

## Training Managers for Success

### *Essential Employment Laws and Practices to Develop Effective Managers*

Picture yourself traveling to a foreign country. Having planned well-ahead, you have finally reached your desired destination and what a beautiful sight it is! You have accomplished a hard-earned goal! Now that you are where you have always wanted to be, you realize there are some things to which you must give your full attention. To communicate you have to work at speaking and understanding the **same language** as the citizens, you have to **abide by the rules** in that country, and you will need to make some **cultural adjustments** to learn and support the customs. How? You could stubbornly try to find your own way, rely on past experience (which may or may not be relevant), or you could accept help that is offered from a guide that knows what is best and what to avoid.

Being promoted to a management position can be like dwelling in a foreign country. Even though you have worked hard to get there, some of your survival skills may need to be honed. As a manager, you will need to **communicate well** with your employees, **be an advocate** of the company culture, and you will need to **follow the policies and practices** of the organization. How? To be successful, training is needed!

Organizations that value their managers will equip them with the necessary education to make them successful in their new position. Even if an employee has worked for a company for many years supervising others, there are still many areas of management training that can help him or her be a better manager. While it is the responsibility of HR personnel to know these complex employment laws, it is also their responsibility to educate managers with this vital information to safeguard compliance and to prevent the company from landing in legal hot water.

Where should the managers' training begin? Managers need to know enough about employment laws to determine when one has been triggered and when to contact HR to take the matter further. To gain this knowledge, the managers' training should be centered on the employment laws that focus on such things as discrimination, harassment, retaliation, hiring, leaves of absence, and accommodations. A thorough examination of company policies and practices should also be included in the training agenda, so managers will be fully equipped with the knowledge of how the organization views pay practices, performance management, recruitment efforts, and employee relations. Below is a selection of fundamental topics and laws to include in your managers' training program:

#### **Title VII of the Civil Rights Act of 1964**

Title VII prohibits employment discrimination based on race, color, religion, sex, and national origin for employers with 15 or more employees. It makes it illegal to hire, fire, or discriminate with respect to compensation, terms, or conditions of employment because of an individual's protected status of race, color, religion, sex, or national origin. This would include discrimination in opportunities for training, transfer, and promotion. Other federal and state laws make it illegal to discriminate due to age, genetic information, pregnancy, gender, and sexual orientation.

Managers should have special training for harassment and discrimination. They, as do all employees, need to understand that the company prohibits such behavior. Instructing managers as to what constitutes and differentiates harassment, discrimination, and retaliation is essential. Managers that can facilitate and practice dignity, respect, and professionalism in the organization are treasured.

### **Fair Labor Standards Act (FLSA)**

Among the areas of compensation covered by the FLSA are minimum wage, overtime pay, recordkeeping, and child labor standards, all of which affect all employers with two or more employees. Nonexempt employees are entitled to at least the federal minimum wage, currently \$7.25 per hour (state minimum wage rates may vary) and must be paid overtime pay at a rate not less than time and one-half their regular rates of pay for hours worked in excess of 40 hours in a workweek.

Managers must not only discourage, but prohibit nonexempt employees from working off-the-clock, because *all* time worked must be reported properly and paid in the appropriate pay period, (i.e. employees must be paid overtime even if it was not authorized by their manager). Overtime violations are a major concern for organizations. Improperly calculated overtime rates, misclassified FLSA exemptions, and failure to compensate employees for hours worked are some of the violations that can incur large fines. Training managers to be aware of the recordkeeping and pay requirements of the FLSA is a powerful means for preventing a lawsuit.

### **Family and Medical Leave Act (FMLA)**

This law applies to employers with 50 or more employees in a 75 mile radius, who have completed 12 months of employment, having worked 1,250 hours in the previous 12 months. Employees may take leave for specified reasons including a serious health condition of the employee, employee's spouse, child, or parent. Other specified reasons are also covered. Managers need to understand that an employee may be eligible for FMLA and may request it *without* asking for it by name, (e.g. Employee says, "I need to take a couple weeks off to care for my wife who is having surgery.") This statement could be a trigger for FMLA leave. It tells the manager that the employee has a serious health condition of a spouse for which care will be needed by him. The employee should be directed to HR for further instruction. HR should be notified to contact the employee. Both notifications by the manager will ensure that the employee is able to exercise his right to leave under the FMLA.

