

From: Business Management Daily

Subject: Practical HR strategies to boost your career

In The News ...

Two-thirds of employers delay reopening.

Sixty-six percent of U.S. organizations say they've delayed their plans to reopen their offices due to the summer spike of new COVID variants, according to a Gartner survey of 238 executives. When employees do return, they don't want to go back to full-time office life. More than half of workers (55%) say that whether they can work flexibly will impact whether they stay at their current company.

Remote inspection of I-9 docs extended to end of 2021.

You can continue to use the relaxed COVID rules that let employers with remote operations examine new hires' I-9 work eligibility documents (driver's license, etc.), instead of reviewing them in person. Virtual verification was set to end Aug. 31, but immigration officials extended it again until Dec. 31. For more details, go to www.tinyurl.com/virtualDec31.

Join us at The HR Specialist Summit, Oct. 21–22.

Get up to speed on your new compliance and post-pandemic HR responsibilities—all from the comfort of your home or office—at our 5th annual HR Specialist Summit, Oct. 21–22. For more, see page 8. Review the full agenda at HRS-Summit.com.

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Start planning for OSHA's vaccine mandate

Don't wait for OSHA to officially unveil its promised Emergency Temporary Standard (ETS) to begin revising your policies and planning for accommodation requests.

The ETS—announced by President Biden on Sept. 9 and likely to be published and take effect this fall—will require employers with at least 100 workers to mandate that their employees get vaccinated against COVID or submit to weekly testing to prove they're not infected. The ETS will also require such employers to provide paid time off for staff to get vaccinated or recover from post-shot side effects.

Employers failing to comply with this new vax-or-test mandate (or the PTO requirement) could face fines of up to \$14,000 per violation. The ETS could be unveiled at any time and would likely take effect immediately.

INSIDE: Q&A on OSHA upcoming employer vaccine mandate ... pg. 5.

OSHA says this mandate is legally grounded in its general-duty clause, which says employers must provide an environment “free from recognized hazards.” Opponents of the OSHA mandate are threatening lawsuits to block implementation (*see page 5*). But employers should start planning as if it will take effect any day.

What to do now? Start encouraging workers now to get vaccinated to make compliance easier once the ETS takes effect. Also, you need to decide whether or not to allow weekly testing as an alternative. If tracking and collecting weekly test results would be too much hassle and cost, you may want to adapt a more strict mandate that only allows

Continued on page 2

Set limits on remote worker moonlighting

A growing number of telecommuters have quietly found a unique way to double their pay. As the *Wall Street Journal* recently noted, “a small, dedicated group of white-collar workers, in industries from tech to banking to insurance, are working two full-time remote jobs ... alone in their homes, they toggle between two laptops.”

You can restrict this type of digital double dipping and also set limits on more common moonlighting: remote staff working part-time side gigs.

Employers are within their rights to require remote employees to give the work the attention it deserves. After all, you're paying for full-time work; you can insist on a full-time effort. Here's how to regain control:

1. Establish a remote work agreement.

It should set your expectation that this will be the person's primary job. Make clear the hours you expect and that employees can't work a second job (even while on a leave of absence). Consider a clause that requires your OK for any other employment. Have your attorney review your pact. Find a customizable sample agreement at www.theHRSpecialist.com/telecommuting-agreement.

2. Terminate—or make 'em choose.

If you catch a moonlighting double-dipper, you have options. You can terminate the employee even with-

Continued on page 2

Vaccine mandate

(Cont. from page 1)

exceptions for medical or religious reasons (as required by the EEOC).

If you plan to allow testing, set up a system to track vaccination status and legally maintain those records. Also, be ready to document your accommodation process for employees who request a medical or religious opt-out of vaccinations.

Finally, what if you have a mandate and an employee refuses the shot, but not for ADA or religious reasons? Do you terminate or put them on paid or unpaid leave, and for how long?

“You’ve got to choose a policy and decide in advance what you’ll do,” says attorney Helen Holden of Spencer Fane in Phoenix. “But you want to be very consistent in those decisions. Pick a path and stick with it.”

