

# Pay to Leave

Navigating the Stay-or-Pay Regulatory Wave and Building Retention Through Investment, Not Restraint

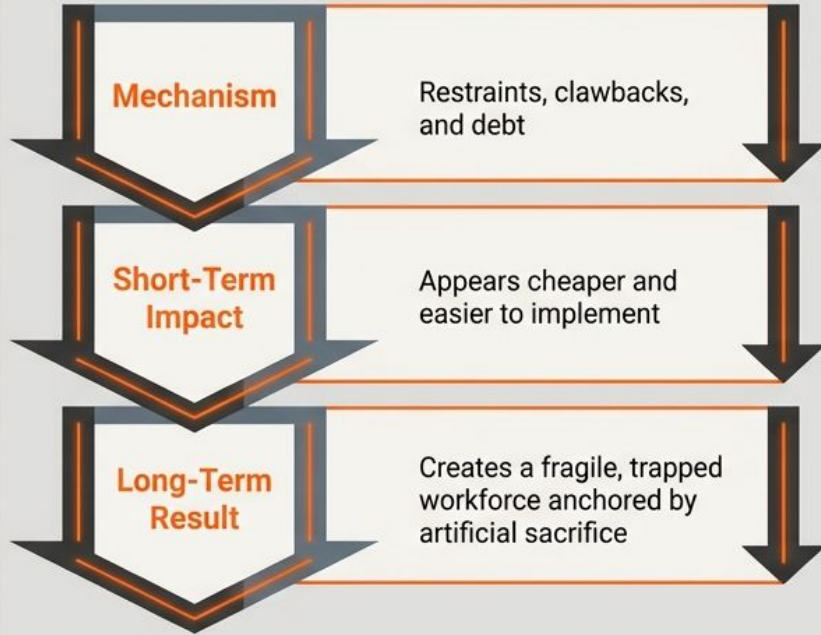
Sourced from Jonathan H. Westover, PhD /  
Human Capital Leadership Review



# Two competing architectures for talent retention

## The Old Logic

Make leaving costly



## The New Logic

Make staying worthwhile



# The anatomy of a mobility restraint

**Scope:** Nearly 10% of all US workers are covered by a training repayment agreement (Cornell SRI survey).

## The Stay-or-Pay Ecosystem

**Aviation:** Pilots facing up to \$59,190 for early exits (Frontier class action allegations).

### TRAPs

Training Repayment Agreement  
Provisions: Obligation to repay claimed training costs upon early exit.

### Quit Fees

Flat penalties not tied to specific training costs.

