread of COVID-19. Remind these employees that social distancing isn’t a substitute for mask-wearing – and that it’ll continue to be a requirement.

It’s important to maintain OSHA safety standards, and to keep your work environment “free from recognized hazards that are causing or likely to cause death or serious physical harm.” This includes protecting your employees from COVID.

Also remember: The pandemic isn’t over yet. The

CDC is still reporting about 600 U.S. deaths a day, and 60,000 new cases.

Our state just legalized pot: What does this mean for us?

Q: Marijuana just became legal in our state, but we’d still like to keep it out of the workplace in general. Can we still screen for marijuana? What happens if an employee has it at work?

A: The answers to these questions really depend on your specific state’s laws, say the employment law attorneys of the firm McGuireWoods LLP.

Some states don’t prohibit you from screening candidates for marijuana use, but at the same time, discriminating against users could lead to hiring difficulties at best, and disability discrimination lawsuits at worst.

However, one thing employers definitely don’t have to put up with is employees coming to work under the influence, or employees possessing marijuana in the workplace. You can have a zero-tolerance policy for the two issues above.

How can we make new remote hires feel welcome?

Q: We’ve hired a few employees during the pandemic, and I can’t help but worry they don’t feel completely part of the team. How can we make them feel more welcome?

A: It’s good you want to ensure your new hires feel part of the team, as meaningful connection is crucial for their success, says employment law attorney Katie Palumbo of the firm Levenfeld Pearlstein LLC.

The first step is ensuring you have the proper tools to help facilitate virtual social interactions. This means you’ll want to prioritize training your new hire on these digital communication tools.

Another great way to help a new employee feel connected is to give them a staff mentor or two to help them along – a peer they can ask questions will help them feel more comfortable and part of the group in no time.

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 Bianca’s lawsuit.

Bianca’s attorney argued Bianca was fired because her religion prevented her from working on Saturday – a clear violation of the Civil Rights Act. The company should’ve accommodated her religious beliefs, the attorney said.

But the court disagreed. It said Bianca’s inability to work Saturdays created an undue burden for the company, which then would have to hire additional help cover Bianca’s absences.

Furthermore, the Civil Rights Act “does not place the

burden of accommodation on fellow workers,” the court said – and granting Bianca’s request would force her colleagues to work overtime to pick up her slack. Bianca’s accommodation request wasn’t reasonable.

■ Analysis: No undue hardship

While employers must consider every accommodation request from a protected employee, they don’t have to grant the request if it poses an undue hardship to the business. And asking the employee’s co-workers to add to their workloads is considered an undue hardship.

It’s important though to never outright deny a request, even if it seems immediately unreasonable. Always go through the interactive process.

Cite: EEOC v. Walmart, *U.S. Dist. Ct. of App., 7th Circ., No. 20-1419, 3/31/21. Fictionalized for dramatic effect.*

Employee resources group supported mental health benefits

■ Conversations normalize asking for help

Even before the pandemic, we realized that mental healthcare isn't just a perk. It's just as important as preventive physical healthcare.

We collaborated with different partners to design a program that addresses the full spectrum of needs, from milder symptoms of stress and anxiety to more severe issues like suicidal thoughts.

But it didn't happen overnight.

Early on, our mental healthcare provider offered therapy options. But employee feedback data revealed needs requiring resources beyond therapy alone.

Talking about it

We followed up with our employees about what they said in surveys and discovered a few people that were passionate about educating others on taking care of their mental health.

An employee resources group officially grew out of these conversations and they asked to start holding virtual meetings on their own company Slack channel.

Later, leadership partnered with the group and speakers were brought in to lead workshops on topics like parenting challenges and coping with loneliness during COVID-19.

Personal testimonials from executives helped take the stigma out of utilizing mental healthcare.

Program evolved

When we added mental health coaching and encouraged them to use self-care apps like Calm, we saw how important it is to recognize that different people have different needs at different times.

For example, back-to-school time triggered severe anxiety for some of our parents in the workforce.

Employee use of our mental health resources increased over the past year and it's encouraging to know they're getting the care they need.

Where to start

Finding meaningful solutions to fit your organization doesn't have to be a long, drawn-out process.

Webinars on behavioral and mental health can be helpful because you can hear about what other businesses have tried.

It's also worth asking your benefits broker and consultants what they have to offer.

Try surveying your employees to get a sense of how they're feeling. Are they as productive now as they were in 2019? Are they struggling with work/life balance?

Reaping the rewards

Multidimensional mental health support leads to a reduction in the costs from absenteeism, presenteeism and turnover, while maintaining positive company culture.

Launching a continuum of mental health benefits has made our employees feel supported. They're now more resilient and productive, and we're excited to see how they continue to excel as we move out of the pandemic and towards more positive days.

