



# Risk Mitigation: Is Your Company Protected Against the Top Ten HR Risks?

TriNet Webinar

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# Risk Mitigation: Is Your Company Protected Against the Top Ten HR Risks?

## Agenda

- Meet Our Subject Matter Experts
- Why Managing Risk is Important
- Top Foundational Risks: Implications and Recommended Actions
- Best Practices for Mitigating Risk
- Q&A Session



# Why Managing Risk is Important

# Why Managing Risk is Important

- Minimizing liability helps control costs
- Creates a positive work environment
- Avoids public relations challenges



# Being Proactive versus Reactive

- U.S. Equal Employment Opportunity Commission (EEOC) received a record 99,947 charges of employment discrimination in 2011
- \$455.6 million was paid in relief
- This number was up from previous 2010 record total



# Top Foundational Risks: Implications and Recommended Actions

# Risk #1: Company Managers



**People Managers represent the company.**

- Promoted for technical/functional capabilities
  - Inexperienced
  - Experienced, but mavericks
- Absence of management training and development programs

**Recommendation:** Train your managers on the basics.

# Risk #2: Poor or Inconsistent Selection Process



**Inconsistency in hiring breeds risk in the workplace.**

- No uniform process followed
- Untrained interviewers
- Employment applications not used, or not used at the proper point in process
- Background checks not utilized
- Offer letters that do not outline terms and conditions of employment

**Recommendation:** Establish a consistent hiring practice.



# Risk #3: Poor or Inconsistent Onboarding of New Hires

**Inconsistent or incomplete onboarding opens door to claims of discriminatory practices.**

- Ineffective onboarding has been tied to:
  - Higher staff turnover
  - Lower productivity
  - Lower morale



**Recommendation:** Implement a process that includes a sign-off process at the conclusion of each phase, supplemented with departmental or role-specific training requirements.

# Risk #4: Inconsistent Compensation Practices



**Wage claims are on the rise and DOL has staffed under the current administration.**

- Equal Pay Act requires equitable pay practices for positions requiring similar skills, responsibilities, and importance to organization.
- Compensation guidelines help establish internal and external equity for each position, ensuring fairness and cost management.
- Equitable pay practices tied to merit have a positive impact on retention of desirable employees.

**Recommendation:** Tie compensation to competitive market rates to bring consistency and objectivity to decisions around pay.

# Risk #5: Employee Status Misclassification



**The Fair Labor Standards Act provides protection for employees, ensuring compensation for all time worked and premium compensation for overtime work.**

- Most common challenge: incorrect classification of employees as exempt
- Incorrectly classified positions result in inaccurate payment of wages; causing costly wage and hour claims
- Misclassifying employees as independent contractors exposes company to potential fines and penalties

**Recommendation:** Seek legal counsel with experience in employment law for guidance on classifications.

# Risk #6: Insufficient Documentation of Performance or Behavioral Issues

**Documenting performance issues is an action designed to halt misconduct or poor performance and protect the company.**

- Failing to document employee issues creates:
  - Difficulty for managers
  - Liability for company
  - Employee confusion



**Recommendation:** Use a “Record of Counseling” or “Corrective Action Notice” to document performance issues as they arise; seek guidance for objective recommendations and review.

# Risk #7: Lack of Performance Management System

**A performance management system improves communication and ensures each employee's actions and focus is aligned with the company's objectives.**

- A Performance Management System:
  - Assists management in setting corporate goals.
  - Aligns corporate goals with individual employee goals.
  - Monitors progress and documents performance.

**Recommendations:** Reward and pay based on deliverables and provide performance input to executive team regularly.

Develop shared expectations around performance ratings.

Use goal-setting templates and performance review forms in developing performance management system.

# Risk #8: nonexistent or Incomplete Job Descriptions

Clear job descriptions promote accomplishment of business objectives and protect the organization from charges of discrimination and unfairness.

- Clear job descriptions support:
  - Compensation planning
  - Recruiting
  - Realistic expectations



**Recommendations:** Use a job description questionnaire to assist gathering of information.

Cover not only essential functions, but physical and other requirements for ADA compliance.

# Risk #9: Failure to Follow Published Policies



**Consistent policies and procedures are essential for smooth operation; evaluate and implement policies specific to your company situation.**

- Published policies help ensure:
  - Smooth operation of business
  - Employees understand company expectations of them
  - Employees know what they can expect from the company

**Recommendations:** Ensure policies are documented and accessible to employees.

Only implement policies you plan to apply consistently.

# Risk #10: Failure to Train on Harassment Prevention



**Harassment prevention training sometimes limits the company's liability.**

- Sometimes prevents workplace harassment
- Partly fulfills an employer's obligation to take reasonable steps to prevent harassment in the workplace under various laws

**Recommendations:** Conduct harassment prevention training every two years and in the onboarding process for new hires.

Train managers regarding their responsibilities to prevent and address workplace harassment.



# Best Practices for Mitigating Risk

# Other Risks to Consider

- Genetic Information Non-Discrimination Act (“GINA”)
- ADA and Leaves of Absence
- Social Media and Disparagement
- Retaliation



# Where to Begin...

**Don't try to deal with everything at once.**

- Conduct an HR assessment
- “Choose your battles”
- Create a realistic timeline



# Summary of Best Practices

- Seek guidance from experienced human capital professionals.
- Be consistent in development and implementation of policies.
- Create policies that fit your individual company situation.
- Standardize processes for hiring, onboarding, and performance management.
- Implement appropriate training for managers and employees.
- Establish equitable pay practices using market data and clear, inclusive job descriptions.
- Document disciplinary and performance issues.



# Q & A

