



MMCI 2024

Year Two

HR

Joyce Hottinger,
Assistant HR Director
LEAGUE OF MINNESOTA CITIES



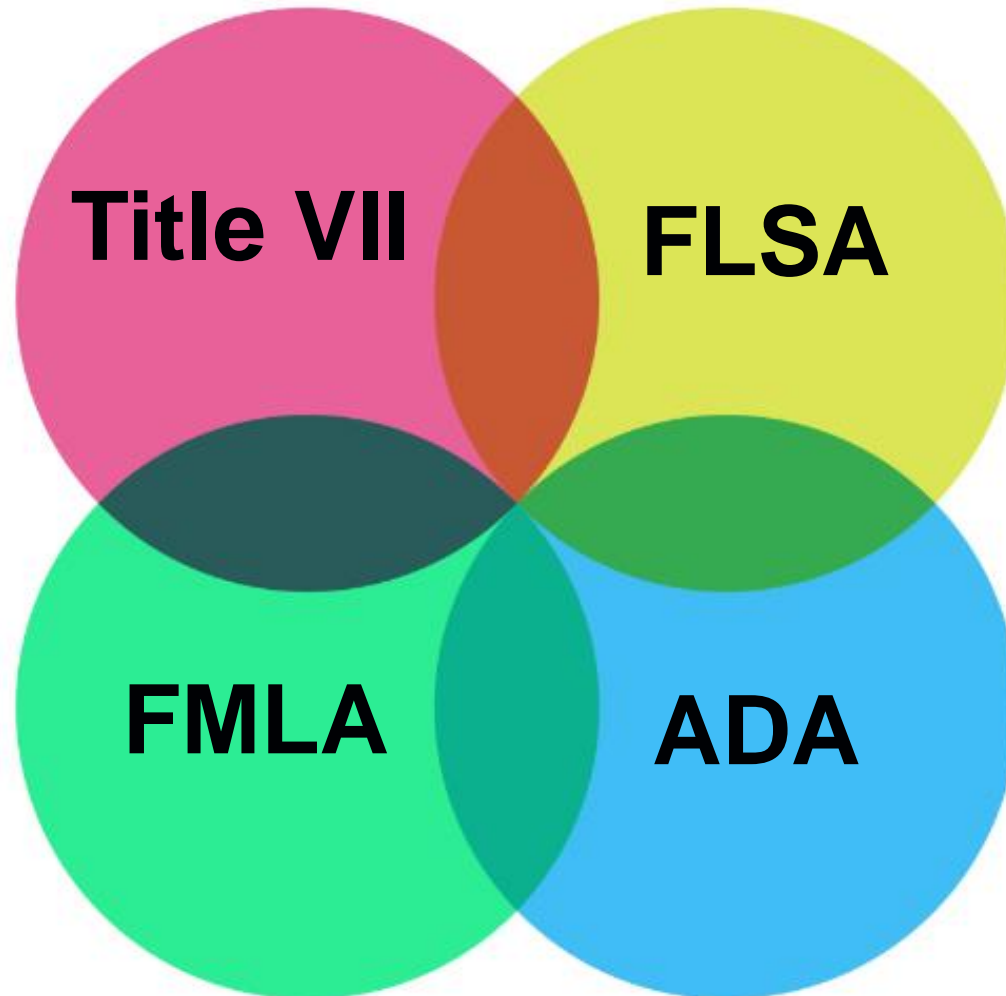
Laying the foundation

Human Resources **Bingo**



The big 4 of employment compliance

(and lots of other 'smaller' ones)




Prohibits discrimination in virtually every employment circumstance on the basis of race, color, religion, gender, pregnancy, or national origin



Title VII

Equal Employment Opportunity



2023 - CROWN Act - Revises the Minnesota Human Rights Act (MHRA), by expanding the definition of “race” to be “inclusive of traits associated with race, including but not limited to hair texture and hair styles such as braids, locs, and twists.”



