Human Resources

Top Issues Facing our Industry

Shoreline HR Consulting

Sheila McKinley-Bell, MBA, SHRM-SCP, SPHR
Principal Consultant

5 Topics of the Presentation

- Recruitment

- Retention

- Performance Management

- Conflict Resolution

- HR Compliance

RECRUITMENT

- WORKFORCE PLANNING

- SUCCESSION PLANNING

- RECRUITMENT STRATEGY

Workforce Planning

- A systematic process for identifying staffing needs and developing strategies necessary to meet those needs.

- Core element of business planning that focuses on having the right people in the right job, at the right time, with the suitable skills.

- Serves as a baseline in succession planning.

Why Workforce Planning Is Important

Workforce changes occur constantly and workforce planning serves to mitigate these changes:

- Changes in skills and diversity.

- Workforce additions and departures.

- Shifts to, scarcity of and competition for higher-skilled "knowledge workers."

- Changes in workforce values and expectations.

- Impact of external competitive forces.

Benefits of Workforce Planning

- More efficient and effective use of staff.

- Replacement staff available when needed.

- Realistic staffing projections for budgeting purposes.

- Rationale for linking costs of training, development and recruitment.

- A baseline for making workforce decisions such as changes to workflow or reorganizing staffing.

Steps Involved in Workforce Planning

- Preparation

- Supply Analysis

- Demand Analysis

- Gap Analysis

- Succession Plan

- Implementation Plan

Step 1. Preparation

- Review the previous year's workforce plan against reports of actual workforce adjustments and budget costs for the past year.

- Identify the business objectives for the coming year

- Focus on the types of skills needed to meet these objectives and how these needs will be met.

Step 2. Supply Analysis

- Current number of employees in each department/division, including demographics.
- Current skill sets.
- Analysis of departures in the past year or expected departures to determine who possesses critical skills and/or critical business knowledge.
- Current time to hire for recruiting, vacancy analysis and optimal methods for filling vacancies.
- Current budgets for staffing.
- Review of contractor and contingent staffing agreements.

Step 3. Demand Analysis

- Internal focus is on objectives, processes and capabilities on the work to be performed and how it is performed. Consideration of new or changing service and/or product lines, needed training for the current workforce and trends in involuntary turnover. (Exit interview analysis)

- External focus is on the outside influences affecting the business such as competition; anticipated workforce availability within relevant geographic boundaries; and economic, social, technological, legal and political trends and their impact on the business' ability to operate.

Step 4. Gap Analysis

- A gap exists when supply is inadequate to meet demand, which presents opportunities for the business to develop strategies to address shortages via recruitment, contract workers, internal staff development, outsourcing and/or succession planning.

- A surplus exists when supply is greater than demand, which presents opportunities for the business to develop strategies for reorganization, redeployment, internal skill development and cross-skill training, outsourcing, succession planning, and/or redundancy planning

Step 5. Succession Planning

The process of identifying high-potential employees, evaluating and honing their skills and abilities, and preparing them for advancement into positions that are key to the success of business operations and objectives. It involves:

- Understanding the organization's long-term goals and objectives.

- Identifying the high-potential candidates and their respective developmental needs.

- Determining workforce trends and predictions.

The Importance of a Succession Plan

- To avoid extended and costly vacancies in key positions and ensure the stability of business operations.

- To provide meaningful developmental opportunities for both the organization and its employees as it targets key leadership positions at varying levels.

- To help develop a diverse workforce by enabling decision-makers to look at the future makeup of the organization as a whole.

Steps Involved in Succession Planning

1. Identifying legal and diversity issues to consider.
2. Establishing present and future leadership roles and objectives.
3. Selecting key employees.
4. Evaluating the strengths, weaknesses and readiness for succession in key employee.
5. Planning for the individual development of and ways to retain key employees.
6. Identifying emergency positions without successors.
7. Planning for positions that cannot be filled internally.

Step 6. Implementation, Refinement and Communication

- Workforce planning involves measuring accomplishments vs. plan goals at appropriate intervals—milestones markers.

- Semi-annually or annually, defined performance measurements need to be reviewed for strategy changes and/or adjustments.

