

THE SMALL BUSINESS HR CRASH COURSE

THE INSIDER'S GUIDE TO CREATING A HIGH-PERFORMING
TEAM AND HIGHLY PROFITABLE BUSINESS

Cover Your Assets so You Don't Lose Them!

KATHERINE
HARTVICKSON



The Small Business HR Crash Course

The Insider's Guide to Creating a High-Performing Team and
Highly Profitable Business

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Version 2.0

By

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2-Time #1 Amazon Bestselling Author

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Free and Frequent Updates!

I will be continually updating the electronic version of this book with interviews with small business owners, resources and new information to help you grow your business based on the lifestyle you want for yourself and your family, all while building a world-class team of inspired employees.

If you are reading this book on a Kindle or Kindle App, make sure it's the latest version. And if you are reading this in print format, you can download the Kindle version for free.

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I appreciate comments and feedback so head over to my Facebook page, which you can find at <https://www.facebook.com/QuantumAscendance/>, and I will be sure to respond to your comments! You can also learn management tips and ways to handle the myriad of situations that come up for small business owners by reading my blogs at www.QuantumAscendance.com.

*To my incredible husband,
life partner, friend and love
*** Keith Lewis Smith ****

You've always believed in me and challenged me to go bigger than even I thought possible. My career would not have achieved such heights had you not encouraged and supported me every step of the way. Thank you for reading this manuscript multiple times and making it even better. Your love knows no boundaries and I am so grateful for you every single day. I love you.

*My family and friends,
I'll mention you in the next book and give you the credit you deserve.*

Disclaimer

I want to help you grow your business and be the leader you want to be. Owning a small business is exciting and daunting all at the same time. As a small business owner myself, I know that it can also be the most rewarding way to earn a living and support your family while helping the people you want to help. I wrote this book to help you understand how to handle some big situations you will most likely encounter and how to follow critical employment laws and regulations as they apply to your business. I called it an HR Crash Course because the book hits on the biggest things you need to know right now from my perspective. Having a successful, smooth-running business is 90% mindset and 10% experience and skill. I don't address the mindset piece in this book but will dive deep into it in my next book on leadership. This won't be the only book you will ever need to read on the topic of Human Resources, but it will keep you from crashing into a wall and getting hurt professionally, financially and personally. An HR consultant is invaluable in helping you navigate the tricky waters of the employer-employee relationship so feel free to contact me if you want to know how to work with me.

I am not an attorney even though I have worked with many and this book is not intended as legal advice. I don't even play one on television or on the internet so consult your attorney for legal advice. Each state has specific laws that you must follow so make sure you check your state website. If what I recommend does not agree with what your attorney recommends, follow your attorney's advice – and don't listen to me!

Table of Contents

| | |
|--------------------------------------------------------------------|-----|
| Who I Am and Why You Should Listen to Me | 1 |
| Your Big Vision | 4 |
| Create an Inspiring Mission Statement | 7 |
| Establishing Core Values | 9 |
| Laws & Regulations You Need to Know | 14 |
| American’s With Disability Act (ADA) | 14 |
| Age Discrimination in Employment Act (ADEA) | 14 |
| Consolidated Omnibus Budget Reconciliation Act (COBRA) | 15 |
| Equal Pay Act (EPA) | 15 |
| Fair Labor Standards Act (FLSA) | 15 |
| Family Medical Leave Act (FMLA) | 18 |
| Immigration Reform and Control Act (IRCA) | 19 |
| Affordable Care Act - Nursing Mothers | 19 |
| Occupational Health and Safety (OSHA) | 19 |
| Pregnancy Disability Act (PDA) | 20 |
| Title VII | 20 |
| Uniformed Services Employment & Reemployment Rights Act | 20 |
| Building Your “A” Team | 22 |
| Orientation & Onboarding New Employees | 38 |
| Retaining Your Current Team | 39 |
| Setting S.M.A.R.T.E.R. Goals | 45 |
| Handling Poor Performing Employees | 48 |
| Team Building | 71 |
| 5 Top Time Management Tips for Small Business Owners | 75 |
| How to Avoid 7 Common Employment Law Violations in 2019 | 77 |
| Does Your Team Suffer From the “Crab Mentality”? | 80 |
| Building Your Business with Effective Delegation | 84 |
| 5 Innovative Ways to Have Employees Who Love Coming to Work | 87 |
| Look Back & Move Forward with a SWOT Analysis | 90 |
| Mentoring vs. Leadership: Which is Best for You and Your Business? | 93 |
| How to Transition from Manager to Leader | 96 |
| 3 Tips for a Successful Skip Level Meeting | 99 |
| One Last Word | 101 |
| Book Katherine Hartvickson to Speak | 102 |
| Book Katherine for Consulting | 102 |

Who I Am and Why You Should Listen to Me

I spent more than 25 years in the Human Resources field, starting out as a personnel clerk at Occidental Chemical Company right out of high school and all the way through college graduation. Over the years, I held HR positions at Rogers Foods, Gallo Winery, Tri-Valley Growers, Diamond Walnut, Blue Diamond Almond Growers, Campbell Soup and American Standard / Trane (later purchased by Ingersoll Rand.) Over that period-of-time, I advanced to roles with leadership responsibility for teams in Canada, China, Latin America, Mexico and the U.S.

I absolutely love the field of human resources and could not have had a better career pick me! I am grateful for the opportunities I've had to positively impact the lives and careers of so many wonderfully talented people inside those companies while helping the companies I worked for reach their strategic goals.

I've worked in both field and corporate roles in manufacturing operations. I understand how corporate executives think and I also know what it's like to be in the field implementing corporate policies that look good on paper but are often impractical in the field. I know how important it is to have structure and a solid foundation of policies and practices if you want to have a thriving business, regardless of the number or type of business you have. Structure will set you free.

Running a business is somewhat like running a city in many ways. Without some basic policies and principles, people would run stop lights, the trash would get dumped when someone decided they want to dump it, and people would punch each other out if they disagreed with them. Hopefully I didn't just describe your small business! If I did, please read on so you can discover what you need to do to have a business you love that makes you all the money you want to live the lifestyle you've dreamed of! And if I didn't describe your business, this book is guaranteed to provide you with helpful tips and a much better understanding of how to manage your employees. Inside your business – “your city” - there is a group of people that you hired and who need to know the goals they need to achieve and the rules you want them all to follow.

I started my HR consulting & leadership development business after Trane was purchased by Ingersoll Rand and a couple of years later our division was eliminated. As part of my role, I spent about six months working on all of the legalities and logistics of determining which positions were going to be eliminated, who could be transferred to fill another opening or replace someone else, who's job would continue with the exception of them reporting to another division and ultimately who's job would be eliminated – all the while assuring that we were fair and did not discriminate against any legally protected classes according to federal regulations.

For those whose position was eliminated, and we couldn't find another home for, I prepared a severance package based on years of service and position in the company. I can't tell you how many times an employee asked me if they were “on the list” and I had to keep the information confidential while at the same time guiding them as much as possible during uncertain conditions. Along with their

manager, I met with each employee to let them know the decision and how it impacted them personally and then walked them through the details of their financial package.

The company had hired an outplacement service to assist the severed employees with preparing a resume, practicing their interviewing skills and assisting in the job search. When they reported back that all but one of the employees had been met with, I thanked them profusely for their help and kindness. I asked them who “that one” was and they said it was me. Oh! I hadn’t thought about me. So, I said “yes” I would, not because I needed their help since I was HR and had already reviewed each package, but because I had never sat on that side of the table before and I thought it would make be a better leader if I experienced the same thing the other employees did. I’m glad I did it even though I had pretty much decided that I wasn’t going to pack up my family and relocate again.

Instead of searching for a position in another large organization, I decided that I wanted to help small business owners and career professionals, so they control their own destiny.

Just like you, I’m a small business owner. In 2010 I had been unemployed for the first time in my entire life and wasn’t sure what I wanted to do next. I’ve worked full-time since graduating high school and all the way through university coursework at night and on weekends. Had the company not decided to eliminate our division, I would probably have worked there until I retired – which means I would still be there and would not have written this book. I know this is what I was meant to do – to share what I have learned so that others can lead businesses that bring them success any way they define it.

I started my business to help small to mid-size business owners learn what they needed to know to completely control their future and grow a profitable business that they love. And as their business grew, I knew they’d create employment opportunities for others too and that helps build great families and communities. After looking so many people in the eye to tell them that their job was being eliminated and seeing the sadness, frustration and worry, I knew in the deepest part of my soul that I wanted to be part of the solution. I believe that everyone should be able to make choices that are right for them and to control their own destiny. It was especially difficult when I had to deliver the message to the entire leadership team and their employees who had spent most of their career with this company. When it was time to lay myself off (seriously) I chose to experience the outplacement services that we had brought onsite to assist in the process. Even though I didn’t think I would start searching for another job, I wanted to know what it felt like to sit on the other side of the table. I wanted to hear the words the other employees had heard because I thought it would make me a better leader of people when I could walk in their shoes. I had always been on the side of the table delivering “the news” rather than “receiving” the news. I’m glad I did.

And I knew that the skills I learned in the university and in the corporate world could be scaled for small to mid-size business owners. I also knew that most small business owners don’t have – nor can they afford – a full time professionally trained HR person on their team who knows how to implement consistent practices, procedures and policies that drive employee performance. I also know that what most small business owners don’t know about HR can hurt them and just one lawsuit or Department of Labor or IRS audit that goes awry could put them in debt and out of business.

Since that time, I've used my experience to help many business owners develop their leadership skills when it comes to managing their team, while making sure they cover their assets, so they don't lose them by making mistakes that could have been avoided if they just knew what they didn't know! I use several personality-type assessments that go further than anything else available world-wide.

One of my mentors, Dr. Sherry Buffington, Ph.D. is the creator of the COREMap and SuccessGPS assessments I use to help my clients achieve their professional and personal goals. SuccessGPS identifies what you are doing, or not doing, to get the results you are currently getting. Once we know that, I help you create a plan to get you where you want to go quickly. Here is the link if you want to take the complimentary assessment: <http://tinyurl.com/KHSuccessGPS>. Once you take it, I will call you to review your results.

COREMap is the flagship assessment which helps you peel back the layers from years of conditioning to help you strengthen your natural traits so that you can move forward in a positive way personally and professionally. I've used other personality assessments over the years, but this one is so unique that it is patented; there is nothing else like it.

If you want more information, go to <https://tinyurl.com/AllAboutCoreMap>. You can also contact me at Katherine@QuantumAscendance.com if you want to know more about how I can help you be a stronger, more confident leader, too.

I wrote this book for the doctor, bookkeeper, electrician, printer, financial planner, the plumber or any other small business owner who decided to venture out into a business of their own, but doesn't have a professional HR expert on staff; most small business owners don't. Or perhaps you worked in the corporate office and decided to trade in a secure salary and benefit package for the opportunity to live your dream as an entrepreneur. If that's you – then you are going to love this book.

I'm sure that if you are reading this, you are without a doubt an expert in your field. Now as a business owner you get to call the shots. **All the shots**, to be precise. With all that freedom to choose, you also have all the responsibility of running your business and complying with all the laws and regulations required by your city, county, state and the Fed's. The focus of this book is on the laws that regulate the employer-employee relationship and the best practices the big guys use to manage employees and continually grow their business.

Fortunately, if you do a lot of the right things right, your business will grow, and you can add team members and delegate some of the work, so you don't have to do it all. It's not efficient to do everything yourself – and there are some things you either don't know how to do or don't want to do that still have to get done. Every second you waste doing those things, you drain your energy and don't have time to focus on growing your business.

Your Big Vision



Before we dive right in to managing the people-side of your business, I want to spend a little time sharing with you the importance of having a compelling vision for your business. Seriously, if you don't already have a vision, then do it now. Step back and identify your vision so that you are committed, and your employees are excited. You can't expect them to know or even want to help you achieve something you can't explain and frankly, they don't see. Just as the word implies, a "vision" is future focused whereas your "mission" is present tense. I'll explain more about your mission in the next chapter.

Dr. Steven Covey stated "vision" as "The ability to see beyond our present reality, to create, to invent what does not yet exist, to become what we not yet are. It gives us the capacity to live out of our imagination instead of our memory."

Your vision serves as your North Star and should be something so big that it seems almost impossible to achieve. It should be an exciting and inspiring "picture" of your future-state. It should be so clear that your employees are fully engaged in your business and they are super-productive because they believe in your vision and want to be a part of it.

A clear vision of the future leads to satisfaction and a sense of meaning and purpose in life. It gives you a barometer for the decisions you make in your life. The lack of a clear vision leads to settling for whatever happens, and you end up feeling that your life is controlling you instead of you controlling your life.

Another quote from Steven Covey that I like is *"If we keep doing what we're doing, we're going to keep getting what we're getting."* That's the definition of insanity! Seriously, stop what you are doing right now if you haven't articulated your vision or if you did, but it no longer inspires you to take giant leaps forward.

It's very important for every business owner to define their vision along with a mission statement and core values to create a solid foundation from which to work from. If you don't, there will be a disconnect between you and your employees as well as your customers. Such disconnects will most certainly prevent your company from achieving the high-profit growth you desire.

To be effective your vision must:

- Be an aspirational description of what you want to accomplish long-term.
- Be memorable to you and your employees.
- Serve as a guide for choosing current and future courses of action.
- Help you win the hearts & minds of your team.
- Create a winning culture that people want to be a part of.
- Inspire employees to go above & beyond the call of duty.

As Jack Welch, former CEO of GE put it, *“Good business leaders create a vision, articulate a vision, passionately own the vision, and relentlessly drive it to completion.”*

Here are a few examples of vision statements I found in a recent Google search. Read these to get ideas and then put into words your own vision. If you have employees or other trusted professionals to bounce ideas off, share the words you’ve come up with and then tweak it until it inspires you and them to dream big so that they want to play big and win big too!

Amazon: Our vision is to be earth’s most customer-centric company; to build a place where people can come to find and discover anything they might want to buy online.

Avon: To be the company that best understands and satisfies the product, service and self-fulfillment needs of women – globally.

Charles Schwab: Helping investors help themselves.

Southwest: To become the world’s most loved, most flown, and most profitable airline.

Disney: To make people happy.

Facebook: To give people the power to share and make the world more open and connected.

Google: To organize the world’s information and make it universally accessible and useful.

Harley Davidson: To fulfill dreams through the experiences of motorcycling.

Instagram: Capture and Share the World’s Moments.

Tesla: To accelerate the world’s transition to sustainable energy.

Use the examples above to get you warmed up, but you can’t copy theirs and expect it to be right for you. It’s your vision, not anyone else’s and has to come from your heart. Let your employees make suggestions – the more the merrier.

Once you have your Vision statement ready for others reaction, then you can start crafting your Mission statement. Then run both past a group of your trusted advisors such as other business owners, family and friends you know will be brutally honest with you. If it rings hollow for them – ask them for

suggestions. Play with it until you are so pumped up about it that there is no doubt in your mind or anyone else's mind that you are going to do this!

Then hold a meeting with all your employees and share your vision & mission statements with them. Let them know what your vision means and why it matters. Let them tell you what the vision and mission statement mean to you and why it matters to them. If others in the company helped you craft them, give them the credit and recognition they deserve.

Then take them to the printer to get large, colorful banners and frame your vision and mission statements for your employees and customers to see. Make sure it's in every office & conference room so that it serves as daily inspiration to your team. Consider having them printed on small wallet-size cards or put it in desk-size frames, so your employees can look at it and share it with others. Put it on your website and use it when you are talking to prospective new hires.

"The very essence of leadership is that you have a vision. You can't blow an uncertain trumpet."
-- Former University of Notre Dame President Theodore Hesburgh

Create an Inspiring Mission Statement

Of course, the next important step is to create your Mission statement. A company's mission is about the present tense and should be written in regular language that anyone can understand. This isn't about impressing anyone with your expansive command of the English language – it is about letting everyone know what problem you solve, who you solve it for, and where you do it. For instance, if you are providing electrical services for residential homes you might be limited to a specific geographic location near you. However, if you are a business focused on providing access to educational resources for all children then your reach might be unlimited.

The mission statement is a brief paragraph that explains **what** you do, **who** you do it for and **how** you do it. A mission statement is your company's personal GPS designed to guide you each day and assure that all the work you do, all the money you spend, and all the employees you hire are fully aligned with achieving your vision and mission.

Keep the Mission statement short and to the point. It needs to be memorable. If you can't fit it on a backpack or t-shirt, then it's too complicated and could be misunderstood. It shouldn't be a secret – the more people who can quote it, the better because we all know that a confused mind doesn't make the best decisions.

Here are a few examples I found in a quick Google search recently.

McDonald's: To be the world's best quick service restaurant experience.

Google: To organize the world's information and make it universally accessible and useful.

Nike: To bring inspiration and innovation to every athlete in the world.

Campbell Soup: To build the world's most extraordinary food company by nourishing people's lives everywhere, every day.

Coca Cola: To refresh the world in mind, body and spirit. To inspire moments of optimism and happiness through our brands and actions.

Starbucks: To inspire and nurture the human spirit – one person, one cup and one neighborhood at a time.

Walmart: Saving people money so they can live better.

BNI: To help members increase their business through a structured, positive and professional referral marketing program that enables them to develop long-term, meaningful relationships with quality business professionals.

So, keep it simple. Here is a structure that is commonly used and will work for you too.

Our mission is to _____ (insert an action verb) for _____ (insert your target audience) so that _____ (what is the result or outcome of what you do.)

Establishing Core Values

Core values, sometimes referred to as leadership principals, are critical to the success of any business and they shape the code of conduct that you and all your employees are expected to follow.

When you surround yourself with the right people, and they surround themselves with the right people, it's a guarantee that your team will know that they are a part of something great. I've worked in companies that weren't growing – and I've worked in ones that were and can tell you without a doubt that it's a lot of fun being part of one that's growing. And that doesn't happen by accident or a stroke of luck. It's very carefully orchestrated.

When your employees enjoy working for you and are proud of the vision, mission and values you all share – it's a big deal. Most people spend more waking hours at work than they do with family & friends so when they are excited about coming to work each day and contributing in their own unique way – you've got a dream team and your life becomes much less stressful and your business much more profitable.

I'm sure you've heard the saying “If you don't stand for something, you'll fall for anything.” It's your business and your team need to understand your values. In absence of anything written down and shared with them, they will make whatever decision they think is best at the time which could be the exact opposite of what you want them to do.

Values and principles:

- Are beliefs that you hold sacred – there is no gray; only black and white
- Shape the culture of your business
- Determines the structure, processes & procedures of your business
- Establishes a high threshold for employee behaviors
- Sets you apart from others in your industry
- Attracts the right type of employees and customers to your business

Here are some examples from companies I've worked for and in several internet searches. The ones I've worked for have an asterisk next to the company name.

American Standard*:

- **We are driven by customers**
 - We succeed by exceeding customer expectations.
 - Our commitment to premier customer service begins with understanding customer needs.
 - It is realized through the design, manufacture and delivery of quality products and services and the personal support we provide.
 - Each contact with a customer is an opportunity to increase customer satisfaction and win new business.

- **We recognize the importance of our people**
 - Our people built this business and are the key to its future.
 - We are committed to creating:
 - A workplace that is safe;
 - A workplace where diversity is valued;
 - A workplace that thrives on teamwork and leadership.
 - We are committed to a workplace where:
 - Individuals are treated fairly and with respect;
 - All people have the opportunity to expand their skills and take advantage of new opportunities;
 - Accomplishments are recognized.
- **We operate with integrity**
 - As a company and as individuals, we do the right things and never compromise our values.
 - We honor our agreements and are honest in our communications.
 - Our relationships with co-workers, customers, suppliers, partners and the investor community are based on openness and opportunities for mutual gain.
 - Our sense of responsibility extends to leadership in protecting the environment and good citizenship in the communities where we work.
- **We strive for excellence**
 - No matter how good our products, services, processes and performance, we are dedicated to making them better.
 - We strive for excellence in everything we do by:
 - Being open to new ideas and better ways of working;
 - Not being afraid to take risks.
 - We recognize that each of us can add real value to our business.
 - By approaching our daily work with a passion for innovation and a desire to learn and share that learning with colleagues, we all can make a difference.
- **We deliver on our promises**
 - We recognize that each of us can add real value to our business.
 - By approaching our daily work with a passion for innovation and a desire to learn and share that learning with colleagues, we all can make a difference.
 - We recognize that each of us can add real value to our business.
 - By approaching our daily work with a passion for innovation and a desire to learn and share that learning with colleagues, we all can make a difference.

Apple

Here are Apple's core values which forms the corporate culture:

1. We believe that we're on the face of the Earth to make great products that will change the world.
2. We believe in the simple, not the complex.

3. We believe that we need to own and control the primary technologies behind the products we make.
4. We participate only in markets where we can make a significant contribution.
5. We believe in saying no to thousands of projects so that we can really focus on the few that are truly important and meaningful to us.
6. We believe in deep collaboration and cross-pollination of our groups, which allow us to innovate in a way that others cannot.
7. We don't settle for anything less than excellence in every group in the company, and we have the self-honesty to admit when we're wrong and the courage to change.

Campbell Soup*

Do Right and Be Real: Always Act with Integrity; Be Authentic; Build Trust through Transparency; Keep Your Word

Seek the Power of Different: Use Your Voice; Be Open, Be Curious; Listen for the Unexpected; Be different, Go Together

Dare to Disrupt: Build it Bold; Risk Together, Reward Together; Experiment Fast to Learn Sooner; Get Uncomfortable

Own it like a Founder: Act Like Your Name is on It; See the Big Picture; Make it Happen Fast; Wear Your Passion on Your Sleeve

E & J Gallo*

Integrity

Be honest and straightforward with each other
Be ethical in your words and actions

Respect

Speak with courtesy to and about each other
Listen to each other and be open to all points of view

Humility

Display willingness to learn from each other and from failures as well as successes
Never assume we are at the top of our game or underestimate our competition

Innovation

Place great value on big ideas
Challenge the conventional way of doing things – never be satisfied

Commitment

Work hard and give your personal best every day
Always strive and take action to create higher valued products, processes and services

Teamwork

Collaborate with each other in search of the best possible result

Build strong and trustful relationships with each other, our customers and our suppliers

Kohl's

- Kohl's Associates live out our values each and every day. We put customers first and take a "yes we can" approach to everything we do. We support our communities and causes our customers and Associates care about.
- We act with integrity, earning trust by living up to our commitments, treating each other with respect and fairness, and making decisions that support the reputation of the organization.
- We build great teams, by communicating openly and embracing diverse perspectives. The empowerment, engagement and continuous development of all Associates is actively promoted.
- We foster a culture of appreciation and recognition.
- We drive results by working with a sense of urgency and accountability, making informed decisions and offering up new and innovative solutions.

