Raising the Bar in Staffing Since 1987

Finding the Healthy Tension between Being **Confident** and **Collaborative**

by Lawrence Levy

Over the course of my career, I've had the privilege of working with people doing extraordinary things: inventors, entrepreneurs, filmmakers, and even a Buddhist master. They are pioneers who shatter norms, change paradigms, and delight us in new ways. Despite vast differences in their styles, personalities, and fields of endeavor, they have striking parallels in what made them successful. Namely, they combine their talent with an important balance between self-confidence and collaboration.

In my personal experiences with leaders such as the late Steve Jobs of Apple, Ed Catmull and John Lasseter of Pixar, and Buddhist master Segyu Rinpoche, I saw their confidence come through in several ways:

First, they live by vision, and they have the courage to stick with it. Long before a computer-animated feature film was technically possible, Catmull and Lasseter were determined to make one. The many obstacles kept them on the edge of failure for years, but they held onto their vision. Similarly, Jobs never gave up on his dream for Apple to become the next great consumer electronics company — even during the 12 years he was away from it. And Rinpoche is deeply committed to a higher purpose: resurrecting a tradition of meditation that heightens human contentment by balancing outer attainment with inner mastery.

At the same time, these pioneers focus on the details. They believe they know best about how their ideas should be realized and won't let up until their high standards are met. Jobs is legendary for this: He weighed in on everything from a product's functionality to the design of its packaging. I saw Lasseter bring the same

THINK STRATEGICALLY
ABOUT YOUR CAREER DEVELOPMENT

In a world where the average employee sends and receives 122 emails per day and attends an average of 62 meetings per month, your boss or HR leadership simply doesn't have the time or bandwidth to properly think through how best to deploy your talents moving forward. Instead, we have to take control of our career planning to ensure we're putting ourselves in position for long-term growth. Here are four ways to become more strategic about the process.

Force yourself to set aside time.
When things get busy, time for strategic thinking is almost always the first to go. "Planning sessions" seem amorphous, and the ROI is uncertain. But going for months or years without regular introspection can lead you down a professional path that you didn't intend to be on. Instead, force yourself to make time for strategic reflection. Just as you're more likely to go to the gym if you have plans to meet a workout buddy, you can use the same technique to enforce discipline around strategic thinking. Identify several trusted colleagues and start a mastermind group to meet regularly, discuss big picture goals, and hold each other accountable for meeting them. Having others whom you trust challenge your thinking can open up new ideas and possibilities you hadn't previously considered.

Get clear on your next steps. Getting clarity around your professional goals — such as being promoted to SVP, starting your own business, or running the Asia/Pacific region — is only the first step. The place where many professionals fall down is identifying the pathway to get from here to there. As I described in "A Campaign Strategy for Your Career," one technique you can use is "pre-writing your resume." In this exercise, you put yourself five years into the future and write your resume as you envision it, including your new title and exact job responsibilities. The trick is that you also have to fill in the intervening five years, which prompts you to reflect on what specific skills you'll need to develop in the interim, what degrees or accreditations you may need to earn, and what promotional path you'll need to pursue in order to get there. Understanding that helps force your thinking and ensure that you're taking the right steps (if a masters degree is required for a position you want in three years, you better start applying now).

Invest in deep work. It can be tempting to invest your time the same way everyone else does — putting in face time at the office, or racing to respond to emails the fastest. At lower levels, that might mark employees as "go-getters." But as you ascend in the organization, the ability to jump higher and faster becomes less important. Instead, what marks you as successful over time is creating in-depth, valuable projects — whether that's writing a book or a brilliant new piece of code, spearheading the launch of a promising product, or undertaking a meaningful initiative, like reorganizing the company's performance review system. That involves a shift from staccato, reactive work into more self-directed, long-term projects ("Deep Work," as author and Professor Cal Newport puts it). Many professionals don't seek this work out, as there's no immediate ROI — but the long-term benefits and recognition are substantial.

Build your external reputation.
A study by Wharton professor Matthew Bidwell showed that external hires into a company get paid 18-20% more than internal workers who are promoted into similar jobs. (Gratingly, they also perform worse for the first two years.) That's patently unjust, but it points to an important truth: professionals are often taken for granted inside their own organizations. That doesn't mean you should jump ship every few years. But it does point to the fact that, even if you'd like to stay at

Bright Ideas

Managing a Team
That's Been Asked to Do Too Much

Liane Davey

Recent cases highlighted in the media suggest that executives, in a desperate quest to quench the market's unquenchable thirst for growth, are ignoring reason and dictating growth targets so insurmountable that their employees are turning to unethical and perhaps illegal means to achieve their goals. Are you worried about something like this happening in your organization? You might believe that you're an innocent pawn in this game, but as a manager, you have a responsibility to ensure that unreasonable targets don't unleash harmful behaviors on your team.

