

POST GENERIC PERSONNEL POLICY



Developed June 2020

AMVETS DEPARTMENT OF FLORIDA EMPLOYEE HANDBOOK

TABLE OF CONTENTS

	<u>PAGE</u>
I. AMVETS MISSION STATEMENT	4
II. OVERVIEW	4
III. VOLUNTARY AT-WILL EMPLOYMENT	4
IV. EQUAL EMPLOYMENT OPPORTUNITY	4
V. POLICY AGAINST WORKPLACE HARASSMENT	5
VI. SOLICITATION	7
VII. PERSONAL RELATIONSHIPS IN THE WORKPLACE	8
VIII. EMPLOYMENT OF RELATIVES	8
IX. HOURS OF WORK, ATTENDANCE AND PUNCTUALITY	9
A. Hours of Work.....	9
B. Attendance and Punctuality	9
C. Overtime.....	10
X. EMPLOYMENT POLICIES AND PRACTICES	10
A. Definition of Terms.....	10
XI. POSITION DESCRIPTION AND SALARY ADMINISTRATION.....	11
XII. WORK REVIEW	11
XIII. ECONOMIC BENEFITS AND INSURANCE	12
A. Social Security/Medicare/Medicaid	12
B. Workers' Compensation and Unemployment Insurance.....	12
XIV. LEAVE BENEFITS AND OTHER WORK POLICIES	13
A. Holidays.....	13
B. Vacation	13
C. Personal Leave.....	14
D. Military Leave	14
E. Civic Responsibility.....	14
F. Jury Duty	14
G. Bereavement Leave.....	14
H. Severe Weather Conditions	15
I. Meetings and Conferences	15
XV. REIMBURSEMENT OF EXPENSES	15
XVI. DISCIPLINARY ACTION	16
a. Discipline	16
b. Immediate termination	18
c. Voluntary Resignation	18

d. Reduction in Force	18
XVII. SEPARATION	19
XVIII. RETURN OF PROPERTY	21
XIX. REVIEW OF PERSONNEL ACTION	21
XX. PERSONNEL RECORDS.....	21
XXI. OUTSIDE EMPLOYMENT	22
XXII. NON-DISCLOSURE OF CONFIDENTIAL INFORMATION.....	22
XXIII. COMPUTER AND INFORMATION SECURITY	23
XXIV. INTERNET ACCEPTABLE USE POLICY.....	25
APPENDIX A. RECORD KEEPING	27
SAMPLE EMPLOYEE RECEIPT AND ACCEPTANCE.....	34
SAMPLE CONFIDENTIALITY AND PLEDGE.....	35

I. AMVETS MISSION STATEMENT

To enhance and safeguard the entitlements for all American Veterans who have served honorably and to improve the quality of life for them, their families, and the communities where they live through leadership, advocacy and services.

II. OVERVIEW

AMVETS National Headquarters and the Department of Florida have developed a Personnel Policy in compliance with the State of Florida and the Federal laws and rules regarding corporations with employees. It is a guide to assist you in becoming familiar with some of the privileges and obligations of an employer and an employee. This Personnel Policy is not intended to give rise to contractual rights or obligations, or to be construed as a guarantee of employment for any specific period of time, or any specific type of work. Additionally, with the exception of the voluntary at-will employment, this Policy is subject to modification, amendment or revocation by AMVETS Department of Florida.

The AMVETS Personnel Policy was approved by the Department Personnel Committee and the delegates at the October 2019 SEC. The delegated authority and responsibility for the administration will go to the Executive Director. Employees and volunteers are encouraged to consult the Executive Director for additional information regarding the policies, procedures, and privileges. Questions about personnel matters also may be reviewed with the Executive Director.

At the Post level the delegation of the Post Personnel Policy will be with the Trustees for the canteen employees and the Judge Advocate for all other employees. It is highly recommended the Post Commander appoint a three-person personnel committee to review the Personnel Policy and Employee Handbook on an annual basis and recommend changes to the Executive Board who will then recommend approval from the membership.

The Post Generic Personnel Policy clarifies the expectations of employees and responsibilities of the Post Officers and Trustees. The information is derived from Federal and State Rules and Regulations. Included in the Post Generic Personnel Policy is an Employee Handbook. It is important that not only the Post Officers and Trustees understand these requirements, but the employee is briefed on the expectations and sign a document validating their compliance and understanding.

AMVETS Department of Florida expects each employee to display good judgment, diplomacy, and courtesy in their professional relationships with members of AMVETS Department of Florida's DEB, committees, membership, staff, and guests.

III. VOLUNTEER VERSUS EMPLOYEE

Nonprofit organizations frequently depend on the service and commitment of volunteers as well as the labor of employees. The skills and talents of both types of workers bring nonprofit missions to life. The simple difference between these two types of workers is that employees get paid and volunteers don't. Yet many nonprofit leaders have discovered that there is more to distinguishing between employees and volunteers than whether an individual receives a regular paycheck. The underlying issue is what are the

consequences of compensating volunteers?

There are many Federal Agencies and laws involved with the definition of volunteers versus employees. The Department of Labor (DOL), Fair Labor Standards Act (FLSA), and the Internal Revenue Service (IRS) just to mention a few.

According to the Department of Labor, a volunteer is: an “individual who performs hours of service’ for civic, charitable, or humanitarian reasons, without promise, expectation or receipt of compensation for services rendered. To determine whether an individual is a true volunteer engaged in “ordinary volunteerism,” the Department of Labor considers a number of factors. No single factor is determinative. The factors include:

- Is the entity that will benefit/receive services from the volunteer a nonprofit organization?
- Is the activity less than a full-time occupation?
- Are the services offered freely and without pressure or coercion?
- Are the services of the kind typically associated with volunteer work?
- Have regular employees been displaced to accommodate the volunteer?
- Does the worker receive (or expect) any benefit (tips) from the entity to which it is providing services?

A volunteer position at your nonprofit is likely to be regarded as “ordinary volunteerism” and safely exempt from the minimum wage requirements of the FLSA if you can answer “yes” to the first four questions and “no” to the final two questions.

Consequences if it is determined that your volunteer should be an employee can be costly. Back years of minimum wage, both employee and employer taxes, back workman’s compensation and penalty.

IV. VOLUNTARY AT-WILL EMPLOYMENT

Unless an employee has a written employment agreement with the Post, which provides differently, all employment within AMVETS Department of Florida is “at-will.” That means employees may be terminated from employment with or without cause, and employees are free to leave the employment of AMVETS with or without cause. Any representation by any officer, trustee or employee contrary to this policy is not binding upon AMVETS Department of Florida or the Post unless it is in writing and is signed by the Executive Director with the approval of the DEB or the Post Commander with approval of the Executive Board.

V. EQUAL EMPLOYMENT OPPORTUNITY

The Post shall follow the spirit and intent of all federal, state and local employment law and is committed to equal employment opportunity. To that end, no Officer, Trustee, Employee, Post

Member, Board of Trustees or Executive Board will discriminate against any employee or applicant in a manner that violates the law.

AMVETS Posts are committed to providing equal opportunity for all employees and applicants without regard to race, color, religion, national origin, sex, age, marital status, sexual orientation, disability, political affiliation, personal appearance, family responsibilities, matriculation or any other characteristic protected under federal, state or local law. Each person is evaluated based on personal skill and merit. AMVETS Post policy regarding equal employment opportunity applies to all aspects of employment, including recruitment, hiring, job assignments, promotions, working conditions, scheduling, benefits, wage and salary administration, disciplinary action, termination, and social, educational and recreational programs.

AMVETS will not tolerate any form of unlawful discrimination. All employees are expected to cooperate fully in implementing this policy. In particular, any employee who believes that any other employee of AMVETS Department of Florida may have violated the Equal Employment Opportunity Laws should report the possible violation to the Post Commander or Chairman of the Board of Trustees if a Canteen issue.

If it is determined that a violation of this policy has occurred, appropriate disciplinary action against the offending party, which can include verbal counseling, written warnings, suspensions, and termination. Employees who report, in good faith, violations of this policy and employees who cooperate with investigations into alleged violations of this policy will not be subject to retaliation. Upon completion of the investigation, the Post will inform the employee who made the complaint that the issue is resolved.

