**Business Law Name \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Block \_\_\_ Date \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

EMPLOYMENT LAW

The purpose of employment legislation is to protect workers’ health and safety, provide workers with a minimum level of economic support, and –overall-foster a workplace free from both discrimination and disruptive labor/management conflicts.

The government regulates **employment practices** at many levels:

* Which employees are \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ to work for a company,
* How they are \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and what \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ they are offered
* How the firm must \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ them when they have \_\_\_\_\_\_\_\_\_\_ or \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,
* And how and when they can be \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

--- These are all managerial decisions that are constrained to some extent by (labor) law.

Why understanding Employment Law is Important?

Understanding and complying with HR/Labor law is important for three reasons:

1. Doing the \_\_\_\_\_\_\_\_\_\_\_\_\_\_ thing
2. Realizing the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ of the HR and Legal Departments
3. Limiting potential \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

**I. HIRING AND FIRING**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_ means employees do \_\_\_\_\_ enter into a contract with the employer regarding duration of their employment, meaning the employee is free to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ their employment at any time and the employer has the right to terminate employment at \_\_\_\_\_\_\_\_\_ time.

To operate within the limits of the law, interviewers should remember the NINE DON’TS OF INTERVIEWING**.**

1. Don’t ask applicants \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, plan to have children, or what child-care arrangements they have made.

2. Don’t ask an applicant’s \_\_\_\_\_.

3. Don’t ask whether or not the candidate has a physical or mental \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ that would interfere with doing the job.

4. Don’t ask for such identifying characteristics as \_\_\_\_\_\_\_\_\_\_\_ or \_\_\_\_\_\_\_\_\_\_\_\_\_\_ an application.

5. Don’t ask a female candidate for her \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

6. Don’t ask applicants about their \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. However, employers are allowed to ask whether the candidate has ever \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

7. Don’t ask if a candidate \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

8. Don’t ask a job candidate if he or she has \_\_\_\_\_\_\_\_\_\_ or is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

9. Don’t ask any questions relating to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

*WHEN CAN YOU LEGALLY FIRE EMPLOYEES?*

Employees are increasingly suing managers and companies for "wrongful termination," harassment, discrimination, and other reasons. Employment lawsuits can be nasty and expensive, and they can generate negative publicity for your company. Juries tend to be particularly partial to terminated employees.

So when *can* you legally fire an employee? Here is a list of some reasons that should generally stand up:

1. Consistent \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

2. Violation of company \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

3. Repeated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ absenteeism or tardiness.

4. Physical \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

5. \_\_\_\_\_\_\_\_\_ and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

6. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ acts.

7. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ information.

**II. HEALTH AND SAFETY**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ - mandates that employees relinquish the right to sue their employers for accidental death, injury, disease, or illness arising out of or during the course of their employment. In return, the employer must pay an employee financial benefits when such incidents occur, regardless of who -if anyone – was at fault.

The Occupational Safety and Health Act (1970) states that workplaces are to be “free from recognized hazards” which could cause death or serious injury. The act established a federal agency the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_ and \_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (OSHA) to ensure that both employers and employees comply with health and safety standards. OSHA conducts \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_: employers must keep comprehensive records.

**FMLA** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ provides certain employees with up to 12 weeks of unpaid, job-protected leave per year. It also requires that their group health benefits be maintained during the leave.

**III. COMPENSATION and INCOME PROTECTION**

Congress enacted the \_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_ (FLSA) in 1938. The FLSA:

1. Establishes a \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_.
2. Mandates payment of \_\_\_\_\_\_\_\_\_\_\_ and a \_\_\_\_\_\_\_\_\_\_\_.
3. Generally forbids any employment of \_\_\_\_\_\_\_\_\_\_\_\_\_ under \_\_\_\_ years old.
4. Prohibits employment of persons under age \_\_\_\_\_ in hazardous occupations.

*FOR WORKERS DISCHARGED WITHOUT CAUSE*

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ is a state insurance system intended to supplement unemployed workers’ incomes. An unemployed worker’s total payable benefits are a percentage of his average earnings when he was employed. To qualify for unemployment benefits, discharged workers must have worked for at least a minimum time period or have earned at least a minimum amount of wages, with eligibility varying state to state. At all times the unemployed worker must be seeking a job for which he is qualified. The discharged worker may be disqualified from receiving benefits if he rejects a job offer, or is not ready and available for work, or fails to follow proper procedures in filing claims for compensation.

WARN \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Act (1989) requires large businesses (those with over 4,000 total work hours per week) to give workers at least \_\_\_\_ days’ notice before a plant closing or mass layoff. A shorter notice period is allowed only if due to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ business circumstances. Employees and unions may obtain monetary damages if an employer violates WARN.

