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HRMORNING

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Struggling to find new hires? 6 ideas to win the talent war

■ Research-proven recruiting best practices

Nearly all HR leaders are struggling to find new hires right now. How can you recruit great employees when practically everyone else is hiring, too?

It won't be easy – but you can do it with calculated, unique approaches to hiring (and retaining) employees in the wake of the pandemic.

80% can't fill positions

About half of all companies can't fill the open positions they have, according to data from the National Federation of Independent Businesses and the U.S. Bureau of Labor Statistics.

And almost 80% of employers

find it somewhat or very difficult to find qualified candidates for open positions in every kind of business from professional to industrial, The Conference Board found.

The HR problem stems from rapid reopenings, supply chain issues and the fact that many unemployed people aren't seriously looking for a job.

"Before the pandemic, industry and manual service workers were high in demand and short in supply. As the economy reopens, this trend is resurfacing – and fast," says Frank Steemers, senior economist at

(Please see New hires ... on Page 2)

Report: Race-based pay disparities rampant

■ It would take more than 25 years to close the pay gap

For every dollar white employees make, non-white workers only earn about 85.6 cents, according to a recent report from software company Visier.

At this rate, it would take 25 years to achieve pay equity.

Longer to advance

For African-American employees specifically, the pay gap is even worse. Visier reports they earn 66.7 cents for every dollar white employees make. It would take a staggering 78 years to reach parity here.

Paychecks aren't the only place disparities exist for non-white employees. Minorities also tend to have to work harder and longer to advance at their companies.

According to the report, on average it takes African-Americans 10 years longer to reach the height of their career compared to their white counterparts.

Visier analyzed workplace records from 2017-2020 in a wide range of industries.

Click: bit.ly/equity585

New hires ...

(continued from Page 1)

The Conference Board.

Here are six research-proven strategies to find, hire and keep great employees in challenging times.

1. **Rethink your approach.** Some employers think the hiring crunch will go away when the government stops pandemic-related unemployment compensation benefits. But Harvard Business researchers found that's not likely the case.

Here's why: Unemployment benefits went up 10% during the pandemic, but job applications only dropped 3.6%. Most employers argue that 3.6% more applicants won't solve their hiring woes.

That's why HR leaders want to revamp their approach to recruiting. What worked in the past likely won't work now. You probably won't need a total overhaul, but it's beneficial to examine every step of your process to spot the biggest potential areas to

reach a more qualified candidate pool.

2. **Create unique partnerships.** Make it easier for great candidates to work for you.

For example, women are more likely to be responsible for childcare, which can keep them out of the workplace. But if you partnered with childcare services, you become a more attractive employer.

3. **Focus on geography.** Many employers introduced hybrid work models and offered remote work to employees because of the pandemic. That allowed some companies to widen their hiring net, getting talent across time zones and continents.

This works for some companies, but not all. Many employers need people on-site. And Harvard researchers found one of the best ways to attract local talent is to be easily accessible. One idea is cutting the burden of the commute by operating on a 10-hour, 4-day week schedule.

4. **Offer reskilling opportunities.** Quality candidates may not apply to your open positions because they don't think their skills align with the job. Experts suggest removing degree requirements and explain in the job description that you want applicants who are willing to learn new skills and increase their knowledge.

Then, briefly outline the kind of training and reskilling job candidates can expect.

5. **Emphasize long-term success.** After a year plus of uncertainty, nothing sells your job opportunity like stability. Talk with candidates about how their skills and backgrounds align with the company. Show them how they can advance their careers with you.

6. **Go back to school.** Look beyond the job market and look to schools to find new hires.

By partnering with high schools, community colleges and vocational programs, businesses unlock the opportunity to help equip students with the exact skills they need to fill local job demands.

Info: bit.ly/newhires585

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.

■ Manager made 'dirty looks' at employee: Racial bias?

HR manager Lynn Rondo was sorting through some new job applications as company attorney Eric Bressler knocked on her door.

"Hey, Lynn," he said as he walked inside. "I wanted to talk to you for a minute about Greg Davis."

Lynn sighed. "Don't tell me he's actually suing."

Eric frowned. "Unfortunately, he is. Can you walk me through all of his complaints?"

Retaliation for complaint?

"Greg came to me one day, wanting to report his manager," Lynn began. "Apparently, Len used a racial slur. Greg didn't hear it, but someone else told him about it."

"I see," Eric replied. "Was that the only incident?"

"Not exactly," Lynn continued. "Obviously, I talked to Len about this incident and he denied using the slur. But then a few days later, Greg was back in my office saying Len was shooting him dirty looks."

"Greg is claiming the dirty looks were retaliation for him reporting Len in the first place," Eric said. "I'm a little concerned that between the slur and the faces, Greg could have a racial bias case."

