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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.

5 post-COVID rules for workplace communication

■ Adapting for today's realities

The pandemic changed nearly everything – workplace communication included.

The old rules of communicating at work don't need to be thrown out. But how we interact with employees, bosses and co-workers isn't like it used to be.

Confusing communication

"None of us today needs a linguistic degree to know that the ways we communicate meaning today are far more confusing than ever," says Erica Dhawan in her book *Digital Body Language: How to Build Trust and Connection, No Matter the Distance*. "Contemporary communication

relies more than ever on how we say something rather than what we say."

So while you don't need hardcore rules on communicating, you want to share guidelines that reflect how people go about business now.

Dhawan suggests you try the following.

1. Make reading top priority

"Reading carefully is the new listening," Dhawan says.

We talk less and write more at work these days. Most communication

(Please see Rules ... on Page 2)

Biden hands down COVID-19 vaccine mandate

■ Companies with 100-plus employees must comply

If your company has more than 100 employees and you don't already require the COVID-19 vaccine, get ready to change your policies.

President Biden recently announced that the DOL is developing a rule to require companies with 100-plus workers to ensure every employee is vaccinated – or require them to have weekly COVID tests.

Mandate purpose

The vaccine mandate's primary purpose centers on protecting

the workforce from unvaccinated employees. The mandate also aims to combat the Delta variant and improve overall U.S. vaccination rates.

The CDC reports that 75% of American adults have received at least one dose of the vaccine – but community transmission is still high.

In addition to the DOL rule, OSHA is creating a rule that requires employers to verify their workers are vaccinated and/or mandate employees get tested for COVID-19 weekly.

Click: bit.ly/mandate589

Rules ...

(continued from Page 1)

is through email and messaging apps. Problem is, people tend to skim or search when they read on screens. That can lead to more misunderstandings and miscommunications than in a conversation.

Conscientious reading needs to be a new priority. You don't want to sacrifice thoroughness for the sake of speed. Instead, take time to soak in all the relevant points and questions.

2. Make written words count

On the other side of the thorough reading coin is conscious writing. More messages than ever are relayed via the written word. Make yours count.

A dropped word or forgotten punctuation can doom a message. That's why it's critical to proofread before you send.

Also, bold the text or use bullets so people understand what's most important and your expectations.

3. Dial for effectiveness

An effective phone call can prevent confusion, miscommunication and time-sucking email exchanges.

Instead of asking one tiny question after another in writing, you can formulate the right questions and answers in a phone call. Call others when you:

- receive a confusing message
- need to address a sensitive subject, or
- want to build goodwill.

4. Set a schedule

With so many workplace communication channels buzzing at us all day, it's tempting to respond immediately as you would if you were chatting.

But that's not effective. Most messages don't need immediate responses. You'll likely give more thorough responses if you take time to let information or questions set in. Then you can formulate the right answer.

Schedule time to check and respond to communication so you aren't interrupted and distracted all day. You might even set a standard for communication responses on your team. For instance, phone calls returned within two hours, email responses within 36 hours and Slack responses within a day.

5. Find your voice, accept others

Your communication style will evolve. Just try to stay consistent – and be understanding of others' style.

"There isn't a better or worse way of communicating between emojis and bullet points. The key for leaders is to create a digital environment that encourages a range of communication styles, so that everyone can engage authentically," Dhawan says.

Info: bit.ly/comm589

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.

■ Is one stray comment enough to prove age discrimination?

HR manager Lynn Rondo was putting up some Halloween decorations when company attorney Eric Bressler walked into her office.

"Nice bats," Eric said, pointing to the windows.

"Are you here to help me decorate?" Lynn asked.

"Unfortunately, no." Eric sat down. "We need to talk about Sara Linton."

Lynn sighed. "I thought that case was over with. A trial court dismissed it."

"Sara appealed, and that court ruled in her favor," Eric said.

Had sway over manager

"This is crazy," Lynn said. "It wasn't age bias! Sara just wasn't a great employee. Lena was a little less qualified for the promotion, but still a solid candidate."

"Lena was also much younger," Eric pointed out. "And Sara claims someone made a comment about preferring someone younger for the promotion."

"I know who made that comment," Lynn said. "And he had no part in the decision-making process."

"Sara claims he's friends with her manager, though," Eric said. "He may not have had official sway, but he still could've had an influence on the decision."

When Sara sued for age bias, 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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Court allows gay firefighter to sue city for hostile work environment

■ Employee was pressured to conform to gender stereotypes

Pranks and trash-talking can be the norm in some workplaces – but at what point does it amount to illegal harassment?