Harmful behaviors come in many forms. At the relatively mild end of the spectrum, unrealistically high targets can motivate employees to game the system using short-term tactics that can be destructive in the long run. Common examples of such trade-offs include upselling products or services that are of little value to the customer or selling at unprofitable prices. Less-common but more-dire consequences of unrealistic targets include immoral actions such as charging customers for services they didn't want or invoicing for work that never happened.

It's easy to lay the blame for inappropriate targets at the feet of those well above you in the hierarchy. It's tempting to exonerate yourself and attribute any negative behavior to the mistakes made at the top. But that would be an abdication of your responsibility as a manager. When those above you fail in their leadership obligations, the responsibility falls to you. For the people on your team, you are the leadership. They are counting on you to guide them through the precarious choices they face.

The first thing your team is counting on you to do is to question unreasonable targets before accepting them. Too few managers have the courage or the wherewithal to do anything but roll over when their boss hands them an astronomically high number. If you receive a target for your team that you believe is unattainable, it's your responsibility to share your concerns. The point is not to reject the goals, which might have negative repercussions on your career. Instead, you must calmly and rationally share the facts and highlight your concerns.

For example, you could say, "I saw the $2 million target for our team. That would represent a 23% increase over last year at a time when our staffing has been cut. To reach these targets, each team member would have to improve their year-over-year performance by 38%, when the best improvement we've ever achieved is 11%. I'm concerned that attempting to achieve those targets will encourage short-term thinking that will affect our customer satisfaction and ultimately constrain our growth. Are there opportunities to revisit this target?"

Although it would be nice to think that advocating for a more reasonable target would work, my experience has been that it seldom does. The pressures to perform and to grow are simply too high. In that case, you're saddled with unachievable goals and your role is to mitigate the negative consequences. There are a variety of techniques you can try.

You do have one other recourse if your boss won't change your target: You can ask for the resources you'll need to be successful. In the example above, you might ask for additional staffing to reduce the burden on each employee. Alternatively, you might ask for additional marketing or advertising support, or for tools to reduce the administrative burden.

Meet **CAROL WOOD** » » »

RVP, ILLINOIS

» How long have you been in the staffing business? I have been in staffing for a little over 20 years.

» What was your first job? What do you remember most about it? My first real job was at Container Corporation of America. What I remember most is when we got our new Wang Word Processors. And I got to go to Boston and meet Dr. An Wang, Founder of Wang Labs.

» Who was the worst boss you ever had and why? The worst boss I ever had was one who failed to communicate with us individually and lost her temper regularly.

» What motivates you each day to sell and service your clients? I am motivated by watching my teams pull together and make things happen. It gives me confidence in our ability to provide solutions and that makes me want to go out and tell the world.

» What are some of your long-term goals? Professionally, I am determined to double the size of our footprint in Illinois. I'm excited to see some of my staff grow into leadership roles and that we are doing this together. Personally, I'm very interested in returning to school and ultimately teaching some evening business classes to career changers. Creating a secure retirement with my husband in some luxurious place is hopefully also in my future.

» What makes Peoplelink unique, from your perspective? Peoplelink really defines the idea that every single person is instrumental in making our system work. We have the big ideas and the innovation to pull them off with a very small and intimate group of people banding together to get it done

swiftly and efficiently. It keeps our energy high and our clients confident in our ability to change and grow with them at their pace.

» What makes you successful as a Manager? Genuine interest in my co-workers offers me the opportunity to get to know their talents. I am always amazed by the bright ideas that come out when I brainstorm with the team. Friendly and approachable are two keys for getting the most out of people.

» What is the best advice you could give to other Peoplelink staff members? Try new things. Ask for help. Compliment a job well-done. Use please and thank you often..

» What is your favorite movie? Yankee Doodle Dandy. **Book?** The Canterbury Tales (seriously). **Drink?** Good Cabernet.

» If you could have any car you want, what would it be? I've had my eye on the Barrett-Jackson auctions: 1970 Chevelle SS with 454 LS-6 motor with 450 HP. Vroom Vroom.

» What is your home city? What is the greatest feature about your home city? I live in a suburb of Chicago, which is of course a beautiful and exciting city. But I really enjoy the suburban life. I live in Elmhurst. I can get to the city in 30 minutes, except in rush hour, then it's about two hours.

» How do you unwind when you're not at the office? I spend a lot of time cooking with family at home and at the lake. Outside of that, I'm trying lots of new ways to stay active outside the gym. Looking forward to horseback riding in the Spring.

» What do people like most (least) about you? I think people like my husband most. He gets me invited to a lot of parties. I am known for a sense of humor, too. Least favorite may be my sense of time. I can lose track if I don't have my calendar and smart phone handy at all times.

