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Advanced Resources

HR INSIGHTS Magazine

from the eyes of industry leaders

10 REALITIES That Undermine Your KNOWLEDGE-RETENTION Efforts

In This Issue ▸▸

FROM THE PRESIDENT

> As soon as you open your mind to doing things differently, the doors of opportunity practically fly off their hinges.
>
> —JAY ABRAHAM

Advanced Resources' HR Insights brings you the latest industry news so you can stay abreast of current trends and recent developments in the HR and staffing fields—and stay ahead of your competition.

This edition's feature article, "10 Realities That Undermine Your Knowledge Retention Efforts," discusses one problem that most companies have but few companies address effectively. By considering the issues that Zoe Meinecke raises and figuring out ways to manage them, organizations can ensure that new employees don't have to "spend their first several months on the job trying to recover . . . lost knowledge" and can instead get right to doing the work that most benefits their employers.

But exploring new directions doesn't mean throwing away the map. In fact, understanding how to navigate within the boundaries (and within the law) is just as important as knowing when to break the mold. In "Hiring for 'Fit' May Lead to Legal Problems," for example, Michael Haberman examines one important aspect of the recruitment and hiring process: finding and choosing people who "fit" with the company culture. But he cautions companies to be sure they are defining and assessing "fit" in terms that are as objective as possible. Otherwise, they may be setting themselves up for litigation headaches.

Jonathan Krause explores another scenario that could lead to legal woes if not properly handled. In "Best Practices: How to Handle Exiting Employees with Noncompete Agreements," he writes that "thinking through—and planning for—departure issues before they arise will allow companies to better protect their trade secrets" and offers suggestions for developing a protocol for this situation.

Companies that want to stay ahead need to keep innovating and exploring new ideas. Reinventing the wheel doesn't lead to success on its own, however: there's still a lot to learn by taking a look at the well-trodden paths, too. We can help your company stay fresh and differentiate itself from the competition while still keeping to the right side of the law and following best practices.

Enjoy!
Rich Diaz

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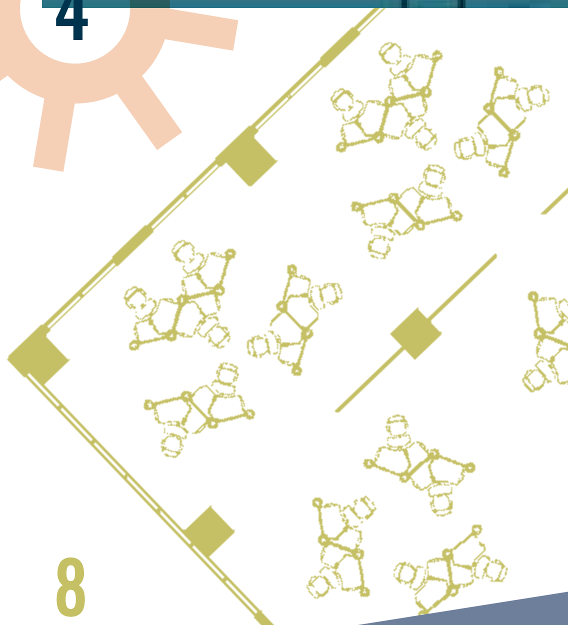

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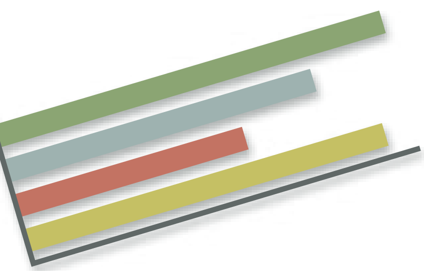

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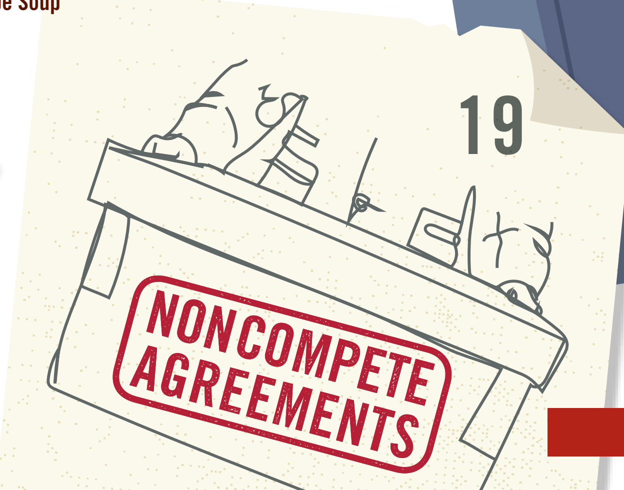

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10 REALITIES That Undermine Your KNOWLEDGE-RETENTION Efforts

BY ZOE MEINECKE

Your employees possess the knowledge that keeps your business running and differentiates it from your competitors. What they know enables them to be prompt, consistent, and accurate—and supports your ability to be profitable. When this know-how isn't retained, though, a variety of issues arise that can affect the company's key stakeholders. Instead of picking up where prior employees left off, new employees are forced to spend their first several months on the job trying to recover this lost knowledge. And as they engage in this version of reinventing the wheel, they make mistakes, disrupt their teammates, miss customer deliverables and opportunities, and become disengaged.

This situation puts any employee in an awkward position and yields a terrible return on investment for the organization, which has already spent at least half of that employee's annual salary on the hiring and recruitment process. Now, not only does the company get a fraction of the productivity it's paying for, but it also risks missing growth opportunities and seeing its reputation damaged.

Clearly, knowledge loss is a major threat to any organization. Yet why are companies so consistently ineffective at dealing with it? Knowledge-retention efforts are hampered mostly by lack of awareness, insufficient time and resources to implement effective strategies, and the limiting effect workplace circumstances have on current retention methods.

