

SAMPLE CO.

Risk Assessment

2019

Turning Point Plans

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Summary Overview

A Human Resources Risk Assessment is a comprehensive method to review current Human Resources policies, procedures, documentation and systems to identify needs for improvement and enhancement of the HR function as well as to help ensure compliance with ever-changing rules and regulations. It is recommended to have a periodic review to keep up with the changing demands of Human Resources.

This report is designed to detail issues uncovered in the HR Risk Assessment performed on 11/16/2018 by Erika Hecker and Rick Maher from Turning Point Plans. While some issues may be more important to the company owners than others, our overview looks at our professional opinion of the risk you face by not correcting the Critical and Major issues below. Critical and Major issues are often the result of procedures that are inconsistent at best. Finally we looked at some cost saving ideas that support the company and Human Resources objectives of SAMPLE CO..

Critical Issues are those that can directly result in fines or fees if there is an audit by the Department of Labor or another government agency. Additionally, an audit by a government agency could lead to a class action brought by employees and ex-employees.

Major Issues are those items that can protect SAMPLE CO. in the event of some audit or action. They set the rules for the employees and help drive consistent actions by the leadership. They are also the basis of sound Human Resource policy.

Procedures having policies is one thing, however proper and consistent procedures must support those policies. We looked at documented procedures and made suggestions to support consistent application.

As part of our process, Erika Hecker; Rick Maher interviewed:

JS, President of Operations

Summary of Risk Assessment

SAMPLE CO.'s Human Resource strategy requires a multi-level approach both in review and implementation of high-level strategic planning and review and improved consistency in current daily best practice of the human resources function. The lack of consistency in some policies and some management focus fosters an environment which increases frustration and can lead to diminishing morale. Additionally, there are areas that are vulnerable to fines, lawsuits, etc. Based upon our findings, there are numerous places for improvement. Key areas for potential issues include the following:

Strategic

Handbook and Job Descriptions -Having both well-crafted and legal handbook and job descriptions are both important as the company's first line of defense in any potential lawsuit but also as the basis for sound organizational development. There are a multitude of opportunities for both handbook and job descriptions to be used as part of company culture, performance management, etc.

Organizational Structure -It was reported that in its current form, there is are Owners/EVP, and the rest of the staff are on the same level. This is a very "flat" organization. As a result, the company winds up with many "workers" and not many leaders. The President and Vice President then become responsible for most of the staff, decisions, etc.

Functional

Recordkeeping- Proper record-keeping is crucial. The DOL, Customs, NYSDOL, and EEOC all have the right to request and inspect documents. If not handled properly, it can open SAMPLE CO. to additional agencies viewing and inspecting files. This would not only jeopardize the privacy of the employees, but it could also open the firm up to further investigation on other grounds. For example, the policy on handling and storing I-9 forms should be reviewed and I-9 forms should be filed separately.

Employee Salary- Proper classification of exempt and non-exempt employees is vital to a growing and compliant company. Each job in the organization should be thoroughly analyzed and described.

Critical Issues Uncovered

Based upon our findings, we have identified the following critical issues which could result in compliance issues and risks for the company. Key areas uncovered include:

Handbook/Job Descriptions

Handbook

Currently at this time, SAMPLE CO. does not have any employee handbook. It is our recommendation that a proper employee handbook be created as there are many sound reasons to create a customized Handbook based on the policies and procedures at the company. The handbook can provide clear written policies and procedures for all employees. At a minimum, the types of information and policies that should be addressed are:

- Attendance
- Use of company property
- Sexual Harassment/Non-Discrimination Policies and reporting procedures
- Dress code
- HIPPA
- Payroll, Benefits, Paid Time Off
- Family Medical Leave
- Social Media policy

It is recommended that a handbook is created and subsequently reviewed by an attorney. The handbook should include an acknowledgement page, which each employee would be required to sign and it should be included in the employee file. This, along with the job descriptions described below could be your company's first line of defense in any potential employee lawsuit.

Currently at SAMPLE CO., it was recorded that there are no job descriptions. It is our recommendation that each job be reviewed, analyzed and a job description be developed.

Job descriptions can be useful tools in both recruiting and managing employees. Effective job descriptions not only serve as a valuable aid in the job-recruiting process, but also as an outline for reporting relationships and working conditions. A well-crafted job description can also be used for:

- Performance management. You can use it to set measurable performance goals based on duties in the job description, and then coach your employees to meet these goals as needed.
- Training and employee development. You can use your employee job descriptions, along with descriptions of possible job promotions, as incentives for employees to pursue classes, seminars and other career development activities.

- Compensation. Job descriptions can be helpful in developing a standardized compensation program with minimums and maximums for each position.
- Recognition and rewards. You can use the descriptions as a baseline for performance, and as a tool to encourage employee performance "above and beyond" the job description in order to receive recognition and rewards.
- Discipline. If you need to, you can use the job description to illustrate that an employee isn't adequately performing job functions.
- Return-to-work programs. You can prepare for light or modified duty options to allow for a smoother transition from a workers' compensation injury or leave.
- Essential job function analysis. Written job descriptions have become increasingly important due to the enactment, in July of 1990, of the Americans with Disabilities Act (ADA). A well-developed job description can provide details on the "essential functions" of a job. This is very helpful when an employee requests a reasonable accommodation under the ADA. The job description can contain prerequisites for positions such as educational requirements, employment experience, physical requirements, supervisory responsibilities and certificates or licenses needed. Well-developed, accurate job descriptions may also prove useful in providing a defense against charges of employment discrimination beyond the recruiting process.

Job description should state clearly and simply:

- Who does the work (including the qualifications, education, and job skills required)
- What the work entails
- Where the work is performed
- When the work is done (hours, how often, or what times of year)
- Why the person does the work (why is the job essential to the company)
- How the job is accomplished

For the purposes of the Americans with Disabilities Act, it is appropriate and necessary to list the essential and nonessential functions of the job in case someone asks for a job accommodation for a covered disability.

A job title alone is insufficient to establish the exempt status of an employee. Instead, the status of an employee must be determined on the basis of whether the employee's salary and duties meet the requirements of the regulations. If the company has not updated its job descriptions in over a year, it is possible that the actual work performed by employees under your current job titles has changed. Once you have job descriptions that you believe accurately reflect the jobs performed, have your legal advisor review them, and sign and date the review so that you can prove your job descriptions are up to date and determine when a new review is necessary.

Wage and Theft Forms (WTPA)

At this time E & A does not have any Wage Theft forms filled out for any employees. It is our recommendation that they properly be filled out by an HR Professional for each employee and a process be put in to place to continue with the compliance of these forms.

The Wage Theft Prevention Act (WTPA) took effect on April 9, 2011. New York State law requires employers to give written notice of wage rates to each new hire. On December 29, 2014, Governor Andrew M. Cuomo signed a bill eliminating the requirement that before February 1 of each year, employers notify and receive written acknowledgement from every worker about their rate of pay, allowances, pay day, etc. According to the signing statement, legislative leaders and the Governor have agreed to a chapter amendment to make this change effective immediately. Accordingly, given the pending enactment of this chapter amendment, the Department will not require annual statements in 2015. Please note, businesses are still required to notify employees as required at the time of hire, and any wage change.

The notice must include:

- Rate or rates of pay, including overtime rate of pay (if it applies)
- How the employee is paid: by the hour, shift, day, week, commission, etc.
- Regular payday
- Official name of the employer and any other names used for business (DBA)
- Address and phone number of the employer's main office or principal location
- Allowances taken as part of the minimum wage (tips, meal and lodging deductions)
- The notice must be given both in English and in the employee's primary language.
- The lack of this form, and its guidelines, will lead to fines and fees, on a per/day per/instance basis. This can potentially lead to a significant amount of fines and fees.

