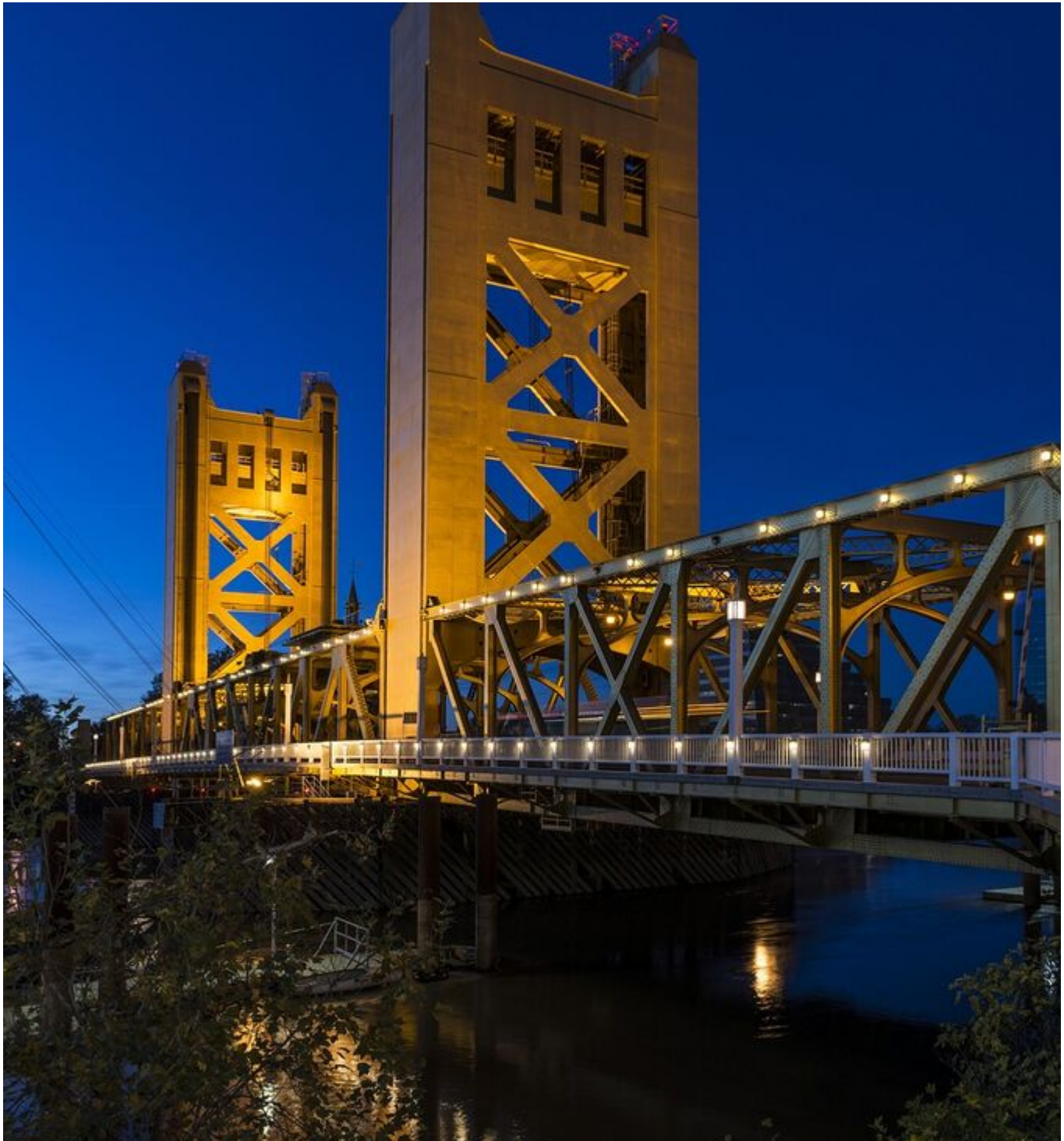


ONE VOICE



QUARTERLY NEWS FROM THE CALIFORNIA STATE COUNCIL OF SHRM
SEPTEMBER 2019

ONE VOICE

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CALSHRM GOVERNMENT RELATIONS UPDATE

ANOTHER CALIFORNIA LEGISLATIVE SESSION WINDS DOWN

The 2019 California Legislative Session drew to a close with the expiration of the September 13th deadline to pass bills and forward them to Governor Gavin Newsom.

