



RISK MANAGEMENT STRATEGIES: EMPLOYER – EMPLOYEE RELATIONSHIP

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COMMON RISK MANAGEMENT TOOLS

■ HANDBOOKS

- Implement and bring it to life
- Everything starts with a Policy

■ IIPP & RISK-SPECIFIC PROGRAMS

- Tailor and Follow the Program
- If no one is reporting hazards, or periodic inspections do not reveal them, you have a problem
- Not just safety – Programs and Structure manage a variety of Risks

■ TRAINING

- Is it interactive and effective?
- Do you test the acquisition of knowledge
- Equipment-Specific is critical
- Repeat and Refresh on an ongoing basis

■ INSURANCE – MAKE SURE IT IS COVERED...AND COVERED AGAIN

INSURANCE

- Workers' Compensation
 - Workplace injuries – employer is covered
 - No limits (set by law)
 - No retention
 - Required by Law
 - No exclusions for covered employee

- Liability
 - Torts (including negligence)
 - Punitive damages excluded – other exclusions by policy
 - Retention (deductible)
 - Policy limits apply

- Employment Practices Liability Insurance (EPLI)
 - Discrimination, harassment, wrongful termination
 - Some limited defense coverage for wage and hour
 - Extremely valuable...and often overlooked

WORKPLACE SAFETY



COMPONENTS OF EFFECTIVE RISK MANAGEMENT

- Demonstrate Management Involvement
 - Management must lead by example
 - Visibly demonstrate that you embrace a safety culture
 - Provide essential time, budget and resources to create and support the safety program
 - Evaluate results and establish accountability. What is your accident\injury rate? Do you identify near misses?
- Communicate the Safety Program
 - Published and available
 - Timely and effective reminders and updates
 - Welcome and encourage employee suggestions on workplace safety
- Collective Involvement
 - Involve employees at all levels
 - Policies must establish responsibility and accountability for all employees
 - Safety committees ensure communication and engagement
 - Positive reinforcement of safe behavior (not just discipline for unsafe behavior)

COMPONENTS OF EFFECTIVE RISK MANAGEMENT

- Investigate Accidents and Incidents
 - Every Single Time – even “minor” incidents and near misses
 - Document outcomes and make recommendations
 - Collect evidence as soon as possible after each incident and accident
 - Prompt claims reporting

- Manage Injuries and Claims
 - Immediate First Aid
 - Instruct to seek medical treatment – don’t just ask
 - Ensure transportation to medical care – and communicate its availability
 - Engage with the carrier and employee regarding care and return to work
 - Use light duty work to control claims cost...and keep them working

COMPONENTS OF EFFECTIVE RISK MANAGEMENT

- Train and Train Again
 - Training must begin at the moment of hire and continue to be ongoing
 - Time encourages unsafe behavior (desensitization to risk)
 - Evaluate the effectiveness of training – *Get Employee Feedback*
- Self-critical Analysis
 - Review, revise, and update all aspects of the safety program
 - Be flexible and adjust to change
 - Regularly review, evaluate, and identify risk
 - Make changes to enhance and increase safety
 - Collect and share safety data – accident and injury rates, etc.
- Establish Job Safety Standards
 - Each department should engage in job safety analysis
 - Emphasize doing the job correctly, not just quickly or productively
 - Involve employees
 - Recognize safe conduct as a promotional factor
 - Enforce accountability for unsafe behavior – **Remember to Discipline After Accidents!**

SAFETY COMMITTEE ADVANTAGES

- The people doing the job know best how to do it safely and identify risks
- Promotes collaboration and “buy in” of both rank and file and management
- Encourages and identifies Employee leaders
- Demonstrates commitment to culture of safety
- Promotes teamwork and a breakdown of hierarchies
- Free exchange of information on safe work practices
- Should be a point of pride to have membership
- Make sure you recognize it – pay them for the time spent, give a “bump”
- Accountability – remove those who do not participate productively
- Consider elected “at large” position for rank and file – let employees choose one representative

SAFETY COMMITTEE FUNCTIONS

- Develop safe work practices
- Evaluation of existing practices and procedures
- Creating and revising written safety programs
- Developing and leading safety training
- Designing and conducting workplace inspections and safety audits
- Establish Dispute Resolution procedures
- Review of incidents, near misses, accident investigation reports, claim summaries, and loss analysis to prevent recurrence and improve safety outcomes
- Proposing and creating safety checklists
- Promote employee interest and involvement in health and safety
- Provide a safe forum for management and labor to discuss and improve safety

SAFETY COMMITTEE PITFALLS

- Lack of Authority
 - The committee must be able to bring about change
 - Empower the group or don't bother
- Too Management Top-Heavy
 - No management domination
 - Dialogue is the key
- Undefined Roles
 - Each member must know their role and responsibility
 - Written agreement (signed) and mission statement
 - The goal should be outcome focused – prevent accidents and injuries, not regulatory compliance or reducing claim dollars
- Lack of Training
 - Each member must have a general understanding of health and safety issues
 - Invest in training for members on health and safety regulations, data gathering, and group dynamics (including rules for civil behavior in meetings)
 - People need to know What to do and How to do it

SAFETY COMMITTEE PITFALLS (Contin.)

