Hiring, Documentation, and Termination Issues

Mary Ann Saenz-Thompson, SPHR, SHRM-SCP
Disclaimer

This training is designed to provide general information about the subject matter covered. Neither TAC nor the trainers are engaged in rendering legal advice. If you need legal advice, TAC recommends that you seek the services of a competent attorney who is familiar with your specific situation.
Steps to Hiring

1. Identify the essential job functions.
2. Identify the qualifications desired.
3. Post your positions.
4. “Get the word out!”
5. Screen applications to weed out the unqualified applicants.
Steps to Hiring

Work with Human Resources to help eliminate “potential” problems

Use standardized applications vs. resumes

Applications must be retained at least 2 years unless hired, then must be retained for 5 years after separation.
Job Descriptions

• A written summary of the significant aspects of a job.

• Not required under the ADAAA, but they help to ensure compliance with ADAAA.

• Can justify the employee selection decision in determining the best qualified applicant for the position.
Prepare to Interview

• Review the application and resume BEFORE the interview.

• Determine what questions to ask and a rating system to use BEFORE the interview.

• Ask all applicants the same questions and spend equal time with each applicant.
Interview Goals

What are you looking for?

• Does applicant meet job requirements?
• Any gaps in work history. Why?
• Is applicant interested in the job?
• Is applicant suitable for the job?
Beginning the Interview

• Make the applicant comfortable.
• Explain the interview procedure.
• Give some information about your County and department.
• Describe the job duties to the applicant.
• Ask them if they have any questions.
Interview Questions

- Must relate to the job requirements and the applicant’s ability to perform the essential functions.

- Steer clear from “protected status” types of questions.

- Ask “Open-Ended,” not Yes-No.
Interview Questions

- Do not ask questions about applicant’s personal life.
- Document strengths to justify selection of final candidate.
Interview Tricks of the Trade

• Avoid distracting behavior
• Do not take phone calls
• LISTEN…don’t interrupt
• Keep interview on track
• Avoid making “implied contracts”
Interview Tricks of the Trade

• Head-nodding
• Encouraging words – “yes”, “go on”, “that’s interesting”
• SILENCE…
• Repeating the answer with a questioning tone
• Verbal test questions if specific training, education or experience is required
Interview Closing

- Repeat job duties and expectations.
- Do not oversell the job.
- State the negative and positive of job.
- Ask if they have any questions.
- State when you plan to make a decision and thank them.
Sex

Appropriate = NONE unless BFOQ

Inappropriate = “Do you plan to have children?” “Do you think a woman can do this job?”
National Origin

Appropriate = NONE

Inappropriate = “Were you born in the US?”
“What is your nationality?”
Interview Questions

Age

Appropriate = Are you at least 18 years old?

Inappropriate = “How old are you?” “What is your birth date?”
Disability

Appropriate = “Can you do the essential job functions with or without an accommodation?”

Inappropriate = “Are you disabled?”
Interview Questions

Arrest Record

Appropriate = Have you ever been convicted of a felony?

Inappropriate = “Have you ever been arrested?”
Interview Questions

Languages

Appropriate = “Do you speak English? “ or “Do you speak Spanish?” - only if necessary for the position

Inappropriate = “What is your native language?”
Interview Questions

Education

Appropriate =

Anything pertaining to the educational requirements of the job

“What degree, certification or training do you have?”
Checking References

• Ensures accuracy of information in all phases of the process (interview, resume and application)

• FACTUAL
  – Past Employment Information
  – Professional References
  – Educational/Certifications Information
Tips on Documentation

Avoid words like “Attitude” and “Behavior”.

Use Verbs

Focus on what you want the employee to do.

Focus on what the employee does
Types of Discipline

- **Preventative Discipline**
  - Done without employee knowledge

- **Corrective Discipline**
  - After behavior or poor performance has occurred

- **Punitive Discipline**
  - After behavior—job in jeopardy
Written document must address the following:

• What the employee did wrong – focus on behavior
• Why is the problem a problem – policy, etc.
• Specific impact of the incident
• Specific instructions to correct behavior
The Documentation Process

Written document must address the following cont’d:

• Reasonable time period to make correction
• Description of previous efforts to correct
• Your job is in JEOPARDY written into the document. CONSEQUENCES!
• Employee’s signature that they have read and understand the document
Ask yourself these questions before terminating:

- What are the real reasons for terminating this employee?
- Are they work related reasons?
- How would a jury of the employees peers look at the reasons?
- Have you consulted legal counsel?
Terminations

• Do you have SPECIFIC, OBJECTIVE, VALID documentation?

• Does the employee fall into a protected class?

• Is your decision CONSISTENT with your past practices and current policies?

• What do you have in the employees personnel files?
Terminations – The Process

Once your documentation is in place and you have consulted with your legal counsel…

Meet with the employee in private. Always have one unbiased witness (preferably another supervisor).

State the purpose of the meeting.

No small talk or personal talk.

Give only VALID, DOCUMENTED work-related reasons for your decision.
Terminations – The Process

1. Keep the meeting professional and on track.
2. Stay calm, remain objective and avoid emotion.
3. Explain the exit procedure and begin at end of meeting.
4. Help the employee retain their dignity.
Questions
Human Resources Consultants

Michele Arseneau
512-461-1667
michelea@county.org

Diana Cecil
512-924-6360
dianac@county.org

Rollie Ford
512-680-1994
rollief@county.org

Mary Ann Saenz-Thompson
512-921-9056
maryanns@county.org