



Conducting the HR Self-Audit

Presented by:
Lynn Schonberg & David Andrews
Ross, Brittain & Schonberg Co. L.P.A.





Introduction

Importance of Conducting HR Audits

- Ensures Compliance with Laws
- Identifies Risk Factors
- Saves Money on EPLI





Introduction

Protect the Audit Process

- Work with your labor counsel
- Limit disclosure of documents
- Retain the privilege





Auditing the Hiring Process

Job Descriptions

- Essential Job Functions
- Marginal Job functions
- Physical Requirements
- Attach to Employment Application





Auditing the Hiring Process

Employment Applications

- Non-discrimination and EEO statement
- Notify of physical/drug exams and testing
- Check references (notices may be required)
- No questions on gender, age, disability or race
- Work-related organizations and affiliations only





Auditing the Hiring Process

Employment Applications

- Limit time in which application is valid
- Attach job description
- Can you, with or without reasonable accommodation, perform the essential functions of the job?





Auditing the Hiring Process

Employment Applications

- False or incomplete information= disqualification/termination
- Agree to conform to rules and regulations
- Contain at-will language





Auditing the Hiring Process

Advertising

- EEO By-Line
- Recruitment methods





Auditing the Hiring Process

Interview Questions - - In General

- Never make inquiry regarding gender, race, age, marital status, national origin
- Always make only job related inquiries





Auditing the Hiring Process

Interview Questions - - Legal Pre-Offer

- Physical agility tests
- Inquiries about ability to perform all functions
- If disability obvious, will it prevent or interfere with performance
- Job qualifications and past work experience





Auditing the Hiring Process

Interview Questions - - Illegal Pre-Offer

- Medical examinations
- Inquiries about disabilities
- Workers' compensation history
- Check list of conditions





Auditing the Hiring Process

Interview Questions - - Illegal Pre-Offer

- How a disability occurred
- Tests that require use of disability unless necessary for job function
- Denial of job based on marginal functions





Auditing the Hiring Process

Interview Questions - - Legal Post-Offer

- Medical examination
- May share information with key persons on a need to know basis
- May not discriminate based on results of exam





Auditing the Hiring Process

Interview Questions - - Legal Post-Offer

- Exam does not have to "job related"
- Doctor may ask any and all questions
- Withdrawal of offer must be job related





Auditing the Hiring Process

Fair Credit Reporting Act

- Employers must receive consent from the applicant before background checks
- Applies only when a third party conducts check





Auditing the Hiring Process

New Hire Reporting

- New Ohio law requires all employers to report new hires
- Intended to assist in keeping track of "Deadbeat Dads"





Auditing the Hiring Process

Personnel Files

- | | |
|------------------|----------------------|
| Application | Evaluations |
| Reference Checks | Pay increases |
| I-9 Forms | Disciplinary Records |
| Current Address | Relatives |





Essential Policies

Employment at Will Statement

- Contained in Employment Application
- Contained in Introduction/Policy/Receipt
- Reiterated throughout Manual
- Audit all policies to ensure relationship is not destroyed





Essential Policies

Employment at Will Statement

- Sample Statement
 - Nothing in this Handbook creates an employment contract. All employees here are employed at-will, which means that your employment it is not for any definite period of time. Either you or the Company can terminate your employment relationship at any time for any lawful reason





Essential Policies

Employment at Will Statement

- Sample Statement
 - No one at the Company has any authority to alter this relationship unless the agreement is in writing and signed by the President.





Essential Policies

Disclaimers

- Contractual
- Summary of policies and benefits
- Unilateral changes
- Current handbook supercedes older ones
- Actual plan provisions govern





Essential Policies

Probationary Policy

- Up to 90 days
- Subject to extension
- Reviews during/at end
- No change in at-will upon successful completion





Essential Policies

EEO Policy

- No Discrimination on all protected bases
- Covers all aspects of relationship
- Managers and supervisors expected to follow
- Complaint procedure
- No retaliation provision





Essential Policies

Workplace Harassment Policy

- Define all types of harassment
- Specify prohibited conduct
- Complaint procedure
- No retaliation provision





Essential Policies

Reasonable Accommodations Policy

- Applies to all qualified individuals with disabilities
- Will provide reasonable accommodations
- Identify member(s) of management to contact





Essential Policies

Workplace Violence Policy

- Imperative in light of new concealed weapons law
- Ban all weapons and violence
- Post notices that no weapons allowed





Essential Policies

Attendance Policy

- No fault or traditional
- Elements of either:
 - Regular and punctual attendance essential
 - Tardiness defined and consequences set forth
 - Be at workstation at start of day
 - Three day no show/no call
 - Discipline





Essential Policies

Rules and Regulations

- Prior to listing rules, inform employees that the list is not exhaustive
- Progressive discipline?
 - Strict policy defeats at-will status
 - Alternative is to list possible consequences depending on severity and other circumstances
- Nothing in this policy changes the at-will relationship





