

JANUARY 15, 2019

WHAT'S ONLINE

www.WhatsWorkinginHR.com

If you haven't been to our website recently, here's exclusive online content you've been missing:



Managers' Update for Employment Law

To help supervisors deal with the tricky legal issues they face daily.



Compliance Checklist

To ensure your company is in compliance with employment law.

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The do's and don'ts of ADA accommodation: 3 new rulings

■ Staying compliant in 2019

Employers are facing more disability discrimination lawsuits than ever – despite their best compliance efforts.

In the past year alone, over 25,000 ADA charges were filed by the EEOC.

The right way to accommodate

One area that's often a point of contention? The accommodation process. Workers and employers can have a very different idea of how a disability should be accommodated.

And while each disability needs to be evaluated on a case by case basis, several recent court rulings shed further light on employers' ADA accommodation responsibilities.

1. *In Brumley v. United Parcel Service*, a court ruled that ADA accommodations don't necessarily have to be given to employees immediately.

Melissa Brumley delivered packages for UPS when she hurt her back lifting a heavy box from her truck.

She took leave to heal, and her doctor said when she returned to work she could no longer lift packages or drive. Since these were two essential functions of her job, Brumley's manager put her on leave while waiting on more information from her doctor.

After beginning the interactive

(Please see ADA ... on Page 2)

Online recruiting scams targeting job seekers

■ Better Business Bureau identified over 3,000 scams in 2018

Here's another potential roadblock for employers looking to fill open positions in this tight labor market.

In the past year, job seekers have received thousands of emails from scammers pretending to be recruiters from well-known companies, the Better Business Bureau reports. The emails initially set up phone interviews for the fake jobs.

After doing the interview, scammers would offer the applicant the job, and as part of the hiring process, requested personal information such as Social

Security numbers and bank information to supposedly set up direct deposit.

Line of defense

In order to prevent applicants from falling for these fake recruiters, companies have started adding info on the scams to their recruiting pages.

Companies also are taking the opportunity to warn job seekers they'd never ask for personal info over the internet or phone.

Click: bit.ly/recruitscam525

ADA ...

(continued from Page 1)

process and considering a reassignment, Brumley's doctor cleared her to go back to her old job, and UPS ended the process.

But Brumley sued the company for failing to accommodate her during those weeks she was on leave, which resulted in loss of pay.

A district court ruled in favor of UPS, and on appeal the 6th Circuit agreed. It said just because the company didn't accommodate the employee immediately didn't mean it violated the ADA.

UPS began the interactive process and only stopped once Brumley was cleared to go back to her old job without an accommodation.

The key things the company did? Beginning the process and requesting additional info from Brumley's doctor – this showed the court a good faith

effort to comply with the ADA.

2. In *Sharbono v. Northern States Power*, a court ruled a company that failed to find an accommodation didn't fail to fulfill its ADA duties.

After a foot injury, James Sharbono wasn't able to wear the steel-toed boots required by his company's safety procedures.

HR worked with Sharbono and suggested several accommodations, such as altering his boots and getting a custom pair made, but none worked out. Sharbono was forced to retire, and he sued for ADA violation.

But the 8th Circuit ruled the company acted in good faith. It worked with Sharbono and suggested several accommodations. It was only after exhausting all options that Sharbono was forced to retire. The court said the company fulfilled its ADA responsibilities, despite finding no accommodation for Sharbono.

3. In *Stokes v. Nielsen*, a court decided companies can be required to make accommodations that cover more than just essential job functions.

Jacqueline Stokes had impaired vision and received multiple accommodations that allowed her to do her job. Stokes then requested special meeting handouts, printed in large letters, that she could read beforehand.

Despite many promises from HR, Stokes never received her requested handouts. She sued, claiming to be denied a reasonable accommodation under the ADA.

While the company argued it gave Stokes everything she needed to do her job, therefore fulfilling its ADA responsibilities, the Fifth Circuit disagreed.