Moonlighting

(Cont. from page 1)

out a specific no-moonlighting rule if the employee is at-will. Or you can tell the employee to choose: Either quit the second job or quit working for you.

3. Consider independent contractor status. If your moonlighting employee is hard to replace (and knows it), she may simply walk. A practical, legal option is to offer to convert the role from full-time employee to independent contractor.

Given that the employee is already performing work for another organization, you should have no problem justifying the switch. The old argument that the employee is economically dependent on you as the employer falls away if she already has another source of income.

Online resource For more advice on setting a moonlighting agreement, go to www.theHRSpecialist.com/moon.

With hiring harder than ever, it's time to try new recruiting tactics

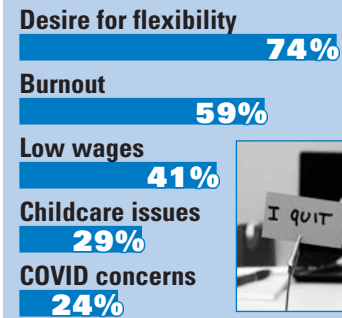
Available jobs this summer hit a record 10 million for the first time. And the so-called quit rate has increased at the same time. *The result:* Employers are struggling to both attract new workers and retain current ones.

In this tight labor market, you need to do whatever you can to become an employer of choice. A few ideas:

Money still talks, louder than ever. Candidates know the market. Attracting the best may require offering higher starting pay—and it’s what workers have come to expect. Of course, raising pay may require raising your prices. So far, consumers seem willing to tolerate higher inflation.

Realistic education requirements. Review job descriptions of positions you’re struggling to fill. Are your minimum education requirements too high? Do you require a bachelor’s when an associate’s degree may do? Or even no degree at all if the person has the right experience? Sometimes, something as simple as adding “relevant experience” as a degree equivalent may attract a great applicant.

Why employers think workers want to quit



Source: Challenger, Gray & Christmas, July 2021

Lower training/certification standards. Is previous training or certifications really essential? You might substitute a requirement to obtain the training within a reasonable period of time, perhaps even arranging the training and paying for it.

New career paths. Consider creating entirely new entry-level positions with a clear path to higher-level work based on training, experience or further education. As long as the starting salary is attractive enough for workers now expecting better pay, this may entice those marginally attached to the labor pool to dive back in.

New weapon in retention wars: Upgrade tuition perks

As employers battle to recruit and retain, one increasingly popular tool is to offer assistance with college tuition.

Most recently, Amazon jumped on the bandwagon, saying it will cover the cost of college tuition, fees and textbooks for 750,000 hourly employees after 90 days on the job. It will also cover high school diploma programs and English-as-a-second-language classes for employees. Amazon says the program investment will total \$1.2 billion by 2025.

In August, Walmart upgraded its tuition program, promising to pay an average of around \$25,000 per year for participating employees to earn college degrees in select majors at a long list of universities.

Not to be outdone, Target announced it will pay 100% of tuition, books and fees for full- and part-time employees beginning the day they start work. The offer is good for undergraduate degrees at 40+ colleges in business-related majors. Target will also pay up to \$5,200 per year for undergraduate tuition for other majors. Workers who already have undergrad degrees can receive \$10,000 towards master’s degree tuition.

Options for smaller employers. If you can’t compete with such generous perks, there are less expensive (and local) incentives you can try. For example, offer to cover (or contribute toward) tuition at community colleges or state college campuses near you. With flexible scheduling to accommodate attendance and a free choice of majors, you may find employees eager to stick around.





Before firing, offer a legit chance to improve

Smart employers make it a standard practice to establish performance improvement plans before firing workers who can't do their jobs properly.

PIPs can help turn around an underperforming worker. They also demonstrate your good faith in case of a lawsuit, assuring a court that a subsequent firing was because of a performance problem, not discrimination.

Important point: Make sure the PIP includes clearly defined measurable goals and expectations.

Recent case: William was hired at age 54 and received positive reviews for years. He applied for a promotion but wasn't picked. A VP allegedly said

he wanted "fresh blood" for the new hire. The job went to an outside hire, who became William's boss.

