



Risk Management Solutions



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As an Employer, Good Job Descriptions are Your First Line of Defense

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More and more liability cases are concerned with employment practices. One reason is that there are so many laws that can be used as bases for an employment-practice liability claim. Some of those laws include the Civil Rights Act of 1964, the Fair Labor Standards Act, the Americans with Disabilities Act, the Family Medical Leave Act, the U.S. Equal Employment Opportunity Commission (EEOC) Rules and the Age Discrimination in Employment Act. There may be additional sections contained in your public entity's incorporating documents, in state laws and within workers' compensation statutes.

According to the EEOC, the mean direct payout from an entity for an EEOC claim is \$60,000 and, including indirect costs of the claim, can average out to \$100,000.

Good documentation of employment practices and actions have been known to reduce or eliminate liability exposure. One of the first forms of documentation, which needs to be accurate, periodically reviewed and updated, is a job description for every position. A good job description assists with making job interview questions legal and helps find the right applicant for the position. The job description will help the interviewer and applicants truly understand the position and determine whether there is a match of traits and qualities. During evaluation and promotion time, good job descriptions ensure evaluations and promotions can stand on their own merit without including emotions or favoritism. They make evaluations less subjective and generate more accountability.

Job changes, layoffs and firings are other processes that benefit from job descriptions. Having good job descriptions will assist in the process by making the decisions clear-cut and evenhanded, and will help make sure that documented justification for any decision is available.

Good job descriptions also help with getting an injured employee back to work after a workers' compensation claim. When an employee is injured, all efforts should be made to get that individual back to work. Doctors will review job descriptions to see if the position's functions match with the injured employee's limitations. If not, the job description will help in determining what modifications can be made so that the employee can still fulfill the major functions of his or her



position. If the employee's limitations are too great for his or her regular position, the decision to move the employee into a transitional duty position is now easily made because of the job description, thus taking emotion out of play. Here is an outline of headings or areas that all job descriptions should contain:

1. Purpose and Description

Explains why the job exists and briefly describes what the work entails.

2. Major/Essential Functions

These are the duties a person must be able to do in order to hold the position. (Example: If the person must drive in order to perform the job, he or she must be able to drive a vehicle legally.)

3. Minor/Other Functions

- a. These are other duties that the position in the past has completed and are likely to be assigned again but are not the major or essential functions of the job. (Example: Driving of vehicles could be part of the position, but if the person cannot drive, accommodations can be made so that the person can still hold the position.)
- b. This section also should list wording such as "and other duties as assigned." Once these "other duties" become common to the position, they should be listed in the major or minor duties.

4. Days, Hours and Environment Exposure of the Position

- a. This should also include shift work, possible changes of regular hours or days, overtime and frequency and likelihood of and type of travel.
- b. Environment exposed could include items such as heat, cold, noise, outside, inside, office or vehicle.

5. Bona Fide Occupational Qualifications

- a. Gender. (Example: A job description for a rest room attendant may need to be specific toward type of rest room.)
- b. Age. (Example: Lifeguards may have to be 16 or older.)
- c. Licenses. (Example: A delivery driver could be required to have a Commercial Drivers License.) You can also state that the person in the position has a certain timeframe to obtain the license.
- d. Education. (Example: A law enforcement officer could be required to have a high school diploma.) You can also state that the person in the position has a certain timeframe to obtain the education.
- e. Clearances. (Example: An electrical worker could need a security clearance to enter the power plant.) You can also state that the person in the position has a certain timeframe to obtain the clearance.
- f. Certifications. (Example: The safety officer could be required to be a Certified Safety Professional.) You can also state that the person in the position has a certain timeframe to obtain the certification.

6. Background Check or Credit Check If Required

These should follow the public entity's policies and procedures and be reviewed by the public entity's legal counsel to confirm that they follow current laws.

7. Physical Requirements

- a. The position should be reviewed to ensure that all likely physical requirements are listed. This can include visual acuity or being able to hear at a certain level or lift a certain weight. Point out that reasonable accommodation can be made if they are known. (Example: A delivery driver may be required to sit for extended periods.)
- b. Speak, read, write and comprehend (language) if it is required for the position.

8. Standard Goals for Position

These are the requirements for the position that are generally accepted. (Example: A driver could be required to drive 275 miles in five hours.)

9. Following Safety Program, Policies and Procedures Which Should Also Be Noted in the Employee Handbook

Should list the potential hazards of the position. (Example: A cleaning person could be exposed to chemicals.)

The job descriptions should clearly note that the description can be changed at any time and that it does not constitute an employment contract. The job descriptions should be reviewed at least annually, or whenever any of the sections discussed above change relating to the position. When there is a new hire and that person signs off on the job description, he or she should be asked if there are any Americans with Disabilities Act accommodations that the employee will need in order to fulfill the position as outlined in the job description.

