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FROM THE REGIONAL MANAGER

Greetings and welcome to the end of summer 2016!

As the heat declines and the days shorten, we at Temporary Solutions, see a major shift in the typical workforce of generations past. Large groups of this workforce are entering into retirement. In short, the baby boomers are retiring en masse and in the next 3 to 5 years, 1/3 of the workforce will be retired.

According to US News & World Report, there are more job openings available in America today than at any point since the Bureau of Labor Statistics first started tracking vacancy data back in December 2000. Yet the percentage of adult Americans working or actively looking for a job stands at 62.6 percent, the lowest level in nearly four decades.

The trend towards a gig economy or freelancers is here. A study by Intuit predicted that by 2020, 40 percent of American workers would be independent contractors. The digital age has allowed this workforce, whether they be millennials or retirees, to work anywhere in the world on temporary/contract jobs or special projects while still enjoying the flexibility of choice and additional revenue in any stage of life or career.

Today's companies need to be flexible to attract and retain top talent and stay competitive. Companies are looking for a way to retain their knowledge workers and still accommodate their desire for a new work life balance. The gig economy allows a company to make work projects available to a variety of Talent. It also allows for the use of experts for specific projects that require company specific knowledge.

Our mission has always been to help Strengthen Your Workforce. Temporary Solutions and the EE, Inc. family of companies can assist you in choosing the solution that best suits your business needs and those of the new workforce. Call us to hear about our new workforce solutions offerings including Alumni Databases, V.I.P. / Executive Payrolling, IC Vetting and Compliance and Internship Solutions.



Enjoy the Fall!

Sincerely,

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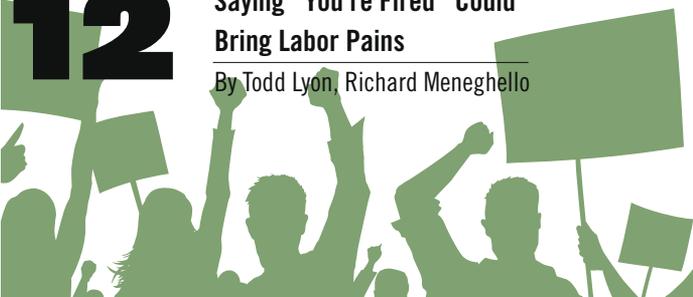
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MILLENNIALS: DIGITAL NATIVES in the Modern Workforce

BY ERICA HILL



Much has been written about Millennials, and for good reason. Millennials make up 50 percent of the modern workforce, and the oldest members of Generation Z (those born roughly 1995 to present) are starting their first jobs and internships.

Why is this relevant? Because it means over half of the modern workforce are digital natives. Many do not remember a time before the internet, email, or mobile phones. Millennials are no longer entry-level—the oldest are about 35 and in managerial roles. Many organizations have said they have a problem retaining and engaging Millennials. In fact, much of the conventional wisdom surrounding Millennials simply isn't true—plenty of research proves this statement.



WHY IS THE MILLENNIAL TURNOVER RATE SO HIGH?

Millennials are really no different than other generations in the modern workforce, and most employees want the same things out of their work, according to *Harvard Business Review*.¹ The reason they are turning over at a higher rate is simply because they make up the majority of the workforce, and turnover in the under-35 group has historically been higher than among older employees. Last year, 46 percent of employees under 35 left their last job due to lack of career growth, according to Glassdoor.²

What many companies are experiencing is a lack of strategy and understanding around candidate and employee engagement—and the ways Millennials prefer to learn and engage digitally. This is driving much of the urgency for companies to undergo digital transformation to stay competitive for talent and in product, service, and customer experience offerings.

WHAT DO MILLENNIALS WANT OUT OF THEIR CAREERS AND ORGANIZATIONS?

According to Glassdoor, Millennials are seeking growth opportunities, retirement benefits, and work culture. According to *Harvard Business Review*, they are also seeking the following:

- Impact
- Diversity
- Developing expertise
- Solving social and environmental problems
- Purposeful and meaningful work

To attract and engage Millennials (and all of your other employees, too), it's important to figure out creative *and* mobile people strategies. If you can give them development opportunities, many will stay. However, to enable development, managers need to effectively coach their teams in order to provide the feedback, growth, and satisfaction employees want while also attracting talent to a coaching culture. Strong leadership also connects talent to the purpose of their work and helps them see that their individual contributions have an impact.

