



AHLERS COONEY  
ATTORNEYS

ISAC Webinar – June 11, 2026

# Hot Topics in Human Resources

Jeffrey Edgar

# Disclaimer

This presentation is intended for general informational purposes only. Answers to legal questions about Human Resources situations may involve analysis of both state and federal law and can vary greatly depending upon the specific facts in a given circumstance.

Please consult an attorney about your specific situation.



# 3 Keys for Successful Management

1. Don't hire "bad" employees
  - Implement rigorous hiring practices
  - Investigate prior to hiring
    - References and former employer
    - Google (with caution)
    - In person interview
2. Train supervisors to identify "bad" employees or bad traits in workplace
3. Terminate "bad" employees
  - Probationary periods
  - Work rules

# Hiring



# Written Job Descriptions

- Expertise/skill required to perform function
- Physical requirements & General work conditions
- Primary reason the position exists
- Job Descriptions should be updated before the job is advertised and before applications are accepted.



# Job Descriptions: Essential Functions

- Employer determines which functions are “essential”
- Duties employee must be able to perform – ***with or without accommodation***
- Prepared prior to advertising / interviewing

**Hot Tip: Job Descriptions should be updated before the job is advertised and before applications are accepted.**

# Job Descriptions: Other Uses

- Relationship of essential functions to the rest of the unit/division/department
  - Helps with FLSA status determination
  - Percentage of time to tasks
- Used for determining how to accommodate
- Use for evaluating
  - Neutral, Measurable evaluation criteria
  - Standard-form, written evaluations
  - Cite specific examples when criticizing

# Job Descriptions & the FLSA

- Ensure descriptions are consistent with exempt/non-exempt classification
  - **Job titles do not determine exempt status**
  - To maintain exempt classification employee must perform certain job duties (specific to each type of exemption)
- Executive: Managing other employees?
- Administrative: Exercising independent judgment?  
On what kind of matters?
- Learned Professional: Specialized degree required?

# Job Descriptions & the ADA

## “Essential Functions”

- Disabled employees are entitled to reasonable accommodations to perform essential functions
- If it is not on the job description, can we say a function or task is “essential” to the position?

# Notice of Vacancies

- Advertising the Position
- Internal Requirements under CBAs or handbooks.
- Veterans Preference Requirement (35C.1(2)(a))
  - In all jobs of political subdivisions of the state which are to be filled by competitive examination or by appointment, **public notice of the application deadline to fill a job shall be posted at least ten days before the deadline** in the same manner as notices of meetings are posted under section 21.4

# Employment Applications

- Refer to Job Description
- Minimum qualifications
  - Education/Certification
  - Previous Experience
- Statement affirming truth of application
- Veterans Preference – opportunity for applicant to share info pertaining to military service
- References
- Standard Form Recommended



# Pre-Employment Inquiries

# Interview Basics

- Avoid questions that suggest an employment decision is made with discriminatory intent
- Questions must be connected to the employee selection process and the job applied for
  - Avoid questions about personal matters (associations, church memberships, relationships)
- Prospective employees are still protected under a number of state and federal laws

# Iowa Civil Rights Act

Iowa Civil Rights Act, Iowa Code § 216.6, prohibits discrimination because of a protected characteristic in:

- Recruiting and hiring
- Job assignments
- Pay
- Leave or benefits
- Promotion
- Discipline
- Referrals
- Training
- Lay-off or firing
- Retaliation for a Civil Rights Claim
- Harassment

# Interview Best Practices

- Consider a common list of questions for all applicants
- Be aware of protected classifications:
  - Race, Religion, Color, Creed, Sex, Gender Identity, Sexual Orientation, Disability status, National Origin, Age\*
- Be aware of employment laws that could give rise to a claim of discrimination.



# Prohibited Questions (ADA)

## 1. Questions pertaining to health

- Have you ever had or been treated for any of the following conditions or diseases?
- Please list any conditions or diseases for which you have been treated in the past three years?
- Have you ever been hospitalized? If so, for what condition?
- Have you ever been treated by a psychiatrist or a psychologist? If so, for what condition?
- Have you ever been treated for any mental condition?
- Is there any health-related reason that you may not be able to perform the job for which you are applying?