Even though most well-established companies have their core values written down, unless it's really ingrained in the culture and everyone holds each other accountable for compliance, there are ample opportunities for people to do the wrong thing. And sometimes even good people do bad things. They just do - and it happens more often than you might think.

First-of-all, contrary to popular belief the right thing to do isn't always obvious. Hindsight being what it is, after the fact when there is no immediate pressure, sure it's generally easy to say what the right thing was. But in the heat-of-the-moment, it might not have been to that person at that particular time.

Like pretty much everything in your business, there are legal & ethical consequences to your actions. Attorney's and federal / state authorities will come down hard on the company when they catch you making a mistake – unintentional or not. Depending on the event, the business owner and/or the managers can be held personally liable, costing hundreds of thousands, perhaps even millions of dollars and even going to jail.

Those things tend to make the news and take a couple of years of depositions, meetings with attorney's, a tremendous amount of time spent gathering documents to defend yourself along with trying to run the day-to-day business and being able to sleep at night. In the meantime, your reputation gets muddied along the way and your business suffers. Unfortunately, even if you win your case – the time and money is gone, and the local news station isn't likely to report your good news because it doesn't sell as well as bad news. So, your tarnished reputation carries on for years.

Bottom line, your values along with a code of conduct tells all employees how to act responsibly, ethically and legally. They are non-negotiables; deal-breakers for you. In addition to being posted on your walls they should be included in your Employee Handbook along with your Vision and Mission statements.

Here are some reasons employees may not follow all the rules all the time:

- For personal gain such as embezzlement, stealing company property and vendor kickbacks
- For the benefit of a third party like duplicate invoices, commission schemes, and supplier and contractor fraud
- To try and help their own company including financial statement fraud, bribery, price fixing and contract bidding fraud
- By not reporting wrongdoing or asking, when in doubt

Bottom line – no organization is immune from wrongdoing.

When something like this happens even on a small scale, the whole situation is an enormous distraction for the business owner, managers and employees in addition to being very damaging to your reputation, your financial stability and possibly even your freedom.

It generally takes 2-3 years to complete an investigation, depending on how extensive the situation is, and the stress is overwhelming. Even if you win in court, the costs of defending yourself are never fully recovered, your time can never be recovered, your reputation can be damaged forever, and the loss of productivity is enormous.

I'm a big believer that most people want to do the right thing and follow the rules their employer sets. So – first make sure you have rules in place that are well communicated and enforced without exception.

Having well-defined checks and balances in place are good business practices and serve as a deterrent to someone who might otherwise be tempted. We lock car doors and our homes for a reason; this is no different. You want alarms to go off quickly and loudly if someone is crossing a line you can't afford to have crossed.

Laws & Regulations You Need to Know



Ignorance is not bliss – so let’s get that straight right away. You are a small business owner and you are expected to know and follow all the federal, state, county & city laws and regulations. In this chapter I will share brief summaries of twelve of them that are most likely to impact you depending on the number of employees you have. In some cases, size matters.

Some laws count full-time employees, some include part-time employees, some use an average workweek as a guide, and some use a full-time

equivalent as the determining factor. Confusing, without a doubt unless you have experience doing this sort of thing – which most small business owners don’t have.

American’s With Disability Act (ADA)

If you have fifteen or more employees for each working day in each of twenty or more calendar weeks in the current or past year, this law impacts you. You must provide a reasonable accommodation for an employee who needs assistance performing his/her work. This is one reason why the job description is so important because you identify what is essential and what isn’t. This is a case-by-case situation so if an employee comes to you asking for an accommodation, contact your HR consultant or attorney. This cannot be explained effectively in a book.

Age Discrimination in Employment Act (ADEA)

The ADEA covers employers with 20 or more employees and prohibit age discrimination for anyone age 40 or over when making decisions in hiring, promotion, discharge, compensation, or terms, conditions or privileges of employment. This doesn’t mean that you can’t hire the most qualified candidate or give a promotion to your high-performing employee, but it does mean that you cannot use age as a factor in your decision if the person is 40 or older. I don’t see this problem as often as I used to. Several years ago, oftentimes employers thought a candidate was over-qualified, too expensive or didn’t have enough runway left in their career, so they would lean towards a younger person. However, with a booming economy and plenty of work, experience is highly valued and great employees can pretty well call their own shots. It’s a seller’s market right now.

Consolidated Omnibus Budget Reconciliation Act (COBRA)

If you have 20 employees or more and you offer a health plan, then you must offer employees an opportunity to carry your insurance plan after leaving the company – in most cases. There are exceptions for egregious causes for termination, but generally this is something you must provide. If you don't provide a health care plan, this does not apply to you.

You must notify the terminated employee within 10 days of their right to continue the exact coverage they had while employed with you. You must notify your insurance carrier to stop the coverage for your employee anyway and most insurance brokers will provide this as a service to you. They will send the notification once they receive the name and last date worked from you, will collect the premiums and will charge the ex-employee 2% as an administration fee.

If you fail to notify them of the right to carry the insurance, you risk paying for any claims they may have during a gap between employers. Don't let this happen. Can you imagine the trauma to the individual plus the cost to your small business of a heart attack, cancer or other critical medical problem?

Equal Pay Act (EPA)

If you have one employee or more, this law applies to you. The Equal Pay Act requires that men and women in the same workplace be given equal pay for equal work. This means that if a man and a woman perform substantially equal work, they must be paid the same. This is not just if they have the same job title. This includes salary, wages, overtime pay, bonuses, stock options (if applicable), profit sharing, bonus plans and any other benefit you provide. Employees can be paid differently based on performance and experience, but it is worth an internal HR audit to make sure that your decisions are allowable under the law. No one employee needs to file a formal complaint with the Equal Employment Opportunity Commission (EEOC) for you to find yourself in court trying to justify why one sex was paid more than another. Be very careful – it isn't fair, and it isn't legal.

Fair Labor Standards Act (FLSA)

If you have \$500k in sales or you are involved in interstate commerce, this law applies to your business regardless of the number of employees you have.

The FLSA controls, among other things, how you classify your employees as either salaried or hourly. Salaried means that you pay them a "salary" for the year, broken down into 12, 24 or 26 pay periods. There is no limit to the number of hours worked because they are paid a salary to get the job done and are exempt from overtime pay requirements. This means that you do not have to pay them 1.5 times their pay for hours worked beyond 40 in a week (or over 8 hours per day in some states.)

Hourly employees are paid an hourly wage for every hour they conduct work for you. In most states, if they work more than 40 hours in a workweek, they must be paid time and one-half for all additional

hours. A few states require overtime pay after 8 hours worked per day so check with your state to see which applies to you. You can find this information at www.dol.gov.

The biggest issue I have encountered with small business owners is that they misclassify employees as salaried exempt – meaning they do not receive time and one-half pay for hours over 40 in a week or 8 in a day (depending upon the state laws.) If for status reasons you want to call your employees salaried you can do so. Some will probably be salaried – exempt and others will be salaried – non-exempt. Or you can call the salaried non-exempt employees “hourly.” If you pay the salaried non-exempt / hourly employees time and a half their regular rate of pay if they work overtime, you’re on the right side of the law.

The federal law is very clear on this issue. There are 5 categories.

As of this writing, the federal law states the current salary threshold for exempt employees’ rests at \$455 a week or \$23,660 annually. These employees are exempt from being paid overtime for hours worked over 40 each week provided they meet the other exemption criteria.

Here is the latest Fact Sheet from the U.S. Department of Labor:

Fact Sheet #17A: Exemption for Executive, Administrative, Professional, Computer & Outside Sales Employees Under the Fair Labor Standards Act (FLSA).

This fact sheet provides general information on the exemption from minimum wage and overtime pay provided by Section 13(a)(1) of the Fair Labor Standards Act as defined by Regulations, 29 CFR Part 541.

The FLSA requires that most employees in the United States be paid at least the federal minimum wage for all hours worked and overtime pay at time and one-half the regular rate of pay for all hours worked over 40 hours in a workweek.

However, Section 13(a)(1) of the FLSA provides an exemption from both minimum wage and overtime pay for employees employed as bona fide executive, administrative, professional and outside sales employees. Section 13(a)(1) and Section 13(a)(17) also exempt certain computer employees. To qualify for exemption, employees generally must meet certain tests regarding their job duties and be paid on a salary basis at not less than \$455 per week. As of this writing, the Department of Labor (DOL) has proposed raising the minimum to \$679 per week. If approved, the new rules will be implemented January 1, 2020. **Job titles DO NOT determine exempt status.** For an exemption to apply, an employee’s specific job duties and salary must meet all the requirements of the Department’s regulations.

Executive Exemption

To qualify for the executive employee exemption, **all** the following tests must be met:

- The employee must be compensated on a salary basis (as defined in the regulations) at a rate not less than \$455 per week;

- The employee's primary duty must be managing the enterprise, or managing a customarily recognized department or subdivision of the enterprise;
- The employee must customarily and regularly direct the work of at least two or more other full-time employees or their equivalent; and
- The employee must have the authority to hire or fire other employees, or the employee's suggestions and recommendations as to the hiring, firing, advancement, promotion or any other change of status of other employees must be given particular weight.

Administrative Exemptions

To qualify for the administrative employee exemption, **all** of the following tests must be met:

- The employee must be compensated on a salary or fee basis (as defined in the regulations) at a rate not less than \$455 per week;
- The employee's primary duty must be the performance of office or non-manual work directly related to the management or general business operations of the employer or the employer's customers; and
- The employee's primary duty includes the exercise of discretion and independent judgment with respect to matters of significance.

Professional Exemption

To qualify for the learned professional employee exemption, **all** the following tests must be met:

- The employee must be compensated on a salary or fee basis (as defined in the regulations) at a rate not less than \$455 per week;
- The employee's primary duty must be the performance of work requiring advanced knowledge, defined as work which is predominantly intellectual in character and which includes work requiring the consistent exercise of discretion and judgment;
- The advanced knowledge must be in a field of science or learning; and
- The advanced knowledge must be customarily acquired by a prolonged course of specialized intellectual instruction.

To qualify for the **creative professional** employee exemption, **all** the following tests must be met:

- The employee must be compensated on a salary or fee basis (as defined in the regulations) at a rate not less than \$455 per week;
- The employee's primary duty must be the performance of work requiring invention, imagination, originality or talent in a recognized field of artistic or creative endeavor.

Computer Employee Exemption

To qualify for the computer employee exemption, the following tests must be met:

- The employee must be compensated either on a salary or fee basis (as defined in the regulations) at a rate not less than \$455 per week or, if compensated on an hourly basis, at a rate not less than \$27.63 an hour;
- The employee must be employed as a computer systems analyst, computer programmer, software engineer or other similarly skilled worker in the computer field performing the duties described below;
 - The employee's primary duty must consist of:

- The application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software or system functional specifications;
- The design, development, documentation, analysis, creation, testing or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications;
- The design, documentation, testing, creation or modification of computer programs related to machine operating systems; or
- A combination of the duties, the performance of which requires the same level of skills.

Outside Sales Exemption

To qualify for the outside sales employee exemption, **all** the following tests must be met:

- The employee's primary duty must be making sales (as defined in the FLSA), or obtaining orders or contracts for services or for the use of facilities for which a consideration will be paid by the client or customer; and
- The employee must be customarily and regularly engaged away from the employer's place or places of business.

Highly Compensated Employees

- Highly compensated employees performing office or non-manual work and paid total annual compensation of \$100,000 or more (which must include at least \$455 per week paid on a salary or fee basis) are exempt from the FLSA if they customarily and regularly perform at least one of the duties of an exempt executive, administrative or professional employee identified in the standard tests for exemption. The DOL has proposed raising the annual salary minimum to \$147,414 and if approved this will be effective January 1, 2020.

It's best to have an HR consultant look at your specific situation to be sure that you are following the law to the letter. If you need to change an employee's status, it can be emotional for them if they perceive that for some reason you no longer value them as "salaried." It's all in how it's communicated. If the Department of Labor audits you, the penalties and fines will be based on what the employee (including ex-employees) should have been paid, along with penalties and fines for breaking the law in the first place.

Family Medical Leave Act (FMLA)

The FMLA requires you to provide employees up to twelve (12) weeks of unpaid job-protected leave, for specified family and medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave.

This is required of your business if you have 50 or more employees for any calendar work day during each of the 20 or more calendar workweeks in the current or previous calendar year. This may include temporary employees hired through a temp agency and on the temp agency's payroll, so don't automatically dismiss an employee's request to take medical leave if you have less than 50 regular full-time employees on your payroll. If you do meet the criteria required to offer this family medical leave protection, the employee is eligible if they have worked at least 1250 hours in the previous twelve (12)

months. Seek advice from an attorney or your HR consultant because each situation is unique, so I can't answer this in a book: it needs a close look at the specifics of your unique situation.

If you have multiple locations, you need to count all employees within 75 miles. Some states have their own version of a family leave act so check with your state government website for current information.

Immigration Reform and Control Act (IRCA)

This law applies to all employers regardless of size. It requires that you check the eligibility documents identified in the I9 form to be sure they are authentic. The law prohibits any employer from knowingly hiring, recruiting or referring for a fee any alien who is unauthorized to work in the United States of America. The employee must complete his/her portion the first day of employment and the manager must complete the rest of the form no later than the third day of employment.

The I9 form seems straight-forward on its surface but the fines for making the simplest of mistakes are staggering. Even something so simple as the date being written incorrectly can cost you \$10k. Feel free to contact me if you want a guide to filling out the form. You can also use e-verify (<https://www.e-verify.gov/>) but once you start using it for one new hire you must use it consistently going forward. You cannot use two different methods to verify an employee's eligibility to work in the United States so do your research and make an informed decision about which is best for you. Here is the link to the current I9 form: <https://www.uscis.gov/i-9-central/form-i-9-desktop-widget>. This widget will assure that you are completing the currently authorized form.

Affordable Care Act - Nursing Mothers

Within the Affordable Care Act, (ACA) which is still in existence as of the writing of this book, if you have 50 or more employees you must provide accommodation for nursing moms. And if you have fewer than 50, unless you can show that it would cause an undue hardship, you need to comply with this law. And really, wouldn't you do it anyway? If it was your wife or daughter nursing your child or grandchild, I think you'd want their employer to extend this courtesy even if it wasn't the law.

Specifically, you must allow reasonable break time for an employee to express breast milk for her nursing child until the child is 1 year old. And, you must provide a place, other than a bathroom (ick anyway) that is shielded from view and free from intrusion from coworkers and the public, which may be used by her to express breast milk. Considering how infrequently you will have a female employee give birth and want to express her breast milk during the work day – this is just a no-brainer for me. Human kindness and consideration for your employee should prevail here without needing a law to tell you that it is the right thing to do.

Occupational Health and Safety (OSHA)

When it comes to workplace safety, the rules apply to all employers regardless of the number of employees you have. As a business owner and leader, it is your primary responsibility to keep employees safe while they are working for you. There are some employers who are exempt from

inspections if they have under 10 employees or you are in a low-risk industry – but I recommend that you do whatever you can to make sure your employees don't get hurt while working for you --- regardless of what the law says.

Basically, you must:

- Make a report to OSHA within 24 hours after the inpatient hospitalization of an employee, an amputation or a loss of an eye because of a work-related incident.
- Within 8 hours, you must make a report of a fatality.

Pregnancy Disability Act (PDA)

If you have 15 or more employees, then you must treat a pregnant employee or applicant the same as a non-pregnant one. If you are interviewing a candidate and she is obviously pregnant or informs you during the interview that she is pregnant, you cannot cross her off your list because you know that she will miss work after delivering her child. My advice is to not be short-sighted and certainly to not break any laws.

If she is the shining star you've been looking for, she will contribute to your success before and after her baby is born. Besides, it's the law and do you really want to be on the national and local news as "that small business owner" who discriminated against her just because she was pregnant? I didn't think so.

Title VII

Title VII of the Civil Rights Act of 1964 is a federal law that prohibits employers from discriminating against employees based on sex, race, color, national origin, and religion. It generally applies to employers with 15 or more employees, including federal, state, and local governments. I would hope that today, as a consciences small business owner, you would never find yourself in a situation where you had to defend your decisions. This isn't to say that someone might not sue you, because people can sue for anything, but I hope that you would always win your case because you always do the right thing.

Uniformed Services Employment & Reemployment Rights Act

The Uniformed Services Employment and Reemployment Rights Act (USERRA) was enacted to ensure that members of the uniformed services are entitled to return to their civilian employment upon completion of their service.

Qualified employees have the right to re-employment, raises and benefits as if they had been with you the entire time, the right to be terminated only "for cause" and protection from any anti-military bias.

You must allow your employee to report for military duty when required regardless of the size of your business. I know this might sound like a long time to some of you, but the employee is entitled to up to five years of military leave when serving to protect the rights and freedoms we enjoy as Americans.

Military leave is unpaid leave, however many of my clients allow employees to use up their earned vacation and paid-time off to offset the difference between what the military pays and what their normal salary was. Several others pay the difference until the employee returns to work. This isn't required, but it allows the employee to serve our country without penalizing them or their family.

In closing this chapter, I want to remind you that the laws are ever-changing, some do and do not have employee headcount requirements and are very different depending on where you conduct your business. Several states and major metropolitan areas have passed living wage ordinances, some states have passed the "Don't Ask" about past salaries and others have implemented "Ban the Box" laws prohibiting you from asking about criminal history prior to offering a candidate a job.

Check with your HR Consultant or attorney to see which laws impact you so that you can stay within the law all the time.

Building Your “A” Team



This is one of the most important jobs you have as a business owner or manager. You need a whole team of “A” players if you are going to have a profitable business. Get this wrong and you will waste a lot of time and money on recruiting and training new people, upset your other good employees and you will be under a lot of unnecessary stress and overwhelm.

Anytime you add a new employee to your team, the dynamic changes. They must learn how to fit in, and others must learn how to work with them as well.

Ideally, each person adds a key component and skill set that makes the team stronger and more powerful. Make a bad choice, and employee morale takes a nosedive when the rest of the team must carry the load, balls get dropped and opportunities are lost.

Before you advertise your open position, consider what the candidate needs to possess to perform the job to your standards. Consider the following:

- Skills and abilities
- Knowledge
- Experience and exposures
- Motives, attitudes, and values
- Credentials and achievements

Then write your ad to attract only the people that meet your requirements. Encourage your employees to recommend family members or friends they know would be a good match. Many of my clients offer a referral reward for employees who recruit for them. It’s much better to take a chance on someone who is known versus a complete stranger – provided the employee making the recommendation is one of your best and brightest. I recommend giving the employee half of the award – generally \$100 to \$150 - once the new hire has been with the company 90 days and then the other half after they’ve been there for 6 months.

When you are ready to advertise your open position, write a captivating ad with your ideal employee in mind!

Advertising Your Opening:

To attract the best candidates, get creative! There's a lot of competition for the best people – so keep it real, be different and stand out!

- An attention-grabbing title like “Licensed Electrician – New, Air-Conditioned Trucks, Team Environment, Competitive Wages, Benefits and Bonus Plan”.
- Include a brief overview with the top 2-3 things a candidate would be most excited about such as “Would you like to earn above average pay while providing residential customers with top-of-the-line products and services? We offer that plus a generous benefit package and paid time off.”
- Information about the company such as “XYZ has been in business for 18 years and between us, we have more than 100 years of electrical experience and we are committed to be the best in the industry.
- The position – we are looking for a full-time, licensed electrician with experience servicing commercial and residential properties. Depending on experience and initiative, our electricians have unlimited earning potential and a 5-day workweek.
- The benefits – medical, dental, life insurance, 401(k) and paid vacation.
- The location – candidates must live within commuting distance to (insert your town & state). (Insert your location) is home to a thriving community with world-class healthcare facilities, very affordable housing, shopping, and some of the best schools in the nation.
- Why You Should Apply – great team environment, great pay opportunity, prime family location and excellent benefits.
- Interested? Send your resume to bestelectricianever@gmail.com.
- Always Include Non-Discrimination Language: XYZ company provides equal employment opportunities to all employees and applicants for employment without regard to race, color, religion, sex, national origin, age, disability or genetics. If you have more than 1 location, add “In addition to federal law requirements, XYZ Company complies with applicable state and local laws governing nondiscrimination in employment in every location in which the company has facilities.”

Employment Application

This is a landmine for employers and can be a windfall for attorneys & the government. It can and will be used against you in a court of law, so pay special attention to this!

You need to bullet-proof your employment application so that it asks only legal information and it gathers the candidate's signature regarding their legal responsibilities should they get the job:

Interviewing prospective employees and using employment applications are important tools that most employers use in the selection process. The objective is to determine whether an applicant is suitable for an available position. The interview and the application provide you an opportunity to obtain in-depth information about a job applicant's skills, work history, employment background and references.

Even though sometimes you'd just really like to know certain things about a candidate, this is a playground for attorneys and the government because this is where a lot of the mistakes are made by

employers who aren't up-to-date on what is allowed, or not allowed. You can't ask discriminatory questions in interviews or on the application – not even in casual conversation while trying to build rapport with the applicant and get them to relax.

Given that the cost to defend yourself against a claim of illegal employment discrimination can be several hundred thousand dollars, you must be sure you train every interviewer (manager, supervisor, team member) how to conduct themselves during the interview to avoid any costly mistakes.

Basically, federal and state laws, regulations and guidance is that as an employer, you should avoid asking questions that reveal information that cannot legally be considered in making a hiring decision anyway. This includes promotion decisions for current employees -not just prospective new hires.