Creating opportunities for more candidates to be considered via digital interviewing is a way the best companies are attracting millennial talent. Creating an effective coaching culture and enabling managers to coach with technology keeps talent engaged and attracts the best candidates because they are looking for coaching and growth.

In the end, most employers will find that the span of generations can and do share many desires—Millennials seek financial security, seniority, inspirational leadership, clearly articulated business strategies, and performance-based recognition and promotions just as much as Gen X and Baby Boomers.

Erica Hill is managing editor at HireVue, the world's leading Team Acceleration platform. HireVue's digital video and predictive analytics solutions enable companies like Under Armour, United Health Group, Hilton Worldwide, and Healthsouth to build and coach world-class teams by empowering managers to make faster, smarter hiring decisions. For more information, visit www.hirevue.com.

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HOW AUGMENTED REALITY WILL AFFECT YOUR RECRUITING EFFORTS



BY NICOLE MANZIONE

Augmented Reality (AR) seems to have gone from “technology of the future” to “technology of today” rather quickly with the popularity of Pokémon GO. Virtually overnight, the new app has revitalized the Nintendo game originally released in the 1990s, allowing players to explore the real world and virtually catch strange creatures with their fingertips—and this is just a glimpse of AR’s capabilities. AR is the integration of the user’s environment with digital information. As of now, AR does not play a substantial role in the human resources landscape; but, given its potential, that is soon to change.

Pokémon GO is not the first attempt to launch augmented reality into our everyday lives, although it has definitely made the biggest impact, especially among millennials. Just look for those in their 20s walking around aimlessly and peering into their phones—they’re likely playing the game. Many other industries beyond gaming have already started dabbling in AR. Retailers of all kinds are making great use of the booming technology. Furniture stores like IKEA allow users to virtually visualize furniture in their rooms; makeup brands like L’Oréal allow users to try on different makeup products using the technology; consumer brands like Coca-Cola have taken to Blippar, a popular AR app, to provide exclusive activities tied to events; and some big-name fashion brands have implemented virtual fitting rooms. The way that the digital layer is adding value to the physical world is becoming a huge sensation for many users, and its growing popularity is not stopping anytime soon. According to ABI Research, AR is projected to reach \$100 billion in total market worth by 2020.¹

So what does this have to do with recruiting and hiring? Considering that 72 percent of candidates use their mobile devices during their job hunts, according to an iCIMS study, it should be a no-brainer that AR will benefit your recruiting efforts.² Job seekers would be able to point their phones right at your building or office and would then be offered an array of information about your company, including job postings, employee testimonials, a look inside, and much more. If there is anything to learn from the technology revolution thus far, it’s that any “drop of water” can create a huge splash, and the AR wave has just begun. Soon enough, the candidates passing by your company’s office or advertisements will be getting a full tour with their thumbs.

Layer on the digital—recruiting is about to get augmented. Here’s where this new, engaging technology can add value in your recruiting efforts.

MAKE YOUR BRAND JUMP OUT...LITERALLY

Augmented reality will be more than just a shiny new toy for your company. It will be a surefire way to attract and engage talent, particularly Millennials who are ultimately tech savvy and attached to their devices. Using AR is a great way to show off everything your company has to offer in four inches. Employment advertisements will come to life when candidates scanning a poster are greeted with more than just a website. Imagine, for example that the posed employees in the photograph awaken to give a testimonial and prompt the users to job postings and other job seeker resources.

With the growing interest in working from home, job seekers are definitely looking to ditch their commute. According to the U.S. Bureau

of Labor Statistics, 35 percent of people in professional and related occupations did some or all of their work from home.³ Companies can use this technology to their advantage to attract local talent. Once AR takes off in human resources, job seekers will be able to simply walk through an area and check out companies, especially in urban areas where they can explore dozens on a single street.