AMVETS is also committed to complying fully with applicable disability discrimination laws and ensuring that equal opportunity in employment exists for qualified persons with disabilities. All employment practices and activities are conducted on a non-discriminatory basis. Reasonable accommodations will be available to all qualified disabled employees, upon request, so long as the potential accommodation does not create an undue hardship on AMVETS Department of Florida. Employees who believe that they may require an accommodation should discuss these needs with the Personnel Committee during the initial interview.

If there are any questions regarding this policy, please contact your immediate supervisor.

VI. POLICY AGAINST WORKPLACE HARASSMENT

AMVETS Post's are committed to providing a work environment for all employees that is free from sexual harassment and other types of discriminatory harassment. Employees are expected to conduct themselves in a professional manner and to show respect for their co-workers.

AMVETS Post's commitment begins with the recognition and acknowledgment that sexual harassment and other types of discriminatory harassment are, of course, unlawful. To reinforce this commitment, AMVETS Department of Florida has developed a policy against harassment and a reporting procedure for employees who have been subjected to or witnessed harassment. This policy applies to all work-related settings and activities, whether inside or outside the workplace, and includes business trips and business-related social events.

AMVETS Post's property (e.g. telephones, copy machines, facsimile machines, computers, and computer applications such as e-mail and Internet access) may not be used to engage in conduct that violates this policy. AMVETS Post's policy against harassment covers employees and other individuals who have a relationship with AMVETS Department of Florida which enables AMVETS Department of Florida to exercise some control over the individual's conduct in places and activities that relate to AMVETS Department of Florida's work (e.g. directors, officers, contractors, vendors, volunteers, etc.).

Prohibition of Sexual Harassment: AMVETS Post's policy against sexual harassment prohibits sexual advances or requests for sexual favors or other physical or verbal conduct of a sexual nature, when: (1) submission to such conduct is made an express or implicit condition of employment; (2) submission to or rejection of such conduct is used as a basis for employment decisions affecting the individual who submits to or rejects such conduct; or (3) such conduct has the purpose or effect of unreasonably interfering with an employee's work performance or creating an intimidating, hostile, humiliating, or offensive working environment.

While it is not possible to list all of the circumstances which would constitute sexual harassment, the following are some examples: (1) unwelcome sexual advances -- whether they involve physical touching or not; (2) requests for sexual favors in exchange for actual or promised job benefits such as favorable reviews, salary increases, promotions, increased benefits, or continued employment; or (3) coerced sexual acts.

Depending on the circumstances, the following conduct may also constitute sexual harassment: (1) use of sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one's sex life; (2) sexually oriented comment on an individual's body, comment about an individual's sexual activity, deficiencies, or prowess; (3) displaying sexually suggestive objects, pictures, cartoons; (4) unwelcome leering, whistling, deliberate brushing against the body in a suggestive manner; (5) sexual gestures or sexually suggestive comments; (6) inquiries into one's sexual experiences; or (7) discussion of one's sexual activities.

While such behavior, depending on the circumstances, may not be severe or pervasive enough to create a sexually hostile work environment, it can nonetheless make co-workers uncomfortable. Accordingly, such behavior is inappropriate and may result in disciplinary action regardless of whether it is unlawful.

It is also unlawful and expressly against AMVETS Post's policy to retaliate against an employee for filing a complaint of sexual harassment or for cooperating with an investigation of a complaint of sexual harassment.

Prohibition of Other Types of Discriminatory Harassment: It is also against AMVETS Post's policy to engage in verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of his or her race, color, gender, religion, sexual orientation, age, national origin, disability, or other protected category (or that of the individual's relatives, friends, or associates) that: (1) has the purpose or effect of creating an intimidating, hostile, humiliating, or offensive working environment; (2) has the purpose or effect of unreasonably interfering with an individual's work performance; or (3) otherwise adversely affects an individual's employment opportunities.

Depending on the circumstances, the following conduct may constitute discriminatory harassment: (1) epithets, slurs, negative stereotyping, jokes, or threatening, intimidating, or hostile acts that relate to race, color, gender, religion, sexual orientation, age, national origin, or disability; and (2) written or graphic material that denigrates or shows hostility toward an

individual or group because of race, color, gender, religion, sexual orientation, age, national origin, or disability and that is circulated in the workplace, or placed anywhere in AMVETS Posts' premises such as on an employee's desk or workspace or on AMVETS Posts' equipment or bulletin boards. Other conduct may also constitute discriminatory harassment if it falls within the definition of discriminatory harassment set forth above.

It is also against AMVETS Posts' policy to retaliate against an employee for filing a complaint of discriminatory harassment or for cooperating in an investigation of a complaint of discriminatory harassment.

Reporting of Harassment: If you believe that you have experienced or witnessed sexual harassment or other discriminatory harassment by any employee of AMVETS Post, you should report the incident immediately to your supervisor or to the Executive Director. Possible harassment by others with whom AMVETS Post has a business relationship, including customers and vendors, should also be reported as soon as possible so that appropriate action can be taken.

AMVETS Posts will promptly and thoroughly investigate all reports of harassment as discreetly and confidentially as practicable. The investigation would generally include a private interview with the person making a report of harassment. It would also generally be necessary to discuss allegations of harassment with the accused individual and others who may have information relevant to the investigation. AMVETS Post's goal is to conduct a thorough investigation, to determine whether harassment occurred, and to determine what action to take if it is determined that improper behavior occurred.

If AMVETS Post determines that a violation of this policy has occurred, it will take appropriate disciplinary action against the offending party, which can include counseling, warnings, suspensions, and termination. Employees who report violations of this policy and employees who cooperate with investigations into alleged violations of this policy will not be subject to retaliation. Upon completion of the investigation, AMVETS Post will inform the employee who made the complaint has been resolved.

Compliance with this policy is a condition of each employee's employment. Employees are encouraged to raise any questions or concerns about this policy or about possible discriminatory harassment with the Post Commander or Chairman of the Board of Trustees in case a canteen issue. In the case where the allegation of harassment is against the Post Commander notify the Department Commander if the Chairman of the Trustees, please notify the Post Commander.

VII. SOLICITATION

Employees are prohibited from soliciting (personally or via electronic mail) for membership, pledges, subscriptions, the collection of money or for any other unauthorized purpose anywhere on AMVETS Post property during work time, especially those of a partisan or political nature. "Work time" includes time spent in actual performance of job duties but does not include lunch periods or breaks. Non-working employees may not solicit or distribute to working employees. Persons who are not employed by AMVETS Post may not solicit or distribute literature on AMVETS Post's premises at any time for any reason.

Employees are prohibited from distributing, circulating or posting (on bulletin boards, refrigerators, walls, etc.) literature, petitions or other materials at any time for any purpose without

the prior approval of the Post Commander or the Chairman of the Board of Trustees.

VIII. PERSONAL RELATIONSHIPS IN THE WORKPLACE

Relationships of an intimate/personal nature comprise the integrity of management/employee relationships whenever one employee has a professional, supervisory responsibility for another employee. Such transgressions not only violate professional ethics, but also potentially render both the AMVETS organization and the supervisor vulnerable to claims of sexual harassment.

This policy will be applied to both males and females and applies to employees in a romantic relationship, marriage or registered domestic partner arrangement. Employees must report relationships with applicants, subordinates, supervisors, and co-workers to the Post Commander or Chairman of the Trustees (if a canteen issue). AMVETS will take steps to avoid the conflict or appearance of a conflict of interest, although all parties should recognize that easy accommodation of the situation may not always be possible.

For purposes of this policy, “supervisory employee” or “supervisor” means any employee, regardless of job description or title, having authority in the interest of the employer to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them or to adjust their grievances, or effectively to recommend this action, if, in the connection with the foregoing, the exercise of this authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

If an individual in a position of authority over another individual engages in a personal relationship of a romantic nature and voluntarily divulges this information to a supervisor, the Post will give consideration to transferring the individual in authority. If, however, the determination of the relationship is discovered by a third party, The Post reserves the right to take disciplinary action up to and including termination of the individual in the position of authority.

