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SOCIETY FOR HUMAN
RESOURCE MANAGEMENT

After the Merger: D-Bart Industries

Scenario C: Family Medical Leave, Employee Rights,
Temporary Labor and Increasing Employee Productivity

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Case Abstract

This case involves a fictitious company, D-Bart Industries, formed by the merger of Davis Manufacturing and Bartlund Technologies, two former rivals in the fabrication of precision parts used in medical equipment and airline manufacturing. It is appropriate for undergraduate or graduate students majoring in human resource or business management. . Six scenarios comprise the entire case study; however, this document contains only Scenario C: Family Medical Leave, Employee Rights, Temporary Labor and Increasing Employee Productivity. The major themes covered in each scenario are:

- Scenario A: Risk management and employee privacy.
- Scenario B: Union decertification, unfair labor practices and maintaining a union-free organization.
- Scenario C: Family medical leave, employee rights, temporary labor and increasing employee productivity.
- Scenario D: Compensable time under the FLSA and preventing off-the-clock work.
- Scenario E: Differentiating between an unpaid intern and an employee.
- Scenario F: Downsizing and performance appraisal.

Teaching note:

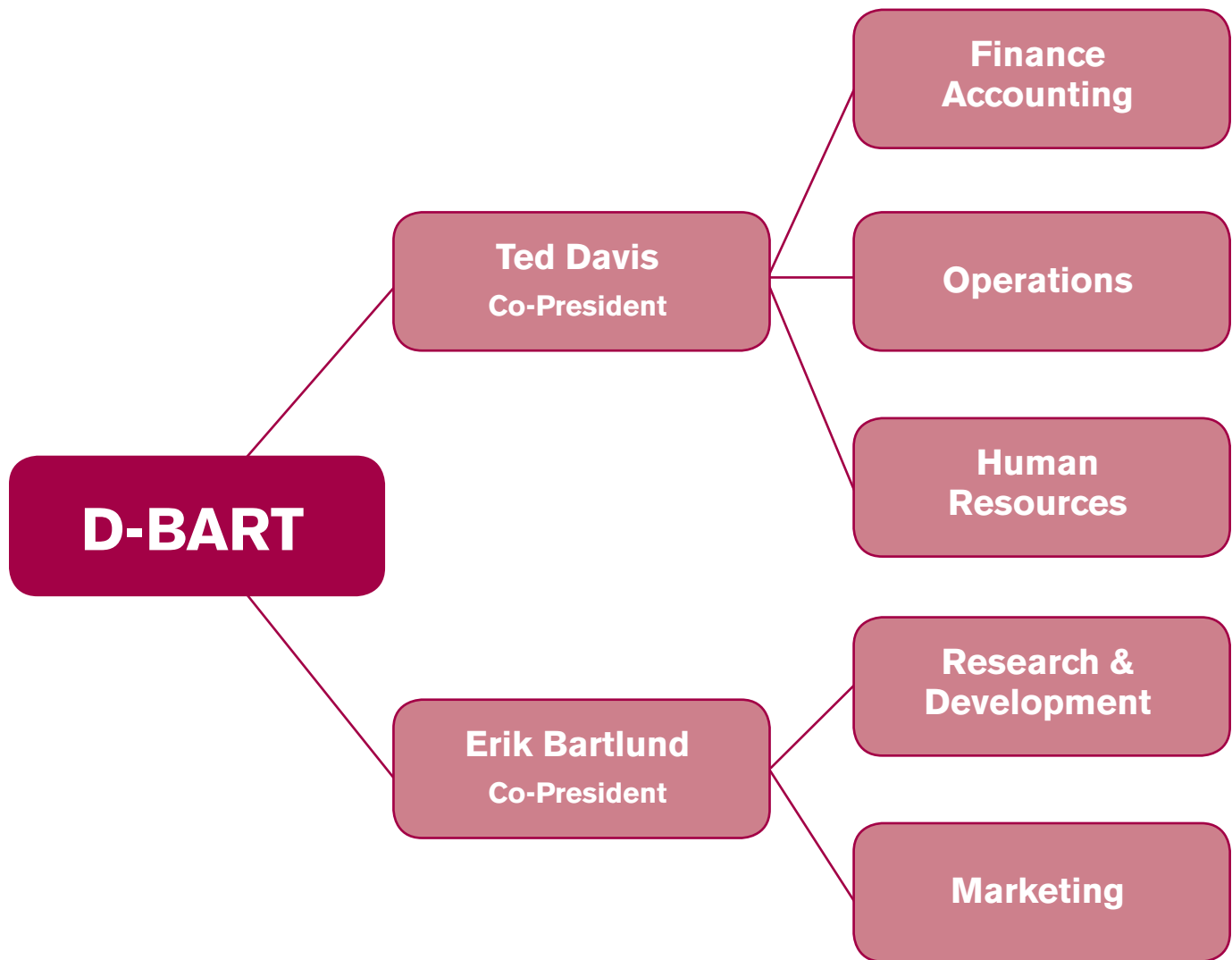
In order to create a student workbook, please make one copy of pages 2 through 7 for each student.

