
Employment Landmines Every Employer Needs to Know

Presented by:

HR Solutions by Design, LLC

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HR Solutions by Design, LLC

Agenda

- HR Solutions by Design Overview
- FMLA Revisited
- FLSA – The DOL is on the Prowl
- Bullet-proofing your Handbook
- Q&A



HR Solutions by Design

An Overview



Who We Are

HR Solutions by Design, LLC

We're your strategic business partner with a keen eye for leveraging your greatest competitive asset – your people. We'll work with you to optimize your culture, grow your business, develop and implement your business strategy and maximize your budget.



HR Solutions by Design, LLC

What we Believe

Mission Statement:

- To provide small and mid-sized businesses with flexible, custom engineered, innovative HR Solutions designed to leverage your most valuable asset – your employees for a sustainable competitive advantage in the marketplace.

Vision:

- To be the premier provider of flexible, innovative HR Solutions in the marketplace & the most respected company in our sector within 5 years.

Values:

- Our Customers are the focus of everything we do
- Provide uncompromising quality and service
- Maintain a culture of honesty and openness
- Our business success depends on our customers' business success
- Deliver more than expected
- Treat each other with respect & dignity



Culture Affects Every Aspect of Your Business – Is Your Culture Helping or Hurting Yours?



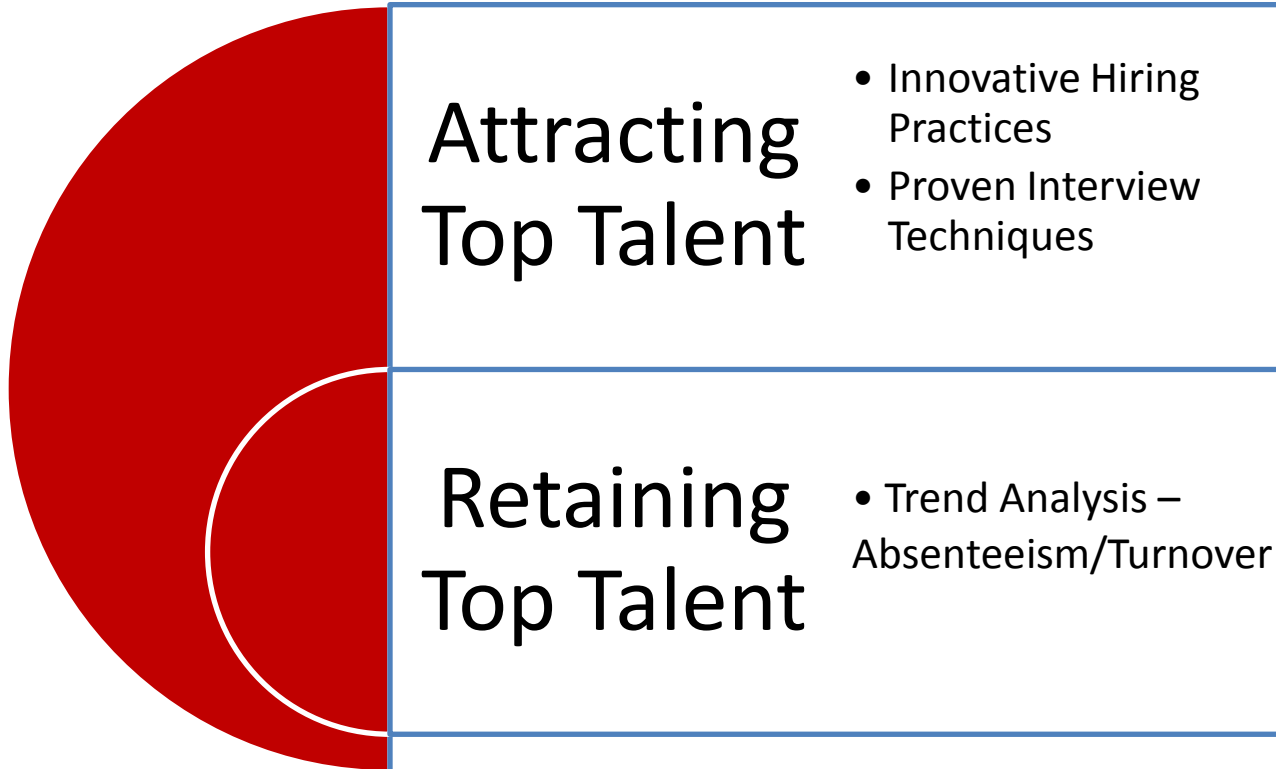
Your company culture will affect every aspect of your business and either help or hinder your ability to meet your customers' needs. Establishing an ownership minded, rather than working for the "man" culture will ensure your employee's are focused on how to delight your customers and grow your business through the accomplishment of defined goals & objectives. A strong culture creates a unified atmosphere where teamwork can thrive and provides employees with a clear understanding of their role & purpose in the organization. **Your employees are your most valuable asset – and the ONLY asset your competitors can't duplicate – so it only makes sense to leverage them as a sustainable competitive advantage**