- The plan must address emerging issues.

- To succeed, any plan recognizes that it is measuring a moving target and must be continually monitored, evaluated and recalibrated.

- Communicating the plan will demonstrate to employees that the organization is forward thinking, looks toward the future and invests in employee development and growth

Recruitment

Buy
Build
Borrow

Buy Strategy Pros and Cons

Pros:

• Bring in new skills and experience

• Fresh set of eyes

Cons:

• Cost

• Culture

Build Strategy Pros and Cons

Pros:

- Cost

- Morale

Cons:

- Time

- Long-term business development plan

Borrow Strategy Pros and Cons

Pros:

- Efficient use of resources

- Allows for staffing up/down as needed

- Opportunity for employees who are retiring

Cons:

- Engagement challenges

Traditional Recruiting Ideas

Partnerships:

- Third-party recruiters

- Temp agencies

- High schools, technical schools, allied health programs, colleges, universities

- Government and community-based programs

- Public relations

Traditional Recruiting Ideas (cont'd)

Media:

- Internet
- Social Media
- LinkedIn
- Radio and Television
- Newspaper
- Billboards
- Posters
- Cinema advertising and transit advertising

Traditional Recruiting Ideas (cont'd)

Direct-to-Candidate:

- Direct sourcing
- Customer recruiting
- Direct mail and door hangers

- Incentives
  - Employee referrals
  - Sign-on bonuses

- Former Employees, Students and Interns

Other (Unique) Recruiting Ideas

- Become missional
- Welcome ex-convicts
- Transplant immigrants
- Enlist the autistic population
- Maintain a high bar

- Or a lower bar
- Make snap judgements
- Pay More
- Be generous with benefits
- Acquire talent in chunks

Other (Unique) Recruiting Ideas (cont'd)

- Schools
- Make the commute easier
- Network digitally
- Boost internships
- Create apprenticeships and mentorships

- Being fun
- Hire veterans
- Ply your location
- Use more automation
- Look to the future

Key Takeaways

- Talented candidates have a lot of leverage

- First impressions matter

- Know your target audience

- Have a strong culture

- Embrace ghosting

- Successful organizations live by the golden rule

Possible Solutions

- Make the application process simple and convenient

- Communicate regularly with applicants

- Go mobile and automate where it makes sense

- Don't leave candidates hanging

- Consider starting the onboarding process as soon as possible

- Begin to expose new hires to the culture immediately

- Embrace rejection

Retention

Train people well enough so they can leave, treat them well enough so they don't want to.
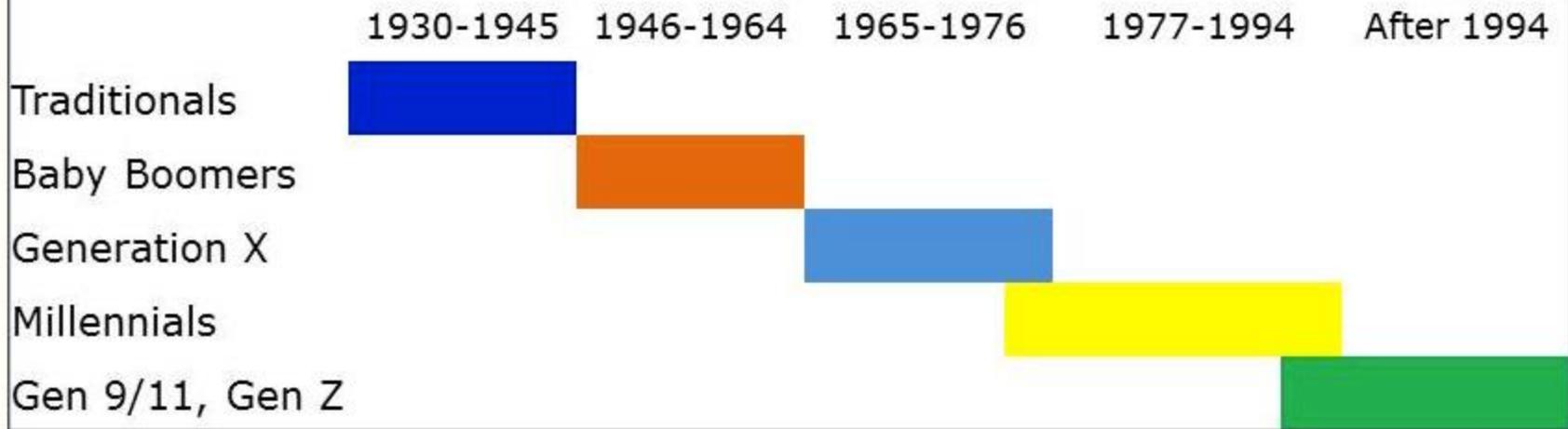
Richard Branson

