



HR Training

THE CURRENT LAWS AND BEST
PRACTICES IN EIGHT CRITICAL AREAS OF
HUMAN RESOURCES RESPONSIBILITY

March 30-31, 2016
Northfield Inn
Springfield, Illinois





Agenda

Personnel Record Retention

Employee Background Checks

Employee Handbook Review

Hiring Practices

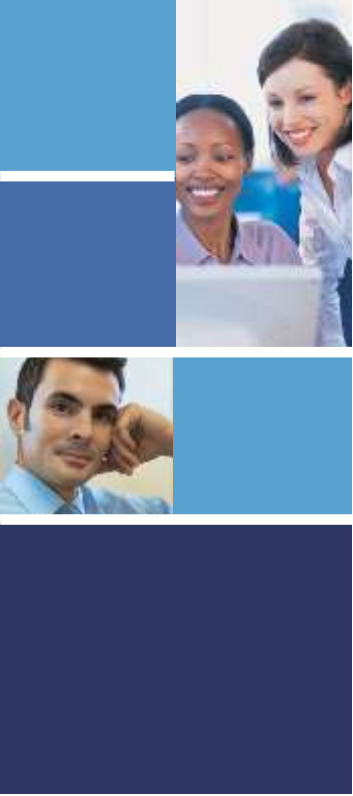


Personnel Record Retention

10-11AM

Numerous federal and state laws require employers to create and retain various forms of employment records – some even well after the termination of an employee. Proper maintenance of employment records is also critical to defending against employment-related litigation. This program will provide guidance on the general maintenance and retention procedures for employee records.

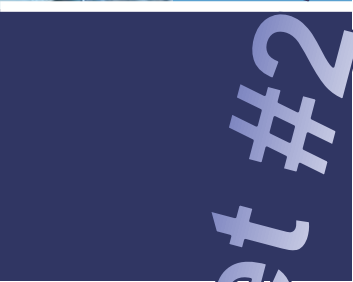
There is often confusion among employers concerning the legal requirements for recordkeeping and retention of employee files and other employment-related records. Not only are there federal recordkeeping requirements, but individual states also have requirements that must be followed. Some requirements apply to most or all employers, while others apply primarily to government contractors and subcontractors. Many of these requirements are dependent on the particular law which applies to the type of record and the number of employees.



Standard Retention Periods

- **Generally an employer could establish the following retention periods for both electronic and paper-based records:**
- Personnel: 7 years after termination.
- Medical/benefits: 6 years after plan year.
- I-9 forms: Not more than 3 years after termination.
- Hiring Records: 2 years after hiring decision.

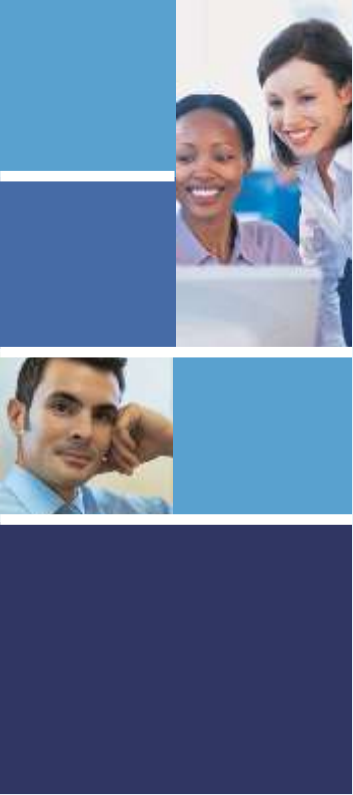




What Records Are Required:

Basic records that an employer must maintain:

1. Employee's full name and social security number.
2. Address, including zip code.
3. Birth date, if younger than 19.
4. Sex and occupation.
5. Time and day of week when employee's workweek begins.
6. Hours worked each day.
7. Total hours worked each workweek.
8. Basis on which employee's wages are
9. Regular hourly pay rate.
10. Total daily or weekly straight-time earnings.
11. Total overtime earnings for the workweek.
12. All additions to or deductions from the employee's wages.
13. Total wages paid each pay period.
14. Date of payment and the pay period covered by the payment.



Recommendations

FILING AND MAINTENANCE

- Color Coded Folders
- Retention Periods on Front of Each File Cabinet
- Planned Purging Times of the Year
- Responsible Party Identified & Held Accountable
- Public Records Destruction Requirements
- Illinois Record Keeping Laws

Visual Recommendations

FILING MAINTENANCE – THINK ABOUT THE FUTURE

Working Files

FMLA

WC

I-9's

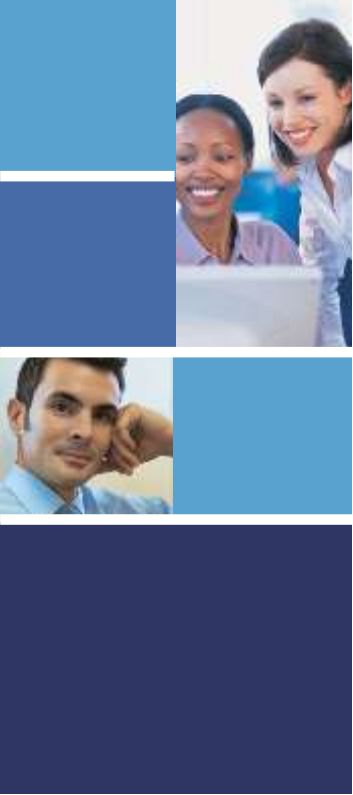
Via Active & Inactive



Electronic Records Retention

HIGHLY RECOMMENDED BUT HAVE A CLOUD BACKUP!

A screenshot of a complex spreadsheet, likely a financial statement or budget. It features multiple columns with headers such as 'Line Item', 'Description', 'Amount', and 'Status'. The data is organized into several sections, with some rows highlighted in green and others in red. The spreadsheet is displayed in a window with a standard operating system interface.



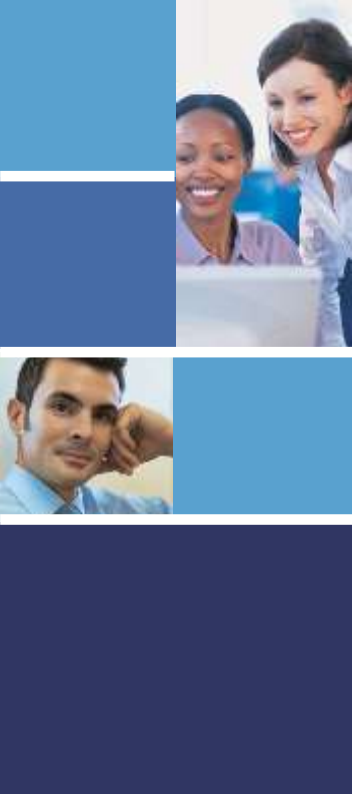
Selection, Hiring & Employment Records

Relevant Laws

- Age Discrimination in Employment Act (20 or more employees)
- Americans with Disabilities Act (15 or more employees)
- Civil Rights Act of 1964-Title VII (15 or more employees)

Years to be kept

1 year after creation of the document or the hire/no hire decision whichever is later. 3 years for federal contractors.



Payroll Records & Time Sheets/Cards

Relevant Laws

- Age Discrimination in Employment Act (20 or more employees)
- Fair Labor Standards Act (1 or more employee)
- Equal Pay Act (1 or more employee)
- Lilly Ledbetter (1 or more employee)
- Service Contract Act, Davis-Bacon Act, Walsh-Healey Act (apply to federal contractors)
- Family Medical Leave Act (50 or more employees)

Years to be kept

3 years (There are no retention requirements under Lilly Ledbetter, however it is recommended that employers retain records for length of employment, plus an additional 5 years)



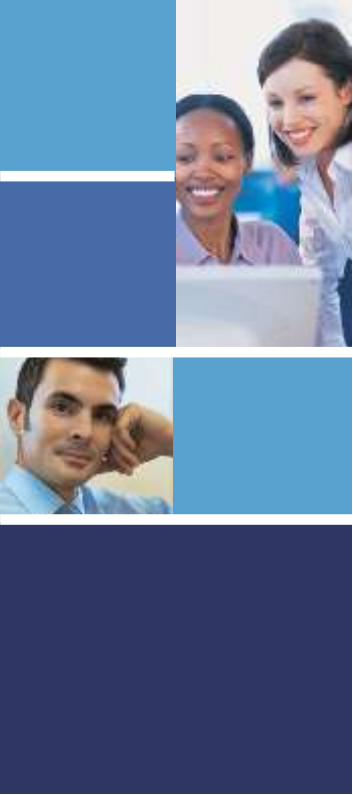
Form I-9

Relevant Laws

Immigration Reform and Control Act
(1 or more employee)

Years to be kept

3 years after date of hire or one year
after date of termination, whichever is
later



Employment Benefits

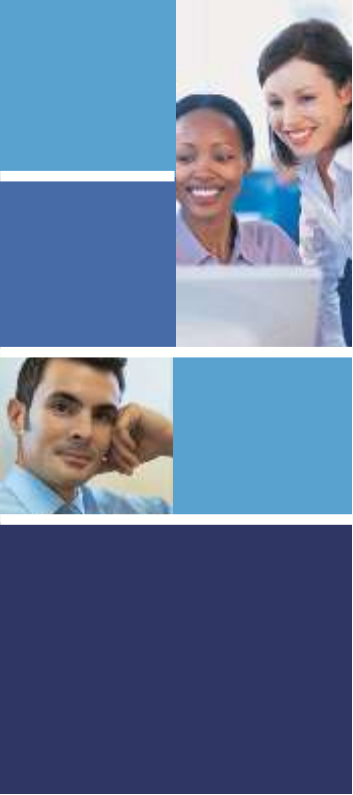
Relevant Laws

Employee Retirement Income Security Act

Years to be kept

6 years





Tax Records

Relevant Laws

- Federal Insurance Contribution Act (all employers)
- Federal Unemployment Tax Act (all employers)
- Federal Income Tax Withholding (all employers)

Years to be kept

4 years from date tax is due or paid

Safety Data

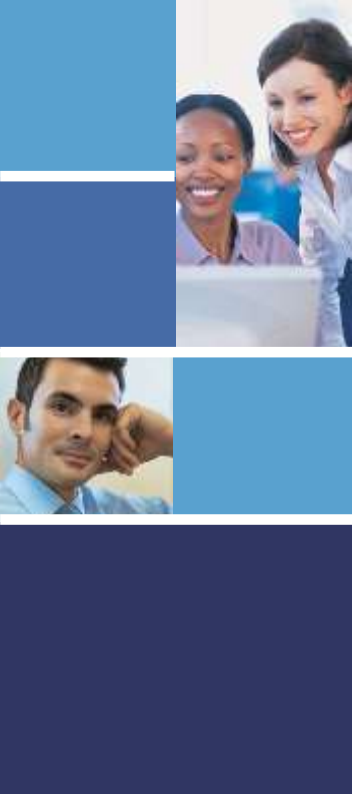
Relevant Laws

- Occupational Health & Safety Act (10 or more employees)
- Walsh-Healy Act (federal contractors)

Years to be kept

5 years following the year records pertain to (Medical exams, safety data sheets and exposure to toxic substances records retained for the duration of employee's job tenure plus 30 years)





Family Medical Leave Records

Relevant Laws

Family Medical Leave Act (50 or more employees)

