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TIPS FOR DEALING WITH DISGRUNTLED EMPLOYEES

Everyone at one time or another has experienced an employee or a co-worker who makes work very difficult with his or her attitude and actions. A disgruntled co-worker is a problem that unfortunately many companies have to deal with.

The good news is that there are different steps that you and your Outsourced HRA Consultant can take in order to solve the problem of a "bad apple" employee without pulling the trigger and firing that person.

First of all, the company must have a clear definition of what constitutes an employee that creates a hostile environment. You and your HRA Consultant must examine and explain to all employees a specific description of a hostile environment, employee actions that lead to such an environment, and what the company philosophy is for taking action to alleviate the problem. Without a clear philosophy, there is no understanding of what actions need to take place if such a situation would arise.

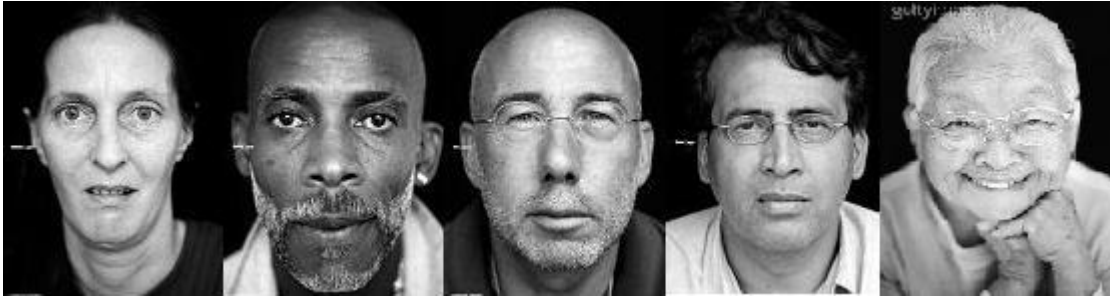
1. It is important for the supervisor to take a strong position in handling the potentially hostile employee. He or she must have one-on-one meetings with the employee with documentation of specific actions that the employee has performed that has caused the potential hostile environment, or is leading up to it.
2. Many times, the employee does not realize that his or her behavior has become a problem. Taking that first step can help solve many of these problems early on without adding to the situation.
3. In extreme circumstances, where a supervisor is unable to communicate with the disgruntled employee, or perhaps the issue is between these two individuals, your HRA Consultant can intervene and facilitate a mediation meeting. This tactic will help solve a number of problems and can be the wakeup call that the employee needs to turn the disruptive behavior into positive behavior overall.

Mediation is a very professional way for the company and the supervisor to get a little added help in a circumstance that maybe they are not equipped to handle or have received the proper training.

4. Sometimes through mediation or one-on-one meetings, it may become necessary for the employee to go through a trial period or receive some obligated time off.

It is very important to note that whatever tactic is chosen, all parties involved must maintain a professional demeanor around the employee. This is an issue affecting the production in a company and must be handled in a professional manner so that the morale of all employees is not threatened.

SMALL FIRMS BEST AT PREPARING FOR AGING WORKFORCE




Recent research shows a marked difference between small and large companies when it comes to planning for ways to deal with the aging U.S. workforce. Small business also appears to be ahead of the curve when planning for this major demographic shift.

In a survey of 404 small business owners released March 5, 2008, by the National Association of Professional Employer Organizations (NAPEO), 28 percent of the respondents reported that they had developed plans and strategies to transfer the knowledge and skills of their older and more experienced workers to younger employees.

NAPEO officials say the survey results are not surprising considering the impact that experienced talent has on small businesses, which they identified as having fewer than 500 employees. Milan Yager executive vice president of NAPEO, said he believes that as older workers retire the foreseeable gap in institutional knowledge and skills is forcing small business owners to be more attuned to the way the demographic shift will affect their competitive advantage.

"For a small business, losing even one seasoned knowledge worker affects them competitively," said Yager. "These business owners want to ensure that seasoned workers convey their knowledge, or even continue working longer if possible."

LOOK WHO'S GETTING SUED NOW = THE EEOC!



For all of you who like irony: About 700 employees of the Equal Employment Opportunity Commission are claiming the agency has violated federal employment law.

The issue involves 600 investigators and 100 mediators whom the agency has classified as exempt. However, they employees claim they do non-exempt work and put in lots of overtime. A third-party arbitrator ruled in agreement with the employees. How did this happen? According to a negotiator representing the employees, the agency's workforce is shrinking due to a lack of funds and a hiring freeze. Therefore, employees are working longer and harder, and the agency is trying to save money through misclassification.

"For a government agency charged with ensuring that other employers follow the law, this decision should be an embarrassment," the negotiator said. Strong words, to say the least.

What's the lesson for employers? If the EEOC can't get away with it, no one can!

CA SUPREME COURT: SAME-SEX MARRIAGE CONSTITUTIONAL

The California Supreme Court has found that the current California statutes defining marriage must be viewed as potentially impinging upon a same-sex couples' constitutional right to marry under the California Constitution.

The Court determined that California laws limiting the designation of marriage to a union "between a man and a woman" is unconstitutional, and must be stricken. Further, the designation of marriage must be available both to opposite-sex and same-sex couples.

What Should You Do?