We *ARE* Your HR Department



Taking care of your employees, so you can take care of **BUSINESS!**

Attracting & Retaining Top Talent



Employees are your most valued asset and the key to your success. Attracting & retaining top talent is a huge investment that requires considerable time & effort, but the payoffs can be enormous; but do it wrong and it could cost you BIG bucks!

Maximizing Your Leadership



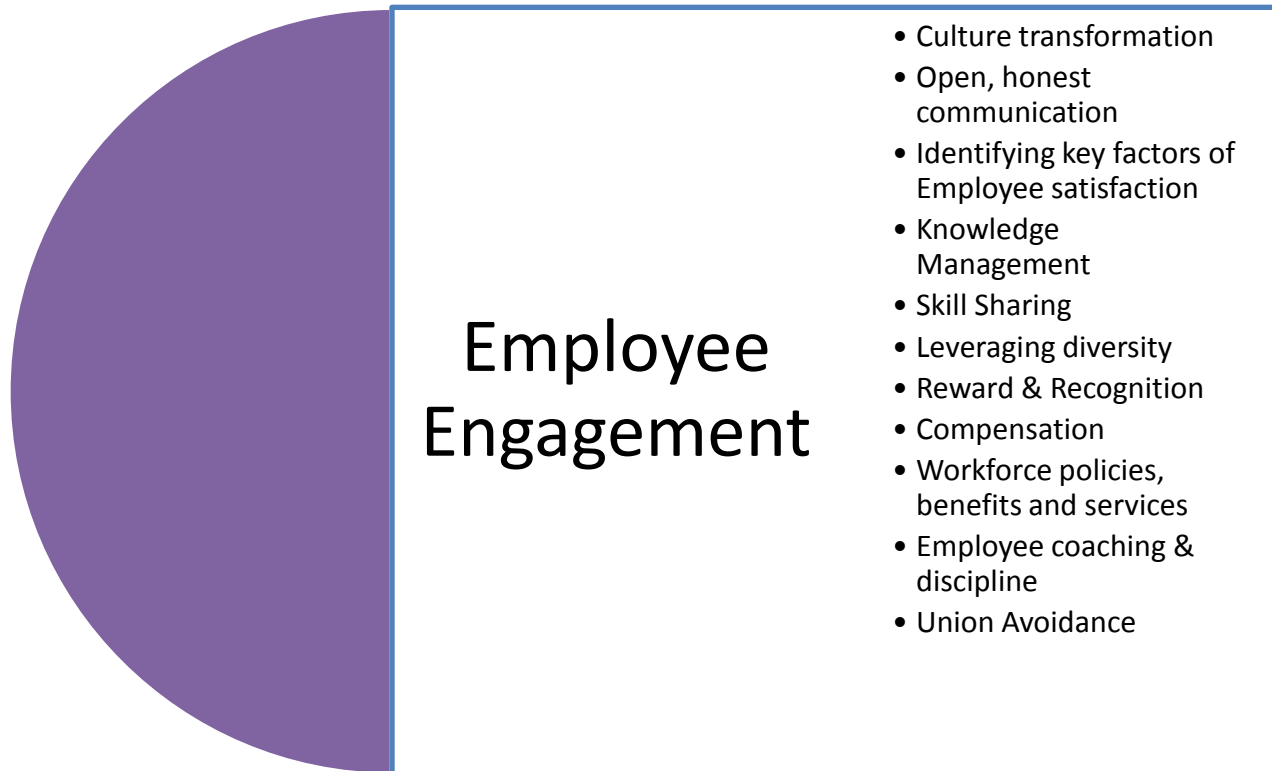
Effective Leadership

- Strategic Planning
 - Mission, Vision & Values
 - SWOT Analyses
 - Environmental Scan
- Identifying leadership styles
- Implementing Communication Plans
- Understanding the importance of fair, firm, & flexible managers
- Recognizing & Preventing Conflict
- Measuring Performance
- Providing Effective Feedback
- Leading Effective Change

A hallmark of effective leadership is the ability to get results and generate high employee engagement. Creating & communicating a vision aligned with the strategy & direction of the larger organization is key to accomplishing this goal. Effective leadership clarifies others' involvement in the vision & inspires a sense of energy & ownership. It creates an environment of high performance and recognizes & rewards performance .



