

THE KRIZNER GROUP

AN EMPLOYMENT LAW BOUTIQUE



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EMPLOYEE LIFE CYCLE:



**WACKY MISTAKES
THAT SUPERVISORS
MAKE!**

WACKY MISTAKES THAT SUPERVISORS MAKE: IN HIRING



Which of the hiring questions are illegal? Why? Hint: There are 10 of them.

Tell me about your family.

Do you intend on working here for a minimum of ten years?

Can you do everything listed in the job description?

Is it Ms. or Mrs.?

What assurance do we have that if you move here, you are going to stay?

What is the best book you have ever read and why?

I notice that you are pregnant and want to be sure you know our leave policy...

Are there are medical issues we should be aware of for purposes of our medical insurance?

WACKY MISTAKES THAT SUPERVISORS MAKE: IN HIRING



Which of the hiring questions are illegal? Why? Hint: There are 10 of them.

That is an interesting accent, where are you from originally?

Has your spouse found a job?

Have you ever been arrested before?

We require that we speak to your current supervisor, will that be a problem?

Do you have any history of workers compensation injuries?

Do you have much experience working with mostly male staff?

Do you smoke?

How do you relieve stress when you are away from work?

Why have you been unemployed for 2 years?

EMPLOYEE LIFE CYCLE



Interview Form

Date: 4/3/11
Applicant's Name: Sarah Jones
Position Applied For: Receptionist
Interviewing Employees' Signatures: 1. [Signature]
2. [Signature]

Applicant's Work Experience: Very good - similar functions at last 2 jobs - managed 8 phone lines

Applicant's Training & Education: 2 year degree + competent in Word, Excel, & PPT

Applicant's Skills As Necessary For Position: Excellent - focused, personable - good fit

EMPLOYEE LIFE CYCLE

Applicant's Ability To Respond To Stressful Questions: Good - eye contact strong, relevant answers

Applicant's Interest And Willingness To Work With Others: Funny, warm, & open - team likely to enjoy her

Applicant's Overall Communication Abilities: Would make superb 1st impression for organization

Applicant's Overall Enthusiasm Toward Position: Hungry for job but needs \$10/hour

Interviewer's Concerns Regarding Applicant: Ability to start immediately

Interviewer's Recommendations Regarding Hiring: Highly Positive

Check This Box If Additional Pages Are Attached

EMPLOYEE LIFE CYCLE



Interview Form

Date: 4/3

Applicant's Name: Sarah

Position Applied For: _____

Interviewing Employees' Signatures: 1. [Signature]
2. _____

Applicant's Work Experience: Good

Applicant's Training & Education: No college

Applicant's Skills As Necessary For Position: Great

EMPLOYEE LIFE CYCLE



Applicant's Ability To Respond To Stressful Questions: Love it At Me

Applicant's Interest And Willingness To Work With Others: Fine

Applicant's Overall Communication Abilities: _____

Applicant's Overall Enthusiasm Toward Position: Positive

Interviewer's Concerns Regarding Applicant: _____

Interviewer's Recommendations Regarding Hiring: Hire Now!

Check This Box If Additional Pages Are Attached

EMPLOYEE LIFE CYCLE



Interview Form

Date: 4/3/11
Applicant's Name: Dellon Copeland
Position Applied For: Receptionist
Interviewing Employees' Signatures: 1. [Signature]
2. [Signature]

Applicant's Work Experience: Poor - only worked as intern

Applicant's Training & Education: College degree in unrelated field - no real work training

Applicant's Skills As Necessary For Position: Poor - math background not helpful in this job

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Applicant's Ability To Respond To Stressful Questions: Started
Sweating and rambled when answering

Applicant's Interest And Willingness To Work With Others: _____
Stand-offish - Too quiet

Applicant's Overall Communication Abilities: Reasonable - well
interviewed

Applicant's Overall Enthusiasm Toward Position: Considering 2
other jobs that pay more

Interviewer's Concerns Regarding Applicant: Body odor -
too nervous - not a good representation of Org.

Interviewer's Recommendations Regarding Hiring: _____
Negative - not a good fit

WACKY MISTAKES THAT SUPERVISORS MAKE: IN DECIDING PAY!

