



# Counties: Best Practices in Human Resources

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# Source of Today's Advice

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- ✓ County Commissioner – Portage County (including CCAO Board)
- ✓ Attorney in Prosecutor's Office Civil division
- ✓ Attorney in private law firm, representing public sector clients
- ✓ Litigation experience in complex civil litigation cases
- ✓ Workers' compensation Hearing Officer (Ohio Industrial Commission)
- ✓ Director of Risk for Ohio Turnpike & Infrastructure Commission
- ✓ Appointed by Governor to Ohio Self Insured Employer Evaluation Board
- ✓ Board Member – Ohio Self Insured Association
- ✓ Parent – so I am well acquainted with criticism



## **THE BEST DEFENSE IS A GOOD OFFENSE**

(This is our real message for today.)





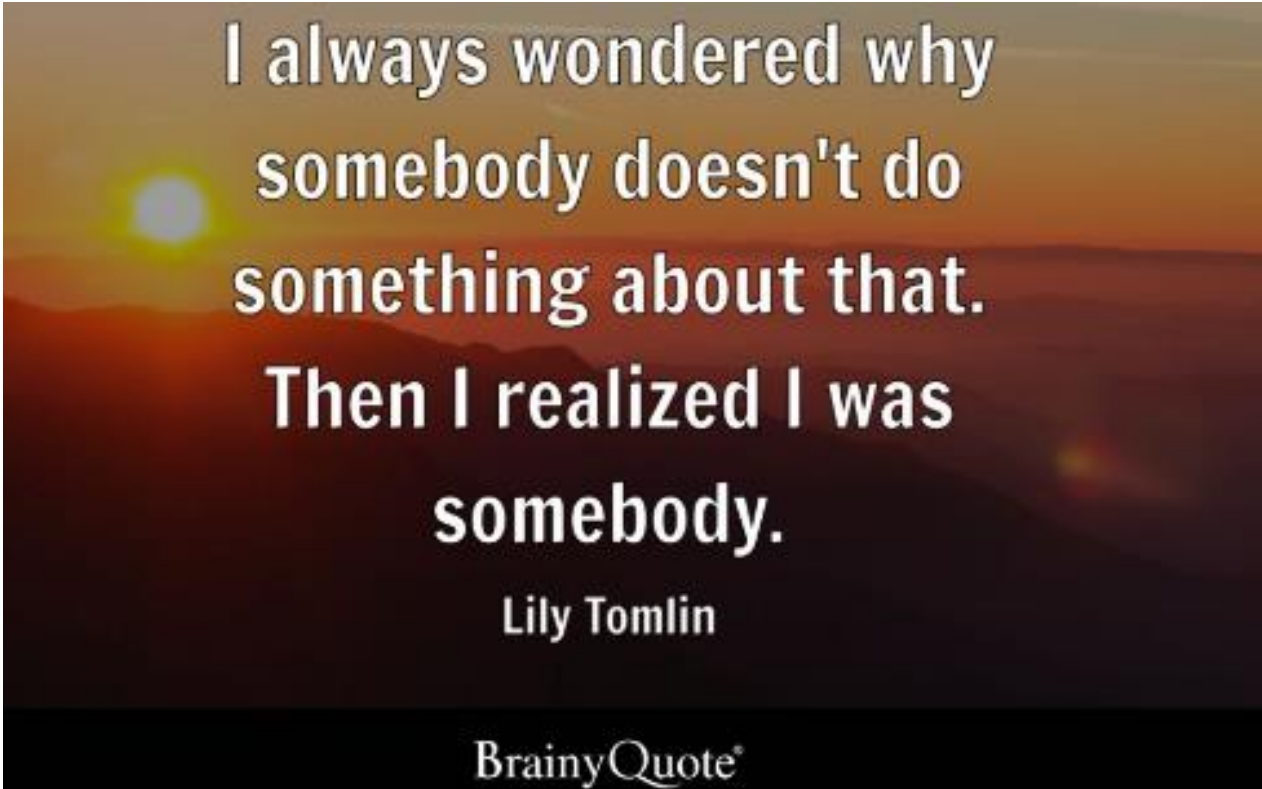
THE BEST DEFENSE IS A GOOD OFFENSE

**WHY???**

# The case for prevention – focus on “offense”

- Litigation is costly
- Positive work environments can be ruined by the conflict of litigation - everyone knows and is talking about the case
- Proof problems are real
- Erodes public trust, even if you “win.” Winning means you only pay some money
- People often do not bring a lawsuit because of a problem...they often litigate because of how their employer made them FEEL (not heard, not respected, not understood, not prioritized)
- Soft skills are significant and impact is real

*Anger is an acid that can do more harm to the vessel in which it is stored than to anything on which it is poured. -Mark Twain*



I always wondered why  
somebody doesn't do  
something about that.  
Then I realized I was  
**somebody.**

Lily Tomlin

BrainyQuote®

# Road Map for our Discussion of Topics

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This presentation is not intended as legal advice and counsel should be consulted with legal questions

1. Unique aspects of HR for Ohio counties
2. Importance of policies and practices
3. Advice and tips for current “hot topics” in your county’s policy and practice
4. Improvements – where to start?