The new boss grew unhappy with William's work and placed him on a series of PIPs for three years. The PIPs included specific, measurable goals. William was eventually fired at age 62. He sued for age discrimination, citing the "fresh blood" comment. The court tossed it out, citing the company's documented PIP and William's continued poor reviews. (*Hooker v. Novo Nordisk*, 3rd Cir.)

Final tip: Even though the company won, remind bosses to avoid such lightning-rod terms like "fresh blood."

Track & date all steps in discipline process

When employees realize they're about to be disciplined, some try to fight back by filing a discrimination claim or submitting a request for job-protected leave (say, FMLA). They may believe employers can't fire anyone who has a pending legal case or is out on medical leave.

You are not powerless. You can still impose discipline for actions unrelated to an employee's protected status. The key: Have enough documented proof to show the discipline was already in the works before the employee invoked his or her rights.

Recent case: When Timothy learned HR was investigating him

for misusing his work computer, he immediately asked to take FMLA leave. However, he was fired less than two hours later. He sued, alleging FMLA interference.

A federal court dismissed his case, saying Timothy had been under investigation for months before he requested leave. The employer's records show the firing decision was made weeks earlier. (*Watson v. Department of Revenue*, 3rd Cir.)

Tip: Document and date every step in your disciplinary process.

Online resource Learn the cardinal rules to documenting discipline at www.theHRSpecialist.com/cardinal.

Bad HR advice: 'Put on your big girl panties'

When fielding an employee complaint about a co-worker, it may be tempting for managers (or even HR) to suggest the alleged victim try to resolve the matter herself instead of filing a full-blown complaint. That's not smart.

The law does not allow you to suggest self-help as a remedy for harassment complaints. Employers have an unambiguous duty to prevent harassment and stop it when it does occur.

Recent case: Over four years, female staff at a New York Walmart regularly complained that a male employee often commented on their breasts and sometimes pressed his crotch up against their bodies.

No investigation occurred. Instead, one woman who complained was urged to "put on her big girl panties" and "stand up" for herself. She quit and sued. Walmart settled for \$400k. (*EEOC v. Walmart*, WD NY)

Accommodate at every step, including interviews

A deaf man used Walmart's career website to apply for a job. He received an interview offer. But when he requested a sign-language interpreter for the interview, Walmart ghosted him, he says. The EEOC sued on his behalf, saying that Walmart failed to accommodate the applicant's disabilities (*EEOC v. Walmart*, CD IL)

The lesson: The ADA requires you to offer reasonable accommodations for disabled people at every step, including applications and interviews. Declining to interview someone your system has preapproved is just asking for legal trouble.

Working multiple locations won't erase your OT liability

Due to the labor shortage, servers at a Denny's franchise in Texas had to work at three restaurants in a week. Rather than adding up their hours on one paycheck, the workers received a separate check for each location. That meant no servers hit the 40-hour overtime threshold, even though many worked more than that. The U.S. Department of Labor ordered the franchise to cough up \$474k in back pay.

The lesson: Don't try this grand-slam switcheroo. Even if employees work in different locations in a week, you must still pay time-and-a-half for any combined work beyond 40 hours.

Post-firing 'rampage' may send HR director to jail

After being fired, the HR director at a Florida staffing firm accessed the company's network from home and "rampaged" through the files, deleting 17,000 applications, officials say. The company spent \$100,000 to respond and rebuild the database. After a jury trial, the woman was convicted of damaging company computers, which could bring a 10-year prison term.

The lesson: Make sure your terminated employees know that such rash e-vandalism on their way out the door could lead to something worse than a poor reference—including jail time.