From the President's Desk »

the same company, it's important to cultivate a strong external reputation so that you have opportunities if you want them, and to remind your boss and colleagues that your abilities are sought after and appreciated by others. Blogging for industry journals, applying to speak at conferences, and taking on a leadership role in your professional association are all great ways to stay visible in your field — both to outsiders and those inside your company

who need to be reminded of your talents.

Taking time to think about your career development is obviously important, but it's almost never urgent, so many professionals fail to take action, year after year. By focusing on these four steps, you can begin to carve out time to be more deliberate, and lay the groundwork for the job you want — five years from now, and beyond.

10 WORKPLACE TRENDS
YOU'LL SEE IN 2017

By Dan Schawbel

These trends are based on hundreds of conversations with human resource executives and workers, a series of national and global online surveys and secondary research from more than 160 different primary and secondary research sources, including think tanks, consulting companies, non-profits, the government and trade associations.

Between 2016 and 2017, the job market will continue to improve causing both job seekers and employees to have more leverage, which will cause salaries to increase and employers to invest in more job advertising, staffing firms and employee benefits. The demand for a more flexible work environment will continue and you will see an emergence of HR practitioners with new skills, including people analytics, Internet marketing, branding and knowledge on new technologies like virtual reality and wearables.

The major economic and business themes over the past year have been focused on the war for talent, creating an employment experience for job seekers and candidates, overtime and compensation, the end of the annual performance review, the continued skills and leadership gap, the rise of Generation Z and the shift to the on-demand workforce. These trends have all impacted how companies recruit, retain, train and structure their workforce for the future.

EMPLOYEE EXPERIENCES

1 Companies focus on improving their candidate and employee experiences.

Companies have always created marketing experiences for customers, and prospects, in order to delight them, increase loyalty and grow their revenues. This year, you will see the walls come down between your HR, marketing and customer service departments in order to develop experiences for both candidates and employees. A recent study found that nearly 60% of job seekers have had a poor candidate experience and 72% of them have shared their experience on an online employer review site. When employers don't notify candidates of their application status, they are discouraged from ever applying for another job at that company again, which limits their future talent pool. Furthermore, a bad candidate experience can turn away customers who may be your candidates, thus resulting in a loss of potential revenue. Virgin, for instance, created a new candidate experience for the thousands of people they are unable to hire out of the 150,000 applications they receive annually, and have created a new seven million dollar revenue stream by creating a better experience for them. Aside from candidates, employee retention and engagement have become some of HR's top issues as top talent has numerous employment options and productivity is key to growth. In another study, it was discovered that 83% of HR said that "employee experience" is either important or very important to their organizations success, and in order to enhance the experience, they are investing more in training (56%), improving their work space (51%) and giving more rewards (47%). IBM has used people analytics to predict retention risk for employees in key job roles, and notifies managers so they can prevent them from quitting, which has saved the company over $130 million dollars.

BLENDED WORKFORCE

2 The blended workforce is on the rise.

In the past five years, the gig economy has become a major trend impacting the global workforce, and has created a new kind of diversity, with full-time permanent employees working side-by-side with freelancers. A study exploring the gig economy found that 93% of companies already identify the blended workforce as they're seeing freelance workers teaming up with employees to work on projects together. In addition, the top reason why outperforming employers are benefiting from the blended workforce is "more flexible teaming". At the SHRM 2016 Annual Conference in Washington DC, Henry Jackson, the President of SHRM, noted that the "rise of freelance workers" was one of the top five biggest employment trends. Multiple studies from Intuit to The Freelancer's Union predict that at least 40% of the workforce will be freelancers in the next few years. As more companies hire on-demand to solve key problems and cut costs by removing healthcare coverage, and other employee benefits, more freelancers and full-time workers will need to work together. With many freelancers working at remote offices, the ability to manage without borders is going to become a critical skill globally.

10 WORKPLACE TRENDS
YOU'LL SEE IN 2017

PERFORMANCE REVIEWS

3 Annual performance reviews evolve into more continuous reviews.

One of the biggest discussions in HR circles is performance reviews, how to transform them and implement something new that serves both managers and employees. Professionals today desire instant feedback, a behavior they've adopted from the instant gratification they receive on social networks like Twitter and Facebook. Younger generations are especially impatient and are unwilling to wait a whole year to learn about their strengths and areas of improvement. One fourth of employees feel that annual performance reviews don't help improve their performance. The annual performance review is coming to an end on a global scale as generation Zs and millennials are currently receiving feedback either daily (19%), weekly (24%) or regularly (23%). In the United States, 28% of gen Z and 17% of millennials receive feedback regularly. Two of the largest companies in the world, including GE and Adobe, have already abolished their annual review process in exchange for regularly feedback. Adobe, the first major company to step away from annual performance reviews, created a "Check-In" system, where expectations are set annually but feedback is given regularly, resulting in a 2% decrease in voluntary attrition. GE followed suit by created " Touchpoints," where there is a daily development focusing on results and changing business demands, which has resulting in a five times increase in productivity in the past year.