DEPARTMENT OF
HUMAN RIGHTS

HUMAN RIGHTS

Hiring

Promotion

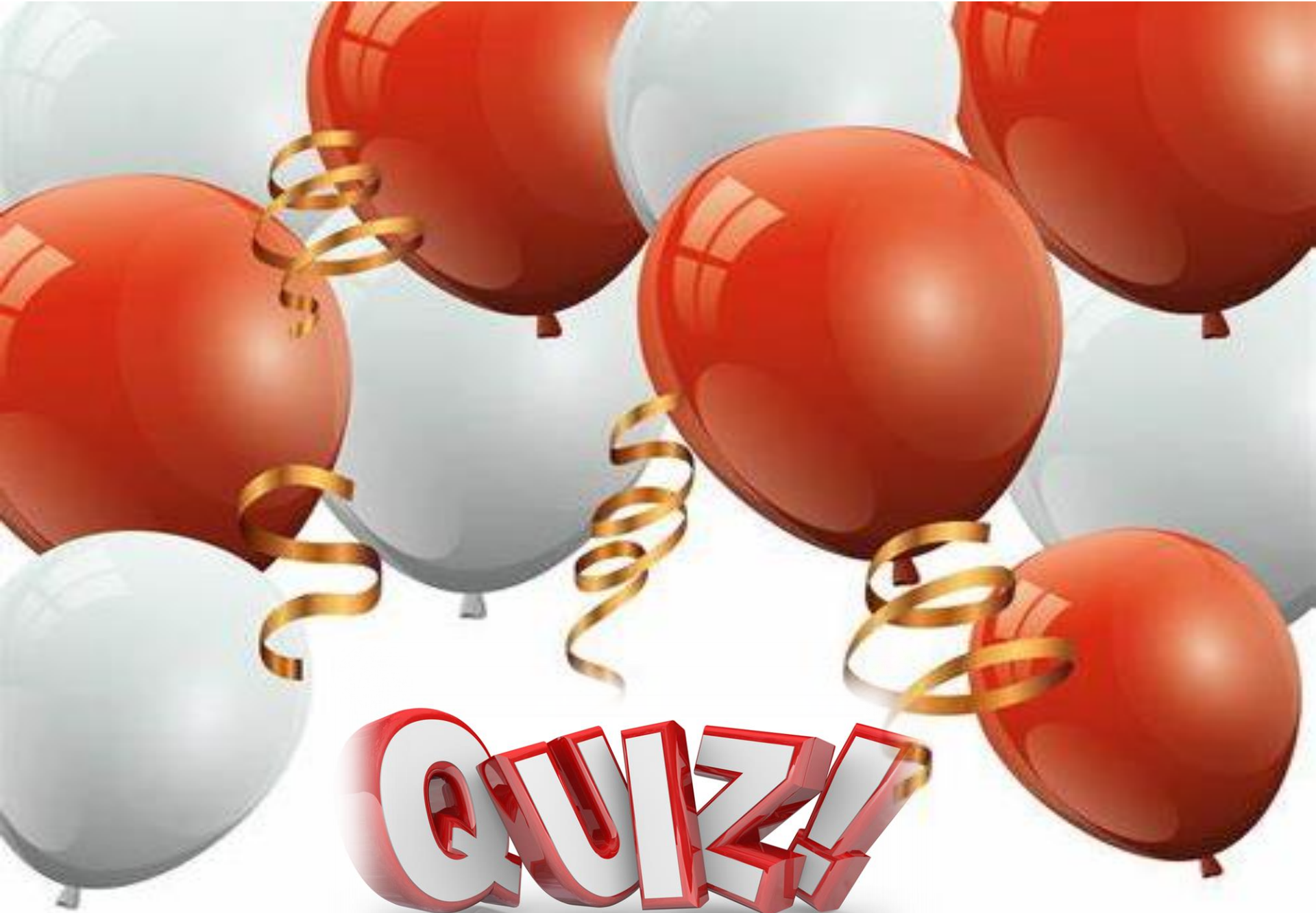
**Discipline &
Discharge**

WHY?

**Performance
Measurements**

Wages & Benefits

**Terms, condition, or
privilege of employment**



QUIZ!

Is there a law
requiring
cities to post
all job
openings?

JOIN OUR
TEAM!



<https://www.lmc.org/careers/>



Beginning January 1, 2024, employers in Minnesota can no longer ask a job applicant about their current or past pay



See this link for a model employment application:

<https://www.lmc.org/resources/hr-reference-manual-chapter-2-hiring/>

Work fitting with
a person's life
purpose



2021

Flexibility



48 million people
quit their jobs
in 2021

**Digital First
Thinking**

**Workplace
culture**

Meaningful work



THE GENERATION Z

IN THE WORKPLACE



Featured Case Studies

See how other cities are attracting and retaining talent, improving workplace culture, and investing in staff development.

What makes your city a great place to work?

Submit your city career advantage to hrcbenefits@lmc.org to be featured.



Fair Labor Standards Act

Basic principle: If a non-exempt employee engages in hours worked beyond the overtime threshold, the employee is entitled to overtime compensation at **one and one-half times** the **regular rate of pay** or compensatory time off at the time and one-half rate.

FLSA

Overtime
Pay



Minimum
Wage



Child Labor



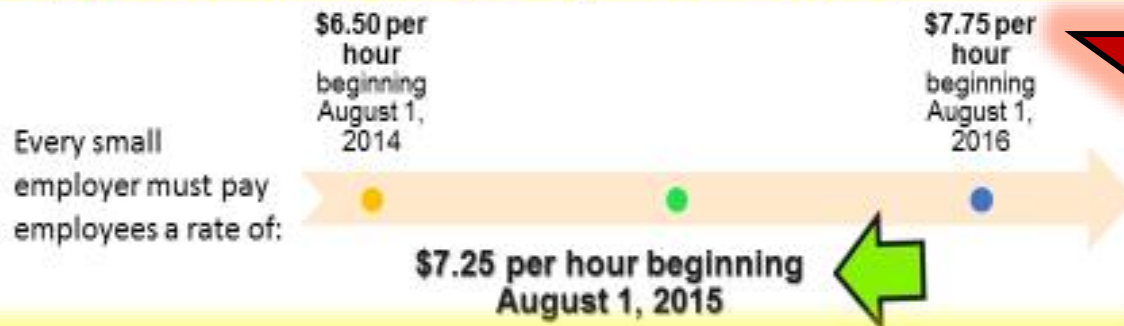
Recordkeeping

Minimum Wage

"Large employer" is defined as having a budget of at least **\$500,000** (decreased from \$625,000)



"Small employer" is defined as having a budget of less than \$500,000



Watch this

Effective Jan. 1, 2024, Minnesota's minimum wage increased to **\$10.85 per hour for large employers** (up from \$10.59 per hour), and to at least **\$8.85 per hour for small employers** (up from \$8.63 per hour). Both of these rates will be adjusted for inflation at a rate to be determined by the commissioner of the Department of Labor and Industry by and announced by Aug. 31 annually.

