Foundations of a Civil Workplace

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Creating a civil workplace is a process requiring clear steps and well-thought-out plans. As with any in-depth project, you can’t meet your objective alone. You need plans, workers, supervisors, proper equipment, knowledge of the environment, and often most importantly, you need someone to track the plans, hold everyone accountable for meeting those plans, and keep the project on schedule.

While this may seem obvious, many organizations make a fundamental mistake when building their workplace cultures. The basics are there—words, policies, mission statements—but the underlying elements that give it strength are missing. It’s not surprising that organizations built this way eventually suffer the consequences of financial losses, damage to reputation, and the inability to compete effectively and successfully.

Astra USA and Outback Steakhouse are prime examples of the damage done when poor organizational practices lead to costly lawsuits and even costlier negative publicity. In the Astra case, the former CEO was forced to pay over $6 million to the company after he sexually harassed Astra employees, leading to a harassment verdict against the company.¹ In the Outback Steakhouse case, the restaurant agreed to pay $19 million to settle a suit by thousands of its employees alleging a “glass ceiling” in its hiring and promotion of female employees.²

What has happened in these and many other organizations is that the leaders have defined their mandates and the successful execution of their duties by only the narrowest criteria. Simply put, their definition of success was more about meeting short-term financial objectives and focusing on how things appear—we issued a policy and posted our mission statement—rather than how things actually are: have we built the foundation for a long-lasting professional, productive, and legal workplace that fosters excellence and bottom-line results? Without the underlying foundation—the leadership and action to give it strength—these organizations are prone to collapse even when threatened by only mildly adverse conditions.

The Plans

How people are trained, treated, retained, and utilized is crucial in virtually all marketplaces. Enterprises that fail to adequately address these issues are at a distinct disadvantage. They lose employees and have to spend time and money to replace them and train new employees. Talented employees go to competing companies, while other talent stagnates and remains under-utilized.

The work environment and the way business decisions are made must support an ongoing commitment to building a fair, productive, legal workplace. And this
commitment must be applied equally to everyone. Organizations that focus on developing and retaining talent and harnessing internal intellectual capital will have a distinct competitive edge. Those that don’t will suffer the consequences.

In light of these business issues, companies must determine whether their policies and processes have been developed and supported as a way to build a more productive, effective work environment or simply as a “necessary evil.” These organizations must articulate specifically how they will operate their enterprises, and they must be able to translate their values into specific day-to-day behaviors. Frequently, mission statements contain broad phrases like the following:

- We will treat people with respect.
- We value diversity.
- We will conduct our business with complete integrity.
- We recognize that employees are our most valuable asset.

Yet when senior executives are asked to explain what these statements mean in terms of daily business behaviors, each person may have a different and sometimes conflicting interpretation. It’s not surprising then that others throughout the organization have no consistent understanding of what those behaviors really mean.

Most companies can recover from human resource disaster with enormous effort and exorbitant expenditures to implement new policies, install new leadership, and rebuild the work culture. Yet prudent leaders realize that avoiding the disaster in the first place makes much better business sense. Why focus valuable resources and efforts on correcting a problem when it could have been avoided in the first place?

Leaders must recognize that the vision needs to be put in place before, rather than after, trouble.

Leadership from the Top

Building a civil workplace always begins at the top. Organizational leaders must design and implement a plan for building a civil workplace. Then they must ensure that all team members understand the plan and why it is in place. Company leadership must also demonstrate their seriousness about and commitment to transforming the work culture. They are then responsible for choosing a management or leadership team that is capable and willing to execute their vision.

Successful leaders use clear, candid language when communicating their vision, and they back it up with specific actions for which team leaders, their direct reports, and others are accountable. To make the message credible and enduring, they must articulate it in their own words and at every appropriate opportunity, including management meetings, company-wide meetings, and other events.

