

SEPTEMBER 14, 2021

WHAT'S INSIDE

- 2 Sharpen Your Judgment**
Employee fired for being too short: ADA violation?
- 3 Employment Law Update**
Is creating part-time job a reasonable accommodation? Court says no
- 4 Answers to Tough HR Questions**
Can I use other examples to write job descriptions?
- 6 What Would You Do?**
Performance reviews were delayed, and employees are asking questions

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.

Burnout isn't going away: 4 ways HR can help staff

■ *Focusing on well-being in the workplace*

Return to the office doesn't necessarily mean a return to normal. Employees are still stressed, and burnout isn't going away.

"While many employees have been inoculated against COVID-19, they are not protected from exhaustion, burnout and the additional stress of returning to the office," says Dr. Andrew Shatte', chief knowledge officer and co-founder at meQuilibrium.

Sure, some employees are glad to get back to work. But many are still overwhelmed. They have more responsibilities at home, the same work stress and COVID-related fears.

"The physical and mental

ramifications of the pandemic may linger," says Shatte'.

But HR pros and front-line managers can help employees handle stressors and stay ahead of burnout.

Here are four ideas.

1. Help build resilience

"Resilience is like a muscle. It can be strengthened," says Shatte'. "Those with high resilience are less likely to suffer burnout from increased work stress, and less likely to quit their job."

So it pays to help employees build

(Please see Burnout ... on Page 2)

Bill to require paid leave for pregnancy loss

■ *Support Through Loss Act aims to help those struggling to have kids*

In the near future, employers may be required to give workers who experience challenges while trying to grow their families paid time off to deal with grief.

This bill, called the Support Through Loss Act, was introduced in July.

Establish new benefits

Congresswomen Ayanna Pressley (MA-07) and U.S. Senator Tammy Duckworth (D-IL) created this bill to raise awareness about pregnancy loss and establish new paid leave benefits

for these workers.

Specifically, the Support Through Loss Act would:

- require firms to provide at least three days of paid leave for workers to deal with grief following a pregnancy loss, a failed adoption, a failed surrogacy or an infertility diagnosis, and
- provide the National Institutes of Health \$45 million a year for federal research into miscarriage and pregnancy loss.

Click: bit.ly/loss587

Burnout ...

(continued from Page 1)

resilience. In fact, one study found companies that offered a resilience program almost immediately increased productivity.

With resilience, employees tend to adapt and recover quickly after stress, adversity or tragedy.

A few ways to help:

- **Connect.** Give employees time and resources to build relationships. The support they gain through working together professionally and knowing each other personally helps them get through difficult times.
- **Share meaning.** Make sure employees know the meaning behind their work. Talk about the positive effects they have on the company, customers and community.
- **Teach them to plan, review.** Help employees anticipate problems and figure out what needs to be

done. Emphasize the need to make plans so they can take action when something goes awry. Encourage employees to review what went well, and why, so they're prepared for other stressors and setbacks.

2. Talk about problems

If employees know about change well before it happens, they're more likely to accept and adapt. Sometimes that means you need to tell employees about issues that require change. Problem is, many leaders don't want to expose problems.

But you don't want to underestimate employees: If they know about issues, they might be able to solve them.

What's more, if you involve them in root cause analysis and problem resolution, you can help them develop better problem-solving skills.

3. Encourage time off

Even after traditional vacation season, employees who are already stressed just aren't taking time off.

The volume of work is rising without an increase in new workers – so the current workforce is under immense pressure.

Leaders need to set the standard and take vacation seriously. Don't send or expect emails. Disconnect completely. Then, when you're back, talk about the benefits of getting away so employees feel comfortable disconnecting too.

4. Keep focusing on well-being

Bottom line, employees still need to address their total well-being so they can avoid work burnout.

HR managers can't force employees to use tools and resources you offer, but the more you promote what's available, the more likely employees are to use it.

Try a regular campaign to promote telehealth, counseling services, exercise and meditation options.

Info: bit.ly/burnout587

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.

■ Employee fired for being too short: ADA violation?

HR manager Lynn Rondo looked up from LinkedIn to see company attorney Eric Bressler standing in her doorway.

"Hey, Lynn," he said as he walked into the office and sat. "We need to talk about Liza Miller."

"Why?" Lynn asked. "Things weren't working out so we let her go."

"And now Liza's suing for disability discrimination," Eric said with a frown.

No accommodation required

"What?" Lynn asked. "Liza isn't disabled."

"She says her height is covered under the ADA," Eric said, "and you refused to accommodate her."

Lynn sighed. "Liza is very short, yes. But she doesn't have an ADA condition. We aren't required to accommodate her."

