

# WHAT'S WORKING in

# Human Resources™

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JANUARY 4, 2016

## WHAT'S ONLINE

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



### Employment Law Update for Managers

on the tricky legal issues supervisors face daily.



### Compliance Checklist

to ensure you're in compliance with employment law.

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## ACA updated ... again: 11 final rules you've got to plan for

### ■ Compliance: What changes to make & when

The compliance marathon known as the Affordable Care Act rages on.

The latest development: The feds just issued a slew of final rules that solidify numerous proposed and interim rules and regulatory guidance issued over the past few years.

Thankfully, the bulk of the new rules closely mirror those earlier efforts to clarify and implement the law.

### A few surprises

But tucked inside the 104 pages of final rules, federal agencies added a few changes to the law that employers and insurers will want to note – and then

change their compliance strategies to accommodate by Jan. 1, 2017.

Here's a breakdown of the most substantial changes and those that will affect the most group health plans:

### Dependent coverage

- **Service areas.** Eligibility restrictions requiring plan participants to work, live or reside in a service area cannot be applied to dependent children until they reach age 26.
- **Variations in coverage.** Terms of plan coverage cannot vary based on the

(Please see ACA ... on Page 2)

## Elon Musk's interview tip for employers

### ■ This question uncovers how experienced someone really is

As CEO of both Tesla Motors and SpaceX, Elon Musk has interviewed a lot of people.

In doing so, he's come up with a question that uncovers whether a candidate is exaggerating – or outright lying – about their past experience.

### If they did it, they'd never forget

Musk asks candidates to tell him about a problem they encountered and how they solved it.

He then waits to see what kind of

detail they can give him.

"... if someone was really the person that solved it, they'll be able to answer multiple levels. They'll be able to go down to the brass tacks," Musk said, speaking at *Business Insider's* Ignition conference.

"And if they weren't, they'll get stuck, and then you know they weren't the person who solved it.

"Because anyone who struggled hard on a problem never forgets it."

*Info:* [www.tinyurl.com/ignition455](http://www.tinyurl.com/ignition455)

## REFORM RULES

### ACA ...

(continued from Page 1)

age of a dependent child, except for children age 26 and older.

#### General patient protections

- **Primary providers.** If a plan requires the designation of a primary care provider, each participant must be permitted to designate his or her own provider. Also, if a plan requires the designation of a primary care provider for a child, the plan must allow any physician who specializes in pediatrics and who is in-network to be designated as a child's provider.
- **OB/GYNs.** All women must be ensured direct access to an OB/GYN.

#### Lifetime and annual limits

- **In-network v. out-of-network.** In general, lifetime and annual dollar

limits on coverage for "essential health benefits" are prohibited, whether those benefits are provided in-network or out-of-network.

#### Claims appeals

- **Evidence.** Plans must provide claimants with any new evidence that is being used in connection with a claim, as well as any new rationale for a denial of an internal appeal. This must be provided free of charge and automatically. Merely providing a notice of the availability of such information is not enough. (Note: Proposed rules were just issued that would apply claims and appeals rules for standard health claims to disability benefits claims.)

#### Rescissions

- **COBRA.** A retroactive termination of COBRA coverage is permissible if the participant has failed to pay the required premium.

#### HRA integration

- **Medicare.** Employers with fewer than 20 employees that are not required to offer their group plan coverage to employees who are Medicare-eligible can integrate an HRA with Medicare Part B or D.

#### Grandfathered plans

- **Multi-employer plans.** New contributing employers can join a multi-employer plan to take advantage of its grandfathered status without violating anti-abuse rules.
- **Plan changes.** One plan's status change doesn't change the status of all benefits packages. Example: The loss of grandfathered status for a PPO plan won't impact the status of an HDHP plan.
- **Generic alternatives.** Plans can move brand-name drugs to a higher cost-sharing tier when a generic alternative becomes available without losing grandfathered status.

