



Building The Workplace of Tomorrow: Hiring, Engagement and Compliance

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Program Agenda

- Building blocks for effective engagement
- Communicating proactively
- Instilling value, meaning, impact and autonomy
- Injecting fairness into the equation
- Building a positive track record
- Engaging employees to use internal resources
- Restoring dignity and respect

Where Does Engagement Come From?

- Environment
- Flexibility
- Inclusion
- Adaptability
- Connection
- Impact
- Trust
- The work itself

The High Cost of Disengagement

- \$450 - \$550 Billion annually in U.S. alone
- \$2,264 per disengaged employee
- Disengagement gives rise to other costs:
 - Theft/pilferage
 - Diminished productivity, safety & quality
 - Increased medical and other expenses
 - Impaired customer service/employee relations
 - Turnover

What the Numbers Tell Us

- Employees are looking for a workplace “experience” much like consumers do
- Intrinsic value trumping monetary value
- Employees increasingly have options
- Looking for meaning/impact/connection
- Must adapt to changing expectations
- Must innovate in employee relations just as we do in other aspects of the workplace

Milliken – A Case Study

- Direct correlation between employee engagement, organizational performance and incident reduction
- Surveys inquired into commitment, pride and discretion
- Concept stemmed from “surprise” panel of rank and file associates at annual corporate retreat
- Safety/performance results now presented by front line
- Gave birth to a culture of collaboration and teamwork
- Key was for management to make leap of faith in relinquishing control and trusting process accountability
- Peer-to-peer feedback became culturally accepted

Key Tactical Strategies to its Success

- Organizational structure
- Cascading goals
- Periodic audits
- Associate leadership
- Shared recognition/celebration of success
- Investment in employees as a key asset

Laying a Proper Foundation

- Fair pay relative to market and industry
- A competitive benefits package
- Viable opportunities for advancement
- Tools/resources for leveraging them
- Commitment to a safe work environment

Implementing Proactive Communications

- Loop in managers before it hits the grapevine
- Encourage them to support all initiatives
- Help employees get in front of the curve
- Prepare for opposition to all forms of change
- Manage expectations/avoid “sugar-coating”
- Help make the business case for change
- Look for opportunities to “take the pulse”
- Foster informal employee opinion leaders

Enhancing Existing Communications

- Make better use of all available vehicles
- Conduct formal operational meetings and informal sessions on a regular basis
- Allow employees to “vent” from time to time
- Share information on value of hidden benefits
- Engage new hires early in the process
- Maintain high visibility at all times
- Don’t overlook off shifts

Dynamic Use of Communication Tools

- Keep it simple, keep it short
- Tailor to unique aspects of internal culture
- “Canned” vs. adaptive materials
- Building precedent for the future now
- Know your audience
- Multi-lingual communications

Dynamic Use of Communication Tools

- Custom/Off-the-shelf products
- Home correspondence, flyers & postings
- Periodic newsletters
- In-person contacts
- Social media
- Intranet/web-based vehicles
- E-mails and text messaging
- Bulletin boards
- Closed circuit monitors/multi-media

Examine Other Participatory Initiatives

- Brown bag lunches
- Help lines
- Opinion surveys
- Peer review and 360 evaluations
- “Human suggestion boxes”
- Team-building opportunities
- Ad hoc and free-standing committees
- Means for motivating superior performance

Identifying the Ideal Communicator

- Look beyond basic skills
- Historical credibility is crucial
- Consider a team approach
- Close coordination with other managers
- Build in accountability
- Monitor progress
- Track results
- Follow up

Getting in Front of Your Applicants

- Revisit your orientation program
- Emphasize benefits of open door
- Perceived advantages
- Review of key policies/procedures
 - EEO/harassment
 - Safety & health
 - Electronic communications
 - Solicitation/distribution

Manage Proactively At All Levels

- Train front-line supervisors to criticize constructively
- Avoid pushing discipline down to lowest levels
- Refrain from demoting disgruntled employees
- Aggressively use introductory periods
- “No good deed goes unpunished”
- Monitor workflow distribution and turnover trends
- Consistently enforce rules across all departments
- Evaluate performance/show paths of progression
- Look for “pat on the back” recognition opportunities

Other Proactive Steps

- Adhere to consistent written procedures for filling vacant positions
- Communicate internal promotions to remind employees of the Company's commitment to developing employees
- Highlight your commitment to direct involvement of senior management at the earliest stages of employment

Make “Fair” Employment Decisions

- Enforce rules & standards consistently
- Give employees notice of deficiencies
- Investigate before acting
- Use (but don't promise) progressive discipline
- Provide internal review process
- Provide advance notice of positive and negative change
- Provide advance notice of schedule changes
- Recognize employee service

Keeping the Door Open

- They are doing us a favor by going in-house
- Make it easy on everyone
- Show them how it can work for them
- Maintain high visibility outside the office
- Walk the floor
- Go to their “habitat”
- Nip all “mixed signals” in the bud