Let's address some of the biggest mistakes you can avoid in your application:

- Including any disability or medical-related questions on the application or during an interview. This violates guidance from the U.S. Equal Employment Opportunity Commission (EEOC) and possibly the Americans with Disabilities Act (ADA) and similar state laws. If an employer asks these types of questions, the EEOC or a court may presume prohibited information was a factor in your decision not to hire.
- Not including an at-will disclaimer. This disclaimer will play an important role in court if you are ever challenged with a claim of guaranteed employment or breach of contract if the employee is terminated. Using language in interviews or during the job offer such as “we look forward to a long & meaningful relationship with you” is a gold mine for attorneys!
- Not including a nondiscrimination statement. Employers should inform applicants that the company is an equal opportunity employer and does not discriminate in hiring based on federally-protected classifications such as race, color, national origin, ancestry, religion, sex, sexual orientation, transgender status, disability, veteran status, age or genetic information. And if state or local laws require it, also include any additionally protected classifications such as sexual orientation, marital status, etc.
- Asking for a birthdate. This is blatantly illegal and there is nothing you could do to defend yourself on this one. If your concern is that they must be 18 to work at your company as dictated by your workers compensation insurance carrier, age 21 to be covered by your auto insurance (only if they drive for you) or because you want to assure you follow all of the child labor laws, then a legal way to ask the question is “Are you over 18 years old (or 21 if that is required to drive for you)?” If they are under 18 and you want to employ them, then you need to learn what is and isn't allowed when it comes to working hours and the type of work they are allowed to do.
- Requesting graduation dates in the education section. Asking applicants for graduation dates may lead to a finding of discriminatory intent based on age under the Age Discrimination in Employment Act (ADEA) or state law—particularly if the employee's graduation date has no bearing on the qualifications for the position. It is appropriate to ask questions regarding the education & experience of the applicant, especially if it is relevant to a job qualification -just not the date of graduation.

- Asking about arrests and convictions, without appropriate disclaimers. Several states and local jurisdictions have adopted “ban the box” which prohibit employers from asking about criminal histories on employment applications.

EEOC doesn't prohibit asking about criminal history. However, Title VII of the Civil Rights Act of 1964, as amended, prohibits employers from treating people with similar criminal records differently because of their race, national origin, or another Title VII-protected characteristic such as color, sex and religion. So, if you decide not to ever hire anyone with a DUI in the past 7 years, then you can't make an exception for someone just because you liked everything else about them --- unless you are willing to risk a lawsuit or charge from someone with the same history but wasn't quite as likeable.

According to the EEOC, you shouldn't ask about arrests at all. Just because an individual was arrested doesn't prove they were engaged in criminal conduct.

- Asking for a photograph. Guidance from the EEOC prohibits employers from asking applicants for photographs – for obvious reasons. I have seen quite a few resumes with pictures, especially in the beauty and skin care industry, but that is a choice of the resume writer, so that's different from the potential employer asking for it. If you need it for an identification badge, you can do that when the new hire joins the company.
- Asking about marital or family status. Asking questions about an applicant's marital status, the number of kids he or she has, the ages of his or her children or dependents, or provisions for childcare could be construed as sex discrimination.
- Asking about citizenship. The antidiscrimination provision of the Immigration Reform and Control Act prohibits employers from discriminating against an applicant because he or she is not a U.S. citizen. However, you may ask if an applicant is legally qualified to work in the United States.

Accepting Unsolicited Applications

Do not accept applications unless you have an immediate need. Once you accept one, then you have an obligation to store it and then refer to it if you have an opening in a reasonable period of time.

The best thing to do is accept applications for a specific position and put it in writing that you only accept them at that time, for that position, and that they will be retained for XX number of days. I generally use 60 days in case someone I hire doesn't work out and I want to go to my #2 choice if it was a close call.

If you keep them, then a candidate can come back quite some time later and claim that he/she applied for that position last year and you didn't consider them when the job came open again --- simply because you were discriminating against them for a legally protected reason. So – SAY WHAT YOU DO, AND THEN DO WHAT YOU SAY...EVERY SINGLE TIME! No exceptions!

Processing & screening the applications

As you look over the resumes / applications, set aside any that clearly don't meet any or most of the experience & education requirements. I use the A-B-C method:

“C” is reserved for those that clearly do not meet enough (if any) of the requirements. It's amazing but I've seen people who've never worked outside the home nor have a college degree apply for a Chief Financial Officer position because they theorized that if they can balance their budget at home they can certainly do it for a company! And sometimes people are just desperate to find a job, so they apply for absolutely everything. Put these applications aside and move on.

Look through the remaining ones and separate into 2 groups.

- Do they meet the experience & education requirements?
- Have they been working in a similar job doing the type of work they will be doing for you?
- How long did they work for each company and how often did they change jobs?
- I'm always cautious about people who jump around a lot after very brief periods of time with an employer such as a few months or less than a year. In today's world, it's not uncommon for employees to move around every 2-3 years but anything more frequent than that is something you should ask about if you interview them.
- If they filled out your application and you include a question about their criminal history, what did they report?
- In some cases, either because it's been a long time ago or it isn't related to getting your job done – it really doesn't matter. If you use that information you could lose a claim of adverse impact discrimination because some races and sex tend to have higher rates of incarceration.
- And in some states and cities across the U.S. there are now “ban-the-box” laws to keep people with a criminal past to not get kicked out of the running without an opportunity to at least explain what happened.
- Why did they leave each company? Frequent “layoffs” after short durations at the company is another red flag.

Set aside any that have a few of the requirements but you don't think are the best match for the job and put them in a “B” (Meets Some Requirements) pile because you might decide to look through them again later. Write notes on a separate piece of paper so that you remember why you put them in the B folder in the 1st place.

Label the last group as “A” (Meets Most / All Requirements). Now that you have a much smaller group to go through, review them in more detail. Look for a solid work history, direct experience, relevant technical expertise, certifications / licenses and education.

Before setting up the telephone interviews, there is one last step and that is to check their social media accounts. Yes, really – it's amazing what people post for the public to see! Facebook, Instagram, LinkedIn, Snapchat and many others give you a window of opportunity if you use it wisely.

Here are a few pointers on how to use a candidates' social media outlet to your advantage

- Have HR do it. If you have a professional HR person on staff, let them do it. The HR professional is more likely to know what he or she can and cannot consider. If you don't have a dedicated HR professional, I recommend you hire the services of an HR consultant or a recruiter.
- Look later in the process. Check social media profiles after an applicant has been interviewed, when his or her membership in protected groups is likely already known. This will protect against a claim that you decided not to consider them because of their race, sex, etc.
- Be consistent. Don't look at only one applicant's social media profiles. If you are going to look – then look at everyone who is in the running.
- Document decisions. Take a screenshot of the page containing social media content on which you base any hiring decision and record any reason for rejection, such as bad judgment. This protects you if damaging content has been deleted by the time a decision is challenged. Because you can be sure that if someone gets an attorney, that will be one of the first places that gets scrubbed.
- Consider the source. Focus on the candidate's own posts or tweets, not on what others have said about him or her or what someone else posted on their page. You may want to give the candidate a chance to respond to findings of worrisome social media content. There are impostor social media accounts out there, so it might not even be theirs and they may not be aware of its existence.
- Never ask for passwords. In several states, employers cannot ask an applicant (or employee) for his or her social media password by law. In all 50 states, asking for an applicant's (or employee's) password creates a real risk of violating the federal Stored Communications Act. For this reason, employers should look only at content that is public.

If everything looks good, these are the candidates you want to pre-screen with a brief, structured 30-minute telephone interview. This saves both of you time because there is no sense bringing them in unless they pass this step. On the call, you get to ask a few important questions and provide them with information about the job and the company and they can make an informed decision about pursuing the opportunity.

Interviewing:

Telephone Interview:

Save time for you and the candidate by conducting a telephone interview first.

To make the most of the telephone interview, with their resume or application in hand, ask them:

- About any gaps in their employment history.
- Why they left each job.
- Why they are seeking another opportunity currently
- To tell you about the responsibilities they have had in the past couple of position and why they left each job.
- About specific technical skills you need. For example: licenses, inventory management, programming, graphic designer, manufacturing, purchasing, cost accounting, marketing, etc.

- I always like to ask what their manager would say they do best and what s/he would say they need to work on the most.
- What it is about this job that interest them
- Where they see themselves professionally in 3-5 years. This gives you an indication if this is just a “job” or if it is something they really see themselves wanting to do longer-term.

Give a brief overview of your company – how long you’ve been in business, what product or service you provide, where you are located if you have multiple sites, number of employees, etc.

I don’t recommend sharing wage or salary information during the telephone interview unless it’s a job that pays everyone the same, such as a forklift driver. Otherwise, if asked I let them know that these details will be shared with the final candidate as part of the job offer process.

Keep your notes for each candidate – and make sure you stick just to the facts; not opinion. It is ok to note that someone was 15 minutes late to the interview; failed to provide answers to many of your questions, etc. It’s not okay to make any reference that would show you were discriminating against them for a protected classification.

At this point, you need to decide if you want to bring them in for a face-to-face interview with you or others on your team. I always prefer team interviews because more heads are always better than one! A caveat to that is that you must make sure every interviewer is trained in what they can and cannot ask.

Face-to-Face Interview

Unlike the stock market – when it comes to people, the best predictor of future performance is:

- ... current performance (does)
- ... past performance (has done)
- ... requisite knowledge/skill (can do)
- ... intended performance (wants to do) -- in similar circumstances

Prepare the room in advance so that it is clean and orderly and gives the candidate a great 1st impression. Remember, you only get 1 change to make a great 1st impression! Put a sign up on the door so that others know there is an interview in progress and not to disturb you while the door is closed.

Establish rapport with some introductions and small talk. This is a good time to have light chat about current events (not politics or religion, though) such as a big sports game. Ask them if they’d like a bottle of water or cup of coffee. If other interviewers haven’t arrived yet, you can tell them a little bit about each of them, so he/she knows how many and what position they hold in the company.

Train the interviewers – I can’t stress that enough. I’ve been in some interviews before when a supervisor will ask a question that is so far out-of-bounds that all I can think of is the number of zeros we will have to write on that check if we get a federal or state complaint!

Listen – use the 80/20 rule and let the candidate do 80% of the talking. The more they talk, the more you are going to learn about them. And don't oversell the company or yourself. The whole point of an interview is for you to learn about them and for them to decide if this is going to be a place and team they want to work with.

Competency-based questions are those that ask the candidate to tell you about an actual time when they experienced something, so you can assess how they handled the situation. You are looking for their experience, their maturity level, their sense of ownership, honesty, etc. Oftentimes the candidate will give a generic response – trying to tell you what you want to hear. Don't let them get away with it. If you ask them to describe their best & worst boss, wouldn't you want to know if they were describing you as their idea of a “worst boss?” Or if they saw someone stealing something and didn't feel it was their responsibility to stop them or report it because “that's management's job?”

And always ask each candidate for the same position the same exact questions. In addition to avoiding any perception of discrimination, this helps you better compare candidates.

Take detailed notes - Tell the candidate that you will be taking notes throughout the interview so that you can review them later. Let them know that this is the time for the company to get to know more about them, and for them to learn more about the company and the job. Your goal is to get into their hearts & minds because you want someone who will do a great job, have a great attitude and who will not become your worst nightmare once they are on-board! There are some very talented interviewees out there who've had lots of experience telling potential employers what they think they want to hear! Your job is to uncover who they really are – and not fall prey to their charm.

Answer their questions – At the end of the interview, in closing, ask them if there is anything they'd like to know more about the company or the position. It's just as important for them to “interview” the company so that they can make a good decision for themselves if you decide to offer them the position.

Then let the candidate know that there are other candidates you are interviewing and when you expect to decide and then make sure you either call them or send them a letter via U.S. mail or an email if they aren't the candidate you've chosen.

Like anything else in life, interviewing is a skill that can be developed with the right training and attitude. I use a system called behavior-based interviewing which has proven very effective in selecting the best employees. There are no “yes” or “No” questions – only open-ended ones where the candidate is required to provide examples of what they have done in the past. I've included some of them in this chapter, but the questions you will ask depends on the competencies required to do the job. You will have a few questions that you ask for all positions around integrity, trust, decision-making, teamwork, etc. If you are hiring a bookkeeper, then attention to detail is very important. For a sales person understanding their ability to influence others and make the sale is uber critical.

Make sure they give you real examples of how they handled real-life situations – not theoretical ideals. Ask them to tell you who, what, where, when & why. Ask every candidate for the position the exact

same questions so that you can compare their answers. If you expand beyond the prepared interview guide and ask an additional question, make sure that you ask the other candidates that question too.

Remember that competency-based questions are those that ask the candidate to tell you about an actual time when they experienced something, so you can assess how they handled a specific situation. You are looking for their experience, their maturity level, their sense of ownership, honesty, etc.

Oftentimes the candidate will give a generic response – trying to tell you what you want to hear. Don't let them get away with it. If you ask them to describe their best & worst boss, wouldn't you want to know if they were describing you as their idea of a "worst boss?" Or if they saw a co-worker stealing something and didn't feel it was their responsibility to stop them or report it because "that's management's job?"

Here are some questions I like to ask:

- **Tell me about a time when you made a mistake at work. What was the mistake, how did you handle it and what did you learn from the experience?**

The way a candidate answers this question is important. It will let you know if they are someone who learns from failure and is a smart risk taker. For me, it's a red flag if they say they've never failed at anything. I mean, really? If they haven't failed at something, then I doubt that they've had much success in any other significant way either. My guess is that they can't admit that they failed, and they blame all failures on someone, or something, else.

- **If we contacted your current/previous supervisor, what would they say you do best? What would they say you need to improve upon?**

By asking this question you will gain insight into how a candidate talks about their supervisors. Are they holding a grudge and blaming their boss for their own shortcomings? It also allows you to better understand their outlook as an employee and their methods for communicating about sensitive topics.

- **Tell me about your greatest achievement so far in your career. What about this specific accomplishment makes it stand out?**

By asking this two-part question, you will understand if their skills and character traits are a good fit for the position and your company. And you will gain a sense of their background, values and interests. You may learn if they take responsibility for their actions, if they do. Also watch for how often they say "I" when telling you about the great things they do. If they use "I" for the good stuff and "they" for everything else, then they aren't taking any responsibility and that's a huge red flag.

- **Describe your best boss and tell us what made him/her stand out from other bosses you have had. Now describe your worst boss.**

Hopefully they aren't describing you, but if they are it's better to know now that they aren't going to like working with you before they become your worst nightmare! One of the major

objectives for this question is to find out how the candidate handles authority. Depending on how they answer, you will be able to determine how compatible they are with the style of management in your company, how they deal with bosses they didn't like, and whether they can work well with authority figures including you.

- **Tell me about a time you had to work with an angry customer or co-worker. What happened, how did you handle it and what did you learn from the experience?**

The answer to this question provides insight into how they handle conflict and whether they accept any ownership at all for what happened. The last thing you want is to risk losing a good customer or have employees who can't get along.

- **What do you see yourself doing 5 years from now? What have you done in the past 12 – 18 months to get yourself there?**

This will help you understand the long-term plan for their career and life (if they have one) and how passionate and driven they are to succeed.

- **What is one question I haven't asked you that if I would have asked, would let me know that you are by far the best person for this position? It's okay to brag.**

Most people will share something unique and special about themselves, perhaps related to a big project they are proud of, the fact that they've never missed a day of work, etc.

Prepare the Interview Template:

Use Microsoft Word to prepare the interview template with the questions you've decided to ask so that each interviewer can ask questions and record their notes. Candidates respond differently to others' voice, tone and cadence so it's nice to mix it up and keep it interesting.

Now that you have your interview template ready, you are ready to set up interviews with the top candidates.

- Call them to set a time for the interview. Keep to the schedule. If you tell them to expect to spend 60 minutes with you, then wrap it up on time.
- Prepare the meeting room so that it is clean and have bottled water available. First impressions are important, and you only get one chance to make a good first impression – so don't blow it.
- Put a note on the door "Interview in Progress – Do Not Disturb" and turn your phone(s) on silent.
- Make sure everyone who is going to participate in the team interview is already in the room and settled 5 minutes before the candidate is brought into the room. Also make sure that all of you had read through the resume / application in advance so that you can get right to it.
- Each interviewer needs to have a pen to record what the candidate said when asked each question. Notes should only be what was actually said and avoid any opinions or comments that may be construed as discriminatory.

- Have each interviewer introduce themselves by name and title along with a warm handshake to welcome them.
- Let the candidate know that you will be asking questions and writing notes, so they don't get more nervous than they already are. You will notice that oftentimes the candidate is watching every move your hand is making – and that's just natural because they are worried about what they said and what you are writing down.
- Get comfortable with silence. It's natural to want to jump in and help a candidate if they can't think of an answer or to lead them to the answer you are hoping for. Silence is golden.

After the interview, meet with everyone who interviewed the candidate and compare scores. For each question, use a 1 to 5 score. One being a bad answer and five being perfect. If you are 2 or more points apart on a question, discuss it to find out what one person saw that perhaps someone else missed or had a different opinion. I always suggest that regardless of the score an interviewer provides, they should listen to their gut and if they feel that something just isn't right even though the candidate may have answered the questions satisfactorily, then they need to voice their concern.

I've been desperate for a live, warm body before and really needed someone to fill a hole on the night shift. I threw caution to the wind and figured anyone who could stand up and breath was better than no one driving the forklift - so I went against my gut instinct. Wrong. No one - I mean not having someone come to work at all right then - would have been much better. I can't even begin to tell you how painful it was before we were finally able to end the relationship and move on to hire a great employee! I'm sure I could write an entire book of horror stories from business owners and managers who have made hiring mistakes they lived to regret.

Once the interviews are complete, tally up the scores and share with the group which candidate rose to the top. Unless there is anyone who strongly disagrees, move forward with the job offer.

Here is a simple Excel example I use. In this case, the interviewer is recommending that the 3rd applicant on the list be hired based on having the highest overall scores.

| Job Title | | | | | | | |
|-------------------------------------|--------|------------------|------|------------------|------|------------------|------|
| Competencies | Wt. | Applicant's Name | | Applicant's Name | | Applicant's Name | |
| | | Rating | Wt'd | Rating | Wt'd | Rating | Wt'd |
| Functional/Technical Skills | 25.0% | 3.0 | 0.75 | 4.0 | 1.00 | 3.0 | 0.75 |
| Team Player | 15.0% | 3.0 | 0.45 | 3.0 | 0.45 | 4.0 | 0.60 |
| Adaptability | 15.0% | 3.0 | 0.45 | 3.0 | 0.45 | 4.0 | 0.60 |
| Communication | 15.0% | 3.0 | 0.45 | 4.0 | 0.60 | 3.0 | 0.45 |
| Planning/Organizing | 15.0% | 3.0 | 0.45 | 3.0 | 0.45 | 3.5 | 0.53 |
| Attention to Detail | 15.0% | 2.0 | 0.30 | 4.0 | 0.60 | 5.0 | 0.75 |
| | | | 0.00 | | 0.00 | | 0.00 |
| | | | 0.00 | | 0.00 | | 0.00 |
| | | | 0.00 | | 0.00 | | 0.00 |
| Total (Weighting should equal 100%) | 100.0% | 17.0 | 2.85 | 21.0 | 3.55 | 22.5 | 3.68 |
| Rating Scale | | | | | | | |
| 5 - Much more than acceptable | | | | | | | |
| 4 - More than acceptable | | | | | | | |
| 3 - Acceptable | | | | | | | |
| 2 - Less than acceptable | | | | | | | |
| 1 - Much less than acceptable | | | | | | | |

Now that you have agreed on the person you think will be the perfect fit for your team, you need to prepare a job offer. You should call them to offer them the position, including salary and then send

them the letter via U.S. mail or as an email attachment so you have a record of what you offered. It's important to have it in writing so that there is no misunderstanding about what you said versus what they heard.

Preparing the Job Offer Letter

So, you've finally found the perfect candidate and you want to offer them the job. Now it's time to prepare the job offer letter. This is a very important step before you set them up for a background check and drug test. It's against the law to perform either of these until the person has accepted the job because you don't have a "right to know" and they haven't signed the paperwork giving you authorization to get either of the background or drug test results.

I recommend that you create a generic offer letter with a standard format that can be used for any position being filled by the company – all you'd need to do is change a few basic pieces of information as you hire more employees.

Part 1: Opening and Basic Information

The offer letter should begin with a statement that includes information such as the position title, who s/he will report to, expected start date, salary expressed in annual / bi-weekly / hourly terms such as "you will be paid an annual salary of \$48,000 paid bi-weekly. And then list whether the position is full or part-time.

Part 2: Benefits Information

Employers should reference eligibility requirements, such as after 90 days or the 1st of the month following the first day of employment, etc. for health care insurance plans, 401(k) plans, life insurance, short- and long-term disability, and accidental death and dismemberment coverage, voluntary benefit plans, bonus plans, etc.

Part 3: Paid Leave Information

This section of the offer letter outlines the number of days an employee is entitled to receive for vacation or personal time off, if applicable. Many companies now provide paid time off which includes vacation days, personal time off for events that can't be conducted outside the work schedule such as doctor appointments, sick family member, personal illness, etc.

Part 4: Terms of Employment

This part generally includes qualifiers such as "This offer of employment is contingent upon your compliance with the Immigration and Naturalization Reform Act of 1997, satisfactory reference and background checks, passing a drug screening, and signing the company's "Confidentiality and Non-Disclosure Agreement."

Part 5: At-Will Employment

It's very important here to add the "at-will" language. This language makes it clear, in writing, that the employer has the right to terminate the employee at any time, with or without cause, and the employee the same right to resign from the position. If statements were made by the employer during the

interview process that imply an employment agreement, then the employee could claim that s/he has a contract and can't be fired or laid off. Make sure your Employee Handbook has solid at-will language that maintains only the president of the company can offer an employee a written contract.

Part 6: Closing

The offer letter should close with information regarding a point of contact for questions or concerns. This is the perfect place to express how excited you are about bringing this person on to the team, etc. DO NOT put anything in the letter such as "We expect that you will have a long and prosperous career with our company" or you're at-will protection just got kicked to the curb! Include a place for the employee to date & sign the offer letter and keep it for the personnel file.

Here is an example you can modify as needed:

Today's Date

Ms. Cameryn Little
Her Street Address
Her City, State, Zip

Strictly Private and Confidential

Dear Cameryn,

We are pleased to extend this offer of employment to join (Your Company Name) in the capacity of (Job title) reporting to me (or name of the immediate supervisor.) As discussed, your annual salary (or hourly wage) will be \$XX,XXX or \$XX.XX paid bi-weekly (or semi-monthly, weekly.)