A court recently drew that line when a gay firefighter sued his department.

‘Longstanding custom’

James Mundo, a married gay man, worked as a firefighter for the City of Chicago. During his time there, Mundo said it was an “anti-gay” environment, and there was a “heterosexual mentality” for male firefighters. Since Mundo wasn’t the stereotypical male firefighter, he claims he was discriminated against.

He transferred to the internal affairs division, where he had a female supervisor. She pressured Mundo to

conform to the masculine firefighter stereotype. The supervisor went so far as to undress in front of him and proposition him. When Mundo did not accept her advances, she threatened to send him back to the field where he’d probably face worse harassment.

Mundo sued the city for sex discrimination in the workplace. To hold the city accountable, Mundo had to prove there was an “official policy” that encouraged this harassment.

A court allowed Mundo’s case to proceed when he proved the department had a longstanding custom of “allowing its members to embarrass and discriminate” against gay and gender-nonconforming firefighters. The case is ongoing.

Cite: Mundo v. City of Chicago, 8/3/21.

Employer lands in court after denying worker time off to take care of sick kids

■ Boss said the kids were the ‘wife’s responsibility’

It was bad enough when an employer told a worker he couldn’t have time off to take care of his sick kids. It got worse when the employer added gender discrimination into the mix.

Here’s a breakdown of what happened.

‘Don’t complain again’

Mark and Jennifer Newman, a married couple, worked for Kerr County Sheriff’s Office in Texas.

When their children became ill, Mark tried to take leave in order to care for the kids. His request was denied.

Jennifer went to their sheriff to complain, and he told her that it

was her responsibility to take care of the sick kids, not her husband’s. The sheriff then told Jennifer if she complained again, she’d be fired.

The Newmans sued for sex discrimination. The county tried to argue that Mark was denied leave because he was needed to testify in court that day and no one could take his place.

However, the court disagreed. It said the sheriff’s comment about the kids being the wife’s responsibility were an example of sex discrimination, and the sheriff threatening to fire Jennifer if she complained was clear retaliation.

Cite: Newman v. Kerr County, 9/7/21.

■ Company settles sexual harassment suit for \$125K

One restaurant continually harassed its female employees, and the EEOC taught it an expensive lesson.

Liberty Warehouse, a popular wedding venue in Brooklyn, NY, was sued by the EEOC for sexual harassment and sex discrimination.

According to the lawsuit, the venue’s head chef frequently harassed the kitchen staff by touching them, making sexual comments, throwing objects at them and belittling them.

The chef also offered the women raises only if they’d have sex with him. One employee who refused was eventually fired. Liberty Warehouse knew about this behavior and didn’t put a stop to it, which violates the Civil Rights Act.

The venue settled the lawsuit and agreed to pay \$125,000 to the employees in back pay and emotional distress.

Info: bit.ly/sexharass589

■ Racially hostile work environment gets biz sued

A company’s repeated and severe racial harassment caught the EEOC’s attention and landed it court.

Pennsylvania-based company Coastal Drilling East, LLC was sued by the EEOC for a racially hostile work environment.

According to the lawsuit, an African American employee was repeatedly harassed for his race. Some of the behavior included being handed a noose, the open display of nooses and the continued use of racial slurs.

One of the harassment participants was the employee’s direct supervisor. Higher-ups were aware of the harassment and did nothing to stop it. This is a violation of the Civil Rights Act.

This lawsuit is currently pending.

Info: bit.ly/racial589

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.

How can we be proactive and stop sexual harassment?

Q: Besides training, is there a way we can be proactive and stop sexual harassment before it becomes a bigger problem?

A: Many employers are rightfully concerned about sexual harassment going undetected for a long time, and there are things you can do to try and nip it in the bud, says employment law attorney Rubin Thomlinson of the firm Chantel Levy.

One way you can be proactive is by not waiting for the complaints to come to you. Consider sitting down with employees regularly or surveying them anonymously to try and see if there are any issues brewing. Consider an external reporting method for those who may be scared to come forward.

Another important thing to do is to make interim changes after a report is filed. Investigations can take a while, and you don't want the accused harasser working with the accuser during this time. You should be prepared to put the accused on paid leave during the investigation, too.

Another crucial step is to have protocols and stick to them, no matter who the harassment complaint is about. No one should be given special treatment.

If an applicant lied on their resume, what should we do?

Q: We have a strong candidate but we think he may have fudged his resume. How should we handle this?