RETENTION

Strategic actions to motivate employees so they elect to remain employed and fully productive for the benefit of the organization. A comprehensive retention program can play a vital role in both attracting and retaining employees, as well as in reducing turnover and its related costs.

Retention includes:

- Multi-generational workforce
- Onboarding
- Ongoing training and
- Staff Development

- Supervisory aptitude
- Conflict Resolution
- Performance Management
- Compensation
- Rewards and Recognition

Framework for Workplace Generations

From the book, *Forgotten Respect*, 2015, Dennis E. Gilbert

	1930-1945	1946-1964	1965-1976	1977-1994	After 1994
Traditionals	■				
Baby Boomers		■			
Generation X			■		
Millennials				■	
Gen 9/11, Gen Z					■

* Experts positions vary slightly, especially in the definition of Millennials and Generation 9/11 (Gen Z)

Multi-generational Workforce Myths

- Younger workers perform better than older ones

- Companies can't afford to retain Baby Boomers and other experienced workers

- Businesses are making age diversity a high priority

- By declining to retire, older employees are taking jobs away from younger employees.

Multi-generational workforce: Where do we go from here?

- Be mindful
- Utilize everyone's ability and goals
- Cross mentorship and coaching
- Manage and thrive in conflict
- Over communicate to drive clarity and transparency
- Encourage work-life balance
- Offer health and welfare benefits
- Provide meaningful rewards

Onboarding

Onboarding includes the processes that allow new employees to learn about the organization, its structure, its vision, mission and values, and includes the initial new-hire orientation process.

Key Elements of Onboarding

- ***Engagement, loyalty and commitment***

- ***Mission, vision and values***

- ***Expectations and performance standards***

- ***Work processes and how to get things done***

- ***Acceptable work behaviors and etiquette***

- ***Review and sign-off on documents***

Before the Start Date

Organizations that tend to recruit long in advance of the employee's start day may find that they want to begin the onboarding process after the offer is accepted but before the actual start date. Examples include:

- Inviting the employee to tour the facility.

- Mailing information to the employee regarding the organization, including benefits information, organizational chart and practice/business literature.

- Sending flowers or a care package with branded items to the employee at his or her former place of employment welcoming the employee to the new organization.

- Assigning a buddy or mentor.

- Ready the work space and communicate their arrival to the team.

First Day and First Week

- The first day should include delivering all the basic information, including a tour of the facility, introductions to key staff and review of all new-employee paperwork.

- During the first week of employment, the organization should provide more detailed information for the new employee and reinforce key points delivered previously.

First Month and First Year

- During the first month of employment, the person or team responsible for onboarding should continue to reinforce key issues and check in to determine whether the employee's questions and concerns are being addressed. Additional introductions should be made to key members of the leadership team.

- Throughout the rest of the first year the onboarding process should continually provide a touchback to the new employee to ensure that all necessary information has been shared and that the organization is addressing the employee's questions and concerns.

Other Onboarding Considerations

- Management/Executive Onboarding
- On-site vendors and consultants
- Persons with disabilities that require accommodations
- Telecommuters

Staff Development

Train people well enough so they can leave, treat them well enough so they don't want to.
Richard Branson

Staff Development

Staff development is almost universally recognized as a strategic tool for an organization's continuing growth, productivity and ability to retain valuable employees.

