

Daily Labor Report[®]

September 22, 2014

Discrimination

Employees With Emotional Link to Jobs File Fewer EEO Complaints, Speakers Say



By [Lydell C. Bridgeford](#)

Sept. 18 — An engaged workforce will lead to significant decreases in the number of discrimination charges filed with the Equal Employment Opportunity Commission and grievance complaints filed with the company, a human resources consultant told attendees Sept. 17 at the EEOC's third annual executive leadership conference.

"Engagement is a big buzz word these days, but it refers to a high level of motivation to perform well at work combined with passion and an emotional connection towards the work and/or the organization," said Mary Abbajay, president of Careerstone Group LLC, a human resources consulting firm in Washington.

Some internal EEO complaints and EEOC charges brought by employees could have been resolved before reaching a formal grievance or charge stage if senior-level leaders had taken any interest in workplace engagement, she said.

According to Abbajay, factors that drive workforce engagement include pride in one's work and workplace, satisfaction with leadership, opportunity to perform well at work, positive work environment, satisfaction with recognition received and the prospect of future and professional growth.

"And that is on you, as senior-level leaders, to create," she said. "Leaders have to manage positivity and productivity and ensure that the culture of their unit or team reflects both."

Investigating EEO complaints arising, in part, because senior leadership failed to foster an engaged workforce can absorb time and resources better suited for investigating substantive complaints of discrimination, Abbajay said.

She urged senior-level professionals to develop strong working relationships with their staff members, hold employees accountable for performance and build employee trust and confidence through frequent, open communication.

Poor Relationships Can Foster Charges

Research shows that a higher level of engagement has a direct relationship to a decrease in EEOC charges, Abbajay told Bloomberg BNA.

"An engaged workforce naturally has an engaged relationship with their supervisors and managers," which means workers are communicating and collaborating with their bosses, she said.

According to Abbajay, engaged employees are much more likely to approach a supervisor or manager with a problem, as opposed to addressing the issue through the company's grievance or the EEOC charge process.

In her view, some EEOC charges stem from poor relationships with managers or supervisors in which the worker feels marginalized and the work environment doesn't engage employees.

Listen to Employees' Workplace Problems

"If you have an engaged workforce where the leadership is communicating with and asking questions of its employees, then the organization's leadership is most likely to get wind of problems of discrimination," EEOC assistant legal counsel Carol Miaskoff told Bloomberg BNA after the session.

Miaskoff said this allows the employer to step in and correct the problem, thus preempting a filing of an internal complaint or an EEOC charge.

“Basically, a healthy organization is not going to foster as many EEO complaints as an unhealthy one,” she said. In some cases, the EEOC charge process is the only avenue employees have to address workplace discrimination.

“If workers feel respected for who they are and are engaged in their workplace,” they are less likely to turn to the EEOC charge process to remedy allegations of discrimination, Miaskoff added.

EEO Programs Need Strong Leaders

In addition, “it’s critical that an EEO program within an agency or company has credibility in the workplace, and having the program’s senior leader possessing strong management skills is an essential piece to getting to that credibility,” Miaskoff said.

The senior leader should have “an openness to really hearing what your line people are saying and to listen proactively,” she added.

EEO program directors and managers also should have the ability “to step outside of their expectations in terms of what they expect people to say based on their own private, personal and historical experiences,” she added.

Government Employee Complaints Get Review

“Federal agencies have an obligation to be model employers,” Carlton Hadden, the EEOC’s director of federal operations, told Bloomberg BNA. His office sponsored the event for senior-level EEO and HR professionals in the public and private sector, although it was attended primarily by EEO directors and managers from the federal government.

On Sept. 15, the EEOC’s Office of Federal Operations issued a [report](#) analyzing procedural dismissals of EEO complaints by federal agencies for fiscal years 2008-2012. The OFO oversees federal agencies’ EEO programs and adjudicates appeals from federal employees.

“This is the first time OFO has done a report just looking at procedural appeals,” Hadden said.

The report examined the appeals his office receives from the agencies. “An agency sometimes decides not to investigate a complaint because it views the complaint as untimely or the complaint does not state a claim,” he said.

When an agency dismisses a claim it comes back to the OFO, which has a group of attorneys who review the appeals. The OFO wanted to determine if there were any trends with respect to procedural appeals, he said.

In fiscal year 2012, the OFO reversed and remanded nearly 45 percent of procedural dismissals by federal agencies, compared with about 35 percent in fiscal year 2011, according to the report.

The percentage of appeals that the office sends back to federal agencies to investigate has increased, Hadden said, but he was unsure as to why. Hadden and his team were “a little bit surprised” that the percentage was so high for FY 2012, he said.

By publishing the report, Hadden hopes federal EEO directors will pay more attention to which complaints to investigate and which not to investigate.

Reversing and remanding complaints can slow down the process of investigating allegations of discrimination, which the OFO wants to avoid, he said.

Under the commission’s Federal Sector Complement Plan to the Strategic Enforcement Plan for Fiscal Years 2012-2016, the OFO is tasked with preventing improper procedural dismissals of EEO complaints in the federal sector.

Learning From the Private Sector

Congress wants the federal sector to be a model for all employers, but the federal sector also can learn from the private sector how to investigate internal complaints of workplace discrimination, Hadden said.

“Our grievance system, which is grounded in federal laws and statutes, is most likely different from systems in the private sector,” Hadden said. However, the private sector “may be more holistic in its approach in investigating complaints,” he said.

"If there is one issue, then they try to resolve the whole issue," instead of focusing on "this little part and that little part" of a complaint, which may occur during investigations in the federal sector, he explained.

An EEOC report released Aug. 19 indicated that in fiscal year 2012, retaliation was the most frequently alleged basis of discrimination complaints by federal workers ([160 DLR A-4, 8/19/14](#)).

Advances in Technology Are on the Table

Ultimately, the commission hopes to "transfer innovation and technology" adopted in the federal sector's complaint and reporting process to the private-sector charge process, Claudia Withers, chief operating officer at the commission, said during a session on technology.

The commission plans to expand the use of technology, so that charging parties will be able to file charges online and check the status of their complaints by accessing the Internet, as well as upload charge-related documents online, she added.

To contact the reporter on this story: Lydell C. Bridgeford in Washington at lbridgeford@bna.com

To contact the editor responsible for this story: Heather Bodell at hbodell@bna.com

For More Information

Text of the OFO's Sept. 15 report is available at <http://op.bna.com/dlrcases.nsf/r?Open=mauo-9p4rqk>.