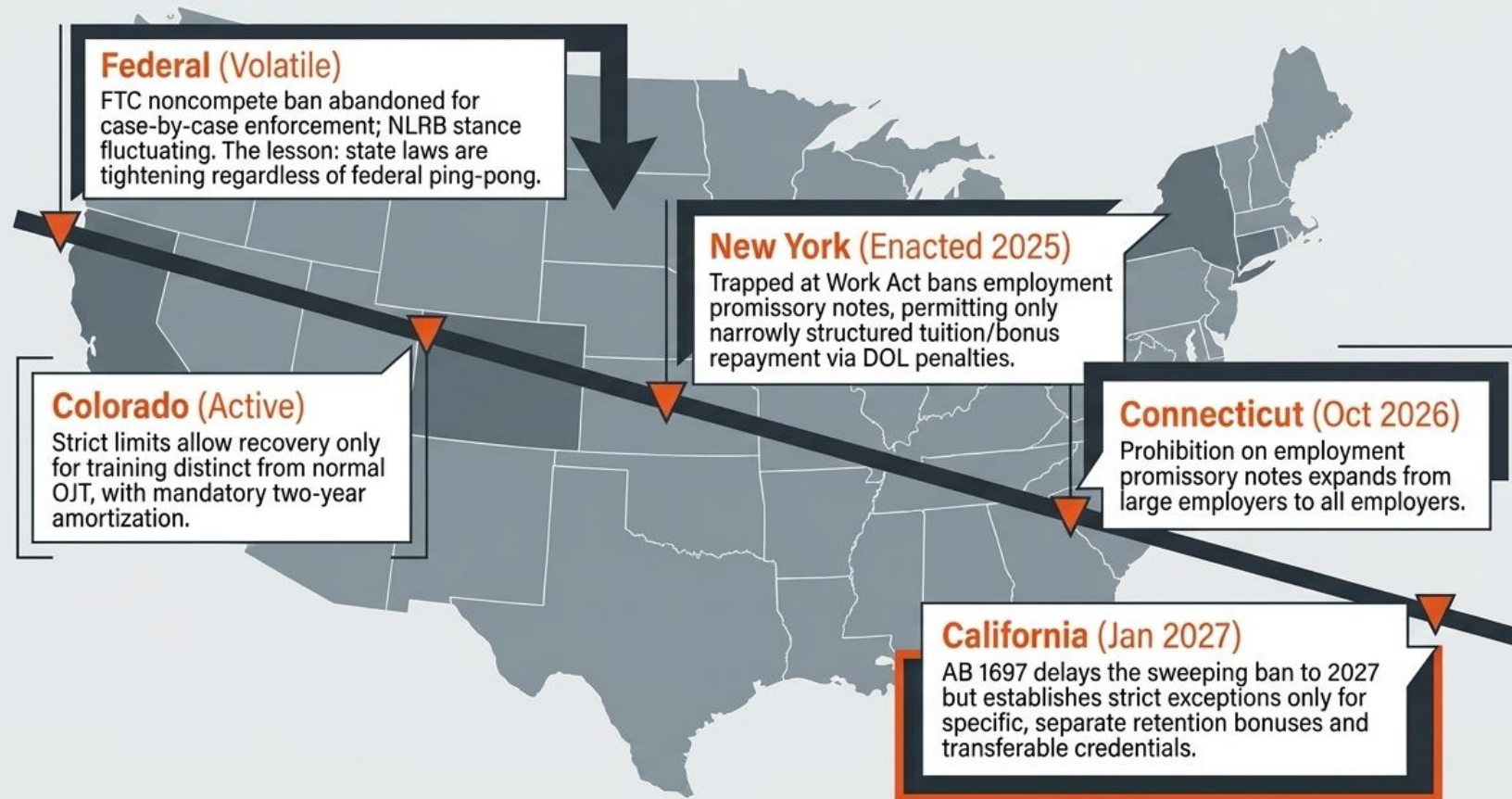
### Clawbacks

Repayment of signing/retention bonuses or tuition.