Overall, this session was quite active as there have already been several bills already signed into law, including laws to:

- Delay the new harassment training deadlines for smaller employers and non-supervisory employees from January 1, 2020 to January 1, 2021 and to clarify that employees who received sexual harassment training in 2018 need not be re-trained in 2019 (SB 778);
- Amend the Fair Employment and Housing Act to preclude racial discrimination related to hairstyles (SB 188);
- Update the requirements and procedures for reporting serious workplace injuries (AB 1804 and AB 1805).
- Require employers provide additional notices related to deadlines for flexible spending accounts (AB 1554); and
- Prohibit employers from requiring employees to bring their mail in election ballots to work (AB 17).

The legislature also passed and forwarded to the governor a number of employment-related bills, including bills to:

- Prohibit mandatory pre-employment arbitration agreements for FEHA and/or Labor Code violations (AB 51);
- Amend the Labor Code to preclude discrimination or retaliation against sexual harassment victims and their family members (AB 171);
- Extend the statute of limitations for FEHA claims from one to three years (AB 9) and for Labor Code claims from six months to two years (AB 403);
- Codify the California Supreme Court's Dynamex ruling regarding independent contractors while identifying various exemptions (AB 5);
- Require employers to provide up to an additional thirty days of unpaid leave for organ donations (AB 1223);
- Further expand workplace lactation accommodation requirements (SB 142);
- Amend the California Consumer Privacy Act to temporarily exclude information gathered by employers in the employment context (AB 25); and
- Prohibit so-called "no rehire" provisions in employment-related settlement agreements (AB 749).



Governor Newsom has until October 13, 2019 to sign or veto these bills. A complete overview of the already-enacted laws and bills being considered by Governor Newsom is available on the CalSHRM website at: <https://www.calshrm.org/one-voice-newsletter.html>

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SHRM CERTIFICATION: A VARIETY OF OPTIONS



WHY SEEK SHRM CERTIFICATION?

Earning your SHRM-CP or SHRM-SCP credential makes you a recognized expert and leader in the HR field—and a valuable asset to your organization, keeping you and your organization more competitive in today's economy. This professional distinction sets you apart from your colleagues, proving your high level of knowledge and skills.

COMPETENCY-BASED

The profession is no longer just about what you know—facts and figures—but rather how you effectively implement that knowledge in the workplace each and every day. SHRM certification provides you the opportunity to prove not only what you know but also how you can apply that knowledge on the job.

RELEVANT

SHRM certifications directly link to on-the-job scenarios and realistic work situations. Seventy-three percent of examinees say the SHRM-CP and SHRM-SCP exams are HR job-relevant.

UNIVERSALLY APPLICABLE

Built upon one comprehensive SHRM Body of Competency and Knowledge™ (SHRM BoCK™), SHRM certification is applicable across industries, geographic borders, job responsibilities and career levels

FOCUSED ON ADVANCEMENT

More than 5,000 employers are seeking SHRM credential-holders every month. The SHRM-CP and SHRM-SCP credentials are based on the current HR landscape, focusing on the competencies and knowledge HR professionals need to lead in today's business community. Boost your confidence to take that next step in your HR career or to distinguish yourself in a job search.

STRATEGIC

Based on in-depth research focused on—and backed by—global employers and business leaders, the SHRM-CP and SHRM-SCP credentials reflect what HR practitioners need to know to be leaders in their organizations and in the profession.

ACCREDITED

The SHRM-CP and SHRM-SCP exams are accredited by the Buros Center for Testing, asserting that the HR credentials meet the highest standards in testing. [Learn More.](#)

BACKED BY SHRM

SHRM certification is the only HR certification offered by the world's largest HR membership organization. As the industry leader in HR professional development, SHRM has supported more than 100,000 employers representing 140 million employees worldwide.

