

Cultural Fit Assessment

Public and private employers around the country are being scrutinized more closely and frequently than ever before. In addition to navigating increasingly complex legal and regulatory risks, employers also face internal and external pressure to ensure that their workplace culture aligns with modern societal expectations surrounding diversity, inclusion, and race and gender equality. In the past, employers addressed issues related to equal employment opportunity on a case-by-case basis after receiving employee complaints. That reactive approach may be sufficient from a legal perspective, but the growing perception of employers as integral to setting and maintaining societal standards has driven a demand for proactive steps from employers.

Many companies have responded to the demand for proactive action by implementing controversial anti-bias or diversity and inclusion training. Such training is typically delivered in hour-long, one-size-fits-all packages that fail to consider a company's unique circumstances. The training also fails to allow companies to identify and analyze the issues present in their unique work environments. Worse, the training does not offer any substantive, measurable results or equip companies with information that might guide organizational plans or minimize future liability. Federal government contractor employers may even face legal scrutiny and liability for implementing such training.

There is a path, however, for employers to proactively identify, address, and train employees concerning bias, diversity, and inclusion while putting themselves in the best position to improve their workplace and repel or rebut any potential legal scrutiny.

The attorneys at Wiley – drawing on their decades of employment litigation, counseling, training, and investigation experience – have developed the Cultural Fit Assessment, a different type of internal investigation that offers the potential for tangible results with respect to diversity and inclusion and countless other areas of the workplace.

As part of our Cultural Fit Assessment, we work with senior organizational leaders and human resources professionals to plan and conduct corporate internal investigations, protected by the attorney-client privilege, with the aim of ensuring that day-to-day workplace culture aligns with broader organizational values.

A Cultural Fit Assessment can benefit employers in a multitude of ways:

- Identifying employee concerns so that management can address them before they become formal complaints;
- Stopping problematic conduct to prevent it from rising to the level of a violation, or to prevent further violations;
- Identifying trends and opportunities for targeted coaching and training addressed to the specific needs and issues facing a particular manager or worksite;
- Insulating employers and management officials against allegations of knowledge or complicity in inappropriate or unlawful conduct;
- Providing actionable information for future organizational planning and potential legal issues;
- Memorializing the employer's good-faith response to facts as they become known; and
- Promoting a culture of transparency and compliance.

To achieve these benefits, our attorneys design a customized assessment plan that addresses employee interviews and careful analysis of employee responses to questions relating to general career satisfaction, company policies and procedures, and day-to-day workplace relationships and interactions. We report our findings and analysis of those responses in a format that best

serves the client's interests, and our report helps to paint a picture of how a company is performing when measured against its own expectations and values concerning employee happiness and productivity, adherence to company policies and procedures, and diversity and inclusion. Our report creates a roadmap for continued excellence or improvement in those areas while helping to minimize potential liability.

Our Cultural Fit Assessments offer companies a tool to respond to the demand for proactive employer action concerning bias, diversity, and inclusion that produces actual results. Instead of just checking a box, our clients walk away equipped with information that allows them to gauge the pulse of specific worksites; improve operations and morale; document efforts to remediate potential legal concerns through targeted coaching and training for specific managers; document employee satisfaction with the company's adherence to its equal employment opportunity and diversity and inclusion standards; and prevent litigation. We also have a deep bench of attorneys who can address the variety of potential legal issues that might arise during a Cultural Fit Assessment, and established relationships with coaching, training, conflict resolution, and diversity and inclusion professionals who can help companies implement tailored response plans.

Please contact Posi Oshinowo, if interested in learning more about a customized Cultural Fit Assessment for your organization.

Contact

—
Olaoluwaposi O. Oshinowo
Special Counsel, Employment & Labor Practice
ooshinowo@wiley.law
202.719.4275