Years to be kept

3 years



Health Care Continuation

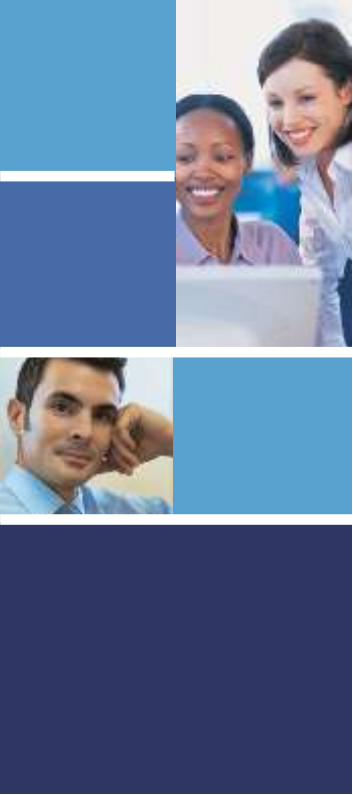
Relevant Laws

Consolidated Omnibus Budget
Reconciliation Act (20 or more
employees)

Years to be kept

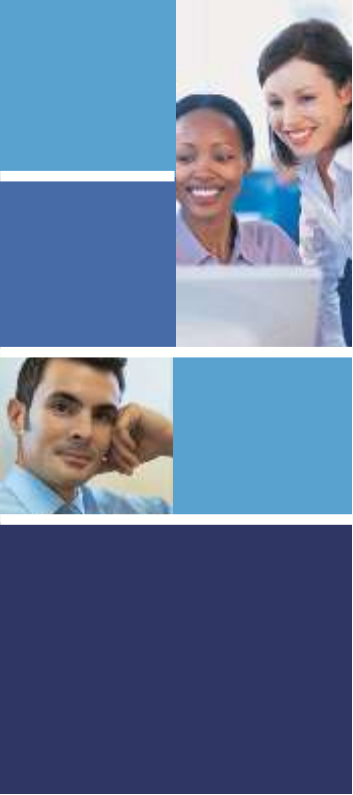
There are no recordkeeping requirements under COBRA. However, many experts recommend that records be maintained for 6 years from the date of the record to remain consistent with ERISA requirements.





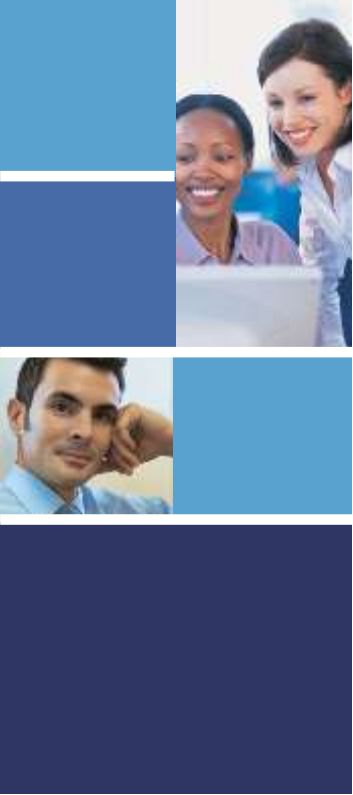
Polygraph Test Records

- **Relevant Laws**
- Employee Polygraph Protection Act (1 or more employee)
- **Relevant Laws**
- 3 years



Affirmative Action Plan/Data

- **Relevant Laws**
- Executive Order 11246 (applies to federal contractors)
- The Uniform Guidelines on Employee Selection Procedures (100 or more employees)
- **Relevant Laws**
- 2 years



Credit Reports

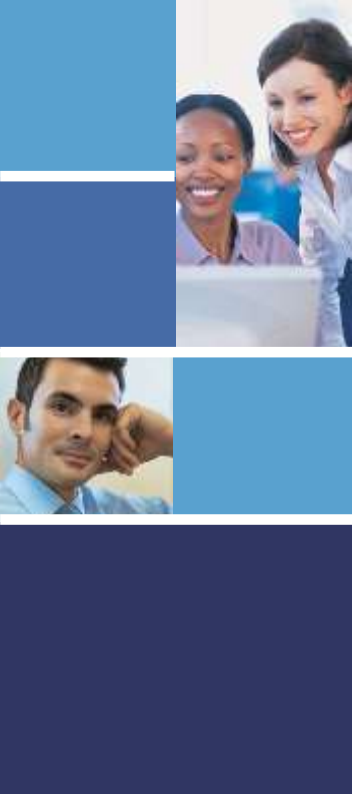
Relevant Laws

Fair and Accurate Credit Transactions
(1 or more employee)

Relevant Laws

No retention requirement. Law requires shredding of all documents containing information derived from a credit report. Don't discard for at least one year though (see Selection, Hiring & Employment Records)





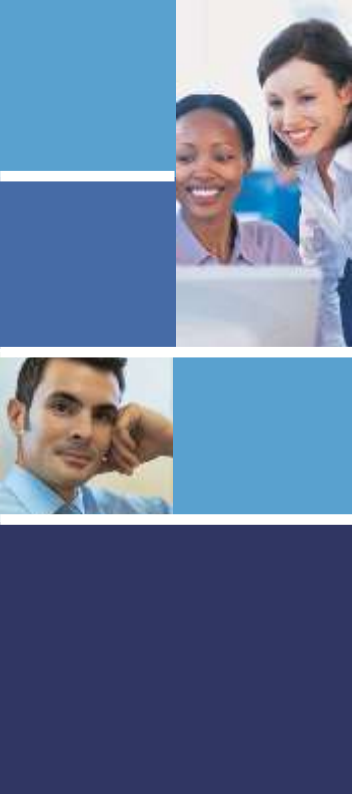
Drug Test Records

Relevant Laws

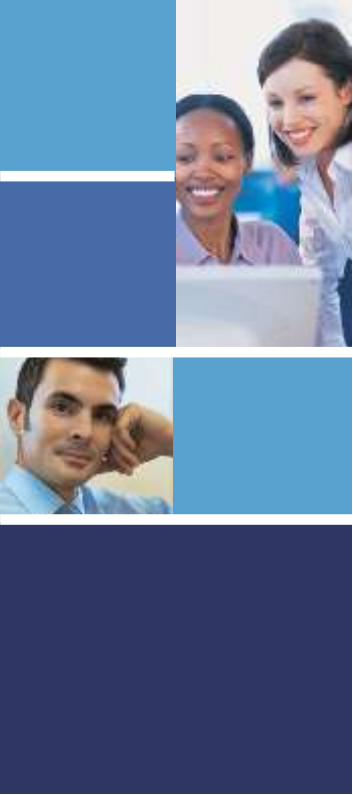
Department of Transportation (DOT) covered safety sensitive transportation positions; aviation, trucking, railroads, mass transit and pipelines.

Relevant Laws

1 year from test date (up to 5 years for records relating to drug testing for DOT positions)

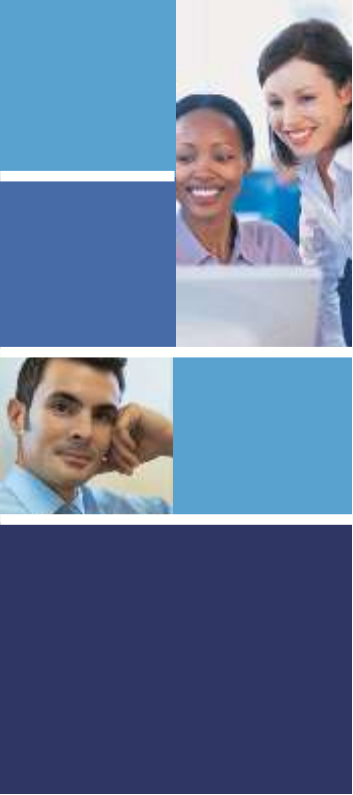


- Workers' compensation claims: 30 years after date of injury/illness.
- Disputed issues (records relating to issues 2 years after resolution of dispute involving external agencies or parties, wage-hour investigation by DOL, EEOC charge, arbitrations, court actions, etc.), OSHA and employee safety records: 5 years after termination.



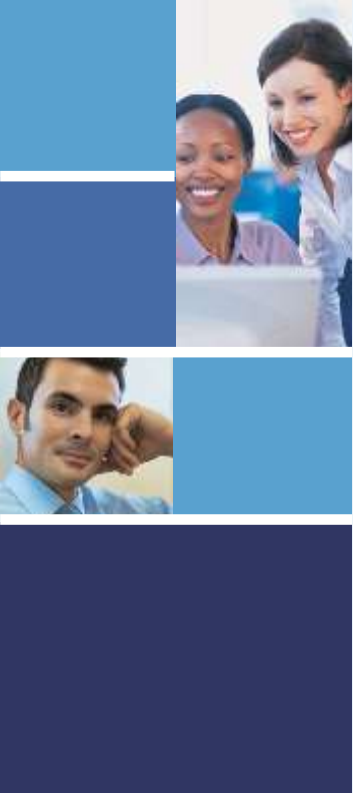
Reports Retention

- State New Hire reports: 1 year after report was filed.
- EEO-1: 2 years after report was filed.
- Annual Affirmative Action plans: 2 years after close of AAP year.
- OSHA 300/300A: 5 years after posting.
- Form 5500: 6 years after report was filed.
- Federal/state tax reports: 4 years after report was filed.



SUMMARY

- Retention periods
- Required documents



Question?

WE KNOW YOU HAVE ONE...

Personnel Record Retention

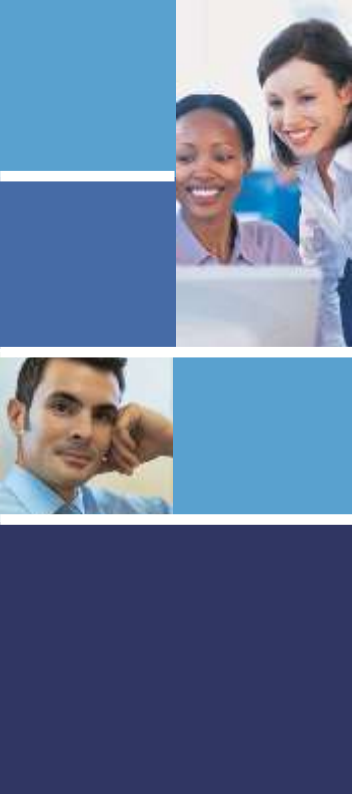




Employee Background Checks

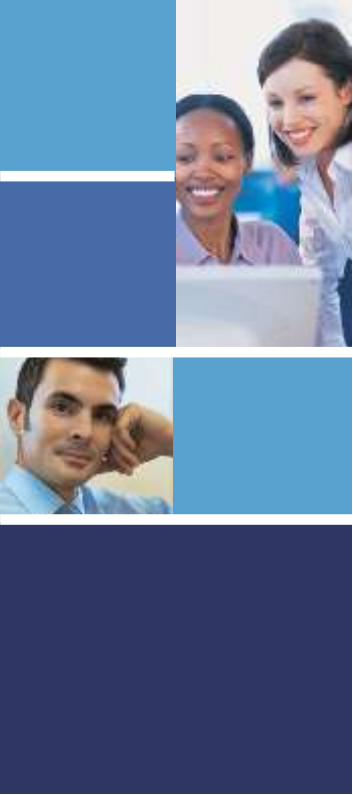
11-NOON

Performing background checks on applicants and employees is an effective way to discover potential issues that could affect your office. Managing your country's risk and making the best employment decisions is vital. This session will put you in the driver's seat to better manage your background screening program and provide practical guidance on compliance with the Fair Credit Reporting Act (FCRA).



Standard Background Check Includes

- Verification of a job candidates **Social Security number**.
- A credit report (MUST BE JOB DUTY).
- A **motor vehicle** records check.
- A **county and/or state criminal** records search covering the past seven years.
- A **national criminal** records search, including sex offender records.
- Verification of the candidates past two **employers**.
- Verification of a candidates **education** background to the highest degree received.



