



HUMAN RESOURCES UPDATE

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MOST EMPLOYEES “DISENGAGED” FROM EMPLOYERS’ BUSINESS

Only about one third of employees are “fully engaged” in their jobs, according to a survey by Right Management Consultants. The other two-thirds are “unsure of or disengaged from” the missions and business strategies of their employers.

The main reason most employees are disengaged at work is because employers fail to communicate their business strategies, according to the survey of 336 organizations.

The survey found that 28 percent of organizations communicate business strategies only to its leadership team. Nearly a quarter (24 percent) have not yet communicated their strategies/missions to all employees.

Meanwhile, 15 percent reported they aren't sure what is the best way to go about communicating such information.

Employee disengagement can result in lower productivity and product quality, more customer complaints, and higher turnover, according to Right.

“Management’s effective communication of the vision of the business to all employees, and how it can be lived in their daily jobs, is one of the biggest differentiators between engaged and disengaged work forces,” said Chris Gay, senior vice president and practice leader, Employee Engagement & Communication, for Right. “Engagement and commitment improve dramatically when employees know what is expected of them, and how they fit into the total picture.”

“Employees should have opportunities to provide feedback and strategies to improve operations, and be recognized and rewarded for contributing to the organization’s success,” Gay said.

MIS-MATCH LETTERS FROM THE SOCIAL SECURITY ADMINISTRATION

On June 14 the Bureau of Immigration and Customs Enforcement (“ICE”), of the Department of Homeland Security (“DHS”), published a proposed regulation regarding how employer(s) respond to mis-match letters from the Social Security Administration (“SSA”) (71 FR 34281 (06/14/06)). The proposed regulation specifies “safe harbor” procedures for employers who receive such letters. By taking these steps in a timely fashion, an employer could avoid a DHS finding, that the employer had constructive knowledge that the employee was not authorized to work in the United States. The “safe-harbor” procedures include attempting to resolve the mis-match and, if it cannot be resolved within a certain period of time, verifying again the employee’s identity and employment authorization through a specified process.

Under current immigration regulations, it is unlawful for an employer, after hiring an alien for employment, to continue to employ the alien with knowledge that the alien is (or has become) an unauthorized alien. An employer which hires or continues to employ a person with knowledge that the person is not authorized to work in the U.S. is liable for civil and criminal penalties. The term “knowing” includes not only actual knowledge but also constructive knowledge i.e. knowledge which may fairly be inferred through notice of certain facts and circumstances which would lead a person, through the exercise of reasonable care, to know about a certain condition.

In April, ICE acted on a tip that IFCO Systems North America, a manufacturer of wooden pallets, was employing illegal immigrants and discovered that more than 50 percent of the company’s workforce had invalid or mismatched Social Security numbers. *(continued)*

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DO YOU HAVE A FULLY INSURED HEALTH PLAN FOR YOUR TEXAS EMPLOYEES? ARE YOU AWARE OF TEXAS STATE BILL 51? REMEMBER TO CANCEL TERMINATED EMPLOYEES OFF YOUR INSURANCE BILL THE SAME MONTH THE EMPLOYEE TERMINATES!

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BUSINESS SOLUTIONS**

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(Continued)

The ICE raid rounded up more than 1,500 undocumented workers, and several IFCO managers and executives were arrested for willful violations of federal immigration and employment statutes.

According to the SSA records, nearly 54 percent of IFCO's workers were using Social Security numbers that did not match government records. The SSA sent multiple letters to the company stating that a large portion of its workforce appeared to be in violation of the law. IFCO's management ignored the letters, DHS says.

"The information that we can collect on the no-match records will only make our cases against employers that choose to abuse the system stronger," Jarrod Agen, a spokesperson for the DHS, said. "We are not out to penalize employers that are making good-faith efforts to comply with the

PARTIAL DAY DEDUCTIONS FOR EXEMPT EMPLOYEES

A number of issues have come up due to Katrina that the Department of Labor (DOL) has recently clarified. One of these is the confusing issue of docking an exempt employee's pay for a partial day. For employers with a bona fide paid time off, vacation, or sick policy, deducting a partial day's pay because those employees have exhausted their leave bank is *not allowed*.

To find the answer to the question, the employer needs to look at not only the **final rule** for defining and delimiting the exemptions for executive, administrative, professional, outside sales and computer employees, but also the comments to partial-day deductions referenced in the final rule. The comments address a number of reasons for employers requesting permission for partial-day deductions.

In its comments, the Department of Labor (DOL) said it believed that partial-day deductions generally are inconsistent with the salary basis and should be reserved for infractions of safety rules of major significance, for leave under the Family and Medical Leave Act, or in the first and last weeks of employment.

The DOL has provided further guidance on a frequently asked question (FAQ) page, stating that if leave has been exhausted, or is not yet available, an employer with a bona fide leave plan might put the employee in a negative leave balance. But *no reduction in pay is permitted for a partial-day absence*.

The requirement to pay the full day's salary to the exempt employee for a partial-day absence is the same for employers without a leave plan. This is consistent with the salary requirement for exempt employees.

In sum, employers are not permitted to take partial-day deductions from an exempt employee's salary.

A postscript to the above point concerns deductions from the wages of nonexempt workers who lose or damage company equipment such as cell phones and laptops. This type of company policy may not be extended to exempt workers without jeopardizing their exempt status, according to a DOL opinion letter. An unidentified company asked the DOL whether the Fair Labor Standards Act (FLSA) would permit such a policy extension or, alternatively, let employers require exempt employees to pay for the damage out of pocket without jeopardizing their exempt status. No and no, the DOL responded in an opinion letter.

So what do you do? If the employee resigns and refuses to return her laptop to you, file a theft report. If the employee is irresponsible and continuously loses his company cell phone, then don't reissue him one. Make him purchase his own and turn in the cost on an expense report.

These are other examples of where managing your employees' behavior becomes critical to protecting your business.