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OUR TOP STORY

Why work policies should always be in writing and evenly enforced

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7 questions to ask yourself before deciding whether to fire someone



INSIDE

Do complainers eat up your time?

Pregnancy bias costs firm big

3 big changes underway at work

Try out went great, but then what happened?

Making right call when rules are broken – Manager’s tough lesson

Problem worker claims retaliation: Now what?

“That’s ‘m’ as in Mary, and ‘b’ as in boy,” Larry Mason said, cradling the receiver of his desk phone between his shoulder and his ear.

“Why don’t you go ahead and try it while I’m still on the line, to make sure it works,” he said.

Supervisor Lisa Connor stood nearby, listening intently.

“Glad it worked. Happy to help another co-worker,” Larry said.

As he hung up his phone, Lisa cleared her throat – loudly.

Larry looked over his shoulder.

“How long have you been standing there?” he asked.

“Did I just hear you give your password out? Lisa asked.

“Yeah, to someone in Accounting,” he said. “Is that a problem?”

A fireable offense

“I’m pretty sure it is,” Lisa said. “You know we have a strict rule on sharing passwords. We’ve fired people for sharing them, even with co-workers.”

“Now wait a minute,” Larry said. “People

Please see Touch calls ... on Page 2

Sharpen Your Judgment

Two women keep butting heads – Gender bias?

“I hope you’re not planning on leaving that work for tomorrow,” Wendy said, “because I need that report first thing in the morning.”

“And you’ll have it first thing in the morning,” Janet said to her, sharply.

“Oh, no, no, no you don’t,” Wendy said. “I need time tonight to look this over. You can’t just dump it on me tomorrow.

“I want this finished before everyone goes home for the day,” Wendy said.

“But Tom and Rich have already left,” Janet said. “This isn’t fair.”

“How is making sure you do your work in a timely manner not being fair?” Wendy said.

“You’re just picking on me because I’m

a woman,” Janet shot back. “You always find something wrong with what I do.”

Doesn’t run itself

“This place doesn’t run itself,” Wendy said. “As long as I am the supervisor here, I’ll make sure everyone does what they’re assigned to do.

“And that includes you,” she told Janet.

Janet eventually quit and sued her employer for gender discrimination.

She claimed her supervisor bickered with her because she was a woman.

The company said the supervisor bickered with everyone, and that male and female employees found her abrasive. Did the firm win?

This regular feature sharpens your thinking and helps keep both you and your firm out of trouble. It describes a real legal conflict and lets you judge the outcome.

Make your decision, then please turn to Page 4 for the court’s ruling.

Tough calls ...

(continued from Page 1)

do it all the time. Why are you picking on me?

“Last week I saw a supervisor give her password to an IT guy.

“If she can do that,” Larry asked, “why isn’t it OK for me to do it?”

“Giving your password to someone in IT isn’t the same as telling another employee, over the phone no less,” Lisa explained.

“Hmmm, where’s the rule that says that?” Larry asked her.

“Giving out your password is giving out your password – if you chose to enforce the rules evenly.”

“Or maybe the rules are different for me now because of the bias complaint I filed last month,” he said.

“This is just more mistreatment,” Larry went on.

“And it’s not the first time I’ve been singled out.

“Half of the management team won’t speak to me or even say ‘hi’ anymore.”

Common sense?

“Larry, your bias complaint has nothing to do with this,” Lisa said.

“Everyone knows the password rule can’t possibly apply to IT. That’s just common sense.”

“If you say so,” Larry replied.

“But I still don’t see any difference between giving your password to IT or sharing it with a co-worker who needs it,” he said.

“So, what happens now?”

Not many options

“Since you admit to giving out your password, I don’t have many options, do I?” Lisa said.

“We’re letting you go.”

Larry was terminated for violating the company’s policy against sharing passwords.

He sued for retaliation, saying he was really fired in retribution for filing an earlier bias claim.

The firm asked the court to dismiss the case, claiming the employee’s actions were a clear violation of policy.

Decision: The firm lost when a court sent the case to trial, which often can end in a hefty out-of-court financial settlement.

Key:

Even though the employee’s original bias claim was tossed out of court, the retaliation claim went forward because there were enough questions about the supervisor’s true motives in firing the worker.

The biggest problem the firm faced, obviously, was its apparent inconsistency in enforcing its “strict” policy against sharing computer system passwords.