EEOC of Title VII of the Civil Rights Act of 1964

On April 25, 2012, the U.S. Equal Employment Opportunity Commission (EEOC or Commission) issued its *Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964*, as amended, 42 U.S.C. § 2000e. The Guidance consolidates and supersedes the Commission's 1987 and 1990 policy statements on this issue as well as the discussion on this issue in Section VI.B.2 of the Race & Color Discrimination Compliance Manual Chapter. It is designed to be a resource for employers, employment agencies, and unions covered by Title VII; for applicants and employees; and for EEOC enforcement staff.

Examples Review



GROUP WORK

Let the fun begin



IL Ban the Box

ILLINOIS (2013)

- ⊘ Bans the box in public-sector hiring.

ILLINOIS (2014)

- ⊘ Goes into effect Jan. 1, 2015, and expands on its earlier public-sector ban, covering private employers with 15 or more employees and employment agencies.
- ⊘ Criminal background checks are prohibited until after a conditional offer of employment has been made.
- ⊘ The law authorizes civil penalties against violators.

On July 19, 2014, Illinois Gov. Pat Quinn signed a law preventing criminal background checks before an applicant has gone through the interview process. The law takes effect Jan. 1, 2015, and covers private employers with 15 or more employees. Quinn had previously issued a ban-the-box policy for public jobs in 2013.

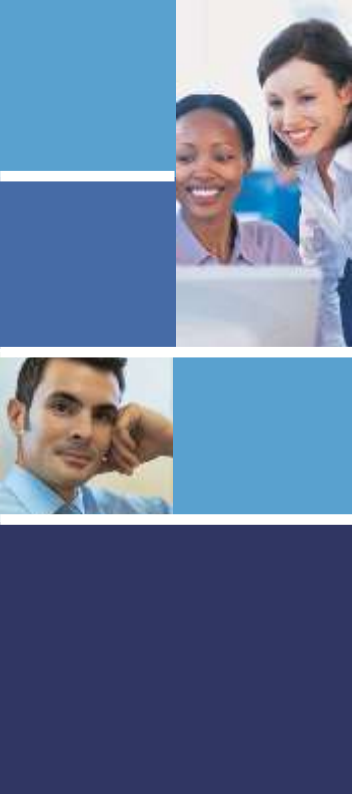


How is Title VII Relevant?

There are two ways in which an employer's use of criminal history information may violate Title VII.

1. Title VII prohibits **disparate treatment** discrimination
2. The employer must show that an exclusion is “**job related and consistent with business necessity.**”



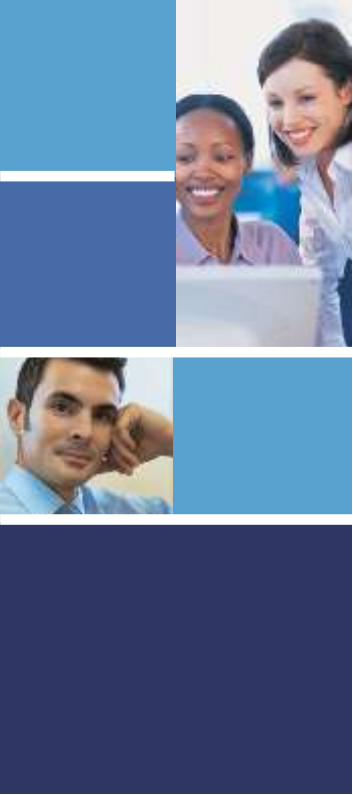


Federal Fair Credit Reporting Act

The federal Fair Credit Reporting Act (**FCRA**) promotes the accuracy, fairness, and privacy of information in the files of consumer reporting agencies.

According to HRToday the following are the best Employer Consumer Reporting companies.



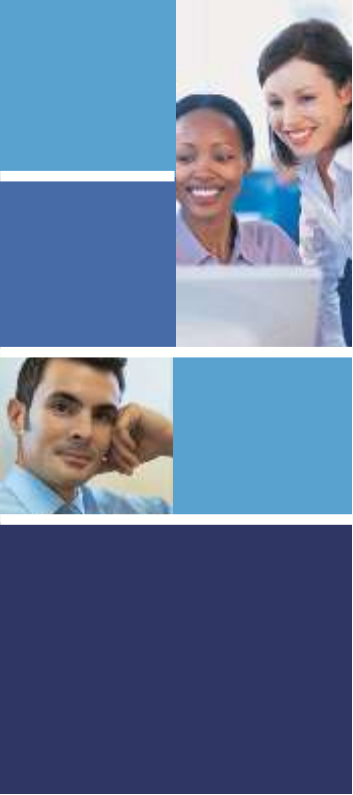


FCRA Employer Responsibilities

- Before Consumer Report Obtained
 - Rights Awareness
 - Permission in writing
- If Adverse Action is Decided
 - Pre-Adverse Action notice with a copy of the report and summary of rights
 - Afford Applicant or Employee to Explain
 - Adverse Action notice

Beware Class Action Lawsuits

http://www.littler.com/files/press/pdf/WP_Fair_Credit_Reporting_Act_8-1-14.pdf



Adverse Action Notice Must Contain

- The name, address and telephone number of the CRA that provided the report;
- A statement the CRA did not make the adverse decision and is not able to explain why the decision was made;
- A statement setting forth the applicant's or employee's right to obtain a free disclosure of his or her report from the CRA if the applicant or employee makes a request for such a disclosure within 60 days; and
- A statement setting forth the applicant's or employee's right to dispute directly with the CRA the accuracy or completeness of any information contained in the report.



Social Media

Recent Administrative Changes via National Labor Relations Board regarding BCs



Background Checks

- **Checking SM sites as part of hiring process**
- **Concern** – Access to information about protected status of applicant
- **Google Searches** – Do it consistently for all applicants
 - Review only after interview candidate and only if interest in candidate
 - Document what is considered (and by implication what is not)
 - Verify information as necessary
 - HR should perform the function
 - Prohibit hiring managers from performing function independently!
- Facebook pages that display in Google are not **PRIVATE** and can be used in as part of the background process

Fun Facts



10% of pre-employment background checks return with a criminal conviction



Only 34% of organizations exclusively use an electronic I-9 process

- According to a CareerBuilder.com survey, industries that appear to encounter fraudulent resumes most often are:
- Hospitality (60 percent).
- Transportation/utilities (59 percent).
- Information technology (57 percent).
- Government had the lowest incidence at 45 percent.



Resources

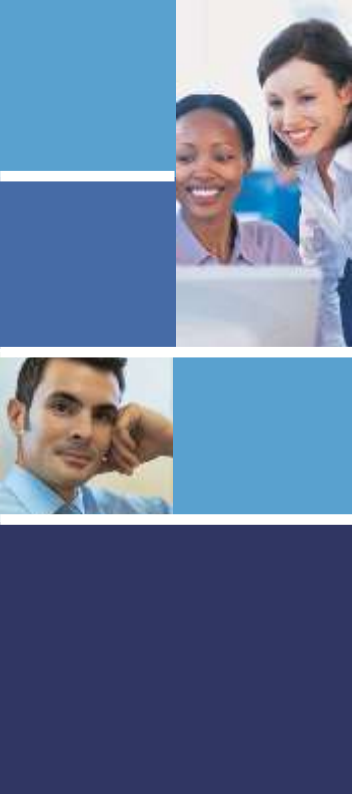
<http://assessments-usa.com/sample/Background-Sample-Report.pdf>

[Sample Criminal Background Checks Policy and Procedure](#) [Sample Criminal History Record Policy](#)

- [Background Check: Authorization and Release of DMV Records](#)
- [Background Check: Authorization to Obtain a Consumer Credit Report, Background Check and FCRA Release #2](#)
- [Background Check: Authorization to Obtain a Consumer Credit Report, Background Check, and FCRA #1](#)
- [Background Check: Authorization to Obtain a Consumer Credit Report, Background Check, and FCRA Release #3](#)
- [Background Check: Driver's Information Sheet](#)
- [Background Check: Educational Records Request](#)
- [Background Check: Employment Reference Check Form \(Phone\) #1](#)
- [Background Check: Employment Reference Check Form \(Phone\) #2](#)
- [Background Check: Employment Reference Request Form \(Mail\) #1](#)
- [Background Check: Employment Reference Request Form \(Mail\) #2](#)
- [Background Check: Employment Verification Response Letter](#)
- [Background Check: FCRA Preliminary Notice of Adverse Action](#)
- [Background Check: Minor Parental Consent](#)
- [Background Check: Physical Exam Consent Authorization](#)
- [Background Check: Reference Release Authorization- Post Employment](#)
- [Background Check: Security Investigation and Search Consent and Release Authorization](#)

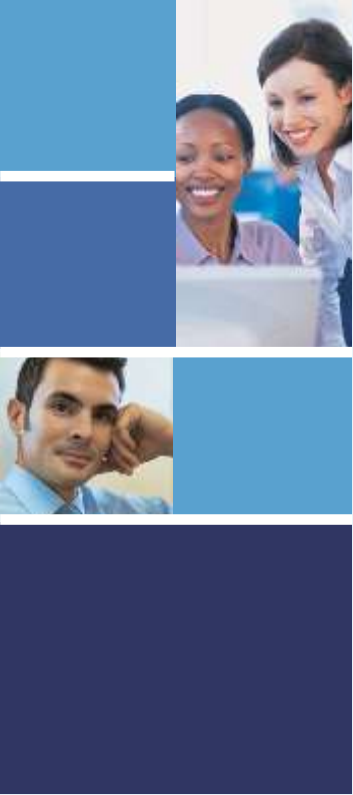
- [Sample External Background Check Policy and Procedure: Sensitive Positions](#)
- [Sample Internal Background Check Policy and Procedure: Reference and Education Check](#)
- [Sample Background Investigations Policy: Use of Social Security Number and Watch Lists](#)

- [Sample FCRA Authorization Form](#)
- [Sample FCRA Preliminary Notice of Adverse Action Form](#)



SUMMARY

- EEOC
- Title VII
- FCRA
- External background checks
- Internal background checks- Social Media

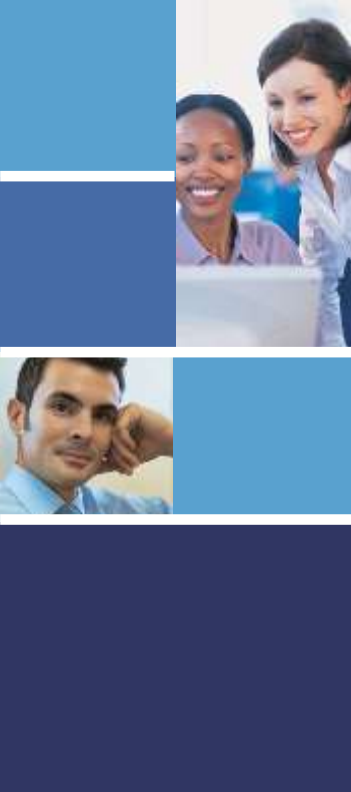


Question?

WE KNOW YOU HAVE ONE...

Employee Background Checks





Enjoy a Lunch Break (45 minutes)

SPONSORED BY

*ALTERNATIVE
SERVICE CONCEPTS*


12-12:45pm

LUNCH BREAKS

48% of workers take a lunch that's 30 minutes or less



Source: OfficeTeam survey of 413 workers in the United States

Top lunchtime activities
(other than eating) 



Source: OfficeTeam survey of 413 workers in the United States.
Top responses shown. Multiple responses permitted.



Employee Handbook Review

1-2PM

HAVE YOU EVER HAD TO ADDRESS AN ISSUE WITH AN EMPLOYEE WHEN THERE WERE NOT CLEAR GUIDELINES LAID OUT FOR BOTH PARTIES (EMPLOYEE & EMPLOYER)?

