Compliance Briefings

September 16 and September 30, 2009
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Compliance Briefing

AGENDA

INTRODUCTION

- Welcome
- Introductions
- Acknowledge participants of focus groups
- Our work to date
- Next steps
AGENDA

WHY A COMPLIANCE PROGRAM?

OTHER RESOURCES

CONCLUSION
LIST OF TOPICS

- Time and Leave
- Make up time
- Volunteers
- Unpaid Student Trainees
- Alternative Work Schedules
- Telecommuting
- Telecommuting Agreement
- Search
- Personnel files
- Record keeping
- Confidentiality Agreement
- Medical Privacy
- HIPAA
- HSSC
- Workers Compensation
- Compliance Communication
- Training
WHAT CAN GO WRONG?

- Violations can lead to liability in terms of
  - Money
  - Morale
  - Recordkeeping/Reporting
  - Reputation
WHAT CAN GO WRONG cont.

- We retain information we should discard
- We discard information we should retain
- We fail to protect confidential, medical, or protected health information about employees and patients
WHAT CAN GO WRONG?

- Employees are not paid appropriately
- Employees are not trained appropriately
- Employees do not get benefits they are entitled to receive – or receive benefits they are not entitled to
- We fail to protect employee health
- Employment decisions are based on unlawful considerations
Time and Leave

- Employees are **EXEMPT** or **NON-EXEMPT**

- **Exempt** -- What are they Exempt from?
  - Overtime provisions of Federal and State law
  - (And some other requirements – e.g., timekeeping, rest breaks, meal breaks)

- **Non-Exempt** – Specific rules apply that we must follow
Overtime

- California law requires **daily overtime pay** when employee works >8 hours/day (federal is weekly overtime only)
- California and federal law require **weekly overtime pay** when employee works >40 hours/week
- Overtime is also required for the 7\(^{\text{th}}\) consecutive day of work in a work week
Overtime cont.

- Overtime = \textbf{1.5x pay} for hours 8-12; \textbf{2x pay} for hours over 12 in one work day

- Overtime = \textbf{1.5x pay} for hours 1-8 on 7\textsuperscript{th} workday in one work week and \textbf{2x pay} for hours over 8

- Employer is not required to “pyramid” overtime premiums

- \textbf{Stanford requires overtime to be approved in advance} – AGM 22.4 (but overtime has to be paid even if not pre-approved)
What Can Go Wrong?

- **Labor Commissioner claim** for unpaid wages
- **Penalties**
- (Plus morale issues, equity issues, recordkeeping problems, etc.)
Make Up Time

- **EMPLOYEE** (not employer) for personal reasons can ask to shift work hours from one day to another during the same work week – employer must approve the request.

- **No overtime payment required** for the “make up” hours if they do not exceed 11 hours of work in one day (or 40 in one week).

- **Request must be in writing** signed by the employee; can be for up to 4 weeks in advance if situation is recurring.
  - AGM 22.4
What Can Go Wrong

- **Labor Commissioner claim** for unpaid wages (overtime)
- **Penalties**
- (Plus morale issues, equity issues, recordkeeping issues)
Volunteers

• A **VOLUNTEER** is not an employee

• The **VOLUNTEER’s intent** is to volunteer his/her services for civic, charitable, or humanitarian objectives without expecting or receiving pay

• A volunteer **DOES NOT** “volunteer” to “get experience”, “keep skills fresh”, have something to do until the Visa comes, etc. – if that’s the intent, the person is an employee
Volunteers cont.

- At SoM, cannot use a “volunteer” to do work that would otherwise be performed by an employee.

- At SoM, extremely rare that a person will be approved to volunteer.

- All volunteer arrangements must be approved in advance by Employee Relations.
What Can Go Wrong?

- Labor Commissioner claim for unpaid wages
- Penalties
- Morale and equity issues
Unpaid Student Trainees

http://hrg.stanford.edu/toolkit
Unpaid Student Trainee Requirements

- Must be a high school or undergrad college student
- Can not be a post doc scholar
- Grad students & medical students are reviewed on case-by-case basis, but most often are visiting researchers
- May need a work permit if under 18
Unpaid Student Trainee Requirements (cont.)

- Must be training that is for benefit of student, not Stanford

- Does not displace employees or do work in which employees would normally engage
Unpaid Student Trainees Process

- Contact Employee Relations

- Submit Request for Student Trainees to Employee Relations for approval
Unpaid Student Trainees Process (cont.)