"There's still no proof Len even said the slur," Lynn pointed out. "I think we should fight this."

When Greg sued for racial bias and retaliation, the company fought to get the case dismissed.

Did the company win?

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

What's Working in HUMAN RESOURCES

EDITOR: RACHEL MUCHA
ASSOCIATE EDITOR: BRIAN BINGAMAN
MANAGING EDITOR: RICH HENSON
EDITORIAL DIRECTOR: CURT BROWN
PRODUCTION EDITOR: P.J. FRONZEO

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Not an FMLA violation: Worker's job eliminated while out on leave

■ Court says employer wasn't obligated to recreate position

When an employee's out on FMLA leave, and their job gets eliminated during a company restructuring, do you have to hire them back?

The 2nd Circuit addressed this in a recent court ruling.

Top 10%

Steven Barger worked for First Data Corp. in New York City when he needed to take FMLA leave.

While Barger was out on FMLA leave, the company underwent a reduction in workforce. The top 10% of the most highly compensated employees were eliminated, which included Barger.

Barger sued, claiming the company violated the FMLA by eliminating his position while he was on leave. The

company was required to reinstate Barger in his old position, he claimed.

But the 2nd Circuit disagreed. It said the company wasn't obligated to bring back an eliminated position for someone on FMLA leave.

Furthermore, the court said there was no FMLA violation because Barger's position would've been eliminated regardless of his leave status.

"An employer can avoid liability under the FMLA if it can prove that it would not have retained an employee had the employee not been on FMLA leave," the 2nd Circuit said.

The company's clear reduction in workforce plan helped defeat Barger's lawsuit.

Cite: Barger v. First Data Corp., 7/6/21.

2nd Circuit: There was no retaliation against employee who supported colleague's lawsuit

■ Court said worker didn't engage in protected activity

Can an employee be retaliated against for supporting a colleague's discrimination lawsuit?

In this instance, a court decided no.

Career 'was done'

Alan Quinones worked as a lieutenant for the Binghamton Police Department in New York. When he heard his African-American colleague was going to file a discrimination lawsuit against the department, Quinones offered his support.

When the police chief got wind of this, he allegedly said Quinones' career "was done."

Quinones met with HR and expressed he was concerned his

job was in danger after hearing the chief's comment. Not long after that, Quinones filed a lawsuit, saying he was being retaliated against for supporting his colleague's race discrimination claim.

But the 2nd Circuit ruled there was no retaliation. It said Quinones' meeting with HR wasn't protected activity because no official discrimination complaint was filed against the chief. There can only be retaliation if the employee engaged in protected activity. Quinones wasn't fired for supporting the lawsuit, either, so no adverse employment action took place.

Cite: Quinones v. City of Binghamton, 5/21/21.

■ Company owes \$52K for ageist policy

One employer had a strict cut-off age for its drivers – and ended up paying a steep price when the EEOC found out.

White River Health System, located in Batesville, AR, was sued by the EEOC after firing four employees over the age of 70.

According to the lawsuit, White River's insurance policy forbid anyone over the age of 72 from driving for the company. Four employees were fired when they turned 72, even though they had perfect driving records. The company made no effort to get insurance coverage for these workers. This conduct violates the Age Discrimination in Employment Act (ADEA).

White River will pay \$52,500 to the four fired employees to settle the lawsuit. For the next two years, the company will be closely monitored by the EEOC.

Info: bit.ly/agebias585

■ Biz to pay \$50K for retaliation against harassed worker

When an employee files a sexual harassment complaint against her supervisor, sweeping it under the rug is one thing *not* to do.

Tampa-based medical practice Pediatric Healthcare Alliance was sued by the EEOC after allegedly retaliating against a worker.

The employee, a nurse, reported to HR that one of the practice's doctors touched her inappropriately on several occasions. Instead of dealing with the harassment, the practice transferred the nurse to a new location against her wishes.

She was also unable to earn overtime at the new location. This is a violation of the Civil Rights Act.

Pediatric Healthcare Alliance will settle the suit and pay \$50,000 in damages.

Info: bit.ly/retaliation585

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.

Should we hire someone with a criminal record?

Q: We recently interviewed a promising candidate, but they have a criminal record. I think they'd be a great fit, but I'm wondering how other employees may feel. Is there a special way I should navigate this situation?

A: It's great that you're willing to hire someone with a criminal record, says SHRM CEO Johnny C. Taylor, Jr. The formerly incarcerated deserve another chance after paying their debt to society, and you shouldn't be immediately deterred by a conviction. It just means you should dig deeper.

You should proceed as if this person were any other candidate and conduct a background check. Most of the time, the person's conviction won't conflict with the job duties they'd end up performing.

However, it's important to evaluate the gravity of the offense and determine whether their criminal history may impact the safety of the workplace.

