

## Human Resources Management: Producing Productive People

HR Solutions. Great Results.

**IntegrityHR**

**Mitzi Fields Root, PHR**  
Senior Consultant

## So, what does HR do?

- ◆ Strategy Deployment
- ◆ Legal mandates - Compliance
- ◆ Training and Development
- ◆ Recruitment, promotion and processes
- ◆ Policy development and deployment
- ◆ Manages Employee Relations, Performance Management & Terminations
- ◆ Safety/Risk Management
- ◆ May also manage Payroll

## Who is An Employee?

- ◆ Categories:
  - Employees
  - Temporary Workers
  - Independent Contractors

## Major Laws Affecting the Employment Process

### **Employment at Will**

Employee may be discharged from employment if that employee does not have a contract of employment and the discharge is not for an illegal discriminatory reason.

### **Title VII of the Civil Rights Act of 1964**

Prohibits discrimination because of race, color, national origin, religion and sex.

### **Equal Pay Act**

Prohibits discrimination in compensation, including all forms of benefits, on the basis of sex.

## Major Laws Affecting the Employment Process

### **Fair Labor Standards Act (FLSA)**

### **Family and Medical Leave Act (FMLA)**

Provides eligible employees with up to 12 weeks of job protected leave annually for certain family and medical reasons. Military FMLA.

### **Health Insurance Portability and Accessibility Act (HIPAA)**

Helps employees carry their insurance throughout job transitions, and guarantees patient rights and protection against the misuse or disclosure of their health records.

### **Americans with Disabilities Act (ADA)**

Prohibits discrimination in terms of conditions of employment against individuals with disabilities who, with or without reasonable accommodation, can perform the essential functions of the job.

## Major Laws Affecting the Employment Process

### **Age Discrimination in Employment Act (ADEA)**

Prohibits age discrimination in employment for employees age 40 or over.

### **Pregnancy Discrimination Act (PDA)**

Requires employers to treat pregnancy just like any other medical condition with regard to benefits and leave policies.

### **Immigration Reform and Control Act (IRCA)**

Prohibits hiring of illegal aliens. Requires verification and record-keeping of work authorization documents.

## Major Laws Affecting the Employment Process

### Worker's Compensation

Provides compensation to an employee for a work-related injury.

### Occupational Safety & Health Act (OSHA)

Requires an employer to furnish a safe workplace according to designated work standards.

### Unemployment Insurance

Benefits intended to temporarily help workers who lose jobs through no fault of their own.

## Major Laws Affecting the Employment Process

### Retaliation

Prohibits taking adverse action against an employee for exercising a protected activity. No employee should be retaliated against for reporting unlawful harassment or any other violation of the law.

### Uniformed Services Employment and Reemployment Rights Act (USERRA)

Protects the job rights of individuals who leave their jobs to undertake military service and prohibits employers from discriminating against past and present members of uniformed services and applicants in uniformed services.

## Federal and KY Mandatory Posters

### ◆ Federal

- Employee Polygraph Protection Notice
- Equal Employment Opportunity Commission / Age Discrimination/GINA
- Family and Medical Leave Act
- Occupational Safety and Health Act (OSHA)
- USERRA
- Minimum Wage

### ◆ Kentucky

- Child Labor Law
- Equal Employment Opportunity
- Safety and Health Protection on the Job
- Unemployment Insurance Benefits
- Wage Discrimination Because of Sex
- Wage and Hour Laws
- KY Public Accommodation

## Possible Illegal Discrimination Involving Hiring Related Decisions

- ◆ Refusing to hire an applicant because she is pregnant
- ◆ Refusing to provide an accommodation to an applicant with a disability that would enable her to perform the job
- ◆ Refusing to hire a Latino worker because he speaks with an accent
- ◆ Forcing an employee to retire when he reaches age 65

## Job Advertisements

- ◆ Description of the specific duties of the position
- ◆ Required qualifications
- ◆ EOE reference

## Job Advertisements

### ◆ Words and Phrases to Avoid:

- Young
- Retiree preferred
- Healthy
- Salesman
- Christian
- Single
- Fluent in English

## Keep The Interview Legal



## Interview Process

1. Define needs
2. Define behaviors
3. Create questions
4. Interview
5. Review and make selection

## Interview Questions

What would you need to see a person do or hear a person say to know he had the skill?



## Phrases To Use For Open-ended Questions

- ◆ Describe a time when ...
- ◆ Tell me about a time when ...
- ◆ Give me an example of ...
- ◆ When has your ability ...

## Conduct The Interview

- ◆ Welcome
- ◆ Ask written questions and take notes
- ◆ Ask follow up questions
- ◆ Allow for questions from the candidate
- ◆ Thank the candidate

## Background Checks

- ◆ Education and experience
- ◆ Driving record
- ◆ Conviction record
- ◆ Credit references
- ◆ Professional and personal references

## Testing

- ◆ Medical and drug testing
- ◆ Skills testing
- ◆ Personality testing
- ◆ Job Fit and Culture Fit

## Orientation – On-boarding

- ◆ Now that they're hired, what happens next?

### **Fast Fact**

On average, the time for new external hires to achieve full productivity ranged from eight weeks for clerical jobs to 20 weeks for professionals to more than 26 weeks for executives.