- If approved:
  - Obtain parental consent form for minor to work in potentially hazardous work areas
  - Provide student with approved Request Form which includes a job description and the Transportation and Safety information
  - Complete the Checklist for Student Trainee Assignment
  - Samples can be found on HRG Tool kit under Employee Relations
Alternative Work Schedules for Non-Exempt

Admin Guide 22.4
Alternative Work Schedules

- An Alternative Work Week is a standard work week (40 hours) which is condensed to less than 5 days.

- An example is four 10-hour work days in a work week.

- These alternative work weeks can be established without the requirement for overtime pay within certain parameters if certain legally required procedures are followed.
Alternative Work Schedules
Requirements

- Contact an Employee Relations Specialist if you are considering establishing an alternative work schedule

- There must be a meeting with the affected work group in which the employees are given a written detailed disclosure of the terms and conditions of the alternative work schedule

- A secret ballot election by the affected employees must be conducted
Alternative Work Schedules
Requirements (cont.)

- 2/3 of the employees must vote for it

- What Can Go Wrong? If you don’t go through the proper legal procedures to implement an alternative work schedule, you will be liable for overtime even if you and the employees are happy with the arrangement!
Telecommuting

Flexible Work Option-Flex Place

http://hrg.stanford.edu/FlexibleWorkplace.htm
http://elr.stanford.edu/flex.html
Telecommuting

- Allows an employee to work from home or a remote location
- Supervisor approval required
Telecommuting Considerations to take into Account

- Nature of work: Can it be done remotely?
- Needs of department and co-workers
- Appropriate supervision
- Legal liability issues
- Health and safety issues
- Completion of Trial Period
Telecommuting Considerations cont.

- Performance management and productivity
- Degree of interaction (in person/by phone) with other University offices
- Funding restrictions
- Can supervisor verify time spent working?
- Current job performance
- Technology requirements (computers, internet access, phones)
- Is remote location free of distraction?
Telecommuting Requirements

- Consultation with Employee Relations

- Written, signed agreements that set out terms and conditions are required for:
  - All non-exempts
  - Exempts who regularly telecommute more than 1 day per week
  - All written agreements must be approved by Employee Relations

- Terms and conditions include:
  - Number of hours/days expected to work at remote location vs. Stanford
  - Description of the work to be performed remotely
Telecommuting Requirements cont.

- Terms and conditions (cont.)
  - Material and equipment that will be supplied and paid for by Stanford
  - Expenses that will be reimbursed by Stanford
  - Travel expenses, if any, that will be reimbursed
  - Terms for requesting and working overtime, requirements for rest breaks and lunch breaks for non-exempts
- Home Office Safety Checklist
- Confidentiality Agreement
Telecommuting Requirements cont.

- **Out of State:** If primary worksite is out of state, applicable laws such as state taxes, workers comp and other employment related laws need to be followed. Payroll must be notified and consulted. Fees are required. See Admin Guide 23.11

- **Out of Country:** Very complicated. Contact Employee Relations

- A pilot period with regularly scheduled reviews is highly recommended

- These arrangements should be monitored at regular intervals to ensure conformance with operational needs
Searches

ADMINISTRATIVE GUIDE MEMO 22.1:
Employment of Regular Staff
Searches

- Should be run in a fair and consistent fashion.
- Comply with
  - All applicable affirmative action requirements
  - Title IX of the Education Amendment of 1972
  - Equal Employment Opportunity Statement
  - Office of Federal Contract Compliance Programs (OFCCP)
Candidates interviewed must meet all the posted required qualifications

<table>
<thead>
<tr>
<th>Qualifications from posting</th>
<th>Applicant A</th>
<th>Applicant B</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proficiency in desktop applications (Microsoft Word, PowerPoint, Excel, Outlook, and Access).</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>Certified Event Planner</td>
<td>NO</td>
<td>YES</td>
</tr>
<tr>
<td>Two year degree required</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>Four year degree desired</td>
<td>YES</td>
<td>NO</td>
</tr>
<tr>
<td>Three years related work experience required</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>Five years related work experience desired</td>
<td>YES</td>
<td>NO</td>
</tr>
</tbody>
</table>
Search Files, Search Summaries

- To record what happened during the search
- Detail instructions in the HRG toolkit.
Search Files, Search Summaries

