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HRMORNING

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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.

Well-being at work: 5 ways to help employees de-stress

■ *Stopping burnout before it gets worse*

Despite returning to some semblance of normal, employees still struggle with stress.

In fact, some mental health experts say it's staggering. According to Mental Health America's *Mind in the Workplace* report:

- 83% of employees experience early signs of burnout
- 25% of employees experience the most severe signs of burnout, which include poorer performance, cynicism toward colleagues and apathy for the workplace, and
- 71% of employees say workplace stress affects their mental health.

"But there is hope because so much of what is contributing to employee stress can be addressed," said Paul Gionfriddo, President and CEO of Mental Health America. "Employers can make employee mental health a priority. They can encourage people to talk about it. They can build support for both in-person, hybrid and fully remote workforces."

Fighting back

Here are five ways to help employees fight back and reduce stress.

1. **Normalize mental health.** It's

(Please see De-stress ... on Page 2)

Survey: Employees taking more PTO in 2021

■ *79% of workers will use more vacation time this year than last*

Heads up, employers: You might have some staffing problems for the rest of the year as a lot of employees take time off.

According to a survey conducted by consulting firm Korn Ferry, 79% of workers intend to use more vacation days this year.

Better work/life balance

The pandemic threw a wrench in vacation plans last year, and employees are making up for lost time.

Eight in ten workers say they're going to appreciate their vacations a lot more post-pandemic.

Employees also are interested in a better work/life balance. In the past, 61% reported they would check in with work at least once while on vacation, and 56% had cut vacations short due to work demands.

Now, 82% of workers say they plan on checking in with work much less during their vacations to achieve a healthier work/life balance.

Click: bit.ly/vacation584

De-stress ...

(continued from Page 1)

crucial to encourage employees to make their wellness a priority.

That's what Target recently did to help employees recognize and manage excessive stress. It was especially important after front-line employees worked tirelessly through the pandemic.

To amp up resources, Target:

- offered special programming and expert guest speakers to give employees tangible advice
- offered up to five free counseling sessions per year to employees and their household members
- provided counseling resources on many topics that lead to stress, such as managing finances and finding childcare, and
- gave access to more online resources and apps that assist with things like sleep and fitness.

2. **Turn on tunes.** Music can

make all the difference. Employees in a recent Sound United survey said listening to music helps with stress.

In particular, 85% said it helps them stay sane, and nearly 90% said music improves their energy levels. Others say music boosts their productivity and greatly decreases loneliness.

Pop music was reported as the top genre for boosting productivity and morale, followed by classical and jazz.

3. **Get people moving.** One of the easiest and most accessible ways to reduce stress and burnout is to walk away from work – especially when employees feel overwhelmed.

Research compiled by The American Institute of Stress showed that being outside can reduce stress, boost creativity and focus, alleviate chronic exhaustion and improve mood and self-esteem.

So try to encourage and incorporate more time outdoors when possible. Managers might hold walking meetings when it's with a smaller group.

4. **Create quiet zones.** For some people, the best cure for stress and burnout is to find a quiet space. But those are often difficult to find at work, even when employees are remote.

You might help by designating a conference room or office space that's meant solely for quiet work, meditation or relaxation.

Beyond quiet space, give employees time to be quiet. Some companies have "no meeting days" so employees don't have to interact one day a week. Others allow employees to have "do not disturb" hours.

5. **Give managers guidance.** Stress and burnout are sometimes warning signs of more serious issues, like depression. Train your managers to identify the signs of a bigger problem.

The difference between an employee having a bad day or being depressed are subtle, so training managers to notice this and react appropriately is key.

Info: bit.ly/stress584

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.

Reasonable accommodation? Worker requests relocation

HR manager Lynn Rondo looked up from her computer to see employee Evie Hartley lingering outside her office.

"Evie, come in," Lynn said. Evie entered, coughing as she did so. "Everything OK?"

"No," Evie responded as she sat down. "My asthma is out of control lately. I feel like I can't breathe half the time."

Lynn frowned. "I'm sorry to hear that. What can I do to help?"

"I'd like my desk moved," Evie replied. "I'm right by the door, so every time it opens, I get all that dirt and pollen from outside right in my face."

Can't be moved

"I'm sorry, but we can't move you," Lynn said. "A big part of your job is greeting guests and clients as soon as they come in."

"What we could do is get an air purification system," Lynn went on. "I could also offer you periodic breaks to step away and get some fresh air."

Evie shook her head. "I'll still be very uncomfortable throughout the day. My desk needs to be moved."

"That's just not possible," Lynn replied. "It's essential for your desk to be where it is."

