

Hiring and Firing Doing it Right the First Time!



Presented by

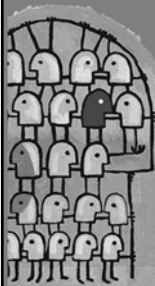
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Laws Affecting Employment Decisions

Title VII, ADEA, ADA, FMLA, Equal Pay Act of 1963

- Title VII—race, color, sex (sexual harassment included), religion and national origin—prompt and remedial
- ADA—disability—accommodations, interactive process; prompt and remedial
- FMLA—serious health conditions—12 weeks' unpaid leave.
- ADEA—age
- EPA—equal pay act issues



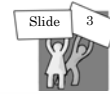


Laws Affecting Employment Decisions (cont.)

- OSHA
- State laws with grievance procedures
- Common Law

Public Sector—42 U.S.C. § 1981, 42 U.S.C. § 1983; and 42 U.S.C. § 1985

- §1981 protects federal employees only in those few cases where Title VII does not. §1981 provides a remedy for discrimination against



Interview and Selection

Hiring for Organizational 'Fit': What to consider?

- Knowing the core values and culture of your organization is key to hiring the right candidate:
- Your information sharing practices
- Your philosophy of internal competing or collaborating
- Your "face time" expectation in office or social arenas
- Your company profit vs. community contribution focus
- Your appreciation or disregard for work-life balance



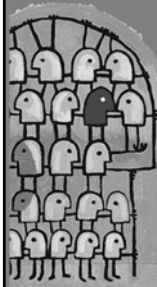
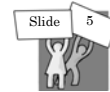
Interview and Selection

Hiring for Organizational 'Fit': What to assess?



Examples....

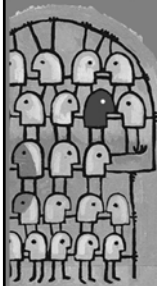
- Do they pass the "going to lunch test"?
- Provide tour of work area -- is a workstation or office lay-out an issue?
- Is the work area presentable?
- Are you proud of the work area?
- Do they grimace at core hours, dress code, corporate culture, etc?



People are *NOT* your most important asset

The "*right people*" are!

Jim Collins...*From Good to Great*

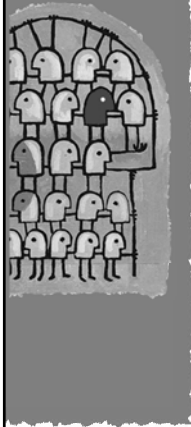
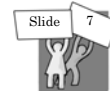


Recruiting the Exceptional Employee



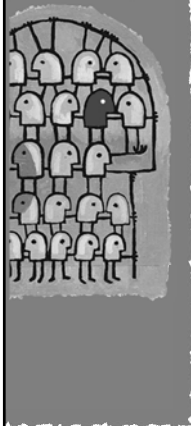
How do we ensure we hire the right people?

- Certain skills can be taught
- Hire for fit within the company culture
 - Hire for character traits
 - Work ethic
 - Attitude
 - Results orientation
 - Appropriate energy level
 - Do what it takes attitude



Purpose of an Interview

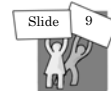
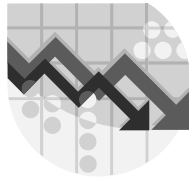
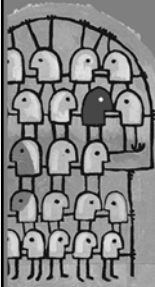
- Why bother interviewing?
- Screen for the best possible hire
- Studies show we should be able to make an educated hire based on resume or reference checking alone
- Assess for organizational fit
- Sell your company – ensure the close
- Assess for future hiring—build your applicant database



What's Your Success Rate?

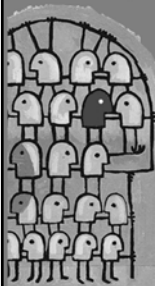
"Chances are good that up to 66% of your company's hiring decisions will prove to be mistakes in the first 12 months."

