

EMPLOYMENT LAW
INSTRUCTOR'S MANUAL



Personally Yours: A Case Study Trilogy

By Angela T. Hall, Ph.D., J.D., SPHR

PROJECT TEAM

Author: Angela T. Hall, Ph.D., J.D., SPHR

SHRM project team: Bill Schaefer, SPHR

Nancy A. Woolever, SPHR

External contributor: Sharon H. Leonard

Copy editing: Courtney J. Cornelius, copy editor

Design: Kellyn Lombardi, graphic designer

© 2009 Society for Human Resource Management. Angela T. Hall, Ph.D., J.D., SPHR

Note to HR faculty and instructors: SHRM cases and modules are intended for use in HR classrooms at universities. Teaching notes are included with each. *While our current intent is to make the materials available without charge, we reserve the right to impose charges should we deem it necessary to support the program.* However, currently, these resources are available free of charge to all. Please duplicate only the number of copies needed, one for each student in the class.

For more information, please contact:

SHRM Academic Initiatives

1800 Duke Street, Alexandria, VA 22314, USA

Phone: (800) 283-7476 Fax: (703) 535-6432

Web: www.shrm.org/education/hreducation

Teaching Notes

THE PERSONALLY YOURS TRILOGY

These three cases address key legal issues in HR. Although the cases have some overlapping issues, the instructor can choose to use each case as a stand-alone learning tool or as part of a multi-part case study.

AUDIENCE

Undergraduate HR students.

SUBJECTS COVERED

Staffing, negligent hiring, negligent retention, employee references.

LEARNING OBJECTIVE

Students will learn to identify and apply legal principles to HR issues.

BACKGROUND READING

- Summary of laws related to staffing, negligent hiring, references, and negligent referral (provided).
- A list of helpful websites and a bibliography of suggested further reading (see page 7).
- Optional: *Legal, Effective References: How to Give and Get Them*, by Wendy Bliss, J.D., SPHR (a SHRM publication).
- **Supplied Materials**
Teaching notes/process narrative:
 1. Principles to be taught.
 2. Instructions for conducting case simulation activity.
 3. De-briefing questions to facilitate follow-up discussion.
- Role descriptions for students.

- PowerPoint presentation on legal issues related to HR (see *Legal Issues in HR Learning Module*).

▪ Pre-Case Assignments

1. Students should read summary materials and their respective role descriptions.
2. Students should read *Legal, Effective References: How to Give and Get Them*, by Wendy Bliss, J.D., SPHR (a SHRM publication).

CASE SIMULATIONS

Background: One of the goals of HR is to effectively manage the flow of employees to and from the organization (Ferris, Hochwarter, Buckley, Harrell-Cook, & Frink, 1999). This overarching theme links these three cases.

Set-up:

Each case will require that the students form groups of three.

Setting:

- A medium-sized (250 employee) for-profit, fictitious firm.
- Personally Yours is a personal assistant firm founded in 1997. After years of struggling to balance work and family, Sarah Winters established the company to address some of the challenges that working professionals face in their busy lives. Personally Yours provides a wide range of services, including residential housekeeping, grocery shopping, household organization, home companion, adult day care and even handyperson services.
- Sarah Winters, a registered nurse, started the company in her hometown of Tampa, Florida, with the help of a small business grant, personal savings, and three employees (her mother, sister and cousin). After several rocky years of operation, Winters has 15 branch offices located throughout central Florida and Miami. Each branch office employs a branch manager who is responsible for administrative duties and approximately 15 employees who work either full time or part time. The rest of her 250 employees are located at headquarters in Tampa. To keep operations lean, Winters has kept central administrative staff to a minimum; she outsources many services such as payroll, accounts payable and legal services. But as the company grows, Winters has been re-thinking this strategy.

CASE 1–STAFFING

- The first case involves a staffing scenario; students are asked to identify and avoid potential legal pitfalls in the staffing process (e.g., biased job advertising).
- Three roles: Human Resource Manager (Alyssa Williams), Branch Manager (Toby Franklin), Applicant (Corey Grant).

