

WHAT'S WORKING in

Human Resources™

Inside information to improve the performance of your human resources, in a fast-read format, twice a month.

Get More
Online

www.WhatsWorkinginHR.com

MARCH 16, 2016

WHAT'S ONLINE

www.WhatsWorkinginHR.com

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



Employment Law Update for Managers

on the tricky legal issues supervisors face daily.



Compliance Checklists

to ensure you're in compliance with employment law.

WHAT'S INSIDE

2 Sharpen Your Judgment

Was company right to deny pay for unreported hours?

3 Employment Law Update

Employee fell asleep on the job, then tried to play the FMLA card

4 Answers to Tough HR Questions

When is part-time worker no longer entitled to ACA coverage?

6 News You Can Use

DOL changes its tune on overtime rule release date

8 What Would You Do?

March Madness takes over and hurts workplace productivity

Common ACA practice can now get you sued, court rules

■ Company slashes hours and gets nailed for it

For a long time employers thought they had the freedom to adjust employees' hours to control benefits eligibility and manage costs.

But now it appears that's not the case – particularly when it comes to controlling employees' eligibility for health insurance under the ACA.

As a result, employers have one fewer option for how to deal with Obamacare.

chain, which claims D&B violated ERISA by reducing the employees' hours to avoid having to offer them health insurance under the ACA.

So, in essence, the court just gave workers – and employee-side attorneys – a model for how to sue employers that make similar moves.

Major ACA implications

Yes, ERISA was written primarily to apply to retirement plans.

But Section 510 of the law can be applied to a number of other benefits

(Please see Practice ... on Page 2)

That's an ERISA violation

The U.S. District Court for the Southern District of New York refused to throw out a lawsuit Dave & Buster's employees filed against the restaurant

New guidance reveals 6 keys to ADA process

■ Employers benefit from EEOC's doctor & worker assistance guides

New guidance from the EEOC intended for HIV-positive employees and their doctors (to help them navigate the ADA process) is actually a boon for employers.

It revealed a lot of what employers can and can't do when employees request an accommodation.

Employer do's and don'ts

- You can ask for a doctor's letter documenting the employee's condition and why an accommodation's needed.

- You can't ask for an employee's detailed medical info without obtaining a release from the employee.
- You can ask the doctor if certain accommodations would be effective.
- You can't require a specific diagnosis. It's legally sufficient if a doctor describes a condition using only general terms – like “immune disorder.”
- You can ask the person's doctor if the employee would be a safety risk.
- You can't charge for accommodations.
Info: www.tinyurl.com/hivguide460

COSTLY ACA PITFALLS

Practice ...

(continued from Page 1)

plans – including healthcare plans.

In a nutshell, Section 510 says: It's illegal to take a negative action against a plan participant or beneficiary for exercising a right under a benefit plan – or to interfere with the person's ability to obtain a right under the plan.

When does it apply to health care?

The employees' lawsuit says D&B violated Section 510 by reducing their hours below 30 per week to avoid the ACA's employer mandate to offer full-time employees health insurance.

Their case hinged on whether ERISA could be applied to health plans – and the court ruled it could.

D&B moved to get the lawsuit dismissed. It said the employees had no legal claim because Section 510

doesn't apply to benefits “not yet accrued,” and employees must show more than a “lost opportunity to accrue additional benefits” to sue under ERISA.

The court disagreed with D&B.

What matters is ‘intent’

The employer's “intent” is what mattered – not when employees were to obtain benefits, the court ruled.

It said for the lawsuit to proceed to trial, the employees had to demonstrate the employer specifically *intended* to interfere with their benefits.

They succeeded, according to the court. So the employees' lawsuit will proceed to trial, where D&B is looking – at best – at a costly legal bill or an expensive settlement.

A few things spelled doom for D&B in this case:

- An employee said a D&B general manager told employees during a meeting that the ACA would cost D&B \$2 million, and workers' hours would be cut to reduce the cost
- Similar meetings appeared to have been held at multiple D&B locations, and
- The senior VP of HR responded to a query from *The Dallas Morning News* about the employer's reduced workforce by saying that “D&B is in the process of adapting to upcoming changes associated with health care reform.”