# Unique Aspects of County Human Resources

## Public Records:

- Ohio Revised Code (R.C.) 149.43 “public records means records kept by any public office, including but not limited to.....counties.” This code section identifies process for complying with requests.
- Most records impacting HR are a “public record,” including the employee’s file
- Medical information is private; it is not a public record
- Discussions of Board have executive session option – but action is in public session

## Collective Bargaining:

- Public employees have right to collectively bargain
- Written agreement governs – different rules than other employees

## Classified versus Non Classified

- Ohio Revised Code identifies two categories of employees R.C. 124.11
- Excludes elected officials and directors for counties; R.C. 124.11 (B) most everyone else is classified.
- Classified employees have property right in their job; entitled to “due process.” Terminate for CAUSE only

# Hot Topic 1: Job Descriptions



# Tips for Job Descriptions

- Identify whether classified or unclassified
- Identify minimum skills and preferred skills
- Identify salary range
- Identify minimum education and preferred education
- Identify physical requirements and physical working conditions (mindful of ADA)
- Consistent format for each elected official
- Write them in ordinary English
- Update job descriptions regularly and include essential job functions
- Important jobs of each department should be traceable to at least one job description
- Tell people what we want them to do in job description and in practice

# Hot Topic 2: Policies & Practices

From the shelf to the real world



# What is the difference?

## Policy

- Formal written directive to employees
- Could be in employee handbook/manual
- Could be in an email
- Could be posted on bulletin board
- This is what SHOULD happen according to the employer

## Practices

- This is what actually happens at the employer
- Policy and practice may be the same, similar, or very different
- It is the way things occur in actual practice
- If we asked employees – what would they say?

# Align Policy and Practice

- Start with identifying written policies
- Break them down into bite size reviews to see what is happening (interview, observe, survey, ASK)
- Review policies to see if updates needed – every 1-3 years
- Emphasize good quality rather than “we always do it that way”
- Train employees on policies. Include PRACTICE
- Require accountability when policies not followed, including discipline
- Practices, in time, become employee habits. Habits define organizational culture
- **Good policies, if effectively communicated to employees, create positive workplace culture when they are followed**



# Hot Topic 3: Policy on Remote Work

Why don't you give me the zip code of the state of denial you're living in, and I'll send you a postcard.



## Tips for Remote Work Policy

- Advise employees when they may work remotely
- Include boundaries of work hours, if any
- Remind of technology policy, if applicable
- Identify who decides/changes remote work times
- Include overtime statement/work hours. Flexible work hours versus remote
- Identify expectation for availability during work hours
- Remember workers' compensation claims may happen at home if they are assigned to home
- Include statement that they are expected to be working and is not a substitute for leave

# Hot Topic 4: Retaliation Claims



## Retaliation of a complaining employee is unlawful and bad

- No employer may retaliate for bringing action or complaint about legal protections (race, gender, religion, or any protected category)
- No employer may retaliate for person filing a workers' compensation claim
- Even if they are WRONG
- Even if they LOSE

# “BONUS ROUND” of retaliation for public employers



# Revised Code 124.341 Whistleblower protection

- Oversimplified version below
- Classified or unclassified civil service employees may file written report of violation or misuse of public resources
- No officer or employee shall take any disciplinary action against an employee for reporting wrongdoing. Prohibition extends to: removal, suspension, withholding salary increases/benefits, transferring/reassigning, denying promotion, reducing pay.
- May discipline or remove if the false report is purposeful, knowingly or recklessly reported
- Employee's sole and exclusive remedy is State Personnel Board of Review within 30 days.
- **You do not want to be in this fight.**



# Hot Topic 5: Medical Leave



# Hot Topic 5: Medical Leave: ADA and FMLA

- FMLA is a separate benefit than statutory sick leave; job protection provided by federal law. May run concurrent if there is a written, consistent policy
- County should have designated FMLA administrator
- Employees must use designated forms and get approval – avoid unpaid leaves as a substitute for FMLA if they are eligible and have time available
- Leave duration is 12 weeks (up to 26 military) and may be taken intermittently
- ADA is federal law that protects individuals with disabilities
- Law requires that employers make a “reasonable accommodation”
- Absence MAY be an accommodation under ADA – depends on facts
- Recommend ADA point person or committee from HR to review all ADA accommodations for the appointing authority, ensure consistency from JFS to Water Resources and everywhere in between
- Counties must follow FMLA and ADA
- See next slide for trend “work from home”

# Home is a PLACE not a RESTRICTION

Insist upon ability restrictions; do not accept “home”



- No Lifting above head
- No Climbing
- Must Elevate Foot
- Needs Breaks every hour

## Next Steps to Improve Your County

- HR Team likely need support/help to make major changes. They are already at capacity (could be a small committee, a director with HR experience or outside help)
- Outdated policies and practices take time to fix – be patient
- Communicate with directors and other elected officials as updates occur
- Emphasize consistency and good communication at all levels to improve culture, trust and transparency with employees

QUESTIONS??