Scenario:

Human resource manager Alyssa Williams receives a request to advertise for and hire another home health aide from Toby Franklin, the Odessa branch manager. Due to the large elderly community in this area, home health care aides to provide assistance and companionship to elderly clients are in high demand. Franklin believes that women are best-suited to this type of position—not because they have innate qualities that make them better for these positions, but because clients feel more comfortable with them. As such, Franklin wants to advertise in women-oriented publications. However, before advertising for this position, he receives an unsolicited résumé from Corey Grant, a male nurse with years of experience. Grant says in his cover letter that he has heard via word-of-mouth that this office might be looking to hire another home health aide.

Activity:

This is a two-part scenario.

Part 1 – Students assuming the various roles are asked to draft an advertisement for the position that will appear in a local periodical and discuss the legality of marketing this position to women.

Part 2 – Students in the roles will discuss what kind of consideration they must give Corey Grant as an applicant, given Franklin’s hiring preference.

Debriefing:

Part 1 – Sample language for the advertisement:

“The Odessa, Florida, branch of *Personally Yours, Inc.*, is looking for a dynamic nursing professional to join our team! Ideal candidates will have experience working with elderly patients and can work well independently. Interested candidates should submit a résumé and cover letter to ...”

Part 2 – Ideally, all qualified candidates should be considered; however, it would probably not constitute discrimination under Title VII to market the position to women or to hire only women for the position of providing nursing care to female patients. EEOC guidelines suggest that when it comes to performing tasks such as bathing and dressing, an employer can decide to hire same-sex employees to provide care to patients. Thus, this is a one of the few exceptions when an employer can exclude certain groups based on client/patient preferences. However, if the job candidate would be performing services to both male and female patients, this exception probably would not apply; to exclude men would constitute Title VII discrimination.

CASE 2–NEGLIGENT HIRING/RETENTION

- The second case involves negligent hiring/retention. Specifically, this case explores the legal responsibilities an employer has to conduct background searches and to dismiss employees who pose a potential danger to co-workers and/or clients.
- Three roles: human resource supervisor (Gary Garcia), branch manager (Violet Jennings), human resource manager (Alyssa Williams).

Scenario:

Human resource supervisor Gary Garcia leaves a meeting at the local SHRM chapter with some great ideas about how Personally Yours could improve their HR operations. Overall, things are running pretty efficiently; Personally Yours is a quickly-growing medium-sized organization, though, and in many ways it still operates like the small, family-owned and -operated business it was just a few years ago.

For example, existing hiring processes are standardized at headquarters and at the branch offices. Each job applicant completes a standardized application, submits a résumé (if appropriate for the position), does pre-employment testing, and undergoes a background check (which includes contacting references and former employers and conducting a criminal background check). However, this was not the case when the company was first started, and many longtime employees have never undergone a background check. This is extremely troubling to Garcia, in light of the fact that their employees work in clients' homes and have contact with vulnerable individuals (e.g., children, elderly, infirm).

Activity:

This is a two-part scenario.

Part 1 – The HR supervisor and HR manager, along with suggestions from branch manager Violet Jennings, must determine if background checks on all employees are necessary. If so, they must develop a protocol to conduct them (e.g., which employees, how thorough).

Part 2 – It has come to Jennings' attention that one of her longtime employees, Jackson Tibbits, a handyman, is on the Florida Sexual Offender list. After doing more research, she learns that 17 years ago, when Tibbits was 24, he was convicted of having unlawful sexual contact with a 15-year-old female. As a registered sexual offender, Tibbits cannot live within 1,000 yards of a school and must register with the state anytime he moves. Also, he is prohibited by law from holding positions such as schoolteacher and health care professional. Garcia, Williams, and Jennings must decide whether they should terminate Tibbits based on this newly discovered information.

Debriefing:

Part 1 – It would be a good idea for Personally Yours to perform background checks on all its employees because they work in people’s homes. In recent years, civil suits have been successful against pest control companies, carpet cleaning services and other companies whose employees were not thoroughly checked and subsequently committed a crime against a customer. This is even more important for Personally Yours because many of their employees come in close contact with their clients and deal with vulnerable populations (e.g., the elderly).

The company should perform criminal background checks, preferably with fingerprinting. A credit history check might be considered as well, but is probably not necessary for all employees. (The reasoning behind the credit history check is that employees who are in debt or have bad credit might be more likely to steal from the employer and clients. This is not necessarily a strong/valid argument.) The employer should continue to contact past employers for references. Because employees drive to multiple worksites, the employer should verify that job candidates and employees have valid driver’s licenses. Additionally, for those positions that require a professional license (e.g., nurses and possibly home health aides who might be certified nursing assistants), the employer should contact the state board of nursing or other appropriate licensure board to check if there is any history of licensure discipline (e.g., the individual’s license has been reprimanded, suspended, or terminated). Finally, the employer should consider doing periodic background checks on current employees, not solely when they are initially hired.