# Prohibited Questions (ADA)

## 2. Questions pertaining to disability

- Have you had a major illness in the past five years?
- How many days were you absent from work last year because of illness?
- Do you have any physical defects which prevent you from performing certain kinds of work? If yes, describe work limitations.
- Do you have any disabilities or impairments which may affect your performance in the position for which you are applying?

# Prohibited Questions (ADA)

3. Questions pertaining to drug /alcohol use
  - Are you taking any prescribed drugs?
  - Have you ever been treated for drug addiction or alcoholism?
  
4. Questions pertaining to past Worker's Comp
  - Have you ever filed for workers' compensation benefits or had a work-related injury?

# Pre-employment Inquires: Acceptable or Not Acceptable?

Name

“Name,” or “other names used” avoid  
“maiden name”

Health  
History

“Are you capable of performing the  
essential functions of the job with or  
without accommodation?”

Religion

“Are you available to work the days and  
hours of the job?” “Are you capable of  
performing the essential functions of the  
job with/without accom.”

# Pre-employment Inquires: Acceptable or Not Acceptable?

Child  
Care

“Is there anything that would interfere with your regular attendance at work?”

Citizen  
Status

“Do you have the legal right to work in the U.S. and can you provide verification?”

School  
Education  
Background

“What is your educational background?”  
Avoid requiring dates of degrees.

# Pre-employment Inquires: Acceptable or Not Acceptable?

Emergency  
Contact

“What is the name and address of a person we can notify in case of an emergency?”

Activities

“Are you a member of any organizations that have relevancy to your ability to perform the job?”

License

Limit questions to licenses required for the job, for example, holding a CDL.

# Effectively Managing Employees



# Break Time

- No federal or state law requires breaks
  - OSHA requires bathroom as needed
  - FLSA requires time to express breastmilk
  - CBAs or handbooks may include breaks
- If breaks are unpaid, ensure that work is not performed (per FLSA)
  - Rules to prohibit off-the-clock work
  - Require prior approval for OT
  - Do not allow EEs to “volunteer” or stick around after hours

# On Call Time

- Is on call time compensable?
  - Consider restrictions on employee's time
  - Is the employee waiting to be engaged (and thus not working), or
  - The employee is engaged to wait (and therefore working)
- Impact on benefits, including ACA
- Review expectations for “on call” employees to ensure restrictions are not so severe to render all their on-call time compensable.

# Harassment and Disrespect

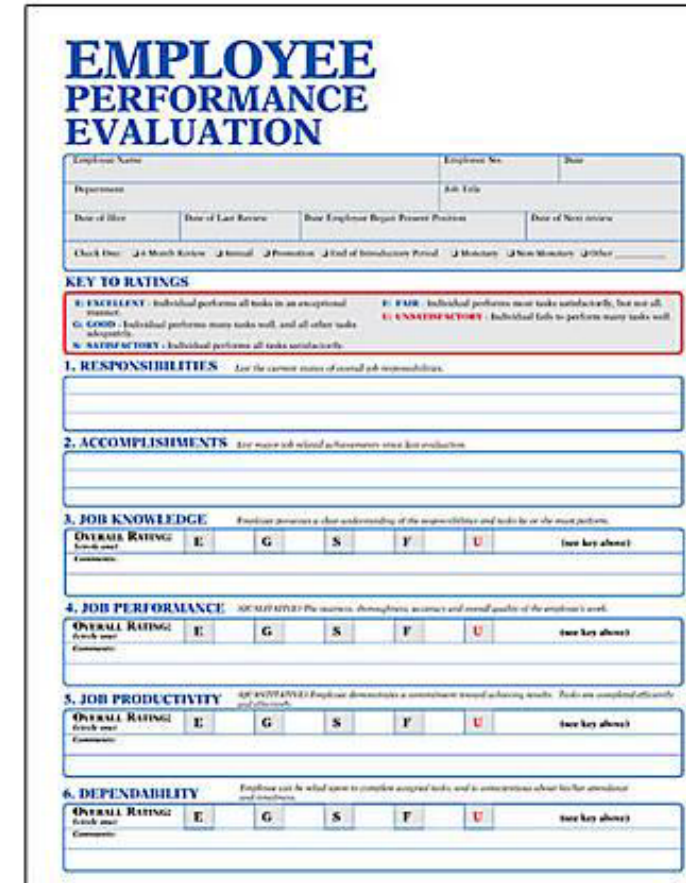
- Set Fair and Manageable Expectations for interactions supervisors, peers, subordinates
- Is the harassment directed at a protected group?
  - Sex, race, age, national origin, creed, color, age, disability, gender identity, religion, sexual orientation
- Unaddressed could lead to increased turnover, anxiety, burnout, overall drag on the environment

