



On behalf of IWIF's Board of Directors, I am pleased to announce an overall 5%* premium rate decrease for 2008. With the combined focus and efforts of

IWIF's policyholders and their employees', safety in Maryland's workplace is improving as evident with a 10% drop in claims frequency over the past two years. IWIF continues to promote the benefits of a safe workplace, which allows us to reward our policyholders with rate savings. It brings home our promise that "Safety Saves With IWIF." We hope you consider our commitment to safety and cost control when it is time for you to renew your policy with IWIF.

Just as price matters, IWIF's customer service matters even more. With IWIF you have a partner dedicated to helping you prevent and reduce workplace accidents and their associated costs. When workplace injuries do happen, you have a partner to help your injured workers get the timely benefits and medical care they deserve. You also have a vigilant partner that fully investigates every injury claim for compensability or potential fraud.

A safe workplace starts with the hiring process. In this issue, learn about the *Do's* and *Don'ts* of effective hiring as a crucial part of any successful and safe workplace. IWIF also announces a new partnership with Payce Payroll which offers an integrated payroll and workers' comp premium payment solution. You will also read about our recent success cases at the Workers' Compensation Commission.

IWIF is proud to be a founding sponsor of the Kids' Chance of Maryland scholarship fund. Every year, unfortunately, there are Marylanders who are fatally or catastrophically injured in work-related accidents. Kids' Chance of Maryland, Inc. provides an opportunity for children of these workers to pursue their education, reach their goals and fulfill their dreams for the future. Read more about the good work of Kids' Chance on page 10.

If you are a new customer with IWIF, I want to say *Welcome*. If you are a current policyholder with IWIF, I join our Board of Directors, our valued agent network and my fellow IWIF professionals in saying *Thank You*.

Tom Phelan, IWIF President and CEO

* The majority of IWIF's classification rates will decrease 5% in 2008. A small number of class codes may show a larger decrease or an increase.



Avoiding Pitfalls When Hiring Employees



By Donald J. Walsh, Esq.

Employers: Here are general guidelines for successful hiring techniques and proactive steps to avoid common employment problems.

Have I hired the right employee?

Few employers have never lost an employee. Regardless of whether the termination was voluntary, the costs associated with the loss of an employee are tremendous. There is lost productivity resulting from the position vacancy and the supervisor who may have to handle the termination, replacement and training of a new hire. There is lost productivity from the new hire until the employee becomes a more efficient part of the staff. There may even be unemployment costs or worse, legal fees and court awarded damages. Ultimately, nothing can ensure a good hire and fit. However, employers can do a few things to proactively protect themselves in the hiring process.

The Importance of Up-to-date Job Descriptions

The most important thing any employer can do to assist this process occurs long before the employee is ever hired or even interviewed. Countless employers have high turnover rates simply because they have failed to carefully examine what skills and abilities they are actually seeking. Often overlooked, the first step must always be evaluating and documenting exactly what the new employee will be expected to do, such as creating a job description.

Since the **job description** will be the benchmark for evaluating employees performance and duties, having the employees acknowledge that they have read it and can accomplish the tasks assigned identified plays a critical role in ensuring good hires.

Clear Understanding of Requirements

A simple job description is not intended to pigeonhole an employee but is designed to ensure that both the employer and the prospective employee have a clear understanding of what is required in the position so that honest assessments can be made by both parties if a right fit exists. More importantly, this description will prove invaluable throughout the employee's tenure for purposes other than the initial hire. These include performance evaluations, promotions, and determining whether an employee is exempt from overtime pay requirements.

Summary List of Tasks

A good job description needs to answer such questions as who the person reports to, what duties are required, what educational requirements are needed, what essential mental and physical functions are required, what equipment may have to be used to complete the job, and what working conditions may exist. At a minimum, the job description must include a statement informing the reader that it is not to be considered an exhaustive list of all tasks or responsibilities for the position and that the employer reserves the right to supplement, change or modify the description at any time.

Employee Concurrence

Until the employer knows what kind of employee it is looking for, it will never be in the best position to make sure it hires the right person for the job. Creating the job description is the first and one of the most important steps in the hiring process. However, getting prospective employees who are applying for the job to acknowledge they can accomplish all of the tasks and responsibilities identified in the job description is equally important. Since the job description will be the benchmark for evaluating employees performance and duties, having the employees acknowledge that they have read it and can

accomplish the tasks required plays a critical role in ensuring good hires. An applicant's affirmation lets employers know the employee has the abilities to accomplish the tasks and ensures the employee understands the employer's expectations.

Measurement Against Labor Laws

Of equal importance, the description also proves invaluable in measuring the position against the Fair Labor Standards Acts (FLSA) which sets minimum wage standards and the payment of overtime. An accurate job description is an easy way for an employer to support exemptions from the payment of overtime to an employee. Similarly, if the physical requirements of the position are appropriately identified, accurate job descriptions can assist employers and applicants in making accommodations under the Americans with Disabilities Act.

Can I ask that?