*Cite: Federal Register, Vol. 80, No. 222, [www.tinyurl.com/register455](http://www.tinyurl.com/register455)*

## 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.*

### ■ Pregnant worker denied light duty: Will her lawsuit stick?

Employee Kristen Marks knocked on Lynn Rondo's door as she entered the HR manager's office.

"Ah, right on time," Lynn said, waiving Kristen to take a seat. "Thanks for meeting with me."

"Sure thing," Kristen said. "What's this about?"

"Your light duty request," Lynn answered. "We have to deny it."

#### 'But it was given to others'

"Why?" Kirsten asked. "My doctor's note clearly stated I can't do all the lifting my job requires because of my pregnancy."

"Well, our policy says only those who are injured on the job can get light duty," Lynn said.

"And since you can't perform all of your duties, I'm sorry to say we're letting you go," Lynn continued.

"You're firing me?" Kristen shot back. "That's discrimination. Others around here have been given light duty. You can't deny it to me just because I'm pregnant."

"I understand how you feel," Lynn said. "I don't like the situation, but our policy's clear. Light duty is only for those with work injuries."

"Your condition is pregnancy related, so we can't offer you light duty. And since you can't do your job, we have to let you go."

"Tell it to my lawyer," Kristen said.

She sued, claiming pregnancy discrimination. The company fought to get her lawsuit thrown out.

Did the company win?

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

### WHAT'S WORKING IN Human Resources

EDITOR: CHRISTIAN SCHAPPEL

MANAGING EDITOR: TIM GOULD

ASSISTANT EDITOR: EMILY BUENZLE

EDITORIAL DIRECTOR: CURT BROWN

PRODUCTION EDITOR: AMY JACOBY

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## EMPLOYMENT LAW UPDATE

# Worker exposed himself, so why'd court dismiss harassment lawsuit?

### ■ It all came down to the timing of female co-worker's complaint

A U.S. District Court dismissed a worker's sexual harassment lawsuit, despite her claims that a male worker exposed himself and showed her explicit pictures of himself.

Joslyne Davenport claimed that within the first few weeks of starting a new job at Nissan, co-worker Fred Tate exposed himself to her. She told another co-worker what happened, but didn't report the incident.

Davenport worked with Tate for two more months. Then, she confided in another co-worker who reported the incident to HR. Upon investigation, Davenport said that following the first incident, Tate had made sexual references and showed her explicit photos of himself in front of other workers.

Finally, Davenport said that during the company's investigation, Tate

"glared at her," which made her decide to quit her job. She then filed a sexual harassment lawsuit.

### Claim dismissed

But the court dismissed her claim, saying that Davenport failed to show Tate's behavior was severe enough to alter the conditions of her work.

Its reasoning: Davenport didn't report the incident to Nissan right away. The court said her initial reaction in telling her co-workers, rather than a supervisor, implied that Davenport saw Tate's behavior as not very serious or reprehensible.

**Cite:** Davenport v. Nissan North America Inc., *U.S. Dist. Ct., MS, No. 3:14-CV-00671-CWR-LRA, 10/22/15.*

# Court: Employee didn't have to prove disability to trigger ADA protection

### ■ When can the law's employee protections kick in?

Under the ADA, a request for accommodation is enough to protect an employee from retaliation, despite whether or not the worker is actually disabled, according to a ruling by the Sixth Circuit Court of Appeals.

The case in question centers on Robert Hurtt, a former salesperson for International Services Inc. (ISI).

Hurtt requested a leave of absence to deal with job-related depression and anxiety after extensive travel for work.

ISI processed Hurtt's request, but then significantly reduced his compensation package. When Hurtt returned to work, he asked to go back on his original comp plan. But ISI refused his request.

Hurtt resigned and sued, claiming

he was retaliated against for requesting an accommodation (his leave) under the ADA.

But ISI tried to get his case thrown out, arguing Hurtt never proved he was disabled – and therefore wasn't protected by the ADA.

### Accommodation request enough

The court disagreed with ISI and is sending the case to trial.

It said whether or not Hurtt was actually disabled was immaterial. Simply asking for an accommodation is enough to trigger ADA protections.