Source: Williams, R. (2003). Mellon learning curve research study. New York: Mellon Corp.

## On-boarding Best Practices

- ◆ Effective orientation
  - Employee handbook
  - Benefits
  - Culture integration
  - Basic stuff – phone, email, fax
  - Knowing the “rules” – written and unwritten
  - Mentor or “Buddy system”

## Employee Files

- ◆ Personnel Files
- ◆ Medical Files
- ◆ I-9 Records

## Fair Labor Standards Act

- ◆ Employee Classifications
  - Administrative
  - Executive
  - Outside Sales
  - Learned or Creative Professional
  - Computer Employees
  - Highly Compensated Workers

## Top 5 Employer Mistakes Under FLSA

- ◆ Salaried employees are automatically exempt from overtime
- ◆ Misclassifying assistant managers
- ◆ Automatic deductions for meal breaks
- ◆ Not paying for overtime that has not been approved
- ◆ Allowing employees to “waive” their right to overtime

## Mandated Benefits

- ◆ Social Security
- ◆ Unemployment Insurance
- ◆ Workers' Compensation
- ◆ COBRA/HIPAA
- ◆ State Continuation

## Optional Benefits

- ◆ Insurance
- ◆ Section 125
- ◆ Time off benefits
- ◆ Retirement plans
- ◆ Employee assistance program
- ◆ Educational Assistance

## Employee Handbook



## Employee Handbook

- ◆ Introduction to the company, mission, values, culture statement, anti-harassment, EEO and ADA
- ◆ Compensation and employment information
- ◆ Time off benefits
- ◆ Employee benefits descriptions
- ◆ Additional policies

## Employee Handbook Mistakes

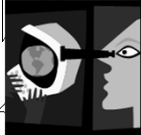
- ◆ Copying policies from the Internet
- ◆ Failure to address all harassment protected by Title VII, not just *sexual* harassment
- ◆ Continuing to use union-related terms in non-union environment and forbidding employees from discussing their wages
- ◆ Failure to review handbook yearly
- ◆ Failure to revise handbook as policies change
- ◆ Failure to notify employees of policy changes

## Safety

- ◆ Safety programs and training
  - Use Training Tools to Help Educate and Document
- ◆ OSHA
- ◆ Workers' Compensation

## Privacy Issues

- ◆ Develop company policy on electronic communications
  - Tell employees there is no legitimate expectation of privacy
  - State that all e-mail and Internet use is subject to monitoring and search
  - Blogging
  - Establish internal controls for routine monitoring of electronic transmissions
  - Don't forget company-owned laptops, phones, PDA's



## Employee Relations

- ◆ Problem solving methods
- ◆ Employee communications
- ◆ Employee recognition
- ◆ Programs that impact company and employee



## Employee Performance Issues

- ◆ Documentation
- ◆ FOSA
  - Facts: who, what, when where, how
  - Objectives: "This job requires X"
  - Solution: what will help the employee succeed
  - Action: what you will do if the employee actions do not change

## Performance Evaluations



## Do it right, or don't do it!

- ◆ Not required by law
- ◆ Can be useful tools / Can be used against you
- ◆ Understand the purpose
- ◆ Keep it simple!
- ◆ Keep is relevant – essential job functions

## Basics of Sound Policy

- ◆ Performance improvement is the goal!
- ◆ ABC of documentation
  - Accuracy
    - ◆ Job related
    - ◆ Firsthand information / direct observation
    - ◆ Factual and specific
  - Behavior – observed, not conclusions
  - Consistency – time period, details

## Think of the Jury

### ◆ Do:

- Be honest, clear and tactful
- Focus on the job functions
- Take notes (after the meeting)

### ◆ Don't:

- Be mean, make comments
- Avoid or delay difficult or uncomfortable decisions

## Performance Evaluation Preparation

### ◆ Prepare for the meeting

- Summarize and evaluate performance by key areas
- Plan goals for discussion
- Set aside sufficient time for the meeting
- Choose a quiet and private location

## The Performance Evaluation Meeting

### ◆ Conduct the meeting

- Sit side by side without barriers between you
- Review the purpose for the meeting
- Explain the relationship between evaluation and compensation if there is one
- Review employee performance
- Ask for employee's self appraisal
- Set goals
- Close the meeting

## Employee Termination

- ◆ Termination should not surprise the employee
- ◆ Know when to seek assistance with a termination

## Resources for Federal Laws

### Integrity HR Resources

HR Toolkit

FMLA Toolkit

Assessment Testing for Successful Hires and Succession Planning

### Department of Labor:

[http://www.dol.gov/elaws/aud\\_hr.asp](http://www.dol.gov/elaws/aud_hr.asp)

### EEOC:

<http://www.eeoc.gov/facts/qanda.html>

### Health Insurance Portability and Accountability Act (HIPAA):

<http://www.dol.gov/dol/topic/health-plans/portability.htm>

### Family and Medical Leave Act (FMLA):

<http://www.dol.gov/esd/whd/fmla/>

### Uniformed Services Employment and Reemployment Rights Act (USERRA):

<http://www.dol.gov/elaws/userra0.htm>

HR Solutions. Great Results.

IntegrityHR

May we answer your questions?

Mitzi Root, PHR

[mitzi@integrityhr.com](mailto:mitzi@integrityhr.com)

502.753.0970