# Addressing Claims of Harassment

- Investigate complaints, even anonymous ones
  - Consider if outside investigator needed
    - Seriousness of accusation
    - Protect investigation from discovery
  - Interview target, accuser, and alleged bad actor, separately
  - Speak to management for observations
  - Action will depend on findings
- Periodic training –employees & management
- Investigative report – mindful of Chapter 21

# Employee Evaluations

- Identify Your Standards
- Focus on Key Concerns
- Avoid Vagueness
- Be Consistent
- Offer Concrete Suggestions for Improvement
- Avoid Any Implication of a Personality Clash
- Limit Comments Regarding Termination
- Memorialize Complaints



**EMPLOYEE PERFORMANCE EVALUATION**

Employee Name: \_\_\_\_\_ Employee No.: \_\_\_\_\_ Date: \_\_\_\_\_  
Department: \_\_\_\_\_ Job Title: \_\_\_\_\_  
Date of Hire: \_\_\_\_\_ Date of Last Review: \_\_\_\_\_ Date Employee Began Present Position: \_\_\_\_\_ Date of Next Review: \_\_\_\_\_  
Check One:  1st Month Review  Annual  Promotion  End of Introductory Period  Merit  New Merit  Other \_\_\_\_\_

**KEY TO RATINGS**

**E - EXCELLENT** - Individual performs all tasks in an exceptional manner. **F - FAIR** - Individual performs most tasks satisfactorily, but not all.  
**G - GOOD** - Individual performs many tasks well, and all other tasks adequately. **U - UNSATISFACTORY** - Individual fails to perform many tasks well.  
**S - SATISFACTORY** - Individual performs all tasks satisfactorily.

**1. RESPONSIBILITIES** List the current status of essential job responsibilities.  
\_\_\_\_\_  
\_\_\_\_\_

**2. ACCOMPLISHMENTS** List major job related achievements since last evaluation.  
\_\_\_\_\_  
\_\_\_\_\_

**3. JOB KNOWLEDGE** Evaluate employee's clear understanding of the responsibilities and tasks he or she must perform.  
**OVERALL RATING:**  E  G  S  F  U (see key above)  
Comments: \_\_\_\_\_

**4. JOB PERFORMANCE** **SOCIALTY:** The accuracy, thoroughness, accuracy and overall quality of the employee's work.  
**OVERALL RATING:**  E  G  S  F  U (see key above)  
Comments: \_\_\_\_\_

**5. JOB PRODUCTIVITY** **QUALITY:** Employee demonstrates a commitment toward achieving results. Tasks are completed efficiently and effectively.  
**OVERALL RATING:**  E  G  S  F  U (see key above)  
Comments: \_\_\_\_\_

**6. DEPENDABILITY** Employee can be relied upon to complete assigned tasks, and is conscientious about his/her attendance and punctuality.  
**OVERALL RATING:**  E  G  S  F  U (see key above)  
Comments: \_\_\_\_\_

# Evaluations – Hot Tips

- Use an evaluation form that allows you to distinguish among employees
  - A “scale of 1 to 5” may not allow enough distinction.
  - Evaluation forms can be somewhat customized.
  - May include skills like taking direction, being a team player, effective communication
- Include specific examples in feedback
- Use “NA” if employee had no opportunity to display a particular skill

# Personnel Files

- Employees must have access to and permitted a copy of personnel files per §91B
  - Performance evaluations
  - Disciplinary records
- EE is not entitled to references
- EE may be charged a reasonable fee for copy
- Public Records
  - Name and compensation, employment contract
  - Dates of employment and position held
  - Terminated for disciplinary reasons
  - Educational background

# Supervisor Files

- Supervisor/HR files are discoverable
- May be a public record
- Do not include this information in file:
  - Health information
  - Personnel file materials
  - The only copy of evaluations, etc.
- HR should carefully review what is maintained in separate files and what belongs in the personnel file.