"Our circuit has explicitly rejected the requirement that requested modifications must be necessary to perform essential job functions to constitute a reasonable accommodation," it said. And Stokes' request was deemed reasonable.

This case shows if an employee makes a reasonable request for their job, it's easier to just grant it.

Sharpen your JUDGMENT

This feature provides a framework for decision making that helps keep you and your company out of trouble. It describes a recent legal conflict and lets you judge the outcome.

■ She reported harassment, then OT gets cut: Retaliation?

HR manager Lynn Rondo was begrudgingly signing up for a spin class – part of her New Year's resolution to get in shape – when company attorney Eric Bressler knocked on her door.

"Sorry to jump right in without even asking how your holidays were," Eric said. "But Jessica Gray is suing us for retaliation."

Negatively impacted pay

Lynn sighed. "I'm guessing this has something to do with her sexual harassment complaint."

"Yes," Eric said. "Jessica claims her overtime hours were cut after she reported her supervisor, Paul, for harassing her. What do you know about this?"

"Jessica mentioned to a manager that Paul was doing some really inappropriate stuff," Lynn started.

"Paul got wind of the complaint, but didn't know who it was from," Lynn continued. "Around the same time, he told Jessica she wouldn't have the option of voluntary overtime anymore."

"Jessica says she regularly works overtime hours, so this OT ban really impacted her earnings," Eric said. "Everyone else was still able to work overtime."

"But voluntary OT is just that," Lynn countered. "It's not like those hours are guaranteed. Paul didn't cut Jessica's salary or anything."

Jessica sued for retaliation, and the company fought to get the case dismissed. Did it win?

■ *Make your decision, then please turn to Page 6 for the court's ruling.*

WHAT'S WORKING in Human Resources™

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What's Working in Human Resources, (ISSN 1088-3223) January 15, 2019, Vol. 23 No. 525, is published semi-monthly except once in December (23 times a year) by Progressive Business Publications, 370 Technology Drive, Malvern, PA 19355; PHONE: 800-220-5000. FAX: 610-647-8089. Periodicals postage paid at West Chester, PA 19380. Postmaster: Send address changes to *What's Working in Human Resources*, 370 Technology Drive, Malvern, PA 19355.

Subscription: 800-220-5000

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NLRB: Letter to the editor not grounds for firing hospital employee

■ Workers have the right to discuss employment conditions

Time for a reminder that firing an employee for talking to the press is more likely to backfire than improve your workplace. And that applies equally to non-union staff.

A National Labor Relations Board judge recently ruled that a non-unionized employee's letter to a local newspaper noting her concerns about workplace issues was protected under the National Labor Relations Act.

Media policy went too far

When the paper published the employee's concerns about staffing levels at the hospital, she was fired for violating its policy barring speaking to the press without permission. So, she filed an unfair labor practice charge.

Under Section 7 of the NLRA, employees are guaranteed the right to

engage in "activities for the purpose of collective bargaining or other mutual aid protection."

Employers are within their rights to prohibit discussion of strategy, trade secrets and other business matters.

But staffing levels and employee satisfaction are considered terms and conditions of employment. Workers can speak publicly about those topics whether with the press or on social media.

The judge said the employee's complaints were protected, and ordered the hospital to reinstate her with back pay and benefits.

This is a good time to review your social media rules, PR guidelines or any other policies that might run afoul of the Act's protections.

Info: bit.ly/NLRASpeechprotections

Court advances new mother's lawsuit after employer didn't provide a lactation room

■ FLSA requires private, designated space for employees to pump

Most employers know they're required to provide nursing mothers with breaks to pump. But a recent lawsuit emphasizes the specific requirements the lactation room must meet.

Lack of privacy

Autumn Lampkins was an assistant restaurant manager at a Delaware KFC franchise. In her lawsuit, the new mother alleges her employer was unhappy about providing her breaks to pump.

Not only that, but Lampkins claims she was initially forced to pump in the restaurant bathroom.