Regardless of how the relationship is communicated, if unfair or preferential treatment has been accorded the employee or other employees because of the relationship, disciplinary action, up to, and including termination may be taken.

IX. EMPLOYMENT OF RELATIVES

It is the policy of AMVETS Posts to avoid the hiring, transfer, or promotion of relatives of employees into situations where the possibility of favoritism or conflicts of interest might exist. Therefore, applicants will not be hired, or employees promoted or transferred into the same department at a location where a relative is already employed. In addition, applicants will not be hired, or employees promoted or transferred into a position where a relative occupies a position in the supervisory chain under which the individual applicant or employee would work (no matter how far removed geographically.) Also,

employment will not be offered anywhere in the AMVETS Post to relatives of Board of Trustees or officers, or employees who have access to confidential information (such as wages or salaries, employees benefits, personnel records, etc.) or employees who are in a position to influence or appear to influence employment or personnel decisions that might be made on behalf of the related applicant.

For the purposes of this policy, relatives are defined as: father, mother, son, daughter, wife, husband, registered domestic partner, brother-in-law, sister-in-law, father-in-law, mother-in-law, uncle, aunt, nephew, niece, son-in-law, or daughter-in-law. Employees hired into positions contrary to this policy prior to September 1, 2018 are considered exempt or "grandfathered". Any future changes in their job descriptions will, however, be subject to the policies stated in Paragraph XI.

X. HOURS OF WORK, ATTENDANCE AND PUNCTUALITY

A. Hours of Work

The normal work week for the Post shall consist of 35-40 productive hours. If employees work from their home, they can set their schedule to fit the work requirement. Employees may request the opportunity to vary their work schedules (within employer-defined limits) to better accommodate personal responsibilities. Subject to the Post work assignments.

B. Attendance and Punctuality

In an office environment, attendance is a key factor in your job performance. Punctuality and regular attendance are expected of all employees. Excessive absences (whether excused or unexcused), tardiness or leaving early is unacceptable. If working out of your home, it is more about completed productivity rather than actual hours worked. If you are absent or not available to work for any reason you must advise the Canteen Manager, Chairman of the Board of Trustees or the Commander. In the event of an emergency, you must notify one of them or the as soon as possible.

For all absences extending longer than one day, the Employees must notify the Canteen Manager, Chairman of The Board of Trustees or the Commander. When reporting an absence, you should indicate the nature of the problem causing your absence and your expected return-to- work date. A physician's statement may be required as proof of the need for any illness-related absence regardless of the length of the absence.

Except as provided in other policies, an employee who is absent from work for three consecutive days without notification to the Canteen Manager, Chairman of the Board of Trustees or the Commander will be considered to have voluntarily terminated his or her employment. The employee's final paycheck will be mailed to the last mailing address on file with the Post.

Excessive absences, tardiness or leaving early will be grounds for discipline up to and including termination. Depending on the circumstances, including the employee's length of employment, the Post may counsel employees prior to termination for excessive absences, tardiness or leaving early.

C. Overtime

Overtime pay, which is applicable only to Non-Exempt Employees, is for any time worked in excess of 40 hours in a work week. Every opportunity for compensatory time should be used. Only the Canteen Manager, Chairman of the Board of Trustees or the Commander may authorize overtime. Overtime rate is one and one-half time (1½) the employee's straight time rate.

XI. EMPLOYMENT POLICIES AND PRACTICES

A. Definition of Terms

1. Employer. The AMVETS Department of Florida is the employer of all full-time, part-time and temporary employees. An employee is hired, provided compensation and applicable benefits, and has his or her work directed and evaluated by AMVETS Department of Florida.
2. Full-Time Employee. A Full Time Employee regularly works at least 40 hours per week
3. Part-Time Employee. A Part Time Employee regularly works less than 35 hours per week but no less than 17 ½ hours per week.
4. Exempt Employee. An Exempt Employee is an employee who is paid on a salary basis and meets the qualifications for exemption from the overtime requirements of the Fair Labor Standards Act ("FLSA").
5. Non-Exempt Employee. A Non-Exempt Employee is an employee who is paid an hourly rate and does not meet the qualifications for exemption from the overtime requirements of the Fair Labor Standards Act ("FLSA"). For Non-Exempt Employees, an accurate record of hours worked must be maintained. AMVETS Department of Florida will compensate non-exempt employees in accordance with applicable federal and state law and regulations.
6. Temporary Employee. An individual employed, either on a full-time or part-time basis, for a specific period of time less than six months.
7. Volunteer. A member of AMVETS volunteering to work without a salary, wage or compensation. Volunteers will be reimbursed for expenses properly submitted on approved vouchers and approved by the Bar Manager, Chairman of the Board of Trustees or Commander. Volunteers are not employees, however they may have job titles.

All employees are classified as Exempt or Non-Exempt in accordance with federal and state law and regulations. Each employee is notified at the time of hire of his or her specific compensation category and exempt or non-exempt status.

B. Hiring and Recruitment

The purpose of the Post recruitment activities is to find the best-qualified person to fill each available position. It is our policy to treat all applicants fairly and to base all hiring decisions on individual qualifications and past performance. However, it is Post practice to give preference to veterans and their spouses when considering candidates for employment. The hiring process will consist of advertising the vacant position. The advertisement will go out for a minimum of 30 days. The format for the position descriptions will be:

- Position Title
- Job Duties and Performance Expectations
- Essential Functions
- Experience and Educational Requirements
- Decisions Making Authority
- Core Competencies
- Total Wage Package
- Applicant Instructions

Potential applicants will submit a CV showing work history, copies of diplomas, and certificates and any other documentation that qualifies them for the position.

XII. POSITION DESCRIPTION AND SALARY ADMINISTRATION

Each employee position shall have a written job description. In general, the description will include the: purpose of the position, areas of responsibilities, immediate supervisor(s), qualifications required, salary range, and working conditions affecting the job, e.g., working hours, use of car, etc. The Bar Manager, Chairman of the Board of Trustees or Commander shall have discretion to modify the job description to meet the needs of the Post.

Paychecks are distributed monthly on the last day of each month, except when either of those days falls on a Saturday, Sunday or holiday, in which case paychecks will be distributed on the preceding workday. Timesheets are due to the Finance Officer within two days of the pay period. All salary deductions are itemized and presented to employees with the paycheck. Approved salary deductions may include federal and state income taxes, social security, Medicare, and state disability insurance; voluntary medical and group hospitalization insurance premiums (if in force and if paid by employee) and other benefits (e.g., life insurance, retirement).

XIII. WORK REVIEW

The work of each employee is reviewed on an ongoing basis with the immediate supervisor depending on who is being reviewed to provide a systematic means of evaluating performance.

The annual performance review is a formal opportunity for the supervisor and employee to exchange ideas that will strengthen their working relationship, review the past year, and anticipate the Post's needs in the coming year. The purpose of the review is to encourage the exchange of ideas in order to create positive change within the Post. To that end, it is

incumbent upon both parties to have an open, and honest discussion concerning the employee's performance. It is further incumbent upon the supervisor to clearly communicate the needs of the Post and what is expected of the employee in contributing to the success of the Post for the coming year.

Both supervisor and employee should attempt to arrive at an understanding regarding the objectives for the coming year. This having been done, both parties should sign the performance review form, which will be kept as part of the employee's personnel record and used as a guide during the course of the year to monitor employee progress relative to the agreed upon objectives.

The Chairman of the Trustees (Canteen) or the Post Commander reviews the work of all Post employees. Work reviews for other staff are the responsibility of the appropriate supervisor.

XIV. ECONOMIC BENEFITS AND INSURANCE

The plans that may be available from the Post are:

A. Social Security/Medicare/Medicaid

The Post participates in the provisions of the Social Security, Medicare and Medicaid programs. Employees' contributions are deducted from each paycheck and the Post contributes at the applicable wage base as established by federal law.

B. Workers' Compensation and Unemployment Insurance

Employees are covered for benefits under the Workers' Compensation Law. Absences for which worker compensation benefits are provided are not charged against the eligible employee's sick leave. To assure proper protection for employees and the Post, any accident that occurs on the job must be reported, even if there are no injuries apparent at the time. Forms for this purpose are available from the Post.

