

# **Solving Thorny HR Issues to Develop an Engaged Workforce**

**Pinnacle 2011 – Inspiring EMS Leadership**

# First Thing.....

- ▶ We are not Lawyers



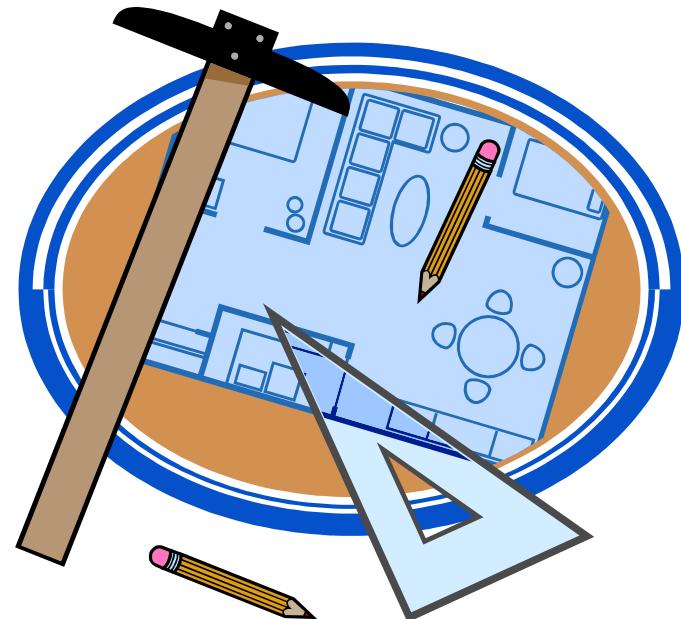
- ▶ Nor do we play one on TV

# Creating a Pro-Employee Workplace

- ▶ 1. Written Plan
- ▶ 2. Employee Issues are Important
- ▶ 3. Improve Your Workforce
- ▶ 4. Regular Review of Wages and Benefits
- ▶ 5. Maintain Appropriate Working Conditions
- ▶ 6. Legal Handbooks and Policies
- ▶ 7. Improve Communications
- ▶ 8. Community Involvement
- ▶ 9. Decision Management Program
- ▶ 10. Address Bad Supervisors Now

# 1. Have a Written Plan of Action

- ▶ Demonstrate that Employer Cares about Employees as Individuals
- ▶ Resolve Employees Issues through Corrective Action or Communication
- ▶ Use effective performance evaluations



# Demonstrate You Care

## A “Crash Course” on Motivation

- ▶ The 10 most important words:  
*“That’s an honest mistake. Let’s focus on what we’ve learned.”*
- ▶ The 9 most important words:  
*“Why don’t you take the lead on this one.”*
- ▶ The 8 most important words:  
*“Let me pass along what I have learned.”*
- ▶ The 7 most important words:  
*“What can I do to help you?”*
- ▶ The 6 most important words:  
*“I really am glad you’re here.”*
- ▶ The 5 most important words:  
*“You did a great job!”*

# Demonstrate You Care

- ▶ The 4 most important words:  
*“What do YOU think?”*
- ▶ The 3 most important words:  
*“Let’s work together.”*
- ▶ The 2 most important words:  
*“Thank you.”*
- ▶ The MOST important word:  
*“You.”*

# Character Matters

- ▶ Keep your promises
- ▶ Speak out for what you think is important
- ▶ Err on the side of fairness
- ▶ Do what you say you are going to do

# Corrective Actions

- ▶ Does corrective action feel like punishment at your workplace?
- ▶ CLIP

# Corrective Actions

**Remember, employees should:**

1. Know job expectations and consequences for not fulfilling them.
2. Predictable and consistent actions for violation of rules.
3. Fair discipline based on facts.
4. The right to question those facts and the right to present a defense.
5. Appeal disciplinary action.