"What accommodation did she want?" Eric asked.

"She wanted a step stool at her work station, but that could create a tripping hazard. When Liza continued to give me a hard time about it, I let her go," Lynn said.

"Hmm, seems like a bit of a gray area," Eric said. "Liza might have a case, but if you're sure the accommodation wouldn't have worked, we need to fight this."

When Liza 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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Is creating part-time job a reasonable accommodation? 4th Circuit says no

■ Disabled employee could only work 30 hours a week

What happens when a worker's disability limits the number of hours they can work?

In a recent case, a court decided companies aren't obligated to adjust full-time positions into part-time ones.

Job share arrangement

Janet Perdue worked as a pharmaceutical sales rep at Sanofi-Aventis in South Carolina.

She was later diagnosed with a brain tumor, which affected her ability to walk and see. After the tumor was removed, Perdue's doctor said she was only able to work a maximum of 30 hours a week.

The company had a flexible work policy, which included the potential for a job share arrangement. Perdue requested to split her job duties with

another employee as a reasonable accommodation under the ADA.

The company considered Perdue's request, but ultimately denied it due to concerns about Perdue's job share partner's competency. Sanofi-Aventis offered other accommodation options, but Perdue rejected them. She then sued for an ADA violation.

But the 4th Circuit ruled in favor of the company. The court said the company did its part by considering Perdue's job share request, but it wasn't obligated to grant the request if it would put a burden on the company.

Employers aren't obligated to create or heavily modify positions, even for disabled employees.

Cite: Perdue v. Sanofi-Aventis LLC, 6/8/21.

Court ruled employer could stop employee from bringing emotional support dog to work

■ Dog wasn't classified as a service animal

Does it violate the ADA if an employer denies an employee's request to bring a support animal to the office?

A recent court case addressed that very question.

Anxiety attacks

Nicholas Conlan worked as a marketer for Costco in Montana. He traveled often for his job, and requested to bring his dog with him. Conlan had anxiety attacks and migraines, and he claimed he'd trained his dog to recognize the signs of an attack and to alert others to get help.

Costco asked Conlan to get a note from his doctor, but when he did, the doctor referred to the animal as a

"companion dog," not a service dog.

Conlan began bringing his dog to work before receiving permission to do so. His employer questioned the severity of his anxiety, since Conlan had no work restrictions, and ultimately denied his request. Conlan sued for an ADA violation.

But a court agreed with the company. It said Conlan's anxiety wasn't covered by the ADA because he had no work restrictions and his own doctor didn't classify the dog as a service animal.

In this case, the employer wasn't required to allow emotional support animals at work, the court said.

Cite: Conlan v. Costco Wholesale Corp, 6/9/21.

■ Racial harassment lawsuit costs company \$420K

A few instances of racial bias is bad enough, but when one company continually harassed African American employees, the EEOC made it pay.

Texas-based construction company CCC Group, Inc. was sued by the EEOC for racial harassment after several shocking incidents.

According to the lawsuit, white supervisors made several racist comments toward African American employees over a company radio channel, which everyone heard.

Even worse, another manager tried to put a noose around an African American employee's neck, then later bragged that his family owned slaves. This is a violation of the Civil Rights Act.

CCC Group will pay \$420,000 to settle the lawsuit and must also conduct anti-harassment training.

Info: bit.ly/harass587

■ Employer pays \$150K for failure to accommodate

Here's a tip from the EEOC: If a disabled employee requests an accommodation, it's best not to automatically refuse it.

CACI Secured Transformations, located in Baltimore, was sued by the EEOC after refusing to assist a disabled employee.

The worker was transferred to a new location, but that aggravated her disability. According to the lawsuit, when she requested to be moved back to her old location as a reasonable accommodation, the company refused. It then fired her, which is a violation of the ADA.

CACI Secured Transformations will settle the case by paying the employee \$150,000 in monetary relief. The company is also required to post employees' ADA rights in the workplace and report accommodation requests to the EEOC for two years.

Info: bit.ly/ADA587

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 I use other examples to write job descriptions?

Q: I'm new to writing job ads and I'm struggling a bit with what to include. Can I look at examples and use those as a template for my own postings, or is that considered a faux pas?

A: The impulse is understandable, but I'd advise against this, says management expert and author of *Ask A Manager* blog Alison Green.

The bigger concern is getting in trouble for plagiarism, but another compelling reason not to do this that most job ads are written badly! So many postings out there are boring and too tightly-packed with information. No candidate wants to read a dense job ad.

Here's a trick for writing better job descriptions. Pretend as if you're writing an email to a friend or co-worker describing what the job involves.