For example, a CEO at a major apparel manufacturer wanted to communicate to his employees that he would not tolerate discrimination and that these weren’t just words—he meant it. The policies and mission statements were in place, but he knew that wasn’t enough. So at a key business meeting, as he spoke of sales issues and performance issues, he also spoke of harassment and discrimination issues. He presented them as a business concern, no different and no less important than sales goals or manufacturing processes. And he didn’t use policies or legal terminology to get his point across; he simply told his employees, directly and in his own words, “There is certain conduct I won’t tolerate, and I don’t want you to, either.” They knew he meant business.
Under former CEO E. Neville Isdell, the Coca-Cola Company faced a $192.5 million race discrimination lawsuit and a great deal of associated bad publicity. However, by instituting monthly diversity training, hiring diverse job candidates, and reaching out to minority vendors, Isdell instead made the company a paradigm of diversity. Current CEO Muhtar Kent, who succeeded Isdell, has continued his innovative approach. As of 2009, the Coca-Cola Company was ranked #9 on the DiversityInc Top 50 Companies for Diversity list and was voted America’s Top Corporation for Women’s Enterprises by the Women Business Enterprise National Counsel.

Building a civil workplace isn’t necessarily complex or difficult; the key is doing it. As Charles Knight, former CEO of the electronics company Emerson and the prize-winning author of a Harvard Business Review article about a company’s inter-workings, has said, “Management usually knows what to do, but for some reason it doesn’t do it.”

It is all too easy to fall into a trap of formulating a vision without backing it up with action. But words and plans are not enough. Enron, for example, had a well-crafted Code of Ethics that included a section on workplace harmony (“Ruthlessness, callousness and arrogance don’t belong here”). Yet when Enron stock prices began to fall, key leaders sold millions of dollars of their own shares while advising employees to buy. They were conducting business in a manner completely at odds with their stated mission and values. This exemplifies the type of leadership that, in simplest terms, is all talk, no action. A leader’s credibility is at stake, and to be effective, he or she must not only have the vision, but tie it to the business, hold others accountable, and put action behind the words.

Leaders must act to correct problems. Too often, leaders learn of illegal workplace behavior but fail to take prompt action to correct the situation. The courts are generally unsympathetic towards a company with leadership that doesn’t act promptly and effectively. In a case against Whirlpool, the company was ordered to pay over $1 million to a female employee who suffered sexual harassment at the company’s plant. Although supervisors received repeated reports of the harassment, no one took action, leading to continued harassment and, ultimately, a large verdict against the company.

A good manager needs his or her team to be comfortable bringing forward concerns early on in order to resolve issues without compromising the integrity of the organization. But employees will not report problems if they don’t trust a manager to address their concerns. True leaders must aggressively pursue the resolutions of troublesome issues if they hope to gain their employees’ trust.

Creating a culture where employees are encouraged to raise their concerns and are protected from retaliation when they do so is integral to the strength of the organization. Unfortunately, many companies do just the opposite by allowing employees who speak up to be bullied, harassed, or ostracized, thus discouraging others from coming forward. This is not only bad business practice, it’s illegal. A jury awarded a $3.1 million verdict to a woman who complained of her employer’s failure to promote qualified women. Her employer only made a superficial investigation of her complaint and shortly thereafter failed to renew her contract, resulting in claims of retaliation and gender discrimination.

In another case, a school teacher received a $1.5 million verdict after being terminated in retaliation for participating in an investigation of sexual harassment committed by a school official.
Beyond the legal ramifications, however, leaders have a responsibility to build a culture that promotes speaking up because it helps the organization as a whole operate fairly and effectively. They must send and support the message that the company rewards honesty rather than penalizes it.

Team Leaders: Executives and Senior Management

Leaders rely on the members of their team to bring their plans and vision to fruition. Executives and senior management spread the vision both through their words and by their example. The most successful team leaders know it’s not about quoting policies or legal regulations; it’s about incorporating the policies, standards, and behaviors into their everyday activities and decision-making. If a team leader undermines the organization’s objectives by ignoring them, failing to learn them, or acting contrary to them, it can devastate the organization as a whole.

Team leaders often don’t realize the power they have simply in leading by example. Employees follow the model and attitudes set by leaders, whether they are positive or not. When senior leaders require employees to attend training on compliance issues but don’t attend themselves because they’re “too busy,” they send a message to the staff that the training isn’t really that important. If they attend the training but joke about the content or belittle the subject matter, the employees will not take the training seriously either. And if they contradict the organization’s standards by making inappropriate comments or by failing to deal with others who do so, they’re sending the message to employees that the organization isn’t serious about those standards.