See: **LMC's Local Government
Pay Equity Act Memo**



3
years

**Comparable
pay for
comparable
work**



**These are not
covered under the
FLSA**

**Elected
officials**

Prisoners

**Independent
Contractors**

**Bona fide
Volunteers**

A person in a light blue shirt is holding a large, round, silver clock in front of their face. The clock shows the time as approximately 10:10. Three callout bubbles are overlaid on the image: an orange one at the top left, a green one at the top right, and a yellow one at the bottom center. The background is dark grey.

**Not treating
short breaks
as
compensable**

**Unpaid
overtime**

**Misclassification
of employees**

Additional taxes with penalties and interest

Workers' Compensation

Potential for wrongful termination suit

Wage and overtime obligations

Unemployment Insurance

Independent Contractor

Employee

See LMC memo: **Employee or Independent Contractor: Legal Implications and Ramifications**



**To be or
not to
be...
Exempt or
Non-
Exempt?**

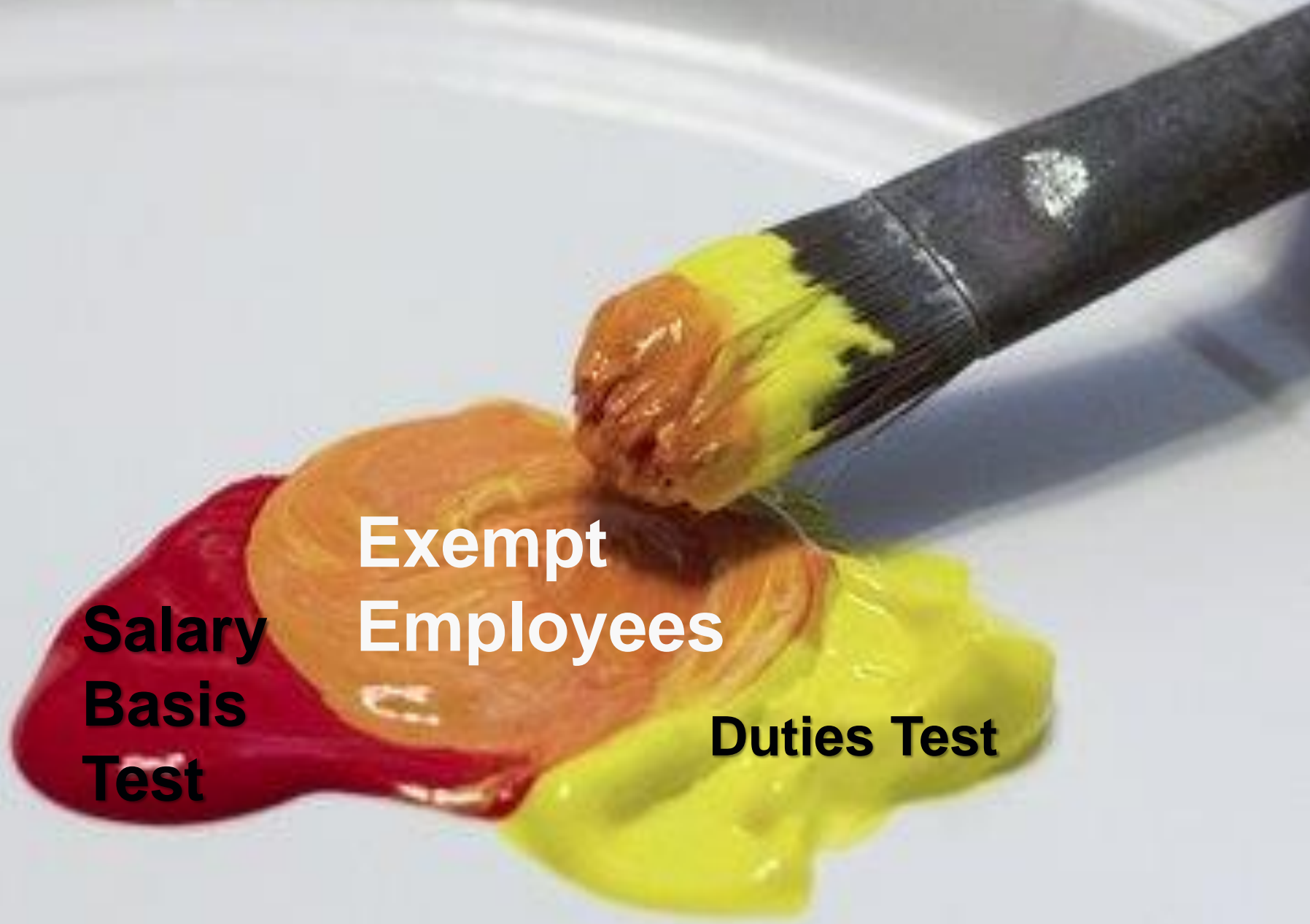
Executive

Administrative

Professional

LMC Memo: Fair Labor Standards Act (FLSA): Determining Exempt vs. Non-Exempt Status
<https://www.lmc.org/resources/fair-labor-standards-act-determining-exempt-versus-non-exempt-status/>

and review the U.S. Department of Labor, Wage and Hour Division's
Fact Sheet #17A- FLSA Exemptions
(<https://www.dol.gov/agencies/whd/fact-sheets/17a-overtime>)



