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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.

5 leadership mistakes that make good employees quit

■ How HR can help front-line managers succeed

You have great managers, and no one would ever quit on them – that is, until a manager makes a leadership mistake. Then, you're left scrambling to find a replacement.

Even the best managers make mistakes that compel employees to quit, and losing an employee can have a drastic impact on team morale. It can even cause a turnover domino effect, which is expensive.

You do all you can to keep employees happy on the job, but Jon Christiansen, founder of Insights & Outcomes and principal at Sparks Research, says managers can unwittingly make mistakes that drive

employees to quit.

Here are five big mistakes and how to avoid them.

1. Stifle work

Some leaders hold employees back from doing their best work by not giving them enough resources, information or autonomy.

Maybe employees have to wait for approval – but they could charge ahead if they were permitted. This makes them feel powerless and less respected.

The fix: Consider two things

(Please see Mistakes ... on Page 2)

Report: Pay increases expected in 2022

■ Employers using raises to attract, retain talent

Many workers can expect to see their wages go up in 2022, according to a recent survey by Willis Towers Watson.

On average, executives, management and support employees can all expect a 3% increase in pay next year.

Top talent earns more

The planned 2022 wage increase is even higher than the 2.7% bump workers are seeing this year.

Top performers can expect to see

even higher pay increases, the survey found.

Those working in the tech and pharmaceutical industries will see higher wages as well, while those in the oil and gas and leisure sectors will likely see the smallest increases.

The current talent shortage has not only resulted in employers shelling out higher pay, but other perks such as signing bonuses, referral bonuses and increased flexibility.

Click: bit.ly/payincrease586

Mistakes ...

(continued from Page 1)

when you evaluate job duties and performance: how much control employees have over their outcomes and how much control you have over the constraints on them. Look for ways to increase control and lessen the constraints.

2. Set inconsistent expectations

Managers sometimes create conflicting expectations, and it stresses out employees.

For instance, a leader tells employees quality is priority, yet he rewards employees for quantity. Employees want to hand in great work, but they know they'll reap rewards for handing in more work. This disconnect creates stress and hurts motivation and engagement.

The fix: Managers want to write goals and expectations for employees to see, and check if any contradict

or overlap. Then, changes or clarifications can be made.

3. Assign below capability

Good employees excel, but managers sometimes make the mistake of assuming they're happy doing their current work.

Meanwhile, easy – or too little – work bores them. So the employees might take longer just to fill the time.

The fix: Managers want to talk with stable performers about their interests and more challenging work. Then give them assignments to build knowledge and skills. Include learning opportunities, new goals and a roadmap for growth.

4. Waste resources

Managers sometimes waste time and talent by having employees spend too much time in meetings or on low- or no-priority tasks.

Employees feel like their time and talent could be better used on productive, challenging work, which frustrates them.

The fix: Managers can create lists that rank the importance of employees' tasks based around individual or team goals. Then they can work together to set the right priorities and deadlines based around their workloads.

5. Create the wrong environment

Managers who fail to create the right work environment lose employees. Extremes are dangerous:

- Too harsh. Employees will wither in environments where ideas are shot down with hostility, and aggressiveness is rewarded.
- Too safe. Employees won't thrive if they don't feel some pressure or proof that their work matters.

The fix: Create a healthy work environment by soliciting feedback, responding respectfully and getting input on decisions. Give regular feedback thoughtfully.

Info: bit.ly/mistakes586

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.

■ ADA violation? Depressed worker fired for making threats

HR manager Lynn Rondo was heading to the breakroom for her second cup of coffee when company attorney Eric Bressler caught up with her.

"Hey, Lynn, I'm glad I found you," Eric said as they entered the breakroom. "I wanted to talk to you about Delilah Potts."

Lynn frowned. "How's she doing? I've been worried about her."

"I think she's doing better. She's in intensive therapy," Eric replied. "But she's suing us for firing her."

Safety concerns

Lynn gaped at Eric. "Are you serious? We had no choice!"

"Walk me through what happened," Eric said.

"A few years ago, Delilah was diagnosed with major depressive disorder," Lynn said. "She opened up to me about her struggles and suicidal thoughts, but she was in treatment. She was doing well."

"What happened?" Eric asked.

"She began threatening to kill herself and her son," Lynn said. "We were so worried for her safety and her son's – not to mention the safety of our employees. We had to let her go."

"Delilah is saying the depression made her say those things, and we're violating the ADA by firing her for it," Eric replied.