Part 2 – Tibbits should be discharged for his failure to disclose this pertinent conviction. As a convicted sexual offender, Tibbits is considered in the eyes of the law to be high-risk and should not be allowed to enter unsuspecting clients’ homes. Moreover, given his status, Tibbits cannot work around vulnerable populations. The liability that the company would face if Tibbits acts inappropriately while at a jobsite will be greater than if Tibbits files a wrongful termination suit (which would be unlikely to prevail).

CASE 3 – EMPLOYER REFERRALS

- The third case addresses the fine line an employer must tread between protecting an employee’s (or former employee’s) privacy versus the obligation that an employer has to warn potential new employers that a particular individual poses a potential threat based on past behavior (e.g., violence, threats, mental instability).
- Three Roles: human resource supervisor (Gary Garcia), branch manager (Anthony Garrison), branch supervisor (Maya Atkins).

Scenario:

Neil Andrews is a hardworking employee but has a reputation for being a hothead. After branch manager Anthony Garrison changed Andrews’ work schedule so that he would now have to work every other Saturday, Andrews gets extremely upset. He walks into Garrison’s office, puts his face inches away from Garrison’s face and says, “One of these days, I’m going to lose it in here. After I am done, there will be nothing but smoke and embers!” He storms out of the office and goes across the street to a convenience store.

About 15 minutes later, Andrews returns, calmer after having eaten two packages of Toasted Sweeties and washing it down with a soda. He picks up his toolbox and goes to his next assignment for the day.

Garrison has never liked Andrews and sees this episode as an opportunity to get rid of him.

Activity:

This is a two-part scenario.

Part 1 – Students playing the roles must decide if they should discharge Andrews.

Part 2 – Assume for the sake of this portion of the activity that Andrews is discharged. What type of information (if any) should Personally Yours give when a potential employer calls for a reference?

Debriefing:

Part 1 – Personally Yours should consider discharging Andrews. It will face possible legal liability if Andrews makes good on his threat. Also, Garrison should consider requesting an injunction barring Andrews from the office. Although most people do not follow through on their threats, the company has an obligation to act to protect their employees on the off-chance that violence might occur.

Part 2 – Because Andrews was discharged for making threats, the company should relay this to any future employer calling for a reference. However, care must be taken to disclose only as much information as necessary and to keep personal opinions out of the reference. All calls for references regarding Andrews should be forwarded to the HR office and not handled by Garrison.

SUGGESTED FURTHER READING

Fleischer, Charles H. (2004). *Employer's Rights: Your Legal Handbook from Hiring to Termination and Everything in Between*. Sphinx Publishing.

The following websites provide invaluable, up-to-date information for both instructors and students and are strongly suggested:

- The U.S. Equal Employment Opportunity Commission (EEOC): www.eeoc.gov.
- The Americans with Disabilities Act: www.ada.gov.
- The U.S. Department of Labor (DOL): www.dol.gov.

The following are recommended online legal resources:

- The Legal Information Institute (LII): www.law.cornell.edu/states.
- A Guide to Disability Laws (U.S. Department of Justice, Civil Rights Division): www.ada.gov/cguide.htm#anchor62335.
- The Alexander Hamilton Institute: www.legalworkplace.com.
- Employment Law Information Network: www.elinfonet.com.
- FindLaw: <http://employment.findlaw.com/?DCMP=KWC-G-PUBLIC>.

Case One

Personally Yours: The Staffing Dilemma Case

GENERAL INFORMATION

Personally Yours, Inc., is a personal assistant firm founded in 1997. After years of struggling to balance work and family, Sarah Winters established this company to address some of the challenges that working professionals face in their busy lives. Personally Yours provides a wide range of services, including residential housekeeping, grocery shopping, household organization, home companion, adult day care and even handyman services.