RECRUITING AND TRAINING

5 Augmented and virtual reality revolutionize recruiting and training.

While there was a lot of hype around new forms of reality in 2016, companies are taking it a lot more seriously in 2017 as new equipment, programs and use cases surface. Virtual reality hardware revenue is set to reach over eight billion in the next two years and the amount of money invested will be over four hundred million with 25 million users by that time. In addition, with Facebook's acquisition of Oculus, Apple's patent on a 3D display system and the current success of Pokémon GO's augmented reality app, there is no doubt that 2017 will be a massive year for these technologies. We've found that one-fourth of gen Z and millennials want their companies to incorporate virtual reality into the workplace and I predict that this will increase next year as more adopt VR consumer technology. The technology that employees are experiencing outside of work will naturally influence them to desire the same tech at the office. Virtual and augmented reality can help close the experience gap for job seekers and allow employee training to be more engaging, less expensive and free of distractions. For instance, The British Army is already using VR in their recruitment process, General Mills has a virtual reality tour of their offices and GE implements VR at career fairs where students wear headsets to explore their oil-and-gas recovery machines.

MEET GENERATION Z

4 Millennials meet Generation Z in the workplace.

2016 marks the first year that gen Z is in the workplace, while a third of millennials are in management roles, some of whom have direct reports. 2017 will mark the first full year that gen Z will be settled into the workplace, with a new outlook on business, new demands and widening the technology gap even more between younger and older workers. A new study found that 78% of gen Zs and millennials said that their expectations of their current workplace have been met, and their education actually did prepare them for the working world. A different study found that 36% of millennials have a manager title or above yet the Harvard Business Review found that only 7% of companies have accelerated leadership programs to nurture them. Just like with all generations studied, millennials negatively stereotype gen Zs as being lazy, which will cause some friction. Both generations will continue to put pressures on companies to transform the office, reward employees, embrace flexibility, and align the company's interests with a cause.

EMPLOYMENT CONTRACT

6 The war for talent heats up as the employer and employee contract continues to evolve.

The average tenure for employees, regardless of age is a mere 4.6 years in the United States and based on numerous studies we've conducted, millennials leave after two years. Employers have recognized that there is no lifetime employment contract and some companies have incorporate strategies from the book "The Alliance" as they implement "tours of duty" to appease employees. Through hardware, including smartphones and wearables, and social networking sites, talent is more freely available and talent has more opportunities to choose from. Seventy-six percent of full-time workers are either actively looking for a job or open to new opportunities and 48% of employers are unable to fill their job vacancies because of the skills gap and high attrition rates. With all of this competition for talent, an entire 90% of employers anticipate more competition for talent, especially in emerging markets such as India, North America and Asia. This is why you will see an even greater emphasis on the employee experience in 2017 because companies are being forced to focus more on corporate culture and values than pay in order to retain employees.

10 WORKPLACE TRENDS
YOU'LL SEE IN 2017

FOCUS ON TEAM

7 Organizations restructure to focus on team over individual performance.

One of the most fascinating trends, despite the rise of the gig economy, is the emphasis of teamwork regardless of employment situation, industry or politics in a company. While individuals have their own career agenda, companies are now structured with teams because high performing teams will enable them to compete for the future. Organizations are restructuring for several reasons, including the rise of millennial and gen Z workers who grew up playing team sports and have the same expectations at the office and the fact that organizations are trying to better align to customers so they must be agile due to market volatility. Nearly all (92%) of companies rate "organizational design" as their top priority and three-fourths of gen Z's and millennials said they are well prepared to work effectively in a team. Cisco was one of the first companies to embrace this trend, creating "Team Space," a platform that delivers intelligence on how teams can work best to win together.

WORKPLACE WELLNESS

8 Workplace wellness, and well-being, become critical employee benefits for attracting top talent.

Companies are using wellness programs to lower absenteeism, attract talent, and save on healthcare costs. While employees have become more health conscious in the past several years, fewer than half of American workers say that their company supports employee well-being and helps them maintain a healthy lifestyle. Compared to last year, health-related employee benefits have increased by 58% and wellness by 45%, which will continue in 2017. Companies realize that workplace stress is the biggest health issue that employees face so they invest in creating a more relaxing and healthier environment for them.

