



## **SUPERVISORS & THE LAW**

Whether you are a large company or small, someone in your organization is responsible for the day-to-day activities surrounding human resources (HR). Sometimes this is a dedicated human resource professional and sometimes it's a CEO, CFO, or office manager who has been tasked with those duties.

Regardless of who is responsible for HR in your organization, it's important that ALL of your supervisors and managers have a basic understanding of employment laws that apply to your organization. Because supervisors and managers are regarded as "agents" of the employer, their actions can create liability for the organization.

While supervisors and managers don't have to understand all of the nuances of each employment law, they do need to have sufficient knowledge about each law to avoid engaging in unlawful or perceived unlawful acts. There are 5 key employment law areas that supervisors need to know and understand.

### **Title VII and Other Laws Prohibiting Discrimination**

Various state, federal, and local laws prohibit employers from discriminating or harassing individuals on the basis of age, race, sex, color, national origin, disability, genetics, religion, sexual orientation/gender identity, pregnancy, veteran/military status, or marital status. This can be simply stated as supervisors/managers need to treat employees respectfully and evaluate them based on how well they perform their jobs and not on such things as an accent they may have, the color of their skin, their gender, their age, etc.

### **Fair Labor Standards Act (FLSA) and State Minimum Wage and Overtime Laws**

The federal FLSA establishes minimum wage and overtime standards. Additionally, many states have their own minimum wage and overtime laws. It's important for supervisors/managers to understand that the employer is legally obligated to pay employees for all hours worked, including overtime, and maintain accurate records reflecting the actual hours worked by the employee for each week. Asking or allowing an employee to work "off the clock" creates liability for the company. Additionally, the FLSA is one of the few laws where the supervisor/manager can be held individually liable for knowingly violating the law. Although it's rare that a supervisor/manager would be held legally responsible for FLSA violations, it's important for them to understand that they could have individual liability.

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

Employers with 50 or more employees are obligated to provide leaves of absence in certain circumstances to eligible employees. Specifically, eligible employees are entitled to up to 12 weeks of unpaid leave for:

- The birth of a son or daughter or placement of a son or daughter with the employee for adoption or foster care;
- To care for a spouse, son, daughter, or parent who has a serious health condition;
- For a serious health condition that makes the employee unable to perform the essential functions of his or her job; or
- For any qualifying exigency arising out of the fact that a spouse, son, daughter, or parent is a military member on covered active duty or call to covered active duty status.

Additionally, the employee is entitled to up to 26 weeks of job-protected leave to care for a family member who is a current servicemember with a serious injury or illness. FMLA leave for this purpose is called “military caregiver leave.”

Because supervisors/managers are typically responsible for scheduling and ensuring productivity, proper customer care, and service are provided in a timely manner, it's very important for them to understand how FMLA affects their department when someone is on leave. Furthermore, it's important for them to understand what their options are to fill the position with a temporary employee or spread the work among other employees in order to meet the goals of the department.

This is another law where the supervisor/manager can be held individually liable if the FMLA leave is improperly denied or administered. While they don't necessarily need to understand the nuances of the law, they do need to understand that there is an obligation on the part of the company to grant family and medical leaves of absence to eligible employees and that there are certain job protections that the employee is entitled to, including being returned to the same or equivalent job.

## **Safety & Health**

The Occupational Safety & Health Act (OSH Act) requires employers to provide a safe environment that is free from recognized hazards that could cause an employee's death or serious physical harm. Because supervisors and managers regularly observe the work of their employees, they are responsible for ensuring that employees are observing proper safety protocols and that any observed hazards have been removed from the work area. Training supervisors and managers to recognize good safety practices and to remove hazards that they see will reduce workers' injuries, lost time because of those injuries, and will ultimately affect the employer's workers' compensation rates.

## **National Labor Relations Act (NLRA)**

Regardless of whether or not your organization is unionized, the NLRA provides employees with right to engage in “protected concerted activities”. Not only do employees have the right to organize, they also have the right to discuss their working conditions (i.e. pay, benefits, how their supervisors treat them, etc.) with each other and even in public forums such as various social media platforms. Supervisors/managers have the right to share factual information with their employees but must refrain from interrogating, threatening, making promises or spying on employees that they suspect of exercising their NLRA rights.

Providing supervisors and managers with training to help them understand various employment laws coupled with training that teaches them how to effectively coach, counsel, and communicate with employees will go a long way to preventing lawsuits. Additionally, the better trained your supervisors and managers, the better relationships they'll develop with their employees, which will typically result in less turnover, more productivity, and a better regard for the organization overall.

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