AMVETS Department of Florida reserves the right to modify or terminate any employee benefits, at any time.

XV. LEAVE BENEFITS AND OTHER WORK POLICIES

A. Holidays

Full-Time Employees may be eligible for holidays per year as follows:

- New Year's Day
- Martin Luther King, Jr.'s Birthday
- President's Day
- Memorial Day
- Independence Day
- Labor Day

Columbus Day
Veteran's Day
Thanksgiving Day
The Day After Thanksgiving Day
Christmas Day

Full-time employees (employees who regularly work at least 40 hours per week) receive one (1) paid day off for each full day of holiday time. Holiday benefits for Part-Time employees will be pro-rated in accordance with the hours regularly worked by the employee. Employees wishing to take religious holidays may substitute a religious holiday for one of those listed above, with advance approval from their supervisor. Temporary employees are ineligible for holiday leave benefits. In those years when Independence Day, Christmas Eve and Christmas Day, and New Year's Day fall on Saturday or Sunday, the Commander will designate the work day that will replace the weekend holiday.

B. Vacation

During the first 90 days of employment full and part-time employees will not earn Vacation benefits. During the remaining nine months of first year employment, a full-time employee will earn one week (5 days) of paid Vacation.

Full-time employees will continue to earn one week (5 days) of Vacation during the second and third year of employment. In their fourth year of employment, full-time employees will earn two weeks (10 days) of Vacation. During the seventh year, full-time employees will earn three weeks (15 days) of Vacation per year. During the 10th year and thereafter full-time employees will earn four weeks (20 days) of vacation. Temporary employees are ineligible for Vacation benefits.

Employees are expected to use Vacation benefits in the fiscal year in which Vacation is earned. Employees may not carry over unused Vacation.

C. Personal Leave

AMVETS Department of Florida provides three (3) days of personal leave per calendar year to all Full-Time and Part-Time employees who have completed six months of employment. Personal leave benefits are prorated accordingly for part-time employees. Temporary employees are not eligible for paid personal leave benefits. Personal leave is accrued at the beginning of each year and cannot be carried into the next year. Personal leave may not be taken in the first six (6) months of employment. All personal leave is subject to prior approval by the supervisor and must be requested in hourly increments. No personal leave benefits are paid upon separation from employment with the Post for any reason.

D. Military Leave

Employees who are inducted into or enlist in the Armed Forces of the United States or are called to duty as a member of a reserve unit may take an unpaid leave in accordance with applicable law. The employee must provide advance notice of his or her need for a military leave and AMVETS Department of Florida will request a copy of the employee's orders, which will be kept on record by the Post.

Upon return from military leave, employees will be reinstated as required by law and

benefits will be reinstated with no waiting periods.

E. Civic Responsibility

The Post believes in the civic responsibility of its employees and encourages this by allowing employees time off to serve jury duty when required and to serve as nonpartisan Election Day poll workers when appropriate and approved.

F. Jury Duty.

For time served on jury duty, the Post will pay employees the difference between his or her salary and any amount paid by the government, unless prohibited by law, up to a maximum of three days. If an employee is required to serve more than ten days of jury duty, the Post will provide the employee with unpaid leave. Employees must provide the Post a copy of proof of service received by court in which they serve.

G. Bereavement Leave

Employees shall be entitled to bereavement leave with pay of three (3) days in the event of a death in the employee's immediate family (spouse/life partner, child or parent) and grandparent, sister or brother, father-in-law, mother-in-law, or grandchildren. If an employee wishes to take time off due to the death of an immediate family member, the employee should notify their supervisor immediately. Approval of bereavement leave will occur in the absence of unusual operating requirements. An employee may use, with the Supervisor's approval, available paid leave for additional time off as necessary and in accordance with operating needs.

H. Severe Weather Conditions

The Post closes when federal government offices are closed due to severe weather conditions. The Post also will follow a liberal leave policy when the federal government announces that liberal leave is applicable. Under the Post's liberal leave policy, annual and/or personal leave without pay may be taken without prior scheduling and approval if the employee is unable to reach the office due to severe weather conditions.

I. Meetings and Conferences

Staff may be given limited time off by their Supervisor with pay to participate in educational opportunities related to the staff member's current or anticipated work with The Post. An employee serving as an official representative of the Post at a conference or meeting is considered on official business and not on leave.

XVI. REIMBURSEMENT OF EXPENSES

Reimbursement, in accordance with the Department of Florida Reimbursement Policy is authorized for reasonable and necessary expenses incurred in carrying out job responsibilities. Mileage or transportation, parking fees, business telephone calls, and meal costs when

required to attend a luncheon or banquet, are all illustrative of reasonable and necessary expenses.

Employees serving in an official capacity for the Post at conferences and meetings are reimbursed for actual and necessary expenses incurred, such as travel expenses, meal costs, lodging, tips and registration fees. When attending meetings that have been approved by the Post Commander, employees are reimbursed for travel expenses, course fees, and costs of meals and lodging at the current rates. Employees may also request a travel advance to cover anticipated expenses approved travel. Employees also may be granted leave to attend a conference or professional meeting related to their professional development, and/or the Post's current and anticipated work. Expenses for these purposes can be paid by the Post, if funds are available, and the employee obtains prior written approval of such expenses.

Employees are responsible for transportation costs between the office and home during normal work hours. Transportation costs are paid by AMVETS Department of Florida for work outside normal work hours if the employee is on official business for AMVETS Department of Florida. Employees authorized to use their personal cars for the Posts business are reimbursed at the Department approved rate.

Forms are provided to request reimbursement for actual expenses and advance payment for travel. Receipts must be provided for all expenditures made in order to claim reimbursement.

XVII. DISCIPLINARY ACTION AND DISCHARGE

In order to maintain a professional business atmosphere and to protect the health, safety, and property of our employees, AMVETS upholds basic guidelines for disciplinary procedures. In the event that an employee's conduct or behavior interferes with his or her or co-workers' performance or basic job functions, duties or responsibilities, disciplinary action will be administered.

A. Discipline

Discipline for poor job performance and misconduct will normally be progressive using verbal coaching, counseling and written reprimands to correct behavior. However, depending on the nature of the violation and the severity of the misconduct, AMVETS may skip steps in the progressive disciplinary process and impose more serious disciplinary sanctions, up to and including termination. AMVETS reserves the right to determine what disciplinary action may be administered.

Some examples of poor job performance are:

- Below average work quality or quantity;
- Excessive absenteeism, tardiness, or abuse of break and meal privileges; or
- Failure to follow work rules or AMVETS policies and procedures.

Some examples of misconduct are:

- Verbally or physically abusive or threatening behavior that violates AMVETS Harassment or Social Media policies;
- Abuse, misuse, theft, or the unauthorized possession or removal of company property or the personal property of others;
- Falsifying or making a material omission on company records, reports, or other documents, including payroll, personnel and employment records;
- Divulging confidential AMVETS information to unauthorized persons;
- Disorderly conduct on AMVETS property, including fighting or attempted bodily injury, or the use of profane, abusive, or threatening language toward others, or possession of a weapon;
- Violation of any law affecting AMVETS, or conviction of any crime which may cause the employee to be regarded as unsuitable for employment;
- Violation of AMVETS' alcohol, drugs, and controlled substances policy;
- Interfering with the work performance of others, such as by physically or verbally threatening or harassing them;
- Not following safety rules and procedures;
- Gambling or smoking on AMVETS premises or while conducting AMVETS business;
- Sleeping on the job;
- Selling of or possessing firearms, illegal weapons or pornographic material on AMVETS premises or while conducting AMVETS business;
- Intentionally avoiding a return to work after completing business away from work location.

The above listed examples are not an exhaustive list of offenses for which discipline, up to and including termination, may be imposed by AMVETS.

Although one or more of the progressive disciplinary steps may be taken in connection with a particular employee, no formal order or system is necessary. In general, the more serious the problem to be corrected or performance improved, the more serious the corrective action step that will be utilized. AMVETS may also terminate the employment relationship without following any particular series of steps whenever it deems, in its own discretion, that such action should occur based on the severity of the problem, misconduct and the circumstances.

