



# Hiring, Firing, and Everything in Between

Pamela J. Green, MBA, SPHR, PCC, ICC



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## What do you want to get out of today?



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## Course Objectives

- Hiring, orienting and training top-notch employees.
- Evaluating work performance.
- Ensuring compliance and effective steps for separation.



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## Leadership Keys

1. Know **your** policies and procedures.
2. Personnel information is **PERSONAL**.
3. Employees have rights and deserve feedback.
4. You can fire anyone - just understand the consequences. Fire right.
5. Leaders control the climate.
6. There is no "freedom of speech at work".



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## 18 Ways to Create a Productive Environment

1. Don't overreact.
2. Remain approachable.
3. Don't play favorites.
4. Be humble but firm.
5. Avoid allowing biases in.
6. Eradicate power struggles.



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## 18 Ways to Create a Productive Environment

- 7. Address issues immediately.
- 8. Do not permit dissention among the ranks.
- 9. Maintain a pulse of what's going on.
- 10. Encourage responsibilities beyond individual goals.
- 11. Call on the expertise of others.
- 12. Change your mind when you need to.




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## 18 Ways to Create a Productive Environment, cont.

- 13. Delegate.
- 14. Train staff.
- 15. Encourage professional development.
- 16. Support networking.
- 17. Promote collaboration.
- 18. Admit when you're wrong.




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## Finding and Keeping the Right People




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## Finding the Right People

- Identify basic and job specific interview questions.
- Remove illegal interview questions.
- Explore various interview techniques (panel, group, etc.)
- Do you want to use testing?



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## 5 Revealing Interview Questions

- What interests you about this job, and what skills and strengths can you bring to it?
- Can you tell me a little about your last job?
- How have you changed the nature of your current job?
- What was the most difficult decision you've ever had to make on the job?
- What sort of work environment do you prefer? What brings out your best performance?



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## NOTHING BEATS...

...the time you spend with your final candidates.  
 Nothing.



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## 5 Phases to Onboarding

- Job Interview
- Pre-hire orientation (packet in the mail)
- Day of orientation
- Onboarding process with leader and team
- Continuous check-ins (you're unraveling prior experiences)
- Reorientation



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## When things don't go as planned....



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## Documenting Performance

Employees and Volunteers



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## Documenting Performance

- Provides focus
- Improves performance and processes
- Enhances communication
- Supports decision making
- Lays the groundwork for performance reviews



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## What to Document?

- Events
- Expectations, goals and objectives
- Decisions
- Conversations
- Special assignments



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## Where to Document Performance

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| <ul style="list-style-type: none"> <li>• Checklists</li> <li>• Logs</li> <li>• Minutes</li> <li>• Reports</li> <li>• Data Files</li> <li>• Electronic Folders</li> <li>• Emails</li> </ul> | <ul style="list-style-type: none"> <li>• File Folders</li> <li>• Journals</li> <li>• Thank You Notes</li> <li>• Word Documents</li> <li>• Dashboards</li> <li>• Others?</li> </ul> |
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## Important Laws to Remember

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## Did You Know?

Organizations with as few as 14 employees are subject to 15 federal labor laws, not to mention local laws.

The federal civil rights act, the Arizona Civil Rights Act, the Americans With Disabilities Act (ADA), the Age Discrimination in Employment act (ADEA), the Family and Medical Leave Act (FMLA), and most other employment laws override employment at-will.

Having introductory, probationary or get acquainted periods typically means the new hire is officially "off probation" on day 91? Shouldn't the rules apply from day one?

Please note that generally, **non-profit** status has no impact on federal employment law coverage or federal poster requirements.

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## Key Federal Laws

- ADA (Americans with Disabilities Act) – 15+
- ADEA (Age Discrimination in Employment Act) – 20+
- IRCA (Immigrant Reform and Control Act) – All
- Title VII of the Civil Rights Act – 15+
- New Hire Reporting – All
- FLSA (Fair Labor Standards Act) - All

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## New Federal Laws

- As of Jan. 1, 2020, those **earning \$684 per week** (\$35k) are exempt from the FLSA requirements, compared to the former standard of \$455 (\$24k) per week. For "highly compensated employees" (qualified by earnings and job duties), DOL raised the salary threshold from \$100,000 per year to \$107,432 per year.
- Workers whose salary falls below these new thresholds are entitled to the FLSA protections of a federal minimum wage of at least \$7.25 per hour and overtime pay amounting to no less than one and a half times the regular rate of pay after working 40 hours in a work week.




