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HR411® Tip of the Week 8 Summer Hiring Mistakes— And How to Avoid Them?

During the summer months, employers' hiring needs often increase, whether it is because of seasonal fluctuations in business, greater-than-expected demand for products and services, or the opportunity to provide job-related experience to student interns. But, too often fundamental hiring practices are overlooked in favor of bringing someone on board quickly. The following are 8 common summer hiring mistakes and how to avoid them:

1. **Cutting corners.** When you need help quickly, it can be tempting to hire just about anyone. But, the ramifications of a bad hiring decision can affect your reputation, lower morale and productivity among other employees, and result in costly litigation. Prior to recruiting for an open position, employers should establish the job-related criteria they will use to make decisions and vet each candidate carefully, with attention given to employment applications, resumes, interviews, references, and background checks, where applicable. While all of this may seem daunting, consider using an online hiring solution that posts your job ads to multiple job boards and social media sites and helps you to manage applicants with an applicant tracking system.
2. **Assuming interns aren't entitled to pay.** Unless very narrow tests are satisfied, employers generally must pay interns at least the minimum wage and overtime in accordance with the Fair Labor Standards Act (FLSA) and applicable state laws. The Department of Labor uses a six-part test to determine whether an intern must be paid; all six criteria must be fulfilled for the internship to be unpaid. The reality is, very few internships will meet the six criteria. It is always a best practice to evaluate each situation on a case-by-case basis and when in doubt, pay interns at least the minimum wage and overtime when due.
3. **Forgetting new hire requirements.** Hiring a new employee triggers a number of notice, reporting, and documentation responsibilities. These obligations aren't limited to full-time employees; they also apply to part-time, seasonal, and temporary workers. For example, all new hires must complete Form W-4, appropriate state tax forms and a Form I-9 (Employment Eligibility Verification). Employers must also report all new hires to the appropriate state agency and provide all new hires with a Notice of Coverage Options, as required by the Affordable Care Act. Many states have additional notices that employers must provide at the time of hire. Visit the State & Federal Resources section of HR411 for more information.
4. **Lacking an orientation process.** Whether hiring for full-time, part-time, or temporary positions, employers should have an orientation process in place to help familiarize employees with their new job and the company. Employers should prepare existing employees for the arrival of the new hires by informing current employees of the assignments the new workers are hired to complete and the resources available to help them get up to speed as quickly as possible.
5. **Failing to provide adequate training.** Regardless of whether the employee is part-time, full-time, or temporary, providing effective training is important. Part-time and temporary employees should generally receive the same training as other new hires in the areas of anti-harassment, nondiscrimination, safety, and other important workplace issues. Additionally, if employees will be working outside during the summer, employers should provide training for staying safe in the sun and heat (e.g., information on staying hydrated, taking regular breaks in the shade and seeking protection from ticks and mosquitoes).

6. **Misclassifying employees.** Some employers mistakenly believe they can classify temporary workers as independent contractors simply because of their temporary status. The truth is, employers must satisfy specific federal and states tests, such as the IRS Common Law Test, in order to classify a worker as an independent contractor. These tests look at factors such as the nature of work and amount of control the employer has over the individual when determining employment status. A worker is presumed to be an employee unless these narrow tests are satisfied. Employers should carefully review and apply appropriate tests before classifying any individual as an independent contractor.
7. **Violating youth labor rules.** Many employers hire minors during the summer months and accordingly, must understand and comply with federal and state rules on the employment of minors. Generally, the Fair Labor Standards Act (FLSA) and state laws have guidelines regarding the hours and the types of jobs minors may work during the summer as well as throughout the year. For example, FLSA restrictions on hours worked are stricter for 14- and 15-year-old workers when school is in session. During the summer however, from June 1 through Labor Day, the FLSA extends the time 14- and 15-year olds can work from 7 p.m. to 9 p.m. Additionally, 14- and 15-year-olds can work a maximum of 8 hours on a non-school day; and 40 hours during a non-school week. State laws may have additional restrictions on the hours minors are allowed to work, and some states may also require employers to obtain a work permit before employing minors. Check your state law to ensure compliance.
8. **Failing to understand ACA implications.** It is important for employers to understand that hiring new employees may change their Affordable Care Act (ACA) obligations. Under the ACA, large employers (defined as those with 50 or more full-time (or equivalent) employees) must offer healthcare coverage to their full-time employees (defined as those who work an average of 30 or more hours per week) or they may have to pay a fine. This is commonly known as the “employer mandate” or “shared responsibility.” The employee count from the previous year will be used to determine whether the employer mandate applies. The federal government has published rules that provide guidance on the employer mandate, including rules relating to seasonal employees. Employers should make sure to review these rules to confirm that they are compliant with the ACA after filling their summer hiring needs.

Whether hiring a full-time employee or a seasonal worker, it’s important for employers to dedicate the time needed to find the best candidates for the job, follow all required new hire procedures, ensure proper pay practices, and comply with all federal and state laws that may impact the employer’s business after bringing new hires on board.



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