MAKE CANDIDATES TOUCH YOUR BRAND

At this point, job seekers expect engaging experiences from employers, and with the use of this technology, employers can crank their efforts up a notch. Job seekers are no longer looking for a one-way stream of information about a company—they want some way to interact. This is in part why social media plays a large role in the job searching process: it allows them to like and comment on posts by an employer. With AR, employers can provide an engaging experience every step of the way. The interaction could start at the moment a candidate scans a poster and continue all the way to onboarding. The technology would allow candidates to connect to a recruiter, submit a resume, and, depending on the job or industry, participate in activities related to the job. Then, before a candidate comes in for an interview, they can take a tour of your office on their phone, meet departments, and engage with other information they’ll need to know before they step through the door.

Augmented Reality is making the future of HR a reality *today*. If you aren’t already using AR benefits and preparing for what’s ahead, you’ll be left in the past while competitors flourish. AR technology can help you bring your employment brand to life and deliver unique, memorable experiences to your candidates.

Nicole Manzione works in the internal communications department at iCIMS, a leading provider of innovative Software-as-a-Service (SaaS) talent acquisition solutions that help businesses win the war for top talent. Scalable, easy to use, and backed by award-winning customer service, iCIMS enables organizations to manage their entire talent acquisition life cycle, from building talent pools to recruiting to onboarding, all within a single cloud-based platform that is connected to the largest partner ecosystem of HR technologies in the industry. Supporting more than 3,200 contracted customers, iCIMS is one of the largest and fastest-growing talent acquisition solution providers. To learn more about how iCIMS can help your organization, visit <http://www.icims.com>.

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The Seven Essentials of Workplace Safety

BY JESSE BRAZZELL, CHST

The concept of best practices is widely understood, and most organizations appreciate the value of such information. After all, if another company has identified the most efficient, most effective way to do something, it makes sense to apply their ideas to your own organization. Why would anyone waste time trying to reinvent the wheel?

The same idea holds true when it comes to developing safety programs. Whether your business is in manufacturing, construction, or any other industry, modeling your own safety efforts upon successful safety programs used by top companies will help you do a better job of meeting your objectives.

Our company has had the opportunity to help firms in many industries sharpen their own safety efforts. One thing we've noticed is that no matter what the industry, and no matter what the size or location of the organization, the most effective safety programs are built upon seven essential elements. In this article, we'll examine each of those elements in detail.

1. IT TAKES A PROGRAM

Effective safety doesn't happen by accident. It's not a random occurrence. Having a rule here and some protective equipment there is not going to deliver adequate physical protection for workers (or financial protection for their employers).

Protecting both employee and employer takes a comprehensive safety program that addresses every aspect of safety and every corner of the workplace. It must be documented in writing to ensure consistency in practice and over time.

Most of all, the plan must be implemented. That may seem obvious, but some organizations go to the time and trouble of developing a plan only to let it sit unused on a shelf. You can put your plan in the best-looking three-ring binder you can find, but if you don't put it into practice every day at every location in which you do business, it won't do you any good.

Your safety program shouldn't present an imaginary, ideal environment that can't be achieved. It shouldn't be a work of fiction. Instead, it should reflect your current safety activities, what you're required to do to stay in compliance, and what your organization is realistically capable of accomplishing.

2. TRAIN, TRAIN, AND THEN TRAIN

Effective safety training is not a one-time thing. Combine human nature, the limits of anyone's memory, and the overwhelming amount of information we all receive every day, and it's no surprise that successful companies recognize the need to deliver information regularly.

The first step of training is the safety orientation for new hires—ideally, before they actually begin work. Before they're put into a position where they are exposed to workplace hazards, they need to be familiar with your organization's safety culture, the hazards they may encounter, your rules regarding safety practices, and what to do when they encounter or observe an unsafe situation.

Keep in mind that new employees are already being overwhelmed with information. Take as much time as you need to cover all of the orientation topics, and not one minute more. That increases the likelihood that employees will remember what's most important. They can receive more specific, more detailed training as they need it.

The companies with the best safety practices tend to deliver task-specific training just before the workers are going to perform those tasks. Examples include training for forklift operation, proper fall protection, safe use of scaffolding, and procedures for aerial lifts.

