

Hiring and Firing

The Basics of Good Human Resource Practices

During the recent Spring Management

Conferences more than one distributor representative indicated that its company's human resource responsibilities had been passed on to them. "Lucky me" was a common remark. I thought it might be worthwhile to summarize some of the more basic yet key human resource responsibilities; primarily, to help those new to the HR arena. Feel free to copy and pass-on this Bulletin and provided checklists to the appropriate individual(s) in your organization. Your Consultant is available to assist the reader in developing any related policy or program.

Hiring New Employees

Probably no one area of human resource management is as challenging as attracting, hiring and keeping new employees. A careful and methodical approach is important if high quality individuals are to be recruited and hired in your organization. It is important that the necessary skills and qualifications be identified before applicant interviews begin. Ideally, current employees should be considered for new job openings if they are interested and qualified.

Job applicants should come from various sources—"walk-ons", referrals, state Job Service, newspaper ads, contacts at area vocational schools and colleges, etc. Be sure to maintain an organized file of job seekers. Decide on those comprising the interview team and make sure each knows what kind of questions to ask and not ask. Where appropriate, show job applicants around your facility especially the general work area they may be hired to. Document each job interview and particularly why an applicant may not qualify for hiring consideration. Verify by means of probing reference checks what the job candidate tells you and be prepared to extend a job offer contingent upon passing a medical exam and drug screening.

Hiring Checklist

- Write a job description for the vacant position or review the old one, updating the duties required.
- Make a skills profile which lists the precise duties of the position and the skills needed to accomplish these duties in a minimally acceptable manner.
- Receive applications and evaluate them. Notify unqualified candidates. Rank qualified ones.
- Schedule interviews. Prepare specific open-ended questions which will help to determine whether the applicant will be able to accomplish the duties of the position.
- Discuss the duties, responsibilities, and skills required; and describe the wages, benefits, advancement opportunities, and other aspects of the job.
- Summarize the interview in a written format and retain in a file.
- Check the candidate's references. Complete drivers check and credit report if job related. Check the requisite documents to determine whether the new hire is a U.S. citizen or has the proper authority to work in the U.S., and complete the INS Form I-9.
- Complete necessary medical exam and drug testing.

After an individual has been hired, an orientation session with the employee should be held to discuss, in detail, the company's benefits and other personnel policies. If available, a copy of the company's Employee Handbook should be delivered at that time. First impressions are often lasting; therefore, a new employee's questions and concerns should be solicited and addressed, and he or she should be encouraged to discuss with the supervisor any problems that may arise during employment with the company.

The new employee should also have a thorough orientation with his or her supervisor to become familiar with the job and working conditions. Again, the opportunity to establish effective communication channels should be stressed.

Employee Orientation Checklist

- ★ Describe the company, its history, organization, and goals.
- ★ Explain the duties and responsibilities of the position to the new employee and make clear what is expected. Furnish a written job description.
- ★ Familiarize the employee with the distributor's rules, compensation and benefits, frequency of employee appraisal reviews, advancement policies, and other pertinent information.
- ★ Explain how the employee can find redress for a complaint.
- ★ Introduce the new employee to co-workers and supervisory personnel.
- ★ Furnish a copy of and review the Employee Handbook.

Human Resource Practices to Avoid

- ✘ **Don't** give oral assurances of job security.
- ✘ **Don't** allow recruiters or job placement firms to speak for, or make promises on behalf of, your company.
- ✘ **Don't** promise annual or periodic performance evaluations.
- ✘ **Don't** overstate the significance of the completion of a "probationary" period.
- ✘ **Don't** allow supervisors or managers to base positive performance evaluations or appraisals on friendship or sympathy.
- ✘ **Don't** allow recruiters, interviewers, or personnel staff to verbally discount or discredit company "at will" statements with such remarks as: "Don't worry about it, it's just a form everyone signs," "Layoffs never really occur," or "Just do your job and you won't be let go."
- ✘ **Don't** state on any document, or at any time, that discharge will only occur for "just cause."
- ✘ **Don't** list in an employee handbook or company manual the reasons or grounds for termination, or if you do, make it clear that it is not an exclusive list—for example, by stating "...and for other reasons at the discretion of the company."
- ✘ **Don't** permit staff to discuss dismissals with employees who don't need to know. Such indiscretions could lead to a defamation action.
- ✘ **Don't** allow supervisors to provide inaccurately positive, or laudatory, letters of recommendation, or references, for discharged employees.
- ✘ **Don't** dispense severance pay without first receiving a properly executed release from liability.