I-9 Forms

At this time, E & A does not have any I-9 forms for any of its employees. It is our recommendation that these be properly filled out by an HR Professional in a compliant and proper fashion as soon as possible. The Immigration Reform and Control Act of 1986 (IRCA) (additional info below) required employers to verify that all newly hired employees present facially valid. documentation verifying the employee's identity and legal authorization to accept employment in the United States. The I-9 form or more properly the Employment Eligibility Verification Form is provided by the Federal Government for that purpose. Every employee hired after November 6, 1986 must complete an I-9 form at the time of hire. Employees must complete Section 1 of the form at the actual beginning of employment. The employer is responsible for ensuring that

the forms are completed properly, and in a timely manner. Employers must retain a Form I-9 for all current employees. Employers must also retain a Form I-9 for three years after the date of hire, or one year after the date employment ends, whichever is later. An employer who fails to keep proper records that I-9s are properly filed can be fined \$110.00 per missing item for each form and up to \$1100.00 for each form, even if the employee is legally authorized to work in the United States. Since 2009, Immigration & Customs Enforcement (ICE) has conducted over 7,500 audits and imposed over \$80 million in fines. In 2011 alone, ICE conducted 2,740 audits and assessed over \$7 million in fines.

The DOL, Customs, NYSDOL, and EEOC all have the right to request and inspect documents. If not handled properly, it can open your company to additional agencies viewing and inspecting files. This would not only jeopardize the privacy of the employees, but it could also open the firm up to further investigation on other grounds.

For example, the policy on handling and storing I-9 forms should be reviewed and I-9 forms should be filed separately.

It should be noted that I-9 forms can be stored electronically, please follow the following guidelines:

Storing Forms I-9 Electronically

Employers may use a paper system, an electronic system or a combination of paper and electronic systems to store Forms I-9. An electronic storage system must:

- Include controls to ensure the integrity, accuracy and reliability of the electronic storage system.
- Include controls to detect and prevent the unauthorized or accidental creation of, addition to, alteration of, deletion of or deterioration of an electronically stored Form I-9, including the electronic signature, if used.
- Include controls to ensure an audit trail so that any alteration or change to the form since its creation is electronically stored and can be accessed by an appropriate government agency inspecting the forms.
- Include an inspection and quality assurance program that regularly evaluates the electronic generation or storage system, and includes periodic checks of electronically stored Forms I-9, including the electronic signature, if used.
- Include a detailed index of all data so that any particular record can be accessed immediately.
- Produce a high degree of legibility and readability when displayed on a video display terminal or reproduced on paper.

Major Issues Uncovered

Manager Interview Training

It is important that we equip our hiring managers with the right training and tools in order to find the best people to fill open positions. By giving them two simple tools, interview training and competency-based interview guides, they will be on their way to hiring top talent. These individuals are very skilled at identifying the skills and qualifications needed to perform the job at hand, but some guidance and training will help them to perfect their interviewing and hiring abilities. While technical skills and past experience are very important for most jobs, hiring managers would benefit from a greater understanding of how to get at those skills and behaviors that they may not be able to see on paper. By providing behavioral based interview training and interview guides, these hiring managers will be able to find the person who is the best fit for their position and the organization.

Behavioral interview training will give hiring managers a better understanding of the importance of consistency and job relevance when interviewing candidates. They will also learn how to ask past behavior questions and collect complete behavioral responses. Understanding the importance of motivational fit is something that is invaluable for a hiring manager. They will learn that even though someone may have all of the right technical skills, without job and organizational fit, they may not succeed in the open position. By providing them with structured interview guides that include behavioral anchored rating scales, hiring managers will have approved questions to ask and a set of guidelines to follow when rating the candidates' answers. Interview guides give them a roadmap to follow and the structure they often desire when interviewing candidates. While some managers may be comfortable in interview situations, many hiring managers welcome the idea of a structured process and training. We often take for granted that because we have an effective manager, they will also be a skilled interviewer. With a little training, guidance and practice, any hiring manager can be the "expert" interviewer you expect them to be.

Record Keeping / Personnel Files

The information provided here highlights some of the more important recordkeeping requirements that apply to most Corporations. SAMPLE CO. should keep in mind that the time period for retaining records set forth in the various statutes are minimums. Since these records are critical to the SAMPLE CO. and its compliance with federal or state law is questioned or if it must defend itself against employment-related litigation, SAMPLE CO. may want to retain employment-related records for much longer periods of time. Complete and accurate records are often an employer's best defense to employment-related litigation and wage and hour complaints. In addition, NY State has specific laws related to the maintenance of personnel files and other documents that may require longer retention periods.

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Recordkeeping Guidelines:

Safe Harbor Retention Periods

Depending on the legal authority and the type of record, statutory retention requirements can vary from 1 year to 30 years after termination of employment. Keeping up with these individual requirements and establishing a workable "tickler" system to identify when and which records may be safely destroyed can be cumbersome. Therefore, if the availability of secure file storage space is not at issue, adherence to the following general safe harbor retention periods may be preferable to researching applicable state or federal law and determining the unique retention period required for each individual law, record type, and employee in question.

- Personnel records: 7 years after termination of employment.
- Medical and benefits records; 6 years as long as no toxic exposure occurred.
- Employment verification (I-9) records: 4 years.
- Hiring and application records: 2 years after related personnel decision.
- Any other miscellaneous documents and records relating to a charge, complaint, enforcement action, or other compliance review: until the final disposition of the related action.

Recordkeeping after the Lilly Ledbetter Fair Pay Act

As noted above, the recordkeeping requirements provided in this section are minimums based on specific requirements set forth by federal laws. However, SAMPLE CO. may wish to keep records even longer, especially since the 2009 passage of the **Lilly Ledbetter Fair Pay Act (Ledbetter Act)**. Though the Ledbetter Act does not contain specific recordkeeping requirements, it has changed the landscape of employee recordkeeping since its passage.

The Ledbetter Act provides that when an employee is affected by a discriminatory pay decision or practice, then each paycheck that is issued based on that pay decision or practice constitutes an individual discriminatory act in itself. The practical effect of this law is that each time an employee is paid (where that pay has been affected by unlawful

discrimination), then the employee's time limit to file a claim for pay discrimination resets.

The recordkeeping issue arises if the original decision upon which the employee's pay was based occurred many years in the past. For example, in the case upon which the Lilly Ledbetter Act was based, the discriminatory pay decision had occurred more than 20 years in the past. However, Lilly Ledbetter argued--and the Ledbetter Act now holds--that every subsequent paycheck she received was a new act of discrimination stemming from that decision made 20 years in the past.

The Act creates a difficult recordkeeping burden for SAMPLE CO. , as an employer now in a position to defend against such a charge of discrimination would be required to prove that no discrimination occurred--a process that could require unearthing records related to a payroll decision made well outside federal or state statutory record retention requirements, as well as records related to similarly situated employees who may have long since left the company.

As a result, SAMPLE CO. should be concerned about defending charges of pay discrimination and may opt to preserve personnel records--particularly those related to pay decisions such as promotions or evaluations--for a longer period than the statutory requirements. If you are concerned that your compensation plan may be discriminatory or that current pay decisions may retain ties to past discriminatory practices, consultation with legal counsel is recommended both to address and remedy the compensation plan and to establish best practices for managing records related to the compensation practice.

Federal Statutory Recordkeeping Requirements

The following list provides more specific details on the individual requirements of key federal recordkeeping laws. As noted, these requirements are minimums--SAMPLE CO. may certainly maintain records for longer, more conservative periods, particularly in light of the Ledbetter Act.