Here are some nuggets of wisdom from speakers at the recent Society for Human Resource Management annual conference, HR's largest gathering of the year:

Be strategic ... from any HR job. “In order to be strategic in HR, you don’t need to be in a strategic role. You have to be able to show that skill in many different capacities ... If you are in an operations role, it’s important to think, ‘How can I be strategic here?’” — *Ophelia Yan, HR business partner for FINE*

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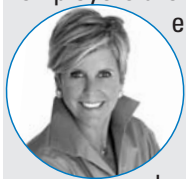
Free speech at work is a myth. “In the private sector, employees don’t have the right of free speech. Free speech means that if somebody says something outlandish, the government can’t throw them in jail. But employees do not have the right to say whatever they want and still keep their jobs ... You can insist that employees don’t do something that undermines your company.” — *attorney Gregory Hare, Ogletree Deakins*

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HR’s secret weapon—empathy. “Empathy is everything these days. We need to be kinder, more thoughtful and as understanding as humanly possible with the people in our organizations because everyone is struggling ... We need to do a better job of inspiring calm in those people.” — *attorney Michael Cohen, Duane Morris*

A popular pandemic benefit: Helping workers create a rainy-day fund

The pandemic highlighted a big financial problem for Americans: how unprepared they are for financial emergencies. Seeing an opportunity to help employees—and improve recruiting/retention—an increasing number of employers are adding emergency savings accounts to their employee benefit programs.



“The number one thing I tell everybody is that you need an emergency fund. But people just don’t do it, and you know why? Because it’s not automated,” said well-known financial author Suze Orman.

Through these plans, workers divert a portion of their paychecks into an emergency savings account, which they can tap into for unexpected needs. As an incentive to save, some employers match contributions (up to a certain amount).

These programs are being launched by various banks, 401(k) providers and startups, including Sunny Day Fund and SecureSave. ADP is testing an emergency saving tool for clients using a paycard.

“Forty percent of Americans can’t cover an unplanned \$400 expense,” said Orman, a co-founder of SecureSave. “If employers set up an emergency-savings program, their employees would feel more secure. And a more secure employee is a more productive employee.”

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Make the vaccine mandate part of your brand.

“Employers are going to be losing good people who are firmly in their vaccination beliefs. So what are you going to do? Maybe you’d be wise to brand safety as a benefit in your outreach to new hires. The message is ‘Come work with us because we’ll offer you a safe environment to grow.’ Make that part of your brand.” — *Karl Ahlrichs, senior consultant, Gregory and Appel*

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The limits of ADA accommodations.

“You don’t have to give accommodations that are undue ... If it’s convenient for [an employee] but is not in the employer’s interest and there’s not a disability-related reason, from the EEOC’s perspective under the EEO laws, that’s the end of the story.”

— *Charlotte Burrows, EEOC chair*

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It doesn’t matter if it’s “harassment.” “Remember, you don’t have to limit your disciplinary actions to harassment ... A common mistake I see employers make is that they get caught up in, ‘Does this behavior meet the definition of harassment?’ It doesn’t really matter if you have a policy that prohibits bullying and other inappropriate behavior.” — *attorney Joe Beachboard, Ogletree Deakins*

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Rewrite those job descriptions—pronto.

“Job descriptions for most employers in the U.S. are absolute junk ... So brush off yours because we’re seeing a lot of litigation surrounding employee accommodations relating to the pandemic.

Employers who have solid job descriptions are really focused on essential duties and are in better position to say, ‘Sorry, we can’t bend the rules.’” — *attorney Adam Rosenthal, Sheppard Mullin*

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A blanket rule for state-law compliance? “Just because California is the most restrictive state [for employment law], don’t make the mistake of thinking that if we just apply California laws, we’ll be good in every state. Fifteen years ago, that probably worked, but all the other states are deciding they want to catch up with their own laws.” — *Lauraine Bifulco, president of VantaggioHR*

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Erase the stigma of mental health. “We need to normalize mental health in our workplaces by talking about it more and letting our workers and leaders be more vulnerable and share their stories.” — *Casey Chosewood, Director of NIOSH Office for Total Worker Health*

Q&A on OSHA's upcoming vaccine mandate: What it means for HR

On Sept. 9, President Biden instructed OSHA to issue an emergency temporary standard (ETS) that will require all companies with 100 or more employees to ensure their workforce is “fully vaccinated” and to require employees who remain unvaccinated to undergo testing on at least a weekly basis. This ETS is expected to be published in the coming weeks and take effect this fall.

How will the ETS be enforced?