An employee handbook is a necessary tool in protecting your county. It not only explains what is expected of your employees, but it can also put you on the right side of the law if a dispute occurs. This program will cover the primary policies for inclusion in an employee handbook based in part, on case law and Supreme Court decisions and provide recommendations from a risk management standpoint.

The employee handbook is recognized by human resource professionals as an essential tool for communicating workplace culture, benefits and employment policy information to employees. An employee manual typically describes information about the employer's employment practices, company benefits, equal opportunity commitments, attendance guidelines, pay practices, leave of absence procedures, safety issues, labor relations matters and sanctions for misconduct.



Handbook Purpose

Inform & Educate Entire Workforce



Quiz # 1

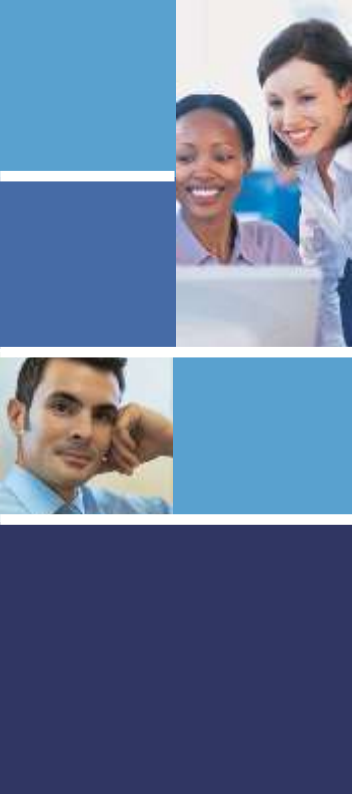
A man working late at night left some sandwiches on his desk. As a result of this, he later became a multi-millionaire. How?

- **Clue: the man is very famous**
- The sandwiches he left out were eaten by a visitor who inspired him
- The man could draw very well

Answer #1

The man was Walt Disney. A mouse came to nibble on the sandwiches and it behaved so comically that Walt put some food out for him every night. That mouse inspired the idea for the character Mickey Mouse.





Typical Policy Inspirations

Inspiration

- Employees Fighting
- Employee Consistently Tardy
- Employee wears mini skirt to work
- Employee damages company property
- Employee forwards chain e-mail

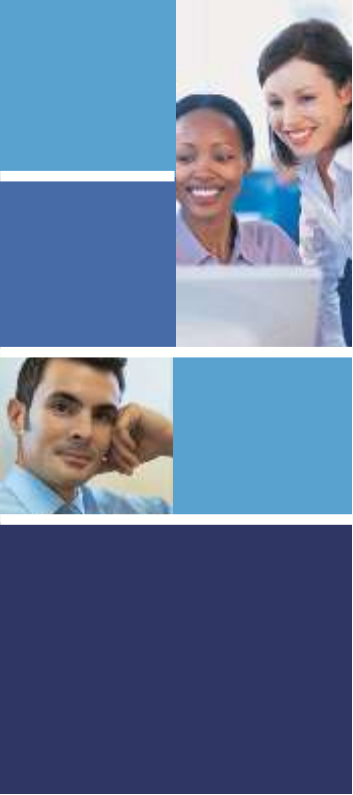
Resulting Policy

- No Violence in the Workplace Policy
- Absenteeism Policy
- Dress Policy
- Company property policy
- E-mail & Internet use policy



Handbook Purpose

- Inform & Educate Entire Workforce
 - Policies & Procedures
 - Expectations of Employees
 - Employers Commitments to Employees without Limiting Employer Flexibility Rights
 - Complaint Procedures
- Reminder of Employer Discretion
- Summarize Benefits
- Distributed in Organized Manner



Benefits of a Handbook

Policies are
Documented

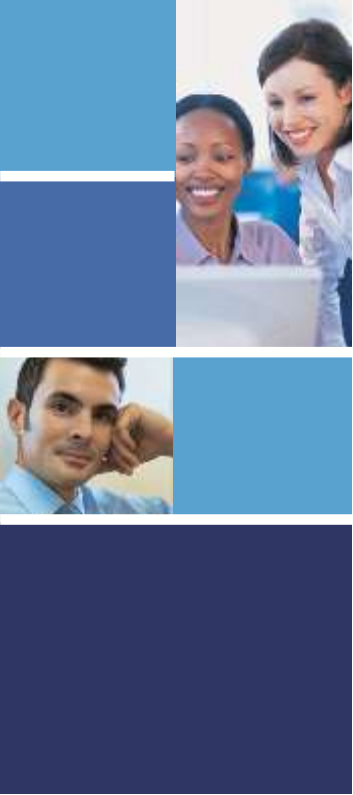
Uniformity among
Departments

Tool for Performance
Counseling

Support Uniform
Supervisory Standards

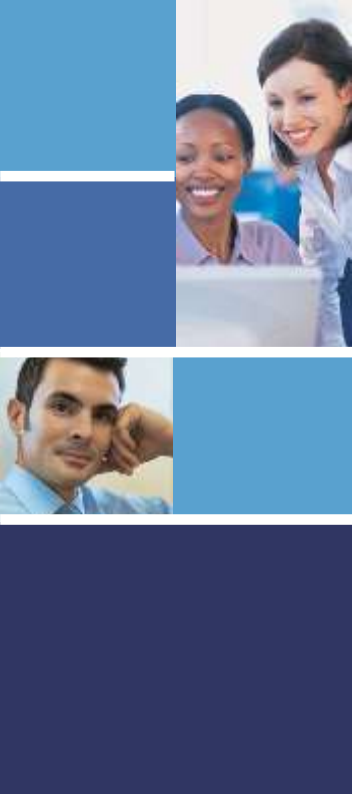
Assist in Maintaining
Moral

Potentially Protect
Against Future Liability



2016 Suggestions

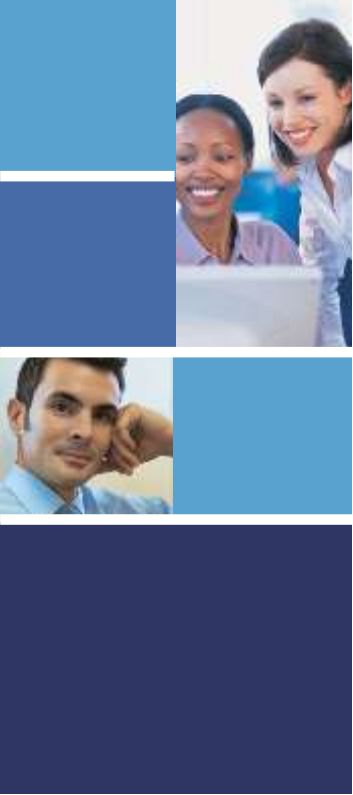
- Collective Bargaining
- Social Media & Data Privacy
- Reasonable Accommodation
- Retaliation
- Wages and Payroll
- State-Specific Laws
- Leave Benefits
- Attendance
- Smoking and Marijuana Use
- LGBT Rights



Elements of a Well-Drafted Handbook

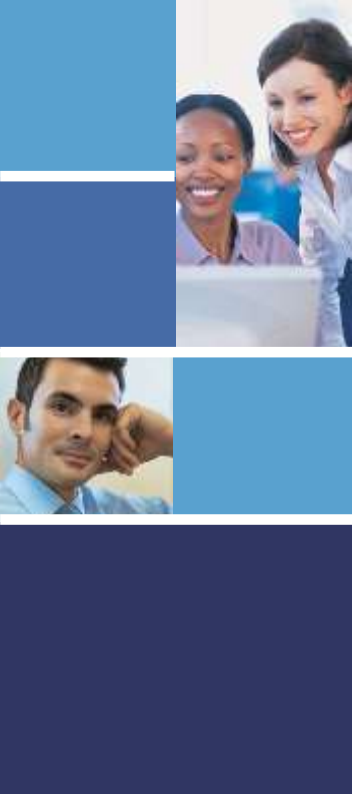
- Purpose Statement
- Applicable Statements Enforcing Compliance with Req Laws & Regs
- Paid Time Off Policies
- Attendance Policies
- Work Hours
- Guidelines for Conduct
- Workplace Harassment, Discrimination, & Violence Statement Approved Leave Policies
- Non-Solicitation/Distribution Policy
- Use of Company Property
- Acknowledgement of Receipt





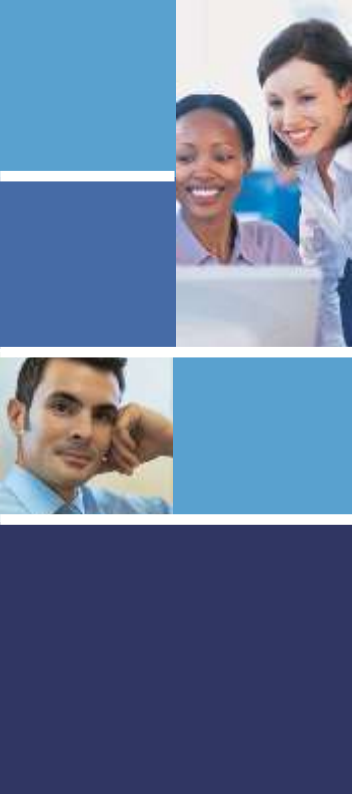
Additional Elements Might Include

- Confidentiality Statement
- Business Ethics/Conflict of Interest
- Drug & Alcohol Use
- Employment Categories/Overtime
- Paydays
- Benefits
- Orientation Period
- Dress Code/Appearance
- Open Door Policy
- Grievance/Complaint Resolution
- Arbitration/Mediation
- References



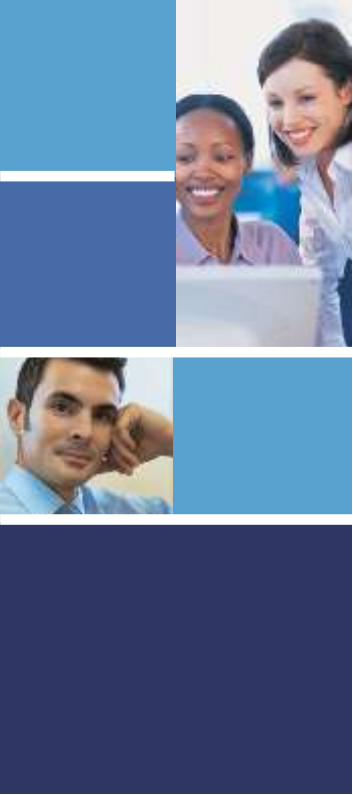
Reviewing & Revising Handbooks

- # of Employees Now & Expected in Next 2-3 yrs
- Union or Non-Union?
- State/Fed Contracts?
- Other States of Operation?
- Copy write Date of Off the Shelf Products
- Age of Last Handbook Revision
- Key Elements Recommended to All Employers Included?



Reviewing & Revising Contd.

