

**PRESENTED AT**

23<sup>rd</sup> Annual Labor and Employment Law Conference

May 3-4, 2016  
Austin, Texas

**Anticipating, Receiving and Resolving  
Workplace Conflicts**

**Viane Lopez Braun  
David T. Lopez**

Author Contact Information:  
David T. López  
David T. Lopez & Assoc.  
Houston, TX

[dtlopez@lopezlawfirm.com](mailto:dtlopez@lopezlawfirm.com)  
713-523-3900

## **TABLE OF CONTENTS**

<b>I. Introduction .....</b>	<b>2</b>
<b>II. A Company's Culture .....</b>	<b>2</b>
<b>III. New Employees .....</b>	<b>3</b>
<b>IV. Employee Handbooks .....</b>	<b>4</b>
<b>V. When Conflicts Can Be Anticipated .....</b>	<b>5</b>
<b>VI. Receiving Complaints .....</b>	<b>6</b>
<b>VII. Resolving Complaints .....</b>	<b>7</b>
<b>Summary .....</b>	<b>9</b>

# **ANTICIPATING, RECEIVING AND RESOLVING WORKPLACE CONFLICTS**

**By David T. López**

**My daughter, Vianei Lopez Braun, joins me in making the conference presentation on this topic. I credit her assistance in discussion of the preparation of this paper, but to the extent that any opinions or suggestions are made herein, they may or might not totally conform to those of Vianei's, given that in my practice I primarily have represented employees and she has primarily a defense practice.**

## **I. INTRODUCTION**

Recently, Access Perks, company that provides employee discount incentives, published statistics indicating that employee turnover in 2014 was about 16%, with an estimated loss to employers of about \$11 billion. According to the U.S. Equal Employment Opportunity Commission, charges of discrimination increased for Fiscal Year 2015, exceeding 89,000, after steadily dropping the previous four years. Given the layoffs due to the decrease in oil prices, a significant increase is likely for the current year. The cost to an employer of defending an employment discrimination suit successfully has been estimated at \$75,000 to \$250,000. In 2012, the Center for American Progress estimated the cost to business from workplace discrimination at \$64 billion. Of additional concern is the persistent problem of workplace violence, when disgruntled employees direct their frustration by physically attacking coworkers and supervisors. Department of Labor statistics report an average of more than 700 workplace homicides yearly and more than 130,000 assaults requiring emergency hospital treatment each year.

Human resource generalists, in-house counsel and employment lawyers can effectively engage the problem of workplace conflict by proactive engagement, consistent monitoring, and fair and reasonable attempts at effecting acceptable resolutions.

This paper supplements a presentation by lawyers with years of experience in addressing such conflicts at their various stages.

## **II. A COMPANY'S CULTURE**

Merriam-Webster defines culture as including the way of thinking, behaving or working that exists in a place or organization, such as a business. Forbes, in a 2014 article extended that to include a company's vision, values, norms, systems, symbols, language, assumptions, beliefs and habits, but cautioned that culture is neither pre-existing within the enterprise, nor something that employees of the company bring with them. Rather, it is the product of a continual interchange between the company and its employees. According to the Harvard Business Review, company culture picks up where the employee handbook leaves off.

Key to understanding the role of a company culture and how it is created and maintained is the realization that the workplace environment greatly motivates the actions of individual employees. Identification with a group is hard-wired from birth. According to a 2013 article in

the Boston Globe, by the third month after birth a baby has a marked bias toward the faces of individuals of its own race; by 5 months prefers the sound of her native language to any other and the people who speak it to those who don't, and by age 4 that translates into negative attitudes toward those who are not like the child or her family. That, of course, does not imply any acceptance of racial or ethnic discrimination, which one hopes is diffused within the family and is totally dismissed by the time one becomes an adult. Instead, it is meant to focus on the importance that membership in a group has on individual behavior. Individuals inherently want to maintain a satisfying connection to a group, conform to the group's behavior and values and get favorable reaction from the group.

A good company culture, then, is one that provides a welcoming, enjoyable and productive environment. When there is such a culture, employees are less likely to engage in disruptive disputes over largely inconsequential issues, are more likely to engage fully in their assignments and be more productive. Acts of management or peers are less likely to be mistakenly judged as unfair, unjust or discriminatory. Individuals can be more easily persuaded to resort to candid discussion of their concerns in good faith, rather than letting dissatisfaction fester into an avoidable confrontation.

Because companies are so different, there is no cookie-cutter way of fashioning a company culture. There are, however, some basic principles. Chief among them is valuing individual employees and letting them know they are valued, insure that the employees understand well the goals of the company and its plans for the future, provide ample opportunities for the employees to know each other and bond into a common purpose, involve employees as much as feasible in the making of management decisions, insure that supervisors willingly listen to problems presented by subordinates and listen first to suggestions before proposing a solution, and assure that all employees are comfortable with the prospect of fair and just treatment.

For specific ideas, human resources professionals can consider generally what major companies do and adapt what might be considered impractical, such as one company's publishing its employee handbook as a comic book, to fit with its particular needs. It is particularly instructive to consider what is being done by other companies in the same industry.

### **III. New Employees.**

A company's culture that is well received can help attract applicants for employment, and in the hiring process the company also can evaluate how an applicant will relate to the company's culture. Open ended questions, such as "What do you know about our company?" "What have you heard others say about the company?" "How do you see yourself relating to how our company operates and relating to those of our employees with whom you are acquainted?" can provide some indication as to whether the applicant can successfully conform to the company's requirements, being careful of course to insure that the inquiries are not blemished by preconceptions or stereotyping.

Once an applicant is hired, Human Resources should follow up with occasional visits or chats with the new hire, extending beyond any probationary period, to see if there is any

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](http://utcle.org/elibrary)

## Title search: Anticipating, Receiving and Resolving Workplace Conflicts

Also available as part of the eCourse

[2016 Labor & Employment Law eConference](#)

First appeared as part of the conference materials for the  
23<sup>rd</sup> Annual Labor and Employment Law Conference session  
"Anticipating, Receiving and Resolving Workplace Conflicts"