Age Discrimination in Employment Act (ADEA)

Required: Payroll or other records for all full-time, part-time, and temporary employees that include each employee's name, address, date of birth, occupation, rates of pay, and weekly compensation.

To be retained: Three years.

Required: In addition, SAMPLE CO. must retain records related to job applications, resumes, and other forms of job inquiries; promotions, demotions, and transfers; selection for overtime, training, layoff, recall, or discharge; job orders submitted to employment agencies; candidate test papers for any position; physical exam results if used in employment decisions; job ads or internal notices relating to job openings; and employee benefit plans.

To be retained: One year from the date of action or after termination of the benefit plan.

After action started: If a charge of age discrimination or a lawsuit has been filed against the employer under the ADEA, all relevant records must be kept until final disposition of the matter.

(29 USC 626(a), 29 CFR 1627.3)

Older Workers Benefit Protection Act (OWBPA) (amendment to ADEA)

Required: Payroll or other records for all full-time, part-time and temporary employees that include each employee's name, address, date of birth, occupation, rates of pay, and weekly compensation.

To be retained: Three years.

Recommended, not required: Settlement or severance agreements that include signed waivers of employee ADEA rights to sue for age discrimination along with all related documents.

To be retained: At least 1 year from the date employment is terminated.

(29 USC 626(a), 626(f))

Americans with Disabilities Act (ADA) and Genetic Information Nondiscrimination Act (GINA)

Required: Job resumes; application forms, notes on interviews, and notes on reference checks; records of promotion, demotion, transfer, layoff, termination, rate of pay or other compensation; selection for training or apprenticeship, including application forms and test papers; applications for disability benefits; and requests for reasonable job accommodation. Note that information from medical exams is confidential, must be maintained separately, and access must be limited to the employee's supervisors and managers; safety workers; and workers' compensation or other insurance carrier.

To be retained: One year from making the record or taking the personnel action.

After action started: If a charge of disability discrimination or a lawsuit has been filed against the employer under the ADA or GINA, all relevant records must be kept until final disposition of the matter.

(29 CFR 1602.14)

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

Required: Job resumes; application forms; interview notes; notes on reference checks; tests and test results; job advertisements and postings; all records related to hiring, promotion, demotion, transfer, layoff, and termination; payroll records including rate of pay and other compensation; requests for accommodation; and records related to selection for training or apprenticeship.

To be retained: One year from making the record or taking the personnel action.

Note: Apprenticeship records must be kept for 1 year from the date an application for an apprenticeship is received or from when a successful apprenticeship ends, whichever is later.

Required: Form EEO-1 for each location, unit and/or the company headquarters. The completed EEO-1 forms must be filed annually with the Equal Employment Opportunity Commission.

To be retained: A copy of the current EEO-1 Report must be retained by the employer.

Covered SAMPLE CO. : Companies with more than 150 employees and more than \$150,000 in government contracts.

Required: Affirmative Action plans and all supporting evidence of good faith efforts to comply with affirmative action laws.

To be retained: Two years.

After action started: If a charge of discrimination or a lawsuit has been filed against the employer under Title VII, all relevant records must be kept until final disposition of the matter.

(29 CFR 1602.14, 29 CFR 1602.21)

Consolidated Omnibus Budget Reconciliation Act (COBRA)

Required: COBRA does not have specific recordkeeping requirements. However, if an employer's compliance with COBRA is questioned, the burden of proof is on the employer and, absent appropriate records, the employer will not be able to show that it complied with the law. Therefore, as a best practice, SAMPLE CO. should keep lists of employees covered by a group health plan along with their addresses; records related to any qualifying event (i.e., terminations, hour reductions, leaves of absence, deaths of employees, divorce, Medicare eligibility, or disability status); records related to retirees covered by the group health plan; records of COBRA premium payments; records of changes made to the group health plan; records of employees denied coverage and the reasons for each denial; copies of notices both general and specific informing employees of their rights under COBRA; evidence that required notices were sent and received by employees and/or covered beneficiaries (i.e., copies of return receipt cards); and completed election forms.

To be retained: Even though employees are only eligible for COBRA for the 18-month period following a qualifying event, SAMPLE CO. should retain records for at least 3 years in the event a claim is filed by an employee claiming the employer did not notify them of their rights to continue coverage or terminated coverage before the 18-month period had expired.

Employee Retirement Income Security Act (ERISA)

Required: Annual reports; Summary Plan Descriptions (SPD); records supporting data in SPDs; notices of plan changes, amendments, or termination; and related welfare and pension reports.

Note: Records needed to determine a participant's eligibility for benefits must be retained as long as relevant.

To be retained: Six years.

Equal Pay Act (EPA)

Required: Payroll or other records for all full-time, part-time and temporary employees that include each employee's name, gender, occupation, job title, rate of pay and weekly compensation. In addition, the company must obtain documents related to job evaluations and wage rates; job descriptions; description of merit or seniority systems; and other explanations of wage differentials for employees of different genders.

To be retained: Three years

Fair Labor Standards Act (FLSA)

Required: Employee information including name, address, occupation, birth date (if under the age of 19), and gender; complete payroll records including hours worked, overtime, and wage deductions; certificates; union agreements; written training agreements; sales and purchase records; and certificates of age for each employee under the age of 18.

To be retained: Three years.

Required: Basic employment and earnings records, wage rate tables, actual work completed, additions to/deductions from wages, wage differential payments to employees of the opposite sex/same job, evaluations, job descriptions, and merit or seniority systems.

To be retained: Two years.

Family and Medical Leave Act (FMLA)

Required: Detailed payroll and employee identification data; records showing dates of FMLA leave taken by eligible employees and, for intermittent leave, hours of leave taken; copies of all employee notices and documents describing FMLA and policies related to benefits and unpaid leaves; records related to premium payments made by employees on FMLA leave; copies of requests for leave and notices to employees responding to requests for leaves and designating leaves as FMLA leaves; records of any dispute regarding the designation of a leave as FMLA.

Important Note on Confidentiality: Employee medical records and the medical records of family members must be kept in a separate, secure location in conformance with ADA requirements. The only exceptions are that supervisors and managers may be informed of necessary restrictions on work; first aid and safety personnel may be appropriately informed, if necessary; and government officials investigating pertinent law may be provided relevant information. Records may be kept on computers as long as they are available for transcription or copying.

To be retained: Three years.

(29 CFR 825.500)

Federal Unemployment Tax Act (FUTA)

Required: Basic employee data including name, address, Social Security number, and birth date; records showing pay periods, daily and weekly hours, overtime, deductions from pay, payments for fringe benefit, and amounts and dates of wage payments;

copies of employee withholding forms (Form W-4 or W4-E); annual records showing total wages for each employee and amounts of taxable pay; documents showing the reason taxable pay does not equal total pay; amount paid into state unemployment fund, including deductions from employee pay; and experience rating data.

To be retained: Four years after tax is due or paid.

Immigration Reform and Control Act (IRCA)

Required: Employee Eligibility Verification forms (INS Form I-9) completed and signed by each newly hired employee and the employer. It is recommended that SAMPLE CO. keep copies of the supporting documentation presented by each employee as proof of eligibility to work in the United States. Since the Department of Labor may inspect the I-9 forms at any time, it is recommended that these be kept in a separate file and not as part of each employee's personnel file.

To be retained: Three years after the worker is hired or 1 year after termination, whichever is later.

(8 CFR 274a (2)(A))

Internal Revenue Service Regulations

Required: Basic employee data including name, address, Social Security number, and birth date; records showing pay periods, daily and weekly hours, overtime, deductions from pay, taxes withheld, payments for fringe benefits, and amounts and dates of wage payments; copies of employee withholding forms (Form W-4 or W4-E); annual records showing total wages for each employee and amounts of taxable pay; documents showing the reason taxable pay does not equal total pay; amount paid into state unemployment fund, including deductions from employee pay; and experience rating data.