After complaining, Lampkins was given access to a private office.

However, this office had a security camera in it and a window co-workers could watch her through, and occasionally her supervisor performed work in the office while Lampkins was pumping.

The court agreed to advance Lampkins' sex discrimination claim. It reinforced employers are required to provide a designated space – not a bathroom – that obscures the nursing mother from view. KFC failed in both aspects of this.

Employers must provide lactation areas that meet these standards for one year after the birth of a child.

Cite: Lampkins v. Mitra QSR, U.S. Dist. Ct. DE, No. 16-648-CFC, 11/28/18.

■ Inflexible and discriminatory leave rules prove expensive

A healthcare company discovered complying with federal disability accommodation and anti-discrimination laws is less costly than ignoring them.

The EEOC says Visalia, CA-based Family Healthcare Network refused to extend medical leave and then fired employees for not showing up to work – or even fired them while still on approved leave. This practice violated three statutes: The ADA, the Pregnancy Discrimination Act and the Civil Rights Act.

The company will pay \$1.75 million, invest in new compliance systems and develop procedures to settle a suit over what the commission calls "systemic disability and pregnancy discrimination."

This case is a good reminder for firms to review leave policies to be sure they don't unintentionally discriminate against workers with disabilities or pregnant employees.

Info: bit.ly/EEOCPregnancy525

■ EEOC cracking down on pregnancy discrimination

According to the EEOC, pregnancy discrimination is a continuing problem in the United States, and a recent case shows dealing with it is one of the commission's top priorities.

The EEOC sued a Bismark, ND, restaurant for firing a worker after she revealed she was pregnant.

The lawsuit claims Erica Davidson was a server at 40 Steak & Seafood when she told her employer she was expecting. It wasn't long after that the restaurant fired her.

The manager who terminated Davidson told co-workers she was let go because she was pregnant.

EEOC's Greg Gochanour said, "The rule is simple: Don't fire someone, or treat someone adversely in any way, simply because she's pregnant."

Info: bit.ly/EEOCPregnantserve525

Experts give their solutions to difficult workplace problems

HR professionals like you face new questions every day on how to deal with workplace conflict and employment law. In this section, experts answer those real-life questions.

What do we do when our dress code backfires?

Q: We didn't bother with an official dress code until we started seeing a lack of common sense: PJs and slippers, ratty T-shirts and workout clothes. But when we wrote out specific rules about length of skirts, no ripped jeans, etc., managers said policing that code wasted time. How can we make a dress code that works?

A: Really detailed dress codes tend to cause as many problems as they cure, says HR consultant Susan Heathfield, with people joking about nuns measuring skirt length and pushing to see what they can get away with.

Instead, she recommends a general code that bans specific types of clothing and makes clear you expect employees to dress professionally – in line with your industry and workplace norms.

Have every employee sign the revised rules and make it clear to managers that they need to exercise common sense with the new rules.

Is it OK if workers choose not to take vacation time?

Q: Should managers care if workers don't use vacation time? Isn't it up to them to decide whether they take time off?

A: Even if workers think they don't need a vacation, says HR pro Kathline Holmes, missing the chance to relax and recharge leads to higher levels of stress and increased risk of burnout,

physical illness and mental exhaustion. From the employer's perspective, that can mean more workplace accidents, increased absenteeism and higher worker's comp costs. And when workplace morale and productivity go down, it hurts financial results.

Upper management should set an example. When company leaders take time off, middle management will follow suit, letting rank and file team members know it's OK to take vacation time.

Can we waive the insurance waiting period for one hire?

Q: A new hire is asking we start health insurance immediately, rather than waiting 90 days. Even if this is legal, won't a unique benefit for one new hire potentially cause problems?

A: You're right to be concerned, says HR consultant Joy Medley. While there's no minimum waiting period under the law, health insurance policies must be applied consistently or employees and applicants might be able to claim discrimination, so it's best not to give anyone special treatment.

