

Up*link[®]

The Peoplelink Online Newsletter

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Raising the Bar in Staffing Since 1987



Why Do So Many Managers Avoid

Giving Praise

by Jack Zenger, HBR

One of the most difficult parts of a manager's job is giving feedback. In a survey of 7,631 people, we asked whether they believed that giving negative feedback was stressful or difficult, and 44% agreed. When talking with managers about giving feedback we often hear comments such as, "I did not sleep the night before," "I just wanted to get it over quickly," "My hands were sweating and I was nervous," and "They don't pay me enough to do this job." We find that because of this anxiety, some managers resist giving their direct reports any kind of critical feedback at all: when we asked a different group of 7,808 people to conduct a self-assessment, 21%

admitted that they avoid giving negative feedback.

Given how unpleasant giving critical feedback can be, perhaps that isn't surprising. But what we were surprised to see is that even more people admitted that they avoided giving positive feedback! 37% of the people who took our self-assessment conceded that they don't give positive reinforcement.

We can only conclude that many managers feel that it's their job to tell their direct reports bad news and correct them when they make a mistake, but that taking the time to provide positive feedback is optional.

We think this is a mistake. Our research suggests that colleagues place a great deal of

emphasis on receiving positive feedback – and that it colors their relationship with one another even more than does negative feedback.

We compared 328 managers' self-assessments with results from 360-degree feedback surveys. Each leader was rated by an average of 13 respondents on a variety of behaviors, including "Gives honest feedback in a helpful way." The raters who thought a person was effective in giving feedback were most influenced by the leader's comfort and willingness to give positive reinforcement. Whether the manager gave negative feedback did not make a big difference — unless the

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FIVE THINGS I'VE LEARNED AS A NEW MANAGER AT GOOGLE

I recently came across this article on www.fastcompany.com. It's a short read but packed full of great content.

One Googler explains how she's learned not to (just) be a "crap umbrella" for her team members.

It's Okay Not To Know Everything

Before I became a manager, I felt pretty secure in the knowledge that it wasn't my job to know everything. I had my own areas of focus and could rely on others to deal with things outside my own scope. But once I became a manager, I felt much less sure about this conviction. Were my reports going to expect me to know everything I'd earlier considered beyond my scope?

Fortunately, they didn't. I've started to take a broader view of what's going on in my own engineering organization, but that still doesn't mean I need to know everything myself. Instead I've focused on knowing the people who know things. My team knows that they can bring questions to me, and I'll get them an answer or point them to somebody who can.

Never Hesitate To Lean On Your Peers

Advancing as an individual team member usually means doing the same stuff at an ever-

increasing scale, bit by gradual bit. Becoming a manager isn't like that. You're more or less dropped into the deep end. Suddenly, there are lots of things you've never had to do anything remotely similar to before. But I found that my fellow managers were an invaluable resource for getting myself up to speed—as long as I was willing to ask.

I've had run-ins with imposter syndrome before, and being a woman in a male-dominated industry hasn't always helped. Coping with that required convincing myself I could "fake it 'til I make it" (in retrospect, I had definitely already "made it"—it just didn't feel that way at the time). As a manager, I wasn't willing to employ the same strategy—the stakes were too high. My overriding need to "get it right" helped me to just ask those "stupid" questions. I'm glad I did.

Listen More, Not Less

After becoming a manager, you might expect others to spend more time listening to you. My experience so far is that the best results come from doing the exact opposite: spending more time listening to others. I try to spend as much time possible in my one-on-ones, listening to what my team members have to tell me. Meanwhile I try to keep my own

feedback and advice to them as concise as I can.

The single most insightful concept I picked up during Google's training for new managers was how to be an effective coach. One non-obvious key to getting that right, I learned, is letting the person you're coaching discover their own answers. That takes a lot of active listening and very little speaking. In the past few months, I've gotten a lot better at resisting the strong temptation to just tell someone what they should do, and I've already seen how it pays off in the long run by helping others sharpen their own instincts and become more self-guided.

Don't (Just) Be A "Crap Umbrella"

I've heard effective managers described as "crap umbrellas," shielding their team members from the stuff that prevents them from doing useful work. The best managers I've ever had were extremely effective at shielding me from crap, so that made a lot of sense when I heard it. The thing that truly made them great, though, was that they didn't just put up a brick wall. They made sure to keep me involved in the important parts of whatever we were working on together, while filtering out the distractions.

Now that I'm a manager, I try hard to do the same. Listening to my team members helps me figure out where they do and don't want to be involved. That way I can be an effective shield for my team without isolating them from the larger organization.

Look For Small Ways To Lend Support — Before You're Asked To

Finally, I've learned quickly how to be more proactive in the way I offer support. Instead of waiting for my team members to ask me for something, I try to anticipate what they need to know. This isn't limited to strictly work-focused needs, either—it also extends to emotional support and quality-of-life issues. During a particularly stressful week a while back, my own manager proactively reached out with a word of sympathy that meant the world to me. I knew I wanted to try and do the same for my own team once I became a manager.