Which of these people are paid illegally?

<u>Name</u>	<u>Position</u>	<u>Race</u>	<u>Gender</u>	<u>Age</u>	<u>Start Date</u>	<u>Pay</u>	<u>Eval Score</u>
Joe Smith	Receptionist	A/A	M	33	1997	\$10.00	9
Helena Jung	Facilities	W	F	44	1998	\$10.50	8
Fred Ogden	Facilities	A/A	M	32	2003	\$11.00	10
Derron Miller	Facilities	W	M	69	1989	\$ 9.00	7
Kristen Salt	Receptionist	H	F	36	2009	\$12.00	9
Roger Jones	Accounting	A	M	55	2007	\$15.00	9
Sarai Kalifeh	Accounting	A/A	F	31	2008	\$11.00	8
Tay Decker	Facilities	H	M	59	2004	\$11.50	9
Jane Johnson	Receptionist	H	F	43	1995	\$12.00	9
Tish Bernstein	Accounting	W	F	79	2010	\$14.00	n/a

EMPLOYEE LIFE CYCLE



What concerns exist with each of the positions above:

Receptionist : _____

Accounting: _____

Facilities: _____

Common Legal Basis Include...

- Experience
- Tenure
- Documented Performance
- Market Demands At Time Of Hire

KEY: The practice of codifying pay basis on Personnel Action Forms (PAF)...

EMPLOYEE LIFE CYCLE



WACKY MISTAKES THAT SUPERVISORS MAKE: IN CORRECTING AND EVALUATING EMPLOYEE BEHAVIOR!

Evaluation Quiz

EMPLOYEE LIFE CYCLE



EVALUATION QUIZ

1. The critical purpose of annual evaluations is to:
 - a) Provide the employee with a grade for his/her work
 - b) Determine whether the employee should receive a raise
 - c) Provide for a forum where the supervisor and employee can discuss whether the employee is meeting the expectations of the position
 - d) Ensure that the employee is satisfied and will continue his/her employment
 - e) All of the above

2. Past annual evaluations:
 - a) Should be thoroughly considered when preparing an annual evaluation
 - b) Should be ignored when preparing an annual evaluation
 - c) Should be considered but not relied upon when preparing an annual evaluation
 - d) Are the most important document when preparing an annual evaluation
 - e) Both (a) and (d) are correct

EMPLOYEE LIFE CYCLE



EVALUATION QUIZ

3. Annual evaluations can subject you to liability.
True _____ False _____
4. Evaluating supervisors are rarely honest with employee annual evaluations because
- a) They do not know whether the employee is truly meeting expectations
 - b) They are concerned about working alongside the employee over the next year
 - c) They believe that the annual evaluation may provide a boost to the employee's performance
 - d) Both (b) and (c) are correct

EMPLOYEE LIFE CYCLE



EVALUATION QUIZ

5. Corrective or disciplinary information should not be shared with employees for the first time during an annual evaluation.
True _____ False _____
6. The most important part of the evaluation is:
a) The actual rating
b) The employee's comments
c) The descriptive explaining the areas in need of improvement
d) The descriptive explaining the employee's accomplishments
e) Both (c) and (d)

EMPLOYEE LIFE CYCLE



CORRECTIVE ACTION

- ◆ Date Of Corrective Action: February 6, 2011
- ◆ Employee Receiving Corrective Action: Derron Brantley
- ◆ Position Of Employee Receiving Corrective Action:
Maintenance
- ◆ Department Of Employee Receiving Corrective Action:
Maintenance

CORRECTIVE ACTION



1. Nature Of The Behavior: Insubordination To Supervisor.
2. Date(s) Of The Behavior: February 5, 2011 (Employee was assigned task), February 6, 2011 (Employee engaged in insubordinate behavior).
3. Facts Leading Up To This Corrective Action: I went into the Company's restrooms yesterday after lunch and found them to be in absolute shambles. I found toilet paper strewn all over the stalls and floor and found more than ten dirtied paper towels underneath the sink. As a result, I approached the Company's maintenance person, Derron, and asked him to be certain to clean up the mess. I presumed that this issue was handled, but then was approached by a fellow supervisor, Charlotte, who informed me that Derron had referred to me as a "stinking slave driver" in front of her this morning. This behavior violates the Company's rules for conduct and is express insubordination toward me and my supervision.

