

HR Topics Every Manager Should Know



In this litigious society coupled with just about everyone having access to the internet, many think they can arm themselves with a small amount of knowledge in an effort to circumvent your authority as an employer. No longer can business owners and managers sweep these topics under the rug and hope they never come up or if they do, go away quickly. In most cases, you cannot operate your business without employees. Education on these topics is paramount in the effort to maximize productivity while minimizing exposure to unnecessary liability, fines, decreased morale and turnover.

ADA/FMLA/WC – Because the interplay of three major employment laws: the Americans with Disabilities Act (ADA), the Family and Medical Leave Act (FMLA) and Workers' Compensation – is so complicated and fraught with problems, many HR professionals often refer to these three laws as the Bermuda Triangle of Employment Law. It is essential for all supervisors, in addition to the human resources staff, to understand the interplay of these laws to assure legal compliance as well as to provide employees with the benefits and protections each law provides.

Challenging and Difficult Employees – many organizations face the arduous task of having to manage difficult employees. Supervising other people is never easy, and some employees make it particularly difficult. "People" are not managed but a "Person" is. Learn to maximize each talent your employee has.

Conflict Resolution – If two people never disagree, then only one of them is thinking. As certain as death and taxes, so too is conflict within an organization. Supervisors can work with their employees to resolve conflict in the workplace while setting examples and lending credibility to their own management techniques.

Delegating – Successful managers with varying years of experience and at all levels of management recognize the benefit of assigning tasks to the most qualified individual. Faced with demanding workloads, they delegate authority to their employees. They work diligently to make sure their employees are capable of handling increased responsibility and duties and do so successfully. Effective delegation results in better trained employees, increased productivity, more motivated staff and improved retention.

Disciplinary Issue – Like conflict, disciplinary issues will occur in most businesses. How these issues are handled and resolved speaks volumes about the professionalism of a given company, not only to other employees and prospective employees, but the public as well. Nobody cares about your "self esteem" once you leave the sixth grade! Jealousy, a sense of entitlement and supervisors wanting to be "friends" with subordinates are all poisonous aspects that do not belong in a place of business. Supervisors should be armed

with the principles of effective employee discipline and how to document management actions in an appropriate manner, particularly in light of new Connecticut laws related to the implementation and documentation of discipline and corrective measures (PA 13-176).

Discrimination Law – "You're discriminating against me because I have a ring in my nose!" Title VII of the Civil Rights Act of 1964, the Americans With Disabilities Act, the Age Discrimination in Employment Act, and the Genetic Information Nondiscrimination Act are federal laws which prohibit employers, including employment agencies and unions, with at least fifteen employees (20 employees for ADEA), from discriminating in employment based on race, color, religion, sex (gender), national origin, disability, age, or genetic information. They also prohibit retaliation against persons who complain of discrimination or participate in an Equal Employment Opportunity (EEO) investigation. There are two aspects to discrimination: What is the nature of discrimination? And who is being discriminated against? If a smoker wants to leave his/her post to go smoke and it is disallowed, first off, a smoker is NOT a protected class and smoking is not a guaranteed right.

Documentation – There is no axiom more critical in efficient HR administration than that of maintaining detailed and complete documentation! The goal of good documentation is to create a record of employment including facts of incidences and the steps and actions by the employer in an employment matter. Attendance, tardiness, PTO requests, reviews, salary history and corrective measures AT A MINIMUM must be kept! In most service businesses, turnover can be quite high and more than 75% of disassociations can be contentious. Battling warrantless unemployment claims, EEOC complaints and even litigation is much easier and infinitely more successful with proper record-keeping.

Employee Complaints - Employee complaints are normal and even welcomed by most principals. In many cases, employees will complain first to their supervisors. This means that supervisors must be adept at handling complaints so that the issues can be resolved in a fair and correct manner. Creating a workable and understood chain of command with a detailed procedure for handling complaints will not only offer litigation mitigation but also set a tone for higher morale and a sense of professionalism within your organization.

FLSA – The Fair Labor Standards Act (FLSA) was passed in 1938. It set standards for child labor, minimum wage and overtime pay. Since the passage of the Equal Pay Act in 1963 as part of the FLSA, the Act also prohibits gender-based wage discrimination. It is essential for all supervisors, in addition to the Human Resources staff, to understand how to comply with FLSA and with state child labor and wage and hour laws, particularly in this climate of changing regulations related to The Affordable Care Act or "Obamacare".

The I-9 – A simple, Federally-mandated form that is often overlooked by hiring managers and business owners. The completion of this form asserts the legal status of any employee or contractor, authorizing them to work in this country. Inspection and mandates of this form have increased in the wake of 9/11/2001. Keep in mind, illegal immigrants are now allowed driver's licenses in Connecticut!