Even small gestures, like asking a new report if they have any dietary requirements before planning a team lunch, can go a long way in building psychological safety. In fact, Google's re:Work effort identified psychological safety as the foundation on which all other

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Bright Ideas

Redefine Winning And Compete Only Against Yourself

David Villa

It's time we change our minds about what it means to be a winner. We have become so careful about protecting people from losing that we've forgotten the true meaning of what it means to win. Let's take a minute and define what it means to be a winner. Does it have something to do with "beating" an opponent? It's important to understand that in order to truly win, winning is more than competition.

According to Merriam-Webster, the definition of the word "winner" is "one that is successful especially through praiseworthy ability and hard work." While this definition is accurate, I see it differently and think it's time we redefine the term.

In my eyes, the definition of a winner is someone who gives 100% of their effort in preparation for and during competition 100% of the time, regardless of the circumstances faced before them. Winning involves more than beating an opponent or the final score

on the board. A person can be a winner as long as they give everything they've got.

There's nothing wrong with keeping score and there's nothing wrong with competition. If we didn't keep score, competition would be meaningless. If the score didn't matter, we wouldn't watch sports. However, winning is more than just beating your opponent on the scoreboard.

A fantastic example of this is Switzerland's Gabriela Andersen-Schiess who finished 37th in the inaugural women's Olympic marathon at the Los Angeles 1984 Summer Games. "Her refusal to quit the race despite the exhausting conditions and suffering from dehydration led to an iconic Olympic moment," according to the International Olympic Committee. Determination saw her over the fin-

ish line and everyone watching looked on stunned, and even better, inspired.

"I looked at the women around me and I knew I couldn't run with the leaders. I knew I wasn't that good and not everybody can win. There were a lot of us in 10th to 15th place and we ran as a group," Anderson-Schiess explained in the Olympic video An Unforgettable Marathon Finish. As she approached the final six miles, Andersen-Schiess' body began to shut down due to dehydration and high heat. She managed to make it into the stadium and across the finish line. However, she collapsed into the arms of medical staff immediately upon crossing the finish line.

"At the time, after the Olympics, I would have traded anything for 10th or 15th place ... I can see now though

that what the crowd was cheering on was my determination to overcome the obstacle before me. I was still a winner and that is one of the things I remember the most," she said.

Losing and failing matters. I guarantee that you can't look at your accomplishments without also looking at your failures. When this happens, I find a way to be thankful for each failure; I turned my failures into lessons. When I was young, my dad used to say me, "David, when are you going to stop goofing off? You have more talent in the tip of your finger than most people have in their own body but you won't apply it." And you know what? Thankfully, I had someone there to tell me that.

Now, my only competition is me. Which means that your only competition is you. I used to constantly wonder about my competition and tried to follow everyone else's moves, only to realize that I couldn't win if



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Meet **TONYA NEWMAN** »

Area Manager, Trade Management* Nashville, TN

» How long have you been in the staffing business?

It will be one year June 6th.

» What was your first job? What do you remember most about it?

DJ's Fashion for Men. That retail work is not for me.

» Who was the worst boss you ever had and why?

I really don't have a horrible boss story. Maybe I'm just the ideal employee.

» What motivates you each day to sell and service your clients?

I am motivated to be the best I can be every day. The success of landing a new client is the thrill, but building a successful partnership is where I get my satisfaction.

» What are some of your long-term goals?

Presently I am working on learning all aspects of this crazy business. I feel as if this will only help strengthen my current relationships, and increase my knowledge base for interacting

at a higher level.

» What makes you successful as a Manager?

Communication is key. You can't fix a problem if you don't know there is one. Also, I will never ask someone to do something that I am not willing to do myself.

» What is the best advice you could give to other Peoplelink staff members?

Take ownership in everything you do. If you tackle the business as if it is your own, you have a much greater chance at success.

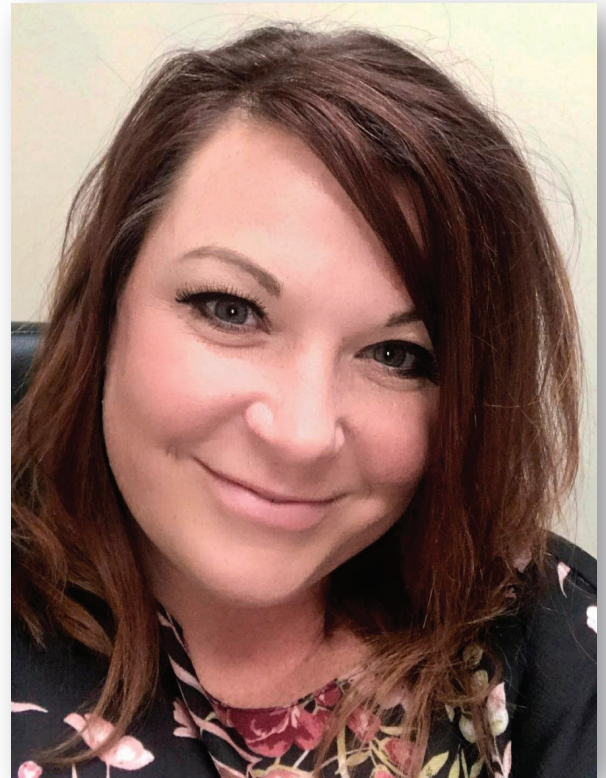
» What is your favorite movie?