**Cite:** Hurtt v. International Services Inc., *U.S. Ct. of App. 6th Cir., No. 14-1824, 9/14/15.*

## COMPLIANCE ALERT

### ■ Poor reaction to pregnancy costs employer \$37,000

Yes, you can fire people when you discover they were less than forthright in their interviews.

Just not when what's concealed is their pregnancy (or some other protected medical condition).

The EEOC recently sued Shefa Wellness Center, of Canton, GA, for terminating April Raines, a skin care specialist, almost immediately after it found out she was pregnant.

When Raines asked why she was terminated, Shefa told her she'd deceived the company by not disclosing her pregnancy during the interview, according to the EEOC.

The agency says requiring such a disclosure or firing someone because they're pregnant is pregnancy discrimination.

To avoid litigation, Shefa is settling the suit for \$37,000.

**Info:** [www.tinyurl.com/leoc455](http://www.tinyurl.com/leoc455)

### ■ DOL wants \$11K for improper deductions, OT violations

This company is learning the hard way that if you're going to make employees pay for their uniforms, doing so cannot drop their wages below the minimum wage.

Here to Help Learning Academy LLC of Columbus, OH, is being sued by the DOL, which claims the day care facility improperly deducted uniform costs and other expenses from staffers' checks, which resulted in workers receiving less than the hourly minimum wage.

The DOL is also claiming the facility violated the FLSA's overtime provisions by only paying employees straight time for the hours worked beyond 40 in a workweek instead of time and a half.

Not only is the DOL seeking back wages in the lawsuit, it's also seeking damages. In total, it hopes to collect \$11,688 for the alleged victims. We'll keep you posted.

**Info:** [www.tinyurl.com/dol455](http://www.tinyurl.com/dol455)

## ANSWERS TO TOUGH HR QUESTIONS

# 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.*

### Preventing embarrassing photos from going public

**Q:** Last year, an embarrassing photo of a manager was posted to social media from our company New Year's party. Can we ban employees from posting photos from this year's event?

**A:** For legal reasons, you'll want to avoid a blanket ban on photos and comments from the party, says employment law attorney Glenn M. Rissman (*grissman@stearnsweaver.com*) of the firm Stearns Weaver Miller.

Instead, what you can do is *encourage* employees to only post photos from the party that do *not* show co-workers in a bad light.

The warning alone may make the subject more mindful of what he or she is doing, as well as discourage the picture taker.

### Can we deny FMLA leave after seeing just one form?

**Q:** An employee submitted an FMLA certification form, but the doctor didn't identify a serious medical condition. Can we deny leave on the ground that FMLA is not triggered if there is no serious medical condition, or do we have to give the employee time to resubmit the form?

**A:** The safest approach is to give the employee a chance to resubmit the certification, says Meredith Campbell (*mcampbell@shulmanrogers.com*), co-chair, Employment and Labor Group at the firm Shulman Rogers.

The Third Circuit Court of

Appeals recently ruled there are no "negative" FMLA certifications, only "insufficient certifications."

And the regulations say an employer cannot deny FMLA leave unless the employee is given seven calendar days to cure an alleged deficiency.

As a result, if you are going to deny FMLA leave, it almost always makes sense to first identify the reason for the denial and give the employee seven days to cure the problem.

### The pay's the same, but the benefits aren't: Is that legal?

**Q:** Women are stepping into what was once a male-dominated department for us. Everyone's pay is pretty similar, but for various reasons – like seniority – there are differences in their benefits. Is that OK?

**A:** Only if you can show the "differential is based on a fair seniority, merit or incentive system, or a factor other than sex," says a guide to equal pay rights published by the DOL ([www.tinyurl.com/DOLguide45](http://www.tinyurl.com/DOLguide45)).

It says "equal pay" refers to more than just paychecks. All employees whose jobs require substantially equal skill, effort and responsibility – and are performed under similar conditions – must, generally, get equal pay, bonuses and benefits.

