



Webinar 3 - February 12, 2025

Essentials for Hiring and Onboarding

WEBINAR OUTLINE

INTRO/SETTING THE STAGE

- Why is Documentation so Important?
- The Benefits of Quality New Hire Documentation and Paperwork

THE HIRING PROCESS

- Hiring Compliance - Understanding Legal Risks
- Pre-Interview: The Employment Application
- The Interview
 - Tips for Legally Compliant Interviewing
- The Offer Letter

REQUIRED DOCUMENTATION UPON HIRE

- Required Notices and Acknowledgements Upon Hire (New York State)
- Required Notices and Acknowledgements Upon Hire (New York City)

THE ONBOARDING AND HIRING PROCESS: STRATEGIES FOR SUCCESS

HRtelligence TIPS

I. INTRO/SETTING THE STAGE

Why is Documentation so Important?

- Good documentation is vital to building an employer's defense against complaints such as Equal Employment Opportunity Commission charges, unemployment insurance cases or lawsuits.
- By creating a well-organized and easy-to-follow pre-hire and hiring system, employers can save valuable time and resources, enabling them to identify the most qualified candidates for their organization.
- A structured hiring process allows for better communication, candidate engagement, and decision-making throughout the recruitment journey. As a result, companies can make more informed hiring decisions and build a solid and talented workforce.

The Benefits of Quality New Hire Documentation and Paperwork

- Quality new hire paperwork and documentation is a crucial aspect of hiring and onboarding every employee at your business and for ensuring legal compliance.
- Workplace documentation serves as a reliable record and eliminates room for uncertainties. Having detailed workplace documentation promotes accountability, consistency and compliance with company policies. Thorough documentation also helps prevent disputes and saves time reviewing historical employee information. In the event of litigation, it stands as a solid defense, serving as clear, recorded evidence.

THE HIRING PROCESS

Hiring Compliance - Understanding the Legal Risks

What is Unlawful Discrimination in Hiring? A person is denied a job because of a protected characteristic.

- **Title VII of the Civil Rights Act of 1964**
- **The Age Discrimination in Employment Act (ADEA)**
- **The Americans with Disabilities Act (ADA)**
- **The 1978 Pregnancy Discrimination Act**
- **Sexual Orientation and Gender Identity**
- **The Genetic Information Nondiscrimination Act of 2008 (GINA)**
- **The Immigration Reform and Control Act of 1986**

It is illegal to discriminate against a job candidate or applicant in job advertisements, recruiting practices, applications, background checks, job referrals, pre-employment assessments, and virtually every aspect of the employment relationship. Employers must always approach the recruitment process with care and follow a legally defensible hiring process.

Source:<https://hiring.monster.com/resources/recruiting-strategies/talent-acquisition/legal-hiring-process/>

Pre-Interview: The Employment Application

An employment application form provides an opportunity to collect additional information about the person's employment history, work background, contact information, eligibility, and more for human resources purposes.

An employment application can be a very effective tool: The work history and qualification information will help you make a hiring decision. By having all applicants complete the same form, you are effectively able to fairly compare applicants to each other on their skills and qualifications for the job posting. The personal information will help you comply with many federal, state, and local regulations for the candidates you intend to hire.

The Interview

Tips for Legally Compliant Interviewing

- **Work Towards a Thoughtful, Structured Interview Process**

The interviewer should be provided with a set list of questions and instructions on how to proceed with each candidate, so bias doesn't creep into the interaction. There should also be a standardized evaluation form for both interviewers to touch base and compare notes.

- **Predictive Index Questions**

These questions are designed to confirm a candidate's behavioral fit with a job target and/or explore areas of difference between the candidate's behavioral pattern and the job target.

- **Minimize Unrelated Discussion**

- While it seems unreasonable to avoid "chit chat" with candidates, the more one-off conversations you have with one over another can lead to implicit bias. That's not to say hiring managers can't be warm or friendly throughout the interview process but keep it professional and stick to the same process with everyone.
- For example, it's perfectly fine to ask a candidate how their day is going. What's a little less clear is asking a candidate where they grew up or if

they're married—the responses could easily cloud your judgment yet should not ultimately matter in hiring the most qualified person for the job.