- Never discriminate, harass, or retaliate against employees based on their actual or perceived sexual orientation.
- Treat same-sex couples who choose to marry the same as you would treat opposite sex couples as far as benefits, etc.
- Review your employee handbook to ensure the rights of all employees are protected.

my space. recruiting tool or legal land mine?

What happens in Vegas stays in Vegas. But what about employees' or applicants' social networking Web pages? With the popularity of Facebook and MySpace, the intersection of worker's private and workplace lives is a tricky place to be for many HR professionals and hiring managers.

In situations where social networking Web site comments are work-related, it may cost employees their jobs. If an executive at your company posts a compromising vacation photo of himself, what do you do?

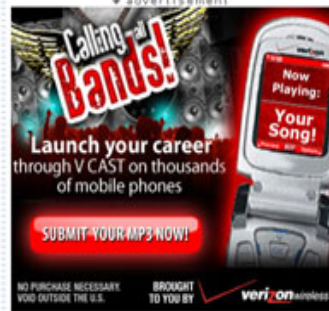
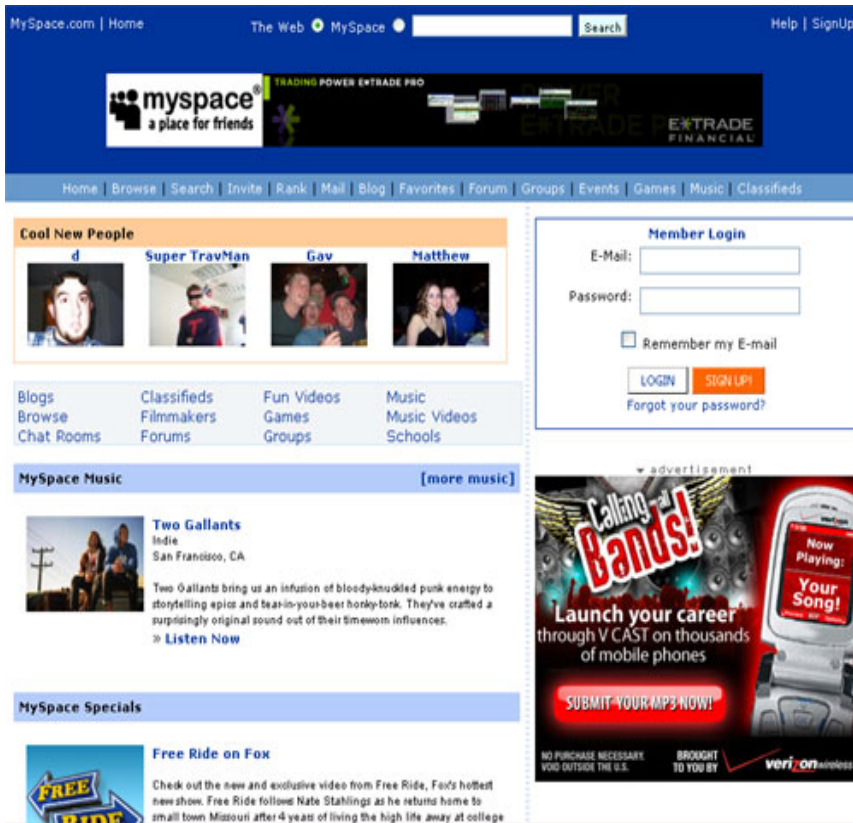
And what about applicants? If you "Google" them and distressing photos or statements show up, what do you do?

It can be a tricky call. Hiring Managers should know that information gleaned from the Web, such as the person's ethnic background, religion, age or disability, can't be used in making any adverse employment decisions.

If your company plans on checking out employees' social networking Web pages, it's a good idea to have a policy on the consequences of what may be found and to run that policy by legal counsel or your HR Advisors HR Consultant.

Also, remember, if you do find something that could jeopardize employment, check with the person in question first. It is too easy for photos to be altered or for a person to post on the Web in someone else's name.

Does your company have a policy on this? Do you need any help in creating one? Let us know. We would be happy to help you.



EMPLOYER WINS!

An employee who was laid off because of budget shortfalls and lack of seniority lost his claim of racial discrimination against his employer; the employer's reasons for termination were legitimate and nondiscriminatory. He was also ordered to pay the employer's attorney fees, amounting to about \$40,000, because his claim was frivolous. The court clarified that courts consider an employee's ability to pay attorney fees, but this employee did not produce evidence that he could not. *Villanueva v. City of Colton 2008*

What Should You Do?

- Document all performance issues with each employee.
- Ensure you have objective, legitimate business reasons for a reduction in force including the reason(s) employees being laid off have been chosen.
- Provide all employees with anti-harassment training and a copy of your company policy.

PROPOSED REVISIONS TO THE FMLA REGULATIONS

On February 11, 2008, the following proposed regulations make changes to almost the entire 70 plus sections of the regulations. Some changes are comprehensive, while others are just minor edits to the current regulations. In addition, DOL revised its medical certification and notice forms and poster and provided a new employee notice form.

NOTE: These regulations did not make sufficient changes to relieve the burdens employers have confronted implementing them.

This is a summary of some of the most significant proposed changes:

1. Serious health condition definition.
2. Medical Certification process.
3. Penalty provision/Supreme Court Ragsdale decision

The DOL has not indicated when the regulations will be finalized, but past regulatory actions suggest they may be implemented by late summer or early fall.

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ADVISORS

877.344.8324
info@hradvisors.com
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