Task-specific training is more effective and memorable when the trainer trains alongside the students, rather than lecturing them about the information. Demonstrating the proper procedures imprints the information in workers' memories much more clearly than simply rattling off a list of steps and rules. Also keep in mind that most of the workers will have received previous training for the particular task or equipment, and may be inclined to tune the trainer out. Making training interactive and actively involving participants will keep daydreaming to a minimum.

Beyond task-specific knowledge, ongoing training may also include steps such as daily toolbox talks, monthly sessions focused on a particular area (or to meet compliance), and an annual safety refresher that reinforces the information delivered during the new hire orientation.

3. BUILT-IN VERIFICATION

How can you be certain that your training is effective and your workers are living up to your expectations? Your safety program should include a variety of informal and formal inspections and audits.

At the most basic level, supervisors should be required to make frequent, regular safety observations of the workers they oversee. In addition to monitoring employees for compliance with company safety standards, savvy supervisors will reward those who model best practices, thereby encouraging their co-workers to do the same.



Members of the management team should review safety practices and compliance with rules on at least a weekly basis, and more often if specific areas of concern are noted. When supervisors know that management is paying attention to safety practices, they'll be far more likely to enforce those practices.

The best companies also include independent reviews of their overall programs. Whether that's performed by an internal safety professional or an outside safety consultant, the objective is to verify that the review process is being followed.

4. INVESTIGATE WHEN SOMETHING FALLS SHORT

No matter how well thought out a safety program may be, there will be times when actual performance falls short of standards or expectations. It may simply be a matter of workers failing to follow the correct procedures, or it may involve a serious injury.

When incidents occur, it's important to investigate them. The reason for investigating is not to determine whom to blame, but to identify what went wrong. Was there a deficiency in the procedure? Did employees receive insufficient training? Did an unanticipated situation arise?

In addition to pinpointing causes of incidents, the investigation process should provide suggestions for avoiding similar incidents in the future. Performing the investigation will also give the safety professional the opportunity to identify other potential problems.

5. CONSTRUCTIVE DISCIPLINE

"Discipline" is a word that often carries negative connotations, but it's a very positive element of effective safety programs. Discipline is not all about punishment; it's about ensuring compliance with the safety program and other rules, and offering corrective actions and consequences when necessary.

Companies that use the best safety practices employ discipline as a way to alter behavior and condition, rather than simply threatening someone's employment status. The goal is to identify the incorrect behavior or action, and then retrain the employee so that he or she will act in the way the organization prefers.

To be effective, discipline must be consistent, and it must be consistently applied. Saving disciplinary actions for "major" noncompliance sends the message that smaller missteps will be ignored.

Supervisors must be aware of the workers' perceptions about disciplinary consequences and enforcement. After all, employees pay attention to many details, so they'll be aware of how their supervisors approach problems. Programs must also take workers' schedules and workloads into account when applying consequences.

6. REWARD THE RIGHT BEHAVIOR

It's every bit as important to call attention to good behavior as it is to point out when people fall short. In fact, because positive reinforcement tends to be more effective, having a reward program is an essential element of a sound safety program.

Successful reward programs shouldn't be complicated. Actually, the simpler the program, the easier it is to implement and the more likely employees will show an interest in it. Make sure the objectives are understandable, and that employees understand the incentives from the very beginning.

Remember the time-honored advice to praise in public and discipline in private. When you publicly call attention to good practices, you enhance a worker's pride in a job well done. You also reinforce the importance of following those practices among his or her co-workers. Even a little bit of friendly competition can help you improve compliance with your program.

7. GET IT IN WRITING

Do you have a great safety program? Prove it! The best way to offer evidence that your safety program is achieving your organization's goals and meeting compliance is to document everything.

Having complete documentation will ensure that you meet OSHA's requirements. Just as important, if your worksite is inspected by OSHA, the fact that you've carefully documented everything and can give it to the inspector may reduce the possibility of a more in-depth audit.

Another advantage of detailed documentation is that it encourages continued compliance with your organization's safety program by serving as a visible reminder of what needs to be checked and recorded.