Peter Drucker
Management Consultant



Why is the Success Rate So Low?

- Employee does not fit the job
- Hired on past experience
- Lack of systematic hiring process
- Lack of information about the candidate
- Former employers were not contacted



“Mini Tests”

Responsiveness

If you send the candidate an email on a Friday night, how long will it take him to respond?

Initiative

How much do they know about your agency?

Client Response

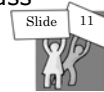
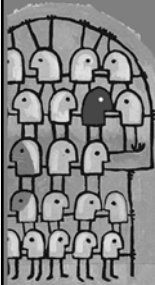
Can you set up a client meeting with a client and ask their feedback?

Writing Sample or Inbox Test

Can you provide a test which will help determine their ability to perform on the job?

Going to Lunch

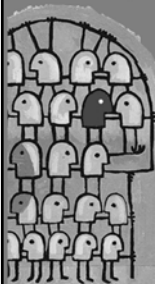
Arrange a meal with the candidate. How does he operate in a more casual environment? Does he pass the “going to lunch test”?



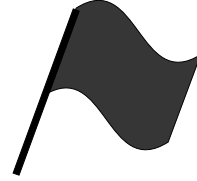
Reference Checking

How are you currently conducting reference checks?

- Is it a centralized process?
 - What are the benefits?
- Are you getting references on employee referrals?
- Are the questions consistent?
- Do you ask about past performance?
- Do you spend enough time on the phone with the reference?
- Are you speaking to former supervisors/ managers?
- Are you paying attention to the red flags?

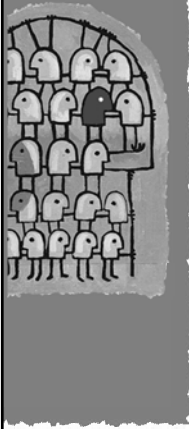
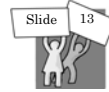


Don't Ignore the Red Flags



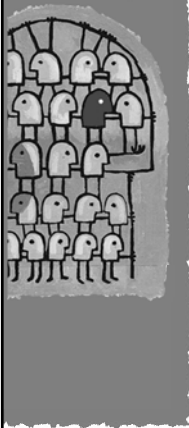
Reference Checking Techniques

- ✓ Leave a voice mail ...
- ✓ Describe your position in detail, then ask: "Please describe how you have seen Pat operate in a similar capacity."
- ✓ "Given what I have told you about the position, what would you offer to help me ensure Pat will be successful in this role?"

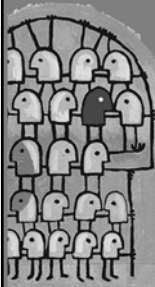


CONGRATULATIONS!...

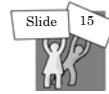
You've made a Great Hire!



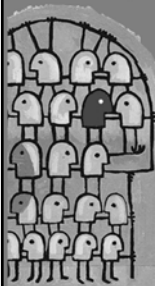
Sometime in the Future



- Perhaps we ignored the red flag from the references....
- Perhaps we really weren't as clear/direct as we should have been regarding the expectations...
- Perhaps we have a potential employment liability on our hands....



Identifying the Risks of Wrongful Termination

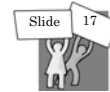
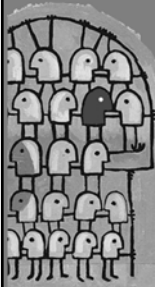


Progressive Discipline

THE KEY IS DOCUMENTATION -

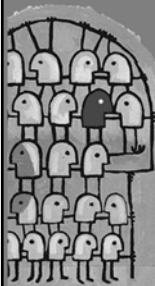
Possible actions to be taken:

- Informal Counseling (make note to file indicating that it happened)
- Verbal Warning (make note to file indicating that it happened)
- Written Warning
- Suspension
- Immediate Dismissal



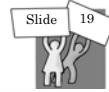
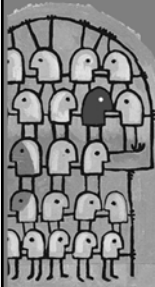
Set Clear Performance Expectations

1. Talk with the employee about the specific problem - give examples.
2. Agree on a solution.
3. If the employee refuses to agree that there is a problem or will not agree on a solution, tell the employee what the course of action will be and the consequences if the problem is not resolved, i.e., oral warning, written warning, suspension, termination.