If you want to make job offers more competitive in this tight labor market, think about eliminating or modifying the waiting period for everyone.

If you have an HR-related question, email it to Rachel Mucha at: rmucha@pbp.com

EFFECTIVE COMMUNICATION

■ Trust is key to good company culture: 4 ways to build it

Every employer wants to have a strong company culture where workers feel happy and comfortable and are ready to work each day.

And the secret to achieving that? Trust. A recent study from Harvard Business Review found those who work in a high-trust environment have 74% less stress than those who don't.

Some other benefits the study discovered include more energy, higher levels of engagement, fewer sick days and less burnout.

Openness and communication

Trust doesn't just materialize overnight – it's something that needs to be built purposefully.

And Jeff Yurcisin, president of Zulily, shared steps he followed to achieve a trusting environment.

1. **Be transparent.** Always communicating openly with staff is a surefire way to gain their trust. An open-door policy lets employees know all thoughts and questions are welcome. Holding regular meetings to keep everyone in the loop helps to do this as well.

2. **Be clear.** A lot of workers are unsure of their companies' goals. Make sure your employees know exactly where the company is heading and why, and what they're doing to achieve these goals.

3. **Keep your promises.** Nothing destroys trust more than not following through on something. If you tell an employee you'll look into getting them help on a project, make sure you keep your word. This will set the tone for a trusting and reliable culture.

4. **Get to know everyone.** Having conversations with all your employees and getting familiar with people's personal and professional goals will let your staff know you care about them on a human level. Being genuinely interested in your people will naturally foster trust.

Info: bit.ly/trust525

WHAT WORKED FOR OTHER COMPANIES

Our subscribers come from a broad range of companies, both large and small. In this regular feature, three of them share a success story illustrating ideas you can adapt to your unique situation.

1 Helping our workers access info more easily

As a trucking company, onboarding has always been a challenge for us.

Many of our employees are away from our facilities for long periods of each day, or even for several days.

Our onboarding issues are aggravated by the fact that a lot of our employees aren't totally comfortable using computers.

That's created some problems for us as more and more of our hiring

and training processes have gone digital.

Interestingly, many of these employees are quite comfortable working with their mobile devices, even if they don't have an internet connection at home.

More to come

To help those employees, we've installed terminals in our facilities that made it a little easier for our employees to access information and complete the necessary forms.

To help our people get info on policies and benefits, we've also added quite a bit of video content to our online portals.

Some videos, like the ones that cover policies and procedures, we produce ourselves in-house.

We don't feel we've found the perfect solution to our onboarding issues yet, but we're making progress and will continue to improve our communication.

(Dawn Turner, HR generalist, E.J. Pope & Sons, Selma, AL)

**REAL
PROBLEMS,
REAL
SOLUTIONS**

2 How we recharged staff during crunch time

We manufacture consumer products, so the holiday season is always super busy.

We add shifts, and people have to work overtime, so it's pretty grueling for everyone.

There's always an increase in workers getting stressed out and even burned out during the October to January crunch.

To help them deal with the pressure and still keep production

humming, we've instituted a number of programs centered on mental, physical and spiritual wellness.

We encourage our team to take a break during the day and spend time relaxing and refreshing their bodies and minds.

Taking some time

Some of our most popular programs have been Meditation Mondays and Massage Fridays.

In addition to Monday group

meditation sessions, we have a Quiet Room where anyone can take a quick break from the hustle and noise of the workday.

When we added Yoga Thursdays this year, we weren't sure how they would go over, but classes have been full and reactions are universally positive.

We're proud of the programs, and they've helped us rank as one of the best places to work in our region.

(Lisette Malarchik, HR manager, Graphik Dimensions, High Point, NC)

3 Added fun to our open enrollment message

During open enrollment, we always covered too much information by sending out one communication with 15 different messages and a dozen benefit acronyms.

We assumed professional sounding language was better than plain, simple talk. But that wasn't necessarily true.

Plus, we failed to recognize that all employees have different learning styles and communication preferences.