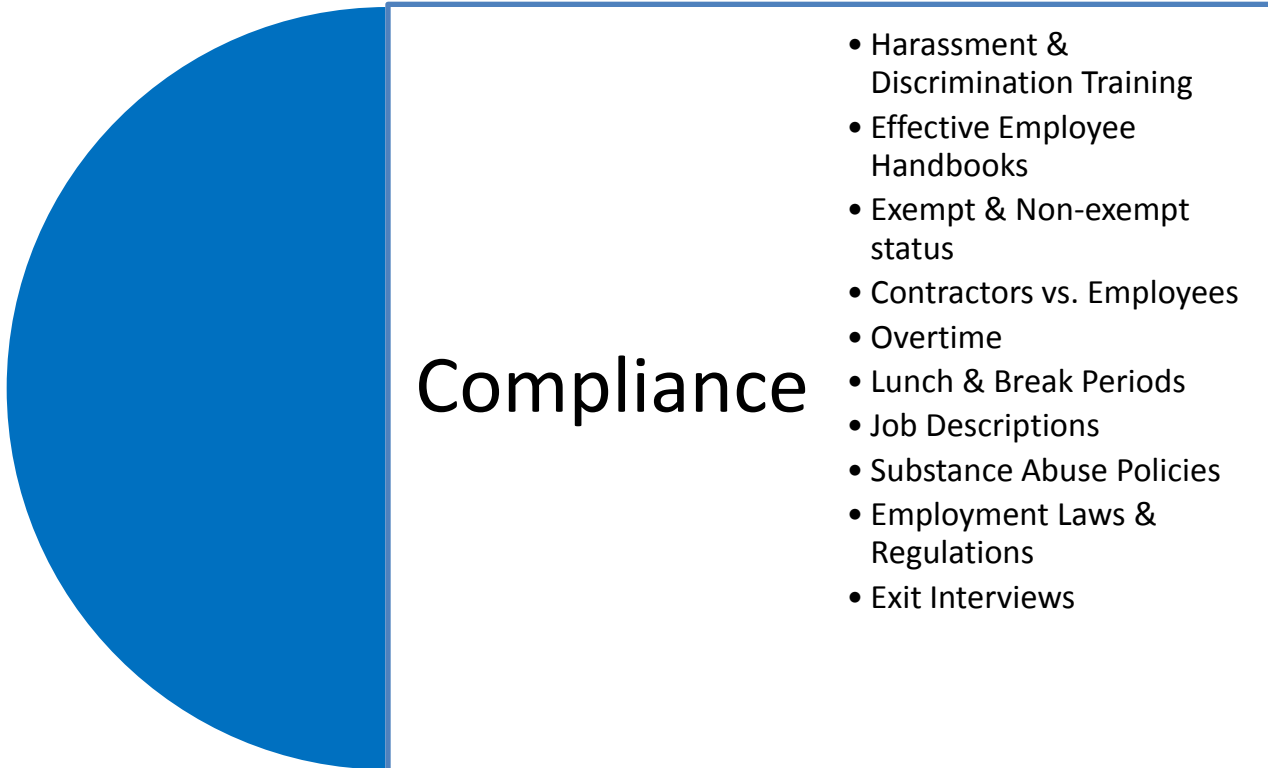
Enhancing Employee Engagement



Strong employee engagement is the key to financial success. When employees are engaged they take on an ownership mentality rather than a “working for the man” mindset and that produces real effort and a sustainable competitive advantage against the competition.



Keeping you in Compliance



Compliance

- Harassment & Discrimination Training
- Effective Employee Handbooks
- Exempt & Non-exempt status
- Contractors vs. Employees
- Overtime
- Lunch & Break Periods
- Job Descriptions
- Substance Abuse Policies
- Employment Laws & Regulations
- Exit Interviews