When Evie sued the company for failing to accommodate her disability, 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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Worker's ADA claim failed after she refused to file paperwork, court says

■ Employee refused to undergo fitness-for-duty exam

When an employee had a mental health crisis, an employer offered her both FMLA leave and an ADA accommodation.

The worker, who was eventually terminated, sued. But a court ruled the company didn't violate any employment laws.

No doctor's evaluation

Annie Boone worked as a campus police officer for the University of North Carolina at Chapel Hill. In the past, she'd received treatment for anxiety and depression.

During her employment, Boone performed badly on a competency exam and had an anxiety attack. She was placed on temporary leave, and eventually took FMLA leave to address her mental health.

When her six months of leave were up, Boone wanted to return to work, but when the university asked for a doctor's evaluation clearing her, she didn't provide one. The university offered to accommodate her if she filed ADA paperwork, but Boone didn't do that either. She was fired.

Boone sued the school for failing to accommodate her, but the 4th Circuit dismissed her case. It said Boone didn't go through the proper methods to obtain an ADA accommodation, so the university wasn't at fault for not accommodating her.

This case shows that when it comes to accommodations, both employees and employers have responsibilities.

Cite: Boone v. Board of Governors of the University of North Carolina, 6/11/21.

2nd Circuit: Employers don't need to grant accommodations that violate safety protocols

■ ADA-protected firefighter wasn't able to wear gear correctly

What happens when an employee's disability prevents them from following safety protocols? Do you have to make an exception?

In a recent case, the 2nd Circuit decided no.

Policy revoked

Salik Bey worked as a New York City firefighter. He had a condition commonly known as "razor bumps," which results in pain after shaving.

As a rule, firefighters had to be clean shaven, in order for their respirators to fit snugly. Bey wanted to be able to keep a beard as an accommodation for his condition.

In the past, the city had allowed

firefighters to have beards if they could pass a "fit test" with their gear, but this policy was revoked.

Bey filed an ADA lawsuit against the city, saying revoking this policy also violated the Civil Rights Act because this condition mainly affects African-American men.

A district court ruled in Bey's favor, but the 2nd Circuit reversed the decision. The court said it was unreasonable for employers to have to violate safety protocols in order to accommodate an employee.

This helps employers know where they can draw the line when it comes to accommodations' reasonability.

Cite: Bey, et al. v. City of New York, 6/9/21.

■ Company owes \$40K for firing worker with old injury

Terminating an employee for a pre-existing condition is a good way to get the EEOC's attention.

Agricultural retailer Agri-AFC, located in Jackson, MS, was sued by the EEOC for violating the ADA.

Two months after the company hired a new driver and warehouse worker, the employee disclosed he suffered from an old back injury and was taking medication for it.

Immediately afterwards, the company asked for a complete list of the employee's medications, then fired him, worrying his old injury made him a liability. This is a violation of the ADA.

Agri-AFC will pay \$40,000 to settle the lawsuit and must train its managers on anti-discrimination laws, such as the ADA.

Info: bit.ly/ADA584

■ Racial, sexual harassment costs company \$125K

After a company permitted both racial and sexual harassment to occur, it paid a very steep price.

Engie Services, an airport baggage handling company located in Birmingham, AL, was sued by the EEOC for racial and sexual harassment.

According to the lawsuit, a male supervisor subjected a female employee to unwanted touching and sexual comments. He also sexually assaulted a different employee on one occasion.

The same supervisor made racially insensitive remarks to several employees as well. This conduct violates the Civil Rights Act, the EEOC said.

Engie Services will pay \$125,000 to settle both the racial and sexual harassment lawsuits. In addition, the company must create anti-harassment and anti-retaliation policies, and conduct training.

Info: bit.ly/harass584

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.

Do we have to let emotional support animals at work?

Q: We have a few employees with anxiety and depression who asked about bringing in emotional support animals. Do we have to let them?

A: Service animals almost always need to be allowed in the workplace, but emotional support animals are a different story, says Katherine Slye-Griffin, accessibility section chief for the U.S. Health Resources and Service Administration (HRSA).

Emotional support animals could sometimes be a “reasonable accommodation” for an employee, but if having these animals at work places an undue hardship on the employer, it can put its foot down.

It’s important, though, to ensure the animal isn’t actually a service animal before saying no. This boils down to two questions:

- Is the animal required because of a disability? and
 - What tasks has the animal been trained for perform?
- If the employee won’t answer

these questions, the employer can deny the animal access.

However, if it’s obvious what the dog does – a seeing eye dog for a blind employee, for example – you shouldn’t ask these questions.