Register for Training Today: <https://www.calshrm.org/calshrm-events.html>

THE MANAGERS EMPLOYEE ENGAGEMENT CHECKLIST

A MANAGER'S GUIDE TO EMPLOYEE ENGAGEMENT BY NOTED AUTHOR & SPEAKER KEVIN SHERIDAN

Gallup's recent State of the American Workplace Study highlighted the single greatest thing you can do to increase employee engagement: hire the right managers. In fact, the study said that if you hire a manager who is disengaged, the workgroup they manage is three times more likely to be disengaged.

So even if you hire the right, highly engaged managers, they still need to know, and do, the most effective things to bring their work group to higher, and hopefully best-in-class, levels of engagement. And even if they know these engagement management "to dos," they often forget to implement them, or execute them consistently.

So why not give them a checklist? The Management Employee Engagement Checklist has been used by hundreds of organizations worldwide, with great success.

Have you:

- Put a reminder in your outlook calendar to carve out one hour each week to recognize employees who do great work or accomplish great outcomes?
- Had a Career Development conversation with each of your direct reports during the last quarter?
- During this conversation, did you ask them where they wanted to be in six months or a year and offer them help to achieve that career objective?
- Also during this conversation, did you ask them what things get them passionate and excited about doing their job? Conversely, did you ask them what things disengage them while at work?
- Did you ask them what their passions and hobbies are outside of work, showing a genuine interest while listening to their response? On a related note, the next time they do great work, give them a gift related to that passion or hobby (such as a paperback book).
- Give your direct reports access to a free resource which will empower them to privately see how engaged they are, as well as get suggestions on what they can do to become more engaged. Here is a link to such a free resource.
- Given them clear instructions and your expectations on what outcomes they should accomplish in their job?



- Encouraged them to review a list of reflective questions to ensure they are in a job/role about which they can get excited and passionate? Here is a link to a free resource.
- Found ways to insert more FUN into your department and workplace culture?

This checklist will prove useful to ensure that your managers are fully leveraging the key drivers of employee engagement. It is a best practice that managers should review this checklist every month. Let it work for you and your team!

Kevin Sheridan is an internationally-recognized Keynote Speaker, a New York Times Best Selling Author, and one of the most sought-after voices in the world on the topic of Employee Engagement. For six years running, he has been honored on Inc. Magazine's top 100 Leadership Speakers in the world, as well as Inc.'s top 100 experts on Employee Engagement. He was also honored to be named to The Employee Engagement Award's Top 101 Global Influencers on Employee Engagement of 2017.

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LAWYER VS PRIVATE INVESTIGATOR

MAKING THE RIGHT CHOICE WHEN INVESTIGATING
BY JACK FRIEDMAN, ESQ.



When possible employee misconduct comes to your attention, what should you do? Investigate it, of course. But it is not always easy to determine who the best person is to do the investigation. Many complaints can and should be handled in-house. But what if the possible violation is serious? Or involves multiple employees? Or concerns confidential information? In these situations you may find yourself reevaluating whom you would like to do the investigation. Is your in-house team qualified to handle this type of case? Do you want in-house staff to have to testify if it ends up in litigation?

After careful consideration, you may decide to hire an outside investigator. It's often the smart move. A lawsuit is possible, but hopefully can be averted with a fair and impartial investigation. An outside investigator will be viewed as less biased and more objective than if you handle the matter in-house. With the right investigator, the whole picture of what happened will be brought to light. The company will be able to evaluate its potential liability and determine its best course of action. And, if litigation cannot be avoided, a quality investigator will have gathered all the pertinent evidence and will be a solid, credible witness at trial. But which expert should you hire, an attorney or a private investigator? Both professions have a lot to offer, but each also has their limitations. Let's explore some of the pros and cons.

Attorneys

Strengths:

Legal expertise. First and foremost, any investigator, whether an attorney or private eye, should be well-versed in federal and state employment laws, else they will not be ready to ask the appropriate questions. An employment lawyer has an advantage over many private investigators because s/he will be up to date on the latest developments in the law. The lawyer will know nuances a private investigator may not be aware of.

Prepares for a lawsuit. By virtue of their training, attorneys are always thinking of the possibility of defending their client in court. This mindset will lead a lawyer to ask questions carefully, and collect evidence and documents properly so that they will be admissible in court.