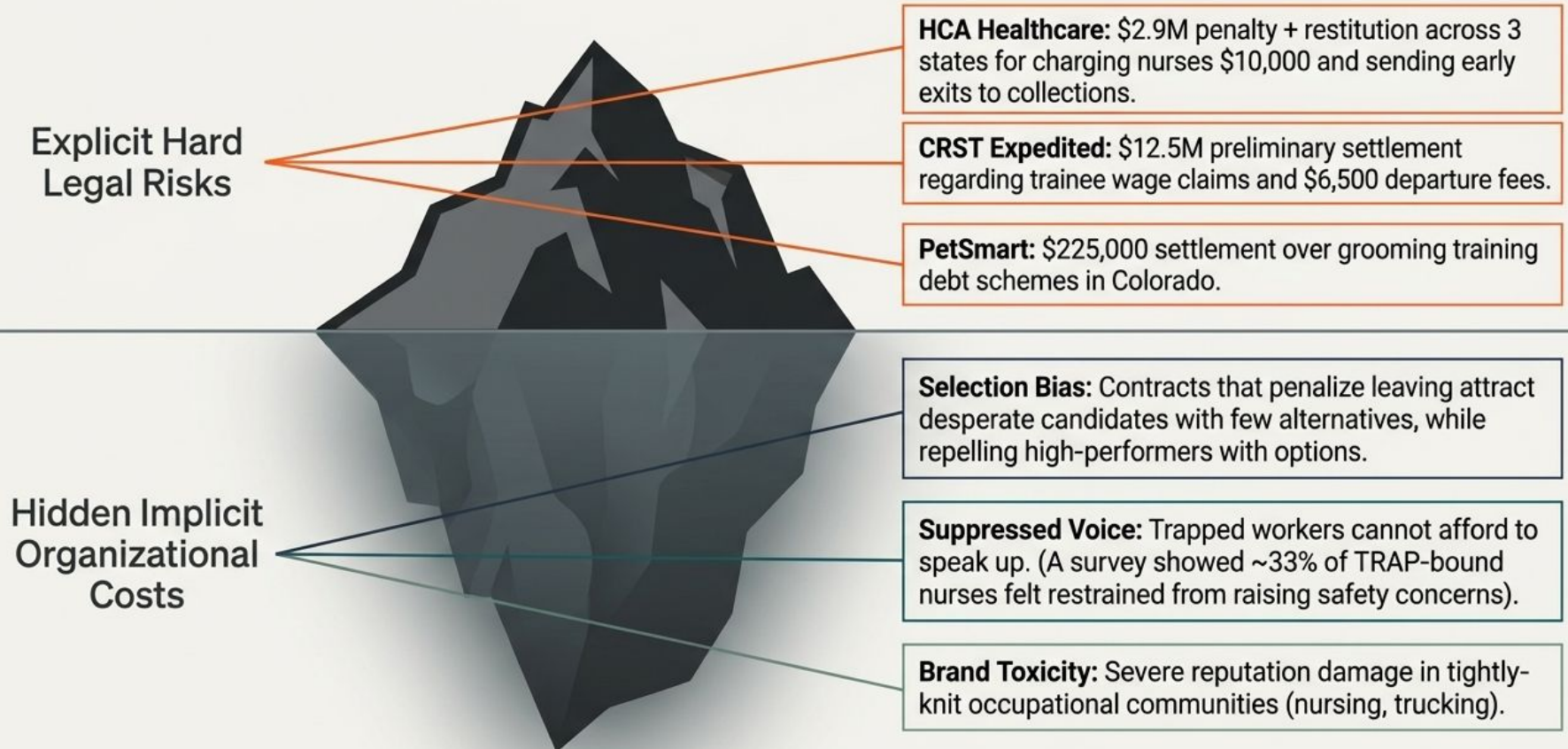
**Nursing:** Early-career nurses owing \$5,000 to \$50,000 (CFPB).