# Performance Reviews

- ▶ Does your place of work look like this at review time?
- ▶ CLIP

# Performance Reviews

- ▶ Continuation of a conversation
- ▶ Done at regular intervals
- ▶ Ensure performance based and includes all aspects of the job description

## 2. Employee Issues Are Important

- ▶ Suggestion Boxes
- ▶ Communication Meetings
- ▶ Attitude Surveys
- ▶ Labor Audits
- ▶ Employee Issues Forms
- ▶ Employee Involvement Programs



# Listen then React/Motivate

## ▶ 7 Simple Insights

- You get what you reward
- What motivates people, motivates people
- The most motivating rewards cost little or nothing
- Everyone wants to be appreciated
- Behavior is controlled by consequences
- Management is what you do with people, not to them
- Common sense is often not common practice

# 3. Improve Your Workforce

- ▶ Actively Recruit
- ▶ Job Description
- ▶ Application Review
- ▶ Interview Process
- ▶ Reference Check
- ▶ On-Boarding
  - Buddy System
  - Periodic “Stay Interviews”



# Recruiting

- ▶ Where do you recruit?
- ▶ Quantity versus Quality?
- ▶ Ongoing or when required?
- ▶ Legal obligations



# Job Descriptions

- ▶ What is their importance?
- ▶ ADAA compliance
  - The ADA defines a disability as:
    - A physical or mental impairment that substantially limits one or more major life activities
    - A record of such impairment
    - Being regarded as having an impairment
  - Major life activities include:
    - > Seeing, hearing, walking, talking, eating, breathing
    - > Sitting, standing, lifting, bending, reaching
    - > Interacting with others
    - > Learning, reading, concentrating and communicating
    - > Working
    - > Sleeping
    - > Major bodily functions such as digestive, bowel, bladder, neurological, respiratory, circulatory, endocrine, reproductive and immune systems

# ADA – Americans With Disabilities

- ▶ Disabilities are:

- More than just the physical things you can see.  
Disabilities can be something as simple as:

- Diabetes
    - High Blood Pressure

When disciplining or working with an employee that brings up a disability always go the route of having the employee contact the doctor to complete a Fitness for Duty form based on the job description

# Job Descriptions

## Intangible Job Functions –

The ability to appear to work on time.

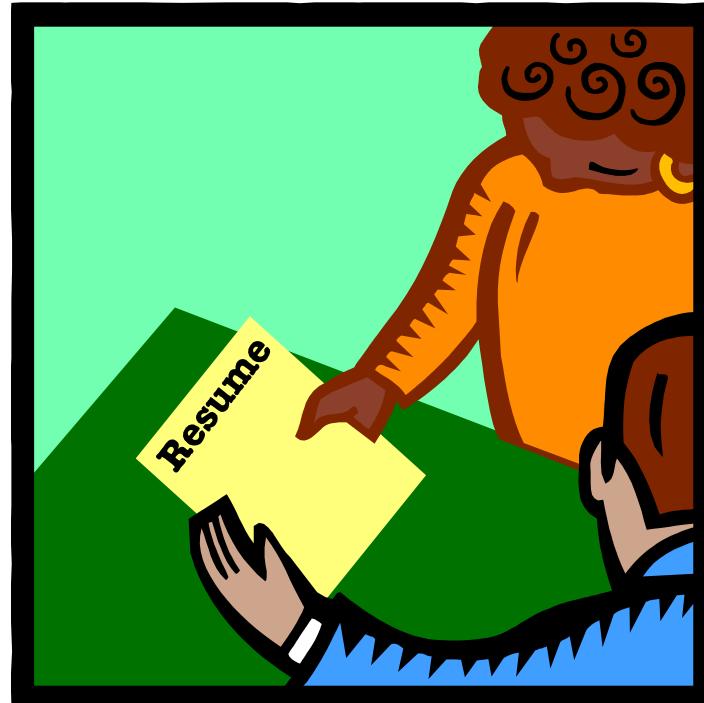
The ability to follow directions from a supervisor.

The ability to interact effectively with co-workers.

The ability to understand and follow work rules and procedures.

The ability to accept constructive criticism.