1 **Knowledge is hard to quantify.** In a business environment that values metrics, companies struggle to assign a physical value to knowledge in order to designate its importance. Employee knowledge is intangible: it doesn't slam the door or hit the balance sheet when it leaves, and in most cases, companies have no idea that it's gone until it's too late. Although the old adage says "Treat the cause, not the symptom," companies have become accustomed to treating the symptoms of knowledge loss, such as poor performance, customer dissatisfaction, low employee engagement, and high turnover. By focusing attention on the real issue—the cause—companies can begin to implement techniques that actually address it.

2 **Competing priorities.** The complete (and logically organized) documentation of company actions and policies takes time. Scrambling to learn how to temporarily cover a colleague's responsibilities (while already juggling a full schedule) takes time. Reviewing what an exiting employee has documented takes time. In short, today's workplace environment has so many competing priorities that it's hard to develop, execute, and manage an effective approach to knowledge retention.

3 **People take for granted what they know.** Have you ever had someone demonstrate one of his or her routine tasks and swear that it's "easy"? He or she quickly moves through the steps and completes the task before you even get a chance to start taking notes. This is a perfect example of how daily or routine tasks become so second nature that it can be difficult to teach or explain them to others.

4 **Exiting employees have already mentally checked out.** They may have just given their two-week notice, but thoughts of greener pastures have distracted them for a while. At this point, their attempts to document their knowledge are half-hearted at best and usually leave the company with a subpar and incomplete product.

5 **Exiting employees may feel resentful or angry.** If it wasn't their choice to leave, they may be unwilling to provide the full details about what they know.

6 **Newly departed employees are busy learning their new roles.** When employees leave a company or transfer to different departments, they often tell their replacements to call them with any questions. Though well-intentioned, such gestures become unsustainable as those former employees begin to focus on learning their new positions, become removed from the nuances of their old roles, and lose access to (and familiarity with) the systems and tools of previous positions.

7 **Companies have less redundancy.** Many companies are very lean, with little redundancy across roles. Thinking that it's okay to lose what one employee knows because the company has three other people with the same knowledge is a thing of the past.

8 **Not every company has a culture of knowledge sharing.** Companies that share knowledge well have put a lot of time, money, and focus into developing strong, ingrained cultures of consistent knowledge sharing. But not all companies have leadership teams that are committed to (or capable of) building this type of environment.

9 **Knowledge-management systems don't work everywhere.** Like knowledge-sharing cultures, knowledge-management systems work well in companies willing to devote consistent resources and leadership to their implementation. Without such support or where they don't fit the company culture, such systems can end up being an expensive waste of money.

10 **Employees aren't great at documentation**. Companies hire people because they are great at their specific jobs, not because they are great at documenting what they do. An employee who's a top performer doesn't necessarily know what needs to be documented and how to organize that knowledge; that skill set is developed with practice.

So how should companies cope with the complexities of capturing knowledge? An organization that decides to tackle this task in-house needs a plan that addresses all the potential pitfalls mentioned above and starts with the manager, who must ensure that both transitioning employees and their replacements understand—and are held accountable for—what needs to be covered by whom and when. Alternatively, this job can be outsourced to companies that focus on helping their clients retain employee-based knowledge. These specialists know what questions to ask to identify, document, and organize a company's critical knowledge. ■

Zoe Meinecke owns Base Advantage, LLC, which specializes in knowledge capture and process documentation. With its signature interview and documentation services, Base Advantage ensures that company-critical, employee-based knowledge stays within an organization even during times of transition, thus helping companies focus on building off of existing knowledge and not recreating it. Meinecke can be reached at zoe@base-advantage.com.

THE OPEN WORKPLACE: *A GOOD FIT FOR BUSINESS?*

BY VANESSA L. GODDARD

In recent years, companies have increasingly embraced open workplaces, typically by converting closed offices into open floor plans with large common areas. This new approach has both pros and cons, and there's no one-size-fits-all arrangement that works for all organizations. Instead, companies interested in implementing this approach need to figure out a plan that maximizes the benefits for the business and minimizes the detrimental impact that this physical layout can have on the workplace.

On the positive side, an open workplace has several economic benefits. For example, it tends to permit more efficient use of space, particularly because extra walls aren't taking up a lot of room. Its flexibility allows it to be shaped and reshaped to accommodate evolving staffing needs and changing requirements for the physical space. An open workplace also facilitates the sharing of pricier business equipment, such as printers and copiers. Additionally, an open workplace is usually easier to supervise because management and staff are located together—an arrangement that makes it easier for staff to raise issues immediately with management and for managers to address them promptly.

The advantage most touted by fans of the open workplace is that it leads to improved innovation and creativity because communication and collaboration are enhanced. Increased interaction fosters camaraderie and improves employee morale. Removing barriers to communication allows the free exchange of ideas and encourages teamwork, and removing barriers to management improves employee satisfaction.

For each argument in favor of open workplaces, however, there's an argument against them. For example, although having everyone in one spot is conducive to collaboration, it's also conducive to the spread of illness. Hand washing can go only so far in mitigating the risks of spending time in close proximity to someone who's sick. (Just think about how quickly a stomach bug can spread through a kindergarten classroom!)

The open workplace's ability to foster communication also has a downside: excessive noise. Nearly every office has at least one person who is loud on the phone. In an open workplace, there are no doors to shut out that kind of noise. And regardless of whether there's a loud talker in the office, having dozens of voices in one big room can drive up the decibel levels. Although open workplaces usually have designated secluded areas for employees who need some quiet time, the overall reduction in employee concentration may cancel out the benefits derived from creative teamwork.

Corporate culture is the final hurdle standing in the way of universal adoption of the open workplace. In particular, longstanding notions about the value of the "corner office" have given many workers (employees and managers alike) the expectation that their loyalty and hard work will be rewarded with their own office. Having that private space taken away may be viewed as a drop in status if corporate culture does not evolve with the changing office layout.

An open workplace doesn't work for every organization. It is particularly ill-suited for companies whose employees need to concentrate intensely on individual tasks, for example, or those in which maintaining client confidentiality is a top priority. In fields that encourage more social or collaborative work (such as marketing, advertising, or journalism), on the other hand, companies may find that the boost to creativity outweighs any negatives. The adoption of an open workplace doesn't have to be an all-or-nothing deal though. Even if open workplaces don't work for the entire business, an organization can still benefit from the arrangement by implementing them only in certain departments. ■

Vanessa Goddard is of counsel with Steptoe & Johnson, PLLC, where she focuses on labor and employment law. She has worked on cases involving sexual harassment; deliberate intent; age, race, and disability discrimination; wrongful discharge; and various other employment-related torts. She can be reached at vanessa.goddard@steptoe-johnson.com.