This is a joke in my family. They all think I have terrible taste in movies. I am

a sucker for a good romantic comedy. **Book?** The Power of Intention by Dr. Wayne Dyer and Conversations with God by Neil Donald Walsch. **Drink?** A Ketel One dirty martini, up!

» If you could have any car you want, what would it be?

I'm not really a car person, but I love a big vehicle, something



that I can haul all my stuff around in and still have room for passengers. I also like a car that is paid for!

» What is your home city? What is the greatest feature about your home city?

Nashville. You can't name just one thing about Nashville that makes it Great. The whole city is full of life and energy. If you have ever met me, then you know I am Nashville's biggest fan. I love my city!!

» How do you unwind when you're not at the office?

I just recently took up Pilates and I LOVE IT!!

» What do people like most (least) about you?

I say what I mean and mean what I say. **Least?** I say what I mean and mean what I say. Yes, my best quality can also be my worst. ☹️

**Trade Management is the skilled trades division of Peoplelink.*

Hire character. Train skill.

— Peter Schutz

From the President's Desk »

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qualities of high-performing teams are built. So simple gestures like these are deceptively powerful opportunities I've tried to take advantage of wherever I can.

I've found out firsthand how important it is for new managers to continue to learn and grow. When you're in charge of a

group of other people, you're a force-multiplier for your team; every way you yourself can improve has a disproportionate overall benefit. That responsibility can be a bit scary, but seeing your team succeed is incredibly satisfying. I'm glad I took the leap. ☺️

GIG ECONOMY Is Just Jargon to Most Americans

Three out of four U.S. adults (75%) have never heard of the term “gig economy,” according to the results of a new American Staffing Association Workforce Monitor® survey conducted online by Harris Poll. Roughly three in 10 Americans (29%) don’t know how to define the term, and 31% cannot identify specific types of gig work.

Without a definition, most U.S. adults (85%) say they may have performed work one might consider “gig” at some point in the past. However, after being given a definition that describes gigs as various forms of small-project, freelance assignments typically facilitated by an internet platform or app, that percentage drops to 20%, the survey results show.

A large majority of Americans (78%) see the gig economy as a new way to describe the kind of nontraditional work arrangements that have been around a long time. More than half (53%) disagree that the U.S. will evolve to predominantly a gig economy within the next 20 years.

“The ASA Workforce Monitor findings demonstrate that many Americans are puzzled by the term, ‘gig economy,’” said Richard Wahlquist, ASA president and chief executive officer. “Despite this confusion, and even if it is just a new term for an old approach to work, the majority of Americans don’t believe



that gig work will be a dominating force in the economy in the coming years.”

Method

Harris Poll conducted the survey online within the U.S. on behalf of ASA Dec. 20–22, 2016, among a total of 2,067 U.S. adults age 18 and older. Results were weighted on age, education, race/ethnicity, household income, and geographic region where necessary to bring them into line with their actual proportions in the U.S. population.

Employers Are Expanding Summer Hiring, Surveys Show Hourly workers say workplace flexibility is top perk they look for

Roy Maurer

Employers are planning increases in seasonal summer head count, according to two recently released surveys.

Forty-one percent of employers told CareerBuilder that they plan to hire seasonal workers this summer, a significant jump from 29 percent in 2016. The national survey was conducted by Harris Poll on behalf of CareerBuilder between February and March and included representative samples of 2,587 full-time employers and 3,420 full-time workers.

In the other survey, 67 percent of 1,000 hiring managers surveyed by hourly jobs marketplace Snagajob, based in Richmond, Va., said they anticipate hiring more summer workers than last year.

Seventy-four percent of employers with hourly jobs available plan to have all positions filled by the end of May, according to the survey.

CareerBuilder reported that 31 percent of employers have already hired their summer staff, and another 34 percent said they typically complete their hiring in May. Twenty percent expect to finish hiring in June, 9 percent in July and another 7 percent in August.

The CareerBuilder survey found that of those who are hiring summer workers, 34 percent are hiring a friend, 30 percent a family member and 19 percent their child.