When Delilah sued for an ADA violation, 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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Racial discrimination? Court rules termination was legal

■ Employee fired for job error, not because of his race

When an employee got into a racially charged conflict with a customer and was fired, he claimed race discrimination.

But a court determined his skin color had nothing to do with his termination.

Heated conflict

Gary Waldron worked at an Ohio Walmart as an Asset Protection Associate. His job was to check customers' receipts on their way out to ensure they'd paid for everything.

Waldron suspected an African-American woman hadn't paid for all of her purchases, and he pulled her aside. The woman had paid for her things, but Waldron incorrectly read the receipt and claimed she didn't. A heated conflict ensued, and the police

were called. Ultimately, it was determined the woman had paid for everything.

The woman posted online about being racially profiled at the store and called for a protest. Walmart then fired Waldron for the incident.

Waldron sued for race discrimination, claiming he was fired because he was white. But a district court disagreed.

The court said Waldron made an error on the job, and that's why he was fired. Furthermore, Waldron couldn't prove that non-white employees at Walmart were treated differently than him in a similar situation. His race discrimination claim had no merit, the court ruled.

Cite: Waldron v. Walmart, 8/3/21.

Employee fired for performance, not because of sexual harassment complaints

■ Court found no evidence of retaliation

It's always tricky to let an employee go after they've engaged in protected activity.

But a recent lawsuit shows if an employer has a legitimate reason for dismissing the employee, they can beat retaliation claims.

Unprofessional conduct

Meghan Gharadaghian-Riccio worked as a yoga instructor at DMB Sports Club in Arizona. She went to HR complaining that a member of the gym was sexually harassing her.

Not long after filing the report, management began receiving complaints about Gharadaghian-Riccio's performance and professional conduct. HR had a discussion with

Gharadaghian-Riccio and placed her on a performance improvement plan (PIP).

Gharadaghian-Riccio wasn't happy about the PIP and complained. She was later fired for performance problems and insubordination.

Gharadaghian-Riccio sued for retaliation, claiming she was really fired for her initial sexual harassment complaint, but a district court sided with the company.

It said the gym had legitimate concerns about her performance, and it properly documented her decline. The harassment complaint had nothing to do with her firing.

Cite: Gharadaghian-Riccio v. DMB Sports Club, 8/2/21.

■ Sex discrimination, retaliation costs company \$150K

Refusing to hire women for a certain position will likely attract the EEOC's attention – and result in a costly payout.

Nashville-based NDI Office Furniture LLC was sued by the EEOC for sex discrimination and retaliation.

According to the lawsuit, a woman tried to apply for a position in the company's warehouse, but was told by management that they didn't hire women for the warehouse. When the applicant complained to the company's president, her son, an employee there, was fired.

This is a violation of the Civil Rights Act.

NDI will pay \$150,000 to settle the lawsuit and must conduct anti-discrimination training with its employees.

Info: bit.ly/retaliation586

■ Employer owes \$37K for rejecting disabled applicant

When a company interviewed a disabled employee and falsely told him the position was already filled, the EEOC stepped in.

Crothall Healthcare, a laundry service located in Atlanta, violated the ADA while interviewing candidates.

One candidate was deaf and had cerebral palsy. He came to the interview with a sign language interpreter, and told the company he'd need a stool as an accommodation while he worked.

But Crothall dismissed the disabled candidate, claiming the position had already been filled. The company then went on to hire several dozen non-disabled people for the same job.

The company will pay \$37,500 to the rejected candidate to settle the lawsuit.

Info: bit.ly/disabled586

ANSWERS TO TOUGH HR QUESTIONS

HR professionals like you face new questions every day on how to deal with workplace conflict and employment law. In this section, experts answer those real-life questions.

Can those fired for refusing vaccine get unemployment?

Q: We're requiring all of our employees to get the COVID-19 vaccine. If we fire someone for refusing, can they collect unemployment?

A: No. Generally, if an employee is fired for violating a company policy, they can't collect unemployment benefits, say employment law attorneys Diane Seltzer of The Seltzer Law Firm and John Harrington of The Employment Law Group.

Unemployment payments are for employees who lose their jobs because of mass layoffs or business closures. Violating company policy doesn't fall under this umbrella.

It doesn't matter that it's a vaccine policy. An employee could be fired and denied unemployment for something as simple as refusing to follow the dress code.

What's the best way to address workplace bullying?

Q: We've become aware of some conflicts between employees and

are worried it's escalating to bullying. What's the best way to address and prevent this?