A Manager’s Responsibilities

So what are the key elements of a manager’s responsibilities? Managers have many of the same responsibilities as the organization’s leadership. First and foremost, managers set the standard and lead by example. In addition, managers also have a responsibility to monitor the behavior and guard the words and actions of all those who interact in the workplace, including other managers, employees, customers, and vendors. They need to know how to respond when they learn of inappropriate conduct, including how to investigate and document workplace events in a legal, consistent manner. They also need to know where to go for help to ensure they are acting consistently with organizational standards and practices. In fact, getting help may be the most important step a manager can take in ensuring a legal, consistent decision is made.

Behaving consistently and professionally in all workplace interactions and decisions is crucial. Managers must be able to make business decisions that align with the organization’s policies and commitment to professional, legal operations. These responsibilities help the organization minimize risk, avoid unnecessary litigation, and build a civil workplace.

Managers also have an important responsibility to foster an environment where employees are empowered to speak up about concerns, whether related to safety, policy, or legal issues. Managers can fulfill this duty through their own actions: encouraging employees to come forward with problems, responding appropriately to complaints, taking action to address them, and supporting organizational policies that prohibit retaliation.
The Legal Perspective
Managers must be guardians of the workplace. As the direct line to employees as well as the public, managers and supervisors have special responsibilities for building and maintaining the workplace. In a variety of areas, the courts have emphasized the importance of the manager’s position: They have said, in essence, that when a manager is made aware of inappropriate behavior, the company is aware of it. So managers need to know what to do when they learn of inappropriate conduct. Such conduct can eat away at the workplace foundation. All too often, behavior that could have been addressed early on is allowed to continue, eventually permeating the core of the workplace culture. Had the manager recognized his or her duty and known how to respond, damage to the workplace environment could have been avoided.

Associates and Employees
You can’t build a proper workplace environment without the involvement of employees. Yet many companies try to do just that: They provide direction and look for results from managers and supervisors while providing minimal if any direction and responsibility to everyone else. They overlook the crucial fact that since employees are the ones who get the job done, it follows that employees also have specific and important responsibilities in creating a civil work environment.

Employee Responsibilities
The organization cannot fulfill its business mission without qualified, skilled employees doing the work and carrying out the mission. They are the core of any business and, as such, have both rights and responsibilities in the workplace. Just as managers have a duty to guard their own words and actions, employees must monitor their own behavior in the work environment. Inappropriate conduct is disruptive to the business and can impact the productivity and morale of co-workers. Employees who monitor their behavior ensures that everyone can focus on the job at hand without unnecessary distractions.

Employees also have a responsibility to work effectively with their fellow employees, regardless of differences in background, beliefs, or personality. Employees can only foster productive work relationships if they treat each other as colleagues working towards a common goal. Finally, employees must be encouraged to speak up when faced with concerns about inappropriate behavior, safety/security, or violations of policy or the law. Employees are often the first to be aware of such issues; by speaking up, they help management stop problems before they escalate. By the same token, employees also have a responsibility to support these efforts by recognizing that when a colleague raises a concern, it is in the interest of protecting the work environment.

Reaching Employees
Employees have specific responsibilities for building the proper work environment, but they need direction to fulfill those responsibilities. How do organizations effectively reach their employees? The successful examples have several common elements, all of them starting with the leadership:

• Leaders express their commitment to workplace initiatives in simple, understandable language and as forcefully as they do with any other serious business initiative.
• They do so in a variety of company communications, including annual reports, periodic memos, postings, e-mails, and in public meetings.
The communications clearly outline specific standards and expectations and the responsibilities of all members of the organization to meet those standards, emphasizing that meeting the standards will be a factor of individual performance.

Leaders allocate resources to communicate their messages throughout the organization, and they keep the message in front of everyone on a regular basis.

Years ago I worked with a power company that was trying to encourage its employees to be more willing to file complaints within the organization rather than outside of it. The steps they followed can be an example to many other organizations striving to improve communication and employee ownership in the task of building a proper workplace. The company made a commitment to welcome all complaints and communicated this commitment to everyone. It provided instructions to every manager and employee about how to raise complaints. Recognizing that employees are the key element in changing the work culture, the organization involved its employees in changing the culture: they were trained on the company message, why it was important, and how they were expected to support it. As a result, both managers and employees understood their roles and responsibilities, and over time, complaints that would have previously been filed with outside agencies were brought up within the organization.

