



How is it Different than Orientation?



- Employers are looking for ways to retain talent and one of the ways they do this is to improve the beginning of the employment relationship

How is it Different than Orientation?

How Long Does it Last?



Why Do We Want to Make the Experience Better?

- Why do we want to make the experience better?
 - First impressions are important
 - Statistics on how a positive onboarding process can impact an employee's longevity with a company
 - We want to empower new employees to assimilate to the culture of the company and become productive as quickly as possible

Documents Necessary at the Start of Employment

- Important to use updated forms
- Application
 - Needs to be a separate document
- Payroll information
- Benefits paperwork
- Form I-9
- Form W-4
- Background check authorization
- Handbook
 - Handbook Acknowledgement/
Employment Agreement

It's Important to Use Updated Forms



Application

- What is in the Application Agreement?
- Use job descriptions with the application to clearly outline the essential functions of the job employees can acknowledge that possess the qualification for the position or are able to perform the essential functions of the job
- If at a later time the employee is determined to have lied on the application or misstated their abilities or experience, contrary to the job description, this could be grounds for discipline, up to termination

Form I-9

- Employee must fill out properly and provide documentation
- Employer must check documentation and ensure that form is filled out properly
- If I use e-verify, do I still need to maintain I-9s?
- How long do I need to maintain I-9s?

Handbook



- Employees are more willing to sign documents at this point, rather than after the start of employment or after an issue arises

The Start of the Relationship

- Opportunities – both realized and missed
- Exposure in hiring process
- Exposure after hiring process
- Paperwork pitfalls and protections

Unlawful Inquiries

- Photographs
- Age, race, religion, height, weight, marital status, sex, national origin
- Worker's compensation
- Arrests
- Military records

Criminal Records

- Avoid discouraging applicants, pre-application, because they have a criminal record. The EEOC is actively soliciting employees to report employers doing this.
- There are two ways in which an employer's use of criminal history information may violate Title VII: disparate treatment and disparate impact.
- Not all convictions are equal – must be conviction was “job related and consistent with business necessity.”

What Can You Do?

- The employer validates the criminal conduct exclusion for the position in question in light of the Uniform Guidelines on Employee Selection Procedures
- Targeted Screening: consider at least the nature of the crime, the time elapsed, and the nature of the job

Non-Job Related Physical and Mental Conditions; Medical Information

The ADA limits an employer's ability to make disability-related inquiries or require medical examinations at three stages: pre-offer, post-offer, and during employment. The rules concerning disability-related inquiries and medical examinations are different at each stage.

- **Stage 1 – completely off limits**
- **Stage 2 – Questions and exams permitted**
- **Stage 3 – only if job related and business necessity**

Takeaways on Medical Condition

- Best to leave this line of questioning until after you make a conditional offer of employment. Offers of employment can be conditioned upon fulfillment of a pre-employment physical.
- It is recommended that no inquiries be made regarding physical handicaps, impairments, or abilities until after a conditional offer of employment. Offers can be conditioned upon fulfillment of a pre-employment physical.

Michigan New Hire Form 3281

- Federal law requires public and private employers to report all newly hired or rehired employees who are working in Michigan to the State of Michigan
- Submitted within 20 days of hire
- Online/electronic reporting available

Fair Credit Reporting Act (FCRA) Compliance

- **Background**
 - When triggered
 - Litigation, class actions, and exposure
- **Compliance easy if you KISS**
 - Disclosure – “clear and conspicuous”
 - Authorization
 - And nothing else!

FCRA Pitfalls

- Releases for running the report
- Candidate certification regarding accuracy
- “Acknowledgments”
- Overly broad authorizations that permit release of info that the FCRA doesn’t allow to be included in a background report, e.g., bankruptcies that are 10+ years old.
- Failure to notify if adverse action taken

FCRA Takeaways

- KISS
- Tailor the FCRA consent/authorization form to the information you actually need AND only request the information for a job that requires it