Since almost all employees have

a cell phone, we used fun online videos to send out open enrollment information. And we used a benefits website designed for mobile viewing so workers could easily read content.

Sent out group texts

We used group text messaging as an easy and fast way to reach our employees with short benefits messages, such as event dates and deadlines. We also linked to online videos, websites and enrollment tools.

After open enrollment was over, we asked employees to complete a survey,

and 93% said the new communication helped them understand the benefits we offered.

One employee said: "It's very refreshing to have a company provide a full explanation of the benefits offered and how it affects my pocketbook."

There's no rule that says benefits communication has to be boring.

(Julie Adamik, Director of Benefits Planning and Design, Petco, San Diego, as presented at the Mid-Sized Retirement & Healthcare Conference in Las Vegas)

Get ready: Schedule laws impacting more employers

Philadelphia has joined NYC, San Francisco, Seattle and Oregon in mandating more predictable schedules for workers. Starting in 2020, Philly employers must give good-faith estimates of when staff can expect to work in a 90-day stretch. Schedules must be posted 10 days in advance.

Workers can refuse to work unscheduled shifts and can't be punished for exercising these rights. The ordinance covers nonexempt retail, hotel and food service workers.

Outside of "Fair Workweek" jurisdictions, adopting compliant policies before they're required will help keep employees happy and your firm out of trouble.

Info: bit.ly/PhillySchedLaw525

Agency requests LGBTQ workplace protections

The U.S. Commission on Civil Rights is petitioning Congress to pass legislation to prohibit LGBTQ discrimination in the workplace.

As no current anti-discrimination laws explicitly protect LGBTQ employees, the agency says Congress should pass legislation that guarantees workers are protected against discrimination based on sexual

orientation and gender identity.

While some courts have ruled LGBTQ discrimination is sex discrimination, and therefore prohibited by the Civil Rights Act, other courts have ruled in the opposite direction.

Info: bit.ly/LGBTQ525

Pay equity index: 108 years to close gender gap

According to a new report, pay equity will take a lot longer to achieve than most people think.

The Global Gender Gap Index found it'll take 108 years for men and women to earn equal pay worldwide. The report comes after studying health, economic, education and political criteria in 200 nations.

Countries like Egypt and Saudi Arabia have the biggest pay gaps, while full parity has been achieved in the Bahamas and the Philippines.

Info: bit.ly/paygap525

Lighter side: The weirdest job title of 2018 is ...

Though a lot of companies prefer to keep job postings clear and simple, some take a more creative approach.

And with another year behind us, Indeed released its Weird Job

WHAT COMPANIES TOLD US

Holiday party hangover

What do workers remember about that holiday bash? (% of survey respondents)



Source: Phusion Projects promotional survey

The survey also found HR folks most likely to hook up with a co-worker at a party. That's despite being otherwise well-behaved: HR pros are most likely to say they curb their drinking at company affairs.

Each issue of WWHR contains an exclusive survey to give executives insight into what their peers nationwide are thinking and doing.

Titles 2018 report. Here are the most popular oddball terms employers used in titles for open positions:

- ninja
- rockstar
- genius
- hero
- guru, and
- wizard.

Info: bit.ly/weirdtitles525

Sharpen your judgment...

THE DECISION

(See case on Page 2)

No. A district court originally sided with the company, but on appeal the 4th Circuit reversed the ruling. Jessica's case will now go to trial.

The company argued Paul banning Jessica from voluntary overtime wasn't retaliation because there was no adverse employment action, such as a demotion, salary cut or termination. Overtime hours are never guaranteed, it added.

But the 4th Circuit disagreed. It said preventing Jessica from working any overtime had a negative impact on her total earnings, even if her actual salary didn't change. Also,

overtime hours were still available to other employees. This is enough to be considered an adverse employment action, and therefore, retaliation.

■ Analysis: Proper protocols must be followed

While this case establishes eliminating overtime hours can be considered an adverse employment action, it also emphasizes the importance of following harassment procedures properly.

