



HUMAN RESOURCES UPDATE

VOL 8, ISSUE 3

NEW WEBSITE LAUNCHED

The Hopkins Group is pleased to announce the launch of our new website. We believe you will find it easier to navigate as well as see additional information. Please take a look at www.hopkinshr.com and let us know what you think.

KATHY O'DAY ELECTED TO WEB BOARD

A Hopkins Group Senior Associate, Kathleen O'Day, was recently elected to a two-year position as the Vice President for the Eastern Region Worldwide Employee Benefits Network (WEB). This international, non-profit, employee benefits group provides professionals in all industries who work with employee benefits, a way to share ideas. We know that WEB has a great new resource on their Board. Congratulations, Kathy!

NEW MINIMUM WAGE NOW IN EFFECT

Effective July 24, the new minimum wage of \$6.55 per hour for non-exempt employees goes into effect. Please make certain that you adjust any hourly rates that are below this.

IT DOESN'T STAND FOR "FIRED"

Are you familiar with FRD - or family responsibility discrimination? This is a relatively new legal concept (though not yet a law) that says employees with family responsibilities may be experiencing some level of discrimination in the workplace. Check your policies and practices to insure that no unintentional discrimination is occurring. More on this topic in our next issue.

COMP TIME OR OVERTIME?

The Family-Friendly Workplace Act (H.R. 6025), introduced by Rep. Cathy McMorris Rodgers (R-Wash.), would amend the Fair Labor Standards Act to allow non-exempt employees who prefer to take compensatory time--instead of receiving overtime pay--to do so. This benefit, which has been available only to public employers thus far, would allow private sector employees to opt for paid time off in lieu of cash wages for overtime hours worked. The bill has been referred to the House's Committee on Education and Labor.

"Time is one of our most precious resources," said McMorris Rodgers. "We all want more of it and yet we only have 24 hours in a day. That means we have to figure out how to work a full day, run errands, pack lunches, make dinner and spend quality time with our kids, spouse, or elderly parent. Giving employees more flexibility in their workweek is key to increasing retention as well as attracting great employees that will help increase our country's competitiveness."

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NOTE THAT EFFECTIVE 7/1/08, THE IRS HAS INCREASED THE BUSINESS MILEAGE REIMBURSEMENT RATE TO \$0.585 PER MILE.

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**HUMAN RESOURCES
BUSINESS SOLUTIONS**

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EEO INVESTIGATIONS: 6 KILLER MISTAKES

When it comes to EEO investigations, attorney Jonathan Segal has seen it all, and much of what he's seen companies do is wrong. Segal, a sought-after speaker on HR legal topics, is a partner with Wolf, Block, Schorr and Solis-Cohen, LLP, in Philadelphia. He listed the mistakes employers most commonly make in investigating discrimination or harassment complaints in our sister BLR publication, the *HR Manager's Legal Reporter*.

Mistake #1: Managers don't report complaints to HR. Unfortunately, many complaints never even make it to HR. Supervisors tend not to report because:

- They are honoring a request for confidentiality from the employee.
 - The employee requested no action be taken.
 - The supervisor thinks the claim doesn't have merit.
 - The supervisor thinks the complaint reflects badly on his or her management skills.
 - The supervisor thinks "competent managers should be able to resolve complaints on their own."
- You must tell your supervisors and managers that they are required to report complaints, says Segal—even if the employee asks that it be kept confidential, and even if the supervisor thinks the claim lacks merit. *The decision of whether to investigate is Human Resources', not the manager's.*

Mistake #2: Companies take no action on anonymous complaints. Managers often think there's nothing they can do in this situation, but HR should act, says Segal. For example, HR can circulate a memo stating that there has been a complaint, reiterating the company's position, reminding people of the complaint procedure, and stating "If you know who did this, please report it so we can investigate."

Mistake #3: Companies ignore exit interview complaints. If during an exit interview an employee says, "I had to resign because of the harassment I have been experiencing," watch out, says Segal. This sounds like a *constructive discharge* (a situation where it's the company's error that makes the employee quit, therefore placing the blame on the company) in the making. People think it's too late to do something, but it's not, says Segal.

Tell the person, "Upon your resignation, we found out for the first time about this allegation. Would you reconsider while we investigate and take appropriate action?" You've then mitigated the situation and made a constructive discharge claim unlikely, Segal says. But even if the person does leave, you have an obligation to investigate, Segal adds. What if the terminated employee says that the termination was based on age, race, or ethnic bias? Look into it to be sure that there is no bias.

Mistake #4: Companies assume that the government's investigation will be sufficient. Managers are tempted to say, "The EEOC will investigate, so we don't have to." No, you do have to do your own investigation, says Segal. If you don't investigate, it may appear that you don't care. Furthermore, in doing a probe, you're making sure that your side of the story is clearly documented.

Mistake #5: Managers ignore apparent patterns. Sometimes there is no complaint, but it becomes clear that there is a problem. For example, if many people are fleeing from one department, follow up, says Segal. Don't leave a problem out there to get worse and develop into a lawsuit.

Mistake #6: Managers investigate when they should withdraw. There are a few situations in which the company, including HR, must not conduct the investigation internally, says Segal, and it should be outsourced to a third party. The most common are the following:

- When the investigator has a personal relationship with either party.
- If the investigator will be a witness in any proceedings that might result.
- If the investigator doesn't think he can be objective.
- If "everyone knows" the investigator hates the person being investigated.
- If it is the boss or the COO or other executive being investigated.