**Retail/Transport:** Pet groomers owing \$5,000+; Commercial drivers charged \$6,000+ for \$1,400 training costs.

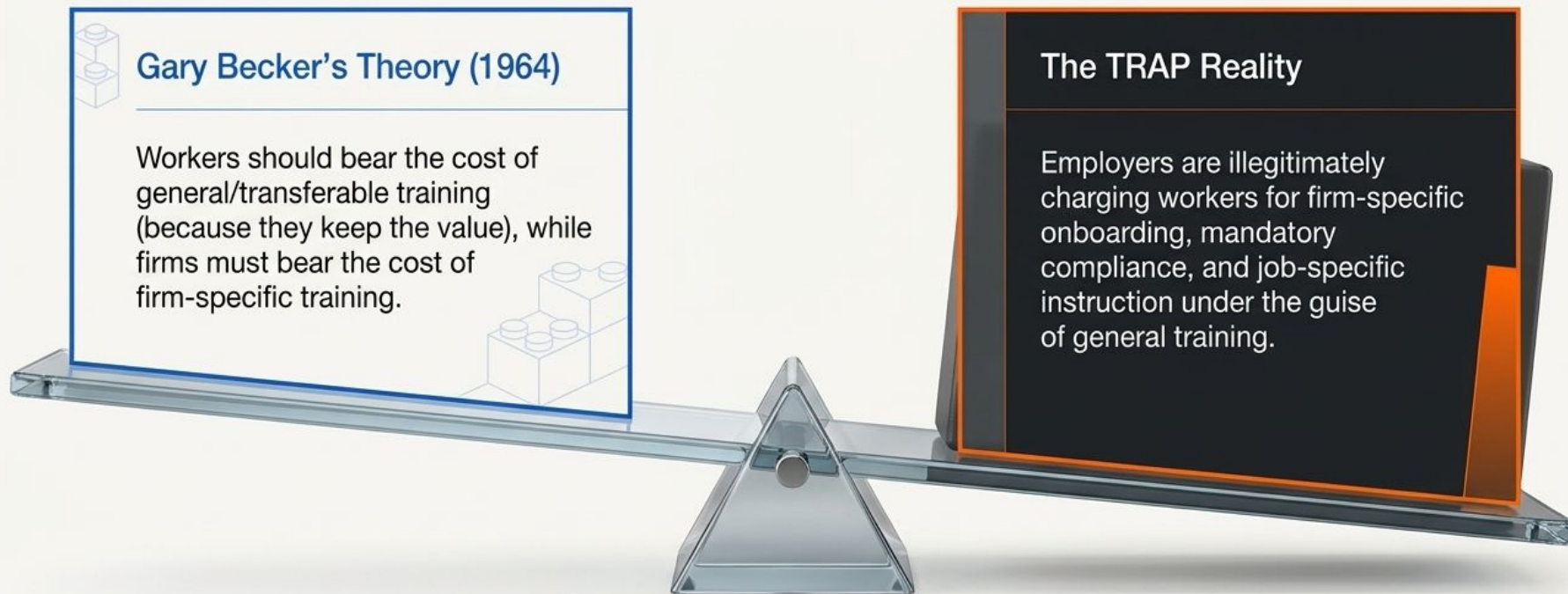
# A rapidly closing compliance window across jurisdictions