Ensuring that all seven of these elements are present doesn't guarantee that you'll have a perfect safety plan, or that your organization won't have to worry about incidents and injuries. However, the organizations that do address these elements tend to have cultures in which safety is considered to be very important. It's no coincidence that they usually also have significantly lower-than-normal injury and illness rates, as well as lower experience modification rates. Clearly, the benefits outweigh any additional effort.

Jesse Brazzell is the manager of safety services at The Safety Management Group, a nationally recognized professional service organization that provides workplace safety consulting, training, staffing, program planning, and implementation. Visit them online at www.safetymanagementgroup.com.



Safety Incentive Plans Are Now a Thing of the Past!

NEW AND VERY RESTRICTIVE REGULATIONS WENT INTO EFFECT ON AUGUST 1, 2016.

BY MICHAEL HABERMAN



If you have ever worked at a manufacturing firm or a construction company, you understand the importance of having a safe workplace. Accidents and resultant injuries are expensive in both human and monetary costs. As a result, safety incentive programs to encourage and reward safe practices—also known as “no lost time days” programs—have been a staple in many companies. If you drive by construction sites, you will often see signs saying something to the effect of “This site is accident free for xxx days.” Well, you may not see those signs anymore as a result of new OSHA regulations and requirements.

ACTS OF RETALIATION

According to attorney Howard Mavity of Fisher Phillips, OSHA has declared that as of this August, when the new electronic recordkeeping rules went into effect, having an incentive plan that rewards employees for accident-free days will be considered to be a “retaliatory practice.” In the opinion of OSHA, having a reward system discourages employees from reporting accidents. Additionally, disciplining employees who do not immediately report workplace accidents is also considered a retaliatory practice. Lastly, automatically conducting post-accident drug testing of injured employees is also considered retaliatory. I know many companies that have just such a procedure written into their employee handbooks. That is going to cause much heartburn for many a drug testing program.

INCREASED FINES

These changes are not the only things that OSHA has changed. Employers will now pay a lot more, I mean *a lot more*, for violations. According to Mavity, OSHA’s maximum penalties increased by 78 percent while the top penalty for serious violations rose from \$7,000 to \$12,471 and the maximum penalty for willful or repeated violations increased from \$70,000 to \$124,709.

TIME TO REVIEW AND UPGRADE

For many employers, the change in regulations will require a review of the current safety policy and procedures. Mavity suggests a list of things employers should do, which include:

- Determine if your “safety program” is simply an impressive document which may not reflect actual practices, or may not be followed at all locations. Under OSHA’s “voluntary” (but not so voluntary) Safety and Health Program Guidelines, an employer’s failure to follow its stated safety procedures will be used against it.
- Do you maintain Job Safety Analyses (JSAs) for tasks and use those JSAs to devise safety training, perform, and manage safety?
- How often and when do you hold safety meetings, toolbox talks, refresher training, and pre-shift or pre-work safety meetings?
- Does your safety committee do anything?
- What are your industry’s common exposure areas?
- What OSHA National, Regional and Local Emphasis efforts affect your business?
- Have you ever taken a “Safety Attitude” survey?
- What safety (and disciplinary and counseling) training do you provide supervisors?

It is time to act now! According to OSHA, the compliance schedule is as follows:

Establishments with 250 or more employees in industries covered by the recordkeeping regulation must submit information from their 2016 Form 300A by July 1, 2017. These same employers will be required to submit information from all 2017 forms (300A, 300, and 301) by July 1, 2018. Beginning in 2019 and every year thereafter, the information must be submitted by March 2.

Establishments with 20–249 employees in certain high-risk industries must submit information from their 2016 Form 300A by July 1, 2017, and their 2017 Form 300A by July 1, 2018. Beginning in 2019 and every year thereafter, the information must be submitted by March 2.

Michael Haberman is cofounder and senior HR consultant of Omega HR Solutions, Inc., which offers compliance reviews, wage and hour guidance, supervisory and managerial training, strategic guidance, executive advisement, and more. He also contributes articles to the Blogging4Jobs website. He can be reached at mhaberman@omegahr.com.

When Should You Hire Internal vs. External?

