

## HR Resolutions for 2011

12/28/2010

[Robert A. Dubault](#)

It's that time again when we look back on what we wanted to accomplish this year and look ahead to what we hope to tackle next year. Whether you're starting anew in 2011 or carrying items from your 2010 to-do list into the New Year, here is a list of things all human resources professionals should consider.

### **Review Your Employee Handbook**

This is a good item to have on your to-do list every year, given how often the landscape changes with new laws, regulations and court interpretations. Particular attention should be paid to your Equal Employment Opportunity and workplace harassment policies (see discussion below). You should also address confidential information and how employees are expected to handle it. Fringe benefits is another area to give some thought to. In Michigan, for example, it is permissible to require employees to forfeit unused vacation upon termination or to limit vacation payout to those who voluntarily terminate with appropriate notice. (This excludes employees who quit without notice or who are terminated for misconduct.) In addition, employers who pay out unused vacation can include a provision to automatically deduct any amounts the employee owes the company.

### **Review Compliance with Wage and Hour Laws**

There has been an explosion of wage-hour litigation over the last several years. Potential damages and attorney fees can run into the millions of dollars. Issues that repeatedly come up include:

- "Off the clock" work for things like donning/doffing of safety gear and sanitary clothing
- Claims that employees were permitted or forced to work without pay before or after their scheduled shift or during break periods
- Improper classification of certain employees as exempt from minimum wage and overtime protections

Educate yourself and your management team as to what constitutes "work" and "time worked" under the wage and hour laws. Review the requirements for "exempt" employees and evaluate all the positions in your organization against those requirements.

### **Review and Publicize Harassment Policies**

The concept of unlawful workplace harassment has been around for more than 40 years, but we continue to see cases in which employees successfully sue their employers for harassment based on everything from gender to religion to national origin. Take a few minutes to review your harassment policy to ensure it covers all forms of harassment based on all of

the characteristics protected by federal or state law. Publicize your policy and train your supervisors and managers on what constitutes prohibited conduct or harassment, how to deal with a harassment report or complaint and what constitutes impermissible retaliation under your policy and under the law.

## **Review Administration of Medical Leaves**

There are a number of reasons why this should be on your to-do list:

- Recent changes to the Family and Medical Leave Act mean there are more reasons to take leave and more employees are eligible for it
- Changes to the Americans with Disabilities Act mean that more employees may be entitled to a leave of absence as a reasonable accommodation
- The Equal Employment Opportunity Commission has begun cracking down on employers who may have administered their leave programs in an inflexible manner
- The Genetic Information Non-Discrimination Act has imposed new disclaimer language for all employer medical forms

Review and update your policies and forms as necessary. Train your management team on the do's and don'ts of dealing with employees with medical issues and how to handle medical information that may come into their possession. Finally, make sure that you are administering your leave policies in a manner that is consistent with both federal and state law.

## **Develop or Update Electronic Communications/Social Media Policies**

Electronic communication is quickly evolving. More than ever before, employees are using technology, including social media sites, to communicate with each other and with non-employees. These communications may contain sensitive business information. Employers should craft policies that address when it is -- and is not -- permissible to use electronic technology (whether provided by the employer or belonging to the employee for business purposes), what types of conduct/communication is appropriate, and how such communication should be protected or otherwise safeguarded from misuse or misappropriation. Care should also be taken to create a policy that does not interfere with employee rights under state or federal law, such as the National Labor Relations Act, and to ensure that employees who use social media sites to promote your business include the necessary disclosures or disclaimers, as required by the Federal Trade Commission.

There are undoubtedly dozens of other things you might want to think about, each with its own particular legal and employee-relations implications. Warner Norcross & Judd's Labor and Employment Law Practice Group is experienced in these areas and can help you create and administer your policies. Please let us know if we can help.