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Employers Are Expanding Summer Hiring

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Other key findings from the CareerBuilder survey include:

- Larger employers are hiring the most seasonal workers: 45 percent of companies with more than 500 employees are hiring summer staff, whereas 28 percent of businesses with 50 or fewer workers are doing so.
- Employers in Miami (66 percent), New York City (58 percent), Washington, D.C. (46 percent), and Los Angeles (45 percent) are hiring the most summer employees.
- More than 3 in 4 employers hiring for the summer (79 percent) will pay their summer hires \$10 or more per hour on average—up from 74 percent in 2016. One in 5 employers (19 percent) plan to pay \$20 or more per hour.

According to the Snagajob poll, the top on-the-job perk hourly workers look for is a flexible schedule (36 percent), followed by bonuses (27 percent) and benefits separate from health insurance (13 percent).

"These findings are consistent with other trends we're seeing as more and more workers enter the gig economy so they can grab shifts when and where they want," said Peter Harrison, CEO of Snagajob. "At a time when we have near-zero unemployment but still substantial underemployment, employers should consider how they offer increased workforce flexibility to stay ahead of the competition."

Over half of hourly employers (52 percent) told Snagajob they plan to offer their summer workers flexible shift preferences.



Not All Summer Jobs Are Temporary, or Typical

A majority of employers hiring this summer (79 percent) said they will consider some summer hires for permanent positions, according to CareerBuilder.

Rosemary Haefner, chief human resources officer at CareerBuilder, advised employers and employees to approach summer work as something more than just a temporary position. A summer job can be viewed as an extended job interview, she said.

"Like employees, employers shouldn't look at a summer job as a temporary placement. Think of it as a three-month-long working interview. Many seasonal workers will not be candidates for permanent positions, but some of them may be, either now or in the future."

Haefner recommended identifying potential hires early on, keeping close tabs on their performance, and evaluating their fitness for full-time employment at the end of the summer.

And summer jobs are not just confined to life-guard positions and working at resorts, according to CareerBuilder.

Although summer seasonal jobs are commonly associated with recreational and outdoor work, many employers whose companies are hiring for the summer say they are hiring for a variety of professional and support positions, including roles in engineering (27 percent), IT (27 percent), sales (15 percent) and manufacturing (12 percent).

Winners take time to relish their work, knowing that scaling the mountain is what makes the view from the top so exhilarating.

— Denis Waitley

Why Do So Many Managers Avoid Giving Praise

CONTINUED FROM PAGE 1

leader avoided giving positive feedback. This was also true when we looked only at the ratings of direct reports.

When we looked only at the managers' self-assessments, however, we saw a different story. There was a strong correlation between people who believe they give "honest, straightforward" feedback and those who give negative feedback, regardless of whether they also give positive feedback.

Leaders obviously carry some incorrect beliefs about the value and benefits of different forms of feedback. They vastly underestimate the power and necessity of positive reinforcement. Conversely, they greatly overestimate the value and benefit of negative or corrective feedback. In all, they misjudge the impact negative feedback has on how they are perceived by their colleagues, bosses, and direct reports. Giving only negative feedback diminishes a leader's effectiveness in the eyes of others and does not have the effect they

believe it has.

Perhaps in an effort to provide employees with what they believe is direct, honest feedback, managers who prefer giving negative feedback may come across as only looking for what's wrong. Some employees have described this as, "Quick to criticize and slow to praise." While our findings don't tell us why managers are so hesitant to give positive feedback, our

work with leaders suggests that there could be a variety of reasons. Perhaps it starts with the perception that the really good managers are the tough graders who are not afraid to tell people what's wrong. Possibly they believe that giving people positive feedback will encourage a subordinate to let up or coast. Maybe they are emulating their prior bosses who gave little praise, but who pointed out any

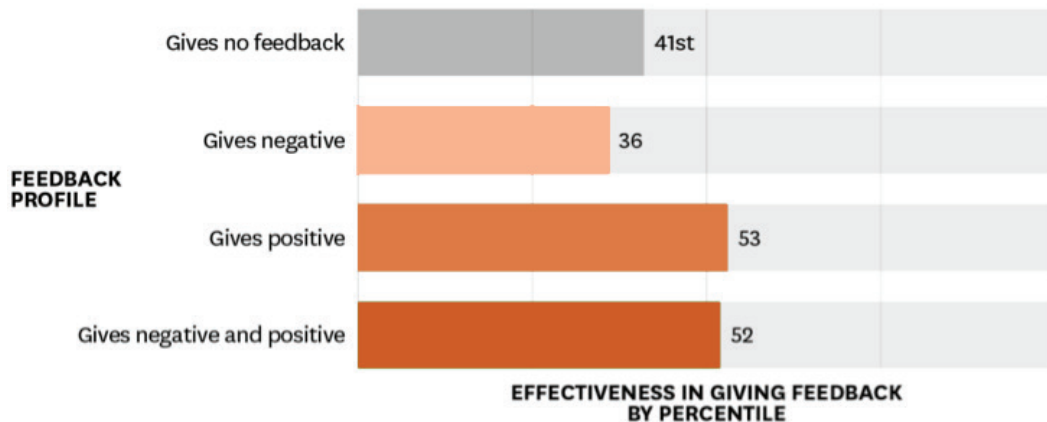
mistake or weakness. Some may believe it a sign of weakness to praise subordinates. Maybe they just don't know how to effectively deliver appreciation or praise. Or maybe they intend to give kudos, but feel so busy that the days slip by and they never quite remember to send out that note of praise for a job well done.

