

2023 EMPLOYMENT LAW SEMINAR FOR CONSERVATION DISTRICTS

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Agenda for Seminar

- **Hiring**
- **Effective Employment Policies**
- **Wage and Hour Laws and Employee Classifications**
- **Duty to Accommodate/ADA**
- **Best Practices for Employee Management**
- **Unemployment Compensation Questions**
- **Furloughs, Layoffs, and RIFs**
- **Employment Records Procedures and Retention**



Hiring

- **Legal landscape**
- **Advertisements**
- **Job applications and interviews**
 - U.S. citizenship
 - English language skill
 - Weekend/holiday work
 - Educational requirements
 - Military service



Hiring

- **Pre-employment medical inquiries**
- **Reference and background checks**
 - Criminal and credit histories



Effective Employment Policies

- **Legal landscape**
- **At-will employment acknowledgment**
- **Equal employment opportunity policies**
- **Discriminatory harassment policies**
- **Guidelines for conduct**
- **Attendance policies**



Effective Employment Policies

- **Electronic resources policies**
- **Internet postings/social media policies**
- **Drug and alcohol policies**
- **Improper pay deduction policies**
- **Leave policies**
- **Remote work/work from home policies**



Wage and Hour Laws and Employee Classifications

■ Legal landscape

- Federal Fair Labor Standards Act (FLSA)
- Pennsylvania Minimum Wage Act (MWA)
- Federal Equal Pay Act



Wage and Hour Laws and Employee Classifications

■ Legal landscape

- Pennsylvania Wage Payment and Collection Law
 - Regular paydays
 - Wage deductions
 - Termination of employment
- Direct deposit



Wage and Hour Laws and Employee Classifications

- **Overtime/minimum wage exemptions**
 - Differences between FLSA and MWA
 - Payment on a salary basis
 - Bona fide executive employees
 - Bona fide administrative employees
 - Bona fide learned professional employees
 - Computer-related employees
 - Highly compensated employees
- **Independent contractors**



Wage and Hour Laws and Employee Classifications

- **Requirements for non-exempt employees**
 - Hours worked
 - Remote access to email, voice-mail, network
 - Preliminary and finishing activities
 - Waiting/on-call time
 - Travel time
 - Meetings and training programs
 - Meal and rest breaks
 - Vacation, holidays, sick, and other non-working time
 - MWA complications – Amazon.com case



Wage and Hour Laws and Employee Classifications

- **Overtime pay**
 - “Regular rate”
 - Different pay rates
 - Premium pay credits
 - Compensatory time off in lieu of overtime
- **Wage and hour self-audit**



Duty to Accommodate Individuals with Disabilities

- **Legal landscape**
 - Federal Americans with Disabilities Act
 - Pennsylvania Human Relations Act
- **What is a disability?**
- **What is a “reasonable accommodation?”**



Best Practices for Employee Management

- **Communication**
- **Consistency**
- **Documentation**
- **Disciplinary action and discharge**
 - Legal risks and framework
 - Proving pretext – what to avoid



Best Practices for Employee Management

- **Things to consider**
 - Discipline for disciplinary infractions
 - Disciplinary for unsatisfactory performance
 - Conducting termination meetings



Unemployment Compensation Questions

- **The basics**
- **Unemployment compensation rates**
- **Temporary positions and internships**
- **Partnering and pooling funds for positions that provide services to multiple Districts**
- **Form UC-1609**



Furloughs, Layoffs, and RIFs

- Legal landscape
- Overview of RIF process
 - Business case
 - Scope of RIF
 - Identifying affected positions
 - Establishing the selection criteria
 - Voluntary RIF
 - Involuntary RIF



Furloughs, Layoffs, and RIFs

- **Other considerations**

- Release of legal claims/OWBPA requirements
- Temporary furloughs and layoffs



Employment Records Procedure and Retention

- **Personnel files**
 - Confidentiality and right to access
- **Employee medical files**
- **Payroll and benefits records**
- **Recruitment records**
- **I-9 files**
- **Manager desk files**



Employment Records Procedure and Retention

- **Record retention guidelines**
 - Personnel files
 - Employee medical files
 - Payroll and benefits records
 - Recruitment records
 - I-9 files
 - Manager desk files



QUESTIONS?



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