Protecting your business is paramount in any business owner's mind. Avoiding lawsuits and other legal entanglements can be tricky and time consuming.

The best lawsuit to win is the one that is never filed.



Environmental, Health & Safety



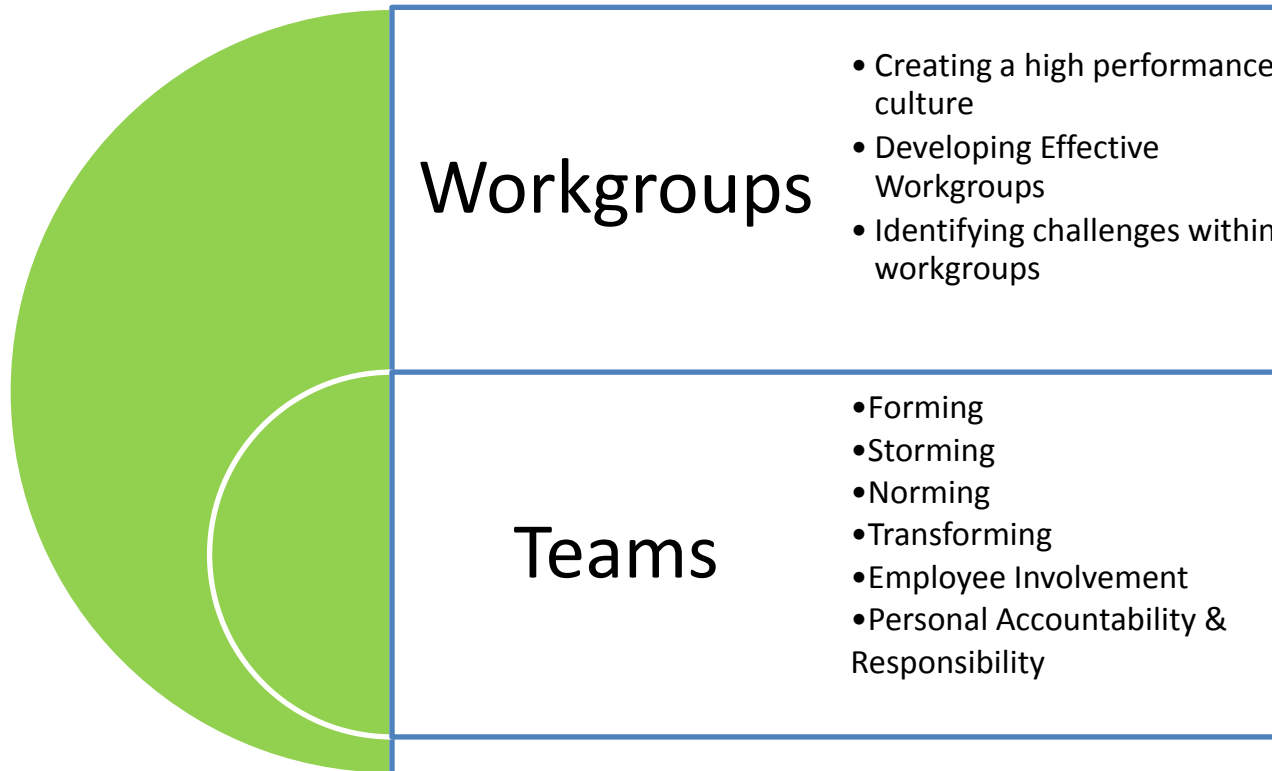
The safety of your employees is not just a legal requirement – it the **Right** thing to do – for your employees and your business. Safety affects employee engagement, morale, and loyalty – all of which effect profits. Worker’s compensation costs can easily eat up your profits and is a key component of most union campaigns, so it’s something to be taken seriously.