If a disciplinary action is issued, it becomes a permanent part of the employee's personnel record. It therefore may be considered by the organization when appraising the employee for promotion, transfer or merit increase. It will also be considered in the event of future misconduct by the employee in determining the appropriate discipline. A disciplinary action notice will be retained as an official document.

If an employee believes he/she has a valid explanation for the misconduct set forth in the disciplinary action notice, the employee may submit a written explanation to the issuing supervisor and such explanation will be attached to the disciplinary action notice.

Three disciplinary actions within a 12-month period may result in a disciplinary suspension without pay, regardless of the type of offense involved. In addition, suspensions from work in increments of a day or more may be imposed on employees for violations of workplace conduct or safety rules, including but not limited to those conduct and safety rules contained in this Manual. Suspensions also may be imposed on employees pending an investigation of alleged misconduct.

Four disciplinary actions within a 12-month period may result in termination, regardless of the type of first level offense involved. **Keep in mind, however, that AMVETS has no obligation to use any lesser forms of discipline prior to utilizing a more severe form of discipline, including terminating an employee. Moreover, by establishing this disciplinary procedure, AMVETS is not altering an employee's at-will status, meaning that the employee's employment may be terminated by either party for any or no reason at all, at any time, with or without notice.**

B. Immediate Termination

In the event of a severe violation, to be determined in AMVETS' sole discretion, an employee may be disciplined up to and including termination for the first offense. A disciplinary termination may, or may not, be preceded by a disciplinary warning. Examples of acts which may warrant immediate termination include (but are not limited to) dishonesty (including, but not limited to, misrepresentations on an application form or resume, or falsifying any reports, such as insurance claims), gross negligence, inadequate performance, fighting, intentional destruction or defacing of AMVETS' property, criminal acts, possession of alcohol or illegal drugs while on the job or while on company premises, or being under the influence of alcohol or illegal drugs while on the job or while on company premises.

Final decisions regarding termination will be rendered only by the Chairman of the Trustees if a canteen violation or Commander if other than a canteen issue. All decisions regarding discharge may be appealed to the Post Personnel Committee with the exception of employees who are discharged during the following periods: support staff discharged within ninety (90) days of initial employment; professional staff discharged within six (6) months of initial employment. **As stated above, however, by establishing this disciplinary procedure, AMVETS is not altering an employee's at-will status.**

C. VOLUNTARY RESIGNATION

Non-management employees are requested to give at least two weeks' notice of their intent to leave AMVETS employ. It is recommended that management employees notify the Commander in writing not less than one month before they intend to leave.

D. REDUCTION IN FORCE

AMVETS may implement a reduction in force by reason of shortage of work, funds, abolition of position, or changes in duties or organization. When it becomes necessary to decrease the work force, demonstrated skill and efficiency in performing the particular work as well as seniority will be factors weighed in the selection of those employees to be retained.

In any reduction in force, probationary and temporary employees in the job category undergoing the "downsizing" will be dismissed first. Any personnel action resulting from a reduction in force will be deemed permanent and final.

XVIII. SEPARATION

Either the Post or the employee may initiate separation. The Post encourages employees to provide at least two weeks (10 days) written notice prior to intended separation. After receiving such notice, an exit interview will be scheduled by the Supervisor or Commander. The Supervisor has authority to employ or separate employees when approved by the Executive Board or the Board of Trustees (Canteen).

Circumstances under which separation may occur include:

1. Resignation. Employees are encouraged to give at least 10 business days of written notice. Since a longer period is desired, the intention to resign should be made known as far in advance as possible. Employees who resign are entitled to receive accrued, unused Vacation benefits.
2. Termination or Lay-off. Under certain circumstances, the termination or lay-off of an employee may be necessary. Employees who are terminated or laid off are entitled to receive accrued, unused Vacation benefits.

The Post Commander, Canteen Manager (Canteen) have authority to discharge an employee from the employ of the Post with approval of the Chairman of the Trustees (Canteen) and Post Personnel Committee. Appeals from employees who have been discharged shall have the right to appeal, so long as the appeal is filed with the Department Commander or Chairman of the Trustees (Canteen) within fifteen (15) days after the Post Personnel Committee delivers its written decision to the employee. The appeal shall be heard at the next membership meeting, whose decision is final. As stated above, all employment at the Post is "at-will." That means that employees may be terminated from employment with the Post with or without cause, and employees are free to leave the employment of the Post with or without cause. Reasons for discharge may include, but are not limited to:

- Falsifying or withholding information on your employment application that did or would have affected the Post's decision to hire you (this conduct will result in your immediate termination);
- Falsifying or withholding information in other personnel records including personnel questionnaires, performance evaluations or any other records;

- Performance at work below a level acceptable to the Post or the failure to perform assigned duties;
- Failure to complete required time records or falsification of such time records;
- Insubordination;
- Refusing to work reasonable overtime;
- Negligence in the performance of duties likely to cause or actually causing personal injury or property damage;
- Fighting, arguing or attempting to injure another;
- Destroying or willfully damaging the personal property of another, including The Post's property;
- Breach of confidentiality;
- Using or appearing to use for personal gain any information obtained on the job, which is not readily available to the general public or disclosing such information that damages the interests of the Post or its customers or vendors;
- Placing oneself in a position in which personal interests and those of the Post are or appear to be in conflict or might interfere with the ability of the employee to perform the job as well as possible;
- Using the Post property or services for personal gain or taking, removing or disposing of the Post material, supplies or equipment without proper authority;
- Dishonesty;
- Theft;
- The possession, use, sale or being under the influence of drugs or other controlled substances or alcoholic beverages during working hours or on the The Post premises at any time in violation of the Post's policies.
- Carrying or possessing firearms or weapons on the Post property;
- Excessive tardiness or absenteeism whether excused or unexcused;
- Unauthorized absence from work without proper notice; and
- Engaging in discriminatory or abusive behavior, including sexual harassment.

At the sole discretion of the Commander or Chairman of the Trustees (Canteen), the employee may be asked to leave immediately or be given a period of notice.

XIX. RETURN OF PROPERTY

Employees are responsible for the Post equipment, property and work products that may be issued to them and/or are in their possession or control, including but not limited to:

- Telephone cards,
- Credit cards,
- Identification badges,
- Office/building keys,
- Office/building security passes,
- Computers, computerized diskettes, electronic/voice mail codes, and
- Intellectual property (e.g., written materials, work products).

In the event of separation from employment, or immediately upon request by the Commander or Chairman of the Board of trustees (Canteen), Employees must return all Post property that is in their possession or control. Where permitted by applicable law(s), Post may withhold from the employee's final paycheck the cost of any property, including intellectual property, which is not returned when required. The Post also may take any action deemed appropriate to recover or protect its property.

XX. REVIEW OF PERSONNEL ACTION

Employees may request a review of a personnel action or an unsatisfactory performance review. Employees are expected first to discuss their concern with their immediate supervisor. If further discussion is desired, the employee may then discuss the situation with their supervisor's supervisor. The decision of their Supervisor's Supervisor is final.

XXI. PERSONNEL RECORDS

Personnel records are the property of the Post, and access to the information they contain is restricted and confidential. A personnel file shall be kept for each employee and should include the employee's job application, copy of the letter of employment and position description, performance reviews, disciplinary records, records of salary increases and any other relevant personnel information. It is the responsibility of each employee to promptly notify his/ or her supervisor in writing of any changes in personnel data, including personal mailing addresses, telephone numbers, names of dependents, and individuals to be contacted in the event of an emergency.

All employees must complete, within two days of the end of each pay period, their time and attendance record for review and approval by the Commander or Chairman of the Trustees (Canteen). Accurately recording time worked is the responsibility of every employee. Tampering, altering, or falsifying time records, or recording time on another employee's time record may result in disciplinary action, including separation from employment with AMVETS Department of Florida.