Guidelines for Effective Staff Development Programs

- Gain executive support

- Involve management

- Relate to performance management

- Understand what the employee values

- Know the desired outcome

Staff Development Methods

On the job

Training facilities

Online

Coaching

Mentoring

Cross-training

Stretch assignments

Job enlargement and job enrichment

Job shadowing

Job rotation

Succession Planning

Employee Recognition

I have always believed that the way you treat your employees is the way they will treat your customers, and that people flourish when they are praised.

Richard Branson

Employee Recognition

The goal of employee recognition is to show appreciation for an employee's achievement and to motivate employees to continue good performance and conduct.

A good employee recognition program helps an organization retain key employees and keep job satisfaction at a high level.

It can be public or private.

It may take the form of a monetary reward or a nonmonetary reward.

Why Employee Recognition Is Important

- Motivates employees to perform at higher levels
- Improves morale and contributes to a favorable culture
- Increases employee productivity
- Affects the patient experience in a positive way
- Lowers stress
- Helps to attract employees
- Fosters retention

Why Employee Recognition Is Important (cont'd.)

- Improves business quality and service

- Improves safety

- Reduces absenteeism and turnover costs

- Encourages employees to continue education and training

Types of Employee Recognition

- Spot Recognition

- Years of service

- Safety

- Completion of certifications or degrees

- Superior customer service

- Retirement

- Employee Appreciation Day

- Various Professional Recognition Days

- Public Service

- Performance/Conduct

- Suggestion Program Ideas

- Employee of the Week/Month/Year

- President's Council

Ways to Recognize Employees

1. Verbal, written or formal praise from you or informal praise by peers
2. Gift cards
3. Choice of interesting and challenging projects
4. Opportunities to attend conferences or training sessions
5. Opportunities to mentor other employees and work with people outside their own departments

Ways to Recognize Employees (cont'd.)

7. A personal call of thanks with no other purpose for call

8. A personal thank-you note given separately or with paycheck or bonus pay

9. A gift of a branded item

10. Plaques or trophies

11. Recognition luncheon

Recognition Tips

1. Offer employee reward options
2. Identify what is meaningful to your employees
3. Form an Employee Recognition Committee
4. Keep employee recognition fresh
5. Recognize all levels of employees
5. Make sure recognition is given consistently
6. Include peer recognition
7. Keep it simple
8. Keep it adaptable
9. Make it timely

Performance Management-Overview

Performance management is the management of employees, departments and organizations for the purpose of ensuring that goals and objectives are being reached efficiently and effectively. It involves defining what effective performance looks like and includes the development and use of tools and procedures necessary to measure performance.

Performance Management Continuum
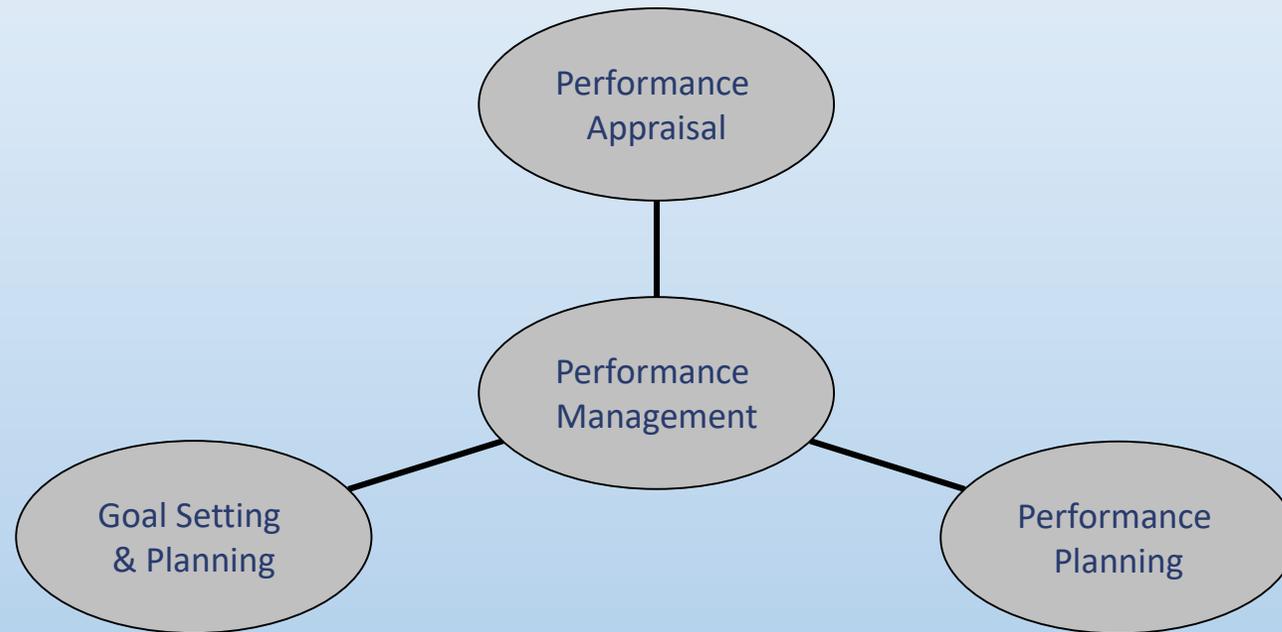
Preparation for the Performance Appraisal Process