Can we ban marijuana at work if it’s legal in our state?

Q: We don’t want marijuana use in our workplace at all, but our state has legalized medical marijuana. Can we still ban it?

A: If you ban all marijuana use, you risk running afoul of the Americans with Disabilities Act (ADA), say employment law attorneys Christine Gantt-Sorenson and Pierce MacLennan of the firm Haynsworth Sinkler Boyd PA.

As long as your employees using medical marijuana can safely complete the essential functions of their jobs, there’s nothing you can legally do to prohibit it.

Approach your marijuana policy the same way you would for other prescription drugs, with a focus on safety. It’s important to make sure you

include information about ADA accommodations in your marijuana policy as well.

What can we do about fragrance complaints?

Q: One employee is sensitive to strong scents and has complained about a few people’s fragrances. What’s the easiest way to fix this?

A: If the employee has asthma or allergies, you may have a legal obligation to take care of this, says employment law attorney Catherine Strauss of the firm Ice Miller LLP.

You can always institute a no-fragrance policy, but that runs the risk of pushback.

Some less drastic alternative solutions include:

- moving the sensitive employee to a work location away from the offending scent
- allowing fresh air breaks
- staggering schedules, and
- forbidding aerosols/diffusers.

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 Evie’s failure-to-accommodate claim.

Evie’s attorney argued the only thing that would help her asthma was to be moved, and that the company’s alternative suggestions wouldn’t work. It didn’t fulfill its ADA duties, the attorney said.

The court disagreed. It said Evie’s accommodation request was unreasonable, as it was an essential part of her job to greet people at the front door.

Furthermore, the company fulfilled its responsibilities under the ADA by offering Evie reasonable alternatives,

which she didn’t accept. Employers aren’t required to alter essential job duties for those with disabilities, the court said.

■ Analysis: Accommodation must be reasonable

This case shows that employees don’t get to hand-pick any accommodation they want. It has to be reasonable, and in this instance, Evie’s request would interfere with an essential function of her job.

As long as the employer makes a good faith effort to accommodate the employee – even if the accommodation doesn’t work out – a court will typically consider its ADA responsibilities fulfilled.

Cite: Rodda v. University of Miami, U.S. Dist. Ct. S.D. FL, No. 19-25301-CIV-MORENO, 6/4/21. Fictionalized for dramatic effect.

We made employee mental health a top priority during pandemic

■ *Leadership wanted workers to know we were there for them*

Like a lot of companies out there, when the COVID-19 pandemic first hit back in 2020, we went fully remote to protect the health of our employees.

And while we were so busy worrying about their physical health, it dawned on us that focusing on their mental health was just as important.

We already offered some mental health benefits, but we realized that wasn't good enough after seeing the following statistics:

- 96% of CEOs believe they're doing enough for employee mental health, but only 69% of employees agree, and
- 69% of CEOs consider themselves accepting of mental health issues, while only 35% of employees agree.

This disparity was something that really caught our attention. We didn't want to be the employer that assumed it had mental health covered, when really, it didn't.

More than an EAP

When leadership got together to address this concern, we knew we wanted to exceed employees' expectations. Above all else, we wanted our people to know we cared about them, and were there to help.

An employee assistance program (EAP) is pretty run of the mill, and it actually has some problems.

Typically, employees can only choose from a few in-network providers, and this can come with long wait times. We didn't want employees' mental health issues going untreated while they waited weeks or months for an appointment.

In the pandemic world, virtual mental healthcare became the norm, and we wanted to embrace that. Research has shown that access to this important benefit results in better mental health outcomes.

Now, our employees have access to mental health coaches, virtually, who exist outside of the EAP.

Another little perk we added was monthly self-care days.

Normalizing conversations

Something else crucial to this entire overhaul was normalizing conversations about mental health in the workplace. When employees see leaders discussing their own struggles, workers are more likely to speak up about theirs.

One thing we did to set an example was creating and enforcing policies to help with work/life balance, such as no work email on the weekends and flexible hours. When employees see leadership following these, they'll do it too.

Communication is key

Another key to this mental health benefits roll-out was communication. Employees can't use the benefits if they don't know about them.

To tackle this issue, we created a strong communication plan and really emphasized how mental health affects every aspect of employees' lives, such as sleep, parenting and achieving a healthy work/life balance.

With all of the changes we've made, we're very optimistic about our company's and employees' future.

(Russell Glass, CEO, Ginger, San Francisco)

Case Study:
WHAT
WORKED,
WHAT
DIDN'T

REAL PROBLEM REAL SOLUTION

■ How we get great candidates into our talent pipeline

We never wanted to be in a position where we had a job open, but no candidate to fill it.