Detail-oriented. Lawyers as a profession are sticklers for details. Many private investigators, on the other hand, are former law enforcement detectives who are used to handling caseloads in the dozens, if not hundreds; they have become adept at getting to the "important" facts, evaluating the case, and moving swiftly on to the next one. While this approach is very useful in prioritizing which cases to focus on, with a civil case involving complex issues or great exposure, it may be better for your company to hire a lawyer who will leave no stone unturned.

LAWYER VS PRIVATE INVESTIGATOR CONT.

Weaknesses:

Bias, or at least the appearance of it. Lawyers are trained to be advocates for their client's interests. They explain to a judge the good reasons an employer had for handling a situation as it did, to highlight the facts most favorable to her client, etc. But being an advocate is the last thing an employer needs from its investigator. In court, an investigation is judged by how fair, impartial and complete it is. Your investigator must be scrupulously careful not to make statements that suggest a preference for any party. She must gather all of the evidence - especially correspondence and witness statements - even if some of it conflicts with other witness statements, or makes it more likely the employer will be liable.

Attorneys, though, are in the habit of "making the case" for their client. If hired as an investigator, it is often difficult for a lawyer - even the best-trained - to take off her advocate's hat and don the impartial investigator cap. This issue can crop up when interviewing a witness. A good investigator will begin with open-ended questions and follow up with more detailed ones based on the witness's answers. Some lawyers, though, will instead ask leading questions designed to elicit answers favorable to the "client" because, well, that's what lawyers are trained to do. Unfortunately, this approach creates the appearance the attorney is tilting the investigation in favor of the employer.

Giving a legal opinion instead of just gathering evidence. Lawyers are usually paid to explain which laws apply to a situation, why, and what the result will be (e.g., will the company be found liable?). But an investigator needs to refrain from analyzing or explaining. An investigator gathers evidence so that it will be admissible and relevant in court, and nothing more. That requires a level of restraint that is often tough for an attorney.

For example, an employer recently hired an expert attorney to investigate a gender discrimination complaint by an employee who had been passed over for promotion. What if, after conducting several interviews, the lawyer sent an email to the plaintiff's counsel saying he was now "very confident" the employer had not discriminated against the employee based on gender? This would be a critical mistake. His email would be Exhibit A at trial, where the plaintiff's attorney would argue it shows that the supposedly impartial investigation was a sham and the investigator-attorney was really just another defense lawyer for the employer.

Advocates give opinions and make conclusions; good investigators never do. It is essential for an investigator to withhold her opinion and simply report the facts. A skilled investigator will elicit the important facts that make or break a case. But an investigator should never draw conclusions, even if the result is obvious. Facts should speak for themselves.

They can make poor witnesses. Lawyers are trained to cross-examine witnesses, not to be cross-examined themselves. The two roles could not be more different - a good cross-examiner controls the topics, pace and tone of the testimony; the witness's job is to answer truthfully and carefully, and to keep a professional demeanor, even if the cross-examiner is trying to provoke or trap the witness. Both are challenging roles, and it takes practice and experience to do either one well. Before hiring an attorney, ask him how many times he has testified as a witness. And then follow up to find out what the result was.

LAWYER VS PRIVATE INVESTIGATOR CONT.

Private Investigators

Strengths:

They generally make good witnesses. Many private investigators are former police officers or federal agents, and these investigators in particular have a lot of training and experience testifying in court. They know how to present themselves professionally, how to listen to a question and answer it accurately and succinctly (it's harder than you think!), and how to stay composed under pressure (testifying in court is highly stressful).

They are used to giving statements under oath. They understand their role is to present evidence regardless of how it impacts a case. They know not to comment or give their opinions.

They are trained and experienced interviewers. Investigators with law enforcement backgrounds will have had extensive training in how to conduct an interview to get information from the person being questioned; for example, many are trained in the Reid Technique or the PEACE method used in the United Kingdom.

More important, veteran investigators will have hours and hours of actual experience questioning dozens, if not hundreds, of witnesses, victims and suspects. They know how to build rapport and talk to people at their level. Lawyers are trained to question witnesses on the record and under oath. While this legal training is good for getting precise answers (a very important skill), it can make a witness uncomfortable and unwilling to volunteer information. A former police detective will often be better at getting a person to open up and talk more freely.

