

EXAM✓PREP

SPHR[®]

Senior Professional in Human Resources



Third Edition



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the appropriate employment service delivery system. Additional information on the mandatory job listing requirement is available on the OFCCP website.

Affirmative Action

OFCCP regulations implementing VEVRAA also require certain federal contractors and subcontractors to develop and maintain a written AAP. The AAP sets forth the policies and practices the contractor has in place to ensure that its personnel policies and practices do not limit employment opportunities for covered veterans. The AAP also spells out the steps the contractor will take to recruit, train, and promote covered veterans. Additional information about the written AAP is also available on the OFCCP website.

KNOWLEDGE

Knowledge 20

Impact of compensation and benefits on recruitment and retention

Compensation and Benefits

HR professionals need to be familiar with how compensation and benefits relate to recruitment and retention. As with many areas we have explored, there are legal and nonlegal dimensions to this discussion.

Sherman Antitrust Act, 1890

The Sherman Antitrust Act of 1890 was a law that was passed in an effort to curb the growth of monopolies. Under the Act, any business combination that sought to restrain trade or commerce would from that time forward be illegal. Specifically, the Act states that

- ▶ **Section 1:** “Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is declared to be illegal.”
- ▶ **Section 2:** “Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons, to monopolize any part of the trade or commerce among the several States, or with foreign nations, shall be deemed guilty of a felony.”

The Sherman Antitrust Act is relevant to compensation’s impact on recruitment and retention because an improperly conducted salary survey (or even information attempts to gather data on competitor’s wage rates) can constitute a violation of this Act.

Equal Pay Act, 1963

The Equal Pay Act of 1963 prohibits discrimination on the basis of sex in the payment of wages or benefits to men and women who perform substantially equal (but not identical) work, for the same employer, in the same establishment, and under similar working conditions. (An establishment generally refers to one specific physical location.) Similar to the way in which the Fair Labor Standards Act (FLSA) status is determined, substantial equality is determined by job content, not job titles.

Compensation Strategies

An often-embraced “default” position is that an organization “should” pay more than any other labor market competitor. This is not, however, the only option, nor is it necessarily the best option. Rather, there are three potentially valid strategies to consider, as discussed in this section.

Lag the Market

This is a compensation strategy in which an organization chooses, by design, or simply because of budgetary constraints, to offer total compensation packages that are less competitive than the total compensation packages that are being offered by their labor market competitors. Organizations that lag the market might offset this potential disadvantage by reinforcing and maximizing the intrinsic rewards that it offers—long-term potential growth opportunities, the ability to contribute to a particularly significant organizational mission, and so on.

Lead the Market

This is a compensation strategy in which an organization offers total compensation packages that are better than packages being offered by their labor market competitors. Organizations that lead the market may believe that higher compensation packages will attract higher-performing employees who will, in turn, pay for themselves, and then some. In short, these organizations want the best of the best and are willing to pay for it.

Match the Market

This is a compensation strategy in which an organization chooses to offer total compensation packages that are comparable to the total compensation packages being offered by their labor market competitors. Organizations that match the market make a conscious choice to be “externally competitive” with respect to total compensation.

WPE Responsibility 19

Develop and implement a record retention process for handling documents and employee files (for example, preemployment files, medical files, and benefits files).

RESPONSIBILITY

Documentation Strategies for HR Professionals

This particular responsibility, perhaps more than any other responsibility addressed in this chapter, takes a high -level overview of this portion of our function. By this, we mean that the records that must be maintained will vary—by law, by industry, by state, by jurisdiction—and by a dozen other factors.

It is overly simplistic to say “never throw anything away”—yet becoming a hoarder of records is probably equally ill-advised.

Within an organization, maintaining documentation is dreaded by many, postponed by most, enjoyed by few, and viewed suspiciously by others. HR’s role in establishing and maintaining legal and effective documentation practices is particularly pivotal.

