

Change Your Mindset: Reduce Workplace Problems by Encouraging Complaints

By Shayda Zaerpoor Le

As a partner at a boutique law firm specializing in employment law, I spend a lot of my time counseling our clients on how to avoid and resolve employee complaints. A lot of times, a call to your employment lawyer can feel like a problem—something you have to do in order to resolve an issue that you wish you did not have to begin with. As a result, most organizations believe that receiving a complaint from an employee is a problem, and they respond as such.

My counterpoint to that perspective is this: we should all want to reduce the occurrence of problems (by following the laws, having good policies, maintaining solid business practices, and being good people), but we should simultaneously do everything we can to encourage the receipt of employee complaints. The underlying problem at issue exists independently of whether or not the employee is willing to speak up and bring it to our attention, whereas the complaint itself is actually just information. The existence of that problem, unreported, means that the employer faces a potential issue without the opportunity to course correct or mitigate. We all wish we had fewer (or zero) problems within our workplaces. But in the face of the problems that are in fact present, complaints are preferable to silence, and prudent employers should work towards creating an atmosphere where employees are willing to bring forward concerns early and often, so that opportunities for correction are easier to facilitate.

There are a number of tangible steps employers can take to encourage internal complaints.

React positively when the complaint is brought forward. A productive and measured approach includes responding to employees promptly, thanking them for bringing the issue forward and allowing the opportunity for review, expressing that the organization takes complaints seriously and has a solid process for investigation (without promising or commenting on a likely outcome), stating that the organization will follow up throughout the process and at the conclusion, and inviting questions. Make the employee feel as if their input is valued, and that they are a partner in the process of maintaining and improving a positive workplace environment. Employee complaints are an opportunity for the organization to review behavior, address problems, improve internal processes, and educate employees where they may have a misunderstanding about appropriate workplace behavior.

Utilize the power of managers and supervisors. Managers and supervisors are often the first line of defense for addressing problematic behavior—that is their job. Human resource professionals and supervisory employees should also treat complaints as an opportunity and refrain from commentary that might indicate a distaste for complaints or a preference that they not be raised. Otherwise, managers and supervisors who perceive that the organization dislikes complaints could be more likely to (consciously or subconsciously) indicate the same to the employees they supervise. Through both formal training and informal conversation, arm your managers with appropriate tools and language for how to respond to complaints. It can take courage and cause anxiety for an employee to come forward with a perceived concern—whether or not that concern ultimately ends up being substantiated. It is therefore critical that they not be met with unintended or flippant statements from managers that might convey that the concern is not a big deal, that the manager themselves would not

be personally offended by such behavior, that the concern raised is simply a harmless personal idiosyncrasy about that particular employee, or that a conversation about the concern will not be accommodated, must be brief, or will be a one-time discussion that cannot be re-raised. Utilize the power and influence that your managers and supervisors have to respond positively—that alone can create trust and confidence for the individual employee and significantly influence the direction and ultimate outcome of the complaint process.

Provide employees with a meaningful understanding of what will happen when a complaint is made. We do not want employees to hold back complaints for fear that they will not be taken seriously or that “nothing will happen in the end,” but we also do not want employees to refrain from raising complaints because they misunderstand the process and “don’t want to get anyone fired.” Therefore, in advance of receiving complaints, provide an explanation of your process. Include an outline of the steps involved and possible outcomes within your written policies—how an employee can make a complaint, to whom, what happens next, what does a typical review or investigation look like, who might be involved in that process, interim measures that might be available to a complainant or respondent, and a range of potential discipline that may result if a concern is substantiated. Incorporate this information into onboarding and trainings, and consider providing periodic updates at staff meetings or via email to remind employees of the process. Making the effort to demystify the approach and help employees understand that your protocols are meaningful and productive can go a long way in establishing the comfort to actually use them.

Suggest outcomes, when appropriate, that are solution-focused. As an employment lawyer who conducts outside investigations, there are many instances when a complainant or respondent indicates the desire for a less formal process or a facilitated conversation rather than a discipline-oriented outcome. Similarly, in investigations where the conclusion is that no policy was violated, the employer may still wish to proactively meet with the affected individuals and identify possible solutions for more positive future interactions. The more that employees understand that raising a complaint can lead to a productive outcome and not just finger-pointing followed by discipline, the more willing they may be to raise concerns proactively that will improve the work environment for everyone.

Discourage and prohibit behaviors that might dissuade complaints. This is important both in response to specific complaints, and as a general proposition. For example, do not wait to receive a complaint before addressing behaviors you are already aware of. Plenty of managers take the approach of “my employee will let me know if or when they want help with an issue.” Plenty of employees therefore take the approach of “my manager knows this is happening but isn’t stepping in to help—they must not think this matters.” That approach is likely to discourage communication and dissuade complaints. As another example, while the outcome of a given investigation may generally be confidential, consider that the employees who participated in the complaint or review process may be the only ones situated to notify you if future negative behavior continues. Take the time to communicate to them that their participation was important, that you have taken steps to address and correct the issue, and that if any future issues (re)arise, you are counting on them to let you know. As a third example, assess how an employee is treated or supported while a complaint is pending. It may be helpful to implement interim measures to separate certain individuals or provide them with an alternative avenue for communication with management. Therefore, explaining that these resources are available, appropriate, and not difficult to implement can be very encouraging. Take a critical look at internal practices that might discourage employees from voicing their concerns and improve those wherever possible.

Ultimately, all organizations prefer to reduce incidents leading to complaints. However, for those problems which exist, we are better armed to address and resolve such issues when our employees are willing to raise complaints and allow us the chance to explain, address, or alleviate an issue that is important to both the health of the organization as well as the individual complainant.

For questions on encouraging complaints, resolving existing complaints, or for any other employment-related inquiries, contact Barran Liebman attorney, Shayda Le, at 503-276-2193 or sle@barran.com.