

Frequently Asked Questions

Human Resource Management

What is Human Resource Management?

The key asset of a nonprofit is its people—paid and volunteer. Therefore, the activities and policies utilized to develop and sustain that asset are crucial to the success of the organization and its mission. It begins with deciding staffing (paid and non-paid) needs and the recruitment of committed and qualified people. Once onboard the organization ensures high performance by providing training and evaluation. Fairness is achieved with the development of written legal and ethical personnel policies approved by the Board of Directors. These include compensation levels, employee benefits, and the safekeeping of personnel records and related practices.

When is it necessary to have a Human Resource (HR) Department?

The vast majority of small to medium size nonprofits do not need, nor can they afford, a specialized HR department. Most likely one person can adequately staff an HR function for organizations of 100 employees or less. The abundance of HR software including employee handbooks as well as personnel policies allow for the function to be carried out by an office manager. The availability of firms specializing in payroll and benefits makes outsourcing an attractive assistance since these are very specialized functions. On the other hand, for nonprofits that become more complex, including being organized (unions), it is critical to develop a specialized HR department staffed by qualified professionals.

For smaller nonprofits, the inclusion of a HR specialist on the board of directors can be especially helpful. This person might chair a board Personnel Policies committee and, with others in the field, can provide valuable expertise and assistance.

Do we need an HR Director?

Volunteers and staff of nonprofits have equal rights regardless of the size of an organization. Even the smallest nonprofit must be able to follow increasingly complex laws regarding use of staff and volunteers. Many engage a specialist from an organization specializing in human resource management through a contractual or consulting relationship. Most nonprofits having over 100 staff and volunteers have a qualified HR professional on staff.

Why do you keep referring to volunteers and paid staff together? Aren't they different?

One way to think of this is to consider the personnel as paid and non-paid. Staff obviously receives compensation while the other does not. Beyond that, nonprofits are well advised to treat volunteers in the same manner as paid staff. Why? Statutes and court decisions have dramatically increased the exposure of nonprofit organizations regarding the actions of volunteers. (For example: As society has increasingly cracked down on pedophiles, churches and nonprofits

where volunteers can gain unsupervised access to children have become very popular targets.) It should be a universal practice for organizations serving vulnerable populations to require volunteer applications and releases for criminal background checks. The ASU Lodestar Center celebrates and encourages volunteerism, but every organization is well advised to apply the same standards and practices to volunteers as are applied to compensated staff. Therefore everything that follows in this FAQ regarding human resources, excluding compensation and benefits, applies equally to volunteers.

Volunteer management should include recruitment, engagement (hiring), review and termination policies and practices. A good volunteer will appreciate these practices.

Do we need personnel policies?

Regardless of whether the organization has one employee or hundreds, written personnel policies can avoid issues that can literally destroy an organization. There are many sources of model personnel practices that can be adapted and adopted by the board of directors. It should be noted that there is an increasing body of state and federal laws and court decisions that need to be observed. All supervisors should have training in the organization's policies as well as an updated understanding of the law.

Why are performance evaluations important?

Annual evaluations of any employee form the basis for performance improvement, promotion and termination. Best practices indicate these are best when approached jointly and are seen as discussions that will both assist the employee and the supervisor be more effective in their positions.

- Performance improvement: Each staff person is expected to improve in his or her position learning necessary technical or social skills. In addition, no job is stagnant; it changes, requiring growth on the part of the staff or volunteer. An annual evaluation provides the feedback mechanism for the person to gain understanding of new position requirements. The evaluation system should be fair and consistent. It should be understood to be a normal part of the employment process and effort should be made to make it objective. The evaluation also provides a powerful mechanism for assisting an underperforming employee.
- Promotion: In many organizations there will be opportunities for advancement through job change. A well-documented annual review provides the basic historical documentation supporting promotion. It provides a record that survives the departure of the supervisor.
- Termination: Terminating an employee is one of the most difficult acts for a manager. Over the past four decades there have been an increasing number of “wrongful

termination" judgments against employers in spite of the "at will employment" statutes. (see "at-will" employment). Terminations must be documented, including the history of performance improvement plans and frequent evaluation. The attorney for a disgruntled ex-employee will immediately ask to see the person's personnel records.