They are trained observers. Many investigators will have been trained to watch for signs of deception, reluctance, resistance and other forms of non-verbal communication. These observations are extremely valuable because they give the investigator clues for follow up questions and topics to focus on. Attorneys rarely have training in this area.

Weaknesses:

They may not be as thorough. Investigators often come from a background where they had dozens of cases to investigate at the same time. They have had to triage their caseload just to get through the mountain of work. As a result, these investigators are excellent at prioritizing cases and getting to the crucial facts. But if you have a complicated matter or one that will be scrutinized carefully, you may want to ask to see an example of the investigator's prior reports to see how thorough she is.

They may not know the law well enough. Former law enforcement officers are experts in the Penal Code, but may not be as well-versed in Title VII, FLSA, or the other civil laws that apply in the employment context.

Though it is not hard to get up to speed on these laws, make sure your investigator has a good grasp of the legal issues before he interviews the involved parties.

In Conclusion

Workplace investigations, if they are to be done well, require an investigator who has a variety of skills — as a legal expert, careful observer, thorough writer, and professional witness. Finding the right investigator can make the difference between hitting potholes or navigating smoothly to the best resolution. For this reason, it is probably better not to wait until the complaint has already landed on your desk to begin your search for an investigator.

Jack Friedman (lawofficeofjackfriedman@gmail.com) is an attorney, and a retired police detective and Internal Affairs investigator. He has investigated hundreds of cases ranging from workplace misconduct to employment background investigations to major felonies, including murder, burglary, narcotics trafficking and officer-involved shootings. During his law enforcement career he testified in court regularly as the investigating case officer.

#LEARNLOCAL

LOOKING FOR LOCAL CUTTING EDGE PROFESSIONAL PROGRAMS? HERE ARE A FEW RESOURCES FOR YOU!

CalSHRM is your California source for professional development and training. With 16 chapters across the state, you don't have to look far to enhance and develop your career.

To find out more about professional development, conferences and activities in your area, [click on the link or images below](#), to be directed to the CalSHRM event calendar, the chapter locator or a conference near you.

California Chapter Locator: <https://www.calshrm.org/chapter-locator.html>

CalSHRM Events Calendar: <https://www.calshrm.org/state-affiliate-events.html>



2019 KC SHRM Symposium - Attendee Registration



BACK TO SCHOOL

CALSHRM HOSTS STUDENT SUMMIT AND CASE COMPETITION 2019

Calling All Chapter Leaders & Volunteers!

CalSHRM, Kern County SHRM and Saba Agency along with CSU Bakersfield are producing the 2019 Student Summit and Case competition to be held at CSU Bakersfield November 8th and 9th 2019. We would love to have visitors and participants from all our chapters. If you know of a team of California students who would be interested in participating and their University/College has a Management Program or an HR Degree or Emphasis and they want to participate, we are open to having them join us.

You can use this as an opportunity to build a bridge of communication with the University/College and students in your neighborhood! They are the HR professionals of the future!

To register your team formally please use our Eventbrite link:

<https://www.eventbrite.com/e/2019-calshrm-student-summit-and-case-competition-tickets-60549824154>

Tom See, Faculty Advisor at CSU Bakersfield, has arranged for us all to be able to use the CSUB room rate at the HomeSuites in Bakersfield. He has secured a block of room, so when you register you will let them know you are eligible for the CSUB rate for the CalSHRM Student Summit!! (See Link below for HomeSuites block)

Judges, sponsors, guests, faculty advisers and team members all need to register on the site. We are looking forward to seeing you there. As school begins, please get your Student Chapter members or any interested teams to apply and save their place!



[HomeSuites booking site click here.](#)

WHY WE STILL CAN'T GET CAREER DEVELOPMENT RIGHT

NOTED AUTHOR & SPEAKER, JULIE WINKLE GIULIONI, DISCUSSES CAREER DEVELOPMENT



Work Institute's 2019 Retention Report reprises a familiar refrain:

"Career development continues to be the leading cause of employee turnover in the US."