Contrast the above example with the case of a large national retailer that chose to have a company attorney deliver training only to senior executives based on the assumption that this would be sufficient to satisfy legal compliance and minimize risk. In essence, a decision was made to protect a small group of executives from potential liability rather than communicate a standard of behavior or corporate citizenship throughout the organization. Not surprisingly, the retailer has had a number of highly publicized issues arise involving practices at the field level where the bulk of daily decisions are made. Insulating a small group of executives was not effective in keeping them out of the news and protecting the workplace environment.

Learning Content and Methods

Education and training are the most effective tools for communicating a vision beyond the basic. They lay the foundation and give concrete meaning to policies, corporate statements, and other communication devices. In fact, a number of recent cases have shown that failing to provide training on key discrimination and harassment issues may either lead to liability or increase the risk of higher damage awards. In *EEC v. Albertsons*, the grocery chain agreed to pay $8.9 million to settle three lawsuits alleging race, color, and national origin discrimination and retaliation at one of its distribution center. In addition to the monetary settlement, the EEOC required Albertsons to institute a sweeping program of instruction to ensure that management would comply with equal employment opportunity laws. In *Bianco v. Flushing Hospital Medical Center*, a nurse was awarded nearly $15 million in a sexual harassment case after being harassed for a number of years by a doctor, culminating in two sexual assaults in 2001. The hospital that employed the doctor was held liable for half the verdict, or $7.5 million, for failing to train employees on sexual harassment and allowing the creation of a hostile work environment. While a new trial has been granted on the issue of compensatory damages, the case is still a powerful reminder of the need to train employees on sexual harassment.

Even after recognizing the need for training, however, many organizations simply decide to meet that need by
just delivering something—anything. But they may end up implementing a program that either doesn’t engage and reach its audience, isn’t comprehensive enough, doesn’t meet the needs of their workplace climate, or in some other way fails to deliver the results. Organizations must use the right training tool for the job, taking into account the available tools, what each was designed to do, and which would be most effective in getting the job done. Just as you shouldn’t choose a hammer to tighten a bolt, so also organizations shouldn’t choose a training tool that won’t be effective in meeting their objectives.

In essence, though, many organizations “choose the hammer” without considering what they want to accomplish. Many employers say their mission is to provide an inclusive workplace that welcomes diversity, is characterized by professional standards of behavior, and does not tolerate discriminatory and harassing conduct. Of course by realizing these objectives, they will also be increasing the legality of their operations and reducing the risk of litigation and penalties. Very few leaders say their mission is to guard against and prevent lawsuits; yet many choose learning programs that focus on legal obligations, the requirements of the law, and the avoidance of claims rather than their stated mission: to build a diverse, productive, and civil workplace.

Providing information on legal issues is important, but it is not the same as providing specific standards for workplace conduct. The common mistake many organizations make is that they use training as their strategy when, in fact, training is a tactic for implementing their strategy. The organization’s vision is the strategy; training should be a tactical component of that overall strategy.

Similarly, organizations may say that training on workplace standards and corporate citizenship is vital and is, in fact, just as important to the business as achieving sales goals and producing flawless products. However, when they look at learning solutions, they focus not on what will work the best and deliver their desired results; instead, they try to find the cheapest solution or the one that involves the least time away from work. If these are the goals, it is almost pointless to do anything. Companies would be better served by designing something quick and inexpensive and then communicating it by e-mail alone.

In today’s world of technology, e-commerce, and telecommuting, there has obviously been a marked increase in e-learning as a training delivery system. The rationales companies use for implementing e-learning are generally that it seems cheaper than classroom training, it can reach people at their desktops, and students can use it anytime they want without the confines of traditional classroom scheduling. All of these rationales may be correct; however, what should be the most important consideration—whether the training will generate the outcomes that meet your objectives—is frequently forgotten in the haste to embrace the logistical attractions of e-learning.