Optimizing Workforce Performance



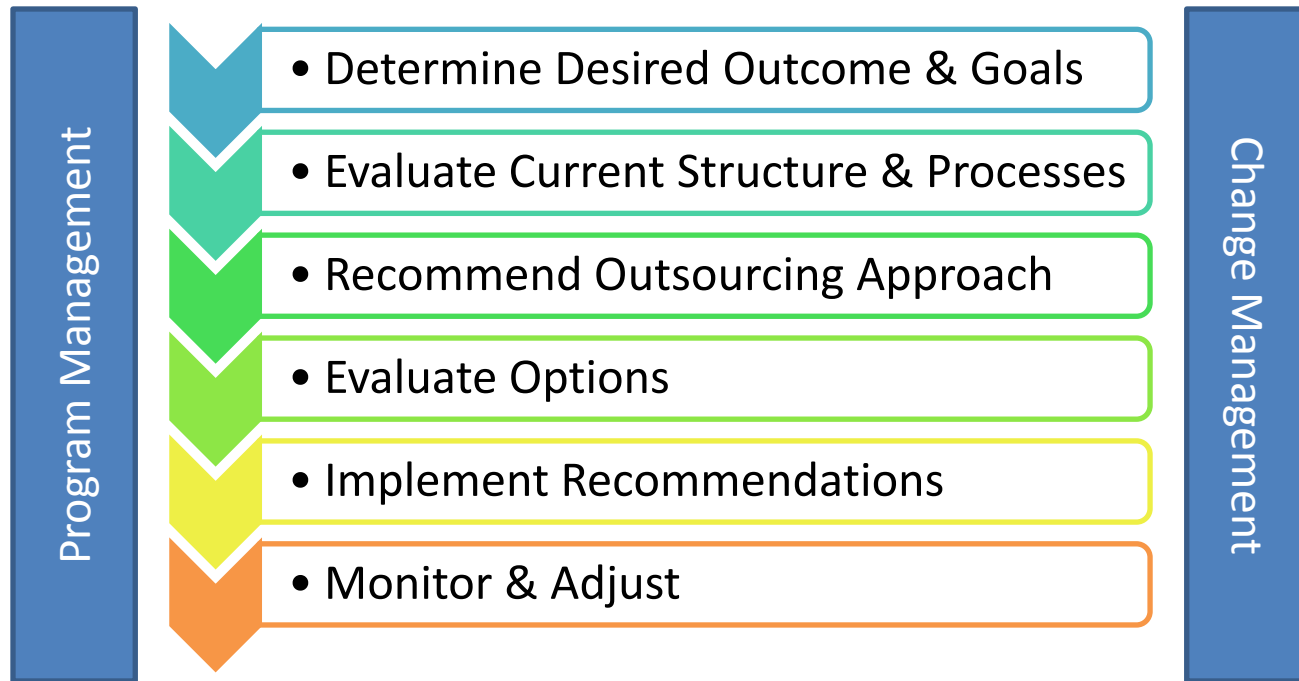
Talent Management is the cornerstone of a collaborative work environment. It can certainly help correct performance deficiencies but it can also inspire emerging talent to new levels of greatness. It keeps people moving forward and engaged in the business and ensures the continuity of future leaders for key positions. Done right it can transform a business; done wrong it can be crippling.