(Your Company Name) maintains an employment-at-will policy, which means that you or the company can terminate your employment with or without cause, at any time and for any reason. There is nothing in this letter that is intended to constitute a contract of employment for a guaranteed period-of-time.

This offer of employment is contingent upon your compliance with the Immigration and Naturalization Reform Act of 1997, satisfactory reference and background checks, passing a drug screening and signing the company's "Confidentiality and Non-Disclosure Agreement."

(Candidate's name), we anticipate this to be a challenging and rewarding opportunity for you and we look forward to having you on the (Your Company Name) team.

Please sign below indicating your acceptance of this offer and return it to me no later than 7 days from the date on this offer letter.

Sincerely,
(Your Name)
(Your Title)

This offer is valid for seven (7) calendar days from the date of this letter.

Candidate Signature

Date

I only give the candidate 7 calendar days to accept the offer. This forces them to choose between your offer and any other offer – or counter offer from their current employer – that they are considering.

Post Offer Processes

Once the candidate has returned the signed offer letter, you can begin the next steps of the hiring process. Background investigations, reference checks and drug/alcohol tests are your best way of getting valuable information about potential hires. You can do some of it yourself if you have the bandwidth. However, I highly recommend using a professional firm because they know all the rules and regulations for each state, have dedicated staff with nationwide access to verify the social security number, criminal records, education, work history and to speak personally to supervisors and references to find out more about the candidate.

A thorough background investigation is to help you determine if an applicant is disqualified to work at your company due to a criminal conviction, motor vehicle violations, or providing false information about their education or work history. You can ask for a credit history as well, but I generally do not do that unless they will be handling your finances.

A reference check is when you contact the applicant's former employers, supervisors, co-workers, and professional/personal references to verify previous employment and to obtain information about their knowledge, skills, abilities, reason for leaving, eligibility for rehire, work performance and character.

My motto is to always "Hire the best and reject the rest." Unlike the stock market, past performance is a pretty strong indicator of future performance and can uncover a candidate's professionalism, productivity, job skills and interpersonal skills.

A reference check helps distinguish between a true high flier and someone who is just great at interviewing and telling you what you want to hear.

A major reason to conduct background and reference checks as well as pre-employment drug testing is to avoid bad hires in the first place. For instance, if you don't do it, and the new employee commits an act of violence or sexual harassment, you could be held liable for negligent hiring if they had done it at a previous employer, but you failed to ask. The point here is that if you had checked his/her background you would have known that they posed a threat and you wouldn't have hired them; therefore, the employee who was subsequently injured would not have been hurt had it not been for your failure to act responsibly.

Employment history

Some people include false employment history on their resumes. Not something I'd ever do – but it happens more often than you'd think. Some common areas where candidates inflate their resumes are concerning job responsibilities, skill sets, experience, dates of employment, previous employers, reason for leaving, salary/wages and job titles.

Motor vehicle records

Employers should always check the driving record of any individual who will operate a company vehicle at any time or who will drive personal or rental vehicles on company business. A motor vehicle record typically lists license status, license class, expiration date, traffic violations, arrests and convictions for driving under the influence, and license suspensions or cancellations.

Verify authenticity of reference letters

Creating a fake reference letter is easy—company logo and all with today’s easy access to technology. Accordingly, take such letters with a grain of salt. Most company’s do not allow supervisors to provide letters of reference anyway. In reality, no one is going to write a letter stating that their previous employee was a bad employee and that you shouldn’t take a risk on hiring them! And if they did, you’d certainly never see it!

Conditional Employment Agreement

If you are in a hurry and need the person to start before all the information is back, then some of my clients have the new hire sign a Conditional Employment Agreement. Basically, this agreement says:

I, Decklyn Bryce, understand that I am being allowed to start work for XYZ Company before the results of my drug test and/or background investigation is complete. My signature below confirms that I understand and accept that should the company who performs the drug test and/or background investigation provide information to the Company that makes me ineligible for employment, the offer of employment will be withdrawn, I will be terminated immediately and paid for all time worked.

Then this document is signed and dated by the new hire and a company representative.

If you drug test, do not send the candidate to take a drug test until after they have officially signed their acceptance of the offer which is contingent upon them passing the drug screening. Prior to that, you have no legal right to the results of a drug test so don’t do it.

The drug testing facility will provide them with an authorization form which allows them to collect the urine specimen and deliver the results to you. I can think of about a million reasons for drug testing and spending under \$50 to keep an illegal drug user out of your workforce is priceless.

I strongly encourage you to conduct a professional background investigation. I use Justifacts which has local, nationwide and international capabilities for both background checks and drug tests. They check everything – education, social security number, work history, criminal history including the national sex offender registry as well as references. They can even check credit, driving records and many other things if you need for your business.

It is amazing how many people lie on their resumes today. I mean big lies, not just a wrong date on their dates of employment. Oftentimes, it’s the things they don’t tell you that come up on a background investigation that helps you dodge a bullet too. I consider it money well-spent if it allows you to hire only the best talent.

Once the offer is accepted and the drug test and background investigation are complete, then notify all other candidates that you have selected a candidate whose skills and experiences more closely matched your position and that they have accepted the offer. Thank them for their interest and encourage them to check back with you periodically to see if there are other openings that are of interest to them. If you routinely list on your website, then refer them there instead of checking in with you.

I know it's an extra step and a lot of small business owners don't want to take the time to notify other candidates but it's the right thing to do and it strengthens the perception that you have a well-established business. It also allows that person to move on with their job search and it avoids your staff having to answer all the calls from them asking if you have made a decision. And, you will become known as an employer that obviously cares about people. With social media exposure, your reputation could be damaged irreparably or elevated exponentially.

Orientation & Onboarding New Employees

As you bring in new talent, there are some steps you need to take to make sure they come back on Day 2, Day 3, etc. For the new hire, it's important that you get them off to a great start by meeting with them to get all their paperwork completed such as the I9 form, W4, health benefit forms and give them a copy of the Employee Handbook. Make sure that you explain key policies and work rules and have them sign the acknowledgement form stating they understand that it is their responsibility to read, understand and follow all company rules and policies. This orientation process is usually completed by someone on your team with HR knowledge and experience.

I have a New Hire Onboarding checklist that I use with my clients. I highly recommend that you do this as well so that everything gets accomplished in a timely manner.

Before their 1st day, make sure you set up their work area with the tools they need such as computer, monitor, stapler, pens, paper and paperclips. Have a landline with an existing extension number assigned to them or cell phone and an email address. Have a list of who they will be meeting with in the first 30 days, so they understand everyone's role and expectations of them in this position.

Next, meet personally with them to go over their job duties, set clear expectations regarding their position and the company's goals and review the organizational chart, so the new person can easily see who is in leadership positions and where their job fits. An organizational chart with pictures is invaluable as the new hire learns who's who.

Take the time to walk them around and introduce them to their team mates and others that they will interact with on a regular basis. Tell them who to contact if they have any questions related to their pay and benefits or if they are having any issues they might need help resolving.

I recommend that for the first week, you assign someone to be their mentor or buddy, so they have someone to eat lunch with, get introduced to that person's co-workers and get to know more about each other. The person you select for this should be one of your best employees who will not only do a good job in this role but will enjoy being a mentor and showing the new employee "the ropes" when it comes to what is – and is not – accepted within your culture.

If you have a weekly team meeting, before the employee reports for their first day on the job, let the employees know that you have hired this person and clearly spell out the new person's duties. Share their previous work history, education and credentials so they look forward to having this person join their team. This will also avoid anyone being fearful that this person is going to come in and take their job. Ask them to provide their full support to the new hire.

Retaining Your Current Team



When it comes to retaining your best and brightest, you can take it to the bank that the employees you've had on your team for a while are frequently receiving calls for interviews. Right now – probably even today. If you think they are great, so will some other company. It could be your competition, or it could be in another field altogether. Either way – if you want to keep them, they better feel the love!

I've been doing this work for a long time and I've interviewed thousands of good people who left one company for another one. And I can tell you with confidence that people leave management, they don't leave the business. If they don't feel appreciated, then they will entertain other requests and you will be on the losing end. People want to be able to do their best work, share their ideas, be listened to, respected and compensated fairly. There is no need to wait for an exit interview to find out why the best are leaving – get in front of it and stay on top of it by re-recruiting your staff on a regular basis. It's no different than any relationship where you finally meet the right person – if it's all about the thrill of the chase, then the relationship will fall apart, and you will be off in search of the next thrill while your company suffers, and your business fails to achieve its maximum potential.

More than once I've seen business owners hire bright people and then when these new people have new ideas, they shut them down and expect them to get in line and conform to their norms. They hear "That's not how it works around here" and "We tried that before and it doesn't work." Can you imagine how many times those ideas would have turned into pure gold if the owner would have allowed some "Beyond the Box" thinking to empower his or her business? I use the term beyond the box because I believe as a society of intelligent, free-thinking, innovative human beings, we've outgrown the box entirely. When I hear "think outside the box" all I envision is a box that is closed and confining – stifling even. So, years ago – I decided to get rid of the box once and for all and coined the term "Beyond the Box."

As a leader of your small business, wouldn't it be great if your employees were saying this about you – especially when you aren't within earshot! They should be.

- Listens to me
- I can talk to him/her
- Not stingy with compliments
- Doesn't play favorites
- I trust him/her
- Always has time to help me with my problems
- Let's me know what is expected of me
- Tells me what's going on
- Runs a tight ship, but fair

- Doesn't pass the buck
- Stands up for me when I'm right
- Doesn't talk down to me
- Taught me the ropes
- Wants me to be "promotable"
- When he/she gives his word, you can take it to the bank
- Handles complaints promptly and only on an individual basis
- Takes care of things quickly
- Knows the job
- Went out on a limb for me
- Keeps our department working like a team

However, if they stop talking when you walk into the room then you need to find out if they are saying these things about you or one of your managers instead. If so, you and your managers need to make the behavioral changes required of a leader if you want your business to be truly successful. Employee turnover is a business killer.

- Shoots from the hip
- Loves to catch me in a mistake
- Plays favorites
- Never has time for me
- Is so impressed with himself or herself
- Can't be trusted, get it in writing
- Tells me one thing and tells someone else something different
- Doesn't care about anything but him/herself
- Wants to keep me down
- Never explains anything
- Doesn't follow Company policy
- Confuses me on my assignments
- Doesn't care about me or my time
- Never has a nice word to say
- Moody and takes it out on me
- Doesn't like me
- Never gets back to me
- Takes all the credit, but none of the blame
- Doesn't promote teamwork

Being a great leader isn't a given just because you are a business owner or have a "management" title. It has everything to do with how you behave and how you treat others. There are millions of books on leadership and I encourage you to be a lifelong learner and read a couple of business and leadership books a month, at least. Learn from others who have done what you want to do and how they do it. Successful people aren't accidents.

If you haven't read it already, pick up a copy of Jim Collins book, Good to Great. At one of the company's I worked for the CEO gave a copy to every leader in the company worldwide and I still talk

about getting the right person in the right seat on the right bus and refer to various sections of the book routinely.

Here are what some ideas other small to mid-size businesses use to retain their team.

- Birthday or Anniversary cards
- Meet regularly with them privately to provide real-time feedback on their work performance and allow them to ask questions about anything related to the business or their career.
- Lunch 'n Learns where employees can eat lunch and listen to a speaker
- Periodically treat the employees to lunch such as pizza, sandwiches, etc.
- Having an HR consultant come in and conduct employee listening sessions and report back to you the concerns and ideas shared by your employees
- Get to know the names of their family and any special interests such as soccer, baseball, football, etc. and ask about them at times. This isn't being invasive – it's showing that you care about them as people, not just as employees.
- Company-sponsored activities such as discounted movie tickets, company picnic or sporting events for families
- Conducting an Employee Engagement survey to find out how engaged your employees are in your business and then create action plans to address opportunities
- Fishing, golf or sport events with the boss – but only if shared generously & equally across the company; otherwise it will show up as favoritism or someone kissing up – and that causes friction
- Employee referral rewards
- Suggestion boxes that are reviewed and implemented when possible. If not possible, then the employee has an opportunity to meet with the leader and understand the rationale behind the decision.
- Let them leave early sometimes as a way of saying “thank you” for what they do when they've gone the extra mile
- As a developmental opportunity, offer to let them work on a special project and participate in important meetings outside the scope of their normal job
- Pay and recognition for ideas that are implemented that either save money, improve employee morale or improve safety
- Day off with pay for perfect attendance
- Bonus plan where all employees win when the company meets or exceeds their goals
- Gift certificates for holidays such as Thanksgiving & Christmas
- Flexible work hours
- Working from home if it's suitable for the position

Job Descriptions

Let's talk about why job descriptions matter. First, whether it's your first employee or your 50th, it's important that every task needing to be done is assigned to someone and that they know it is their responsibility. That just makes good business sense.

More importantly, every person on the team needs to know who is responsible for doing the work. This way, nothing falls through the cracks and you avoid the blame game, finger-pointing and disappointment that results from their mistakes. People want to know what you expect them to do. There will always be things that come up and special projects or filling in for someone else while they are away, but the basics that you include in the job description is what that person knows they will do every day when they come into work unless you tell them something different.

Taking the time up-front to develop clearly written job descriptions also provides you with the key responsibilities to list in your job ads, on social media, job boards and when training a new hire. And, should you have the unfortunate experience of getting sued by a current or ex-employee for discrimination or for not making an accommodation if they can't do 100% of the job, attorneys on both sides will use this information.

Below is an example of a sample job description that you can use as a model.

Job Title

The Summary / Objective section is a brief description of the overall responsibilities of the position. Keep it to 2-5 sentences.

The Essential Duties section is where you need to pay close attention – it's important you get this one right. This is something you need to consider before beginning the search for a new hire, as well as when a current employee comes to you if they are no longer able to perform their normal & customary duties due to a temporary or permanent disability.

If you have 15 or more employees, you must comply with the Americans with Disabilities Act. However, regardless of the number of employees you have you will want to do this because it will help you assess each situation on a case-by-case basis and remove any emotion from the analysis. It also serves as a paper trail if someone you elected not to hire or a current employee whom you couldn't accommodate decides to sue you. Remember, people sue employers all the time, and you want to be absolutely sure you are doing the right thing. It also impacts employee morale if employees perceive that you aren't being fair to a co-worker when they have a legitimate need.

Not everything you expect an employee to do is "essential" in the eyes of the law. For instance, dropping off the nightly bank deposits or picking up the mail from the P.O. box might be assigned to Employee A. However, Employee B can easily do that if Employee A is unable to perform that duty due to a physical or mental impairment. So, in this case, those duties are not "essential" because it can be done by someone else. There are no unique skills required to pick up the mail or drop off the bank deposit. However, for a sales person whose job it is to drive daily to meet with current and potential

customers, having a physical problem that causes the employee to lose their driver's license can be cause for reassignment or even termination because that person cannot perform an essential duty. So, a job description stating "must be able to drive a vehicle to conduct sales calls" under the Essential Duties section is a must.

In the Competencies section, list the 4-6 critical skills required to do the job well and to fit with the culture you have created such as the ability to be a team player, possess excellent verbal and written communication skills, able to work well under stress, etc.

For Working Conditions, most of the time this is going to be straight-forward, but it's still important to spell them out. For instance, for office employees you could have a statement such as: "For the most part, the employee works in ambient room temperatures with efficient lighting and uses traditional office equipment." However, for someone driving a forklift in and out of a refrigerated room or outside in the heat, cold & rain you would list it is "Routine exposure to the warehouse and yard areas in inclement weather." "Exposure to moving trucks and forklifts." In a medical facility where they work directly with patients, you might need to include "Exposure to blood and other bodily fluids."

In the Physical Demands section of the job description, list out job requirements such as "Must be able to lift up to 50 lbs. frequently / occasionally / etc." "Must be able to stand for up to 8 hours while attending to walk-in customers", "Must be able to climb ladder and reach above shoulder-height to get product from warehouse shelves" etc. And then note that reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

Position Type & Expected Hours of Work

Here you would list full-time, part-time, seasonal, etc. If the hours are not always the same, make sure you include that work hours are subject to change by management with or without notice. I suggest that you also include that "overtime" may be required to meet the business needs.

Travel

If travel is expected on a regular basis, say so. This doesn't include commuting to and from work – just if they need to travel for work. If so, then I generally use a percentage such as "Up to 25% of the time."

In the Education and Experience section, require only what you need to have some assurance the person has these basic skills required to get the work done well. It's customary to list "High school diploma or GED required" but oftentimes you might have a need for someone with a degree from a college or a certification from a technical school. If so, add it as a requirement or list it as a "bachelor's degree in Marketing & Sales or a combination of education and relevant skills required". Or you can say "preferred" rather than required if it's not absolutely necessary to perform the job. However, there is a lot of great reasons to build a strong bench that has upward potential in the company.

EEO Statement

It's important to include this statement in your job description as well as your Employee Handbook and Employment Application. "The Company provides equal employment opportunities (EEO) to all

employees and applicants for employment without regard to race, color, religion, sex, sexual orientation, transgender status, national origin, age, disability, genetics or any other protected class.”

Other Duties as Assigned

This is a disclaimer to avoid an employee ever trying to say that “it isn’t in my job description.”

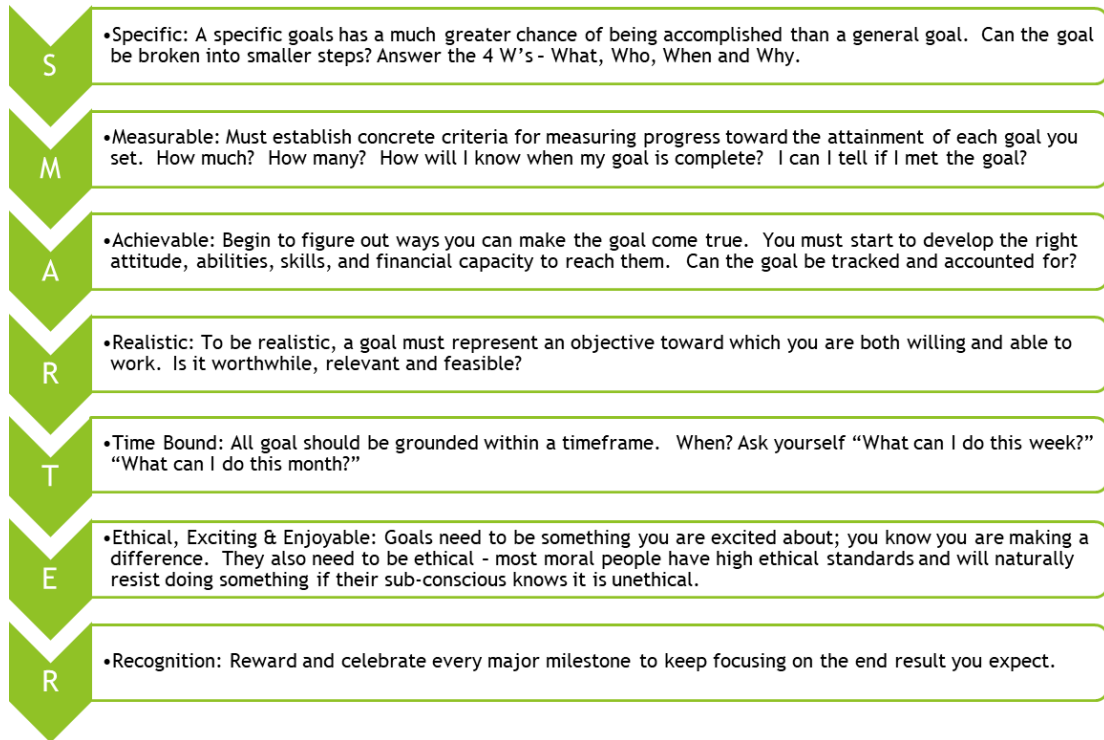
Manager & Employee Acknowledgement

This document should be signed off by management and then shared with the employee during the interview process. This is especially helpful so that the candidate knows what is expected of them. You will also use this information when creating your job advertisement.

Once the new hire starts work, s/he will sign this document and you will keep it in the personnel file.

Because your business may change over time, review job descriptions at least annually or when there is a major change in your business. Then have all employees in that position sign it and put it in their personnel file.

Setting S.M.A.R.T.E.R. Goals



Every business has goals, whether you have taken the time to write them down or not. You have a general idea that in the next twelve months you want to increase sales, implement new software to make your business more efficient, offer a new product line, reduce your costs, prepare your business for sale, hire staff, etc. Remember, what gets measured – gets done!

When you take the time to get granular, right down to exactly what you want, why you want it, when you want it, how you want it and how much of it you want – then not only can you formulate a plan; you can share it with your employees so that they can help you accomplish it. Employees want to help -they just need your guidance to know what you want them to aim at and when you want it done. This is called goal setting. Without goals then the day-to-day gets in the way of you growing a profitable, scalable and sustainable business. This also gives you a quantifiable way to measure your employee's work performance and you can use this to determine pay increases or use it to handle under-performing employees.

As you set each goal, you need to know where you are today because it is the gap that you are working towards closing. If you have annual sales of \$500k and you want to grow the business by 20% this year, then you know that you need to decide how you will bring in an extra \$100k because it isn't just going to magically appear in your bank account.

This is where S.M.A.R.T.E.R. goals come in. S.M.A.R.T.E.R. goals describe and quantify an outcome and specifies accountability. I've used S.M.A.R.T. goals for most of my career but recently learned

from one of my mentors, Dr. Sherry Buffington that by adding on the E and the R, goals had a much higher chance of being accomplished and my experience has shown her to be correct. They have five common characteristics.

Specific:

- ✓ This is a clear, concise statement that describes what you will do in very specific terms and defines the what outcome you expect to achieve. The more specific you are, the more likely you will accomplish your goals.

Measurable:

- ✓ In business, the measurements are generally expressed in terms of how much revenue, how many sales or customers, how much profit, total costs, reduction in complaints or re-work, etc. Then you will know if the goal was met, exceeded, or fell short.

Achievable:

- ✓ Means you are committed to accomplishing the goal and that you will support your employee by providing the resources needed to be successful.

Realistic:

- ✓ Helps ensure that the goal is possible to achieve and that you (and your employees) have the time, the resources (time, money, skills) and the authority to accomplish the goal.

Time-Bound:

- ✓ The goal must include an end date when it will be completed.

Ethical, Exciting & Enjoyable:

- ✓ The goal is more likely to get accomplished if it is something you (or your employee) is excited about doing and is in line with your core values.

