

**Overview of HR
& Best Practices
for Small/Medium
Nonprofits**

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**Overview of HR Best & Practices for
Small/Medium Nonprofits**

- ❖ Introduction
- ❖ Why it Matters – Employment Law & Board Member **Individual** Liability
- ❖ Essential Policies
- ❖ Advisable Policies
- ❖ Implementing Policies
- ❖ Hot Topics
- ❖ Record Retention
- ❖ Best Practices, Takeaways & Examples

CAREER OPPORTUNITIES

The largest group of Law Colleges in Pakistan requires following permanent staff

Human Resource Manager (Male/Female)

The Candidate must have the capacity to establish and run HR department independently, can work under pressure and is always ready to accept new challenges.

HR Coordinator (Male/Female)

The Candidate must have 2 Years of experience in HR department in some multinational company.

Only short listed candidates will be called for interviews.

Send your CV along with 2 passport size photographs to: **Quaid-e-Azam Law College Lahore**
10-G Model Town Lahore, Email: info@qalic.edu.pk www.qalic.edu.pk

Introduction

Introduction – Nonprofit Webinar Series

- ❖ Sponsored by Indiana Philanthropy Alliance & Charitable Allies
 - ❖ IPA is a nonprofit membership association of and for the state's philanthropic grantmaking community.
 - ❖ Charitable Allies is a 501(c)(3) public interest law firm that looks out for your charity's operations so you can focus on the people you serve.
- ❖ The **Nonprofit HR Series** will use an examples based/case study method and will introduce you and your grantees to resources you can access and policies you can implement to effectively manage employees in a small (2-10 employees) nonprofit organization.

Introduction – How are Your HR Policies & Practices?


- ❖ Are you comfortable with your current HR policies?
- ❖ Have you had HR or personnel issues within the past 18 months?
- ❖ Have you updated your employee/ personnel manual within the last 3-5 years?
- ❖ Do you require some or all employees sign non-compete agreements? Confidentiality policies?
- ❖ Do you have a vacation policy? A combined PTO policy? Do you pay out vacation on separation?
- ❖ Do you have grantees with HR problems?



Why it Matters – Employment Law & Board Member Individual Liability

Employment Law & Board Member **Individual** Liability

- ❖ Case 1: No liability for individual board members for terminating ED due to who was an allegedly ineffective manager and also did not disclose a conflict of interest transaction.
- ❖ Case 2: **Individual** board members liable where the executive committee contrived a "study" and "report" of the ED that was critical and seemingly justified termination.



Employment Law & Board Member **Individual** Liability, cont'd

- ❖ Employment law cases:
 - ❖ account for half of all civil trials in federal court; and
 - ❖ tend to be more expensive civil matters.
 - ❖ This explains why EPL insurance is more expensive than D&O insurance.
- ❖ Employees with the most to lose are the most likely to litigate. Example – Junior Achievement
- ❖ Many D&O policies exclude intentional acts and require an additional "employment practices" rider for employment-related liability coverage.

Employment-Related Federal and State Laws
Applicability by Number of Employees


Rule/Regulation	# of Employees
Employee Retirement Income Security Act (ERISA)	1
CCPA (Consumer Credit Protection Act) (F)	1
Equal Pay Act (F)	1
FELA (Employee Polygraph Protection Act) (F)	1
ERISA II (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
FMLA (Family and Medical Leave Act) (F)	1
ISCA (Immigration Reform and Control Act) (F)	1
Income Tax (Withholding) (F)	1
OSHA (Indiana Occupational Safety & Health Administration) (S)	1
LMRA (Labor Management Relations Act) (F)	1
Real-Prop (F)	1
NLRA (National Labor Relations Act) (F)	1
OSHA (Occupational Safety and Health Act) (F)	1
PPACA (Patient Protection and Affordable Care Act) (F)	1*
Social Security (F)	1
Employment (S)	1
ISBERRA (Informed Services Employment and Re-employment Rights Act) (F)	1
WCARA (Women's Health and Cancer Rights Act) (F)	1
Worker's Compensation (S)	1
Minimum Wage Law (S)	2
CFR (Indiana Civil Rights Act) (S)	6
ADA (Americans with Disabilities Act) (F)	15
Eq. Pt. of the Civil Rights Act of 1964 (F)	15
GINA (Genetic Information Non-Discrimination Act) (F)	15
HCIA (Hypertension Discrimination Act) (F)	15
AGEA (Age Discrimination in Employment Act) (F)	20
CADRA (Consolidated Omnibus Budget Reconciliation Act) (F)	20
Emergency Evacuation (S)	25
FMLA II (Family and Medical Leave Act) (F)	50
Mental Health Parity Act (F)	75
OSHA (Worker Adjustment and Retraining Notification Act) (F)	100
LC 22-2-6-1 (wage claims)	1*

* 1, unless it constitutes an undue hardship, in which case, 50 employees.
* No minimum defined in law, but 1 in practice.