With respect to WPE-related record keeping, HR is responsible for maintaining much of the information and documentation required to ensure compliance with federal, state, and local laws. A few examples of some of these record-keeping requirements stemming from this functional area include, but are in no way limited to, applicant flow data, veteran status, AAP-related data, and I-9 reporting.

A primary takeaway for this responsibility is that HR professionals must take great care in ensuring that they learn, know, and follow the unique retention requirements to which they are subject. This is not a responsibility that can be performed intuitively, nor is it one that can be adequately addressed within a book of this scope.

Also, keep in mind that maintaining documentation means more than just “being organized.” In a sense, this responsibility can be a “Catch-22” for HR professionals. By definition, the actions associated with maintaining documentation are transactional. They are not strategic in nature. They are also driven, in large part, by compliance requirements. But if we don’t perform this portion of our job well, it is unlikely that we will be given the opportunity to perform functions that are more strategic in nature. Why? One reason is fairly self-evident: if we cannot demonstrate the ability to successfully execute tasks of a more mundane and administrative nature, it is unlikely that we will be entrusted with initiatives that are more strategic or visible. The second reason can become painfully obvious: documentation, when mishandled, can lead to very real and tangible costs (human, as well as monetary) to the organization. These costs can, and often do, have a strategic impact.

Some documentation basics that HR professionals need to think about include these:

- ▶ **Know what needs to be documented:** This includes federal, state, and local requirements—as well as documentation mandated by collective bargaining agreements, employment contracts, and performance management programs.
- ▶ **Know how to document:** Many forms must be completed in accordance with specific, detailed, and mandatory guidelines. Those specific requirements can also impact the ways in which documents are maintained, stored, retrieved, and distributed.
- ▶ **Know what not to document:** Documentation takes two main forms—documentation that pertains to collecting and maintaining legally mandated record keeping, and documentation that pertains to performance management (in the broadest sense of that term). For purposes of this discussion, our focus will remain on the first type of documentation.

Here are some hands-on ideas to consider:

- ▶ Set up streamlined processes and procedures for handling routine and repetitive documentation requirements.
- ▶ Utilize technological tools, as appropriate and helpful.
- ▶ Maintain ongoing awareness of evolving laws and regulations to ensure they maintain continual compliance with potentially changing regulations.
- ▶ Incorporate fail-safe mechanisms into those processes. Even in the best-designed systems, it’s inevitable that things will go wrong. Make sure there is a way to identify and resolve insufficient or noncompliant documentation.
- ▶ Look for ways to use existing documentation more strategically. Ascertain how you can turn data into information and how you can use that information as you work to earn, or maintain, a seat at the table.

Applicant Flow Data

Employers also need to be cognizant of the need to maintain applicant flow data. Applicant flow data refers to information tracked by the employer relative to those individuals who are considered to have officially applied for a position.

The EEOC's definition of an applicant can differ, in some ways from the OFCCP's definition of an applicant. Employers—and HR professionals—need to know which definition to use, and when.

NOTE

The actual employment application cannot seek information relative to gender, race, or any other information related to protected-class membership. Removable pull-out/tear-off sheets, however, that contain information needed for applicant flow data are generally considered acceptable, when handled in an appropriate and legal manner. Such sheets request voluntary disclosure of such information from candidates; however, it must also be clear to candidates that deciding whether to reveal this information is a wholly voluntary choice that will not affect whether they will be offered employment.

What Is an Applicant?

On March 3, 2004, the EEOC, along with the Departments of Labor and Justice and the Office of Personnel Management (OPM), published recordkeeping guidance to clarify the definition of a “job applicant” for Internet and related technologies.

Just over four years later, on March 17, 2008, the commission voted not to finalize this guidance. Although this guidance still appears on the Internet, it has neither been endorsed nor implemented.

Meanwhile, back at the DOL...on February 6, 2006, the OFCCP published its final—and extensive—rules on Internet applicants. HR professionals must know and follow the details of the Internet applicant rule.

Employment Litigation Is No Laughing Matter

There's an old joke that goes something like this:

Question: “What's the difference between true love and employment litigation?”

