

Employment Contracts For Classified Staff

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Classified Contracts

- Use written employment contracts for classified employees
- We recommend they contain:
 - Term of employment
 - (definite or indefinite)
 - Employment “at will”
 - Superintendent hires and fires



Key Elements

- Use “at will” employment
- Review application forms
- Focus on job-related standards
- Interview applicants consistently
- Review policies and handbooks
- Be wary of discrimination issues

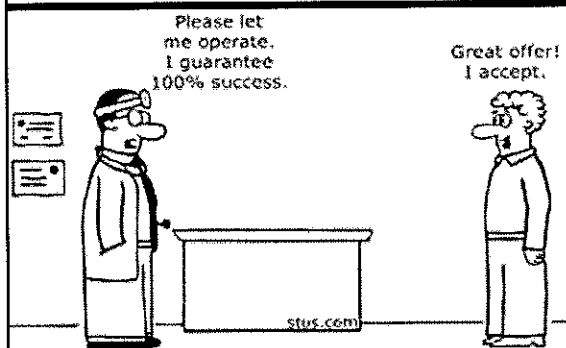
Classified Contracts

- Pay upon termination – DO NOT guarantee severance pay
- The superintendent or supervisor assigns and reassigns work
- Pay is based on category of work
- Fringe benefits listed or in schedule
- How sick/vacation days are earned
- Authority to withhold from wages
- Agreement to use comp time

Key Elements

- Evaluate classified employees
- Be direct, honest and clear
- Identify problems specifically
- Conduct an exit interview
- In a termination be direct and honest – don't pull your punches
- Be thorough in termination letters

(Oral Contracts)



Watch What You Say (Oral Contracts)

- Promises by the board or administration can create a contract
- Comments can override written handbook or can . . .
- Lead to litigation



Review Policies

- Read them
- Follow them
- Change them to conform to practice
- Minimize red tape
- Retain authority and flexibility in:
 - Discipline
 - Procedures (NOT due process)
 - Evaluation, nepotism, etc.

Review Handbooks

- Review handbooks
- Make them conform to policies and contract provisions
- Change them as necessary
- Include a disclaimer:
 - Handbook is not a contract
 - It is merely informational
 - District may change it anytime

Personnel Handbooks

- Keep flexibility
 - Don't promise progressive discipline
 - Don't obligate the district to provide certain working conditions
- Have employees sign for:
 - Receipt
 - Understanding

Application Forms

- Use job description to define essential functions
- Emphasize "at-will" employment
- Require separate applications for separate jobs
- Ask about:
 - Reason left prior job
 - Willingness to undergo a post-hiring drug test
 - Permission to investigate



Application Forms

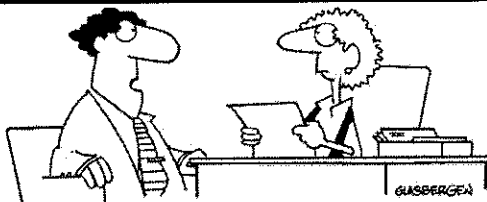
- Warn that false information could result in discharge
- Require applicant to attest to the accuracy of the information
- Sign a release and authorize prior employers to provide information

Hiring Considerations

Use Job-Related Standards

- Experience
- Training/Education
- Ability to do job
- References (follow up on them)
- Extra-duty
- Ask same questions of all applicants
- No Courtesy Interviews

Interviewing



"My short-term goal is to bluff my way through this job interview. My long-term goal is to invent a time machine so I can come back and change everything I've said so far."

The Interview Itself

- Develop guidelines for interviews
- Apply the guidelines consistently
- Interview all applicants in person or train the interviewers
- Prepare a written list of questions
- Keep your notes
- Avoid stray comments or questions

Protected Classes

- Age (over 40)
- Race, Color,
- National Origin
- Religion
- Sex
- Marital Status
- Sex Orientation



Americans With Disabilities Act (the ADA)

- Questions about disability prohibited
- Exceptions
 - If disability is obvious
 - If applicant brings it up
- In those cases, interviewer may ask about accommodation

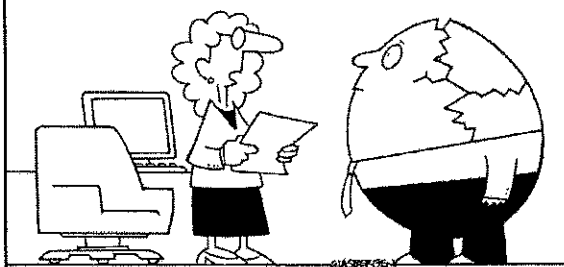
Don't Ignore Problems



Evaluate Classified Staff

- Good evaluation systems:
 - Use objective standards
 - Based on job duties & performance
 - Encourage good performance
 - Identify deficient performance
 - Provide valuable records to defend against claims of discrimination and unemployment

Be Direct and Clear



"You're a good employee, Humpty, but you need to learn how to take a little criticism!"

Best Evaluations Are:

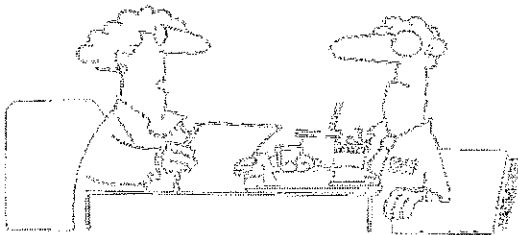
- Prepared by the supervisor
- Consistent
- Specific, give examples
- Objective, job and duty-related
- Honest (no grade inflation and don't pull punches)
- Not personal or insulting

Termination Checklist

- Review grounds for discharge
- Review documentation
- Check conformity w/ policy
- In termination meeting:
 - Be direct and to the point
 - Be honest about reasons
 - Don't argue
 - Write up the interview



Communicate Honestly



"Before we begin your performance review, I want the liberty of ordering you some comfort food."

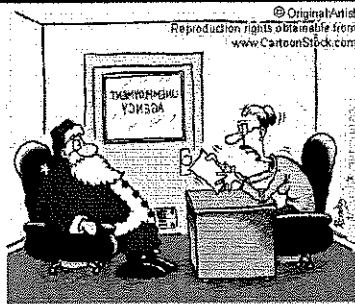
The Termination or the Exit Interview

- Conduct an exit interview whether the employee quits or is fired
- Include a witness
- Document the interview, including the employee's responses
- List the reason(s) the employee gives for leaving voluntarily

Termination Letters

- Must be consistent with the district's defense
- Question of credibility if you:
 - Soften the blow
 - Pull your punches
 - Try to be nice instead of honest
 - And later bring up other reasons or the "real reason" for discharge

Unemployment Comp.

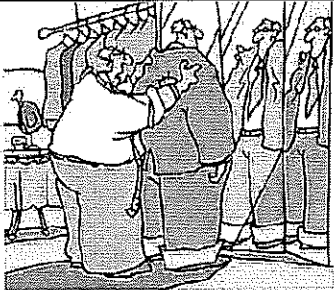


"Really, Mr. Claus, you can't work one night a year then expect to qualify for unemployment benefits."

Unemployment Comp.

- Documentation is very important
- Exclusion period for: 1) voluntary quit and 2) ordinary misconduct
- Disqualification for gross misconduct
- 9-month employees do not qualify for unemployment comp in summer if given "reasonable assurance" of re-employment in the fall

Discrimination Charges



"Power suits are great for up-and-comers. For you, I recommend the wrongful dismissal suit."

Responding to a Charge

- The NEOC process
 - Consistency is important
 - Must respond within 30 days
 - NOT just another form to fill out
 - Call your lawyer
 - Call your insurance carrier
- "Litigation Hold"

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