# The visible penalties and hidden organizational costs of TRAPs

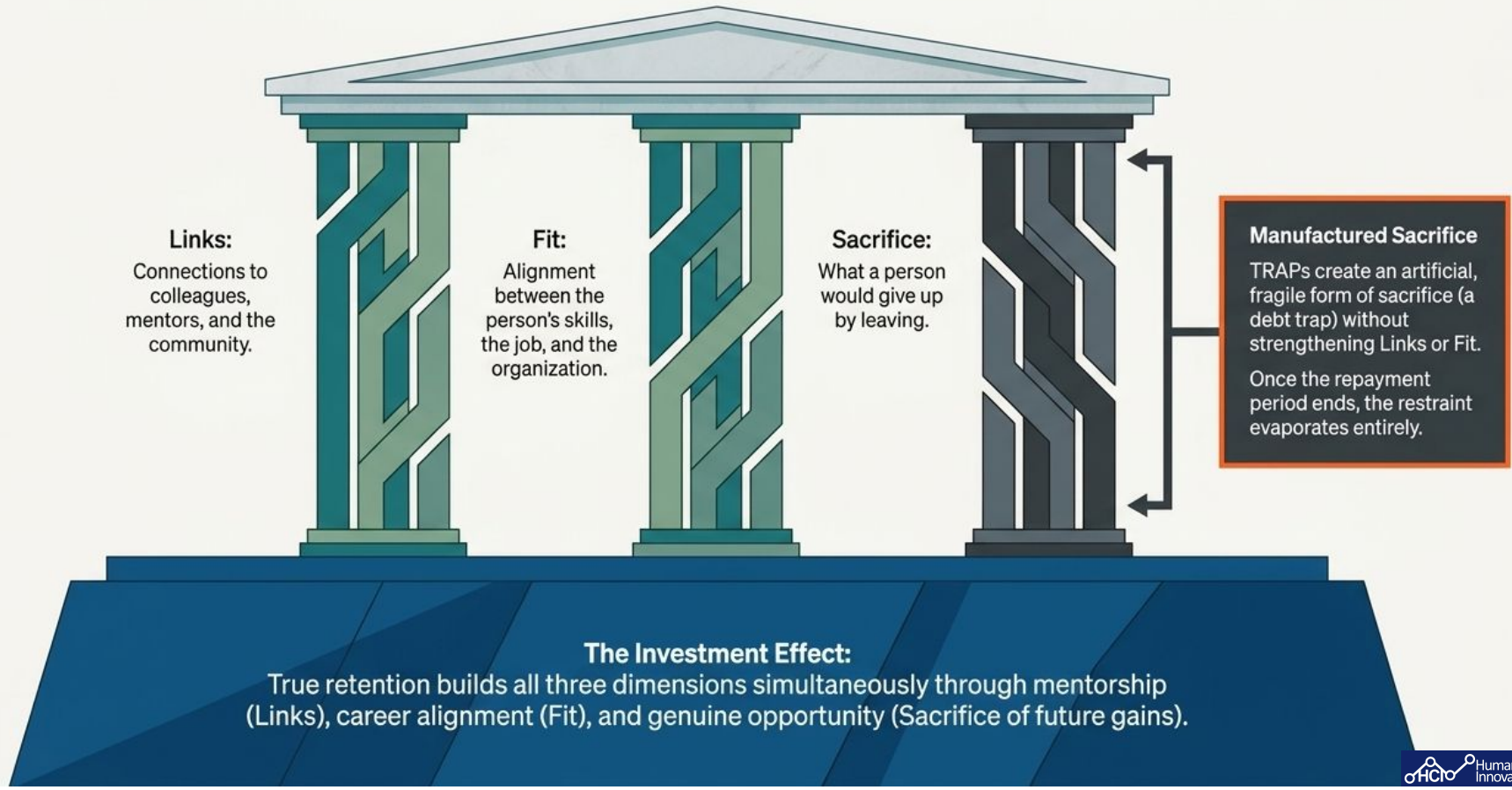


# The economic fallacy of charging for firm-specific training

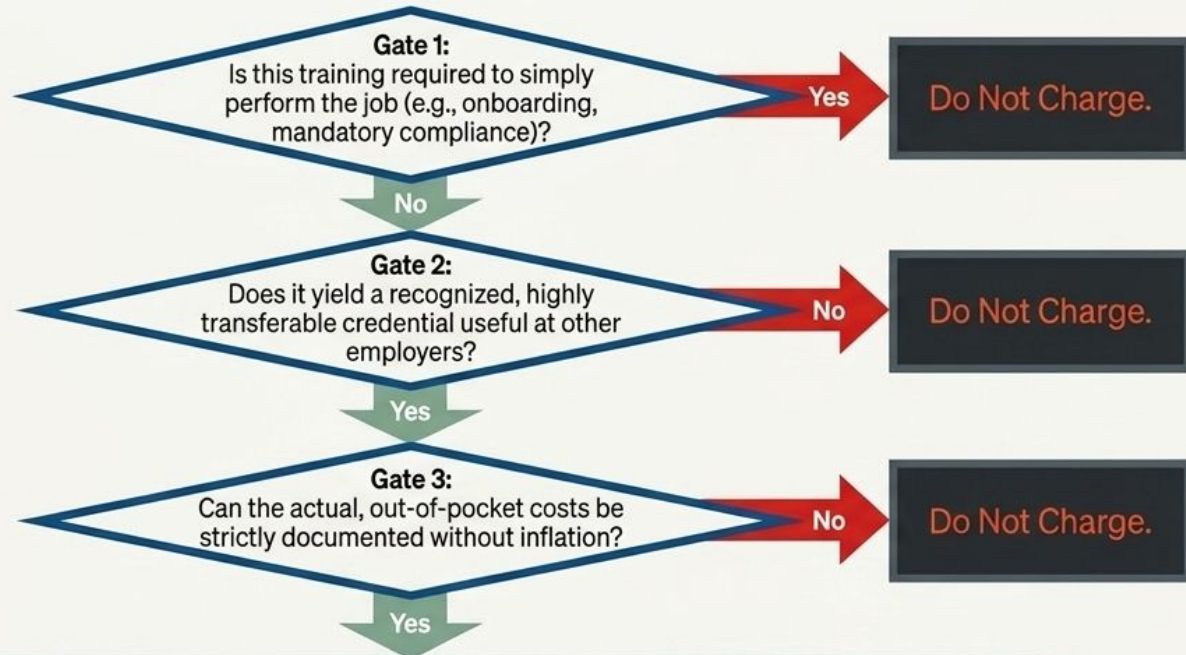


**Takeaway:** A TRAP often masks standard business operating costs as employer-driven employee debt.

# True embeddedness requires foundations, not artificial sacrifice



# Step 1: The Contract Audit Diagnostic



**Permissible.**  
(Must ensure proration, no interest, and  
no repayment if terminated without cause).

## Step 2: Replace punitive clawbacks with earn-in incentives

### The Clawback

(Pay up front, threaten to take back)

#### Mechanics

Upfront bonus paired with a repayment obligation upon early exit.

#### Psychology

Threat-based. Creates anxiety and adversarial manager-employee dynamics.

#### Legal Risk

High. Triggers TRAP/promissory note bans. (e.g., Frontier Airlines litigation).

### The Earn-In

(Reward for staying)

#### Mechanics

Bonus vests gradually or pays out entirely at the end of the retention period.