MENTORSHIP: It's for EXECUTIVES Too

BY VALERIE GRUBB

An article about mentorship at *Inc.com* describes a mentor as "a person with more experience in business, or simply in life, who can help [someone] hone her or his abilities and advise him or her on navigating new challenges."[1] HR executives have long known the value of mentoring employees, particularly high potentials destined for leadership positions within the company. But how often do those executives find mentors for themselves? Not often enough! When I recently polled over 100 HR executives about this at a conference, less than 20 percent of them said they had formal mentors.

As HR feels increasing pressure to provide more strategic value to the company, it's now more critical than ever that the HR executive identifies senior leaders both within and outside the company who can foster his or her development. Such a relationship sounds great, but finding and landing the right mentor can be challenging.

DETERMINING WHAT YOU HOPE TO ACHIEVE

Pinpointing what's important to you will save both your time and your potential mentor's time. So when identifying who will be a good mentor, *start with the end in mind*. Ask yourself what you seek to gain from a mentor and how he or she can help you reach your goals.

Understanding what you hope to achieve through the relationship will help you narrow down the list of candidates to approach. Most importantly, don't limit yourself to fellow HR leaders. A mentorship with a non-HR executive can broaden your knowledge base and make you more valuable to the organization (and, in particular, to the C-suite).

It's also important to ask yourself what you can offer to a mentor that will make it worthwhile for both of you to meet. Remember, mentorship is a two-way street. So in order to entice someone to mentor you (especially someone you don't know), you need to understand what you can bring to the relationship.

LOOKING FOR A MENTOR

If you've rolled out an official mentorship program at your company, don't forget to participate in it yourself. (Remember, such programs are great for retention—and that includes you as well!) Employer programs are usually designed to help employees meet specific goals that support the organization. So depending on what goals you want to achieve from your mentorship, your company program may not be in line with what you're hoping to gain (even if you're the one who developed the program!). In that case, you'll need to seek a mentor elsewhere.

If your company doesn't have a mentorship program or if the one it has doesn't fit your needs, review your own professional networks for possibilities. For example, look at executives within your company, LinkedIn connections, fellow alumni from your alma mater, and connections who are in your industry or share your group affiliations. Other great sources for potential mentors are networking events, conferences, and trade shows. Always be on the lookout for someone who has the skill set (or position) that interests you.

MAKING THE INITIAL CONTACT

Once you pinpoint a potential mentor, try to find out as much as you can about him or her before you reach out. See if you have any common connections on LinkedIn too. When you aren't already personally acquainted with a potential mentor, getting a positive introduction from someone you both know can definitely work in your favor.

When reaching out to someone with whom you have no connections, make sure your introduction mentions anything the two of you have in common, your own specific interests, and what you're looking for in a mentor. The goal is to pique this person's curiosity enough for him or her to want to at least speak with you over the phone. Keep your note clear, specific and succinct; if you ramble in this opening communication, your potential mentor is likely to assume that you'll also ramble when you meet in person.

When a potential mentor agrees to have an initial conversation with you, ask for a 15-minute phone call. Make sure you watch the clock and stick to that amount of time! Doing so lets your mentor know that he or she can count on you to respect his or her time in the future (an especially important consideration when interacting with someone who is very senior in your field or someone you don't know well).

If you don't hear from your potential mentor two or three weeks after your first contact, follow up—but don't hound him or her. If that follow-up effort doesn't yield results, you need to assume that he or she isn't interested in pursuing a mentorship with you right now. You can still try to maintain a relationship (even if one-sided) by sending notes or articles that may interest him or her, but be careful not to become a nuisance.

MEETING WITH YOUR MENTOR

Always keep in mind that your mentor is doing you a favor. So be appreciative of the time that your mentor takes out of his or her schedule to assist you. You want to make it as easy as possible for your mentor to help you! Don't make assumptions about your mentor's availability and preferences—be sure to ask how he or she would like to communicate and how often. If you'll be meeting in person, traveling to your mentor's location not only makes your appointments more convenient for him or her but also lets you make the most of your scheduled time together.

During your first meeting (whether it's in person or via phone or video chat), ask for your mentor's advice on a single topic or problem. Don't overwhelm him or her with every question you have! Instead, use this opportunity to build rapport that can provide the foundation for a long-term relationship (rather than a one-and-done meeting).

FINAL THOUGHTS

Your mentor's advice may not always be easy to swallow. But remember, he or she is successful for a reason. So follow the advice you give to employees at your company: set aside your own pride, and allow yourself to be both teachable and coachable. Cultivate the relationship by asking questions and listening sincerely to your mentor's answers, and keep in mind these other suggestions:

- **Help your mentor help you.** If you have a specific question or need, tell your mentor. It's up to you to do the homework for your meetings and set the agenda.
- **Have fun!** Although your ultimate goal is to learn, nothing says you can't enjoy the time you spend with your mentor too. Make your meetings a time that both of you look forward to.
- **Return the favor.** You're bound to excel in some area in which your mentor needs assistance. Mentorship is a reciprocal relationship, so try to help your mentor in any way that you can.

Remember, you get out of a mentorship program what you put into it. So make it worth both your time and that of your mentor's. If nurtured, the relationship with your mentor can be one that lasts throughout your career! ■

Valerie Grubb of Val Grubb & Associates, Ltd., is an innovative and visionary operations leader with an exceptional ability to zero in on the systems, processes, and personnel issues that can hamper a company's growth. Grubb regularly consults for mid-range companies wishing to expand and larger companies seeking efficiencies in back-office operations. Her expertise and vibrant style are also in constant demand for corporate training classes and seminars. Her first book, *Planes, Canes, and Automobiles: Connecting with Your Aging Parents through Travel*, was published in October 2015 and is available at Amazon and local bookstores. She can be reached at vgrubb@valgrubbandassociates.com.