BENEFIT PACKAGES

9 Companies get creative with their employee benefit packages and perks.

Fair compensation is most important to all age groups, genders and ethnicities almost unanimously around the world based on several studies that I've conducted over the years. Once you get past pay, then the two most important employee benefits are healthcare coverage and work flexibility, a benefit that wasn't mainstream a decade ago but is today because of the sheer demands of work and our "always on" society. In a recent study, we found that compared to two years ago, work flexibility is the top employee benefit (over healthcare in 2014) globally yet only a third of companies offer it. Even the companies that offer at least some degree of work flex aren't actively promoting those programs to employees or job seekers, who are spending more time researching companies before applying for jobs. Aside from these two major employee benefits, new ones are surfacing focusing around education and student loans, which is relevant due to the $1.3 trillion student loan crisis. One company that is on the forefront of this trend is Fidelity, with their "Step Ahead Student Loan Assistance" program, which helps employees payback loans up to $10,000. Other companies have tackled employee benefits differently, such as Maia Josebachvili of Greenhouse, who is transparent with their benefit package costs and surveys her employees to find out how to best allocate their benefit investments. Other examples include Zeeto, that provides employees a thirty dollar Seamless credit for food, Starbucks with their "College Achievement Plan" and Twitter that offers just about every type of exercise class on campus.

MORE CASUAL

10 Office attire and workplace culture becomes more casual

Several years ago, Virgin Founder Richard Branson was on the cover of Forbes Magazine with a scissors cutting off his tie, calling for the end of business formal attire. With the rise of younger generations, and more employees working remote, there's no doubt that the workplace is increasingly casual. In 2017, you will see a continuation of this trend, with more employees demanding to drop their suits and ties in exchange for jeans and shirts. Today, 50% of managers say that employees wear less formal clothing than they did five years ago and nearly one-third would prefer to be at a company with a business casual dress code.

Being Confident and Collaborative

attention to every frame of Pixar's films. And I know that Rinpoche considers no detail of a meditation practice or ritual too small for his attention.

Another factor magnifying the self-assurance and resolve of these individuals is how deeply they know the history of their fields. Jobs studied and could recount the past of not just the computer industry but also the consumer electronics industry. Catmull has often said that any filmmaker who wants to experiment with storytelling must first master traditional story structure. And Rinpoche is a walking encyclopedia of the 2,500-year history of meditation, having studied with some of Tibetan Buddhism's finest teachers for more than 30 years. However, these types also flaunt convention. They have an infectious, rebellious energy and are always seeking to break barriers, fight bureaucracy, and question the status quo. Their deep knowledge of history enhances their confidence to make these paradigm-shifting changes.

While all these aspects of confidence are necessary to achieve greatness, the collective effect can career out of control if left unchecked. The well-publicized Apple Lisa, original Macintosh, and NeXT Computer debacles were blamed on Jobs' arrogance, and Pixar's production of *Toy Story* ground

to a halt due to unresolved story problems.

We need a counterweight: collaboration. The challenge is that the self-confidence needed to boldly push forward conspires against the yielding necessary for great collaboration. Leaders like Jobs, Catmull, Lasseter, and Rinpoche overcome this challenge in two ways.

First, they surround themselves with the right people. The standard is talent — a superb capacity to contribute. Politics and seniority have little place in this consideration. Pixar honed it to an art with its now-famous "Brain Trust," the small team

of accomplished storytellers tasked with assisting directors in developing their films. Even top executives were excluded. Jobs is famous for tolerating only A players. And Rinpoche maintains a close circle of his own teachers and select students that have studied with him for years.

They also listen to ideas and criticism. This does not mean they'll change their vision or their opinions on execution. But successful collaboration means that even self-confident leaders keep themselves open to hearing and evaluating what trusted others have to say, and they resist what is often the downfall of

great collaboration: confirmation bias, giving too much weight to views that validate one's own. When he was at his best, Jobs had a very small circle of hand-picked advisors and put aside his stubborn intensity to pay attention to their advice. With an inspiring combination of mastery and humility, Rinpoche partnered with four of his students to found the Juniper Foundation to achieve a similar result.

Excellence requires two attributes that make for uneasy bedfellows: bold self-confidence and a willingness to collaborate. When a leader has both, great things happen.

Bright Ideas

Once you're clear on the hand you've been dealt, engage your team in some creative thinking about how to be successful. A team member is most likely to turn to counterproductive or unethical behaviors only after exhausting the more appropriate options. Your job is to make sure that there is always a constructive option for what to try next. Continually engage the team in generating ideas. Ask questions such as, "Where do we get the most traction?" and "What approaches are working best this month?" Where possible, provide data and help the team glean insight that inspires new approaches.

As important as it is to provide good options, it's equally as important to define the off-limits options. Be explicit in asking, "What would we not be willing to do to hit our target?" or "What would give us short-term gain but create long-term pain?" Having an open discussion about the types of behaviors that aren't acceptable will create strong social pressure to stay within the lines.

Setting up clear boundaries for good and bad behavior will be helpful, but it won't necessarily be sufficient to curtail counterproductive or unethical behavior. You need to be vigilant about how your team members are working toward their goals. In both group and one-on-one conversations, ask specifically about the techniques people are finding effective. Probe for detail to increase your confidence that they are using appropriate strategies. Make it clear that you're paying attention to what they achieve and how they achieve it. The right amount of scrutiny will discourage bad behavior.