The Organization Before the Merger



After the Merger: D-Bart Industries

The New Organizational Structure and Management Staff



Director of Human Resources Wendy Wright
Lewiston, ID Kendal James, Division Manager
Boise, ID Lois Franklin, Division Manager
Pocatello, ID Rick Stephens, Division Manager

Centralia, WA Mary Haggerty, Division Manager
Medford, OR Ray Houser, Division Manager
San Jose, CA Karen Howell, Division Manager
San Francisco, CA Brad Smith, Division Manager

After the Merger: D-Bart Industries

THE ORGANIZATION

This case involves the recent merger of Davis Manufacturing and Bartlund Technology. Before the merger, the organizations were fierce competitors in the manufacturing of precision parts used in building medical equipment and airplanes. When the economy slowed in 2008 and 2009, it became apparent that the two organizations would have a stronger market presence if they joined forces. The merger was approved in late 2009, and on March 1, 2010, the two former rivals became D-Bart Industries.

This was a true merger of equals, not an acquisition of a smaller company by a larger company, and although Davis and Bartlund had very different corporate cultures, the new leadership team embraced a philosophy of collaboration. There was no power structure being imposed by one company over the other and no assumption that one set of employees had priority over the others. New structures were forming to play on the strengths of each organization. As things changed, nothing was guaranteed and employees were nervous about what was to come.

Because the original organizations were led by very different personalities, it would take some time before a comfort level was established. Bartlund's founder, Erik Bartlund, was an idea man with seemingly boundless energy. He claimed to sleep little, and in the early years of the company, he kept a notepad on his nightstand so he could jot down ideas as they bubbled forth in insomniac sprees of creativity. His notebook was now an electronic tablet, but his ideas were no less frequent, if sometimes a little bizarre. He was always more interested in product design and innovation than in the nuts and bolts of running his company.

As one would expect, Bartlund Technology developed into a creative workplace where risk taking and working outside the box was the norm. Employees had authority to make decisions and the autonomy to structure their work. The dress was casual, and there were lunch-hour games of competitive volleyball in the grass next to the parking lot. Employees brought their dogs to work, and a water bowl and dog biscuit jar were standard in the break room along with coffee and pastry. That was fine with Erik. As long as employees got the job done, produced a quality product, and Bartlund was considered the most innovative in the industry, he was satisfied.

Although Davis had a very different corporate culture from Bartlund, it, too, was highly respected in the industry for its quality products. The CEO, Ted Davis, was a retired Marine who took over the company when his father, the founder, retired. Davis ran a tight ship. True to his military background, he believed in having a procedure and policy in place for every eventuality. He had a top-down management style and liked to maintain personal control over decision-making, a characteristic some employees found oppressive.

It was understood by all that nothing happened at the organization that Davis didn't know about and personally approve.

