DAY 2: EMPLOYMENT LAW DISCIPLINE AND COACHING
Agenda

- Laws pertinent to leaders
  - Policy & application at UHCL
- Coaching techniques
  - Skill Practice
- Discipline concepts & processes
  - Skill Practice
Employment Law
Employment law
Intricate set of regulations that govern the employer-employee relationship
What drives employment law?

1. Societal pressure
2. $$$
FLSA - 1938

- “Exempt” vs. “Non-exempt”
- Exempt - from the law’s protections
- Non-exempt are protected by this law
- Sets criteria for each category
Identification of non-exempt

- Certain roles are specifically defined
- $23,600 - Non-exempt
- $100,000 - Exempt
3-prong test - administrative workers

- Salary at least $455/week
- Exercise of discretion
- Non-manual work related to business operations
FLSA - Fair Labor Standards Act - 1938

- OT after 44….later to be 40
- Minimum wage
- Child labor laws
- *So where did the 8 hour day come from?*
Looks like today...

- Clocking in & out for work & lunch
- Hourly workers can’t “work through lunch”
- Other side of the coin...not paid for hours not worked
- Restricts what hourly workers can do
“Working off the Clock”

- Illegal
- Set expectations
- Disciplinary action
- Must pay **no matter what**
The 1960’s...social reform

Discrimination & Harassment

Equal Opportunity Employment Commission
Affirmative Action - 1961

- requires government contractors to “take affirmative action” toward prospective minority employees in all aspects of hiring and employment.
Common misconceptions?

- “Quotas”
- Denial to non-minorities
Affirmative Action

- Controversy of quotas
- Numbers for the sake of numbers
- Hire the most qualified person
- **All else being equal**, preference to minorities
Civil Rights Act - 1964  
(Title VII)

- Outlawed discrimination based on race, color, religion, sex or national origin
- Genetic information, vet status, gender identity
What is Discrimination?
2 Types of Discrimination

• **Disparate Treatment**
  Occurs when an employer treats a person, who is a member of a protected group, less favorably than others who are not members of that protected group. This generally involves inconsistent application of polices or practices.

• **Adverse Impact**
  Occurs when an apparently neutral policy or practice that on the surface does not appear to have a negative impact, but when applied, may actually have an adverse impact on a protected class.
Harassment

Subjecting an individual on the basis of their membership in a protected class to severe or pervasive treatment
Harassment qualifiers

- Humiliating, abusive or threatening conduct or behavior that denigrates or shows hostility or aversion toward an individual or group;
- An intimidating, hostile or abusive living or working environment that alters the conditions of learning, living or working; or
- An unreasonable interference with an individuals’ work performance.
What areas of work life are affected by these regulations?

- Hiring
- Disciplinary actions
- Promotions
- Perks - schedules, preferred offices, etc.
- Pay
LEADER RESPONSIBILITIES
Responding & Reporting
Leaders or “supervisors”

An individual qualifies as an employee’s “supervisor” if: the individual has authority to undertake or recommend tangible employment decisions affecting the employee; or the individual has authority to direct the employee’s daily work activities; or If the employee believes such power exists
Liability

- The organization, and the person, is at fault if an employee suffers an adverse action as a result of harassment/discrimination/retaliation
Organizations must show…

- We exercised reasonable care to prevent and promptly correct any harassment; *and*

- the employee unreasonably failed to complain to management or to avoid harm otherwise
Leaders should...

- Take proactive measures to ensure an environment free from discrimination/harassment
- Report any and all allegations, comments, insinuations to such to EOS/Title IX Coordinator
Retaliation

- Adverse action predicated on a complaint regarding a protected class membership
COACHING AND DISCIPLINE
Revisit...what is a leader’s role?

Drive towards SUCCESS
Coaching
Coaching

Real-time response to issues with performance or communication
The goal with coaching is?

Guide the individual to a conclusion that change is needed and agree on future actions
Results of good coaching...

- Goals that are defined and understood
- Alignment of expectations between the team leader and team members
- Transfer of knowledge on a “just-in-time” basis
- Increased individual motivation and morale
- A more adaptive and reactive team
- Early identification of unforeseen barriers to performance
- Commitment to continual learning and improvement
Goals of a coach

- Help others see the need for change
- Build on strengths and work on weaknesses
- Understand the person’s point of view
- Facilitate growth and develop competencies
Group work

- Positive coaching experiences
- Negative coaching experiences
Elements of an effective coaching session

- Preparation - never go in without a plan
- Use support - not criticism
- Build on positives & strengths
- Agreement on behavioral changes
An effective coach...

- Patience
- Engaged in the success of the individual
- Dialogue, not dictation
- Relationship focused
- Drives for results
When not to coach

- Not invested in the individual
- Training issue
- The impact of actions may be negligible
- Emotions are running high
Show Support

Clarify areas for improvement

Establish impact

Remove roadblocks and diminish excuses

Make a plan & get commitment

Follow up
DISCIPLINE
What’s the point?

- Let us not forget our role as leaders
- Improve performance
When do we discipline?

- Coaching and training have not been successful
- Policy violations
- Communicate seriousness
Progressive discipline

- Coaching
- Documented Verbal Counseling
- Written Warning
- Suspension
- Termination
Faculty discipline process

- Written complaint to dean
- Mediation
- Disciplinary committee
- Sanctions
Document good and bad performance

Consistency

Consistency

Consistency

- Spreadsheet
- Notebook
- Physical file folder
- Microsoft OneNote
- Electronic files
Yes

- Dates & times
- Behaviors
- Comments made
- Deadlines missed or made
- Quality
- Expectations met/unmet
- Conversations

No

- Feelings
- “I” sentences
- Judgments
- Comparisons
- Inflammatory words
A proven method to document accurately and fairly.

**Facts**—What, When, Where & Who

**Objectives**—Defined Expectations

**Solutions**—Methods to Improve

**Actions**—Consequences
FOSA Exercise

• I expect you to be at work by 8:00am.
• Spend one hour each week with my assistant to learn how to use the computer.
• You have a terrible attitude about work.
• John left the confidential file drawers unlocked overnight last Monday and Wednesday.
• You will receive further disciplinary action if you are late for work again.
FACTS

• What happened?
• When did it happen?
• Where did it happen?
• How did it happen?
OBJECTIVE(S)

• States specific outcome to achieve:
  
  • Incorrect
    
    • *Do a better job with customers next time.*
    
    • *(You can’t measure)*

  • Correct
    
    • *Greet each customer with a smile. Always start the conversation by saying, “Good morning. My name is Jane, how may I help you?”*

  • Compliance - requires immediate change
  
  • Training - requires change during a specific time frame
SOLUTION(S)

- Ideas and suggestions to assist the employee with meeting the objective(s):
  - Enroll in a customer service training course.
- The employee should be involved in finding solutions for improvement. Ask the employee for their suggestions:
  - Employee asks to observe a successful employee.
ACTIONS

• State the specific action you are taking
  • You are receiving a written reprimand for your lack (verb) of great customer service.

• State the action you will take if the employee’s behavior falls short of the objectives(s)
  • Failure to adhere to the expectations outlined in the document will result in further disciplinary action up to and including termination.
Common errors
Mistake no. 1

Ignoring unacceptable behavior in hopes that:

1. no one else will notice,
2. it will correct itself, and/or
3. the employee will eventually just go away
Mistake no. 2

Saving up a laundry list of occurrences in hope that, when added together, they will justify a bigger penalty
Mistake no. 3

Applying rules inconsistently (unfairness)
Mistake no. 4

Applying penalties inconsistently

... (did I mention fairness?)