In summary, a consistent well-done performance review system is good for the staff and employer. No organization, regardless of size, should be without it.

The relationship between the board of directors and CEO is of particular importance and there is a separate Frequently Asked Question dedicated to that aspect of the nonprofit's human resources.

How do we determine compensation and benefits?

The board of directors has the responsibility of determining one person's compensation, the Chief Executive Officer. That person has the responsibility of developing compensation for all other staff. The board's primary control over compensation comes through development, review and adoption of the organization's budget. Compensation and benefit lines should always be delineated in a budget. The board's personnel committee develops (and regularly updates) salary ranges for defined positions which the board approves. Compensation to specific individuals is the purview of the CEO who works within the board-approved salary ranges.

There are numerous compensation studies published that can assist the organization in establishing market levels of compensation. The ASU Lodestar Center publishes a compensation and benefits report for Maricopa and Pima Counties in Arizona. Go to the web site to find the cost and how to order a copy. http://www.asu.edu/copp/nonprofit/res/res_sal.htm

One of the strong values of belonging to a national association of similar organizations is the national compensation and benefits reports. For example the Boys and Girls Clubs, YMCA, YWCA, Girl Scouts, United Way of America, Alliance for Children and Families, Lutheran Services in America, Catholic Charities of America have such resources available to members. Some will provide these resources to non-members for a fee.

Benefits have become an increasingly complex and expensive component of human resource management. Historically, nonprofits gave generous benefits such as vacation and sick leave; as nonprofit employees provide more direct revenue, such "free" benefits have moved toward for-profit standards. The escalating cost of health, disability, and retirement benefits have threatened the financial viability of nonprofit and public organizations. Costs are being shifted to the employee. It is imperative to have professional assistance in constructing and maintaining benefits for employees. If the organization cannot afford a specialist on staff, there are firms that specialize in providing these services on a contractual basis. Care needs to be taken to avoid utilizing persons and/or companies that are in a conflict of interest position.

Within compensation what are "intermediate sanctions"?

These internal revenue penalties that apply to “excess benefit” transactions between a nonprofit and a disqualified person. Excess benefit means any transaction that exceeds fair market value such as compensation. A “disqualified” person is anyone holding substantial influence for the nonprofit for the preceding five years. The tax consequences are quite onerous and this can include a board member if he or she is found culpable. Intermediate sanctions apply to the overwhelming majority of nonprofits (501(c)3 and 501(c)4, excluding private foundations. A board must fulfill three requirements to successfully navigate into a “safe harbor”:

1. Approve the transaction with the interested person not present or voting.
2. Obtain and review comparability data
3. Document the basis for the decision.

What is "at-will" employment?

Many employers will state that all staff are “at-will” employees. This is a legal concept that asserts that employees are free to terminate employment at any time and the organization has the right to terminate at any time, with or without notice, for any reason not prohibited by law.

All states, except Montana, adhere to this legal definition of employment with some important exceptions. There are three major exceptions and Arizona recognizes all three:

- Public policy exceptions: A person cannot be fired if such action violates state public policy or state or federal statute. This primarily refers to discrimination—race, color, religion, sex, national origin, and age or handicap status. Other reasons are employee refusal to commit illegal acts, family or medical leave, not following the organization's own termination procedures.
- Implied contract exceptions: A person cannot be fired if there is an implied contract. This is often very difficult to prove.
- Covenant of good faith and fair dealing exceptions: This is the most significant departure from traditional “at-will” policy. It has been determined by some courts that the employer's personnel decisions are subject to a “just cause” standard or that terminations made in bad faith or motivated by malice are prohibited.

Many nonprofits have had painful lessons after complaints have been lodged for wrongful termination. It is important for the organization to know the law, to be prudent in its termination of employees, and to seek legal counsel prior to potential termination problems.

What is the difference between exempt and non-exempt employees?

The simplest answer is that exempt employees are paid a salary for a specified period of time regardless of the number of hours worked. Generally professional, management and other types of skilled jobs are classified as exempt.