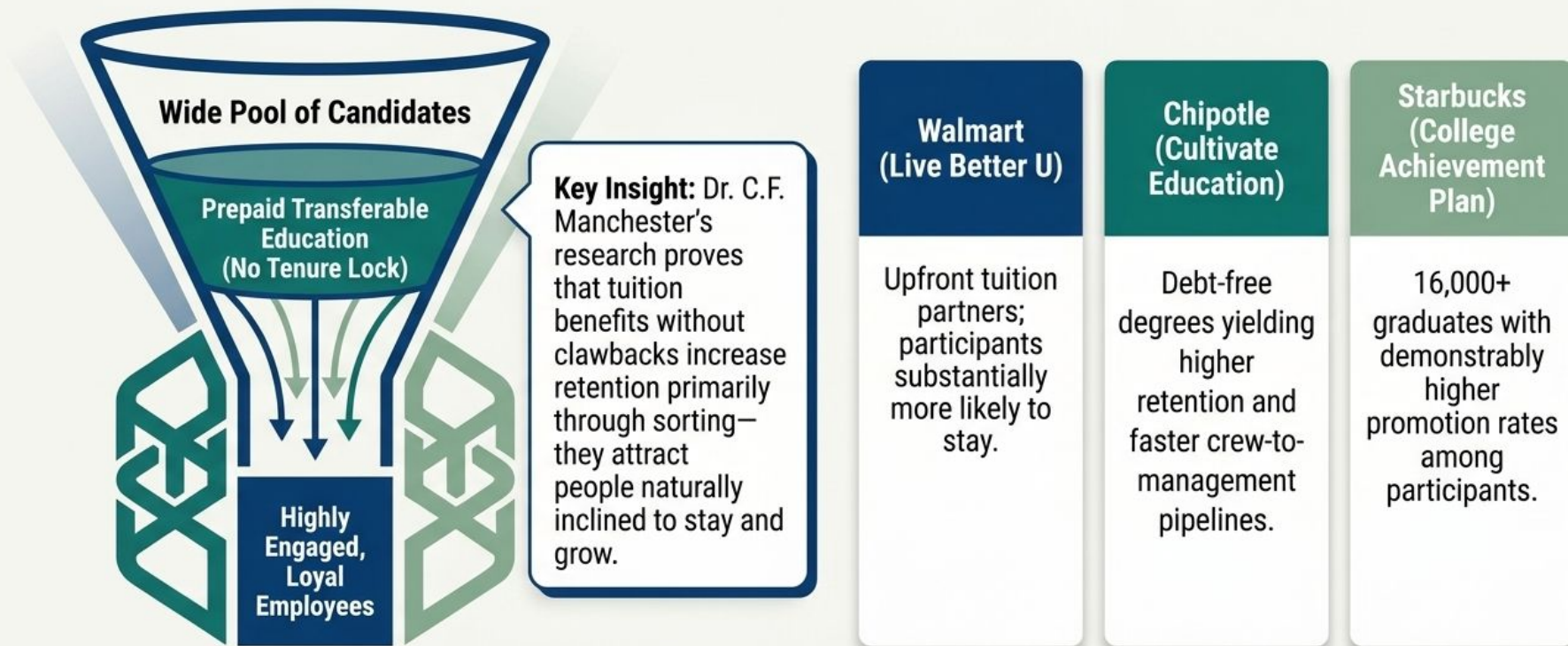
#### Psychology

Reward-based. Represents a shared future and sacrifice of future gains.

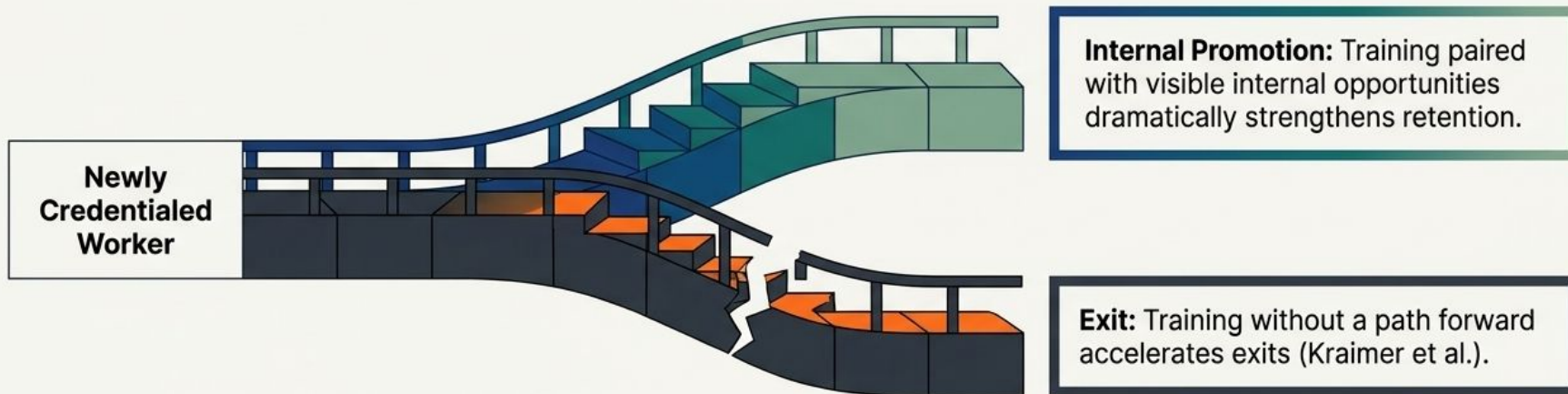
#### Legal Risk

Low. Fails to trigger debt restrictions (Aligns with California's revised AB 1697 bonus exception).

## Step 3: Prepay education to trigger the Sorting Effect



# Step 4: Pair skill development with visible internal mobility



## The Execution

Map training directly to specific next-level roles and ensure managers sponsor talent rather than hoarding it.

## Real World Execution

Amazon Career Choice commits \$1.2B to upskill 300,000 hourly workers after just 90 days, explicitly mapping skills to internal and external career jumps, echoing Chipotle's crew-to-management pathways.

# Step 5: Disclose transparently and limit noncompetes strictly

## Best Practice Checklist

- ✓ **Early Disclosure**  
Present any restraint in the job offer, never post-hire.
- ✓ **Plain Language**  
Clearly state limits, costs, and terms without legalese.
- ✓ **Narrow Scope**  
Limit to roles protecting genuine trade secrets; drop for frontline/technical staff.