You also need to reduce the likelihood that employees will resort to unsavory approaches if they feel personally exposed or vulnerable. Be extremely careful not to embarrass or belittle a team member or cause shame for not reaching targets. Be quick to discourage competition within the team that might exacerbate the temptation for rogue behavior. Don't compare team members to one another; instead of calling out individuals who are having success, focus on strategies that are working.

Finally, in the face of unreasonably high targets, question any extraordinary results. Dig into the numbers and understand what is making the outlier abnormally successful. This will serve two purposes. First, it will allow you to test for any untoward approaches and manage any unethical behavior. Second, in the cases where you find that everything was on the up and up, it will give you an opportunity to share the successful approaches with the whole team. A little skepticism is important when there's a risk of bad behavior.

It's a terrible position to find yourself in when you're forced to manage a team toward unrealistic targets. Unfortunately, many of the management techniques you use to drive performance in normal circumstances can drive unproductive or unethical behavior in this case. Make sure you're focusing the team on positive and constructive approaches and keep an eye out for bad behavior.

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SHINING STAR JANUARY

Harrison Hall (Trade Management Recruiter) is on the left and Tony Anderson (Lead HVAC Technician) is on the right.

Peoplelink is pleased to announce that Tony Anderson has been chosen as our January *Shining Star* employee. Tony works as the lead HVAC Technician for AT&T/Dallas Cowboys Stadium. He reports to the Fort Worth Trade Management* branch.

Tony has worked for AT&T Stadium through Trade Management since 2014. He maintains all HVAC equipment to regulation and makes sure the stadium is a comfortable environment for spectators. According to Tony's Supervisor, Scott Woodrow, the quality of his work is excellent. He is especially good at troubleshooting motor problems.

While on the job, Tony enjoys teaching his crew what he's learned over the course of his career and takes pride in a job well done. In his free time, Tony enjoys traveling, horseback riding, and swimming. He resides in Dallas with his wife and 5 – soon to be 6 – children.

Congratulations to Tony for being Peoplelink's January *Shining Star* employee!

Find your shining star! Contact Peoplelink at 574.232.5400.

*Trade Management is the skilled labor division of Peoplelink Group.

EMPLOYEE HANDBOOK

The rules & policies you need to know
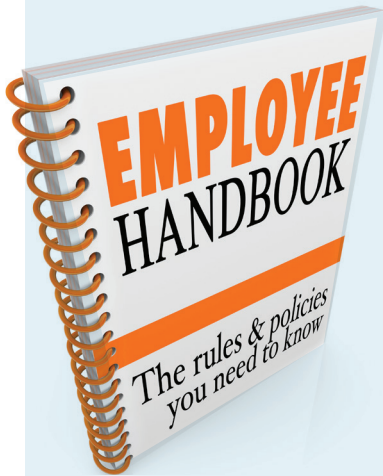
Your employee handbook may be a contract — unless it says this …

By Christian Schappel

If you don't want your employee handbook to qualify as a contract in court, then here's what it should say.

"This is not a contract."

It sounds simple, but missing this language in one of its employee handbooks recently got an employer in some legal hot water.

The lesson came from a new appeals court ruling, which said a handbook can create a contract unless it includes a disclaimer to the contrary.

Contract was implied, the court said.

Commercial truck driver John Staschiak sued his employer Certified Logistics for breach of contract.

He said the employee handbook Certified provided him stated:

- he'd be paid 30% of the gross income received for loads he drove
- he'd receive $15 per hour in detention and layover pay, and
- 70% of his health insurance costs would be paid by the employer.

But Staschiak claimed Certified failed to uphold those provisions in his lawsuit.

Certified argued the lawsuit should be thrown out of court. It claimed the handbook wasn't a contract — nor did it claim to be.

But the court disagreed. It said enough evidence existed that a reasonable person would be justified in believing that a commitment had been made via the document. So it sent the case to trial, where Certified is looking at an expensive legal bill or costly settlement.

The problem with the handbook — and Certified's argument — according to the court:

- it contained no language saying it wasn't a contract
- it failed to state that it could be changed at the employer's discretion, and
- it did contain clear language outlining pay and benefits.

As a result, the court said that a reasonable person in Staschiak's position, after looking at the handbook, would be justified in believing it amounted to a contract.

Bottom line: This ruling sends a clear signal to employers that a few sentences outlining that an employee handbook isn't a contract, that the employer doesn't intend to be bound by the handbook and the handbook is subject to change at the employer's discretion can go a long way to limiting legal liability.

Without that kind of language, you could be leaving yourself open to a claim that your handbook is actually an employment contract — especially if it specifically outlines compensation arrangements.