Case: *Bender v. Bank of America.*

What you need to know:

Having well-written employment policies is a good thing, but it is only half the battle. The rules must be enforced evenly. It pays to:

- **Document policies.** It is crucial that your employees know the company’s official policies.
- **Set clear guidelines.** Understand the difference between performance deficiencies – such as poor work quality – and actual misconduct.
- **Keep your cool.** Start with a gentle but firm approach. Initially, you should try to address the problem with performance management, coaching and counseling.

TEST YOUR KNOWLEDGE

Keep chronic complainers from sucking up your time

Anyone can wake up on the wrong side of the bed and come to work grumpy. Good supervisors recognize that – and they also know when they’re dealing with a chronic complainer.

To test your knowledge of handling difficult workers, answer *True* or *False* to the following:

1. The best way to handle a difficult employee is to shut them down as quickly as possible, and firmly establish your position as the one in charge before it can go any further.
2. There comes a time when you’re trying to deal with a difficult employee that it’s OK to ignore the behavior and the problems and walk away. There are more important demands on your time.
3. It’s important to learn how to handle these cases in a “trial by fire” – on your own. If you ask for help, others could see it as a sign of weakness.

ANSWERS

1. *False.* There are times when the best way to bring a difficult person back to level-headedness is to slow down, try to understand what their intentions are, and identify the triggers that set them off.
2. *True.* You have to weigh the amount of time you’ve dedicated to solving this problem against the greater good of the rest of your people, and walk away if necessary. Other employees deserve your support and guidance, too. The last thing you want is for workers to think the only way to get your attention is to cause problems.
3. *False.* If you’ve given it your best shot, it’s OK to enlist the aid of an “expert,” like your boss or someone from HR. This serves two purposes: it’s a bigger hammer to help drive the employee back on track, and should provide ideas about how you might successfully handle similar situations that arise in the future.

Answers to the quiz:

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Where other supervisors went wrong

News you can use to head off expensive lawsuits

This feature highlights violations of workplace laws. You can learn how other supervisors got off track, what the mistakes cost and how to avoid them.

Pregnancy bias costs NY restaurant group big

What happened: A restaurant group that includes Lucy's Cantina Royale, a Mexican restaurant and bar in Manhattan, fired a server after it learned of her pregnancy and she had several pregnancy-related medical issues at work.

No reason was provided for her sudden termination except that she was no longer "a good fit."

Decision: The employer agreed to \$45,000 for back pay, emotional distress and other damages suffered by the discharged employee. The decree also includes substantial non-monetary relief, including revisions to anti-discrimination policies, training for managers and employees, a monitoring period, and periodic reporting to the EEOC.

Cite: EEOC v. Red One Plaza, LLC, d.b.a. Lucy's Cantina Royal.

Subway outlet pays \$28.7K for disability bias

What happened: Ranrae, Inc., doing business as Subway franchise in Bloomington, IN, violated federal law by rejecting a hard-of-hearing applicant because of his hearing and resultant speech impairments, the EEOC alleges.

Decision: Along with agreeing to pay \$28,700 to settle the claim, the franchise owner agreed to comply with prohibitions against further discrimination, train its supervisors and managers, post a notice, and report to the EEOC.

Cite: EEOC v. Ranrae, Inc.

Property group pays \$88.7K for harassment

What happened: Sealy Management Company, Inc., a property sale, rental and management company headquartered in Tuscaloosa, AL, that owns and manages apartments in Alabama and three other states, agreed to pay \$88,785 and take other steps to settle a sexual harassment and retaliation lawsuit brought by the U.S. Equal Employment Opportunity Commission.

The EEOC alleged that the supervisor and co-worker of a female assistant manager spread false, sexually explicit rumors about the assistant manager – specifically, that she received a promotion because she slept with the company president.

The assistant manager repeatedly complained to management, but Sealy failed to properly investigate, took no effective remedial action, and suspended her after she complained.

After the assistant manager filed a charge with the EEOC, Sealy placed her on unpaid leave. When she resigned, Sealy characterized her resignation as a termination for violation of company policy.

Decision: Along with paying \$88,785, Sealy also agreed to revise its anti-discrimination policy and procedures, provide training to all employees and post written notice to employees of their right to a discrimination-free workplace.