When Davis production and shipping employees voted to unionize in 2003, Ted was not particularly happy, but he did little to oppose the process, saying that it was their right to do so. This accepting attitude has served Davis well; union/management relations have always been excellent, with a level of respect and cooperation not always found in union environments. The union contracts from Davis were honored by D-Bart with the intent that employees previously represented by unions would continue to be represented by their bargaining units. Bartlund employees have never been unionized.

Both organizations were located in the West. Bartlund had five facilities: Portland and Medford, Ore.; San Jose and San Francisco, Calif.; and Centralia, Wash., Bartlund's headquarters in Portland was the company's newest facility. Davis had its headquarters in Spokane, Wash., and three facilities in Idaho: Lewiston, Boise and Pocatello.

Although there had been no official announcement from D-Bart, it was expected that the merger would necessitate scaling back some facilities, with employees transferred to other locations or laid off. At the same time, other facilities could add new employees. It was rumored that the Centralia and Pocatello facilities would be shuttered and put up for sale. Employees at the Centralia and Pocatello plants were understandably nervous.

Davis and Bartlund worked cooperatively to select a new management team for D-Bart. Davis and Bartlund were appointed co-presidents, with Davis assigned to the day-to-day operations and Bartlund managing the products. Davis had recently relocated to the Portland headquarters, where he was responsible for operations and production, finance and HR. Bartlund managed research and development, product innovation and marketing. He remained in the San Francisco office. Wendy Wright, director of human resources for Davis, was appointed the new HR director for D-Bart, and she also relocated to the Portland headquarters. Although many positions were still vacant, it was expected that the rest of the employees would be a mix of workers from both companies, with no clear power structure that favored one group over the other.

Scenario C: The Best Person for the Job: FMLA, Employee Rights and Temporary Labor

Location: D-Bart Industries, formerly Bartlund Technology, San Jose, Calif.

Players: Karen Howell, division manager

Dale Cunningham, production supervisor

Tom Johnson, production supervisor

Michael McDonald, production employee

Linda Hayes, temporary employee

Dale Cunningham wasn't happy when he got the notice from HR informing him that Michael McDonald would return next Monday from 12 weeks of FMLA leave. McDonald's wife recently had a baby, and when she returned to her job in the electronics industry, McDonald stayed home to care for the baby. Cunningham thought paternity leave for new fathers was silly. "The wife and I raised four kids ourselves, and I never needed time off from work," he would say to anyone who happened to be nearby. "Besides, how am I expected to keep the line running and hold someone's job for 12 weeks? We don't have enough people for that. The San Jose plant only has 38 employees."

To appease Cunningham and to keep things going, San Jose Division Manager Karen Howell authorized hiring a temp to fill in while McDonald was gone. Linda Hayes was sent by the temporary agency that D-Bart generally used. She was a quick study and got up to speed faster than Cunningham expected. She was well liked by the staff, always reliable and more productive than McDonald had ever been.

The big topic at last week's managers meeting was the possibility that the San Jose facility would be closed and absorbed into the San Francisco location some 40 miles away. Howell reminded managers how important it was to increase productivity. "San Jose must be a viable entity," she said. "We've got to prove ourselves too valuable to be shut down. Every manager must reach maximum productivity. And the company is behind you," she said. She didn't disclose the details, but she indicated that a new bonus system would be implemented soon for increased productivity. She tried to be upbeat during the meeting, but faces were grim. Everyone knew the pressure was on.

"Numbers it is," Cunningham grumbled as he and Tom Johnson, another production manager, left the meeting. "And how am I supposed to do that," he said, "when I've got the slacker coming back, and I have to let go of the best person I've ever had in production? It sure doesn't make sense to me."

"Oh, you know how it works," Johnson replied. "When McDonald comes back, just ride him hard and move him to a lower position. If you make his life miserable enough, he'll quit and then you can have whomever you want. You know that's been done around here before. Besides, you may just be doing him a favor. His wife's got a good job, and he wants to stay home with the kid anyway."