Recognition:

- ✓ Celebrating small wins and accomplishing major milestones to keep everyone motivated and inspired to achieve the goal.

To get you started, here are some examples. You will need to change them to meet your specific business goals. Remember, a goal will include an action word (what you are going to do), the targeted area you are focusing on such as more sales, reduced costs, etc., a measurable goal and then a date the goal is to be completed.

Accountant goal:

Reduce past due accounts receivables by 75% no later than 11/01/19.

Sales goal:

Prepare and deliver quotes for emergency management departments no later than 7 business days of customer request.

Inventory goal:

Implement new bar code system to manage inventory by 12/31/19.

Management goal:

Develop my team by providing customer service training to the sales personnel by 12/1/19.

Review your goals at least once a month to see how you are progressing. If you have employees, set up a monthly meeting with each individual and/or with the group to share how the business is doing overall and give each employee the opportunity to give an update on their goals. If your plans change, such as you've decided not to invest in the new technology for the inventory tracking system this year, then have the employees involved in the implementation replace that goal with another one that is in line with your new plans.

Then celebrate, celebrate, celebrate the small milestone wins along the way. This will provide well-deserved recognition, a real sense of accomplishment for the employee and show sincere appreciation to your team. There is nothing as motivating as being recognized for having done a good job – it just makes you more willing to do what it takes to be successful.

Handling Poor Performing Employees

In this section, I will share some tips on handling poor performers. In my next book on leadership I discuss how to manage performance overall so for right now, I want you to have this in case you have a poor performer you need to address right away. Although I am a big proponent of progressive discipline, there will be times when one single act is so egregious, such as theft, harassment or threats that you should exercise your right to terminate their employment. Hopefully that won't happen but if it does, take swift action and move on.

The goal of any performance management program is to provide guidelines and suggestions you can use to remedy an employee's performance deficiencies so that he/she can improve their performance to a level that is acceptable to you.

The earlier performance deficiencies are identified and addressed, the greater the likelihood the employee will be able to turn things around. Without a form of regular feedback, the employee may not be aware that they aren't delivering up to your standards. Then again, they might have slacked off for some reason and the discussion will be the wake-up call they need.

Don't shoot from the hip when a performance problem comes up. Gather all the facts before you make a decision and give yourself a little time to think through what you are going to do and how you are going to do it, if you've decided to address the situation. If there is someone else you can talk to about it without jeopardizing confidentiality, then gaining another objective perspective of the situation could lend valuable insight in dealing with the problem.

- Keep notes of all employee-related counseling or discipline detailing time, date, and content of these meetings and refer to them if this isn't the first incident.
- When looking at performance, evaluate it based on the employee's job description, specific performance expectations, company guidelines, customer requirements, etc.
- I encourage you to keep in mind that employee's may have individual work habits that are different from their own; that doesn't necessarily mean they are wrong. So long as their work habits don't slow down or prevent the company from meeting its goals, then allow some creativity and individually. Your focus should be on the result, not necessarily on them following the line.
- Keep in mind that personal problems may interfere with an employee's ability to satisfactorily perform his/her assigned job. For example, they might have family-related stress, abuse of drugs or alcohol, anxiety, depression, serious illness or death of a loved one. This doesn't mean that the employee gets a free pass, but it does mean that you should take this information into consideration when discussing with the employee. The employee needs to know that you care about him/her and what they might be experiencing, and they will also know that this is the wake-up call they needed to do their best despite what is going on in their world outside.

So, once you have considered all the facts, you've decided that you do want to take disciplinary action with the employee. Here are some things to keep in mind when deciding the level of discipline. You

want to make sure that this will likely result in the employee turning the situation around and that the punishment fits the crime so-to-speak.

Remember – the goal is to get the employee’s performance up to your standard. Termination is always an option, but then you must start all over again with hiring and training someone else.

- Were performance objectives clearly established and communicated to the employee?
- Did you or the manager review the employee’s job description and performance expectations with the employee?
- Was the employee properly trained?
- What performance rating has the employee received in previous year’s appraisals?
- Is the deficiency a major or minor one?
- How substantial is the documentation of the deficiencies?
- How does the employee’s performance compare to other individuals within the same department or doing the same job?
- How have we handled other employees with similar performance deficiencies?
- (If applicable) How have previous managers evaluated this employee’s performance in the past and handled any areas of substandard performance?

Your next step depends on how you answer the questions above. Ongoing coaching and course-correction might be the best answer. However, the employee is either helping you or hurting you so if you are just kicking the can down the road, then my recommendation is to either give them one final chance by putting them on a Final Notice or letting them go.

Coaching

Once you have identified specific performance deficiencies you should prepare to address these issues directly with the employee. Depending upon the severity of the problems, the first step in this process may be coaching.

The purpose of the Coaching session is to:

- Review areas where current performance levels are below the goals and expectations of the position.
- Discuss possible causes and reason for the substandard performance.
- Review training or retraining needs the employee may have to assist in remedying the employee’s performance deficiencies.
- Determine what action steps are required to correct the performance problem.
- Determine how progress will be measured and establish follow-up procedures to insure we are measuring progress and providing the necessary feedback to the employee.

Coaching sessions are more formalized discussions with an employee to address performance deficiencies and to develop a plan to resolve deficiencies in these areas.

The conversation with the employee should provide you with detailed insight as to the causes of the performance deficiency. Then you can take whatever steps needed such as additional training, a review

of the performance expectations, or an understanding on the part of the employee that their current performance level is not acceptable and requires immediate improvement.

Performance Improvement Plan (PIP)

If oral and written counseling has not been successful in assisting an employee to remedy their performance deficiencies; it might be time to take more severe disciplinary action .

A review of all prior documentation, coaching efforts, and current performance issues should be considered prior to beginning more severe discipline.

A PIP should be outlined to the employee in a memo where it's important to include:

- A recap of previous occasions when the performance deficiencies were identified.
- A detailed list of each performance deficiency and corrective action the employee must take to remedy the performance and alleviate the deficiency.
- A statement explaining that the employee's failure to perform at a level consistent with our performance expectations is the reason for our actions.
- A statement indicating that failure to improve performance may result in further disciplinary action up to and including termination.
- Procedures by which you will monitor and follow up with the employee.

When meeting with the employee keep in mind the following tips:

- A third person should be present at the meeting. This person should be another manager or someone who handles your human resources responsibilities.
- Review the PIP memo point by point with the employee, insuring that the employee fully understands and has an opportunity to respond to each point in the document.
- Provide the employee an opportunity to explain his/her point of view. Insure that the employee understands that the purpose of the memo is to provide a framework to improve employee performance.
- Offer your guidance and support but explain to the employee that it is ultimately his/her responsibility to insure performance improves to acceptable levels.
- Stress the seriousness of the PIP and indicate that failure to improve could lead to further disciplinary action, up to and including termination.
- Have the employee sign the memo. If the employee wishes to respond to the content of the memo, he/she may do so in writing.
- Establish time frames for follow-up meetings to review performance against the criteria established in the PIP. Maintain detailed notes of each of these meetings identifying the date, time, and the specific items addressed at each meeting. Explain that an interim Performance Appraisal may be conducted to review the employee's progress.
- Have the employee sign the notice. Their signature documents that the meeting took place and that the issues were discussed with him/her; it doesn't necessarily mean that the employee agrees with the content. If the employee refuses to sign, don't make a big deal of it; simply write in the space "Employee refused to sign" and initial it. Then provide the employee with a signed copy of the PIP.

Set up a series of follow-up meetings with the employee to provide feedback around what they are doing well and encourage them to continue. If something is still not up to par, let them know.

In most cases, the employee's performance will rise to meet your expectations. However, if it doesn't then you can rest easy knowing that you've done all you can and that they are basically firing themselves. Then fire them.

Final Warning

If you've decided that they have made some improvement, although it isn't up to the level you require of this position, then you may consider providing them with one last final warning. Again, this should be in writing, identify the area(s) that still need improvement and notify the employee that failure to improve will result in immediate termination. Have the employee sign it and put it in the personnel file. And then stick to your decision. No backing down, no vacillating. The other employees are watching you and waiting for you to do the right thing. I'm sure they are tired of picking up the slack and they are looking at you for leadership.

If the employee's performance has improved and the employee has met your expectations, then make a note in the file and let the employee know.

For small and mid-size employers this seems like a lot of steps and a lot of paperwork and meetings, but if you end up turning the employee around, then it's time well spent.

And if you end up having to terminate the employee this is the best way to avoid having to pay unemployment and the expense of having your unemployment insurance rate to go up for the next several years due to utilization. When deciding a claim, the government wants to know that you've been fair and consistent and that the employee knew the ramifications of his/her actions. Your documentation provides that proof.

Handling Employee Misconduct

In this section, I'm going to teach you how to address difficult employees and/or a difficult situation. It's important that all employees know what is expected of them from their very first day on the job. More importantly, they will know the consequences if they violate your rules.

Of course, if there is a problem - you need to protect your company from the get-go by conducting a thorough investigation right away and then decide what you need to do next so that you are fair, consistent and the punishment fits the crime.

You will learn the key elements of an effective disciplinary notice that will serve to either make your employee improve their performance (ideally) or will pave the way for you to take harsher disciplinary action, up to and including termination of employment.

It's been my experience that by the time you make the decision to deliver harsher warnings, the employee is already expecting it. And if they aren't, you might not have been provided enough feedback before getting to this point. Plus, if you are ever challenged in court, those are the first records your attorney is going to ask you for. And when you are contesting an Unemployment Claim for wages after having terminated an employee, providing the Unemployment office with those records will most likely get them to rule in your favor.

We'll talk about the best way to conduct the disciplinary meeting – even if it is the final termination meeting where you are delivering the bad news - so that you can do it confidently, maintain control and avoid it turning into a shouting match that disrupts the entire office.

Of course, once the discipline is over – the other employees naturally want to know what happened. So, we'll talk about that in this chapter as well.

It's not a matter of “if” you will ever find yourself in a situation that requires you to address a sticky situation, but “when.” Of course, you always want employees to do the right thing and always do their best work, but in reality – if you own a business or supervise employees, at some point this will come up. And not deciding – is a decision.

The philosophy of having performance standards and a code of conduct is that you want everyone to know the rules – follow those rules – and then know that if they fail to follow the rules, there are consequences. Discipline is meant to notify the employee of what they are – or are not – doing so they can improve their performance right away. You hired them, and they are on your team – so you want them to be successful. When they are successful, your business thrives! And, recruiting, hiring and training employees is expensive so you don't want to keep reinvesting in new employees in hopes that they will be better than the one you let go.

And, let's admit it – there are employees that are just toxic or poor performers and there isn't anything you can do to turn them around quickly. We all make hiring mistakes, so if you find yourself in that situation – take quick action to get them out before they make it any harder on you or your team.

Your business is just like a small city with stop lights, speed limits, licensing requirements and sales taxes. The world works best when there are clearly understood rules in place that apply to everyone and where everyone knows what will happen if they break the rules. I'm not in favor of a lot of rules that you may or may not follow at any given time. That's just a recipe for disaster and fodder for a lawsuit! But a general set of rules will keep your business running smoothly.

I recommend that you have a well-scripted Employee Handbook. The handbook serves several purposes such as spelling out your Vision and Mission, paydays, summaries of your benefits such as vacation, paid time off, health plans, the At-Will language, the code of conduct or work rules and your progressive disciplinary policy. I always recommend that you have the employee sign an Acknowledgement form stating they have received a copy of the handbook and understand that it is their responsibility to read and comply with the policies contained therein and any revisions made to it. It's always a good idea to update the Handbook every year or two and have the employee sign for the new one. Keep the Acknowledgement form in the employees personnel file – if you are ever challenged about whether they knew the rules, this provides some level of protection for your business.

One advantage of preparing the handbook in advance is that when something does come up – and it will – you don't have to think through what you need to do. You refer to the Employee Handbook and follow the steps.

Of course, there is always management discretion. What I mean by that is that sometimes the violation is going to be so egregious that there is no way you are going to want to give that employee other opportunities. You are going to want to fire them and be done with it. For instance, physical violence, embezzlement, sexual harassment and things of that nature should be addressed swiftly and firmly. My only caution on this one is that you think it through before reacting. Bounce it off your HR consultant or attorney before you do something that will ultimately hurt you and your business.

When it comes to how you've handled a similar situation in the past – the way you handle it this time needs to be in line with your "past practice." The risk of treating different employees differently for the same infraction of the rules is one that isn't worth taking. First, you always want to be fair and objective because it's the right thing to do and it's smart from a business perspective. Second, you want to avoid any legal claims by a disgruntled current or ex-employee that you treated them worse just because they are of a certain race, age, sex or any other legally protected classification. And I can tell you from experience that if you get that charge, you will be defending every other decision you've ever made and providing documentation from years' and years' worth of actions you've taken. You can't afford to make this mistake. That's another reason why documentation is so important. For instance, you may decide to treat one employee who has consistently been a high-performing employee but for some reason starts having absenteeism problems differently from another employee with the same absence problem but who is a poor performer. The key here is that you have documentation supporting your decision to treat the high performer better than the poor one based strictly on performance, not any other discriminatory reason.

In your Employee Handbook, it's important that you list the rules you expect everyone to follow. In most cases – most of the time – employees will follow whatever rules you set. And if they don't, then your Work Rules & Standard of Conduct gives you what you need to correct their behavior.

One word of caution here is that if you have lots of rules and you aren't consistent when employees break them, then you have a big problem that opens you up for all sorts of legal challenges and employee morale issues. It's better to have a few rules you are going to enforce with a vengeance than to have a lot of rules that you may or may not enforce.

This is a section of an employee handbook which lists some of the most common work rules in some Employee Handbooks. Feel free to use some of them if it fits your needs:

The work rules and standards of conduct for XYZ Company are important, and the Company regards them seriously. All employees are required to become familiar with these rules and standards. In addition, employees are expected to follow the rules and standards faithfully in conducting the Company's business regardless of where the work is being performed.

While not intended to list all the forms of behavior that are considered unacceptable in the workplace, the following are examples of rule infractions or misconduct that may result in disciplinary action, up to and including immediate termination of employment. These examples are in no way a limitation on or intended to change the Company's at-will policy.

- Boisterous, disruptive activity or horseplay in the workplace or while on company business.
- Deliberate damage to the property of the Company, its employees or others doing business with the Company or causing such damage because of gross negligence or recklessness.
- Excessive or chronic absenteeism.
- Failure to abide by all safety rules.
- Falsification or misrepresentation of Company documentation or records, either verbally, in writing or by omission. This includes, but is not limited to attendance records and timesheets, employment application, fraudulent injury reporting, disability claims, falsifying expense reports, etc.
- Immoral, obscene or indecent conduct. This specifically includes the use of the Company's electronic communications system, use of the electronic mail system to create or send messages of a harassing, intimidating, libelous, offensive and/or discriminatory nature, or other conduct that violates Company policies on equal employment, harassment, non-discrimination, or retaliation.
- Inability to perform the required work in a satisfactory manner.
- Insubordination including refusal or failure to perform assigned work.
- Leaving work without management approval.
- Possession, manufacture, distribution, sale, transfer, dispensation or use of illegal drugs in the workplace
- Reporting to work or any work location or work-sponsored activity with illegal drugs or alcohol on your person or in your body.
- Sexual or other unlawful or unwelcome harassment.
- Sleeping on the job during working hours.
- Smoking in undesignated areas.
- Theft or inappropriate removal or possession of property.
- Unauthorized disclosure of business "secrets" or confidential information.
- Unauthorized use of Company-owned equipment.

- Unsatisfactory work performance or conduct.
- Violation of the Company's established dress code or Code of Ethics.
- Violence in the work place including any acts of physical violence or threats to inflict harm on any individual.

These rules apply to all interactions with customers, fellow employees or anyone else associated with the workplace.

Gather and record the facts.



Sometimes the person reporting the incident may not be one of your best employees or they might even be a chronic complainer. However, you must investigate each complaint the same – regardless of who reported it to you. This one time – they just might be right!

Talk to as many people you need to, so you get to the real story. Keep perfect notes of everything, including who the interviewer was, the name of the witness sitting in on the interview with each person, the date/time of the meeting, the questions asked and the answers to each question. Then maintain all those notes in a management file – not in the employee's personnel file.

1. **Who**
 - a. Who was or is involved?
 - b. Who has first-hand knowledge as opposed to hearsay?
 - c. Who witnessed the event?
2. **What**
 - a. What exactly happened?
 - b. Has it happened before?
 - c. Write down exactly what each person said – DO NOT add your own comments or try to interpret what they said. If you aren't sure of what they meant, ask them to explain it again.
3. **Where**
 - a. Was it on company property? Somewhere else?
 - b. Was it an email or a phone call? Or face-to-face?
4. **When**
 - a. Was it during working hours or on their own time?
5. **Why**
 - a. This one's always tough to figure out - so don't even try. Your job is not to speculate about why someone did something. You must deal with what happened. You can ask other witnesses why they think it happened, but the only one that can really tell you that is the one who has been reported. Be open and let the reported employee tell you, in their own words, what happened and why it happened.

You need all the information possible to make sure you have what you need to take the right disciplinary action. Or to support you if you decide that disciplinary action is not appropriate for this situation.

Now that you've completed your investigation, it's time to consider these factors. Where did the investigation take you? Consider the seriousness of the violation because a minor violation should be treated differently than a serious one. Do you have a signed Employee Handbook Acknowledgement form in the employee's personnel file proving that he knew – or should have known – that he was breaking the rules? And even if you don't have a handbook, would the “common man” have known that this behavior wasn't acceptable?

Have they been warned before about this or other work rule violations? Can you prove it with paperwork in the file?

How recent was the last notice they received? If something happened a year ago and it happens again now, you should treat it as a new, isolated incident when considering what level of discipline to apply.

And lastly, how have you treated others who've done the same or similar thing? Believe me – this is what bites most employers the most often. I know, some employees are more likeable than others and you might tend to be more lenient with them – so just be aware of this when an employee who isn't quite as likeable does the same thing. Can she claim that the only reason she is being treated more harshly is because of a legally protected classification? Let's hope that's never the case!

The best way to protect your company from wrongful termination charges is to establish and enforce a system of progressive discipline. This type of structure is your best defense against a wrongful-dismissal or discrimination suit. Following this type of practice ensures that any employee terminated because of poor performance or other work place violations was treated fairly and in accordance with your company's policies.

Not all work rule violations are a call to take serious action. As the leader of your business, you are also a mentor and a coach for your team. And in some cases, they might not even realize that they are doing something wrong. So, if you decide this is a “Coaching Moment” then call them into the privacy of your office and tell them what you've noticed.

Take the high road, maintain your composure and whatever you do, don't make it personal. Point out the behavior and exactly what needs to change immediately. Avoid saying things like “You must be an idiot because a 3rd grader could have figured it out.” Or “What's wrong with you? I've told you a hundred times how to do that and you screwed it up again – you're such a loser!”

Honestly, when you attack the person's character, they either shut down and go on the defense anyway or become loud and agitated and don't really hear your message anyway.

End the conversation with some words of encouragement and let them know you have faith in them. Then send them back to work.

Now let's review other levels of disciplinary action you might need to take.

Documented Verbal Warning – this should be used when coaching hasn't worked, and you want to make a point with your employee. Correcting behavior right away is always going to be better than waiting until you are fed up with something and firing someone that's already trained and could have been saved.

And make sure that s/he understands the consequences if they don't improve their performance or have any other work rule violations. I always let them know, verbally and in writing, that they will be subject to further discipline up to and including termination of their employment.

Written Warning – this is when you've tried other things and it just hasn't worked out as you planned. You've coached, and you even issued a verbal warning, and still haven't seen the improvement you expected. Once an employee gets a written warning, they need to know that their days are numbered and they either need to improve, find another job, or risk getting fired.

Always put it in writing in very clear terms what they need to do differently to keep their job and give them a timeframe to make the needed changes. And then include the language "Failure to improve and maintain satisfactory performance at all times in the future will subject you to further discipline up to and including termination of your employment." This is very important because if you are challenged in court or with the unemployment department – one of the first things they want to be sure of is that the employee understood the consequences of their behavior. Have the employee sign the document and give them a copy. Keep a copy in the personnel file. If the employee refuses to sign, once the employee has left the room, write "Employee refused to sign" on the signature line and then initial & date it.

Suspension – some experts recommend a suspension as another step in the progressive disciplinary policy. I've seen it work and employees completely turn it around once their bank account feels the pain. However, I've also seen most employees who have a bad attitude when they return and never overcome being angry at what they see as being "wronged" by their boss. So, I think it is something you should consider on a case-by-case basis but if you don't believe the employee is willing and able to perform at the level you require, then I'd skip this step. As always, run this past your HR consultant or attorney.

Last Chance Agreement – this is a step that works most of the time and is considered as truly the last chance the employee must improve their performance to meet your business needs. I've seen this work most of the time when other steps haven't quite convinced the employee to get their life straightened out and take their job seriously. Last chance means just that. You are done – no more chances. They either step up now or it's over for both of you. The language needs to be very clear about future consequences, so if you want more information reach out to me and I'd be happy to provide some guidance. Or contact your HR consultant or attorney to see if this is the best choice for your situation. Typically, large organizations provide more steps in the progressive disciplinary process than small companies – mostly because they have more employees do get the work done when one employee isn't performing as expected. In small businesses, you need all hands-on deck – all the time – so this step might not work for you.

Termination – well, it is what it is. You’ve finally decided that termination is the only solution after exhausting all other possibilities – and you are most likely ready to end the situation once and for all.

Or perhaps you’ve skipped some of the earlier steps in the progressive disciplinary policy because the employee’s infraction is so serious that this is the only decision that makes sense. It doesn’t happen often, but it happens in companies of all sizes.

This decision should always be made with a cool head and after carefully reviewing it with a few others that you trust to make sound business decisions. Never make this decision in the heat of the moment. If you find yourself in that frame of mind, send the employee home without pay “Pending further investigation.” This has the purpose of not only giving you time to think with a clear head, it also allows you time to investigate without the employee being on the property where she/he might try to influence other employees.