- Meet w/Management
 - Concerns for Consistency
 - Suggestions
- Review Possible topics to include
- Research Other Handbooks
- Attend Courses
- Complete & Have an Attorney Review before Distribution



Locations

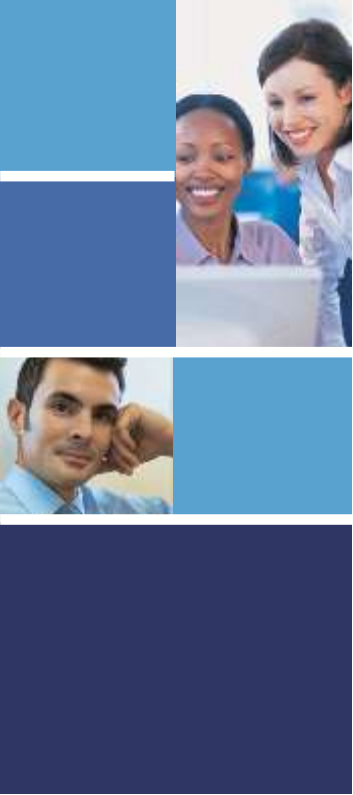


- Legal Websites
- DOL, OSHA, IRS, etc.
- Memberships like SHRM
- Off the shelf products



Key Provisions

- Make Decisions that Fit Your Company - Which 12 months to count for FMLA?
- Get “Buy In” from others
- Top Down Support
- Conduct Training
- Maintain Policies
- Review regularly



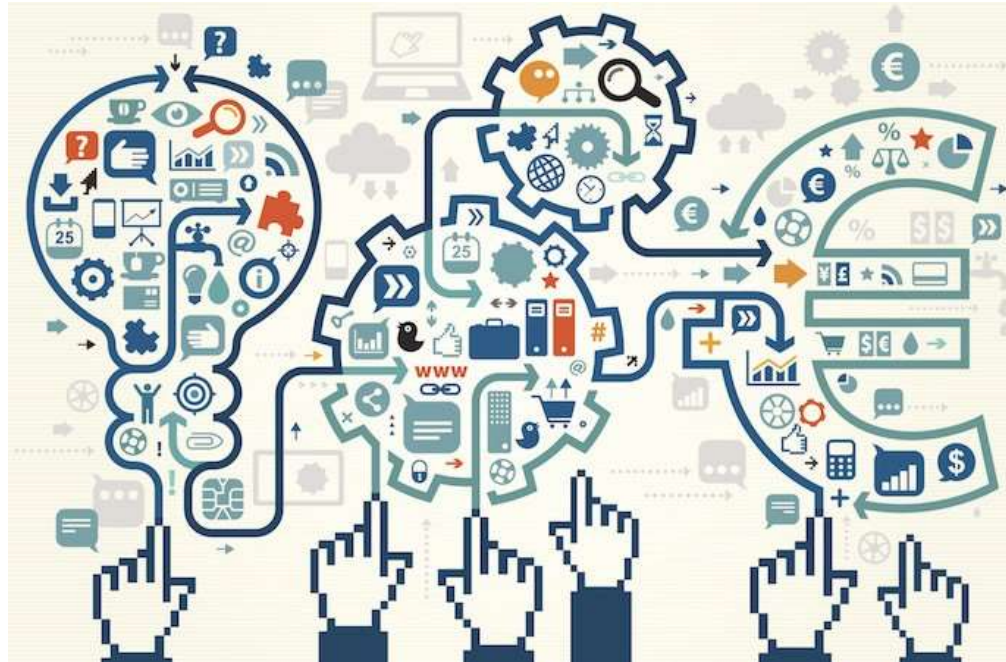
Spanish Speaking Employees

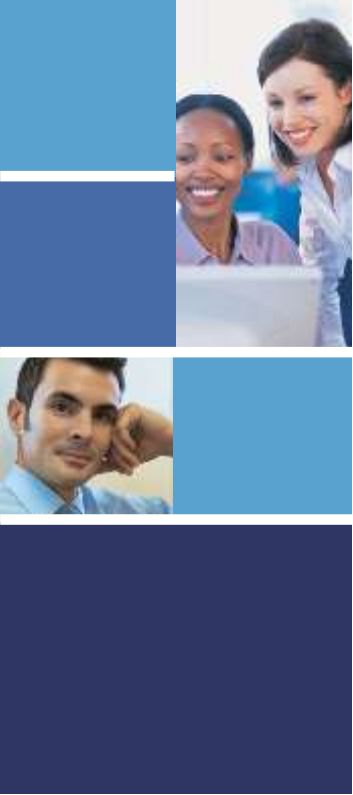
Translation of Employee Handbooks, Safety Information, Benefits Information, Websites, & Other Documents

- Workforce Language Services
- www.workforcelang.com
- 773.292.5500
- info@workforcelang.com

Technology

- Automated TOC
- Headers





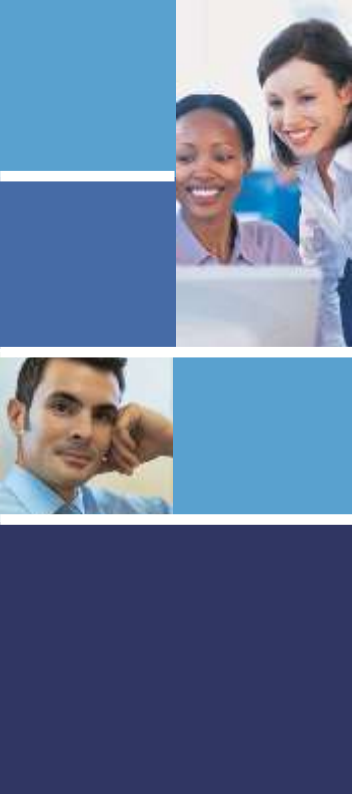
General/How To Resources

- Toolkit: Developing Human Resource Policies and Handbooks
<http://www.shrm.org/TemplatesTools/Toolkits/Pages/DevelopingHumanResourcePoliciesandHandbooks.aspx>
- Revisiting Employee Handbooks – Sep 2012
<http://www.shrm.org/LegalIssues/EmploymentLawAreas/Documents/LRReport0912.pdf>
- How to Develop an Employee Handbook
<http://www.shrm.org/TemplatesTools/HowtoGuides/Pages/DevelopEmployeeHandbook.aspx>
- CCH Business Owner's Toolkit: Handbooks
http://www.toolkit.cch.com/text/p05_5830.asp
- Small Business Administration: Employee Handbooks
<http://www.sba.gov/content/employee-handbooks>
- Checklist: Essential Items for an Employee Handbook
<http://www.hrworld.com/features/checklist-essential-items-employee-handbook/>

The slide features decorative images of business professionals on the left side. At the top, two women are smiling and looking at a laptop. Below them, a man is shown in a professional setting. The background of the slide is white, and the title 'Article Resources' is centered at the top in a large, dark blue serif font.

Article Resources

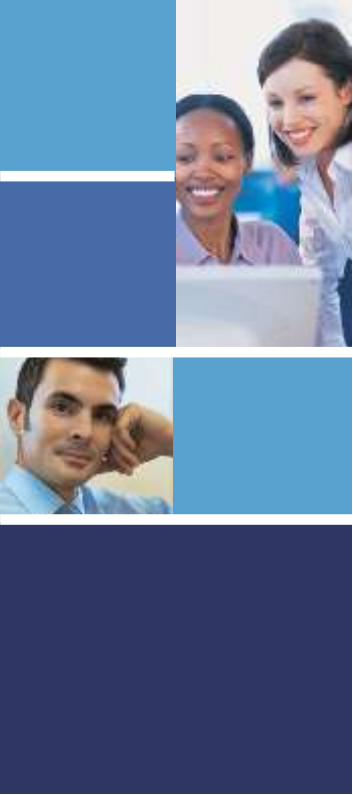
- Hand it to Employees--Manuals that Work – Jun 2013
<http://www.shrm.org/Publications/HRNews/Pages/Hand-it-to-Employees--Manuals-that-Work.aspx>
- Does Your Employee Handbook Work For You or Against You? – Jun 2013
<http://brodyandassociates.com/does-r-employee-handbook-work-for--or-against-you/>
- Employment laws keep changing; so should your employee handbook – Feb 2013
<http://www.crainscleveland.com/article/20130219/BLOGS05/302199999>
- NLRB Strikes Down Employer's Handbook Policies – Feb 2013
<http://www.fordharrison.com/9000>
- Employee Handbook Updates for 2013
<http://www.shrm.org/hrdisciplines/employeeerelations/articles/Pages/Employee-Handbook-Updates-2013.aspx>
- What You Can't Say in an Employee Handbook – Oct 2012
<http://www.hreonline.com/HRE/story.jsp?storyId=533351926>
- NLRB's Fine-Toothed Comb Approach Invalidates More Employer Handbooks and Policies – Oct 2012
http://www.franczek.com/frontcenter-Employer_Handbooks_Policies_NLRB.html
- Watch *SHRM Online* for more articles on this topic
<http://www.shrm.org/hrdisciplines/employeeerelations/Pages/EmployeeHandbooks.aspx>



FAQ & Sample/Tools Resources

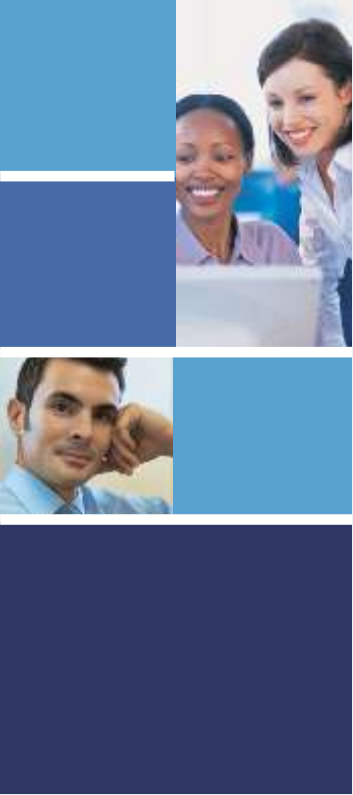
- Should employees be required to sign an acknowledgment form for the employee handbook? What if an employee refuses?
<http://www.shrm.org/templatestools/hrqa/Pages/signeehandbook.aspx>
- What is the difference between employee handbooks and policies and procedures manuals?
<http://www.shrm.org/templatestools/hrqa/Pages/handbookpoliciesprocedures.aspx>
- Sample Employee Handbook
<http://www.shrm.org/TemplatesTools/Samples/Pages/EmployeeHandbook.aspx>
- Acknowledgement of Receipt
http://www.shrm.org/TemplatesTools/Samples/HRForms/Articles/Pages/CMS_002066.aspx
- Handbook Disclaimers Checklist
<http://www.shrm.org/Publications/hrmagazine/EditorialContent/0701/Pages/0701s0snin.aspx>
- Additional Samples of Employee Handbooks
<http://www.getty.edu/staff/handbook.pdf>
<http://www.northwestern.edu/hr/forms/oncampus/handbook.pdf>
<http://www.tarleton.edu/~hr/Handbooks/StaffHandbook.pdf>

Products Available for Purchase in SHRMStore - Handbooks
<http://bit.ly/fvFbed>



SUMMARY

- Typical policies
- Keep handbook up to date
- Protect against legal liabilities
- Sample handbook policies



Questions?

YOU KNOW YOU HAVE THEM...

Employee Handbook Review

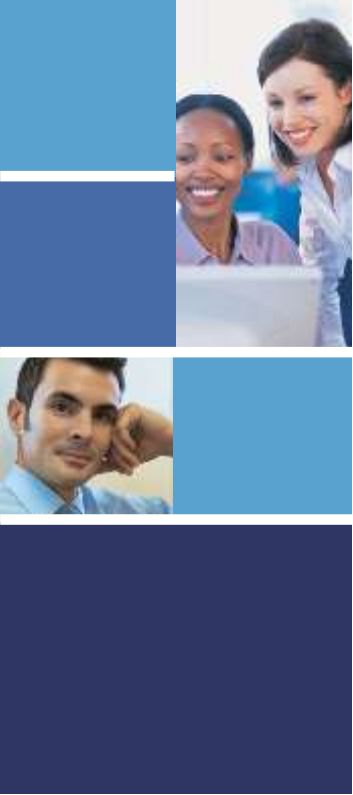




Hiring Practices

2-3PM

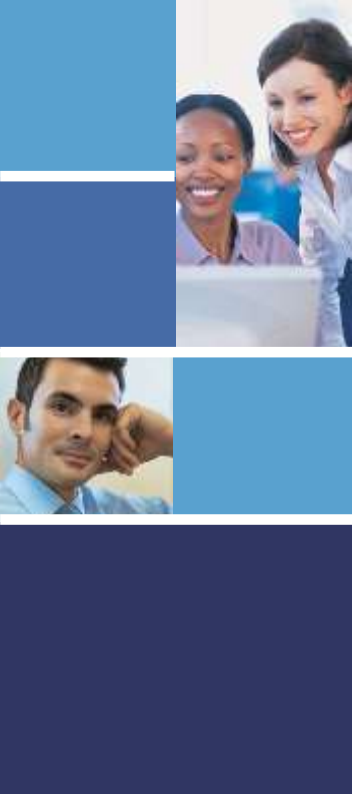
Whether handled by elected officials, supervisors or assigned to a centralized human resources department, hiring decisions are among the most important decisions made in any county. This session will cover best practices in hiring strategies, including developing accurate job descriptions and maximizing success in interviewing.



