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Departures at the Top

Confidentiality and legal requirements sometimes hamper organizations when they deal with the departure of a senior-level executive. Although communication is fraught with complexity, it is important to have a message for both internal and external groups, experts say. And employees will be analyzing the action to look for cues that impact their own work.

By Lin Gresing-Pophal

Today's economic climate and increased scrutiny of organizational leaders, makes the lives of top executives stressful -- to say the least. Sudden departures are becoming commonplace. Just this year, for instance:

* In April, Warren Buffett's Berkshire Hathaway announced the immediate resignation of Marvin Beasley as chairman and CEO of Helzberg Diamond Shops. No reason was given.

* In March, Bob Mintz, a top HR executive at Electronic Data Systems resigned, citing "personal reasons," from a position he only held for less than a year.

* In January, Tyson Foods president and chief executive, Dick Bond's "immediate" departure was announced, along with the news that he would be replaced by a former CEO.

According to outplacement firm Challenger, Gray and Christmas, there were 101 CEO exits in August alone, which is actually a decline of 30 percent from the same time one year before. At the end of August, the firm has counted 834 CEO departures so far this year.

Departures are often clouded in "code language" (i.e., "leaving for personal reasons," "stepping down," "pursuing new opportunities," etc.), leaving employees, shareholders and customers wondering "what really happened?"

They may never know.

And HR leaders are often called upon to help pick up the pieces, although they rarely are involved at the front end of the decisions. Nevertheless, they play a critical role in helping to minimize the negative effects of unexpected departures, experts say.

Michael McGrath, former CEO of i2 Technologies, a management consultant and the author of the recently released *Business Decisions!*, says no two situations are the same. Thus, no two responses can be the same either.

"There are a variety of situations and each one is unique," he says. "It's one of those things that doesn't lend itself easily to a checklist."

Richard Frey a labor and employment attorney with Venable, LLP in Los Angeles, agrees.



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How HR leaders act following a departure will "depend on the nature of why the individual is being asked to leave." But, he adds: "My No. 1 objective and any HR person's No. 1 objective should be protection of the company first."

Frey recalls a situation where a well-known sports figure who ran a sports-related company was going to be asked to leave because of allegations of fraud. Frey was hired by the replacement CEO to help navigate the very sensitive situation. The displaced CEO had been well-liked and was particularly close to in-house counsel, who may have been trying to hamper the process.

"There's a dignity issue here -- we have to show some respect," says Frey.

Yet, he stresses, the interests of the organization need to prevail. In this case, he says "cool heads prevailed."

When CEOs or other top executives leave an organization under sensitive circumstances, it requires careful handling to ensure that contracts and laws are followed and that communication is quick and appropriate.

While HR certainly has a role to play, they are, unfortunately, not always involved as closely as they might be.

HR in the Dark

In top executive departures, HR may or may not be in the loop at the outset.

Much depends, McGrath says, on the level of the HR person. "If the HR person reports directly to the CEO and is on the executive team, he or she is more likely to be involved.

"Oddly enough," he adds, "if the board is terminating the CEO, the HR person is more likely to be involved because the board needs to have access to things they don't normally access," such as files, documents and contracts.

But HR leaders are usually not involved in the decisions, says McGrath, although they are "usually involved in some of the implementation of finalizing the agreement, the mechanics of medical coverage or severance pay, etc."

Frey's experience has been similar. "There are not many organizations I've represented where HR has had a significant leadership role," he says. "At lower levels -- maybe the VP level -- they may have more involvement."

Still, says Linda Konstan of LMK Associates, a Denver-area HR consulting firm, HR has an important role to play in these situations, including working with the CEO, board and other senior executives on communicating with employees and the media.

HR must be alert to the impact of executive departures on employees, says Leslie Braksick, co-founder of CLG, Inc., a management-consulting firm headquartered in Pittsburgh.

It is not uncommon during weak economic times for the culture of an organization to become more "blaming," says Braksick. "A scapegoat for *why* the organization is underperforming is often sought."

When that person is asked to leave, she says, the reaction will depend most heavily on the perceived reasons for the departure and the way in which it is handled both with the employee and with the organization.