# Applications



# Interviews

- ▶ Do you select the applicants or do they select you?
- ▶ CLIP

# Interview Process

- ▶ What do you want to know?
- ▶ How do you determine behavior and culture fit?
- ▶ Who do you involve? Multiple interviews?
- ▶ Pre-employment testing? When?
- ▶ Avoid protected class questions
- ▶ Be consistent
- ▶ Document responses

# Reference Checks

- ▶ Studies suggest up to 40% of resumes have material falsifications
- ▶ For employers, a resume is a factual document
- ▶ For applicants, a resume is a sales and marketing tool
- ▶ Without checking references, chances of a bad hire increase significantly

# Reference Checks

- ▶ Information vs. Instinct
- ▶ Past can be Prologue--unlikely that an employee will perform better for you than a previous employer
- ▶ Protects important financial investment
- ▶ Promotes better fit
- ▶ Provides legal protection against negligent hiring



# On-Boarding

- ▶ 4 “C”s of On-Boarding
  - Compliance
    - Orientation & Paperwork
  - Clarification
    - Supervisor Guides & Job Aids
  - Culture
    - Welcome Packet
    - Buddy Program
  - Connection
    - Welcome Communications
    - Networking Events

# Compliance

- ▶ Paperwork
- ▶ People
- ▶ Orientation



# Clarification

- ▶ Job Duties and Expectations
- ▶ Supervisor Expectations
- ▶ Job Description Review and Clarification
- ▶ Rules and Regulations

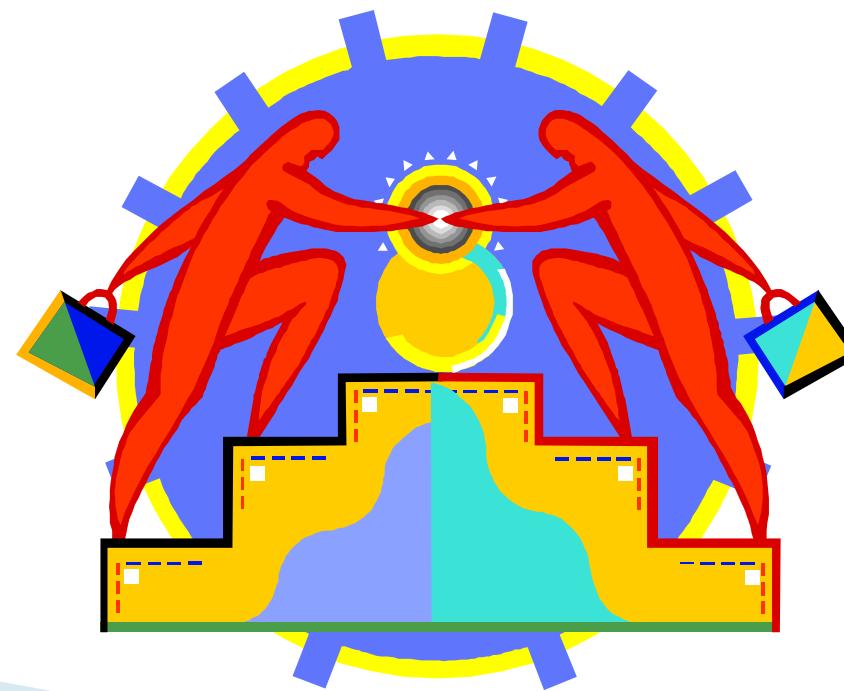
# Culture

- ▶ *Culture is a broad category that includes providing employees with a sense of organizational norms— both formal and informal.*



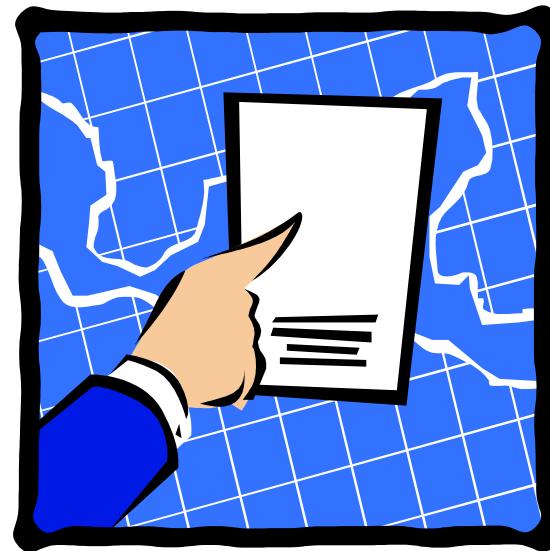
# Connection

*Connection refers to the vital interpersonal relationships and information networks that new employees must establish.*