Sarah Winters started the company in her hometown of Tampa, Florida, with the help of a small business grant, personal savings, and three employees (her mother, sister and cousin). After several rocky years of operation, Winters now has 15 offices throughout central Florida and Miami. Each branch has a branch manager who is responsible for administrative duties and approximately 15 employees who work either full time or part time. The rest of Winters' 250 employees are located at the headquarters in Tampa. To keep their operations lean, Winters has kept central administrative staff down to a minimum; she has outsourced many services such as payroll, accounts payable and legal services. As the company grows, however, Winters is re-thinking this strategy.

ROLE OF ALYSSA WILLIAMS, HR MANAGER

Alyssa Williams has been the HR manager of Personally Yours, Inc., for more than seven years. Williams works in the corporate headquarters in Tampa, Florida. She holds an undergraduate degree in human resource management and is active in the local SHRM chapter.

Even though her title is officially human resource manager, her duties are more like a vice president of HR; she reports directly to the president and founder, Sarah Winters, who routinely consults her regarding both general and strategic HR decisions. The company has outsourced some HR functions, such as payroll. When it comes to the remaining HR functions that are handled internally, top management takes a hands-off approach and allows Williams to exercise her judgment. (Williams is the highest-ranking HR professional in the company.) Williams feels complimented by the faith senior management has shown in her. For example, all requests to create new positions must be approved by Williams.

Recently, Williams received a request to hire from Toby Franklin, a branch manager in the Odessa office. Franklin is a registered nurse with supervisory experience.

Williams thinks that Franklin is a good nurse and efficient manager; however, she believes that some of his ideas and management practices might be a bit dated.

When Franklin was first hired to run the Odessa branch five years ago, there were two handymen, four part-time personal assistants, three full-time nurses, and four full-time home health aides. However, over the years as more retirees have relocated to Florida and the overall population of the state ages, the demand for nursing has increased tremendously. Now, five full-time nurses work from this branch office. Franklin believes that he needs to hire at least one more nurse in the near future to keep up with demand, so he submitted a request for a new position to Williams. Williams agrees, and is planning to call Franklin tomorrow to advise him of such.

Although Franklin is a nurse himself, he believes that women are best-suited for the nursing positions at Personally Yours, not because they have innate qualities to make them better for these positions but because the clients feel more comfortable with them. As such, Franklin wants to advertise for this position in women-oriented publications. Also, Franklin wants to specify in the advertisement that Personally Yours is looking for “young and energetic female nurses.” Williams feels uncomfortable about considering only women for this position. She is also concerned about not committing age discrimination.

Williams learns that Franklin received an unsolicited application from a male nurse, Corey Grant. Pursuant to company policy, Franklin faxed the application to headquarters within two business days of his receipt of it. Grant’s cover letter states that he has heard via word-of-mouth that the Odessa office might be looking to hire another home health aide. After a quick review of the résumé, Williams determines that Grant appears to have the experience and training for this position. When at all possible, though, Williams prefers that the hiring decisions be made at the branch office level.

Assignment

This is a two-part activity.

Part 1: You and Franklin are asked to draft an advertisement for this position that will appear in a local or professional periodical. You must decide what type of periodical (e.g., newspaper, trade publication). You must also decide whether you are legally obligated to consider Grant’s application.

Time allotted: 10 minutes.

Part 2: For the sake of this part of the exercise, assume that you decide to interview Grant. Engage in a role play in which you and Franklin interview Grant.

Time allotted: 15 minutes.

ROLE OF TOBY FRANKLIN, BRANCH MANAGER, ODESSA, FLORIDA

Toby Franklin, a licensed nurse, manages the Odessa branch of Personally Yours. After years of working in hospitals and nursing homes as a nurse and nursing supervisor in the Tampa Bay area, Franklin decided that he wanted a change and applied for a position as a branch manager at Personally Yours, Inc. Franklin was surprised to receive the position because he did not have experience supervising handypersons and personal assistants. However, the district manager who interviewed him said that he liked his enthusiasm and thought he would be a perfect fit for the up-and-coming company.

When Franklin became the branch manager of the Odessa office five years ago, there were two handymen, four part-time personal assistants, three full-time nurses, and four full-time home health aides. However, over the years, more retirees have relocated to Florida and the overall population of the state has aged, increasing the demand for nursing tremendously. Today, five full-time nurses work from the Odessa office. Franklin believes he needs to hire at least one more nurse in the near future to keep up with demand.