- Staff meetings
- Supervisory meetings
- Coaching meeting
- Disciplinary meetings
- Performance Improvement Plans
- Goal Review meetings
- Review of the job description

Elements of a Performance Appraisal

- Self appraisal
- Peer Reviews
- Other supervisory reviews
- Management Review
- The Appraisal meeting
- Approvals

Setting Goals and Objectives

- Align goals and objectives with the organization's business plan.

- Establish mutually agreed-upon goals.

- Recommend and recognize behaviors that are aligned with organizational business plans.

- Establish milestone review dates.

Setting Goals and Objectives (cont'd)

Use SMART goal criteria:

✓**S**pecific

✓**M**easurable

✓**A**chievable

✓**R**elevant

✓**T**ime-centered

Ratings

- 3-part scale

- 4-part scale

- 5-part scale

- 6-part scale

Rating Pitfalls

- Halo effect

- Horn effect

- Central tendency

- Leniency

- Recency

- Similarity/"like me"

- Constancy

Avoid Rating Pitfalls

- Make objective statements
- Consider the totality of the employee's performance
- Make and keep adequate records with specific examples
- Establish milestones for progress reviews
- Consider possible legal impact of inflated performance ratings

Performance Appraisal Meeting Checklist

- Be prepared

- Time and Place

- Conducting the interview

- Conclusion

- Follow-up

Progressive Discipline

Is used to prove, via documentation, that you made a good-faith effort to lead the employee down the right path. Your efforts to improve your employee's performance must have been willfully disregarded despite repeated warnings so that you, as a reasonable employer, were left with no choice other than termination. Keep in mind that you may be required to demonstrate that the discipline was carried out in a fair manner that was consistent with your own policies so that any worker could reasonably expect to be terminated under similar circumstances.

Common Steps of Progressive Discipline

- Verbal warning

- Written Verbal Warning

- Written Warning

- Performance Improvement Plan

- Suspension

- Termination

Two Types of Infractions

Conduct/Behavior

Performance

Summary Discharges/Terminations

Q: Whatever happened to your right to fire someone on the spot?

A: You can fire anyone at any time. However, you may have difficulty defending your actions if you've denied an employee due process.

Q: Do I have to offer progressive discipline to someone who breaks the law?

A: No, you don't have to offer progressive discipline to someone who breaks the law.

A Word about Employment At Will

Employment-at-will status is employment that does not provide an employee with job security, since the person can be fired on a moment's notice with or without cause. The employment-at-will relationship is created when an employee agrees to work for an employer for an unspecified period of time. The main premise is an employer can terminate a worker at any time for any legitimate reason or for no reason at all. Likewise, the employee may leave the organization at any time, with or without notice.

Employment At Will Exceptions

There are five exceptions to the employment-at-will doctrine:

- Employment contracts

- Public policy exceptions. You cannot terminate an employee for filing a worker's compensation claim, for whistle-blowing, for engaging in group activities that protest unsafe work conditions, or for refusing to commit an unlawful act on the employer's behalf.