To be retained: Four years after payment, deduction of taxes, or due dates of returns.

Note: Retention can be extended by the IRS as long as records are material to a tax filing; therefore, keeping records indefinitely is safest.

Occupational Safety and Health Act (OSHA)

Required: The following documents must be maintained by SAMPLE CO. subject to OSHA:

- Form 300: Log of work-related injuries and illness
- Form 301: Injury and illness incident report
- Form 300A; Annual injuries and illness report

Note: Records of all legally required medical examinations, including records of employee exposure to potentially toxic material or harmful physical agents, must be available to employees for inspection. An equivalent form may be used in place of Form 301 (such as a report of first injury made for purposes of worker's compensation) but the form must include statements related to employee access and employer penalties.

To be retained: Five years.

Privacy concern cases. Companies with a privacy concern case may not enter the employee's name on the logs, but rather should enter .privacy concern case. in place of the name. Privacy cases are injuries or illnesses to an intimate body part or the reproductive system; a sexual assault injury or illness; mental illness; HIV infection, hepatitis, or tuberculosis; needle stick injuries; cuts from objects contaminated with blood or other infectious material; and employee requests for privacy. SAMPLE CO. must keep a separate, confidential list of case numbers and employee names so that cases may be identified and updated.
(29 CFR 1904.1et seq.)

Required: Records of any medical examination required by OSHA or records related to employee exposure to toxic or hazardous agents.
To be retained: Thirty years after termination of employment.
(29 CFR 1910.1020(d))

Caution: OSHA has many standards for specialized occupations which have record retention requirements.

Social Security Act (FICA)

Required: Each employee's name; address; Social Security number; date, amount, and period of services paid for; amount of pay taxable as wages; reasons for discrepancies; amount of tax collected; date; details of adjustment or settlement of taxes; tips reported; and employer filing records.
To be retained: Four years.

Federal Rules of Civil Procedure

The Federal Rules of Civil Procedure require SAMPLE CO. to preserve electronically stored information (ESI) once the employer reasonably anticipates litigation (e.g., when an employee complains to Human Resources, or the company receives a communication from an attorney). The new federal rules apply to any company that may find itself in federal court for any type of lawsuit.

Required: Examples of ESI include e-mails sent to or from a desktop computer, a laptop computer, or a phone; voice mails; instant messages; text messages; backup tapes of data if, stored in a way permitting future retrieval; and mirror images (dated snapshots of a computer system). Electronic documents must be produced in their native form, so it is important for SAMPLE CO. to maintain the integrity of ESI. The rules cover key players involved in employment decisions, anyone "cc'd" or "bcc'd" on a message sent to or by a key player, and anyone (including secretaries and assistants) who prepares documents for key players. An employer's obligation to preserve this material is ongoing, and ESI created after litigation commences should be stored in separate files.

To be retained: The new federal rules prohibit the imposition of sanctions upon an employer for failing to provide ESI lost as a result of the "routine, good-faith operation of

an electronic information system." Nevertheless, companies have been penalized for delays or the failure to timely produce ESI. Companies with a 30-, 60-, or 90-day retention policy for ESI should seriously consider changing their policy in light of the new rules. It is good policy to retain records in accordance with the applicable statutes of limitation for various claims that may be brought against SAMPLE CO. . Statutes of limitation vary by state for certain claims. It is also good policy to put a "litigation hold" on routine data erasing policies when a company is under the duty to preserve ESI because of pending or reasonably anticipated litigation.

Disciplinary Action Plans

It was discussed that E & A does not have any disciplinary actions in place for its employees. Because employee discipline is a difficult experience that managers and supervisors sometimes face, these guidelines are intended to review the most effective approach to managing performance and/or behavioral issues. Behavioral issues generally result in disruption to the work environment; for example, workplace misconduct and/or rules violations, as well as performance issues, result in a failure to meet goals and/or properly perform tasks, such as when an individual lacks the knowledge, skills or ability to perform the job, or where the work is consistently unacceptable in terms of quality or productivity.

Discipline should not generally come as a surprise to the employee. Occasionally employees are unaware of their supervisors' dissatisfaction until they suddenly receive a formal written reprimand or a letter of termination. Try to avoid this situation if possible and attempt to regularly communicate issues to employees rather than wait until the performance problems can no longer be tolerated or until annual performance reviews are conducted.

When it becomes necessary to discipline an employee, two principles apply:

- first, the employee must be clearly informed by the supervisor as to the source of dissatisfaction;
- second, except in limited circumstances, the employee should be given the opportunity to correct the problem.

In most cases, the purpose of discipline is to instruct and correct rather than to punish. It is your responsibility as a supervisor to explain to the employee those areas in which he or she is expected to improve, to make suggestions about how to improve, and to allow time for the employee to make improvements.

It is usually only in instances such as theft, physical violence or other serious misconduct that immediate termination may be the proper action.

Progressive Discipline

In most instances of behavioral problems, supervisors are encouraged to take a progressive approach to discipline.

When you become aware of a problem, promptly speak to the employee, taking particular care to specify the deficiencies you wish to see corrected and how corrective action is to be undertaken. Have as many additional discussions with the employee as seems appropriate under the particular circumstances. Usually, at this early stage, the employee should be given advice and guidance rather than a reprimand. It is important to maintain, at a minimum, a log of all discussions of this nature with employees. If the employee seems uncertain of the advice being given, then a confirmation of the discussion(s) in writing is advisable.

- If, after a reasonable period of time, there is no improvement, or insufficient improvement, write formally to the employee explaining the reasons for your dissatisfaction with his or her conduct. Often it is helpful if such a letter makes reference to your earlier discussions with the employee. Ultimately it may be necessary to write to the employee to indicate that he or she will be suspended without pay or terminated if there is insufficient improvement in the conduct.
- If there continues to be insufficient improvement, a suspension without pay for a short period of time is appropriate. You should specifically state, in a suspension letter, that the employee will be subject to further suspensions without pay or termination if there continues to be insufficient improvement.
- When it is apparent that a progressive disciplinary approach has failed and that the necessary change in behavior has not been achieved, you may decide to terminate the employee.

Such a progressive disciplinary approach may not be necessary with **performance-based problems** (i.e., if an employee's deficiencies in performing the functions of the position or meeting goals are such that they cannot be corrected by coaching, training or disciplinary action, such as when an employee lacks a particular skill, aptitude or ability). In these instances, acknowledge the employee's lack of ability as soon as possible and provide consistent and regular performance assistance, evaluation, coaching and/or training. Then, after a reasonable period of time, if you conclude that the employee's performance still has not reached and will not reach a satisfactory level, termination may be appropriate.

Performance Management

During our risk assessment, it was uncovered that there is no performance management in place for E & A. It is our recommendation that this begin, and a process is developed for continued performance management. An effective performance evaluation measures an employee's progress and demonstrates the supervisor's/SAMPLE CO.'s interest in the employee's personal development. It also serves as a guide for further training and as an opportunity to discuss problems and interests with the supervisor. This can best be done by identifying the goals that will increase SAMPLE CO. value and aligning the employee's performance with behaviors

that are essential to the organization's success. Other common objectives of effective performance evaluations are to:

- Identify a limited number of critical behaviors that are vital to the SAMPLE CO. ability to meet its goals.
- Enhance employee understanding of the results considered essential to the success of the business.
- Serve as a tool to determine salary increases based on a worker's contribution to the organization.
- Give and seek honest feedback because employees perform better when they are allowed to speak openly and clarify performance measures.
- Apply uniform performance standards that assure fairness and eliminate confusion about performance standards.
- Give employees a stake in the process by encouraging them to help set their own performance goals and assess their progress in meeting those goals.
- Make performance management an ongoing process that reflects changes in the business.
- Gather information for succession planning and the development of training programs by identifying employees who have the interest and potential for advancement.
- Improve coaching by encouraging supervisors to observe an employee's job performance and compare it with performance standards on an ongoing basis.