Interviewing – Years ago, an RCG client would take finalists for a high-level executive position out to lunch. The decision maker would watch to see if the prospect added salt to his/her food prior to tasting it. If so, that person was eliminated from consideration. Why? If a candidate would make a decision without gathering all available information, they would not be a good fit for the company. While that may be a bit extreme, careful preparation will allow employers to maximize the interview process. Phrasing questions properly and honing your listening skills as well as body language can make a big difference in the responses that candidates give. This can all be done without the standard “Where do you see yourself in five years?”, and “Why should I hire you?” questions that are tired and passé.

Job Descriptions – Job descriptions can be very useful to employers, employees and job applicants. They should be carefully constructed, specific yet cognitively exculpatory. While a job description placed with a recruiting vector may be vague, detailed position statements should always be used during initial application and interviewing; particularly for hourly and service employees. Additionally, avoid the sense of incomplicity when advertising for a specific gender or type of person. “Female Bartender” is perfectly fine if it is a “Bona fide condition of employment.” Legal precedent has been proven many times, most recently with suits against Hooters Restaurants and The Borgata in Atlantic City.

Mandatory Sick Leave – Public Act 11-52, took effect January 1, 2012 and mandates any service employer with 50 or more employees to give each employee one hour of paid sick leave per 40 hours worked. While the nuances of yet another intrusion by government into private business can be debated, many companies do not fall into this category. It is however, incumbent upon owners and managers to realize this when confronted by ill informed employees.

Preventing Injuries - Slips, trips, and falls are among the most common causes of injury on the job and at home. Everyone slips, trips, or falls on occasion. While sometimes benign, other times injuries can result in a seriously painful result. It's important to recognize slip, trip, and fall hazards in the workplace and take measures to mitigate accidents. However, when an accident does occur, proper documentation and corrective measures are essential when dealing with a Workers' Compensation or even OSHA claim.

Privacy Issues At Work – HIPAA, Dodd-Frank, FCRA and more have been around for years. In our litigious society, many more people have been exploiting these laws to use against employers. While it is commonplace to securely guard social security numbers and even home addresses, many managers or business owners have innocently handed over a paycheck to a sick employee's spouse or given a work schedule to a young employee's mother. In the strictest sense, this is a violation of privacy and secure data laws, in the absence of express written permission by the employee. Even for former employees, verify position and duration of employment only, to those seeking recommendations. Employees who seem inconvenienced by your perceived

inability to help, will respect you once the true nature of a wish to protect them is learned. Another privacy issue involves surveillance. Provided cameras are not set up in areas where there is a “reasonable expectation of privacy” such as a bathroom or changing room, business owners are free to video their business any way they deem necessary. In private businesses, courts have held that lockers and other storage areas pose no expectation of privacy and are subject to search by an employer as well.

Sexual Harassment – Connecticut Law mandates that any employee in a management position in a company with a total of 50 or more employees must attend a Sexual Harassment Avoidance Training Program within six months of assuming their role as a manager. While some of the information regarding sexual harassment may seem ludicrous, other seems common sense. It is safe to say story-book romances involving supervisors and subordinates in ANY workplace are few and far between. It is best to avoid any sense of impropriety and keep relationships professional thus limiting retaliatory ammunition should an employee become disassociated.

Schedules, Time off & Breaks – “*I work all day; you have to give me a ½ hour break!*” How many times have you heard that from an employee? While Connecticut does stipulate an employee must be afforded a 30 min. meal break if that employee works more than 7.5 consecutive hours, there are exceptions. A notable exception [§31-51ii(3)] is when there are less than five employees working a given shift or there aren't sufficiently qualified employees to cover a meal break.

Time and Records Management – The single most effective tool any employer can have when dealing with HR issues is accurate and efficient record-keeping. Not only does effective time management help with productivity, it will help to build a solid foundation should a business be dragged into an EEOC or DOL dispute. This isn't just for big businesses; many attorneys know smaller businesses lack the resources to properly maintain an effective HR department. Sadly, these are the ones targeted in frivolous wrongful termination suits. RCG has helped many businesses establish protocol that has saved principals thousands when dealing with disgruntled employees and warrantless unemployment compensation claims.

Unemployment Compensation – It becomes increasingly frustrating when terminated employees attempt to undeservedly collect unemployment benefits. Many employers figure this is just part of the “taxes” that are paid. Not so! Unemployment contribution rates are paid quarterly to the state and increase with every employee that successful collects from you AND previous employers! Don't ignore those “Potential Liability” notices from the Dept. of Labor. Through diligent record keeping and good business practices, unemployment claims can be mitigated saving large amounts of money!

WARN Act – The Worker Adjustment and Re-training Notification Act is a set of mandates effecting employers (with 100+ employees) who are closing or laying off 50+ employees. Even if a business has fewer employees, RCG can help with location closings and large-scale lay-offs, mitigating the employer burden of mandatory compliance and helping displaced workers.

In closing, as a business principal or manager, you are never alone. Those with less than honorable intentions will always have advocates on their side, looking to profit off your success. RCG is on your side to protect what you've built!