A: One in three employees have experienced bullying at work, but only 3% of companies have policies specifically about bullying, says employment law attorney LaToya Merritt of the firm Phelps Dunbar LLP. So it's important to make an anti-bullying policy.

One thing you'll definitely want your policy to cover is bullying on social media.

Make it clear employees are not permitted to post anything negative about co-workers online. If your employees work with the public, you can add a section about these same terms applying to customers.

Also make sure you list the protocol for filing bullying complaints against colleagues.

For example, an employee could take their complaint to their manager or HR.

The manager would take notes on the situation, then have the employee review and sign the complaint. Documentation of bullying incidents is key.

How do we stop employee pushback about masks?

Q: COVID-19 numbers in our area are looking bad again, and our company wants to reinstate a mask mandate – but we're afraid we're going to get a lot of employee resistance. How should we handle this?

A: Pushback, while frustrating, is understandable, says employment law attorney Anthony Mingione of the firm Blank Rome – so communication is key.

Explain to your employees how bad the cases are in your area and why you're concerned. Reinforce that even vaccinated people can still spread the virus.

It'll help to talk up the positives of masking, like higher levels of safety and trust in the workplace.

Also, don't be afraid to discipline those who refuse to follow the mask mandate. It's important for everyone to know that you're taking this very seriously.

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 Delilah's ADA lawsuit.

Delilah's attorney tried to argue the company violated the ADA because Delilah only made those threats due to her diagnosed depression. The company was aware Delilah had mental health struggles and should've tried to accommodate and assist her before termination.

The court disagreed. It said the company had supported Delilah when she was first diagnosed with her depression, and showed no bias against her and her condition.

The court went on to say that Delilah's threats were

severe, and the company was rightfully concerned about workplace safety. Threats of violence, no matter by whom they're made, are a legitimate reason to fire someone.

The company didn't violate the ADA, the court ruled.

■ Analysis: Threats of violence aren't protected

This case goes to show that threats of violence don't ever have to be tolerated in the workplace – even if a person's disability is the reason behind the threats. Workplace safety always comes first.

Courts will generally side with employers who act reasonably after a threat has been reported.

Cite: *Todd v. Fayette County School District, U.S. Ct. of App. 11th Circ., No. 19-13821, 5/27/21. Fictionalized for dramatic effect.*

Rewarded employees for using healthcare cost transparency tools

■ Encouraged workers to save, earn money

Even when we explained how it saves money, employees weren't shopping around on their own for the most affordable, high quality healthcare practitioner or facility.

It's like that old adage: You can lead a horse to water, but you can't make it drink.

But then our health plan rolled out cost transparency tools (websites and mobile apps) to help our people make value-based healthcare decisions.

We also teamed up with our health plan to spread the word about a powerful incentive for our employees to use those tools.

Cash back

The transparency tools shine a light on what our people are likely to pay for healthcare services, as well as the quality of care they can expect to receive.

For example, they can compare what it'll cost for important preventative screenings, such as a colonoscopy or mammogram, at different local providers before they make their selection.

When our employees engage with the transparency tools, and they utilize a low-cost, high-quality provider for their procedure, the health plan keeps track of that and gives them a monetary award.

That check our people get for using cost transparency tools says: "Thank you for wisely spending your healthcare dollars. Thank you for saving yourself money and thank you for saving our health plan money."

Word of mouth

As soon as our employees get that check for using transparency tools,

they tell their families about it.

Then the best part – they tell their co-workers about getting paid for shopping around to find the best prices on healthcare services.

Word of mouth spread fast. 'Hey, did you guys know you have this really cool tool to save money on healthcare? And when you use it, you get money in your pocket?'

Since everyone could use a little extra cash, that got people's attention and led to increased engagement with the transparency tools.

This is a great thing, because going forward, healthcare cost transparency is going to become more of a requirement than an option. Now, we'll all be ready.

Educated decisions

Case in point: Congress came up with the "No Surprises Act" to control surprise medical billing.

There's also the "Transparency in Coverage" Final Rule, which is in the Federal Register, that requires hospitals and most group health plans and issuers to publicly disclose price and cost-sharing info.

By implementing the cost transparency tools and offering the incentive program, our employees are making educated, cost-conscious decisions about their health care, which saves us money in the long run and is best for our employees' health.

(Honor Dundore, benefits director, Sinclair Broadcast Group, as presented during the webinar "Annual Enrollment 2022: Benefits for a Recovering Workforce")

REAL PROBLEM REAL SOLUTION

■ How we're rebuilding trust in the workplace

With so much time away from the office during the height of the pandemic, we felt like our people grew apart.