*If you have an HR-related question, email it to Christian Schappel at: [cschappel@pbp.com](mailto:cschappel@pbp.com)*

## EFFECTIVE COMMUNICATION

### Master the art of the gesture in public speaking: 8 tips

There's no doubt about it: Gestures can make or break a presentation. Use too many and your audience can't focus on what you have to say. But use too few, and you risk appearing stiff and detached.

Independent behavioral investigator and consultant Vanessa Van Edwards says proper hand gestures make audiences happy because they get two avenues of communication – speech and movement.

### Improving your game

Here are some key do's and don'ts of hand gestures:

- **Do** use open palm gestures to help gain your audience's trust.
- **Do** keep your hands in the "strike zone," the area from your shoulders to the top of your hips.
- **Do** let your hands drop to your sides for a minute to regroup if you catch yourself using the wrong gestures.
- **Do** use gestures when you're behind a lectern. While it's tempting to hide behind a piece of furniture (or have a white-knuckle grip on it), this won't add to your presentation.
- **Don't** point. You'll come across as aggressive and unwelcoming.
- **Don't** use the "Clinton thumb" – that gesture politicians use where they make a fist and let their thumb sit on top of it. It's unnatural and awkward.
- **Don't** draw attention to awkward places. Namely, don't stand with your hands clasped in front of your groin. If you catch yourself doing this, let your hands fall to your sides for a moment to regroup.
- **Don't** hold anything. Having a pen or papers in your hands will lead to unnecessary fidgeting.

**Cite:** [www.tinyurl.com/hands455](http://www.tinyurl.com/hands455)

## 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 Unique approach to physicals saved lives

We wanted to get our employees to think of preventive health care in the same way they thought of routine maintenance for their cars.

The more proactive they were, the less likely they would run into serious and costly problems down the road.

So we partnered with local hospitals to perform annual physicals that went beyond standard offerings – and none of it costs our employees a penny. The tests do a check of hearing, vision and blood pressure.

There's a full set of labs to determine blood count, hemoglobin and a metabolic panel to check heart, kidney and liver function.

The tests also measure blood glucose, cholesterol levels and a PSA for men over 40.

#### Finding the unnoticed

Another extra: We offer free flu vaccines to employees and their spouses, and we get a huge turn-out.

Every three years, stress tests and echocardiograms

are administered to employees over 40.

About 45% of our staff participate in the program. In fact, the annual check-up has saved lives by diagnosing conditions that would've otherwise gone unnoticed.

Picking up the entire tab isn't cheap, but it has helped us control medical costs, kept our retention rate high and cut down on absences.

*(Pam Merritt, benefits administrator, Wheeling-Nisshin Inc., Follansbee, WV)*

**REAL PROBLEMS, REAL SOLUTIONS**

### 2 Stayed ahead of the curve on ACA changes

In my position, I know that it's absolutely essential to stay on top of all the law and reg changes.

But it's not like I've got unlimited time to keep up. And with the new requirements of the Affordable Care Act, my job wasn't getting any easier.

I could always count on our software company to a certain extent, especially since its products were tailored for our industry.

Plus, the software company sent us

email updates when something changed from a technical standpoint.

One example: It showed us how to run reports on employees' hours worked.

#### A cost-free resource

That's when I started wondering what else might be available to us from the company.

It pays to ask. After a little digging, I found out our software company offered webinars on various topics, including the ACA.

Even better: There was no cost, and I've taken advantage of several of those webinars so far.

It just goes to show that a trusted resource is a good place to start when looking for additional information on law and reg changes.

And I like knowing I've got another resource to help me stay ahead of the curve when it comes to tricky ACA requirements.

*(Lisa Hohn, bookkeeper, Menominee Indian School District, Keshena, WI)*

### 3 Training that goes beyond expectations

Helping our employees advance their knowledge and skills is a major focus at our company.

We know that in order for our workplace to run with the fullest potential, our workers need to have the tools to succeed.

#### Chances to learn

Because of this, we felt the need to enhance our training offerings beyond the normal standards.

So we decided to offer additional training features and opportunities.