E-learning, as an element of an overall training implementation, can have many tactical advantages and practicalities, but it is not a training strategy in and of itself. Choosing e-learning for its logistical benefits without considering the quality of the learning experience and its potential for achieving the desired outcome is counterproductive. To avoid falling into this trap, organizations should ask these simple questions before they decide on any learning content and delivery system:

- Why are we delivering this instruction? What are the desired outcomes from the instruction?
- Have we chosen the best content and delivery method for achieving the objectives we have defined?
Keeping the Vision Vibrant

Developing a vision, communicating it, and then making it a part of everyone’s awareness takes planning and commitment—but that is just the beginning. Once this work is done, the vision must be maintained. Although organizations do the planning, develop and communicate objectives and policies, and implement a broad-based learning initiative, they often stop after an initial round of activity. This doesn’t take into account the fact that systems need to be checked, updated, and occasionally repaired. If an organization is committed to a vision, it must continually plan steps to keep key messages current. Long-term visions can only be realized through long-term plans.

How can key messages be kept alive and credible over time? Firms successful in building long-lasting values are consistently asking themselves this question rather than launching a series of activities and then assuming the goals have been realized. One company, recently named the top learning organization in the country for its commitment to employee development, is continually thinking ahead to the “next phase.” Its leaders recognize that a one-shot training event or series of activities is not sufficient to meet their vision and business mission. They have implemented long-term, integrated learning solutions that reinforce key concepts and keep a consistent theme and vision in front of their employees. Additionally, every few years they have set aside a day to shut down facilities and focus everyone on workplace environment issues. To their employees, the leadership has a clear vision and an obvious commitment to addressing these issues.

Checking the Plans

Periodically, leaders need to review their plans to make sure they are still relevant and effective based on current conditions. What parameters should they measure?

First, accountability is key. In many organizations this vital component is overlooked, yet there is no point in developing plans if they are not continually monitored. All of the work put into developing and communicating the workplace vision is useless unless the plans are monitored and individuals are actually held accountable for their responsibilities. One organization I worked with several years ago asked me if I had new courseware for use with some previously trained managers. When I asked them what they wanted to accomplish, they indicated that several individuals were continuing to tell off-color jokes and make inappropriate comments. While I welcomed the opportunity to be of service, it seemed to me that the issue was not what training to do next but rather why these decision-makers hadn’t taken steps to deal with these individuals’ behavior and failure to perform to clear standards. Treating the problems as opportunity for more training rather than performance deficiencies minimized the managers’ accountability, undermined the seriousness of the organization’s commitment, and made the training punitive.

On the other hand, another organization has tied bonus eligibility and participation rates to involvement in the organization’s workplace initiatives and whether specific performance goals have been met. The message that the plan and vision of the organization is a business objective that matters and is important to everyone is very clear—and personal.

From Concept to Reality: The Action Plan

So how do you get beyond the basics to the successful implementation of a civil workplace? These are the steps an organization must take to move from a vision on the conceptual drawing board to a workplace in which that vision becomes a long-lasting, vibrant structure:
Leaders must define goals—they must have a vision of what they see as appropriate, professional workplace behaviors, and they must be able to explain those behaviors specifically, providing clear examples of what they mean.

The vision should reflect both a current and long-range view of important business values and concerns. A successful plan takes into account the current and future conditions and prepares for potential disasters in advance, helping to avoid catastrophe or collapse.

Leaders must communicate the significance of the vision to their direct reports and then hold them accountable for results. Managers and supervisors must be able to demonstrate the organization’s vision through their own actions and behaviors, know how to respond when made aware of behavior that may damage the workplace, and have the tools to make appropriate business decisions. Their behavior, by example, will motivate employees towards meeting the organization’s vision.

All employees—those who actually build and maintain the structure of the workplace—must understand their responsibilities and realize that those responsibilities are key elements of organizational citizenship and successful performance.

The vision must be communicated through business initiatives, through the conduct and statements of leaders, and through education and training, which must be delivered with a consistent message that reflects key visions and policies. The content delivered must be designed to communicate the message and lead to outcomes that reflect organizational principles.

Progress on reaching strategic goals that are tied to specific behaviors must be tracked and managed as a part of other performance goals.