Opportunity Assessment

With each vacancy, you have an opportunity to:

- Improve your culture
- Upgrade skills of your workforce
- Maximize organization potential



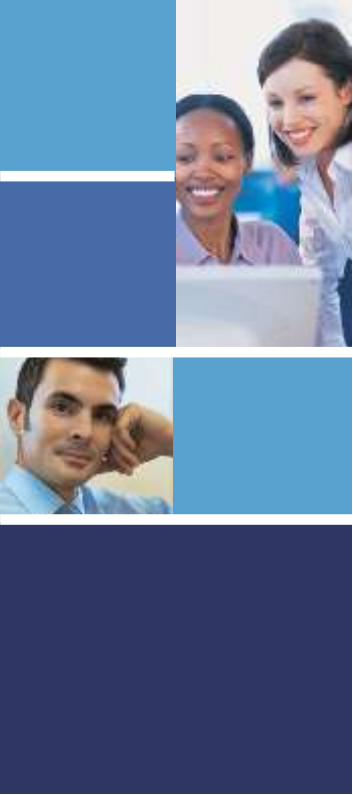
What do you need?

- Once it is determined the position needs to be filled, identify the qualifications that are needed for current AND future needs?
 - Skills,
 - Abilities and Competencies
 - Behaviors
- Identify aspects of your culture that you wish to sustain and/or improve. - SWOT Analysis
- Establish the job description and qualifications and interview strategies accordingly



Job Description

- Title
- Department/Reporting Relationships
- Position Scope
- Education/Experience
 - Required or Minimum
 - Desired
- Essential Job Duties/Responsibilities
- Physical Requirements for Essential Job Duties



Uses of Job Description

Job description should be a resource for:

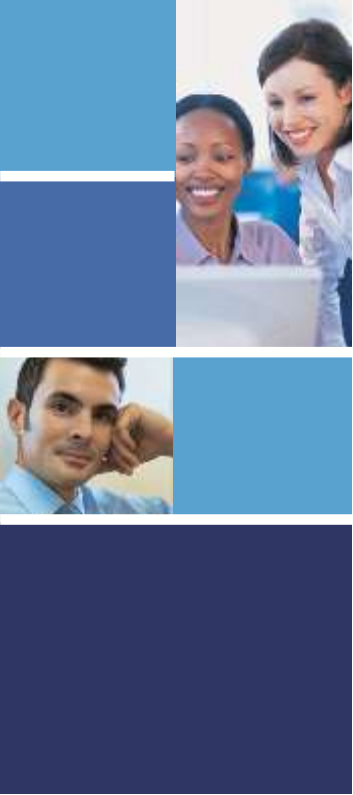
- Advertising vacancy
- Creating phone screen and interview questions
- Describing position to candidate
- Establishing Performance Expectations

**Complete it before sourcing
candidates!**



Legal Tips

- Use the same interview template for all candidates that are screened
- Take notes
 - Actual statements not opinions



Preparing for the Interview

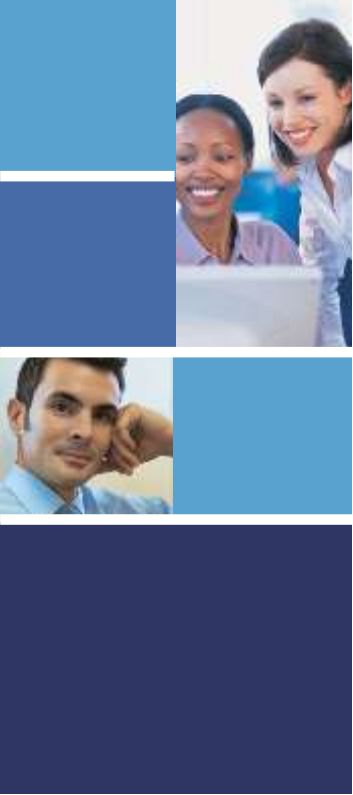
- Set aside **sufficient time** for each interview and between interviews
- Arrange **quiet location** for interview
- **Review** the **job description** and the candidate's resume and **application** immediately before
- Prepare to provide information about the **company and its benefits**
- Provide **sufficient time** to rate candidate before next candidate is interviewed.



The Interview

At the start of the interview:

- Confirm that you have the completed and **signed application**
- Offer a **beverage**
- **Monitor your nonverbal communication**
- Set the candidate at ease with **small talk**
- Before delving into questioning, **ask if the candidate has any questions.**
- **Take notes**



Panel Interviews

- Provides **multiple reviewers** the opportunity to hear the same information
- Improved opportunity to **take notes**
- Easier to **establish consensus** amongst interviewers
- Demonstrate that **diverse audience** involved in selection process
- Improves ability to concentrate on answers and develop appropriate **probing questions**



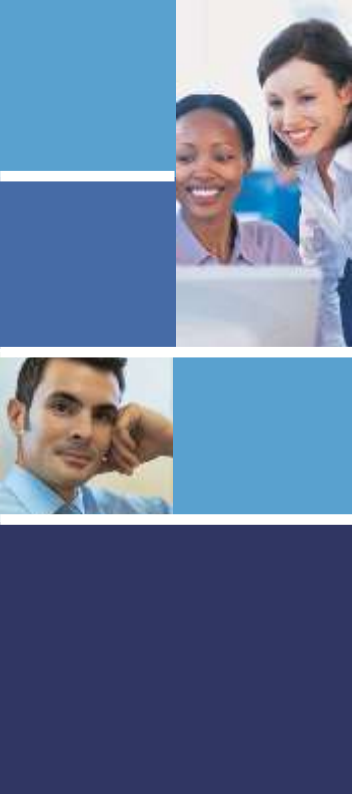
During the Interview



What kinds of questions elicit the most informative responses?

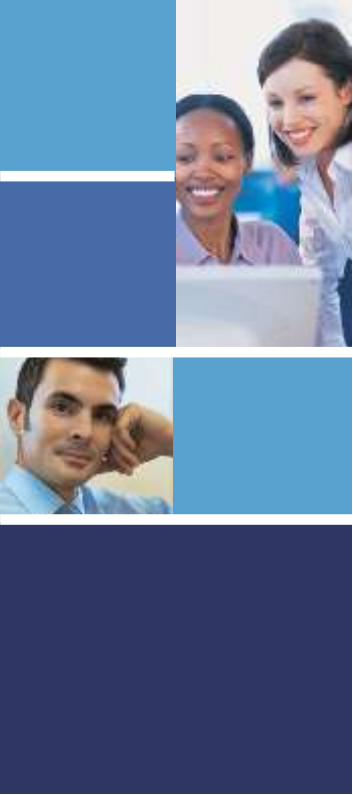
- Structured interview
- Open ended questions
- Behavioral interview questions
- Follow-up Probing questions





Behavioral Based Interview Questions

- **Goal:** Find out what the candidate has done in the past in order to best predict what the candidate would do in the future
- Ask about specific experiences that the candidate has had where that candidate exhibited the competencies that are needed for the job



Behavioral Based Interview Questions

Examples



Candidate Responses

- **Listen** to the full answer before preparing your next question
- Take notes – Actual statements not your opinions
- Demonstrate **unconditional positive regard**
- **Probe for more details** and to **confirm your understanding** of scope, role, complexity and issues.



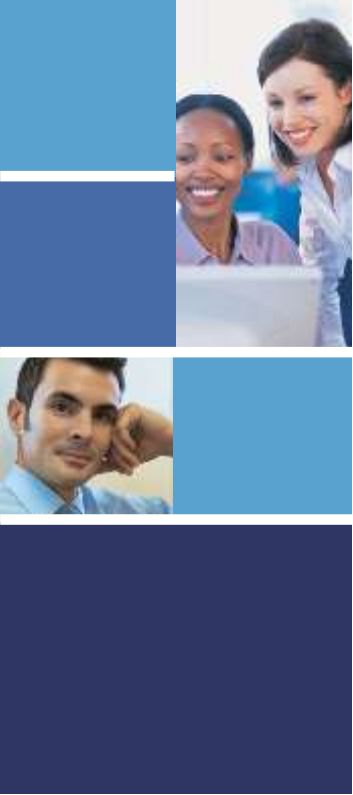
Asking for More

- Candidates often arrive with an arsenal of prepared responses that may not be accurate portrayals of their competence.
- Respond to rehearsed responses



Probing Questions

- What obstacles did you face?
- Who assisted in this process?
- What was your role?
- What did you learn?
- What would you do differently?



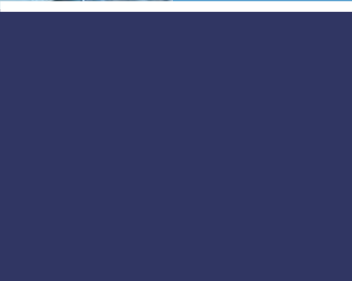
During the Interview

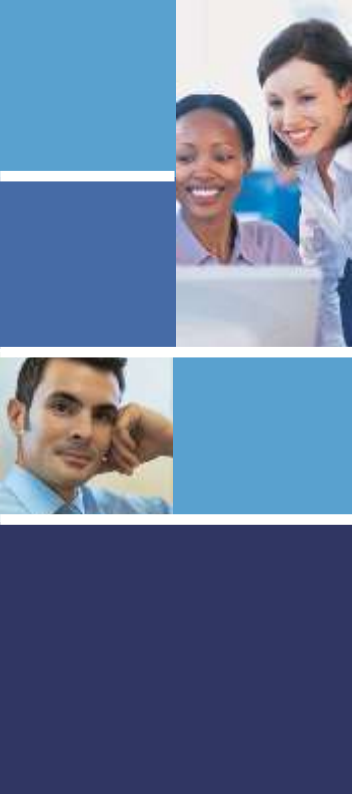
- Show the job description to the candidate and discuss the contents
- Consider showing the candidate the work area



Ending the Interview

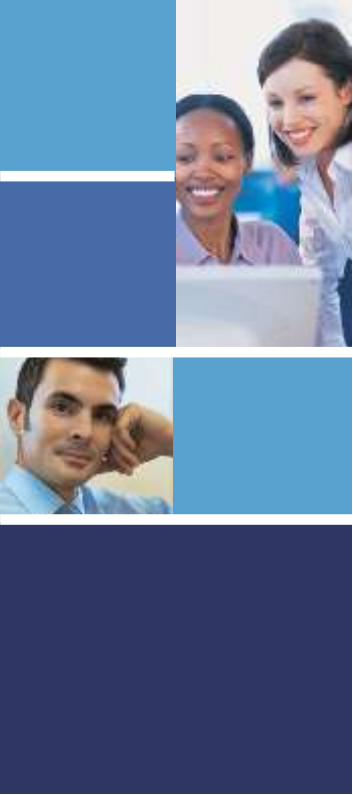
- **Ask the candidate** if there is anything else that the candidate would like to tell you about his or her **qualifications**.
- Ask if the candidate has any **questions**
- **Provide documents** describing your company and benefits
- **Ask if the candidate is interested in the job** based on the information you've provided during the interview
- Notify the candidate of when to expect further contact from you.
- Walk the candidate to the door and thank the candidate for the interview





