

Interview, Hire and Fire – Stay in Compliance

**8 CEU/CE hours for RCFE, ARF
and SNF Administrators**

Course Objective

1. Learn how to interview correctly
2. Learn what you can ask and what you can't
3. How to correctly document your interview
4. Ideas for finding employees
5. The hiring process
6. Training requirements of DSS, DOJ and OHSA
7. What needs to be in your employee's file
8. The process for firing – how to keep yourself out of the courtroom

Definitions

RCFE =	Residential Care Facility for the Elderly
ARF =	Adult Residential Facility
SNF =	Skilled Nursing Facility
DSS =	Department of Social Services
LPA =	Licensing Program Analyst
OSHA =	Occupational Safety and Health Administration
EEOC =	Equal Employment Opportunity Commission

Interviewing 101

What are your goals for the interview:

- Find out if applicant is qualified;
- Find out if applicant likes working with your resident population;
- Find out if the applicant will work well with your existing team;
- Find out if the applicant is interested in you!



Wait, wait, wait...

Have you
carefully thought
about the job you
need to hire for?

Have you done a
thorough job
analysis?



Getting Started All Wrong

1. Not updating the specs

- ✓ The job description was written years ago
- ✓ Jobs change over time
- ✓ Policies and procedures have changed
- ✓ Hand-written vs. computerized

Getting Started All Wrong

2. Inflexible job specs (background required)

- ✓ Are they so tight that no one qualifies?
- ✓ Which specs are negotiable?
- ✓ Non-negotiable?

Getting Started All Wrong

3. Establishing unrealistic specifications

- ✓ Really think about what type of skills are needed
- ✓ You may eliminate a great candidate
- ✓ Hands-on experience vs. education

Getting Started All Wrong

4. Waiting for a vacancy

- ✓ You may know that a person might be leaving, but put off the preparation
- ✓ If you don't have a plan, the vacancy may stay open for a long time
- ✓ Even if there is no vacancy, accept and keep applications on file from good prospects

Getting Started All Wrong

5. The “warm body” syndrome

- ✓ Open job – need help – hire out of desperation
- ✓ You wind up with a so-so employee that you have to spend time training, fingerprinting, etc.
- ✓ Spread the work around until you can find someone qualified

Getting Started All Wrong

6. Cloning the incumbent

- ✓ You loved the last person and you want her/his clone so you hire with her/his exact specs (education, etc.)
- ✓ Or you hated the last person...so you find their opposite

Getting Started All Wrong

7. Recruit up from your current pool

- ✓ Promote or transfer from within – good for employee morale, bad if you don't promote/hire the person
- ✓ Be sure to still keep outside options open
- ✓ Maybe you need some fresh ideas?

Getting Started All Wrong

If possible, interview the out-going employee:

1. Tell me about how you spend a typical day.
2. Tell me about some of the other work you occasionally do – how often and when do you do this work?
3. What positions do you supervise (if any) and how much of your time is spent supervising others?

Getting Started All Wrong

If possible, interview the out-going employee:

4. What equipment do you operate/use?
5. Do you make any financial decisions?
6. What education and training did you have prior to taking this job that prepared you for it?
7. What performance standards are you expected to meet on this job?
8. What training did you receive while on the job that helped you do it effectively?

Getting Started All Wrong

If possible, interview the person's supervisor and co-workers for their input



The Job Requirements

Hiring Staff – Job Requirements

Requirements for ALL staff:

- Health screening and negative TB test
- Fingerprint clearance or exemption
- Age 18 or over for caregivers
- Age 21 or over for Administrators

Hiring Staff – Job Requirements

Requirements for an Administrator:

- Age 21 or over
- Health screening and negative TB test
- Fingerprint clearance or exemption
- Either a high school diploma or GED
 - College and experience based upon facility size
- Current Administrator Certificate
- Current first aid and CPR certification

Hiring Staff – Job Requirements

Requirements for an Administrator (cont'd):

- Knowledge of the requirements for providing care and supervision appropriate to the residents;
- Knowledge of and ability to conform to the applicable laws, rules and regulations;
- Ability to maintain or supervise the maintenance of financial and other records;
- When applicable, the ability to direct the work of others; and
- Good character and a continuing reputation of personal integrity.

