

Job descriptions: Why you need 'em, how to write 'em



Federal labor law requires HR professionals to do a lot of different things. Writing job descriptions is not one of them.

Because this arduous task is optional, many organizations skip right over it. That's not wise. There are many practical and legal reasons to draft (and update) job descriptions for each position:

Reason 1: They help you defend against discrimination claims. If an applicant says you rejected him because of his race or gender, you can show a court you rejected him because he didn't meet all the qualifications.

Note: You may be lucky enough to have a situation where multiple applicants meet the minimum qualifications for the job. So how do you break the tie? It is perfectly legal to base the decision on unwritten criteria, even a gut feeling. But it's better to base the decision on criteria that's already listed in the job description (which may not have been listed in the job ad).

Reason 2: They help determine "essential functions" for ADA purposes. Employees can file ADA lawsuits only if they can prove they're legally disabled and can still perform the "essential functions" of the job. If those "essential" duties aren't detailed in a job description, they're left open to a court's random interpretation.

To identify essential functions, look at the purpose of the job, the frequency of each function and the consequences if that function isn't performed. The job description should also include the nonessential and less-frequent job duties and functions. Four key categories to include:

- Physical skills (e.g., standing, walking, lifting, bending)
- Learned skills (e.g., equipment proficiency, industry experience)
- Job duties (e.g., travel, hours, shifts)
- Behavioral skills (e.g., communication, leadership, time management)

Reason 3: They help you classify employees as exempt or nonexempt. Exemption from the overtime rules of the Fair Labor Standards Act (FLSA) are not determined by job titles like "manager." The key is actual duties.

The job description must match the reality of the job, not what management thinks the job entails or the lofty

standards management would like it to entail. Requiring a master's degree when a high school diploma will do may unfairly exclude applicants and lead to discrimination claims.

Giving managers the duties of hiring and firing employees on paper, but without giving them actual decision-making power, could qualify them for overtime pay as a nonexempt employee under the FLSA.

Most common traps

Here are the common traps to avoid when writing job descriptions.

- **Describing the employee instead of the job.** That's easy to do because an employee—particularly a good one—will often leave a personal stamp on the position. If you describe a position in terms of how its previous occupant performed it, you will find yourself looking for a clone of the ex-jobholder.
- **Using imprecise language.** Language should be direct and clear. Sentences should be short and simple. Language should emphasize the skills and purposes of the current job. Begin with action verbs in the present tense, such as supervise, inspect, produce, organize, motivate, educate, administer, compose, analyze and repair. Avoid gender-based language, such as "salesman."
- **Not being specific enough.** Briefly, state exactly what you want the applicant to do. *Incorrect:* "Quality control inspectors should inspect finished products." *Correct:* "Inspect nuts emerging from production process for burrs. Place nuts with visible burrs in scrap box."

The key ingredients

A well-written job description should include:

Job title. Titles can carry a lot of weight in the workplace and in court. Each title should match the level of authority and responsibility. Cross-check it against other titles in the organization. Inappropriate titles also factor into discrimination charges. For example, if your "director of distribution" is really a shipping clerk, be prepared to explain why he isn't being paid the same as other "directors."

Duties: Essential and nonessential. The key part of job descriptions is an item-by-item list of the job's duties and responsibilities (see *Reason 2 above*). Plus, you'll have a record of your good-faith efforts to evaluate each job—important if the feds or an employee ever question your decisions.

Department/supervisor. Many job descriptions include the title of the employee's direct supervisor, the department name and other identifying details that separate this position from others. Make sure the job descriptions refer to other *job titles*, not names.

Necessary skills. List only those skills that are essential to the job; a laundry list of skills that may never be used might be considered discriminatory.

Experience required. This should be different from skills. Be prepared to prove that the "experience" is essential.

Education, credentials required. Make sure these are essential to job performance. *Example:* Requiring a bachelor's degree for a forklift operator may not be necessary.

Working conditions. Indicate unusual conditions, such as exposure to extreme temperatures or chemicals.

Results expected. Duties are just half of the equation. What do other employees, departments and customers count on this person to do? Include expectations relating to deadlines, customer service and company success. Linking responsibilities to company goals helps the employee see how the position fits into the "big picture."