

THE BASICS OF HIRING, FIRING AND RETENTION

HIRING THE BEST APPLICANT...
FIRING WHEN PERFORMANCE IS
UNSATISFACTORY...
RETAINING GOOD EMPLOYEES



I. The Hiring Process

- o In Texas, employees are hired "at-will," except as altered by a contract, agreement, employee handbook or other organizational communication tool.

The Hiring Process

Tools used in the Hiring Process

1. Application
2. Resume
3. Employment History
4. Employment Verification
5. Employment Background Check
6. Application Signature
7. Interview
8. Recommendations



The Hiring Process

A. The Importance of Hiring the Right Person

- Look for applicants with the right skills and experience
- Past performance is the best indicator of success
- Let the interview supplement the application information
- Don't let differences get in the way
- Personality is a plus and intuition can be good

The Hiring Process


B. Seven steps for Hiring Success

1. Determine what is needed. Be sure the posting reflects the tasks and responsibilities.
2. Advertise in traditional and non-traditional resources
3. Use the application to screen applicants -screen for skills and experience
4. The interview is to explore the unknowns and confirm the known
5. Ask the right questions
6. Reference checks are the key
7. If it's not right, keep on searching

New Tools for Hiring

- o Facebook
- o Twitter
- o Websites

Seven Steps for Hiring Success



1. Determine What You Need

A. Develop an accurate job description

- List the five most important job duties
- Determine the skills and abilities needed to perform the five major duties
- Ensure the job description is accurate

Determine What You Need

B. Develop a Candidate Profile

- Don't overemphasize education or experience required
- What would the ideal candidate bring to the job?
- Analyze past employees who were successful in the position and their skills and performance

Determine What You Need

- c. Consider the organization's and department Culture
 - Evaluate management vs. employee style
 - Can applicant comply with policies, procedures and practices?
 - Is the environment a "good fit" for the employee?

2. Advertising



- A. Effective ADS
 - When should ads run?
 - Where should ads run?
 - Make it appeal to the kind of person you're trying to reach
 - Consider a variety of sources to reach potential applicants

3. Screen for Skills and Abilities

- A. Identify Key Skills
 - The job posting should reflect the day-to-day skills needed
 - Test for skills as needed (computers)
 - Determine how to quantify characteristics and behaviors

Screen for Skills and Abilities

- b. There is no ideal candidate
 - Each person brings a different set of skills and abilities
 - Which applicant has the most needed skills?


Screening Model

Names	Skill Set:		Experience:	
	Computer	Language	2 Yrs	Not Related

4. Interviewing

- a. Successful Interviews
 - Discover what you don't know; confirm what you know
 - Ask pertinent questions
 - Listen, don't talk






Interviewing

b. Steps to a Good Interview


- Review the job description and requirements
- Prepare for the interview
- Ensure no interruptions
- Anticipate responses
- Prepare the applicant
- Encourage openness
- Manage the interview
- Ask questions that are predictive of future behavior
- Close the interview



Interviewing

c. Ask the Right Questions

- Purpose of the Interview:
 - Get applicants to talk
 - Use active listening
 - Be sure you understand
 - Get all of the information to answer your questions



Interviewing

d. Ask the Right Questions

- What To Ask And Not Ask:
 - Don't ask yes or no questions
 - Only ask job related questions
 - Don't ask personal questions
 - Don't ask medically related questions
 - Don't ask about race, sex, religion, age, national origin, disabilities
 - Ask about past history, goals, career objectives, working for others, self-evaluation, decision making, problem solving, salary expectations

5. Reference Checks Are Important

A. Why Do A Reference Check?

- It can tell you the truth about the applicant's history
- Past performance is a good indicator of future performance
- To determine eligibility for rehire
- If they won't tell you, you'll wonder, "why?"

Reference Checks Are Important

B. What To Do If I Can't Get Any Information:

- call personal references
- Have applicant contact former employers to encourage them to provide references
- Ask employee to get a reference letter

Criminal History Checks

Criminal History Background Checks are important

- It confirms a person's history
- It identifies possible problem areas
- It helps to complete the profile

Criminal History Checks

- o Be sure that application notifies the public
- o Establish standards for use of the information
- o Develop policies for new and active employees
- o Be consistent

6. If It's Not Right, Keep On Searching

-Take everything into account and determine if it's a good match

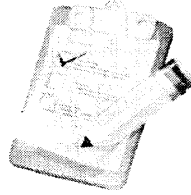


7. Caution Signs



- Gaps in employment history
- Job hopping without reasons
- Career changes
- Inconsistent salary progression
- Conflicts with supervision
- Overqualified applicants for low level positions
- Late for interview appointments
- Answers the wrong question
- Doesn't ask questions

ESSENTIAL HIRING CONCEPTS



II. Employment Classifications

A. What Is It?

Either party may terminate the employment relationship at any time, for any reason or for no reason at all...except for an illegal reason.

"At-Will" Employment

B. Can The Doctrine Be Modified?

Yes, by an express contract such as the employee handbook or policies and procedures.

It can also be modified by implied contracts or conduct.

"At-Will" Employment

c. The employee handbook should contain organizational policies and procedures and be regularly updated.

- Employee orientation should clearly explain the employment relationship.
- The employee handbook should be on a website so it is easily accessible for all employees.