Although Franklin is a nurse himself, he believes that women are best-suited for the nursing positions at Personally Yours, not because they have innate qualities to make them better for these positions but because clients feel more comfortable with them. As such, Franklin wants to advertise for the position in women-oriented publications (such as a free local publication geared toward women that is available at supermarkets). Also, Franklin wants to specify in the advertisement that Personally Yours is looking for “young and energetic female nurses.”

However, before he could advertise for the position, Franklin receives an unsolicited résumé from Corey Grant. Grant says in his cover letter that he has heard via word-of-mouth that the office might be looking to hire another home health aide. Grant is a 59-year-old African-American man with 20 years of nursing experience.

Franklin had been thinking about contacting one of his nurse friends, a 32-year-old white woman, to see if she would be interested in this possible position. Franklin thinks that his friend could bring a tremendous amount of youth and energy to the position.

Assignment

This is a two-part activity.

Part 1: You and Alyssa Williams, your boss and Personally Yours, Inc.'s HR manager are asked to draft an advertisement for the position to run in a local or professional periodical. You must decide what type of periodical (e.g., newspaper, trade publication). You must also decide whether you are legally obligated to consider Grant's application. Be prepared to explain your decision.

Time allotted: 10 minutes.

Part 2: For the sake of this part of the exercise, assume that you decide to interview Grant. Engage in a role play in which you and Williams interview Grant.

Time allotted: 15 minutes.

ROLE OF COREY GRANT, JOB APPLICANT

Corey Grant, a 59-year-old African American man, has been in the medical field for more than 20 years. He served in the military for six years as a medic. After receiving an honorable discharge from the military, Grant attended community college and became a licensed practical nurse (LPN). Grant has experience working in nursing homes, hospitals and assisted living facilities.

Recently, Grant has experienced a series of personal changes in his life. He went through a divorce and shares joint custody of his nine-year-old son with his ex-wife. He also decided to go back to school to earn his bachelor of science in nursing and hopes to eventually become a master's level advanced registered nurse practitioner (ARNP). Due to these life changes, Grant wants to leave the nursing home where he is currently working 40 hours per week (8:00am to 5:00pm, Monday through Friday). Grant does not want to work in a hospital because he would most likely have to work 12-hour shifts, which will not be feasible when he is taking care of his son.

Grant considers himself a hard worker and is liked by his supervisor and co-workers at the nursing home. He receives excellent performance appraisals, was voted "Employee of the Year," and is currently vice president of the local nursing association.

Grant hears from his friend, a home health aide at the Odessa branch of Personally Yours, that her office might be looking for an experienced LPN. The position would require Grant to go to patients' homes, administer medicines and assist in personal care. Grant thinks that a position like this would offer him a terrific opportunity because it would give him the flexibility to attend school and care for his son. Grant immediately sends a cover letter and résumé to Toby Franklin, a fellow nurse and the branch manager of the Odessa office of Personally Yours.

Assignment

This is a two-part activity.

Part 1: For this part of the exercise, you will be working independently. You must prepare for your interview with Personally Yours, Inc. Try to think about possible questions that you might be asked; prepare a list of your strengths and how you believe you will add value to the organization. Also, outline some challenges you think that you might face in this position. You might be asked to give this list to your instructor; however, do not show the list to Franklin and Williams.

Time allotted: 10 minutes

Part 2: In this portion of the activity, you will be interviewed by Williams and Franklin.

Time allotted: 15 minutes.

Case Two

Personally Yours: The Negligent Hiring/Retention Case

GENERAL INFORMATION

Personally Yours is a personal assistant firm founded in 1997. After years of struggling to balance work and family, Sarah Winters established this company to address some of the challenges working professionals face in their busy lives. Personally Yours provides a wide range of services, including residential housekeeping, grocery shopping, household organization, home companion, adult day care and even handyperson services.

Sarah Winters started the company in her hometown of Tampa, Florida, with the help of a small business grant, personal savings, and three employees (her mother, sister and cousin). After several rocky years, Winters now has 15 branch offices located throughout central Florida and Miami. Each branch employs a branch manager who is responsible for administrative duties and approximately 15 employees who work either full time or part time. The rest of her 250 employees are located at the Tampa headquarters. To keep operations lean, Winters has kept central administrative staff to a minimum; she has outsourced services such as payroll, accounts payable and legal services. But as the company grows, Winters has been re-thinking this strategy.