While Federal OSHA has broad investigative and enforcement authority, most Fed/OSHA investigations begin with either employee complaints or reportable incidents. After such investigations, Fed/OSHA can assess penalties of up to almost \$14,000 per violation, meaning a failure to comply with this mandate could get very costly for employers.

How will the 100-employee threshold be counted?

There are various ways to count employees. It is not yet clear what standard will apply. However, given the sweeping nature of the mandate,

Biden's employer mandate: Will it stand up in court?

OSHA's upcoming vaccine mandate plan will quickly face legal challenges from Republican and business groups.

At issue: Opponents will say Congress intended federal workplace safety laws to regulate unsafe conditions at company properties, not to mandate a vaccine for workers. Another claim: that OSHA is overreaching by using the ETS authority for such a situation.

So far, legal experts are split on whether OSHA's mandate will be blocked in court. Look for an employer group to immediately seek a nationwide injunction, aiming to halt OSHA from implementing the rule. Any lawsuits could end up decided by the Supreme Court, which currently holds a 6–3 conservative majority.

we expect this threshold will be applied as broadly as possible.

Will employers have to pay for testing?

The announced plan does not specify who will pay for the costs of the required weekly tests, whether employers will be required to provide paid time off for testing or what tests employers may accept to meet the (weekly) requirement.

Will this ETS apply to remote workers?

The phrasing of President Biden's announcement, as well as the White House publication, point to the requirement being for employees who are “coming to work” as opposed to those who are working from home. However, the ETS will likely have exemptions for those workers who do not have work-related contact with other persons.

How will ‘fully vaccinated’ be defined?

The CDC currently considers an individual to be “fully vaccinated” two weeks after either their second dose in a two-dose series, such as the Pfizer or Moderna vaccines, or their only dose of a single-dose Johnson & Johnson vaccine. Despite the current debate surrounding booster shots, it is expected the ETS will track the existing CDC guidance.

Will there be exceptions allowed for medical conditions and religious beliefs?

Statements made by President Biden and other White House officials indicate the vaccine requirements will allow for vaccination exemptions for those with medical conditions or sincerely held religious beliefs that prevent vaccination. It is not clear whether the ETS will provide more guidance than the somewhat sparse FAQs on this topic issued

by the EEOC regarding required ADA and Title VII exemptions.

Nonetheless, it would appear that any unvaccinated employees (regardless of exemption status) will still be subject to the weekly requirements to provide proof of a negative test to their employer.



Will employers who have already issued vaccine mandates be affected?

While employers who have issued vaccine mandates are certainly ahead of the curve in complying with this mandate, they are not necessarily off the hook. For instance, if any employees were granted medical or religious exemptions to their policies, the employer will need to ensure that such unvaccinated employees submit to weekly testing, to the extent such testing was not already required as a reasonable accommodation.

Will the ETS have recordkeeping requirements?

It is unclear whether the ETS will specify what documentation will be required from employees to demonstrate vaccination status and testing results and/or how it must be maintained by the employer. However, the EEOC has stated that proof of vaccination and COVID-19 test results are confidential medical information and, therefore, subject to the ADA recordkeeping requirements. Thus, if employers are required to collect this documentation, it will need to be maintained confidentially and separate from an employee's personnel file.

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To: _____
 From: _____

Date: October 2021
 Re: Tough talks with remote employees

Remote staff Difficult conversations over Zoom: 8 tips for success

While it's nobody's favorite part of the job, being a manager sometimes involves talking to employees about performance problems, customer complaints or the reasons they won't be getting a raise. In a remote or hybrid environment, this may mean conducting those tough conversations via video. Here are some tips to set the stage for success.

1 Schedule a mutually convenient appointment

Request a private, uninterrupted Zoom meeting. This forethought allows both sides to create a distraction-free environment. Likewise, clearing time prevents the need to hurry through the meeting.

2 Prepare

Even seasoned leaders can experience butterflies during a difficult interaction. Boost confidence and effectiveness by thinking through the situation ahead of time. Know exactly what you want from the conversation. Aim for a resolution.