Hiring Staff – Job Requirements

Group discussion:

- What are you looking for in a caregiver?
- What are the job requirements for a driver?
- What are the duties of a designated substitute in an RCFE?
- What makes a good leader?

Where to find potential employees

Employee Sources

- ✕ Within your own company
- ✕ Print advertisements (Pennysaver, etc.)
- ✕ Employee referrals
- ✕ Former employees that might be qualified
- ✕ Job fairs
- ✕ Networking at CALA or other organizations
- ✕ Recruiters/head hunters
- ✕ Schools and colleges
- ✕ Can you ask your competitors?
- ✕ Internet

Employee Sources

Internet:



Craigslist

Monster.com

Careerpath.com

Jobs.com

Yahoojobs.com

HeadHunter.net

HotJobs.com

CareerBuilder.com

JobSearch.com

NationJob.com

Pre-Screening your Applicants

Pre-screening

You've done a great job with your recruiting. Now you have 150 resumes on your desk.

Now you need to determine which applicants are worth bringing in for interviews because you have limited free time.

Pre-screening (cont'd)

Resumes.....

Remember that this is their promotional piece written to persuade you to hire him or her.

It is not an objective recap of qualifications.



Reviewing Resumes

- ✎ Consider having another person review them.
- ✎ Sort them into 3 groups – definitely, maybe and no
- ✎ Really review them thoroughly – you may never know what's past the first paragraph!

Reviewing Resumes (cont'd)

- ✎ Establish some **essential factors**, such as education, age (18+ for caregivers), licenses, etc.
- ✎ Look for gaps in dates – job hopping
- ✎ Look for “years” without dates (ex: 2019-2020 might really be 12/19 to 1/20)

Reviewing Resumes (cont'd)

- 👉 Watch for resumes that devote more time to past jobs rather than the current or most recent job.
- 👉 Look for over-emphasis on education rather than skills
- 👉 Do not discriminate against name, race, etc.
- 👉 Are they career hopping?

Telephoning the Candidates

- Call the applicants to set up either a telephone or face-to-face interview.
- Give them notice – try not to interview them on the spot – let them prepare!
- You CAN get a feel for the applicant over the phone! (i.e., language skills, energy level)

Telephoning the Candidates (cont'd)

- It's not a good idea to call the applicant at work to discuss a job opening.
- Call them at home in the evening or after work hours.
- Plan the telephone call – be prepared with the job information, your schedule, etc.

Interviewing 101



Telephone Interviews

Pre-screening your applicants

Telephone Interviews

Be prepared with:

their resume

the job description

the job requirements/specs

have time allotted for the interview

and a quiet place!



Telephone Interviews (cont'd)

Consider keeping them short – narrow down the field

If the candidate is not available, leave a message.

- If they don't call back, they're not interested.
- If they don't call back during a certain timeframe, they could be unmotivated or lazy.

Face to Face Interviews



Interviewing Skills

1. Always meet your applicant with a handshake and a smile – it will put them at ease.
2. Conduct the interview in an office or room where you will not be disturbed; ask other staff members not to disturb you.
3. Be prepared – have their resume or application reviewed and with you during the interview.
4. Know what job skills are necessary for the position.
5. Be prepared to tell the applicant about your company and what the position entails.

Interviewing Skills

- 6. Be prepared for their questions! For example, why is the position open?
- 7. Remember, your applicant may be anxious and stressed, so be understanding.
- 8. Take time to make your decision, even if you really like the candidate.

Interviewing Skills

9. Ask open-ended questions rather than “yes” or “no” questions.
10. Try to ask each applicant the same questions so you can compare the answers.
11. Prepare questions for that specific job in advance (for example, food server skills would be different from that of a driver).

Interviewing Skills

Who, what, where, when, why?

Who did you report to?

What types of software did you use?

Where were you based?

When did you have a difficult situation?

Why did you handle it that way?

Questions you can ask during an
interview

VS.

Questions you cannot ask during
an interview

Interview Questions

Asking the wrong questions during an interview could make your company the target of a U.S. Equal Employment Opportunity Commission (EEOC) lawsuit.

You never know who you may be interviewing and what their motives are!