Essential Policies

Essential Policies

- ❖ Recruitment & Selection
- ❖ Discipline & Grievance
- ❖ Code of Conduct, incl. Harassment/Bullying
- ❖ Paid Time Off (Sick, Disability, Vacation, Leaves, etc.)
- ❖ Unpaid Time Off
- ❖ Pay & Pensions Info.



Advisable Policies

Advisable Policies

- ❖ Clear identification of who (Board or CEO) has authority to implement personnel policies
- ❖ Capability, performance & review policy
- ❖ Whistleblowing
- ❖ Diversity/Equal Opportunities
- ❖ Email & Internet use policy
- ❖ Expense incurrence and reimb.
- ❖ Data protection, confidentiality, non-compete
- ❖ Flex scheduling
- ❖ Child/elderly safety/protection; background checks

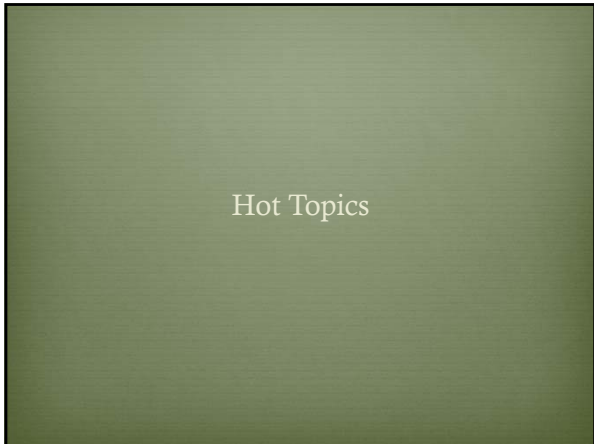


Implementing Policies

Implementing Policies

- ❖ Consult employees on the terms of the policy before it is finalized
- ❖ Make sure employees understand what the policy means, how it applies to them and what will happen if they do not comply
- ❖ Ensure employees confirm receipt
- ❖ Fairly and consistently carry out the rules
- ❖ Ensure that policies are live documents, have a date set for their review – and to which you adhere
- ❖ Establish where policies will be kept and how they can be accessed by staff, trustees and volunteers (methods can include paper copies in a folder or on an intranet, on notice boards etc.)





Hot Topics

- ❖ Employees running for political office
 - ❖ 501(c)(3) politicking prohibitions do not apply to employees in their individual capacity and on their own time.
 - ❖ Individuals (but not charities) pay run for office, endorse candidates, or otherwise engage in politics. Beware of campaign finance rules.
 - ❖ Organizations should consider expanding unpaid time off policies to include politicking. Apply it evenly.
 - ❖ Organization may mention candidacy, but only to the extent it announces other events in the lives of other employees. Any mention should be neutral and evenhanded.
 - ❖ No use of organization's facility, other than on same basis as everyone else.
 - ❖ Hatch Act – prohibitions on federally funded employees (i.e., Head Start or youth counseling services) of nonprofits from campaigning. Employees should beware.

Hot Topics, cont'd

- ❖ Health Reimbursement Arrangements (HRAs under 26 U.S.C. § 105)
 - ❖ Violate ACA if they provide medical expense reimbursement.
 - ❖ Violate ACA if they provide individual medical insurance premium reimbursement, other than as grossed up salary.
 - ❖ Each constitutes a "health plan" subject to the prohibition on caps in coverage.
 - ❖ \$100 per day per employee excise tax.

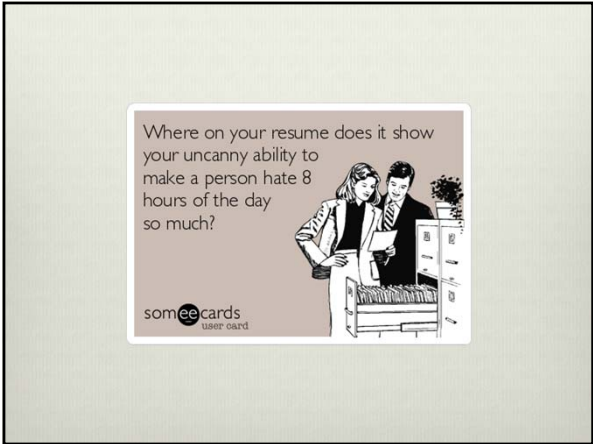
Record Retention

- ### Record Retention
- ❖ Have a general record retention & document destruction policy (see sample in materials).
 - ❖ Employee Records Best Practices
 - ❖ Keep accurate and up to date records
 - ❖ Filing system is lockable, password and virus protected and only accessible by those people who need to use the data
 - ❖ Remember the employee's right to look at or comment about his/her personnel file
 - ❖ Pension and payroll records
 - ❖ HRA/HSA/FSA records kept completely separate
 - ❖ Accurate employee files