CORRECTIVE ACTION



4. Previous Corrective Action(s): Written Corrective Action Issued In January For Employee's Failure To Properly Dust Furniture Within Lobby.
5. Specific Plan For Improvement: Employee must immediately clean mess within bathroom and must never engage in such unethical and insubordinate behavior regarding any supervisor in the future. Moreover, Employee must abide by all rules and regulations within the Company.
6. Discipline To Be Taken If Behavior Occurs Again: Immediate Termination.

EMPLOYEE LIFE CYCLE



CORRECTIVE ACTION

- ◆ Date Of Corrective Action: February 6, 2011
- ◆ Employee Receiving Corrective Action: Helen
- ◆ Position Of Employee Receiving Corrective Action:
Executive Assistant
- ◆ Department Of Employee Receiving Corrective Action:
Secretarial

CORRECTIVE ACTION



1. Nature Of The Behavior: Tardiness; Time Theft; Falsification Of Company Records.
2. Date(s) Of The Behavior: February 6, 2006 (Employee Appeared Tardy & Engaged In Falsification Of Company Records – her timesheet).
3. Facts Leading Up To This Corrective Action: Helen has been chronically late over the past year, including five noted absences. She was previously counseled for such behavior on February 2nd, 2011 and has been tardy twice since such time. I observed her arrive at work thirty minutes late this morning (at 8:30 compared to her scheduled time of 8:00). Moreover, Frank and John were also present and even stated “nice of you to join us this morning, Helen.” When I reviewed her time record, however, I found that she had written 8:00 instead of her actual time of arrival, 8:30. Helen knows that all Executive Assistants must appear for work at 8:00 each and every day and, moreover, that time records should never be manipulated.

CORRECTIVE ACTION



4. Previous Corrective Action(s): Verbally Warned On February 2nd, 2011 (See Supervisor Notes).
5. Specific Plan For Improvement: Employee may not be tardy in the next six months and must never falsify time record again. Moreover, Employee must abide by all rules and regulations within the Company.
6. Discipline To Be Taken If Behavior Occurs Again: Immediate Termination.

WACKY MISTAKES THAT SUPERVISORS MAKE:

IN TERMINATING EMPLOYEES! The Great Termination Myths Revealed

1. Florida is an “at will” state and therefore I can terminate any employee without any reason and without any concern.
2. There is no chance of liability if I terminate an employee within ninety days of the time that they begin employment.
3. An employer must follow a progressive disciplinary plan before terminating an employee.
4. Well tenured supervisors should be empowered to make termination decisions unilaterally.

EMPLOYEE LIFE CYCLE



The Great Termination Myths Revealed

5. A personnel action form setting forth the basis for the termination is sufficient legal documentation.
6. It is illegal to postpone the announcement of a termination decision to an employee more than a day.
7. A termination decision must always be announced during an in person meeting.
8. Separation agreements always avoid the chance of liability.

HELP!
THESE LEAVE LAWS ARE
DRIVING ME CRAZY...



10 JUST CALL QUESTIONS ON
THE ADA, FMLA & OTHER
KEY ISSUES OF LEAVE

HELP! THESE LEAVE LAWS ARE DRIVING ME CRAZY...

FORGETTING TO GET “PROPER CREDIT” (ADA)

The Call: Sara is asking for an office space change for the fourth time in two months because of a lung condition. Jo will be displaced and just loves having a window. Do we have to accommodate?

The Answer: _____

My “Take Home:”

1. _____

2. _____

HELP! THESE LEAVE LAWS ARE DRIVING ME CRAZY...



DECIDING WHEN TO DESIGNATE LEAVE (FMLA)

The Call: We are so confused here in human resources. When are we allowed to designate an employee's absence as FMLA. We can never tell if the absence is for the flu or for their cancer.

The Answer: _____

My "Take Home:"

1. _____

2. _____

HELP! THESE LEAVE LAWS ARE DRIVING ME CRAZY...