A: Resume lies are fairly common and can result in costly hiring mistakes, so you're right to be concerned, say employment law attorneys Michelle Lappen and Tony Oncidi of the firm Proskauer Rose LLP.

According to a ResumeBuilder survey, 32% of people admit to lying on resumes. Lying also tends to be more prevalent among high-earning employees and those in the finance and tech industries.

Employers can buckle down on the resume lies by improving vetting processes. Be sure to call references and inquire about things like length of employment and job duties. You can also

have candidates perform skills tests to ensure they know how to do what they claim.

What's the best way to support a grieving worker?

Q: One of our employees recently lost a parent, and I'm wondering what the protocol is. Would it be appropriate to go to the funeral to show support?

A: Everyone would feel differently about this, but I would shy away from attending the funeral unless the employee specifically wants that, says management expert and author of *Ask A Manager* blog Alison Green.

Some people would want the support, and others wouldn't want work colleagues at an emotional and personal event. There's no standard as everyone is different.

One easy and safe way to show your support for this employee is to send sympathy cards, flowers or some other kind of thoughtful gift.

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)

No. The company lost when the appeals court reversed the trial court's ruling, allowing Sara's lawsuit to continue.

The company argued that the comment about wanting someone younger was simply an offhand comment spoken by an employee not even involved in the decision-making process for the promotion. Furthermore, Sara's performance wasn't good enough to earn her the promotion, the company said.

But the appeals court disagreed. It said because the employee who made the comment was friends with the decision-maker, he could've had some kind of influence on

the decision after all. Not to mention, the promotion did end up going to someone much younger than Sara.

The case can proceed.

■ Analysis: Stray comments can spell trouble

This case is a great example of how even the smallest offhand comments can lead to legal trouble – and they don't even have to be said by a manager.

You can't control everything everyone at your company says, but it's important to remind employees to never make negative comments about someone's age or another protected class.

Cite: *Jorgensen v. Loyola Marymount University, CA Ct. of App., No. B305594, 9/10/21. Fictionalized for dramatic effect.*

Taking care of employee benefits questions beyond open enrollment

■ Needed year-round support in a post-COVID world

Typically, people didn't get all that excited about insurance, even during open enrollment meetings.

But when Americans started losing their lives to COVID-19, our employees began asking deeper questions about life insurance and other available benefits.

They had no idea how the pandemic situation would evolve. They were worried about their families and they needed information on coverage that would protect them.

Suddenly our people were urgently interested in their benefits. So we seized the opportunity to educate them.

Available coverage

In coordination with our benefits broker, we produced some digital handouts that broke down:

- whole life insurance
- accident insurance plans
- hospital indemnity insurance, and
- critical illness plans.

These reference materials explained to our people how these coverages would help them in the event they were getting tested, quarantined or hospitalized for COVID-19.

We also took the time to answer their individual questions about the coverage they have, what else is out there and how it could work with our core benefits offerings.

But there were other resources that became increasingly important during the pandemic that they also needed to know more about.

More support

Because employees don't value what they don't understand, this

was the time to start sending out emails about benefits they may have overlooked during the pandemic, such as:

- our Employee Assistance Program (EAP) – the pandemic made people more conscious about their wellbeing
- telemedicine – including mental health telemedicine, and
- a nurse hotline for when a physician is unavailable.

We realized how key education is to employee engagement and that our people need support beyond the open enrollment period for fully understanding the benefits they select.

So, we gave it to them.

Using benefits wisely

We asked ourselves, when employees buy a benefit, are they using it in a way that they're getting the most value from it?

To best address that concern, we began offering year-round benefits support to help employees:

- know when to submit claims
- select benefits that are the best fit
- navigate health care needs, and
- make coverage changes when there's a life event like a new home, marriage or addition to the family.

Our people are paying closer attention to their benefits and they're getting a better sense of what they have and what they need, which is a win for everyone involved.

(Scott DeGraw, VP of enrollment technology, Allstate Benefits, as presented during the webinar "Annual Enrollment 2022: Benefits for a Recovering Workforce")

REAL PROBLEM REAL SOLUTION

■ Sharing mistakes – so we make fewer of them

There was no doubt we had great leaders and hardworking employees all across our company.

Our people love to set goals, reach them, then set the bar higher. It was something they all prided themselves on.

But, just like all human beings, they also make mistakes.

Of course, they rebound from their mistakes, either learning an important lesson or overcoming the setback.

But we hated to see another person make a mistake one of their colleagues had already made.