Yet again, organizations, talent professionals and leaders have to face the hard data and hard reality that we've still not cracked the code on what matters most to employees: career opportunities. It's not for lack of effort. Companies are investing extraordinary resources in skills training, portals, online systems and processes designed to make this happen. And it all falls short. Here's why.

Dated Definitions

We continue to hold tightly to and perpetuate the illusion that career development operates via the old career ladder, which (in days gone by) allowed for the regular, progressive and consistent movement upward toward increasingly desirable positions.

Unfortunately, the ladder no longer exists. It's been replaced by any number of alternatives that are more organic, flexible and a lot less linear — webs, jungle gyms and the climbing wall. We have to update our definitions and pictures, because as long as we confuse promotions with career opportunities, satisfaction and engagement will suffer.

Problematic Probes

Beginning at a young age, children are asked by well-meaning adults, "What do you want to be when you grow up?" So, from youth, we are conditioned to think in terms of specific roles, titles and jobs. Then, in the workplace, managers inadvertently reinforce this thinking.

Despite organizational realities that limit movement and promotions, managers still routinely ask, "Where do you see yourself in two years?" The alternative to focusing on what people want to "be" is helping them reframe their objectives around what they want to "do" with questions like:

1. What kinds of work would you like to be doing?
2. What do you wish to accomplish and contribute?
3. What kinds of problems would you like to be solving?
4. What in your current role do you love and would like to do more of?
5. Reframing the conversation can reframe expectations. These questions open up a world of possibilities that allow leaders to offer career opportunities and, in the process, drive the satisfaction and engagement that serves the individual and the business.

CAREER DEVELOPMENT CONT.

Lateral Limitations

Silo-based organizations struggle with the one area of career movement that's available despite leaner hierarchical structures and the delaying of the management ranks. Lateral transfers are a natural vehicle for allowing employees to continue to learn, grow and contribute in new ways. Seeing the organization, customers, and work through a different lens offers powerful development that can be energizing and instructive. But, too frequently, managers report that they don't know about opportunities outside of their departments.

Stymied Stretch Assignments

When promotions or moves aren't available, career opportunities are still possible through assignments, projects and other activities that expand capacity and offer the chance to engage in different, interesting experiences. But, given how time- and priority-stretched most organizations and individuals are, it's frequently impossible to take on such challenges without "real work" suffering.

"Organizations must come to terms with the reality that development is real work."

Leaders must master a new competency: the ability to identify and package essential tasks and projects as career opportunities. They must then offer the support and coaching to ensure both individual learning and appropriate business results.

Transparency Trap

When employees (and their managers) can't explain why one person is promoted while another is not, it fuels frustration, speculation, and resentment. Under these circumstances, opportunities seem scarce and unattainable and putting forth continued effort can feel futile. And when this happens, satisfaction and engagement suffer.

Money Matters

The motivation for promotions and moving up doesn't revolve exclusively around development, or even titles, stature and responsibility (all of which are significant). It's also about compensation. Until we find ways to reward learning, the development of new competencies, and expanded in-role contributions, employees will naturally associate career opportunities with income-enhancing promotions – and satisfaction and engagement will continue to suffer.

Satisfaction with career development has been a key driver of engagement for years and will likely continue to be. As a result, it's time for leaders and organizations to finally confront the challenging realities and systemic limitations, and figure out how to offer meaningful career opportunities to employees.

Julie Winkle Giulioni helps organizations enhance learning, engagement, retention, and the bottom line. Her consulting firm, DesignArounds, specializes in enterprise-wide learning experiences and custom training. Named one of Inc. Magazine's top 100 speakers, Julie has traveled from Russia to China to Lithuania and beyond helping leaders around the world help others grow. She's a sought-after speaker for consistently delivering creative insights as well as practical takeaways that change behavior.

To contact Julie or for more of her insights visit: <https://www.juliewinklegiulioni.com>

IT'S ALL ABOUT THE BENEFITS!

EMPLOYERS NEED NEW WAYS TO ATTRACT AND RETAIN TALENT

WHO WANTS COLLEGE 529 PLANS? CALIFORNIA PARENTS

BY: JULIO MARTINEZ, EXECUTIVE DIRECTOR OF THE SCHOLARSHARE INVESTMENT BOARD

Parents are looking to Employers for Help!