"Yeah, we'll see," said Cunningham.

Questions

1. Should McDonald have been allowed to take FMLA leave? Identify the qualifications for FMLA.
2. How should Cunningham handle McDonald's return from leave? What about the temporary employee?
3. How should D-Bart support the managers' efforts to increase productivity? Is a production bonus the way to go?

Debriefing for Scenario C

THE BEST PERSON FOR THE JOB: FMLA, EMPLOYEE RIGHTS AND TEMPORARY LABOR

1. Should McDonald have been allowed to take FMLA leave? Identify the qualifications for FMLA.

An organization must provide FMLA leave for eligible employees if that organization has a minimum of 50 workers within a 75-mile radius. D-Bart's San Jose facility employs only 38 workers, but they are within the 75-mile radius of the San Francisco facility. The combined total of employees from both facilities exceeds 50, so employees at both facilities are eligible for FMLA leave.

FMLA leave is available to employees who have worked for at least 12 months and who have at least 1,250 hours of service during the 12 months immediately preceding the start of leave. Employees can take up to 12 weeks of unpaid leave for any of the following reasons:

- For the birth and care of a newborn child of the employee.
- For placement with the employee of a child for adoption or foster care.
- To care for an immediate family member (spouse, child or parent) with a serious health condition.
- To take medical leave when the employee is unable to work because of a serious health condition.

A ruling effective in January 2009 expanded FMLA regulations to include new military family leave entitlements enacted under the National Defense Authorization Act of 2008.

Cunningham dislikes the idea of leave for fathers, but time off for child care applies equally to mothers and fathers. Employers should also ensure compliance with individual state laws because there may be state-specific medical and/or family leave laws that also apply.

2. How should Cunningham handle McDonald's return from leave? What about the temporary employee?

Individuals exercising their rights under the FMLA are protected from retaliation from the employer. When an employer reacts more harshly toward fathers than others who take FMLA leave, there is an increased risk of liability for family responsibilities discrimination (Smith, 2010).

McDonald must be returned to his former or equivalent position with restoration of any benefits or seniority status. The suggestion that he be eliminated by "riding him hard"

creates a significant liability risk for D-Bart. Managers who use such attempts to rid themselves of an unwanted employee should be appropriately disciplined. It is understandable that Cunningham wants to continue to employ the highly productive temporary worker. He should try to find a position where the temp could be utilized by D-Bart, but not at the expense of an employee on FMLA leave.

**3. How should D-Bart support the managers' efforts to increase productivity?
Is a production bonus the way to go?**

Cunningham should engage in some performance management efforts to improve McDonald's productivity and the productivity of all employees who are not meeting minimum standards. This could start with an unbiased appraisal to measure each employee's current productivity level.

Using the appraisal as a baseline, goals for improvement must be established. Goals should be supported with coaching, mentoring and training to help the employee achieve those goals. Managers should meet regularly with the employee and provide feedback on progress made. After training and coaching, if the employee cannot meet required performance standards, it may be appropriate to transfer the employee to a position more reflective of his or her skills.

If reasonable minimum standards cannot be met by a particular employee, the organization is not required to continue that individual's employment. Cunningham must be sure that all employees are treated equitably in the performance management process. All employees should get appropriate appraisals and receive needed coaching and training. If his focus is on McDonald only and no other underperforming employees, it may appear that his actions are in retaliation for McDonald's use of FMLA leave.

All employees like a little extra money in their pocket, and to that end, the idea of a bonus is appealing. Organizations must be cautious, however, that the prospect of earning a bonus doesn't encourage inappropriate behavior. When the focus is on "making the numbers," unethical behavior often results. Bonuses can stimulate a desire to falsify documents and generate cut-throat competition at the expense of team cohesiveness. D-Bart's employees are already under stress from the merger and possible cut-backs. This may not be an appropriate time for production bonuses.

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