Utilizing Work Groups & Teams Effectively



There is a reason it is said that two heads are better than one – teamwork makes the job easier and unleashes creativity and innovation. It naturally leverages the human competitive spirit, enhancing performance. But teams don't just happen, they have to be developed, trained and nurtured to be effective and profitable.

Customized Integrated Approach



HR Solutions by Design, LLC works closely with each individual client to determine the best delivery model to support your unique needs. Each client is paired with a dedicated HR Business Partner to manage the HR function and provide strategic advice and counsel. Our model offers you customizable, flexible HR Solutions designed specifically with your business needs in mind so you can focus on the business of running your company. You'll enjoy scalable, professional HR support that can grow as your business grows. Our retained model allows our clients to customize the amount of HR Business Partner support they need on a monthly retainer within an agreed upon budget of hours, typically 40, 80 or 120 hours per month.

FMLA - Revisited

What YOU Need to Know



FMLA – What's at Stake?

- Mistakes in implementing FML could result in:
 - Pay back and benefits
 - Attorney fees (employer and employee)
 - Court Costs (double of willful violation)
 - Supervisors can be held *personally* liable



FMLA at a Glance

- FMLA provides qualified employees with up to 12 weeks of unpaid, job protected leave each year for:



Family Leave

- If tied to birth or adoption of a child – may require employee to take in a “block” of time
- If medical – can be taken as a block or intermittent



Military Family Leave

- 12 weeks for certain “exigencies”
- 26 weeks for caregivers providing care to injured or sick family members in the military



Who's Covered?

- Companies “engaged in commerce” with 50+ employees working in a 75 mile radius of the “work site”.



Who's Eligible?



- To be eligible, an employee must work for the covered employer for at least 12 months (may not be continuous months) and 1250 hours during the preceding 12 months prior to the leave.



10 Key Changes YOU Need to Know

1. A 7 year break in employment requires the employee to again meet the 12 month requirement
2. The first doctor visit must be within 7 days of the 1st day of leave and both visits must occur within 30 days of the absence. For chronic conditions, the employee must visit the doctor at least 2x/year



10 Key Changes YOU Need to Know

3. Goal oriented bonuses can be denied if an employee's failure to achieve the goal is due to FML.
4. Notice can now be in either a single poster or an electronically distributed document
5. Employer must notify an employee of eligibility within 5 business days of request
6. Employees must provide notice as soon as practicable but within the employer's usual notice requirements



10 Key Changes YOU Need to Know

7. Employee must be given 7 days to fix any incomplete/incomprehensible certifications, if still incomplete after 7 days, employer may call the doctor
8. Employees may retroactively waive FML claims
9. Employers MUST grant up to 12 weeks of unpaid leave to family members of military personnel
10. Must offer 26 weeks to employees caring for returning military family members with a serious illness or injury caused in the line of duty



Top 10 Things You can do to be Compliant

1. Develop & implement an FMLA policy
2. Post the DOL's FMLA Notice
3. Respond promptly to an employee's request for FMLA
4. Run worker's compensation and disability leaves concurrently with FML
5. Communicate your policies & procedures to employees requesting FML



Top 10 Things You can do to be Compliant

6. Establish a tracking system
7. Verify serious medical conditions
8. Deduct intermittent leaves
9. Be consistent with attendance bonuses
10. Treat ADA separately from the FMLA



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Fair Labor Standards Act (FLSA)

The DOL is on the Prowl



What's at Stake?

