



LAW OFFICES OF SPECTOR, MIDDLETON, YOUNG & MINNEY, LLP

TOP 4 SUGGESTED NEW YEAR'S RESOLUTIONS FOR CHARTER SCHOOL EMPLOYERS

At this time of the year, many of us make more promises to ourselves than we can possibly keep. So, with the understanding that resolutions are goals and each may not necessarily be met, I offer a hopefully more attainable list of four significant New Year's resolutions to consider that will save your School considerable time, energy and money in the long run:

1. **Create A Big Picture Organizational To-Do List:** If you have not done so already, create a running list of issues/problems which have occurred this school year so the School may consider whether it must make any future changes to employment policies/handbooks to better address such matters when they occur again in the future.
2. **Maintain Comprehensive Complaint Resolution Process:** Review your employment handbook or policies to ensure the School maintains an effective, integrated and comprehensive complaint policy for all types of complaints.
3. **Review and/or Create Essential Job Descriptions:** Ensure your job descriptions are in place for all positions in your organization and particularly ensure those employees who are classified as exempt from overtime truly are exempt employees.
4. **Schedule Required Performance Evaluations:** Ensure all promised performance evaluations are scheduled with employees and are carried out consistent with any promised time frame.

The To-Do List: No personnel system will be perfect, and inevitably every employer will have difficult situations as well as claims of all kinds filed and some times, yes, lawsuits. This is true even when everything is done properly. However, this reality should not deter our efforts in maintaining a comprehensive resolution oriented process is in place. Moreover, in the event we are prepared to acknowledge we have made mistakes, the best we can do is to learn from such mistakes. One way to do this is to track issues that may require further policy work by the School or other actions. In some cases, of course, immediate corrective action will be required. However, this running list may then be incorporated into an annual or other periodic review process for the School's policies and procedures to be effectively updated and disseminated.

Complaint Resolution Process: Failure to address complaints adequately is a leading cause of liability for any employer but particularly for the charter school employer. Such failures can also be damaging to employee morale, the community and the School's relationship with its granting agency to name a few serious problems. As such, it is critical that a detailed process is in place at your School to ensure all kinds of complaints (parent, student, employee, community member, etc.) can be received and processed by the appropriate person and these policies should be well publicized. It is generally advisable to maintain separate policies for different types of complaints. For example, the School should maintain a Uniform Complaint Policy for programmatic related complaints. It must also maintain a specific anti-sexual harassment

complaint policy and a policy for complaints against personnel. As a related point, at-will employers must be careful not to maintain a complaint policy that provides hearing or meeting rights or other forms of due process that may be unintended.

Job Descriptions: Every good employer will have a clear idea of the essential and secondary job duties required of every position. Further, employers must be aware of the minimum legal requirements to ensure if employees are working beyond 8 hours a day or 40 hours per week that such employees are either compensated for overtime or properly characterized as an exempt employee. For example, as of January 1, 2008, an employee must make at least \$33,280 per year to be considered exempt from overtime requirements. Additionally, to lawfully be exempt, the employee must also be performing a majority of duties that may be administrative, management or professional in nature [under the applicable legal tests] and the employee must exercise a significant level of discretion over his or her position. Accordingly, every employer should have in place job descriptions for all positions, especially those the School claims to be exempt and such job descriptions should reflect the necessary level of discretion given to the employee to protect against future claims of misclassification. Such claims can be very costly.

Performance Evaluations: Finally, performance evaluations are the cornerstone of any good system of personnel administration. They are not necessarily intended only as a tool to weed out poor performing employees, but more importantly, they are a primary tool for formal communication between the employer and employee on the essential components of the relationship. Evaluations are also an opportunity for the employer to acknowledge good performance and to assist employees who may be failing to meet requirements. When performance evaluations are not performed, even in cases when performance is poor or there may be parent or other complaints against an employee, a personnel action can be very difficult to defend and expensive. In this way, conducting timely performance evaluations can mitigate liability, improve employee morale and accelerate the School's achievement of its primary goals.

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Like any resolutions, these are goals and your School may just be lucky enough to not encounter any serious problems. But, this is California and it is best as an employer here to be prepared for the worst and hope for the best. Happy New Year!

If you should have any questions concerning these issues, please contact Jim Young (jyoung@smymlaw.com) or Chastin Pierman (cpierman@smymlaw.com) at the Law Offices of Spector, Middleton, Young & Minney, LLP at (916) 646-1400.

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