BY AMANDA GROVES

Every hiring manager is faced with two options: to promote from within or to dive into the talent acquisition pool. Here are some guidelines to follow to help make that decision:

WHY YOU SHOULD PROMOTE FROM WITHIN

1) They know the company and will stay loyal.

Employees already working at your company have an advantage—they are familiar with everything about your organization. In addition to their hardworking mindset that earned them a promotion, the company values them as people. They fit in with the culture, they have a general understanding of the company and how it fits in the industry, and peers respect them. When other employees see their co-workers being rewarded for their hard work, it is usually well received in the organization. Promotion from within boosts morale among the company and, in turn, employees stay loyal because they can see their own career advancement.

2) They take less time in the onboarding process.

When hiring externally, the onboarding process can take days, even weeks. For those already in the company, this is not the case. They already have significant experience with everything, so there doesn't need to be much time spent in new training programs. Less time in an onboarding process means that employees can become a valuable resource in their new role quicker than a new hire.

3) There is a smaller chance they will fail at their role.

Since they already know the company and the culture, it is less likely they will do poorly in their new role. If they were promoted, this means their manager and the senior team believes they are ready for a larger role and more responsibilities. They wouldn't be given this opportunity if they were not well prepared. According to CIO.com, 27 percent of U.S. employers said one bad hire costs more than \$50,000.¹

WHEN YOU SHOULD HIRE EXTERNALLY

1) When you are looking for a position that requires specific experience.

Some roles can't be filled by anyone currently in the organization—they require experience beyond the capabilities of existing team members. When hiring for a specific role, such as a web developer or someone with UX experience, hiring someone with that niche expertise is important. It's often worth spending money in talent acquisition rather than conducting costly external training needed for an internal employee without the expertise.

2) When you are looking for a fresh perspective on your organization.

For a company looking for a fresh set of eyes, hiring externally is a great way to bring original ideas into your organization. Bringing in a new employee from the outside provides your organization with a new set of ideas and feedback. This may lead to new strategic direction and new revenue streams.

3) When you need to hire quickly.

This one may be obvious, but when a company is expanding so rapidly that it can't keep up with the workload, the only solution is talent acquisition. To avoid burnout of their existing employees, new employees must be hired. When you can't afford to waste time waiting for internal employees to develop, or immediately need hands on deck, hiring external is the way to go.

Amanda Groves is the marketing manager at Jazz.co, the first performance recruiting platform. Jazz is on a mission to make recruiting and hiring easy, effective, and scalable no matter what growth looks like at your company. The Jazz Performer Platform doesn't just help your company grow, it can help your recruiting process grow up, putting you on the path to hiring "Performers Only."

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Saying “You’re Fired” Could Bring Labor Pains

BY TODD LYON, RICHARD MENEGHELLO

An Ohio employer recently learned the hard way that employers need to be cautious when it comes to communicating with striking employees about permanent replacements. After mistakenly telling them that their employment had been “terminated,” the employer has been ordered to pay out a large sum of money to the striking workers, and—worse yet—hire them back. The lessons learned from this case can help you avoid the same fate. (*Tri-State Wholesale Building Supplies v. NLRB*)

STRIKE REPLACEMENT LAW IN AN UNSETTLING STATE

Earlier this summer, employers received a labor shocker when the National Labor Relations Board (NLRB) held for the first time that an employer violated the National Labor Relations Act (NLRA) by hiring permanent replacements during an economic strike to punish striking employees and to avoid future strikes. By delivering this holding in the *American Baptist Homes of the West* case, the Board overturned decades of precedent allowing employers to hire permanent replacements during an economic strike, regardless of motive. To avoid this same consequence, you should focus on your operational need to continue to operate during the strike when replacing workers.

According to a new decision from the Sixth Circuit Court of Appeals, there is also another maneuver you should shun if you want to stay out of hot water: telling the striking workers that they have been fired.

HOLIDAY PAY CONFUSION LEADS TO WALKOUT

Tri-State Wholesale Building Supplies, located in Cincinnati, Ohio, manufactures building parts such as doors and windows. At the time this dispute arose in late 2013, it employed 20 manufacturing employees, none of whom belonged to a union.