Another trick is pretending you're writing a memo to your boss, proposing a new position and explaining what the employee would do in this role.

The most effective job descriptions are written in plain

language that anyone would be able to easily read and understand.

How can we get our workers to disconnect?

Q: At our company, we have quite a few employees who have trouble disconnecting from work after hours. How can we encourage them to do so?

A: The pandemic and rise of remote work has certainly blurred the line between work and home, which can result in employees overworking themselves, says employment law attorney Imogen Dean of the firm Dentons.

The best way to encourage employees to disconnect is to create some kind of policy or code of conduct. Here are three keys it should include:

- workers are entitled to not perform work outside of their normal working hours
- workers won't suffer consequences for refusing to attend to work matters outside of their normal working hours, and
- workers and employers will

respect their colleagues' 'right to disconnect,' including not responding to work calls or emails while they're off the clock.

Do we have to pay for mandatory COVID testing?

Q: If we're requiring our employees to get tested for COVID-19, do we have to pay for it?

A: While you should check local laws, the EEOC's guidance suggests that employers may have to pay for mandatory COVID tests.

While this guidance pre-dates the pandemic, the EEOC stated that if an employer requires a worker to undergo a health visit, the employer must pay all costs associated with the visit. A mandatory COVID test could fall under the umbrella of a required health visit.

It's important to note the U.S. Department of Health and Human Services has a listing of free COVID testing sites.

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 Liza's ADA lawsuit.

Liza's attorney tried to argue that her height was an ADA-protected disability, and the company was required to accommodate her. Firing Liza instead of looking for a reasonable accommodation was a violation of the ADA.

But the court disagreed. It said Liza's height alone wasn't an ADA-qualifying disability, so the company wasn't obligated to accommodate her. Liza couldn't prove that her short stature had anything to do with a physiological disorder or impairment, so she wasn't protected under

the ADA.

The company also didn't perceive Liza as being disabled, so the ADA didn't come into play at all. Case dismissed.

■ Analysis: Features in 'normal range'

This case goes to show that just because an employee might look different doesn't mean they qualify as disabled under the ADA.

The EEOC states that potential "impairments" don't include "physical features such as height, weight or eye color" that are still within a "normal range" and not the result of a "physiological disorder."

Liza was short, but still in this "normal range."

Cite: Colton v. FEHRER Automotive, U.S. Crt of App. 11th Circ., No. 20-12039, 7/21/21. Fictionalized for dramatic effect.

Mentoring program, individualized rewards ensure low turnover rates

■ Building strong working relationships boosts retention

We wanted to make sure our retention rates stayed well-below the industry average.

After all, when turnover becomes an issue, it often results in a domino effect of problems that can eventually lead to disaster.

So we created a unique benefits program that really helps set our company apart from the competition.

Two of the major areas of our benefits focus:

- mentoring, and
- individualized rewards.

Besides their boss

Our one-to-one mentoring program teams up new employees (all full-time new hires are automatically enrolled for the first year) with a mentor based on the staffer's interests, as well as his or her position at the company.

Mentors answer a battery of questions on topics such as their own past mentors, communication styles and learning goals.

Then their responses are checked with new hires' interest forms, and mentors are assigned accordingly.

The mentoring program consists of an enrollment period, a kick-off event and bi-monthly mentoring meetings.

Plus, there are bi-quarterly meetings just for mentors, so they can discuss how the program is going and what else they can do.

Mentoring gives new hires several advantages. For one, it gives staffers someone besides their boss they can ask about cultural nuances and unwritten rules of the company.

But it also helps new hires find their niche more quickly. Example: Some employees rely on their mentors

to learn about a specific department they hope to be promoted into – or new skills or training they'd like to develop.

Meaningful recognition

In addition to mentoring, we're very big on individualized rewards.

On the surface, our system is pretty simple: When employees do something that warrants some type of recognition, we reward that person in a manner that's individualized to connect with that person's unique interests.

Here are some examples of individualized rewards we've given in the past:

- One employee was extremely passionate about the Beatles, so the reward was an autographed photo of Paul McCartney, and
- In response to one staffer's love of "big events," we got her tickets to the Grammy Awards.

Not only does this type of recognition work wonders for employee morale, it also forces supervisors to really get to know their employees.

This in turn creates stronger working relationships.

Above industry marks

We fully believe that our mentoring and individualized rewards program have helped keep our retention rate well above the industry average.

And our dedication to employees got us named as one of the best small and medium workplaces by *Fortune*.

(Cydney Koukol, chair of corporate global branding, Talent Plus Inc., Lincoln, NE)

REAL PROBLEM REAL SOLUTION

■ Creating a successful return-to-work plan

When it was time to come back to the office after working from home for so long because of the pandemic, employees expressed mixed feelings.