3 Keep the camera on

People sometimes prefer to use only the audio on a Zoom call. While turning off the camera may be acceptable during large meetings or

when giving/receiving general info, important chats benefit from a visual. Request at the beginning that cameras remain on; the whole purpose of choosing a video conference gets lost without them!

4 Give and expect full attention

Sensitive exchanges demand focus and careful listening, especially when participants are not physically together. Performing any other activities (checking email, etc.) damages comprehension and comes off as disrespectful. Refrain from multitasking.

5 Get to the point, but don't rush

Nervousness leads some managers to beat around the bush. Prolonging the meeting's purpose doesn't help. Stay respectful, but stay on course. But don't rush. People receiving negative news will benefit from a calmer pace. Clear speech is essential for comprehension, especially over Zoom. Likewise, listeners need the chance to process what they hear.

6 Stick with facts

Whether on Zoom or in person, make your case with verifiable evidence rather than vague or opinion-

ated statements. Such presentation clearly demonstrates the problem and avoids the perception that you're simply "picking on" someone.

7 Follow standard procedures

If issuing a warning or firing someone, abide by the organization's disciplinary guidelines. Complete all related paperwork in a thorough, timely manner. Wrongful termination lawsuits won't accept remote operation as an excuse for sloppy handling.

8 Recap and discuss a follow-up plan with the employee

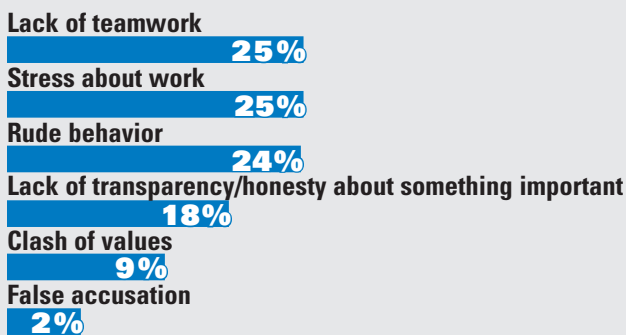
As things wind down, sum up the major points of the conversation. Ask the other party to add any pertinent comments. These actions verify understanding in case either side missed something during the discussion.

Then, reach an agreement on how to move forward. For instance, if someone is denied a promotion, outline what the employee can do to increase chances in the future. What specific skills could be acquired and how would that training occur? Agree to meet again in six months to evaluate progress.



Employee conflicts in the remote world

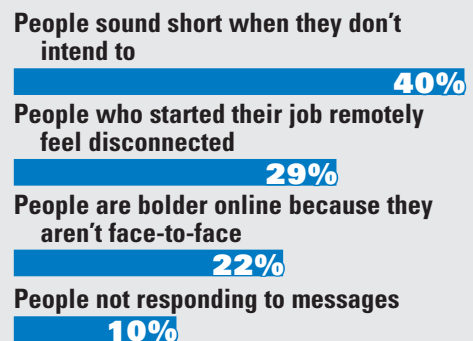
Main reasons that conflicts occur more often remotely



Source: MyPerfectResume survey of 1,000 American workers



Main source of remote conflicts





How to be viewed as a problem solver in HR

When it comes to measuring your effectiveness as an HR partner, being perceived as an innovative and creative problem solver will likely result in more frequent invitations to the decision-makers' table. To be viewed as a problem solver, these actions are recommended:

In meetings, transition from negative energy in discussions to positive, constructive problem solving.

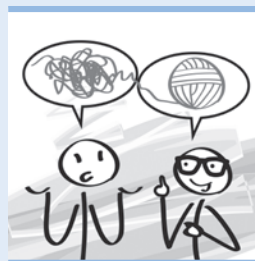
Venting is healthy and cathartic. However, if most of what co-workers hear from you is complaints, you'll be known as a negative person instead of a problem solver.

Gather facts, data and diverse views. Look for root causes of problems. Sometimes you have to go off a hunch, but it's best to bring data and research to the table. Get diverse views and back your position with data to show you've thoroughly considered all factors.

Encourage brainstorming to surface as many ideas as possible, even "far out" ideas. The first idea isn't always the best. If you stop there,

you might miss out on some innovative solutions. Encourage brainstorming to find the best solution.