As soon as Jessica made this complaint, she and Paul should've been separated so a formal investigation could be launched. The company's mistake was allowing Paul to continue to supervise Jessica, which gave him the opportunity to eliminate her overtime hours.

Cite: Ray v. International Paper Company, U.S. Ct. of App., 4th Circ., No. 17-2241, 11/28/18. Fictionalized for dramatic effect.

How we got employees access to their earned wages before payday

■ *New payroll software boosted employee satisfaction, retention*

Our company is massive, with about 600,000 employees.

But despite being scattered across the globe, the bulk of our employees have one thing in common: About 95% of our workforce are security guards, paid hourly.

Another thing they unfortunately had in common: A lot of our employees were living paycheck to paycheck. Our payroll system worked biweekly, but employees needed access to their wages sooner.

We decided to tackle this issue head-on.

The right fit

After some research, we discovered DailyPay, a software that would allow our employees access to their wages almost as soon as they earned them.

Representatives from DailyPay laid out everything the payroll software could do for us, and we knew it would be life-changing for our workers.

The software would allow our employees to access their wages just one day after earning them. For less than the cost of an ATM fee, workers could have nearly immediate access to funds instead of having to wait two weeks for money to come in.

Even better, this wouldn't impact our payroll processes at all. We'd continue to cut checks as usual every two weeks, with the amounts adjusted if staff accessed their wages early.

This software was perfect for all our employees who struggled to make it the two weeks between paychecks.

Gradual implementation

It was key to communicate this change properly to all our employees

so everyone could take advantage of the new software. But having so many offices scattered about, we decided to roll DailyPay out little by little.

We chose eight offices as our guinea pigs to test the program. In the meantime, we provided all of our other offices with plenty of informational materials and training.

After the test group was successful, we expanded the program a little more, so about 20,000 of our employees were using DailyPay. And once that went off without a hitch, all of our 600,000 could then use the software.

During this transition time, we had a support line in place so employees could ask questions about DailyPay at any time.

Positive results

Since using DailyPay, we've seen nothing but positive results. Attendance is up because people know working one day will result in money the next day.

There's no doubt this software was worth the investment. We've heard so many stories from our employees about how DailyPay helped them pay off their rent or other bills sooner.

Not only that, but the software has financial wellness and planning tools our employees can access to better prepare for the future.

It's also been a big help when we bring on new workers. On a biweekly pay cycle, it could take new hires up to a month to get their first paycheck. Now, they can see their earnings immediately. Who wouldn't want to work for a company like that?

(Kym Cross, HRIS & data analysis director and Geoff Gerks, CHRO, G4S Secure Solutions, West Palm Beach, FL)

Case Study:
WHAT
WORKED,
WHAT
DIDN'T

■ Study: Businesses unprepared as opioid crisis hits home

Despite a desire to help, few HR pros consider themselves ready to handle opioid abuse in the workplace – and it's not for a lack of awareness.

Sixty-seven percent of companies surveyed by insurance giant The Hartford say they're addressing or soon must address the needs of workers suffering from opioid addiction.

And though many companies recognize the threat, most haven't developed a framework for dealing with the crisis.

More than 75% of 2,000 employees and 64% of 500 HR pros reported they haven't been trained in how to help colleagues dealing with addiction. A majority admit they're not confident they can spot addiction warning signs.

Human and financial toll

The human toll of the opioid nightmare is also reflected in company performance. A full 65% of HR pros surveyed said opioid addiction is impacting their organizations' financial performance.

Hartford CEO Christopher Swift is calling on the business community to "join in a united effort advancing addiction prevention, treatment and recovery."

There's help available as your organization works to prepare or improve your ability to help workers who are suffering.

Hartford has partnered with Shatterproof, a national nonprofit dedicated to ending the devastation addiction causes families, friends and co-workers of people suffering from opioid addiction.