Questions you **CANNOT** ask

In general, avoid all questions related to:

- ⊘ age;
- ⊘ race, ethnicity or color;
- ⊘ gender or sex;
- ⊘ country of national origin or birth place;
- ⊘ religion;
- ⊘ disability; or
- ⊘ marital or family status or pregnancy

Questions you **CANNOT** ask

Examples:

- What country are you from?
- What is your religion?
- Are you married?
 - What does your spouse do?
 - What was your maiden name?
- Do you have children?
 - How many?
 - What arrangements have you made for child care when you are working?

Questions you **CANNOT** ask

More examples:

- o How old are you?
What is your birth date?
- o Do you have a disability?
- o Have you ever been arrested?
- o Of what country are you a citizen?
- o What is your native language?
- o What year did you graduate from high school?

Questions you **CANNOT** ask

More examples:

- Will you need personal time for a particular religious holiday?
- Are you comfortable working for a female/male boss?
- How long do you plan to work until you retire?
- Have you experienced any serious illnesses in the past year?
- Are you planning on having children soon?

Questions you **CANNOT** ask

More examples:

- o Do you have a drug or alcohol problem?
- o Do you smoke?
- o Are you taking any prescription drugs?
- o How much do you weigh?



Questions you **CANNOT** ask

During an interview, you must take care to keep your interview questions focused on the behaviors, skills and experience needed to perform the job.

If you find your discussion straying off course or your applicant is giving you information you don't want about potential job discrimination topics, bring the discussion quickly back on topic by asking another job-related interview question.

Questions you **CANNOT** ask

Be careful when asking about hobbies or outside activities. It is discriminatory to ask about clubs, societies or organizations that the applicant belongs to because it might indicate race, religion, national origin, sex or age.

Questions you **CAN** ask

1. Are you 18 or older?
2. Did you graduate from high school?
3. Do you have any impairments (physical, mental or medical) that would interfere with your ability to perform the job for which you have applied?
4. Have you ever been *convicted* of a crime?
5. Tell me about your last job.....

Questions you **CAN** ask

To get information about **work experience**:

- ✓ Describe your current job responsibilities and duties.
- ✓ Why are you leaving your current job?
- ✓ Give me a general overview of your background.
- ✓ What types of experience have you had in _____ (job description)?
- ✓ What do you like most/least about your current job?

Questions you **CAN** ask

To get information about **work experience** (cont'd):

- ✓ This position (may) require lifting, vacuuming, etc. Are you able to perform these duties?
- ✓ What type of experience have you had with seniors/developmentally disabled persons?
- ✓ Describe your current average day at work.
- ✓ What skills can you bring to this job?
- ✓ If I contacted your current boss, what would they say about you?

Questions you **CAN** ask

To get information about their **strengths**:

- ✓ What do you consider to be your primary strength?
- ✓ Tell me about a time you had to act quickly in an emergency situation. What did you do? What was the outcome?

Questions you **CAN** ask

To get information about their **weaknesses**:

- ✓ What do you consider to be your primary weakness?
- ✓ What are the hardest parts of your present job? How do you handle them?

Questions you **CAN** ask

To get information about their **motivation and attitude**:

- ✓ Why do you want to leave your current position?
- ✓ We've all had to deal with a difficult co-worker or supervisor we disagreed with. Tell me about an experience that you've had.

Questions you **CAN** ask

To get information about their **motivation and attitude** (cont'd):

- ✓ Working with a team is important in this position. Give me an example of your ability to be a team player.
- ✓ What did you enjoy about working with teammates in past jobs? What did you dislike about working with teammates in past jobs?

Questions you **CAN** ask

To get information about their **motivation and attitude** (cont'd):

- ✓ If a resident yelled at you, what would you do?
- ✓ Describe the kind of people you enjoy working for and with. Describe the kind of people you do not enjoy working for and with.

Questions you **CAN** ask

To get information about their **motivation and attitude** (cont'd):

- ✓ What are your long-term career objectives? How do you plan to reach these goals? What position do you see yourself in five years from now?
- ✓ What are you looking for in this job you're not getting from your current job?

Questions you **CAN** ask

To get information about their **initiative**:

If you want to know if they're a self-starter and can work independently, ask them:

- ? What things get you excited in doing your job? What distracts you?
- ? Tell me about missing a deadline – what did you do?

Questions you **CAN** ask

To get information about their **stability**:

Goal: to find out if they are:

- ✓ overly excitable or even tempered
- ✓ impatient or understanding
- ✓ will crumble under pressure
- ✓ has long term work goals

Questions you CAN ask

To get information about their **stability**:

Ask them.....