- Implied covenants of good faith and fair dealing.

- Implied contract exceptions.

- Statutory considerations. Dismissals are illegal if they are based on age, sex, national origin, religion, union membership, or any other category established in Title VII of the 1964 Civil Rights Act or other legislation.

Discrimination Complaints

- The CT Commission on Human Rights and Opportunities

- Sexual Harassment

- Workplace Investigations

CT Commission on Human Rights and Opportunities

The CT Commission on Human Rights and Opportunities (CCHRO) is the State of CT's office of the EEOC.

State and Federal Employment Non-Discrimination Laws

- Title VII of the Civil Rights Act of 1964

- Americans with Disabilities Act

- Age Discrimination in Employment Act

- Pregnancy Discrimination Act

- CT Fair Employment Practices Act

- The Immigration Reform and Control Act

- USSERA

- Equal Pay Act 1963

What is a CHRO Charge?

- A Complaint is filed with the Connecticut Commission on Human Rights and Opportunities alleging the respondent (the employer) discriminated against or retaliated against the complainant (employee)

- Housing, employment, or public accommodations

- Based on a protected class

Protected Classes

- Race
- Religion
- National Origin
- Ethnicity
- Color
- Sex
- Sexual orientation

- Age
- Genetic information
- Gender identity
- Disability
- Pregnancy
- Veteran Status

Protecting Employees from Discrimination and Harassment

The laws protect employees from discrimination and harassment in the workplace and in work-related contexts outside the workplace:

- Other employees, whether supervisory or not
- Offsite meetings and social gatherings
- Texts, e-mails and social media
- Patients
- Vendors

Overview of the Process

- Employee or former employee (Complainant) files a complaint of discriminatory action (up to 180 days after event)
- CCHRO forwards the complaint to the employer (Respondent)
- Pre-answer conciliation within 10 days
- If not, the Employer has 30-45 days to respond
- Complainant has 15-30 days to file a rebuttal
- 60 day Case Assessment by the CCHRO
- Mandatory Mediation
- Investigation
- Public Hearing

Damages Available to CHRO

- Liability typically rests with the employer

- Individual liability

- Available remedies:
  - Back pay
  - Front pay
  - Reinstatement
  - Promotion

- Additional damages available in court:
  - Emotional distress
  - Punitive
  - Attorneys fees

What to do?

- Notify your insurance carrier

- Notify your attorney

- Consider the Pre-Answer Conciliation

- Respond to the Complaint

- Mediation

Avoiding a Complaint

- Maintain a positive work culture.
- Terminations should occur only when there has been ample coaching and significant performance/conduct issues, that is well documented or when there is a major infraction
- Ensure supervisors are applying standards consistently both as individuals and across the organization.
- Act on allegations of discrimination or harassment as soon as they occur
- Provide reasonable accommodations where required by law and consider going beyond legal requirements where appropriate.

Upcoming Changes?

- The State Senate passed a bill that would extend the CCHRO filing period for employment claims from 180 to 300 days

- It would also all CCHRO to seek punitive damages in some cases

- The bill would require sexual harassment training for all employees, not just supervisors, and would require training for employers of all sizes

- The bill is now with the House of Representatives

Sexual Harassment

- Training requirement applies to employers with 50 or more employees (movement to employers with 3+)

- Requires 2 hours of supervisory training within 6 mths of hire or promotion

- Recommends employers provide an update to supervisory personnel once every three (3) years.

Sexual Harassment

Sexual harassment is unwelcome sexual advances, requests for sexual favors and other verbal, written, electronic or physical conduct of a sexual nature that affects an individual's employment, unreasonably interferes with his or her work performance or creates an intimidating, hostile or offensive work environment.

Overview of Sexual Harassment

The two forms of sexual harassment are:

Quid pro quo

- Tangible employment action against the victim.
- Involves monetary loss or change in job.

Hostile work environment

- Speech or conduct that is severe and/or pervasive enough to create an abusive or hostile work environment.
- Explicit or suggestive items that are e-mailed, texted, electronically provided or displayed in the workplace that interferes with job performance or that creates an abusive or hostile work environment.

