

How to ensure your company culture is as healthy as it looks

Many companies that strive to build an open, diverse and inclusive company culture know it's important to make sure their policies keep pace with changing times. Given the rise of social media, the #MeToo movement and greater openness about gender identity, approaches that worked well five years ago may be dated today.

For insight on how to navigate this fast-evolving environment, *Crain's* Content Studio talked with employment attorney Elizabeth Levine, a director at Goulston & Storrs, about how to assess a company's culture.



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Q Crain's: Many employers want to make sure they have a pulse on what is going on in their workplace to ensure nothing is amiss. What is the best way to do an assessment?

A Levine: It's helpful to have an objective party—ideally someone who is not employed by the organization—conduct the assessment. My personal preference is to engage counsel, as there may be legal issues that arise that require special attention. When I conduct assessments, I take into account concerns that already may be known to the company, but I like to style the conversation in a way that is pretty general: "What is the company doing well? What could we improve on? What would you like to see in connection with this process?" Employees are pretty receptive to having those conversations. The person who does the assessment should talk with a cross section of the workforce, including employees at all different levels of seniority and longevity. When I conduct assessments, I generally don't ascribe comments to any particular employee; however, I also am very up front with employees that I represent the company, and we may have an obligation to address potential legal issues that arise. It is a bit of a balancing act.

Q Crain's: Sometimes employers who think their culture is healthy are surprised that an issue has developed. What red flags should they look out for?

A Levine: Workplace concerns may affect a class of workers protected under anti-discrimination laws in ways that an employer may not realize. When employees talk with me about a company's remote-work policy, for instance, occasionally I hear that an employer will not let them work from home when children have a day off from school or are home sick, forcing parents to take time off and fall behind. I hear those comments from certain groups of employees—usually women. The organization is not looking at its remote-work policy from a gender impact perspective, but this is the result. When

we present these kinds of findings, employers are very surprised and oftentimes entirely amenable to working with employees in these one-off situations or to reviewing hard-line policies they previously had adopted.

Q Crain's: What trends are you seeing in complaints by employees about issues that are making workers uncomfortable?

A Levine: With the evolution of gender identity and expression, we have started to see complaints about a work environment that is not sensitive to gender-neutral pronouns and the like. Gender-based claims in general in light of the #MeToo movement are an ongoing concern. We are seeing employers address those issues much more swiftly than before and much more aggressively. Sometimes this can lead to negative results. Employers need to be thoughtful and continue to investigate, rather than jump to the conclusion that the person who has made the accusation automatically is in the right. Disability discrimination claims also are common, particularly failure-to-accommodate claims. Sometimes there is a disconnect between employer and employee expectations with respect to a leave of absence. It can be difficult to determine when a leave has been sufficiently long.

Q Crain's: How can proactive trainings help prevent issues? What types of trainings exist?

A Levine: Proactive trainings are an absolute must. I like to think of it as an annual checkup. Am I conducting myself in a way that is appropriate? What are the issues that should be top of mind? In New York, like California, you've got sexual harassment training, which is required. We also train some clients every year on the issue of respect in the workplace and cover topics such as diversity, inclusion and sensitivity. Employees who have regular training will have a forum in which to discuss concerns they may be having. It's important to have regular management training too. Managers need to know how to spot an issue and recognize that they should talk with their HR partner about it. I encourage employers to have open-door policies so employees understand their employer really cares about them and wants to hear if there is an issue. It's when a situation festers that it can really become a problem.

Q Crain's: Many companies pride themselves on building a fun environment where new graduates want to work. Are there any unique challenges you see in the more casual work environments?

A Levine: I have a number of clients that have beer on tap in the office, happy hour on Friday afternoons or birthdays celebrations in a more social atmosphere. It may come as a surprise, but those are not typically the environments where we have issues. If employees go out socially after work together, there's probably more

risk in those scenarios than you may have in the office, where the expectation is those who wish to partake will have a drink or two and that will be it because the boss is still around. My concern however, is that employees may feel pressured to participate in social settings, which may involve drinking when they don't otherwise want to. That is an issue we need to make sure we're sensitive to—that employees do not feel they have to attend these events to get their boss's attention.

Q Crain's: What is the best way for an employer to determine if a workplace issue is legally sensitive and requires professional advice?

A Levine: Employers should try to manage to their company policies rather than to a legal level to prevent situations from escalating. The legal level sets a much lower bar than most employers' policies. For instance, workplace bullying, other than in California, is not generally prohibited by law in the private sector. A number of states have tried for years to pass a healthy workplace act. Most states have not quite gotten there yet. That doesn't mean employers should ignore workplace bullying. If you find yourself in a workplace bullying situation, it won't take long for an employee to try to connect the dots and link it back to their protected-class status. Even if the person does not have a legal claim for workplace bullying, an employer still may have an issue, so it's best to address it right away. Strong manager training can help a company spot issues before they become more serious. Any time an employee claims to be singled out for adverse treatment is a situation that warrants a second look. ■



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