III. State and Federal Employment Law Statutes

- A. Title VII, Civil Rights Act of 1964, as amended
- B. ADEA
- C. Pregnancy Discrimination Act of 1978
- D. FMLA
- E. The Rehabilitation Act of 1973
- F. ADA

A. Title VII of the Civil Rights Act of 1964 as Amended (Civil Rights Act of 1991)

1. What Does It Provide?
Prohibits discrimination in employment based on race, sex, pregnancy, color, religion, national origin

- Covers:
- Recruitment
 - Hiring
 - Job Classifications
 - Transfer
 - Promotion
 - Compensation
 - Discharge
 - Training

Also prohibits retaliation.
Same sex harassment is actionable under Title VII.

Title VII of the Civil Rights Act of 1964 as Amended (Civil Rights Act of 1991)

2. Types of Discrimination

- Disparate Treatment
- Disparate Impact

B. Age Discrimination In Employment Act

1. What Does It Provide?
 ADEA Prohibits discrimination in employment based on age (40 years and over), except for BFOQ's

2. How Do We Avoid Problems?

- Don't ask applicant age, date of birth, high school graduation date
- Do not use age to make assumptions about new employees or older workers
- Don't joke about an employee's age
- Don't mention age when talking about terminations.

C. Pregnancy Discrimination Act of 1978

1. What Does It Provide?
 Prohibits discrimination in employment based on pregnancy related conditions

Pregnancy is treated as any other disability

Pregnancy Discrimination Act of 1978

2. Leave Policies

- Pregnancy Disability leave must be treated the same as any other illness or disability
- Employee may work as long as she is able to perform the work safely
- If they cannot work, physician certification may be requested

D. Family and Medical Leave Act of 1993

1. Eligibility Criteria (FMLA)

- Must be employed for 12 months minimum and
- Must have worked 1250 hours during previous 12 months before requesting leave
- No leave entitlement during first year of employment

Family and Medical Leave Act of 1993

2. Types of Leave

- Family Leave to care for a spouse, child or parent with a serious health condition
- Birth, adoption or placement of a child
- Serious health condition that makes employees unable to perform the functions of a position.

Family and Medication Leave Act of 1993

3. Returning from leave

- Employee entitled to job help prior to leave or an equivalent position with equivalent benefits and pay
- An employer can not deny FMLA if the employee is eligible
- If the employee does not return after 12 weeks leave, the supervisor should notify employee of expected return date
- If an employee does not return on time, the employer is not obligated to keep position open

E. The Rehabilitation Act of 1973

1. What Does It Provide?

- Prohibits discrimination on the basis of handicap
- Reasonable Accommodation
- Affirmative Action

The Rehabilitation Act of 1973

2. Who Is "Handicapped" Person?

- Has a physical or mental disability which substantially limits one or more of such person's major life activities
- Has a record of such impairment or
- Is regarded as having such an impairment

F. Americans with Disabilities Act

1. What Does The Law Provide?
Prohibits discrimination against a qualified individual with a disability in:

Recruitment, advertising, job application procedures, hiring, upgrading, promotion, demotion, transfer, layoffs, termination, job assignments, leaves of absences, etc.

Americans with Disabilities Act

2. What does it require?
- Prohibits discrimination against applicants and employees in all terms, conditions, benefits and privileges of employment
 - It protects "qualified" individuals with a disability
 - Requires reasonable accommodations

Americans with Disabilities Act

3. What's new about ADA?
- Is extensive
 - No longer tied to a disability that limits a major life activity

IV. Retention

A. What factors help retain employees?


- Supervisor/employee relationship
- Training in the early stages of employment
- Open Communication
- Partnerships
- Lifelong learning
- Fun!


Retention

B. Best Practices for organizations

- Mistakes are okay, failure is allowed
- Pride and celebration
- Think out of the box
- Provide good customer service
- Don't take "no" for an answer
- There's always a better way, find it
- Do the right thing; make the right decision
- Encourage Innovation and creativity

**WHAT DO I DO IF
IT'S JUST NOT
WORKING?**






I. Discipline Process

A. What are the steps to the discipline process?


- Informal Warning
- Formal, written warning
- Suspension with or without pay
- Probation
- Discharge



Discipline Process

B. Effective Discipline Management

1. Be clear about performance expectations
2. Identify behaviors, not feelings
3. Refrain from subjective comments or judgmental statements
4. Have all the facts and documents
5. Prepare for the interview
6. Develop a plan for improvement
7. Develop a timetable and review date
8. Get Closure



Discipline Process

C. What You Should Not Do

- Feel guilty
- Defend your position
- Humiliate employee
- Avoid apologizing for doing your job
- Get angry

II. The Discharge Process

A. What Are The Steps To Termination?

1. Review the pertinent policies and procedures
2. Review the documentation; develop facts
3. Prepare the discharge letter
4. Conduct a session to review objectives, performance expectations, performance deficiencies, and reasons for termination
5. Provide an opportunity for the employee to talk (and vent)
6. Discuss next steps, what employee should expect
7. Document process

The Discharge Process


B. Common Problems

- Supervisors know of problems and wait until it's too late
- Employee was not the best applicant
- Performance reviews were poor or marginal
- Lack of documentation
- Not following policy, procedure

Discharge


An employee may not discharge or otherwise discipline an employee based on the employee's refusal to engage in an illegal act.

Sabine Pilot Serv vs. Havck (1986)



Best Practices

- Set out your policy in writing
- Review employee handbook, manuals, procedures for accuracy
- Be clear with employees about expectations
- Address problems immediately
- Listen for understanding
- Document, as needed
- Have employee acknowledge documents
- Get closure



Current Workplace Issues

1. Exempt/Non-exempt Status
2. Harassment
3. Workplace Violence
4. Use of email
5. Use of technology
6. Dating and workplace romance
7. FMLA