1. What things disturb you most?
2. How do you get along with people who you don't like or respect?
3. What individual actions irritate you?
4. What are your most pleasant work experiences? Tell me about them.

Questions you **CAN** ask

To get information about their **planning skills**:

Goal: to find out if they are:

- ✓ able to form a plan and follow through
- ✓ able to coordinate work for several employees
- ✓ able to think outside the box
- ✓ overly fixated on details and can't see the big picture

Questions you CAN ask

To get information about their **planning skills**:

Ask them.....

1. How do you plan a day's work?
2. How do you set priorities for others?
3. Give me an idea how you spend a typical day.
4. If you were the boss at your current job, what would you do differently?

Questions you **CAN** ask

To get information about their **insight**:

Goal: to find out if they:

- ✓ can take constructive criticism
- ✓ are able to criticize others
- ✓ are interested in the problems of others
- ✓ are realistic in appraising self

Questions you **CAN** ask

To get information about their **insight**:

Ask them.....

1. Tell me about your strengths and weaknesses.
2. What was the most useful criticism you've received? Useless criticism?
3. How do you handle people who criticize you?

Questions you CAN ask

To get information about their **social skills**:

Goal: to find out if they:

- ✓ are a leader or a follower
- ✓ are interested in new ways of dealing with people
- ✓ can get along with a variety of personalities
- ✓ can make friends easily

Questions you CAN ask

To get information about their social skills:

Ask them.....

1. What methods do you find effective in dealing with difficult people?
2. Least effective?
3. What kinds of people do you get along with best?
4. Do you prefer making new friends or keeping old ones? Why?

Questions you **CAN** ask

To get information about their **relationship with their boss**:

- ✓ Describe your current boss's duties and responsibility level. How do you directly assist your boss?
- ✓ What sort of reference do you think your current boss will give you and why?
- ✓ What would your current boss say is your single most important achievement and why?

Questions you **CAN** ask

To get information about their **relationship with their boss** (cont'd):

- ✓ Describe the best boss you've ever had. What particular traits did you admire or appreciate?
- ✓ Describe the worst boss you've ever had. What traits were difficult to deal with and why?

Questions you **CAN** ask

Job-specific questions to ask:

- ✓ [Housekeepers] – this job requires lifting, vacuuming, etc. Are you able to perform these duties?
- ✓ [Receptionists] – give me an example of a time when you had to deal with an irate caller. What did you do?

Interviewing in General

“What should I do when I feel that an applicant isn’t telling me everything?”

- Use silence. Most people can’t tolerate it and will usually fill the gap by adding something more.
- Ask open-ended questions rather than “yes” or “no” questions.
- If an applicant is vague or evasive, probe for more details. Ask the same question in a different way. Restate what they say in questions format.

Documenting the Interview

Documenting the Interview

It is important to ensure that you document the interview in a manner that will not come back to haunt you in a court of law.

If a potential employee feels that they were denied a job due to discrimination, they may file a claim against you with the EEOC (Equal Employment Opportunity Commission).

Anything you write down can be subpoenaed by the court.

Documenting the Interview



When taking notes, record brief, clear and legible explanations to answers.



Do not use codes or abbreviations that could be misinterpreted incorrectly at a later date.




Do not write down personal information about the person (for example, “has nice blond hair.”)

Documenting the Interview



If you decide not to hire an applicant, note why they were not hired in a non-discriminatory way.

 For example, a housekeeper was “not available weekends” rather than “wasn’t right for the job.”



If the applicant volunteers personal information during an interview, NEVER write it down. Do not pursue it – change the subject.

Documenting the Interview



When documenting, remember to focus on **descriptions**, not judgments -- and **facts**, not opinions.

Job Applications

- EVERYONE should fill out a job application.
- It will give you information if there are “holes” in the resume.
- If the person refuses, are they lazy?
Nervous about something?