- Made up of the following items
  - Position Summary
  - Interview Questions
  - Posting text
  - All applicants must have a status recorded
  - Interview Questions/Notes
  - Completed application forms from all interviewed candidates
  - Letter of References and/or notes from references
  - Correspondence with candidates
Search Files, Search Summaries

- Information can be kept electronically or in paper format
- Keep records for a minimum of three years following the hiring decision
- Should there be a dispute (grievance/litigation) the documents must be retained until the matter is resolved, if not resolved by the conclusion of the three-year period
Personnel Files

Reference: AGM 22.2 See *Records Retention Chart* at:
http://hrg.stanford.edu/employee.html
Personnel Files

- Employee personnel files should contain only that information which directly relates to:
  - The employee’s job duties
  - Salary
  - Performance
  - General Employment History

- In general, information that has not been shared with the employee does not belong in the file(s)
Types of files that are discoverable

- Personnel file
- Supervisory file
- “Shadow file”
- Medical file
- Time and Leave records file
- Legal file
- Computer files
Personnel Files

Documents that should not be found in a personnel folder:

- “Notes to the file” and other documentation not addressed to the employee
- Medical information
- Memos between management and the Compensation or Employee Relations office
- Personal financial information (loan applications, garnishment information)
Personnel Files cont.

Documents that should not be found in a personnel folder:

- Most legal information (communication from or to University attorneys, settlement agreements, employee lawsuits, employee charges to outside agencies, grievances, employee relations advice)

- Records relating to the investigation of a possible criminal offense
Personnel Files

- Only those staff members with a business need may review individual personnel files

- Any summons or subpoenas for documents in these files should be sent to Employee Relations

- Only dates of employment and title should be released to non-Stanford hiring managers
Stanford does not respond directly to any outside employment verification request; third party service verifies employment and salary.

Local personnel files should follow the employee from one department to the next. This includes and employee’s time and leave records.

Local files should be kept in a secure location.

Employees cannot maintain their own personnel files.
Confidentiality Agreements


- Essential that employees honor the confidentiality of all sensitive information and use care that it is not intentionally or accidentally disclosed

- Do all employee files have a signed Confidentiality Agreement (including staff who have transferred into your unit from other Stanford Departments)?
Record Keeping
Reference: AGM 22.2

See records retention chart at http://hrg.stanford.edu/employee.html
Record Keeping

- Generally, records of former terminated employees should be maintained for 8 years.

- If a claim is brought involving an employee then file is to be maintained until the disposition of the claim is final.

- Contact Employee Relations before files are destroyed.
Medical Privacy for Employees

Reference: AGM: 22.2, 23.10

- All medical information for an employee should be kept separate from the employee’s personnel folder

- This information should be kept in a locked and secure location

- The information does not transfer with the employee’s personnel folder
Medical Privacy for Employees cont.

- File are to be maintained for 8 years after employee terminates

- Checking with Risk Management & the Diversity office if departmental medical files can be merged with their official files
HIPAA
Health Insurance Portability and Accountability Act

- Creates national standards to protect the privacy of individuals’ protected health information (PHI)
- Establishes standards for securing PHI in electronic form (the Security Rule)
HIPAA Procedures

- SoM IRT Security has developed procedures to ensure that the Privacy and Security Rules are followed.

- SoM requires all employees to be aware of HIPAA even if an employee is not actually handling PHI.
HIPAA Requirements

- All new employees must be trained within 30 days
- Employees who handled PHI have to be trained prior to initial contact with PHI
- Transfer employees need to be trained within 30 days
Workers Compensation (WC)

Reference: AGM 25.6, 25.2,
http://www.stanford.edu/dept/Risk-Management/

- Program is administered by Risk Management
- Department’s responsibility:
  - Report an event that happened at work even if it might not be work related
  - Posters are to be put up in a common area
Workers Compensation (WC)

- Accident reporting is a federal and state requirement
- Non-taxable benefit administered by Zurich Intl.
- Employee may choose an Alternate Health Care Provider instead of being treated by SUOHC; provider must be identified in advance
WC Reporting guidelines

- **SU-17: Accident/Incident/Exposure Report:** Submitted in the event of an employee or nonemployee accident, incident or exposure
  - **Time Limit:** Within 24 hours of injury
  - **Applicability:** Applies to all employees (FT, PT & temporary as well as to students & visitors)
  - **Who signs:** Supervisor completes this form
  - Should be signed by both injured or exposed party and supervisor
  - If it is difficult to obtain injured party’s signature departments should submit the supervisor’s statement immediately
WC Reporting guidelines

