

# **What to Consider Before Hiring Your First Employee**

**Evan H. Pontz  
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To maximize the impact of pro bono engagement by connecting a network of attorneys with nonprofits in need of free business legal services.

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  - ✓ Be located in or serve the greater Atlanta area.
  - ✓ Serve low-income or disadvantaged individuals.
  - ✓ Be unable to afford legal services.
- *Visit us on the web at [www.pbpatl.org](http://www.pbpatl.org)*
- We host free monthly webinars on legal topics for nonprofits
  - ✓ To view upcoming webinars or workshops, visit the [Workshops Page](#) on our website
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## Who Or What Is An “Employee”?

- The concept of who or what is an “Employee” has various legal meanings.
- In a nutshell, Employers have the “right to control” Employees – that is what makes the relationship unique.
- Employees are different from independent contractors or volunteers.

## Who Or What Is An “Employee”?

- Employees have certain legal duties and obligations to their Employers.
- Employers have *many* legal duties, responsibilities and obligations to their Employees.
- It has to be worth it to the Employer to have the “right to control” to hire an Employee.

## **Why Do You Want/Need An Employee?**

- How will having an Employee change/benefit your organization?
- How do these changes/benefits compare to the responsibilities and risks having an Employee brings?
- Is this the right time to hire an Employee?  
Consider the responsibilities, details and commitment to the Employee.

## **Why Do You Want/Need An Employee?**

- Do you know what skills, abilities, and characteristics you want in each Employee?
- Have you considered and set out a “job description” for each position or Employee?
- Have you assessed what you will offer (pay, benefits, etc.) and the reasons why you think someone will accept this job?



## How Will You Find Your Employee(s)?

- Are there people you already know who are interested, willing and able to be your Employees?
- How will you find people new to your organization to hire (and is that necessary or beneficial to find new people to be your Employees)?

## How Will You Find Your Employee(s)?

- Do you have a form for an Employment Application?
- What information do you need to know – and why do you need to know it?
- Do you know how to properly and legally do a background check (as necessary), or have you identified a resource to assist you?

## How Will You Find Your Employee(s)?

- Do you know how to conduct an Interview?
- Do you know what to ask – and what *not* to ask about in an Interview?
- Key: The focus of every question (and ideally every response) should be on whether the person can do the job/duties, and do you think they are the best candidate you can find to do it?

## **Bringing An Employee “On-Board”**

- Know the paperwork and forms that are needed, and consider offer letters or possibly an employment contract (in rare situations).
- Set your organization up to start keeping track of the Employee’s performance.
- Plan to “orient” the Employee to the job and the organization, as well as the people/community the organization serves.

## Your Legal Obligations As An Employer

- What does “employment at will” mean?
- What does “right to work state” mean?
- What types of employment laws exists – what do they cover, and how do they affect employers?
  - Wages and hours
  - Protections and limitations
  - “Public policies” and impermissible actions

## Your Legal Obligations As An Employer

- Many employment laws exist, but most do not apply to the smallest Employers.
- Still, the ideas behind many of them are good practices for all Employers, including:
  - Non-discrimination and non-harassment
  - Fair treatment, fair and regular pay
  - Proper performance management (+/-)

## Unemployment Insurance Obligations

- All Georgia employers must register with the state Department of Labor as soon as they make their first payroll to any Employee.
- But, state unemployment insurance tax obligations only cover Employers of 4 or more workers in each of 20 different weeks during a calendar year. (This includes 1 officer or director, regardless of employment status.)

## Unemployment Insurance Obligations

- Nonprofits may pay state unemployment taxes (SUTA) via either a “contributory” or “reimbursable” method.
- 501(c)(3) organizations in Georgia remain *exempt* from federal unemployment taxes (FUTA).



## Georgia Workers' Compensation

- Creates a “no-fault” system for Employees injured at work, in exchange for being the “exclusive remedy” for those injuries.
- Employers with 3 or more Employees must maintain workers' compensation insurance.
- Corporate officers are counted as Employees (even if unpaid), but many can opt-out of coverage.

## **Georgia Workers' Compensation**

- Any employer of any size can voluntarily elect coverage by purchasing workers' compensation insurance coverage.
- Why would an Employer do that? For the exclusive remedy. Without coverage, an Employer is subject to a personal injury lawsuit by an injured Employee.

## Georgia Workers' Compensation

- Workers' Compensation insurance covers all costs and expenses related to the workplace injury, including income benefits, medical benefits, and any permanent partial disability.
- Workers' Compensation applies to any injury “arising out of and in the course of” employment.
- This *causal connection* is the key.

## Georgia Workers' Compensation

- Employers should strive to keep the work environment and its Employees safe from injury.
- Post a panel of physicians, and require employees to report any actual (or possible) injury *immediately*.
- Upon the report of an injury, report it on a WC-1 (First Report of Injury) form.

## Other Legal Considerations

- “Wrongful Termination” is generally not a viable claim in Georgia. There must be a statutory protection from a termination or other employment actions.
- Jury duty, voting time, military service, reporting to a government agency, raising a complaint – all are generally risky reasons for taking an employment action.

## Smart Practices For Employers

- Set and clearly communicate expectations to Employees.
- Give regular feedback – positive and negative.
- Be consistent, “fair” and professional.
- Consider the “Golden Rule” and even the “Platinum Rule.”
- Consider and think first; act second.

## **For More Information:**

If you would like more information about the services of Pro Bono Partnership of Atlanta, contact us at:

Phone: 404-407-5088

Fax: 404-853-8806

[Info@pbpatl.org](mailto:Info@pbpatl.org)

[www.pbpatl.org](http://www.pbpatl.org)