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COMMUNICATIONS AND ORGANIZATIONAL MANAGEMENT

Defeating Incivility in the Legal Work Environment

Personal and enterprise-wide strategies can help calm internal conflicts and equip employees with skills to both diffuse disagreements and communicate amicably.

BY ERIN BRERETON

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When Taft Assistant General Counsel Cari Sheehan began practicing law in 2008, workplace civility, she says, wasn't discussed very often. Throughout the course of Sheehan's career, she has presented more than 200 seminars on ethics and professionalism. Today, civility is one of the most frequently requested topics.

"Over the years, you saw a progressive change," she says. "A lot of jurisdictions are really putting a push towards civility."

Research suggests inhospitable behavior has increased in the U.S.; 85% of residents say society is less civil now than in 2013, according to an American Bar Association [survey](#).

Uncivil incidents that occur within law firms and legal departments can have a pronounced and potentially damaging effect — ranging from disciplinary complaints that threaten profitability to an attorney's reputation getting tanked.

Employee recruitment and retention efforts may also suffer, according to Sheehan.

"A lot of the students I've taught really do look for culture, and part of that is civility — how are they being treated, their work-life balance, do they have a manager that's yelling and slamming doors or makes them feel included?" she says. "If you don't have the culture, eventually you're going to have high turnover."

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Civility: Explained

U.S. workers currently experience 208 million acts of incivility a day, which collectively costs organizations approximately \$2 billion daily in reduced productivity and absenteeism. Conflicts frequently stem from political and social issues, race or ethnicity, gender, and age or generational differences, according to the Society for Human Resource Management.

Various types of conduct can be involved. In an Illinois Supreme Court Commission on Professionalism [survey](#), 54% of lawyers in the state said they'd recently experienced uncivil or unprofessional behavior — most often involving a sarcastic or condescending attitude.

Communication, both written and verbal, was the crux of many infractions. Attorneys say they had come into contact with lawyers who'd included inflammatory writing or inappropriate language in correspondence, interrupted colleagues, been verbally abusive or used belittling language. Some witnessed attorneys making age-related, sexist, racially or culturally insensitive comments.

How you say something can potentially be just as important as the words you choose.

"When you change your tone, you can be more effective and more civil," Sheehan says. "When I disagree with people, I don't raise my voice. I research the facts. I know if I'm right or wrong. I'm firm in my stance, but I don't yell. I don't turn red in the face. It's that demeanor you need to have."

Supporting Congeniality

To date, [more than 100](#) state commissions, bar associations and other legal associations have implemented voluntary civility codes, according to the Illinois Supreme Court Commission on Professionalism. A civility pledge is now part of the oath lawyers take when being admitted to the bar in states such as Florida, New Mexico and South Carolina; California added a [CLE requirement](#) on the topic.

In 2017, the American Inns of Court professional association, which was founded in the 1980s to encourage legal excellence, began hosting an annual National Conversation on Civility.

The event is now part of a month of civility-oriented programming the organization plans for each October. In recent years, a growing number of local Inns of Court branches have also begun sponsoring civility-related events, according to Executive Director Malinda Dunn.

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Previous National Conversation on Civility gatherings have featured judges, including a U.S. Supreme Court associate justice, discussing topics such as the importance of civility in practicing law. The 2024 theme, Finding Common Ground, was inspired by an academic law journal article an Inns of Court member wrote with a colleague about civility between opposing counsel. Both authors served as panelists.

"We were pleased with the level of engagement from our members during the livestream event," Dunn says. "Our members always enjoy the opportunity to discuss [the] importance of civility."

Some of the courtesy-related best practices that were shared include not marginalizing other people's views or dismissing their opinions and using active listening techniques, such as letting people speak and ensuring you hear what they say before answering.

"Find a role model [who] is good at defusing intense situations," Dunn says. "When you find yourself veering into incivility, own up to it and apologize."

Empathy can be key when dealing with sensitive issues. Observing how your coworkers typically interact with other people could offer helpful clues for future conversations, Sheehan says.

"Learn your colleagues' personalities," she says. "How does this person like to be communicated with? How am I going to be most effective? [I] make sure I communicate how they need to be communicated with, and I expect the same respect in return."

Championing Cordial Discourse

Law firms and departments may be able to help their workforce successfully navigate — and possibly prevent — tense situations by establishing ground rules for workplace communication and encouraging employees to maintain an open dialogue.

Only slightly more than half (55%) of the attorneys who participated in the Illinois Supreme Court Commission on Professionalism's [survey](#) said their workplace culture allows them to voice an opposing view or argument without fear of consequences.

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Employees could be hesitant to bring up any ungracious acts that occur, and some might not know how to.

Sheehan suggests clarifying how to raise incivility concerns during new staff and attorney orientation sessions.

"If it's a large firm, you may have an office managing partner; there may be a firm managing partner and a board," she says. "Having a policy would be beneficial so [staff] and attorneys know where to go to help resolve internal issues."

Nearly all of the court and federal public defender organization employees who responded to a workplace [survey](#) the Federal Judicial Center conducted were aware of the main standards and procedures involved in addressing wrongful conduct such as discriminatory harassment or employment practices.

The survey, though, found offensive jokes, disparate scrutiny and other types of inappropriate behavior were even more prevalent; and when they were discussed or reported, most often, no action was taken.

As a result, the Federal Judiciary recommends providing examples of inappropriate behavior and distinguishing how abusive conduct differs in workplace conduct-related training programs while also offering instruction to help leaders at all levels learn how to listen, communicate, build trust and respond to allegations.

Accountability's Favorable Influence

Civility is inherently economical because it saves money and time and leads to better outcomes in the workplace, according to Paula Lustbader, Executive Director of the Civility Center for Law and Seattle University School of Law Professor Emerita.

The center, which has fostered courteousness in the legal profession through CLE seminars and other initiatives since 2008, emphasizes being responsive instead of reactive when conflict arises and approaching the situation in a neutral, calm manner.

Being aware of the things that can trigger you will allow you to address your psychological or emotional reaction before responding, Lustbader says.

"I get calls all the time from law firms ... saying, 'We have this lawyer, he's really terrible,' [or] 'You need to come fix the opposing counsel,'" she says. "We can't change other people's behaviors. We can only focus on ours."

Legal professionals and employers can also facilitate workplace civility by encouraging and engaging in positive mental health practices and self-care, Lustbader says, which will imbue workforce members with a sense of stability and satisfaction.

"We know the cost of incivility on lawyers is high; we have high rates of alcoholism, anxiety," she says. "[With] more aware, grounded attitudes, we're able to be happy and civil; and we can then create a ripple effect because if we're always stressed and ready to trigger a response, that's going to just make things worse."

ABOUT THE AUTHOR



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