The longer it takes to replace a departed employee, the more disruption it causes. And I wanted to prevent that.

To start filling our talent pipeline, we began targeted networking events all across the country.

Connect over coffee

At our events, we made sure to express we were looking for talent for future roles, not current ones. This allowed us to get to know future talent in a more casual setting – like a coffee date.

It was a great way to meet candidates in a very relaxed environment and just have a conversation with them. They were all at ease, knowing they had nothing to lose but everything to gain by engaging with us.

We keep in contact with promising talent, and begin preparing them for their potential future role with us. We believe the candidate experience should start from the beginning – even if we're not sure if the person will truly be a candidate yet.

Once we officially hire someone from the pipeline, the worker has 90 days to decide if the job is for them. We try to make sure everything is right – their workspace, their assignments, their paycheck.

Another added bonus of this strategy is we've increased our diversity at the company by having a wide array of talent already in the pipeline to choose from.

(Tequilla Lopez, director of diversity, Best Buy, as presented at the 2020 ERE Digital Recruiting Conference)

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.

Manager going on vacation concerned about productivity

The Scenario

HR manager Stu Capper was happy about his company reaching the 80% mark of being fully vaccinated against COVID.

But then he looked up from his email and saw the frowning face of manager Ross Knight.

"You don't look like someone who's about to go on a two-week vacation," Stu said.

"Stu, I've worked ahead as far as I can and I've given detailed instructions to everyone in my department about what they're supposed to do while I'm away," Ross began.

"Sounds like you've done everything right," Stu said. "But I can see you're worried about something."

"We're in the middle of that big project and I'm not 100% sure things will go smoothly if I'm not here," said Ross.

How can HR help?

"I'm thinking about delaying my vacation plans, but that would make my wife really mad," Ross continued.

"No, you deserve to take the time off to recharge," said Stu. "Can your people email you if there's an emergency?"

"That's why I'm in a bind. We're going to a place where Internet service is unreliable," Ross said. "And I don't want to be thinking about this project the whole time."

If you were Stu, what would you suggest to Ross?

Reader Responses

1 Lisa Katzer, HR administrator, Leer Inc., Carroll, IA

What Lisa would do: I'd tell Ross he has to appoint a trusted lead or utility person to be acting supervisor in his absence. I'd check in with that person throughout the week to see how he or she was handling the increased workload – especially if it's their first time in such a role. I'd let that person know if something comes up, or if they're not sure about something, to come see me. We can discuss any problems and I'll assist in any way I can. I'd also explore if that person needs training to be Ross' backup going forward.

Reason: Whenever someone's going to be away from the workplace – for whatever reason – it's crucial to be proactive in managing workflow. I disagree with Stu mentioning the

option of Ross being accessible by email. When you're on vacation, you have to shut down your work brain. That's what vacation is about.

2 Renee Bearfield, employee relations manager, Baptist Health, Little Rock, AR

What Renee would do: Because Ross will have a director above him, I'd go up the chain of command and let that manager know what's going on and request that he or she be more hands-on supervising Ross' employees while he's away.

Reason: HR isn't equipped to run Ross' department. Regardless of who's on vacation, there's still work that needs to get done. That's why it's important to have a plan for situations like this. This is a good opportunity for Ross and his supervisor to tie up any loose ends when it comes to departmental vacation workflow responsibilities.

HR OUTLOOK

■ Supporting employees struggling to have children

COVID-19 didn't slow down workers' decisions to add a baby to their families.

In a survey conducted by fertility benefits provider Carrot and RESOLVE: The National Infertility Association, only 8% said they're delaying parenthood.

For some, the pandemic accelerated family forming plans. Ten percent decided to start fertility treatments because working from home made it more convenient.

But becoming pregnant will be problematic for some employees. Coping with infertility can bring on mental health challenges, reduced productivity and financial debt from uncovered treatments and services.

Starting a conversation

Although people have become more open about discussing fertility issues, the survey respondents reported it's rarely talked about in the workplace.

However, fertility benefits can be a key benefit to attract and retain talent and improve productivity:

- 74% said they've researched fertility treatments and family forming while at work
- More than 75% of employees would stay at their company longer if their employer offered fertility benefits, and
- 88% would consider changing jobs for access to fertility benefits.

"With one-third of our lives spent at work and the majority of Americans receiving health insurance through their employer, it makes sense that the workplace plays an important part of a support system," the survey report said.

Not all fertility coverage is created equal, though. So it may be time to conduct an employee survey to gauge interest and then talk it over with your benefits broker.

Info: bit.ly/fertility584