

Business employment law essay sample



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Outline one (1) job interview process, and document the methods that you must use to select the right person for available positions. Determine two (2) employment laws that you must consider in the process in question, and examine the key ramifications of the organization's lack of enforcement of said laws. The job interview process I selected is deciding where and how to find qualified applicants. When deciding where and how to find qualified applicants you must ask: What are the recruiting techniques to be used? What is the time frame for conducting your search? And remember advertising is not the only, or necessarily the best way to recruit. The methods I must use to select the right person for the available positions: First I must understand the company need-job analysis by critically evaluating the company existing resources. How does that measure up to what the company need going forward. Also look at the existing team dynamics- how it works together, who fills what team role and is there anything missing.

It might be worth using some psychometric profiling like Myers Brigg or DISC to help in the process both can also be used as part of the selection process to get a " fit". Second what you want for the company it isn't just about what you need for the business but about the type of person you want, or more precisely the type of organization you want to maintain. It is about values and ethos you want your company and the people in your business to promote. It's also about how you communicate with each other, the level of engagement and involvement , the way customers and suppliers are dealt with, the degree of flexibility and " we're all in this together" that you need, the image your company portrays and so on. Third is to write a job

description about the following things: definition of what the job entails, the tasks, responsibilities and accountabilities involves. What a good performer looks like and what competencies like skills, knowledge and attitudes are necessary to achieve that. What challenges and opportunities will be involved? What type person will fit the organization-the personal characteristics?

The two employment laws that I must consider is discrimination and harassment. Charges of discrimination in hiring are serious issues for employers, and as an interviewer, you undertake tremendous responsibility in representing your organization properly. Different countries around the world have different laws with respect to legality in hiring and it is certainly important to know the rules in your own part of the world and in the countries in which your company operates. In general, however, people who come in to interview for jobs expect to be treated fairly and without discrimination based on factors other than their qualifications for the job. Charges of discrimination arise when a candidate feels that he or she were treated unfairly because of they belong to a particular group, such as an ethnic group, because of their gender, age, disability, sexual orientation, religion, marital status, whether they have children or not – the list is a long one!

Often, discrimination is unintentional – that is, interviewers treat a candidate in a way that is misunderstood by the candidate and offence is taken when offence was not intentional. It is important that you treat all job candidates with respect and dignity, and even then, you are not immune to charges of discrimination. Harassment covers a wide range of behaviors of an offensive

nature. It is commonly understood as behavior intended to disturb or upset, and it is characteristically repetitive. In the legal sense, it is intentional behavior which is found threatening or disturbing. Sexual harassment refers to persistent and unwanted sexual advance, typically in the workplace, where the consequences of refusing are potentially very disadvantageous to the victim. What exactly constitutes such an environment is determined on a case-by-case basis. Sexual harassment is a private nuisance, unfair labor practice or, in some states, a civil wrong (tort) which may be the basis for a lawsuit against the individual who made the advances and against the employer who did not take steps to halt the harassment.

The employer must have notice of the harassment and failed to take action against it in order to be held liable. Suppose your same organization decides on an unconventional workforce comprised primarily of independent contractors and temporary workers. Predict three (3) issues that you may encounter in building relationships with each type of worker. Next, examine two (2) laws that you must follow during the relationship building process, and specify the manner in which each law would help in the relationship building process. Three issues that I may encounter in building a relationship with an independent contractor is tax problems, may have to pay higher fees to the contractor, and limited control over the contractor. And with temporary workers have to pay higher wage rates, contract buyout fees and possible lack of commitment. The U. S. Department of Labor cares about how your company classifies workers: If a worker is an independent contractor, then the worker is not covered by the Fair Labor Standards Act (FLSA), the

major federal law regarding wages and hours. This means, among other things, that the worker is not entitled to minimum wage or overtime.

The Department of Labor has no single rule or test for determining whether someone is an independent contractor under the FLSA. However, the U. S. Supreme Court has said that the following factors are significant when determining whether a worker is an independent contractor under the FLSA: whether the worker's services are an integral part of your company's business (this points to employee status) the permanency of the relationship (the more permanent the relationship, the more likely it is that the worker is an employee) whether the worker has invested in facilities and equipment (if so, this points to independent contractor status) how much control your company has over the worker (the more control, the more likely it is that the worker is an employee) whether the worker has opportunities to make a profit or suffer a loss (as opposed to always earning a set amount of money no matter what happens, like an employee) whether the worker competes in the open market (if so, this points to independent contractor status), and the extent to which the worker operates a truly independent business (the more independence, the more likely the worker is an independent contractor).

The Internal Revenue Service (IRS) is probably the most important agency to satisfy when it comes to classifying a worker as an independent contractor. Under the IRS's test, workers are considered employees if the company they work for has the right to direct and control the way they work, including the details of when, where, and how the job is accomplished. In contrast, the IRS will consider workers independent contractors if the company they work for does not manage how they work, except to accept or reject their final

results. The IRS looks at a number of factors when determining whether a worker is an employee or an independent contractor. The agency is more likely to classify as an independent contractor a worker who: can earn a profit or suffer a loss from the activity

furnishes the tools and materials needed to do the work

is paid by the job

works for more than one company at a time

invests in equipment and facilities

pays his or her own business and traveling expenses

hires and pays assistants, and

sets his or her own working hours.

Evaluate the effectiveness of the organization's HR policies and processes that are designed to promote a diverse workforce. Next, outline one (1) strategy for the organization that recognizes affirmative action. Include a plan to mitigate both the glass ceiling effect and reverse discrimination within your organization. Support your response with at least two (2) examples that illustrate the major benefits of the plan to the organization. Then policy of affirmative action requires that an organization be proactive and not simply reactive. Affirmative action employers, for instance, need to take measures to assure themselves that they are actually achieving that desired goal of equality and opportunity. A major sign of the effect of the glass ceiling is gender-biased compensation.

Countless studies and anecdotal reports have shown huge discrepancies in salary in favor of men, even for similar positions in similar organizations. For

example, in 2002 the median total compensation of male CEOs in nonprofit organizations was \$147, 085, approximately 50% higher than the median total of female CEOs (\$98, 108) in similar settings. 3 Discrepancies in favor of men still existed even when organizational revenue sizes were compared. Also, women who do not have opportunities to gain additional competencies are not likely to have the skills, such as specific managerial experience, required to compete for and be awarded equal positions as men and close the pay gap.

References

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