XXII. OUTSIDE EMPLOYMENT

Individuals employed by AMVETS Department of Florida may hold outside jobs as long as they meet the performance standards of their job with the Post. Employees should consider the impact that outside employment may have on their ability to perform their duties at the Post. All employees will be evaluated by the same performance standards and will be subject to The Post scheduling demands, regardless of any outside work requirements.

If the Post determines that an employee's outside work interferes with their job performance or their ability to meet the requirements of the Post, as they are modified from time to time, the employee may be asked to terminate the outside employment if he or she wishes to remain employed with the Post.

Outside employment that constitutes a conflict of interest is prohibited. Employees may not receive any income or material gain from individuals or organizations for materials produced or services rendered while performing their jobs with the Post.

XXIII. NON-DISCLOSURE OF CONFIDENTIAL INFORMATION

Any information that an employee learns about the Post, or its members or donors, as a result of working for the Post that is not otherwise publicly available constitutes confidential information. Employees may not disclose confidential information to anyone who is not employed by the Post or to other persons employed by the Post who do not need to know such information to assist in rendering services.

The protection of privileged and confidential information, including trade secrets, is vital to the interests and the success of the Post. The disclosure, distribution, electronic transmission or copying of the Post's confidential information is prohibited. Such information includes, but is not limited to the following examples:

- Compensation data.
- Program and financial information, including information related to donors, and pending projects and proposals.

Employees are required to sign a non-disclosure agreement as a condition of employment. Any employee who discloses confidential Post information will be subject to disciplinary action (including possible separation), even if he or she does not actually benefit from the disclosure of such information.

Discussions involving sensitive information should always be held in confidential settings to safeguard the confidentiality of the information. Conversations regarding confidential information generally should not be conducted on cellular phones, or in elevators, restrooms, restaurants, or other places where conversations might be overheard.

XXIV. COMPUTER AND INFORMATION SECURITY

This section sets forth some important rules relating to the use of the Post's computer and communications systems. These systems include individual PCs provided to employees, centralized computer equipment, all associated software, and the Post's telephone, voice mail and electronic mail systems.

The Post has provided these systems to support its mission. Although limited personal use of AMVETS Department of Florida's systems is allowed, subject to the restrictions outlined below, no use of these systems should ever conflict with the primary purpose for which they have been provided, AMVETS Department of Florida's ethical responsibilities or with applicable laws and regulations. Each user is personally responsible to ensure that these guidelines are followed.

All data in the Post's computer and communication systems (including documents, other electronic files, e-mail and recorded voice mail messages) are the property of the Post. The Post may inspect and monitor such data at any time. No individual should have any expectation of privacy for messages or other data recorded in the Post's systems. This includes documents or messages marked "private," which may be inaccessible to most users but remain available to the Post. Likewise, the deletion of a document or message may not prevent access to the item or completely eliminate the item from the system.

The Post's systems must not be used to create or transmit material that is derogatory, defamatory, obscene or offensive, such as slurs, epithets or anything that might be construed as harassment or disparagement based on race, color, national origin, sex, sexual orientation, age, physical or mental disability, medical condition, marital status, or religious or political beliefs. Similarly, The Post's systems must not be used to solicit or proselytize others for commercial purposes, causes, outside organizations, chain messages or other non-job-related purposes.

Security procedures in the form of unique user sign-on identification and passwords have been provided to control access to the Post's host computer system, networks and voice mail system. In addition, security facilities have been provided to restrict access to certain documents and files for the purpose of safeguarding information. The following activities, which present security risks, should be avoided.

- Attempts should not be made to bypass, or render ineffective, security facilities provided by the company.
- Passwords should not be shared between users. If written down, password should be kept in locked drawers or other places not easily accessible.
- Document libraries of other users should not be browsed unless there is a legitimate business reason to do so.
- Individual users should never make changes or modifications to the hardware configuration of computer equipment. Requests for such changes should be directed to computer support or the Executive Director.
- Additions to or modifications of the standard software configuration provided on the Post's PCs should never be attempted by individual users (e.g., autoexec.bat and config.sys files). Requests for such changes should be directed to the Commander.
- Individual users should never load personal software (including outside email services) to company computers. This practice risks the introduction of a computer virus into the system. Requests for loading such software should be directed to the Commander.

- Programs should never be downloaded from bulletin board systems or copied from other computers outside the company onto company computers. Downloading or copying such programs also risks the introduction of a computer virus. If there is a need for such programs, a request for assistance should be directed to computer support or management. Downloading or copying documents from outside the company may be performed not to present a security risk.
- Users should not attempt to boot PCs from floppy diskettes. This practice also risks the introduction of a computer virus.
- The Post's computer facilities should not be used to attempt unauthorized access to or use of other organizations' computer systems and data.
- Computer games should not be loaded on the Post's PCs.
- Unlicensed software should not be loaded or executed on the Post's PCs.
- Company software (whether developed internally or licensed) should not be copied onto floppy diskettes or other media other than for the purpose of Backing up your hard drive. Software documentation for programs developed and/or licensed by the company should not be removed from the company's offices.
- Individual users should not change the location or installation of computer equipment in offices and work areas. Requests for such changes should be directed to computer support or management. There are a number of practices that individual users should adopt that will foster a higher level of security. Among them are the following:
 - Turn off your personal computer when you are leaving your work area or office for an extended period of time.
 - Exercise judgment in assigning an appropriate level of security to documents stored on the company's networks, based on a realistic appraisal of the need for confidentiality or privacy.
 - Remove previously written information from floppy diskettes before copying documents on such diskettes for delivery outside the post.
 - Back up any information stored locally on your personal computer (other than network based software and documents) on a frequent and regular basis.

Should you have any questions about any of the above policy guidelines, please contact the Commander.

XXV. INTERNET ACCEPTABLE USE POLICY

At this time, desktop access to the Internet is provided to employees when there is a

necessity and the access has been specifically approved. The Post has provided access to the Internet for authorized users to support its mission. No use of the Internet should conflict with the primary purpose of the Post, its ethical responsibilities or with applicable laws and regulations. Each user is personally responsible to ensure that these guidelines are followed. Serious repercussions, including termination, may result if the guidelines are not followed.

The Post may monitor usage of the Internet by employees, including reviewing a list of sites accessed by an individual. No individual should have any expectation of privacy in terms of his or her usage of the Internet. In addition, the Post may restrict access to certain sites that it deems are not necessary for business purposes.

The Post's connection to the Internet may not be used for any of the following activities:

- The Internet must not be used to access, create, transmit, print or download material that is derogatory, defamatory, obscene, or offensive, such as slurs, epithets, or anything that may be construed as harassment or disparagement based on race, color, national origin, sex, sexual orientation, age, disability, medical condition, marital status, or religious or political beliefs.
- The Internet must not be used to access, send, receive or solicit sexually-oriented messages or images.
- Downloading or disseminating of copyrighted material that is available on the Internet is an infringement of copyright law. Permission to copy the material must be obtained from the publisher.
- Software should not be downloaded from the Internet as the download could introduce a computer virus onto the Post's computer equipment. In addition, copyright laws may cover the software so the downloading could be an infringement of copyright law.
- Employees should safeguard against using the Internet to transmit personal comments or statements through e-mail or to post information to news groups that may be mistaken as the position of the Post.
- Employees should guard against the disclosure of confidential information through the use of Internet e-mail or news groups.
- Employees should not download personal e-mail or Instant Messaging software to the Post computers.
- The Internet should not be used to send or participate in chain letters, pyramid schemes or other illegal schemes.
- The Internet should not be used to solicit or proselytize others for commercial purposes, causes, outside organizations, chain messages or other non-job related purposes.

- The Internet should not be used to endorse political candidates or campaigns

The Internet provides access to many sites that charge a subscription or usage fee to access and use the information on the site. Requests for approval must be submitted to your supervisor.

If you have any questions regarding any of the policy guidelines listed above, please contact your supervisor, or the Commander.

APPENDIX A – RECORD KEEPING

I. INTRODUCTION

Nearly every federal employment law, from the Americans with Disabilities Act (ADA) to Title VII of the Civil Rights Act, requires employers to maintain records. The what, when, and how long of these recordkeeping requirements will vary from law to law; this can certainly make recordkeeping a daunting task for employers. But the why of recordkeeping can be quite simple. Records provide documentation to defend—and even drive—employment decisions. Even if no employment laws require them, keeping thorough, well-organized records is still critical in documenting and supporting the AMVETS fair and legal employment practices.