**Salary
Basis
Test**

**Exempt
Employees**

Duties Test

Salary Basis Test

\$684 per week
January 1, 2020**

Up from \$455/week

- Must receive a **predetermined amount of pay** each pay period
- **CANNOT** be paid by the hour
- **CANNOT** be subject to variations in pay based on quality or quantity of work
- Must receive **full salary for any week in which work is performed**

** On August 30, 2023, the Department of Labor (Department) announced issuance of a Notice of Proposed Rulemaking (NPRM), Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales, and Computer Employee proposed for **\$1059 per week**



A woman in silhouette is shown from the side, sitting at a desk and working on a laptop. The background is a bright, hazy city skyline, likely New York City, with the Empire State Building visible. The overall scene is lit with a warm, orange glow.

Duties Test

Review the
duties, **NOT** the
job title

Whether the duties
of a particular job
qualify as exempt
**depend on what they
are.**

Two **Duties Tests** for Administrative Employees

&

Employee's primary duty must be the performance of **office or non-manual work** directly related to the management or general business operations of the employer or the employer's customers

The employee's **primary duty** includes the **exercise of discretion and independent judgment** with respect to **matters of significance**



Hours Worked

Employers must pay non-exempt employees for all of time spent working

- **Caring for tools**
- **On-call time if liberty is restricted**
- **Breaks 20 minutes or less**
- **Work-related or required training**
- **Travel time beyond normal home to work**

Not only work that is assigned but also “Suffered or Permitted” by the Employer

www.dol.gov and review the U.S. Department of Labor, Wage and Hour Division’s, **Fact Sheet #22-Hours Worked**

Bona fide meal periods

(typically lasting at least **30 minutes**), serve a different purpose than coffee or snack breaks and, thus, are not work time and are not compensable.



DOL takes the position if the employee works during part of the meal period, the **entire period becomes compensable**



**Rest
Breaks**


**Breaks shorter than
20 minutes are paid
(29 C.F.R. § 785.18)**

**Minn. Stat.
177.253**

A close-up photograph of a person's hands holding a silver smartphone. The person is wearing a black watch on their left wrist. The background is blurred, showing what appears to be a white shirt and a grey jacket.

Remember time spent working includes time
that is **“suffered or permitted”**

If a non-exempt employee uses their smart phone outside
of regular work hours and as a result works more than
40 hours in a workweek that work may very well
have to be at **overtime**

A neon sign for '24 HOURS' in red-orange light, with a green oval containing a question overlaid on it. The sign is set against a dark background. The numbers '24' are at the top and 'HOURS' is at the bottom. A bright green oval with a black border is centered over the sign, containing the text 'What are the maximum hours an employee can work?' in black, bold, sans-serif font.

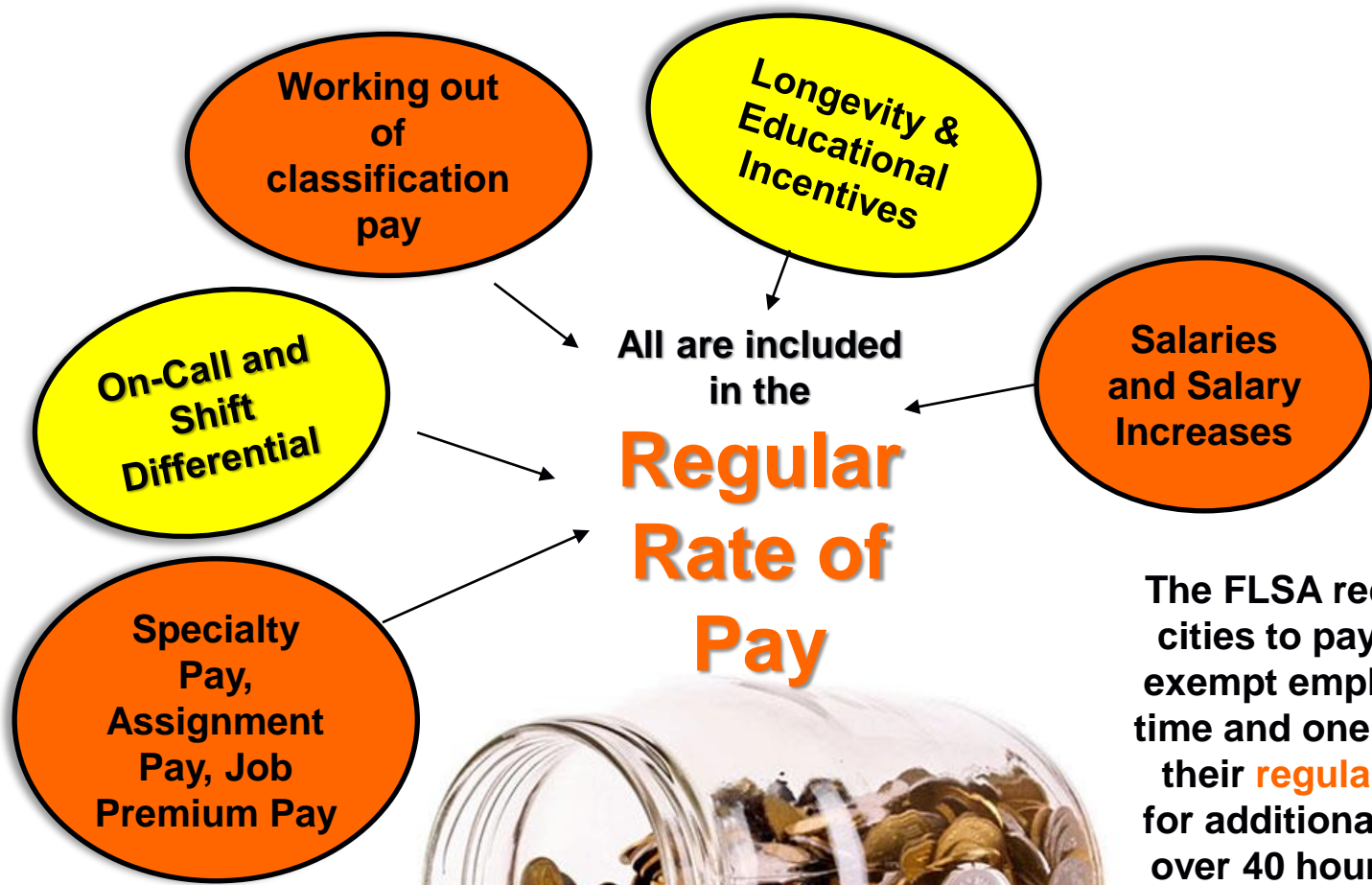
**What are the
maximum hours an
employee can work?**