Our most popular is a tuition reimbursement program. It allows employees to pursue higher degrees related to the work they do. We make it easier by allowing them some time to take classes during work hours.

We also bring additional training in-house by arranging one- or multi-day seminars. This gives our workers the opportunity to improve their expertise in technology, leadership and other skills that are vital to our workplace.

We're constantly on the lookout for areas in which we think our workers can grow, and when we find one, we set up a seminar around it.

Our workers are always making training requests, too. They'll come to us when they find a skill they'd like to improve on, and we're committed to seeing them get what they need.

These programs are such a great fit because they encourage our workers to have a voice and be their own advocate for growth.

*(Julie Buchholz, HR generalist, Sparks, Philadelphia)*

## NEWS YOU CAN USE

### DOL sets tentative July deadline for OT rules

Big news from the DOL's fall 2015 regulatory agenda. In it, the agency published that it's targeting July 2016 for the release of the final overtime exemption rules.

Just weeks ago, the DOL's solicitor of labor announced the rules wouldn't be released until late 2016. So July is a bit earlier than many anticipated.

The deadline isn't set in stone, but it does provide clues as to where the DOL's at with the rules.

Just remember, while July may seem pretty far away, it's likely employers will only have 60 days to come into compliance once the final rules are issued. So start getting your compliance strategy together ASAP.

*Info: [www.tinyurl.com/agenda455](http://www.tinyurl.com/agenda455)*

### How much do toxic employees really cost you?

A group of researchers has examined how much letting toxic employees stick around costs employers – and they've come up with a very specific dollar figure: \$12,489.

That figure only factors in the person's "induced turnover" cost – or the expense of replacing additional workers lost as a result of having a toxic worker stay on a team.

A "toxic" employee was defined by researchers as someone who commits an egregious violation of company policy.

The data was published in a Harvard Business School working paper entitled "Toxic Workers."

*Info: [www.tinyurl.com/paper455](http://www.tinyurl.com/paper455)*

### ACA reporting: IRS says to budget 12 minutes a form

If you're wondering how long the ACA reporting process is likely to take, the IRS has run the numbers.

It's saying it'll take employers an average of 12 minutes to complete each 1095-C return.

When you consider that employers subject to the ACA reporting requirements will be completing at least 50 returns, the reporting process is a significant time commitment.

Worse yet: That figure is probably pretty light. It's so low, in fact, one could assume the agency didn't factor in the time it'll take to collect the data needed to complete the returns.

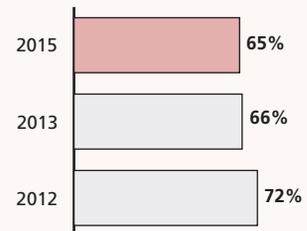
*Info: [www.tinyurl.com/irsform455](http://www.tinyurl.com/irsform455)*

### Lighter side: 6 strange gifts employees received

Co-workers give the strangest gifts. CareerBuilder just asked employees to share the oddest holiday gifts they've

## WHAT COMPANIES TOLD US

**Holiday festivities**  
Will your organization be having a holiday party?  
(\*Yes' responses)



*Source: SHRM's 2015 End of Year/Holiday Activities Poll.*

Most companies are still hosting holiday parties, and 59% of those firms will be serving alcohol at them. The most popular ways to regulate alcohol consumption? Drink tickets or a drink maximum.

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

ever received at work, and these were the worst of the bunch:

- a squirrel toilet seat decal
- a mystery bag with a coat in it
- a picture of a bear
- homemade sausages
- a bell on a string, and
- a ceramic sheep you can dress up seasonally.

*Info: [www.tinyurl.com/gifts455](http://www.tinyurl.com/gifts455)*

## Sharpen your judgment...

## THE DECISION

(See case on Page 2)

No. The company lost. Its argument that Kristen failed to state a valid claim didn't convince the court, which said her lawsuit should proceed to trial.

The company said it didn't discriminate against Kristen based on her pregnancy because it treated her as it would any employee suffering from an injury that wasn't work-related.

