



## Supervisors Matter

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Supervisors are “agents” of their employers, which means organizations are vicariously liable for supervisors’ wrongful acts. Supervisors with authority over employees and their terms and conditions of employment can create liability when they abuse or mishandle that authority. Employers are often unaware of the ramifications of this authority until a supervisor’s action or inaction gets the organization into legal trouble. This article discusses the importance of supervisory responsibilities and the training they should receive.

### 1. Supervisors must know employment laws.

Knowledge of employment laws is crucial for the supervisor throughout the employee life cycle. For example, they must understand legal parameters around hiring, including factors that they cannot legally consider. They must understand how to handle medical information, medical situations, and employee privacy rights. They must also be knowledgeable about:

- Preventing harassment and discrimination and enforcing those policies
- Compliance with wage and hour laws, particularly as to overtime, meal periods, travel time, and attendance at seminars and conferences
- The need to treat employees consistently

- Obligations around reasonable accommodations for employees with disabilities, and
- Proper discipline and termination procedures.<sup>1</sup>

Organizations risk legal liability when supervisors do not fully grasp their roles and responsibilities in these areas.

### 2. Supervisors must regularly document workplace issues.

Accurate and complete documentation is crucial in defending employment decisions before arbitrators, commissions, boards, independent hearing officers, judges, and juries. Third-party decision makers *expect* complete and accurate documentation to justify an adverse employment action. When supervisors do not document, or the documentation is sloppy, lacking critical information, or filled with opinions and biases, the organization is more likely to lose in a legal or administrative proceeding.

### 3. Supervisors must adequately coach staff and manage employee performance.

Many administrative and legal proceedings stem from the decision to demote, suspend, or terminate an employee due to behavioral or performance problems. Ensuring that supervisors use appropriate coaching methods and properly manage an employee who is experiencing behavior

or performance issues is the foundation for successfully defending adverse employment decisions.

### 4. Training for supervisors is key to risk management.

Managers with authority over staff must understand the legal outcomes their action or inaction can create. They must be able to spot issues and know how to appropriately handle the particular situation. Training is essential to equip them with this knowledge.

Legal compliance training should encompass applicable state and federal laws including discrimination and harassment, family and medical leave, wage and hour, safety, drug and alcohol, medical privacy, performance management, and documentation. Training should address the many scenarios a supervisor is likely to encounter, and should answer questions such as:

- What do I do if an employee reports sexual harassment but asks that I do nothing about it?
- Can I refuse an employee’s request for a reasonable accommodation when I don’t believe we can or should provide it?
- How do I know what accommodations are reasonable?
- I suspect that one of my staff is an alcoholic, can I terminate them?

- Can I consider a job candidate's past arrest record?
- Can I ask job candidates if they have ever been injured on the job in previous employment?
- Do I have to lower performance standards for an employee who has been on an extended FMLA leave?
- One of my staff members worked 2 hours of overtime, although I told them not to, do I have to pay them for that time?
- Do I have to pay an employee for lunch if it is less than 30 minutes?
- What should I do if I suspect an employee is under the influence of drugs or alcohol?

The answers to these questions have legal ramifications. Supervisors who do not know how to answer them or how to handle a situation are likely to do or say the wrong thing.

### Conclusion

Equipping supervisors to legally navigate their authority and oversight of staff should be a priority, and training should be part of the annual budget. There are many low-cost resources available, such as the Wisconsin Public Employer Labor Relations Association's annual supervisory compliance training held at several locations throughout the state.<sup>2</sup> Many of Wisconsin's technical schools and colleges offer certificates in supervision, which frequently include a human resources management component. Training supervisors to make legally sound decisions will better position the organization to successfully defend employment-related claims.

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<sup>1</sup> See the League's HR Matters page for information on many of these topics:  
<https://www.lwm-info.org/1561/Human-Resources-Matter>

<sup>2</sup> See the WPELRA information page:  
<https://www.statenpelra.org/i4a/pages/index.cfm?pageid=3830>



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