Terminating an Employee

The decision to discharge an employee should be carefully planned. It is not something to be left to spontaneity. Obviously, the degree of planning is much less necessary in those circumstances where the employee has committed crimes (i.e., theft, assault, etc.) or serious infractions of an employer's work rules or policies.

In the vast majority of dismissals there should be a "paper trail" documenting the circumstances leading to the decision to terminate an individual. If it is insubordination, then the employee's personnel file should have a record of incidences. Signed periodic reviews should reflect earlier dissatisfaction.

If it is a matter of economics, then there should be a straightforward recitation of those facts (i.e., the loss of a major customer or a general business slowdown). What is important in these circumstances is to reveal the true basis for dismissal. There are many wrongful discharge suits that are filed to find the "real reasons" for termination, and some of these could have been avoided by forthrightly explaining the dismissal.

Your Consultant has often advised employers who were anguishing over a decision to terminate an individual that there is no guaranteed right to a position. The decision to hire or dismiss an employee is ultimately the employer's, but should be based on principles of fairness and respect for the dignity of individuals. If these two guideposts are followed, then there is greater certainty that a disgruntled former employee will not prevail in a wrongful discharge lawsuit.

The cause for a wrongful discharge claim often can be an inappropriately handled notice of termination—a notice that is poorly timed, poorly stated, and/or too publicly handled. A discharged employee who feels that he or she has been humiliated, lied to, or provoked, is much more likely to sue.

In some instances, the decision to dismiss may not be as critically important as how that decision is carried out.

Distributors, therefore, should keep in mind the following recommendations regarding the elements of a termination.

Dismissal—Review all proposed dismissals at a centralized higher management level before they are implemented. Seek clearance from legal counsel where applicable. Standardize the methods used for termination. Do not vary in the application of company policies. Give the reasons for the discharge. Be honest, straightforward, and complete. Recognize that timing, tone, and confidentiality are important.

Severance pay—Be humane. Recognize the hardship and trauma which accompanies worker dislocations. When possible and appropriate, consider providing the following if the termination is not for gross misconduct reasons: (1) a reasonable amount of notice prior to dismissal, (2) a generous severance “package,” (3) continuation of benefits for a reasonable time, and (4) outplacement counseling. Such practices help ease the transition for dismissed employees, help maintain the morale of employees continuing in the workforce, lessen the likelihood of legal challenges being filed, and help build a compelling case that the employer has acted fairly.

Termination Checklist

- ◆ Know precisely why the employee is being dismissed; the grounds should be based, obviously, upon nondiscriminatory reasons. Make sure circumstances surrounding the termination have been documented.
- ◆ Once the decision is made, set a private appointment in your office to ensure control and privacy. Under no circumstances should the dismissal be done on the telephone or in a social setting.
- ◆ There is never a “good” time to dismiss, but an early Monday or Tuesday is preferred to a 5:00 p.m. on Friday. Emphasize that after a complete review of all relevant factors, the decision is final and irrevocable.
- ◆ Keep the meeting brief. Get the bad news across at the outset. Avoid platitudes such as “you’re an excellent employee but...”.
- ◆ Let the dismissed employee have an opportunity to get his “side” across, without interruption. Keep control of the meeting, and in no way waver in your determination that the decision is final.
- ◆ Do not discuss the situation with any other employee.
- ◆ Have any final payroll checks, benefits, or vacation payments prepared in advance.
- ◆ Regardless of the reason for termination, be sure the employee understands his/her rights regarding employee benefits (e.g., group insurance continuation, pension plan electives, unemployment insurance).
- ◆ While most employees respond to a dismissal with shock and anger, it rarely reaches the level anticipated or feared by managers.

For more useful suggestions on hiring and legally and humanely terminating individuals in your organization, refer to the NWSA Human Resource Management and Compliance Manual. Have you ordered your copy?

Dan Golombieski
NWSA Human Resource Consultant

J.L. Nick & Associates, Inc.

4934 Peach Street
Erie, PA 16509
(814) 864-4052 (Voice)
(814) 864-1283 (Fax)
jlnick@erie.net (E-mail)