Essential Policies

Medical Leaves of Absence Policy

- General Rules
 - Company health insurance maintained?
 - Leave obtained through false pretenses barred
 - Prohibit working, self-employment and pursuing interests conflicting with LOA
 - No leave can exceed 12 weeks in a 12 month period unless approved by President in writing
 - 12 month period is rolling period





Essential Policies

Medical Leaves of Absence Policy

- FMLA Policy
 - 50 or more employees
 - 12 weeks in a rolling 12 month period
 - Applies to medical and family needs - proof
 - Employer continues to pay health insurance
 - Job guaranteed at end of the 12 weeks





Essential Policies

Medical Leaves of Absence Policy

- General medical leave of absence
 - Unpaid leave for at least 8 weeks
 - Identify rolling 12 month period
 - Return to work certification
 - Employer continues to pay health insurance (?)
 - Job guaranteed at end of leave





Essential Policies

Workers Compensation Leave

- *Coolidge v. Riverdale Local School Dist.*
 - Applies to employees who are on leave due to work related accident and receiving temporary total disability benefits
 - Must be granted unlimited leave of absence





Essential Policies

Military Leave

- USERRA requires:
 - Job must be held for employee called for active duty for up to five years
 - Same benefits available upon return as if employee had never gone on leave
 - Upon return the employee may only be terminated for cause for specified period of time





Essential Policies

HIPPA Compliance

- Assure employees that medical information will be kept confidential
- Maintained in file separate from personnel records
- Employees may be required to execute a release if medical information is necessary for determination of "fitness for duty" or other permissible purpose





Essential Policies

COBRA

- New employee notice
- Brief description of right to continuation coverage for any beneficiary upon qualifying event
- Employee's responsibility to inform employer of change in status of beneficiary





Essential Policies

E-mail/Internet Policy

- Warn against inappropriate use of internet and e-mails
- Prohibit software downloads without express permission
- Warn of employee responsibility for software piracy
- Put employees on notice of employer monitoring of e-mail and internet use





Essential Policies

Complaint Procedure

- Essential in today's litigious society
- Provides an essential defense to company
- Should include:
 - Steps to take
 - Reasons for taking steps
 - No time limit on complaints





Essential Policies

Management Investigation Policy

Take every complaint serious	Promptly investigate
If suspicious, investigate	Keep open mind
Obtain statements/tape investigate	Suspicious
Discipline equal to conduct	Educate
Keep alert for retaliation	Republish policy





Essential Policies

Receipt for Copy of Handbook

- Acknowledgment of receipt
- Understand must review
- Unilateral change
- SPDs govern
- Employment-at-will restated
- No changes unless in written document





Regulatory Compliance

OSHA Recordkeeping (unless in an exempt industry)

- OSHA Form 300 – Log of Work Related Injuries
- OSHA Form 300A – Summary of Work Related Injuries and Illnesses must be posted February 1 to April 30 of the year following following the year covered by the summary
- OSHA Form 301 – Must have incident report for each recorded illness or injury





Regulatory Compliance

Unemployment and Workers' Comp Reporting

- Quarterly reports of payroll for unemployment
 - \$1000 penalty for late filing for most companies
- Semi-annual reports for workers' comp
 - Failure to timely file jeopardizes workers' compensation coverage





Regulatory Compliance

Right to work verification

- I-9 on file for every employee
- Copies of documents relied upon
- Good faith reliance on documents is sufficient





Regulatory Compliance

EEO-1

- Snapshot of racial/gender profile due September 30 each year
- All employers over 100 employees
- Employers with 50 or more employees and \$50,000 in government contracts





Regulatory Compliance

Wage and Hour Review

- Exemptions
- Overtime
- "Comp time"
- Travel time
- Waiting Time
- Training Time





Regulatory Compliance

FMLA Recordkeeping

- Response to Employee Request for Leave
 - Failure to give employee notice of FMLA rights may give employee additional leave and job protection
- Doctor's Certification Form
- Attendance tracking





Regulatory Compliance

Posting Obligations

- Wage and Hour (federal and state)
 - Minimum wage Child Labor
 - Overtime
- Polygraph Protection Act
- FMLA
- OSHA
- Ohio unemployment and workers' compensation





Conduct Annual Training

Importance of Training

- Supervisory Training
 - Essential to demonstrate reasonable care to prevent and correct harassing behavior
 - Enables identification of behavior
 - Assures knowledge of policies
 - Evaluate success in yearly performance review





Conduct Annual Training

Importance of Training

- Investigatory Training
 - Essential to demonstrate reasonable care to prevent and correct harassing behavior
 - Choose certain supervisors to undergo





Conduct Annual Training

Importance of Training

- Training of Employees
 - General training on sensitivity issues
 - Specific training for certain departments/employees





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For further information contact:

Lynn Schonberg and David Andrews
 Ross, Brittain & Schonberg, Co. L.P.A.
 6000 Freedom Square Drive, Suite 540
 Cleveland, OH 44131
 216-447-1551
 216-447-1554 Fax



Email: lynn@rbslaw.com; david@rbslaw.com
 Website: www.rbslaw.com