Focus on Key Behaviors

Identify the key behaviors that will add value to the SAMPLE CO.. A key reason employee's fail in their tasks is because a performance model has not been made clear. What behaviors does the organization want its employees to focus on and maintain? How is success measured? Is the individual clear about which behaviors are critical to success? Expectations for each individual should be easily identifiable. SAMPLE CO. should encourage employee involvement in tracking success, provide training where necessary, and identify steps to be taken to improve performance.

The link between a job's key responsibilities and the employee's performance goals should be clear so that employees understand what is expected from them. In turn, the link between the employee's performance and SAMPLE CO. success also should be clear. Employers should start by creating a job description that accurately reflects the job's responsibilities. For performance appraisals, critical job responsibilities should be directly linked to expected outcomes, which in turn should align with the organization's objectives. Clear expectations and performance standards, along with achievable goals, will help increase retention and improve morale. Employees are often more engaged in their jobs, and therefore perform better, when they understand what is expected, how to achieve performance goals, and how their performance is tied to the success of the business.

Provide Management with the Proper Tools

Management must have the proper tools to conduct an effective performance evaluation. Managers must be familiar with the performance targets of the business in order to motivate their subordinates and be able to give appropriate performance feedback. Managers should be held accountable for their ability to motivate people to perform better. A standard for measurement of key behaviors and ability to reach targeted goals should be used.

Some employers combine a performance evaluation with a self-review by the employee. The primary purpose of a self-review is to gain the employee's perspective of his or her performance. Some self-reviews contain a section in which the employee suggests ideas for improving job performance and career development. Perhaps as important, the review also allows the employee to share areas of interest and success so that the employer can encourage personal growth and support employee development.

Common Mistakes

The following are some of the common errors often made at the beginning of the performance appraisal process that can distort the analysis.

Limited focus. Focusing on recent performance instead of evaluating the entire performance period.

Bias. Allowing non-job-related factors to prejudice an appraisal is unfair to the employee and may be unlawful if based on characteristics such as race, national origin, gender, or religion. Employers should avoid having an appraisal influenced by other unrelated factors such as participation in employee after-work programs or physical appearance.

Strictness/leniency. Some reviewers might believe the performance standards are too low and therefore refuse to give high ratings, while others insist on giving everyone a high score.

Contrast. This happens when the employee is compared to other employees, rather than on the basis of an objective review of the job performance.

Timing

Most organizations review individual employees on the 6-month or 1-year anniversary of their hire date. A few review all employees at the same time in a year. It is a bother to be engaged in merit reviewing for some employees during every month of the year, but an annual review of all employees can disintegrate into an across-the-board increase. Employees at top administrative and executive levels are often reviewed near the end of the calendar or fiscal year since their salaries and bonuses are closely related to the profit status of the organization. Employers should try to comply with the appraisal schedule. Otherwise, employees may conclude that employers do not value employees' job performance.

Consistency Is Important

Performance review forms have been developed to promote consistency, objectivity, and to force supervisors to evaluate employees in specific areas. Whatever form is used, it should be thoroughly explained to all who evaluate employees so that everyone will use such terms as "good", "excellent", or "poor" with the same meaning. Experts suggest that before managers begin writing, they should review their notes of the past year. These observations provide the basis for the evaluation. Then, an outline is prepared listing achievements and areas that need improvement. Finally, the performance is measured against the standards of the job, and goals set during the previous review.

The key to a well-prepared, effective appraisal is objective, job-related data that support ratings. This can be accomplished by:

- Using examples to document both positive and negative accomplishments
- Listing specific ways for the employee to improve on the negatives
- Listing specific compliments for the positives

The Appraisal Meeting

The performance appraisal meeting is an important part of the process. The best approach is for the manager to act as a coach to help the employee meet his or her goals. Here are some ideas:

- Before the meeting, let the employee know the purpose of the meeting, what to expect, and how much time to allocate.
- Hold the meeting in private and allow plenty of uninterrupted time for discussion.
- Conduct the meeting within a week of the official review date.
- Discuss specific examples of both positive and negative issues and compare examples to job responsibilities and performance goals.
- Discuss the role of the employee and his or her performance as it relates to the department and to the company as a whole.
- Show confidence in the worker's ability to improve areas that need strengthening and to continue to show success in positive performance areas.
- Allow employees to give their opinions, examples of their successes, and areas for improvement.
- Discuss specific actions the employee can take to improve or develop and actions the manager can take to help (e.g., finding out what kind of training opportunities is available).
- Separate job performance and behavior from the person.

Setting Goals

At the end of the meeting, the manager and employee should establish goals for the next review period. (It may be appropriate for both to work together on an action plan to

meet the goals, or it may be more appropriate for the employee to return at another time with a written action plan.) Goals that are action-oriented are preferred. For example, "We will have weekly meetings and you will come prepared to discuss production quotas, error rates, etc." Goals should also be capable of measurement: "We will increase output by 20 percent." In addition to new goals, the action plan should cover the employee's plans for improving problem areas. Having employees play an active role in the goal-setting process will help them feel more involved in the company and help foster a desire to perform well and achieve those goals.

Concluding the Meeting

The goals should be recorded on the appraisal form. The employee is then asked to sign the appraisal to acknowledge receipt. If the employee disagrees with anything on the appraisal, he or she should have an opportunity to write a response. Generally, the time period is limited to a week. A copy of the response should be placed with the appraisal in the employee's personnel file.

Separating Salary Review from Performance Appraisal

Traditionally, salary reviews and performance appraisals have been combined into a single event. While the two are intrinsically linked, a problem with this approach is that it promotes "tunnel vision." All the employee focuses on is, "How much am I getting?" The employee's preoccupation seriously undercuts the impact of the counseling aspect of the exercise.

One way to avoid this is to separate the two events. Hold the performance appraisal *first*. Then, on another day, deal with the raise issue. If this is done, employees should be advised in advance that there will be two meetings.

While there is no question that individual job performance should be a major factor in the decision to grant a pay increase, it is only one of the many factors that must be taken into consideration. Other factors include:

- The employer's overall financial situation
- The department's or division's budget for raises
- The employee's length of service
- The employee's qualifications (i.e., the scarcity of certain talents in the labor market and the likelihood that the employee will be paid more for them elsewhere)
- How much other employers in the local area are paying for similar jobs
- What the employee requires in the way of incentives
- General economic conditions--the inflation rate, changes in the cost of living, etc.

Communication Is the Key

Like so many other aspects of the employment process, performance appraisals have become the subject of lawsuits ranging from discrimination claims to lawsuits alleging that an appraisal program created an employment "contract." If is concerned about these problems should consider the following steps.

First, the employee handbook should make it clear that the description of appraisal and discipline programs is "advisory" and may be altered at management's discretion. Second, to avoid charges that the procedure is biased, merit-rating systems and the pay differentials that result from them should be based on job-related factors--that is, on objective evaluation of performance relative to specific requirements of the job.

The following steps will help protect an organization against charges of discrimination:

- Have up-to-date job descriptions, and evaluate employees' performance relative to the requirements specified in the descriptions.
- Thoroughly train supervisors in effective procedures for merit rating and feedback to employees.
- Give employees the chance and a place to note their comments/disagreements regarding their evaluations.
- Explain and monitor the organization's evaluation programs. Make sure that managers sign off on their subordinates' reviews. Larger organizations may want to consider reviewing appraisals to see if there is any statistical evidence of bias.