Job descriptions are the keystone to other documentation, which helps make employment practices easier and keeps them in compliance with federal, state and local laws. From job descriptions come employee handbooks, job-safety, health analyses, manpower reports, evaluations and many more. Review your own job description to determine if it includes all of the items listed above. If not, you have your starting point and the first job description to update. ■

League Vice President Sadie Britt named to the MWCF Board of Directors

MWCF is pleased to announce that Councilwoman Sadie Britt of Lincoln joined its Board of Directors this past July. A retired school teacher, Councilwoman Britt was first appointed to the Lincoln City Council in 1993 to fill a vacancy. When the term ended in 1996, she ran for the seat and has been re-elected ever since. Councilwoman Britt has been very active with the Alabama League of Municipalities and has completed the League's Basic and Advanced Certified Municipal Official (CMO) programs as well as served as the vice chair and chair of the League's Committee on State and Federal Legislation. This past May, she was elected by her municipal colleagues to serve as League Vice President for 2014-2015, making her the first African-American woman and only the fourth woman in the League's 79-year history to serve in this position. ■



SAFETY DISCOUNTS AVAILABLE FOR 2015 WORKERS COMP PREMIUMS!

The Municipal Workers Comp Fund (MWCF) works to keep the premiums for our members as low as possible. In addition to the many available discounts MWCF members may qualify for, a full 10% Safety Discount can be earned by appointing a Safety Coordinator, signing the *Safe Workplace Guidelines, Post Accident Drug Testing Agreement* and having an approved *Medical Protocol* in place. Last year, 54 percent of MWCF members earned this full discount. These programs not only help to reduce claims but also put thousands of dollars back into the budget of those municipalities and municipal entities to be used elsewhere.

2015 Safe Workplace Guidelines

The *Safe Workplace Guidelines* is comprised of safety guidelines each member is encouraged to follow. It is updated annually and mailed to every MWCF member during November. **If it is signed and returned by December 1, 2014, a 3% discount will be reflected on the initial 2015-2016 billing. This two-page document must be renewed each year.**

Post Accident Drug and Alcohol Testing Program

The MWCF provides an additional 3% discount for those members that commit to a *Post Accident Drug and Alcohol Testing* program. In order to qualify, a member must sign a "Participating Commitment" (which will be enclosed with the above mentioned document) and have such program certified by their attorney that the member's drug and alcohol policy is Fourth Amendment compliant. Unlike the *Safe Workplace Guidelines*, this document does not have to be renewed each year.

Medical Protocol

Another 3% discount is available to those members who establish and implement a *Medical Protocol*. This program is a great benefit to both the member and the claims management team. A sample protocol will be included in the November mailout for those members that do not yet have one on file. For further information, call MWCF at **1-888-736-0210**.

MWCF members who participate in all three programs will receive a bonus 1% discount – earning those members a full 10% discount on their annual premium for 2015! **All members are encouraged to watch for the *Safe Workplace Guidelines* information packet coming in November and return it promptly to take advantage of these benefits.** It will also be available for downloading on our website by going to the MWCF page www.almwcf.org. ■

New Claims Clerk Joins AMIC Staff

Lee Ann Wilson joined the AMIC staff as a Claims Clerk this past June. She is originally from Sedalia, Missouri, and has lived in the Montgomery area since 1986. She attended school at the University of Missouri-Columbia and Troy State University-Montgomery. She is a former member of the Illinois and Alabama Air National Guard where she worked in office administration. Over the past 30 years, she has held a variety of administrative positions, including 10 years working in civil engineering on Maxwell AFB where she began as a dispatcher and progressed to Program Control Coordinator and then Program Control Supervisor.

Lee Ann lives in Millbrook with her husband Andrew Schuck. She has a son, Frederick Wilson, a stepdaughter, Cassie Bullard and a stepson, Mathew Schuck. She and her husband enjoy spending their free time kayaking, swimming and camping with their grandchildren, Dillon, Calli, Caitlyn and Timothy. She also enjoys reading and listening to audio books. ■



2014 SkidCar Schedule

Through an advanced, computer-controlled driver training vehicle known as the Skidcar System, trainees learn how to react quickly and safely to a range of hazardous driving conditions. Training is conducted throughout the state at a minimal cost.

For more information, contact Donna Wagner at 334-262-2566.

Sept. 30 - Oct. 10	Attalla
November 4-14	Orange Beach
December 2-11	Wetumpka

Date/location subject to change.



Loss Control Division

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- 5.014 Forklift Safety: Real Accidents, Real Stories
- 5.023 Machines, Operators and Guards: Real Accidents, Real Stories
- 5.069 Defensive Driving: When Good Weather Goes Bad
- 5.070 Driving Distractions of the Everyday Driver
- 5.071 Forklift Safety: The Triangle of Stability
- 7.129 The Buried Truth Uncovered with Eric Giguere
- 7.130 Drowsy Driving: It's Your Wake Up Call
- 7.132 Heat Stress: Real Accidents, Real Stories
- 7.133 The Top Five Things You Need to Know About the Flu
- 8.013 An Introduction to the Globally Harmonized System
- 9.106 Cops and Ethics
- 9.108 Traffic Stops of Sovereign Citizens
- 10.010 Office Ergonomics: It's Your Move

**Video/DVD requests to: Rachel Wagner at: 334-262-2566;
rachelw@alalm.org; or FAX at 334-263-0200.**

Employment Practices Law Hotline

1-800-864-5324

Through a toll-free Employment Practices Law Hotline, members can be in direct contact with an attorney specializing in employment-related issues. When faced with a potential employment situation, the hotline provides a no-cost, 30-minute consultation.

www.losscontrol.org