Another important factor to consider is how much time has

passed since the conviction. If it's been a long time, it becomes even less of an issue.

How can we protect workers from the Delta variant?

Q: In light of the COVID-19 case spikes, what should we be doing to keep our employees as safe as possible from the Delta variant?

A: If you're in an area of high transmission, you'll want to follow the CDC's new guidelines and consider re-instituting a mask mandate, says employment law attorney Melissa Peters of the firm Littler.

Another option is sending employees back to remote work arrangements – or delaying return to office plans if you haven't brought staff back yet.

And if you're very serious about keeping COVID-19 out of the workplace, you could consider a vaccine mandate for your workers.

Is time spent on COVID safety procedures compensable?

Q: Are we required to pay employees for the time it takes

them to go through our various COVID-19 safety protocols?

A: In short, yes, employees need to be paid for the time they spend completing your required COVID-19 safety procedures, says employment law attorney Mark Sabey of the firm Hall Render Killian Heath & Lyman PC.

Here's some of examples of compensable safety procedures:

- time spent waiting to undergo a temperature check to enter the workplace
- time spent completing a health screening during the workday
- time spent undergoing a required COVID-19 test, and
- time spent donning and doffing safety equipment such as a mask, respirator, face shield and/or eye protection.

Employers also should be providing employees with paid time off to both receive the vaccine and recover from any side effects. The CDC says eight hours per dose is sufficient.

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 Greg's racial bias and retaliation lawsuit.

Greg's attorney argued his manager was clearly biased against Greg because of his race. The use of the slur followed by the dirty looks after Greg reported Len backed up this claim.

But a court disagreed. It said Greg didn't experience racial discrimination because Len didn't direct the slur toward Greg. In fact, Greg didn't even hear Len use that word firsthand. While "appalling," the court said the use of the slur couldn't support Greg's claim.

Furthermore, the court said Len's "dirty looks" weren't severe enough to constitute retaliation. Case dismissed.

■ Analysis: Retaliation is more than rudeness

This case makes an important distinction between rude behavior and actual retaliation.

The EEOC notes that, typically, retaliation must be some kind of adverse employment action, such as a demotion, a schedule change, a transfer to a less desirable post or making the employee's work life more difficult.

In this instance, the court didn't consider "dirty looks" from Greg's manager to fall under this category, as it didn't particularly make Greg's work life more difficult.

Cite: Fisher v. Bilfinger Industrial Services Incorporated, U.S. Ct. of App. 5th Circ., No. 20-30265, 6/24/21. Fictionalized for dramatic effect.

Mandatory company-wide vacation helped ease employee burnout

■ *Workers could truly disconnect, relax and recharge*

Too often, when employees use their PTO to take a much-needed vacation, they can't fully disconnect from work and recharge.

With technology and connectivity at our fingertips 24/7, so many employees feel obligated to check their work email or take a call from their boss while on a trip.

Even when we try to rest, we have that nagging feeling that we're missing out on something important, or that we're falling behind at work.

We can tell people all we want not to check in with work while they're away – that doesn't mean they'll listen.

One benefit we already offered was unlimited PTO, but we found that still wasn't enough to ensure relaxation.

We needed a better way to get our employees to truly disconnect and recharge.

Like summer vacation

When it comes to creating new benefits, the process should be collaborative to ensure we're on the right track. So, we surveyed our employees to try to pinpoint why we can't relax on vacation.

One of our employees gave us an amazing nugget of wisdom. She said that, as adults, we can't recapture that freedom of summer vacation when we were kids because we all take vacations at different times.

A lot of the joys of summer vacation came from the fact that all of our peers were also off from school. There was a camaraderie in that.

As adult employees, when we go on vacation, all of our colleagues are back at the office, hard at work. This

leaves a lot of people feeling guilty for taking time off, and less willing to discuss their vacations when they return to the office.

That's when it hit us how we could solve this – we could make sure everyone took vacation at the same time. We could make it just like summer vacation when we were kids.

One week every quarter

We decided to make the bold move of shutting down our company for mandatory vacation.

One week every quarter, we'd shut our doors, leaving everyone to use that week however they wished. Staycation, a trip, household projects – it didn't matter.

It was a bit tricky to prepare for these shutdowns at first, but by communicating with our clients well ahead of time, we found it wasn't as difficult as one would think.

Our services were still up and running. The only thing that was different was we wouldn't be there to fix any bugs.

Well-rested & excited

This has had a profound impact on our staff. Through the company, people felt less guilty about not working. Employees came back to work well-rested and pretty excited to swap vacation stories with their co-workers.

As leaders, we've also learned a new way of thinking when it comes to solving workplace dilemmas, and that throwing more money into new perks isn't always the best answer.