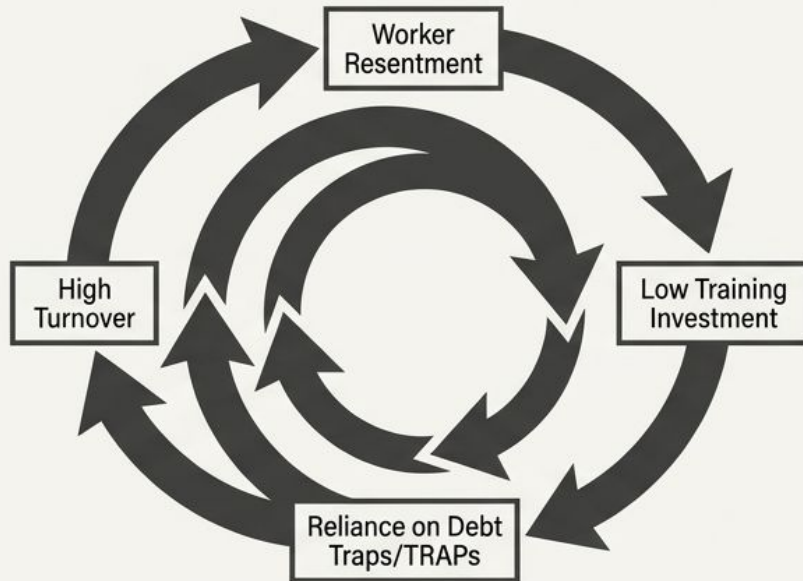
## Cautionary Case Study: FTC vs. Gateway Services (2025)

The FTC ordered the release of nearly 1,800 workers from blanket noncompetes.

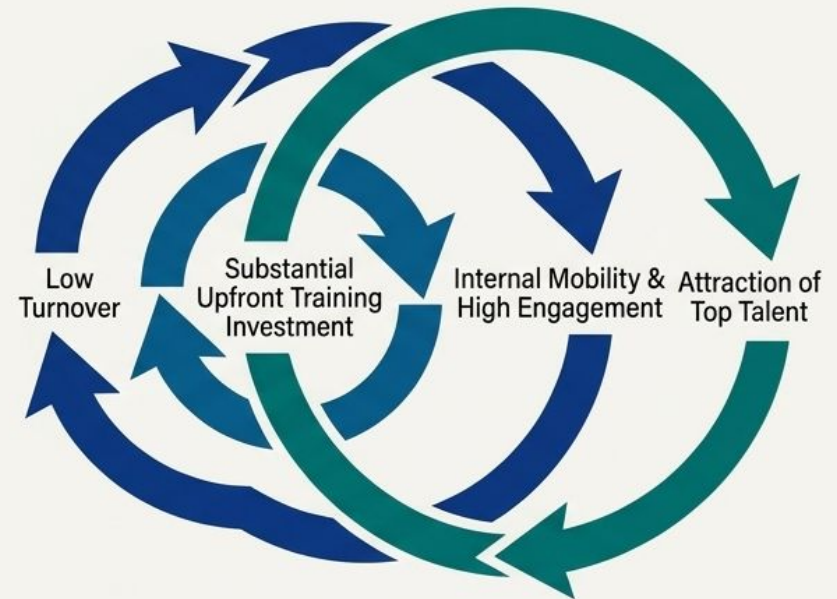
The fatal flaw: The company required a one-year nationwide noncompete for almost all employees, regardless of access to sensitive information.

