

AGENDA FOR TODAY

➤ **General Employment Considerations**

- ❑ Equal Employment Opportunity (EEO) Laws and Relevant Policies

➤ **EEO Considerations – Performance Management**

- ❑ Performance Appraisals
- ❑ Disciplinary Actions

WHAT IS “EQUAL EMPLOYMENT OPPORTUNITY?”

- Fundamental concept of EEO – Employment decisions should be based on:
 - ✓ Employee’s skills;
 - ✓ Qualifications; and
 - ✓ Ability to do the job.
- It is **illegal** to make discriminatory or retaliatory employment decisions that are based on “protected” categories.

Overview of EEO LAWS

▶ Federal Law

- ❑ Title VII of the Civil Rights Act of 1964 (Title VII)
 - ❑ Pregnancy Discrimination Act
- ❑ Age Discrimination in Employment Act (ADEA)
- ❑ Americans with Disabilities Act (ADA)
- ❑ Equal Pay Act (EPA)
- ❑ Fair Labor Standards Act (FLSA)
- ❑ Family & Medical Leave Act (FMLA)
- ❑ Genetic Information Nondiscrimination Act (GINA)

▶ State Law

- ▶ Texas Labor Code Chapter 21- Employment Discrimination

EEO Protected Categories

➤ **Legally protected classes:**

- ❑ Race
- ❑ Color
- ❑ National Origin
- ❑ Sex (Gender)
- ❑ Age
- ❑ Religion
- ❑ Disability
- ❑ Genetic Information

➤ **UTA policy also protects:**

- ❑ Veteran status
- ❑ Sexual orientation

Applicable EEO **UTA** Policies and Procedures

UTA policies strictly prohibit employment discrimination and retaliation:

- HOP, Nondiscrimination Policy, 5-503
- HOP, Nondiscrimination Policy on Sexual Orientation, 5-504
- HOP, Sexual Harassment and Sexual Misconduct Policy, 5-513
- HOP, Lactation Policy, 5-527
- Procedure 3-16, Family and Medical Leave Act
- Procedure 3-25, Performance Management Review
- Procedure 3-49, Request for Accommodations Under the ADA (Americans with Disabilities Act of 1990) and ADAAA (Americans with Disabilities Act Amendments Act of 2008)

EEO CONSIDERATIONS IN EMPLOYMENT DECISIONS

AVOID



Pregnancy, Disability, Racial & Age

DISCRIMINATION

EEO Considerations

As a supervisor, EEO considerations should be taken into account in making these 2 employment decisions:

- **Performance Appraisals; and**
- **Disciplinary Actions.**

PERFORMANCE MANAGEMENT

Continuous Supervision Training
Measurable Priorities Communication Grow
PERFORMANCE
MANAGEMENT Commitment
Feedback Development HR
Improvement Employees
Objectives Goals Corrective
Direction Job Descriptions Review
Coaching Promote Monitor Reward

Applicable UTA Procedures

- Procedure 3-2: Definitions of Terms
- Procedure 3-23: Probationary Period for Classified Employees
- Procedure 3-25: Performance Management Review

UTA's Performance Management Policy

➤ Purpose:

- ❑ Increase two-way communication with your employees
- ❑ Develop clear, consistent and measurable goals
- ❑ Help identify and support professional development opportunities and needs
- ❑ Support and provide documentation for personnel actions; and
- ❑ Reward and recognize good work.

➤ Policy:

- ❑ Performance evaluations are based on **lawful, job related and non-discriminatory criteria**.

Manager's Responsibilities

- ▶ Aligning each employees' day-to-day job with objectives of your department (i.e., Why are we here? What is our goal?).
- ▶ Establishing a culture where employees can take responsibility for developing their own skills, performance and behavior.
- ▶ Providing performance expectations.
- ▶ Documenting individual performance (i.e., annual appraisals, counseling, etc.).
- ▶ Providing clear and constructive feedback.
- ▶ Reviewing performance in a fair and consistent manner.
- ▶ Recognizing strong individual performance.
- ▶ **Addressing poor performance and poor conduct.**

How can you be a good supervisor?

- ▶ Excellent communication skills
- ▶ Valuing employees
- ▶ Being a coach/mentor
- ▶ Providing frequent feedback
- ▶ Being an example
- ▶ Being approachable
- ▶ Being considerate
- ▶ Being honest
- ▶ Being positive
- ▶ Criticizes constructively



PERFORMANCE APPRAISALS



“I don’t have time to write performance reviews, so I’ll just criticize you in public from time to time.”

Job Descriptions: Why do they matter?

- Procedure 3-2, Definition of Terms defines “Job Description” as:
 - ✓ “The written description of typical duties and responsibilities, extent of supervision received and given, educational and experience requirements, and other pertinent factors for a given class of positions...”
- Job Descriptions/Performance Plans
 - ✓ Must match the job the employee is actually doing.
 - ✓ Expectations must be clear with both quality and quantitative measures.
 - ✓ Apply the criteria consistently to all employees.