EEOC Releases Guidance on Mental Health Conditions

By Joan Farrell

The Equal Employment Opportunity Commission (EEOC) has released informal guidance for advising employees of their legal rights in the workplace with regard to depression, post-traumatic stress disorder (PTSD), and other mental health conditions. Although the guidance is geared to employees, it provides insight for employers as to the EEOC's position on protections provided for employees under the Americans with Disabilities Act (ADA).

The guidance is provided in a question-and-answer format and covers the following areas:

Discrimination—The EEOC advises that it's illegal for employers to discriminate against an individual because he or she has a mental health condition. The guidance explains the exceptions for individuals who pose a safety risk and for those who are unable to perform their job duties. It notes that an employer can't rely on myths or stereotypes about a mental health condition when making its decision, but instead must base its decision on objective evidence.

Privacy/Confidentiality—The guidance explains that employees and applicants are entitled to keep their condition private and that employers are permitted to ask medical questions in four situations only:

- When an individual asks for a reasonable accommodation
- After a conditional job offer has been extended, but before employment begins (as long as all applicants in the same job category are asked the same questions)
- For affirmative action purposes—and a response must be voluntary
- When there is objective evidence that an employee may be unable to do his or her job (or may pose a safety risk) because of a medical condition

When medical information is disclosed, the guidance points out that employers must keep the information confidential—even from coworkers.

Job performance—Reasonable accommodation is the focus of the EEOC's guidance in this area. It describes a reasonable accommodation as a type of change in the way things are normally done at work and gives the following examples:

- Altered break and work schedules (e.g., scheduling work around therapy appointments)
- Quiet office space or devices that create a quiet work environment
- Changes in supervisory methods (e.g., written instructions from a supervisor who does not usually provide them)
- Specific shift assignments
- Telecommuting
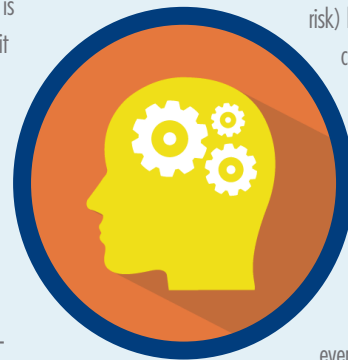
"Substantially limiting" condition—The guidance points out that a condition does not need to be permanent or severe to be substantially limiting under the ADA. A condition that makes activities more difficult, uncomfortable, or time-consuming to perform (when compared to the general population) may be substantially limiting, according to the EEOC.

And even if symptoms come and go, the guidance notes that "what matters is how limiting they would be when the symptoms are present." It also notes that mental health conditions like major depressions, PTSD, bipolar disorder, and obsessive compulsive disorder "should easily qualify."

In this section, the guidance is touching what the EEOC details in its regulations—that is, that an employer should not conduct an extensive analysis of whether a condition qualifies as a disability, but should instead focus on complying with the ADA's antidiscrimination and reasonable accommodation requirements.

Reasonable accommodation—The guidance advises employees that they may ask for a reasonable accommodation at any time, but that it's generally better to ask before any workplace problems occur because employers are not required to excuse poor job performance—even if it's caused by a medical condition or the side effects of medication.

The guidance notes that an employer may ask an employee to put an accommodation request in writing and may ask for documentation from the employee's healthcare provider about the condition and the need

for accommodation. The EEOC suggests that employees bring to their medical appointment a copy of the EEOC publication *The Mental Health Provider's Role in a Client's Request for a Reasonable Accommodation.*

The guidance adds that an unpaid leave may be a reasonable accommodation if the leave will help the employee get to a point where he or she can perform a job's essential functions. And if an employee is permanently unable to do his or her regular job, the guidance explains that the employee can request reassignment to another job, if one is available.

Harassment—The EEOC advises employees to tell their employer about any harassment if they want the employer to stop the problem. The guidance recommends that employees follow the employer's reporting procedures, and explains an employer's legal obligation to take action to prevent future harassment.

The guidance provides a simple, straightforward explanation of an employee's rights under the ADA. It can help employers understand how the EEOC may view an employer's obligations and what the agency expects, and permits, employers to do.

The guidance is available online at the EEOC's website.

DOL and IRS want a closer look at your retirement plan

By Jared Bilski

Two of the most-feared government agencies for employers — the DOL and IRS — have decided there's a real problem with the way retirement plans are being run, and they're ramping up their audits to find out why that is.

In response to the many mistakes the agencies are seeing from retirement plan sponsors, the IRS and DOL will be increasing the frequency of their audits.

What does that mean for you? According to experts, plan sponsors can expect the feds to dig deep into the minute operations of plans. That means the unfortunate employers who find themselves in the midst of an audit can expect to be asked for heaps of plan info.