"For example, if an executive who had been a risk taker at the request of the organization, pursuing new and innovative strategies for the organization gets cut, it quickly signals to the workforce 'don't take risks, it's safer to stay the course'," says Braksick. "Even if the company has said it is committed to innovation or diversification of its products or portfolio, its *actions* have just proven otherwise."

And, of course, it's actions that really matter because employees will take their cues more from what is *done* than from what is *said*, she says.

Because situations can emerge suddenly, taking everyone off guard, Bob Kustka, of

The Fusion Factor, a Norwell, Mass.-based consulting firm, strongly recommends that HR take a proactive role in ensuring that successful plans are in place.

"In one organization I worked with the CEO, a strong leader, [who] had a heart attack and suddenly passed away," he says. "Because there was a succession plan in place, the organization continued smoothly with the new replacement."

HR can also play a role as a sounding board for other members of the executive team, says Noer. "I have had one-on-one meetings with members of the departed executive's inner circle," he says. "It provides a safe format for them to vent and an opportunity for HR to help them focus on moving forward."

Issues of Communication

An immediate concern in these situations, of course, is communication -- with both internal and external audiences. Organizations are advised to tread cautiously here. In fact, the reason the vast majority of high-level departures are "cloaked" in neutral, non-specific terms, is due to contractual and legal requirements.

The public announcement and the real reason for departure are often quite different, says McGrath. "Most senior executives will be given the opportunity to resign rather than be fired and they resign for whatever reason they decide to make public.

"Rarely is an executive fired with an announcement that he has been fired for incompetence."

Non-disparagement clauses in separation agreements are common, says McGrath, meaning that neither the terminated executive or the company are at liberty to discuss the details of the separation.

The main concerns, says Frey, are "defamation and certain retaliatory discharge scenarios," noting that "short of breaching an employment agreement," defamation is typically the biggest area of concern.

"I try to dot all my Is and cross all my Ts with the board before removing the individual," says Frey. "Some executive contracts you deal with actually require a board to vote and sometimes the individual in question is on the board. So, you have to decide if you have to give that individual notice of the board meeting. And, if you do, then you also ask that individual to recuse him or herself when the vote happens."

Once a decision has been made, Frey recommends developing a list of individuals who "are most likely to be curious" and issue them a notice designed to control the message.

"That way you don't get accused of defamation and you don't have people making up stuff," he says. "In today's world of e-mails, blogs, etc., basically before the person knows they're leaving, people start writing about it."

Even if nothing can be said about an executive's departure, of course, something must be said.

"Ignoring the departure is not a good strategy," says David Noer, author of *Healing the Wounds: Overcoming the Trauma of Layoffs and Revitalizing Downsized Organizations*, a professor of business administration and leadership at Elon University, and president of Noer Consulting in Greensboro, N.C.

He tells of a CEO he worked with who "felt that silence and letting it pass was the best strategy. I had to convince him that working on a positive communication strategy, painful though it may be, was best for the company."

In fact, executive departures may actually be received well by employees, says Noer. He notes that "most employees, particularly supervisor and managerial employees are pretty astute at judging top management competence."

"In my experience, when a top manager is terminated, they are more happy than sad. It demonstrates that the organization is serious about managing performance and that layoffs happen at the top, too."

While at Control Data, says Noer: "a very senior executive was terminated. Not only was it a performance issue, his abusive style and arrogance was resented by almost all managers below him. I witnessed an impromptu celebration in the managerial parking lot when the news became public."

Even in that type of situation, however, HR's role is not to join in the celebration, he cautions, "but to defuse it with an objective communication strategy and to help surviving managers focus on the work and not spend unproductive time demonizing the departed executive."

"The challenging thing with these cases is the message HR gives to employees may not be the message HR would *like* to give to employees," says McGrath. The official message is generally quite brief, he says: "We'll miss so and so who has decided to pursue other opportunities -- we wish him/her the best."

Employees will, of course, have questions, but confidentiality is critical. "You have to stand firm," says McGrath. "Chances are the legal agreement will include a mutual non-disparagement clause that will prohibit anything negative being said about the executive, so you have to be very careful."

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