

Correcting Performance Issues for Small/Med. NPOs

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Correcting Performance Issues for Small/Medium Nonprofits

- ❖ Review of Themes
- ❖ Brief Review of Law
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- ❖ Case Studies

Themes

Themes

- ❖ Whatever you do, do it consistently.
- ❖ Provide advance notice when there is a change and have a good business reason for a change.
- ❖ Decide how much is enough.
- ❖ Document, even if only minimally.



Brief Review of Law

Applicability by Number of Employees	
Rule/Regulation	# of Employees
"Bring-Your-Gun-To-Work" (S)	1
CCPA (Consumer Credit Protection Act) (F)	1
Equal Pay Act (F)	1
EPPA (Employee Polygraph Protection Act) (F)	1
ERISA (Employee Retirement Income Security Act) (F)	1
FCRA (Fair Credit Reporting Act) (F)	1
FICA (Federal Insurance Contributions Act) (F)	1
FLSA (Fair Labor Standards Act) (F)	1
HIPAA (Health Insurance Portability and Accountability Act)(F)	1
IRCA (Immigration Reform and Control Act) (F)	1
Income Tax Withholding (F)	1
IOSHA (Indiana Occupational Safety & Health Administration)(S)	1
Labor Management Relations Act (F)	1
New Hire (F)	1
NLRA (National Labor Relations Act)(F)	1
NMHPA (Newborns' and Mothers' Health Protection Act) (F)	1
PPACA (Patient Protection and Affordable Care Act)(F)	1*
Social Security (F)	1
Unemployment (S)	1
USERRA (Uniformed Services Employment and Re-employment Rights Act)(F)	1
WHCRA (Women's Health and Cancer Rights Act) (F)	1
Worker's Compensation (S)	1
Minimum Wage Law (S)	2
ICRA (Indiana Civil Rights Act)(S)	6
ADA (Americans with Disabilities Act)(F)	15
Title VII of the Civil Rights Act of 1964 (F)	15
GINA (Genetic Information Nondiscrimination Act)(F)	15
PDA (Pregnancy Discrimination Act)(F)	15
ADEA (Age Discrimination in Employment Act)(F)	20
COBRA (Consolidated Omnibus Budget Reconciliation Act)(F)	20
Expressing Breast Milk (S)	25
FMLA (Family and Medical Leave Act)(F)	50
Mental Health Parity Act (F)	51
WARN (Worker Adjustment and Retraining Notification Act)(F)	100

Brief Review of Law, cont'd

- ❖ Indiana Civil Rights Act prohibits employment discrimination based on race, color, national origin, ancestry, religion, sex, age (over 40) or disability.
- ❖ There may be ways other antidiscrimination or employment laws apply, but, it may also be too expensive to comply with all of them (i.e., FMLA, ACA).

Intro to Hypos/Case Studies

Intro to Hypos/Case Studies

- ❖ Uniform Assumptions for each Hypo/Case Study:
 - ❖ Organizations all have 7-10 full-time employees, and 2-4 part-time.
 - ❖ Employee manual policies don't adequately address the issues presented.
 - ❖ The Executive Director is the epitome of the stereotypical small nonprofit executive director: great with people, good with programming and fundraising, but not so great with administrative matters and also very non-confrontational in nature.

Hypos/Case Studies

Hypos/Case Studies: Amaya

- ❖ Amaya is a 63-year-old African-American woman who has been with the museum for eight years as a receptionist and administrative assistant. She is kind and the patrons often comment on how nice and welcoming she is when they visit the museum.
- ❖ However, she has not been able to master some of the office technology, particularly the database system. She is slowing down with age and she is famous for waiting until the last minute to accomplish tasks for the four donor events held each year. The executive director appreciates that Amaya does complete these tasks, however, completing the tasks often results in 10-20 hours of unnecessary overtime for each event.
- ❖ How to address lack of ability with the database? Procrastination and usage of overtime? “Slowing down”?

Hypos/Case Studies: Beatrice, Charlie & Doug

- ❖ Beatrice is an intake manager for a homeless shelter and reports to the shelter’s director of programs, Charlie. However, Beatrice also assists the shelter’s CFO, Doug, with completing financial and client data reports associated with the shelter’s grants.
- ❖ Beatrice excels at her work with the shelter’s clients and Charlie feels Beatrice is doing an excellent job. Beatrice’s reports for Doug are often late and incomplete. Yet her evaluations have been positive because Charlie has completed them.
- ❖ Doug has addressed Beatrice’s performance issues with Charlie but has not had much luck. Charlie tells Doug that she doesn’t see the performance issues Doug sees and even if Beatrice is doing poor work for Doug, the in-take activities are the most important part of Beatrice’s job.

Hypos/Case Studies: Beatrice, Charlie & Doug, p2

- ❖ Doug has shared his concerns with Beatrice's performance with the organization's executive director, who continually asks why the data for the grant reports is late. When Doug explains the data is late because of Beatrice's performance, the ED says Doug needs to "work it out" with Charlie to correct Beatrice's performance issues.
- ❖ What does "work it out" mean? What steps can and should Doug take? Charlie? Does "most important" mean "sole"?
- ❖ What policies would be helpful here? What are the largest risks are there to the organization if this continues?

Hypos/Case Studies: Elizabeth and Felipe

- ❖ An executive director, Elizabeth, has been in his position for six months. She is increasingly having trouble with the "attitude" of the organization's CFO, Felipe.
- ❖ Felipe has been with the organization for more than 15 years and received very high performance reviews from the former ED. However, Felipe is often condescending, rude to coworkers and spends a great deal of time speaking on the phone in Spanish, presumably on personal calls.
- ❖ He is the only Hispanic employee and Elizabeth just realized Felipe thinks the organization is discriminatory because the former ED fired another Hispanic employee within the last year.
- ❖ How to address attitude? Personal calls? What to do with the information about belief the organization is discriminatory?

