

## HR Assessment Guide

Changes in employment laws are relatively frequent. Consequently, it is important that employers keep informed of changes in the law, as well as any changes in best practices and other guidelines for human resources management. It is prudent to consult a trusted employment attorney when conducting a full review of your HR processes and procedures.

### ***Workforce Planning***

- Review benefits, compensation, working conditions, leave policies and other human resources matters to determine whether current practices are consistent with the company's values and objectives.
- Evaluate current recruitment and hiring processes to determine whether current practices are meeting the needs of the business. If not, what changes are needed?

### ***Employment***

- Regularly review job descriptions to assure they continue to be accurate. Review should be done at least annually and more frequently in the event of major changes in personnel, structure, etc. Also review all descriptions to be certain that the descriptions are compliant with the Americans with Disabilities Act and that they do not unlawfully discriminate in any manner.
- Review your current employment application to determine that (i) it includes all the information necessary to evaluate an employee or to make decisions about a candidate seeking employment; (ii) it does not gather superfluous or unnecessary information; and (iii) it does not ask any questions that may be deemed discriminatory or otherwise be deemed unlawful.
- If you do formal background checks to determine criminal records, etc., regularly review the employee's authorization for checks to be certain it is compliant with current law.
- Review your entire recruitment and hiring process, as well as treatment of current employees, to assure there are no unlawful practices in the process. Look particularly at matters like drug testing, arrest records and conviction records and confirm your jurisdiction's current rules regarding those issues. Regularly review all employment discrimination and equal employment opportunity policies to assure compliance with all applicable federal, state and local law.
- Train persons who do interviews regarding lawful and unlawful questions. Specifically identify questions that are off limits, e.g., questions about plans for child care, as well as areas of inquiry that could lead to unlawful questions.
- Review any standard offer letter to assure that it accurately reflects current policy and practice. If you are an "at will" employer, you should include relevant language in offer letters. It is wise to have an HR specialist or employment attorney review your standard letter to assure compliance.
- Review and evaluate your orientation process. Do you provide mentoring for new employees? How do new employees learn about company policies, culture, etc.? Determine whether a group orientation or individual one-on-one orientation best serves your company and your workforce.

## **Compensation**

- Review no less than annually your classification of exempt and non-exempt employees to be certain employees are correctly categorized and compensated.
- Review practices on assigning overtime work and review the timeliness of payment of regular compensation and overtime.
- Review your entire compensation program and seek to eliminate any disparity among similarly situated employees. Formalize your program if you have not done so already. Review your program to assure equitable treatment of employees.
- Gather information to evaluate your compensation package in light of compensation at similar companies in your geographic area.
- Regularly review all workers to be certain that no worker is wrongly categorized as an independent contractor when in fact the individual is an employee. Review the criteria used by the IRS and the DOL in distinguishing contractors from employees.
- Review practice with regard to payment of final compensation to a departing employee to assure compliance with applicable state law.

## **Benefits**

- Review current practices for reporting to third parties regarding health plans and benefits, disability, etc. Be certain that all required reports are prepared in an orderly and timely fashion.
- Obtain current, accurate information on the Affordable Care Act (Health Care Reform) and its application to your company. Be certain that your current health care coverage is compliant, and determine what changes will be necessary going forward to continue compliance.
- Review current practice for reporting information regarding qualified retirement or savings plans, whether to the DOL or the IRS. Evaluate current practice to be certain both that records are correct and that reports are being submitted in a timely manner.
- Evaluate your current practices in communicating to employees about benefits. Analyze both written materials you distribute, as well as any presentations you may make. Is your explanation sufficiently clear to allow employees to make informed decisions about benefits?
- Review current practices with regard to the distribution of summary plan descriptions (SPDs), COBRA notices, and other information which you are required to distribute. Assure that all materials are both fully compliant with the law and timely distributed.
- Monitor COBRA in order to be aware of any modification of the law. Also monitor state law so that you are aware of any new state benefits or modification of current benefits.
- Include a review of all other benefits, e.g., flex-time, flexible spending accounts, etc.
- Carefully review your entire leave policy including vacation, sick leave, disability leave, personal days, holidays, etc.

## ***New Employee Procedures & Paperwork***

Review the administrative tasks required for new employees to assure that all required materials are distributed to new employees and necessary information is obtained, including:

- E-Verify/I-9 Employee Verification
- Employee's Withholding Allowance Certificate (W-4)
- Information Necessary to Comply with New Hire Reporting Requirements
- Employee Information Form (including at minimum an emergency contact, home address and phone, cell phone, etc.)
- Employee Handbook (if you use one). Be certain that managers are retaining a receipt or other evidence of distribution of the book to each employee.

Be sure all required federal and state posters are clearly displayed where new employees, as well as current employees, can see them.

## ***Employee Records***

Review current policy and practice with regard to employee records and record retention, including, for example, I-9s, FMLA documents, workers' compensation claims, medical records, etc. Determine whether your current procedure provides sufficient confidentiality and whether it requires any modification.

## ***Performance Reviews***

- Review your system of employee evaluation and accountability as well as any policy or procedure through which employees are awarded for their performance. A good program should clearly communicate to employees what is expected of them and provide as much objective evaluation of performance as possible.
- Review your evaluation tools to maximize the use of objective measurements, e.g., level of sales, scores from customer feedback, productivity, and minimize subjective evaluations.

## ***Training and Development***

- Review and evaluate the current training system. Do you use mentors? Are employees provided clear information regarding company policies, benefits, safety routines, etc.?
- Evaluate training in view of your industry and the needs of your business. Some businesses, e.g., healthcare, may require substantial substantive training in terms of patient safety and similar matters, while other enterprises may simply need to provide general information to employees.
- Evaluate training programs in view of legal requirements and preventing potential problems. For example, every employer should have a sexual harassment awareness program which defines sexual or other harassment, identifies consequences for those who violate the policy, and provides a vehicle for reporting harassment.

## ***Employee Discipline/Termination***

- Carefully review your discipline and discharge policy. Is it sufficiently progressive? Is it fair to employees? Is it practical for managers and supervisors?
- Does your policy require careful investigation into employee incidents?
- Evaluate the documentation of your program to be certain that all disciplinary action and all employee infractions are appropriately documented. Make certain that your communication to employees clearly informs them of any infraction and the consequent discipline, and be certain that you are maintaining a complete "paper trail" with regard to employee discipline and discharge.
- Evaluate your protocol or procedure for retrieving company property in the hands of an employee who is leaving, whether voluntarily or involuntarily. Also evaluate your procedures for the departure of a terminated employee, e.g., do you escort terminated employees from the facility?
- Carefully review your policy regarding references to third parties, whether employers or others. Determine how much information you are willing to provide. Review any state law that may provide a shield for employers providing truthful references to future employers.
- Review your administration of COBRA continuation coverage for health insurance benefits. Are you timely providing all standardized notices regarding the program? Who is responsible for timely notice to employees? Are you handling COBRA in house or through an outside vendor?
- Evaluate your current practices with regard to exit interviews. Are they actually occurring? Determine whether they are effective or whether the interviews need to be modified in any way.