When 90 percent of California parents say that helping their kids afford college is one of the most important things they can do as parents, employers should take notice and step in to help. California parents are passionate about helping their kids pay for college – but they need help from their employers to do so, according to the 2019 ScholarShare Emotions Study survey of more than 1,000 California parents with children under 18 who are hoping to help their children pay for college.

With college costs on the rise, families are taking on excessive debt to afford college. Americans collectively owe about \$1.5 trillion in student loans – more than double what they owed a decade ago. Saving in a smart way is critically important, as it can help minimize debt and make affording college a reality.

Parents need their employers to help. Amid rapidly increasing college costs and families taking on more debt, California parents are looking to their employers for help accessing college savings options. Our research shows that:

- 72 percent of California parents would feel more confident choosing a 529 college savings plan if it were available through work.

- 79 percent of California parents say a workplace college savings program shows the firm cares about its employees.
- 83 percent of California parents would be interested in learning more about a workplace college savings program.

Nearly 1,000 California employers are already providing a workplace college savings plan, and more employers continue to do so every day. We support these companies' efforts, and encourage more employers to establish workplace college savings plans to help make college a reality for their employees and their families.

To learn more about California's ScholarShare 529 workplace savings program and how you can offer the plan to your employees, visit www.ScholarShare529.com/employer.

To learn more about four costly mistakes your employees may be making when saving for college – and how they can avoid them – visit www.CollegeSavingsMistakes.com.

For more info contact Julio Martinez. Julio is the executive director of the ScholarShare Investment Board.



IT'S ALL ABOUT THE BENEFITS!

GIVING EMPLOYEES TIME OFF TO STAY ENGAGED. HOW VOLUNTEERING BUILDS ENGAGEMENT!

BY: MIKE MULQUEENY, VP OF BUSINESS DEVELOPMENT, JOHNSON & DUGAN, MMULQUEENEY@JOHNSONDUGAN.COM

Volunteering Time Off

Right now our national unemployment rate is 3.7%—edging towards a 50-year low. With this low rate, companies are actually finding it increasingly harder to hire and retain great talent. One way to combat this issue is by increasing employee engagement through volunteering.

In survey after survey, employees state that they want to work for companies who care for others. In fact, “71% of employees surveyed say it’s very important to work where culture supports volunteering,” according to America’s Charities Snapshot. There are different types of volunteer options when looking to begin a volunteer program at a company. For example, entire companies can come together for a big “Day of Service” event. Or perhaps there is an ongoing need in the community, like Meals on Wheels, and employees sign up to help when needed by the charity. Offering pro bono services to non-profit community groups or donating skills for specific projects are other ways to assist charities in your area.

The issue of time worked and pay typically comes up when talking about employer sponsored/encouraged volunteering. There are a couple different ways that companies structure this. One way is to simply pay employees for their usual time at the workplace even though they are not actually working on company business at the time of the volunteer project. This is typical of big “Day of Service” campaigns during the work week.

Another way is to encourage employees to donate their break or lunch time to complete volunteer service projects. Finally, and this is the emerging trend in employee benefits, is to give each employee Volunteer Time Off (VTO) hours as part of their benefits package.

The benefits of VTO are numerous. One of the biggest values of VTO is that of employee recruitment and retention.

[PricewaterhouseCoopers](#) conducted a survey and the results were that “59% of Millennials gravitated towards companies with pronounced Corporate Social Responsibility programs.” For retention, the value is even higher, “74% of employees say their job is more fulfilling when given the opportunity to make a positive impact at work.” Companies also see a benefit in camaraderie across departments and company hierarchy. Working together towards a common goal builds these interdepartmental relationships. Also, by playing towards strengths unseen in a regular office setting, employers have a chance to discover untapped leadership skills and completely unknown skill sets of employees. Finally, your company’s brand image is boosted by the view of its involvement in the community

Whatever the benefit that your company assigns to a healthy VTO program, be it retention, image, or team building, the fact remains that there WILL BE a benefit. Check out the article at Charities.org on how to make a business case for your company!