

# **Best Employment Practices For Houses of Worship**

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# Employee Harassment

- Harassment Policy
  - What is harassment?
  - Procedure for dealing with harassment
  - Confidentiality?
  - Prompt investigation
  - Training to prevent harassment

# Minister Exclusion

- Individuals performing the duties of a minister are exempt from application of employment laws.
- Different definition from IRS and ecclesiastical authorities
- No ministerial credential required
- Position must be integral to the practice of the faith

# Best Hiring Practices to Avoid Discrimination

- Review the application and compare with the job description
- Select the best match of skills with essential job requirements
- Call references – only ask job related questions

# Best Hiring Practices

- The interview is high risk for unlawful discrimination
- Cannot ask about any of the characteristics of a protected class except religion for certain positions
- Common mistakes include asking about marital status and children

# Best Hiring Practices

- Run background checks on the finalists with their written permission
  - Criminal background checks for positions exposed to children, youth or elderly
  - Credit checks for positions involved with finances or accounting

# Reference Checks

- Before taking adverse action
  - Give a copy of the report to the applicant
  - Give summary of their rights to the applicant
  - Give applicant notice of adverse decision

# Reference Checks

- Liability for noncompliance
  - Prison
  - Fines



# Terminating Employees

- Start by hiring great, qualified people
- Document problems contemporaneously
- Timing
- Final meeting
- Releases?

# Compliance with Minimum Wage/Overtime Rules

- Review job descriptions to determine if position qualifies as exempt.
- Minimum wage for exemption from overtime is \$455 per week
- Only exemptions from overtime recognized are Executive, Administrative, Professional and Computer Professional

# Compliance with Minimum Wage/Overtime Rules

- Salaried does not equal exempt from overtime
- Docking an exempt employee's salary can convert them to nonexempt
- Exempt employee cannot perform nonexempt duties more than 20% of their work time

# Compliance with Minimum Wage/Overtime Rules

- Comp time does not exist in the private sector
- Overtime is all hours worked over 40 within a seven day work week. (Federal Rule).
- Overtime is all hours worked over 8 within a 24 hour day. (California Rule.)

# Work Time

- All time is work time when the employee works or must standby for work.
- Special rules for travel time.
- Training time is work time.
- On-call and breaks are work time.

# Recordkeeping

- Time sheets must be kept for all nonexempt employees.
- Exempt employees have minimum documentation requirements.
- Time records must be kept for two years.
- Fines maybe assessed for inadequate records.

# Thank you

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