The court ruled that as long as these allegations are proven, the lawsuit “states a plausible and legally sufficient claim.”

What it means for employers

The result of this ruling: Employees can sue their employers if they can tie a reduction in their hours to an intent to skirt ACA requirements.

So if you're considering such a move, it's likely time to reconsider your strategy.

Cite: *Marin v. Dave & Buster's Inc., U.S. Dist. Ct. S.D. NY, No. 1:15-cv-03608-AKH, 2/9/16.*

Sharpen your JUDGMENT

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

■ Was company right to deny pay for unreported hours?

“Thank you for coming to see me,” HR manager Lynn Rondo said to employee Monica Dawn. “I wanted to talk about this overtime you're saying you worked.

“There was no approval for this overtime and no record of you working these hours, so it's being denied,” Lynn continued.

“But I worked those hours,” Monica said. “You can see when I was logged in on my computer.”

‘That's not how it works’

“That's not an official time card, and you never filed for supervisor approval to work overtime like our policy requires,” Lynn explained. “We aren't paying you for that time.”

“That's completely illegal,” Monica snapped. “I'm entitled to be paid for hours I worked.”

“Not if we don't know you actually worked them. You didn't follow our policy or report the hours on a time card,” Lynn said.

“I know the law, and you have to pay me – whether I followed your policy or not,” Monica said.

“Look,” Lynn pressed. “We're very careful to pay people for every hour they work. All we ask is that employees report it properly.”

That didn't convince Monica, and she sued to collect pay on the hours she claimed to have worked.

The company argued that it hadn't known nor approved of these hours, and shouldn't have to pay Monica. Did the company win?

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

WHAT'S WORKING in Human Resources

EDITOR: CHRISTIAN SCHAPPEL

MANAGING EDITOR: TIM GOULD

ASSISTANT EDITOR: LAUREN STEAD

EDITORIAL DIRECTOR: CURT BROWN

PRODUCTION EDITOR: AMY JACOBY

What's Working in Human Resources, (ISSN 1088-3223) March 16, 2016, Vol. 20 No. 460, is published semi-monthly except once in December (23 times a year) by Progressive Business Publications, 370 Technology Drive, Malvern, PA 19355; PHONE: 800-220-5000. FAX: 610-647-8089. Periodicals postage paid at West Chester, PA 19380. Postmaster: Send address changes to *What's Working in Human Resources*, 370 Technology Drive, Malvern, PA 19355.

Subscription: 800-220-5000

This publication is designed to provide accurate and authoritative information in regard to the subject matter covered. It is sold with the understanding that the publisher is not engaged in rendering legal, accounting, or other professional services. If legal or other expert assistance is required, the services of a competent professional should be sought. — From a declaration of principles jointly adopted by a committee of the American Bar Association and a committee of publishers.

♻️ Printed on recycled paper.

Copyright © 2016 Progressive Business Publications. Please respect our copyright: Reproduction of this material is prohibited without prior permission. All rights reserved in all countries.

EMPLOYMENT LAW UPDATE

Employee fell asleep on the job, then tried to play the FMLA card

■ Was her nap FMLA-protected, or did her termination stand?

You limit FMLA abusers' opportunities to play the "interference" card if you establish strong policies and procedures like this.

Medina Hospital in Ohio approved intermittent FMLA leave for registered nurse Jodi Lasher so she could deal with her severe, and sometimes debilitating, migraine headaches.

But the hospital had one caveat: Under its procedures, if Lasher needed to step away from her post to deal with a headache, she needed to inform a co-worker.

Lasher acknowledged this.

'Major infraction'

Fast forward months later, and Lasher had a migraine flare up on duty. She then left a patient unattended without informing anyone and was

caught sleeping in a vacant room.

The hospital labeled it a "major infraction" of its procedures, and it fired Lasher.

She then filed an FMLA interference lawsuit. In essence, she claimed her nap was FMLA-protected.