1. 2010. "How to Find a Business Mentor." *Inc.com*. http://www.inc.com/guides/how-to-find-a-business-mentor.html.

The Importance of Employee Accountability

BY SHARLYN LAUBY

Getting tardy employees to change their attendance behavior is one of the biggest challenges managers face. Even docking pay and issuing warnings often have little effect. But companies that fail to address this behavior effectively are laying the groundwork for even more problems.

If employees know what time they are supposed to be at work and they don't show up at that time, that's an attendance issue—for the employees. If employees are counseled about their poor attendance and *still* don't show up for work when expected, that's an accountability issue—for the company.

By creating a policy or procedure, a company is saying to its employees, "This is the way we want you to do it." The company is also implying that there are consequences for failing to follow those instructions. The consequences don't have to be severe: they could take the form of a conversation, for example, or entail revoking a perk. The idea is to have some sort of response so that employees will stick to the policy.

But when someone fails to follow the rules and nothing happens to him or her, then other employees see no reason to follow the rules themselves. For example, pay adjustments and warnings often have little effect because they aren't significant enough to change the behavior. And sometimes an organization doesn't follow through on imposing a threatened consequence (such as adjusting the employee's pay) because doing so creates administrative headaches.

Companies are also often reluctant to take steps that could actually put an employee's position in jeopardy, particularly in the current labor market. The time needed to fill open positions keeps growing, and managers are concerned that finding replacements for employees who leave will either take a long time or be impossible—and that they'll personally have to assume extra work for those unfilled openings. Managers handle this stress by not holding employees accountable and letting negative behavior slide because they don't want to deal with the possibility of losing an employee. But sometimes this approach can let the situation get out of control.

First, what usually happens is that at some point frustrations reach a peak, and management decides to make an example of someone. Feelings are hurt all around, and the situation is messy and ugly. (And at this point, the company might also face potential lawsuits.) Next, other employees figure out that in the wake of this blowup, management won't be holding anyone else accountable (at least, not for a while). So some employees will start testing the system. And the more who do so, the greater the negative impact their actions have on the company's culture. This is why it's so important for companies to hold people accountable—from the beginning and all the time.

Start with the managers. If a manager is concerned about the amount of work he or she will have to deal with if employees are held accountable for their actions and fired, assure him or her that a plan will be put in place to ease the transition. Priorities can be rearranged and deadlines can be adjusted to make sure the work gets done without placing undue burdens on anyone.

As soon as managers stop holding employees accountable, the game changes. One day, employees are getting away with not following attendance policies. And the next day, they might start exploring ways to get away with not following other policies—behavior that could undermine the company's survival. Companies that don't want to get to this point need to enforce their policies and hold employees accountable. ■

Sharlyn Lauby is the author of HR Bartender (www.hrbartender.com), a friendly place to discuss workplace issues. When not tending bar, she is president of ITM Group, Inc., which specializes in training solutions to help clients retain and engage talent. She can be contacted on Twitter at @HRBartender.

The Value of a People-Centric Workplace

BY KIM PETERS

Because people make up the heart of every organization, the most important investment an organization can make is in its employees. Even as technology advances and capital shifts, it is a company's leadership and the individual contributions of its employees that ultimately set that organization apart from its competitors. Research consistently shows that organizations with thriving workplace cultures tend to grow significantly faster than those that lack such cultures. To learn valuable lessons on how to build an organizational strategy that puts employees at the center, take a look at the practices of some of the most successful companies.

A THRIVING WORKPLACE CULTURE CAN YIELD DIVIDENDS

Organizations should be careful not to underestimate the power of a strong, positive company culture. Consider Ruby Receptionists, a virtual receptionist provider and winner of the Best Small Workplace award from Great Place to Work for the past three years. In 2015, the company nearly doubled its staff and raised $38.8 million in private equity while strengthening the people-centered culture behind that success. For example, it bumped the minimum hourly pay to $15 per hour (with a raise at an employee's six-month mark and annual increases thereafter). This improvement, unique perks (including five-week sabbaticals every five years with the company), and activities such as holiday galas, onsite fitness classes, movie nights, and happy hours inspired 94 percent of the employees surveyed to call their company "a fun place to work" and (perhaps more importantly) 95 percent of them to report that "people care about each other here."

Great workplaces foster an environment of communication, fairness, respect, and trust while creating opportunities for people to grow as employees and as individuals. At the enterprise software company Atlassian, for example, 98 percent of the employees surveyed said they're proud to tell others where they work, and the same number said they can count on their leaders to act with integrity. These figures reflect the employees' fundamental confidence in the organization, a sentiment that transcends the goodwill already instilled by benefits and perks, such as premium or free health insurance and paid days off for volunteering. Clearly, Atlassian's people-centered approach is working: even in a highly competitive market for tech recruiting, the company's staff grew by 80 percent in a single year, and in late 2015, the organization filed for an IPO at an estimated valuation of $3.3 billion just 13 years after its founding.

GREAT CULTURE = GREAT TALENT

In investigating turnover rates, Great Place to Work found that in the organizations it recognized as the best small and medium workplaces in 2014, early voluntary turnover averaged just 8 percent, compared to 21 percent in similarly sized companies nationwide. In other words, organizations regarded as having happy employees and great cultures not only attract valuable talent but also do a better job of retaining it.

Although those recognized companies cover a wide range of industries (including construction and financial services, for example), five years of survey data show consistent improvement in areas such as fairness and respect for employees' lives outside the workplace. Between 2011 and 2015, positive responses to the survey statement "managers avoid playing favorites here" increased 2.8 percent to an average of 83.3 percent of surveyed employees at leading small- and medium-sized companies. During the same period, the number of employees saying they enjoyed a good work-life balance also increased 2.8 percent to 89.4 percent of those surveyed.