- **Create and/or Update Job Descriptions**

By clearly articulating the requirements of the role, employers can attract the most suitable candidates and make sure they clearly understand what is expected of them. This involves identifying the necessary skills and qualifications and outlining the position's day-to-day responsibilities. Effectively communicating these details will help you establish expectations and align everyone involved in the hiring process.

Moreover, defining job roles and responsibilities creates a solid foundation for a successful working relationship with employers' new hires. It also allows for a more objective evaluation of candidates, ensuring they possess the necessary skills and experience for the job.

- **Skills Assessments**
 - Not all jobs necessitate a skills assessment, but if it makes sense, use one that's been proven to reflect the essential functions of the job.
- **Get a Second Opinion**
 - Though hiring personnel are often in a time crunch to fill a position/positions, it is important to involve at least one additional person in the hiring process. This could be the potential candidate's manager or supervisor, a potential teammate who's proven successful in a similar role, or another recruiter at the company.

Interview Questions to Avoid:

- Questions about race, religion or ethnicity
- Questions about age, unless used to verify that applicants meet any age-related legal requirements for the job.
- Questions about an applicant's pregnancy or plans to start a family
- New York law prohibits all employers from asking prospective or current employees about their salary history and compensation.

The Offer Letter

- The existence of an offer letter can be incredibly valuable for employers.
- A well-written offer letter also acts as clear and definitive proof as to the circumstances upon which employment was offered and accepted.

Every offer letter should include information such as:

- the position title

- hire date
- orientation date
- employment status
- exemption status
- compensation amount
- pay schedule

Organizations should include an acknowledgment that the offer letter supersedes and replaces prior oral or written understandings or agreements regarding the matters addressed in the letter, including anything that may have been discussed during the interview process.

Source: <https://www.jdsupra.com/legalnews/the-employment-offer-letter-practical-3631846/#:~:text=Every%20offer%20letter%20should%20include,compensation%20amount%2C%20and%20pay%20schedule.>

REQUIRED DOCUMENTATION UPON HIRE

Required Notices and Acknowledgements Upon Hire (New York State)

- Employee Handbook
- Wage Theft Prevention Act

At the time of hiring, employers must provide new employees with a notice in writing in English and the employee's primary language that sets forth:

- The rate and basis of pay, whether by the hour, by the week, by the shift, by the piece, etc.
- Allowances, if any, including tip, meal, and lodging allowances
- The regular pay day
- The name of the employer and any doing-business-as names
- The physical address of the employer's main office and a mailing address, if different
- The telephone number of the employer -and-
- Any other information the Commissioner of Labor deems necessary

At the time the employer provides the notice, the employee should sign and date a written acknowledgement in English and the employee's primary language, which the employer must preserve and maintain for six years.

Potential Penalties - Wage Theft Prevention Act

- Employees who are not provided with the required notice within 10 days of their first day of employment may file a civil action and recover \$50 a day for each work day that the violations occurred or continue to occur up to \$5,000 along with reasonable costs, attorney’s fees.
 - The Commissioner of Labor may also bring an action on behalf of an employee who did not receive the required notice, and the Commissioner may assess damages of \$50 a day up to \$5,000 for every day the violation continued.
 - New York State recently enacted legislation that makes wage theft a form of larceny.
 - The legislation adds a new subsection to the New York Penal Law’s larceny statute to include wage theft, which it describes as when a person is hired “to perform services and the person performs such services and the [employer] does not pay wages, at the minimum wage rate and overtime . . . to said person for work performed.” In such a case, the prosecution is permitted to aggregate multiple non-payments or underpayments from an individual or workforce, even if such incidents occurred in multiple counties.
- Sexual Harassment Prevention Policy

Employers are required to provide employees, at the time of hire and at every annual sexual harassment prevention training, a written notice in English and the primary language of the employee that includes the employer’s sexual harassment prevention policy and the information presented at the employer’s sexual harassment training program.

- Sexual Harassment Prevention Policy Receipt
- Lactation Accommodation Policy

Employers are required to provide a policy developed by the New York State Department of Labor regarding the rights of employees to express breast milk in the workplace to employees at hire, annually, and when an employee returns to work after the birth of a child.