The court disagreed. It said she was clearly required to inform the hospital of her intent to take FMLA leave before leaving her post, which she failed to do. So it threw her suit out.

What strengthened the hospital's position even further was the fact that it had a track record of approving her prior leave requests and had even suggested she apply for FMLA leave in the first place.

Cite: *Lasher v. Medina Hospital, U.S. Dist. Ct. N.D. OH, E.D., No. 1:15CV00005, 2/2/16.*

Double jeopardy: Court rules employees can sue to collect under state & federal wage laws

■ Why two laws applied to this man's wage-and-hour claim

Wage-and-hour violations can cost more than you think.

An example why: Truck driver William Evans sued employer Loveland Automotive Investments Inc. for unpaid wages under the FLSA and the Colorado Wage Claim Act (CWCA).

Loveland didn't respond to Evans' claims, so the district court awarded him default judgment.

It then ruled to award Evans a financial penalty under the law that provided him the greatest relief (a double recovery of penalties isn't allowed under the FLSA and CWCA).

So he was awarded a total of \$21,011 under Colorado law. But then things got worse for Loveland. Evans appealed to the 10th Circuit,

arguing he was also entitled to FLSA liquidated damages.

'Not another penalty'

Evans' attorneys argued FLSA liquidated damages are designed to compensate employees for the delay in receiving wages due to an FLSA violation. So, in other words, they're not another penalty.

The appeals court agreed. It said it was possible for Evans to also collect liquidated damages. So it sent the case back to the district court to determine what damages were appropriate.

Cite: *Evans v. Loveland Automotive Investments Inc., U.S. Ct. of App. 10th Cir., No. 15-1049, 12/10/15.*

COMPLIANCE ALERT

■ Chipotle ends up with more than tainted meat on its plate

Amid Chipotle's pending E. coli lawsuits and this recent sex discrimination suit, the Mexican food chain's lawyers have to be working serious overtime.

Chipotle was just ordered by a jury to pay \$600,000 resulting from sex discrimination charges filed by three female former general managers.

Stephanie Ochoa, Tina Reynolds and Elizabeth Rodgers claimed they were fired despite stellar performance reviews.

They also said male managers hadn't been fired despite receiving more negative reviews.

And adding insult to injury for Chipotle was the fact that the lawsuit claimed their manager had said there "sure are a lot of overweight women working here," and he frequently described women as being "emotional."

Cite: www.tinyurl.com/chipotle460

■ Company used unpaid interns, costing it \$331,269

If your interns are doing the same work as regular employees, you can bet you've got to pay them.

Fenox Venture Capital learned that the hard way. It just agreed to pay \$331,269 in back wages to unpaid interns following a DOL investigation.

The investigation found that Fenox used 56 unpaid interns to do work that primarily benefited the company.

Without the interns, the DOL said the company would have had to hire full-time employees to do that work.

The internships failed the agency's six-factor test (*view it at www.tinyurl.com/intern442*) used to determine when internships can be unpaid.

Cite: www.tinyurl.com/interns460

ANSWERS TO TOUGH HR QUESTIONS

Experts give their solutions to difficult workplace problems

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

When is part-timer no longer entitled to ACA coverage?

Q: Using the ACA's measurement period rules, we determined a worker was a full-time employee entitled to health insurance. But his work hours have since dropped significantly. How long must we offer him coverage?

A: The employee will be considered full-time during the following stability period and his full-time status will be locked in regardless of his hours during the period, says Sheryl Southwick, director of compliance at TriNet, an HR services firm.

Generally, the stability period begins immediately after the end of the measurement period and must be at least six consecutive months or the duration of the measurement period, whichever is greater. For example, if the employer used a 12-month measurement period, the stability period must be 12 months.

How do we address gender transition with co-workers?

Q: When an employee reveals he or she is transgender, what are some first steps to addressing it with the person's co-workers?

A: Engage in an interactive dialogue and prepare a gender transition plan addressing the time line and expectations for workplace attire, restroom/locker room usage, name change, leaves of absence and sensitivity training, says Michelle Phillips (*Michelle.Phillips@jacksonlewis.com*), a principal at the employment law

firm Jackson Lewis P.C.