In the near future, an organization's reputation among both its current employees and its candidate pools will increasingly affect its bottom line. In 2014, CEOs surveyed by the Conference Board placed addressing human capital shortages at the top of their priority lists, and by 2020, the McKinsey Global Institute estimates that the U.S. will have a shortage of 1.5 million college and master's program graduates.[1,2] In today's employment market, candidates are increasingly approaching potential jobs in the same way consumers approach potential purchases: by reading reviews and conducting research online. And as such information becomes more readily available, a candidate's decision to choose a workplace will be increasingly influenced by factors such as the company's reputation, its treatment of employees, and the individual's personal connection to the organization's mission and purpose.

1. Charles Mitchell et al. 2014. "CEO Challenge 2014." Conference Board research report. www.conference-board.org/retrievefile.cfm?filename=TCB_R-1537-14-RR1.pdf&type=subsite.
2. James Manyika et al. 2012. "Help Wanted: The Future of Work in Advanced Economies." McKinsey Global Institute discussion paper. www.mckinsey.com/global-themes/employment-and-growth/future-of-work-in-advanced-economies.

HOW TO MEET (AND EXCEED) EXPECTATIONS

Consider using an assessment (such as the recognition program at Great Place to Work) to help your business measure employee experiences across a range of critical areas and using the results to help shape leaders' plans for building a high-trust culture. Earning certifications related to employment practices can also boost an organization's credibility among job applicants and provide marketing and branding opportunities through published employer rankings. If your organization isn't quite "great" in the eyes of its staff, this type of analysis can provide important benchmarks for year-to-year improvement and comparison with the country's most beloved employers. Even implementing an informal program that seeks regular feedback from employees on their experiences can exponentially increase trust within an organization.

Not every company has the resources to award vacation destination retreats or huge holiday bonuses. But great culture doesn't depend on perks and programs; rather, it arises when an organization prioritizes building trust, showing true care for employee well-being and experience, and following through on employee feedback. These practices drive meaningful changes in communication, management interaction, professional development, and camaraderie—all components that further employee engagement, retention, and growth. ■

Kim Peters leads the recognition program at Great Place to Work, which offers companies the opportunity to measure and build a high-trust workplace culture, get certified and reviewed as a great workplace, and be eligible for high-profile employment rankings, including the list of Fortune 100 Best Companies to Work For. She can be reached at kpeters@greatplacetowork.com.

Hiring for "Fit" May Lead to Legal Problems

BY MICHAEL HABERMAN

Staffing and HR experts generally agree that it's important for most people hired into an organization to have a good "fit" with that organization's culture. But if "fit" is assessed solely on subjective terms, the company could be headed to court—and lose the case. In the 2014 case of *Abrams v. Department of Public Safety*, for example, a minority job applicant (Abrams) challenged the hiring supervisor's claim that a nonminority applicant would "fit in better" in the position. The U.S. Court of Appeals for the Second Circuit found that even though this statement did not specify any ethnicity, it was sufficient to create "circumstances giving rise to an inference of discriminatory intent" and therefore sent the case back to the lower court "for further proceedings consistent with this opinion."[1]

WHERE "FIT" DOESN'T WORK

Companies that use the term "fit" to describe a subjective assessment of the likelihood that someone will mesh well with the organization are walking on thin ice. Yet companies do this all the time. Unfortunately, personal subjective assessments are influenced by personal biases, which in turn are often informed by discrimination and prejudice. Anyone who claims not to be biased is lying: *all* people have biases. In assessments based on cultural factors, prejudice manifests in statements such as "This older candidate would not fit in with a younger group," or "This woman would not fit in with all these men," or "This white person would not fit in with our all-black staff." That is the major problem with a subjective evaluation of cultural fit: it is quite often based on negative notions about a legally protected category of people.

WHERE "FIT" DOES WORK

Companies don't need to abandon their quest for "fit" though. Evaluating candidates for "fit" can still be a valuable hiring tool as long as it's based on an objective assessment of the organization's culture. Does the company culture emphasize hard work, dedication, a willingness to go the extra mile, an attention to detail, a passion for the job, innovation, teamwork, or kindness and consideration? Anyone of any ethnicity, age, sex, or national origin can possess these cultural attributes.

HOW TO MEASURE "FIT"

A number of assessments are available to provide companies with the tools they need to identify the components of their cultures. The first step is to establish a baseline by requiring members of the organization (either all of them or just a sample) to take the assessment. Once that baseline is defined, the company can then use the assessment as a tool in the hiring process. Finding the baseline first undermines the credibility of any claim that the organization's hiring criteria based on "fit" are subjective.

WHEN TO IGNORE "FIT"

During the hiring process, sometimes a company will need or want to ignore whether a candidate will "fit" with its culture. For example, hiring a maverick or rabble-rouser can shake things up and inspire or motivate the rest of the employees. With a baseline assessment in hand, a company can make hiring decisions based on objective criteria rather than on subjective determinations.

A FINAL THOUGHT

In his analysis of *Abrams v. Department of Public Safety,* one labor and employment law attorney writes that it "plainly illustrates the vulnerability of employment decisions based upon ambiguous, subjective judgments and shows the ease with which these decisions can be attacked and challenged."[2] Naturally, in any hiring process, it's important for companies to assess candidates based on "consistent, measurable, job-related criteria whenever possible" (as that attorney concludes).[3] Companies that use objective cultural assessments to remove the subjective components of hiring may save themselves some legal trouble down the road. ■

Michael Haberman is cofounder and senior HR consultant of Omega HR Solutions, Inc., which offers compliance reviews, wage and hour guidance, supervisory and managerial training, strategic guidance, executive advisement, and more. He also contributes articles to the Blogging4Jobs website. He can be reached at mhaberman@omegahrsolutions.com.

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2. Robert LaBerge. 2014. "A Hiring Supervisor's Subjective Judgment That the Selected Employee Would 'Fit in Better' Could Create an Inference of Discrimination." *JD Supra Business Advisor.* www.jdsupra.com/legalnews/a-hiring-supervisors-subjective-judgmen-87835.
3. Ibid.