Giving positive feedback is really quite simple. It's OK if it's brief – it just needs to be specific, rather than a general remark of "good job," and ideally occurs soon after the praise-worthy incident. Of course it's also best when it's sincere and heartfelt.

Our findings suggest that if you want to be seen as a good feedback-giver, you should proactively develop the skill of giving praise as well as criticism. Giving positive feedback shows your direct reports that you are in their corner, and that you want them to win and to succeed. Once people know you are their advocate, it should also make giving criticism less stressful and more effective. ☺

Managers Are Seen as More Effective When They Give Praise

Q: Does your manager give you honest feedback in a helpful way?

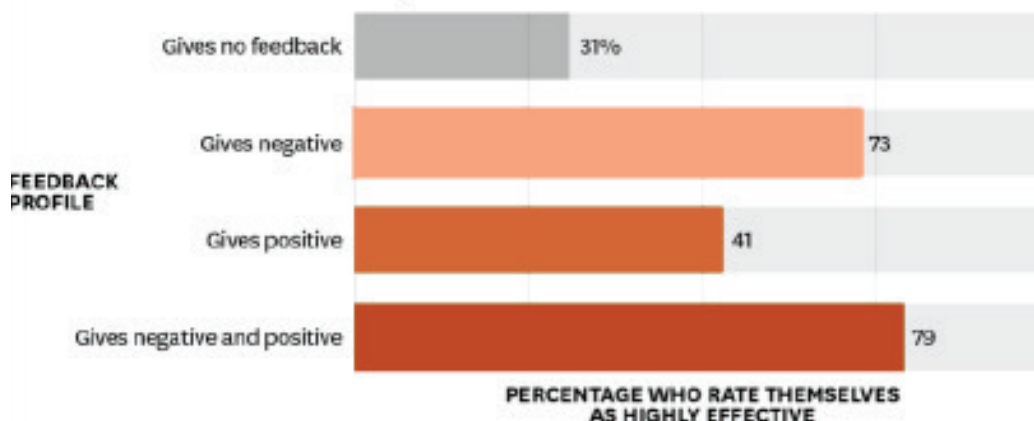


NOTE: LEADERS WHO RATED AS NEUTRAL ABOUT GIVING FEEDBACK WERE ELIMINATED FROM THE DATA.
SOURCE: ZENGER FOLKMAN ANALYSIS OF 328 MANAGERS' SELF-ASSESSMENTS ALONG WITH 360-DEGREE ASSESSMENTS

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Managers See Themselves as Effective When They Give Criticism

Q: Are you highly effective at providing others with honest, straightforward feedback?



SOURCE: ZENGER FOLKMAN ANALYSIS OF 5,196 MANAGERS' SELF-ASSESSMENTS

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I was constantly focusing on what others were doing. So, I stopped! I started focusing on what I had in my hand and the talent I have around me and we innovated. I grew and so did my team. Our agency's position quickly changed as we pulled ahead of the competition. However, our motivation wasn't in beating them, but rather in improving upon where we were last year.

When I say that you are

your only competition, I truly live by that mantra. You will progress a little every day, and 365 days later, reflect and see truly how far you've come.


Doing your very best means doing everything you are capable of. The standard that you compare yourself should be what you were capable of yesterday. As Vince Lombardi stated in his biography Vince: A Personal Biography of Vince Lombardi, "Winning isn't every-

thing, but wanting to is."

The standards we are comparing ourselves to are external. It does not matter how we perform relative to our opponents, so long as we perform better than we did yesterday. What we have to remember is that our competitors are not other people, companies, countries or teams – our competitor is ourselves.

We shouldn't shy away from wanting to win. We just

have to remember that winning has two meanings – and we need to measure our success against a more appropriate definition. Are you competing against yourself, or are you competing against other individuals, companies or teams?

Go out and give your all, and in some cases, you will be the best. Proudly exclaim that you want to win – that's where winning starts. 

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Left to right – Roseann Mancini (Greensboro Operations Manager), Helen Graham, Aimee Farlow (Greensboro Recruiter)

Peoplelink is pleased to announce that Helen Graham has been chosen as our May *Shining Star* employee. Helen has been part of the Custodial Services team at Guilford Technical Community College for over seven years. She reports to the Greensboro, North Carolina Peoplelink branch.