The training is important to foster an inclusive, respectful and non-harassing work atmosphere.

Also, permit the employee to present him/herself consistent with his/her gender identity. This includes allowing the employee to use the restroom/locker room of the gender he/she identifies with. The same applies to dress codes.

Finally, it's important for employers to promptly respond to complaints of harassment and misgendering (i.e., the use of inappropriate and unwelcome gender pronouns).

3 unique strategies to spark heart healthy activities

Q: We want to promote heart health among employees. What are the best ways other than encouraging healthy eating and exercise?

A: There are a few strategies you can add to those to improve workers' health, says Dr. Rajiv Kumar, president and chief medical officer of Virgin Pulse, a provider of social networking-based wellness plans. Such as:

- providing and promoting opportunities for physical activity at work
- providing stress management programs/education tools, and
- leveraging social techniques (i.e., group challenges) to spark wellness participation.

If you have an HR-related question, email it to Christian Schappel at: cschappel@pbp.com

EFFECTIVE COMMUNICATION

■ 3 things employees need to know about new ACA forms

New tax documents always make employees a little uneasy.

And this year, employers subject to the ACA's reporting requirements will be distributing IRS Form 1095 to employees for the first time (the deadline is March 31).

Pass this along

As a result, employees will have questions. To help you answer them, here's an FAQ you can provide to them:

1. What is this form?

It's a document that describes whether you obtained the minimum level of health insurance coverage required under the ACA.

It will also inform you if you were eligible for a premium tax credit.

2. What do I do with it?

In most cases, no action will be necessary. When filing your taxes for 2015, you will be asked if you obtained minimum insurance coverage. This form will help you answer that question.

3. Do I have to wait to receive the form to file my taxes?

Again, in most cases, no. Only those who received insurance via an exchange or the "marketplace" will have to wait for their 1095-A to file. And they should have it by now.

If you receive insurance through an employer you don't have to wait for your form to file, if you already know whether or not you had minimum coverage throughout the year. In that case, just keep the form – you'll either get Form 1095-B, 1095-C or both – for your records.

If you're unsure whether you had minimum coverage for the entire year, you can wait for your form to file your taxes or ask your employer whether you had minimum coverage.

Print: To get copies for employees, log on to WhatsWorkingInHR.com, plug "wp.me/p45Tlw-47N" into your browser and click print.

WHAT WORKED FOR OTHER COMPANIES

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

1 **Switch in management style boosted morale**

When employee morale was at an all-time low a few years ago, we knew it was only a matter of time before employees started jumping ship.

Admittedly, we weren't as employee-focused as we should've been. Our management style was more command-and-control than a two-way conversation with workers.

But we learned from our mistakes and realized it was time to change.

Ultimately, we decided to partner

with employees and give them a bigger voice and more control over their work environment.

The trickle-down effect

First, we created teams within each department. Then, we organized an employee-run council made up of representatives from each team.

The role of the council was to develop a company-wide culture statement, explaining our core values, vision and mission.

Before long, things

started to snowball – in a good way.

As employees learned they had a bigger voice, they became more invested and eager to suggest workplace initiatives that we adopted, such as:

- creating a company newsletter
- providing continuing education, and
- hosting employee recognition events.

All things considered, the concept has fostered a sense of ownership among workers and boosted job satisfaction.

*(Thomas J. Walter,
CEO, Tasty Catering,
Chicago)*

**REAL
PROBLEMS,
REAL
SOLUTIONS**

2 **Changed workers' minds about new health plan**

The first year we rolled out a high-deductible health plan (HDHP), we had just 2% participation.

We wanted to phase out our HMO plan, so it was critical that we get that number to climb ... and fast.

Our plan: continue to ramp up our employee education efforts. We knew the more familiar they were with the HDHP, the more they'd see its benefits.

So we started by having our plan provider hold one-on-one meetings

with employees to tally up what their annual cost savings would be under the new plan.