Forward Filling as a Talent Management Strategy

BY BRIAN FORMATO

In every company, regardless of its industry or its size, turnover is inevitable. For example, some people leave voluntarily to pursue better jobs, to retire, to care for loved ones, or for myriad other reasons within their control. Sometimes, turnover results when companies replace underperforming employees with potentially higher performers (a practice that's become popular among many organizations). Conceptually, the pursuit of high performers makes a lot of sense, but companies often fall short in their execution of this staffing strategy.

For example, at a meeting with his HR and communications staff, Ben, the company president, expressed his strong belief that the organization did not have the right talent to meet its current and future needs. One of the HR leaders mentioned backfilling a key position—the usual strategy for this situation. Ben, who was frustrated with the company's slow pace of change, took issue with the term "backfill" because it meant that the organization would seek someone with the same skill set and capabilities as his or her predecessor in that position. Ben wanted his team to focus instead on moving the position forward by filling all openings with talent that was even better and *more* capable. In other words, he wanted his organization to "forward fill" its positions.

Forward filling requires a new approach to filling an open position. Rather than look at the existing job description, HR should challenge the hiring manager to start with a blank job description and answer the following questions:

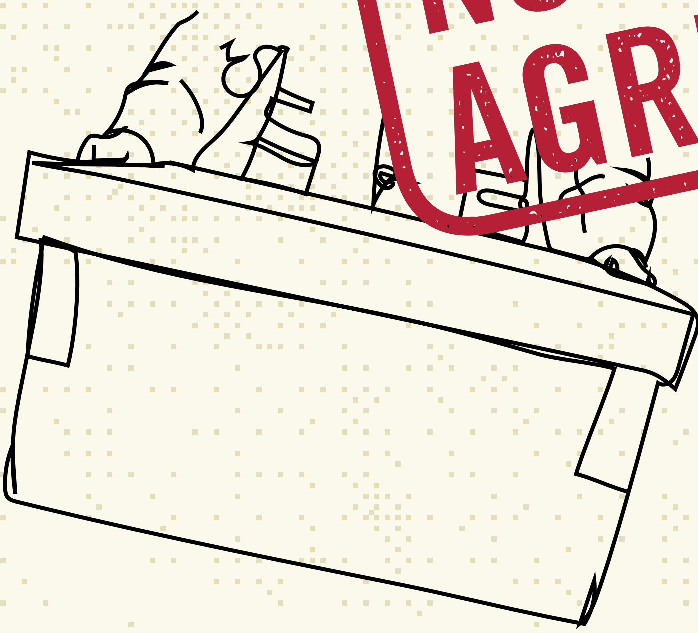
- What work needs to get done?
- What are the success metrics for the role?
- What traits or characteristics should a stellar performer possess?
- What knowledge and skills are needed for success?
- What were the incumbent's shortcomings?
- Where do we typically look for candidates for this type of role, and where (including outside of our industry) would we look if those usual sources were off limits?

With these questions in mind, HR can build a new job description that enables the company to forward fill the role (and not just backfill it).

For forward filling to be effective, both the hiring manager and the HR business partner must have a different mindset as well as a different skill set. The latter can be developed through practice: for example, companies can start by removing the term "backfill" from their lexicon and replacing it with the term "forward fill." Organizations that begin to move forward through talent rather than stagnate or move backward may be surprised by the results! ■

Brian Formato is the CEO and principal at Groove Management, an organizational development and human capital consulting firm focused on helping individuals and organizations maximize their strengths in order to achieve superior performance. To find out how he can help your organization learn how to forward fill positions, contact him at bformato@groovemanagement.com.

Best Practices: How to Handle Exiting Employees with NONCOMPETE AGREEMENTS



BY JONATHAN KRAUSE

Spring is bonus season in many companies, and employees who've been waiting for that compensation before resigning are now starting to give notice and pursue new opportunities. Inevitably, many departing employees are heading for competitors, potentially in positions that may run afoul of restrictive covenant agreements (RCAs) with noncompete and nonsolicit provisions and put your organization's trade secrets and client relationships directly at risk. Just as employers need to respect any RCAs that come with new hires (see the March/April 2016 issue of this magazine), they also need to make sure that their own RCAs are enforced. Although each situation is unique, the following best practices can help you handle the departure of employees who have RCAs with your company.

1 PROMPTLY NOTIFY YOUR COMPANY'S HR AND LEGAL DEPARTMENTS.

This may seem to be an obvious course of action, but it's one that many organizations fail to take—in which case, departing employees have unfettered access to key business information for days (or weeks) post-notice without any evaluation of the risk such access poses to the company. Having processes in place to immediately notify the HR and legal departments of a resignation allows the company to:

- treat resigning employees consistently;
- quickly determine whether there is an agreement restricting post-employment activity; and
- assess and take steps to mitigate any potential harm resulting from an employee's departure.

Whatever action the company chooses to take regarding the remainder of the individual's employment there should be based on informed communication with HR and legal staff.

2 RESTRICT ACCESS TO SENSITIVE COMPANY INFORMATION.

In the weeks before an employee heads to a competitor, the company should be sensitive about exposing him or her to real-time strategic and confidential information. Even people with the best intentions cannot forget what they're exposed to immediately before resigning, so giving them sensitive data during that period increases the likelihood that a competitor will benefit from that information. Also, if a company files a lawsuit to enjoin an employee's subsequent employment, judges will want to see that the company took reasonable steps to protect its information after it was put on notice of the potential harm. There are circumstances under which restrictions are impractical or business necessity trumps the potential harm (such as transitions of customer accounts or projects). But even in those situations companies should consider exposing the departing employee only to necessary information. The goal is to protect the organization's confidential information and strengthen its position to enforce its agreements as needed.

3 LEARN WHAT YOU CAN ABOUT THE EMPLOYEE'S NEXT JOB.

Not every employee departure exposes company trade secrets or customer relationships; nor does every departure necessitate litigation. Some employees will move into new industries or markets or into new roles that do not put the company at significant risk; others may be underperforming employees with whom the company is happy to part ways. Whenever employees leave for positions elsewhere, though, companies should try to get as much information as possible about the new jobs so they can make informed decisions about how to proceed. Although a departing employee usually has no obligation to disclose his or her next employer, a refusal to do so may set off a red flag, especially when an RCA is in place. Companies can also gain valuable information via office chatter or social media sites (such as LinkedIn).