- Inadequate Size
 - Size of organization and hazard potential drive the size
 - Smaller is often better for effectiveness
 - Use subcommittees (departmental?) to control inefficiency and maintain control
- Lack of Formal Meeting Agenda
 - Preparing an agenda in advance keeps it on track
 - Staying on task prevents meetings from becoming long slogs
 - Have a “parliamentarian” who can focus discussion
- Failure to Communicate
 - Publish the Schedule
 - Publish Minutes and Committee Actions
- Lack of Follow-through
 - Reputation depends on taking action
 - Results must be demonstrated for credibility
- Lackluster Involvement
 - Members must be accountable for participation and contribution

ACTIVE MANAGEMENT FOR RISK

- Supervisor Evaluation
 - Accountability for safety on their watch

- Management Priority
 - “Head on a swivel”
 - Alertness for safe and unsafe practices at all levels of management
 - Eyes and ears open...and immediate response to issues – praise AND punish

- Discipline for Unsafe Conduct
 - All too uncommon
 - Essential aspect of any safety program....and OSHA defense
 - Promotes accountability

- *Best Work Practices Must be Lived Ever Day in Every Moment.*

DISCRIMINATION AND HARASSMENT



CLAIMS ARE ON THE RISE

- Understanding Prevention
 - Communication is critical
 - Complaint/Grievance procedures
 - Train, train, train
 - Independent HR
- Management Priority
 - “Head on a swivel”
 - Alertness for inappropriate behavior at all levels of management
 - Eyes and ears open...and immediate response to issues – silence is NOT an option
 - ALWAYS investigate
- Discipline for Inappropriate Conduct
 - The “little things” get ignored...until they can’t be
 - Your track record protects you
 - Promotes accountability
- ***Create a Positive Culture!***

KEYS TO EFFECTIVE HR / RISK MANAGEMENT

- Commitment from the Top
 - HR must be supported in its mission.
 - Independence in the management chain
 - Relationship building with the workforce

- Policies
 - Must be current and implemented
 - Must be followed and enforced
 - Breathe life into them!
 - Collect and review data on a schedule (Annual, Quarterly, etc.)

- Training
 - Is it interactive and effective?
 - Do you test the acquisition of knowledge?
 - Are you tracking it?
 - Documentation is critical
 - Repeat and refresh on an ongoing basis

INVESTIGATE AND RESPONSE

- Investigation Protocols Should be In Writing
 - Standardize the structure
 - Investigate grievances, complaints....and misconduct (don't forget failures of performance)
 - Document, collaborate, and check each other
 - Reach conclusions!

- Appropriate Response to Established Facts
 - You don't have to be right
 - Brainstorm and get a range of input from the team.
 - Be creative
 - Pull the trigger! (and document)

- Training
 - Train people how to investigate
 - Train people how to document
 - Give feedback and constructive criticism

WAGE AND HOUR



WAGE AND HOUR GOLD RUSH

- Collective Actions Drive Big Dollars
 - Class Actions
 - PAGA
 - Mandatory Attorney Fees
 - Arbitration agreements

- Legalized Extortion
 - The only guarantee is cost
 - Lawyers benefit above all
 - Vast majority settle...and increasingly settle early

- Technical Errors Drive Liability
 - Every Minute must be paid
 - Every Minute must be recorded
 - Every Violation carries a penalty
 - **Small Issues Drive Big Problems**

WAGE AND HOUR REALITIES

- Rapid Growth
 - The top 10 settlements in various employment-related class actions:
 - \$1.58 billion in 2020
 - \$1.34 billion in 2019,
 - \$2.72 billion in 2017 (record)

- Most Common Claims
 - Minimum Wage / Overtime (often off the clock work or recordkeeping errors)
 - Meal and rest periods
 - Check stubs
 - Waiting time penalties
 - Rounding is heating up more and more

- Inevitable Outcomes
 - Defense fees
 - Small per-worker recovery
 - Six to seven figure plaintiff attorney fee (except in the smallest cases)

RISK MANAGEMENT

- External and Ongoing Vigilance
 - Make it a priority
 - Investigate technology
 - Strive to stay a step ahead
 - Strict enforcement of compliance
 - Periodic internal audits
- Policies
 - Must be current and implemented
 - Must be followed and enforced
 - Breathe life into them!
 - Supervisors must understand and prioritize
- Training
 - Document compliance training (just like safety)
 - Separate and documented supervisor training
 - Do you test the acquisition of knowledge?
 - Are you tracking it?
 - Documentation is critical
 - Repeat and refresh on an ongoing basis (At least annually)