Hours Worked does **not** include

NO

- **Vacation**
- **Sick leave**
- **Holidays**
- **Jury Duty**
- **Other paid time off**
- **Unpaid time off,
authorized or
unauthorized**

www.dol.gov and review the U.S. Department of Labor, Wage and Hour Division's, **Fact Sheet #23- Overtime Pay Requirements**



The FLSA requires cities to pay non-exempt employees time and one half of their **regular rate** for additional work over 40 hours in a workweek.



**KEEP
OUT**

**Uniform
Allowance**
§ 778.217

**Tuition,
Automobile and
other expense
reimbursements**
§ 778.217

Call Back pay
§ 778.221

**From Regular
Rate of Pay**



Comp Time



**Up to 12
weeks of
unpaid FMLA**

Family Medical Leave Act

**Parenting and
bonding leave**

**Providing care
for a spouse,
son, daughter or
parent with a
serious health
condition**

**Employee unable to
work due to a serious
health condition**

**Qualifying
Exigency**

<https://www.lmc.org/resources/family-and-medical-leave-act/>

Workers Compensation



FREE

EMPLOYEE RIGHTS UNDER THE FAMILY AND MEDICAL LEAVE ACT

THE UNITED STATES DEPARTMENT OF LABOR WAGE AND HOUR DIVISION

LEAVE ENTITLEMENTS



Rights and responsibilities under the FMLA are provided below. For more information, please contact your local Wage and Hour Division office.

- You will not lose your job or be forced to take a leave of absence or leave early.
- You will not be required to take a leave of absence or leave early if you do not wish to do so.
- You will not be required to take a leave of absence or leave early if you do not wish to do so.
- You will not be required to take a leave of absence or leave early if you do not wish to do so.
- You will not be required to take a leave of absence or leave early if you do not wish to do so.

For more information, please contact your local Wage and Hour Division office.

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BENEFITS & PROTECTIONS

For more information, please contact your local Wage and Hour Division office.

For more information, please contact your local Wage and Hour Division office.

For more information, please contact your local Wage and Hour Division office.

ELIGIBILITY REQUIREMENTS

For more information, please contact your local Wage and Hour Division office.

- Worked for the employer for at least 12 months.
- Worked for the employer for at least 12 months.
- Worked for the employer for at least 12 months.

For more information, please contact your local Wage and Hour Division office.

REQUESTING LEAVE

For more information, please contact your local Wage and Hour Division office.

For more information, please contact your local Wage and Hour Division office.

For more information, please contact your local Wage and Hour Division office.

EMPLOYER RESPONSIBILITIES

For more information, please contact your local Wage and Hour Division office.

For more information, please contact your local Wage and Hour Division office.

ENFORCEMENT

For more information, please contact your local Wage and Hour Division office.

For more information, please contact your local Wage and Hour Division office.

For additional information or to file a complaint:

1-866-4-USWAGE

(1-866-487-0242) TTY: 1-877-889-5627

WWW.WAGEHOUR.DOL.GOV

U.S. Department of Labor | Wage and Hour Division



800-541-8749

**Worked for
the city at
least 12
months**

**Have worked
at least 1,250
hours during
the 12
months
preceding
the leave**

**Be employed at a worksite
with 50 or more employees
within 75 miles of that
worksite (elected officials
are not counted; paid on-call
firefighters are generally
included).**

Medical Leave Request

I hereby certify that the information given in the application form is true and correct and I am under no obligation to disclose any information you may require for your records. You are authorized to obtain any information you may require for your records. I hereby authorize you to obtain any information you may require for your records. I have read and understand the terms and conditions of this request and I agree to the terms and conditions of this request. I am also authorized to



**What “magic words”
does an employee need
to say to request FMLA?**



A close-up photograph of a silver stethoscope resting on a calendar page. The calendar shows dates 7, 8, 13, 22, and 23. An orange oval callout bubble with a black border is positioned on the left side of the image, containing the text 'FMLA Benefits'.