## 4. Regular Review of Wage & Benefits

- ▶ Employer Associations
- ▶ Chambers of Commerce
- ▶ Area Development Association



## 5. Maintain Appropriate Working Conditions

- ▶ Restroom Supplies
- ▶ Restroom Cleanliness
- ▶ Break area Cleanliness
- ▶ Break room vending equipment
- ▶ Heat
- ▶ Cold
- ▶ Parking
- ▶ First Aid Facilities

# Toughest problem....



# 6. Legal Handbooks and Policies

- ▶ Ensure Handbook is not a contract
  - Remove “we will” or “we provide”
  - Include At Will language
  - Will try to inform of changes
  - Remove probationary and permanent language
  - Reserve the right to change as needed
  - Get signed acknowledgement of policies

# Sample Language

Neither this handbook nor any other Company document confers any contractual right, either express or implied, to remain in the Company's employ. Nor does it guarantee any fixed terms and conditions of your employment. Your employment is not for any specific time and may be terminated at will, with or without cause and without prior notice by the Company, or you may resign for any reason at any time.

# **Handbook Policies**

**Disclaimers Don't Solve Every Problem:**

**Even with a disclaimer, Make Sure Your  
Handbook is NOT an Employment Contract  
it is important for an employer to follow its  
handbook policies.**

# Legal Handbooks and Policies

## ▶ Plainly State Employer Rules and Regulations

Access to Personnel Records

Anti-Nepotism or No-Spouse Rule

Searches on Employer Property

In-House Investigations

No Solicitation, Bulletin Boards and E-Mail Rules

Travel Policies

Attendance, Punctuality and Dependability

Performance Evaluations

Payment of Wages

Employer Property

# Beware of NLRA Dangers Lurking

Unfair labor practices have been predicated on common policies found in many employee handbooks:

- ▶ > Employee Rules of Conduct
- ▶ > Confidentiality Rules
- ▶ > Chain-of-Command Rules
- ▶ > Fraternization Rules
- ▶ > Solicitation and Distribution Policies
- ▶ > Bulletin Boards and E-Mail Systems
- ▶ > Employee Dress Codes

# Legal Handbooks and Policies

- ▶ Describe policies designed to assist employees
  - FMLA
  - Pregnancy leaves (count as any other illness)
  - Short and Long term disability
  - Paid Time Off
  - Holidays
  - Employee Assistance Program
  - Wage and Hour

# FMLA Interplay

- ▶ 12 months of continuous service & 1250 hours of work time during that 12 months
- ▶ 50 employees in 75 miles
- ▶ Qualified Medical condition
  - Self
  - Family member
  - Active military or spouse

Intermittent leave

12 week calculation or 480 hours for a 1 year period

# FMLA Interplay

- ▶ Works in conjunction with sick time, short term disability and workers comp
- ▶ Types of FMLA
  - Service Member for Military Family Leave
  - Covered Service Member
  - Employee Serious Health Condition
  - Family Member Serious Health Condition
- ▶ Designation Notice to Employee of approval
- ▶ Fitness for Duty Form for return to work

# Healthcare Reform

- ▶ Major Changes in insurance coverage (9/23/2010)
  - Healthcare reform is complicated and will likely change before most changes go into effect by 2014
  - Mostly affects medical and dental plans
  - Some Small Business Tax Credits (2010)
  - Wellness Plans are the wave of the future and can reduce premiums by 30%
  - Watch out for EEOC when using the wellness plan savings

# COBRA LAW

- Must provide all terminated employees with benefits the option to continue the benefits
- Must send the information to the employees within 30 days from the end of coverage
- You can charge a 2% increase over the total premium
- Payment is on a schedule and the employee has rights
- IF POSSIBLE HIRE A THIRD PARTY ADMINISTRATOR

# Immigration Reform

- ▶ Must have I9s completed for all employees
  - If you have older employees without them, go ahead and recertify everyone
    - Do not place in personnel files
    - Have a separate file for I9s and separate active and terminated
    - Must be kept for at least 3 years and no less than a year from termination
  - E-Verify must be used by 2012