Once an employer knows what kind of qualified person it seeks, the hunt begins. Unknown to many employers is the fact that this search is fertile ground for an employer to get in trouble. Most employers recognize the limitations legally imposed against harassment of current employees, but they fail to recognize that these same rules apply when an employer is screening prospective employees. For example, claims for gender, racial, religious or disability discrimination can arise from a job interview as easily as they can during employment. By following a few simple rules, however an employer can minimize the risk.

The basic rule is to avoid inquiries which are not related to the bona fide occupational qualifications for the position involved. The more information possessed by an employer which is unrelated to the job requirements and may fall within the scope of a protected category, the greater the risk an employer will have of unlawfully excluding a candidate and exposing themselves to a lawsuit.

Hiring employees without a formal policy and process is not a good idea. Remember an ounce of prevention is worth a pound of cure.

continued

Avoiding Pitfalls When Hiring Employees, cont.



Do you have these important employment tools in place?

- ✓ Up-to-Date Job Descriptions for Every Position
- ✓ Lawful Employment Application
- ✓ Driving Records Review Policy
- ✓ Drug and Alcohol Workplace Policy
- ✓ Regular and Ongoing Safety Training Policy
- ✓ Injury Reporting Policy
- ✓ Regular, Meaningful and Truthful Performance Evaluations

A few interview rules should always be followed:

DO's ✓

DO require an applicant to verify he or she can complete all of the requirements of the job as noted on the job description.

DO inform the applicant that the employer is an Equal Opportunity employer.

DO ensure that the application expressly states that the employer will not require a polygraph as a condition of obtaining employment.

DO have the applicant state in writing that all questions on the application have been answered truthfully and under penalties of perjury.

DO have the applicant affirmatively represent in writing that he or she is not bound by any prior employment contracts including noncompete, nonsolicit or confidentiality agreements which will interfere with the job you are offering.

DO have the applicant verify that they can comply with Employer's Drug and Alcohol policy.

DO make sure that everyone involved in the interviewing process is appropriately trained and does not ask questions or make inquiries that are illegal or inappropriate.

DO ensure that every employee's file contains a signed application from the employee, a signed acknowledgment of receiving the employer's handbook, an executed acknowledgment of having seen the job description for their position, an I-9 Employment Eligibility Verification form and a copy of all of the employee's evaluations.

DON'Ts X

DON'T ask if a person has ever been arrested. Employers may only inquire into convictions and even then, they should be job related.

DON'T ask where a person was born or what their native language is. Avoid questions that may create a possibility of national origin discrimination.

DON'T ask whether a person is married or a single parent. Discrimination based on marital status is not permitted. If you believe the person has a childcare difficulty that may interfere with the job, simply inform them that the day starts at a certain time and ask if getting to work on time will present any problems.

DON'T ask if an applicant has filed any previous workers' compensation claims or filed lawsuits against previous employers. Employees have a statutory protection to file good faith workers' compensation and harassment claims and neither their current employer nor future employers are permitted to take any adverse action based on the employee's ability to exercise that right.

DON'T inquire whether an applicant has any disabilities or physical limitations. If it becomes apparent to you during the interview that the applicant has such limitations, the employer is required to determine if the applicant can complete the job with reasonable accommodations. If the applicant can, the physical limitations cannot be considered in making the employment decision.

Performance reviews should be:

Regular

Meaningful

Truthful



Am I done yet?

What frequently happens after successfully going through the exhaustive search for an employee is that employers are lulled into a false sense of security thinking that the employment process is finished. Other rules now take on greater importance such as rules concerning harassment and adherence to company policies. Successful hiring involves follow-up, regular monitoring as well as evaluation and feedback. The rule of thumb is that all evaluations should be regular, meaningful and truthful.

Regular. There is no hard and fast rule on how often an employee should be evaluated. Ideally, it should be done with enough frequency to address problems and provide the employee with feedback for growth. At a minimum, it should be done on an annual basis.

Meaningful. All evaluations need to have substantive comments that provide an honest assessment of the employee's performance. A good starting point for all employers is the job description. This description should be the first benchmark used in measuring the employee's success and achievements in meeting employer expectations.

Moreover, the comments need to provide enough insight into the employee's performance that they can evoke change where needed. Identifying shortcomings in meeting the employer's expectations such as project goals and safety criteria should be fairly documented. This serves the dual goals of modifying inappropriate working behavior as well as demonstrating OSHA compliance.

Truthful. This is perhaps one of the biggest problems that most employers have in the evaluation process. Because employers generally want to avoid conflict, supervisors and employers have a tendency to be less than honest in their assessments and opinions of their employees. Although this possesses psychological and civic appeal, it becomes a quagmire for many employers who attempt to defend unemployment hearings and discrimination claims by insisting that an employee was a poor performer, yet have no evaluations to back up their complaints. Courtesy does not mean sacrificing honesty.

In summary, nothing can completely protect an employer from being sued. Taking a few simple steps to hire the right people while being sensitive to the process will help avoid many costly mistakes. ■

IMPORTANT:
This article on effective hiring is for general information purposes only and does not constitute a complete hiring policy. Please consult with your employment professional for additional information.



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