What Not to Do with Employee Complaints

1/28/2011

By Rebecca R. Hastings, SPHR

There are many things leaders should not do when an employee complains about harassment or other wrongdoing in the workplace, according to experts, such as discussing the complaint on a social networking site.

But that's what a Pittsburgh bar owner is alleged to have done, according to an article published Jan. 10, 2011, by the Pittsburgh Tribune-Review. The news article indicates that the owner posted threatening messages on her Facebook page—messages that an employee believed were directed to her—after the employee had filed a complaint with human resources alleging that a manager at the bar had used a sexual slur against her. Although the case is under investigation, it serves as a cautionary tale for other employers and provides an opportunity to remind leaders of what they should—and shouldn't—do if an employee makes an internal complaint.

Laura L. Vietmeyer, SPHR, vice president, human resources, for DAI, an organization focused on improving the developing world, and DAI's director of human resources, Bernadette Charner, said there are a number of things business leaders should not do when an employee complains—unless they want to risk their career. These include:

- Joking about the incident with others.
- Rushing to judgment and taking sides.
- Firing the complainer.
- Texting, e-mailing, using social networking or otherwise discussing the complaint with others.
- Ignoring the complainer in meetings, e-mails and during office activities.

Yet such behaviors are far too common, experts say.

Cornelia Gamlem, SPHR, president of GEIMS Group Ltd., a management consultancy with expertise in employee relations, said she has encountered managers who have argued about what constitutes harassment as well as those who have claimed that an employee was "overly sensitive" and who confronted an employee to ask why they went to HR instead of bringing the complaint to them first.

Don't Make a Bad Situation Worse

Gamlem said managers should be particularly careful about behaviors and comments that could be perceived as retaliatory, because, as SHRM Online reported, retaliation charges were the most common charge filed with the U.S. Equal Employment Opportunity Commission in fiscal year 2010, surpassing race discrimination.

Gamlem said some examples of retaliatory behavior include:

- Threatening action or criticizing an employee for filing a charge.
- Firing, demoting, disciplining the worker or otherwise treating the employee differently.
- Discussing the charge with the employee. "This could be viewed as coercion," she explained.
- Discussing the charge with anyone inside the company other than those with a business need to know, such as human resources and legal counsel.
- Discussing the charge with anyone outside the company, such as customers, vendors, suppliers and other colleagues.

In other words, "If an employee files a charge of discrimination or otherwise complains about workplace practices, treat the person as if the charge had not been filed," Gamlem said.

But that does not mean that the employer should refrain from taking action.

Devora Lindeman, senior counsel at Greenwald Doherty LLP in New York, said that ignoring a complaint often is the biggest mistake managers make: "He or she either thinks it is no big deal and that the employees can work it out amongst themselves," she told SHRM Online, "or the manager doesn't believe the employee and doesn't take it seriously."

In some cases, a manager thinks that something is "not important enough to bother HR with" and tries to handle it on their own, "generally ineptly," she added.

To make matters worse, a small percentage of such complaints are likely to be bogus, experts say.

"I have seen workers who consistently use claims of discrimination and harassment as a way of getting attention, avoiding work and hassling people," said Margaret Herman, CEO at Herman Group, LLC, an Athens, Ga.-based conflict consulting firm. "It's a way of saying 'my needs as an employee are not being met.'"

That's when effective communication skills come in handy.

Seek First to Understand

The first conversation in which an employee describes a workplace problem is critical, Herman said, for building trust and resolving the issue. During such a meeting, leaders should not:

- Talk or interrupt,
- Look or seem agitated,
- Touch the person,
- Look away, take a call or read,
- Attempt to problem solve or otherwise get to "the heart of the matter."
- Refer the employee to a grievance procedure or the legal office or suggest that they hire an attorney.
- Say "I know how you feel" or "It will be all right."
- Suggest that they misunderstood someone's actions or words.

http://www.shrm.org/hrdisciplines/employeerelations/articles/Pages/WhatNottoDo.aspx

12/9/2011
"Most of what employees want is to be acknowledged and to be heard," said Susan Meisinger, SPHR, J.D., director and fellow at the National Academy of Human Resources (NAHR) and former president and CEO of the Society for Human Resource Management. "To ignore a problem and assume it will go away is probably the worst thing you can do."

Yet some managers suffer from what Meisinger calls "stupid manager syndrome" and take such complaints personally or feel the need to "beat a dead horse" by bringing up issues that happened in the past. "Anybody who has the tendency to feel they need to have the last word in a conversation needs to be muzzled," she said. "The last word is probably what will create the liability if the first word didn't do it."

And in cases where it is the CEO—or owner—that is complicating the investigation process, Meisinger suggests "building a file of news reports about expensive settlements companies had to pay where the CEO has gotten involved in a harassment case" so that it's easier to explain how much that type of righteous indignation can cost the company.

A Measured Approach

By the time an employee brings a complaint forward, he or she most likely is angry, Herman said, because most people are conflict avoiders. As such, whatever has happened has probably happened more than once, to that employee or to someone else, she explained.

That's why it's important to slow things down and listen, she said.

"You may be busy, but it's like breaking a leg—if you don't stop to treat it, that pain is not going to go away," Herman explained.

She noted that HR people in particular should avoid the urge to direct employees to the organization's grievance procedure or to ask if they've written their complaint, because that conveys to the employee that "I'd really like to get you out of my office."

Moving too quickly has another downside.

In some cases an employer acts too swiftly, sometimes disciplining an alleged harasser without investigating, "only to find out that that alleged 'victim' is working the system to get even with a boss who gave her a poor performance review," Lindeman added.

To avoid the pitfalls that can result from an uninvestigated or poorly handled employee complaint, Lindeman suggests employers take it one step at a time: "Listen, investigate, draw conclusions, take action, document," she said. "And tie the investigation up in a bow by getting back to the complainant to ensure he or she is satisfied with what was done."

As for discussing workplace situations on social networking sites, Meisinger recommends that leaders follow one simple rule: "Don't air your dirty linen in public."

Rebecca R. Hastings, SPHR, is an online editor/manager for SHRM.

Related Articles:

Is There Emotional Intelligence Online? SHRM Online Employee Relations Discipline, November 2010

Look Inside 'Open-Door' Policies, SHRM Online Employee Relations Discipline, June 2010

Oops! What to Do When an Employee Says the Wrong Thing, SHRM Online Diversity Discipline, February 2010

SHRM Connect

Interact with SHRM publishing staff and learn about editorial and publishing operations at the SHRM Publishing and E-Media Group on SHRM Connect. Go to the page and click on "Join this group."

Like 1