Prevention

- Train your staff and supervisors on prevention

- Draft a zero tolerance policy

- Respond quickly to complaints

- Conduct thorough and fair investigations

- Support the victim, and the accused

Workplace Investigations

Workplace investigations are an important component of your overall retention strategy. Employees need to know their complaints will be taken seriously and that there is a fair and confidential policy and procedure for investigating those complaints.

What Is A Complaint?

- Just about anything!
- Does not have to be written or formal

Investigation Triggers

- Complaint/Report of violation
- Management observation
- Injury or illness
- EEOC, CHRO or other complaint
- Threats
- Theft
- DOL or OSHA Audit

Critical Objectives

- Prompt/Immediate

- Thorough

- Objective/Impartial

- Discretion

- Confidentiality

Take Action

- Review the allegation
- Determine who needs to be informed of the allegation
- Determine who should conduct the investigation, internal/external
- Create a list of initial witnesses
  - Victim/Complainant
  - Accused/Subject
  - Other witnesses
- Consider whether or not to remove the Accused from the workplace during the investigation
  - Paid Administrative Leave
  - Transfer/Reassignment

Internal vs. External Investigator

Internal

- Knowledge of the organization
- Timeliness
- Consistency with the Process
- Credibility
- Cost effectiveness
- Time intensive priority

External

- Objectivity
- Perception of independence
- Expertise
- Saves time for business operations
- Higher costs

Investigation Goals

- Determine merits of the complaint
- Gather facts to make an informed decision
- Comply with legal obligations
- Maintain confidentiality
- Preserve reputations of all involved, including the practice/business
- Take proper remedial action
- Avoid liability and reduce exposure
- Prevent future claims

Preparation

- Review allegation
- Identify relevant policies/practices
- Create list of witnesses
- Prepare/outline questions
- Determine location and time to conduct interviews
- Plan to meet with the Victim first, then Witnesses, then the Accused

Recording Interviews

- Not a good idea; often sets a negative tone of the interview
- Employee does not have the right to record the interview

- Recommendations:
  - Assume you are being recorded
  - Tell people to leave their cell phones at their desks

Putting It All Together

- Is the allegation supported by the evidence and testimony?

- Was the conduct condoned and/or intentional?

- Is the incident substantiated or unsubstantiated?

- Are there any loose ends?

- Have you informed leadership about potential risks/liabilities?

Reporting the Results

- Victim/Complainant
  - Advise that the investigation is complete and appropriate action taken
  - No right to know specifics
  - No document of complaint in their file

- Accused/Subject
  - If unsubstantiated, no document in their file
  - If substantiated, document of conclusion place in their file

Corrective Measures

- Discipline
  - Be consistent
- Develop/Update policies
- Report to applicable authorities

Workplace Conflict

- Have different points of view.
- Communicate with one another differently.
- Spend large amounts of time together.
- Depend on one another to "get the job done."
- Have expectations of each another that are not communicated and then not met.

Healthy vs. Damaging Conflict

Healthy conflict:
- Disagreements communicated in a supportive environment that foster the generation of new ideas or ways to problem-solve.
- Tension that increases awareness or sheds light on a growing workplace problem.

Damaging conflict:
- Name calling.
- Personal attacks.
- Employees becoming silent, withdrawn and/or afraid to speak up.
- Cliques, gossip and rumors.
- Lack of mutual respect.

Importance of Resolving Conflict

- Morale and productivity are lowered
- Employees who work in teams are now divided because of the conflict.
- In extreme instances, unresolved conflict can lead to violent or aggressive situations.

Steps in the Conflict Resolution Process

1. Clarify what the disagreement is.

2. Establish a common goal for both parties.

3. Discuss ways to meet the common goal.

4. Determine the barriers to the common goal.

5. Agree on the best way to resolve the conflict.

6. Acknowledge the agreed upon solution and determine the responsibilities each party has in the resolution.

Do's and Don'ts of Resolving Conflict

Do:

1. Understand that conflicts are inevitable
2. Resolve to address conflict quickly
3. Focus on the problem
4. Be open to solutions
5. Acknowledge how employees are feeling
6. Listen actively

Do's and Don'ts of Resolving Conflict (cont'd.)