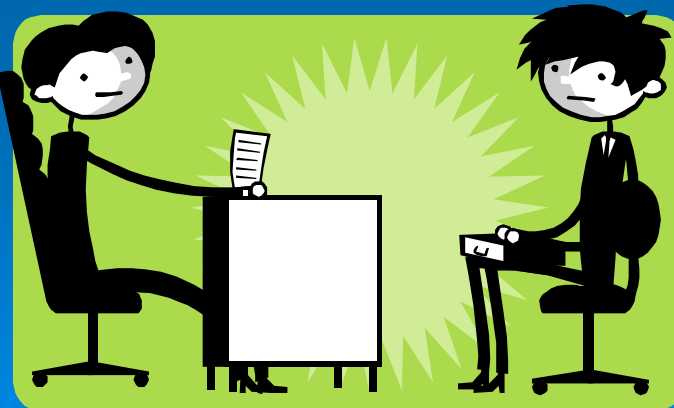
Job Applications

Note: if you accept a job application from a prospective employee, if you don't hire them, you must still keep their application on file for a minimum of **4 years**.

Group Exercise

Practice interviews

The students will pair up and “interview” each other. Answers will be shared with the class. The purpose of this exercise is to get to know one another PLUS remind them what can and cannot be asked in an interview.....



Interview Questions

1. How did you get into this industry?
2. What languages do you speak?
3. What do you like to do in your free time?
4. What is the last movie you've seen and did you like it?
5. What is your ethnicity (where are you from?)

Interview Questions

Summary of Exercise:

Which questions are you OK to ask?

Which ones are you NOT OK to ask?

Why? What do they imply?

Quiz and Answers

Interview questions – yes or no?

- ? I see that your last name is Rosenberg – is that Jewish?
- ? Is there anything which would keep you from attending work during a regularly scheduled work week?
- ? I see on your resume that you're a veteran. Was that in the Korean War?

Quiz and Answers

Interview questions – yes or no?

- ? Have you ever been arrested?
- ? We need people interested in a career. What are your career goals?
- ? We often work on weekends. How do you feel about that?

Quiz and Answers

Interview questions – yes or no?

? Are you Hispanic?

? Do you wish to be addressed as Mr., Mrs. or Ms.?

? Are you 18 years or older?

? If so, how old are you?

Making the Determination

Employment History Verifications

There is no specific law requiring you to check a potential employee's references BUT....

to avoid “negligent hiring”, you should always check references.

What is **negligent hiring?**

Negligent Hiring

Employers are coming under increased scrutiny for “negligently” hiring and/or retaining employees whose history of elder abuse, drug or alcohol abuse, or other related problems involve an unreasonable risk of harm to others.

Employment History Verifications

- It's not a good idea to tell an applicant that he or she will be hired "subject to a reference check."
- If the references are good but you choose another candidate, the applicant might assume that you received a poor reference.
- Also, never tell an applicant that they weren't hired because of a poor reference – these should be confidential.

Employment History Verifications

- Call the employee's supervisor, not the HR department – they might only have limited information
- Introduce yourself and be diplomatic – they might not even know the person was looking for a new position! (Note – always ask the employee if you can call someone.)

Employment History Verifications

What you can ask:

- o dates of employment
- o is the employee eligible for rehire?
(this will give you info on whether the ex-employer would want them back!)

What if you KNOW you don't want to hire this person?

You can conclude the interview by either saying:

“As you don't have the experience in ____, which is essential for this job, we can't consider you for it.”

OR

“We have several other applicants that I'm interviewing. Once I see them all, I will make my decision.” [And then after a reasonable time period, let the person know they were rejected.]

Too many choices....

Does the person have:

the necessary skills?

self-confidence?

ability to be promoted eventually?

maturity?

the right personality for the job?



The Hiring Process

Offering a position

- ★ You like them and you offer them the position.
- ★ Review the job specs, what the company expects, start date, starting salary, benefits,.....

What? They want more?

Counter-offers

Possibilities:

“The salary is too low”

“I need flexible hours”

“What are my opportunities for advancement?”

“I’m considering other offers”

“The salary is too low”

- ❖ Were they “shopping” you to get a raise at their current job?
- ❖ Is the salary too low for that position?
- ❖ Is the salary negotiable or can you give them a raise after a certain time period?

“I need flexible hours”

- ❖ Are the hours flexible or are you hiring solely to fill a certain hourly position (i.e., NOC shift)?
- ❖ Did you fail to let the candidate know what the hours were?

“What are my opportunities for advancement?”

