

# Legal Compliance

## Best Practices to Avoid Hiring and Employment Discrimination Claims

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# Documents you need

## Pre-employment forms

Job description	Job application
Reference Check forms	Background Screen Authorization
Candidate Contact Form	Interview Worksheet
Interview Evaluation form	No Interest Letter or Offer Letter

# Documents you need *and why*

## Job description

- Essential functions of the position
- Physical and behavioral requirements
- Education and experience
- Interaction with clients and/or co-workers

## Job description

- What needs to be included
- What *should not* be included

# Documents you need *and why*, continued

## Reference Check forms

- What do you/can you ask references
- Information to request on the form

## Background Screen Authorization

- Third-party screening vs. company sponsored
- Who completes the screening when company sponsored

# Documents you need *and why*, continued

Candidate Contact Form

Interview Worksheet

- Why it's necessary
- Using it without seeming rigid

Interview Evaluation form

No Interest Letter or Offer Letter

- What needs to be included
- What *should not* be included

# Pre-hire Documentation

The importance of documentation when an offer isn't extended

- Failure to Hire claims
- Department of Labor: marijuana and unemployment

Good filing practices

# Documents you need

## Performance Management forms

Performance Evaluation form	Performance Improvement Plan
Self Evaluation form	Verbal Warning
Emails between employee and manager	Written Warning

*If it's not in writing, it doesn't exist!*

# Employee File Documentation

## Performance Management

- Performance Evaluation form
- Performance Improvement Plan
- Self Evaluation Form
- Verbal Warning(s)
  - ☐ Verbal interactions also need written documentation
- Emails between employee and manager
  - ☐ Keep accurate records of time off requests
- Written Warning(s)
  - ☐ All warnings need to be in writing



# Documents you need

## Management and Best Practices documentation

VDT Memo	VDT Training worksheet
Rest Break Waiver	Employee Policy Manual Receipt
Prohibition of Sexual Harassment Annual Notification memo	Property or Equipment Receipt
Training documentation	

# Employee File Documentation

## Best Practice Documentation

- VDT Memo
- VDT Training worksheet
- Rest Break Waiver
- Employee Policy Manual Receipt
  - Signed by employee and dated on receipt
- Prohibition of Sexual Harassment Annual Notification memo
  - Signed by employee and dated on receipt
- Property or Equipment Receipt
- Training documentation

# Documents you need

## Termination forms and documentation

Employment Termination Checklist	Employment Termination Memo
Authorization for Reference Release	Exit Interview questionnaire
Property Receipt sign off	Severance Agreement (if applicable)
Documentation for termination decision	

# Employee File Documentation

## Termination Documentation

- Employment Termination Checklist
- Authorization for Reference Release
- Property Receipt sign off
- Documentation for termination decision
  - ☐ Performance issues
  - ☐ Attendance
  - ☐ Emails, file memos, witness statements
- Employment Termination Memo
- Exit Interview questionnaire
- Severance Agreement (if applicable)

# Documentation Best Practices

Document your practices and employee histories

- Personnel forms
- Payroll forms
- Records of time worked
- Benefits forms
- Confidential Medical Documentation

*If it's not in writing, it doesn't exist!*

# Documentation Best Use

## Management Training support

- Why this is necessary
- How to implement it

## Describe potential financial consequences from manager actions

- Unemployment
- Discrimination claims
- Wage and Hour lawsuits

# Foundations for Understanding

- Provide supervisors and managers with basic management training
- Document any training, who provided it, and the trainers qualifications
- Provide employees, supervisors, and managers with prevention of sexual harassment training
- Document who provided the training and the qualifications of each trainer
- Include the documentation in the supervisors and managers files

# Foundations for Understanding, continued

Understand how employees are notified of your anti-discrimination and retaliation policies – with posters, annual notices, training, orientation, and other communication vehicles

Also understand that

- Internal communications between supervisors and decision-makers are discoverable
- All information provided regarding employment claims is discoverable



# Wrapping Up

- Many of the critical documents you need can be prepared up front
- Documenting interactions between leaders and employees is essential
- Documentation needs to be included in employee files
- Training people in leadership is key
- Being consistent across the organization is vital

*If it's not in writing, it doesn't exist!*

# Creating a System That Works FOR YOU

## Possible templates

- Performance Evaluation form
- Verbal Warning
- Self Evaluation form
- Written Warning
- Performance Improvement Plan
- Final Warning/Last Chance Agreement

# Susan H. Wasserott



## Bio

### **Susan Wasserott, Human Resources Management Specialist**

With more than 25 years' experience in human resources management, Susan specializes in management development and employee relations.

She first began her career in communications and human resources at The Vanguard Group, in Valley Forge, Pennsylvania, where she designed and presented corporate orientation programs for the growing investment firm. While earning her Master's degree, Susan served as the Human Resources Director for two manufacturing and construction facilities, and later as the Human Resources Manager at the start-up of a new industrial facility, Sathers Inc., in Pittston, Pennsylvania. After moving to Maine in 1994, Susan became the Human Resources Manager for Mid Coast Health Services, a full-continuum healthcare system in Brunswick, Maine.

While working at Mid Coast Health Services, Susan wrote and hosted a cable television show called *In My Backyard*, which aired on Bath Community Television for two seasons. She later embarked on a career in State government, during which she worked for the Maine Speaker of the House and later served as the Director of Legislative Affairs for the Maine Department of Labor.

Susan holds a Bachelor of Arts degree in Psychology from Wilkes University, in Wilkes-Barre, Pennsylvania, and a Master of Science degree in Human Resources Administration from the University of Scranton in Scranton, Pennsylvania. She is a graduate of Leadership Wilkes-Barre in Wilkes-Barre, Pennsylvania, and the Midcoast Maine Leadership Institute in Brunswick, Maine. During her sixteen years working in healthcare, Susan was a member of the Maine Society for Healthcare Human Resources Administration and also served on several non-profit boards. Susan and her husband Paul live in Woolwich, Maine, with their cat and two Labrador Retrievers.