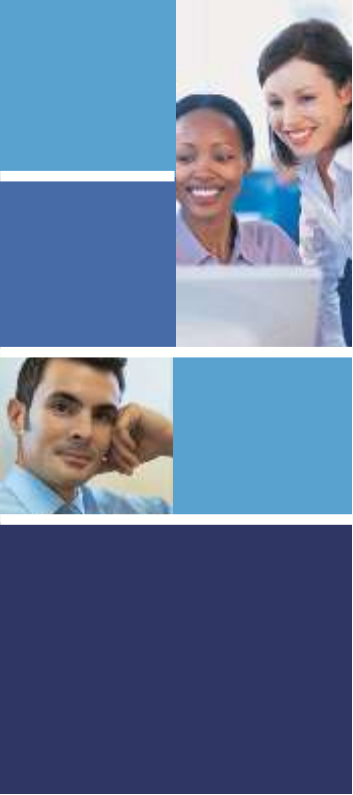
Making the Selection Decision

- Next Options
 - Requiring Job Related Work Product/Demonstrations
 - Additional Interviews for Finalists
- Risks to Avoid
 - Hiring **Best Interview** vs. **Most Qualified**
 - Weigh all the information
 - Credentials, Experience, Recency of Experience, Work Product, Achievements, References. Some factors may be more important



Do Not Ask Illegal Question

- It is illegal to ask question that do not relate to the conditions for employment
- The topics include: age, race, gender, religion, martial status, and parental status
- Usually these problems arise in small talk before or after the interview



Laws That Affect the Interview Process

Title VII of the Civil Rights Act of 1964

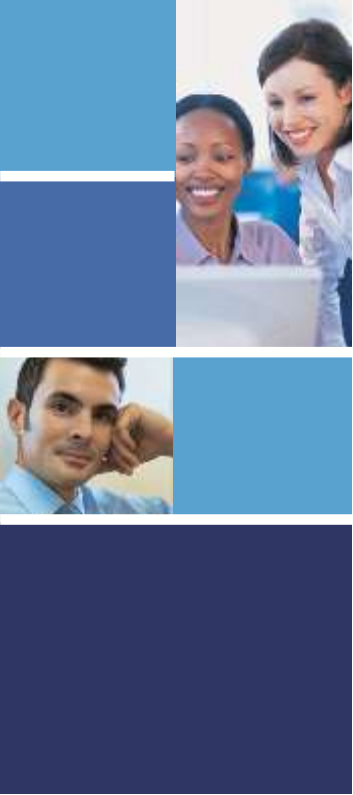
- Race
- Sex
- Color
- National Origin
- Religion

Americans with Disabilities Act (ADA)

Americans with Disabilities Act (ADA)

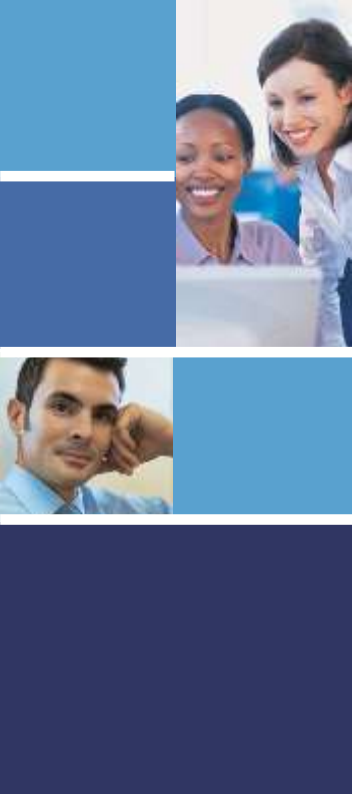
Immigration Reform and Control Act (IRCA)

- Citizenship
- Nation of Origin



Laws That Affect the Interview Process

- **National Labor Relations Act**
Union membership
- **Uniformed Services Employment and Reemployment Rights Act (USERRA)**
Membership or service in the uniformed services
- **Bankruptcy Act**
- **Child Support Enforcement Amendments**



Walking the Fine Line

- You can gain the information you need without crossing over the line
- **Best Advice – if it is not job related – don't ask!**





What to Ask and Not Ask

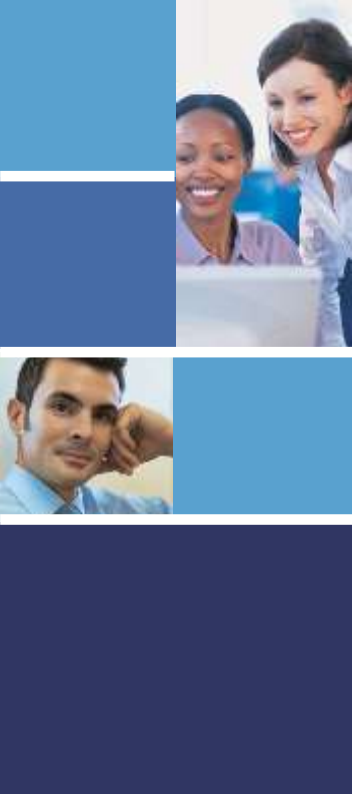
Age

Instead of:

When did you graduate?

Ask

- ✓ Are you 18 years or older to do this type of work?
- ✓ Can you supply transcripts of your education?



What to ask and not ask

Disability

Ask

- ✓ After reviewing the job description, “Can you do the duties listed in the job description, with or without accommodation?”
- ✓ If a worker has an obvious disability or reveals a hidden disability, you may ask the person to describe or demonstrate how the applicant would perform job duties.

Must do

Employers must provide reasonable accommodation to candidates who have disabilities.

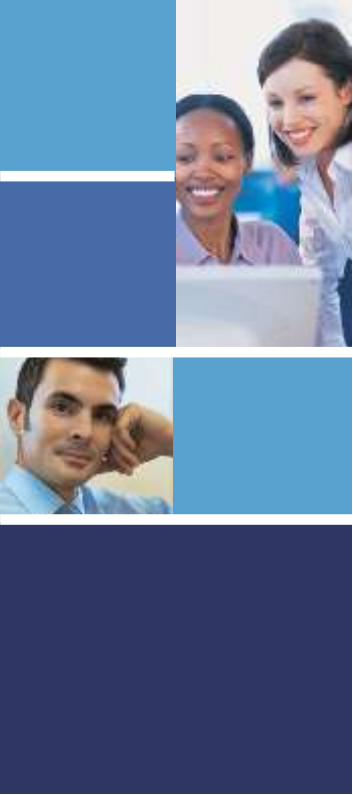


What not to ask



Race

A candidate's race will usually be at least somewhat evident. Questions of this nature may imply a preoccupation with this factor



What to ask and not ask

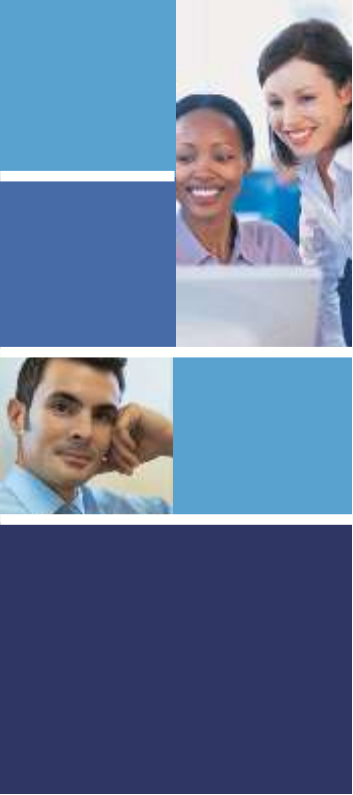
Religion

Instead of:

What outside activities do you participate in?

Ask:

What professional associations are you a member of?



What to ask and not ask

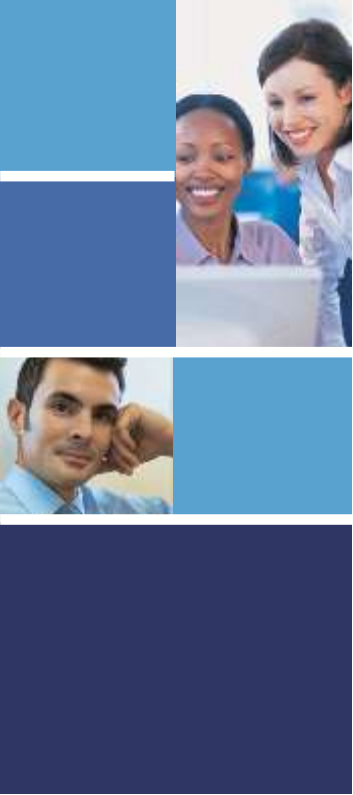
Sex/marital status

Instead of:

- Are you married?
- When do you plan to start a family?
- Do you have children?

Ask:

- ✓ Are you available to travel frequently?
- ✓ Can you work overtime with no notice?
- ✓ Can you work evenings and weekends?
- ✓ When we check references/do a background check, are there other names we should look under?



What to ask and not ask

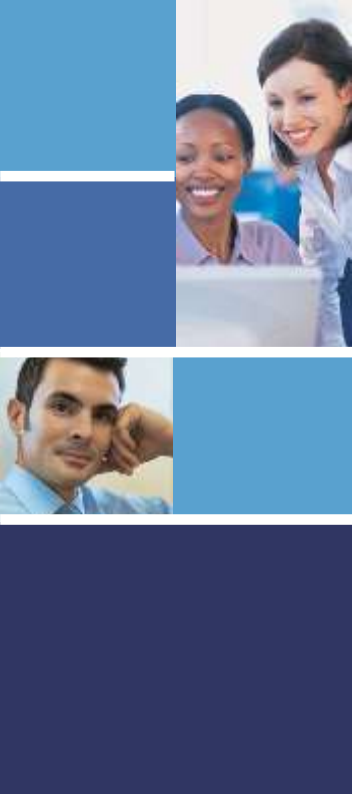
National Origin/Citizenship

Instead of:

- Are you a citizen of the US?
- What country are you from?
- Where is your accent from?
- What nationality is your last name?
- When does your visa expire?

Ask:

If you are hired, are you able to provide documentation to prove that you are eligible to work in the US?



What to ask and not ask

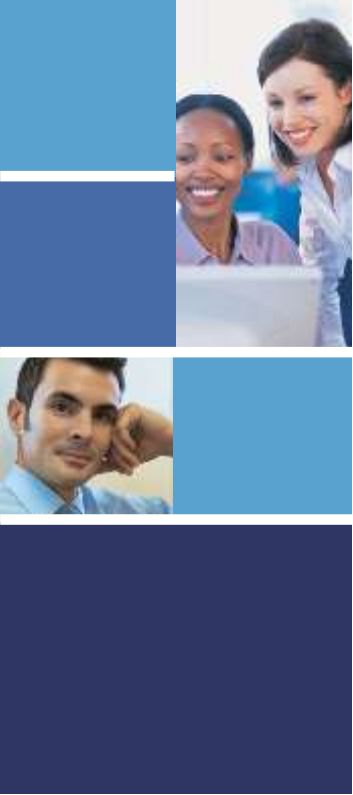
Financial Status

Instead of:

- Do you own a home/car?
- Have you ever filed for bankruptcy?
- Are you subject to any garnishments or child support orders?

Ask:

Will you sign a form authorizing us to perform a credit check?



