

Minnesota Association of School Administrators

The Great Start Workshop I

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The Basics of Human Resources

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I. HIRING/EMPLOYMENT PRACTICES

Background Checks

In 1993, school districts were given the authority to perform background checks on newly hired employees. In 1995, the Minnesota legislature passed a law mandating that school districts perform background checks on newly hired employees (M.S. 123B.03). In the 2008 legislative session the law was changed and now volunteer coaches must undergo background checks. It remains discretionary for background checks on other volunteers and independent contractors. Districts cannot be charged with discrimination for employment decisions that are based on information obtained from a background check. There is no state standard for “crimes” that disqualify a candidate.

The BCA, Bureau of Criminal Apprehension, covers arrest and conviction of the following crimes committed in the state of Minnesota only: felonies (including those committed by a juvenile), gross misdemeanors, and misdemeanors. City and counties report to BCA, but if the city or county fail to report, the BCA check will not have the information. The law allows the cost of the background check to be charged to the employee.

Options to Consider:

1. Perform FBI checks or checks on national criminal/sex offender databases on new employees who have lived out of state.
2. Discuss guidelines for checking volunteers.
3. Do training on reference checking.
4. Develop a procedure for review/determination of employment decisions.

Psychotherapist Inquires

Minnesota Statute 148A ,requires school districts to inquire to listed employers within the past five (5) years concerning the occurrence of sexual contact with patients or former patients.

“Psychotherapist” means a physician, psychologist, nurse, chemical dependency counselor, social worker, member of the clergy, marriage and family therapist, mental health service provider, licensed professional counselor, or other person, whether or not licensed by the state, who performs or purports to perform psychotherapy.

Nepotism

Generally, districts should have policy in place to address nepotism.

Sample language –

No employee of the district shall be hired by or assigned to a position in which that employee is directly supervised by another employee who is:

1. *A member of his or her immediate family (parent, spouse, child or sibling);*
2. *An in-law; or*

3. *A member of the employee's household.*

In the event of marriage or adoption of an employee or if a member of an employee's family or household plans his or her assignment in conflict with this policy, transfers or other actions required to achieve compliance may be delayed until the completion of the school year in which the conflict arises.

The provision of this policy shall not apply to any assignments made prior to the adoption of this policy by the board.

We have an exception for situations approved by the superintendent, which, has come in handy for us.

Board of Teaching

Beginning the spring of 2009, school districts must check with the Board of Teaching prior to hiring a teacher to determine whether that teacher has been disciplined for sexual misconduct.

Discrimination/Blindspots ("Like Me" Bias)

All districts need to have a policy of nondiscrimination. This should pertain to discrimination in any matters concerning staff, students, education programs and services and persons with whom the board does business.

In addition to compliance with all federal and state laws, school districts must consider discrimination to be overt or covert behavior that excludes participation in or denies the benefits derived from any education program or employment opportunity based on race, color, creed, religion, national origin, sex, sexual orientation, marital status, disability, status with regard to public assistance and age. The Minnesota Human Rights Act provides protection of all of these categories and federal laws (Title VII, ADEA, ADA) provide protection for several of them.

School districts must establish and maintain a program designed to identify, remediate and prevent discrimination in employment, assignment and promotion of personnel; in education programs, services and opportunities offered students and staff; in location and use of facilities; and in education materials.

Districts must have a designated coordinator under Title IX of the Educational Amendments of 1972 (nondiscrimination on the basis of sex in education programs and activities, including employment and admission). That person must be responsible for coordinating district efforts to comply with Title IX, including investigation of complaints alleging noncompliance or alleging any actions prohibited by Title IX.

Veteran's Preference

Veterans of U.S. Armed Forces are given preferential treatment in employment situations under certain circumstances.

Veterans must present a DD214 and have actively served over 181 consecutive days to receive benefit.

Employers must use a 100 point hiring system, and must award an additional 5-10 points to veterans.

Some positions, are excluded from veteran preference laws.

In 2009 the legislature included teacher to be covered by the Veteran's Preference Act. This presented some significant challenges.

1. 100 Point hiring system
2. Non-renewal of probationary teachers
3. Termination of non-probationary teachers

This spring the legislature modified the statute to allow school districts to satisfy the 100 point system requirement by interviewing all veterans who apply.

Eligible veterans can only be discharged from public employment for incompetency or misconduct. They must be notified of and given appeal rights under Veteran's status. During appeal, they must be paid. Before terminating an employee you must always determine if the employee is a veteran and if appeal rights apply.

Minnesota Department of Labor and Industry

There is a lot of helpful information on their website which includes:

Federal Minimum Wage... this has increased to \$7.25 per hour effective July 24, 2009.

Child Labor... There are many restrictions on what workers under 18 years old can do as well as the hours in which they are permitted to work. They have a very helpful brochure available on this site.

Family Medical Leave Act and Parental Leave Act... There are many answers to FAQ

Overtime... There is a very informative brochure that highlights state requirements for overtime, how hours are counted, break-time, and defining exempt vs. non-exempt employees.

II. COMPARABLE WORTH/PAY EQUITY

Essential Information

State law requires all public jurisdictions including school districts to eliminate any sex-based wage inequities in compensation. MN Dept. of Employee Relations (DOER) Compensation Division staff assists local government employers in implementing this law. In 1992, the division began analyzing reports from local governments to ensure that compliance is achieved and maintained. The report is a mathematical analysis based on points assigned to positions. There are penalties for failure to meet compliance requirements.