Records

The law does not require that merit or salary reviews be written. However, records of wage decisions are essential if an organization is to have a defense against any charges of discrimination in its pay practices.

If an employer claims that an adverse employment action is based on poor job performance, having a record of performance appraisals that support the employer's claim can be very useful in defending against charges of discrimination, retaliation, or wrongful termination.

Compensation

Compensation Administration Program

During the risk assessment it was noted that currently at SAMPLE CO. all employees are salary, regardless of their title. It is our recommendation that each job be reviewed in detail to ensure that all compensation is appropriate. A formal compensation administration program is the basic management tool for ensuring that employees are satisfied, that both internal and external equity are maintained, and that control is maintained over compensation costs. Such a program will help attract top talent, retain core employees, and encourage longevity while efficiently using financial resources. Establishing an effective compensation administration program requires job analysis,

job evaluation, and job pricing. Once established, it is important to maintain and update the following aspects of the program: salary banding, employee classification, salary increases, performance appraisals, and longevity increases.

Job Analysis

Each job in the organization should be thoroughly analyzed and described. SAMPLE CO. Job description should state clearly and simply:

- Who does the work (including the qualifications, education, and job skills required)
- Where the work is performed
- When the work is done (hours, how often, or what times of year)
- Why the person does the work (why is the job essential to the company)
- How the job is accomplished

For the purposes of the Americans with Disabilities Act, it is appropriate and necessary to list the essential and nonessential functions of the job in case someone asks for a job accommodation for a covered disability.

SAMPLE CO. should note that a job title alone is insufficient to establish the exempt status of an employee. Instead, the status of an employee must be determined on the basis of whether the employee's salary and duties meet the requirements of the regulations. If the company has not updated its job descriptions in over a year, it is possible that the actual work performed by employees under your current job titles has changed. Once you have job descriptions that you believe accurately reflect the jobs performed, have your legal advisor review them, and sign and date the review so that you can prove your job descriptions are up to date and determine when a new review is necessary.

Job Evaluation

Job evaluation determines what jobs are worth on an absolute basis and relative to other jobs in the organization. It can be done in a variety of ways, but usually involves assigning "points" based on complexity, impact, budget, supervisory duties, and so on, and attaching job ranks based on the total number of points. Jobs that are of greater value to the organization have a higher labor grade; jobs of lesser value fill the lower grades.

Job Pricing

What SAMPLE CO. should have as a result of the job evaluation program is a hierarchy of jobs based on point values (or some other set of reliable criteria.) In other words,

SAMPLE CO. can be assured of internal equity when it comes to matching up the various evaluation "scores" with actual wage levels because all of the jobs in the organization have been compared with each other and have been evaluated accordingly. But internal equity alone can't guarantee employee satisfaction or protect a firm from a legal challenge. An employer must be aware of what other firms in the area or industry are paying for similar jobs. Once this information has been obtained and an employer has determined that the wage and salary structure compares favorably, an employer has achieved external equity as well.

Job pricing involves establishing rate ranges; that is, minimum, midpoint, and maximum dollar values for each labor grade. By studying wage and salary surveys, SAMPLE CO. can compare wages in the labor market to the jobs within their organization. The result is a scale of wages that allows the employer to compete in the labor market (external equity) while ensuring that jobs that are worth more to the organization are paid more than those of lesser worth (internal equity). Here's an illustration of a set of rate ranges.

Labor Grade	Minimum	Midpoint	Max
33	\$30,147	\$40,196	
37	\$40,954	\$54,605	\$68,257
39	\$52,851	\$66,828	\$81,455
40	\$51,533	\$68,711	\$85,888
43	\$64,845	\$86,460	\$108,075

Maintaining a Compensation Administration Program

Salary Banding

In an effort to simplify salary administration, to encourage employees to acquire new skills, and to promote lateral movement within the organization, many employers have developed and implemented salary banding programs. A salary banding system involves grouping multiple, related jobs into large, expansive salary bands. For example, may collect all existing secretarial, administrative assistants, and clerical grades into one large salary band titled "Administrative," with a salary band of \$9.26 per hour to \$24.61 per hour. Salary movement is then primarily determined by the acquisition of new skills or merit increases, because promotions do not occur within the band because an individual has been switched from one arbitrary title to another. Banding provides more control over salary progression by requiring salary increases either solely at the discretion of the employer or upon meeting very objective criteria for increases that are set by the employer.

Employee Classification

To operate effectively, the compensation program must maintain the correct classification of employees through regular review of the various classifications. Each employee is assigned to a particular job with its corresponding job description, labor

grade assignment, and rate range. This is a normal outgrowth of the job analysis process. Duties, assignments, and responsibilities change, however, which can result in either wage overpayments or underpayments. It is therefore advisable to periodically review job classifications. One way to avoid improper payment is for a designated compensation administrator to review every employee hire, promotion, demotion, and transfer for correct classification.

Exempt, nonexempt. Each job (and each employee performing that job) must be classified as "exempt" or "nonexempt." This has to do with whether the job is exempt from the provisions of the Fair Labor Standards Act (**FLSA**) and other statutes that require payment of overtime.

Full time, part time. Part-time workers are often treated differently from full-time employees when it comes to wages and benefits. The number of hours one must work to be considered full-time is a matter of employer policy.

Temporary employees. Temporary workers sometimes receive less compensation or limited benefits. Temporary workers provided by an agency are employees of the agency, not the firm that uses their services, and therefore need not be paid in accordance with the company compensation plan.

Comment. When inflation is low or when compensation brackets are not adjusted regularly, longevity increases help keep the compensation system in order. If such an option is not available, supervisors may artificially upgrade jobs to get pay increases for good workers who have been locked in at the maximum for their grade, and this can distort the company's organizational structure. Longevity increases, bonuses, or enhanced benefits are options that can take the pressure off the pay program in such circumstances.

Procedures

Employee Alignment

Alignment is the side-by-side working relationship that makes great results a daily reality for both Key Decision Makers and Direct Reports.

SAMPLE CO. can help Direct Reports get and stay on the same page with the Key Decision Maker.

All the biggest barriers and frustrations to Key Decision Makers and Direct Reports- lack of clarity on the vision, the absence of a strategic plan, factionalism and infighting among members of the company's leadership, and many others - can be overcome once the executive team understands and commits to Alignment at all levels of the organization

Companies that implement the core principles of Alignment experience:

- Reduction in costs
- Less wasted time
- Improved efficiencies
- Greater job satisfaction and retention
- Decreased workplace stress as a direct result of Aligned activity focused on what is really most important to the company.

Onboarding Program

Onboarding, also known as organizational socialization, refers to the mechanism through which new employees acquire the necessary knowledge, skills, and behaviors to become effective organizational members and insiders. Tactics used in this process include formal meetings, lectures, videos, printed materials, or computer-based orientations to introduce newcomers to their new jobs and organizations. Research has demonstrated that these socialization techniques lead to positive outcomes for new employees such as higher job satisfaction, better job performance, greater organizational commitment, and reduction in occupational stress and intent to quit. These outcomes are particularly important to an organization looking to retain a competitive advantage in an increasingly mobile and globalized workforce. In the United States, for example, up to 25% of workers are organizational newcomers engaged in an onboarding process.

Job offer letters start the employment relationship off on a positive note. Job offer letters also serve as the legal basis for employment. The letter is legally binding. You should be fully satisfied that the terms and conditions you have spelled out for the new employee are exactly what they should be.