Some were excited. Some hated the idea. Some were on the fence.

We wanted to address all these different emotions and ensure everyone was comfortable as possible with the transition.

So, the first thing we did was poll our people to see who wanted to come back, and when. They really appreciated us asking their input – it made them feel in control of the situation.

Then we opened up our office, letting those who were ready to come in do so when they wanted.

But we knew we needed a more long-term plan as well.

People have a say

So, we set out clear options. When we reached 75% capacity, employees could choose their ongoing work plan:

1. work fully remote
2. get a dedicated desk at the office, or
3. reserve a temporary desk on-site and work from home other days, which came with a stipend.

Most employees opted for the third option, so they get the best of both worlds.

They can work from the comfort of their homes some days, and come into the office for a more social environment other days.

So far, this plan has been able to satisfy everyone's work preferences while keeping them productive. Our people were really grateful for having a choice in the matter, too.

(Diana Marchese, head of people experience, Snyk, Boston, shared this success in the *Wall Street Journal*)

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.

Performance reviews were delayed, and employees are asking questions

The Scenario

HR manager Stu Capper was heating up his lunch in the breakroom when employee June Anderson came in.

"Hey, Stu," she said as she filled her water bottle. "I'm glad I caught you, actually. I had a question."

Stu still had three minutes left on the microwave. "Sure, June. What's up?"

"I wanted to ask you about my performance review," she said. "I was supposed to have one in April, which is when my company anniversary is, but now it's September and I still haven't heard anything."

Stu frowned. "Sorry to hear that, June. I haven't been contacted by your manager about it, so I assumed

it'd been delayed."

"But I was supposed to be getting a raise, too," June said. "And now I've gone almost six months with my old pay."

Not a priority?

"I'll contact your manager about this right away," Stu said. "I'm sure COVID and return to work plans is the cause for the delay."

"We've been back in the office for a few months now," June pointed out. "How much longer can COVID be used as an excuse? It just feels like the company isn't making us a priority. I know a few other employees feel the same way."

If you were Stu, what would you do next?

Reader Responses

1 Elizabeth Brady, HR specialist, RTI Consulting, Washington, DC

What Elizabeth would do: I'd look deeper into this to see why reviews didn't happen, when we can expect for them to happen, and if there is the possibility for pay raises. The employees are clearly looking for answers, so I'd send out a companywide email addressing this issue, and invite them to ask further questions.

Reason: Legally, the company isn't under any mandate to conduct performance reviews, but employees have come to expect them, and it's bad for morale and retention to suddenly stop. I'd be as transparent with employees as possible and be honest about why reviews were delayed, and if raises weren't on the table, I'd tell them that.

2 HR manager from a media company in the Northeast, name withheld upon request

What she would do: I'd reassure June that we were doing all we could to get the reviews going, and I'd start sending her updates on the process. I'd also reach out to June's manager and see if we could get the process going with an informal review. Since June mentioned other employees were concerned too, I'd take the opportunity to send out a companywide email addressing the review concerns and apologizing for the delay.

Reason: Employees may not understand all that goes into the review process behind the scenes, but they deserve to be kept in the loop. Oftentimes, hearing nothing upsets the employees more than a simple "Sorry for the delay" email. Communication and transparency can do wonders to reassure people.

HR OUTLOOK

■ How to spot and stop toxicity in your workplace

Companies need more than a talented group of employees to succeed – they need to provide a quality work environment for their people.

Unfortunately, that's easier said than done. Workplaces can become toxic if leaders aren't vigilant.

Warning signs

According to Carol Sankar, founder of leadership firm The Confidence Factor, there are warning signs of toxicity to watch out for. They include:

- a lack of diversity and inclusion
- a "boys' club" feeling
- a bad/unpopular manager
- poor communication
- lots of gossiping, and
- a high turnover rate.

These issues can have serious consequences if not addressed. Employees' mental health can take a big hit. Burnout, physical illness and trouble sleeping are other side effects of a toxic work environment.

What you can do

The good news is, you don't have to stand idly by. Sankar has some solid steps you can take to resolve toxicity at work.

Encourage employees to report harassment, abuse or bullying that they've experienced or witnessed. Reassure them that the process is easy, safe and confidential.

It's important to tell employees you need honest feedback in order to make the work environment more comfortable for everyone.

Evaluate your managers and see if any of them could be contributing to the negative work environment. Check any past employee complaints about these leaders. If you allow poor managers to stay, employees will continue to leave.

Info: bit.ly/toxic587