Answer: “Employment litigation lasts forever.”

In truth, there is nothing funny about employment litigation. However, there's a valuable reminder that can be taken away from this quip: any written or electronic communication you create, in any form, is—for all intents and purposes—forever subject (potentially) to subpoena. This is particularly true for electronic communications—emails and even instant messages. Our most contemporary communications are, in some ways, even more permanent than the stone tablets of ages gone by—so be extremely prudent and careful about the documentation you maintain. You may one day have the opportunity to review it again—in a courtroom, in front of a jury, or on the front page of a newspaper.)

Knowledge 21

International HR and implications of global workforce for workforce planning and employment.

KNOWLEDGE

SPHR-level HR professionals may be called upon to serve the organization with respect to global staffing needs. This could manifest in one of three primary perspectives:

1. The perspective of the organization's headquarters. Employees who were originally based in the country in which the organization is based, and who are assigned to work elsewhere globally, are referred to as either expatriates (also called *ex-pats*), or parent-country nationals (PCNs). Ex-pats who are returning to the country in which the organization is based, after an international assignment, are referred to as *inpatriates*. It is often necessary and appropriate for the organization—often through the HR role—to assist in the inpatriation process. It is also important to note that this process will likely include the employee's family (if she has one), in addition to herself.

Example: An employee based in the company's New York headquarters location is assigned to work in Milan. This employee is an ex-pat. Upon her return to the U.S. four years later, she is an inpatriate.

2. The perspective of the country in which the organization does, or will be, operating. This is known as the *host* country. Individuals hired from that country, to work in that operating unit, are known as host-country nationals. Although this approach might appear to present fewer challenges, cultural issues—regional as well as organizational—often still persist. It is important for SPHR-level HR professionals to prepare themselves for these challenges, rather than to be surprised by them.

Example: A U.K.-based company decides to open a U.S. division, so it hires a U.S. resident to lead that division. That individual is a host-country national.

3. The perspective of the nation in which the employee resides—if he resides in any country other than where the company is headquartered, or where it is operating. These individuals are known as third-country nationals (TCNs). It is important to keep in mind that TCNs from multiple countries could work at any particular site—thus further contributing to cultural challenges.

Example: That same U.K.-based company decides to open a Canadian office. The U.S. division head has performed so successfully that he is assigned to start the Canadian office. He is a third-country national.

There are four primary strategies that organizations that operate globally use when approaching WPE needs:

1. **Ethnocentric:** An ethnocentric approach seeks to promulgate—literally, as well as figuratively—the culture of the organization as it exists in the home country (the country in which the organization is headquartered). This is accomplished through establishing consistent policies and procedures (to the degree possible), as well as by assigning many ex-pats to the overseas location. Overseas locations have little autonomy, and employees may experience cognitive dissonance—especially when host-country nationals compare their work experiences to those of colleagues at other organizations (in the country in which they work).
2. **Polycentric:** A polycentric approach respects, preserves, and cultivates the culture of the country in which the operation is based. Local employees are hired and may grow within their own country's operations, but are unlikely to become ex-pats themselves. They are also unlikely to work for ex-pats, thus minimizing the costs associated with relocating employees and their families to other countries and—eventually—bringing them back home again.

3. **Regiocentric:** The regiocentric approach is similar to the polycentric approach; however “borders” are defined by regional areas, rather than national boundaries. For instance, an organization might have a Latin American region, or an Europe, Africa and Middle East (EAME) region, rather than an Ecuadorian or Italian designation.
4. **Geocentric:** The geocentric approach does not distinguish or make decisions based on the country in which an individual happens to reside. Rather, this approach could be characterized by the phrase “the world is my oyster”—if oysters were candidates and the world was the relevant labor market.

HR professionals who find themselves responsible for international staffing must be familiar with their own organization’s strategies, as well as the implications of those strategies. There will likely be cost implications, cultural implications, and legal implications. The SPHR-level HR professional must be particularly committed to exploring and learning about these—and other—implications before embarking on international staffing responsibilities.