**FMLA
Benefits**

A close-up photograph of a silver stethoscope resting on a calendar page. The calendar shows dates 7, 8, 13, 22, and 23. A green oval callout bubble with a black border is positioned at the bottom of the image, containing the text 'Job and benefit protected leave'.

**Job and benefit
protected leave**

Practical Considerations

- ✓ **Policies, union contracts, and civil service rules**
- ✓ **Past practice**
- ✓ **Use of paid leave**
- ✓ **Benefits during leave**
- ✓ **Recruitment, retention, and morale**





Minnesota Law: **WESA**

- ✓ Sick and safety leave ****ESST as of 2024**
- ✓ Nursing mothers
- ✓ **Pregnancy and Parental Leave****
- ✓ Pregnancy Accommodation
- ✓ Wage disclosure

<http://lmc.org/media/document/1/personnelpolicytemplate.docx>

Parental Leave



As of July 1, 2014:

12 weeks

Spouses at same
employer – **both**
receive 12 weeks

**Can take intermittent
leave without permission**



No doctor's note for these accommodations:

- ✓ **More frequent restroom breaks or food and water breaks;**
- ✓ **Seating arrangements;**
- ✓ **Limit on lifting of no more than 20 pounds**

**Pregnancy
Accommodation
(May 12, 2014)**

**New in 2024-
Earned Sick and
Safe Time**



MN

<https://www.lmc.org/resources/earned-sick-and-safe-time-law-what-cities-know/>



Americans with Disabilities Act (ADA)
15+ employees

Minnesota Human Rights Act (MHRA)

**MHRA: All employers –
accommodation only if 15+**

Both:

- Prohibit employment discrimination against a “qualified individual”
- Employees must be treated the same as other similarly-situated employees

Reasonable Accommodation



Modified work schedules

Reassignment to vacant position (*optional*/not required)

Removal of non-essential functions / light duty

**Medical leave of absence – *always consider!*
Beyond 12 weeks of FMLA;
intermittent leave**

** No duty to provide accommodation if poses undue hardship*

REMINDERS

Interactive Process

- Discuss reasonable accommodations
- Not a formal process
- Include immediate supervisor & others
- Gather information
- Ask employee for solutions
- Contact advocacy groups



Interactive Process

A photograph of two women sitting at a table in a meeting. The woman on the left, with dark hair in a bun and wearing a light blue button-down shirt, is looking towards the woman on the right. The woman on the right, with curly brown hair and wearing a grey sweater, is gesturing with her hands as if speaking. In the center, there is a thought bubble graphic with three dots above it, containing the text 'Let's try this!'.

**Let's try
this!**



Managing from Day One

Employees are **58% more likely** to remain with an organization after three years if they went through structured onboarding, according to a Wynhurst Group study.