That could be detrimental in a collaborative workforce like ours. If employees had lost trust and respect for each other, we'd be unable to complete our key functions.

We knew we had to strengthen our staff's connection immediately.

3 tactics that work

Trust between managers and employees can help everyone get through uncertain times with a higher level of ease and much less stress.

We wanted to help rebuild trust among teams and departments.

So, we encouraged everyone to:

- **Show up authentically.** One way was to give timely responses to colleagues. It shows you listen, even if it's a brief comment on a thread within your communication app or an email that says, "I'm looking into this." Let people know they're a priority.
- **Be conscious of where you show up.** Relate to people in the environment they're working or comfortable in. Some rules that apply on-site – such as social distancing – aren't necessary for virtual meetings, and some virtual rules aren't necessary for in-person meetings.
- **Be transparent.** It's just as important to tell others what you don't know or don't have as it is to tell them what you know and have. Honesty and transparency amongst co-workers can only help strengthen teams.

Overall, these approaches have worked really well for us.

(Jo McRell, diversity & inclusion lead, Facebook, shared this success in an HRMorning.com masterclass)

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.

HR can't find enough candidates: How will open jobs get filled?

The Scenario

HR manager Stu Capper was getting ready to leave for the day when he noticed department manager Shelby Mittman briskly walking behind him to flag him down.

"Stu, we're swamped," she said. "Has there been any progress on getting some new hires in here?"

"The word's out there that we're hiring, Shelby, but the labor market's a little out of whack right now and we're not seeing many qualified applicants yet," Stu said.

Staffing shortage

"I don't mind training someone," Shelby said. "We're struggling to keep up with customer demand.

What's going on? Don't people want to work?"

"It's complicated," Stu replied. "The pandemic forced a lot of women to stop working to take care of children or family members.

"And some people are reluctant to start a new job because they're afraid of getting COVID in an unfamiliar workplace."

"But the cleaning and disinfecting procedures here are the best in the business. Can you put that in the ads? I'm starting to get desperate," said Shelby.

Am I going to have to start calling my recruiter contacts? Stu wondered.

If you were Stu, how would you help fill the vacancies in Shelby's department?

Reader Responses

1 **Debbie Bradford, HR manager, The Cigarette Store Corp., Boulder, CO**

What Debbie would do: If a dry talent pool continues to affect staffing in Shelby's department, we may have to consider adjusting hours of operation so that the precious few people we have don't get burned out.

Reason: It's so hard to find people who want to work right now that even recruiters would have a tough time finding candidates. Another contributing factor for the tight labor market that Stu didn't mention is many people are living comfortably on COVID-related unemployment benefits and relief payments. When those benefits eventually expire, there'll be more prospective employees. Also, public officials told everybody to stay home last year for their own safety and some people are

still not feeling confident enough to leave their homes to work a job that requires them to be there in person every day.

2 **Patti Beane, HR manager, Special Event Production Inc., Clemmons, NC**

What Patti would do: I'd launch a campaign by emailing our employees to let them know we're hiring and to recruit anyone they know – friends, neighbors, family, etc. – to come work for us. There would be a "hiring bonus" monetary reward for any employee who recommends someone to us that we hire.

Reason: Although I do sometimes use *Indeed.com*, authentically positive word of mouth from our employees about our benefits and work environment is still the best recruiting tool I have. Plus, the extra money is a good incentive for our people.

HR OUTLOOK

■ Keys to understanding how different employees work

Inspiring an age-diverse employee population to work toward a common goal can be a challenge for HR.

For instance, there may be differing attitudes about leadership within your workplace, depending on the generational makeup of your team.

It may require you to adapt your leadership skills to fit the various motivational styles of your employees.

Who responds to what?

While millennials may thrive on feedback and mentorship opportunities, a boomer may associate leadership with a top-down hierarchy – and prefer to interface with management only if there's an issue.

The youngest members of the workforce – gen Z – tend to respond best to self-direction within the workplace and are less likely to observe a chain of command.

To convey to these very different people how important they are:

- be in tune to the different generational mindsets while avoiding age discrimination
- listen to the opinions of individual employees
- ensure everyone on your team receives the same opportunities
- ensure everyone on your team has access to the tools they need to succeed
- articulate the meaning of each employee's work and communicate how it impacts the organization, your customers and the world around them
- encourage collaboration, and
- allow employees with the right aptitude to lead on their own.

These strategies can help boost trust in company culture and bolster morale and job satisfaction.

Info: bit.ly/lead586