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## New Federal Laws

A **salary history ban** prohibits employers from asking applicants about their current or past **salaries** or benefits. Right now almost 40 states have enacted salary history bans.

Salary history bans are intended to address **gender pay inequality**. It's illegal to pay men and women differently for the same work and, while there's still a significant pay gap, the salary history ban is designed to lessen the gap. When employers don't know what women (as well as other minorities) were paid in their past jobs or are paid in their current jobs, they can make a fairer offer.




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## Vaccine Mandates

The Occupational Safety and Health Administration COVID-19 Vaccination and Testing Emergency Temporary Standard applies to all employers with 100+ employees and requires all employees to be vaccinated against COVID-19 or be tested on a weekly basis and to have a negative test before coming to work effective January




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## Vaccine Mandates

To provide employers with sufficient time to come into compliance, OSHA will not issue citations for noncompliance with any requirements of the Emergency Temporary Standards before January 10 and will not issue citations for noncompliance with the standard's testing requirements before February 9, so long as an employer is exercising reasonable, good faith efforts to come into compliance with the standard. OSHA will work closely with the regulated community to provide compliance assistance.



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## Legalization of Marijuana



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## What "legalization" Means

You can smoke marijuana without a doctor's letter.

For details visit: <https://www.governing.com/gov-data/safety-justice/state-marijuana-laws-map-medical-recreational.html>



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# Marijuana and Alcohol

Think of marijuana the same as you would alcohol. Employees who consume it must do so during non work hours and are not to be "under the influence" while at work – UNLESS for medical reasons, that must be supported by a physician letter.



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# CBD & THC

CBD (cannabidiol) and THC (tetrahydrocannabinol) are the most common cannabinoids found in cannabis products.

THC and CBD are in both marijuana and hemp. Marijuana contains much more THC than hemp, while hemp has a lot of CBD.

THC is the main psychoactive compound in marijuana. It's what makes people feel "high." CBD doesn't cause that high. Instead, it's thought to work with other elements in the body linked to feelings of well-being.

Laws are changing all the time on cannabis. Many states allow medical marijuana, containing THC, for several uses, but it is still illegal under federal law. Some states have made recreational marijuana with THC legal for personal use. But it's also illegal under U.S. law.



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# CBD and Drug Testing

Cannabidiol (CBD) shouldn't show up on a drug test. However, many CBD products contain trace amounts of delta-9-tetrahydrocannabinol (THC), marijuana's main active ingredient. If enough THC is present, it will show up on a drug test. This means that in rare cases, using CBD might lead to a positive drug test.



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## What Can You Do?

- Ban it completely.
- Randomly drug test.
- Have a zero tolerance policy.
- Test for cause like you would in any other circumstance



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## What Employees Need To Know

Testing positive, without a physician's letter, could jeopardize their jobs.



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## What You Need To Know

Marijuana can be detected for up to 28 days in the body's system. It does not, however, mean the employee is "currently" under the influence of the drug.

This means, you will have to adjust your policy to determine what "level of detection" combined with the potential behavioral infraction, is cause for corrective action.



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## In Other Words

Legalization puts the burden on employers to determine what's permissible in different work settings and then enforce those policies.

Employees using it for medical purposes may have certain protections under FMLA or ADA.



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## Medical Marijuana

You can still ban smoking, therefore employees will have to abide by the rules of smoking (in designated areas only).

Employees may also ask their physicians for other options, such as edibles, but must not be compelled to do so.



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## Remember:

Marijuana is still considered a Schedule I drug under the Controlled Substances Act—which means the federal government has identified it as having a high potential for abuse and no accepted medical purpose. Other such substances include heroin, LSD, and ecstasy.



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## Communication Is Key

Your company policies should be based on a realistic view of the effects of marijuana use, the duties your employees are required to perform, the safety-sensitivity of your organization, and your company culture.



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## A Word About Harassment



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## What is Harassment?