This showed what hospitals and doctors were charging and what would be coming out of pocket.

Kickin' it up a notch

Next, we held Q&A sessions to answer "What if" questions, like "What if something catastrophic happens in January and an employee's HSA wasn't fully funded yet?"

The answer: No problem. The

person would still receive medical care, and the company and our plan provider would work with the individual to budget the cost.

Finally, to sway the most apprehensive staffers, we used testimonials from co-workers who'd made the switch to the HDHP.

Result: With a year to go before we phase out our HMO, participation in our HDHP rose to 82%.

*(April Bettencourt, global
employee benefits manager,
VSP Global, Sacramento, CA)*

3 **Made documents easier to access and share**

Over the years, many of our employees had naturally developed their own way of doing their jobs.

This included creating their own forms and contracts for dealing with customers.

That was fine, until we had to bring on some new hires and show them what to do and how to do it.

One employee would be using one form, while someone else would have a completely different one.

It was starting to cause a lot of delays and confusion during new hire training.

So we decided to take a step back and create a more unified way of doing things.

Built buy-in, forms

We got a little pushback from employees who were accustomed to using their own forms.

But we got their support by sitting them down and explaining how the old way of doing things wasn't conducive to having new people

join our team.

Then, with our employees' input, we created a new version of each document needed.

Next, we put everything in Google Docs for easy access and sharing.

Now there's less confusion when training new hires, which means we can get them up to speed faster.

And by giving everyone easy access to the paperwork, there's no need for anyone to have to create their own.

*(Jessica Stead, operations
manager, Compass Property
Management, Gap, PA)*

NEWS YOU CAN USE

DOL changes its tune on overtime rule release date

So it appears even those within the DOL don't exactly know when the agency's final revisions to the overtime exemption rules will be published.

First, DOL Secretary Thomas Perez said in an interview with *Bloomberg BNA* he was "confident we'll get a final rule out by spring 2016."

Then, DOL Solicitor of Labor M. Patricia Smith said at a meeting of the American Bar Association that the final rule will be issued in July 2016.

Shortly thereafter, however, Smith recanted and said the rule could be published *in or before* July.

The one thing the agency has been in agreement on: The final rule will take effect 60 days after it's released.

So what should you do? Plan for a spring release and to be in compliance this summer. We'll keep you posted.

Info: www.tinyurl.com/smith460

Sneak peek at feds' changes to future SBCs

If you're subject to the ACA, you know you're required to provide a Summary of Benefits and Coverage (SBC) to your employees.

But what you may not know is federal agencies are proposing changes

to the required SBCs.

The changes include adding another cost-of-coverage example (for a simple fracture) and adding a few questions about deductibles employers must make sure are answered.

Public comments on the proposal are being accepted through March 28.

Sample: www.tinyurl.com/SBC460

Reporting wage violations: There's an app for that

An app is being developed that would report wage violations to the government, according to *Buzzfeed*.

It doesn't have a name yet, but it's being developed by SeeClickFix.

It'd work something like this: An employee could input his or her location and the type of complaint he or she has, and the app would direct the individual to the different agencies that could handle the complaint.

The agencies could then review the complaint and, if it's legitimate, the employee may be guided through the official complaint process.

Cite: www.tinyurl.com/buzzfeed460

Lighter side: 4 absurd questions of NFL scouts

In the wake of the NFL Combine, it's the perfect time to review the most

WHAT COMPANIES TOLD US

Health benefit goals

Companies' top 5 goals for health & related benefits
(% of employers ranking it their No. 1 goal)

- 1 Controlling costs 44%
- 2 Attracting, retaining talent 15%
- 3 Helping employees become better healthcare consumers 10%
- 4 Helping enrollees become healthier 9%
- 5 Improving workforce productivity 2%

Source: CFO survey by the Integrated Benefits Institute and CFO Research Services.

As important as controlling healthcare costs is for employers, less than half (44%) said it was the most important of all their company's top goals for healthcare and related benefits.