4 EXAMINE THE EMPLOYEE'S ELECTRONIC ACTIVITY.

Employees' electronic activities in the workplace can reveal a lot about their plans and intentions. Assuming the company policy permits such a review, the company can examine the following:

- *Company e-mail:* to see if the employee is disclosing or transferring company business information by forwarding information to third parties or to personal e-mail accounts
- *History of file access and portable device usage:* to determine if the employee is suddenly accessing files for no legitimate work purpose or placing files on portable electronic devices
- *Internet browsing history:* to see what sites the employee has recently visited and ascertain if such activity is consistent with what the employee told the company about his or her next job

Such forensic analysis of computer activity can be crucial in determining if the employee is taking business information out the door or being dishonest about his or her next position. This knowledge can radically change how the company assesses the risk of a departure and whether RCA enforcement is desirable or necessary. In doing this sort of research, however, companies need to take care not to overstep their bounds (they must not access personal e-mail!), to preserve the chain of custody, and to be careful not to alter the electronic evidence. Companies also need to assess whether they have the internal resources to conduct the forensic analysis properly or whether they need to rely on third parties that specialize in this work

5 TAKE APPROPRIATE STEPS TO PROTECT CONFIDENTIAL INFORMATION AND PRESERVE THE COMPANY'S OPTIONS.

After gathering information to assess the level of risk, the company is ready to determine what level of enforcement of the RCA is necessary to protect its interests. Options include:

- commencing litigation with the former employee (and his or her new employer) to enforce the RCA and preclude subsequent employment with a competitor
- negotiating restrictions on subsequent employment that let the employee work for the competitor but with duty- or customer-based restrictions, without resorting to litigation
- reminding the employee of the RCA's obligations via letter but taking no legal action to prevent employment

These options are not mutually exclusive. For example, failed negotiations may result in litigation, and a company may move beyond a warning letter to a more aggressive action if it subsequently determines that an employee improperly took information prior to leaving. Which option to pursue will be shaped by the individualized facts of the specific situation—in particular, what harm the company is likely to experience from the employee's work for the competitor and whether the employee took information out the door.

Whether or not an RCA is in place, there is no one-size-fits-all solution for dealing with key talent departures. But companies can benefit from having processes in place that ensure that key stakeholders are promptly notified of these departures and that they acquire the information needed to assess how best to preserve the company's rights. Thinking through—and planning for—departure issues before they arise will allow companies to better protect their trade secrets. ■

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MUST I GIVE MY EMPLOYEES TIME OFF TO VOTE? & CAN EMPLOYEES BRING THEIR DOGS INTO THE OFFICE FOR EMOTIONAL SUPPORT?

BY STRATEGIC HUMAN RESOURCES, INC.

Q. Do I have to give employees time off to vote?

—

A. Although technically no state (or federal) law requires employers to grant paid or unpaid time off so their employees can vote, the wording of some guidelines may prompt you to do so. Many states say that employers do not have to allow time off for voting as long as the employee's regular schedule provides "sufficient" time to vote. But what is "sufficient" can vary based on the state and sometimes even the election. Therefore, the safest thing to do is to give employees a reasonable amount of time off to perform this civic duty during work hours.

Q. An employee is requesting that we allow him to bring his dog to work for emotional support after a difficult life event. Are we legally required to allow this?

—

A. The legal aspects of this situation fall under the Americans with Disabilities Act (ADA). Animals that are defined as providing companionship or emotional support to their owners are not protected under that law. Service animals, though, are allowed under the ADA. But the ADA defines a service animal as one that performs specific tasks directly related to a person's disability (reminding someone to take a medication, pressing elevator buttons, sending for help, etc.). Animals that provide emotional support do not fall within that category. (Further details are available on the ADA website at www.ada.gov.) ■

Strategic Human Resources, Inc., is a national full-service HR management firm based in Cincinnati, Ohio. Its president and founder, Robin Throckmorton, can be reached at robin@strategichrinc.com.

WATER COOLER CHRONICLES:

TALKING ABOUT POLITICS IN THE WORKPLACE

BY MIKE MCKERNS

IN THE UNITED STATES, WE ELECT a new president every four years—which means that every four years controversy and heated debates fill the airwaves and the Internet. As the 2016 election approaches, the political discourse seems more divisive than ever. Although it's impossible to keep political conversations out of the office, it's still the employer's responsibility to maintain a comfortable workplace free of harassment.

Keep in mind that the First Amendment applies only to government censorship of speech. Although some states do provide protection for employee political expression in the workplace, in any state, an employer *can* discipline an employee for legitimate, business-related reasons, even if the conduct involves political expression at work. If their heated discussions at the watercooler are cutting into your employees' time on the clock and preventing them from completing projects, the existence—but not the content—of those conversations can certainly be grounds for termination (just remember to document their activities). Also, because many of these discussions involve controversial topics about which people have strong personal feelings (religion, immigration, women's rights, etc.), it's possible that the tone and content of such conversations could escalate to the level of harassment and become grounds for termination.

What about open displays of support for a candidate or issue (such as "Feel the Bern" T-shirts or "Make America Great Again" hats)? It's generally acceptable to ask employees (especially those in client-facing roles) to refrain from public displays of personal causes or issues in the workplace. One thing to keep in mind, though, is that under the National Labor Relations Act, it's illegal to prohibit employees from displaying union insignias at work. So although you're legally allowed to ask employees not to wear "Feel the Bern" hats, you may want to think twice before asking them to remove their "Teamsters for Trump" caps.