- Harassment is unwelcome behavior directed at a member of a protected group
- Harassment usually involves a pattern of behavior
- Harassment is a form of illegal discrimination



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## EEO Protected Categories

- Race
- Color
- National Origin
- Sex
- Religion
- Disability
- Genetic Information
- Age
- Sexual Orientation
- ..and RETALIATION



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## EEO Protected Categories

- Equal Pay/Compensation
- Pregnancy Status
- Gender Identity (incl. Transgender Status)
- Marital Status
- Parental Status



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## Harassment Is

- Often blatant
- But can be subtle
- Behavior short of illegal discrimination



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## Harassment is NOT

- Occasional teasing
- Offhand comments
- Isolated incidents that are not extremely serious



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## When IS it Harassment?

- One extremely serious incident
- Intimidating, hostile, offensive environment
- Unreasonable interference with work performance
- Negative effect on an individual's employment opportunities



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## Verbal Harassment

- Threats
- Intimidation
- Offensive language, slurs, or derogatory comments
- Graffiti
- Jokes
- Circulating insulting stories or rumors about a person



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## Nonverbal Harassment

- Staring
- Standing over someone in an intimidating manner
- Displaying or circulating offensive pictures, cartoons, or objects
- Singling out members of protected groups for unfavorable treatment



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## Sexual Harassment

Sexual harassment is defined as sexual conduct that is:

- Unwelcome
- Harmful
- Illegal



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## How Widespread is Sexual Harassment?

- About 70% of women and 20% of men have experienced sexual harassment
- About 15,000 sexual harassment cases are filed each year
- Charges of sexual harassment cost U.S. companies almost \$40 million each year
- Complaints filed by men have more than tripled in recent years



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## Is this Sexual Harassment?

- A female employee wears miniskirts to work. **Is this inviting harassment?**
- A female supervisor makes frequent comments about a male employee's physique. **Is this sexual harassment?**
- A male supervisor makes frequent comments about a male employee's physique. **Is this sexual harassment?**



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## Is this Sexual Harassment?

- Two co-workers forward each other off-color jokes they receive in e-mails. **Is this sexual harassment?**
- An employee asks a co-worker out. **Is this sexual harassment?**
- Two co-workers develop a personal relationship. **Is this sexual harassment?**



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## Is this Sexual Harassment?

- An employee posts a swimsuit calendar in his work area. **Is this sexual harassment?**
- An employee posts a male pinup in her work area. **Is this sexual harassment?**
- A good customer makes provocative comments to employees. **Is this sexual harassment?**



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## Tangible Employment Action

*Tangible employment action  
(quid pro quo)*

You are automatically liable if tangible employment action occurred.




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## Tangible Employment Action

A "**tangible employment** action" means a significant change in **employment** status. Examples include hiring, firing, promotion, demotion, undesirable reassignment, a **decision** causing a significant change in benefits, compensation **decisions**, and work assignment.

Source: EEOC.gov



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## Hostile Work Environments

- Severe or pervasive conduct (or both)
- Intimidating, hostile, or offensive displays



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## Examples of HWE

Sexually explicit pictures, calendars, graffiti, or objects

Regularly:

- Using dirty words
- Making sexual jokes
- Using obscene language or gestures
- Making rude comments of a sexual nature



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## Tangible Employment Action or HWE?

- An employee is asked to talk about her raise with her supervisor after business hours at a romantic restaurant.
- An employee brings a sexually explicit gag gift into work for a co-worker's birthday present.



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## Tangible Employment Action or HWE?

- A supervisor regularly uses obscene language when talking to his employees.
- An employee who appears to be "very close" to the boss always gets the easiest job assignments.



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# Dealing with Complaints

- Encourage employees to report all incidents right away
- Ignore NO complaints
- You may bypass the normal chain of command
- Employees must be protected from further harassment




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# Investigating Harassment Claims

- Is an investigation necessary?
- How long will it take?
- What intermediate measures may be necessary?
- Has harassment occurred?




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# When Investigating

- Make certain the victim is not adversely affected
- The harassment stops immediately and does not occur again
- Correct the effects of the harassment
- Follow up to make sure the problem is solved




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## Final Words About Preventing Harassment

- Illegal harassment is unwelcome behavior directed at a person because of race, color, religion, national origin, or sex
- No rude, insensitive, or abusive behavior will be tolerated in your organization
- You play an important role in helping to identify and prevent workplace harassment



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## KNOW Your Anti-Harassment Policy



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**Remember:**  
Employers Create the Atmosphere for Productivity




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## The Role of the Supervisor



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## The Supervisor's Role

- Create an engaging work environment.
- Heighten employee awareness of organizational policies and rules:
- Regular 1:1 and team meetings outlining expectations
- Review job description with employee
- Establish a sound performance plan
- Provide strategic overview and alignment:
- Where are we going, how will we get there, why their role is important and how they can help.