# The ultimate choice: Which labor market equilibrium will you build?

## The Downward Spiral

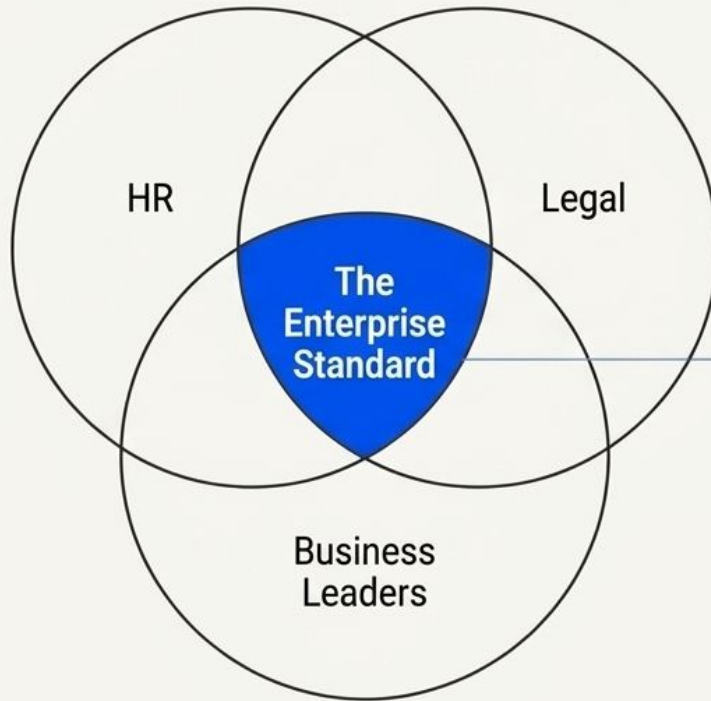


## The Upward Spiral



Key Insight: Acemoglu & Pischke's model proves that in imperfect labor markets, firms benefit from paying for general training. The low-turnover, high-training equilibrium is highly profitable, but the employer must be willing to make the first move.

# Establishing a compliance-ready, restraint-light governance structure

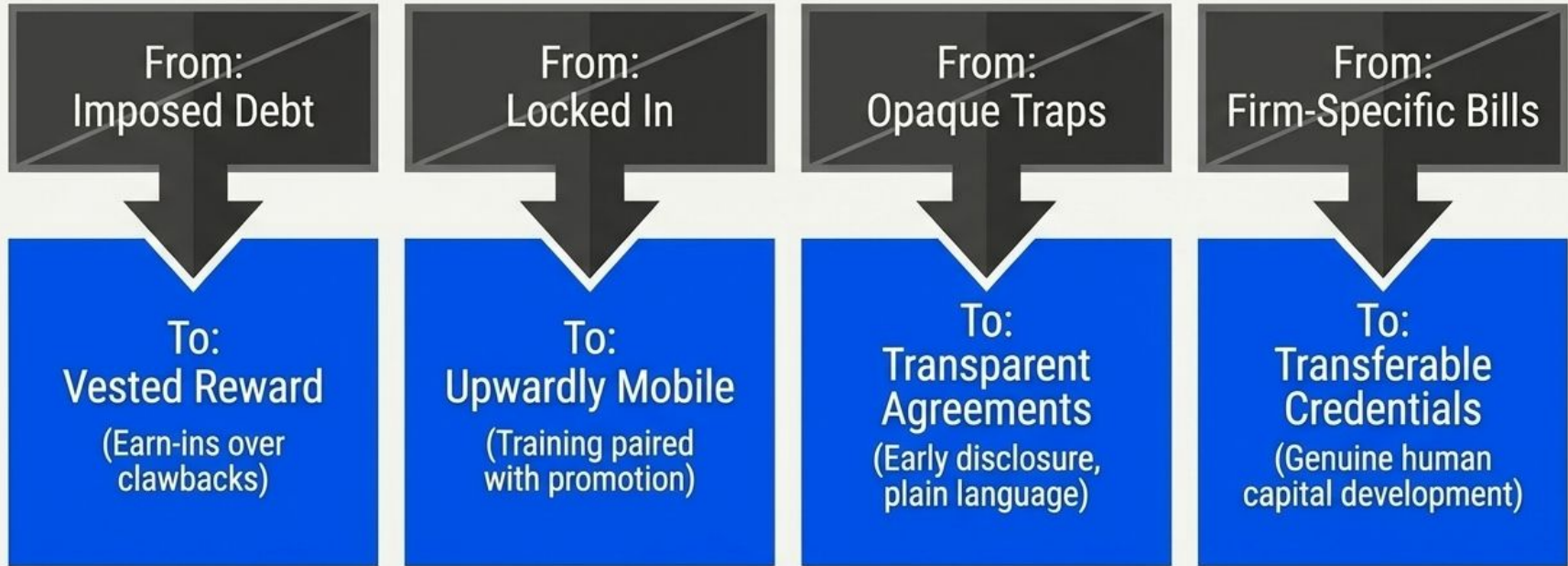


**Adopt the Most Protective Baseline:** Instead of scrambling every time a state (like CA or CT) updates a law, set enterprise-wide contract templates to the most protective state standard.

**Periodic Justification:** Any new mobility restraint must be justified by a specific, documented business interest, not just legacy habits.

**Cultural Alignment:** Recognize that employment contracts are not just legal shields; they are the first expression of how an organization values its people.

# The Architecture of Investment



The regulatory wave of 2025 and 2026 is not just a compliance burden—it is a prompt to rethink retention strategy. Leaders who replace restraint with investment will find they retain people who actually want to be there.