Cite: EEOC v. Sealy Management Company, Inc.

STOP, LOOK, LISTEN ...

Are these big changes happening at your work?

The world keeps spinning. Here are three emerging norms happening at work.

Talking politics, religion OK

It was always don't talk politics, religion and money. Not anymore. Just 23% of employees think discussing politics and religion is out of line. That's down from 43% in a year. Apparently, money is still off the discussion block, though.

Management tip: Political and religious discussions are still dangerous because they tend to evoke a lot of emotion. So front-line managers want to pay attention for heated arguments and step in long before anyone feels threatened or harassed.

Office romance in style

About half of employees considered finding love at work a no-no last year. That's dropped to 20%.

Of course, HR can't dictate where love happens. But some companies still have policies regarding workplace romance and/or nepotism.

Management tip: Now might be a good time to check your policies to see if they need any updates to cover the new work world. Or perhaps you might want to share the policy with employees again to remind them of how it stands.

Social media & slacking

Employees used to hide their Facebook and Instagram play.

But it's not as much of a concern these days. Just about 25% of employees think jumping on social media while working is a no-no. Almost half considered it wrong last year.

Management tip: As employees spend more time on social media at work, HR leaders and front-line managers will want to update them on your social media policies.

And those policies should include guidelines on the kind of – if any – content that can be shared from work.

SUPERVISORS SCENARIO

Her tryout went great – but she never heard a word after telling them she was pregnant

Keys to making staff changes with a mom-to-be

“You’re a fast learner,” said supervisor Harry Polk. “You’ve excelled at every part of your training so far.

“It’s not often I get a candidate as easy to train as you and as quick to catch on.”

“I told you I was born to do this kind work,” Mary Walker said.

“My mom did it for while. My sister did it, too. It’s in the blood.”

“I’ll say it is,” Harry replied. “Tell you what ... I need to finish up some paperwork and I’ll recommend we bring you in here full-time as soon as we can.”

“I can’t wait!” Mary said. “I can sure use the extra money right now.

“And I know I’ll be good for at least six months.”

“Wait, what?” Harry said. “Six months? What do you mean?”

“Oh, I guess I didn’t tell you,” Mary said. “So, I’m about eight weeks pregnant, give or take.”

“So probably in the middle of next year, I’m going to have to take some time off.”

That caught Harry by surprise.

“You mean I put you through all this training,” he said, shaking his head, “and you’re only going to be here six months?”

Lost interest

“I would’ve told you sooner, but no one asked,” Mary said. “But I can assure you I won’t be out long.”

Harry walked away mumbling words Mary couldn’t understand.

When she never got a call back, Mary sued the firm for pregnancy bias.

She said the hiring manager lost complete interest in her only after she announced she was expecting.

The firm argued it simply hired another more qualified candidate.

Decision: The company eventually settled out of court for \$30,000.

Key: Federal law requires that employers must allow pregnant employees to work as long as they are able to perform the job.

Case: EEOC v. Tepanyaki of Clearfield, LLC.

What you need to know:

Whether at a desk job or a laborer’s position in a coal mine, pregnant women have a right to work.

That’s the law in every state.

An employer may not refuse to hire, or make adverse job decisions regarding a pregnant woman because of:

- her pregnancy
- her intention to get pregnant
- any pregnancy related medical conditions, and
- any prejudices voiced by clients or customers.

Sharpen Your Judgment – THE DECISION

(continued from Page 1)

Yes, the company won when a court dismissed the lawsuit.

The employee’s attorney argued she was treated poorly by her supervisor because of her gender.

Along with the many heated arguments, there were dirty looks and other rude behaviors that were indicators of gender bias.

The court saw it differently.

It found the employee couldn’t prove she was experiencing harassment based on her sex.

First, the rude behaviors mentioned weren’t severe enough to be considered harassment, the court said.

Furthermore, the company showed that the

supervisor had a history of displaying these rude behaviors toward men as well as women, so there was no disparate treatment.

Rude, or biased?

While it’s important to reel in unnecessarily abrasive supervisors, this ruling shows there is a difference between rudeness and illegal discrimination.

Since no company wants to face the expense of a costly court trial, it pays to work with managers and train them on how to handle difficult situations. You’ll not only be better positioned to avoid legal trouble, your staff will be more productive, too.

Case: Newbury v. City of Windcrest, TX.

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