- ### Record Retention – Employee Files
- ❖ Employee files should contain the following documents:
 - ❖ a copy of the signed/dated contract of employment, terms & conditions, references, job description, CV/application form, essential checks, confirmation of right to work in the US etc.
 - ❖ a signed/dated copy of the employee's agreement to any changes to their employment contract, i.e. hours of work, job description, etc.
 - ❖ copies of probation reviews, notes of supervision and appraisal meetings (dated)
 - ❖ signed copies of agreement(s) to policies & procedures
 - ❖ personal details i.e. home address, next of kin, contact details of person to contact in an emergency, diversity record, etc.
 - ❖ records relating to live discipline and grievance issues

Best Practices, Takeaways & Examples

- ### Best Practices, Takeaways & Examples
- ❖ Keep policies updated & current; review & update at least once every 3 years. (See next 2 points.)
 - ❖ Beware of wage claims, especially in PTO/vacation context and “asking” an employee to “volunteer”.
 - ❖ Beware of non-compete, non-solicitation, and confidentiality agreements, which are construed narrowly.
 - ❖ Check for employment practices with your D&O coverage.
 - ❖ Policies should be evenly implemented.



Best Practices, Takeaways & Examples, cont'd

- ❖ Examples of what not to do:
 - ❖ For bereavement leave, is a "very close childhood friend" a "close relative"?
 - ❖ In the short-term disability context, the ED significantly expanded the policy for an illness for ED's "favorite" employee while someone else was out on S-TD. Effect?
- ❖ HR disarray in grantee is a symptom of larger problems. Consider conditioning grants on addressing these issues, especially because increased grantor involvement can lead to increased liability.

Best Practices, Takeaways & Examples, cont'd

- ❖ Remember that "at will" is a contract and does not actually mean "fire for any reason or no reason at all."
- ❖ When hiring, generally:
 - ❖ Avoid illegal discrimination
 - ❖ Respect privacy rights
 - ❖ Refrain from making promises you can't or won't keep.
- ❖ Background checks should be job related, with employee's consent, and reasonable, and there are multiple other specific rules).
- ❖ Beware of specific rules for testing (i.e., skills, aptitude, psych, personality, lie detector, medical, drug).

Best Practices, Takeaways & Examples, cont'd

- ❖ When firing or disciplining,
 - ❖ Timing is everything. Be careful about constricting policies without adequate notice.
 - ❖ Avoid making determinations based on:
 - ❖ Discrimination of a protected class, or being too sensitive about this category.
 - ❖ Retaliation (for exercising rights)
 - ❖ Refusing to take a lie detector test
 - ❖ Alien status
 - ❖ Violations of public policy (i.e. for refusing to commit an illegal act, for complaining about employer's illegal conduct).
 - ❖ Apply the rules consistently.
 - ❖ Generally use a severance agreement.

**Public Policy Exceptions
to Employment At-Will Rule**

Resources

Resources

- ❖ <http://www.nonprofithr.com/advocacy/>
- ❖ <http://www.nolo.com/legal-encyclopedia/human-resources>
- ❖ <http://www.inc.com/encyclopedia/nonprofit-organizations-and-human-resources-management.html>
- ❖ <http://knowhownonprofit.org/people/employment-law-and-hr/law-and-hr-basics>
- ❖ HRAs – DOL FAQ: <http://www.dol.gov/ebsa/faqs/faq-aca22.html> and Care Plus Benefits Alert <http://www.careplusbenefits.com/Portals/0/InSite/Health%20Care%20Reform/Legislative%20Alerts/LegislativeAlerts4014AgenciesProhibitAllEmployerReimbursementIndividualPremiums11214.pdf>
- ❖ Politicking – Rev. Rul. 2007-41; IC § 3-8-1-5(c)(6) and Burke v. Bennett, 907 N.E.2d 529 (Ind. 2009)
- ❖ Indiana Philanthropy Alliance Website – Sample Policy Forms
- ❖ And, as always . . .

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

Tuesday, March 3, 2015
11:00 a.m. to 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?