The policy should:

- Inform employees of their rights under the law
 - Specify how a request may be submitted to the employer for a location for employees to express breast milk –and–
 - Require the employer to respond to the request within a reasonable timeframe that does not exceed five business days
- Leave and Work Hours Policies

Employers must notify their employees in writing or by publicly posting their policies on sick leave (including any paid sick leave that employees are entitled to under state or local law), vacation, personal leave, holidays, and hours.

- New York Paid Family Leave Notice

Employers should provide employees with a notice of their rights under NYS Paid Family Leave law if such information is not contained in the Company's employee handbook.

- Electronic Monitoring

All private employers, regardless of size, that monitor or intercept employees' telephone conversations, electronic mail, or internet access/usage must notify those employees, at the time of hire, that their communications are subject to electronic monitoring.

Note: The law excludes monitoring done solely for computer maintenance and protection.

- The required notice must be given by the employer and acknowledged by the employee either in writing or electronically.
- The notice must inform employees that any and all telephone conversations or transmissions, electronic mail or transmissions, or internet access or usage by an employee by any electronic device or system, including but not limited to the use of a computer, telephone, wire, radio or electromagnetic, photoelectronic or photo-optical systems may be subject to monitoring at any and all times and by any lawful means.

- Whistleblower Notice

The New York State Whistleblower Labor Law prohibits an employer from taking retaliatory personnel action against employees because the employee made a complaint of employer violations. The New York State Department of Labor released a model Notice of Employee Rights, Protections and Obligations Under Labor Law Section 740. Employers must post the notice in a conspicuous, easily accessible, and well-lighted place customarily frequented by employees and applicants for employment. It is advisable that this notice also be accessible electronically to employees who are working remotely.

- Form I-9

The Immigration Reform and Control Act of 1986 ("IRCA") prohibits employers from hiring any individual, including a U.S. citizen, for employment in the U.S. without verifying their identity and employment authorization on Form I-9.

Employers also are prohibited from continuing to employ an individual knowing that they are unauthorized for employment.

- Employment Contract/Job Description

New hires may review and sign a contract that outlines their job responsibilities, obligations and what an employer expects of them.

If there is no employment contract, a job description should be provided outlining employment details such as the term of employment and roles/responsibilities.

- Background Check Authorization

Before obtaining a consumer report, employers must comply with the Fair Credit Reporting Act (FCRA) by notifying the applicant or employee (using an easy-to-read document) that the employer may obtain a consumer report and obtaining the applicant or employee's written consent.

Employers must also certify to the consumer reporting agency that they:

- (1) have complied with the disclosure requirements and will continue to comply with disclosure requirements if the applicant or employee requests additional information;
- (2) will comply with the adverse action requirements, if applicable; and
- (3) will not use the information provided by the consumer reporting agency to violate equal employment requirements.

- Copy of Article 23-A
 - A copy of Article 23-A to the applicant or employee when requesting consent to conduct the background check
 - A second copy of Article 23-A to the applicant or employee if the background check discloses a criminal conviction
 - A written statement of the reasons for a denial of employment if requested by an individual denied employment because of a criminal conviction

- Drug Testing Authorization

This is a consent form providing an employee or prospective employee's consent to a test for illegal drugs or alcohol. It releases the employer and other parties from liability and discusses testing methods and confidentiality requirements. It should be provided to an employee before administering a drug test.

Required Notices and Acknowledgements (New York City)

- Pregnancy, Childbirth, and Related Conditions

The New York City Human Rights Law (NYCHRL) requires employers with four or more employees to provide new employees with written notice of the right to be free from discrimination in relation to pregnancy, childbirth, and related medical conditions at the commencement of employment.

- Sexual Harassment

The NYCHRL requires all employers to provide new hires with an information sheet about sexual harassment developed by the human rights commission. The information sheet may be included in the employee handbook

- New York City Earned Safe and Sick Time Act

The New York City Earned Safe and Sick Time Act requires all employers to provide new employees with written notice of their right to sick and safe time at the commencement of employment. The notice must include:

- How sick and safe time is accrued and may be used
- The calendar year of the employer –and–
- The right to bring a complaint and be free from retaliation for exercising rights under the ESSTA

- New York City Fair Workweek Law

This law fast food employers to provide fast food employees with written notice of an initial work schedule containing regular shifts and on-call shifts on or before the first day of work. Along with their first schedule, fast food employees must receive a good-faith estimate in writing of the number of hours the employee can expect to work per week and the expected dates, times, and locations of those hours. At the time of hire, fast food employees also must receive notice in writing of the method by which additional available shifts will be posted.