Facts to include in a job offer letter:

Salary: State the starting salary, frequency of payment and method of payment, such as by check or direct deposit. If your company offers performance bonuses or stock options, state these clearly and in full

Benefits: Briefly describe the benefits coverage provided by your company such as dental, health and/or other types of insurance. Note that benefits information will be communicated in further detail upon orientation of the new employee

Dates and Times: Be explicit. For instance, state when you want the signed offer returned, the length of the probationary period (if appropriate), expectations concerning hours of work per week, and the job start date and time

Name Relevant Documents: If your company requires new employees to sign other documents, such as non-confidentiality or non-compete agreements, attach them to the offer. The job offer letter serves as the critical reference point. If the candidate accepts the offer, the letter serves to promote communication and to help orient the new employee to the business environment before they actually start their first day of work.

Cost of Turnover

The following is a comprehensive checklist of items to include when calculating the cost of turnover in any organization. To determine the costs, have the hourly and weekly cost of fully loaded payroll costs (i.e. salary plus benefits) of the vacant position, the management staff, the recruitment staff and others as outlined below. It should be noted that the costs of time and lost productivity are no less important or real than the costs associated with paying cash to vendors for services such as advertising or temporary staff. These are all very real costs to the employer. These calculations will easily reach 150% of the employee's annual compensation figure. The cost will be significantly higher (200% to 250% of annual compensation) for managerial and sales positions. To put this into perspective, let's assume the average salary of employees in a given company is \$50,000 per year. Taking the cost of turnover at 150% of salary, the cost of turnover is then \$75,000 per employee who leaves the company. For the mid-sized company of 1,000 employees who has a 10% annual rate of turnover, the annual cost of turnover is \$7.5 million!

Costs Due to a Person Leaving

- Calculate the cost of the person(s) who fills in while the position is vacant. This can be either the cost of a temporary or the cost of existing employees performing the vacant job as well as their own. Include the cost at overtime rates.
- Calculate the cost of lost productivity at a minimum of 50% of the person's compensation and benefits cost for each week the position is vacant, even if

there are people performing the work. Calculate the lost productivity at 100% if the position is completely vacant for any period of time.

- Calculate the cost of conducting an exit interview to include the time of the person conducting the interview, the time of the person leaving, the administrative costs of stopping payroll, benefit deductions, benefit enrollments, COBRA notification and administration, and the cost of the various forms needed to process a resigning employee.
- Calculate the cost of the manager who has to understand what work remains, and how to cover that work until a replacement is found. Calculate the cost of the manager who conducts their own version of the employee exit interview.
- Calculate the cost of training your company has invested in this employee who is leaving. Include internal training, external programs and external academic education. Include licenses or certifications the company has helped the employee obtain to do their job effectively.
- Calculate the impact on departmental productivity because the person is leaving. Who will pick up the work, whose work will suffer, what departmental deadlines will not be met or delivered late. Calculate the cost of department staff discussing their reactions to the vacancy.
- Calculate the cost of severance and benefits continuation provided to employees who are leaving that are eligible for coverage under these programs.
- Calculate the cost of lost knowledge, skills and contacts that the person who is leaving is taking with them out of your door. Use a formula of 50% of the person's annual salary for one year of service, increasing each year of service by 10%.
- Calculate the cost impact of unemployment insurance premiums as well as the time spent to prepare for an unemployment hearing, or the cost paid to a third party to handle the unemployment claim process on your behalf.
- Calculate the cost of losing customers that the employee is going to take with them, or the amount it will cost you to retain the customers of the sales person, or customer service representative who leaves.
- Subtract the cost of the person who is leaving for the amount of time the position is vacant.

Recruitment Costs

- The cost of advertisements (from a \$200.00 classified to a \$5,000.00 or more display advertisement); agency costs at 20 - 30% of annual compensation; employee referral costs of \$500.00 - \$2,000.00 or more; internet posting costs of \$300.00 - \$500.00 per listing.
- The cost of the internal recruiter's time to understand the position requirements, develop and implement a sourcing strategy, review candidates backgrounds, prepare for interviews, conduct interviews, prepare candidate assessments, conduct reference checks, make the employment offer and notify unsuccessful candidates. This can range from a minimum of 30 hours to over 100 hours per position.

- Calculate the cost of a recruiter's assistant who will spend 20 or more hours in basic level review of resumes, developing candidate interview schedules and making any travel arrangements for out of town candidates.
- The cost of the hiring department (immediate supervisor, next level manager, peers and other people on the selection list) time to review and explain position requirements, review candidates background, conduct interviews, discuss their assessments and select a finalist. Also include their time to do their own sourcing of candidates from networks, contacts and other referrals. This can take upwards of 100 hours of total time.
- Calculate the administrative cost of handling, processing and responding to the average number of resumes considered for each opening at \$1.50 per resume.
- Calculate the number of hours spend by the internal recruiter interviewing internal candidates along with the cost of those internal candidates to be away from their jobs while interviewing.
- Calculate the cost of drug screens, educational and criminal background checks and other reference checks, especially if these tasks are outsourced. Don't forget to calculate the number of times these are done per open position as some companies conduct this process for the final 2 or 3 candidates.
- Calculate the cost of the various candidate pre-employment tests to help assess a candidates' skills, abilities, aptitude, attitude, values and behaviors.

Training Costs

- Calculate the cost of orientation in terms of the new person's salary and the cost of the person who conducts the orientation. Also include the cost of orientation materials.
- Calculate the cost of departmental training as the actual development and delivery cost plus the cost of the salary of the new employee. Note that the cost will be significantly higher for some positions such as sales representatives and call center agents who require 4 - 6 weeks or more of classroom training.
- Calculate the cost of the person(s) who conduct the training.
- Calculate the cost of various training materials needed including company or product manuals, computer or other technology equipment used in the delivery of training.
- Calculate the cost of supervisory time spent in assigning, explaining and reviewing work assignments and output. This represents lost productivity of the supervisor. Consider the amount of time spent at 7 hours per week for at least 8 weeks.

Lost Productivity Costs

As the new employee is learning the new job, the company policies and practices, etc. they are not fully productive. Use the following guidelines to calculate the cost of this lost productivity:

- Upon completion of whatever training is provided, the employee is contributing at a 25% productivity level for the first 2 - 4 weeks. The cost therefore is 75% of the new employee's full salary during that time period.
- During weeks 5 - 12, the employee is contributing at a 50% productivity level. The cost is therefore 50% of full salary during that time period.
- During weeks 13 - 20, the employee is contributing at a 75% productivity level. The cost is therefore 25% of full salary during that time period.
- Calculate the cost of coworkers and supervisory lost productivity due to their time spent on bringing the new employee "up to speed."
- Calculate the cost of mistakes the new employee makes during this elongated indoctrination period.
- Calculate the cost of lost department productivity caused by a departing member of management who is no longer available to guide and direct the remaining staff.
- Calculate the impact cost on the completion or delivery of a critical project where the departing employee is a key participant.
- Calculate the cost of reduced productivity of a manager or director who loses a key staff member, such as an assistant, who handled a great deal of routine, administrative tasks that the manager will now have to handle.

New Hire Costs

- Calculate the cost of bring the new person on board including the cost to put the person on the payroll, establish computer and security passwords and identification cards, business cards, internal and external publicity announcements, telephone hookups, cost of establishing email accounts, costs of establishing credit card accounts, or leasing other equipment such as cell phones, automobiles, pagers.
- Calculate the cost of a manager's time spent developing trust and building confidence in the new employee's work.