The trouble began during the 2013 holiday season. According to the Tri-State handbook, employees receive a paid week of holiday time after Christmas Day, during which time the facility is shut down. The handbook was silent, however, about whether this “week” of pay included New Year’s Day itself (an open question, because January 1 occurs eight days after Christmas).

The company president told the plant manager that she would pay holiday pay for New Year’s Day if the employees worked on Friday, January 3, 2014 to catch up on lost production (workers typically had Fridays off). The manager told the employees, who agreed to work that day.

A week later when paychecks were being drawn up, the company changed course and chose not to give holiday pay for New Year’s Day. The president characterized the problem as a “mistake,” but the manager claimed that the president “changed her mind.”

When the manager relayed the news to his work crew, 11 of them walked off the job and went “on strike” to protest the situation. The president immediately went to action to keep manufacturing going and made the decision to hire replacement workers.



“YOUR EMPLOYMENT HAS BEEN TERMINATED”

Within a matter of days, the president called each of the striking employees and read a prepared statement to them. She also mailed them a letter repeating her statement. The letter said that the company had “replaced” them in order to continue operations. She instructed them not to report to work “as your position has been filled and your employment terminated.” The letter concluded by informing them that they would be receiving standard separation information from the company, thanking them for their service, and wishing them success in their future endeavors.

Even though they were not unionized, the workers were still protected by the NLRA and filed an unfair labor practice charge against Tri-State, alleging that the statute had been violated. The Board upheld their challenge in an April 2015 decision, but the company appealed the decision to the Sixth Circuit Court of Appeals. On August 11, 2016, the Sixth Circuit issued a ruling upholding the NLRB’s decision and granting the striking workers a complete victory.

COURT: PAY THEM BACK AND HIRE THEM BACK

The court decision is rather straightforward. It begins by confirming that the striking workers were engaged in protected activity under the NLRA when they walked off the job, despite the fact that they were not members of any organized union. It then addresses Tri-State’s main defense: that it permanently replaced the employees in accordance with acceptable labor law practices but did not actually discharge them.

The court rejected this argument out of hand. It noted that the legal test to be applied in this situation is whether the workers could draw reasonable inferences leading them to conclude that they had been terminated. It then pointed to the letters delivered to each worker and noted that there were four portions of the letter from which the strikers could reasonably have inferred that they had been discharged: the use of the word “terminated,” the announcement of “standard separation information,” thanking them for their service,

and wishing them success in future endeavors. This led to an award of back pay compensating the terminated employees from the date of termination to the present day.

In a bid to overturn the NLRB’s order requiring reinstatement to the strikers, Tri-State also tried to point out that it had hired permanent replacement workers. But the court also rejected this argument. It pointed out that Tri-State could not prove that it told the replacement workers whether they were permanent or temporary, or in fact even informed them about the strike at all. Consequently, the court ordered reinstatement of the workers who had walked out.

LESSONS TO BE LEARNED

There are two main lessons to be learned from this case, which should be especially significant given recent attention paid to replacement workers by both the NLRB and the courts. First and foremost, avoid informing striking workers that they have been “fired,” “terminated,” or “discharged.” Stick with the basics. Striking workers are never to be terminated due to the hiring of replacement workers.

Instead, inform them in writing that they are being permanently replaced in order to continue business operations, and, in order to comply with *American Baptist*, avoid any indication that your decision is motivated by any animus against the workers themselves. Striking workers who are permanently replaced in this fashion may return to work only if a vacancy in their former position, or one that is substantially equivalent, becomes available.

Second, with respect to the permanent replacement workers, make sure you inform them about the current situation, but also inform them about their status as permanent workers (but still subject to at-will employment policies). Document this delivery of information so that, in case you find yourself in the same boat as the employer in Tri-State, you can demonstrate definitively that the replacements were aware of their status.

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Doing Right by Future Retirees Pays Off in the Present

THE 30 BEST WORKPLACES TO RETIRE FROM HAVE LOWER TURNOVER AND A MORE COMMITTED, COLLABORATIVE WORKFORCE.

