



The SESCO Report

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Your “Human” Resource Since 1945

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Are You Providing Effective Employee Relations? What’s the Answer?

Employers are in agreement that today’s employees are less conscientious about their work and are not as loyal to their employer as they were a generation or two ago. Many of the calls and complaints from clients we work with are related to the lack of motivation in their workplace. Subsequently, a great deal of attention is given to employee motivation to include numerous books, motivational seminars and surveys. So, what’s the solution?

Many organizations are trying to provide or create motivation by attempting to give employees what **they** think they want from their jobs rather than what the **employees really want from their jobs**. This thinking is verified by a recent survey which asked a great many managers to rank, in order of importance to workers, 10 factors that affect their morale.

The answers given by **managers** were ranked as:

1. Good wages
2. Good benefits
3. Job security
4. Promotion opportunities

5. Good working conditions
6. Ample time off for personal reasons
7. Good training
8. Appreciation of work
9. Sympathetic help/leniency for personal problems
10. Effective leadership

To benchmark these answers by managers, the following answers have been given by 396,000 **employees** who have taken SESCO’s Employee/Management Satisfaction Survey:

1. Appreciation for work done
2. Feeling “in” on things
3. Fairness/no favoritism
4. Job security
5. Good benefits
6. Good wages
7. Promotion and growth opportunities
8. Good working conditions
9. Effective communications
10. Sympathetic assistance on personal problems/flexibility

Obviously, the results are quite different when you ask managers what employees want vs. what employees **really want**. Therefore, it is suggested that your organization consider conducting an Employee Opinion/Attitude Survey to determine **how your employees really feel about your organization**. Your prosperity and future operating freedom may depend on the answers. Contact SESCO to plan and schedule this important communications program as more than ever, you

must attract and retain a highly motivated workforce to be successful in today’s challenging and competitive environment.

Interviewing and Legal Considerations

Interviews and other aspects of the hiring process have come under increasing scrutiny since the passage of legislation covering equal employment and privacy issues. While interviewing remains an essential tool in assessing a candidate’s qualifications for the job, companies need to make sure they do not violate the person’s protected rights.

Many of these protected rights are contained in Title VII of the Civil Rights of 1964. The Act prohibits employers from discriminating against applicants on the basis of sex, religion, national origin, race, or color unless one or more of these facets is a bona fide occupational qualification. The Civil Rights Act of 1991 expanded Title VII by adding the right to a jury trial and providing for compensatory and punitive damages ranging from \$50,000 to \$300,000. If a company loses a discrimination case, it could be stuck with back pay, re-instatement, attorneys' fees, and possibly punitive damages (which are capped) and

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LEGAL CONSIDERATIONS

compensatory damages (which are not capped).

Essentially, discrimination is not allowed based on race or color, national origin, religious affiliation, sex, marital status, parental or potential-parental status, age, physical or emotional handicap or disability, whistle-blowing, or sexual orientation. Homosexuals are not protected by federal law, but some state laws prohibit discrimination against them. Exceptions to the above can generally be made only if you can show that the exception is a bona fide occupational qualification (such as model for women's shoes).

The following information includes interview tips and questions to prevent discrimination during the interview process and other information to help our clients stay within the law in their hiring and recruitment practices.

EEO Quiz

1. How will you get to work?
Legal ___ Illegal ___
2. Can you work on Sundays?
Legal ___ Illegal ___
3. What languages do you speak and write fluently?
Legal ___ Illegal ___
4. Can you work overtime?
Legal ___ Illegal ___
5. Are you a member of any clubs, societies or lodges? Which ones?
Legal ___ Illegal ___
6. Have you ever been arrested?
Legal ___ Illegal ___
7. Are you legally able to work in the U.S.?
Legal ___ Illegal ___
8. Have you filed any workers' comp claims in the past?
Legal ___ Illegal ___
9. Were you in the military?
Legal ___ Illegal ___
10. Are you physically able to do this job?
Legal ___ Illegal ___
11. Can you pass a physical?
Legal ___ Illegal ___

Answers: 1) Illegal; 2) Legal (if the individual is to be scheduled to work on Sundays); 3) Legal (if your organization serves non-English speaking customers); 4) Legal; 5) Legal (for staff that will promote the organization in these clubs, etc.); 6) Illegal (only can ask and act upon convictions); 7) Legal; 8) Illegal; 9) Illegal; 10) Legal (share the job description and physical, mental and sensory requirements of the job); 11) Illegal

The 10 Employment Laws Every Manager Should Know

Federal employment laws govern many issues. It's important for managers to know the basics of how to comply with these laws. Here's a list of the top 10 most important federal employment laws:

1. **Job discrimination.** Title VII of the Civil Rights Act of 1964 prohibits you from discriminating in hiring, firing or pay based on a person's race, religion, sex or national origin. It also prohibits sexual harassment.

Action: Treat all employees and applicants equally, without regard to their race, religion, gender or any other characteristics not related to job performance. Demand the same from anyone you supervise and don't tolerate any kind of harassment.

2. **Overtime/minimum wage.** The Fair Labor Standards Act (FLSA) is the nation's main wage law. It sets the federal minimum wage (many states have higher minimums) and requires time-and-a-half overtime pay for hourly employees who work more than 40 hours in a workweek. The FLSA also limits the hours and type of duties that teens can work.