THE FORGOTTEN SIDE OF THE SQUARE: BEING CONSISTENT (TITLE VII, ADEA, ETC)

The Call: Derron has used his paid leave, does not qualify for FMLA, and is now demanding that he be permitted to take 5 days off unpaid to attend a family reunion. Do we have to allow it?

The Answer: _____

My “Take Home:”

1. _____

2. _____

HELP! THESE LEAVE LAWS ARE DRIVING ME CRAZY...



IT NEVER STOPS: INTERMITTENT LEAVE (FMLA)

The Call: Kristen has a condition that causes severe headaches and requires her to need time off periodically. Oddly, this time always seems to be on Fridays. We have designated her time under FMLA. We have heard reports that her Facebook page shows her playing in a beach volleyball league on many of the Fridays in question. Can we terminate?

The Answer: _____

My “Take Home:”

1. _____

2. _____

HELP! THESE LEAVE LAWS ARE DRIVING ME CRAZY...



THE ROCK & THE HARD PLACE (WORKERS COMPENSATION DANGER, ADA)

The Call: Sally has been out on workers compensation for six weeks because of an injury to her back. She is now ready to come back but we are afraid that she will aggravate her back if she returns to the same job. As such, we want to offer her something different.

The Answer: _____

My “Take Home:”

1. _____

2. _____

HELP! THESE LEAVE LAWS ARE DRIVING ME CRAZY...



DESIGNATING LEAVE (FMLA)

The Call: Tyran, a supervisor, has called and explained that one of his employees has been out for long periods of time over the last five months. He explains that he was considering termination but now the employee is asking for some type of medical leave. What options exist?

The Answer: _____

My “Take Home:”

1. _____

2. _____

HELP! THESE LEAVE LAWS ARE DRIVING ME CRAZY...



ORGANIZATIONAL INCONSISTENCY WITH LEAVE (TITLE VII, ADEA, ETC)

The Call: Juanita, a librarian, has filed a complaint stating that she is being treated unfairly. She explains that her request for personal leave has been denied and that she knows that a friend, Bill, in the engineering department has been allowed twice as much time just last month.

The Answer: _____

My “Take Home:”

1. _____

2. _____

HELP! THESE LEAVE LAWS ARE DRIVING ME CRAZY...



LEAVE AFTER FMLA EXHAUSTION (FMLA, ADA)

The Call: Frank, who has cancer, will exhaust his FMLA in 2 weeks and is not ready to return. The supervisor wants to terminate so the position can be filled and he can stop doing the work.

The Answer: _____

My “Take Home:”

1. _____

2. _____

HELP! THESE LEAVE LAWS ARE DRIVING ME CRAZY...



IT IS OR IT ISN'T A DISABILITY?!? (ADA)

The Call: George has approached us and stated that he has a condition that prevents him from “overheating.” He has requested that we provide him with a portable fan with a cost of \$350. We think its sounds fishy and want to challenge this alleged condition.

The Answer: _____

My “Take Home:”

1. _____

2. _____

HELP! THESE LEAVE LAWS ARE DRIVING ME CRAZY...



WHEN WILL HE SEND THAT @!# CHECK: HEALTH BENEFITS (FMLA)

The Call: Wilfredo has been out on FMLA and is now 3 weeks late making his health insurance payment. Finances are tight right now and we want to cancel his insurance.

The Answer: _____

My “Take Home:”

1. _____

2. _____

HELP! THESE LEAVE LAWS ARE DRIVING ME CRAZY...



ATTENDANCE IS STILL ATTENDANCE: DISCIPLINING FMLA TAKERS (FMLA)

The Call: Beth provides care for her elderly father who suffers from Alzheimer's. She uses intermittent FMLA. She appears late for work without calling on two separate occasions. The supervisor now wants to terminate her.

The Answer: _____

My "Take Home:"

1. _____

2. _____

HELP! THESE LEAVE LAWS ARE DRIVING ME CRAZY...



WINDOW OF PROTECTION: RETALIATION (FMLA)

The Call: We just caught Jenny sleeping on the job and we are moving to terminate her. While she just returned from FMLA three weeks ago, this behavior is certainly enough, right?

The Answer: _____

My “Take Home:”

1. _____

2. _____