

Employment Law Fundamentals That All Rhode Island Nonprofits Must Know

Description

Utilize a Formal Employment Application

(Optional but Recommended) Nonprofits should require applicants to fill out an employment application prior to starting work, even if the applicant is known to the nonprofit. While it seems like a formality, an application will help the nonprofit defend against negligent hiring claims. Depending on the position and circumstances, the nonprofit should consider a formal interview, calling references, obtaining credentials from educational institutions, and verifying prior work history. Rhode Island law prohibits most employers from asking for an applicant's criminal history on an application and prior to the first interview.

Properly Classify Workers

(Required) Nonprofits must correctly classify its workers. Nonprofits could face serious legal and tax penalties for misclassifying workers as independent contractors when under the eyes of the law they are actually employees. Generally speaking, nonprofits should not pay workers on a 1099 basis unless the worker forms a separate legal entity and that entity is paid.

Start with an Offer

(Optional but Recommended) Memorialize the wage you will pay employees in an offer letter. Include desirable legal language in the letter, such as specifying the employee is "at-will," meaning either the nonprofit or the employee can terminate the employee relationship for any reason or no reason at all with or without notice.

Ensure that Unpaid Volunteers are Actually "Volunteers"

In certain circumstances, individuals may work for charitable, civic or religious nonprofit enterprises without expectation of compensation and be considered unpaid "volunteers." However, the circumstances where this is permissible are very limited, even in the volunteer context.

Pay Employees' Wages

(Required) Unless a limited exception applies, nonprofits must pay employees at least minimum wage on a regularly established pay period and pay overtime to its non-exempt employees for work performed in excess of 40 hours in a workweek. Generally speaking, under Rhode Island law, non-exempt employees must also be paid overtime for work performed on holidays and Sundays.

Pay Taxes Properly on Wages and Report New Hires

(Required) Nonprofits need to properly withhold federal income taxes, state income taxes, and temporary disability insurance from employees' paychecks. At the outset of employment, employees should fill out a W-4 form, which provides the nonprofit the information it will need to make these withholdings. In addition to making withholdings, non-profits will need to pay payroll taxes. Each new hire must be reported to the Rhode Island New Hire Reporting Center within 14 days of their hire date (which can be done online via www.ri-newhire.com).

Obtain Workers' Compensation Insurance

(Required) Nonprofits with at least one employee must obtain workers' compensation insurance prior to any employee starting work.

Follow Immigration Laws

(Required) Employees need to fill out an I-9 form after they are hired. The nonprofit then must complete portions of the I-9 after viewing work eligibility credentials (e.g., social security cards or other documents).

Post Employee Notices

(Required) Nonprofits are required to post notices that apply to the nonprofit based upon its size and industry (some notices can be found at: www.dlt.ri.gov/requiredposters/). Generally, the required notices for nonprofits with only a handful of employees include: Right to Know, Sick Time, Minimum Wage, Child Labor, Unemployment/TDI, No Smoking and Workers' Compensation posters, and the Uniformed Services, Polygraph Protection, Fair Labor Standards, and OSHA posters (under federal law). Do not use posters with laws that do not apply to you. In addition, employers must hang the required COVID-19 related posters (see: reopeningri.com).

Retain Records

(Required) Nonprofits have certain obligations to retain employment records. In addition to retaining payroll records, nonprofits should include documents such as offer letters, performance reviews, requests for leave/vacation, warnings, changes of address, pay increase information and other employment-related information in an individual personnel file for each employee. Medical information should be stored separately.

Adopt an Employee Handbook

Finally, nonprofits should be aware that more employment laws will apply to them as they expand. Nonprofits with more than a handful of employees should utilize an employee handbook to address routine operations such as holidays, time off, and equipment use. As additional employees are hired, additional policies may be required.

Partridge Snow & Hahn LLP has prepared this blog post to offer general information about the duties and risks undertaken by new employers. No person should rely on or act on this handout without seeking professional advice. Providing these materials does not create an attorney–client relationship between Partridge Snow & Hahn LLP and any person. The Rhode Island Supreme Court licenses all lawyers in the general practice of law. The court does not license or certify any lawyer as an expert or specialist in any field of practice.

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