

## **Communication Is Key to Avoiding Legal Conflict in the Workplace**

### **WORK FORCE: Strategies Include Open Door Policies And Honest Evaluations**

By Emmet Pierce

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The most effective strategies for preventing labor problems involve maintaining good communications with employees and providing clear expectations for performance.

San Diego human resources specialists and employment law attorneys say a collaborative approach creates stronger employee-management relations.

Marguerite Machado, a human resources representative and vice president at Regents Bank, said her company has about 55 local employees. It maintains a low turnover rate, in part, by making sure that workers have easy access to management.

“Our CEO and chairman are 100 percent accessible at all times,” she said. “Any staff member is welcome to knock on their door. They make it a point to listen to them.”

Another way to have strong employee relations is to screen new hires very carefully, she added.

“Our philosophy and strategy is that we want to hire based on natural qualities,” she explained. “It is more behavioral hiring versus what we see on somebody’s resume. Experience is valuable, but that is not what we focus on. We get to know the individuals. It is easy to teach someone how to do a job. It is not easy to teach someone to be nice. The majority of our staff has come to us via referrals. The person who comes on board does not want to let anybody down.”

The recession has created special challenges for San Diego companies, said Cláudia Schwartz, who has held senior HR management positions at companies with up to 10,000 employees. The founding principal of HR Results, she also is the director of UC San Diego Extension’s HR Leadership Program.

## Explain Expectations

In a time of shrinking work forces, the companies that are maintaining the best relationships with their workers are the ones that clearly explain what people must do to keep their jobs, she said. Employees who live in constant fear of being terminated are less likely to take risks or try new approaches to solve problems.

“Each person who survived a reduction in force often assumed responsibility for two or three jobs,” she said. “They wanted to save their employment. What we have seen is this cumulative exhaustion. They may be truly burned out.”

Mary Glanville, a human resources consultant with the locally based Anadys Pharmaceuticals Inc. and Regulus Therapeutics Inc., said making sure workers feel respected is one of the keys to avoiding litigation and other labor problems. Workers who are treated like intelligent and reasonable people will behave that way, she added.

“I have not been sued and I have been in this business a very long time,” she said. “One size does not fit all. We need to tailor solutions to the individual situation.”

When there are workers with performance problems, the most successful companies don’t hesitate to make their expectations clear, however.

“You cannot be afraid to be blunt with an employee about performance issues,” said attorney Daniel Gardenswartz, a partner at the Solomon Ward Seidenwurm & Smith LLP law firm in San Diego. “Too often, you get these vanilla performance evaluations. Everyone will fall under the ‘acceptable’ or ‘good’ qualities.”

## Fending Off Lawsuits

Attorney **English Bryant**, director of employment practices at San Diego-based **Tyson & Mendes LLP**, said companies that collaborate closely with legal advisers are able to quickly address employee problems that otherwise might lead to lawsuits.

“The companies I see that are avoiding litigation make sure their HR managers consult with the attorneys when a conflict arises,” Bryant said. “You want to nip it in the bud. You can explain how to apply the laws correctly and you can also help the HR manager minimize the risk.”

Renée Schor, a partner with the Schor & Freeland LLP law firm, said clear and consistent communications between employees and their managers is essential.

“The best way for companies to enhance productivity, keep employees content and protect themselves from liability is to, from minute one in the employment relationship, have clear expectations,” Schor said. “I know that when that happens — particularly if the expectations

are lawful — that the company is in a much better position to protect itself from unwanted litigation. Employees overall are more content and more productive.”

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