- AT&T – \$1 **BILLION** Class Action Lawsuit – Overtime Violations
- Fair Labor Standards Act (FLSA) lawsuits have “exploded nationwide,” “because wage-and-hour laws have been so widely violated, undetonated land mines remain buried in countless companies.” – Business Week
- **“We will not rest until the (FLSA) is followed by every employer, and each worker is treated and compensated fairly.”**
— *U.S. Labor Secretary Hilda Solis announcing a 33% increase in wage-and-hour investigators in February*



What is the FLSA?

- The FLSA regulates 3 areas of employment:
 - Minimum Wage
 - Overtime
 - Child Labor laws



10 Common Employer Mistakes

1. Misclassifying assistants and computer pros
2. Switching an employee's classification when they reach the top of the grade
3. Basing classification on job titles not duties
4. Assuming all help-desk employees qualify for the computer exemption
5. Not giving exempt executives hiring/firing authority



10 Common Employer Mistakes

6. Allowing clerical tasks to defeat the administrative exemption
7. Classifying learned professionals based on their degree rather than the job duties they perform
8. Assuming medical staff qualify for the professional exemption
9. Jeopardizing exempt status by paying them extra
10. Not ensuring store managers' primary duty is management



6 Things to Help You Get Compliant

1. Adopt a “safe harbor” policy
2. Use care and finesse when reclassifying an employee
3. Be careful when using independent contractors and salaried non-exempt
4. Fine tune your record keeping
5. If exempt status is questioned make sure you can show they were classified in “good faith”
6. When in doubt, get HELP!



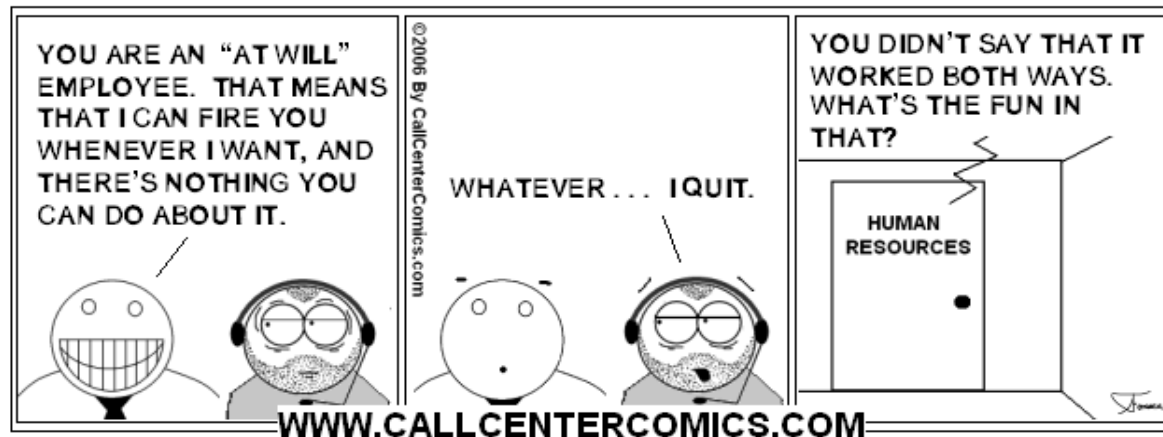
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Bullet Proof Your Employee Handbook

Protect your employees & your business



HR Solutions by Design, LLC

12 Common Mistakes to Avoid

1. Boiler plate handbooks
2. Conflicting policies
3. Probationary period landmine
4. Too much information
5. Inconsistency with other company documents
6. No disclaimer



12 Common Mistakes to Avoid

7. Do what I say, not what I do...
8. Conflict with state and local laws
9. Failure to update
10. Unrealistic policies
11. Broad-brush rules
12. Over-the-top anti union statements



How Do You Protect Yourself?

- Involve employees
- Solicit feedback & suggestions
- Carefully define the scope of the project
- Identify your audience
- Select topics to be addressed
- Gather and compare existing company documents
- Assemble pertinent information
- Use plain language
- Insert disclaimers
- Regularly conduct a handbook audit



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Questions



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