(Ariela Safira, CEO, Real, New York)

REAL PROBLEM REAL SOLUTION

■ Helped team members who hit 'pandemic wall'

With the pandemic still trudging on, we knew some employees were hitting the "pandemic wall" – that feeling of complete exhaustion and inability or lack of desire to move forward.

It's similar to marathoners who hit the Runners Wall – when they feel like they can't go on to finish the race.

There's no question the pandemic has been stressful for employees.

In fact, we heard that 70% of employees call this period in their lives the most stressful ever.

And it was only heightened by the stress-reducing opportunities they missed, such as hanging out with co-workers, structured workdays, going out with family and friends and social norms.

We wanted to help our team push through the wall and regain their desire to be productive.

Chance to open up

To do that, we started looking more closely for symptoms of burnout, such as performance issues, missed deadlines, tardiness and abrasive behavior.

If we recognized an employee was struggling, we'd say, "We've noticed X, Y and Z. Is there anything you want to talk about?"

That alone gives workers the opportunity to open up. Then they could explore ways to overcome the wall – either with their manager or another trusted colleague.

If necessary, we'd also remind employees of resources we had to help them deal with stress and improve their well-being.

By being proactive with burnout, we can nip it in the bud before it becomes a bigger problem.

(Terri Patterson, principal, Control Risks, Washington, DC)

**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.

Reopened, but camaraderie is missing: How can HR help?

The Scenario

HR manager Stu Capper walked up to his office, ready to start the day. He was surprised to see CEO Janet Perry waiting for him.

Janet's here way earlier than usual. What's going on? he thought.

"Morning, Stu. I know you'll have some ideas about this," she said, taking a sip of coffee.

"Well, come on in. Tell me what it is and I'll see how I can help," Stu replied, opening his door.

As Stu set down his things and started reaching for his laptop, Janet said, "You know how hard I pushed to get us all back in here again."

"Yeah, I'm pleased with how smoothly it's been going," Stu said.

"But I'm just not seeing the same enthusiasm and teamwork that we had here before the COVID lockdown," said Janet.

Post-pandemic purpose

"Give it time," Stu said. "A lot of these people haven't been in the same building in a long time and they're still re-learning how to relate to each other."

"There must be something we can do to get our people excited again. That's why I came to you," Janet said.

"Great point," said Stu. "So they get back in touch with a sense of value in their roles and meaning in their work."

If you were Stu, what things would you suggest?

Reader Responses

1 Lana Brodersen, HR manager, Fremont Beef Company, Fremont, NE

What Lana would do: For the time being, I'd stick with what Stu told Janet about being patient. I'd wait it out a little longer before jumping in.

Reason: You can try coaching, but team chemistry still needs to be allowed to develop organically. It took some time to get remote collaboration just right. The same will be true with return to work. As long as it doesn't look like a crisis is brewing, it's probably not necessary to take action to boost morale. Our employees are resilient and we have to have faith that our top caliber people will find their groove again. Coming back to work and being out of lockdown is a huge adjustment for everyone, and we need to expect that.

2 Michelle Murdock, administrative coordinator, City of Unalaska, Unalaska, AK

What Michelle would do: I'd mention our organization's efforts to stay connected during the lockdown that were the most well received and use that as a starting point.

Reason: Now that almost all of our people are vaccinated, it could be time to re-introduce social interaction in the workplace. We can take things that we previously did virtually – like potlucks and celebrations of birthdays and other life events – and maybe try them as in-person gatherings. However, it'll be important to make sure everybody follows CDC coronavirus protocols like masks and good hand hygiene. We can arrange chairs to keep people 6 feet apart, spacing them to maintain social distancing. Disposable plates, cups and utensils will be a must.

HR OUTLOOK

■ Maintaining productivity while vacation requests surge

Most workers (92%) canceled or postponed vacations during the pandemic, according to a survey conducted by financial services company Investment Property Exchange Services.

Also, a FlexJobs and Mental Health America survey found three out of four employees experienced work burnout in 2020.

Is it any wonder your people probably have time off on their minds post-COVID?

It's going to take skill to manage employee leave in a way that ensures productivity or morale doesn't drop off.

Keeping balance

Some best practices to consider:

- 1. Extend flexibility.** Because there were travel restrictions last year, employees may have let vacation days lapse. Is it feasible for your company to allow them to recoup unused PTO on an extended timeline?
- 2. Automate the leave management process.** Making an automated system the only method for submitting PTO requests, approval and balance monitoring reduces lobbying with managers for approval because of unique circumstances. And in hybrid work environments, it ensures fair access to requesting leave.
- 3. Require timesheets.** Timesheets can help ensure you're adequately staffed. A digital timesheet keeping option may be included in the same platform as an automated leave management system.
- 4. Periodically evaluate the leave management system.** It may be necessary to make adjustments to accommodate regulatory changes or business realities that require flexibility. Are the changes temporary or permanent?

Info: bit.ly/vacation585