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

TriNet Webinar

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August 26, 2015
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
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.
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.
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 Disparageme

• 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