# Legal Handbooks and Policies

- ▶ Communicate your Commitment to Equal Employment
  - Equal Employment Opportunity Policies
  - Anti-Discrimination, Harassment and Retaliation Policies
  - Complaint Procedures

# Sample Policy

- ▶ Equal Employment Opportunity has been, and will continue to be, a fundamental principle at XYZ, where employment is based upon personal capabilities and qualifications without discrimination because of race, color, religion, sex, pregnancy, age, national origin, disability, genetic information, or any other protected characteristic as established by law.
- ▶ This policy of Equal Employment Opportunity applies to all policies and procedures relating to recruitment and hiring, compensation, benefits, termination and all other terms and conditions of employment.

# Sample Policy continued

Employees' questions or concerns should be referred to the Human Resource Department, which has overall responsibility for this policy and maintains reporting and monitoring procedures.

Appropriate disciplinary action may be taken against any employee willfully violating this policy.

# Legal Handbooks and Policies

- ▶ Set Guidelines for Termination of Employment
  - Required Notifications
  - Severance Pay
  - Post employment references
  - Grievance or complaint process

# Terminations

- ▶ Don't be afraid to make the termination decision when needed.
- ▶ CLIP

# Develop Cutting Edge Policies

- Technology Policies
- Social Networking Sites
- Blogging
- Company Equipment

Use for Business Purpose Only

Be Courteous

- No Expectation of Privacy/ Employer Property
- Waiver of Privileges
- Anti-Harassment Policies are Applicable
- E-mail, Voicemail, Blackberries and PDAs, Internet, Instant Messaging, Chat Rooms, Public Internet Posting, etc.
- Telephone Call Monitoring
- Tape Recording
- Telecommuting

# Phone policies

Potential liability to the employer may attach based on employees' use of cell phones while driving in the course of their employment

- ▶ An employer is vicariously liable for an employee's negligence if the employee's negligent act(s) occurred within the scope of his or her employment and was in furtherance of the employer's interest

# Social Networking Rights?

Can an employer have a policy that prohibits an employee from making disparaging, discriminatory, or defamatory comments when discussing the company, its products, or the employee's superiors, coworkers and/or competitors?

Section 7 of the National Labor Relations Act (NLRA) gives employees the right to discuss their pay and working conditions and prohibits employers from disciplining or terminating employees for exercising such rights. This provision applies to non-unionized employees as well.

# NLRB Example

- ▶ An ambulance driver wrote on her Facebook page, “Love how the company allows a 17 to be a supervisor,” referring to AMR’s code for a psychiatric patient, and called her boss a “scumbag as usual.”
  - The employee was terminated.
  - The NLRB complaint claimed that AMR violated Section 7 of the NLRA. Right to engage in “concerted activities” for “mutual aid or protection.”
- ▶ AMR’s policy forbade employees from making disparaging remarks about the company or its employees.
- ▶ NLRB position is that employees are allowed to discuss the conditions of their employment with coworkers—at a water cooler or a restaurant, or on social media
- ▶ AMR settled the dispute and agreed to amend its policy.

# Social Media Usage Policy

Fit the policy to your company's culture and employees' use of social media

- ▶ • Make robust, precise policies specifically addressing social media issues. Certain limitations are acceptable, such as:
- ▶ • No use at work during working hours
- ▶ • No disclosure of confidential information
- ▶ • No use of company name, logo, or branding
- ▶ • No defamation or false information
- ▶ • No harassing or discriminatory conduct regarding company employees
- ▶ • Include disclaimer re: nothing in policy intended to restrict rights to discuss terms and conditions of employment

# Social Media Usage Policy

Make it clear that the policy applies to all devices that the employees use for work, and that the company reserves the right to monitor all employee devices used for work or connected to the company network, even if they are not company issued, to eliminate any expectation of privacy.

- ▶ Employees should know that:
  - If it is done on a work machine, it belongs to the company.
  - Content produced on work machines is not private.
  - Content produced at work or on a work machine may be monitored.