- ❖ Be careful what you discuss/promise.
- ❖ Would you actually promote this person?
If not, do you really want to hire them?
What will they do when they realize they aren't going up? They'll go OUT!

“I’m considering other offers”

- ❖ Code for: *I don’t think you may be good enough for me and I’m keeping my options open.*
- ❖ Give them a specific time period in which they have to decide....and stick with it.
- ❖ Why wasn’t your offer good enough?

The Hiring Process

New Hire Paperwork:

The Offer Letter

- ❖ Not required by law, but recommended.
- ❖ During the hiring process, you should make clear to the applicant how you make an offer of employment (verbal, letter, etc.); stipulate that [this way] is the only way an offer can be communicated.

The Hiring Process

At a minimum, your offer letter should contain:

- ✓ job title;
- ✓ exempt or non-exempt status;
- ✓ starting salary or wage;
- ✓ work schedule;
- ✓ full-time or part-time classification for benefits;
- ✓ reporting date;

The Hiring Process

- ✓ any conditions to which the offer is subject (i.e., post-offer medical exam, post-offer drug test, post-offer fingerprint clearance);
- ✓ a statement of the at-will basis of employment; and
- ✓ a deadline by which you expect an acceptance of the position by way of return of a signed copy of the offer letter.

The Hiring Process

✋ Once an offer has been made to an applicant, and they rely on it to give notice to their current employer, you can be held liable for losses suffered by the applicant should you subsequently withdraw the offer.

✋ Damages can include loss of earnings that would have been received at the applicant's previous job through retirement!

The Hiring Process

While you are not required by law to notify applicants that you do not hire, you may want to send a letter to those applicants so they know they are no longer under consideration.

There is no need to tell them why they were not offered a position; just thank them for their interest and wish them well in their future employment.

DSS and Labor Laws/Regulations

DSS Regulations

1. Fingerprint Clearance
2. Health Screening with TB Test
3. LIC 508 (no longer required by DSS but the facility can continue to ask for this)

DSS Regulations (cont'd)

Criminal Background Requirements:

All staff, persons residing in the facility and most volunteers must have a criminal background clearance or exemption **prior to their first day of work.**



DSS Regulations (cont'd)

Fingerprinting procedure:

1. Create an account in the Guardian system.
2. Upload the potential employee's ("PO") LIC 508 form and set up an account.
3. Send the PO to a LiveScan site with a LIC 9163 form completed.
4. LiveScan will forward the information to the California Department of Justice (DOJ) and they will conduct a background check.
5. If the PO has no criminal history, the DOJ will forward a clearance notice to DSS and it will be posted on the Guardian site.

DSS Regulations (cont'd)

4. If the individual has a criminal history, DOJ will send a criminal record transcript to DSS. The transcript will show arrests and convictions. DSS staff will review the transcript and if the convictions are for crimes that may be exempted, DSS will send an exemption notification letter to the applicant or licensee and to the individual. The letter explains how to request an exemption and lists the documents/information that must be submitted to request an exemption. **The individual may not be present in the facility until an exemption is granted by DSS or an exception is approved.**

DSS Regulations (cont'd)

What is an **exemption**?

Basically, it's a DSS approval that "exempts" the person from the requirement of having a criminal record clearance.

If you have an employee that was convicted of any crime listed in 87356 of Title 22, they will have to ask for an exemption.

DSS Regulations (cont'd)

Possible exemption approvals:

DUI

Petty theft

Using someone else's ID
when they were under 21

Trespassing

Non-violent misdemeanor

The employee will not get
an exemption:

Murder, attempted
murder

Robbery

Carjacking

Sexual battery

Rape

Pornography

DSS Regulations (cont'd)

Clearance transfers:

If you hire an employee that is already been fingerprinted and associated to an RCFE (not skilled nursing!), you may transfer their fingerprint clearance to your facility rather than paying the cost of re-fingerprinting;

or

you hire an employee that has an exemption, you can transfer the exemption

if that person is active in the DSS system.

DSS Regulations (cont'd)

Clearance transfers:

- These are done through the Guardian website.



DSS Regulations (cont'd)

Normal processing time:

LiveScan Fingerprints (DOJ)

Approximately 3 days

Fingerprints (FBI)

Approximately 5 days

Time frames will be significantly longer if the applicant has a criminal history or if a fingerprint/live scan transmittal is rejected by Department of Justice.