Conducting the Appraisal – Timeliness

➤ Conduct in a timely manner.

- ❑ Probationary employees
 - ✓ 90 Days
 - ✓ 180 days
- ❑ Non-faculty employees
 - ✓ Annually
 - ✓ May be more frequently (at your discretion)

➤ Preparing for the appraisal.

- ❑ More than just completing the performance management form
- ❑ Frequent feedback
 - ✓ Mid-year or quarterly review
 - ✓ Retain copies of work or emails to use as examples
- ❑ There should be no surprises!
- ❑ Do not copy and paste from last year's appraisal

Conducting the Appraisal – Other Factors

- Be objective and consistent.
- Be kind but clear about your expectations.
 - ❑ Be heavy on specifics; and light on generalities and conclusions
 - ✓ “I need you to be on time because when you do not arrive on time other employees have to cover for you at the front desk—which impacts their job.”
 - ✓ “You hung up the phone without saying good-bye.” vs. “You are rude.”
- Remember that an overall rating of “solid performer” = “doing a good job”.
 - ❑ Only mark someone as being “above expectations” or “outstanding” if it is really accurate.
 - ❑ Do not over praise.

Addressing Issues

- Address **poor performance**
 - ❑ Communicate – don't wait!
 - ❑ Give employee an opportunity to correct and improve performance.
 - ❑ Provide specific examples.
 - ❑ Counseling or performance improvement plan, if needed.

- Address **conduct** that impacts performance
 - ❑ E.g., poor attendance, excessive socializing or unprofessional conduct.
 - ❑ Explain to the employee the business impact of negative behavior.

Documentation

The 5 “C’s” of Documentation -- “If it’s not in writing, it didn’t happen!”

- ❑ Contemporaneous

- ✓ If too much time elapses, then it is not really important.

- ❑ Complete

- ✓ Relay accurate facts without “editorializing”.

- ❑ Clear

- ✓ What is the desired correction needed by the employee?

- ❑ Concise

- ✓ Goal is to change the conduct/performance issues for the long term and to communicate consequences if things do not improve.