We figured if we make a mistake, we only want to make it one time. We don't want to make it dozens of times, but we weren't sure how to prevent it.

Talk challenges, best practices

That inspired our company to start having a weekly conference call with a representative from all our departments. (For us, a call made more sense than a meeting because our leaders are scattered across the country.)

The overarching goal of these calls is to learn from each other.

Leaders can talk about challenges they recently faced and how they overcame them.

They also share best practices on issues everyone has in common or can relate to, so others know how to handle similar issues if they ever come up.

Having these calls where people can be open, honest and supportive has helped us avoid repetitive mistakes.

It also allows our employees to continue to aim high and try to reach their lofty goals.

(Rick Hendrick, owner, Hendrick Motorsports, Concord, NC)

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.

Hiring is tough: What strategies can HR use to attract new talent?

The Scenario

"I'm sorry to hear that, Harry," HR manager Stu Capper said with a frown, trying not to let his frustration come through. "Please keep us in mind in the future."

Stu hung up his phone with a disappointed sigh. He'd just made a job offer to yet another promising candidate who turned him down. This is the third time this had happened in the past two weeks.

"Hey, Stu," department manager Grace Lee poked her head into his office. "Did you call Harry yet?"

"Just got off the phone with him," Stu replied. "He said no."

Grace shook her head and sat down with a sigh. "I can't believe we're having so much trouble filling

this position. Harry was even a little underqualified. I thought he would've jumped at the chance."

Think outside the box

"It's brutal out there right now," Stu pointed out. "It's not just us. It seems like no companies can keep themselves fully staffed."

"I've been wracking my brain, trying to think of what we can do to stand out," Grace said. "We're already offering a competitive salary. We've got good benefits. I'm not sure what else we can do."

"We might have to think outside the box," Stu said. "What's something employees really want right now?"

If you were Stu, what would you do next?

Reader Responses

1 Linda Pappajohn, HR director, Santora CPA Group, Newark, DE

What Linda would do: I'd see if we could offer our candidates a hiring bonus – maybe something around \$2,000 to \$3,000 – as well as remote work and flexible scheduling. I'd be sure to revise our job ads to feature these things prominently, as well as bring up these perks in phone screenings and interviews.

Reason: These types of perks aren't revolutionary, but sometimes the way you present them to candidates can make all the difference. The hiring bonus would catch people's attention right away, as that's instant money in their pocket. Bringing up remote and flex work up front and working that out ahead of time shows candidates we value a work/life balance, which goes a long way.

2 Tony Suzda, senior manager of talent acquisition, Dent Wizard International, Bridgeton, MO

What Tony would do: I'd look back to the beginning of the process and see how we could make applying in general a lot easier. Things like making the application process mobile-friendly and allowing candidates to text us questions about the job can really speed up the process, which would leave less time for competing employers to swoop in.

Reason: When it comes down to it, hiring is a numbers game. The more candidates you have, the more likely you are to have someone accept the job. People are busy, and no one likes a lengthy application and hiring process. Making this as convenient as possible will be a big plus in our favor. This type of communication throughout the process will help build a good relationship with the candidates before they even accept.

HR OUTLOOK

■ Pandemic increased drinking: How to talk about it at work

The past year and a half have been incredibly stressful and isolating for most people, and it's no surprise many turned to alcohol to help cope.

According to a study done by the National Institutes of Health, 60% of American adults' alcohol consumption increased during the pandemic – and 46% said stress was the reason for it.

Alcohol tends to be a touchy subject and isn't normally discussed at work, but drinking can affect work performance, whether it be absenteeism, presenteeism, underperformance or mood swings.

Not to mention, it can negatively impact employees' health long term.

Tackling it head-on

It's important for HR pros to not shy away from the subject of alcohol. Here's how to address drinking (and not drinking) at work, according to co-founders of the nonprofit Bee Sober, Lisa Elsworth and Alexandria Walker, which they shared at the 2021 SHRM annual conference.

The most important thing HR leaders can do is destigmatize *not* drinking. Elsworth and Walker say many people assume if someone doesn't drink, they have alcoholism, which isn't true.

HR pros can help reduce alcohol talk at work that can make non-drinkers uncomfortable. For example, ban phrases like, "You look like you could use a drink."

Another important thing to do is have plenty of non-alcoholic drink options at parties or events. There's nothing worse than a sober person's only beverage option being water.

And it's crucial for HR leaders to be vigilant for any signs of alcohol abuse. If an employee is frequently looking hungover or appears to be drinking during the daytime, it's important to take action.