Lost Sales Costs

- For sales staff, divide the budgeted revenue per sales territory into weekly amounts and multiply that amount for each week the territory is vacant, including training time. Also use the lost productivity calculations above to calculate the lost sales until the sales representative is fully productive. Can also be used for telemarketing and inside sales representatives.
- For non-sales staff, calculate the revenue per employee by dividing total company revenue by the average number of employees in a given year. Whether an employee contributes directly or indirectly to the generation of revenue, their purpose is to provide some defined set of responsibilities that are necessary to the generation of revenue. Calculate the lost revenue by multiplying the number of weeks the position is vacant by the average weekly revenue per employee.

Calculating and adding all these costs, given our original example of the \$50,000 person can easily reach \$75,000 to replace them. As you can see, the costs and impact associated with an employee who leaves the company can be quite significant. This is not to say that all turnover should be eliminated. However, given the high cost and impact on running a business, a well thought-out program designed to retain employees may easily pay for itself in a very short period of time.

Offboarding

The process of offboarding employees out of your organization is as important as onboarding them. Yet many organizations focus only on the onboarding process, and neglect offboarding. Onboarding is viewed as a more positive endeavor, while offboarding maintains the negative connotations of involuntary terminations, layoffs and downturns. In reality, your offboarding process will have a more lasting impact on your former employees-as except for a few, most individuals will be former employees much longer than being a current employee.

All organizations lose people and need to transition them out of the workforce as quickly and efficiently as possible. Unfortunately, a vast majority of the organizations still handle employee offboarding through error prone manual processes, raising audit flags and increasing the risk exposure. To assess your organization's offboarding processes consider the following:

- Is my employee separation process consistently applied?
- Is the employee separation process automated in order to eliminate errors and reduce costs?
- What common mistakes are made during employee termination process?
- Should we include all employees, those who left voluntarily, involuntarily, part-time and transferred, in the exit interviews?

Below are a few best practices to address these considerations:

- Offboarding includes turnovers that are not only voluntary, but also involuntary, and both should be given equal importance.
- To reduce risk exposure, the offboarding process should be applied consistently to all types of employee separations.
- Automating your onboarding process can help reduce mistakes and ensure consistency.

Harassment/Discrimination Training

Harassment

At this time SAMPLE CO. has not conducted regular trainings on these or other important topics. As a result of not having stated policies of non-tolerance, how to report a claim, or what will happen after an incident is reported, SAMPLE CO. is at risk for a claim with little or no process to defend itself.

State law does not require training regarding an employer's anti-harassment policy. It has been shown in court cases that penalties are much more severe for those companies who do not have a policy or provide training to their employees and supervisors. Some companies actually go out of business due to the magnitude of these fines. Training in the prevention of sexual harassment enables supervisors to properly address sexual harassment complaints, educates the workforce on issues of sexual harassment and the prevention of potentially harassing situations, and establishes the employer's policies. It is particularly important to communicate procedures for reporting sexual harassment to employees so that incidents of alleged harassment may be addressed promptly. Evidence of SAMPLE CO.s' preventive measures and reporting procedures may also support the defense to sexual harassment claims.

Enforcement

The State Division on Human Rights enforces the law and is empowered to receive and investigate complaints, initiate its own complaints, issue subpoenas and injunctions, conciliate, hold hearings, conduct arbitration and, if necessary, take court action to enforce its orders (NY Exec. Law Sec. 295).

If the Division finds that discrimination has occurred, the Division may issue a cease and desist order. It may also order affirmative action; hiring; reinstatement; upgrading of an employee; back pay; front pay; fringe benefits, such as sick pay; medical insurance premiums and vacation pay; out-of-pocket expenses; interest; punitive damages; compensatory damages for mental anguish; and attorneys' fees.

An individual alleging employment discrimination is not required to file a complaint with the Division before filing a private lawsuit, but may choose to file a private lawsuit in lieu of filing a complaint with the Division.

Discrimination

The New York Human Rights Law prohibits employment practices that discriminate based on race or color. The law applies to employers with four or more employees (NY Exec. Law Sec. 296et seq.). Under the Law, it is unlawful for an employer to:

- Refuse to hire or employ or to discharge an individual or discriminate against such individual in compensation or in terms, conditions, or privileges of employment because of race or color.
- Print or circulate any advertisement or publication or use any form of application for employment that expresses any limitation, specification, or discrimination as to race or color, unless based on a bona fide occupational qualification (BFOQ).

- Make any inquiry in connection with prospective employment that expresses directly or indirectly any limitation, specification, or discrimination as to race or color, unless based on a BFOQ.
- Aid, incite, compel, or coerce the doing of any of the acts forbidden under the law or attempt to do so.
- Discharge, expel, or otherwise discriminate against an individual who has opposed any unlawful discriminatory practice, filed a complaint, testified, or assisted in any proceeding under the law.
- Deny admittance to an apprenticeship training program, on-the-job training program, executive training program, or other occupational training or retraining program because of race or color.

HR Metrics

HR metrics go beyond the commonly-used cost-per-hire and time-to-fill calculations. While these are a good start to your HR metrics data set, SAMPLE CO. will benefit more if you dig deeper. Go a step further and assess the problems in the hiring process and what can be done to improve efficiency along the way. Determine how the process can be improved to bring in better matches and reduce new hire turnover, thus reducing wasted effort.

One primary area where you can use HR metrics to analyze and improve your hiring process is administrative efficiency. How can you reduce the time and effort required to manage candidate flow? What is your cost per hire? What is your time to fill? What about your interview-to-hire ratio? These items are typically easy to measure, which is why they're often measured first. However, the key is not to stop there because there is a limited payoff to only tracking and improving these basic measures.

Another area to use HR metrics to improve your hiring processes is to reduce waste and rework. This type of analysis isn't just for manufacturing - it can be applied to the office staffing process too. For example, how many times do you fill a position, just to have to do it again in 3 to 6 months? That's a waste of recruiting dollars and entails a lot of rework for HR and management. Even when a new hire is successful, how long is that person in the job before becoming proficient? This time-to-proficiency is also a cost.

Using HR Metrics to Reduce Waste

One of the first audit exercises is to look at all the jobs that you're hiring for and do an analysis and see which job has the highest 90-day turnover. These are the areas where the most waste and rework are created in the hiring process. Once you have found these jobs you can do some calculations on the costs involved with this turnover. These calculations are cost-to-proficiency and then waste and rework.

A cost-to-proficiency calculation lets you see the costs involved in getting an employee up to speed in a new role - what's it take, how many people are involved, what's the training impact, what are the dollars associated with bringing somebody up to

proficiency? Start with everything in the hiring process, including interviewing, screening, and so on. Continue with orientation time and training time - being sure to include the time for the employee, the manager, and all trainers. When you multiply the hours spent by the wages per hour of those involved, you can quickly determine a total cost for the time before an employee becomes proficient at his or her job.

You can calculate waste and rework as well. First, you can calculate the wasted wages paid to all of the employees who left during their first 90 days. Next, you can calculate the cost of hiring and training those people - the cost-to-proficiency calculation - which is also wasted in these cases. When you lose a new hire within a short period of time, all of these costs must be repeated to get a new person to the same point in the process. By reducing the turnover of new hires, you can reduce all of these costs for your organization.

Reducing this turnover can come by improving the screening and interviewing process to ensure a great organizational fit before hiring. You can also focus on early success through improving training programs or implementing mentoring systems to help new hires succeed.

Conclusion

This report focused on areas deemed as critical issues when examining the policies and practices at your Company. It has been found that SAMPLE CO. has potential exposure in many areas.

To start the mitigation process, SAMPLE CO. should focus on the most critical in the short-term with a goal of designing a long-term Human Resource plan. This plan should have an eye toward implementing the major issues identified and creating Human Resources best practices, policies and procedures.

Critical first steps:

Handbook/Job Descriptions

I-9 Forms

Wage and Theft Forms (WTPA)