

Labor & Employment Insights

June 2018

Burr & Forman surveyed nearly 100 human resources and personnel management professionals from companies of various sizes to identify the labor and employment issues they are facing the most these days.

ATTRACTING TOP TALENT

One interesting insight from the survey is that 72% of participants responded that they are working harder to find the right candidate in order to attract top talent in today's low-unemployment environment. The next highest rated response is that 37% of participant companies are offering better compensation to attract top talent. While many studies have shown that company culture is a more important issue for millennials than past generations, only 26% of companies reported that they highlight company culture in their efforts to attract top talent.

Employers' attempts to both hire the right candidate from the outset and to offer higher compensation goes hand in hand with employee retention, which 65% of participants rated as their greatest human resources concern. Not only is a high turnover rate bad for morale, but it is costly to train and process new employees.



EMPLOYEE RETENTION

Employee retention is also key to ensuring the success of employer policies and procedures. Not only does high employee retention lower the cost of training new employees, but satisfied employees are more likely to communicate with their employers and raise concerns or complaints in time for the employer to appropriately address the issue.

LITIGATION TRENDS

Seventy percent of companies reported that they have seen an increase in litigation alleging race, sex, transgender or another form of discrimination under Title VII. Having the right policies and procedures in place is key to both preventing and defending these types of cases. However, the rights policies and procedures can only go so far if employees are not adequately trained on the policies and procedures.

SOCIAL MEDIA

One interesting result from the survey indicated that 30% of participants have taken corrective or counseling action in the past year against employees concerning the use of social media. Social media is increasingly becoming a nightmare for employers to navigate. On the one hand, employers have an interest in their employees' social media activities, but on the other, employees have rights under the National Labor Relations Act, which prohibits employers from inhibiting or interfering with employees' protected concerted activities. When confronted with a situation in which an employer wishes to discipline an employee for actions taken on social media, proceed with caution. Your attorney will be able to assist you to navigate these issues to ensure that any discipline does not violate an employee's rights under the National Labor Relations Act.

CYBERSECURITY BREACHES

As we have seen with the growth of social media, the internet as a whole is an arena in which employers are constantly in battle. In the survey, 12% of participants responded that their companies experienced cybersecurity breaches within the past year. This number will only increase with each passing year. Cybersecurity breaches can be costly and can result in litigation and civil liability, yet 15% of respondents reported they have no cybersecurity plan and 7% responded that they do not know if their companies experienced a cybersecurity breach last year.

Given the prevalence of cybersecurity breaches and the potentially damaging impact that these breaches can have on an organization, we highly recommend that you put into place a formal response action plan and training program to help employees recognize attempted breaches. Your employees are your first line of defense against a cyber-attack.

We will continue this survey annually in order to provide you with insight into recent trends and guidance on how you can better prepare your company for the many employment issues facing companies these days.

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We hope these insights provide transparency into the market and spur ideas for how best to protect and prepare your company for future issues and developments.

Things companies are doing differently to attract the top talent in today's low-unemployment environment:

- » Working harder to find the right candidates – 72%
- » Offering better compensation – 37%
- » Increasing the value of benefits offered – 21%
- » Highlighting company culture – 26%
- » No change in recruitment practices – 4%

HR issues that cause companies the greatest concern:

- » Employee retention – 65%
- » Staying competitive on compensation – 28%
- » Talent acquisition – 25%
- » Employees' desire for work-life balance – 15%
- » Rising costs and uncertainty in health care insurance – 12%.

Predictions on whether the EEOC will be more aggressive or less aggressive enforcing discrimination laws during the Trump presidency:

- » About the same – 37%
- » Less aggressive – 36%
- » More aggressive – 27%

Percentage of companies with formally training programs for managers that are designed to reduce the likelihood of workplace discrimination litigation:

- » Yes - 71%
- » No – 29%

Percentage of companies that offer similar training – not just a policy – for nonsupervisory employees to reduce the likelihood of workplace discrimination litigation:

- » Yes – 52%
- » No – 48%

Percentage of companies that experienced an on-site EEOC visit in the past year:

- » No – 94%
- » Yes – 6%

Percentage of companies that have seen an increase in employment litigation or threat of litigation in the past year:

- » No – 73 %
- » Yes – 27%

Percentage of companies that have seen an increase in these types of litigation:

- » Discrimination: Race, Sex, Transgender, Title VII – 70%
- » FLMA – 9%
- » Non-competes & Trade Secrets – 9%
- » Employment Contract – 4%
- » Wage and hour – 4%
- » Other - 4%

Percentage of companies that believe the reduction in the availability of H1-B visas will affect their hiring plans over the next two years:

- » No – 84%
- » Yes, we need the flexibility to hire foreign workers for certain positions – 16%

Percentage of companies that have taken corrective or counseling action in the past year concerning employees whose use of social media affected the company:

- » No – 70%
- » Yes – 30%

Status and/or type of Cybersecurity Plan in place:

- » Formal response action plan AND training program for employees to recognize possible breaches – 36%
- » Formal response action plan – 32%
- » Informal plan and an idea of how to respond – 17%
- » Do not have a plan but need to develop one – 15%

Percentage of companies that have experienced a cybersecurity breach within the past year:

- » No – 81%
- » Yes – 12%
- » Unknown – 7%