Providing the Verbal Warning

- Talk to the employee privately (in an office, conference room or other quiet area), with no interruptions
- State the specific problem in terms of desired performance and actual performance
- Refer to previous casual conversations about the problem
- Give the employee a chance to respond and explain
- Tell the employee the specific change expected in his or her performance, and what will occur if those expectations are not met

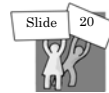
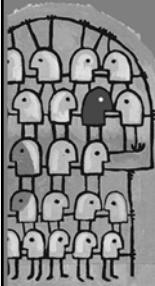


Example

December 1, 2005

"I gave an oral warning to John Doe today for repeated tardiness. I reminded him that his regular work hours are 9:00 a.m. to 5:00 p.m. He said that he has been having transportation issues and will try to arrive to work on time in the future. I told him that if he was tardy again, further discipline action would be taken against him, up to and including termination."

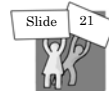
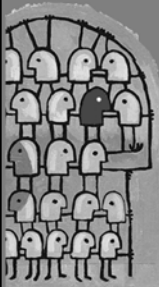
Signed, Bob Smith



Preparing the Written Warning

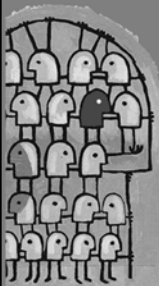
Before the Meeting

1. Prepare for the meeting by reviewing the relevant documents from the employee's personnel file.
2. Ask the employee to come into an office, conference room or other private area, to avoid being interrupted.

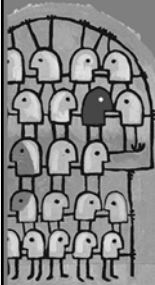


During the Meeting

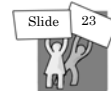
1. State the specific problem in terms of actual performance and desired performance.
2. Refer to previous counseling or warnings.
3. Give the employee a chance to respond and explain.
4. Tell the employee the specific change you expect in performance.
5. Have the employee confirm that he or she understands what you expect.
6. Tell the employee what will happen if your expectations are not met.



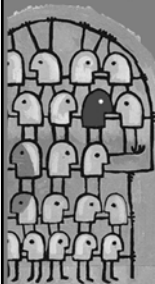
During the Meeting cont'd



7. Ask the employee to sign the warning to indicate he or she has received it. (If the employee refuses to sign, a note to that effect should be made on the copy prior to placement in the personnel file.) Each warning should contain the following language at the end of the last paragraph: "Further violations may result in future disciplinary action, up to and including discharge."
REMEMBER—ANYTHING YOU PUT IN WRITING MAY END UP AS A TRIAL EXHIBIT—BE CAREFUL.
8. Allow the employee to write any comments/explanation he or she wishes to give.

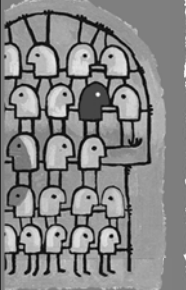


After the Meeting



1. Give the original document to Human Resources.
2. Advise the appropriate personnel of the conversation.
3. Monitor the employee's performance to make sure that the problem has been corrected.





WRITTEN WARNING AND PERFORMANCE IMPROVEMENT PLAN

TO: Employee
 FROM: Supervisor
 DATE:
 SUBJECT: PERFORMANCE IMPROVEMENT PLAN

Over the past few months, we have had several discussions regarding your performance (give specific dates). On (date), you were given a verbal warning. We discussed the issues below and I pointed out the severity of these issues and the need for you to correct them immediately: (List all issues covered.)