But that argument fell flat. The court said her allegations were sufficient enough to state a claim on the grounds that the practice of denying light duty requests made by pregnant workers, while granting them to

other similarly disabled workers, "has a disparate impact on pregnant women." So the company's now facing an expensive court battle or settlement.

### ■ Analysis: Always try to accommodate pregnancies

A recent Supreme Court ruling (Young v. UPS) stated that if an employer is able to accommodate other workers, there's little justification to deny accommodations to pregnant workers who have similar restrictions – and courts are following that precedent.

As a result, policies that only allow light duty assignments to go to those with on-the-job injuries are being shredded in court when challenged by pregnant workers.

**Cite:** Bray v. Town of Wake Forest, U.S. Dist. Ct. E.D. of NC W.D., No. 5:14-CV-276-FL, 4/3/15. Fictionalized for dramatic effect.

## A REAL-LIFE SUCCESS STORY

# Smoking cessation: The right pitch helped us get 70% participation

### ■ Reduced premiums and gave way to other successful programs

Most of our employees smoked. And we knew getting them to quit, much less consider quitting, wasn't going to be easy.

But our healthcare premiums were high, and not having a smoking cessation program was going to raise our rates even more.

So, we decided to roll out a smoking cessation program that offered a variety of quit options to support smokers during the process.

#### What we told them

Because of the number of smokers in our company, we knew that offering the right resources and communicating the program in a positive way was key to seeing results.

We told our employees it didn't matter to us if it was their first try or their tenth, we were determined to make them ex-smokers and stay that way.

And while the program didn't force anybody to quit, it did send a message that we were placing a premium on health and wellness.

Smokers would pay a higher health insurance premium than non-smokers. The endgame, we explained, is not to penalize smokers, but to have them quit, so they're healthier.

We launched the program 90 days before the penalty kicked in. To our surprise, 70% of our employees committed to kicking the habit.

#### Getting through the rough spots

We partnered with an online smoking cessation program that didn't just help people "white knuckle" their way through quitting, but gave them resources, options, tools and support to re-learn life without cigarettes.

There was a variety of stop-smoking measures tailored to each individual, and coaches were available by phone or online 24/7 to help employees through the quit process.

Employees learned how to:

- identify and beat smoking triggers
- manage their cravings
- set healthy eating goals, and
- keep their weight under control.

But support didn't stop there.

For employees who needed extra help, they were directed to our Employee Assistance Program (EAP) which provides a certain number of paid one-on-one counseling sessions.

The EAP has been instrumental in helping our employees deal with major stressors in their lives

involving emotional, medical, financial and legal concerns.

#### Unexpected results

A number of employees rose to the quit challenge and beat their tobacco addictions for good.

Our smoking cessation program was not only cost-effective, we were also able to lower our insurance premiums. And, its success has given way to other wellness initiatives like cholesterol screenings, nutrition counseling, weight loss and financial wellness.

By helping our employees beat one unhealthy habit, we've managed to change the culture of our company and motivate employees to live healthier lives.

*(Kendy Troiano, HR manager, Clark Grave Vault Co., Columbus, OH)*

**Case Study:**  
**WHAT**  
**WORKED,**  
**WHAT**  
**DIDN'T**

## HR OUTLOOK

### ■ How fast do managers really judge a job candidate?

There's nothing like a good first impression. And chances are, your managers are big believers in this sentiment when it comes to meeting job candidates.

But could first impressions do more harm than good? A University of Toledo study says they might.

The study revealed that judgments of an applicant within the first 10 seconds of an interview can predict its outcome. The problem is, judgments that quick don't lead to balanced assessments.

Instead, interviewers spend the rest of the interview looking for indicators that confirm their initial judgments about the applicant as opposed to really assessing their abilities, the study found.

So essentially, interviewers have their minds made up about a candidate before an interview has barely begun, thanks to a series of pre-formed biases.

#### A range of interviewers

One way to fight back against quick judgments is by bringing others into the interview process.