When I encounter organizations that have experienced problems with litigation, damage to reputation, high turnover rates, and other human resource concerns, they usually have a lot in common. They all have policies and lofty mission and value statements incorporated into annual reports and other public documents. But many have failed to back up their vision with action. They’ve trained selectively and focused on minimizing legal risk rather than on their objective to change behaviors. Their leaders have failed to make human resource issues part of their business agenda and scorecard. They’ve concentrated their efforts on the basics instead of the substance behind them. When just one key element of the plan is eliminated, the whole initiative can come tumbling down.

But organizations that have been successful in retaining good employees, increasing productivity and morale, and creating a culture where all citizens know and apply their responsibilities also have a lot in common. They make a commitment to a comprehensive learning approach, stand behind their vision, and continually reinforce the message.

Creating a civil work environment is a process, focusing on business requirements and yielding business results. It doesn’t require exploring emotional issues or changing employees’ lifelong attitudes and beliefs. It requires a commitment to changing behavior at work. Organizations that have put this commitment into practice have recognized the business outcomes it brings. With the right plans, right tools, and right actions, leaders can make great strides towards building a civil, legal, and productive workplace that fosters excellence, diversity, and bottom-line results.
Endnotes:

1  Astra USA, Inc. v Bildman, 914 N.E.2d 36 (Mass. 2009).


About the Author

Stephen M. Paskoff, Esq., is the founder and president of ELI®, a training company that teaches professional workplace conduct, helping clients translate their values into behaviors, increase employee contribution, build respectful and inclusive cultures, and reduce legal and ethical risk.

Mr. Paskoff is a nationally recognized speaker and author on workplace legal issues. He has written extensively on topics related to workplace compliance and legal issues and how to affect culture change in order to build lawful, professional operations that align with an organization’s mission and values. He has been named the highest-ranking speaker at the national conference of the Society for Human Resource Management (SHRM) and has been selected to speak at a number of other national conferences including the following:

- The American Bar Association (ABA)
- The Society of Corporate Compliance and Ethics (SCCE)
- The Ethics and Compliance Officer Association (ECOA)
- The American Society for Healthcare Human Resources Administration (ASHHRA)
- The Health Care Compliance Association (HCCA)
- The American Society for Training and Development (ASTD)
- The Industry Liaison Group (ILG)
- Child Health Corporation of America (CHCA)
- The Risk Management Foundation for the Harvard Medical Institutions
- Edison Electric Institute (EEI)

In addition, Mr. Paskoff was the founding Co-Chair of the ABA’s Compliance Training and Communication Subcommittee, which explores best practices in training methodology as well as overall strategies for implementing learning and communication plans to maintain corporate compliance. He currently serves on the Editorial Board of Workforce Management magazine.


Prior to establishing ELI® in 1986, Mr. Paskoff was a trial attorney with the Equal Employment Opportunity Commission and a partner in a management law firm. He is a graduate of Hamilton College and the University of Pittsburgh School of Law and is a member of the Pennsylvania and Georgia bars.
About ELI®

Founded in 1986, ELI® is a training company that teaches professional workplace conduct, helping our clients translate their values into behaviors, increase employee contribution, build respectful and inclusive cultures, and reduce legal and ethical risk. Since the company’s inception, more than one million people around the globe have participated in ELI® training, building practical skills that help bring to life their organization’s commitment to civility, fairness, and professionalism in the workplace.

To ensure organizational objectives are met, ELI’s experienced team serves in an ongoing capacity as clients’ strategic partners, helping them identify learning issues and needs, align training with key business initiatives, plan effective implementations, and measure results. With expertise in helping organizations change individual behavior and transform their overall workplace cultures, ELI® provides clients with a best practice approach that can be tailored to their unique environment, industry, business issues, or other factors.

Whether delivered online, in the classroom, or via webcast, ELI’s behavior-driven training solutions are based on a proven learning methodology that focuses on outcomes that impact bottom-line business results. Rather than teaching simply what the law says, ELI® programs give individuals the skills they need to make a sustained difference back in the workplace. As a result, for more than two decades ELI® courses have been used to satisfy court-imposed settlements and consent decrees, and they have also won numerous awards, including “Top Ten Training” designations from Human Resource Executive Magazine.