





SELECTION


SELECTION-WAYS WE ARE ALIKE

- Non discrimination
 - Drug testing
 - Criminal background checks
 - Verification of data
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DISCRIMINATION

- Cannot based on age, race, color, religion, gender, disability, national origin
 - Federal Laws such as 1964 Civil Rights Act, 1974 Age Discrimination Act and 1990 American with Disabilities Act
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DRUG FREE

- Pre employment drug
 - Condition of employment
 - POST offer
 - During employment, may run into 4th amendment issues –protection against unreasonable search and seizure
 - Usually have to link random testing to public safety
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CRIMINAL BACKGROUND CHECKS

- Arrest versus convictions
- Have increased due to 9/11
- “Ban the Box”
- Negligent hire-darned if you do, darned if you don’t



VERIFICATION OF DATA

- Some estimates show that 20-50 percent of information on applications are false
- Good idea to verify
- Previous position
- Length of employment
- Previous salary
- Reason for leaving



○ UNUSUAL RESUME AND INTERVIEW TALES




SELECTION-DIFFERENCES

- Nepotism
- Residency
- Off Duty Conduct
- Sexual Orientation




NEPOTISM


- Hiring your relatives
 - Different definitions
 - Different Penalties

 - Missouri Const. Article VII section 6
 - *“Any public officer or employee in this state by virtue of his office or employment names or appoints to public office or employment any relative within the fourth degree, shall thereby forfeit his office or employment”*
 - Pro or con?
- 


RESIDENCY

- Actually been challenged
 - Supreme Court said that it does not infringe on Constitutional Rights
 - Is it a pro or a con?
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OFF DUTY CONDUCT

- Can you not hire someone who smokes?
 - Some states, legal, off duty conduct cannot be held against the applicant
 - May charge different rates for health in Missouri
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SEXUAL ORIENTATION

- Not protected by Federal law
 - May be state, or local protection
 - Real implications for benefits
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TERMINATION

TERMINATION

- Estimates are only .2-.4% of Federal employees
 - One of the frustrations with merit is poor performers, too hard to get rid of, too many rules, too many protections
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TERMINATION STANDARDS

- At will
- Just Cause
- Union Contracts




EMPLOYMENT AT WILL


- *The employer does not have to give a reason good or bad to sever someone from the workforce*



EXCEPTIONS TO AT WILL

- Discrimination
 - Public Policy
 - Implied Contract
 - Covenant of good faith and dealing
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DISCRIMINATION

- Cannot terminate someone based on protected status
 - Always part of risk assessment in termination
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PUBLIC POLICY EXCEPTION

- Most widely accepted exception
- 44 states
- Cannot discharge an employee in violation of clear mandate of public policy
- Examples:
 - Work comp claim filed
 - Testifying in court
 - Refusal to break the law




IMPLIED CONSENT


- 38 states
- Implied between employer and employee
- Can be verbal or oral
- Handbook says something such as “just cause”
- May want to have something written reinforcing at will
- Sedgwick County says it right on web site



COVENANT OF GOOD FAITH

- Often interpreted to mean “just cause” or terminations made in bad faith or motivated by malice or prohibited
 - Smallest amount of states-11
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WHAT IS JUST CAUSE?

- Carroll Daugherty 1966
 - Was there forewarning of consequences
 - Are rules related to business efficiency and performance an employer might reasonable expect
 - Was effort made to determine guilt
 - Was investigation fair and objective
 - Was there substantial evidence of guilt
 - Were the rules applied fairly
 - Discipline fair based on seriousness of offense and record of employee
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OTHER

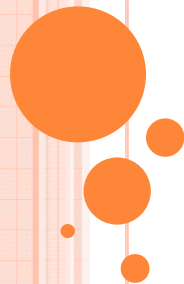
- Contract workers
- Usually spelled out in contract
- Keveney v Missouri Military Academy-Wrongful discharge

- Union Contracts


- Organizational rules




FUTURE ISSUES IN HUMAN RESOURCES



THE FUTURE

- Down sizing
 - Discrimination
 - At will
 - Private/contract
 - Screening gone wild-facebook
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DOWNSIZING

- Economy is bad
 - How do you do it?
 - Wage and hour issues
 - Solve some problems, cause some others
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DISCRIMINATION

- Genetic Information Nondiscrimination Act-
- Can't base employment decisions

- Very likely to see more discussions on sexual orientation

- Good news-you can get rid of bad employees, just have to know what they may come at you with



AT WILL

- Seems to be on the rise

- Georgia 1996

- Florida

- Feds-Department of Homeland Security

- Back to Patronage?



CONTRACTING

- Does it work
- Is it the new patronage/evil?
- Why is it happening
- The myth of government is like business



SCREENING GONE WILD

- Facebook
- Credit checks



**o THANK YOU AND
QUESTIONS**

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