Helen's role is unique as she works in the culinary building that serves the outside

public. She must take initiative and promptly resolve any issues that come up. Helen is exceedingly dependable, having a nearly perfect attendance record and consistently good work results. Sandra Hardge, her GTCC supervisor, says that Helen is her "go to" person because she is so steadfast and willing to work.

Congratulations to Helen for being Peoplelink's May *Shining Star* employee!

Find your shining star! Contact Peoplelink at 574.232.5400.

Employers Must Notify Laid-Off Workers Before Hiring Foreign Workers

By SHRM

Oracle America was denied labor certification for two foreign workers because it failed to adequately notify its qualified, recently laid-off employees about the job openings, the Board of Alien Labor Certification Appeals affirmed.

The board said that the Redwood City, California-based computer company's separation notices to laid-off workers were insufficient because they did not provide specific and repeated notifications of job opportunities covered by the labor certification application, as specified by the Department of Labor (DOL). Instead, "the record shows that the employer issued a single separation notice to each laid-off worker with no follow-up," the board said.

In addition, it continued, the separation notices "were exactly the type of notification that the [DOL] expressly rejects—i.e., a notice that simply informs the laid-off worker to monitor the employer's website for future openings and inviting the worker, if interested, to apply for those openings."

THE CASE

In June 2013, Oracle filed applications to sponsor two foreign workers for permanent employment certification in the positions of software engineer and IT manager. Responding to a query from the DOL, the company said it had laid off workers within the past six months who held the same or similar positions and who worked in the



same area where it intended to employ the foreign workers.

The DOL's certifying officer notified Oracle in February 2014 that its applications were being audited. The audit notification letters requested the company to submit documentation of its recruitment efforts—including a recruitment report—specifying information identifying laid-off workers in those positions within the last six months and efforts to notify and consider them for the jobs.

Oracle responded that four workers had been laid off from related positions in the six months at issue and that none of them had "applied for positions in the subject occupations since termination." Regarding the steps taken to notify and consider laid-off workers for the

job opportunities, Oracle stated that "all laid-off U.S. workers are given a notice in their termination packet that provides them with instructions on how to view and apply to any and all labor certification job opportunities that Oracle America, Inc. is offering, including the above-referenced job opportunity."

The DOL denied certification in December 2014, citing Oracle's notification as inadequate. "Providing information to the laid-off worker prior to his/her termination on how to apply to 'new job opportunities' and relying on the laid-off worker to act on this information does not satisfy the regulatory requirements," the DOL said.

The certifying officer further stated that the notice provided by Oracle in its

termination packets made no reference to specific job opportunities and instead "required the employee to take action to regularly visit the site in order to find such jobs. Contrary to the understanding of the employer, the satisfying of the regulatory standard is the sole responsibility of the employer and not that of the laid-off U.S. worker."

Oracle didn't challenge the DOL's finding that it did not provide specific notice of the job opportunities to the laid-off workers, but the company argued that it complied with the DOL's alternative notification requirements for employers filing multiple labor certification applications.

Under the alternative notification requirements, an employer must notify each laid-off worker—in the manner chosen by the worker—at least once a month that a list of current relevant job openings is maintained electronically on a website operated by the employer.

The board ultimately found that Oracle also failed to comply with the alternative notification requirements because notifications were not provided in "the manner chosen by the worker," nor were they offered at least once a month.

MORE HR NEWS ON NEXT PAGE

Facebook photos showed FMLA abuse, so why won't court dismiss case?



By Jared Bilski

If an employee is supposed to be on FMLA because a medical condition prevents him from handling the day-to-day tasks of his job, you'd think a couple of photos of him frolicking about on a Caribbean island during his leave would be enough to prove he was abusing his FMLA leave. And it probably could've been.

The case we're referring to is **Jones v. Gulf Coast Health Care of Delaware LLC (d.b.a., Accentia Health)** and on the surface, it appeared the company did everything it should have in this situation. But a second look at the case, shows there were certainly some costly mistakes made.

Background

Rodney Jones was the activity director at Accentia Health. His job was to decorate the building for holidays and events, maintain calendars, charts and care plans, and oversee outings, parties and recreation for patients.

During his tenure, Jones required shoulder surgery for which he requested FMLA leave.

His request was granted, and he took his full allotment of 12 weeks of leave. But he still needed more time to recover, and Accentia Health granted him an additional month off (although it classified it as "non-FMLA" leave).

During that month, Jones took two trips to Busch Gardens, as well as a trip to St. Martin.

While at Busch Gardens he took photos of decorations he'd like to incorporate at Accentia Health, which he posted to his Facebook page and forwarded on to co-workers.

Then, he traveled to St. Martin, where he took and posted the photos of him swimming.