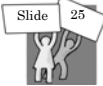
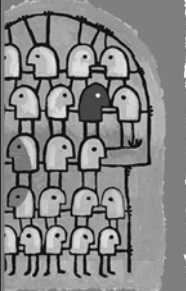
Since our conversation, the above performance issues have not improved significantly. The following issues have occurred since our last discussion: (List additional issues.)

During the next (# of days), you will be responsible for successfully meeting the following objectives and correcting the issues mentioned below, or further disciplinary action, up to and including termination, will occur. (List specific expectations.)

Further violations may result in future disciplinary action, up to and including discharge. Your signature below confirms your understanding of this document and our discussion and your agreement to meet and potentially exceed the objectives outlined.

_____ Employee Name	_____ Date	_____ Supervisor's Name	_____ Date
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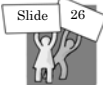
cc: Personnel File
 HR
 Any appropriate higher level management

Written Performance Evaluations

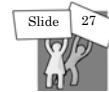
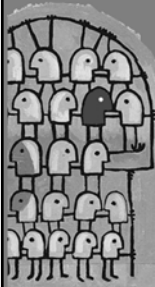
Comprehensive written performance evaluations are used to document legitimate non-discriminatory reasons for disciplinary actions and other employment decisions

- Managing performance effectively is a daily job task.
- Many managers come in early or stay late to document performance issues.
- Managers don't have 9-5 jobs.
- Whatever method a supervisor chooses, it is important to keep good records throughout the year.



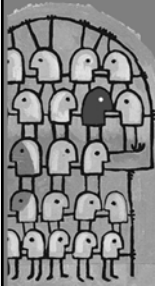
The Evaluation Process

- **Gather input from various sources:** job description, management desk file, input and feedback from colleagues, coworkers and other supervisors and managers, employee self-review, the previous evaluation.
- **Plan what will be said:** Balance positive and negative feedback, emphasize mutual problem-solving, concentrate on future actions, anticipate possible reactions and be ready for them.
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The Evaluation Process cont'd

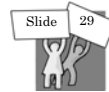
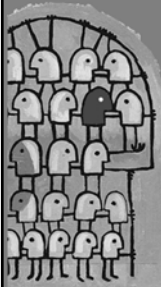
- **Review the appraisal with manager or HR:** Do not give the appraisal without having someone go over it with you from HR.
- **Conduct meeting in positive, communicative atmosphere:** Allow comfortable, private, uninterrupted time.
- **Consider employee feelings:** Stay focused on job requirements. Allow the employee the opportunity to discuss his or her feelings and reactions to your input and feedback.
- **Listen to the employee:** Not all good ideas are your ideas. Many times, employees will have solutions that you have not considered.
- **Arrive at an agreement:** Set expectations for the next period and put an action plan in place.



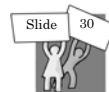
Properly Terminating Problem Employees

Review All Options Before Termination

- (1) Transfer
- (2) Demotion
- (3) Resignation



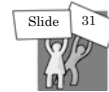
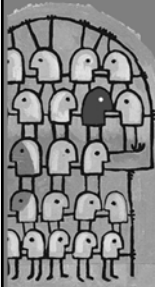
Questions



About the Presenter

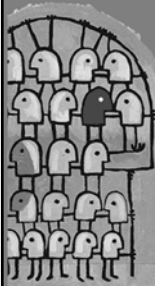
Kathy Albarado is President of Helios HR, a firm specializing in outsourced human resources support and consultation. She has 20 years of experience as an HR practitioner and excels at implementing human resource and operational infrastructure, which contribute to a dynamic culture in focusing on talent acquisition and retention.

Kathy can be contacted at kalbarado@helioshr.com or by phone at 703-860-3882. Further information about Helios HR can be obtained at www.helioshr.com



About the Presenter

Karen Doner is a partner in the Employment Law section at Williams Mullen. She advises clients located throughout the country on employment law matters. Ms. Doner represents employers in all aspects of employment law, such as litigation of discrimination, harassment and wage-hour claims pending before administrative agencies and the courts. She has extensive experience in litigating covenants not-to-compete and other employment contract disputes.



THANK YOU

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