Share your **best** and
worst onboarding
stories

Send out a team video

Assign an onboarding buddy

Set Expectations

Create a first day checklist

Compile FAQs

Check in Regularly

**Compliance,
Clarification,
Culture,
Connection, and
Check back**



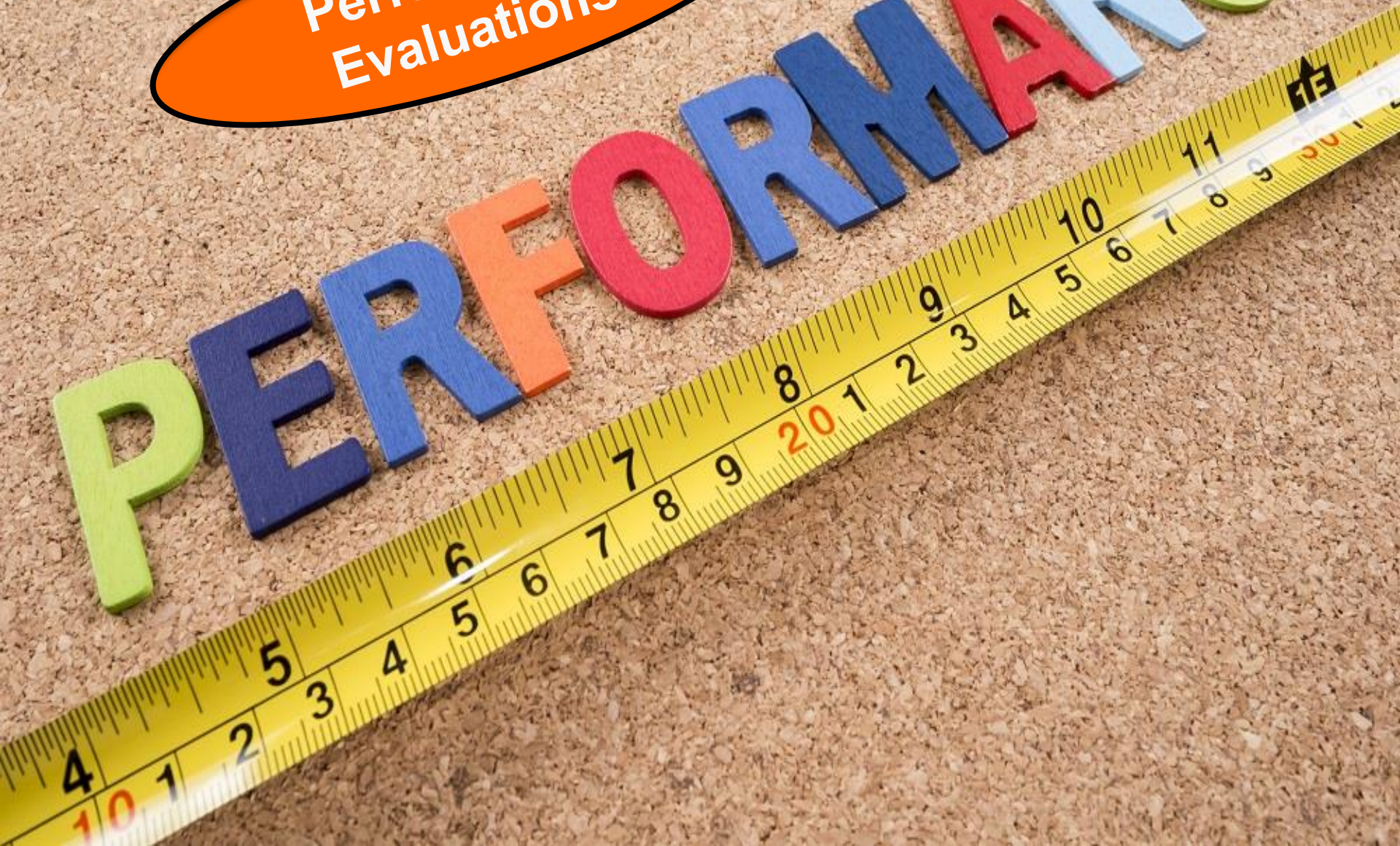
Supervisors set the standard



Respect means having regard for the feelings, rights or traditions of others.

Performance Evaluations

PERFORMANCE





ANNUAL REVIEW

**Review current
job description**

**Provide a
balanced
overview**

**Gather
information**

**Document
during the year**

**Set performance
goals**

Tips for Writing the Review

A close-up photograph of a hand holding a blue pen, writing on a document. The document features a checklist with five empty square boxes on the left and five corresponding labels: 'Excellent', 'Good', 'Fair', 'Poor', and 'Unsatisfactory'. The background is slightly blurred, focusing attention on the hand and the checklist.

Gather feedback from others

Engage the employee

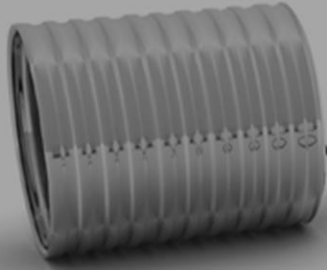
Use observations, not judgments

Do a final check

Focus on the future

Discussing the Review

1) Prepare in Advance



2) Review the Content



3) Engage the Employee

4) End on a Positive Note

5) Follow up



What experience, project, or action are you most proud of since the last review?

Which of our organizational values did you live best in the last few months?

How has your supervisor helped you achieve your goals during the past few months?

What do you enjoy most about the work you do?

What organizational/personal goals did you accomplish? Which goals fell short?

What skill or knowledge do people on your team or at the organization rely on you to provide?

What project/goal(s) would you like to focus on in the next six months/year?

How were you able to contribute to the city's current goal of [creating a more inclusive culture, launching a new service, etc.]?

What would colleagues or citizens say about their recent interactions with you?

**What to do when an employee is
struggling in their job**



The Big

3

- **Appearance Issues**
- **Legal Issues**
- **Union Issues**



**Different
work
schedules or
job duties**

**Business
reason =
Best
defense**

**KEEP
CALM**

**Higher
standard**

**Exempt vs.
Non-
exempt**

**AND
BE**

**Part-time
vs. Full-
time**

CONSISTENT

Appearance Issues

Personnel Policies

- **Always** double-check
- **Read** related policies
- Is it a **union-covered issue**?
- What is **actual practice**?

A stack of papers, possibly a binder or a folder, with several sheets of paper visible. The papers are slightly aged and have a yellowish tint. The text is overlaid on the stack.

Documentation

When do I start?

Enough vs. too much

Just the facts, ma'am

**The good, the bad, and
the ugly**

**Long enough vs. too
long**

The “overnight rule”