Personally, I'm a huge proponent of open expression of political views at work *unless* that expression creates a negative interaction with a client or creates a hostile work environment for other employees. I believe that political discussions among employees are healthy social interactions—until they're not. When they cross the line over to disruption or harassment, it's the responsibility of managers and HR to step in. Ideally, the solution should focus on deescalating tensions, with disciplinary measures taken only in extreme cases. ■

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GARLIC SCAPE SOUP

Thanks to the global supermarket supply chain, it's possible to find nearly every fruit and vegetable imaginable at any time of the year. (True, if you really want to have a fresh pomegranate in mid-July, you'll probably pay through the nose for it—but at least you can still find it.) But one produce item is in season for only two or three short weeks in late spring and usually can't be found in stores: scapes, the immature flower stalks of garlic plants. In appearance, scapes look a bit like very thick chives; in taste, their unique and bold flavor brings to mind garlic-infused asparagus. You'll probably have to hunt for them at a local farmers' market (or grow them yourself), but it's well worth the effort to procure some. This simple yet delicious soup is sure to make you a scape convert, and after just one taste, you'll already be looking forward to next year's scape season!

YIELD: 4 servings
TIME: about 30 minutes

NUTRITIONAL INFO PER SERVING:

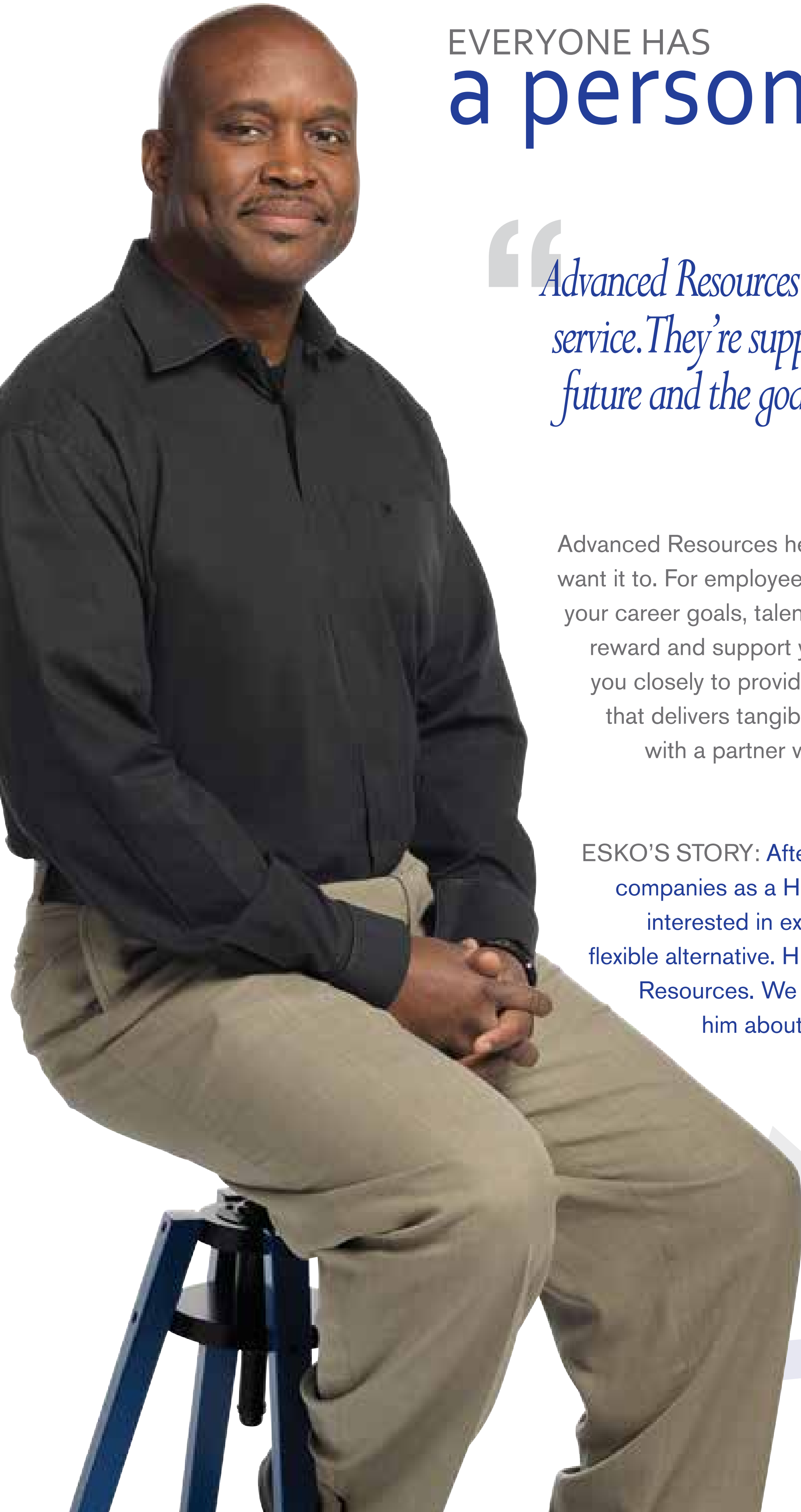
Calories:	292 cal
Fat:	17 g
Dietary fiber:	8 g
Sugars:	5 g
Protein:	11 g

WHAT YOU'LL NEED:

3 Tb unsalted butter
2 lbs garlic scapes, cut into 1-inch pieces
1 ½ tsp fresh thyme
1 large Yukon Gold (aka "butter") potato, peeled and diced
1 qt vegetable broth
1 cup half and half
1 tsp freshly squeezed lemon juice
salt and pepper to taste

DIRECTIONS:

1. Melt the butter in a large saucepan over medium-high heat. Add the scapes and thyme, and sauté until the scapes soften a bit, about 5 minutes.
2. Add the potato and broth, and then simmer over low heat for 20 minutes.
3. Stir in the half and half, and then puree everything (with an immersion blender or a regular blender).
4. Stir in the lemon juice, and then season with salt and pepper to taste. ■



EVERYONE HAS
a personal story.

"Advanced Resources is not the cliché temp service. They're supportive of me and my future and the goals that I want to set."

Esko Peterson

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ESKO'S STORY: After years serving a number of great companies as a Healthcare Recruiter, Esko became interested in exploring temporary work as a more flexible alternative. His friend recommended Advanced Resources. We met with Esko and after talking to him about his skills and goals for the future, we found him an opportunity that provided the best of both worlds: a Healthcare Recruiter role on a temporary contract basis. And he must be doing a good job, the client has discussed opportunities with Esko to continue with the company.

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