Adjusting Job Descriptions for Business Needs – What You Need to Know

March 20, 2025
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Changing an employee's job description during business restructuring can be tricky, especially when balancing business needs with legal requirements. Can human resource managers change an employee's job description to align with new business needs without the employee's consent? From a legal perspective, the general answer is yes; in some cases, you can make these changes.

Business Necessity and Employment At-Will

Unless there is a specific clause in an employment contract or a collective bargaining agreement that dictates otherwise, employers generally have the right to adjust an employee's job duties, schedule, or work location based on business needs. This flexibility is part of the principle of "at-will" employment, which allows employers to make changes to terms and conditions of employment as long as those changes don't violate any specific laws or agreements.

However, it's important to note that some local and state regulations may impose additional requirements. For example, certain states and cities have predictive scheduling laws that require businesses to provide workers with advance notice of schedule changes. If the company fails to do so, it could face penalties. Additionally, in some places, if an employee's scheduled hours are cut upon arrival to work, they may be entitled to what's known as "reporting pay" or "show-up pay" — a set minimum amount for showing up, even if they aren't needed to work their full shift.

Considerations Under the FMLA

If your employee is on Family and Medical Leave Act (FMLA) leave, you must proceed with caution. The FMLA protects employees from having their job duties, schedules, or work locations changed in a way that negatively impacts their ability to take leave. For example, an employer cannot reduce the employee's hours to avoid their eligibility for FMLA or transfer the employee to a position that discourages the use of leave.

Moreover, when the employee returns from FMLA leave, they must be reinstated to their same job or an equivalent one. An "equivalent" position is one that is virtually identical in terms of pay, benefits, working conditions, and responsibilities. While you can offer the employee a different shift, schedule, or position after they return from leave, you cannot pressure them to accept it if it is against their wishes.

Retaliation and Discrimination Protections

It's also important to remember that changing an employee's job duties or schedule in retaliation for exercising their legal rights can result in legal violations. For example, retaliating against an employee for filing a workers' compensation claim, taking FMLA leave, or engaging in other protected activities is illegal. Similarly, making changes based on discriminatory reasons (e.g., reducing hours or authority for only certain groups of employees, such as women) is also prohibited.

Key Takeaways for HR Managers

Check your company's policies: Ensure there are no employment contracts or collective bargaining agreements that limit your ability to change the employee's job description.

Know the laws in your state and locality: Be mindful of predictive scheduling laws and reporting pay regulations that may impact your ability to make changes.

FMLA considerations: If the employee is on FMLA leave, be careful not to make changes that interfere with their rights to take leave or return to a similar position.

Avoid retaliation or discrimination: Ensure that any changes are not made in retaliation for an employee's legal rights or based on unlawful discrimination.

When changing an employee's job description, balance business needs with legal compliance and clear communication. While you may have the authority to adjust roles, keep employees informed, consider their concerns, and comply with relevant laws to help prevent potential disputes. Thoughtful planning and transparency can go a long way in maintaining a positive workplace during change.