(Alicia Vichaita, head of global benefits, Pinterest, as presented during the webinar Full-Spectrum Care: Designing a Mental Health Solution that Supports Everyone)

REAL PROBLEM REAL SOLUTION

■ Empathy boosts our work relationships

If there's one mantra people have adopted during the pandemic, it's "We're all in this together."

We found it even more important with some people working from home, some on-site – and all of us facing different struggles. It certainly didn't even feel like we were all experiencing the same difficulties.

We realized this was because people had a limited understanding of the challenges their colleagues faced, no matter where they were.

It wasn't necessarily anyone's fault – everyone was just so focused on adjusting to a new normal that they'd lose sight of what others were going through.

We wanted to gently push our employees in the right direction.

3 easy-to-do tactics

In these unprecedented times, we believed simple words of empathy and kindness could go a long way in helping people understand each other and maintain good working relationships with their co-workers.

So, we encouraged employees to practice these empathy tactics:

1. Open and close emails with a thoughtful message, such as, "I hope you're having a good day" and "Stay safe and well."
2. Ask other people how they prefer to meet, rather than just demand a video call.
3. Be consistent with preferences, so colleagues know what to expect with your communication.

These three empathetic tactics have been so beneficial during these times. Our employees are working in greater harmony, and there's a level of respect and understanding that wasn't there before.

(Jeniffer Strub, senior HR manager, Vyond, San Bruno, CA)

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.

Leadership wants more workers to vaccinate: What should HR do?

The Scenario

CEO Janet Perry leaned through the entrance to HR manager Stu Capper's office. "Got a minute, Stu?"

"Sure," he said, grabbing his mask and tablet computer.

They got settled in Janet's office. "From what you can tell, how are our people doing with getting the COVID vaccine?" she asked.

"A few are fully vaccinated. A lot are waiting for a second shot and, for different reasons, some haven't done it yet," Stu replied.

Reopening effort

"I miss having our full staff on site," Janet said. "We're more productive when everybody's here.

That synergy's part of our culture."

"I know what you mean," said Stu. "We still need to be super careful with COVID protocols though."

"What if we could get 50% of our employees at one location fully vaccinated? There's no reason we couldn't reopen it all the way," Janet said. "And when one reopens, the rest will follow."

"I like the sound of the idea, Janet. But that might cause some issues," Stu said. "I can think of several people that are going to push back against returning to the office.

"The question is are we going to force them to come back against their will. Then what do we do?"

If you were Stu, what would you do next?

Reader Responses

1 Lynn Hoffman, HR officer, Citizens Bank of Florida, Oviedo, FL

What Lynn would do: I'd try to talk Janet out of it.

Reason: It's a good idea, but I don't think it's something you can require people to do. To follow through on that plan would probably require employees to provide proof of vaccination. I don't see how that could be done without being in violation of HIPAA. The possible scrutiny from the feds isn't worth it. Besides, I think we can count on most of our employees to get vaccinated on their own without implementing a mandatory policy.

2 Barbara Irving, HR director, Moose International Inc., Mooseheart, IL

What Barbara would do: I'd suggest conducting a survey of our

workforce first to see how they'd feel about it.

Reason: Before putting a policy like this in place, there needs to be some input from the employees. It's about their safety and comfort. Whether they're vaccinated or not, if there isn't enough buy-in on returning to work, it could have a negative impact on morale and productivity. We knew it was time to make a move toward reopening when we asked our people in an email survey to rate on a scale of 1-10 how comfortable they were with our safe return to work plan. Ninety-four percent responded with an eight or higher. The question "How comfortable would you be if we stopped doing morning temperature checks?" got nines and 10s from 94%. We also got some good suggestions when we asked if there's anything we should be doing to make the workplace safer.

HR OUTLOOK

■ Could the pandemic usher in a golden age of learning?

Research indicates employees are eager to learn skills to advance or move into evolving job roles, and they're looking to their employers to help them.

According to LinkedIn, an overwhelming majority of surveyed workers (94%) say they'd stay with their current employer if they offered learning and development.

However, an IBM poll says just 38% feel their employer has helped them acquire new skills during the coronavirus pandemic.

Closing the skills gap

To prevent career stagnation and potential turnover, it may be time to start looking up subject matter experts, online learning groups and programs that offer the training and support your people could be craving.

For example, throughout the pandemic LinkedIn Learning has continuously updated program offerings to provide soft and hard skills training. The platform rolls out 50 new courses per week.

Articulate.com recently partnered with Next Big Idea Club, a book subscription service, to offer 18 free courses on topics like team management, productivity, happiness and sales strategies.

Other low and no cost options to look into:

- Learn Chat, held on Twitter @Lrnchat every Thursday from 8:30 to 10 p.m. Eastern
- podcasts on *LearnOutLoud.com*
- *Moodle.org*
- *GoSkills.com*, and
- *LearningGuild.com*

Training helps your people grow professionally and personally, contributing to an engaged and inspired workforce. Plus, it'll help retain top talent, even if your organization needs to move them into new positions.

Info: bit.ly/learn579