Hypos/Case Studies: Gita

- ❖ Gita is balancing a great deal of personal problems and is depressed. She is very open regarding her depression, is seeing a therapist and is on medication. She often calls in and says she is not coming into work because she is “having a bad day.”
- ❖ Her absences are within the organization’s generous sick leave policy but her sickness is a huge drain on the staff’s morale and productivity. Her absences tend to fall near major events, deadlines and important donor meetings and her work is often late, further burdening other staffers.
- ❖ How to address absenteeism? Late work? Company morale?
- ❖ Any accommodations necessary here? Can she perform essential functions of the job?
- ❖ Policies that would be helpful?

Hypos/Case Studies: Harold

- ❖ Harold is a program director, heading up a team at his organization. His work is top notch. He has won awards for the quality of his work and he brings positive accolades to the organization.
- ❖ Harold hates to be managed. He often ignores organizational priorities, complains if asked to do anything other than his core function, and misses deadlines other than those imposed by his granters. He is passive aggressive in the extreme.
- ❖ Historically, when behaviors have been addressed, he plays dumb.
- ❖ How to address passive-aggressiveness and undermining? If unchecked, what liabilities to the organization?
- ❖ Helpful policies?

Hypos/Case Studies: Ingrid

- ❖ Ingrid is an assistant at a pet shelter. She is excellent with potential adoptees, knows her dogs and cats, personalities, breed differences, etc.
- ❖ Ingrid is a little weird. You can't put your finger on it, but she is just a bit odd. But customers like her, as do the animals.
- ❖ One day you walked in on her in the stock room, eating dog kibble. She said she was checking its freshness. Thinking it a one time oddity, you let it go and do not document. Then it happens again, thrice more over the next few months. She gives strange excuses each time. Again, you don't document.
- ❖ What to do? If unchecked, what liabilities to the organization? Mental health accommodations?
- ❖ Helpful policies?

Hypos/Case Studies: Jessica & Kyle

- ❖ Jessica is a program officer at a nonprofit that does after-school programming. She is new and working out wonderfully. She is picking up on the job faster than any predecessor. She reports to Kyle, the ED, who has noticed an occasional odd bruise on her.
- ❖ Jessica gets an urgent call from her long-time boyfriend with whom she has a child. He goes ballistic to her over a contact he just found in Jessica's phone: Kyle the ED. Jessica's boyfriend makes vicious and violent threats against her, the nonprofit, the kids it serves, etc. Kyle is concerned for the safety of all affected.
- ❖ What to do? Protective order? Report to authorities? Contact DV shelter? Visit her home to make sure she's safe?
- ❖ Helpful policies?

Hypos/Case Studies: Leslie & Co.

- ❖ Leslie is a volunteer coordinator at a local nonprofit organization, having previously been the bookkeeper/admin. assistant and before that the development coordinator.
- ❖ One of her jobs it to work with volunteers, including to drive them from site to site. She is a 45 year old, Russian-born, female with an accommodated disability of relating to her below the elbow arm amputation. Her home life has been very hard and you've always had a soft spot for her, bending over backwards to help.
- ❖ Leslie has had a long history of discipline issues, which have resulted in multiple "transfers" in the form of changed job descriptions and duties, as well as modified work hours. You are aware of her violent tendencies at home, having witnessed her during personal time punch her brother after he didn't do what she wanted.

Hypos/Case Studies: Leslie & Co., p2

- ❖ Leslie is litigious. She has successfully sued a housing company that ran her previous apartment complex, and she got her school loans discharged in bankruptcy (no small feat) a few years back.
- ❖ She is inept with technology, having on three separate occasions caused tens of thousands of dollars worth of damage to your computer/IT system. When confronted, she exploded, ripping her shirt, throwing things and leaving for the day. Ultimately, she was "transferred" to her current volunteer coordinator job.
- ❖ In her role prior that one, she also made a very basic bookkeeping error that resulted in the near-loss of a grant that accounts for 35% of the organization's revenue. That transfer was relatively painless.

Hypos/Case Studies: Leslie & Co., p3

- ❖ Now, Leslie's serious temper is causing problems. She's always been harsh with coworkers, but now is doing so with volunteers and vendors on occasion. In fact, her anger got so bad that while driving she punched a volunteer who "lipped off," resulting in a car accident with injuries to her, the volunteer, and occupants to the other car.
- ❖ What to do? What are the areas of liability for the organization? Officers? Board?
- ❖ Helpful policies?

The next "Lunch & Learn" of the Nonprofit Webinar Series: Applications & Interviews

Tuesday, March 17, 2015
11:00 a.m. to 12:00 (12:30) p.m. ET

Date	Time	Topic
February 17, 2015	11:00 a.m. – 12:00 noon (12:30) ET	Overview of HR and best practices
March 3, 2015	11:00 a.m. – 12:00 noon (12:30) ET	Applications and interviews
March 17, 2015	11:00 a.m. – 12:00 noon (12:30) ET	Hiring and commitment letters
March 31, 2015	11:00 a.m. – 12:00 noon (12:30) ET	Employee manuals
April 14, 2015	11:00 a.m. – 12:00 noon (12:30) ET	Correcting performance issues
April 28, 2015	11:00 a.m. – 12:00 noon (12:30) ET	Termination



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Questions/Comments?