Step – by – Step Practices to Avoid Employment Practices Liability

Jaki K. Samuelson
Des Moines, Iowa
About Whitfield & Eddy, P.L.C.

- 49 Lawyers
- 44 Jurisdictions
- 106 Industries
- 3 Locations
- 17 Practice Areas

- Serves a nationwide client base from three Iowa locations.
- Committed to meeting the diverse, challenging and changing needs of our clients through a proactive problem solving approach.
Awards & Leadership

• U.S. News & World Report and Best Lawyers Best Law Firms 2015
  – 11 practice areas recognized

• Super Lawyers 2014
  – 19 attorneys recognized

• Best Lawyers in America 2015
  – 17 attorneys recognized

• Chambers USA 2014
  – 7 attorneys recognized

• Leadership at W&E
  – American Bar Association
  – Iowa State Bar Association
  – Iowa State Bar Association Young Lawyers Division
  – Polk County Bar Association
  – Polk County Volunteer Lawyers Project
  – Iowa Academy of Trial Lawyers
About Jaki K. Samuelson

Practicing law for 34 years

Primary practice in Employment Law

See website for additional information
Special Challenges for County Extension Councils

• Location of supervisors / decision makers
  Identify chain of command
  Presence at work site
• Perception of multiple sources of supervision
• Open meeting laws
Advertising/Application Process

• Standard advertisements and application forms
  Statement concerning at will employment
  Release to contact prior employers and references
• No “favoritism”
• EEOC requires applications to be kept for one (1) year
Hiring Process

• Interviews

Uniform questions
No questions pertaining to protected classifications
Describe the job and ask if the person would be capable of performing the duties with or without accommodation. If needed, what type of accommodation would they require
Hiring Process (Cont.)

• Selection Process.

Use job descriptions to evaluate applicants’ relevant qualifications.

Select the person who best meets the qualifications; be able to explain your decision.

“I am NOT sexist! I hired cheerleaders because they cost less than a motivational speaker.”
Discipline

- Set expectations → Employment Policies; directions
- Consistency
- Documentation
  
  Put notes regarding oral counseling in the personnel file
  
  Serious or repetitive problems - written counseling document that describes the problem, what must be done to remedy it, and the consequences if the problem recurs; the employee should be asked to sign this document
  
  Documentation prepared and shared with employee promptly after the problem arises
  
  Copies of all documentation into the personnel file

- Confidentiality
“I don’t have time to write performance reviews, so I’ll just criticize you in public from time to time.”
Employee Performance

Should be regularly evaluated either formally, by way of a formal evaluation checklist, or informally in discussions with supervisor or manager

Consistency

Documentation

Confidentiality
Terminations

• Consistency
• Reasons documented in personnel file
• More than one person present at time of termination
• All wages are properly and timely paid
Reference Checks

Limit information that is disclosed to job title/duties, years of employment, salary
Thank You

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