

Hidden Hazards

Having a false sense of security about your hiring practices can result in some unpleasant and costly outcomes. These HR truths can help you fix problems before they escalate.

by **ANGELA TRAMONTELLI**

Does 2018 mean a fresh start for your staff base, or big hiring pushes to grow your insurance firm? From an HR perspective, will your hiring and firing decisions stand up to scrutiny? Whether or not your company is actively growing, you will want to be sure to avoid hiccups due to allegations of discrimination or unfair termination, for example.

Suzanne Rupert, Director of Recruiting for Eli Global, joins us to debunk some major HR myths to give you the strategies to best manage employees while protecting yourself against liability.

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BUSTING HR MYTHS

MYTH #1: Only bad employers get sued. It's not only 'bad' employers that get sued. The hard truth is that no matter how great an employer you are, you could find yourself with a federal lawsuit on your hands from an angry employee. And a claim filed against you via the U.S. Equal Employment Opportunity Commission would be incredibly pricey to deal with, not to mention a PR nightmare.

According to Rupert, one often-overlooked employer faux pas is the issue of compensation. "Some employers are unaware that it is illegal to forbid employees from talking to each other about their salaries and compensation," Rupert says, although this is something that still frequently occurs.

During the hiring process, it's illegal in some states to ask how much a candidate is currently earning, she points out. "The thought around that is employers could offer lower salaries to someone based on previous income."

MYTH #2: HR professionals are useful only in extreme situations involving lawsuits, harassment, or disgruntled employees. Of course you'd put a major lawsuit or big problem employee in an HR specialist's trusty hands, but the mark of a truly resilient insurance company is being fully HR compliant across the board. This means ensuring a compliant interview and hiring process. For example, standard interview questionnaires show that you have been fair because all applicants have had the same opportunity to answer the same questions. An HR expert will also know what kind of behavioral interview questions to ask, says Rupert. A skilled interviewer will know how to ask questions that reveal how a candidate handles stress, whether they have leadership potential, whether they're team players, and so on, she adds. And when an interviewer knows how to elicit the right kinds of questions, you are all the more likely to end up hiring the highest quality employee.

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The Mark of an HR Expert

A skilled interviewer will know how to ask questions that reveal how a candidate handles stress, whether they have leadership potential, whether they're team players, and more.

MYTH #3: My firm doesn't need to worry too much about HR violations as long as everyone has the best intentions. Yes, maintaining a respectful and professional workspace is important and will reduce the number of incidents related to HR compliance. It's also just an overall good idea, to boot. But it's always important to **STAY ALERT AND RESPOND!** If you're made aware of something, you can't just pretend it didn't happen. You have to investigate it.

Having normalized HR policies in place during the hiring and termination processes are also important preventative measures that will protect your company against future issues. Exit interviews, for example, go a long way toward staving off retaliatory actions. Don't wait to clean up messes when you can take proactive actions to prevent them in the first place.

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MYTH #4: Investing in a designated HR specialist diverts from other staffing resources. On the contrary, having a

dedicated HR professional frees up time and space for managers and other employees to focus on growing and maintaining the company most efficiently. An HR professional will be an expert in updated laws and regulations, and how to comply. When you hire a new employee, there is a lot of documentation and oversight of follow-up record keeping that must follow strict protocols. It's going to be hard for someone who doesn't have HR experience to process all the required hiring documents—such as the I-9 that must be filed within three days of hiring, Rupert cautions. You need someone to manage personnel file retention and understand security so the confidentiality of the documents isn't compromised.

Are you equipped to address these HR hot button issues?

DISABILITIES: If you have 15 or more employees, the Americans with Disabilities Act (ADA) protects individuals from discrimination related to hiring, promotions, training, pay, and social activities based on disability. Your staff needs adequate training to ensure that they are aware of the ADA and will avoid saying or doing things that could get them in trouble.

MEDICAL LEAVE: Under the Family Medical Leave Act (FMLA), if you have 50 or more employees, your employees are granted up to 12 weeks of leave during any 12-month period for the birth of a child, care of an immediate family member, the employee's own illness, or if an immediate family member is on active military duty. Non-compliance can result in civil actions by employees. For instance, if someone's having a baby, you have to make sure you're initiating the correct paper work within the correct time frame, says Rupert. If someone's hospitalized, you have to tell them if they're eligible for leave under FMLA, and so on.

SEXUAL HARASSMENT: Sexual harassment violates Title VII of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, religion, sex, or national origin. Litigation against your company may result in lost wages, compensatory damages, and punitive damages. It is important to create a professional workplace environment where all employees feel respected. This includes having policies in place to protect against harassment in the first place, and creating open, safe spaces where people feel they can come to report problems.

GENDER STEREOTYPING: Recent court decisions are showing that we are coming closer and closer to interpreting Title VII of the Civil Rights Act of 1964 as also including sexual orientation and gender discrimination. While the Supreme Court has yet to make a formal ruling on this addition, companies need to be aware that discrimination on the basis of sexual orientation is unacceptable. Be ready to address and define what sex or gender means in order to think about ways this issue could come up in the workplace, and consult with their HR specialists on how to avoid discrimination.

PRIVACY: If you perform background checks as part of your hiring process, you'll want to make sure you comply with the Fair Credit Reporting Act and state-specific laws. And if you're going to do it at all, conduct background checks on every applicant, not just some. This means getting written permission from each applicant before doing the credit check, and notifying the applicant in writing that the credit report will be part of the employment decision. Since credit reports often contain inaccuracies and errors anyway, from an HR standpoint it's best to obtain credit reports only if they're truly relevant to the position.

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How to Keep Your Firm HR COMPLIANT

Running a company that supports HR compliance in all aspects will make your life easier in the long run. Here's some parting advice on easy steps you can take:


Ensure equal treatment of similarly situated individuals. It's a good idea to take a hard look at your demographics and hiring trends so you're aware of and can correct biases that could get you in Title VII trouble.

Update your manual: Have you got an obsolete employee manual? Make sure your manual reflects your current philosophy as a company to include your commitments to protect employees against violations of their Title IV rights.

Invest in HR professionals who know what they're doing: HR specialists are people specialists. In those instances where you do have a situation arise, you want someone available to handle it with a cool head, plenty of respect, and an understanding of human behavior. You don't want amateurs handling problem employees or firing them. An HR professional will know how to impose discipline in a professional, impartial manner.

Be Careful About Salary Discussions:

Regarding compensation disclosure compliance, Rupert says, "One way to navigate this is to provide a salary range for a position and ask if that range would be acceptable. The candidate at that time would either say yes or no. Sometimes the candidate will even volunteer their current compensation package, and it is okay to use that knowledge if it is volunteered." She adds that employers will also need to remove salary history from online applications and requests because it cannot be asked on an application.

Document, Document, Document: The importance of documentation in hiring processes and disciplinary action cannot be overemphasized. Keep good records of your company's adherence to protocol! 

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