Shatterproof's Addiction Wellness at Work education program for employers works to reduce stigma and help workers seek help when they need it.

Info: www.shatterproof.org/workplace

WHAT WOULD YOU DO?

Companies face competing agendas when dealing with their employees. They must find ways to inspire their people to excel, while controlling costs and staying within the law. Here we present a challenging scenario and ask three executives to explain how they'd handle it.

Problems weren't documented, but poor performer needs to go: What now?

The Scenario

"I hate to say it, but we've got to let Charlene Blackstone go."

Supervisor Maggie Parker plopped into a chair in HR manager Stu Capper's office.

"Really? You're sure you can't fix things?" asked Stu.

"Look, I've had her do additional training and talked about what we need from her," said Maggie. "Nothing's made a difference."

Stu rubbed his forehead. "Let me start the paperwork," he said. "Once I have that, we can get together to finalize things."

Reviews were fine

Later that day, Stu called Maggie back to his office. "Maggie, this isn't going to fly."

"What do you mean?" asked Maggie. "I can't fire someone for performance?"

"Look," Stu said. "I don't really have a choice here." He pointed to his screen. "There's nothing in her file about the added training or falling short. Her performance reviews show she's doing fine."

Maggie looked frustrated.

"I didn't want to discourage her, so I rated her 'satisfactory' and tried to coach her," she said. "I thought I could help Charlene along on the new software. But, like I said, none of it seems to stick."

"Maggie, Charlene's one of our older workers," said Stu. "If we fire her without the proper documentation, she could file an age discrimination suit. With no bad reviews or warnings on file, it *does* look suspicious."

"Well, her reviews are still the worst in her department. Isn't that enough?" asked Maggie. "She's killing our numbers."

If you were Stu, what would you do next?

Reader Responses

1 Diana Cortez, HR manager, Great Plains Fiber Connect, Blair, NE

What Diana would do: I certainly wouldn't fire Charlene now. She's over 40, and nothing in her file indicates she's done anything but a good job. Instead, I'd go over documentation practices with Maggie and make sure she gives Charlene more honest feedback in the future.

Reason: This seems like it could be an opportunity for both Maggie and Charlene to improve. Maggie clearly needs to work on her reviews and documentation. At the same time, if Charlene knows she needs to do better, she can improve her performance.

2 Nancy Rapp, HR specialist, Northern Kentucky Distribution, Elizabeth, KY

What Nancy would do: I'd bring Charlene in and explain to her that Maggie felt giving her positive reviews in the past would motivate her, but that it hadn't worked out as she'd planned. Then, I'd have

Maggie set clear benchmarks for Charlene to meet and give her a specific time frame to meet them.

Reason: The dishonesty has gone on long enough. You need to be honest with your employees, even when they don't want to hear it. Otherwise, how can they know they're not performing well? Maggie's dishonesty is what got us into this mess.

3 Joe Kruse Huron, HR director, St. Clair Property Management, Sebec, ME

What Joe would do: I wouldn't move toward firing Charlene. I'd call her in and tell her we had a discussion about letting her go but decided against it. I'd let her know that she still has a chance to start earning the positive reviews she received in the past.

Reason: If her performance review suddenly took a downturn this late in her career, it'd look like age bias. And I believe in being honest with employees. Since Charlene knows we've talked about letting her go, we'll be able to see how much she wants to save her job.

QUOTES

Perseverance is the hard work you do after you get tired of the hard work you already did.

Newt Gingrich

The truth is incontrovertible. Malice may attack it, ignorance may deride it, but in the end, there it is.

Winston Churchill

It's better to be a lion for a day than a sheep all your life.

Elizabeth Kenny

When you get into a tight place and everything goes against you, until it seems as though you could not hang on a minute longer, never give up then, for that is just the place and time the tide will turn.

Harriet Beecher Stowe

There is nothing noble in being superior to your fellow man. True nobility lies in being superior to your former self.

Ernest Hemingway

I dwell in possibility.

Emily Dickinson