A Further Definition: An exempt employee is an employee who, because of his or her positional duties and responsibilities and level of decision making authority is exempt from the overtime provisions of the Fair Labor Standards Act (FLSA). Exempt employees are expected, by most organizations, to work whatever hours are necessary to accomplish the goals and deliverables of the position. Thus, exempt employees have more flexibility in their schedules to come and go as necessary to accomplish work as non-exempt or hourly employees.

<http://humanresources.about.com/od/glossarye/g/exempt.htm>

Unskilled, entry-level, and many technical jobs are usually classified as non-exempt. Non-exempt jobs usually get a wage, or an amount of money per hour. Non-exempt jobs are also paid over-time, that is, extra pay for hours worked over 40 hours a week or on certain days of the week or on holidays.

A Further Definition: A non-exempt employee is an employee who, because of the type of duties performed, the usual level of decision making authority, and the method of compensation, is subject to all FLSA provisions. Non-exempt employees are normally required to account for hours and fractional hours worked. Non-exempt employees must be compensated for all hour worked including overtime hours at the premium (time-and-one-half) rate of pay.

<http://humanresources.about.com/od/glossaryn/g/nonexempt.htm>

The status of exempt and non-exempt work is the responsibility of the federal Department of Labor. Nonprofits seeking to stabilize costs are tempted to make as many employees exempt as possible. Federal regulations regarding such a determination have become more stringent therefore the organization must carefully evaluate each position.

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What is the difference between staff and independent contractors?

Some nonprofits like to utilize persons as independent contractors, thereby forgoing payroll and benefits considerations. Such people are also not subject to the personnel policies and practices including termination issues discussed above. However in the past two decades the Internal Revenue Service has tightened the allowable conditions for utilizing this option. Each organization must know the criteria and apply the test before utilizing contractual relations in lieu of compensation.

IRS guidelines regarding employment definitions are available at <http://www.irs.gov/businesses/small/article/0,,id=98862,00.html>

Employee Handbook

Nonprofits often provide a copy of the board of directors' personnel policies to employees in lieu of an employee handbook. Although such is not required by law, it is advisable to do so.

In Arizona, employers may not change some specific personnel policies unless the employees accepted the proposed changes and were compensated for the policy modification.

Personnel policies/employee handbooks should include:

- A statement regarding the at-will employment relationship
- The board's policy on equal employment opportunity
- The board's policy regarding sexual and other types of harassment in the workplace
- Employee Internet access, e-mail, and voice mail policies
- A whistleblower policy
- The Family Medical Leave Act
- Benefits available
- Employee grievance procedures

The laws regarding an employer's duties and responsibilities arising under an employee handbook are complex, and a [licensed attorney](#) should be contacted to review individual circumstances.

Related Resources

Publications:

- Pynes, Joan R. *Human Resources Management for Public and Nonprofit Organizations* (San Francisco: Jossey Bass, 2004) <http://www.josseybass.com/>.
- Barbeito, Carol L. *Human Resources Policies and Procedures for Nonprofit Organizations* (San Francisco: Jossey Bass 2006) <http://www.josseybass.com/>.

Websites:

- Free Management Library Web site: <http://www.managementhelp.org/>
- National Council of Nonprofit Associations:
<http://www.ncna.org/index.cfm?fuseaction=Page.viewPage&pageId=465#handbook>
This web site provides sample policies, handbooks, job descriptions, etc.
- Society for Human Resource Management:
<http://www.shrm.org>
The professional association for those involved in human resource work with many resources of assistance in a variety of areas.
- Employment law in Arizona <http://research.lawyers.com/Arizona/Employment-Law-in-Arizona.html>

(This list of questions regarding Human Resource Management has been developed by the many persons and organizations seeking assistance from the Lodestar Center. We invite you to add your questions and reactions through the "Ask the Nonprofit Specialist" section of the center's website so that we might improve and expand these FAQ.)

Please note that websites frequently change and while we endeavor to keep links current, some might not work. When you encounter such a problem you can help us by sending an e-mail to robert.duea@asu.edu so that we might investigate and make changes to our information and links.

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