Laszlo Bock, Google's senior vice president of people and operations, suggests including people from these two groups in interviews:

- **Subordinates.** It's common for candidates to meet with their potential boss, but what about the people who will be working beneath them? Inviting one or two subordinates into the interview will help the company get added perspective on the applicant.
- **"Cross-functional" workers.** These employees have nothing to do with the department you're hiring for, but they'll still be interested in hiring high-quality candidates. And the viewpoint of someone from a different department can be valuable.

**Info:** [www.tinyurl.com/bias455](http://www.tinyurl.com/bias455)

## 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.

### New office layout is causing more harm than good: What's HR's next move?

#### The Scenario

"Hey, Stu, got a minute?"

HR manager Stu Capper looked up from his paperwork to see Anne Brennan, an employee, at his office door.

"Sure, Anne, how's it going?" Stu replied.

"Not too great," said Anne. "You know how John insisted that our department adapt more of an open office plan?"

"I sure do – the room looks a lot bigger with so many cubicle walls taken down," Stu said. "How does everyone like the change?"

"We can't stand it," Anne said. "The open plan means there's more noise – and a lot of us like to work quietly.

"So, most people have been using the conference rooms to work in peace. But that means it's almost impossible to find a space to hold a meeting," Anne said.

"That doesn't sound too good," said Stu. "Has anyone spoken with John about it?"

#### Manager won't budge

"A few of us approached him last week, but he said he's determined to make the new setup work," Anne replied. "He said that it'll just take some more time for people to get used to the change, and in the meantime, we can just hold meetings in the open office.

"But having meetings out in the open like that will just add to the noise levels," Anne said. "Do you have any ideas?"

"Well, I can definitely understand everyone's frustration about the noise levels, but I know how badly John wants the new layout to work.

"Let me see what I can do."

If you were Stu, what would you do next?

#### Reader Responses

##### 1 Barbara Lay, associate HR director, Denison University, Granville, OH

*What Barbara would do:* It would have been best to have a conversation with the employees before implementing the new plan. But Stu should encourage John to go back and try to get the employees' buy-in. They should also look at ways to solve the noise issue, like adding sound barriers.

*Reason:* If you want a pleasant workplace, you'll need to get employee support for any major changes like this.

##### 2 Heather McEntee, library director, Bossier Parish Library, Bossier City, LA

*What Heather would do:* I'd sit down with John and tell him he needs to hear out his employees' concerns and try to come up with some sort of compromise.

*Reason:* I know from experience that issues like this only get solved by sitting down and talking them out. Chances are

John doesn't even realize the new office plan is as big of a problem for the employees as it really is.

##### 3 Tammy R. Henderson, M.S.M., director of HR, Pensacola State College, Pensacola, FL

*What Tammy would do:* First, I'd gather together the employees and have a meeting to reiterate the advantages of the new layout. Then, I'd let them voice their concerns about the plan. I'd address each of their concerns individually and gently.

For example, if there are a few particularly loud talkers, I'd ask them to tone it down a bit. Finally, I'd talk with John and suggest he keep the new floor plan on a trial basis to begin with, and if it doesn't work, find modifications to help.

*Reason:* Communication is key in this situation. And it's important that workers understand that you're not about to shut any doors completely. Offering to try the layout for a trial period will help show them that you're willing to listen to and try to accommodate their concerns.

#### QUOTES

Character cannot be developed in ease and quiet. Only through experience of trial and suffering can the soul be strengthened, vision cleared, ambition inspired, and success achieved.

*Helen Keller*

Show class, have pride and display character. If you do, winning takes care of itself.

*Paul 'Bear' Bryant*

Don't wait for extraordinary opportunities; seize common occasions and make them great.

*Orison Swett Marden*

I could not, at any age, be content to take my place by the fireside and simply look on. Life was meant to be lived. Curiosity must be kept alive. One must never, for whatever reason, turn his back on life.

*Eleanor Roosevelt*

He who laughs most, learns best.

*John Cleese*

Study the past if you would define the future.

*Confucius*