# Social Media

Define social media, but include language that acknowledges unknown future trends. Set rules. For example:

- ▶ Your postings may not violate any company policy.
- ▶ You may not discriminate or harass someone because of that person's race, religion, gender, sexual orientation, disability, national origin, or other protected characteristic. You may not retaliate against someone who complains of discrimination or harassment.
- ▶ Never post inappropriate content whether depicted in words, links, or photos.
- ▶ Do not post false statements about someone.

# Social Media

- ▶ Rules:
  - ▶ > Never comment on the company's legal issues online.
  - ▶ > Never post confidential or "trade secret" information of the company or its customers, partners, clients, suppliers, and vendors.
  - ▶ > Do not post copyrighted information or use company trademarks or logos
  - ▶ > Employees should not hold themselves out as representatives of the company when posting, and should make it clear that their views are their own. Prior approval is required to post on behalf of the company.
  - ▶ > Employees may not post content that reflects negatively on, or has the potential to harm or disparage, the company or its employees, customers, vendors, or partners.

# Social Media Fun!

CLIP

# Incorporate State and Local Laws

- Specified Personnel Policies
  - Workplace Smoking Policies
  - Voting Policies
  - Jury Duty Policies
  - Blood, Organ, and/or Bone Marrow Donation Leave
  - Protected Off-Duty Legal Activity
  - Breastfeeding Accommodations

## 7. Improve Communication at All Levels

“Without credible communication, and a lot of it, the hearts and minds of others are never captured.”

John P. Kotter, Professor  
Harvard University

# Why We Tend Not to Communicate?

- ▶ Don't know what is and what is not Ok to say
- ▶ Don't want to inflame matters
- ▶ It is not my job
- ▶ My employees and I have conflicting interest



# Communication Style Exercise

- ▶ The following is a communication style survey. There are no right or wrong answers.
- ▶ Please select the one statement from each slide that best describes you.

# Survey # 1

- ▶ I am slow paced, thorough, and careful. I take my time. L
- ▶ I am fast paced and rapid. I work and move quickly. R

# Survey #2

- ▶ I am time disciplined and always conscious of time. B
- ▶ I am time undisciplined. I place less priority on time frames. A

# Survey #3

- ▶ My body expressions are open, supportive and cooperative. L
- ▶ I am challenging and competitive in my body expressions. R

# Survey #4

- ▶ During conversations, I easily share my personal feelings and stories. A
- ▶ I tend to limit my personal feeling and stories in conversations. B

# Survey #5

- ▶ My speech is fast, emphatic, and with high volume. R
- ▶ My speech is less emphatic, slow and lower in volume. L

# Survey #6

- ▶ I am eager and feeling oriented. I make quick, sometimes irrational decisions. A
- ▶ My actions are cautious, careful, and thinking oriented. I make rational decisions. B

# Survey #7

- ▶ I often take the initiative socially. I often use power. I state strong opinions. R
- ▶ I reserve my opinions, don't take initiative, and don't use power. L

# Survey #8

- ▶ My body movements are serious, defensive, and sometimes critical. B
- ▶ My body movements are open, enthusiastic, and friendly. A

# Survey #9

- ▶ I make limited effort to take a stand. L
- ▶ I make a strong effort to take a stand. R

# Survey #10

- ▶ I am more interested in opinions than facts.  
A
- ▶ I am more interested in facts than opinions.  
B

# Survey #11

- ▶ I tend to dominate conversations. R
- ▶ I am an infrequent contributor to conversations. L

# Survey #12

- ▶ I have a somewhat expressionless, poker face. B
- ▶ I have animated facial expressions. A

# Survey #13

- ▶ I tend to lean forward when I want to stress a point. R
- ▶ I tend to lean back during conversations. L

# Survey #14

- ▶ I use considerable and open hand and body language when I speak. A
- ▶ I limit or control hand movements during conversation. B

# Add it Up....

- ▶ A's
- ▶ B's
- ▶ R's
- ▶ L's
- ▶ Circle your two highest scores
- ▶ You should have one of the following:
  - AL
  - AR
  - BR
  - BL

# What Your Style Says About You

- ▶ AR: Fast paced/people oriented, expressive
  - Need: To be liked
  - Hate: To be ignored
  - Motto: I never met a stranger
  - Animal: 3 month old puppy