Action: Always pay employees above the minimum wage and pay overtime when applicable. Contact SESCO to conduct an audit to determine which positions are due overtime.

3. **Family leave.** The Family and Medical Leave Act (FMLA) says eligible employees – those with at least a year of service – can take up to 12 weeks per year of unpaid,

job-protected time off for the birth of a child or adoption of a child or to care for themselves or a sick child, spouse or parent who has a "serious" health condition. The FMLA applies to organizations with 50 or more employees.

Action: When employees request leave, listen for requests that would meet the FMLA criteria. Employees don't need to use the words "FMLA leave" to gain protection under the law.

4. **Age discrimination.** The Age Discrimination in Employment Act says you can't discriminate in any way against applicants or employees older than 40 because of their age.

Action: Never take a person's age or proximity to retirement into

See "10 EMPLOYMENT LAWS," page 3

10 EMPLOYMENT LAWS

account when making decisions on hiring, firing, pay, benefits or promotions.

- 5. Disability discrimination.** The Americans with Disabilities Act (ADA) prohibits job discrimination against qualified people with disabilities (i.e., those who can perform the job's essential functions with or without a reasonable accommodation).

Action: Never immediately reject applicants because you think their disability would prevent them from doing the job. When hiring, stick to questions about the applicant's ability to perform the job's essential functions; don't ask questions that would reveal an applicant's disability.

- 6. Military leave.** The Uniformed Services Employment and Re-employment Rights Act (USERRA) makes it illegal to discriminate against employees who volunteer or are called to military duty. When reservists return from active duty tours of less than five years, you must reemploy them to their old jobs or to equal jobs.

Action: Don't challenge a returning reservist's bid to get his old job back; courts typically side with employees in USERRA disputes.

- 7. Gender-pay differences.** The Equal Pay Act (EPA) says employers can't pay female employees less than male employees for equal work on jobs that require equal skill, effort and responsibility.

Action: Review all pay scales to identify possible equal-pay complaints. Different pay for the same job title is fine as long as you can point to varying levels of responsibility, duties, skill requirements or education requirements.

- 8. Workplace safety.** The Occupational Safety and Health Act (OSHA) requires employers to run a business free from recognized hazards.

Action: Provide a safe work environment for your staff, and point out any noticeable hazards or potential safety problems as soon as possible.

- 9. Pregnancy discrimination.** The Pregnancy Discrimination Act (PDA) prohibits job discrimination on the basis of "pregnancy, childbirth and related medical conditions." You can't deny a job or promotion merely because an employee is pregnant or had an abortion. She can't be fired for her condition or forced to go on leave.

Action: Treat pregnant employees the same as other employees on the basis of their ability or inability to work. Example: If you provide light duty for an employee who can't lift boxes because of a bad back, you must make similar arrangements for a pregnant employee.

- 10. Immigration.** The Immigration Reform and Control Act (IRCA) makes it illegal to hire and employ illegal aliens. Employers must verify identification and workplace eligibility for all hires by completing I-9 Forms.

Action: Managers should note that it's still illegal to discriminate against illegal aliens – via harassment or subminimum pay – even if the illegal immigrant is hired inadvertently.

SESCO Client Feedback

"Hi Bill - just a note to let you know your article was one of the five most-read MTD stories of the past week. Thanks again for the great information!" ~ Michael Manges - 10 Missions Media

"On a personal note, I wish to thank you for your guidance, teaching and SESCO's service throughout all of these years. It has been a pleasurable experience partnering with you guys." ~ Diane Hughes, Manager of Administrative Services - Arbico East, LLC and Peak Restaurants, LLC

"Thank you all for being so flexible and easy to work with. We truly appreciate you! Have a great weekend!" ~ Valerie O. Long, Operations Specialist - Virginia Association of Community Services Boards, Inc.

"Well, even though I do not like your answer, YOU GUYS ROCK. Thank you for your help. Take care." ~ Bryan W. Stasch, Vice President of Program & Content Development - Automotive Training Institute

Special Thanks to New SESCO Clients!

Strongwell
Bristol, VA

Highland Medical Center
Monterey, VA

Cavalier Automotive Group
Chesapeake, VA

Lakes Funeral Home
Berea, KY

Thacker Brothers Funeral Home and
Cremation Service
Scottsville, VA

DePaul Community Resources
Roanoke, VA

David R. McGeorge Car Co., Inc.
Richmond, VA

HOPE Family Health
Westmoreland, TN



P.O. Box 1848
Bristol, TN 37621
(423) 764-4127 • FAX (423) 764-5869
www.sescomgt.com
email: sesco@sescomgt.com

RETURN SERVICE REQUESTED

2022 SESCO Webinar Series (Part 1)

- **May 11: Navigating the Complexities of Wage and Hour Law**
- **May 25: Management's Role in Recognizing & Preventing Harassment and Discrimination in the Workplace**
- **June 8: Understanding the Ins and Outs of Medical Leave of Absences**
- **June 22: Essential Skills of Leadership**

Tuition:

Tuition includes a copy of the PowerPoint presentation and live recording emailed to registered individual.

\$49.99 per person, per webinar for all topics but DiSC

\$169.99 for DiSC Personality Profile Series (September) *Includes Assessment*

Schedule:

Every Other Wednesday, beginning April 2022 - October 2022

1:00-2:30 pm EST