DSS Regulations (cont'd)

Approximate Cost for Background Checks:

California DOJ criminal record check = \$42.00

FBI criminal record check = \$24.00

Vendor fee for LiveScan in DSS Offices = \$16.00

TOTAL = \$82.00

DSS Regulations (cont'd)

Health Screenings and TB Tests:

- ★ ALL employees must have a health screening. This can be completed within 7 days of their first day of employment and it must have been performed not more than 6 months prior to employment.
- ★ Make arrangements with a local health care clinic to conduct these screenings.

DSS Regulations (cont'd)

Health Screenings and TB Tests (cont'd):

- ★ Send the employee to the clinic with the Health Screening Report (LIC 503) that they have completed and signed.
- ★ Along with the health screening, ALL employees must have a TB test (either by x-ray or an intradermal test). The results must be in writing.

NOTE: OSHA requires a TB test/screen be performed on an annual basis; DSS does not.

Labor Laws – Hiring Minors

Hiring minors:

1. What are the regulations?
2. Does DSS allow it?
3. What positions can they hold?

Salary and Wages

California Minimum
Wage is:

\$_____ per hour



Labor Laws

California is an “at-will” employment state.

At-will = without an employment contract, the employment relationship can be terminated at any time by the employee or the employer, with or without cause.

But beware of a “wrongful termination.”

Labor Laws (cont'd)

Exempt (salaried) vs. non-exempt (hourly) employees

Exempt employees are usually executives, administrative or professional employees. Examples of their duties include:

- interviewing, selecting and hiring employees
- setting pay rates and work hours
- directing work
- distributing work
- handling employee complaints

Labor Laws – Hiring Minors (cont'd)

Definition of “minor”:

Any person under the age of 18 years who is required to attend school under the provisions of the Education Code.*

*Defined by the California Labor Law Digest – Volume 1

Labor Laws – Hiring Minors (cont'd)

DSS allows you to hire minors for positions other than the Administrator, caregivers or supervisors. Possible positions for them:

- food servers
- receptionists
- activities assistant
- housekeepers
- dishwashers

Labor Laws – Hiring Minors (cont'd)

What is one thing that you can't do to a minor.....

FINGERPRINT them.



Rehiring

1. Is employee eligible for rehire?
2. Under what circumstances did they leave?
3. Check to see if they are still in the fingerprint clearance system by checking the Guardian system.
 1. If they are current, are they still associated with your facility? If not, transfer.

Are you going to drug test?

If you decide to make drug testing part of your drug-free workplace policy, you must decide:

1. Which jobs will require drug testing.
2. When to test an employee – pre-employment? During employment? Promotion? Transfer? After a workplace crisis? Only in certain workplaces?

Are you going to drug test?

You must decide (cont'd):

3. What are the costs of drug testing? Drug testing should be conducted only by a licensed laboratory acting under U.S. Health and Human Services Department guidelines. Drug tests should not be conducted by a place selected by the employee!
4. What penalties should the employee expect if tests are positive and what procedures, if any, should be followed after a drug violation is determined?

Are you going to drug test?

You must decide (cont'd):

5. If you have adopted a rehabilitation policy, at which point should you require the employee to enroll in it?
6. What is your policy if an employee refuses to be tested or to enter a rehabilitation program?

United States Citizenship and Immigration Services

I-9's:

Each new employee, or his/her translator or preparer, **must** complete Section 1 of the I-9 at the time of hire. The employee must always sign this section personally.

You, as the employer, must fill out Section 2 and examine evidence of identity and employment eligibility within 3 business days after the employee begins work.

USCIS (cont'd)

I-9's (cont'd):

If you are shown only one document, it must be on “List A.” If it is not on List A, you must instead see one document from “List B” and one document from “List C.”

Keep the completed I-9 Form in a common file for all employees rather than separately in each employee's personnel file.

Social Security Numbers

Using E-Verify to check social security numbers:

- Employers must post a notice informing employees of their use of E-Verify.
- E-Verify must be used for new hires only. It cannot be used to verify the employment eligibility of current employees.
- E-Verify must be used for all new hires regardless of national origin or citizenship status. It may not be used selectively.
- E-Verify must be used only after hire and after completion of the Form I-9. Employers may not pre-screen applicants through E-Verify.