Retail employers must provide retail employees with a written work schedule no later than 72 hours before the first shift of the work schedule.

- Temporary Schedule Change Law

New York City's Fair Workweek Law has a provision that requires employers to allow most employees to make a temporary change to their work schedule to accommodate a personal event. Employers must post the [You Have a Right to Temporary Changes to Your Work Schedule](#) notice prominently in the workplace.

- NYC Pregnancy Accommodation Notice

- NYC Worker's Bill of Rights

Beginning July 1, 2024, New York City employers will be required to post and distribute a Workers' Bill of Rights which would contain information on the rights and protections under federal, state, and local laws that apply to all workers in the City, regardless of immigration status.

THE ONBOARDING AND HIRING PROCESS: STRATEGIES FOR SUCCESS

What is "Onboarding"?

- "Onboarding" refers to the processes in which new hires are integrated into the organization. It includes activities that allow new employees to complete an initial new-hire orientation process, as well as learn about the organization and its structure, culture, vision, mission and values.

The Benefits of Quality Onboarding

- All new employees are onboarded – but the quality of the onboarding makes a difference.
- When onboarding is done well, it lays a foundation for long-term success for the employee and the employer. It can improve productivity, build loyalty and engagement, and help employees become successful early in their careers with the new organization.
- Studies consistently show a positive correlation between engaged employees and a company's profitability, turnover rate, safety record, absenteeism, product quality and customer ratings.
- An effective onboarding plan offers an ideal opportunity to boost employee engagement by, for example, fostering a supportive relationship between new hires and management, reinforcing the company's commitment to helping employees' professional growth and proving that management recognizes the employees' talent.

Source: <https://www.strongdm.com/blog/employee-onboarding-statistics>

Key Components of the Onboarding Process

Your onboarding process should:

- Set employees up for success
- Clarify expectations
- Outline company culture and norms
- Complete all new hire forms

- Explain policies and procedures – provide a new hire folder
- Lay out training plan

Onboarding can last many weeks or months after an employee's first day, and typically involves:

- **Preboarding:** provides necessary paperwork and other practical information before an employee's first day.
- **Orientation:** educates new hires about the organization's values and culture, assigns a mentor, clarifies the employee's roles and responsibilities, introduces team members, and offers a workplace tour.
- **Training:** equips new hires with the skills and resources needed to complete their day-to-day tasks.
- **Role adaptation:** provides measurable, realistic goals, ongoing mentor support, and as-needed professional development opportunities.

Onboarding Delivery Approaches

- Various components of an onboarding program can be delivered using different approaches and methodologies combined to suit the organization and available resources.
- **Web-based/Virtual Onboarding** - Whether your workplace is fully in-person, fully remote or a hybrid model, online onboarding has become mainstream. Offering online orientation activities streamlines the process, supports paperless documentation, and offers a way for employees and their families to access benefits and other company information at any time. Other onboarding activities can be completed around varying schedules and at a pace most helpful for individual employees, and information can easily be tailored for various audiences.
- Some employers are using innovative practices, such as games, video, and team-building exercises, to get new hires excited about joining the company. They're also working to make sure people can hit the ground running with functional workstations and equipment.



Some helpful tips for a structured hiring process are as follows:

- Use Structured Interviews
- Evaluate all candidates in the same manner (e.g., asking the same questions of every candidate applying to the same role) to mitigate bias. A documented process helps to ensure team members/interviewers follow the same process every time.
- Maintain accurate records. A documented process ensures that all members who participate in the recruiting process are aware of company policies.
- Ensure documents are updated and maintained as processes change.
- Ensure all employees, including new hires, are aware of updated processes and documentation.
- Have Secure Storage for Candidate Information

By following these tips, you can ensure that your interviewing process and documentation are compliant.