BY KIM PETERS

ROUGHLY A THIRD OF U.S. HOUSEHOLDS OVER 55 HAVE NO RETIREMENT SAVINGS. Among those that do, the median nest egg for people 55 to 64 is \$104,000—enough to buy an annuity paying \$310 per month. That's scary news for working Americans heading toward their golden years. But it's a golden opportunity for businesses.

Indeed, some companies are doing right by workers eyeing retirement and gaining competitive advantages along the way. We have compiled a list of these companies using 30 Best Workplaces to Retire From.¹ This new ranking by our consulting firm Great Place to Work Institute and *Fortune* highlights companies that provide generous retirement programs, equitable pay, and even handed treatment of employees regardless of age. These workplaces, in turn, enjoy lower turnover as well as a more committed, collaborative workforce.

As Great Place to Work consulting partner Jason Slusher notes, real problems arise when you lose team members early as they approach the end of their careers. Companies can face substantial hurdles to succession planning when their ranks of highly experienced employees diminish. "They truly are the experts at what they do," he says, and retaining senior employees becomes essential to passing on that institutional knowledge to the next generation of leaders.

A "Silver Tsunami" is well under way, according to the Society for Human Resource Management.² The cohort of workers 45 to 64 is growing faster than any other generation, and the economy is already grappling with two retirements for every new entrant in the workforce. The U.S. could face a skilled labor

shortage of 20 million employees over the next two decades, giving business leaders all the more reason to think beyond modest 401(k) plans and retirement seminars.

The Best Workplaces to Retire From distinguish themselves with organizational cultures that employees see as collegial and fair. For example, more than 95 percent of people over the age of 52 at the Best Workplaces describe their companies as friendly. "They've established those relationships, their network," Slusher says. "So they're obviously proud to be there, and they've been there a long time."

Compared to peer companies certified by Great Place to Work, older team members at the winning companies were more likely to say promotions are handled equitably and managers involve people in decisions that affect their jobs. Winning workplaces were also more likely to direct career opportunities inward, with an internal promotion rate of 35 percent. In other words, these corporate cultures demonstrate deep respect for the knowledge and experience of veteran employees.

Leading organizations also offer competitive benefits to hold on to experienced team members. Twelve of the 30 Best Workplaces—40 percent—offer a defined-benefit pension. By comparison, just 18 percent of private employers surveyed by the Labor Department offer defined-benefit pensions.³ Additionally, all of the winners offer a 401(k) plan, and more than half match employee contributions dollar for dollar. What's more, these organizations take practical measures to ease the transition out of the workforce, such as phased retirement programs, financial planning services, and post-employment health benefits.

The investments come with a return: The Best Workplaces to Retire From report turnover that averages 7.2 percent, about a fifth lower than their peers considered for the list. The winners also score high marks on survey questions related to employee loyalty, with more than nine in 10 team members over 52 saying they're proud of what they accomplish and that they want to stay with their employers for a long time. In addition, employees overall at The Best Workplaces to Retire From are 10 percent more likely to report that they can count on peers to cooperate—an important feature of high-performing, innovative organizations.

It's a performance-review cliché to ask, "Where do you see yourself in five years?" But rarely do companies bother asking what their people will be doing two decades from now. Given the country's sparse retirement savings, demographic trends and the growing importance of knowledge transfer, maybe they should.

Kim Peters leads the recognition program at Great Place to Work, which offers companies the opportunity to measure and build a high-trust workplace culture, get certified and reviewed as a great workplace, and be eligible for high-profile employment rankings, including the list of *Fortune* 100 Best Companies to Work For. She can be reached at kpeters@greatplacetowork.com.

1. "30 Best Workplaces to Retire From." *Great Place to Work*. N.p., 2016. Web. 30 Aug. 2016.
2. Hitch, Ph.D., Chris and Brad Kirkman, Ph.D. *Engaging Older Workers Strategically*. SHRM Foundation, 2016. <https://www.shrm.org/about/foundation/products/Documents/Engaging%20Older%20Workers-FINAL.pdf>
3. "Retirement Benefit Combinations: Access." *U.S. Bureau of Labor Statistics*. U.S. Bureau of Labor Statistics, n.d. Web. 25 Aug. 2016.



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