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

ridiculous questions professional teams have asked NFL hopefuls:

- *What animal would you describe yourself as?*
- *Do you wear a g-string or jock strap when you play?*
- *If you could pick one superpower, what would it be?*
- *When did you lose your virginity?*

Info: www.tinyurl.com/combine460

Sharpen your judgment...

THE DECISION

(See case on Page 2)

Yes. The company won when a court ruled Monica wasn't entitled to overtime pay.

Monica argued the company would've known of her overtime if it had looked at her computer use logs.

But the court ruled that wasn't part of the company's established process. So the company couldn't have been expected to look at her computer logs.

The company argued that Monica had failed to officially notify anyone of the hours, and that being logged in to a computer wasn't enough to prove she actually worked overtime.

The court agreed. It ruled Monica had voluntarily not reported her overtime hours.

If there's no way for an employer to reasonably know what hours an employee worked – through no fault of its own – it's not obligated to compensate the employee for those hours, the judge said.

■ Analysis: Courts look at past actions as well

Bolstering the company's case was the fact that it had accurate records, a fair policy covering overtime and a solid track record of paying for reported overtime hours.

Because of these factors, the court said it was reasonable to assume that had it known of Monica's overtime, it would've paid her for it.

Cite: Fairchild v. All American, U.S. Ct. of App., 5th Cir., No. 15-60190, 1/27/16. Fictionalized for dramatic effect.

A REAL-LIFE SUCCESS STORY

Hiring improvements expanded our ability to find quality employees

■ New tactics renewed our confidence in the entire process

When we noticed we were no longer bringing in the kind of job candidates we were looking for, we decided it was time to revamp our hiring process.

We were searching for not only a larger variety of candidates, but also higher-quality job seekers.

Expanding our reach

Our company had been using the online job posting board Indeed to advertise our open positions, and it worked great for a while. But it was time to expand our reach.

So we began using an online service that would blast our job ads to multiple listing sites at once.

It tripled our reach into the candidate pool.

As an added bonus, the service tracked the clicks on our ads, so we could see where people were coming from.

The service cost a little, but the return – further reach for our job ads and the analytics – was well worth it.

A unified front

Next, with candidates coming from all over, we decided it was important to present a unified front.

Rather than having candidates visit a company bio page on whichever job board they happened to be using, we created our own career website.

All of our job ads linked back to this singular website.

There were three benefits to this:

- It gave us greater control over our messaging
- It presented the unified front we wanted – one in which all of our

job candidates were seeing the same info on our company, its openings, values and mission, and

- It allowed us to expand on each job listing and outline all the benefits of working for us.

After all of these improvements, we were certainly on the right track.

But we still felt we could be doing a little more to find ideal candidates.

Got help from employees

Since some of our best hires had come to us through referrals, we decided to put our No. 1 resource to work for us recruiting talent: our employees.

Our company was on LinkedIn and so were many of our employees. So we encouraged our workforce to look through

their LinkedIn connections for anyone who might be a good fit for our company.

We then asked that they direct those individuals to our LinkedIn page or our new career website.

Early, positive results

It's still very early, but our efforts have yielded largely positive results so far, and we have high hopes that will continue to be the case.

Traffic to our job ads has increased, and we're hopeful that will lead to more diversity in the range of skills and experience we see from those applying to our ads.

In the end, we believe this can lead to better hires, as well as improved retention.

(Nancy Willis, HR manager, MG Design Associates Corp., Pleasant Prairie, WI)

Case Study:
WHAT
WORKED,
WHAT
DIDN'T

HR OUTLOOK

■ If you've got to fire someone, do this first

Here's an interesting way to decide if the time is right to let someone go:

Run the decision to terminate the person by a jury first.

This could be a jury of your peers or an imaginary jury.

It's a strategy recommended by Dick Grote, a Dallas-based business management consultant. And the idea behind it is to make sure your decision to terminate is built on solid legal ground.

Does it pass the smell test?

In a column he penned for the *Harvard Business Review*, Grote advised employers to imagine themselves on the witness stand having to defend their termination decisions in front of a jury.

Employee-side attorneys are looking for ways to prove firings are unjust, unfair or vindictive, Grote wrote.