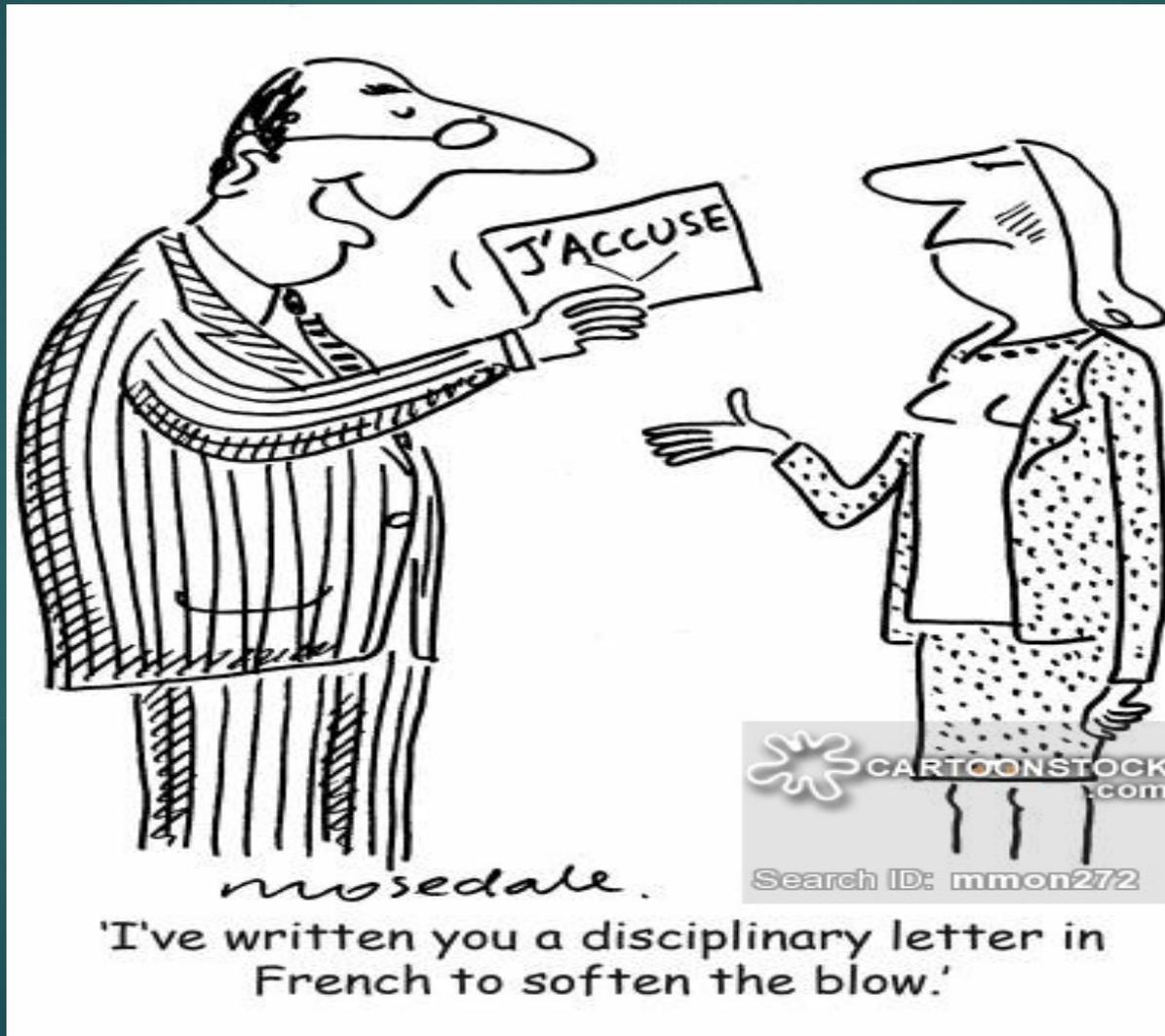
- ❑ Consistent

- ✓ Similar conduct issues should be addressed with appropriate disciplinary action.

“What if...?”

- ▶ Mohammed is an administrative assistant on your team. His budget reports often contain mistakes but they are always on time. According to his most recent PA, he consistently “exceeds” expectations.
- ▶ Emily is also an administrative assistant. Her budget reports contain some errors and are sometimes late. On average she meets all other deadlines and does decent work.
 - ❑ Same ratings for both?
 - ❑ Salary increases for both?
- ▶ Motivating poor performance via overstated evaluations is an outdated concept that does not work.
 - ▶ Possible discrimination claims?
 - ▶ Equal Pay Act?

DISCIPLINARY ACTIONS



Applicable UTA Procedures

- HOP 5-525: Discipline and Dismissal of Classified Employees
 - ❑ To encourage fair, efficient and equitable solutions for problems arising out of the employment relationship; and
 - ❑ Prohibits discrimination
 - ✓ Decisions must be based on lawful, job related and non-discriminatory criteria
 - ❑ Applicable to conduct or job performance
 - ✓ Demotion
 - ✓ Suspension without pay; or
 - ✓ Dismissal

UTA Discipline Process: HOP 5-525

- Supervisor reviews evidence and the proposed disciplinary action (DA) with the department head before taking proposed DA
- Must review with Vice President of HR/designee
- Must provide written reasons for the proposed DA to employee (e.g., intent to terminate)
 - ❑ Employee given opportunity to respond in writing/orally within 5 working days
 - ✓ "ground are incorrect"
- If not persuaded by employee response, then proceed with DA

HOP 5-525: Content of Disciplinary Action

- State whether demotion, suspension without pay or dismissal;
- Provide effective date of demotion or dismissal;
- Specify period for a suspension without pay;
- Identify specific incident/conduct/course of conduct/unsatisfactory work performance;
- Provide prior efforts to make employee aware of need to change or improve work performance/conduct;
 - ❑ *i.e., "Opportunity to correct"*
- Reference applicable rule, regulation or policy; and
- Inform employee of the right to written appeal along with copy of appeal process.

Corrective Action -- Up to and Including Termination

- ▶ Be *reasonable* in addressing performance and/or conduct issues.
 - ❑ Use policies and consult with HR.
 - ❑ Corrective actions are proportionate to the circumstances and the individual.
 - ❑ Focus on the important issue(s).
 - ❑ Consider incremental approach (unless serious!)
 - ❑ Otherwise– Termination is appropriate
 - ❑ **Document, document, document!**

Documentation

- ▶ Timing is everything.
 - ❑ Everyone has time to document properly.
 - ❑ If you wait too long, then not important.
- ▶ In Writing.
 - ❑ “If it’s not in writing, it didn’t happen”.
 - ❑ Format not important: memos; notebook entry; email (print and file).
- ▶ Be cautious about “over-documenting.”
 - ❑ Bullying complaint?
 - ❑ It can be unproductive and de-motivating.
- ▶ Be professional and honest.
 - ❑ Goal is to be motivate the employee to get on the right track – i.e., “opportunity to correct.”
 - ❑ Do not be mean or de-moralize.
 - ❑ Treat your staff fairly and reasonably.
 - ✓ Ask yourself: How would I want to be treated?

FINAL THOUGHTS

- ▶ Be professional.
 - ▣ "You can be 100% correct in what you say; But 100% incorrect in how you say it."
- ▶ Be consistent.
- ▶ Document frequently and accurately.
- ▶ Treat your staff fairly and reasonably.
- ▶ Always ask yourself:
 - ▣ "How do I want to be treated?"

QUESTIONS???