What to ask and not ask

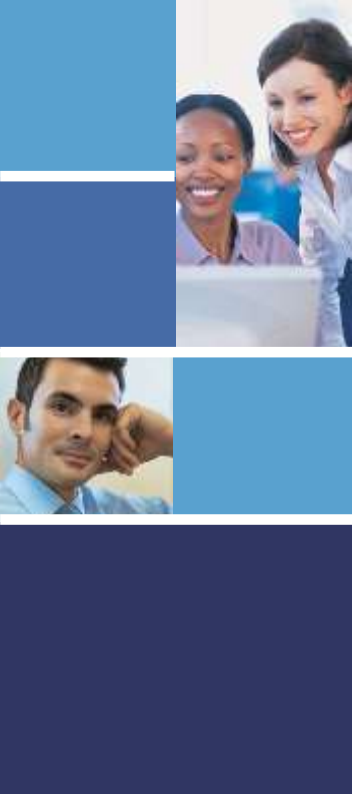
Military

Instead of:

- Please provide the status of your military discharge.
- Will you miss work to perform military service?

Ask:

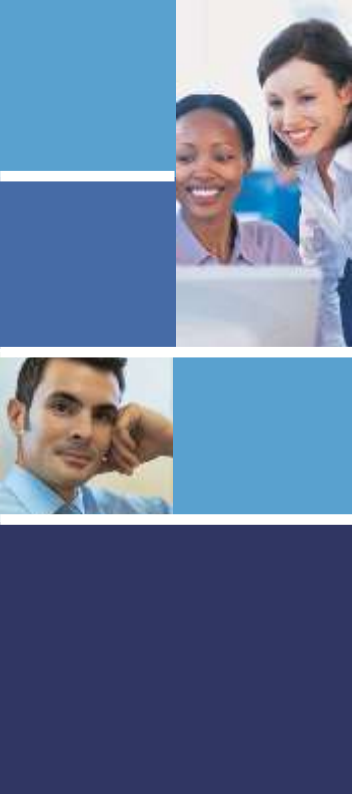
What experience did you gain in the uniformed service that is relevant to the job you would be doing?



What to ask and not ask

Appearance Guidelines:

Employers need to be aware of religious and cultural variations on appearances.



SUMMARY

- Tips and questions
- Panel interviewing
- Phone screening
- Behavioral interviewing decisions
- Follow-up and selection
- Laws pertaining to interviewing

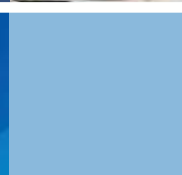
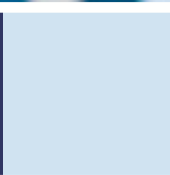
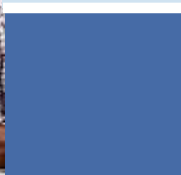
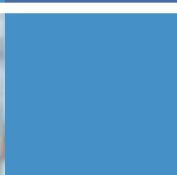
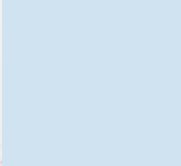
What Final Questions Do you Have?



Contact:

Donna Rogers, SPHR
(217) 414-1297
HR.CIRMA@gmail.com

Donna Rogers, Med., SPHR, SHRM-SCP



No Time to Cover

MILITARY FAMILY LEAVE UNDER FMLA

FMLA Military Family Leave

The FMLA military family leave provisions include:

- **Qualifying exigency leave**, which provides up to **12 workweeks** of FMLA leave to help families manage their affairs when a military member has been deployed to a foreign country; and
- **Military caregiver leave**, which provides up to **26 workweeks** of FMLA leave to help families care for covered servicemembers with a serious injury or illness

Generally, FMLA rules and requirements continue to apply



Qualifying Exigency Leave [§ 825.126](#)

Eligible employees may take up to **12 workweeks*** of FMLA leave because of a qualifying reason that arises out of the fact that the employee's spouse, son, daughter, or parent is on, or has been notified of an impending call, to "covered active duty"

- For qualifying exigency leave, son or daughter refers to a son or daughter of any age
- Leave for this reason counts against an employee's normal FMLA entitlement for other leave reasons within the 12-month leave year

* Eligible airline flight crew employees are entitled to 72 days



Qualifying Exigency Leave – Covered Active Duty [§ 825.126](#)

- **Regular Armed Forces:**

duty during deployment of the member with the Armed Forces to a foreign country

- **Reserve components** of the Armed Forces
(members of the National Guard and Reserves):

duty during deployment of the member with the Armed Forces to a foreign country under a call or order to active duty in support of a contingency operation



Qualifying Exigencies [§ 825.126](#)

- Short-notice deployment (up to seven days)
- Military events and related activities
- Childcare and school activities
- Financial and legal arrangements
- Non-medical counseling
- Care of the military member's parent
- Rest and recuperation (up to fifteen days)
- Post-deployment activities (90-day period)
- Additional activities by agreement



Employee Responsibilities – Provide Certification [§ 825.309](#)

- An employer may require an appropriate certification with:
 - a copy of the military member's active duty orders
 - a qualifying exigency certification (recommended Form WH-384)
 - Statement of facts
 - Dates of leave
 - Frequency and duration of intermittent leave
 - Contact information for any third party meeting
- The employer may verify meetings with a third party and may contact DOD to verify the military member's covered active duty status



Military Caregiver Leave [§ 825.127](#)

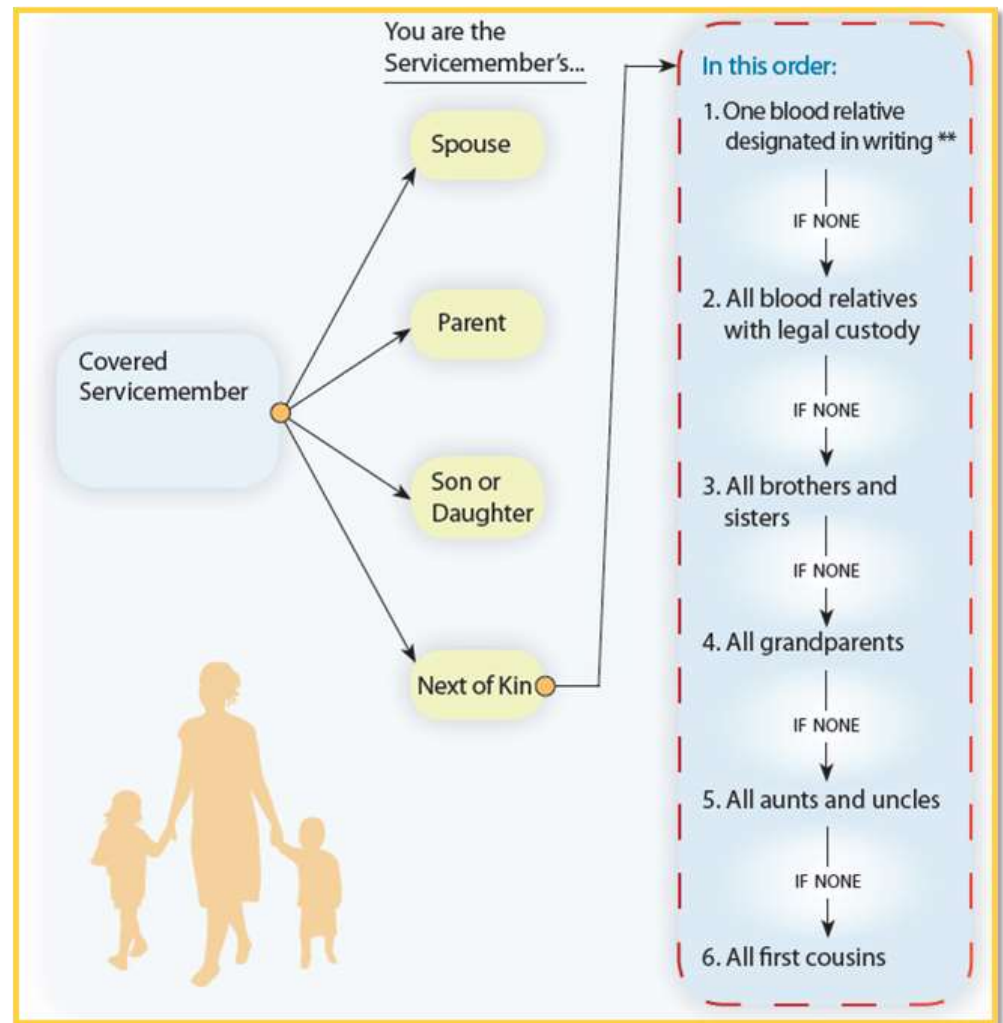
- Eligible employees may take up to 26 workweeks* of FMLA leave in a “single 12-month period” to care for a “covered servicemember” with a “serious injury or illness” if the employee is the covered servicemember’s spouse, parent, son, daughter, or next of kin
- For military caregiver leave, son or daughter refers to a son or daughter of any age
- All FMLA leave is limited to a combined total of 26 workweeks during the “single 12-month period”; no more than 12 workweeks can be taken for other leave reasons

* Eligible airline flight crew employees are entitled to 156 days



Qualifying Family Relationships Under Military Caregiver Leave [§ 825.127](#)

****Designated for purposes of military caregiver leave under the FMLA.**



Covered Servicemember [§ 825.127](#)

A **covered servicemember** may be:

- a current member of the Armed Forces; **OR**
- a veteran of the Armed Forces.

A **current member of the Armed Forces**, including a member of the National Guard or Reserves:

- undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness



Current Servicemember – Serious Injury or Illness [§ 825.127](#)

- A serious injury or illness is one that:
- was incurred by a servicemember in the line of duty on active duty; or
- existed before the servicemember's active duty and that was aggravated by service in the line of duty on active duty; and
- may cause the servicemember to be medically unfit to perform the duties of his or her office, grade, rank, or rating



Employee Responsibilities – Certification for a Current Servicemember [§ 825.310](#)

- An employer may require that leave to care for a covered servicemember be supported by a certification completed by an authorized health care provider (recommended WH-385), or an Invitational Travel Order (ITO) or Invitational Travel Authorization (ITA)
- Authentication and clarification
- Limited second and third opinions



Covered Servicemember – Veteran [§ 825.127](#)

- A veteran of the Armed Forces is a covered servicemember if he or she:
 - is undergoing medical treatment, recuperation, or therapy for a serious injury or illness; and
 - was discharged under conditions other than dishonorable within the five-year period before the employee first takes military caregiver leave*
- * Special rules may apply if the servicemember was discharged before March 8, 2013



Veteran Serious Injury or Illness [§ 825.127](#)

An injury or illness that was incurred or aggravated by service in the line of duty on active duty in the Armed Forces, that manifested before or after the servicemember became a veteran, and that is either:

1. a continuation of a serious injury or illness that was incurred or aggravated when the veteran was a member of the Armed Forces; or
2. a condition for which the veteran has received a U.S. Department of Veterans Affairs Service-Related Disability Rating (VASRD) of 50 percent or greater (the rating may be based on multiple conditions); *or*
3. a condition that substantially impairs the veteran's ability to work because of a disability related to military service, or would do so absent treatment; *or*
4. an injury that is the basis for the veteran's enrollment in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers.



Employee Responsibilities – Certification for a Veteran [§ 825.310](#)

- An employer may require that leave to care for a veteran be supported by a certification completed by an authorized health care provider (recommended WH-385-V)
- Authentication and clarification
- Limited second and third opinions
- An employee may submit a copy of a VASRD rating determination or enrollment documentation from the VA Program of Comprehensive Assistance for Family Caregivers to support the veteran's serious injury or illness
- Additional information may be needed to establish the other requirements for a complete certification such as:
 - confirmation of family relationship;
 - documentation of discharge date



Military Caregiver Leave – Application of Leave [§ 825.127](#)

- “Single 12-month period”
- Per covered servicemember, per injury
- Limitations on leave
 - 26 workweeks for all qualifying reasons
 - Designation of caregiver leave
 - Spouses working for same employer