What Does Pay Equity Mean?

Pay Equity is a method of eliminating discrimination against women who are paid less than men for jobs requiring comparable levels of expertise. This goes beyond the familiar idea of “equal pay for equal work” where men and women with the same jobs must be paid equally. A policy to establish pay equity usually means: 1) that all jobs will be evaluated and given points according to the level of knowledge and responsibility required to do the job; and 2) that salary adjustments will be made if it is discovered that women are consistently paid less than men for jobs with similar points.

A reporting schedule for Districts is established and available on line at www.doer.state.mn

III. WORKERS’ COMPENSATION/SAFETY

Injuries

Be sure your district has a procedure in place for the reporting of workplace injuries. The reporting needs to be maintained for an annual OSHA 200 log, which must be posted in each building.

Minnesota Occupational Safety and Health Act (OSHA)

Districts need to designate a safety manager. The safety manager, in cooperation with district leadership and a district-wide safety committee, needs to develop occupational/environmental safety and health programs that meet requirements set forth by state and federal health and safety regulations. These programs need to address training, procedures, personal protective equipment, medical requirements, enforcement, employee roles and all other such items required in the relevant standard. The district occupational/environmental safety and health program must fulfill three fundamental requirements: the district will provide a safe working environment; there will be safe performance by the employee in that environment; and the employee will strive to

prevent injuries and illnesses. The district and all employees must comply with state and federal occupational safety and health regulations.

Special Note: OSHA has been conducting audits of MN public schools. The audits are unannounced, have mandatory participation, and can result in major fines.

IV. BENEFITS

Most districts provide group plans for employees in:

- Health
- Dental
- Long-Term Disability
- Life Insurance

Specific information should be provided to employees at initial hire date and on an annual basis (at open enrollment period).

Spouses, newborns or adopted children... can be added to your health plan after becoming part of your family. Enrollment is required within 30 days of acquiring the dependent. (The notification period is not limited to 30 days for newborn dependents.)

Change of status due to divorce or legal separation... must be reported to the district within 60 days of the divorce date. Divorced spouses become ineligible as a dependent on the divorce date.

Unmarried children under age 26... can be covered under the family health plan until age 26 regardless of student status per Federal reform effective for plan years beginning after 9/23/2010. However there are state tax consequences for the employee if the child is not a tax-eligible dependent per the old definition. There is no federal tax consequence based upon the new federal dependent definition.

Continuation of Benefits: COBRA Rights

It is the employee's responsibility to inform the district of the change in the dependent's eligibility so that the COBRA continuation of coverage option can be provided. The qualifying events such as marriage, divorce, termination or a reduction in hours or an employee's death trigger notification requirements for the school district to offer continued coverage. These requirements apply to health, dental, life insurances, as well as, flexible spending accounts (FSA) and health reimbursement accounts (HRA). There was a temporary COBRA subsidy due to loss of job as part of the stimulus package (ARRA) which ended May 31, 2010.

V. COLLECTIVE BARGAINING

Timelines/Legal Notice

- Notice of Intent to Negotiate
- Notice of Intent to Strike
- Notice of Representation/De-certification
- Unit Determination Hearing

Intent/Notes

Notes from collective bargaining are very important. Keep good records of your understanding and intent. Do not destroy negotiation records ever.

Meet and Confer

There is a statutory requirement to meet with collectively bargained groups once per quarter outside of negotiations.

Grievances

Grievances are the accusation of a contractual violation, not a general complaint.

VI. OTHER AREAS OF DISCUSSION IF TIME PERMITS....

- Board of Teaching position on downloading of pornography
- Maltreatment reporting
- Closed board meetings for the purposes of discussing negotiation strategy
- Probationary teachers
- Unrequested leaves of absence
- Teacher termination
- Investigations and discipline
- Independent contractor vs. employee
- ADA & accommodation (newly expanded definition of disability)
- Reference checking and data privacy
- Unemployment compensation
- Medical leave and the FMLA
- Military leave
- Changes to how 403(b) plans are regulated

Resources:

Bureau of Mediation Services (BMS)

Phone # 651-649-5421

Web Site: www.bms.state.mn.us

Minnesota School Boards Association (MSBA)

Phone # 800-324-4459

Web Site: www.mnmsba.org

Minnesota Association of School Administrators (MASA)

Phone # 651-645-6272

Web Site: www.mnasa.org

American Association of School Personnel Administrators (AASPA)

Phone # 913-327-1222

Web Site: www.aaspa.org

Minnesota Association of School Personnel Administrators (MASPA)

President: Craig Holje

Phone # 612-798-6031

North American Association of Educational Negotiators (NAEN)

Phone # 503-588-2800

Web Site: www.naen.org

Minnesota State Negotiators Group

Facilitators: Paul Cady 763-506-1089

Annie Doughty 763-745-5014

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Minnesota Department of Employee Relations

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Web Site: <http://www.doer.state.mn.us/comp-pay-equity>

Private compensation consultants are available for services.

Minnesota Department of Labor and Industry

Web Site: <http://www.dli.mn.gov/main.asp>