Linda Canafax, a senior retirement consultant with Willis Towers Watson, put it like this:

"The DOL and IRS are truly diving deep into the operations of the plans. We have seen a deeper dive into the operations of plans, particularly with data. Plans may be asked for a full census file on the transactions for each

participant. Expect the DOL and IRS to do a lot of data mining."

WHAT TO WATCH FOR

Ultimately, it's impossible to completely prevent an audit. But employers can — and should — do certain things to safeguard themselves in the event the feds come knocking.

First, a self-audit is always a good idea. It's always better for you to discover any problems before the feds do.

Next, you'll want to be on the lookout for the types of errors that can lead the feds to your workplace in the first place.

The most common errors the IRS and the DOL are looking for:

- Untimely remittance of employee deferrals (i.e., contributions)
- Incorrect compensation definition (plan documents dictate which types of comp employees are eligible to contribute from)
- Not following the plan's own directives, and
- Not having a good long-term system (20-30 years out) for tracking and paying benefits to vested participants.

Stuck in OT rule limbo?

3 ways to reduce your legal vulnerability

By Christian Schappel

The Department of Labor's (DOL) controversial overtime rule is officially on hold. But other than that, not much else is certain with the rule — and that's a problem for employers.

Not knowing when, or even if, the rule will kick in is not only taxing on administrative processes/plans, it also exposes you to potential liability.

This injunction may seem like great news to some, but it raises a host of questions for HR pros hoping to plot their next move.

To help, we've compiled a Q&A:

Question 1: Why was the overtime rule blocked?

The injunction ruling stems from a lawsuit that consolidated two separate lawsuits — one brought by nearly two dozen states and another by several business groups. In the lawsuit, the states and business groups claim the DOL overstepped its authority in setting the overtime exemption salary threshold so high.

Essentially, the judge said the DOL increased the overtime threshold by so much that it made the OT-exemption a one-factor test and basically eliminated the need for a duties test, an essential part of the exemption. The rule basically eliminated the duties test, and the judge said the DOL must also examine the duties of employees to determine who falls within the FLSA's overtime exemption.

Question 2: What does the injunction mean?

It's critical for employers to keep in mind that the judge's injunction doesn't kill the new overtime rule, it simply blocks the changes from taking effect until either the court hands down a ruling in the future, the DOL wins its appeal of the injunction or either party drops its case (there's a distinct possibility the DOL could drop its case when Donald Trump takes office).

When a ruling will be issued in the lawsuit or the DOL's appeal of the injunction has yet to be determined.

Bottom line: For the time being, employers are free to operate as if the new OT rule doesn't exist.

Question 3: What happens now?

There are a number of possibilities. If the judge does decide the DOL actually had the authority to raise the salary threshold as much as it's trying to do, the rule changes could take effect rather quickly after the ruling. But this is unlikely given the judge's reason for issuing the injunction in the first place.

Then there's uncertainty of the Trump administration. A Trump-controlled DOL may not have any interest in dumping resources into defending FLSA changes made during the Obama administration, and the rule could simply die out.

Trump could also work with the DOL to issue a smaller increase to the salary threshold. Some groups in the lawsuit said they'd be OK with a smaller threshold increase.

Trump may have to act quickly, as the DOL's motion for an expedited appeals process regarding the injunction was granted. That means an appeal could be handed down, which would implement the overtime rule, in just a few weeks. So if Trump is going to act, he'll have to do it quickly.

Question 4: What should our company do in the meantime?

Unfortunately, there's no easy answer to this question. It all depends on your company's situation.

Two straight-forward approaches employers could take include:

- keeping the changes you made for a morale boost if employees welcomed the changes (e.g., they were getting overtime, etc.), or
- returning the exempt status of workers you were going to reclassify if they felt demoted/demeaned by it.

What liability is our company exposed to?

Here are three examples, as well as how to reduce your exposure:

1. **The rule could be enforced retroactive to Dec. 1, 2016.** This could happen if the injunction is overturned, and it would mean employers could be liable for any overtime worked by employees that would've been reclassified as non-exempt had the injunction never been issued in the first place. As a result, employers should seriously consider tracking the hours of any employees who may be reclassified if the DOL's rule is put in place.

2. **Inconsistent pay adjustments could be fertile ground for discrimination claims.** Employers need to be careful about taking half measures when making adjustments to employees' pay in the wake of the injunction. Any changes should be consistently applied across the entire workforce. *Example:* Say you've boosted some employees' pay to push them over the $47,476 threshold. If you decide to roll back some of those increases but not all of them, it could look like a discriminatory move.

3. **State payroll notice requirements still apply.** Several states require employers to provide workers with advance notice of changes in pay. Usually, these laws tend to require a one-pay-period heads up for changes — and typically for reductions in pay. Even if you sent those notices prior to payroll changes made in anticipation of the rule's original December 1 implementation date, new notices must be issued if those changes will be rolled back.