As a result, you want to look for any cracks in your defense of your termination decision that could suggest the real reason behind the termination may have been personal or discriminatory.

If you, or a jury of your peers, feel unsettled by your reasoning, it may be time to reconsider the person's termination or – at the very least – the timing of it.

Some of Grote's other advice to help you avoid legal entanglements:

- **Know and be specific about what will happen next.** What will happen with the person's last check, benefits, unused vacation time, etc.? Answering these right away can help you part as amicably as possible.
- **Be gracious.** Walk the person out, shake hands and wish him or her well. The goal is to avoid having the person leave with a desire for revenge.

Cite: www.tinyurl.com/firing460

WHAT WOULD YOU DO?

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

March Madness takes over and hurts productivity: What should HR do?

The Scenario

HR manager Stu Capper was packing up, hoping to beat the rush hour traffic, when a loud knock at his door stopped him.

"Stu, I need to talk to you," manager Emily Greck said, stepping into Stu's office.

"Hello there, Emily," Stu said, taking a seat. "What's on your mind?"

"You won't believe what I just had to put up with," Emily said.

"I stopped by Mark's office to talk about our presentation tomorrow," Emily continued. "And he made me wait until he was finished filling out his bracket."

"March Madness," Stu groaned.

It's all everyone's talking about

"I don't want a repeat of last year," Emily said. "It really hurt our productivity."

"It does feel like it's all anyone wants to talk about," Stu agreed.

"And Mark was in charge of the pool last year, so I want you to talk to him about putting a kibosh on things," Emily said.

"Is that really necessary?" Stu asked. "We told people they can do this on their own time ... so long as their work gets done."

"Well, it's not getting done," Emily replied. "I just walked by the printer and everyone was printing out brackets. It's got to stop."

"We certainly don't want to put a damper on people's excitement," Stu said. "But if work is being impacted, we have to intervene."

"Please do," Emily said. "We have some really important projects on our plates."

If you were Stu Capper, what would you do to address the March Madness issue?

Reader Responses

1 Rollie Richmond, HR director, Baptist General Convention of Texas, Dallas

What Rollie would do: I'd ask Emily if she spoke to Mark. If she didn't, then my next step would be to make Mark aware that this is a performance issue.

Not only is it impacting his work, he's potentially impacting others' work, and it has to stop.

Then, if this was something addressed in our policies, I'd communicate to the organization what our policy says and how we planned to enforce it.

Reason: This is a performance issue or a disciplinary one (if it's addressed in our policies), and it must be nipped in the bud.

2 Sharon Hunt, recruitment manager, Stockton University, Galloway, NJ

What Sharon would do: I would've made sure a policy was in place before this.

For instance, it would require that

employees use the Internet for work purposes.

Then, I'd have everyone sign off on that policy so it's clear they understand what behavior is acceptable.

With a policy in place, we'd have a meeting with the affected staff. Then I'd reiterate what the policy said.

Reason: You don't want to kill morale and go writing people up immediately, but you do want to make sure everyone is on the same page and understands the policy.

You need to have a clear set of expectations. You can't expect people to do something if you don't have it in writing.

3 Bill Tittsworth, HR manager, Old Dominion Freight Line, Thomasville, NC

What Bill would do: We're not that rigid. I'd say, "Hey, you need to put that away and finish it later."

I wouldn't say, "Do it on your own time." Generally, I'd just handle it up front.

Reason: It's not like they're going to take a day and a half to talk March Madness.

QUOTES

The growth and development of people is the highest calling of leadership.

Harvey S. Firestone

You can't always expect a certain result, but you can expect to do your best.

Anita Hill

Lineage, personality, and environment may shape you, but they do not define your full potential.

Mollie Marti

A business has to be involving, it has to be fun, and it has to exercise your creative instincts.

Richard Branson

Live daringly, boldly, fearlessly. Taste the relish to be found in competition – in having to put forth the best within you.

Henry Kaiser

It's only when it comes to crunch time that people's true character comes out.

Virginia Wade