There are a couple of things to consider as well. For instance:

- Has the employee filed a workers’ compensation claim or filed a charge with any government agency? If so, it might appear that you are retaliating against them - which is illegal.
- Have they filed a complaint against a fellow employee or their boss?
- How long as the employee worked with your company? All employees enjoy certain protections, but when an employee has been with you for a long time and performed well up until recently, the courts could very easily side in their favor if they believe the employee was treated unfairly or had his/her rights violated.
- Do they belong to any protected class such as age, race, sex, sexual orientation, disability status, etc.?
- If any of these apply to this situation, contact your HR consultant or attorney before making a final decision. You will be glad you did.

Taking a person’s ability to support their family away from them should always be a big deal. But you also have a business to run. And if you’ve done everything you can to get the employee to step up and perform satisfactorily, then in the end, the employee has already made your decision for you.

First, I’ll explain the disciplinary notices and then I’ll teach you about the actual termination process, as it is much different.

The Verbal Warning, Written Warning and Suspension can be done on the same template where you can put a check next to the level of discipline you are administering.

The form should include lines for the date, name of the employee and the manager’s name. Clearly explain what happened. Do NOT include the names of anyone you interviewed or reveal what they said.

Describe the rule they broke and the unacceptable behavior. If they have any other warnings in their personnel file, list the date, discipline level they received and a brief description of that event so that this new, harsher level of discipline becomes apparent to anyone who might be reviewing your decision later.

If you have an Employee Handbook, then reference the specific rule they broke, such as “Insubordination including refusal or failure to perform assigned work.” And then explain the circumstances.

In the warning document, make sure to include what you expect this employee to do in the future such as “Failure to improve and maintain satisfactory performance at all times in the future will subject you to further discipline up to and including termination of your employment.”

Keep the original warning notice in the personnel file and always provide a copy to the employee. Keep all investigation documentation in a separate management file. And the reason I say this is because employees have a right, in most states, to see everything in their personnel file and to get a copy of any document they have signed. You would not want your investigation notes to fall into this person’s hands where it could become an even bigger problem with your team.

Now, for the tough part. Sitting down with the employee and having the face-to-face discussion. With a little bit of planning up front, the meeting should be calm and controlled.

Have a file folder with 2 copies of the notice with you, along with the final paycheck. Some states require immediate pay for all time worked and other states allow a little more time. So, check on the legalities in your state and make sure you follow the law.

It’s wise to have a witness with you who can sit in and take notes of what was said. I don’t recommend that you have a co-worker or a peer as this is a confidential and sensitive meeting to correct performance and not meant to embarrass the employee.

“But Wait!” I’ve been in meetings before when the employee said something that made us take a step back. If s/he brings up a point that you need to further investigate, then keep the original notices in the folder and ask the employee to give you a few minutes while you step outside. If there is any doubt as to whether you are about to make the right decision, then send the employee back to work or back home while you follow up and do your research. There’s lots of reasons for doing this, but two major ones are that you don’t want to fire an employee when it isn’t justified and two, you don’t want to risk a judge making you pay back wages and penalties if they think you made a rush to a wrong judgement.

Pick the time and place to make sure the least number of employees might overhear the conversation or be in the employees’ path when they leave the meeting. You need to provide the most privacy possible to protect all parties involved.

Plan your conversation in advance. Consider the following:

1. What is the main objective of this discussion? Are you hoping this person will improve their performance? Or do you hope they will quit so you don’t have to be bothered anymore? What would be best for the business?
2. Do you have a process in place to monitor the situation afterwards, so you will know whether the employee steps up? What does “satisfactory performance” look like to you? You need to know this up front so that you can articulate it clearly to the employee. There’s nothing worse

than an employee thinking they are doing the right things and then at the end of the period, they lose their job because it wasn't "enough."

3. What is there about this person that you need to take into consideration before having the discussion? Are they going to fly off the handle? Walk out? Cry? Will they be worried about losing their job because they really need this paycheck? Are they having other personal problems that might be?
4. Who are they likely to blame?

By thinking through all of this in advance, you can better maintain your own composure while allowing the employee's sense of self-esteem to remain intact.

Communicate: Once the meeting is over, inquiring minds will want to know what happened. Some people "Need to Know" such as the supervisor and anyone who is going to have to pick up some extra duties until a replacement is found. However, they only need to know that the employee no longer works for the company. Nothing else. Of course, everyone will "Want to Know" but I highly encourage you to stick with "S/he no longer works for the company." The rumor mill will make up stories regardless but do your best to eliminate the chatter and keep everyone focused on getting their work done.

Prepare. Have with you all the materials you will need for your discussion including:

- Letter to employee
- IF APPROPRIATE, severance letter and release
- Tissues discreetly available if needed.

Method of Delivery: If there is any question as to the person's frame of mind or propensity for violence, do not meet with them in person. Instead, call them and arrange a time that is convenient for them to discuss the situation with you over the phone. After the call, mail them the termination letter and any other paperwork.

Get right to the point & briefly explain the reason for the decision. It's natural to want to make small talk or give a long explanation before delivering bad news, which only heightens the employee's anxiety. Open with the fact that the Company has decided to terminate them for violation of company policy, or that they are being laid off due to lack of work, or that their position is being eliminated – whichever is the situation at hand.

Address emotions as well as facts: It's important to acknowledge a person's feelings. "I appreciate how upsetting this is for you." Some people may need to vent their anger or frustration – let them have their say without arguing or trying to convince them to feel differently.

Don't try to "sugarcoat" or downplay the situation. And NEVER tell them that this decision isn't personal because to them, it is absolutely personal. The employee is not able to see the brighter side of the situation, so avoid trying to put a positive spin on it – this is not a "blessing in disguise" to the people affected. Also resist the temptation to say that you know how they feel, even if you were once terminated. Every person experiences situations differently, and you risk giving the impression that this is not a significant situation for them.

Watch your physical cues. Sometimes our body language can heighten an employee's emotions—without meaning to, we look away, speak rapidly or raise our voices to make a point. Try to maintain a calm and caring physical presence.

Keep it short and simple. People are easily overwhelmed when receiving this kind of a message, so it's best to use short sentences and brief explanations.

Stand behind the decision: It's tempting to criticize management and the company or assign blame for a difficult decision. This might make you feel a bit better, but it makes the situation feel worse for the people affected. They can come to terms with the situation faster if they can see why it makes sense as a business decision.

Follow the script and stay on track: This is not a time to discuss alternative options, past performance, your relationship with the employee or your own feelings about the situation. The best use of time is making sure the individual understands the termination arrangements.

Listen and respond: When you don't have an answer or feel unsure, make a note and give a date or time that the question or concern will be followed up.

System Access: While the employee is in your office, have someone working behind the scenes cancel all access to computer systems, badge entry, etc.

Saying goodbye and getting personal items: It is important to treat the employee(s) with respect. Arrange to collect any keys, credit cards, computers, cell phones and other things the employee may have that belong to the company. If it's a layoff for lack of work, consider letting them go back to their work area and say their goodbyes. If emotions are running high arrange for a time for them to return after hours and meet with you to gather their belongings when other employees have already left for the day.

Other employees are watching: Keep in mind that how you treat the exiting employees is very important for maintaining the respect as a leader. Even if employees do not agree with the decision, they can accept it if they know you have made a difficult business decision and are doing the best you can considering the situation.

Follow Through: If the employee has health insurance or other voluntary benefits make sure to contact the insurance providers and arrange for their COBRA paperwork to be mailed directly to them, if appropriate.

Independent Contractors or Employees

Many of the small to mid-size employers I work with have some work done by employees, either full or part-time, and other work done by independent contractors. Federal and State laws are very specific, and often confusing, when it comes to what you can and cannot do with classifying workers and ignorance of the laws is not an excuse when it comes to penalties and fines by the authorities.

In this chapter, I going to teach you about the various government agencies who are looking at your business all the time and who have the final authority to determine if you have classified your employees properly. And, if you haven't – they are the ones who levy huge fines, employee backpay and taxes for up to 3 years for both current and past employees.

I will share with you the differences between “Employees” and “Independent Contractors” and some of the pros and cons of each type.

And finally, I will give you helpful tips to properly manage your workers so that you always stay on the right side of the law and not draw the attention of the government in the first place!

There are lots of people in the government and employment attorneys interested in whether you pay your worker as an employee or as an independent contractor!

The IRS and the state/county taxing agencies want to be sure that taxes are being calculated correctly and collected by either you on behalf of your employees or the Independent Contractor if they are responsible for paying both the employer & employee portion of the taxes for all monies earned.

The government counts on taxes to run their own operations so it's in their best interest for companies to have employees because then the government gets access to the monies on a regular basis.

It's way too common for independent contractors to under-report their earnings and often fail to report them at all. This costs the government a lot of money in lost revenue!

The EEOC and the DOL are responsible for assuring that worker's rights are protected and that they are not discriminated against or paid unfairly. Employees have the full protection with both the EEOC and the DOL – whereas Independent Contractors are not covered at all.

Many small employers think that they are too small to be noticed by government agencies but that couldn't be further from the truth. You are actually more at risk because the chances of you making an honest mistake in how you classify your workers is much higher than for larger companies who have access to professional HR and attorneys.

Speaking of attorneys, many of the claims filed with the government or with private attorneys come from current workers who believe they are being paid incorrectly as Independent Contractors. These claims can come from past employees as well, so even though someone has left the company it doesn't mean that you can breathe a sigh of relief. And as you probably know, once attorneys are involved, this has a way of taking over your life while you produce payroll and HR records, prepare for depositions,

confer with your attorney and prepare to write a check if it's decided that you didn't classify the workers correctly.

Who is going to take care of your business while you handle all this mess? And the stress is overwhelming!

Depending on the situation you may have to correct up to 3 years' worth of bad decisions that could cost hundreds of thousands of dollars that could have been prevented.

If you've called your workers Independent Contractors when they clearly meet the qualifications of "Employee's" you are responsible for paying all back-employment taxes, retroactively giving them benefits such as 401(k), vacation, paid time off, holiday pay, bonuses and any other benefit you gave your other employees.

The government may also allow your current and past workers decide how much time they worked that qualifies as "overtime pay" and then you would be responsible for paying that amount in addition to interest and penalties.

As a small business owner working hard to make a living, paying the money would be tough. One of my clients (who wasn't my client when they got caught doing this) felt very lucky that they "only" had to pay \$400k in back wages and taxes. This was above and beyond what they paid to attorneys and the time, business disruption, travel expenses and stress of an investigation that spanned a two-and-a-half-year process.

All that aside, your business reputation as well as your own personal reputation is at stake when the local news carries a story about you and it's hard to find great talent when all they've heard is that you don't pay your people right!

So, there are lots of reasons, personally, professionally & financially to get this right and do the right thing all the time.

Definition of Employee:

- The IRS uses the standard Common Law test which indicates a worker is likely an employee if the employer has control over – or the right to control - what work is to be done and how to get it done.
- A worker is considered an employee if their relationship with the employer meets the common-law test. Even if the employer does not give the employee orders on what to do, including, how, when, and where to do the job, he or she only needs the "right to do so" for the worker to be considered an employee.

This Common Law definition used by the IRS is very important to understand. It's not up to you as the employer to decide how many people you want on your payroll as "Employee's" and how many you will call Independent Contractors. The law is the law – period.

I've seen companies manage their headcount numbers by having a very small group listed as employees but then have other workers doing the same or similar work, wearing the same logo on their shirts, attending company functions, are required to attend employee meetings, driving company vehicles and getting paid for their mobile calls.

Independent Contractors are self-employed and pay their own employment taxes. They should not report to perform work for you at a specific time each day, wear any type of your company clothing, be reimbursed for expenses, or attend meetings where other employees are present except for relevant safety meetings.

This is what the IRS published on their website:

Common Law Rules

Facts that provide evidence of the degree of control and independence fall into three categories:

Behavioral: Does the company control or have the right to control what the worker does and how the worker does his or her job?

Financial: Are the business aspects of the worker's job controlled by the payer? (these include things like how worker is paid, whether expenses are reimbursed, who provides tools/supplies, etc.)

Type of Relationship: Are there written contracts or employee type benefits (i.e. pension plan, insurance, vacation pay, etc.)? Will the relationship continue and is the work performed a key aspect of the business?

Businesses must weigh all these factors when determining whether a worker is an employee or independent contractor. Some factors may indicate that the worker is an employee, while other factors indicate that the worker is an independent contractor. There is no "magic" or set number of factors that "makes" the worker an employee or an independent contractor, and no one factor stands alone in making this determination. Also, factors which are relevant in one situation may not be relevant in another.

The keys are to look at the entire relationship, consider the degree or extent of the **right to direct and control**, and finally, to document each of the factors used in coming up with the determination.

For instance:

- An independent contractor is responsible for covering all their expenses. If they do it correctly, they mark up their quote to cover their usual expenses plus giving them a fair rate - either daily or on a project basis.
- If they work for multiple companies providing the same type of service, then they are an independent contractor – but still weigh all the factors just to be sure. For instance, there are

individuals who work part-time for multiple businesses and are still considered an “employee” for each place of employment.

- Independent contractors either have a contract for a certain dollar amount each month or send an invoice on a weekly, monthly or project basis.
- Whereas employees make a wage or salary for each hour worked, an independent contractor can lose money when they misquote a job or spend much more time accomplishing the work than they anticipated. Or they can make more money than originally planned!

Type of Relationship Factors:

- To protect the Independent Contractor status, it’s important to have a written contract which outlines what is included in the work to be performed, ownership of the final product, confidentiality and non-compete protection, a clause allowing you to end the relationship if necessary, length of the relationship (either a beginning & end for a specific project or a monthly retention agreement.) I recommend a Scope of Work that is signed & dated by the business owner and contractor and then monitored to be sure all criteria are being upheld.
- If you provided a benefit such as a laptop with access into your company systems, that isn’t going to be a problem. Anything further than that, such as Christmas bonus, putting them on your health insurance plan (even if they pay you back), etc. is going to be cause for concern.
- How permanent is this relationship? For instance, do they provide bookkeeping services to you and other small businesses? If so, you might utilize their services indefinitely.
- If they are performing the same work that other employees do for you, but they do it periodically to fill in for someone who is out or during peak business times – you need to review this carefully to be sure they aren’t “temporary or part time employees” rather than a contractor. In those instances, I recommend you put them through a 3rd party who will be charge you a fee to have the employee and they will handle all the employee-related duties.

Now let’s look at some of the Pros and Cons of using employees or independent contractors.

Here are some of the obvious – and not so obvious – positive things about having employees.

- First, as the owner or manager you have complete control over what gets done, when it gets done and how the employee performs the job.
- Most employees, if they feel like they are appreciated and have opportunities to grow inside the company, they will work hard to accomplish the goals you’ve set for them. And when that happens, you can retain your best & brightest team members.
- Employees are longer-term, so they have an invested interested in doing the right things when it comes to their individual and team performance.
- Of course, before you hire your employee you are going to conduct a background investigation to be sure they are good people, drug free and qualified to do the work you want done. You can’t do this with an Independent Contractor apart from asking for work references.
- You can reward excellent work performance by providing them with higher pay, bonuses, training opportunities, promotions, etc.
- And of course, if the employee doesn’t do a good job you can fire them at-will.

- Everything an employee does for you – belongs to you. Even if they invent something, all rights belong to you forever.
- Whereas an Independent Contractor comes with their unique ways of working, you get to control what you employees do, when they do it and how they do it. So, training them to do it your way is your right and employees are looking to you for that direction.
- When employees wear your logo and talk with family, friends and others in the community – they can be your best marketing team. An Independent Contractor is not likely to talk about your business because in their line of work – it’s all about promoting themselves.
- Generally speaking, you will pay employees less than Independent Contractors because you bear all the additional expenses of employing and training them whereas the contractor covers all their own costs.

As with everything in business, there is a legal and financial obligation to consider as well. Employees have the full protection of federal and state laws as well as the business paying part of their employment taxes.

For instance:

- You bear the advertising, interviewing and training costs to find the right person.
- You are required to withhold taxes from their paycheck along with any other mandatory deductions such as child support and wage garnishments.
- You have the additional costs of 7.65%, subject to change, of their wages for the employer-portion of Social Security and Medicare taxes.
- Of course, you must pay quarterly taxes on time to avoid penalties.
- You must keep detailed records of all time worked daily and weekly to be sure to pay them overtime for anything over 40 hours in a week. Some states require overtime after 8 hours per day – so check your state regulations.
- In most states in the U.S. you must pay State Unemployment taxes and provide Workers’ Compensation insurance coverage for all employees.
- And naturally, employees are likely to expect their wages to grow over time as they demonstrate their loyalty and good performance. It’s very common also to add more benefits such as more vacation & PTO after 3 or more years of service.
- Even though most employers add “At Will” language in their handbooks, courts do expect that employees have been treated fairly when it comes to disciplinary action and termination of employment.
- Small employers with employees are more likely to get audited to be sure you are in compliance with all the latest regulations.
- You are responsible for providing a safe workplace, office supplies and equipment to do their work, except for maintenance-type tools that are common in the Trade Industry.
- You will be required to reimburse employees for mileage and other expenses when conducting company business.
- You have the added responsibility of making sure you have an Employee Handbook with your rules, benefits and procedures – and keep it up to date. An Employee Acknowledgement form should be signed and retained in their personnel file.
- If your work needs diminish, unless you lay off your employee – you will be trying to find work to keep him/her busy and spending more money just to be sure they don’t leave you.

- Employees are protected by all the Federal and State laws protecting them from discrimination, unfair pay practices such as paying men and women different rates of pay for the same equivalent responsibilities. And they can sue you for wrongful termination.
- When an employee leaves you, they take all that knowledge and skills with them and there is a cost for that.

By now you are probably scratching your head and wondering why anyone in their right mind would ever hire employees – right? Well, as with everything – there are pluses & minuses for having each. It’s a personal decision and you can make it work either way when you know how to navigate the process.

So, let’s go over some pros of hiring Independent Contractors instead of Employees. You might also hear people refer to these workers as consultants, virtual assistants or freelancers - which are all basically the same when it comes to managing them from a government regulatory perspective.

- They generally have dedicated themselves to being experts in their field and continue their learning so that they are always the best at what they do.
- You can manage your costs because you know up front what you are going to pay per hour, per day, per week or per month.
- If you decide you aren’t happy with the quality of their work or the relationship you have with them – you just end it. No need to explain.
- Or if money gets tight or you no longer need the service, you just let them know. If you have a “notice clause” such as 30 days or a “performance clause” – make sure you comply with the written contract.
- When you have a Scope of Work, all parties clearly know what is expected and when you need to have certain things completed. You do not need to worry yourself with competing priorities because that worry belongs to the Independent Contractor and you aren’t even likely to become aware of them being pulled in different directions.
- You only pay for the time and services you need.
- No employment taxes or processing payroll.
- Most Federal and State employment laws do not apply to Independent Contractors.
- Title VII protects employees from discrimination in age, race, gender, religion, disability, national origin, etc.
- ADEA (Age Discrimination in Employment Act) protects employees 40 and over
- ADA (Americans with Disabilities Act) assures that disabled employees have the same access and opportunities as non-disabled employees
- FLSA (Fair Labor Standards Act) assures that all employees are paid properly according to federal laws.
- ERISA (Employee Retirement Income Security Act) provides that almost all health, welfare and wellness benefits are protected
- NLRB – protects the rights of workers to join a union or engage in unionizing activities without fear of retaliation by the employer
- And then of course, you are not responsible for collecting or paying taxes on monies you provide to Independent Contractors.

Cons of Hiring Independent Contractors:

Just like with the cons of hiring employees – there are also con's to hiring independent contractors.

- First, they almost always demand higher pay because the pay is all they get from their various sources. With that money, they must cover all their expenses, benefits and tax obligations. And – they are well-trained experts in their field, so you'd expect to pay for what you get.
- You have no control over how they do their work – because while they “DO” work for you; they do NOT work for you.
- Since many of them either come in to your office periodically or they work remotely (cities / states / sometimes even countries away) it is harder to develop a bond because there isn't much opportunity for shop talk and getting to know each other personally. I will say that by using video technology, the distance isn't quite so far away, and it makes it easier to see each other and share computer screens.
- If you get in a bind and need something quickly, they will generally charge you a premium.
- Depending on the type of work you are having them do for you, they could be at risk of getting hurt on the job. If so, they might try to sue you for injuries unless they are covered by their own workers' comp insurance. I rarely find independent contractors with this coverage, so it would be worth putting a clause in your Scope of Work that requires them to show proof that they have it.
- If you are their sole source of income – they could very easily be classified as an employee. So, it's best to give them free reign to build their business by accepting work from other employers who need the same expert services and use the Scope of Work to designate a begin and end date for project work.
- Even though they will most likely develop a business relationship with you over time if you use them frequently, they aren't likely to become part of your unofficial marketing team. They are in business for themselves and will be more focused on growing their business rather than yours.

Let's review a little bit about why the government is so focused on catching small businesses making mistakes when it comes to classifying workers. First – you are a much easier target than big firms with a full staff of experts. Any audit is almost 100% going to side against you and in the government's favor – because you just don't know what you don't know, and this stuff is tricky!

Then, it's the one way they can assure cash flow to their business plan because when you collect taxes from employees, plus pay your portion of Social Security and Medicare, the government gets that money on a quarterly basis. Independent Contractors are more likely to pay taxes on an annual basis and are often suspected of not reporting their full income, especially if employers don't issue 1099's.

Failure to classify workers properly is no laughing matter – it's serious business. If you don't do it exactly as required by the various laws, you will be charged with penalties, back taxes and back wages. The DOL has announced their plans for 2017 – 2020 to focus on enforcement with small business owners to identify misclassified workers! And that's no laughing matter – I can assure you. I've personally been involved in many government audits and they are exhausting in resources, energy and impact on your bank account.

Okay – hopefully I haven’t frightened you (too much) and you are learning the subtle differences and the pros and cons of classifying your workers as either employees or independent contractors – and why you really should care.

So, let me share some tips to help you manage any risks you may encounter. First, when looking at the services being provided by a worker, inform yourself about the differences between an employee and an independent contractor. Always follow the regulations to the letter – that is always the safest bet. You might not want to spend the money to pay the employer share of the Social Security and Medicare taxes and cover them under your workers’ compensation policy – but finding out later that you’ve misclassified them incorrectly is going to cost you hundreds of thousands of dollars more. And I often hear that since you are “just a small employer” you will never get caught – but you are exactly who they are targeting! Always check with your HR consultant or an employment attorney – they can do an analysis and help you make a legally defensible designation.