1. Hiring Records: Responsible recordkeeping practices begin long before the first job candidate submits a resume. Before an employee even begins work, you should be creating a retaining document related to the hiring and selecting process. These may include, but are not limited to, records of job posting, application, interviews, offer letters, reference and background checks, and employee handbook acknowledgments.

2. Job Postings: The language an employer uses in its job postings is not only important in attracting the right applicants, but it can be used against the employer in lawsuits by people who are not chosen for the open positions.

To avoid claims of discrimination, job postings should not include any language suggesting limitations or exclusions based on race, sex, age, or any other protected characteristics. Also, the Post should be careful not to accidentally alter the at-will status of the employment relationship through promises or descriptions contained in a job posting.

Posts should also ensure that job descriptions and job postings identify the essential functions of the job. This is important for two reasons. The first relates to disability discrimination and the ADA and any related state laws. One goal of the hiring process is to make sure the Post find people who can perform the essential functions of the job with or without reasonable accommodations.

Second, with respect to overtime laws, job descriptions can be important evidence to help a Post defend against claims that an employee has been improperly classified as exempt or nonexempt.

With respect to outlining the minimum qualifications of employees, Posts will want to pay specific attention to educational, bonding or license requirement or anything else that may be used to disqualify someone from the position.

3. Job Applications: Job Applications and interview notes should hold relevant information on the basis of hiring decisions and should document the valid reasons for selecting or rejecting applicants.

A best practice for job applications is to require a signed application from all candidates and not just a submitted resume. This gives the Post the chance to establish a few things up front and help head-off potential litigation.

There are four types of potential lawsuits to keep in mind when designing an employment application:

- A. Discrimination claims
- B. Claims for wrongful termination
- C. Defamation claims
- D. Invasion of privacy claims

Posts can fend off these types of claims by taking a few precautions:

- A. Include a statement that employment is at will (that is, either the employee or Post may terminate the employment relationship at any time for any reason, other than an illegal reason).
- B. Require a signature from the applicant that all of the information the applicant supplies on the application is true and that any omission or false information will be grounds for rejection of the application or grounds for later termination if the person is hired.
- C. Include an authorization to check references. Checking references before a hire is important because a Post can be held liable for negligent hiring if it fails to conduct a background check and there is some significant problem in the employee's background that a reasonable employer should have uncovered.
- D. Include an arbitration agreement if your Post has chosen to go the arbitration route with employees.

4. Interviews: Though the technology used to achieve it may be changing, the interview remains a crucial part of the hiring process. Meeting (whether in person or virtually) an applicant face-to-face allows a Post the opportunity to assess the applicant's personality, skills, and suitability for the position.

The key is to avoid exposing the Post to liability. The following interview tips should assist the Post in this pursuit:

- A. Ask only job-related questions—not questions that request any information concerning protected categories, such as marital status, national origin, and date of graduation from high school.
- B. Avoid statements that undermine at-will status. Never make any promises about the length of future employment.
- C. Write down the interviewee's responses to the questions asked. Ensure that interview notes are legible, don't use discriminatory language, and make sure the notes are not open to misinterpretation from sloppy drafting or odd use of abbreviations. Standardized digital forms can be good for these purposes because they give the Post a central location for interview notes in a legible form that can easily be accessed and monitored.
- D. Request specific, objective examples of the applicant's best work, as well as

mistakes they've made on the job.

E. Ask why he or she left or is leaving his or her previous employment.

5. Offer Letter: Once the Post makes the decision to hire an applicant, the next important record is the offer letter. The offer letter should establish the initial terms and conditions of employment such as salary.

An offer letter should also confirm the at-will status of the employee. A statement should be included that employment can be terminated by either party, with or without notice, with or without cause, and for any legal reason or not reason at all. It is also prudent to include a statement the at-will status of employment can only be changed in a written document signed by a Post officer. These types of statements can prevent a future plaintiff from arguing that he or she was given oral assurances of future employment.

6. Conducting reference and background checks: There are two kinds of checks. There are checks that trigger various reporting and notice requirements, and there are those that do not.

General reference checks do not require all of the hops, but, nonetheless, prudent Posts should get written authorization for extra protection. With general reference checks, a Post can check the applicant's dates of employment with the company, the last position held, the names of previous supervisors, the reason for separation, and the applicant's strengths and weaknesses.

Many companies won't provide much information about an employee in a reference check in order to avoid defamation claims. When providing information, employers should make sure all statements are truthful and should limit the information to the bare minimum to prevent the likelihood of a defamation claim.

7. Fair Credit Reporting: If a Post goes beyond mere reference checks, looks into criminal history, and obtains more detailed investigative reports, the federal Fair Credit Reporting Act (FCRA) will come into play, as well as any comparable state laws.

The FCRA distinguishes between two forms of reports: consumer reports and investigative consumer reports. Consumer reports, such as credit checks, provide general financial and personal data about an individual's payment history, overall indebtedness, and addresses of record. Investigative consumer reports provide in-depth information about an individual's character, general reputation, personal characteristics, mode of living, etc., that may be obtained through searches of public records and/or interviews with neighbors, friends, professional associates, and other acquaintances. When an employer seeks employment reference, driving records, and criminal background information, it is requesting an investigative consumer report. Due to the more intrusive nature of investigative consumer reports, the FCRA requires employers who request this type of report to comply with additional notice and disclosure requirements.

Before obtaining any type of report, the Post should inform the applicant that a report may be requested. This disclosure should be on a separate form and not as part of the job application. The Post should then obtain the employee's express written, signed authorization to obtain the report.

If an investigative consumer report is requested, within 3 days of doing so the Post must notify the applicant that the report has been requested and must include a statement informing the applicant of his or her right to request additional disclosures and to receive a written summary of legal rights. If the applicant requests additional information about the nature and scope of the investigation, these details must be provided within 5 days.

When the post receives the report, additional disclosures are required before any adverse action(e.g., not hiring an applicant) can be taken based on the information found in the report. First, you must give the applicant or employee a copy of the report you used to make your decision as well as a written summary of rights under the FCRA. This gives the individual the opportunity to review the report and explain any negative information.

Finally, if you choose to proceed with the adverse action, you must provide additional notice to the individual, including the name, address, and phone number of the company that sold the report, a disclosure that the reporting company was not responsible for the employment decision, and information on disputing the accuracy of the report itself.

8. I-9 Verification of Authorization to work: The Immigration Reform and Control Act requires employers to retain employment eligibility forms (INS Form I-9) for the duration of employment and for 3 years after the worker is hired or 1 year after termination, whichever is later.

10. Drug/Alcohol Testing and Physical Exams: Drug and alcohol testing and physical exams implicate a number of laws, including the ADA, as well as state disability and privacy laws. Under the ADA, employers must wait until after they have made a documented job offer to an individual before requesting a physical exam. As a result, it is important to document that an offer was made before the applicant was required to submit to a physical exam.

II. PERSONNEL FILE

It is important to include both positive and negative information in the personnel file so that it is a balanced file—this helps Posts fend off charges that the Post keeps negative information in the personnel file in case of litigation.

Records an employer should keep in the personnel file may include:

- A. Notices of commendations and awards
- B. Written warning or documentation of verbal warnings

- C. Performance appraisals
- D. Any forms signed by the employee expressing adherence to the Post policies
- E. Training records, particularly training required by law

The State of Florida gives the employee the right to inspect certain records in their personnel files. In most cases, the Post can require an employee to give reasonable advance notice of the desire to inspect their personnel file. The Post can also, generally, request a reasonably convenient time for the inspection. The Post may set intervals for the employee to view their files. The Post may also exclude certain sensitive or confidential documents, including letters of reference or documents related to a pending criminal investigation.