ROLE OF GARY GARCIA, HR SUPERVISOR

Gary Garcia has been the HR supervisor at Personally Yours for the past 9 years. His immediate supervisor is HR Manager Alyssa Williams. After attending a meeting at the local SHRM chapter, Garcia came away with some great ideas about how their organization could improve HR operations. Overall, things are running pretty efficiently; but Personally Yours is a quickly growing, medium-sized organization, and in many ways it still operates like the small, family-owned and -operated business it was just a few years ago.

For example, hiring processes are now standardized at headquarters and at the branch offices. Each job applicant completes a standardized application, submits a résumé (if appropriate for the position), does pre-employment testing, and undergoes a screening that includes contacting references and former employers and a criminal background check. However, this was not the case when the company first started, and many longtime employees have never gone through a background check. This is extremely troubling to Garcia, in light of the fact that their employees work in clients' homes and have contact with vulnerable individuals (e.g., children, elderly, infirm).

Assignment

This is a two-part activity.

Part 1: You and the HR manager, along with suggestions from the branch manager, must determine if background checks on all employees are necessary. If so, develop a protocol to conduct them (e.g., which employees; how thorough).

Time allotted: 15 minutes.

Part 2: It has come to Branch Manager Violet Jennings's attention that one of her longtime employees, Jackson Tibbits, a handyman, is on the Florida Sexual Offender list. After doing more research, they learn that 17 years ago, when Tibbits was 24, he was convicted of having unlawful sexual contact with a 15-year-old female. As a registered sexual offender, Tibbits cannot live within 1,000 yards of a school and must register with the state any time he moves. Also, he is prohibited by law from holding positions such as schoolteacher and health care professional. You, Williams, and Jennings must decide whether you should terminate Tibbits based on this newly discovered information.

Time allotted: 15 minutes.

ROLE OF ALYSSA WILLIAMS, HR MANAGER

Alyssa Williams is the HR manager for Personally Yours, Inc. She has been in this position for more than seven years. Williams works in the corporate headquarters located in Tampa, Florida. She has an undergraduate degree in HR and is active in the local SHRM chapter.

Though her title is officially HR manager, her duties are more like a vice president of HR. She reports directly to the president and founder, Sarah Winters, who routinely consults Williams regarding both general and strategic HR management decisions. The company has outsourced some HR functions, such as payroll; however, when it comes to the remaining HR functions that are handled internally, top management takes a hands-off approach and allows Williams to exercise her judgment. (Williams is the highest-ranking human resource management professional in the company.) Williams feels complimented by the faith the senior management has shown in her. For example, all requests to create new positions must be approved by Williams.

Assignment

This is a two-part activity.

Part 1: You and the HR supervisor, along with suggestions from the branch manager, must determine if background checks on all employees (new and existing) are necessary. If so, you must develop a protocol to conduct them (e.g., which employees; how thorough).

Time allotted: 15 minutes.

Part 2: It has come to Branch Manager Violet Jennings's attention that one of her longtime employees, Jackson Tibbits, a handyman, is on the Florida Sexual Offender list. After doing more research, they learn that 17 years ago, when Tibbits was 24, he was convicted of having unlawful sexual contact with a 15-year-old female. As a registered sexual offender, Tibbits cannot live within 1,000 yards of a school and must register with the state any time he moves. Also, he is prohibited by law from holding positions such as schoolteacher and health care professional. You, Garcia and Jennings must decide whether you should terminate Tibbits based on this newly discovered information.

Time allotted: 15 minutes.

ROLE OF VIOLET JENNINGS, BRANCH MANAGER, TAMPA-EAST

Violet Jennings has been the Tampa-East branch manager of Personally Yours, Inc., for the past 9 years. Jennings has been friends with the president and founder, Sarah Winters, ever since they attended high school together. Jennings was one of the first non-family members hired to work for Personally Yours, and she has been serving as manager of the Tampa-East branch for 6 years now. Before working for *Personally Yours*, Jennings worked in a number of positions, including housekeeping manager for a major hotel chain and customer service representative for a local utility company. Jennings was also a stay-at-home mother for several years and briefly owned a used-clothing store.

The Tampa-East branch is the largest branch office, with 17 full-time housekeepers, 11 full-time nurses, 19 part-time nurses, 10 part-time home health aides, and 6 full-time handymen. Jennings' official job title is branch manager, but because of the close relationship she has with the Winters' and her long tenure with the company, Jennings is frequently consulted by headquarters when they are making policy decisions.