If you’ve determined that you are hiring this work to be done by an independent contractor and that he/she fits the legally required criteria, make sure to do the following:

- Prepare a Scope of Work with clearly defined duties and due dates for them to complete the assignment. Keep a signed copy for your records. In the Scope of Work, identify the person as a contractor, consultant or agent in the agreement. This adds credibility to the contractual nature of the relationship.
- Include a beginning date of the services and the end date if this is project-related. If it’s to perform ongoing services such as Bookkeeping, the end date isn’t relevant.
- Make sure to add language regarding their full responsibility for providing all their equipment and supplies – and that they are responsible for all business-related expenses covering themselves and any employees they have help them provide services to your business.
- This is a big one! Make sure that you do not even try to control how or when they do the work for you, other than due dates. Remember, if you have the “right” to control the work – they are not an independent contractor by legal definition!
- Training is not your job when it comes to independent contractors. If they will be exposed to any equipment or safety hazards – then, of course, you will want to make sure they are trained. But other than that – they should not participate in any training activities with your employees.
- And when it comes to company picnics, Christmas parties and bonuses – those are strictly for employees. You should never include Independent Contractors and blur the lines of employee / independent contractor.
- Lastly – make sure that at the beginning of the agreement, you have them supply a W-9 form so that you have what you need to file an IRS 1099 form with the annual taxes. And then send them their copy of the 1099 form so they can submit it to their accountant at the end of the year.

The Department of Labor (DOL) has a website to help you evaluate whether your worker is an independent contractor or an employee. One key thing to know is that there are varying laws so even if the DOL classifies this person as an independent contractor, the Fair Labor Standards Act may deem them an employee. So, it can be very confusing, and the waters are murky, to say the least. To minimize the risk of misclassification, it’s best to let a professional guide you.

Workers misclassified as independent contractors may miss out on:

- minimum wage and overtime pay,
- protections from anti-discrimination and anti-retaliation laws,
- workers' compensation if injured on the job,
- unemployment insurance,
- health and safety protections on the job, and
- employer-sponsored benefits.

For Businesses:

- Businesses found to have misclassified their workers expose themselves to fines and liability for unpaid wages and unpaid taxes.
- Competitor businesses who misclassify gain an unfair advantage by unlawfully lowering their personnel costs (for example, by not paying all wages, providing benefits, or providing necessary safety equipment when they should).

Governments:

- Governments lose revenue, which in turn hurts taxpayers and undermines the economy.

I recommend that your attorney or HR consultant do a complete & thorough review of any independent contractors that you currently use to get work done. It's going to be to your advantage to do an internal audit now rather than risk a government audit or legal challenge from current or past employees. This way, if you need to change them to "employee status" you can go forward properly and limit any financial damages if you do get audited.

Ignorance truly is not bliss when it comes to this! You aren't likely to get a kind "pat on the hand" and then told how to do it right the next time. Instead, you will absolutely have to pay fines, penalties and back taxes. So, work with your employment law attorney or an HR consultant now...don't wait for someone in the government or an employee's attorney to make you do it!

Team Building

Forming, Storming, Norming, Performing. What do they mean and how will they help you build your team?



How effective is your new team?

When building a new team within your company or reorganizing personnel to work on a new project there are normal stages of team development that can be the key to your project's success or the weight that drags it down.

By understanding the stages of team development you'll be in a much better position to control the stages and help the team succeed.

Leadership comes with a lot of pushback and at any stage control can be lost. So, what do you do?

Today I'm going to help you help your team achieve its project goals.

Forming

This is the initial stage where the excitement over the project governs the room.

If team members are new to one another they're either happy to see the new faces or sitting back trying to figure out the new person to see how they are going to work together. If they're coworkers on a new project they're usually happy to see familiar faces. And if they have "a history" then there could be some resentment that they are even on the team.

Either way it's an important part of creating a successful team. Happy excited workers make for a happy and positive working environment.

You're in control and everyone is establishing themselves within the group.

The problem is, it never lasts.

Storming

Aptly named, storming is what happens next.

In the forming stage boundaries were established.

In the storming stage those boundaries will now be questioned and pushed.

Storming is where the real work begins but only in a planning phase. Whether it's questioning tactics or competing for the same role things can unravel quickly.

During this process it's extremely important to maintain authority and control. Not in a heavy-handed way but as a facilitator and leader.

During the storming stage you'll be settling on tactics and roles. If you have a plan already, stick to it and watch for anyone who is more interested in ego gratification than helping achieve the project/team's results. Learn what's important for each person to be satisfied – we are not alike, and each have our own special contributions to make in our own unique way. Find the key and unlock their brilliance.

Be open to suggestions from others on the team. You don't have all the answers and if you did – you probably wouldn't be forming a team to work on the project in the first place.

Make an opportunity of the storming stage to organize the project in a way everyone can agree on and to show off yourself as a reliable leader the team can count on.

Norming

Norming happens after the storming stage and can be considered the “cool down” phase.

You're still working out the planning details and roles, but the heat is off, and heads are becoming more level.

Norming is where you all come together as a team and things really start to progress. Milestones are accomplished and the project is on track.

During this much more positive stage amp up the positive energy by being especially gracious and encouraging to all team members who are leaving the storming stage behind.

Get the roles settled and team members happy. Make sure everyone knows why each decision is made and who is now in charge of what.

With each decision will come some fallout. Accept that storming and norming overlap organically due to the same issues hindering the team during storming; new decisions and roles will emerge as other project facets are agreed upon.

By handling your storming stage right, you should be in a position to manage the group effectively to the point that they stop dwelling on any negativity or conflict and start working together.

At any time if you get stuck with some serial Stormers contact us about our employee engagement and personal development coaching services for help with your specific challenges.

Performing

Performing is perpetual during the project but your job now is delegation and management.

This is the stage where your employees are working on the assigned tasks, so you don't need to interfere too much as long as milestones are being met and the project is on track.

Look for anyone struggling or any members still having conflict. At this stage team members not at full capacity will only hold the rest of the team back.

Work with them so they are at the same level as other team members. Talk to them about what's confusing for them or what they need help with.

This stage makes you part of the team so get in there and help wherever you can.

Delegate some of the tasks to others on the team if appropriate. If someone has a strength that addresses an issue ask them for their input providing it doesn't take them away from their own assigned tasks.

And don't be afraid to replace someone on the team if they aren't giving it their best effort and getting results.

Adjourning

The project is complete!

While this signals smiles all around there can be some frowns for those who just plain enjoyed themselves.

Take note of what team members worked best with others. Who nailed every task with little to no disruptions?

Keep tabs on what you did that worked and what didn't. This is your chance to learn for next time so make the most of it.

Ask your team about the project and what they feel worked best and what they felt could have gone better. You can build your own skill set by listening to and accepting the feedback as is, without being defensive or trying to make excuses for yourself or anyone on their team. You can also conduct a survey where you let each member on the team provide feedback about the other team members so that the stars rise even higher and others are inspired to raise their own standards.

Write up a personalized, handwritten thank you for each member if you can and note what they brought to the project.

This step not only builds a very positive rapport with your team members it also forces you to assess what their strengths and weaknesses are, so you're better prepared for the next project.

Learn from it

As much as your team was tested by the project you were being tested on your own performance.

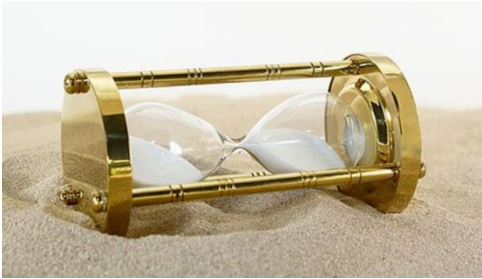
If the project didn't go well or was delayed, etc. take that as a reflection on your leadership and be careful not to lay blame on the team. Always share the praise and accept 100% of the blame for your team.

Conduct a "Post-Mortem" on the project or task while it is still fresh in everyone's mind. Here is an example you can adapt to fit your needs. It's very simple and quick. Once you've done this, you will have what you need to make sure the next project goes even better. Look at where problems arose and how they were dealt. Confer with colleagues as necessary on those issues and see how you can improve for next time. Here is a simple example you can use.

| + | △ |
|--------------------------------------------|--------------------------------------------------|
| + Met the budget goals! | △ Too many cancelled meetings |
| + Everyone participated ↳ Came prepared | △ Call phones constantly |
| + Strong Leadership Support | △ Audio/visual equip. didn't always work |
| | △ <u>NEED</u> a location off site or out-of-city |

Not all projects or teams are the same at all, but behavior is often consistent, so by mastering control of the group and not doing their jobs for them while forgetting your own, you'll be in a great position to do even better on the next project or goal.

5 Top Time Management Tips for Small Business Owners



When it comes to running a small business, the most lacking resource is often your own time. I've talked about the importance of delegation previously, so let's now focus on what you can do to manage your own time more effectively!

You're probably tired even reading this article and already short on time. It's common for any small business owner or entrepreneur.

The truth is, running a small business can often be even more time consuming than having a C-suite role at a large corporation, and you most likely don't have an intern assisting you.

So how can you manage your time more effectively? You'll just have to try harder, right? Wrong!

Today's business world is riddled with options for anyone looking for time management tools and you're going to have to be the one to decide which is right for you.

Some of these are basic set up steps though, so make sure you have these essentials covered:

Use a Scheduling Calendar

This seems like a very easy step and something anyone would already have, but you'd be surprised at how many do not.

There are endless free options available to help manage your schedule, so first assess what you already use. For a lot of people this comes down to which kind of phone they have since both Apple and Google's phones have calendar options that will then sync automatically with your email.

So, sit down with your smart phone and your free calendar option and start mapping out what you do and how long it takes. And if this task seems daunting to you, find a teenager or 20-something to do it for you. They will be happy you asked and so will you.

Prune the Excess

Look at your schedule and really think about what has been accomplished during each task you undertake.

There should be something or some things that stand out as wasteful. Does that morning meeting actually provide any value? Does your standing business lunch with someone take up too much time and hasn't helped you at all?

Look for things you can drop first, and you'll start seeing windows of time open up.

Combine Tasks

Some tasks all lead to the same outcome. If you're spending 3 hours per week and each hour only repeats what was accomplished during the first, you can easily free up 2 extra hours during your day by combining the meetings or tasks into one.

Do you meet with one team only to repeat yourself with another? Make those two meetings one and you not only have more free time, you're also not burdened with having to make the same points to two different teams.

Prioritize Tasks

Obviously there are some tasks much more essential than others. Tasks such as invoicing, payroll, and other essentials should always come first. So why not put them into the same block of time?

Black out your schedule for those essential tasks and focus on getting the must-haves out of the way without distractions.

Then create a hierarchy of importance when planning out all others. Leave the mundane, irrelevant tasks to the end of the day. If you're going to sacrifice some time later to get those done, that's fine but don't put off what must be done for what doesn't.

Having priorities saves you from missing things that keep the gears of your business turning so make a list of must-haves and make sure you get them done before even looking at the rest.

Minimize Distractions

The biggest time wasters are distractions. Whether it's personal responsibilities or a needy employee you have to keep these away when you're working or everything you do will take a lot longer.

This may require having closed door rules or even working from home for an afternoon or two.

During this time make sure everyone knows you are 100% unavailable unless it's a dire emergency. This will not only improve the output since you will be more focused, it will also reduce the time required to get those tasks done.

Even if you're used to having music on or something playing on your screen, those can affect your productivity and you don't want that during crucial productivity periods.

How to Avoid 7 Common Employment Law Violations in 2019



Can you believe we're well into 2019 already? Each year brings changes in employment law and reminders to familiarize ourselves with the ins and outs to avoid fines, damage to reputation, loss of employees – or even our business.

Let's take a look at some of the top workplace violations so that we can move forward in 2019 informed and prepared. Remember: ignorance is not an excuse under the law!

I-9 audits and worksite raids.

The odds that your company could face government scrutiny of its immigration paperwork are high. In 2019, expect ICE to continue to increase audits by another 200% to 300%. Stats from 2018 showed that:

- I-9 audits were up 300%. ICE initiated I-9 audits against 5,981 employers, compared with 1,360 the year before.
- Worksite investigations were up 300%. ICE opened 6,848 worksite investigations last year, up from 1,691 in 2017.
- Arrests were up 600%. ICE made 779 criminal arrests and 1,525 administrative arrests at workplaces (employees and managers), compared with 139 and 172 the year before.

Source: Business Management Daily

Unpaid employment taxes.

This often falls under a company misclassifying employees as exempt workers or as independent contractors. It's not as simple to exempt someone based on whether they're on salary or get an hourly wage. The salary level and job duties are what really determine your classification.

Independent contractors are self-employed workers who aren't covered by the wage and tax laws that apply to employees, because employers don't pay Medicare, federal unemployment insurance taxes or Social Security on independent contractors.

According to the Internal Revenue Service, amounts withheld from employee wages represent nearly 70% of all revenue collected by the IRS. As of June 30, 2016, more than \$59.4 billion of tax reported on Employer's Quarterly Federal Tax Returns (Forms 941) remained **unpaid**.

The penalties are complicated, so here's a simpler breakdown: failure to file Form 941 and similar forms: 2% 1-5 days late, 5% 6-15 days late, 10% more than 16 days late or within 10 days of first notice from the IRS, maximum 15%.

Don't mess with the IRS – those three little letters strike fear into the hearts of employers and employees alike! Even if you use a payroll service, as an employer you're still responsible for ensuring tax returns are filed on time and that all taxes are paid correctly.

Paying less than minimum wage.

At least 19 states increased their minimum wages on or around New Year's Day, according to the National Employment Law Project. The federal minimum wage had been at \$7.25 since 2009.

Every state has a minimum wage, and while there are some different rules around student workers and apprentices, there are few exceptions. And some counties have a higher minimum wage; above that of both the state and federal requirements.

Make sure you know what your county, state and federal regulations require.

An unsafe workplace.

The Occupational Safety and Health Act (OSHA) enforces workplace safety for employees. This includes everything from improper ventilation to poor ergonomic design of work spaces. An employer is also responsible for educating employees on workplace safety.

The maximum OSHA penalty amount for a serious violation as of Jan. 23 is \$13,260.00. If it's willful or repeated, it could cost you a whopping \$132,598 per violation.

Unpaid overtime.

The FLSA requires employees who are paid hourly that work more than 40 hours in a given week to be paid 150 percent of their hourly wage for additional hours.

Workplace discrimination.

Sexual harassment falls under workplace discrimination, as does unequal treatment or harassment based on race, gender, religion, age or nationality, according to the Civil Rights Act of 1964.

In 2018, sexual harassment charges filed with the EEOC (Equal Employment Opportunity Commission) resulted in monetary benefits of \$56.6 million for 7,609 cases.

Unpaid vacation time.

The United States Department of Labor oversees and enforces more than 180 federal laws governing workplace activities for about 10 million employers and 125 million workers.

Their Fair Labor Standards Act (FLSA) doesn't require employers to pay employees for unused vacation time. However, some states require payment of unused vacation leave upon termination. So, know before they go!

It seems like each year the laws get more complex; business owners face increased scrutiny and compliance becomes more important than ever.

By staying informed on the latest rules, filing the right paperwork at the right time and understanding your responsibilities, you can drastically reduce the chances that you'll face legal issues in 2019.

It's also worth it to hire an HR consultant. These laws are too critical for any organization to ignore, and inexperience or ignorance could cost you your business.

Does Your Team Suffer From the “Crab Mentality”?



Do you have crabs in your business?

You know, the kind of team members that keep the best people from rising and performing at their very best. There is a toxic environment that exists in some companies called the “Crab Mentality” and that is when the average employees don’t want anyone or anything to come in and change the status quo.

This moniker comes from watching what happens when a crab fisherman places his or her catch for the day in a bucket. If a single crab is placed in a bucket, they struggle but will manage to get to the top of the bucket and successfully crawl out on its own. So, if he or she doesn’t want to lose the first catch of the day, they must put the lid on the bucket.

However, if you put a bunch of crabs in a bucket, you don’t need the lid because every single time one of the crabs reaches the rim, the other crabs pull it back down and another crab tries to reach the top.

Consequently, not one crab succeeds in getting out of its current situation. They are all stuck.

The theory is that “If I can’t have it, neither can you.”

I’ve seen this happen in companies large and small. Once, I was the HR director in a company, long before “Undercover Boss” became a hit TV program. In this case, the new vice president of operations put two “employees” on different shifts, and they were told to watch and listen to what goes on while they did the same work as the others and then report back their findings.

We were shocked there were employees – and sometimes even supervisors – in almost every department that would take the new employees under their wing and teach them what to do.

That, in and of itself sounds like a good thing, right?

And it would be if he was teaching them how to do the job well but that wasn't the case.

Bottom line, the unofficial leader didn't want anyone rocking the boat by raising the activity level which would cause unwanted attention from the "White Hats" and force them all to have to work harder and faster. So, even though the new employee wanted to impress the manager by doing a great job – it would be at his or her own risk.

If they did a great job to please themselves and the manager, the other employees were instantly bullying the new hire to slow down and quit trying to make them look bad. If they didn't do a great job, they risked being fired for poor performance. What a dilemma!

A few of the new hires would look for an opportunity to move to another shift or another department so they could succeed. Unfortunately, many would go with the flow as required by the other "crabs." And the company lost some of the best new hires because they weren't going to lower their standards.

Needless to say, the reports were disappointing. Fortunately, the leadership team took quick action and worked together quickly to remove the toxic behavior throughout the organization and begin a journey to create a winning culture.

Being a great leader and running a profitable business requires you to be in tune with what is always going on within your organization, at all levels. If there are people on your team who are only looking out for themselves, you need to address them right away. If they don't step up, then you will know what you need to do next. If they aren't helping you achieve your business goals – then they are hurting you.

There are some key things you can look for that are strong indicators of the crab mentality. For instance, when one employee accomplishes something significant, if another employee is underplaying it and saying that it isn't a big deal or that he/she could have done even more – take notice.

Or if they often come to you complaining about other employees and making themselves out to be the "good guy" to gain your attention, that may be a sign of jealousy and they probably aren't doing anything to help the team accomplish the goals you've set for them. If you don't solve this problem quickly, the crab mentality will become the norm and your business will not come close to what it is capable of being.

Here's an example: Chris is a new sales rep. He's nervous and is aware that all the other sales reps are older. He senses that they resent him for being younger and making the same salary, so when Chris lands a big sale he's met with criticism by the sales team leader, Jay, about how the sale only happened because the business owner told him to try that account.

Chris now loses his motivation and his overall sales suffer, which in turn makes the whole sales team (including Jay) look bad to the owner.

What happened? Both jealousy and personal goals on the part of Jay.

In trying to impress the owner and make a passive aggressive critique of Chris, the sales team leader shot his team in the foot and now not only did the team fail to meet its sales goals, Jay failed to impress the boss.

You'll see this behavior everywhere once you recognize it.

On a personal level this can be very obvious. Have you started going to the gym and people are noticing that you are getting stronger as well as losing weight? If a crab amongst you sees this and knows they should probably be hitting the gym too they'll probably (and maybe even without realizing they're doing it) relish in any attempt to get you to cheat on your diet or skip the gym.

After all, they say, it's only one small piece of chocolate cake...it's not like it's going to kill you and you know chocolate is your favorite. Right?

Rather than see you as an example to follow, the crab mentality sets in and they'd rather grab a hold of you and drag you back down instead of watching you escape the communal weight loss bucket you're both in.

It's everywhere really and all it takes is one or two people.

You may refer to them as rotten apples or problematic team members.

Those that would rather belittle others than try themselves are sure to drag everyone down whenever they see an opportunity.

So, what can you do when you see this crab mentality at work in your team?

The answer is you need to change the environment.

That can mean splitting up the team, changing the internal structure, or some other creative method that creates a new environment for the team members.

This is quite a difficult issue because it's symptomatic of other larger problems. While it's the team that broke, it may have been a result of how you set have set the tone as a leader in the first place.

Assess what went wrong and how you may have inadvertently contributed to the problem. This in no way indicates a problem with you as a leader or your leadership but it might show you why you could benefit from professional leadership coaching and learn new strategies that work.

Look at how you laid out the process of remuneration within the team. You may have thought by setting competitive based goals you incentivized hard work, but in doing so turned a team into an outright competition where the business goals the team was set up to address became secondary to the individual goals.

If you're sure it wasn't you then it's time to look at the team itself.

Draft a short bio on each member and then sit down with each of them and talk to them about their career goals, what they think is holding them back from achieving their goals, what you observed and see if you can peel back the layers to help them identify why they are sabotaging themselves, the team and ultimately your business.

Most likely, they'll treat the one-on-one time with you as another opportunity to belittle others or ingratiate themselves to you. You'll see clearly their personal intentions take precedent above what they've been hired and paid to do.

The crab mentality can be addressed.

Take the crabs out of the bucket and let them all have an opportunity to be successful!

Swapping team members is a great idea if possible. If not, then breaking the team up into smaller teams can work.

Put the crabs on their own team and watch. While the new teams, absent of the selfish crabs, succeed the team infighting will be left behind.

Poor work performance is then the issue at hand and if you have invested a lot of time in the employees this is when to shine as a leader and lead!

Let them know what you observed, what you did, and why they need to change their ways. Explaining it honestly and clearly may illicit resentment but at this point if they demonstrate additional negativity, it will help you make a tough decision if they don't do a 180 turn towards being a team player.

If it's the latter what you've done will have shown them they have a great leader and why they shouldn't act with personal agendas in mind when working with a team. You can move forward together as a more productive and positive team.

Building Your Business with Effective Delegation



Many entrepreneurs and small business owners start out because their skill set is in demand and they are in a position for growth and expansion.

Once they are in charge though, trust can become a serious issue. Without proper delegation of duties, the owner inadvertently harms their own earning potential by controlling too much of the business.

There is an old saying that every business owner should know by now: A Jack or Jane of all trades is a master of none. But too often business duties that seem like easy tasks become part of a small business owner's responsibilities.

It could be a decision based on saving money but many times it's really about not trusting others with parts of their business they see as being so essential they must do them themselves. And oftentimes the owner thinks that it's just easier to do it themselves rather than show someone else how to do it.

But that's being penny-wise and pound-foolish. Yes, it takes a little time to train an employee on a task but once that's done you are free to work on building your business.

This article outlines 5 strategies on how to delegate effectively so you're comfortable with delegation as a way to grow your business.