*FOR DISABLED OR RETIRED WORKERS*

SSA \_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Act (1935) provides money when incomes from employment are reduced or cease because of \_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, or \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

The Federal Insurance Contributions Act ( ) mandates that, for all of an employee’s earnings up to a statutory maximum amount, the employer must withhold a specified percentage of the employee’s wages and also contribute a matching amount.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ sets standards for the funding of private pensions. It governs eligibility for and the taxation of pension plan earnings and benefit payments.

**IV. PROTECTION AGAINST DISCRIMINATION**

An **Equal Employment Opportunity** Employer practices equal opportunity for compensation, employment decisions, and promotion regardless of the following factors:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ programs are converted efforts – plans – designed by the employer to hire and promote larger numbers of women and minorities that have been under-represented in its work force.

*Legal Discrimination?* BFOQ –

* When religion, sex, or national origin is, in effect, a job requirement.

Disparate Treatment vs. Adverse (Disparate) Impact

**ADA:**The Americans with \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Act.

*How does a company comply with* **ADA***?* By providing \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ in all employment practices as required by law.

**The Equal Pay Act (1963):** outlaws differences in pay between the \_\_\_\_\_\_\_\_\_ for employees pertaining essentially the same (“equal”) work.

The Age Discrimination in Employment Act of 1967 (ADEA): prohibits job discrimination against people age \_\_\_\_\_\_\_ and older.

**Workplace harassment** can take many forms including, but not limited to:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ may include unwelcome sexual advances, requests for sexual

favors, or other verbal or physical contact of a sexual nature.

2 Types of Sexual Harassment:

1) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ - requiring an employee to engage in sexual activity in order to keep his/her job, get an increase in salary, obtain a promotion, or the like.

2) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ - unwelcome sexual behavior and/or atmosphere so severe or pervasive as to alter the victim’s employment conditions and create an abusive work environment.

**V. PRIVACY RIGHTS**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ protects the privacy of government workers, but not workers in the private sector. It gives government employees the right to know what is in their \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_, to \_\_\_\_\_\_\_\_\_\_\_\_access to their files, and to \_\_\_\_\_\_ any mistakes they might find in their files.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, which applies to companies that have contracts with the federal government, aims to create a drug-free work environment. Drug testing is not required, but if a drug test is given improperly, it can violate the \_\_\_\_\_\_\_\_\_\_\_\_ Amendment to the US Constitution, which prohibits unreasonable search and seizure. **Some states have passed statutes that regulate drug testing in the private sector.**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ bars employers from using \_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ tests for screening of employment applicants. It also prohibits \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ testing of employees.

*Exceptions:* Businesses involved in \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ or the handling of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. Drug firms and \_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ are also permitted to use polygraph tests.

**VI. THE EMPLOYEE HANDBOOK: WORKPLACE POLICIES**

# *Why do companies need written policies?*

Sound employment policies provide the principles by which an organization governs its employee relations in a fair and consistent manner. Having all policies and procedures in one manual helps employees be aware of what is expected and can prevent misunderstandings about employer policies. In addition, supervisors and managers are better able to implement policies that are clearly communicated in writing.

Written policies also help employers document compliance with the unending tangle of employment laws and regulations. For example, the Supreme Court has indicated that employers can help protect themselves against sexual harassment that includes a complaint procedure. In addition, the federal Family and Medical Leave Act requires employers to provide written information regarding the employee rights and employer obligations under the Act.

Common topics that company policies address:

**VII. UNIONIZED EMPLOYEES**

***What laws protect you if you are a member of a labor union?***

During the Industrial Revolution, workers banded together into labor unions to demand better working conditions. Governments felt unions were destructive to the economic system and banned most of them as illegal conspiracies. During the Great Depression in the 1930s, however, the government began to recognize unions and allow them to negotiate.

A \_\_\_\_\_\_\_\_\_\_\_\_ is an organization of employees formed to promote the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ of its members.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ is a process in which union and management representatives get together to work our issues such as wages, working conditions, and hiring and firing policies.

* A \_\_\_\_\_\_\_\_\_\_\_ is a collective work stoppage intended *to force an employer* to alter its position on an issue.
* A \_\_\_\_\_\_\_\_\_\_\_\_\_ occurs when an employer temporarily closes down operations *to induce the workers and their representatives* to alter their position on an issue.

**LABOR LAWS AFFECTING UNIONS**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (1932) – outlawed yellow dog contracts, which are contracts workers are forced to sign in which they agree not to join a union as a condition of employment.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (1935) – requires employers to negotiate wages, hours, and conditions of employment with unions. It created the National Labor Relations Board (NLRB) to hear complaints about unfair labor practices.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (1947) - Officially known as the Labor-Management Relations Act, it requires unions to give a 60-day notice before calling a strike.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (1959) – stopped corruption in unions and they must have a constitution and bylaws.