Currently, hiring processes at Personally Yours are standardized at headquarters and at the branch offices. Each job applicant completes a standardized application, submits a résumé (if appropriate for the position), does pre-employment testing, and goes through a screening that includes contacting references and former employers and a criminal background check. However, this was not the case when the organization was first started, and many longtime employees have never gone through a background check. Because their employees work in clients' homes and have contact with vulnerable individuals (e.g., children, elderly, infirm), HR supervisor Gary Garcia would like to reevaluate the company's screening policies.

Assignment

This is a two-part activity.

Part 1: The HR supervisor and the HR manager have asked you to work with them to determine if background checks on all employees (new and existing) are necessary. If so, you must develop a protocol to conduct them (e.g., which employees; how thorough).

Time allotted: 15 minutes.

Part 2: It has come to your attention that one of your longtime employees, Jackson Tibbits, a handyman, is on the Florida Sexual Offender list. After doing more research, you learn that 17 years ago, when Tibbits was 24, he was convicted of having unlawful sexual contact with a 15-year-old female. As a registered sexual offender, Tibbits cannot live within 1,000 yards of a school and must register with the state any time he moves. Also, he is prohibited by law from holding positions such as schoolteacher and health care professional. You, Garcia and Williams must decide whether you should terminate Tibbits based on this newly discovered information.

Time allotted: 15 minutes.

Case Three

Personally Yours: The Employee Referrals Case

GENERAL INFORMATION

Personally Yours, Inc., is a personal assistant firm founded in 1997. After years of struggling to balance work and family, Sarah Winters established this company to address some of the challenges that working professionals face in their busy lives. Personally Yours provides a wide range of services, including residential housekeeping, grocery shopping, household organization, home companion, adult day care and even handyperson services.

Sarah Winters started the company in her hometown of Tampa, Florida with the help of a small business grant, personal savings, and three employees (her mother, sister and cousin). After several rocky years of operation, Winters now has 15 offices throughout central Florida and Miami. Each branch has a branch manager who is responsible for administrative duties and approximately 15 employees who work either full time or part time. The rest of Winters' 250 employees are located at the headquarters in Tampa. To keep operations lean, Winters has kept central administrative staff to a minimum. Instead, she has outsourced many services such as payroll, accounts payable and legal services. As the company grows, however, Winters is re-thinking this strategy.

ROLE OF GARY GARCIA, HR SUPERVISOR

Gary Garcia has been the HR supervisor at Personally Yours, Inc., for the past 9 years. His immediate supervisor is HR manager Alyssa Williams. After attending a meeting at the local SHRM chapter, Garcia came away with some great ideas about how Personally Yours could improve their HR operations. Overall, things were running pretty efficiently. Personally Yours was a quickly growing medium-sized firm, though, and in many ways it still operated like the small family-owned and -operated business it was just a few years ago.

For example, existing hiring processes are standardized at headquarters and at the branch offices. Each job applicant completes a standardized application, submits a résumé (if appropriate for the position), does pre-employment testing, undergoes a screening that includes contacting references and former employers and a criminal background check. This was not the case when the company was first started, however, and many longtime employees never had a background check. This is extremely troubling to Garcia, in light of the fact that their employees work in clients' homes and have contact with vulnerable individuals (e.g., children, elderly, infirm).

Garcia received an incident report today from Anthony Garrison, the branch manager of the St. Petersburg, Florida office. The incident report concerned handyman Neil Andrews, who is a hardworking employee but who has a reputation for being a hothead. According to Garrison, Andrews was extremely upset to learn that Garrison had changed his work schedule so that he now had to work every other Saturday. Andrews walked into Garrison's office, put his face inches from Garrison's face and said, "One of these days, I'm going to lose it in here! After I am done, there will be nothing but smoke and embers!" He then stormed out of the office and went across the street to a convenience store. About 15 minutes later, Andrews returned, calmer after having eaten two packages of Toasted Sweeties and washing it down with a soda. He picked up his toolbox and went to his next assignment for the day.

Garcia knows that Garrison has never liked Andrews and that Garrison sees this episode as an opportunity to get rid of him.

Assignment

This is a two-part activity.

Part 1: Decide whether Andrews should be discharged.

Time allotted: 15 minutes.