Appearance Issues

**Fair
warning/clear
expectations**

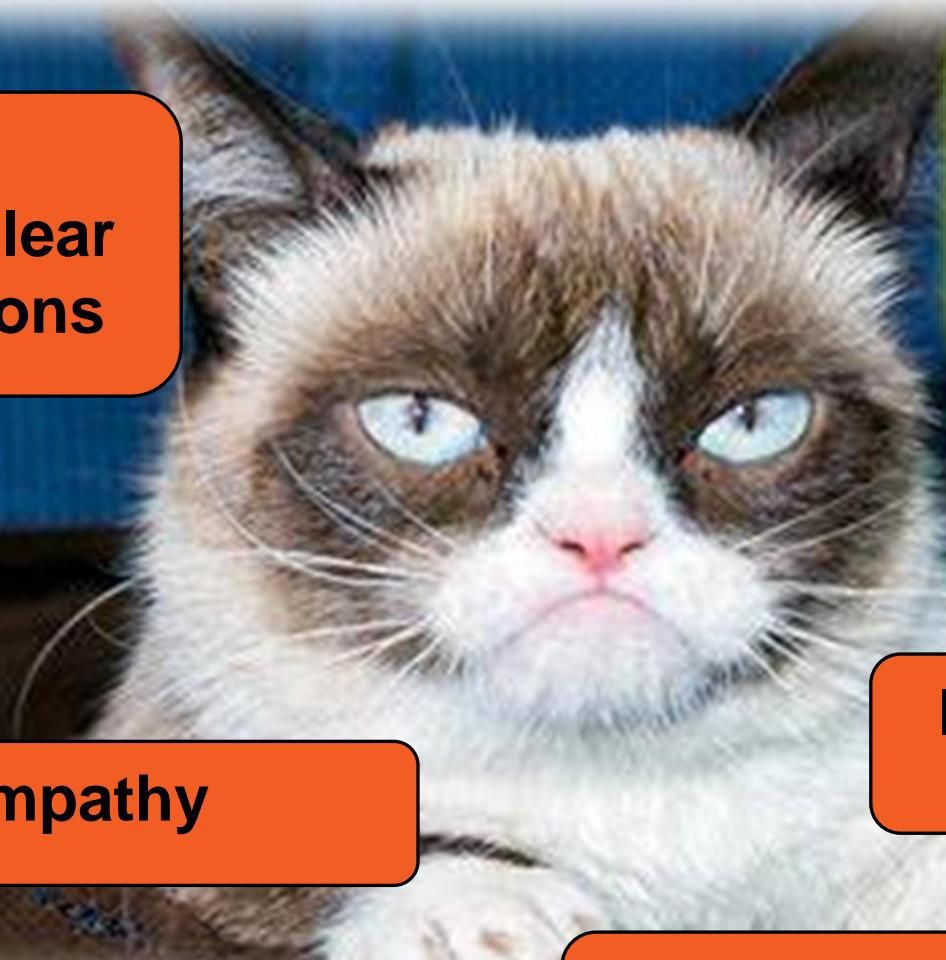
**Ethics –
“Mom in
the room”**

Empathy

**In person/In
private**

Security

**Opportunity to
explain**





Legal Issues

- Protected status (age, race, veteran, disability, gender, sexual orientation, **familial**)
- Whistleblower protections
- Key is to show **equal treatment** or **business case**
- Follow required **veterans' procedures**



Legal Issues

Wage & Hour Laws

- Suspensions of exempt employees
- Compensatory time payout
- Vacation &/or sick leave payout
- No withholdings from final paycheck
- Timeframes for final paycheck
- Required letter -- truthful reason

Legal Issues

Benefits Laws

- Continuation (COBRA) notices
- Retiree – Pooled with actives until age 65
- Police/Fire – city-paid health
- Unemployment benefits
- Workers Compensation
- FMLA –given 12 weeks?



Open Meeting Law

**Open to take
action**

**Close for
performance
evaluation**

**Employee must be given the choice to
open the meeting**

Union Issues

- ❖ **Prevails unless illegal**
- ❖ **Disagreement over interpretation -- look to past practice, negotiations, other agreements, “usual meaning” of terms, rest of the contract**
- ❖ **Some rights can't be waived or negotiated**

Union Issues

Rights of Representation

- ✓ **Disciplinary meetings & those that could lead to discipline**
- ✓ **Employee requests union rep.**
- ✓ **Unless interferes (e.g. disrupts meetings, can't schedule in reasonable timeframe) with management rights**



Private
Data

Union Issues

- **Union** has right to access data needed to represent employee
- **Signed release still good idea**
- More sensitive data = **more careful** (e.g., medical data)
- Consider “**Tennessean Advisory**”

Case Study

A yellow hard hat is the central focus, resting on a stack of architectural blueprints. A yellow measuring tape is stretched across the blueprints, and a pencil lies nearby. The entire scene is set on a gravel surface.

**Bob the Building
Inspector**



Wrap-Up

- **Appearance is important!**
- **Legal issues** need to be double-checked
- **Unions have rights**



CALL US 651-281-1200

When members are
STUMPED with questions,
We are here to help!

Email:
HRBENEFITS@lmc.org



Year 2: Human Resource Issues for Municipalities Part 1

May 8, 2024, 7:30 AM – 10:00 AM



Scan code to check out of your session
Read directions below
DO NOT USE YOUR CAMERA APP

Scan the QR code to check in on your phone

A confirmation email will be sent when you successfully check in.

Scan through the Whova app

From the home page, tap "QR Check-in" under Additional resources.

Year 2: Human Resource Issues for Municipalities

Part 2

May 8, 2024, 10:15 AM – 12:00 PM



Scan code to check out of your session

Read directions below

DO NOT USE YOUR CAMERA APP

Scan the QR code to check in on your phone

A confirmation email will be sent when you successfully check in.

Scan through the Whova app

From the home page, tap "QR Check-in" under Additional resources.