DWC From-1: Employee’s Claim for Workers’ Comp Benefits. Given when a doctor is seen regarding the injury, incident or exposure

- **Time Limit:** Form must be signed by a Univ. rep and then given or mailed to employee within 24 hrs

- **Applicability:** All employees (FT, PT & temps)

- **Who Signs:** Employer/Supervisor/Administrator
  
  • Injured party signs if an SU-17 or 5020 is filed
WC Reporting guidelines

- **Cal-OSHA Form 5020**: Submitted when an injury results in lost time beyond day of injury or when medical treatment was administered by a physician in a medical location.

- **Must be typed**

- **Time Limits**: Within 24 hours of occurrence

- **Applicability**: SU employees only (including PT & temps)

- **Who signs**: Employee’s supervisor
WC Reporting guidelines

- **SU-16 (Workers’ Comp. Lost Time Report):** Submitted to comply with OSHA reporting and to stop temporary disability payments for WC

- **Time Limit:** When employee returns to work

- **Applicability:** Employees who have lost one-full day or more following the day of an accident or work-related illness

- **Who signs:** Submitted on-line by HRM/HRA
HEALTH SCREENING, SAFETY AND COMPLIANCE (HSSC)


**Purpose:**
- To protect the health and safety of employees from potential occupational exposure to biohazards in the workplace
- To prevent a potentially infectious worker from exposing patients and study subjects
- To minimize institutional liability related to employee contact with patients and/or human subjects
Employee Health and Safety Programs are mandated under various sections of:

- The California Code of Regulations (CCR)-CAL OSHA Standards:
  - Title 8 Workers Safety
  - Title 22 Health Care
HSSC Risk Information-Employee

- Health Screening is required for those staff involved in clinical research who provide patient care or encounter patients or human subjects in the course of performing their job duties.

- Questions that will help you determine if an employee needs to participate in the HSSC program:

  - Will employee routinely handle identifiable data of human subject research participants?
HSSC Risk Information-Employee

- Will employee have in person, face-to-face contact with human subject research participants and/or exposure to blood borne pathogens, bodily fluids or tissue?

- If employee only has exposure to BBP, bodily fluids, and tissue they do not have to be in the HSSC program – they would complete the H&S BBP course
HSSC Program

Three parts:

- RN License Verification (verified at time of hire, renewals, transfer, change in status)
  - http://www.rn.ca.gov/

- Health Screening (Medical Surveillance)
  *Screening Questionnaire
  *Health Screening Authorization
  *TB Questionnaire
  *Occupational Health Clearance

- Employee Safety & Compliance Training (Health Stream)
Department Responsibilities

- Identify non-faculty clinical research staff for HSSC Program (HSSC Assessment Form)
- Provide instructions/forms to staff
- Track employee compliance
  - Maintain employee file to verify
- Coordinate with HRG as needed to enforce HSSC requirements
Trainings

- Is there a process for identifying required trainings for staff?
- Are employees informed of required trainings in a timely fashion?
- Does your unit verify training requirements were met?
Department Communication of HR policies and practices?

- What does your department do?
- How are HR policies and practices communicated?
- Do you have a process for informing supervisors of policy changes?
Other Resources

- Administrative Guide
- HRG
  - Compensation Team
  - ER Team
  - Website (Check Lists, Templates, Job Aids, Guidance)
  - Periodic compliance e-news flashes (new)
Other Resources cont.

- Ongoing Trainings and Briefing
  - Monthly ER Talk
  - Quarterly Q&A sessions
  - Quarterly Compliance Update (new)
  - Bi-annual Supervisory essentials
  - Annual Legal Update
Next steps?

- **FY2010**
  - September 30 – Compliance Briefing (same as today)
  - ~November – Compliance Self-Assessment; compliance topics will be included in future HRG trainings based on the needs you identify and the results of the self-assessments
  - ~January – Annual Legal Update (will include any compliance changes); quarterly compliance updates and periodic e-news flashes after that
Next steps cont.

- **FY2011**
  - Continue compliance self-assessment, adding additional compliance topics as necessary
  - Evaluate whether enhanced focus on compliance has been effective in increasing awareness, achieving compliance, and reducing risk
Thank you!!