Accentia Health caught wind of those photos, and you know what it was thinking: *He clearly wasn't using his leave to recuperate from surgery.*

When Jones' returned from his additional leave — with a completed

fitness for duty certification his supervisor asked for when Jones initially asked to be placed on light-duty — his supervisor showed him the incriminating photos, said the company believed Jones had been well enough to work while he was on leave and suspended him. A few days later Jones was fired. This prompted him to file an FMLA retaliation claim.

Inconsistencies and contradictions

Initially, **a court ruled in favor of the employer** and dismissed the case.

But on appeal, the Eleventh Circuit Court of Appeals said Jones had shown enough facts to support his FMLA retaliation case. A major factor: Accentia's reasons for terminating Jones were inconsistent.

According to the court, the inconsistencies included:

The formal termination letter.

The formal letter said *"As you [Jones] have declined to provide any additional information, the decision has been made to terminate your employment effective immediately based on the information available."* But Jones claims he was never even asked to provide additional information. Rather, he was simply told that he was being suspended, and then fired for abusing and misusing FMLA leave by engaging in activities — the infamous Facebook photos — that demonstrated his ability to have returned to work earlier than he did.

A lack of explanation about the reason behind the termination. Accentia claimed a violation of its social media policy was one of the reasons Jones was fired. The company had a social-media policy that stated: *"I understand that Social Media usage that adversely affects job performance of fellow associates, residents, family members, people who work on behalf of Gulf Coast Health Care or violates the HIPPA privacy law may result in disciplinary action up to and including termination."*

Problem was, when the company fired Jones, they never let him know he violated its social media policy or that his posts on Facebook showed "poor managerial judgment." On the other hand, Jones' direct supervisor cited a host of other reasons — Jones unnecessarily prolonged his recovery and went on vacation when he should have been at home recovering, Jones didn't receive his agreed upon physical therapy (proved wrong by a letter from Jones' therapist) — that influenced his decision to fire Jones.

And even the social media policy in question was an issue for the court. The policy says the company can fire employees if their social-media posts "have an adverse effect on co-workers." The Facebook posts about Jones were brought to Accentia's attention anonymously by a co-worker, and Jones' supervisor said he heard gossip about the photos and felt they "create(d) a morale issue among

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IRS Sets 2018 HSA Contribution Limits

Health savings account caps rise \$50 for self-only plans, \$150 for family coverage

By Stephen Miller, CEBS

The amount that individuals may contribute annually to their health savings accounts (HSAs) for self-only coverage will rise by \$50 next year. For HSAs linked to family coverage, the contribution cap will rise by \$150.

In Revenue Procedure 2017-37, the IRS provided the inflation-adjusted HSA contribution limits effective for calendar year 2018, along with minimum deductible and maximum out-of-pocket expenses for the high-deductible health plans (HDHPs) that HSAs must be coupled with.

These rate changes reflect cost-of-living adjustments, if any, and rounding rules under Internal Revenue Code Section 223.

"The contribution limits for various tax advantaged accounts for the following year are usually announced in the fall, except for HSAs, which come out in the spring," explained Harry Sit, CEBS. Due to a mild uptick in

inflation and rounding rules, the 2018 HSA limit will have small increases, he noted.

A comparison of the 2018 and 2017 limits is shown below:

Age 55 Catch Up Contribution

Account holders who will be 55 or older by the end of year can contribute an additional \$1,000 to their HSA. "If you are married, and both of you are age 55, each of you can contribute additional \$1,000," Sit said. But there's a catch, he added.

An HSA is in an individual's name—there is no joint HSA even when the plan provides family coverage—so only an account holder age 55 or older can contribute the additional \$1,000 in his or her own name. "If only the husband is 55 or older and the wife contributes

the full family contribution limit to the HSA in her name, the husband has to open a separate account for the additional \$1,000. If both husband and wife are age 55 or older, they must have two HSA accounts if they want to contribute the maximum," Sit said.

Not All High-Deductible Plans Are HSA Eligible

Besides a high deductible, to qualify as an HDHP, a health insurance plan must

not offer any benefit beyond preventive care before those covered by the plan (individuals or families) meet their annual deductible. "An otherwise high deductible plan fails the HSA qualification when it tries to be nice and it gives you some benefits before you meet the deductible," Sit explained. For instance, if the plan provides coverage in the following areas before the individual or family satisfies their deductible, it is not HSA-eligible.