- 1. Payroll and other Compensation Records:** Under Federal and State laws, an employer should keep records regarding employee wages and hours worked for at least 4 years. Posts must provide information to employees about their pay, apart from personnel file laws, such as their right to inspect or copy payroll records. Posts must also be aware of state laws regarding what information must or may not be provided on a pay stub, including the employee's name and Social Security number, explanation of gross wages and total hours worked, or any deductions from pay, such as taxes and insurance.
- 2. Vacation, Sick Time, and other Time-off Records:** Vacation time, sick time, and other time-off records should be, and must be, carefully documented. Accrued unused vacation must be paid out at termination, so it becomes very important to record both the vacation accrual and usage.
- 3. Personnel Management Records – Promotions, and Progressive Discipline:** When it comes to positive employment actions such as promotions Posts sometimes become more relaxed about documentation because they think "what employee is going to complain about a positive action like a promotion?"

It may not be the promoted employee that complains, but rather the employee that was denied the promotion. Therefore, it is important to document the reasons why the employee was given the promotion over other candidates.

Even the person who was promoted may use the promotion records in his or her own lawsuit against the company as some point in the future. For example, in a lawsuit after termination, the employee may argue that the employment was not at will, but terminable only for good cause based on the theory of an implied contract of employment that resulted from various factors, including the promotions that the employee received during the employment relationship. Accordingly, even a note of promotion should contain an at-will provision.

Even when an employment relationship is at will, when possible, employers should give written notice of performance deficiencies. This should be done progressively, beginning with a verbal notice, then a written warning, and then a final probation period or termination. Although this may not be legally required since it is an at-will relationship, a written record of progressive discipline makes

it much more difficult for an employee to challenge a termination as discriminatory or otherwise unlawful.

4. **Termination Records:** Termination records may include disciplinary action or reduction in force (RIF) records. The progressive disciplinary records will suffice for this requirement. A reduction in force is a result of economic conditions where expenses must be reduced. Posts should establish a selection criteria for RIF around business needs, document the reasons for the RIF, and perform an analysis to see if there are any red flags for discrimination on the basis of race, gender, or age. Establish criteria in advance, as apposed to an ad hoc basis, and carefully document why specific individuals were selected for or spared from termination. If layoffs are performance-based, a Post may want to consider a forced-ranking of employees. Forced-ranking s are more difficult to challenge as discriminatory if the criterial are measurable and objective.

III. RECORDS RETENTION

Depending on the legal authority and the type of record, statutory retention requirements can vary from 1 year to 30 years after termination of employment. Keeping up with these individual requirements and establishing a workable system to identify when and which records may be safely destroyed can be cumbersome, even for small Posts. Therefore, if availability of secure file storage space is not an issue, adherence to the following general safe harbor retention periods may be preferable to researching applicable state or federal law and calculating the unique retention period required for each individual law, record type, and employee in question.

- A. Personnel Records: 7 years after termination of employment
- B. Medical and benefits records: 6 years, as long as not toxic exposure occurred
- C. Employment verification (I-) records: 3 years after termination
- D. Hiring and application records: 2 years after related personnel decision
- E. Any other miscellaneous documents and records relating to a charge, complaint, enforcement action, or other compliance review: until the final disposition of the related action.
- F. Equal Pay Act (EPA) – Required: Payroll or other records for all full-time, part-time, and temporary employees that include each employee’s name, gender, occupation, job title, rate of pay, and weekly compensation. In addition, the Post must obtain documents related to job evaluations and wage rates, job descriptions, description of merit or seniority systems, and another explanation of wage differentials for employees of different genders. To be retained 3 years
- G. Fair Labor Standards Act (FLSA) – Required: Employee information, including name, address, occupation, birth date (if under the age of 19), and gender; complete payroll records, including hours worked, overtime, and wage deductions; certificates; training certificates, and certificates of age for each employee under the age of 18. To be retained 3 years. Also Required: Basic employment and earnings records, wage rate tables, actual work completed, additional to/deductions from wages, wage differential payments to employees of

the opposite sex/ same job, evaluations, job descriptions, and merit or seniority systems. To be retained 2 years.

H. FLSA/Tipped Employees: Posts with employees who receive tips as part of their wages: The following records must be kept:

- (1) Time paid for hours worked each day in a tipped position
- (2) Time paid for hours worked each day in a nontipped position.
- (3) Tips received and accounted for or turned over to Post in a weekly or monthly amount.

To be retained 3 years from the date the record is made.

I. Federal Unemployment Tax Act (FUTA): Basic employee data, including name, address, Social Security number, and birth date; records showing pay periods, daily and weekly hours, overtime, deductions from pay, payments for fringe benefit, and amounts and dates of wage payments; copies of employee withholding forms (Form W-4 or W4-E); annual records showing total wages for each employee and amounts of taxable pay; documents showing the reason taxable pay does not equal total pay; any deductions from employee pay. To be retained 4 years after tax is due or paid.

J. Homeworker Regulation (FLSA): Required: Payroll records; dates when work was distributed and submitted; amount and kind of work; for each lot, the hours worked and piece rates paid; name and address of agent or distributor and of each homeworker. Posts should also retain the journal in which homeworkers record their daily/weekly hours worked and related business expenses. To be retained for 2 years.

I. Internal Revenue Service (IRS) Regulations: Required: Basic employee data, including name, address, Social Security number, and birth date; records showing pay periods, daily and weekly hours, overtime, tips, deductions from pay, taxes withheld, payments for fringe benefits, and amounts and dates of wage payments; copies of employee withholding form (Form W-4 or W-4E); annual records showing total wages for each employee and amounts of taxable pay; documents showing the reason taxable pay does not equal total pay; amount paid into state unemployment fund, including deductions from employee pay; and experience rating data.

K. Occupational Safety and Health Administration (OSHA) (All Posts with 10 or more employees): Required: The following documents must be maintained by Posts subject to OSHA:

1. Form 300: Log of work-related injuries and illness
2. Form 301: Injury and illness incident report
3. Form 300A: Annual injuries and illness report.

Note: Records of all legally required medical examinations, including records of employee exposure to potentially toxic material or harmful physical agents, must be available to employees for inspection. An equivalent form may be used in place of Form 301 (such as a report of first injury made for purposes of workers' compensation) but the form must include statements related to employee access and employer penalties. To be retained for 5 years.

L. Personal Responsibility and Work Opportunity Reconciliation Act of 1996: Required: Every Post is required to report the hiring or rehiring of each employee to a state directory of new hires within 20 days of hiring. The state must then report to the federal Department of Health and Human Services.

M. Social Security Act (Federal Insurance Contributions Act (FICA): Required: Each employee's name; address; Social Security number; date, amount, and period of services paid for; amount of pay taxable as wages; reasons for discrepancies; amount of tax collected; date; details of adjustments of settlement of taxes; tips reported; and employer filing records. To be retained for 4 years from the tax due date or payment date, whichever is later.

EMPLOYEE RECEIPT AND ACCEPTANCE

I hereby acknowledge receipt of the the Post Employee Handbook. I understand that it is my continuing responsibility to read and know its contents. I also understand and agree that the Post Employee Handbook is not an employment contract for any specific period of employment or for continuing or long-term employment. Therefore, I acknowledge and understand that unless I have a written employment agreement with the Post that provides otherwise, I have the right to resign from my employment with the Post at any time with or without notice and with or without cause, and that the Post has the right to terminate my employment at any time with or without notice and with or without cause.

I have read, understand and agree to all of the above. I have also read and understand the Post Employee Handbook. I agree to return the Employee Handbook upon termination of my employment.

Signature _____

Print Name _____

Date _____

CONFIDENTIALITY POLICY AND PLEDGE

Any information that an employee learns about the Post, or its members or donors, as a result of working for the Post that is not otherwise publicly available constitutes confidential information. Employees may not disclose confidential information to anyone who is not employed by the Post or to other persons employed the Post who do not need to know such information to assist in rendering services.

The disclosure, distribution, electronic transmission or copying of the Post's confidential information is prohibited. Any employee who discloses confidential Post information will be subject to disciplinary action (including possible separation), even if he or she does not actually benefit from the disclosure of such information.

I understand the above policy and pledge not to disclose confidential information.

Signature: _____

Print Name: _____

Date: _____

Please sign and return to the post