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## The Supervisor's Role

- Become your employee's coach
- Agree upon desired performance and communicate expectations
- See the warning signs and address early
- Help employee identify solutions
- Reward Acceptable Performance
- Correct Poor Performance



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**Performance Reviews**

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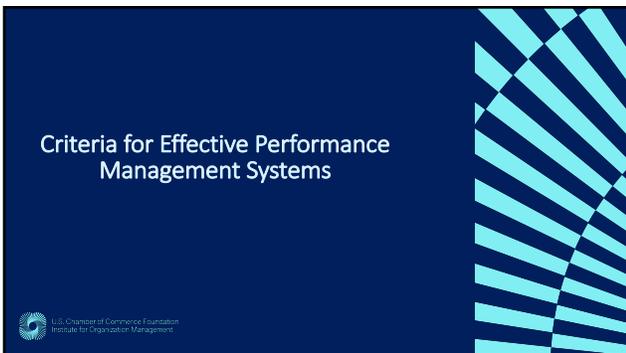
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**Criteria for Effective Performance Management Systems**

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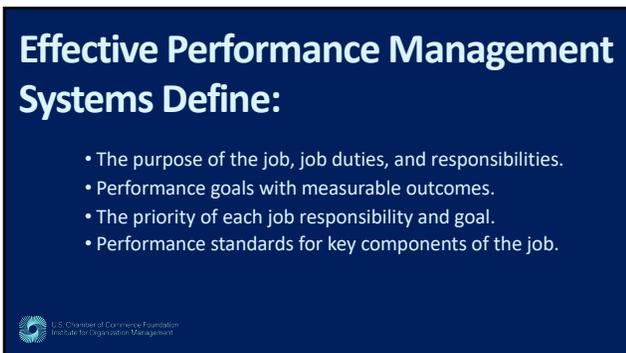
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**Effective Performance Management Systems Define:**

- The purpose of the job, job duties, and responsibilities.
- Performance goals with measurable outcomes.
- The priority of each job responsibility and goal.
- Performance standards for key components of the job.

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## Basic Elements

- Hold interim discussions and provide feedback about employee performance.
- Maintain a record of performance.
- Develop and administer a coaching and improvement plan if the employee is not meeting expectations.
- Hold employee accountable for growth and improvements.



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## Performance Improvement

Model:

- Informal guidance
- Oral reminder
- Written Reminder
- Decision Making Leave
- Termination



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## Why Suspension With Pay?

- Reduces hostility and risk of workplace violence.
- Increases our defensibility if employee is terminated.
- Removes money as an issue.
- Maintains a good work climate.
- Demonstrates you operate from a place of positive (not negative) intent.



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## Common Immediate Discharge Offenses

- Fighting
- Possession of Weapons
- Theft
- Drug Use At Work
- Intoxication At Work
- Falsifying Employment Application
- Outside Criminal Activities
- Inappropriate Use of Company Property



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What can I do when I just don't know what to do and no one is around to help?

*Send the employee home (with pay) until you get the answers you need.*



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## Performance Improvement Discussion Model



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**A.P.S.E.A.™**

A = Articulate the Presenting Problem (issue or topic)  
 P = Pause and Listen  
 S = Show Support  
 E = Explore Obstacles and Options  
 A = Action and Accountability



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## A Word About Conflict

1. Not all conflict is bad.
2. Stay focused on the goal not the personality.
3. Don't argue points.
4. Learn your conflict style.



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## Ongoing Leadership

- Continue 1:1 meetings and team meetings.
- Keep individuals and team focused on the goals.
- Don't treat the employee like a criminal. Move on.
- Support with resources and/or training if needed.
- Positive reinforcement.
- Celebrate successes.



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**Thank You**  
**Ask me anything!**

*Helping you achieve success through people.*

Pamela J. Green, MBA, SPHR, PCC, ICC  
pam@pamelajgreen.com  
202-293-4965

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