Managing Within the Law
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This is a New Era…….

- Employee law is the fastest growing area of litigation!
- Electronic communication – “E” stands for evidence!
- The rules are more strict than ever!
- Protect yourself!!

EEO Laws – Who is “Protected”

- Race, color, age, disability, medical condition, religion, ethnicity, gender, sexual preference, family status, pregnancy, veteran status, ancestry, etc........
- There shall be no decisions made regarding employment based on the above “protected” categories!
The Top 5 Rules to Manage by

• Be fair
• Be Consistent
• Be free of Inferences
• Focus on Performance
• Follow Policies, Practices, and Procedures

3-Step Model for Interviewing, Hiring, and Promotion

• This job requires “X”
• Can you do it
• Ask everyone

Interviewing Checklist

• Review job description
• Develop legal questions based on the job description

“By failing to prepare, you are preparing to fail”
Benjamin Franklin
Review Job Description

- Physical Skills – lifting, bending, pulling, driving
- Technical Skills – computer skills, industry knowledge
- Behavior Skills – communication, leadership, time management
- Job-Related Expectations – hours, over-time, call, travel

Is there a better way to say or document it?

“We can’t hire him – he has a heavy foreign accent”

- Poor communication skills.
- This job requires effective communication skills.
- I asked him three times, “What are your salary requirements?” and he responded, “Am I required to eat celery?”
“We can’t hire her because she is disabled.”

• The applicant has poor environmental adaptation skills.
• The position requires good environmental awareness skills to interpret monitors and alarms.
• I asked her, “Why are you late for the interview?” and she responded, “I heard a ding when the elevator door opened, I got scared and hid behind a plant until it was safe.”

Danger Zones…

• Comments on personal appearance
• Work-related off-premises conduct
• Nicknames
• Stereotypes
• Touching
• Dating/initiating personal relationships
• Retaliating
• Cartoons, posters, pictures, apparel, T-shirts

Danger Zones Cont’d…

• E-mail, Internet
• Jokes about sex, race, color, religion, politics, ethnicity, disability, age, national origin, sexual orientation, veteran status, sarcasm, innuendo, etc…
Hostile Work Environments

- Verbal
- Physical
- Visual

5 Steps for Managing Performance Problems

- Identify the problem/performance impact
- Identify potential legal rights of employee
- Identify your responsibilities as manager
- Identify resources available to you and the employee
- DOCUMENT!!!!!!!

Assessing Absence: The Excuse-O-Meter

- Paralyzed
- Broken leg
- Stayed up late watching the debates
- Morning Sickness
- Chronic Depression
- Son’s war injury
- Diabetes
Excuse-O-Meter Cont’d…

- Too many Coronas
- Adoption
- Dog ate my work schedule
- Narcolepsy
- Heart Attack
- Snow/rain
- Chuck Norris said so

Family Medical Leave Act of 1993
“FMLA”

- Employees must earn (12 months and 1,250 hours)
- Protection for oneself and family
- Primarily for medical conditions plus birth, adoption, foster care
- Serious health condition – more than 3 consecutive calendar days plus treatment
- If entitled, 12 weeks leave, large or small blocks

Performance Potholes

- Performance impact – yes/no.
- Legally protected right – yes/no.
- Manager’s responsibilities – usually get HR involved.
- Biggest pothole – not addressing issues that are performance potholes with employees during their performance evaluation.
Performance Documentation: FOSA

• Facts that define the problem
• Objectives that explain to the employee the problem
• Solutions to help the employee meet the objectives
• Actions you will have to take if the problem is not resolved

Work Script for Managing Problems

• This job requires “X”
• You are not doing “X”
• How can we help you successfully do “X”

Thank you..........