Help find common ground between team members in conflict. Everyone (in theory) has the same goal—to find solutions that best serve the organization's needs. However, it can be hard to remember that when tensions get high. Keep conflict productive and find the common ground to be seen



Being perceived as an innovative and creative problem solver will likely result in more frequent invitations to the decision-makers' table.

as a facilitator and valuable team member.

Find solutions the whole group can buy into and actually commit to implementing. You'll never get a new initiative off the ground without buy-in. So it's vital to highlight how each group involved will benefit and how this plan will be the best to achieve the goal.

Make sure there's a clear plan. Check to see there is solid agree-

ment on how to move forward as a team. A long planning meeting is useless if you come out of it with half-hearted agreements and unclear next steps. Define roles, responsibilities and both short- and long-term actions. This is vital, as each participant needs to be held accountable for actions they'll need to take.

Consider obstacles. Don't assume things will go perfectly smoothly. Consider the likely obstacles and plan how to overcome them. Other obstacles are likely to come up also, but at least you'll have addressed some of the more likely ones.

Facilitate agreement on timelines and checkpoints. Setting a tight deadline is no good if the employees responsible don't agree to it. Consider input and ensure that timelines are reasonable and attainable, even if they are sometimes tight.

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Cuomo case offers good lessons for employers on sexual harassment

The New York attorney general's report on sexual harassment allegations that led to Gov. Andrew Cuomo's resignation offers insights for employers on anti-harassment training. Among the lessons: Don't let high-level staff "opt out" of training. Plus, "as a matter of law, claiming that gender-based behavior is simply a function of being old-fashioned or culturally more affectionate is not a defense to sexual harassment." Read an Ogletree Deakins analysis at www.tinyurl.com/Cuomolessons.

Privacy and surveillance are employees' 'most Googled' HR-related issues

According to a study by Elements Global, the most common workplace-related questions asked in Google searches (in order): Do employers have to offer health insurance? Do employers have to pay for unemployment? Can my employer force me to take a lunch break? Can my employer disclose my salary to co-workers? Can my employer monitor my personal computer (or track my phone)? See the top 50 list at www.tinyurl.com/HRsearches.

EEO-1 form deadline is extended again (to October 25)—likely for last time

The EEOC may sound like the boy who cried "deadline extension!" but they promise this is the last time they'll give extra time to submit your 2019 and 2020 EEO-1 reports. The agency said October 25 is the new deadline. If you have 100 or more workers, you have to submit the form that tallies up staff demographic data by race, ethnicity and sex. See the instructions at eeoc.gov/employers/eo-1-data-collection.



Annually is still the most common frequency for performance appraisals

Amid talk of the demise of the annual review, it's still the most common timing. Nearly a third (63%) of employers say they conduct formal performance appraisals once a year, while far fewer conduct reviews twice a year (18%) or quarterly (8%), according to an XpertHR survey. Just under half of organizations (47%) use employees' own self-assessments. Find a performance review template at www.theHRSpecialist.com/reviewtemplate.

If an employee is fired for refusing vaccine, can he still collect unemployment?

As more employers require their workers to get the COVID vaccine, some employees are asking this important question: If I'm fired for refusing my company's vaccine mandate, would I still qualify for unemployment?

In general, the answer is "no." Unemployment benefits are a state-run program, and most states have rules saying that workers are not eligible for unemployment if they are fired for violating a company policy, because it is considered misconduct.

So if you have a vaccine mandate policy and the consequences for violating it are clear, employees wouldn't be eligible for unemployment benefits unless they are exempt from the policy for religious or medical reasons.

Tips: Any unemployment claim may look at whether your organization applied its vaccine-mandate policy (and resulting terminations) equally to all employees. Also, some states hold a higher standard of "gross misconduct" for denying UI benefits, so check your state law.

Note: A few states are pushing back. Lawmakers in a handful of states—including Pennsylvania, Tennessee and Wisconsin—are backing bills to make workers eligible for unemployment benefits if they lose their jobs over a COVID vaccine requirement.



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