- Don't:
- Focus on personality traits that cannot be changed
- Interrupt
- Attack
- Disregard the feelings of employees
- Avoid the conflict
- Allow emotions to take over the conversation
- Impose personal values or beliefs

FMLA

Of all the state and federal employment laws, the FMLA is one of the most popular and beneficial to employees.

A covered employer is:

- Federal FMLA: Private-sector employer with 50 or more employees
- CT FMLA: A person engaged in any activity, enterprise or business who employs 75 or more employees.

Employees Eligible for FMLA Leave

An eligible employee must meet the following criteria:

- Has worked for the employer for at least 12 months.

- Has at least 1,250 hours of service for the employer during the 12-month period immediately preceding the leave. (Federal)

- Has at least 1000 hours of service for the employer during the 12-month period immediately preceding the leave (CT)

Protected Time

- Federal FMLA allows for 12 weeks of time off in a 12-mth period
- CT FMLA allows for 16 weeks in a 24 mth period.
- The leaves can be counted concurrently.
- FMLA leave may be taken intermittently or on a reduced leave schedule
- FMLA does not require paid leave.
- The law allows employers to require employees to use any paid time off (PTO) as part of their FMLA leave.

Qualifying Reasons for FMLA

- For the birth of a child and to care for the newborn child.

- For placement with the employee of a child for adoption or foster care.

- To care for the employee's spouse, child or parent with a serious health condition.

- Because of an employee's serious health condition they are unable to perform the functions of the their job.

- Because of any qualifying reason arising out of the fact that the employee's spouse, child or parent is a military member on covered active duty.

- To care for a covered service member with a serious injury or illness if the employee is the spouse, child, parent or next of kin of the covered service member.

Qualifying Reasons for FMLA (cont'd)

- A serious health condition is an illness, injury, impairment, or physical or mental condition that involves inpatient care or continuing treatment by a health care provider.

Key Employer Requirements of the FMLA

- Notify employees of their rights to FMLA leave
- Continue health benefits at the same level as before the start of the FMLA leave.
- Reinstate the employee to the same or an equivalent position upon conclusion of the FMLA leave.
- Employers can require employees to submit certification of the need for FMLA

Employer Actions Prohibited by the FMLA

- Making pre-hire inquiries regarding need for FMLA leave.

- Asking employees for a doctor's note for each use of intermittent FMLA leave.

- Retaliating against employees who file FMLA complaints or exercise their FMLA rights.

- Managers and officers violating an employee's rights under FMLA are liable. They are defined as any person acting directly or indirectly in the interest of an employer in relation to an employee.

Policy and Procedure Manuals

A policies and procedures manual is a comprehensive text that details every aspect of business policy, the procedures for following those policies and the forms needed to complete each process. A policies and procedures manual is an important reference tool for managers and supervisors.

Employee Handbooks

An employee handbook is written with employees as the intended audience;

an interpretive reference and guideline of the policy manual. It is a vehicle for familiarizing employees with basic policies and benefit programs,

as well as the general expectations of the business, including rules of conduct and disciplinary measures.

Pros and Cons

- Pros
- Protect management
- Promote consistency
- Meet legal requirements
- Maintain employment "at-will"
- Maintain employer discretion
- Save time

Cons
- Bound by contract
- Inconsistent application
- Inaccurate policies

Recommendations

- Regularly update the manual and handbook
- Include a disclaimer that states in simple to understand language that the handbook is not intended to create an express or implied contract of employment.
- Include a disclaimer that all employment with the business is "at-will."
- Require employees sign an acknowledgment that they received a copy of the handbook and that they understand it is their obligation to read, understand and comply with all policies within it. The acknowledgment should repeat and reinforce the fact that the handbook is not intended to create an express or implied contract and that all employment with the practice/business is at-will.

Questions?   Comments?

Shoreline HR Consulting

Contact information:

Sheila@shorelinehr.com

860-256-9881

www.shorelinehr.com