Building a Positive Track Record

- Maintain favorable image in community
- Keep running a list of positive enhancements
- Update relative track record on job security
- Know where you stand in industry and area
- Enhance benefits transparency
- Reduce bottle necks and red tape
- Improve physical workspace
- Safety first

To Maintain Respect and Dignity

- Show you care for employees
- Refrain from inappropriate behavior
- Interact daily with employees
- Share positive and negative business info
- Support employee recognition programs
- Avoid perceptions of favoritism

To Maintain Respect and Dignity

- Communicate all changes well in advance
- Avoid actions that send mixed signals
- Smooth over disputes between departments
- Draw input and strive for consensus
- Encourage everyone to push issues upward
- Be open to employee suggestions
- Encourage them to “build a better mousetrap”

An Engaged Workforce increases...

- Recruitment
- Retention
- Productivity
- Quality
- Efficiency
- Referrals
- Customer Satisfaction
- Innovation
- Brand Integrity

The Time to Invest Is Now

- Supervisory Training
- Employee Recognition Programs
- Participatory Initiatives
- Proactive Communication Vehicles
- Surveys/Outreach
- Senior-Level Visibility
- Education on Business Model/Challenges
- Implementing an “Owner’s Mentality”

USDOL Issues

- Under the Obama administration:
 - Continuing crackdown on independent contractors
 - Focus on joint employment and “fissured” industries
 - Focus on enforcement
- Changes under the Trump administration:
 - New, pro-employer Secretary of Labor
 - Reduced funding
 - Emphasis on compliance, rather than enforcement
 - Less emphasis on “fissured” industries

DOL Rescinds Obama-Era Guidance

- Acosta withdrew Guidance regarding independent contractor misclassification and joint employment in June 2017
- Acosta announced DOL will issue opinion letters again



Revised EEO-1 Report

- The EEOC's revised EEO-1 report requirements are intended to combat pay disparities
- What is included on an EEO-1 Report?
 - Race
 - Ethnicity
 - Gender
 - Job category
- The EEOC was planning to require employers and federal contractors with 100 or more employees to include pay data in their reports for the first time

EEOC: The Weinstein Impact

- Surge in EEOC cases against those companies not in the spotlight
- 30% of complaints include sex-based discrimination or harassment complaints
- Scrutiny on companies who require strict confidentiality and keep alleged harassers in executive positions
- Training – leadership should be present
- Frequent reminders to supervisors on obligation to report

Obama NLRB Very Active

- Joint employer standard:
 - Not actual control
 - Potential control sufficient
- The NLRB has in recent years turned a critical eye toward employee handbooks, filing several charges against employers alleging their workplace rules violate workers' Section 7 rights.



EEOC Charges

- 2016 - EEOC received 28,073 ADA Charges
- Third highest category after retaliation and race
- Accounted for 31% of total Charges filed
- Represents a 44% increase since 2008, when the ADA was amended.

Americans with Disabilities Act – Employer Win #1

EEOC v. St. Joseph's Hospital, Inc.

No. 15-14551 (11th Cir. Dec. 7, 2016)

- Reassigning an employee with a disability to a vacant position is a reasonable accommodation. But what if another employee without a disability wants the same position?
- EEOC says employee with disability gets preference.
- 11th Circuit rejects this position.

<https://www.fisherphillips.com/resources-alerts-court-employees-seeking-accommodation-must-compete-for>

Americans with Disabilities Act – Employer Win #2

DeWitt v. Southwestern Bell Telephone Co.

No. 14-3192 (10th Cir. 2017)

- Employee sought accommodation in termination meeting, explaining that her misconduct was caused by her disability.
- Court rejected concept of retroactive leniency as a reasonable accommodation.

<https://www.fisherphillips.com/resources-alerts-no-excuses-retroactive-leniency-is-not-an>

Take Home Tips - Prevention

- Remember leave as an reasonable accommodation is job-protected
- Indefinite or unpredictable leave is not reasonable
- No bright line rule on how much leave needs to be provided as a reasonable accommodation
- Consider being strategic w/successive requests through communications with the employee and the doctor:
 - For the employee, manage expectations on the length of time you can reasonably provide job-protected leave
 - With the doctor, ask tailored and pointed questions, such as asking for the basis of the doctor's opinion that the employee will actually be able to return when doctor's prior estimates were inaccurate.



One Last Issue To Add to Your Disability Watch List

- Websites have become the new hotbed of litigation brought under the ADA
- Title III of the ADA prohibits disability discrimination by places of public accommodation.
- The ADA does not specifically address website accessibility
- Many people with disabilities use “assistive technology” to enable them to use computers and access the internet.
- Surf-by lawsuits are initiated when someone logs onto your company’s website to search for possible accessibility violations, and if any are found, follows through by filing an ADA lawsuit against you, sometimes without prior warning.
- Stay tuned and on top of DOJ guidelines.



Final Questions

“Judge a man by his questions, rather than his answers.”
~ Voltaire



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FOR THIS OPPORTUNITY

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