Track your time

The first step is to assess yourself and your daily responsibilities. Tracking your time is easy now with all the phone apps available so how you track it is up to you. Keep track of everything including any non-work-related things you do.

Keep a record for yourself and try a full month of simply jotting down what you do, when you do it, and how long it takes.

Analyze your life

Take your calendar and schedule in some time to review all of your time tracking entries. Look at what is eating up your time that could be delegated to others. Then see what should be delegated.

If you are able to do so, try judging your own performance. You may be handling the online marketing yourself but how well are you doing? Look at industry stats on performance and compare them to your own.

Did you spend 10 hours last month fixing the internal email system? Those 10 hours could have been spent elsewhere and if you have any employees with IT experience then that is something you could have delegated. It may have taken less time for them to complete while you focused on some other aspect of your business.

Explore your options

You now have a ledger of what you do and what you could delegate to others. Now you need to find those to delegate to. You may already have a solid understanding of your team's skills so this part could be easy.

If not, then it's a simple matter of holding a meeting and outlining the tasks you'd like to assign. Make it a positive team building experience and convey you are trusting them because they work hard and you're all on the same team.

If you can't find internal help with the tasks you're not stuck. Freelance work is becoming the norm for many people so reach out to freelancers.

Trust will be a bigger issue so do your due diligence and get references or read reviews. Many freelancers will be able to show you their value quite easily and it's not the gamble it used to be. A freelancer's reputation is essential to their business and they won't want to risk ruining it by doing a bad job.

There's an app for that

Saying there is an app for that has become something of a joke because there often actually is. If the task may be simplified or even automated, then using an app is definitely an option.

This method could even be combined with delegation where the task is assigned and simplified so that someone else can handle what you currently do manually.

Whether it's an Android app, an iOS app, or a desktop app you should always check first just in case there is something with a nominal monthly fee that could save you from having to worry about some laborious task at all.

Feed the trust

When delegating, trust is required. Build that trust with positive reinforcement. When someone does something right, let them know how much their efforts are appreciated.

Even if you feel you could have done a better job yourself it won't build trust or your team's capabilities and morale if you focus on the negatives. If something is 20% wrong, it's actually 80% right. 80% right sounds much better, doesn't it?

It doesn't hurt to point out where there could be improvement but don't present it as such. Take the responsibility on yourself and suggest the changes you'd like.

Be open to a dialogue and don't push your opinion. Employees become defensive just like anyone else and for the same reason: because someone else is being perceived as being offensive and perception is everything. Don't just allow the conversation, enjoy it.

Everything is a learning experience and when we learn together we learn from one another. When you have that trust established you'll find the duties performed improve and you both grow from the delegation experience.

Now start delegating!

If you've tried it before with poor results it doesn't mean you should swear off delegation all together. I help businesses all the time and after working in a variety of industries over the years I'm pretty good at identifying opportunities for delegating that most people too close to the issue just can't see.

Micromanaging delegated duties defeats the purpose so contact me if you need help delegating duties within your company. It's rare that a small business is without structural gaps that can be filled. I specialize in working with business owners like you to make the most of your staff so your business grows, and you can have more time to do the things you really enjoy doing in and outside of work.

5 Innovative Ways to Have Employees Who Love Coming to Work



What you can learn from “New Age” businesses about employee satisfaction and retention...

Do your employees love coming to work?

People who are happy at work are likely to work harder. Everyone wants their employees to be happy. So why are happy employees most often seen at large, younger companies?

It’s a common question and almost every business consultant will hear it.

From Facebook to Google to many, many others the .coms and start-ups have blazed a new trail in work/life balance and job satisfaction. How do they do it?

Here’s 5 ways you too can have employees that love coming to work every day:

Reward employee loyalty

Beyond just drinks after work many young companies make communal activities a common occurrence. Sweetgreen created a passive sense of competition by giving green t-shirts to new employees. The longer you stay with the company the darker your shirt gets. Then each year there are more perks such as shoes and an iPod. The real trick is during each shift every employee gets a free salad.

As time went on Sweetgreen noticed something: the darker the shirt the smaller the size. They not only created a great atmosphere and friendly competition just for retention, they managed to do so while improving the health of their employees.

You might also consider giving an employee the day off with pay on their work anniversary or their birthday. Or, you can give them a gift card to the movies or a local restaurant.

Advocate healthy lifestyle choices

Something that has become more and more common with businesses is encouraging employees to choose healthy living styles.

While you may not be able to give away a salad you might be able to afford buying bulk gym memberships at a discounted rate and offering them to staff. Or, you might participate in a baseball, volleyball or golf league and build a healthy team environment while getting a bonus of company advertising when your employees exercise in your branded apparel.

Many companies negotiate special rates and most gyms are quite open to the idea. You can extend this beyond a regular gym too if you don't think your staff will take to the idea. Yoga classes are a great alternative and to make it easier for your employees, you can often find a yoga instructor to come on-site for a minimal fee so employees can exercise before or after work.

Encourage employees to take a vacation

This idea seems scarier and harder to manage than it really is and it can really help build your small business. Adobe shuts down its offices for 2 months every year to ensure their people take their vacation time. While you probably can't afford to do that, it is very much worthwhile to ensure proper vacation time is taken. And if you have a "use it or lose it" vacation policy, employees won't be happy to know that they have a benefit they can't really use because you can't figure out how to make it work.

Many employees become absorbed in their work, which is amazing. But it often leads to burnout. A burned-out employee can very quickly turn into a former employee or at the very least, one who isn't performing at their peak.

The next time you see your one of your best employees burning the midnight oil take a moment to assess their work calendar and check to see when they last took some time off. Talk to them about the workload to see if some of the work can be eliminated, streamlined or redistributed to others on the team if it turns out that it is more than one employee can handle in a normal workday.

If it's been over a year since their last vacation then it would be a good idea to sit down with them and schedule time off for the balance of the year. They'll appreciate the effort and you won't lose a valuable member of your team.

Offer discounts for employees

Depending on your business this may be a simple one or quite tricky. Your business offers something whether it's a service or a product. Offer that service or product to employees at a discount.

Whether it's half off the next batch or a 30% discount on your company's services your employees will not only become more loyal through brand loyalty but also learn more about the business they work in by becoming customers themselves.

There are also lots of large companies who offer small businesses with discount pricing such as amusement & water parks, telephone & cell services, resorts, etc. In one company I worked with, the employees would pool their orders together for See's Candies at Christmas. In return for the volume order, See's provided bulk pricing and free 1-lb boxes of their candy that we would distribute throughout the offices for all employees to enjoy. Many of the large telephone companies offer discount codes to companies so that they can pass on the benefit to their employees for their personal use like my last employer who had a 20% AT&T discount.

Take it outside

One of the benefits of hiring a business consultant is I see your employees with fresh eyes and a common solution for employee fatigue is a change of scenery.

Off-site meetings can be a great way to build company morale. Taking the whole team somewhere nice for the annual performance review takes the anxiety out and makes it a fun experience.

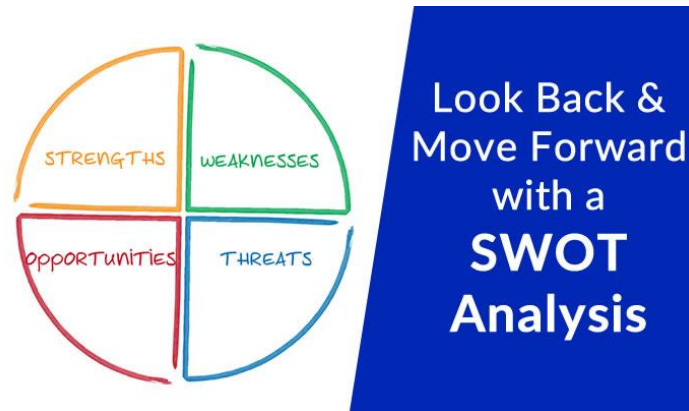
Whether you hit a local spot, sit around a private reserved table at the eatery downstairs, or you just walk behind the office to get some sun during the meeting; the break from the norm will put a smile on your employee's faces.

The bottom line is, to make your employees work life more fun you have to get creative and mix it up periodically. These types of perks have shown to be a key factor in keeping your best people for a long time because they know that you care about them too.

The big perks are not within everyone's grasp, but the point is to try for what is within yours.

If you need help then please contact me for a free strategy session to work on what you can do to make your workplace more enjoyable for your employees so you can reduce your employee turnover rate and improve your company's profits as you scale your business.

Look Back & Move Forward with a SWOT Analysis



It's another new year and many of you made New Year's resolutions to grow your business, get that promotion, get fit, eat healthy, travel more and so on. I bet you did that last year too. And the year before that.

How did it work out for you? Did you find yourself losing interest as other things vied for your time, attention and money?

Are you ready to give yourself a well-deserved pay raise? Or, if you were evaluating anyone beside yourself would you say it's time to fire that person?

One of the steps I take each January is to look back at the prior year and conduct an in-depth SWOT analysis. SWOT is an acronym often used in large companies, but it is equally valuable no matter what size of a business you have.

It stands for Strengths, Weaknesses, Opportunities and Threats. You can use this analysis to look closely at what happened inside and outside of your business.

For instance, one of your personal strengths might be that you are a highly-paid speaker and have more opportunities than you can possibly entertain.

A weakness might be that you haven't kept up with technology and don't know how to get yourself noticed by the clients you want to attract, so your business is getting stale and revenue is going down.

During your self-assessment you may look at opportunities and know that there is a book (or two) in you that you should write this year that would help your clients, or you might be ready to add a new service that customers have been asking you for.

Once you complete it, decide if you would give yourself a well-deserved raise – or if you should fire yourself!

4 Ways to do a SWOT Analysis Right

Have you ever sat down with your employees and talked with them about their work performance? That is something that most business owners do (or should do) and the review takes into consideration everything that has transpired over the past year.

When you are sitting next to them with the performance evaluation document in your hand, you don't just look at how busy they were or how hard they tried or how nice they are; you look at the real results of what they've accomplished. Because at the end of the day results are what you are paying for.

You should be just as tough when looking at what *you've* delivered to the business. Even though you own your business, you are also an employee of the business.

One thing I like to do each year is lock myself away in my office, look at the plans I made at the beginning of the year and rate myself a 5 if I knocked it out of the park and a 1 if I didn't even get much of a start on that specific goal.

You can't get better if you don't run your business like a business and set the same expectations for yourself that you would for any other employee you were paying to do the job.

Self-assessments are beneficial in several ways. They provide insight into what you've accomplished over the year, how you've contributed to your business and what's working versus what's not.

- ✓ Be honest. You have nothing to gain by lying to yourself or sugar-coating bad results. Be positive and critical where needed.
- ✓ Look for ways to improve and educate yourself. Turn every negative experience into a learning experience and make failures goals to accomplish in 2019.
- ✓ Use examples and data to back up your evaluation. Did your website traffic or sales increase? How many clients did you gain or lose? How many new followers did you get on Facebook, Twitter, Instagram or LinkedIn?
- ✓ Review your goals and results often. Don't wait till January to look back on everything or make changes. By staying on top of how you're performing, you'll be able to correct your course quickly if things start getting off track.

Now that you've completed your self-assessment, you can set realistic goals for 2019. For instance, if you want to triple your annual revenue, write down what you will be able to accomplish professionally and personally when you have three times as much revenue.

Set goals that are meaningful to you – now is not the time to do the “right thing” that everyone tells you that you should do, or to follow what others are doing in your industry.

FOCUS – SET YOUR INTENTION – AND TAKE ACTION!

Mentoring vs. Leadership: Which is Best for You and Your Business?



Mentoring and leadership may sound the same at first, but there are very important differences between the two.

Depending on your goals and the type of business you have, you can draw upon either or both to build a more successful team and a sustainable, scalable business.

There are many types of businesses and some are better suited to different growth methods than others. What I want to talk about in this article is how these differ, and which would be ideal for helping you achieve your goals.

Mentoring

An easy way to make a clear distinction between the two is mentoring draws upon your experience. You then apply that experience to train someone to do something that you've already done or to help them develop the behaviors, skills, habits and winning attitude that made you successful.

Generally-speaking, mentors are recognized as leaders in their fields. They are often given the opportunity to train and work with new employees as they show them how to be successful inside the company or to help current employees move up in their career.

Oftentimes, the mentor becomes a trusted confidant who listens and advises the employee about the best way to handle difficult situations based upon how they've handled similar issues successfully in the past.

Leadership Coaching

Leadership coaching involves a professionally trained coach, generally someone from outside your organization, using their experience coaching others to help you improve as a leader your team respects and wants to follow.

Coaches focus on helping the leader make better decisions and take the right actions. Because they are trained to ask the right questions and to challenge beliefs that may no longer serve the leader, the leader is able to look at different approaches to solving problems and growing their business.

Great coaches are especially adept at getting the leader to reflect upon their actions, adopt a winning mindset and come to their own conclusions. Once the coach and the leader identify a plan of action, the coach keeps the leader accountable for making the changes they've said they wanted to make. No excuses!

A mentor will point out what he or she thinks a mentee could have done better, while a coach will ask the individual what he or she could improve on and how to make that happen. Both mentoring and leadership coaching are important tools to have available.

A Combined Approach

In many cases mentoring and hiring a leadership coach is your best approach.

All over America there are small businesses, many family-owned, where passing the torch to the next generation is a serious risk.

For those I would strongly recommend a combination of leadership coaching followed by mentoring so that the next leader has what it takes to lead the business and perhaps take it further than ever before.

Setting S.M.A.R.T.E.R. Goals

I'm a big proponent of planning because without goals, success can't be measured. I've written about S.M.A.R.T.E.R. goals earlier in this book, and I encourage you to understand how to set goals.

When you create a plan for your business and how you want to see it grow, spell out what you can teach and what you need to learn. A great growth approach is to learn while you work, while also teaching others.

Leadership has evolved in recent years to be much more collaborative so don't just make this about you and your own goals. If you choose to mentor someone, ask yourself: once this is completed are they going to be able to handle everything I can?

If leadership is more the challenge, then invest in yourself and hire a professional coach. You're the master of what you do, and your mentee will perform best when they follow your guidance. The same is true for yourself when working with your coach!

A lot of the successes in teaching small business owners how to grow their business as a better leader comes from placing your trust in your coach in the same way you would expect someone you're teaching to trust you.

Therefore, it's so important to trust your coach and to have a well-developed rapport with them that makes you comfortable and happy when you're working together, even if you squirm a little occasionally as you stretch and grow into the leader you've always wanted to be. If you aren't "coachable" then don't waste your time or the coaches time because you will both be frustrated.

Let me know if you are looking to grow your business but aren't quite sure which is right for you and I will give you a candid answer while discussing your business and your goals.

We'll work out a strategy that may involve mentoring, leadership coaching, or both so you can grow your business to greater heights with less stress.

How to Transition from Manager to Leader



How to Transition *from* Manager *to* Leader

4 Essential Steps for an Easier Leadership Transition

Managers and leaders may sound the same but there are big differences in the roles they play and the people who perform them.

While managers do often lead a team, a leader such as a C-suite professional, has larger responsibilities that go well beyond tasks with predefined goals.

Management is a big responsibility, and a good manager can be the backbone of a business. But if you're that manager you may have goals beyond your team.

C-suite professionals such as CFO, CMO and CEO handle components of a large business; whereas, smaller companies may only have a CEO with a few managers underneath.

If you're a small business and growing you may be functioning as a manager, but now that you're growing you have to start thinking beyond managing your team.

So how does someone move from management to CEO? Strong leadership.

Leadership is a huge topic because of the complexity that goes into being a great leader. Coaching small business owners into being strong leaders takes time, experience, and persistence because of the unseen obstacles that prevent us from really achieving what we want.

Leadership, when moving beyond managing your team, means managing the whole business. Where will you all be in 1 year? What about 5 years? What goals should the entire business have that incorporate the needs of all employees while growing and improving the business?

Discovering the answers to broad questions like these requires a few essential elements:

Learn to Be a Leader

You won't magically know how to lead a company, so it's time to start reading, watching, and learning. Podcasts, books, and seminars on leadership are plentiful.

Learning to be a leader means education, so look for something you know you can commit to and start loving what you learn.

Some people prefer podcasts so they can listen in their car. Some prefer books for learning while others need personal contact for the information to set in.

Whatever you choose, don't make it a task instead of an opportunity or you'll resent the role you're getting into before you even get there.

Don't be afraid to invest in a coach for yourself because the right one knows how to work with your mindset to remove any limiting beliefs and self-sabotage in addition to helping guide you about the tactical changes you will need to make to become a great leader.

Personally, when I coach my clients, small business owners rely on over 35 years of experience for what I teach, but how I do it is customized to fit the person I am working with.

Define Your Role

Defining your role as leader means setting expectations. What exactly will be the difference when you're a CEO and not a general manager?

Write down your new list of additional or altered responsibilities so you have a clear understanding of what it is you're going to be doing. Within this, you should make sure to list off all those who you will be delegating various responsibilities to as well as any changes you'll need to manage those people performing your old duties.

You'll never be able to measure your success as a leader if you don't define what that is to yourself!

Get in touch with me if you're having issues defining your role as leader and I'll help you settle on not just what you need to do, but how you need to do it.

Be Prepared to Fail

Being thick-skinned isn't as easy as it sounds. The additional demand on you as a leader may not seem like a big deal at first but over time the pressure can mount and eventually it can develop into a big problem.

Not every item on your agenda will be great and not every point in your plan for your business will come to fruition, so knowing in advance that failure is an option will save your sanity on those dark days.

Leaders may exude confidence in public but that confidence that's meant to inspire the rest of the company is not always an accurate reflection of the person's true state of mind.

Remember that failure almost always precedes success and being prepared to treat those failures as learning experiences will arm you with confidence from having faced your fear of failure and kept on trying.

Start Leading

Talking about transitioning from management into a leadership role can be an endless conversation.

Don't get stuck in your planning phase and remember steps 1 – 3: learn, set your goals, and don't be afraid to fail!

3 Tips for a Successful Skip Level Meeting



Have you ever organized or been part of a skip-level meeting? If you want to keep your finger on the pulse and eliminate the filters between you and your employees at all levels in the organization, periodically invite a few of your employees to a “Skip Level Breakfast, Lunch or Dinner” depending on their shift. For best results, don’t do this before or after hours because some people just won’t be able to participate due to scheduling conflicts. This is paid time.

This means if you are the business owner, you invite some of your front-line employees from different departments to meet with you in a group – without their supervisor.

Here are three tips on organizing and conducting a successful Skip Level Meeting:

Purpose & Communication

Before you have a skip level meeting identify the purpose and communicate in the invitation. This is a valuable opportunity for them to let the owner know what can be done better, ask any questions and get the straight scoop on what’s going on inside the company.

Make it clear to employees this isn’t a bitch session or in any way intended for them to complain about their boss. The door is always open for them to lodge a complaint about a supervisor outside this process.

Make sure the supervisors also know that this meeting is for you to gather information about what’s working and what’s not working. Let them know you will share the key points with them afterwards – even though you won’t share who said what.

Include & Encourage

If you have employees on multiple shifts, make sure you include those employees on the off-shift as well, so they don’t feel like orphans.

This encourages others to want to participate the next time there's an opportunity to meet with you for a skip level meeting, because they know that you really care about your team.

Review & Improve

Make notes during the meeting and take appropriate action to improve the workplace based on the input received.

I recommend reviewing everything with your supervisors afterwards and then posting a summary of the discussion (without identifying the source) so that all employees know the major subjects that came up and what changes are / are not being made as a result of the skip level meeting.

How would a skip level meeting benefit your organization? Feel free to jump over to Facebook at <https://www.facebook.com/QuantumAscendance/> and leave a comment or ask questions.

One Last Word

In closing, I tried to include as much valuable Human Resources information for each of you – without overwhelming you - so that you can immediately implement some of the recommendations I've made in the Small Business HR Crash Course. I've even added in some of my blogs that will give you even more tips and strategies for running your business in the most effective way.

Again, I am not an attorney and I never give legal advice. My suggestions are based on my human resource experience with large international companies and through the work I've done with my small & mid-size business owner consulting clients.

I've already started on my next book which is focused on helping you, as a small business owner, become the leader you always wished you had when you were working for someone else. I will be publishing other HR books as well as on topics relevant to business owners to help grow a successful business without all the stress and overwhelm that sometimes comes with managing teams and following all the laws & regulations that dictate the owner-employee relationship.

You can find more helpful tips using the links below:

Website: www.QuantumAscendance.com,

Facebook: <https://www.facebook.com/QuantumAscendance/>,

Instagram: <https://www.instagram.com/khartvickson/>

LinkedIn: <https://www.linkedin.com/in/katherinehartvickson/>

To your inevitable success!

Katherine

Book Katherine Hartvickson to Speak

Book Katherine Hartvickson to speak at your association meeting or your leadership planning meeting and you're guaranteed to make your event inspirational, motivational, educational and packed with ways to create a high-performing team, bullet-proof your business and cover your assets so you don't lose them! Katherine spans both strategic and tactical methodology so she not only teaches you how to do it, she will help you do it.

Book Katherine for Consulting

Hartvickson & Associates, Inc. does business as Quantum Ascendance and is available to consult with small to mid-size employers who are ready to take their business to the next level. She provides HR expertise as well as executive leadership coaching and training for business owners and their teams. You can reach her via email at Katherine@QuantumAscendance.com and find her on Facebook at <https://www.facebook.com/QuantumAscendance>. If you want to know more about her, check out her website at www.QuantumAscendance.com.

Katherine earned her degree in Organization Behavior from the University of San Francisco. In 2010, after leaving a rewarding career as a vice president of human resources for a large, global company she started her business to help small business owners build sustainable, successful companies. Her focus is on building a solid foundation for her clients so that they develop the leadership skills and create the team they need to have a business and the lifestyle they dreamed of when they started their business in the first place.

To provide continuous opportunity for you and your team to develop critical business skills, go to the link below to learn more about the 275+ business skills, customer service and workplace safety skills online training I've made available to you. You can purchase them separately, in bundles or get access to all of them when you join the membership program. With the membership program you participate in a live HR Office Hours call where all your specific HR questions get answered. It's crazy affordable and will build your team quickly without having to send them off-site or paying for expensive trainers. If you prefer more time getting real-time answers from her and joining other small business owners to share ideas, there is an option there as well for a monthly membership program. For details, type this into your web browser: <http://quantumascendance.com/smb-management-safety-training/>