- **Prescription drugs.** Plans may not cover nonpreventive prescription drugs with only a co-pay before an individual or family meets the annual deductible.
- **Office visits.** Excluding preventive care such as physical checkups or immunizations, plans may not cover office visits with only a co-pay, without having to meet the annual deductible first.
- **Emergency.** Plans may not cover emergency services with a co-pay outside the deductible. Besides the minimum deductible, the out-of-pocket maximum of an HSA-



Contribution and Out-of-Pocket Limits for Health Savings Accounts and High-Deductible Health Plans

	2018	2017	Change
HSA contribution limit (employer + employee)	Self-only: \$3,450 Family: \$6,900	Self-only: \$3,400 Family: \$6,750	Self-only: +\$50 Family: +\$150
HSA catch-up contributions (age 55 or older)*	\$1,000	\$1,000	No change**
HDHP minimum deductibles	Self-only: \$1,350 Family: \$2,700	Self-only: \$1,300 Family: \$2,600	Self-only: +\$50 Family: +\$100
HDHP maximum out-of-pocket amounts (deductibles, co-payments and other amounts, but not premiums)	Self-only: \$6,650 Family: \$13,300	Self-only: \$6,550 Family: \$13,100	Self-only: +\$100 Family: +\$200
<p>* Catch-up contributions can be made any time during the year in which the HSA participant turns 55. ** Unlike other limits, the HSA catch-up contribution amount is not indexed; any increase would require statutory change.</p>			

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IRS Sets 2018 HSA Contribution Limits

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eligible plan also can't be higher than an inflation-adjusted number published by the IRS every year. "If your plan has a high deductible and a high out-of-pocket maximum, higher than the IRS published number, it's also not HSA-eligible," Sit said.

Coverage of Adult Children

While the Affordable Care Act (ACA) allows parents to add their adult children (up to age 26) to their health plans, the IRS has not changed its definition of a dependent for health savings accounts. This means that an employee whose 24-year-old child is covered on her HSA-qualified health plan is not eligible to use HSA funds to pay that child's medical bills.

If account holders can't claim a child as a dependent on their tax returns, then they can't spend HSA dollars on services provided to that child. Under the IRS definition, a dependent is a qualifying child (daughter, son, stepchild, sibling

or stepsibling, or any descendant of these) who:

- Has the same principal place of abode as the covered employee for more than one-half of the taxable year.
- Has not provided more than one-half of his or her own support during the taxable year.
- Is not yet 19 (or, if a student, not yet 24) at the end of the tax year, or is permanently and totally disabled.

Affordable Care Act Limits Differ

There are two sets of limits on out-of-pocket expenses that employers should keep in mind, which can be a source of confusion.

Starting in 2015, the Department of Health and Human Services (HHS) established annual out-of-pocket or cost-

sharing limits under the ACA, applying to essential health benefits covered by a plan (grandfathered plans are not subject to the ACA's cost-sharing limits).

The ACA's annual out-of-pocket maximums have been slightly higher than the IRS's out-of-pocket limits on HSA-qualified HDHPs. To qualify as an HDHP, a plan must comply with the lower

maximum to be updated annually based on the percent increase in average premiums per person for health insurance coverage," explains an ACA compliance bulletin by the Stellar Benefits Group in Solon, Ohio, which provides an overview of the HHS's 2018 updates.

Below is a comparison of the two sets of limits.

	2018	2017
Out-of-pocket limits for ACA-compliant plans (set by HHS)	Self-only: \$7,350 Family: \$14,700	Self-only: \$7,150 Family: \$14,300
Out-of-pocket limits for HSA-qualified HDHPs (set by IRS)	Self-only: \$6,650 Family: \$13,300	Self-only: \$6,550 Family: \$13,100

out-of-pocket maximum for HDHPs.

HHS published its 2018 ACA out-of-pocket limits in the Federal Register on Dec. 22, 2016, in its Notice of Benefit and Payment Parameters for 2018 final rule.

"The ACA requires the out-of-pocket

Beginning in 2016, the ACA's self-only annual limit on cost-sharing applies to each covered individual, regardless of whether the individual is enrolled in self-only coverage or family coverage.

Facebook photos showed FMLA abuse, so why won't court dismiss case?

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employees."

That's all fine and good, but, as the court pointed out, it should have both looked further into the complaints and brought these allegations and policy effects to Jones' attention and allowed him to respond. Specifically, the court said:

But Jones was not informed during his suspension meeting or in his termination letter that he had violated Accentia's social-media policy. In addition, Daniels (Jones' supervisor) conducted no further investigation regarding the anonymous

complaint, and neither he nor any other Accentia official could identify any employee who was adversely affected by Jones's Facebook posts. Finally, there is evidence that the purpose of Accentia's social-media policy, as discussed during managerial training, is to prevent employees from posting harmful or negative comments about the company's staff or facilities. Jones's Facebook posts were clearly far afield from this area of concern.

In sum, the record indicates a number

of inconsistencies and contradictions with respect to Accentia's proffered reasons for terminating Jones.

What the company could've done

Two key lessons from this ruling:

1. **Be consistent.** If you're going to take adverse action against an employee when FMLA is in play, it's critical that your actions are consistent and clearly explained to the employee being disciplined.

2. **Communicate, communicate, communicate.** As The Employer Handbook's Eric B. Meyer points out, better communication could've "saved the plaintiff's job and mooted a lawsuit altogether." And if the increased communication did cement the company's reason for termination, it also probably would've prevented a lawsuit from going to trial.