# Handbook Policies

- Expectations for the Workplace
- Generally applicable policies
- Wording Matters – ex. When is vacation “earned”
- Support for discipline or critical evaluation



# Technology in the Workplace

- Employer Needs vs. Employee Rights
- Monitoring email, social media, time tracking apps
  - GPS in vehicles
  - Personal Use during work hours
  - Using private profiles for business purposes
- Cyber Security obligations and expectations
  - Ensure ability to “lock down” lost or stolen device, or access of former employee

# Technology Policies

- Written policies
  - Identify prohibited use (ex. streaming)
  - Integrate into anti-harassment policy
- ER property is subject to search/monitoring
- Public record reminder
  - EE use of personal devices for work
  - Caution when it comes to privately owned devices and ER control
- Expectations for “off duty” work

# Tobacco Use

- Vaping and E-cigarettes
- Chewing Tobacco
- Iowa Smoke Free Air Act
  - “Tobacco” = cigarettes and tobacco products  
Iowa Code § 142A.2(11)
  - Chewing Tobacco = “tobacco product” §453A.1
- E-cigs are *not* covered by the SFAA, but employers may nevertheless prohibit them.

# Employee Leave Requests

- Customize FMLA
  - Concurrent use of existing paid leave
  - FMLA year / 12 month period
- Leave Required by Iowa Law (unpaid)
  - Pregnancy
  - Voting
  - Jury
  - Veteran
- Family Leave/ Personal/ Bereavement
- Vacation Donation Allowed?

# Discipline



# Effective Discipline

- Enforce rules based on legitimate principles affecting the workplace
- Investigate when Necessary
- Training
  - Fairness
  - Consistency
- Documentation

# Changes to Iowa Public Records Laws

- HF 291 – amends Iowa Code 22.7(11) relating to personnel records and adds 22.15
  - 22.7(11) – the fact that an individual resigns in lieu of termination, the discharge, or the demotion is now a public record.
  - 22.15 requires public employers to provide employees with written notice that information placed in a personnel file as a result of disciplinary action may become a public record

**Hot Tip: Confirm EE given notice before producing public record.**

# When to Use Progressive Discipline

- What is the employee's disciplinary history?
  - Misconduct or job performance
  - Levels of prior discipline
  - Frequency of discipline
  - Length of time since prior discipline
  - Has union been informed of prior discipline
- How has the employer responded to similar situations?
  - Consistency
  - Rationale for departing from progressive discipline or for different response

# Termination (Resignations, Separations, Firings, Retirements)



# At Will Employment

At will employers may be discharged at any time and for any reason\*

- Limitations:
  - Union Contract
  - Employee Handbook
  - Individual Contracts
  - Civil Service
  - Protected Veterans
  - Anti-Discrimination Laws



# Termination Checklist

1. Was employee participating in a protected activity?
2. If performance based, is there a record of performance deficiencies?
3. Employee warned of consequences?
4. Expectation of employee reasonable?
5. Was incident fully and fairly investigated?
6. Rules, orders, penalties applied consistently and without discrimination?
7. Was the penalty reasonable in light of conduct and past record?

# Due Process in Termination

- **Investigations** – before deprive of property interest in employment, afford Due Process by:
  - **Notice** of charges
  - **Explanation** of the evidence supporting the charges
  - **Opportunity** to respond to the charges

# Protected Veterans

- Iowa Code Section 35C.6 provides:
  - No person holding a public position by appointment or employment, and belonging to any of the classes of persons to whom a preference is herein granted, shall be removed from such position or employment except for **incompetency or misconduct** shown after a hearing, upon due notice, upon stated charges, and with the right of such employee or appointee to a review by a writ of certiorari or at such person's election, to judicial review in accordance with the terms of the Iowa administrative procedure Act, chapter 17A, if that is otherwise applicable to their case

# Final Paycheck

- Iowa Wage payment Collection Act prohibits, among others, the following deductions:
  - Cash shortage in common money
  - Losses due to damage property
  - Lost or stolen property
  - Cost for personal protective equipment
- Continuation of insurance – 509A.13



# Contesting Unemployment

Successfully contesting unemployment is challenging.

1. Voluntary resignation without good cause attributable to county
  2. Misconduct (high standard)
- Incentivizes employee to seek legal counsel
  - Adverse finding in unemployment proceeds is not binding on any other proceedings.

# Questions?



Jeffrey Edgar

[jedgar@ahlerslaw.com](mailto:jedgar@ahlerslaw.com)