# What Your Style Says About You

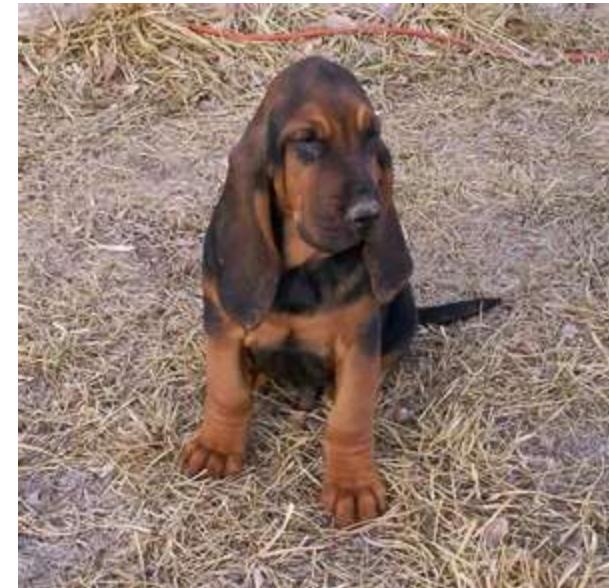
- ▶ BR: Fast paced/task oriented, Driver
  - Need: To be in control
  - Hate: To rely on or wait for others
  - Motto: What have you done for me lately
  - Animal: Pit Bull



# What Your Style Says About You

## ► BL: Slow paced/task oriented, Analytical

- Need: To be right
- Hate: To have deadlines/be challenged
- Motto: I'll get back to you
- Animal: Blood Hound



# What Your Style Says About You

- ▶ AL: Slow paced/people oriented, Amiable
  - Need: To Serve
  - Hate: Conflict
  - Motto: You're right, I'm sorry
  - Animal: Family dog



# How to Use This Information

- ▶ You must talk to your employees
- ▶ You must not avoid those who make you uncomfortable
- ▶ You must not wait until there is a crisis
- ▶ Understanding your style and how others see things will help you communicate effectively.

# Improve Communication at All Levels

- ▶ Facility-Wide Meetings
- ▶ Safety Meetings
- ▶ Lunch with the Boss
- ▶ Benefits Update
- ▶ Letters to employees
- ▶ One-on-One Meetings
- ▶ Roundtables
- ▶ Employee Publications

# Valuable Tips for Effective Communication

- ▶ Realize that communication takes time
- ▶ Don't punish those who give you bad news
- ▶ Make a point of listening attentively when others express differing views on an issue
- ▶ Respond non-defensively when others express contrary view points
- ▶ Keep key players informed

# 8. Community Involvement

- ▶ Facility Tours
- ▶ Food Give-Away Program
- ▶ Charities
- ▶ Management Involvement in the Community
- ▶ Local Purchases
- ▶ Adopt-a-School or Class

# 9. Develop and Implement a Decision Management Program

- ▶ The Six Letter Word.....
- ▶ **CHANGE!**
  - Explain the Why not just the What

# 10. Address “Bad” Supervisors Now

## ► Three Options

- Change Behavior
- Isolate from Employees
- Terminate



# Thank You

► Any Questions?



# Resources

- ▶ Time Flies When You're Having Fun- John S. Burgin
- ▶ Connecting with Employees...No Matter What the Demographic – Donna Davis, PhD
- ▶ Please Sue Me – Hunter Lott
- ▶ My Disability Made Me Do it – James McDonald, Jr.
- ▶ Employee Handbook: Every Word Counts – Allan Weitzman
- ▶ Onboarding for the Hourly Workforce – Kristin Charles, PhD, SPHR

# Resources

- ▶ Social Networking in the Workplace – Melinda Riechert
- ▶ OUCH! That Stereotype Hurts – Communicating respectfully in a diverse world – Leslie C. Aguilar
- ▶ Resistance – Moving Beyond the Barriers to Change – A Handbook for people who make things Happen – Price Pritchett
- ▶ Fire at Will – Terminating Your Employees Legally – Editors of The HR Specialist