Part 2: Assume for the sake of this portion of the activity that Andrews is discharged. What type of information (if any) should Personally Yours give if a potential employer calls for a reference?

Time allotted: 15 minutes.

ROLE OF MAYA ATKINS, BRANCH SUPERVISOR—ST. PETERSBURG, FLORIDA

Maya Atkins is the branch supervisor of the St. Petersburg, Florida, office of Personally Yours. Atkins has worked at this branch office since it opened in 2000 and served as interim branch manager last year after the previous branch manager left and before the current branch manager, Anthony Garrison, was hired. Atkins is a licensed practical nurse with 23 years of experience in the nursing field. Although she does not officially run the office anymore, employees still routinely come to her with problems and for advice. Atkins believes Garrison might resent her relationship with the employees.

Today, Atkins witnessed an incident that occurred between Garrison and handyman Neil Andrews. Andrews is a hardworking employee but has a reputation for being a hothead. After Atkins notified Andrews that Garrison had changed his work schedule so that he now had to work every other Saturday, Andrews became extremely upset. He walked into Garrison's office, put his face inches from Garrison's face and said, "One of these days, I'm going to lose it in here. After I am done, there will be nothing but smoke and embers!" He then stormed out of the office and went across the street to a convenience store. About 15 minutes later, Andrews returned, calmer after having eaten two packages of Toasted Sweeties and washing it down with a soda. He picked up his toolbox and went to his next assignment for the day.

Before Garrison became branch manager, Atkins would always create the schedule. Garrison took over this duty after he was hired. Atkins understood why Andrews became upset: he is a single father and cannot afford childcare for the weekends. When she was the person drafting the weekly schedules, Atkins always kept this in mind and never required Andrews to work weekends. Atkins explained Andrews' situation to Garrison, but he replied, "If Andrews cannot work weekends, he needs to find other employment ... and it might be a good thing if he did."

Atkins knows that Garrison has never liked Andrews and that Garrison sees this episode as an opportunity to get rid of him. Atkins has witnessed Andrews lose his temper before. However, she thinks Andrews is basically a "good guy," so she has overlooked these past outbursts.

Assignment

This is a two-part activity.

Part 1: Decide whether Andrews should be discharged.

Time allotted: 15 minutes.

Part 2: Assume for the sake of this portion of the activity that Andrews is discharged. What type of information (if any) should Personally Yours give if a potential employer calls for a reference?

Time allotted: 15 minutes.

ROLE OF ANTHONY GARRISON, BRANCH MANAGER—ST. PETERSBURG, FLORIDA

Anthony Garrison is the branch manager of the St. Petersburg, Florida, office of Personally Yours. He has been branch manager for 7 months. Unlike many of the other branch managers who have nursing backgrounds, Garrison has a maintenance background. Before coming to work for Personally Yours, Garrison worked for 17 years as a maintenance supervisor for a public housing authority. Garrison suspects that he does not receive as much respect as the other branch managers receive, partly because he is new and partly because he comes from a non-nursing background.

Today Garrison was involved in an incident with Neil Andrews, a handyman who has worked for Personally Yours for 6 years. Andrews is a hardworking employee, but has a reputation for being hot-headed. This morning after Andrews learned that Garrison had changed his work schedule so that he now had to work every other Saturday, Andrews became extremely upset. He walked into Garrison's office, put his face inches from Garrison's face and said, "One of these days, I'm going to lose it in here. After I am done, there will be nothing but smoke and embers!" He then stormed out of the office and went across the street to a convenience store. About 15 minutes later, Andrews returned, calmer after having eaten two packages of Toasted Sweeties and washing it down with a soda. He picked up his toolbox and went to his next assignment for the day.

Garrison has never liked Andrews, and sees this episode as an opportunity to get rid of him.

Assignment

This is a two-part activity.

Part 1: Decide whether Andrews should be discharged.

Time allotted: 15 minutes.

Part 2: Assume for the sake of this portion of the activity that Andrews is discharged. What type of information (if any) should Personally Yours give when a potential employer calls for a reference?

Time allotted: 15 minutes.

SHRM members can download this case study and many others free of charge at
www.shrm.org/education/hreducation/pages/cases.aspx.

If you are not a SHRM member and would like to become one, please visit www.shrm.org/join.



SOCIETY FOR HUMAN
RESOURCE MANAGEMENT

1800 Duke Street

Alexandria, VA 22314-3499