### **Americans with Disabilities Act (ADA)**

The ADA provides protection from discrimination and retaliation because of an individual's disability. The law covers employers with 15 or more employees. Employers are required to make "reasonable accommodations" for a disabled individual to enable them to perform the essential functions of their job, as long as it is not an undue hardship on the employer. An example of a reasonable accommodation could be allowing an employee to bring their service dog to work to assist with their anxiety disorder. (See [Equal Employment Opportunity Commission \(EEOC\) v. Direct Optical, Inc., 2:13-cv-14926](#).)

### **Interviewing Applicants**

According to an article from the Society for Human Resource Management Foundation, "direct replacement costs can reach as high as 50-60% of an employee's annual salary, with total costs associated with turnover ranging from 90-200% of annual salary."\* Statistics like these help to emphasize how important and how costly the hiring and retention processes are in an organization and gives weight to the objective of educating managers. Recruiting for open positions usually falls on the HR department, but interviewing applicants will require assistance from the hiring manager. Managers must be trained in proper interviewing techniques. They need to understand the ramifications of asking inappropriate questions or allowing the candidate to elaborate on a disability, genetic information, or other protected status. For instance, a hiring manager should not inquire about a pregnant woman's due date or plans for additional children. If not hired, the applicant could construe that the timing of her due date or future family plans were a factor in the adverse decision to not employ her. (See [EEOC v. John Charing d/b/a Chick-fil-A at Concord Commons, Civil Action No. 1:13-CV-00535](#).)

### **Performance Appraisals**

The performance appraisal can be a powerful tool in developing and focusing employees and creating a high performance work environment. Managerial preparation is essential to the success of the appraisal process. Instructing managers on how to plan the process and how to conduct regular appraisal meetings will give them confidence when working with their employees and will reduce the stress that usually accompanies the annual performance appraisal meeting.

Regular performance meetings can be one of the most effective methods of communication between an employee and their manager, since they help build trust in the employment relationship. Employees will better understand what is expected of them and how their goals support the organization. During these meetings, managers should take the opportunity to learn about their employees' career interests and skills that could be more fully utilized within the organization. When managers, through training, come to understand and appreciate the value of the performance appraisal process, the organization will be much more successful and capable of meeting their strategic goals.

### **Policies and Practices**

When companies have no formal employment policy, their practice becomes their policy, which can become a very scary proposition. It makes good sense to establish guidelines and make sure managers consistently implement them. Knowing how to apply the guidelines of the employee handbook, such as administering progressive discipline, is an important part of managers' training. They should be taught when and how to use oral and written warnings, suspension, and termination. The employee handbook is designed to communicate behavior and practices of the business. In implementing the employee handbook rules, managers should fully grasp "at-will employment" provisions and not make "side promises" or indicate a contract for employment has been made, which would undercut the organization's employment-at-will status. A well-trained and professional manager will make good use of the handbook to administer employment decisions fairly.

### **Know When to Contact HR**

HR is your friend! Managers should understand HR's role and feel comfortable getting them involved quickly if they perceive significant employee problems on the horizon. Realize that many times the manager is the one who receives notification of the need for FMLA, ADA accommodations, harassing behavior complaints, and safety issues, just to name a few. **Remember, a notification to the manager is the same as a notification to the company.** It cannot be claimed in court that the company did not know about a critical situation if the manager did. Cultivating a close relationship between HR and company managers benefits both parties tremendously.

### **Making Application**

Scheduling regular training for managers is a big step in the right direction to reduce liability risk, but it must be executed to realize the full protection it provides to an organization. Managers who continue to rely on HR to help them apply what they have learned will be prepared for any situation the workplace may present.

Today training really not only makes sense from a business perspective and can help reduce litigation risks, but it is evidence of commitment to a legally compliant workplace, since some training may be required by law. Employee lawsuits are showing no signs of diminishing, which is a compelling reason to take preventive measures. Companies that win cases still lose, due to the high costs of defending themselves and the toll that such cases take in the workplace and in the press. Management training is a strong defense and a tangible demonstration of the organization's dedication to promote a fair, legal, and

safe work environment. Now that managers know the rules and can speak the language they can be successful in a foreign, yet satisfying role.

\*Source: Society for Human Resource Management Foundation. *Retaining Talent – A Guide to Analyzing and Managing Employee Turnover*. Available [here](#).

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